

California Regional Water Quality Control Board  
North Coast Region

Administrative Civil Liability Complaint No. R1-2005-0090

Mandatory Minimum Penalties

For

Violation of NPDES Requirements  
Order No. R1-2000-0018  
NPDES No. CA0006696  
WDID No. 1A80077OTRI

In the Matter of

State of California  
Department of Fish and Game  
Trinity River Salmon and Steelhead Hatchery

For

Failure to File Two Quarterly Reports in a Timely Manner

Trinity County

This Complaint to assess the mandatory minimum penalty pursuant to California Water Code (CWC) Section 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 two discharge monitoring reports required pursuant to CWC Section 13383 as prescribed in Order No. R1-2000-0018 (NPDES No. CA0006696) 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 the CDF&G Trinity River hatchery (hereinafter facility) located at Lewiston Road in Lewiston, California. The Permittee discharges to four existing outfalls:
  - a. Discharge 001 (Fish Ladder)  
Up to 12.92 mgd of water is discharged via the fish ladder into the Trinity River at the base of Lewiston Dam.
  - b. Discharge 0029 (Hatchery Building and Nursery Tanks)  
Up to 5.0 mgd of water is discharged in a combined flow from the hatchery building and nursery tanks into the Trinity River on the east bank of the river approximately 300 feet downstream from the fish ladder.

- c. Discharge 003 and 004 (Settling Basin and Production Ponds/Fishway)  
Flows range from 3.88 to 38.88 mgd carrying wastes from the care and feeding of immature fish are discharged from the production ponds into the Trinity River at the fish ladder (004) and at a point 1,545 feet downstream from the fish ladder (003)

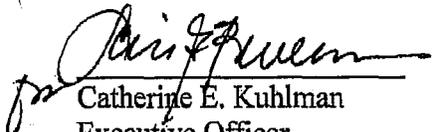
The water is susceptible of containing pollutants that can degrade water quality and impact beneficial uses of water, and which are defined as pollutants under the federal Clean Water Act. The pollutants are discharged from the facility into the Trinity River, a navigable water of the United States.

2. On February 24, 2000, the Regional Water Board adopted Order No. R1-2000-0018, which prescribes waste discharge requirements and serves as an NPDES permit (NPDES No. CA0006696) for the discharge of treated wastes from the facility to the Trinity 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 two 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 3<sup>rd</sup> quarter monitoring report on February 22, 2005, a total of 130 days after the due date of October 15, 2004, and the 4<sup>th</sup> quarter monitoring report was also received February 22, 2005, a total of 38 days after the due date of January 15, 2005.
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 \$12,000 for submittal of the 3<sup>rd</sup> quarter monitoring report 130 days late and \$3,000 for the 4<sup>th</sup> quarter monitoring report 38 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 October 12, 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 \$15,000 in full within 30 days of the date of this Complaint.

8. Notwithstanding the issuance of the Compliant, 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.

  
Catherine E. Kuhlman  
Executive Officer

August 29, 2005