

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
COLORADO RIVER BASIN REGION**

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT R7-2015-0038
IN THE MATTER OF
PETER M. ORMOND, OWNER
DATE GARDENS MOBILE HOME PARK, WWTP
EL CENTRO – IMPERIAL COUNTY

PETER M. ORMOND, IS HEREBY GIVEN NOTICE THAT:

1. Peter M. Ormond (Discharger) is alleged to have violated effluent limitations and monitoring and reporting requirements of Waste Discharge Requirements (WDRs) Orders R7-2003-0054, R7-2008-0010, and R7-2013-0009 (NPDES No. CA0104841) for which the Regional Water Quality Control Board, Colorado River Basin (Regional Water Board or Board) may impose civil liability pursuant to California Water Code section 13385.
2. Water Code section 13323 authorizes the Executive Officer of the Regional Water Board to issue this Administrative Civil Liability Complaint (Complaint); and Water Code section 7 authorizes the Executive Officer to delegate these powers and duties to the Assistant Executive Officer. The Executive Officer of this Regional Water Board has delegated the issuance of complaints to the Assistant Executive Officer.
3. Peter M. Ormond owns the Date Gardens Mobile Home Park (MHP) Wastewater Treatment Plant (hereinafter WWTP) located at 1020 West Even Hewes Highway, El Centro in Imperial County. The treatment system consists of two activated sludge treatment plants operated in parallel. One of the package plants has a design capacity of 0.005 MGD (Unit 1) and the other plant has a design capacity of 0.015 MGD (Unit 2). Wastewater exits the activated sludge treatment basin(s) through a pipe into a circular clarifier. Clarifier effluent, e.g. overflow, is then directed through two dual media filters, and then through an ultraviolet (UV) disinfection system prior to being directed through a final effluent channel and weir box. Wastewater is discharged from Discharge Point 001 to Rice Drain No. 3, an Imperial Valley Drain, a water of the United States. Rice Drain No. 3 flows for a distance of approximately 7 miles before entering the New River at a point approximately 30 miles to the Salton Sea.
4. The Regional Water Board adopted WDRs Order R7-2003-0054 on May 7, 2003. The purpose of this order is to regulate discharges of wastewater from the WWTP. This Order includes effluent limitations, receiving water limitations, specifications, and provisions necessary to protect the beneficial uses of surface and ground waters within the Colorado River Basin Region.
5. WDRs Order R7-2003-0054 section A (page 4) contains, in part, the following effluent limitations with which the Discharger is required to maintain compliance at Rice Drain No. 3:

Constituent	Units	Effluent Limitations	
		30-Day Arithmetic Mean Discharge Rate*	7-Day Arithmetic Mean Discharge Rate**
Biochemical Oxygen Demand 5-day @ 20°C (BOD)	mg/L	30	45
	lbs/day	5.3	7.9
Total Suspended Solids (TSS)	mg/L	30	45
	lbs/day	5.3	7.9
Total Dissolved Solids (TDS)	mg/L	2,000	2,500

* 30-Day Mean = the arithmetic mean of pollutant parameter values of samples collected in a calendar month as specified in the Monitoring and Reporting Program.

** 7-Day Mean = The arithmetic mean of pollutant parameter values of samples collected in a calendar week (Sunday through Saturday) as specified in the Monitoring and Reporting Program.

- a. The 30-day monthly average percent removal of the pollutant parameters BOD and suspended solids shall not be less than 85 percent.
 - b. The hydrogen ion (pH) of the effluent shall be maintained within the limits of 6.0 to 9.0.
 - c. Beginning on June 30, 2003, unless otherwise approved by the Regional Board's Executive Officer, wastewater effluent discharged to the Rice Drain No. 3 shall not have a geometric mean *Escherichia coli* (E. Coli) concentration in excess of 126 Most Potable Number (MPN) per 100 milliliters (based on a minimum of not less than five (5) samples for any 30-day period) nor shall any sample exceed 400 MPN per 100 milliliters. The compliance point for this effluent limitation shall be at a location acceptable to the Regional Board's Executive Officer or his designee.
 - d. There shall be no acute or chronic toxicity in the treatment plant effluent nor shall the treatment plant effluent cause any acute or chronic toxicity in the receiving water. All waters shall be maintained free of toxic substances in concentration which are toxic to, or which produce detrimental physiological responses in human, plant, animal, or indigenous aquatic life. Compliance with the objective will be determined by use of indicator organisms, analyses of species diversity, population density, growth anomalies, or bioassays of appropriate duration or other appropriate methods specified by the Regional Board.
6. WDRs Order R7-2003-0054 section B.1 (page 6) contains receiving water limitations based on water quality objectives contained in the Colorado River Basin Water Quality Control Plan (Basin Plan) with which the Discharger is required to maintain compliance at Rice Drain No. 3.

7. WDRs Order R7-2003-0054 section D.1 (page 7) states, "[t]he permitted effluent discharge flow shall not exceed 0.021 MGD (30-day monthly average daily dry weather discharge)."
8. WDRs Order R7-2003-0054 section D.5 (page 7) requires bioassays to be performed to evaluate the toxicity of the discharged wastewater in accordance with the procedures set forth in section D.5.a (page 8). This bioassay test must be performed as specified in the Monitoring and Reporting Program.
9. WDRs Order R7-2003-0054 sections D.6 to D.10 (pages 8-9) contain chronic and acute toxicity tests with which the Discharger must comply.
10. WDRs Order R7-2003-0054 section E.2 (page 9) states:

The discharger shall comply with all conditions of this Board Order. Noncompliance constitutes a violation of the Federal Clean Water Act and Porter-Cologne Water Quality Control Act, and is grounds for enforcement action; for Permit termination, revocation and reissuance, or modification of WDRs; or denial of a Permit renewal application.

11. WDRs Order R7-2003-0054 section E.5 (page 10) states, "[t]he discharger shall comply with Monitoring and Reporting Program No. R7-2003-0054 and future revisions thereto, as specified by the Regional Board's Executive Officer."
12. Monitoring and Reporting Program No. R7-2003-0054 (2003 MRP) contains, in part, monitoring requirements for the following discharges:

Constituent	Unit	Type of Sample	Sampling Frequency	Reporting Frequency
Daily Effluent Discharge	MGD	Average Daily*	Daily	Monthly
Suspended Solids	mg/L	24-Hr. Composite	Monthly	Monthly
Biochemical Oxygen Demand	mg/L	24-Hr. Composite	Monthly	Monthly
E. Coli	MPN/100 ml	Grab	Five Samples Per Month**	Monthly
Total Dissolved Solids	mg/L	Grab	Quarterly	Quarterly

* Reported for each day with average monthly flow calculated

** Five samples equally spaced over a 30-day period with a minimum of one sample per week

13. The 2003 MRP contains receiving water monitoring requirements at two locations (page 2). The Discharger must collect samples of and submit quarterly reports on Dissolved Oxygen, pH, Chlorine Residual, and E. Coli in the following manner:

All receiving water samples shall be grab samples. Sampling stations shall be as follows:

<u>Station</u>	<u>Description</u>
R-1	Not to exceed 100 feet upstream from the point of discharge. A greater distance may be acceptable provided the discharger submits proper justification that the prescribed distance is inaccessible.
R-2	Not to exceed 25 feet downstream of the discharge pipe outlet.

"In conducting the receiving water sampling, a log shall be kept of the receiving water conditions at stations R-1 and R-2 . . . Notes on receiving water conditions shall be summarized in the monitoring report." (2003 MRP, page 3.)

14. The 2003 MRP contains effluent toxicity testing requirements. The discharger shall test and report the results of acute and chronic toxicity, Toxicity Reduction Evaluations (TRE) and Toxicity Identification Evaluations (TIE) as required in the 2003 MRP section entitled, "Effluent Toxicity Testing" (pages 5-6).
15. The Regional Water Board rescinded WDRs Order R7-2003-0054 and adopted WDRs Order R7-2008-0010 on June 25, 2008.
16. WDRs Order R7-2008-0010 section IV.A.1 (page 13) contains the following final effluent limitations with which the Discharger is required to maintain compliance at Discharge Point 001 as described in the Monitoring and Reporting Program, Attachment E of the WDRs Order R7-2008-0010 (2008 MRP):

Parameter	Units	Effluent				
		Average Monthly	Average Weekly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
Daily Effluent Flow	MGD	0.02	-	-	-	-
Biochemical Oxygen Demand 5-day @ 20°C	mg/L	30	45	-	-	-
	lbs/day ¹	5.0	7.5	-	-	-
Total Suspended Solids	mg/L	30	45	-	-	-
	lbs/day ¹	5.0	7.5	-	-	-
pH	standard units	-	-	-	6.0	9.0

¹ The mass-based effluent limitations are based on a design capacity of 0.02 MGD (Million Gallon per Day).

- a. **Percent Removal:** The average monthly percent removal of BOD 5-Day 20°C and total suspended solids shall not be less than 85 percent.
- b. **Toxicity:** There shall be no acute or chronic toxicity in the treatment plant effluent nor shall the treatment plant effluent cause any acute or chronic toxicity in the receiving water, as defined in Section V.E of the MRP. All waters shall be maintained free of toxic

substances in concentrations which are toxic to, or which produce detrimental physiological responses in human, plant, animal, or indigenous aquatic life. Compliance with this objective will be determined by use of indicator organisms, analyses of species diversity, population density, growth anomalies, or bioassays of appropriate duration or other appropriate methods specified by the Regional Water Board.

c. **Bacteria:** The bacterial density in the wastewater effluent discharged to Rice Drain No. 3 shall not exceed the following values, as measured by the following bacterial indicators:

i. **E. Coli.** The geometric mean bacterial density (based on a minimum of not less than five samples equally spaced over a 30-day period) shall not exceed a Most Probable Number (MPN) of 126, nor shall any sample exceed the maximum allowable bacterial density of 400.

ii. **Enterococci.** The geometric mean bacterial density (based on a minimum of not less than five samples equally spaced over a 30-day period) shall not exceed a MPN of 33, nor shall any sample exceed the maximum allowable bacterial density of 100.

iii. **Fecal Coliform.** The geometric mean bacterial density (based on a minimum of not less than five samples equally spaced over a 30-day period) shall not exceed a MPN of 200, nor shall more than ten percent of the total samples during any 30-day period exceed 400 MPN per 100 milliliters.

d. **Total Dissolved Solids:** Discharges of wastes or wastewater shall not increase the total dissolved solids content of receiving waters, unless it can be demonstrated to the satisfaction of the Regional Water Board that such an increase in total dissolved solids does not adversely affect beneficial uses of receiving waters.

17. WDRs Order R7-2008-0010 section V (page 15) contains receiving water limitations based on water quality objectives contained in the Basin Plan with which the Discharger must comply.

18. WDRs Order No. R7-2008-0010 section VI.B (page 18) requires the Discharger to comply with the 2008 MRP, and future revisions thereto.

19. WDRs Order No. R7-2008-0010 section VII.A (page 27) states:

Compliance with effluent limitations for priority pollutants shall be determined using sample reporting protocols defined in the [2008 MRP] and Attachment A and Attachment H of this Board Order. For purposes of reporting and administrative enforcement by the Regional and State Water Boards, the Discharger shall be deemed out of compliance with effluent limitations if the concentration of the priority pollutant in the monitoring sample is greater than the effluent limitation and greater than or equal to the reporting level (RL).

20. Attachment D of WDRs Order R7-2008-0010 (Standard Provisions), section I.A (page D-1) states:

The Discharger must comply with all of the conditions of this Board Order. Any noncompliance constitutes a violation of the Clean Water Act and the California Water Code and is grounds for enforcement action, for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. (40 C.F.R. § 122.41(a).)

21. Standard Provisions section VI.A (page D-8) states, “[t]he Regional Water Board is authorized to enforce the terms of this permit under several provisions of the Water Code, including, but not limited to, sections 13385, 13386, and 13387.”
22. Standard Provisions section V.C.1 (page D-7) requires the Discharger to report monitoring results at the intervals specified in the 2008 MRP as required by the Code of Federal Regulations (40 C.F.R. § 122.22(l)(4).)
23. 2008 MRP section X.A (page E-13) requires, in part, the following general monitoring and reporting requirements:
 - a. The Discharger shall comply with all Standard Provisions in Attachment D related to monitoring, reporting, and recordkeeping.
 - b. The Discharger shall report the results of acute and chronic toxicity testing, TRE, and TIE as required in Section V, “Whole Effluent Toxicity Testing Requirements.”
24. 2008 MRP section IV (page E-4) contains the following effluent monitoring requirements for effluent discharged at Monitoring Location EFF-001 (Discharge Point 001), as follows:

Table E-3. Effluent Monitoring

Parameter	Units	Sample Type	Minimum Sampling Frequency	Required Analytical Test Method	Minimum Levels, units
Daily Effluent Discharge	MGD ¹	Flow Meter Reading	1x/Day ²	See Footnote 3	N/A
Escherichia Coli	MPN ¹ /100 ml	Grab	5x/Month ⁵	See Footnote 3	N/A
Enterococci	MPN/100 ml	Grab	5x/Month ⁵	See Footnote 3	N/A
Fecal Coliform	MPN/100 ml	Grab	5x/Month ⁵	See Footnote 3	N/A
Total Suspended Solids (TSS)	mg/L	24-Hour Composite ⁶	1x/Month	See Footnote 3	N/A
	lbs/day				
Biochemical Oxygen Demand (BOD) (5-day @ 20 Deg. C)	mg/L	24-Hour Composite ⁶	1x/Month	See Footnote 3	N/A
	lbs/day				
pH	pH units	Grab	1x/Month	See Footnote 3	N/A
Total Dissolved Solids	mg/L	Grab	1x/Month	See Footnote 3	N/A
Priority Pollutants ⁶	µg/L	Grab	1x/Year	See Footnote 3	See Footnote 3

1 MGD = Million Gallons per Day
 2 Reported for each day with average monthly flow calculated

- 3 Pollutants shall be analyzed using the analytical methods described in 40 CFR Part 136; for priority pollutants the methods must meet the lowest minimum levels (MLs) specified in Attachment 4 of the SIP, included as Attachment H. Where no methods are specified for a given pollutant, the methods must be approved by this Regional Water Board or the State Water Board
- 4 MPN = Most Probable Number
- 5 Five samples equally spaced over a 30-day period with a minimum of one sample per week
- 6 Priority Pollutants as defined by the California Taxies Rule (CTR) defined in Finding II.I of the Limitations and Discharge Requirements of this Board Order, and included as Attachment G. For priority pollutants the methods must meet the lowest minimum levels (MLs) specified in Attachment 4 of the SIP. Where no methods are specified for a given pollutant, the methods must be approved by this Regional Water Board or the State Water Board.

25. 2008 MRP section VIII (page E-10) contains receiving water monitoring requirements at two locations with which the Discharger must comply. In conducting the receiving water sampling, a log must be kept of the receiving water conditions at the two locations. Notes on receiving water conditions must be summarized in the monitoring report.

26. 2008 MRP section X.B.1 (page E-13) states, in part, the following requirements for self-monitoring reports (SMRs):

- a. At any time during the term of this permit, the State or Regional Water Board may notify the Discharger to electronically submit SMRs using the State Water Board's California Integrated Water Quality System (CIWQS) Program Web site (<http://www.waterboards.ca.gov/ciwqs/index.html>). Until such notification is given, the Discharger shall submit hard copy SMRs. The CIWQS Web site will provide additional directions for SMR submittal in the event there will be service interruption for electronic submittal.
- b. The Discharger shall report in the SMR the results for all monitoring specified in this MRP under sections III through IX. The Discharger shall submit monthly, quarterly and annual SMRs including the results of all required monitoring using USEPA-approved test methods or other test methods specified in this Board Order. If the Discharger monitors any pollutant more frequently than required by this Board Order, the results of this monitoring shall be included in the calculations and reporting of the data submitted in the SMR.
- c. Monitoring periods and reporting for all required monitoring shall be completed according to the following schedule:

Table E-9. Monitoring Periods and Reporting Schedule

Sampling Frequency	Monitoring Period	Monitoring Period	SMR Due Date
1x/Day	June 25, 2008	(Midnight through 11:59 PM) or any 24-hour period that reasonably represents a calendar day for purposes of sampling.	Submit with monthly SMR
1x/Month	July 1, 2008	1 st day of calendar month through last day of calendar month	First day of second month following month
1x/Quarter	July 1, 2008	January 1 through March 31 April 1 through June 30 July 1 through September 30 October 1 through December 31	May 1 August 1 November 1 February 1
1x/Year	January 1, 2009	January 1 through December 31	February 1

27. 2008 MRP section X.B.6.a (page E-15), in part, requires the Discharger to submit SMRs to the Regional Water Board, signed and certified as required by the Standard Provisions in Attachment D.
28. In a certified letter dated June 7, 2011, the Regional Water Board exercised its authority to require the Discharger to electronically submit SMRs (eSMRs) to CIWQS starting on August 1, 2011.
29. The Regional Water Board rescinded WDRs Order R7-2008-0010 and adopted WDRs Order R7-2013-0009 on May 16, 2013. WDRs Order R7-2013-0009 names Hector Orozco as the WWTP Operator and authorized person to sign and submit reports as required under this Order.
30. WDRs Order R7-2013-0009 section II.B (page 5) states that Attachment F (2013 Fact Sheet) is incorporated into and constitutes Findings for this Order. The 2013 Fact Sheet (page F-26) carries over the effluent limitations for pH, TSS, BOD, E. Coli, enterococci, and fecal coliform set forth in WDRs Order R7-2008-0010. The removal efficiency for BOD and TSS are also carried over to WDRs Order R7-2013-0009. The Discharger is required to maintain compliance with these effluent limitations at Discharge Point 001, with compliance measured at Monitoring Location EFF-001 as described in the MRP, Attachment E of WDRs Order R7-2013-0009 (2013 MRP).
31. Excluding Total Dissolved Solids, the 2013 MRP carries over the effluent monitoring requirements for effluent discharged at Monitoring Location EFF-001 (Discharge Point 001) from the 2008 MRP as set forth in Paragraph 24 above. 2013 MRP requires a minimum sampling frequency of 1x/Year for Total Dissolved Solids.
32. WDRs R7-2013-0009 carries over the receiving water limitations, standard provisions, and MRP requirements from WDRs R7-2008-0010 (cited above).
33. WDRs R7-2013-0009 carries over the Standard Provisions for duty to comply (page D-1), monitoring reports (page D-7), and enforcement (page D-9) from WDRs R7-2008-0010 (cited above).
34. Attachment D of WDRs Order R7-2013-0009 section V.B (page D-6), in part, requires the following signatory and certification requirements:
 - a. All reports required by this Order shall be signed by a general partner or the proprietor (40 C.F.R. § 122.22(a)(2)), or by a duly authorized representative of that person.
 - b. A person is a duly authorized representative only if:
 - i. The authorization is made in writing by a general partner or the proprietor (40 C.F.R. § 122.22(b)(1));
 - ii. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, or an individual or position having overall

responsibility for environmental matters for the company (40 C.F.R. § 122.22(b)(2); and

- iii. The written authorization is submitted to the Regional Water Board and State Water Board (40 C.F.R. § 122.22(b)(3).
- c. If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the above requirements must be submitted to the Regional Water Board and the State Water Board prior to or together with any reports, information, or applications, to be signed by an authorized representative. (40 C.F.R. § 122.22(c).)
- d. Any person signing a report required by the 2013 MRP must make the certification set forth in Attachment D, section V.B.5.

35. 2013 MRP section X.B (page E-17) states:

- a. The Discharger shall electronically submit SMRs using [CIWQS]. The CIWQS Web site will provide additional directions for SMR submittal in the event there will be service interruption for electronic submittal. The Discharger shall maintain sufficient staffing and resources to ensure it submits SMRs for the duration of the term of this permit including any administrative extensions. This includes provision of training and supervision of individuals (e.g., Discharger personnel or consultant) on how to prepare and submit SMRs.
- b. The Discharger shall report in the SMR the results for all monitoring specified in this MRP under sections III through IX. The Discharger shall submit monthly, quarterly, and annual SMRs including the results of all required monitoring using U.S. EPA-approved test methods or other test methods specified in this Order. If the Discharger monitors any pollutant more frequently than required by this Order, the results of this monitoring shall be included in the calculations and reporting of the data submitted in the SMR.
- c. Monitoring periods and reporting for all required monitoring shall be completed according to the following schedule:

Table E-10. Monitoring Periods and Reporting Schedule

Sampling Frequency	Monitoring Period Begins On...	Monitoring Period	eSMR Due Date
1/Day	June 1, 2013	(Midnight through 11:59 PM) or any 24-hour period that reasonably represents a calendar day for purposes of sampling.	Submit with monthly eSMR
5/Month	June 1, 2013	Sunday through Saturday	Submit with monthly eSMR
1/Month	June 1, 2013	First day of calendar month through last day of calendar month	First day of second month from end of

1/Quarter	July 1, 2013	January 1 through March 31 April 1 through June 30 July 1 through September 30 October 1 through December 31	May 1 August 1 November 1 February 1
1/Year	June 1, 2013	January 1 through December 31	First day of February

36. The Operator history for the WWTP is as follows. Rocky Vandergriff, the Operator named in WDRs Orders R7-2003-0054 and R7-2008-0010, operated the WWTP from 2003 to June 30, 2011. Francisco Hector Orozco, the Operator named in WDRs Order R7-2013-0009, operated the WWTP from July 1, 2001 to on or about August 2014. The current Operator, Matt Hartnett, has operated the WWTP from on or about September 2014 to date.
37. Regional Water Board staff records indicate that from on or about September 2014 to June 2015, the Discharger was without an accurate duly authorized representative (or legally responsible official) (LRO), authorized to submit reports as required by WDRs R7-2013-0009. The eSMRs during this time period were neither signed nor certified by the Discharger or a LRO and therefore, the Discharger did not timely submit eSMRs into CIWQS for 8 months.
38. On May 29, 2015, the Discharger granted limited power of attorney authority to David Heitz and Susan Ormond. Mr. Heitz and Mrs. Ormond may act for and in the Discharger's name for any duties and obligations of whatever nature and extent with respect to the Date Gardens MHP, including Date Gardens MHP compliance with State entities, regulations, and legal matters.
39. On the Discharger's behalf, Mr. Heitz mailed a written authorization form to the Regional Water Board, naming himself a LRO for the WWTP. Regional Water Board staff received the authorization form on or about June 8, 2015, as a result of the investigation that has led to the issuance of this Complaint.

ALLEGATIONS:

40. Self-monitoring reports submitted by the Discharger show that the wastewater discharged from the WWTP exceeded the effluent limitations for total suspended solids (TSS) set forth in WDRs Orders R7-2003-0054, R7-2008-0010, R7-2013-0009 on thirty-five (35) occasions, of which 25 violations are subject to mandatory minimum penalties (MMPs) under Water Code section 13385, as identified in Exhibit A.
41. Self-monitoring reports submitted by the Discharger show that the wastewater discharged from the WWTP exceeded the effluent limitations for bacteria set forth in WDRs Orders R7-2003-0054, R7-2008-0010, and R7-2013-0009 on 21 occasions, of which 12 violations are subject to MMPs under Water Code section 13385, as identified in Exhibit B.
42. The Discharger submitted late SMRs in May 2011 and from September 2014 to April 2015. Collectively, the Discharger submitted these SMRs a total of 30 complete periods of 30 days following the deadline for submitting the reports and each complete period is subject to a

MMP under Water Code section 13385, as identified in Exhibit C. Each 30-day period is subject to an MMP.

43. Self-monitoring reports submitted by the Discharger show that the wastewater discharged from the WWTP exceeded the effluent limitations set forth in WDR Orders R7-2003-0054, R7-2008-0010, and R7-2013-0009 on 14 occasions, which are violations subject to discretionary penalties (non-MMP effluent violations) under Water Code section 13385, as identified in Exhibit E. None of the non-MMP effluent violations identified in Exhibit E were used as a supporting violation for the assessment of MMPs identified in Exhibit A and B.
44. The Discharger failed to meet the monitoring requirements set forth in WDRs Orders R7-2003-0054, R7-2008-0010, and R7-2013-0009 on 95 occasions, which are subject to discretionary penalties (non-MMP failure to monitor violations) under Water Code section 13385, as identified in Exhibit D and Exhibit E.

LEGAL PROVISIONS UPON WHICH LIABILITY IS BASED:

45. Water Code section 13376 prohibits the discharge of pollutants in violation of effluent limitations set forth in waste discharge requirements.
46. Under Water Code section 13385, subdivision (a)(2), a person who violates a waste discharge requirement issued for compliance with the provisions of the Clean Water Act shall be liable civilly.
47. Water Code section 13385, subdivision (h)(1) requires the Regional Water Board to assess a MMP of three thousand dollars (\$3,000) for each serious violation.
48. Water Code section 13385, subdivision (h)(2) defines a "serious violation" 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 or 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."
49. The removal efficiency requirement for TSS is expressed as a minimum effluent limitation, in terms of percent solids removal (i.e., 85 percent removal). To facilitate the determination of whether violations of this limitation are "serious" pursuant to California Water Code section 13385, subdivision (h)(2), the limitation is converted to its equivalent maximum limit, in terms of percent solids remaining (i.e., 15 percent remaining), as shown and noted in Exhibit A.
50. For the purposes of Water Code section 13385, subdivision (h), Water Code section 13385.1, subdivision (a) further defines a "serious violation" to include "a 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."
51. Water Code section 13385, subdivision (i)(1) also requires the Regional Water Board to assess a MMP of three thousand dollars (\$3,000) for each violation, not counting the first

three violations, if the Discharger does any of the following four or more times in a period of six consecutive months (hereinafter chronic violation):

- 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; or
- 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.

52. Water Code section 13385, subdivision (i)(2) defines a "period of six consecutive months" to mean "the period commencing on the date that one of the violations described in this subdivision occurs and ending 180 days after that date."

53. Pursuant to Water Code section 13385, subdivision (c), the Regional Water Board may impose administrative civil liability of up to ten thousand dollars (\$10,000) for each day in which the violation occurs for non-discharge violations.

VIOLATIONS EXEMPTED BASED ON COMPLIANCE WITH A TIME SCHEDULE ORDER

54. Water Code section 13385, subdivision (j)(3), states, in pertinent part, the following:

[Subdivisions (h) and (i) do not apply to] a violation of an effluent limitation where the waste discharge is in compliance with . . . a time schedule order issued pursuant to Section 13300 or 13308, if all of the following requirements are met:

(A) The . . . time schedule order is issued on or after July 1, 2000, and specifies the actions that the discharger is required to take in order to correct the violations that would otherwise be subject to subdivision (h) and (i).

(B) The regional board finds that, for one of the following reasons, the discharger is not able to consistently comply with one or more of the effluent limitations established in the waste discharge requirements applicable to the waste discharge:

(i) The effluent limitation is a new, more stringent, or modified regulatory requirement that has become applicable to the waste discharge after the effective date of the waste discharge requirements and after July 1, 2000, new or modified control measures are necessary in order to comply with the effluent limitation, and the new or modified control measures cannot be designed, installed, and put into operation within 30 calendar days . . .

(C)(i) The regional board establishes a time schedule for bringing the waste discharge into compliance with the effluent limitation that is as short as possible, taking into account the technological, operational, and economic factors that affect the design, development, and implementation of the control measures that are necessary to comply with the effluent limitation. Except as provided in clause (ii), for the purposes of this subdivision, the time schedule shall not exceed five years in length . . .

(C)(iii) If the time schedule exceeds one year from the effective date of the order, the schedule shall include interim requirements and the dates for their achievement . . .

(D) The discharger has prepared and is implementing in a timely and proper manner, or is required by the regional board to prepare and implement, a pollution prevention plant pursuant to Section 13263.3.

55. The Regional Water Board issued a time schedule order R7-2003-0015 (TSO) under Water Code section 13300 against the Discharger on July 31, 2003. The Regional Water Board adopted WDRs Order R7-2003-0054, which contained a new effluent limitation for E. Coli as set forth above in Paragraph 5, subsection (c). The Regional Water Board issued the TSO because the Discharger was unable to consistently comply with this effluent limitation as the limitation was a new, more stringent or modified regulatory requirement. The TSO (page 2) states that the Discharger will be exempt for MMPs for violation of the new E. Coli effluent limitation if it complies with the TSO.
56. The TSO requires actions the Discharger must take to correct or prevent discharges of waste that may be in violation of WDRs Order R7-2003-0054. The TSO (page 3) requires the Discharger to prepare and implement a pollution prevention plan under Water Code section 13263.3 and must address all of the issues specified in section 13263.3, subdivision (d)(3).
57. The TSO (page 3) requires compliance with the following milestones:
- a. Milestone 1: Complete a pollution prevention plan and submit it to the Regional Water Board by October 1, 2003.
 - b. Milestone 2: Complete a final design of a new wastewater disinfection system and submit a copy of the final design drawings to the Regional Water Board by December 1, 2003.
 - c. Milestone 3: Complete installation of the new wastewater disinfection system and submit a summary and verification of installation completion to the Regional Water Board by February 1, 2004.
 - d. Milestone 4: The disinfection system must be functional and in compliance with the E. Coli effluent limitation by April 1, 2004.
58. The TSO satisfied the requirements in Water Code section 13385, subdivision (j)(3) because: a) the TSO was issued after January 1, 2000; b) specified the action the Discharger must take in order to correct the violations that would otherwise be subject to subdivisions (h) and (i); c) the Regional Water Board issued the TSO because the Discharger was not able to consistently comply with one or more effluent limitations established in the waste discharge requirements; d) the TSO required a pollution prevention plan; and e) the Regional Water Board established a time schedule for bringing the waste discharge into compliance with the effluent limitation less than one year after the TSO's effective date.

59. The Discharger complied with the TSO. The new wastewater disinfection system became operational in February 2004, before the deadline established in the TSO.
60. 28 violations of WDRs Order R7-2003-0054 that would otherwise be subject to MMPs under Water Code section 13385 are exempted therefrom based on compliance with the TSO, as identified in Exhibit F.

PROPOSED CIVIL LIABILITY ASSESSMENT

61. The Assistant Executive Officer of the Regional Water Board proposes that the Discharger be assessed an MMP of **two-hundred and one thousand dollars (\$201,000)** for exceeding the effluent limitations for bacteria and total suspended solids specifically identified in Exhibits A and B, and for late self-monitoring reports specifically identified in Exhibit C.
62. The Assistant Executive Office of the Regional Water Board proposes that the Discharger be assessed administrative civil liability in the amount of **four-hundred and eight thousand and eighty-two dollars (\$408,082)** for the violations subject to discretionary penalties specifically identified in Exhibit D, **plus fourteen thousand and three hundred and seventy-five dollars (\$14,375) in staff costs.** The methodology and rationale for the proposed penalty for these violations is contained in Exhibit E.
63. Pursuant to Water Code section 13323, subdivision (b), the Regional Water Board will hold a Public Hearing on this matter within 90 days after service of this Complaint, unless the Discharger chooses either of the following two options:
 - a. Waive the right to a Hearing before the Regional Water Board and pay the total proposed liability amount of **\$623,457** in full; or
 - b. Waive the right to a Hearing before the Regional Water Board within 90 days after service of this Complaint to engage the Regional Water Board Prosecution Team in settlement discussions.
64. If the Discharger chooses to waive the right to a hearing and pay the proposed penalty, an authorized representative shall within 30-days of this Complaint, sign the enclosed Waiver and make out a check for the full amount of the proposed liability, payable to the "State Water Pollution Cleanup and Abatement Account." The check shall be remitted to the following address:

State Water Resources Control Board
Accounting Office, Attn: ACL Payment
PO Box 1888
Sacramento, California, 95812-1888

The signed Waiver and a copy of the check shall be sent to the following address:

California Regional Water Quality Control Board
Colorado River Basin Region
73-720 Fred Waring Drive, Suite 100
Palm Desert, CA 92260

65. If a Hearing on this matter is held, the Regional Water Board will consider whether to affirm, reject, or modify the proposed Administrative Civil Liability (up to the maximum penalty provided for by law), or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
66. Regulations of the United States Environmental Protection Agency require public notification of any proposed settlement of the civil liability occasioned by violation of the Clean Water Act. Accordingly, interested persons will be given thirty (30) days to comment on any proposed settlement of this Complaint.
67. Issuance of this Complaint is an enforcement action and is, therefore, exempt from the California Environmental Quality Act (Pub. Resources Code section 21000 et seq.), pursuant to California Code of Regulations, title 14, section 15321, subdivision (a)(2). This is an action to enforce the laws and regulations administered by the Regional Water Board. The method of compliance with this enforcement action consists entirely of payment of an administrative penalty. As such, the Regional Water Board finds that issuance of this Complaint 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 a "project" (Public Resources Code 21065, 21080(a); 15060(c)(2),(3); 15378(a), Title 14, of the California Code of Regulations). In addition, the Regional Water Board finds that issuance of this Order is also exempt from the provisions of CEQA in accordance with section 15321(a)(2), Title 14, of the California Code of Regulations as an enforcement action by a regulatory agency and that there are no exceptions that would preclude the use of this exemption. Should the Discharger propose a supplemental environmental project, compliance with the California Environmental Quality Act will be revisited for the appropriate lead agency to address CEQA requirements prior to implementing a supplemental environmental project that may have a significant impact on the environment.

Jose L. Angel, P.E.

JOSE L. ANGEL
Assistant Executive Officer

7/1/2015

Date

Exhibit A - Total Suspended Solids (TSS) Mandatory Minimum Penalty Violations Pursuant to CWC sec. 13385(h)(1) and 13385(i)(1)												
Violation Date	Constituent	Pollutant Group	Exempted from MMP?	Permit Limitation Violated	Limit	Effluent Result	Units	% Over Limit	Date 180 Prior to Violation	Serious Violation?	Effluent Violations in Past 180 Days	Mandatory Fine?
9/8/2003	TSS	CAT1	No	Avg. Monthly Percent Removal	15*	24.11	%	61%	3/12/2003	Yes	1	\$3,000
11/4/2003	TSS	CAT1	No	Avg. Weekly Concentration	45	95	mg/L	N/A	5/8/2003	Yes	2	\$3,000
11/4/2003	TSS	CAT1	No	Avg. Weekly Load	3.96	8.35	lbs/day	N/A	5/8/2003	Yes	3	\$3,000
11/30/2003	TSS	CAT1	No	Avg. Monthly Concentration	30	95	mg/L	N/A	6/3/2003	Yes	4	\$3,000
11/30/2003	TSS	CAT1	No	Avg. Monthly Load	2.64	8.35	lbs/day	N/A	6/3/2003	Yes	5	\$3,000
12/9/2003	TSS	CAT1	No	Avg. Monthly Percent Removal	15	15.91	%	6	6/12/2003	No	6	\$3,000
7/20/2005	TSS	CAT1	No	Avg. Weekly Concentration	45	45.5	mg/L	N/A	1/21/2005	No	1	\$0
7/20/2005	TSS	CAT1	No	Avg. Weekly Load	4.96	5.02	lbs/day	N/A	1/21/2005	No	2	\$0
7/31/2005	TSS	CAT1	No	Avg. Monthly Concentration	30	45.5	mg/L	N/A	2/1/2005	Yes	3	\$3,000
7/31/2005	TSS	CAT1	No	Avg. Monthly Load	3.31	5.02	lbs/day	N/A	2/1/2005	Yes	4	\$3,000
2/6/2006	TSS	CAT1	No	Avg. Monthly Concentration	30	44	mg/L	N/A	8/10/2005	Yes	1	\$3,000
2/28/2006	TSS	CAT1	No	Avg. Monthly Load	2.9	4.25	lbs/day	N/A	9/1/2005	Yes	2	\$3,000
3/31/2006	TSS	CAT1	No	Avg. Monthly Percent Removal	15	17.07	%	14%	10/2/2005	No	3	\$0
3/31/2009	TSS	CAT1	No	Avg. Monthly Concentration	30	32.7	mg/L	N/A	10/2/2008	No	1	\$0
3/31/2009	TSS	CAT1	No	Avg. Monthly Load	2.4	2.62	lbs/day	N/A	10/2/2008	No	2	\$0

Exhibit A - Total Suspended Solids (TSS) Mandatory Minimum Penalty Violations Pursuant to CWC sec. 13385(h)(1) and 13385(i)(1)												
Violation Date	Constituent	Pollutant Group	Exempted from MMP?	Permit Limitation Violated	Limit	Effluent Result	Units	% Over Limit	Date 180 Prior to Violation	Serious Violation?	Effluent Violations in Past 180 Days	Mandatory Fine?
3/31/2009	TSS	CAT1	No	Avg. Monthly Percent Removal	15	24.59	%	64%	10/2/2008	Yes	3	\$3,000
5/31/2009	TSS	CAT1	No	Avg. Monthly Percent Removal	15	31.28	%	109%	12/2/2008	Yes	4	\$3,000
7/29/2009	TSS	CAT1	No	Avg. Weekly Concentration	45	61.5	mg/L	N/A	1/30/2009	No	5	\$3,000
7/29/2009	TSS	CAT1	No	Avg. Weekly Load	3.38	4.62	lbs/day	N/A	1/30/2009	No	6	\$3,000
7/31/2009	TSS	CAT1	No	Avg. Monthly Load	2.25	4.62	lbs/day	N/A	2/1/2009	Yes	7	\$3,000
7/31/2009	TSS	CAT1	No	Avg. Monthly Percent Removal	15	29.01	%	93%	2/1/2009	Yes	8	\$3,000
8/1/2009	TSS	CAT1	No	Avg. Monthly Concentration	30	61.5	mg/L	N/A	2/1/2009	Yes	9	\$3,000
8/12/2009	TSS	CAT1	No	Avg. Weekly Load	3	3.52	lbs/day	N/A	2/13/2009	No	10	\$3,000
8/15/2009	TSS	CAT1	No	Avg. Weekly Concentration	45	52.7	mg/L	N/A	2/13/2009	No	11	\$3,000
8/31/2009	TSS	CAT1	No	Avg. Monthly Concentration	30	52.7	mg/L	N/A	3/4/2009	Yes	12	\$3,000
8/31/2009	TSS	CAT1	No	Avg. Monthly Load	2	3.52	lbs/day	N/A	3/4/2009	Yes	13	\$3,000
12/18/2010	TSS	CAT1	No	Avg. Weekly Concentration	45	75	mg/L	N/A	6/13/2010	Yes	14	\$3,000
12/10/2010	TSS	CAT1	No	Avg. Weekly Load	1.73	2.88	lbs/day	N/A	6/13/2010	Yes	15	\$3,000
12/31/2010	TSS	CAT1	No	Avg. Monthly Concentration	30	75	mg/L	N/A	7/4/2010	Yes	16	\$3,000
12/31/2010	TSS	CAT1	No	Avg. Monthly Load	1.15	2.88	lbs/day	N/A	7/4/2010	Yes	17	\$3,000
12/31/2011	TSS	CAT1	No	Avg. Monthly Concentration	30	30.4	mg/L	N/A	7/4/2011	No	1	\$0

Exhibit A - Total Suspended Solids (TSS) Mandatory Minimum Penalty Violations Pursuant to CWC sec. 13385(h)(1) and 13385(i)(1)												
Violation Date	Constituent	Pollutant Group	Exempted from MMP?	Permit Limitation Violated	Limit	Effluent Result	Units	% Over Limit	Date 180 Prior to Violation	Serious Violation?	Effluent Violations in Past 180 Days	Mandatory Fine?
12/31/2011	TSS	CAT1	No	Avg. Monthly Load	1.94	1.96	lbs/day	N/A	7/4/2011	No	2	\$0
12/31/2011	TSS	CAT1	No	Avg. Monthly Percent Removal	15	17.43	%	16%	7/4/2011	No	3	\$0
12/31/2014	TSS	CAT1	No	Avg. Monthly Concentration	30	30.5	mg/L	N/A	7/4/2014	No	1	\$0
12/31/2014	TSS	CAT1	No	Avg. Monthly Load	0.93	0.94	lbs/day	N/A	7/4/2014	No	2	\$0
* To facilitate determination of compliance, the limit is expressed as maximum allowable percent residual										TSS MMPs = \$75,000		

Exhibit B - Bacteria Mandatory Minimum Penalty Violations Pursuant to CWC sec. 13385(i)(1)

Violation Date	Constituent	Pollutant Group	Exempted from MMP?	Permit Limitation Violated	Permit Limit	Effluent Result	Units	Date 180 Days Prior to Violation	Number of Effluent Violations in the Past 180 Days	Chronic Violation?	Mandatory Fine?
7/7/2003	E.Coli	OEV ¹	No	Single Sample Maximum	400	>16000	MPN/100 ml	1/8/2003	1	No	\$0
7/14/2003	E.Coli	OEV	No	Single Sample Maximum	400	>16000	MPN/100 ml	1/15/2003	2	No	\$0
7/21/2003	E.Coli	OEV	No	Single Sample Maximum	400	>16000	MPN/100 ml	1/22/2003	3	No	\$0
7/28/2003	E.Coli	OEV	No	Single Sample Maximum	400	>16000	MPN/100 ml	1/29/2003	4	Yes	\$3,000
12/14/2004	E.Coli	OEV	No	Single Sample Maximum	400	1300	MPN/100 ml	6/17/2004	1	No	\$0
1/27/2005	E.Coli	OEV	No	Single Sample Maximum	400	800	MPN/100 ml	7/31/2004	2	No	\$0
2/21/2005	E.Coli	OEV	No	Single Sample Maximum	400	1300	MPN/100 ml	8/25/2004	3	No	\$0
2/23/2005	E.Coli	OEV	No	Single Sample Maximum	400	16000	MPN/100 ml	8/27/2004	4	Yes	\$3,000
2/28/2005	E.Coli	OEV	No	Single Sample Maximum	400	800	MPN/100 ml	9/1/2004	5	Yes	\$3,000
2/28/2005	E.Coli	OEV	No	Geometric Mean	126	366.98	MPN/100 ml	9/1/2004	6	Yes	\$3,000
3/7/2005	E.Coli	OEV	No	Single Sample Maximum	400	16000	MPN/100 ml	9/8/2004	7	Yes	\$3,000
3/7/2005	E.Coli	OEV	No	Single Sample Maximum	400	16000	MPN/100 ml	9/8/2004	8	Yes	\$3,000
3/14/2005	E.Coli	OEV	No	Single Sample Maximum	400	1300	MPN/100 ml	9/15/2004	9	Yes	\$3,000
3/28/2005	E.Coli	OEV	No	Single Sample Maximum	400	2200	MPN/100 ml	9/29/2004	10	Yes	\$3,000
3/31/2005	E.Coli	OEV	No	Geometric Mean	126	2939.99	MPN/100 ml	10/2/2004	11	Yes	\$3,000
9/12/2005	E.Coli	OEV	No	Single Sample Maximum	400	3000	MPN/100 ml	3/16/2005	12	Yes	\$3,000

Exhibit B - Bacteria Mandatory Minimum Penalty Violations Pursuant to CWC sec. 13385(i)(1)

Violation Date	Constituent	Pollutant Group	Exempted from MMP?	Permit Limitation Violated	Permit Limit	Effluent Result	Units	Date 180 Days Prior to Violation	Number of Effluent Violations in the Past 180 Days	Chronic Violation?	Mandatory Fine?
12/20/2006	E.Coli	OEV	No	Single Sample Maximum	400	500	MPN/100 ml	6/23/2006	1	No	\$0
12/26/2007	E.Coli	OEV	No	Single Sample Maximum	400	1600	MPN/100 ml	6/29/2007	1	No	\$0
3/25/2008	E.Coli	OEV	No	Single Sample Maximum	400	1600	MPN/100 ml	9/27/2007	2	No	\$0
1/30/2012	E.Coli	OEV	No	Single Sample Maximum	400	1299.65	MPN/100 ml	8/3/2011	1	No	\$0
1/31/2012	Fecal Coliform	OEV	No	Percentage of Samples in 30-day Period > 400	10	20	%	8/4/2011	2	No	\$0
3/9/2012	E.Coli	OEV	No	Single Sample Maximum	400	547.5	MPN/100 ml	9/11/2011	3	No	\$0
3/9/2012	Fecal Coliform	OEV	No	Percentage of Samples in 30-day Period > 400	10	20	%	9/11/2011	4	Yes	\$3,000
3/31/2014	Fecal Coliform	OEV	No	Percentage of Samples in 30-day Period > 400	10	20	%	9/29/2013	1	No	\$0
4/23/2014	Enterococci	OEV	No	Single Sample Maximum	100	1600	MPN/100 ml	10/25/2013	2	No	\$0
4/23/2014	Fecal Coliform	OEV	No	Percentage of Samples in 30-day Period > 400	10	20	%	10/25/2013	3	No	\$0
4/23/2014	E.Coli	OEV	No	Single Sample Maximum	400	2419.2	MPN/100 ml	10/25/2013	4	Yes	\$3,000
1. OEV = Other Effluent Violation									Bacteria MMPs = \$36,000		

Exhibit C - Mandatory Minimum Penalties for Late Submittal of SMRs Pursuant to CWC sec. 13385(h)(1)							
SMR	Due Date	Date Submitted	Days Late	# of 30-day Periods late	Serious Violation?	Number of MMPs	Liability
May 2011	7/1/2011	9/6/2011	67	2	Yes	2	\$6,000
Sep 2014	11/1/2014	6/3/2015	214	7	Yes	7	\$21,000
Oct 2014	12/1/2014	6/3/2015	184	6	Yes	6	\$18,000
Nov 2014	1/1/2015	6/3/2015	153	5	Yes	5	\$15,000
Dec 2014	2/1/2015	6/3/2015	122	4	Yes	4	\$12,000
Jan 2015	3/1/2015	6/3/2015	94	3	Yes	3	\$9,000
Feb 2015	4/1/2015	6/3/2015	63	2	Yes	2	\$6,000
Mar 2015	5/1/2015	6/3/2015	33	1	Yes	1	\$3,000
Apr 2015	6/1/2015	6/3/2015	2	Not Applicable	No	0	\$0
Totals						30	\$90,000

Exhibit D - Non-MMP Failure to Monitor Violations

Year	Month-yr	Effluent			R-1	R-2	R-1	R-2	Receiving Water Conditions	
		Flow	Bacteria	Toxicity	E. Coli	E. Coli	pH, DO, TDS, Hardness, Priority Pollutants	pH, DO, TDS, Hardness		
2003	May-03		4	1						
	Jun-03		5		1	1				
	Jul-03		1							
	Aug-03		1							
	Sep-03				1	1				
	Dec-03		2							
2004	Feb-04		1	0						
	Jun-04	15								
	Jul-04	15								
2005	Feb-05		1	1						
	Sep-05				1	1				
	Dec-05		1		1	1				
2006	Mar-06				1	1				
	May-06		1							
	Jun-06				1	1				
	Aug-06		1							
	Oct-06		1							
	Dec-06		2							
2007	Jan-07		1	1						
	Mar-07		1							
	Apr-07		1							
	May-07		2							
	Jun-07		2							
	Jul-07		1							
	Nov-07		1							
2008	Jan-08		1	0						
2009	Jan-09		1	0						
	Feb-09		3							
	Dec-09								1	
2010	Mar-10		3	0					1	
	Jun-10									1
	Sep-10									1
	Nov-10		3							
	Dec-10									1
2013	Sep-12						1	1		
	Dec-12									
2014	Dec-14						1	1		
2015	Jan-15									
	Feb-15									
	Mar-15									
	Apr-15									
Subtotal		30	41	3	6	6	2	2	5	
Total instances of FTM = 95										

Attachment E – Specific Factors Considered

Administrative Civil Liability Complaint No. R7-2015-0038

Peter M. Ormond
Date Gardens Mobile Home Park
Wastewater Treatment Plant

Administrative Civil Liability Complaint R7-2015-0038 (Complaint) alleges the Discharger violated NPDES No. CA0104841 (Permit) on multiple occasions. Since May 2003 to date (Complaint Period), the Discharger is alleged to have violated its Permit on at least one-hundred and seventy (170) different occasions. The alleged violations are classified into three main categories: (1) Mandatory Minimum Penalty (MMP) violations; (2) effluent limit violations subject to discretionary penalties (non-MMP effluent violations); and (3) failure to monitor (FTM) violations subject to discretionary penalties (non-MMP FTM violations).

Pursuant to California Water Code (Water Code) section 13385, subdivisions(h)(1) and (i)(1), the Regional Water Board must assess an MMP of three-thousand dollars (\$3000) for each serious violation of a NPDES Permit effluent limitation and each chronic violation of a waste discharge requirement effluent limitation. Under Water Code section 13385, subdivision (c), the Regional Water Board may impose administrative civil liability of up to ten thousand dollars (\$10,000) for each day in which a violation occurs for non-discharge violations. In determining the amount of any liability imposed under Water Code section 13385, the Regional Water Board is required to take into account the nature, circumstances, extent, and gravity of the violations, whether the discharges are susceptible to cleanup or abatement, the degree of toxicity of the discharges, and, with respect to the violator, the ability to pay, the effect on its ability to continue its business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violations, and other matters that justice may require. (Wat. Code §§ 13327, 13385, subd. (e).)

On November 17, 2009, the State Water Resources Control Board adopted Resolution 2009-0083 amending the Water Quality Enforcement Policy (Enforcement Policy). The Enforcement Policy was approved by the Office of Administrative Law and became effective on May 20, 2010. The Enforcement Policy establishes a step-wise approach methodology for assessing administrative civil liability and determining the amount of liability. The use of this methodology addresses the factors that are required to be considered when imposing a civil liability as outlined in Water Code section 13385, subdivision (e), and section 13327.

For the reasons discussed in the following paragraphs, the Prosecution Team is recommending the Regional Water Board:

1. Assess an MMP for every alleged:
 - a. Serious violation (effluent and late reporting) as defined in Water Code sections 13385, subdivision (h)(2) and 13385.1, subdivision (a); and
 - b. Chronic violation as defined in Water Code section 13385, subdivision (i).
2. Not assess liability against the Discharger for the alleged non-MMP effluent violations; and
3. Assess discretionary liability for the alleged non-MMP FTM violations.

I. Proposed Liability for Effluent and Late Reporting Violations Subject to MMPs

As identified in Exhibit A, twenty-five (25) TSS violations are subject to MMPs (20 serious violations + 5 chronic violations), which equates to \$75,000 in MMPs (25 x \$3,000).

As identified in Exhibit B, twelve (12) chronic bacteria violations are subject to MMPs, which equates to \$36,000 in MMPs (12 x \$3,000).

As identified in Exhibit C, the Discharger submitted late self-monitoring reports a total of thirty (30) complete periods of 30-days following the deadline for submitting the reports. Each complete period is subject to an MMP, which equates to \$90,000 in MMPs (30 x \$3,000).

The total amount proposed for the alleged violations subject to MMPs is **\$201,000** (\$75,000 + \$36,000 + \$90,000).

II. No Proposed Liability For Non-MMP Effluent Violations

The alleged non-MMP effluent violations are of three categories: (a) BOD, (b) TSS, and (c) bacteria. The Prosecution Team alleges the Discharger committed a total of fourteen (14) non-MMP effluent violations. None of these violations were used as a supporting violation for the assessment of MMPs explained above and identified in Exhibits A and B.

Two (2) BOD effluent limit violations, not subject to MMPs, occurred on April 16, 2011. The Discharger exceeded its BOD monthly average concentration limit by 4.1 mg/L and its BOD mass load limit by 0.18 lbs. The water quality impact on the Rice Drain No. 3 for these exceedances was likely acute, but negligible. Therefore, the Prosecution Team is not recommending the Board assess liability for these BOD violations.

Ten (10) TSS effluent limit violations, not subject to MMPs, occurred during the Complaint Period (2 violations of the weekly average limits, 6 violations of the monthly average limits, and 2 violations of the percent removal requirement). The alleged weekly TSS violations exceed the permit limits by 0.5 mg/L and 0.06 lbs. The alleged monthly TSS violations exceed the permit by less than 2.7 mg/L and by less than 0.22 lbs in all instances. The water quality impact for these concentration and load exceedances in the Rice Drain No. 3 was likely acute, but negligible. Therefore, the Prosecution Team is not recommending the Board assess liability for these TSS violations.

In both instances where the Discharger exceeded the TSS percent removal requirement, the Discharger removed at least 82% of the suspended solids (i.e., the deviation from the permit requirement was very minor), complied with the weekly average effluent limitations, and only exceeded the monthly average effluent limitations on one of the two occasions. Based on this, the WWTP performed within its expected regimen under proper operation and maintenance. The impact on the receiving waters from these violations was acute, but also negligible. Consequently, the Prosecution Team is not recommending the Regional Water Board assess additional liability for these percent removal violations.

Two (2) bacteria limit violations, not subject to MMPs, occurred during the Complaint Period. The available effluent monitoring data for bacteria indicates that the Discharger has maintained a fair compliance record with the applicable bacteria effluent limitations since a disinfection system was

installed at the WWTP in February 2004. The effluent monitoring data shows that the WWTP came back into compliance with these effluent limitations after each of the violations. Therefore, these violations were temporal and isolated and their impact on the receiving waters was likely minor. Based on the foregoing, the Prosecution Team is not recommending the Discharger be assessed liability for these bacteria violations.

III. Proposed Liability for Non-MMP Failure to Monitor (FTM) Violations

As identified in Exhibit D, the Discharger has committed ninety-five (95) non-MMP FTM violations. The Prosecution Team is recommending the Regional Water Board assess liability for these violations pursuant to Water Code section 13385, subdivision (c). The breakdown of the non-MMP FTM violations, in increasing order of importance/significance, is as follows:

- a. Four (4) for failure to monitor the receiving waters for hardness;
- b. Thirty (30) for failure to monitor for flow;
- c. Five (5) for failure to report on the receiving water conditions.
- d. Twelve (12) for failure to monitor the receiving waters for bacteria;
- e. Three (3) violations for failure to monitor WWTP effluent for toxicity; and
- f. Forty-one (41) violations for failure to monitor WWTP effluent for bacteria.

The following paragraphs present the step-wise application of the Enforcement Policy methodology for the non-MMP FTM violations alleged in the Complaint and the proposed liability for these violations.

Step 1 - Potential for Harm for Discharge Violations

This factor is not applicable because FTM violations are non-discharge violations.

Step 2 – Per Gallon and Per Day Assessment for Discharge Violations

This factor is not applicable because FTM violations are non-discharge violations.

Step 3- Per Day Assessment for Non-Discharge Violations

For non-discharge violations, the Enforcement Policy requires the Regional Water Board to determine (a) the Potential for Harm to beneficial uses of the violations, and (b) the Deviation from Requirement, the extent to which the violations deviated from the Board's requirements.

The beneficial uses of Rice Drain No. 3, a tributary to the New River, include contact and non-contact water recreation. The federal Clean Water Act (CWA) Section 303(d) List of Impaired Waters lists the entire stretch of the New River in the U.S. as impaired by over fifteen (15) different pollutants, including bacteria, trash, and pesticides. The New River is also impaired due to toxicity and is not suitable for swimming and fishing (i.e., it is not attaining its REC I, REC II, and WARM beneficial uses). The WWTP discharges domestic wastewater, which contains pollutants such as pathogenic bacteria that if not properly treated and/or removed can adversely impact the beneficial uses of Rice Drain No. 3, which in turn contributes to the New River impairments. The Regional Water Board relies on the Discharger to self-report to ensure compliance with the conditions of its permits. The failure to collect and report the required effluent bacteria monitoring data as required undermines the Board's authority to effectively implement its water quality control programs, particularly the NPDES Program. It also prevents Regional Water Board staff from determining compliance with conditions of the NPDES

permit. Further, it hinders Regional Water Board staff from appropriately responding to the field conditions in a timely manner and providing an appropriate response, including but not limited to timely notifying other agencies of effluent limit violations.

- a. *Failure to Monitor Receiving Waters for Hardness*—The Potential for Harm from these violations is minor. Hardness and pH are used to determine the extent to which metals in the effluent can be toxic to aquatic resources. The discharge from the WWTP has low potential to contain metals in toxic amounts. The Deviation from Requirement is moderate (on the low end). **Therefore, the Prosecution Team assigned a per day factor of 0.2 for these four (4) violations.**
- b. *Failure to Monitor for Flow*—The FTM violations for flow occurred in June and July 2004 because the Discharger only monitored every other day, instead of daily during these two months. Review of historic flows at the site indicates the Discharger has not exceeded its flow limitation. It is unlikely that the missing flow data would indicate a violation of the flow limit for the WWTP. Therefore, the Potential for Harm from failure to monitor flow is minor. The Deviation from Requirement is also minor. Using Table 3 in the Enforcement Policy, the per day factor based on Potential for Harm (minor) and Deviation from Requirement (minor) is 0.1 (on the low end) and 0.2 (on the high end). **Therefore, the Prosecution Team assigned a per day factor of 0.15 for these thirty (30) violations.**
- c. *Failure to Report on Receiving Water Conditions*—This monitoring and reporting requirement has been established to ensure the discharge from the WWTP does not cause nuisance conditions, including objectionable growths, that may not be readily discernable based on the analytical results for the WWTP effluent. The Potential for Harm is low when the discharge complies with effluent limitations, but moderate to high when it does not. The Discharger not only failed to report on the receiving water conditions every quarter in 2010, but also failed to monitor on at least 3 different occasions its effluent for bacteria in March 2010, and failed to monitor for bacteria in November 2010. The Potential for Harm from this failure to monitor on the receiving water conditions is minor, but the Deviation from Requirement is major (i.e., the Discharger made this reporting requirement ineffective). **Therefore, the Prosecution Team assigned a per day factor of 0.3 for these five (5) violations.**
- d. *Failure to Monitor Receiving Waters for Bacteria*—This monitoring provision is necessary to determine the extent to which the discharge, even though it complies with effluent limits, can still have a cumulative adverse impact on the receiving waters. The Potential for Harm in this case is minor when the discharge meets effluent limitations, but relatively moderate to high when it does not. The Deviation from Requirement is major because the Discharger rendered the requirement ineffective and the Potential for Harm is as follows:
 - (1) The FTM the receiving waters for bacteria in 2003 (total of 4 violations) had a major Potential for Harm because the effluent discharged from the WWTP was not disinfected. Using Table 3 in the Enforcement Policy, the per day factor based on Potential for Harm (major) and Deviation from Requirement (major) is 0.70 (on the low end) and 1.0 (on the high end). **The Prosecution Team assigned a per day factor of 0.7 for these four (4) violations;**
 - (2) The FTM the receiving waters for bacteria in 2005 and 2006 (total of 8 violations) had a minor Potential for Harm because the monitoring data indicates compliance with the bacteria effluent limits. **The Prosecution Team assigned a per day factor of 0.3 for these eight (8) violations.**

- e. *Failure to Monitor for Toxicity*—The failure to conduct whole effluent toxicity testing is particularly troublesome, considering that the discharge from the WWTP has shown toxicity and the *Water Quality Control Plan for the Colorado River Basin* (Basin Plan) also prescribes toxicity monitoring. The Potential for Harm is moderate because the discharge contains pollutants such as ammonia that can be present in the effluent in concentrations that can be toxic to aquatic resources. By failing to conduct the required toxicity monitoring at all, the Deviation from Requirement is major. **Therefore, the Prosecution Team assigned a per day factor of 0.55 for these three (3) violations.**
- f. *Failure to Monitor WWTP Effluent for Bacteria*—The Discharger's NPDES Permits contain effluent limitations and monitoring and reporting requirements for bacteria to specifically protect the REC I and REC II beneficial uses of the Rice Drain No. 3. The specified bacteriological monitoring frequency is set forth in the Basin Plan. Monitoring data for the WWTP indicates that the discharge from WWTP not only has potential to exceed bacteria effluent limitations, but it has in fact exceeded bacteria effluent limitations on multiple different occasions. Subsequently, bacteria violation of permit limits and conditions may go undetected, which results in an increased risk to public health and the environment. Thusly, the Potential for Harm to the receiving waters is at least moderate. The Discharger's FTM for bacteria violations can be divided into two types of violations:
- (1) The Discharger completely failed to monitor the effluent for bacteria on twenty-two (22) different occasions. This is a major Deviation from Requirement. Using Table 3 in the Enforcement Policy, the per day factor based on Potential for Harm (moderate) and Deviation from Requirement (major) is 0.40 (on the low end) and 0.7 (on the high end). **The Prosecution assigned a per day factor of 0.40 for these twenty-two (22) violations.**
 - (2) The Discharger collected 5 samples for bacteriological analyses, but it failed to collect the samples at equally spaced intervals during the month as required by the NPDES Permit. Because the Discharger did not monitor at equally spaced intervals during the month, staff was not able to determine compliance with the Geometric Mean. Consequently, the Deviation from Requirement is moderate. Using Table 3 in the Enforcement Policy, the per day factor based on Potential for Harm (moderate) and Deviation from Requirement (moderate) is 0.30 (on the low end) and 0.4 (on the high end). **The Prosecution Team assigned a per day factor of 0.30 for these nineteen (19) violations.**

Step 4 – Adjustment Factors

The Enforcement Policy requires that the Discharger's conduct be considered in modifying the initial liability. In this regard, the Discharger's culpability, efforts to cleanup and cooperate with the Regional Water Board after the violations, and its compliance history must be evaluated.

Culpability: 1.2

The Discharger has a moderately high degree of culpability. The circumstances of this Complaint clearly demonstrate that the Discharger disregarded the requirements of the monitoring and reporting program contained within each of the NPDES permits repeatedly. Beyond the Discharger being on notice of the reporting requirements starting from the time when the permits were issued, the Discharger was explicitly reminded of the requirements in Notices of Non-Compliance for failure to monitor issued to the Discharger on 11 September 2003, 17 September 2003, 12 April 2004, 4 May

2004, 7 September 2004, 29 December 2004, 22 June 2005, 8 December 2005, 8 February 2006, 26 September 2006, 25 July 2007, and 24 August 2007. Further, Regional Water Board staff assigned to this WWTP has spent significant time providing guidance to the Discharger's representatives (e.g., its Operators) for compliance during inspections and meetings, including during a March 2014 on-site meeting with Discharger representatives regarding, among other things, monitoring and reporting deficiencies. A reasonably prudent discharger would have acted in accordance with its permit conditions, conducting and reporting the results of all required monitoring, and reporting them in a timely manner, particularly after the getting a Notice of Non-Compliance. Based on the foregoing, the Prosecution Team selects a factor of 1.2 to reflect the Discharger's known responsibility to comply with the permits, but failure to do so.

Cleanup and Cooperation: 1.1

When the Regional Water Board issued TSO R7-2003-0115 requiring the Discharger provide disinfection of its WWTP effluent by April 2004, the Discharger complied with this Order a couple of months before the deadline. This weighs in favor of the Discharger. However, since then and up until June 2015, there is nothing in the record to indicate that the Discharger has been cooperative with the Regional Water Board when there are compliance problems. In fact, the Discharger was not responsive at all to ACLC R7-2015-0001, which the Prosecution Team issued in February 2015, and was not responsive at all to proposed Administrative Civil Liability Order (ACLO) R7-2015-0029¹. This weighs heavily against the Discharger. During the preparation of this Complaint, the Prosecution Team was informed that due to health problems, in May 2015, the Discharger granted limited power of attorney authority to David Heitz and Susan Ormond. Under this authority, Mr. Heitz and Mrs. Ormond may act for and in the Discharger's name for any duties and obligations of whatever nature and extent with respect to the Date Gardens MHP. Both the current Operator and Mr. Heitz have cooperated with Regional Water Board staff during the preparation of this Complaint by providing information that was missing from the Regional Water Board's file for the site. In particular, the Operator has been very responsive to Regional Water Board staff requests for supplemental monitoring and reporting information. Based on the foregoing, the Prosecution Team selects a factor of 1.1 for this type of conduct.

History of Violations: 1.1

The Regional Water Board issued two Time Schedule Orders (TSOs) against the Discharger: one provided the Discharger a time schedule to comply with bacteria effluent limitations; and the other provided the Discharger with a time schedule to conduct monitoring for bacteria as required by its Permit. Further, the Regional Water Board has previously assessed administrative liability against the Discharger for deficient monitoring. Specifically, on September 15, 2011, the Regional Water Board adopted ACLO R7-2011-0048, which assessed \$8,244 in liability against the Discharger for the use of an uncertified laboratory to perform bacteriological analyses. Additionally, as described above, the Discharger has been advised of monitoring deficiencies through at least a dozen Notices of Non-Compliance during the Complaint Period. In spite of this, during the last five years the Discharger has violated its monitoring requirements on fourteen (14) different occasions, most recently twice in December 2014. Based on the timing of the previous violations relative to the enforcement action and the similarity of the violations to the violations alleged in the Complaint, Regional Water Board staff selected a multiplier of 1.1.

¹ Proposed ACLO R7-2015-0029 was not adopted by the Regional Water Board. As explained in the Complaint's cover letter, the Prosecution Team withdraws ACLC R7-2015-0001.

Step 5 – Total Baseline Liability Amount

The Discharger was in violation of monitoring requirements for at least 95 days, as shown below:

Year	Monitoring Category	Days in Violation	Maximum Liability (\$10,000/day)
2003 (May–Dec.)	Bacteria	17	\$170,000
	Toxicity	1	\$10,000
2004	Bacteria	1	\$10,000
	Flow*	30	\$300,000
2005	Bacteria	6	\$60,000
	Toxicity	1	\$10,000
2006	Bacteria	9	\$90,000
2007	Bacteria	9	\$100,000
	Toxicity	1	\$10,000
2008	Bacteria	1	\$10,000
2009	Bacteria	4	\$40,000
	Receiving Water Conditions	1	\$10,000
2010	Bacteria	6	\$60,000
	Receiving Water Conditions	4	\$40,000
2011	Bacteria	0	\$0
2012	Bacteria	0	\$0
2013	Hardness	2	\$20,000
2014	Hardness	2	\$20,000
2015 (to-date)	Bacteria	0	\$0
<i>Totals:</i>		95	\$950,000

* 15 FTM flow violations in June and 15 FTM flow violations in July 2004

The maximum statutory liability available to the Regional Water Board is \$950,000 (95 days x \$10,000/day). The total base liability is based on the factors discussed above and the following formula: Total Base Liability = (Per day Factor) x (Statutory Maximum) x (Conduct Factors).

- a. Total Base Liability for FTM Receiving Waters for Hardness
 = (0.2) x (\$40,000) x (1.2) x (1.1) x (1.1) = \$11,616
- b. Total Base Liability for FTM for Flow:
 = (0.15) x (\$300,000) x (1.2) x (1.1) x (1.1) = \$65,340
- c. Total Base Liability for FTM for Receiving Water Conditions
 = (0.3) x (\$50,000) x (1.2) x (1.1) x (1.1) = \$21,780
- d. Total Base Liability for FTM for Receiving Waters for Bacteria
 Case 1 = (0.7) x (\$40,000) x (1.2) x (1.1) x (1.1) = \$40,565, which exceeds statutory maximum; therefore use \$40,000

 Case 2 = (0.3) x (\$80,000) x (1.2) x (1.1) x (1.1) = \$38,848

$$\text{Case 1} + \text{Case 2} = \$40,000 + \$38,848 = \$74,848$$

e. Total Base Liability for FTM Effluent for Toxicity
 $= (0.55) \times (\$30,000) \times (1.2) \times (1.1) \times (1.1) = \$23,958$

f. Total Base Liability for FTM Effluent for Bacteria
Case 1 = $(0.4) \times (\$220,000) \times (1.2) \times (1.1) \times (1.1) = \$127,776$
Case 2 = $(0.3) \times (\$190,000) \times (1.2) \times (1.1) \times (1.1) = \$82,764$

$$\text{Case 1} + \text{Case 2} = \$127,776 + \$82,764 = \$210,540$$

Total Baseline Liability for FTM violations = a + b + c + d + e + f
= \$11,616 + \$65,340 + \$21,780 + \$74,848 + \$23,958 + \$210,540 = \$408,082

Step 6 – Ability to Pay and Remain in Business

The Discharger's ability to pay is based on the following information obtained from tax assessment information for 2013. The assessed total value of the Date Gardens Mobile Home Park (MHP), Assessor's Parcel Number (APN) 062-090-029-000, is \$1,006,514. The Discharger's home in Piedmont, California, APN 051-4713-001-04, is valued at \$1,972,701. The Discharger also owns a home in Palm Desert, California, APN 626-310-004, with an assessed total value of \$444,000 and a MHP in Vacaville, California, APN 0129-263-010, valued at \$2,464,467.

Additionally, Peter M. Ormond, trustee of the Peter M. Ormond Trust, owns a: 1) MHP in Patterson, California, APN 048-001-018-000, with an assessed total value of \$4,321,331; 2) a MHP in Fresno, California, APN 462-020-24, with an assessed total value of \$2,376,517; and 3) two MHPs in South Lake Tahoe, California, APN 032-202-04-10 and 032-211-14-10, with an assessed total value of \$1,963,875 and \$215,975 respectively.

The collective value of the above properties (\$14,765,380) is well above the total base liability amount and the MMPs amount. The Prosecution Team has no information to indicate that the proposed administrative liability would jeopardize the Discharger's ability to remain in business, or that it would be unable to pay the proposed administrative civil liability. Therefore, the total base liability amount remains \$408,082.

Step 7 – Other Factors as Justice May Require

The Enforcement Policy provides that if the Regional Water Board believes that the amount determined using the above factors is inappropriate, the liability amount may be adjusted under the provision for "other factors as justice may require," if express findings are made. These factors may include, for example:

- a. Pertinent information from the Discharger or from other key stakeholders not already discussed herein that indicates a higher or lower amount is justified;
- b. Consideration of issues of environmental justice that indicates the amount proposed would have a disproportionate impact on a disadvantaged group;
- c. That the calculated amount is entirely disproportionate to assessments made in the recent past using the Enforcement Policy; and
- d. Costs of Investigation and Enforcement on the matter.

At this point the Prosecution Team does not have any information cited above in Items (a) to (c). Regarding Item (d), the Prosecution Team staff time incurred to prepare this administrative civil liability complaint is estimated to be at a minimum of one-hundred and fifteen hours to date. Based on an average cost to the state of \$125 per hour, the total Water Board staff cost is estimated to be \$14,375. Water Board staff costs will continue to accrue through settlement discussions and hearing until final resolution of this matter. On balance, the Prosecution Team respectfully requests that the Regional Water Board award it these costs of enforcement in addition to the proposed administrative civil liability.

Step 8 – 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 Model (BEN model) should be used to calculate the economic benefit a violator derives from delaying and/or avoiding compliance. The economic benefit was calculated based on avoided costs, which include expenditures for equipment or services that the Discharger should have incurred to avoid the incident of noncompliance, but that are no longer required.

As shown the summary below, the Discharger has derived an economic benefit of \$9,504 by avoiding lab analyses costs to comply with all of its monitoring requirements.

Economic Benefit Summary	
Year	Benefit of Non-Compliance
2003	\$ 3,164
2004	\$ 409
2005	\$ 2,521
2006	\$ 360
2007	\$ 2,280
2008	\$ 32
2009	\$ 215
2010	\$ 451
2011	\$ -
2012	\$ -
2013	\$ 37
2014	\$ 35
Total	\$ 9,504

Step 9 – Maximum and Minimum Liability Amounts

Statutory Maximum

The Enforcement Policy directs the Regional Water Board to consider maximum and minimum liability amounts set forth in the applicable statutes. The maximum liability amount is the maximum allowed by Water Code section 13385: \$10,000 for each day of violation. The maximum liability amount is \$950,000 (\$10,000 x 95 days of violation).

Statutory Minimum

The Enforcement Policy requires the Regional Water Board to recover, at a minimum, ten percent more than the economic benefit. As discussed above, the Discharger received an economic benefit of \$9,504 in avoided costs from the omissions that constitute the violations. The minimum liability amount is \$10,454 (rounded) (\$9,504 x 1.1).

Step 10- Final Liability Amount for non-MMP FTM Violations

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 amount was performed as follows:

(Combined Total Base Liability Amount) + (Staff Costs) + (Adjustment for Other Factors as Justice May Require) = (Final Liability Amount)

= (\$408,082) + (\$14,375)

Final Liability Amount for non-MMPs = \$422,457

Total Proposed Liability (MMP Liability + Non-MMP Liability)

Based on the foregoing, the Prosecution Team is recommending the Regional Water Board assess \$201,000 in MMPs and \$455,853 in discretionary liability for failure to monitor and report as required. This brings the total recommended liability to:

Total Proposed Liability = \$201,000 + \$422,457 = **\$623,457**

The proposed penalty captures the economic benefit.

Exhibit F - Date Gardens MHP Bacteria Violations Covered by TSO R7-2003-0115 (Exempt from MMPs)						
Year	Date	Bacteria Violations of Max Limits (MPN/100 ml)			Geo Mean	# of Violations
		Enterococci	Fecal Coliforms	E. Coli	E. Coli	
2003	8/10 to 8/16	Not Applicable	Not Applicable	>16000	Not Available	3
	8/17 to 8/23	Not Applicable	Not Applicable	>16000		
	8/24 to 8/30	Not Applicable	Not Applicable	>16000		
2003	9/1 to 9/6	Not Applicable	Not Applicable	>16000	4202.44	4
	9/14 to 9/20	Not Applicable	Not Applicable	>16000		
		Not Applicable	Not Applicable	>16000		
9/21 to 9/27	Not Applicable	Not Applicable	>16000			
2003	10/5 to 10/11	Not Applicable	Not Applicable	>16000	>16,000	6
		Not Applicable	Not Applicable	>16000		
	10/12 to 10/18	Not Applicable	Not Applicable	>16000		
	10/19 to 10/25	Not Applicable	Not Applicable	>16000		
	10/26 to 10/31	Not Applicable	Not Applicable	>16000		
2003	11/2 to 11/8	Not Applicable	Not Applicable	>16000	>16,000	6
		Not Applicable	Not Applicable	>16000		
	11/9 to 11/15	Not Applicable	Not Applicable	>16000		
	11/16 to 11/22	Not Applicable	Not Applicable	>16000		
	11/23 to 11/29	Not Applicable	Not Applicable	>16000		
2004	12/14 to 12/20	Not Applicable	Not Applicable	>16000	Not Avail	2
		Not Applicable	Not Applicable	>16000		
	1/4 to 1/10	Not Applicable	Not Applicable	>16000	> 5109.2	5
	1/11/ to 1/17	Not Applicable	Not Applicable	>16000		
	1/18 to 1/24	Not Applicable	Not Applicable	5000		
2004	1/25 to 1/31	Not Applicable	Not Applicable	170	Not Available	2
		Not Applicable	Not Applicable	>16000		
	2/1 to 2/7	Not Applicable	Not Applicable	>16000		
2/8 to 2/14	Not Applicable	Not Applicable	>16000			
Total Violations =						28