

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

ORDER: WQ 2000-05-CWP

In the Matter of the Administrative Civil Liability
Complaint No. 99-01

DALE R. CATES

**ORDER IMPOSING ADMINISTRATIVE CIVIL LIABILITY PURSUANT TO
SETTLEMENT AGREEMENT**

I. INTRODUCTION

By this order, the Executive Director of the State Water Resources Control Board imposes administrative civil liability on Mr. Dale R. Cates pursuant to a settlement agreement. Under the settlement agreement, Mr. Cates agreed to pay civil liability in an amount lesser than proposed in Administrative Civil Liability Complaint (ACL) No. 99-01. The issuance of an order pursuant to a settlement agreement is authorized by Government Code section 11415.60.

II. BACKGROUND

Pursuant to Water Code section 13627.1, subdivision (a), the Executive Director issued ACL Complaint No. 99-01 against Mr. Dale R. Cates on November 15, 1999. The ACL alleged that Mr. Cates operated the Delta Conservation Camp wastewater treatment facility from December 17, 1997 to July 1, 1999 under a forged certificate. The ACL proposed that the Board impose civil liability in the amount of \$14,075. This amount was based on a recommended fine of \$25 per day for 563 days of operation. The recommended reduction from the maximum of \$100 per day under Water Code section 13627.1, subdivision (a) was based on the fact that Mr. Cates' unlawful operation did not result in any harm to water quality, Mr. Cates had no history of

prior violations, and Mr. Cates had duties at the Delta Conservation Camp other than operation of the wastewater treatment facility.

Mr. Cates requested a hearing before the Board. Exhibits and testimony submitted by Mr. Cates in preparation for the hearing indicated that Mr. Cates operated the Delta Conservation Camp wastewater treatment facility for 309 days, rather than the 563 days originally calculated by the Division. Based on this, the Division intended to revise the recommended civil liability from \$14,075 to \$7,725.

III. SETTLEMENT AGREEMENT

Mr. Dale R. Cates and the Division of Clean Water Programs agreed to settle this matter on the following terms:

1. The Division agreed to recommend that the original civil liability amount of \$14,075 in ACL Complaint 99-01 be reduced to \$7,725.
2. The Division agreed that all but \$5000 of the recommended \$7,725 in civil liability shall be suspended upon condition that Mr. Cates remits the \$5000 to the Board in accordance with the payment schedule set forth in the settlement agreement.
3. The parties agreed that if Mr. Cates defaults on any one of the payments to the Board, administrative civil liability in the amount of \$7,725, less any sum already paid to the Board by Mr. Cates, shall become immediately due and payable to the Board.

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4. The Division agreed not to recommend criminal prosecution of Mr. Cates for violation of section 13627.1, subdivision (a) of the Water Code.

IV. ORDER

IT IS HEREBY ORDERED THAT:

1. The settlement agreement between the Division of Clean Water Programs and Mr. Dale R. Cates is approved.

2. Administrative Civil Liability in the amount of \$7,725 is imposed on Mr. Cates, provided that all but \$5000 is suspended upon condition that Mr. Cates remits the \$5000 to the Board in accordance with the payment schedule set forth in the settlement agreement.

3. Upon a finding by the Division of Clean Water Programs that Mr. Cates has defaulted on any one of the payments set forth in the settlement agreement, civil liability in the amount of \$7,725, less any sum already paid to the Board by Mr. Cates, shall become immediately due and payable to the Board.

/s/
Walt Pettit, Executive Director
State Water Resources Control Board

Dated: April 14, 2000