

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
NORTH COAST REGION

In the Matter of:)	
)	
Fort Bragg Municipal Improvement District No. 1)	Complaint No. R1-2016-0030
The City of Fort Bragg WWTF)	for
101 West Cypress Street)	Administrative Civil Liability
Fort Bragg, CA 95437)	

WDID No. 1B840830MEN

Attn: Mr. David W. Goble, Director of Public Works
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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 Fort Bragg Municipal Improvement District No. 1 (hereinafter Discharger) to assess administrative civil liability for discharges from the City of Fort Bragg 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 fifteen (15) effluent limit violations of Order No. R1-2009-0030 (NPDES Permit No. CA 0023078), of which thirteen (13) violations are subject to the mandatory minimum penalties (MMPs). The violations cited herein occurred during the period from January 1, 2014, through December 31, 2015, (hereinafter Complaint Period) and are specifically listed in Attachment A, which is incorporated into this Complaint by reference.
2. During the Complaint Period, the Discharger was subject to the waste discharge requirements established in Order No. R1-2009-0030 from July 24, 2009, through August 31, 2015, and Order No. R1-2015-0024, which became effective on September 1, 2015. Although Discharger was subject to Order No. R1-2009-0030 and Order No. R1-2015-0024 during the Complaint Period, the effluent violations alleged in this Complaint all occurred prior to the effective date of Order No. R1-2015-0024, so were subject to the limits specified in Order No. R1-2009-0030.
3. Unless the Discharger waives its right to a hearing within 90 days of issuance of this Complaint, the Regional Water Board will hold a hearing on this Complaint at its

August 11, 2016, 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/.

4. 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:

5. Order No. R1-2009-0030 (Effluent Limitations & Discharge Specifications, Section IV.A.1.a., b. & c.) set forth effluent limits for Biochemical Oxygen Demand, 5-day at 20°C (BOD₅), Total Suspended Solids (TSS), Total Residual Chlorine, and Total Coliform which are summarized as follows:

Parameter	Units	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
BOD ₅	mg/L	30	45	---	---
	lbs/day ¹	250	375	---	---
TSS	mg/L	30	45	---	---
	lbs/day ¹	250	375	---	---
Total Residual Chlorine	ug/L	---	---	408	3,060
	lbs/day ¹	---	---	3.4	25.5

1. Mass-based effluent limitations are based on the average dry weather design flow of 1.0 mgd.

Percent Removal. The average monthly percent removal of BOD₅ and TSS shall not be less than 85 percent. Percent removal shall be determined by comparing the average monthly influent concentration to the average monthly effluent concentration for the same constituent over the same time period, as measured at Monitoring Locations INF-001 and EFF-001.

Total Coliform Bacteria. The disinfected effluent shall not contain concentrations of total Coliform bacteria exceeding the following limitations:

- i. The monthly median concentration shall not exceed a Most Probable Number (MPN) of 70 per 100 milliliters, using bacteriological results from the calendar month for which analyses have been completed.
- ii. No more than 10 percent of the samples shall exceed an MPN of 230 per 100 mL, using bacteriological results from ten consecutive samples.

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

6. The Discharger's self-monitoring reports for the Complaint Period document fifteen (15) violations of effluent limitations, of which thirteen (13) violations are subject to MMPs as identified in Attachment A.

FACTUAL BASIS FOR THE ALLEGED VIOLATIONS

The following evidence supports the alleged violations described above:

7. The Discharger owns and operates the City of Fort Bragg WWTF located at 101 West Cypress Street, Fort Bragg, California in Mendocino County. The WWTF serves a residential population of approximately 7,000 from the City of Fort Bragg and adjacent unincorporated areas. The treatment facility has a design capacity of 1.0 mgd (average dry weather treatment capacity) and 2.2 mgd (average wet weather treatment capacity). Primary wastewater treatment includes grit removal, screening, and primary clarification. Secondary treatment consists of a two-stage biofiltration (trickling filters) process and clarification with chemical addition to enhance clarification. Secondary treated wastewater is disinfected using a flow-paced chlorine injection system. Dechlorination is accomplished by automatic injection of sulfur dioxide. Treated wastewater is currently discharged to the Pacific Ocean, via a 650-foot outfall, west of the treatment plant. The receiving water is located within the Mendocino Coast Hydrologic Unit and is a water of the United States.
8. The Regional Water Board adopted Order No. R1-2009-0030 on June 4, 2009 to regulate discharges from the WWTF. Order No. R1-2009-0030 became effective July 24, 2009, and served as an NPDES permit under the federal Clean Water Act until September 1, 2015 when Order No. R1-2015-0024 became effective.
9. In its monitoring reports submitted for the Complaint Period, the Discharger self-reported fifteen (15) exceedances of the effluent limitations for Biochemical Oxygen Demand (BOD), Total Suspended Solids (TSS), TSS Percent Removal, Total Residual Chlorine and Total Coliform set forth in Order No. R1-2009-0030. Attachment A to this Complaint lists those violations. BOD and TSS are Group I pollutants and Total Residual Chlorine is a Group II pollutant.

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

10. 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.
11. 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.
12. 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.
13. 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 \$39,000 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).

Shin-Roei Lee
Assistant Executive Officer
Regional Water Board Prosecution Team