

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION**

ORDER NO. R8-2025-0017

**ASSESSING ADMINISTRATIVE CIVIL LIABILITY
IN THE MATTER OF ROBINSON MANUFACTURING, INC.
1136 South Richfield Road
Placentia, CA 92870**

The California Regional Water Quality Control Board, Santa Ana Region (hereinafter Santa Ana Water Board) finds the following:

This matter comes before the Santa Ana Water Board pursuant to Administrative Civil Liability Complaint No. R8-2025-0017 dated September 15, 2025 (Complaint) issued to Robinson Manufacturing, Inc. (Discharger). The Complaint alleged two violations based on evidence that the Discharger failed to comply with the reporting requirements of the *National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Industrial Activities*, Order NPDES No. CAS000001 (Permit or Industrial General Permit), as described below, and proposed an administrative civil liability in the amount of \$50,000 pursuant to applicable laws and regulations, including California Water Code section 13385. A hearing took place on March 13, 2026, in accordance with the hearing notice and procedures served on the Discharger, and applicable laws and regulations, including California Code of Regulations, title 23, sections 648-648.8.

BACKGROUND

1. The Santa Ana Water Board is the public agency with primary responsibility for the protection of groundwater and surface water quality for all beneficial uses within the Santa Ana Region of the State of California.
2. The Discharger has been enrolled in the Industrial General Permit, or its predecessor orders, since August 30, 1995 when it originally submitted its Notice of Intent (NOI) (WDID 8 30I011852). The Discharger is subject to the terms of the Permit because it conducts an industrial activity for which it has obtained regulatory coverage under the Permit.
3. Permit section XVI.A. requires dischargers to certify and submit, via the online database Stormwater Multiple Application and Report Tracking System (SMARTS), an Annual Report no later than July 15th of each reporting year using the standardized format in SMARTS.

4. For the 2021-2022 reporting year, the Discharger should have submitted its Annual Report by July 15, 2022. The Discharger submitted its 2021-2022 Annual Report on September 29, 2023. The Annual Report was 441 days late.
5. For the 2022-2023 reporting year, the Discharger should have submitted its Annual Report by July 15, 2023. The Discharger failed to submit the 2022-2023 Annual Report.
6. The hearing on the Complaint was originally scheduled for December 12, 2025, and was postponed to March 13, 2026, at the Discharger's request. On the morning of the March 13th hearing, the Discharger made a second request to postpone the hearing, and the hearing was postponed to April 24, 2026.
7. On April 22, 2026, the Discharger made a third request to postpone the hearing, which was denied by the Presiding Officer on April 23, 2026 in accordance with the Revised Hearing Procedure for the hearing.
8. A hearing took place on April 24, 2026, in accordance with the hearing notice and procedures served on the Discharger, and applicable laws and regulations, including California Code of Regulations, title 23, sections 648-648.8.

VIOLATIONS

9. Violation 1: The Discharger failed to submit its 2021-2022 Annual Report by July 15, 2022, for the July 1, 2021 through June 30, 2022 reporting period.
10. Violation 2: The Discharger failed to submit its 2022-2023 Annual Report by July 15, 2023, for the July 1, 2022 through June 30, 2023 reporting period.

LEGAL AND REGULATORY CONSIDERATIONS

11. Pursuant to Water Code section 13385, subdivision (a)(3), any person who violates any requirement established pursuant to Water Code section 13383, is subject to administrative civil liability pursuant to Water Code section 13385, subdivision (c)(1), in an amount not to exceed ten thousand dollars (\$10,000) for each day in which the violation occurs.
12. Pursuant to Water Code sections 13385(e), in determining the amount of civil liability, the Santa Ana Water Board shall take into consideration the nature, circumstances, extent, and gravity of the violation or violations, whether the discharge is susceptible to cleanup and abatement, the degree of toxicity of the discharge, and, with respect to the violator, the ability to pay, the effect on the ability to continue in business, and 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

13. The State Water Resources Control Board (State Water Board) adopted Resolution No. 2023-0043, which adopted the 2024 Water Quality Enforcement Policy (2024 Enforcement Policy). The 2024 Enforcement Policy was approved by the Office of Administrative Law and became effective on November 7, 2024. The 2024 Enforcement Policy establishes a methodology for assessing administrative civil liability that addresses the factors that are required to be considered when imposing a civil liability as outlined in Water Code section 13385(e).

PROPOSED ADMINISTRATIVE CIVIL LIABILITY

14. The Complaint proposed an administrative civil liability of \$50,000 for Violations 1 and 2, as detailed in Attachment A to the Complaint. This proposed administrative civil liability was derived from the use of the penalty methodology in the 2024 Enforcement Policy. The proposed administrative civil liability takes into account the factors described in Water Code section 13385(e), including the Discharger's culpability, history of violations, ability to pay, and other factors as justice may require.

MAXIMUM STATUTORY LIABILITY

15. Pursuant to Water Code section 13385(c), the statutory maximum administrative civil liability for Violations 1 and 2 is \$10,000 per day of violation
16. The maximum liability amount for Violation 1 is $\$3,650,000 = \$10,000 \times 365$ days. The maximum liability amount for Violation 2 is $\$3,650,000 = \$10,000 \times 365$ days. Total maximum liability is $\$3,650,000 + \$3,650,000 = \$7,300,000$.

MINIMUM LIABILITY

17. Water Code section 13385(e) requires that when pursuing civil liability under Water Code section 13385, "[a]t a minimum, liability shall be assessed at a level that recovers the economic benefit, if any derived from the acts that constitute the violation." The statutory minimum of recovery of the economic benefit is applicable to Violations 1 and 2.
18. The 2024 Enforcement Policy directs that the minimum liability be at least 10% higher than the economic benefit amount such that the liabilities are not construed as the cost of doing business and that the assessed liability provides a meaningful deterrent to future violation. The economic benefit for the alleged violations is calculated to be \$7,242. Therefore, the minimum liability is \$7,966.

ADMINISTRATIVE CIVIL LIABILITY

19. Based on consideration of the above facts, the evidence in this matter, material submitted by the parties, the testimony and arguments presented at hearing, the

applicable law, and after applying the methodology in the Enforcement Policy, the Santa Ana Water Board finds that civil liability shall be imposed administratively against the Discharger in the proposed amount of \$50,000, plus staff costs of \$7,784, for a Total Liability Amount of \$57,784, as explained in detail in Attachment A to this Order, which is hereby incorporated by reference.

REGULATORY CONSIDERATIONS

20. Notwithstanding the issuance of this Order, the Santa Ana Water Board retains the authority to assess additional penalties for violations for which penalties have not yet been assessed or for violations that may subsequently occur.
21. Any person aggrieved by this action of the Santa Ana Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, section 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions will be provided upon request and may be found on the Internet at: http://www.waterboards.ca.gov/public_notices/petitions/water_quality/

IT IS HEREBY ORDERED, pursuant to Water Code section 13385 and other applicable law, that:

1. Robinson Manufacturing, Inc., shall be assessed an Administrative Civil Liability in the amount of fifty-seven thousand seven hundred eighty-four dollars \$57,784.
2. Payment shall be made no later than 30 days from the date on which this Order is adopted. Robinson Manufacturing, Inc. shall send the original signed check to:

State Water Resources Control Board
Division of Administrative Services
ATTN: Accounting
1001 I Street, 18th Floor
Sacramento, CA 95814

And shall send a copy to:
Santa Ana Regional Water Quality Control Board
ATTN: Katie Barbour
3737 Main Street, Suite 500
Riverside, CA 92501

I, Alan Kuoch, Supervising Engineering Geologist, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Santa Ana Region, on April 24, 2026:

Alan Kuoch
Supervising Engineering Geologist

Attachment A: Specific Factors Considered for Administrative Civil Liability Order
 No. R8-2025-0017

ATTACHMENT A
Specific Factors Considered for
Administrative Civil Liability Order No. R8-2025-0017
Robinson Manufacturing, Inc.

Robinson Manufacturing, Inc. is found to have violated the *General Permit for Storm Water Discharges Associated with Industrial Activities*, Order No. 2014-0057-DWQ, National Pollutant Discharge Elimination System (NPDES) Permit No. CAS000001 (General Permit) at its industrial facility located at 1136 South Richfield Road in the City of Placentia (Facility). The Discharger obtained coverage under the General Permit by submitting a Notice of Intent (NOI) on August 30, 1995 and was assigned Waste Discharge Identification Number 8 30I011852, thereby becoming subject to all provisions of the General Permit.

The State Water Resources Control Board's Water Quality 2024 Enforcement Policy ([Enforcement Policy](#))¹ establishes a methodology for determining administrative civil liability by addressing the factors that are required to be considered under California Water Code (Water Code) section 13385, subdivision (e). Each factor of the ten-step approach and its application to each violation is discussed below, as is the basis for assessing the corresponding score.

Violation 1: The Discharger failed to submit its 2021-2022 Annual Report on July 15, 2022, as required by the General Permit.

General Permit section XVI.A. requires dischargers to certify and submit, via the online database Stormwater Multiple Application and Report Tracking System (SMARTS), an Annual Report no later than July 15th of each reporting year using the standardized format in SMARTS. For the 2021-2022 reporting year, the Discharger should have submitted its Annual Report by July 15, 2022. The Discharger submitted its 2021-2022 Annual Report on September 29, 2023. The Annual Report was 441 days late, but the Santa Ana Regional Water Quality Control Board Prosecution Team (Santa Ana Water Board Prosecution Team) has exercised its discretion to end the period of violation on the last day before the next Annual Report is due, resulting in 365 total days of alleged violation. Water Code section 13385 subdivision (c) authorizes the Santa Ana Water Board to assess a penalty of up to \$10,000 for each day of violation.

ENFORCEMENT POLICY – PENALTY CALCULATION

Step 1 and Step 2 – Actual or Potential for Harm for Discharge Violations and Assessments for Discharge Violations

These steps are not applicable to the violation because this is a non-discharge violation.

Step 3 – Per Day Assessments for Non-Discharge Violations

¹ The violations alleged in this complaint pre-date the effective date of the 2024 Enforcement Policy, therefore, consistent with Attachment D to the Enforcement Policy, substantive changes included in the 2024 Enforcement Policy are not applied to these violations.

Step 3 of the Enforcement Policy directs the Santa Ana Water Board to calculate a per day factor for non-discharge violations by considering the Potential for Harm and Deviation from Requirement using Table 3 in the Enforcement Policy.

Potential for Harm: Moderate

The Enforcement Policy requires a determination of whether the characteristics of the violation resulted in a minor, moderate, or major potential for harm and/or threat to beneficial uses.

The Discharger's failure to submit the 2021-2022 Annual Report by the General Permit's deadline has a moderate potential for harm because it substantially impaired the Santa Ana Water Board's ability to perform its regulatory functions. The Annual Report provides important information to the Santa Ana Water Board about the Discharger's facility which is necessary in order to implement the industrial stormwater program. Because the Discharger did eventually submit the Annual Report, the Santa Ana Water Board has access to the necessary data to ensure compliance and protect water quality but not in a timely manner. Therefore, the potential for harm is moderate.

Deviation from Requirement: Moderate

A moderate deviation from requirement is appropriate because the General Permit requires submittal of an Annual Report each year for all facilities enrolled with NOI coverage. The Discharger's late submittal of its Annual Report partially compromised the intended effectiveness of the General Permit's reporting requirement. Santa Ana Water Board staff were able to eventually review the Discharger's Annual Report, but it was significantly after the required deadline. Therefore, the deviation from requirement is moderate.

Per Day Factor: 0.35

Using a moderate Potential for Harm and a moderate Deviation from Requirement, the per day factor for this violation from Table 3 of the 2024 Enforcement Policy is 0.35.

Days of Violation:

Days of violation for Violation 1 began to accrue on July 16, 2022, the first date on which the Annual Report was late. The Discharger submitted its 2021-2022 Annual Report on September 29, 2023, 441 days after the deadline. The Santa Ana Water Board Prosecution Team is exercising its discretion to end the period of violation on the last day before the next Annual Report is due, resulting in 365 days of violation for Violation 1.

Multiple Day Violation Reduction:

The Discharger's failure to submit its 2021-2022 Annual Report did not cause daily detrimental impacts to the environment and did not cause daily detrimental impacts to the regulatory program. Failure to submit the Annual Report does not have a daily detrimental impact to the environment because the Discharger is still required to implement all Best Management Practices (BMPs) and otherwise comply with the provisions of the General Permit. Nor does the failure to submit the Annual Report result in a daily detrimental impact to the regulatory program. Therefore, the Santa Ana Water Board Prosecution Team has elected to reduce the days of violation as allowed by the Enforcement Policy.

Based on the application of the multiple day reduction, the total number of days of violation for Violation 1 is $(30 + (30/5) + (365-60)/30) = 36+10= 46$.

Initial Liability Amount:

$\$10,000$ [maximum statutory liability per day violation] x 46 [days of violation] x 0.35 [per day factor]

$$\mathbf{\$10,000 \times 46 \text{ days} \times 0.35 = \$161,000}$$

Step 4 – Adjustment Factors

The Enforcement Policy then requires consideration of the discharger's conduct, specifically, the discharger's culpability, degree of cleanup and cooperation, and compliance history.

Culpability: 1.3

For culpability, the Enforcement Policy prescribes an adjustment using a multiplier between 0.75 to 1.5. The lower multiplier applies to accidental incidents and the higher multiplier for intentional and negligent behavior.

The Discharger has been negligent in its failure to submit its Annual Report on time. The Discharger has been consistently late in submitting its Annual Report almost every year it has been enrolled in the General Permit, starting in 1996. Throughout the Discharger's enrollment in the General Permit, Santa Ana Water Board staff engaged in outreach to remind the Discharger of the requirement to submit its Annual Report. Santa Ana Water Board staff has issued Notices of Non-Compliance (NNCs) pursuant to Water Code section 13399.25 et seq. to the Discharger providing specific instructions on how to submit the Annual Report and indicating that the Annual Report was past due for 19 out of the Discharger's 29 years it has been enrolled in the General Permit. The NNCs relevant to this violation were sent on August 2, 2022, and September 1, 2022, and were received by the Discharger as confirmed by United States Postal Service certified mail return receipts. Therefore, a factor of 1.3 is assigned for Culpability.

History of Violations: 1.0

The Discharger does not have a history of violations that have been formally adjudicated by the Santa Ana Water Board. Therefore, a neutral factor of 1.0 is applied.

Cleanup and Cooperation: 1.3

This factor reflects the extent to which a discharger voluntarily cooperates in returning to compliance and correcting environmental damage. A multiplier between 0.75 and 1.5 is to be used, with a higher multiplier reflecting a lack of cooperation in obtaining compliance.

The Discharger was uncooperative with Santa Ana Water Board staff, who attempted to assist the Discharger in correcting conditions of noncompliance. Despite having received two NNCs specifically related to the 2021-2022 Annual Report, dated August 2, 2022, and September 1, 2022, the Discharger did not submit its Annual Report until September 29, 2023, after the final deadline of September 30, 2022. In addition to the NNCs, Santa Ana Water Board staff attempted to contact the Discharger by phone and email on September 22, 2022, and September 26, 2022. Therefore, a factor of 1.3 is assigned for Cleanup and Cooperation.

Step 5 – Determination of Total Base Liability Amount

The Total Base Liability Amount for the violation is determined by multiplying the Initial Liability Amount determined in Step 3 by the Step 4 adjustment factors.

\$161,000 [initial liability amount] x 1.3 [culpability] x 1.0 [violation history] x 1.3 [cleanup and cooperation]

$$\mathbf{\$161,000 \times 1.3 \times 1.0 \times 1.3 = \$272,090}$$

Steps 6 through 10 are applied to the combined Total Base Liability Amount for all violations and will be discussed after the Total Base Liability Amount has been determined for the remaining violations.

Violation 2: The Discharger failed to submit its 2022-2023 Annual Report on July 15, 2023, as required by the General Permit.

General Permit section XVI.A. requires dischargers to certify and submit, via the online database Stormwater Multiple Application and Report Tracking System (SMARTS), an Annual Report no later than July 15th of each reporting year using the standardized format in SMARTS. For the 2022-2023 reporting year, the Discharger should have submitted its Annual Report by July 15, 2023. The Discharger failed to submit the 2022-2023 Annual Report. The Annual Report is over 365 days late, but the Santa Ana Water Board Prosecution Team has exercised discretion to end the period of violation on the last day

before the next Annual Report is due, even though the violation is ongoing, resulting in 365 days of violation. Water Code section 13385 subdivision (c) authorizes the Santa Ana Water Board to assess a penalty of up to \$10,000 for each day of violation.

Step 1 and Step 2 – Actual or Potential for Harm for Discharge Violations and Assessments for Discharge Violations

These steps are not applicable to the violation because this is a non-discharge violation.

Step 3 – Per Day Assessments for Non-Discharge Violations

Step 3 of the Enforcement Policy directs the Santa Ana Water Board to calculate a per day factor for non-discharge violations by considering the Potential for Harm and Deviation from Requirement using Table 3 in the Enforcement Policy.

Potential for Harm: Moderate

The Enforcement Policy requires a determination of whether the characteristics of the violation resulted in a minor, moderate, or major potential for harm and/or threat to beneficial uses.

The Discharger's failure to submit the 2022-2023 Annual Report by the General Permit's deadline has a moderate potential for harm because it substantially impaired the Santa Ana Water Board's ability to perform its regulatory functions. The Annual Report provides important information to the Santa Ana Water Board about the Discharger's facility which is necessary in order to implement the industrial stormwater program. The Discharger has not submitted the Annual Report to date, so the impact to the regulatory function is increased. However, Santa Ana Water Board staff have access to historic data from this Facility to reference. Therefore, the potential for harm is moderate.

Deviation from Requirement: Major

A major deviation from requirement is appropriate because the General Permit requires submittal of an Annual Report each year for all facilities enrolled with NOI coverage. The Discharger's continued failure to submit the 2022-2023 Annual Report has totally compromised the intended effectiveness of the General Permit's reporting requirement. Therefore, the deviation from requirement is major.

Per Day Factor: 0.55

Using a moderate Potential for Harm and a major Deviation from Requirement, the per day factor for this violation from Table 3 of the 2024 Enforcement Policy is 0.55.

Days of Violation:

Days of violation for Violation 2 began to accrue after the Discharger missed the July 15, 2023 deadline for submission of their Annual Report. As of September 15, 2025, the Discharger has not submitted the 2022-2023 Annual Report. The Santa Ana Water Board Prosecution Team is exercising its discretion to end the period of violation on the last day before the next Annual Report is due, resulting in 365 days of violation for Violation 2.

Multiple Day Violation Reduction:

The Discharger's failure to submit its 2022-2023 Annual Report did not cause daily detrimental impacts to the environment and did not cause daily detrimental impacts to the regulatory program. Failure to submit the Annual Report does not have a daily detrimental impact to the environment because the Discharger is still required to implement all Best Management Practices (BMPs) and otherwise comply with the provisions of the General Permit. Nor does the failure to submit the Annual Report result in a daily detrimental impact to the regulatory program. Therefore, the Santa Ana Water Board Prosecution Team has elected to reduce the days of violation as allowed by the Enforcement Policy.

Based on the application of the multiple day reduction, the total number of days of violation for Violation 2 is $(30 + (30/5) + (365-60)/30) = 36+10= 46$.

Initial Liability Amount:

$\$10,000$ [maximum statutory liability per day violation] x 46 [days of violation] x 0.55 [per day factor]

$$\mathbf{\$10,000 \times 46 \text{ days} \times 0.55 = \$253,000}$$

Step 4 – Adjustment Factors

The Enforcement Policy then requires consideration of the discharger's conduct, specifically, the discharger's culpability, degree of cleanup and cooperation, and compliance history.

Culpability: 1.4

For culpability, the Enforcement Policy prescribes an adjustment using a multiplier between 0.75 to 1.5. The lower multiplier applies to accidental incidents and the higher multiplier for intentional and negligent behavior.

The Discharger has been negligent in its failure to submit its Annual Report. The Discharger has been consistently late in submitting its Annual Report almost every year it has been enrolled in the General Permit, starting in 1996. The Discharger's culpability increased between Violations 1 and 2 because the Discharger received additional

outreach and education from Santa Ana Water Board staff between the due dates of the 2021-2022 Annual Report and the 2022-2023 Annual Report. Throughout the Discharger's enrollment in the General Permit, Santa Ana Water Board staff engaged in outreach to remind the Discharger of the requirement to submit its Annual Report. Santa Ana Water Board staff have issued NNCs pursuant to Water Code section 13399.25 et seq. to the Discharger providing specific instructions on how to submit the Annual Report and indicating that the Annual Report was past due for 19 out of the Discharger's 29 years it has been enrolled in the General Permit. The NNCs relevant to this violation were sent on August 1, 2023, and August 31, 2023, and were received by the Discharger as confirmed by United States Postal Service certified mail return receipts. Therefore, a factor of 1.4 is assigned for Culpability.

History of Violations: 1.0

The Discharger does not have a history of violations that have been formally adjudicated by the Santa Ana Water Board. Therefore, a neutral factor of 1.0 is applied.

Cleanup and Cooperation: 1.4

This factor reflects the extent to which a discharger voluntarily cooperates in returning to compliance and correcting environmental damage. A multiplier between 0.75 and 1.5 is to be used, with a higher multiplier when there is a lack of cooperation.

The Discharger was uncooperative with the Santa Ana Water Board's staff, who attempted to assist the Discharger in correcting conditions of noncompliance. Despite having received two NNCs specifically related to the 2022-2023 Annual Report, dated August 1, 2023 and August 31, 2023, to date, the Discharger has not submitted this Annual Report. In addition to the NNCs, Santa Ana Water Board staff contacted the Discharger by phone on September 27, 2023, September 28, 2023, and September 29, 2023, as well as by email on August 1, 2023, August 31, 2023, and September 25, 2023. Therefore, a factor of 1.4 is assigned for Cleanup and Cooperation.

Step 5 – Determination of Total Base Liability Amount

The Total Base Liability Amount for the violation is determined by multiplying the Initial Liability Amount determined in Step 3 by the Step 4 adjustment factors.

\$253,000 [initial liability amount] x 1.4 [culpability] x 1.0 [violation history] x 1.4 [cleanup and cooperation] =

\$253,000 x 1.4 x 1.0 x 1.4 = \$495,880

Combined Base Liability Amount for All Violations

The combined Total Base Liability for Violations 1 and 2 is determined by adding the base liability amount of each violation.

$\$272,090$ [Violation 1] + $\$495,880$ [Violation 2] = Combined Total Base Liability

$\$272,090 + \$495,880 = \$767,970$

Step 6 – Economic Benefit

Estimated Economic Benefit: $\$7,242$

The Enforcement Policy requires the Economic Benefit Amount to be estimated for every violation. The economic benefit is any savings or monetary gain derived from the act or omission that constitutes the violation.

The Enforcement Policy provides that the United States Environmental Protection Agency's Economic Benefit of Noncompliance Model (BEN model) should be used to calculate the economic benefit equal to the present value of the avoided costs plus the "interest" on delayed costs. This calculation reflects the fact that the Discharger has had the use of the money that should have been used to avoid the instance of noncompliance. Using the BEN Model, the Discharger has derived an economic benefit of $\$7,242$.

Pursuant to California Water Code section 13385 subdivision (e), civil liability, at a minimum, must be assessed at a level that recovers the economic benefit, if any, derived from the acts that constitute a violation. The alleged violations resulted in avoided expenses that have significantly benefited the Discharger.

Step 7 – Other Factors as Justice May Require

In accordance with Step 7 of the Enforcement Policy, the total base liability amount may be adjusted under the provision for "other factors as justice may require" if express findings are made. The Prosecution Team believes that the amount of $\$767,970$ is disproportionate to assessments for similar conduct under the Storm Water Enforcement Act of 1998. The Storm Water Enforcement Act requires that a mandatory minimum penalty of $\$1,000$ plus staff costs be assessed for each missing report. The Discharger's conduct here, as described in the above analysis, warrants the assessment of discretionary penalties that are greater than the mandatory minimum penalty under the Storm Water Enforcement Act, but less than the statutory maximum under Water Code section 13385.

In addition, the Santa Ana Water Board Prosecution Team notes that the Facility is located in a designated Disadvantaged Community as described in the Enforcement Policy. According to CalEnviroScreen, a tool developed by the California Office of

Environmental Health Hazard Assessment for purposes of identifying impacted communities by taking into consideration pollutant exposure and its effects, as well as health and socioeconomic status, the Facility is located in a census tract with a score of 95 out of 100 for pollution. Resolution R8-2024-0029, adopted on March 15, 2024, reaffirmed the Santa Ana Water Board's commitment to uphold the human right to water, protect public health, beneficial uses, and particularly address communities that carry a disproportionate burden from environmental pollution within the Santa Ana River watershed. Therefore, residents in this community bear a disproportionate burden of pollution and it is appropriate to impose a liability greater than the amount authorized pursuant to the Storm Water Enforcement Act.

Thus, the Prosecution Team proposed an adjustment yielding a total base liability amount of \$50,000.

The Santa Ana Water Board Prosecution Team accrued \$7,784 in staff costs associated with the investigation and preparation of the Violations alleged herein. The Prosecution Team elected not to seek reimbursement of these costs due to the overall total liability in its proposed Total Base Liability Amount.

The 2024 Enforcement Policy provides that "[t]he Water Boards may exercise their discretion to include some of the costs of investigation and enforcement in a civil liability. Including some staff investigation and enforcement costs is valid from an economic standpoint as it requires those who commit water quality violations to pay a greater percentage of the full costs of their violations... Water Boards are strongly encouraged to recover staff costs that reflect the effort to investigate and issue an enforcement action." (2024 Enforcement Policy, at p. 28.)

The Santa Ana Water Board finds that it is appropriate and consistent with the Enforcement Policy to increase the Total Base Liability Amount by \$7,784 in consideration of the costs of investigation and enforcement necessitated by the Discharger's lack of cooperation with staffs' investigation. Therefore, the proposed Total Base Liability Amount is increased by \$7,784, for a Total Base Liability Amount of \$57,784.

Step 8 – Ability to Pay and Ability to Continue in Business

The Enforcement Policy provides that if there is sufficient financial information available 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. There is no obligation to ensure that a violator has the ability to pay or continue in business, but, rather, the Santa Ana Water Board is obligated to consider these factors when imposing a civil liability under the Water Code.

The Santa Ana Water Board Prosecution Team has sufficient financial information necessary to suggest that the Discharger has the ability to pay the proposed civil liability. The Discharger's Business Profile Record reported sales from the Facility in 2023 to exceed \$7,156,000. Based on this publicly available information, the Discharger has the ability to pay the proposed penalty and remain in business.

Step 9 – Maximum and Minimum Liability Amounts

The Enforcement Policy directs the Santa Ana Water Board to consider the maximum and minimum liability amounts for each alleged violation.

Maximum Liability Amount: \$7,300,000

The maximum liability is set by statute. Water Code section 13385 allows the Santa Ana Water Board to impose daily liability in an amount not to exceed \$10,000 per day, per violation. The maximum liability amount for Violation 1 is \$3,650,000 = \$10,000 x 365 days. The maximum liability amount for Violation 2 is \$3,650,000 = \$10,000 x 365 days. Total maximum liability is \$3,650,000 + \$3,650,000 = \$7,300,000.

Minimum Liability Amount: \$7,966

The Santa Ana Water Board is bound by statute to recover, at minimum, the economic benefit to the violator in an action for violations of Water Code section 13385. The Santa Ana Water Board should strive to impose civil liabilities 10 percent greater than the economic benefit to the violator. The Enforcement Policy states that "the adjusted Total Base Liability Amount should be at least 10 percent higher than the Economic Benefit Amount so that liabilities are not construed as the cost of doing business and that the assessed liability provides a meaningful deterrent to future violations". The minimum liability amount is \$7,966 (\$7,242 x 1.1).

Step 10 – Final Liability Amount

Final Liability Amount: \$57,784

The Final Liability Amount consists of the proposed Total Base Liability Amount of \$50,000 plus staffs' investigation and enforcement costs of \$7,784. Based on the foregoing analysis, and consistent with the Enforcement Policy, the final Administrative Civil Liability is \$57,784.