

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R5-2025-0524
IN THE MATTER OF

THOMAS G. ATWOOD, CYPRESS ABBEY COMPANY, AND EDDIE AXNER
CONSTRUCTION, INC.
2023 STORMS 16565 REEDS CREEK ROAD EMERGENCY REPAIR PROJECT
TEHAMA COUNTY

This Administrative Civil Liability Complaint (Complaint) is issued by the Central Valley Regional Water Quality Control Board (Central Valley Water Board) Assistant Executive Officer to Thomas G. Atwood, Cypress Abbey Company, and Eddie Axner Construction, Inc (collectively "Dischargers") pursuant to California Water Code section 13350, which authorizes the imposition of administrative civil liability, and Water Code section 13323, which authorizes the Assistant Executive Officer to issue this Complaint. This Complaint is based on evidence that the Dischargers violated terms of the certification of the 2023 Storms 16565 Reeds Creek Road Emergency Repair Project (Project) under State Water Resources Control Board General Water Quality Certification SB18054IN for emergency repair and replacement activities at 16565 Reeds Creek Road (Site).

**THE ASSISTANT EXECUTIVE OFFICER OF THE CENTRAL VALLEY REGIONAL
WATER QUALITY CONTROL BOARD (CENTRAL VALLEY WATER BOARD OR
BOARD) ALLEGES THE FOLLOWING:**

BACKGROUND

1. On 25 January 2023, the Central Valley Water Board received a Notice of Intent (NOI) listing Discharger Mr. Atwood as Applicant for certification of the "2023 Storms 16565 Reeds Creek Road Emergency Repair Project" (Project) under State Water Resources Control Board Water Quality Order 2018-0025-EXEC for emergency repair and replacement activities conducted under the U.S. Army Corps of Engineers Regional General Permit 8 (RGP 8). Although the NOI lists Discharger Mr. Atwood as property owner, Cypress Abbey Company is the actual title owner of the property located at 16565 Reeds Creek Road in Tehama County. Mr. Atwood is the Chief Executive Officer, Chief Financial Officer, and Secretary of Cypress Abbey Company. The NOI designates Chris Manteiga of Eddie Axner Construction, Inc. as the Project contact. The NOI includes a description of the project coordinates and maps describing the specific project area.
2. Discharges regulated under Section 401 General Water Quality Certification SB18054IN are also regulated pursuant to State Water Board Water Quality Order No. 2003-0017-DWQ, which authorizes Water Quality Order 2018-0025-EXEC to

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serve as Waste Discharge Requirements pursuant to the Porter-Cologne Water Quality Control Act (Wat. Code, § 13000 et seq.).

3. The Central Valley Water Board issued a Notice of Applicability to Tom Atwood on 27 January 2023 for authorization of the Project under Section 401 General Water Quality Certification SB18054IN for RGP 8 (WDID No. 5A52CR00226). The NOA authorized work at two different locations: Site 1 located at latitude 40.17544, longitude -122.42652 and Site 2 located at latitude 40.17479, longitude -122.42263. The authorized work and project impacts (0.08 total acres) were limited only to those approved work areas identified in the Notice of Intent and NOA; permitted work consisted of the placement of 270 total cubic yards of riprap within the bed, bank and channel of unnamed tributaries to Liza Creek at Site 1 and Site 2 as identified in the NOI and NOA. The NOA authorizing the emergency work specifically states, "The Project will be conducted with heavy equipment that will not enter the tributary below the ordinary high water mark."
4. Central Valley Water Board staff inspected the Project site on 8 February 2023, 10 February 2023, and 13 March 2023.
5. On 8 February 2023, Central Valley Water Board staff (staff) inspected the site. During the inspection, staff documented unauthorized ground-disturbing activities conducted within two unnamed tributaries of Liza Creek, outside the project area described in the NOI and NOA, including construction of access routes, placement of riprap, recontouring of bank slopes, and grading of the bed of the tributaries. During the inspection, staff documented threatened waste discharges from the active grading operations occurring within the bed and banks of the unnamed tributaries to Liza Creek. Staff observations are summarized in an inspection report dated 8 February 2023.
6. On 8 February, staff communicated to Eddie Axner Construction, Inc. staff that a portion of the work was outside the project area approved in the NOA, and thus unauthorized, and that no equipment was authorized to enter the tributary.
7. On 10 February 2023, staff conducted a follow-up inspection of the site. United States Army Corps of Engineers staff also participated in the inspection. Staff documented additional placement of riprap, recontouring of bank slopes, and grading of the bed of the unnamed tributaries. An excavator was also observed in the bottom of the unnamed tributary. Staff observations are summarized in an inspection report dated 10 February 2023.
8. On 23 February 2023, Pat Robinson of Eddie Axner Construction, Inc. requested authorization from U.S. Army Corps of Engineers to apply erosion control best management practices to all affected areas of the job site "in order to not have any more erosion control problems in repaired areas." On 27 February 2023, U.S. Army Corps of Engineers authorized the installation of erosion control measures

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at the site. Documentation of installation was provided by Pat Robinson on 13 March 2023, including photographs taken on 3 March 2023.

9. On 13 March 2023, staff inspected the site to observe recently installed erosion control measures, with some failure and lack of maintenance observed during the inspection. Water quality samples were collected to measure turbidity levels in the unnamed tributary downstream of the Site 1 project area and at an upstream location outside of the influence of the project area; measurements indicated an increase of 75.7 Nephelometric Turbidity Units in the downstream sample compared to the upstream background sample. Samples were not collected within the Site 2 tributary because the tributary was dry. Staff observations are summarized in an inspection report dated 13 March 2023.
10. On 12 May 2023, the Central Valley Water Board issued a Notice of Violation (NOV) to Tom Atwood and Eddie Axner Construction, Inc. that documented numerous violations of Section 401 General Water Quality Certification SB18054IN stemming from Eddie Axner Construction, Inc's work based on observations made during inspections conducted on 8 February 2023, 10 February 2023 and 13 March 2023. Violations generally stemmed from erosion and sediment discharges resulting from construction of access routes, placement of riprap, recontouring of bank slopes, and grading of the bed of the unnamed tributaries.
11. The Central Valley Water Board issued Cleanup and Abatement Order (CAO) R5-2023-0704 on 23 October 2023, requiring the Dischargers to implement Best Management Practices (BMPs) for erosion and sediment control, and submit a Site Assessment and a proposed Restoration Mitigation and Monitoring Plan (RMMP) by 10 November 2023 for review and approval by the Board. The CAO required the Dischargers to complete the measures described in the approved RMMP by 15 February 2024.
12. The Dischargers' representatives submitted a draft Site Assessment on 11 October 2023. Central Valley Water Board staff (Staff) subsequently met with the Dischargers and the Dischargers' representatives on 2 November 2023 to discuss staff comments on the draft Site Assessment, necessary revisions prior to finalization, and the required contents of the RMMP. Staff issued a letter to the Dischargers on 3 November 2023 with detailed comments on the draft Site Assessment.
13. The Dischargers submitted a final Site Assessment to the Central Valley Water Board on 7 November 2023 and submitted an RMMP on 10 November 2023. On 11 December 2023, Staff issued detailed comments to the Dischargers regarding the RMMP, including required contents that were deficient in the plan and needed to be addressed. Emails submitted by the Dischargers' representative, Steven Kerns, to the Central Valley Water Board on 22 January 2024 and 20 February 2024 conveyed that a second draft of the RMMP was in the process of being finalized to incorporate

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the Central Valley Water Board's comments but was pending a break in the weather to obtain necessary field calculations.

14. On 26 March 2024, Staff issued comments to the Dischargers regarding the Site Assessment and requested the submittal of a revised Site Assessment by 12 April 2024 to address deficiencies based on the requirements in the CAO.
15. On 27 March 2024, Staff issued a letter to the Dischargers with a requirement to submit a revised RMMP by 19 April 2024 to prevent further liability; the letter made clear that the original deadline for submittal of the RMMP was not being extended.
16. On 4 April 2024, Steven Kerns submitted an amendment to the Site Assessment in the form of an email with a site survey map attached to the email. On 18 April 2024, Steven Kerns submitted a revised RMMP in the form of an email and subsequently submitted a signed cover letter on 20 April 2024.
17. Following review of the revised Site Assessment and RMMP, Staff determined that both required documents remained incomplete, and Staff issued a Notice of Violation for failure to comply with the CAO on 21 May 2024.
18. The Dischargers submitted a revised Site Assessment and RMMP on 13 June 2024, which documents that the Discharger graded the tributary bed and recontoured bank slopes at Site 1, which resulted in unauthorized discharges and threatened discharges of sediment to receiving waters as a result of the unauthorized grading activities. Rock fill material was discharged to armor the stream bank within several unpermitted areas. An estimated 110.21 cubic yards (i.e., 2,976 cubic feet) or 22,258 gallons of fill material was discharged to an unnamed tributary of Liza Creek.
19. The Central Valley Water Board deemed the Site Assessment and RMMP complete on 15 August 2024. The Dischargers have subsequently begun implementing the RMMP actions.

ALLEGED VIOLATION

20. The Prosecution Team alleges that the Dischargers violated waste discharge requirements set forth in the Notice of Approval for the Project, which was issued under Water Quality Order 2018-0025-EXEC, by conducting activities outside the scope of the Notice of Approval which resulted in the discharge of waste into waters of the state. Specifically, the Dischargers violated Condition IX.D.10 of Order 2018-0025-EXEC by conducting project activities outside of the plans, specifications, and reports submitted in the Notice of Intent.

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LEGAL AND REGULATORY CONSIDERATIONS

21. Project approvals issued under Water Quality Order 2018-0025-EXEC are enforceable as waste discharge requirements under the Porter-Cologne Water Quality Control Act (Wat. Code § 13000 et seq.) pursuant to State Water Board Water Quality Order No. 2003-0017-DWQ. Condition IX.D.

22. Water Code section 13350, subdivision (a) states, in relevant part:

A person who ... (2) in violation of a waste discharge requirement, waiver condition, certification, or other order or prohibition issued, reissued, or amended by a regional board or the state board, discharges waste, or causes or permits waste to be deposited where it is discharged, into the waters of the state ... shall be liable civilly, and remedies may be proposed, in accordance with subdivision (e).

23. Water Code section 13350, subdivision (e) states, in relevant part:

The state board or a regional board may impose civil liability administratively pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 either on a daily basis or on a per gallon basis, but not on both... (2) The civil liability on a per gallon basis shall not exceed ten dollars (\$10) for each gallon of waste discharged.

24. Water Code section 13327 states, in relevant part:

In determining the amount of civil liability, the regional board ... shall take into consideration 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.

WATER QUALITY ENFORCEMENT POLICY

25. On 4 April 2017, the State Water Board adopted Resolution No. 2017-0020, which adopted the 2017 Water Quality Enforcement Policy (2017 Enforcement Policy).¹ The 2017 Enforcement Policy became effective on 5 October 2017, upon approval by the

¹ The [2017 Enforcement Policy](https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2017/040417_9_final%20adopted%20policy.pdf) is available at:
(https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2017/040417_9_final%20adopted%20policy.pdf)

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Office of Administrative Law. The 2017 Enforcement Policy establishes a methodology for assessing administrative civil liability pursuant to Water Code section 13327. The use of this methodology addresses the factors that are required to be considered when imposing a civil liability.

26. On 5 December 2023, the State Water Board adopted Resolution No. 2023-0043 amending the Water Quality Enforcement Policy (2024 Enforcement Policy).² The 2024 Enforcement Policy became effective on 7 November 2024, upon approval by the Office of Administrative Law.
27. Because the violations here occurred while the 2017 Enforcement Policy was in effect, that Policy governs the penalty calculation methodology. However, because this Complaint is issued after the adoption of the 2024 Enforcement Policy, the template hearing procedures provided in the 2024 Enforcement Policy apply to any hearing proceedings for this matter.
28. In determining the proposed liability amount, the Prosecution Team utilized the 2017 Enforcement Policy in effect at the time of each violation, as noted in Attachment A to this Complaint, hereby incorporated by reference.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

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

PROPOSED ADMINISTRATIVE LIABILITY AMOUNT

30. The Prosecution Team proposes an administrative civil liability of \$60,096, as detailed in Attachment A to this Complaint. The proposed administrative civil liability takes into account the factors cited in Water Code section 13327.
31. Payment of the assessed liability amount does not absolve the Discharger from complying with CAO R5-2023-0704. Notwithstanding issuance of this Complaint, the Central Valley Water Board retains the authority to assess additional civil liabilities for violations which have not yet been assessed or for violations that may subsequently occur.

² The [2024 Enforcement Policy](https://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/2024/2024-enforcement-policy.pdf) is available at:
(https://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/2024/2024-enforcement-policy.pdf).

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MAXIMUM LIABILITY

32. Pursuant to Water Code section 13350, subdivision (e), the statutory maximum administrative civil liability for the Violation is \$1,000 per day of violation or \$10 per gallon of discharge. The Prosecution Team proposes to assess liability on a per-gallon basis. The Prosecution Team alleges that the discharge totaled 22,258 gallons. Thus, the statutory maximum liability is \$222,580.

MINIMUM LIABILITY

33. The 2017 Enforcement Policy requires the Regional Board to recover, at a minimum, the economic benefit plus ten percent. The economic benefit for the alleged Violation is approximately \$6,092. The minimum liability permitted under the 2017 Enforcement Policy is the economic benefit amount plus ten percent, which is equal to \$6,701.

THE DISCHARGER IS HEREBY GIVEN NOTICE THAT:

34. The Assistant Executive Officer of the Central Valley Water Board proposes an administrative civil liability amount of **\$60,096**. The amount of the proposed administrative civil liability is based upon review of the factors cited in Water Code section 13327, as well as the 2017 Enforcement Policy.
35. A hearing on this matter will be conducted by the Central Valley Water Board on 21 or 22 August, 2025, unless the Discharger does any of the following by the deadline to submit the Hearing Waiver Form identified in the Hearing Procedure. The Hearing Procedures are Attachment B to this Complaint. The Hearing Waiver Form is Attachment C to this Complaint
- a. The Discharger waives the right to a hearing by checking the box next to Option #1 on the attached Waiver Form and returning it to the Central Valley Water Board, along with payment for the proposed administrative civil liability of \$60,096;
 - b. The Central Valley Water Board agrees to postpone any necessary hearing after the Discharger requests to engage in settlement discussions by checking the box next to Option #2 on the attached Waiver Form and returning it to the Central Valley Water Board; or
36. If a hearing is held, it will be governed by the attached Hearing Procedure. During the hearing, the Central Valley 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.

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37. The Assistant Executive Officer reserves the right to amend the proposed amount of administrative civil liability to conform to the evidence presented.

CLINT E. SNYDER, P.G.
Assistant Executive Officer

DATE

Attachment A: Penalty Methodology
Attachment B: Hearing Procedures
Attachment C: Hearing Waiver Form

Administrative Civil Liability Complaint R5-2025-0524

Attachment A

Penalty Calculations

Attachment A – ACL Complaint R5-2025-0524
Specific Factors Considered for Administrative Civil Liability
Thomas G. Atwood, Cypress Abbey Company, & Eddie Axner Construction, Inc.
(collectively referred to as “Dischargers”)
Assessor Parcel Numbers 022-150-013-000,
022-160-007-000 & 022-160-011-000, Tehama County

The State Water Board’s Water Quality Enforcement Policy (Enforcement Policy) establishes a methodology for determining administrative civil liability by addressing the factors that are required to be considered under California Water Code sections 13327 and 13385(e). Each factor of the ten-step approach is discussed below, as is the basis for assessing the corresponding score. The [Enforcement Policy](https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2017/040417_9_final%20adopted%20policy.pdf) can be found at: (https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2017/040417_9_final%20adopted%20policy.pdf).

SUMMARY OF VIOLATION

The ACL Complaint alleges that the Dischargers violated waste discharge requirements set forth in Water Quality Order 2018-0025-EXEC by conducting Project-related activities outside the scope of the Project area described in the Notice of Applicability for the Project, which resulted in the discharge of waste into waters of the state.

PENALTY METHODOLOGY

STEP 1 – Actual or Potential for Harm for Discharge Violations

The actual harm or potential harm to the water body’s beneficial uses caused by the violation is determined using a three-factor scoring system to quantify (1) the degree of toxicity of the discharge; (2) the actual harm or potential harm to beneficial uses; and (3) the discharge’s susceptibility to cleanup or abatement for each violation or group of violations. Because actual harm is not always quantifiable due to untimely reporting, inadequate monitoring, and/or other practical limitations, potential harm can be used under this factor.

Factor 1: The Degree of Toxicity of the Discharge

The evaluation of the degree of toxicity considers the physical, chemical, biological, and/or thermal characteristics of the discharge, waste, fill, or material involved in the violation or violations and the risk of damage the discharge could cause to the receptors or beneficial uses. A score between 0 and 4 is assigned based on a determination of the risk or threat of the discharged material, as outlined below. Evaluation of the discharged material’s toxicity should account for all the characteristics of the material prior to discharge, including, but not limited to, whether it is partially treated, diluted, concentrated, and/or a mixture of different constituents. Toxicity analysis should include assessment of both lethal and sublethal effects such as effects on growth and reproduction. Factor 2 (below) is focused on impacts or the threat of impacts to beneficial uses in specific receiving waters; whereas Factor 1 is focused on the nature

and characteristics, or toxicity of the material discharged in the context of potential impacts to beneficial uses more generally.

- 0 = Discharged material poses a negligible risk or threat to potential receptors (i.e., the chemical and/or physical characteristics of the discharged material are benign and would not impact potential receptors).
- 1 = Discharged material poses only minor risk or threat to potential receptors (i.e., the chemical and/or physical characteristics of the discharged material are relatively benign and would not likely cause harm to potential receptors).
- 2 = Discharged material poses a moderate risk or threat to potential receptors (i.e., the chemical and/or physical characteristics of the discharged material have some level of toxicity or pose a moderate level of threat to potential receptors).
- 3 = Discharged material poses an above-moderate risk or a direct threat to potential receptors (i.e., the chemical and/or physical characteristics of the discharged material exceed known risk factors or there is substantial threat to potential receptors).
- 4 = Discharged material poses a significant risk or threat to potential receptors (i.e., the chemical and/or physical characteristics of the discharged material far exceed risk factors and pose a significant threat to potential receptor uses).

Inspections conducted by Central Valley Water Board staff of the property at 16565 Reeds Creek Road in Tehama County (hereafter referred to as the "Site") on 18 February 2023, 10 February 2023, and 13 March 2023 documented ground-disturbing activities within the bed and bank of unnamed tributaries that discharged and/or threatened to discharge sediment to the tributaries. The unnamed tributaries discharge to Liza Creek, then to Reeds Creek, a tributary to the Sacramento River.

Sediment and sediment laden waters can negatively affect water clarity, plants, fish, and other aquatic species and wildlife. Suspended particles block light and affect growth of aquatic plants. It settles on the stream bottom and impacts habitat for important aquatic insects. Sediment can smother insect larvae and fish eggs, cover spawning gravels, and fill pools that would otherwise provide cooler temperature water for fish.

In addition, riprap was placed along the bottom of the tributary at Site 1. Placing riprap on the bottom of a tributary can negatively impact macroinvertebrates and prevent spawning and migration for certain life stages of fish species.

The observed threat to invertebrates, fish and wildlife was determined to be "Moderate" which is defined as "the discharge material poses a moderate risk or threat to potential receptors (i.e., the chemical and/or physical characteristics of the discharged material have some level of toxicity or pose a moderate level of threat to potential receptors). A score of **2** is assigned for this factor.

Factor 2: Actual Harm or Potential Harm to Beneficial Uses

The evaluation of the actual harm or the potential harm to beneficial uses factor considers the harm to beneficial uses in the affected receiving water body that may result from exposure to the pollutants or contaminants in the discharge, consistent with the statutory factors of the nature, circumstances, extent, and gravity of the violation(s). The Water Boards may consider actual harm or potential harm to human health, in addition to harm to beneficial uses. The score evaluates direct or indirect actual harm or potential for harm from the violation. A score between 0 and 5 is assigned based on a determination of whether the harm or potential for harm is negligible (0), minor (1), below moderate (2), moderate (3), above moderate (4), or major (5). Actual harm as used in this section means harm that is documented and/or observed. Potential harm should be evaluated in the context of the specific characteristics of the waste discharged and the specific beneficial uses of the impacted waters.

- 0 = Negligible – no actual harm or potential harm to beneficial uses.
- 1 = Minor – no actual harm and low threat of harm to beneficial uses. A score of minor is typified by a lack of observed impacts, but based on the characteristics of the discharge and applicable beneficial uses; there is potential short term impact to beneficial uses with no appreciable harm.
- 2 = Below moderate – less than moderate harm or potential harm to beneficial uses. A score of below moderate is typified by observed or reasonably expected potential impacts, but based on the characteristics of the discharge and applicable beneficial uses, harm or potential harm to beneficial uses is measurable in the short term, but not appreciable.
- 3 = Moderate – moderate harm or potential harm to beneficial uses. A score of moderate is typified by observed or reasonably expected potential impacts, but harm or potential harm to beneficial uses is moderate and likely to attenuate without appreciable medium or long term acute or chronic effects.
- 4 = Above moderate – more than moderate harm or potential harm to beneficial uses. A score of above moderate is typified by observed or reasonably expected potential significant impacts, and involves potential for actual partial or temporary restrictions on, or impairment of, beneficial uses.
- 5 = Major – high harm or threat of harm to beneficial uses. A score of major is typified by observed or reasonably expected potential significant impacts, and involves potential for or actual acute, and/or chronic (e.g., more than five day) restrictions on, or impairment of, beneficial uses, aquatic life, and/or human health.

Sediment discharged from the Site to unnamed tributaries of Liza Creek, which is tributary to the Sacramento River. Existing beneficial uses for the Sacramento River (Shasta Dam to Colusa Basin Drain) that could be impacted by the unauthorized discharge include Municipal and Domestic Supply; Agricultural Supply; Industrial Water Supply; Water Contact and other Non-contact Water Recreation; Warm Freshwater

Habitat; Cold Freshwater Habitat; Migration of Aquatic Organisms; Spawning; Wildlife Habitat and Navigation. Sediment discharges occurred on at least 3 days when work activities were being conducted below the ordinary high-water mark, during the period of 8 February 2023 through 10 February 2023. Sediment discharges were observed in the unnamed tributaries within and downstream of the Site during the 13 March 2023 inspection.

The observed harm or potential harm to beneficial uses was determined to be “Moderate” which is defined as being “typified by observed or reasonably expected potential impacts, but harm or potential harm to beneficial uses is moderate and likely to attenuate without appreciable medium or long term acute or chronic effects.” A score of **3** is assigned for this factor.

Factor 3: Susceptibility to Cleanup or Abatement

A score of 0 is assigned for this factor if the discharger cleans up 50 percent or more of the discharge within a reasonable amount of time. A score of 1 is assigned for this factor if less than 50 percent of the discharge is susceptible to cleanup or abatement, or if 50 percent or more of the discharge is susceptible to cleanup or abatement, but the discharger failed to clean up 50 percent or more of the discharge within a reasonable time. Natural attenuation of discharged pollutants in the environment is not considered cleanup or abatement for purposes of evaluating this factor.

Mr. Thomas G. Atwood and Eddie Axner Construction, Inc. (Dischargers) submitted a Restoration, Mitigation and Monitoring Plan (RMMP) on 13 June 2024, as required under Cleanup and Abatement and Water Code Section 13267 Investigative Order No. R5-2023-0704 (CAO) issued by the Central Valley Water Board on 23 October 2023; the RMMP was approved by the Central Valley Water Board on 15 August 2024.

The Restoration, Mitigation and Monitoring Plan (RMMP) allows for the removal of 47 cubic yards of large rock from Work locations (WL) WL1 and WL2, with at least 18 cubic yards of material to be used on the west bank as rock slope protection. In addition, the California Department of Fish and Wildlife (CDFW) requested all rock in the tributary bottom between WL3 through WL6 be left in place. Compliance with CDFW’s request resulted in less than 50 percent of the discharged material to be cleaned up. Absent the CDFW request, the dischargers would have cleaned up more than 50% of the discharged material. Therefore, a factor of **0** is assigned.

Final Score – “Potential for Harm”

The scores for the factors are then added to provide a Potential for Harm score for each violation or group of violations. The total score is used in the “Potential for Harm” axis for the Penalty Factor in Tables 1 and 2 (from the Enforcement Policy). The maximum score is 10 and the minimum score is 0. The Potential for Harm score was calculated as **5**.

STEP 2 – Assessments for Discharge Violations

This step addresses per gallon and per day assessments for discharge violations.

Per Gallon Assessments for Discharge Violations

Where there is a discharge, the Water Boards shall determine an initial liability amount on a per gallon basis using the Potential for Harm score and the extent of Deviation from Requirement of the violation. These factors will be used in Table 1 below to determine the Per Gallon Factor for the discharge. Except for certain high-volume discharges discussed below, the per gallon assessment would then be the Per Gallon Factor multiplied by the number of gallons subject to penalty multiplied by the maximum per gallon penalty amount allowed under the California Water Code. The Potential for Harm was calculated above and was scored as **5**.

TABLE 1 – Per Gallon Factor for Discharges

Deviation from Requirement	Potential for Harm									
	1	2	3	4	5	6	7	8	9	10
Minor	0.005	0.007	0.01	0.02	0.04	0.08	0.14	0.02	0.3	035
Moderate	0.007	0.013	0.025	0.05	0.1	0.15	0.27	0.4	0.5	0.6
Major	0.01	0.02	0.04	0.08	0.15	0.28	0.41	0.06	0.08	1.0

The Deviation from Requirement reflects the extent to which the violation deviates from the specific requirement (effluent limitation, prohibition, monitoring requirement, construction deadline, etc.) that was violated. The categories for **Deviation from Requirement** in Table 1 are defined 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). For requirements with more than one part, the Water Boards shall consider the extent of the violation in terms of its adverse impact on the effectiveness of the most significant requirement.

For this discharge, the Deviation from Requirement is considered **“Major”** because the Discharger did not comply with the conditions of the Notice of Applicability.

On 27 January 2023, Mr. Chris Manteiga of Eddie Axner Construction, Inc. contacted Lynn Coster, the Central Valley Water Board’s Water Quality Certifications Program

Manager, by phone to inquire when the certification was expected to be issued for the Project. During the conversation, Mr. Manteiga stated that since equipment would be at the Site, they planned to conduct additional bank stabilization work. Ms. Coster notified Mr. Manteiga that the work authorized under U.S. Army Corps of Engineers Section 404 Regional General Permit (RGP) 8 and the Central Valley Water Board's impending Section 401 General Water Quality Certification for RGP 8 was strictly limited to the two project areas and the scope of emergency activities identified in the respective permits, and that any additional activities would require a separate Section 401 Water Quality Certification. Dischargers dismissed Ms. Coster's direction and conducted the out-of-scope work anyway.

Table 1 of the Enforcement Policy is used to determine a "per gallon factor" based on the total score from Step 1 and the level of Deviation from Requirement. For this particular case, the factor is **0.15**. This value is multiplied by the volume of discharge and the per gallon civil liability as described below.

Fill material was discharged to an unnamed tributary of Liza Creek, as documented in the Discharger's 13 June 2024 Site Assessment Report for Atwood Ranch, Tehama County. At Site 1 the Discharger graded the tributary bed and recontoured bank slopes, which resulted in unauthorized discharges and threatened discharges of sediment to receiving waters as a result of the unauthorized grading activities. Rock fill material was discharged to armor the stream bank within several unpermitted areas. At Site 1 an estimated 110.21 cubic yards (i.e., 2,976 cubic feet) or 22,258 gallons of fill material was discharged to an unnamed tributary of Liza Creek. For the purposes of the penalty calculation, Staff is using a discharge volume of 22,258 gallons. The maximum civil liability allowed under Water Code section 13350 is \$10 per gallon discharged. The Per Gallon Assessment is calculated as $(0.15 \text{ factor from Table 1}) \times (22,258 \text{ gallons}) \times (\$10 \text{ per gallon})$. This value is **\$33,387**.

High Volume Discharges

In most cases, the Water Boards shall apply the above per gallon factor to the maximum per gallon amounts allowed under the California Water Code for the violations involved. However, the 2017 Enforcement Policy provides that a regional water board may elect to use a value between \$2.00 per gallon and \$10.00 per gallon for discharges of 100,000 gallons or more. In this case the High-Volume Discharge factor does not apply because the threshold was not reached.

Per Day Assessments for Discharge Violations

Water Code section 13350, subdivision (e) provides that a regional water board may impose civil liability either on a daily basis, or on a per gallon basis, but not both. As this Complaint proposes liability on a per gallon basis, the per-day assessment does not apply.

STEP 3 – Per Day Assessment for Non-Discharge Violation

This Step does not apply because the Central Valley Water Board does not allege non-discharge violations.

STEP 4 – Adjustment Factors

There are three additional factors to be considered for modification of the initial liability amount: the violator's culpability, efforts to clean up or cooperate with regulatory authority, and the violator's compliance history. After each of these factors is considered for the violations involved, the applicable factor should be multiplied by the proposed amount for each violation to determine the revised amount for that violation.

Degree of Culpability

Higher 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 negligent behavior. The Dischargers were given a multiplier value of **1.5** because the Dischargers did not comply with the terms of the Notice of Applicability, despite being specifically directed to do so by staff prior to undertaking the work. Staff believes that the dischargers were negligent because the Dischargers failed to exercise a degree of care which a reasonable person would exercise under similar circumstances. Further, the Dischargers were notified prior to the initiation of work that any work outside of the scope of emergency operations authorized under the Notice of Applicability would require an additional permit or modification to the existing Notice of Applicability. Dischargers dismissed Ms. Coster's direction and conducted the work without necessary permits.

Cleanup and Cooperation

This factor reflects the extent to which a discharger voluntarily cooperated in returning to compliance and correcting environmental damage. Under the 2017 Enforcement Policy, a multiplier between 0.75 and 1.5 is to be used, with a higher multiplier when there is a lack of cooperation. The Dischargers did not submit an acceptable Site Assessment or RMMP within the deadline set forth in the Cleanup and Abatement Order and made minimal effort to address Staff's detailed comments in subsequent submittals, resulting in a significant delay in the CAO process. The Dischargers have implemented Best Management Practices since 3 March 2023 to reduce the amount of sediment and fill material discharging from the Site and completed restoration activities on 22 October 2024, as described in the approved RMMP, although required monthly effectiveness monitoring is ongoing. Therefore, the Dischargers were given a multiplier value of **1.2**.

History of Violation

When there is a history of violations, the 2017 Enforcement Policy indicates a minimum multiplier of 1.1 to be used if there are any violations within the last five years. The Dischargers do not have a history of violations within the last five years, and are given a multiplier of **1.0**.

STEP 5 - Determination of Total Base Liability Amount

The Total Base Liability Amount will be determined by adding the amounts above for each violation, though this may be adjusted for multiple day violations as noted above. 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 ACL Complaint proposes penalties under Water Code section 13350, subdivision (e) provides that a regional water board may impose civil liability either on a daily basis, or on a per gallon basis, but not both. As this Complaint proposes liability on a per gallon basis, the per-day assessment does not apply.

Total Base Liability Amount for Discharge of fill material: This liability is assessed using the per gallon penalty. This portion of the Initial Liability Amount is calculated as \$33,387 x Adjustment Factors (1.5) (1.2) (1.0) and is equal to **\$60,096**.

STEP 6 - Ability to Pay and Ability to Continue in Business

The 2017 Enforcement Policy did not substantively alter the analysis for ability to pay and ability to continue in business. The 2017 Enforcement Policy did contain clarifications to this section, which have been incorporated for both violations.

If the Central Valley Water Board has 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 Central Valley Water Board has made a determination that the Discharger has the ability to pay the initial proposed liability amount for the violation, a total of **\$60,096**, based on the fact that Discharger Atwood owns a number of real properties (see Table 2 for list of properties and assessed values). The combined tax assessor value of those properties is \$22,850,176. Some or all those properties may be encumbered by loans and/or mortgages, but the exact amount of those encumbrances is unknown. However, based on the information available, the Central Valley Water Board does not believe an adjustment under this factor is warranted.

TABLE 2 – Assessed Property Values

Property APN	County	Listed Owner	Assessed Value
008-392-260	San Mateo	Cypress Abbey Co	\$3,369,426
010-421-020	San Mateo	Cypress Abbey Co	\$4,358,845
011-440-020	San Mateo	Cypress Abbey Co	\$967,492
018-352-008-000	Sonoma	Thomas Galt Atwood	\$564,016
020-120-005-000	Sonoma	Cypress Abbey Co	\$5,805,945
021-080-017-000	Tehama	Cypress Abbey Co	\$112,686
022-150-004-000	Tehama	Cypress Abbey Co	\$70,295
022-150-007-000	Tehama	Cypress Abbey Co	\$20,634
022-150-009-000	Tehama	Cypress Abbey Co	\$16,207
022-150-011-000	Tehama	Cypress Abbey Co	\$69,631
022-150-013-000	Tehama	Cypress Abbey Co	\$312,846
022-160-007-000	Tehama	Cypress Abbey Co	\$295,300
022-160-011-000	Tehama	Cypress Abbey Co	\$390,412
022-190-002-000	Tehama	Cypress Abbey Co	\$69,693
022-190-003-000	Tehama	Cypress Abbey Co	\$73,193
022-200-001-000	Tehama	Cypress Abbey Co	\$69,693
053-100-004-000	Sonoma	Cypress Abbey Co	\$1,408,573
053-130-001-000	Sonoma	Cypress Abbey Co	\$198,297
053-130-015-000	Sonoma	Cypress Abbey Co	\$600,910
053-130-014-000	Sonoma	Cypress Abbey Co	\$985,491
053-130-016-000	Sonoma	Cypress Abbey Co	\$582,882
053-220-035-000	Sonoma	Cypress Abbey Co	\$429,786
133-130-026-000	Sonoma	Cypress Abbey Co	\$2,077,923
Total Assessed Value for all Properties			\$22,850,176

STEP 7 – Economic Benefit

The Enforcement Policy requires that the economic benefit amount shall be estimated for every violation, and to consider the economic benefit in setting a liability amount.

To comply with the California Water Code here, the Discharger would have had to obtain individual Waste Discharge Requirements for the discharge of dredged or fill material to a water of the state.

The Waste Discharge Requirements application and project impact fee for fiscal year 2022-2023 activities conducted on the Site is **\$6,092**. This is considered an avoided cost because the Discharger cannot retroactively enroll in the Waste Discharge Requirements program.

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 a meaningful deterrent to future violations.”

Therefore, the economic benefit is estimated to be **\$6,701**, which becomes the minimum civil liability.

STEP 8 – Other Factors as Justice May Require

If 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. The Central Valley Water Board believes the proposed liability is appropriate and has made no adjustment under this step.

STEP 9 – Maximum and Minimum Liability Amounts

The maximum and minimum amounts for discharge violation must be determined for comparison to the amounts being imposed.

California Water Code section 13350 authorizes the Central Valley Water Board to impose administrative civil liability in an amount not to exceed \$10 per gallon. The statutory maximum liability amount for this Violation is **\$60,096**

The Enforcement Policy states that the total base 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 a meaningful deterrent to future violations.” Using economic benefit plus 10%, the minimum liability amount for the Violation is **\$6,701**. The administrative liability amount assessed for the Violation is within the minimum and maximum liability amounts permitted.

STEP 10 – Final Liability Amount

The final liability amount consists of the added amounts for each violation, with any allowed adjustments, provided the amounts were within the statutory minimum and maximum amounts. The final liability amount was calculated as the Total Base Liability for the violation. Therefore, the final liability amount is **\$60,096**.

**California Regional Water Quality Control Board, Central Valley Region
HEARING PROCEDURE
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT
R5-2025-0524**

**ISSUED TO
THOMAS G. ATWOOD, CYPRESS ABBEY
COMPANY, AND EDDIE AXNER
CONSTRUCTION, INC.
TEHAMA COUNTY**

HEARING SCHEDULED FOR 9 OR 10 OCTOBER 2025

**PLEASE READ THIS HEARING PROCEDURE CAREFULLY. FAILURE TO COMPLY
WITH THE DEADLINES AND OTHER REQUIREMENTS CONTAINED HEREIN MAY
RESULT IN THE EXCLUSION OF YOUR SUBMITTAL.**

California Water Code section 13323 authorizes the California Regional Water Quality Control Board, Central Valley Region (Regional Water Board) to impose a fine, called administrative civil liability, against any person who violates water quality requirements. The Regional Water Board's Prosecution Team has issued an Administrative Civil Liability (ACL) Complaint that proposes the Regional Water Board impose civil liability against Thomas G. Atwood, Cypress Abbey Company, and Eddie Axner Construction, Inc (Respondents) for the violations alleged in the ACL Complaint.

I. HEARING DATE AND LOCATION

The Regional Water Board has scheduled a hearing to consider this matter on 9 or 10 October 2025. At the hearing, the Regional Water Board will consider evidence regarding the violation(s) alleged in the ACL Complaint. After considering the evidence, the Regional Water Board may impose the proposed civil liability, impose a higher or lower amount, or decline to impose any liability.

The hearing will be held at the following location:

City of Redding
Redding City Hall
777 Cypress Avenue
Redding, CA 96001

The [Regional Water Board's meeting agenda](https://www.waterboards.ca.gov/centralvalley/board_info/meetings/) will be issued at least ten days before the meeting and posted on the Regional Water Board's website at (https://www.waterboards.ca.gov/centralvalley/board_info/meetings/). The hearing may be rescheduled or continued to a later date. Please check the Regional Water Board's website for the most up-to-date information.

II. PRESIDING OFFICER

For the purposes of this Hearing Procedure, the Presiding Officer is the Chair of the Regional Water Board or another member of the Regional Water Board designated in writing by the Chair of the Regional Water Board.

III. HEARING WAIVER

Water Code section 13323, subdivision (b), requires a hearing on the ACL Complaint within 90 days of service of the ACL Complaint; however, the Respondents may waive this right. The Respondents may decide to waive the hearing requirement and pay the full proposed liability amount and settle the ACL Complaint, contingent on the Regional Water Board's approval of the settlement. Alternatively, the Respondents may decide to waive the right to a hearing within 90 days to (1) engage in settlement discussions or (2) seek additional time to prepare for the hearing.

To waive the hearing requirement for any of the above reasons, the Respondents should complete and submit the *Waiver Form for Administrative Civil Liability Complaint (Waiver Form)*, included with the ACL Complaint, by the deadline listed under "Important Deadlines" below. If there are multiple Respondents, each of them must submit a separate waiver. Any request to postpone the hearing must be approved by the Presiding Officer.

IV. ADJUDICATORY HEARING REGULATORY FRAMEWORK

A. Applicable Statutes and Regulations

The following statutes and regulations, as implemented by this Hearing Procedure, govern the hearing on the ACL Complaint:

1. California Water Code section 13323.
2. Chapter 4.5 of the Administrative Procedure Act (Gov. Code, § 11400 et seq.), excluding Article 8 (*Language Assistance*), Article 13 (*Emergency Decision*), Article 14 (*Declaratory Decision*) and Article 16 (*Administrative Adjudication Code of Ethics*).
3. Evidence Code sections 801 through 805.
4. Government Code section 11513.
5. California Code of Regulations, title 23, section 648 et seq.
6. State Water Resources Control Board's Water Quality Enforcement Policy (Enforcement Policy).

[These statutes and regulations](https://www.waterboards.ca.gov/laws_regulations) are available online at (https://www.waterboards.ca.gov/laws_regulations). Except for Government Code section 11513, chapter 5 of the California Administrative Procedure Act (Gov. Code,

§ 11500 et seq.) does not apply to this hearing.

B. Separation of Prosecutorial and Advisory Functions

Regional Water Board staff and attorneys that have prepared the ACL Complaint (Prosecution Team) have been separated from Regional Water Board staff and attorneys that will advise the Regional Water Board on the ACL Complaint (Advisory Team). The Prosecution Team will present evidence for consideration by the Regional Water Board. The Advisory Team provides legal and technical advice to the Regional Water Board. Members of the Advisory Team and Prosecution Team are identified below.

Advisory Team:

Patrick Pulupa, Executive Officer
Christopher Moskal, Attorney
Stephanie Tadlock, Senior Environmental Scientist
Matt Scroggins, Senior Water Resource Control Engineer

Prosecution Team:

Clint Snyder, Assistant Executive Officer
Andrew Tauriainen, Attorney Supervisor
Lynn Coster, Senior Environmental Scientist (Sup.)
Daniel Warner, Water Resources Control Engineer

Any members of the Advisory Team who normally supervise any members of the Prosecution Team are not acting as their supervisors in this proceeding, and vice versa. Further, members of the Advisory Team have not exercised any authority over the Prosecution Team or advised them with respect to this matter, or vice versa. Clint Snyder and Lynn Coster regularly advise the Regional Water Board in other, unrelated matters, and other members of the Prosecution Team may have previously acted as advisors to the Regional Water Board in other, unrelated matters, but no members of the Prosecution Team are advising the Regional Water Board in this proceeding. Members of the Prosecution Team have not had any substantive ex parte communications with the Regional Water Board or the Advisory Team regarding this proceeding.

C. Ex Parte Communications

Any communication regarding any issue in this proceeding to a Regional Water Board member or member of the Advisory Team by a Party or Interested Person that is made without notice and opportunity for all Parties to participate in the communication is considered an “ex parte” communication. Ex parte communications are prohibited, except as authorized by statute (e.g., communications regarding non-controversial procedural matters). (Gov. Code, § 11430.10 et seq.)

D. Evidentiary Standards

Government Code section 11513 and Evidence Code sections 801 through 805 apply to this proceeding.

The technical rules of evidence do not apply to this proceeding. The Parties may submit any relevant evidence that is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions.

Hearsay evidence is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter stated. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but over timely objection shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. An objection is timely if made before conclusion of all testimony or closing statement if one is provided.

V. HEARING PARTICIPANTS

A. Parties

Parties are the primary participants in the hearing. Parties may present written evidence, offer witness testimony, cross-examine witnesses, and provide closing statements. Parties may be asked to respond to questions from the Regional Water Board and Advisory Team.

The following are Parties to this proceeding:

1. Regional Water Board Prosecution Team
2. Thomas G. Atwood, Cypress Abbey Company, and Eddie Axner Construction, Inc.
3. Any other person or entity designated as a party by the Presiding Officer in accordance with Section V.C.

B. Interested Persons (Non-Parties)

Interested Persons include any persons or entities that are interested in the outcome of the proceeding but that have not been designated as a party. Interested Persons may present written or oral non-evidentiary policy statements. Interested Persons are not subject to cross-examination but may be asked to respond to clarifying questions from the Regional Water Board and Advisory Team.

Interested Persons may not submit evidence (e.g., photographs, eye-witness testimony, and monitoring data). Any person or entity that would like to submit evidence should request to be designated as a party pursuant to Section V.C.

C. Requesting Party Status

Any Interested Person who wishes to participate in the hearing as a party must submit a request in writing by the deadline listed under “Important Deadlines” below. The request must include the following information at a minimum:

1. How the issues to be addressed at the hearing substantially affect the requestor’s interests; and,
2. Why the existing Parties do not adequately represent the requestor’s interests.

The request for party status must also include any requested revisions to the Hearing Procedure.

A Party must submit any written objection to a request for party status by the deadline listed under “Important Deadlines” below.

Following the deadline to submit objections to party status requests, the Presiding Officer will promptly respond to any timely written requests for party status. The Presiding Officer will not grant a request for party status if the Presiding Officer determines the designation of the requestor as a party will impair the interests of justice or the orderly and prompt conduct of the proceeding. The Presiding Officer, when granting a request for party status, may impose restrictions on the requestor’s hearing participation, including limiting or excluding the use of cross-examination and other procedures, to promote the orderly and prompt conduct of the proceeding. Unless and until an Interested Person is granted party status, the deadlines for Interested Persons shall continue to apply.

VI. PREHEARING SUBMITTAL OF NON-EVIDENTIARY POLICY STATEMENTS BY INTERESTED PERSONS

A. Non-Evidentiary Policy Statements

Interested Persons must submit any written non-evidentiary policy statements regarding the ACL Complaint by the deadline listed under “Important Deadlines” below.

Interested Persons are not required to submit written statements to speak at the hearing.

B. Responding to Interested Person Non-Evidentiary Policy Statements

A Party must submit any response to Interested Person written policy statements by the deadline listed under “Important Deadlines” below.

VII. PREHEARING SUBMITTALS BY PARTIES

A. Prehearing Evidence and Argument Submittals (Excluding Rebuttal Evidence)

The Parties must submit the following information in advance of the hearing by the

deadline listed under “Important Deadlines” below:

1. All evidence, excluding witness testimony to be presented orally at the hearing, and an exhibit list providing an exhibit number and brief description of each exhibit. Evidence already in the Regional Water Board’s public files may be submitted by reference as long as the evidence and location are clearly identified. The file names of any electronic copies of exhibits must identify the Party submitting the exhibit, the exhibit number, and a brief identification of the exhibit (e.g., “Resp Ex. 1 - Permit.pdf”).
2. All legal and technical arguments or analysis.
3. The name of each witness, if any, whom the Party intends to call at the hearing; the subject of each witness’ proposed testimony; and the estimated time required by each witness to present direct testimony.
4. The qualifications of each expert witness, if any.

B. Prehearing Rebuttal Evidence Submittals

Rebuttal evidence is evidence offered to disprove or contradict evidence presented by an opposing Party.

The Parties must submit any rebuttal evidence in advance of the hearing by the deadline listed under “Important Deadlines” below. Rebuttal evidence shall be limited to rebutting the scope of previously submitted materials; rebuttal evidence that is not responsive to previous submittals may be excluded by the Presiding Officer.

The requirement to submit rebuttal evidence in advance of the hearing applies only to rebut timely-submitted written evidence. Rebuttal evidence pertaining to an issue raised solely during oral testimony need not be submitted in advance of the hearing.

C. Prehearing Objections to Evidentiary Submittals

A Party must submit any objections to prehearing evidentiary submittals by the deadlines listed under “Important Deadlines” below.

These deadlines do not apply to objections to late-submitted evidence. Objections to late-submitted evidence must be made within seven days of the late submittal or at the hearing, whichever is earlier.

D. Prehearing Proposed Findings of Fact and Conclusions of Law

The Prosecution Team must submit, and the other Parties may submit, Proposed Findings of Fact and Conclusions of Law for consideration by the Regional Water Board and Advisory Team. The Proposed Findings of Fact and Conclusions of Law must include the Party’s proposed penalty calculation, using the methodology prescribed by the Enforcement Policy. The Parties may use this opportunity to highlight specific evidence and argument for the Regional Water Board’s consideration.

Proposed Findings of Fact and Conclusions of Law must be submitted in Microsoft Word format by the deadline listed under “Important Deadlines” below. The Presiding

Officer may prescribe a page limit for the Proposed Findings of Fact and Conclusions of Law.

E. Prohibition on Surprise Evidence

It is the policy of the Regional Water Board to discourage the introduction of surprise testimony and exhibits. The Presiding Officer may refuse to admit proposed exhibits or testimony into evidence that are not submitted in accordance with this Hearing Procedure and shall refuse to do so when there is a showing of prejudice to any Party or the Regional Water Board, except where the party seeking to introduce the proposed exhibits or testimony demonstrates that compliance with this Hearing Procedure would create severe hardship. Excluded material will not be considered.

**VIII. REVISIONS TO HEARING PROCEDURE AND
PREHEARING CONFERENCE**

A. Revisions to Hearing Procedure

The Presiding Officer may revise this Hearing Procedure for good cause (1) on the Presiding Officer's own motion or (2) upon request from any Party or Interested Person seeking party status. A Party or Interested Person seeking party status requesting revisions to this Hearing Procedure must submit the request in writing by the deadline listed under "Important Deadlines" below. Before revising this Hearing Procedure, the Presiding Officer will provide the Parties an opportunity to comment.

B. Prehearing Conference

The Presiding Officer upon his/her own motion or upon request from a Party, may schedule a Prehearing Conference with the Parties to discuss any prehearing matter, such as revisions to this Hearing Procedure, designation of additional parties, or evidentiary objections.

IX. HEARING

A. Order of Proceeding

The Presiding Officer will conduct the hearing on the ACL Complaint generally in the order listed under California Code of Regulations, title 23, section 648.5. The Presiding Officer may modify the order of proceeding for good cause.

B. Administration of Oath

All persons intending to testify at the hearing must take the oath administered by the Presiding Officer.

C. Witnesses

Any witness providing written testimony must appear at the hearing and affirm that the written testimony is true and correct and be available for cross-examination.

D. Hearing Time Limits

Parties: Each Party will have a combined total of 30 minutes to present evidence (including examining witnesses), cross-examine witnesses, and provide a closing statement.

Interested Persons: Each Interested Person will have 3 minutes to present oral, non-evidentiary comments or policy statements.

Questions from the Regional Water Board and the Advisory Team, responses to such questions, and discussion of procedural issues do not count against these time limits.

E. Requesting Additional Hearing Time

Hearing participants who would like additional time must submit their request by the deadline listed under “Important Deadlines” below. Additional time may be provided at the discretion of the Presiding Officer upon a showing that additional time is necessary.

F. Visual Presentations

Each Party may use PowerPoint and other visual presentations at the hearing. The presentation content shall not exceed the scope of previously submitted written material. The Parties must submit their presentations, if any, by the deadline listed under “Important Deadlines” below.

Interested Persons may use a visual presentation as an aid to their oral, non-evidentiary comments or policy statements only with the Presiding Officer’s prior approval.

X. MISCELLANEOUS

A. Submittal Timing and Format

All submittals made pursuant to this Hearing Procedure must be received by 5:00 p.m. on the respective due date within the “Important Deadlines” below. All submittals must be sent to the “Primary Contacts,” identified below. Electronic copies are encouraged. Parties without access to computer equipment are strongly encouraged to have their materials scanned at a copy or mailing center. The Presiding Officer will not reject materials solely for failure to provide electronic copies.

B. Availability of Documents

The ACL Complaint and all submittals made in accordance with this Hearing Procedure are available upon request by contacting the Prosecution Team, identified in the “Primary Contacts” below.

Interested Persons may request to be included in the transmission of all submittals by contacting the Advisory Team.

C. Questions

Questions concerning this Hearing Procedure may be addressed to the Advisory Team attorney, identified in the “Primary Contacts” below.

PRIMARY CONTACTS

Advisory Team:

Patrick Pulupa, Executive Officer
Central Valley Regional Water Board
11020 Sun Center Dr, Suite 200
Rancho Cordova, CA 95670
Patrick.Pulupa@waterboards.ca.gov
(916) 464-4839

Christopher Moskal, Attorney
Office of Chief Counsel
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814
Christopher.Moskal@waterboards.ca.gov
(916) 341-5184

Stephanie Tadlock, Senior Environmental Scientist
Central Valley Regional Water Board
11020 Sun Center Dr, Suite 200
Rancho Cordova, CA 95670
Stephanie.Tadlock@waterboards.ca.gov
(916) 464-4644

Matt Scroggins, Senior Water Resource Control
Engineer
Central Valley Regional Water Board
1685 E Street
Fresno, CA 93706
Matt.Scoggins@waterboards.ca.gov
(559) 445-6042

Prosecution Team:

Clint Snyder, Assistant Executive Officer
Central Valley Regional Water Board
364 Knollcrest Drive, Suite 205
Redding, CA 96002
Clint.Snyder@waterboards.ca.gov
(530) 224-3213

ATTACHMENT B TO ACL COMPLAINT R5-2025-0524

Andrew Tauriainen, Attorney Supervisor
Office of Enforcement
State Water Resources Control Board
801 K Street
Sacramento, CA 95814
Andrew.Tauriainen@waterboards.ca.gov
(916) 341-5889

Lynn Coster, Senior Environmental Scientist (Sup.)
Central Valley Regional Water Board
364 Knollcrest Drive, Suite 205
Redding, CA 96002
Lynn.Coster@waterboards.ca.gov
(530) 224-2437

Dan Warner, Water Resources Control Engineer
Central Valley Regional Water Board
364 Knollcrest Drive, Suite 205
Redding, CA 96002
Daniel.Warner@waterboards.ca.gov
(530) 224-4848

Respondents:

Thomas Atwood
Atwood Ranch
PO Box 890
Kenwood, CA 95452

Eddie Axner
Eddie Axner Construction, Inc.
5249 Old Oregon Trail
Redding, CA 96002

IMPORTANT DEADLINES

Note: Where a deadline falls on a weekend or state holiday, the deadline is extended to the following business day.

Deadline	Event	Hearing Procedure Section
21 July 2025	Prosecution Team issues ACL Complaint, Hearing Procedure, and other related materials	
31 July 2025	Parties' deadline to request revisions to Hearing Procedure	Section VIII.A
	Interested Persons' deadline to request party status (If requesting party status, this is also the deadline to request revisions to Hearing Procedure)	Section V.C
8 Aug 2025	Parties' deadline to submit objections to party status requests	Section V.C
	Respondent's deadline to submit <i>Waiver Form</i>	Section III
15 Aug 2025	Interested Persons' deadline to submit written non-evidentiary policy statements	Section VI.A
22 Aug 2025	Prosecution Team's deadline to submit prehearing evidence and argument (excluding rebuttal evidence)	Section VII.A
29 Aug 2025	Remaining Parties' (including the Respondents) deadline to submit prehearing evidence and argument (excluding rebuttal evidence)	Section VII.A
12 Sept 2025	Parties' deadline to submit prehearing rebuttal evidence	Section VII.B
	Parties' deadline to submit responses to Interested Person non-evidentiary policy statements	Section VI.B
	Parties' deadline to submit objections to prehearing evidence submittals (excluding rebuttal evidence)	Section VII.C
	Deadline to submit requests for additional hearing time	Section IX.E
22 Sept 2025	Parties' deadline to submit objections to prehearing rebuttal evidence	Section VII.C
	Parties' deadline to submit Proposed Findings of Fact and Conclusions of Law	Section VII.D
1 Oct 2025	Parties' deadline to submit copy of visual presentations	Section IX.F
9/10 Oct 2025	Hearing Date(s)	

ATTACHMENT C

WAIVER FORM FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT

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

I am duly authorized to represent Thomas G. Atwood, Cypress Abbey Company, and Eddie Axner Construction, Inc (hereinafter Dischargers) in connection with Administrative Civil Liability Complaint No. R5-2025-0524 (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 Dischargers waive the hearing requirement and will pay the liability in full.**
- a. I hereby waive any right the Dischargers may have to a hearing before the California Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board).
 - b. I certify that the Dischargers will remit payment for the proposed civil liability in the full amount of **\$60,096** by submitting a check that references “ACL Complaint No. R5-2025-0524” 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 Andrew Tauriainen, counsel for the Central Valley Water Board’s Prosecution Team, at Andrew.Tauriainen@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 Central Valley Water Board receive significant new information or comments from any source (excluding the Central Valley Water Board’s Prosecution Team) during this comment period, the Central Valley 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 Central Valley Water Board, and that the Central Valley 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 Dischargers 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 Dischargers to further enforcement, including additional civil liability.

☐

OPTION 2: Check here if the Dischargers waive the 90-day hearing requirement in order to participate in settlement discussions with the Prosecution Team.

- a. I hereby waive any right the Dischargers may have to a hearing before the Central Valley Water Board within 90 days after service of the Complaint. By checking this box, the Dischargers request that the Central Valley Water Board delay the hearing and/or hearing deadlines so that the Dischargers may have additional time to discuss settlement with the Prosecution Team. It remains within the discretion of the Central Valley Water Board to approve the extension.

Thomas G. Atwood, Cypress Abbey Company, and
Eddie Axner Construction, Inc

(Print Name)

(Signature)

(Date)