

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

ORDER DW 2024-0001-EXEC

In the Matter of the City of Calexico's Violations of
the Water Shutoff Protection Act and the Water and Wastewater System Payments
Under the American Rescue Plan Act of 2021

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 settlement discussions among the State Water Board's Division of Drinking Water (Division), the Attorney General's Office, in its independent law enforcement capacity, and the City of Calexico ("City") concerning the City's violations of the Water Shutoff Protection Act (Health & Saf. Code, § 116900 et. seq.) and the Water and Wastewater System Payments Under the American Rescue Plan Act of 2021 (Health & Saf. Code, § 116773 et. seq.). In lieu of the Division issuing a citation with monetary penalty and compliance order to the City, the Division and the City have agreed to settle this matter. The issuance of a decision or order pursuant to a settlement agreement is authorized under Government Code section 11415.60.

2.0 BACKGROUND

The Division is authorized to issue a citation to a public water system for certain violations of the Water Shutoff Protection Act (Health & Saf. Code, § 116900 et. seq.) and the Water and Wastewater System Payments Under the American Rescue Plan Act of 2021 (Health & Saf. Code, § 116773 et. seq.) (collectively, the Acts). (Health & Saf. Code, §§ 116906, subd. (c), 116773.6, subd. (d).) The Division is authorized to include in the citation a monetary penalty of up to \$1,000 per day for each day that a violation has occurred, and for each day that a violation continues to occur. A separate penalty may be assessed for each violation. (*Id.*, § 116650.) The Division is also authorized to issue a compliance order to a public water system for violations of each Act. (*Id.*, § 116655.)

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.

The Division and the Attorney General's Office, exercising its independent enforcement authority, jointly investigated and identified the City's violations of the Acts. The Division, in coordination with the Attorney General's Office and through the results of their detailed investigation, has determined that the City committed multiple violations of the Acts. These include violations that give rise to monetary liability, including violations of section 116906 of the Health and Safety Code, subdivisions (a) and (b); violations of section 116773.4 of the Health and Safety Code, subdivision (b)(5); violations of section 116773.4 of the Health and Safety Code, subdivision (c); violations of section 116773.4 of the Health and Safety Code, subdivision (d)(1); and violations section 116773.4 of the Health and Safety Code, subdivision (d)(2).

The Division also determined that the City committed multiple violations of the California Water And Wastewater Arrearage Payment Program Guidelines, including violations of sections B, F.1.3, and F.2.1.

The Division, the City, and the Attorney General's Office, have agreed to settle violations by the City of the Acts, as more fully described in a Stipulated and Proposed Consent Judgment signed by the Division, the Attorney General's Office and the City and filed by the parties in the Superior Court for Imperial County in the matter entitled *People of the State of California v. City of Calexico*.

The Stipulated and Proposed Consent Judgment requires the City to, without limitation, make restitution to customers who were harmed by the City's violations of the Act, and to agree to comply with numerous injunctive relief provisions, including, without limitation, modification of the City's policies, billing practices, and staffing, and applying to the Extended Water and Wastewater Arrearages Program to provide further assistance to the City's customers.

Because the City's monetary liability for violations of the Acts arises under the State Water Board's administrative enforcement authority, the City and the Division have agreed to memorialize the settlement of monetary liability separately from the Stipulated and Proposed Consent Judgment.

2.0 SETTLEMENT AGREEMENT

The City and the Division executed the settlement agreement ("Settlement Agreement"), attached to this order as Exhibit 1.

The Settlement Agreement requires the City to pay \$150,000 to the State Water Board's Safe Drinking Water Account no later than 30 days after issuance of this Order approving the Settlement Agreement. The Settlement Agreement also requires the City to fund a Water Conservation Program for the benefit of City residential customers. The Program must be funded within 180 calendar days of issuance of this Order and provide program benefits of at least \$200,000.00 to City residential customers, exclusive of any administrative or other cost incurred to operate the program. The City waives the right to petition for reconsideration of this Order and agrees to the other terms and

conditions described in the Settlement Agreement.

All terms and conditions of the Settlement Agreement are hereby incorporated into this Order.

ORDER

IT IS HEREBY ORDERED THAT the attached Settlement Agreement between the Division and the City is approved. The City must comply with all terms and conditions of the Settlement Agreement, including payment of \$150,000 to the State Water Board's Safe Drinking Water Account no later than 30 days after the Settlement Agreement is executed. Payment must be made by cashier's check, certified check, or money order made payable to the "State Water Resources Control Board Safe Drinking Water Account" and properly executed and delivered to:

State Water Resources Control Board
Attention: Accounting Office
P.O. Box 1888
Sacramento, CA 95812-1888

STATE WATER RESOURCES CONTROL BOARD



June 6, 2024

Eric Oppenheimer
Executive Director

Date