

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
NORTH COAST REGION**

In the Matter of:)

Graton Community Services District)
P.O. Box 534)
Graton, CA 95444)

Complaint No. R1-2011-0051
for
Administrative Civil Liability)

This Administrative Civil Liability Complaint (Complaint) is issued to the Graton Community Services District (Discharger or Graton CSD) to assess administrative civil liability for discharges from its Wastewater Treatment Plant (WWTP) in violation of provision of law for which the California Regional Water Quality Control Board, North Coast Region (Regional Water Board) must impose mandatory minimum penalties pursuant to California Water Code (CWC) Section 13385 subdivision (h). The Complaint alleges 33 effluent limit violations subject to Mandatory Minimum Penalties (MMPs) under CWC section 13385 (h) and (i). The violations cited herein occurred from November 1, 2006 through March 31, 2010 and are specifically listed in Attachment A, which is incorporated into this Complaint by reference. During this period, the Discharger was subject to the waste discharge requirements established in Order No. R1-2004-0038, NPDES Permit No. CA 0023639.

The Assistant Executive Officer of the California Regional Water Quality Control Board, North Coast Region (Regional Water Board) hereby gives notice that:

1. The Discharger is alleged to have violated provisions of law for which the Regional Water Board must impose mandatory minimum penalties under CWC section 13385 subdivision (h) and (i). The Complaint proposes to assess \$84,000 in mandatory minimum penalties for the violations described herein.
2. This Complaint is issued under authority of CWC section 13323.
3. A hearing concerning this Complaint may be held before the Regional Water Board within ninety (90) days of the date of issuance of this Complaint, unless, pursuant to CWC section 13323, the Discharger waives its right to a hearing. The waiver procedures are specified in the attached Waiver Form. The hearing in this matter is scheduled for the Regional Water Board's regular meeting on June 23, 2011 at the Regional Water Board Hearing Room, 5550 Skylane Blvd, Suite A, Santa Rosa, California. The Discharger or its designated representative will have an opportunity to appear and be heard, and to contest the allegations in this Complaint and the imposition of civil liability by the Regional Water Board. An agenda for the meeting will be available at http://www.waterboards.ca.gov/northcoast/board_info/board_meetings/ not less than 10 days before the hearing date.

4. If a hearing is held on this matter, the Regional Water Board will consider whether to affirm, reject, or modify the proposed administrative civil liability or whether to refer the matter to the Attorney General for recovery of judicial civil liability.

**STATEMENT OF PROHIBITIONS, PROVISIONS, AND REQUIREMENTS
APPLICABLE TO THE DISCHARGER:**

The Discharger is required to comply with the following:

5. Order No. R1-2004-0038 includes the following effluent limitations:

Parameter	Units	Monthly Average	Weekly Average
BOD (20°m 5-day)	mg/l	10	15
	Lb/day maximum wet-weather	71	106

- a. Effluent shall not contain any measurable settleable solids, as measured at Discharge Serial No. 001.
- b. The arithmetic mean of the BOD (20°C, 5-day) and suspended solids values for effluent samples collected from Discharge Serial No. 002 in a period of 30 consecutive days shall not exceed 15 percent of the arithmetic mean of the values for influent samples collected at approximately the same times during the same period (85 percent removal). Percent removal shall be determined from the 30-day average value of influent wastewater concentration in comparison to the 30-day average value of effluent concentration for the same constituent over the same period.
- c. Treated disinfected wastewater discharged to Atascadero Creek shall not contain detectable levels of total chlorine using an analytical method or chlorine analyzer with a minimum detection level of 0.1 mg/l, measured at Discharge Serial No. 002.

**ALLEGED VIOLATIONS OF PROHIBITIONS, PROVISIONS, AND REQUIREMENTS
APPLICABLE TO THE DISCHARGER**

6. **Violation No. 1:** The Discharger's self monitoring reports for the Complaint Period document 33 effluent limit exceedances, detailed in Attachment A, Table 1.

FACTUAL BASIS FOR THE ALLEGED VIOLATIONS

The following evidence supports the alleged violations described above:

7. The Discharger owns and operates a publicly owned treatment works (POTW) located in Graton, California adjacent to Atascadero Creek, a tributary of Green Valley Creek which is a tributary to the Russian River. The POTW is regulated by Order No. R1-2004-0038, adopted by the Regional Water Board on October 6, 2004.

Order No. R1-2004-0038 includes effluent and receiving water limitations, discharge prohibitions and compliance provisions, the specifics of which are discussed in more detail above.

8. The POTW consists of a collection system, two aerated ponds, a settling pond, chlorine contact basin, and dechlorination system, providing secondary treatment prior to discharge to two effluent storage ponds from which the Discharger may discharge to Atascadero Creek during the discharge season (October 1 through May 14) and to irrigation sites any time during the year that conditions are appropriate for irrigation.
9. Starting on October 6, 2007, Order No. R1-2004-0038 requires Discharger to comply with the Water Quality Control Plan for the North Coast Region requirement for advanced wastewater treatment (AWT) and prohibits the discharge of secondary treated wastewater to Atascadero Creek.
10. On December 11, 2008, the Regional Water Board issued a Cease and Desist Order (Order No. R1-2008-0109), granting the Discharger more time to get funding to complete construction of the tertiary wastewater treatment plant upgrade, and adopting interim effluent limits.
11. During the period of November 1, 2006 through March 31, 2010, however, the Discharger's monthly self monitoring reports documented 33 effluent limit violations (detailed in Attachment A, Table 1).

WATER CODE PROVISIONS UPON WHICH LIABILITY IS BEING ASSESSED DUE TO NON COMPLIANCE WITH APPLICABLE REQUIREMENTS

12. 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. Pursuant to CWC § 13385(h)(2) a "serious violation" is defined as any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group II pollutant by 20 percent or more, or for a Group I pollutant by 40 percent or more. Appendix A of Part 123.45 of Title 40 of the Code of Federal Regulations specifies the Group I and II pollutants.
13. CWC section 13385.1(a)(1) states a "serious violation also means a failure to file a discharge monitoring report required pursuant to Section 13383 for each complete period of 30 days following the deadline for submitting the report, if the report is designed to ensure compliance with limitations contained in the waste discharge requirements that contain effluent limitations."
14. The maximum amount of discretionary administrative civil liability pursuant to CWC section 13385 subdivision (c) is \$10,000 per day of violation plus \$10 times the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.

15. The Regional Water Board may choose to assess discretionary penalties pursuant to CWC section 13385 subdivision over and above mandatory minimum penalties.
16. If the Regional Water Board decides to impose discretionary penalties, the Prosecution Team reserves the right to seek an increase in the civil liability amount, at the very least, to cover the costs of enforcement incurred subsequent to the issuance of this Complaint through hearing.

PROPOSED ADMINISTRATIVE CIVIL LIABILITY

17. The Assistant Executive Officer of the Regional Water Board proposes that mandatory minimum penalties be assessed against the Discharger in the amount of \$84,000 for the violations specifically identified in Attachment A to this Complaint.
18. There are no statutes of limitations that apply to administrative proceedings. The statutes of limitations that refer to "actions" and "special proceedings" and are contained in the California Code of Civil Procedure apply to judicial proceedings, not an administrative proceeding. See *City of Oakland v. Public Employees' Retirement System* (2002) 95 Cal. App. 4th 29, 48; 3 Witkin, Cal. Procedure (4th ed. 1996) Actions, §405(2), p. 510.)
19. Notwithstanding the issuance of this Complaint, the Regional Board retains the authority to assess additional penalties for violations of the requirements of the Discharger's waste discharge requirements for which penalties have not yet been assessed or for violations that may subsequently occur.
20. Issuance of this Complaint is an enforcement action and is therefore exempt from the provisions of the California Environmental Quality Act (Pub. Res. Code § 21000 et seq.) pursuant to title 14, California Code of Regulations sections 15308 and 15321 subsection (a) (2).

April 12, 2011
Date

Luis G. Rivera
Assistant Executive Officer
Regional Water Board Prosecution Team