

**California Regional Water Quality Control Board  
North Coast Region**

**Administrative Civil Liability Complaint R1-2013-0035**

**for  
Violations of Cleanup and Abatement  
Order No. R1-2011-0045**

**In the Matter of:**

**Larry and Margaret Barcellos  
Trinity Dam Mobile Home Park  
4720 Trinity Dam Boulevard  
Lewiston, California  
WDID No. 1A02026RTRI**

**Trinity County**

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

1. This Administrative Civil Liability Complaint (Complaint) is issued under the authority of California Water Code section 13323 to Larry and Margaret Barcellos, Trinity Dam Mobile Home Park (hereinafter Discharger) to assess administrative civil liability for violation of Cleanup and Abatement Order No. R1-2011-0045 (CAO) issued to the Discharger by the Assistant Executive Officer on April 7, 2011.
2. Unless waived, the Regional Water Board will hold a hearing on this Complaint at the August 22, 2013 Board meeting located at the Regional Water Board, 5550 Skylane Blvd., Santa Rosa, California. The Discharger or its representative will have an opportunity to be heard and 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/](http://www.waterboards.ca.gov/northcoast/board_info/board_meetings/).
3. At the hearing, the Regional Water Board will consider whether to affirm, reject, or modify the proposed civil liability (including an increase in the amount of the civil liability up to the statutory maximum), 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 civil liability in full or by taking other actions as described in the attached waiver form.
4. If this matter proceeds to hearing, the Prosecution Team reserves the right to seek an increase in the civil liability amount to cover the costs of enforcement incurred

subsequent to the issuance of this administrative civil liability complaint through hearing. The enforcement costs can be considered as an additional factor as justice may require.

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

### **BACKGROUND**

5. The Regional Water Board issued the CAO on April 7, 2011. A copy of that Order is included as Attachment A hereto, and the findings contained therein are incorporated here by reference including, but not limited to the following:
  - a. Larry and Margaret Barcellos (hereinafter Dischargers) own the Trinity Dam Mobile Home Park located at 4720 Trinity Dam Boulevard in Lewiston (hereinafter the Park). The Park is located in Lewiston Valley, Trinity County, California (APN 025-350-25) and contains 21 dwelling units. An intermittent stream, tributary to the Trinity River, runs adjacent to the Park.
  - b. The Park is located outside of a municipal service district and therefore septic disposal and domestic water supply are provided by individual or combined systems at the Park. Domestic water supply is provided by Lewiston Valley Mutual Water Company. The existing septic disposal system was constructed in 1957 and consists of a collection system, a 43,000 gallon grouted cinder block septic tank, effluent pumps, and a 0.7 acre effluent treatment and disposal pond.
  - c. On January 6, 2011, Regional Water Board staff (hereinafter Staff) inspected the Park with staff of the Trinity County Environmental Health Department and the California Department of Housing and Community Development, in response to a neighbor's complaint regarding surfacing sewage and odors. During the inspection, staff observed surfacing sewage from the Park's septic system flowing across the property boundary and onto the neighbor's driveway and yard area. Additionally, staff observed surfacing sewage from the Park flowing between the two properties towards the roadside ditch, which flows to the nearby intermittent stream and thence to the Trinity River. The pumps and piping associated with the septic tank were also leaking onto the ground. Staff observed an unfenced effluent treatment and disposal pond at the north end of the property containing undisinfected effluent from the Park. This pond is unlined and was built by constructing an earthfill embankment across an intermittent stream.
  - d. Current sewage disposal practices have caused and may continue to cause the surfacing of sewage and potential discharges to the adjacent property, intermittent streams and the Trinity River, adversely impacting water quality and beneficial uses, and violating provisions of the California Water Code. In addition, these conditions constitute a threat to public health and safety.
  - e. Current waste disposal practices and their cumulative impacts have caused and threaten to cause discharges of sewage to the ground surface where it may enter

into an intermittent tributary to the Trinity River and thence the Trinity River. These conditions constitute a condition of nuisance, wherein the improper disposal of waste is injurious to health and affects a number of persons living in the vicinity.

6. The CAO requires (starting on page 4) that:
  - a. The discharge of treated or untreated sewage to the ground surface shall be immediately and permanently abated. Actions to be considered shall include construction of an approved sewage treatment and disposal system, reductions in wastewater generation and/or transporting wastewater to an approved offsite treatment and disposal facility.
  - b. By **April 29, 2011**, the Dischargers shall submit a report of all sewage disposal equipment associated with each dwelling unit at the park. Locations of all components, including collection lines, pumps and piping shall be depicted on a site map. The submittal shall include the age and composition of all components of the sewage disposal system and determination of influent flow (wastewater, precipitation, and infiltration/inflow).
  - c. By **May 31, 2011**, the Dischargers shall submit a workplan for construction of a sewage disposal system which conforms to the Standards and Provisions of the Basin Plan. The workplan shall be accompanied by an application, appropriate fee, and a complete Report of Waste Discharge. The workplan shall include a surface and groundwater sampling plan to determine the extent of contamination from the unauthorized sewage releases at the Park.
  - d. Following Assistant Executive Officer written concurrence, the Dischargers shall implement the workplan to construct a new onsite waste disposal system(s) and groundwater well installation. All construction and related work shall be completed no later than **August 31, 2011**.
  - e. The Dischargers shall conduct all work under the direction of a California registered civil engineer or professional geologist experienced in surface water, soil, and groundwater investigation and remediation. All work plans and technical reports submitted to the Regional Water Board shall be signed and stamped by a licensed professional. All necessary permits shall be obtained.
  - f. The Dischargers shall submit monthly progress reports that fully document the implementation of specific abatement measures, describe the specific locations of those measures, and identify the locations including photographs, descriptions, and mapped locations of all abatement measures that have been implemented to abate sewage discharges to waters of the State. Monthly progress reports shall be submitted by the 15th of each month and continue until all long-term abatement measures have been completed and approved by the Regional Water Board.
7. The Dischargers did not contest or seek review of the CAO, and the period for doing so expired on or around May 11, 2011. (Water Code § 13320, subd. (a).)

8. On April 26, 2011, the Discharger submitted a request for an extension to the deadline for completing the tasks in the CAO. A copy of this letter is included as Attachment B. The Executive Officer did not grant this request because it was received less than 15 days in advance of the first task deadline (April 29, 2011), it did not include adequate justification for the additional time, and it did not propose a revised schedule to complete the required tasks.
9. On July 22, 2011, the Regional Water Board received an email including an attached letter dated May 19, 2011. Regional Water Board had not received this May 19, 2011 letter or a copy thereof prior to July 22, 2011. Copies of the email and letter are included as Attachment C. The letter advised that the Discharger's civil engineer would inspect the mobile home park and prepare a response to the CAO. The Regional Water Board did not receive any follow-up communication.
10. On September 27, 2011, after the last of the CAO deadlines had passed without communication or response from the Discharger, the Regional Board advised the Discharger that failure to comply with the CAO could result in administrative civil liability pursuant to Section 13350 of the California Water Code. A copy of the letter sent by the Regional Water Board is included as Attachment D.
11. On August 29, 2012, 456 days after the May 31, 2011, submittal deadline, the Discharger's consulting engineer submitted a workplan describing two optional disposal systems as well as an application for waste discharge. A copy of the August 29, 2012, letter is referenced hereto<sup>1</sup>. On September 26, 2012, Regional Water Board staff sent a letter informing the Discharger that the workplan and application were incomplete because the Discharger had failed to identify which option it planned to implement. A copy of the September 26, 2012 letter is included as Attachment E. To date, the Discharger has not responded to that letter and, further the Discharger has not complied with any of the CAO deadlines.

### **ALLEGATIONS**

The Dischargers violated the CAO by submitting an incomplete workplan and report of waste discharge application (Item 6.c., above) on August 29, 2012, 456 days late.<sup>2</sup>

### **DETERMINATION OF LIABILITY**

12. Water Code section 13350, subdivision (a), provides that any person who violates any cleanup and abatement order issued by a regional board or the state board shall be liable civilly, and remedies may be proposed in accordance with subdivision (e).

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<sup>1</sup> *Trinity Dam Mobile Home Park Report of Waste Discharge*, dated August 28, 2012, by Dan Hinrichs, P.E. of DJH Engineering,

<sup>2</sup> The Dischargers have failed to comply with any of the requirements of the CAO. The Regional Water Board reserves the right to pursue enforcement for the failure to comply with any other requirements of the CAO.

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13. Water Code section 13350, subdivision (e), provides that the state board or regional board may impose civil liability administratively pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 either on a daily basis or on a per gallon basis, but not both.
14. Water Code section 13350, subdivision (e)(1), provides that the civil liability on a daily basis may not exceed five thousand dollars (\$5,000) for each day the violation occurs.
15. Water Code section 13350, subdivision (e)(1)(B), provides that when there is no discharge and a cleanup and abatement order is issued, except as provided in subdivision (f), the civil liability shall not be less than five hundred dollars (\$500) for each day in which the discharge occurs and for each day the cleanup and abatement order is violated.
16. Water Code section 13350, subdivision (f), provides that a regional board may not administratively impose civil liability in accordance with paragraph (1) of subdivision (e) in an amount less than the minimum amount specified unless the regional board makes an express finding setting forth the reasons for its actions based upon the specific factors required to be considered pursuant to Section 13327.
17. Pursuant to Water Code section 13327, in determining the amount of any civil liability, the Regional Water Board is required to take into account the nature, circumstances, extent, and gravity of the violations, whether the discharges are susceptible to cleanup or abatement, the degree of toxicity of the discharges, and, with respect to the violator, the ability to pay, the effect on its ability to continue its business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violations, and other matters that justice may require.
18. On November 17, 2009, the State Water Resources Control Board adopted Resolution No. 2009-0083 amending the Water Quality Enforcement Policy (Enforcement Policy). The Enforcement Policy was approved by the Office of Administrative Law and became effective on May 20, 2010. The Enforcement Policy establishes a methodology for assessing administrative civil liability. The use of this methodology addresses the factors that are required to be considered when imposing a civil liability as outlined in Water Code section 13327. The entire Enforcement Policy can be found at: [http://www.waterboards.ca.gov/water\\_issues/programs/enforcement/docs/enf\\_policy\\_final111709.pdf](http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf).
19. The required factors have been considered for the violations alleged herein using the methodology in the Enforcement Policy, as explained in detail in Attachment F.

#### **PROPOSED ADMINISTRATIVE CIVIL LIABILITY**

20. Based on consideration of the above facts, the applicable law, and after applying the penalty methodology, the Assistant Executive Officer of the Regional Water Board proposes that civil liability be imposed administratively against the Discharger in the amount of **\$165,900**.

21. Notwithstanding the issuance of this Complaint, the Regional Water Board retains the authority to assess additional penalties for violations for which penalties have not yet been assessed or for violations that may subsequently occur.
22. 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).

May 24, 2013  
Date

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David F. Leland, P.E.  
Assistant Executive Officer (Acting)  
Regional Water Board Prosecution Team