

ATTACHMENT A – ACL COMPLAINT R5-2025-0527

SPECIFIC FACTORS CONSIDERED FOR ADMINISTRATIVE CIVIL LIABILITY

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San Joaquin County

The State Water Resources Control Board's (State Water Board) *2024 Water Quality Enforcement Policy* (Enforcement Policy) establishes a methodology for determining administrative civil liability by addressing the factors that are required to be considered under California Water Code (Water Code) section 13327. Each factor of the ten-step approach is discussed below, as is the basis for assessing the corresponding score. [The Enforcement Policy](#) can be found at:

(https://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/2024/2024-enforcement-policy.pdf).

Regulatory Background

On 12 March 2014, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) approved Waste Discharge Requirements General Order for Growers within the San Joaquin County and Delta Area that are Members of the Third-Party Group Order No. R5-2014-0029¹ (General Order). The General Order addresses the discharge of waste from irrigated lands to groundwater and surface water. Wastes discharged from irrigated lands include, but are not limited to, pesticides, fertilizers, pathogens, and sediment. To meet their regulatory obligations, owners/operators of irrigated lands may choose to join the San Joaquin County and Delta Water Quality Coalition (Coalition).

Should an owner/operator of commercially irrigated land choose not to enroll in the Coalition, they may enroll under the Waste Discharge Requirements for Discharges from Irrigated Lands within the Central Valley Region for Dischargers not Participating in a Third-party Group Order No. R5-2013-0100 (Individual Order). If choosing this option, the dischargers must submit a completed Notice of Intent (NOI) with the first year's annual fee to the Central Valley Water Board.

The parcels of irrigated lands at issue are owned by Jagpal S. Batth as an individual (Discharger) and are listed as San Joaquin County Assessor's Land Parcel numbers (APNs) 05517021 and 05903022 (Parcels).

¹ The current version of this General Order is listed as [Order No. R5-2014-0029-07](#) and can be accessed through the following link:

(https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2014-0029-07.pdf).

Pursuant to Water Code section 13261, failure to obtain coverage under Water Code section 13260 after being so requested by a regional board subjects a discharger to an administrative civil liability of up to \$1,000 per day for each day without coverage.

Each factor of the Enforcement Policy and its corresponding score for the violation is presented below:

Violation 1: Failure to adequately respond to Water Code section 13260 Directive

On 20 December 2024, the Central Valley Water Board issued a 13260 Directive Letter (Directive) to the Discharger, which directed him to obtain regulatory coverage by one of the options outlined above within 15 calendar days of receipt. The Discharger did not obtain regulatory coverage by the required date.

On 25 February 2025, Central Valley Water Board staff issued a Notice of Violation (NOV), which documented the violation and listed steps to come into compliance. To date, coverage has not been obtained. The Discharger is subject to administrative liabilities pursuant to Water Code section 13261.

Step 1. Potential for Harm for Discharge Violations

The Prosecution Team is not alleging a discharge violation; This step is not applicable.

Step 2. Assessment for Discharge Violations

The Prosecution Team is not alleging a discharge violation; This step is not applicable.

Step 3. Per Day Assessment for Non-Discharge Violations

The “per day” factor is calculated for each non-discharge violation considering (a) the potential for harm and (b) the extent of the deviation from the applicable requirements.

Potential for Harm: Moderate

The Enforcement Policy requires a determination of whether the characteristics of the violation resulted in a minor, moderate, or major potential for harm or threat to beneficial uses and/or potential harm to the environment and regulatory program. In this case, the failure to obtain irrigated lands regulatory coverage pursuant to Water Code section 13260 prevents the Central Valley Water Board staff from evaluating and ensuring the Discharger’s compliance with the regulatory program. Since the violation thwarts the Board’s ability to identify water quality risks, the violation has the potential to exacerbate the presence and accumulation of, and the related risks associated with, pollutants of concern. This, in turn, presents a threat to beneficial uses and indicates a substantial potential for harm.

Dischargers that are regulated under an applicable General Order either conduct monitoring or contribute to monitoring efforts to identify water quality threats associated with their operations. In addition, dischargers report on the practices in which they engage to protect water quality. By failing to provide that information, the Discharger impairs the Central Valley Water Board’s efforts to assess potential impacts and risks to

water quality and circumvents the Board's ability to take necessary enforcement actions to address problems. Furthermore, the regulatory program is compromised when staff resources are directed at bringing dischargers into compliance rather than being available for outreach and assistance with regulatory compliance. By failing to obtain regulatory coverage under the applicable General Order, the Discharger has "substantially impaired the Water Board's ability to perform their statutory and/or regulatory functions." (See Enforcement Policy, p. 22.)

Additionally, the circumstances of the violation indicate a substantial potential for harm to beneficial uses. Irrigated cropland can be a source of sediment, pesticide residue, nitrate, and other waste discharged to the waters of the state. Unregulated discharges of such waste can present a substantial threat to beneficial uses, and the circumstances indicate a substantial potential for harm to beneficial uses. This conclusion is, in part, also based on the size of the Discharger's irrigated land Parcels, which total approximately 124.79 acres. Additionally, APN 05903022 is an almond orchard that sits immediately adjacent to Pixley Slough, indicating potential for surface water impacts.

The greater the size of the operation, the greater the potential risk, since any practices being implemented by the Discharger that are detrimental to water quality may impact a much greater area. In summary, the value of moderate is warranted.

Deviation from Requirement: Moderate

The Enforcement Policy requires determination of whether the violation represents a minor, moderate, or major deviation from the applicable requirements. A moderate deviation from requirement is appropriate when the discharger did not fully meet the regulatory requirements, rendering the requirements only partially achieved. A moderate factor is appropriate in this case because the Discharger has disregarded the regulatory requirements, rendering the requirements partially ineffective.

Water Code section 13260 requires persons discharging waste or proposing to discharge waste that could affect water quality to file a report of waste discharge. Had the Discharger filed a report of waste discharge by the required date, the Discharger would have obtained permit coverage under an Order that would specify expectations and requirements necessary to protect water quality.

On 23 July 2025, the Discharger paid fees to the Coalition, a necessary component of the Directive requirement, for two parcels included in the Directive letter. Those parcels are not at issue in this Administrative Civil Liability Complaint (Complaint). The essential function of the Order is rendered partially ineffective when a discharger, such as here, has not applied for regulatory coverage for the Parcels.

Table 3 of the Enforcement Policy prescribes a per day factor ranging from 0.30 to 0.40 for those violations in which the potential for harm is moderate and the deviation from the requirement is moderate. Based on the above factors, a per day factor of **0.35** is appropriate. This value is multiplied by the days of violation and the maximum per day penalty as shown in the Initial Liability Amount section below.

Multiple Day Violations

The Directive required the Discharger to obtain regulatory coverage for all irrigated lands within 15 calendar days of receipt of the Directive.

The Discharger received the Directive on 24 December 2024. Thus, the Discharger needed to either submit a NOI for enrollment in the Individual Order or enroll in the Coalition by 8 January 2025. To date, the Discharger has not obtained regulatory coverage. As of 12 September 2025, the Discharger is 246 days late in meeting that requirement.²

The Enforcement Policy provides that, for violations that last more than thirty (30) days, the Central Valley Water Board may adjust the per-day basis for civil liability if certain findings are made and provided that the adjusted per-day basis is no less than the per-day economic benefit, if any, resulting from the violation. For these cases, the Central Valley Water Board must make express findings that the violation: (1) is not causing daily detrimental impacts to the environment or the regulatory program; or (2) results in no economic benefit from the illegal conduct that can be measured on a daily basis; or (3) occurred without the knowledge or control of the violator, who therefore did not take action to mitigate or eliminate the violation. If one of these findings is made, an alternate approach to penalty calculation for multiple day violations may be used.

Here, the Discharger's failure to obtain regulatory coverage results in no economic benefit that can be measured daily. Rather, the economic benefit here is associated with avoided costs of permit fees, groundwater monitoring, and preparing an Annual Monitoring Report, which are outlined below.

The above justifies the use of the alternate approach to penalty calculation for multiple day violations. The minimum number of days to be assessed in this case under the alternate approach is 42. Following the Enforcement Policy, for violations lasting more than 30 days, the days are counted as follows: every fifth day of violation until the 60th day, and every 30 days thereafter. The 246 days of the violation are compressed to 42 days by counting days 1-30, 35, 40, 45, 50, 55, 60, 90, 120, 150, 180, 210, and 240.

Initial Liability Amount

The initial liability amount for the violation calculated on a per-day basis is as follows:

(Maximum per day liability) X (Assessed number of days) X (Per day Factor)

Initial Liability: \$1,000/day X 42 days X 0.35 = \$14,700

² The Prosecution Team exercises its discretion to not pursue penalties for days in violation of the Water Code after 12 September 2025.

Step 4. Adjustment Factors

a) *Culpability*: 1.5

Discussion: The Enforcement Policy directs that higher liabilities should result from intentional or negligent violations as opposed to accidental violations. A multiplier between 0.75 and 1.5 is to be used, with a higher multiplier for intentional or negligent behavior. A multiplier value of 1.5 is applicable here, which increases the administrative civil liabilities. The Discharger is highly culpable for the failure to obtain regulatory coverage under section 13260. The Discharger knew of the requirements due to the history of the Parcels. The Parcels out of compliance with the Directive are listed under Coalition Account Number (Account Number) 10925. Another individual, Inder Singh, held enrollment in the Coalition since 2016 for Account Number 10281.³ Both Parcels in this Complaint were previously enrolled under Account Number 10281 from 2016 until 2024. The Discharger signed multiple documents required by the Coalition that related to this account on behalf of Inder Singh.

Prior to issuance of the Directive, the Coalition and subsequently Central Valley Water Board staff contacted the Discharger in an effort to enroll the Discharger and return to compliance. On 20 August 2024, the Coalition representative emailed the Discharger to notify him that the Coalition had not received payment for the Parcels. On 21 August 2024, 13 November 2024, and 18 December 2024, Central Valley Water Board staff called the Discharger to discuss enrolling the Parcels in the Coalition. These calls either ended in staff speaking to the Discharger or staff leaving a voicemail for the Discharger. Additionally, on 25 September 2024, 26 September 2024, and 24 October 2024, staff sent the Discharger SMS messages to his phone, attempting to enroll the Discharger's Parcels in the Coalition. Central Valley Water Board staff issued the Directive, which specifically discussed the requirement to obtain coverage. Staff sent the Directive via certified mail and emailed a copy to the Discharger. Staff obtained confirmation of receipt through the mail carrier's confirmation of delivery. These interactions with Central Valley Water Board staff have put the Discharger on notice of coverage requirements.

In 2024, Account Number 10925 was created and listed the Parcels in this Complaint. To date, the Discharger has not made any payments to the account.⁴ These actions confirm previous cooperation and demonstrate that the Discharger knew of the requirements. On 23 July 2025, the Discharger paid required Coalition fees for Account Number 10821. However, the Discharger has not complied with the current requirement. The notice and failure to adequately respond suggest the Discharger acted

³ The current parcels listed under Account 10281 are not at issue in this Complaint.

⁴ The current invoice for the account lists Jagpal Batth as "Assessee" and addresses the invoice to J. S. Batth, Inc. Both the Parcels at issue in this Complaint, along with parcels owned by J. S. Batth, Inc., are listed under Account Number 10925.

intentionally or negligently in ignoring the requirement to get regulatory coverage, resulting in a multiplying factor of 1.5.

b) *Cleanup and Cooperation*: 1.3

Discussion: This factor reflects the extent to which a discharger voluntarily cooperates in returning to compliance and correcting environmental damage. A multiplier between 0.75 and 1.5 is to be used, with a higher multiplier when there is a lack of cooperation. Despite the notification of the violation and outreach by the Central Valley Water Board staff, the Discharger has not cooperated or returned to compliance with the General Order. Central Valley Water Board staff have contacted the Discharger several times in an effort to allow the Discharger to address the violation prior to the issuance of a complaint. After multiple attempts to communicate the Directive's requirements and the potential civil liabilities accruing for the violation, the Discharger has remained out of compliance.

The 25 February 2025 NOV directed the Discharger to obtain regulatory coverage and offered the Discharger the ability to come back into compliance. However, the Discharger has still not fully cooperated with those efforts and has not obtained complete coverage. On 23 July 2025, the Discharger did pay the Coalition fees for two parcels under Account Number 10281. Payment of the fees does not equate to complete compliance for those two parcels, as the Discharger may still need to submit various reports as required by being a coalition member. The Discharger's response to the violation falls below the normally expected response and therefore, it is appropriate to use a cleanup and cooperation multiplier of 1.3.

c) *History of Violations*: 1.0

Discussion: When there is a history of repeat violations, the Enforcement Policy requires a minimum multiplier of 1.1 to be used. The Discharger does not have a history of violations; therefore, a multiplier of 1.0 is appropriate.

Step 5. Determination of Total Base Liability Amount

The Total Base Liability is determined by applying the adjustment factors from Step 4 to the Initial Liability Amount determined in Step 3.

a) *Total Base Liability Amount*: **\$28,665**

(Initial Liability (\$14,700) x Adjustments (1.5)(1.3)(1)).

Step 6. Economic Benefit

The total economic benefit of non-compliance was determined to be \$507.

Pursuant to Water Code section 13385, subdivision (e), civil liability, at a minimum, must be assessed at a level that recovers the economic benefit, if any, derived from the acts that constitute a violation. The Enforcement Policy requires that the adjusted Total Base Liability shall be at least ten percent (10%) higher than the economic benefit. Economic benefit is any savings or monetary gain derived from the act or omission that constitutes

the violation and for this case was calculated using the United States Environmental Protection Agency's Economic Benefit Model program version 2024.0.0 (BEN).

The Prosecution Team's economic benefit analysis was based on the failure to obtain coverage for two parcels of irrigated land under the Irrigated Lands Regulatory Program (ILRP) by the Discharger from 2020 through 2025.

Under the ILRP, an individual may choose to comply with the program by either filing a NOI to get regulatory coverage as an individual grower under the Individual Order, or by joining the appropriate coalition for the area in which the Discharger's land is located. As of the date of issuance for this Complaint, the Discharger has not chosen to join a coalition. Enrolling as an individual Discharger under the ILRP would have resulted in higher costs than enrolling in the San Joaquin County and Delta Water Quality Coalition. Thus, enrollment in the Coalition was chosen as the more conservative option.

The economic benefit was calculated based on delayed and avoided costs. Delayed costs are those costs that should have been paid earlier, but that a discharger can and is still required to pay. Avoided costs are the costs of those compliance activities which a discharger can no longer perform, and that a discharger would have conducted had they come into compliance earlier.

Delayed compliance actions were identified as payment of acreage fees required for membership in the Coalition from 2020 through 2025, submission of Irrigation and Nitrogen Management Plan (INMP) Summary Reports, submission of the 2021 Farm Evaluation, completion and retention of INMP Worksheets, and attendance of annual virtual meetings for members enrolled in the Coalition, resulting in a total delayed compliance cost of \$3,908.44. The lone avoided compliance action was identified as payment of 2024 CV SALTS fees required for membership in the Coalition and amounted to an avoided cost of \$50.71. The analysis was prepared based on information provided by the Central Valley Water Board staff and the Coalition.

The economic benefit to the Discharger of delaying and avoiding the costs of compliance in this matter is \$507.

Step 7. Other Factors as Justice May Require

Staff Costs

Discussion: The costs of investigation and enforcement are "other factors as justice may require." These costs could be added to the liability amount. The Central Valley Water Board Prosecution Team has incurred a significant amount of staff costs associated with the investigation and enforcement of the violations alleged herein. While an amount representative of these costs could be added to the penalty, the Prosecution Team, in its discretion, is electing not to pursue these costs in this matter.

If the Central Valley Water Board believes that the amount determined using the above factors is inappropriate, the amount may be adjusted under the provision for "other factors as justice may require" but only if express findings are made.

There are no factors under this category that warrant an adjustment.

Step 8. Ability to Pay and Continue in Business

Discussion: As per the Enforcement Policy, “[t]he ability of a discharger to pay an ACL is determined by its revenues and assets.” The Discharger has the ability to pay the Base Liability Amount based on the value of property owned by the Discharger. The agricultural land is a significant asset with an assessed value of \$4,131,031 according to the San Joaquin County Tax Assessor records.⁵

The San Joaquin County Assessor lists the property type for the Parcels as irrigated orchard and vineyards. Recent reports⁶ that include [almond](https://coststudies.ucdavis.edu/current/commodities/almonds) (<https://coststudies.ucdavis.edu/current/commodities/almonds>) and [wine grape](https://coststudies.ucdavis.edu/current/commodities/grapes-wine) (<https://coststudies.ucdavis.edu/current/commodities/grapes-wine>) production studies indicate that the Discharger has the ability to pay the proposed administrative civil liability based on the reports’ assessments of assets and revenues for both types of crop production, and there are no other factors under this category that warrant adjustment.

Step 9. Maximum and Minimum Liability Amounts

a) Minimum Liability Amount: \$557.70

Discussion: The Enforcement Policy requires that the minimum liability amount imposed not be below the economic benefit plus ten percent. As discussed above, the Central Valley Water Board Prosecution Team’s estimate of the Discharger’s economic benefit obtained from the violations cited in this memo is \$507. Therefore $\$507 + 10\%$ results in a Minimum Liability of \$557.70

b) Maximum Liability Amount: \$246,000

Discussion: The maximum administrative liability amount allowed by Water Code section 13261 is \$1,000 for each day in which the violation occurs. The Discharger is 246 days past due in complying with the Water Code section 13260 Directive, sent on 20 December 2024.

Step 10. Final Liability Amount

The final liability amount consists of the added amounts for each violation, with any allowed adjustments, provided amounts are within the statutory maximum and minimum amounts. Based on the foregoing analysis, and consistent with the Enforcement Policy, the final liability amount proposed for failure to obtain regulatory coverage under

⁵ The Prosecution Team is aware that APN 05903022 is listed to be auctioned by San Joaquin County on 11-12 March 2026. However, the potential future sale of this parcel does not affect the Discharger’s ability to pay as the value of APN 05517021, owned by the Discharger, is sufficient to show an ability to pay.

⁶ <https://coststudies.ucdavis.edu/current/commodities/almonds>
<https://coststudies.ucdavis.edu/current/commodities/grapes-wine>

California Water Code section 13260 is **twenty-eight thousand, six hundred and sixty-five dollars (\$28,665)**.

Table 1. For ease of reference, the Enforcement Policy adjustment factors used in this civil liability calculation are tabulated below:

Adjustment Factors	Range	Factors Used
Potential for Harm (Table 3 in the Enforcement policy)	Minor, Moderate, Major	Moderate
Deviation from the Requirement (Table 3 in the Enforcement policy)	Minor, Moderate, Major	Moderate
Per Day Factor	0.1 to 1	0.35
Culpability	0.5 to 1.5	1.5
Cleanup and Cooperation	0.75 to 1.5	1.3
History of Violations	Subjective, based on history	1
Ability to Pay	Based on financial information	1
Other Factors as Justice May Require	None Applicable	1
Economic Benefit (Avoided Costs)	\$507	Economic Benefit Analysis