

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

**DIVISION OF WATER RIGHTS**

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In the Matter of Water Right Certificate R629 (Registration D031346R)

**Debra L. Moore Trustee**

**ORDER REVOKING WATER RIGHT**

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SOURCE: Blackhawk Canyon then Sacramento River

COUNTY: Placer

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**WHEREAS:**

Pursuant to Water Code section 1228 et seq., the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) is revoking Water Right Certificate R629 because the right holder has failed to commence, prosecute with due diligence, and complete the work necessary to appropriate water under Water Right Certificate R629, and has not made beneficial use of the water in accordance with the certificate, the Water Code and the State Water Board's regulations.

The facts and information upon which the revocation is based are the following:

1. The State Water Board issued Water Right Certificate R629 on October 15, 2002. The certificate authorizes the right holder to collect to storage 2.5 acre-feet per year from November 1 to June 14.
2. Condition 14 of the certificate requires diversion works to be constructed and water applied to beneficial use with due diligence.
3. The right holder indicated that no construction has commenced in the Reports of Registrant filed for the years 2003-2007. On August 17, 2012, the right holder also informed the Division by phone that the reservoir has not been constructed and the right holder has no plan to build the project. After 10 years from the initial registration, the right holder has not applied any water to beneficial use.
4. The right holder stated that water was collected for indoor human consumption, outdoor irrigation, and dust control and fire protection uses in the Reports of Registrant filed on August 21, 2012 for the years 2007-2011. The report is in conflict with what the right holder informed the Division on August 17, 2012. Review of aerial photo maps for the point of diversion and place of use of Certificate R629 shows neither a reservoir nor a dwelling has been built on the right holder's property. It appears that no construction has commenced and the right holder failed to apply any water to beneficial use.
5. A person may obtain a right to appropriate water for small domestic use by first registering the use, and thereafter applying the water to reasonable and beneficial use with due diligence. (Wat. Code, § 1228.2, subd. (a)(1).) Provisions of the Water Code regarding revocation of permits and licenses are applicable to registrations of appropriations for small domestic uses. (Wat. Code, § 1228.6, subd. (c).)

6. Under Water Code section 1410, there shall be cause for revocation if work is not commenced, prosecuted with due diligence, and completed, or water applied to beneficial use as contemplated and in accordance with the Water Code. (Wat. Code, § 1410, subd. (a).)
7. Based on the above facts and information, the Division concludes that cause exists for revocation of Water Right Certificate R629 because the right holder has failed to commence the project and apply water to beneficial use with due diligence as required by the Water Code and condition 14 of the certificate.
8. The State Water Board has delegated the authority to revoke water rights to the Deputy Director for Water Rights (Deputy Director) pursuant to Resolution No. 2012-0029. The Deputy Director has redelegated this authority to the Section Manager, pursuant to redelegation order dated July 6, 2012.

**THEREFORE, IT IS ORDERED THAT WATER RIGHT CERTIFICATE R629 IS HEREBY REVOKED, AND THE WATER IS DECLARED TO BE SUBJECT TO APPROPRIATION.**

This revocation may not result in additional water being available for new appropriations if there are applicable restrictions due to past State Water Board decisions regarding water availability.

It is right holder's responsibility to remove or modify diversion works and impoundments to ensure that water subject to this revocation is not diverted and used. Right holder 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 point of diversion identified in this water right 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.

Before initiating any work in a stream channel, right holder should consult with the Department of Fish and Wildlife 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. Right holder 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.

Right holder 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: PHILLIP CRADER FOR

*Barbara Evoy, Deputy Director  
Division of Water Rights*

Dated: **April 29, 2013**

**RENEWAL OF  
SMALL DOMESTIC USE REGISTRATION**

**CERTIFICATE NO. R629  
APPLICATION D031346R**

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 which expires on July 22, 2012, based on the first filing date of the completed registration.

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

Approved by:

KATHERINE MROWKA, Chief  
Inland Streams Unit

Date of Renewal: September 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 629

Application D31346R of

**M. Brian Lee**  
1732 Glastonbury Circle  
Roseville, CA 95747

filed with the State Water Resources Control Board (SWRCB) on **July 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:

Blackhawk Canyon

Third Brushy Canyon thence

Shirrtail Canyon thence

North Fork American River thence

American River thence

Sacramento River thence

Pacific Ocean

within the County of **Placer**.

2. Location of Point of Diversion: By California Coordinate System of 1927, in <b>Zone 2</b>	Point is within (40-acre subdivision)	Section	Township	Range	Base and Meridian
<b>North 508,003 feet and East 2,338,484 feet</b>	<b>NW¼ of SW¼</b>	<b>13</b>	<b>14N</b>	<b>10E</b>	<b>MD</b>

3. Purpose of Use:	4. Place of Use:	Section	Township	Range	Base and Meridian	Acres
<b>DOMESTIC</b>	<b>NW¼ of SW¼</b>	<b>13</b>	<b>14N</b>	<b>10E</b>	<b>MD</b>	

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 2.5 acre-feet per annum to be collected from November 1 of each year to June 14 of the succeeding year. The capacity of the reservoir shall not exceed 2.5 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

*for David Beringer*  
Edward C. Anton, Chief  
Division of Water Rights

Dated: OCT 15 2002