

ITEM:	10
SUBJECT:	Joseph Magdic Jr., Madera County
BOARD ACTION:	<i>Consideration of an Administrative Civil Liability Order (ACLO)</i>
BACKGROUND:	<p>Joseph Magdic Jr. (“Discharger”) owns 39.4 acres of agricultural land in Madera County, identified as Assessor’s Parcel Number 045-122-007.</p> <p>On 13 February 2013 and 18 April 2013, the Central Valley Water Board issued notices to the Discharger describing new water quality regulations and options available to comply with the regulations.</p> <p>On 30 January 2015, the Assistant Executive Officer of the Central Valley Water Board issued a Water Code section 13260 Directive Letter (“Directive”) to the Discharger. The Directive required the Discharger to obtain regulatory coverage for its irrigated agricultural parcel within 15 calendar days of receipt of the Directive (17 February 2015). The Discharger could comply by joining the East San Joaquin Water Quality Coalition (Coalition), or by submitting a Report of Waste Discharge (RoWD).</p> <p>Because the Discharger failed to respond by the deadline specified in the Directive, a Notice of Violation (NOV) was sent to the Discharger on 13 April 2015.</p> <p>On 21 June 2016, Board Staff conducted a field inspection of Madera County parcel 045-122-007, and found evidence of land irrigated for a commercial purpose based on the crop grown and size of the operation.</p> <p>On 28 September 2016, the Discharger enrolled in the Coalition and paid Coalition dues and back dues. This action brought the Discharger into compliance with the Directive.</p>
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT	<p>On 8 August 2016, the Administrative Civil Liability (ACL) Complaint was issued by the Assistant Executive Officer in the amount of \$32,175, based on the State Water Board’s Enforcement Policy. The ACL Complaint alleges the Discharger failed to obtain regulatory coverage as required by the Directive.</p> <p>The maximum penalty for the alleged violation is \$538,000. The minimum penalty recommended by the Enforcement Policy is the economic benefit plus 10 percent, which amounts to \$5,232. The Enforcement Policy’s penalty calculation methodology resulted in a liability of \$32,175, and this is the amount of administrative civil liability proposed by the Prosecution Team.</p>
ISSUES:	<p>On 22 September 2016, the Discharger submitted evidence to support claims that only 20 acres of the Discharger’s property are irrigated for a commercial purpose and that revenues from the farm operation are substantially lower than the revenue estimate contained in the Prosecution Team’s penalty calculations.</p>
ACLO RECOMMENDATION:	<p>The Prosecution Team recommends that the Board adopt the Administrative Civil Liability Order for \$32,175 as proposed.</p>

Mgmt. Review SYM
Legal Review SNL

3/4 November 2016 Hearing Panel
Central Valley Regional Water Quality Control Board meeting
1685 E Street, Fresno, CA 93706