



Central Valley Regional Water Quality Control Board

7 December 2020

Mr. Kevin Evans
Sumiden Wire Co
1412 El Pinal Drive
Stockton, CA 95205

CERTIFIED MAIL
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via email: kevine@sumidenwire.com

OFFER TO SETTLE ADMINISTRATIVE CIVIL LIABILITY, SUMIDEN WIRE CO., SAN JOAQUIN COUNTY, WDID 5S39I004089

This letter contains an offer from the Central Valley Regional Water Quality Control Board (Central Valley Water Board) Prosecution Team to settle claims for administrative civil liability arising out of alleged violations by Sumiden Wire Co. (Discharger) of the General Permit for Storm Water Discharges Associated with Industrial Activities, Order 2014-0057-DWQ (Industrial General Permit), located at 1412 El Pinal Drive in Stockton (Facility). As the operator and legally responsible person enrolled in the Industrial General Permit, the Discharger is responsible for complying with all elements of the Industrial General Permit and is strictly liable for penalties associated with noncompliance. Hereafter, this letter will be referred to as the "Settlement Offer."

This Settlement Offer provides the Discharger with an opportunity to resolve the alleged violations through payment of thirty-four thousand three hundred twenty-eight dollars (\$34,328). Please read this letter carefully and respond no later than 14 January 2021.

Description of Violations

On 5 December 2018, the State Water Resources Control Board (State Water Board) received a referral of an alleged unauthorized non-stormwater discharge (NSWD) of wastewater that occurred at the Facility on 2-3 April 2018. State Water Board staff inspected the Facility on 21 December 2018 to determine the Facility's compliance with the Industrial General Permit and investigate the alleged discharge. On 4 April 2019, the Discharger explained, via email, that a pretreatment system upset caused the discharge incident. The Discharger did not report the incident to the California Office of Emergency Services.

The State Water Board issued a Notice of Violation (NOV) to the Discharger dated 30 August 2019. The NOV alleged the Discharger violated Industrial General Permit section III.B, by discharging wastewater to the Facility's storm drain inlet, which is connected to the City of Stockton's municipal separate storm sewer system and is tributary to the San Joaquin River, a water of the United States. Additionally, residual soap was observed on the ground near a storm drain inlet during the 21 December 2018 inspection, which is a violation of Industrial General Permit section X.H.1.a.i, which requires implementation of good housekeeping. In addition, storm drain inlet filters requiring maintenance and replacement were also observed during the inspection, which is a violation of Industrial General Permit section X.H.2.a, which requires implementing and maintaining advanced best management practices (BMPs).

On 24 September 2019 and 29 May 2020 responses to the NOV, the Discharger described that a faulty high-level probe failed to detect a high water level and trigger an alarm which would have notified Facility personnel of the pretreatment system upset and resulting unauthorized NSWD. The Discharger estimated that 4,820 gallons of wastewater overflowed the containment system and discharged into a storm drain inlet, in violation of the Industrial General Permit. Additionally, the storm drain inlet is equipped with a manual ball valve. According to the Discharger, the valve is normally closed but was left open during the discharge. The Discharger characterized the wastewater discharge as acid rinse water with a pH of 2.34 standard pH units.

This Settlement Offer alleges the Discharger violated the Discharge Prohibitions, section III.B of the Industrial General Permit, by allowing liquids other than storm water or authorized non-storm water discharges to discharge indirectly into waters of the United States. Additionally, the Discharger violated Industrial General Permit sections X.H.1.a.i and X.H.2.a, by failing to implement good housekeeping and maintain BMPs.

Statutory Liability

Pursuant to Section 13385 of the California Water Code (Water Code), the Discharger is liable for administrative civil liabilities of up to \$10,000 per violation for each day in which the violation occurred, and \$10 per gallon discharged in excess of the first 1,000 gallons. The statutory minimum civil liability is the economic benefit resulting from the violations. The State Water Resources Control Board's Water Quality Enforcement Policy (Enforcement Policy) states that the minimum penalty is to be the economic benefit plus 10%. For the alleged violations described in the enclosed "Penalty Calculation Methodology," the maximum potential liability is least \$78,200 and the minimum liability is \$4,918.

Proposed Settlement Offer

The Central Valley Water Board's Prosecution Team proposes to resolve the violation(s) with this Settlement Offer of \$34,328. This Settlement Offer was determined based on an assessment of the factors set forth in Water Code section 13385(e) using the penalty methodology set forth in the Enforcement Policy. The enclosed "Penalty Calculation Methodology" describes in detail how the penalty amount was calculated.

The Prosecution Team believes that the proposed resolution of the alleged violation(s) is fair and reasonable, fulfills the Central Valley Water Board's enforcement objectives, and is in the best interest of the public.

Should the Discharger choose not to accept this Settlement Offer, please be advised that the Central Valley Water Board Prosecution Team reserves the right to seek a higher liability amount, up to the maximum allowed by statute, either through issuance of a formal administrative civil liability complaint or by referring the matter to the Attorney General's Office. The Central Valley Water Board Prosecution Team also reserves the right to conduct additional investigation, including issuance of investigation orders and/or subpoenas to determine the number of gallons discharged and whether additional violations occurred. Any additional violations and gallons of discharge subjecting the Discharger to liability may be included in a formal enforcement action. The Discharger can avoid the risks inherent in a contested enforcement action and settle the alleged violation(s) by accepting this Settlement Offer. Please note that the Settlement Offer does not address liability for any violation that is not specifically identified in the attached inspection report.

Options for Responding to the Settlement Offer

Option A: Accept the Offer

If the Discharger chooses to accept this Settlement Offer, then the enclosed Acceptance of Settlement Offer and Waiver of Right to Hearing (Acceptance and Waiver) shall be completed and submitted no later than **14 January 2021** to the following address:

Central Valley Regional Water Quality Control Board
Attention: Kari Holmes, Supervisor, Enforcement Section
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670

Important! - Upon receipt of the Acceptance and Waiver, this settlement will be publicly noticed for a 30-day comment period as required by federal regulations. If no substantive comments are received within the 30 days, the Prosecution Team will ask the Central Valley Water Board's Executive Officer to formally endorse the Acceptance and Waiver as an order of the Central Valley Water Board. An invoice will then be mailed to the Discharger requiring payment of the administrative civil liability within 30 days of the date of the invoice.

If, however, substantive comments are received in opposition to this settlement and/or the Executive Officer declines to accept the settlement, then the Settlement Offer may be withdrawn. In this case, the Discharger will be notified and the Discharger's waiver pursuant to the Acceptance and Waiver will also be treated as withdrawn. The unresolved violation(s) will be addressed in a formal enforcement action. An administrative civil liability complaint may be issued, and the matter may be set for a hearing

Option B: Contest the Alleged Violations

If the Discharger wishes to contest the violation(s) or the methodology used to calculate the proposed liability, it must submit a written response identifying the basis for the challenge, including any evidence to support its claims. The Discharger's response must be received by the Central Valley Water Board no later than **14 January 2021**. The Central Valley Water Board Prosecution Team will evaluate the Discharger's basis for a challenge and may seek clarifying information or schedule a meeting by video or teleconference. The Prosecution Team will inform the Discharger whether a reduction in the settlement amount is warranted, or whether the original settlement amount is appropriate. The Discharger will be provided a final opportunity to accept the revised/original settlement amount before proceeding to formal enforcement.

Option C: Reject Offer

If the Discharger chooses to reject this Settlement Offer and/or does not complete and return the Acceptance and Waiver, the Discharger should expect that the Prosecution Team will conduct further investigation of the violation(s), issue an administrative civil liability complaint, and schedule a hearing. The Discharger will receive notice of any deadlines associated with that action. As previously stated, in such an action, the liability amount sought and/or imposed may exceed the liability amount set forth in this Settlement Offer.

If you have any questions about this settlement offer, please contact Kari Holmes at (916) 464 4848 or at kari.holmes@waterboards.ca.gov.

Original signed by:

JOHN BAUM
Assistant Executive Officer

Enclosures: Acceptance of Settlement Offer and Waiver of Right to a Hearing
Attachment A: Penalty Calculation Methodology
21 December 2018 Inspection Report and 30 August 2019 NOV

cc Kristine Karlson, U.S. EPA, Region IX, San Francisco
Bayley Toft-Dupuy, Office of Chief Counsel, State Water Board, Sacramento
Patrick Pulupa, Executive Officer, Central Valley Water Board, Rancho Cordova

**ORDER NO. R5- [] (Order number pending Discharger endorsement)
ACCEPTANCE OF SETTLEMENT OFFER AND WAIVER OF RIGHT TO A HEARING
FOR
SUMIDEN WIRE CO.
SAN JOAQUIN COUNTY**

By signing below and returning this Acceptance of Settlement Offer and Waiver of Right to Hearing (Acceptance and Waiver) to the Central Valley Regional Water Quality Control Board (Central Valley Water Board), Sumiden Wire Co. (Discharger) hereby accepts the Settlement Offer described in the letter dated 7 December 2020 and titled OFFER TO SETTLE ADMINISTRATIVE CIVIL LIABILITY, SUMIDEN WIRE CO., SAN JOAQUIN COUNTY, WDID 5S39I004089, and waives the right to a hearing before the Central Valley Water Board to dispute the alleged violations described in the Settlement Offer and its enclosures.

The Discharger agrees that the Settlement Offer shall serve as a complaint pursuant to Article 2.5 of the Water Code and that no separate complaint is required for the Central Valley Water Board to assert jurisdiction over the alleged violations. The Discharger agrees to perform the following:

- Pay an administrative civil liability in the sum of thirty-four thousand three hundred twenty-eight dollars (\$34,328) by cashier's check or certified check made payable to the "State Water Resources Control Board Cleanup and Abatement Account." This payment shall be deemed payment in full of any civil liability pursuant to Water Code section 13385 that might otherwise be assessed for violations described in the Settlement Offer and its enclosures.
- Fully comply with the conditions of the General Permit for Storm Water Discharges Associated with Industrial Activities, Order 2014-0057-DWQ (Industrial General Permit) at the 1412 El Pinal Drive facility in Stockton.

The Discharger understands that by signing this Acceptance and Waiver, the Discharger has waived its right to contest the allegations in the Settlement Offer and the civil liability amount for the alleged violation(s). The Discharger understands that this Acceptance and Waiver does not address or resolve any liability for any violation not specifically identified in the Settlement Offer and its enclosures.

Upon execution by the Discharger, the Acceptance and Waiver shall be returned to the following address:

Central Valley Regional Water Quality Control Board
Attention: Kari Holmes, Supervisor, Enforcement Section
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670

The Discharger understands that federal regulations require the Prosecution Team to publish notice of and provide at least 30 days for public comment on any proposed resolution of an enforcement action for violations of an NPDES permit. Accordingly, this Acceptance and Waiver, prior to being formally endorsed by the Central Valley Water Board Executive Officer (acting as head of the Advisory Team), will be published as required by law for public comment.

If no comments are received within the notice period that cause the Prosecution Team to reconsider the Settlement Offer, then the Prosecution Team will present this Acceptance and Waiver to the Central Valley Water Board's Executive Officer for formal endorsement on behalf of the Central Valley Water Board.

The Discharger understands that if significant comments are received in opposition to the settlement, then the offer may be withdrawn by the Prosecution Team. If the Settlement Offer is withdrawn, then the Discharger will be notified and the Discharger's waiver pursuant to the Acceptance and Waiver will also be treated as withdrawn. The unresolved violation(s) will be addressed in a formal enforcement action. An administrative civil liability complaint may be issued, and the matter may be set for a hearing.

The Discharger understands that once this Acceptance and Waiver is formally endorsed and an Order Number is inserted, then the full payment is a condition of this Acceptance and Waiver. An invoice will be sent upon endorsement, and full payment will be due within 30 days of the date of the invoice.

I hereby affirm that I am duly authorized to act on behalf of and to bind the Discharger in the making and giving of this Acceptance and Waiver.

SUMIDEN WIRE CO.

By: Original signed by Kevin Evans

Title: Plant Manager

Date: 12/09/2020

IT IS SO ORDERED, pursuant to California Water Code section 13385.

By: _____
PATRICK PULUPA, Executive Officer

Date: _____

PENALTY CALCULATION METHODOLOGY
FOR
SUMIDEN WIRE CO.
SAN JOAQUIN COUNTY

Sumiden Wire Co. (Discharger), located at 1412 El Pinal Drive in Stockton (Facility), is enrolled for coverage under the General Permit for Storm Water Discharges Associated with Industrial Activities, Order 2014-0057-DWQ (Industrial General Permit). The Facility had an unauthorized discharge of low-pH process water on 2-3 April 2018. In addition, several violations of the Industrial General Permit were observed during a State Water Board inspection conducted on 21 December 2018.

The State Water Resources Control Board's Water Quality Enforcement Policy effective October 5, 2017 (Enforcement Policy) establishes a methodology for determining administrative civil liability by addressing the factors that are required to be considered under California Water Code section 13385(e). Each factor of the ten-step approach is discussed below, as is the basis for assessing the corresponding score.

The Enforcement Policy can be found at the following:

[Water Quality Enforcement Policy](https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2017/040417_9_final%20adopted%20policy.pdf)

(https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2017/040417_9_final%20adopted%20policy.pdf.)

Violation 1 – Unauthorized Non-Storm Water Discharge

The Industrial General Permit prohibits discharging liquids or materials other than storm water from the Facility unless they are authorized non-storm water discharges allowed in the permit or are authorized by a separate National Pollutant Discharge Elimination System (NPDES) permit. On 2-3 April 2018, a high-level probe failure caused 4,820 gallons of low-pH wastewater to discharge to the onsite storm water drainage system which is connected to the City of Stockton's Municipal Separate Storm Sewer System (MS4). Storm water at the Facility discharges to the Sanguinetti and Calaveras Pump Station, which discharges to the Calaveras River, a tributary to the San Joaquin River. The Prosecution Team alleges the discharge of low-pH wastewater violated Section III.B of the Industrial General Permit, which states the following: Except for non-storm water discharges (NSWDs) authorized in Section IV, discharges of liquids or materials other than storm water, either directly or indirectly to waters of the United States, are prohibited unless authorized by another NPDES permit. Unauthorized NSWDs must be either eliminated or authorized by a separate NPDES permit.

Table 1.

PENALTY FACTOR	VALUE	DISCUSSION
Degree of toxicity	3	This factor considers the physical, chemical, biological, and/or thermal characteristics of the material discharged. The wastewater discharge had a pH of 2.34. Receiving waters should be at pH 6.5-8.5 to support most living organisms. Acidic discharges can negatively impact aquatic life and aquatic habitat by increasing the solubility of metals and the toxic elements available for uptake by plants or absorbed by fish. Fish mortality will increase in lower pH conditions. The material discharged poses a substantial threat to potential receptors; therefore, a moderate factor of 3 was selected.
Harm or potential for harm to beneficial uses	3	The Facility is located within the lower Calaveras River watershed. According to the Water Quality Control Plan for the Sacramento River and the San Joaquin River Basins (Basin Plan), the beneficial uses for this stretch of the Calaveras River are municipal & domestic supply, irrigation, stock watering, contact & non-contact recreation, warm & cold freshwater habitat, fish migration & spawning, wildlife habitat, and navigation. The pH of the discharge was not within the acceptable range of the Industrial General Permit's Numeric Action Levels, which are designed to protect downstream surface water beneficial uses. The potential for harm to aquatic life and to these beneficial uses is moderate but unlikely to have long term acute or chronic effects. Therefore, a factor of 3 was selected.
Susceptibility to cleanup or abatement	1	Wastewater was discharged into the storm drain inlet, and therefore cleanup or abatement of 50% or more of the material was not possible.
Deviation from requirement	Moderate	The "Deviation from Requirement" is moderate because the Discharger failed to effectively implement best management practices (BMPs) such as performing routine tests on the sensor to ensure it was working properly, conducting routine visual observations of the facility to observe system upsets, or properly operating a ball valve to prevent the discharge.

PENALTY FACTOR	VALUE	DISCUSSION
Per gallon and per day factor for discharge violations	0.27	Based on the Potential for Harm score of 7 (3 + 3 + 1) and a moderate Deviation from Requirement, per gallon and per day values of 0.27 were determined from Tables 1 and 2 of the Enforcement Policy.
Volume discharged	4,820	For purposes of settlement, the volume being used to calculate liability at this time is the volume calculated by the Discharger and reported in their 29 May 2020 response to the NOV.
Adjustment for high volume discharges	n/a	The volume discharged does not meet the minimum 100,000 gallons discharge for high volume consideration.
Days of discharge	2	The discharge occurred on 2 April 2018 at 2152 hours and stopped on 3 April 2018 at 0415 hours. Although the discharge occurred within a 24-hour window, the Enforcement Policy utilizes calendar days. These dates and time were reported by the Discharger in their 29 May 2020 Response.
Initial Liability for Violation #1	\$15,714	<p>The per day assessment is calculated as the per day factor (0.27) multiplied by the number of days (2) multiplied by the maximum liability per day (\$10,000/day) = \$5,400</p> <p>The per gallon assessment is calculated as the per gallon factor (.27) multiplied by the number of gallons discharged in excess of 1,000 gallons (3,820 gallons) multiplied by \$10 dollars per gallon = \$10,314</p> <p>The Initial Liability Amount is the per day assessment (\$5,400) plus the per gallon assessment (\$10,314) = \$15,714.</p>

Adjustments for Discharger Conduct

PENALTY FACTOR	VALUE	DISCUSSION
Culpability	1.2	The Discharger was negligent in implementing basic BMPs to prevent the discharge, including testing of a high-level probe to ensure it was working, routinely inspecting tanks and secondary containment for leaks, and keeping a valve to the storm drain inlet closed when it was normally supposed to be closed.
History of Violations	1	Central Valley Regional Water Quality Control Board (Central Valley Water Board) staff is not aware of previous violations by the Discharger related to the Industrial General Permit. Therefore, a neutral factor of 1.0 is appropriate.
Cleanup and Cooperation	1.2	The Discharger failed to report the discharge, composed of sulfuric acid, to the Office of Emergency Services as required by Water Code section 13271. However, after the Central Valley Water Board notified the Central Valley Water Board of the violation, the Discharger took corrective actions and implemented additional measures to prevent future discharge violations. Therefore, a multiplier of 1.2 was selected.
Total Base Liability for Violation #1	\$22,628	The Total Base Liability Amount is calculated as the Initial Liability Amount multiplied by each of the above three factors.

Violation 2 – Failure to Maintain Advanced BMPs

Industrial facilities are required to implement appropriate BMPs to reduce or prevent discharges of pollutants. Section X.H.2.a of the Industrial General Permit states the following: In addition to the minimum BMPs described in Section X.H.1, the Discharger shall, to the extent feasible, implement and maintain any advanced BMPs identified in Section X.G.2.b, necessary to reduce or prevent discharges of pollutants in its storm water discharge in a manner that reflects best industry practice considering technological availability and economic practicability and achievability.

On December 21, 2018, inspectors observed storm drain inlet filter inserts that were damaged or filled with debris, which compromised their function to reduce and prevent discharges of pollutants. The Discharger’s practice was to replace inserts annually in September. However, the required monthly visual observations by the Discharger should have triggered more frequent maintenance of the BMPs and prompted the Discharger to replace the inserts sooner.

Table 2

PENALTY FACTOR	VALUE	DISCUSSION
Discharge violations	n/a	This step is not applicable because the violation is not a discharge violation.
Potential for harm	Moderate	BMPs that are not properly maintained will be ineffective at preventing pollutants from discharging in storm water runoff, presenting a substantial threat to beneficial uses. Common pollutants of concern that can discharge from industrial facilities include sediment and oil and grease that can negatively impact aquatic life and aquatic habitat. Therefore, the failure to properly maintain BMPs observed during the 21 December 2018 inspection presents a moderate threat to beneficial uses.
Deviation from requirement	Moderate	While BMPs were installed, they were not properly maintained, which compromised their function and ability to filter and reduce or prevent discharges of pollutants in storm water runoff. The Industrial General Permit requires BMPs to be properly maintained to ensure compliance with Industrial General Permit requirements. Because BMPs were installed but inadequately maintained, a moderate deviation from requirement was selected.
Per day factor	0.35	Moderate deviation and potential for harm is determined from Table 3 of the Enforcement Policy. The mid-range value was chosen, but the value could be increased if this matter proceeds to hearing.
Days of violation	1	For settlement purposes, only the day the violation was observed during the inspection is being considered. However, if this matter proceeds to hearing, the Prosecution Team will determine whether additional days should be added following a review of the Facility's records.
Initial Liability for Violation #2	\$3,500	The Initial Liability Amount is calculated as per day factor (0.35), multiplied by the number of days (1 day), multiplied by the maximum liability per day (\$10,000/day)

Adjustments for Discharger Conduct

PENALTY FACTOR	VALUE	DISCUSSION
Culpability	1.3	The Industrial General Permit requires the installation and proper maintenance of BMPs. The Discharger was negligent in failing to routinely inspect and maintain storm drain inlet BMPs to comply with the Industrial General Permit's requirements.
History of Violations	1	Central Valley Water Board staff is not aware of previous violations by the Discharger related to the Industrial General Permit. Therefore, a neutral factor of 1.0 is appropriate.
Cleanup and Cooperation	1	The Discharger has responded appropriately and provided sufficient corrective actions in a reasonable and prudent way. The Discharger has replaced the drain inlet BMPs and increased the frequency of inspection and maintenance procedures for the BMPs.
Total Base Liability for Violation #2	\$4,550	The Base Liability Amount is calculated as the Initial Liability Amount multiplied by each of the above three factors.

Violation 3 – Failure to Implement Good Housekeeping

Industrial facilities are required to implement minimum BMPs described in the Industrial General Permit, including good housekeeping, to reduce or prevent discharges of pollutants in storm water discharges. Section X.H.1.a.i of the Industrial General Permit states that the Discharger shall do the following: Observe all outdoor areas associated with industrial activity; including storm water discharge locations, drainage areas, conveyance systems, waste handling/disposal areas, and perimeter areas impacted by off-facility materials or storm water run-on to determine housekeeping needs. Any identified debris, waste, spills, tracked materials, or leaked materials shall be cleaned and disposed of properly.

On December 21, 2018, inspectors observed residual soap powder (TNA 1610PC) on the ground near a storm drain inlet, which could enter the storm drain system if mobilized by wind or rain. The residual soap on the ground was not cleaned up after routine equipment maintenance on the nearby Torit dust collection canisters.

Table 3

PENALTY FACTOR	VALUE	DISCUSSION
Potential for harm	Moderate	The soap powder could be mobilized by wind or rain and discharge to the storm drain inlet. The Safety Data Sheet for TNA 1610PC requires that the soap material not be allowed to enter surface water or storm drains and any firefighting runoff is not allowed to enter drains or water courses. Failure to implement good housekeeping, as clearly required in the Industrial General Permit and the SWPPP, compromises the Discharger's ability to reduce or prevent discharges of pollutants in storm water runoff, and therefore presents a substantial threat to beneficial uses. Therefore, a moderate potential for harm factor was selected.
Deviation from requirement	Major	The Discharger's SWPPP includes procedures for minimum BMPs. The Discharger did not clean up soap water after maintenance was performed, in violation of the Industrial General Permit. Therefore, a major deviation from requirement factor was selected.
Per day factor	0.55	Major deviation and moderate potential for harm is determined from Table 3 of the Enforcement Policy. The mid-range value was chosen, but the value could be increased if this matter proceeds to hearing.
Days of violation	1	Only the day the violation was observed during the inspection is being considered for settlement purposes. However, if this matter proceeds to hearing, the Prosecution Team will determine whether additional days should be added following a review of the Facility's records.
Initial Liability for Violation #3	\$5,500	The Initial Liability Amount is calculated as the per day factor (0.55), multiplied by the number of days (1 day), multiplied by the maximum liability per day (\$10,000/day)

Adjustments for Discharger Conduct

PENALTY FACTOR	VALUE	DISCUSSION
Culpability	1.3	The Industrial General Permit requires implementation of minimum BMPs including good housekeeping. The Discharger's failure to clean up soap powder is, at best, a negligent deviation from the standard of care.
History of Violations	1	Central Valley Water Board staff is not aware of previous violations by the Discharger related to the Industrial General Permit. Therefore, a neutral factor of 1.0 is appropriate.
Cleanup and Cooperation	1	The Discharger responded appropriately and implemented corrective actions in a reasonable and prudent manner. The Discharger has created a housekeeping checklist that logs the area condition and clean dates.
Total Base Liability for Violation #3	\$7,150	The Base Liability Amount is calculated as the Initial Liability Amount multiplied by each of the above three factors.

The Enforcement Policy states that five other factors must be considered before obtaining the final liability amount.

Total Base Liability Amount for all violations: \$34,328

Other Factor Considerations

PENALTY FACTOR	VALUE	DISCUSSION
Ability to pay and continue in business	No adjustment	According to its website, the Discharger is the largest single stainless-steel spring wire producer in the U.S. The Prosecution Team has no information suggesting that the proposed penalty will affect the Discharger's ability to continue in business.

PENALTY FACTOR	VALUE	DISCUSSION
Economic benefit	\$4,471	<p>The economic benefit is based on avoided and delayed costs that would have mitigated the violations. For Violation 1, costs were avoided for inspection and maintenance of high-level switches in the wastewater treatment system's secondary containment structure. It is assumed that these actions would occur quarterly at an annual cost of approximately \$232. It is assumed that at least one year of maintenance/inspection costs were avoided. In addition, a new high-level switch with telemetry capability was installed in June 2020 at a cost of approximately \$291. Had the switch been installed prior to the overflow event, the violation might not have occurred.</p> <p>For Violation 2, it is assumed that the Discharger avoided the inspection and replacement of treatment inserts/cartridges for storm drain inlets located onsite that were found during inspection to be ineffective. The Discharger's policy dictates that these advanced BMPs are to be inspected, repaired, or replaced in September of each year. An invoice in the amount of \$2,633 was provided by the Discharger to inspect, service, and replace all drain inlet filters and cartridges. It is assumed that this activity should have occurred at least twice prior to when it was actually performed.</p> <p>For Violation 3, it is assumed that the Discharger failed to conduct housekeeping activities related to the cleanup of Torit soap dust waste at the time of inspection. It is assumed that hand sweeping would have properly remediated the violation. Assuming the waste was cleaned within one day of inspection, the economic benefit is considered negligible.</p> <p>Compliance costs were input into the USEPA BEN financial model to determine the total economic benefit of noncompliance.</p>

PENALTY FACTOR	VALUE	DISCUSSION
Other factors as justice may require	No adjustment	The costs of investigation and enforcement are “other factors as justice may require” and may be added to the liability amount under the Enforcement Policy. For purposes of settlement only, the Central Valley Water Board is not adding costs of investigation and enforcement to the proposed total liability.
Maximum liability	\$78,200	Based on California Water Code section 13385(c): \$10,000 per day per violation and \$10 per gallon.
Minimum liability	\$4,918	Based on California Water Code section 13385, civil liability must be at least the economic benefit of noncompliance. Per the Enforcement Policy, the minimum liability is the economic benefit plus 10%. ($\$4,471 \times 10\% = \447.10 ; $\$4,471 + \$447.10 = \$4,918.10$)
Final Liability	\$34,328	The final liability amount is the Total Base Liability Amount for all violations, with any allowed adjustments. The final liability must be more than the minimum liability and less than the maximum liability.