



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

FIRST CLASS MAIL

MAR 04 2013

Saybrook
1800 Avenue of the Stars, 3rd Floor
Los Angeles, CA 90067

Dear Saybrook:

DECISION APPROVING SETTLEMENT AGREEMENT REGARDING DRAFT CEASE AND DESIST ORDER AND ANNUAL REPORTING FOR LICENSE 2399 (APPLICATION 3957), SAN JOAQUIN RIVER IN SAN JOAQUIN COUNTY

Please find enclosed for your records, a copy of the Settlement Decision approving the Settlement Agreement regarding the draft Cease and Desist Order (CDO) against Saybrook for Failure to File Annual Report for 2011 for Application 3957.

Failure to complete the actions specified in the Settlement Agreement by the required deadlines shall render the Settlement Agreement void. The Delta Watermaster would thereby issue a final CDO and Administrative Civil Liability Complaint on this matter.

If you have any questions regarding this Decision, please contact me at (916) 445-5962.

Sincerely,

Craig M. Wilson
Delta Watermaster

Enclosures

cc: Andrew S. Deeringer
Downey Brand
621 Capitol Mall, 18th Floor
Sacramento, CA 95814

Andrew Tauriainen, Staff Counsel III
Office of Enforcement

Michael Buckman, Chief
Hearing Unit
Division of Water Rights

CHARLES R. HOPPIN, CHAIRMAN | THOMAS HOWARD, EXECUTIVE DIRECTOR

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

DECISION 2013-0001

In the Matter of Failure to File an Annual Water Use Report by

SAYBROOK

SETTLEMENT DECISION

BY THE DELTA WATERMASTER:

1.0 INTRODUCTION

This matter comes before the Delta Watermaster of the State Water Resources Control Board (State Water Board) following the issuance of a draft Cease and Desist Order (CDO) to Saybrook based on a failure to file annual water use report under License 2399 (Application A003957). In accordance with this Decision, the State Water Board's Delta Watermaster and the Saybrook have agreed to settle this matter in lieu of proceeding to a hearing. The issuance of a settlement decision pursuant to a settlement agreement is authorized under Government Code section 11415.60. The settlement is approved.

2.0 BACKGROUND

In March 2012, the Division of Water Rights (Division) mailed out an initial notice to the named Licensee notifying them of their responsibility to file a 2011 annual use report. The deadline to submit their 2011 use report online was June 30, 2012. In May 2012, State Water Board's Office of Delta Watermaster staff contacted the named Licensee regarding the annual use report. Licensee informed staff that Licensee no longer owned property associated with water right License 2399 (A003957). On July 31, 2012, Licensee's agent contacted staff to inform staff of the new owner, Saybrook.

On August 1, 2012, the Office of Delta Watermaster contacted Saybrook notifying them of water right License 2399 (A003957) and reporting requirements for water right License 2399. Staff informed Saybrook that annual report of licensee for 2011 was past due. Staff granted

additional time to Saybrook until August 31, 2012 for Saybrook to file. Staff sent information to Saybrook regarding water right A003957 including a copy of the license and the initial Notice to Licensee sent to the prior owner in March 2012. Based on parcel numbers given to Saybrook, Saybrook informed staff on August 2, 2012, that Saybrook did not own property associated with water right A003957.

On August 21, 2012, staff contacted Saybrook via email with new parcel numbers regarding water right A003957. Saybrook emailed a response that Saybrook did own the parcels referenced in the email. On August 30, 2012, Staff contacted Saybrook via email asking if Saybrook was interested in retaining the license. On September 11, 2012, staff followed up with another email requesting that Saybrook file the report of licensee for 2011 by September 25, 2012.

Following further questions regarding its obligation, on September 24, 2012, Saybrook contacted staff by email requesting one more extension. Staff responded back via email informing Saybrook that Saybrook will have 30 days from the date of an ownership letter, which the Division of Water Rights will send out, to either request a revocation or file the report of licensee for 2011 for water right A003957. Saybrook accepted staff's response. On October 5, 2012, staff emailed Saybrook to inform Saybrook that the Division of Water Rights had mailed the ownership letter. Saybrook was given opportunity to file the annual report for 2011 for water right A003957.

As of November 16, 2012, the State Water Board had not received Saybrook's 2011 annual water use report for water right A003957. The Delta Watermaster issued a draft CDO, dated November 16, 2012, to Saybrook for failure to submit the 2011 annual water use report.

By letter dated December 7, 2012, Saybrook communicated to the State Water Board that it was unsure of its possible reporting responsibilities given the recent changes in ownership of properties associated with the license, the identity of the proper reporting entities under the license, the status of other parties that may assert rights under the license, and issues relating to possible transfer or revocation of splitting the license.

Saybrook and the Delta Watermaster agree to settle matters identified in the draft CDO and by Saybrook through this Decision in lieu of a hearing in said matter.

2.0 SETTLEMENT AGREEMENT

Saybrook and the Delta Watermaster engaged in settlement discussions and reached an agreement on language that is mutually acceptable. The terms of the settlement are as follows.

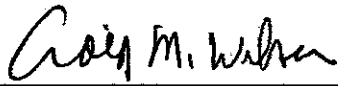
- 1) Saybrook shall immediately come into compliance with the terms of the License by submitting their report of 2011 annual use by April 1, 2013, by accessing the Report Management System at www.waterboards.ca.gov/RMS using the User ID and Password shown on User Information Sheet accompanying this Decision.
- 2) Saybrook shall file the report of licensee for 2012 by the due date of July 1, 2013.
- 3) Saybrook shall remit to the State Water Board its annual water right fee of \$173.90 for the period July 1, 2012 – June 30, 2013 by April 1, 2013.
- 4) Saybrook shall remit to the State Water Board the sum of \$500 by April 1, 2013 as a late charge for failure to timely submit its 2011 annual use report.
- 5) Saybrook shall provide a letter to the State Water Board's Division of Water Rights by May 1, 2013 regarding whether its license will be retained, revoked, split or transferred.
- 6) Saybrook reserves its ability to amend its annual water use reports, if necessary, based on further research of historic water use.
- 7) Saybrook waives its right to hearing and reconsideration of this matter.

SETTLEMENT DECISION

IIT IS HEREBY ORDERED THAT the attached settlement agreement between the Saybrook and the Delta Watermaster is approved and is incorporated by reference into this Decision.

Approval of the settlement agreement has been delegated to the Delta Watermaster by State Water Board Resolution 2012-0048, and approval shall not limit the authority of the Executive Director, Delta Watermaster, or the Deputy Director for Water Rights, as delegated, to initiate any enforcement actions for the unauthorized diversion or use of water, for any future violations of the Water Code, or violation of the terms of the settlement agreement.

STATE WATER RESOURCES CONTROL BOARD



Craig M. Wilson
Delta Watermaster

Dated: **MAR 04 2013**

ACCEPTANCE OF SETTLEMENT AGREEMENT

Saybrook Fund Advisors, LLC
License 2399 (Application A003957)
County: San Joaquin

By signing below and returning this Acceptance of Settlement Agreement to the State Water Resources Control Board (State Water Board), Saybrook Fund Advisors, LLC (Saybrook), hereby accepts the State Water Board's Settlement Agreement made by and between Saybrook and the State Water Board's Delta Watermaster.

Saybrook agrees to perform the following actions:

- **Electronically file the report of 2011 annual use by April 1, 2013** by accessing the Report Management System at www.waterboards.ca.gov/RMS using the User ID and Password shown on User Information Sheet accompanying this Decision.
- **Electronically file the report of licensee for 2012** by the due date of July 1, 2013.
- **Remit to the State Water Board its annual water right fee of \$173.90** for the period July 1, 2012 – June 30, 2013 by April 1, 2013.
- **Remit to the State Water Board the sum of \$500 by April 1, 2013** as a late charge for failure to timely submit its 2011 annual use report.
- **Provide a letter to the State Water Board's Division of Water Rights by May 1, 2013** regarding whether its license will be retained, revoked, split or transferred. Provide the signed hard copy of the letter to Phillip Crader, Manager, Permitting and Licensing Section and a carbon copy of the letter to the Delta Watermaster.
- **Reserves its ability to amend its annual water use reports**, if necessary, based on further research of historic water use.
- **Waives its right to hearing and reconsideration of this matter.**

Saybrook understands that failure to complete the above actions, as identified and described, shall render the Delta Watermaster's Settlement Agreement void. If the Delta Watermaster's Settlement Agreement is deemed void due to Saybrook's non-performance, the State Water Board will issue a final Cease and Desist Order and Administrative Civil Liability Complaint.

Approval of the Settlement Agreement has been delegated to the Delta Watermaster by State Water Board Resolution 2012-0048, and approval shall not limit the authority of the Executive Director, Delta Watermaster, or the Deputy Director for Water Rights, as delegated, to initiate any enforcement actions for the unauthorized diversion or use of water, for any future violations of the Water Code, or violation of the terms of the Settlement Agreement.

Upon execution by Saybrook, the payment amounts shall be returned to the following address:

State Water Resources Control Board
Office of Delta Watermaster
Attn: Craig M. Wilson
P. O. Box 100
Sacramento, CA 95812-0100

Saybrook understands that this Settlement Agreement is not final until it is formally endorsed by the Delta Watermaster.

I hereby affirm that I am duly authorized to act on behalf of and to bind Saybrook in the making and giving of this Settlement Agreement.

On behalf of Saybrook

LATHROP LAND ACQUISITION, LLC

By: Saybrook Fund Investors, LLC,
its Managing Member

By: _____

(Signed Name)

03.04.2013
(Date)

Jeffrey M. Wilson
(Printed or typed name)

Officer
(Title)

By: _____

Craig M. Wilson
Craig M. Wilson
Delta Watermaster

MAR 04 2013
(Date)