

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
NORTH COAST REGION

Administrative Civil Liability Complaint No. R1-2023-0009

In the Matter of Daniel Maldonado Suarez

Mendocino County

Assessor's Parcel Number (APN) 011-530-09-01

This Administrative Civil Liability Complaint (Complaint) is issued by the Assistant Executive Officer of the North Coast Regional Water Quality Control Board (Regional Water Board) to Daniel Maldonado Suarez (hereinafter, Discharger) for: (1) failure to submit a proposed Cleanup, Restoration, and Monitoring Plan (CRMP) as required under Required Action No. 1 of Regional Water Board Cleanup and Abatement and 13267 Order No. R1-2022-0016 (Cleanup and Abatement Order) in violation of Water Code section 13267; and (2) failure to complete implementation of the corrective actions pursuant to an approved CRMP as required under Required Action No. 4 of the Cleanup and Abatement Order in violation of Water Code section 13304. The Complaint is issued pursuant to Water Code section 13323, which authorizes the Executive Officer to issue this Complaint, and Water Code section 7, which authorizes the delegation of the Executive Officer's issuing authority to a deputy, in this case, the Assistant Executive Officer.

The Assistant Executive Officer of the Regional Water Board hereby alleges that:

BACKGROUND

1. The Discharger acquired title to Mendocino County APN 011-530-09-01 (Property) on April 16, 2020 and has owned the Property at all times relevant here.
2. On May 13, 2021, Regional Water Board staff (Staff) accompanied staff from the California Department of Fish and Wildlife (CDFW), State Water Resources Control Board (State Water Board) Division of Water Rights (Division), and various law enforcement personnel on a joint inspection of the Property conducted pursuant to a criminal search warrant. Staff observed a spring-fed watercourse that was intercepted by a recently constructed/reconstructed reservoir, an undersized culverted stream crossing, and other features on the Property in violation of the prohibitions included in the Action Plan for Logging, Construction, and Associated Activities contained in Section 4.2.1 of the Water Quality Control Plan for the North Coast Region (Basin Plan). Staff also observed a cannabis cultivation area with the plant genus *juncus*, which includes wetland obligate species, in an area saturated by a surface water source, presenting the likelihood that wetland conditions were

present prior to the area being filled for cannabis cultivation activities. Law enforcement agents eradicated the cannabis plants on the Property during the inspection.

3. On June 11, 2021, Staff transmitted a Notice of Violation (NOV) and Inspection Report to the Discharger. The NOV and Inspection Report described the observed violations and provided recommendations to engage a qualified professional to develop and submit a work plan to correct the violations.
4. On July 1, 2021, Staff received a response to the NOV transmitted by Jim Severdia, acting as the Discharger's agent, that conveyed the Discharger's intent to correct the violations on the Property; however, the response indicated the Discharger did not understand what features on his Property are subject to the jurisdiction of the Regional Water Board and other regulatory agencies, based on his statement that the reservoir would not need a permit because it occupied less than one acre and the channel it interrupted was fed by a seasonal spring and not a main watercourse. Staff replied to the Discharger and his agent on July 2, 2021, reiterating its recommendation for the Discharger to engage a qualified professional to identify jurisdictional features on the Property.
5. On July 16, 2021, the Discharger's agent responded to Staff asking for clarification of what would be a qualified professional and whether the Discharger could legalize the reservoir following the qualified professional's assessment. Staff replied on July 19, 2021, providing detail about the qualifications the Discharger should look for in selecting a professional consultant and explained the permitting process for performing work in waters of the state of California, which requires avoiding impacts to aquatic resources, minimizing any unavoidable impacts, and mitigating for any impacts that could not be avoided.
6. On August 24, 2021, the Discharger's agent sent an email to Staff and CDFW personnel claiming that the reservoir on the Property is not onstream and therefore is not subject to their respective authorities. Staff responded on August 25, 2021, explaining that the reservoir is considered onstream because it intercepts a watercourse and reiterating its recommendation for the Discharger to engage a qualified professional.
7. On September 11, 2021, the Discharger's agent emailed a letter to Staff, which continued to argue that the reservoir is not onstream and that the Discharger should not be required to engage a qualified professional. Staff replied to the Discharger's agent on September 24, 2021, reiterating its recommendation for the Discharger to engage a qualified professional to assess the aquatic resources on the Property and, because of the upcoming wet-weather season, recommended that the Discharger engage a qualified professional to also propose appropriate best management practices to stabilize the Property.
8. On October 8, 2021, Staff transmitted a draft cleanup and abatement order to the Discharger that proposed tasks with associated deadlines that would be required to

clean up and abate the impacts from observed discharges and threatened discharges resulting from the unauthorized cannabis cultivation activities on the Property. The transmittal letter for the draft cleanup and abatement order provided the Discharger 30 days from the date of the transmittal letter to submit written comments and/or evidence for the Regional Water Board to consider.

9. On November 3, 2021, the Discharger's agent emailed a letter to Staff and personnel from CDFW and the Division that included lengthy arguments against Staff's justifications underlying the draft cleanup and abatement order as well as concerns raised from the other agencies. Staff responded to the Discharger's agent on November 4, 2021, acknowledging the submittal of their comments and stating that Staff would consider the comments before making a final recommendation to the Executive Officer regarding the draft cleanup and abatement order.
10. On February 16, 2022, Staff provided a written response to the Discharger's comments on the draft cleanup and abatement order that was transmitted to the Discharger and the Regional Water Board's Executive Officer with the proposed cleanup and abatement order for his consideration.
11. On March 17, 2022, the Executive Officer issued the Cleanup and Abatement Order to the Discharger. The Cleanup and Abatement Order directed the Discharger to complete several Required Actions, including submittal of a proposed CRMP by May 1, 2022 (Required Action 1) and to complete implementation of the CRMP by October 15, 2022 (Required Action 4).
12. On April 12, 2022, the Discharger petitioned the State Water Board for reconsideration of the Cleanup and Abatement Order and requesting a stay of the deadlines contained therein. On July 11, 2022, the State Water Board informed the Discharger that the petition would be dismissed by operation of law effective July 13, 2022 unless one of the following events occurred prior to 5pm on July 12, 2022: 1) the State Water Board notifies the Regional Water Board that they have 30 days to respond to the petition, 2) the Discharger submits a written request for the State Water Board to hold the petition in abeyance, or 3) the State Water Board previously notified the petitioner that the petition was dismissed. None of those actions occurred, resulting in the Discharger's petition and request for stay being dismissed by operation of law effective July 13, 2021. The Discharger did not seek judicial review by filing a petition for writ of mandate with the superior court within 30 days of the dismissal by operation of law, as provided in Water Code section 2050.5, subdivision (e), and Water Code section 13330, subdivision (b).
13. On July 26, 2022, Staff transmitted a NOV to the Discharger for failing to submit a proposed CRMP by May 1, 2022, as required under Required Action 1 of the Cleanup and Abatement Order. The NOV explained that the Discharger risked the Regional Water Board imposing administrative civil liability if he did not comply with the Cleanup and Abatement Order.

14. On August 4, 2022, the Discharger's agent emailed a letter to Staff expressing disappointment with the response to their petition and requesting that Staff respond to a numbered list of points raised in the petition, which argued that Staff had provided inadequate justification for issuance of the Cleanup and Abatement Order and failed to provide adequate compliance assistance. Staff responded to each of the Discharger's numbered points on August 17, 2022. The Discharger took particular issue with Staff's use of the United States Geological Survey (USGS) National Hydrography Dataset (NHD) watercourse data layer on the map included in the Inspection Report, which the Discharger thought did not accurately identify the location of watercourses on the Property. Staff agreed that the USGS mapped blue line may be a less precise representation of the location and characteristics of watercourses on the Property than what could be determined from a qualified professional visiting the Property as was done in the creation of the Inspection Report. Staff explained that the observations from the inspection were adequate justification for the Executive Officer to issue the Cleanup and Abatement Order, which requires the Discharger to engage a qualified professional of his own to delineate waters of the state on the Property. Staff further highlighted the need for the Discharger to engage a qualified professional to assess the features on the Property as required under the Cleanup and Abatement Order.
15. On September 12, 2022, the Discharger's agent emailed another letter to Staff, repeating arguments challenging the basis of the Cleanup and Abatement Order, to which staff had already replied. Nevertheless, Staff provided another response on September 29, 2022, recommending that the Discharger focus his efforts on complying with the terms of the Cleanup and Abatement Order and explaining that the Discharger needed to engage a qualified professional.
16. On September 30, 2022, the Discharger's agent reiterated complaints about the Cleanup and Abatement Order and alleged that Staff was wrong regarding things such as the use of the USGS NHD layer in its Inspection Report and that it was acting out of malice against the Discharger. Staff replied by recommending an in-person meeting between the Discharger and Staff. Staff met with the Discharger and his agent, Mr. Severdia, on October 4, 2022, during which Staff clarified the requirements of the Cleanup and Abatement Order and attempted to encourage the Discharger to comply with the required actions. The Discharger explained that he did not think the cost of hiring a qualified professional was justified by the conditions on the Property. Moreover, the Discharger was concerned that he would need to remove the reservoir to comply with the Cleanup and Abatement Order, which he did not want to do. Staff explained that the Discharger would need to engage a qualified professional to assess the Property to know what the full scope of work would entail.
17. On October 6, 2022, the Discharger's agent sent an email acknowledging that Staff had listened to and considered the Discharger's concerns. However, the Discharger was still undecided about whether he would comply with the Cleanup and Abatement Order, largely due to the Discharger's concern that he would need to

remove his reservoir. Staff replied on October 7, 2022 by clarifying that the Cleanup and Abatement Order does not specifically prohibit a reservoir on the Property; however, he would need to propose a solution that complied with the State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State, as specified in the Cleanup and Abatement Order. Prosecution Team staff also informed the Discharger of the option to request an extension of the deadlines in the Cleanup and Abatement Order if he intended to comply but needed accommodations from the Regional Water Board.

18. On October 10, 2022, the Discharger's agent sent an email explaining that he did not think it would be reasonable for him to tacitly agree with the Cleanup and Abatement Order since he did not feel it was reasonable and, therefore, the Discharger would not ask for an official extension of the deadline contained in the order. However, the Discharger asked Staff to use their prosecutorial discretion while the Discharger arranged for a qualified professional to conduct a limited assessment of the reservoir on his Property. The Discharger explained that he would decide whether to comply with the Cleanup and Abatement Order following the results of this assessment.
19. On October 14, 2022, Staff replied noting that the Discharger had already missed the May 1, 2022 deadline to submit a proposed CRMP and that the October 15, 2022 deadline to complete implementation of an approved CRMP was approaching. Staff explained that the Discharger risked additional potential administrative civil liability if he failed to comply with these deadlines, and recommended that the Discharger engage his qualified professionals to come up with a plan to fully address the elements of a proposed CRMP required under the Cleanup and Abatement Order. Staff offered not to recommend formal enforcement if the Discharger retained a qualified professional and submitted a plan and schedule to fully comply with the Cleanup and Abatement Order by November 15, 2022.
20. On November 10, 2022, the Discharger's agent emailed Staff a letter, which did not propose a CRMP that would fully comply with the Cleanup and Abatement Order. Instead, the Discharger requested that Staff negotiate a compromise that would allow for a lower level of compliance and attempted to distinguish the Discharger's actions from those of other parties previously subject to administrative civil liability by highlighting the Discharger's numerous and lengthy written communications to Staff.
21. On November 16, 2022, Staff replied to the Discharger explaining that Staff does not have the authority to approve deviations from the Cleanup and Abatement Order because any modifications of the requirements or extensions to the deadlines would need to be submitted in writing with adequate justification and approved by the Executive Officer. Staff also explained that, although the Discharger's case may differ in some regards to other cases, the Regional Water Board's Assistant Executive Officer may nevertheless pursue additional enforcement if the Discharger fails to comply with the Cleanup and Abatement Order. Staff clarified that they would need a phone call or letter from a qualified professional stating that they had

been contracted to develop a complete CRMP to confirm that the Discharger intended to comply with the Cleanup and Abatement Order and forego a recommendation for additional enforcement.

22. On December 8, 2022, Staff transmitted a second NOV to the Discharger for failure to complete implementation of corrective actions pursuant to an approved CRMP by October 15, 2022, as required under Required Action 4 of the Cleanup and Abatement Order. The December 8, 2022 NOV also reiterated the Discharger's continued violation of Required Action 1 and informed the Discharger that days of violation would continue to accrue until a proposed CRMP is submitted and approved.
23. On December 30, 2022, the Discharger's agent emailed Staff three documents: a Response to Staff's November 16, 2022 email, a separate response to the December 8, 2022 NOV, and a timeline describing the Discharger's communications with Staff. The submitted documents did not propose a plan or timeline for complying with the Cleanup and Abatement Order, but instead argued that the Order was not justified. To date, Staff has not received a CRMP for review and approval, nor has the Discharger completed implementation of an approved CRMP.
24. The Penalty Methodology for this Complaint, included as Attachment A, provides the details of these violations and the factors considered in developing the recommended administrative civil liability.

ALLEGED VIOLATIONS

25. **Violation 1:** The Prosecution Team alleges that the Discharger violated Water Code section 13267 by failing to submit a proposed CRMP for approval by the Regional Water Board or its delegated officer by May 1, 2022, as required under Required Action 1 of the Cleanup and Abatement Order.
26. **Violation 2:** The Prosecution Team alleges that the Discharger violated Water Code section 13304 by failing to complete implementation of an approved CRMP by October 15, 2022, as required under Required Action 4 of the Cleanup and Abatement Order.

WATER CODE AUTHORITY FOR IMPOSING ADMINISTRATIVE CIVIL LIABILITY

27. Water Code section 13268 provides that the Regional Water Board may administratively impose civil liability to any person who fails to submit technical or monitoring reports, as required under Water Code section 13267, in an amount not to exceed one thousand dollars (\$1,000) for each day in which the violation occurs.
28. Water Code section 13350, subdivision (a), states, in relevant part:

A person who violates a cleanup and abatement order issued, reissued, or amended by a regional board or the State Water Board may be liable civilly, and remedies may be proposed, in accordance with subdivision (e).

29. Water Code section 13350, subdivision (e), states:

(1) The Regional Water Board may administratively impose civil liability in an amount not to exceed five thousand dollars (\$5,000) for each day the violation occurs...

(B) When there is no discharge, but an order issued by the Regional Water Board is violated, except as provided in subdivision (f), the civil liability shall not be less than one hundred dollars (\$100) for each day in which the violation occurs.

30. Water Code section 13350, subdivision (f), states that the Regional Water Board shall not administratively impose civil liability in accordance with paragraph (1) of subdivision (e) in an amount less than the minimum amount specified, unless the Regional Water Board makes express findings setting forth the reasons for its action based upon the specific factors required to be considered pursuant to Water Code section 13327.

31. Pursuant to Water Code section 13327, in determining the amount of any civil liability imposed, a regional board is required to take into account the nature, circumstances, extent, and gravity of the violations, whether the discharges are susceptible to cleanup or abatement, the degree of toxicity of the discharges, and, with respect to the violator, the ability to pay, the effect on its ability to continue its business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violations, and other matters that justice may require.

WATER QUALITY ENFORCEMENT POLICY

32. On April 4, 2017, the State Water Board adopted Resolution No. 2017-0020, which adopted the 2017 Water Quality Enforcement Policy (2017 Enforcement Policy). The 2017 Enforcement Policy was approved by the Office of Administrative Law and became effective on October 5, 2017. The 2017 Enforcement Policy establishes a methodology for assessing administrative civil liability that addresses the factors that are required to be considered when imposing a civil liability as outlined in Water Code sections 13327 and 13385, subdivision (e).

33. The violations alleged are subject to liability in accordance with Water Code sections 13268 and 13350, respectively. Administrative civil liabilities under each of these sections are subject to the factors set forth in Water Code section 13327. The Prosecution Team has considered the required factors for the alleged violations using the methodology in the 2017 Enforcement Policy, as described in Attachment A to this Complaint.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

34. Issuance of this Complaint is an enforcement action and is therefore exempt from the provisions of the California Environmental Quality Act (Pub. Res. Code § 21000 et seq.), in accordance with California Code of Regulations, title 14, sections 15307, 15308, and 15321, subdivision (a)(2).

PROPOSED ADMINISTRATIVE CIVIL LIABILITY

35. Violation 1: The Prosecution Team proposes an administrative civil liability amount of **\$80,325** for Violation 1, as detailed in Attached A to this Complaint.
36. Violation 2: The Prosecution Team proposes an administrative civil liability of **\$344,250** for Violation 2, as detailed in Attachment A to this Complaint.
37. The total proposed administrative civil liability amount for Violations 1 and 2 is **\$424,575**. This was derived from the use of the penalty methodology in the 2017 Enforcement Policy. The total proposed administrative civil liability takes into account the factors described in Water Code section 13327, such as the Discharger's culpability, history of violations, ability to pay, and other factors as justice may require.
38. Notwithstanding the issuance of this Complaint, the Regional Water Board retains the authority to assess additional administrative civil liability for violations that have not yet been assessed or for violations that may subsequently occur.

MAXIMUM STATUTORY LIABILITY

39. Violation 1: Pursuant to Water Code section 13268, subdivision (b)(1), civil liability may be administratively imposed by the Regional Water Board on a daily basis in an amount that shall not exceed one thousand dollars (\$1,000) for each day in which the violation occurs. The Discharger has failed to submit the required CRMP for **253 days**, from May 1, 2022 to January 9, 2023. The statutory maximum liability amount for Violation 1 is \$253,000 (\$1,000/day x 253 days). The proposed administrative civil liability for Violation 1 is below the statutory maximum liability amount.
40. Violation 2: Pursuant to Water Code section 13350, subdivision (e)(1), civil liability may be administratively imposed by the Regional Water Board on a daily basis in an amount not to exceed five thousand dollars (\$5,000) for each day the violation occurs. The Discharger has failed to complete implementation of an approved CRMP for **86 days**, from October 15, 2022 to January 9, 2023. The statutory maximum liability for Violation 2 is \$430,000 (\$5,000/day x 86 days). The proposed administrative civil liability for Violation 2 is below the statutory maximum liability amount.

MINIMUM LIABILITY

41. Violation 1: The 2017 Enforcement Policy requires the Regional Water Board to recover, at a minimum, the economic benefit plus ten percent. The economic benefit for Violation 1 is estimated to be \$193. The minimum liability that may be imposed is therefore \$193 plus 10 percent (\$19), totaling **\$212**. The proposed liability for Violation 1 is above the minimum liability amount.
42. Violation 2: Pursuant to the Enforcement Policy, the Regional Water Board must recover, at a minimum \$75 for Violation 2, which reflects the estimated economic benefit plus ten percent. However, Violation 2 is also subject to a statutory minimum liability amount. Water Code section 13350, subdivision (e), provides that, “[w]hen there is no discharge, but an order issued by the regional board is violated, except as provided in subdivision (f), the civil liability shall not be less than one hundred dollars (\$100) for each day in which the violation occurs.” Because the Prosecution Team alleges this violation has occurred for 86 days, the statutory minimum liability that may be imposed for this violation is **\$8,600**. The proposed administrative civil liability for Violation 2 is above the statutory minimum liability amount.

THE DISCHARGER IS HEREBY GIVEN NOTICE THAT:

43. The Assistant Executive Officer of the Regional Water Board proposes a total administrative civil liability amount of **\$424,575** for Violations 1 and 2 based upon a review of the factors cited in Water Code section 13327 and application of the 2017 Enforcement Policy.
44. The Regional Water Board will hold a hearing on this Complaint during the Board meeting scheduled on April 6-7, 2023. The meeting is tentatively planned to occur in the town of Weed in Siskiyou County, California, at a location to be announced, or at a location posted on the [Regional Water Board's website](#), unless the Discharger does one of the following by the deadline to submit the Waiver Form (Attachment B), which will be specified in the Notice of Public Hearing and Hearing Procedures that will subsequently be issued by the Advisory Team:
 - a. The Discharger waives the right to a hearing by completing the attached Waiver Form (checking the box next to Option 1) and returning it to both the Regional Water Board Prosecution Team and Advisory Team, along with payment for the proposed administrative civil liability amount of **\$424,575**; or
 - b. The Regional Water Board Advisory Team agrees to postpone any necessary hearing after the Discharger requests a delay so that he may have additional time to prepare for the hearing or otherwise resolve this matter by checking the box next to Option 2 on the attached Waiver Form and returning it to the Regional Water Board Prosecution Team and Advisory Team, along with a letter describing the amount of additional time requested and the rationale.

45. If a hearing is held, it will be governed by the Hearing Procedures that will be provided by the Regional Water Board Advisory Team. During the hearing, the Regional Water Board will hear testimony and arguments and affirm, reject, or modify the proposed administrative civil liability, or determine whether to refer the matter to the Attorney General for recovery of judicial civil liability.
46. The Assistant Executive Officer reserves the right to amend the proposed amount of administrative civil liability to conform to the evidence presented.

Date

Claudia E. Villacorta, P.E.
Assistant Executive Officer

Attachments:

- A. Penalty Methodology
- B. Hearing Waiver Form

Attachment A
Penalty Methodology for
Administrative Civil Liability Complaint No. R1-2023-0009:
Factors Considered in Developing Recommended Civil Liability
Daniel Maldonado Suarez

This technical analysis provides a summary of factual and analytical evidence that support the findings in Administrative Civil Liability Complaint No. R1-2023-0009 (Complaint) and the recommended assessment of administrative civil liability in the amount of \$424,575. The Complaint alleges that Daniel Maldonado Suarez (the Discharger), failed to implement the requirements of the North Coast Regional Water Quality Control Board's (Regional Water Board's) Cleanup and Abatement Order and 13267 Order No. R1-2022-0016 (Cleanup and Abatement Order) at the Property located in Mendocino County at Assessor's Parcel Number (APN) 011-530-09-01.

SUMMARY OF VIOLATIONS

1. The Complaint alleges that the Discharger violated Water Code section 13267 by failing to submit a proposed Cleanup, Restoration, and Monitoring Plan (CRMP) for approval by May 1, 2022 as required under Required Action 1 in the Cleanup and Abatement Order. Water Code section 13268, subdivision (b), provides that the Regional Water Board may impose civil liability administratively in response to violations of section 13267 in an amount of up to one thousand dollars (\$1,000) per day of violation. As of January 9, 2023, the CRMP is 253 days late, and the Discharger is subject to liability of up to \$253,000 pursuant to Water Code section 13268, subdivision (b). **As described below, the Prosecution Team recommends administrative civil liability in the amount of eighty thousand three hundred and twenty-five dollars (\$80,325) for this violation.**

2. The Complaint alleges that the Discharger violated Water Code section 13304 by failing to complete implementation of corrective actions pursuant to an approved CRMP by October 15, 2022, as required under Required Action 4 in the Cleanup and Abatement Order. Water Code section 13350 provides that persons who violate cleanup and abatement orders are subject to civil liability of up to five thousand dollars (\$5,000) per day of violation, with a minimum of one hundred dollars (\$100) per day where no discharge occurs but a cleanup and abatement order has been violated. As of January 9, 2023, the Discharger has been in violation of this requirement for 86 days, and is subject to liability of up to \$430,000, with a statutory minimum liability amount of \$8,600, pursuant to Water Code section 13350, subdivision (e). **As described below, the Prosecution Team recommends administrative civil liability in the amount of three hundred forty-four thousand two hundred and fifty dollars (\$344,250) for this violation.**

PENALTY METHODOLOGY

The State Water Resources Control Board's *Water Quality Enforcement Policy*¹ ("Enforcement Policy") establishes a methodology for determining administrative civil liability by addressing the factors that must be considered under Water Code section 13327 and/or 13385, subdivision (e), depending on the violations. As the violations alleged in the Complaint are enforceable under Water Code sections 13268 and 13350, the proposed liability must take into consideration the factors specified in Water Code section 13327, specifically:

"the nature, circumstance, extent, and gravity of the violation or violations, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, and, with respect to the violator, the ability to pay, the effect on ability to continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters as justice may require."

Each factor of the Enforcement Policy's ten-step approach is discussed below, as is the basis for assessing the corresponding score and proposed administrative civil liability amount.

The violations alleged here involve: (1) failure to comply with the Water Code section 13267 reporting directive; and (2) failure to implement cleanup actions pursuant to a cleanup and abatement order issued by the Regional Water Board. These are "non-discharge violations" for purposes of the Enforcement Policy penalty methodology.

Step 1. Actual Harm or Potential for Harm for Discharge Violations

Enforcement Policy Step 1 is only applicable to discharge violations, which are not alleged in the Complaint.

Step 2. Per Gallon and Per Day Assessments for Discharge

Enforcement Policy Step 2 is only applicable to discharge violations, which are not alleged in the Complaint.

Step 3. Per Day Assessment for Non-Discharge Violations

The Enforcement Policy provides that "[t]he Water Boards shall calculate an initial liability factor for each non-discharge violation, considering Potential for Harm and the extent of deviation from applicable requirements. These violations include, but are not limited to, failure to conduct routine monitoring and reporting, failure to provide required

¹ The Enforcement Policy can be found at:
https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2017/040417_9_final%20adopted%20policy.pdf

information, and the failure to prepare and implement required plans. While all non-discharge violations harm or undermine the Water Boards' regulatory programs and compromise the Water Boards' ability to perform their statutory and regulatory functions, some non-discharge violations have the potential to directly or indirectly impact beneficial uses and should result in more serious consequences."

To determine the initial liability factor for each violation, the Water Boards use the matrix set forth in Table 3 of the Enforcement Policy to determine a per-day assessment factor for each violation. The matrix considers the potential for harm resulting from the violation, and the deviation from the applicable requirement. Each of these can be "Minor," "Moderate," or "Major."

Potential for Harm: The Potential for Harm categories are as follows:

- *Minor – The characteristics of the violation have little or no potential to impair the Water Boards' ability to perform their statutory and regulatory functions, present only a minor threat to beneficial uses, and/or the circumstances of the violation indicate a minor potential for harm.*
- *Moderate – The characteristics of the violation have substantially impaired the Water Boards' ability to perform their statutory and regulatory functions, present a substantial threat to beneficial uses, and/or the circumstances of the violation indicate a substantial potential for harm. Most non-discharge violations should be considered to present a moderate potential for harm.*
- *Major – The characteristics of the violation have wholly impaired the Water Boards' ability to perform their statutory or regulatory functions, present a particularly egregious threat to beneficial uses, and/or the circumstances of the violation indicate a very high potential for harm. Non-discharge violations involving failure to comply with directives in cleanup and abatement orders, cease and desist orders, and investigative orders, involving reports relating to impaired water bodies and sensitive habitats, should be considered major.*

(Enforcement Policy, page 16)

Violation 1: The CRMP required by the Cleanup and Abatement Order is a technical report that is necessary to (1) assess impacts to waters of the state resulting from earthwork involved in the unauthorized construction/reconstruction of the reservoir and greenhouses used for cannabis cultivation at the Property; (2) determine the appropriate restoration and abatement work to correct those impacts; and (3) create and implement a plan per an approved implementation schedule that will guide the scope of work to clean up and abate the discharges and threat of discharge on the Property. By requiring the Discharger to submit a proposed CRMP for approval, the Regional Water Board or its delegated officer has the opportunity to review and approve the scope of the proposed restoration and corrective actions to confirm that the proposed work will adequately remediate site conditions and prevent sediment

discharges from further impacting beneficial uses of sensitive water bodies. By failing to submit a CRMP for approval, the Discharger has wholly impaired the Regional Water Board's ability to perform its regulatory functions. Additionally, the impacted waterbodies intended to be addressed through the CRMP are impaired and contain sensitive habitats. The federal Clean Water Act section 303, subdivision (d), list identifies the Middle Main Fork Eel River as impaired due to elevated sedimentation/siltation, and its tributaries are listed as impaired due to elevated temperature. On December 31, 2005, the U.S. Environmental Protection Agency approved Total Maximum Daily Loads (TMDL) for temperature and sediment for the Middle Main Fork Eel River and its tributaries. The TMDL indicates that the cold freshwater habitat is the most sensitive of beneficial uses in the watershed. A number of aquatic species are sensitive to increases in sediment and temperature including the Southern Oregon Northern California coast coho salmon and the Northern California coast summer steelhead, which occupy the Middle Main Eel River, specifically the Spy Rock Hydrologic Subarea in which the Property is located. The impacts on the property leading to increased water temperature and fine sediment have the potential to exacerbate these impairments in the sensitive fish habitat downstream. Therefore, the Potential for Harm for Violation 1 is **Major**.

Violation 2: The Discharger failed to complete implementation of the cleanup, restoration, or monitoring work required to be contained in an approved CRMP. Implementation of an approved CRMP was required under the Cleanup and Abatement Order to mitigate damages resulting from previous discharges of sediment and to prevent future discharges from occurring. To date, no CRMP has been submitted or approved and thus no work can be implemented in accordance with an approved plan. The conditions of concern that the Cleanup and Abatement Order was designed to address continue to exist on the Property. By failing to complete implementation of the cleanup, restoration, and monitoring work required to be contained in an approved CRMP, the Discharger has wholly impaired the Regional Water Board's ability to perform its statutory and regulatory functions. As previously stated, the impacted waterbodies intended to be addressed through the CRMP are impaired and contain sensitive habitats. As stated above, the federal Clean Water Act section 303, subdivision (d), list identifies the Middle Main Fork Eel River as impaired due to elevated sedimentation/siltation, and its tributaries are listed as impaired due to elevated temperature. On December 31, 2005, the U.S. Environmental Protection Agency approved Total Maximum Daily Loads (TMDL) for temperature and sediment. The TMDL indicates that the cold freshwater habitat is the most sensitive of beneficial uses in the watershed. A number of aquatic species are sensitive to increases in sediment and temperature including the Southern Oregon Northern California coast coho salmon and the Northern California coast summer steelhead, which occupy the Middle Main Eel River and its tributaries, specifically the Spy Rock Hydrologic Subarea in which the Property is located. Therefore, the Potential for Harm for Violation 2 is **Major**.

Deviation from Requirement: The Deviation from Requirement categories are as follows:

- *Minor – The intended effectiveness of the requirement remained generally intact (e.g., while the requirement was not met, its intended effect was not materially compromised).*
- *Moderate – The intended effectiveness of the requirement was partially compromised (e.g., the requirement was not met, and the effectiveness of the requirement was only partially achieved).*
- *Major – The requirement was rendered ineffective (e.g., the requirement was rendered ineffective in its essential functions).*

(Enforcement Policy, page 16)

Violation 1: The deviation from the requirement to submit a proposed CRMP by the deadline contained in the Cleanup and Abatement Order is **Major**. Although the Discharger indicated that he had contacted a qualified professional to conduct a limited assessment of the Property, the Discharger has made no attempt to submit a proposed CRMP for approval, rendering the requirement ineffective in its essential functions.

Violation 2: The deviation from the requirement to complete implementation of corrective actions in an approved CRMP by the deadline contained in the Cleanup and Abatement Order is **Major**. The Discharger has failed to correct the conditions of actual or threatened discharge described in the Cleanup and Abatement Order pursuant to an approved CRMP, thus rendering the requirement ineffective in its essential functions.

Per Day Factors:

Violation 1: Utilizing a Potential for Harm score of **Major** and Deviation from Requirement score of **Major**, Staff selected a Per Day Factor of 0.85 for Violation 1, consistent with Table 3 on page 16 of Enforcement Policy.

Violation 2: Utilizing a Potential for Harm score of **Major** and Deviation from Requirement score of **Major**, Staff selected a Per Day Factor of 0.85 for Violation 2, consistent with Table 3 on page 16 of Enforcement Policy.

Initial Liability Amounts: The initial liability amount for Violation 1 and 2 are calculated on a per-day basis as follows:

Violation 1: Per-Day Liability (253 (days) x 0.85 (per day factor) x \$1,000 (statutory maximum per day liability)) = **\$215,050**

Violation 2: Per-Day Liability (86 (days) x 0.85 (per day factor) x \$5,000 (statutory maximum per day liability)) = **\$365,500**

Step 4. Adjustment Factors

Under this step, the initial liability amount for each violation is adjusted by factors addressing multiple day violations and the violator's conduct.

Multiple Day Violations

The Enforcement Policy advises that "for violations that are assessed a civil liability on a per day basis and do not constitute a single operational upset, the initial liability amount should be assessed for each day up to thirty (30) days. For violations that last more than thirty (30) days, the daily penalty assessment can be less than the calculated daily assessment, provided that it is no less than the per day economic benefit, if any, resulting from the violation. For these cases, the Regional Water Board must make express findings that the violation:

- a. Is not causing daily detrimental impacts to the environment and is not causing daily detrimental impacts to the regulatory program;
- b. Results in no discrete economic benefit from the illegal conduct that can be measured on a daily basis; or,
- c. Occurred without the knowledge or control of the violator, who therefore did not take action to mitigate or eliminate the violation.

If one of the above findings is made, an alternate approach to penalty calculation for multiple day violations may be used. In these cases, the liability shall not be less than an amount that is calculated based on an assessment of the initial Total Base Liability Amount for the first 30 days of the violation, plus an assessment for each 5-day period of violation until the 60th day, plus an assessment for each 30 days of violation thereafter. Staff determined that neither Violation 1 nor Violation 2 resulted in discrete economic benefit that can be measured on a daily basis. Therefore, applying the alternative approach to penalty calculation, Staff recommends collapsing the number of days for which administrative civil liability shall be assessed as follows:

Violation 1: Full collapsing of days from 253 days to 42 days. Therefore, the adjusted Initial Liability Amount for Violation 1 becomes **\$35,700** (42 (days) x 0.85 (per day factor) x \$1,000 (statutory maximum per day liability)).

Violation 2: Full collapsing of days from 86 days to 36 days. Therefore, the adjusted Initial Liability Amount for Violation 2 becomes **\$153,000** (36 (days) x 0.85 (per day factor) x \$5,000 (statutory maximum per day liability)).

Violator's Conduct: There are three additional factors to be considered for modification of the amount of initial liability: the violator's culpability, efforts to clean up or cooperate with regulatory authority, and the violator's compliance history.

Culpability:

This factor assesses a discharger's degree of culpability prior to the violation. The Enforcement Policy provides that "[h]igher liabilities should result from intentional or negligent violations" as opposed to accidental violations. A multiplier between 0.75 and 1.5 is to be used, with a higher multiplier for intentional misconduct or gross negligence, a lower multiplier for more simple negligence, and a neutral assessment of 1.0 where a discharger is determined to have acted as a reasonable and prudent person would have.

Violation 1: At the time of the inspection, the Discharger was conducting unlicensed commercial cannabis cultivation on the Property. Commercial cannabis cultivators are required to maintain the Property where cultivation is occurring consistent with the Cannabis Policy, and with the Water Code generally. Due to observed discharges and threats of discharge on the Property, the Regional Water Board issued the Cleanup and Abatement Order to ensure the Property was adequately remediated. Upon issuance of the Cleanup and Abatement Order, a reasonable and prudent person would have made efforts to comply with the requirement to submit a proposed CRMP for approval and communicate these efforts to the Regional Water Board. The Discharger's conduct fell below that of a reasonable and prudent person. The Discharger was aware of the requirement to submit a proposed CRMP under the Cleanup and Abatement Order; however, instead of taking steps to meaningfully engage with Staff, the Discharger submitted multiple correspondence to Staff that were combative and intended to contest the validity of the Cleanup and Abatement Order, even after Staff informed the Discharger that he had exhausted his options to challenge the order. These actions constitute an intentional violation of Required Action 1; thus, a value of **1.5** is appropriate for this violation.

Violation 2: Similarly, after issuance of the Cleanup and Abatement Order, a reasonable and prudent person would have timely completed implementation of a CRMP upon approval. As previously stated, the Discharger's failure to submit a CRMP for approval fell short of what would be expected of a reasonable and prudent person. The Discharger was informed through the issuance of the Cleanup and Abatement Order on March 17, 2021, and in the July 26, 2022 NOV, that approval of a proposed CRMP was required prior to implementation of corrective actions. Nevertheless, the Discharger did not submit a plan or obtain approval, thereby precluding his ability to complete implementation of the corrective actions contained in an approved plan by the deadline contained in the Cleanup and Abatement Order. The Discharger has continued to contest the Regional Water Board's authority to require the cleanup, particularly as it relates to the onstream reservoir. These actions constitute an intentional violation of Required Action 4; thus, a value of **1.5** is appropriate for Violation 2.

History of Violations:

The Enforcement Policy advises that "[w]here the discharger has no prior history of violations, this factor should be neutral, or 1.0. Where the discharger has prior violations within the last five years, the Water Boards should use a multiplier of 1.1. Where the

discharger has a history of similar or numerous dissimilar violations, the Water Boards should consider adopting a multiplier above 1.1.”

Violations 1 and 2: There are no previous orders requiring the Discharger to take actions or assessing administrative civil liability against the Discharger for previous violations within the last five years. Accordingly, a neutral factor of **1.0** is used for both violations.

Cleanup and Cooperation: This factor assesses voluntary efforts to cleanup and/or to cooperate with regulatory agencies in returning to compliance after the violation. The Enforcement Policy states that the cleanup and cooperation multiplier ranges from 0.75 to 1.5, with a lower multiplier where there is exceptional cleanup and cooperation compared to what can reasonably be expected, and a higher multiplier where there is not. A reasonable and prudent response to a discharge violation or timely response to a Regional Water Board order should receive a neutral adjustment as it is assumed a reasonable amount of cooperation is the warranted baseline.

Violation 1: After the Discharger failed to comply with the May 1, 2022 deadline to submit a proposed CRMP, Staff sent the Discharger a NOV on July 26, 2022, informing him of the violation and the risk of administrative civil liability for continued noncompliance. Between August and November, Staff exchanged multiple correspondence with the Discharger and his agent and participated in an in-person meeting to discuss the requirements of the Cleanup and Abatement Order. Although the Discharger’s agent emailed Staff indicating that the Discharger was hiring a qualified professional to visit the Property, the Discharger did not confirm the full scope of work that would be performed by the consultant. Rather, the email included statements indicating that a CRMP would not be provided that contained all of the required elements detailed in Required Action 1 of the Cleanup and Abatement Order. To date, Staff has not received a proposed CRMP for review. The Discharger has routinely responded to Staff correspondence; however, the Discharger’s communications with Staff have, at times, been confrontational and counterproductive. The Discharger continues to question the Regional Water Board’s authority and the validity of the Cleanup and Abatement Order despite exhausting all avenues for administrative and judicial review of the order. Due to the Discharger’s ongoing failure to correct the violation and cooperate with Regional Water Board Staff, a score of **1.5** has been assessed for Violation 1.

Violation 2: After the Discharger failed to comply with the October 15, 2022 deadline to complete implementation of the corrective actions required in an approved CRMP, Staff attempted to work with the Discharger towards compliance with the Cleanup and Abatement Order. Staff offered not to recommend formal enforcement if the Discharger retained a qualified professional and submitted a plan and schedule to fully comply with the Cleanup and Abatement Order by November 15, 2022. Despite the opportunity to submit a CRMP that could be approved and subsequently implemented, the Discharger failed to do so and remains in violation of the requirement to complete implementation of an approved CRMP. Staff issued a NOV to the Discharger on December 8, 2022

documenting the ongoing days of violation and potential administrative civil liability. Although the Discharger provided a response to the NOV on December 30, 2022, the response reiterated the Discharger's previous challenges to the Regional Water Board's authority and the basis of the Cleanup and Abatement Order. The response did not provide any indication that the Discharger is making progress towards complying with the order. Due to the Discharger's ongoing failure to correct the violation and cooperate with the Regional Water Board staff, a score of **1.5** has been assessed for Violation 2.

Step 5. Determination of Total Base Liability Amount

The Total Base Liability is determined by adding the amounts above for each violation, including any adjustment for multiple day violations. Depending on the statute controlling the liability assessment for a violation, the liability can be assessed as either a per day penalty, a per gallon penalty, or both.

The Total Base Liability amount for Violations 1 and 2 is calculated on a per-day basis as follows:

Violation 1: \$35,700 (Initial Liability after collapsing days) x 1.5 (Culpability Factor) x 1.0 (History of Violations Factor) x 1.5 (Cleanup and Cooperation Factor) = **\$80,325**

Violation 2: \$153,000 (Initial Liability after collapsing days) x 1.5 (Culpability Factor) x 1.0 (History of Violations Factor) x 1.5 (Cleanup and Cooperation Factor) = **\$344,250**

Total Base Liability Amount: \$80,325 + \$344,250 = \$424,575

Step 6. Ability to Pay and Continue in Business

The Enforcement Policy provides that "[i]f the Water Boards have sufficient financial information necessary to assess the violator's ability to pay the Total Base Liability Amount or to assess the effect of the Total Base Liability Amount on the violator's ability to continue in business, the Total Base Liability Amount may be adjusted to address the ability to pay or to continue in business. The ability of a discharger to pay is determined by its income (revenues minus expenses) and net worth (assets minus liabilities)."

The Discharger owns the Property, which has an assessed value of \$53,122. Property transaction records indicate that the Property was purchased in 2020 for cash, which suggests that the Property likely has no mortgage or other financial encumbrances. The Discharger jointly owns three properties in Sonoma County in addition to the Property, and the total assessed value of the four properties based on County Tax Assessor records is \$519,864. The Regional Water Board does not have information about the Discharger's revenues or liabilities that would further inform his ability to pay. Based on the information available, Staff proposes no adjustment to the Total Base Liability Amount.

Step 7. Economic Benefit

The Enforcement Policy requires that the adjusted Total Base Liability Amount be at least 10 percent higher than any economic benefit realized by the Discharger.

For **Violation 1**, the cost of preparing a CRMP (i.e., field inspection and report preparation) is comparable to the cost of preparing a combined Site Management Plan, Site Erosion and Sediment Control Plan, and a Disturbed Area Stabilization Plan, as presented in the State Water Resources Control Board, October 2017, Direct Cost Analysis for the Proposed Cannabis Cultivation Policy (2017 Direct Cost Analysis)², which is estimated to cost between \$4,860 and \$14,120.

Although the Discharger will still need to submit a proposed CRMP for approval, he has not done so yet, so the costs estimated above are considered delayed. Using the EPA BEN model, staff determined the economic benefit from delayed expenditures associated with Violation 1. Staff identified the midpoint in the estimated range of plan cost of \$9,490 as a one-time non-depreciable expenditure, \$0 in capital investment, and \$0 in annual recurring costs with a noncompliance date of the May 1, 2022 deadline and an estimated compliance date of April 7, 2023, the anticipated hearing date. The resulting economic benefit from delaying the plan expenditures is \$193.

For **Violation 2**, implementation of the corrective actions required to be contained in an approved CRMP would require Waste Discharge Requirements or a Water Quality Certification from the Regional Water Board that would require a one-time application fee of \$2,734. Without the Discharger having completed the assessment required to develop the CRMP under the Cleanup and Abatement Order, it is difficult to estimate what the cost will be to complete implementation of the corrective actions; therefore, Staff has not included implementation costs in the economic benefit analysis.

Although the Discharger will still be required to complete implementation of an approved CRMP, he has not done so yet, so the costs estimated above are considered delayed. Using the EPA BEN model to determine the economic benefit from delayed expenditures associated with Violation 2, Staff identified the permit application cost of \$2,734, and estimated implementation cost of \$0 as a one-time non-depreciable expenditure, \$0 in capital investment, and the \$0 in annual recurring fees with a noncompliance date of the October 15, 2022 deadline and an estimated compliance date of October 15, 2023, based on the current wet season, lack of an approved CRMP, and length of time provided in the Cleanup and Abatement Order to complete implementation following approval of the CRMP. The resulting economic benefit from delaying the permit application fees is \$68.

² The 2017 Direct Cost Analysis is available at:
https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/20171017_cannabis_cultivation_policy_cost_analysis.pdf

Based on the foregoing analysis, the total economic benefit estimated for Violations 1 and 2 is \$261. Consistent with the Enforcement Policy, the Total Base Liability Amount must be at least ten percent higher than the economic benefit derived from the violations. Economic benefit plus ten percent is calculated to be $\$261 + \$26 = \$287$ in this instance, which the Total Base Liability Amount exceeds.

Step 8. Other Factors as Justice May Require

The Enforcement Policy states that “[i]f the Water Board believes that the amount determined using the above factors is inappropriate, the amount may be adjusted under the provision for ‘other factors as justice may require,’ but only if express findings are made to justify this adjustment.” The Regional Water Board may exercise its discretion to include some of the costs of investigation and enforcement in the total administrative civil liability. Although the Regional Water Board has incurred staff costs associated with investigation and enforcement of the alleged violations, Staff has exercised its discretion to not include such costs in the proposed liability amount.

Step 9. Maximum and Minimum Liability Amounts

The Enforcement Policy requires the Regional Water Board to consider the maximum and minimum liability amounts that may be assessed for each violation. For all violations, the applicable statute sets a maximum liability amount. For some violations, the statute also establishes a minimum liability amount. The maximum and minimum liability amounts for each violation must be determined for comparison to the liability amounts proposed.

Violation 1: Pursuant to Water Code section 13268, subdivision (b)(1), civil liability may be administratively imposed by the Regional Water Board in an amount that shall not exceed one thousand dollars (\$1,000) for each day in which the violation occurs. The Complaint alleges this violation occurred for 253 days. Accordingly, the statutory maximum liability amount that can be imposed for this violation is \$253,000. Water Code section 13268 does not impose a minimum liability amount; however, the Enforcement Policy requires the Regional Water Board to recover, at a minimum, the economic benefit derived from this violation plus ten percent. As previously stated, Staff calculated the economic benefit of Violation 1 to be \$193. Therefore, the minimum liability that can be imposed is \$193 plus ten percent (\$19) totaling \$212. The proposed liability for Violation 1 falls within the minimum and maximum liability amounts.

Violation 2: Pursuant to Water Code section 13350, subdivision (e)(1), civil liability may be administratively imposed by the Regional Water Board on a daily basis in an amount that shall not exceed five thousand dollars (\$5,000) for each day the violation occurs. The Complaint alleges this violation occurred for 86 days. Accordingly, the statutory maximum liability amount that can be imposed for this violation is \$430,000. Water Code section 13350, subdivision (e)(1)(B), further provides that, “[w]hen there is no discharge, but an order issued by the regional board is violated, except as provided in subdivision (f), the civil liability shall not be less than one hundred dollars (\$100) for each day in which the violation occurs.” Accordingly, the statutory minimum liability

amount that can be imposed for Violation 2 is \$8,600. The proposed liability for Violation 2 falls within the statutory maximum and minimum liability amounts.

Step 10. Final Liability Amount:

The final liability amount consists of the added amounts for each violation, with any allowed adjustments, provided the amounts are within the statutory minimum and maximum amounts.

Violation 1: After full collapsing of days from 253 days to 42 days, the liability amount for Violation 1 is calculated as 42 (days) x 0.85 (per day factor) x \$1,000 (statutory maximum per day liability) x 1.5 (Culpability Factor) x 1.0 (History of Violations Factor) x 1.5 (Cleanup and Cooperation Factor) = **\$80,325**.

Violation 2: After full collapsing of days from 86 days to 36 days, the liability amount for Violation 2 is calculated as 36 (days) x 0.85 (per day factor) x \$5,000 (statutory maximum per day liability) x 1.5 (Culpability Factor) x 1.0 (History of Violations Factor) x 1.5 (Cleanup and Cooperation Factor) = **\$344,250**.

After adding the amount for Violation 1 (\$80,325) and Violation 2 (\$344,250), the Final Liability Amount is calculated to be **four hundred twenty-four thousand, five-hundred and seventy-five dollars (\$424,575)**.

North Coast Regional Water Quality Control Board

WAIVER FORM FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT

By signing this waiver, I affirm and acknowledge the following:

I am duly authorized to represent Daniel Maldonado Suarez (hereinafter Discharger) in connection with Administrative Civil Liability Complaint No. R1-2023-0009 (hereinafter Complaint). I am informed that California Water Code section 13323, subdivision (b), states that, “a hearing before the regional board shall be conducted within 90 days after the party has been served with the complaint. The person(s) who have been issued a complaint may waive the right to a hearing.”

- OPTION 1: Check here if the Discharger waives the hearing requirement and will pay the liability in full.**
- a. I hereby waive any right the Discharger may have to a hearing before the North Coast Regional Water Quality Control Board (Regional Water Board).
 - b. I certify that the Discharger will remit payment for the proposed civil liability in the full amount of **four hundred twenty-four thousand, five-hundred and seventy-five dollars (\$424,575)** by submitting a check that references “ACL Complaint No. R1-2023-0009” made payable to the State Water Pollution Cleanup and Abatement Account and mailed to Attn: ACL Payment Accounting Office, P.O. Box 1888, Sacramento, California, 95812-1888, with a copy of the check sent to the Regional Water Board at northcoast@waterboards.ca.gov within 30 days from the date on which this waiver is executed.
 - c. I understand the payment of the above amount constitutes a proposed settlement of the Complaint, and that any settlement will not become final until after a 30-day public notice and comment period. Should the Regional Water Board receive significant new information or comments from any source (excluding the Regional Water Board’s Prosecution Team) during this comment period, the Regional Water Board’s Assistant Executive Officer may withdraw the Complaint, return payment, and issue a new Complaint. I understand that this proposed settlement is subject to approval by the Regional Water Board, and that the Regional Water Board may consider this proposed settlement in a public meeting or hearing. I also understand that approval of the settlement will result in the Discharger having waived the right to contest the allegations in the Complaint and the imposition of civil liability.
 - d. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.

- OPTION 2: Check here if the Discharger waives the 90-day hearing requirement in order to extend the hearing date and/or hearing deadlines. Attach a separate sheet with the amount of additional time requested and the rationale.**

- a. I hereby waive any right the Discharger may have to a hearing before the Regional Water Board within 90 days after service of the Complaint. By checking this box, the Discharger requests that the Regional Water Board delay the hearing and/or hearing deadlines so that the Discharger may have additional time to prepare for the hearing or otherwise resolve this matter. It remains within the discretion of the Regional Water Board to approve the extension.

Daniel Maldonado Suarez

(Print Name)

(Signature)

(Date)