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June 19, 2017

BY FIRST CLASS MAIL & E-MAIL (taro.murano@waterboards.ca.gov)

Taro Murano, Senior Environmental Scientist
Division of Water Rights
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95814

Dear Mr. Murano:

I represent Mr. Joseph Wyse, who owns a federally-registered mining claim known as "Stone Wing 1" (federal registration number CAMC 312774). I am transmitting herewith for your reference as Exhibit 1 copies of the location notice and other legal documents establishing his property rights in the claim.

Mr. Wyse has received a copy of an e-mail from you in which you allege that a diversion created by The New 49'ers, Inc., a mining operator and lessee of Mr. Wyse, is "an unauthorized diversion and use of water pursuant to California Water Code § 1052".

You demanded, among other things, that The New 49'ers, Inc. cease and desist diverting water. It is my understanding that diversions ceased pending an investigation of the basis of your allegations. That investigation is now complete.

You have alleged jurisdiction over a "post-1914' appropriative water right". However, the diversion represents an exercise of mining activity by Mr. Wyse as the owner of a patented federal mining claim. It has long been the law of California that

"In this state the location and possession of a mining claim draws to itself the right to a reasonable use, for mining purposes, of the waters of a stream flowing through the claim. Parties holding possessory rights in separate parcels of land, title being in the United States, have the rights of riparian owners in the waters of any stream flowing naturally over both parcels. "

Dripps v. Allison's Mines Co., 45 Cal. App. 95, 100 (1919).

Transmitted herewith as Exhibit 2 is a map identifying the location of Mr. Wyse' claim, with a red line indicating the approximate location of the water distribution system. It is entirely within the boundaries of the claim. For this and other reasons, the diversion represents an exercise of a riparian right, not a "post-1914' appropriative right."

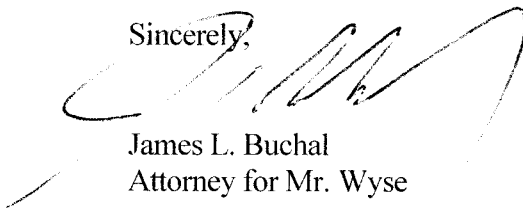
As you are doubtless also aware, riparian users "need neither a permit nor other governmental authorization to exercise their water rights". *Light v. State Water Resources Control Board*, 226 Cal. App.4th 1463, 1478 (2014). For this reason, your insistence upon advance authorization pursuant to § 1052 is simply wrong.

We therefore demand that you immediately rescind this cease and desist order. The summer mining season is very short, and the Board's illegal threat is materially interfering with my client's rights under California and federal law. I am authorized to commence a legal action against you and/or the Board if the letter is not withdrawn immediately. I am copying the Small Business Ombudsman on this matter because I do not believe that my client should be required to go down that path given the clarity of the controlling legal authority here.

There is plainly no adverse impact on resources worthy of the Board's attention arising from the mining activity on this claim, which remains small-scale and nonmotorized in light of the ongoing legislative restrictions.

Please contact me at your earliest convenience concerning this matter.

Sincerely,



James L. Buchal
Attorney for Mr. Wyse

Copy to Gita Kapahi (e-mail only, Gita.Kapahi@waterboards.ca.gov)