



EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

FIRST CLASS MAIL

NOV 25 2013

LAMB GIANELLI FAMILY LP
PO BOX 1607
STOCKTON, CA 95201

LAMB GIANELLI FAMILY LP
PO BOX 1488
STOCKTON, CA 95201

Dear Lamb Gianelli Family LP:

SETTLEMENT DECISION APPROVING CONDITIONAL SETTLEMENT OFFER AND WAIVER OF RIGHT TO HEARING REGARDING ADMINISTRATIVE CIVIL LIABILITY COMPLAINT FOR LICENSE 2639 (APPLICATION 5092), BEAVER SLOUGH AND SOUTH FORK MOKELUMNE RIVER IN SAN JOAQUIN COUNTY

Please find enclosed for your records, a copy of the Settlement Decision approving the Settlement Offer regarding the Administrative Civil Liability Complaint against Lamb Gianelli Family LP for Failure to File the 2012 Annual Water Use Report. Also enclosed is a copy of the Conditional Offer and Waiver of Right to Hearing and Reconsideration.

Please note that this settlement decision does not include settlement conditions on the Administrative Civil Liability Complaint and Order issued on February 7, 2013 for failure to file the 2011 annual use report. On March 19, 2013, a letter was sent to Lamb Gianelli Family LP indicating that the civil liability of \$10,000, assessed for violating the November 17, 2012 Cease and Desist Order for failure to file the 2011 annual use report was outstanding, and that this matter would be forwarded to the appropriate court for judgement. If you would like to discuss settlement regarding 2011 water use report, please contact me.

If you have any questions regarding these issues, please contact me at (916) 445-5962.

Sincerely,

Craig M. Wilson
Delta Watermaster

Enclosures

cc: Please see next page.

NOV 25 2013

cc: Rudy Croce
501 W Weber Ave, Ste 500
Stockton, CA 95203

Vincent M. Maples, P.E.
Wagner & Bonsignore
2151 River Plaza Drive, Suite 100
Sacramento, CA 95833

ec: John O'Hagan, Manager
Enforcement Section
Division of Water Rights

NOV 25 2013

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

DECISION 2013-0003

In the Matter of Failure to File an Annual Water Use Report by

LAMB GIANELLI FAMILY LP

SETTLEMENT DECISION

BY THE DELTA WATERMASTER:

1.0 INTRODUCTION

This matter comes before the Delta Watermaster of the State Water Resources Control Board (State Water Board) following the issuance of an Administrative Civil Liability (ACL) Complaint to Lamb Gianelli Family LP (Lamb Gianelli) based on a failure to file annual water use report under License 2399 (Application 3957). In accordance with this Decision, the State Water Board's Delta Watermaster and Lamb Gianelli have agreed to settle this matter in lieu of proceeding to a hearing. The issuance of a settlement decision pursuant to a settlement agreement is authorized under Government Code section 11415.60. The settlement is approved.

2.0 BACKGROUND

Lamb Gianelli is the owner of water right Application 5092 (License 2639). Water right License 2639 authorizes the diversion of water from Beaver Slough and South Fork Mokelumne River for irrigation. On January 30, 2013, the Division of Water Rights (Division) mailed out an initial notice to Lamb Gianelli notifying them of their responsibility to file a 2012 annual water use report for water right License 2399 (Application 3957). The deadline to submit their 2012 use report online was July 1, 2013. On July 26, 2013, the State Water Board's the Office of Delta Watermaster staff mailed Lamb Gianelli a delinquent notice letter regarding the 2012 annual use.

On August 29, 2013, having failed to receive Lamb Gianelli's 2012 annual use report, the Delta Watermaster mailed a draft Cease and Desist Order (CDO) to Lamb Gianelli for failure to submit the 2012 annual water use report.

On October 17, 2013, the Delta Watermaster issued a CDO against Lamb Gianelli for failure to file the 2012 annual water use report.

On November 20, 2013, 34 days after the CDO was issued, the Delta Watermaster issued an ACL Complaint against Lamb Gianelli for violating the CDO and failing to file the 2012 annual water use report. At the time of the issuance of the ACL Complaint, no record of the 2012 annual use report has been filed for A005092.

Lamb Gianelli and the Delta Watermaster agree to settle matters identified in the ACL Complaint and by Lamb Gianelli through this Decision in lieu of a hearing in said matter.

3.0 SETTLEMENT AGREEMENT

Lamb Gianelli and the Delta Watermaster engaged in settlement discussion and reached an agreement on language that is mutually acceptable and is contained in the Settlement Offer. The terms of the settlement are as follows.

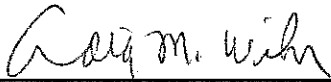
- 1) Lamb Gianelli shall immediately come into compliance with the terms of License 2639 by submitting the 2012 annual use report by December 10, 2013, 20 days from the date of November 20, 2013, by accessing the Report Management System at www.waterboards.ca.gov/RMS using the User ID and Password shown on User Information Sheet accompanying this Decision.
- 2) Lamb Gianelli shall remit to the State Water Board the sum of \$2,500, the administrative civil liability for failure to timely submit the 2012 annual use report. (This sum has been received by the State Water Board on November 22, 2013).
- 3) Lamb Gianelli waives its right to hearing and reconsideration of this matter.

SETTLEMENT DECISION

IT IS HEREBY ORDERED THAT the attached Settlement Offer between the Lamb Gianelli and the Delta Watermaster is approved and is incorporated by reference into this Decision.

Approval of the settlement agreement has been delegated to the Delta Watermaster by State Water Board Resolution 2012-0048, and approval shall not limit the authority of the Executive Director, Delta Watermaster, 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 settlement agreement.

STATE WATER RESOURCES CONTROL BOARD



Craig M. Wilson
Delta Watermaster

Dated: **NOV 25 2013**

LAMB GIANELLI FAMILY LIMITED PARTNERSHIP

**POST OFFICE BOX 1488
STOCKTON, CA 95201-1488**

November 21, 2013

Conditional Settlement Offer
State Water Resources Control Board
Office of Delta Watermaster
Attn: Craig M. Wilson
Post Office Box 100
Sacramento, CA 95812-0100

Dear Mr. Wilson:

Enclosed please find the following for Lamb Gianelli Family Limited Partnership:

Exhibit A, Acceptance of Conditional Settlement Offer and Waiver of Right to Hearing and Reconsideration, which has been executed by me as Successor Trustee of the A. Edward Gianelli 2001 Trust the general partner of Lamb Gianelli Family Limited Partnership

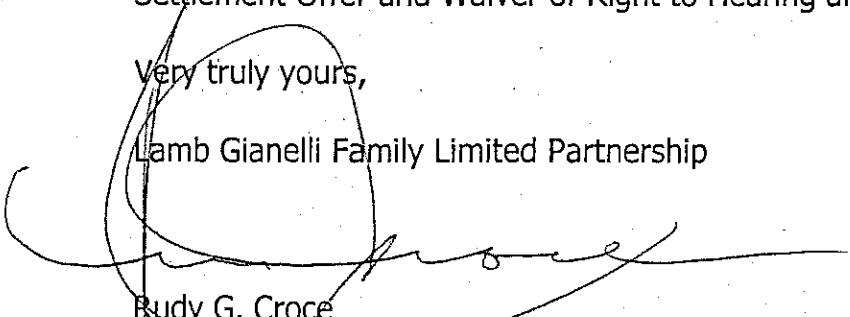
Community Bank of San Joaquin cashiers check number 15809 made payable to the State Water Resources Control Board in the amount of \$2,500.00

The 2012 Annual Use Report for Lamb Gianelli Family Limited Partnership will be electronically filed within twenty [20] days from November 20, 2013.

Please return an endorsed filed copy of the enclosed Acceptance of Conditional Settlement Offer and Waiver of Right to Hearing and Reconsideration to our office.

Very truly yours,

Lamb Gianelli Family Limited Partnership



Rudy G. Croce
Successor Trustee of the A. Edward Gianelli
2001 Trust, General Partner

Copy with enclosures to:
Paula J. Whealen
Wagner & Bonsignore

EXHIBIT A

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

Lamb Gianelli Family LP
Source: Beaver Slough,
South Fork Mokelumne River
County: San Joaquin

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), Lamb Gianelli Family LP (Licensee) 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 at which violations alleged in the Administrative Civil Liability Complaint issued to Licensee (ACL Complaint) to which this Acceptance and Waiver is attached, as Exhibit "A" could be disputed.

Licensee agrees to perform the following within 20 days of receipt of the ACL Complaint:

- **Pay administrative civil liability as authorized by California Water Code section 1845(b)(1), in the sum of \$2,500 (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 1845 (b)(1) that otherwise might be assessed for the violations described in the ACL Complaint.**
- **Electronically file the necessary 2012 Annual Use Report**

Licensee understands that this Acceptance and Waiver waives the Licensee's right to contest the allegations in the ACL Complaint and the civil liability amount for such violations.

Licensee understands that the failure to electronically file the 2012 Annual Use Report, submit payment of the Expedited Payment Amount as identified and described above, 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 Licensee's non-performance, then the State Water Board will issue a final Administrative Civil Liability order and seek recovery of the full liability amount proposed in the ACL Complaint.

Licensee understands that this Acceptance and Waiver does not address or resolve liability for any violation that is not specifically identified in the ACL Complaint. Upon execution by Licensee, the Acceptance and Waiver along with the Expedited Payment Amount shall be returned to the following address:

Conditional Settlement Offer
State Water Resources Control Board
Office of Delta Watermaster
Attn: Craig M. Wilson
P. O. Box 100
Sacramento, CA 95812-0100

Licensee understands that this Acceptance and Waiver is not final until it is formally endorsed by the Delta Watermaster.

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

Lamb Gianelli Family LP
(Licensee) *Please make corrections as appropriate

By:


(Signed Name)

21 NOVEMBER 2013
(Date)

Rudy Groce


(Printed or typed name)

Successor Trustee of the A. Edward Gianelli
2001 Trust, General Partner

(Title)

Approval of the Acceptance and Waiver has been delegated to the Delta Watermaster by State Water Board Resolution 2012-0048, and approval shall not limit the authority of the Executive Director, Delta Watermaster, 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:


Craig M. Wilson
Delta Watermaster

11/29/13
(Date)