

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

DIVISION OF WATER RIGHTS

ORDER WR 2022-0173-EXEC

In the Matter of Administrative Civil Liability
for Failure to Submit a Curtailment Form
upon

Lloyd Pareira (Water Right ID S021809)

ORDER APPROVING SETTLEMENT AGREEMENT

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 (ACL Complaint) to Lloyd Pareira (Respondent). In accordance with the attached Settlement Agreement, the State Water Board Division of Water Rights' Prosecution Team (Division Prosecution Team) and the Respondent 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.

2.0 BACKGROUND

The State Water Resources Control Board (State Water Board or Board) adopted California Code of Regulations, title 23, sections 876.1 through 879.2 (Delta Emergency Regulations) on August 3, 2021. The regulations went into effect on August 19, 2021. The Delta Emergency Regulations authorize the Deputy Director of the Division of Water Rights to issue curtailment orders to water right holders and claimants in the Sacramento-San Joaquin Delta watershed when flows are insufficient to support all diverters.

On August 20, 2021, the Deputy Director of the Division of Water Rights issued an Order Imposing Water Right Curtailment and Reporting Requirements in the

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.

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Sacramento-San Joaquin Delta Watershed (Curtailment Order) pursuant to the Delta Emergency Regulations. The Curtailment Order required water right holders and claimants who were subject to the order to submit an online Curtailment Certification Form by September 3, 2021.

Respondent is the Primary Owner of record for Water Right ID S021809. The Respondent received the Curtailment Order on August 31, 2021, through certified mail. The Respondent failed to submit the online Curtailment Certification Form by the September 3, 2021 deadline.

On May 6, 2022, the Division sent the Respondent a Notice of Violation (NOV), informing the Respondent about the alleged violation. The Respondent received the NOV on May 10, 2022. The NOV stated that the Respondent had 14 days from the date of the NOV to submit the Curtailment Certification Form or the Division would issue an ACL Complaint.

Water Code section 1846 authorizes the State Water Board to impose administrative civil liability, pursuant to Water Code section 1055, on any person or entity that violates a regulation or order adopted by the Board. Under these statutes, the Board may impose administrative civil liability in an amount not to exceed \$500 per day for each day in which the violation occurs.

On June 6, 2022, the Assistant Deputy Director for the Division of Water Rights issued an ACL Complaint pursuant to Water Code section 1055 against the Respondent for failure to submit a Curtailment Certification Form as required by the Curtailment Order. The Division issued the ACL Complaint 275 days after the September 3, 2021, deadline for Respondent to submit an online Curtailment Certification Form. The ACL Complaint alleged a maximum potential liability for Respondent's violation of \$137,500, which is 275 days of violation multiplied by \$500 per day of violation.

On June 17, 2022, the Respondent submitted the Curtailment Certification Form.

On June 30, 2022, the Respondent submitted a request for a hearing on the ACL Complaint by e-mail, which the Office of Enforcement forwarded to the State Water Board's Administrative Hearings Office (AHO).

On August 23, 2022, the AHO issued a Notice of Public Hearing, scheduling a hearing on the allegations in the ACL Complaint to be held on September 22, 2022.

The Respondent and the Division Prosecution Team agree to settle all matters identified in the ACL Complaint by settlement agreement in lieu of a hearing.

3.0 SETTLEMENT AGREEMENT

The Respondent and the Division Prosecution Team executed the settlement agreement, dated September 19, 2022, and attached hereto (Settlement

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Agreement). The general terms of the settlement are that Respondent:

- (1) Waives the right to a hearing on the ACLC, waives the right to petition for reconsideration of this Order, and agrees to the other terms and conditions described in the Settlement Agreement and incorporated herein; and
- (2) Is subject to administrative civil liability in the amount of \$500 payable no later than 30 days after the execution date of this Order, to 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 Division Prosecution Team and the Respondent is approved and incorporated herein.

The Respondent must, no later than 30 days after this order is approved, pay \$500 as payment in full for the administrative civil liability related to the violation alleged in the ACL Complaint. Respondent shall make payment by cashier's check, certified check, or money order payable to the "State Water Resources Control Board – Water Rights Fund," and properly execute and deliver payment to:

State Water Resources Control Board
Division of Water Rights
Attention: Enforcement Unit – Curtailment
1001 I Street, 14th Floor
Sacramento, CA 95814

The \$500 administrative civil liability, if not paid, will be recoverable as provided in Water Code section 1055.4.

STATE WATER RESOURCES CONTROL BOARD



Eileen Sobeck
Executive Director

October 17, 2022

Date