



State Water Resources Control Board

April 17, 2025

In Reply Refer to:
JY: INV 15189

CERTIFIED MAIL

Brendan Lukas
[REDACTED]

CERTIFIED MAIL NO: [REDACTED]

NOTICE OF VIOLATION: FAILURE TO FILE STATEMENT OF WATER DIVERSION AND USE - GRATTEN CREEK, TRINITY COUNTY

Dear Mr. Lukas,

On July 21, 2023, the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) received a copy of a Notice of Violation (NOV) filed against you by the Department of Fish and Wildlife (DFW). The NOV alleges that at the time of DFW's inspection, you were diverting water from Gatten Creek on property owned by Sierra Pacific Industries without a valid basis of right. In an August 7, 2023, email to DFW, you stated that you have been exercising your deed openly and continuously since 2011. Subsequently, the Division issued you a Notice of Water Right Complaint and Request for Information regarding your diversion in a letter dated October 24, 2023.

In your November 1, 2023, letter to the Division of Water Rights, you provided documentation to support your riparian claim of right. The documentation consisted of the Grant Deed to your property, including the associated survey map and assessor's parcel map. Division staff have reviewed the documentation you provided as well as additional available information and have determined that your claim of a riparian right to divert water from Gratten Creek appears reasonable.

Water Code section 5101 requires that a person who diverts water from a stream under a riparian claim of right must file an Initial Statement of Water Diversion and Use (Initial Statement) with the State Water Board. Additionally, Water Code section 5104 requires supplemental statements to be filed annually. Because you stated in your letter that you are currently diverting under a riparian claim of right, you are required to report your diversion and use to the State Water Board by filing an Initial Statement and annual

E. JOAQUIN ESQUIVEL, CHAIR | ERIC OPPENHEIMER, EXECUTIVE DIRECTOR

supplemental statements. Please note that the State Water Board acknowledges riparian claims of right by accepting and recording declarations through the Initial Statement form, but it does not decide whether the claims are legally valid.

The State Water Board may administratively impose a civil liability penalty in the amount of \$1,000 for the failure to file a Statement, plus \$500 per day for each additional day the violation continues if the Statement is not filed within 30 days after notifying the diverter (Water Code section 5107 (c)(1)). **This letter is your official notice about these requirements.** As of the date of this letter, the Division has not received a Statement to divert under your riparian claim of right. To bring your diversion into compliance, please complete the corrective action described below.

CORRECTIVE ACTION REQUIRED:

Within 30 days of receipt of this letter, please complete the following:

1. Report your diversion and use to the State Water Board by filing a Statement of Diversion of Diversion and Use with the Division in accordance with Water Code section 5101. If you have multiple points of diversion, a separate Statement must be submitted for each diversion point. The Statement form and general information regarding Statements of Water Diversion and Use law can be found at:

https://www.waterboards.ca.gov/waterrights/publications_forms/forms/#stmnt

If you wish to consult with an attorney or consultant familiar with water right laws before selecting a corrective action or providing a response, the State Water Board maintains a list of attorneys and consultants on its webpage at:

https://www.waterboards.ca.gov/waterrights/board_info/contacts.shtml

FAILURE TO RESPOND WITHIN 30 DAYS:

The State Water Board may administratively impose a civil liability in the amount of \$1,000 for the failure to file a Statement for your diversion, plus \$500 per day for each additional day on which the violation continues if you fail to file a Statement within 30 days after the State Water Board has called the violation to the attention of that person (California Water Code section 5107 (c)(1)).

We appreciate your attention to this matter. If you have any questions or need assistance filing the form, please contact Jeff Yeazell at (916) 341-5322 or by e-mail at Jeffrey.Yeazell@waterboards.ca.gov. Written correspondence should be addressed to:

State Water Resources Control Board
Division of Water Rights
Attention: Jeff Yeazell
P.O. Box 2000
Sacramento, CA 95812-2000

Sincerely,

A handwritten signature in blue ink, appearing to read 'Roberto Cervantes', with a stylized flourish extending to the right.

Roberto Cervantes, PE
Program Manager - Enforcement
Division of Water Rights

cc: California Department of Fish and Wildlife:
Matt Mitchell, Matthew.Mitchell@wildlife.ca.gov
Helen Bowman, Helen.Bowman@wildlife.ca.gov
Brad Straatmann, John.Straatmann@wildlife.ca.gov

North Coast Regional Water Quality Control Board:
Amanda Piscitelli, Amanda.Piscitelli@Waterboards.ca.gov