

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SANTA ANA REGION**

**ORDER NO. R8-2025-0081**

**ASSESSING ADMINISTRATIVE CIVIL LIABILITY**

**IN THE MATTER OF DANIEL K. MUSETTI  
ASSESSOR PARCEL NUMBER 455-200-063**

This matter came before the California Regional Water Quality Control Board, Santa Ana Region (Santa Ana Water Board or Board) from Administrative Civil Liability Complaint No. R8-2025-0069 (Complaint), dated July 28, 2025, issued to Daniel K. Musetti (Respondent). The Complaint alleged two violations based on evidence that the Respondent failed to comply with Santa Ana Water Board Cleanup and Abatement and Water Code section 13267 Order No. R8-2022-0031 (Cleanup Order) and proposed administrative civil liability in the amount of \$438,271.28 pursuant to applicable laws and regulations, including Water Code sections 13268 and 13350. A hearing took place during the Board meeting on October 24, 2025, in accordance with the hearing notice and procedures transmitted to the Respondent, and applicable laws and regulations, including California Code of Regulations, title 23, sections 648-648.8. The Santa Ana Water Board acted on the Complaint on October 24, 2025.

The Santa Ana Water Board hereby finds the following:

**BACKGROUND**

1. The Respondent's property is located at 25050 Cortrite Avenue, Homeland, California 92548 (33.75624, -117.086350), Riverside County Assessor Parcel Number 455-200-063 (Site). The Site is located within the San Jacinto Valley Hydrologic Unit, Perris Hydrologic Area, Winchester Hydrologic Subarea (CalWater Hydrologic Unit Basin Number [HU] 4802.13). Two ephemeral streams, waters of the state, cross the Site from the north and west, converge into one stream near the southern boundary of the Site, exit the Site in the south, and continue southward downslope (National Hydrography Dataset, 2019). The streams are tributary to Salt Creek, which flows into Canyon Lake approximately 10 miles to the southwest and Lake Elsinore approximately 15 miles to the southwest. The designated beneficial uses of Salt Creek are contact water recreation, non-contact water recreation, warm freshwater habitat, and wildlife habitat, and are designated as intermittent. Beneficial uses of any specifically identified water body generally apply to all of its tributaries. The designated beneficial uses of the adjacent mapped groundwater, the Hemet –

South Groundwater Management Zone, include municipal and domestic supply, agricultural supply, industrial service supply, and industrial process supply.

2. The Respondent is the current owner of the Site and was the landowner during all inspections conducted by South Coast Regional Cannabis Program (Cannabis Program) staff, working for the Santa Ana Water Board. Based on Riverside County Assessor records, the Respondent purchased the Site on June 1, 1992. Janet I. Musetti is also listed as an owner of the Site. [Prosecution Team Exhibit (PT Exh.) 1.]<sup>1</sup>
3. On February 3, 2020, Cannabis Program staff inspected the Site as part of a multi-agency inspection authorized by a criminal search warrant obtained and served by the Riverside County Sheriff's Department. During the inspection, Cannabis Program staff observed active cannabis cultivation occurring and several Water Code violations, including unauthorized grading and evidence of discharges and threat of discharges of waste into waters of the State. The discharges and threat of discharges observed included irrigation runoff, sediment, nutrients, pesticides, and other various cannabis cultivation related waste. [PT Exhs. 2–4.]
4. On April 22, 2021, Cannabis Program staff mailed the Respondent a Notice of Violation (NOV), which included as an attachment an Inspection Report, dated March 6, 2020, that documented staff's observations during the February 3, 2020 inspection. The April 22, 2021 NOV that was sent by United States Postal Service (USPS) certified mail to Respondent's Post Office (P.O.) Box and was retrieved at the post office on May 3, 2021. The certified mail receipt was signed as received by Krissy Musetti, who was confirmed to be the Respondent's daughter during a later phone call on May 6, 2025. [PT Exhs. 5–7, 42.]
5. On May 26, 2021, Cannabis Program staff received an email from the Respondent via Staples Print and Marketing Services. Included as a recipient of the email was Robert Reynolds, an attorney whom Respondent later confirmed was familiar with Respondent. The email contained a number of scanned documents, including a handwritten note addressed to Cannabis Program staff that was signed by the Respondent; three pages of photos with captions; the first page of a ruling involving

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<sup>1</sup> Citations are to documentary evidence submitted by the Prosecution Team in advance of the hearing in accordance with the Hearing Procedure established in the Complaint. Respondent did not submit any documentary evidence or raise any objections to the documentary evidence submitted by the Prosecution Team. All evidence timely submitted was admitted into the record during the hearing. Additional testimonial evidence and argument was presented by members of the Cannabis Program staff and Prosecution Team, including Brian Covellone and Maher Zaher. [See PT Exh. 64.] Respondent did not appear at the hearing or present evidence or argument.

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Southern California Edison regarding a permanent injunction, dated November 30, 2018; and email correspondence with United States Army Corps of Engineers staff outlining the types of permits Southern California Edison should have obtained before performing any maintenance work on an easement that is near and partially on the Respondent's property. None of the attached scanned documents indicated that any changes had been made to the Site following the February 3, 2020 inspection, or otherwise indicated that the Site had been appropriately cleaned up. [PT Exhs. 8–10.]

6. On May 28, 2021, the Respondent contacted Cannabis Program staff via telephone. Cannabis Program staff confirmed receipt of the May 26, 2021 email and attachments, explained the alleged violations to the Respondent, and described the corrective actions identified in the April 22, 2021 NOV. During the call, the Respondent also claimed that he thought the Site had the necessary permitting and regulatory coverage for cannabis cultivation. The Record of Communication for this call indicated that future correspondence should be mailed to Respondent's P.O. Box. [PT Exh. 10.]
7. On March 2, 2022, Cannabis Program staff mailed a draft Cleanup Order to the Respondent at Respondent's P.O. Box by certified mail, which was returned as unclaimed. On April 22, 2022, Cannabis Program staff retransmitted the draft Cleanup Order by certified mail. The April 22, 2022 draft Cleanup Order was retrieved at the post office on May 4, 2022. The certified mail receipt was signed as received by Krissy Musetti. [PT Exhs. 11–15.]
8. On June 29, 2022, after receiving no comments in response to the draft Cleanup Order, Cannabis Program staff transmitted copies of the final Cleanup Order to the Respondent by certified mail to Respondent's two known addresses, the P.O. Box and the Site. On the same day, staff also transmitted an electronic copy of the Cleanup Order to Robert Reynolds care of Robert K. Musetti. The packages sent to Respondent's known addresses were returned to Cannabis Program staff as undelivered. The returned package sent to Respondent's P.O. Box indicated that the package was "unclaimed". Cannabis Program staff retransmitted copies of the final Cleanup Order to the Respondent by certified mail on July 25, 2022 and September 9, 2022. The packages were returned to Cannabis Program staff as undelivered. The returned package sent to Respondent's P.O. Box on July 25<sup>th</sup> indicated that it was "unclaimed". [PT Exhs. 16–24, 28.]
9. On September 30, 2022, Cannabis Program staff attempted to contact the Respondent via phone three times. Cannabis Program staff was successful in leaving a voicemail on its third attempt that included a request for a call back to

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discuss the Cleanup Order. The Record of Communication for this call indicates that the voicemail box self-identified as belonging to “Dan Musetti.” [PT Exh. 26.]

10. On November 8, 2022, Cannabis Program staff left the Respondent another voicemail, which included reminders about the unsatisfied corrective actions. During a phone call later that day, the Respondent stated he had not received a copy of the Cleanup Order. The Respondent provided Cannabis Program staff with another mailing address, 25875 Ritter Avenue in Homeland, California (Ritter Avenue address). [PT Exh. 27.]
11. On November 9, 2022, Cannabis Program staff retransmitted the Cleanup Order to the Respondent via certified mail at the newly provided address; however, the package was not signed for or delivered. An electronic copy of the Cleanup Order was also retransmitted to Robert Reynolds on November 9, 2022. [PT Exhs. 28–30.]
12. On December 12, 2022, Cannabis Program staff again retransmitted the Cleanup Order to the Ritter Avenue address provided by the Respondent on November 8, 2022 via USPS certified mail and “GLS”. GLS online tracking information shows that it was received on December 14, 2022, and signed for by an individual named “J.Ennifer.” The package sent via USPS certified mail was returned as “unclaimed”. Another electronic copy of the Cleanup Order was transmitted to Robert Reynolds on December 12, 2022. [PT Exhs. 30–33.]
13. On June 7, 2023, Cannabis Program staff inspected the Site again as part of a criminal search warrant served by the Riverside County District Attorney’s Office. Cannabis cultivation was not actively occurring at the time; however, the Site conditions resembled those observed by staff during the previous inspection on February 3, 2020, which confirmed the Respondent was not in compliance with requirements of the Cleanup Order. During the inspection, Cannabis Program staff provided a physical copy of the Cleanup Order to an individual present at the Site who identified herself as Janet Musetti, the wife of the Respondent. [PT Exh. 34, 35.]
14. On July 6, 2023, Cannabis Program staff issued an NOV to the Respondent by first-class mail and certified mail, informing him of his ongoing violations of the Cleanup Order for failure to submit a proposed RMP to the Santa Ana Water Board by August 28, 2022, and for failure to complete implementation of an approved RMP by March 31, 2023. The packages were mailed to the Ritter Avenue address provided by the Respondent, Respondent’s P.O. Box, and the Site. The NOV sent by certified mail was returned to Cannabis Program staff as undelivered. The package sent to Respondent at the provided address was returned as “unclaimed”. [PT Exhs. 35-36.]

15. On April 10, 2025, Cannabis Program staff issued the Respondent a Notice of Intent to proceed with an administrative civil liability complaint for failure to comply with the Cleanup Order unless the Respondent contacted staff and corrected the alleged violations by May 1, 2025. Two of the notices were sent to Respondent via GLS to the Site and the Ritter Ave address. A third notice was sent to Respondent's P.O. Box via USPS. GLS online mail tracking indicates that the notice was delivered to the Respondent's Ritter Avenue address on April 11, 2025. [PT Exhs. 37, 38.]
16. On April 30, 2025, and May 1, 2025, the Respondent called Cannabis Program staff and left voicemails stating that he had received the Notice of Intent letter, but he claimed to have never received the Cleanup Order. The Respondent expressed confusion about the required actions and requested a call back. [PT Exh. 41.]
17. On May 6, 2025, Cannabis Program staff returned the Respondent's call and described the unaddressed requirements outlined in the Cleanup Order. The Respondent continued to claim that he did not receive the Cleanup Order and disputed the need to hire a qualified professional or submit an RMP. Cannabis Program staff provided the Respondent a summary of the transmittals of the draft and final Cleanup Order, including the signed mail receipt of the draft Cleanup Order by Krissy Musetti, who the Respondent confirmed was his daughter, and the signed mail receipt of the final Cleanup Order by "J.Ennifer." Cannabis Program staff also stated that a physical copy of the Cleanup Order was handed to Janet Musetti, his wife, on June 7, 2023. The Respondent requested that staff send another copy of the Cleanup Order to the Ritter Avenue address. During this call, the Respondent also acknowledged that cannabis cultivation had taken place at the Site, but claimed that it had occurred legally. Cannabis Program staff explained that the Site did not have the appropriate regulatory coverage, which is why it was subject to two search warrants. Cannabis Program staff clarified that an RMP must be prepared by a qualified professional engineer or geologist and be submitted for review and approval by the Santa Ana Water Board prior to implementation. Cannabis Program staff also made it clear that proceeding with any unapproved work may result in additional violations of the Water Code. [PT Exh. 42.]
18. On May 15, 2025, following the phone conversation with the Respondent, Cannabis Program staff retransmitted a copy of the Cleanup Order, for the sixth time, to the Ritter Avenue address in Homeland, California via GLS. GLS online mail tracking indicates that the package was delivered on May 16, 2025. [PT Exhs. 43, 44.]
19. As of the date of the hearing, the Respondent had not submitted a proposed RMP or provided any indication that a qualified professional has been retained to develop the plan.

**PROCEDURAL AND EVIDENTIARY ISSUES**

20. Water Code section 13323(b) provides that an administrative civil liability complaint “shall be served by certified mail . . . , or by any method of physical delivery that provides a receipt, and shall inform the party so served that a hearing before the regional board shall be conducted within 90 days after the party has been served. For purposes of this subdivision, ‘physical delivery that provides a receipt’ includes physical delivery methods that provide electronic confirmation of delivery to the intended address.”
21. The Assistant Executive Officer issued the Complaint on July 28, 2025. Physical copies of the Complaint were delivered by GLS at the Site and at the Respondent’s Ritter Avenue address on July 29, 2025. The Prosecution Team also attempted to transmit the Complaint to the Respondent via email on July 28, 2025 and September 5, 2025; however, the Prosecution Team received error messages that the emails were undeliverable. On August 8, 2025, the Prosecution Team also emailed a copy of the Complaint to a public defender assisting the Respondent on a criminal matter. [PT Exhs. 45–50, 52, 53.]
22. Between August 5, 2025, and August 19, 2025, Prosecution Team staff called the Respondent eight times. Staff was unable to leave voicemails on these dates due to the inbox being full. On August 20, 2025, staff called the Respondent again and was able to leave a voicemail. Staff’s message stated the Complaint had been issued and delivered to the Respondent, that the Complaint package contained critical deadlines, and requested that the Respondent return staff’s call to discuss the Complaint and upcoming hearing. The Prosecution Team was not contacted by the Respondent. [PT Exh. 51.]
23. On August 28, 2025, in an effort to encourage the Respondent to engage in the prehearing process, the Prosecution Team mailed a second copy of the Complaint to the Respondent. The packages sent by GLS to the Site and to the Respondent’s Ritter Avenue address were delivered on August 29, 2025. [PT Exhs. 54-55.]
24. On September 9, 2025, the Advisory Team transmitted a Revised Hearing Procedure to the parties that contained updates to several sections relating to the staff comprising the Advisory Team and the information listed for the Primary Contacts. None of the Important Deadlines were modified in the Revised Hearing Procedure.
25. Consistent with the Hearing Procedure, the Prosecution Team submitted evidence and legal arguments on September 9, 2025 to support the alleged violations and proposed penalty contained in the Complaint. The Prosecution Team uploaded

these documents to the Board's file transfer protocol (FTP) site and mailed a transmittal letter to the Respondent informing him that the documents had been uploaded. The transmittal letter also reiterated the instructions provided by the Advisory Team on how to log in, download, and upload documents to the FTP site. The copies of the letter sent by GLS to the Site and to the Respondent's Ritter Avenue address were delivered on September 10, 2025. The copy of the transmittal letter sent by USPS to the Respondent's P.O. box was picked up by an individual at the post office on September 18, 2025. The Respondent's deadline to submit prehearing evidence and arguments was September 21, 2025. The Respondent did not submit any prehearing evidence or legal arguments.

26. Prosecution Team staff testified that they on September 25, 2025, after receiving a subpoena from the Riverside County District Attorney's Office in relation to the criminal case against the Respondent, Prosecution Team staff visited the courthouse and physically handed the Respondent a copy of the Complaint package, which included a copy of the Cleanup Order as an attachment; the Revised Hearing Procedure; and transmittal letter for the Prosecution Team's evidence submission.

### **VIOLATIONS**

27. Violation 1: The Respondent violated Water Code section 13267 by failing to submit a proposed RMP for approval by the Santa Ana Water Board or its delegated officer by August 28, 2022, as specified under Required Action 1 of the Cleanup Order.
28. Violation 2: The Respondent violated Water Code section 13304 by failing to complete implementation of an approved RMP by March 31, 2023, as specified under Required Action 3 of the Cleanup Order.

### **WATER CODE AUTHORITY FOR IMPOSING ADMINISTRATIVE CIVIL LIABILITY**

29. Water Code section 13268 provides that the Santa Ana Water Board may administratively impose civil liability against any person who fails to submit technical or monitoring reports, as required under Water Code section 13267, in an amount not to exceed one thousand dollars (\$1,000) for each day in which the violation occurs.
30. Water Code section 13350, subdivision (a), states, in relevant part, that any person who violates a cleanup and abatement order may be liable civilly, and remedies may be imposed in accordance with subdivision (e).

31. Water Code section 13350, subdivision (e)(1), provides that the Santa Ana Water Board may administratively impose civil liability in an amount not to exceed five thousand dollars (\$5,000) for each day the violation occurs.
32. Water Code section 13350, subdivision (e)(1)(B), further provides that, when an order issued by the Santa Ana Water Board is violated but there is no discharge, the administrative civil liability shall not be less than one hundred dollars (\$100) for each day in which the violation occurs, except as provided in subdivision (f).
33. Water Code section 13350, subdivision (f), states that the Santa Ana Water Board shall not impose administrative civil liability in an amount less than the minimum amount specified in subdivision (e)(1) unless the Santa Ana Water Board makes express findings setting forth the reasons for its action based upon the specific factors required to be considered pursuant to Water Code section 13327.
34. Pursuant to Water Code section 13327, in determining the amount of any civil liability imposed, the Santa Ana Water Board is required to take into account the nature, circumstances, extent, and gravity of the violations, whether the discharges are susceptible to cleanup or abatement, the degree of toxicity of the discharges, and, with respect to the violator, the ability to pay, the effect on its 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 violations, and other matters that justice may require.

### **WATER QUALITY ENFORCEMENT POLICY**

35. The State Water Board's Water Quality Enforcement Policy establishes a methodology for assessing administrative civil liability that addresses the factors required to be considered when imposing civil liability as outlined in Water Code section 13327. On April 4, 2017, the State Water Board adopted Resolution No. 2017-0020, which adopted the 2017 Water Quality Enforcement Policy (2017 Enforcement Policy). The 2017 Enforcement Policy was approved by the Office of Administrative Law and became effective on October 5, 2017. The State Water Board subsequently adopted Resolution No. 2023-0043, which adopted the 2024 Water Quality Enforcement Policy (2024 Enforcement Policy). The 2024 Enforcement Policy was approved by the Office of Administrative Law and became effective on November 7, 2024. Appendix D to the 2024 Enforcement Policy



addresses the applicability of the policy, and states that the Water Boards should use the version of the policy in effect on the date of the violation at issue.<sup>2</sup>

36. The Complaint alleged that the Respondent failed to comply with the August 28, 2022 and March 31, 2023 deadlines contained in the Cleanup Order. At the time of these violations, the 2017 Enforcement Policy was in effect. Therefore, the Santa Ana Water Board used the 2017 Enforcement Policy to calculate the administrative civil liability imposed herein.
37. Violations 1 and 2 are subject to liability in accordance with Water Code sections 13268 and 13350, respectively. Administrative civil liabilities under each of these sections are subject to the factors set forth in Water Code section 13327. The Santa Ana Water Board has considered the required factors for the alleged violations using the methodology in the 2017 Enforcement Policy, as detailed in Attachment A to this Order.

### **MAXIMUM STATUTORY LIABILITY**

38. Violation 1: Pursuant to Water Code section 13268, subdivision (b)(1), civil liability may be administratively imposed by the Santa Ana Water Board on a daily basis in an amount that shall not exceed one thousand dollars (\$1,000) for each day in which the violation occurs. The Respondent has failed to submit a proposed RMP since August 28, 2022. However, the Prosecution Team exercised prosecutorial discretion in the Complaint and proposed assessment for days of violation beginning on December 14, 2022, the date delivery of the Cleanup Order was confirmed, and ending on July 1, 2025, the date the Prosecution Team was preparing the Complaint. Therefore, this Order assesses liability for a total of 930 days. Accordingly, the maximum liability amount for Violation 1 is \$930,000 (\$1,000/day x 930 days).
39. Violation 2: Pursuant to Water Code section 13350, subdivision (e)(1), civil liability may be administratively imposed by the Santa Ana Water Board on a daily basis in an amount that shall not exceed five thousand dollars (\$5,000) for each day the violation occurs. The Complaint alleged that the Respondent failed to complete implementation of an approved RMP from March 31, 2023 to July 1, 2025. Therefore, this Order assesses liability for 823 days of violation. Accordingly, the

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<sup>2</sup> Although Appendix D to the 2024 Enforcement Policy states that substantive changes can only be applied prospectively to violations that occur on or after the policy's effective date, it allows amendments that are identified as clarifications or procedural changes to be applied to new or pending enforcement matters involving violations that occurred prior to its effective date.

statutory maximum liability amount for Violation 2 is \$4,115,000 (\$5,000/day x 823 days).

### **MINIMUM LIABILITY**

40. Violation 1: The 2017 Enforcement Policy requires the Santa Ana Water Board to recover, at a minimum, at least ten percent higher than the economic benefit realized from the violation, such that liabilities are not construed as the cost of doing business and provide a meaningful deterrent. The economic benefit for Violation 1 is estimated to be \$1,720. The minimum liability that may be imposed is, therefore, \$1,892.
41. Violation 2: Pursuant to the 2017 Enforcement Policy, the Santa Ana Water Board must recover, at a minimum \$836, which reflects the estimated economic benefit plus ten percent. However, Violation 2 is also subject to a statutory minimum liability amount. Pursuant to Water Code section 13350, subdivision (e)(1)(B), the statutory minimum liability amount is one hundred dollars (\$100) for each day in which the violation occurs. The statutory minimum liability amount for Violation 2 is, therefore, \$82,300 (\$100/day x 823 days).

### **ADMINISTRATIVE CIVIL LIABILITY**

42. Violation 1: The Santa Ana Water Board assesses an administrative civil liability amount of \$67,031.25, as detailed in Attachment A to this Order. The administrative civil liability amount for Violation 1 is within the applicable minimum and maximum liability amounts.
43. Violation 2: The Santa Ana Water Board assesses an administrative civil liability amount of \$352,275 for Violation 2, as detailed in Attachment A to this Order. The administrative civil liability amount for Violation 2 is within the statutory minimum and maximum liability amounts.
44. Based on consideration of the above facts, the applicable law, and after applying the penalty calculation methodology in the 2017 Enforcement Policy, the Santa Ana Water Board imposes administrative civil liability against the Respondent in the total amount of **\$438,271.28** for Violations 1 and 2, which includes \$18,965.03 in staff costs as further detailed in Attachment A.

### **REGULATORY CONSIDERATIONS**

45. Payment of the assessed liability amount does not absolve the Respondent from complying with the Cleanup Order. Notwithstanding the adoption of this Order, the

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Santa Ana Water Board retains authority to assess additional penalties for violations for which penalties have not yet been assessed or for violations that may subsequently occur.

46. The issuance of this Order is an enforcement action and is, therefore, exempt from the provisions of the California Environmental Quality Act (Pub. Res. Code § 21000 et seq.), in accordance with California Code of Regulations, title 14, sections 15307, 15308, and 15321, subdivision (a)(2).
47. Any person aggrieved by this action of the Santa Ana Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, section 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filling petitions will be provided upon request, and may be found on the Internet at: [http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality/](http://www.waterboards.ca.gov/public_notices/petitions/water_quality/).
48. If the Respondent fails to comply with payment of the administrative civil liability, the Santa Ana Water Board or its delegated officer is authorized to seek a civil judgment under Water Code section 13328 for recovery of the liability imposed, which may be recorded to establish a lien against property owned by the Respondent, or to refer this matter to the Office of the Attorney General for collection or other enforcement.

**IT IS HEREBY ORDERED**, pursuant to Water Code sections 13268 and 13350 that:

1. The Respondent shall be assessed administrative civil liability in the amount of four hundred thirty-eight thousand two hundred seventy-one dollars and twenty-eight cents (\$438,271.28).
2. Payment for Violation 1, in the amount of \$70,065.65 (\$67,031.25 plus \$3,034.40 in staff costs<sup>3</sup>), shall be made by check or money order to the "State Water Board Cleanup and Abatement Account," in accordance with Water Code section 13441, subdivision (a)(3).

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<sup>3</sup> Because staff costs were not calculated individually for each violation, the amount to be deposited into each account was calculated proportionate to the percentage that each violation comprises of the combined Base Liability Amounts for Violations 1 and 2. The liability imposed for Violation 1 is approximately 16% of the combined Base Liability Amounts. Therefore, 16% of the staff costs, or \$3,034.40, shall be deposited into the State Water Board Cleanup and Abatement Account with the Total Base Liability Amount for Violation 1.

3. Payment for Violation 2, in the amount of \$368,205.63 (\$352,275 plus \$15,930.63 in staff costs<sup>4</sup>), shall be made by check or money order to “State Water Board Waste Discharge Permit Fund,” in accordance with Water Code section 13350, subdivision (k).
4. Payment for Violations 1 and 2 shall be made no later than 30 days from the date on which this Order is adopted by the Santa Ana Water Board. The Respondent shall include the number of this Order on the checks or money orders and send them to the address provided below:

State Water Resources Control Board  
Division of Administrative Services  
ATTN: ACL Payment Accounting Office  
P.O. Box 1888  
Sacramento, California, 95812-1888

With a copy of the checks or money orders emailed to  
santaana.cannabis@waterboards.ca.gov.

I, [name], [position], do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the Santa Ana Water Board on December 12, 2025.

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[Signatory name, position]

Attachment:

Attachment A: Liability Methodology Decisions

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<sup>4</sup> The liability imposed for Violation 2 is approximately 84% of the combined Base Liability Amounts for Violations 1 and 2. Therefore, 84% of the staff costs, or \$15,930.63, shall be deposited into the State Water Board’s Waste Discharge Permit Fund with the Total Base Liability Amount for Violation 2.

# **Attachment A to Administrative Civil Liability Order No. R8-2025-0081: Liability Methodology Decisions**

## **A. Enforcement Policy Background**

California Water Code (Water Code) section 13327, requires the Santa Ana Regional Water Quality Control Board (Santa Ana Water Board) to consider several factors in determining administrative civil liability, including the nature, circumstances, extent, and gravity of the 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 its ability to continue its business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, any economic benefit or savings, resulting from the violation, and other matters that justice may require.

The State Water Resources Control Board's Water Quality Enforcement Policy incorporates these factors in a methodology for determining administrative civil liability in instances of noncompliance. This document describes the methodology and factors determined by the Santa Ana Water Board for each of the violations against Daniel K. Musetti (Respondent). In calculating the assessed liability amount, the Santa Ana Water Board used the 2017 Water Quality Enforcement Policy (hereafter referred to as the Enforcement Policy)<sup>1</sup> that was in effect at the time the violations occurred.

## **B. Violation 1: Failure to submit a proposed RMP acceptable to the Santa Ana Water Board.**

The Respondent violated Required Action 1 of the Cleanup Order by failing to submit a proposed RMP acceptable to the Santa Ana Water Board, in violation of Water Code section 13267. This violation is subject to administrative civil liability under Water Code section 13268.

### Ten-Step Penalty Calculation Methodology

#### **Step 1. Actual Harm or Potential for Harm for Discharge Violations**

Violation 1 involves failure to comply with a Water Code section 13267 reporting directive contained in the Cleanup Order. This is a "non-discharge violation" for purposes of the Enforcement Policy penalty methodology. As such, this step is not applicable.

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<sup>1</sup> A copy of the 2017 Enforcement Policy is available at:

[https://www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/resolutions/2017/040417\\_9\\_fi nal%20adopted%20policy.pdf](https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2017/040417_9_fi nal%20adopted%20policy.pdf)

## Step 2. Assessment for Discharge Violations

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 two factors: the potential for harm and the extent of 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. A “moderate” potential for harm is appropriate when the characteristics of the violation have substantially impaired the Santa Ana Water Board’s ability to perform its statutory or regulatory functions, present a substantial threat to beneficial uses, and/or the circumstances of the violation indicate a substantial potential for harm. Most non-discharge violations should be considered to present a moderate potential for harm.

The Cleanup Order required submittal and approval of an RMP prior to implementation of the plan so that the Santa Ana Water Board or its delegated officer has the opportunity to review the scope of the proposed restoration and corrective actions to confirm the proposed work will adequately remediate Site conditions and prevent unauthorized discharges from further impacting beneficial uses. By failing to submit an RMP for review and approval, the Respondent has substantially impaired the Santa Ana Water Board’s ability to perform its regulatory functions under the Cleanup Order. Based on the circumstances of the violation, a score of **moderate** is appropriate for this factor.

### *Deviation from Requirement: Major*

The Enforcement Policy requires a determination of whether the violation represents a minor, moderate, or major deviation from the applicable requirements. A “major” deviation from requirement is appropriate when the requirement was rendered ineffective (e.g., the requirement was rendered ineffective in its essential functions).

The Santa Ana Water Board assigns a score of **major** for this factor because the requirement to submit an RMP with the necessary elements for approval was never satisfied. The Respondent failed to consult with a licensed professional engineer or geologist to produce an RMP. The Cleanup Order details the benefit to be obtained from submittal of an RMP for approval. The RMP is necessary to assess impacts to waters of the state resulting from the unauthorized grading and land disturbance activities and to determine appropriate restoration and abatement work to correct those impacts. By failing to develop a plan in accordance with the requirements of the Cleanup Order, the RMP has been rendered ineffective in its essential functions. Therefore, a major deviation from the requirement is appropriate.

### *Per Day Factor for Non-Discharge Violations = 0.55*

Table 3 of the Enforcement Policy prescribes a per day factor ranging from 0.4 to 0.7 for non-discharge violations with a moderate potential for harm and a major deviation from

requirement. The Santa Ana Water Board selects a factor of **0.55**, which is the midpoint of the range.

*Days of Violation = 930 (12/14/2022 - 7/1/2025)*

The Cleanup Order required the Respondent to submit an RMP for approval by Santa Ana Water Board staff by August 28, 2022. Although the Respondent has been in violation of this requirement since that deadline, the Complaint issued by the Prosecution Team alleged days of violation beginning on December 14, 2022, the date the Cleanup Order was delivered to the Respondent, and an end date of July 1, 2025, the date the Prosecution Team was preparing the Complaint. Therefore, the Respondent has violated Required Action 1 of the Cleanup Order for 930 days.

*Alternate Approach to Calculate Liability for Multiple Day Violations (Collapsing Days):*

For violations that are assessed a civil liability on a per day basis and last more than 30 days, the Enforcement Policy provides that the daily assessment can be less than the calculated daily assessment, provided that it is no less than the per day economic benefit, if any, resulting from the violation. In such instances, the Santa Ana Water Board must make one of three findings. Finding (b) may be used to support an alternate approach to penalty calculation where the violation results in no discrete economic benefit that can be measured on a daily basis. Although the Enforcement Policy states that failure to timely submit a site conceptual model or corrective action plan under a cleanup and abatement order is not the type of violation for which the findings required by this section can ordinarily be made, the Enforcement Policy further states that finding (b) may be made, at the discretion of the Santa Ana Water Board, in cases where the sole economic benefit measurable on a daily basis is "the time value of money." (Enf. Policy, p. 19.) The Santa Ana Water Board finds that use of the alternate approach to penalty calculation under finding (b) is appropriate because the Respondent is still required to submit an acceptable RMP under the Cleanup Order and, therefore, the economic benefit gained from the violation is the time value of that money. Under the alternate approach to penalty calculation, the Enforcement Policy states that the liability shall not be less than an amount that is calculated based on an assessment of the initial Total Base Liability Amount for the first 30 days of violation, plus an assessment for each 5-day period of violation, until the 60<sup>th</sup> day, plus an assessment for each 30 days of violation thereafter. This calculation for collapsing days sets the maximum permitted approach for reducing the number of days of violation. Utilizing the maximum collapsed days, the Santa Ana Water Board calculates the Initial Liability Amount based on **65 days** of violation.

*Initial Liability Amount = \$35,750*

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

$[\$1,000 \text{ (per day statutory maximum)} \times 0.55 \text{ (factor)} \times 65 \text{ (days of violation)}] = \mathbf{\$35,750}$

#### **Step 4. Adjustment Factors**

The Santa Ana Water Board must consider three additional factors for potential modification of the administrative civil liability amount: the Respondent's degree of

culpability, the Respondent's prior violation history, and the Respondent's voluntary efforts to clean up or cooperate with regulatory authorities after the violation.

*Degree of Culpability = 1.25*

This factor assesses the Respondent's degree of culpability prior to the violation. Higher penalties should result from intentional or negligent violations as opposed to accidental violations. The test for whether a discharger is negligent is what a reasonable and prudent person would have done or not done under similar circumstances. The Enforcement Policy allows a multiplier between 0.75 and 1.5 to be used, with a higher multiplier for intentional or negligent behavior, and a lower multiplier for accidental or non-negligent behavior.

A reasonable and prudent response would have made a more considerable effort to comply with the requirement to submit an RMP by the deadline contained in the Cleanup Order. Cannabis Program staff provided the Respondent a copy of the draft Cleanup Order and its transmittal letter, which informed the Respondent of the opportunity to comment on the corrective actions and deadlines proposed in the draft order within 30 days. The letter further informed the Respondent that after that time, the Santa Ana Water Board or its delegated officer would consider issuing a final order. After staff received no comments, the Cleanup Order was issued with the deadlines proposed in the draft order. It took five attempts for Cannabis Program staff to get delivery of the Cleanup Order. Staff transmitted a copy of the Cleanup Order via certified mail to the Respondent's P.O. Box in Homeland on June 29, 2022, July 25, 2022, and September 9, 2022, but none of these deliveries were successful. Following these attempts, staff attempted to contact the Respondent by phone. Staff left voicemails for the Respondent on September 30, 2022, and November 8, 2022, requesting that the Respondent call staff to discuss the Cleanup Order. The Respondent returned staff's call on November 8, 2022, and stated he had not received a copy of the Cleanup Order. Respondent provided staff the Ritter Avenue address to use as an alternative mailing address. Although the certified deliveries had not been received, the Respondent was made aware that the Cleanup Order had been issued during this conversation. Staff subsequently retransmitted the Cleanup Order to the Respondent's P.O. Box and Ritter Avenue address on November 9, 2022, but this delivery was similarly unsuccessful. The inability to deliver the Cleanup Order to the addresses provided by Respondent was due to Respondent's failure to collect the deliveries, resulting in the packages being returned as "unclaimed". Staff then transmitted the Cleanup Order a fifth time on December 14, 2022, which was delivered and signed for at the Ritter Avenue address. By that date, the Respondent was already in violation of the deadline for Required Action 1 of the Cleanup Order; however, through his conversation with staff, the Respondent already knew the Cleanup Order had been issued and should have taken steps towards compliance prior to December 14, 2022. Accordingly, the Santa Ana Water Board assigns a **score of 1.25 for this factor** due to the Respondent's degree of negligence.

*History of Violations = 1.0*

The Enforcement Policy provides that, where a discharger has no prior history of violations, this factor should be a neutral 1.0. The Santa Ana Water Board assigns a



**score of 1.0 for this factor** as the Respondent has no prior history of violations with the State Water Board or the Santa Ana Water Board.

*Cleanup and Cooperation = 1.5*

The cleanup and cooperation factor addresses a violator's voluntary efforts to clean up and/or to cooperate with regulatory authorities after the violation. Adjustment should result in a multiplier between 0.75 to 1.5, using the lower multiplier for 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.

In addition to the certified mail delivery of the Cleanup Order on December 14, 2022, Cannabis Program staff also provided a physical copy of the Cleanup Order to Janet Musetti, the Respondent's wife, during the second search warrant inspection of Riverside County Assessor Parcel Number (APN) 455-200-063 (the Site) on June 7, 2023. Despite these deliveries, the Respondent has failed to resolve the violation by submitting a proposed RMP. As a result, staff issued the Respondent a Notice of Violation via first-class mail and certified mail on July 6, 2023. Staff received no response. Given the Respondent's continued failure to submit an RMP for review and approval, Cannabis Program staff issued a notice to the Respondent on April 10, 2025, which expressed staff's intent to recommend formal enforcement unless the Respondent contacted staff to discuss the steps being taken to comply with the Cleanup Order. The Respondent left voicemails for staff on April 30, 2025, and May 1, 2025, stating he received the Notice of Intent letter but claiming that he had not received the Cleanup Order. Staff spoke with the Respondent on May 6, 2025, and informed him of the deliveries of the Cleanup Order. Staff explained the requirements of the Cleanup Order and encouraged the Respondent to hire a qualified professional, which he disputed the need for. The Respondent continuously diverted attention from the primary issue of noncompliance with the Cleanup Order. At the Respondent's request, Cannabis Program staff retransmitted the Cleanup Order for a sixth time on May 15, 2025, which was delivered on May 16, 2025. Despite these efforts, the Respondent has not made any attempt at complying with the Cleanup Order. Although the Respondent has had sporadic communication with Cannabis Program staff, the Respondent continues to feign ignorance of the Cleanup Order, challenge his obligations under the Cleanup Order, and has failed to submit an RMP to resolve the ongoing violation. Accordingly, the Santa Ana Water Board assigns a **score of 1.5 for this factor**.

**Steps 5 through 10 will be discussed in Section D, following the Determination of Total Base Liability for Violation 2.**

**C. Violation 2: Failure to Complete Implementation of an Approved RMP by March 31, 2023.**

The Respondent violated Required Action 3 of the Cleanup Order by failing to complete implementation of an approved RMP no later than March 31, 2023, in violation of Water

Code section 13304. The violation of this requirement is subject to administrative civil liability pursuant to Water Code section 13350.

Ten-Step Penalty Calculation Methodology

**Step 1. Actual Harm or Potential for Harm for Discharge Violations**

Violation 2 involves failure to comply with implementation of cleanup and abatement activities contained in the Cleanup Order. This is a “non-discharge violation” for purposes of the Enforcement Policy penalty methodology. As such, step 1 is not applicable.

**Step 2. Assessment for Discharge Violations**

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 two factors: the potential for harm and the extent of 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. A “moderate” potential for harm is appropriate when the characteristics of the violation have substantially impaired the Santa Ana Water Board’s ability to perform their statutory or regulatory functions, present a substantial threat to beneficial uses, and/or the circumstances of the violation indicate a substantial potential for harm. Most non-discharge violations should be considered to present a moderate potential for harm.

The Respondent failed to complete implementation of the cleanup, restoration, and monitoring work required to be contained in an approved RMP. Implementation of an approved RMP was required under the Cleanup Order to address damage resulting from discharges and to prevent future discharges from occurring. By not completing implementation of an approved RMP, the Respondent has allowed the discharges and threats of discharge to persist, which present a substantial threat to beneficial uses of the unnamed ephemeral streams that cross through the Site. Additionally, by failing to complete implementation of an approved RMP, the Respondent has substantially impaired the Santa Ana Water Board’s ability to perform its statutory and regulatory functions under the Cleanup Order. Based on the circumstances of the violation, the Santa Ana Water Board assigns a score of **moderate** for this factor.

*Deviation from Requirement: Major*

The Enforcement Policy requires a determination of whether the violation represents a minor, moderate, or major deviation from the applicable requirements. A “major” deviation from requirement is appropriate when the requirement was rendered ineffective (e.g., the requirement was rendered ineffective in its essential functions).

The Santa Ana Water Board assigns a value of **major** for this factor because the requirement to complete implementation of an approved RMP has not been satisfied. The Respondent failed to submit an acceptable RMP to the Santa Ana Water Board or its delegated officer for approval such that no work can be implemented in accordance with an approved plan. Furthermore, the Respondent has not provided evidence that the restoration and mitigation measures expected to be contained in an acceptable RMP have otherwise been completed as required under the Cleanup Order. The RMP was intended to clean up the discharges of waste to waters of the state that were observed during inspections of the Site, restore the impacted stream channels and riparian habitat, and prevent future discharges at the Site. By failing to complete implementation of these measures, the Respondent has rendered this requirement ineffective in its essential functions. The Site has not been cleaned up and restored as intended. Therefore, a major deviation from requirement is appropriate.

*Per Day Factor for Non-Discharge Violations = 0.55*

Table 3 of the Enforcement Policy prescribes a per day factor ranging from 0.4 to 0.7 for non-discharge violations with a moderate potential for harm and major deviation from requirement. The Santa Ana Water Board selects a factor of **0.55**, which is the midpoint of the range.

*Days of Violation = 823 (3/31/2023 - 7/1/2025)*

The Respondent failed to implement the restoration and mitigation measures expected to be contained in an approved RMP by March 31, 2023, and remains in violation of this requirement. As of July 1, 2025, the Respondent violated Required Action 3 of the Cleanup Order for **823 days**.

*Alternate Approach to Calculate Liability for Multiple Day Violations (Collapsing Days):*

As discussed under Violation 1, the Santa Ana Water Board has discretion to utilize the alternate approach to calculate liability for this violation if one of the three findings specific in the Enforcement Policy is made. The Santa Ana Water Board finds that use of the alternate approach to penalty calculation under finding (b) is appropriate because the Respondent is still required to implement the restoration and mitigation measures to be contained in an approved RMP under the Cleanup Order and, therefore, the economic benefit gained from the violation is the time value of that money. Utilizing the maximum collapsed days, the Santa Ana Water Board calculates the Initial Liability Amount based on **61 days** of violation.

*Initial Liability Amount = \$167,750*

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

$[\$5,000 \text{ (per day statutory maximum)} \times 0.55 \text{ (factor)} \times 61 \text{ (days of violation)}] = \mathbf{\$167,750}$

**Step 4. Adjustment Factors**

As discussed under Violation 1, this step considers three factors: the Respondent's degree of culpability, the Respondent's prior violation history, and the Respondent's voluntary efforts to clean up and cooperate with regulatory authorities after the violation.

*Degree of Culpability = 1.4*

As previously noted, this factor looks at the Respondent's conduct prior to the violation and can be assigned a multiplier between 0.75 and 1.5, with a higher multiplier for intentional or negligent behavior, and a lower multiplier for accidental or non-negligent behavior. The test is what a reasonable and prudent person would have done or not done under similar circumstances.

A reasonable and prudent person would have ensured that all required restoration and mitigation measures were completed by March 31, 2023, pursuant to an approved RMP. The Respondent failed to act as a reasonable and prudent person in this case. The Respondent was informed, through multiple transmittals and phone calls, that the Cleanup Order had been issued on June 29, 2022 and that all required actions contained in the order were in effect and enforceable. As discussed under Violation 1, Cannabis Program staff had to retransmit the Cleanup Order several times before confirming delivery on December 14, 2022. Prior to that delivery, staff left voicemails for the Respondent on September 30, 2022 and November 8, 2022, asking him to call staff to discuss the Cleanup Order. During the November 8, 2022 call, staff informed the Respondent that the Cleanup Order had been issued and that the Respondent needed to comply with its required actions. Despite this call and the subsequent delivery of the Cleanup Order on December 14, 2022, the Respondent failed to complete implementation of cleanup and restoration measures, in accordance with an approved plan, by March 31, 2023. Despite Cannabis Program staff's efforts to communicate with the Respondent and inform him of his requirements, there has been no indication of progress towards implementation of an approved RMP. Therefore, the Santa Ana Water Board assigns a **score of 1.4 for this factor**.

*History of Violations = 1.0*

The Santa Ana Water Board assigns a neutral **score of 1.0 for this factor** because the Respondent has no prior history of violations.

*Cleanup and Cooperation = 1.5*

This factor addresses a violator's voluntary efforts to clean up and/or to cooperate with regulatory authorities after the violation. Adjustment should result in a multiplier between 0.75 to 1.5, using the lower multiplier for exceptional cleanup and cooperation compared to what can reasonably be expected, and a higher multiplier where there is not. A timely response to a Water Board order should receive a neutral adjustment.

The Respondent did not respond to staff or resolve this violation of the Cleanup Order in a timely manner, as would be expected of a reasonable and prudent person. Following the missed deadline, Cannabis Program staff provided the Respondent another copy of the Cleanup Order on June 7, 2023, through physical delivery to his wife. Staff also transmitted a Notice of Violation to the Respondent on July 6, 2023 by first-class mail and certified mail, which informed him of his noncompliance with this requirement of the Cleanup Order. Staff received no communication from the Respondent in response to either of these actions. Given the Respondent's continued failure to comply with the Cleanup Order, staff issued a notice to the Respondent on April 10, 2025 that expressed staff's intent to recommend formal enforcement unless the Respondent

contacted staff to discuss the steps being taken to comply with the Cleanup Order. The Respondent left voicemails for staff on April 30, 2025 and May 1, 2025. Staff spoke with the Respondent on May 6, 2025; however, the Respondent again claimed to not have received the Cleanup Order despite the documented deliveries. The Respondent further disputed the need to hire a qualified professional to comply with the Cleanup Order. The Respondent's response did not identify sufficient steps that the Respondent was taking to resolve the violations of the order. To date, the Respondent has not completed implementation of the restoration and mitigations measures required to be contained in an approved RMP under the Cleanup Order. Accordingly, the Santa Ana Water Board assigns a **score of 1.5 for this factor**.

#### **D. Factors Associated with All Violations (Steps 5-10)**

##### **Step 5. Determination of Total Base Liability Amount**

The Total Base Liability Amount is determined by adding the amounts above for each violation including any adjustment for multiple day violations. Depending on the statute controlling the liability assessment for a violation, the liability can be assessed as either a per day penalty, a per gallon penalty, or both.

The Total Base Liability Amount for Violations 1 and 2 is calculated on a per day basis as follows:

Violation 1: \$35,750 (initial liability amount) x 1.25 (degree of culpability) x 1.0 (history of violations) x 1.5 (cleanup and cooperation) = **\$67,031.25**

Violation 2: \$167,750 (initial liability amount) x 1.4 (degree of culpability) x 1.0 (history of violations) x 1.5 (cleanup and cooperation) = **\$352,275**

**Total Base Liability Amount: \$67,031.25 + \$352,275 = \$419,306.25**

##### **Step 6. Ability to Pay and Ability to Continue in Business**

The Enforcement Policy states that the Total Base Liability Amount may be adjusted to address ability to pay or to continue in business if the Santa Ana Water Board has sufficient financial information necessary to assess a violator's ability to pay the Total Base Liability Amount or to assess the effect of the Total Base Liability Amount on a violator's ability to continue in business. A violator's ability to pay an administrative civil liability is determined by its revenues and assets. Although it is often in the public interest for a discharger to continue in business, the Enforcement Policy provides that the Santa Ana Water Board is not required to ensure that civil liabilities are set at a level that allows a violator to continue in business. Rather, the Water Code only requires that the Santa Ana Water Board consider this factor when imposing civil liability.

The Respondent owns the Site, which has an assessed value of \$90,114. Riverside County property transaction records indicate that the Respondent purchased the Site on June 1, 1992. The Respondent also owns additional properties in Riverside County: APN 131-200-025, valued at \$427; APN 133-340-035, valued at \$1,458; APN 281-180-

004, valued at \$1,458; APN 281-200-001, valued at \$1,458; APN 455-200-062, valued at \$113,122; and APN 647-030-001, valued at \$50,678. Additionally, the Respondent is associated with several other properties in Riverside County that are held by the Daniel K. Musetti Environmental Revocable Trust: APN 455-280-002, valued at \$45,109; APN 455-330-007, valued at \$55,733; APN 455-260-004, valued at \$50,678; APN 455-250-002, valued at \$50,578; APN 455-280-001, valued at \$5,550; APN 457-171-014, valued at \$126,402; and APN 709-500-024, valued at \$2,158. The Santa Ana Water Board does not have any information regarding the Respondent's revenues or liabilities that would further inform his ability to pay. Based on the information available, the Santa Ana Water Board makes no adjustment to the Total Base Liability Amount under this step.

### **Step 7. Economic Benefit**

The Enforcement Policy provides that the Economic Benefit Amount shall be estimated for every violation. The economic benefit is any savings or monetary gains from noncompliance. There are two types of costs that should be considered: delayed costs and avoided costs. Delayed costs include expenditures that should have been made sooner but that a discharger implemented too late to avoid the violation and/or that a discharger is still obligated to perform. Avoided costs include expenditures that a discharger should have incurred to avoid the incident of noncompliance but that are no longer required.

For **Violation 1**, the cost of preparing an RMP (i.e., field inspection and report preparation) is comparable to the cost of preparing a combined Site Management Plan, Site Erosion and Sediment Control Plan, and a Disturbed Area Stabilization Plan, as presented in the State Water Resources Control Board, February 2017, Direct Cost Analysis for the Proposed Cannabis Cultivation Policy (2017 Direct Cost Analysis),<sup>2</sup> which is estimated to cost between \$3,660 and \$11,720. Because the Respondent will still need to submit a sufficient RMP for approval under the Cleanup Order, the costs estimated above are considered delayed. The Respondent gained an economic benefit from delayed expenditures associated with Violation 1 according to the EPA BEN model. Cannabis Program staff identified the midpoint in the estimated range of plan cost to be \$7,690. Staff used the U.S. Bureau of Labor Statistics' CPI Inflation Calculator<sup>3</sup> to consider inflation between October 2017, issuance of the Cannabis Policy Cost Analysis, and June 2025, the latest available inflation data, and calculated the cost of submitting the RMP to be \$10,056.21. Staff entered this amount as a one-time non-depreciable expenditure with \$0 in capital investment and \$0 in annual recurring costs. Staff utilized a noncompliance date of December 14, 2022, the date staff used to begin counting days of violation in the Complaint, and an estimated compliance date of October 24, 2025, the anticipated hearing date. The resulting economic benefit from delaying the plan expenditures is \$1,720. Consistent with the Enforcement Policy, the Total Base Liability Amount for Violation 1 must be at least ten percent higher than the

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<sup>2</sup> The 2017 Direct Cost Analysis is available at:

[https://www.waterboards.ca.gov/water\\_issues/programs/cannabis/docs/policy/20171017\\_cannabis\\_cultivation\\_policy\\_cost\\_analysis.pdf](https://www.waterboards.ca.gov/water_issues/programs/cannabis/docs/policy/20171017_cannabis_cultivation_policy_cost_analysis.pdf)

<sup>3</sup> The CPI Inflation Calculator is available at: [https://www.bls.gov/data/inflation\\_calculator.htm](https://www.bls.gov/data/inflation_calculator.htm)

economic benefit derived from the violations. Economic benefit plus ten percent is calculated to be \$1,892 (\$1,720 + \$172), which the Total Base Liability Amount for this violation exceeds.

For **Violation 2**, implementation of the corrective actions required to be contained in an approved RMP would require Waste Discharge Requirements (WDR) from the Santa Ana Water Board that would require a one-time application fee of \$4,212. Without the Respondent having completed the assessment required to develop the RMP under the Cleanup Order, it is difficult to estimate what the cost will be to complete implementation of the corrective actions; therefore, Staff has not included implementation costs in the economic benefit analysis. Because the Respondent is still required to complete implementation of sufficient restoration and mitigation measures, these costs are considered delayed. Although implementation costs have not been estimated, the Respondent gained an economic benefit from delayed expenditures associated with the WDR application fee for Violation 2 according to the EPA BEN model. Cannabis Program staff identified the permit application cost of \$4,212, with an estimated implementation cost of \$0 as a one-time non-depreciable expenditure, \$0 in capital investment, and \$0 in annual recurring fees. Staff utilized a noncompliance date of March 31, 2023, the deadline contained in the Cleanup Order, and an estimated compliance date of May 27, 2026, which is based on the length of time provided in the Cleanup Order to complete implementation following approval of the RMP and using October 24, 2025, as the estimated date of approval of the RMP. The resulting economic benefit from delaying the permit application fees is \$760. Based on this calculation, economic benefit plus ten percent is calculated to be \$836 (\$760 + 76), which the Total Base Liability Amount for this violation exceeds.

#### **Step 8. Other Factors as Justice May Require**

The Enforcement Policy allows an adjustment to the administrative civil liability, in consideration of the costs of investigating and enforcing the matter. Here, Santa Ana Water Board staff on the Prosecution Team expended over 119 staff hours and accrued \$18,965.03 in staff costs associated with the investigation and preparation of the Complaint. The Santa Ana Water Board finds that it is appropriate to increase the Total Base Liability Amount by \$18,965.03 in consideration of the costs of investigation and enforcement.

#### **Step 9. Maximum and Minimum Liability Amounts**

For all violations, the applicable statute sets a maximum liability amount that may be assessed for each violation. For some violations, the statute also requires the assessment of a liability at no less than a specified amount. The maximum and minimum amounts for each violation must be determined for comparison to the amount of civil liabilities being proposed. For purposes of this step, the maximum liability does not include any reduction in the number of days for multiple day violations.

**Violation 1:** Pursuant to Water Code section 13268, subdivision (b)(1), civil liability may be administratively imposed by the Santa Ana Water Board in an amount that shall not exceed \$1,000 for each day in which the violation occurs. The Complaint alleges that this violation occurred for 930 days. Accordingly, the statutory maximum liability amount

that can be imposed for this violation is \$930,000. Water Code section 13268 does not impose a minimum liability amount; however, the Enforcement Policy requires the Santa Ana Water Board to recover, at a minimum, the economic benefit derived from this violation plus ten percent. Therefore, the minimum liability that can be imposed for this violation is \$1,892. The proposed liability of \$67,031.25 for Violation 1 falls within the minimum and maximum liability amounts.

**Violation 2:** Pursuant to Water Code section 13350, subdivision (e)(1), civil liability may be administratively imposed by the Santa Ana Water Board on a daily basis in an amount that shall not exceed \$5,000 for each day that the violation occurs. The Complaint alleges that this violation occurred for 823 days. Accordingly, the statutory maximum liability amount that can be imposed for this violation is \$4,115,000. Water Code section 13350, subdivision (e)(1)(B), further provides that “[w]hen there is no discharge, but an order issued by the regional board is violated, except as provided in subdivision (f), the civil liability shall not be less than one hundred dollars (\$100) for each day in which the violation occurs.” Accordingly, the statutory minimum liability amount that can be imposed for this violation is \$82,300. The proposed liability of \$352,275 for Violation 2 falls within the statutory minimum and maximum liability amounts.

#### **Step 10. Final Liability Amount**

The Final Liability Amount consists of the added amounts for each violation, with any allowed adjustments. The Total Base Liability Amounts for Violations 1 and 2 are \$67,031.25 and \$352,275, respectively. After combining those amounts, and adding staff’s investigation and enforcement costs of \$18,965.03, the Final Liability Amount is calculated to be \$438,271.28.

#### **E. Liability Calculator**

The Final Liability Amount and scores for each violation are summarized in Table 1, Liability Calculator.



Discharger Name/ID:			Daniel K. Musetti				
			Violation 1		Violation 2		
Discharge Violations	Step 1	Actual or Potential Harm Factor					
	Step 2	Per Gallon Factor					
		Gallons					
		Statutory Maximum					
		High Volume					
		Total		\$ -		\$ -	
		Per Day Factor	0		0		
		Total Days					
		Multiple Day Violation Reduction					
		Statutory Max per Day					
		Total		\$ -		\$ -	
	Non-Discharge Violations	Step 3	Per Day Factor	0.55		0.55	
			Total Days	930		823	
			Multiple Day Violation Reduction	65		61	
Statutory Max per Day			\$ 1,000		\$ 5,000		
Total				\$ 35,750.00		\$ 167,750.00	
Initial Amount of the ACL				\$ 35,750.00		\$ 167,750.00	
Add'l Factors	Step 4	Culpability	1.25		1.4		
		History of Violations	1		1		
		Cleanup and Cooperation	1.5		1.5		
		Total		\$ 67,031.25		\$ 352,275.00	
		Maximum for this Violation	\$ 930,000.00		\$ 4,115,000.00		
		Amount for this Violation		\$ 67,031.25		\$ 352,275.00	

Step 5 Total Base Liability Amount				\$ 419,306.25
Step 6	Ability to Pay & to Continue in Business	1	\$	419,306.25
Step 7	Economic Benefit	\$ 2,480		
Step 8	Other Factors as Justice May Require Staff Costs	1	\$	419,306.25
		\$ 18,965.03	\$	438,271.28
Step 9	Minimum Liability Amount	\$ 84,192.00		
	Maximum Liability Amount	\$ 5,045,000.00		
Step 10 Final Liability Amount			\$	438,271.28