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| ITEM: | 19 |
| SUBJECT: | Emma J. Bounds, as an Individual and as Trustee for the Bounds Family Trust, Madera County |
| BOARD ACTION: | <i>Consideration of an Administrative Civil Liability Order (ACLO)</i> |
| BACKGROUND: | <p>Emma J. Bounds, as an individual and as trustee for the Bounds Family Trust (“Discharger”) owns 69 acres of agricultural land in Madera County, identified as Assessor’s Parcel Numbers 047-180-003, 047-180-007, 047-180-008, and 047-180-009.</p> <p>On 15 March 2006, the Discharger enrolled in the East San Joaquin Water Quality Coalition (Coalition). In December 2012, the Discharger became subject to the Waste Discharge Requirements for Growers within the Eastern San Joaquin River Watershed that are Members of the Third-Party Group (Order R5-2012-0116-R3 or East San Joaquin Order).</p> <p>The East San Joaquin Order requires that all members complete a Farm Evaluation annually describing management practices implemented to protect surface and groundwater quality. Members in high vulnerability areas were required to begin submitting Farm Evaluations on 1 May 2014. As a member in a high vulnerability area, the Discharger was required to submit a Farm Evaluation for 2013 on 1 May 2014. Farm Evaluations for 2014 and 2015 were due on 1 March 2015 and 1 March 2016, respectively.</p> <p>From January to July 2014, the Coalition sent Farm Evaluation-related outreach materials to the Discharger regarding the 2013 Farm Evaluation. These materials included an early notice letter, a newsletter, a Farm Evaluation template and directions for completion, a “past due” postcard, and a “final notice” postcard. Despite the Coalition’s efforts, the Discharger did not submit the 2013 Farm Evaluation at that time.</p> <p>From January to June 2015, the Coalition sent outreach materials to the Discharger regarding the 2014 Farm Evaluation. These materials included an early notice letter, a “past due” postcard, and a “final notice” letter. The Discharger did not submit the 2014 Farm Evaluation at that time.</p> <p>From December 2015 to May 2016, the Coalition sent outreach materials to the Discharger regarding the 2015 Farm Evaluation. These materials were the same as those for the previous year: an early notice letter, a “past due” postcard, and a “final notice” letter. The Discharger did not submit the 2015 Farm Evaluation at that time.</p> <p>On 22 February 2016, the Assistant Executive Officer to the Central Valley Water Board sent the Discharger a Notice of Violation (NOV) for failure to submit the 2013 and 2014 Farm Evaluations. The NOV urged the Discharger to submit the evaluations to the Coalition and warned that failure to do so may result in enforcement action by the Central Valley Water Board.</p> <p>On 6 May 2016, Board Staff sent the Discharger a notification letter indicating that an Administrative Civil Liability (ACL) Complaint was forthcoming and inviting the Discharger to engage in settlement negotiations prior to issuance of an ACL Complaint. The Discharger did not respond to the pre-ACL letter.</p> |

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| | On 26 August 2016, the Discharger submitted the three missing Farm Evaluations to the Coalition. This action brought the Discharger into compliance with East San Joaquin Order. |
| ADMINISTRATIVE CIVIL LIABILITY COMPLAINT | <p>On 8 August 2016, the ACL Complaint was issued by the Assistant Executive Officer in the amount of \$70,980, based on the State Water Board's Enforcement Policy. The ACL Complaint alleges the Discharger failed to submit Farm Evaluations as required by the applicable Waste Discharger Requirements.</p> <p>The maximum penalty for the alleged violation is \$1,516,000. The minimum penalty recommended by the Enforcement Policy is the economic benefit plus 10 percent, which amounts to \$455. The Enforcement Policy's penalty calculation methodology resulted in a liability of \$70,980, and this is the amount of administrative civil liability proposed by the Prosecution Team.</p> |
| ISSUES: | There are no known issues, as the Discharger did not submit evidence in this case. |
| ACLO RECOMMENDATION: | The Prosecution Team recommends that the Board adopt the Administrative Civil Liability Order for \$70,980 as proposed. |

Mgmt. Review SYM
Legal Review SNL

3/4 November 2016 Hearing Panel
Central Valley Regional Water Quality Control Board meeting
1685 E Street, Fresno, CA 93706