

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

**DIVISION OF WATER RIGHTS**

**ORDER WR 2023-0013-EXEC**

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In the Matter of In the Matter of Violations or Threatened Violations of Emergency Regulations and Orders WR 2021-0083-DWR and WR 2021-0084-DWR upon

JASON WALKER (SG003359, SG003324, SG003066)

**ORDER APPROVING SETTLEMENT AGREEMENT**

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**BY THE DEPUTY DIRECTOR<sup>1</sup>**

**1.0 INTRODUCTION**

This matter comes before the Deputy Director of the State Water Resources Control Board Division of Water Rights (“Division”) following the settlement negotiations regarding alleged violations of Order WR 2021-0083-DWR and Order WR 2021-0084-DWR by Jason Walker (“Respondent”). In accordance with the attached Settlement Agreement, the Division Prosecution Team (“Prosecution Team”) and the Respondent have agreed to settle this matter 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**

On May 10, 2021, the Governor issued Executive Order N-10-21 declaring a state of emergency based on drought conditions in the Scott River and Shasta River watersheds.

On August 17, 2021, the State Water Board adopted emergency regulations, titled Establishment of Minimum Instream Flow Requirements, Curtailment Authority, and Information Authority in the Klamath River Watershed. The Emergency Regulations provide curtailment authority throughout the Klamath River watershed and establish minimum instream flow requirements and information order authority in the Scott River and Shasta River watersheds. The minimum instream flow requirements were established to protect fall-run Chinook salmon and threatened Southern Oregon/Northern California Coast coho salmon. The Emergency Regulations went into effect on August 30, 2021, when they were approved by the Office of

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<sup>1</sup> 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.

Administrative Law and filed with the Secretary of State. The State Water Board adopted the Emergency Regulations and described the need for the Emergency Regulations and their intent. Resolution No. 2021-0029 adopted the Emergency Regulations and describes the need for the Emergency Regulations and their intent.

On June 21, 2022, the State Water Board readopted the Emergency Regulations, which went into effect on July 29, 2022. The updated regulations contain a provision that extends previously issued curtailment orders under the amended regulation. (Cal. Code Regs., tit. 23, § 875, subd. (d)(3).)

The Respondent is the Primary Owner of record for Water Right IDs SG003359, SG003324, and SG003066. These Water Right IDs divert and use surface water or groundwater from the Scott River watershed. They are subject to the Emergency Regulation.

On September 10, 2021, the State Water Board issued an Order Imposing Water Right Curtailment, Increased Coordination, and Reporting Requirements for Adjudicated Groundwater Rights in the Scott River Watershed (Order WR 2021-0083-DWR). The Respondent received Order WR 2021-0083-DWR on September 13, 2021. The order requires the Respondent to cease diversions and comply with minimum flow requirements in the Scott River for diversions under statement SG003066. According to the order, these rights are adjudicated groundwater diversions identified in Schedule C of the Scott Adjudication [Decree entered on January 30, 1980, in Siskiyou County Superior Court Case No. 30662, In the Matter of Determination of the Rights of the Various Claimants to the Waters of Scott River Stream System, Except Rights to Water of Shackelford Creek, French Creek, and all Streams Tributary to Scott River Downstream from the U.S. Geological Survey Gaging Station, in Siskiyou County, California].

On September 10, 2021, the State Water Board also issued an Order Imposing Water Right Curtailment and Reporting Requirements in the Scott River Watershed for Water Right(s) Associated with the Parcel(s) Listed in Attachment A and Not Otherwise Curtailed (Order WR 2021-0084-DWR). This additional Order was sent because the State Water Board did not have current contact information for all surface and groundwater diversions in the Scott River Watershed. The Respondent Received Order WR 2021-0084-DWR on September 13, 2021. The order requires the Respondent to cease diversion and submit basic information about their diversion and use.

The State Water Board issued various addenda partially suspending curtailment of water rights in the Scott River watershed. In 2022, curtailments went into effect on July 2, 2022, for all surface water rights. On July 6, 2022, curtailments were partially suspended, allowing each first priority water right to divert up to 15% of their right. On July 8, 2022, each first priority right was allowed to divert up to 30% of their right. Finally, on July 14, 2022, all rights (surface and groundwater) were fully curtailed.

The Respondent submitted a Curtailment Certification Form on January 13, 2022.

The Respondent certified that all diversion under Water Right ID SG003066 had ceased.

Enforcement staff from the Division of Water Rights (“Division”) issued a Notice of Violation to the Respondent on September 26, 2022, based on information received indicating the Respondent was in violation of the Curtailment Order.

On November 22, 2022, the Assistant Deputy Director for the Division, under delegated authority, issued an information order to Respondents, Order WR 2022-0171-DWR (“Information Order”). The Information Order required a response by December 6, 2022. There was no response by that date.

Water Code section 1846 authorizes the State Water Board to impose administrative civil liability, pursuant to Water Code section 1055, on any person or entity that violates a regulation or order adopted by the Board. Under these statutes, the Board may impose administrative civil liability in an amount not to exceed five hundred dollars (\$500) per day for each day in which the violation occurs.

On January 20, 2023, the Assistant Deputy Director for the Division, under delegated authority, issued an Administrative Civil Liability (“ACL”) complaint to the Respondent for failing to respond to the Information Order.

On March 1, 2023, the Respondent submitted the data requested in the Information Order to State Water Board staff, including diversion quantities and dates between July and October 2022.

Upon Review of the data submitted by the Respondent, Division staff alleged that the Respondent violated the curtailment orders for at least 70 days, resulting in a statutory maximum penalty of Thirty-Five Thousand Dollars (\$35,000) if the Division sought administrative civil liability for these violations.

The Settling Parties have engaged in settlement negotiations and agree to settle the matter without administrative or civil litigation by presenting this Settlement Agreement and a proposed order to the State Water Board for adoption as an order by settlement, pursuant to Government Code section 11415.60. This Settlement Agreement will become effective when the Division’s Deputy Director issues an order approving the settlement, provided that the Settling Parties concur in any substantive changes to the approving order proposed by the Deputy Director.

This Agreement will be submitted to the AHO for approval and adoption pursuant to Government Code section 11415.60 as a decision by settlement and will become effective when the Division’s Deputy Director issues an order approving settlement.

### **3.0 SETTLEMENT AGREEMENT**

The Respondent and the Division Prosecution Team executed the settlement agreement (“Settlement Agreement”), attached to this order as Exhibit 1. The

general terms of the settlement are that Respondent:

1. Accept a penalty of Two-Thousand Five-Hundred Dollars (\$2,500), due no later than 30 days after issuance of the order implementing this settlement; and
2. Must submit proof of their initial application to enroll in a Local Cooperative Solution (“LCS”) within 7 days of issuance of this Order. Failure to enroll in an LCS may result in an assessment of a larger penalty by the Division.

**ORDER**

**IT IS HEREBY ORDERED THAT** the attached Settlement Agreement between the Division Prosecution Team and the Respondent is approved. The Respondent must perform all the following actions:

1. No more than 7 days following this Order’s issuance, submit proof of their initial application to enroll in an LCS.
2. Pay a penalty of Two-Thousand Five-Hundred Dollars (\$2,500). If the Respondent fails to meet any of section 1’s requirements, the Deputy Director will issue a written finding assessing a penalty up to the statutory maximum for the alleged violations. Payment must be made by cashier’s check, certified check, or money order made payable to the “State Water Resources Control Board – Water Rights Fund,” and properly executed and delivered to:

State Water Resources Control Board  
Division of Water Rights  
Attention: Enforcement Unit — Scott River Curtailment  
1001 I Street, 14<sup>th</sup> Floor  
Sacramento, CA 95814

STATE WATER RESOURCES CONTROL BOARD

ORIGINAL SIGNED BY:

*Erik Ekdahl, Deputy Director  
Division of Water Rights*

Dated: April 11, 2023