



EDMUND G. BROWN JR.  
GOVERNOR



MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

## State Water Resources Control Board

**MAY 30 2013**

CERTIFIED MAIL NO. 7004-2510-0003-9146-8244  
Return Receipt Required

Mr. David Burton  
Speedy Creek Ranch  
18266 State Highway 128  
Calistoga, CA 94515-0255  
dburton33@gmail.com

Dear Mr. Burton:

### SUBMISSION OF DEFECTIVE NOTICE OF INTENT TO APPEAR AT PUBLIC HEARING CONCERNING THE IMPOSITION OF ADMINISTRATIVE CIVIL LIABILITY UPON DAVID BURTON

I have received your Notice of Intent to Appear at the State Water Resources Control Board's (State Water Board) July 24, 2013 public hearing concerning the potential imposition of Administrative Civil Liability upon you for failure to file a Statement of Water Diversion and Use. **I write to inform you that the Notice of Intent to Appear you submitted is defective.**

You checked the following space on your Notice of Intent to Appear: "I/we intend to present a policy statement only." As stated in the Notice of Public Hearings, a policy statement is a non-evidentiary statement that may only be submitted by interested persons who do not participate in the hearing as parties. (Cal. Code Regs., tit. 23, § 648.1, subd. (d).) As you have been served with an Administrative Civil Liability Complaint and requested a hearing, you are a party to the July 24, 2013 hearing, and you may not participate by only presenting a policy statement.

Consequently, by checking that box and no others, you have indicated the following: 1) you will call no witnesses, 2) you will present no evidence, 3) you wish no opportunity to cross-examine witnesses, and 4) you wish no opportunity to rebut the Prosecution Team's evidence. **In so doing, you have effectively withdrawn your request for a hearing by waiving your right to participate in it.**

FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE DIRECTOR

1001 I Street, Sacramento, CA 95814 | Mailing Address: P.O. Box 100, Sacramento, Ca 95812-0100 | [www.waterboards.ca.gov](http://www.waterboards.ca.gov)

**MAY 30 2013**

If you did not intend to withdraw your hearing request, please immediately submit a corrected Notice of Intent to Appear to:

Division of Water Rights, Hearings Unit  
State Water Resources Control Board  
Attention: Kathleen Groody  
P.O. Box 2000, Sacramento, CA 95812-2000 (by mail)  
1001 I Street, 2<sup>nd</sup> Floor, Sacramento, CA 95814 (by hand delivery)  
Phone: (916) 341-5354; Fax: (916) 341-5400  
Email: [wrhearing@waterboards.ca.gov](mailto:wrhearing@waterboards.ca.gov)

In completing your corrected Notice of Intent to Appear, you should check one or both of the following boxes: 1) "I/we plan to call the following witnesses to testify at the hearing" and/or 2) "I/we intend to participate by cross-examination or rebuttal only." If you plan to call witnesses, you must identify each one on the Notice of Intent to Appear and provide his or her: 1) name, 2) subject of proposed testimony, 3) estimated length of direct testimony, and 4) status as an expert witness. Please note that there are spaces on the Notice of Intent to Appear to provide this information.

**If I do not receive a corrected Notice of Intent to Appear from you by 12:00 pm on Friday, June 7, 2013, the State Water Board will immediately issue a notice cancelling the public hearing you requested and may immediately impose Administrative Civil Liability upon you without further notice.**

Should you desire to settle this matter, you may wish to contact Yvonne West, Senior Staff Counsel in the State Water Board's Office of Enforcement. Ms. West is counsel to the Prosecution Team in this matter and she can be reached by telephone at (916) 322-3626 or by e-mail at [yvonne.west@waterboards.ca.gov](mailto:yvonne.west@waterboards.ca.gov).

Otherwise, if you have non-controversial procedural questions, you may contact Carlos Mejia, Staff Counsel in the State Water Board's Office of Chief Counsel. Mr. Mejia is counsel to the Hearing Team in this matter and he can be reached by telephone at (916) 341-5184 or [carlos.mejia@waterboards.ca.gov](mailto:carlos.mejia@waterboards.ca.gov).

Sincerely,



Kathleen Groody  
Environmental Scientist  
Hearings Unit

ec: State Water Resources Control Board:

Carlos Mejia, Staff Counsel  
Office of Chief Counsel  
[carlos.mejia@waterboards.ca.gov](mailto:carlos.mejia@waterboards.ca.gov)

Continues on next page.

ec: Yvonne West, Senior Staff Counsel  
Office of Enforcement  
[yvonne.west@waterboards.ca.gov](mailto:yvonne.west@waterboards.ca.gov)

Michael Buckman, Senior Environmental Scientist  
Hearings Unit  
Division of Water Rights  
[michael.buckman@waterboards.ca.gov](mailto:michael.buckman@waterboards.ca.gov)

John O'Hagan, Supervising Water Resources Control Engineer  
Enforcement Section  
Division of Water Rights  
[john.o'hagan@waterboards.ca.gov](mailto:john.o'hagan@waterboards.ca.gov)

Jim Kassel, Assistant Deputy Director  
Division of Water Rights  
[jim.kassel@waterboards.ca.gov](mailto:jim.kassel@waterboards.ca.gov)