

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

In the matter of:)	
)	
SONOMA VALLEY COUNTY)	SETTLEMENT AGREEMENT AND
SANITATION DISTRICT,)	STIPULATION FOR ENTRY OF
SONOMA, SONOMA COUNTY)	ADMINISTRATIVE CIVIL LIABILITY
)	ORDER
Unauthorized Discharge of)	
2.2 Million Gallons of Partially-)	PROPOSED ORDER
Treated Wastewater into Schell)	
Slough on January 11–12, 2019)	

Section I: INTRODUCTION

This Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order (Stipulated Order) is entered into by and between the California Regional Water Quality Control Board, San Francisco Bay Region, Prosecution Team (Prosecution Team) and Sonoma Valley County Sanitation District (Discharger) (collectively Parties), and is presented to the California Regional Water Quality Control Board, San Francisco Bay Region (Regional Water Board), or its delegate, for adoption as an order by settlement pursuant to California Water Code (Water Code) section 13323 and Government Code section 11415.60. This Stipulated Order resolves the violation alleged herein by the imposition of administrative civil liability against the Discharger in the amount of **\$427,600**.

Section II: RECITALS

1. The Discharger owns and operates the Sonoma Valley County Sanitation District Wastewater Treatment Plant (Plant), a municipal wastewater treatment plant in Sonoma. The Plant discharges tertiary-treated wastewater via Discharge Point No. 001 to Schell Slough, a water of the United States, when there is little demand for recycled water, typically from November through April.
2. The Discharger is required to operate and maintain the Plant in compliance with National Pollutant Discharge Elimination System (NPDES) Permit No. CA0037800 (Permit), an NPDES permit for point source discharges to surface waters of the United States issued pursuant to Clean Water Act section 402 and Water Code Chapter 5.5, Division 7 (commencing with section 13370). The Permit was most recently re-issued July 10, 2019, through Order No. R2-2019-0019, which became effective September 1, 2019. The Permit was previously re-issued through Order No. R2-2014-0020 (2014 Order), which was effective from July 1, 2014, through August 31, 2019. The waste discharge requirements set forth in the 2014 Order authorized the Discharger to discharge tertiary-treated effluent (and secondary-treated effluent when influent flows exceeded the hydraulic capacity of the tertiary filters) at Discharge Point No. 001 to Schell Slough.

3. The Prosecution Team alleges that the Discharger violated Water Code section 13376 and Clean Water Act section 301 by discharging approximately 2.2 million gallons (MG) of partially-treated and undisinfected wastewater (i.e., raw sewage passed through mechanical bar screens) blended with approximately 7.1 MG of tertiary-treated wastewater from the Plant to Schell Slough on January 11 and 12, 2019, during wet weather.

The unauthorized discharge resulted from a valve failure at a cross-connection of influent and effluent wastewater piping that allowed partially-treated and undisinfected wastewater to flow into the effluent wastewater pipeline. The unauthorized discharge occurred over two days. It began around 1:30 p.m. on January 11, 2019, when an effluent pump shut off resulted in reduced pressure on the effluent side of the failed valve. The Discharger discovered the unauthorized discharge around 10:30 a.m. on January 12, 2019, when a negative flow reading was observed on the influent flow meter during daily rounds, and stopped the discharge at about 10:45 a.m. The unauthorized discharge lasted approximately 21 hours and 15 minutes.

4. Water Code section 13376 prohibits any discharge of pollutants to navigable waters of the United States by any person except as authorized by waste discharge requirements. A person who violates Water Code section 13376 is liable civilly under Water Code section 13385, subdivision (a)(1). Likewise, section 301 of the Federal Water Pollution Control Act (Clean Water Act) (33 U.S.C. § 1331(a)) prohibits the discharge of pollutants to waters of the United States except under specific provisions of the Clean Water Act, including section 402 (NPDES permits) and section 404 (discharge of dredge or fill material permits). A person who violates Clean Water Act section 301 is liable civilly under Water Code section 13385, subdivision (a)(5).

5. The Discharger is subject to administrative civil liability under Water Code section 13385, subdivision (c):

...in an amount not to exceed the sum of both of the following: (1) Ten thousand dollars (\$10,000) for each day in which the violation occurs.
(2) Where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.

6. To resolve the alleged violation in section II, paragraph 3, by consent and without further administrative proceedings, the Parties have agreed to the imposition of an administrative civil liability of \$427,600 against the Discharger. This administrative civil liability is the proposed liability the Prosecution Team calculated and asserted using Steps 1 through 10 of the State Water Resources Control Board's Water Quality Enforcement Policy (April 2017) (Enforcement Policy) as shown in Attachment A, incorporated by reference herein. Payment of \$213,800 to the "State Water Pollution Cleanup and Abatement Account" is due no later than 30 days following the execution of this Order by the Regional Water Board or its delegate. The remaining \$213,800 in penalties shall be suspended upon completion of an Enhanced Compliance Action (ECA), as described below.

7. The Parties have engaged in settlement negotiations and agreed to settle this matter without administrative or civil litigation, and to present this Stipulated Order to the Regional Water Board or its delegate for adoption as an Order by settlement pursuant to Water Code section 13323 and Government Code section 11415.60.
8. The Prosecution Team contends that the resolution of the alleged violation is fair and reasonable, and fulfills all of its enforcement objectives; that no further action is warranted concerning the violation, except as provided in this Stipulated Order; and that this Stipulated Order is in the public's best interest.

Section III: STIPULATIONS

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

1. **Administrative Civil Liability:** The Discharger hereby agrees to the imposition of an administrative civil liability of **\$427,600** to resolve the alleged violation as set forth in section II as follows:
 - a. No later than 30 days after the Regional Water Board or its delegate signs this Stipulated Order, the Discharger shall submit a check for **\$213,800** (half of the total administrative civil liability of \$427,600) made payable to "State Water Pollution Cleanup and Abatement Account," reference the Order number on page one of this Stipulated Order, and mail the check to:

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

The Discharger shall provide a copy of the check via email to the State Water Resources Control Board's Office of Enforcement (kailyn.ellison@waterboards.ca.gov) and the Regional Water Board (habte.kifle@waterboards.ca.gov).

- b. The Parties agree that **\$213,800** of the administrative civil liability amount shall be suspended pending completion of the ECA described in section III, paragraph 2, and Attachment B, incorporated by reference herein.
2. **Enhanced Compliance Action:** The proposed ECA allows the Discharger to improve the performance of its collection system beyond those actions required by law and is separate from projects designed to bring the Discharger into compliance with the Permit and the Clean Water Act. The ECA involves video inspection and smoke testing of sewer laterals within the Discharger's service area to identify sources of inflow and infiltration of groundwater and stormwater into the collection system. The goal is to reduce wet weather sanitary sewer overflows by removing unauthorized stormwater connections and requiring that defective laterals be repaired or replaced. The cost of the project will exceed the suspended portion of the administrative civil liability.

3. Representations and Agreements Regarding the ECA:

- a. As a material condition for the Regional Water Board's acceptance of this Stipulated Order, the Discharger represents that it will use the suspended liability of \$213,800 (ECA Amount) to implement the ECA set forth in section III, paragraph 2, and Attachment B. The Discharger understands that its promise to implement the ECA, in its entirety, is a material condition of this settlement of liability between the Discharger and the Regional Water Board.
 - b. The Discharger agrees to (1) spend the ECA Amount as described in this Stipulated Order; (2) provide certified, written reports to the Regional Water Board detailing ECA implementation consistent with the terms of this Stipulated Order; and (3) within 30 days of ECA completion, provide a certification by a responsible official, signed under penalty of perjury, that the Discharger followed all applicable environmental laws and regulations in implementing the ECA, including but not limited to the California Environmental Quality Act (CEQA), Porter-Cologne Water Quality Control Act, and federal Clean Water Act. The Discharger further agrees that the Regional Water Board has the right to require a third-party audit of the funds expended to implement the ECA at the Discharger's cost, and that the Discharger bears ultimate responsibility for meeting all deadlines specified in Attachment B.
- 4. Publicity Associated with the ECA:** Whenever the Discharger, or its agents or subcontractors, publicizes one or more ECA elements, it shall state in a **prominent manner** that the project is undertaken as part of a settlement of a Regional Water Board enforcement action against the Discharger.
- 5. Progress Reports and Inspection Authority:** The Discharger shall provide reports describing ECA implementation progress to the Regional Water Board as described in Attachment B. The Discharger agrees that Regional Water Board staff or its third-party oversight staff have permission to inspect ECA video inspection and smoke testing progress at any reasonable time during normal business hours with 24-hour notice.
- 6. Certification of ECA Completion:** On or before March 31, 2023, a responsible official of the Discharger shall submit a final report and certified statement that documents the Discharger's ECA expenditures and the Discharger's completion of the ECA in accordance with the terms of this Stipulated Order. The expenditures may include external payments to outside vendors, but may not include normal, routine, non-ECA work undertaken by Discharger staff. In making such certification, the signatories may rely upon normal organizational project tracking systems that capture employee time expenditures and external payments to outside vendors, such as environmental and information technology contractors or consultants. Documentation of ECA completion may include photographs, invoices, receipts, certifications, and other materials reasonably necessary for the Regional Water Board to evaluate ECA completion and the costs incurred. The Discharger shall provide Regional Water Board staff with any additional information reasonably necessary to verify ECA expenditures and completion.
- 7. Request for Extension:** The Regional Water Board Executive Officer may extend the ECA deadlines contained in this Stipulated Order for good cause if the Discharger demonstrates

delays due to unforeseeable circumstances and continues to undertake all appropriate measures to meet deadlines. The Discharger shall make any deadline extension request in writing. Any approval of an extension by the Executive Officer shall be in writing. The Executive Officer shall not unreasonably withhold approval of an extension request.

8. **Regional Water Board Acceptance of Completed ECA:** Upon the Discharger's satisfaction of its obligations under this Stipulated Order, ECA completion, and any related audits, the Executive Officer shall issue a "Satisfaction of Order" terminating any further obligations under this Stipulated Order, permanently suspending the remaining penalty and resolving the Administrative Civil Liability proceedings.
9. **Failure to Expend All Suspended Funds on the Approved ECA:** If the Discharger is unable to demonstrate to the reasonable satisfaction of the Executive Officer that the entire ECA Amount was spent on the completed ECA, the Discharger shall pay the difference between the ECA Amount and the amount the Discharger can demonstrate was actually spent on the ECA (Difference). The Executive Officer shall issue a "notice" that will require the Discharger to pay the Difference to the State Water Pollution Cleanup and Abatement Account within 30 days of the notice issuance date. The Discharger shall submit payment consistent with the payment method described in section III, paragraph 1. Payment of the Difference shall satisfy the Discharger's obligations to implement the ECA.
10. **Failure to Complete the ECA:** If the ECA is not fully implemented by March 31, 2023, or by the due date if extended pursuant to section III, paragraph 7, or if there has been a material failure to satisfy a project milestone, the Executive Officer shall issue a Notice of Violation. The amount of suspended liability owed shall be determined by a written, stipulated agreement of the Parties, or if the Parties cannot reach agreement, via a Motion for Payment of Suspended Liability before the Regional Water Board or its delegate. The Discharger shall be liable to pay the entire ECA Amount, or, if shown by the Discharger, some portion thereof less the value of any completed milestones as stipulated to by the Parties in writing, or as determined by the Motion for Payment of Suspended Liability. Unless the Regional Water Board or its delegate determines otherwise, the Discharger shall not be entitled to any credit, offset, or reimbursement from the Regional Water Board for expenditures made on the ECA prior to the Notice of Violation's issuance date. Within 30 days of the Regional Water Board's or its delegate's determination of the suspended liability amount assessed for the Discharger to pay, the Discharger shall submit payment consistent with the payment method described in section III, paragraph 1. Payment of the assessed amount shall satisfy the Discharger's obligations to implement the ECA.
11. **Regional Water Board Is Not Liable:** Neither the Regional Water Board members nor the Regional Water Board staff, attorneys, or representatives shall be liable for any injury or damage to persons or property resulting from negligent or intentional acts or omissions by the Discharger or its directors, officers, employees, agents, representatives, or contractors in carrying out activities pursuant to this Stipulated Order, nor shall the Regional Water Board, its members, or its staff be held as parties to, or guarantors of, any contract entered into by the Discharger or its directors, officers, employees, agents, representatives, or contractors in carrying out activities pursuant to this Stipulated Order.

12. **Compliance with Applicable Laws:** The Discharger understands that payment of administrative civil liability in accordance with the terms of this Stipulated Order and compliance with this Stipulated Order is not a substitute for compliance with applicable laws, and that continuing violations of the type alleged herein may subject it to further enforcement, including additional administrative civil liability.

13. **Party Contacts for Communications Related to This Stipulated Order:**

For the Regional Water Board:

Habte Kifle
San Francisco Bay Regional Water
Quality Control Board
1515 Clay Street, 14th Floor
Oakland, CA 94612
habte.kifle@waterboards.ca.gov
(510) 622-2371

For the Discharger:

Scott Carter, P.E.
Water Agency Engineer III
Sonoma County Water Agency
404 Aviation Boulevard
Santa Rosa, CA 95403
Scott.Carter@scwa.ca.gov
(707) 547-1975

14. **Attorneys' Fees and Costs:** Except as otherwise provided herein, each Party shall bear its own attorneys' fees and costs incurred pursuant to this Stipulated Order.

15. **Matters Addressed by This Stipulated Order:** Upon the Regional Water Board's or its delegate's adoption, this Stipulated Order represents a final and binding resolution and settlement of the alleged violation contained in section II, paragraph 3, as of the effective date of this Stipulated Order. The provisions of this paragraph are expressly conditioned on the full payment of the administrative civil liability by the deadline specified in section III, paragraph 1.

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

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

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

19. **Modification:** The Parties shall not modify this Stipulated Order by oral representation made before or after its execution. All modifications must be in writing, signed by all Parties, and approved by the Regional Water Board or its delegate.
20. **If the Stipulated Order Does Not Take Effect:** If this Stipulated Order does not take effect because the Regional Water Board or its delegate does not approve it, or because the State Water Resources Control Board (State Water Board) or a court vacates it in whole or in part, the Parties acknowledge that they expect to proceed to a contested evidentiary hearing before the Regional Water Board to determine whether to assess administrative civil liabilities for the underlying alleged violation, unless the Parties agree otherwise. The Parties agree that all oral and written statements and agreements made during the course of settlement discussions will not be admissible as evidence in the hearing or in any other administrative or judicial proceeding. The Parties agree to waive any and all objections based on settlement communications in this matter, including but not limited to objections related to prejudice or bias of any of the Regional Water Board members or their advisors or any other objections that are premised in whole or in part on the fact that the Regional Water Board members or their advisors were exposed to some of the material facts and the Parties' settlement positions as a consequence of reviewing this Stipulated Order and, therefore, may have formed impressions or conclusions prior to any contested evidentiary hearing on the violation alleged herein in this matter. The Parties also agree to waive any and all objections based on laches, delay, or other equitable defenses related to the period for administrative or judicial review to the extent this period has been extended by these settlement proceedings.
21. **Waiver of Hearing:** The Discharger has been informed of the rights Water Code section 13323, subdivision (b), provides and, if the settlement is adopted by the Regional Water Board or its delegate, hereby waives its right to a hearing before the Regional Water Board prior to the Stipulated Order's adoption. However, if the settlement is not adopted, or if the matter proceeds to the Regional Water Board or the State Water Board for hearing, the Discharger does not waive the right to a hearing before an order is imposed.
22. **Waiver of Right to Petition or Appeal:** Except in the instance where the Stipulated Order is not adopted by the Regional Water Board or its delegate, the Discharger hereby waives its right to petition the Regional Water Board's or its delegate's adoption of the Stipulated Order for review by the State Water Board, and further waives its rights, if any, to appeal the same to a California Superior Court and/or California appellate court. This explicit waiver of rights includes potential future decisions by the Regional Water Board or its delegate directly related to this Stipulated Order, including but not limited to time extensions, ECA completion, and other terms contained in this Stipulated Order.
23. **Covenant Not to Sue:** The Discharger covenants not to sue or pursue any administrative or civil claims against the State of California, any State agency, or its officers, Board members, employees, representatives, agents, or attorneys arising out of or relating to any matter expressly addressed by this Stipulated Order or the ECA, except that this covenant is not intended to bar and does not limit the Discharger's rights to sue over other Regional Water Board orders (e.g., permits or cease and desist orders) or limit the Discharger's rights to defend against any additional enforcement or other actions taken by the Regional Water Board or its employees, representatives, agents, or attorneys. Moreover, this covenant shall

not release any claims or complaints against any State agency or the State of California, its officers, Regional Water Board members, employees, representatives, agents, or attorneys to the extent such covenant would be prohibited by California Business and Professions Code section 6090.5 or by any other statute, rule, regulation, or legal principle of similar effect.

24. **Necessity for Written Approvals:** All approvals and decisions of the Regional Water Board or its delegate under the terms of this Stipulated Order shall be communicated to the Discharger in writing. No oral advice, guidance, suggestions, or comments from Regional Water Board employees or officials regarding submissions or notices shall be construed to relieve the Discharger of its obligation to obtain any final written approval this Stipulated Order requires.
25. **Authority to Bind:** Each person executing this Stipulated Order in a representative capacity represents and warrants that he or she is authorized to execute this Stipulated Order on behalf of, and to bind, the entity on whose behalf he or she executes the Stipulated Order.
26. **No Third Party Beneficiaries:** This Stipulated Order is not intended to confer any rights or obligations on any third party or parties, and no third party or parties shall have any right of action under this Stipulated Order for any cause whatsoever.
27. **Severability:** This Stipulated Order is severable; if any provision is found to be invalid, the remainder shall remain in full force and effect.
28. **Counterpart Signatures and Facsimile and Electronic Signatures:** This Stipulated Order may be executed and delivered in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, but such counterparts shall together constitute one document. Further, this Stipulated Order may be executed by facsimile or electronic signature, and any such facsimile or electronic signature by any Party hereto shall be deemed to be an original signature and shall be binding on such Party to the same extent as if such facsimile or electronic signature were an original signature.
29. **Effective Date:** This Stipulated Order shall be effective and binding on the Parties upon the date the Regional Water Board or its delegate enters the Order incorporating the terms of this Stipulated Order.

IT IS SO STIPULATED.

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION, PROSECUTION TEAM**

Date: 01/30/2020

By: _____

Lisa H McCann

Lisa Horowitz McCann
Assistant Executive Officer

Approved as to form:

By: _____

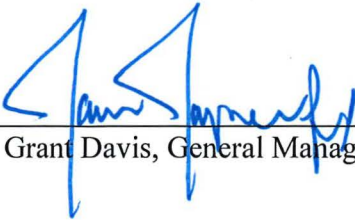
Kaitlyn Ellison

Kaitlyn Ellison, Attorney
State Water Resources Control Board
Office of Enforcement


Settlement Agreement and Stipulated Administrative Civil Liability
Sonoma Valley County Sanitation District

Sonoma Valley County Sanitation District

Date: 2/4/2020

By: 
Grant Davis, General Manager

Approved as to form:

By:  1/31/2020
Verne Ball, Deputy County Counsel
County of Sonoma

ORDER OF THE REGIONAL WATER BOARD

1. This Stipulated Order incorporates the foregoing sections I through III by this reference as if set forth fully herein.
2. In accepting this Stipulated Order, the Regional Water Board has considered, where applicable, each of the factors prescribed in Water Code section 13385, subdivision (e), and has applied the penalty calculation methodology set forth in the Enforcement Policy, which is incorporated by reference herein. The Regional Water Board's consideration of these factors and application of the penalty calculation methodology are based on information the Prosecution Team obtained in investigating the allegations set forth in this Stipulated Order or otherwise provided to the Regional Water Board.
3. This is an action to enforce the laws and regulations administered by the Regional Water Board. The Regional Water Board finds that issuance of this Stipulated Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, § 21000 et seq.) in accordance with section 15321, subdivision (a)(2), title 14, of the California Code of Regulations. Additionally, this Stipulated Order accepts the plans proposed for the ECA prior to implementation. Mere submittal of plans is exempt from CEQA because submittal will not cause a direct or indirect physical change in the environment.
4. The Executive Officer is authorized to refer this matter directly to the Attorney General for enforcement if the Discharger fails to perform any of its obligations under this Stipulated Order.

IT IS HEREBY ORDERED pursuant to Water Code section 13323 and Government Code section 11415.60, on behalf of the California Regional Water Quality Control Board, San Francisco Bay Region.

Michael Montgomery
Executive Officer
California Regional Water Quality Control Board
San Francisco Bay Region

Date

ATTACHMENT A

Factors in Determining Administrative Civil Liability

SONOMA VALLEY COUNTY SANITATION DISTRICT UNAUTHORIZED DISCHARGE OF 2.2 MILLION GALLONS OF PARTIALLY-TREATED WASTEWATER INTO SCHELL SLOUGH SONOMA, SONOMA COUNTY

The State Water Resources Control Board Water Quality Enforcement Policy (Enforcement Policy) establishes a methodology for assessing administrative civil liability. Use of the methodology addresses the factors required by California Water Code (Water Code) section 13385, subdivision (e). Each Enforcement Policy factor and its corresponding category, adjustment, and amount for the alleged violation is presented below. The Enforcement Policy should be used as a companion document in conjunction with this administrative civil liability assessment since the penalty methodology and definition of terms may not be replicated herein. The Enforcement Policy is at:

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

ALLEGED VIOLATION

On January 11–12, 2019, during wet weather, the Sonoma Valley County Sanitation District (Discharger) discharged approximately 2.2 million gallons (MG) of partially-treated and undisinfected wastewater (i.e., raw sewage passed through mechanical bar screens) blended with approximately 7.1 MG of tertiary-treated wastewater to Schell Slough via Discharge Point No. 001 from the Sonoma Valley County Sanitation Discharger Wastewater Treatment Plant (Plant). The waste discharge requirements set forth in Order No. R2-2014-0020 authorized the Discharger to discharge secondary- or tertiary-treated effluent at Discharge Point No. 001 to Schell Slough during the wet season, when there is little demand for recycled water, typically from November through April.

Water Code section 13376 prohibits any discharge of pollutants to navigable waters of the United States by any person except as authorized by waste discharge requirements. Likewise, under Clean Water Act section 301, it is unlawful for any person to discharge any pollutant into waters of the United States without authorization (i.e., permits) under specific provisions of the Clean Water Act, including section 402 (NPDES permits) and section 404 (discharge of dredge or fill material permits). (33 U.S.C. §1311(a).)

The unauthorized discharge resulted from a valve failure at a cross-connection of influent and effluent wastewater piping that allowed partially-treated and undisinfected wastewater to flow into the effluent wastewater pipeline. The unauthorized discharge occurred over two days. It began around 1:30 p.m. on January 11, 2019, when an effluent pump shut off resulting in reduced pressure on the effluent side of the failed valve. The Discharger discovered the unauthorized discharge around 10:30 a.m. on January 12, 2019, when a negative flow reading was observed on the influent flow meter during daily rounds, and stopped the discharge at about 10:45 a.m. The unauthorized discharge lasted approximately 21 hours and 15 minutes.

Settlement Agreement and Stipulated Administrative Civil Liability Attachment A
 Sonoma Valley County Sanitation District

The Discharger is subject to administrative civil liabilities pursuant to Water Code section 13385, subdivisions (a)(1) and (a)(5).

PENALTY FACTOR	SCORE	DISCUSSION
Degree of Toxicity of the Discharge Violation	2	<p>Degree of Toxicity: moderate The 2.2-MG discharge posed a moderate risk because the partially-treated and undisinfecting wastewater discharge fits the Enforcement Policy definition for a moderate degree of toxicity: “Discharged material poses a moderate risk or threat to potential receptors (i.e., the chemical and/or physical characteristics of the discharged material have some level of toxicity or pose a moderate level of threat to potential receptors).” (Enforcement Policy, p.12.) The discharge of partially-treated and undisinfecting wastewater posed a threat to receptors because it contained elevated concentrations of bacteria, viruses, ammonia, and oxygen-depleting biological oxygen demand (BOD).</p>
Actual Harm or Potential Harm to Beneficial Uses for Discharge Violations	1	<p>Harm or Potential for Harm: minor The 2.2-MG discharge of partially-treated and undisinfecting wastewater blended with 7.1 MG of tertiary-treated wastewater prior to discharge and further comingled with approximately 32.5 million gallons of wet weather flow in Schell Slough. The discharge posed minor harm to beneficial uses because the discharge fits the Enforcement Policy definition of minor harm: “no actual harm and low threat of harm to beneficial uses. A score of minor is typified by a lack of observed impacts...” (<i>Id.</i> at p. 12.) The Basin Plan states that the beneficial uses of any specifically identified water body generally apply to all its tributaries. The Basin Plan assigns Steamboat Slough—and by the tributary rule, Schell Slough—the following beneficial uses: Commercial and Sport Fishing (COMM); Estuarine Habitat (EST); Preservation of Rare and Endangered Species (RARE); Wildlife Habitat (WILD); Water Contact Recreation (REC1); and Non-Contact Water Recreation (REC2). Based on the characteristics of the discharge, the relatively moderate size of the watershed drainage area of the receiving water, and the two days of heavy storms in the area contributing to the dilution of the discharge, minor or no impacts to beneficial uses would be expected. The Discharger observed no impacts to beneficial uses between 12:40 p.m. and 4:00 p.m. on January 12, 2019.</p>
Susceptibility to Cleanup or Abatement	1	<p>Susceptible to Cleanup: no The discharge was not susceptible to cleanup because the discharge quickly comingled with receiving water.</p>
Per Gallon and Per Day Factors for Discharge Violations	0.08	<p>Deviation from Requirement: major This multiplier from Enforcement Policy Tables 1 and 2 is based on the sum of the above factors (i.e., the sum of the Potential for Harm score is 4) and a “major” deviation from requirement. Based on the Enforcement Policy, a major deviation from requirement occurs when the requirement has been rendered ineffective (e.g., the requirement has been rendered ineffective in its essential functions). This discharge violated Water Code section 13376 and Clean Water Act section 301 because it was not authorized by any waste discharge requirements, which would have been designed to protect water quality. Thus, the requirements were rendered ineffective.</p>

Settlement Agreement and Stipulated Administrative Civil Liability Attachment A
 Sonoma Valley County Sanitation District

PENALTY FACTOR	SCORE	DISCUSSION
Adjustment for High Volume Discharges	\$2/gallon	Consistent with the Enforcement Policy, a maximum per gallon liability of \$2, rather than \$10, is appropriate and would not result in an inappropriately small penalty. This high volume adjustment is appropriate because the discharge volume for the violation was over 100,000 gallons and the high volume of the discharge was in part the result of wet weather.
Days of Violation	2	The discharge occurred on two days: January 11 and 12, 2019.
Initial Liability	\$353,440	<p>The initial liability is calculated as follows: per-gallon factor (above) multiplied by gallons discharged to surface water (minus 1,000 gallons) multiplied by the maximum per-gallon liability (as adjusted above), plus per-day factor (above) multiplied by the maximum per-day liability (\$10,000) multiplied by the number of days of discharge.</p> <p>Initial Liability:</p> $\$353,440 = (2,199,000 \text{ gal} \times \$2/\text{gal} \times 0.08) + (\$10,000/\text{day} \times 2 \text{ days} \times 0.08)$
Adjustments for Discharger Conduct		
Culpability	1.1	A 10 percent increase above neutral culpability is appropriate because the discharge occurred due to a design choice the Discharger knew or should have known about. The influent and effluent wastewater pipes were connected to a dual-purpose pump and used interchangeably by changing two valve settings. A reasonable and prudent discharger would have foreseen that one of the valves could have failed and resulted in an unauthorized discharge, and thus would have taken preventative action. The Discharger was aware of the design, but did not fix it until this incident occurred. In addition, the unauthorized discharge lasted over 21 hours because the Discharger did not have adequate systems and procedures in place to timely detect the unauthorized discharge. A reasonable and prudent discharger would have.
History of Violations	1.1	The Discharger has a history of violations. Within the last five years, the Regional Water Board has imposed administrative civil liabilities of \$732,300 for sanitary sewer overflow violations (Order No. R2-2015-1008) and \$9,000 for effluent limitation violations (Order No. R2-2016-1024). In addition, the Regional Water Board issued Cease and Desist Order No. R2-2015-0032 to address chronic sanitary sewer overflow violations.
Cleanup and Cooperation	1.0	A neutral assessment of 1.0 is appropriate because the Discharger quickly stopped the discharge within 15 minutes of discovery, investigated and identified the reason for the violation, and took action to minimize any chance of recurrence. Three days after the discharge, the Discharger installed a stainless steel isolation plate to physically separate the cross connection between the influent and effluent wastewater piping. The Discharger plans to remove the cross-connected piping and dedicate the previously dual-purpose pump to pump only fully-treated wastewater.
Total Base Liability	\$427,600 (rounded)	<p>Each applicable factor relating to the Discharger's conduct is multiplied by the Initial Liability (above) to determine the Total Base Liability.</p> <p>Total Base Liability:</p> $\$427,662 = \$353,440 \times 1.1 \times 1.0 \times 1.1$

Settlement Agreement and Stipulated Administrative Civil Liability Attachment A
 Sonoma Valley County Sanitation District

PENALTY FACTOR	SCORE	DISCUSSION
Ability to Pay and Continue in Business	No adjustment	The Discharger has the ability to pay the proposed administrative civil liability based on publicly available information. The Discharger has an annual operations budget of \$23.5 million for fiscal year 2018-2019. The proposed liability will not affect the Discharger's ability to continue operation and maintain the Plant and collection system.
Economic Benefit	None	The Discharger did not enjoy any significant economic benefit associated with the violation. The alleged violation occurred due to an unanticipated valve malfunction.
Other Factors as Justice May Require		
Staff Costs	None	
Maximum and Minimum Liabilities		
Maximum Liability	\$22.01 million	Water Code section 13385 allows up to \$10,000 for each day in which the violation occurs, plus \$10 for each gallon exceeding 1,000 gallons discharged and not cleaned up. The maximum liability reflects the unauthorized discharge of 2.2 MG of partially-treated and undisinfected wastewater and two days of violation.
Minimum Liability	\$0.0	The violation is not subject to mandatory minimum penalties per Water Code section 13385(h) and (i), and the Discharger did not benefit economically from the violation. Thus, the minimum liability for this violation is zero.
Final Liability	\$427,600	The final liability is the total base liability after adjusting for ability to pay, economic benefit, other factors, the maximum and minimum liabilities, and rounding (in this case, to nearest hundred dollars).

ATTACHMENT B

Sonoma Valley County Sanitation District Description of Enhanced Compliance Action (ECA) Sewer Lateral Inspection Project

1. **Project Title:** Sewer Lateral Inspection Project (Project)
2. **Service Area:** Sonoma Valley, Sonoma County
3. **Name of Responsible Entity:** Sonoma Valley County Sanitation District (District)
4. **Estimated Cost for Project Completion:** The estimated Project cost is **\$245,000**, which includes **\$213,800** of suspended liability, provided the District meets the Project milestones and completes the Project to the satisfaction of the Regional Water Board by the specified date.
5. **Contact Information:**
Scott Carter, Water Agency Engineer
Sonoma County Water Agency
404 Aviation Boulevard
Santa Rosa, CA 95403
Tel. No.: (707) 547-1975
Email: Scott.Carter@sewa.ca.gov
6. **Project Goals and Description:** The Project scope includes video inspection and smoke testing of sewer laterals within the District to identify sources of inflow and infiltration of groundwater and stormwater into the collection system. The goal is to reduce wet weather sanitary sewer overflows by removing unauthorized stormwater connections and requiring that defective laterals be repaired or replaced. Unauthorized stormwater connections are expected to be rare, but their removal could provide large benefits to the system. Some homeowners may be eligible for District rebates. Video inspections shall be conducted using the National Association of Sewer Service Companies (NASSCO) Lateral Assessment Certification Program (LACP) rating system by a certified operator.
7. **Water Quality and Beneficial Uses:** The Project will reduce or avoid impacts to aquatic wildlife and will protect the beneficial uses of Sonoma Creek and its tributaries. These creeks support a variety of species, including federally threatened steelhead, endangered California freshwater shrimp, and the western pond turtle.
8. **Confirmation That the ECA Contains only Measures That Go Above and Beyond Applicable Obligations of the Discharger:** The District initiated a Private Sewer Lateral Replacement Incentive Program to inspect and repair a minimum of 29 defective sewer laterals in accordance with Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order No. R2-2015-1008. Aside from this program, the District is under no obligation to video inspect or smoke test sewer laterals as described in this particular ECA Project.

- 9. Demonstration That the ECA Does not Directly Benefit, in a Fiscal Manner, a Regional Water Board's Functions, Its Members, or Its Staff:** While the reduction of sanitary sewer overflows will advance the Regional Water Board's goals to protect water and riparian habitats from pollution, and enhance water quality, Project funding does not directly benefit, in a fiscal manner, a Regional Water Board's functions, its members, or its staff. The District will implement the Project in the same region where the discharge subject to Administrative Civil Liability occurred. The Project does not advance a project or activity directly under the purview or direction of the Regional Water Board, its members, or its staff, nor is it related to any abatement order or other legal or administrative mandate imposed by the Regional Water Board.
- 10. Project Schedule, Milestones, and Deliverables:** The District is responsible for providing all deliverables described below for each Project phase.
- a. Inspection Service/Equipment:** By December 31, 2020, the District shall secure the necessary equipment and qualified staff to perform video inspection and smoke testing services (e.g., video inspections are to be conducted by an LACP-certified operator). The District may meet this requirement with existing equipment and staff, the purchase of new equipment such as a lateral launch camera system, execution of a contract for video inspection or smoke testing services, or some combination thereof.
 - b. Inspection Schedule:** By December 31, 2022, the District shall video inspect and/or smoke test a minimum of 800 sewer laterals.
 - c. Quarterly Progress Reports:** Within 30 days after the end of each calendar quarter, the District shall submit quarterly progress reports documenting the tasks completed during the previous quarter, an explanation for any incomplete tasks, and an updated project schedule with projected completion dates. The District shall include any video inspection and smoke testing reports completed during the quarter.
 - Deliverables: Progress reports including video inspection and smoke testing reports
 - Due Dates: **July 30, 2020, and within 30 days after the end of each subsequent calendar quarter during the agreement term**
 - d. Final Report:** No later than the due date indicated below, the District shall provide a final report documenting Project completion. The final report shall include a summary of all tasks completed and accounting of all expenditures. The accounting must clearly document that the final cost of the Project equals or exceeds the suspended liability of \$213,800. The report shall be completed under penalty of perjury.
 - Deliverable: Final report including post-project accounting with invoices
 - Due Date: **March 31, 2023**
- 11. Reports to the Regional Water Board:** All deliverables, reports, and accounting invoices pertaining to this Project shall be submitted to the Regional Water Board. Regional Water Board staff will review and approve the reports to ensure that they meet the

Settlement Agreement and Stipulated Administrative Civil Liability Attachment B
Sonoma Valley County Sanitation District

requirements set forth here and the Stipulated Order. All reports must be emailed to the following:

Habte Kifle
San Francisco Bay Regional Water Board
1515 Clay Street, Suite 1400
Oakland, CA 94612
(510) 622-2371
Habte.Kifle@waterboards.ca.gov

Jessica Watkins
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1515 Clay Street, Suite 1400
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