

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

DIVISION OF WATER RIGHTS

ORDER WR 2023-0011-DWR

ADMINISTRATIVE CIVIL LIABILITY ORDER

In the Matter of Failure to Submit Scott River Information Order Response by

David Collenberg

Water Right ID(s) S000774, S019640, and SG003207

The Assistant Deputy Director of the Division of Water Rights (Division), through authority delegated by the State Water Resources Control Board (State Water Board), hereby issues an Administrative Civil Liability Order (ACL Order or Order) to David Collenberg (Diverter). On January 6, 2023, the Division issued the Diverter an Administrative Civil Liability Complaint (ACLC), which is hereby incorporated by reference as part of this ACL Order and attached as Exhibit 1.

THE STATE WATER BOARD, OR ITS DELEGEE, FINDS AS FOLLOWS:

1. On August 30, 2021, the State Water Board adopted California Code of Regulations, title 23, sections 875 through 875.9 (Emergency Regulations).
2. Section 875.8 of the Emergency Regulations authorizes the Deputy Director of the Division of Water Rights to 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.
3. The Division of Water Rights sent an Information Order for Water Use in the Scott River Watershed ("Information Order") (Order WR 2022-0172-DWR) to the Diverter on October 14, 2022. The Respondent was served the Information Order on November 14, 2022.
4. The Information Order required the Diverter to submit a Scott Watershed Information Order Form ("Information Order Form" or "Form") within 14 calendar days of the Information Order's issuance for each requested water right. The Information Order Form was due October 28, 2022.

5. On January 6, 2023, the Division issued the Diverter an Administrative Civil Liability Complaint (ACLC). The ACLC alleged the Diverter failed to submit their Information Order Form by October 28, 2022, in violation of section 875.8 of the Emergency Regulations. The ACLC recommended a penalty of \$5,000.
6. The ACLC was posted at the Diverter's address by a process server on February 21, 2023.
7. The Diverter did not request a hearing within 20 days of receipt of the ACLC, in accordance with Water Code section 1055, subdivision (b).
8. Pursuant to Water Code section 7, the State Water Board is authorized to delegate authority to the Deputy Director of Water Rights. State Water Board Resolution No. 2012-0029 (Resolution) delegates some of the State Water Board's authority to the Deputy Director of Water Rights. Section 4.9.2 of the Resolution authorizes the Deputy Director to issue an order imposing administrative civil liability when a Complaint has been issued and no hearing has been requested in the period provided by Water Code section 1055. Section 4.9.2 of the Resolution allows this authority to be redelegated to an Assistant Deputy Director. This authority was redelegated to the Assistant Deputy Director of the Permitting and Enforcement Branch.
9. Water Code section 1055, subdivision (b), Resolution No. 2012-0029, and subsequent redelegation memorandums authorize the Assistant Deputy Director of the Permitting and Enforcement Branch to issue an ACL Order to the Diverter assessing administrative civil liability in the amount proposed in the January 6, 2023, ACLC.
10. Water Code section 1055.3 states that when determining the appropriate amount of civil liability to be imposed, the State Water Board shall take into consideration all relevant circumstances, including but not limited to the extent of the harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and the corrective actions, if any, taken by the violator.
11. In this case, the recommended administrative civil liability of \$5,000 is based on the relevant circumstances alleged in the ACLC. In consideration of these circumstances, the State Water Board has determined that the administrative civil liability of \$5,000 is appropriate.

IT IS HEREBY ORDERED THAT:

1. The attached ACLC is incorporated herein and made part of this Order.
2. In adopting this Order, the State Water Board, or its delegee, has considered all relevant circumstances, including those specifically identified in the ACLC pursuant

to Water Code section 1055.3.

3. Diverter shall remit, within 30 days of the date of this Order, a check or money order payment of the full penalty of \$5,000 to:

State Water Resources Control Board
Division of Water Rights
Enforcement Section – Scott River Information Order
P.O. Box 2000
Sacramento, CA 95812-2000

4. Fulfillment of the Diverter's obligations under this Order constitutes full and final satisfaction of liability for the alleged violation specifically identified in this Order. The State Water Board reserves the right to take further enforcement action for any future violations.
5. The State Water Board is authorized to seek recovery of the liability imposed, as authorized by California Water Code section 1055.4, or refer this matter to the Office of Attorney General for further enforcement action if the Diverter fails to comply with remitting payment of the full penalty within 30 days of the date of this Order.

STATE WATER RESOURCES CONTROL BOARD



*Julé Rizzardo, Assistant Deputy Director
Permitting and Enforcement Branch
Division of Water Rights*

Dated: **March 17, 2023**