

California Regional Water Quality Control Board
North Coast Region

Administrative Civil Liability Order R1-2010-0080

For

Violation of Waste Discharge Requirements
Order No. R1-2003-0026 and Order No. R1-2009-0003

In the Matter of
Sonoma County Water Agency and
Russian River County Sanitation District
Wastewater Treatment Facility
WDID No. 1B82045OSON

Sonoma County

The California Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board), finds the following:

1. The Russian River County Sanitation District (hereinafter RRCSD) owns the Russian River Wastewater Treatment Facility (hereinafter WWTF), a municipal wastewater treatment facility located at 18400 Neeley Road, Guerneville, Sonoma County, which is southeast of Vacation Beach and north of the Russian River on Neeley Road. Sonoma County Water Agency (hereinafter SCWA) is under contract with RRCSD to operate and maintain the WWTF, which serves the communities of Armstrong Park, Drakes Road area, Guerneville, Guernewood Park, Rio Nido and Vacation Beach. Tertiary treated wastewater is used for irrigation from May 15 to September 30 and is discharged to the Russian River during the discharge season (October 1 to May 14). Both RRCSD and SCWA, as the owner and operator, respectively, are responsible for ensuring that their acts or omissions comply with the National Pollutant Discharge Elimination System (NPDES) Permit. Hereinafter, RRCSD and SCWA are referred to collectively as "the Discharger".
2. On November 5, 2003, the Regional Water Board adopted WDRs Order No. R1-2003-0026 for the Discharger's WWTF. Order No. R1-2003-0026 became effective on December 26, 2003 and expired on November 5, 2008. Pursuant to 40 Code of Federal Regulations part 122.6 (2009) and California Code of Regulations Title 23, Section 2235.4, the expiration day of Order No. R1-2003-0026 was extended to March 19, 2009. On January 29, 2009, the Regional Water Board adopted WDRs Order No. R1-2009-0003, which became effective March 20, 2009, and serves as a NPDES Permit under the Federal Clean Water Act.

3. CWC Section 13385(h)(1) requires the Regional Board to assess a mandatory minimum penalty (MMP) of three thousand dollars (\$3,000) for each serious violation.
4. CWC Section 13385(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.”
5. CWC Section 13385(i)(1) also requires the Regional Board to assess a MMP of three thousand dollars (\$3,000) for each violation, not counting the first three violations, if a Discharger does any of the following four or more times in a six-month period:
 - 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.
6. CWC Section 13385(i)(2) states the following: “For the purpose of this section [13385], a ‘period of six consecutive months’ means the period commencing on the date that one of the violations described in this subdivision occurs and ending 180 days after that date.”
7. Pursuant to CWC Section 13385(k), the Regional Water Board may, in lieu of assessing all or a portion of mandatory minimum penalties pursuant to Section 13385(h) and (i), require a publicly owned treatment works serving a small community to spend all or a portion of mandatory minimum penalties towards the completion of a compliance project (CP) proposed by the publicly owned treatment works. The CP must conform to the requirements specified in the State Water Resources Control Board’s (State Water Board) Water Quality Enforcement Policy (Enforcement Policy).
8. The Discharger qualifies as a small community with a financial hardship. The basis of that determination is set forth in the analysis and recommendation prepared by the State Water Board, Office of Research, Planning, and Performance, approved by the State Water Board’s Executive Director. (See Attachment “A” attached hereto, incorporated herein, and made a part of the administrative civil liability order by this reference).

9. On January 14, 2010, the Assistant Executive Officer issued Administrative Civil Liability Complaint No. R1-2010-0011 (hereinafter Complaint) that proposed the Discharger be assessed an administrative civil liability in the amount of \$45,000 for sixteen effluent limit violations of Order No. R1-2003-0026 and five effluent limit violations of Order No. R1-2009-0003 that occurred during the period from June 1, 2007 through May 31, 2009. Subsequently, on February 4, 2010, the Discharger submitted a letter requesting that the Regional Water Board prosecution staff (hereinafter Staff) amend the alleged violations as follows:

- a. Dismiss the May 9, 2008 Suspended Solids effluent limitation violation, as it is neither a serious nor a “chronic” violation subject to mandatory minimum penalties, and
- b. Add two violations that occurred on November 5, 2008, involving the exceedance of the dichlorobromomethane daily and monthly effluent limitations set forth in Order No. R1-2003-0026.

Staff reviewed these violations and agreed to amend the alleged violations per the Discharger’s request.

10. After further review of the violations alleged in the Complaint, Staff determined that the alleged violations of the dichlorobromomethane effluent limitations set forth in Order Nos. R1-2003-0026 and R1-2009-0003 are serious violations as defined in Finding No. 4 above. As shown in Table 1 below, this determination increased the total amount of the mandatory minimum penalties proposed for violations of the dichlorobromomethane effluent limitation set forth in Order No. R1-2003-0026 from \$33,000 to \$42,000. As shown in Table 2 below, this determination did not affect the proposed mandatory minimum penalty for violations of the dichlorobromomethane effluent limitation set forth in Order No. R1-2009-0003. Thus, the total mandatory minimum penalty amount for these violations is amended to \$57,000.

11. According to monitoring reports submitted by the Discharger for the period from June 1, 2007 through March 19, 2009, the Discharger exceeded the effluent limitations set forth in Order No. R1-2003-0026 seventeen times as shown in Table 1 below.

Table 1:
 Effluent Limitation Exceedances
 June 1, 2007 through March 19, 2009

Date	Parameter	Reported Value	Permit Limit	Units	Violation Type	Mandatory Minimum Penalty
1/8/2008	7-day Coliform Median	4.0	2.2	MPN/100 ml	1 st Chronic	\$0
1/9/2008	7-day Coliform Median	4.0	2.2	MPN/100 ml	2 nd Chronic	\$0

Date	Parameter	Reported Value	Permit Limit	Units	Violation Type	Mandatory Minimum Penalty
1/10/2008	7-day Coliform Median	4.0	2.2	MPN/100 ml	3 rd Chronic	\$0
1/11/2008	7-day Coliform Median	4.0	2.2	MPN/100 ml	Chronic	\$3,000
1/12/2008	7-day Coliform Median	4.0	2.2	MPN/100 ml	Chronic	\$3,000
1/13/2008	7-day Coliform Median	4.0	2.2	MPN/100 ml	Chronic	\$3,000
1/14/2008	7-day Coliform Median	4.0	2.2	MPN/100 ml	Chronic	\$3,000
1/15/2008	7-day Coliform Median	4.0	2.2	MPN/100 ml	Chronic	\$3,000
1/16/2008	7-day Coliform Median	4.0	2.2	MPN/100 ml	Chronic	\$3,000
11/5/2008	Dichlorobromomethane	2.9	0.56 monthly	µg/l	Serious	\$3,000
11/5/2008	Dichlorobromomethane	2.9	1.12 daily	µg/l	Serious	\$3,000
12/3/2008	Dichlorobromomethane	3.34	0.56 monthly	µg/l	Serious	\$3,000
12/3/2008	Dichlorobromomethane	3.34	1.12 daily	µg/l	Serious	\$3,000
1/7/2009	Dichlorobromomethane	3.11	0.56 monthly	µg/l	Serious	\$3,000
1/7/2009	Dichlorobromomethane	3.11	1.12 daily	µg/l	Serious	\$3,000
3/4/2009	Dichlorobromomethane	2.92	0.56 monthly	µg/l	Serious	\$3,000
3/4/2009	Dichlorobromomethane	2.92	1.12 daily	µg/l	Serious	\$3,000
						Total: \$42,000

12. According to monitoring reports submitted by the Discharger for the period from March 20, 2009 through May 31, 2009, the Discharger exceeded the effluent limitations set forth in Order No. R1-2009-0003 five times as shown in Table 2 below

Table 2:
Effluent Limitation Exceedances
March 20, 2009 through May 31, 2009

Date	Parameter	Reported Value	Permit Limit	Units	Violation Type	Mandatory Minimum Penalty
4/8/2009	Dichlorobromomethane	3.03	0.56 monthly	µg/l	Serious	\$3,000
4/8/2009	Dichlorobromomethane	3.03	0.94 daily	µg/l	Serious	\$3,000
5/6/2009	Dichlorobromomethane	5.72	0.56 monthly	µg/l	Serious	\$3,000
5/6/2009	Dichlorobromomethane	5.72	0.94 daily	µg/l	Serious	\$3,000
5/6/2009	Nitrate	47	39	mg/l	Chronic	\$3,000
						Total: \$15,000

13. During the period from June 1, 2007 through May 31, 2009, the Discharger reported two sanitary sewer overflows (SSOs) that violated discharge prohibitions in Order No.R1-2003-0026. The Complaint did not propose that an administrative civil liability be assessed because the SSOs did not reach waters of the state or the United States.
14. On February 4, 2010, the Discharger waived its right to a public hearing and requested to pay the sum of \$6,000 to the State Water Pollution Cleanup and Abatement Account (CAA) and spend the sum of \$39,000 on a CP. On February 8, 2010, the Discharger paid the \$6,000 to the CAA and submitted a CP proposal. Based on the stipulated amendment to the alleged violations, the sum allocated to a CP has been increased to \$51,000.
15. The Discharger proposed a CP to upgrade its WWTF disinfection system from chlorine disinfection to ultraviolet (UV) disinfection. The proposed CP is described in Attachment "A" attached hereto, incorporated herein, and made a part of the administrative civil liability order by this reference. Due to the magnitude of this WWTF upgrade, the Discharger anticipates the completion date of the CP to be October 1, 2012. The CP is appropriate because 21 of the 22 effluent limitation violations were associated with the disinfection system: nine 7-Day Median Coliform violations and twelve dichlorobromomethane violations. Dichlorobromomethane is a byproduct formed through the use of chlorine as a disinfectant. The UV disinfection system would address the coliform violations by increasing the disinfection system capacity and contact. The UV disinfection system would also eliminate the use of chlorine thereby eliminating the potential for any further dichlorobromomethane effluent limitation violations. Further, the total estimated projected cost of \$4,200,000 exceeds the \$51,000 suspended penalty.
16. Based on Finding Nos. 8 and 15 above, the Regional Water Board finds that the CP, as proposed, meets the criteria established in Water Code section 13385(k) and the Enforcement Policy.
17. A duly noticed public hearing on this matter was held before the Regional Water Board on October 28, 2010 at the Regional Water Board Hearing Room at 5550 Skylane Blvd. Suite A, Santa Rosa, California. The documents associated with the agenda item for this matter were provided to the Discharger and made available to the public prior to the hearing. The Discharger and the public were given the opportunity to testify and present evidence regarding the proposed settlement.
18. The issuance of this Order is an enforcement action to protect the environment, and is therefore exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code, §§ 21000-21177) pursuant to title 14, California Code of Regulations, sections 15308 and 15321, subdivision (a)(2).

19. Any person affected by this action of the Regional Water Board may petition the State Water Board to review the action in accordance with CWC Section 13320 of the Water Code and title 23, California Code of Regulations, section 2050. The petition must be received by the State Water Board within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request.

THEREFORE, IT IS HEREBY ORDERED, pursuant to Water Code section 13385, that:

1. The Discharger is assessed a total civil liability of \$57,000. Of that \$57,000 in civil liability, the Discharger has paid \$6,000 to the CAA. Pursuant to Water Code Section 13385(k), the Discharger shall direct the remaining sum of \$51,000 to fund the CP described in Attachment "A" and discussed in Finding No. 15 above. The administrative civil liability in the amount of \$51,000 shall be suspended pending the completion of the CP in accordance with the terms of this Order.
2. The Discharger shall submit reports to the Regional Water Board staff describing the planning and construction of the CP and complete the CP as indicated and according to the following time schedule.

TASK	DUE DATE
Secure State Revolving Fund (SRF) loan funding for construction of the Project	November 1, 2010
Prepare bid package, advertise for bids, and submit progress report to the Regional Water Board	December 1, 2010
Award construction contract and submit progress report to the Regional Water Board	March 1, 2011
Submit quarterly progress report to Regional Water Board	April 30, 2011
Issue Notice to Proceed to construction contractor	May 1, 2011
Submit quarterly progress report to Regional Water Board	July 31, 2011
Submit quarterly progress report to Regional Water Board	October 31, 2011
Submit Engineering Report to California Department of Public Health and Regional Water Board	December 1, 2011
Submit quarterly progress report to Regional Water Board	January 31, 2012
Submit Operations and Maintenance Plan to California Department of Public Health and Regional Water Board for approval	February 1, 2012
Submit quarterly progress report to Regional Water Board	April 30, 2012
Test installed UV equipment and provide testing results to California Department of Public Health and Regional Water Board	June 1, 2012
Submit quarterly progress report to Regional Water Board	July 31, 2012
Complete CP	October 1, 2012

TASK	DUE DATE
Submit a certified statement by an authorized representative that documents the funds expended by the Discharger during the completion of the CP directly related to development and implementation of the CP. Discharger shall provide any additional information requested by the Regional Water Board staff that is reasonably necessary to verify Discharger's CP expenditures.	October 31, 2012
Submit a final report, under penalty of perjury under the laws of the State of California, stating the CP has been completed in accordance with the terms of this Order. Such documentation may include photographs, invoices, receipts, certifications, and other materials reasonably necessary for the Regional Water Board to evaluate the completion of the CP and the costs incurred by the Discharger.	October 31, 2012

3. The funds expended by the Discharger to complete the CP to return to and/or maintain future compliance shall at least equal the amount of \$51,000. In the event that the Discharger is not able to demonstrate to the reasonable satisfaction of the Regional Water Board staff that it expended funds in the amount of \$51,000 for the completion of the CP, the Discharger shall pay the difference between the suspended administrative civil liability and the amount the Discharger can demonstrate it actually spent on the completion of the CP, as an administrative civil liability. All payments shall be made payable to the CAA.
4. If, given written justification from the Discharger, the Executive Officer determines that a delay in the CP time schedule, described above, is beyond the reasonable control of the Discharger, the Executive Officer may revise the time schedule as appropriate. Written justification must be received by the Executive Officer before the specific due date occurs, must describe circumstances causing the delay, and must state when each task of the CP will be completed.
5. If the Discharger fails to fully implement the CP in compliance with the time schedule provided in this Order, or any subsequent revisions made by the Executive Officer as described in Paragraph 4, the Regional Water Board staff shall issue a Notice of Violation (NOV) to the Discharger. Upon issuance of the NOV the Discharger shall be liable to pay the entire suspended administrative civil liability amount of \$51,000 within 30 days of receipt of the NOV. Completion of the CP or payment of the suspended liability amount does not relieve the Discharger of its independent obligation to take necessary actions to achieve compliance with its WDRs.
6. Upon the Executive Officer's determination that the CP, as described in Finding No. 15 of this Order, has been satisfactorily completed, the respective suspended liability of \$51,000 shall be permanently waived.

7. Fulfillment of the Discharger's obligations under the Order constitutes full and final satisfaction of any and all liability for each claim in the Complaint in accordance with the terms of the Order
8. Notwithstanding the issuance of this Order, the Regional Water Board shall retain continuing jurisdiction to determine compliance with the terms of this Order, as well as the authority to assess additional penalties for other violations of the Discharger's waste discharge requirements.

Certification

I, Catherine Kuhlman, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, North Coast Region on October 28, 2010.

Catherine Kuhlman
Executive Officer

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