

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

DIVISION OF WATER RIGHTS

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT

In the Matter of Violations of the Scott River and Shasta River Watersheds Drought
Emergency Requirements, Order WR 2026-0008-DWR issued in the Scott River
Watershed on June 10, 2026

DOUGLAS J. HALE

Water Right ID(s): SG007257, S023467

SOURCE: Groundwater

COUNTY: Siskiyou

YOU ARE HEREBY GIVEN NOTICE THAT:

1. Douglas J. Hale (Respondent) is alleged to have violated Title 23, Division 3, Chapter 2, Article 24, section 875 of the California Code of Regulations which prohibits diversions of surface water and groundwater when curtailments are in place.
2. On December 19, 2023, the State Water Resources Control Board (State Water Board) approved Resolution No. 2023-0047 and adopted the Scott River and Shasta River Watersheds Drought Emergency Requirements (Emergency Regulation¹) which went into effect February 1, 2024, upon approval by the Office of Administrative Law. The Emergency Regulation establishes curtailment authority, minimum instream flow requirements, and information order authority in the Scott River and Shasta River watersheds. Through this Emergency Regulation, the State Water Board established minimum instream flow requirements to protect fall-run Chinook salmon, threatened Southern Oregon/Northern California Coast coho salmon, and culturally significant steelhead. Instream flow rates for the Scott River are measured in cubic feet per second (cfs) at the USGS Fort Jones gage (Fort Jones gage).²

¹ The Emergency Regulation is codified at Cal. Code Regs. tit. 23, § 875 et seq.

² All references in this Order to flow rate data at the Fort Jones gage was obtained from the USGS Monitoring website, <https://waterdata.usgs.gov/monitoring-location/USGS-11519500/#period=P365D&dataTypeId=continuous-00060-0&showFieldMeasurements=true&showMedian=true>. (accessed on June 30, 2026).

3. On January 7, 2025, the State Water Board readopted the Emergency Regulation via Resolution No. 2025-0002. The readopted Emergency Regulation went into effect on January 27, 2025, upon approval by the Office of Administrative Law.
4. On September 26, 2025, the Governor signed Assembly Bill 263 which extended the Emergency Regulation for the Scott and Shasta River Watersheds until January 1, 2031, or until permanent rules establishing and implementing long-term instream flow requirements are adopted for these watersheds, whichever comes first.
5. The Emergency Regulation grants the Deputy Director for the Division of Water Rights (Division) the authority to "...issue a curtailment order upon a determination that without curtailment of diversions, flows are likely to be reduced below the drought emergency minimum flows..." (Cal. Code Regs., tit. 23 § 875, subd. (b).)
6. On July 24, 2024, the State Water Board issued Order WR-2024-0025-DWR, Order imposing water right curtailment and requiring reporting for adjudicated groundwater rights and known groundwater diversions associated with parcels listed in Attachment A of the order.
7. Order WR 2024-0025-DWR required submission of an online Curtailment Certification Form in accordance with Emergency Regulation section 875.6, subdivision (a), and allowed for curtailment exceptions applicable to non-consumptive instream uses, human health and safety, and livestock watering, as described in sections 875.1, 875.2, and 875.3. If such an exception is claimed, a water rights holder must self-certify or submit a petition.
8. On August 9, 2024, the State Water Board released an Addendum to Order WR 2024-0025-DWR, which updated the list of parcels in the order.
9. The start of the 2025-2026 water year failed to provide the Scott and Shasta watersheds with the necessary snowpack to supply the region with sufficient water to meet all beneficial uses throughout the dry season. While the Northern region of California saw precipitation rates close to a normal year³, the snowpack as of May 1, 2026, was only 7% of normal.⁴
10. On June 10, 2026, the State Water Board issued Order WR 2026-0008-DWR (Curtailment Order). The Curtailment Order imposed water right curtailment and required reporting for groundwater pumping under Schedule C of the Scott River Adjudication and overlying groundwater diversions (Priority Group 9) in the Scott River Watershed associated with parcels listed in the order. Groundwater users

³ *California Water Watch*, California Department of Water Resources, <<https://cww.water.ca.gov/info?address=41.44290%20-122.80675>> (as of, June 4, 2026).

⁴ *Track California Snow Conditions*, California Department of Water Resources, <<https://snow.water.ca.gov/>> (as of June 4, 2026).

subject to the Curtailment Order were also directed to submit a “Scott Overlying and Adjudicated Groundwater Curtailment Report – Compliance Information form” by July 10, 2026 (hereinafter “2026 curtailment certification form”). The Respondent was identified as a landowner subject to the Curtailment Order.

11. Water Code section 1055 grants the Executive Director of the State Water Board authority to issue an Administrative Civil Liability (ACL) Complaint to any person or entity to whom administrative civil liability may be imposed. The Executive Director has delegated this authority to the Deputy Director for the Division of Water Rights. Pursuant to State Water Board Resolution 2012-0029, the Deputy Director for Water Rights is also authorized to issue an order imposing an ACL when a complaint has been issued and no hearing has been requested within 20 days of receipt of the complaint. These authorities have been redelegated to the Assistant Deputy Director.

ALLEGATIONS

12. The Respondent is the primary owner of water rights SG007257 and S023467 and APNs: [REDACTED] and [REDACTED]. The Respondent's water right SG007257 is subject to the Curtailment Order which curtailed the use of groundwater under conditions of the Emergency Regulation.
13. All communications mailed to the Respondent via United States Postal Service (USPS) were sent to the mailing address on file, a PO Box located at the Respondent's local post office in Etna, CA (hereinafter “local post office”).
14. USPS tracking indicated that the Respondent received Order WR-2024-0025-DWR on July 30, 2024. USPS tracking showed the Parcel Addendum to Order WR-2024-0025-DWR arrived at his local post office on August 12, 2024. However, after 15 days the Parcel Addendum was returned to the Division due to the Respondent's failure to pick up his mail.
15. The Respondent submitted a Scott Water Right Curtailment Certification form on August 9, 2024.
16. USPS certified mail tracking indicates that Order WR 2026-0008-DWR was delivered to the Respondent's local post office on June 15, 2026. The Respondent failed to pick up the mail in the specified timeframe, and the Order was subsequently returned to sender. The Respondent has a documented history of evading mail from the State Water Board, as evident during the 2024 curtailment season.
17. While the Division recognizes that the Respondent has a surface water right claim S023467 to Crystal Creek, there is sufficient evidence to infer that there was little to no flow in Crystal Creek during the period in which staff observed irrigation occurring on the Respondent's property.

- a. On June 5, 2026, Order WR 2026-0005-DWR (Surface Water Curtailment Order) was issued which curtailed all surface water in the Scott River watershed. The Respondent's Statement of Diversion and Use (Statement) S023467 is within the Scott River watershed and is subject to curtailment. Due to administrative errors, the Respondent did not receive the Surface Water Curtailment Order. However, receiving the Surface Water Curtailment Order would not have changed flows on Crystal Creek to provide adequate irrigation for the Respondent's nine days of violation.
- b. California Department of Fish and Wildlife (CDFW) conducted flow connectivity surveys at two sites on Patterson Creek near the Respondent's property. One survey location was for Patterson Creek at Highway 3, and the other was downstream at Patterson Creek/ Big Slough at Eller Lane, which is where Crystal Creek flows into Patterson Creek. The Respondent's property is in between the two sites at Highway 3 (upstream) and Eller Lane (downstream). On June 16, 2026, the surveys showed that flow conditions at both sites were dry. The last time there was flow was on June 10, 2026, when Highway 3 had intermittent pools and Eller Lane flow was connected. Recent surveys show that both sites on Patterson Creek have remained dry since June 16, 2026, to September 6, 2026. Patterson Creek is located less than a mile north from the Respondent's S023467 diversion points on Crystal Creek.
- c. The Crystal Creek watershed is smaller than the Patterson Creek watershed. The smaller watershed provides less surface area for water to collect and flow downstream. The smaller drainage area provides less potential for water to be collected by precipitation, snowmelt, spring flow, fog drip, dew, and runoff. The relative size and proximity of the two watersheds make it reasonable to extrapolate the known flows in Patterson Creek to Crystal Creek and infer that Crystal Creek has less flow than Patterson Creek. Since Patterson Creek was dry, it is likely that Crystal Creek was also dry.
- d. Data for Crystal Creek obtained from The Nature Conservancy Natural Flows model estimates a low dry-season baseflow (for the whole year), ranging from 0.07 cfs (10th percentile) to 1.18 cfs (90th percentile)⁵. The model is based on recorded observations from 1950 to 2015 and machine learning to estimate flow.⁶ If the higher flow prediction of 1.18 cfs were available, the most this would have provided is 2.34 acre-feet per day, presuming constant diversions to the point of depleting the Creek. More likely, flow from the lower range would be more accurate during the dry month of June 2026. The lower range of 0.07 cfs would translate to 0.14 acre-feet per day, again presuming constant diversions were occurring to the point of depleting the Creek. Both

⁵ California Environmental Flows Working Group (CEFWG). *California Natural Flows Database: Functional flow metrics v1.2.1*, May 2021. <https://rivers.codefornature.org>. (September 10, 2026)

⁶ *Science and Methodology*, The Nature Conservancy Natural Flows, <https://rivers.codefornature.org/#/science>

values are less than the estimated irrigation of 2.51 acre-feet per day for the Respondent's nine observed days of irrigation.

- e. Staff have reviewed flow rates at the USGS Fort Jones gage⁷ and information submitted by the Respondent from 2024 when curtailments were in place. On November 14, 2024, the Respondent was issued Information Order WR 2024-0046-DWR (Info Order) which requested information about his diversions and water use. In response to the Info Order, the Respondent reported no surface water diversions and stated that only groundwater was used for irrigation. Considering the low flows on the Scott River at the time, it is likely that little to no surface water was available in Crystal Creek, thus necessitating the use of groundwater to irrigate the Respondent's fields. Flow conditions in 2026 are far more dire than in 2024. In 2024, flows approached 50 cfs, the minimum flow requirement for July, on July 21, 2024 and surface water curtailments were issued on July 23, 2024. In 2026, flows approached 125 cfs, the minimum flow requirement for June 1-23, on June 3, 2026 and surface water curtailments were issued on June 5, 2026. Dry and low snowpack conditions in 2026 resulted in minimum flow conditions and curtailments to be instated 48 days earlier than during the 2024 season. Additional comparison shows that on July 21, 2024, flows were at approximately 50 cfs, as opposed to 14 cfs on July 21, 2026, despite 2026 curtailments being in place for over six weeks at that point. The Respondent's exclusive use of groundwater during low flow conditions in 2024 supports a reasonable inference that the Respondent also relied exclusively on groundwater in 2026 when flow conditions were much worse.
 - f. Considering the above factors, the Division concludes that surface water diversions from Crystal Creek were minimal to non-existent and would not have provided enough water to irrigate and sustain the Respondent's fields. Therefore, the Respondent must have relied on groundwater as a primary water source for the period of time in which the violations are alleged.
18. On June 18, 2026, flows at the USGS Fort Jones gage were hovering around 69.6 cfs, well below the minimum instream flow requirement of 125 cfs for June 1 through June 23. Division staff obtained photo evidence, from public roads, of irrigation occurring on the Respondent's properties, identified as Siskiyou County APNs [REDACTED] and [REDACTED]. These parcels are subject to the Curtailment Order. Division staff had found no record of the Respondent's enrollment within a Local Cooperative Solutions (LCS) agreement. Therefore, the use of water for irrigation was not authorized.

⁷ All flow measurements were obtained from: <https://waterdata.usgs.gov/monitoring-location/USGS-11519500/#period=P7D&dataTypeld=continuous-00060-0&showFieldMeasurements=true>. (Last viewed September 15, 2026.)

19. On June 25, 2026, when flows at the USGS Fort Jones gage were at 52.8 cfs (below the minimum instream flow requirement of 90 cfs for June 24-30), Division staff observed the respondent irrigating their fields via a center pivot on parcel APN [REDACTED]. This parcel is subject to the Curtailment Order.
20. On June 30, 2026, the flow at USGS Fort Jones gage was still at 52.8 cfs, and the minimum instream flow for this period was 90 cfs. Division staff documented another day of violation when they obtained evidence of the Respondent irrigating crops on parcel APN [REDACTED], and [REDACTED]. These parcels are subject to the Curtailment Order.
21. On July 2, 2026, the State Water Board issued Addendum 1 to Order WR 2026-0008-DWR, which conditionally suspended curtailments of overlying adjudicated groundwater (Priority Group 9) when flows exceed the minimum flow requirements, provided that the groundwater pumpers notify the State Water Board in advance the amount of water they plan to divert or pump. As of the date of this complaint, the Respondent has not notified the State Water Board of their intent to pump water for irrigation. Thus, curtailment remains in effect for the Respondent.
22. On July 15, 2026, staff observed an additional day of active irrigation occurring on the Respondent's properties (APN [REDACTED] and [REDACTED]). These parcels are subject to the Curtailment Order. The minimum instream flow for the month of July was 50 cfs, and the flow recorded at the gage on this day was 30.1 cfs.
23. On July 22, 2026, Division staff issued a Notice of Violation (NOV) to the Respondent for failing to comply with curtailment. A copy of Order WR 2026-0008-DWR was also enclosed with the NOV. The NOV was mailed to both the Respondent's PO Box via USPS and physical home address via GLS. The NOV was delivered by GLS to the Respondent's home mailbox on July 24, 2026. USPS tracking indicates that the NOV was delivered to the Respondent's local post office on July 24, 2026, but that the Respondent had once again failed to accept the mail. To date, the Respondent has not responded to the allegations in the NOV.
24. The Respondent's receipt in July 2024 of Order 2024-0025-DWR is evidence that the Division has the correct mailing address for the Respondent. Further, the Division has not received any requests from the Respondent for a change of mailing address. Therefore, the subsequent repeat instances of returned mail for failure to be picked up by the Respondent suggests an intentional evasion of mail from the State Water Board by the Respondent.
25. On July 22, 2026, the flow at Fort Jones gage dropped to 25.3 cfs. Staff observed the respondent irrigating their pivot field on parcel APN [REDACTED]. This parcel is subject to the Curtailment Order.

26. On July 29 and July 30, 2026, staff saw the Respondent continuing to irrigate his fields on multiple parcels (APNs [REDACTED], and [REDACTED] despite having received a Notice of Violation on July 24, 2026. These parcels are subject to the Curtailment Order. Flows were recorded at 21 cfs on July 29 and decreased to 20.5 cfs on July 30.
27. On August 4, 2026, Division staff observed the Respondent irrigating on parcel APN [REDACTED]. This parcel is subject to the Curtailment Order. Flow at Fort Jones gage was at 19.9 cfs, well below the minimum instream flow of 30 cfs for August.
28. On August 12, 2026, Division staff observed irrigation on the Respondent's parcels APN [REDACTED] and [REDACTED]. The parcels are subject to the curtailment order. The flow at Fort Jones gage was 5.34 cfs that day.
29. Staff have further identified that the Respondent has, as of the date of this complaint, failed to submit his 2026 curtailment certification form, as required by the Curtailment Order. As a result, the Respondent has not indicated that they are exempt from curtailments.
30. Division staff specifically allege that the Respondent failed to adhere to Order WR 2026-0008-DWR. Based on photographic evidence witnessed by Division staff, the Respondent has continued to irrigate despite being subject to the Curtailment Order.

STATUTORY MAXIMUM LIABILITY

31. Under Water Code section 1846, subdivision (b), "A person or entity may be liable for a violation of... a regulation or order adopted by the Board." For a violation "that constitutes the diversion of water contrary to a curtailment order adopted by the Board," the person or entity may be liable in an amount not to exceed "ten thousand dollars (\$10,000) for each day the violation occurs, plus an additional amount "for each acre-foot of water diverted in violation of the curtailment order, beginning on the first day on which the violation occurs." The maximum liability for each acre-foot of water diverted in violation of a curtailment order is three thousand dollars (\$3,000). (Cal. Code Regs., tit. 23, §1100, subd. (b)(7)(A).)
32. The Deputy Director for the Division issued the Respondent a curtailment order (Order WR 2026-0008-DWR) on June 10, 2026. The Respondent's diversions are subject to that Order and the various addenda.
33. Each day of diversion when Order WR 2026-0008-DWR prohibited diversion is a day of violation. The Order was issued on June 10, 2026, and required immediate cessation of diversions. Despite the Respondent's apparent pattern of deliberately refusing to accept mail issued by the State Water Board, the Division asserts that the Respondent is responsible for routinely picking up their

mail in a timely manner and subscribing to GovDelivery alerts. This request was explicitly stated in the Division's April 1, 2025, Report of Investigation (ROI), but the Respondent has failed to abide by those terms. Therefore, the Division is exercising its enforcement discretion to begin the calculation of days of violation on June 15, 2026, when the Order arrived at the Respondent's local post office and was available for pickup. Enforcement staff documented ongoing irrigation via reconnaissance from public roads on June 18, June 25, June 30, July 15, July 22, July 29, July 30, August 4, and August 12, 2026. This results in a total of nine (9) days of violation, for a statutory maximum penalty of \$90,000 (9 days x \$10,000/day).

34. In addition to days of violation, the Division is alleging a volumetric penalty pursuant to Water Code section 1846, subdivision (b)(2). Since direct measurement data of the Respondent's diversions is not available for the alleged days of violation, staff reviewed OpenET data⁸ and the Respondent's responses to the 2024 Information Order WR 2024-0046-DWR to estimate an irrigation volume. Calculation of 2026 irrigation volume for nine days based on an average from the 2024 reported irrigation values yielded a total of 31.24 acre-feet. OpenET data shows the Respondent likely diverted consistently from when the Curtailment Order was issued on June 10, 2026, and September 5, 2026⁹. If the Division were to calculate the total volume diverted across those 86 days, the total would be 268.62 acre-feet and a maximum volumetric penalty of \$805,860 (268.62 x \$3,000). However, as Division staff only observed irrigation occurring on nine occasions, the Division is choosing to focus on the volume of water diverted on only those nine days. OpenET data estimates a total of 22.63 acre-feet of evapotranspiration across the corn fields staff observed being irrigated for nine days. The statutory maximum for this volume of unauthorized diversion is \$67,890 (22.63 x \$3,000).
35. The total statutory maximum penalty is therefore \$157,890 (\$90,000 + \$67,890).

PROPOSED CIVIL LIABILITY

36. In determining the appropriate amount of a civil liability, Water Code section 1848, subdivision (d) and Water Code section 1055.3 provide that the State Water Board "shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and the corrective action, if any, taken by the violator."
37. **Extent of harm caused by the violation.**
- a. Harm to the environment: The harm to the environment was likely significant.

⁸ <https://etdata.org/>

⁹ September 5, 2026 was the last available date that staff consulted OpenET data for the purposes of drafting this Complaint.

- i. Order WR 2026-0008-DWR was issued pursuant to the Emergency Regulation. The Emergency Regulation “prevent[s] the diversion of water that would unreasonably interfere with an emergency minimum level of protection for commercially and culturally significant fall-run Chinook salmon, threatened Southern Oregon/Northern California Coast coho salmon, and culturally significant steelhead.” (Cal. Code Regs., tit. 23, §875, subd. (a).)
 - ii. Diversions in violation of Order WR 2026-0008-DWR endanger the health and habitat of the fish the Emergency Regulation was adopted to protect. Diversions during late spring are most likely to adversely impact Fall-run Chinook fry emergence (November through May), Coho salmon fry emergence (February through June), and Steelhead fry emergence (February through June).¹⁰
 - iii. The Division received reports of fish kills on July 29 and July 30, 2026. The reported fish kills are downstream of the Respondent’s points of diversion. The Division observed irrigation on the Respondent’s properties before the fish kills were reported. The Respondent’s continued diversions inarguably had an impact on flow levels in the Scott River which contributed to lethal conditions.
- b. Harm to other water rights holders: The harm to other water holders was significant.
- i. The Respondent’s diversions during curtailment harmed water users who were not curtailed. The Respondent’s diversions during curtailment reduced or eliminated flows that otherwise would have been available to water users enrolled in a local cooperative solution (LCS).
 - ii. Water users in a LCS must implement alternative means to meet the minimum threshold flows. By diverting water when other users are curtailed or have formally reduced diversion through a LCS, Respondent created an unfair advantage over similarly situated diverters in the watershed.
- c. Harm to the orderly and efficient administration of the state’s water resources:
- i. The Respondent’s actions harm the State Water Board’s ability to implement the Emergency Regulations and thereby administer the

¹⁰ *Proposed Scott River and Shasta River Watersheds Emergency Regulation: Finding of Emergency and Informative Digest*, State Water Resources Control Board, January 2024, https://www.waterboards.ca.gov/waterrights/water_issues/programs/drought/scott_shasta_rivers/docs/2024/ssd-digest-01122024.pdf, p. 29.

priority right system, protect the environment, and benefit the public at large.

38. **Nature and Persistence of the Violation.** The Respondent has demonstrated a high level of culpability through repeated, knowing, and willful actions and attempts to evade the State Water Board's regulatory authority.

- a. Emergency Regulations have been in place for the Scott River, on and off, for over five years. While the Emergency Regulation has changed slightly from year to year, its substance has largely remained the same. Diverters can reasonably be expected to be aware of the Emergency Regulation and its general requirements, and the need to learn of updated specific requirements each year.
 - i. On August 9, 2024, Respondent submitted a Curtailment Certification in response to the Curtailment Order in 2024. They also submitted a Minimum Health and Human Safety Certification and Petition, a Minimum Livestock Diversion Certification and Petition, and a Non-Consumptive Use Petition. Despite the forms not being thoroughly completed, this still demonstrates that the Respondent is aware of their responsibility to monitor the email list for curtailment updates.
 - ii. The Respondent would reasonably be expected to be aware of the watershed's exceedingly dry hydrologic conditions and therefore, with the exercise of due diligence, to also be aware of the Emergency Regulations and curtailment requirements.
- b. In August of 2024, Division staff observed multiple days of violations occurring on several of the Respondent's parcels. Subsequently, a Notice of Violation (NOV) was issued to Douglas J. Hale on August 21, 2024, for failure to comply with the curtailment order. The NOV was received by the Respondent via GLS on August 26, 2024, and via USPS on September 3, 2024.
- c. The Respondent has a prior history of violating curtailment requirements and failing to implement recommended corrective actions.
 - i. In 2024, the Respondent received multiple Notices of Violation and Information Order WR 2024-0046-DWR. In responding to the Information Order, the Respondent acknowledged they irrigated for ten days after receiving both Order WR 2024-0025-DWR and Parcel Addendum.
 - ii. On April 1, 2025, Division staff sent the Respondent a ROI regarding the Respondent's January 7, 2025, response to Information Order WR 2024-0046-DWR. The ROI described in

detail five violations and corrective actions that needed to be addressed by the Respondent to come into compliance with the regulation. There is no indication the Respondent implemented any corrective actions in response to the ROI.

- d. The Respondent has repeatedly failed to pick up mail from the State Water Board that was delivered to the Respondent's local post office. However, refusal to pick up the Order does not exempt the Respondent from being subject to the curtailment orders. Under the curtailment regulations, curtailment orders are effective the day after issuance. (23 Cal. Code Regs., § 875, subd. (d)(2).)
 - e. After receiving the NOV on July 24, 2026, the Respondent continued irrigating their fields, in violation of curtailment, on at least four separate days.
39. **Length of time over which the violation has occurred.** The Respondent irrigated for at least nine (9) days while subject to curtailment.
40. **Corrective action, if any, taken by the violator.** The Respondent has failed to undertake any corrective actions, including corrective actions that would have reduced, if not eliminated, risk of future violations.
- a. The Respondent has failed to subscribe to GovDelivery alerts that the State Water Board has strongly urged water users to subscribe to. Enforcement staff again urged the Respondent, in the ROI dated April 1, 2025, to subscribe to the GovDelivery alerts. The GovDelivery service would have informed and alerted the Respondent of critical notices, such as curtailment orders and addenda to orders.
 - b. The Respondent previously failed to address corrective actions and recommendations set forth in the April 1, 2025 ROI that followed Information Order WR 2024-0046-DWR. The corrective actions and recommendations included the following:
 - i. Enrolling in the Local Cooperative Solutions program, should the Respondent intend to irrigate while curtailments are in effect;
 - ii. Submitting annual supplemental statements for water right S023467;
 - iii. Updating ownership records for S023467 and confirming the point of diversion; and
 - iv. Regularly checking mail issued by the State Water Board and subscribing to State Water Board's GovDelivery email alerts for timely notices.

41. Other relevant factors:

- a. Economic benefit obtained from the violation:
 - i. It is unfair to water rights holders who voluntarily incur the costs of regulatory compliance to impose upon the Respondent a penalty lower than the economic benefit the violation afforded to the Respondent. Otherwise, liabilities would merely be construed as the cost of doing business and provide no meaningful deterrent to future violations.
 - ii. The Respondent benefited economically from the nine days of violation of the curtailment order. Although the exact volume of water diverted cannot be specifically quantified, the Respondent avoided the need to obtain replacement water, or to adjust irrigation practices to reduce demand. Other rights holders, including those that are senior to the Respondent and those in a LCS, were likely forced to obtain replacement water or alter their practices, particularly given that the Respondent's diversions likely hastened flows declining to below minimum flow conditions that triggered curtailment of all water rights.
- b. The Division recognizes this is the first year in which the Division is issuing ACL Complaints for curtailment order violations using the new increased penalties adopted by Assembly Bill 460 (2024). The Legislature increased the maximum penalties for curtailment order violations following the 2023 drought. During this time, water rights holders diverted significant volumes of water in violation of curtailment orders. These diversions resulted in harm to the environment and the water rights priority system, and the State Water Board was only able to assess negligible penalties upon the violators. Water rights holders in the Scott and Shasta watersheds were noticed of these increased penalties in the May 11, 2026, GovDelivery email alert. While the argument against the imposition of higher penalties cannot be used as a defense by the Respondent, it is a factor the Division has taken into consideration when developing a proposed penalty for this violation.

42. Having taken into consideration all relevant circumstances, including but not limited to the failure of the Respondent to comply with the multiple curtailment orders in multiple years, impacts to the watershed, harm to other water right holders, avoidance of mail, and the efficient implementation of the regulatory program including the Emergency Regulation priority system, the Division of Water Rights Prosecution Team recommends the imposition of **\$157,890** in administrative civil liability ("Proposed Liability"). The share of the proposed penalty that is attributable to days of violation and to the volumetric penalty is proportionate to each component's share of the statutory maximum penalty.

Thus, the proposed penalty of \$157,890 can be broken down as such: \$90,000 for the nine days of violation and \$67,890 for the volumetric assessment.

RIGHT TO HEARING

43. The Respondent may request a hearing on this matter before the State Water Board. Any such request for hearing must be delivered to or received by mail by the State Water Board within 20 days after the date that this notice is received in accordance with Water Code section 1055, subdivision (b).
44. If the Respondent requests a hearing, the Respondent will have an opportunity to contest the allegations in this complaint and the imposition of a fine by the State Water Board. The State Water Board will issue a notice setting the specific time and place for the hearing.
45. At the hearing, the State Water Board will consider whether to impose a monetary fine, and if so, whether to adjust the Proposed Liability within the amount authorized by statute. Any fine imposed will be based on evidence and testimony provided at the hearing and may be higher or lower than the Proposed Liability in the ACL complaint. Any State Water Board order imposing an ACL shall be final and effective upon issuance.
46. If the Respondent does not request a hearing within 20 days of receipt of this Complaint, then the right to a hearing on the matter is waived. The Assistant Deputy Director for the Division of Water Rights may then issue a final Administrative Civil Liability Order assessing the Proposed Liability.

STATE WATER RESOURCES CONTROL BOARD



*Robert P. Cervantes, Assistant Deputy Director
Division of Water Rights*

Dated: September 18, 2026