

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
NORTH COAST REGION

In the Matter of:)	
)	
The City of Ukiah, WWTF)	Complaint No. R1-2012-0058
300 Seminary Avenue)	for
Ukiah, CA 95482)	Administrative Civil Liability
_____)	
)	
Attn: Mr. Tim Eriksen, Director of Public Works/City Manager)	
_____)	

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

1. This Administrative Civil Liability Complaint (Complaint) is issued under the authority of California Water Code section 13323 to the City of Ukiah (hereinafter Discharger) to assess administrative civil liability for discharges from its Wastewater Treatment Facility (WWTF) in violation of provisions of law for which the Regional Water Board must impose mandatory minimum penalties pursuant to Water Code section 13385, subdivisions (h) and (i). The Complaint alleges twenty-eight (28) effluent limit violations of Waste Discharge Requirements (WDRs) Order No. R1-2006-0049, NPDES Permit No. CA 0022888 (WDR Order No. R1-2006-0049). The violations cited herein occurred during the period from June 1, 2010 through January 31, 2012 (hereinafter Complaint Period) and are specifically listed in Attachment A, which is incorporated into this Complaint by reference. During the Complaint Period, the Discharger was subject to the waste discharge requirements established in Order No. R1-2006-0049.
2. Unless waived, the Regional Water Board will hold a hearing on this Complaint at the August 23, 2012, Board meeting located at the Regional Water Board office, 5550 Skylane Boulevard, Suite A, Santa Rosa, CA or at a location as posted on the Regional Water Board's website (address listed below). The Discharger or its representative will have an opportunity to be heard and to contest the allegations in this Complaint and the imposition of the civil liability. Not less than 10 days before the hearing date, an agenda for the meeting will be available on the Regional Water Board's website:
http://www.waterboards.ca.gov/northcoast/board_info/board_meetings/.
3. 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. Accordingly, interested persons will be given thirty days to comment on any proposed settlement of this Complaint.

The Assistant Executive Officer of the Regional Water Board hereby alleges that:

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

4. WDRs Order No. R1-2006-0049 (Effluent Limitations & Discharge Specifications, Section IV.A.1.a. & h.) sets forth effluent limits for Biochemical Oxygen Demand 5-day @ 20°C (BOD) and copper, which are summarized as follows:

Parameter	Units	Average Monthly	Average Weekly
Biochemical Oxygen Demand (5-day @ 20°C)	mg/L	10	15
	lbs/day	580	880

The final effluent limitations for copper are calculated in Attachment E-1 to Order No. 2006-0049. These effluent limitations are based on hardness-based formulas from the CTR published in the Federal Register on May 18, 2000.

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

5. The Discharger's self monitoring reports for the Complaint Period document twenty-eight (28) effluent limit exceedances subject to MMPs, which are identified in Attachment A, Table A1.

FACTUAL BASIS FOR THE ALLEGED VIOLATIONS

The following evidence supports the alleged violations described above:

6. The Discharger owns and operates the Ukiah WWTF located at 300 Plant Road, Ukiah, California in Mendocino County. The WWTF serves 15,000 residential, commercial, and institutional users in the City of Ukiah and 5,000 residential users served by the Ukiah Valley Sanitation District. Disinfected, tertiary treated wastewater can be discharged to the Russian River, a water of the United States, as needed during winter months (October 1 to May 14). Year-round, disinfected secondary wastewater is discharged to percolation ponds adjacent to the Russian River.
7. The Regional Water Board adopted WDRs Order No. R1-2006-0049 on September 20, 2006 to regulate discharges from the WWTF. WDRs Order No. R1-2006-0049 became effective November 9, 2006, and serves as an NPDES permit under the Federal Clean Water Act.

8. In its monitoring reports submitted for the Complaint Period, the Discharger self-reported twenty-eight (28) exceedances of the effluent limitations for Biochemical Oxygen Demand 5-day @ 20°C (BOD) and Copper set forth in Order No. R1-2006-0049, which are identified in Attachment A, Table A1. BOD is a Group I pollutant. Copper is a Group II pollutant.

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

9. Water Code section 13385, subdivision (h) requires the Regional Water Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each serious violation. Pursuant to Water Code section 13385, subdivision (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.
10. Water Code section 13385, subdivision (i) requires the Regional Water Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each violation whenever the Discharger does any of the following four or more times in any period of six consecutive months, except that the requirement to assess the mandatory minimum penalty shall not be applicable to the first three violations:
 - 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.
11. The maximum amount of discretionary administrative civil liability pursuant to Water Code 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.
12. At the hearing, the Regional Water Board will consider whether to affirm, reject, or modify the proposed civil liability up to the maximum penalty provided for by law, or refer the matter to the Attorney General to have a Superior Court consider enforcement. The Discharger can waive its right to a hearing to contest the allegations contained in this Complaint by submitting a signed waiver and paying the MMPs in full or by taking other actions as described in the waiver form. If this matter proceeds to hearing and 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

1. 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.

2. Notwithstanding the issuance of this Complaint, the Regional Water 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.

3. 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).

Date

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