	· I	
1	MICHAEL L. RAMSEY (SBN 79166) District Attorney, County of Butte	Superior Court of California
2	25 County Center Drive Oroville CA 95965	County of Butte
3	Telephone: (530) 538-7411 Fax: (530) 538-7071	FEB 0 7 2018 L D Simberly Mener, Clerk D
4	Email: da@buttecounty.net	By Deputy
5	Attorney for the Plaintiff	
6	Exempt From Filing Fee (Gov. Code § 6103)	
7		
8	SUPERIOR COURT OF THE STATE OF CALIFORNIA	
9	COUNTY OF BUTTE	
10		
11	THE PEOPLE OF THE STATE OF CALIFORNIA,	Civil Case No.: 18CV 004 1 5
12	Plaintiff,	COMPLAINT FOR CIVIL PENALTIES
13	V.	
14	CALIFORNIA DEPARTMENT OF WATER RESOURCES, and DOES 1 through 25,	
15	Defendant.	
16	Plaintiff, the People of the State of California, by and through Michael L. Ramsey, District	
17		
18	Attorney of the County of Butte, State of California, based on information and belief alleges:	
19	THE PARTIES	
20	1. Michael L. Ramsey, District Attorney of the County of Butte, State of California, acting	
21	to protect the public and the environment from health and safety hazards, brings this action in the name	
22	of the People of the State of California pursuant to California Fish and Game Code section 5650.1.	
23		
24	2. Fish and Game Code section 5650.1 authorizes the district attorney to bring a civil action	
25	on behalf of the People of the State of California to seek civil penalties and enjoin violations of the	
2627	water pollution provisions contained in Fish and Game Code section 5650.	
	·	
28		
	Complaint for Civil Penalties and Permanent Injunction 1	

- 3. Plaintiff, the People of the Statute of California, represented by the District Attorney of the County of Butte is a public entity as defined in California Government Code section 905(i).

 Therefore, no claim is required by the Tort Claims Act, Government Code sections 810 et seq., prior to filing of this complaint.
- 4. The identities of DOES 1-25 are unknown to Plaintiff at this time. As the identities of DOE defendants become known, Plaintiff will amend this Complaint accordingly.
- 5. Defendant, California Department of Water Resources is, and at all times mentioned in this complaint was, a department of the Natural Resources Agency of the State of California existing and operating under the laws of the State of California.
 - 6. Defendant is a "person" as described in Fish and Game Code section 67.
- 7. Defendant is responsible for the State of California's management and regulation of water usage, including operation, maintenance, and regulation of the Oroville Dam, including the gated flood control spillway and the emergency spillway.
- 8. When, in this complaint, reference is made to any act of the Defendant, such allegations shall be deemed to mean the officers, directors, agents, and employees of said defendant authorized such acts and failed to adequately supervise, control, and direct their employees and agents while engaged in the management, direction, operation, and control of the affairs of said organization, and did so while acting in the scope of their employment and agency.

VENUE AND JURISDICTION

9. The violations of law hereinafter described were committed in the County of Butte in the State of California.

||///

27 || ///

FIRST CAUSE OF ACTION

FOR VIOLATIONS OF FISH AND GAME CODE SECTION 5650

AGAINST DEFENDANTS CALIFORNIA DEPARTMENT OF WATER RESOURCES

AND DOES 1 THROUGH 25

- 10. Plaintiff re-alleges and incorporates herein by reference paragraphs 1 through 9, inclusive, as though set forth herein.
- 11. In 1961, Defendant began and oversaw construction of the Oroville Dam. Since that date Defendant has used, operated, and maintained the Oroville Dam. Specifically, Defendant used, operated and maintained the Oroville Dam from February 7, 2017 through February 27, 2017.
- 12. Beginning at a date unknown, but not discovered by Plaintiff until Defendant's actions between February 7, 2017 to February 27, 2017, Defendant violated Fish and Game Code section 5650 by unlawfully depositing, permitting to pass into, and placing where it may pass into the waters of the State of California, any lime, slag, and deleterious substances and materials deleterious to fish, plant, mammals, and bird life.
- 13. From February 7, 2017 to February 27, 2017, Defendant released water from Lake Oroville down the Oroville Dam's gated flood control spillway causing a large area of the concrete spillway and nearby hillside to erode thereby depositing in and placing where it could pass into the waters of the State of California, to wit: the Feather River, concrete, lime, slag and substances and material deleterious to fish, plant life, mammals and bird life.
- 14. Beginning at a date unknown, but not discovered by Plaintiff until February 7, 2017,

 Defendant constructed the Oroville Dam gated flood control spillway on highly erodible foundation

 which was against the design specifications thereby depositing in and placing where it could pass into

the waters of the State of California, to wit: the Feather River, concrete, lime, slag and substances and material deleterious to fish, plant life, mammals and bird life.

- 15. Beginning at a date unknown, but not discovered by Plaintiff until February 7, 2017,

 Defendant failed to construct the Oroville Dam gated flood control spillway with sufficient anchoring
 and slab thickness thereby depositing in and placing where it could pass into the waters of the State of
 California, to wit: the Feather River, concrete, lime, slag and substances and material deleterious to fish,
 plant life, mammals and bird life.
- 16. Beginning at a date unknown, but not discovered by Plaintiff until February 7, 2017, Defendant failed properly to inspect, maintain, and operate the Oroville Dam gated flood control spillway thereby depositing in and placing where it could pass into the waters of the State of California, to wit: the Feather River, concrete, lime, slag and substances and material deleterious to fish, plant life, mammals and bird life.
- 17. From February 11, 2017 to February 12, 2017, Defendant permitted water to pass over the Oroville Dam's emergency spillway causing the hillside beneath the emergency spillway to erode thereby depositing in and placing where it could pass into the waters of the State of California, to wit: the Feather River, concrete, lime, slag and substances and material deleterious to fish, plant life, mammals and bird life.
- 18. Beginning at a date unknown, but not discovered by Plaintiff until February 11, 2017, Defendant failed to properly reinforce the Oroville Dam emergency spillway thereby depositing in and placing where it could pass into the waters of the State of California, to wit: the Feather River, concrete, lime, slag and substances and material deleterious to fish, plant life, mammals and bird life.
- 19. Beginning at a date unknown, but not discovered by Plaintiff until February 11, 2017,

 Defendant failed to recognize and acknowledge that Oroville Dam emergency spillway was composed

of highly erodible rock prior to release water over the emergency spillway thereby depositing in and placing where it could pass into the waters of the State of California, to wit: the Feather River, concrete, lime, slag and substances and material deleterious to fish, plant life, mammals and bird life.

- 20. Defendant's release of water down both the Oroville Dam's gated flood control spillway and the emergency spillway caused an estimated 1,700,000 cubic yards of material deleterious to fish, plant life, mammals, and bird life to pass into the waters of the State of California, to wit, the Feather River. This debris included concrete, earth, soil, and other materials deleterious to fish, plant, mammals, and bird life.
- 21. As a result of Defendant's actions alleged in paragraphs 10 through 20, an estimated 1,700,000 cubic yards of debris passed into the waters of the State of California, to wit, the Feather River, including concrete and soil, which weighed between 2,000 and 3,000 pounds per cubic yard, resulting in a weight between 3,400,000,000 pounds and 5,100,000,000 pounds.
- 22. Defendant, recognizing the release of concrete, soil, and debris resulting from Defendant's release of water down the Oroville Dam's gated flood control spillway was harmful to fish, assisted the California Department of Fish and Wildlife to evacuate millions of immature salmon from the Feather River Fish Hatchery located immediately downstream from Defendant's releases.
- 23. The unlawful conduct and acts of the Defendant in violation of the law, as described above, demonstrate the necessity and legal basis for imposition of civil penalties pursuant to Fish and Game Code section 5650.1.

PRAYER

WHEREFORE, plaintiff prays for judgment as follows:

1. Injunctive relief, including but not limited to, a permanent injunction requiring Defendants to comply with the requirements of Fish and Game Code Section 5650, et. seq.

- 2. That pursuant to Fish and Game Code section 5650.1(a), Defendant be ordered to pay a civil penalty of Twenty-Five Thousand Dollars (\$25,000) for each day of violation of California Fish and Game Code section 5650.
- 3. That pursuant to Fish and Game Code section 5650.1(i), Defendant be ordered to pay a civil penalty of Ten Dollars (\$10) for each of the estimated 3,400,000,000 to 5,100,000,000 pounds of material discharged, totaling Thirty-Four Billion Dollars (\$34,000,000,000) to Fifty-One Billion Dollars (\$51,000,000,000).
- 4. That the Court require Defendant to provide restitution to all government agencies that have expended resources in responding to, cleaning up, and investigating defendant's violations of law.
- 5. That Plaintiff recover damages for the loss of public resources including the loss of fish, plant, bird and animal life caused by the violations of law described above.
 - 6. For such other and further equitable relief as the court may deem just and proper.

Dated: 2/6/2018

Respectfully submitted,

District Attorney