



# California Regional Water Quality Control Board North Coast Region

Geoffrey M. Hales, Chairman



Matt Rodriguez  
Secretary for  
Environmental Protection

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Edmund G. Brown Jr.  
Governor

## ACCEPTANCE OF CONDITIONAL RESOLUTION AND WAIVER OF RIGHT TO HEARING Order No. R1-2011-0084

City of Arcata  
Order No. R1-2004-0036  
NPDES No. CA0022713  
WDID No. 1B82114OHUM

By signing below and returning this Acceptance of Conditional Resolution and Waiver of Right to Hearing (Acceptance and Waiver) to the Regional Water Board, the City of Arcata (Permittee) hereby accepts the "Offer to Participate in Expedited Payment Program" and waives the right to a hearing before the Regional Water Board with jurisdiction over the facility to dispute the allegations of violations described in the Notice of Violation (NOV) which is attached hereto as Exhibit "A" and incorporated herein by reference.

The Permittee agrees that the NOV shall serve as a complaint pursuant to Article 2.5 of the Water Code and that no separate complaint is required for the Regional Water Board to assert jurisdiction over the alleged violations through its Assistant Executive Officer. The Permittee agrees to pay the penalties authorized by California Water Code section 13385, as indicated on the attached NOV Exhibit "A" under "Expedited Payment Amount" (Expedited Payment Amount) which shall be deemed payment in full of any civil liability pursuant to the Water Code sections 13385 and 13385.1 that otherwise might be assessed for the violations described in the NOV.

The Permittee understands that once the Acceptance and Waiver is executed by the Executive Officer of the Regional Water Board, the full payment required by the deadline indicated in the invoice to follow is a condition of this Acceptance and Waiver. The Permittee shall pay the Expedited Payment Amount of **\$12,000.00** by check payable to the SWRCB Cleanup and Abatement Account referencing "R1-2011-0084."

The Permittee understands that this Acceptance and Waiver does not address or resolve liability for any violation that is not specifically identified in the Notice of Violation.

Upon execution by the Permittee, the Acceptance and Waiver shall be returned to:

**California Environmental Protection Agency**

Recycled Paper

Catherine Kuhlman, Executive Officer  
California Regional Water Quality Control Board, North Coast Region  
5550 Skylane Blvd., Suite A  
Santa Rosa, CA 95403

The Permittee understands that federal regulations set forth at title 40, Code of Federal Regulations, section 123.27(d)(2)(iii) require the Regional Water Board to publish notice of and provide at least 30 days for public comment on any proposed resolution of an enforcement action. Accordingly, this Acceptance and Waiver, prior to execution by the Executive Officer of the Regional Water Board, will be published as required by law for public comment.

If no comments are received within the notice period which causes the Executive Officer of the Regional Water Board to reconsider the Expedited Payment Amount, the Executive Officer will execute the Acceptance and Waiver.

The Permittee understands that if significant comments are received in opposition to the Expedited Payment Amount, the offer on behalf of the Regional Water Board to resolve the violations set forth in the NOV may be withdrawn. In that circumstance, the Permittee will be advised of the withdrawal and an administrative civil liability complaint may be issued and the matter may be set for a hearing before the Regional Water Board. For such a liability hearing, the Permittee understands that this Acceptance and Waiver executed by the Permittee will be treated as a settlement communication and will not be used as evidence in that hearing.

The Permittee understands that once the Acceptance and Waiver is executed by the Executive Officer of the Regional Water Board, the full payment required by the deadline indicated in the invoice to follow is a condition of this Acceptance and Waiver. The Permittee shall pay the Expedited Payment Amount in full. The payment shall be submitted to the Regional Water Board no later than the date indicated on an invoice which will accompany the Acceptance and Waiver after execution by the Executive Officer.

I hereby affirm that I am duly authorized to act on behalf of and to bind the Permittee in the making and giving of this Acceptance and Waiver.

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(Name of Permittee)

By: \_\_\_\_\_  
(Signed Name)

\_\_\_\_\_ (Date)

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(Printed or typed name)

\_\_\_\_\_ (Title)

IT IS SO ORDERED PURSUANT TO WATER CODE SECTION 13385

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Catherine Kuhlman  
Executive Officer

110801\_WTR\_Arcata\_EPL\_Acceptance

## Exhibit "A"

City of Arcata  
Order No. R1-2004-0036  
NPDES Permit No. CA0022713  
WDID No. 1B82114OHUM

### NOTICE OF VIOLATIONS MANDATORY MINIMUM PENALTIES WITHOUT ENFORCEMENT

for the

**Period January 1, 2010 through March 31, 2011**

The following table lists this facility's alleged violations of subdivisions (h) and (i) of California Water Code section 13385, which have not received mandatory minimum penalty assessment by the Water Boards. Final calculation of MMP amounts owed, and descriptions of the abbreviations that appear in the table are also listed below. For additional information about the alleged violations listed in the table, please refer to the SWRCB Public Reports webpage [http://www.waterboards.ca.gov/water\\_issues/programs/ciwqs/publicreports.shtml](http://www.waterboards.ca.gov/water_issues/programs/ciwqs/publicreports.shtml) choose the "MMP Report" link located under the "Enforcement Reports" category. Once in the Public Reports search page, enter the search criteria that correspond to your facility to access the list of violations.

Date and CWIQS No.	Parameter	Limits	Reported	Type	MMP Type	Mandatory Minimum Penalty
04/30/10 892523	BOD, percent removal	85%	82%	Cat 1	Chronic	\$0
04/30/10 89254	TSS, percent removal	85%	77%	Cat 1	Chronic	\$0
11/02/10 896005	Total Coliform, Daily Maximum limit	230 mpn/100 ml	1600 mpn/100 ml	Cat 1	SIG	\$3,000
11/30/10 888138	TSS, lbs/day	615 lbs/day	638 lbs/day	Cat 1	Chronic	\$0
12/09/10 889357	Copper, Monthly Average	2.8 mg/l	5.6 mg/l	Cat 2	SIG	\$3,000
03/01/11 892525	TSS, percent removal	85%	41%	Cat 1	SIG	\$3,000
03/24/11 897567	Copper, Monthly Average	2.8 mg/l	6.1 mg/l	Cat 2	SIG	\$3,000
03/24/11 897568	Copper, Daily Maximum	5.7 mg/l	6.1 mg/l	Cat 2	Chronic	\$0
<b>Total</b>						<b>\$12,000</b>

*Water Quality Board  
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**EXPEDITED PAYMENT AMOUNT: \$12,000**

**Mandatory Minimum Penalty Amount Owed for Effluent Violations**

**(1 Serious Violation × \$3,000) = \$3,000 owed to the Cleanup & Abatement Account**

**Definition of Acronyms & Abbreviations**

CIWQS	California Integrated Water Quality System database used by the Water Boards to manage violation and enforcement activities.
Violation ID	Identification number assigned to a violation in CIWQS.
Occurrence Date	Date that a violation actually occurred. For continuing violations, such as a monthly average, the last day of the reporting period is used. If the occurrence date is unknown, the date is entered as the day it was first discovered by staff, the Discharger, or a third party. For deficient or late reports, the occurrence date is the day after the report was due.
Type	Classification of a violation. Two types of violations relate to MMPs: 1) Late Reporting Violations (LREP, DREP) 2) Effluent Violations (ATOX, CTOX, CAT1, CAT2, OEV)
LREP	Late reporting violation. Every 30 days a report is late counts as one late reporting violation.
DREP	Deficient reporting violation. This will only result in an MMP if the report is so deficient as to make determination of compliance impossible for that reporting period.
ATOX	Violation of an acute toxicity effluent limitation.
CTOX	Violation of a chronic toxicity effluent limitation.
CAT1	Violation of an effluent limitation for a Group I pollutant by more than 40%.
CAT2	Violation of an effluent limitation for a Group II pollutant by more than 20%.
OEV	Violation of any constituent-specific effluent limitation not included in Group I or Group II.
MMP Type	Classification of the type of MMP violation.
CHRON	Chronic violation as defined by California Water Code section 13385 (i). To be counted as a chronic violation, there must be 3 preceding violations within a 180 day period. The fourth non-serious violation that occurs within the 180 period is an MMP violation.
SIG	Serious violation as defined by California Water Code section 13385 (h). Waste discharge exceeds the effluent limitation for a Group I pollutant by 40% or more (CAT1), or a Group II pollutant by 20% or more (CAT2). Also defined by California Water Code section 13385.1 as a failure to file a discharge monitoring report pursuant to Section 13383 for each period of 30 days following the deadline for submitting the report, if the report is designed to ensure compliance with limitations contained in waste discharge requirements that contain effluent limitations.
Violation Description	Narrative description of the violation.
M	Effluent exceeds limit for monthly reporting period.
Q	Effluent exceeds limit for quarterly reporting period.
S	Effluent exceeds limit for semi-annual reporting period.
A	Effluent exceeds limit for annual reporting period.
IM	Effluent exceeds instantaneous maximum limitation.
DM	Effluent exceeds daily maximum limitation.
AW	Effluent exceeds average weekly limitation.
AM	Effluent exceeds average monthly limitation.