

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
COLORADO RIVER BASIN REGION**

**RESOLUTION NO. R7-2017-0032**

**CLARIFYING THE CIVIL LIABILITY ASSESSMENT POWERS AND DUTIES DELEGATED TO  
THE EXECUTIVE OFFICER UNDER RESOLUTION NO. 70-15 (FEBRUARY 26, 1970)**

WHEREAS, The California Water Code (CWC) section 13223, subdivision (a), authorizes the California Regional Water Quality Control Board, Colorado River Basin Region (Colorado River Basin Water Board) to delegate to the Executive Officer any of its powers and duties, excepting (1) the promulgation of any regulation; (2) the issuance, modification, or revocation of any water quality control plan, water quality objectives, or waste discharge requirement; (3) the issuance, modification or revocation of any cease and desist order; (4) the holding of any hearing on water quality control plans; and (5) the application to the Attorney General for judicial enforcement, but excluding cases of specific delegation in a cease and desist order and excluding the cases described in subdivision (c) of section 13002 and sections 13304 and 13340 of the CWC; and

WHEREAS, Colorado River Basin Water Board Resolution No. 70-15 delegates to the Executive Officer all of the powers and duties of the Colorado River Basin Water Board, except those expressly prohibited from delegation as listed above. While authorized by Resolution No. 70-15 to carry out certain administrative liability or penalty actions, the Executive Officer historically has not exercised this authority, instead bringing all administrative liability or penalty actions to the Board for its consideration and resolution; and

WHEREAS, Certain types of administrative liability or penalty actions, such as mandatory minimum penalties (MMPs) sought pursuant to CWC sections 13385, 13385.1 and 13399.33, typically generate minimal public interest; have a standard rather than complex penalty assessment with little or no room for discretion; individually tend to present a minor threat to beneficial uses of water; or the circumstances of the violation otherwise indicate a minor potential for harm.

WHEREAS, Complaints brought by the Colorado River Basin Water Board against anyone who incurs MMPs are referred to as administrative liability complaints (ACLs). The administrative staff time required to prepare most mandatory minimum penalty matters and ACLs for consideration at Colorado River Basin Water Board hearings, however, often far exceeds the proposed liability or penalty amount; and

WHEREAS, On October 9, 2017, at a regularly noticed and scheduled meeting, the Colorado River Basin Water Board heard presentations from staff and from the Office of Enforcement concerning efforts to alleviate the administrative burden associated with resolving uncontested MMP actions within the Colorado River Basin Region, the use of Expedited Payment Letters and Settlement Agreements, and other ways in which the Executive Officer could assist the Colorado River Basin Water Board in resolving or settling certain types of administrative liability or penalty actions; and

WHEREAS, The Colorado River Basin Water Board has considered the presentations heard on October 9, 2017, and desires to increase efficiency, resolve backlogs in enforcement actions, and alleviate certain burdens on its staff. Additionally, the Colorado River Basin Water Board seeks to clarify and update the enforcement powers of its Executive Officer.

**NOW THEREFORE BE IT RESOLVED THAT:**

1. The delegation of authority to the Executive Officer set forth in Resolution No. 70-15, and any previous actions that were taken by, or which address the matter of delegation of authority to, the Executive Officer pursuant to CWC section 13223(a), are unaffected by this Resolution and remain in full force and effect.
2. Moving forward, the Colorado River Basin Water Board desires that its Executive Officer, in his or her discretion, exercise the following powers and duties:
  - a. In cases involving MMPs levied pursuant to CWC sections 13385, 13385.1, and/or 13399.33, the Executive Officer may settle an ACL Complaint, and/or issue a stipulated ACL order or settlement agreement, where no hearing is required, in any manner in which the liability sought in the complaint is less than, or up to and including, fifty-one thousand (\$51,000). Such settlement authority includes, but is not limited to, the ability to approve Compliance Projects and Supplemental Environmental Projects if applicable. To settle these ACL Complaints, the Executive Officer is authorized to use Expedited Payment Letters after written notification to the Board and contingent upon periodic quarterly reporting to the Board.
  - b. In matters involving liability or potential liability in excess of \$24,000, but which do not exceed \$51,000, the Executive Officer may exercise the authority described in paragraph 2(a) *supra* if, after consultation with the Colorado River Basin Water Board Chair (Chair), or his or her delegee the proposed settlement or order would not be likely to generate significant debate among the full Board or the public.
  - c. The Executive Officer shall not settle ACL Complaints nor hold evidentiary hearings on ACL Complaints that seek to impose discretionary liability in any amount.
3. Without affecting the scope of the delegation of authority in this Resolution or Resolution No. 70-15, the Colorado River Basin Water Board nevertheless directs the Executive Officer, in the exercise of these authorities, to bring the following types of civil liability matters to the attention of the Colorado River Basin Water Board at a public Board meeting or by other appropriate communication:
  - a. Matters of a unique or unusual nature;
  - b. Matters involving significant policy questions;
  - c. Highly controversial matters;
  - d. Matters known or believed to involve a substantial risk of litigation; and
  - e. Any matter that a Colorado River Basin Water Board member requests to be brought to the attention of the Board.

This resolution was adopted by the California Regional Water Quality Control Board, Colorado River Basin Region, at its regular meeting on November 9, 2017.

I, Jose L. Angel, Executive Officer, do hereby certify the foregoing is a full, true and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Colorado River Basin Region, on November 9, 2017.

A handwritten signature in blue ink that reads "Jose L. Angel". The signature is written in a cursive style and is positioned above a horizontal line.

JOSE L. ANGEL, P.E.,  
Executive Officer