

In the matter of:	)	
	)	
C&H SUGAR COMPANY, INC.,	)	SETTLEMENT AGREEMENT AND
CONTRA COSTA COUNTY	)	STIPULATION FOR ENTRY OF
	)	ADMINISTRATIVE CIVIL LIABILITY
	)	ORDER
NPDES Permit CA0005240,	)	
Order R2-2018-0012	)	
Permit Violations	)	ORDER R2-2025-1022
	)	

1. C&H owns and operates the C&H Sugar Company Refinery (Sugar Refinery) located at 830 Loring Avenue, Crockett, California in Contra Costa County. The Sugar Refinery produces packaged consumer sugar and liquid and bulk granulated industrial-use cane sugar.
2. C&H and the Crockett Community Services District co-own and operate the Philip F. Meads Water Treatment Plant (Joint Treatment Plant), to which Crockett Community Services District (Crockett) discharges pretreated sewage to the plant under a Joint Use Agreement.
3. C&H discharges cooling water, treated wastewater, and stormwater as authorized under National Pollutant Discharge Elimination System (NPDES) Permit CA0005240, Order R2-2018-0012 (Permit), which has been in effect since July 1, 2018, and establishes waste discharge requirements.
 - a. Permit section IV sets forth effluent limitations and discharge specifications.

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- b. Permit Attachment G, section I.I.1, prohibits nuisance, stating “Neither the treatment nor the discharge of pollutants shall create pollution, contamination, or nuisance as defined by California Water Code section 13050.”
4. Water Code section 13050, subdivision (m), defines “nuisance” as anything that meets all of the following requirements:
- a. Is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.
 - b. Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.
 - c. Occurs during, or as a result of, the treatment or disposal of wastes.
5. Water Code section 13383, subdivision (a), authorizes the Regional Water Board to establish monitoring, inspection, entry, reporting and recordkeeping requirements, as authorized by Water Code sections 13160, 13376, or 13377, for any person who discharges to waters of the U.S.
6. On November 29, 2022, the Executive Officer of the Regional Water Board issued C&H a Water Code section 13383 Order (13383 Order). The Water Code section 13383 Order required C&H to produce information on treatment reliability and to conduct additional monitoring.
7. Pursuant to Water Code section 13385, subdivisions (a)(2)-(3), a person who violates a waste discharge requirement and Water Code section 13383 requirement 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:
- a. Ten thousand dollars (\$10,000) for each day in which the violation occurs.
 - b. 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.
8. Water Code section 13385, subdivision (h)(1), states:
- Notwithstanding any other provision of this division, and except as provided in subdivisions (j), (k), and (l), a mandatory minimum penalty of three thousand dollars (\$3,000) shall be assessed for each serious violation.

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9. Water Code section 13385, subdivision (h)(2), states:

For the purpose of this section, a “serious violation” means any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group II pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 20 percent or more or for a Group I pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 40 percent or more.

10. Water Code section 13385, subdivision (i)(1), states:

Notwithstanding any other provision of this division, and except as provided in subdivisions (j), (k), and (l), a mandatory minimum penalty of three thousand dollars (\$3,000) shall be assessed for each violation whenever the person does any of the following four or more times in any period of six consecutive months, except that the requirement to assess the mandatory minimum penalty shall not be applicable to the first three violations:

- (A) Violates a waste discharge requirement effluent limitation.
- (B) Fails to file a report pursuant to Section 13260.
- (C) Files an incomplete report pursuant to Section 13260.
- (D) Violates a toxicity effluent limitation contained in the applicable waste discharge requirements where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.

11. Water Code section 13385.1, subdivision (a)(1) states:

For the purposes of subdivision (h) of Section 13385, a “serious violation” also means a failure to file a discharge monitoring report required pursuant to Section 13383 for each complete period of 30 days following the deadline for submitting the report, if the report is designed to ensure compliance with limitations contained in waste discharge requirements that contain effluent limitations.

12. The Prosecution Team alleges the following violations:

- a. **Effluent Limitation Violations Occurring Between May 2022 and October 2022 Subject to Discretionary Liability:** The Prosecution Team alleges that, from May 14, 2022, through October 13, 2022, C&H exceeded seven effluent limitations set forth in Permit section IV.B as identified in Table 1 of Attachment A, which is incorporated in its entirety herein by reference. C&H is subject to administrative civil liability for these alleged violations pursuant to Water Code section 13385, subdivisions (a)(2) and (c).

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- b. **Odor Nuisance from September 8, 2022, through October 14, 2022:** The Prosecution Team alleges that, from September 8, 2022, through October 14, 2022, C&H's wastewater treatment operations created a nuisance in violation of Permit Attachment G, section I.I.1. C&H is subject to administrative civil liability for this alleged violation pursuant to Water Code section 13385, subdivision (a)(2) and (c).
 - c. **Failure to Comply with 13383 Order:** The Prosecution Team alleges that, from January 7, 2023, through August 3, 2023, C&H violated the 13383 Order by failing to provide required information regarding treatment reliability by the January 6, 2023, deadline. C&H is subject to administrative civil liability for this alleged violation pursuant to Water Code section 13385, subdivision (a)(3) and (c).
 - d. **Effluent Limitation and Late Reporting Violations from December 2020 through January 2024 Subject to Mandatory Minimum Penalties:** The Prosecution Team alleges that, from December 2020 through January 2024, C&H exceeded seven additional effluent limitation and submitted six late self-monitoring reports, as shown in Attachment A. Five of the seven effluent limitation violations identified in Table 6 of Attachment A are subject to mandatory minimum penalties under Water Code section 13385, subdivision (i). Two of the three late reports identified in Table 7 of Attachment A are subject to mandatory minimum penalties pursuant to Water Code section 13385, subdivision (h).
13. The Parties have engaged in settlement negotiations and agree 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.
14. To resolve the alleged violations in Section II, paragraph 12, by consent and without further administrative proceedings, the Parties agree to the imposition of an administrative civil liability of **\$734,000** against C&H.
15. The settlement amount is less than the liability the Prosecution Team calculated using Steps 1 through 10 of the State Water Resources Control Board's (State Water Board's) *Water Quality Enforcement Policy* (Enforcement Policy) (October 2017)¹ as shown in Attachment A. For purposes of settlement, the final liability proposed in Attachment A was reduced by approximately 5 percent in consideration of hearing and/or litigation risks in accordance with Enforcement Policy section VI.B.

¹ The State Water Board amended the 2017 Enforcement Policy on December 5, 2023, and those amendments became effective on November 7, 2024. The Prosecution Team applied the 2017 Enforcement Policy's penalty methodology because the Parties reached an agreement-in-principle prior to November 7, 2024, and the alleged violations occurred when the 2017 Enforcement Policy was in effect.

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16. The Parties have engaged in settlement negotiations and agree 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.
17. The Prosecution Team contends that the resolution of the alleged violations is fair and reasonable and fulfills all of its enforcement objectives. The Prosecution team further asserts no additional action is warranted concerning the violations, except as provided in this Order, and that this 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:** C&H hereby agrees to the imposition of an administrative civil liability of **\$734,000** to resolve the alleged violations set forth in Section II, paragraph 12, as follows:
 - a. **Payment:** No later than 30 days after the Regional Water Board or its delegate signs this Stipulated Order, C&H shall mail a check for **\$360,000**, made payable to "State Water Pollution Cleanup and Abatement Account," referencing the Order number on page one of this Stipulated Order, to:

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

C&H shall email a copy of the check to the State Water Board's Office of Enforcement (paul.ciccarelli@waterboards.ca.gov), and to the Regional Water Board (debbie.phan@waterboards.ca.gov).
 - b. **Supplemental Environmental Project and Suspended Liability:** In accordance with the State Water Board's Policy on Supplemental Environmental Projects (SEP Policy) (May 2018), the Parties agree that the remaining **\$374,000** of the administrative civil liability will be permanently suspended pending completion of a SEP in accordance with Section III, paragraph 2, below and Attachment B, which is incorporated herein by reference. The suspended liability will become immediately due and payable if the initial monetary assessment described in Section III, paragraph 1.a, is not paid as required.
2. **SEP Description:** C&H proposes to implement a third party-performed SEP proposed by the Contra Costa Resource Conservation District (Conservation District) for implementation of the *Crockett Shoreline Flood Mitigation Project* (the SEP) as set forth in Attachment B. The SEP will improve water quality within the Crockett Waterfront by building green infrastructure to filter pollutants and address seasonal flooding. The green infrastructure includes installation of a bioretention basin, a rain water garden, and a permeable surface bordered by bioswales to slow

down and filter runoff while promoting groundwater recharge. The complete SEP description, project milestones, budget, and reporting schedule are contained in Attachment B.

3. Representations and Agreements Regarding the SEPs:

- a. As a material condition for the Regional Water Board's acceptance of this Stipulated Order, C&H represents that the \$374,000 (SEP Amount) suspended liability will be used to implement the SEP as set forth in Attachment B. C&H understands that its promise to implement the SEP, in its entirety and in accordance with the implementation schedule and budget set forth in Attachment B, represents a material condition of this settlement of liability between C&H and the Regional Water Board.
 - b. C&H agrees to (1) spend the SEP Amount as described in this Stipulated Order; (2) have certified, written reports provided to the Regional Water Board consistent with the terms of this Stipulated Order detailing SEP implementation; and (3) have the final completion report due no later than 26 months from the Stipulated Order's effective date include a certification by a responsible official, signed under penalty of perjury, that to the best of their knowledge the Conservation District followed all applicable environmental laws and regulations in implementing the SEP, including the California Environmental Quality Act (CEQA), Porter-Cologne Act, and federal Clean Water Act.
 - c. C&H further agrees that the Regional Water Board has the right to require a third-party audit of the funds expended to implement the SEP at C&H's cost, and that C&H bears ultimate responsibility for meeting all deadlines and requirements specified in this Stipulated Order and Attachment B.
4. **SEP Oversight Costs:** Regional Water Board staff will oversee the implementation of the SEP. C&H is responsible for any charged costs for such oversight, which are not included in the SEP Amount.
5. **Publicity Associated with the SEP:** Whenever C&H, or its agents or subcontractors, publicize one or more elements of the SEP, they shall state in a **prominent manner** that the project is undertaken as part of a settlement to a Regional Water Board enforcement action against C&H.
6. **Progress Reports and Inspection Authority:** The Conservation District has agreed to provide reports on behalf of C&H describing progress implementing the SEP to the Regional Water Board as described in Attachment B. C&H agrees that Regional Water Board staff has permission to inspect the SEP at any time with reasonable notice.
7. **Certification of SEP Completion:** No later than 26 months from the Stipulated Order's effective date, the Conservation District has agreed that a responsible official will submit on C&H's behalf a final SEP completion report as described in

Attachment B and a certified statement, signed under penalty of perjury, that documents the following: (a) the Conservation District's receipt of C&H's payment of the SEP Amount, (b) the Conservation District's expenditures made during the SEP completion period, and (c) the Conservation District's completion of the SEP in accordance with the terms of this Stipulated Order. The expenditures may include external payments to outside vendors, but may not include the normal, routine work undertaken by Conservation District staff. In making such certification, the signatories may rely on normal organizational project tracking systems that capture employee time expenditures and external payments to outside vendors, such as environmental and information technology contractors or consultants.

Documentation of SEP completion may include photographs, invoices, receipts, certifications, and other materials reasonably necessary for the Regional Water Board to evaluate SEP completion and the costs incurred. The Conservation District has agreed to provide Regional Water Board staff with any additional information reasonably necessary to verify the Conservation District's SEP expenditures and SEP completion on behalf of C&H. C&H shall provide Regional Water Board staff with any additional information reasonably necessary to verify C&H's payment of the SEP Amount to the Conservation District.

8. **Time Extension for SEP:** The Executive Officer of the Regional Water Board may extend the SEP deadlines contained in Attachment B of this Stipulated Order if the Conservation District demonstrates delays from unforeseeable circumstances, provided that C&H and the Conservation District continue to undertake all appropriate measures to meet the deadlines. Should an extension be needed, C&H must notify the Executive Officer in writing at least 30 days prior to the deadline. The written notice must specifically refer to this Paragraph and describe the anticipated length of time the delay may persist, the cause or causes of the delay, the measures taken or to be taken by C&H and/or the Conservation District to prevent or minimize the delay, the schedule by which the measures will be implemented, and the anticipated date of compliance with this Stipulated Order. Any approval of an extension by the Executive Officer or their delegate will be sent to C&H and the Conservation District in writing with the effect of revising this Stipulated Order.
9. **Regional Water Board Acceptance of Completed SEP:** Upon C&H's satisfaction of its obligations under this Stipulated Order, SEP completion, and any audits, the Executive Officer will issue a "Satisfaction of Order." The Satisfaction of Order shall terminate any further C&H obligations under this Stipulated Order and permanently suspend the SEP Amount.
10. **Failure to Expend All Suspended Funds on Approved SEP:** If C&H is unable to demonstrate to the reasonable satisfaction of the Executive Officer that the entire SEP Amount was spent on the completed SEP no later than 18 months from the Stipulated Order's effective date (SEP Completion Date), C&H shall pay the difference between the SEP Amount and the amount C&H can demonstrate was actually spent on the SEP (the Difference). The Executive Officer shall issue a "Notice of Violation" that will require C&H to pay the Difference to the "State Water Pollution Cleanup and Abatement Account" within 30 days of the Notice of

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Violation's issuance date. C&H shall submit payment consistent with the payment method instructions provided in Section III, paragraph 1.a. Payment of the Difference shall satisfy C&H's obligations to implement the SEP.

11. **Failure to Complete SEP:** If the SEP is not fully implemented by the SEP Completion Date, or if there has been a material failure to satisfy a project milestone, a "Notice of Violation" will be issued. As a consequence, C&H shall be liable to pay the entire SEP Amount, less any amount that has been permanently suspended or excused based on the timely and successful completion of any interim project milestone that has an identifiable and stand-alone environmental benefit. Unless the Regional Water Board or its delegate determines otherwise, C&H shall not be entitled to any credit, offset, or reimbursement from the Regional Water Board for expenditures made on the SEP prior to the Notice of Violation's issuance date. The amount of the suspended liability owed shall be determined via a written, stipulated agreement between the Parties or, if the Parties cannot reach an agreement on the amount owed, via a "Motion for Payment of Suspended Liability" before the Regional Water Board or its delegate. Within 30 days of the Regional Water Board's or its delegate's determination of the suspended liability assessed, C&H shall pay the amount owed to the "State Water Pollution Cleanup and Abatement Account." The Settling Respondent shall submit payment consistent with the payment method instructions provided in Section III, paragraph 1.a. Payment of the assessed amount shall satisfy C&H's obligations to implement the SEP. This Stipulated Order does not restrict C&H from seeking reimbursement from the Conservation District if payment of the suspended liability becomes due and payable under this Paragraph.
12. **Regional Water Board Not Liable:** The Regional Water Board and its members, staff, attorneys, and representatives shall not be liable for any injury or damage to persons or property resulting from negligent or intentional acts or omissions by C&H or its directors, officers, employees, agents, representatives, or contractors in carrying out activities pursuant to this Stipulated Order. The Regional Water Board, its members, and its staff shall not be held as parties to, or guarantors of, any contract entered into by C&H or its directors, officers, employees, agents, representatives, or contractors in carrying out activities pursuant to this Stipulated Order.
13. **Compliance with Applicable Laws:** C&H understands that payment of administrative civil liability in accordance with the terms of this Stipulated Order and/or compliance with the terms of this Stipulated Order is not a substitute for compliance with applicable laws, and that continuing violations of the types alleged herein may subject it to further enforcement, including additional administrative civil liability.

14. Party Contacts for Communications related to this Stipulated Order:

For Regional Water Board:

Debbie Phan
San Francisco Bay Regional Water
Quality Control Board
1515 Clay Street, 14th Floor
Oakland, CA 94612
debbie.phan@waterboards.ca.gov
(510) 622-2411

Counsel:

Paul Ciccarelli
State Water Resources Control
Board Office of Enforcement
801 K Street, 23rd Floor
Sacramento, CA 95814
paul.ciccarelli@waterboards.ca.gov
(916) 322-3227

For C&H:

Matthew P. Coglianese
Senior Director and Counsel
Environmental
C&H Sugar Company, Inc.
1 North Clematis Street, Suite 200
West Palm Beach, FL 33401
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(561) 532-1528

Counsel:

Rick R. Rothman
Morgan, Lewis & Bockius LLP
300 South Grand Avenue,
Twenty-Second Floor
Los Angeles, CA 90071
rick.rothman@morganlewis.com
(213) 680-6590

15. Attorney Fees and Costs: Except as otherwise provided herein, each Party shall bear all attorney fees and costs incurred pursuant to this Stipulated Order.

16. 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 violations alleged in Section II, paragraph 12, 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.a](#), and C&H's full satisfaction of the its obligations to implement the SEP in accordance with the terms of this Stipulated Order.

17. Public Notice: C&H 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. C&H agrees that it may not rescind or otherwise withdraw its approval of this proposed Stipulated Order.

18. 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

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procedural objections are raised and the Regional Water Board or its delegate 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 this Stipulated Order as necessary or advisable under the circumstances.

19. **No Waiver of Right to Enforce:** The failure of the Regional Water Board to enforce any provision of this Stipulated Order shall in no way be deemed a waiver of such provision, or in any way affect the validity of this Stipulated Order. The failure of the Regional Water Board to enforce any such provision shall not preclude it from later enforcing the same or any other provision of this Stipulated Order. If C&H fails to comply with this Stipulated Order, the Regional Water Board or its delegate may refer the matter to the Attorney General to enforce the terms of this Stipulated Order.
20. **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.
21. **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.
22. **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 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 liability for the underlying alleged violations, 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 violations alleged herein. 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 such period has been extended by these settlement proceedings.
23. **Waiver of Hearing:** C&H has been informed of the rights Water Code section 13323, subdivision (b), provides and waives its right to a hearing before the Regional Water Board prior to the Stipulated Order's adoption. However, if the

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settlement is not adopted, or if the matter proceeds to the Regional Water Board or State Water Board for hearing, C&H does not waive its right to a hearing before an order is imposed.

24. **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, C&H 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 any 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, SEP completion, and other terms contained in this Stipulated Order.
25. **Covenant Not to Sue:** C&H 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.
26. **No Admission of Liability/No Waiver of Defenses:** In settling this matter, C&H does not admit to any of the allegations stated herein or admit to any violations of the Water Code or any other federal, State, or local law or ordinance, but recognizes that this Stipulated Order may be used as evidence of a prior "history of violations" consistent with Water Code sections 13327 and 13385, subdivision (e).
27. **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 C&H 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 C&H of its obligation to obtain any final written approval this Stipulated Order requires.
28. **Authority to Bind:** Each person executing this Stipulated Order in a representative capacity represents and warrants that they are authorized to execute this Stipulated Order on behalf of, and to bind, the entity on whose behalf they execute the Stipulated Order.
29. **No Third-Party Beneficiaries:** This Stipulated Order is not intended to confer any right or obligation on any third party, and no third party shall have any right of action under this Stipulated Order for any cause whatsoever.
30. **Severability:** This Stipulated Order is severable; if any provision is be found to be invalid, the remainder shall remain in full force and effect.
31. **Counterpart Signatures; 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

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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.

32. **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.

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IT IS SO STIPULATED.

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

Date: _____

By: _____

Bill Johnson, Chief
NPDES Wastewater and Enforcement Division

Approved as to form:

By: _____

Paul Ciccarelli, Attorney IV
State Water Resources Control Board
Office of Enforcement

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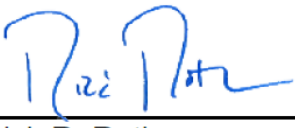
IT IS SO STIPULATED.

C&H SUGAR COMPANY, INC.

Date: October 15, 2025

By: 
Armando Tabernilla
Vice President, General Counsel, Secretary
C&H Sugar Company, Inc.

Approved as to form:

By: 
Rick R. Rothman
Counsel for C&H Sugar Company, Inc.
Morgan, Lewis & Bockius LLP

ORDER OF THE REGIONAL WATER BOARD

1. This 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 or its delegate has considered, where applicable, each of the factors prescribed in Water Code sections 13327 or 13385, subdivision (e), and has applied the State Water Board's Enforcement Policy, which is incorporated herein by reference. The consideration of these factors and application of the Enforcement Policy are based on information the Prosecution Team obtained in investigating the allegation set forth in the 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 or its delegate finds that issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, § 21000 et seq.) in accordance with California Code of Regulations, title 14, section 15321, subdivision (a)(2). Additionally, this Stipulated Order generally accepts the plans proposed for the SEP prior to implementation. Mere submittal of plans is exempt from CEQA because submittal will not cause a direct or indirect physical change in the environment.
4. The Executive Officer of the Regional Water Board is authorized to refer this matter directly to the Attorney General for enforcement if C&H 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.

Eileen White
Executive Officer
California Regional Water Quality Control Board
San Francisco Bay Region

Date

ATTACHMENT A
to
Settlement Agreement and Stipulation
for Entry of Administrative Civil Liability Order

Factors in Determining
Administrative Civil Liability

**C&H Sugar Company, Inc.
NPDES Permit Violations**

The State Water Resources Control Board's *Water Quality Enforcement Policy* (Enforcement Policy) (October 2017) 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). The San Francisco Bay Regional Water Quality Control Board Prosecution Team's (Prosecution Team's) application of each factor in the Enforcement Policy and its corresponding category, adjustment, and amount for the alleged violations is presented below.¹ The Enforcement Policy should be used as a companion document in conjunction with this administrative civil liability assessment since the penalty methodology and definitions of terms may not be replicated herein. The Enforcement Policy is available at: https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2017/040417_9_final%20adopted%20policy.pdf

DISCHARGER INFORMATION

C&H Sugar Company, Inc. (C&H) owns and operates the C&H Sugar Company Refinery (Sugar Refinery) and, along with the Crockett Community Services District (District), co-owns the Philip F. Meads Water Treatment Plant (Joint Treatment Plant) in Contra Costa County. The Sugar Refinery produces packaged consumer sugar and liquid and bulk granulated industrial-use cane sugar, and routes sugar refining process wastewater to the Joint Treatment Plant. The Joint Treatment Plant also treats pretreated (comminuted and degritted) sewage from the District under a Joint Use Agreement.

C&H and the District (collectively, Co-Permittees) discharge wastewater and stormwater pursuant to National Pollutant Discharge Elimination System (NPDES) Permit CA0005240, Order R2-2018-0012 (Permit). C&H must comply with effluent limitations at Discharge Point 001 as set forth in Permit section IV.A. The Co-Permittees must comply with effluent limitations at Discharge Point 002 as set forth in Permit section IV.B. The Permit also prohibits "nuisance" resulting from the treatment of pollutants as defined by Water Code section 13050, subdivision (m).

On November 29, 2022, the Executive Officer of the Regional Water Board issued C&H an investigative order pursuant to Water Code section 13383 (13383 Order) that required C&H to submit information regarding power outages at the Sugar Refinery and Joint Treatment Plant no later than January 6, 2023, and to conduct additional monitoring until the Permit is superseded or rescinded.

¹ Consistent with the Stipulated Order, C&H does not admit or agree with the allegations presented by the Prosecution Team in support of the Enforcement Policy's penalty calculation methodology.

ALLEGED VIOLATIONS

As further detailed below, the Prosecution Team alleges the following:

1. Certain effluent limitations were exceeded in May 2022 and October 2022 at least seven times, and are subject to discretionary administrative civil liability pursuant to Water Code section 13385, subdivision (c). The proposed liability is \$290,400.
2. Odor nuisance occurred at times between September 8, 2022, through October 14, 2022, and is subject to discretionary administrative civil liability pursuant to Water Code section 13385, subdivision (c). The proposed liability is \$200,000.
3. Failure to comply with the 13383 Order occurred from at least January 7, 2023, to August 3, 2023. The late report submittal is subject to discretionary administrative civil liability pursuant to Water Code section 13385, subdivision (c). The proposed liability is \$260,300.
4. At least five effluent limitation exceedances from December 2020 through January 2024 and two late self-monitoring reports that are subject to \$24,000 in mandatory minimum penalties pursuant to Water Code section 13385, subdivisions (h) and (i).

The total proposed final liability for the alleged violations is \$774,700.

1. Effluent Limitation Violations from May 2022 through October 2022

Permitted Discharge Point 002 is a deep-water multi-port diffuser located below the Carquinez Bridge. Effluent from Discharge Point 002 consists of treated wastewater containing sugar refining process wastewater and domestic waste from the District and its associated sanitary sewer system. On the dates identified in Table 1 below, effluent limitations in Permit section IV.B. were exceeded and a total of 1.09 million gallons of wastewater were discharged through Discharge Point 002 during those days of noncompliance.

**Table 1. Alleged Effluent Limitation Violations from
May 14, 2022, through October 13, 2022**

Date	Violation	Limitation	Result	Units
5/14/2022	pH (Instantaneous, Minimum)	6.0	5.02	standard units
5/15/2022	pH (Instantaneous, Minimum)	6.0	4.70	standard units
5/16/2022	pH (Instantaneous, Minimum)	6.0	4.96	standard units
5/17/2022	pH (Instantaneous, Minimum)	6.0	5.38	standard units
10/12/2022	Biochemical Oxygen Demand (BOD) (5-day @ 20 Degree C) (Daily Maximum)	2,000	2,304	pounds per day
10/12/2022	Total Suspended Solids (TSS) (Daily Maximum)	2,600	3,297	pounds per day
10/13/2022	Total Coliform (Daily Maximum)	10,000	>16,000	Most Probable Number per 100 milliliters

On May 12, 2022, a process upset at the Sugar Refinery resulted in effluent that did not meet the minimum pH limitation (6.0 or above) from May 14 through 17, 2022, resulting in four days of noncompliance. During a heatwave in September 2022, the Joint Treatment Plant experienced a microbial die off, which required the aeration basins to be cleaned, reseeded, and restarted. As a result of the microbial die off, the Joint Treatment Plant did not meet the daily maximum effluent limitations for BOD, TSS, and total coliform set forth in Permit sections IV.B.1 and IV.B.2 at Discharge Point 002 as follows:

- On October 12, 2022, the maximum daily effluent limitation for BOD of 2,000 pounds per day (lbs/day) and the maximum daily effluent limitation for TSS of 2,600 lbs/day were exceeded. (Permit section IV.B.1.) During this one day of noncompliance, 815,000 gallons of wastewater were discharged.
- On October 13, 2022, the effluent limitation for total coliform was exceeded; no single sample is to exceed 10,000 most probable number per 100 milliliters (MPN/100 mL). (Permit section IV.B.2.) During this one day of noncompliance, 280,000 gallons of wastewater were discharged.

As a Co-Permittee, C&H is subject to administrative civil liability pursuant to Water Code section 13385, subdivisions (a)(2) and (c), for the alleged effluent limitation violations described above. The factors considered in determining the liability for the violations are described below:

Table 2. Factors Considered for Alleged Effluent Limitation Violations from May 2022 through October 2022

Penalty Factor	Score	Discussion
Degree of Toxicity of the Discharge Violations	2 (pH)	Degree of Toxicity: Moderate A score of 2 (moderate) is appropriate because the “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, page 12.) Low pH ranging from 4.5 to 5.5, can pose a moderate-to-significant risk to potential receptors.
	2 (TSS, BOD)	Degree of Toxicity: Moderate A score of 2 (moderate) is appropriate because the “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, page 12.) High TSS and BOD have low toxicity themselves, but the exceedances indicate that the discharge did not receive the level of required treatment and may have contained other pollutants normally removed (e.g., metals including copper and lead).
	3 (Total Coliform)	Degree of Toxicity: Above Moderate A score of 3 (above moderate) is appropriate because the “discharged material poses an above-moderate risk or a direct threat to potential receptors (i.e., the chemical and/or physical characteristics of the discharged material exceed known risk factors or there is substantial threat to potential receptors).” (Enforcement Policy, page 12.) The discharge contained total coliform levels that exceeded the <i>Water Quality Control Plan for the San Francisco Bay Basin’s</i> (Basin Plan’s) total coliform water quality objective to protect the beneficial use for shellfish harvesting.
Actual Harm or Potential Harm to Beneficial Uses for Discharge Violations	1 (pH, TSS, BOD, Total Coliform)	Potential for Harm: Minor A score of 1 (minor) is appropriate because there was “no actual harm and low threat of harm to beneficial uses. A score of minor is typified by a lack of observed impacts, but based on the characteristics of the discharge and applicable beneficial uses; there is potential short term impact to beneficial uses with no appreciable harm.” (Enforcement Policy, page 12.) The effluent limitation violations likely resulted in minor harm because, although the characteristics of the discharged material may have posed threats to potential receptors, the discharges received at least 10:1 dilution at the deepwater outfall. Therefore, there may have been short-term impacts to beneficial uses but likely no appreciable harm.

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Penalty Factor	Score	Discussion
Susceptibility to Cleanup or Abatement	1 (pH, TSS, BOD, Total Coliform)	Susceptibility to Cleanup: No A score of 1 is appropriate because the discharges commingled with the receiving waters and were not susceptible to cleanup or abatement. (Enforcement Policy, page 13.)
Deviation from Requirement	Major (pH, TSS, BOD, Total Coliform)	Deviation from Requirement: Major The effluent limitation violations represent a major deviation from requirements because the discharge exceeded the effluent limitations defined in Permit section IV.B, rendering the requirements ineffective in their essential functions. (Enforcement Policy, page 14.)
Per-Gallon and Per-Day Factor for Discharge Violations	0.08 pH	The Enforcement Policy generally assesses NPDES permit effluent limit violations on a per-day basis only. (Enforcement Policy, page 13.) Enforcement Policy Table 2 contains per-day factors based on the Potential for Harm score and the Deviation from Requirement. (Enforcement Policy, page 15.) A Potential for Harm score of 4 (sum of the above factors for pH: 2+1+1) and a major deviation from requirement results in a per-day factor of 0.08.
	0.08 (TSS, BOD)	The Enforcement Policy recommends assessing both per-gallon and per-day penalties for certain NPDES permit effluent limitation violations. (Enforcement Policy, page 13.) Due to the high volume of the discharges and the timing of the odor nuisance, both the per-gallon and per-day factors are applied, which results in an administrative civil liability that provides a meaningful and appropriate deterrence to future violations. Enforcement Policy Table 1 contains per-gallon factors and Table 2 contains per-day factors based on the Potential for Harm score and the Deviation from Requirement. (Enforcement Policy, page 15.) A Potential for Harm score of 4 (sum of the above factors for TSS and BOD: 2+1+1) and a major deviation from requirement results in a per-gallon and per-day factor of 0.08.
	0.15 (Total Coliform)	A Potential for Harm score of 5 (i.e., the sum of the above factors for total coliform: 3+1+1) and a major deviation from requirement results in a per-gallon and per-day factor of 0.15.
Adjustment for High Volume Discharges for Discharge Violations	\$2/gallon (TSS, BOD, Total Coliform)	A per-gallon liability of \$2, rather than the maximum of \$10, is appropriate because the discharge volumes were over 100,000 gallons and under 2,000,000 gallons, and this assessment would not result in an inappropriately small penalty. (Enforcement Policy, page 19.) Using \$2 per gallon results in a suitable specific and general deterrent and bears a reasonable relationship to the gravity of the violations.
Initial Liability	\$3,200 (pH)	The initial liability is calculated as follows: per-day factor (0.08) multiplied by maximum per-day liability (\$10,000) multiplied by number of days of discharge. C&H violated the pH effluent limitation for four days. Therefore, the initial liability for pH calculated on a per-day basis is as follows: $\$3,200 = \$10,000/\text{day} \times 0.08 \times 4 \text{ days}$

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Penalty Factor	Score	Discussion
	\$131,840 (TSS, BOD)	The TSS and BOD effluent limitations were exceeded for one day each, during which 815,000 gallons of wastewater were discharged. Therefore, the initial liability for TSS and BOD calculated on a per-gallon and per-day basis is as follows: $\$131,840 = [0.08 \times (815,000 \text{ gallons} - 1,000 \text{ gallons}) \times \$2/\text{gallon}] + (\$10,000/\text{day} \times 0.08 \times 2 \text{ days})$
	\$85,200 (Total Coliform)	The total coliform effluent limitation was exceeded for one day, during which 280,000 gallons of wastewater were discharged. Therefore, the initial liability for total Coliform calculated on a per-gallon and per-day basis for 1 day of violation is as follows: $\$85,200 = [0.15 \times (280,000 \text{ gallons} - 1,000 \text{ gallons}) \times \$2/\text{gallon}] + (\$10,000/\text{day} \times 0.15 \times 1 \text{ day})$
Culpability	1.1 (pH)	A score of 1.1 (above neutral) is appropriate. C&H failed to appropriately operate and maintain its aeration basins by not having a backup generator onsite. However, C&H did respond quickly, reaching out to SunBelt Rentals within two hours to secure a generator, diverting its wastewater to holding tanks, injecting its activated sludge aeration basins with seeding sludge and additives to increase microbial activity, and adding lime to its aeration basins to raise the pH.
	1.2 (TSS, BOD, Total Coliform)	A score of 1.2 (above neutral) is appropriate. The Joint Treatment Plant failed to return to normal operations because the aeration basin's blowers were not configured to handle excessive heat which caused the blower motors to fail. As a result, the Joint Treatment Plant experienced microbial die-off in its aeration basins, and the aeration basins became anaerobic. The Prosecution Team believes microbial die off at the Joint Treatment Plant could have been prevented if adequate contingency plans and equipment were in place, which would have averted the need to clean, reseed, and restart the aeration basins.
History of Violations	1.1 (pH, TSS, BOD, Total Coliform)	A score of 1.1 is appropriate because C&H has a history of violations within the last five years (Enforcement Policy, page 17), as demonstrated by the following enforcement orders: • Order R2-2020-1007: \$12,000 penalty for effluent limitation violations in February 2019 and July 2019; and • Order R2-2020-1030: \$6,000 penalty for effluent limitation violations in December 2019.
Cleanup and Cooperation	1.0 (pH, TSS, BOD, Total Coliform)	A score of 1.0 (neutral) is appropriate because C&H responded in a reasonable and timely manner to resolve the pH issue after the power outage was identified, notified the Regional Water Board, and the violations for TSS, BOD, and total coliform did not span for more than a day each.

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Penalty Factor	Score	Discussion
Total Base Liability	\$290,365	The initial liability is multiplied by each factor related to C&H's conduct to determine the Total Base Liability as follows: pH $\\$3,872 = \\$3,200 \times 1.1 \text{ (culpability)} \times 1.1 \text{ (history of violations)} \times 1.0 \text{ (cleanup and cooperation)}$ TSS, BOD $\\$174,029 = \\$131,840 \times 1.2 \text{ (culpability)} \times 1.1 \text{ (history of violations)} \times 1.0 \text{ (cleanup and cooperation)}$ Total Coliform $\\$112,464 = \\$85,200 \times 1.2 \text{ (culpability)} \times 1.1 \text{ (history of violations)} \times 1.0 \text{ (cleanup and cooperation)}$
Ability to Pay and Continue in Business	No adjustment	The Enforcement Policy provides that if there is sufficient financial information to assess C&H's ability to pay the total base liability or to assess the effect of the total base liability on the violator's ability to continue in business, then the liability may be adjusted downward if warranted. C&H is a sugar processing and distribution company and is the leading sugar brand in the West Coast of the United States. The Prosecution Team has no evidence of C&H's inability to pay the proposed liability.
Economic Benefit	\$21,300	The Enforcement Policy requires recovery of any economic benefit plus 10 percent derived from failure to implement controls that result in a violation. The effluent limitation violations followed power outages; therefore, the economic benefit was the value the Discharger realized by delaying the purchase of a reliable backup power source. Permit Attachment G, section I.C.1, also requires C&H to have "procedures to ensure that existing facilities remain in, or are rapidly returned to, operation in the event of a ... power outage..." Assuming the cost of a rental generator was roughly \$1,078,000, adjusting for inflation from the first power outage in May 2022, to when a rental generator was delivered in May 2023, results in an economic benefit of roughly \$21,300.
Staff Costs	No adjustment	Staff costs are not included in the final proposed liability.
Maximum Liability	\$27 Million	Water Code sections 13385(c)(1) and (2) allow up to \$10,000 for each day in which the violation occurs, and \$10 for each gallon exceeding 1,000 gallons that is discharged and not cleaned up. The maximum liability is based on 2.697 million gallons and 6 days of violation. $\$27,030,000 = (2,697,000 \text{ gallons} \times \$10/\text{gallon}) + (6 \text{ days} \times \$10,000/\text{day})$
Minimum Liability	\$15,000	The Enforcement Policy and Water Code section 13385(h) and (i) require a \$3,000 mandatory minimum penalty for all serious violations and any non-serious violations that occur in a 180-day span, not counting the first three non-serious violations. Of the 7 violations, 5 non-serious violations met these criteria; therefore, the mandatory minimum penalty is calculated as follows: $5 \text{ violations} \times \$3,000 \text{ per violation} = \$15,000$ The Enforcement Policy also states that the final liability, for discretionary enforcement actions, must be at least 10 percent higher

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Penalty Factor	Score	Discussion
		than the economic benefit. (Enforcement Policy, page 21.) The economic benefit derived from the alleged violations (\$21,300) plus 10 percent is approximately \$23,430.
Final Liability	\$290,400 (rounded)	The final liability is the total base liability after adjusting for ability to pay, economic benefit, other factors, and maximum and minimum liabilities.

2. Odor Nuisance

C&H co-owns the Joint Treatment Plant, which treats sugar-laden wastewater and sewage from the District. From September 8, 2022, through at least October 14, 2022, Joint Treatment Plant operations created odor nuisance conditions. Permit Attachment G, section I.I.1, states, “Neither the treatment nor the discharge of pollutants shall create pollution, contamination, or nuisance as defined by California Water Code section 13050.” Water Code section 13050, subdivision (m) defines “nuisance” as anything which meets all of the following requirements:

- (1) is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.
- (2) Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.
- (3) Occurs during, or as a result of, the treatment or disposal of wastes.

On September 4, 2022, the Town of Crockett experienced a heat wave that caused the Joint Treatment Plant’s air-blowers at three aeration basins to overheat and intermittently fail.² Ordinarily, the aeration basins are pumped with air to promote microbial growth that feeds on organic material in wastewater. The impaired air-blowers resulted in inconsistent aeration and low dissolved oxygen levels that led to microbial die-off and odors. On September 10, 2022, C&H installed a diesel-powered mobile blower to provide supplemental aeration.³ Subsequently, the aeration basins continued to remain impaired but were improving. On September 23, 2022, C&H determined that the diffusers in the aeration basins were clogged.

The air-blowers were not configured to handle excessive heat and were unable to provide sufficient oxygen to the aeration basins to maintain healthy microbes, which caused the Joint Treatment Plant to have odors that permeated beyond its property lines.² By October 14, 2022, C&H finished cleaning and reseeded the two active aeration basins to restore microbial activity.

² C&H, *Root Cause Analysis*, August 3, 2023.

³ Regional Water Board, *NPDES Inspection Report – C&H Sugar Company, Inc.*, November 10, 2022.

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The Bay Area Air Quality Management District (Air District) received multiple confirmed odor complaints starting on September 7, 2022, and issued 21 notices of violation for public nuisance to C&H regarding the odors as listed in Table 3. Some residents, particularly those in areas near the Joint Treatment Plant, compared the smell to rotten eggs when outside in the Town of Crockett.⁴

**Table 3. Notice of Violations Issued by the
Bay Area Air Quality Management District**

Date of Occurrence	Violation ID	Code Violation	Violation Details
9/8/2022	A 60248	Reg Sec 301 H& S Code - 41700 Public Nuisance	multiple confirmed odor complaints
9/9/2022	A 60249	Reg Sec 301 H& S Code - 41700 Public Nuisance	multiple confirmed odor complaints
9/12/2022	A 60250	Reg Sec 301 H& S Code - 41700 Public Nuisance	multiple confirmed odor complaints
9/13/2022	A 60251	Reg Sec 301 H& S Code - 41700 Public Nuisance	multiple confirmed odor complaints
9/15/2022	A 60252	Reg Sec 301 H& S Code - 41700 Public Nuisance	multiple confirmed odor complaints
9/16/2022	A 62053	Reg Sec 301 H& S Code - 41700 Public Nuisance	multiple confirmed odor complaints
9/22/2022	A 62054	Reg Sec 301 H& S Code - 41700 Public Nuisance	multiple confirmed odor complaints
10/4/2022	A 62055	Reg Sec 301 H& S Code - 41700 Public Nuisance	multiple confirmed odor complaints
10/5/2022	A 62056	Reg Sec 301 H& S Code - 41700 Public Nuisance	multiple confirmed odor complaints
10/6/2022	A 62057	Reg Sec 301 H& S Code - 41700 Public Nuisance	multiple confirmed odor complaints
10/6/2022	A 61739	Reg 9 Rule 2 Section 301	H ₂ S excess
10/7/2022	A 62058	Reg Sec 301 H& S Code - 41700 Public Nuisance	multiple confirmed odor complaints
10/7/2022	A 61740	Reg 9 Rule 2 Section 301	H ₂ S excess (0.036 ppm)
10/8/2022	A 62059	Reg Sec 301 H& S Code - 41700 Public Nuisance	multiple confirmed odor complaints
10/9/2022	A 62060	Reg Sec 301 H& S Code - 41700 Public Nuisance	multiple confirmed odor complaints
10/10/2022	A 62061	Reg Sec 301 H& S Code - 41700 Public Nuisance	multiple confirmed odor complaints
10/11/2022	A 62062	Reg Sec 301 H& S Code - 41700 Public Nuisance	multiple confirmed odor complaints
10/12/2022	A 62063	Reg Sec 301 H& S Code - 41700 Public Nuisance	multiple confirmed odor complaints
10/12/2022	A 61741	Reg 9 Rule 2 Section 301	H ₂ S excess

⁴ CBS News, *Crockett residents fed up with stench from wastewater treatment plant*, <https://www.cbsnews.com/sanfrancisco/news/crockett-stench-traced-to-wastewater-treatment-plant/>, October 14, 2022.

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Date of Occurrence	Violation ID	Code Violation	Violation Details
10/13/2022	A 61742	Reg 9 Rule 2 Section 301	H ₂ S excess
10/14/2022	A 62064	Reg Sec 301 H& S Code - 41700 Public Nuisance	multiple confirmed odor complaints
10/14/2022	A 61743	Reg 9 Rule 2 Section 301	H ₂ S excess

During this time, the Air District evaluated hydrogen sulfide levels near the Joint Treatment Plant and measured a one-hour average of 0.036 ppm on October 7, 2022, exceeding the one-hour average California Ambient Air Quality Standard of 0.03 ppm by 0.006 ppm. The hydrogen sulfide level of 0.03 ppm was established by the California Air Resources Board to protect the health of the most sensitive groups within a community. On October 11, 2022, Contra Costa Health, the Contra Costa County public health system, measured a one-hour average hydrogen sulfide level of 0.045 ppm near Port and Ceres streets, directly east of Interstate Highway 80 from the Joint Treatment Plant; a level of 0.031 ppm outdoors at John Swett High School; and a level of 0.015 ppm at Carquinez Middle School. These locations are shown in the figure below.



Figure 1. Hydrogen Sulfide Monitoring Locations

From at least September 8, 2022, through at least October 14, 2022, Joint Treatment Plant operations created nuisance conditions in violation of Permit Attachment G, section I.I.1. The odors emitted from the Joint Treatment Plant met all three “nuisance” elements in Water Code section 13050, subdivision (m), as follows:

- (1) The odors were at least offensive to the senses, and were alleged to have obstructed the free use of property, thereby interfering with the comfortable enjoyment of life and/or property. Crockett residents reported smelling rotten eggs and subsequent nausea, burning eyes, headaches, and respiratory problems during

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this entire period. Some residents reported avoiding walking and recreating outside. During this time, Crockett's first annual Oktoberfest was rescheduled from October 15, 2022, to October 30, 2022, due to the odors in the community;

- (2) Crockett community members submitted multiple confirmed odor complaints to the Air District and organized a town hall meeting around the issue. The town hall was attended by representatives of C&H, the District, and several regulatory agencies. During the town hall meeting, numerous community members expressed their frustrations and concerns regarding the odors; and
- (3) The odors resulted from the impacts of a heat wave on the wastewater treatment system at the Joint Treatment Plant when its aeration basin air-blowers overheated.

The Enforcement Policy states that the Water Boards must calculate an initial liability for non-discharge violations considering potential for harm and the extent of deviation from applicable requirements. The factors considered in determining the liability for the violation are described below:

Table 4. Factors Considered for Alleged Odor Nuisance

Penalty Factor	Score	Discussion
Potential for Harm	Moderate	A score of moderate is appropriate when the violation "...substantially impaired the Water Boards' ability to perform their statutory and 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." (Enforcement Policy, page 16.) Based on the characteristics of the nuisance discussed above, the violation presented a moderate potential for harm.
Deviation from Requirement	Major	A score of major is appropriate because the Permit's prohibition on causing a nuisance "...was rendered ineffective (e.g., the requirement was rendered ineffective in its essential functions)." (Enforcement Policy, page 16.)
Per-Day Factor	0.7	Table 3 in the Enforcement Policy allows a per-day factor ranging from 0.4 to 0.7 for moderate potential for harm and major deviation from requirement. A score of 0.7 is appropriate given the number of days of potential impact to the Town of Crockett.
Days of Violation	20	From September 8, 2022, through October 14, 2022, there was evidence of a violation of the Permit's nuisance prohibition on at least 20 days. ⁵
Initial Liability	\$140,000	The initial liability is calculated as follows: per-day factor (0.7) multiplied by maximum per-day liability (\$10,000) multiplied by number of days of violation. $\$259,000 = 20 \text{ days} \times \$10,000/\text{day} \times 0.7$

⁵ The Contra Costa District Attorney's Office also initiated enforcement against C&H following a referral from the Air District and pursued civil liability for the odor nuisance during the same time period and based on the same Notices of Violation. The Prosecution Team exercised its prosecutorial discretion to assess a per-day liability on a reduced number of days.

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Penalty Factor	Score	Discussion
Culpability	1.2	A score of 1.2 (above neutral) is appropriate because the Joint Treatment Plant is required to maintain a contingency plan that ensures that existing facilities remain in, or are rapidly returned to, operation in the event of an emergency, including heat waves. The Joint Treatment Plant failed to do so.
Cleanup and Cooperation	1.1	A score of 1.1 (above neutral) is appropriate because C&H was made aware of the plant upset and potential odor on September 4, 2022, but took a week to install a diesel-powered mobile blower to supplement the aeration basin blowers and over a month to completely clean the diffusers at the Joint Treatment Plant. Odors persisted at the Joint Treatment Plant until the cleaning and reseeded were completed.
History of Violations	1.1	A score of 1.1 is appropriate because C&H has a history of violations within the last five years (Enforcement Policy, page 17), as demonstrated by the following enforcement orders: • Order R2-2020-1007: \$12,000 penalty for February 2019 and July 2019 effluent limitation violations; and • Order R2-2020-1030: \$6,000 penalty for December 2019 effluent limitation violations
Total Base Liability	\$203,280	The initial liability is multiplied by each factor related to C&H's conduct to determine the Total Base Liability as follows: $\$203,280 = \$140,000 \times 1.2 \text{ (culpability)} \times 1.1 \text{ (cleanup and cooperation)} \times 1.1 \text{ (history of violations)}$
Ability to Pay and Continue in Business	No adjustment	The Enforcement Policy provides that if there is sufficient financial information to assess C&H's ability to pay the total base liability or to assess the effect of the total base liability on the violator's ability to continue in business, then the liability may be adjusted downward if warranted. C&H is a sugar processing and distribution company and is the leading sugar brand in the West Coast of the United States. The Prosecution Team has no evidence of C&H's inability to pay the proposed liability.
Economic Benefit	\$21,300	See Economic Benefit analysis in Table 2.
Staff Costs	No adjustment	Staff costs are not included in the final proposed liability.
Maximum Liability	\$200,000	The maximum penalty is as follows: $\$200,000 = 20 \text{ days} \times \$10,000$
Minimum Liability	\$23,430	The Enforcement Policy states the final liability must be at least 10 percent higher than the economic benefit. (Enforcement Policy page 21.) The economic benefit derived from the alleged violations (\$21,300) plus 10 percent is approximately \$23,430.
Final Liability	\$200,000 (rounded)	The final liability amount is the total base liability after adjusting for ability to pay, economic benefit, other factors, and maximum and minimum liabilities. In this case, the final liability is the maximum penalty pursuant to Water Code section 13385.

3. Failure to Comply with 13383 Order

On November 29, 2022, the Executive Officer of the Regional Water Board issued C&H a 13383 Order that required submittal of information on treatment reliability by January 6, 2023. Specifically, the 13383 Order required information regarding the power outages that occurred on September 4, 2022, and October 3, 2022, including a root cause analysis, measures to prevent power outages, operational changes to ensure that the aeration basins and treatment plant are properly operated and maintained, actions to mitigate odors, and an updated contingency plan. On March 7, 2023, and again on June 28, 2023, the Regional Water Board notified C&H staff that the response to the 13383 Order was overdue.

C&H submitted a partial response to the 13383 Order on August 3, 2023. There were communications between C&H and the Regional Water Board regarding the departure of the C&H staff that received the 13383 Order. The partial response lacked significant elements, such as measures to prevent power outages, and an updated contingency plan. C&H submitted a root cause analysis, explaining that on September 4, 2022, the Joint Treatment Plant's aeration basin air-blowers failed due to a failure during a heatwave. In response, C&H ordered new blowers and motors. On September 10, 2022, C&H obtained a temporary air blower and power generator. While a full response to the 13383 Order is still outstanding, for purposes of this enforcement action, the Prosecution Team exercised prosecutorial discretion to use August 3, 2023, the date on which C&H Sugar submitted a partial response, as the compliance date.

The factors considered in determining the liability for the violation are described below:

Table 5. Factors Considered for Failure to Comply with 13383 Order

Penalty Factor	Score	Discussion
Potential for Harm	Moderate	A score of moderate is appropriate when the violation "...substantially impaired the Water Boards' ability to perform their statutory and 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." (Enforcement Policy, page 16.) Without the information the investigative order required, the Regional Water Board lacked information that would have helped clarify the facts and operational issues that caused the odors and determine whether additional preventative measures should be implemented at the facility.
Deviation from Requirement	Moderate	A score of moderate is appropriate because the "intended effectiveness of the requirement was partially compromised (e.g., the requirement was not met, and the effectiveness of the requirement was only partially achieved)." (Enforcement Policy, page 16.) The Enforcement Policy further states, "If a facility has prepared a required plan, or submitted the required monitoring report, but significant elements are omitted or materially deficient, the deviation would be moderate." C&H submitted a partial response to the

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Penalty Factor	Score	Discussion
		investigative order 209 days late. The partial response lacked significant elements, such as measures to address power disruptions, and an updated contingency plan. As such, a score of moderate is appropriate.
Per-Day Factor	0.35	Table 3 in the Enforcement Policy allows a per-day factor ranging from 0.3 to 0.4 for moderate potential for harm and moderate deviation from requirement. The Prosecution Team chose the middle of that range.
Initial Liability	\$140,000	The maximum allowable per-day liability is \$10,000 per day of non-compliance. Because the violation did not result in discrete economic benefit from the illegal conduct that can be measured on a daily basis, the Prosecution Team exercised its discretion to collapse days. (Enforcement Policy, page 18.) 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 the violation, plus an assessment for each 5-day period of violation, until the 60th day, plus an assessment for each 30 days of violation thereafter.” (Id.) The response to the investigative order was submitted on August 3, 2023. Therefore, for 209 days of violation, the number of days calculated using this method counts days 1-30, 35, 40, 45, 50, 55, 60, 90, 120, 150, and 180, or 40 days. The initial liability calculated on a per-day basis, using the per-day factor (0.35), 40 days, and \$10,000 per day as follows: Initial Liability: \$140,000 = \$10,000/day x 40 days x 0.35
Culpability	1.3	A score of 1.3 (above neutral) is appropriate because a reasonable and prudent discharger that experienced waste treatment failures that resulted in a nuisance would have submitted the completed report on time or at least notified Regional Water Board staff of a delay. C&H was reminded about the overdue response multiple times.
History of Violations	1.1	A score of 1.1 is appropriate because C&H has a history of violations within the last five years (Enforcement Policy, page 17), as demonstrated by the following enforcement orders: • Order R2-2020-1007: \$12,000 penalty for February 2019 and July 2019 effluent limitation violations; and • Order R2-2020-1030: \$6,000 penalty for December 2019 effluent limitation violations
Cleanup and Cooperation	1.3	A score of 1.3 (above neutral) is appropriate because C&H failed to follow up to several direct requests from Regional Water Board staff and ultimately submitted an incomplete response to the 13383 Order. C&H submitted a root cause analysis that explained the conditions that resulted in odors, measures that will be taken to ensure that the treatment plant is properly operated and maintained, and actions to mitigate odors. However, the response lacked responses on measures to prevent power outages and operational changes to ensure that the aeration basins are properly operated and maintained and failed to include an updated contingency plan.
Total Base Liability	\$260,260	The initial liability is multiplied by each factor related to C&H’s conduct to determine the Total Base Liability as follows: \$260,260 = \$140,000 × 1.3 (culpability) × 1.3 (cleanup and cooperation) × 1.1 (history of violations)

Attachment A – Administrative Civil Liability Factors
C&H Sugar Company, Inc.

Penalty Factor	Score	Discussion
Ability to Pay and Continue in Business	No adjustment	The Enforcement Policy provides that if there is sufficient financial information to assess C&H's ability to pay the total base liability or to assess the effect of the total base liability on the violator's ability to continue in business, then the liability may be adjusted downward if warranted. C&H is a sugar processing and distribution company and is the leading sugar brand in the West Coast of the United States. The Prosecution Team has no evidence of C&H's inability to pay the proposed liability.
Economic Benefit	\$2,385 (rounded)	The Enforcement Policy requires recovery of any economic benefit plus 10 percent derived from failure to implement controls that result in a violation. The report was delayed and incomplete; therefore, the economic benefit was the value C&H realized by delaying the expenditure. Assuming the cost to produce the report was roughly \$150,000, adjusting for inflation over the 209 days period of delay from January 2023 to August 2023 results in an economic benefit of roughly \$2,385.
Staff Costs	No adjustment	Staff costs are not included in the final proposed liability.
Maximum Liability	\$2.09 million	Water Code section 13385(c)(1) allows up to \$10,000 for each day in which the violation occurs. The maximum liability is based on 209 days of violation. $\$2,090,000 = 209 \text{ days} \times \$10,000/\text{day}$
Minimum Liability	\$2,623	The Enforcement Policy states the final liability must be at least 10 percent higher than the economic benefit. (Enforcement Policy page 21.) The economic benefit derived from the alleged violations (\$2,385) plus 10 percent is approximately \$2,623.50.
Final Liability	\$260,300 (rounded)	The final liability amount is the total base liability after adjusting for ability to pay, economic benefit, other factors, and maximum and minimum liabilities.

4. Effluent Limitation and Late Reporting Violations from December 2020 through January 2024

From December 2020 through January 2024, C&H reported three effluent limitation violations at the once-through cooling water outfall (Discharge Point 001) and five effluent limitation violations at the Joint Treatment Plant (Discharge Point 002), as listed in Table 6 below. These violations were isolated incidents and accelerated monitoring demonstrated compliance before any causes could be identified. Five of the eight violations are subject to a mandatory minimum penalty of \$3,000 pursuant to Water Code section 13385, subdivision (h) and (i), resulting in a mandatory penalty of \$15,000 (\$3,000 × 5 violations that include three from the Sugar Refinery). No penalties are proposed for the remaining violations.

Table 6. Alleged Effluent Limitation Violations

CIWQS Violation ID	Violation Date	Discharge Point	Parameter (units)	Group	Effluent Limitation	Reported Value	Percent Exceedance ^[1]	Violation Type	Mandatory Minimum Penalty ^[2]
1084532	12/16/2020	001	BOD (5-day at 20 Degree Celsius), Daily Maximum (lbs/day)	1	6,700	11,807	76%	C1, S	\$3,000
1084533	12/31/2020	001	BOD (5-day at 20 Degree Celsius), Monthly Average (lbs/day)	1	2,200	3,403	55%	C2, S	\$3,000
1099217	12/29/2021	001	BOD (5-day at 20 Degree Celsius), Daily Maximum (lbs/day)	1	6,700	10,912	63%	C1, S	\$3,000
1116085	3/31/2023	002	Total Suspended Solids (TSS), Monthly Average (lbs/month)	1	730	789	1%	>C3 ^[3]	\$3,000
1117304	4/11/2023	002	Total Coliform, Daily Maximum (MPN/100 mL)	[4]	10,000	>16,000	N/A	>C3	\$3,000
1124617	1/3/2024	002	Enterococcus, Monthly Geometric Mean (MPN/100 mL)	[4]	35	131.7	N/A	C1	\$0
1124618	1/18/2024	002	Total Coliform, Daily Maximum (MPN/100 mL)	[4]	10,000	>16,000	N/A	C2	\$0
1139122	12/26/2024	002	Total Coliform, Daily Maximum (MPN/100 mL)	[4]	10,000	>16,000	N/A	C1	\$0

Total Penalty: \$15,000

(Legend and footnotes are provided on next page)

Attachment A – Administrative Civil Liability Factors
C&H Sugar Company, Inc.

Legend:

CIWQS = California Integrated Water Quality System database that the Water Boards use to track violations and enforcement.

Violation ID = Identification number assigned to each permit violation within CIWQS.

C = Count – Number of violations within the past 180 days, including this violation. A penalty applies under Water Code section 13385(i) when the count is greater than three (>C3).

S = Serious – A penalty applies under Water Code section 13385(h) whenever an effluent limitation is exceeded by 40 percent or more for a Group 1 pollutant or 20 percent or more for a Group 2 pollutant.

Footnotes:

- [1] Percent that a discharger's reported value exceeds the effluent limitation for a Group 1 or Group 2 pollutant.
- [2] Mandatory minimum penalties required under Water Code section 13385(h) or (i).
- [3] Table 1 has three effluent violations that occurred in October 2022, which is within 180 days prior to March 31, 2023.
- [4] Total Coliform and enterococcus are not categorized as a Group 1 or Group 2 pollutant.

Attachment A – Administrative Civil Liability Factors
C&H Sugar Company, Inc.

From October 2022 through February 2024, C&H submitted three late self-monitoring reports required by Permit section VIII.B.2, as listed in Table 7 below. Pursuant to Water Code section 13385.1, subdivision (a)(1), a mandatory minimum penalty of \$3,000 applies for each complete period of 30 days following the deadline for submitting the report if the report is designed to ensure compliance with effluent limitations. Two of the three late reports are subject to such penalties. The report due December 31, 2022, was submitted 67 days late, and is thus subject to a \$6,000 penalty. The report due January 31, 2023, was submitted 48 days late, and is thus subject to a \$3,000 penalty. This results in mandatory penalties of \$9,000. No penalties are proposed for the remaining late report.

Table 7. Alleged Late Report Submittal Violations

CIWQS Violation ID	Reporting Period	Monitoring Report Due Date	Report Submittal Date	Days Overdue	Number of Complete 30-day Period(s)	Violation Type	Mandatory Minimum Penalty ^[1]
1112234	November 2022	12/31/2022	3/8/2023	67	2	S	\$6,000
1113282	December 2022	1/31/2023	3/20/2023	48	1	S	\$3,000
1113387	2022 ^[2]	2/1/2023	3/30/2023	57	1	N/A	\$0

Total Penalty: \$9,000

Legend:

CIWQS = California Integrated Water Quality System database that the Water Boards use to track violations and enforcement.

Violation ID = Identification number assigned to each permit violation within CIWQS.

S = Serious – A penalty applies under Water Code section 13385.1 applies for a failure to file a discharge monitoring report required pursuant to Water Code section 13383 for each complete period of 30 days following the deadline for submitting the report, if the report is designed to ensure compliance with limitations contained in waste discharge requirements that contain effluent limitations.

Footnotes:

^[1] Mandatory minimum penalties required under Water Code section 13385.1.

^[2] This is an annual self-monitoring report, which is not designed to ensure compliance with effluent limitations and thus not subject to mandatory minimum penalties when submitted late.

ATTACHMENT B
to
Settlement Agreement and Stipulation
for Entry of Administrative Civil Liability Order

Supplemental Environmental Project:
Crockett Shoreline Flood Mitigation Project

ATTACHMENT B

Supplemental Environmental Project: Crockett Shoreline Flood Mitigation Project

Basic Information

1. **Name:** Crockett Shoreline Flood Mitigation Project (Crockett Shoreline Project), which is referred to as “the SEP” in the Stipulated Order that approves this project as a SEP (Stipulated Order).
2. **Location and Purpose:** The Carquinez Waterfront is an area situated west of the Interstate 80 freeway, next to the Carquinez Bridge, and adjacent to the town of Crockett. In 2017, the State Lands Commission partnered with C&H Sugar Company, Inc. (C&H) and cleared the waterfront of approximately 12 metric tons of trash amassed from years of illegal dumping.

The Crockett Shoreline Project aims to restore the local habitat at the waterfront and improve the quality of water flowing into Carquinez Strait by building green infrastructure to filter pollutants and address seasonal flooding. This includes installing a bioretention basin, rain water garden, and permeable surface bordered by bioswales to slow down and filter stormwater runoff while promoting groundwater recharge.

3. **Budget:** \$374,000
4. **Project Developed By:** The Contra Costa Resource Conservation District (Conservation District) was formed in 1941 and serves the area within the political boundaries of Contra Costa County. The Conservation District is a non-regulatory special district of the State of California governed by a voluntary Board of Directors appointed by the County Board of Supervisors. The mission of the Conservation District is to conserve the natural resources of Contra Costa County.
5. **Project Implementor:** Conservation District
6. **Contact:** Heidi Petty, Watersheds Program Manager: hpetty@ccrcd.org
7. **Project Description:** The Crockett Shoreline Project includes the installation of a bioretention basin, rain water garden, and permeable surface bordered by bioswales.
 - A. **Bioretention basin:** The site is currently subject to heavy flooding during the wet weather season and receives run-off from a road that is heavily used by large trucks and vehicles. The retention basin will reduce the amount of sitting water in the area and allow the water to be moved or held until it can be properly distributed back through the ground and/or into Carquinez Strait. The bioretention basin will also serve as a natural filtration system, absorbing and purifying water

through native vegetation and soil layers comprised of 2'3" of mulch, 18" minimum bioretention soil mix (30-40% compost, 60-70% sand, with 10" per hour permeability), 3"-4" chocking course of ASTM No. 9, and 8" minimum aggregate storage layer (ASTM No. 7). These layers and dimensions are the starting basis of the design and will be calibrated to the site conditions during project design. The bioretention basin will also incorporate between 8 and 12 inches of freeboard.

- B. **Rain Water garden:** The slope of the shoreline will be adjusted to direct stormwater runoff toward a rain water garden filled with native plants. The native plants will act as an additional filter for the stormwater prior to flowing into Carquinez Strait. The combination of pre-treatment filters, soils, and native plants will target the removal of pollutants, including nutrients, metals, organics, bacteria, oils, and some sediment.
- C. **Permeable surface:** Portions of the existing gravel parking area will be reconstructed with a permeable surface with voids open to layers of sand and gravel that can filter and temporarily store runoff before infiltration. Nutrients, sediment, metals, and bacteria are pollutants targeted for removal. The permeable surface will be bordered by bioswale(s) designed to remove silt and pollutants, including nutrients, organics, and bacteria, similar to the system described above in section 7.B.

8. Compliance with SEP Criteria

This SEP fits within two categories of acceptable SEPs in the State Water Board SEP Policy (Policy):

A. Pollution Reduction

Pollution reduction projects result in a decrease in the amount and/or toxicity of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise being released into the environment by an operating business or facility by a means which does not qualify as "pollution prevention." The green infrastructure will reduce pollutants commonly found in stormwater runoff, including metals, sediment, nutrients, organics, and oil and grease, along with trash through pre-treatment screening as appropriate.

B. Environmental Restoration and Protection

Environmental restoration and protection projects include those that benefit surface or groundwater quality and enhance the condition of the ecosystem or immediate geographic area adversely affected by the violation. The SEP will directly benefit surface water quality and enhance the ecosystem through local habitat restoration. This includes surrounding the bioretention basin with native plants propagated from nearby mixed evergreen woodland, riparian forest, and freshwater marsh species.

In addition, the water that drains from the permeable paving and bioswales will be routed to a constructed freshwater wetland along Dowrelio Drive. This constructed freshwater wetland will improve the water quality of water emptying into Carquinez Strait from the waterfront and provide a small but highly valuable habitat for local wildlife.

The SEP does not pose a conflict of interest for the settling parties. The Conservation District, and the Carquinez Regional Environmental Education Center developed the SEP as part of Carquinez Recover the Waterfront Project. The SEP is not required by, nor operated under, the auspices of, or any obligations of, C&H, and does not directly benefit, in a fiscal manner, the Regional Water Board's functions, its members, or its staff.

The SEP has a nexus to the location of the alleged violations. The SEP site is located near the Crockett Joint Wastewater Treatment Plant and Carquinez Strait. The C&H Sugar Company Refinery is also located next to Carquinez Strait.

9. Study Milestones and Performance Measures

The SEP shall complete the following milestones to be deemed complete:

A. Administration, Design, and Engineering:

The administration portion of the SEP includes covering permitting, contracting, invoicing, and progress reports, and the design and engineering portion includes developing the layout of the site, procuring materials, creating planting and drainage plans, and coordinating with a site contractor.

Estimated cost: \$60,800

Completion Date: No later than 8 months from the Stipulated Order's effective date.

B. Bioretention Basin:

- i. Procurement of materials, including soils, gravel, mulch, edging material as needed, along with the review of associated testing data on each material to confirm they meet the performance requirements for the basin's intended function.
- ii. Select and procure native plants.
- iii. Conduct infiltration testing if needed to confirm the drainage rate of existing soils. Perform site grading to achieve the intended surface flow to the basin.
- iv. Excavation of the basin as specified.

Attachment B – Study Description for Supplemental Environmental Project
C&H Sugar Company, Inc.

- v. Placement of any pre-treatment interceptors, drains, and aggregate storage, followed by soils and mulch.
- vi. Conduct infiltration test on assembled basin, then proceed with placement of planting after confirmation of intended positive drainage rate.

Estimated cost: \$115,000

Completion Date: No later than 18 months from the Stipulated Order's effective date.

C. Rain Water Garden:

- i. Procurement of materials, including soils, gravel, mulch, edging material as needed, along with the review of associated testing data on each material to confirm they meet the performance requirements for the basin's intended function.
- ii. Select and procure native plants.
- iii. Conduct infiltration testing if needed to confirm the drainage rate of existing soils. Perform site grading to achieve the intended surface flow to the basin.
- iv. Excavation of the basin as specified.
- v. Placement of any pre-treatment interceptors, drains, and aggregate storage, followed by soils and mulch.
- vi. Conduct infiltration test on assembled basin, then proceed with placement of planting after confirmation of intended positive drainage rate.

Estimated cost: \$95,000

Completion Date: No later than 18 months from the Stipulated Order's effective date.

D. Permeable paving surface:

- i. Procurement of open-jointed pavers, gravel retention courses, and underdrains or edge restraints as needed.
- ii. Conduct infiltration testing if needed to confirm drainage rate of existing soils. Adjust gravel layers beneath paving surface accordingly to achieve infiltration desired.
- iii. Perform adjacent site grading to direct surface flow as intended to permeable surfaces.

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C&H Sugar Company, Inc.

- iv. Grading of subgrade to accommodate sectional buildup of gravel drainage courses.
- v. Compact bottom of subgrade to approximately 90%.
- vi. Rip or till any over-compacted subgrade to promote infiltration.
- vii. Scarify subgrade, then begin installation of pavement base, including gravel storage and sand layers. Install in 6-inch maximum lifts to ensure proper compaction for vehicular parking.
- viii. Perform infiltration test of the subgrade assembly and adjust if needed.
- ix. Install open-jointed paver material over sand layer.

Estimated Cost: \$103,200

Completion Date: No later than 18 months from the Stipulated Order's effective date.

The project's performance will be measured by sampling water quality prior to SEP implementation and following SEP completion. The parameters will include pH, phosphates, trash, and metals.

10. Quarterly Report

The Conservation District shall submit progress reports on the fifteenth of each calendar quarter (January 15, April 15, July 15, and October 15) starting with the first full calendar quarter after the Stipulated Order's effective date and ending with the Final Completion Report.

Quarterly reports shall include, at a minimum, the following: documentation of the tasks completed during the previous quarter and an analysis of the project's progress; an explanation for any incomplete tasks and an updated project schedule with projected completion dates, if necessary; descriptions and photos of activities completed during the previous quarter; results of any monitoring completed during the previous quarter; and an accounting of the money expended on the SEP in the previous quarter.

11. Final Completion Report

The Conservation District shall submit a final completion report within eight months of project completion that includes the following: a summary of all completed tasks, an evaluation of the project's performance measures/success criteria, photos documenting the completion of the bioretention basin, rain water garden, and permeable surface bordered by bioswales, and a certified statement of SEP

Attachment B – Study Description for Supplemental Environmental Project
C&H Sugar Company, Inc.

completion, signed under penalty of perjury, as required in Section III, paragraph 7, of the Stipulated Order.

12. Publicity

Whenever C&H, or its agents or subcontractors, publicizes one or more elements of the study, it shall state prominently that the study is undertaken as part of a settlement in a Regional Water Board enforcement action against C&H.