

**STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD**

In the Matter of the State Board's)
Own Motion to Review an Order)
Affirming Administrative Civil)
Liability Complaint No. 90-26)
against George Arredondo by the)
California Regional Water Quality)
Control Board, Santa Ana Region.)
Our File No. A-724.)

ORDER NO. WQ 91-05

BY THE BOARD:

I. BACKGROUND

On January 14, 1991, the State Water Resources Control Board (State Board) received a request from the Regional Water Quality Control Board, Santa Ana Region (Regional Board) for review, on the State Board's own motion, of an administrative civil liability (ACL) order issued by the Regional Board on March 22, 1990, as the order applied to George Arredondo. The ACL order arose from Cease and Desist Order No. 89-52, also issued by the Regional Board, which compelled compliance with a prohibition against discharges of individual subsurface disposal system waste within the Yucaipa/Calimesa area, which prohibition appears in the Regional Board's Water Quality Control Plan (Basin Plan).

On February 13, 1990, the Executive Officer issued Administrative Civil Liability Complaint No. 90-26 to violators of Order No. 89-52. On March 22, the Regional Board assessed

violators of Order No. 89-52 with administrative civil liability. George Arredondo was one of those to whom Complaint No. 90-26 was issued based on information which showed that he had not complied with the cease and desist order. Mr. Arredondo was assessed liability of \$500.

After the March 22 hearing, Regional Board staff obtained additional documentation showing that in November 1989, Mr. Arredondo purchased materials to connect his Yucaipa home to the sewer, and in December 1989 he returned surplus material. Yucaipa Valley Water District (Water District) informed the Regional Board that it had erred in failing to record properly Mr. Arredondo's sewer connection permit and that Mr. Arredondo's sewer connection was presumably completed prior to the issuance of Complaint No. 90-26. Therefore, the Regional Board concluded that Mr. Arredondo did comply with the cease and desist order in a timely manner and that the ACL was inappropriate.

The error in issuance of the ACL order was not discovered until after the order was final and was no longer subject to review by the Regional Board. Water Code Sections 13323 and 13324. Accordingly, the Regional Board asks us to correct the situation.

II. CONTENTION AND FINDING

Contention: The Regional Board asks us to review the ACL order enforcing ACL Complaint No. 90-26 as it applies to George Arredondo.

Finding: The issuance of an ACL order to George Arredondo was caused by a mistake by the Water District, and the order should not be applied to Mr. Arredondo.

Discussion: As we discussed in Order No. WQ 88-9, only the State Board may revise orders assessing administrative civil liability unless a petition for review of the order is filed within thirty days of the Regional Board action. The Regional Board has clearly stated, in Resolution No. 90-171, that it believes the assessment of administrative civil liability against Mr. Arredondo was inappropriate. As we stated in Order No. WQ 88-9, we show "great deference" to the Regional Boards in matters concerning assessment of administrative civil liability. We will revise the order as requested by the Regional Board.

Therefore, the order assessing administrative civil liability shall be revised so as not to assess any liability against George Arredondo.

III. ORDER

The order of the Regional Board affirming Administrative Civil Liability Complaint No. 90-26 shall be revised so as not to assess any liability from George Arredondo.

CERTIFICATION

The undersigned, Administrative Assistant to the Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on June 20, 1991.

AYE: W. Don Maughan
Eliseo M. Samaniego
John Caffrey

NO: None

ABSENT: Edwin H. Finster

ABSTAIN: None



Maureen Marché
Administrative Assistant to the Board

1. BMT
2. Terry

STATE OF CALIFORNIA
THE RESOURCES AGENCY

STATE WATER RESOURCES CONTROL BOARD

LEGAL DIVISION

Opinion File Index Form

Index topics:

Administrative civil liability

Digest of document (Include conclusions reached; use additional sheet if necessary):

Order assessing administrative civil liability, pursuant to a request by the regional board, because of an error in the assessment.

Date of document: *6/20/91*

Author, Sender and Recipient named in document.
State Board order

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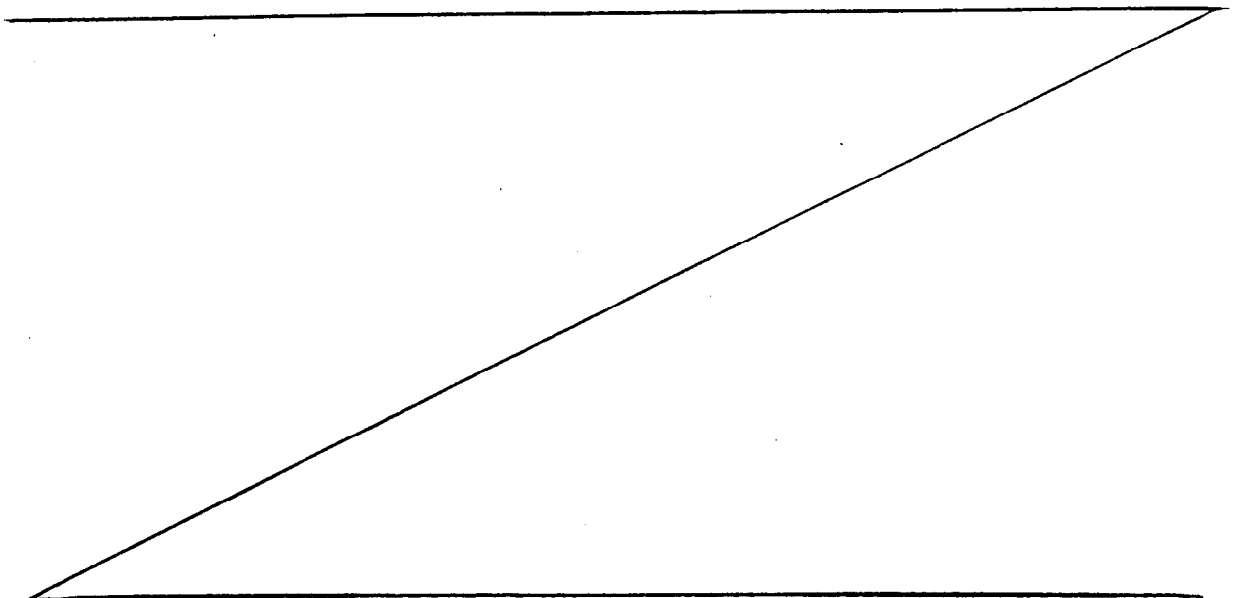
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