

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

DIVISION OF WATER RIGHTS

ORDER WR 2022-0145-DWR

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ORDER APPROVING SETTLEMENT AGREEMENT

In the Matter of Failure to Submit Scott River and Shasta River Watersheds Livestock
Diversions Information Order Certification Response by

SOULE A.D & N.D.

Water Right: Diversion 473

BY THE DEPUTY DIRECTOR¹

This matter comes before the Deputy Director of the State Water Resources Control Board's (State Water Board) Division of Water Rights (Division) following the settlement negotiations regarding the alleged violation of California Code of Regulations, title 23, sections 875 through 875.9 (Emergency Regulations) as described in an Administrative Civil Liability Complaint (ACLC) dated February 22, 2022. In accordance with the attached Acceptance of Settlement Offer and Waiver of Right to Hearing and Reconsideration (Acceptance and Waiver), the Division's Prosecution Team (Prosecution Team) and SOULE A.D & N.D. (Diverter) have agreed to settle this matter. The Diverter has accepted the Division's Settlement Offer and waived their right to contest the violations alleged in the ACLC at a hearing before the State Water Board, Administrative Hearings Office. The Diverter also waived their right to request reconsideration of an order by the State Water Board resolving the violations alleged in the ACLC.

REC'D 4/29/22
CHECK # 13994
AMT \$ 1,000
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THE STATE WATER BOARD, OR ITS DELEGEE, FINDS AS FOLLOWS:

1. On August 30, 2021, the State Water Board adopted California Code of Regulations, title 23, sections 875 through 875.9 (Emergency Regulations).
2. Section 875.8 subdivision (a) of the Emergency Regulations states “The Deputy Director may issue information orders to some or all landowners, diverters, or other water right holders in the Scott River and Shasta River watersheds, requiring them to provide additional information related to water use as relevant to implementing this article [Article 23.5].”
3. On January 7, 2022, the Division’s Deputy Director issued Information Orders to Diverters subject to Section 875.3 – Minimum Diversions for Livestock Watering within the Scott and Shasta River watersheds.
4. On February 7, 2022, the Division sent the Diverter a Notice of Violation notifying the Diverter that the Order response for their water rights has not been received within 15 days of issuance of the Information Order for Livestock Diversions. The Diverter was warned of the potential for enforcement with monetary penalties should the violation persist.
5. On February 22, 2022, the Division issued the Diverter an Administrative Civil Liability Complaint (ACLC). The ACLC alleged the Diverter failed to submit their Order response by January 24, 2022, in violation of section 875.8 of the Emergency Regulations. The ACLC recommended a penalty of \$2,000.
6. The Diverter did not request a hearing within 20 days of receipt of the ACLC, in accordance with Water Code section 1055(b).
7. The Diverter returned the Order form by March 9, 2022.
8. 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

ACCEPTANCE OF SETTLEMENT OFFER AND WAIVER OF RIGHT TO HEARING AND RECONSIDERATION

SOULE A.D. & N.D.:

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Water Right ID: Diversion No. 473

By properly executing and returning this Acceptance of Settlement Offer and Waiver of Right to Hearing and Reconsideration (Acceptance and Waiver) to the State Water Resources Control Board ("State Water Board"), Soule A.D. & N.D. (Diverter) hereby accepts the Division of Water Rights' conditional Settlement Offer and waives their right to contest the violations alleged in the ACL Complaint at a hearing before the State Water Board, Administrative Hearings Office. Diverter also waives their right to request reconsideration of an order by the State Water Board resolving the violations alleged in the ACL Complaint.

Settlement Offer:

The Division of Water Rights Prosecution Team makes the following offer to settle this matter without the need for a formal hearing. The terms of the settlement are as follows:

- File the Information Order Form by March 24, 2022, and
- Pay settlement amount of \$1,000 within 30 days of receiving the State Water Board's Order Approving the Settlement Agreement.

How to accept the Settlement Offer:

1. **By March 24, 2022**, file the Information Order Form(s).
2. **By March 24, 2022**, execute this Acceptance and Waiver and deliver via email to DWR-Reporting@waterboards.ca.gov or by mail to:

State Water Resources Control Board
Division of Water Rights
Attention: Enforcement Section – Scott-Shasta Information Order
P.O. Box 2000
Sacramento, CA 95812-2000

3. **Within 30 days of the State Water Board issuing an Order Approving the Settlement Agreement**, remit the \$1,000 settlement amount payment. Once Diverter completes Steps 1 and 2 above, the State Water Board will issue an Order approving this settlement agreement. At that time, the Diverter shall remit payment of the settlement amount within 30 days as directed by the Order.

Failure to accept the Settlement Offer by March 24, 2022 shall render this Settlement Offer voidable and may subject Diverter to the full proposed liability amount (\$2,000) specified in the ACL Complaint.

By properly executing and returning this Acceptance and Waiver to the State Water Board, Diverter acknowledges and understands that:

1. This Acceptance and Waiver waives the Diverter's right to contest the allegations in the ACL Complaint and the amount of administrative civil liability for the alleged violations.
2. This Acceptance and Waiver does not address or resolve liability for any violation that is not specifically identified in the ACL Complaint.
3. This Acceptance and Waiver is not final and effective until it is approved by the State Water Board, or its delegee.

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

By: Marcy Soule 3-10-2022
 Signature Date

MARCY SOULE
 Printed or typed name

OWNER
 Title

Relationship to Diverter if not Diverter