

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

DIVISION OF WATER RIGHTS

ORDER WR 2023-0034-EXEC

Order WR 2023-0034-EXEC

In the Matter of Administrative Civil Liability for Violations of Division 2 of the California Water Code in
Lake County Associated with the Diversion and Use of Water for Cannabis Cultivation by

Maria Lenta and Bruno Lenta

ORDER APPROVING SETTLEMENT AGREEMENT

Order Approving Settlement

BY THE EXECUTIVE DIRECTOR¹

1.0 INTRODUCTION

This matter comes before the Executive Director of the State Water Resources Control Board (State Water Board or Board) following the issuance of an Administrative Civil Liability Complaint (Complaint) and Draft Cease and Desist Order to Maria Lenta and Bruno Lenta (collectively, the Respondents). In accordance with the attached Settlement Agreement, the State Water Board Division of Water Rights' Prosecution Team (Prosecution Team) and the Respondents have agreed to settle this matter in lieu of proceeding to a hearing. The issuance of a decision or order pursuant to a settlement agreement is authorized under Government Code section 11415.60.

BACKGROUND

Maria Lenta acquired Lake County Assessor Parcel Numbers (APNs) 013-045-090-000 and 013-045-160-000 (collectively, the Property) on or around October 1, 2014.

On December 15, 2017, a consultant for the Property submitted an entry into the State Water Board Cannabis Portal to obtain coverage under the State Water Board Order No. WQ-2017-0023-DWQ, *General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities*. The portal entry listed Bruno Lenta as the cultivator/diverter and Maria Lenta as the landowner. The Central Valley Regional Water Quality Control Board (Central Valley Water Board) issued a Notice of Applicability to Mr. Lenta on January 25, 2018, which informed him of the requirement to comply with the *Cannabis Cultivation Policy – Principles and Guidelines for Cannabis Cultivation* (Cannabis Cultivation Policy).

Cannabis Cultivation Policy

¹ State Water Board Resolution No. 2012-0061 delegates to the Executive Director the authority to issue a decision or order by settlement of the parties under Government Code section 11415.60.

On June 11, 2020, the California Department of Fish and Wildlife (CDFW) performed a search warrant inspection of the Property along with Central Valley Water Board staff. CDFW issued a Notice of Violation (NOV) on August 12, 2020 that described the violations observed by CDFW during the inspection, including documentation of an on-stream reservoir.

On March 18, 2021, the Division issued a Notice of Potential Unauthorized Diversion and Failure to File a Statement of Water Diversion and Use to Maria Lenta based on the observations described in CDFW's August 12, 2020 NOV. The March 2021 Notice provided Ms. Lenta information regarding Water Code sections 5101, 1052, and the requirements of the Cannabis Cultivation Policy. Bruno Lenta contacted the Division on March 22, 2021 in response to the Notice.

On April 19, 2021, Division staff accompanied CDFW on a search warrant inspection of the Property based on the possible unauthorized diversion and use of water for illegal cannabis cultivation. During the inspection, Division staff observed water being diverted from unnamed tributary to Bucksnot Creek, a tributary of Putah Creek, for purposes of cannabis irrigation.

On September 1, 2021, Division staff participated in another search warrant inspection of the Property with CDFW. During the inspection, Division staff again documented unauthorized diversions of surface water for cannabis irrigation. Staff also observed an onstream reservoir identified as POD5/POS10, which corresponded to the onstream reservoir documented in CDFW's August 12, 2020 NOV.

On December 1, 2022, the Assistant Deputy Director of the Division, acting under delegated authority, issued the Respondents an Administrative Civil Liability Complaint (Complaint) and Draft Cease and Desist Order. The Complaint alleged the Respondents failed to file a statement of water diversion and use for the water diversions occurring on the Property; diverted or used water in violation of Water Code section 1052, subdivision (a); failed to implement requirements of the State Water Board's *Cannabis Cultivation Policy – Principle and Guidelines for Cannabis Cultivation* (Cannabis Cultivation Policy) established pursuant to Water Code section 13149; and diverted and used water for cannabis cultivation for which a license is required but was not obtained. The Complaint and Draft Cease and Desist Order are attached to the Settlement Agreement.

The Complaint recommended an administrative civil liability in the amount of \$27,000 for the alleged violations. The Prosecution Team determined that this amount of civil liability took into consideration the extent of the harm caused by the alleged violations, their nature and persistence, the length of time over which the alleged violations occurred, the corrective actions taken by the Respondents, and all other relevant circumstances, pursuant to Water Code section 1055.3.

On January 12, 2023, Maria Lenta timely submitted a request for hearing before the State Water Board's Administrative Hearings Office to contest the allegations contained in the Complaint, which was signed by Bruno Lenta.

The Respondents and the Prosecution Team engaged in settlement negotiations and agreed to settle all matters identified in the Complaint and Draft Cease and Desist Order issued to the Respondents on December 1, 2022, by settlement agreement in lieu of a hearing.

2.0 SETTLEMENT AGREEMENT

The Respondents and the Prosecution Team executed a settlement agreement, dated July 3, 2023, and attached hereto (Settlement Agreement). The general terms of the settlement are:

- (1) The Respondents stipulate to request cancelation of any hearing on the Complaint and Draft Cease and Desist Order, waive the right to petition for reconsideration of this Order, and agree to the other terms and conditions described in the Settlement Agreement and incorporated herein;
- (2) The Respondents will comply with the terms and requirements described in the December 1, 2022 Draft Cease and Desist Order, which are incorporated herein; and
- (3) The Respondents are subject to administrative civil liability in the amount of \$26,500, to be paid consistent with the payment schedule detailed in the Settlement Agreement, which will be deposited into the Water Rights Fund pursuant to Water Code section 1551.

ORDER

IT IS HEREBY ORDERED THAT the attached Settlement Agreement between the Prosecution Team and the Respondents is approved. The Respondents must perform all of the following actions:

1. Pay \$26,500 in administrative civil liability for the violations alleged in the Complaint in accordance with the following payment schedule:
 - a. The Respondents shall submit \$500 on the first of each month for twelve consecutive months (months 1-12), beginning on the first day of the month immediately following adoption of this Order.
 - b. After the first twelve monthly payments of \$500, the Respondents shall submit a payment of \$1,708.33 on the first of each month for eleven consecutive months (months 13-23) and a payment of \$1,708.37 on the first of the final month (month 24).
 - c. If the Respondents sell the Property during the two-year repayment period, the remaining balance is to be paid in full within 30 days of the closing date of the sale of the Property. Respondents must notify the Prosecution Team, in writing, of the sale within 5 days of the closing date.

2. Payment shall be made by cashier's check, certified check, or money order made payable to the "State Water Resources Control Board – Water Rights Fund." Properly execute and deliver payment to:

State Water Resources Control Board
Division of Water Rights
Attention: Cannabis Enforcement Section
P.O. Box 2000
Sacramento, CA 95812-2000

3. Comply with all terms and requirements described in the Draft Cease and Desist Order that was sent to the Respondents on December 1, 2022.

The administrative civil liability, if not paid consistent with the stipulated payment schedule, will be recoverable as provided in Water Code section 1055.4. The terms and requirements described in the Draft Cease and Desist Order are enforceable as a Cease and Desist Order issued in accordance with Water Code section 1831. Failure to comply with the terms of the Cease and Desist Order may result in additional enforcement, which may include imposition of administrative civil liability pursuant to Water Code section 1845.

STATE WATER RESOURCES CONTROL BOARD



Eileen Sobeck
Executive Director

July 11, 2023

Date