

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

In the Matter of:

**CHRIS MATHYS, RHINE, L.P., ORO
FINANCIAL OF CALIFORNIA, INC.,
SANTA BARBARA COUNTY**

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

ORDER NO. R3-2022-0013

SECTION I: INTRODUCTION

1. This Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order (Stipulated Order or Order) is entered into by and between the California Regional Water Quality Control Board, Central Coast Region Prosecution Team (Prosecution Team), and Chris Mathys; Rhine, L.P.; and Oro Financial of California, Inc. (Dischargers¹) (collectively, Parties) and is presented to the California Regional Water Quality Control Board, Central Coast Region (Central Coast 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 in the attached Administrative Civil Liability Complaint No. R3-2021-0097 (Complaint) by imposing administrative civil liability against the Dischargers in the amount of **\$125,893**.

SECTION II: RECITALS

1. On October 20, 2015, the Central Coast Water Board issued a Water Code section 13267 Investigative Order (2015 Investigative Order) to the Dischargers requiring the submittal of a site investigation and assessment workplan by December 14, 2015, for the property located at 2936 Industrial Parkway, Santa Maria, Santa Barbara County (Site).
2. The Complaint provides a detailed history of Site operations, ownership, and regulatory oversight dating back to 1985, and is generally summarized as follows:
 - a. The Site was formerly operated by SEMCO Twist Drill and Tool Company, Inc. (SEMCO) from 1949 to approximately 2001. SEMCO manufactured drill bits and other cutting tools at the Site and used various organic

¹ Chris Mathys serves as the President, Chief Executive Officer, and Chief Financial Officer of Oro Financial of California, Inc. Rhine, L.P. is solely managed by Platino, Inc., a General Partner. Chris Mathys serves as the President and Chief Executive Officer of Platino, Inc.

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solvents to degrease tools. Trichloroethylene (TCE) and 1,1,1-trichloroethane (TCA) were stored in aboveground tanks (AGTs) east of the Site's shop building until 1985. Operations at the Site caused the release of solvents (stored in AGTs), cutting oil (stored in underground sumps), and other potential spills to the environment between 1949 and 2001.

- b. TCE was first discovered at the Site in 1985, after the City of Santa Maria shut off a municipal supply well downgradient from the Site due to detections of TCE at concentrations above the drinking water standard of 5 micrograms per liter ($\mu\text{g/L}$). Between 1987 to 1991, preliminary environmental assessments at the Site identified TCE impacts to both shallow and deep groundwater.
- c. From 1992 to 2000, the former Site owner, the Henry A. and Rhea Stafford Revocable Trust, and SEMCO worked with the Central Coast Water Board and Department of Toxic Substances Control to conduct additional environmental assessments and groundwater remediation at the Site, including the installation and operation of a groundwater extraction and treatment system.
- d. In 2001, the Site went into foreclosure and Site ownership was transferred to Oro Financial of California, Inc. in 2002. In November 2002, Chris Mathys, on behalf of Oro Financial of California, Inc., voluntarily submitted and signed an Acknowledgement of Willingness to Participate in Cleanup or Abatement Cost Recovery Program form.
- e. From 2002 to 2010, the Site ownership transferred between the Dischargers and other business entities controlled by Chris Mathys.
- f. In 2003, all groundwater monitoring and operation of the groundwater treatment system at the Site were suspended due to claims of financial hardship. The last groundwater monitoring sampling event in September 2003 identified increasing trends in groundwater pollutant concentrations, suggesting that polluted soils are continuing to release pollutants to groundwater.
- g. From 2003 through 2014, the Site owners responded to Central Coast Water Board's Annual Cost Recovery letters (2003 to 2011) and staff's numerous email and verbal inquiries on project status, claiming financial hardship and inability to fund additional expenses related to the Site.
- h. After a Site inspection in 2015, the Central Coast Water Board issued the 2015 Investigative Order to the Dischargers requiring the submittal of a Site investigation and assessment workplan by December 14, 2015. The Dischargers were required to include a scope of work to determine the

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current extent of pollutants in soil, soil gas, and groundwater considering that there was a lack of environmental characterization and cleanup since 2003.

- i. Before and after issuance of the 2015 Investigative Order, Central Coast Water Board and State Water Resources Control Board (State Water Board) staff attempted on multiple occasions to contact and assist the Dischargers with grant funding opportunities. The Dischargers did not take the steps necessary to document their alleged financial hardship.
- j. On June 17, 2019, Central Coast Water Board staff issued the Dischargers a notice of violation (NOV) for failing to submit a site investigation and assessment workplan in compliance with the 2015 Investigative Order. The NOV offered an opportunity for the Dischargers to submit the workplan by July 25, 2019, without being recommended for further enforcement action.
- k. In November 2020, the Prosecution Team entered into settlement negotiations with the Dischargers prior to issuing the Complaint.
- l. In January 2021, Central Coast Water Board staff concurred with the Dischargers' proposal to implement a phased approach to assess vapor intrusion and to determine the lateral and vertical extent of pollutants in soil, soil gas, and groundwater. The Discharger submitted a workplan on February 12, 2021, which included a scope of work to evaluate indoor air to address human health risk to building occupants at the Site, install a soil gas monitoring well network, sample soil gas, and evaluate and sample existing groundwater monitoring wells.
- m. The Dischargers submitted the results of the first phase of the site assessments in an Indoor Air Sampling Report on April 7, 2021, a Soil Vapor Sampling Report on July 16, 2021, and a Monitoring Well Investigation Report on July 16, 2021. The Indoor Air Sampling Report indicated that there was no immediate vapor intrusion threat based on indoor air sample results. The Soil Vapor Sampling Report indicated high concentrations of TCE in soil vapor and further assessment of pollutants in soil and groundwater. The Monitoring Well Investigation Report indicated that the fifteen monitoring wells were located but only one well was accessible for sampling. The well sampled indicated elevated levels of pollutants and the Dischargers proposed additional vertical and lateral delineation of pollutants to develop a remedial action design.
- n. On September 10, 2021, the Central Coast Water Board staff required the Dischargers to submit an additional assessment workplan by November 21, 2021, to conduct the next phase of assessments to come into compliance with the 2015 Investigative Order.

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- o. The Dischargers submitted a workplan on November 18, 2021, to conduct the second phase of assessments necessary to comply with the requirements of the 2015 Investigative Order. On January 4, 2022, the Central Coast Water Board conditionally approved the scope of work and schedule included in the November 18, 2021 workplan provided the Dischargers adequately addressed several conditions and submit an Indoor Air Report by February 14, 2022, and a Site Assessment Report by May 31, 2022.
3. The Complaint alleges that the Dischargers violated the 2015 Investigative Order from December 14, 2015, to February 12, 2021.²
4. Pursuant to Water Code section 13268, a person failing or refusing to furnish technical or monitoring program reports as required by Water Code section 13267, is guilty of a misdemeanor and subject to an administrative civil liability up to \$1,000 for each day in which the violation occurs.
5. The Complaint proposes an administrative civil liability totaling \$125,893 pursuant to Water Code section 13268 for the Dischargers' failure to comply with the 2015 Investigative Order.
6. The Parties have engaged in confidential settlement negotiations and agree to settle the violation alleged in the Complaint without administrative or civil litigation and to present this Stipulated Order to the Central Coast Water Board, or its delegate, for adoption as an Order by settlement, pursuant to Water Code section 13323 and Government Code section 11415.60.
7. To resolve the violation alleged in the Complaint, by consent, the Parties have agreed to the imposition of an administrative civil liability of \$125,893 against the Dischargers. The Prosecution Team calculated the proposed administrative civil liability amount using the Penalty Calculation Methodology set forth in the State Water Board's 2017 Water Quality Enforcement Policy, as shown in Attachment A of the Complaint, which is incorporated herein by reference.
8. The Prosecution Team has determined 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.

² The Prosecution Team has exercised discretion in selecting the February 12, 2021 submittal date as the violation period end-date because the first phase of the assessment work required by the 2015 Investigative Order was submitted at that time. The Prosecution Team reserves its right to pursue additional enforcement, including administrative civil liability, for any failure to comply with the 2015 Investigative Order after February 12, 2021, because additional work needs to be conducted to comply with the requirements of the 2015 Investigative Order.

SECTION III: STIPULATIONS

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

1. **Jurisdiction:** The Parties agree that the Central Coast Water Board has subject matter jurisdiction over the matters alleged in this action and personal jurisdiction of the Parties to this Stipulated Order.
2. **Administrative Civil Liability:** The Dischargers hereby agree to the imposition of an administrative civil liability in the amount of **one hundred twenty-five thousand eight hundred and ninety-three dollars (\$125,893)** by the Central Coast Water Board to resolve the violation specifically alleged in the Complaint. No later than 30 days after the Central Coast Water Board, or its delegate, signs this Order, the Discharger shall submit a check for **one hundred twenty-five thousand eight hundred and ninety-three dollars (\$125,893)** made payable to the “State Water Pollution Cleanup and Abatement Account,” reference Order number R3-2022-0013, and mail it to:

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

The Dischargers shall provide a copy of the check via email to the State Water Board, Office of Enforcement (Paul.Ciccarelli@waterboards.ca.gov) and the Central Coast Water Board (Thea.Tryon@waterboards.ca.gov).

3. **Compliance with Applicable Laws and Regulatory Changes:** The Dischargers understand that payment of an 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 additional violations of the type alleged may subject them to further enforcement, including additional administrative civil liabilities.
4. **Party Contacts for Communications Related to Stipulated Order:**

For the Central Coast Water Board:

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

For the Dischargers:

Chris Mathys
2304 W. Shaw Ave., Suite 102
Fresno, CA 93711
mathys@orofinancial.net
(559) 438-9999

5. **Attorneys' Fees and Costs:** Except as otherwise provided herein, each Party shall bear all attorneys' fees and costs arising from the Party's own counsel in connection with the matters set forth herein.
6. **Matters Addressed by This Stipulated Order:** Upon the Central Coast Water Board's or its delegate's adoption, this Stipulated Order represents a final and binding resolution and settlement of the violation alleged in the Complaint 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 2.
7. **Public Notice:** The Complaint was previously noticed for a 30-day public review and comment period and any public comment submitted during that period will be responded to when this Stipulated Order is presented to the Central Coast Water Board, or its delegate, for adoption. The Parties do not anticipate that an additional public review and comment period is necessary for this Stipulated Order because the Dischargers agree to pay the full administrative civil liability amount as proposed in the Complaint. The Dischargers understand, however, that this Stipulated Order may be noticed for an additional public review and comment period prior to consideration by the Central Coast Water Board, or its delegate. If significant new information is received that reasonably affects the propriety of presenting this Stipulated Order to the Central Coast Water Board, or its delegate, for adoption, the Assistant Executive Officer may unilaterally declare this Stipulated Order void and decide not to present it to the Central Coast Water Board, or its delegate. The Dischargers agree that they may not rescind or otherwise withdraw their approval of this proposed Stipulated Order.
8. **Addressing Objections Raised During Public Comment Period:** The Parties agree that the procedure contemplated for the Central Coast Water Board's or its delegate's adoption of the Stipulated Order, and public review of this Stipulated Order is lawful and adequate. The Parties understand that the Central Coast Water Board, or its delegate, have the authority to require a public hearing on this Stipulated Order. In the event procedural objections are raised or the Central Coast Water Board requires a public hearing prior to the Stipulated Order becoming effective, the Parties agree to meet and confer concerning any such objections, and may agree to revise or adjust the procedure and/or this Stipulated Order as necessary or advisable under the circumstances.

9. **No Waiver of Right to Enforce:** The failure of the Prosecution Team or Central Coast Water Board to enforce any provision of this Stipulated Order shall in no way be deemed a waiver of such provision, or in any way affect the validity of this Stipulated Order. The failure of the Prosecution Team or Central Coast Water Board to enforce any such provision shall not preclude it from later enforcing the same or any other provision of this Stipulated Order. No oral advice, guidance, suggestions, or comments by employees or officials of any Party regarding matters covered under this Stipulated Order shall be construed to relieve any Party regarding matters covered in this Stipulated Order. The Central Coast Water Board reserves all rights to take additional enforcement actions, including without limitation, the issuance of administrative civil liability complaints or orders for violations other than those addressed by this Stipulated Order.
10. **Effect of Stipulated Order:** Except as expressly provided in this Stipulated Order, nothing in this Stipulated Order is intended nor shall it be construed to preclude the Central Coast Water Board or any state agency, department, board or entity or any local agency from exercising its authority under any law, statute, or regulation.
11. **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.
12. **Modification:** This Stipulated Order shall not be modified by any of the Parties by oral representation whether made before or after the execution of this Order. All modifications must be made in writing and approved by the Central Coast Water Board or its delegate.
13. **If Order Does Not Take Effect:** In the event that the Stipulated Order does not take effect because the Central Coast Water Board or its delegate does not approve it, or the State Water Board or a court vacates it in whole or in part, the Parties acknowledge that they expect to proceed to a contested evidentiary hearing before the Central Coast Water Board to determine whether to assess administrative civil liability for the underlying violation(s), unless the Parties agree otherwise. The Parties agree that all oral and written statements and agreements made during the course of settlement discussions will not be admissible as evidence in the hearing. The Parties agree to waive any and all objections based on settlement communications in this matter, including, but not limited to the following:
 - a. Objections related to prejudice or bias of any of the Central Coast Water Board members or their advisors and any other objections that are premised in whole or in part on the fact that the Central Coast Water Board members or their advisors were exposed to some of the material facts and the Parties' settlement positions as a consequence of reviewing

the Stipulated Order, and therefore may have formed impressions or conclusions prior to any contested evidentiary hearing on the violation alleged in the Complaint; or

- b. Laches or delay or other equitable defenses based on the time period for administrative or judicial review to the extent this period has been extended by these settlement proceedings.
14. **Waiver of Hearing:** The Dischargers have been informed of the rights provided by Water Code section 13323, subdivision (b), and hereby waive their rights to a hearing before the Central Coast Water Board prior to the Stipulated Order's adoption.
15. **Waiver of Right to Petition or Appeal:** The Dischargers hereby waive their right to petition the Central Coast Water Board's adoption of the Stipulated Order for review by the State Water Board, and further waives the right, if any, to appeal the same to a California Superior Court and/or any California appellate-level court.
16. **Covenant Not to Sue:** The Dischargers covenant not to sue or pursue any administrative or civil claim(s) against any state agency or the state of California, their officers, board members, employees, representatives, agents, or attorneys arising out of or relating to any matter expressly addressed by this Stipulated Order.
17. **Authority to Bind:** Each person executing this Stipulated Order in a representative capacity represents and warrants that they are authorized to execute this Order on behalf of and to bind the entity on whose behalf the Order is executed.
18. **Necessity for Written Approvals:** All approvals and decisions of the Central Coast Water Board under the terms of this Stipulated Order shall be communicated to the Dischargers in writing. No oral advice, guidance, suggestions, or comments by employees or officials of the Central Coast Water Board regarding submissions or notices shall be construed to relieve the Dischargers of their obligation to obtain any final written approval required by this Stipulated Order.
19. **No Third-Party Beneficiaries:** This Stipulated Order is not intended to confer any rights or obligation 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.
20. **Severability:** This Stipulated Order is severable; should any provision be found invalid, the remainder shall remain in full force and effect.

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

22. **Counterpart Signatures; 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 electronic signature, and any such electronic signature by any Party hereto shall be deemed to be an original signature and shall be binding on such Party to the same extent as if such electronic signature were an original signature.

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IT IS SO STIPULATED.

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

*Original Signed by Thea S. Tryon
On January 6, 2022*

By: _____

Thea S. Tryon
Assistant Executive Officer
Central Coast Water Board

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IT IS SO STIPULATED.

Chris Mathys

*Original Signed by Chris Mathys
On January 5, 2022*

Date: _____

By: _____
Chris Mathys, Individually

Oro Financial of California, Inc.

*Original Signed by Chris Mathys
On January 5, 2022*

Date: _____

By: _____
Chris Mathys
President
Oro Financial of California, Inc.

Rhine, L.P.

*Original Signed by Chris Mathys
On January 5, 2022*

Date: _____

By: _____
Chris Mathys
President
Platino, Inc., General Partner

ORDER OF THE CENTRAL COAST WATER BOARD:

1. This Order fully incorporates the foregoing Sections I through III by this reference as if set forth fully herein.
2. In accepting this Stipulated Order, the Central Coast Water Board has considered, where applicable, each of the factors prescribed in Water Code section 13327 and has applied the Penalty Calculation Methodology set forth in the State Water Board's 2017 Water Quality Enforcement Policy. The Central Coast Water Board's consideration of these factors and application of the Penalty Calculation Methodology is based upon information obtained by the Prosecution Team in investigating the allegations set forth in the Stipulated Order, or otherwise provided to the Central Coast Water Board.
3. This is an action to enforce the laws and regulations administered by the Central Coast Water Board. The Central Coast Water Board finds that issuance of this Stipulated Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, section 21000 et seq.) in accordance with section 15321, subdivision (a)(2), title 14, of the California Code of Regulations.
4. The Executive Officer of the Central Coast Water Board is authorized to refer this matter directly to the Attorney General for enforcement if the Dischargers fail to perform any of their obligations under this 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, Central Coast Region.

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

Attachment: Administrative Civil Liability Complaint No. R3-2021-0097