CALIFORNIA
Water Boards

EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIQUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

FIRST CLASS MAIL

NOV 0 1 2013

Edward Biggs Sr. – Bethel Island LLC
4271 Valley Lane
Fairfield, CA 94534

Dear Edward Biggs Sr. – Bethel Island LLC:

DECISION APPROVING CONDITIONAL SETTLEMENT OFFER REGARDING ADMINISTRATIVE CIVIL LIABILITY COMPLAINT AGAINST EDWARD BIGGS SR. – BETHEL ISLAND LLC

Please find enclosed for your records, a copy of the Settlement Decision approving the Settlement Offer regarding the Administrative Civil Liability Complaint against Edward Biggs Sr. – Bethel Island LLC for Failure to File Statement of Water Diversion and Use. Also enclosed is a copy of the signed Conditional Settlement Offer and Waiver of Right to Hearing and Reconsideration.

The three initial statements of water diversion and use filed for your property have been forwarded to the Division of Water Rights for review. I have received your civil liability check of $2500 and have forwarded the check to the Records Unit for processing.

If you have any questions regarding this matter, please contact me at (916) 445-5962.

Sincerely,

Craig M. Wilson

Craig M. Wilson
Delta Watermaster

Enclosures

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DECISION 2013-0002

In the Matter of Failure to File Statements of Water Diversion and Use by

EDWARD BIGGS SR. BETHEL ISLAND LLC

SETTLEMENT DECISION

BY THE DELTA WATERMASTER:

1.0 INTRODUCTION

This matter comes before the Delta Watermaster of the State Water Resources Control Board (State Water Board) following the issuance of an Administrative Civil Liability (ACL) Complaint to Edward Biggs Sr. Bethel Island LLC (Biggs), person identified as diverting water from a surface stream for irrigation purposes without a statement(s) of water diversion and use. In accordance with this Decision, the State Water Board's Delta Watermaster and Biggs have agreed to settle this matter in lieu of proceeding to a hearing. The issuance of a settlement decision pursuant to a settlement agreement is authorized under Government Code section 11415.60. The settlement is approved.

2.0 BACKGROUND

Biggs is the owner of Contra Costa County Assessors Parcels 020-150-003 and 020-140-048, properties identified by the Office of Delta Watermaster (Delta Watermaster) as engaging in irrigation and the diversion of water. Further review by Delta Watermaster staff identified the diversion of water to these parcels from three separate points of diversion. At the time of the issuance of the ACL Complaint, no record of three statements, a statement of diversion and use for each diversion, have been filed in accordance with Water Code section 5101 et. seq. for these parcels.

On October 18, 2013, the Delta Watermaster issued an ACL Complaint against Biggs for failure to file the required Statements of Water Diversion and Use for the diversion of water.

On October 23, 2013, Biggs timely faxed to the State Water Board Delta Watermaster three statements of water diversion and use, one statement for each diversion, waived his rights to a hearing and reconsideration of this matter, and remitted a check, by United States first class mail and received by the Delta Watermaster on October 29, 2013, for the civil liability of $2500 to the State Water Board.

Biggs and the Delta Watermaster agree to settle matters identified in the ACL Complaint through this Decision in lieu of a hearing in said matter.

3.0 SETTLEMENT OFFER AGREEMENT

Biggs and the Delta Watermaster engaged in settlement discussions and reached an agreement on language that is mutually acceptable and is contained in the Settlement Offer. The terms of the settlement are that Biggs: (1) files the three Statements of Water Diversion and Use (with maps), (2) remits to the State Water Board the administrative civil liability in the amount of $2500, and (3) waives his right to hearing and reconsideration of this matter.

SETTLEMENT DECISION

IIT IS HEREBY ORDERED THAT the attached Settlement Offer between Biggs and the Delta Watermaster is approved and is incorporated by reference into this Decision.

Approval of the settlement agreement has been delegated to the Delta Watermaster by State Water Board Resolution 2012-0048, and approval shall not limit the authority of the Executive Director, Delta Watermaster, or the Deputy Director for Water Rights, as delegated, to initiate any enforcement actions for the unauthorized diversion or use of water, for any future violations of the Water Code, or violation of the terms of the settlement agreement.

STATE WATER RESOURCES CONTROL BOARD

Craig M. Wilson
Delta Watermaster

Dated: NOV 0 1 2013

EXHIBIT A

ACCEPTANCE OF CONDITIONAL SETTLEMENT OFFER AND WAIVER OF RIGHT TO HEARING AND RECONSIDERATION; (Proposed) ORDER

Edward Biggs Sr.- Bethel Island LLC
Source: Rock Slough
County: CONTRA COSTA

By signing below and returning this Acceptance of Conditional Settlement Offer and Waiver of Right to Hearing and Reconsideration (Acceptance and Waiver) to the State Water Resources Control Board (State Water Board), Edward Biggs (Diverter) hereby accepts the State Water Board's conditional settlement offer (Conditional Offer), and waives the right to a hearing before and reconsideration by the State Water Board at which violations alleged in the Administrative Civil Liability Complaint issued to Diverter (ACL Complaint) to which this Acceptance and Waiver is attached as Exhibit "A" could be disputed.

Diverter agrees to perform the following within 20 days of receipt of the ACL Complaint:

- **Pay administrative civil liability as authorized by California Water Code section 5107 (c), in the sum of ~~$3,000~~** $2,500 CMW (Expedited Payment Amount) by cashier's check or by certified check made payable to the "State Water Resources Control Board" for deposit into the Water Rights Fund, which shall be deemed payment in full of any civil liability pursuant to California Water Code section 5107 (c) that otherwise might be assessed for the violations described in the ACL Complaint.

- **File the necessary Initial Statements of Water Diversion and Use (Statement(s)) pursuant to parcels (020-150-003, 020-140-048)** as required by Water Code sections 5104 and 5107 (b).

Diverter understands that this Acceptance and Waiver waives the Diverter's right to contest the allegations in the ACL Complaint and the civil liability amount for such violations.

Diverter understands that the failure to submit payment of the Expedited Payment Amount, file the Initial Statement(s), as identified and described above, along with the signed Acceptance and Waiver within 20 days of receipt of this notice, shall render the State Water Board's Conditional Offer void. If the State Water Board's Conditional Offer is deemed void due to Diverter's non-performance, then the State Water Board will issue a final Administrative Civil Liability order and seek recovery of the full liability amount proposed in the ACL Complaint.

Diverter understands that this Acceptance and Waiver does not address or resolve liability for any violation that is not specifically identified in the ACL Complaint. The filing of a Statement of Water Diversion and Use with the State Water Board does not in any way establish or constitute evidence of a right to divert or use water. (Water Code section 5106 (a).)

Upon execution by Diverter, the Acceptance and Waiver, Expedited Payment Amount, and necessary Statement(s) shall be mailed to the following address:

Conditional Settlement Offer
State Water Resources Control Board
Office of Delta Watermaster
Attention: Craig M. Wilson
P. O. Box 100
Sacramento, CA 95812-0100

Diverter understands that this Acceptance and Waiver is not final until it is formally endorsed by the Delta Watermaster.

I hereby affirm that I am duly authorized to act on behalf of and to bind the Diverter in the making and giving of this Acceptance and Waiver.

Owner Edward Biggs Bethel Island LLC
(Diverter) *Make corrections as appropriate.

By: Edward Biggs 10-23-13
(Signed Name) (Date)

Edward Biggs Sr.
(Printed or typed name)

Owner
(Title)

IT IS SO ORDERED PURSUANT TO CALIFORNIA WATER CODE SECTION 11415.60

Approval of the Acceptance and Waiver has been delegated to the Delta Watermaster by State Water Board Resolution 2012-0048, and approval shall not limit the authority of the Executive Director, Delta Watermaster, or the Deputy Director for Water Rights, as delegated, to initiate any enforcement actions for the unauthorized diversion or use of water, for any future violations of the Water Code, or violation of the terms of the Acceptance and Waiver.

By: Craig M. Wilson 11/1/13
Craig M. Wilson (Date)
Delta Watermaster