

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

DIVISION OF WATER RIGHTS

ORDER WR 2023-0027-EXEC

In the Matter of Violations of Information Order WR 2022-0171-DWR upon

4T RANCH LLC (SG003335, SG003055)

ORDER APPROVING SETTLEMENT AGREEMENT

BY THE DEPUTY DIRECTOR¹

1.0 INTRODUCTION

This matter comes before the Deputy Director of the State Water Resources Control Board (“State Water Board” or “Board”) following the issuance of an Administrative Civil Liability (“ACL”) complaint to 4T Ranch LLC (“Respondent”). In accordance with the attached Settlement Agreement, the State Water Board Division of Water Rights (“Division”) Prosecution Team (“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

On May 10, 2021, the Governor issued Executive Order N-10-21 declaring a state of emergency based on drought conditions in the Scott River and Shasta River watersheds.

On August 17, 2021, the State Water Resources Control Board (“State Water Board” or “Board”) adopted emergency regulations, titled Establishment of Minimum Instream Flow Requirements, Curtailment Authority, and Information Order Authority in the Klamath River Watershed. The Emergency Regulations went into effect on August 30, 2021, when they were approved by the Office of Administrative Law and filed with the Secretary of State. The State Water Board adopted the Emergency Regulations and described the need for the Emergency Regulations and their intent. Resolution No. 2021-0029 adopted the Emergency Regulations and describes the need for the Emergency Regulations and their intent.

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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On June 21, 2022, the State Water Board readopted the Emergency Regulations, which went into effect on July 29, 2022. The updated regulations contain a provision that extends previously issued curtailment orders under the amended regulation. (Cal. Code Regs., tit. 23, § 875, subd. (d)(3).)

Under the Emergency Regulation, the Deputy Director for the Division of Water Rights ("Division") may issue an information order to some or all landowners in the Scott River and Shasta River watersheds, requiring them to provide information related to diversion and use of water relevant to implementing the regulation. (Cal. Code Regs., tit. 23, sec. 875.8.) The Emergency Regulation requires the Deputy Director, in determining whether to impose information orders, to consider the need for the information and the burden of producing it and take reasonable efforts to avoid requiring duplicative reporting of information the State Water Board already possesses. (Cal. Code Regs., tit. 23, §875.8, subd. (a).)

The Respondent is the owner of record for Water Right IDs SG003335 and SG003055. These Water Right IDs divert and use water from the Scott River and Kidder Creek. They are subject to the Emergency Regulation.

The Division of Water Rights sent an Information Order for Water Use in the Scott River Watershed ("Information Order") (Order WR 2022-0171-DWR) to the Respondent on November 22, 2022. Information Order was delivered to the individual on November 28, 2022.

The Information Order required a response by December 6, 2022. There was no response by that date.

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 five hundred dollars (\$500) per day for each day in which the violation occurs.

On January 20, 2023, the Assistant Deputy Director for the Division, under delegated authority, issued an Administrative Civil Liability ("ACL") complaint to the Respondent for failing to respond to the Information Order. The ACL complaint recommended a civil liability of \$10,000.

The Respondent submitted a request for a hearing on the ACL complaint on March 10, 2023.

In lieu of a hearing on the matter, the Parties agree to settle the violation(s) alleged in the ACL complaint, issued January 20, 2023. A settlement agreement will be submitted for approval and adoption pursuant to Government Code section 11415.60 as a decision by settlement and will become effective when the Division's Deputy Director issues an order approving settlement.

3.0 SETTLEMENT AGREEMENT

The Respondent and the Division Prosecution Team executed the settlement agreement (“Settlement Agreement”), attached to this order as Exhibit 1. The general terms of the settlement are that Respondent:

1. Waives the right to a hearing on the ACL complaint, 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 into this order;
2. Is subject to an ACL in the amount of Ten-Thousand Dollars (\$10,000), payable through a payment plan.

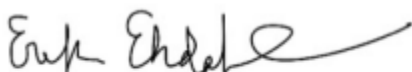
ORDER

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

1. Pay an ACL of Ten-Thousand Dollars (\$10,000). The Respondent may enroll in a payment plan, whereby no less than Five-Hundred Dollars (\$500) must be paid by the end of each month, starting at the end of the second full month after issuance of an order implementing this Agreement, until the full ACL amount has been paid. Any remaining balance must be paid immediately if any payment is not timely made. If the balance is unpaid after 30 days, the Deputy Director may seek a judgment against the Respondent in accordance with Water Code section 1055.4. Payments must be made by check or money order made payable to the “State Water Resources Control Board – Water Rights Fund,” and properly executed and delivered to:

State Water Resources Control Board
Division of Water Rights
Attention: Enforcement Unit — Scott River Curtailment
P.O. Box 2000
Sacramento, CA 95812-2000

STATE WATER RESOURCES CONTROL BOARD



*Erik Ekdahl, Deputy Director
Division of Water Rights*

Dated: June 9, 2023