

Attachment A
Penalty Methodology for
Administrative Civil Liability Complaint No. R1-2025-00xx
Factors Considered in Developing Recommended Civil Liability
In the Matter of Michael Harding

This technical analysis provides a summary of factual and analytical evidence that support the findings in Administrative Civil Liability Complaint No. R1-2025-00xx (Complaint) and the recommended assessment of administrative civil liability in the amount of \$66,468.75. The Complaint alleges that Michael Harding (Respondent), failed to implement Required Actions No. 1 and 2 of the North Coast Regional Water Quality Control Board's (North Coast Water Board's) Cleanup and Abatement and Investigative Order No. R1-2024-0054 (Cleanup and Abatement Order) for Mendocino County Assessor's Parcel Number (APN) 031-020-45-01 (the Property).

SUMMARY OF VIOLATIONS

Violation 1: The Complaint alleges that the Respondent violated Water Code section 13267 by failing to submit a Completion Report of Winterization by November 17, 2024 as required under Required Action No. 1 in the Cleanup and Abatement Order. The Respondent has been in violation of Required Action No. 1 since the November 17, 2024 deadline though the date of Complaint issuance. However, the Prosecution Team only proposes imposition of administrative civil liability for the days of violation beginning November 18, 2024 through April 15, 2025, the date of the deadline for submission of the Cleanup, Restoration, and Monitoring Plan (CRMP), for a total of 149 days. The Prosecution Team has exercised prosecutorial discretion in selecting April 15, 2024 as the end date for assessing liability on the basis that, by this date, if the Respondent failed to winterize the Property prior to the 2024-2025 wet season, any outstanding corrective measures that were needed to address erosion or sediment control issues on the Property should have been included in a proposed CRMP.

Violation 2: The Complaint alleges that the Respondent violated Water Code section 13267 by failing to submit a CRMP by April 15, 2024, as required under Required Action No. 2 in the Cleanup and Abatement Order. The Respondent has been in violation of Required Action No. 2 since the April 15, 2025 deadline. The Prosecution Team proposes imposition of administrative civil liability for the days of violation beginning April 16, 2025 through May 1, 2025, the date the Prosecution Team was preparing the Complaint, for a total of 16 days.

Water Code section 13268, subdivision (b), provides that the North Coast Water Board may impose civil liability administratively in response to violations of section 13267 in an amount of up to one thousand dollars (\$1,000) per day of violation. **As described below, the Prosecution Team recommends a total administrative civil liability amount of \$66,468.75 for these violations.**

PENALTY METHODOLOGY

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

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

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

The violations alleged in the Complaint and assessed herein involve failure to comply with Water Code section 13267 reporting directives contained in the Cleanup and Abatement Order. These are each a "non-discharge violation" for purposes of the Enforcement Policy penalty methodology.

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

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

Step 2. Per Gallon and Per Day Assessments for Discharge

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

Step 3. Per Day Assessment for Non-Discharge Violations

The Enforcement Policy provides that "[t]he Water Boards shall calculate an initial liability factor for each non-discharge violation, considering Potential for Harm and the

¹ The Prosecution Team applied the 2024 Water Quality Enforcement Policy, which was approved by the Office of Administrative Law and went into effect on November 7, 2024, prior to the violations alleged in the Complaint and discussed herein. A copy of the 2024 [Water Quality Enforcement Policy](https://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/2024/2024-enforcement-policy.pdf) can be found at: (https://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/2024/2024-enforcement-policy.pdf).

extent of deviation from applicable requirements. These violations include, but are not limited to, failure to conduct routine monitoring and reporting, failure to provide required information, and the failure to prepare required plans. While all non-discharge violations harm or undermine the Water Boards' regulatory programs and compromise the Water Boards' ability to perform their statutory and regulatory functions, some non-discharge violations have the potential to directly or indirectly impact beneficial uses and should result in more serious consequences."

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

Potential for Harm:

The Potential for Harm categories are as follows:

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

(Enforcement Policy, page 21-22.)

Violation 1: The Completion Report of Winterization required by the Cleanup and Abatement Order is necessary to demonstrate that the Respondent has successfully completed winterization of the Property in a timely manner in accordance with the Order. As described in the Technical Reports Required section of the Cleanup and Abatement Order, the Completion Report of Winterization is required so that the North Coast Water Board or its delegated officer can verify that remedial activities and best

management practices were adequately implemented to winterize the Property to prevent impacts or threats to water quality during the wet weather season. By failing to submit a Completion Report of Winterization for approval, the Respondent wholly impaired the North Coast Water Board's ability to perform its regulatory functions by preventing the Board from verifying that appropriate actions were taken to prepare the Property for the 2024-2025 winter season.

Additionally, the waterbodies intended to be protected through the Completion Report of Winterization are impaired. The Cleanup and Abatement Order was issued as a result of discharges and threatened discharges of waste to tributaries of the Middle Main Eel River. The federal Clean Water Act section 303, subdivision (d), impaired waterbodies list identifies the Middle Main Eel River as impaired due to elevated sedimentation/siltation and elevated temperature. The U.S. Environmental Protection Agency established Total Maximum Daily Loads (TMDLs) for temperature and sediment for the Middle Main Eel River and its tributaries. The TMDLs indicate that the cold freshwater habitat is the most sensitive of beneficial uses in the watershed. As such, protection of this beneficial use is presumed to protect any of the other beneficial uses that might also be harmed by sedimentation. ‘

In accordance with the Enforcement Policy, “non-discharge violations involving failure to comply with directives in cleanup and abatement orders, cease and desist orders, and investigative orders, involving reports relating to impaired water bodies and sensitive habitats, should be considered major [Potential for Harm].” Since this non-discharge violation involves failure to comply with a directive in the Cleanup and Abatement Order to submit a report that documents cleanup actions impacting an impaired waterbody, the Potential for Harm for Violation 1 is **Major**.

Violation 2: The CRMP required by the Cleanup and Abatement Order is necessary to: (1) assess impacts to waters of the state resulting from the cultivation of cannabis, alteration of the bed and bank of watercourses, and the discharge and threatened discharge of sediment and cannabis cultivation waste; (2) determine the appropriate restoration and abatement work to correct those impacts; and (3) create a plan along with an implementation schedule that will guide the scope of work to clean up and abate the discharges and threat of discharges of waste on the Property. By failing to submit a CRMP for approval, the Respondent wholly impaired the North Coast Water Board's ability to perform its regulatory functions by preventing the Board from authorizing an appropriate cleanup and restoration plan that would adequately remediate site conditions and prevent discharges of waste to waters of the state.

Additionally, as noted for Violation 1, the Cleanup and Abatement Order was issued as a result of discharges and threatened discharges of waste to tributaries of the Middle Main Eel River, which is listed as impaired under the federal Clean Water Act section 303(d). Since submittal of the CRMP was intended to propose cleanup actions impacting an impaired waterbody and the failure to comply with directives in cleanup and abatement orders should be considered Major, the Potential for Harm for Violation 2 is **Major**.

Deviation from Requirement:

The Deviation from Requirement categories are as follows:

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

(Enforcement Policy, page 22.)

Violation 1: The deviation from the requirement to submit a Completion Report of Winterization by the deadline contained in the Cleanup and Abatement Order is **Major**. The Respondent has made no attempt to submit a Completion Report of Winterization for approval, rendering the requirement ineffective in its essential functions.

Violation 2: The deviation from the requirement to submit a CRMP by the deadline contained in the Cleanup and Abatement Order is **Major**. The Respondent has made no attempt to submit a CRMP for approval, rendering the requirement ineffective in its essential functions.

Per Day Factors:

Violations 1 and 2: Utilizing a Potential for Harm score of **Major** and Deviation from Requirement score of **Major**, Staff selected a Per Day Factor of 0.85 for Violations 1 and 2, consistent with the midpoint of the range listed in Table 3 on page 21 of Enforcement Policy.

Multiple-Day Violations

The Enforcement Policy advises that “for violations that are assessed a civil liability on a per day basis, the initial liability amount should be assessed for each day up to thirty (30) days. For non-discharge violations that last more than thirty (30) days, the daily assessment can be less than the calculated daily assessment, provided that it is no less than the per day economic benefit, if any, resulting from the violation. For these cases, the North 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.

If one of the above findings is made, an alternate approach to penalty calculation for multiple day, non-discharge violations may be used. In these cases, the liability shall not be less than an amount that is calculated based on an assessment of the liability for the first 30 days of the violation, plus an assessment for each 5-day period of violation, until the 60th day, plus an assessment for each 30 days of violation thereafter.”
(Enforcement Policy, pages 22-23.)

The Complaint alleges that Violation 1 lasted more than 30 days, such that the alternate approach to penalty calculation may be used if one of the express findings is made. Staff determined that Violation 1 did not result in a discrete economic benefit that can be measured on a daily basis. Therefore, applying the alternative approach to penalty calculation, Staff recommends a full collapsing of days from 149 days to 38 days for Violation 1.

Initial Liability Amounts:

The initial liability amount is ***calculated on a per-day basis as follows:***

Violation 1: Per-Day Liability (38 (collapsed days) x 0.85 (per day factor) x \$1,000 (statutory maximum per day liability)) = **\$32,300**

Violation 2: Per-Day Liability (16 (days) x 0.85 (per day factor) x \$1,000 (statutory maximum per day liability)) = **\$13,600**

Step 4. Adjustment Factors

Under this step, the initial liability amount is adjusted by factors addressing the violator’s conduct.

Violator’s Conduct:

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

Culpability:

This factor assesses a violator’s degree of culpability prior to the violation. The Enforcement Policy provides that “[h]igher liabilities should result from intentional or negligent violations” as opposed to accidental violations.

A multiplier between 0.75 and 1.5 is to be used, with a higher multiplier for intentional misconduct or gross negligence, a lower multiplier for more simple negligence, and a neutral assessment of 1.0 where a violator is determined to have acted as a reasonable and prudent person would have. (Enforcement Policy, page 24.)

Violation 1: At the time of the inspection, the Respondent was conducting unlicensed commercial cannabis cultivation on the Property. Due to observed discharges and threats of discharge on the Property, the North Coast Water Board's Executive Officer issued the Cleanup and Abatement Order to ensure the Property was adequately remediated. The Respondent confirmed receipt of the Cleanup and Abatement Order when he responded to Staff's October 17, 2024 email that included the order as an attachment. Despite knowledge that the order had been issued, and despite Staff's October 18, 2024 email offering to answer any questions or concerns the Respondent may have about the Cleanup and Abatement Order, the Respondent did not respond or submit a Completion Report of Winterization as required. Upon issuance of the Cleanup and Abatement Order, a reasonable and prudent person would have made efforts to comply with the requirement to submit a Completion Report of Winterization for approval and communicate these efforts to North Coast Water Board Staff. The Respondent's conduct fell below that of a reasonable and prudent person. The Respondent's failure to submit the required report despite knowledge of the requirement constitutes an intentional violation of Required Action 1; thus, a value of **1.25** is appropriate for this violation.

Violation 2: As noted in Violation 1, the Respondent was aware that the North Coast Water Board had issued the Cleanup and Abatement Order and had received staff's October 18, 2024 email regarding the actions required under the order, including submittal of a CRMP. Staff emailed the Respondent on December 2, 2024 and December 12, 2024, regarding the past-due Completion of Winterization Report. Additionally, Staff emailed the Respondent on April 14, 2025 to remind the Respondent of the April 15, 2025 deadline to submit a proposed CRMP. Despite Staff's communications, which should have motivated the Respondent to prepare a CRMP and avoid an additional violation of the Cleanup and Abatement Order, the Respondent did not respond and ultimately failed to submit a CRMP by April 15, 2025, as required. In doing so, the Respondent's conduct fell below that of a reasonable and prudent person and represents an intentional violation of Required Action 2. Therefore, a value of **1.25** is appropriate for this Violation.

History of Violations:

The Enforcement Policy advises that "[w]here the discharger has no prior history of violations, this factor should be neutral, or 1.0. Where the discharger has prior violations within the last five years, the Water Boards should use a multiplier of 1.1. Where the discharger has a history of similar or numerous dissimilar violations, the Water Boards should consider adopting a multiplier above 1.1." (Enforcement Policy, page 24.)

There are no previous orders assessing administrative civil liability against the Respondent for previous violations within the last five years. Accordingly, a neutral factor of **1.0** is selected for Violations 1 and 2.

Cleanup and Cooperation:

This factor assesses voluntary efforts to clean up and/or to cooperate with regulatory agencies in returning to compliance after the violation. The Enforcement Policy states that the cleanup and cooperation multiplier ranges from 0.75 to 1.5, with a “lower multiplier where there is exceptional cleanup and cooperation compared to what can reasonably be expected, and a higher multiplier where there is not.” A reasonable and prudent response to a discharge violation or timely response to a North Coast Water Board order should receive a neutral adjustment as it is assumed a reasonable amount of cooperation is the warranted baseline. (Enforcement Policy, page 24.)

Violation 1: This violation alleges non-compliance with a reporting requirement and, as such, the relevant considerations for this factor are the Respondent’s cooperation with North Coast Water Board Staff and the actions, if any, taken by the Respondent to submit the report after the deadline in the Cleanup Order had passed. After responding to Staff’s email transmittal of the Cleanup and Abatement Order on October 17, 2024, in which the Respondent claimed he would work on certain tasks as his time and finances allow, the Respondent has failed to reply to any of Staff’s subsequent communications. On December 2, 2024, Staff emailed the Respondent to inform him that the deadline for Required Action No. 1 had passed and to request an update on the status of the report. On December 12, 2024, Staff transmitted a Notice of Violation to the Respondent by email, which reiterated his continued violation of Required Action No. 1 for failure to submit a Completion Report of Winterization. Staff also mailed the Respondent a copy of the Notice of Violation via certified mail; however, the Respondent appears to have stopped accepting mail from the North Coast Water Board. After Staff discovered that the Cleanup and Abatement Order sent to the Respondent via certified mail had been returned to the North Coast Water Board, Staff emailed the Respondent on December 31, 2024, to request an alternative address for Staff to use. Staff has received no response from the Respondent. Furthermore, the Respondent sold the Property without informing Staff and, seemingly, without making any progress to comply with the Cleanup and Abatement Order. Although Staff has no evidence to suggest the Property has been cleaned up, to the extent that the Respondent claims to have implemented any corrective actions on the Property, these actions are not relevant to this factor. The Respondent has failed to cooperate with Staff or take action to resolve this violation by submitting a Completion Report of Winterization. Based on the Respondent’s failure to correct the violation, or respond to any of Staff’s communications regarding the past-due report, a score of **1.25** has been assessed for Violation 1.

Violation 2: This violation similarly alleges non-compliance with a reporting requirement, such that the relevant considerations for this factor are the Respondent’s cooperation with North Coast Water Board Staff and any actions taken by the Respondent to submit the past-due report. Staff has not yet received a CRMP from the Respondent, as required under Required Action No. 2 of the Cleanup and Abatement Order. After the deadline for this requirement passed, Staff transmitted a Notice of Violation for Required Action No. 2 to the Respondent on April 23, 2025 by email and USPS certified mail. The Respondent has made no effort to contact Staff after the April

15, 2025 deadline to provide an update or any indication that he intends to resolve the ongoing violation. As stated under Violation 1, Staff has no evidence that the Respondent has implemented corrective actions on the Property; however, if the Respondent subsequently claims to have implemented cleanup or restoration measures, this claim is not relevant to this factor since the alleged violation is failure to submit a proposed CRMP. Based on the Respondent's failure to engage with Staff to resolve this violation and submit the past-due CRMP, a score of **1.25** has been assessed for Violation 2.

Step 5. Determination of Total Base Liability Amount

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

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

Violation 1: \$32,300 (Initial Liability after collapsing days) x 1.25 (Culpability Factor) x 1.0 (History of Violations Factor) x 1.25 (Cleanup and Cooperation Factor) = **\$50,468.75**

Violation 2: \$13,600 (Initial Liability) x 1.25 (Culpability Factor) x 1.0 (History of Violations Factor) x 1.25 (Cleanup and Cooperation Factor) = **\$21,250**. (Note, this amount exceeds the maximum liability amount of **\$16,000** that can be imposed for Violation 2 and will be adjusted downward under Step 9.)

Total Base Liability Amount: \$50,468.75 + \$21,250 = \$71,718.75

Step 6. Economic Benefit

The Enforcement Policy requires that the adjusted Total Base Liability Amount be at least 10 percent higher than any economic benefit realized by the Respondent. Economic Benefit is any savings or monetary gain derived from the act or omission that constitutes the violation.

For **Violation 1**, the cost of preparing a Completion Report of Winterization (i.e., field inspection and report preparation) was previously estimated in the Technical Reports Required section of the Cleanup and Abatement Order. This cost was determined to be comparable to the cost of preparing a Site Closure Report, as presented in the State Water Board's October 2017 Direct Cost Analysis for the Proposed Cannabis

Cultivation Policy (2017 Direct Cost Analysis)², which is estimated to cost between \$1,080 and \$4,760.

Using the EPA BEN model, Staff determined the economic benefit from delayed expenditures associated with Violation 1. Staff identified the midpoint in the estimated range of plan costs to be \$2,920. To consider the inflation between October 2017, issuance of the Cannabis Policy Cost Analysis, and October 2024, issuance of the Cleanup and Abatement Order, Staff used U.S. Bureau of Labor Statistics' CPI Inflation Calculator³, and calculated the cost of submitting the Completion Report of Winterization to be \$3,736.83. Staff entered this amount into the EPA BEN model as a one-time non-depreciable expenditure, \$0 in capital investment, and \$0 in annual recurring costs with a noncompliance date of the November 17, 2024 deadline, and an estimated compliance date of August 30, 2025, two weeks after the anticipated hearing date. The resulting economic benefit from delaying the plan expenditure is \$148. The economic benefit plus ten percent for Violation 1 is calculated to be \$162.80 (\$148 + \$14.80), which the Total Base Liability Amount for this violation exceeds.

For **Violation 2**, the cost of preparing a CRMP (i.e., field inspection and report preparation) was previously estimated in the Technical Reports Required section of the Cleanup and Abatement Order. This cost was determined to be comparable to the cost of preparing a combined Site Management Plan, Site Erosion and Sediment Control Plan, and Disturbed Area Stabilization Plan as presented in the 2017 Direct Cost Analysis, which is estimated to cost between \$4,860 and \$14,120.

Similarly using the EPA BEN model, Staff determined the economic benefit from delayed expenditures associated with Violation 2. Staff identified the midpoint in the estimated range of plan costs to be \$9,490. After similarly considering inflation between October 2017 and October 2024, Staff calculated the cost of submitting a CRMP to be \$12,144.71 using the U.S. Bureau of Labor Statistics' CPI Inflation Calculator. While running the EPA BEN model, Staff entered this amount as a one-time non-depreciable expenditure, \$0 in capital investment, and \$0 in annual recurring costs with a noncompliance date of the April 15, 2025 deadline, and an estimated compliance date of August 30, 2025, two weeks after the anticipated hearing date. The resulting economic benefit from delaying the plan expenditure is \$232. The economic benefit plus ten percent for Violation 2 is calculated to be \$255.20 (\$232 + \$23.20), which the Total Base Liability Amount for this violation exceeds.

Step 7. Other Factors as Justice May Require

The Enforcement Policy states that “[i]f the Water Board believes that the amount determined using the above factors is inappropriate, the amount may be adjusted under

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

³ U.S. Bureau of Labor Statistics' CPI Inflation Calculator ([CPI Inflation Calculator](#))

the provision for 'other factors as justice may require,' but only if express findings are made to justify this adjustment." Additionally, the North Coast Water Board may exercise its discretion to include some of the costs of investigation and enforcement in the total administrative civil liability. (Enforcement Policy, page 27.)

Staff Costs

The North Coast Water Board incurred \$6,423.81 in staff costs associated with this enforcement action. This amount reflects forty-six and a half (46.5) hours of staff time associated with investigation of the violations and preparation of the Complaint. Staff labor included the work of an Engineering Geologist, Senior Engineering Geologist Specialist, Senior Environmental Scientist, Supervising Water Resources Control Engineer, and Assistant Executive Officer. Although the Prosecution Team has calculated its staff costs for this action, the Prosecution Team has exercised discretion not to assess these costs against the Respondent. This decision was reached after consideration of the Total Base Liability Amount for these violations. Notably, the Total Base Liability Amount for Violation 2 already exceeds the statutory maximum liability amount and will need to be adjusted under Step 9.

Step 8. Ability to Pay and Continue in Business

The Enforcement Policy provides that "[i]f the Water Boards have sufficient financial information necessary to assess the violator's ability to pay the Total Base Liability Amount or to assess the effect of the Total Base Liability Amount on the violator's ability to continue in business, the Total Base Liability Amount may be adjusted to address the ability to pay or to continue in business. The ability of a responsible party to pay is determined by its income (revenues minus expenses) and net worth (assets minus liabilities)." (Enforcement Policy, pages 28-29.)

The Lightbox Vision Transaction Report shows the Respondent sold the Property through a transaction that was recorded on December 27, 2024. Property transaction records indicate that the Property was sold for a total of \$275,000. Property transaction records further indicate that the Respondent had previously purchased the Property in 2017 for \$200,000 with mortgage loan amount of \$250,000, which indicates the Respondent sold the Property above the original purchase amount.

Additionally, Humboldt County Tax Assessor Records indicate that the Respondent solely owns one property in Humboldt County (APN 110-111-009-000), with a total assessed value of \$154,067.00, and co-owns another property in Humboldt County (APN 110-051-059-000), with an assessed value of \$416,011.

Staff do not have information about the Respondent's revenues or liabilities that would further inform the Respondent's ability to pay. Based on the information available, Staff proposes no adjustment to the Total Base Liability Amount for Violations 1 and 2.

Step 9. Maximum and Minimum Liability Amounts

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

Maximum Liability Amounts

Pursuant to Water Code section 13268, subdivision (b)(1), civil liability for Violations 1 and 2 may be administratively imposed by the North Coast Water Board in an amount that shall not exceed one thousand dollars (\$1,000) for each day in which the violations occur.

Violation 1: The Complaint alleges that the Respondent has been in violation of the requirement to submit a Completion Report of Winterization since the November 17, 2024 deadline. As noted in the Complaint, and discussed in the Summary of Violations section above, the Prosecution Team proposes an end date of April 15, 2024 for assessing liability for days of violation. Accordingly, the Complaint alleges 149 days of violation for Violation 1. Pursuant to Water Code section 13268, the statutory maximum liability amount that can be imposed for Violation 1 is \$149,000. Total Base Liability Amount for Violation 1 is \$50,468.75, which is less than the statutory maximum liability amount.

Violation 2: The Complaint alleges that the Respondent has been in violation of the requirement to submit a proposed CRMP since the April 15, 2025 deadline. As noted in the Complaint, and discussed in the Summary of Violations section above, the Prosecution Team proposes an end date of May 1, 2025 for assessing liability, which reflects the date the Complaint was being prepared. Accordingly, the Complaint alleges 16 days of violation for Violation 2. Pursuant to Water Code section 13268, the statutory maximum liability amount that can be imposed for Violation 2 is \$16,000. The Total Base Liability Amount of \$21,250 for Violation 2 exceeds the statutory maximum liability amount. Therefore, the Prosecution Team has adjusted the Total Base Liability Amount for Violation 2 to \$16,000, which reflects the maximum liability amount permitted by statute.

Minimum Liability Amounts

Water Code section 13268 does not impose a minimum liability amount; however, the Enforcement Policy requires the North Coast Water Board to recover, at a minimum, the economic benefit derived from the violation plus ten percent.

Violation 1: As previously stated, Staff calculated the economic benefit of Violation 1 to be \$148. Therefore, after adding ten percent (\$14.80) the minimum liability that can be imposed for Violation 1 is \$162.80. The adjusted Total Base Liability Amount for

Violation 1 exceeds the minimum liability amount that must be recovered under the Enforcement Policy.

Violation 2: Staff calculated the economic benefit of Violation 2 to be \$232. Therefore, after adding ten percent (\$23.20), the minimum liability that can be imposed for Violation 2 is \$255.20. The adjusted Total Base Liability Amount for Violation 2 exceeds the minimum liability amount required under the Enforcement Policy.

Step 10. Final Liability Amount:

The final liability amount consists of the added amounts for each violation, with any allowed adjustments, provided the amounts are within the statutory minimum and maximum amounts. The Total Base Liability Amount for Violation 1 is \$50,468.75. In consideration of the maximum liability amount determined under Step 9, the adjusted Total Base Liability Amount for Violation 2 is \$16,000. After combining these amounts, the Final Liability Amount is calculated to be \$ \$66,468.75.