

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2015-XXXX

IN THE MATTER OF

SARBJIT & SATWANT K. ATHWAL
MADERA COUNTY

This Order is issued to Sarbjit & Satwant K. Athwal (hereafter Discharger) pursuant to California Water Code section 13261, which authorizes the imposition of Administrative Civil Liability. This Order is based on findings that the Discharger failed to submit a Report of Waste Discharge as required by Water Code section 13260.

The California Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board or Board) finds the following:

1. Water Code section 13260, subdivision (a), requires that any person discharging waste or proposing to discharge waste in the Central Valley Region that could affect the quality of the waters of the State, other than into a community sewer system, shall file with the Board a report of waste discharge (RoWD).
2. A person who fails to submit a RoWD under Water Code section 13260 when so requested by the Board may be liable civilly under section 13261. The Board may impose such liability administratively in accordance with Water Code section 13323 in an amount not exceeding one thousand dollars (\$1,000) for each day in which the violation occurs.
3. Water Code section 13264 provides that no person may discharge waste unless they have filed a RoWD and until the Board has issued waste discharge requirements under section 13263 or waived such requirements under section 13269.
4. On 7 December 2012, the Board issued, and on 3 October 2013 and 27 March 2014 revised, the Waste Discharge Requirements General Order for Growers within the Eastern San Joaquin River Watershed that are Members of the Third-Party Group, Order R5-2012-0116-R2 (hereinafter General Order) and the General Order's corresponding Monitoring and Reporting Program.
5. The General Order serves as general waste discharge requirements under Water Code section 13263 for both indirect and direct waste discharges that result from runoff, leaching, irrigation water, and storm water, that could

affect the ground or surface waters of the state. The Discharger's agricultural parcels are located within the General Order's coverage area.

6. Growers within the General Order's coverage area may comply with Water Code section 13264 for discharges of waste from their irrigated agricultural lands by submitting an individual RoWD under section 13260, leading to an individual waste discharge requirement order under section 13263, or by submitting a Notice of Intent and otherwise complying with the General Order.
7. The Discharger owns approximately 983 acres of agricultural land in Madera, Merced and Stanislaus Counties, including the following Assessor's Parcel Numbers [APNs] and their respective acreage: APN 017-058-046, 53 acres; APN 017-058-047, 103 acres; APN 017-062-032, 10 acres; APN 017-062-045, 39 acres; APN 041-015-001, 38 acres; APN 041-038-013, 60 acres; APN 041-038-014, 11 acres; APN 041-038-015, 7 acres; APN 041-038-028, 54 acres; and APN 041-054-019, 19 acres; APN 68110022, 23 acres; APN 68110023, 49 acres; APN 023-050-016, 57 acres; APN 024-142-017, 37 acres; and APN 023-050-013, 57 acres.
8. On 19 July 2013, staff conducted inspections of three Madera County parcels owned by the Discharger and found evidence of commercial irrigated agriculture based on the crop grown and the size of the operations.
9. On 31 July 2013, the Assistant Executive Officer of the Central Valley Water Board issued a Directive Letter (hereafter Directive) notifying the Discharger of its obligation to obtain regulatory coverage for waste discharges from the irrigated agricultural parcels, and directing the Discharger to obtain such coverage either by submitting an individual RoWD or a Notice of Intent under the General Order within 15 calendar days of receipt of the Directive. The Discharger did not submit an individual RoWD or a Notice of Intent within that time.
10. The Discharger violated Water Code section 13260 by failing to submit an individual RoWD by 17 August 2013.
11. On 30 August 2013, Central Valley Water Board staff issued a Notice of Violation (NOV) to the Discharger regarding the failure to obtain regulatory coverage. The NOV requested that coverage be obtained as soon as possible to minimize potential liability. Athwal did not respond to the NOV.
12. On 16 October 2013, staff sent Athwal a notification letter via certified mail that an Administrative Civil Liability Complaint (ACL Complaint) in the amount of \$3,500 would be issued if Athwal did not obtain regulatory

coverage and initiate settlement discussions regarding the proposed penalty by 1 November 2013. A settlement was not reached and regulatory coverage was not obtained by that date.

13. On 10 March 2014, Athwal complied with the Directive by joining the East San Joaquin Water Quality Coalition. Board records indicate that Athwal enrolled 30 parcels in Madera, Merced and Stanislaus Counties, with a total size of approximately 983 acres.
14. On 11 July 2014, the Central Valley Water Board staff advising the Board on enforcement matters (the "Advisory Team") issued a memorandum regarding the proposed settlements of ACL Complaints issued to the David L. & Linda M. Davis Trust and to William R. Sinks et al. The Prosecution Team determined that the issues raised in that memorandum apply also to the Athwal enforcement case. These issues were considered by the Prosecution Team when preparing the ACL Complaint, which accounts for the difference in the proposed penalty amounts between the pre-ACL letter and this Complaint.
15. On 20 January 2015, the Assistant Executive Officer of the Central Valley Water Board, lead prosecutor for the Prosecution Team, issued ACL Complaint R5-2015-0501 to the Discharger in the amount of thirty one thousand four hundred and sixty dollars (\$31,460) for failure to submit an individual RoWD under Water Code section 13260 by 17 August 2013.
16. On 17 November 2008 the State Water Resources Control Board adopted Resolution No. 2009-0083 amending the Water Quality Enforcement Policy (Enforcement Policy). The Enforcement Policy establishes a methodology for assessing discretionary administrative civil liability. Use of the methodology addresses the factors used to assess a penalty under Water sections 13327 and 13385 subdivision (e) including the Discharger's culpability, history of violations, ability to pay and continue in business, economic benefit, and other factors as justice may require.
17. The required factors under Water code section 13327, have been considered using the methodology in the Enforcement Policy as explained in detail in Attachment E to the Complaint, as modified, which is incorporated herein by reference.
18. This Order is effective and final upon issuance by the Central Valley Water Board. Payment must be received by the Central Valley Water Board no later than thirty (30) days from the date on which this Order is issued.

19. In the event that the Discharger fails to comply with the requirements of this Order, the Executive Officer or her delegee is authorized to refer this matter to the Attorney General's Office for enforcement.
20. Issuance of this Administrative Civil Liability Order to enforce Water Code Division 7, Chapter 5.5 is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code § 21000 et seq.), in accordance with California Code of Regulations, title 14, section 15321(a)(2).
21. Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date that this Order becomes final, except that if the thirtieth day following the date that this Order becomes final falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

IT IS HEREBY ORDERED THAT:

1. Sarbjit & Satwant K. Athwal shall be assessed an Administrative Civil Liability in the amount of thirty one thousand four hundred and sixty dollars (\$31,460).
2. Payment shall be made no later than 30 days from the date of issuance of this Order by check payable to the *Cleanup and Abatement Account*, and shall have the number of this order written upon it.

I, PAMELA C. CREEDON, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order issued by the California Regional Water Quality Control Board, Central Valley Region, on 17 April 2015.

Pamela C. Creedon, Executive Officer