

STATE OF CALIFORNIA

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

ORDER WR 2020-0038-DWR

ADMINISTRATIVE CIVIL LIABILITY ORDER

In the Matter of Failure to File Annual Diversion and Use Report(s)
for the 2018 Reporting Year by

DAVID COLLENBERG

Statements S000774 and S019640

Assistant Deputy Director Julé Rizzardo, Division of Water Rights (“Division”), through authority delegated by the State Water Resources Control Board (“State Water Board”), hereby issues an Administrative Civil Liability Order (“ACL Order”) to DAVID COLLENBERG (“Diverter”). On October 18, 2019, the Division of Water Rights issued an Administrative Civil Liability Complaint (“ACL Complaint”) against Diverter (attached), which is hereby incorporated by reference as part of this Order.

THE STATE WATER BOARD, OR ITS DELEGEE, FINDS AS FOLLOWS:

1. In 2010, the State Water Board adopted regulations mandating electronic reporting of water diversion and use information. (California Code of Regulations, Title 23, Chapter 2.7, Article 1, section 907 et seq.)
2. Diverter is the owner of record for Statements S000774 and S019640 (“subject claims of right”).
3. Diverter must, pursuant to Title 23, Chapter 2.7, Article 2, section 920 of the California Code of Regulations, file Supplemental Statements of Diversion and Use (“Annual Reports”) before July 1 of each year electronically on forms available at the State Water Board’s website.
4. On February 15, 2019, the Division issued a notice to Diverter reminding Diverter of the requirement to submit Annual Reports for the subject claims of right by July 1, 2019, as required pursuant to the California Code of Regulations and notifying Diverter that the 2018 Reports must be filed online.
5. Diverter failed to file the Annual reports for the subject claims of right by July 1, 2019.
6. On August 30, 2019, the Division sent Diverter a Notice of Deficiency, notifying Diverter that the Annual Reports for water year 2018 had not been received by the July 1, 2019, deadline.
7. On October 18, 2019, the Division Prosecution Team issued an ACL Complaint against Diverter. The ACL Complaint alleges that Diverter failed to submit the 2018 Annual Reports for the subject claims of right by the July 1, 2019, deadline in violation of section 920 of the Regulations, and recommends an Administrative Civil Liability in the amount of \$4,000 for this violation.

8. The ACL Complaint included a Conditional Settlement Offer, which allowed for a reduced liability amount of \$1,000, provided that Diverter file the 2018 Annual Reports, submit the signed acceptance of the Conditional Settlement Offer and waiver of the right to hearing and reconsideration, and agree to pay a reduced liability amount, all within 20 days of receipt of the ACL Complaint.
9. The Division Prosecution Team sent the ACL Complaint to Diverter via certified mail. The United States Postal Service has confirmed that the ACL Complaint was delivered to Diverter on October 21, 2019.
10. Diverter did not request a hearing within 20 days of receipt of the ACL Complaint, in accordance with Water Code section 1055(b).
11. Diverter did not file the Annual Reports for the subject claims of right and did not return the signed Conditional Settlement Offer within 20 days of receipt of the ACL Complaint.
12. Pursuant to California Water Code section 7, the State Water Board is authorized to delegate authority to the Deputy Director of Water Rights. State Water Resources Control Board Resolution No. 2012-0029 (Resolution) delegates some of the State Water Board's authority to the Deputy Director of Water Rights. Section 4.9.2 of the Resolution authorizes the Deputy Director to issue an order imposing Administrative Civil Liability when a Complaint has been issued and no hearing has been requested in the period provided by California Water Code section 1055. Section 4.9.2 of the Resolution allows this authority to be redelegated to the Assistant Deputy Director of Water Rights. This authority has been redelegated to the Assistant Deputy Director of Water Rights.
13. California Water Code section 1055(c) and Resolution No. 2012-0029 authorize the Assistant Deputy Director to issue an ACL Order to Diverter assessing an administrative civil liability in the amount proposed in the October 18, 2019, ACL Complaint.
14. California Water Code section 1055.3 states that when determining the appropriate amount of civil liability to be imposed, the State Water Board shall take into consideration all relevant circumstances, including but not limited to the extent of the harm caused by the violation, the nature and persistence of violation, the length of time over which the violation occurs, and the corrective actions, if any, taken by the violator.
15. In this case, Diverter did not submit the 2018 Annual Reports for the subject claims of right, and did not accept the Conditional Settlement Offer. In consideration of these relevant circumstances, the State Water Board has determined that the appropriate proposed penalty is \$4,000.

IT IS HEREBY ORDERED THAT:

1. The attached Administrative Civil Liability Complaint is fully incorporated herein and made part of this Order.

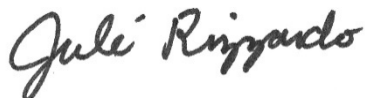
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2. In adopting this Order, the State Water Board, or its delegee, has considered all relevant circumstances, including but not limited to those specifically identified in the ACL Complaint, as required by California Water Code section 1055.3 in determining that Diverter shall be assessed the civil liability of \$4,000.
3. Diverter shall remit, within 30 days of the date of this Order, a check or money order payment of the full penalty of \$4,000 to:

State Water Resources Control Board
Division of Water Rights
Enforcement Section
P.O. Box 2000
Sacramento, CA 95812-2000

4. Fulfillment of Diverter's obligations under this Order constitutes full and final satisfaction liability for the alleged violation specifically identified in this Order. The State Water Board reserves the right to take further enforcement action for any future violations.
5. The Assistant Deputy Director of the Division of Water Rights is authorized to seek recovery of the liability imposed, as authorized by California Water Code section 1055.4, or refer this matter to the Office of Attorney General for further enforcement action if Diverter fails to comply with remitting payment of the full penalty within 30 days of the date of this Order.

STATE WATER RESOURCES CONTROL BOARD



*Julé Rizzardo, Assistant Deputy Director
Division of Water Rights*

Dated:

