

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

In the matter of:

**UC FARMS, INC.  
SANTA CLARA COUNTY**

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

**ORDER NO. R3-2023-0066**

**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 (Central Coast Water Board) Prosecution Team (Prosecution Team), and UC Farms, Inc.<sup>1</sup> (individually, UC Farms) (collectively, the Parties) and is presented to the Central Coast Water Board, or its delegate, for adoption as an order by settlement pursuant to California Water Code (Water Code) section 13323 and California Government Code (Government Code) section 11415.60.

**SECTION II: RECITALS**

1. Irrigated agricultural discharges have been regulated by the Central Coast Water Board for over 15 years, since the adoption of the first agricultural order in 2004.<sup>2</sup> On April 15, 2021, the Central Coast Water Board adopted the fourth Agricultural Order *General Waste Discharge Requirements for Discharges from Irrigated Lands* Order No. R3-2021-0040 (Agricultural Order).<sup>3</sup> The Agricultural Order requires that owners and operators of irrigated lands on or from which there are discharges of waste that could affect the quality of any surface water or groundwater in the central coast region to comply with the Agricultural Order.

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<sup>1</sup> The electronic Notice of Intent (eNOI) submitted for the relevant ranch identified the permittee as "UC Farms, Inc." UC Farms, Inc. is also an entity assigned Entity ID C3063318 from the California Secretary of State public website.

<sup>2</sup> The first agricultural order was adopted on July 9, 2004, Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands Order No. R3-2004-0117 (Agricultural Order 1.0). Agricultural Order 1.0 expired on July 9, 2009, and the Central Coast Water Board renewed Agricultural Order 1.0 several times (Order No. R3-2009-0050 on July 9, 2009; Order No. R3-2010-0040 on July 8, 2010; Order No. R3-2011-0208 on March 29, 2011; Order No. R3-2011-0017 on September 30, 2011). The second Agricultural Order was adopted on March 15, 2012, Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands Order No. R3-2012-0011 (Agricultural Order 2.0). The third Agricultural Order was adopted on March 8, 2017, Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands Order No. R3-2017-0002 (Agricultural Order 3.0).

<sup>3</sup> A copy of the Agricultural Order is available at:

[https://www.waterboards.ca.gov/centralcoast/water\\_issues/programs/ilp/regulatory\\_information.html](https://www.waterboards.ca.gov/centralcoast/water_issues/programs/ilp/regulatory_information.html)

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2. Pursuant to Water Code section 13267, the Agricultural Order required operators and landowners of irrigated land used for commercial crop production to submit Total Nitrogen Applied reports (TNA Reports) annually by March 1.

3. On July 30, 2012, UC Farms submitted an electronic Notice of Intent (eNOI) and enrolled Miliias Ranch (Ranch ID AGL020013675) under Agricultural Order 2.0. UC Farms (and all associated ranches) were automatically enrolled under subsequent adopted Agricultural Orders. Miliias Ranch was required to report TNA for the 2021 TNA reporting period (January 1, 2021 to December 31, 2021). The ranch eNOI stated Miliias Ranch was comprised of 22 acres of commercial irrigated land on Santa Clara County Assessor's Parcel Numbers 841-25-015, 841-50-019, 841-50-021, 841-50-027, and 841-50-028.

4. On July 27, 2022, the Central Coast Water Board issued a notice of violation to UC Farms for failure to submit the 2021 TNA Report required by the Agricultural Order via First Class Mail. On December 13, 2022, Central Coast Water Board staff sent the notice of violation via Certified Mail having not received a response to the July 27, 2022 notice of violation. On December 27, 2022, the Central Coast Water Board received certified mail receipts for the December 13, 2022 letter. In addition to issuance of the notice of violation, Central Coast Water Board staff conducted the following outreach with growers, including UC Farms, regarding the requirement to submit TNA reports:

- a. E-mails on December 15, 2021, January 12, 2022, and February 16, 2022, reminding growers to submit the 2021 TNA report due on March 1, 2022.
- b. E-mail on March 29, 2022, notifying growers of their failure to submit 2021 TNA report.

5. On February 6, 2023, the Central Coast Water Board Prosecution Team issued a letter notifying UC Farms of the forthcoming assessment of administrative civil liabilities. The letter provided UC Farms with the opportunity to contact the Prosecution Team and discuss the matter. The Prosecution Team was successful in contacting UC Farms by telephone on March 17, 2023. The Prosecution Team met with UC Farms on April 6, 2023. After several follow-on communications, UC Farms submitted the 2021 TNA Report on March 27, 2023.

6. For purposes of settlement, the Prosecution Team alleges UC Farms failed to submit the 2021 TNA Report by the March 1, 2022 deadline set forth in the Agricultural Order. UC Farms's failure to submit the 2021 TNA Report by the due date in the Agricultural Order subjects UC Farms to administrative civil liability under Water Code section 13268.

7. Pursuant to Water Code section 13268, subdivision (a), a person who fails to submit technical or monitoring reports required under Water

Code section 13267 is subject to administrative civil liability under Water Code section 13268, subdivision (b) "in an amount which shall not exceed one thousand dollars (\$1,000) for each day in which the violation occurs."

8. The Parties have engaged in confidential settlement negotiations and agree to settle the alleged violation 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.

9. To resolve the alleged violation listed in Section II, paragraph 6 by consent, the Parties have agreed to the imposition of an administrative civil liability of **forty-two thousand three hundred and forty-eight dollars (\$42,348)** against UC Farms. The administrative civil liability amount is the liability amount the Prosecution Team calculated using Steps 1 through 10 of the State Water Resources Control Board's (State Water Board) Water Quality Enforcement Policy (Enforcement Policy),<sup>4</sup> as shown in Attachment A, which is incorporated herein by reference. The calculation of economic benefit is shown in Attachment B.

10. 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.

### **SECTION III: STIPULATIONS**

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

1. **Jurisdiction:** The Parties agree the Central Coast Water Board has subject matter jurisdiction over the matters alleged in this action and personal jurisdiction of the Parties to this Stipulation.
2. **Administrative Civil Liability:** UC Farms hereby agrees to the imposition of **forty-two thousand three hundred and forty-eight dollars (\$42,348)** in administrative civil liability to resolve the violation set forth in Section II, paragraph 6. UC Farms must submit payment by check or other authorized method of payment<sup>5</sup> in the amount of **forty-two thousand three hundred and forty-eight dollars (\$42,348)** no later than 30 days following the date the Central Coast Water Board or its delegate signs this Stipulated Order. Payment must be made payable to the "State Water Board Cleanup and Abatement Account,"

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<sup>4</sup> State Water Board, 2017 Water Quality Enforcement Policy, effective October 5, 2017, [https://www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/resolutions/2017/040417\\_9\\_final%20adopted%20policy.pdf](https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2017/040417_9_final%20adopted%20policy.pdf)

<sup>5</sup> For more information see the State Water Board's website at the following address: [https://www.waterboards.ca.gov/make\\_a\\_payment/](https://www.waterboards.ca.gov/make_a_payment/)

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reference "Order No. R3-2023-0066 CAA Payment," and be submitted to:

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

UC Farms must provide a copy of the check or payment confirmation via e-mail to the State Water Board, Office of Enforcement to Julie Macedo at [Julie.Macedo@waterboards.ca.gov](mailto:Julie.Macedo@waterboards.ca.gov), and the Central Coast Water Board to Tamara Anderson at [Tamara.Anderson@waterboards.ca.gov](mailto:Tamara.Anderson@waterboards.ca.gov).

3. **Party Contacts for Communications related to Stipulated Order:**

a. **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](mailto:Thea.Tryon@waterboards.ca.gov)  
(805) 542-4776

Tamara Anderson  
Enforcement Coordinator  
Central Coast Regional Water Quality Control Board  
895 Aerovista Place, Suite 101  
San Luis Obispo, CA 93401  
[Tamara.Anderson@waterboards.ca.gov](mailto:Tamara.Anderson@waterboards.ca.gov)  
(805) 549-3334

b. **For UC Farms:**

Luis Urias  
UC Farms, Inc.  
6360 Greenfield Drive  
Gilroy, CA 95020  
[ucfarmsinc@gmail.com](mailto:ucfarmsinc@gmail.com)

Michelle Chester  
UC Farms Counsel  
Somach Simmons & Dunn  
500 Capitol Mall, Suite 1000  
Sacramento, CA 95814

(916) 469-3854  
[mchester@somachlaw.com](mailto:mchester@somachlaw.com)

4. **Attorneys' Fees and Costs:** Except as otherwise provided herein, each Party agrees to bear all attorneys' fees and costs arising from the Party's own counsel in connection with the matters set forth herein.
5. **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 alleged violation 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 deadlines specified in Section III, paragraph 2.
6. **Public Notice:** UC Farms understands that this Stipulated Order must be noticed for a 30-day 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 Prosecution Team may unilaterally declare this Stipulated Order void and decide not to present it to the Central Coast Water Board or its delegate. UC Farms agrees that it may not rescind or otherwise withdraw its approval of this Stipulated Order.
7. **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, has 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.
8. **No Waiver of Right to Enforce:** The failure of the 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 Central Coast Water Board to enforce any such provision shall not preclude later enforcement of the same or any other provision of this Stipulated Order. If UC Farms fails to comply with this Stipulated Order, the Central Coast Water Board or its delegate may refer the matter to the State Attorney General to enforce the terms of this Stipulated Order.
9. **Effect of this Stipulated Order:** Except as expressly provided in this Stipulated Order, nothing in this Stipulated Order precludes the Central Coast

Water Board or any State agency, department, board, or local agency from exercising its authority under any law, statute, or regulation.

10. **Compliance with Applicable Laws:** UC Farms 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 type alleged herein may subject it to further enforcement, including additional administrative civil liability. Nothing in this Stipulated Order shall excuse UC Farms from meeting any more stringent requirements, which may be imposed hereafter by changes in applicable and legally binding legislation or regulations.

11. **Covenant Not to Sue:** UC Farms covenants not to sue or pursue any administrative or civil claim(s) 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.

12. **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.

13. **Modification:** The Parties must 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 Central Coast Water Board or its delegate.

14. **Integration:** This Stipulated Order constitutes the entire agreement between the Parties and may not be amended or supplemented except as provided for in this Stipulated Order.

15. **Necessity for Written Approvals:** All approvals and decisions of the Central Coast Water Board, or its delegate, under the terms of this Stipulated Order must be communicated to UC Farms in writing. No oral advice, guidance, suggestions, or comments from Central Coast Water Board employees or officials regarding submissions or notices shall be construed to relieve UC Farms of its obligation to obtain any final written approval this Stipulated Order requires.

16. **If the 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 liabilities 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 herein in this matter; 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.

17. **Waiver of Hearing:** UC Farms has been informed of the rights Water Code section 13323, subdivision (b) provides, and hereby waives its right to a hearing before the Central Coast Water Board prior to the Stipulated Order's adoption. However, UC Farms may appear at any Central Coast Water Board hearing where approval of this settlement is discussed, and if the settlement is not adopted and the matter proceeds to the Central Coast Water Board or State Water Board for a hearing, UC Farms does not waive its right to an adjudicatory hearing before any order other than this Stipulated Order is imposed.

18. **Waiver of Right to Petition or Appeal:** Except in the instance where the Stipulated Order is not adopted by the Central Coast Water Board or its delegate, UC Farms hereby waives its right to petition the Central Coast Water Board's adoption of this Order for review by the State Water Resources Control Board, and further waives its rights, if any, to appeal the same to a California Superior Court and/or any California appellate-level court.

19. **Authority to Bind:** Each person executing this Stipulated Order in a representative capacity represents and warrants that he or she is authorized to execute this Stipulated Order on behalf of and to bind the entity on whose behalf he or she executes the Stipulated Order.

20. **No Third-Party Beneficiaries:** This Stipulated Order is not intended to confer any rights or obligations on any third party or parties, and no third party or parties shall have any right of action under this Stipulated Order for any cause whatsoever.

21. **Severability:** This Stipulated Order is severable; should any provision be found invalid, the remainder shall remain in full force and effect.

22. **Counterpart Signatures; Electronic Signature:** This Stipulated Order may be executed and delivered in any number of counterparts, each of which

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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.

23. **Effective Date:** This Stipulated Order becomes 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.



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**IT IS SO STIPULATED.**

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

*Original signed by Thea Tryon  
on October 2, 2023*

By: \_\_\_\_\_

Thea S. Tryon  
Assistant Executive Officer  
Central Coast Water Board

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**IT IS SO STIPULATED.**

**UC FARMS, INC.**

Date: \_\_\_\_\_

*Original signed by Luis Urias on  
September 28, 2023*  
By: \_\_\_\_\_

Luis Urias  
UC Farms, Inc.

**ORDER OF THE CENTRAL COAST 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 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 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 UC Farms 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, Central Coast Region.

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Ryan E. Lodge  
Executive Officer  
California Regional Water Quality Control Board  
Central Coast Region

**Attachment A:** Factor Consideration and Penalty Calculation Methodology

**Attachment B:** Economic Benefit Analysis

## ATTACHMENT A

### FACTOR CONSIDERATION AND PENALTY CALCULATION METHODOLOGY FOR SETTLEMENT AGREEMENT AND STIPULATION FOR ENTRY OF ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R3-2023-0066

#### UC FARMS, INC. MILIAS RANCH AGRICULTURAL IRRIGATED LANDS SANTA CLARA COUNTY

This document provides details on the proposed administrative civil liability penalty methodology related to UC Farms, Inc., referred to as “Discharger,” for failure to submit the 2021 Total Nitrogen Applied Report (TNA Report) for Milias Ranch (GeoTracker Global Identifier AGL020013675) by the annual March 1 deadline. The California Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board) Prosecution Team derived the proposed administrative civil liability by following the State Water Resources Control Board’s (State Water Board) 2017 Water Quality Enforcement Policy (Enforcement Policy), which was adopted on April 4, 2017, and became effective on October 5, 2017.<sup>6</sup> The proposed administrative civil liability takes into account such factors as the Discharger’s culpability, cooperation in returning to compliance, ability to pay the proposed liability, and other factors as justice may require.

#### **Application of the State Water Board’s Enforcement Policy**

The Enforcement Policy establishes a methodology for assessing administrative civil liability. Use of the methodology addresses the factors in California Water Code (Water Code) section 13327, which require the Central Coast Water Board to consider several factors when determining the amount of civil liability to impose, including “...the nature, circumstance, extent, and gravity of the violation or violations, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, and, with respect to the violator, the ability to pay, the effect on ability to continue its business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters that justice may require.”

The Prosecution Team developed the proposed administrative civil liability based on the procedures included in the Enforcement Policy methodology. The steps used to calculate the proposed liability are discussed and summarized in the table below.

#### **Regulatory Basis of Alleged Violation and Proposed Liability**

The Central Coast Water Board regulates discharges from irrigated agricultural lands to protect surface water and groundwater by requiring enrollment in General Waste

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<sup>6</sup> Link to State Water Board 2017 Enforcement Policy:  
[https://www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/resolutions/2017/040417\\_9\\_final%20adopted%20policy.pdf](https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2017/040417_9_final%20adopted%20policy.pdf)

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Discharge Requirements for Discharges from Irrigated Lands Order No. R3-2021-0040 (Agricultural Order).<sup>7</sup> The Discharger is enrolled in the Agricultural Order. The Discharger has failed to submit the 2021 TNA Report for Milias Ranch by March 1, 2022, a violation of Agricultural Order Monitoring and Reporting Program section B.1.

Failure to submit the 2021 TNA Report is a violation of Water Code section 13267. Pursuant to Water Code section 13268, subdivision (b), a violation of a Water Code section 13267 requirement subjects the Discharger to administrative civil liability up to \$1,000 per day for each day in which the violation occurs.

In the table below, the Central Coast Water Board Prosecution Team presents the procedural steps used to calculate the proposed liability for failure to submit the 2021 TNA Report for Milias Ranch.

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<sup>7</sup> A copy of the Agricultural Order is available at:

[https://www.waterboards.ca.gov/centralcoast/water\\_issues/programs/ilp/regulatory\\_information.html](https://www.waterboards.ca.gov/centralcoast/water_issues/programs/ilp/regulatory_information.html)

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PENALTY CALCULATION METHODOLOGY STEPS	VALUE	DISCUSSION
Step 1 – Actual or Potential for Harm for Discharge Violations	Not applicable	This step is not applicable because this is not a discharge violation.
Step 2 – Assessments for Discharge Violations	Not applicable	This step is not applicable because this is not a discharge violation.
Step 3 – Per Day Assessments for Non-Discharge Violations	<p>Potential for Harm – <b>Moderate</b></p> <p>Deviation from Requirement – <b>Major</b></p> <p>Per Day Factor for Non-Discharge Violation – <b>0.55</b></p> <p>Initial Liability Amount – <b>\$179,300</b></p>	<p>The per day assessment for non-discharge violations considers potential for harm and the extent of deviation from applicable requirements. Failing to submit a TNA Report substantially impairs the Central Coast Water Board’s ability to perform its regulatory functions, because the Central Coast Water Board uses TNA Reports to assess threats to water quality and compliance with Agricultural Order requirements. Therefore, a <b>moderate</b> potential for harm score is appropriate. Failing to submit the TNA Report also rendered the requirement ineffective in its essential function. Therefore, a <b>major</b> deviation from requirement is appropriate. Table 3 in the Enforcement Policy (page 16) is used to determine the initial penalty factor for a violation. Based on the potential for harm and the deviation from requirement determinations, a per day factor for a non-discharge violation of <b>0.55</b> is appropriate.</p> <p>For purposes of settlement, the days of violation are alleged from March 1, 2022, to January 20, 2023 (326 days). On January 20, 2023, the</p>

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PENALTY CALCULATION METHODOLOGY STEPS	VALUE	DISCUSSION
		<p>operator submitted the 2021 TNA data using the 2022 TNA Report form instead of the 2021 TNA Report form. The Prosecution Team recognized the error and emailed the operator on January 23, 2023 and March 1, 2023, requesting that the form be corrected. On March 9, 2023, the Prosecution Team gave notice to the Discharger of forthcoming assessment of administrative civil liabilities and the operator subsequently agreed to discuss the alleged violation. The Prosecution Team calculated days of violation up to the date the 2021 TNA information was submitted on the 2022 TNA Report form on January 20, 2023.</p> <p>The initial liability amount is calculated by multiplying the days of violation by the per day factor for non-discharge violations (0.55) by the statutory maximum liability pursuant to Water Code section 13268 (\$1,000 per day of violation).</p> <p>Initial liability amount: 326 days x 0.55 x \$1,000 per day = \$179,300</p>
Step 4 – Adjustment Factors (Conduct Factors)	Degree of Culpability – <b>1.3</b>	<p>The discharger’s degree of culpability is determined by evaluating what a reasonable and prudent person would have done or not done under similar circumstances. This Adjustment Factor should result in a multiplier between <b>0.75</b> and <b>1.5</b>, with a higher multiplier for intentional misconduct and gross negligence, and a lower multiplier for more simple negligence. The Discharger failed to submit the 2021 TNA Report, as required by the Agricultural Order, despite the Central Coast Water Board sending numerous reminders, a notice of violation, and follow-up letter. Because of the Discharger’s failure to submit this report demonstrates, at best, a</p>

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<b>PENALTY CALCULATION METHODOLOGY STEPS</b>	<b>VALUE</b>	<b>DISCUSSION</b>
		negligent deviation from the standard of care, a score of <b>1.3</b> is appropriate.
Step 4 – Adjustment Factors (Conduct Factors)	History of Violations – <b>1.0</b>	Where the discharger has no prior history of violations, this factor should be neutral, or 1.0. The Discharger has a history of not submitting reports or submitting reports late. However, there has not been formal enforcement for missing reports. Therefore, this factor remains neutral at <b>1.0</b> .
Step 4 – Adjustment Factors (Conduct Factors)	Cleanup and Cooperation – <b>1.3</b>	The Cleanup and Cooperation Adjustment Factor is determined by evaluating the discharger’s voluntary efforts to cleanup and/or cooperate with regulatory authorities in returning to compliance. This Adjustment Factor should result in a multiplier between <b>0.75</b> to <b>1.5</b> , using the lower multiplier where there is exceptional cleanup and cooperation compared to what can reasonably be expected, and higher multiplier where there is not. To date, the Discharger has not submitted the missing TNA Report, therefore, a score of <b>1.3</b> is appropriate.



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<b>PENALTY CALCULATION METHODOLOGY STEPS</b>	<b>VALUE</b>	<b>DISCUSSION</b>
Step 4 – Adjustment Factors (Multiple Day Violations)	Multiple Day Violations – <b>44 days</b>	For violations that last more than 30 days, the daily assessment can be less than the calculated daily assessment, provided it is no less than the per day economic benefit, if any, resulting from the violation. For these cases, the Central Coast Water Board must make express findings that the violation: a) is not causing daily detrimental impacts to the environment and is not causing daily detrimental impacts to the regulatory program; b) results in no discrete economic benefit from the illegal conduct that can be measured on a daily basis; or c) occurred without the knowledge or control of the violator, who therefore did not take action to mitigate or eliminate the violation. The violation is not causing daily detrimental impacts to the environment and is not causing daily detrimental impacts to the regulatory program. Therefore, the Prosecution Team has collapsed the number of days of violation for purposes of settlement from 326 days to 44 days.
Step 5 – Determination of Total Base Liability Amount	Total Base Liability Amount – <b>\$40,898</b>	After each of the above factors is considered for the violation, the applicable factors are multiplied by the initial liability amount proposed for the violation considering the adjusted number of days of violation to determine the total base liability amount for the violation. 44 days x 0.55 x \$1,000 x 1.3 x 1.0 x 1.3 = \$40,898.
Step 6 – Ability to Pay and Ability to Continue in Business	Ability to pay and continue in business – <b>No adjustment</b>	The ability to pay and to continue in business must be considered when assessing administrative civil liability. The Prosecution Team finds that the Discharger has the ability to pay the proposed liability. Milias Ranch consists of 22 acres of beans, which is valued at \$4,899 per acre according to the Santa Clara County 2021 Crop Report. Assuming that

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PENALTY CALCULATION METHODOLOGY STEPS	VALUE	DISCUSSION
		the total acreage is used, the estimated annual crop value of the operation is 22 acres x \$4,899 = \$108,000.
Step 7 – Economic Benefit	Economic Benefit Amount – <b>\$1.00</b>	The economic benefit is any savings or monetary gain derived from the act or omission that constitutes the violation. Using the United States Environmental Protection Agency’s (USEPA) BEN Model Version 2022.0.0 revised June 2022, the economic benefit was calculated to be \$1.00. This represents the cost the discharger saved by delaying the submittal of the 2021 TNA Report. In this instance, the economic benefit does not capture any value to the regulatory system of information expected from this report.
Step 8 – Other Factors as Justice May Require	Other factors as justice may require – <b>\$1,450</b>	The costs of investigation and enforcement are “other factors as justice may require” and could be added to the liability amount. The Central Coast Water Board has incurred over \$1,450 in staff costs associated with the investigation and enforcement of the alleged violation.
Step 9 – Maximum and Minimum Liability Amounts	Minimum Liability – <b>\$1.10</b>  Maximum Liability – <b>\$326,000</b>	<u>Minimum Liability:</u> \$1.10 (economic benefit plus 10 percent)  <u>Maximum Liability:</u> \$326,000 (\$1,000 per day per violation under Water Code section 13268)
Step 10 – Final Liability Amount	Final Liability Amount – <b>\$42,348</b>	Based on the foregoing analysis, and consistent with the Enforcement Policy, the final proposed Administrative Civil Liability is the sum of the Total Base Liability Amount and other factors as justice may require (staff costs of \$1,450) totaling \$42,348. The Final Liability Amount is between the Minimum and Maximum Liability Amounts.

## ATTACHMENT B

### ECONOMIC BENEFIT ANALYSIS FOR SETTLEMENT AGREEMENT AND STIPULATION FOR ENTRY OF ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R3-2023-0066

#### UC FARMS, INC. MILIAS RANCH AGRICULTURAL IRRIGATED LANDS SANTA CLARA COUNTY

**(GEOTRACKER GLOBAL ID# AGL020013675)**

This document provides details on the proposed administrative civil liability economic benefit analysis related to UC Farms, Inc. (Discharger) for failure to submit the 2021 Total Nitrogen Applied Report (TNA Report) for Milias Ranch (GeoTracker Global Identifier AGL020013675 by the annual March 1 deadline. The California Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board) Prosecution Team derived the economic benefit by following the State Water Resources Control Board's (State Water Board) 2017 Water Quality Enforcement Policy (Enforcement Policy), which was adopted on April 4, 2017, and became effective on October 5, 2017.<sup>1</sup> The economic benefit analysis considers actions required to comply with a permit or order, how often these actions are required, what actions should have been taken to avoid the violation, whether the actions are avoided or simply delayed, and an estimate of costs.

The benefit of non-compliance was calculated using United States Environmental Protection Agency's BEN Model Version 2022.0 revised June 2022. The inputs and assumptions for the violation are as follows:

1. The Discharger is a Corporation, Entity Number C3063318 filed with the California Secretary of State. As such, the tax schedule for "Corporation" is used for this analysis.
2. According to the General Waste Discharge Requirements for Discharges from Irrigated Lands Order No. R3-2021-0040 (Agricultural Order),<sup>2</sup> Attachment A, Finding 82.c dated April 15, 2021, TNA tracking and reporting is estimated to cost between approximately \$8.97 and \$23.22 per acre over the course of five years. Using the lower value and averaging it over a five-year period, the cost to prepare the TNA Report is assumed to be \$1.79 per acre per year.

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<sup>1</sup> Link to State Water Board 2017 Enforcement Policy:  
[https://www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/resolutions/2017/040417\\_9\\_final%20adopted%20policy.pdf](https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2017/040417_9_final%20adopted%20policy.pdf)

<sup>2</sup> A copy of the Agricultural Order is available at:  
[https://www.waterboards.ca.gov/centralcoast/water\\_issues/programs/ilp/regulatory\\_information.html](https://www.waterboards.ca.gov/centralcoast/water_issues/programs/ilp/regulatory_information.html)

Attachment B

Settlement Agreement and Stipulated Administrative Civil Liability

Order No. R3-2023-0066

UC Farms, Inc.

3. Miliias Ranch comprises 22 acres per the electronic Notice of Intent submittal. As such, total costs to prepare the TNA report is \$39.
4. The expenditure type is assumed to occur once and is non-depreciable.
5. The cost basis assumes labor costs only.
6. Date of non-compliance is March 1, 2022, the date which the 2021 TNA Report was due.
7. Date of compliance is assumed to be January 20, 2023. On January 20, 2023, the Discharger submitted the 2021 TNA data using the 2022 TNA Report form instead of the 2021 TNA Report form. Central Coast Water Board staff confirmed this error with the Discharger and assisted the Discharger with correcting the error. The Discharger submitted the 2021 TNA Report on March 27, 2023. The Discharger submitted the 2022 TNA Report on April 4, 2023. Because the Discharger submitted the 2021 TNA Report late, the cost is “delayed.”
8. For computational purposes, the penalty payment date was established as November 18, 2023, representing thirty days after the Central Coast Water Board hearing date of October 19, 2023.

Based on specific assumptions within the model, the total economic benefit of non-compliance was determined to be \$1.00. This represents the costs the Discharger saved by not submitting the 2021 TNA Report on time. The Enforcement Policy states that the total liability shall be at least 10% higher than the economic benefit, “so that liabilities are not construed as the cost of doing business and the assessed liability provides meaningful deterrent to future violations.” Therefore, the minimum total liability associated with the economic benefit is \$1.10.