

ITEM:	12
SUBJECT:	Brooks & Arlene Rushing, as individuals and in their representative capacity as trustees for the Brooks J & Arlene J Rushing Trust, Stanislaus County
BOARD ACTION:	<i>Consideration of an Administrative Civil Liability Order (ACLO)</i>
BACKGROUND:	<p>Brooks & Arlene Rushing (Dischargers), as trustees for the Brooks J & Arlene J Rushing Trust, own approximately 38 acres of agricultural land in Stanislaus County, identified as Assessor's Parcel Numbers (APNs) 088-009-014, 088-009-024, and 088-009-029.</p> <p>On 20 February 2013 and 18 April 2013, the Central Valley Water Board issued notices to the Dischargers describing new water quality regulations and options available to comply with the regulations.</p> <p>On 16 September 2013, staff conducted a field inspection of Stanislaus County APNs 088-009-014 and 088-009-024, and found evidence of land irrigated for a commercial purpose based on the crop grown, almonds, and size of the operation.</p> <p>On 9 May 2014, the Assistant Executive Officer of the Central Valley Water Board issued a Water Code section 13260 Directive Letter (Directive) to the Dischargers. The Directive was sent based on information that the subject parcels contained commercially irrigated land without regulatory coverage. The Directive required the Dischargers to obtain regulatory coverage for their irrigated agricultural parcel within 15 calendar days of receipt of the Directive (29 May 2014).</p> <p>Because the Dischargers failed to respond by the deadline specified in the Directive, a Notice of Violation (NOV) was sent to the Dischargers on 30 June 2014.</p> <p>On 23 September 2016, and after receiving the ACL Complaint (see details below), the Discharger enrolled in the Coalition and paid the Coalition dues, including back dues.</p>
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT	<p>On 8 August 2016, the ACL Complaint was issued by the Assistant Executive Officer in the amount of \$34,320, based on the State Water Board's Enforcement Policy. The ACL Complaint alleges the Dischargers failed to obtain regulatory coverage as required by the Directive.</p> <p>The maximum penalty for the alleged violation is \$802,000. The minimum penalty recommended by the Enforcement Policy is the economic benefit plus 10 percent, which amounts to \$8,135. The Enforcement Policy's penalty calculation methodology resulted in a liability of \$34,320, and this is the amount of administrative civil liability proposed by the Prosecution Team.</p>
ISSUES:	There are no known issues, as the Dischargers did not submit evidence in this case.
ACLO RECOMMENDATION:	The Prosecution Team recommends that the Board adopt the Administrative Civil Liability Order for \$34,320 as proposed.

Mgmt. Review SYM
 Legal Review KE