

California Regional Water Quality Control Board  
North Coast Region

Administrative Civil Liability Complaint No. R1-2006-0023

Mandatory Minimum Penalties

For

Violations Of Waste Discharge Requirements  
Order Nos. 95-83 and R1-2001-59

In The Matter

Of

Loleta Community Services District  
Wastewater Treatment Facility  
WDID No. 1B80081OHUM

Humboldt County

This complaint to assess mandatory minimum penalties and administrative civil liability pursuant to Water Code Section 13385 is issued to the Loleta Community Services District (hereinafter Discharger), for violations of Waste Discharge Requirements (WDRs) Order No. R1-2001-59 (NPDES No. CA0023671) and its preceding order No. 95-83 for the period January 1, 2000 through April 30, 2005.

The Executive Officer of the Regional Water Board finds the following:

1. The Discharger owns and operates a publicly owned treatment works, the Loleta Wastewater Treatment Facility (WWTF), which serves the community of Loleta. The WWTF discharges secondary-treated municipal wastewater into a percolation pond that is a tributary to the Eel River during the wet season (October 1 to May 14).
2. The period of violations covered in this complaint overlap two waste discharge orders. The Regional Water Board adopted Waste Discharge Requirements Order No. 95-83 for the Discharger on October 26, 1995. That Order was rescinded and replaced by Order No. R1-2001-59, adopted by the Regional Water Board on June 28, 2001. Both of these Orders serve as National Pollutant Discharge Elimination System (NPDES) permits under the federal Clean Water Act.
3. This Complaint covers violations of effluent limitations that occurred during periods of discharge to receiving waters for the period of January 1, 2000, through April 30, 2005. The details of these violations are summarized in Finding 15 of this Complaint. Violations identified in Finding 15 are subject to the mandatory minimum penalties provision contained in Sections 13385(h) and (i) of the California Water Code (CWC).
4. CWC Section 13385(h)(1) requires the Regional Water Board to assess a mandatory minimum penalty (MMP) of three thousand dollars (\$3,000) for each serious violation of an NPDES permit effluent limitation.

5. CWC Section 13385(h)(2) states that a serious violation occurs if the discharge from a facility regulated by an NPDES permit exceeds the effluent limitations for a Group I pollutant, as specified in Appendix A to Section 123.45 of Title 40 Code of Federal Regulations, by 40 percent or more, or for a Group II pollutant, as specified in Appendix A to Section 123.45 of Title 40 Code of Federal Regulations, by 20 percent or more.
6. CWC Section 13385(i)(2) requires the Regional Water Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each violation, not counting the first three violations, if the discharger does any of the following four or more times in any six consecutive months:
  - a. Violates a waste discharge requirement effluent limitation.
  - b. Fails to file a report pursuant to Section 13260.
  - c. Files an incomplete report pursuant to Section 13260.
  - d. Violates a toxicity effluent limitation contained in the applicable waste discharge requirements where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.

Violations under Section 13385(i)(1) of the California Water Code are referred to as chronic violations in this Complaint.

7. On February 19, 2002, the State Water Resources Control Board (State Water Board) adopted Resolution No. 2002-0040 amending the Water Quality Enforcement Policy (Enforcement Policy). The Enforcement Policy was approved by the Office of Administrative Law and became effective on July 30, 2002. The Enforcement Policy addresses, among other enforcement issues, issues related to assessing mandatory minimum penalties.
8. CWC Section 13385(l)(1) provides that a portion of mandatory minimum penalties imposed under CWC 13385(h) or (i) may be directed to a supplemental environmental project (SEP) in accordance with Section IX of the Enforcement Policy of the State Water Board. If the penalty amount exceeds fifteen thousand dollars (\$15,000), the portion of the penalty amount that may be directed to a supplemental environmental project may not exceed fifteen thousand dollars (\$15,000) plus 50 percent of the penalty amount that exceeds fifteen thousand dollars (\$15,000). This Complaint includes requirements for SEPs as specified in the Enforcement Policy.
9. CWC Section 13385(k)(1) provides that the Regional Water Board may elect to require all or a portion of mandatory minimum penalties imposed under CWC 13385(h) or (i) against a POTW serving an eligible small community may be directed to a compliance project (CP) in accordance with Section X of the Enforcement Policy of the State Water Board. This Complaint includes requirements for CPs as specified in the Enforcement Policy.
10. For the purpose of compliance determinations, the 30-day average is equivalent to the monthly average, which is defined as the arithmetic mean of all daily determinations made during a calendar month. Where less than daily sampling is

required, the average shall be determined by the sum of all the measured daily discharges divided by the number of days during the calendar month when the measurements were made. If only one sample is collected during that period of time, the value of the single sample shall constitute the monthly average.

11. For the purpose of compliance determinations, the 7-day average is equivalent to the weekly average, which is defined as the arithmetic mean of all daily determinations made during a calendar week, Sunday to Saturday. Where less than daily sampling is required, the average shall be determined by the sum of all the measured daily discharges divided by the number of days during the calendar week when the measurements were made. If only one sample is collected during that period of time, the value of the single sample shall constitute the weekly average.
12. Order No. 95-83 includes the following requirements and limitations addressed in this Complaint:

A. EFFLUENT LIMITATIONS

1. Representative samples of the discharge shall not contain constituents in excess of the following limits.

<u>Constituent</u>	<u>Unit</u>	<u>Monthly Average</u> <sup>1</sup>	<u>Weekly Average</u> <sup>2</sup>	<u>Daily Maximum</u>
BOD (20° C, 5-day)	mg/l	30	45	60
	lb/day <sup>3</sup>	25	40	50
Suspended Solids	mg/l	30	45	60
	lb/day <sup>d</sup>	25	40	50
Settleable Solids	ml/l	0.1	-----	0.2
Coliform Organisms (Total)	MPN/100 ml	23 <sup>4</sup>	-----	230
Chlorine Residual	Mg/l	-----	-----	0.1
Hydrogen Ion	pH	Not less than 6.5 nor greater than 8.5		
Grease and Oil	Mg/l	15	-----	20

2. The arithmetic mean of the BOD<sub>5</sub> and Suspended Solids values by weight for effluent samples collected in a period of 30 consecutive days shall not exceed 15 percent of the arithmetic mean of the values, by weight, for the effluent samples collected at approximately the same period (85% removal).

13. Order No. R1-2001-59 includes the following requirements and limitations addressed in this Complaint:

<sup>1</sup> The arithmetic mean of the values for effluent samples collected in a period 30 consecutive days.

<sup>2</sup> The arithmetic mean of the values for effluent samples collected in a period of seven consecutive days.

<sup>3</sup> The daily discharge (lbs/day) is obtained from the following calculation for any calendar day:

<sup>4</sup> median

**B. EFFLUENT LIMITATIONS**

1. Representative samples of the discharge shall not contain constituents in excess of the following limits.

<u>Constituent</u>	<u>Unit</u>	<u>Monthly Average</u> <sup>5</sup>	<u>Weekly Average</u> <sup>6</sup>	<u>Daily Maximum</u> <sup>7</sup>
BOD (20° C, 5-day)	mg/l	30	45	60
	lb/day <sup>8</sup>	25	38	50
Suspended Solids	mg/l	30	45	60
	lb/day <sup>i</sup>	25	38	50
Settleable Solids	ml/l	0.1	-----	0.2
Coliform Organisms (Total)	MPN/100 ml	23 <sup>9</sup>	-----	230
Hydrogen Ion	pH	Not less than 6.5 nor greater than 8.5		

3. There shall be no detectable levels of chlorine in effluent discharged to Discharge SN 001, using a minimum detection limit of 0.1 mg/l.
  4. The arithmetic mean of the BOD (20° C, 5-day) and Suspended Solids values, by weight, for effluent samples collected in a period of 30 consecutive days shall not exceed 15 percent of the arithmetic mean of the values, by weight, for influent samples collected at approximately the same time during the same period (85 percent removal).
14. The Enforcement Policy states that for the purpose of determining serious violations, biochemical oxygen demand (BOD), suspended solids (TSS), settleable solids, and percent removal are identified as a Group I pollutant, while pH and residual chlorine are identified as a Group II pollutant in Title 40 Code of Federal Regulations, Section 123.45, Appendix A. Total coliform is neither a Group I nor a Group II pollutant; therefore, exceedances of effluent limitations for total coliform bacteria do not count as serious violations.

<sup>5</sup> The arithmetic mean of all samples collected in a calendar month.

<sup>6</sup> The arithmetic mean of all samples collected in a calendar week, Sunday to Saturday.

<sup>7</sup> The maximum sample of all samples collected in a calendar day.

<sup>8</sup> The daily discharge (lbs/day) is obtained from the following calculation of any calendar day:

$$\frac{8.34 \sum_{i=1}^N Q_i C_i}{N}$$

in which N is the number of samples analyzed in any calendar day. Q<sub>i</sub> and C<sub>i</sub> are the flow rate (mgd) and the constituent concentration (mg/l), respectively, which are associated with each of the N grab samples, which may be taken in any calendar day. If a composite sample is taken, C<sub>i</sub> is the concentration measured in the composite sample; and Q<sub>i</sub> is the average flow rate occurring during the period over which samples are composited.

<sup>9</sup> 30-day median. The median of all effluent samples collected in a 30-day period.

15. According to monitoring reports submitted by the Discharger, for the period January 1, 2000 through April 30, 2005, the discharge exceeded effluent limitations ninety-one times. Of those ninety-one exceedances, twenty-eight were serious violations in accordance with CWC Section 13385(h) and sixty-three were chronic violations in accordance with CWC Section 13385(i)(1). The mandatory penalty amount for those violations is \$225,000 as shown in the following table:

**Effluent Limitation Exceedances**

<b>January 1, 2000, through April 30, 2005</b>	<b>Date</b>	<b>Parameter</b>	<b>Reported Value</b>	<b>Violation Type</b>	<b>Penalty Amount</b>
	01/03/00	Coliform, Daily Max	1600 MPN	1 <sup>st</sup> Chronic	\$0
	01/14/00	Suspended Solids, Daily Max	56 lb/day	2 <sup>nd</sup> Chronic	\$0
	01/15/00	Suspended Solids, Daily Max	64 lb/day	3 <sup>rd</sup> Chronic	\$0
	01/16/00	Suspended Solids, Daily Max	63 lb/day	Chronic	\$3,000
	01/17/00	Coliform, Daily Max	900 MPN	Chronic	\$3,000
	01/19/00	Coliform, Daily Max	>1600 MPN	Chronic	\$3,000
	01/31/00	Coliform, 30-day Median	170 MPN	Chronic	\$3,000
	02/07/00	Coliform, Daily Max	900 MPN	Chronic	\$3,000
	02/20/00	Suspended Solids, 7-day Av	43.5 lb/day	Chronic	\$3,000
	02/21/00	Coliform, Daily Max	300 MPN	Chronic	\$3,000
	02/22/00	Settleable Solids, Daily Max	0.5 ml/l	Serious	\$3,000
	02/22/00	Settleable Solids, Daily Max	0.5 ml/l	Serious	\$3,000
	02/22/00	Settleable Solids, 30-day Av	0.14 ml/l	Serious	\$3,000
	02/23/00	Coliform, Daily Max	1600 MPN	Chronic	\$3,000
	02/28/00	Coliform, Daily Max	500 MPN	Chronic	\$3,000
	02/28/00	Coliform, 30-day Median	130 MPN	Chronic	\$3,000
	03/27/00	Coliform, 30-day Median	70 MPN	Chronic	\$3,000
	04/04/00	Coliform, Daily Max	>1600 MPN	Chronic	\$3,000
	04/11/00	Coliform, Daily Max	300 MPN	Chronic	\$3,000
	04/13/00	Coliform, Daily Max	1600 MPN	Chronic	\$3,000
	04/23/00	Chlorine Residual, Daily Max	0.2 mg/l	Chronic	\$3,000
	04/27/00	Coliform, 30-day Median	110 MPN	Chronic	\$3,000
	04/29/00	Chlorine Residual, Daily Max	1.6 mg/l	Serious	\$3,000
	05/04/00	Coliform, Daily Max	300 MPN	Chronic	\$3,000
	05/07/00	Chlorine Residual, Daily Max	0.2 mg/l	Serious	\$3,000

01/04/01	Coliform, Daily Max	900 MPN	Chronic	\$0
01/18/01	Coliform, Daily Max	900 MPN	Chronic	\$0
01/23/01	Coliform, 30-day Median	33 MPN	Chronic	\$0
02/01/01	Coliform, Daily Max	500 MPN	Chronic	\$3,000
02/13/01	pH, Daily Min	6.1	Serious	\$3,000
02/20/01	Coliform, Daily Max	240 MPN	Chronic	\$3,000
03/13/01	Coliform, Daily Max	500 MPN	Chronic	\$3,000
03/15/01	Coliform, Daily Max	500 MPN	Chronic	\$3,000
03/22/01	Coliform, 30-day Median	70 MPN	Chronic	\$3,000
03/27/01	Coliform, Daily Max	>1600 MPN	Chronic	\$3,000
03/29/01	Coliform, Daily Max	1600 MPN	Chronic	\$3,000
04/03/01	Coliform, Daily Max	500 MPN	Chronic	\$3,000
04/05/01	Coliform, Daily Max	500 MPN	Chronic	\$3,000
04/12/01	Coliform, 30-day Median	170 MPN	Chronic	\$3,000
04/19/01	Coliform, Daily Max	300 MPN	Chronic	\$3,000
12/02/01	Suspended Solids, Daily Max	57 lb/day	Chronic	\$0
12/03/01	Suspended Solids, Daily Max	58 lb/day	Chronic	\$0
12/06/01	Suspended Solids, Daily Max	93 lb/day	Serious	\$3,000
12/07/01	Suspended Solids, Daily Max	54 lb/day	Chronic	\$3,000
12/08/01	Suspended Solids, Weekly Av	55 lb/day	Chronic	\$3,000
12/11/01	pH, Daily Min	6.4	Chronic	\$3,000
12/14/01	Suspended Solids, Daily Max	73 lb/day	Serious	\$3,000
12/19/01	Suspended Solids, Daily Max	66 lb/day	Chronic	\$3,000
12/23/01	Suspended Solids, Daily Max	52 lb/day	Chronic	\$3,000
01/08/02	pH, Daily Min	6.3	Serious	\$3,000
02/20/02	BOD, Daily Max	132 lb/day	Serious	\$3,000
02/21/02	BOD, Daily Max	91 lb/day	Serious	\$3,000
02/23/02	BOD, Weekly Av	55 lb/day	Serious	\$3,000
02/24/02	BOD, Daily Max	69 lb/day	Chronic	\$3,000
12/31/02	pH, Daily Min	6.4	Chronic	\$0
01/01/03	Chlorine Residual, Daily Max	0.1 mg/l	Chronic	\$0
01/07/03	pH, Daily Min	6.3	Chronic	\$0
01/08/03	Chlorine Residual, Daily Max	0.1 mg/l	Chronic	\$3,000
01/14/03	pH, Daily Min	5.5	Serious	\$3,000
01/21/03	pH, Daily Min	6.2	Serious	\$3,000
02/03/03	Chlorine Residual, Daily Max	0.1 mg/l	Chronic	\$3,000
04/08/03	Chlorine Residual, Daily Max	0.1 mg/l	Chronic	\$3,000

04/15/03	Suspended Solids, Monthly Av	49 lb/day	Serious	\$3,000
04/15/03	pH, Daily Min	6.3	Serious	\$3,000
04/29/03	pH, Daily Min	6.4	Chronic	\$3,000
05/13/03	Chlorine Residual, Daily Max	0.1 mg/l	Chronic	\$3,000
12/09/03	Coliform, Daily Max	500 MPN	Chronic	\$0
01/15/04	Suspended Solids, Monthly Av	26 lb/day	Chronic	\$0
01/27/04	Coliform, Daily Max	1600 MPN	Chronic	\$0
01/29/04	Chlorine Residual, Daily Max	0.1 mg/l	Chronic	\$3,000
02/03/04	pH, Daily Min	6.2	Serious	\$3,000
02/10/04	Chlorine Residual, Daily Max	0.1 mg/l	Chronic	\$3,000
02/17/04	pH, Daily Min	5.75	Serious	\$3,000
02/19/04	BOD, Monthly Av	32 lb/day	Serious	\$3,000
02/19/04	Suspended Solids, Monthly Av	63 lb/day	Serious	\$3,000
02/19/04	Suspended Solids, % Removal	56%	Serious	\$3,000
03/02/04	pH, Daily Min	6.02	Serious	\$3,000
03/09/04	Chlorine Residual, Daily Max	0.1 mg/l	Chronic	\$3,000
03/16/04	Chlorine Residual, Daily Max	0.1 mg/l	Chronic	\$3,000
03/31/04	pH, Daily Min	6.3	Serious	\$3,000
04/06/04	Chlorine Residual, Daily Max	0.1 mg/l	Chronic	\$3,000
05/18/04	Chlorine Residual, Daily Max	0.1 mg/l	Chronic	\$3,000
10/26/04	pH, Daily Min	5.9	Serious	\$0
12/14/04	Coliform, Daily Max	1600 MPN	Chronic	\$0
12/20/04	Chlorine Residual, Daily Max	0.4 mg/l	Serious	\$3,000
12/28/04	pH, Daily Min	5.7	Serious	\$3,000
12/31/04	Settleable Solids, Daily Max	0.4 ml/l	Serious	\$3,000
01/11/05	pH, Daily Min	5.78	Serious	\$3,000
01/18/05	Coliform, Daily Max	300 MPN	Chronic	\$3,000
01/18/05	Coliform, 30-day Median	44 MPN	Chronic	\$3,000
04/12/05	Coliform, daily Max	240MPN	Chronic	\$3,000
				<u>\$225,000</u>

16. The total amount of the mandatory minimum penalties for serious and chronic violations occurring during the period January 1, 2000, through April 30, 2005, is \$225,000. Regional Water Board staff costs associated with this enforcement action may amount to \$10,000 at the time this matter is settled, including staff time to tally violations and prepare this Complaint, public notices, public hearing, response to comments, and evaluation and tracking of a CP or SEP through completion.

17. The issuance of this Complaint is an enforcement action to protect the environment, and is therefore exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) pursuant to Title 14, California Code of Regulations Sections 15308 and 15321(a)(2).

**THE LOLETA COMMUNITY SERVICES DISTRICT IS HEREBY GIVEN NOTICE THAT:**

1. The Executive Officer of the Regional Water Board proposes that the Discharger be assessed a **mandatory minimum penalty in the amount of \$225,000** for violations that occurred from January 1, 2000, through April 30, 2005.
2. A hearing shall be conducted on this Complaint by the Regional Water Board on May 17, 2006, unless the Discharger waives the right to a hearing by signing and returning the waiver form attached to this Complaint within 30 days of the date of this Complaint. By doing so, the Discharger agrees to:
  - a. Pay the mandatory minimum penalty of \$225,000 in full to the State Water Pollution Cleanup and Abatement Account within 30 days of the date of this Complaint, or
  - b. Propose a SEP in an amount up to \$120,000 and pay the balance of the penalty (\$105,000) within 30 days of the date of this Complaint (or in compliance with a payment schedule issued in writing by the Executive Officer). The sum of the SEP amount and the amount of the fine to be paid to the State Water Pollution Cleanup and Abatement Account shall equal the full penalty amount of \$225,000, or
  - c. Propose a CP in an amount up to \$215,000 and pay the \$10,000 balance of the penalty (to recover staff costs) within 30 days of the date of this Complaint (or in compliance with a payment schedule issued in writing by the Executive Officer). The sum of the CP amount and the amount of the fine to be paid to the State Water Pollution Cleanup and Abatement Account shall equal the full penalty.
3. If the Discharger chooses to propose an SEP or CP, it must submit a proposal within 30 days of the date of this Complaint to the Executive Officer for conceptual approval. Any SEP or CP proposal shall conform to the requirements specified in the Enforcement Policy and the attached guidance documents for SEPs and CPs. The SEP or CP proposal must include a time schedule, for concurrence by the Executive Officer, to address implementation and completion of the SEP or CP. If the proposed SEP or CP and/or implementation schedule is not acceptable, the Executive Officer may allow the Discharger 30 days to submit a new or revised proposal, or may demand that, during the same 30-day period the Discharger remit all or a portion of the assigned penalties. All payments, including money not used for the SEP or CP, must be payable to the State Water Pollution Cleanup and Abatement Account.
4. If the Discharger waives the hearing and pays the liability, the resulting settlement may become effective on the next day after the public comment period for this Complaint is closed, provided that there not significant public comments on this Complaint during the

public comment period. If there are significant public comments, the Executive Officer may withdraw the Complaint, reissued it as appropriate, or take other appropriate action.

5. If a hearing is held, the Regional Water Board may impose an administrative civil liability in the amount proposed or for a different amount; decline to seek civil liability; or refer the matter to the Attorney General to have a Superior Court consider enforcement.
6. Regulations of the United States 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.
7. In the event that the Discharger is required to pay a previously suspended penalty amount, payment of **the** previously suspended penalty amount does not relieve the Discharger of the independent obligation take necessary actions to achieve compliance.
8. The Executive Officer shall maintain jurisdiction over approved SEP and CP implementation time schedules throughout the life of the SEP or CP. If, given written justification **from** the Discharger, the Executive Officer determines that a delay in the SEP or CP implementation schedule was beyond the reasonable control of the Discharger; the Executive Officer may revise the implementation schedule as appropriate.
9. All payments, including money not used for the CP and or previously suspended liabilities assessed for failure to comply with the CP must be payable to the State Water Pollution Cleanup and Abatement Account.
10. Notwithstanding the issuance of this Complaint, the Regional Water Board shall retain the authority to assess additional penalties for violations of the Discharger's waste discharge requirements.

  
for Catherine E. Kuhlman  
Executive Officer

March 16, 2006