

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.