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BEFORE THE STATE WATER RESOURCES CONTROL BOARD

STATE OF CALIFORNIA

In the Matter of:

RICHARD JENNINGS

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)
) DECLARATION OF JEFFREY YEAZELL
) IN SUPPORT OF ADMINISTRATIVE
) CIVIL LIABILITY FOR VIOLATION OF
) STATE WATER RESOURCES CONTROL
) BOARD ANNUAL DIVERSION
) REPORTING REGULATIONS
)
)
)

I, Jeffrey Yeazell, declare as follows:

1. My testimony, herein provided, identifies my personal knowledge of the evidence, actions, and rationale for the State Water Resources Control Board ("State Water Board") Division of Water Rights' ("Division") recommendation to issue an Administrative Civil Liability (ACL) order against Richard Jennings ("Diverter").
2. I have been an employee of the State Water Board for the past five years. I am currently employed as a Senior Water Resource Control Engineer in the Division of Water Rights Enforcement Section. My statement of qualifications is offered into evidence as **Prosecution Team Exhibit WR-9.**¹
3. My role in this enforcement action is to provide testimony regarding how the Division of Water Rights Enforcement Section determined compliance with the annual reporting

¹ Further references to Prosecution Team exhibits will be "WR-[Exhibit Number]."

1 regulations through the use of data analysis leading up to the issuance of the ACL
2 Complaints.

3 4. In the course of my duties as Senior Water Resource Control Engineer, I am routinely asked
4 by my supervisors to access the electronic Water Rights Information Management System
5 (eWRIMS) database, and query that database for information. The eWRIMS database was
6 developed by the State Water Resources Control Board to manage and track data and
7 information on water rights in California. The data contained in eWRIMS is indexed and
8 tracked by water right or claim, not by water right holder or claimant. Accordingly, the
9 Division tracks reporting compliance by water right or claim. Address and ownership
10 information is provided by the water right holder or claimant or by an agent for the water
11 right holder or claimant.

12 5. In preparation for this hearing, I did a quick evaluation to determine how many water rights
13 and water rights claims the Division of Water Rights is currently tracking using a recent
14 Reporting Compliance report for 2018. There are approximately 41,000 water rights of
15 various types (stock ponds, registrations, permits, licenses, pre-14 claims and riparian
16 claims, etc.), held by approximately 16,000 unique parties. A true and correct copy of the
17 report I downloaded, with Personally Identifiable Information removed, is offered into
18 evidence as **Exhibit WR-18**.²

19 6. The tasks I conducted related to this enforcement case were as follows:
20 a. Track and plot reporting compliance rates over time;
21 b. Identify maximum reported diversion amounts to claims required to file Supplemental
22 Statements of Diversion and Use; and
23 c. Identify water rights and claims, and associated owners, for which no annual report
24 was filed for the years 2016 and/or 2017 at various points in time during the
25 enforcement project.

26 Each task is described below.

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28 ² All Reporting Compliance reports submitted as exhibits have the following Personally Identifiable Information removed: Owners' and Agents' mailing addresses, emails, and telephone numbers, and passwords used by the diverters to log in to the reporting system.

Reporting Compliance Rate Plots

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7. In mid-2018, Kyle Ochendusko asked me to begin tracking reporting compliance data to determine how many water rights holder and claimants had failed to meet their appropriate reporting deadlines. I accomplished this by creating reporting compliance rate tracking plots, which I updated periodically during the remainder of the year. Reporting compliance rates are the number of water rights or claims reported divided by the total number expected to report. A one-hundred-percent-compliance-rate would indicate that a report was filed for every right or claim. On the plots, I grouped the reporting trends by water right type. I also marked key milestones, such as reporting deadlines and when key correspondence, such as reporting reminders and ACL complaints, were mailed out.
8. To create the plots, I downloaded Reporting Compliance reports for the 2016 and 2017 reporting years from eWRIMS. The reports contain, among other items, the reporting status of each water right or claim for the selected year at the time the report was run. One of the fields in the reports, labeled "DATE_REPORT_FILED," tracks whether the appropriate annual diversion report was filed, and the date it was submitted. If the field is empty, that indicates a report was not filed for that water right or claim for the year in question. To create the plots, I removed any revoked or inactive rights/claims from the data, grouped the rights and claims by water right type (permits and licenses, statements), calculated compliance rates for each water right type for each date covered in the plots, added the milestones, then printed the plots. **Exhibits WR-19 and WR-20** are true and correct copies of the Reporting Compliance report for the 2016 reporting year and the most recent plot I created using that report, respectively. **Exhibits WR-21 and WR-22** are true and correct copies of the Reporting Compliance report for the 2017 reporting year and the most recent plot I created using that report, respectively.

Identifying Maximum Reported Diversion Amounts

9. According to the eWRIMS database, the Diverter is the owner of 4 licenses, 26 stockpond certificates, 2 pending stockpond certificates, and 17 claims of right, or statement diversions. ACL Complaints were issued on permits, licenses, and statements with Face Values or maximum reported diversions greater than 10 acre-feet. Appropriate water

rights are assigned a maximum amount authorized to divert in a year at the time of permit, license, registration, or certificate issuance. This is generally referred to the “Face Value” of an appropriative right. Appropriative rights can easily be filtered on Face Value to determine which rights are authorized to divert more than a specified threshold, such as the over-ten-acre-foot-threshold applied to water rights and claims that were issued ACL complaints. The Face Values of the Diverter’s three appropriative water rights greater than 10 acre-feet and addressed in this hearing are summarized in the following table (**Exhibits WR-10r, WR-10s, and WR-10t**):

License No.	Water Right ID	Face Value (Acre-Feet)
53	A000486	146
284	A000135	1,428
3101	A010835	149

10. Diversions required to file supplemental statements of diversion and use (predominantly riparian and pre-1914 claims of right) don’t have Face Values assigned to them, making any sort of ranking by diversion size challenging. In order to develop a Face Value analogue for these statement diversions, I defined a “Maximum Diverted” value to be the maximum diversion amount reported under each statement for the years reported in eWRIMS. For example, if a statement diverter reported 10 acre-feet diverted in 2010 and 50 acre-feet in 2015, the Maximum Diverted amount for this statement would be 50 acre-feet. This method is consistent with the method used to identify statement diversions that may be subject to the Senate Bill 88 measurement regulations. All 17 of the Diverter’s statement diversions met the 10-acre-foot maximum reported diversion threshold for being issued ACL Complaints. The following table summarizes the applicable maximum reported diversion for each of the 17 statement diversions and the year in which it occurred.

Statement ID	Maximum Reported Diversion (Acre-feet)	Year
S014780	13,500	2013
S014781	13,500	2012
S014782	1,800	2010

Statement ID	Maximum Reported Diversion (Acre-feet)	Year
S014783	13,500	2012
S014784	13,500	2012
S014785	1,620	2010
S014786	1,620	2010
S014787	1,620	2010
S014788	1,620	2010
S014789	1,620	2010
S014790	1,620	2010
S014791	1,620	2010
S014792	1,080	2010
S014793	1,080	2010
S023091	850	2011
S023092	1,695	2010
S023270	120	2013

Exhibits WR-23a through WR-23t contains true and correct copies of the eWRIMS reporting summary screens and annual diversion and use reports filed in eWRIMS before the Division issued the ACL Complaints for the 17 statements and three licenses subject to this hearing. The reporting screens provide summaries of annual reports submitted for each right, and the date they were submitted. The reporting summary screens show that the 2017 reports were not submitted by October 19, 2018, the day the ACL Complaints were issued.

Identifying Which Parties to Issue Enforcement Correspondence

11. On July 24, 2018, I was directed by Mr. Ochendusko to identify which water rights and claims did not have annual reports filed for them for the 2016 and 2017 reporting years. I downloaded the 2016 and 2017 Reporting Compliance reports and determined that the Diverter had not submitted the 2017 annual diversion and use reports for the three licenses and 17 claims owned by the Diverter as of that date. On the date I downloaded the reports, 2,167 water rights and claims did not have annual reports filed for 2016, 3,317 water rights

and claims did not have annual reports filed for 2017, and 9,073 water rights and claims did not have annual reports filed for both 2016 and 2017. I presented this data to Kyle Ochendusko. Subsequently, on July 27, 2018, Mr. Ochendusko issued a letter to all parties that did not file, including the Diverter, of the requirements to timely file annual diversion and use reports. True and correct copies of the downloaded Reporting Compliance reports for both the 2016 and 2017 reporting years, with Personally Identifiable Information removed, is offered into evidence as **Exhibits WR-2** and **WR-25**, respectively.

12. During the week of September 10, 2018, I was again directed by Mr. Ochendusko to identify which water rights and claims did not have annual reports filed for them for the 2016 and 2017 reporting years. I downloaded the 2016 and 2017 Reporting Compliance reports on September 17, 2018, and determined that the Diverter still had not submitted the 2017 annual diversion and use reports for the three licenses and 17 claims owned by the Diverter and subject to this hearing as of that date. Additionally, as of the date I downloaded the reports, there were 421 permits, licenses, and claims that did not have annual reports filed for 2016, 705 that did not have annual reports filed for 2017, and 1,725 that did not have reports filed for both 2016 and 2017. I presented this data to Kyle Ochendusko. Subsequently, Mr. Ochendusko issued the final warning letter to the identified parties that did not file, including the Diverter, notifying them of the need to file annual reports or face enforcement actions. True and correct copies of the downloaded Reporting Compliance reports for both the 2016 and 2017 reporting years is offered into evidence as **Exhibits WR-26** and **WR-27**.

13. During the week ending October 19, 2018, in preparation of issuing ACL Complaints for failing to file annual diversion and use reports, I was directed by Mr. Ochendusko to identify which water rights and claims that had Face Values or maximum reported diversion amounts greater than 10 acre-feet and did not have annual reports filed for the 2016 and 2017 reporting years. I downloaded the 2016 and 2017 Reporting Compliance reports and determined that the Diverter still had not submitted the three Annual Reports of Licensee and 17 Supplemental Statements of Diversion and Use for the 2017 reporting year as of that date. I presented this data to Kyle Ochendusko. Subsequently, the Prosecution Team issued 20 separate ACL Complaints, each one corresponding to a particular water right or claim of water right against the Diverter. A total of 552 ACL Complaints were

1 issued to 438 parties on October 19, 2018. True and correct copies of the downloaded
2 Reporting Compliance reports for both the 2016 and 2017 reporting years, in eWRIMS is
3 offered into evidence as **Exhibits WR-28 and WR-29.**

4 I declare under penalty of perjury to the laws of the State of California that the foregoing is true
5 and correct. Executed March 18, 2019, at Sacramento, California.

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7 JEFFREY YEAZELL
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