

STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 87-55

DIRECTING THE EXECUTIVE DIRECTOR TO REFER
TO THE ATTORNEY GENERAL THE MATTER OF THE UNAUTHORIZED
DIVERSION OF WATER TO OFFSTREAM STORAGE BY
MR. JOHN H. MUSSINA IN SACRAMENTO COUNTY

WHEREAS:

1. On September 23, 1986, the Division of Water Rights received complaints from downstream riparian proprietors, Mr. Leonard Fusan, Mr. Phil Fanchar, and Miss Sheila Kerr, against Mr. John Mussina's diversion of water from North Fork Badger Creek in Sacramento County.
2. By letter received on December 10, 1986, Mr. Mussina confirmed the complainants allegations that water was being diverted to offstream storage. Mr. Mussina was subsequently notified by certified letter dated December 15, 1986 that the Division of Water Rights had no record of a basis of right for his project. Mr. Mussina was advised to obtain a water right in accordance with the statutory requirement of the State Water Code.
3. As a result of Mr. Mussina's failure to comply with staff's December 10 request, an inspection was conducted on February 25, 1987 to establish the fact that water was being diverted in a manner which is subject to compliance with the State Water Code.
4. Mr. Mussina was again notified by certified letter dated March 4, 1987 that his storage project was unauthorized. The March 4 letter was returned on March 21, 1987 and marked unclaimed.
5. By telephone conversation on March 30, 1987, Mr. Mussina was given a verbal summary of staff's finding and conclusions regarding his storage project. Mr. Mussina was verbally requested to file an application, and he was informed of the consequences for not responding in a responsible manner within an additional 30-day period of time.
6. To date, Mr. Mussina has not presented evidence that he has ceased his diversion.
7. Section 1052 of the California Water Code authorizes the Board to institute appropriate legal action to enjoin the unauthorized diversion of water.

THEREFORE BE IT RESOLVED:

That the State Board does authorize and direct the Executive Director to immediately refer the matter of storage of water without a valid permit in an

offstream reservoir by Mr. John H. Mussina to the Attorney General for appropriate action and to prevent any further diversion of water to offstream storage unless and until a permit is issued.

CERTIFICATION

The undersigned Administrative Assistant to the Board does hereby certify that the foregoing is a full, true and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on June 18, 1987.



Maureen Marche
Maureen Marche
Administrative Assistant to the Board