

California Regional Water Quality Control Board
North Coast Region

Administrative Civil Liability Order No. R1-2007-0045
Mandatory Minimum Penalties

For
Violations of Waste Discharge Requirements
Order Nos. 99-62 and R1-2004-0075
NPDES No. CA0023272

In the Matter of
City of Tulelake
Wastewater Treatment Facility
WDID NO. 1A84002OSIS

Siskiyou County

The California Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board), having received from the City of Tulelake (hereinafter Discharger) a waiver of the right to a hearing in the matter of mandatory minimum penalties pursuant to Water Code section 13385, subdivisions (h) and (i) for failure to meet effluent limitations as required by Waste Discharge Requirements (WDRs) Order Nos. 99-62 and R1-2004-0075 and associated monitoring and reporting programs, and having received the Discharger's request for the opportunity to implement a Compliance Project (CP) in lieu of a portion of the penalty prescribed, finds the following:

1. The Discharger owns and operates the City of Tulelake Wastewater Treatment Facility (WWTF), which serves the community and discharges secondary-treated municipal wastewater into the Tulelake Irrigation District Drain No. 44-B-1, a tributary to the Tulelake-Lower Klamath Lake reach of the Lost River Basin.
2. The Regional Water Board adopted Waste Discharge Requirements (WDRs) Order No. 99-62 on August 26, 1999 for the Discharger and reissued the expiring Order by adoption of Order No. R1-2004-0075 on October 6, 2004. Both of these Orders serve as a National Pollutant Discharge Elimination System (NPDES) Permit No. CA0023272. Order No. 99-62 was rescinded on October 6, 2004.
3. Among the provisions in the Discharger's WDRs are the requirements to implement a discharge monitoring program and to prepare and submit NPDES self-monitoring reports to the Regional Water Board pursuant to the authority of Water Code section 13383.
4. According to monitoring reports submitted by the Discharger, effluent limitations were violated one hundred sixty-nine times during the period from January 1, 2000 through April 30, 2006. The violations are primarily related to Effluent Limitations violations resulting from insufficient operation, treatment, and dechlorination.

5. Water Code section 13385, subdivisions (h) and (i) require the Regional Water Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each specified violation of effluent limits. Water Code section 13385, subdivision (k) allows the Regional Water Board to direct all or a portion of the penalty toward a Compliance Project (CP) in accordance with Section X of the State Water Resources Control Board's (State Water Board's) Water Quality Enforcement Policy (Enforcement Policy).
6. On June 21, 2006, the Executive Officer issued Administrative Civil Liability Complaint No. R1-2006-0070 assessing a mandatory minimum penalty of \$495,000 for effluent violations as described in Finding No. 4 above.
7. On July 18, 2006, the Discharger waived its right to a public hearing and requested approval to conduct a CP in lieu of paying the mandatory minimum penalty of \$495,000. Regional Water Board staff costs associated with this enforcement action were estimated to be at least \$10,000, including staff time to tally violations; prepare the existing complaint and proposed Order, public notices, public hearing, and response to comments; and evaluate and track a CP through to completion. The Discharger has offered to pay \$7,000 into the State Water Pollution Cleanup and Abatement Account (CAA) by August 28, 2007 to defray some of the staff costs.
8. The Regional Water Board received a CP from the Discharger on May 15, 2007. The Discharger proposes to prepare a Facilities Plan that evaluates alternative compliance projects from WWTF upgrades to construction of a new facultative lagoon and evaporation pond. WWTF upgrades include an upgrade of the collection system, headworks, and chlorine contact chamber as well as increased operator man-hours and other actions necessary to achieve compliance. The total cost of the project is estimated to be in excess of \$495,000. The Discharger is reachable on the Small Community Grant assistance Priority List for project planning and construction up to \$2 million. Design of the project is scheduled to be completed by August 1, 2010 with construction completed by July 25, 2012.
9. A duly noticed public hearing on this matter was held before the Regional Water Board during a public meeting on July 25, 2007, at the Yreka Community Center, Main Room, 810 North Oregon Street, Yreka, California. The documents for the agenda item were provided to the Discharger and made available to the public prior to the hearing. The Discharger was given the opportunity to testify and present evidence, and the public was given an opportunity to comment.
10. The Regional Water Board finds that the CP, as proposed, meets the criteria established in Water Code section 13385, subdivision (k) and the State Water Board's Enforcement Policy.
11. The issuance of this Order is an enforcement action to protect the environment, and is therefore exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code, §§ 21000-21177) pursuant to title 14, California Code of Regulations, sections 15308 and 15321, subdivision (a)(2).

12. Any person affected by this action of the Regional Water Board may petition the State Water Board to review the action in accordance with section 13320 of the Water Code and title 23, California Code of Regulations, section 2050. The petition must be received by the State Water Board within thirty days of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request.

THEREFORE, IT IS HEREBY ORDERED pursuant to Water Code section 13385 that:

1. The Discharger shall be assessed mandatory minimum penalties in the amount of \$495,000. The Discharger shall pay the sum of \$7,000 to the CAA by August 28, 2007. The remaining sum of \$488,000 will be permanently suspended upon satisfactory completion of the CP as described in Attachment A of this Order. The Discharger shall complete the CP and submit reports to the Regional Water Board describing the work performed as follows:

DATE	TASK
October 1, 2007	Commence preparation of Facilities Plan.
October 15, 2007	Submit report of compliance to Regional Water Board.
March 15, 2008	Submit a progress report on the Facilities Plan.
July 1, 2008	Submit Facilities Plan documenting details of the CP.
October 1, 2008	Issue Notice of Preparation of CEQA documents and submit copy to Regional Water Board.
July 1, 2009	File Notice of Determination with the State Clearinghouse and submit copy to the Regional Water Board.
October 1, 2009	Start project design.
October 15, 2009	Submit report of compliance to Regional Water Board.
March 1, 2010	Submit 50% design to Regional Water Board.
August 1, 2010	Submit final project design to Regional Water Board.
December 1, 2010	Advertise for bids.
March 1, 2011	Award construction and notify Regional Water Board of award.
May 1, 2011	Begin construction and submit quarterly reports as progress updates until complete.
July 25, 2012	The project should be completed. Prepare a final report certifying completion of the CP and an overall evaluation showing that the CP achieved its intended objectives and goals. Include a post project accounting of all expenditures with proof of payment.

2. If, given written justification from the Discharger, the Executive Officer determines that a delay in the CP implementation schedule is beyond the reasonable control of the Discharger, the Executive Officer may revise the implementation schedule as appropriate. Written justification must be received by the Executive Officer before the specific due date occurs, must describe circumstances causing the delay, and must state when each task of the CP will be completed.

3. The penalty amount of \$488,000 shall be permanently suspended if the Executive Officer determines that the Discharger completes the CP to her satisfaction and provides the Regional Water Board with the scheduled progress reports toward completion of the CP and a final report of project completion by July 25, 2012. The final report shall contain documentation of expenditures.
4. Failure to meet the deadlines above, including satisfactorily completing the CP, will result in being required to pay the previously suspended \$488,000 penalty. Payment of the previously suspended amount does not relieve the Discharger of the independent obligation to take necessary actions to achieve compliance.
5. Notwithstanding the issuance of this Order, the Regional Water Board shall retain continuing jurisdiction to determine compliance with the terms of the suspended penalty provisions above, as well as the authority to assess additional penalties for other violations of the Discharger's WDRs.

Certification

I, Catherine E. Kuhlman, Executive Officer,
do hereby certify that the foregoing is a full, true,
and correct copy of an Order adopted by the
California Regional Water Quality Control Board, North Coast Region
on July 25, 2007.

Catherine E. Kuhlman
Executive Officer