



EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

APRIL 10, 2015

MAY 26 2015

CERTIFIED MAIL

In Reply Refer to:
262.0 (39-14-01)

Mr. Troy Brown, City Manager
City of Tracy
333 Civic Center Plaza
Tracy, CA 95378

Certified Mail Number 7004-2510-0003-9146-9838

Dear Mr. Brown:

AMENDED WATER RIGHTS INQUIRY REGARDING CHANGE IN THE PURPOSE OF USE AND PLACE OF USE OF TREATED WASTEWATER IN SAN JOAQUIN COUNTY

The State Water Resources Control Board (State Water Board), Division of Water Rights (Division) recently became aware that the City of Tracy (City) has sold treated wastewater effluent to West Side Irrigation District (WSID) between April 1 and October 31, 2014. The Division also received information indicating that the City approved a resolution at its March 3, 2015 City Council meeting authorizing the sale of treated wastewater effluent to WSID between April 1 and October 31, 2015.

The City of Tracy is authorized to discharge up to 10.8 million gallons per day of treated wastewater to Old River, tributary to the San Joaquin River, pursuant to Order R5-2007-003601 (National Pollutant Discharge Elimination System [NPDES] Permit No. CA0079154). California Water Code section 1210 clarifies the rights to treated wastewater as between the owner of the sewage treatment works and those who discharge into the works, but it does not address rights as between the treatment works owner and others who have water rights to divert from the same river or stream. California Water Code section 1211 (a) requires the owner of a wastewater treatment facility to receive approval from the State Water Board for any change in the purpose of use, place of use, and point of diversion of treated wastewater. The Division has no record that the City has petitioned to change the purpose and place of use for the sale of treated wastewater to WSID.

Any diversion undertaken without a valid basis of water right is considered to be a trespass against the state of California, and the property owner/diverter is subject to appropriate enforcement action, including the imposition of an administrative civil liability complaint in the amount of up to \$500 **\$1,000** per day and **\$2,500 for each acre-foot of water used or diverted** or a cease and desist order with penalties of up to ~~\$1,000~~ **\$10,000** for every day of its violation.

FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE DIRECTOR

Mr. Troy Brown, City Manager
City of Tracy

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Please respond to this inquiry within 30 days of receiving this letter and provide the following information regarding the sale of water to WSID:

- The authority under which the City has sold, and plans to sell, water to WSID without the approval required under Water Code section 1211;
- The monthly quantities of water sold to WSID in 2014;
- The monthly quantities of water sold or proposed for sale in 2015;
- The location where WSID takes possession of the water; and
- WSID's purpose and place of use of the water.

Upon receipt of your response, Division staff will evaluate all available information and will determine whether further action is required by the Division.

If you have any questions regarding this matter, please contact me at (916) 327-3113 or via e-mail at Kathy.Bare@waterboards.ca.gov. Written correspondence or inquiries should be addressed as follows: State Water Resources Control Board, Division of Water Rights, Attn: Ms. Kathryn Bare, P.O. Box 2000, Sacramento, CA 95812-2000.

Sincerely,



Kathryn Bare
Water Resource Control Engineer
Enforcement Unit 3
Division of Water Rights

cc: Mr. Jack Alvarez, President
West Side Irrigation District
P.O. Box 177
Tracy, CA 95378-0177

ec: Mr. Andy Sawyer
Office of the Chief Counsel, State Water Resources Control Board
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Mr. Andrew Tauriainen
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Ms. Wendy Wyels
Central Valley Regional Water Quality Control Board
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Ms. Patricia Fernandez
Division of Water Rights, State Water Resources Control Board
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