

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION**

In the Matter of:

ORDER R5-2021-0522

**SACRAMENTO AREA SEWER  
DISTRICT  
SACRAMENTO COUNTY**

**SETTLEMENT AGREEMENT AND  
STIPULATION FOR ENTRY OF  
ADMINISTRATIVE CIVIL LIABILITY  
ORDER**

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**I. Introduction**

1. This Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order (Stipulated Order or Order) is entered into by and between the Assistant Executive Officer of the California Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board), on behalf of the Central Valley Water Board Prosecution Team (Prosecution Team), and the Sacramento Area Sewer District (Discharger)(collectively known as the Parties) and is presented to the Central Valley Water Board, or its delegee, for adoption as an order by settlement, pursuant to California Water Code section 13323 and Government Code section 11415.60.

**II. Recitals**

2. The Discharger operates a sanitary sewer collection system serving more than one million people in the Sacramento Region. The Discharger's collection system is regulated by the Statewide General Waste Discharge Requirements for Sanitary Sewer Systems, State Board Order No. 2006-0003-DWQ, as revised by WQ-2013-0058-EXEC (SSS WDRs). The SSS WDRs require the Discharger to operate and maintain its collection system to prevent sanitary sewer overflows and spills. Prohibition C.1 of the SSS WDRs states that the discharge of untreated or partially treated wastewater from the collection system to waters of the United States is prohibited.
3. Clean Water Act section 301 (33 U.S.C. § 1311) and Water Code section 13376 prohibit the discharge of pollutants to surface waters except in compliance with a National Pollutant Discharge Elimination System (NPDES) permit. The SSS WDRs are not a NPDES permit.
4. The Prosecution Team alleges that between 2 October 2016 and 30 September 2021, the Discharger had 269 sanitary sewer overflows (SSOs) from its collection system. The spills resulted in a total volume of 958,875 gallons of raw sewage (also referred to as untreated wastewater or municipal wastewater) discharged from the collection system to waters of the United States in or

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outside of the American River watershed. The Discharger recovered a total volume of 80,131 gallons of raw sewage discharged to waters of the United States in or outside of the American River watershed. Specifically, as described in Attachments A and B, herein incorporated by reference, the Prosecution Team alleges four violations:

- a. Violation 1: Spill of 489,494 gallons of raw sewage from Pump Station S012 force main located on Bruceville Road in Elk Grove, California.
  - b. Violation 2: Spills that resulted in discharge of raw sewage in the American River watershed during the effective period of the 2010 Enforcement Policy.
  - c. Violation 3: Spills that resulted in discharge of raw sewage in the American River watershed during the effective period of the 2017 Enforcement Policy.
  - d. Violation 4: Spills that resulted in discharge of raw sewage outside of the American River watershed during the effective periods of the 2010 Enforcement Policy and the 2017 Enforcement Policy.
5. For Violations 1-4, the Prosecution Team's pursuit of the Administrative Civil Liability is based on its conclusion that the Discharger violated Prohibition C.1 of the SSS WDRs, Clean Water Act section 301, and Water Code section 13376 by discharging raw sewage to a water of the state and the United States.
  6. Pursuant to Water Code section 13385, subdivision (a), any person who violates Water Code section 13376 or any requirements of Clean Water Act section 301 is subject to administrative civil liability pursuant to Water Code section 13385 subdivision (c), in an amount not to exceed the sum of both of the following: (1) ten thousand dollars (\$10,000) for each day in which the violation occurs; and (2) where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.
  7. Additionally, the unauthorized discharge of raw sewage to a water of the state in violation of Prohibition C.1 of the SSS WDRs is subject to administrative civil liability under Water Code section 13350. The Prosecution Team has elected to pursue enforcement of Violations 1-4 pursuant to Water Code section 13385, subdivision (a) instead of Water Code section 13350.
  8. On 17 November 2009, the State Water Board adopted Resolution No. 2009-0083 amending the Water Quality Enforcement Policy (2010 Enforcement Policy). The Office of Administrative Law approved the 2010 Enforcement Policy,

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and it became effective on 20 May 2010. The 2010 Enforcement Policy was amended, and the 2017 Enforcement Policy became effective on 5 October 2017. Both the 2010 Enforcement Policy and the 2017 Enforcement Policy are used to calculate penalties for violations that occurred when each policy was in effect. Violations that occurred prior to 5 October 2017 are considered under the 2010 Enforcement Policy. Violations occurring on or after 5 October 2017 are considered under the 2017 Enforcement Policy.

9. The 2010 and 2017 Enforcement Policies establish a methodology for assessing administrative civil liabilities. Use of the methodology incorporates Water Code sections 13327 and 13385 that require the Central Valley Water Board to consider specific factors when determining the amount of civil liability to impose, including "...the nature, circumstance, extent, and gravity of the violation or violations, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, and, with respect to the violator, the ability to pay, the effect on ability to continue 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 violation, and other matters that justice may require."
10. The Parties have engaged in confidential settlement negotiations. The Discharger cooperated with the Prosecution Team to reach a prompt resolution which reflects the Discharger's commitment to water quality protection.
11. The Parties agree to fully settle the violations summarized above, and specifically identified in Attachments A and B, without administrative or civil litigation and by presenting this Stipulation to the Central Valley Water Board, or its delegee, for adoption as an Order by settlement, pursuant to Water Code section 13323 and Government Code section 11415.60.
12. To resolve the violations by consent and without further administrative or civil proceedings, the Parties have agreed to the imposition of an administrative civil liability against the Discharger in the amount of six hundred thirty-five thousand two hundred eighty-three dollars (\$630,283).
13. The Prosecution Team believes that the resolution of the alleged violations is fair and reasonable and fulfills its enforcement objectives, that no further action is warranted concerning the violations alleged herein, and that this Stipulated Order is in the best interest of the public.

### III. Stipulations

The Parties stipulate to the following:

1. **Jurisdiction:** The Parties agree that the Central Valley Water Board has subject matter jurisdiction over the matters alleged in this action and personal jurisdiction of the Parties to this Stipulation.
2. **Administrative Civil Liability:** The Discharger hereby agrees to the imposition of an administrative civil liability in the amount of **six hundred thirty thousand two hundred eighty-three dollars (\$630,283)** by the Central Valley Water Board to resolve the violations specifically alleged herein. No later than 30 days after the Central Valley Water Board, or its delegee, signs this Order, the Discharger shall submit a check for **six hundred thirty thousand two hundred eighty-three dollars (\$630,283)** made payable to the "State Water Pollution Cleanup and Abatement Account," reference the Order number on page one of this Order, and mail it to:

State Water Resources Control Board Accounting Office  
Attn: ACL Payment  
P.O. Box 1888  
Sacramento, CA 95812-1888

The Discharger shall provide a copy of the check via email to the State Water Board, Office of Enforcement ([Kailyn.Ellison@waterboards.ca.gov](mailto:Kailyn.Ellison@waterboards.ca.gov)) and the Central Valley Water Board ([Xuan.Luo@waterboards.ca.gov](mailto:Xuan.Luo@waterboards.ca.gov)).

3. **Compliance with Applicable Laws and Regulatory Changes:** The Discharger understands that payment of an administrative civil liability in accordance with the terms of this Stipulated Order and/or compliance with the terms of this Stipulated Order is not a substitute for compliance with applicable laws, and that additional violations of the type alleged may subject it to further enforcement, including additional administrative civil liabilities. Nothing in this Stipulated Order shall excuse the Discharger from meeting any more stringent requirements which may be imposed hereafter by changes in applicable and legally binding legislation or regulations.
4. **Party Contacts for Communications Related to Stipulated Order:**

**For the Central Valley Water Board:**

Xuan Luo  
Senior Water Resources Control Engineer  
NPDES Compliance and Enforcement  
11020 Sun Center Drive, Suite 200

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Rancho Cordova, CA 95670  
(916) 464-4848  
[Xuan.Luo@waterboards.ca.gov](mailto:Xuan.Luo@waterboards.ca.gov)

**For the Discharger:**

Rosemary Clark  
Director of Operations  
Sacramento Area Sewer District  
10060 Goethe Road  
Sacramento, CA 95827  
[clarkr@sacsewer.com](mailto:clarkr@sacsewer.com)

5. **Attorneys' Fees and Costs:** Except as otherwise provided herein, each Party shall bear all attorneys' fees and costs arising from the Party's own counsel in connection with the matters set forth herein.
6. **Matters Addressed by This Stipulated Order:** Upon the Central Valley Water Board's or its delegee's adoption, this Stipulated Order represents a final and binding resolution and settlement of the violations alleged above and in Attachments A and B, as of the effective date of this Stipulated Order. The provisions of this paragraph are expressly conditioned on the full payment of the administrative civil liability by the deadline specified in section III, paragraph 2.
7. **Public Notice:** The Discharger understands that this Stipulated Order will be noticed for a 30-day public review and comment period prior to consideration by the Central Valley Water Board, or its delegee. If significant new information is received that reasonably affects the propriety of presenting this Stipulated Order to the Central Valley Water Board, or its delegee, for adoption, the Assistant Executive Officer may unilaterally declare this Stipulated Order void and decide not to present it to the Central Valley Water Board, or its delegee. The Discharger agrees that it may not rescind or otherwise withdraw its approval of this proposed Stipulated Order.
8. **Procedure:** The Parties agree that the procedure that has been adopted for the approval of the settlement by the Parties and review by the public, as reflected in this Order, will be adequate. In the event procedural objections are raised prior to this Stipulated Order becoming effective, the Parties agree to meet and confer concerning any such objections and may agree to revise or adjust the procedure as necessary or advisable under the circumstances.
9. **No Waiver of Right to Enforce:** The failure of the Prosecution Team or Central Valley Water Board to enforce any provision of this Stipulated Order shall in no way be deemed a waiver of such provision, or in any way affect the validity of this Stipulated Order. The failure of the Prosecution Team or Central Valley Water Board to enforce any such provision shall not preclude it from later

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enforcing the same or any other provision of this Stipulated Order. No oral advice, guidance, suggestions, or comments by employees or officials of any Party regarding matters covered under this Stipulated Order shall be construed to relieve any Party regarding matters covered in this Stipulated Order. The Central Valley Water Board reserves all rights to take additional enforcement actions, including without limitation, the issuance of administrative civil liability complaints or orders for violations other than those addressed by this Order.

10. **Effect of Stipulated Order:** Except as expressly provided in this Stipulated Order, nothing in this Stipulated Order is intended nor shall it be construed to preclude the Central Valley Water Board or any state agency, department, board or entity or any local agency from exercising its authority under any law, statute, or regulation.
11. **Interpretation:** This Stipulated Order shall not be construed against the party preparing it but shall be construed as if the Parties jointly prepared it and any uncertainty and ambiguity shall not be interpreted against any one party.
12. **Modification:** This Stipulated Order shall not be modified by any of the Parties by oral representation whether made before or after the execution of this Order. All modifications must be made in writing and approved by the Central Valley Water Board or its delegee.
13. **Integration:** This Stipulated Order constitutes the entire agreement between the Parties and may not be amended or supplemented except as provided for in this Stipulated Order.
14. **If Order Does Not Take Effect:** The Discharger's obligations under this Stipulated Order are contingent upon the entry of the Order of the Central Valley Water Board, or its delegee, as proposed. In the event that this Stipulated Order does not take effect because it is not approved by the Central Valley Water Board, or its delegee, or is vacated in whole or in part by the State Water Board or a court, the Parties acknowledge that the Prosecution Team may proceed to a contested evidentiary hearing before the Central Valley Water Board to determine whether to assess an administrative civil liability for the underlying alleged violations, or may continue to pursue settlement. The Parties agree that all oral and written statements and agreements made during the course of settlement discussions will not be admissible as evidence in any subsequent administrative or judicial proceeding or hearing and will be fully protected by California Evidence Code sections 1152 and 1154; California Government Code section 11415.60; Rule 408, Federal Rules of Evidence; and any other applicable privilege under federal and/or state law. The Parties also agree to waive any and all objections related to their efforts to settle this matter, including, but not limited to:

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- a. Objections related to prejudice or bias of any of the Central Valley Water Board members or their advisors and any other objections to the extent that they are premised in whole or in part on the fact that the Central Valley Water Board members or their advisors were exposed to some of the material facts and the Parties settlement positions, and therefore may have formed impressions or conclusions, prior to conducting any contested evidentiary hearing in this matter; or
  - b. Laches or delay or other equitable defenses based on the time period that the Order or decision by settlement may be subject to administrative or judicial review.
15. **Waiver of Hearing:** The Discharger has been informed of the rights provided by Water Code section 13323, subdivision (b), and, if the settlement is adopted by the Central Valley Water Board, hereby waives its right to a hearing before the Central Valley Water Board prior to the Stipulated Order's adoption. However, should the settlement not be adopted, and should the matter proceed to the Central Valley Water Board or State Water Board for hearing, the Discharger does not waive the right to a hearing before an order is imposed.
16. **Waiver of Right to Petition:** The Discharger hereby waives the right to petition the Central Valley Water Board's adoption of the Stipulated Order as written for review by the State Water Board, and further waives the right, if any, to appeal the same to a California Superior Court and/or any California appellate level court. In the event the Stipulated Order is not adopted by the Central Valley Water Board, the Discharger does not waive its right to petition a future order imposed by the Central Valley Water Board
17. **Covenant Not to Sue:** The Discharger covenants not to sue or pursue any administrative or civil claim(s) against any State Agency or the State of California, their officers, Board Members, employees, representatives, agents, or attorneys arising out of or relating to any matter expressly addressed by this Stipulation and Order.
18. **Authority to Bind:** Each person executing this Stipulated Order in a representative capacity represents and warrants that they are authorized to execute this Order on behalf of and to bind the entity on whose behalf the Order is executed.
19. **Necessity for Written Approvals:** All approvals and decisions of the Central Valley Water Board under the terms of this Stipulated Order shall be communicated to the Discharger in writing. No oral advice, guidance, suggestions, or comments by employees or officials of the Central Valley Water Board regarding submissions or notices shall be construed to relieve the Discharger of its obligation to obtain any final written approval required by this Stipulated Order.

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20. **No Third-Party Beneficiaries:** This Stipulated Order is not intended to confer any rights or obligation on any third party or parties, and no third party or parties shall have any right of action under this Stipulated Order for any cause whatsoever.
21. **Severability:** This Stipulated Order is severable; should any provision be found invalid; the remainder shall remain in full force and effect.
22. **Effective Date:** This Stipulated Order shall be effective and binding on the Parties upon the date the Central Valley Water Board, or its delegee, enters the Order incorporating the terms of this Stipulated Order.
23. **Counterpart Signatures:** This Order may be executed and delivered in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, but such counterparts shall together constitute one document. Further, this Stipulated Order may be executed by facsimile or electronic signature, and any such facsimile or electronic signature by any Party hereto shall be deemed to be an original signature and shall be binding on such Party to the same extent as if such facsimile or electronic signature were an original signature.

**IT IS SO STIPULATED.**

California Regional Water Quality Control Board, Central Valley Region Prosecution Team

By: Original Signed By  
John J. Baum  
Assistant Executive Officer

11/04/2021  
Date

Sacramento Area Sewer District

By: Original Signed By  
Christoph Dobson  
District Engineer

11/04/2021  
Date

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

1. The foregoing Stipulation is fully incorporated herein and made part of this Order.
2. This is an action to enforce the laws and regulations administered by the Central Valley Water Board. The Central Valley Water Board finds that issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, sections 21000 et seq.), in accordance with section 15321, subdivision (a)(2), Title 14, of the California Code of Regulations.
3. The Executive Officer of the Central Valley Water Board is authorized to refer this matter directly to the Attorney General for enforcement if the Discharger fails to perform any of its obligations under this Order.

Pursuant to Water Code section 13323 and Government Code section 11415.60, **IT IS HEREBY ORDERED** on behalf of the California Regional Water Quality Control Board, Central Valley Region.

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Patrick Pulupa  
Executive Officer  
Central Valley Regional Water Quality Control Board

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Date

Attachment A: List of Spills Comprising Violations 1-4

Attachment B: Penalty Methodology

**Table A-1. Violation 1: SASD Pump Station S012 Force Main Spill, Elk Grove, California**

SSO_EVENT_ID	Spill Start Date	Spill End Date	Days	Spill Location	Gallons Discharged to Surface Water	Gallons Recovered	Gallons Discharged to Surface Water (Less 1,000 Gallons)	Cause of Spill	Liability at \$10,000/day	Liability at \$10/gallon	Maximum Penalty
871658	1/16/2021	1/18/2021	3	Force Main	379,232	0	378,232	Pipe Structural Problem/Failure	\$30,000	\$3,782,320	\$3,812,320

N/A – Not Applicable

**Table A-2. Violation 2: Spills Discharged to the American River Watershed – 2010 Enforcement Policy**

SSO_EVENT_ID	Spill Start Date	Spill End Date	Days	Spill Location	Gallons Discharged to Surface Water	Gallons Recovered	Gallons Discharged to Surface Water (Less 1,000 Gallons)	Cause of Spill	Liability at \$10,000/day	Liability at \$10/gallon	Maximum Penalty
831378	12/28/2016	12/28/2016	1	Manhole	775	775	0	Root Intrusion	\$10,000	\$0	\$10,000
831482	1/5/2017	1/5/2017	1	Manhole	87	0	0	Root Intrusion	\$10,000	\$0	\$10,000
831661	1/9/2017	1/9/2017	1	Lateral Clean Out (Public)	1,031	412	0	Grease deposition (FOG)	\$10,000	\$0	\$10,000
831733	1/9/2017	1/10/2017	2	Lateral Clean Out (Public)	52	0	0	Root Intrusion	\$20,000	\$0	\$20,000
831758	1/10/2017	1/10/2017	1	Manhole	12,304	0	11,304	Storm Surge	\$10,000	\$113,040	\$123,040
831774	1/10/2017	1/10/2017	1	Lateral Clean Out (Private); Lateral Clean Out (Public)	4,849	0	3,849	Storm Surge	\$10,000	\$38,490	\$48,490
831780	1/11/2017	1/11/2017	1	Lateral Clean Out (Public)	98	0	0	Root Intrusion	\$10,000	\$0	\$10,000
832625	2/6/2017	2/6/2017	1	Lateral Clean Out (Public)	2	0	0	Debris-General	\$10,000	\$0	\$10,000
832757	2/9/2017	2/10/2017	2	Manhole	760	0	0	Storm Surge	\$20,000	\$0	\$20,000

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SSO_EVENT_ID	Spill Start Date	Spill End Date	Days	Spill Location	Gallons Discharged to Surface Water	Gallons Recovered	Gallons Discharged to Surface Water (Less 1,000 Gallons)	Cause of Spill	Liability at \$10,000/day	Liability at \$10/gallon	Maximum Penalty
833001	2/20/2017	2/21/2017	2	Manhole	3,862	0	2,862	Rainfall Exceeded Design, I and I (Sep CS Only)	\$20,000	\$28,620	\$48,620
833006	2/20/2017	2/20/2017	1	Inside Building or Structure; Lateral Clean Out (Private); Manhole	3,600	0	2,600	Rainfall Exceeded Design, I and I (Separate CS Only)	\$10,000	\$26,000	\$36,000
833038	2/20/2017	2/20/2017	1	Manhole	571	0	0	Rainfall Exceeded Design, I and I (Separate CS Only)	\$10,000	\$0	\$10,000
834011	3/26/2017	3/26/2017	1	Lateral Clean Out (Public)	55	0	0	Root Intrusion	\$10,000	\$0	\$10,000
834645	4/19/2017	4/19/2017	1	Lateral Clean Out (Public)	770	770	0	Piece of 6 VCP riser	\$10,000	\$0	\$10,000
835571	5/30/2017	5/30/2017	1	Pump station	26	2	0	Pump Station Failure	\$10,000	\$0	\$10,000
2010 Enforcement Policy AR Totals	N/A	N/A	18	N/A	28,842	1,959	<b>20,615</b>	N/A	\$180,000	\$206,150	\$386,150

N/A – Not Applicable

**Table A-3. Violation 3: Spills Discharged to the American River Watershed – 2017 Enforcement Policy**

SSO_EVENT_ID	Spill Start Date	Spill End Date	Days	Spill Location	Gallons Discharged to Surface Water	Gallons Recovered	Gallons Discharged to Surface Water (Less 1,000 Gallons)	Cause of Spill	Liability at \$10,000/day	Liability at \$10/gallon	Maximum Penalty
841021	10/19/2017	10/19/2017	1	Lateral Clean Out (Public)	100	2	0	Debris-General	\$10,000	\$0	\$10,000
841723	11/16/2017	11/18/2017	3	Lateral Clean Out (Public)	172	0	0	Root Intrusion	\$30,000	\$0	\$30,000
843758	1/9/2018	1/9/2018	1	Manhole	5,887	0	4,887	Root intrusion	\$10,000	\$48,870	\$58,870
843864	1/9/2018	1/9/2018	1	Manhole	550	0	0	Debris from Construction	\$10,000	\$0	\$10,000
843863	1/10/2018	1/10/2018	1	Force Main; Other (Specify Below); Pump Station	3,862	0	2,862	Pipe Structural Problem/Failure	\$10,000	\$28,620	\$38,620
844109	1/18/2018	1/18/2018	1	Manhole	381	0	0	Root Intrusion	\$10,000	\$0	\$10,000
844547	1/27/2018	1/31/2018	5	Lateral Clean Out (Public)	690	690	0	Debris-General	\$50,000	\$0	\$50,000
845272	2/25/2018	2/26/2018	2	Lateral Clean Out (Public)	112	0	0	Root Intrusion	\$20,000	\$0	\$20,000
846148	4/1/2018	4/1/2018	1	Lateral Clean Out (Public)	574	574	0	Debris-General	\$10,000	\$0	\$10,000
846964	5/3/2018	5/3/2018	1	Lateral Clean Out (Private)	1,483	1,483	0	Debris from Construction	\$10,000	\$0	\$10,000
850907	9/6/2018	9/6/2018	1	Lateral Clean Out (Private)	1,036	1,036	0	Root Intrusion	\$10,000	\$0	\$10,000
851679	10/6/2018	10/6/2018	1	Manhole	915	915	0	Root Intrusion	\$10,000	\$0	\$10,000
853541	10/8/2018	10/9/2018	2	Lateral Clean Out (Public)	60	0	0	Root Intrusion	\$20,000	\$0	\$20,000

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852546	10/29/2018	10/29/2018	1	Pump station	16	0	0	Stoppage in upstream mainline broken	\$10,000	\$0	\$10,000
855663	1/6/2019	1/24/2019	19	Lateral Clean Out (Private)	606	0	0	Grease Deposition	\$190,000	\$0	\$190,000
855215	1/7/2019	1/7/2019	1	Lateral Clean Out (Private)	4,395	0	3,395	Root intrusion	\$10,000	\$33,950	\$43,950
855924	2/2/2019	2/2/2019	1	Lateral Clean Out (Public)	35	0	0	Grease deposition (FOG)	\$10,000	\$0	\$10,000
855974	2/2/2019	2/4/2019	3	Lateral Clean Out (Public); Manhole	8,854	0	7,854	Root Intrusion	\$30,000	\$78,540	\$108,540
856041	2/9/2019	2/9/2019	1	Upper Lateral (Private)	10	0	0	Disconnected second upper lateral	\$10,000	\$0	\$10,000
856132	2/13/2019	2/13/2019	1	Manhole	220	0	0	Root Intrusion	\$10,000	\$0	\$10,000
856181	2/14/2019	2/14/2019	1	Lateral Clean Out (Public)	84	0	0	Root Intrusion	\$10,000	\$0	\$10,000
856826	2/19/2019	3/5/2019	15	Lateral Clean Out (Public)	2,870	0	1,870	Vandalism	\$150,000	\$18,700	\$168,700
856452	2/22/2019	2/22/2019	1	Inside Building or Structure; Manhole; Other sewer system structure	560	560	0	Root Intrusion	\$10,000	\$0	\$10,000

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856828	2/28/2019	2/28/2019	1	Inside Building or Structure; Lateral Clean Out (Private)	2,367	0	1,367	Debris-General	\$10,000	\$13,670	\$23,670
857141	3/5/2019	3/20/2019	16	Lateral Clean Out (Public)	2,898	0	1,898	Root Intrusion	\$160,000	\$18,980	\$178,980
856923	3/11/2019	3/11/2019	1	Lateral Cleanout (Public); Manhole	214	214	0	Debris-General	\$10,000	\$0	\$10,000
857237	3/24/2019	3/24/2019	1	Lateral Clean Out (Public)	54	0	0	Damage by Others Not Related	\$10,000	\$0	\$10,000
857372	3/27/2019	3/27/2019	1	Lateral Cleanout (Private); Lateral Clean Out (Public)	121	0	0	Root Intrusion	\$10,000	\$0	\$10,000
857439	3/30/2019	3/30/2019	1	Inside Building or Structure; Lateral Clean Out (Private)	3,822	3,822	0	Grease Deposition	\$10,000	\$0	\$10,000
857446	4/2/2019	4/2/2019	1	Lateral Clean Out (Public)	263	0	0	Debris-General	\$10,000	\$0	\$10,000
857806	4/3/2019	4/17/2019	15	Lateral Clean Out (Public)	3,956	0	2,956	Debris-General	\$150,000	\$29,560	\$179,560
858839	4/6/2019	6/6/2019	62	Lateral Clean Out (Public)	13,949	0	12,949	Root Intrusion	\$620,000	\$129,490	\$749,490
857765	4/13/2019	4/13/2019	1	Manhole	488	488	0	Root Intrusion	\$10,000	\$0	\$10,000
858465	5/18/2019	5/20/2019	3	Lateral Clean Out (Public)	290	0	0	Root Intrusion	\$30,000	\$0	\$30,000

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SSO_EVENT_ID	Spill Start Date	Spill End Date	Days	Spill Location	Gallons Discharged to Surface Water	Gallons Recovered	Gallons Discharged to Surface Water (Less 1,000 Gallons)	Cause of Spill	Liability at \$10,000/day	Liability at \$10/gallon	Maximum Penalty
861665	8/20/2019	9/1/2019	13	Lateral Clean Out (Public)	1,193	0	193	Root Intrusion	\$130,000	\$1,930	\$131,930
860757	8/24/2019	8/25/2019	2	Lateral Clean Out (Public)	29	29	0	Root Intrusion	\$20,000	\$0	\$20,000
863323	12/1/2019	12/1/2019	1	Backflow Prevention Device; Inside Building or Structure	128	0	0	Debris-General	\$10,000	\$0	\$10,000
863415	12/7/2019	12/7/2019	1	Lateral Clean Out (Public)	59	0	0	Root Intrusion	\$10,000	\$0	\$10,000
863955	12/28/2019	12/28/2019	1	Lateral Clean Out (Public)	113	113	0	Root Intrusion	\$10,000	\$0	\$10,000
864130	1/7/2020	1/9/2020	3	Lateral Clean Out (Public)	4,756	0	3,756	Root Intrusion	\$30,000	\$37,560	\$67,560
864327	1/18/2020	1/18/2020	1	Lateral Clean Out (Public)	13	13	0	Root Intrusion	\$10,000	\$0	\$10,000
864428	1/24/2020	1/25/2020	2	Lateral Clean Out (Private); Lateral Clean Out (Public)	24	0	0	Debris-General	\$20,000	\$0	\$20,000
864718	1/28/2020	2/4/2020	8	Lateral Clean Out (Public)	774	774	0	Root Intrusion	\$80,000	\$0	\$80,000
865998	4/5/2020	4/5/2020	1	Manhole	986	0	0	Root Intrusion	\$10,000	\$0	\$10,000
866031	4/5/2020	4/6/2020	2	Lateral Clean Out (Public)	11,503	0	10,503	Root Intrusion	\$20,000	\$105,030	\$125,030
866099	4/10/2020	4/10/2020	1	Lateral Clean Out (Private)	1,479	1,479	0	Root Intrusion	\$10,000	\$0	\$10,000
866129	4/10/2020	4/10/2020	1	Lateral Clean Out (Public)	192	192	0	Debris-General	\$10,000	\$0	\$10,000
866181	4/12/2020	4/15/2020	4	Lateral Clean Out (Public)	562	562	0	Root Intrusion	\$40,000	\$0	\$40,000

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866408	4/25/2020	4/26/2020	2	Lateral Clean Out (Private)	6,598	0	5,598	Root Intrusion	\$20,000	\$55,980	\$75,980
867209	6/1/2020	6/1/2020	1	Manhole	251	251	0	Root Intrusion	\$10,000	\$0	\$10,000
869599	10/3/2020	10/7/2020	5	Lateral Clean Out (Private); Lateral Clean Out (Public)	585	0	0	Debris-General	\$50,000	\$0	\$50,000
869758	10/10/2020	10/15/2020	6	Lateral Clean Out (Private); Lateral Clean Out (Public)	5	5	0	Root Intrusion	\$60,000	\$0	\$60,000
870899	12/8/2020	12/8/2020	1	Other (specify below)	193	193	0	Construction Diversion Failure	\$10,000	\$0	\$10,000
871074	12/15/2020	12/15/2020	1	Lateral Clean Out (Public)	164	164	0	Root Intrusion	\$10,000	\$0	\$10,000
871176	12/18/2020	12/18/2020	1	Manhole	567	567	0	Root Intrusion	\$10,000	\$0	\$10,000
871424	1/1/2021	1/2/2021	2	Lateral Clean Out (Public)	216	0	0	Debris-General	\$20,000	\$0	\$20,000
871425	1/2/2021	1/2/2021	1	Lateral Clean Out (Public)	47	0	0	Debris-General	\$10,000	\$0	\$10,000
871825	1/23/2021	1/23/2021	1	Inside Building or Structure; Lateral Clean Out (Private), Other (Please Specify Below)	3,203	3,203	0	Debris- General	\$10,000	\$0	\$10,000
872288	2/9/2021	2/11/2021	3	Lateral Clean Out (Private)	97	0	0	Root Intrusion	\$30,000	\$0	\$30,000

SSO_EVENT_ID	Spill Start Date	Spill End Date	Days	Spill Location	Gallons Discharged to Surface Water	Gallons Recovered	Gallons Discharged to Surface Water (Less 1,000 Gallons)	Cause of Spill	Liability at \$10,000/day	Liability at \$10/gallon	Maximum Penalty
872673	2/28/2021	3/1/2021	2	Manhole	9,887	9,887	0	Grease Deposition (FOG)	\$20,000	\$0	\$20,000
872927	3/12/2021	3/12/2021	1	Lateral Clean Out (Private)	96	96	0	Grease Deposition (FOG)	\$10,000	\$0	\$10,000
873704	4/19/2021	4/22/2021	4	Lateral Clean Out (Public)	1,709	0	709	Root Intrusion	\$40,000	\$7,090	\$47,090
874259	5/18/2021	5/21/2021	4	Lateral Clean Out (Public)	3,992	0	2,992	Debris from Lateral	\$40,000	\$29,920	\$69,920
874946	6/21/2021	6/21/2021	1	Manhole	3,093	1,564	529	Vandalism	\$10,000	\$5,290	\$15,290
875984	8/22/2021	8/23/2021	2	Lateral Clean Out (Public)	199	199	0	Root intrusion	\$20,000	\$0	\$20,000
876185	8/24/2021	8/31/2021	8	Lateral Clean Out (Public)	960	0	0	Root intrusion	\$80,000	\$0	\$80,000
2017 Enforcement Policy AR Totals	N/A	N/A	255	N/A	115,567	29,075	<b>64,318</b>	N/A	\$2,550,000	\$643,180	\$3,193,180

N/A – Not Applicable

**Table A-4. Violation 4: Spills Discharged Outside the American River Watershed**

SSO_EVENT_ID	Spill Start Date	Spill End Date	Days	Spill Location	Gallons Discharged to Surface Water	Gallons Recovered	Gallons Discharged to Surface Water (Less 1,000 Gallons)	Cause of Spill	Liability at \$10,000/day	Liability at \$10/gallon	Maximum Penalty
830308	12/1/2016	12/1/2016	1	Lateral Clean Out (Public)	465	465	0	Root Intrusion	\$10,000	\$0	\$10,000
830689	12/10/2016	12/10/2016	1	Lateral Clean Out (Public)	11	0	0	Root Intrusion	\$10,000	\$0	\$10,000
830823	12/13/2016	12/14/2016	2	Lateral Clean Out (Public)	1,770	1,770	0	Grease Deposition (FOG)	\$20,000	\$0	\$20,000

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831254	12/24/2016	12/27/2016	4	Lateral Clean Out (Public)	9,293	0	8,293	Grease Deposition (FOG)	\$40,000	\$82,930	\$122,930
831527	1/5/2017	1/5/2017	1	Lateral Clean Out (Public)	358	0	0	Root Intrusion	\$10,000	\$0	\$10,000
831727	1/6/2017	1/9/2017	4	Lateral Clean Out (Public)	674	0	0	Root Intrusion	\$40,000	\$0	\$40,000
831583	1/7/2017	1/8/2017	2	Lateral Clean Out (Public)	31	0	0	Debris-General	\$20,000	\$0	\$20,000
831666	1/7/2017	1/9/2017	3	Lateral Clean Out (Public)	628	0	0	Debris-General	\$30,000	\$0	\$30,000
831575	1/8/2017	1/8/2017	1	Manhole	22,750	0	21,750	Root Intrusion	\$10,000	\$217,500	\$227,500
831686	1/8/2017	1/8/2017	1	Lateral Clean Out (Public)	3,457	0	2,457	Root Intrusion	\$10,000	\$24,570	\$34,570
831565	1/8/2017	1/8/2017	1	Lateral Clean Out (Public); Manhole	3,071	0	2,071	Debris in Pump Station	\$10,000	\$20,710	\$30,710
833546	1/8/2017	1/9/2017	2	Manhole	1,492	0	492	Storm Surge	\$20,000	\$4,920	\$24,920
831588	1/8/2017	1/8/2017	1	Lateral Clean Out (Public)	456	0	0	Grease Deposition (FOG)	\$10,000	\$0	\$10,000
831600	1/8/2017	1/8/2017	1	Lateral Clean Out (Public)	430	0	0	Root Intrusion	\$10,000	\$0	\$10,000

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831734	1/10/2017	1/11/2017	2	Gravity Main Line; Manhole	48,548	0	47,548	Storm Surge	\$20,000	\$475,480	\$495,480
831787	1/10/2017	1/11/2017	2	Lateral Clean Out (Public); Manhole	31,182	0	30,182	Storm Surge	\$20,000	\$301,820	\$321,820
831783	1/10/2017	1/11/2017	2	Lateral Clean Out (Public); Manhole	22,561	0	21,561	Storm Surge	\$20,000	\$215,610	\$235,610
831781	1/10/2017	1/10/2017	1	Inside Building or Structure; Manhole	10,000	0	9,000	Pump Station Failure-Mechanical	\$10,000	\$90,000	\$100,000
833183	1/10/2017	1/10/2017	1	Lateral Clean Out (Public)	3	0	0	Debris-General	\$10,000	\$0	\$10,000
833440	1/10/2017	1/10/2017	1	Lateral Clean Out (Public)	2	0	0	Root Intrusion	\$10,000	\$0	\$10,000
831867	1/12/2017	1/12/2017	1	Inside Building or Structure; Lateral Clean Out (Public)	9	0	0	Root Intrusion	\$10,000	\$0	\$10,000
832081	1/23/2017	1/23/2017	1	Lateral Clean Out (Public); Manhole	641	0	0	Grease Deposition (FOG)	\$10,000	\$0	\$10,000
832117	1/24/2017	1/24/2017	1	Force Main	1,073	1,073	0	Pipe Structural Problem/Failure	\$10,000	\$0	\$10,000
832755	2/6/2017	2/7/2017	2	Lateral Clean Out (Public)	14,898	0	13,898	Storm Surge	\$20,000	\$138,980	\$158,980
832575	2/6/2017	2/7/2017	2	Lateral Clean Out (Public)	25	0	0	Root Intrusion	\$20,000	\$0	\$20,000
832849	2/7/2017	2/7/2017	1	Other Sewer System Structure	7,127	0	6,127	Storm Surge	\$10,000	\$61,270	\$71,270
832865	2/8/2017	2/11/2017	4	Lateral Clean Out (Public)	340	0	0	Root Intrusion	\$40,000	\$0	\$40,000
832899	2/9/2017	2/9/2017	1	Lateral Clean Out(Public);Manhole	6,710	0	5,710	Storm Surge	\$10,000	\$57,100	\$67,100
832819	2/9/2017	2/9/2017	1	Lateral Clean Out (Public)	2	0	0	Debris-General	\$10,000	\$0	\$10,000

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832962	2/19/2017	2/19/2017	1	Inside Building or Structure; Lateral Clean Out (Public)	12	0	0	Root Intrusion	\$10,000	\$0	\$10,000
833174	2/20/2017	2/20/2017	1	Other Sewer System Structure	17,885	0	16,885	Storm Surge	\$10,000	\$168,850	\$178,850
833151	2/20/2017	2/20/2017	1	Lateral Clean Out (Public)	6,175	0	5,175	Storm Surge	\$10,000	\$51,750	\$61,750
833655	2/20/2017	2/20/2017	1	Manhole	1,298	0	298	Flow Exceeded Capacity (Separate CS Only)	\$10,000	\$2,980	\$12,980
833984	3/24/2017	3/24/2017	1	Lateral Clean Out (Public)	3	0	0	Debris-General	\$10,000	\$0	\$10,000
834220	3/28/2017	3/28/2017	1	Inside Building or Structure; Lateral Clean Out (Private); Lateral Clean Out (Public)	28	0	0	Root Intrusion	\$10,000	\$0	\$10,000
834472	4/8/2017	4/8/2017	1	Gravity Mainline	284	0	0	Vandalism	\$10,000	\$0	\$10,000
834495	4/10/2017	4/10/2017	1	Manhole	14,878	14,878	0	Vandalism	\$10,000	\$0	\$10,000
834769	4/12/2017	4/26/2017	15	Lateral Clean Out (Public)	3,348	3,348	0	Grease Deposition	\$150,000	\$0	\$150,000
835097	5/9/2017	5/9/2017	1	Lateral Clean Out (Private); Lateral Clean Out (Public)	124	124	0	Grease Deposition	\$10,000	\$0	\$10,000
836386	6/28/2017	6/28/2017	1	Lateral Clean Out (Public)	330	330	0	mechanical plug	\$10,000	\$0	\$10,000

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836396	6/30/2017	7/1/2017	2	Lateral Clean Out (Public)	5,726	5,726	0	Broken inside drop connection in manhole	\$20,000	\$0	\$20,000
840307	9/22/2017	9/23/2017	2	Manhole	949	0	0	Grease Deposition	\$20,000	\$0	\$20,000
840400	9/25/2017	9/27/2017	3	Inside Building or Structure; Lateral Clean Out (Public)	1,329	0	329	Diatomaceous Earth	\$30,000	\$3,290	\$33,290
840780	10/9/2017	10/10/2017	2	Lateral Clean Out (Public)	696	696	0	Root Intrusion	\$20,000	\$0	\$20,000
841702	11/15/2017	11/16/2017	2	Lateral Clean Out (Public)	386	0	0	Debris-Rags	\$20,000	\$0	\$20,000
841980	11/20/2017	11/29/2017	10	Lateral Clean Out (Public)	809	0	0	Grease Deposition	\$100,000	\$0	\$100,000
842782	11/26/2017	11/26/2017	1	Lateral Clean Out (Public)	26	0	0	Vandalism	\$10,000	\$0	\$10,000
843502	12/29/2017	12/30/2017	2	Manhole	4,160	4,160	0	Root Intrusion	\$20,000	\$0	\$20,000
843551	12/31/2017	1/2/2018	3	Lateral Clean Out (Public)	50	50	0	Root Intrusion	\$30,000	\$0	\$30,000
843510	1/1/2018	1/1/2018	1	Lateral Clean Out (Private); Manhole	829	829	0	Grease Deposition	\$10,000	\$0	\$10,000
843662	1/3/2018	1/6/2018	4	Manhole	4,320	0	3,320	Debris from Construction	\$40,000	\$33,200	\$73,200
843810	1/5/2018	1/9/2018	5	Lateral Clean Out (Public)	382	0	0	Root Intrusion	\$50,000	\$0	\$50,000
843851	1/10/2018	1/11/2018	2	Manhole	2,852	0	1,852	Damage by Others Not Related	\$20,000	\$18,520	\$38,520

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844146	1/15/2018	1/20/2018	6	Inside Building or Structure; Lateral Clean Out (Private); Lateral Clean Out (Public)	2,023	0	1,023	Root Intrusion	\$60,000	\$10,230	\$70,230
844178	1/18/2018	1/22/2018	5	Lateral Clean Out (Public)	662	0	0	Root Intrusion	\$50,000	\$0	\$50,000
844352	1/21/2018	1/26/2018	6	Lateral Clean Out (Public)	253	0	0	Debris-General	\$60,000	\$0	\$60,000
845214	2/21/2018	2/23/2018	3	Lateral Clean Out (Public)	864	0	0	Root Intrusion	\$30,000	\$0	\$30,000
845281	2/25/2018	2/26/2018	2	Lateral Clean Out (Public)	28	0	0	Root Intrusion	\$20,000	\$0	\$20,000
845396	2/27/2018	2/27/2018	1	Lateral Clean Out (Public)	1,950	0	950	Vandalism	\$10,000	\$9,500	\$19,500
845388	2/28/2018	2/28/2018	1	Lateral Clean Out (Public)	940	0	0	Vandalism	\$10,000	\$0	\$10,000
845471	3/4/2018	3/5/2018	2	Lateral Clean Out (Public)	4,774	0	3,774	Grease Deposition	\$20,000	\$37,740	\$57,740
845626	3/7/2018	3/8/2018	2	Lateral Clean Out (Public)	541	0	0	Root Intrusion	\$20,000	\$0	\$20,000
845844	3/15/2018	3/19/2018	5	Lateral Clean Out (Private)	774	0	0	Root Intrusion	\$50,000	\$0	\$50,000
846070	3/23/2018	3/26/2018	4	Lateral Clean Out (Public)	247	0	0	Debris-General	\$40,000	\$0	\$40,000
846356	4/6/2018	4/7/2018	2	Lateral Clean Out (Public)	13,287	0	12,287	Grease Deposition	\$20,000	\$122,870	\$142,870
846544	4/9/2018	4/16/2018	8	Lateral Clean Out (Public)	380	0	0	Debris-General	\$80,000	\$0	\$80,000
846693	4/20/2018	4/20/2018	1	Lateral Clean Out (Public)	43	0	0	Root Intrusion	\$10,000	\$0	\$10,000

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847369	5/16/2018	5/16/2018	1	Inside Building or Structure; Lateral Clean Out (Private)	310	0	0	Piece of hose and some wire in lateral	\$10,000	\$0	\$10,000
848609	6/25/2018	6/25/2018	1	Lateral Clean Out (Public)	107	107	0	Root Intrusion	\$10,000	\$0	\$10,000
848927	7/7/2018	7/8/2018	2	Inside Building or Structure; Lateral Clean Out (Private); Lateral Clean Out (Public)	21	21	0	Debris-General	\$20,000	\$0	\$20,000
850819	9/3/2018	9/4/2018	2	Lateral Clean Out (Private)	280	280	0	Vandalism	\$20,000	\$0	\$20,000
851672	10/2/2018	10/5/2018	4	Lateral Clean Out (Public)	327	0	0	Debris-General	\$40,000	\$0	\$40,000
852541	11/3/2018	11/4/2018	2	Lateral Clean Out (Public)	267	267	0	Root Intrusion	\$20,000	\$0	\$20,000
854999	11/30/2018	12/12/2018	13	Lateral Clean Out (Private)	9,973	0	8,973	Grease Deposition	\$130,000	\$89,730	\$219,730
854321	11/30/2018	12/7/2018	8	Lateral Clean Out (Public)	936	0	0	Root Intrusion	\$80,000	\$0	\$80,000
854360	12/9/2018	12/10/2018	2	Lateral Clean Out (Public)	139	139	0	Debris-General	\$20,000	\$0	\$20,000
854664	12/20/2018	12/21/2018	2	Lateral Clean Out (Public)	171	0	0	Root Intrusion	\$20,000	\$0	\$20,000
855240	1/3/2019	1/10/2019	8	Lateral Clean Out (Public)	2,366	0	1,366	Debris-General	\$80,000	\$13,660	\$93,660
855151	1/3/2019	1/6/2019	4	Lateral Clean Out (Public)	507	0	0	Root Intrusion	\$40,000	\$0	\$40,000
855250	1/9/2019	1/9/2019	1	Lateral Clean Out (Public)	38	0	0	Debris-General	\$10,000	\$0	\$10,000
855591	1/16/2019	1/22/2019	7	Lateral Clean Out (Public)	500	0	0	Vandalism	\$70,000	\$0	\$70,000

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855552	1/20/2019	1/20/2019	1	Lateral Clean Out (Public)	64	0	0	Root Intrusion	\$10,000	\$0	\$10,000
855574	1/20/2019	1/21/2019	2	Lateral Clean Out (Private); Lateral Clean Out (Public)	40	0	0	Debris-General	\$20,000	\$0	\$20,000
855923	2/2/2019	2/2/2019	1	Inside Building or Structure; Manhole	284	0	0	Root Intrusion	\$10,000	\$0	\$10,000
855929	2/2/2019	2/3/2019	2	Lateral Clean Out (Private); Lateral Clean Out (Public)	493	0	0	Debris-General	\$20,000	\$0	\$20,000
855980	2/2/2019	2/4/2019	3	Inside Building or Structure; Lateral Clean Out (Private)	215	0	0	Grease Deposition	\$30,000	\$0	\$30,000
856028	2/2/2019	2/7/2019	6	Lateral Clean Out (Private); Lateral Clean Out (Public)	476	0	0	Debris from Construction	\$60,000	\$0	\$60,000
856031	2/8/2019	2/8/2019	1	Lateral Clean Out (Private)	414	0	0	Root Intrusion	\$10,000	\$0	\$10,000
856038	2/9/2019	2/9/2019	1	Lateral Clean Out (Public); Manhole	630	0	0	Grease Deposition	\$10,000	\$0	\$10,000
856100	2/12/2019	2/12/2019	1	Lateral Clean Out (Public)	940	940	0	Grease Deposition	\$10,000	\$0	\$10,000
856235	2/12/2019	2/14/2019	3	Lateral Clean Out (Private)	363	0	0	Root Intrusion	\$30,000	\$0	\$30,000
856420	2/15/2019	2/19/2019	5	Inside Building or Structure; Lateral Clean Out (Private)	996	182	0	Damage by Others Not Related	\$50,000	\$0	\$30,000
856285	2/16/2019	2/17/2019	2	Lateral Clean Out (Public)	150	0	0	Damaged by construction for Cablecom	\$20,00	\$0	\$20,000

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856689	2/23/2019	2/27/2019	5	Lateral Clean Out (Public)	292	0	0	Debris-General	\$50,000	\$0	\$50,000
856628	2/25/2019	2/25/2019	1	Lateral Clean Out (Public)	3	0	0	Root Intrusion	\$10,000	\$0	\$10,000
856684	2/25/2019	2/28/2019	4	Lateral Clean Out (Public)	817	0	0	Grease Deposition	\$40,000	\$0	\$40,000
856738	2/26/2019	2/27/2019	2	Lateral Cleanout (Public); Manhole	22,842	0	21,842	Heavy storms	\$20,000	\$218,420	\$238,420
856768	2/26/2019	2/27/2019	2	Lateral Clean Out (Public)	1,977	0	977	Heavy storms	\$20,000	\$9,770	\$29,770
856735	2/27/2019	2/27/2019	1	Manhole	1,980	0	980	Heavy storms	\$10,000	\$9,800	\$19,800
856807	2/28/2019	3/3/2019	4	Lateral Clean Out (Public)	454	0	0	Root Intrusion	\$40,000	\$0	\$40,000
856825	3/3/2019	3/4/2019	2	Manhole	367	0	0	Root Intrusion	\$20,000	\$0	\$20,000
856898	3/9/2019	3/10/2019	2	Lateral Clean Out (Public)	276	0	0	Grease Deposition	\$20,000	\$0	\$20,000
857140	3/19/2019	3/20/2019	2	Lateral Clean Out (Public)	168	0	0	Vandalism	\$20,000	\$0	\$20,000
857225	3/22/2019	3/22/2019	1	Lateral Clean Out (Public)	907	907	0	Grease Deposition	\$10,000	\$0	\$10,000
857495	3/27/2019	4/3/2019	8	Lateral Clean Out (Private)	9,771	0	8,771	Root Intrusion	\$80,000	\$87,710	\$167,710
857358	3/27/2019	3/27/2019	1	Lateral Cleanout (Private); Lateral Clean Out (Public)	1,476	462	14	Root Intrusion	\$10,000	\$140	\$10,140
857616	4/7/2019	4/9/2019	3	Lateral Clean Out (Public)	237	0	0	Debris-General	\$30,000	\$0	\$30,000
858022	4/27/2019	4/28/2019	2	Lateral Clean Out (Public)	245	0	0	Root Intrusion	\$20,000	\$0	\$20,000
858071	4/29/2019	4/29/2019	1	Lateral Clean Out (Public)	23	0	0	Root Intrusion	\$10,000	\$0	\$10,000
858092	4/30/2019	4/30/2019	1	Lateral Clean Out (Public)	139	139	0	Debris-General	\$10,000	\$0	\$10,000

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858403	5/19/2019	5/19/2019	1	Lateral Clean Out (Public)	397	0	0	Root Intrusion	\$10,000	\$0	\$10,000
858867	6/8/2019	6/8/2019	1	Manhole	261	0	0	Root Intrusion	\$10,000	\$0	\$10,000
859269	6/16/2019	6/20/2019	5	Lateral Clean Out (Public)	23	0	0	Debris-General	\$50,000	\$0	\$50,000
862047	10/1/2019	10/8/2019	8	Lateral Clean Out (Public)	135	135	0	Root Intrusion	\$80,000	\$0	\$80,000
862980	11/3/2019	11/17/2019	15	Lateral Clean Out (Public)	104	0	0	Vandalism	\$150,000	\$0	\$150,000
863297	11/29/2019	11/30/2019	2	Lateral Clean Out (Public)	184	7	0	Root Intrusion	\$20,000	\$0	\$20,000
863298	12/1/2019	12/1/2019	1	Lateral Clean Out (Public)	95	0	0	Root Intrusion	\$10,000	\$0	\$10,000
863491	12/9/2019	12/10/2019	2	Manhole	41,631	0	40,631	Manhole was filled with debris	\$20,000	\$406,310	\$426,310
863716	12/14/2019	12/21/2019	8	Lateral Clean Out (Public)	1,457	0	457	Root Intrusion	\$80,000	\$4,570	\$84,570
863702	12/17/2019	12/19/2019	3	Lateral Clean Out (Public)	347	0	0	Debris-General	\$30,000	\$0	\$30,000
863976	12/30/2019	12/30/2019	1	Lateral Clean Out (Public)	51	51	0	Root Intrusion	\$10,000	\$0	\$10,000
863985	12/30/2019	12/30/2019	1	Lateral Clean Out (Public)	65	65	0	Root Intrusion	\$10,000	\$0	\$10,000
864041	12/30/2019	12/30/2019	1	Lateral Clean Out (Public)	190	0	0	Debris-General	\$10,000	\$0	\$10,000
864049	1/3/2020	1/4/2020	2	Lateral Clean Out (Public)	67	0	0	Root Intrusion	\$20,000	\$0	\$20,000
864101	1/5/2020	1/5/2020	1	Lateral Clean Out (Private)	3,587	3,587	0	Grease Deposition	\$10,000	\$0	\$10,000
864256	1/16/2020	1/16/2020	1	Inside Building or Structure; Lateral Clean Out (Private)	23	0	0	Root Intrusion	\$10,000	\$0	\$10,000

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864310	1/16/2020	1/16/2020	1	Manhole	40	0	0	Grease Deposition	\$10,000	\$0	\$10,000
864716	2/4/2020	2/6/2020	3	Lateral Clean Out (Private); Lateral Clean Out (Public)	179	179	0	Debris-Wipes/Non-Dispersible	\$30,000	\$0	\$30,000
865328	2/27/2020	2/28/2020	2	Lateral Clean Out (Public)	199	199	0	Debris-General	\$20,000	\$0	\$20,000
865455	3/7/2020	3/7/2020	1	Lateral Clean Out (Public)	76	0	0	Debris-General	\$10,000	\$0	\$10,000
865773	3/10/2020	3/19/2020	10	Lateral Clean Out (Private); Lateral Clean Out (Public)	707	0	0	Root Intrusion	\$100,000	\$0	\$100,000
865545	3/11/2020	3/12/2020	2	Lateral Clean Out (Public)	10	5	0	Debris-General	\$20,000	\$0	\$20,000
865781	3/17/2020	3/19/2020	3	Lateral Clean Out (Public)	480	0	0	Root Intrusion	\$30,000	\$0	\$30,000
866160	4/10/2020	4/13/2020	4	Lateral Clean Out (Public)	533	0	0	Grease Deposition	\$40,000	\$0	\$40,000
866254	4/17/2020	4/17/2020	1	Lateral Clean Out (Private)	1,157	0	157	Root Intrusion	\$10,000	\$1,570	\$11,570
866953	5/11/2020	5/21/2020	11	Lateral Clean Out (Public)	1,966	0	966	Debris-General	\$110,000	\$9,660	\$119,660
867054	5/21/2020	5/24/2020	4	Lateral Clean Out (Public)	639	0	0	Debris-General	\$40,000	\$0	\$40,000
867238	5/22/2020	6/3/2020	13	Lateral Clean Out (Public)	2,120	0	1,120	Root Intrusion	\$130,000	\$11,200	\$141,200
867380	6/5/2020	6/8/2020	4	Lateral Clean Out (Public)	554	0	0	Root Intrusion	\$40,000	\$0	\$40,000
868775	9/1/2020	9/1/2020	1	Lateral Clean Out (Public)	27	27	0	Root Intrusion	\$10,000	\$0	\$10,000
869884	10/18/2020	10/20/2020	3	Lateral Clean Out (Private); Lateral Clean Out (Public)	98	98	0	Debris-General	\$30,000	\$0	\$30,000

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869951	10/24/2020	10/24/2020	1	Lateral Clean Out (Public)	55	0	0	Root Intrusion	\$10,000	\$0	\$10,000
870094	10/27/2020	10/28/2020	2	Lateral Clean Out (Public)	202	202	0	Debris-General	\$20,000	\$0	\$20,000
870088	10/27/2020	10/27/2020	1	Lateral Clean Out (Public)	891	891	0	Grease Deposition (FOG)	\$10,000	\$0	\$10,000
870424	11/13/2020	11/13/2020	1	Lateral Clean Out (Public)	17	0	0	Debris-General	\$10,000	\$0	\$10,000
870789	11/20/2020	12/1/2020	12	Lateral Clean Out (Public)	2,223	0	1,223	Root Intrusion	\$120,000	\$12,230	\$132,230
870759	11/30/2020	11/30/2020	1	Lateral Clean Out (Public)	7	7	0	Root Intrusion	\$10,000	\$0	\$10,000
871096	12/13/2020	12/15/2020	3	Lateral Clean Out (Public)	251	0	0	Root Intrusion	\$30,000	\$0	\$30,000
871300	12/23/2020	12/23/2020	1	Lateral Clean Out (Public)	1	1	0	Root Intrusion	\$10,000	\$0	\$10,000
871482	12/24/2020	1/7/2021	15	Lateral Clean Out (Public)	2,880	0	1,880	Root Intrusion	\$150,000	\$18,800	\$168,800
871342	12/26/2020	12/28/2020	3	Lateral Clean Out (Public)	374	0	0	Root Intrusion	\$30,000	\$0	\$30,000
871363	12/28/2020	12/29/2020	2	Lateral Clean Out (Public)	105	0	0	Root Intrusion	\$20,000	\$0	\$20,000
871397	12/24/2020	1/1/2021	9	Lateral Clean Out (Public)	1,575	0	575	Vandalism	\$90,000	\$5,750	\$95,750
871440	1/4/2021	1/4/2021	1	Lateral Clean Out (Public)	41	0	0	Debris-General	\$10,000	\$0	\$10,000
871588	1/6/2021	1/13/2021	8	Lateral Clean Out (Public)	1,085	0	85	Root Intrusion	\$80,000	\$850	\$80,000
871587	1/11/2021	1/13/2021	3	Lateral Clean Out (Public)	424	424	0	Root Intrusion	\$30,000	\$0	\$30,000
871747	1/19/2021	1/20/2021	2	Lateral Clean Out (Public)	8	8	0	Root Intrusion	\$20,000	\$0	\$20,000

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871806	1/21/2021	1/22/2021	2	Lateral Clean Out (Public)	223	0	0	Root Intrusion	\$20,000	\$0	\$20,000
872066	1/21/2021	1/27/2021	7	Lateral Clean Out (Public)	687	0	0	Root Intrusion	\$70,000	\$0	\$70,000
872043	1/22/2021	1/29/2021	8	Lateral Clean Out (Public)	1,310	0	310	Root Intrusion	\$80,000	\$3,100	\$83,100
872078	1/25/2021	1/27/2021	3	Lateral Clean Out (Public)	238	0	0	Grease Deposition (FOG)	\$30,000	\$0	\$30,000
872068	1/27/2021	1/27/2021	1	Lateral Clean Out (Public)	18	0	0	Grease Deposition (FOG)	10,000	\$0	\$10,000
872069	1/28/2021	1/28/2021	1	Inside Building or Structure; Lateral Clean Out (Public)	26	0	0	Debris-General	\$10,000	\$0	\$10,000
872026	1/28/2021	1/28/2021	1	Lateral Clean Out (Public)	12	0	0	Root Intrusion	\$10,000	\$0	\$10,000
872162	1/31/2021	2/3/2021	4	Lateral Clean Out (Private)	376	0	0	Root Intrusion	\$40,000	\$0	\$40,000
872299	2/8/2021	2/15/2021	8	Inside Building of Structure; Lateral Clean Out (Public)	887	0	0	Debris-General	\$80,000	\$0	\$80,000
872218	2/8/2021	2/8/2021	1	Manhole	213	213	0	Root Intrusion	\$10,000	\$0	\$10,000
872344	2/14/2021	2/16/2021	3	Lateral Clean Out (Public)	212	0	0	Root Intrusion	\$30,000	\$0	\$30,000
872945	2/20/2021	3/13/2021	22	Lateral Clean Out (Public)	2,982	0	1,982	Debris-General	\$220,000	\$19,820	\$239,820
872464	2/22/2021	2/22/2021	1	Lateral Clean Out (Public); Manhole	360	360	0	Root Intrusion	\$10,000	\$0	\$10,000
872838	3/7/2021	3/10/2021	4	Lateral Clean Out (Private)	650	0	0	Debris-General	\$40,000	\$0	\$40,000

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872944	3/7/2021	3/14/2021	8	Lateral Clean Out (Public)	703	0	0	Root Intrusion	\$80,000	\$0	\$80,000
872924	3/9/2021	3/13/2021	5	Lateral Clean Out (Public)	731	0	0	Root Intrusion	\$50,000	\$0	\$50,000
872827	3/9/2021	3/9/2021	1	Lateral Clean Out (Public)	27	0	0	Root Intrusion	\$10,000	\$0	\$10,000
872990	3/16/2021	3/17/2021	2	Lateral Clean Out (Public); Manhole	2,167	2,167	0	Root Intrusion	\$20,000	\$0	\$20,000
872992	3/18/2021	3/18/2021	1	Inside Building or Structure; Lateral Clean Out (Public)	27	0	0	Root Intrusion	\$10,000	\$0	\$10,000
874711	6/11/2021	6/12/2021	2	Manhole	161	0	0	Grease Deposition (FOG)	\$20,000	\$0	\$20,000
874803	6/17/2021	6/17/2021	1	Lateral Clean Out (Private)	8	8	0	Root Intrusion	\$10,000	\$0	\$10,000
875050	6/26/2021	6/27/2021	2	Manhole	1,878	1,878	0	Damage by Others Not Related to CS Construction/Maintenance	\$20,000	\$0	\$20,000
875117	6/29/2021	6/30/2021	2	Manhole	577	577	0	Debris from Construction	\$20,000	\$0	\$20,000
875717	8/3/2021	8/5/2021	3	Lateral Clean Out (Public)	384	0	0	Debris-General	\$30,000	\$0	\$30,000
875985	8/9/2021	8/23/2021	15	Lateral Clean Out (Public)	2,655	0	1,655	Debris-General	\$150,000	\$16,550	\$166,550
876318	8/21/2021	9/8/2021	19	Lateral Clean Out (Public)	3,285	0	2,285	Grease deposition (FOG)	\$190,000	\$22,850	\$212,850
876473	9/10/2021	9/16/2021	7	Lateral Clean Out (Public)	1,115	1,115	0	Root intrusion	\$70,000	\$0	\$70,000

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876524	9/17/2021	9/21/2021	5	Lateral Clean Out (Public)	779	0	0	Root intrusion	\$50,000	\$0	\$50,000
876523	9/20/2021	9/21/2021	2	Lateral Clean Out (Public)	23	0	0	Root intrusion	\$20,000	\$0	\$20,000
876632	9/23/2021	9/25/2021	3	Lateral Clean Out (Public)	346	0	0	Root intrusion	\$30,000	\$0	\$30,000
2010 EP Outside the AR Totals	N/A	N/A	80	N/A	240,376	27,714	191,776	N/A	\$800,000	\$1,917,760	\$2,717,760
2017 EP Outside the AR Totals	N/A	N/A	532	N/A	194,858	21,383	119,455	N/A	\$5,320,000	\$1,194,550	\$6,514,550
<b>Overall Outside the AR Totals</b>	N/A	N/A	<b>612</b>	N/A	<b>435,234</b>	<b>49,097</b>	<b>311,231</b>	N/A	<b>\$6,120,000</b>	<b>\$3,112,310</b>	<b>\$9,232,310</b>

N/A – Not Applicable

**Settlement Agreement and Stipulation for Entry of  
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Attachment B  
Penalty Methodology  
Sacramento Area Sewer District  
Sacramento County**

This document provides details on the administrative civil liability penalty methodology related to the Sacramento Area Sewer District's (Discharger's) sanitary sewer overflows (SSOs). As listed in Attachment A, a total of 269 spills occurred between 2 October 2016 and 30 September 2021, with a total volume of 958,875 gallons of raw sewage discharged to surface waters. The Discharger has attributed multiple SSOs to operational and structural failures, including root intrusion, grease deposition, vandalism, and presence of debris.

The Central Valley Regional Water Quality Control Board (Central Valley Water Board) Prosecution Team derived the administrative civil liability following the State Water Resources Control Board's (State Water Board's) Water Quality Enforcement Policy (Enforcement Policy) that was in effect at the time of each spill. The administrative civil liability takes into account such factors as the Discharger's culpability, cooperation in returning to compliance, ability to pay the proposed liability, and other factors as justice may require.

**Application of State Water Board's Enforcement Policy**

On 17 November 2009, the State Water Board adopted Resolution No. 2009-0083 amending the Water Quality Enforcement Policy (2010 Enforcement Policy). The Office of Administrative Law approved the 2010 Enforcement Policy, and it became effective on 20 May 2010. The 2010 Enforcement Policy established a methodology for assessing administrative civil liability for violations of the California Water Code (Water Code) and Federal Water Pollution Control Act (Clean Water Act). Use of the methodology incorporates Water Code sections 13327 and 13385 that require the Central Valley Water Board to consider specific factors when determining the amount of civil liability to impose, including "...the nature, circumstance, extent, and gravity of the violation or violations, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, and, with respect to the violator, the ability to pay, the effect on ability to continue 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 violation, and other matters that justice may require."

The 2010 Enforcement Policy was amended, and the 2017 Enforcement Policy became effective on 5 October 2017. Both the 2010 Enforcement Policy and the 2017 Enforcement Policy are used in this penalty methodology to calculate penalties for violations that occurred when each policy was in effect. Violations that occurred prior to 5 October 2017 are considered under the 2010 Enforcement Policy. Violations occurring on or after 5 October 2017 are considered under the 2017 Enforcement Policy.

Additional information on both the 2010 and 2017 Enforcement Policies, including links to both policies are available at the following web address: [Enforcement Policies](https://www.waterboards.ca.gov/water_issues/programs/enforcement/water_quality_enforcement.shtml) (https://www.waterboards.ca.gov/water\_issues/programs/enforcement/water\_quality\_enforcement.shtml.)

Violation 1 is being addressed as an individual spill due to the relatively large volume of untreated wastewater discharged to surface water during a single event. The spills identified in Violations 2 through 4 resulted from similar causes with considerably less volume discharged to surface water. The spills identified in Violations 2 through 4 were grouped into three categories based on the date of the violation, which dictates which Enforcement Policy is used to calculate the liability, and the watershed that received the discharge.

- Violation 1: Spill of 489,494 gallons of raw sewage (also referred to herein as untreated wastewater or municipal wastewater) from Pump Station S012 force main located on Bruceville Road in Elk Grove, California;
- Violation 2: Spills that resulted in discharge of raw sewage in the American River watershed during the effective period of the 2010 Enforcement Policy;
- Violation 3: Spills that resulted in discharge of raw sewage in the American River watershed during the effective period of the 2017 Enforcement Policy; and
- Violation 4: Spills that resulted in discharge of raw sewage outside of the American River watershed during the effective periods of the 2010 Enforcement Policy and the 2017 Enforcement Policy.

### **Regulatory Basis for Alleged Violations**

The Discharger is required to comply with the State Water Board's Statewide General Waste Discharge Requirements for Sanitary Sewer Systems, Order No. 2006-0003-DWQ (SSS WDRs) because it is a municipality that owns or operates a sanitary sewer collection system greater than one mile in length. The Discharger has been enrolled in the SSS WDRs since 2006. Prohibition C.1 of the SSS WDRs provides "[a]ny SSO that results in a discharge of untreated or partially treated wastewater to waters of the United States is prohibited."

On 269 separate occasions from 2 October 2016 to 30 September 2021, the Discharger discharged untreated domestic and municipal wastewater from its collection system to surface water. The Prosecution Team alleges that each of these spills violated Prohibition C.1 of the SSS WDRs as well as Water Code section 13376 and Clean Water Act section 301 by discharging untreated domestic and municipal wastewater to waters of the United States without a National Pollutant Discharge Elimination System (NPDES) permit.

A discharger who violates Water Code section 13376 or Clean Water Act section 301 is subject to administrative civil liability under Water Code section 13385, subdivision (a). Additionally, the unauthorized discharge of untreated wastewater in violation of Prohibition C.1 of the SSS WDRs is subject to administrative civil liability under Water Code section 13350. The Prosecution Team has elected to pursue enforcement of the alleged violations pursuant to Water Code section 13385, subdivision (a). Pursuant to Water Code section 13385, subdivision (c), the administrative civil liability shall not exceed the sum of \$10,000 per day of violation and \$10 per gallon of waste discharged over 1,000 gallons that was not cleaned up.

**VIOLATION 1: SASD PUMP STATION S012 FORCE MAIN SPILL,  
ELK GROVE, CALIFORNIA**

On 18 January 2021, the Central Valley Water Board was notified by California Office of Emergency Services (Cal-OES) report # 21-0278 that a sanitary sewer overflow occurred at SASD Pump Station S012, located adjacent to 12250 Bruceville Road in Elk Grove, California. The overflow started on 16 January 2021 at 19:38 and continued intermittently until 18 January 2021 at 15:00, when SASD stopped operating Pump Station S012 and closed an isolation valve upgradient of the failure point.

The SSO was caused by a failed coupling on a temporary repair on the Pump Station S012 force main. Untreated wastewater from the force main overflowed into a roadside ditch and traveled approximately 560 feet upstream and 4,050 feet downstream of the overflow point before discharging into an unnamed tributary to Mokelumne River.

SASD estimated the total SSO volume to be 489,494 gallons in the final report submitted on 17 February 2021. Approximately 99,862 gallons were recovered from the roadside ditch via portable pumps and vacuum trucks, 10,400 gallons discharged to land, and 379,232 gallons discharged into an unnamed tributary of the Mokelumne River, a water of the state and United States.

On 20 January 2021, SASD exposed the failed temporary coupling and installed a permanent coupling on the force main. A temporary bypass was installed while repairs were completed. The repairs were tested prior to resuming operation of the pump station. SASD has installed indicator alarms downstream of Pump Station S012 to alert staff of unusual flow conditions and potentially mitigate the effects of future spills.

SASD collected water quality samples on 23, 25, and 29 January 2021. The samples were taken to the Sacramento Regional Wastewater Treatment Plant laboratory for analysis of total coliform, fecal coliform, ammonia, and biochemical oxygen demand (BOD).

A detailed summary of the SSO with location maps, volume calculations, and sample results are provided in the SASD final report uploaded to California Integrated Water Quality System (CIWQS) on 17 February 2021, Event ID 871658.

### **Step 1 – Potential for Harm for Discharge Violations**

The “potential harm to beneficial uses” factor considers the harm that may result from exposure to the pollutants in the illegal discharge, while evaluating the nature, circumstances, extent, and gravity of the violation(s). A three-factor scoring system is used for each violation or group of violations: (1) the degree of toxicity of the discharge; (2) the actual harm or potential harm to beneficial uses; and (3) whether the discharge is susceptible to cleanup or abatement.

#### **Factor 1: Degree of Toxicity of the Discharge.**

This factor evaluates the degree of toxicity by considering the physical, chemical, biological, and/or thermal characteristics of the discharge, waste, fill or material involved in the violation or violations and the risk of damage the discharge could cause the receptors or beneficial uses. A score between 0 and 4 is assigned based on a determination of the risk or threat of the discharged material. “Potential receptors” are those identified considering human, environmental, and ecosystem exposure pathways.

Toxicity is the degree to which a substance can damage a living or non-living organism. Toxicity can refer to the effect on a whole organism, such as an animal, bacterium, or plant, as well as the effect on a substructure of the organism, such as a cell or an organ. In this case, the sanitary sewer overflow was raw sewage, which routinely contains highly elevated concentrations of coliform organisms, total suspended solids, biochemical oxygen demand, nitrate, and ammonia. Elevated levels of these constituents can lead to low dissolved oxygen in the receiving water, impacts to aquatic life, and impacts to human health. Because the discharged material possesses “an above moderate risk or a direct threat to potential receptors,” a **score of 3 was assigned for this factor.**

#### **Factor 2: Actual Harm or Potential Harm to Beneficial Uses.**

A score between 0 and 5 is assigned based on a determination of whether the harm or potential for harm to beneficial uses ranges from negligible (0) to major (5).

Discharges of domestic and municipal wastewater to surface water must typically be treated to a high standard to prevent adverse impacts to human and aquatic life. The spill consisted of raw sewage, which may contain pathogens, nitrogen, ammonia, total suspended solids and biochemical oxygen demand. The untreated sewage entered an unnamed tributary to the Mokelumne River. The May 2018 revision (Fifth Edition) of the Central Valley Region Water Quality Control Plan (Basin Plan) designates the Mokelumne River American River between Camanche Reservoir to the Delta with the following beneficial uses: agricultural irrigation and stock watering, contact and non-

contact recreation, warm and cold freshwater habitat, migration, and spawning, and wildlife habitat.

SASD conducted total coliform, fecal coliform, ammonia, and BOD monitoring in the unnamed tributary to the Mokelumne River upstream and downstream of the spill location on 23, 25, and 29 January 2021. Review of the sampling results did not reveal a definitive effect of the spill on the surface water as many of the total coliform, nitrogen, and BOD results were comparable in the upstream and downstream sampling locations. The inconclusive sample results may be due to dilution from storm events on 22-23 January 2021 and 27-29 January 2021. At the time of the overflow investigation, SASD did not believe that the overflow had reached surface water. The overflow was stagnant and did not show any indication of moving. It started raining heavily on January 21, 2021, causing the overflow to migrate downstream. SASD began water quality sampling on January 22 after rain runoff moved the SSO towards the unnamed tributary

The harm, or potential harm to beneficial uses caused by the spill was measurable in the short term, but not appreciable. The discharge was expected to have a below moderate impact to beneficial uses to the Mokelumne River.

**Therefore, a score of 2, below moderate potential harm to beneficial uses, is assigned to this factor.**

**Factor 3: Susceptibility to Cleanup or Abatement.**

A score of 0 is assigned for this factor if 50% or more of the discharge is susceptible to cleanup or abatement. A score of 1 is assigned if less than 50% of the discharge is susceptible to cleanup or abatement, or if 50 percent or more of the discharge is susceptible to cleanup or abatement, but the discharger failed to clean up 50 percent or more of the discharge within a reasonable time. For Violation 1, **a factor of 1** was used, because 50 percent or more of the discharge was susceptible to cleanup but only approximately 20% of the spill (99,862 gallons) was recovered.

**Final Score – “Potential for Harm”**

The scores of the three factors are added to provide a Potential for Harm score for each violation or group of violations. In this case, **a final score of 6** was calculated. The total score is then used in Step 2, below.

**Step 2 – Assessment for Discharge Violations**

This step addresses administrative civil liabilities for the spills based on both a per-gallon and a per-day basis.

**Per Gallon Assessment for Discharge Violation**

When there is a discharge, the Central Valley Water Board is to determine an initial liability amount on a per gallon basis using the Potential for Harm score and the Deviation from Requirement of the violation.

### **Deviation from Requirement**

For Violation 1, the Central Valley Water Board finds the Deviation from Requirement is “major.” “Major” is assigned when the requirement has been rendered ineffective (e.g., the requirement was rendered ineffective in its essential functions).

Prohibition C.1 in SSS WDRs prohibit any discharge of SSOs from entering waters of the United States. Similarly, Water Code section 13376 and Clean Water Act section 301 prohibit the unauthorized discharge of waste to waters of the United States. The alleged SSO rendered each requirement ineffective in its essential function of protecting water quality and represent a Major Deviation from Requirement for Violation 1.

### **Per Gallon Factor**

Table 1 of the 2017 Enforcement Policy (p. 14) is used to determine a “per gallon factor” based on the total score from Step 1 and the Deviation from Requirement. The Potential for Harm Score was determined to be 6 as shown in Step 1 above. The Deviation from Requirement is Major. For this violation, **the factor is 0.28.**

Pursuant to Water Code section 13385, subdivision (c), the per-gallon administrative civil liability shall not exceed \$10 per gallon of waste discharged over 1,000 gallons that was not cleaned up. As shown in Table 1 of Attachment A, the volume of wastewater discharged to a water of the United States that exceeded 1,000 gallons and was not cleaned up is 378,232 gallons.

### **High Volume Discharges**

In accordance with the Enforcement Policy, the Water Boards shall apply the above Per Gallon Factor to the maximum per gallon penalty amount of \$10 per gallon. However, because the volume of certain discharges can be very high, the Water Boards may elect to use a value between \$2.00 per gallon and \$10.00 per gallon with the above factor to determine the per gallon amount for discharges that are between 100,000 gallons and 2,000,000 gallons for each discharge event, whether it occurs on one or more days. This provision is advisory and intended to provide a basis for achieving consistency and substantial justice in setting appropriate civil liabilities. Where electing to use a maximum of \$2.00 per gallon would result in an inappropriately small civil liability based on the severity of impacts to beneficial uses, the discharger’s degree of culpability, and/or other considerations, a higher amount, up to the statutory maximum, should be used.

In this instance, the Prosecution Team determined that an assessment of \$2.00 per gallon is appropriate and will not result in an inappropriately small administrative civil liability for this violation.

The Per Gallon Assessment is calculated on a per gallon basis is as follows  
 $0.28 \text{ per gallon factor} \times 378,232 \text{ gallons} \times \$2 \text{ per gallon} = \$211,809.92$

### **Per Day Assessment for Discharge Violations**

When there is a discharge, the Central Valley Water Board is to determine an initial liability amount on a per day basis using the same Potential for Harm and the Deviation from Requirement that was used in the per-gallon analysis. However, the Central Valley Water Board is using its enforcement discretion not to include the Per Day Assessment. It is assumed that the discharge to the unnamed tributary to the Mokelumne River was primarily due to rain events and started on or about 22 January 2021 and ended on or about 29 January 2021.

**Initial Liability Amount:** The value is determined by adding together the per gallon assessment and the per day assessment. For this case, the total initial liability is **\$211,809.92**.

### **Step 3 – Per Day Assessment for Non-Discharge Violation**

The Enforcement Policy states that the Board shall calculate an initial liability for each non-discharge violation. This factor does not apply because the spill is a discharge violation.

### **Step 4 – Adjustment Factors**

There are three additional factors to be considered for modification of the amount of initial liability: the violator's culpability, the violator's prior history of violations, and efforts to clean-up or cooperate with regulatory authority. After each of these factors is considered for the violation involved, the applicable factor should be multiplied by the proposed amount for the violation to determine the revised amount for that violation.

#### **Culpability**

Higher liabilities should result from intentional or negligent violations as opposed to accidental violations. A multiplier between 0.5 and 1.5 is to be used, with a higher multiplier for negligent behavior.

The cause of the spill was failure of a temporary coupling installed in response to an 860-gallon spill on the same force main on 12 January 2021. The Discharger installed the temporary coupling on 16 January 2021 and had no reason to think it would fail as it should have been functional for several months. The Discharger tested the pipe at full pressure under full operation system conditions, backfilled it, monitored the repair, and then continued to monitor SCADA data. The temporary repair failed on 16 January 2021 and began spilling raw sewage to the roadside ditch. The spill was not discovered until 18 January 2021. The Prosecution Team believes additional precautionary monitoring should have been performed on the system while the temporary coupling was in place

and indicator alarms should have been installed to alert staff of unusual flow conditions so that the spill could have been discovered sooner. A **multiplier of 1.2** is assigned to the Culpability factor for Violation 1.

### **History of Violations**

When there is a history of repeat violations, the Enforcement Policy requires a minimum multiplier of 1.1 to be used. On 8 March 2017, the Executive Officer of the Central Valley Water Board issued Stipulated ACLO No. R5-2017-0503 against the Discharger for SSOs that occurred between 1 March 2012 and 1 October 2016. Stipulated ACLO No. R5-2017-0503 was in the amount of \$223,539. A **multiplier of 1.1** has been assigned for the History of Violations.

### **Cleanup and Cooperation**

This factor reflects the extent to which a discharger voluntarily cooperated in returning to compliance and correcting environmental damage. The Discharger adequately responded to the spill event once discovered. Upon discovering the spill, the Discharger provided prompt notification to Cal-OES and the Central Valley Water Board. Significant efforts were taken to clean up the spill via portable pumps and vacuum truck for three consecutive days prior to rainfall that occurred on the fourth day after the force main was repaired. The Discharger also conducted sampling upstream, downstream and at the spill entry point to surface water on three occasions after the spill was discovered. Therefore, the Discharger was assigned a neutral multiplier of 1.0 for Violation 1.

### **Step 5 - Determination of Total Base Liability Amount**

The Total Base Liability is determined by applying the adjustment factors from Step 4 to the Initial Liability Amount determined in Step 2.

#### **Total Base Liability Amount, Violation 1**

$$\begin{aligned} & \$211,809.92 \times 1.2 \times 1.1 \times 1.0 = \$279,589.09 \\ & \text{Total Base Liability Amount, Violation 1} = \$279,589.09 \end{aligned}$$

#### **VIOLATION 2 AND VIOLATION 3: SPILLS DISCHARGED TO THE AMERICAN RIVER WATERSHED**

Violation 2 – Spills that occurred during the effective dates of the 2010 Enforcement Policy. Between 2 October 2016 and 4 October 2017, as listed in Table 2 of Attachment

A, a total of 15 spills occurred over 18 days, with a volume discharged of 28,842 gallons to waters of the United States within the American River watershed.

Violation 3 – Spills that occurred during the effective dates of the 2017 Enforcement Policy. Between 5 October 2017 and 30 September 2021, as listed in Table 3 of Attachment A, a total of 66 spills occurred over 255 days, with a volume discharged of 115,567 gallons to waters of the United States within the American River watershed.

### **Step 1 – Potential for Harm for Discharge Violations**

The “potential harm to beneficial uses” factor considers the harm that may result from exposure to the pollutants in the illegal discharge, while evaluating the nature, circumstances, extent, and gravity of the violation(s). A three-factor scoring system is used for each violation or group of violations: (1) the degree of toxicity of the discharge; (2) the actual harm or potential harm to beneficial uses; and (3) whether the discharge is susceptible to cleanup or abatement.<sup>1</sup>

#### **Factor 1: Degree of Toxicity of the Discharge.<sup>2</sup>**

This factor evaluates the degree of toxicity by considering the physical, chemical, biological, and/or thermal characteristics of the discharge, waste, fill or material involved in the violation or violations and the risk of damage the discharge could cause the receptors or beneficial uses. A score between 0 and 4 is assigned based on a determination of the risk or threat of the discharged material. “Potential receptors” are those identified considering human, environmental, and ecosystem exposure pathways.

Toxicity is the degree to which a substance can damage a living or non-living organism. Toxicity can refer to the effect on a whole organism, such as an animal, bacterium, or plant, as well as the effect on a substructure of the organism, such as a cell or an organ. In this case, the sanitary sewer overflow was raw sewage, which routinely contains highly elevated concentrations of coliform organisms, total suspended solids, biochemical oxygen demand, nitrate, and ammonia. Elevated levels of these constituents can lead to low dissolved oxygen in the receiving water, impacts to aquatic life, and impacts to human health. Because the discharged material possesses “an above moderate risk or a direct threat to potential receptors,” **a score of 3 was assigned for this factor for Violations 2 and 3.**

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<sup>1</sup> Factors 1 and 2 of Step 1 are discussed in reverse order in the 2010 Enforcement Policy. This change does not impact the analysis of these factors.

<sup>2</sup> The factor is referred to as “The Physical, Chemical, Biological or Thermal Characteristics of the Discharge” in the 2010 Enforcement Policy. This change does not impact the analysis of this factor.

**Factor 2: Actual Harm or Potential Harm to Beneficial Uses.<sup>3</sup>**

A score between 0 and 5 is assigned based on a determination of whether the harm or potential for harm to beneficial uses ranges from negligible (0) to major (5). Untreated sewage addressed in Violations 2 and 3 of this Stipulated Order was discharged to or spilled in a location where it was discharged to surface waters within the American River watershed.

The July 2016 (Fourth Edition) and May 2018 (Fifth Edition) revisions of the Central Valley Region Water Quality Control Plan (Basin Plan) designate the American River between Folsom Dam and the Sacramento River with the following beneficial uses: municipal and domestic supply, irrigation supply, industrial supply, power generation, contact and non-contact recreation, warm and cold freshwater habitat, warm and cold migration, warm and cold spawning, and wildlife habitat.

Discharges of domestic and municipal wastewater to surface water must typically be treated to a high standard to prevent adverse impacts to human and aquatic life. The spills consisted of raw sewage, which contains pathogens, nitrogen, ammonia, total suspended solids and biochemical oxygen demand. Most of the spills were less than 10,000 gallons, which when considered individually, are relatively small. The river flows are very large compared to these small spills and provide opportunities for dilution which reduces the potential for harm to beneficial uses. However, this stretch of the American River has recently been impacted by elevated concentrations of pathogens.

For the past several years, the Central Valley Water Board has been conducting frequent monitoring in the American River and has found elevated E. coli concentrations in the lower stretches of the American River. These elevated concentrations in the American River pose a health risk to recreational users of the American River. This analysis is not attributing these concentration to the spills listed in Attachment A; however, it recognizes that there is a higher potential to harm beneficial uses in the American River since it is already impacted by E.coli, which is also prevalent in raw sewage.

In addition, the Lower American River, from Nimbus Dam to the confluence with the Sacramento River, is on the California 2016 Section 303(d) List of Impaired Water Bodies for fecal indicator bacteria.

Therefore, **a score of 2, below moderate, was assigned to this factor for Violations 2 and 3.**

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<sup>3</sup> The factor is referred to as the “Harm or Potential Harm to Beneficial Uses” factor in the 2010 Enforcement Policy. This change does not impact the analysis of this factor.

**Factor 3: Susceptibility to Cleanup or Abatement.**

A score of 0 is assigned for this factor if 50% or more of the discharge is susceptible to cleanup or abatement. A score of 1 is assigned if less than 50% of the discharge is susceptible to cleanup or abatement, or if 50 percent or more of the discharge is susceptible to cleanup or abatement, but the discharger failed to clean up 50 percent or more of the discharge within a reasonable time.<sup>4</sup> For Violations 2 and 3, a **factor of 1** was used, because 1,959 gallons out of 28,842 gallons discharged to waters of the United States were recovered for Violation 2 and 29,075 gallons out of 115,567 gallons were recovered for Violation 3, as shown in Table 2 and Table 3 of Attachment A.

**Final Score – “Potential for Harm”**

The scores of the three factors are added to provide a Potential for Harm score for each violation. In this case, a **final score of 6** was calculated for Violations 2 and 3. The total score is used in Step 2, below.

**Step 2 – Assessment for Discharge Violations**

This step addresses administrative civil liabilities for the spills based on both a per-gallon and a per-day basis.

**Per Gallon Assessment for Discharge Violation**

When there is a discharge, the Central Valley Water Board is to determine an initial liability amount on a per gallon basis using the Potential for Harm score and the Deviation from Requirement of the violation.

**Deviation from Requirement**

For Violations 2 and 3, the Central Valley Water Board finds the **Deviation from Requirement is “major.”** “Major” is assigned when the requirement has been rendered ineffective (e.g., the requirement was rendered ineffective in its essential functions).

Prohibition C.1 in SSS WDRs prohibit any discharge of SSOs from entering waters of the United States. Similarly, Water Code section 13376 and Clean Water Act section 301 prohibit the unauthorized discharge of waste to waters of the United States. The alleged SSOs rendered each requirement ineffective in its essential function of

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<sup>4</sup> The “if 50 percent or more of the discharge is susceptible to cleanup or abatement, but the discharger failed to clean up 50 percent or more of the discharge within a reasonable time” language is a substantive change in the 2017 Enforcement Policy. This substantive change does not impact the analysis for Violations 2-3 because less than 50 percent of the discharge was susceptible to cleanup or abatement.

protecting water quality and represent a Major Deviation from Requirement for Violations 2 and 3.

### **Per Gallon Factor**

Table 1 of the 2010 and 2017 Enforcement Policies (p. 14) is used to determine a “per gallon factor” based on the total score from Step 1 and the Deviation from Requirement. The Potential for Harm Score was determined to be 6 as shown in Step 1 above. The Deviation from Requirement is Major. For Violation 2, the Per Gallon Factor is 0.22. For Violation 3, the Per Gallon Factor is 0.28. The variation in the factors reflects differences in Table 1 in the 2010 and 2017 Enforcement Policies.

Pursuant to Water Code section 13385, subdivision (c), the per-gallon administrative civil liability shall not exceed \$10 per gallon of waste discharged over 1,000 gallons that was not cleaned up. As shown in Attachment A, for Violation 2, the volume of wastewater discharged to a water of the United States that exceeded 1,000 gallons per-spill and was not cleaned up is a combined total of 20,615 gallons. For Violation 3, the volume of wastewater discharged to a water of the United States that exceeded 1,000 gallons per-spill and was not cleaned up is a combined total of 64,318 gallons.

The Per Gallon Assessment is calculated on a per-gallon basis is as follows:  
Violation 2: 0.22 per gallon factor x 20,615 gallons x \$10 per gallon = \$45,353.00  
Violation 3: 0.28 per gallon factor x 64,318 gallons x \$10 per gallon = \$180,090.40

### **Per Day Assessment for Discharge Violations**

When there is a discharge, the Central Valley Water Board is to determine an initial liability amount on a per day basis using the same Potential for Harm and the Deviation from Requirement that were used in the per-gallon analysis. However, the Central Valley Water Board is using its enforcement discretion not to include the “per day” assessment because adding the total number of days (18 and 255 days, respectively) would result in an excessively high penalty amount.

**Initial Liability Amount:** The value is determined by adding together the per gallon assessment and the per day assessment. For this case, the initial liability for Violation 2 is \$45,353 and the initial liability for Violation 3 is \$180,090.

### **Step 3 – Per Day Assessment for Non-Discharge Violation**

The Enforcement Policy states that the Board shall calculate an initial liability for each non-discharge violation. This factor does not apply to Violations 2 and 3 because all of the spills are discharge violations.

#### **Step 4 – Adjustment Factors**

There are three additional factors to be considered for modification of the amount of initial liability: the violator’s culpability, the violator’s prior history of violations, and efforts to clean-up or cooperate with regulatory authority.<sup>5</sup>

#### **Culpability**

Higher liabilities should result from intentional or negligent violations as opposed to accidental violations. A multiplier between 0.5 and 1.5 is to be used, with a higher multiplier for negligent behavior.

The raw sewage spills addressed in this ACL were attributed by the Discharger primarily to debris or root intrusion. Furthermore, most of the spills were less than 10,000 gallons, which when considered individually, are relatively small. The Discharger has an extensive sewer system management plan (SSMP) that contains a structural assessment program, management assessment program, and a SSO assessment program.

According to spill reports filed by the Discharger into CIWQS, the Discharger had a spill rate of 2.85 spills per 100 miles of sewer system per year (spills/100mi/yr) to surface water between 2 October 2016 and 31 January 2021, which is below the statewide average of 8.04 spills/100mi/yr. Facility spill statistics can be accessed in the CIWQS Interactive SSO Report provided in the link below: [CIWQS Interactive SSO Report](https://ciwqs.waterboards.ca.gov/ciwqs/readOnly/PublicReportSSOServlet?reportAction=criteria&reportId=sso_main) (https://ciwqs.waterboards.ca.gov/ciwqs/readOnly/PublicReportSSOServlet?reportAction=criteria&reportId=sso\_main)

Based on the Discharger’s SSMP implementation, it is appropriate to assign a **multiplier of 1.0** to the Culpability factor for Violations 2 and 3.

#### **History of Violations**

When there is a history of repeat violations, the Enforcement Policy requires a minimum multiplier of 1.1 to be used.<sup>6</sup> On 8 March 2017, the Executive Officer of the Central Valley Water Board issued Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order (Stipulated ACLO) No. R5-2017-0503 against the Discharger for SSOs that occurred between 1 March 2012 and 1 October 2016.

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<sup>5</sup> The Adjustment Factors are discussed in a different order in the 2010 Enforcement Policy. This change does not impact the analysis for Violation 2.

<sup>6</sup> This is a substantive change in the 2017 Enforcement Policy. However, a multiplier of 1.1 is justified under the 2010 Enforcement Policy for Violation 2 because of the repeated history of violations.

Stipulated ACLO No. R5-2017-0503 was in the amount of \$223,539. A **multiplier of 1.1** has been assigned for the History of Violations for Violations 2 and 3.

**Cleanup and Cooperation**

This factor reflects the extent to which a discharger voluntarily cooperated in returning to compliance and correcting environmental damage. SASD has a robust spill notification and response program and has responded to the spills identified in this ACL in a manner that is reasonable and prudent for a sewer district of their size. SASD has service level targets for service response time, service restoration time, main line overflow rate, lower lateral overflow rate, and backups into structures rate. They were able to exceed their target in each of these categories. Therefore, the Discharger was assigned a neutral multiplier of 1.0 for Violations 2 and 3.

**Step 5 - Determination of Total Base Liability Amount**

The Total Base Liability is determined by applying the adjustment factors from Step 4 to the Initial Liability Amount determined in Step 2.

<p style="text-align: center;"><b>Total Base Liability Amount, Violation 2</b></p> <p style="text-align: center;"><math>\\$45,353.00 \times 1.0 \times 1.1 \times 1.0 = \\$49,888.30</math> Total Base Liability Amount, Violation 2 = \$49,888.30</p> <p style="text-align: center;"><b>Total Base Liability Amount, Violation 3</b></p> <p style="text-align: center;"><math>\\$180,090.40 \times 1.0 \times 1.1 \times 1.0 = \\$198,099.44</math> Total Base Liability Amount, Violation 3 = \$198,099.44</p>
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<p><b>VIOLATION 4: SPILLS DISCHARGED OUTSIDE OF THE AMERICAN RIVER WATERSHED</b></p>
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Between 2 October 2016 and 30 September 2021, as listed in Table 4 of Attachment A, a total of 187 spills occurred over 589 days, with a volume of 435,234 gallons discharged to surface water outside of the American River watershed. Spills that occurred outside the American River watershed during the active period of the 2010 Enforcement Policy and the 2017 Enforcement Policy are combined in Violation 4. These spills were combined because the differences between the 2010 and 2017 Enforcement Policies do not result in assigning different scores or multipliers to the spills alleged in Violation 4.

### **Step 1 – Potential for Harm for Discharge Violations**

The “potential harm to beneficial uses” factor considers the harm that may result from exposure to the pollutants in the illegal discharge, while evaluating the nature, circumstances, extent, and gravity of the violation(s). A three-factor scoring system is used for each violation or group of violations: (1) the degree of toxicity of the discharge; (2) the actual harm or potential harm to beneficial uses; and (3) whether the discharge is susceptible to cleanup or abatement.<sup>7</sup>

#### **Factor 1: Degree of Toxicity of the Discharge.<sup>8</sup>**

This factor evaluates the degree of toxicity by considering the physical, chemical, biological, and/or thermal characteristics of the discharge, waste, fill or material involved in the violation or violations and the risk of damage the discharge could cause the receptors or beneficial uses. A score between 0 and 4 is assigned based on a determination of the risk or threat of the discharged material. “Potential receptors” are those identified considering human, environmental, and ecosystem exposure pathways.

Toxicity is the degree to which a substance can damage a living or non-living organism. Toxicity can refer to the effect on a whole organism, such as an animal, bacterium, or plant, as well as the effect on a substructure of the organism, such as a cell or an organ. In this case, the sanitary sewer overflow was raw sewage, which routinely contains highly elevated concentrations of coliform organisms, total suspended solids, biochemical oxygen demand, nitrate, and ammonia. Elevated levels of these constituents can lead to low dissolved oxygen in the receiving water, impacts to aquatic life, and impacts to human health. Because the discharged material possesses “an above moderate risk or a direct threat to potential receptors,” a **score of 3 was assigned for this factor.**

#### **Factor 2: Actual Harm or Potential Harm to Beneficial Uses.**

A score between 0 and 5 is assigned based on a determination of whether the harm or potential for harm to beneficial uses ranges from negligible (0) to major (5). Untreated sewage addressed in Violation 4 was discharged to surface waters outside the American River watershed.

Discharges of domestic and municipal wastewater to surface water must typically be treated to a high standard to prevent adverse impacts to human and aquatic life. The spills consisted of raw sewage, which contains pathogens, nitrogen, ammonia, total

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<sup>7</sup> Factors 1 and 2 of Step 1 are discussed in reverse order in the 2010 Enforcement Policy. This change does not impact the analysis of these factors.

<sup>8</sup> The factor is referred to as “The Physical, Chemical, Biological or Thermal Characteristics of the Discharge” in the 2010 Enforcement Policy. This change does not impact the analysis of this factor.

suspended solids and biochemical oxygen demand. Most of the spills were less than 10,000 gallons, which when considered individually, are relatively small. The river flows are very large compared to these small spills and provide opportunities for dilution which reduces the potential for harm to beneficial uses.

**Therefore, a score of 1, minor potential harm to beneficial uses, is assigned to this factor.**

**Factor 3: Susceptibility to Cleanup or Abatement.**

A score of 0 is assigned for this factor if 50% or more of the discharge is susceptible to cleanup or abatement. A score of 1 is assigned if less than 50% of the discharge is susceptible to cleanup or abatement, or if 50 percent or more of the discharge is susceptible to cleanup or abatement, but the discharger failed to clean up 50 percent or more of the discharge within a reasonable time.<sup>9</sup> For Violation 4, a factor of 1 was used, because 49,097 gallons out of 435,234 gallons spilled were recovered.

**Final Score – “Potential for Harm”**

The scores of the three factors are added to provide a Potential for Harm score for each violation or group of violations. In this case, a final score of 5 was calculated. The total score is then used in Step 2, below.

**Step 2 – Assessment for Discharge Violations**

This step addresses administrative civil liabilities for the spills based on both a per-gallon and a per-day basis.

**Per Gallon Assessment for Discharge Violation**

When there is a discharge, the Central Valley Water Board is to determine an initial liability amount on a per gallon basis using the Potential for Harm score and the Deviation from Requirement of the violation.

**Deviation from Requirement**

For Violation 4, the Central Valley Water Board finds the Deviation from Requirement is “major.” “Major” is assigned when the requirement has been rendered ineffective (e.g., the requirement was rendered ineffective in its essential functions).

Prohibition C.1 in SSS WDRs prohibit any discharge of SSOs from entering waters of the United States. Similarly, Water Code section 13376 and Clean Water Act section

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<sup>9</sup> The “if 50 percent or more of the discharge is susceptible to cleanup or abatement, but the discharger failed to clean up 50 percent or more of the discharge within a reasonable time” language is a substantive change in the 2017 Enforcement Policy. This substantive change does not impact the analysis because less than 50 percent of the discharge was susceptible to cleanup or abatement.

301 prohibit the unauthorized discharge of waste to waters of the United States. The alleged SSOs rendered each requirement ineffective in its essential function of protecting water quality and represent a **Major Deviation from Requirement for Violation 4.**

#### **Per Gallon Factor**

Table 1 of the 2010 and 2017 Enforcement Policies (p. 14) is used to determine a “per gallon factor” based on the total score from Step 1 and the level of Deviation from Requirement. The Potential for Harm Score was determined to be 5 as shown in Step 1 above. The Deviation from Requirement is Major. For this violation, **the factor is 0.15.**

Pursuant to Water Code section 13385, subdivision (c), the per-gallon administrative civil liability shall not exceed \$10 per gallon of waste discharged over 1,000 gallons that was not cleaned up. As shown on Attachment A, the volume of wastewater discharged to a water of the United States that exceeded 1,000 gallons per-spill and was not cleaned up is a combined total of 311,231 gallons.

#### **High Volume Discharges**

In accordance with the Enforcement Policy, the Water Boards shall apply the above Per Gallon Factor to the maximum per gallon penalty amount of \$10 per gallon. However, because the volume of certain discharges can be very high, the Water Boards may elect to use a value between \$2.00 per gallon and \$10.00 per gallon with the above factor to determine the per gallon amount for discharges that are between 100,000 gallons and 2,000,000 gallons for each discharge event, whether it occurs on one or more days. This provision is advisory and intended to provide a basis for achieving consistency and substantial justice in setting appropriate civil liabilities. Where electing to use a maximum of \$2.00 per gallon would result in an inappropriately small civil liability based on the severity of impacts to beneficial uses, the discharger’s degree of culpability, and/or other considerations, a higher amount, up to the statutory maximum, should be used.

In this instance, the Prosecution Team determined that an assessment of \$2.00 per gallon is appropriate and will not result in an inappropriately small administrative civil liability for this violation.

<p>The Per Gallon Assessment is calculated on a per-gallon basis is as follows: <math>0.15 \text{ per gallon factor} \times 311,231 \text{ gallons} \times \\$2 \text{ per gallon} = \\$93,369.30</math></p>
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#### **Per Day Assessment for Discharge Violations**

When there is a discharge, the Central Valley Water Board is to determine an initial liability amount on a per day basis using the same Potential for Harm and the Deviation from Requirement that were used in the per-gallon analysis. However, the Central

Valley Water Board is using its enforcement discretion not to include the “per day” because adding the total number of days (589 days) would result in an excessively high penalty amount.

**Initial Liability Amount:** The value is determined by adding together the per gallon assessment and the per day assessment. For this case, the total initial liability is **\$93,369**.

### **Step 3 – Per Day Assessment for Non-Discharge Violation**

The Enforcement Policy states that the Board shall calculate an initial liability for each non-discharge violation. This factor does not apply because all of the spills are discharge violations.

### **Step 4 – Adjustment Factors**

There are three additional factors to be considered for modification of the amount of initial liability: the violator’s culpability, the violator’s prior history of violations, and efforts to clean-up or cooperate with regulatory authority.<sup>10</sup> After each of these factors is considered for the violations involved, the applicable factor should be multiplied by the proposed amount for the violation to determine the revised amount for that violation.

#### **Culpability**

Higher liabilities should result from intentional or negligent violations as opposed to accidental violations. A multiplier between 0.5 and 1.5 is to be used, with a higher multiplier for negligent behavior.

The raw sewage spills addressed in this ACL were attributed by the Discharger primarily to debris or root intrusion. Furthermore, most of the spills were less than 10,000 gallons, which when considered individually, are relatively small. The Discharger has an extensive sewer system management plan (SSMP) that contains a structural assessment program, management assessment program, and a SSO assessment program.

The CIWQS Collection System Operation Report shows the Discharger’s Category 1 spill rate to be significantly less than State and Regional Municipal averages. According to spill reports filed by the Discharger into CIWQS, the Discharger had a spill rate of 2.85 spills per 100 miles of sewer system per year (spills/100mi/yr) to surface water between 2 October 2016 and 31 January 2021, which is below the statewide average of 8.04 spills/100mi/yr. Facility spill statistics can be accessed in the CIWQS Interactive SSO Report provided in the link below: [CIWQS Collection System Operation Report](#)

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<sup>10</sup> The Adjustment Factors are discussed in a different order in the 2010 Enforcement Policy. This change does not impact the analysis for Violation 4.

([https://ciwqs.waterboards.ca.gov/ciwqs/readOnly/PublicReportSSOServlet?reportAction=criteria&reportId=sso\\_main](https://ciwqs.waterboards.ca.gov/ciwqs/readOnly/PublicReportSSOServlet?reportAction=criteria&reportId=sso_main))

Based on the Discharger's SSMP implementation, it is appropriate to assign a multiplier of 1.0 to the Culpability factor for Violation 4.

### **History of Violations**

When there is a history of repeat violations, the Enforcement Policy requires a minimum multiplier of 1.1 to be used.<sup>11</sup> On 8 March 2017, the Executive Officer of the Central Valley Water Board issued Stipulated ACLO No. R5-2017-0503 against the Discharger for SSOs that occurred between 1 March 2012 and 1 October 2016. Stipulated ACLO No. R5-2017-0503 was in the amount of \$223,539. **A multiplier of 1.1** has been assigned for the History of Violations.

### **Cleanup and Cooperation**

This factor reflects the extent to which a discharger voluntarily cooperated in returning to compliance and correcting environmental damage. SASD has a robust spill notification and response program and has responded to the spills identified in this ACL in a manner that is reasonable and prudent for a sewer district of their size. SASD has service level targets for service response time, service restoration time, main line overflow rate, lower lateral overflow rate, and backups into structures rate. They were able to exceed their target in each of these categories. Therefore, the Discharger was assigned a **neutral multiplier of 1.0** for Violation 4.

### **Step 5 - Determination of Total Base Liability Amount**

The Total Base Liability is determined by applying the adjustment factors from Step 4 to the Initial Liability Amount determined in Step 2.

#### **Total Base Liability Amount, Violation 4**

$$\begin{aligned} & \$93,369.30 \times 1.0 \times 1.1 \times 1.0 = \$102,706.23 \\ & \text{Total Base Liability Amount, Violation 4} = \$102,706.23 \end{aligned}$$

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<sup>11</sup> This is a substantive change in the 2017 Enforcement Policy. However, a multiplier of 1.1 is justified for spills that occurred prior to October 5, 2017, under the 2010 Enforcement Policy because of the repeated history of violations.

## **COMBINED TOTAL BASE LIABILITY AND FACTORS APPLIED TO ALL COMBINED VIOLATIONS**

The total base liability is the sum of the calculated liabilities for Violations 1 through 4 is \$630,283.06 ( $\$279,589.09 + \$49,888.30 + \$198,099.44 + \$102,706.23 = \$630,283.06$  rounded to \$630,283).

### **Step 6 - Ability to Pay and Ability to Continue in Business**

The ability to pay and to continue in business factor must be considered when assessing administrative civil liabilities. The Enforcement Policy states that if the Central Valley Water Board has sufficient financial information to assess the Discharger's ability to pay the Total Base Liability or to assess the effect of the Total Base Liability on the Discharger's ability to continue in business, then the Total Base Liability amount may be adjusted downward.

In this case, the Discharger has an ability to pay and continue in business. The Discharger is an ongoing entity with the ability to raise revenue to satisfy the liability proposed through the imposition of fees and taxes. In addition, a review of the SASD's 2020-2021 Final Budget shows that the District has a balanced budget which includes \$1 million for contingencies and \$4 million in reserve. Their final budget can be accessed at the following website: [SASD Final Budget](https://www.sacsewer.com/sites/main/files/file-attachments/sasd_2020-21_final_budget.pdf?1590705849) (https://www.sacsewer.com/sites/main/files/file-attachments/sasd\_2020-21\_final\_budget.pdf?1590705849)

### **Step 7 – Other Factors as Justice May Require**

If the Central Valley Water Board believes that the amount determined using the above factors is inappropriate, the amount may be adjusted under the provision for “other factors as justice may require” but only if express findings are made to justify this. Board staff has spent over 100 hours on this case, but the Prosecution Team chooses to use its enforcement discretion to not include these costs in the liability.

### **Step 8 – Economic Benefit**

Pursuant to Water Code section 13385, subdivision (e), civil liability, at a minimum, must be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation.

In general, the raw sewage discharges were due to blockage from root intrusion, grease deposition, or presence of debris, but also vandalism, debris or damage caused by construction, storm surge or inflow and infiltration, and other causes. The economic benefit was calculated based on costs associated with corrective actions related to additions to the preventative maintenance schedule, adjustments to the preventative maintenance schedule, and planned rehabilitation and replacement. The economic benefit of noncompliance for the violations is estimated at \$143,126.

**Step 9 – Maximum and Minimum Liability Amounts**

The maximum and minimum amounts for discharge violation must be determined for comparison to the amounts being proposed.

Water Code maximum liability amount: Based on Water Code section 13385, the maximum liability is \$10,000 per day per spill and \$10 per gallon of waste discharged over 1,000 gallons that was not cleaned up. The combined maximum liability for all violations is \$16,623,960.

Water Code and Enforcement Policy minimum liability amount: Under Water Code section 13385, subdivision (e), the minimum liability must be at least the economic benefit of non-compliance. In this case, the statutory minimum liability is \$143,126. Per the Enforcement Policy, the minimum liability is to be the economic benefit plus 10%, which in this case is \$157,439.

**Step 10 – Final liability Amount**

The final liability amount consists of the added amounts for each violation, with any allowed adjustments, provided amounts are within the statutory minimum and maximum amounts. Using the Penalty Methodology, as described above, the final liability amount is \$630,283.