

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

In the matter of:

**MONTEREY ONE WATER;
UNAUTHORIZED
DISCHARGES OF UNTREATED
WASTEWATER IN 2017, 2018,
AND 2019**

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

ORDER NO. R3-2021-0051

SECTION 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 California Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board), Prosecution Team (Prosecution Team), and Monterey One Water¹ (M1W) (collectively known as the Parties) and is presented to the Central Coast Water Board, or its delegate, for adoption as an order by settlement pursuant to California Water Code (Water Code) section 13323 and California Government Code (Government Code) section 11415.60.

SECTION II: RECITALS

1. The Central Coast Water Board regulates the M1W RTP via Waste Discharge Requirements (WDR) Order No. R3-2018-0017, National Pollutant Discharge Elimination System (NPDES) Permit CA0048551. Prior to April 1, 2019, the Central Coast Water Board regulated the RTP via WDR Order No. R3-2014-0013. Additionally, the Central Coast Water Board regulates M1W's sanitary sewer system via the State Water Resources Control Board's (State Water Board) Statewide General Waste Discharge Requirements for Sanitary Sewer Systems, Order No. 2006-0003-DWQ (Statewide General Order). The Prosecution Team alleges three violations described in further detail in the following recitals.
2. Discharge Prohibition II.D of WDR Order No. R3-2014-0013 prohibits the overflow or bypass of wastewater from M1W's collection, treatment, or disposal facilities and the subsequent discharge of untreated or partially treated wastewater to waters of the United States.

¹ Monterey Regional Water Pollution Control Agency (MRWPCA) changed its name to Monterey One Water in June 2017. Monterey One Water owns and operates the Regional Wastewater Treatment Plant (RTP) and Advanced Water Purification Facility, a publicly owned treatment works (POTW).

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3. In Violation #1, the Prosecution Team alleges that, on January 19 and 20, 2018, M1W violated Discharge Prohibition II.D, Water Code section 13376, and Clean Water Act section 301 (33 U.S.C. § 1311) by discharging an estimated 2,869,230 gallons of untreated municipal wastewater to Monterey Bay—a National Marine Sanctuary—and the Pacific Ocean, both waters of the United States, when the headworks screening system (i.e., bar screen) failed causing an overflow from the headworks and discharge through the RTP’s ocean outfall to the bay approximately two miles from shore.

4. M1W is subject to administrative civil liability under Water Code section 13385, subdivision (a) for Violation #1 for violating Discharge Prohibition II.D of WDR Order No. R3-2014-0013, Water Code section 13376, and Clean Water Act section 301.

5. The Central Coast Water Board regulates the M1W sanitary sewer system via the Statewide General Order, which M1W has been enrolled under since 2006.

6. Prohibition C.1 of the Statewide General Order provides “[a]ny SSO [sanitary sewer overflow] that results in a discharge of untreated or partially treated wastewater to waters of the United States is prohibited.”

7. M1W is required to convey its untreated wastewater, commonly referred to as sewage, to the RTP for treatment before authorized discharge to surface waters of the United States (Monterey Bay, Pacific Ocean).

8. On February 20, 2017, M1W discharged untreated wastewater from its Fountain Avenue Pump Station #13 in Pacific Grove, California, to Monterey Bay and the Pacific Ocean. The unauthorized discharge occurred from 7:05 PM to 8:40 PM due to power outages, pump station flooding, and incomplete repair of pump station electrical equipment.

9. In Violation #2, the Prosecution Team alleges that M1W violated Prohibition C.1 of the Statewide General Order, Water Code section 13376, and Clean Water Act section 301 by discharging an estimated 161,500 gallons of untreated wastewater to Monterey Bay, a water of the United States, without a NPDES permit² on February 20, 2017.

10. On October 17, 2019, M1W discharged untreated wastewater from its Ocean View and 9th Street Pump Station #12 in Pacific Grove, California, to Monterey Bay and the Pacific Ocean. The unauthorized discharge occurred from 7:12 PM to 7:48 PM due to operator error resulting in sewage pumps being

² M1W has an NPDES permit that regulates the regional wastewater treatment plant, but not the sewage collection system, which is regulated under the Statewide General Order. The Statewide General Order is not an NPDES permit.

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turned off. M1W estimated that the total volume of the overflow was 5,637 gallons, with 30 gallons of that total recovered and returned to the sewer system, and the remaining 5,607 gallons discharging to Monterey Bay.

11. In Violation #3, the Prosecution Team alleges that M1W violated Prohibition C.1 of the Statewide General Order, Water Code section 13376, and Clean Water Act section 301 by discharging an estimated 5,607 gallons of untreated wastewater to Monterey Bay, a water of the United States, without a NPDES permit on October 17, 2019.

12. M1W is subject to administrative civil liability under Water Code section 13385, subdivision (a) for Violations #2-3 for violating Water Code section 13376, and Clean Water Act section 301. Additionally, the unauthorized discharges of untreated wastewater to Monterey Bay in violation of Prohibition C.1 of the Statewide General Order are subject to administrative civil liability under Water Code section 13350. The Prosecution Team has elected to pursue enforcement of Violations #2-3 pursuant to Water Code section 13385, subdivision (a).

13. Pursuant to Water Code section 13385, subdivision (a), a person that violates an NPDES permit, Water Code section 13376, and/or Clean Water Act section 301 is subject to administrative civil liability under Water Code section 13385, subdivision (c):

...in an amount not to exceed the sum 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.

14. The Parties have engaged in confidential settlement negotiations and agree to settle the alleged violations without administrative or civil litigation and to present this Stipulated Order to the Central Coast Water Board, or its delegate, for adoption as an Order by settlement, pursuant to Water Code section 13323 and Government Code section 11415.60.

15. To resolve the alleged violations listed in Section II, paragraphs 3, 9, and 11, by consent, the Parties have agreed to the imposition of an administrative civil liability of **eight hundred thousand dollars (\$800,000)** against M1W. The administrative civil liability amount is the liability amount the Prosecution Team calculated using Steps 1 through 10 of the State Water Board's 2010 and 2017 Water Quality Enforcement Policies, as shown in Attachments A-D, respectively, incorporated herein by reference. As explained in Attachment D, the administrative civil liability amount reflects a reduction from the Combined Total

Base Liability in consideration of M1W's inability to pay the Combined Total Base Liability.

16. The Prosecution Team has determined that the resolution of the alleged violations is fair and reasonable and fulfills all of its enforcement objectives, that no further action is warranted concerning the violations except as provided in this Stipulated Order, and that this Stipulated Order is in the public's best interest.

SECTION III: STIPULATIONS

The Parties incorporate the foregoing Recitals and stipulate to the following:

1. **Jurisdiction:** The Parties agree the Central Coast 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:** M1W hereby agrees to the imposition of **eight hundred thousand dollars (\$800,000)** in administrative civil liability, to resolve the violations set forth in Section II, paragraphs 3, 9, and 11, as follows:
 - a. M1W must submit a check for **ten thousand dollars (\$10,000)** in administrative civil liability no later than 30 days following the date the Central Coast Water Board or its delegate signs this Stipulated Order. The check must be made payable to the "State Water Pollution Cleanup and Abatement Account," reference Stipulated Order No. R3-2021-0051, and be submitted to:

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

M1W must provide a copy of the check via e-mail to the State Water Board, Office of Enforcement to Kailyn.Ellison@waterboards.ca.gov, and the Central Coast Water Board to Tamara.Anderson@waterboards.ca.gov.

- b. The Parties agree the remaining **seven hundred ninety thousand dollars (\$790,000)** (SEP Amount) of the administrative civil liability will be suspended pending completion of the Supplemental Environmental Project (SEP) as set forth in Attachment E, incorporated herein by reference. The suspended liability will become due and payable if the initial monetary assessment described in Section III, paragraph 2.a. is not paid as required.

3. **SEP Description:** M1W proposes to implement a SEP as set forth in Attachment E. The SEP consists of a private lateral rehabilitation project in the Castroville Community Services District.

4. **Compliance with SEP Policy:** The Policy on Supplemental Environmental Projects (May 2018) section VIII.B. provides:

Unless otherwise permitted by statute or approved by the Director of [the Office of Enforcement (OE)] based on a finding of compelling justification due to exceptional circumstances . . . no settlement shall be approved by the Water Boards that fund a SEP in an amount greater than 50 percent of the total adjusted monetary assessment against the settling party. The total adjusted monetary assessment is the total amount assessed, exclusive of a Water Board's investigative and enforcement costs.

The Director of OE may approve a proposed settlement to fund a SEP in an amount greater than 50 percent of the total adjusted monetary assessment . . . in cases where the SEP is located in or benefits a [Disadvantaged Community (DAC)], an [Environmental Justice (EJ)] Community or a community that has a financial hardship, or where the SEP substantially furthers the human right to water.

Pursuant to the Director of OE's April 30, 2021 memorandum on approving disadvantaged community and environmental justice SEPs greater than 50 percent of the total adjusted monetary assessment (SEP Memo), more than 50 percent to the total adjusted monetary assessment may be dedicated to the SEP because the SEP benefits and is located in a DAC as shown in Attachment E. The Prosecution Team has provided written notification of the SEP to the Director of OE and has obtained approval for the SEP to exceed 50 percent of the total adjusted monetary assessment. Therefore, **seven hundred ninety thousand dollars (\$790,000)** of the administrative civil liability is directed to the SEP identified in Attachment E.

5. **SEP Requirements:** The Parties agree that the SEP Amount specified in Section III, paragraph 2.b. is for the SEP identified in Attachment E and that the amount associated with the SEP shall be treated as a suspended administrative civil liability at the time of project completion for purposes of this Stipulated Order. The Central Coast Water Board is entitled to recover any SEP funds that are not expended in accordance with this Stipulated Order. Detailed project descriptions, including milestones, budgets, and performance measures are included in Attachment E.

6. **Nexus to the Violation:** The SEP Policy requires that a SEP have a nexus to the alleged violation. (SEP Policy, section VIII.F.) The SEP included in

this Stipulated Order has a nexus to the location of the alleged violations because the SEP is located within a 50-mile radius of the locations of the alleged violations.

7. **SEP Categories:** The SEP Policy provides for seven categories of SEPs. (SEP Policy, section V.) The private lateral rehabilitation SEP included in this Stipulated Order falls under the public health, pollution prevention, and pollution reduction categories.

8. **SEP Completion Deadline:** M1W agrees that it bears ultimate responsibility for completing the SEP in accordance with the schedule set forth in Attachment E, including expenditure of the full SEP Amount and the completion of the SEP no later than August 12, 2024 (SEP Completion Deadline).

9. **Time Extension for SEP:** The Central Coast Water Board's Executive Officer may extend the deadlines set forth in Attachment E if M1W demonstrates delays from unforeseeable circumstances, provided that M1W continues to undertake all appropriate measures to meet the deadlines. Should an extension be needed, M1W must notify the Executive Officer in writing at least 30 days prior to the deadline. The written notice must specifically refer to this Paragraph and describe the anticipated length of time the delay may persist, the cause or causes of the delay, the measures taken or to be taken by M1W to prevent or minimize the delay, the schedule by which the measures will be implemented, and the anticipated date of compliance with this Stipulated Order. Any approval of an extension request by the Executive Officer will be sent to M1W in writing.

10. **SEP Oversight Costs:** Central Coast Water Board staff will review the Quarterly Reports and Certification of Completion completed by M1W to ensure that SEP implementation complies with this Stipulated Order. M1W is responsible for any charged costs for any reasonable and necessary Central Coast Water Board staff oversight, which are not included in the SEP Amount.

11. **SEPs are Above and Beyond M1W's Obligations:** The SEP included in this Stipulated Order contains only measures that go above and beyond M1W's obligations. The SEP is not part of M1W's normal business nor is M1W otherwise legally required to implement any portion of the SEPs.

12. **No Benefit to Central Coast Water Board Functions, Members, or Staff:** The SEP provides no direct fiscal benefit to the Central Coast Water Board's functions, its members, its staff, or any family member of staff.

13. **Reporting Requirements for the SEP:** M1W shall submit the following reports on SEP implementation to the designated Central Coast Water Board contact identified in Section III, paragraph 21 below:

- a. **Quarterly Reports:** Quarterly Reports must be submitted on the 15th of the month following the end of each calendar quarter. The Quarterly

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Reports must describe the tasks completed during the previous calendar quarter, whether M1W is in compliance with the schedule in Attachment E, and if not, the cause(s) of the delay(s) and the anticipated date of compliance with this Stipulated Order. The Quarterly Reports may also include descriptions and photos of activities completed during the previous calendar quarter, results of any monitoring completed during the previous calendar quarter, approved invoices, accounting of expenditures relative to proposed budget in Attachment E, and an analysis of the SEP's progress.

- b. **Certification of SEP Completion:** No later than August 31, 2024, M1W shall submit a final report that documents SEP completion and provides a certified statement of SEP completion (Certification of SEP Completion), signed under penalty of perjury, that documents the following: (a) expenditures made during the SEP completion period (which may exceed the amount funded by this Stipulated Order), (b) that all applicable environmental laws and regulations were followed in implementing the SEP, including the California Environmental Quality Act (CEQA), Porter-Cologne Act, and federal Clean Water Act, and (c) completion of the SEP in accordance with the terms of this Stipulated Order.

The expenditures may include external payments to outside vendors, but may not include the normal, routine work undertaken by M1W's staff. Routine work does not include work undertaken to complete the SEP, including the work and associated costs to complete and submit the Quarterly Reports and Certification of Completion. In making such certification, the signatories may rely on normal organizational project tracking systems that capture employee time expenditures and external payments to outside vendors, such as environmental and information technology contractors or consultants. Documentation of SEP completion may include photographs, invoices, receipts, certifications, and other materials reasonably necessary for the Central Coast Water Board to evaluate SEP completion and the costs incurred. M1W shall provide the designated Central Coast Water Board contact with any additional information reasonably necessary to verify the SEP expenditures and SEP completion.

14. **Third Party Audit:** If the Central Coast Water Board obtains information reasonably indicating that M1W has not expended money in the amounts claimed, or has not adequately completed any of the work in the SEP, the Central Coast Water Board may require, and M1W must submit, at its sole cost, a report prepared by an independent third party(ies) acceptable to the Central Coast Water Board, stating that in its professional opinion, M1W has or has not expended money in the amounts claimed. In the event of such an audit, M1W agrees that the third-party auditor will be provided with access to all documents

that the auditor requests. Such information must be provided to the designated Central Coast Water Board contact within three months of the date on which the Central Coast Water Board requires the audit. The audit need not address any costs incurred by the Central Coast Water Board for oversight.

15. **Central Coast Water Board Acceptance of Completed SEP:** Upon M1W's satisfaction of its obligations under this Stipulated Order, the completion of the SEP and any audits, the designated Central Coast Water Board contact will request the Central Coast Water Board, or its delegate, to issue a "Satisfaction of Order." The issuance of the Satisfaction of Order will terminate any further obligations under this Stipulated Order and permanently suspend the SEP Amount.

16. **Failure to Expend the SEP Amount on the Approved SEP:** If M1W is unable to demonstrate to the reasonable satisfaction of the Central Coast Water Board or its delegate that the entire SEP Amount has been spent on the completed SEP, M1W must pay the difference between the SEP Amount and the amount demonstrated was actually spent on the SEP (the Difference) as an administrative civil liability. The Central Coast Water Board or its delegate will issue a notice of violation (NOV) that will require M1W to pay the Difference to the "State Water Pollution Cleanup and Abatement Account" within 30 days of the NOV's issuance date. M1W must submit payment consistent with the payment method described in Section III, paragraph 2.a. Payment of the Difference will satisfy M1W's remaining obligations to implement the SEP.

17. **Failure to Complete the SEP:** If the SEP is not fully implemented by the SEP Completion Date or if there has been a material failure to satisfy a project milestone, the Central Coast Water Board or its delegate shall issue a "Notice of Failure to Complete SEP." The amount of suspended liability owed shall be determined via a Motion for Payment of Suspended Liability before the Central Coast Water Board or its delegate. M1W shall be liable to pay the entire SEP Amount, or, if shown by M1W, some portion thereof less the value of any completed milestones as stipulated to by the Parties in writing, or as determined by the Motion for Payment of Suspended Liability. Unless the Central Coast Water Board or its delegate determines otherwise, M1W shall not be entitled to any credit, offset, or reimbursement from the Central Coast Water Board for expenditures made on the SEP prior to the issuance date of the Notice. Within 30 days of the Central Coast Water Board's or its delegate's determination of the suspended liability amount assessed for M1W to pay, M1W shall submit payment consistent with the payment method described in Section III, paragraph 2.a. Payment of the assessed amount shall satisfy M1W's obligations to implement the SEP.

18. **Central Coast Water Board Not Liable:** Neither the Central Coast Water Board members nor the Central Coast Water Board staff, attorneys, or representatives shall be liable for any injury or damage to person or property

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resulting from acts or omissions by M1W, its directors, officers, employees, agents, representatives or contractors in carrying out activities pursuant to this Stipulated Order, nor shall the Central Coast Water Board, its members or staff be held as parties to or guarantors of any contract entered into by M1W, its directors, officers, employees, agents, representatives or contractors in carrying out activities pursuant to this Stipulated Order.

19. **Publicity:** Whenever M1W, or its agents or subcontractors, publicize one or more elements of the SEP, they must state in a **prominent manner** that the project is being undertaken as part of the settlement of an enforcement action by the Central Coast Water Board against M1W.

20. **SEP Inspections:** M1W agrees that Central Coast Water Board staff has permission to inspect the SEP, including the location where the SEP is being implemented and any documents associated with SEP implementation, at any time without notice.

21. **Party Contacts for Communications related to this Stipulated Order:**

a. **For the Central Coast Water Board:**

Thea Tryon
Assistant Executive Officer
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401
Thea.Tryon@waterboards.ca.gov
(805) 542-4776

b. **For M1W:**

Paul A. Sciuto
General Manager
Monterey One Water
5 Harris Ct., Building D
Monterey, CA 93940
Paul@my1water.org
(831) 645-4600

c. **Counsel for M1W:**

Melissa Thorme
Downey Brand LLP
621 Capitol Mall, 18th Floor
Sacramento, CA 95814

mthorne@DowneyBrand.com
(916) 520-5376

22. **Attorney's Fees and Costs:** Except as otherwise provided herein, each Party agrees to bear all attorneys' fees and costs arising from the Party's own counsel in connection with the matters set forth herein.

23. **Matters Addressed by this Stipulated Order:** Upon the Central Coast Water Board's or its delegate's adoption, this Stipulated Order represents a final and binding resolution and settlement of the alleged violations 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 deadlines specified in Section III, paragraph 2 and M1W's full satisfaction of the obligations to implement the SEP in accordance with the terms of this Stipulated Order.

24. **Public Notice:** M1W understands that this Stipulated Order must be noticed for a 30-day public review and comment period prior to consideration by the Central Coast Water Board or its delegate. If significant new information is received that reasonably affects the propriety of presenting this Stipulated Order to the Central Coast Water Board or its delegate for adoption, the Prosecution Team may unilaterally declare this Stipulated Order void and decide not to present it to the Central Coast Water Board or its delegate. M1W agrees that it may not rescind or otherwise withdraw its approval of this Stipulated Order.

25. **Addressing Objections Raised During Public Comment Period:** The Parties agree that the procedure contemplated for the Central Coast Water Board's or its delegate's adoption of the Stipulated Order, and public review of this Stipulated Order is lawful and adequate. The Parties understand that the Central Coast Water Board, or its delegate, have the authority to require a public hearing on this Stipulated Order. In the event procedural objections are raised or the Central Coast Water Board requires a public hearing prior to the Stipulated Order becoming effective, the Parties agree to meet and confer concerning any such objections, and may agree to revise or adjust the procedure and/or this Stipulated Order as necessary or advisable under the circumstances.

26. **No Waiver of Right to Enforce:** The failure of the Central Coast 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 Central Coast Water Board to enforce any such provision shall not preclude later enforcement of the same or any other provision of this Stipulated Order. If M1W fails to comply with this Stipulated Order, the Central Coast Water Board or its delegate may refer the matter to the State Attorney General to enforce the terms of this Stipulated Order.

27. **Effect of this Stipulated Order:** Except as expressly provided in this Stipulated Order, nothing in this Stipulated Order precludes the Central Coast

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Water Board or any State agency, department, board, or local agency from exercising its authority under any law, statute, or regulation.

28. **Compliance with Applicable Laws:** M1W understands that payment of 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 continuing violations of the type alleged herein may subject it to further enforcement, including additional administrative civil liability.

29. **Covenant Not to Sue:** M1W covenants not to sue or pursue any administrative or civil claims against the State of California, any State agency, or its officers, Board members, employees, representatives, agents, or attorneys arising out of or relating to any matter expressly addressed by this Stipulated Order or the SEP, except that this covenant is not intended to, and does not, limit M1W's rights to sue over other Central Coast Water Board orders (e.g., permits, cease and desist orders, etc.) or limit M1W's rights to defend against any additional enforcement or other actions taken by the Central Coast Water Board or its employees, representatives, agents, or attorneys, and shall not release any claims or complaints against any State agency, or the State of California or its officers, Central Coast Water Board members, employees, representatives, agents, or attorneys to the extent such covenant would be prohibited by California Business and Professions Code section 6090.5 or by any other statute, rule, regulation, or legal principle of similar effect.

30. **Mutual Release and Discharge of Claims:** In consideration for the promises, conditions, and covenants contained herein, each of the Parties, for itself on behalf of its heirs, executors, administrators, successors and assigns, hereby irrevocably and unconditionally releases and discharges the other party and its respective agents, officers, directors, shareholders, employees, attorneys, subsidiaries, predecessors, successors and assigns, from any and all claims, liabilities, obligations, promises, causes of actions, actions, suits, costs, expenses, fees (including but not limited to attorneys' fees), damages or demands, of whatsoever kind or character, whether civil, criminal, or administrative, arising from or relating to the violations alleged herein. Each of the Parties understands, acknowledges and agrees that this Stipulated Order may be pleaded and introduced as evidence as a full and complete defense to any claim, demand, action, or cause of action brought by any Party against the other Party related to the subject matter of this Stipulated Order.

31. **Interpretation:** This Stipulated Order shall be construed as if the Parties prepared it jointly. Any uncertainty or ambiguity shall not be interpreted against any one Party. The Parties are represented by counsel in this matter.

32. **Modification:** The Parties must not modify this Stipulated Order by oral representation made before or after its execution. Except as otherwise provided

in Section III, paragraph 9, all modifications must be in writing, signed by all Parties, and approved by the Central Coast Water Board or its delegate.

33. **Necessity for Written Approvals:** All approvals and decisions of the Central Coast Water Board, or its delegate, under the terms of this Stipulated Order must be communicated to M1W in writing. No oral advice, guidance, suggestions, or comments from Central Coast Water Board employees or officials regarding submissions or notices shall be construed to relieve M1W of its obligation to obtain any final written approval this Stipulated Order requires.

34. **If the Order Does Not Take Effect:** In the event that the Stipulated Order does not take effect because the Central Coast Water Board or its delegate does not approve it, or the State Water Board or a court vacates it in whole or in part, the Parties acknowledge that they expect to proceed to a contested evidentiary hearing before the Central Coast Water Board to determine whether to assess administrative civil liabilities for the underlying violation(s), unless the Parties agree otherwise. 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 the hearing. The Parties agree to waive any and all objections based on settlement communications in this matter, including, but not limited to the following:

- a. Objections related to prejudice or bias of any of the Central Coast Water Board members or their advisors and any other objections that are premised in whole or in part on the fact that the Central Coast Water Board members or their advisors were exposed to some of the material facts and the Parties' settlement positions as a consequence of reviewing the Stipulated Order, and therefore may have formed impressions or conclusions prior to any contested evidentiary hearing on the violation alleged herein in this matter; or
- b. Laches or delay or other equitable defenses based on the time period for administrative or judicial review to the extent this period has been extended by these settlement proceedings.

35. **No Admission of Liability/No Waiver of Defenses:** In settling this matter, M1W does not admit to liability, admit to the truth of the findings or allegations made by the Prosecution Team, or admit to any of the findings in this Stipulated Order or Attachments A-D, including Appendices B1 and C1, or admit to any violations of the Water Code, the Clean Water Act, any Central Coast Water Board or State Water Board order, or any other federal, State, or local laws or ordinances, but recognizes that this Stipulated Order may be used as evidence of a prior enforcement action consistent with Water Code sections 13327 and 13385, subdivision (e), and the Enforcement Policy. By entering into this agreement, M1W does not waive any defenses or arguments related to any new enforcement action that may be brought by the Central Coast Water Board,

including any brought under its discretionary enforcement authority reserved herein, and does not agree that the factors analysis in Attachments A-D are binding precedent.

36. **Waiver of Hearing:** M1W has been informed of the rights Water Code section 13323, subdivision (b) provides, and hereby waives its right to a hearing before the Central Coast Water Board prior to the Stipulated Order's adoption. However, M1W may appear at any Central Coast Water Board hearing where approval of this settlement is discussed, and if the settlement is not adopted and the matter proceeds to the Central Coast Water Board or State Water Board for a hearing, M1W does not waive its right to an adjudicatory hearing before any order other than this Stipulated Order is imposed.

37. **Waiver of Right to Petition or Appeal:** Except in the instance where the settlement is not adopted by the Central Coast Water Board or its delegate, M1W hereby waives its right to petition the Central Coast Water Board's adoption of the Order for review by the State Water Resources Control Board, and further waives its rights, if any, to appeal the same to a California Superior Court and/or any California appellate-level court.

38. **Authority to Bind:** Each person executing this Stipulated Order in a representative capacity represents and warrants that he or she is authorized to execute this Stipulated Order on behalf of and to bind the entity on whose behalf he or she executes the Stipulated Order.

39. **No Third-Party Beneficiaries:** Except in relation to this SEP, this Stipulated Order is not intended to confer any rights or obligations 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.

40. **Severability:** This Stipulated Order is severable; should any provision be found invalid, the remainder shall remain in full force and effect.

41. **Counterpart Signatures; Electronic Signature:** This Stipulated 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 electronic signature, and any such 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 electronic signature were an original signature.

42. **Effective Date:** This Stipulated Order becomes effective and binding on the Parties upon the date the Central Coast Water Board, or its delegate, enters the Order incorporating the terms of this Stipulated Order.

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IT IS SO STIPULATED.

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION, PROSECUTION TEAM**

Date: _____

 Digitally signed by Thea
S. Tryon
Date: 2021.06.24
15:39:52 -07'00'

By: _____
Thea S. Tryon
Assistant Executive Officer
Central Coast Water Board

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IT IS SO STIPULATED.

MONTEREY ONE WATER

Date: _____

By: _____

Tamsen R. McNarie
for Paul A. Sciuto

Digitally signed by Tamsen R. McNarie for Paul A. Sciuto
DN: cn=Tamsen R. McNarie for Paul A. Sciuto, o=Monterey One Water, ou=Monterey One Water, email=Tamsen.R.McNarie@montereyowater.com
Reason: I am approving this document
Location:
Date: 2021.08.24 16:08:27 -0700

Paul A. Sciuto
General Manager
Monterey One Water

ORDER OF THE CENTRAL COAST WATER BOARD

1. This Order is issued pursuant to Water Code section 13323 and Government Code section 11415.60 and incorporates the foregoing Sections I through III by this reference as if set forth fully herein.
2. The timeline for completion of the terms of this Stipulated Order:

Task I.D.	Task Description	Deadline(s)
a.	Pay \$10,000 to the State Water Pollution Cleanup and Abatement Account	No later than 30 days after this Stipulated Order is adopted.
b.	Submit Quarterly Reports on SEP implementation	Every January 15, April 15, July 15, and October 24 until the SEP Completion Deadline
c.	SEP Completion Deadline	August 12, 2024
d.	Submit Certification of Completion	August 31, 2024

3. In accepting this Stipulated Order, the Central Coast Water Board has considered, where applicable, each of the factors prescribed in Water Code section 13385 and has applied the Penalty Calculation Methodology set forth in the State Water Board’s Enforcement Policy. The Central Coast Water Board’s consideration of these factors and application of the Penalty Calculation Methodology is based upon information obtained by the Prosecution Team in investigating the allegations set forth in the Stipulated Order, or otherwise provided to the Central Coast Water Board.
4. This is an action to enforce the laws and regulations administered by the Central Coast Water Board. The Central Coast Water Board finds that issuance of this Stipulated Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, section 21000 et seq.) in accordance with section 15321, subdivision (a)(2), title 14, of the California Code of Regulations. Additionally, this Stipulated Order generally accepts the plans proposed for the SEP prior to implementation. Mere submittal of plans is exempt from CEQA because submittal will not cause a direct or indirect physical change in the environment.
5. The Executive Officer of the Central Coast Water Board is authorized to refer this matter directly to the Attorney General for enforcement if M1W fails to perform any of its obligations under this Stipulated Order.

Settlement Agreement and Stipulated Administrative Civil Liability
Stipulated Order No. R3-2021-0051
Monterey One Water

I, Matthew T. Keeling, Executive Officer of the California Regional Water Quality Control Board, Central Coast Region, do hereby certify the foregoing is a full, true, and correct copy of an order adopted by the Central Coast Water Board on August 13, 2021.

Matthew T. Keeling
Executive Officer
California Regional Water Quality Control Board
Central Coast Region

Date

Attachment A: Violation #1 Factor Consideration and Penalty Calculation Methodology

Attachment B: Violation #2 Factor Consideration and Penalty Calculation Methodology

Attachment B, Appendix B1: Receiving Water Sampling Results Exceeding Ocean Plan Water Quality Objectives (WQO) or California Code of Regulations Title 17 Bacteriological Standards and Indicating Harm or Potential Harm to Present or Potential Beneficial Uses of Monterey Bay

Attachment C: Violation #3 Factor Consideration and Penalty Calculation Methodology

Attachment C, Appendix C1: Receiving Water Sampling Results Exceeding Ocean Plan Water Quality Objectives (WQO) or California Code of Regulations Title 17 Bacteriological Standards and Indicating Harm or Potential Harm to Present or Potential Beneficial Uses of Monterey Bay

Attachment D: Steps 6-10 Factor Consideration and Penalty Calculation Methodology for Violations #1-3

Attachment E: Private Lateral Rehabilitation Project for the Castroville Community Services District SEP Proposal

ATTACHMENT A – VIOLATION #1

**FACTOR CONSIDERATION AND PENALTY CALCULATION METHODOLOGY
FOR SETTLEMENT AGREEMENT AND STIPULATION FOR ENTRY OF
ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R3-2021-0051**

**MONTEREY ONE WATER
REGIONAL TREATMENT PLANT
MONTEREY COUNTY**

This document provides details on the administrative civil liability penalty methodology related to Monterey One Water's (M1W) discharge of untreated municipal wastewater to waters of the United States on January 19-20, 2018. The Central Coast Regional Water Quality Control Board (Central Coast Water Board) Prosecution Team derived the administrative civil liability following the State Water Resources Control Board's (State Water Board) 2017 Water Quality Enforcement Policy (Enforcement Policy).¹ The administrative civil liability takes into account such factors as M1W's culpability, cooperation in returning to compliance, ability to pay the liability, and other factors as justice may require.

Application of the Water Board's Enforcement Policy

On April 4, 2017, the State Water Board adopted Resolution No. 2017-0020 amending the Enforcement Policy. The Office of Administrative Law approved the 2017 Enforcement Policy, which became effective on October 5, 2017. The Enforcement Policy establishes a methodology for assessing administrative civil liability. Use of the methodology addresses the factors in California Water Code (Water Code) sections 13327 and 13385, which require the Central Coast Water Board to consider several 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."

¹ See the [State Water Board's 2017 Enforcement Policy and Penalty Calculation Methodology Worksheet website](#).

The Central Coast Water Board Prosecution Team (Prosecution Team) developed the administrative civil liability based on the procedures included in the Enforcement Policy methodology. The penalty methodology calculation procedural steps are discussed and shown in detail below.

Regulatory Basis of Alleged Violation and Liability

The Central Coast Water Board regulates the M1W Regional Wastewater Treatment Plant (RTP) via Waste Discharge Requirements (WDR) Order No. R3-2018-0017, National Pollutant Discharge Elimination System (NPDES) Permit CA0048551. However, prior to April 1, 2019, the Central Coast Water Board regulated the RTP via WDR Order No. R3-2014-0013.² Discharge Prohibition II.D of WDR Order No. R3-2014-0013 prohibits the overflow or bypass of wastewater from collection, treatment, or disposal facilities and the subsequent discharge of untreated or partially treated wastewater to waters of the United States. The Prosecution Team alleges that on January 19 and 20, 2018, M1W violated Discharge Prohibition II.D, section 13376 of the Water Code, and section 301 of the Clean Water Act by discharging an estimated 2,869,230 gallons of untreated municipal wastewater to Monterey Bay (a National Marine Sanctuary) and the Pacific Ocean, both waters of the United States, when the headworks screening system (i.e., bar screen) failed causing an overflow from the headworks and discharge through the RTP's ocean outfall to the bay approximately two miles from shore. A discharger who violates an NPDES permit, section 13376 of the Water Code, and/or section 301 of the Clean Water Act is subject to administrative civil liability under Water Code section 13385, subdivision (a).

Penalty Calculation Methodology Procedural Steps

Step 1. Actual or Potential for Harm for Discharge Violations

This initial step for discharge violations is used to determine the actual harm or potential harm to the water body's beneficial uses caused by the violation using a three-factor scoring system to quantify: (1) the degree of toxicity of the discharge; (2) the actual harm or potential harm to beneficial uses; and (3) the discharge's susceptibility to cleanup or abatement.

² Monterey Regional Water Pollution Control Agency (MRWPCA) changed its name to Monterey One Water in June 2017. Monterey One Water is the owner and operator of the Regional Wastewater Treatment Plant (WWTP) and Advanced Water Purification Facility, a publicly owned treatment works.

Factor 1: The Degree of Toxicity of the Discharge³

Factor 1 Background: The evaluation of the degree of toxicity considers 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 to the receptors or beneficial uses. Evaluation of the discharged material's toxicity should account for all the characteristics of the material *prior to discharge*, including, but not limited to, whether it is partially treated, diluted, concentrated, and/or a mixture of different constituents. Toxicity analysis should include assessment of both lethal and sublethal effects such as effects on growth and reproduction. Note that Factor 2 (below) is focused on impacts or the threat of impacts to beneficial uses in specific receiving waters; whereas Factor 1 is focused on the nature and characteristics, or toxicity of the material discharged in the context of potential impacts to beneficial uses more generally. The Enforcement Policy specifies assigning a score ranging from 0 to 4 based on whether the risk or threat of the discharged material to potential receptors is negligible (0) to significant (4).

Violation #1 Factor 1 Consideration: Based on the physical, chemical, biological, and thermal characteristics of the discharge, the discharged material's risk or threat to potential receptors is **moderate (2)**. "Moderate" is assigned when the chemical and/or physical characteristics of the discharged material have some level of toxicity or pose a moderate level of threat to potential receptors.

The physical characteristics of untreated municipal wastewater include solids that may settle or stay in suspension causing deposition on the ocean floor affecting benthic habitats or aesthetic impacts throughout the water column. Oil or grease may also be present and float at the receiving water surface causing aesthetic impacts. Biologically, this wastewater also contains high levels of pathogenic organisms, including highly infectious and therefore toxic bacteria and viruses that cause disease and are harmful to human health through direct contact or ingestion, or via foodborne pathways such as fish or shellfish consumption. Organic material and ammonia can also deplete dissolved oxygen in receiving waters adversely affecting aquatic organisms and wildlife. Excess nutrients in the forms of nitrogen or phosphorus can cause nutrient over-enrichment affecting plant life. Chemically, ammonia can cause toxicity in aquatic life, as can toxic pollutants from industrial wastewater sources commonly present in municipal wastewater. While many industrial pollutants are not directly removed by

³ Differences in the order of discussion for Factor 1 and Factor 2 between Attachments A, B, and C are due to variations in the factor order in the version of the Enforcement Policy in effect at the time of the violation.

treatment methods commonly employed at RTPs such as M1W's, overflows such as that considered here eliminate the possibility of any indirect or coincidental removal during treatment (e.g., removal with solids/organic materials, volatilization during agitation).

M1W primarily controls potentially toxic pollutants in its RTP influent through its Pretreatment Program, which is implemented pursuant to WDR Order No. R3-2014-0013, Provision V.C.5.b, *Pretreatment*, and reported on annually. While not a conclusive characterization of the untreated wastewater discharged for this violation, M1W's 2017 Annual Pretreatment Program Report dated January 31, 2018, confirms the potential for RTP influent to include potentially toxic pollutants such as volatile and semi-volatile organic compounds (e.g., acetone, phenol), pesticides, metals, phenolics, cyanide, and oil and grease. M1W reported 15 industrial users are permitted to discharge industrial wastewater to the RTP.

M1W's 30-Day Report on the overflow, dated February 26, 2018, indicates that prior to the untreated wastewater's discharge to Monterey Bay, the discharge entered the RTP outfall where it mixed over the outfall's approximately two-mile length with 4.14 million gallons of secondary treated and disinfected effluent from the RTP; 800,000 gallons of tertiary treated and disinfected effluent from the Salinas Valley Reclamation Project; and 1.14 million gallons of seawater from California-American Water Company's Test Slant Well. Therefore, approximately 68 percent of the ultimate ocean outfall discharge during the overflow was comprised of treated effluent and seawater, and approximately 32 percent represented the untreated wastewater from the overflow. Such a mixture with treated effluent and seawater would dilute the untreated wastewater and mitigate the potential effects of the characteristics discussed above, resulting in a moderate risk or threat to potential receptors. Furthermore, with respect to potentially toxic pollutants from industrial sources, the overflow occurred from approximately 8 PM to 5 AM and therefore outside of typical business hours, further reducing the likelihood that such sources were actively discharging to the collection system during the overflow. These considerations warrant a corresponding factor of **(2) Moderate**.

Factor 2: Actual Harm or Potential Harm to Beneficial Uses

Factor 2 Background: The evaluation of the actual harm or the 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, consistent with the statutory factors of the nature, circumstances, extent, and gravity of the violation. The Central Coast Water Board may consider actual harm or potential harm to human health, in addition to harm to beneficial uses. Because actual

harm is not always quantifiable due to untimely reporting, inadequate monitoring, and/or other practical limitations, potential harm can be used under this factor.

Actual harm as used in this section means documented and/or observed harm. Potential harm should be evaluated in the context of the specific characteristics of the waste discharged and the specific beneficial uses of the impacted waters. The Enforcement Policy specifies a score ranging from 0 to 5 based on a determination of whether direct or indirect harm, or potential for harm, from a violation is negligible (0) to major (5).

Violation #1 Factor 2 Consideration: The actual harm or potential harm to beneficial uses from the discharge is **above moderate (4)**. “Above Moderate” is assigned when potential significant impacts are observed or reasonably expected, and involves potential for actual partial or temporary restrictions on, or impairment of, beneficial uses.

The untreated wastewater that discharged to Monterey Bay had the potential to cause harm to its beneficial uses. The Water Quality Control Plan for the Central Coast Basin, September 2017 Edition (2017 Basin Plan), Chapter 2, *Present and Potential Beneficial Uses*, Table 2-2, *Existing and Anticipated Uses of Coastal Waters*, lists the beneficial uses of the segment of coastline from the Salinas River to Point Piños, which encompasses the Monterey Bay coastal waters affected by the discharge. Considering the potential exposure to elevated levels of pathogens, the association of fecal contamination in recreational waters with an increased risk of gastrointestinal and respiratory illness, and the designation of Monterey Bay as part of the Monterey Bay National Marine Sanctuary, the listed beneficial uses potentially harmed by the discharge are REC-1 (Water Contact Recreation), REC-2 (Non-Contact Water Recreation), SHELL (Shellfish Harvesting), and MAR (Marine Habitat).

2017 Basin Plan, Chapter 3, Section 3.3.1 also states that the provisions of the State Water Board's *Water Quality Control Plan for Ocean Waters of California* (Ocean Plan), and any revisions thereto shall apply in their entirety to affected waters of the basin, including Monterey Bay. The 2015 Ocean Plan, Section I, *Beneficial Uses*, includes the above 2017 Basin Plan beneficial uses, and adds, in relevant part, aesthetic enjoyment, mariculture,⁴ fish migration, and fish spawning. These are beneficial uses also potentially harmed by the discharge.

⁴ The culture of algae, plants, and animals in marine waters independent of any pollution source.

The 2017 Basin Plan (Chapter 3, Section 3.3.1, *Objectives for Ocean Waters*) and 2015 Ocean Plan (Section II, *Water Quality Objectives*) establish numeric and narrative water quality objectives and bacteriological standards for the protection of beneficial uses of ocean waters. Exceeding those objectives is an indicator of harm or potential harm to beneficial uses.

Beach Closures

In the event of a known release of untreated wastewater into waters adjacent to a public beach, the local health officer must immediately post and close the beach until the source of the sewage release is eliminated, sample the affected waters, and continue closure or restriction until test results satisfy the bacteriological standards established under California Code of Regulations, title 17, section 7958. (California Code of Regulations, title 17, § 7961, subdivision (d); see also Health & Safety Code, § 115885, subdivision (a)(6)-(7).)

In response to notification of the overflow, on January 20, 2018, the Monterey County Health Department issued beach closures and health warnings from Moss Landing to Stillwater Cove (approximately 25 miles of coastline extending northward and southward of the discharge). Based on the results of the beach sampling conducted on January 21, 2018, the County Health Department lifted the overflow-related closures at 5:30 PM on January 22, 2018. Beach closures were therefore in place over the course of three calendar days and represent an acute and temporary restriction of REC-1 and REC-2 water contact beneficial uses and therefore warrant a factor score of **(4) Above Moderate**.

Other Considerations of Harm or Potential for Harm to Beneficial Uses

General Characteristics of Untreated Wastewater that Harm or Potentially Harm the Above Beneficial Uses

Untreated wastewater often contains feces, urine, blood, industrial wastewater, and dissolved and solid metal, and organic materials. Untreated wastewater is susceptible to containing high levels of suspended solids, pathogenic organisms, toxic pollutants, nutrients, oxygen-demanding organic compounds, oil and grease, and other pollutants that can degrade water quality and impact beneficial uses. Untreated wastewater is known to cause the pollution of the receiving waters with pathogens (disease causing bacteria, viruses, and other organisms), the killing of aquatic life, and the pollution of beaches.

Included in untreated wastewater are debris such as trash that are flushed down toilets, organic material, dissolved organic material, and other contaminants such as pesticides, soaps, heavy metals, and other toxic compounds. The effects in the receiving water may include a decrease in dissolved oxygen because of the increase in bacteria that breakdown the organic waste and use up oxygen in the process. A decrease in dissolved oxygen can negatively affect aquatic species such as fish and macroinvertebrates. The release of excess nitrogen and phosphorus from the untreated wastewater during that process may also cause eutrophication (the over-enrichment of a waterbody with nutrients) and an increase in algal growth that may act further to decrease dissolved oxygen.

Sampling Results

The overflow began at approximately 8:00 PM on January 19, 2018, and ended at approximately 5:10 AM on January 20, 2018. At 12:05 PM on January 20, 2018, M1W sampled 11 offshore and 7 nearshore locations to analyze potentially affected receiving waters for indicators of pathogenic organisms harmful to human health (i.e., total coliforms, fecal coliforms, and enterococci) and an indicator for the presence of sewage, ammonia. Sampling of these stations continued on January 21, 2018. Of the 23 samples collected and analyzed for each of the four parameters, only one sample marginally exceeded an applicable 2015 Ocean Plan water quality objective⁵ relating to the water contact beneficial uses and human health bacteriological standards. The overflow's cause of that exceedance is uncertain because of its distance from the ocean outfall discharge and the compliance of other samples taken closer to the discharge. The overall sampling results therefore did not indicate exceedance of applicable water quality objectives or bacteriological standards for the protection of human health beyond approximately seven hours after the overflow. However, as discussed above, actual harm did occur due to the acute and temporary (less than five days) restriction of the

⁵ The beach/shore sample collected at Site 12, Monterey Wharf #2 on Saturday, January 20, 2018, indicated an enterococcus level of 108 per 100 mL. The Ocean Plan's applicable single-sample limit for the protection of human health is 104 per 100 mL. Of the 18 sampling locations, Monterey Wharf #2 was the furthest from the outfall's discharge at approximately nine miles away. It is reasonable to conclude that if the overflow had caused the exceedance, then it may also have caused other exceedances at sampling sites in the immediate vicinity of the outfall and at shore sampling locations closer to the overflow. In addition, M1W's 15-Day Report, dated February 9, 2018, indicates on page 58 that this location has a history of exceeding enterococci limits during conditions unrelated to sewage overflows. It is therefore uncertain whether the overflow caused the Monterey Wharf #2 exceedance.

REC-1 and REC-2 beneficial uses because the beaches were closed for three days due to the overflow.

Discharge Modeling Results

After the overflow on January 19 and 20, 2018, and as requested by the National Oceanic and Atmospheric Administration, on February 6 and 7, 2018, M1W conducted sampling designed to model the composition of the overflow by mixing comparable ratios of influent (untreated municipal wastewater), secondary treated effluent, and test well seawater. Laboratory analysis included 126 pollutants regulated via the Central Coast Water Board's NPDES Permit for the RTP, WDR Order No. R3-2014-0013, according to Table 1 of the California Ocean Plan.⁶ Where receiving water sampling (as discussed above) focused on evaluating harm to human health beneficial uses, the modeled sampling intended to evaluate potential harm to marine organisms. Of the pollutants analyzed, the modeled mixture exceeded one effluent limit for chronic toxicity for kelp growth (applicable effluent limit is 150 TUc [chronic toxicity units], and the sample result was 294.1 TUc). While not a definitive characterization of the actual overflow, this modeled sampling result supports a reasonable expectation of potential significant impacts to marine organisms and therefore the overflow's potential harm to the marine habitat (MAR) and mariculture beneficial uses.

The 2015 Ocean Plan also contains water quality objectives stating that for all areas where shellfish may be harvested for human consumption, the median total coliform density shall not exceed 70 MPN [most probable number]/100 mL [milliliters], and not more than ten percent of the samples collected shall exceed 230 MPN/100 mL. M1W sampling results at Sites 8, 12, 15, and 18 showed exceedances of the median objective on January 20 and 21, 2018, demonstrating an actual acute and temporary (less than five days) restriction on the shellfish harvesting beneficial use.⁷

As reported in M1W 15-Day Report, M1W also physically observed the receiving water sampling locations. Slight odors were reported for open ocean sampling station Sites 2, 9, and 10 (approximately two to three miles offshore around the outfall), with foam

⁶ M1W submitted this data to NOAA staff by electronic mail dated April 13, 2018.

⁷ The results for Site 12 do exceed the 230 per 100 mL objective for 10 percent of the samples collected in a 30-day period, with 50 percent of the samples exceeding the objective. However, as noted earlier in the discussion of this factor, the overflow's cause of Site 12 exceedances is uncertain because of its distance from the ocean outfall discharge and the compliance of other samples taken closer to the discharge.

observed at Site 2, and turbidity at Site 3 (offshore). These observations indicate potential harm to the aesthetic enjoyment beneficial use.

As discussed above, the characteristics of the discharge and its cause of an acute and temporary (less than five days) restriction of REC-1 and REC-2 water contact beneficial uses indicated a more than moderate harm or potential harm to beneficial uses and warrants a factor score of **(4) Above Moderate**.

Factor 3: Susceptibility to Cleanup or Abatement

Factor 3 Background: The Enforcement Policy specifies assigning 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. A score of 1 is assigned for this factor if less than 50 percent 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. Natural attenuation of discharged pollutants in the environment is not considered cleanup or abatement for purposes of evaluating this factor.

Violation #1 Factor 3 Consideration: Less than 50 percent of the discharge was susceptible to cleanup or abatement due to its mixing and dispersion in the receiving water approximately two miles offshore, so the applicable factor for this violation is **(1)**.

Step 1 Final Score – Potential for Harm

The sum of the above scores is **7**. This value is used in Step 2 as the “Potential for Harm” score.

Step 2. Assessments for Discharge Violations

Step 2 Background

Per Gallon Assessments for Discharge Violations Background

The Enforcement Policy specifies that where a discharge occurs, the Water Boards shall determine an initial liability amount on a per gallon basis using the Potential for Harm score from Step 1 and determining the extent of Deviation from Requirement as either minor, moderate, or major. The Deviation from Requirement reflects the extent the alleged violation deviated from the specific requirement at issue. The Potential for Harm score in Step 1 and the Deviation from Requirement determination in Step 2 are used to determine a Per Gallon Factor from Table 1 of the Enforcement Policy. The per gallon assessment is then determined by multiplying the Per Gallon Factor by the

number of gallons subject to penalty and the maximum per gallon penalty amount allowed under the Water Code.

Per Day Assessments for Discharge Violations Background

The Enforcement Policy also specifies that where a discharge occurs, the Water Boards shall determine an initial liability factor per day based on the same parameters discussed above. Table 2 of the Enforcement Policy is used to determine a Per Day Factor for the alleged violation. The per day assessment is then determined by multiplying the Per Day Factor by the maximum per day amount allowed under the Water Code and the number of days the violation occurred.

Violation #1 Step 2 Consideration: Both per gallon and per day amounts may be assessed under Water Code section 13385. As determined in Step 1, the Potential for Harm factor for this violation is **(7)**. The Prosecution Team determined that the Deviation from Requirement is **major**. “Major” is assigned when the requirement was rendered ineffective (e.g., the requirement was rendered ineffective in its essential functions).

Discharge Prohibition II.D of WDR Order No. R3-2014-0013 prohibits the overflow or bypass of wastewater from collection, treatment, or disposal facilities and the subsequent discharge of untreated or partially treated wastewater to 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. This unauthorized discharge of untreated wastewater to a water of the United States renders each requirement ineffective in its essential function of protecting water quality and thus represents a major Deviation from Requirement.

The Prosecution Team determined that the Per Gallon Factor from Table 1 and the Per Day Factor from Table 2 of the Enforcement Policy **0.41**.

Water Code section 13385, subdivision (c)(2) provides that liability of up to \$10 per gallon shall apply to volumes of waste discharged but not cleaned up in excess of 1,000 gallons. The unauthorized discharge volume subject to per gallon liability is 2,868,230 gallons (2,869,230 minus 1,000 gallons).

Water Code section 13385, subdivision (c)(1) provides that liability of up to \$10,000 per day shall apply for each day of violation. January 19 and 20, 2018, are the only known days of violation, so two days of violation are subject to the per day assessment.

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. For discharges in excess of 2,000,000 gallons, or for discharges of recycled water that has been treated for reuse, the Water Boards may elect to use a maximum of \$1.00 per gallon with the above factor to determine the per gallon amount. These provisions are 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 \$1.00 per gallon or \$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 \$1.00 per gallon is appropriate and will not result in an inappropriately small civil liability for this violation.

Therefore, the per gallon and per day initial liability amounts, and the combined initial liability amount are as follows:

Per Gallon Liability:

$$\text{\$1.00/gallon} \times 2,868,230 \text{ gallons} \times 0.41 \text{ per gallon factor} = \text{\$1,175,974}$$

Per Day Liability:

$$\text{\$10,000/day} \times 2 \text{ days} \times 0.41 \text{ per day factor} = \text{\$8,200}$$

Initial Liability Amount:

$$\text{Per Gallon Liability} + \text{Per Day Liability} = \text{\$1,175,974} + \text{\$8,200} = \text{\$1,184,174}$$

Step 3. Per Day Assessment for Non-Discharge Violations

This step does not apply to Violation #1 because it is a discharge violation.

Step 4. Adjustment Factors

The Enforcement Policy specifies the consideration of violator conduct using three additional factors for potential modification of the amount of the initial liability determined in Steps 1 through 3: the violator's degree of culpability prior to the violation, the violator's prior history of violations, and the violator's voluntary efforts to clean up or cooperate with regulatory authorities after the violation.

Degree of Culpability Factor Background: The degree of culpability factor addresses the discharger's degree of culpability regarding the violation. Higher liabilities should result from intentional or negligent violations than for accidental, non-negligent violations. A first step is to identify any performance standards (or, in their absence, prevailing industry practices) in the context of the violation. The test for discharger negligence is consideration of what a reasonable and prudent person would have done or not done under similar circumstances.

Adjustment should result in a multiplier between 0.75 and 1.5. A neutral assessment of 1.0 should be used when a discharger is determined to have acted as a reasonable and prudent person would have.

Violation #1 Degree of Culpability Factor Consideration: The culpability factor for Violation #1 is **1.3**. Considerations supporting that factor include:

- M1W's 15-Day Report, dated February 9, 2018, and the 30-Day Report, dated February 26, 2018, include the results of the third-party root cause analysis for the overflow. Table 1 of the 15-Day Report, and, without substantial revision, Table 7 of the 30-Day Report list the significant causes of the overflow along with contributing factors for each cause. Table 7 of the 30-Day Report is followed by a flow chart depicting the causes and contributors. According to M1W, the overflow resulted from the following:
 - The RTP's bar screen programmable logic controller (PLC)⁸ failed, which caused the bar screen cleaning process to stop. The subsequent debris accumulation in the bar screen restricted influent flow to the RTP enough to cause the headworks to flood and overflow to the ocean outfall. Contributing to the PLC failure:

⁸ PLCs, in general, are commonly used to automate various industrial processes. M1W's 30-Day Report also refers to these as Process Logic Controllers.

- M1W's improper actions or inattention relating to work order history. On November 8, 2017⁹, M1W performed Work Order No. 17-11-00067¹⁰ for emergency/very critical repair work to the bar screen PLC that later failed on January 19, 2018. The root cause analysis indicated this work order related to a protocol failure involving: 1) a failure to determine the root cause of the problem before implementing the work order; 2) a failure to complete the work; 3) a failure of quality assurance/quality control relating to repair work; 4) short staffing due to limited resources, and; 5) antiquated hardware and software technology.
- The headworks water level indication equipment had failed due to corrosion and remained out of service for an extended period before the overflow.
- The master PLC failed to communicate with the bar screen PLC and with the SCADA¹¹ system.
- Alarms failed to notify RTP operators.
- Related to the November 8, 2017 bar screen PLC work order mentioned above, an analog input/output card to the bar screen PLC failed. The card's age potentially contributed to the failure.
- M1W's Lone Operator Safety Policy impaired operator response because the policy resulted in no operator routine inspections during night shifts, an outdated Spill Plan, and staff training deficiencies resulting in confusion with contact list and direction.
- M1W's consultant prepared the *MRWPCA 5-Year IT¹² and SCADA Master Plan*, dated May 18, 2015, to "provide a framework and action plan for achieving a reliable, robust, consistent, and secure IT and SCADA environment." Various sections of the plan¹³ informed M1W about deficiencies and issues related to the causes of or contributors to the January 19, 2018 overflow, including:
 - Section 4.3, *RTP Network Equipment Layout*, states,

⁹ Note that a typo in the flow chart incorrectly shows the work order date of November 2018.

¹⁰ 15-day report, Attachment A, *CCMS and CIP Information*, Work Order #17-11-00067 indicates repair of PLC bar screen malfunctioning electronics on November 8, 2017.

¹¹ "Supervisory Control and Data Acquisition" – electronic systems commonly used to monitor and control treatment systems.

¹² "Information Technology" – computer networking.

¹³ Provided as Attachment B to the 30-Day Report.

Presently, PLCs and I/O [input/output] are distributed by unit process throughout the RTP. The consequence of a single PLC or I/O failure is not limited to a single unit process. Messaging between the various process PLCs requires continuous uptime of the PLC and its I/O and the network. Failure of a PLC or communications between PLCs may cause a process to shut down. For instance, if communications between the Screw Press PLC and the Digester PLC is lost, the Screw Press process will shut down. Plans are being considered, however, to transition from this topology to dual redundant PLCs communicating via the RTP network to remote I/O. [underline emphasis added]

As noted in the earlier discussion about the causes of the overflow, analog input/output card failure and master PLC failure to communicate with the bar screen PLC were two of the contributing factors to the bar screen PLC failure and thus the bar screen shut down and subsequent overflow. The 5-Year IT & SCADA Master Plan's discussion of the problematic configuration of PLCs and I/O and potential consequences indicates M1W's awareness of this circumstance in 2015. M1W's response to this information was not sufficient to prevent the predicted consequences in the form of the overflow in 2018.

- Section 5.1.1, *Excessive Number of PLCs*, states,

There is a general consensus that the RTP has an excessive number of processors. It appears that this is the result of installing PLCs to control equipment for a project rather than for the system as a whole. A good example of this is the Headworks Screens. A new PLC control panel was installed to control the equipment and monitor the instruments associated with the new screens. The existing PLC and associated control panel was left in place and its only purpose is to monitor an existing ultrasonic level transmitter mounted on a Parshall flume used to measure plant influent flow. This instrument could have been incorporated into the new screen control panel eliminating a PLC and control panel. [underline emphasis added]

This also ties into the earlier discussion about the causes of the overflow. Here the Master Plan refers to the "existing PLC" for influent flow measurement being left in place rather than incorporating the influent flow instrument into the newer bar screen PLC. According to the flow chart

following Table 7 of the 30-Day Report, the “existing PLC” referenced above in relation to influent flow measurement is the master PLC that failed to communicate with the bar screen PLC and thus contributed to the bar screen shut down and subsequent overflow. Eliminating the existing/master PLC as discussed in the Master Plan in 2015 may have helped prevent the 2018 overflow. The 5-Year IT & SCADA Master Plan’s discussion of the headworks being a good example of the excessive number of PLCs used to control the RTP, and the implicit indication that such decentralized configurations should be avoided, indicates M1W’s awareness of this circumstance in 2015. M1W’s response to this information was not sufficient to prevent the excessive number of PLCs from contributing to the overflow in 2018.

- Section 9, *IT and SCADA Vision: Identified Projects*, included potential projects that were identified in May 2015 following the consultant’s assessment of existing systems and workshops with M1W’s staff. With the goal to replace outdated systems and implement more effective reporting systems for management, operations, and troubleshooting, subsection 9.3, *SCADA Upgrade Projects*, Item #19, *Targeted PLC Replacement/Consolidation Projects*, lists a potential project to reduce and thus consolidate the number of PLCs at the RTP and replace outdated/obsolete ones. This project also relates to the sections 4.3 and 5.1.1 discussions above that acknowledge problems with the configuration and number of PLCs at the headworks and the RTP in general. The 5-Year IT & SCADA Master Plan’s identification of this project indicates that in May 2015, M1W had general knowledge that PLC obsolescence and configuration, and system reporting deficiencies warranted correction, and was aware of the need to replace and consolidate PLCs at the RTP. It also indicates M1W’s participation in planning potential remedies to causes of or contributors to the spill and thus its potential prevention. Implementing the project may have helped prevent the 2018 overflow. M1W’s response to this information was not sufficient to prevent the PLC configurations or their excessive numbers from contributing to the overflow in 2018.
- Section 10, *IT and SCADA Vision: Scoring Metrics for Selecting and Prioritizing Projects*, established six criterion and weighting factors to prioritize projects. The criterion given the highest ranking, *Risk Reduction*, cited obsolescence and aging infrastructure as among the attributes of the highest priority corrective action projects. The criterion with the second

highest ranking, *SCADA/IT Performance*, cited system performance, speed, functionality, and efficiency as among its attributes. M1W assigned the maximum score for each of these criteria to Item #19, *Targeted PLC Replacement/Consolidation Projects*, referenced above. These maximum scores indicated that in May 2015, M1W recognized the high priority warranted for the targeted replacement and consolidation of PLCs at the RTP to eliminate the risk of PLC system failures and to improve SCADA/IT performance, both of which caused or contributed to the 2018 overflow. It also indicates M1W's participation in establishing priorities relating to potential remedies to causes of or contributors to the 2018 overflow and thus its potential prevention. Implementing the projects may have helped prevent the 2018 overflow. M1W's response to this information was not sufficient to prevent PLC-related risk and performance attributes from contributing to the overflow in 2018.

History of Violations Factor Background: Where a discharger has no prior history of such violations, this factor should be neutral, or 1.0. Where the discharger has any prior violations within the last five years, the Water Boards should use a multiplier of 1.1. Where the discharger has a history of similar or numerous dissimilar violations, the Water Boards should consider adopting a multiplier above 1.1.

Violation #1 History of Violations Factor Consideration: M1W has a history of violations for which the Central Coast Water Board has taken formal enforcement action in the last five years. On April 13, 2016, the Central Coast Water Board issued Administrative Civil Liability Order No. R3-2016-0017, penalizing M1W for \$298,958 for discharging approximately 220,000 gallons of untreated municipal wastewater from the Fountain Avenue Pump Station No. 13 to Monterey Bay on May 18, 2015. Therefore, a score of 1.1 is appropriate.

Cleanup and Cooperation Factor Background: The cleanup and cooperation factor addresses the extent to which the discharger voluntarily cleaned up and/or cooperated with regulatory authorities in returning to compliance and correcting environmental damage after the violation. Adjustment should result in a multiplier between 0.75 to 1.5, using the lower multiplier where there is exceptional cleanup and cooperation compared to what can reasonably be expected, and a higher multiplier where there is not. A reasonable and prudent response to a discharge violation or timely response to a Water Board order should receive a neutral adjustment of 1.0 as it is assumed a reasonable amount of cooperation is the warranted baseline. Adjustments below or above 1.0 should be applied where the discharger's response to a violation or order is above and beyond, or falls below, the normally expected response, respectively.

Violation #1 Cleanup and Cooperation Factor Consideration: No cleanup was reported for Violation #1 due to its mixing and dispersion in the receiving water approximately two miles offshore. In addressing the headworks operational, monitoring, and notification failures involved in the violation, M1W returned to compliance by replacing the faulty electronic component; revising control system programming; increasing the headworks overflow system retention capacity prior to discharging to the ocean outfall; installing an infrared camera at the headworks; installing real-time monitoring of wastewater levels with integrated notifications; and hiring consultants to conduct a detailed third-party analysis of the root causes of the overflow. This effort to return to compliance is deemed above and beyond what would be required to simply correct the malfunctions related to the violation addressed herein. Violation #1 is therefore assessed a multiplier of **0.9**.

Step 5. Determination of Total Base Liability Amount

The Total Base Liability amount for the violation is calculated by multiplying the Initial Liability Amount by the adjustment factors for the alleged violation [(Initial Liability) x (Culpability) x (History of Violations) x (Cleanup/Cooperation)]. The applicable Total Base Liability amount for Violation #1 is \$1,524,032 as calculated below:

Total Base Liability:

$$\$1,184,174 \times 1.3 \times 1.1 \times 0.9 = \$1,524,032$$

Steps 6-10 are discussed in Attachment D.

ATTACHMENT B – VIOLATION #2

FACTOR CONSIDERATION AND PENALTY CALCULATION METHODOLOGY FOR SETTLEMENT AGREEMENT AND STIPULATION FOR ENTRY OF ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R3-2021-0051

MONTEREY ONE WATER SANITARY SEWER SYSTEM MONTEREY COUNTY

This document provides details on the administrative civil liability penalty methodology related to Monterey One Water's (M1W) sanitary sewer overflow (SSO) that resulted in an unauthorized discharge of untreated domestic/municipal wastewater (untreated wastewater) to waters of the United States on February 20, 2017. The Central Coast Regional Water Quality Control Board (Central Coast Water Board) Prosecution Team derived the administrative civil liability following the State Water Resources Control Board's (State Water Board) Water Quality Enforcement Policy (Enforcement Policy).¹ The administrative civil liability takes into account such factors as M1W's culpability, cooperation in returning to compliance, ability to pay the liability, and other factors as justice may require.

Application of the Water Board's Enforcement Policy

On November 17, 2009, the State Water Board adopted Resolution No. 2009-0083 amending the Enforcement Policy. The Office of Administrative Law approved the Enforcement Policy, which became effective on May 20, 2010². The Enforcement Policy establishes 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 Coast Water Board to consider specific factors when

¹ See the [State Water Board's Water Quality Enforcement Policy website](#) to access the 2009 Enforcement Policy and 2010 Penalty Calculation Methodology Worksheet in the section titled "2009 Enforcement Policy."

² On April 4, 2017, the State Water Board adopted Resolution No. 2017-0020 amending the 2010 Enforcement Policy. The Office of Administrative Law approved the 2017 Enforcement Policy and it became effective October 5, 2017. The 2010 Enforcement Policy was effective at the time of the violations alleged herein and is applied throughout, except for the use of [2017 Enforcement Policy clarifications](#) of elements common between both versions of the policy.

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 penalty methodology calculation procedural steps are discussed and shown in detail below.

Regulatory Basis for Alleged Violation and Liability

M1W has been enrolled in the State Water Board's *Statewide General Waste Discharge Requirements for Sanitary Sewer Systems, Order No. 2006-0003-DWQ* (Statewide General Order) since 2006. Prohibition C.1 of the Statewide General Order provides "[a]ny SSO [sanitary sewer overflow] that results in a discharge of untreated or partially treated wastewater to waters of the United States is prohibited."

M1W is required to convey its untreated wastewater, commonly referred to as sewage, to the Regional Wastewater Treatment Plant (RTP) for treatment before authorized discharge to surface waters of the United States (Monterey Bay, Pacific Ocean).

On February 20, 2017, M1W discharged untreated wastewater from its Fountain Avenue Pump Station #13 located at the intersection of 15th Street and Ocean View Boulevard in Pacific Grove, California, to Monterey Bay and the Pacific Ocean. The unauthorized discharge occurred from 7:05 PM to 8:40 PM due to power outages, pump station flooding, and incomplete repair of pump station electrical equipment.

The Prosecution Team alleges that M1W violated Prohibition C.1 of the Statewide General Order, section 13376 of the Water Code, and section 301 of the Clean Water Act by discharging an estimated 161,500 gallons of untreated wastewater to Monterey Bay, a water of the United States, without a National Pollutant Discharge Elimination System (NPDES) permit³ on February 20, 2017.

A discharger who violates section 13376 of the Water Code and/or section 301 of the Clean Water Act is subject to administrative civil liability under Water Code section

³ While M1W has an NPDES permit, that permit regulates the wastewater treatment plant, not the collection system, which is regulated under the Statewide General Order. The Statewide General Order is not an NPDES permit.

13385, subdivision (a). Additionally, the unauthorized discharge of untreated wastewater to Monterey Bay in violation of Prohibition C.1 of the Statewide General Order is subject to administrative civil liability under Water Code section 13350. The Prosecution Team has elected to pursue enforcement of the alleged violation pursuant to Water Code section 13385.

Penalty Calculation Methodology Procedural Steps

Step 1. Potential for Harm for Discharge Violations

This initial step for discharge violations is used to determine the actual harm or potential harm to the water body's beneficial uses caused by the violation using a three-factor scoring system to quantify: (1) the actual harm or potential harm to beneficial uses; (2) the physical, chemical, biological, or thermal characteristics of the discharge (i.e., the degree of toxicity of the discharge); and (3) the discharge's susceptibility to cleanup or abatement.

Factor 1: Harm or Potential Harm to Beneficial Uses

Factor 1 Background: The evaluation of the actual harm or the 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, consistent with the statutory factors of the nature, circumstances, extent, and gravity of the violation. The Central Coast Water Board may consider actual harm or potential harm to human health, in addition to harm to beneficial uses. Because actual harm is not always quantifiable due to untimely reporting, inadequate monitoring, and/or other practical limitations, potential harm can be used under this factor.⁴ Actual harm as used in this section means harm that is documented and/or observed. Potential harm should be evaluated in the context of the specific characteristics of the waste discharged and the specific beneficial uses of the impacted waters.

The Enforcement Policy specifies a score ranging from 0 to 5 based on a determination of whether direct or indirect harm, or potential for harm, from a violation is negligible (0) to major (5).

⁴ 2017 Enforcement Policy clarifications are utilized in the consideration of Step 1 Harm or Potential for Harm to Beneficial Uses discussed herein.

Violation #2 Factor 1 Consideration: The harm or potential harm to beneficial uses from the discharge is **major (5)**. “Major” is assigned when there are long term restrictions on beneficial uses (e.g., more than five days).

The Water Quality Control Plan for the Central Coast Basin, 2016 Edition (2016 Basin Plan),⁵ Chapter 2, *Present and Potential Beneficial Uses*, Table 2-2, *Existing and Anticipated Uses of Coastal Waters*, lists the beneficial uses of the segment of coastline from the Salinas River to Point Piños, which encompasses the Lovers Point State Marine Reserve and the Monterey Bay coastal waters affected by the discharge. Considering the potential exposure to elevated levels of pathogens, the association of fecal contamination in recreational waters with an increased risk of gastrointestinal and respiratory illness, and the designation of Monterey Bay as part of the Monterey Bay National Marine Sanctuary,⁶ the listed beneficial uses⁷ potentially harmed by the discharge are water contact recreation (REC-1), non-contact water recreation (REC-2), marine habitat (MAR), shellfish harvesting (SHELL), wildlife habitat (WILD), commercial and sport fishing (COMM), and navigation (NAV).

The 2016 Basin Plan also states that the provisions of the State Water Board's Ocean Plan, and any revisions thereto shall apply in their entirety to affected waters of the basin, including Monterey Bay.

The State Water Board *2015 Water Quality Control Plan for Ocean Waters of California* (2015 Ocean Plan),⁸ Section I, *Beneficial Uses*, also lists the above 2016 Basin Plan beneficial uses, and adds, in relevant part, aesthetic enjoyment, mariculture,⁹ preservation and enhancement of designated Areas of Special Biological Significance (ASBS), rare and endangered species, fish migration, and fish spawning.¹⁰ These are beneficial uses also potentially harmed by the discharge.

⁵ The 2016 Basin Plan was in effect at the time of the violation. Viewable under “Previous Editions of the Basin Plan” at the [Central Coast Water Board’s Basin Plan website](#).

⁶ The [Monterey Bay National Marine Sanctuary website](#).

⁷ The 2016 Basin Plan also lists Industrial Service Supply (IND) as a beneficial use. Similarly, the 2015 Ocean Plan discussed below includes Industrial Water Supply. As that use does not depend primarily on water quality, it is noted here, but given no further consideration.

⁸ The [2015 Ocean Plan](#).

⁹ The culture of algae, plants, and animals in marine waters independent of any pollution source.

¹⁰ The Prosecution Team searched the California Department of Fish and Wildlife’s California Natural Diversity Database for rare or endangered aquatic species present

The 2016 Basin Plan (Chapter 3, Section II.A.1, *Objectives for Ocean Waters*), 2015 Ocean Plan (Section II, *Water Quality Objectives*), and California Code of Regulations (CCR), title 17, section 7958¹¹ establish numeric and narrative water quality objectives and bacteriological standards for the protection of beneficial uses of ocean waters. Exceeding or potentially exceeding those objectives is an indicator of harm or potential harm to beneficial uses.

Sampling Results

The Amended Monitoring and Reporting Program for the Statewide General Order, Order No. WQ 2013-0058-EXEC, section D, requires dischargers to conduct water quality sampling within 48 hours of all SSOs of 50,000 gallons or more discharging to surface waters to characterize discharges of untreated wastewater, compare analytical results to applicable water quality objectives, and assess actual harm with respect to pathogenic organisms. M1W estimated the SSO volume to be 161,500 gallons, and therefore the sampling requirements applied to the discharge.

As reported in M1W's SSO Technical Report dated April 5, 2017, at 9:00 AM on February 21, 2017, M1W complied with the requirement by initiating receiving water monitoring at seven sampling stations spanning a cove formed by a quarter of a mile of coastline from Lover's Point west of the discharge to a rocky point east of the discharge. This area corresponded with M1W's visual observations of the area impacted by the discharge.

In addition, M1W established two background sampling stations approximately one mile west and one mile east of the discharge point to acquire sampling data from areas not impacted by the discharge. M1W collected additional samples from all stations on February 23, February 28, March 2, and March 7, 2017.

Analytical results of the receiving water sampling indicate the discharge resulted in 18 exceedances¹² of numeric water quality objectives and bacteriological standards for indicators of pathogenic organisms, including Fecal Coliform, Total Coliform, and Enterococcus, from February 21, 2017 through March 7, 2017, as shown in Appendix

and thus potentially harmed by the discharge. The database did not list such species in the area impacted by the discharge. Therefore, the Prosecution Team did not find a potential for harm to rare or endangered species.

¹¹ CCR Title 17 section 7958 bacteriological standards are identical to the water quality objectives in the 2015 Ocean Plan.

¹² Though some Water Quality Objectives have more than one regulatory source, those exceedances were counted only once.

B1. M1W's Technical Report indicated only five exceedances of objectives and bacteriological standards protective of water contact beneficial uses, but did not include consideration of the 2015 Ocean Plan shellfish harvesting water quality objectives that account for an additional 13 exceedances. Sampling indicates that water contact beneficial uses were restricted for one day after the SSO, but the shellfish harvesting beneficial use was restricted for the longest period with five sampling stations exceeding the median objective eight days after the SSO. The exceedances of the median water quality objective represent a long term (greater than five days) restriction to the shellfish harvesting beneficial use that warrants a factor score of **(5) Major**.

Other Considerations of Harm or Potential for Harm to Beneficial Uses

Beach Closures

In the event of a known release of untreated wastewater into waters adjacent to a public beach, the local health officer must immediately post and close the beach until the source of the sewage release is eliminated, sample the affected waters, and continue closure or restriction until test results satisfy the bacteriological standards established under California Code of Regulations, title 17, section 7958. (California Code of Regulations, title 17, § 7961, subdivision (d); see also Health & Safety Code, § 115885, subdivision (a)(6)-(7).)

On February 21, 2017, the Monterey County Health Department responded to the discharge of untreated wastewater by issuing beach closures for the impacted area. Based on the results of sampling conducted on February 23, 2017, which indicated compliance with bacteriological water quality standards, the County Health Department lifted the beach closures on February 24, 2017. Beach closures due to the discharge were therefore in place over the course of three calendar days and represents an observed, temporary restriction on water contact beneficial uses.

General Characteristics of Untreated Wastewater that Harm or Potentially Harm the Above Beneficial Uses

Untreated wastewater often contains feces, urine, blood, industrial wastewater, and dissolved and solid metal, and organic materials. Untreated wastewater is susceptible of containing high levels of suspended solids, pathogenic organisms, toxic pollutants, nutrients, oxygen-demanding organic compounds, oil and grease, and other pollutants which can degrade water quality and impact beneficial uses. Untreated wastewater is known to cause the pollution of the receiving waters with pathogens (disease causing bacteria, viruses, and other organisms), the killing of aquatic life, and the pollution of beaches.

Included in untreated wastewater are debris such as trash that are flushed down toilets, organic material, dissolved organic material, and other contaminants such as pesticides, soaps, heavy metals, and other toxic compounds. The effects in the receiving water may include a decrease in dissolved oxygen because of the increase in bacteria that breakdown the organic waste and use up oxygen in the process. A decrease in dissolved oxygen can negatively affect aquatic species such as fish and macroinvertebrates. The release of excess nitrogen and phosphorus from the untreated wastewater during that process may also cause eutrophication (the over-enrichment of a waterbody with nutrients) and an increase in algal growth that may act further to decrease dissolved oxygen.

Substantial Rain Event

The potential for harm analysis also considers the circumstances of the violation. The discharge of untreated wastewater on February 20, 2017, occurred during a substantial rain event generating a daily rainfall total of 0.83 inches according to data collected by the National Oceanic and Atmospheric Administration. M1W reported that the rainfall and storm event resulted in high volumes of stormwater inflow and infiltration (I&I) into the City of Pacific Grove sanitary sewer system, and turbulent ocean conditions along the coastline. Stormwater I&I within sewer systems increases the volume of water within the system and can itself often cause overflows. Although the volume increase caused by I&I also typically acts to dilute wastewater within the system and thus potentially reduces pollutant concentrations in discharges and the potentially adverse effects of some pollutants, pathogenic organisms benefit less due to the large magnitude of their numbers in untreated domestic wastewater. As demonstrated by the receiving water sampling results discussed above, the potential reduction in harm due to I&I-based dilution did not prevent actual harm to beneficial uses.

Preservation and Enhancement of Designated ASBS

Relating to the 2015 Ocean Plan's preservation and enhancement of designated ASBS beneficial use, Ocean Plan Section III.E, *Implementation Provisions for Marine Managed Areas*, addresses State Water Quality Protection Areas – Areas of Special Biological Significance (ASBS) and State Marine Reserves, which are areas designated by the State Water Board that require special protections to prevent the undesirable alteration of natural water quality. In addition, Section III.E.4(a) states that waste shall not be discharged to areas designated as being of special biological significance so that natural water quality conditions will be maintained. Furthermore, Discharge Prohibition I.2 prohibits the discharge of waste to designated ASBS.

Ocean Plan Appendix V identifies ASBS No. 19, Pacific Grove, as designated by the State Water Board in Resolution No. 74-28. The Pacific Grove ASBS lies entirely within the Monterey Bay National Marine Sanctuary, has 3.2 miles of coastline adjacent to the City of Pacific Grove (approximately from the Monterey Bay Aquarium to the intersection of Lighthouse Avenue and Ocean View Boulevard), extends approximately 0.4 miles offshore to cover 469 acres, encompasses the Lovers Point State Marine Reserve, and encompasses the receiving water area impacted by the discharge. According to the State Water Board¹³ with regard to the Pacific Grove ASBS,

Key pollution threats are heavy metals, road and landscape drainage, as well as general urban runoff from the heavily developed communities nearby. The ASBS protects an unusually rich variety of habitats and marine life in close proximity to heavy urban development. [underline emphasis added]

The discharge consisted of untreated wastewater to the Pacific Grove ASBS. Bacteriological monitoring data indicates the waste discharge resulted in an undesirable alteration of water quality and failure to maintain natural water quality conditions by increasing the number of indicators of pathogenic organisms in the ASBS, and therefore caused actual harm to the ASBS beneficial use.

Other forms of potential harm to consider related to the discharge of untreated wastewater are beyond the scope of monitoring for pathogens, including potential harm to beneficial uses from common components of untreated wastewater.

The Ocean Plan contains water quality objectives stating floating particulates shall not be visible. Untreated wastewater typically contains floatable materials, which may cause nuisance and potentially harm REC-1, REC-2, COMM, NAV, and aesthetic enjoyment beneficial uses.

The Ocean Plan contains water quality objectives stating the discharge of waste shall not cause aesthetically undesirable discoloration of the ocean surface. Untreated wastewater is typically colored light brown to black. Potential discoloration of surface waters due to the discharge of domestic wastewater may cause undesirable discoloration of ocean waters and potential harm REC-1, REC-2, COMM, NAV, and aesthetic enjoyment beneficial uses.

¹³ See the [State Water Board's California's Areas of Special Biological Significance map website](#).

The Ocean Plan contains water quality objectives stating grease and oil shall not be visible. Untreated wastewater typically contains oil and grease that may cause visible films or coating on water or object surfaces, and therefore, may cause potential harm to REC-1, REC-2, COMM, NAV, and aesthetic enjoyment beneficial uses.

The Ocean Plan also contains water quality objectives stating natural light shall not be significantly reduced at any point outside the initial dilution zone as the result of the discharge of waste. For surface discharges, initial dilution is completed when the momentum induced velocity of the discharge ceases to produce significant mixing of the waste. For this violation, the discharge entered Monterey Bay after passing through a rock-protected shoreline, so the velocity of the discharge is assumed to be relatively insignificant in comparison to the ocean shore's typically turbulent conditions.

Therefore, the initial dilution zone is assumed to end at or near the discharge point, with the remainder of the impacted receiving water being outside of that zone and subject to the natural light reduction objective. Potential suspended materials and turbidity in the discharged wastewater may cause significant reduction of natural light and therefore potentially harm MAR, mariculture, fish migration, fish spawning, REC-1, REC-2, COMM, NAV, and aesthetic enjoyment beneficial uses.

Organic materials (and therefore oxygen demand), biostimulatory substances (e.g., nitrogen and phosphorus), and ammonia are typically found in untreated wastewater and may deplete oxygen in surface waters and therefore potentially harm MAR, SHELL, WILD, Mariculture, Preservation and Enhancement of Designated ASBS, fish spawning, and fish migration beneficial uses.

Conclusion

In this case, considerations of actual harm to beneficial uses warrant the selected factor of **(5) Major**. The overall factor considerations demonstrate that an actual long term (greater than five days) restriction on the shellfish harvesting beneficial use was observed by the exceedance of associated water quality objectives. These considerations therefore warrant a factor score of **(5) Major**.

Factor 2: The Physical, Chemical, Biological, or Thermal Characteristics of the Discharge (Degree of Toxicity)

Factor 2 Background: The evaluation of the degree of toxicity considers the physical, chemical, biological, and/or thermal characteristics (i.e., the degree of toxicity) of the discharge, waste, fill, or material involved in the violation or violations, and the risk of damage the discharge could cause to the receptors or beneficial uses. Evaluation of the discharged material's toxicity should account for all the characteristics of the

material prior to discharge, including, but not limited to, whether it is partially treated, diluted, concentrated, and/or a mixture of different constituents. Toxicity analysis should include assessment of both lethal and sublethal effects such as effects on growth and reproduction.

The Enforcement Policy specifies assigning a factor score ranging from 0 to 4 based on whether the risk or threat of the discharged material to potential receptors (i.e., human, environmental, ecosystem health exposure pathways) is negligible (0) to significant (4).

Violation #2 Factor 2 Consideration: Based on the physical, chemical, biological, or thermal characteristics of untreated wastewater before discharge, the risk or threat the discharged material poses to potential receptors and beneficial uses is **above moderate (3)**. “Above Moderate” is assigned when the physical, biological, and/or chemical characteristics of the discharged material exceed known risk factors and/or there is substantial concern regarding receptor protection.

The physical characteristics of untreated municipal wastewater include solids that may settle or stay in suspension causing deposition on the ocean floor affecting aquatic habitats or aesthetic uses throughout the water column. Oil or grease may also be present and float at the receiving water surface causing aesthetic impacts. Biologically, this wastewater also contains high levels of pathogenic organisms, including highly infectious and therefore toxic bacteria and viruses that cause disease and are harmful to human health through direct contact or ingestion, or via foodborne pathways such as fish or shellfish consumption. Organic material and ammonia can also deplete dissolved oxygen in receiving waters adversely affecting aquatic organisms and wildlife. Excess nutrients in the forms of nitrogen or phosphorus can cause nutrient over-enrichment affecting plant life. Chemically, ammonia can cause toxicity in aquatic life, as can toxic pollutants from industrial, commercial, or business/household wastewater sources commonly present in municipal wastewater. While many such toxic pollutants are not directly removed by treatment methods commonly employed at wastewater treatment plants, overflows such as those considered here eliminate the possibility of any indirect or coincidental removal during treatment (e.g., removal with solids/organic materials, volatilization during agitation). These characteristics represent a substantial concern regarding marine and human receptor protection. The levels of pathogenic organisms in untreated municipal wastewater also exceed known risk factors for harm to human health.

Evaluation of the discharged material’s toxicity accounts for all the characteristics of the material prior to discharge, including, but not limited to, whether it is partially diluted. As noted in the Factor 1 discussion above, M1W reported high volumes of stormwater I&I

into the City of Pacific Grove sanitary sewer system at the time of the SSO. Stormwater I&I increases the volume of water within the system and typically acts to dilute wastewater within the system and therefore prior to an SSO discharge. While this dilution may reduce some pollutant concentrations in SSOs, pathogenic organism numbers are not substantially reduced because of the large magnitude of their numbers in untreated domestic wastewater. Therefore, any dilution due to I&I within the sewer system does not reduce the substantial concerns for marine and human receptors represented by untreated domestic wastewater, and the wastewater continues to exceed known risk factors for harm to human health.

The characteristics of untreated wastewater discussed above represent a substantial concern regarding marine and human receptor protection. The levels of pathogenic organisms in untreated wastewater also exceed known risk factors for harm to human health. These considerations therefore warrant a factor score of **(3) Above Moderate**.

Factor 3: Susceptibility to Cleanup or Abatement

Factor 3 Background: The Enforcement Policy specifies assigning a factor score of (0) or (1) based on whether a discharge is susceptible to cleanup. If 50 percent or more of the discharge is susceptible to cleanup or abatement, then a factor of (0) applies. If less than 50 percent of the discharge is susceptible to cleanup or abatement, then a factor of (1) applies.

Violation #2 Factor 3 Consideration: The discharge was not susceptible to cleanup or spill recovery because the spill discharged directly to Monterey Bay during heavy rains and high surf conditions that dispersed the discharge in the receiving water and made accessing the coastal waters unsafe for personnel. M1W reported that none of the discharge was cleaned up. Thus, the applicable factor for the violation is **(1)**.

Step 1 Final Score – Harm or Potential Harm to Beneficial Uses

The sum of the above factor scores is **(9)**. This value is used in Step 2 as the “Potential for Harm” score.

Step 2. Assessments for Discharge Violations

Step 2 Background:

Per Gallon Assessments for Discharge Violations

The Enforcement Policy specifies that where a discharge occurs, the Water Boards shall determine an initial liability amount on a per gallon basis using the Potential for Harm score from Step 1 and determining the extent of Deviation from Requirement as either minor, moderate, or major. The Deviation from Requirement reflects the extent the alleged violation deviated from the specific requirement at issue. The Potential for Harm score in Step 1 and the Deviation from Requirement determination in Step 2 are used to determine a Per Gallon Factor from Table 1 of the Enforcement Policy. The per gallon assessment is then determined by multiplying the Per Gallon Factor by the number of gallons subject to penalty and the maximum per gallon penalty amount allowed under the Water Code.

Per Day Assessments for Discharge Violations

The Enforcement Policy also specifies that where a discharge occurs, the Water Boards shall determine an initial liability factor per day based on the same parameters discussed above. Table 2 of the Enforcement Policy is used to determine a Per Day Factor for the alleged violation. The per day assessment is then determined by multiplying the Per Day Factor by the maximum per day amount allowed under the Water Code and number of days the violation occurred.

Violation #2 Step 2 Consideration:

Both per gallon and per day amounts may be assessed under Water Code section 13385. As determined in Step 1, the Potential for Harm factor for this violation is **(9)**. The Prosecution Team determined that the Deviation from Requirement is **major**. “Major” is assigned when the requirement has been rendered ineffective (e.g., discharger disregards the requirement, and/or the requirement is rendered ineffective in its essential functions).

Prohibition C.1 of the Statewide General Order prohibits any sanitary sewer system spill that results in a discharge of untreated or partially treated wastewater to waters of the United States, regardless of rainfall or its effects on the sewer system. Similarly, Water Code section 13376 and Clean Water Act section 301 prohibit the unauthorized discharge of waste to waters of the United States. This unauthorized discharge of untreated wastewater to a water of the United States renders each requirement

ineffective in its essential function of protecting water quality and thus represents a major Deviation from Requirement.

Therefore, the Prosecution Team determined that the Per Gallon Factor from Table 1 and the Per Day Factor from Table 2 of the Enforcement Policy is **0.80**.

Water Code section 13385, subdivision (c)(2) provides that liability of up to \$10 per gallon shall apply to volumes of waste discharged but not cleaned up in excess of 1,000 gallons. The volume subject to per gallon liability is 160,500 gallons (161,500 minus 1,000 gallons).

Water Code section 13385, subdivision (c)(1) provides that liability of up to \$10,000 per day shall apply for each day of violation. One day of violation is subject to the per day liability.

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, since the volume of SSOs from municipalities can be very large, a maximum amount of \$2.00 per gallon should be used to calculate the per gallon assessment where appropriate. In this instance, the Prosecution Team determined that an assessment of \$2.00 per gallon is appropriate for the violation and will not result in an inappropriately small civil liability.

Therefore, the per gallon and per day initial liability amounts, and the combined initial liability amount for the violation are as follows:

Per Gallon Liability:

$$\$2.00/\text{gallon} \times 160,500 \text{ gallons} \times 0.80 \text{ per gallon factor} = \$256,800$$

Per Day Liability:

$$\$10,000/\text{day} \times 1 \text{ day} \times 0.80 \text{ per day factor} = \$8,000$$

Initial Liability Amount:

$$\text{Per Gallon Liability} + \text{Per Day Liability} = \$256,800 + \$8,000 = \$264,800$$

Step 3. Per Day Assessment for Non-Discharge Violations

This step does not apply to the violation because it is a discharge violation.

Step 4. Adjustment Factors

The Enforcement Policy specifies the consideration of violator conduct using three additional factors for modification of the amount of the initial liability determined in Steps 1 through 3: the violator's culpability, the extent to which the violator voluntarily cooperated in returning to compliance including voluntary cleanup efforts, and the violator's history of violation.

Culpability Factor Background: The **culpability** factor addresses the discharger's degree of culpability regarding the violation. Therefore, adjustment should result in a multiplier from 0.5 to 1.5, with a lower multiplier for accidental, non-negligent violations and a higher multiplier for intentional or negligent behavior. A first step to analyzing the culpability factor is to identify any performance standards related to the violation (or, in their absence, prevailing industry practices). The culpability factor then looks to what a reasonable and prudent person would have done or not done under similar circumstances.

Culpability Factor Consideration: The culpability factor for the violation is **1.2**. Considerations supporting that factor include:

- M1W reported that earlier in the day on February 20, 2017, at approximately 3:30 PM, and at the same Fountain Avenue Pump Station #13, a separate, smaller spill event occurred that served as a precursor to the violation under consideration here. A power surge or outage caused the pump station's supervisory control and data acquisition (SCADA) system to fail and thus prevent the station's sewage pumps from starting. This resulted in a less than 50-gallon spill to land that was contained and mitigated by M1W's staff.¹⁴ This spill caused the pump station's wet well to overflow and sewage to leak into the dry well through unsealed electrical conduit passages in the wall between them. Prior to this, M1W was unaware that the electrical conduit passages lacked a water seal.
- M1W reported that the sewage leak into the pump station dry well via the unsealed conduit passages damaged the pump station's emergency generator battery charger and left the charger non-functional. M1W's staff immediately responded after the first small spill and began repairs to the battery charger.

¹⁴ The Prosecution Team has elected to not pursue enforcement of this spill, but references it to discuss the cause of the violation subject to this enforcement action.

However, staff failed to reattach an electrical wire responsible for powering the emergency generator's engine control module (ECM). Later that day at 7:05 PM, the pump station again experienced a power outage, but because M1W had not reattached the wire that powers the ECM, the pump station's emergency generator did not start. This error and the engine failure resulted in a sewage spill lasting approximately ninety-five (95) minutes and discharging approximately 161,500 gallons of untreated wastewater to Monterey Bay. M1W's failure to properly repair the battery charger and reattach the wire contributed to the cause of the discharge.

Cleanup and Cooperation Factor Background: The **cleanup and cooperation** factor¹⁵ addresses the extent to which the discharger voluntarily cooperated in returning to compliance and correcting environmental damage, including any voluntary cleanup efforts undertaken after a violation. Adjustment of this factor should result in a multiplier between 0.75 to 1.5, using the lower multiplier where there is exceptional cleanup and cooperation compared to what can reasonably be expected, and a higher multiplier where the response falls below what would be considered a reasonably expected response. A reasonable and prudent response to a discharge violation or timely response to a Water Board order should receive a neutral factor of 1.0 as it is assumed a reasonable amount of cooperation is the warranted baseline.

Cleanup and Cooperation Factor Consideration: No cleanup or spill recovery was conducted because the spill discharged directly to Monterey Bay during heavy rains and high surf conditions that dispersed the discharge in the receiving water and made accessing the coastal waters unsafe. M1W's staff was already onsite at the beginning of the SSO at 7:05 PM and was able to stop the discharge by 8:40 PM. M1W reported the SSO to the California Office of Emergency Services at 8:05 PM, and had completed notifications to other relevant agencies by that time. Given the circumstances and information available to the Discharger, the Discharger cooperated reasonably in addressing the violation. The violation is therefore assessed a factor of **1.0**.

History of Violations Factor Background: Where there is a history of repeat violations by a Discharger, a minimum multiplier factor of 1.1 should be used. Where a discharger has no prior history of violations, this factor should be neutral, or 1.0.

History of Violations Factor Consideration: On April 13, 2016, the Central Coast Water Board adopted Administrative Civil Liability Order No. R3-2016-0017 imposing

¹⁵ 2017 Enforcement Policy provides clarifications on how to apply the cleanup and cooperation factor.

\$298,958 in liability against M1W for discharging approximately 220,000 gallons of untreated wastewater from the same Fountain Avenue Pump Station No. 13 to Monterey Bay on May 18, 2015. Given this history of formal enforcement taken by the Central Coast Water Board, a factor of 1.1 is appropriate.

Step 5. Determination of Total Base Liability Amount

The Total Base Liability amount for the violation is calculated by multiplying the Initial Liability Amount by the adjustment factors for the alleged violation (Initial Liability Amount) x (Culpability) x (Cleanup/Cooperation) x (History of Violations). The applicable Total Base Liability amount for the violation is \$349,536 as calculated below.

Total Base Liability Amount:

$$\$264,800 \times 1.2 \times 1.0 \times 1.1 = \$349,536$$

Steps 6-10 are discussed in Attachment D.

Appendix: B1. Receiving Water Sampling Results Exceeding Ocean Plan Water Quality Objectives or California Code of Regulations Title 17 Bacteriological Standards and Indicating Harm or Potential Harm to Present or Potential Beneficial Uses of Monterey Bay for Violation #2

Receiving Water Sampling Results Exceeding Ocean Plan Water Quality Objectives (WQO) or California Code of Regulations Title 17 Bacteriological Standards and Indicating Harm or Potential Harm to Present or Potential Beneficial Uses of Monterey Bay

Date	WQO or Bacteriological Standard Regulatory Source	Beneficial Use Protected by WQO or Bacteriological Standard	WQO or Bacteriological Standard Exceeded	Sampling Locations and Results Exceeding WQO or Bacteriological Standard
2/21/17	- 2015 Ocean Plan - CCR Title 17, § 7958	- Water contact recreation	Fecal Coliform single-sample maximum density of 400 per 100 mL	Site 1: 1,036 per 100 mL
2/21/17	- 2015 Ocean Plan - CCR Title 17, § 7958	- Water contact recreation	Enterococcus single-sample maximum density of 104 per 100 mL	Site 2: 359 per 100 mL
2/21/17	- 2015 Ocean Plan - CCR Title 17, § 7958	- Water contact recreation	Enterococcus single-sample maximum density of 104 per 100 mL	Site 5: 529 per 100 mL
2/21/17	- 2015 Ocean Plan - CCR Title 17, § 7958	- Water contact recreation	Where the Ratio of Fecal to Total Coliform (F/T) exceeds 0.1, Total Coliform density shall not exceed 1,000 per 100 mL	Two exceedances: Site 1: F/T = 0.6, and Total Coliform was 1,725 per 100 mL; Site 6: F/T = 0.125, and Total Coliform was 1,081 per 100 mL

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Date	WQO or Bacteriological Standard Regulatory Source	Beneficial Use Protected by WQO or Bacteriological Standard	WQO or Bacteriological Standard Exceeded	Sampling Locations and Results Exceeding WQO or Bacteriological Standard
2/21/17 – 3/7/17	- 2015 Ocean Plan	- Shellfish Harvesting	The median total coliform density shall not exceed 70 per 100 mL	Seven exceedances for Sites 1 – 7; median values for the five samples at each site were 110, 135, 121, 285, 537, 301, and 98 per 100 mL, respectively. One median exceedance occurred on 3/7/17 or 15 days after the SSO, five occurred on 2/28/17 or eight days after the SSO, and one occurred on 2/23/17 or three days after the SSO.
2/21/17 – 3/7/17	- 2015 Ocean Plan	- Shellfish Harvesting	Not more than 10 percent of total coliform samples shall exceed a density of 230 per 100 mL	Six exceedances for sites 1, 2, 4, 5, 6, and 7; each site had at least one out of five samples (20%) that exceeded 230 per 100 mL. One exceedance occurred on 3/2/17 or 10 days after the SSO, two occurred on 2/28/17 or eight days after the SSO, and three occurred on 2/21/17 or one day after the SSO.

ATTACHMENT C – VIOLATION #3

FACTOR CONSIDERATION AND PENALTY CALCULATION METHODOLOGY FOR SETTLEMENT AGREEMENT AND STIPULATION FOR ENTRY OF ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R3-2021-0051

MONTEREY ONE WATER SANITARY SEWER SYSTEM MONTEREY COUNTY

This document provides details on the administrative civil liability penalty methodology related to Monterey One Water's (M1W) sanitary sewer overflow (SSO) that resulted in an unauthorized discharge of untreated domestic/municipal wastewater (untreated wastewater) to waters of the United States on October 17, 2019. The Central Coast Regional Water Quality Control Board (Central Coast Water Board) Prosecution Team derived the administrative civil liability following the State Water Resources Control Board's (State Water Board) Water Quality Enforcement Policy (the Enforcement Policy).¹ The administrative civil liability takes into account such factors as M1W's culpability, cooperation in returning to compliance, ability to pay the liability, and other factors as justice may require.

Application of the Water Board's Enforcement Policy

On April 4, 2017, the State Water Board adopted Resolution No. 2017-0020 amending the Enforcement Policy. The Office of Administrative Law approved the 2017 Enforcement Policy, which became effective October 5, 2017. The Enforcement Policy establishes 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 Coast 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,

¹ See the [State Water Board's 2017 Enforcement Policy and Penalty Calculation Methodology Worksheet](#).

economic benefit or savings, if any, resulting from the violation, and other matters that justice may require.”

The penalty methodology calculation procedural steps are discussed and shown in detail below.

Regulatory Basis for Alleged Violation and Liability

M1W has been enrolled in the State Water Board’s *Statewide General Waste Discharge Requirements for Sanitary Sewer Systems, Order No. 2006-0003-DWQ* (Statewide General Order) since 2006. Prohibition C.1 of the Statewide General Order provides “[a]ny SSO [sanitary sewer overflow] that results in a discharge of untreated or partially treated wastewater to waters of the United States is prohibited.”

M1W is required to convey its untreated wastewater, commonly referred to as sewage, to the Regional Wastewater Treatment Plant (RTP) for treatment before authorized discharge to surface waters of the United States (Monterey Bay, Pacific Ocean).

On October 17, 2019, M1W discharged untreated wastewater from its Ocean View and 9th Street Pump Station #12 in Pacific Grove, California, to Monterey Bay and the Pacific Ocean. The unauthorized discharge occurred from 7:12 PM to 7:48 PM due to operator error resulting in sewage pumps being turned off. M1W estimated that the total volume of the overflow was 5,637 gallons, with 30 gallons of that total recovered and returned to the sewer system, and the remaining 5,607 gallons discharging to Monterey Bay.

The Prosecution Team alleges that M1W violated Prohibition C.1 of the Statewide General Order, section 13376 of the Water Code, and section 301 of the Clean Water Act by discharging an estimated 5,607 gallons of untreated wastewater to Monterey Bay, a water of the United States, without a National Pollutant Discharge Elimination System (NPDES) permit² on October 17, 2019.

A discharger who violates section 13376 of the Water Code and/or section 301 of the Clean Water Act is subject to administrative civil liability under Water Code section 13385, subdivision (a). Additionally, the unauthorized discharge of untreated wastewater to Monterey Bay in violation of Prohibition C.1 of the Statewide General Order is subject to administrative civil liability under Water Code section 13350. The

² While M1W has an NPDES permit, that permit regulates the wastewater treatment plant, but not the collection system, which is regulated under the Statewide General Order. The Statewide General Order is not an NPDES permit.

Prosecution Team has elected to pursue enforcement of the alleged violation pursuant to Water Code section 13385.

Penalty Calculation Methodology Procedural Steps

Step 1. Actual or Potential for Harm for Discharge Violations

This initial step for discharge violations is used to determine the actual harm or potential harm to the water body's beneficial uses caused by the violation using a three-factor scoring system to quantify: (1) the degree of toxicity of the discharge (i.e., the physical, chemical, biological, or thermal characteristics of the discharge); (2) the actual harm or potential harm to beneficial uses; and (3) the discharge's susceptibility to cleanup or abatement.

Factor 1: The Degree of Toxicity of the Discharge

Factor 1 Background: The evaluation of the degree of toxicity considers 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 to the receptors or beneficial uses. Evaluation of the discharged material's toxicity should account for all the characteristics of the material *prior to discharge*, including, but not limited to, whether it is partially treated, diluted, concentrated, and/or a mixture of different constituents. Toxicity analysis should include assessment of both lethal and sublethal effects such as effects on growth and reproduction.

The Enforcement Policy specifies assigning a factor score ranging from 0 to 4 based on whether the risk or threat of the discharged material to potential receptors (i.e., human, environmental, ecosystem health exposure pathways) is negligible (0) to significant (4).

Violation #3 Factor 1 Consideration: Based on the physical, chemical, biological, or thermal characteristics of untreated wastewater before discharge, the risk or threat the discharged material poses to potential receptors and beneficial uses is **above moderate (3)**. "Above Moderate" is assigned when the physical, biological, and/or chemical characteristics of the discharged material exceed known risk factors and/or there is substantial concern regarding receptor protection.

The physical characteristics of untreated municipal wastewater include solids that may settle or stay in suspension causing deposition on the ocean floor affecting aquatic habitats or aesthetic uses throughout the water column. Oil or grease may also be present and float at the receiving water surface causing aesthetic impacts. Biologically, this wastewater also contains high levels of pathogenic organisms, including highly

infectious and therefore toxic bacteria and viruses that cause disease and are harmful to human health through direct contact or ingestion, or via foodborne pathways such as fish or shellfish consumption. Organic material and ammonia can also deplete dissolved oxygen in receiving waters adversely affecting aquatic organisms and wildlife. Excess nutrients in the forms of nitrogen or phosphorus can cause nutrient over-enrichment affecting plant life. Chemically, ammonia can cause toxicity in aquatic life, as can toxic pollutants from industrial, commercial, or business/household wastewater sources commonly present in municipal wastewater. While many such toxic pollutants are not directly removed by treatment methods commonly employed at wastewater treatment plants, overflows such as those considered here eliminate the possibility of any indirect or coincidental removal during treatment (e.g., removal with solids/organic materials, volatilization during agitation). These characteristics represent a substantial concern regarding marine and human receptor protection. The levels of pathogenic organisms in untreated municipal wastewater also exceed known risk factors for harm to human health.

The characteristics of untreated wastewater discussed above represent a substantial concern regarding marine and human receptor protection. The levels of pathogenic organisms in untreated wastewater also exceed known risk factors for harm to human health. These considerations therefore warrant a factor score of **(3) Above Moderate**.

Factor 2: Actual Harm or Potential Harm to Beneficial Uses

Factor 2 Background: The evaluation of the actual harm or the 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, consistent with the statutory factors of the nature, circumstances, extent, and gravity of the violation. The Central Coast Water Board may consider actual harm or potential harm to human health, in addition to harm to beneficial uses. Because actual harm is not always quantifiable due to untimely reporting, inadequate monitoring, and/or other practical limitations, potential harm can be used under this factor. Actual harm as used in this section means harm that is documented and/or observed. Potential harm should be evaluated in the context of the specific characteristics of the waste discharged and the specific beneficial uses of the impacted waters.

The Enforcement Policy specifies a score ranging from 0 to 5 based on a determination of whether direct or indirect harm, or potential for harm, from a violation is negligible (0) to major (5).

Violation #3 Factor 2 Consideration: The harm or potential harm to beneficial uses from the discharge is **above moderate (4)**. “Above moderate” is assigned when potential significant impacts are observed or reasonably expected, and there are temporary restrictions on, or impairment of, beneficial uses (e.g., less than five days).

The Water Quality Control Plan for the Central Coast Basin, 2019 Edition (2019 Basin Plan)³, Chapter 2, *Present and Potential Beneficial Uses*, Table 2-2, *Existing and Anticipated Uses of Coastal Waters*, lists the beneficial uses of the segment of coastline from the Salinas River to Point Piños, which encompasses the Lovers Point State Marine Reserve and the Monterey Bay coastal waters affected by the discharge. Considering the potential exposure to elevated levels of pathogens, the association of fecal contamination in recreational waters with an increased risk of gastrointestinal and respiratory illness, and the designation of Monterey Bay as part of the Monterey Bay National Marine Sanctuary⁴, the listed beneficial uses⁵ potentially harmed by the discharge are water contact recreation (REC-1), non-contact water recreation (REC-2), marine habitat (MAR), shellfish harvesting (SHELL), wildlife habitat (WILD), commercial and sport fishing (COMM), and navigation (NAV).

The 2019 Basin Plan also states that the provisions of the State Water Board's Ocean Plan, and any revisions thereto shall apply in their entirety to affected waters of the basin, including Monterey Bay.

The State Water Board *2019 Water Quality Control Plan for Ocean Waters of California* (2019 Ocean Plan)⁶, Section I, *Beneficial Uses*, also lists the above 2019 Basin Plan beneficial uses, and adds, in relevant part, aesthetic enjoyment, mariculture⁷, preservation and enhancement of designated Areas of Special Biological Significance

³ The 2019 Basin Plan was in effect at the time of the violation. Viewable at the [Central Coast Water Board's Basin Plan website](#).

⁴ See the [Monterey Bay National Marine Sanctuary website](#).

⁵ The 2019 Basin Plan also lists Industrial Service Supply (IND) as a beneficial use. Similarly, the 2019 Ocean Plan discussed below includes Industrial Water Supply. As that use does not depend primarily on water quality, it is noted here but given no further consideration.

⁶ See the [State Water Board's Plans and Policies website](#) under “Plans” and select “California Ocean Plan” link.

⁷ The culture of algae, plants, and animals in marine waters independent of any pollution source.

(ASBS), rare and endangered species, fish migration, and fish spawning.⁸ These are beneficial uses also potentially harmed by the discharge.

The 2019 Basin Plan (Chapter 3, Section 3.3.1, *Objectives for Ocean Waters*), 2019 Ocean Plan (Section II, *Water Quality Objectives*), and California Code of Regulations (CCR), title 17, section 7958⁹ establish numeric and narrative water quality objectives and bacteriological standards for the protection of beneficial uses of ocean waters. Exceeding or potentially exceeding those objectives and standards is an indicator of harm or potential harm to beneficial uses.

Beach Closures

In the event of a known release of untreated sewage into waters adjacent to a public beach, the local health officer must immediately post and close the beach until the source of the sewage release is eliminated, sample the affected waters, and continue closure or restriction until test results satisfy the bacteriological standards established under California Code of Regulations, title 17, section 7958. (California Code of Regulations, title 17, § 7961, subdivision (d); see also Health & Safety Code, § 115885, subdivision (a)(6)-(7).)

M1W notified the Monterey County Health Department on the night of discharge. The Monterey County Health Department responded to the discharge of untreated wastewater by issuing beach closures for the impacted area on the morning of October 18, 2019. Based on the results of sampling conducted on October 20, 2019, which indicated compliance with bacteriological water quality standards, the County Health Department lifted the beach closures on October 20 or 21, 2019. Beach closure due to the discharge was therefore in place over the course of three or four calendar days and represents an observed, temporary (less than five days) restriction on water contact beneficial uses that warrants a factor score of **(4) Above Moderate**.

Sampling Results

The Amended Monitoring and Reporting Program for the Statewide General Order, Order No. WQ 2013-0058-EXEC, section D, requires dischargers to conduct water

⁸ The Prosecution Team searched the California Department of Fish and Wildlife's California Natural Diversity Database for rare or endangered aquatic species present and thus potentially harmed by the discharge. The database did not list such species in the area impacted by the discharge. Therefore, the Prosecution Team did not find a potential for harm to rare or endangered species.

⁹ CCR Title 17 section 7958 bacteriological standards are incorporated into the 2019 Ocean Plan.

quality sampling within 48 hours of all SSOs of 50,000 gallons or more discharging to surface waters to characterize discharges of untreated wastewater, compare analytical results to applicable water quality objectives, and assess actual harm with respect to pathogenic organisms. M1W estimated the SSO volume to be approximately 5,637 gallons, and therefore the sampling requirements did not apply to the discharge. However, M1W voluntarily elected to conduct receiving water sampling.

M1W reported initiating receiving water sampling the day after the discharge due to coastal surf conditions. On October 18, 2019, M1W conducted receiving water monitoring at five sampling sites spanning about 1,000 feet eastward along the coastline near the discharge, and a sixth site approximately 1,800 feet westward along the coast near the end of Fountain Avenue. In addition, M1W established two background sampling stations approximately one mile west and one mile east of the discharge point to acquire sampling data from areas less likely to have been impacted by the discharge. Based on the results of the first day's sampling, M1W collected subsequent daily samples from three of the sites for four more days from October 20 through October 23, 2019.

Analytical results of M1W's receiving water sampling indicate the discharge resulted in six exceedances¹⁰ of numeric water quality objectives and bacteriological standards for indicators of pathogenic organisms, including Total Coliform and Enterococcus, on October 18, 2019, as shown in Appendix C1. M1W's October 19, 2019 email indicated only one exceedance of human health bacteriological standards, but did not include consideration of the 2019 Ocean Plan's shellfish harvesting water quality objectives that account for an additional five exceedances. M1W's data indicate elevated levels of Total Coliform and Enterococcus on the day after the discharge, but follow-up samples show that by three days after the discharge receiving waters adjacent to the discharge location had returned to within bacteriological standards.

The water quality objectives and bacteriological standards discussed above were established to protect the water contact recreation and shellfish harvesting beneficial uses of Monterey Bay. The exceedances of those water quality objectives and bacteriological standards indicate harm to the beneficial uses and an observed, temporary (less than five days) restriction to water contact and shellfish harvesting beneficial uses that warrants a factor score of **(4) Above Moderate**.

Other Considerations of Harm or Potential for Harm to Beneficial Uses

¹⁰ Though some water quality objectives have more than one regulatory source, those exceedances were counted only once.

General Characteristics of Untreated Wastewater that Harm or Potentially Harm the Above Beneficial Uses

Untreated wastewater often contains feces, urine, blood, industrial wastewater, and dissolved and solid metal, and organic materials. Untreated wastewater is susceptible of containing high levels of suspended solids, pathogenic organisms, toxic pollutants, nutrients, oxygen-demanding organic compounds, oil and grease, and other pollutants which can degrade water quality and impact beneficial uses. Untreated wastewater is known to cause the pollution of the receiving waters with pathogens (disease causing bacteria, viruses, and other organisms), the killing of aquatic life, and the pollution of beaches.

Included in untreated wastewater are debris such as trash that are flushed down toilets, organic material, dissolved organic material, and other contaminants such as pesticides, soaps, heavy metals, and other toxic compounds. The effects in the receiving water may include a decrease in dissolved oxygen because of the increase in bacteria that breakdown the organic waste and use up oxygen in the process. A decrease in dissolved oxygen can negatively affect aquatic species such as fish and macroinvertebrates. The release of excess nitrogen and phosphorus from the untreated wastewater during that process may also cause eutrophication (the over-enrichment of a waterbody with nutrients) and an increase in algal growth that may act further to decrease dissolved oxygen.

Preservation and Enhancement of Designated ASBS

Relating to the 2019 Ocean Plan's preservation and enhancement of designated ASBS beneficial use, Ocean Plan Section III.E, *Implementation Provisions for Marine Managed Areas*, addresses State Water Quality Protection Areas – Areas of Special Biological Significance (ASBS) and State Marine Reserves, which are areas designated by the State Water Board that require special protections to prevent the undesirable alteration of natural water quality. In addition, Section III.E.4(a) states that waste shall not be discharged to areas designated as being of special biological significance so that natural water quality conditions will be maintained. Furthermore, Discharge Prohibition I.2 prohibits the discharge of waste to designated ASBS.

2019 Ocean Plan Appendix V identifies ASBS No. 19, Pacific Grove, as designated by the State Water Board in Resolution No. 74-28. The Pacific Grove ASBS lies entirely within the Monterey Bay National Marine Sanctuary, has 3.2 miles of coastline adjacent to the City of Pacific Grove (approximately from the Monterey Bay Aquarium to the intersection of Lighthouse Avenue and Ocean View Boulevard), extends approximately

0.4 miles offshore to cover 469 acres, encompasses the Lovers Point State Marine Reserve, and encompasses the receiving water area impacted by the discharge. According to the State Water Board¹¹ with regard to the Pacific Grove ASBS,

Key pollution threats are heavy metals, road and landscape drainage, as well as general urban runoff from the heavily developed communities nearby. The ASBS protects an unusually rich variety of habitats and marine life in close proximity to heavy urban development. [underline emphasis added]

The discharge consisted of untreated wastewater to the Pacific Grove ASBS. Bacteriological monitoring data indicates the waste discharge resulted in an undesirable alteration of water quality and failure to maintain natural water quality conditions by increasing the number of indicators of pathogenic organisms in the ASBS, and therefore caused actual harm to the ASBS beneficial use.

There are other forms of potential harm to consider related to the discharge of untreated wastewater that are beyond the scope of monitoring for pathogens, including potential harm to beneficial uses from common components of untreated wastewater.

The Ocean Plan contains water quality objectives stating floating particulates shall not be visible. Untreated wastewater typically contains floatable materials, which may cause nuisance and potentially harm REC-1, REC-2, COMM, NAV, and aesthetic enjoyment beneficial uses.

The Ocean Plan contains water quality objectives stating the discharge of waste shall not cause aesthetically undesirable discoloration of the ocean surface. Untreated wastewater is typically colored light brown to black. Potential discoloration of surface waters due to the discharge of domestic wastewater may cause undesirable discoloration of ocean waters and potential harm REC-1, REC-2, COMM, NAV, and aesthetic enjoyment beneficial uses.

The Ocean Plan contains water quality objectives stating grease and oil shall not be visible. Untreated wastewater typically contains oil and grease that may cause visible films or coating on water or object surfaces, and therefore, may cause potential harm to REC-1, REC-2, COMM, NAV, and aesthetic enjoyment beneficial uses.

¹¹ See the [State Water Board's website "California's Areas of Special Biological Significance"](#).

The Ocean Plan also contains water quality objectives stating natural light shall not be significantly reduced at any point outside the initial dilution zone as the result of the discharge of waste. For surface discharges, initial dilution is completed when the momentum induced velocity of the discharge ceases to produce significant mixing of the waste. For this violation, the discharge entered Monterey Bay after passing through a rock-protected shoreline, so the velocity of the discharge is assumed to be relatively insignificant in comparison to the ocean shore's typically turbulent conditions.

Therefore, the initial dilution zone is assumed to end at or near the discharge point, with the remainder of the impacted receiving water being outside of that zone and subject to the natural light reduction objective. Potential suspended materials and turbidity in the discharged wastewater may cause significant reduction of natural light and therefore potentially harm MAR, mariculture, fish migration, fish spawning, REC-1, REC-2, COMM, NAV, and aesthetic enjoyment beneficial uses.

Organic materials (and therefore oxygen demand), biostimulatory substances (e.g., nitrogen and phosphorus), and ammonia are typically found in untreated wastewater and may deplete oxygen in surface waters and therefore potentially harm MAR, SHELL, WILD, Mariculture, Preservation and Enhancement of Designated ASBS, fish spawning, and fish migration beneficial uses.

Conclusion

In this case, considerations of actual harm to beneficial uses warrant the selected factor of **(4) Above Moderate**. The overall factor considerations demonstrate actual temporary (less than five days) restrictions on water contact and shellfish harvesting beneficial uses due to the beach closures and exceedance of water quality objectives. These considerations therefore warrant a factor score of **(4) Above Moderate**.

Factor 3: Susceptibility to Cleanup or Abatement

Factor 3 Background: The Enforcement Policy specifies assigning a factor score of (0) if the discharger cleans up 50 percent or more of the discharge within a reasonable amount of time. A score of 1 is assigned for this factor if less than 50 percent 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. Natural attenuation of discharged pollutants in the environment is not considered cleanup or abatement for purposes of evaluating this factor.

Violation #3 Factor 3 Consideration: M1W reported recovery of approximately 30 gallons of untreated wastewater before it discharged to Monterey Bay. However, for the

purposes of this analysis, the discharge is considered the volume of untreated wastewater discharged to waters of the United States. None of the 5,607-gallon discharge to Monterey Bay was susceptible to cleanup or recovery because the untreated wastewater discharged directly to the Bay during the night in a rocky area making access unsafe for personnel. M1W therefore reported that none of the discharge was cleaned up. Thus, the applicable factor for the violation is **(1)**.

Step 1 Final Score – Harm or Potential Harm to Beneficial Uses

The sum of the above factor scores is **(8)**. This value is used in Step 2 as the “Potential for Harm” score.

Step 2. Assessments for Discharge Violations

Step 2 Background:

Per Gallon Assessments for Discharge Violations

The Enforcement Policy specifies that where there is a discharge, the Water Boards shall determine an initial liability amount on a per gallon basis using the Potential for Harm score from Step 1 and determining the extent of Deviation from Requirement as either minor, moderate, or major. The Deviation from Requirement reflects the extent the alleged violation deviated from the specific requirement at issue. The Potential for Harm score in Step 1 and the Deviation from Requirement determination in Step 2 are used to determine a Per Gallon Factor from Table 1 of the Enforcement Policy. The per gallon assessment is then determined by multiplying the Per Gallon Factor by the number of gallons subject to penalty and the maximum per gallon penalty amount allowed under the Water Code.

Per Day Assessments for Discharge Violations

The Enforcement Policy also specifies that where there is a discharge, the Water Boards shall determine an initial liability factor per day based on the same parameters discussed above. Table 2 of the Enforcement Policy is used to determine a Per Day Factor for the alleged violation. The per day assessment is then determined by multiplying the Per Day Factor by the maximum per day amount allowed under the Water Code and number of days the violation occurred.

Violation #3 Step 2 Consideration:

Both per gallon and per day amounts may be assessed under Water Code section 13385. As determined in Step 1, the Potential for Harm factor for this violation is **(8)**.

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The Prosecution Team determined that the Deviation from Requirement is **major**. “Major” is assigned when the requirement has been rendered ineffective (e.g., discharger disregards the requirement, and/or the requirement is rendered ineffective in its essential functions).

Prohibition C.1 of the Statewide General Order prohibits any sanitary sewer system spill that results in a discharge of untreated or partially treated wastewater to 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. This unauthorized discharge of untreated wastewater to a water of the United States renders each requirement ineffective in its essential function of protecting water quality and thus represents a major Deviation from Requirement.

Therefore, the Prosecution Team determined that the Per Gallon Factor from Table 1 and the Per Day Factor from Table 2 of the Enforcement Policy are **0.60**.

Water Code section 13385, subdivision (c)(2) provides that liability of up to \$10 per gallon shall apply to volumes of waste discharged but not cleaned up in excess of 1,000 gallons. The volume subject to per gallon liability is 4,607 gallons (5,607 minus 1,000 gallons).

Water Code section 13385, subdivision (c)(1) provides that liability of up to \$10,000 per day shall apply for each day of violation. One day of violation is subject to the per day liability.

Therefore, the per gallon and per day initial liability amounts, and the combined initial liability amount for the violation are as follows:

Per Gallon Liability:

$$\text{\$10/gallon} \times 4,607 \text{ gallons} \times 0.60 \text{ per gallon factor} = \text{\$27,642}$$

Per Day Liability:

$$\text{\$10,000/day} \times 1 \text{ day} \times 0.60 \text{ per day factor} = \text{\$6,000}$$

Initial Liability Amount:

$$\text{Per Gallon Liability} + \text{Per Day Liability} = \text{\$27,642} + \text{\$6,000} = \text{\$33,642}$$

Step 3. Per Day Assessment for Non-Discharge Violations

This step does not apply to the violation because it is a discharge violation.

Step 4. Adjustment Factors

The Enforcement Policy specifies the consideration of violator conduct using three additional factors for modification of the amount of the initial liability determined in Steps 1 through 3: the violator's culpability, the extent to which the violator voluntarily cooperated in returning to compliance including voluntary cleanup efforts, and the violator's history of violation.

Culpability Factor Background: The **culpability** factor addresses the discharger's degree of culpability regarding the violation. Therefore, adjustment should result in a multiplier from 0.75 to 1.5, with a lower multiplier for accidental, non-negligent violations and a higher multiplier for intentional or negligent behavior. A first step to analyzing the culpability factor is to identify any performance standards related to the violation (or, in their absence, prevailing industry practices). The culpability factor then looks to what a reasonable and prudent person would have done or not done under similar circumstances.

Culpability Factor Consideration: The culpability factor for the violation is **1.3**. M1W reported that the SSO occurred due to operator error and therefore negligence, which resulted in the sewage pumps being turned off and the pump station overflowing.

Cleanup and Cooperation Factor Background: The **cleanup and cooperation** factor addresses the extent to which the discharger voluntarily cooperated in returning to compliance and correcting environmental damage, including any voluntary cleanup efforts undertaken after a violation. Adjustment of this factor should result in a multiplier between 0.75 to 1.5, using the lower multiplier where there is exceptional cleanup and cooperation compared to what can reasonably be expected, and a higher multiplier where the response falls below what would be considered a reasonably expected response. A reasonable and prudent response to a discharge violation or timely response to a Water Board order should receive a neutral factor of 1.0 as it is assumed a reasonable amount of cooperation is the warranted baseline.

Cleanup and Cooperation Factor Consideration: No cleanup or spill recovery was conducted because the untreated wastewater discharged directly to Monterey Bay during the night in a rocky area making access unsafe for personnel. M1W's staff was able to respond and cease the discharge within approximately 30 minutes. M1W reported the SSO to the California Office of Emergency Services within approximately 90 minutes of stopping the discharge, and had completed notifications to other relevant agencies by that time. However, it is notable that M1W conducted receiving water sampling even though it was not required, and submitted supplemental reports not

requested by Central Coast Water Board staff. Although no cleanup was possible, given M1W's level of cooperation above and beyond what was required, M1W voluntarily cooperated to a greater than typical extent. The violation is therefore assessed a factor of **0.9**.

History of Violations Factor Background: Where there is a history of repeat violations by a discharger, a minimum multiplier factor of 1.1 should be used. Where a discharger has no prior history of violations, this factor should be neutral, or 1.0.

History of Violations Factor Consideration: On April 13, 2016, the Central Coast Water Board adopted Administrative Civil Liability Order No. R3-2016-0017 imposing \$298,958 in liability against M1W for discharging approximately 220,000 gallons of untreated wastewater from the Fountain Avenue Pump Station No. 13 to Monterey Bay on May 18, 2015. Given this history of formal enforcement taken by the Central Coast Water Board, a factor of **1.1** is appropriate.

Step 5. Determination of Total Base Liability Amount

The Total Base Liability amount for the violation is calculated by multiplying the Initial Liability Amount by the adjustment factors for the alleged violation (Initial Liability Amount) x (Culpability) x (Cleanup/Cooperation) x (History of Violations). The applicable Total Base Liability amount for the violation is \$43,297 as summarized below.

Total Base Liability Amount:

$$\$33,642 \times 1.3 \times 0.9 \times 1.1 = \$43,297$$

Steps 6-10 are discussed in Attachment D.

Appendix: C1. Receiving Water Sampling Results Exceeding Ocean Plan Water Quality Objectives or California Code of Regulations Title 17 Bacteriological Standards and Indicating Harm or Potential Harm to Present or Potential Beneficial Uses of Monterey Bay for Violation #3

Receiving Water Sampling Results Exceeding Ocean Plan Water Quality Objectives (WQO) or California Code of Regulations Title 17 Bacteriological Standards and Indicating Harm or Potential Harm to Present or Potential Beneficial Uses of Monterey Bay

Date	WQO / Bacteriological Standards Regulatory Source	Beneficial Use Protected by WQO or Bacteriological Standards	WQO or Bacteriological Standard Exceeded	Sampling Locations and Results Exceeding WQO or Bacteriological Standards
10/18/19	- CCR Title 17, § 7958	- Water contact recreation	Enterococci single-sample maximum density of 104 per 100 mL	Site 2: 156 per 100 mL
10/18/19	- 2019 Ocean Plan	- Shellfish Harvesting	Total Coliform median density of 70 per 100 mL	Site 2: 201 per 100 mL *
10/18/19	- 2019 Ocean Plan	- Shellfish Harvesting	Total Coliform median density of 70 per 100 mL	Site 3: 97 per/100 mL **
10/18/19	- 2019 Ocean Plan	- Shellfish Harvesting	Not more than 10 percent of samples shall exceed a Total Coliform density of 230 per 100 mL	Site 4: 1,789 per 100 mL. Other four samples indicated 10 per 100 mL, Non-Detect (ND), ND, and ND, respectively. One out of five samples, or 20% exceeded 230 per 100 mL.
10/18/19	- 2019 Ocean Plan	- Shellfish Harvesting	Not more than 10 percent of samples shall exceed a Total Coliform density of 230 per 100 mL	Site 5: 1,119 per 100 mL. All four subsequent samples indicated ND. One out of five samples, or 20% exceeded 230 per 100 mL.
10/18/19	- 2019 Ocean Plan	- Shellfish Harvesting	Not more than 10 percent of samples shall exceed a Total Coliform density of 230 per 100 mL	Site 6: 908 per 100 mL. No other samples were collected. One sample, or 100% exceeded 230 per 100 mL.

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* Note that M1W collected a total of five samples at Site 2 from 10/18/19 through 10/23/19, but only the 10/18/19 sample was analyzed for total coliform. The Ocean Plan median objective does not specify a minimum number of samples, therefore the result of the single sample is used to determine exceedance of the median objective.

** Note that M1W collected only one sample at Site 3 from 10/18/19 through 10/23/19. The Ocean Plan median objective does not specify a minimum number of samples, therefore the result of the single sample is used to determine exceedance of the median objective.

ATTACHMENT D

**STEPS 6-10 FACTOR CONSIDERATION AND PENALTY CALCULATION METHODOLOGY
FOR VIOLATIONS #1-3 FOR SETTLEMENT AGREEMENT AND STIPULATION FOR
ENTRY OF ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R3-2021-0051**

**MONTEREY ONE WATER
MONTEREY COUNTY**

**Combined Total Base Liability Amount for
Violation #1, Violation #2, and Violation #3**

As shown in Attachment A, the Total Base Liability Amount for Violation #1 =
\$1,524,032

As shown in Attachment B, the Total Base Liability Amount for Violation #2 = \$349,536

As shown in Attachment C, the Total Base Liability Amount for Violation #3 = \$43,297

Combined Total Base Liability Amount: \$1,524,032 + \$349,536 + \$43,297 = \$1,916,865

Step 6. Ability to Pay and Continue in Business

The ability of Monterey One Water (M1W) to pay an administrative civil liability is generally determined by its income (revenues minus expenses) and net worth (assets minus liabilities). Under the Enforcement Policy, the Combined Total Base Liability amount may be adjusted to address a discharger's ability to pay or to continue in business if the Central Coast Water Board has sufficient financial information necessary to assess the discharger's ability to pay the Combined Total Base Liability amount or to assess the effect of the Combined Total Base Liability Amount on the discharger's ability to continue in business.

The Prosecution Team retained financial experts from Industrial Economic, Incorporated (IEc) to analyze M1W's ability to pay. The analysis was based on M1W's Comprehensive Annual Financial Reports (CAFRs) for the fiscal years ending June 30, 2017, 2018, and 2019, as well as the Annual Budget for fiscal year 2021 (including preliminary fiscal year 2020 results) and the Statement of Net Position as of June 30, 2020, provided by M1W. For the analysis, IEc focused on the Statement of Revenues, Expenses and Changes in Net Position (income statement) and Statement of Net Position (balance sheet). IEc concluded that based on M1W's financial data for fiscal

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years 2017-2020 and projections for fiscal year 2021, M1W does not have the ability to pay the penalty in full, but may be able to pay a portion of the penalty.

IEc's analysis considered several factors. As a preliminary matter, IEc concluded M1W ended fiscal year 2020 (year ended June 30, 2020) with a strong net operating income, but its balance sheet metrics (e.g., cash holdings, current assets, and total assets) declined relative to 2019 as the impacts of COVID-19 began to affect M1W's finances. Fiscal year 2020 is not representative of future performance in fiscal year 2021. In fiscal year 2021 (the current fiscal year), M1W expects revenue shortfalls relative to previous years due to both increases in pandemic-related delinquencies and lower sales from its Pure Water Monterey Fund activities. Additionally, in fiscal year 2021, M1W will incur substantial additional expenses not recorded on previous years' reporting, including State Revolving Fund (SRF) loan payments and Capital Improvement Plan (CIP) costs.

IEc also analyzed the impact a \$1.9 million penalty would have on monthly utility bills for M1W's customers. It should be noted that Monterey County and the service area underperform relative to the State with a median household income ("MHI") of \$67,000 for the County compared to \$71,000 for the State, according to 2014-2018 American Community Survey. The County's unemployment rates tend to exceed those of the State and the nation on average, and also exhibit seasonality with unemployment spikes up to five percentage points in winter months. The County's annual average unemployment rate in 2019 was 6.2 percent, compared to 4.0 percent in the State and 3.7 percent in the U.S. In 2020, the County's unemployment rate peaked in April at 20.5 percent, but has since fallen to 7.8 percent in October. The unemployment rate in the State and the U.S. also peaked in April at 16.2 percent and 14.4 percent, respectively, and has since fallen to 9.0 percent and 6.6 percent, respectively, in October. The County's unemployment rate has generally tracked that of the State and the country throughout the pandemic.

M1W currently charges its residential users a flat monthly fee of \$24.55. Residential rates have increased annually by ten percent in 2017, 2018, and 2019, and are scheduled to increase by eight percent each year until 2024 if recently proposed rate increases are approved by the ratepayers. Imposition of a \$1.9 million penalty would represent a financial burden of \$29.20 per household in M1W service area, in addition to the current monthly residential bill of \$24.55. Even without the \$1.9 million penalty, M1W is experiencing an increase in user fee delinquencies, which accounts for 10-15 percent of its monthly revenues. More than doubling the residential user fee to pay a penalty is not reasonable in this case.

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IEc also concluded that a \$1.9 million penalty is a substantial percentage of cash and cash equivalent holdings (11 percent), operating revenues (5 percent), and net available working capital (30 percent).

Furthermore, IEc analyzed the impact of a \$1.9 million penalty on M1W's financial reserve policies. M1W sets reserve policies to ensure adequate funding of future expenses, provide sufficient buffer to weather economic downturns, and to maintain and improve its credit rating. M1W must also hold sufficient reserves to meet coverage ratios required by legally binding debt covenants. These policies are important for M1W to maintain its bond ratings and have adequate financial buffers to deal with financial stress, and are considered good utility management practice. IEc focused on M1W's ability to meet the following reserve requirements:

1. Wastewater Fund Reserves Policy: The Wastewater Fund's operating reserves should be maintained at a minimum of 30 percent of the operating budget (including debt service and capital outlay). This requirement is M1W's internal policy.
2. Debt Service Coverage Ratio Policy (all funds): M1W's minimum debt service coverage ratio is 125 percent, required by its bond covenants (i.e., an external constraint).

Based on fiscal year 2020 data, M1W's operating reserves exceed the target ratio of 30 percent of operating expenses under the Wastewater Fund Reserves Policy. M1W projects a decline in operating reserves in fiscal year 2021 because of \$4.5 million set aside to repay SRF loans. As a result, unless revenues are at least \$3.5 million higher than expected in fiscal year 2021, M1W's coverage ratio will not meet the 30 percent target, even before the penalty payment. Assuming M1W paid the full penalty out of its operating reserves, M1W would fail to meet its target coverage ratio in fiscal year 2021, with coverage decreasing to just 11 percent, well below the 30 percent threshold prescribed by M1W's internal policy.

For fiscal year 2020, M1W far exceeds the 125 percent ratio required by its bond covenants with a 278 ratio. In fiscal year 2021, however, M1W expects the coverage ratio to decrease significantly due to the increase in annual debt service (\$4.5 million SRF loan repayment). M1W still expects to exceed its coverage ratio target in fiscal year 2021, but by a much narrower margin.

Assuming M1W pays the full \$1.9 million penalty (thus decreasing its net revenues and available resources) in fiscal year 2021, the coverage ratio would fall below the

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minimum 125 percent threshold that is required by M1W's bond covenants. Revenues would have to be over \$1.0 million higher than projected in fiscal year 2021 to meet the minimum coverage ratio while paying the full penalty amount. Equivalently, M1W could meet the 125 percent threshold after paying a penalty of no more than \$848,000, given its current revenue projections for fiscal year 2021.

Lastly, IEC reviewed M1W's net working capital balance from fiscal years 2017-2020 as an indicator of M1W's past financial performance. As a general rule, utilities aim to maintain net working capital sufficient to cover at least three months of anticipated operating expenses (including debt service).

Current financial commitments (and projected revenue shortfalls) that cause a downward adjustment in net working capital include:

- A \$4.5 million debt service reserve requirement on M1W's SRF loans. This is an annual recurring requirement that starts in fiscal year 2021.
- A \$2.1 million projected revenue shortfall in the Pure Water Monterey fund due to lower than expected production of potable water.
- \$1.4 million reserved for wastewater capital projects as part of M1W's ten-year CIP, which began in fiscal year 2020. The CIP outlines \$92.0 million in improvements over ten years, aimed at repairing and replacing aging infrastructure.
- \$2.1 million in encumbrances for contracts outstanding and bond debt service.

M1W estimates that its net available working capital after adjustments for fiscal year 2021 (increased costs, revenue shortfalls, and other deductions) will be \$6.3 million. This is enough to cover just 1.8 months of anticipated expenses (including debt service) for fiscal year 2021, and far less than the minimum recommended coverage of 3 months. After paying a \$1.9 million penalty, M1W's net available working capital of \$4.4 million would be sufficient to cover only 1.2 months of anticipated expenses.

It should also be noted that M1W has been proactive in addressing its financial constraints. To control expenses during the pandemic, M1W implemented a hiring freeze on vacant position and implemented wage reductions or partial furloughs on all employees. Even with these measures, expenses are still projected to increase from fiscal year 2020.

In summary, IEC concluded M1W does not have the ability to pay a \$1.9 million penalty because the penalty is large relative to M1W's cash holdings (11 percent), operating revenues (5 percent), and monthly bill per household (penalty per household of \$29.20 in addition to the current monthly bill of \$24.55). Further, the payment of the full penalty may cause M1W to violate its bond covenants, based on the fiscal year 2021 forecasted accounting. It will also further drive down its working capital, leaving M1W with insufficient liquidity to cover its short-term obligations. Finally, the penalty payment must be balanced against M1W's upcoming SRF reserve requirements, the substantial CIP (nearly \$100 million) M1W intends to undertake in the next ten years, its pension obligations (\$21.5 million), and the economic impacts and uncertainty of COVID-19.

As explained above, IEC concluded M1W could meet the 125 percent threshold for debt covenant requirements after paying a penalty of no more than \$848,000, given its current revenue projections for fiscal year 2021. The Prosecution Team believed it was prudent to offer to settle this matter for slightly lower than the maximum M1W could pay without violating its debt covenant requirements. The Parties agreed to settle this matter for \$800,000. M1W does not dispute that it can pay the \$800,000 penalty. To further mitigate financial impacts to M1W, the Parties agreed to include the SEP contained in Attachment E as part of this settlement. The inclusion of the SEP allows M1W to pay \$790,000 towards the SEP over an approximate three-year period, as opposed to the full \$800,000 being due to the State Water Pollution Cleanup and Abatement Account within 30 days of adoption of this Stipulated Order.

Step 7. Economic Benefit¹

Violation #1:

The economic benefit of noncompliance for Violation #1 was determined to be approximately \$57,186.

Pursuant to the Enforcement Policy, the economic benefit, or the savings/monetary gain derived from the acts that constitute a violation, must be determined for each violation. M1W realized measurable financial benefits associated with delayed RTP headworks rehabilitation and/or upgrade expenses.

¹ Step 7 (Economic Benefit) and Step 8 (Other Factors As Justice May Require) are discussed in reverse order under the 2010 Enforcement Policy, which applies to Violation 2. For ease, Attachment D uses the order of Steps 7-8 in the 2017 Enforcement Policy.

As documented in Attachment A, M1W allegedly failed to comply with Discharge Prohibition II.D of Waste Discharge Requirements Order No. R3-2014-0013. As a result, M1W delayed costs associated with rehabilitating and/or upgrading its RTP headworks to prevent or minimize failures or deficiencies related to Violation #1. M1W may have prevented or minimized the overflow had it implemented such projects before the overflow.

Attachment A to M1W's 15-Day Report included a list of capital improvement projects related to the RTP headworks. Of the six projects listed, the Prosecution Team selected three with the assumed potential to address some or all of the causes or contributors to the overflow (Headworks Area Rehab-Electrical, Headworks Bypass Upgrades, and Headworks Bypass Valve Automation) and these three projects were scheduled to be implemented in fiscal year 2018-2019. For the purposes of these calculations, the Prosecution Team assumed a project completion date of June 30, 2019. Based on these assumptions, the Prosecution Team considers the estimated project costs as delayed expenses.

The Prosecution Team used the BEN financial model provided by the United States Environmental Protection Agency to compute the economic benefit of noncompliance. For computational purposes, the Prosecution Team estimated the penalty payment date as July 16, 2020. The economic benefit of delayed RTP headworks projects was determined to be approximately \$57,186. The output from BEN detailing the compliance actions, assumptions, and benefit of non-compliance is available upon request.

Violation #2:

The economic benefit of noncompliance for Violation #2 was determined to be negligible. M1W did not realize measurable financial benefits associated with the cause of the violation. As documented in Attachment B, M1W failed to seal electrical conduit passages in the wall between the pump station wet well and dry well and failed to reattach a wire during a repair. The Prosecution Team estimates that neither of these actions would have taken a significant amount of time or materials to complete, and therefore do not represent a substantially quantifiable economic benefit to M1W.

Violation #3:

The economic benefit of noncompliance for Violation 3 was determined to be negligible. M1W did not realize measurable financial benefits associated with the cause of the violation. As documented in Attachment C, the discharge occurred due to operator error resulting in sewage pumps being turned off. The Prosecution Team estimates that this

action would not have taken a significant amount of time or materials to avoid or correct, and therefore does not represent a substantially quantifiable economic benefit to M1W.

Step 8. Other Factors as Justice May Require

The Water Boards may exercise their discretion to include some of the costs of investigation and enforcement in a total administrative civil liability. Including some staff investigation and enforcement costs is valid from an economic standpoint as it requires those who commit water quality violations to pay a greater percentage of the full costs of their violations. However, this important consideration must be balanced against the potential of discouraging a discharge from exercising its right to be heard and other important due process considerations.

Violation #1:

The Prosecution Team conservatively estimates at least 155 hours of staff time at \$133.42 per hour² to investigate this violation and prepare this analysis and supporting information. The Prosecution Team finds that it is not appropriate to increase the Total Base Liability amount by \$20,680 due to the inability to pay considerations identified in Step 6 above.

Violation #2:

The Prosecution Team spent 113 hours of staff time at \$139.42 per hour to investigate this case and prepare this analysis and supporting information. The Prosecution Teams finds that it is not appropriate to increase the Total Base Liability amount by \$15,754 due to the inability to pay considerations identified in Step 6 above.

Violation #3:

The Prosecution Team spent 20 hours of staff time at \$131.62 per hour to investigate this case and prepare this analysis and supporting information. The Prosecution Team finds that it is not appropriate to increase the Total Base Liability amount by \$2,632 due to the inability to pay considerations identified in Step 6 above.

Step 9. Maximum and Minimum Liability Amounts

Maximum Liability:

² Differences in this hourly rate among the three violations addressed in Attachments A, B, and C are due to variations in the state's pay scale at the time staff conducted the analysis.

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The maximum administrative liability amount pursuant to Water Code sections 13385 is \$10 per gallon discharged for every gallon over 1,000 that is not cleaned up, plus a maximum of \$10,000 for each day in which each violation occurs.

Violation #1:

The maximum liability amount is **\$28,702,300** as calculated below.

Maximum Per Gallon Liability Amount:

$$2,868,230 \text{ gallons} \times \$10/\text{gallon} = \$28,682,300$$

Maximum Per Day Liability Amount:

$$2 \text{ days} \times \$10,000/\text{day} = \$20,000$$

Maximum Liability Amount:

$$\$28,682,300 + \$20,000 = \$28,702,300$$

Violation #2:

The maximum liability amount is **\$1,615,000** as calculated below.

Maximum Per Gallon Liability Amount:

$$160,500 \text{ gallons} \times \$10/\text{gallon} = \$1,605,000$$

Maximum Per Day Liability Amount:

$$1 \text{ day} \times \$10,000/\text{day} = \$10,000$$

Maximum Liability Amount:

$$\$1,605,000 + \$10,000 = \$1,615,000$$

Violation #3:

The maximum liability amount is **\$56,070** as calculated below.

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Maximum Per Gallon Liability Amount:

$$4,607 \text{ gallons} \times \$10/\text{gallon} = \$46,070$$

Maximum Per Day Liability Amount:

$$1 \text{ day} \times \$10,000/\text{day} = \$10,000$$

Maximum Liability Amount:

$$\$46,070 + \$10,000 = \$56,070$$

Minimum Liability:

The Enforcement Policy (p. 21) states that the Total Base Liability Amount should be at least 10 percent higher than the economic benefit amount, “so that liabilities are not construed as the cost of doing business and that the assessed liability provides a meaningful deterrent to future violations.”

The minimum liability associated with economic benefit for Violation #1 is approximately **\$62,905 (\$57,186 + 10% [or \$5,719])**. The minimum liability associated with economic benefit for Violations #2 and #3 is \$0 since the economic benefit for both violations is negligible.

The Final Combined Liability Amount is within the maximum and minimum liability amounts for each violation.

Step 10. Final Combined Liability Amount

Based on the foregoing analysis, and consistent with the Enforcement Policy, the Final Combined Liability Amount for Violation #1, Violation #2, and Violation #3 is **\$800,000** based on an inability to pay the Combined Total Base Liability Amount.

**State Water Resources Control Board and Regional Water Quality Control Boards
Supplemental Environmental Project (SEP)**

Name of Project: Private Lateral Rehabilitation Project for the Castroville Community Services District

Project Applicant Address: Monterey One Water (M1W)
5 Harris Ct, Bldg. D, Monterey, CA 93940

Contact Person and Title: Paul A. Sciuto, General Manager

Contact Phone and Email: 831-645-4603 / paul@my1water.org

PROJECT CATEGORIES

- Public Health
- Pollution Prevention
- Pollution Reduction

PROJECT LOCATION

The Private Lateral Rehabilitation Project (PLRP or Project) would occur in northern Monterey County within the boundaries of the Castroville Community Services District (CCSD or District). CCSD relies on approximately 18 miles of sanitary sewer gravity and force main lines to serve its 2,000 residential, commercial, and industrial customers. The Project area is located within the critically over-drafted Salinas Valley Groundwater Basin, bordered by the Pacific Ocean to the northwest and the Tembladero Slough to the southwest. A map of the District's service area can be seen in Attachment 1 and a map illustrating the CCSD sewer system connecting to M1W's infrastructure is provided as Attachment 2. Based on a field assessment conducted by M1W and CCSD, 101 properties have been identified for inclusion in this Project within the CCSD boundaries.

PROJECT DESCRIPTION

The PLRP proposes to inspect, repair, and replace defective private sewer laterals within the CCSD system. This effort will reduce the amount of Inflow and Infiltration (I&I) into and potential exfiltration out of the District's sanitary sewer collection system, benefiting the people and water quality of the local watersheds.

People: The State Water Resources Control Board has identified significant segments of the CCSD service area as a Disadvantaged Community (DAC). Ninety percent (90%) of the residential customers in the CCSD service area reside within a DAC area and 100% of the identified properties for this Project reside within a DAC area, as identified in Attachment 3. Additional challenges faced by this community are described in the "Community Burdens" section on page 8.

Water Quality: Cracked or misaligned pipes and open joints can lead to harmful environmental impacts as wastewater may escape the system and dirt or other debris may

enter the system. This Project, primarily related to lateral rehabilitation, would:

1. Reduce the nutrient and other pollutant loading to the underlying aquifer by preventing wastewater from exfiltrating or seeping out of the sewer collection system.
2. Help protect the community's sole source for drinking water (groundwater).
3. Prevent water, dirt, and debris from infiltrating into the sewer collection system, especially during severe storms currently heightened by climate change. For more on climate change, see page 7. I&I can lead to reduced flow capacity and sewer overflows into the environment.

Groundwater

CCSD is located in the coastal zone over the northwest tip of the Salinas Valley Groundwater Basin. This Basin is composed of four distinct layers:

Layer	Depth
Perched Aquifer	0 – 180 ft
180-Foot Aquifer	180 – 400 ft
400-Foot Aquifer	400 – 900 ft
Deep Aquifer	900 ft +

Groundwater levels below the Project area are approximately 20 feet below the surface per available data in the State Water Resources Control Board GeoTracker data management system. Data was derived primarily from site cleanup activities reported near the Project. In addition, the Project area is surrounded by agriculture fields and local growers have reported finding groundwater only four (4) to five (5) feet below the soil surface.

Sewer Collection System

M1W has two pump stations collecting wastewater from the CCSD system. From the Castroville pump station, M1W sees an average dry weather flow of 472 gallons per minute (gpm), with a peak of 979 gpm. During wet weather events, water and debris can potentially infiltrate the system through damaged collection system pipes and contribute to peak wet weather flows of up to 2,792 gpm (a peaking factor of up to 6). From the Moss Landing pump station, M1W sees an average dry weather flow of 56 gpm, with a peak of 333 gpm. During wet weather events, I & I can increase flows up to 500 gpm (a peaking factor of up to 9). Without proactive response, these increased flows can lead to blockage and capacity-related sewer overflows that threaten the neighboring surface waters. The Tembladero Slough is located only 125 feet from the Castroville pump station. While the Moro Cojo Slough and Salinas River Estuary are located 450 ft and 500 ft, respectively, from the Moss Landing pump station. Both water bodies lead directly into the Moss Landing Harbor and out to the Pacific Ocean. To prevent overflows from occurring during severe weather, M1W proactively stages additional staff members and equipment at the pump stations. Manual setup of portable generators and emergency pumps allow staff to maintain operation during times of excess flows and power outages, as needed. If the Project is implemented, a key indicator of success will be decreased peak wet weather flow rates from these two pump stations. See Attachment 4 for a map of both pump stations in relation to their neighboring waterbodies.

Challenge and Proposal

The United States Environmental Protection Agency (U.S. EPA) Study, *Review of Sewer Design Criteria and RDII Prediction Methods*, reports sewer laterals contribute as much as 70 to 80% of I&I and these significant amounts will not be abated even after proper maintenance, rehabilitation, and operation of sewer mains. CCSD does not have the funding or resources to conduct sewer lateral line inspections, but based on this U.S. EPA Study, the high I&I can likely be traced to damaged sewer lateral lines. Sewer lateral lines are the responsibility of the private property owner to maintain and repair, but due to the high cost to repair, many property owners, especially those faced with economic hardship, opt for zero to minimal maintenance. To help support low-income and disadvantaged community members of CCSD, M1W proposes a Private Lateral Rehabilitation Project to inspect and repair sewer lateral lines. The Project includes three components:

- **1: System Assessment** – A field assessment was conducted in June 2021 by M1W and CCSD to identify vulnerable properties within the DAC zones of the District’s service area. The findings identified 101 properties for inclusion in the Project, all located within DAC areas as represented in Attachment 3. The field assessment used the expertise of CCSD to target properties with a history of blockage events and properties located near main lines that have required increased maintenance or cleaning due to I&I.

To further assess the sewer lateral lines on these properties, a closed-circuit television video (CCTV) inspection would be performed to rank the number and severity of possible defects. The CCTV footage will be collected by a qualified contractor who will use the clean outs, located on each property, to send a camera through the line. M1W will utilize a firm who specializes in Right of Way (ROW) acquisitions to assist with getting signed Right of Entry agreements from each property owner granting M1W and its contractor permission to conduct the work. A joint outreach effort between M1W, CCSD, and the ROW specialist will also occur prior to any work commencing. Outreach would include a bi-lingual approach (English and Spanish) to educate residents on the CCTV process and potential participation in the Private Lateral Rehabilitation Project. Efforts are likely to include door hangers, customer notices, a community meeting, and direct calling – with consideration given to the best time of day and mediums to reach this working community.

- **2: Program Development** – Based on the results of the field assessment and CCTV inspections, M1W and CCSD will develop a priority list based on severity of vulnerabilities. Vulnerabilities include poor connection to main, compromised pipeline, plugged laterals, and illicit stormwater drainage connections to the lateral. Staff will then approach each property owner in priority list order and begin enrolling interested parties in the program. Enrollment will include the property owners granting permission for the work to be conducted on their properties and this process will again be supported by the ROW specialist. The Private Lateral Rehabilitation Project SEP for the Castroville Community Services District will be designed and implemented to benefit low income households to the maximum extent possible. This adaptive approach will assist M1W in having the greatest impact on water quality and identified

sewer lateral line threats.

- 3: Rehabilitation Process** –The program will fund 100% of the costs to repair the sewer lateral line from the sewer main to the property line, and subsequently return disturbed property to its original condition. Because portions of the work will be within the public right of way, encroachment permits from the County of Monterey will be obtained and all work in the right of way will be inspected by CCSD or the County in addition to M1W staff. The rehabilitation process will also allocate funding to manholes, if warranted, in those areas where the sewer lateral line rehabilitation occurs. M1W will use a competitive bid process to coordinate and contract the rehabilitation of the sewer lateral lines on behalf of the CCSD DAC members in the program and, if warranted, line and replace the ring and cover of identified manholes in the Project area. If property is damaged during onsite work, the contractor will be responsible pursuant to the indemnification clause M1W will require in its construction contract.

To execute the above components, the SEP will require collaboration between key stakeholders.

Table 1. Key Stakeholders		
Partner Name	Background Information	Role
Monterey One Water (M1W)	Public wastewater treatment and water recycling agency serving more than 250,000 residents and almost 7,000 businesses in northern Monterey County	SEP Lead -Responsible for the execution of all project components
Castroville Community Services District (District)	Public water, sewer, stormwater, and recreational facilities provider for approximately 7,300 residents	Partner -Supports the SEP and agrees to provide M1W access to its system to complete all Project components -Assist with outreach to customers
Property Owners and Tenants	Private property owners within the Castroville Community Services District's DAC boundaries	Project Benefactors -Eligible (CCSD DAC) property owners can utilize the program to fund rehabilitation of their lateral lines
Contractors	Selected from a Competitive Bid Process administered by M1W	Project Support -Conduct CCTV services -Conduct private lateral line repairs

CCSD does not own the sewer lateral lines that connect private properties to the sanitary sewer system. Sewer laterals are owned by the adjacent private property owner from the structure to the main line located in the street.

WORK PLAN

Table 2. Work Plan: Private Lateral Rehabilitation Project for CCSD		
<i>Project is part of an enforcement action by the Central Coast Water Board</i>		
Project Timeline: August 13, 2021 – August 12, 2024		
Tasks	Milestone Dates	
Submission of Supplemental Environmental Project (SEP)	June 2021	
Approval of SEP	Est. August 2021*	
<i>* If approval is substantially delayed, the Estimated Schedule may need to be adjusted.</i>		
Component 1: System Assessment		
Video Inspection Services		
Outreach Services	Community/property owner notification.	Sep 2021 – April 2022
	Community Meeting – Meeting to be held in Castroville to provide details about the program and work to be done.	
	Mail letters to impacted properties – Include enforcement action details.	
	Door hangers no more than 7 days of work/date stamp	
	Right of Entry Agreement – As part of program enrollment, customer must grant M1W and the M1W contractor right of entry to access property and complete CCTV inspection.	
Solicit Bids & Select Contractor	Bid Solicitation – Notice inviting bids seeking qualified contractors to provide services for investigating the condition of sewer laterals to include CCTV televising to identify possible defects.	May 2022 – Jul 2022
	Select Contractor following M1W procurement procedures	
	Board Award and issuance of contract	
Inspection	CCTV inspection and traffic control	Aug 2022 – Oct 2022
	Contractor to collect data	
Results	Contractor provides results of CCTV inspection to M1W	Oct 2022
Component 2: Program Development		
Rehabilitation Plan	Consolidate summary of CCTV inspection findings; develop priority list of property repairs	Sept 2021 – May 2024
Outreach Services	Contact qualified owners (mail, phone, in-person as needed)	
Implementation	Initiate program administration and identify participation for development of Bid Docs	

	Right of Way Entry – As part of program enrollment, customer must grant M1W and the M1W contractor right of entry to access property and complete CCTV inspection.	
Component 3: Rehabilitation Process		
Rehabilitation of Laterals		
Solicit Bids & Select Contractor	Bid Rehabilitation of Laterals – Notice inviting bids for qualified contractors to provide services for the RP within CCSD	Apr 2023 – Jun 2023
	Select contractor following M1W procurement procedures	
	Board Award	
Outreach Services	Door hangers no more than 7 days of work/date stamp	Oct 2022 – Mar 2023
	Right of Way Entry - As part of program enrollment, customer must grant M1W and the M1W contractor right of entry to access property and permission to complete lateral replacement work.	
Construction	Repair/Replacement of defective laterals and manholes lining	Jun 2023 – June 2024
Final Completion		June 2024
After completion of construction and expenditure of the \$790,000, the Final Report will be developed and submitted no later than August 31, 2024		

DELIVERABLES

Milestones: The SEP will consist of the following milestones by component as described in more detail below:

- **Component 1: System Assessment** – Summary of CCTV inspection findings including a report identifying the number and severity of possible defects
- **Component 2: Program Development** – Priority list for order of repairs and program enrollment
- **Component 3: Rehabilitation Process** – Start and completion of lateral repair/replacement

Castroville is a disadvantaged community, and the goal of this PLRP is to help repair faulty sewer lateral lines at zero cost to the customers within the CCSD DAC boundaries. Asking residents to fund repairs then apply for reimbursement is not feasible. Instead, M1W would bid and contract directly to repair the identified damaged sewer laterals. M1W and its contractors will work with each property owner in priority list order to ensure program enrollment does not exceed the allotted budget. All communication with property owners will be available in English and Spanish. Anytime the SEP is publicized, communication will prominently state that this Project is being undertaken as part of the settlement of an

enforcement action by the Central Coast Water Board against M1W for the unauthorized discharges of wastewater.

Quarterly Reports: Monterey One Water will provide quarterly progress reports to the Regional Water Board’s designated representative. Each progress report will describe the tasks completed along with budget expended for each task since the last report, and a statement of progress towards compliance with the Project timetable and milestones. The quarterly reports shall also include summaries of findings and outreach conducted and copies of any supporting materials for the program. Progress reports will be submitted on the 15th of the month following the end of each calendar quarter.

Final Report and Certification of Completion: A final report will describe the tasks completed, an accounting of funds expended, and describe whether the PLRP was successfully completed. Regional Board Staff will be updated by M1W staff each quarter during the duration of the SEP. A final report and certification of completion will be made available to the Regional Water Board by August 31, 2024, assuming the schedule is not delayed by the timing of approval of this SEP.

PROJECT COSTS AND FUNDING REQUEST

The total estimated cost for the SEP was derived using estimates based on similar work and a field assessment conducted by M1W and CCSD. The estimated total cost for Components 1 – 3 is \$790,000 benefiting the CCSD Disadvantaged Community (DAC).

Table 3. Budget Summary: Private Lateral Rehabilitation Project for CCSD <i>Project is part of an enforcement action by the Central Coast Water Board</i> Project Timeline: August 13, 2021 – August 12, 2024				
Tasks	Estimated Quantity	Units of Measure	Cost Per Unit	Total Cost
Component 1: System Assessment				
Notification and outreach including community meeting	75	Man Hours	100	7,500.00
Right of Way Specialty Services to acquire entry access and permissions (est. 4 hours per property)	404	Man Hours	100	40,400.00
Right of Entry Agreement preparation	101	Each	175	17,675.00
Bid development	40	Man Hours	125	5,000.00
Inspect sewer laterals via CCTV (101 properties)	6,728	Linear feet	1.25	8,410.00
Site management and traffic control	78	Each	200	15,600.00
Sub-Total				94,585.00
Component 2: Program Development				
Door hanger development (includes design and delivery)	50	Man Hours	100	5,000.00

Settlement Agreement and Stipulated Administrative Civil Liability
 Stipulated Order No. R3-2021-0051
 Monterey One Water
 Attachment E

Right of Way Specialty Services including permission to enter, property preparation, and outreach (est. 4 hours per property)	404	Man Hours	100	40,400.00
Permission to perform work preparation	101	Each	175	17,675.00
Outreach printing	2000	Each	0.22	440.00
Sub-Total				63,515.00
Component 3: Rehabilitation Process				
Notification and outreach	34	Man Hours	100	3,400.00
Bid development	45	Man Hours	125	5,625.00
Mobilization/Demobilization and bonds	101	Each	832	84,032.00
Excavation	101	Each	1,611	162,711.00
Replacement/Repair of sewer lateral lines	101	Each	3,167	319,867.00
Line manholes and replace rings and covers	12	Each	3,751	56,265.00
Sub-Total				631,900.00
PROJECT TOTAL				790,000.00

SEP Fulfillment Schedule

Monterey One Water will provide detailed invoices with each quarterly report to the Regional Water Board’s designated representative to illustrate progress on the tasks described above and to show total expenditures of the agreed upon SEP amount of \$790,000. M1W’s timely expenditure of the SEP amount does not relieve M1W of its responsibility to fully implement and complete the Project up to the SEP amount.

PROJECT READINESS

All Project components involve existing infrastructure and are anticipated to be exempt from CEQA. However, M1W will conduct an initial study review prior to any physical construction to determine if the proposed elements would qualify for exemptions or require filing a Negative Declaration. M1W will ensure the Project fulfills all State requirements and environmental protections. No delays in meeting deadlines are anticipated due to CEQA.

In addition, the Project will require property owners or tenants to enroll in the sewer lateral line rehabilitation program and grant M1W permission to have the identified contractor conduct CCTV inspection work on their property. Once the program is defined, M1W will consult with its legal team and CCSD staff to identify and execute any required agreements with property owners/tenants.

EXPECTED BENEFITS

The SEP will reduce the impacts of I&I resulting from damaged sewer lateral lines. This is expected to decrease debris and wet weather flows entering M1W’s Castroville and Moss Landing pump stations. Excess inflow and blockages can lead to overflows that could

send pollutants into the neighboring water bodies. The Castroville pump station is bordered by the Tembladero Slough, which feeds into the Elkhorn Slough and ultimately the Monterey Bay National Marine Sanctuary. The Moss Landing pump station is bordered by the Old Salinas River Estuary and Moro Cojo Slough, both of which feed directly to the Moss Landing Harbor and out into the Pacific Ocean. To accommodate flow rates higher than the station's capacity, M1W relies on staff to provide emergency response. Specifically, the team adds portable power generation and extra pumps to help prevent overflows during inclement weather. If M1W did not have this response plan in place, surface water impacts to the above water bodies could occur from excessive I&I likely generated from sewer lateral lines. See Attachment 4 for a map of both pump stations in relation to their neighboring waterbodies.

The Project is also expected to decrease potential exfiltration impacts, preventing wastewater contaminants from entering the groundwater. CCSO relies on groundwater as its only drinking water source for residents and businesses. Further, a decrease in exfiltration and sewer overflows would allow conveyance of more wastewater to the Regional Treatment Plant for recycling. At the Regional Treatment Plant, wastewater is the primary source for the facility's water reuse efforts. The more wastewater that enters the facility, the more water can be recycled for both non-potable and potable supplies, assisting in meeting the State's Human Right to Water. Adding to the importance of recycled water is the county's isolation from state or regional water supplies and the county's dependence on water for its key economic industries: agriculture and hospitality/tourism. Especially during periods of drought when surface water and groundwater are taxed, a reliable supply of recycled water is key to sustaining the area's water supply portfolio. Any unnecessary loss of wastewater becomes less production flexibility for M1W's drought-tolerant recycled water production.

CLIMATE CHANGE RESILIENCY

The SEP will help withstand the most likely impacts of climate change. The area's coastal climate must prepare for severe weather like intense storms and prolonged precipitation. These events can lead to unmanageable wet weather flows entering the sewer system. If the sewer system cannot convey and process the flow, the risk of wastewater overflowing into the environment and potentially releasing contaminants into neighboring surface waters and groundwater increases. As I&I directly contributes unwanted water and debris into the sewer system, the SEP will assist the region in becoming more resilient to climate change.

Also, in line with [State Water Board Resolution No. 2017-0012](#), the SEP will benefit a State-identified Disadvantage Community facing economic and environmental burdens. By identifying damaged sewer lateral lines, a common cause of I&I, and assisting community members in repairing or replacing these lines, the Project will help protect contaminants from leaching into CCSO's drinking water supply. Over the years, climate change has resulted in larger storms, more intense events on a more frequent basis. It has been widely accepted that these events will continue to increase in the future. Localized intense rain events create localized flooding. As published in the [Greater Monterey County Integrated Regional Water Management Plan, Section R](#) – the Monterey Bay region will be

exposed to a greater risk of major flooding events, and storm surge, high tides and waves will travel farther inland. Castroville is surrounded by low lying land and becomes an island during flood events, as displayed in this [FEMA Flood Plain Map](#). As more intense localized events create more localized flooding events, an increase in I&I into the wastewater collection and conveyance system is expected. More unwanted flows into the wastewater system can be problematic for inundating the Castroville and Moss Landing pump stations with more volume than designed. In addition, in times of drought, I&I will be reduced, leaving groundwater in place, instead of entering the wastewater system.

COMMUNITY BURDENS – DISADVANTAGED

CCSD includes the communities of Castroville and Moss Landing, both areas that have been identified by the California Department of Water Resources as Disadvantaged and Severely Disadvantaged Communities, respectively. With median household incomes less than \$56,982, this is markedly less than the County median income of \$67,813. A map of the identified DAC and its overlap with the CCSD system can be seen in Attachment 3. This overlap represents 90% of CCSD's residential customers, and 100% of the identified properties for this SEP are located within this overlap.

In addition to economic challenges, community members in these areas also face health and environmental burdens. CalEnviroScreen, the mapping tool provided by the State of California's Office of Environmental Health Hazard Assessment (OEHHA), was used to identify other high or highly severe indicators impacting the area. The highest ranked challenges include:

- **Health Risks:** Exposure to pesticide usage in local fields and to drinking water contaminants (arsenic, nitrates, chlorides, and pesticide contamination) is highly severe and indicates a likeliness for community members to come into contact with these pollutants.
- **Population Vulnerabilities:** Limited educational attainment, linguistic isolation, and high unemployment rates contribute to socio-economic conditions that increase people's stress and make healthy living difficult.
- **Environmental Effects:** Groundwater threats and impaired water bodies pose great risk to this population and can take many years to clean up.

HUMAN RIGHT TO WATER

By helping protect the sole water supply for CCSD, the community members' human right to water will be protected. As CCSD represents multiple DACs, they do not have the resources to directly assess the impact private lateral lines have on their own system. However, the following two studies published by the U.S. EPA provide key insight into wastewater systems and the impacts private laterals can have on I&I:

[EPA Study 2008 – EPA/600/R-08/010](#)

Lai, F. H. (2008). *Review of Sewer Design Criteria and RDII Prediction Methods*. U.S. Environmental Protection Agency, Washington DC.

This study reinforces the nexus between I&I and private lateral lines, noting "lateral sewers can contribute as much as 70 to 80% of I&I load." This impact is so severe, the Study further reports that "significant amounts of I&I will not be abated even after proper

operation and maintenance (O&M) and rehabilitation of street sewers.”

EPA Study 2010 – EPA/600/R-10/078

Sterling, R., Simicevic, J., Allouche, E., Condit, W., & Wang, L. (2010). *State of Technology for Rehabilitation of Wastewater Collection Systems*. U.S. Environmental Protection Agency, Washington, DC.

This study provides characteristics of wastewater collection systems, including challenges like I&I, noting that “fixing the sewer mains may be less effective in reducing I&I than anticipated until the laterals also are fixed.” This study also explains this is likely due to homeowners who are often not even aware of major problems or serious defects of their sewer lateral lines. Further, the study notes deteriorated lines may act as groundwater drains, contributing significantly to exfiltration.

Both U.S. EPA reports document the excessive amounts of I&I that can be attributable to private lateral lines. Through M1W’s sewer lateral line rehabilitation, the SEP will reduce I&I from entering the sewer system of a DAC, reduce wastewater exfiltration into and infiltration from the surrounding groundwater, and decrease the number of pollutants from entering the underlying drinking water aquifer.

Additional Information

PROJECT STATUS

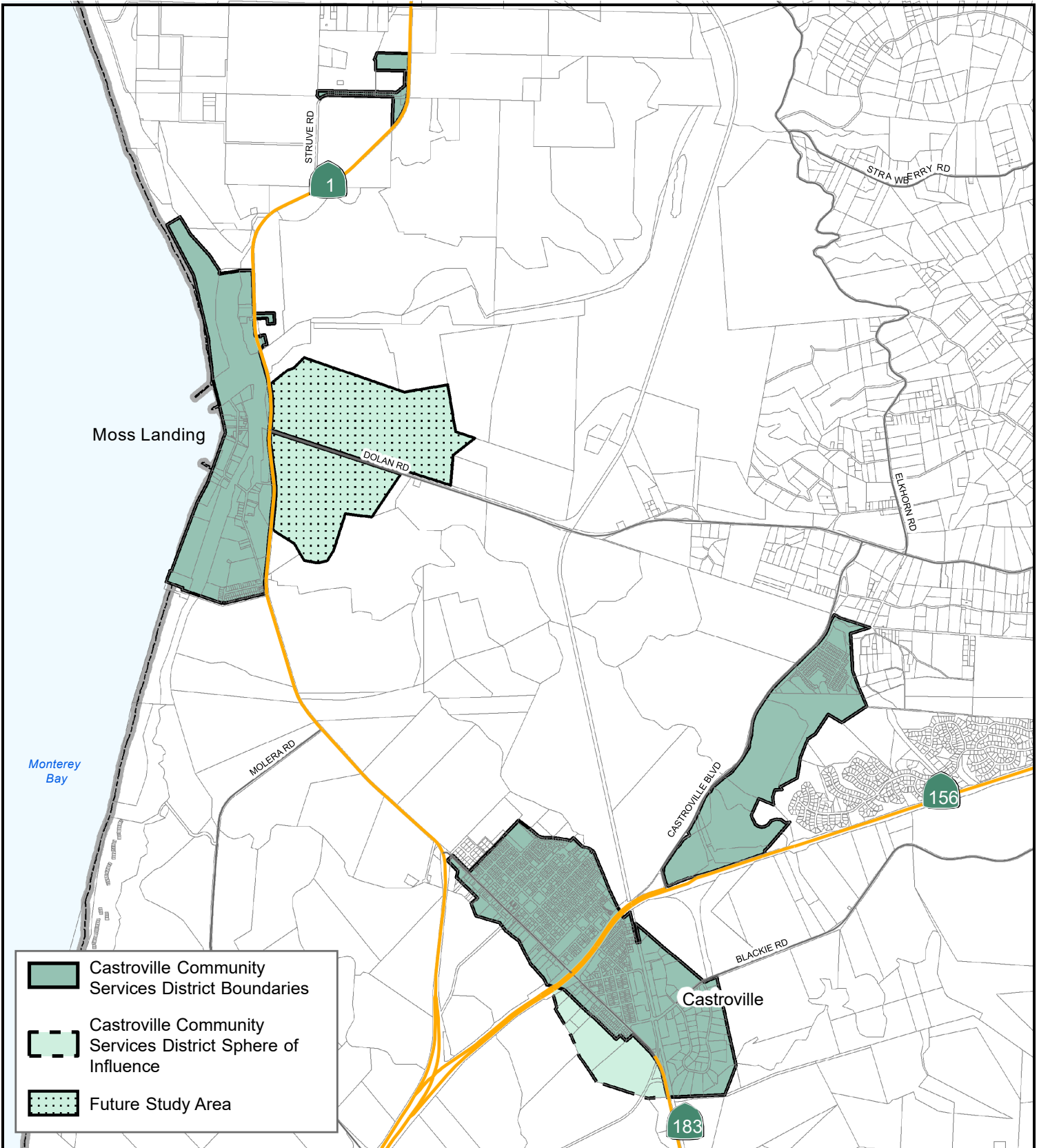
This Project is not currently required by another entity or agency. M1W will retain full responsibility for implementing and completion of the PLRP.




LONG-TERM SUCCESS

The SEP has identified the following measurable components that will assist in tracking long-term project success:

- Current Assessment of Sewer Lateral Line Integrity – Quantify the number, length, location, and cost of needed repairs or replacement of defective laterals
- Sewer Lateral Line Rehabilitation – Quantify the number, length, location, and cost of repairs or replacement of defective laterals funded by the Project
- I&I Measurement – The regional sewer system utilizes real-time data systems to track and analyze flow and infrastructure integrity. I&I is measured by peaking factors during wet weather. Reducing I&I in the system will reduce flows during wet weather and reduce the peaking factor. Currently, median wet weather flows from the Castroville Community Services District are two to six times more than average dry weather flows.
- Community Education – Diverse, bi-lingual outreach will be a key element in every component of this Project. Program enrollment will include targeted questions on how community members learned about this program. Data from the targeted questions can inform strategies for future opportunities on private lateral line education.

Attachment 1: Castroville Community Services District - Service Area



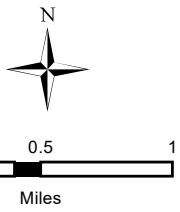
	Castroville Community Services District Boundaries
	Castroville Community Services District Sphere of Influence
	Future Study Area

LAFCO of Monterey County
 LOCAL AGENCY FORMATION COMMISSION

P.O. Box 1369
 Salinas, CA 93902
 Telephone (831) 754-5838

132 W. Gabilan St., Suite 102
 Salinas, CA 93901
 FAX (831) 754-5831

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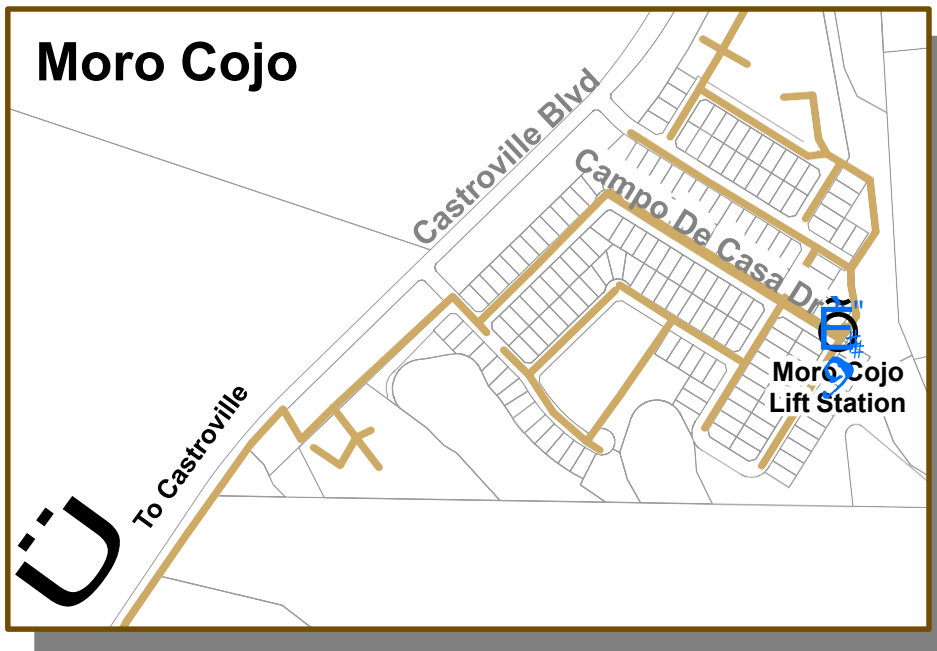
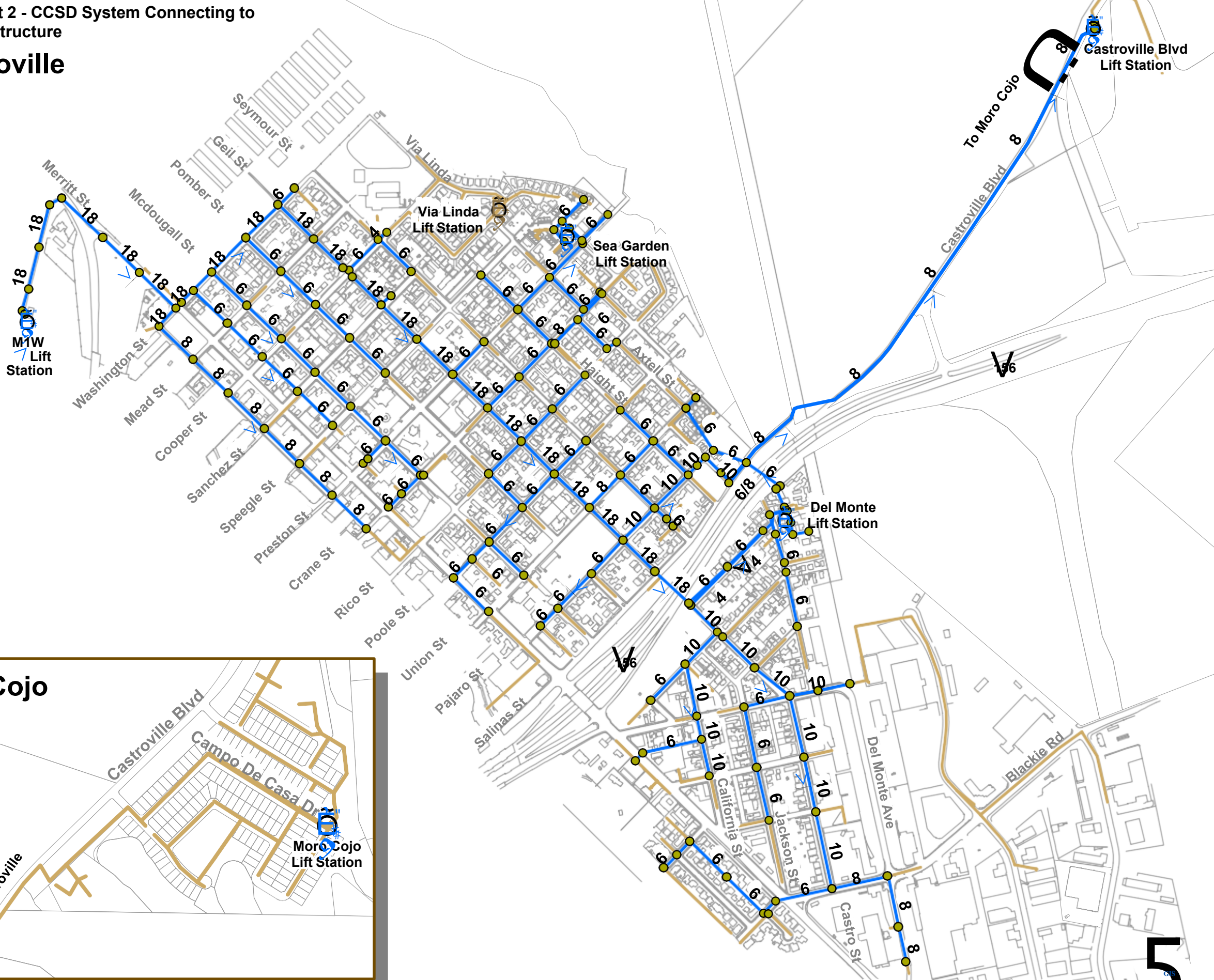
SPECIAL DISTRICTS

CASTROVILLE COMMUNITY SERVICES DISTRICT

Map prepared: 03/14/2014
 Last LAFCO-approved change: 03/24/2014

Castroville

Connection from CCSD to M1W



- ### Legend
- Existing**
- Modeled Lift Stations
 - Non-Modeled Lift Station
 - Manholes
 - Modeled Pipes
 - Non-Modeled Pipes
 - Basemap

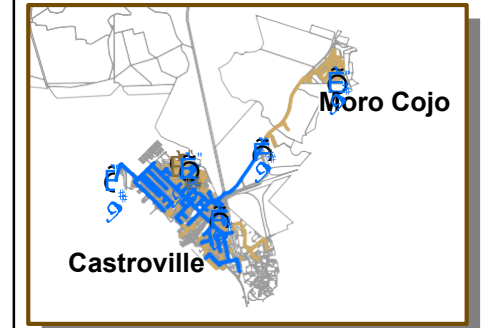
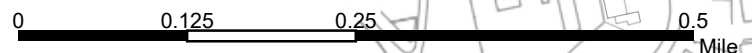


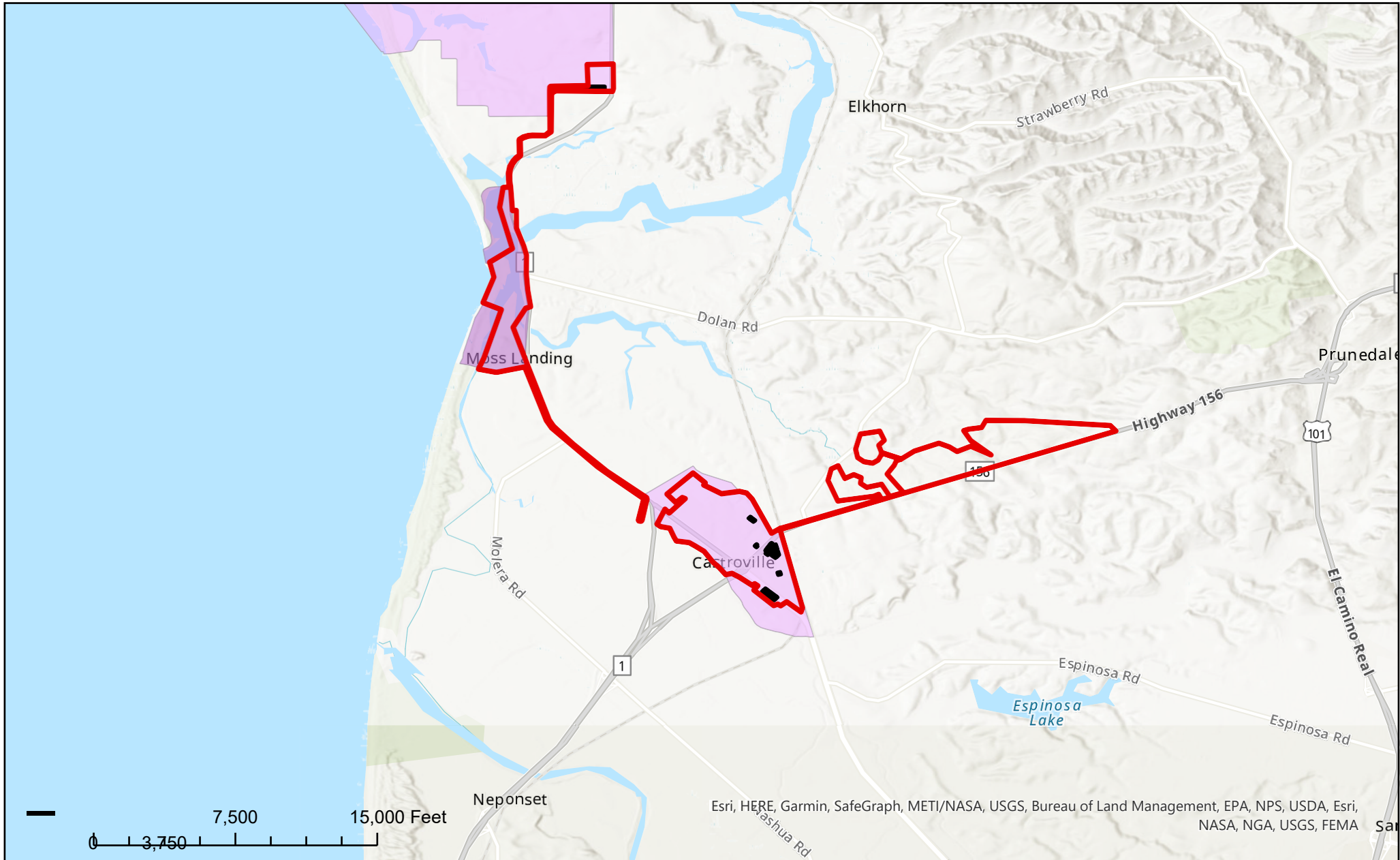
Figure 3
Existing Sewer System
 Wastewater Collection System
 Master Plan Update
 Castroville Community Services District

Updated: August 15, 2013



5

Attachment 3: CCSD Service Area with DAC Overlay



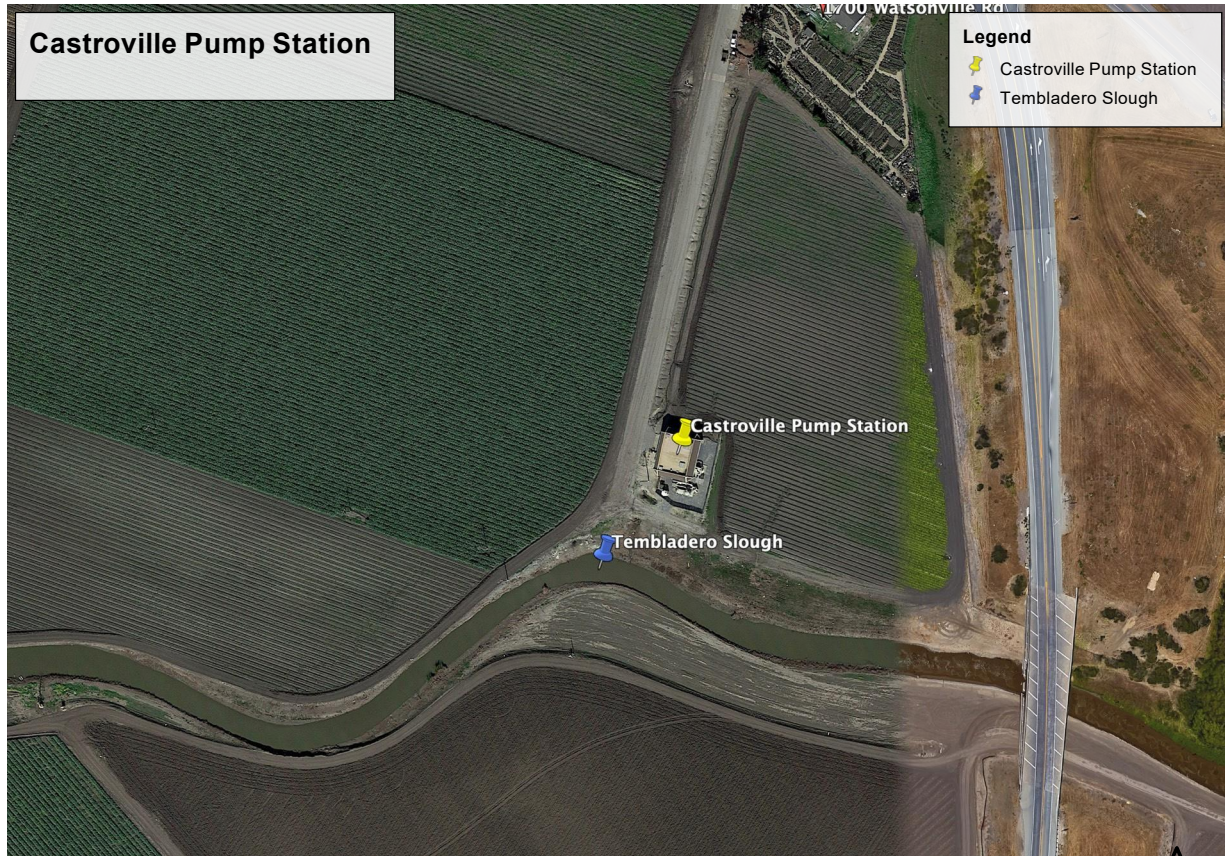
- Severely Disadvantaged Communities (MHI < \$42,737)
- Disadvantaged Communities (MHI \$42,737 < \$56,982)
- Field Assessment Identified Properties
- CCSD Service Area Boundary



Attachment 4

Pump Stations

Castroville Pump Station Watsonville Road, Castroville, CA95012



PUMP STATIONS CONTINUED
Moss Landing Pump Station
Moss Landing Road, Moss Landing, CA 95039

