

1 KAILYN ELLISON (SBN 300644)  
2 OFFICE OF ENFORCEMENT  
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8 Attorney for the Prosecution Team

9 BEFORE THE CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD

10 STATE OF CALIFORNIA

11 In the Matter of: )

12 CRUISER HAVEN, INC. AND )

13 DELTA WATERWAYS LLC )

14 Holland Riverside Marina )

15 Complaint R5-2016-0501 )

DECLARATION OF KAILYN  
ELLISON SUPPORTING SUBPOENAS  
FOR RECORDS AND DOCUMENTS

16 **I, Kailyn Ellison, declare as follows:**

17 1. I am the attorney for the Central Valley Regional Water Quality Control Board  
(Regional Water Board) Prosecution Team (Prosecution Team) in this action.

18 2. I have personal knowledge of all facts stated in this declaration and, if called as a  
19 witness, could and would testify competently under oath.

20 3. The Assistant Executive Officer of the Regional Water Board issued an  
21 Administrative Civil Liability Complaint for this matter on January 25, 2016 to Cruiser Haven, Inc.  
22 and Delta Waterways LLC (collectively Dischargers). A hearing on this matter is currently  
scheduled for April 21/22, 2016.

23 4. The following issue is involved in this case: Dischargers' alleged violations of  
24 Waste Discharge Requirements Order 5-01-093 and a California Water Code section 13267 Order  
25 for a proposed one hundred thousand dollars (\$100,000) (Proposed Liability) in administrative civil  
26 liability pursuant to the State Water Resources Control Board Water Quality Enforcement Policy  
27 (Enforcement Policy).

28 5. Step 6 of the Enforcement Policy requires the Water Boards to consider a violator's

1 ability to pay a proposed liability amount and to consider the effect the proposed liability will have  
2 on the violator's ability to continue in business. The Prosecution Team made a finding of  
3 Dischargers' ability to pay the Proposed Liability in Attachment A of the Complaint using publicly  
4 available information demonstrating that the property located at 7000 Holland Tract Road in  
5 Brentwood, California has a current value of \$2,434,662. However, the Dischargers have  
6 previously claimed an inability to pay the Proposed Liability and continue in business.

7 6. Step 8 of the Enforcement Policy requires the Water Boards to consider a violator's  
8 economic benefit gained from non-compliance. The Prosecution Team made findings regarding  
9 the Dischargers' economic benefit gained from non-compliance as detailed in Attachment A of the  
10 Complaint. The Prosecution Team believes the Dischargers gained an additional economic benefit  
11 from fees charged to boaters to pump out wastewater tanks at the facility.

12 7. Dischargers have in their possession or under their control additional documents  
13 that will assist the Prosecution Team and the Regional Water Board to more accurately assess  
14 Dischargers' ability to pay the Proposed Liability and continue in business, or the economic benefit  
15 of non-compliance.

16 8. Each document or other item described in the subpoenas attached hereto is material  
17 to the issues in this case and is admissible in that these documents or other items are necessary in  
18 determining Dischargers' ability to pay the Proposed Liability and continue in business, or the  
19 economic benefit of non-compliance.

20 9. Good cause exists for the production of documents or other items described in the  
21 subpoenas attached hereto because such evidence is within the Dischargers' possession and is  
22 probative of the Dischargers' ability to pay the Proposed Liability and continue in business, or the  
23 economic benefit of non-compliance.

24 I declare under penalty of perjury under the laws of the State of California that the foregoing is true  
25 and correct.

26 Date: 1/25/16

Kailyn Ellison  
Kailyn Ellison  
Attorney for the Prosecution Team  
Office of Enforcement  
State Water Resources Control Board