

ATTACHMENT D

21 January 2014

Pre-ACL letter

Central Valley Regional Water Quality Control Board

21 January 2014

Larry W. & Shireen I. Slate
8760 Voorhees Road
Le Grand, CA 95333

Certified Mail No.
7006 2150 0000 7132 6284

FORTHCOMING ASSESSMENT OF CIVIL LIABILITY FOR FAILURE TO COMPLY WITH CALIFORNIA WATER CODE SECTION 13260, LARRY W & SHIREEN I SLATE, LE GRAND, MERCED COUNTY

The purpose of this letter is to inform you of a forthcoming Administrative Civil Liability Complaint (Complaint), and to notify you of your opportunity to negotiate and settle the assessment of monetary penalties for your failure to comply with the California Water Code. **Please read this notice carefully.**

On 20 February 2013 and 18 April 2013, the California Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board) issued notices to you describing new water quality regulations and actions available to comply with the regulations.

On 7 October 2013, the Central Valley Water Board issued a Directive Order pursuant to California Water Code section 13260 (13260 Directive) by certified mail that required you to obtain regulatory coverage within fifteen (15) days for irrigated lands that you may own or operate.

On 13 November 2013, the Central Valley Water Board issued a Notice of Violation pursuant to California Water Code section 13260 (NOV) by certified mail that requested you obtain regulatory coverage for irrigated lands that you may own or operate.

Central Valley Water Board records indicate that you (1) own parcels (532700038, 67150013, 67150023, 67150023, & 67150025) in Merced County that contain irrigated agriculture; (2) received a 13260 Directive and a Notice of Violation by certified mail requiring you to obtain regulatory coverage for such parcels; and (3) have not to date obtained regulatory coverage.

Legal Authority

Water Code section 13260 states, in relevant part:

“(a) All of the following persons shall file with the appropriate regional board a report of the discharge, containing the information which may be required by the regional board:

(1) Any person discharging waste, or proposing to discharge waste, within any region that could affect the quality of the waters of the state, other than into a community sewer system.”

Under California Water Code section 13261, failing to submit a Report of Waste Discharge when requested by the Central Valley Water Board may result in an administrative civil liability against you of up to \$1,000 per day for every day the report is late.

As of 14 January 2014, your obtainment of regulatory coverage is 97 days overdue. The **maximum penalty** for the violation described above is **ninety-seven thousand dollars (\$97,000)** based on a calculation of the total number of per-day violations times the statutory maximum penalty (97 total days of violation multiplied by \$1,000). The Assistant Executive Officer of the Central Valley Water Board intends to issue a Complaint seeking an administrative civil liability assessment against you in the amount of **three thousand eighty dollars (\$3,080)** for this violation. This recommended penalty amount is based on information contained in the Central Valley Water Board's files and takes into account the factors set forth in the State Water Resources Control Board's Water Quality Enforcement Policy, including your culpability, cleanup and cooperation, history of violations, ability to pay and continue in business, and other factors as justice may require. The full Enforcement Policy may be found here:

http://www.swrcb.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf.

By way of this letter, you are being notified of the opportunity to meet with Central Valley Water Board staff prior to the issuance of the Complaint to discuss the alleged violations and proposed penalty amount. This meeting affords you the opportunity to potentially reduce the recommended penalty amount if you present new information to the Central Valley Water Board staff regarding the factors listed above, or other information you believe is relevant to determining an appropriate monetary penalty.

If you intend to argue that you have an inability to pay the proposed penalty amount, you must bring supporting documentation with you to the meeting. Appropriate documentation **must include** the last three years of signed federal income tax returns including schedules **and may also include** credit card or line of credit statements, mortgage loan statements, bank account statements, or any other document that explains the special circumstances regarding past, current, or future financial conditions. This information may be used in determining an appropriate monetary penalty assessment to resolve this matter without a hearing. If a settlement is reached at this meeting, the Assistant Executive Officer will forego issuing the Complaint. To avoid further liability, you are urged to obtain regulatory coverage.

In order to initiate any discussions to settle this matter, you must contact Brett Stevens at (916) 464-4642 by **31 January 2014** to schedule a day and time to meet with Central Valley Water Board staff. If you do not respond by this date, the Assistant Executive Officer will issue you a Complaint in the proposed penalty amount and this matter will proceed to a formal enforcement hearing before the Central Valley Water Board; or the Assistant Executive Officer may refer the matter to the Attorney General's Office or other prosecution agency. Failure to respond may also result in a larger fine than that cited in this letter, since each day of non-compliance is a maximum of an additional \$1,000.

Before settlement discussions can occur, you must get the required regulatory coverage by providing a completed Notice of Intent (NOI) and submitting the appropriate fee (\$200). You can enroll under the Waste Discharge Requirements General Order (Order R5-2012-0116 or Coalition Order) for Growers within the Eastern San Joaquin River Watershed who are Members of the Third-Party (or Coalition) Group (NOI enclosed); or you can submit an NOI (also enclosed) for coverage under the Waste Discharge Requirements General Order for Discharges from Irrigated Lands within the Central Valley Region for Dischargers not Participating in a Third-party Group (Order R5-2013-0100 or Individual Order).

The Individual Order is significantly more expensive than coalition membership, so most growers choose to join a coalition. Here are cost estimates for your irrigated lands under the two regulatory options:

Estimated cost of 2014 regulatory coverage under the Individual General Order:

Farm Size	Annual Regulatory Fee	Annual Estimated Monitoring and Reporting Costs	Estimated Annual Costs
108 acres	\$3,400 ¹	\$5,873 ²	\$9,273

Cost of 2013 regulatory coverage as a member of the East San Joaquin Water Quality Coalition:

Farm Size	Annual cost for first year of coalition membership (includes monitoring and reporting)	Annual cost for following years (including monitoring & reporting)	Estimated Annual Costs
108 acres	\$1,427	\$670	\$1,427 (First Year) then \$670 annually, thereafter

Once you've made your decision, complete the appropriate NOI, enclose the administrative fee of \$200, and return these to the following:

Central Valley Water Board
Attn: Brett Stevens
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670

Failure to get regulatory coverage may result in a board hearing in which you will be issued coverage under the Individual Order.

If you have any questions, please contact Brett Stevens by phone at (916) 464-4642 or by email at bstevens@waterboards.ca.gov.



Joe Karkoski, Chief
Irrigated Lands Regulatory Program

cc: Andrew Altevogt, Central Valley Water Board, Rancho Cordova
David Boyers, SWRCB Office of Enforcement

¹ See 2013-2014 Fee Schedules at: http://www.waterboards.ca.gov/resources/fees/docs/fy13_14_fee_schedule_ilrp.pdf.

² See pages 33-35 of Attachment A (Information Sheet) to Order R5-2013-0100. Specifically, the per-acre estimate of monitoring, reporting, and tracking costs under this order provided in Table 3 on page 35 (\$54.38) was used to estimate costs for this operation.

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

NOTICE OF INTENT (NOI)
TO OBTAIN REGULATORY COVERAGE AND COMPLY
WITH ORDER R5-2012-0116

Applicable to Irrigated Lands in the Eastern San Joaquin River Watershed

You must complete the entire form. Submit it to the Central Valley Water Board, along with the applicable filing fee to cover administrative costs associated with processing this form. Instructions for filling out the form, filing fees, and address to mail the form are on the reverse side.

1. LANDOWNER INFORMATION:			
1a. Landowner Name:		1b. Landowner Mailing Address:	
1c. Landowner Phone:		1d. Landowner Email:	
1e. Is the landowner also the operator of the irrigated lands operation? (If Yes, skip boxes 2a-2d)			
2. OPERATOR INFORMATION: (If more than one tenant operator, attach additional sheet for sections 2 and 3, including identification of parcels operated by each tenant.)			
2a. Operator Name:		2b. Operator Mailing Address:	
2c. Operator Phone:		2d. Operator Email:	
2e. Name of Operation:		2f. Has the landowner or operator applied for membership in the East San Joaquin Water Quality Coalition? (check one; skip if you answered Yes to question 1e.)	
3. PARCEL INFORMATION: Please list parcels for which you would like to obtain regulatory coverage (attach additional sheets as needed):			
Parcel Number	County	Acres of Irrigated Cropland	Crop type or other land use (such as almonds, managed wetland, pasture)
4. CERTIFICATION			
<i>"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for knowingly submitting false information, including the possibility of fine and imprisonment for violations."</i>			
<i>I would like to obtain regulatory coverage for waste discharges to surface water and groundwater under Order R5-2012-0116 by obtaining membership in the East San Joaquin Water Quality Coalition and complying with all applicable provisions of the Order. Simultaneously with this form, I have submitted a membership application and applicable member dues to the East San Joaquin Water Quality Coalition.</i>			
(4a) Signature of Landowner or Operator		(4b) Date	

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION**

**NOTICE OF INTENT (NOI)
TO OBTAIN REGULATORY COVERAGE AND COMPLY WITH
Waste Discharge Requirements General Order for Discharges from
Irrigated Lands within the Central Valley Region for Dischargers Not
Participating in a Third-party Group, ORDER R5-2013-0100**

You must complete the entire form. Please send the completed, signed form to the Central Valley Water Board. Instructions for filling out and sending the form are on page 3 below.

1. LANDOWNER INFORMATION:	
1a. Landowner Name:	1b. Landowner Mailing Address:
1c. Landowner Phone:	1d. Landowner Email:
1e. Have you received a Directive Letter or an Order from the Water Board? <input type="checkbox"/> YES <input type="checkbox"/> NO	
1f. Is the landowner also the operator of the irrigated lands operation? <input type="checkbox"/> YES <input type="checkbox"/> NO (If Yes, skip boxes 2a-2d)	

2. OPERATOR INFORMATION: (If more than one tenant operator, please attach additional sheets for sections 2 and 3, including identification of parcels operated by each tenant.)	
2a. Operator Name:	2b. Operator Mailing Address:
2c. Operator Phone:	2d. Operator Email:
2e. Name of Operation:	

3. OPERATION INFORMATION: Please list parcels for which you would like to obtain regulatory coverage. Attach additional sheets as needed. *Please see the Instructions Page for parcels that were listed in a Directive Letter or other correspondence from the Central Valley Water Board that do not need regulatory coverage.*

Parcel Information

County	County Assessor's Parcel Roll Number	Acres of Irrigated Cropland	Crop type(s) or other land use (such as almonds, tomatoes, pasture)	Irrigation Method(s)	Receiving Surface Water Name(s) (where farm runoff may flow to)

**NOTICE OF INTENT (NOI)
INSTRUCTIONS**

You must complete the entire form. Upon submittal of a complete NOI, the Water Board may issue a Notice of Applicability (NOA), after which you will be considered covered under this Order.

All dischargers regulated under WDRs and NPDES permits must pay an annual fee. The Water Board will notify you of your annual fee based on an evaluation of your proposed discharge. Please do NOT submit a check for your first annual fee until requested to do so by a Water Board representative.

Section 1. The information in this section pertains to the person(s) owning the parcels listed in section 3 (referred to as the "landowner").

Box 1e. Please indicate whether you have received a Directive Letter or a 13267 Order from the Central Valley Water Board's Irrigated Lands Regulatory Program.

Box 1f. If the landowner is also the person running the day to day activities of the irrigated agricultural operation on the parcel(s) listed in section 3 (referred to as the "operator"), enter "Yes" in box 1.e and then skip boxes 2a. through 2d. If the landowner and the operator are two separate people, completely fill out boxes 2a. through 2d.

Section 2. The information in this section pertains to the person(s) running the day to day activities of the irrigated agricultural operation on the parcel(s) listed in section 3 (referred to as the "operator"). If the landowner and the operator are the same person, please skip boxes 2a. through 2d. If the landowner has more than one cropland operator, please attach additional sheets, and list which parcels are operated by each operator.

Section 3. Parcel Information: Please list all Assessor Parcel Numbers (APNs) of parcels for which you are requesting regulatory coverage. If there are additional parcels listed on correspondence you received from the Central Valley Water Board that do not contain commercial irrigated agriculture, managed wetlands, or nurseries, **please call (916) 464-4611** to let us know which parcels you will not be enrolling. This will allow for parcel record updates, so that you do not receive enforcement correspondence regarding these parcels.

List the county for each parcel, the number of irrigated acres on each parcel, the crop type(s) or other applicable land use type(s) that occur on the parcel, irrigation method(s), and the name(s) of surface water courses that receive or have the potential to receive runoff (either during irrigation season or storm season) from the operation. Examples of other land use types (other than crops) that need regulatory coverage under the Irrigated Lands Regulatory Program include managed wetlands, pasture, and nurseries. Please specify irrigation method(s) as drip, sprinkler, micro sprinkler, border strip, furrow, or overhead.

Pesticide Information: Please list all Operator Identification Numbers (OIN) issued by county agricultural commissioners, the county in which the OIN was issued, the name of the person associated with the OIN, and the Site ID number(s) associated with that OIN. Check the boxes next to pesticide active ingredients that may be used at the operation.

Section 4. Certification statement: Signature of the landowner or operator, certifying the NOI; and date of the signature.

Send completed NOI to:
Central Valley Water Board
Irrigated Lands Regulatory Program
11020 Sun Center Dr., Ste. 200
Rancho Cordova, CA 95670

USPS Tracking™



[Customer Service >](#)
Have questions? We're here to help.

Tracking Number: 70062150000071326284



DELIVERED

Product & Tracking Information

Postal Product:

Features:
Certified Mail™

Available Actions

DATE & TIME	STATUS OF ITEM	LOCATION
February 18, 2014 , 12:15 pm	Delivered	RANCHO CORDOVA, CA 95670
February 17, 2014 , 9:29 pm	Processed at USPS Origin Sort Facility	WEST SACRAMENTO, CA 95799
February 14, 2014 , 7:12 pm	Processed at USPS Origin Sort Facility	WEST SACRAMENTO, CA 95799
February 10, 2014 , 10:28 am	Unclaimed	LE GRAND, CA 95333
January 24, 2014 , 12:38 pm	Notice Left	LE GRAND, CA 95333
January 24, 2014 , 9:34 am	Arrival at Unit	LE GRAND, CA 95333
January 24, 2014 , 1:08 am	Processed at USPS Origin Sort Facility	WEST SACRAMENTO, CA 95799
January 23, 2014	Depart USPS Sort Facility	WEST SACRAMENTO, CA 95799
January 23, 2014 , 8:08 pm	Processed at USPS Origin Sort Facility	WEST SACRAMENTO, CA 95799
January 23, 2014 , 1:02 pm	Acceptance	RANCHO CORDOVA, CA 95670