

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
NORTH COAST REGION**

**[PROPOSED] ORDER NO. R1-2025-____
for Administrative Civil Liability**

**In the Matter of:
Yesenia and Raul Carrillo
Mendocino County
Assessor's Parcel Numbers 032-294-03-00 and 032-180-45-00**

The California Regional Water Quality Control Board, North Coast Region (hereinafter North Coast Water Board) finds the following:

This matter comes before the North Coast Water Board from Administrative Civil Liability Complaint No. R1-2025-0006, dated February 10, 2025, (Complaint) issued to Yesenia and Raul Carrillo (Dischargers). The Complaint alleges that, between September 15, 2024 and February 10, 2025, the Dischargers failed to comply with Required Action No. 1 contained in North Coast Water Board Cleanup and Abatement and Investigative Order No. R1-2024-0034 (Cleanup and Abatement Order or CAO), and proposes an administrative civil liability amount of **\$55,335** for the alleged violation, pursuant to Water Code section 13268. A hearing took place on May 7, 2025, in accordance with the hearing notice and procedures served on Dischargers, and applicable laws and regulations, including California Code of Regulations, title 23, sections 648-648.8. The Board evaluated the evidence and argument and based on the allegations in the Complaint determined for the reasons set forth below that the Dischargers failed to comply with the Cleanup and Abatement Order and are liable for **\$55,335** in penalties.

BACKGROUND

1. The Dischargers own two separate parcels located within three miles of each other east of the town of Covelo in Mendocino County. One parcel identified as APN 032-294-03-00 is located less than two miles north of Black Butte River, approximately three miles east and upstream from its confluence with the Middle Fork Eel River. The other parcel identified by APN 032-180-45-00 is located less than one mile north and upstream from the confluence of the Black Butte River with the Middle Fork Eel River. The Dischargers acquired title to Mendocino County APN 032-294-

03-00 on August 28, 2020 and APN 032-180-45-00 on December 7, 2020, and owned the properties at all times relevant to the allegations in the Complaint.

2. The North Coast Water Board is the public agency with primary responsibility for the protection of groundwater and surface water quality for all beneficial uses within the North Coast Region of the State of California. The Dischargers created, and threaten to create, conditions of pollution by unreasonably impacting water quality and beneficial uses to the Black Butte River and Middle Fork Eel River. The *Water Quality Control Plan for the North Coast Region* (Basin Plan) identifies the following existing and potential beneficial uses for the Black Butte River Hydrologic Subarea within the Eel River Hydrologic Unit to include the following:
 - a. Municipal and Domestic Supply (MUN),
 - b. Agricultural Supply (AGR),
 - c. Industrial Service Supply (IND),
 - d. Industrial Process Supply (PRO),
 - e. Freshwater Replenishment (FRSH),
 - f. Navigation (NAV),
 - g. Hydropower Generation (POW),
 - h. Water Contact Recreation (REC1),
 - i. Non-Contact Water Recreation (REC2),
 - j. Commercial or Sport Fishing (COMM),
 - k. Warm Freshwater Habitat (WARM),
 - l. Cold Freshwater Habitat (COLD),
 - m. Wildlife Habitat (WILD),
 - n. Rare, Threatened, or Endangered Species (RARE),
 - o. Migration of Aquatic Organisms (MIGR),
 - p. Spawning, Reproduction, and/or Early Development (SPWN); and
 - q. Aquaculture (AQUA).
3. The Basin Plan contains water quality objectives which are necessary for reasonable protection of the beneficial uses. Protection of fishery beneficial uses (i.e., Cold Freshwater Habitat; Commercial and Sport Fishing; Spawning, Reproduction, and/or Early Development; Rare, Threatened, or Endangered Species; and Migration of Aquatic Organisms) are of particular importance and include the following:
 - a. Sediment: “The suspended sediment load and suspended sediment discharge rate of surface waters shall not be altered in such a manner as to cause nuisance or adversely affect beneficial uses.”
 - b. Suspended Material: “Waters shall not contain suspended material in concentrations that cause nuisance or adversely affect beneficial uses.”
 - c. Turbidity: “Turbidity shall not be increased more than 20 percent above naturally occurring background levels.

- d. Settleable Material: “Waters shall not contain substances in concentrations that result in deposition of material that causes nuisance or adversely affect beneficial uses.”
4. The Basin Plan (Section 4.2.1) contains the *Action Plan for Logging, Construction, And Associated Activities*, that includes the following waste discharge prohibitions:
 - a. The discharge of soil, silt, bark, slash, sawdust, or other organic and earthen material from any logging, construction, or associated activity of whatever nature into any stream or watercourse in the basin in quantities deleterious to fish, wildlife, or other beneficial uses is prohibited.”
 - b. “The placing or disposal of soil, silt, bark, slash, sawdust, or other organic and earthen material from any logging, construction, or associated activity of whatever nature at locations where such material could pass into any stream or watercourse in the basin in quantities which could be deleterious to fish, wildlife, or other beneficial uses is prohibited.”
5. The Middle Fork Eel River is Clean Water Act section 303(d)-listed as impaired due to elevated sedimentation and temperature. In December of 2003, the U.S. Environmental Protection Agency established Total Maximum Daily Loads (TMDLs) for temperature and sediment for the Middle Fork Eel River and its tributaries.
6. As part of the Regional Water Board’s efforts to control sediment waste discharges and restore sediment-impaired water bodies, the Regional Water Board adopted the *Total Maximum Daily Load Implementation Policy Statement for Sediment Impaired Receiving Waters in the North Coast Region*, which is also known as the Sediment TMDL Implementation Policy, on November 29, 2004. This Policy was adopted through Resolution R1-2004-0087. The Sediment TMDL Implementation Policy directs the Executive Officer to use “all available authorities, including existing regulatory standards and permitting and enforcement tools, to more effectively and efficaciously pursue compliance with sediment-related standards by all dischargers of sediment waste.” The goals of the policy are to control sediment waste discharges to impaired water bodies so that the TMDLs are met, sediment water quality objectives are attained, and beneficial uses are no longer adversely affected by sediment.
7. North Coast Water Board staff inspected APN 032-294-03-00 on May 9, 2023 and APN 032-180-45-00 on May 22, 2023, (both parcels are collectively referred to herein as the Property) during the execution of search warrants obtained by California Department of Fish and Wildlife (CDFW) law enforcement. The purpose of Staff’s inspections was to evaluate onsite development and conditions, and to identify and assess any impacts or threatened impacts to the quality and beneficial uses of waters of the state from illicit cannabis cultivation. The Dischargers’ activities were conducted without authorization from the applicable state, and local agencies, including the North Coast Water Board.

- a. On June 22, 2023, the North Coast Water Board transmitted a report of the inspection of APN 032-180-45-00 and a Notice of Violation to the Dischargers documenting controllable sediment sources associated with graded cultivation pads; road fords and poorly designed or maintained culverted stream crossings; and cannabis cultivation waste discharged to land and burned where it threatens to discharge pollutants into watercourses.
 - b. On August 11, 2023, the North Coast Water Board transmitted a report of the inspection of APN 032-294-03-00 and a Notice of Violation to the Dischargers documenting controllable sediment sources associated with poorly designed, constructed or maintained access roads, graded cultivation pads and a culverted stream crossing from where sediment threatens to discharge to receiving watercourses; cannabis cultivation waste including soil pots, plastic netting, and lumber discharged into a watercourse; and unauthorized alteration of a channel bank and fill of sediment into a watercourse.
8. On May 15, 2024, Staff transmitted a draft cleanup and abatement order to the Dischargers that proposed tasks with associated deadlines that would be required to clean up and abate the impacts from observed discharges or threatened discharges resulting from the unauthorized cannabis cultivation activities on the Property. The transmittal letter for the draft cleanup and abatement order provided the Dischargers 30 days from the date of the transmittal letter to submit written comments and/or evidence for the North Coast Water Board to consider.
9. On June 13, 2024, the Dischargers emailed comments to Staff. Staff responded to the Dischargers' comments on July 18, 2024, acknowledging the submittal of their comments and informing them of their risk of liability if they fail to comply with a Cleanup and Abatement Order issued by the North Coast Water Board, but Staff did not propose any changes to the draft cleanup and abatement order based on the Dischargers' comments.
10. On July 23, 2024, the Executive Officer issued the Cleanup and Abatement Order to the Dischargers. The Cleanup and Abatement Order directs the Dischargers to complete several Required Actions, including submittal of a proposed Cleanup, Restoration, and Monitoring Plan by September 15, 2024 (Required Action 1).
11. On September 26, 2024, Staff transmitted a Notice of Violation to the Dischargers for failing to submit a proposed CRMP by September 15, 2024, as required under Required Action 1 of the Cleanup and Abatement Order. The Notice of Violation explained that the Dischargers risked the North Coast Water Board imposing administrative civil liability if they did not comply with the Cleanup and Abatement Order.
12. The Penalty Methodology for the Complaint (Attachment A) provides the details of the violation and the factors considered in developing the civil liability. Attachment A

to the Complaint is included as Attachment A to this Order and incorporated herein by reference.

VIOLATION

13. **Violation 1:** The Dischargers violated Cleanup and Abatement Order, Required Action 1 by failing to submit a Cleanup, Restoration, and Monitoring Plan (CRMP) by September 15, 2024.

LEGAL AND REGULATORY CONSIDERATIONS

14. The Cleanup and Abatement Order directive to submit the CRMP (Required Action 1) was issued pursuant to Water Code section 13267.

WATER CODE AUTHORITY FOR IMPOSING ADMINISTRATIVE CIVIL LIABILITY

15. Water Code section 13268 provides that the North Coast Water Board may impose civil liability administratively to any person who fails to submit reports as required under Water Code section 13267 in an amount not to exceed one thousand dollars (\$1,000) for each day in which the violation occurs.

WATER QUALITY ENFORCEMENT POLICY

16. On April 4, 2017, the State Water Board adopted Resolution No. 2017-0020, which adopted the 2017 *Water Quality Enforcement Policy*¹ (2017 Enforcement Policy). The 2017 Enforcement Policy was approved by the Office of Administrative Law and became effective on October 5, 2017. The 2017 Enforcement Policy establishes a methodology for assessing administrative civil liability that addresses the factors that are required to be considered when imposing a civil liability as outlined in Water Code sections 13327 and 13385, subdivision (e).²
17. The violation alleged is subject to liability in accordance with Water Code section 13268. Administrative civil liabilities under this section of the Water Code are subject to the factors set forth in Water Code section 13327. The North Coast Water Board considered the required factors for the alleged violation using the methodology in the 2017 Enforcement Policy, as described in Attachment A.

¹ The [2017 Enforcement Policy](https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2017/040417_9_final%20adopted%20policy.pdf) is available at: (https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2017/040417_9_final%20adopted%20policy.pdf)

² The Office of Administrative Law approved revisions to the Enforcement Policy in November 2024. Because the Dischargers' violation occurred prior to that approval date, the 2017 Enforcement Policy governs the penalty calculation for the assessed administrative civil liability in this Order.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

18. Issuance of this Order to enforce Water Code, Division 7, Chapter 5.5 is exempt from the provisions of the California Environmental Quality Act (Pub. Res. Code, sec. 21000 et seq.), in accordance with California Code of Regulations, title 14, sections 15307, 15308, and 15321, subdivision (a)(2).

PROPOSED ADMINISTRATIVE CIVIL LIABILITY

19. The Prosecution Team proposes an administrative civil liability of **\$55,335** for the violation, as detailed in Attachment A. This proposed administrative civil liability was derived from the use of the penalty methodology in the 2017 Enforcement Policy. The proposed administrative civil liability takes into account the factors described in Water Code section 13327, such as the Dischargers' culpability, history of violations, ability to pay, and other factors as justice may require.

MAXIMUM STATUTORY LIABILITY

20. Pursuant to Water Code section 13268, subdivision (b)(1), civil liability may be administratively imposed by the North Coast Water Board on a daily basis in an amount that shall not exceed one thousand dollars (\$1,000) for each day in which the violation occurs. The Dischargers have failed to submit the required CRMP for **148 days**, from September 15, 2024, to February 10, 2025. The statutory maximum liability amount for the violation is \$148,000 (\$1,000/day x 148 days).

MINIMUM STATUTORY LIABILITY

21. The 2017 Enforcement Policy requires the North Coast Water Board to recover, at a minimum, the economic benefit plus ten percent. The economic benefit for the violation is estimated to be \$292. The minimum liability that may be imposed is, therefore, \$292 plus 10 percent (\$29), totaling **\$321**.

ADMINISTRATIVE CIVIL LIABILITY

22. Based on consideration of the above facts, the evidence in this matter, material submitted by the parties, the testimony and arguments presented at hearing, the applicable law, and after applying the methodology in the 2017 Enforcement Policy, the North Coast Water Board finds that civil liability shall be imposed administratively jointly against the Dischargers in the amount of **\$55,335**, as explained in detail in Attachment A to this Order.
23. Notwithstanding the issuance of this Order, the North Coast Water Board retains the authority to assess additional penalties for violations for which penalties have not yet been assessed or for violations that may subsequently occur.
24. Any person aggrieved by this action of the Regional Water Board may petition the State Water Board to review the action in accordance with Water Code section

13320 and California Code of Regulations, title 23, section 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. [Copies of the law and regulations applicable to filling petitions](http://www.waterboards.ca.gov/public_notices/petitions/water_quality/) will be provided upon request, and may be found on the Internet at: (http://www.waterboards.ca.gov/public_notices/petitions/water_quality/)

IT IS HEREBY ORDERED, pursuant to Water Code sections 13268 and other applicable law, that:

1. The Dischargers jointly shall be assessed an Administrative Civil Liability in the amount of fifty-five thousand three hundred and thirty-five dollars (\$55,335).
2. Payment shall be made no later than 30 days from the date on which this Order is adopted. The Dischargers shall send the original signed check to:

State Water Resources Control Board
Division of Administrative Services
ATTN: Accounting
1001 I Street, 18th Floor
Sacramento, CA 95814

with a copy to:

North Coast Regional Water Quality Control Board
Attn: Jeremiah Puget
5550 Skylane Boulevard, Suite A
Santa Rosa, CA 95403.

I, Valerie Quinto, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, North Coast Region, on May ____, 2025.

Valerie Quinto
Executive Officer