

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

DELTA WATERMASTER

ORDER WR 2014 -00XX-DWM

CEASE AND DESIST ORDER

In the Matter of Violation of Annual Reporting Requirements by

**Shea Mountain House LLC
License 7726 (Application 16809)**

SOURCE: Mountain House Creek

COUNTY: San Joaquin

The State Water Resources Control Board (State Water Board or Board) is authorized under Water Code section 1831 to issue a Cease and Desist Order (CDO) requiring Shea Mountain House LLC (referred to herein as Licensee) to cease and/or abate a threatened or ongoing violation of the terms and conditions of your license, and/or an unauthorized diversion or use of water.

Licensee is alleged to have violated or is threatening to violate California Water Code section 1052, which provides:

The State Water Board is authorized to issue a Cease and Desist Order (CDO) when it determines that any person is violating or threatening to violate any of the following

- (1) The prohibition set forth in Section 1052 against unauthorized diversion or use of water subject to this division.
- (2) Any term or condition of a permit, license, certification, or registration issued under Division 2 of the Water Code

On August 27, 2014, and in accordance with the provisions of section 1834 of the California Water Code, the State Water Board Delta Watermaster provided notice of the CDO against Licensee for the violation of the terms and conditions of your license, unauthorized diversion or use of water and/or Title 23, Division 3, Chapter 2, Article 20, section 847 of the California Code of Regulations. California Water Code section 85230(b) provides that the Delta Watermaster shall exercise the State Water Board's delegated authority to provide enforcement of license and permit terms and conditions. Pursuant to State Water Board Resolution 2012-0048, the Delta Watermaster is authorized to issue a notice of cease and desist, and when a hearing has not been timely requested, issue a CDO in accordance with Water Code section 1831 et seq.

FACTUAL BASIS FOR ISSUING THE CDO

The facts and information upon which this CDO is based are as follows:

1. Senate Bill X7-8, which was signed into law in 2009, authorized the State Water Board to adopt regulations requiring online reporting of water diversions. Consistent with the Senate Bill, the State Water Board has adopted regulations requiring annual reporting of water diversion and use under licenses, and developed a new online Report Management System (RMS) as a component

of the enhanced Water Right Information Management System (eWRIMS). The regulation specifying annual licensee reporting requirements is codified at Title 23, Chapter 2.7, Article 2, section 929 of the California Code of Regulations.

2. In January 2014, the Division of Water Rights (Division) mailed out an initial notice (Exhibit A) to the Licensee notifying them of: the annual use reporting requirement, instructions on how to access the RMS system and submit their 2013 use report online. The Licensee was also notified that if they had any questions on the new reporting process, they could contact the Division by phone or email. The deadline to submit their 2013 use report online was June 30, 2014.
3. On May 30, 2014, the Office of Delta Watermaster (Delta Watermaster) mailed out a Reminder Notice, requesting that the Licensee submit their use report online or to provide information that the report need not be filed, by June 30, 2014.
4. On July 23, 2014, the Office of Delta Watermaster contacted agent for Licensee and informed Licensee's agent that the water use report is delinquent. Per agent's request, staff electronically mailed information on the delinquent status of the water right and instructions to electronically file the water use reporting using the User ID and Password provided in the electronic mail. Staff also included information regarding upcoming enforcement actions against delinquent diverters after July 24, 2014.
5. On July 25, 2014, the Office of Delta Watermaster mailed out a Delinquent Notice, which also included a copy of the January 2014 letter, to all the licensees who had not submitted their 2013 use report by July 1, 2014 (Exhibit B). The Delinquent Notice provided notice that failure to submit the annual use report was a violation of the terms and conditions of the applicable license and/or Chapter 2, Article 20, section 847 of the California Code of Regulations, and granted Licensee 20 days to file the 2013 use report. The letter gave notice that continued failure to submit the annual use report may result in enforcement action by the State Water Board. The United States Postal Office confirms the Delinquent Notice was delivered on July 29, 2014, 2014, at 7:12 am (Certified Mail # 70042510000391503419).
6. As of August 26, 2014, the State Water Board has not received Licensee's 2013 annual use report for A016809.

IT IS HEREBY ORDERED, pursuant to sections 1831 through 1836 of the California Water Code, that:

1. Licensee shall immediately come into compliance with the terms of the License by submitting their report of 2013 annual use by accessing the Report Management System at www.waterboards.ca.gov/RMS using the User ID and Password shown on User Information Sheet accompanying this CDO.

Please note the User ID is a seven-digit alphanumeric string that begins with the letter "A" and followed by six numbers corresponding to your original application number. If you have any problems accessing the reporting system, please contact the staff noted on the letter accompanying this CDO.

Consequences of Non-Compliance

In the event Licensee fails to comply with the requirements of this Order, Licensee shall be in violation of this CDO and subject to additional enforcement, which may include the imposition of administrative civil liability pursuant to Water Code section 1845 (b)(1) of up to \$1,000 for each day in which the violation occurs, or referral to the Attorney General to take further enforcement action as described in California Water Code section 1845(a):

Upon the failure of any person to comply with a cease and desist order issued by the board pursuant to this chapter, the Attorney General, upon the

request of the board, shall petition the superior court for the issuance of prohibitory or mandatory injunctive relief as appropriate, including a temporary restraining order, preliminary injunction, or permanent injunction.

Reservation of Enforcement Authority and Discretion

Nothing in this Order is intended to or shall be construed to limit or preclude the State Water Board from exercising its authority under any statute, regulation, ordinance, or other law, including but not limited to, the authority to bring enforcement against Licensee for unauthorized diversion of water in accordance with Water Code section 1052.

Regulatory Changes

Nothing in this Order shall excuse Licensee from meeting any more stringent requirements that may be imposed hereafter by applicable legally binding legislation, regulations or water right license requirements.

STATE WATER RESOURCES CONTROL BOARD

Craig M. Wilson
Delta Watermaster

Dated: August 27, 2014

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