

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401**

**ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R3-2023-0050
IN THE MATTER OF:
JSM ORGANICS, INC.
EL RANCHO TRIPLE M**

**AGRICULTURAL IRRIGATED LANDS
MONTEREY COUNTY**

(GEOTRACKER GLOBAL ID# AGL020037144)

This Administrative Civil Liability Complaint (Complaint) is issued to JSM Organics, Inc.¹ (referred to as Discharger) by the Assistant Executive Officer of the California Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board) on behalf of the Prosecution Team (collectively Parties) pursuant to California Water Code sections (Water Code) 13268 and 13323. This Complaint proposes imposing an administrative civil liability of \$49,415 based on evidence that the Discharger violated provisions of the California Water Code by failing to submit required monitoring and technical report for El Rancho Triple M ranch (Global ID: AGL020037144) located in Monterey County.

The Assistant Executive Officer of the Central Coast Water Board alleges the following:

Background

1. Irrigated agricultural discharges have been regulated by the Central Coast Water Board for over 15 years, since the adoption of the first agricultural order in 2004.² On April 15, 2021, the Central Coast Water Board adopted the fourth Agricultural Order General Waste Discharge Requirements for Discharges from Irrigated Lands

¹ The electronic Notice of Intent (eNOI) submitted for the relevant ranch identified the permittee as "jsm organics." However, based on publicly available information, the Central Coast Water Board determined the correct entity name is "JSM Organics Inc."

² The first agricultural order was adopted on July 9, 2004, Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands Order No. R3-2004-0117 (Agricultural Order 1.0). Agricultural Order 1.0 expired on July 9, 2009, and the Central Coast Water Board renewed Agricultural Order 1.0 several times (Order No. R3-2009-0050 on July 9, 2009; Order No. R3-2010-0040 on July 8, 2010; Order No. R3-2011-0208 on March 29, 2011; Order No. R3-2011-0017 on September 30, 2011). The second Agricultural Order was adopted on March 15, 2012, Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands Order No. R3-2012-0011 (Agricultural Order 2.0). The third Agricultural Order was adopted on March 8, 2017, Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands Order No. R3-2017-0002 (Agricultural Order 3.0).

Order No. R3-2021-0040 (Agricultural Order).³ The Agricultural Order requires that owners and operators of irrigated lands on or from which there are discharges of waste that could affect the quality of any surface water or groundwater in the central coast region comply with the Agricultural Order. The Discharger's ranch occurs in a Disadvantaged Community Block, as determined by the online census mapping tool provided by the State Water Resources Control Board at <https://gis.water.ca.gov/app/dacs/>. The ranch is in an area where domestic wells (serving less than five connections) and five state small water systems (serving between 5 and 15 connections) may be at a relatively higher risk of accessing groundwater that does not meet primary drinking water standards. And the ranch is located adjacent to Carneros Creek which is on the 2020-2022 303(d) list as impaired for ammonia, chlorophyll-a, chlorpyrifos, copper, DDE (Dichlorodiphenyldichloroethylene), E. coli, nitrate, organophosphate pesticides, dissolved oxygen, pH, and turbidity.

2. Pursuant to Water Code section 13267, the Agricultural Order required operators and landowners of irrigated land used for commercial crop production to submit Total Nitrogen Applied reports (TNA Reports) annually by March 1.
3. On February 14, 2020, the Discharger submitted an electronic Notice of Intent (eNOI) and enrolled El Rancho Triple M (Ranch ID AGL020037144) under Agricultural Order 3.0. The Discharger (and all associated ranches) were automatically enrolled under subsequent adopted Agricultural Orders. El Rancho Triple M was required to report TNA for the 2021 TNA reporting period (January 1, 2021 to December 31, 2021). The ranch eNOI stated El Rancho Triple M was comprised of 65 acres of commercial irrigated land on Monterey County Assessor's Parcel Number 181-251-001-000.
4. On July 27, 2022, the Central Coast Water Board issued a notice of violation to the Discharger for failure to submit the 2021 TNA Report required by the Agricultural Order via First Class Mail for all three ranches. On December 13, 2022, Central Coast Water Board staff sent the notice of violation via Certified Mail because the Discharger did not respond to the July 27, 2022 notice of violation. Certified mail receipts signed by Javier Zamora were received on December 22, 2022. In addition to issuance of the notice of violation, Central Coast Water Board staff conducted the following outreach with growers, including the Discharger, regarding the requirement to submit TNA Reports:
 - a. E-mails on December 15, 2021, January 12, 2022, and February 16, 2022, reminding growers to submit the 2021 TNA Report due on March 1, 2022.
 - b. E-mail on March 29, 2022, notifying growers of their failure to submit 2021 TNA Report.

³ A copy of the Agricultural Order is available at:
https://www.waterboards.ca.gov/centralcoast/water_issues/programs/ilp/regulatory_information.html

5. On February 6, 2023, the Central Coast Water Board Prosecution Team issued a letter notifying the Discharger of the forthcoming assessment of administrative civil liabilities. The letter provided the Discharger with the opportunity to contact the Prosecution Team and discuss the matter. The Prosecution Team did not receive a response from the Discharger. Certified mail receipts signed by Javier Zamora were received on March 2, 2023.

Alleged Violation

6. California Water Code section 13267 confers to a regional board the authority to investigate state water quality and the authority to require a discharger or suspected discharger to submit technical or monitoring reports. The Prosecution Team alleges that the Discharger failed to submit the 2021 TNA Report by the March 1, 2022 due date set forth in the Agricultural Order. The Discharger's failure to submit the 2021 TNA Report subjects them to administrative civil liability under Water Code section 13268.

Calculation of Penalties Under Water Code Section 13268

7. Water Code section 13268 states, in relevant part:
 - (a)(1) Any person failing or refusing to furnish technical or monitoring program reports as required by subdivision (b) of section 13267 . . . is guilty of a misdemeanor, and may be liable civilly in accordance with subdivision (b).
 - (b)(1) Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with section 13323) of Chapter 5 for a violation of subdivision (a) in an amount which shall not exceed one thousand dollars (\$1,000) for each day in which the violation occurs.

Proposed Administrative Civil Liability

8. Pursuant to Water Code section 13327, in determining the amount of any civil liability imposed, the Central Coast Water Board is required to take into account the nature, circumstances, extent, and gravity of the violation, 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.
9. On April 4, 2017, the State Water Board adopted Resolution No. 2017-0020 amending the Enforcement Policy. The Enforcement Policy was approved by the Office of Administrative Law and became effective on October 5, 2017. The Enforcement Policy establishes a methodology for assessing administrative civil liability. The use of this methodology addresses the factors that are required to be considered when imposing a civil liability as outlined in Water Code section 13327.

10. The 2021 TNA Report is 508 days late as documented in Attachment A and, thus, the maximum penalty for the violations is \$508,000. The Enforcement Policy requires that the minimum liability imposed be at least 10% higher than the estimated economic benefit of \$98, so that liabilities are not construed as the cost of doing business and that the assessed liability provides a meaningful deterrent to future violations. In this case, the economic benefit amount, plus 10%, is \$108. The economic benefit analysis is provided in Attachment B. Based on consideration of the above facts and after applying the penalty methodology and allowing for staff costs pursuant to the Enforcement Policy, the Assistant Executive Officer of the Central Coast Water Board proposes that civil liability be imposed administratively on the Discharger in the amount of \$49,415. The specific factors considered in this penalty are discussed in detail in Attachment A, which is incorporated herein.

Regulatory Considerations

11. Notwithstanding the issuance of this Complaint, the Central Coast Water Board retains the authority to assess additional penalties for violations which have not yet been assessed or for violations that may subsequently occur.
12. An administrative civil liability may be imposed pursuant to the procedures described in Water Code section 13323. An administrative civil liability complaint alleges the act or failure to act that constitutes a violation of law, the provision of law authorizing administrative civil liability to be imposed, and the proposed administrative civil liability.

California Environmental Quality Act

13. Issuance of this Complaint to enforce Water Code Division 7, Chapter 5.5 is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000 et seq.), in accordance with California Code of Regulations, title 14, section 15321(a)(2).

THE DISCHARGER IS HEREBY GIVEN NOTICE THAT:

1. The Central Coast Water Board's Prosecution Team proposes an administrative civil liability in the amount of forty-nine thousand four hundred and fifteen dollars (\$49,415). The amount of the proposed civil liability is based upon a review of the factors cited in Water Code section 13327, as well as the Enforcement Policy, and includes consideration of the economic benefit or savings resulting from the violations. If this matter proceeds to hearing, the Prosecution Team reserves the right to seek an increase in the civil liability amount to cover the costs of enforcement incurred subsequent to the issuance of this administrative civil liability complaint through hearing.
2. A hearing on this matter will be conducted by the Central Coast Water Board at a hearing scheduled on October 19 - 20, 2023, unless the Discharger waives the hearing by completing the Waiver Form included with this Complaint and returning it

to the Central Coast Water Board, along with payment for the proposed civil liability of forty-nine thousand four hundred and fifteen dollars (\$49,415) by August 21, 2023. The payment will be held until a 30-day public comment period on the proposed civil liability is held.

3. If a hearing before the Central Coast Water Board is held, the board may choose to impose an administrative civil liability in the amount proposed or for a different amount, decline to seek civil liability, or refer the matter to the Attorney General to have a Superior Court consider enforcement.
4. There are no statutes of limitations that apply to administrative proceedings. The statutes of limitations that refer to “actions” and “special proceedings” and are contained in the California Code of Civil Procedure apply to judicial proceedings, not an administrative proceeding. See *City of Oakland v. Public Employees’ Retirement System* (2002) 95 Cal. App. 4th 29, 48; 3 Witkin, Cal. Procedure (4th ed. 1996) Actions, section 405(2), p. 510. In any event, this matter has been pursued through enforcement at multiple points as described herein.
5. Payment of the assessed liability amount does not absolve the Discharger from complying with the Agricultural Order, the terms of which remain in effect. Additional civil liability may be assessed in the future if the Discharger fail to comply with the Agricultural Order and/or future orders issued by the Central Coast Water Board.

Signed:

for Thea S. Tryon
Assistant Executive Officer

Attachments:

Attachment A: ACL Complaint No. R3-2023-0050, Penalty Calculation Methodology

Attachment B: ACL Complaint No. R3-2023-0050, Economic Benefit Analysis

ATTACHMENT A

FACTOR CONSIDERATION AND PENALTY CALCULATION METHODOLOGY FOR ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R3-2023-0050

JSM ORGANICS, INC.
EL RANCHO TRIPLE M

AGRICULTURAL IRRIGATED LANDS
MONTEREY COUNTY

(GEOTRACKER GLOBAL ID# AGL020037144)

This document provides details on the proposed administrative civil liability penalty methodology related to JSM Organics, Inc. referred to as “Discharger,” for failure to submit the 2021 Total Nitrogen Applied Report (TNA Report) for El Rancho Triple M ranch (GeoTracker Global Identifier AGL020037144) by the annual March 1 deadline. The California Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board) Prosecution Team derived the proposed administrative civil liability by following the State Water Resources Control Board’s (State Water Board) 2017 Water Quality Enforcement Policy (Enforcement Policy), which was adopted on April 4, 2017, and became effective on October 5, 2017.¹ The proposed administrative civil liability takes into account such factors as the Discharger’s culpability, cooperation in returning to compliance, ability to pay the proposed liability, and other factors as justice may require.

Application of the State Water Board’s Enforcement Policy

The Enforcement Policy establishes a methodology for assessing administrative civil liability. Use of the methodology addresses the factors in California Water Code (Water Code) section 13327, which require the Central Coast Water Board to consider several factors when determining the amount of civil liability to impose, including “...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 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 violation, and other matters that justice may require.”

The Prosecution Team developed the proposed administrative civil liability based on the procedures included in the Enforcement Policy methodology. The steps used to calculate the proposed liability are discussed and summarized in the table below.

¹ Link to State Water Board 2017 Enforcement Policy:
https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2017/040417_9_final%20adopted%20policy.pdf

Regulatory Basis of Alleged Violation and Proposed Liability

The Central Coast Water Board regulates discharges from irrigated agricultural lands to protect surface water and groundwater by requiring enrollment in General Waste Discharge Requirements for Discharges from Irrigated Lands Order No. R3-2021-0040 (Agricultural Order).² The Discharger is enrolled in the Agricultural Order. The Discharger has failed to submit the 2021 TNA Report for El Rancho Triple M ranch by March 1, 2022, a violation of Agricultural Order Monitoring and Reporting Program section B.1.

Failure to submit the 2021 TNA Report is a violation of Water Code section 13267. Pursuant to Water Code section 13268, subdivision (b), a violation of a Water Code section 13267 requirement subjects the Discharger to administrative civil liability up to \$1,000 per day for each day in which the violation occurs.

In the table below, the Central Coast Water Board Prosecution Team presents the procedural steps used to calculate the proposed liability for failure to submit the 2021 TNA Report for El Rancho Triple M.

² A copy of the Agricultural Order is available at:
https://www.waterboards.ca.gov/centralcoast/water_issues/programs/ilp/regulatory_information.html

Attachment A
 ACL Complaint No. R3-2023-0050
 JSM Organics, Inc.

PENALTY CALCULATION METHODOLOGY STEPS	VALUE	DISCUSSION
Step 1 – Actual or Potential for Harm for Discharge Violations	Not applicable	This step is not applicable because this is not a discharge violation.
Step 2 – Assessments for Discharge Violations	Not applicable	This step is not applicable because this is not a discharge violation.
Step 3 – Per Day Assessments for Non-Discharge Violations	<p>Potential for Harm – Moderate</p> <p>Deviation from Requirement – Major</p> <p>Per Day Factor for Non-Discharge Violation – 0.55</p> <p>Initial Liability Amount – \$279,400</p>	<p>The per day assessment for non-discharge violations considers potential for harm and the extent of deviation from applicable requirements. Failing to submit a TNA Report substantially impairs the Central Coast Water Board’s ability to perform its regulatory functions, because the Central Coast Water Board uses TNA Reports to assess threats to water quality and compliance with Agricultural Order requirements. Therefore, a moderate potential for harm score is appropriate. Failing to submit the TNA Report also rendered the requirements ineffective in its essential function. Therefore, a major deviation from requirement is appropriate. Table 3 in the Enforcement Policy (page 16) is used to determine the initial penalty factor for a violation. Based on the potential for harm and the deviation from requirement determinations, a per day factor for a non-discharge violation of 0.55 is appropriate.</p> <p>The days of violation are alleged from March 1, 2022 to July 21, 2023 (508 days). The Prosecution Team calculated days of violation up to the date of issuance of this complaint on July 21, 2023.</p> <p>The initial liability amount is calculated by multiplying the days of violation by the per day factor for non-discharge violations (0.55) by the statutory maximum liability pursuant to Water Code section 13268 (\$1,000 per day of violation).</p>

Attachment A
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PENALTY CALCULATION METHODOLOGY STEPS	VALUE	DISCUSSION
		Initial liability amount: 508 days x 0.55 x \$1,000 per day = \$279,400
Step 4 – Adjustment Factors (Conduct Factors)	Degree of Culpability – 1.3	A discharger’s degree of culpability is determined by evaluating what a reasonable and prudent person would have done or not done under similar circumstances. This Adjustment Factor should result in a multiplier between 0.75 and 1.5 , with a higher multiplier for intentional misconduct and gross negligence, and a lower multiplier for more simple negligence. The Discharger failed to submit the 2021 TNA Report, as required by the Agricultural Order, despite the Central Coast Water Board sending numerous reminders, a notice of violation, and a follow-up letter. Despite multiple written communications including a pre-issuance letter, there has been no response from Discharger that would allow us to resolve this matter in any way, including settlement, termination of coverage, or otherwise. Because the Discharger’s failure to submit this report on time demonstrates, at best, a negligent deviation from the standard of care, a score of 1.3 is appropriate.
Step 4 – Adjustment Factors (Conduct Factors)	History of Violations – 1.0	Where the discharger has no prior history of violations, this factor should be neutral, or 1.0. The Discharger has a history of not submitting reports. However, there has not been formal enforcement for those missing reports. Therefore, this factor remains neutral at 1.0 .
Step 4 – Adjustment Factors (Conduct Factors)	Cleanup and Cooperation – 1.3	The Cleanup and Cooperation Adjustment Factor is determined by evaluating the discharger’s voluntary efforts to cleanup and/or cooperate with regulatory authorities in returning to compliance. This Adjustment Factor should result in a multiplier between 0.75 to 1.5 , using the lower multiplier where there is exceptional cleanup and cooperation compared to what can reasonably be expected, and higher multiplier where there is not. To date, the Discharger has not submitted the missing TNA Report, therefore, a score of 1.3 is appropriate.

PENALTY CALCULATION METHODOLOGY STEPS	VALUE	DISCUSSION
Step 4 – Adjustment Factors (Multiple Day Violations)	Multiple Day Violations – 50 days	For violations that last more than 30 days, the daily assessment can be less than the calculated daily assessment, provided it is no less than the per day economic benefit, if any, resulting from the violation. For these cases, the Central Coast 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. The violation is not causing daily detrimental impacts to the environment and is not causing daily detrimental impacts to the regulatory program. Therefore, the Prosecution Team has collapsed the number of days of violation for purposes of settlement from 508 days to 50 days.
Step 5 – Determination of Total Base Liability Amount	Total Base Liability Amount – \$46,475	After each of the above factors is considered for the violation, the applicable factors are multiplied by the initial liability amount proposed for the violation considering the adjusted number of days of violation to determine the total base liability amount for the violation. $50 \text{ days} \times 0.55 \times \$1,000 \times 1.3 \times 1.0 \times 1.3 = \$46,475.$
Step 6 – Ability to Pay and Ability to Continue in Business	Ability to pay and continue in business – No adjustment	The ability to pay and to continue in business must be considered when assessing administrative civil liability. The Prosecution Team finds that the Discharger has the ability to pay the proposed liability. El Rancho Triple M Ranch consists of 65 acres of strawberries, cauliflower, and broccoli, which are valued at \$93,049, \$8,475, and \$7,949 per acre, respectively, according to the Monterey County 2021 Crop Report. Assuming that the total acreage is split between the three crop types equally, the estimated annual crop value of the operation is $(21 \text{ acres} \times \$93,049) + (22 \text{ acres} \times \$8,475) + (22 \text{ acres} \times \$7,949)$ equals \$2.3 million.

Attachment A
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PENALTY CALCULATION METHODOLOGY STEPS	VALUE	DISCUSSION
Step 7 – Economic Benefit	Economic Benefit Amount - \$98	The economic benefit is any savings or monetary gain derived from the act or omission that constitutes the violation. Using the United States Environmental Protection Agency’s (USEPA) BEN Model Version 2022.0.0 revised June 2022, the economic benefit was calculated to be \$98. This represents the cost the discharger saved by not submitting the 2021 TNA Report. In this instance, the economic benefit does not capture any value to the regulatory system of information expected from this report.
Step 8 – Other Factors as Justice May Require	Other factors as justice may require – \$2,940	The costs of investigation and enforcement are “other factors as justice may require” and could be added to the liability amount. The Central Coast Water Board has incurred over \$2,940 in staff costs associated with the investigation and enforcement of the alleged violation. No attorney or management staff costs were included in this calculation.
Step 9 – Maximum and Minimum Liability Amounts	Minimum Liability – \$108 Maximum Liability – \$508,000	<u>Minimum Liability</u> : \$108 (economic benefit plus 10 percent) <u>Maximum Liability</u> : \$508,000 (\$1,000 per day per violation under Water Code section 13268)
Step 10 – Final Liability Amount	Final Liability Amount – \$49,415	Based on the foregoing analysis, and consistent with the Enforcement Policy, the final proposed Administrative Civil Liability is the sum of the Total Base Liability Amount (\$46,475) and other factors as justice may require (staff costs of \$2,940) totaling \$49,415. The Final Liability Amount is between the Minimum and Maximum Liability Amounts.

ATTACHMENT B

ECONOMIC BENEFIT ANALYSIS FOR Administrative Civil Liability ORDER No. R3-2023-0050

JSM ORGANICS, INC. EL RANCHO TRIPLE M AGRICULTURAL IRRIGATED LANDS MONTEREY COUNTY

(GEOTRACKER GLOBAL ID# AGL020037144)

This document provides details on the proposed administrative civil liability economic benefit analysis related to JSM Organics, Inc. (Discharger) for failure to submit the 2021 Total Nitrogen Applied Report (TNA Report) for El Rancho Triple M (GeoTracker Global Identifier AGL020037144) by the annual March 1 deadline. The California Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board) Prosecution Team derived the economic benefit by following the State Water Resources Control Board's (State Water Board) 2017 Water Quality Enforcement Policy (Enforcement Policy), which was adopted on April 4, 2017, and became effective on October 5, 2017.¹ The economic benefit analysis considers actions required to comply with a permit or order, how often these actions are required, what actions should have been taken to avoid the violation, whether the actions are avoided or simply delayed, and an estimate of costs.

The benefit of non-compliance was calculated using United States Environmental Protection Agency's BEN Model Version 2022.0 revised June 2022. The inputs and assumptions for the violation are as follows:

1. Per information from the California Secretary of State, the Discharger is a "Corporation" under Entity identification number C3728536, as such, the tax schedule for "C = Corporation" was used for this analysis.
2. According to the General Waste Discharge Requirements for Discharges from Irrigated Lands Order No. R3-2021-0040 (Agricultural Order),² Attachment A, Finding 82.c dated April 15, 2021, TNA tracking and reporting is estimated to cost between approximately \$8.97 and \$23.22 per acre over the course of five years. Using the lower value and averaging it over a five-year period, the cost to prepare the TNA Report is assumed to be \$1.79 per acre per year.

¹ Link to State Water Board 2017 Enforcement Policy:
https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2017/040417_9_final%20adopted%20policy.pdf

² A copy of the Agricultural Order is available at:
https://www.waterboards.ca.gov/centralcoast/water_issues/programs/ilp/regulatory_information.html

Attachment B
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JSM Organics, Inc.

3. El Rancho Triple M comprises 65 acres per the electronic Notice of Intent submittal. As such, total costs to prepare the TNA report is \$116.
4. The expenditure type is assumed to occur once and is non-depreciable.
5. The cost basis assumes labor costs only.
6. Date of non-compliance is March 1, 2022, the date which the TNA Report was due.
7. Date of compliance is July 21, 2023, the issuance date of the complaint. Since the Discharger has not submitted the 2021 TNA Report, the costs are considered “avoided.”
8. For computational purposes, the penalty payment date was established as November 18, 2023, representing thirty days after the Central Coast Water Board hearing date of October 19, 2023.

Based on specific assumptions within the model, the total economic benefit of non-compliance was determined to be \$98. This represents the costs the Discharger saved by not submitting the TNA Report. The Enforcement Policy states that the total liability shall be at least 10% higher than the economic benefit, “so that liabilities are not construed as the cost of doing business and the assessed liability provides meaningful deterrent to future violations.” Therefore, the minimum total liability associated with the economic benefit is \$108.