



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

MAY 06 2013

In Reply Refer
To:EGP:D031316R

CERTIFIED MAIL

Mr. John W. Brothers
88 E. San Fernando St. #504
San Jose, CA 95113

Dear Mr. Brothers:

REVOCAION OF CERTIFICATE NO. R622 (SMALL DOMESTIC USE REGISTRATION D031316R)

This letter notifies you that Certificate R622 issued pursuant to Registration D031316R has been revoked for failure to pay the renewal fee in accordance with Water Code section 1228.5(d). Revocation of a certificate for failure to renew within five years or to pay the renewal fee is a final action not subject to reconsideration by the State Water Resources Control Board (State Water Board).

On February 29, 2012, the Division of Water Rights (Division) notified you of the requirement to renew the certificate and sent you the necessary forms. On June 7 and July 17, 2012, the Division sent follow up certified letters with the necessary forms reminding you to renew the certificate. To date, the Division has received no response to our letters.

It is the Registrant's responsibility to remove or modify any diversion works and/or impoundments to ensure that water is no longer diverted. Please consult with the Department of Fish and Game and the Regional Water Quality Control Board in order to ensure that removal of project facilities does not adversely affect a fishery or result in unregulated sediment discharge to a waterway. These agencies may require you to obtain a permit prior to any construction activity.

Pursuant to Water Code section 1052, any diversion of water from the point of diversion identified in this certificate 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.

If diversions will be made under claim of riparian or pre-1914 appropriative rights, diversions shall be documented by the filing of a Statement of Water Diversion and Use in accordance with Water Code sections 5100 through 5108.

CHARLES R. HOPPIN, CHAIRMAN | THOMAS HOWARD, EXECUTIVE DIRECTOR

1001 I Street, Sacramento, CA 95814 | Mailing Address: P.O. Box 100, Sacramento, CA 95812-0100 | www.waterboards.ca.gov

If you require further assistance, please contact Beth Payne at (916) 341-5426 or by email at epayne@waterboards.ca.gov. Written correspondence or inquiries should be addressed as follows: State Water Resources Control Board, Division of Water Rights, Attn: Beth Payne, P.O. Box 2000, Sacramento, CA, 95812-2000.

Sincerely,

ORIGINAL SIGNED BY:
JAMES W. KASSEL FOR

Phillip Crader, Manager
Permitting and Licensing Section

cc: Department of Fish and Game
Bay Delta Region
P.O. Box 47
Yountville, CA 94599

**STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS**

SMALL DOMESTIC USE REGISTRATION

RENEWAL ORDER FOR CERTIFICATE NO. R622

Application D031316R of John Brothers, was filed with the State Water Resources Control Board (State Water Board) on April 22, 2002. The State Water Board issued Certificate No. R622 on June 18, 2002.

The subject appropriation meets the requirements for renewal specified in section 1228.5 of chapter 1, part 2, division 2 of the Water Code, and is hereby renewed for the next incremental five-year period to April 21, 2012, based on the above-stated date of first filing the completed registration.

The renewed appropriation is subject to the conditions of the original certificate and any previous amendments.

Original Signed by: KDM for

*Victoria A. Whitney, Chief
Division of Water Rights*

Dated: January 16, 2009

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

DIVISION OF WATER RIGHTS

SMALL DOMESTIC USE REGISTRATION

CERTIFICATE NO. R 622

Application D31316R of

**John Brothers
4225 Mountain Home Ranch Road
Calistoga, CA 94515**

filed with the State Water Resources Control Board (SWRCB) on **April 22, 2002**, meets the requirements for registration of small domestic use specified in Article 2.7 (commencing with section 1228) of Chapter 1 of Part 2 of Division 2 of the Water Code. The appropriation is subject to the following conditions.

1. Source:

Tributary to:

Unnamed Stream

Franz Creek thence

Maacama Creek thence

Russian River thence

Pacific Ocean

within the County of **Sonoma**.

2. Location of Point of Diversion: By California Coordinate System of 1927, in Zone 2	Point is within 40-acre subdivision)	Section	Township	Range	Base and Meridian
North 331,524 feet and East 1,815,639 feet	NW¼ of NW¼	4	8N	7W	MD

3. Purpose of Use:	4. Place of Use:	Section	Township	Range	Base and Meridian	Acres
DOMESTIC	NW¼ of NW¼	4	8N	7W	MD	

The place of use is shown on a map on file with the SWRCB.

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>.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 6.72 acre-feet per annum to be collected from November 1 of each year to April 15 of the succeeding year. The capacity of the reservoir shall not exceed 6.72 acre-feet which is the stated capacity shown in the registration.
6. Appropriation of water pursuant to this registration shall be made in accordance with the information set forth in the completed registration form as to source, location of point of diversion, purpose of use, place of use, and quantity and season of diversion. This information is reproduced as conditions 1 through 5 of this certificate.
7. The appropriation registered herein shall be limited to the use of water in houses, resorts, motels, organization camps, campgrounds, and other similar facilities, including the incidental watering of domestic stock for family sustenance or enjoyment, the irrigation of not to exceed one-half acre of lawn, ornamental shrubbery, or gardens at any single establishment, and the human consumption, cooking, and sanitary needs at campgrounds or resorts. Also, any storage of water registered herein may include impoundment for incidental aesthetic, recreational, or fish and wildlife purposes.
8. This appropriation is limited to the season of diversion specified in condition 5 herein. If such specified season is less than the actual season of need, an alternative supply of water, or other valid right, shall be utilized for all uses outside of the season registered herein.
9. Pursuant to California Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this registration, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.
10. Registrant shall allow representatives of the SWRCB, and other parties as may be authorized from time to time by the SWRCB, reasonable access to project works to determine compliance with the terms and conditions of this registration.
11. This appropriation is subject to prior rights. Registrant may be required to curtail diversion or release water stored during the most recent collection season should diversion under this registration result in injury to holders of legal downstream senior rights. If a reservoir is involved, registrant may be required to bypass or release water through, over, or around the dam. If release of stored water would not effectively satisfy downstream prior storage rights, registrant may be required to otherwise compensate the holders of such rights for injury caused.
12. If the registrant does not own the point of diversion, this registration shall not be construed as conferring upon the registrant right of access to the point of diversion.
13. To the extent that water available for use under this registration is return flow, imported water, or wastewater, this registration shall not be construed, as giving any assurance that such supply will continue.
14. Diversion works shall be constructed and water applied to beneficial use with due diligence.

15. No work shall commence and no water shall be diverted, stored or used under this certificate until registrant has received a stream or lake alteration permit from the California Department of Fish and Game. Compliance with the terms and conditions of the permit is the responsibility of the registrant. If a permit is not necessary for this project, the registrant should retain a written waiver from the California Department of Fish and Game.
16. In compliance with section 5937 of the Fish and Game Code, if storage or diversion of water under this registration is by means of a dam, registrant shall allow sufficient water at all times to pass through a fishway or, in the absence of a fishway, allow sufficient water to pass over, around, or through the dam to keep in good condition any fish that may be planted or exist below the dam; provided that, during a period of low flow in the stream, upon approval of the California Department of Fish and Game, this requirement will be satisfied if sufficient water is passed through a culvert, waste gate, or over or around the dam to keep in good condition any fish that may be planted or exist below the dam if it is impracticable or detrimental to pass the water through a fishway. In the case of a reservoir, this provision shall not require the passage or release of water at a greater rate than the unimpaired natural inflow into the reservoir.
17. The facilities for diversion under this registration shall include satisfactory means of measuring and bypassing sufficient water to satisfy downstream prior rights and any requirements of the California Department of Fish and Game.
18. No construction shall be commenced and no water shall be diverted under this registration until all necessary federal, state, and local approvals have been obtained, including obtaining and complying with any waste discharge requirements from the appropriate California Regional Water Quality Control Board.
19. This registration does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the registrant shall obtain authorization for an incidental take prior to construction or operation of the project. Registrant shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this registration.
20. This registration is subject to the submittal of a report of water use and satisfactory renewal of the registration, on forms to be furnished by the SWRCB, including payment of the then-current renewal fees prior to the expiration of each five-year period following the date of first filing the completed registration.
21. The point or points of diversion and the place of use registered herein may be changed by filing a completed amended registration form with the SWRCB, including payment of the then-current registration fee. Such change shall not operate to the injury of any legal user of the water involved.
22. The appropriation registered herein shall be totally or partially forfeited for nonuse if the diversion is abandoned or if all or any part of the diversion is not beneficially used for a continuous period of five years.

23. The appropriation registered herein is subject to enforcement, including but not limited to revocation, by the SWRCB if 1) the SWRCB finds that the registrant knowingly made any false statement, or knowingly concealed any material fact, in the registration; 2) the registration is not renewed as required by the conditions of this certificate; or 3) the SWRCB finds that the registrant is in violation of the conditions of this registration.

STATE WATER RESOURCES CONTROL BOARD

David R. Bevinger
for Edward C. Anton, Chief
Division of Water Rights

Dated: JUN 18 2002