

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

## ADMINISTRATIVE CIVIL LIABILITY COMPLAINT

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In the Matter of Violation of Annual Reporting Requirements by

**RICHARD L JENNINGS**  
(Application A010835, License 3101)

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### YOU ARE HEREBY GIVEN NOTICE THAT:

1. RICHARD L JENNINGS, hereinafter referred to as "You", is/are alleged to have violated Title 23, Chapter 2.7, Article 2, section 929 of the California Code of Regulations, which requires every water right License holder to submit a water diversion and use report by April 1 of each subsequent year for each water right License.
2. The State Water Resources Control Board (Board) may impose a civil liability of up to \$500 for each day in which the violation of a Board regulation occurs. (Water Code section 1846)
3. The Executive Director for the Board may issue an Administrative Civil Liability (ACL) Complaint to any person or entity to whom administrative civil liability may be imposed. (Water Code section 1055)
4. The Executive Director delegated this authority to the Deputy Director for Water Rights. Pursuant to State Water Board Resolution 2012-0029, the Deputy Director for Water Rights is authorized to issue an order imposing an ACL when a complaint has been issued and no hearing has been requested within 20 days of receipt of the complaint. This authority has been redelegated to the Assistant Deputy Director.

### ALLEGATIONS

5. The Board adopted the regulation mandating annual water use reporting requirements in 2010, codified in the California Code of Regulations; Title 23, Chapter 2.7, Article 2, section 929.
6. The purpose of the regulation is to develop a publicly available database that allows both the Board and water users access to the information and make informed water management decisions. The value of the database is directly tied to the amount and accuracy of information the Board collects through compliance with the regulation.
7. Water use information is critical to understanding and planning ahead for limited water supplies, identifying water conservation opportunities, assuring compliance with the quantity and seasonal use limitations of existing water rights, protecting water right holders' priority of right, and providing for efficient management and use of water during times of shortages.
8. You are the owner of record for License 3101, and You are required to comply with the annual water diversion and use reporting regulation.
9. In February 2018, the Division of Water Rights mailed out a notice reminding You of the requirement to submit the 2017 Annual Report of Licensee ("Report") by April 1, 2018, online by logging into the electronic Water Rights Information and Management System, with the provided Username and Password.
10. You failed to submit the Report by the April 1, 2018, deadline.
11. On July 27, 2018, the Division mailed out a Notice of Deficiency, warning of the potential for

enforcement if the Report was not submitted.

12. On September 17, 2018, the Division mailed out a final Notice of Deficiency, putting You on notice of imminent enforcement should the violation continue.
13. As of October 22, 2018, 190 days after the April 1, 2018, deadline, the Report has still not been submitted.

#### **PROPOSED CIVIL LIABILITY**

14. The Board may impose a civil liability of up to \$500 for each day in which the violation occurs for violating a Board regulation. (Water Code section 1846, subd. (a)(2))
15. As of October 19, 2018, You have been in violation for 201 days. The maximum liability for the violations alleged is **\$100,500** (201 days at \$500/day).
16. In determining the appropriate amount of a civil liability, California Water Code section 1848 requires that the Board consider all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and the corrective action, if any, taken by the violator.
17. In this case, the Report was due by April 1, 2018. The value of the data to the public and the Board is tied to its timely submittal, and therefore an increased time lapse between the deadline and the date that the Report is ultimately submitted results in increased harm to the regulatory program. The Board's forecasting of water availability during peak water use times of the year, and ability to regulate the resources it is required to protect is diminished by the failure to submit the Report on time. Moreover, the length of time over which the violations has occurred despite repeated attempts to contact You is significant. Finally, the report has not yet been submitted: You have made no effort to comply with the regulations.
18. Having taken into consideration all relevant circumstances, the Division recommends the imposition of **\$1,500** in administrative civil liability (Proposed Liability).

#### **RIGHT TO HEARING**

19. You may request a hearing on this matter before the State Water Board. Any such request for hearing must be received or postmarked within 20 days of the date that this notice is received as required by Water Code section 1055, subdivision (b).
20. If You request a hearing, You will have an opportunity to contest the allegations in this complaint and the imposition of a fine by the Board. The Board will issue a notice setting the specific time and place for the hearing. The hearing notice will be mailed not less than 10 days before the hearing date.
21. At the hearing, the Board will consider whether to impose a monetary fine, and if so, whether to adjust the Proposed Liability within the amount authorized by statute. Any Board order imposing an ACL shall be final and effective upon issuance.
22. If You do not request a hearing within 20 days, then the right to a hearing on the matter is waived. The Assistant Deputy Director for the Division of Water Rights may then issue a final Administrative Civil Liability Order assessing the Proposed Liability.

**CONDITIONAL SETTLEMENT OFFER**

23. The Division makes the following conditional settlement offer: You may settle this matter without the need for a hearing before the Board, by 1) paying an Expedited Payment Amount of \$500, 2) filing the Report, and 3) signing a waiver of the right to a hearing on the matter.
24. To accept this settlement offer, You must:
- a. Remit the Expedited Payment Amount within **20** days of receipt of this complaint
  - b. Submit the Report within **20** days of receipt of this complaint, and
  - c. Sign and return the Acceptance and Waiver within **20** days of receipt of this complaint.

STATE WATER RESOURCES CONTROL BOARD



*Jule Rizzardo, Assistant Deputy Director  
Division of Water Rights*

Dated: **October 19, 2018**