

ITEM:	
SUBJECT:	Konark Ranches LLC., Kern County
BOARD ACTION:	<i>Consideration of an Administrative Civil Liability Order (ACLO)</i>
BACKGROUND:	<p>Konark Ranches LLC. (Discharger) owns approximately 158 acres of irrigated agricultural land in Kern County, identified as Assessor's Parcel Number (APN) 047-290-13.</p> <p>On 29 January 2015, Central Valley Water Board staff conducted a field inspection of APN 047-290-13 and found evidence of commercially irrigated almonds.</p> <p>On 19 February 2015, the Assistant Executive Officer of the Central Valley Water Board issued a Water Code section 13260 Directive Letter (Directive) to the Discharger, notifying it of the requirement to obtain regulatory coverage for its irrigated lands within 15 days of receipt of the Directive. The Discharger received the Directive on 21 February 2015.</p> <p>Because the Discharger failed to respond by the deadline specified in the Directive, a Notice of Violation (NOV) was sent to the Discharger on 7 April 2015. The NOV was received on 9 April 2015. The Discharger did not obtain regulatory coverage and did not contact the Water Board.</p> <p>On December 28, 2016 staff called a representative for the Discharger and left a message regarding the Irrigated Lands Program.</p> <p>On 4 January 2017, the Prosecution Team sent the Discharger a notification letter (Pre-ACL) via certified mail and 5 January 2017 via FedEx that an ACL Complaint would be issued if the Discharger did not obtain regulatory coverage and initiate settlement discussions by 12 January 2017. Representatives for the Discharger met with the Prosecution Team on January 23, 2017 to discuss settlement. A settlement was not reached.</p> <p>A hearing on the matter was scheduled for 6 April 2017 but was continued due to the Discharger's late assertion and submission of evidence regarding its ability to pay the proposed penalty.</p> <p>As of the date of this summary sheet, the Discharger had not obtained regulatory coverage.</p>
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT	<p>On 24 January 2017, the Assistant Executive Officer issued an ACL Complaint in the amount of \$70,070, based on the State Water Board's Enforcement Policy. The ACL Complaint alleges the Discharger failed to obtain regulatory coverage as required by the Directive.</p> <p>The maximum penalty for the alleged violation is \$688,000. The minimum penalty recommended by the Enforcement Policy is the economic benefit plus 10% which amounts to \$14,870. The Enforcement Policy's penalty calculation methodology resulted in a liability of \$70,070, and is the amount of administrative civil liability proposed by the Prosecution Team.</p>

Note: This document was prepared by the Central Valley Water Board Prosecution Team.

3.8.2018

ISSUES:	The Discharger contends that it does not have the ability to pay the proposed penalty and continue in business. The Prosecution Team maintains its assertion that the Discharger does have the ability to pay the penalty as proposed and continue in business.
ACLO RECOMMENDATION:	The Prosecution Team recommends that the Board adopt the Administrative Civil Liability Order for \$70,070 as proposed.

Mgmt. Review DAS
 Legal Review SNL

5/6 April 2018 Central Valley Water Board Meeting
 Central Valley Water Board Offices
 1685 "E" Street, Fresno, CA 93706-2007