

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

DIVISION OF WATER RIGHTS

ORDER WR 2021-____-EXEC

In the Matter of Administrative Civil Liability for Failure to File Annual Water Division and Use Report(s)
upon

Ciro Toma

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 two Administrative Civil Liability Complaints (ACLCs) to *Ciro Toma* (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 these matters 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 Respondent holds Water Right License 13783 (Application A025528) and Water Right License 455 (Application A002575).

The Respondent must, pursuant to regulations enacted by the State Water Board, submit a report online through the Board's website documenting the Respondent's water diversion and use (Annual Report) under License by April 1 of each following calendar year. (Cal. Code Regs., tit. 23, §§ 847 & 929). The Respondent was required to file the Annual Report for the 2019 water year by April 1, 2020.

On February 21, 2020, the Division of Water Rights (Division) issued two notices to the Respondent reminding him of the requirement to submit the 2019 Annual Reports by April 1, 2020, as required pursuant to the California Code of Regulations. The notices provided instructions on how to access the Report Management System to submit the Annual Reports and notified the Respondent to contact the Division by phone or email with any questions regarding the reporting process.

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.

On June 1, 2020, the Division mailed the Respondent a Notice of Deficiency for each Water Right License. The Notices of Deficiency requested the deficient Annual Reports be submitted and warned the Respondent of the potential for enforcement if the required Annual Reports were not submitted.

On January 15, 2021, the Assistant Deputy Director for the Division of Water Rights, acting under delegated authority, issued two ACLCs to the Respondent for failing to file the required Annual Reports. The ACLCs recommended an administrative civil liability in the amount of \$2,000 per violation. The ACLC packages each included an Expedited Settlement Offer letter. The letters offered to settle the violations alleged in the ACLCs in the amount of \$500 per violation if the Respondent filed the 2019 Annual Reports and returned the signed Acceptance of Expedited Settlement Offer and Waiver of Right to Hearing and Reconsideration.

On January 21, 2021, the Respondent submitted the Annual Reports for License 13783 (A025528) and License 455 (A002575).

On February 2, 2021, the Respondent timely requested a hearing before the State Water Board to contest the allegations contained in the ACLCs.

On April 21, 2021, the State Water Board, Administrative Hearings Office issued a Notice of Public Hearing, scheduling a hearing on the allegations in the ACLCs to be held on June 8, 2021.

On April 29, 2021, the Division Prosecution Team received the signed Acceptance of Expedited Settlement Offer and Waiver of Right to Hearing and Reconsideration for License 13783 (A025528) and License 455 (A002575).

The Respondent and the Division Prosecution Team agree to settle all matters identified in the ACLCs issued to the Respondent on January 15, 2021, via settlement agreement in lieu of a hearing.

3.0 SETTLEMENT AGREEMENT

The Respondent and the Division Prosecution Team executed the settlement agreement, dated May 20, 2021 and attached hereto (Settlement Agreement). The general terms of the settlement are that Respondent:

- (1) Waives the right to a hearing on the ACLCs, 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 \$1,000 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. The Respondent must, no later than 30 days after this Order is issued, perform all of the following actions:

1. Pay \$1,000 as payment in full of the administrative civil liability ACL related to the violations alleged in the ACLCs. Payment shall be made by cashier's check, certified check, or money order made payable to the "State Water Resources Control Board – Water Rights Fund". Properly execute and deliver payment to:

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

The 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

Date