

ATTACHMENT G

Pre-ACL Letter



EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Central Valley Regional Water Quality Control Board

5 February 2016

Egleston, Bill
10274 Bell Dr
Atwater, CA 95301

Certification Mail No.
7013 1710 0002 3644 4258

FORTHCOMING ASSESSMENT OF CIVIL LIABILITY FOR FAILURE TO COMPLY WITH CALIFORNIA WATER CODE SECTION 13260, EGLESTON, BILL, ATWATER, MERCED COUNTY

The purpose of this letter is to inform you of a forthcoming Administrative Civil Liability Complaint (Complaint), and to notify you of your opportunity to negotiate and settle the assessment of monetary penalties for your failure to comply with the California Water Code. **Please read this notice carefully.**

On 6 February 2013 and 18 April 2013, the California Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board) issued notices to you describing new water quality regulations and actions available to comply with the regulations.

On 7 November 2014, the Central Valley Water Board issued a Directive Order pursuant to California Water Code section 13260 (13260 Directive) by certified mail that required you to obtain regulatory coverage within fifteen (15) days for irrigated lands that you may own or operate.

On 8 January 2015, the Central Valley Water Board issued a Notice of Violation pursuant to California Water Code section 13260 (NOV) by certified mail that requested you obtain regulatory coverage for irrigated lands that you may own or operate.

Central Valley Water Board records indicate that you (1) own at least one parcel that contains irrigated agriculture; (2) received a 13260 Directive and a Notice of Violation by certified mail requiring you to obtain regulatory coverage for all parcels containing irrigated agriculture; and (3) have not obtained regulatory coverage to date.

Legal Authority

Water Code section 13260 states, in relevant part:

“(a) Each of the following persons shall file with the appropriate regional board a report of the discharge, containing the information which may be required by the regional board:

- (1) A person discharging waste, or proposing to discharge waste, within any region that could affect the quality of the waters of the state, other than into a community sewer system."

Under California Water Code section 13261, failing to submit a Report of Waste Discharge when requested by the Central Valley Water Board may result in an administrative civil liability against you of up to \$1,000 per day for every day the report is late.

As of 5 February 2016, your obtainment of regulatory coverage is 439 days overdue. As of this date, the **maximum penalty** for the violation described above is **four hundred and thirty-nine thousand dollars (\$439,000)** based on a calculation of the total number of per-day violations times the statutory maximum penalty (439 total days of violation multiplied by \$1,000). Based on our review and after conducting a preliminary penalty calculation, the Assistant Executive Officer of the Central Valley Water Board intends to issue a Complaint seeking an administrative civil liability assessment against you for **twenty-one thousand and twenty one dollars (\$21,021)**. This proposed penalty amount was calculated considering the methodology in the State Water Resources Control Board's Water Quality Enforcement Policy (Enforcement Policy) and is based on facts known to date. This proposed penalty amount is preliminary and is subject to modification should additional information come to light. In addition, because the violation is continuing, the maximum and proposed penalty amounts will continue to increase until you obtain regulatory coverage. The full Enforcement Policy may be found here:

http://www.swrcb.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf. To avoid further liability, you are urged to obtain regulatory coverage.

By way of this letter, you are being notified of the opportunity to meet to discuss the facts regarding the alleged violation, including the option of settlement. This meeting affords you the opportunity to potentially reduce the proposed penalty amount if you present new information to the Central Valley Water Board staff, or other information you believe is relevant to determining an appropriate monetary penalty. All settlement communications would be kept confidential subject to California Evidence Code sections 1152 and 1154. If a settlement is reached at this meeting, the Assistant Executive Officer will forego issuing the Complaint.

If you intend to argue that you have an inability to pay the proposed penalty amount, you must bring supporting documentation with you to the meeting. Appropriate documentation **must include** the last three years of signed federal income tax returns including schedules **and may also include** credit card or line of credit statements, mortgage loan statements, bank account statements, or any other document that explains the special circumstances regarding past, current, or future financial conditions. This information may be used in determining an appropriate monetary penalty assessment to resolve this matter without a hearing.

In order to initiate any discussions to settle this matter, you must contact Brett Stevens at (916) 464-4642 by **24 February 2016** to schedule a day and time to meet with Central Valley Water Board staff. If you do not respond by this date, the Assistant Executive Officer will issue you a Complaint and this matter will proceed to a formal enforcement hearing before the Central Valley Water Board; or the Assistant Executive Officer may refer the matter to the Attorney General's Office or other prosecution agency.

Before settlement discussions can occur, you must get the required regulatory coverage by enrolling under the Waste Discharge Requirements General Order (Order R5-2012-0116 or Coalition Order) as you indicated you would do when you submitted a Notice of Intent in January 2015. The cost of 2016 regulatory coverage as a member of the East San Joaquin Water Quality Coalition is shown below:

Farm Size	Annual Cost for First Year of Coalition Membership (Includes Monitoring and Reporting)	Annual Cost for Following Years (Including Monitoring and Reporting)	Estimated Annual Costs
18 acres	\$1,422	\$118	\$1,422 (First Year) then \$118 annually, thereafter

Failure to get regulatory coverage may result in a board hearing in which you will be issued coverage under the Individual Order, in addition to administrative civil liability penalties.

If you have any questions, please contact Brett Stevens by phone at (916) 464-4642 or by email at Brett.Stevens@waterboards.ca.gov.

[Original signed by]

Sue McConnell, Manager
Irrigated Lands Regulatory Program

cc via email: Andrew Altevogt, Central Valley Water Board, Rancho Cordova
Kailyn Ellison, SWRCB Office of Enforcement

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece or on the front if space permits.

1. Article Addressed to:

Egleston, Bill
 10274 Bell Dr
 Atwater, CA 95301

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Bill Egleston*

- Agent
 Addressee

B. Received by (Printed Name)

Bill Egleston

C. Date of Delivery

SEP 8 2016

D. Is delivery address different from item 1?

Yes

If YES, enter delivery address below:

No

3. Service Type

- Certified Mail® Priority Mail Express™
 Registered Return Receipt for Merchandise
 Insured Mail Collect on Delivery

4. Restricted Delivery? (Extra Fee)

Yes

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