

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

DIVISION OF WATER RIGHTS

ORDER 2023-0007-DWR

ADMINISTRATIVE CIVIL LIABILITY ORDER

In the Matter of Failure to Submit Online Monthly Diversion Reports by

Joseph Garaventa

Water Right A004862

The Assistant Deputy Director of the Division of Water Rights (“Division”), through authority delegated by the State Water Resources Control Board (“State Water Board”), issues this Administrative Civil Liability Order (“Order”) to Joseph Garaventa (Diverter). On January 20, 2023, the Division issued the Diverter an Administrative Civil Liability Complaint (“Complaint”), which is incorporated by reference and included as an exhibit to this Order as Exhibit 1.

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

1. On August 3, 2021, the State Water Board adopted California Code of Regulations, title 23, sections 876.1 through 879.2 (“Emergency Regulations”). The Emergency Regulations were reviewed by the Office of Administrative Law and went into effect on August 19, 2021.
2. Section 876.1 subdivision (b) of the Emergency Regulations authorizes the Deputy Director of the Division of Water Rights to issue curtailment orders to water right holders, requiring the curtailment of water diversion and use.
3. On August 20, 2021, the Deputy Director issued an order Imposing Water Right Curtailment and Reporting Requirements in the Sacramento-San Joaquin Delta Watershed (“Curtailment Order”).
4. The Curtailment Order required monthly submission of previous diversions and projected diversions for parties with a prior annual diversion or potential diversion of 5,000 acre-feet or more. The due date for both reports was stated to be no later than the 10th of every month.

5. The Diverter failed to file six monthly reports by the required deadline. The reports were Projected Demand reports for each month from July 2022 through September 2022 and Prior Demand reports for each month from April 2022 through June 2022.
6. On October 21, 2022, the State Water Board Division of Water Rights sent the Diverter a Notice of Violation (“NOV”) notifying the Diverter that in addition to the deficient reports identified in Item 5 above, the November 2022 projected diversion report had not been received and that future monthly diversion reports needed to be submitted by the noted deadlines. The NOV gave the Diverter until November 4, 2022 (14 days from the NOV issuance date) to provide the November 2022 report to avoid formal enforcement action. The Diverter did not submit the November 2022 report. In addition to the requirement of submitting the November 2022 projected demand report, the NOV also reminded the Diverter of the required ongoing monthly report submittals as a second condition to avoid formal enforcement. At the time the Complaint was issued on January 20, 2023, the Diverter had not completed the following six reports: Projected Demand reports from November 2022 through February 2023 and Prior Demand reports from October 2022 and November 2022. On February 24, 2023, 112 days after the NOV response due date, Division staff verified the Diverter has not submitted any of the monthly diversion reports identified in the Complaint. The Complaint assessed a \$12,000 fine (\$2,000 for each of the six deficient reports) and extended an opportunity to contest the fine by requesting a hearing within 20 days of receiving the Complaint.
7. United States Postal Service Tracking confirms the Complaint was received on January 25, 2023.
8. As of February 24, 2023, 10 days after the 20-day deadline to request a hearing, Division staff have not received a request for hearing from the Diverter.
9. Under Water Code section 1846, subdivision (a)(2), “a person or entity may be liable... in an amount not to exceed five hundred dollars (\$500) for each day” the violation of a “regulation or order adopted by the Board” occurs.
10. Pursuant to Water Code section 7, the State Water Board is authorized to delegate authority to the Deputy Director of Water Rights. 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 Order to the Diverter assessing administrative civil liability in the amount proposed in the Complaint.

11. 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.
12. In this case, the recommended administrative civil liability of \$12,000 is based on the relevant circumstances alleged in the Complaint. In consideration of these circumstances, the State Water Board has determined that the administrative civil liability of \$12,000 is appropriate.

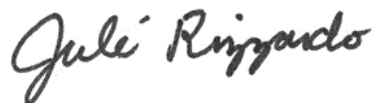
IT IS HEREBY ORDERED THAT:

1. In adopting this Order, the State Water Board, or its delegee, has considered all relevant circumstances, including those specifically identified in the Complaint pursuant to Water Code section 1055.3.
2. Diverter shall remit, within 30 days of the date of this Order, a check or money order payment of the full penalty of \$12,000 to:

State Water Resources Control Board:
Division of Water Rights
Enforcement Section – Enhanced Reporting Compliance
P.O. Box 2000
Sacramento, CA 95812-2000

3. 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.
4. 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: