



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

APR 10 2012

CERTIFIED MAIL

Elliot-Smith NO.7004-2510-0003-9152-9402

Armstrong NO.7004-2510-0003-9152-9419

Return Receipt Requested

Patrick Elliott-Smith Trust
c/o Patrick Elliott-Smith (Trustee)
4500 Atlas Peak Road
Napa, CA 94558

Elan Vineyards
575 Lincoln Avenue, # 300
Napa, CA 94558

J. Tevis Armstrong
Water Rights Agent of Record
4209 American River Drive
Sacramento, CA 95864

Dear Mr. Elliott-Smith:

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT FOR FAILURE TO FILE STATEMENT OF WATER DIVERSION AND USE OF UNNAMED STREAMS TRIBUTARY TO STONEY CREEK IN NAPA COUNTY

This provides legal notice to Patrick Elliott-Smith, Trustee, Patrick Elliott-Smith Trust, dba Elan Vineyards (Elliott-Smith) of the intent of the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) to proceed with formal enforcement for failure to file required Statement(s) of Water Diversion and Use (Statement). **You have 20 days from receipt of the enclosed Administrative Civil Liability (ACL) Complaint to act or face imposition of liability. You have 30 days from receipt of enclosed ACL Complaint to file the required Statement(s).** Therefore, this matter requires your immediate attention.

VIOLATION DESCRIPTION:

Elliott-Smith is the current owner of record for Napa County Assessor's Parcel (APN) 032-540-035-000. Elliott-Smith is also listed as the applicant and signatory on pending water rights application (A031715) for an existing water diversion on APN 032-540-035-000. The diversion consists of two onstream dams that collect water to storage in two separate

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reservoirs. Elliott-Smith's application (A031715) indicates the water diversion project is complete, and the diverted water is or will be used for irrigation, frost protection, recreation and stock watering purposes. On April 7, 2010, the State Water Board mailed Elliott-Smith a letter entitled *New Statutes for Statements of Water Diversion and Use that Affect Water Rights Applicants with Existing Water Diversions*. This letter formally notified you that you were required to file a Statement with the Division in accordance with California Water Code section 5101 *et seq.* by July 1, 2010.

STATUTORY LIABILITY:

California Water Code section 5107 authorizes the State Water Board to administratively impose an initial \$1,000 civil liability for failure to file a Statement. Based on your failure to comply with the legal requirements set forth above, I am hereby issuing the enclosed ACL Complaint proposing that a liability of \$2,000 be imposed for your failure to file two Initial Statements by July 1, 2010. If you fail to respond to the ACL Complaint in one of the manners discussed below within 20 days of receiving this notice, then the State Water Board will issue a final ACL Order and seek recovery of this proposed liability amount as authorized by California Water Code section 1055.4

ADDITIONAL POTENTIAL LIABILITY UNLESS STATEMENT FILED WITHIN 30 DAYS:

California Water Code section 5107(c)(1) authorizes the State Water Board to administratively impose civil liability for a failure to file a Statement of **\$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 State Water Board has called the violation to the attention of that person. This letter and the enclosed ACL Complaint provide legal notice to Elliott-Smith that you are in violation of the requirement to file a Statement with the State Water Board. You may satisfy this requirement and avoid potential additional liability by completing and filing a Statement of Diversion and Use form (enclosed) for **each** of your 2010 diversions. **You have 30 days from the receipt of this letter to file the Initial Statement with the State Water Board or you may be subject to additional liability.**

California Water Code Section 5104 requires Supplemental Statements to be filed at three year intervals prior to July 1 of the year next succeeding the end of each three year interval. Upon receipt of your Initial Statement, Division staff will contact you to inform you of the next due date for your Supplemental Statement.

If you have additional points of diversion on your property not identified in the enclosed ACL Complaint, then you may be required to file additional Statements in accordance with California Water Code section 5102. Failure to file required Statements may result in additional liability. The State Water Board reserves the right to pursue enforcement for any additional violations of the California Water Code not otherwise addressed herein.

OPTIONS FOR RESPONDING TO ACL COMPLAINT:

In summary, you have two options in responding:

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1. Submit payment of \$2,000 within 20 days of receiving the enclosed ACL Complaint and come into compliance by filing necessary Statement(s) within the 30 days of receiving the enclosed ACL Complaint to avoid potential additional liability.
2. Submit a written request for hearing signed by, or on the behalf of, Elliott-Smith to the State Water Board within 20 days of receiving the enclosed ACL Complaint.

If you do not remit payment or request a hearing within 20 days of the date you receive this complaint, then the State Water Board will issue a final ACL Order and seek recovery of the \$2,000 in liability proposed in the ACL Complaint.

If you have any questions, please contact one of the following: John O'Hagan, Manager of the Enforcement Section at (916) 341-5368 or JOHAGAN@waterboards.ca.gov; or Ellen Howard, Staff Counsel, Office of Enforcement at (916) 341-5677 or EHoward@waterboards.ca.gov.

Sincerely,



*James W. Kassel, Assistant Deputy Director
Division of Water Rights*

Enclosures: 1) Administrative Civil Liability Complaint w/Exhibits
2) Statement of Water Diversion and Use form

ec: Andy Sawyer, Assistant Chief Counsel
State Water Resources Control Board
Office of Chief Counsel
(w/enclosures)

Ellen Howard, Staff Counsel
State Water Resources Control Board
Office of Enforcement
(w/enclosures)

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

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT

In the Matter of Failure to File a Statement of Water Diversion and Use by

**Patrick Elliott-Smith Trust and Patrick Elliott-Smith (Trustee),
dba Elan Vineyards
Agent of Record: J. Tevis Armstrong**

SOURCE 1 : Unnamed Stream tributary to Stoney Creek

SOURCE 2 : Unnamed Stream tributary to Stoney Creek

COUNTY: Napa County

YOU ARE HEREBY GIVEN NOTICE THAT:

1. California Water Code sections 5100-5107 establish a program requiring a person who diverts water from a surface stream or a subterranean stream flowing through a known and definite channel, including impoundment of water in a reservoir (with a few limited exceptions), to file a Statement of Water Diversion and Use (Statement).
2. Patrick Elliott-Smith, trustee for Patrick Elliot-Smith Trust, doing business as Elan Vineyards (Elliott-Smith) is alleged to have violated California Water Code section 5101, which states, in pertinent part:

Each person who, after December 31, 1965 diverts water shall file with the board, prior to July 1 of the succeeding year, a statement of his or her diversion and use . . .

3. California Water Code section 5107(c)(1) provides that the State Water Resources Control Board (State Water Board) may administratively impose civil liability in the amount of \$1,000 for the failure to file a Statement, 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 State Water Board has called the violation to the attention of that person.
4. California Water Code section 1055, subdivision (a), provides that the Executive Director for the State Water Board may issue a complaint to any person or entity on which administrative civil liability (ACL) may be imposed. Pursuant to State Water Board Resolution 2007-0057, the Deputy Director for Water Rights is authorized to issue an order imposing an ACL when a complaint has been issued and no hearing has been requested within 20 days of receipt of the complaint. State Water Board Resolution 2007-0057 also authorizes redelegation of this authority from the Deputy Director for Water Rights to the Assistant Deputy Director for Water Rights. This authority has been redelegated.

ALLEGATIONS

5. On April 7, 2010, State Water Board, Division of Water Rights (Division) mailed a letter to all pending water right applicants with existing diversions notifying them of the new statutory reporting requirements. The April 7, 2010 letter is entitled "New Statutes for Statements of Water Diversion and Use that Affect Water Rights Applicants with Existing Water Diversions." The letter informed recipients that the Division's records indicated they were a water rights applicant that was currently diverting water, and was therefore required to file a Statement with the State Water Board. Furthermore, the letter informed recipients that "Failure to file a Statement for each diversion that occurred after January 1, 2009 may be subject to monetary penalties of up to \$1000. After the State Water Board notifies a diverter of his/her failure to file, the diverter is allowed 30 days to file. If the diverter does not file, additional penalties of up to \$500 per day may be assessed." One of the recipients of this letter was Elliott-Smith.
6. In December 2011, Division staff reviewed the list of recipients of the April 7, 2010 letter to determine which applicants had responded and filed a Statement with the State Board. Elliott-Smith did not file a Statement in response to the April 7, 2010 letter.
7. Elliott-Smith has a water rights application and a diversion that is subject to the filing requirements of California Water Code section 5101. Elliott-Smith is the applicant and signatory on pending water rights application (A031715) for Napa County Assessor's Parcel (APN) 032-540-035-000 and has a water diversion on the property. Property records review indicates that Patrick Elliott-Smith Trust is the current owner of APN 032-540-035-000. In February 2012 Division staff reviewed Elliott-Smith's application (A031715) which shows that the project consists of two points of diversion. Water is being collected to storage in the onstream reservoirs and according to the application water is, or will be used for irrigation, frost protection, recreation and stock watering. Elliott-Smith is diverting water by two onstream dams that collect water to storage in two onstream reservoirs. One of the reservoirs has an approximate capacity of 26 acre-feet and the second reservoir has an approximate capacity of 4.5 acre-feet. Staff also completed a detailed review of National Agriculture Imagery Program aerial photographs dated 2010 available from United States Department of Agriculture (USDA) (Exhibit A) and the Capell United States Geological Survey (USGS) Quadrangle, (originally dated 1953; revised from aerial photos in 1987; edited in 1993) (Exhibit B) which provide supporting evidence that water diversions are taking place on Elliott-Smith's property. Division staff has concluded that Elliott-Smith is required to file a Statement with the State Water Board for each dam.
8. As of March 1, 2012, State Water Board records show that Elliott-Smith has not filed an Initial Statement. California Water Code section 5102 requires a separate Statement to be filed for each point of diversion. In January 2012, Division staff researched the Division's three Statement databases (Deficiency, Accepted and 2011-12 Statements) for a Statement filed by Elliott-Smith. The databases were searched using the primary owner's name, and/or other names listed in the application. Division staff also conducted a search in the Electronic Water Rights Information Management System (eWRIMS) for a Statement. No record of a Statement filed by Elliott-Smith was found in either search. On February 16, 2012, Division staff contacted the Divisions Fee, Data, and Statement Management unit whose records show that Elliott-Smith had not submitted a Statement for either point of diversion.
9. Elliott-Smith is subject to the requirements of California Water Code sections 5100-5107 and did not file a Statement by March 1, 2012 with the State Water Board for either point of diversion. Failure to file a Statement is a violation of California Water Code section 5101. Elliott-Smith may be subject to additional administrative civil liability under California Water Code section 5107(c)(1) of up to \$500 per day if he does not file an Initial Statement within 30 days of the date of issuance of this ACL Complaint.

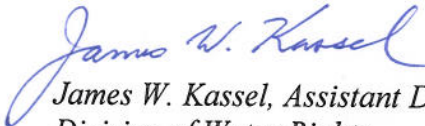
PROPOSED CIVIL LIABILITY

10. Elliott-Smith failed to submit the required Statement for either point of diversion 1 or point of diversion 2 for his 2009 diversions by the July 1, 2010 deadline, nor has he subsequently filed any Statements for his continued diversions. California Water Code section 5107(c)(1) provides that the State Water Board may administratively impose civil liability for a failure to file a Statement pursuant to section 1055 in an amount not to exceed \$1,000.
11. The potential maximum liability for the violations alleged is \$2,000.
12. In determining the appropriate amount of a civil liability, California Water Code section 1055.3 requires that the State Water Board consider all relevant circumstances.
13. Having taken into consideration all relevant circumstances, including but not limited to those specifically recited above, the Assistant Deputy Director for Water Rights recommends the imposition of \$2,000 in administrative civil liability (Proposed Liability).

RIGHT TO HEARING

14. Elliott-Smith may request a hearing on this matter before the State Water Board. Any such request for hearing must be received or postmarked within 20 days of the date that Elliot Smith receives this complaint. (Water Code, sec. 1055, subd. (b).)
15. If Elliott-Smith requests a hearing, Elliott-Smith will have an opportunity to be heard and to contest the allegations in this complaint and the imposition of an ACL by the State Water Board. If a hearing is requested, separate notice setting the time and place for the hearing will be mailed not less than 10 days before the hearing date. The State Water Board may convene a settlement conference prior to noticing a hearing date.
16. If Elliott-Smith requests a hearing, the State Water Board will consider at the hearing whether to impose the civil liability, and if so, whether to adjust the proposed liability within the amount authorized by statute. Based on the evidence received at the hearing, the State Water Board may take any appropriate action in accordance with sections 100, 275, and 1050 et seq. of the California Water Code and/or its responsibilities under the public trust doctrine. Any State Water Board order imposing an ACL shall be final and effective upon issuance.
17. If Elliott-Smith does not remit the necessary Statement(s) and the Proposed Liability amount, nor request a hearing within 20 days of the date this complaint is received, then the State Water Board will issue a final ACL Order and seek recovery of the liability imposed as authorized by California Water Code section 1055.4.

STATE WATER RESOURCES CONTROL BOARD


James W. Kassel, Assistant Deputy Director
Division of Water Rights

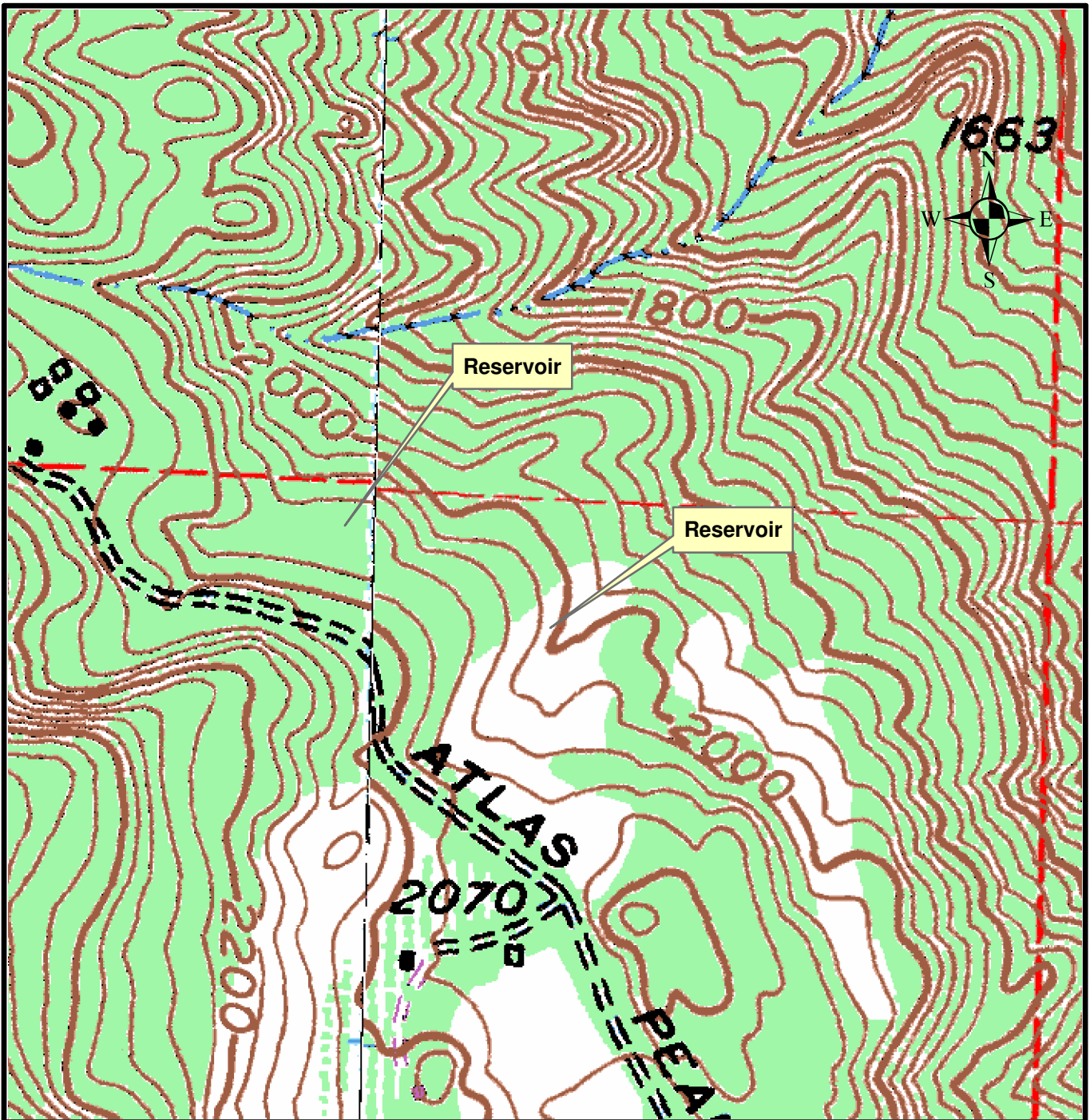
Dated:

APR 10 2012



<p>OWNER ELAN VINYARDS - PATRICK ELLIOT SMITH</p> <p>SOURCE UNNAMED STREAMS TRIBUTARY TO STONEY CREEK</p> <p>COUNTY OF NAPA</p> <p>IMAGERY SOURCE UNITED STATES DEPARTMENT OF AGRICULTURE NATIONAL AGRICULTURE IMAGERY PROGRAM</p> <p>IMAGERY DATE 2010</p>	<p style="text-align: center;">STATE OF CALIFORNIA CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY</p> <p style="text-align: center;">STATE WATER RESOURCES CONTROL BOARD DIVISION OF WATER RIGHTS</p> <p>APPLICATION NO. A031715</p> <p style="text-align: center;">NON-PERMITTED RESERVOIR MAP</p>		
<p>SCALE 1:6,000</p>	<p>DATE: 3/8/2012</p>	<p>DRAWN: KLW</p>	<p>CHECKED:</p>

Note: This map does not constitute a public land survey as defined by California Business & Professions Code section 8726. It has been prepared for descriptive purposes only.



OWNER	ELAN VINYARDS - PATRICK ELLIOT SMITH	STATE OF CALIFORNIA CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY		
SOURCE	UNNAMED STREAMS TRIBUTARY TO STONEY CREEK	STATE WATER RESOURCES CONTROL BOARD DIVISION OF WATER RIGHTS		
COUNTY OF	NAPA	APPLICATION NO. A031715		
IMAGERY SOURCE	USGS TOPOGRAPHIC MAPS CAPELL VALLEY QUADRANGLE	NON-PERMITTED RESERVOIR MAP		
IMAGERY DATE	ORIGINAL COMPILED IN 1953; REVISED FROM AERIAL PHOTGRAPHS IN 1987; AND EDITED IN 1993	DATE:	DRAWN:	CHECKED:
	SCALE 1:6,000	3/8/2012	KLW	

Note: This map does not constitute a public land survey as defined by California Business & Professions Code section 8726. It has been prepared for descriptive purposes only.

State Water Resources Control Board
DIVISION OF WATER RIGHTS
INITIAL STATEMENT OF WATER DIVERSION AND USE

NOTE: A Statement is not a Water Right

READ THE ATTACHED INFORMATION AND INSTRUCTION SHEET BEFORE COMPLETING THIS FORM

A. Claimant Information (required)			
Claimant Name(s):			
Mailing Address		City	State Zip
Phone Number		Email Address (if available)	
Agent Name (if applicable)			
Mailing Address		City	State Zip
Phone Number		Email Address (if available)	
Land Owner Name (if different from claimant)			
Mailing Address		City	State Zip
B. Type of Claim			
Check the box(es) which describe the type of claim(s) under which you are diverting water.			
<input type="checkbox"/> Riparian	<input type="checkbox"/> Pre-1914	<input type="checkbox"/> Court Decree	<input type="checkbox"/> Pending Appropriative Application
If you checked yes for Court Decree or Pending Appropriative Application, list the decree number or application ID:			
C. Water Course Description (required)			
Source Name at the point of diversion		Tributary to	
D. Legal Land Description (required)			
Provide the location of the Point of Diversion using one of the following methods (check one box and enter coordinates, if applicable):			
<input type="checkbox"/> Latitude/Longitude Measurements: _____ <input type="checkbox"/> California Coordinate System (NAD 1983): _____ <input type="checkbox"/> USGS Topographic Map with point of diversion labeled on map (if checked yes, please attach map)			
County (required)		Assessor's Parcel Number(s), if assigned	
Provide Public Land Description to nearest 40 acres (if assigned)			
_____ ¼ of the _____ ¼ of Section _____, Township _____, Range _____, B&M _____			
E. Place of Use Description (required)			
Provide a general description of the area in which the water was used.			
Provide an outline of the Place of Use using one or both of the following methods (check box indicating each map attached)			
<input type="checkbox"/> USGS Topographic map		<input type="checkbox"/> County Assessor's parcel map	
F. Purpose of Use Description (required)			
Provide a listing of use types (see instructions for a listing of water uses)			
Number of Acres (if applicable)		Persons Served (if applicable)	Stock Watered (if applicable)

CONTINUE TO PAGE 2

G. Diversion Works Description (required)														
Name of Diversion Works, if named.								Year in which diversion commenced (or specify nearest known year)						
List any related existing water rights, if applicable (for example, an appropriative right using the same diversion works).														
Type of Diversion Facility (select one)														
Gravity		Creek Pump			Well Pump			Other (please specify): _____						
Method of Measurement: (check one box)														
Weir				Flume			Inline Flow Meter			Other (please specify): _____				
Electric Meter				Estimate										
Capacity of Diversion Works (specify unit of measure)								Capacity of Storage Tank or Reservoir (if applicable)						
_____ cfs				_____ gpm		_____ gpd		_____ Gallons			_____ Acre-feet			
H. Quantity of Water Diverted (Required - if amounts are available, list below - otherwise check months in which diversion occurred)														
Provide the quantity of water diverted each month in the table below as measured in (check one box)											Gallons		Acre-feet	
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total	
I. Recent Water Use														
Provide the annual water use in recent years:						Maximum _____			Gallons		Acre-feet			
						Minimum _____			Gallons		Acre-feet			
J. Maximum Rate of Diversion (if available)														
If available, provide the maximum rate of diversion achieved in each month as measured in (check one box)											cfs		gpm	gpd
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec		
K. Miscellaneous Water Use (answer only sections applicable to your diversion)														
<u>Water Conservation:</u> Are you currently employing any methods of water conservation?														
YES						NO								
If yes, describe any water conservation efforts in current use.														
<u>Water Quality and Wastewater Reclamation:</u> Are you now or have you been using reclaimed water from a wastewater treatment facility, desalination facility or water polluted by waste to a degree that unreasonably affects such water for other beneficial uses?														
YES						NO								
<u>Conjunctive use of surface water and groundwater:</u> Are you using groundwater in lieu of surface water?														
YES						NO								
L. Certification of Statement (required)														
I declare under penalty of perjury that the information in this statement of water diversion and use is true to the best of my knowledge and belief.														
*DATE: _____ at _____, California														
(county)														
*SIGNATURE: _____														
*PRINTED NAME: _____														
(first name)				(middle initial)				(last name)						
COMPANY NAME: _____														

UPON COMPLETION OF THIS STATEMENT, ATTACH ALL SUPPORTING DOCUMENTATION AND MAPS AND MAIL TO:

State Water Resources Control Board
 Division of Water Rights
 PO Box 2000
 Sacramento, CA 95812-2000

Information and Instructions for Completing the Initial Statement Form

GENERAL INFORMATION

California law requires each person or organization that uses diverted surface water, with minor exceptions, or pumped groundwater from a known subterranean stream to: (1) file a Statement of Water Diversion and Use (Statement); or (2) file an application to appropriate water with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division). A Statement should be filed if water is diverted and used under a claim of riparian entitlement to the natural stream flow. A valid riparian claim is a vested right that is superior to any permit or license issued by the Division to appropriate water. Therefore, it is advantageous to document the riparian claim by filing a Statement for all or part of the diversion. A Statement should also be filed for water appropriated prior to the establishment of the State Water Commission (the predecessor to the State Water Board) on December 19, 1914, regardless of whether it was recorded in the county or if the diversion occurred after January 1, 2009 and is not covered by a permit or license.

The filing of a statement (1) provides a record of water use, (2) enables the State to notify such users if someone proposes a new appropriation upstream from their diversion, and (3) assists the State in determining if additional water is available for future appropriators.

Failure to file a statement for each diversion that occurred after January 1, 2009 may be subject to civil liabilities that carry a maximum fine of \$1,000 plus \$500 for each day the violation continues after 30 days of the State Water Board notification of the violation.

PRIOR TO FILLING OUT FORM

Use this guide to determine if you need to file an Initial Statement of Water Diversion and Use. This information can be found in the California Water Code, §5101.

If you are not currently diverting surface water, you do NOT need to file a statement.

If you are diverting surface water, you do NOT need to file a statement if any of the following conditions are true:

- the diversion is from a spring that does not flow off the property on which it is located and from which the person's aggregate diversions do not exceed 25 acre-feet in any year;
- the diversion is covered by a permit or license to appropriate water that is on file with the Division;
- the diversion is covered by a registration for small domestic or livestock stockpond uses, or covered by a State Water Board

stockpond certificate issued for ponds with a storage capacity of 10 or less acre-feet in either program;

- a notice is filed with the State Water Board for the recordation of groundwater extractions and diversions in Los Angeles, Riverside, San Bernardino, and Ventura Counties;
- a diversion is regulated by a watermaster appointed by the Department of Water Resources and included in annual reports filed with a court or the State Water Board by the watermaster, which reports identify the persons who diverted water and describe the general purposes and the place, the use, and the quantity of water that has been diverted from each source;
- a diversion is included in annual reports filed with a court or with the State Water Board by a watermaster appointed by a court or filed pursuant to statute to administer a final judgment determining rights to water, which reports identify the persons who have diverted water and give the general place of use and the quantity that has been diverted from each source.

INSTRUCTIONS

Required sections are indicated with an asterisk (*). All required fields must be completed or the form will not be accepted.

A separate statement should be filed for each individual diversion point from which water is diverted as outlined in the California Water Code §5102.

Unless otherwise listed, the Division's authority to require information on the Initial Statement has been outlined by the California Water Code, §5103. Other information is authorized under Water Code §5101. The following is a description of the information needed in each item:

A. Claimant Information*

The claimant is the party responsible for the diversion and use of the claim submitted on the form. As the claimant you are required to provide your name or company name and address. The phone number and e-mail address should be provided, if available.

If you would like to designate an agent to act on your behalf to receive all notices and report requests related to your Statement, please provide the name and address of your designated agent. The phone number and e-mail address should be provided, if available.

If you are not the owner of the land in which the diversion occurs, provide the name and contact information of the landowner.

B. Type of Claim

Indicate the type of claim you are filing. See the claim descriptions below if you are unsure

of the type of claim you are using. You may check more than one box on the form if your diversion is covered by more than one claim.

Riparian: A riparian right enables an owner of land bordering a natural lake or stream to take and use water on his riparian land. Riparian land must be in the same watershed as the water source and must never have been severed from the source of supply by an intervening parcel without reservation of the riparian right to the severed parcel. Generally, a riparian water user must share the water supply with other riparian users. Riparian rights may be used to divert the natural flow of a stream but may not be used to (1) store water for later use (2) divert water which originates in a different watershed (3) divert water released from storage, or (4) divert return flows from groundwater use.

You are not required to file a statement of water diversion and use if you are not currently exercising your riparian rights for a water body adjacent to your property. If you begin diverting water in the future, you will then be required to submit an initial statement. The filing of a statement is not required to preserve a riparian right which is not currently being exercised.

Pre-1914 Appropriative: A pre-1914 appropriative right is for diversions that have been under continuous use and have remained unchanged since before December 19, 1914. After the formation of the California Water Commission in December 1914, new appropriators have been required to obtain a permit or license from the State.

Court Decree: An adjudicated right falls under a water system in which a court or the board has determined, by decree, the amount of use allowed to landowners within the adjudicated area. You must file a statement if you are in an adjudicated area if there is no watermaster filing reports on your behalf. Indicate the decree number when filing a statement on a court decree claim.

Pending Appropriative: An appropriative right is required for use of water on non-riparian land and for storage of water. Generally, appropriative rights may be exercised only when there is a surplus not needed by riparian water users. If you have filed an application for a water rights license and are not yet permitted, but water is being diverted, you are required to file a statement. Indicate the corresponding application ID number on this line.

Instructions continued on next page.

Note: Although it is not required to provide the type of claim you are filing, this information may be used to determine whether your right of claim is valid. If documentation is available, you may submit the corresponding evidence of claim with this statement.

C. Water Course Description*

Indicate the name of body of water from which you are diverting water and body of water it is a tributary to.

D. Legal Land Description*

Provide the location of the point of diversion and indicate which coordinate method you are using or plot the point of diversion on an attached map. Each separate diversion point should be reported on separate Initial Statement forms

ABOUT MAPS: You may submit a single map showing both the point of diversion and the place of use (items D* and E*). Maps can be found at: <http://store.usgs.gov/>

List the County where the diversion occurs and, if available, the Assessor's Parcel Number.

Provide the public land description, if assigned, for the quarter-quarter, section, township, range and meridian in which the diversion occurs.

E. Place of Use Description*

This is related to item D* except it is where the water is used instead of the point where the diversion takes place. Outline the area where the water is used.

ABOUT MAPS: You MUST submit a USGS topographic map outlining the place of use. Failure to submit an appropriate map will result in your statement filing to be returned as deficient. If you are also using a USGS topographic map for the point of diversion, you can draw both on a single map (items *D and *E). Maps can be found at: <http://store.usgs.gov/>

F. Purpose of Use Description

Indicate the purpose of use for the diverted water. Examples of purposes of use are for: domestic, dust control, fire protection, fish/wildlife protection and enhancement, fish culture, frost protection, heat protection, incidental power, industrial, irrigation, milling, mining, municipal, power, recreational, snow making, stock watering, etc). Also indicate the number of acres irrigated, number of persons served for domestic consumption, number of head watered, etc.

G. Diversion Works Description

The maximum capacity of the diversion works is the maximum output available for a pump or other diversion source.

If you store water and know the storage capacity indicate in gallons or acre-feet.

If you do not know the storage capacity, you can use the following formula to estimate: Multiply the surface area (in acres) by the

maximum depth of the reservoir (in feet) then multiple that number by .7.

H. Quantity of Water Diverted

Provide the quantity of water used for each month in the year you are reporting. The amount can be estimated if you do not have a measuring device. If you did not divert water in a particular month, enter "0".

I. Recent Water Use

You can provide an estimate if you do not have the actual amounts or year available.

J. Monthly Maximum Rate of Diversion

Provide a Monthly maximum rate of diversion in the table provided. If precise measurements are not available, provide an estimated average per month. Note: Beginning January 1, 2012, the monthly maximum rate of diversion will become mandatory and precise measurements will be required.

K. Water Conservation Efforts

Complete item K if you are filing under pre-1914 appropriative water rights and are using conservation methods, using recycled or treated water, or using groundwater in lieu of surface water.

L. Certification of Statement*

All fields must be complete and the form must be legible and signed by the person completing the form. The company name is required if applicable.

SUBMITTING YOUR STATEMENT

Attach the statement form to your maps and other supporting documentation. You may submit multiple forms in the same envelope if each diversion works have been labeled. Do NOT send duplicate copies of your statement.

Mail all documents to:

**State Water Resources Control Board
Division of Water Rights
PO Box 2000
Sacramento, CA 95812-2000**

FREQUENTLY ASKED QUESTIONS

Q: Why do I need to submit a Statement of my diversion?

A: The main purpose of the Statement Program law is to create a central repository for records of diversions and uses of water. This repository differs from the records of appropriated water rights that are permitted and licensed. The law also enables the Division to notify water users about applications to appropriate water that might affect their supply. The information collected from the Statements helps the Division to protect the rights of existing and known diverters and to evaluate whether there is a reasonable likelihood that water is available for appropriation for new applications. In the future, water use reported on Statements and in reports required under the appropriation

process will also help the Division to assure the proper allocation of the state's water resources. There are no fees associated with the Statement Program.

Q: When should I file my statement?

A: The initial Statement should be completed for each point of diversion and should identify the amount of water used during the first day of the calendar year. The Statement must be filed with the Division before July 1 of the following year.

Q: What happens after I submit my statement?

A: Once a Statement is received at the Division, it is reviewed for acceptability in accordance with the conditions listed above. The Division will assign a Statement Number to acceptable Statements. If a Statement is inadequate, the Division will notify the diverter of the deficiencies. All correspondence concerning these Statements should refer to the assigned Statement number or Statement deficiency number.

Q: How often do I need to report usage in subsequent years?

A: Supplemental Statements are filed by the owner or agent of record contained in the Division's database at three-year intervals and must be filed with the Division prior to July 1 of that year.

Q: How can I update or make changes to my information?

A: Changes in the name and address of the person diverting the water should be made on the Supplemental Statement, or may be made by using a Notice of Assignment form so that the Division's database can be updated. If the location of the existing point of diversion as identified on the Supplemental Statement has changed, the new location must be identified. If there is a new point of diversion, a separate Statement must be filed with the Division.

Q: What happens if I move and do not notify the Division of an address or ownership change?

A: If a Supplemental Statement is returned to the Division from the U.S. Postal Service, the diverter's water use will be considered inactive and the Division's database will be modified to reflect this status. This database modification will prompt the Division to stop mailing Supplemental Statements and notices of proposed appropriations. The Division must be notified if a diverter wishes to reactivate an inactive Statement in order to record their diversion and use of water.

Q: Do I need approval from any other agencies to divert water?

You may also need to acquire a stream alteration agreement (SAA) with the Department of Fish and Game. Information about the Department's SAA is available at: <http://www.dfg.ca.gov/habcon/1600/>