STATE WATER RESOURCES CONTROL BOARD

Coachella Valley Water District	**ORDER WR 2016-0013-OE** **SETTLEMENT AGREEMENT AND STIPULATION FOR ENTRY OF ADMINISTRATIVE CIVIL LIABILITY ORDER**

Section I: INTRODUCTION

This Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order (hereafter "Stipulated Order" or "Order") is entered into by and between the Director of the State Water Resources Control Board's Office of Enforcement("State Water Board"), on behalf of the State Water Board Prosecution Staff ("Prosecution Staff") and Coachella Valley Water District ("Settling Respondent" or "CVWD") (collectively "Parties") and is presented to the State Water Board, or its delegee, for adoption as an Order by settlement, pursuant to Government Code section 11415.60.

Section II: RECITALS

WHEREAS, Coachella Valley Water District is alleged to have violated section 865(c)(1) of title 23 of the California Code of Regulations, as described in **EXHIBIT A** to this Stipulated Order; and

WHEREAS, the Parties have engaged in settlement negotiations and agree to fully settle the alleged violations without administrative or civil litigation and by presenting this Stipulated Order to the State Water Board, or its delegee, for adoption as an Order by settlement, pursuant to Government Code section 11415.60. The Prosecution Staff believes that the resolution of the alleged violations is fair and reasonable and fulfills all of its enforcement objectives, that no further action is warranted concerning the specific violations alleged in **EXHIBIT A**, except as provided in this Stipulated Order, and that this Stipulated Order is in the best interest of the public.

Section III: STIPULATIONS

The Parties stipulate to the following:

1. **Administrative Civil Liability:** Coachella Valley Water District hereby agrees to the imposition of an administrative civil liability totaling $61,000.

The Parties agree that $61,000 of the administrative civil liability shall be suspended ("Suspended Liability") pending completion of the water conservation

Supplemental Environmental Project (SEP) as set forth herein and **EXHIBIT B.2.1 SEP Descriptions:** Coachella Valley Water District agrees to fund the SEP(s) described below:

CVWD will initiate a Landscaper Certification Program (LCP) for professional landscapers that will focus on water use efficiency. The class will be modeled after an existing course focused on air quality in relation to lawn scalping and re-seeding practices. The certification will be a requirement in order to obtain or renew a professional landscaping business license in any city or county areas in the Coachella Valley.

CVWD will partner with COD, a local community college with an established Landscape Management Program, Coachella Valley Association of Governments (CVAG), and the cities, county and neighboring water districts to implement the course and establish certification criteria for incorporation into each city's business license qualification requirements.

The course will be available online or at a local testing center. It will be available in English and Spanish.

CVWD will develop the curriculum of the LCP using existing staff that hold licenses and certifications in irrigation efficiency, plant water use, horticultural practices, arboriculture, and landscape/golf course irrigation auditing. CVWD will ensure the curriculum is high quality by asking for review from industry educators such as COD instructors or industry professionals. CVWD and COD will work together to create a course and certification based on the developed curriculum. CVWD and CVAG will work with the cities on an amendment to existing ordinances to establish the business license requirement.

2.2 SEP Definitions:

a. "Designated State Water Board Representative" – the representative from the State Water Board responsible for oversight of the SEPs. That individual is: Jasmine Oaxaca or a person to be designated by the Director of the Office of Enforcement.

b. "SEP Completion Date" – The date in which the SEP will be implemented in its entirety, while reporting on program success may on an annual basis in subsequent years.

2.3 SEP Completion Date: 4/1/2017 Upon a showing of good cause and upon written agreement of the Parties, the Director of the Office of Enforcement may extend the SEP Completion Date.

2.4 Agreement of Settling Respondent to Fund, Report and Guarantee Implementation of SEP: Coachella Valley Water District represents that: (1) it will fund the SEP in the amounts as described in this Stipulated Order; (2) it will

provide certifications and written reports to the Designated State Water Board Representative consistent with the terms of this Stipulated Order detailing the implementation of the SEP; (3) it will guarantee implementation of the SEP identified in **EXHIBIT B** by remaining liable for the Suspended Liability until the SEP is completed and accepted by the State Water Board in accordance with the terms of this Stipulated Order. Coachella Valley Water District agrees that the State Water Board has the right to require an audit of the funds expended by it to implement the SEP.

2.5 SEP Progress Reports: Coachella Valley Water District shall provide monthly reports of progress on the SEP to the Designated State Water Board Representative commencing 30 days after this Stipulated Order becomes effective and continuing through submittal of the final report described below in Paragraph 2.6. If no activity occurred during a particular quarter, a quarterly report so stating shall be submitted.

2.6 Certification of Completion of SEP and Final Reports: On or before the applicable SEP Completion Date, the Settling Respondent shall submit a certified statement of completion of the SEP ("Certification of Completion"). The Certification of Completion shall be submitted under penalty of perjury, to the Designated State Water Board Representative by a responsible corporate official representing the Settling Respondent. The Certification of Completion shall include following:

a. Certification that the SEP has been completed in accordance with the terms of this Stipulated Order. Such documentation may include photographs, invoices, receipts, certifications, and other materials reasonably necessary for the State Water Board to evaluate the completion of the SEP and the costs incurred by the Settling Respondent.

b. Certification documenting the expenditures by the Settling Respondent during the completion period for the SEP. In making such certification, Settling Respondent may rely upon tracking systems used in the ordinary course of business that capture employee time, expenditures, and external payments to outside vendors such as environmental and information technology contractors or consultants. The certification need not address any costs incurred by the State Water Board for oversight. The Settling Respondent shall provide any additional information requested by the State Water Board staff which is reasonably necessary to verify SEP expenditures. Expenditures may include those made for the SEP after January 1, 2016, but prior to the formal adoption of this Order.

c. Certification, under penalty of perjury, that the Settling Respondent followed all applicable environmental laws and regulations in the implementation of the SEP including but not limited to the California

Environmental Quality Act (CEQA), the federal Clean Water Act, and the Porter-Cologne Act. To ensure compliance with CEQA where necessary, the Settling Respondent shall provide the State Water Board with the following documents from the lead agency prior to commencing SEP construction:

i. A certification that the SEP does not qualify as a "project" under CEQA.

ii. Categorical or statutory exemptions relied upon by the Settling Respondent;

iii. Negative Declaration if there are no potentially "significant" impacts;

iv. Mitigated Negative Declaration if there are potentially "significant" impacts but revisions to the project have been made or may be made to avoid or mitigate those potentially significant impacts; or

v. Environmental Impact Report (EIR)

3. Third Party Financial Audit: In addition to the certification, upon completion of the SEP and at the written request of the Director of the Office of Enforcement, the Settling Respondent, at its sole cost, shall submit a report prepared by an independent third party(ies) acceptable to Director of the Office of Enforcement providing such party's(ies') professional opinion that the Settling Respondent has expended money in the amounts claimed by the Settling Respondent. The audit report shall be provided to the Designated State Water Board Representative within three (3) months of notice from the Director of the office of Enforcement to the Settling Respondent of the need for an independent third party financial audit. The audit need not address any costs incurred by the State Water Board for oversight.

4. State Water Board Acceptance of Completed SEP: Upon the Settling Respondent's satisfaction of its SEP obligations under this Stipulated Order and completion of the SEP and any audit requested by the State Water Board, the Designated State Water Board Representative shall send the Settling Respondent a letter recognizing satisfactory completion of its obligations under the SEP. This letter shall terminate any further SEP obligations of the Settling Respondent and result in the permanent stay of the Suspended Liability.

5. Failure to Expend all Suspended Administrative Civil Liability Funds on the Approved SEP: In the event that Settling Respondent is not able to demonstrate to the reasonable satisfaction of the Designated State Water Board Representative that the entire Suspended Liability has been spent to complete the components of the SEP for which the Settling Respondent is financially responsible, Settling Respondent shall pay the difference between the

Suspended Liability and the amount the Settling Respondent can demonstrate was actually spent on the SEP, as an administrative civil liability. The Settling Respondent shall pay the additional administrative liability within 30 days of its receipt of notice of the Designated State Water Board Representative's determination that the Settling Respondent has failed to demonstrate that the entire Suspended Liability has been spent to complete the SEP components.

6. Failure to Complete the SEP: If the SEP is not fully implemented by the SEP Completion Date (as defined in Paragraph 2.3) required by this Stipulated Order, the Director of the State Water Board Office of Enforcement shall issue a Notice of Violation. As a consequence, the Settling Respondent shall be liable to pay the entire Suspended Liability or, if shown by Settling Respondent, some portion thereof less the value of the completion of any milestone requirements as determined by the Motion for Payment of Suspended Liability or as agreed in writing by the Parties. Unless otherwise agreed or determined by a Motion for Payment of Suspended Liability, the Settling Respondent shall not be entitled to any credit, offset, or reimbursement from the State Water Board for expenditures made on the SEP prior to the date of receipt of the Notice of Violation. The amount of the Suspended Liability owed shall be determined by agreement of the Parties or, if the Parties cannot reach agreement, via a "Motion for Payment of Suspended Liability" before the State Water Board, or its delegee. Upon a determination by the State Water Board, or its delegee, of the amount of the Suspended Liability assessed, the amount shall be paid to the State Water Board Division of Administrative Services within thirty (30) days after the service of the State Water Board's determination. In addition, the Settling Respondent shall be liable for the State Water Board's reasonable costs of enforcement, including but not limited to legal costs and expert witness fees. Payment of the assessed amount will satisfy the Settling Respondent's obligations to implement the SEP.

7. Publicity: Should Coachella Valley Water District, or the agents or subcontractors of Coachella Valley Water District publicize one or more elements of the SEP, they shall state in a prominent manner that the project is being funded as part of the settlement of an enforcement action by the State Water Board against Coachella Valley Water District.

8. Compliance with Applicable Laws: Coachella Valley Water District 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 in **EXHIBIT A** may subject it to further enforcement, including additional administrative civil liability.

9. Party Contacts for Communications related to Stipulated Order:

For the State Water Board:

Jasmine Oaxaca, PE
Water Resource Control Engineer
Jasmine.Oaxaca@waterboards.ca.gov
(916) 322-5327

For Coachella Valley Water District:
Katie Ruark
Conservation Manager
Coachella Valley Water District
kruark@cvwd.org
(760) 398-2661 ext. 3405

10. Attorney's 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.

11. Matters Addressed by Stipulation, Release and Covenant Not to Sue Coachella Valley Water District: Upon adoption by the State Water Board, or its delegee, this Stipulated Order represents a final and binding resolution and settlement of all claims, violations or causes of action alleged in this Order or which could have been asserted based on the specific facts alleged in **EXHIBIT A** or this Stipulated Order against Coachella Valley Water District as of the effective date of this Stipulated Order ("Covered Matters"). The State Water Board releases and covenants not to sue Coachella Valley Water District from and against all claims, violations or causes of action alleged in this Order or which could have been asserted based on the specific facts alleged in **Exhibit A** or this Stipulated Order as of the effective date of this Stipulated Order. The provisions of this Paragraph are expressly conditioned on Coachella Valley Water District's completion of the SEP and any audit requested by the State Water Board.

12. Public Notice: Coachella Valley Water District understands that this Stipulated Order must be noticed for a 30-day public review and comment period prior to consideration by the State Water Board, or its delegee. If the State Water Board's Executive Director receives significant new information that reasonably affects the propriety of presenting this Stipulated Order to the State Water Board, or its delegee, for adoption, the Executive Director may unilaterally declare this Stipulated Order void and decide not to present it to the State Water Board, or its delegee. Coachella Valley Water District agrees that it may not rescind or otherwise withdraw its approval of this proposed Stipulated Order.

13. Addressing Objections Raised During Public Comment Period: The Parties agree that the procedure contemplated for the State Water Board's adoption of the settlement by the Parties and review by the public, as reflected in this Stipulated Order, will be adequate. In the event procedural objections are

raised 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 as necessary or advisable under the circumstances.

14. No Waiver of Right to Enforce: The failure of the Prosecution Staff or State 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 the Order. The failure of the Prosecution Staff or State Water Board to enforce any such provision shall not preclude it from later enforcing the same or any other provision of this Stipulated Order.

15. 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 Prosecution Staff or any state agency, department, board or entity or any local agency from exercising its authority under any law, statute, or regulation.

16. 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. Coachella Valley Water District is represented by counsel in this matter.

17. Modification: This Stipulated Order shall not be modified by any of the Parties by oral representation made before or after its execution. All modifications must be in writing, signed by all Parties, and approved by the State Water Board or its delegee.

18. If Order Does Not Take Effect: In the event that this Stipulated Order does not take effect because it is not approved by the State Water Board, or its delegee, the Parties acknowledge that they expect to proceed to a contested evidentiary hearing before the State Water Board to determine whether to assess administrative civil liabilities 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. The Parties agree to waive any and all objections based on settlement communications in this matter, including, but not limited to:

a. Objections related to prejudice or bias of any of the State Water Board members or their advisors and any other objections that are premised in whole or in part on the fact that the State 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 Stipulation and/or the Order, and therefore may have formed impressions or conclusions prior to any contested evidentiary hearing on the Complaint 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.

19. No Admission of Liability: In settling this matter, Coachella Valley Water District does not admit to any of the allegations in **EXHIBIT A**, or that it has been or is in violation of the Water Code, or any other federal, state, or local law or ordinance.

20. Waiver of Hearing: Coachella Valley Water District has been informed of the rights provided by Water Code section 1055 and hereby waives its right to a hearing before the State Water Board prior to the adoption of the Stipulated Order.

21. Waiver of Right to Petition: Coachella Valley Water District hereby waives its right to petition the State Water Board's adoption of the Stipulated Order as written 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 level court.

22. Respondent's Covenant Not to Sue: Coachella Valley Water District covenants 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 Covered Matter.

23. State Water Board is Not Liable: Neither the State Water Board members nor the State Water Board staff, attorneys, or representatives shall be liable for any injury or damage to persons or property resulting from acts or omissions by the Settling Respondent, their directors, officers, employees, agents, representatives or contractors in carrying out activities pursuant to this Stipulated Order, nor shall the State Water Board, its members or staff be held as parties to or guarantors of any contract entered into by the Settling Respondent, their directors, officers, employees, agents, representatives or contractors in carrying out activities pursuant to this Stipulated Order.

24. 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 Order.

25. 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.

26. Effective Date: This Stipulated Order shall be effective and binding on the Parties upon the date the State Water Board, or its delegee, enters the Order.

The State Water Board shall notify Coachella Valley Water District within 24 hours of entry of this Stipulated Order.

27. Counterpart 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.

28. Incorporation of Exhibits: Exhibits "A" and "B" are hereby incorporated by reference.

IT IS SO STIPULATED.

Director of the State Water Board Office of Enforcement

By: _____

Date: 4/1/16

Coachella Valley Water District

By: _____

NAME:

Date: 4.08.16

Order of the State Water Board

29. This is an action to enforce the laws and regulations administered by the State Water Board. The State Water Board finds that issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, sections 21000 et seq.), in accordance with section 15321(a)(2), Title 14, of the California Code of Regulations.

Pursuant to Government Code section 11415.60, **IT IS HEREBY ORDERED** on behalf of the State Water Resources Control Board.

_____

Christian M. Carrigan
Director, Office of Enforcement

Exhibit A

October 29, 2015

(sent via electronic mail and certified mail)
CERTIFIED MAIL
No. 7015 0640 0006 0950 4544

Mr. Jim Barrett
General Manager
Coachella Valley Water District
P.O. Box 1058
Coachella, CA 92236
jbarrett@cvwd.org

SUBJECT: ENFORCEMENT ACTION: ISSUANCE OF ADMINISTRATIVE CIVIL LIABILITY COMPLAINT FOR FAILURE TO MEET WATER CONSERVATION STANDARD

Dear Mr. Barrett

On May 5, 2015, the State Water Resources Control Board (State Water Board) adopted Resolution 2015-0032, an Emergency Regulation for Statewide Urban Water Conservation (Emergency Regulation) pursuant to Water Code section 1058.5. The Emergency Regulation became effective on May 18, 2015. Among other things, the Emergency Regulation is designed to achieve the 25 percent statewide potable water usage reduction through February 2016 ordered by Governor Brown in his April 1, 2015 Executive Order.

The Emergency Regulation requires each urban water supplier to "reduce its total potable water production by the percentage identified as its conservation standard." (Cal. Code Regs., tit. 23, § 865(c)(1).) Coachella Valley Water District has failed to meet its conservation standard. Therefore, I am issuing you the enclosed Administrative Civil Liability Complaint (Complaint) under Water Code sections 1846 and1055. The proposed civil liability is based on the findings set forth in the enclosed Complaint.

If you have questions, or believe the allegations are erroneous, please contact Dr. Matthew Buffleben at (916) 341-5891, or by email at Matthew.Buffleben@waterboards.ca.gov. Your right to request a hearing to contest the allegations is also described in the Complaint.

Sincerely,

Christian M. Carrigan, Director
Office of Enforcement

Enclosure

cc: *(via email only)*

Ms. Heather Engel
Coachella Valley Water District
Director of Communications and Conservation
hengel@cvwd.org

State Water Resources Control Board
Ms. Caren Trgovcich
Chief Deputy Director
caren.trgovcich@waterboards.ca.gov

Mr. Eric Oppenheimer, Director
Office of Research, Planning and Performance
eric.oppenheimer@waterboards.ca.gov

Mr. Max Gomberg
Office of Research, Planning and Performance
max.gomberg@waterboards.ca.gov

Dr. Matthew Buffleben, Chief
Special Investigations Unit
Matthew.Buffleben@waterboards.ca.gov

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

OFFICE OF ENFORCEMENT

ADMINISTRAVITIVE CIVIL LIABILITY COMPLAINT

In the Matter of Urban Water Conservation
by
COACHELLA VALLEY WATER DISTRICT

YOU ARE HEREBY GIVEN NOTICE THAT:

1. The Coachella Valley Water District (Coachella Valley) is alleged to have failed to reduce its total potable water production by 36 percent for each month as compared to the amount used in the same month in 2013, in violation of California Code Regulations, title 23, section 865(c)(10), adopted by the State Water Resources Control Board (State Water Board or Board) pursuant to Water Code section 1058.5.

2. Water Code section 1846, subdivision (a)(2), provides that any person or entity that violates a regulation adopted by the Board may be liable for up to five hundred dollars ($500) for each day the violation occurs. Water Code section 1846, subdivision (c), provides that civil liability may be imposed administratively by the State Water Board pursuant to Water Code section 1055.

3. Water Code section 1055, subdivision (a), provides that the Executive Director of the Board may issue a complaint to any person or entity on which Administrative Civil Liability (ACL) may be imposed. State Water Board Executive Director Thomas Howard has delegated this authority to Chief Deputy Director Caren Trgovcich, who in turn has delegated the authority to issue a complaint for violation of California Code Regulations, title 23, sections 865(d)(1) to the Director of the State Water Board's Office of Enforcement, Cris Carrigan.

ALLEGATIONS

4. On January 17, 2014, Governor Edmund G. Brown Jr. (Governor Brown) issued Proclamation No. 1-17-2014 (Proclamation), declaring a State of Emergency to exist in California under the Emergency Services Act due to severe drought conditions. The Proclamation, among other things, called on all Californians to reduce their water usage by 20 percent.

5. On April 25, 2014, Governor Brown issued a Proclamation of a Continued State of Emergency due to drought conditions, based on the need to strengthen the state's ability to manage water and habitat effectively in drought conditions.

6. On April 1, 2015, Governor Brown issued Executive Order B-29-15 (Executive Order) to strengthen the state's ability to manage water and habitat effectively in drought conditions. The Executive Order calls on all Californians to redouble their efforts to conserve water, and directs the State Water Board to impose restrictions on urban water suppliers to achieve a statewide 25 percent reduction in potable urban water usage through February 2016.

7. On May 5, 2015, the State Water Board adopted Resolution 2015-0032, an Emergency Regulation for Statewide Urban Water Conservation (Emergency Regulation) pursuant to Water Code section 1058.5. The Emergency Regulation adds a new section to title 23 of the California Code of Regulations intended to safeguard urban water supplies in the event of

continued drought, minimize the potential for waste and unreasonable use of water, and achieve the 25 percent statewide potable water usage reduction ordered by Governor Brown in the Executive Order. The Emergency Regulation was approved by the Office of Administrative Law and became effective on May 18, 2015.

8. The Emergency Regulation requires each urban water supplier to "reduce its total potable water production by the percentage identified as its conservation standard." California Code Regulations, title 23, section 865(c)(1).

9. Section 865(b)(2) requires urban water suppliers to prepare and submit a monitoring report to the State Water Board by the 15th of each month detailing the total amount of potable water produced compared to the amount produced in the same calendar month in 2013.

10. The drought conditions that formed the basis for the Executive Order and Emergency Regulations continue to exist and will likely continue to exist for the foreseeable future.

11. Coachella Valley has a conservation target, pursuant to section 865(c)(10), of 36 percent savings over its water usage in 2013. As of the date of its last report, Coachella Valley is cumulatively 6.1 percent behind in meeting the applicable conservation standard, which translates to an estimated 1,413,273,685 gallons of water.

12. On July 29, 2015 the State Water Board Office of Enforcement issued a Notice of Violation and an Information Order pursuant to its authority outlined in Section 866(b) of the Emergency Regulations, to determine what actions Coachella Valley had taken to comply with its conservation standard.

13. On August 5, 2015 State Water Board staff met with the District to review its response to the Information Order, discuss its water conservation program, and identify areas of potential water use savings.

14. Water Board staff reviewed the information provided by Coachella Valley in response to the Information Order and have been monitoring ongoing conservation efforts. There are significant deficiencies in Coachella Valley's conservation program including: failure to issue penalties for water users who waste water or violate the local ordinance, failure to implement its conservation program in a timely fashion, as well as not implementing a water rate structure that fully incentivizes its customers to conserve water.

15. Water Board staff reviewed the urban supplier monthly reports and used two metrics asses the nature and persistence of the water conservation standard violations: 1) monthly and cumulative performance in meeting the numeric conservation standard, and 2) the total volume of water produced by the water supplier above the applicable conservation standard. These metrics were analyzed together to compile a single ranking. Coachella Valley was identified as a water supplier whose violation of the regulation was one of the most severe.

16. The circumstances described above indicate that Coachella Valley has violated section 865(c)(10) by failing to reduce its total potable water production by 36 percent for each month as compared to the amount used in the same month in 2013, or for a total of 122 days from the effective date of the Emergency Regulation on June 1, 2015 and the September 30, 2015 date tabulated in its last report.

PROPOSED CIVIL LIABILITY

17. Water Code section 1846, subdivision (a)(2), provides that any person or entity that violates a regulation adopted by the Bboard may be liable for up to five hundred dollars ($500) for each day the violation occurs.

18. The evidence provided by Coachella Valley in the monthly reports that are submitted in compliance with Section 865(b)(2) demonstrates that Coachella Valley is in ongoing violation of the Conservation Order, beginning on June 1, through at least September 30th – a total of 122 days.

19. The maximum civil liability for the alleged violations is $61,000.

20. In determining the amount of civil liability, California Water Code section 1055.3 requires that the State Water Board consider all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and any corrective action taken by the violator.

21. In this case, Coachella Valley has consistently failed to meet its conservation standard, even after a Notice of Violation was issued by the State Water Board and a meeting was held with staff to advise about ways the District could meet the applicable standard. Coachella Valley has issued no penalties to its customers, and as such has failed to enforce its own water restrictions put in place to meet the conservation standard. Coachella Valley's violation of the emergency regulation has spanned four months, and is ongoing with little to no change in behavior, regardless of the previous enforcement actions taken and compliance assistance efforts made by the State Water Board.

22. Although not required under Water Code section 1055, State Water Board staff evaluated Coachella Valley's ability to pay the proposed civil liability. Water Board staff reviewed Coachella Valley's ability to satisfy immediate financial obligations by reviewing its financial reports and found the budgetary reserve is more than enough to pay the proposed civil liability.

23. Having taken into consideration the factors described above, the Director for the Office of Enforcement recommends an ACL for violating the emergency regulation of $61,000. The recommended penalty is based on the circumstances known at this time: Coachella Valley's continued failure to meet its conservation standard despite repeated warnings during extreme ongoing drought conditions, Coachella Valley's ability to pay, and the need to provide a strong disincentive for continued violation by Coachella Valley, its residents and any similarly-situated parties.

RIGHT TO HEARING

24. Coachella Valley may request a hearing on this matter before the State Water Board. Any such request for hearing must be in writing and received or postmarked within 20 days of the date this notice is received. (California Water Code, § 1055, subd. (b).)

25. If Coachella Valley requests a hearing, Coachella Valley will have an opportunity to be heard and to contest the allegations in this Complaint and the imposition of an ACL by the State Water Board. If a hearing is requested, separate notice setting the time and place for the hearing will be mailed not less than 10 days before the hearing date.

26. If Coachella Valley requests a hearing, the State Water Board will consider at the hearing whether to impose the civil liability, and, if so, whether to adjust the proposed liability within the amount authorized by statute. Based on the evidence received at the hearing, the State Water Board may take any appropriate action in accordance with sections 100, 275, and 1050 et seq. of the California Water Code. Any State Water Board order imposing an ACL shall become final and effective upon issuance.

27. If Coachella Valley does not wish to request a hearing, please remit a cashier's check or money order within 20 days of the date of this Complaint for the amount of the ACL set forth above to:

State Water Resources Control Board

Division of Administrative Services
Accounting Branch 1001 I Street, 18th Floor,
Sacramento, CA 95814

28. If Coachella Valley does not request a hearing and does not remit the ACL amount, the State Water Board may seek recovery of the ACL amount as authorized by Water Code section 1055.4., may issue a Cease and Desist Order subjecting Coachella Valley to up to $10,000 per day in civil liabilities for non-compliance, or may seek any other remedy authorized by law.

STATE WATER RESOURCES CONTROL BOARD

Christian M. Carrigan, Director
Office of Enforcement

Dated: 10/29/2015

Exhibit B

Exhibit B
Supplemental Environmental Project

Project Name:

CVWD Water Efficiency Course (the Project)

Project Developed by:

Coachella Valley Water District (CVWD)

Project to be Performed by:

CVWD

Contact:

Katie Ruark
Conservation Manager
Coachella Valley Water District
kruark@cvwd.org
(760) 398-2661 ext. 3405

Compliance with SEP Criteria:

1. Benefit to Water Conservation

CVWD's Project will benefit water conservation by requiring all landscaper contractors who operate within the Coachella Valley to complete an annual water efficiency course. The course will help educate landscape contractors about the best management practices for water use outdoors.

2. SEP is not a pre-existing obligation of CVWD

CVWD is not required to develop, implement or fund the Project by any permit or order or any local, state or federal law because this project was developed exclusively as a Supplemental Environmental Project.

3. No Fiscal Benefit to Water Board

The Project does not provide any fiscal benefit to the Water Board's functions, its members or its staff.

4. Nexus Between Violation and SEP

A nexus exists between CVWD's alleged violation of its urban water conservation standard and the Project because the complaint filed against CVWD was brought

Exhibit B
Supplemental Environmental Project

against the district because of the alleged failure to meet the State Water Resources Control Board's conservation mandates. This program will help CVWD and its customers reduce water use.

Description of Project:

1. The goal(s) of the SEP and detailed plans for achieving the goal(s)

CVWD will initiate a Landscaper Certification Program (LCP) for professional landscapers that will focus on water use efficiency. The class will be modeled after an existing course focused on air quality in relation to lawn scalping and re-seeding practices. The certification will be a requirement in order to obtain or renew a professional landscaping business license in any city or county areas in the Coachella Valley.

CVWD will partner with COD, a local community college with an established Landscape Management Program, Coachella Valley Association of Governments (CVAG), and the cities, county and neighboring water districts to implement the course and establish certification criteria for incorporation into each city's business license qualification requirements.

The course will be available online or at a local testing center. It will be available in English and Spanish.

CVWD will develop the curriculum of the LCP using existing staff that hold licenses and certifications in irrigation efficiency, plant water use, horticultural practices, arboriculture, and landscape/golf course irrigation auditing. CVWD will ensure the curriculum is high quality by asking for review from industry educators such as COD instructors or industry professionals. CVWD and COD will work together to create a course and certification based on the developed curriculum. CVWD and CVAG will work with the cities on an amendment to existing ordinances to establish the business license requirement.

2. Key personnel involved in SEP

CVWD's staff will include:
Director of Communications and Conservation, Heather Engel
Conservation Manager, Katie Ruark
Water Management Supervisor, Don Ackley

3. Plans to continue or maintain the SEP beyond the SEP-funded period

Exhibit B
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CVWD plans for a five year life time of the course. The total cost for a five year life time is approximately $83,400, which exceeds the proposed administrative liability associated with this SEP of $61,000. The Project will be fully implemented during the first 12 months, and CVWD will report to the State Water Board on program success annually for a total of five years.

4. Documented Support

The following documents supporting the SEP will be included in progress reports as they become available:

- Draft Agreement between College of the Desert and CVWD regarding the development of curriculum and implementation of the class,
- Draft Agreement with CVAG re business licensing ordinances,
- Draft contract between CVWD and a web design firm for the full five year duration, and
- Initial estimate of Course participants, and initial estimate of staff required to handle the estimated volume.

Project Milestones and Budget:

1. The Project will include the following milestones*:

Task	Anticipated Time	Revised schedule	Notes
Initial coordination with CVAG and COD	60 days	January 15-March 15, 2016	
Develop curriculum	60 days	February 1-May 30, 2016	
Incorporate curriculum into online platform	30 days	May 30-July 15, 2016	
Class is available	On-going	July 15, 2016	
Coordinate with CVAG and Cities, and propose draft language for ordinances (including city approval)	180 days	April 1-September 1, 2016	

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Class begins	On-going	September 1, 2016-on-going	Will continue after the SEP completion
Outreach	On-going	April 1, 2016-on-going	Will continue after the SEP completion
City staff Training	On-going	August 1, 2016-on-going	Will continue after the SEP completion
Implementation	On-going	September 1, 2016-on-going	Will continue after the SEP completion

*Note: Schedule revised on May 10, 2016

2. **CVWD shall submit monthly status reports as further described below in the section entitled "Reports to the State Water Board" on or before the 15th of each month during the first twelve months after adoption of the Order until the project is implemented, followed by annual reports for four additional years.**

3. **CVWD shall submit a final report and certification of completion of the implementation of the project as further described in the Settlement Agreement for this matter on: April 1, 2017.**

Project Performance Measures:

CVWD will measure the success of the Project in two ways:1) By measuring the number of cities that have passed and implemented ordinances requiring landscape contractors to achieve certification before obtaining or a renewing a landscaping business license, and 2) by evaluating the number of participants in the landscaper certification program.

Suspension of $61,000 in administrative civil penalty shall occur after successful completion of the Project and compliance with the SEP provisions in the Settlement Agreement for this matter, which include the requirement that CVWD demonstrate that it has expended a minimum of $61,000 to implement the Project.

In the event CVWD does not expend at least $61,000 on the project, the difference between $61,000 and the amount expended shall be paid by CVWD to the State Water Resources Control Board, Division of Administrative Services.

Reports to the State Water Board:

Each month until the SEP Completion Date, CVWD will provide a monthly progress report to the State Water Board's designated representative in accordance with

Exhibit B
Supplemental Environmental Project

schedule set forth in the Project Milestones and Budget section above. Each report shall include review of tasks completed and tasks projected, number of program participants, and copies deliverables associated with the program including course materials and outreach collateral.

CVWD will provide a final report and certification of completion in accordance with the Settlement Agreement for this matter, followed by annual reports for four additional years (as appropriate).