

California Regional Water Quality Control Board  
North Coast Region

Administrative Civil Liability Complaint No. R1-2005-0012

Mandatory Minimum Penalties

For

Violation of NPDES Requirements  
Order No. R1-2000-0033  
NPDES No. CA0006670  
WDID No. 1B80073OHUM

In the Matter of

State of California  
Department of Fish And Game  
Mad River Hatchery

For

Failure to File a Quarterly Monitoring Report in a Timely Manner

Humboldt County

This Complaint to assess the mandatory minimum penalty pursuant to California Water Code (CWC) Sections 13385(h) and 13385.1 is issued to the State of California, Department of Fish and Game (hereinafter Permittee) based on a finding of failure to timely submit a discharger monitoring report required pursuant to CWC Section 13383 as prescribed by Order No. R1-2000-0033 (NPDES No. CA0006670) and the associated monitoring and reporting program.

The Executive Officer of the Regional Water Quality Control Board, North Coast Region (Regional Water Board) finds the following:

1. The Permittee operates a salmon and steelhead hatchery (hereinafter facility) located near Blue Lake, California. The hatchery is located adjacent to the Mad River (SE ¼ of Section 31, T6N, R2E, HB&M). During the period from October 1 to April 1, up to 9.0 million gallons per day (mgd) of water is passed through the adult fish holding tanks and is charged through the fish ladder directly into the river. During the period from October 15 to June 1, up to 0.65 mgd of water is discharged from the spawning house into the Mad River downstream of the fish ladder. The production-pond system, which operates throughout the entire year, has a maximum flow of 1.24 mgd, carrying waters from the care and feeding of immature fish, are discharged from the pond system into the Mad River at a point downstream from the spawning house discharge. The water is susceptible of containing pollutants which can degrade water quality and impact beneficial uses of water, and which are defined as pollutants under the federal Clean Water Act. The pollutants are discharged from the facility into the Mad River, a navigable water of the United States.

2. On March 23,2000, the Regional Water Board adopted Order No. R1-2000-0033, which prescribes waste discharge requirements and serves as an NPDES permit (NPDES No. CA0006670) for the discharge of **treated** wastes **from** the facility to the Mad River.
3. Among the provisions in the **Permittee's** waste discharge requirements are the requirements to implement a discharge monitoring program and to prepare and submit an annual and quarterly NPDES **self-monitoring** reports to the Regional Water Board pursuant to the authority of CWC Section 13383.
4. The Regional Water Board received the Permittee's 4 quarter 2003 monitoring report on April 26,2004, a total of 102 days after the due date of January 15,2004.
5. CWC Section 13385(h) requires the Regional Water Board to **assess** a mandatory minimum penalty of three thousand dollars (\$3,000) for each serious violation. CWC Section 13385.1(a)(1) identifies the failure to timely file a discharge monitoring report required pursuant to CWC Section 13383 for each complete period of 30 days following the deadline for submitting the report as a "serious violation."

YOU ARE HEREBY GIVEN NOTICE THAT:

6. The Executive Officer proposes that the Permittee be assessed a mandatory **minimum** penalty in the amount of **\$9,000** for submittal of the 4 quarter 2003 monitoring report 102 days late.
7. A hearing shall be conducted on this Complaint by the Regional Water Board within 90 days after service of this **Complaint** on the Permittee pursuant to CWC Section 13323. The Regional Water Board will hold a hearing on April 20,2005, unless the Permittee waives the right to a hearing by signing and returning the waiver **form** attached to this Complaint within 30 days of this Complaint. By doing so, the Permittee agrees to pay the mandatory penalty of **\$9,000** in full within 30 days of the date of this **Complaint**.
8. Notwithstanding the issuance of the **Complaint**, the **Regional Water Board** shall retain the **authority** to assess additional penalties for violations of the requirements of the Permittee's waste discharge requirements.
9. This **enforcement** action is exempt **from** the provisions of the California Environmental Quality Act (California Public Resources Code Section 21000 et seq.) in accordance with California Code of Regulations, Title 14 Section 15321.
10. Regulations of the U.S. **Environmental** Protection Agency require public notification of any proposed settlement of the civil liability occasioned by violation of the Clean Water Act including NPDES permit violations. Accordingly, interested persons will be given 30 days to comment on any proposed settlement of this Complaint.

  
for Catherine E. Kuhlman  
Executive Officer

February 15,2005

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