

California Regional Water Quality Control Board
North Coast Region

Administrative Civil Liability Complaint No. R1-2006-0057

For

Violation of Cease and Desist Order No. R1-2006-0003

In the Matter of

Klamath Community Services District
ID No. 1A84118ODN

Del Norte County

This Complaint to assess a penalty pursuant to California Water Code (CWC) Section 13350(a)(1) is issued to Klamath Community Services District (hereinafter Discharger) for violations of Cease and Desist Order No. R1-2006-0003.

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

1. The Klamath Community Services District owns and operates wastewater collection, treatment, and disposal facilities that serve the New Klamath Town Site located adjacent to Highway 101 near the mouth of the Klamath River. The New Klamath Town Site consists of a total of ninety lots, primarily residential with some commercial development to serve the community.
2. Water treatment consists of a large septic tank having 20,000 gallons per day treatment capacity followed by disposal in two large leachfields adjacent to the Klamath River. The Regional Water Board adopted Waste Discharge Order No. 84-118 for the Discharger on September 27, 1984. The leachfield experienced solids carryover from the septic tank and surfacing effluent soon after its construction.
3. On February 25, 1987, the Regional Water Board adopted Cease and Desist Order No. 87-27 requiring the Discharger to cease and desist from discharging and threatening to discharge waste in violation of Waste Discharge Requirements. Cease and Desist Order No. 87-27 contained a list of tasks and a corresponding time schedule for the Discharger to complete them.
4. On December 1, 1988, the Regional Water Board adopted Cease and Desist Order No. 88-153, revising Cease and Desist Order No. 87-27, requiring the Discharger to cease and desist from discharging and threatening to discharge waste in violation of Waste Discharge Requirements. Cease and Desist Order No. 88-153 contains a list of tasks and a corresponding time schedule for the Discharger to complete.

5. Inspections by Regional Water Boards staff and reports from the Discharger revealed that the required sewer system infiltration analysis was not conducted, septic tank effluent was discharged to the Klamath River for a prolonged period following flood damage, Klamath River flood damage resulted in loss of a portion of one of the leachfields, monitoring wells and instruments to monitor the discharge of waste and were not being maintained, leachfields were not being maintained, and service charge revenues were insufficient to operate and maintain the wastewater system. On January 25, 2006, the Regional Water Board adopted Cease and Desist Order No R1-2006-0003, revising Cease and Desist Order Nos. 87-27 and 88-153.
6. Portions of Cease and Desist Order No. R1-2006-003 that currently are being violated are as follows:

“3.a. Cease discharging wastewater into the northerly leachfield forthwith and cease discharging wastewater into any other leachfield that is located less than 100 feet from the Klamath River as soon as the District has knowledge that the River has come within 100 feet of any of the remaining leachfields. Submit a report to the Regional Water Board Executive Officer within five days of its completion that describes when and how this task was completed.”

RWQCB staff (staff) sent a notice of violation letter to the Discharger on February 3, 2006, stating that the wastewater line to the northerly leachfield should have been capped forthwith and a report of accomplishment submitted within five days. The Discharger faxed and telephoned a response to staff on February 21, 2006, stating that the Discharger just received staff's February 3, 2006, notice of violation letter. They will get a contractor to do it and get necessary reports mailed to staff by March 1, 2006. March 3, 2006, staff letter to the Discharger stated that staff had not received a report of the wastewater line being capped off. The Discharger responded in a March 15, 2006, letter faxed to staff that the line to the northerly leachfield was capped off by Klamath CSD board president Fred Stockett on March 14, 2006. This task was completed 47 days after the CDO was adopted.

“3.b. By March 1, 2006, install an operational flow measuring device or cause the existing flow measuring device to give credible flow data in order to report the daily volume of wastewater discharged into the leachfield disposal system. Submit a report of completion to the Regional Water Board by March 15, 2006, and thereafter, continue to report wastewater flows in conformance with Monitoring and Reporting Program No 84-118 and any revisions to the Monitoring and Reporting Program.”

During telephone conversations with two Klamath CSD board members on February 28, 2006, staff told the Discharger that the functional flow meter and backup power must be in place by March 1, 2006. A report of completion is due March 15, 2006. On March 15, 2006, staff received a faxed letter transmitting wastewater flow and rainfall data for first two weeks of March 2006. It stated that the Discharger had purchased solar panel and backup battery power to the flow meter “to be installed soon”. The report of completion still has not been received. Installation and

operational status of backup power to the flow meter is unknown at this time. The report of completion is 56 days late.

“3.c. By March 1, 2006, submit a map prepared, stamped and signed by a California Registered Civil Engineer or Land Surveyor that shows the location of all wastewater transmission and disposal facilities, including pressure transmission and distribution lines, distribution boxes, leachlines, leachfields, existing monitoring wells, Klamath River, parking and traveled areas, property boundaries, and any other improvements on the property. The map also shall indicate the location of all proposed monitoring wells that must be installed in order to comply with Monitoring and Reporting Program No. 84-118.”

A blueprint map of an aerial photo showing most wastewater system components was received March 1, 2006, as required. The photo was dated prior to the January 1, 2006, flood and does not show current land configuration or County property lines. Staff returned the aerial photo on March 3, 2006, and requested submittal of a revised map within thirty days. In a March 16, 2006, telephone conversation, staff informed the Discharger that water supply wells and the County property line were not shown on the map. A revised map that complies with the CDO has not been received as of this date and is 70 days late.

“3.d. By April 1, 2006, install all monitoring wells necessary to comply with Monitoring and Reporting Program No. 84-118. Submit a report of completion to the Regional Water board by April 15, 2006, that describes well construction technique and materials, well locations and well depths. Thereafter, continue to report water level observations in conformance with Monitoring and Reporting Program No. 84-118 and any revisions to the Monitoring and Reporting Program.”

One groundwater monitoring well was installed in each leachfield area by the Discharger in approximately August 2005; however, no details of well construction were submitted to RWQCB staff. Staff requested this information several times prior to adoption of the CDO. Staff reminded the Discharger in telephone conversations on March 16 and April 7, 2006, that the information must be submitted by April 15, 2006. No report has been received as of this date and the required report currently is 25 days late.

Proposed Civil Liability

7. California Water Code Section 13350(a)(1) provides for the imposition of civil liability to anyone who violates any cease and desist order issued by a regional board. Section 13350(e)(1) provides that the maximum amount of civil liability which may be imposed by the Regional Water Board may not exceed \$5,000 per day of violation. Section 13350(e)(1)(B) establishes a minimum liability of \$100 for each day in which the violation occurs.

8. Civil liability required by Section 13350(e)(1) for each of the tasks required by CDO No. R1-2006-0003 is as follows:

Task 3a: 47 days late. Minimum liability is \$4,700. Maximum liability is \$235,000.
Task 3b: 56 days late. Minimum liability is \$5,600. Maximum liability is \$280,000.
Task 3c: 70 days late. Minimum liability is \$7,000. Maximum liability is \$350,000.
Task 3d: 25 days late. Minimum liability is \$2,500. Maximum liability is \$125,000.

The cumulative minimum civil liability for all four tasks is \$22,800, and the cumulative maximum civil liability is \$990,000.

9. California Water Code section 13327 provides:

“In determining the amount of civil liability the regional board ... shall take into consideration the nature, circumstance, extent, and gravity of the violation or violations, 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 effect on ability continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters as justice may require.”

Klamath Community Services District is Hereby Given Notice That:

Taking into account the factors set forth in finding number nine (9) above, based on the history of the Discharger's performance, the multiple violations of Cease and Desist Order No. R1-2006-0003, and the potential threat to water quality, the Executive Officer of the Regional Water Board is issuing this Complaint with a proposed administrative civil liability in the amount of \$7,000, which is the minimum liability for the one task that is most overdue.

10. A hearing shall be conducted on this Complaint by the Regional Water Board on August 9, 2006, unless the Discharger waives the right to a hearing by signing and returning the waiver form attached to this Complaint within 30 days of the date of this Complaint. By doing so, the Discharger agrees to pay the penalty of \$7,000 to the Waste Discharge Permit Fund within 30 days of the date of this Complaint.
11. If the Discharger waives the hearing and pays the liability, the resulting settlement may become effective on the next day after the public comment period for this Complaint is closed, provided that there are not significant public comments on this Complaint during the public comment period. If there are significant public comments, the Executive Officer may withdraw the Complaint, reissued it as appropriate, or take other appropriate action.
12. If a hearing is held, the Regional Water Board will consider whether to affirm, reject or modify the proposed administrative civil liability or whether to refer the matter to

the Attorney General for recovery of judicial civil liabilities, or other remedies as appropriate.

13. Notwithstanding the issuance of the Complaint, the Regional Water Board shall retain the authority to assess additional penalties for violations of Cease and Desist Order No. R11-2006-0003 as the facts may warrant.

Catherine E. Kuhlman
Executive Officer

May 10, 2006