

California Regional Water Quality Control Board
North Coast Region

Administrative Civil Liability Order No. R1-2007-0055

For
Violation of Waste Discharge Requirements
Order No. R1-2004-0038
NPDES No. CA0023639

In the Matter of
Graton Community Services District
Wastewater Treatment, Reclamation and Disposal Facility
WDID No. 1B840600SON

Sonoma County

The California Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board), having received from Graton Community Services District (hereinafter Discharger) a waiver of the right to a hearing in the matter of: 1) mandatory minimum penalties pursuant to Water Code section 13385, subdivisions (h) and (i) for failure to comply with effluent limitations and timely filing of discharge monitoring reports; and 2) discretionary penalties pursuant to Water Code section 13385, subdivision (a)(2) for violations of Order No. R1-2004-0038 National Pollutant Discharge Elimination System No. CA0023639, and associated monitoring and reporting program, and having received the Discharger's request for the opportunity to implement a Compliance Project (CP) and Supplemental Environmental Project (SEP) in lieu of the penalties prescribed, finds the following:

1. The Discharger owns and operates the Graton Wastewater Treatment Facility (WWTF). The WWTF serves the unincorporated community of Graton and discharges secondary treated domestic wastewater during the wet season (October 1 to May 14) into Atascadero Creek, a tributary to Green Valley Creek, thence the Russian River.
2. The Regional Water Board adopted Waste Discharge Requirements Order No. R1-2004-0038 for the Discharger on October 6, 2004. The Order serves as an (NPDES) permit under the Federal Clean Water Act.
3. Among the provisions in the Discharger's waste discharge requirements (WDRs) are the requirements to implement a discharge monitoring program, to prepare and submit NPDES self-monitoring reports pursuant to Water Code section 13383, and to submit the technical reports required by the WDRs.
4. According to monitoring reports submitted by the Discharger, effluent limitations were violated four times during the period from October 6, 2004 through October 30, 2006. Also during this period of time, the Discharger violated NPDES permit conditions by failing to submit monitoring and technical reports in a timely manner.

5. On February 28 2007, the Executive Officer issued Administrative Civil Liability Complaint No. R1-2007-0019 (ACLC) assessing mandatory minimum penalties and discretionary penalties in the amount of \$56,000 for violations as described in Finding No. 4 above. The Discharger waived its right to a public hearing and requested to pay the sum of \$14,500 to the State Water Pollution Cleanup and Abatement Account (CAA) and spend at least \$12,000 on a CP and at least \$29,500 on an SEP.
6. Water Code section 13385, subdivision (k) allows the Regional Water Board to direct all or a portion of mandatory minimum penalties assessed against a publicly owned treatment work serving a small community toward a CP in accordance with Section X of the *State Water Resources Control Board's Water Quality Enforcement Policy* (Enforcement Policy). This Complaint includes requirements for CPs as specified in the Enforcement Policy.
7. Water Code section 13385, subdivision (l)(1) provides that a portion of mandatory minimum penalties imposed under section 13385, subdivisions (h) or (i) may be directed to a supplemental environmental project (SEP) in accordance with Section IX of the Enforcement Policy. The Enforcement Policy also provides that the State Water Board supports the inclusion of SEPs in other Administrative Civil Liability actions, as long as the projects meet the criteria specified in section IX of the Enforcement Policy. This Complaint includes requirements for SEPs as specified in the Enforcement Policy.
8. The Regional Water Board finds that the SEP, Attachment A, as proposed, meets the criteria established in Water Code section 13385, subdivision (l) and the Enforcement Policy.
9. A duly notice public hearing on this matter was held before the Regional Water Board during a public meeting on October 25, 2007, in the Best Western Weaverville Victorian Inn conference room, 1709 Main Street, Weaverville, 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 proposed CP, Attachment B, received on May 3, 2007, will remove soil deposited from the December 31, 2005, flood event in the three treatment ponds at the WWTF. Removal of solids from the treatment ponds will increase pond capacity and enable a higher level of treatment. A contractor has been selected, a crew has been mobilized and work has started. Completion of the project is projected to be September 31, 2007 with an estimated cost between \$250,000 and \$800,000. Most of this cost will be borne by the Federal Emergency Management Agency (FEMA).
11. The proposed SEP, received on May 25, 2007, will provide funding to the Sonoma Land Trust for its newly purchased Pitkin Marsh Preserve. The objectives of the Pitkin Marsh Preserve are to protect and conserve a significant wetland and riparian biotic reserve for multiple rare plant species and wetland habitats, and associated wildlife. The Water Quality Control Plan for the North Coast Region identifies beneficial uses for wetlands. Among the identified beneficial uses are water quality enhancement and flood peak attenuation/flood water storage. The Pitkin Marsh is located on a tributary to

Atascadero Creek, which then flows through the Graton WWTF. The protection and enhancement of this important water body and its associated beneficial uses will aid in protecting and enhancing the water quality of downstream water, including the stream where the Discharger's wastewater discharge occurs.

In order to preserve and enhance the Pitkin Marsh, the Sonoma Land Trust will develop a baseline of the property by surveying plants and mapping the stream and wetland; develop a management plan and conservation plan; and provide community outreach. The proposed SEP would provide \$29,500 for these activities. The SEP will start in September 2007 and be completed by December 31, 2008.

12. 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 (Public Resources Code section 21000 et seq.) pursuant to title 14, California Code of Regulations sections 15308 and 15321, subdivision (a)(2).
13. Any person affected by this action of the Regional Water Board may petition the State Water Resources Control 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 Resources Control 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 a mandatory minimum penalty of \$12,000 for four serious effluent limitation violations, a mandatory minimum penalty of \$9,000 for two late monitoring reports, and \$35,000 for late submittal of four reports (total 1,001 days late) and nonsubmittal of five reports (total 1,345 days late). The total penalty assessed is \$56,000. The Discharger paid the sum of \$14,500 on May 11, 2007 into the CAA to help defray staff costs. The remaining sum of \$41,500 is eligible to be permanently suspended upon satisfactory completion of the CP and SEP as described in Findings 8 and 10 of this Order.
2. The Discharger shall complete the CP by December 31, 2007 and submit a report describing the work performed by January 31, 2008. The report shall include a post project accounting of all expenditures with proof of payment.
3. The Discharger shall complete the SEP and submit a report describing the work performed as follows:

SEP Task 1A	Research and Identify Resource Experts and Stakeholders	Submit a letter or email on or before January 15, 2008 that reports the status of the SEP project.
SEP Task 2A	Initial Site Research	

SEP Task 3A	Plant Surveys and Mapping	Submit a letter or email on or before September 15, 2008 that reports the status of the SEP project.
SEP Task 4A	Develop Interim Management Plan for Property	
SEP Task 1B	Conservation Plan	Submit a letter or email on or before December 15, 2008 that reports the status of the SEP project.
SEP Task 2B	Implementation of Conservation Plan	
SEP Task 3B	Develop Regional Acquisition Strategy and protocol for Pitkin Marsh Conservation Region	Complete project by December 31, 2008 and submit final report of completion on or before March 15, 2009. The report shall include a post project accounting of all expenditures with proof of payment.

4. If, given written justification from the Discharger, the Executive Officer determines that a delay in the CP or SEP 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 and SEP will be completed.
5. The penalty amount of \$41,500 shall be permanently suspended if the Executive Officer determines that the Discharger completes the CP and SEP satisfactorily and provides the Regional Water Board with the scheduled progress reports and final report for each project as listed in the tables above. The amount of the penalty suspended will not exceed the Discharger's cost to return to and/or maintain future compliance.
6. 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 Waste Discharge Requirements.

Certification

I, Robert R. Klamt, Interim 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 October 25, 2007.

Robert R. Klamt
Interim Executive Officer