

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
NORTH COAST REGION

In the Matter of:)	
)	
Occidental County Sanitation District)	
and)	Complaint No. R1-2014-0045
Sonoma County Water Agency)	for
404 Aviation Boulevard)	Administrative Civil Liability
Santa Rosa, CA 95403-9019)	
)	
Occidental Wastewater Treatment Facility)	
WDID No. 1B830010SON)	
Sonoma County)	

Attn: Pamela Jeane, Assistant General Manager
Water and Wastewater Operations

The Assistant Executive Officer of the California Regional Water Quality 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 Occidental County Sanitation District (Owner) and Sonoma County Water Agency (Operator) (collectively hereinafter Discharger) to assess administrative civil liability for discharges from the Occidental Wastewater Treatment Facility (WWTF) in violation of provisions of law for which the Regional Water Board is required to impose mandatory minimum penalties (MMPs) pursuant to Water Code section 13385, subdivisions (h) and (i). **The Complaint alleges nineteen (19) non-exempt effluent limit violations of Waste Discharge Requirements (WDRs) Order No. R1-2012-0101** (NPDES No. CA0023051). The violations cited herein occurred during the period from February 1, 2013 through May 31, 2014 (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. R1-2014-0101 beginning February 1, 2013.
2. Unless waived, the Regional Water Board will hold a hearing on this Complaint at the **October 9, 2014** Board meeting, at a location to be determined in Siskiyou County, California, 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/boardmeetings/.

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.
4. If a hearing is held on this matter, 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 civil 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.
5. 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. The enforcement costs can be considered as an additional factor as justice may require.

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

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

6. WDRs Order No. R1-2012-0101 was adopted December 6, 2012 and took effect February 1, 2013.
7. The Discharger is required to comply with WDRs Order No. R1-2012-0101, which contains in pertinent part, the following effluent limitations: Discharge Point 001 (Discharge to Graham's Pond):

Parameter	Units	Effluent Limitations				
		Average Monthly ¹	Average Weekly ¹	Maximum Daily ¹	Instantaneous Minimum ¹	Instantaneous Maximum ¹
Biochemical Oxygen Demand 5-day @ 20°C (BOD ₅)	mg/L	10	15	---	---	---
	lbs/day ²	4.2	6.3	---	---	---
Total Suspended Solids (TSS)	mg/L	10	15	---	---	---
	lbs/day ²	4.2	6.3	---	---	---
pH	Standard Units	---	---	---	6.5	8.5

Parameter	Units	Effluent Limitations				
		Average Monthly ¹	Average Weekly ¹	Maximum Daily ¹	Instantaneous Minimum ¹	Instantaneous Maximum ¹
Copper, Total Recoverable	µg/L	2.5	---	7.8	---	---
Cyanide	µg/L	4.3	---	8.5	---	---
Dichlorobromo-methane	µg/L	0.56	---	1.3	---	---
Chlorine, Total Residual	mg/L	0.01	---	0.02	---	---
Ammonia, Total as	mg/L	1.2	---	2.1	---	---

Table Notes:

1. See Definitions in Attachment A and Compliance Determination discussion in section VII of this Order.
2. Mass-based effluent limitations are based on the design flow of the Facility of 0.05 mgd and apply during periods of discharge to surface waters (Graham’s Pond). See VII.H of this Order regarding compliance with mass-based effluent limitations.

Percent Removal: The average monthly percent removal of BOD₅ and TSS shall not be less than 85 percent. Percent removal shall be determined from the monthly average value of influent wastewater concentration in comparison to the monthly average value of effluent concentration measured at Monitoring Location EFF-001 for the same constituent over the same time period as measured at Monitoring Location INF-001.

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

8. The Discharger’s self-monitoring reports for the Complaint Period document 174 violations of effluent limitations contained in Order No. R1-2012-0101, of which 19 violations are subject to mandatory minimum penalties, as identified in Attachment A.

FACTUAL BASIS FOR THE ALLEGED VIOLATIONS

The following evidence supports the alleged violations described above:

9. The Occidental County Sanitation District owns the WWTF, a publicly-owned treatment works (POTW), located at 14445 Occidental Road, Occidental, in Sonoma County. The Sonoma County Water Agency is under contract to operate and maintain the WWTF. The WWTF is designed to provide secondary wastewater treatment for an average dry weather flow of 0.05 million gallons per day (mgd) and consists of a collection system, grit chamber,

lift station with overflow storage, aerated treatment pond, settling pond, chlorine disinfection, dechlorination, and pH adjustment.

Treated , disinfected, dechlorinated effluent is discharged to Graham's Pond, a 10 million gallon storage reservoir which overflows to Dutch Bill Creek, a tributary of the Russian River and a water of the United States. Effluent mixed with storm water is discharged from Graham's Pond to during the winter months. During the dry season, effluent from Graham's Pond is utilized for irrigation.

10. Self-monitoring reports submitted by the Discharger for the Complaint Period show that the wastewater discharged from the Occidental WWTF exceeded prohibitions and effluent limitations for biochemical oxygen demand (BOD), total suspended solids (TSS), ammonia, copper, cyanide, and dichlorobromomethane.

STATEMENT OF REGULATORY AUTHORITY

11. Water Code section 13385, subdivision (h)(1) requires the Regional Board to assess an MMP of three thousand dollars (\$3,000) for each serious violation.
12. Water code section 13385, subdivision (h)(2) states, in part, the following: "For the purpose of this section, a 'serious violation' means any waste discharge that violates the effluent limitations...for a Group II pollutant, as specified in Appendix A to section 123.45 of Title 40 of the Code of Federal Regulations, by 20 percent or more, or for a Group I pollutant, as specified in Appendix A to section 123.45 of Title 40 of the Code of Federal Regulations, by 40 percent or more." BOD, TSS, and ammonia are Group I pollutants. Copper, cyanide, and dichlorobromomethane are Group II pollutants.
13. Water Code section 13385, subdivision (i)(1) also requires the Regional Board to assess an MMP of three thousand dollars (\$3,000) for each violation, not counting the first three violations, if the Discharger does any of the following four or more times in a six-month period (hereafter "chronic violation"):
 - 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; or
 - 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.
14. 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.

VIOLATIONS EXEMPTED BASED ON COMPLIANCE WITH CEASE AND DESIST ORDER

15. California Water Code section 13385(j) states, in pertinent part, the following: “Subdivisions (h) and (i) do not apply to any of the following:

...
(3) A violation of an effluent limitation where the waste discharge is in compliance with either a cease and desist order issued pursuant to Section 13300 or 13308, if all of the following requirements are met:

(A) The cease and desist order or time schedule order is issued on or after July 1, 2000, and specifies the actions that the discharger is required to take in order to correct the violations that would otherwise be subject to subdivisions (h) and (i).

(B) The regional board finds that, for one of the following reasons, the discharger is not able to consistently comply with one or more of the effluent limitations established in the waste discharge requirements applicable to the waste discharge;

(i) The effluent limitation is a new, more stringent, or modified regulatory requirement that has become applicable to the waste discharge after the effective date of the waste discharge requirements and after July 1, 2000, new or modified control measures are necessary in order to comply with the effluent limitation, and the new or modified control measures cannot be designed, installed, and put into operation within 30 calendar days.

(ii) New methods for detecting or measuring a pollutant in the waste discharge demonstrate that new or modified control measures are necessary in order to comply with the effluent limitation and the new or modified control measures cannot be designed, installed, and put into operation within 30 calendar days.

(C) The regional board established a time schedule for bringing the waste discharge into compliance with the effluent limitation that is as short as possible, taking into account the technological, operational, and economic factors that affect the design, development, and implementation of the control measures that are necessary to comply with the effluent limitation. For the purposes of this subdivision, the time schedule may not exceed five years in length...”

16. On December 6, 2012, the Regional Water Board issued Cease and Desist Order (CDO) No. R1-2012-0102 to the Discharger. Order No. R1-2012-0102 established interim effluent limitations for BOD, total suspended solids, total recoverable copper, cyanide, dichlorobromomethane, and ammonia and included a finding that MMPs for future violations of the final effluent limitations for BOD₅, total suspended solids, copper, cyanide, dichlorobromomethane, and ammonia do not apply, so long as the Discharger complies with the interim effluent limitations and compliance schedules contained in Order No. R1-2012-0102. Order No. R1-2012-0102 satisfied the criteria established in Water Code

section 13385(j)(3) , because it was issued after January 1, 2000, specifies the actions that the Discharger is required to take in order to correct the violations that would otherwise be subject to subdivisions (h) and (i), the Regional Water Board found that the Discharger was not able to consistently comply with one or more of the effluent limitations established in the waste discharger requirements, and the Regional Water Board established a time schedule for bringing the waste discharge into compliance with the effluent limitations by January 31, 2018 (*i.e.*, within five years of effective date of R1-2012-0101).

17. CDO No. R1-2012-0102 included, in pertinent part, the following interim effluent limitations:

Parameter	Units	Average Monthly Effluent Limitation	Average Weekly Effluent Limitation	Maximum Daily Effluent Limitation
Biochemical Oxygen Demand (BOD ₅)	mg/L	30	45	60
	lbs/day ²	12	18	24
Total Suspended Solids (TSS)	mg/L	50	65	80
	lbs/day ²	20	27	33
	% removal	65% removal ¹		
Copper, Total Recoverable	µg/L	---	---	58
Cyanide	µg/L	---	---	9.2
Dichlorobromomethane	µg/L	---	---	5.75
Ammonia, Total as N	mg/L	1.2	---	2.1
Table Notes: 1. Percent removal shall be determined from the monthly average value of influent wastewater concentration in comparison to the monthly average value of effluent concentration measured over the same time period.				

18. 155 violations of WDRs Order No. R1-2012-0101 that would otherwise be subject to mandatory minimum penalties are exempted therefrom based on compliance with CDO Order No. R1-2012-0102 interim limitations, as detailed in Attachment A. But for the exemption, these violations would have increased the mandatory minimum penalty assessed herein by an additional \$433,000.

PROPOSED ADMINISTRATIVE CIVIL LIABILITY

19. The Assistant Executive Officer of the Regional Water Board proposes that civil liability for mandatory minimum penalties be assessed against the Discharger in the amount of fifty-seven thousand dollars (\$57,000).
20. 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.
21. Issuance of this Complaint is an enforcement action and is therefore exempt from the provisions of the California Environmental Quality Act (Public Resource Code section 21000, *et seq.*) pursuant to title 14, California Code of Regulations, sections 15308 and 15321(a)(2).

Original Signed By

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

July 11, 2014

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