Specific Factors Considered in Calculating Proposed Administrative Civil Liability For Sonoma County Water Agency and Russian River County Sanitation District Sanitary Sewer Overflows 2019

The State Water Resources Control Board's (State Water Board's) *Water Quality Enforcement Policy* (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).

The Enforcement Policy can be found at:

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

Background

Sonoma County Water Agency (SCWA) is the contract operator and Russian River County Sanitation District (RRCSD or District) (collectively, Dischargers) owns the Russian River Wastewater Treatment Facility (WWTF), located at 18400 Neeley Road, in Guerneville. The District also owns, and is responsible for, the wastewater collection system, including associated infrastructure that collects and carries wastewater from the service area to the WWTF (collectively referred to hereinafter as collection system). The WWTF and collection system are subject to the requirements of multiple regulatory orders including Waste Discharge Requirements (WDR) Order No. R1-2014-0002 and State Water Board Order No. 2006-003-DWQ, Statewide General WDRs for Sanitary Sewer Systems, as amended by Order No. WQ-2013-0058-EXEC (SSS General WDRs). As the contract operator of the District, SCWA provides contract engineering and administrative services to the District.

In early 2019, the Dischargers reported multiple unauthorized discharges of raw sewage from their collection system. The Prosecution Team has identified the spills from 2019 as Spills 1.a, 1.b, and 1.c.

Table 1: 2019 spills comprising Violation 1

Violation	Date	Location	Volume	No. of Days
1.a. (CIWQS ID 856208)	February 14-15, 2019	17498 Riverside Drive	200,664 gallons	2
1.b. (CIWQS ID 856704)	February 26-March 1, 2019	17496 Riverside Drive	483,000 gallons	4

Violation	Date	Location	Volume	No. of Days
1.c. (CIWQS ID 856715)	March 1-March 2, 2019	17821 Orchard Road	202,000 gallons	2
TOTAL			**885,664 gallons**	**8**

The Dischargers provided notification and spill reports for each of these incidents, as required by the SSS General WDRs, and State and Regional Water Quality Control Board (Regional Water Board) (collectively, the Water Boards) staff collected additional information regarding these incidents during a collection system inspection and review with the Dischargers on December 6, 2019. Following the December 6, 2019 inspection, the Dischargers submitted updated reports for each of the three 2019 spills (violations 1a., 1.b., and 1.c.). Copies of initial and revised (where applicable) reports for each spill are included as an attachment to this methodology.

Each of the reported discharge volumes represent unauthorized discharges of waste (raw sewage) into the Russian River, a Water of The United States and a Water of the State, and violated the Dischargers' WDRs, including the SSS General WDRs, and the federal Clean Water Act. Applicable provisions include the following:

Waste Discharge Requirement (WDR) Order No. R1-2014-0002, section III, contains several prohibitions regarding unauthorized waste discharges from the Dischargers' collection and treatment system, most notably prohibition E:

> E. Any sanitary sewer overflow (SSO) that results in a discharge of untreated or partially treated wastewater to (a) waters of the State or (b) land that creates a pollution, contamination[1], or nuisance as defined in Water Code sections 13050(m) is prohibited.

The SSS General WDRs, No. 2006-0003-DWQ, section C, contains the following two prohibitions:

> 1. Any SSO that results in a discharge of untreated or partially treated wastewater to waters of the United States is prohibited.

[1] Water Code section 13050 (k): "Contamination" means an impairment of the quality of the waters of the state by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease. "Contamination" includes any equivalent effect resulting from the disposal of waste, whether or not waters of the state are affected.
Water Code section 13050(l): (1) "Pollution" means an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects either of the following:(A) The waters for beneficial uses.(B) Facilities which serve these beneficial uses.(2) "Pollution" may include "contamination."

2. Any SSO that results in a discharge of untreated or partially treated wastewater that creates a nuisance[2] as defined in California Water Code Section 13050(m) is prohibited.

The federal Clean Water Act, section 301 (33 U.S.C. 1311) prohibits the discharge of any pollutant into waters of the United States without a National Pollutant Discharge Elimination System (NPDES) permit. Neither Order R1-2014-0002, nor the SSS General WDRs, authorize the discharge of untreated sewage.

Discussion of Factors Considered and Determination of Recommended Liability

Violation 1: Discharge of approximately 885,664gallons of raw sewage into the Russian River on February 14-15, 2019, February 26, 2019, and March 1-2, 2019

Spill 1.a., February 14-15, 2019 (2 days), 17489 Riverside Drive
The Dischargers attributed the cause of this spill to an extreme weather event, which caused flooding of a large portion of the District's service area and inflow of flood water into the District's collection system. The Dischargers reported that in preparation for the flood event, crews began monitoring the system, and detected the overflow at this location at 05:38 on February 14. Dischargers' crews closed valves at several locations to isolate sections of the collection system, and installed barricades and signage in the vicinity of the spill to reduce potential for public contact with the discharge.

Crews continued to monitor the vicinity until they were no longer safely able to do so due to flooding, but returned the next day, and observed, at 18:52 on February 15 that the overflow had ceased. The total estimated volume of raw sewage diluted with rainwater discharged to the Russian River was 200,664 gallons. The Dischargers reported that response was consistent with their Overflow Emergency Response Plan (OERP), that crews worked tirelessly during the flood emergency, and the Dischargers would look into conducting outreach to residents to ask that they inspect their sewer clean outs prior to oncoming storms to make sure that cleanouts are capped.

Spill 1.b., February 26, 2019 to March 1, 2019 (4 days), 17496 Riverside Drive

[2] Nuisance - California Water Code section 13050, subdivision (m), defines nuisance as anything which meets all of the following requirements:
a. Is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.
b. Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.
c. Occurs during, or as a result of, the treatment or disposal of wastes.

The Dischargers indicated that this overflow was a result of an extreme wet weather event, which caused flooding at the location of the overflow and inflow of flood water into the District's collection system. Similar to the event two weeks earlier, the Dischargers' crews began monitoring the system in preparation for the storm event, closing valves at several locations to isolate sections of the collection system, and, upon discovering the overflow, placing barricades and signage to reduce the potential for public contact with the discharge. On March 1, field crews observed that the overflow had ceased, and estimated that a total of 483,000 gallons of raw sewage diluted with rainwater discharged to the Russian River. The Dischargers reported that response was consistent with their OERP, and that crews worked tirelessly to keep up with demands imposed by the natural disaster, declared by both the Governor of California and the President of the United States.[3]

The Dischargers reported having invested more than $21 million in capital improvements over the past fifteen years, and indicated that over the next six months, they would look into operational changes to minimize overflows and to allow higher flows into the treatment plant. In a January 2020 revised report, the Dischargers proposed to conduct outreach to residents to remind them of the importance of inspecting and capping their sewage cleanouts prior to storms.

Spill 1.c., March 1, 2019 to March 2, 2019 (2 days),17821 Orchard Road

The report for this incident is largely the same as that for Spill 1.b, because the events were back to back, but at different locations. Notably, however, this manhole and the surrounding neighborhood were not under water during the period from March 1-2. However, the area was completely under underwater the prior three days and crews returned on March 1, when the flood waters had receded and access to the site was available. Because the flood had receded, crews did not have enough time to coordinate a practical response. Crews took immediate actions to divert the SSO away from public contact and placed signage around the area letting residents know there was an active spill. Crews reportedly monitored the spill but were unable to contain or collect spilled sewage, and follow-up plans were similar. Likewise, the initial report for this spill indicated that the Dischargers would examine operational changes to minimize overflows. A revised report, submitted to the Regional Water Board at a later date, indicated that follow-up would also focus on outreach to residents regarding cleanout caps. This spill resulted in the discharge of 202,000 gallons of untreated raw sewage diluted with rainwater into the Russian River.

These three events occurred within a short timeframe. Each had similar circumstances, reported cause, and reported response and future corrective action. Accordingly, the Prosecution Team is considering these three spills as a single violation, for a total of 885,664 gallons, and eight (8) days, as described further below.

[3] Federal Emergency Management Agency (FEMA) Major Disaster Declaration declared on May 1, 2019 (DR-4434-CA).

Step1: Potential for Harm for Discharge Violations

The Enforcement Policy directs staff to calculate Actual Harm or Potential for Harm considering: (1) the degree of toxicity of the discharge; (2) the actual or potential for harm to beneficial uses; and (3) the discharge's susceptibility to cleanup or abatement.

a) Factor 1: Degree of Toxicity of the Discharge:

Degree of toxicity considers the physical, chemical, biological, and/or thermal characteristics of the material involved in the violations and the risk of damage the discharge could cause to the receptors or beneficial uses. In this case, the material discharged was raw sewage diluted with rainwater.

The Enforcement Policy indicates that the characteristics of the material discharged should be scored between 0 and 4, with 0 being discharged material that poses a negligible risk or threat to potential receptors, and 4 being discharged material that poses a significant risk or threat to potential receptors. Raw, undiluted sewage (as compared to treated and/or diluted wastewater) typically has about ten times the concentrations of biochemical oxygen demand, trash, total suspended solids, oil and grease, ammonia, and thousands of times the levels of viruses and bacteria.

These pollutants exert varying levels of impact on water quality and, as such, will adversely affect beneficial uses of receiving waters to different extents. Raw sewage is generally toxic to aquatic organisms. As indicated previously, the discharges occurred during a flood event and the overflow locations were subject to mandatory evacuation orders. The Prosecution Team has assigned a value of 3 for this factor, noting that raw diluted sewage still poses an above-moderate risk or a direct threat to potential receptors.

b) Factor 2: Actual Harm or Potential Harm to Beneficial Uses:

The actual harm or potential harm to beneficial uses factor considers the harm to beneficial uses in the affected receiving water body that may result from exposure to the pollutants or contaminants in the discharge. A score between 0 and 5 is assigned, with 0 defined as no actual harm or potential harm to beneficial uses, and 5 defined as major, high harm or threat of harm to beneficial uses.

Actual Harm, Spills 1.a. and 1.b.
As discussed above, the first spill occurred over a two-day period, during a flooding event, and the second spill occurred over a four-day period, during a flood event. Spill 1.b. occurred when the spill location was flooded and the area was under a mandatory evacuation order. The Prosecution Team has assigned a

value of 3, for moderate harm or potential harm to beneficial uses, noting that the harm from these spills was likely to attenuate without appreciable medium or long term acute or chronic effects due to the relatively short duration of these spills and the time between each spill event, which would have allowed for natural attenuation of the pollutants associated with the discharge between spill events.

Actual Harm, Spill 1.c.

As mentioned above, the Dischargers reported that this spill occurred over a two-day period from March 1 to March 2, 2019. Discharger crews reportedly placed signage around the impacted manhole on February 26, prior to flooding, as a precautionary measure. Residents notified the Discharger after March 1 that the manhole had been overflowing.

Crews reportedly removed signage and cleaned up debris associated with this spill on March 2, 2019, but returned on March 8 to clean an approximately 150-foot segment of Orchard Avenue in the vicinity of the manhole. Crews also conducted soil sampling in between these dates.

Meanwhile, residents in the neighborhood reported that they had observed raw sewage flowing from the manhole on February 26; however, high water conditions inundated this area from February 26 through March 1. When high waters receded, the Dischargers set up warning signs and placed a line of sandbags to divert sewage into a private drain that drains into the back yards of three adjacent residences, thence to the Russian River. Residents again reported observing sewage overflowing from the manhole, both on March 1 and March 2. Residents reported that by March 5, signs and sandbags had been removed, but that residue remained on the street for days afterward, with crews finally returning March 8 to clean the street.

Based on the Dischargers' spill report and complaints from residents, from at least March 1 through March 2, raw sewage overflowed from the manhole. Per reports from the residents both during and following this event, the overflowed sewage left assorted debris, including paper, feces, and greasy silt, spread throughout the neighborhood from March 1 through March 8. During this period, the initial spilling and resultant residual waste material affected an entire neighborhood, causing conditions that were potentially injurious to health, and indecent or offensive to the senses. These conditions interfered with the residents' comfortable enjoyment of their lives or property; one resident reportedly found feces on the floor of his garage. As reported by the residents, this spill caused or resulted in nuisance conditions, and these persisted for approximately a week. These reported observations by residents confirming the visible presence of raw sewage suggested that receiving water quality and beneficial uses of the Russian River (including, but not necessarily limited to Municipal/Domestic Supply (MUN), Water-Contact and non-Contact Water Recreation (REC1 and REC2), and Cold Freshwater Habitat (COLD)) were likely also impacted over this period in the immediate vicinity of and downstream of the

spill. Accordingly, the Prosecution Team has assigned a harm value of 5, for major harm or threat of harm to beneficial uses because, while present, this material involved a potential for acute and/or chronic (e.g., more than five day) restrictions on, or impairment of, beneficial uses and human health.

c) Factor 3: Susceptibility to Cleanup or Abatement:

The Enforcement Policy directs staff to assign a score of 0 for this factor if the discharger cleans up 50 percent or more of the discharge within a reasonable amount of time. Otherwise, a score of 1 should be assigned. For all three spills, it is likely that most or all of the spilled sewage entered and moved quickly down the Russian River and was not recoverable. Accordingly, the Prosecution team has assigned a value of 1 for this factor.

Final Score: Potential for Harm:

For spills 1.a. and 1.b., the sum of the values for the three factors above is seven (3+3+1 = 7).

For spill 1.c., the sum of the values of the three factors above is nine (3+5+1 = 9).

Step 2: Assessments for Discharge Violations

Per Gallon Assessment: The Enforcement Policy directs staff to determine an initial liability amount on a per gallon basis by using a table (Table 1) in which the per gallon factor is based on the Potential for Harm score and the extent of Deviation from Requirement of the violation. The Deviation from Requirement reflects the extent to which the violation deviates from the specific requirements that were violated, ranging from a minor to a major deviation. In this case, the discharge of diluted raw sewage into the Russian River, a water of the State and United States, directly violates prohibitions in the Dischargers' NPDES permit and the SSS General WDRs. The Deviation from Requirement for this violation is Major.

Using Table 1 in the Enforcement Policy, and applying a "Major" Deviation from Requirement, the Prosecution team has determined that the per gallon assessment for spills 1.a. and 1.b. (harm score of 7) is 0.41, and the per gallon assessment for spill 1.c. (harm score of 9) is 0.8.

High Volume Discharges

The Enforcement Policy states that in most cases, the Water Boards shall apply the per gallon factor to the maximum per gallon amounts allowed under the California Water Code for the violations involved. However, recognizing that the volume of certain discharges can be very high, the Water Boards may elect to

use a value between $2.00 and $10.00 per gallon 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. Each of the three events resulted in more than 100,000 gallons of sewage spilled, and the total gallons spilled over less than a one-month period was nearly 1,000,000 gallons. Accordingly, the Prosecution Team deems it appropriate, and consistent with past actions, to apply a value of $2.00 per gallon to Violation 1.

Per Day Assessment

Similar to the per gallon assessment, the Enforcement Policy directs staff to determine an initial liability amount on a per day basis by using a table (Table 2) in which the per day factor is based on the Potential for Harm score and the extent of Deviation from Requirement of the violation. Again, the Deviation from Requirement in this case is Major.

Accordingly, using Table 2 in the Enforcement Policy, and applying a "Major" Deviation from Requirement, the Prosecution Team determined that the per day assessment for spills 1.a. and 1.b. (harm score of 7) is 0.41, and the per day assessment for spill 1.c. (harm score of 9) is 0.8.

Days of Violation:

Spill 1.a.: 2 days; Spill 1.b.: 4 days; Spill 1.c.: 2 days.

Initial Liability:

Spills 1.a. and 1.b.: [(200,664 gallons + 483,000 gallons) – (2 spills)(1,000 gallons)] = 681,664 gallons.

(681,664 gallons x 0.41 x $2.00 per gallon) = $558,964.48
(6 days x 0.41 x $10,000 per day) = $24,600

Spill 1.c.: 202,000 – (1 spill)(1,000 gallons) = 201,000 gallons

(201,000 gallons x 0.8 x $2.00 per gallon) = $321,600
(2 days x 0.8 x $10,000 per day) = $16,000

Total Initial Liability: $558,964.48 + $24,600.00 + $321,600.00 + $16,000.00 =

$921,164.48

Step 3: Per day Assessments for Non-Discharge Violations

Not applicable.

Step 4: Adjustment Factors

The Water Boards must consider three additional factors for potential modification of the proposed liability: the violator's degree of culpability, the violator's prior history of violations, and the violator's voluntary efforts to clean up, or its cooperation with regulatory authorities after the violation.

Adjustment for Degree of Culpability

This factor is the discharger's degree of culpability prior to the violation, and ranges from 0.75 to 1.5, with a higher multiplier for intentional misconduct and gross negligence, and a lower multiplier for accidental or non-negligent violations. A neutral assessment should be used when a discharger is determined to have acted as a reasonable and prudent person would have; less than 1.0 should only be used when a discharger demonstrates that it has exceeded the standard of care expected of a reasonably prudent person to prevent the violation.
The Prosecution Team has assigned a score of **1.1** for this factor.

Discussion: Circumstances in the 2019 spills were quite similar to a series of SSOs that occurred in 2017 from the Dischargers' facilities. The Dischargers had an opportunity to apply their 2016 OERP to the 2017 spills and had time following those spills to review and update their emergency spill response procedures based on lessons learned during the 2017 spills. While the Discharger's response leading up to 2017 may have been reasonable, additional steps should have been taken between 2017 and 2019 to prevent similar sorts of violations. Together, these spills had highlighted specific areas in the collection system susceptible to overflow, and Dischargers' response during the 2019 spills demonstrated an awareness of the areas of the collection system likely to fail; crews reportedly visited these areas several times during the rainfall events, monitored overflows once identified, and reportedly cleaned up residue following overflow events. However, the spill events of 2017 also revealed deficiencies in the OERP; the plan specifies that releases from the collection system will be stopped, and spilled material will be recovered. Crews did not attempt to recover spilled material in 2017, and more than a million gallons of raw sewage was released into the Russian River. Yet, the Prosecution Team has no evidence that the Dischargers made any infrastructure improvements to their system or revisions to their OERP or protocols to attempt to reduce the potential for release of raw sewage, nor to contain or recover sewage releases during or in temporal proximity to periods of high rainfall.

An inspection of the Dischargers' collection and treatment system conducted by State and Regional Water Boards staff revealed numerous permit violations and compliance deficiencies that are documented in the December 6, 2019 Compliance Evaluation Inspection Report prepared by State Water Board staff following the inspection, including the following:

- Inadequate funding to address aging infrastructure;
- Inadequate wet weather collection system capacity to handle peak wet weather flows due to inflow and infiltration;
- Inadequate routine maintenance of the Rio Nido lift station;
- Failure to conduct SSMP program audits;
- Failure to do annual updates of collection system questionnaire since 2010;
- Failure to update OERP to specifically describe protocols for recovering sewage discharged into water bodies; and
- Failure to update wet weather SOPs.

A reasonable and prudent discharger would have learned from and made adjustments in response to past incidents to prevent similar future occurrences and to better ensure permit compliance. In addition, the Dischargers are not complying with various terms of their permits. Compliance with permit requirements would have resulted in a more resilient system and reduced both the severity and duration of each of these spill events by ensuring that the Dischargers were adequately maintaining and upgrading their system to meet the requirements of its permits. These Dischargers apparently did not do so, indicating potential negligence.

During the December 6, 2019 inspection, the Dischargers discussed how they could improve notification to the public when spills occur, including use of door hangers to notify residents of an SSO and using larger print on warning signs, how they could reduce SSOs and the impacts of SSOs in the neighborhoods by preparing a plan to direct any unrecoverable sewage directly to the river to minimize the potential for public contact in the neighborhood, accepting larger volumes of wastewater at the WWTF, and working with the general public to close lateral cleanouts to reduce the volume of flood water that enters the collection system.

The Dischargers point out that during the 2019 SSOs the District's NPDES permit for the WWTF included a provision that prohibited the District from pumping more than 3.5 million gallons per day (MGD) to the WWTF. The 3.5 MGD prohibition was based on the wet weather treatment capacity of the Facility and included in the NPDES permit because an exceedance of this capacity could result in effluent violations and/or the need to bypass untreated effluent blended with treated effluent. This pumping limitation directly influenced the magnitude of the SSOs in 2019. This pumping limitation was removed from the updated NPDES permit, and with the removal of this limitation, the District has implemented operational changes to reduce the magnitude and frequency of SSOs, which assisted in the wet season of 2022/23. Additionally, the District is seeking funding for infrastructure improvements at the WWTF that would further reduce SSOs during extreme weather events.

Adjustment for History of Violations

This factor pertains to the discharger's prior history of violations. The Prosecution Team has assigned a value of **1.0** to this factor.

Discussion: The Enforcement Policy recommends that where the discharger has prior violations within the last five years, the Water Boards should use a multiplier of 1.1. Further, where the discharger has a history of similar or numerous dissimilar violations, the Water Boards should consider adopting a multiplier above 1.1.

The Dischargers do not have a history of violations in the last five years, therefore, the Prosecution Team recommends applying a history of violations factor of 1.0.

Adjustment for Cleanup and Cooperation

This factor pertains to a discharger's voluntary efforts to clean up and/or cooperate with regulatory authorities in returning to compliance after the violation. This value ranges from 0.75 to 1.5, using the lower multiplier where there is exceptional cleanup and cooperation compared to what can reasonably be expected, and the higher multiplier where there is not. A reasonable or prudent response should receive a neutral value of 1.0. Adjustments above that amount should be applied where the discharger's response to a violation falls below the normally expected response. In this case, the Prosecution Team has assigned a value of **1.2** for this factor.

Discussion: As discussed above, Dischargers' response to each of the spills grouped in Violation 1 did not include any reported attempts to collect, contain, or recover the discharged material while manholes were overflowing; crews cleaned up remaining residue following overflows, but generally limited actions during overflows to periodic inspections/observations, and placing signage or barriers.

Furthermore, as discussed above, even following the 2019 spill events, all of which had circumstances very similar to those which occurred in 2017, the Dischargers proposed no follow-up actions intended to specifically protect or improve the integrity of the collection system in the Vacation Beach area, and they made no changes or improvements to their spill response protocols or capability to attempt to collect, contain, or minimize overflowing sewage during overflow periods. The overflowing manholes were inundated with high floodwaters during portions of the reported overflow events, but overflowing manholes were accessible during periods prior to and following high water events, and the March 1 and 2, 2019 event (Spill 1.c.), in particular, occurred following a high water event, with the overflowing manhole visible, accessible, and impacting nearby residents and traffic on the affected road segment. One would have expected that a reasonable and prudent discharger would have updated its protocols following the 2017 events. These Dischargers did not do so. When events with strikingly similar circumstances occurred again in 2019, one would expect that a reasonable and prudent discharger would observe the possibility that changes in climate and weather patterns might make such occurrences more common, review its infrastructure improvement priorities, and spill response plans, protocols, and preparations, and make or schedule improvements as needed to ensure compliance with applicable permits both in the shorter and longer term. However, these Dischargers

still had not done so nearly a year after the 2019 spill events. The Prosecution Team deems it appropriate to assign a value of 1.2 for this factor.

Step 5: Total Base Liability for Violation: $1,215,937.11

Discussion: The total base liability is calculated as the initial liability multiplied by each of the above three factors: (Initial Liability) x (Degree of Culpability) x (History of Violations) x (Cleanup and Cooperation)

Total Base Liability : $921,164.48 x (1.1)(1.0)(1.2)=$ $1,215,937

Step 6: Ability to pay and continue in business

Sonoma County Water Agency and the Russian River County Sanitation District are separate legal entities. Sonoma County Water Agency is the contract operator of the Russian River County Sanitation District and provides contract engineering and administrative services to the District.

According to Sonoma County Water Agency's Fiscal Year 2019-20 report for RRCSD:

[https://www.sonomawater.org/media/PDF/About/Finance/Financial%20Statements/2020/Russian%20River%20CSD%20Financial%20Statements%2019-20%20FINAL.pdf]

Net Position:
In 2019, the assets of the District exceeded its liabilities at the close of the most recent fiscal year by $22,936,335 (net position). Of this amount, $4,211,694 (unrestricted net position) may be used to meet the District's ongoing obligations to citizens and creditors.

Revenues:
The District recognized total revenues and capital contributions of $5,963,026 during the fiscal year ended June 30, 2020. Of this amount, $5,251,040 consists of operating revenues including flat charges and charges for services, and $210,565 represents nonoperating revenues consisting of intergovernmental revenue ($127,862), investment income ($82,644) and property taxes ($59).

Capital Contributions:
These totaled $501,421 and consisted of capital replacement grants from other governments ($496,193) and connection fees ($5,228).

Expenses:
The District incurred expenses totaling $5,793,090 during the fiscal year ended June 30, 2020. Of this amount $5,661,012 represents operating expenses related to the collection, treatment, disposal, and reclamation of effluent, as well as administrative and

general expenses. Nonoperating expenses consisted of $69,342 of interest expense related to the District's long-term debt and a $62,736 loss on impairment of capital assets.

Change in Net Position:
For FY 2019-20, the District recorded an operating loss of $409,972 for the fiscal year that ended June 30, 2020, while recognizing an overall increase in net position of $169,936.

Step 7: Economic Benefit

The Economic Benefit is any savings or monetary gain derived from the act or omission that constitutes the violation. While the Dischargers did not necessarily derive an economic benefit from the spills themselves, the spills demonstrate or are a consequence of the Dischargers' continued failure to invest in system improvements and other measures to prepare for and respond to raw sewage spills from its collection system during periods of heavy rainfall.

The economic benefit for Violation 1 is $133,637 as calculated in Attachment B, incorporated herein by reference.

Step 8: Other factors as justice may require

Staff are not aware of any circumstances warranting an adjustment to the proposed liability amount.

Step 9: Maximum and Minimum Liabilities

The Enforcement Policy directs the Regional Water Board to consider maximum and minimum liability amounts set forth in the applicable statutes.

a. Statutory Maximum Penalty: Pursuant to Water Code section 13385(c)(1) and (2), civil liability may be imposed 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;

(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.

Accordingly, the maximum liability for this case would be:

8 days of spills x $10,000 per day = $80,000

885,664 gallons spilled – 3,000 = 882,664 x $10 = $8,826,640

Total maximum liability = **$8,906,640**

b. Minimum Penalty: Water Code section 13385, subdivision (e), requires that at least the economic benefit derived from the violation be recovered. The Enforcement Policy states that Regional Water Board should strive to impose civil liabilities of at least 10 percent more than the economic benefit to the violator.

As discussed above, the economic benefit is $133,637. Accordingly, the minimum liability for this case is $147,001 which constitutes the economic benefit plus 10%.

Step 10: Final Liability Amount

$1,215,937

Discussion:
The final liability amount is the total liability after application of any adjustments for the ability to pay, economic benefit, and other factors as justice may require. The final liability must be more than the minimum liability and less than the maximum liability. Here, the liability of $1,215,937 is less than the statutory maximum liability and more than the minimum liability.