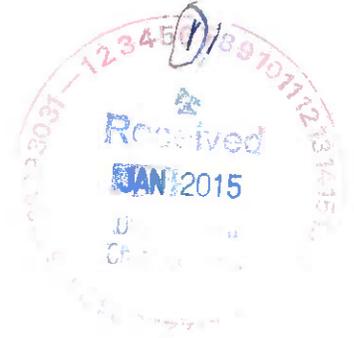


**January 2, 2015**

To: Central Valley Regional Water Quality Control Board



Regarding: **Petition** to review an action.

1. Larry W Slate & Shireen I Slate  
8760 Voorhees Road, Le Grand, CA, 95333  
(209) 777-7505 (209) 756-1391  
Email- [shireenanlarry@yahoo.com](mailto:shireenanlarry@yahoo.com)
  
2. I am writing to petition the actions of the Regional Water Board in regard to the Administrative Civil Liability Order R5-2014-0154. A copy of the order is attached.
  
3. The date of the board meeting was December 5, 2014.
  
4. The ACLO is inappropriate. The ACLO states that Slate “exhibited complete defiance” by not enrolling in an irrigated lands program. At no time ever was Slate deliberately trying to be defiant. Slate was enrolled in the program in 2006. Slate did re-enroll in a program as advised by staff member Brett Stevens during a phone conversation in October 2014. A notice of intent to join was also filed. The amount of income and property value for Slate reported by the county is unrealistic. The amount of the penalty is much higher than fines for similar cases referred to throughout our case.
  
5. I am extremely aggrieved. I have a small family farm. The management of the farm continues to utilize safe and lawful farming practices. The operational budget is very limited. The penalty that has been imposed would devastate my operation. The county reported an amount of income which does not reflect the expenses involved to get to a production year and it does not include the large mortgage attached to the property. Even with the increase in price for almonds, my production is down significantly because of the drought and the additional expense of a new AG well and a replacement domestic well. The price to join

the coalition was increased to a penalty rate of three times the regular rate and I paid 1567.25 to rejoin instead of about \$400. I also paid a penalty of three times the regular amount to file a NOI, the \$50 fee was increased to \$200. The penalty issued in May of \$3080.00 was overwhelming and hard to understand. The immediate increase to over \$9000.00 added more frustration and now the outrageous penalty of \$32,000 is more than half of my net income last year.

6. I am requesting that the Central Valley Regional Water Quality Control Board reduce my penalty significantly. I understand the case by case discretion needed to fairly and equitably manage each decision and I would respectfully submit that the penalty be reduced to less than 10% of the \$32,000 to be more in line with like cases.

7. Statement of points: My farming operation consistently uses safe farming practices. This is evidenced by the ESJ Water Coalition presentation for November 2014. There is not a problem in my area and there is not a history of one. The largest parcel of farmed land is about 65 acres. While I understand now how important the coalition is, it was never my intent to appear defiant. I realize now that the coalition and the Board are two separate agencies and I was out of compliance by not joining the coalition and I should have responded earlier.

8. I am sending a hard copy of this petition to:

State Water Resources Control Board  
Office of Chief Counsel  
Jeanette L. Bashaw, Legal Analyst  
P.O. Box 100  
Sacramento, California, 95812-0100

9. Statement of Issues: As information reached me, I assumed that the CVRWQCB also had the same information. When I had contact with a staff member I thought the information was also included for the board. While I

wasn't able to be at the hearing, the newest information (record of my joining the coalition) was sent to me and cc emailed to who I thought should have it. I had contact staff member Brett Stevens on the phone as he explained that the board would consider all information and that the similar case (Davis) would also be heard that day. By joining the coalition before Oct 15, 2014 would show good faith on our part. It was never my intent to appear defiant or uncooperative as stated in the case. Extreme frustration would be a better explanation. I understand the Board has many cases to deal with but it was my firm belief that the ruling would be fair and I believed they had access to all the information. The information about our farm income did not cause concern because that amount was reported as a gross figure to the Board and I made the assumption the board was familiar with farm budgets. Our property appears to have a high value but it has a large mortgage. I felt a penalty of \$1500.00 dollars would be imposed after the board looked at the information.

I respectfully submit that all information is true and accurate to the best of my knowledge.

  
Larry W Slate

  
Shireen I Slate

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**Central Valley Regional Water Quality Control Board**

11 December 2014

LARRY W. & SHIREEN I. SLATE  
8760 VOORHEES ROAD  
LE GRAND, CA 95333

Certified Mail No.  
7009 1410 0002 1421 6891

***NOTICE OF ADOPTION OF ADMINISTRATIVE CIVIL LIABILITY ORDER  
R5-2014-0154, FOR LARRY W. & SHIREEN I. SLATE***

Administrative Civil Liability Order (ACLO) R5-2014-0154 for Larry W. & Shireen I. Slate (hereafter referred to as "Slate") was adopted by the California Regional Water Quality Control Board, Central Valley Region, at its 5 December 2012 meeting.

The ACLO requires Slate to pay a **\$32,032** penalty to the State Water Resources Control Board's Cleanup and Abatement Account by **5 January 2015**. Payment shall be in the form of a check made payable to the *Cleanup and Abatement Account* and shall have the number of this ACL Order written upon it. The check shall be mailed to the Central Valley Water Board, to the attention of the undersigned.

Please review the ACLO carefully to ensure that you understand all aspects of its requirements.

ACL Complaint R5-2014-0564, dated 12 September 2014, proposed a penalty of \$9,152 to Slate for violations related to failure to respond to a California Water Code section 13260 Directive. The Prosecution Team recommended this proposed fine to the Board during the 5 December hearing; however, the Board elected to significantly raise the penalty amount based on the following:

- The Discharger exhibited complete defiance of the Board's directives regarding the Irrigated Lands Regulatory Program, which harms the program; and
- The overall threat to the environment and to the regulatory program.

In order to conserve paper and reduce mailing costs, a paper copy of the order has been sent only to Slate. Interested parties are advised that the full text of this order is available at the Water Board's web site at

[http://www.waterboards.ca.gov/centralvalley/board\\_decisions/adopted\\_orders/index.shtml](http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/index.shtml).

If you have any questions or comments regarding the Administrative Civil Liability Order, please contact Brett Stevens at (916) 464-4642, or via e-mail at [brett.stevens@waterboards.ca.gov](mailto:brett.stevens@waterboards.ca.gov).

*Original signed by:*

ANDREW ALTEVOGT  
Assistant Executive Officer

Enclosure: ACLO R5-2014-0154  
Revised Penalty Calculations for ACLO

cc via email: Pamela Creedon, Central Valley Water Board, Rancho Cordova  
Adam Laputz, Central Valley Water Board, Rancho Cordova  
Patrick Pulupa, Office of Chief Counsel, SWRCB, Sacramento  
Rob L'Heureux, Central Valley Water Board, Rancho Cordova  
Naomi Kaplowitz, Office of Enforcement, SWRCB, Sacramento  
Andrew Tauriainen, Office of Enforcement, SWRCB, Sacramento  
David Robinson, Merced County Agricultural Commissioner  
Parry Klassen, East San Joaquin Water Quality Coalition

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2014-0154

IN THE MATTER OF

LARRY W. & SHIREEN I. SLATE  
MERCED COUNTY

This Order is issued to Larry W. and Shireen I. Slate (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 108 acres of agricultural land in Merced County, including the following Assessor's Parcel Numbers [APNs] and their respective acreages: APN 532-70-038, 9.8 acres; APN 671-50-013, 2.9 acres; APN 671-50-023, 20.1 acres; APN 671-50-024, 49.4 acres; APN 671-50-025, 26 acres.
8. On 4 September 2013, Board staff inspected these parcels and found evidence of a commercial irrigated agricultural operation based on the crop grown and the size of the operation.
9. On 7 October 2013, the Assistant Executive Officer of the Central Valley Water Board issued a Directive Letter (hereafter Directive) notifying Discharger of its obligation to obtain regulatory coverage for waste discharges from the irrigated agricultural parcels, and directing 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 24 October 2013.
11. On 13 November 2013, the 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.
12. On 21 January 2014, the Central Valley Water Board staff issued a courtesy pre-filing settlement letter notifying the Discharger that an Administrative Civil Liability Complaint (Complaint) in the amount of \$3,080 would be issued if the Discharger did not (a) obtain regulatory coverage and (b) initiate settlement discussions regarding the proposed liability by 31 January 2014.

13. On 10 May 2014, the Assistant Executive Officer of the Central Valley Water Board, lead prosecutor for the Prosecution Team, issued an Administrative Civil Liability Complaint (Complaint) R5-2014-0529 to the Discharger in the amount of three thousand and eighty dollars (\$3,080) for failure to submit an individual RoWD under Water Code section 13260 beginning 24 October 2014.
14. On 17 July 2014, the Assistant Executive Officer rescinded Complaint R5-2014-0529 in order to address issues raised in an 11 July 2014 Advisory Team memorandum.
15. On 12 September 2014, the Assistant Executive Officer issued Complaint R5-2014-0564 to the Discharger proposing an administrative civil liability in the amount of nine thousand three hundred and fifty-two dollars (\$9,152) under Water Code section 13261 for failure to submit an individual RoWD under Water Code section 13260 beginning 24 October 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 sections 13327 and 13385, subdivision (e), have been considered using the methodology in the Enforcement Policy as explained in detail in Attachment G 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](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) or will be provided upon request.

**IT IS HEREBY ORDERED THAT:**

1. Larry W. and Shireen I. Slate shall be assessed an Administrative Civil Liability in the amount of thirty-two thousand thirty-two dollars (\$32,032).
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, correct copy of an Order issued by the California Regional Water Quality Control Board, Central Valley Region, on 5 December 2014.

*Original signed by:*

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Pamela C. Creedon  
Executive Officer