

California Regional Water Quality Control Board
North Coast Region

Administrative Civil Liability Order No. R1-2007-0069

For

Violation of Waste Discharge Requirements
Order No. R1-2000-71 and Order No. R1-2006-0001
NPDES No. CA0022756

In the Matter of

City of Crescent City
Wastewater Treatment Facility
WDID No. 1B84006ODN

Del Norte County

The California Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board), having received from the City of Crescent City (hereinafter Discharger) a waiver of the right to a hearing in the matter of mandatory minimum penalties pursuant to Water Code section 13385, subdivision (h) for failure to file discharge monitoring reports in a timely manner and having received the Discharger's request for the opportunity to implement a Supplemental Environmental Project (SEP) in lieu of the penalties prescribed, finds the following:

1. The Discharger owns and operates the Crescent City Wastewater Treatment Facility (WWTF). The WWTF serves the City of Crescent City and Del Norte County Service Area #1 and discharges secondary treated municipal wastewater into the Pacific Ocean.
2. The Regional Water Board adopted Waste Discharge Requirements Order No. R1-2000-71 for the Discharger on October 6, 2000. On January 25, 2006, the Regional Water Board adopted new Waste Discharge Requirements Order No. R1-2006-0001 for the Discharger's WWTF that became effective on February 24, 2006. These Orders serve as a National Pollutant Discharge Elimination System (NPDES) permit under the Federal Clean Water Act.
3. Among the provisions in the Discharger's waste discharge requirements are the requirements to implement a discharge monitoring program and to prepare and submit NPDES self-monitoring reports to the Regional Water Board pursuant to the authority of Water Code section 13383.
4. 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. Water Code section 13385.1, subdivision (a)(1) identifies the failure to timely file a discharge monitoring report required pursuant to Water Code section 13383 as a "serious violation" for each complete period of thirty

days following the deadline for submitting the report. These penalties only apply to violations that occur on or after January 1, 2004.

5. On May 15, 2007, the Executive Officer issued Administrative Civil Liability Complaint No. R1-2007-0035 (Complaint) assessing mandatory minimum penalties in the amount of \$24,000 for failure to timely file discharge monitoring reports. The Discharger waived its right to a public hearing and requested to pay the sum of \$4,500 to the State Water Pollution Cleanup and Abatement Account (CAA) and spend at least \$19,500 on an (SEP) as shown in Attachment A incorporated herein and made part of this Order.
6. Water Code section 13385, subdivision (l)(1) provides that a portion of mandatory minimum penalties imposed under section 13385, subdivisions (h) or (i) may be directed to a SEP. An SEP is defined in Water Code section 13385, subdivision (l)(2) as an environmentally beneficial project that a person agrees to undertake, with the approval of the regional board, that would not be undertaken in the absence of an enforcement action. The SEP must meet the requirements set out in accordance with Section IX of the State Water Resources Control Board Water Quality Enforcement Policy (Enforcement Policy). This Order includes requirements for SEPs as specified in the Enforcement Policy.
7. The proposed SEP, Attachment A, will construct a pedestrian/bike trail that will extend the current City Coastal Trail project and provide pedestrian, bike, and handicap access to the coast. There are three segments to the City Coastal Trail project, with the Harbor Trail being the final segment to be completed. The proposed Harbor Trail would start at the Cultural Center and continue easterly across Elk Creek to Sunset Circle. The proposed SEP will construct a multipurpose trail from the Cultural Center to Sunset Circle. Installation of the pedestrian/bike bridge will divert foot traffic away from wetlands along the Elk Creek Estuary, thereby helping protect the Wolf's evening primrose and beach pea, two special status plants occurring in the project area wetlands. Also included in this SEP is replanting (restoration of) native plant species in a 14,000 plus square foot wetland area identified as an area with significant storm water runoff. Willows will also be planted along Elk Creek to help stabilize the stream bank. A trailhead will be constructed with public access parking, small public restrooms, interpretive signs and trail information, fencing, landscaping and signage. The proposed SEP is estimated to cost \$1,183,505. The City of Crescent City will provide approximately \$300,000 towards this project and the Nature Conservancy will provide the remaining funds. The city will be doing the work on the project. The SEP will start November 1, 2007 and be completed by July 1, 2008.
8. The Regional Water Board finds that the SEP, as proposed, meets the criteria established in Water Code section 13385, subdivision (l) and the Enforcement Policy. The City has already budgeted for this project and has the \$300,000 in reserves.

9. A duly noticed public hearing on this matter was held before the Regional Water Board during a public meeting on October 25, 2007, in the Best Western Weaverville Victorian Inn conference room, 1709 Main Street, Weaverville, California. The documents for the agenda item were provided to the Discharger and made available to the public prior to the hearing. The Discharger was given the opportunity to testify and present evidence, and the public was given an opportunity to comment.
10. 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 (Public Resources Code section 21000 et seq.) pursuant to title 14, California Code of Regulations sections 15308 and 15321, subdivision (a)(2).
11. Any person affected by this action of the Regional Water Board may petition the State Water Resources Control Board to review the action in accordance with section 13320 of the Water Code and title 23, California Code of Regulations, section 2050. The petition must be received by the State Water Resources Control Board within thirty 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 shall be assessed a mandatory minimum penalty of \$24,000 for five late monitoring reports. The Discharger paid the sum of \$4,500 on June 13, 2007 into the CAA. The remaining sum of \$19,500 is eligible to be permanently suspended upon satisfactory completion of the SEP as described in Finding 7 and Attachment A of this Order.
2. The Discharger shall complete the SEP by July 1, 2008 and submit reports describing the work performed as follows:

TASK/DATE	SUBMIT REPORT OF COMPLIANCE
Start Civil Roadway and Utility Improvements by December 3, 2007	On or before December 17, 2007 submit a report of compliance
Start site, parking lot and bridge improvement by April 1, 2008	On or before April 15, 2008 submit a report of compliance
Complete project by July 1, 2008	On or before July 15, 2008 submit a report of compliance
Final report due by September 2, 2008	On or before September 2, 2008 submit the final report detailing the completion of the SEP and an engineering judgment of the expected effectiveness of the SEP. The report shall include a post project accounting of all expenditures with proof of payment.

3. If, given written justification from the Discharger, the Executive Officer determines that a delay in the SEP implementation schedule is beyond the reasonable control of the Discharger, the Executive Officer may revise the implementation 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 SEP will be completed.
4. The penalty amount of \$19,500 shall be permanently suspended if the Executive Officer determines that the Discharger completes the SEP satisfactorily and provides the Regional Water Board with the scheduled progress reports and final report for each project as listed in the tables above. The amount of the penalty suspended will not exceed the amount spent on the SEP.
5. Notwithstanding the issuance of this Order, the Regional Water Board shall retain continuing jurisdiction to determine compliance with the terms of the suspended penalty provisions above, as well as the authority to assess additional penalties for other violations of the Discharger's Waste Discharge Requirements.

Certification

I, Robert R. Klamt, Interim 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 25, 2007

Robert R. Klamt
Interim Executive Officer