

California Regional Water Quality Control Board
North Coast Region

Administrative Civil Liability Complaint No. R1-2002-0084

For

Violations of
California Water Code Section 13267

WDID No. 1B801540MEN

Hopland Public Utilities District
Mendocino County

This Complaint to assess Civil Liability pursuant to California Water Code Sections 13268 and 13323 is issued to Hopland Public Utilities District (hereinafter Discharger), for violations of Monitoring and Reporting Program No. 93-11 issued pursuant to California Water Code Section 13267(b) for the period June 1, 2000, through July 31, 2002.

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

1. On January 8, 1993, the Regional Water Board adopted Waste Discharge Requirements, Board Order 93-11 (WDRs) that included Monitoring and Reporting Program No. 93-11 to regulate discharges of waste from the Discharger's wastewater collection, treatment and disposal system.
2. The Discharger violated permit conditions contained in the WDRs by failing to submit required self-monitoring reports, for which the Regional Water Board may impose Civil Liability under Section 13268(b)(1) of the California Water Code (CWC).
3. The Discharger failed to submit 21 monthly monitoring reports between June 2000 and June 2002 violating Section 13267(b) of the CWC.
 - a. Provision D.7 of the WDRs requires the Discharger to submit monthly self-monitoring reports in accordance with the Monitoring and Reporting Program. Monitoring and Reporting Program No. 93-11 requires that samples be collected and analyzed weekly for BOD, Settleable Matter, Suspended Solids, and Coliform Organisms. Additionally, Chlorine Residual and Hydrogen Ion require daily monitoring.
 - b. On June 19, 2001, the Regional Water Board Executive Officer issued a Notice of Violation (NOV) for non-submittal of self-monitoring reports to the Discharger. The NOV was hand delivered to Evert Jacobson, General Manager of the Hopland Public Utilities District by Regional Water Board staff member Mona Dougherty on June 21,

2001. The NOV stated that unless submittal of self-monitoring reports was resumed, the Regional Water Board would take appropriate enforcement action under the authority of the CWC.

4. CWC Section 13268(b)(1) provides for the imposition of Civil Liabilities against any person failing to submit monitoring reports. For violations of CWC Section 13267, Section 13268(b)(1) authorizes the Regional Water Board to impose Civil Liability in an amount not to exceed the sum of \$1,000 for each day in which the violation occurs. The maximum total Civil Liability that could be imposed against the Discharger in this matter is calculated as follows:

7,680 days of violation at \$1,000 per day = \$7,680,000

A day of violation has accrued every day that a monitoring report was past due through July 31, 2002. The days of violation for each monitoring report not submitted are summarized as follows:

Monitoring Report	Date Due	Days of Violation
June 2000	July 15, 2000	746
July 2000	August 15, 2000	715
August 2000	September 15, 2000	684
September 2000	October 15, 2000	654
October 2000	November 15, 2000	623
November 2000	December 15, 2000	593
December 2000	January 15, 2001	562
January 2001	February 15, 2001	531
June 2001	July 15, 2001	381
July 2001	August 15, 2001	350
August 2001	September 15, 2001	319
September 2001	October 15, 2001	289
October 2001	November 15, 2001	258
November 2001	December 15, 2001	228
December 2001	January 15, 2002	197
January 2002	February 15, 2002	166
February 2002	March 15, 2002	138
March 2002	April 15, 2002	107
April 2002	May 15, 2002	77
May 2002	June 15, 2002	46
June 2002	July 15, 2002	16
Total		7,680

5. In determining the amount of any Civil Liability, pursuant to CWC Section 13327, the Regional Water Board must take into account the nature, circumstance, extent, and gravity of the violation; whether the discharge is susceptible to cleanup or abatement; the degree of toxicity of the discharge; and with respect to the violator, the ability to pay; the ability to continue business; voluntary cleanup efforts; prior history of violations; the degree of culpability; economic benefit or savings resulting from the violation; and other matters that justice may require.

A. Nature, Circumstance, Extent, and Gravity of the Violations

The review of self-monitoring reports provides Regional Water Board staff the best indicator for treatment process performance and impact to water quality from the effluent discharge. Substandard operation and maintenance of the facility have the potential to impact water quality and public health. Additionally, the Discharger has ignored the Notice of Violation issued by the Regional Water Board Executive Officer and refuses to cooperate with Regional Water Board staff to achieve compliance.

Consideration of the nature, circumstance, extent, and gravity of the violations does not provide reason for reduction from the maximum the amount of Civil Liability to be imposed.

B. Susceptibility to Cleanup or Abatement

This does not apply to the nature of the violations.

Consideration of susceptibility to cleanup or abatement does not provide reason for reduction from the maximum the amount of Civil Liability to be imposed.

C. Degree of Toxicity

This does not apply to the nature of the violations.

Consideration of the degree of toxicity of the violations does not provide reason for reducing the amount of Civil Liability to be imposed.

D. Ability to Pay

The Discharger operates a small wastewater treatment facility in rural Mendocino County. Although the Discharger has not submitted any information to the Regional Water Board indicating that they are in a financial position that would prevent them from remitting an imposed fine, Regional Water Board staff assumes that the Discharger has a small annual operation budget.

Consideration of the Discharger's ability to pay does provide reason for reducing the amount of Civil Liability to be imposed.

E. Effect on Ability to Continue Business

Imposition of the maximum Civil Liability would likely have an effect on the Discharger's ability to continue business.

Consideration of effect on ability to continue business does provide reason for reducing the amount of Civil Liability.

F. Voluntary Cleanup Efforts

This does not apply to the nature of the violations.

Consideration of voluntary cleanup efforts does not provide reason for reduction from the maximum the amount of liability to be imposed.

G. Prior History of Violations

The Discharger does not have similar previously recorded violations.

Consideration of prior history of violations does provide reason for reduction from the maximum the amount of Civil Liability to be imposed.

H. Degree of Culpability

The WDRs issued require the Discharger to submit monthly self-monitoring reports. The Discharger has failed to submit these reports as required by the WDRs and the NOV.

Consideration of the degree of culpability does not provide reason for reducing from the maximum amount of Civil Liability to be imposed.

I. Economic Savings Resulting from the Violation

The Discharger received economic savings resulting from the failure to submit self-monitoring reports. The Discharger's economic savings for laboratory costs for the required analyses at Alpha Analytical in Ukiah, California are estimated at \$24,400. The Laboratory costs and monitoring frequency used to calculate the laboratory economic savings are reported as follows:

Constituent to be Monitored	Monitoring Frequency	Months not Reported	Cost of Analyses	Total Cost
BOD	4/month (84) ¹	21	\$33	\$2772
Settlable Solids	4/month (84)	21	\$15	\$1260
TSS	4/month (84)	21	\$17	\$1428
Total Coliform	4/month (84)	21	\$35	\$2940
Chlorine Residual	daily (640) ²	21	\$15	\$9600
pH	daily (640)	21	\$10	\$6400
Total				\$24,400

The Discharger's economic savings for staff time for sampling and reporting is estimated at \$10,920 based on the following:

Hopland PUD Staff Member	Estimated Hours Required for Monitoring and Reporting	Total Cost (\$65/Hour)
Evert Jacobson	2 hours/week (168) ³	\$10,920

Consideration of the economic savings resulting from the violation does not provide reason for reducing from the maximum the amount of Civil Liability to be imposed.

J. Other Matters as Justice May Require

Regional Water Board staff costs are estimated to be approximately \$2,600 based on the following:

Regional Water Board Staff Member	Hours Worked	Total Cost (\$65/Hour)
Mona Dougherty	30	\$1950
Administrative Unit	4	\$260
John Short	4	\$260
Robert Tancreto	2	\$130
Total		\$2,600

¹ Monitoring and Reporting Program No. 93-11 requires weekly sampling for this constituent. Regional Water Board staff estimated that each month contained four weeks and then multiplied this number by 21 months that had not been reported, for a total of 84 required analyses.

² Monitoring and Reporting Program No. 93-11 requires daily sampling for this constituent. Regional Water Board staff calculated 640 days in the 21 months that had not been reported, for a total of 640 required analyses.

³ Regional Water Board staff estimated 2 hours a week for Discharger staff time to perform sampling and reporting and estimated that each month contained four weeks and then multiplied this number by 21 months that had not been reported, for a total of 168 hours.

Consideration of other matters as justice may require does not provide reason for reducing from the maximum the amount of Civil Liability to be imposed.

6. The issuance of this Complaint is an enforcement action to protect the environment, and is therefore exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000 et seq.) pursuant to Title 14, California Code of Regulations, sections 15308 and 15321(a)(2).
7. This settlement will not become effective until after a 30-day public comment period.

PROPOSED CIVIL LIABILITY

Based on the foregoing the Regional Water Board staff hereby proposes that the Discharger pay an Administrative Civil Liability in the amount of \$45,000 dollars due and payable within 30 days of the date of this Complaint.

WAIVER OF HEARING

You may waive the right to a future hearing. If you wish to waive the hearing, please check and sign the enclosed waiver and return it together with a cashier's check or money order, made payable to the "State Water Resources Control Board" for \$45,000.00 within 30 days of receipt of this Complaint to the California Regional Water Quality Control Board, North Coast Region, 5550 Skylane Boulevard, Suite A, Santa Rosa, CA 95403.

Ordered by _____

Susan A. Warner
Executive Officer

July 31, 2002