

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

In the Matter of Water Right Application 32217

Robert Wotherspoon

ORDER CANCELING WATER RIGHT APPLICATION

SOURCE: Unnamed Spring tributary to Van Duzen Fen thence the Van Duzen River

COUNTY: Humboldt

WHEREAS:

1. Robert Wotherspoon (Applicant) filed water right application A032217 with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division), on December 6, 2013, requesting the right to divert 2,070 gallons per day from an Unnamed Spring Tributary to Van Duzen Fen thence Van Duzen River.
2. On November 12, 2015, the Division received notice from the Applicant requesting cancellation of Application 32217.
3. Pursuant to Resolution No. 2012-0029, the State Water Board has delegated authority to the Deputy Director for Water Rights (Deputy Director) to cancel applications. (Resolution No. 2012-0029, section 4.5.2.) Resolution No. 2012-0029 authorizes the Deputy Director to redelegate this authority, and this authority has been so redelegated by memorandum dated July 6, 2012.

THEREFORE, IT IS ORDERED THAT APPLICATION 32217 IS HEREBY CANCELED.

It is the Applicant's responsibility to remove or modify diversion works and impoundments to ensure that water subject to this revocation is not diverted and used. Applicant is hereby put on notice that unauthorized diversion and use of water is considered a trespass and subject to enforcement action under Water Code sections 1052 and 1831. Pursuant to Water Code section 1052, any diversion of water from the point of diversion identified in this application may be subject to Administrative Civil Liability of up to \$500 per day without further notice. The State Water Board also may issue a Cease and Desist Order in response to an unauthorized diversion or threatened unauthorized diversion pursuant to Water Code section 1831.

Before initiating any work in a stream channel, Applicant should consult with the Department of Fish and Game, and the Regional Water Quality Control Board to ensure that removal of project facilities does not adversely affect a fishery or result in unregulated sediment discharge to a waterway. Applicant must also consult with the Department of Water Resources, Division of Safety of Dams, if a jurisdictional size dam will be removed or breached (dam height 25 feet or more, or reservoir volume 50 acre-feet or more). These agencies may require a permit or other approval prior to any construction activity.

Applicant shall document any diversions made under claim of right independent of a permit, license, registration or certification issued by the State Water Board, such as diversions under riparian or pre-1914 rights. With limited exceptions, Water Code section 5101 requires that a Statement of Water Diversion and Use be filed for these diversions. Water Code section 5107 (c)(1) provides that the State Water Board may impose a civil liability of \$1,000, plus \$500 per day for each additional day on which the violation continues if the person fails to file a statement within 30 days after the board has called the violation to the attention of that person. These penalties are in addition to any penalties that may be imposed if the diverter does not hold a valid right or diverts in excess of what is authorized under that right.

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:
MATT McCARTHY (FOR)

*Barbara Evoy, Deputy Director
Division of Water Rights*

Dated: DEC 15 2015