



Santa Ana Regional Water Quality Control Board

July 27, 2026

Griswold Industries
1701 Placentia Avenue
Costa Mesa, CA 92627
(Via Certified Mail)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Fabio Naranjo
fabio.naranjo@cla-val.com
(Via Email)

1505 Corporation
Agent of Service of Process for Griswold Industries
330 North Brand Boulevard
Glendale, CA 91203
(Via Certified Mail)

TRANSMITTAL OF ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R8-2026-0043, GRISWOLD INDUSTRIES

Enclosed is Administrative Civil Liability Complaint No. R8-2026-0043 (Complaint) issued to Griswold Industries (hereafter referred to as Discharger) by the Prosecution Team for the Santa Ana Regional Water Quality Control Board (Santa Ana Water Board) pursuant to California Water Code (Water Code) sections 13323 and 13385. The Complaint alleges that the Discharger violated Water Code section 13383 and the Total Maximum Daily Load Monitoring and Report requirements in the General Permit for Storm Water Discharges Associated with Industrial Activities, Order No. 2014-0057-DWQ as amended by Order No. 2015-0122-DWQ and Order No. 2018-0028-DWQ, NPDES No. CAS000001 (Industrial General Permit) by falsifying laboratory analytical results and submitting the falsified sampling data in the Stormwater Multiple Application and Report Tracking System (SMARTS) for the industrial facility located at 1701 Placentia Avenue, Costa Mesa.

The Discharger is also alleged to have violated Water Code section 13383 and section XI.B.11.a. of the Industrial General Permit by not submitting all sampling and analytical results for all samples in SMARTS within 30 days of obtaining results and for violating section X.H. of the Industrial General Permit by failing to implement minimum Best Management Practices and exceeding the Total Maximum Daily Load Numeric Effluent Limitations for numerous reporting years.

This Complaint proposes that an administrative civil liability in the amount of **three million seven hundred twenty-eight thousand eight hundred and eight dollars (\$3,728,808)** be imposed.

JOHN SCANDURA, CHAIR | ERIC LINDBERG, EXECUTIVE OFFICER

A public hearing on this matter is scheduled for the Santa Ana Water Board meeting at 9 a.m. on October 23, 2026. This meeting is currently scheduled to occur at the City of Cypress at 5275 Orange Avenue in Cypress, California, 90630. Pursuant to Water Code section 13323, the Discharger has the option to waive its right to a hearing, as described in detail in the attached Waiver Form. Should the Discharger elect to waive its right to a hearing, the Santa Ana Water Board may not hold a public hearing on this matter.

If the Discharger chooses to waive its right to a hearing, please sign and submit the enclosed Waiver Form, indicating the selected option:

- (1) The Discharger may waive the right to a hearing by providing payment for the proposed administrative civil liability amount in full; or,
- (2) Subject to objection by the Santa Ana Water Board Prosecution Team, the Discharger may formally request to postpone any necessary hearing to allow for additional time to prepare for hearing, accompanied by a letter setting forth the reasons for additional time.

The Discharger should submit the attached Waiver Form to the Advisory Team by contacting Heraclio Pimentel via e-mail at Heraclio.Pimentel@waterboards.ca.gov or via phone at (916) 323-1677 and Desta Matsuda via e-mail at Desta.Matsuda@Waterboards.ca.gov or via phone at (916) 327-8557. Counsel for the Santa Ana Water Board Prosecution Team, Carson Capps, must be copied on that email at Carson.Capps@waterboards.ca.gov. The Santa Ana Water Board Prosecution Team reserves the right to object to the Discharger's request to pursue Option #2, as it is described on the waiver.

If the Discharger waives its right to a public hearing and pays the proposed liability, by selecting Option #1 and submitting full payment of the proposed liability as described in the Waiver, the October 23, 2026, hearing will not be held. Instead, the Waiver Form will be considered a tentative settlement of the alleged violations. The settlement will be brought before the Santa Ana Water Board or its delegee for approval following a 30-day public comment period, starting from the day the Waiver Form is posted.

If the Discharger does not wish to waive its rights to a hearing, a pre-hearing meeting with the Prosecution Team is recommended. Should you wish to schedule a pre-hearing meeting, please submit your request to Kaitlin Diaz via phone at (951) 782-4992 or via email Kaitlin.Diaz@waterboards.ca.gov prior to **August 17, 2026**.

Persons or organizations who wish to participate in the hearing as a Designated Party will have an opportunity to request Designated Party status by submitting a request in writing as set forth in the Hearing Procedure. Alternatively, persons or organizations may seek to participate as Interested Persons, which will also be set forth in the Hearing Procedure, attached.

Procedural questions should be directed to the Advisory Team by contacting attorneys Heraclio Pimentel or Desta Matsuda at the contact information listed above. The Hearing Procedure governing this enforcement action is included as an attachment.

If you have any questions regarding the Complaint or the enclosed documents, please contact Carson Capps, attorney for the Santa Ana Water Board Prosecution Team, via email at Carson.Capps@waterboards.ca.gov or via phone at (916) 341-5273.

Sincerely,



Eric T. Lindberg, PG CHG
Executive Officer
Santa Ana Water Board Prosecution Team

enclosures: Administrative Civil Liability Complaint No. R8-2026-0043
Attachment A: Violations 1-3
Attachment B: Violations 4-38
Waiver Form
Hearing Procedure

cc: Alan Kuoch, Santa Ana Water Board Advisory Team
Heraclio Pimentel, Esq., Santa Ana Water Board Advisory Team
Desta Matsuda, Esq., Santa Ana Water Board Advisory Team
Carson Capps, Esq., Santa Ana Water Board Prosecution Team
James Fortuna, County of Orange, NPDES Coordinator
Seung Yang, City of Costa Mesa, NPDES Coordinator

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R8-2026-0043
IN THE MATTER OF**

GRISWOLD INDUSTRIES

This Administrative Civil Liability Complaint (Complaint) is issued by the Executive Officer of the Santa Ana Regional Water Quality Control Board (Santa Ana Water Board), on behalf of the Santa Ana Water Board Prosecution Team (Prosecution Team), to Griswold Industries (Discharger) pursuant to California Water Code (Water Code) section 13385, which authorizes the imposition of administrative civil liability, and Water Code section 13323, which authorizes the Executive Officer to issue this Complaint. This Complaint is based on evidence that the Discharger violated provisions of the Water Code by falsifying laboratory analytical results and submitting the falsified sampling data in the Stormwater Multiple Application and Report Tracking System (SMARTS), and failing to comply with Total Maximum Daily Load (TMDL) Monitoring and Reporting requirements and failing to implement Best Management Practices (BMPs) as required in the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Industrial Activities, Order No. 2014-0057-DWQ, NPDES No. CAS0000010 (Industrial General Permit).

The Prosecution Team alleges the following:

BACKGROUND

1. Industrial facilities that discharge stormwater associated with industrial activities are required to obtain coverage under the Industrial General Permit. Permit coverage is required for industrial facilities with Standard Industrial Classification (SIC) Codes listed in 40 Code of Federal Regulations section 122.26(b)(14) and in Attachment A of the Industrial General Permit.
2. The Discharger is located at 1701 Placentia Avenue in the city of Costa Mesa (Facility) and is identified as an industrial facility engaged in manufacturing industrial valves and nonferrous foundries, except Aluminum and Copper. These industrial activities are described in SIC Codes 3491 and 3369, respectively.
3. On April 6, 1992, the Discharger filed a Notice of Intent to comply with the Industrial General Permit. The Discharger was assigned Waste Discharge Identification Number (WDID) 8 30I004382. The Discharger named Mr. Bob Rost as the Legally Responsible Person, per the submitted Notice of Intent. The Discharger has maintained its enrollment in the various versions of the Industrial General Permit to date, including in the current Industrial General Permit.
4. For the period relevant to the violations alleged herein, stormwater discharges from the Facility were regulated under the Industrial General Permit.

5. The Facility discharges stormwater runoff to both the Santa Ana River, Reach 1, and Lower Newport Bay. The Facility discharges to Santa Ana River, Reach 1, via the outfalls labelled in its site-specific Stormwater Pollution Prevention Plan (SWPPP) as OF-4, OF-5, and OF-12. The Facility discharges to Lower Newport Bay via the outfalls labelled OF-1, OF-2, OF-3, OF-8, OF-10, OF-11, and OF-13.
6. The Lower Newport Bay is listed under Clean Water Act section 303(d) as an impaired waterbody for Copper, Toxicity, Chlordane, DDT, Indicator Bacteria, PCBs, Dieldrin, and Nutrients.
7. The Water Quality Control Plan for the Santa Ana River Basin (Basin Plan) designates the following beneficial uses for the Santa Ana River, Reach 1, and the Lower Newport Bay:
 - a. Santa Ana River, Reach 1:
Existing or Potential: Water Contact Recreation (REC1), Non-Contact Water Recreation (REC2)
Intermittent: Warm Freshwater Habitat (WARM), Wildlife Habitat (WILD)
 - b. Lower Newport Bay:
Existing or Potential: Navigation (NAV), REC1, REC2, Commercial and Sportfishing (COMM), WILD, Rare, Threatened, or Endangered Species (RARE), Spawning, Reproduction, and Development (SPWN), Marine Habitat (MAR), Shellfish Harvesting (SHEL)

LEGAL AND REGULATORY CONSIDERATIONS

8. The 2018 amendment to the Industrial General Permit (effective July 1, 2020) incorporated TMDL-specific requirements for industrial facilities discharging to an impaired waterbody, including the implementation of the TMDL Compliance Table in Attachment E to the Industrial General Permit. As identified in its Notice of Intent, the Facility discharges into Lower Newport Bay, which is an impaired waterbody and has associated TMDL Numeric Effluent Limitations (NELs) listed in Attachment E of the Industrial General Permit. The relevant NELs listed for Lower Newport Bay are as follows: Total Copper (Cu) NEL of 0.00578 mg/L, Total Zinc (Zn) NEL of 0.095 mg/L, and Total Lead (Pb) NEL of 0.221 mg/L.
9. The Industrial General Permit contains monitoring and reporting requirements that require the Discharger to collect and analyze stormwater samples from two Qualifying Storm Events (QSEs) within the first half of each reporting year (July 1 to December 31), and two QSEs within the second half of each reporting year (January 1 to June 30) (Industrial General Permit section XI.B.). For each QSE, the Discharger must collect samples representative of stormwater associated with industrial activities from each drainage area at all Facility discharge locations.
10. The Discharger is required to analyze stormwater samples for Cu and Zn as a requirement of Table 1 in the Industrial General Permit, which requires sampling for additional applicable parameters based on a facility's SIC Code. Additionally,

the Discharger must also sample for Pb due to the parameter being identified in the Facility's specific pollutant source assessment.

11. To assess compliance with effluent limitations, Industrial General Permit section XI.B.11.a. requires the Discharger to submit all sampling and analytical results for all individual samples via SMARTS within 30 days of obtaining results for each sampling event. Pursuant to section II.A. and section XXI.K. of the Industrial General Permit, the Legally Responsible Person of the Facility is required to certify and upload the sampling data and laboratory report to SMARTS on behalf of the Discharger within 30 days of obtaining all the results for each sampling event.
12. In order to assess compliance with the NELs, Attachment C (at p. 5) to the Industrial General Permit provides that dischargers shall compare all sampling and analytical results obtained from each sampling location to the corresponding instantaneous maximum NEL values in the TMDL Compliance Table E-2 per section V.C.1. of the Industrial General Permit. An instantaneous maximum NEL exceedance occurs when two or more analytical results from samples taken for any single parameter within a reporting year exceed the instantaneous maximum NEL value.
13. During the 2020-2021 reporting period, the Discharger collected samples during two QSEs, on January 28, 2021, and March 3, 2021, as outlined in Table 2 of Attachment A to this Complaint. Its analytical laboratory report for the first QSE was dated February 23, 2021; therefore, pursuant to section XI.B.11.a. of the Industrial General Permit, the Discharger had until March 25, 2021, to manually enter the lab results into SMARTS and upload and certify a copy of the lab report. In this instance, the Discharger did not certify and submit the data in SMARTS until July 13, 2021, which was 109 days late.
14. The Discharger's analytical laboratory report for the second QSE collected during the 2020-2021 reporting period was dated March 30, 2021; therefore, pursuant to section XI.B.11.a. of the Industrial General Permit, the Discharger had until April 29, 2021, to manually enter the lab results into SMARTS and upload and certify a copy of the lab report. In this instance, the Discharger did not certify and submit the data in SMARTS until July 13, 2021, which was 74 days late.
15. The Discharger collected two QSEs in the 2021-2022 reporting period, on October 25, 2021, and March 29, 2022, as outlined in Table 2 of Attachment A to this Complaint. Its analytical laboratory report for the first QSE was dated November 10, 2021; therefore, pursuant to section XI.B.11.a. of the Industrial General Permit, the Discharger had until December 10, 2021, to manually enter the lab results into SMARTS and upload and certify a copy of the lab report. In this instance, the Discharger did not certify and submit the data in SMARTS until July 8, 2022, which was 209 days late.
16. The Discharger's analytical laboratory report for the second QSE collected during the 2021-2022 reporting period was dated April 11, 2022; therefore, pursuant to

section XI.B.11.a. of the Industrial General Permit, the Discharger had until May 11, 2022, to manually enter the lab results into SMARTS and upload and certify a copy of the lab report. In this instance, the Discharger did not certify and submit the data in SMARTS until July 8, 2022, which was 57 days late.

17. The Discharger collected two QSEs in the 2022-2023 reporting period, on September 9, 2022, and January 10, 2023, as outlined in Table 2 of Attachment A to this Complaint. Its analytical laboratory report for the first QSE was dated September 28, 2022; therefore, pursuant to section XI.B.11.a. of the Industrial General Permit, the Discharger had until October 28, 2022, to manually enter the lab results into SMARTS and upload and certify a copy of the lab report. In this instance, the Discharger did not certify and submit the data in SMARTS until June 13, 2023, which was 227 days late.
18. The Discharger's analytical laboratory report for the second QSE collected during the 2022-2023 reporting period was dated January 30, 2023; therefore, pursuant to section XI.B.11.a. of the Industrial General Permit, the Discharger had until March 1, 2023, to manually enter the lab results into SMARTS and upload and certify a copy of the lab report. In this instance, the Discharger did not certify and submit the data in SMARTS until June 13, 2023, which was 103 days late.
19. It is the Santa Ana Water Board's standard practice to review dischargers' uploaded analytical data in SMARTS by comparing the data entered by a discharger to the analytical laboratory reports that the discharger uploads to SMARTS. In this matter, Santa Ana Water Board staff also contacted the Discharger and Enthalpy Analytical, the ELAP accredited laboratory that the Discharger contracted to analyze the stormwater samples at issue here, via email on August 22, 2023, October 26, 2023, and November 2, 2023, requesting the laboratory send the original copies of the Facility's laboratory reports for the 2020-2021, 2021-2022, and 2022-2023 reporting years.
20. Santa Ana Water Board staff reviewed and compared the original laboratory reports supplied by Enthalpy Analytical to the laboratory reports and sampling data uploaded and certified in SMARTS by the Discharger. Santa Ana Water Board staff found that the laboratory reports for the 2020-2021, 2021-2022, and 2022-2023 reporting periods had been altered before they were uploaded to SMARTS and certified by the Discharger. In all cases, the Cu and Zn parameter results were altered in a manner to make it appear there had been no exceedances of TMDL NELs for Lower Newport Bay.
21. For the two QSEs sampled in the 2020-2021 reporting period, the Discharger submitted falsified Cu and Zn parameter results eight times in the laboratory reports for discharge locations OF-1, OF-2, OF-4, OF-5, and OF-6. In the 2021-2022 reporting period, the Discharger submitted falsified Cu and Zn parameter results in its laboratory reports on fifteen separate occasions for discharge locations OF-1, OF-2, OF-3, OF-4, and OF-5. Lastly, in the 2022-2023 reporting period, the Discharger submitted falsified Cu and Zn parameter results in the

laboratory reports nine times for discharge locations OF-1, OF-2, OF-3, OF-4, and OF-5. Thus, the Discharger falsified 32 parameter results.

22. Because of the falsified Cu and Zu parameter results, in the 2020-2021 and 2021-2022 reporting periods, the Discharger did not, but should have accrued \$12,000 in Mandatory Minimum Penalties, identified as Violations 4-7 in Attachment B to this Complaint. In the 2023-2024, 2024-2025, and 2025-2026 reporting periods, the Discharger reported exceedances of the TMDL NELs for Cu and Zu and accrued \$93,000 in Mandatory Minimum Penalties, identified as Violations 8-38 in Attachment B to this Complaint.
23. Santa Ana Water Board staff conducted a compliance inspection of the Facility on August 16, 2023. Santa Ana Water Board staff observed numerous violations of the Industrial General Permit, including section X.H. and section X.E. These violations were memorialized in a contemporaneous inspection report. Santa Ana Water Board staff issued a Notice of Violation on February 23, 2024, outlining the violations observed during the compliance inspection and the actions the Discharger needed to take to come into compliance with the Industrial General Permit. The Discharger submitted a response to the Notice on Violation on March 25, 2024, but Santa Ana Water Board staff issued a second Notice of Violation on April 23, 2024, as the Discharger failed to address all issues identified in the first Notice of Violation. On May 3, 2024, the Discharger submitted a response to the second Notice of Violation to address the remaining violations.
24. Santa Ana Water Board staff conducted an additional compliance inspection of the Facility on December 4, 2024. Santa Ana Water Board staff observed numerous violations of the Industrial General Permit, including section X.H., section X.E., and section III.B. These violations were memorialized in a contemporaneous inspection report. Similar violations of section X.H. and section X.E. of the Industrial General Permit were also seen during the previous inspection on August 16, 2023.
25. Water Code section 13383, subdivision (a), states, in part, *“The state board or a regional board may establish monitoring, inspection, reporting, and recordkeeping requirements, ... for any person who discharges, or proposes to discharge, to navigable waters.”*
26. Water Code section 13383, subdivision (b), states, in part, *“The state board or the regional boards may require any person subject to this section to establish and maintain monitoring equipment and methods, ... sample effluent as prescribed, and provide other information as may be reasonably required.”*
27. Water Code section 13385, subdivision (a), states, in part, *“A person who violates any of the following shall be liable civilly in accordance with this section ... (3) [a] requirement established pursuant to Section 13383.”*
28. Water Code section 13385, subdivision (c), states, in part, *“Civil liability may be imposed administratively by the state board or a regional board pursuant to Article*

*2.5 (commencing with Section 13323) of Chapter 5 in an amount not to exceed ...
(1) Ten thousand dollars (\$10,000) for each day in which a violation occurs."*

29. Pursuant to Water Code sections 13327 and 13385, subdivision (e), in determining the amount of discretionary administrative 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 or 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, 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."*
30. The State Water Resources Control Board's Water Quality Enforcement Policy establishes a methodology for assessing discretionary administrative civil liability. The use of this methodology addresses the factors that are required to be considered when imposing an administrative civil liability as outlined in Water Code sections 13327 and 13385, subdivision (e). On April 4, 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 was approved by the Office of Administrative Law (OAL) and became effective on October 5, 2017. The State Water Board subsequently adopted Resolution No. 2023-0043 on December 5, 2023, which adopted the 2024 Water Quality Enforcement Policy (2024 Enforcement Policy)². The 2024 Enforcement Policy was approved by OAL and became effective on November 7, 2024. Appendix D to the 2024 Enforcement Policy addresses the applicability of the policies. Generally, the policy in place at the time the violation occurs should apply and substantive changes to the policy cannot be applied retroactively; however, clarifications or procedural changes may be applied to new matters upon the effective date of the 2024 Enforcement Policy.
31. The conduct underlying Violations 1 and 2 occurred during periods covered by the 2017 Enforcement Policy. Violation 3 occurred during periods covered by both the 2017 Enforcement Policy and the 2024 Enforcement Policy. The penalty calculation methodology in the 2024 Enforcement Policy, including its clarifications and procedural changes, is used in Attachment A, hereby incorporated by

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

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

reference, as neither of the substantive changes³ in the 2024 Enforcement Policy are applicable.⁴

32. Water Code section 13385, subdivisions (h) and (i), require assessment of mandatory minimum penalties of \$3,000 as follows:

- a. Under Water Code section 13385, subdivision (h)(1), “serious violation” is defined under subdivision (h)(2) as *“any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group II pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 20 percent or more for a Group I pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 40 percent or more.”*
- b. Under Water Code section 13385, subdivision (i), “for each violation whenever the person does any of the following four or more times in any period of six consecutive months, except that the requirement to assess the mandatory minimum penalty shall not be applicable to the first three violations:

(A) Violates a waste discharge requirement effluent limitation.

(B) Fails to file a report pursuant to Section 13260.

(C) Files an incomplete report pursuant to Section 13260.

(D) Violates a toxicity effluent limitation contained in the applicable waste discharge requirements where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.”

33. An administrative civil liability may be imposed pursuant to the procedures described in Water Code section 13323. An administrative civil liability complaint alleges the act or failure to act that constitutes a violation of law, the provision of law authorizing administrative civil liability to impose, and the proposed administrative civil liability.

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

³ Substantive changes in the 2024 Enforcement Policy include not collapsing days under Step 3 and the definition of “violation” under History of Violations in Step 4.

⁴ Violations 4-38 occurred during the period covered by the 2017 Enforcement Policy or the 2024 Enforcement Policy. The penalty calculation methodology in the 2017 Enforcement Policy or the 2024 Enforcement Policy does not apply to these violations because the Santa Ana Water Board Prosecution Team seeks mandatory minimum penalties, rather than discretionary administrative civil liabilities for these violations.

ALLEGED VIOLATIONS

35. **Violation 1:** The Discharger submitted falsified stormwater analytical data to SMARTS in the 2020-2021, 2021-2022, and 2022-2023 reporting periods in violation of Monitoring and Reporting Requirements in the Industrial General Permit.
36. **Violation 2:** The Discharger failed to submit all sampling and analytical results within 30 days of obtaining all results as required by section XI.B.11.a. of the Industrial General Permit for the 2020-2021, 2021-2022, and 2022-2023 reporting periods.
37. **Violation 3:** The Discharger failed to implement minimum BMPs as required by section X.H. of the Industrial General Permit.
38. **Violations 4-38:** The Discharger exceeded the TMDL NELs for the 2020-2021, 2021-2022, 2023-2024, 2024-2025, and 2025-2026 reporting periods, as identified in Attachment B to this Complaint.

PROPOSED ADMINISTRATIVE CIVIL LIABILITY

39. The Santa Ana Water Board Prosecution Team proposes an administrative civil liability of three million six hundred twenty-three thousand eight hundred and eight dollars (\$3,623,808) under Water Code section 13385, subdivision (c), for Violations 1-3, as described in Attachment A. This proposed administrative civil liability was derived using the penalty calculation methodology in the 2024 Enforcement Policy. The proposed administrative civil liability takes into account the factors identified in Water Code sections 13327 and 13385, subdivision (e), such as the Discharger's culpability, history of violations, ability to pay, and other factors as justice may require.
40. Violations 4-38, as described in Attachment B, are each subject to a three thousand dollar (\$3,000) mandatory minimum penalty under Water Code section 13385, subdivisions (h) and (i), for a total of one hundred five thousand dollars (\$105,000).

GRISWOLD INDUSTRIES HEREBY GIVEN NOTICE THAT:

41. The Prosecution Team proposes an administrative civil liability in the amount of three million six hundred twenty-three thousand eight hundred and eight dollars (\$3,623,808) for Violations 1-3 and one hundred five thousand dollars (\$105,000) for Violations 4-38. The amount of the proposed civil liability for Violations 1-3 are based upon a review of the factors cited in Water Code section 13385, subdivision (e), as well as the Enforcement Policy, including consideration of the economic benefit or savings resulting from violations.

42. A hearing on this matter will be held at a regular meeting before the Santa Ana Water Board at 9 a.m. on October 23, 2026, at the City of Cypress, located at 5275 Orange Avenue, Cypress, CA 90630, in accordance with the Hearing Procedure issued concurrently with this Complaint, unless one of the following options occurs:

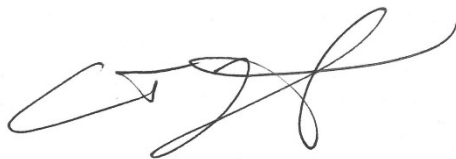
- a. The Discharger waives the hearing by completing the enclosed Waiver Form (checking off the box next to Option 1), and returns it to the Santa Ana Water Board, along with payment of the proposed liability of three million seven hundred twenty-eight thousand eight hundred and eight dollars (\$3,728,808) following the instructions in the Waiver Form; or,
- b. The Discharger waives the 90-day hearing requirement in order to extend the hearing date (checking the box next to Option 2) and returns it to the Santa Ana Water Board, along with rationale for the extension.

43. If a hearing is held, it will be governed by the Hearing Procedure issued concurrently with this Complaint. During the hearing, each party will have the opportunity to present evidence and argument to the Santa Ana Water Board; thereafter the Santa Ana Water Board will 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.

44. The Prosecution Team reserves the right to amend the proposed amount of administrative civil liability to conform to the evidence presented.

45. Payment of the administrative civil liability does not absolve the Discharger of its responsibility to comply with all applicable permits.

46. Notwithstanding the issuance of this Complaint, the Santa Ana Water Board retains the authority to assess additional civil liability for violations that have not yet been assessed or for violations that may subsequently occur.



Eric T. Lindberg, PG CHG
Executive Officer

Attachment A: Specific Factors Considered for Violations 1-3

Attachment B: Violations 4-38: Total Maximum Daily Load Numeric Effluent Limitation Exceedances and Mandatory Minimum Penalty Information

ATTACHMENT A
Specific Factors Considered for Violations 1-3
Administrative Civil Liability Complaint No. R8-2026-0043
Griswold Industries

Griswold Industries (Discharger) violated the *General Permit for Storm Water Discharges Associated with Industrial Activities*, Order No. 2014-0057-DWQ as amended by Order No. 2015-0122-DWQ and Order No. 2018-0028-DWQ, NPDES No. CAS000001 (Industrial General Permit) at its industrial facility located at 1701 Placentia Avenue in the City of Costa Mesa (Facility). The Discharger obtained coverage under the Industrial General Permit by submitting a Notice of Intent (NOI) on April 6, 1992, and was assigned Waste Discharge Identification Number 8 30I004382, thereby becoming subject to all provisions of the Industrial General Permit.

The Discharger operates under Standard Industrial Classification (SIC) Code 3491 for manufacturing industrial valves and SIC Code 3369 for manufacturing nonferrous metal castings, except Aluminum (Al) and Copper (Cu). Water running off the Facility discharges into two separate receiving waterbodies via discharge locations (i.e., storm drains) OF-1, OF-2, OF-3, OF-8, OF-10, OF-11, and OF-13 discharging to Lower Newport Bay and discharge locations OF-4, OF-5, and OF-12 discharging to the Santa Ana River, Reach 1. Both receiving waters are waters of the United States.

The Discharger is alleged to have violated California Water Code (Water Code) section 13383 and the Industrial General Permit's Total Maximum Daily Load (TMDL) Monitoring and Reporting requirements by falsifying laboratory analytical results and submitting the falsified sampling data in the State Water Resources Control Board's (State Water Board) Stormwater Multiple Application and Report Tracking System (SMARTS). The Discharger is also alleged to have violated Water Code section 13383 and section XI.B.11.a. of the Industrial General Permit by not submitting all sampling and analytical results for all samples in SMARTS within 30 days of obtaining the results. The Discharger is also alleged to have violated section X.H. of the Industrial General Permit by failing to implement minimum Best Management Practices (BMPs).

This Attachment A is prepared by the Santa Ana Regional Water Quality Control Board's (Santa Ana Water Board) Prosecution Team pursuant to the State Water Board's 2024 Water Quality Enforcement Policy (Enforcement Policy)¹, designed to consider Water Code sections 13327 and 13385, subdivision (e), factors applicable to discretionary administrative civil liabilities. Pursuant to Water Code sections 13327 and 13385, subdivision (e), in determining the amount of discretionary administrative civil liability, the Santa Ana Water Board shall take into consideration the nature, circumstances, extent, and gravity of the violation, 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 the 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.

¹ The Enforcement Policy is available at:

https://waterboards.ca.gov/water_issues/programs/enforcement/docs/2024/2024-enforcement-policy.pdf.

This attachment describes the methodology and factors used by the Santa Ana Water Board's Prosecution Team to calculate the proposed administrative civil liability for Violations 1 through 3.²

Violation #1: The Discharger submitted falsified stormwater analytical data to SMARTS in the 2020-2021, 2021-2022, and 2022-2023 reporting periods

The Industrial General Permit incorporates TMDL-specific permit requirements, including the TMDL Compliance Table in Attachment E to the Industrial General Permit. The Facility discharges stormwater into both the Santa Ana River, Reach 1, and Lower Newport Bay, the latter of which has associated TMDL Numeric Effluent Limits (NELs) listed in Attachment E of the Industrial General Permit. The relevant TMDL NELs listed for Lower Newport Bay are as follows: Total Cu NEL of 0.00578 mg/L, Total Zinc (Zn) NEL of 0.095 mg/L, and Total Lead (Pb) NEL of 0.221 mg/L.

The Discharger updated its facility-specific Storm Water Pollution Prevention Plan (SWPPP) on July 1, 2020, and certified it to SMARTS on July 15, 2020. The updated SWPPP included revisions to its Pollutant Source Assessment³ due to recent impairments for the watersheds that the Facility's operations may contribute to. Zn was identified in previous iterations of its Pollutant Source Assessment, but Cu and Pb were identified as a new pollutant source at the Facility due to these revised watershed impairments. The Discharger is also required by Table 1 in the Industrial General Permit, which requires sampling for additional applicable parameters based on a facility's SIC Code, to sample for Cu and Zn. The Discharger's facility-specific SWPPP outlines that it is a member of the Metal Industry Storm Water Group Compliance Group; members of that group are allowed to reduce sampling from four Qualifying Storm Events (QSEs) per reporting year (two QSEs during the first half of the reporting year and two QSEs during the second half of the reporting year) to two QSEs per reporting year (one QSE during the first half and one QSE during the second half).

It is the Santa Ana Water Board's standard practice to review dischargers' sampling data that is entered into SMARTS and certified by the Discharger and compare those entries to the analytical reports uploaded to SMARTS and certified by the Discharger. Additionally, in this case, Santa Ana Water Board staff went a step further and cross-checked the SMARTS data against the original reports sent directly from the laboratory. To accomplish this, Santa Ana Water Board staff contacted the Discharger and Enthalpy Analytical, the ELAP-accredited laboratory that the Discharger contracted with to test the stormwater samples, via email on August 22, 2023, requesting the laboratory to send original copies of the Facility's laboratory reports for the 2022-2023 reporting period. The Discharger gave permission on August 26, 2023. The Discharger also explained that it had reviewed its analytical reporting records, identified an error, would investigate the cause of the erroneous data, and determine how it was uploaded in SMARTS. On August 28, 2023, Santa Ana

² The penalty calculation methodology does not apply to Violations 4-38 because the Santa Ana Water Board Prosecution Team seeks mandatory minimum penalties, rather than discretionary administrative civil liabilities for those violations.

³ Section X.G. of the Industrial General Permit requires SWPPPs to include a description of potential pollutant sources and an assessment of all areas of industrial activity with potential industrial pollutant sources.

Water Board staff received the laboratory reports from Enthalpy Analytical for the two QSEs sampled in the 2022-2023 reporting period.

On October 26, 2023, Santa Ana Water Board staff emailed the Discharger and Enthalpy Analytical requesting the original laboratory reports for the 2020-2021 and 2021-2022 reporting periods. Santa Ana Water Board staff sent a follow-up email to both the Discharger and Enthalpy Analytical on November 2, 2023, and on November 6, 2023, Santa Ana Water Board staff received the laboratory reports from Enthalpy Analytical.

Santa Ana Water Board staff reviewed and compared the original laboratory reports supplied by Enthalpy Analytical to the laboratory reports and sampling data uploaded and certified in SMARTS by the Discharger. Santa Ana Water Board staff found the Discharger had altered the laboratory reports for the 2020-2021, 2021-2022, and 2022-2023 reporting periods, before uploading and certifying the falsified data to SMARTS. In all cases, the Cu and Zn parameter results were altered in a manner to make it appear there had been no exceedances of applicable TMDL NELs for Lower Newport Bay.

For the two QSEs sampled in the 2020-2021 reporting period, the Discharger submitted falsified Cu and Zn parameter results in the laboratory reports on eight separate occasions for discharge locations OF-1, OF-2, OF-4, OF-5, and OF-6.⁴ For the two QSEs sampled in the 2021-2022 reporting period, the Discharger submitted falsified Cu and Zn parameter results in its laboratory reports on fourteen separate occasions for discharge locations OF-1, OF-2, OF-3, OF-4, and OF-5. Lastly, for the two QSEs sampled in the 2022-2023 reporting period, the Discharger submitted falsified Cu and Zn parameter results in the laboratory reports on nine separate occasions for discharge locations OF-1, OF-2, OF-3, OF-4, and OF-5. Thus, the Discharger falsified 32 parameter results.

Table 1: Review of original Enthalpy Analytical laboratory reports and Discharger submitted falsified parameter results in SMARTS for the 2020-2021, 2021-2022, and 2022-2023 reporting periods:

Reporting Year	Discharge Location	Sample Collection Date	Parameter	Falsified Result (mg/L)	Actual Result (mg/L)	NEL (mg/L)
2020-2021	OF-1	01/28/2021	Iron	0.013	1.2	-
	OF-1	01/28/2021	Aluminum	0.016	1.1	-
	OF-1	01/28/2021	Copper	0.00450	0.023	0.00578
	OF-1	01/28/2021	Total Suspended Solids	3.8	9.8	-
	OF-2	01/28/2021	Zinc	0.079	0.12	0.095
	OF-6	01/28/2021	Zinc	0.074	0.11	0.095
	OF-1	3/3/2021	Copper	0.0029	0.029	0.00578
	OF-4	3/3/2021	Zinc	0.084	0.18	0.095

⁴ In addition to submitting falsified Cu and Zn parameter results, the Discharger also submitted falsified parameter results for the QSE dated January 28, 2021, for Iron, Aluminum, and Total Suspended Solids for discharge location OF-1.

	OF-5	3/3/2021	Copper	0.0030	0.0062	0.00578
	OF-6	3/3/2021	Copper	0.0035	0.035	0.00578
	OF-6	3/3/2021	Zinc	0.014	0.14	0.095
2021-2022	OF-1	10/25/2021	Copper	0.0046	0.17	0.00578
	OF-1	10/25/2021	Zinc	0.066	0.16	0.095
	OF-2	10/25/2021	Copper	0.0031	0.14	0.00578
	OF-2	10/25/2021	Zinc	0.052	0.29	0.095
	OF-3	10/25/2021	Copper	0.0042	0.042	0.00578
	OF-3	10/25/2021	Zinc	0.068	0.16	0.095
	OF-4	10/25/2021	Copper	0.0013	0.013	0.00578
	OF-4	10/25/2021	Zinc	0.031	0.11	0.095
	OF-5	10/25/2021	Copper	0.0041	0.0071	0.00578
	OF-5	10/25/2021	Zinc	0.045	0.25	0.095
	OF-1	3/29/2022	Copper	0.004	0.080	0.00578
	OF-2	3/29/2022	Copper	0.004	0.044	0.00578
	OF-3	3/29/2022	Copper	0.003	0.035	0.00578
	OF-4	3/29/2022	Copper	0.002	0.018	0.00578
2022-2023	OF-1	9/9/2022	Copper	0.0027	0.027	0.00578
	OF-2	9/9/2022	Copper	0.0023	0.023	0.00578
	OF-3	9/9/2022	Copper	0.0044	0.044	0.00578
	OF-3	9/9/2022	Zinc	0.012	0.12	0.095
	OF-4	9/9/2022	Copper	0.0043	0.043	0.00578
	OF-4	9/9/2022	Zinc	0.010	0.10	0.095
	OF-5	9/9/2022	Copper	0.0016	0.016	0.00578
	OF-5	9/9/2022	Zinc	0.063	0.63	0.095
	OF-4	1/10/2023	Zinc	0.013	0.13	0.095

In addition to reviewing the original laboratory reports, Santa Ana Water Board staff reviewed the metadata for the laboratory reports uploaded and certified in SMARTS by the Discharger. Of the six laboratory reports uploaded and certified to SMARTS, five showed the metadata was modified after the report was originally generated by Enthalpy Analytical. The sixth laboratory report was a scanned copy, so no metadata was provided.

Due to the falsified sampling and analytical reports submitted and certified in SMARTS by the Discharger, the Discharger made it appear it had not exceeded the TMDL NELs for Cu and Zn and had not accrued Mandatory Minimum Penalties (MMPs) for the 2020-2021, 2021-2022, and 2022-2023 reporting periods, pursuant to Water Code section 13385, subdivisions (h) and (i), which states the Discharger is subject to a MMP of \$3,000 for specific serious and chronic violations as defined by statute. Had the Discharger submitted unaltered sampling results, it would have accrued MMPs for every parameter result that was altered.

In addition to avoiding MMPs for TMDL NEL exceedances, the Discharger's failure to submit reports that accurately reflect the effluent concentrations in its stormwater

discharges violates the TMDL Monitoring and Reporting requirements in section VII.C. of the Industrial General Permit, which states, “The Responsible Discharger is required to perform sampling, analysis, and reporting in accordance with the requirements of this [Industrial] General Permit, and additional monitoring required in the TMDL Compliance Table E-2 in Attachment E of this [Industrial] General Permit,” and Water Code section 13383, which states that the “regional board may establish monitoring, inspecting, reporting, and recordkeeping requirements, ... for any person who discharges, or proposes to discharge, to navigable waters.” Under Water Code section 13385, subdivisions (a)(3) and (c), violations of requirements established pursuant to Water Code section 13383 may result in administrative civil liability of up to \$10,000 per day of violation.

The Discharger’s submission of falsified sampling and analytical reports to SMARTS also delayed the cost of compliance with the Industrial General Permit as the Discharger reported that the Facility did not exceed the Numeric Action Level (NAL) for Cu. Pursuant to the requirements for Exceedance Response Actions (ERAs) in section XII of the Industrial General Permit, the Facility should have moved into Level 1 status for Cu in the 2021-2022 reporting period and moved into Level 2 status for Cu in the 2022-2023 reporting period. As a result of this, the Discharger evaded additional Industrial General Permit requirements, including not hiring a Qualified Industrial Stormwater Practitioner (QISP) to conduct stormwater training for Facility staff, evaluate Cu exceedances at the Facility, and detail additional BMPs, which would be submitted in a Level 1 ERA Report and a Level 2 ERA Action Plan to SMARTS, both to be implemented in order to meet the Cu NAL. The Discharger avoided implementing additional BMPs at the Facility and in turn avoided costs associated with compliance and continued to discharge pollutants that threaten water quality in concentrations unknown to the Santa Ana Water Board.

ENFORCEMENT POLICY – PENALTY CALCULATION

Step 1 and Step 2 – Harm or Potential Harm to Beneficial Uses and Assessments for Discharge Violations

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

Step 3 – Per Day Factor for Non-Discharge Violations

Step 3 of the Enforcement Policy’s penalty calculation methodology 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.

Potential for Harm: Major

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. A “major” potential for harm is found where “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.”

Beneficial uses are the uses of water necessary for the survival or well-being of man, plants, and wildlife. These uses of water serve to promote tangible and intangible economic, social, and environmental goals. The evaluation of the actual harm or the potential harm to beneficial uses 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. The evaluation may also consider actual harm or potential harm to human health, in addition to harm to beneficial uses.

The Facility discharges to both Lower Newport Bay and the Santa Ana River, Reach 1. The Santa Ana Water Board Basin Plan (Basin Plan) designates Lower Newport Bay's beneficial uses as: Navigation (NAV); Water Contact and Non-Contact Water Recreation (REC1 and REC2, respectively); Commercial and Sportfishing (COMM); Wildlife Habitat (WILD); Rare, Threatened, or Endangered Species (RARE); Spawning, Reproduction, and Development (SPWN); Marine Habitat (MAR); and Shellfish Harvesting (SHEL). The beneficial uses applicable to Santa Ana River, Reach 1, are: REC1 and REC2; Warm Freshwater Habitat (WARM); and WILD.

Uploading and certifying falsified parameter data to SMARTS for Cu and Zn wholly impairs the Santa Ana Water Board's ability to perform its regulatory functions and poses a serious threat to beneficial uses and water quality in the Santa Ana region, as discharge of these pollutants is allowed to continue unaddressed by appropriate BMPs to protect beneficial uses. Heavy metals are known to be toxic to fish and other aquatic species where the metals may remain in the dissolved phase, adsorb to suspended particles, and thus settle. Benthic organisms living in the sediments may ingest these metals which can bioaccumulate, and pose a risk to species in higher trophic levels. Specifically, Cu and Zn have been found to cause DNA damage in certain benthic organisms⁵.

The Potential for Harm is major.

Deviation from Requirement: Major

The Enforcement Policy requires a determination of whether the violation resulted in a minor, moderate, or major deviation from requirement. A "major" deviation from requirement is one where "the requirement was rendered ineffective (e.g., the requirement was rendered ineffective in its essential functions)."

The Discharger certified and submitted falsified sampling data to SMARTS, in violation of TMDL Monitoring and Reporting requirements in the Industrial General Permit and Water Code section 13383, in a manner that made it appear to the Santa Ana Water Board that it was in compliance with the TMDL NELs. The Discharger continued to exceed the receiving water limitations, while avoiding additional requirements of the Industrial General Permit that are meant to address NEL exceedances. Thus, the Discharger's conduct rendered the applicable requirements completely ineffective.

The Deviation from Requirement is major.

⁵ *Chronic exposure to copper and zinc induces DNA damage in the polychaete Alitta virens and the implications for future toxicity of coastal sites*, [Gordon J. Watson](https://www.sciencedirect.com/science/article/abs/pii/S0269749118317536), Jennifer M. Pini, Jonathan Richir
<https://www.sciencedirect.com/science/article/abs/pii/S0269749118317536>

Per Day Factor: 1

The resulting per day factor is 1. This determination is based upon the above scores for potential for harm and deviation from requirement from the matrix in Table 3 of the Enforcement Policy. The top of the scale (0.7 – 1) is selected because the Discharger submitted falsified parameter results for multiple reporting periods to appear to be in compliance with TMDL NELs and NALs, which represents particularly egregious noncompliance and presents substantial threats to both the regulatory program and water quality.

Days of Violation:

The Discharger collected samples from two QSEs in the 2020-2021 reporting period and submitted all analytical data in SMARTS on July 13, 2021. In addition, the Discharger uploaded falsified data for the 2021-2022 and 2022-2023 reporting periods. To date, the Discharger has not acknowledged or submitted the corrected analytical data in SMARTS. However, Enthalpy Analytical provided all of the original lab reports with the consent of the Discharger by November 6, 2023.

For purposes of calculating Days of Violation, the Prosecution Team is electing to consider the first day of violation to be July 13, 2021, when the Discharger first submitted falsified data. The Prosecution Team is electing to consider the submission of all the reports from Enthalpy Analytical on November 6, 2023, to be the final day of violation for purposes of calculating the administrative civil liability. Therefore, though the violation is ongoing, liability is assessed for 846 days of violation.

Multiple Day Violation Reduction:

The Enforcement Policy establishes an alternative approach to civil liability calculations for violations that last more than 30 days and do not cause daily detrimental impacts to the environment or regulatory program. Though the Discharger's conduct is particularly egregious, the Prosecution Team finds an application of the penalty calculation methodology to this violation without collapsing days results in an administrative civil liability that is disproportionately large to the harm. The Initial Liability Amount calculated using 846 days of violation would be \$8,460,000, even before applying adjustment factors.

The Prosecution Team finds that this illegal conduct results in no discrete economic benefit that can be measured on a daily basis; therefore, pursuant to the authority given to the Water Boards on page 22 of the Enforcement Policy, the days of violation are calculated using the alternative approach to the liability calculation for multiple day violations, and the civil liability is assessed based on 62 days of violation.

Initial Liability Amount:

\$10,000 [maximum statutory liability per day of violation] X 62 [days of violation] X 1 [per day factor])

\$10,000 X 62 days X 1 = \$620,000

Step 4 – Adjustment Factors

There are three additional factors to be considered for modification of the initial liability amount: the Discharger's degree of culpability, the Discharger's prior history of violations, and the Discharger's voluntary efforts to cleanup or its cooperation with regulatory authorities after the violation.

Culpability: 1.5

For culpability, the Enforcement Policy allows an adjustment resulting in a multiplier between 0.75 to 1.5, with a higher multiplier for intentional misconduct and gross negligence, and a lower multiplier for simple negligence.

Here, the Discharger's conduct attempted to perpetuate a fraud on the Santa Ana Water Board; such conduct goes beyond mere "intentional misconduct and gross negligence." The Discharger wholly disregarded the effluent limit reporting requirements and the numeric action level requirements of the Industrial General Permit by submitting falsified laboratory analytical results and certifying the falsified data in SMARTS. A reasonable discharger would not have falsified analytical data to try to appear to be in compliance with the TMDL NELs. The Discharger demonstrated specific knowledge of this requirement when it uploaded and certified the falsified analytical laboratory reports in SMARTS in a manner that avoided NEL exceedances.

The Discharger failed to act as a reasonable and prudent discharger under the Industrial General Permit. The long-term noncompliance represents a willful disregard of the Industrial General Permit requirements and is not merely intentional, but an attempt to repeatedly perpetuate a fraud on the Santa Ana Water Board. The highest possible culpability factor, 1.5, is applied.

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. A history of violations factor of 1.0 is appropriate.

Cleanup and/or Cooperation: 1.5

For cleanup and/or cooperation, the Enforcement Policy allows an adjustment resulting in a multiplier between 0.75 and 1.5, using the lower multiplier where there is exceptional cleanup and cooperation compared to what can reasonably be expected, and higher multiplier where there is not.

When Santa Ana Water Board staff reached out to the Discharger to request the documents for the 2022-2023 reporting period on August 22, 2023, the Discharger responded on August 26, 2023, notifying Santa Ana Water Board staff that it was investigating how erroneous data was uploaded to SMARTS. When Santa Ana Water Board staff reached out to the Discharger again on October 26, 2023, and November 2, 2023, requesting the laboratory reports for the 2020-2021 and 2021-2022 reporting periods, the Discharger did not make any further comments concerning its alleged investigation into how any falsified data was submitted, nor did the Discharger submit any of the original laboratory reports to SMARTS.

To date, the Discharger has not communicated with Santa Ana Water Board staff regarding the falsified data nor submitted the correct analytical data and laboratory reports in SMARTS. Therefore, a cleanup and cooperation factor of 1.5 is appropriate.

Base Liability Amount:

\$620,000 [initial liability amount] X 1.5 [culpability] X 1.0 [violation history] X 1.5
[cleanup and cooperation]

\$620,000 X 1.5 X 1.0 X 1.5 = \$1,395,000

Steps 6-10 of the penalty calculation methodology will be addressed after the Base Liability Amount is ascertained for all violations subject to the penalty calculation methodology.

Violation #2: The Discharger failed to submit all sampling and analytical results within 30 days of obtaining all results as required by section XI.B.11.a. of the Industrial General Permit for the 2020-2021, 2021-2022, and 2022-2023 reporting periods

As required by section XI.B.11.a. of the Industrial General Permit, dischargers must submit all sampling and analytical results for all individual samples via SMARTS within 30 days of obtaining all results for each sampling event.

During the 2020-2021 reporting period, the Discharger collected samples during two QSEs, on January 28, 2021, and March 3, 2021. Its analytical laboratory report for the first QSE was dated February 23, 2021; therefore, pursuant to section XI.B.11.a. of the Industrial General Permit, the Discharger had until March 25, 2021, to manually enter the lab results into SMARTS and upload and certify a copy of the lab report. In this instance, the Discharger did not certify and submit the data in SMARTS until July 13, 2021, which was 109 days late.

The Discharger's analytical laboratory report for the second QSE collected during the 2020-2021 reporting period was dated March 30, 2021; therefore, pursuant to section XI.B.11.a. of the Industrial General Permit, the Discharger had until April 29, 2021, to manually enter the lab results into SMARTS and upload and certify a copy of the lab report. In this instance, the Discharger did not certify and submit the data in SMARTS until July 13, 2021, which was 74 days late.

The Discharger collected two QSEs in the 2021-2022 reporting period, on October 25, 2021, and March 29, 2022. Its analytical laboratory report for the first QSE was dated November 10, 2021; therefore, pursuant to section XI.B.11.a. of the Industrial General Permit, the Discharger had until December 10, 2021, to manually enter the lab results into SMARTS and upload and certify a copy of the lab report. In this instance, the Discharger did not certify and submit the data in SMARTS until July 8, 2022, which was 209 days late.

The Discharger's analytical laboratory report for the second QSE collected during the 2021-2022 reporting period was dated April 11, 2022; therefore, pursuant to section XI.B.11.a. of the Industrial General Permit, the Discharger had until May 11, 2022, to manually enter the lab results into SMARTS and upload and certify a copy of the lab report. In this instance, the Discharger did not certify and submit the data in SMARTS until July 8, 2022, which was 57

days late.

The Discharger collected two QSEs in the 2022-2023 reporting period, on September 9, 2022, and January 10, 2023. Its analytical laboratory report for the first QSE was dated September 28, 2022; therefore, pursuant to section XI.B.11.a. of the Industrial General Permit, the Discharger had until October 28, 2022, to manually enter the lab results into SMARTS and upload and certify a copy of the lab report. In this instance, the Discharger did not certify and submit the data in SMARTS until June 13, 2023, which was 227 days late.

The Discharger's analytical laboratory report for the second QSE collected during the 2022-2023 reporting period was dated January 30, 2023; therefore, pursuant to section XI.B.11.a. of the Industrial General Permit, the Discharger had until March 1, 2023, to manually enter the lab results into SMARTS and upload and certify a copy of the lab report. In this instance, the Discharger did not certify and submit the data in SMARTS until June 13, 2023, which was 103 days late.

In all instances from the 2020-2021 reporting year through the 2022-2023 reporting year, the lab reports uploaded and certified to SMARTS were the falsified reports discussed in Violation 1 above. To date, the Discharger has not uploaded the actual reports received from Enthalpy Analytical for these reporting years.

Since the Facility discharges into Lower Newport Bay, which has associated TMDL NELs listed in Attachment E of the Industrial General Permit, the Discharger is required to submit stormwater sampling data in SMARTS within 30 days of obtaining all results for each sampling event not only by section XI.B.11.a. of the Industrial General Permit, but also by Water Code section 13385.1. The Discharger's analytical sampling results are designed to ensure compliance with TMDL NELs for Cu, Zn, and Pb.

Pursuant to Water Code section 13385.1, subdivision (a), the Discharger is subject to an MMP of \$3,000 for failure to file a discharge monitoring report required pursuant to section 13383 for each complete period of 30 days following the deadline for submitting the report, if the report is designed to ensure compliance with limitations contained in waste discharge requirements that contain effluent limitations.

While these violations can be enforced as MMPs, the Prosecution Team can also choose to use discretionary enforcement. Given the Discharger's conduct, the Prosecution Team has elected to seek discretionary penalties for these violations under Water Code section 13385, subdivisions (a)(3) and (c), which allows imposition of up to \$10,000 of administrative civil liability per day of violation of a requirement established pursuant to Water Code section 13383.

Table 2: Review of reporting violations pursuant to Water Code section 13383 for failure to file a discharge monitoring report required for each complete period of 30 days and MMP determination for the 2020-2021, 2021-2022, and 2022-2023 reporting periods:

Reporting Year	Lab Report Attachment ID	TMDL Pollutants	Lab Report Date	30th Day After Lab Report Date	SMARTS Submittal Date	Number of Days Late
2020-2021	Attachment ID No. 2921904	Cu, Pb, and Zn	2/23/2021	3/25/2021	7/13/2021	109
	Attachment ID No. 2921906	Cu, Pb, and Zn	3/30/2021	4/29/2021	7/13/2021	74
2021-2022	Attachment ID No. 3143664	Cu, Pb, and Zn	11/10/2021	12/10/2021	7/8/2022	209
	Attachment ID No. 3143870	Cu, Pb, and Zn	4/11/2022	5/11/2022	7/8/2022	57
2022-2023	Attachment ID No. 3365261	Cu, Pb, and Zn	9/28/2022	10/28/2022	6/13/2023	227
	Attachment ID No. 3365266	Cu, Pb, and Zn	1/30/2023	3/1/2023	6/13/2023	103

ENFORCEMENT POLICY – PENALTY CALCULATION

Step 1 and Step 2 – Harm or Potential Harm to Beneficial Uses and Assessments for Discharge Violations

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

Step 3 – Per Day Factor for Non-Discharge Violations

Step 3 of the Enforcement Policy’s penalty calculation methodology 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.

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. A “moderate” potential for harm applies where “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.”

The evaluation of the actual harm or the potential harm to beneficial uses 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. The evaluation may also

consider actual harm or potential harm to human health, in addition to harm to beneficial uses.

The Facility discharges stormwater to two receiving waterbodies: Santa Ana River, Reach 1, and Lower Newport Bay, which have associated TMDL NELs. The Basin Plan designates beneficial uses applicable to Lower Newport Bay as: NAV, REC1 and REC2, COMM, WILD, RARE, SPWN, MAR, and SHEL. These uses of water serve to promote tangible and intangible economic, social, and environmental goals.

The Discharger's analytical sampling results are designed to ensure compliance with the receiving water limitations for Cu, Zn, and Pb in Lower Newport Bay. Failure to submit the analytical data in SMARTS within 30 days of obtaining them is a threat to beneficial uses and water quality in the Santa Ana region because the Facility may be discharging these pollutants and exceeding the waste load allocation. Santa Ana Water Board staff would have no knowledge of the concentration of parameters present in stormwater discharged from the Facility if analytical results were not submitted in SMARTS, as required by the Industrial General Permit.

These late submissions also create a burden on the regulatory program, since Santa Ana Water Board staff are expected to follow-up with dischargers who exceed the receiving water limitations and ensure that adequate BMPs are implemented to meet the TMDL NELs.

The Discharger's recurring failure to submit all sampling and analytical results within 30 days of obtaining all results, as required by section XI.B.11.a. of the Industrial General Permit, results in an ongoing threat to the Santa Ana Water Board's regulatory functions and to beneficial uses and water quality, as the pollutants are known to be toxic to fish and other aquatic species where the metals may remain in the dissolved phase, adsorb to suspended particles, and thus settle. Benthic organisms living in the sediments may ingest these metals which can bioaccumulate, and pose a risk to species in higher trophic levels..

The Potential for Harm is moderate.

Deviation from Requirement: Moderate

The Enforcement Policy requires a determination of whether the violation resulted in a minor, moderate, or major deviation from requirement. A "moderate" deviation from requirement is one where "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)."

Section XI.B.11.a. of the Industrial General Permit requires dischargers to submit all sampling and analytical results within 30 days of obtaining all results. While the Discharger submitted its analytical monitoring results 109 days, 74 days, 209 days, 57 days, 227 days, and 103 days late, respectively, the Discharger ultimately submitted the results in SMARTS.

The Deviation from Requirement is moderate.

Per Day Factor: 0.35

The resulting per day factor is 0.35. This determination is based upon the above potential for harm and deviation from requirement from the matrix in Table 3 of the Enforcement Policy. While the Prosecution Team could select 0.3 or 0.4 for this factor, the Prosecution Team selected 0.35 because the circumstances of this violation did not warrant a deviation from the mid-point.

Days of Violation:

The Discharger should have submitted all sampling and analytical results in SMARTS within 30 days of obtaining results for the 2020-2021, 2021-2022, and 2022-2023 reporting periods. The Discharger ultimately submitted its analytical monitoring results 109 days, 74 days, 209 days, 57 days, 227 days, and 103 days late, respectively.

Though the violation is ongoing, since the original laboratory reports from Enthalpy Analytical have not been uploaded, the Prosecution Team is exercising its discretion to consider the submission of the falsified reports to be the final day of violation for penalty calculation purposes. Each day a report was late is one day of violation for purposes of this calculation. Thus, there were a total of 779 days of violation.

Multiple Day Violation Reduction:

The Enforcement Policy establishes an alternative approach to civil liability calculations for violations that last more than 30 days and do not cause daily detrimental impacts to the environment or regulatory program. Though the Discharger's conduct is particularly egregious, the Prosecution Team finds an application of the penalty calculation methodology to this violation without collapsing days results in an administrative civil liability that is disproportionately large to the harm. The Initial Liability Amount calculated using 779 days of violation would be \$2,726,500, even before applying adjustment factors.

The Prosecution Team finds that this illegal conduct results in no discrete economic benefit that can be measured on a daily basis; therefore, pursuant to the authority given to the Water Boards on page 22 of the Enforcement Policy, the days of violation are calculated using the alternative approach to the liability calculation for multiple day violations, and the civil liability is assessed based on 59 days of violation.

Initial Liability Amount:

\$10,000 [maximum statutory liability per day of violation] X 66 [days of violation] X 0.35
[per day factor])

\$10,000 X 59 days X 0.35 = \$206,500

Step 4 – Adjustment Factors

There are three additional factors to be considered for modification of the initial liability amount: the Discharger's degree of culpability, the Discharger's prior history of violations, and the Discharger's voluntary efforts to cleanup or its cooperation with regulatory

authorities after the violation.

Culpability: 1.3

For culpability, the Enforcement Policy allows an adjustment resulting in a multiplier between 0.75 to 1.5, with a higher multiplier for intentional misconduct and gross negligence, and a lower multiplier for simple negligence.

The Discharger failed to submit all sampling and analytical results in SMARTS within 30 days of obtaining all results for the 2020-2021, 2021-2022, and 2022-2023 reporting periods. A reasonable discharger would have complied with the requirements of the Industrial General Permit.

The Discharger failed to act as a reasonable and prudent discharger under the Industrial General Permit. These monitoring requirements have been in the Industrial General Permit since it was first adopted in 2014. While the long-term noncompliance with the monitoring requirements, over multiple reporting periods, represents a willful disregard of the Industrial General Permit requirements, ultimately the Discharger submitted the falsified reports. To date, the Discharger has not uploaded the original lab reports from Enthalpy Analytical to SMARTS. A culpability factor of 1.3 is appropriate.

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. A history of violations factor of 1.0 is appropriate.

Cleanup and/or Cooperation: 1.5

For cleanup and/or cooperation, the Enforcement Policy allows an adjustment resulting in a multiplier between 0.75 and 1.5, using the lower multiplier where there is an exceptional cleanup and cooperation compared to what can reasonably be expected, and higher multiplier where there is not.

The Discharger collected two QSEs in the 2020-2021 reporting period and certified and submitted the falsified analytical data in SMARTS on July 13, 2021. The Discharger collected two QSEs in the 2021-2022 reporting period and certified and submitted the falsified data in SMARTS on July 8, 2022. The Discharger collected two QSEs in the 2022-2023 reporting period and certified and submitted the falsified analytical data in SMARTS on June 13, 2023, after receiving a Conditional Settlement Offer from Santa Ana Water Board staff.

When Santa Ana Water Board staff reached out to Enthalpy Analytical and the Discharger requesting the original reports, the Discharger responded on August 26, 2023, notifying Santa Ana Water Board staff that it was investigating how erroneous data was uploaded to SMARTS.

To date, the Discharger has not communicated with Santa Ana Water Board staff regarding the falsified data nor submitted the correct analytical data and laboratory reports in SMARTS. Therefore, a cleanup and cooperation factor of 1.5 is appropriate.

Base Liability Amount:

\$206,500 [initial liability amount] X 1.3 [culpability] X 1.0 [violation history] X 1.5
[cleanup and cooperation]

$$\text{\$206,500 X 1.3 X 1.0 X 1.5 = \$402,675}$$

Steps 6-10 of the penalty calculation methodology will be addressed after the Base Liability Amount is ascertained for all violations subject to the penalty calculation methodology.

Violation #3: **The Discharger failed to implement minimum Best Management Practices as required by section X.H. of the Industrial General Permit**

On August 16, 2023, Santa Ana Water Board staff and U.S. Environmental Protection Agency (US EPA) staff conducted a joint inspection of the Facility. At the time of the inspection, an electrical emergency had occurred the night prior, which put the Facility in an emergency status, so the foundry and casting area of the Facility could not be inspected. During the inspection, Santa Ana Water Board staff observed the following:

- Deteriorating metal racks with flaking paint chips;
- Numerous scrap metal bins around the Facility without cover;
- Dark liquid with visible sheen observed at the central south portion of the Facility;
- Dark liquid puddle with foam present near the stock yard;
- Liquid and sediment accumulated at the bottom of the loading dock;
- Intermediate Bulk Container (IBC) totes near loading dock without secondary containment or spill prevention BMPs; and,
- Two unidentified discharge locations discovered at the eastern portion of the Facility.

Santa Ana Water Board staff also established the following based on a review of the SWPPP associated documents: the SWPPP was incomplete and missing information, including but not limited to information on BMP implementation and the description of the stormwater advanced treatment system that was installed onsite; the Assessment of Pollutant Sources and BMP Summary table was not updated; the most recent training records that were available were from October 21, 2021, and only signed by eleven employees; and the SWPPP listed six outfalls with only five being sampled and no explanation as to why the sixth outfall was not sampled.

On February 23, 2024, Santa Ana Water Board staff issued a Notice of Violation (NOV) to the Discharger for the violations observed during the August 16, 2023, site inspection (February 23, 2024 NOV). Specifically, the Discharger violated the following sections of the Industrial General Permit:

- Section X.H.1.a.: Deteriorating metal racks with flaking paint chips and numerous scrap metal bins without lids, which constitute a failure to minimize and prevent material tracking.
- Section X.H.1.d.i.: Failure to prevent or minimize handling of industrial material that can be readily mobilized by stormwater.
- Section X.H.1.d.ii.: Failure to contain all stored non-solid industrial materials or wastes that can be transported or dispersed by the wind or contact with stormwater.
- Section X.H.1.c.: Dark liquid with visible sheen observed at the central south portion of the facility, the dark liquid puddle with foam present near the stock yard, liquid and sediment accumulated at the bottom of the loading dock, and the IBC totes without secondary containment or spill prevention, which constitute a failure to establish and implement procedures and controls to minimize spills and leaks through the facility.
- Section X.E.3.b.: Two unidentified discharge locations, which constitutes a failure to include and identify all appropriate stormwater sampling locations.
- Section X.H.4.: Incomplete SWPPP, by way of its failure to ensure the SWPPP identifies each BMP being implemented at the facility, the location of the BMP, associated pollutant sources the BMP is addressing, the frequency of the implementation, and the individual responsible for implementing the BMP.
- Section X.H.1.f. and section X.H.1.g.: Failure to ensure all pertinent employees are trained in stormwater pollution prevention, which constitutes a failure to ensure all applicable staff are trained in the implementation of the Industrial General Permit requirements, preparing training materials, and maintaining documentation of completed trainings, and constitutes a failure to maintain training records.

The Discharger submitted a response to the February 23, 2024 NOV via email on March 25, 2024, and certified and submitted an updated SWPPP and site map in SMARTS. The Discharger also provided updated training records, a photograph of an industrial sweeper, photographs of covered scrap metals bins, and a photograph of an installed spill berm around the IBC totes near the loading dock.

Santa Ana Water Board staff reviewed the response and determined that the Discharger failed to take the required actions to address the violations in the February 23, 2024 NOV and were not adequately addressed, so a second NOV was issued on April 23, 2024 (April 23, 2024 NOV). The April 23, 2024 NOV requested photographic evidence of the covered scrap metal bins and evidence to support that spill controls are implemented for all containers containing liquids throughout the Facility. The April 23, 2024 NOV also requested that the Discharger revise the SWPPP to meet all the requirements described in section X of the Industrial General Permit and address all the discrepancies noted in the February 23, 2024 NOV, and highlighted that the two unidentified sampling points were not established in the revised site map and SWPPP as requested. On May 3, 2024, the Discharger submitted a response via email to the April 23, 2024 NOV. The Discharger certified and submitted an updated SWPPP and site map to SMARTS and provided photographic

evidence of all scrap metal bins, trash containers, and roll-off containers covered and evidence of either secondary containment or socks surrounding IBC totes containing liquid.

On December 4, 2024, Santa Ana Water Board staff conducted an additional inspection of the Facility. During the inspection, Santa Ana Water Board staff observed the following:

- Historical spills on the ground in the vehicle maintenance area;
- Unknown liquid on the ground in the scrap metal storage area;
- Leaking heavy equipment in the equipment storage area;
- Leaking forklift next to drying metal castings;
- Liquid flowing out of the western portion of Building 4;
- A large pool of cloudy liquid in the area used for storage of used sand;
- A significant and deep pool of liquid behind the sand silos in a confined space;
- Vehicle maintenance on a Bobcat outdoors without cover;
- Rusted 55-gallon drums and rusted industrial materials stored on the ground without BMPs;
- An unidentified discharge location with a degraded storm drain outlet at the southeastern portion of the facility; and,
- A hose near the loading dock with which the Discharger explained it pumps the standing water from the bottom of the loading dock and discharge it down the driveway to OF-4.

During the subsequent inspection, Santa Ana Water Board staff observed that the Discharger had failed to implement minimum BMPs again and specifically violated section X.H.1.b.i. of the Industrial General Permit by failing to identify all equipment and systems outdoors that may spill or leak pollutants, section X.H.1.c.i. of the Industrial General Permit for failure to establish procedures and/or controls to minimize spills and leaks, section X.H.1.c.ii. of the Industrial General Permit for failure to develop and implement spill and leak response procedures and spilled or leaked industrial materials shall be cleaned up promptly and disposed of properly, and section X.H.1.a.v. of the Industrial General Permit for failure to cover all stored industrial materials that can be readily mobilized by contact with stormwater. The Discharger also violated section X.E.3.b. of the Industrial General Permit for failure to include and identify all appropriate stormwater sampling locations for the unidentified discharge location with a degraded storm drain outlet at the southeastern portion of the facility.

ENFORCEMENT POLICY – PENALTY CALCULATION

Step 1 and Step 2 – Harm or Potential Harm to Beneficial Uses and Assessments for Discharge Violations

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

Step 3 – Per Day Factor for Non-Discharge Violations

Step 3 of the Enforcement Policy's penalty calculation methodology 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.

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. A "moderate" potential for harm applies where "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."

The evaluation of the actual harm or the potential harm to beneficial uses 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. The evaluation may also consider actual harm or potential harm to human health, in addition to harm to beneficial uses.

The Facility discharges to both Lower Newport Bay and the Santa Ana River. The Santa Ana Water Board Basin Plan designates beneficial uses applicable to Lower Newport Bay as: NAV, REC1, REC2, COMM, WILD, RARE, SPWN, MAR, and SHEL. The beneficial uses applicable to Santa Ana River, Reach 1, are: REC1, REC2, WARM, and WILD. Beneficial uses are the uses of water necessary for the survival or well-being of people, plants, and wildlife. These uses of water serve to promote tangible and intangible economic, social, and environmental goals.

Failure to implement minimum BMPs results in an ongoing threat to beneficial uses and water quality in the Santa Ana region because the various materials spilled on the ground or otherwise exposed to rain are subject to mobilization and discharge through the storm drains to the Santa Ana River and Lower Newport Bay. Constituents associated with the Facility's industrial activities include pH, suspended solids, oil and grease, Zn, Pb, Nickel (Ni), Al, Cu, and Chromium (Cr).

The discharge of these pollutants may cause or contribute to exceedances of applicable water quality standards. Pollutants discharged from industrial facilities may adversely affect human health and/or aquatic organisms. Adverse human health effects include gastrointestinal diseases and infections. Adverse physiological responses in aquatic organisms to pollutants include impaired reproduction, growth anomalies, decreased diversity, and mortality. These responses may be the result of different mechanisms, including bioaccumulation of toxins. During bioaccumulation, toxins move up the food chain and may affect both aquatic and non-aquatic organisms, including human health and

wildlife. These conditions may impair designated beneficial uses resulting in a condition of pollution, contamination, or nuisance.

Failure to implement minimum BMPs also creates a burden on the regulatory program, since additional Santa Ana Water Board staff resources are expended to follow up with the Discharger to obtain adequate submittals and track its implementation, or lack thereof.

Given that the Discharger has failed to implement preventative measures at the Facility, the Discharger presents a substantial and ongoing threat to beneficial uses and surface water quality.

The Potential for Harm is moderate.

Deviation from Requirement: Moderate

The Enforcement Policy requires a determination of whether the violation resulted in a minor, moderate, or major deviation from requirement. A “moderate” deviation from requirement is one where “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).”

The Industrial General Permit requires dischargers to implement and maintain minimum BMPs to reduce or prevent pollutants in industrial stormwater discharges. The Discharger failed to develop, implement, and maintain minimum BMPs as required by section X.H. of the Industrial General Permit.

Numerous spills and large pools of liquid were observed during both inspections, as well as IBC totes without secondary containment, scrap metal bins and trash bins without lids, vehicle maintenance observed without cover and rusted 55-gallon drums and rusted industrial materials without secondary containment.

After receiving both the February 23, 2024 and April 23, 2024 NOVs, the Discharger addressed all violations identified during the August 16, 2023, inspection, but similar violations were observed during the subsequent inspection on December 4, 2024. The intended effect of the requirement to implement BMPs to reduce or prevent the discharge of pollutants was only partially achieved.

The Deviation from Requirement is moderate.

Per Day Factor: 0.35

The resulting per day factor is 0.35. This determination is based upon the above potential for harm and deviation from requirement from the matrix in Table 3 of the Enforcement Policy. While the Prosecution Team could select 0.3 or 0.4 for this factor, the Prosecution Team selected 0.35 because the circumstances of this violation did not warrant a deviation from the mid-point.

Days of Violation:

The Discharger was first inspected on August 16, 2023, and two NOVs were subsequently issued. On December 4, 2024, Santa Ana Water Board staff conducted a subsequent inspection to determine compliance with the Industrial General Permit. Two days of violations were observed; therefore, liability is assessed for 2 days.

Initial Liability Amount:

\$10,000 [maximum statutory liability per day of violation] X 2 [days of violation] X 0.35 [per day factor])

$$\mathbf{\$10,000 \times 2 \text{ days} \times 0.35 = \$7,000}$$

Step 4 – Adjustment Factors

There are three additional factors to be considered for modification of the initial liability amount: the Discharger's degree of culpability, the Discharger's prior history of violations, and the Discharger's voluntary efforts to cleanup or its cooperation with regulatory authorities after the violation.

Culpability: 1.2

For culpability, the Enforcement Policy allows an adjustment resulting in a multiplier between 0.75 to 1.5, with a higher multiplier for intentional misconduct and gross negligence, and a lower multiplier for simple negligence.

The Discharger has been on notice of the Industrial General Permit requirements at least since it submitted the Notice of Intent to enroll under the Industrial General Permit on April 6, 1992. Santa Ana Water Board staff discussed the Industrial General Permit requirements with the Discharger during the inspections. In addition, the Discharger received written notices of the Industrial General Permit violations and requirements in the February 23, 2024 and April 23, 2024 NOVs.

The Discharger failed to act as a reasonable and prudent permittee under the Industrial General Permit. A reasonable and prudent permittee would have implemented the minimum BMPs as required in section X.H. of the Industrial General Permit. The Discharger had both constructive and actual notice of these requirements following the two inspections and NOVs. A culpability factor of 1.2 is appropriate.

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. A history of violations factor of 1.0 is appropriate.

Cleanup and/or Cooperation: 1.1

For cleanup and/or cooperation, the Enforcement Policy allows an adjustment resulting in a multiplier between 0.75 and 1.5, using the lower multiplier where there is an

exceptional cleanup and cooperation compared to what can reasonably be expected, and higher multiplier where there is not.

On August 16, 2023, Santa Ana Water Board staff first inspected the Facility and observed BMP violations. Santa Ana Water Board staff discussed these violations with the Discharger and issued the February 23, 2024 NOV. On March 25, 2024, the Discharger responded via email and provided updated training records, a photograph of an industrial sweeper, photographs of covered scrap metals bins, a photograph of an installed spill berm around the IBC totes near the loading dock, and notice that the submitted SWPPP and site map had been uploaded in SMARTS. However, the Discharger did not address all the violations identified during the inspection. The response did not provide any evidence to support that spill controls were implemented for all containers containing liquids throughout the facility, the revised SWPPP did not meet the requirements in section X of the Industrial General Permit and did not address all the discrepancies noted in the February 23, 2024 NOV, and the two unidentified sampling points were not established in the revised site map and SWPPP as requested. Therefore, the April 23, 2024 NOV was issued.

On May 3, 2024, the Discharger submitted a response via email to the April 23, 2024 NOV. The Discharger certified and submitted an updated SWPPP and site map to SMARTS and provided photographic evidence of all scrap metal bins, trash containers, and roll-off containers covered and evidence of either secondary containment or socks surrounding IBC totes containing liquid.

On December 4, 2024, Santa Ana Water Board staff conducted an inspection of the Facility and observed additional deficient or missing BMPs, as outlined above. The Discharger failed to implement minimum BMPs again and therefore failed to comply with the Industrial General Permit requirements after attempts by Santa Ana Water Board staff to bring the Facility into compliance via site visits and NOVs. Therefore, a cleanup and cooperation factor of 1.1 is appropriate.

Base Liability Amount:

\$7,000 [initial liability amount] X 1.2 [culpability] X 1.0 [violation history] X 1.1 [cleanup and cooperation]

$$\mathbf{\$7,000 \times 1.2 \times 1.0 \times 1.1 = \$9,240}$$

Step 5 – Determination of Total Base Liability Amount

The Total Base Liability Amount will be determined by adding the amounts above for each violation.

$$\begin{array}{r} \text{Violation 1} = \$1,395,000 \\ + \\ \text{Violation 2} = \$402,675 \\ + \\ \text{Violation 3} = \$9,240 \\ = \\ \mathbf{\$1,806,915} \end{array}$$

Step 6 – Economic Benefit

The Enforcement Policy requires the Economic Benefit Amount to be estimated for every violation. The economic benefit is any saving 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 \$25,147 based on the delayed cost of submitting falsified analytical data in SMARTS, submitting analytical data in SMARTS after the 30 day requirement, and failing to implement BMPs at the Facility.

Step 7 – Other Factors as Justice May Require

Misrepresentations or Fraudulent Conduct

The Enforcement Policy provides (at p. 27):

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 adjustment. Examples of circumstances warranting an adjustment under this step are:

- a. The discharger has provided, or Water Board staff has identified, other pertinent information not previously considered that indicates a higher or lower amount is justified.*

For the reasons set forth below, such an adjustment is warranted here due to the particularly egregious facts of this case.

The penalty calculation methodology presented in the Enforcement Policy does not provide a mechanism for the regional boards to consider an increased liability for a discharger's misrepresentations or fraudulent submittals to the Santa Ana Water Board. Instead, for example, typically a maximum score for degree of culpability would be applied to a discharger who merely refuses to submit required reports. Here, the Discharger falsified laboratory reports and certified the falsified data as accurate; this conduct is substantially more egregious than simply refusing to submit required reports, and represents a much more dangerous threat to the Santa Ana Water Board's enforcement program: while it is relatively easy to determine when a party enrolled in a permit hasn't submitted a required report, ferreting out falsified laboratory reports requires far greater staff resources. Additionally, the perceived benefit to a party willing to falsify laboratory reports is significant, as the party can avoid potentially substantial enforcement. Therefore, in this case, an

increased liability amount is appropriate to both punish the Discharger and deter similar conduct in the future by members of the regulated public.⁶

To determine an appropriate increased penalty that is proportional to the Discharger's misconduct and achieves deterrence, the Prosecution Team looked to several sources of law.

Chapter 6 of Title 7 of the Porter-Cologne Water Quality Control Act concerns State Financial Assistance programs and contains an enforcement provision that reflects how seriously other areas of the Water Boards treat misrepresentations and fraudulent conduct. Water Code section 13499 states that, "A person who makes a misrepresentation in any submittal to the state board, including, but not limited to, an application, report, certification, record, invoice, form, or other document that is submitted to the state board relating to a financial assistance agreement, is subject to civil liability of not more than \$500,000 for each violation of this subdivision." The thirty-two instances of misrepresentation described above in Violation 1 alone would result in a statutory maximum penalty of \$16,000,000 if these misrepresentations were made in the State Financial Assistance context.

Similarly, treble damages may be awarded in civil cases that involve intentional misconduct, such as fraud, so long as a specific federal or state law explicitly authorizes the imposition of treble damages. Treble damages are a statutory remedy that allows a court to triple a plaintiff's actual compensatory damages. Examples of laws that authorize treble damages are the Federal False Claims Act (31 U.S.C. §§ 3729-3733) (treble damages available to punish any person who presents false or fraudulent claims or records to the federal government), Racketeer Influenced and Corrupt Organizations Act (RICO) (18 U.S.C. §§ 1961-1968) ("threefold damages" available in instances where a person is shown to have committed at least two related crimes while operating as part of a larger, ongoing criminal enterprise), and certain state consumer protection laws (see Cal. Penal Code § 496) ("three times the actual amount of damages" available where a person is injured by the sale or receiving of stolen goods).

In civil matters where a plaintiff is seeking compensatory and punitive damages, the Supreme Court of the United States has held that damages exceeding a single-digit ratio between punitive and compensatory damages are potentially excessive and in violation of constitutional Due Process considerations. (*State Farm Mut. Auto. Ins. Co. v. Campbell* (2003) 538 U.S. 408). As a practical matter, this means that punitive damages generally should not exceed ten times compensatory damages. While this matter does not present the issue of punitive damages, the result in *State Farm* may provide some guidance to the Santa Ana Water Board in arriving at an appropriate penalty.

It is in the Water Boards' enforcement programs' best interest to treat misrepresentations and fraudulent conduct with a similar severity across program areas. In order to have a

⁶ The Prosecution Team recognizes that there is a parallel criminal case brought by the Orange County District Attorney. The criminal action does not shield the Discharger from liability in this case. As a general principle, enforcement brought by one government entity cannot preclude enforcement by another government entity. *People v. Casa Blanca Convalescent Homes, Inc.* (1984) 159 Cal.App.3d 509, 531 ("One branch of government may not prevent another from performing official acts required by law") (abrogated by *Cel-Tech Communications, Inc. v. Los Angeles Cellular Telephone Co.* (1999) 20 Cal.4th 163 on other grounds).

sufficient deterrent effect on the regulated public, the Prosecution Team finds it is appropriate to double the base liability amounts for Violations 1 and 2 arrived at through application of the penalty calculation methodology. This doubling of the base liability amount may not be appropriate in every context, and this penalty increase for misrepresentations or fraudulent conduct should be considered on a case-by-case basis. In addition, the final liability amount must remain between the statutory minimum and maximum.

In this instance, doubling the base liability amounts for Violations 1 and 2 would result in the following Total Base Liability Amount:

$$\begin{array}{r} \text{Violation 1} = \$2,790,000 \\ + \\ \text{Violation 2} = \$805,350 \\ + \\ \text{Violation 3} = \$9,240 \\ = \\ \mathbf{\$3,604,590} \end{array}$$

Staff Costs

The Santa Ana Water Board Prosecution Team finds it appropriate to increase the Total Base Liability Amount by \$19,218 in consideration of investigation and enforcement staff costs incurred in prosecuting this matter. Increasing the Total Base Liability Amount in this manner serves to create a more appropriate deterrent against future violations.

Environmental Justice Considerations

In addition, the Prosecution Team notes that the Facility is located in a designated Disadvantaged Community. According to CalEnviroScreen, a tool developed by the California Office of Environmental Health Hazard Assessment for the purposes of identifying impacted communities by taking into consideration pollution exposure and its effects, as well as health and socioeconomic status; the Facility is located in a census tract with a score of 65 out of 100, making it among the top one third of the most disadvantaged communities in California. Therefore, residents in this community bear a disproportionate burden of 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.

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

The Enforcement Policy provides that if there is 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. There is no obligation to ensure that a violator has the ability to pay or continue

in business, but, rather, are obliged to consider these factors when imposing a civil liability under the Water Code.

The Santa Ana Water Board Prosecution Team has reviewed publicly available information related to the Discharger. The Facility's most recent SWPPP identifies "Cla-Val" as the dba⁷ of Griswold Industries. According to Federal Employer Identification Number (FEIN) records, Griswold Industries is the parent company of Cla-Val and Cla-Val Co. The California Secretary of State Business Records support that Griswold Industries initially incorporated in the State of California on December 8, 1947, and remains in good standing. Cla-Val Co. was initially incorporated in the State of California on February 26, 1991, and has not been in good standing with the Franchise Tax Board since 2001. No entry for an entity simply named Cla-Val exists. A Statement of Information filed by Griswold Industries on January 26, 2026, identifies David Koeblitz as Chief Financial Officer and Secretary, and Ryan Pickett as Chief Operating Officer. Martin Pickett is designated as a Director of Griswold Industries. Cla-Val Co. does not have any public filings with the California Secretary of State since its initial incorporation, but a Business Profile report prepared by Westlaw based on public information gathered from FEIN records, Uniform Commercial Code filings, the California Secretary of State, and Dun & Bradstreet Worldbase, list Martin Pickett and David Koeblitz as Officers.

Orange County Tax Assessor (Tax Assessor) records show that Griswold Industries owns the parcels with Assessor's Parcel Numbers (APNs) 424-071-04, 424-071-05, and 424-071-07, which constitute a portion of the Facility and have an assessed value of \$285,009, \$3,405,637 and \$8,611,103, respectively, for a total assessed value of \$12,301,749. Tax Assessor records also show that Cla-Val Co. owns APN 424-071-06, which constitutes a portion of the Facility and has an assessed value of \$18,518,203. Based on this publicly available information, the Discharger has the ability to pay the proposed penalty and remain in business, and no adjustment is warranted.

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: \$16,270,000

The maximum administrative liability is the maximum allowed by Water Code section 13385, subdivision (c)(1): \$10,000 for each day which the violation occurs. The maximum liability amount is \$16,270,000 = (\$10,000 x 846 days for Violation 1) + (\$10,000 x 779 days for Violation 2) + (\$10,000 x 2 days for Violation 3).

⁷ When one entity is "doing business as" another, or "dba", the second entity is a legal fiction and does not create a second entity. *Providence Washington Ins. Co. v. Valley Forge Ins. Co.* (1996) 42 Cal.App.4th 1194, 1200 (A dba is merely descriptive of the person or corporation who does business under some other name. "Doing business under another name does not create an entity distinct from the person operating the business. The business name is a fiction, and so too is any implication that the business is a legal entity separate from its owner.") (internal citations and quotations omitted).

Minimum Liability Amount: \$27,662

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 \$27,662 (\$25,147 x 1.1).

Step 10 – Final Proposed Liability Amount (for Violations 1-3 Only)

Final Proposed Liability Amount: \$3,623,808

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 final liability proposed for Violations 1-3 is \$3,623,808.

ATTACHMENT B

Violations 4-38

Table 1 depicts the TMDL applicable sampling data and MMP determination for the 2020-2021 reporting period based on NEL exceedances:

Table 1									
Violation Number	Discharge Location	Sample Collection Date	Parameter	Result (mg/L)	NEL (mg/L)	Serious MMP?	Count Toward Chronic	Chronic MMP?	MMP
-	OF-1	1/28/2021	Cu	0.023	0.00578	No	N/A	No	-
-	OF-2	1/28/2021	Zn	0.12	0.095	No	N/A	No	-
-	OF-6	1/28/2021	Zn	0.11	0.095	No	N/A	No	-
4	OF-1	3/3/2021	Cu	0.029	0.00578	Yes	1	No	\$3,000
-	OF-6	3/3/2021	Cu	0.035	0.00578	No	1	No	-
-	OF-6	3/3/2021	Zn	0.14	0.095	No	2	No	-
Total MMP for NEL Exceedances for 2020-2021:									\$3,000

Table 2 depicts the TMDL applicable sampling data and MMP determination for the 2021-2022 reporting period based on NEL exceedances:

Table 2									
Violation Number	Discharge Location	Sample Collection Date	Parameter	Result (mg/L)	NEL (mg/L)	Serious MMP?	Count Toward Chronic	Chronic MMP?	MMP
-	OF-1	10/25/2021	Cu	0.17	0.00578	No	N/A	No	-
-	OF-1	10/25/2021	Zn	0.16	0.095	No	N/A	No	-
-	OF-2	10/25/2021	Cu	0.14	0.00578	No	N/A	No	-
-	OF-2	10/25/2021	Zn	0.29	0.095	No	N/A	No	-
-	OF-3	10/25/2021	Cu	0.042	0.00578	No	N/A	No	-
-	OF-3	10/25/2021	Zn	0.16	0.095	No	N/A	No	-
5	OF-1	3/29/2022	Cu	0.08	0.00578	Yes	1	No	\$3,000
6	OF-2	3/29/2022	Cu	0.044	0.00578	Yes	1	No	\$3,000
7	OF-3	3/29/2022	Cu	0.035	0.00578	Yes	1	No	\$3,000
Total MMP for NEL Exceedances for 2021-2022:									\$9,000

Table 3									
Violation Number	Discharge Location	Sample Collection Date	Parameter	Result (mg/L)	NEL (mg/L)	Serious MMP?	Count Toward Chronic	Chronic MMP?	MMP
-	OF-1	12/22/2023	Cu	0.36	0.00578	No	N/A	No	-
-	OF-1	12/22/2023	Zn	0.79	0.095	No	N/A	No	-
-	OF-2	12/22/2023	Cu	0.054	0.00578	No	N/A	No	-
-	OF-2	12/22/2023	Zn	0.67	0.095	No	N/A	No	-
-	OF-3	12/22/2023	Cu	0.038	0.00578	No	N/A	No	-
-	OF-3	12/22/2023	Zn	0.51	0.095	No	N/A	No	-
8	OF-1	1/3/2024	Cu	0.038	0.00578	Yes	1	No	\$3,000
Total MMP for NEL Exceedances for 2023-2024:									\$3,000

Table 4									
Violation Number	Discharge Location	Sample Collection Date	Parameter	Result (mg/L)	NEL (mg/L)	Serious MMP?	Count Toward Chronic	Chronic MMP?	MMP
-	OF-1	2/14/2025	Cu	0.022	0.00578	No	N/A	No	-
-	OF-2	2/14/2025	Cu	0.11	0.00578	No	N/A	No	-
-	OF-2	2/14/2025	Zn	0.27	0.095	No	N/A	No	-
-	OF-3	2/14/2025	Cu	0.038	0.00578	No	N/A	No	-
-	OF-8	2/14/2025	Cu	0.18	0.00578	No	N/A	No	-
-	OF-8	2/14/2025	Zn	0.18	0.095	No	N/A	No	-
-	OF-10	2/14/2025	Cu	0.22	0.00578	No	N/A	No	-
-	OF-10	2/14/2025	Zn	0.64	0.095	No	N/A	No	-
9	OF-1	3/5/2025	Cu	0.03	0.00578	Yes	1	No	\$3,000
10	OF-2	3/5/2025	Cu	0.055	0.00578	Yes	1	No	\$3,000
11	OF-2	3/5/2025	Zn	0.13	0.095	Yes	2	No	\$3,000
12	OF-3	3/5/2025	Cu	0.055	0.00578	Yes	1	No	\$3,000
-	OF-3	3/5/2025	Zn	0.098	0.095	No	2	No	-
13	OF-10	3/5/2025	Cu	0.07	0.00578	Yes	1	No	\$3,000
14	OF-10	3/5/2025	Zn	0.59	0.095	Yes	2	No	\$3,000
15	OF-1	3/13/2025	Cu	0.032	0.00578	Yes	2	No	\$3,000
16	OF-2	3/13/2025	Cu	0.023	0.00578	Yes	3	No	\$3,000
17	OF-3	3/13/2025	Cu	0.027	0.00578	Yes	3	No	\$3,000
18	OF-8	3/13/2025	Cu	0.064	0.00578	Yes	1	No	\$3,000
19	OF-10	3/13/2025	Cu	0.055	0.00578	Yes	3	No	\$3,000
20	OF-10	3/13/2025	Zn	0.71	0.095	Yes	4	Yes	\$3,000
Total MMP for NEL Exceedances for 2024-2025:									\$36,000

Table 5 depicts the TMDL applicable sampling data and MMP determination for the 2025-2026 reporting period based on NEL exceedances:

Table 5									
Violation Number	Discharge Location	Sample Collection Date	Parameter	Result (mg/L)	NEL (mg/L)	Serious MMP?	Count Toward Chronic	Chronic MMP?	MMP
-	OF-1	10/14/2025	Cu	0.098	0.00578	No	N/A	No	-
-	OF-2	10/14/2025	Cu	0.4	0.00578	No	N/A	No	-
-	OF-2	10/14/2025	Zn	0.33	0.095	No	N/A	No	-
-	OF-3	10/14/2025	Cu	0.13	0.00578	No	N/A	No	-
-	OF-3	10/14/2025	Zn	0.18	0.00578	No	N/A	No	-
-	OF-10	10/14/2025	Cu	0.13	0.00578	No	N/A	No	-
-	OF-10	10/14/2025	Zn	0.65	0.095	No	N/A	No	-
21	OF-1	11/14/2025	Cu	0.054	0.00578	Yes	1	No	\$3,000
22	OF-2	11/14/2025	Cu	0.03	0.00578	Yes	1	No	\$3,000
23	OF-2	11/14/2025	Zn	0.14	0.095	Yes	2	No	\$3,000
24	OF-3	11/14/2025	Cu	0.086	0.00578	Yes	1	No	\$3,000
25	OF-3	11/14/2025	Zn	0.16	0.095	Yes	2	No	\$3,000
26	OF-10	11/14/2025	Cu	0.26	0.00578	Yes	1	No	\$3,000
27	OF-10	11/14/2025	Zn	1.1	0.095	Yes	2	No	\$3,000
28	OF-1	1/22/2026	Cu	0.12	0.00578	Yes	2	No	\$3,000
29	OF-1	1/22/2026	Zn	0.66	0.095	Yes	3	No	\$3,000
30	OF-3	1/22/2026	Cu	0.093	0.00578	Yes	3	No	\$3,000
31	OF-3	1/22/2026	Zn	0.17	0.095	Yes	4	No	\$3,000
32	OF-1	2/16/2026	Cu	0.022	0.00578	Yes	4	Yes	\$3,000
33	OF-1	2/16/2026	Zn	0.11	0.095	No	5	Yes	\$3,000
34	OF-2	2/16/2026	Cu	0.037	0.00578	Yes	3	Yes	\$3,000
35	OF-2	2/16/2026	Zn	0.13	0.095	Yes	4	Yes	\$3,000
36	OF-3	2/16/2026	Cu	0.048	0.00578	Yes	5	Yes	\$3,000
37	OF-10	2/16/2026	Cu	0.16	0.00578	Yes	3	Yes	\$3,000
38	OF-10	2/16/2026	Zn	0.59	0.095	Yes	4	Yes	\$3,000
Total MMP for NEL Exceedances for 2025-2026:									\$54,000

Total MMP for NEL Exceedances: \$105,000

Santa Ana Regional Water Quality Control Board

WAIVER FORM FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R8-2026-0043

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

I am duly authorized to represent Griswold Industries in connection with Administrative Civil Liability Complaint No. R8-2026-0043 (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 who has been issued a complaint may waive the right to a hearing.*"

☐ **(OPTION 1: Check here if Griswold Industries waives the hearing requirement and will pay the liability in full.)**

- a. I hereby waive any right Griswold Industries may have to a hearing before the Santa Ana Regional Water Quality Control Board (Santa Ana Water Board).
- b. I certify that Griswold Industries will remit payment for the proposed civil liability in the full amount of **three million seven hundred twenty-eight thousand eight hundred and eight dollars (\$3,728,808)** by submitting a check that references *Complaint No. R8-2026-0043*, made payable to the *State Water Resources Control Board - Cleanup and Abatement Account*. The Santa Ana Water Board may adopt an Order requiring payment after public notice and comment as described below.
- 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 the 30-day public notice and comment period. Should the Santa Ana Water Board receive significant new information or comments from any source (excluding the Santa Ana Water Board's Prosecution Team) during this comment period, the Santa Ana Water Board's 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 Santa Ana Water Board, and that the Santa Ana Water Board may consider this proposed settlement in a public meeting or hearing. I also understand that approval of the settlement will result in Griswold Industries 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 Griswold Industries to further enforcement, including additional civil liability.

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

I hereby waive any right Griswold Industries may have to a hearing before the Santa Ana Water Board within 90 days after service of the Complaint. By checking this box, Griswold Industries requests that the Santa Ana Water Board delay the hearing and/or hearing deadlines so that Griswold Industries may have additional time to prepare for the hearing. Please provide a written explanation of why additional time is needed. It remains within the discretion of the Santa Ana Water Board to approve the extension and the Prosecution Team reserves the right to object to this delay.

(Print Name and Title)

(Signature)

(Date)

California Regional Water Quality Control Board, Santa Ana Region

**HEARING PROCEDURE
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT
R8-2026-0043**

**ISSUED TO
GRISWOLD INDUSTRIES
ORANGE COUNTY**

HEARING SCHEDULED FOR OCTOBER 23, 2026

**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, Santa Ana Region (Santa Ana Water Board) to impose a fine, called administrative civil liability, against any person who violates water quality requirements. The Santa Ana Water Board's Prosecution Team issued an Administrative Civil Liability (ACL) Complaint that proposes the Santa Ana Water Board impose civil liability against Griswold Industries (Respondent) for the violations alleged in the ACL Complaint.

I. HEARING DATE AND LOCATION

The Santa Ana Water Board scheduled a hearing to consider this matter at 9:00 a.m. on October 23, 2026. At the hearing, the Santa Ana Water Board will consider evidence regarding the violation(s) alleged in the ACL Complaint. After considering the evidence, the Santa Ana 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 Cypress
5275 Orange Avenue
Cypress, CA 90630

The Santa Ana Water Board's meeting agenda will be issued at least ten days before the meeting and posted on the Santa Ana Water Board's website at https://www.waterboards.ca.gov/santaana/board_info/agendas/2026_agendas.html. The hearing may be rescheduled or continued to a later date. Please check the Santa Ana 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 Santa Ana Water Board, or another member of the Santa Ana Water Board designated in writing by the Chair of the Santa Ana 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 Respondent may waive this right. The Respondent may decide to waive the hearing requirement and pay the full proposed liability amount and settle the ACL Complaint, contingent on the Santa Ana Water Board's approval of the settlement. Alternatively, the Respondent 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 Respondent 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 Form. 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 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

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

Advisory Team:

Alan Kuoch, Supervising Engineering Geologist, Santa Ana Water Board
Heraclio Pimentel, Attorney III, Office of Chief Counsel
Desta Matsuda, Attorney, Office of Chief Counsel

Prosecution Team:

Eric Lindberg, Executive Officer, Santa Ana Water Board
Brian Covellone, Assistant Executive Officer, Santa Ana Water Board
Nick Amini, Supervising Water Resource Control Engineer, Santa Ana Water Board
Michelle Beckwith, Senior Environmental Scientist (Sup.), Santa Ana Water Board
Kaitlin Diaz, Environmental Scientist, Santa Ana Water Board
Carson Capps, Attorney, Office of Enforcement

Any members of the Advisory Team who normally supervise any member 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. Eric Lindberg, Executive Officer, regularly advises the Santa Ana Water Board in other, unrelated matters, and other members of the Prosecution Team may have previously acted as advisors to the Santa Ana Water Board in other, unrelated matters, but no members of the Prosecution Team are advising the Santa Ana Water Board in this proceeding. Members of the Prosecution Team have not had any substantive ex parte communications with the Santa Ana Water Board or the Advisory Team regarding this proceeding.

C. Ex Parte Communications

Any communication regarding any issue in this proceeding to a Santa Ana 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 Santa Ana Water Board and Advisory Team.

The following are Parties to this proceeding:

1. Santa Ana Water Board Prosecution Team
2. Griswold Industries
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 Santa Ana 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 of 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 an Interested Person’s Non-Evidentiary Policy Statements

A Party must submit any response to an Interested Person’s 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 Santa Ana 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 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 Santa Ana 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 Santa Ana 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 Santa Ana 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 Santa Ana 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 the 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 for the Santa Ana Water Board, upon its 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 60 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 Santa Ana 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 materials. 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 with 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:

Alan Kuoch, Supervising Engineering Geologist
California Regional Water Quality Control Board, Santa Ana Region
3737 Main Street, Suite 500, Riverside, CA 92501
Alan.Kuoch@waterboards.ca.gov
(951) 394-9475

Heraclio Pimentel, Attorney III
Office of Chief Counsel, State Water Resources Control Board
1001 I Street Sacramento, CA 95814
Heraclio.Pimentel@waterboards.ca.gov
(916) 323-1677

Desta Matsuda, Attorney
Office of Chief Counsel, State Water Resources Control Board
1001 I Street Sacramento, CA 95814
Desta.Matsuda@waterboards.ca.gov
(916) 327-8557

Prosecution Team:

Michelle Beckwith, Senior Environmental Scientist (Sup.)
California Regional Water Quality Control Board, Santa Ana Region
3737 Main Street, Suite 500, Riverside, CA 92501
Michelle.Beckwith@waterboards.ca.gov
(951) 782-4433

Carson Capps, Attorney
Office of Enforcement, State Water Resources Control Board
801 K Street, Suite 2300, Sacramento, CA 95814
Carson.Capps@waterboards.ca.gov
(916) 341-5273

Respondent:

Fabio Naranjo
Griswold Industries
1701 Placentia Avenue
Costa Mesa, CA 92627
fabio.naranjo@cla-val.com
(949) 722-4949

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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
July 27, 2026	Prosecution Team issues ACL Complaint, Hearing Procedure, and other related materials	
August 5, 2026	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
August 11, 2026	Parties' deadline to submit objections to Party status requests	Section V.C
	Respondent's deadline to submit Waiver Form	Section III
August 26, 2026	Interested Persons' deadline to submit written non-evidentiary policy statements	Section VI.A
September 9, 2026	Prosecution Team's deadline to submit prehearing evidence and argument (excluding rebuttal evidence)	Section VII.A
September 21, 2026	Remaining Parties' (including the Respondent(s)) deadline to submit prehearing evidence and argument (excluding rebuttal evidence)	Section VII.A
October 5, 2026	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
October 12, 2026	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
October 22, 2026	Parties' deadline to submit copy of visual presentations	Section IX.F
October 23, 2026	Hearing Date(s)	