

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

DIVISION OF WATER RIGHTS

In the Matter of Water Right Application 30761

David W. Croft

ORDER CANCELING WATER RIGHT APPLICATION

SOURCE: Unnamed Stream tributary to Mill Creek thence the Navarro River
COUNTY: Mendocino

WHEREAS:

1. Application 30761 was filed with the State Water Resources Control Board (State Water Board), Division of Water Rights (Division), on July 27, 1998, requesting the right to divert 37.3 acre-feet per annum from 4 Unnamed Streams tributary to Mill Creek thence the Navarro River. The application was accepted on September 14, 1998 and noticed on December 31, 1999. Of the seven protests that were filed, five are outstanding.
2. On December 7, 2007, the Division was informed that the property associated with Application 30761 had been sold. On February 13, 2009, the Division was informed that David W. Croft (Applicant), the owner of the property associated with Application 30761 that contained the only existing reservoir, was interested in continuing Application 30761.
3. On January 26, 2012, staff from the Division and the Department of Fish and Game conducted a site visit of the property associated with Application 30761 with the Applicant's son, Michael Croft. During the site visit, it was determined that a Small Domestic Use Registration may be filed instead of continuing to pursue Application 30761. On April 2, 2012, Michael Croft contacted the Division and confirmed his decision to submit a Small Domestic Use Registration, with the intent of withdrawing Application 30761.
4. By letter dated October 3, 2012, pursuant to Water Code section 1275, the Division requested that the applicant either (1) submit a Small Domestic Use Registration to the Department of Fish and Game with a copy to the Division, or (2) submit in writing an indication that the applicant is still interested in pursuing Application 30761. The Division allowed 30 days for applicant to respond. The letter contained a warning that failure to submit the information requested within the time period provided may result in the cancellation of the application. To date, the Division has not received the requested information.
5. The Applicant, after due notice, has failed to submit information requested pursuant to Water Code section 1275 or to show good cause why additional time should be allowed. (Wat. Code, § 1276.)
6. 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 30761 IS HEREBY CANCELED.

It is 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 points of diversion identified in this license 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:
JAMES W. KASSEL FOR

*Barbara Evoy, Deputy Director
Division of Water Rights*

Dated: JAN 07 2013