

ITEM:	22
SUBJECT:	Victor Produce, Inc., Merced County
BOARD ACTION:	<i>Consideration of an Administrative Civil Liability Order (ACLO)</i>
BACKGROUND:	<p>Victor Produce, Inc., ("Discharger") owns 271 acres of agricultural land in Merced County, identified as Assessor's Parcel Numbers 049-050-087, 049-050-088, 049-050-089, 049-050-091, 049-060-073, 049-080-003, 049-080-006, 049-080-015, and 049-080-016.</p> <p>On 10 February 2015, the Discharger enrolled in the East San Joaquin Water Quality Coalition (Coalition) and thereby became subject to the Waste Discharge Requirements for Growers within the Eastern San Joaquin River Watershed that are Members of the Third-Party Group (Order R5-2012-0116-R3 or East San Joaquin Order).</p> <p>The East San Joaquin Order requires that all members complete a Farm Evaluation annually describing management practices implemented to protect surface and groundwater quality. Members in high vulnerability areas were required to begin submitting Farm Evaluations on 1 May 2014. As a member in a high vulnerability area, the Discharger was required to submit a Farm Evaluation for 2015 on 1 March 2016, its first year enrolled in the Coalition.</p> <p>From December 2015 to May 2016, the Coalition sent outreach materials to the Discharger regarding the 2015 Farm Evaluation. These materials included an early notice letter, a "past due" postcard, and a "final notice" letter. The Discharger did not submit the 2015 Farm Evaluation in response to Coalition outreach.</p> <p>On 22 February 2016, the Assistant Executive Officer to the Central Valley Water Board sent the Discharger a Notice of Violation (NOV) for failure to submit the 2015 Farm Evaluation. The NOV urged the Discharger to submit the evaluation to the Coalition and warned that failure to do so may result in enforcement action by the Central Valley Water Board.</p> <p>On 6 May 2016, Board Staff sent the Discharger a notification letter indicating that an Administrative Civil Liability (ACL) Complaint was forthcoming and inviting the Discharger to engage in settlement negotiations prior to issuance of an ACL Complaint. The Discharger did not respond to the pre-ACL letter.</p> <p>On 25 August 2016, the Discharger submitted the missing Farm Evaluation to the Coalition. This action brought the Discharger into compliance with the applicable Waste Discharge Requirements.</p>
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT	<p>On 8 August 2016, the ACL Complaint was issued by the Assistant Executive Officer in the amount of \$15,210, based on the State Water Board's Enforcement Policy. The ACL Complaint alleges the Discharger failed to submit a Farm Evaluation as required by the applicable Waste Discharger Requirements.</p> <p>The maximum penalty for the alleged violation is \$160,000. The minimum penalty recommended by the Enforcement Policy is the economic benefit plus 10 percent, which amounts to \$575. The Enforcement Policy's penalty calculation methodology resulted in a liability of \$15,210, and this is the amount of administrative civil liability proposed by the Prosecution Team.</p>

ISSUES:	There are no known issues, as the Discharger did not submit evidence in this case.
ACLO RECOMMENDATION:	The Prosecution Team recommends that the Board adopt the Administrative Civil Liability Order for \$15,210 as proposed.

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