



Fact Sheet

Russian River Tributaries Emergency Regulation

Administrative Civil Liability (ACL) Complaints Issued for Failure to Provide Required Information

Frequently Asked Questions

Background

On July 6, 2015, the [Russian River Tributaries Emergency Regulation](#), adopted by the State Water Resources Control Board (State Water Board), went into effect to help protect federal- and state-listed anadromous fish in four priority Russian River tributary watersheds (Dutch Bill Creek, Green Valley Creek, portions of Mark West Creek, and Mill Creek). The emergency regulation requires: (1) enhanced water conservation in critical areas of the four watersheds; and (2) information on water use if requested by the State Water Board.

On August 24, 2015, the Deputy Director for Water Rights signed [Order WR 2015-0026-DWR](#) (Informational Order), requiring landowners and water suppliers in the four watersheds to provide information on their water use and sources. Letters were issued to all landowners and water suppliers requiring submittal of the requested information in late August and September 2015. Reminder letters were sent to non-responders in late October 2015. As of December 13, 2015, approximately 80 percent (79%) of the parcels and water supply systems in the four tributaries have responded to the Informational Order. On December 15, 2015, Administrative Civil Liability Complaints (Complaint) were issued to more than 1,800 landowners and water suppliers who did not respond. The Complaint was accompanied by a letter of transmittal, Conditional Settlement Offer and Waiver of Right to Hearing or Reconsideration, and Information on how to request a hearing. Each document contains important information and deadlines. **Individuals who receive an ACL Complaint should read each document carefully and respond with 20 days of receipt of the ACL Complaint.**

Why is it the State Water Board's Division of Water Rights issuing the Administrative Civil Liability (ACL) Complaints?

Responses to the Informational Order were due in October 2015 (individual due dates varied by watershed). Failure to provide the information in a timely manner harms the State Water Board's ability to assess surface water and groundwater withdrawals on surface flow, administer the state's water rights system, and regulate the resources it is required to protect. These resources include juvenile Central California Coast coho salmon (coho salmon) and Central California Coast steelhead (steelhead) in Russian River tributaries.

The lack of information on who is taking water and for what purpose hampers the State Water Board's ability to balance fish needs with other needs, including health and safety, in the Dutch Bill Creek, Green Valley Creek, portions of Mark West Creek, and Mill Creek watersheds.



What is an Administrative Civil Liability (ACL)? What is an ACL Complaint?

An ACL is a fine associated with violations of a regulation. The State Water Board may administratively impose civil liability (fines) pursuant to Water Code section 1055 for violation of State Water Board regulations in an amount not to exceed five hundred dollars (\$500) per day of violation. The ACL Complaint describes the violations that are alleged to be committed, the California Water Code provisions authorizing the fine, and the evidence that supports the allegations. **Any person who receives an ACL Complaint must respond timely as directed, or risk the State Water Board imposing the fine by default.**

Who was issued an Administrative Civil Liability (ACL) Complaint?

Landowners and water suppliers that have not responded to the Informational Order as of December 13, 2015, were issued an ACL Complaint. A total of 1,881 ACL Complaints have been issued in the following watersheds: 174 ACL Complaints in Dutch Bill Creek; 836 ACL Complaints in Green Valley Creek; 820 ACL Complaints in portions of Mark West Creek; and 51 ACL Complaints in Mill Creek.

What are the penalties and options for individuals who receive an Administrative Civil Liability (ACL) Complaint?

The ACL Complaints provide the following three options:

1. *Submit the required information and sign the Conditional Settlement Offer within 20 days of receiving the ACL Complaint.* Individuals that pursue this option agree to: (1) submit the requested information electronically via the web through the [Online Informational Order Form](#); and (2) waive the right to a hearing and reconsideration of the alleged violation(s) by returning a completed and signed Acceptance of Conditional Settlement Offer and Waiver of Right to Hearing or Reconsideration within 20 days of receipt of the ACL Complaint (Attachment A). **This option will resolve the current violation with no fine, as long as the information provided is complete and accurate to the best of the landowner's or water supplier's knowledge.**
2. *Submit a written request for hearing within 20 days of receiving the ACL Complaint.* All hearings will be held in Sacramento. If a hearing is requested, it will be scheduled on one of the following dates: February 22, February 23, March 3, or March 4, 2016. At any hearing, the State Water Board may reexamine and adjust the proposed fine, either higher or lower, not to exceed the maximum amount allowed by law. Please note that this option does not stop the clock on the number of days of violation subject to fines for failure to file information after December 10, 2015. The maximum allowable fine for violation of the Informational Order through December 10, 2015, varies by watershed, but ranges from \$24,000 to \$31,000. Additional fines may be administered for additional days of violation after December 10, 2015.
3. *Do nothing, and receive a final ACL Order, with a fine of \$2,500.* Please note that this option may result in additional fines or enforcement actions for failure to file information after December 10, 2015.

What notification did the State Water Board provide to landowners and water suppliers prior to issuing the Administrative Civil Liability (ACL) Complaints?

In addition to the original letters to landowners and water suppliers, the State Water Board mailed reminder letters to all landowners and water suppliers in the four watersheds who had not responded to the Informational Order on [October 28, 2015](#) and [October 30, 2015](#). Recipients were notified that the State Water Board had no record of their compliance with the Informational Order and no record of a request for an extension of time. The letter gave due dates (November 10, 2015 for Dutch Bill Creek

and Green Valley Creek watersheds and November 13, 2015 for Mark West Creek and Mill Creek watersheds) for submission of the information requested in the Informational Order, after which the State Water Board would begin issuing ACL fines.

What resources has the State Water Board provided to assist landowners and water suppliers in complying with the Informational Order?

The State Water Board provided resources online to assist in completion of the [Online Informational Order Form](#). Staff also provided assistance to landowners and water suppliers over the phone, via email, and in person from August through early December 2015. Emails and phone messages were typically responded to within 24 hours, including on weekends and holidays. As of December 1, 2015, staff has responded to more than 1,600 emails, more than 2,900 phone calls, and held 18 days of in-person assistance in Santa Rosa. Spanish language assistance was provided to landowners as well.

What is the maximum fine a person could receive under this ACL Complaint?

The maximum fine is determined based on the number of days of non-compliance and the maximum fine amount of \$500/day. The maximum fines and days of non-compliance for each watershed, as of December 10, 2015, are displayed in the table below. Note that failure to comply with the Informational Order could result in additional fines or enforcement actions for violations not covered under this ACL Complaint (i.e., continued non-compliance after December 10, 2015).

Watershed	Maximum ACL*	Online Informational Order Form Response Due Date	Number Days Out of Compliance as of December 10, 2015
Dutch Bill Creek	\$31,000	October 9, 2015	62
Green Valley Creek	\$28,500	October 14, 2015	57
Portions of Mark West Creek	\$25,500	October 20, 2015	51
Mill Creek	\$24,000	October 23, 2015	48

Resources and Contact Information

For background on the Informational Order and associated Administrative Civil Liability Complaints, visit the Russian River Tributaries Emergency Regulation Informational Order webpage at:

<http://www.waterboards.ca.gov/rtribs.shtml>

Landowners or water suppliers that believe they have complied with the Informational Order, have additional information that should be considered as part of this process, need assistance with the Online Informational Order Form, or have questions should contact staff as soon as possible, but no later than within 20 days of receipt of the ACL Complaint at: rr_tribs_emergency_reg@waterboards.ca.gov or by phone at: **(916) 322-8422**. Please leave a message and your contact information. Staff will respond to your inquiry on the same day or on the next business day.

Media inquiries should be made to Tim Moran at (916) 327-8239, or email at timothy.moran@waterboards.ca.gov

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