

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
NORTH COAST REGION

In the Matter of:)	
)	
City of Eureka)	Complaint No. R1-2015-0047
Public Works Department)	for
Elk River WWTF)	Administrative Civil Liability
531 K Street)	
Eureka, CA 95501)	

Attn: Mr. Brian Gerving,
Director Public Works Department

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 Eureka (hereinafter Discharger) to assess administrative civil liability for discharges from the Elk River Wastewater Treatment Facility (WWTF) in violation of provisions of law for which the Regional Water Board is required to impose mandatory minimum penalties pursuant to Water Code section 13385, subdivisions (h) and (i). The Complaint alleges ten (10) effluent limit violations of Waste Discharge Requirements (WDRs) Order No. R1-2009-0033, NPDES Permit No. CA 0024449 (WDRs Order No. R1-2009-0033). The violations cited herein occurred during the period from March 1, 2014 through December 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. R1-2009-0033.
2. Unless waived, the Regional Water Board will hold a hearing on this Complaint at the October 8, 2015, 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 REQUIREMENTS APPLICABLE TO THE DISCHARGER:

- 4. WDRs Order No. R1-2009-0033 (Effluent Limitations & Discharge Specifications, Section IV.A.1.a. & c.) set forth effluent limits for Total Copper, Fecal Coliform and Total Residual Chlorine, which are summarized as follows:
 - a. The Discharger shall maintain compliance with the following final effluent limitations at Discharge Point 001, with compliance measured at Monitoring Location EFF-001, as described in the attached MRP.

Parameter	Units	Maximum Daily	Instantaneous Maximum	Six-Month Median
Total Chlorine Residual	ug/L	248	1860	62
	lbs/day ²	17.8	133.4	4.45
	lbs/day ³	24.8	186	6.20
Copper	ug/L	312	870	33
	lbs/day ²	22.4	62.4	2.37
	lbs/day ³	31.1	87.1	3.30

² Mass-based limitations are based on the peak dry weather design flow of the WWTF of 8.6 mgd.
³ These alternate mass-based limitations apply during periods of high infiltration/inflow when influent flow to the WWTF exceed 8.6 mgd for the limitation period (daily, weekly, or monthly), and are based on the secondary treatment capacity of the WWTF (12.0 mgd).

- c. Bacteria: Disinfected effluent discharged from the WWTF at Discharge Point 001 shall not contain fecal coliform bacteria in excess of the following concentrations:
 - (1) The median value of fecal coliform bacteria shall not exceed an MPN of 14 per 100 milliliters in a calendar month, and
 - (2) In not more than 10 percent of samples collected in a calendar month shall fecal coliform bacteria exceed an MPN of 43 per 100 milliliters.

ALLEGED VIOLATIONS

- 5. The Discharger’s self-monitoring reports for the Complaint Period document ten (10) violations of effluent limitations, of which nine (9) violations are subject to MMPs as

identified in Attachment A. Of the ten violations, one violation is not subject to MMPs because it was only the third violation that occurred within 180 days.

FACTUAL BASIS FOR THE ALLEGED VIOLATIONS

The following evidence supports the alleged violations described above:

6. The Discharger owns and operates the wastewater collection, treatment, and disposal facilities that serve approximately 44,128 people in the City of Eureka and unincorporated areas within the Humboldt Community Services District. The WWTF treats domestic, commercial, industrial, and treated groundwater remediation project wastewater. The treatment facility has an average dry weather treatment capacity of 5.24 mgd, a peak dry weather treatment capacity of 8.6 mgd, and a hydraulic capacity of 32 mgd. Wastewater treatment includes primary treatment with mechanical bar screens, grit removal, and primary clarification. Secondary treatment is accomplished by using two trickling filters, followed by secondary clarification and chlorination. The effluent is then stored in an effluent holding pond until ebb tide occurs when the flow is dechlorinated and discharged at Discharge Point 001 to Humboldt Bay. Discharge at ebb tide ensures the wastewater is conveyed to the Pacific Ocean. Regional Water Board Resolution No. 80-10 concluded that the discharge to Humboldt Bay during ebb tide effectively classifies the discharge as an ocean discharge, rather than a discharge to an enclosed bay. The Resolution was approved by State Water Board Resolution No. 80-87 as consistent with the requirements of the Water Quality Control Policy for the Enclosed Bays and Estuaries of California.
7. The Regional Water Board adopted WDRs Order No. R1-2009-0033 on June 4, 2009 to regulate discharges from the WWTF. WDRs Order No. R1-2009-0033 became effective July 24, 2009, 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 ten (10) exceedances of the effluent limitations for Total Copper, Total Residual Chlorine and Fecal Coliform set forth in Order No. R1-2009-0033, which are identified in Attachment A. Total Residual Chlorine and Total Copper are Group II pollutants. Of the ten violations, nine are subject to MMPs and one is exempt because it was only the third violation that occurred within 180 days.

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 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 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 \$27,000 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).

July 7, 2015
Date

Shin-Roei Lee, P.E.
Assistant Executive Officer
Regional Water Board Prosecution Team

15_0047_Eureka_ElkRiverWWTF_ACLC