



# State Water Resources Control Board

262.003-0306  
SURNAME FILES

Alan C. Lloyd, Ph.D.  
Agency Secretary

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Arnold Schwarzenegger  
Governor

MAR 29 2006

In Reply Refer to:  
363:CAR:262.0(23-03-06)

Messrs. Thomas Hill and Steve Gomes  
110 South Highland Avenue  
Ukiah, CA 95482

Millview County Water District  
3981 North State Street  
Ukiah, CA 95482

CreekBridge Homes L.P.  
2093 Landings Drive  
Mountain View, CA 94043

Ladies and Gentlemen:

## COMPLAINT BY LEE HOWARD REGARDING DIVERSION FROM THE EAST FORK RUSSIAN RIVER IN MENDOCINO COUNTY

The Division of Water Rights (Division) has received a complaint from Lee Howard regarding the diversion of water from the East Fork Russian River (copy enclosed). Based on information contained in the complaint and/or available in the Division's files, the following appears to have occurred:

- a) J.A. Waldteufel filed a Notice of Appropriation with the County of Mendocino on March 24, 1914. The notice indicates that Mr. Waldteufel claimed *"the water flowing in the West Fork of Russian River in Mendocino County, California, at the point where this notice is posted to the extent of One Hundred (100) inches measured under a four inch pressure that the purpose for which I claim it is for domestic and culinary purposes upon the lands owned by me, hereinafter described, contiguous to said river and for the irrigation of said lands; that the place of intended use in on Lot #103 of Healey's Survey and Map of Yokayo Rancho and that I intend to divert said water by means of an Electric Motor and a six inch centrifugal pump at said point of diversion."*
- b) Ownership of this claim of right appears to have passed with the place of use through a number of individuals and/or entities until it was obtained by Lester and Bertha Wood in April 1945. Lester Wood submitted Statement of Water Diversion and Use (Statement) #S000272 in February 1967. This Statement indicates that water had recently been diverted as follows:
  - Source: West Branch Russian River within the SW<sup>1</sup>/<sub>4</sub> of the SE<sup>1</sup>/<sub>4</sub> of Section 33, T16N, R12W, MDB&M
  - Maximum diversion rate: 175 gallons per minute (gpm) via a pump
  - Period of diversion: June and July
  - Purpose: Irrigation of 15 acres of walnuts and 15 acres of grapes

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- Maximum use in recent years: 15 acre-feet (ac-ft)
- Minimum use in recent years: 7.5 ac-ft
- Year of 1<sup>st</sup> Use: 1914

A supplemental statement for the years 1970-72 indicates that the point of diversion had been moved to an unspecified location on the East Branch of the Russian River. Use had been made during each of these years during only the months of May for frost protection and during July and September for irrigation. The maximum rate of diversion had been 500 gpm and the total amount diverted was 13.7 ac-ft.

Subsequent supplemental statements for the years 1979-81 and 1985-87 indicate that the period of use had expanded to the months of April through September each year for the irrigation of 30 acres of grapes and walnuts.

- c) By 1988 Robert Wood had apparently succeeded in interest to Lester and Bertha Wood. In June 1998, Robert Wood assigned Statement S000272 to Thomas Hill and Steve Gomes. Messrs. Hill and Gomes recently submitted a supplemental statement form for the years 2002-04 indicating that:
- The use of water extended from May through November of each year.
  - Maximum diversion during any one month had increased from 21.4 gpm in 2002 to 67.4 gpm in 2004. Annual use of water had increased from 7.6 ac-ft in 2002 to 22.1 ac-ft in 2004.
  - Purpose of Use: Domestic by 350 people

A separate sheet of paper included with the most recent supplemental statement form indicates that water had been used every month (i.e., on a year-round basis) since April 2001. The use during the May to November period each year matched that on the supplemental statement form. Annual use was 3.76 ac-ft in 2001 (April to December), 19.123 ac-ft in 2002, 40.122 ac-ft in 2003, and 58.949 ac-ft in 2004.

- d) CreekBridge Homes L.P. (CreekBridge) submitted Statement S015625 on July 12, 2001. According to the information contained in the file for this statement, CreekBridge purchased property located just south of Lake Mendocino Drive and west of the West Fork of the Russian River (APN #169-130-17)<sup>1</sup> "along with the reservation of the proportional water right for this property which was established and recorded prior to December of 1914."

<sup>1</sup> - This parcel number no longer exists. However, a 51-parcel subdivision is located in the same general location as shown on the map attached to S015625, which identified parcel number 169-130-17 as the point of diversion and place of use.

The statement form provided the following information:

- Source: West Fork Russian River
- Point of Diversion: on land owned by Thomas P. Hill (APN #169-130-17)
- Capacity of Diversion Works: 800 gpm pump with a 12,000 gallon storage tank
- Year of 1<sup>st</sup> Use: 1914
- Purpose of Use: 10.5 +/- acres of land for fruit tree irrigation, construction, dust control and domestic water for a 51-unit subdivision located ¼ mile east of North State Street on Lake Mendocino Drive next to the West Fork of the Russian River
- Recent use: 0.33 million gallons in June, July and August of 2001 thence 1.53 million gallons per month (estimated) from September 2001 through December 2002

No further information has been submitted pursuant to this statement.

- e) According to a document submitted by Mr. Howard with his complaint, Thomas P. Hill, Steven Gomes, and the Millview County Water District (District) executed a document on October 11, 2002 that provided for the use of water by the District under Messrs. Hill and Gomes' pre-1914 claim of right. The document appears to be a lease agreement beginning on October 15, 2002 and ending on October 14, 2006. A provision for the District to exercise an option to purchase the pre-1914 claim of right is also included in this document.

In view of the above information, I have several questions to which I would appreciate answers from any or all of the addressees of this letter:

- a) Do Messrs. Hill and Gomes still believe they own the pre-1914 claim of right to the full 100 miners inches as originally filed with the County Recorder by J.A. Waldteufel on March 24, 1914?
- b) Are diversions still occurring from the West Fork of the Russian River pursuant to Statement S000272? If so, 1) how much water is being diverted; 2) where is the current point of diversion located; 3) what use is made of the water diverted; and 4) on what specific parcels of land is the use made?
- c) Has a portion of this claim of right been transferred to either CreekBridge or the District on either a temporary or permanent basis?
- d) If so, what portion of the claim of right was sold and were any restrictions put on the use of the transferred claim of right?

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- e) Is CreekBridge still diverting water from the West Fork Russian River pursuant to Statement S015625? If so, is the point of diversion still located a few hundred feet south of Lake Mendocino Drive as shown on the original statement?
- f) Are the 51 homes mentioned in the original filing for Statement S015625 located on APN's 169-130-01 through 169-130-51? Do these parcels constitute the entire place of use for supplemental Statement S000272, which identifies the use of water during 2002-04 as "Domestic 350" or are other houses being served with water?
- g) Is the District providing water to any of the place of use identified under either Statement S000272 or S015625? If so, what is the basis of right upon which the District is relying to supply water to these places of use? Is a basis of right based on the pre-1914 claim of right initiated by J.A. Waldteufel on March 24, 1914; License 492 (Application 3601) and Permit 13936 (Application 17587); or the Uniform Water Supply Agreement with the Mendocino County Russian River Flood Control and Water Conservation Improvement District?

I would appreciate answers to these questions within 30 days from the date of this letter in order to determine what action, if any, should be taken by the Complaint Unit with respect to Mr. Howard's complaint. If there are any questions, I can be reached at (916) 341-5377.

Sincerely,

ORIGINAL SIGNED BY

Charles A. Rich, Chief  
Complaint Unit

Enclosures

cc: Mr. Lee Howard  
3900 Parducci Road  
Ukiah, CA 95482

Mendocino County Russian River Flood Control &  
Water Conservation Improvement District  
c/o Ms. Barbara Spazek  
151 Laws Avenue, Suite D  
Ukiah, CA 95482

Millview County Water District  
c/o Ms. Paula J. Whealen  
Wagner & Bonsignore Consulting Engineers  
444 North Third Street, Suite 325  
Sacramento, CA 95814-0228

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