



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

APR 24 2015

Anthony F. Cubre Jr., Trustee
13140 W. Shaw Avenue
Kerman, CA 93630

Dear Mr. Cubre:

ACCEPTANCE OF SETTLEMENT OFFER AND WAIVER OF RIGHT TO HEARING REGARDING THE ADMINISTRATIVE CIVIL LIABILITY COMPLAINT AND DRAFT CEASE AND DESIST ORDER FOR FAILURE TO RESPOND TO ORDER WR 2014-0030-DWR: ORDER FOR ADDITIONAL INFORMATION IN THE MATTER OF DIVERSION OF WATER FROM SAN JOAQUIN RIVER BETWEEN FRIANT DAM AND GRAVELLY FORD IN MADERA AND FRESNO COUNTIES

Enclosed is a copy of the Order for Acceptance of Conditional Settlement Offer and Waiver of Right to Hearing and Reconsideration for the Administrative Civil Liability (ACL) complaint against Anthony F. Cubre Jr., Trustee. By signing this Order, I confirm that the State Water Resources Control Board has received the signed Acceptance of Settlement, the payment of ACL, and the necessary Information of Water Diversion and Use required by Order WR 2014-0030 DWR. Therefore, the enforcement action related to failure to file information is closed. Please note that the resolution of this enforcement action does not constitute the State Water Board's final conclusions regarding the merits of Holding Contract 106 as the basis for your diversion.

If you have any questions regarding this matter, please contact Ms. Kathy Mrowka, Manager, Enforcement Section, of the Division of Water Rights at (916) 341-5363 or via e-mail at Kathy.Mrowka@waterboards.ca.gov.

Sincerely,

A handwritten signature in blue ink that reads "John O'Hagan".

John O'Hagan, Assistant Deputy Director
Division of Water Rights

Enclosure:

- Conditional Settlement Offer and Waiver of Right to Hearing

cc: Stanley C. Powell
Kronick, Moskovitz, Tiedemann & Girard
400 Capitol Mall, 27th Floor
Sacramento, CA 95814

FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE DIRECTOR

1001 I Street, Sacramento, CA 95814 | Mailing Address: P.O. Box 100, Sacramento, Ca 95812-0100 | www.waterboards.ca.gov

ORDER NO. 2015-0020-DWR

EXHIBIT A

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

Anthony F. Cubre Jr Trustee
Source: San Joaquin River
County: FRESNO

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), Anthony F. Cubre Jr Trustee 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 regarding violations alleged in the Administrative Civil Liability Complaint issued to Diverter (ACL Complaint) to which this Acceptance and Waiver is attached as Exhibit "A," as well as the draft Cease and Desist Order (draft CDO) issued concurrently therewith.

Anthony F. Cubre Jr Trustee agrees to perform the following within 20 days of receipt of the ACL Complaint and draft CDO:

- **Pay administrative civil liability as authorized by California Water Code section 1846, subdivision (c) in the amount of \$5,000** (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 1846 (c), that otherwise might be assessed for the violations described in the ACL Complaint.
- **Provide the necessary Information of Water Diversion and Use required by Order WR 2014 – 0030-DWR (Order) and the draft CDO.**

Anthony F. Cubre Jr Trustee understands that this Acceptance and Waiver waives the right to contest the allegations in the draft CDO and ACL Complaint and the civil liability amount proposed for those violations.

Anthony F. Cubre Jr Trustee understands that the failure to submit payment of the Expedited Payment Amount, information required by the Order and draft CDO, 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 Anthony F. Cubre Jr Trustee's non-performance, then the State Water Board will issue a final CDO and ACL Order and seek recovery of the full liability amount proposed in the ACL Complaint.

Anthony F. Cubre Jr Trustee understands that this Acceptance and Waiver does not address or resolve liability for any violation that is not specifically identified in the draft CDO or ACL Complaint. Providing the information required in the Order does not in any way establish or constitute evidence of a right to divert or use water.

Upon execution by Anthony F. Cubre Jr Trustee, the Acceptance and Waiver and Expedited Payment Amount shall be mailed to the following:

**Conditional Settlement Offer
State Water Resources Control Board
Division of Water Rights
Enforcement Section
Attn: Ms. Kathy Mrowka
P. O. Box 2000
Sacramento, CA 95812-2000**

Anthony F. Cubre Jr Trustee understands that this Acceptance and Waiver is not final until it is formally endorsed by the Division of Water Rights.

I hereby affirm that I am duly authorized to act on behalf of and to bind Anthony F. Cubre Jr Trustee in the making and giving of this Acceptance and Waiver.

Anthony F. Cubre Jr Trustee _____

By: Anthony F. Cubre Jr.
Signed Name

4-7-15
Date

Anthony F. Cubre Jr.
Printed or typed name

owner
Title

IT IS SO ORDERED PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 11415.60

Approval of the Acceptance and Waiver has been delegated to the Assistant Deputy Director for Water Rights by State Water Board Resolution 2012-0029, and approval shall not limit the authority of the Executive Director 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: John O'Hagan
John O'Hagan, Assistant Deputy Director
Division of Water Rights

4/22/2015
Date