

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

RECEIVED
SACRAMENTO
CVRWQCB

16 APR 25 PM 2:15

SETTLEMENT AGREEMENT AND STIPULATION FOR ENTRY OF
ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2016-0529
IN THE MATTER OF
WILLIAM R. SINKS ET AL.

This Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order (Stipulated Order or Order) is entered into by and between the Assistant Executive Officer of the California Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board or Board), on behalf of the Central Valley Water Board Prosecution Team (Prosecution Team), and William R. Sinks et al. (Discharger) and is presented to the Central Valley Water Board, or its delegee, for adoption as an order by settlement, pursuant to Government Code section 11415.60.

Recitals

1. On 31 July 2013, the Assistant Executive Officer of the Central Valley Water Board issued a Water Code section 13260 Directive Letter (hereafter Directive) to the Discharger. The Directive required the Discharger to obtain regulatory coverage for its irrigated agricultural parcels within 15 calendar days of receipt of the Directive. As detailed in the Directive, the Discharger could obtain coverage by joining the East San Joaquin Water Quality Coalition ("Coalition" or "ESJ Coalition"), or by submitting a Report of Waste Discharge (RoWD). The Discharger did not obtain regulatory coverage by 19 August 2013.
2. Because the Discharger failed to respond by the deadline specified in the Directive, a Notice of Violation (NOV) was sent via certified mail to the Discharger on 30 August 2013. On 19 February 2014, staff sent the Discharger a notification letter via process server that an Administrative Civil Liability Complaint (Complaint) would be issued if the Discharger did not obtain regulatory coverage, and then initiate settlement discussions regarding the proposed Administrative Civil Liability (ACL) fine by 6 March 2014. The proof of service receipt for the pre-ACL letter issued to the Discharger shows that the pre-ACL letter was received on 23 February 2014.
3. Because the Discharger did not respond to the pre-ACL notification letter, the Assistant Executive Officer of the Central Valley Water Board issued an ACL Complaint to the Discharger on 10 May 2014. The Complaint proposed a fine of three thousand five hundred and forty dollars (\$3,540). The Discharger responded to the Complaint by signing a hearing waiver and paying the proposed fine in full. On 19 June 2014, the Discharger submitted a check for \$3,540 made out to the State Water Pollution Cleanup & Abatement Account.
4. On 11 July 2014, the Advisory Team to the Central Valley Water Board issued a memorandum concerning the Discharger's and one other grower's pending enforcement

cases. In this memo, the Advisory Team questioned whether the proposed assessments would be sufficient to deter other recalcitrant growers, and whether the proposed assessments may be considered "the cost of doing business." The Advisory Team also questioned the method used for estimating the economic benefit of non-compliance, and opined that the method used underestimated the economic benefit. The memo invited the Discharger and the Prosecution Team to develop Administrative Civil Liability Orders that contained findings to address issues and concerns raised.

5. On 17 July 2014, the Discharger joined the Coalition by enrolling one parcel comprised of 154 acres. Also on 17 July 2014, the Discharger submitted a Notice of Intent (NOI) to the Central Valley Water Board, thus coming into compliance with the 13260 Directive. The Discharger was in violation of the Directive from 20 August 2013 until 17 July 2014, or for a period of 332 days.
6. On 30 September 2015, the Prosecution Team sent a letter to the Discharger to renegotiate settlement of the violation in accordance with the Advisory Team memo. In the letter, the Prosecution Team proposed a settlement of fifty thousand and fifty dollars (\$50,050). The Discharger agreed to a settlement meeting, which was held in October 2015.

Regulatory Considerations

7. The Prosecution Team has concluded that the Discharger violated Water Code section 13260 by failing to obtain regulatory coverage for a period of 332 days. The Central Valley Water Board may assess an ACL based on Water Code section 13261 for that violation.
8. Water Code section 13260, subdivision (a), requires that any person discharging waste or proposing to discharge waste within any region that could affect the quality of the waters of the State, other than into a community sewer system, shall file with the appropriate Regional Board a RoWD containing such information and data as may be required by the Regional Board, unless the Regional Board waives such requirement.
9. Pursuant to Water Code section 13261, subdivision (a), a person who fails to furnish a report or pay a fee under Section 13260 when so requested by a regional board is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b).
10. Water Code section 13261, subdivision (b)(1), states that civil liability may be administratively imposed by a regional board or the state board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision (a) in an amount not exceeding one thousand dollars (\$1,000) for each day in which the violation occurs. Civil liability shall not be imposed by the regional board pursuant to this section if the state board has imposed liability against the same person for the same violation.

11. Pursuant to Water Code section 13327, in determining the amount of civil liability, the Central Valley Water Board is required to take into consideration the nature, circumstance, extent, and gravity of the violation or violations, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, and, with respect to the violator, the ability to pay, the effect on ability to continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters as justice may require. Attachment A, which is hereby fully incorporated into this Order by reference, describes the penalty calculation.

Settlement

12. During settlement discussions, the Discharger claimed an inability to pay the proposed assessment of \$50,050 and stay in business. In response, the Prosecution Team requested, and the Discharger provided, financial information to support this claim, including completion of a financial data request form for an individual ability to pay claim, and submittal of federal and state income tax filings for the previous three years. An economist with the State Water Resources Control Board conducted an "ability to pay" analysis and found that (1) the Discharger would have to borrow the funds to pay the proposed assessment, which would add to an already significant debt associated with the Discharger's farm operation; and that (2) the Discharger would not be able to pay the assessment and stay in business. Based on these findings, the Prosecution Team accepted the Discharger's "inability to pay" claim.
13. To resolve by consent and without further administrative proceedings certain alleged violations of the California Water Code, set forth in the Complaint, the Parties have agreed to the imposition of civil liability totaling \$3,540 against the Discharger. The amount of administrative civil liability imposed pursuant to the Stipulation and Order is less than the amount initially calculated by the Prosecution Team using the State Water Board's Enforcement Policy, as set forth in Step 5 of Attachment A. It is, however, over and above the estimated economic benefit of non-compliance. The reduction in liability is justified pursuant to the Enforcement Policy Step 6 in consideration of the financial documentation submitted by the Discharger asserting an inability to pay the full liability amount of \$50,050.
14. The Parties have engaged in confidential settlement negotiations and agree to settle the matter without administrative or civil litigation and by presenting this Stipulated Order to the Central Valley Water Board, or its delegee, for adoption as an order by settlement pursuant to Government Code section 11415.60. The Central Valley Water Board Prosecution Team believes that the resolution of the alleged violations is fair and reasonable and fulfills its enforcement objectives, that no further action is warranted concerning the violations alleged herein and that this Stipulated Order is in the best

interest of the public.

15. To resolve the violation by consent and without further administrative proceedings the Parties have agreed to the imposition of \$3,540 in liability against the Discharger.

Stipulations

The Parties stipulate to the following:

1. **Administrative Civil Liability:** The Discharger hereby agrees to the imposition of administrative civil liability totaling **three thousand five hundred and forty dollars (\$3,540)** to the Central Valley Water Board to resolve the alleged Water Code violations. The Discharger has already paid the \$3,540 to the State Water Board *Cleanup and Abatement Account*.
2. **Compliance with Applicable Laws and Regulatory Changes:** The Discharger understands that payment of administrative civil liability in accordance with the terms of this Stipulated Order and or compliance with the terms of this Stipulated Order is not a substitute for compliance with applicable laws, and that continuing violations of the type alleged in the Complaint may subject it to further enforcement, including additional ACLs. Nothing in this Stipulated Order shall excuse Discharger from meeting any more stringent requirements which may be imposed hereafter by changes in applicable and legally binding legislation or regulations.
3. **Party Contacts for Communications Related to Stipulated Order:**

For the Central Valley Water Board:
Andrew Altevoigt - Assistant Executive Officer
Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670
(916) 464-4656

Naomi Kaplowitz - Attorney
Office of Enforcement, State Water Resources Control Board
1001 I Street, 16th Floor
Sacramento, CA 95812
(916) 341-5677
4. **Attorney's Fees and Costs:** Except as otherwise provided herein, each Party shall bear all attorneys' fees and costs arising from the Party's own counsel in connection with the matters set forth herein.

5. **Matters Addressed by Stipulation:** Upon adoption by the Regional Board, or its delegee, this Stipulated Order represents a final and binding resolution and settlement of all claims, violations, or causes of action alleged in this Order or which could have been asserted based on the specific facts alleged in this Stipulated Order against Discharger as of the effective date of this Stipulated Order. The provisions of this Paragraph are expressly conditioned on Discharger's full payment of the ACL by the deadline specified in Stipulation 1.
6. **Public Notice:** The Discharger understands that this Stipulated Order will be noticed for a 30-day public review and comment period prior to consideration by the Central Valley Water Board, or its delegee. If significant new information is received that reasonably affects the propriety of presenting this Stipulated Order to the Central Valley Water Board, or its delegee, for adoption, the Assistant Executive Officer may unilaterally declare this Stipulated Order void and decide not to present it to the Central Valley Water Board, or its delegee. The Discharger agrees that they may not rescind or otherwise withdraw their approval of this proposed Stipulated Order.
7. **Procedure:** The Parties agree that the procedure that has been adopted for the approval of the settlement by the Parties and review by the public, as reflected in this Order, will be adequate. In the event procedural objections are raised prior to this Stipulated Order becoming effective, the Parties agree to meet and confer concerning any such objections, and may agree to revise or adjust the procedure as necessary or advisable under the circumstances.
8. **No Waiver of Right to Enforce:** The failure of the Prosecution Team or Regional Board to enforce any provision of this Stipulated Order shall in no way be deemed a waiver of such provision, or in any way affect the validity of this Stipulated Order. The failure of the Prosecution Team or Regional Board to enforce any such provision shall not preclude it from later enforcing the same or any other provision of this Stipulated Order. No oral advice, guidance, suggestions or comments by employees or officials of any Party regarding matters covered under this Stipulated Order shall be construed to relieve any Party regarding matters covered in this Stipulated Order. The Regional Board reserves all rights to take additional enforcement actions, including without limitation the issuance of ACL complaints or orders for violations other than those addressed by this Order.
9. **Interpretation:** This Stipulated Order shall not be construed against the party preparing it, but shall be construed as if the Parties jointly prepared it and any uncertainty and ambiguity shall not be interpreted against any one party.
10. **Modification:** This Order shall not be modified by any of the Parties by oral representation whether made before or after the execution of this Order. All modifications must be made in writing and approved by the Regional Board or its delegee.

11. **If Order Does Not Take Effect:** In the event that this Stipulated Order does not take effect because it is not approved by the Regional Board, or its delegee, or is vacated in whole or in part by the State Water Resources Control Board or a court, the Parties acknowledge that the Prosecution Team may proceed to a contested evidentiary hearing before the Regional Board to determine whether to assess an ACL for the underlying alleged violations, or may continue to pursue settlement. The Parties agree that all oral and written statements and agreements made during the course of settlement discussions will not be admissible as evidence in any subsequent administrative or judicial proceeding or hearing and will be fully protected by California Evidence Code sections 1152 and 1154; California Government Code section 11415.60; Rule 408, Federal Rules of Evidence; and any other applicable privilege under federal and/or state law. The Parties also agree to waive any and all objections related to their efforts to settle this matter, including, but not limited to:
 - a. Objections related to prejudice or bias of any of the Regional Board members or their advisors and any other objections to the extent that they are premised in whole or in part on the fact that the Regional Board members or their advisors were exposed to some of the material facts and the Parties settlement positions, and therefore may have formed impressions or conclusions, prior to conducting any contested evidentiary hearing in this matter; or
 - b. Laches or delay or other equitable defenses based on the time period that the order or decision by settlement may be subject to administrative or judicial review.
12. **No Admission of Liability:** Neither this Stipulated Order, nor any payment pursuant to the Order, shall constitute evidence of, or be construed as, a finding, adjudication, or acknowledgement of any fact, law, or liability, nor shall it be construed as an admission of violation of any law, rule, or regulation. However, this Order and/or any actions of payment pursuant to the Order may constitute evidence in actions seeking compliance with this Order. This Order may be used as evidence of a prior enforcement action in future actions by the Regional Board.
13. **Waiver or Hearing:** The Discharger has been informed of the rights provided by Water Code section 13323 (b), and hereby waives its right to a hearing before the Central Valley Water Board.
14. **Waiver of Right to Petition:** The Discharger hereby waives the right to petition the Central Valley Water Board's adoption of the Stipulated Order as written for review by the State Water Board, and further waives the rights, if any, to appeal the same to a California Superior Court and/or any California appellate level court.
15. **Covenant not to Sue:** Upon the effective date of this Stipulated Order, Discharger shall and does release, discharge, and covenant not to sue or pursue any civil or

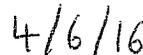
administrative claims against any State Agency or the State of California, its officers, agents, directors, employees, attorneys, representatives, for any and all claims or causes of action, which arise out of or are related to this action.

16. **Water Boards not Liable:** Neither the Regional Board members nor the Regional Board staff, attorneys, or representatives shall be liable for any injury or damage to persons or property resulting from the negligent or intentional acts or omissions by Discharger or its respective directors, officers, employees, agents, representatives or contractors in carrying out activities pursuant to this Order, nor shall the Regional Board, its members or staff be held as parties to or guarantors of any contract entered into by Respondent, or its directors, officers, employees, agents, representatives or contractors in carrying out activities pursuant to this Order.
17. **Authority to Enter Stipulated Order:** Each person executing this Stipulated Order in a representative capacity represents and warrants that he or she is authorized to execute this Order on behalf of and to bind the entity on whose behalf he or she executes the Order.
18. **No Third Party Beneficiaries:** This Stipulated Order is not intended to confer any rights or obligation on any third party or parties, and no third party or parties shall have any right of action under this Stipulated Order for any cause whatsoever.
19. **Effective Date:** This Stipulated Order shall be effective and binding on the Parties upon the date the Central Valley Water Board, or its delegee, enters the Order.
20. **Counterpart Signatures:** This Order may be executed and delivered in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, but such counterparts shall together constitute one document.

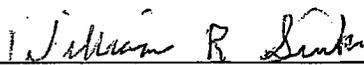
IT IS SO STIPULATED.



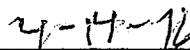
Andrew Altevogt
Assistant Executive Officer
For the Regional Board Prosecution Team



Date



William R. Sinks



Date

HAVING CONSIDERED THE PARTIES STIPULATIONS, THE CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD, BY AND THROUGH ITS EXECUTIVE OFFICER, FINDS THAT:

1. This is an action to enforce the laws and regulations administered by the Central Valley Water Board. The method of compliance with this enforcement action consists entirely of payment of amounts for administrative civil liability. As such, the Central Valley Water Board finds that issuance of this Order is not considered subject to the provisions of the California Environmental Quality Act (CEQA) as it will not result in a direct or reasonably foreseeable indirect physical change in the environment and is not considered "project" (Public Resources Code 21065, 21080(a); 15060(c)(2),(3); 150378(a), Title 14, of the California Code of Regulations). In addition, issuance of this Stipulated Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000 et seq.), in accordance with sections 15061(b)(3) and 15321(a)(2), of Title 14 of the California Code of Regulations.
2. The foregoing Stipulation is fully incorporated herein and made part of this Order.
3. In adopting this Stipulated Order, the Central Valley Water Board, or its delegee, has considered, where applicable, each of the factors prescribed in Water Code sections 13327, 13351, and 13385(e). The consideration of these factors is based upon information and comments obtained by the Central Valley Water Board's staff in investigating the allegations concerning the Discharger discussed herein or otherwise provided to the Central Valley Water Board or its delegee by the Parties and members of the public.

I, PAMELA C. CREEDON, Executive Officer, do hereby certify that the foregoing is a full, true, correct copy of an Order issued by the California Regional Water Quality Control Board, Central Valley Region.

PAMELA C. CREEDON, Executive Officer

Date

ATTACHMENT A

Calculation of Penalty per SWRCB
Water Quality Enforcement Policy

Calculation of Penalty per SWRCB Water Quality Enforcement Policy

The proposed administrative civil liability was derived following the State Water Resources Control Board's Water Quality Enforcement Policy (the "Enforcement Policy") and using the "Penalty Calculation Methodology Worksheet, version date 2/4/2014" (the "Penalty Calculation Worksheet"). The proposed civil liability takes into account such factors as the Discharger's culpability, history of violations, ability to pay and continue in business, and other factors as justice may require.

Each factor of the Enforcement Policy and its corresponding score for the violation is presented below:

Calculation of Penalty for Violation

Step 1. Potential for Harm for Discharge Violations

This step is not applicable.

Step 2. Assessment for Discharge Violations

This step is not applicable.

Step 3. Per Day Assessment for Non-Discharge Violations

The Discharger failed to submit a Report of Waste Discharge or enroll under an applicable General Order for irrigated cropland despite evidence indicating that they irrigate cropland. Irrigated cropland can be a source of sediment, pesticide residue, nitrate, and other waste discharged to the waters of the state. Unregulated discharges of such wastes can present a substantial threat to beneficial uses and/or indicate a substantial potential for harm to beneficial uses.

Using table 3 in the State Water Resources Control Board's Water Quality Enforcement Policy (Enforcement Policy) staff has determined that the "Potential for Harm" is moderate, because the characteristics of the violation present a substantial threat to beneficial uses, and/or the circumstances of the violation indicate a substantial potential for harm. The Discharger's failure to file a RoWD or to enroll under an applicable General Order for irrigated cropland undermines the collection of monitoring data, which is necessary to identify geographical areas in which growers need to improve management practices to reduce pollution discharges. The violation, thus, has the potential to exacerbate the presence and accumulation of, and the related risks associated with, pollutants of concern.

The "Deviation from the Requirement" is major. Sinks has undermined the efforts of the Central Valley Waters Boards Irrigated Lands Regulatory Program by disregarding the requirement to obtain the appropriate regulatory coverage for their waste discharges. The requirement has been rendered ineffective. Based on the above factors, a 'per day' factor of 0.7 is appropriate (see Table 3 on p. 16 of the Enforcement Policy).

On 31 July 2013, the Discharger was served a Directive Letter pursuant to California Water Code section 13260 (13260 Directive), which required them to obtain regulatory coverage within 15 calendar days or face a potential civil liability. The 13260 Directive

was received by the Discharger on 3 August 2013, so regulatory coverage was required by 18 August 2013.

The Discharger obtained regulatory coverage and submitted a Notice of Intent to the Central Valley Water Board on 17 July 2014, and thus came into compliance with the 13260 Directive. Sinks was therefore 332 days late in meeting that requirement. The maximum liability under Water Code section 13261(b)(1) for the failure to furnish a report under Water Code section 13260 is \$1,000 per each day the violation occurs, for a total of three hundred and thirty two thousand dollars (\$332,000).

Step 4. Adjustment Factors

a) *Culpability: 1.3*

Discussion: The Discharger was given the score of 1.3, which increases the fine. Sinks willfully disregarded its obligation to obtain the required regulatory coverage, after receiving several letters from the Water Board. Sinks did, however, join the East San Joaquin Water Quality Coalition and come into compliance with the 13260 Directive in July 2014.

b) *Cleanup and Cooperation: 1.1*

Discussion: The Discharger was given the score of 1.1, which increases the fine because the Discharger was uncooperative prior to the issuance of an ACL Complaint. Cleanup is not applicable here.

c) *History of Violations: 1.0*

Discussion: The Discharger was given the score of 1.0, as there is no evidence that Sinks has a history of violations.

Multiple Day Violations: Violations under Water Code section 13260 are assessed on a per day basis. However, the violations at issue are primarily reporting violations and therefore qualify for the alternative approach to penalty calculation under the Enforcement Policy (page 30). The failure to submit a RoWD does not cause daily detrimental impacts to the environment or the regulatory program. It is appropriate to assess daily penalties for the first day of violation, plus an assessment for each five day period of violation until the 30th day, plus an assessment of one day for each thirty days of violation thereafter. Applying this assessment method on the total 332 violation days reduces the minimum assessed penalty days to 17. In this case, the Prosecution Team recommends an assessment of 50 days.

Step 5. Determination of Total Base Liability Amount

The Total Base Liability is determined by applying the adjustment factors from Step 4 to the Initial Liability Amount determined in Step 3.

a) *Total Base Liability Amount: \$50,050.* (Initial Liability (\$1,000/day x 50 days x 0.7) x Adjustments (1.3)(1.1)(1.0)).

BASE LIABILITY AND FACTORS APPLIED TO THE VIOLATION

The Base Liability Amount for the Violation is \$50,050. The following factors apply to the Base Liability Amount for the violation.

Step 6. Ability to Pay and Continue in Business

a) *Adjusted Base Liability Amount: \$3,540*

Discussion: As per the Enforcement Policy, "[t]he ability of a discharger to pay an ACL is determined by its revenues and assets." The Prosecution Team's initial analysis determined that the Discharger has the ability to pay based on 1) Value of property owned by the Discharger, a significant asset with a 2013-2014 assessed value of the Madera County parcel listed in the 13260 Directive at \$811,324 according to the Madera County Assessor's office; 2) Discharger owns approximately 154 acres of almonds and alfalfa in Madera County, which would generate an estimated \$510,000 in 2012¹; and 3) William R. Sinks received an estimated \$11,039 in farm subsidies from the United States Department of Agriculture from in 2012².

During subsequent negotiations, the Discharger submitted to the Prosecution Team documentation, which included tax forms, bank statements, trust documents, rebutting the Prosecution Team's "Ability to Pay" analysis, loan payment information, and a work sheet. Those documents were analyzed by the State Water Board economist. The Prosecution Team learned that (1) the Discharger is in the process of converting a dairy operation to almond orchards, which has significant associated costs; (2) the Discharger would have to borrow the funds to pay the proposed assessment, which would add to an already significant farm-related debt; and (3) the Discharger would therefore struggle to pay the assessment and stay in business. Based on these findings, the Prosecution Team accepted the Discharger's "inability to pay" claim. An assessment of \$3,540 has already been paid by the Discharger to settle the fine amount proposed in the ACL Complaint. This amount is the Stipulated Order's proposed assessment to settle the Sinks case.

Step 7. Other Factors as Justice May Require

This step is not applicable.

Step 8. Economic Benefit

Economic Benefit: \$91

¹ Assuming 77 acres as Almonds and 77 acres as alfalfa; information provided by the 2012 Madera County Agricultural Crop Report, available at

<http://www.madera-county.com/index.php/publications/crop-reports>

² Information provided from farm.ewg.org.

Discussion: Economic Benefit was calculated using the United States Environmental Protection Agency's (US EPA) Economic Benefit Model (BEN)³ penalty and financial modeling program, version 5.4.0. BEN calculates a discharger's monetary interest earned from delaying or avoiding compliance with environmental statutes. Economic benefit was calculated based on the assumption that the Discharger will choose to join the Coalition. If the Discharger joins the Coalition, there is no avoided cost, because the Discharger will be required to pay the Coalition its unpaid membership dues for prior years.

a.) 2013 Unpaid Dues and 2014 Dues

The economic benefit associated with the failure to submit a RoWD or NOI to enroll in the Coalition is the delayed cost of failing to obtain regulatory coverage by 19 August 2013. The ESJ Coalition is currently charging new members \$50 plus \$9 per acre for prior years' unpaid dues, plus \$3.75 for 2014 dues. Consequently, when the Discharger pays membership dues in 2014, the fee will include \$9 per acre for the prior unpaid years (2013) plus \$3.75 per acre for 2014. The economic benefit for these delayed costs is \$91.

Step 9. Maximum and Minimum Liability Amounts

a.) Minimum Liability Amount: \$100

Discussion: The Enforcement Policy requires that the minimum liability amount imposed not be below the economic benefit plus ten percent. As discussed above, the Central Valley Water Board Prosecution Team's estimate of the Discharger's economic benefit obtained from the violations cited herein is \$91. This number plus ten percent results in a Minimum Liability of \$100.

b.) Maximum Liability Amount: \$332,000

Discussion: The maximum administrative liability amount is the maximum amount allowed by Water Code section 13261, which is \$1,000 for each day in which the violation occurs.

Step 10. Final Liability Amount

Based on the foregoing analysis, and consistent with the Enforcement Policy, the final liability amount proposed for failure to submit a RoWD under California Water Code section 13260 is **\$3,540**.

³ US EPA Economic Benefit Model, or BEN. At the time this document was prepared, BEN was available for download at <http://www2.epa.gov/enforcement/penalty-and-financial-models>