



# State Water Resources Control Board



**Winston H. Hickox**  
Secretary for  
Environmental  
Protection

**Division of Water Rights**  
1001 I Street, 14<sup>th</sup> Floor • Sacramento, California 95814 • (916) 341-5300  
Mailing Address: P.O. Box 2000 • Sacramento, California • 95812-2000  
FAX (916) 341-5400 • Web Site Address: <http://www.waterrights.ca.gov>

**Gray Davis**  
Governor

*The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web-site at <http://www.swrcb.ca.gov>.*

**APR 17 2003**

CERTIFIED

Mr. Steven Grover  
Omnium Estates  
c/o Fine Wines International  
Pier 19  
San Francisco, CA 94111

HEARING TO DETERMINE WHETHER TO IMPOSE ADMINISTRATIVE CIVIL LIABILITY AGAINST OMNIUM ESTATES (COMPLAINT NO. 262.5 – 31), MCNAB CREEK, MENDOCINO COUNTY

You received a hearing notice dated March 21, 2003 regarding the above subject hearing which was to commence on Wednesday, May 14, 2003. As stated in the hearing notice and its enclosure entitled "Information Concerning Appearance at Water Right Hearings," parties intending to present evidence at the hearing were required to submit a Notice of Intent to Appear (NOI) to the State Water Resources Control Board (SWRCB) no later than noon on Thursday, April 10, 2003. The enclosure also noted that failure to submit a Notice of Intent to Appear and exhibits in a timely manner may be interpreted by the SWRCB as intent not to appear.

We did not receive an NOI from Omnium Estates. In fact, the only NOI we received was from the SWRCB enforcement team. In the absence of Omnium's participation, no reason exists to hold the hearing as scheduled. Your failure to file an NOI signifies your intent not to participate in the hearing. The hearing is canceled (see enclosed cancelation notice). Since you requested the hearing, I also interpret your failure to file an NOI to be a withdrawal of your request for a hearing. In the absence of a current request for a hearing, the Administrative Civil Liability Complaint No. 262.5-31 issued by the Chief of the Division of Water Rights (Division) to Omnium Estates is unopposed. Therefore, I will shortly issue a final order imposing administrative civil liability consistent with the Complaint. If you want SWRCB review of the final order imposing administrative civil liability, you may file a petition for reconsideration under Water Code section 1122 within thirty days after I issue the final order. Petitions for reconsideration must comply with the regulations of the SWRCB, at California Code of Regulations, title 23, sections 768-769.

The administrative civil liability (ACL) in the amount of \$3,000 will be due within 15 days of the date of final order. Failure to pay will result in the SWRCB taking legal steps to collect the \$3,000. Additionally, I note that you have not yet filed an application for either a temporary or permanent permit to appropriate water from McNab Creek and store it in your reservoir. Currently, Omnium has no right to take water from McNab Creek and cannot divert the water

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without a temporary or permanent water right. Under Water Code section 1052, subdivision (c), the SWRCB can request the Attorney General to file a legal action in the superior court, seeking injunctive relief against Omnium's illegal diversion of water. If you plan to divert water to the reservoir or use water from the reservoir this year, you must immediately obtain a temporary permit under Water Code sections 1425-1431.

If you have questions about this letter, you may contact Barbara J. Leidigh, Staff Counsel IV, at (916) 341-5190, or Jean McCue, Staff Engineer, at (916) 341-5351.

Sincerely,

**ORIGINAL SIGNED BY:**

Edward C. Anton  
Division Chief

Enclosure

cc: Samantha Olson, Staff Counsel  
State Water Resources Control Board  
1001 I Street, 22<sup>nd</sup> Floor  
P.O. Box 100  
Sacramento, CA 95812-0100

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## NOTICE OF CANCELATION OF PUBLIC HEARING

**The State Water Resources Control Board has canceled the  
Public Hearing to Determine Whether to Impose  
Administrative Civil Liability Against  
Omnium Estates (Complaint No. 262.5 – 31)  
McNab Creek, Mendocino County**

**The canceled hearing was scheduled to commence on  
Wednesday, May 14, 2003 at 10:00 a.m.  
at  
Joe Serna Jr./Cal EPA Building  
Sierra Hearing Room – Second Floor  
1001 I Street, Sacramento**

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### SUBJECT OF CANCELED HEARING

The purpose of this hearing was to receive evidence that would have assisted the State Water Resources Control Board in determining whether it should affirm Administrative Civil Liability Complaint No. 262.5-31 issued by the Chief of the Division of Water Rights to Omnium Estates.

Questions concerning this notice may be directed to Jean McCue, Staff Engineer, at (916) 341-5351 or Barbara Leidigh, Staff Counsel IV, at (916) 341-5190.

ORIGINAL SIGNED BY:

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Maureen Marché  
Clerk to the Board

Date: APR 17 2003

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