

California Regional Water Quality Control Board
North Coast Region

Administrative Civil Liability Complaint No. R1-2008-0124

For Violation of

Waste Discharge Requirements Order No. R1-2004-0111
Waste Discharge Requirements Order No. R1-2005-0084
Cease and Desist Order No. R1-2006-0002
NPDES No. CA0025135

In the Matter of

City of Healdsburg
Wastewater Collection, Treatment and Disposal Facility
WDID No. 1B82046OSON

Sonoma County

This Complaint, to assess administrative civil liability for penalties pursuant to Water Code section 13385, is issued to the City of Healdsburg (hereinafter the Discharger) for violations of Waste Discharge Requirements (WDRs) Order No. R1-2004-0111, WDRs Order No. R1-2005-0084 (which also serve as National Pollutant Discharge Elimination System (NPDES) permits under the Clean Water Act) and Cease and Desist Order No. R1-2006-0002, which occurred during the period between November 30, 2004 to April 30, 2008.

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

1. The Discharger owns a wastewater collection and treatment system (WWTF), and discharges treated effluent to a feature referred to as the Basalt Pond located on land owned by Syar Industries, Inc. (Syar); Syar and the Discharger have an agreement allowing the treated effluent to be discharged to the Basalt Pond. As the owner and operator of the WWTF, the Discharger is responsible for ensuring that it operates the WWTF in compliance with the WDRs.
2. The Regional Water Board regulated discharges from the WWTF to the Basalt Pond under WDRs as a discharge to land until October 2004, when the Regional Water Board adopted an NPDES permit for the discharge, requiring that discharges from the WWTF comply with additional water quality limitations, including compliance with prohibitions contained in the Water Quality Control Plan for the North Coast Region (Basin Plan). The NPDES permit included receiving water limitations, California Toxics Rule limitations, and requirements for additional effluent and receiving water monitoring, which had not been included in the earlier WDRs.

3. The history of Regional Water Board's regulation over the Discharger since 1992 is summarized below:
 - June 25, 1992, Regional Water Board adopted WDRs Order No. 92-80.
 - October 6, 2004, Regional Water Board adopted WDRs Order No. R1-2004-0064, which served as an NPDES permit (Permit No. CA 0025135) and rescinded WDRs Order No. 92-80.
 - November 29, 2004, Regional Water Board adopted WDRs Order No. R1-2004-0111, which served as an NPDES permit, and rescinded WDRs Order No. R1-2004-0064.
 - October 12, 2005, Regional Water Board adopted Order No. R1-2005-0084, which served as an NPDES permit, and rescinded WDRs Order No. R1-2004-0111.
 - January 25, 2006, Regional Water Board adopted Cease and Desist Order (CDO) No. R1-2006-0002, temporarily increasing effluent limitations for BOD and TSS.
 - January 17, 2008, Regional Water Board revised Order No. R1-2005-0084 (retaining the same Order number), postponing implementation of more stringent final effluent limits for BOD and TSS from January 1 to May 1, 2008.
4. This Complaint covers violations of effluent limitations and discharge prohibitions occurring during the period from November 30, 2004 to April 30, 2008. Findings 11 through 16 of this Complaint contain details of these violations. Specifically:
 - Finding 11 covers violations of WDR Order No. R1-2004-0111 occurring during the period in which it was in effect, November 30, 2004 to October 12, 2005.
 - Finding 12 covers violations of WDR Order No. R1-2005-0084 occurring between October 12, 2005 and March 8, 2007 (from adoption of the Order through the end of the period during which it overlapped with the Cease and Desist Order).
 - Finding 13 covers violations of effluent limits for BOD and TSS contained in Cease and Desist Order (CDO) No. R1-2006-002 occurring between January 26, 2006 and March 8, 2007 (the effective life of the CDO).
 - Finding 14 covers violations of WDR Order No. R1-2005-0084 occurring between March 8, 2007 and December 31, 2007 (the period following overlap with the CDO to the start of the more stringent final effluent limitations).
 - Finding 15 covers violations of WDR Order No. R1-2005-0084 occurring between January 1, 2008 and January 17, 2008 (from the date of the start of the more stringent final effluent limitations until the date the Board approved a postponement of the final effluent limitations and allowed the Discharger to resume using the less stringent interim limits).

- Finding 16 covers violations of revised WDR Order No. R1-2005-0084 occurring between January 17 and April 30, 2008.

The violations discussed in this Complaint are subject to the mandatory minimum penalties and civil liability provisions contained in California Water Code section 13385, subsections (a), (h) and (i).

5. The WDRs, which also serve as NPDES permits, and the CDO include requirements to implement a discharge monitoring program and to prepare and submit monthly and annual NPDES self-monitoring reports to the Regional Water Board pursuant to Water Code section 13383. These reports are designed to determine compliance with effluent limitations contained in the permits and CDO.
6. Water Code section 13385, subdivision (h)(1), establishes a mandatory minimum penalty of three thousand dollars (\$3,000) for each serious violation of an NPDES permit effluent limitation. Water Code section 13385, subdivision (h)(2) states that one type of serious violation occurs if the discharge from a facility regulated by an NPDES permit exceeds the effluent limitations 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, or 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.
7. Water Code section 13385, subdivision (i)(1) requires the Regional Water Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each violation, not counting the first three violations, if the discharger does any of the following four or more times in any period of six consecutive months:
 - (a) Violates a waste discharge requirement effluent limit.
 - (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 discharges do not contain pollutant-specific effluent limitations for toxic pollutants.

Violations under section 13385, subdivision (i)(1) are referred to as "chronic" violations in this Complaint.

8. On February 19, 2002, the State Water Resources Control Board (State Water Board) adopted Resolution No. 2002-0040 amending the Water Quality Enforcement Policy (Enforcement Policy). The Enforcement Policy was approved by the Office of Administrative Law and became effective on July 30, 2002. The Enforcement Policy addresses, among other enforcement matters, issues related to assessing mandatory minimum penalties.

9. Water Code section 13385, subdivision (l)(1) provides that the Regional Water Board may direct, with concurrence of the discharger, a portion of mandatory minimum penalties imposed under section 13385, subdivisions (h) or (i) to a Supplemental Environmental Project (SEP) in accordance with Section IX of the Enforcement Policy. If the penalty amount exceeds fifteen thousand dollars (\$15,000), the portion of the penalty amount that may be directed to a SEP may not exceed fifteen thousand dollars (\$15,000) plus 50 percent of the penalty amount that exceeds fifteen thousand dollars (\$15,000). This Complaint incorporates requirements for SEPs as specified in the Enforcement Policy.
10. For the purpose of determining a Discharger's compliance with effluent limitations in its permit, the 30-day average is equivalent to the monthly average, which is defined as the arithmetic mean of all daily determinations made during a calendar month. Where less than daily sampling is required, the average shall be determined by the sum of all the measured daily discharges divided by the number of days during the calendar month when the measurements were made. If only one sample is collected during that period of time, the value of the single sample shall constitute the monthly average.
11. **November 30, 2004 to October 12, 2005: Violations of WDR Order No. R1-2004-0111**

The Regional Water Board adopted WDR Order No. R1-2004-0111 on November 29, 2004; the Order took effect on November 30, 2004, and was rescinded on October 12, 2005. During the life of this Order, the Discharger violated a number of provisions including the following:

"A. DISCHARGE PROHIBITIONS

"4. The discharge of untreated or partially treated waste from anywhere within the collection, treatment, or disposal facility is prohibited.

"B. EFFLUENT LIMITATIONS FOR DISCHARGES TO THE BASALT POND

"Representative samples of treated effluent shall be collected at a point at the end of the treatment train and shall be analyzed for the purpose of determining compliance with this Permit, unless otherwise specified.

"5. Effluent shall not contain any measurable settleable solids.

"7. The arithmetic mean of the BOD (20 C, 5-day) and suspended solids values for effluent samples collected in a period of 30 consecutive days shall not exceed 15 percent of the arithmetic mean of the values for influent samples collected at approximately the same times during the same period (85 percent removal). Percent removal shall be determined from the 30-day average value of effluent concentration for the same constituent over the same time period.

“9. Interim limitations to be in effect until December 31, 2007, in compliance with General Provision I.29. Secondly treated wastewater shall not contain constituents in excess of the following limitations:

<u>Constituent</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Weekly Average</u>
BOD ₅ @ 20°C	mg/l lb/day*	30 350	45 525
Suspended Solids	mg/l lb/day**	30 350	45 525

*Mass based effluent limitations are based on the WWTF dry weather design flow of 1.4 mgd. During wet-weather periods when the flow rate into the WWTF exceeds the dry weather design flow, the mass emission limitations shall be calculated using the concentration-based effluent limitations and the actual daily average flow rates (not to exceed the maximum sustained peak design flow of 6.5 mgd.)

**The Permit does not refer to the footnote for Suspended Solids lb/day. The intent was to also apply the wet weather design flow to Suspended Solids lb/day.

During the term of Order No. R1-2004-0111, the Discharger had a discharge of untreated or partially treated waste from its collection, treatment, or disposal facility (also referred to as SSO violations):

TABLE A – WDRs Order No. R1-2004-0111 SSO Violation					
Violation Date	Discharge Type	Quantity Discharged (gallons)	Quantity Recovered (gallons)	Comments	Potential Liability
7/26/2005	Overflow was caused by a blockage located approximately 20 ft downstream of the overflowing manhole. Approximately 400 gallons entered the City's storm drain system.	400 gallons	400 gallons	The city was able to successfully contain all of the sewage in the storm drain piping.	\$10,000

Finding Number 18 discusses this SSO violation and recommended penalties.

During the effective life of Order No. R1-2004-0111, the Discharger had the following violations subject to Mandatory Minimum Penalties:

TABLE B – WDRs Order No. R1-2004-0111 MMP Violations (11/30/04- 10/12/05)				
Violation Date	Violation	Effluent Limit	Violation Type	Mandatory Minimum Liability
11/30/2004	Monthly BOD = 35 mg/l	30 mg/l	1 st Chronic	\$0
12/8/2004	Daily chlorine residual = 4.25 mg/l	0.1 mg/l	Serious	\$3,000
12/8/2004	Weekly BOD = 1262 lb/day	638 lb/day	Serious	\$3,000
12/8/2004	Weekly TSS = 1165 lb/day	638 lb/day	Serious	\$3,000
12/22/2004	Weekly TSS = 48 mg/l	45 mg/l	Chronic	\$3,000
12/29/2004	Weekly TSS = 48 mg/l	45 mg/l	Chronic	\$3,000
12/29/2004	Weekly TSS = 1009 lb/day	638 lb/day	Serious	\$3,000
12/31/2004	Monthly BOD = 439 lb/day	425 lb/day	Chronic	\$3,000
12/31/2004	Monthly TSS = 39 mg/l	30 mg/l	Chronic	\$3,000
12/31/2004	Monthly TSS = 677 lb/day	425 lb/day	Serious	\$3,000
12/31/2004	Monthly TSS % removal = 84%	85%	Chronic	\$3,000
1/5/2005	Monthly copper = 30 ug/l	28 ug/l	Chronic	\$3,000
1/31/2005	Monthly TSS % removal = 63%	85%	Chronic	\$3,000
2/28/2005	Monthly TSS % removal = 80%	85%	Chronic	\$3,000
4/27/2005	Weekly TSS = 803 lb/day	657 lb/day	Chronic	\$3,000
4/27/2005	Weekly TSS = 55 mg/l	45 mg/l	Chronic	\$3,000
4/30/2005	Monthly TSS % removal = 69%	85%	Chronic	\$3,000
4/30/2005	30-day TSS average = 38 mg/l	30 mg/l	Chronic	\$3,000
5/4/2005	Weekly TSS = 47 mg/l	45 mg/l	Chronic	\$3,000
5/4/2005	Weekly TSS = 784 lb/day	751 lb/day	Chronic	\$3,000
5/18/2005	Weekly TSS = 58 mg/l	45 mg/l	Chronic	\$3,000
5/18/2005	Weekly TSS = 1877 lb/day	1456 lb/day	Chronic	\$3,000
5/31/2005	Monthly TSS % removal = 82%	85 %	Chronic	\$3,000
5/31/2005	Monthly TSS = 44 mg/l	30 mg/l	Serious	\$3,000
5/31/2005	Monthly TSS = 935 lb/day	515 lb/day	Serious	\$3,000
6/1/2005	Weekly TSS = 92 mg/l	45 mg/l	Serious	\$3,000
6/1/2005	Weekly TSS = 1442 lb/day	706 lb/day	Serious	\$3,000
6/8/2005	Weekly TSS = 55 mg/l	45 mg/l	Chronic	\$3,000
6/29/2005	Weekly TSS = 594 lb/day	525 lb/day	Chronic	\$3,000
6/29/2005	Weekly TSS = 63 mg/l	45 mg/l	Serious	\$3,000
6/30/2005	Monthly TSS = 52 mg/l	30 mg/l	Serious	\$3,000
6/30/2005	Monthly TSS % removal = 81%	85 %	Chronic	\$3,000
6/30/2005	Monthly TSS = 537 lb/day	385 lb/day	Chronic	\$3,000
7/6/2005	Weekly BOD = 51 mg/l	45 mg/l	Chronic	\$3,000
7/20/2005	Weekly TSS = 69 mg/l	45 mg/l	Serious	\$3,000
7/27/2005	Weekly BOD = 72 mg/l	45 mg/l	Serious	\$3,000
7/27/2005	Weekly BOD = 679 lb/day	525 lb/day	Serious	\$3,000
7/27/2005	Weekly TSS = 48 mg/l	45 mg/l	Chronic	\$3,000
7/30/2005	Monthly TSS = 45 mg/l	30 mg/l	Serious	\$3,000
7/30/2005	Monthly BOD 47 mg/l	30 mg/l	Serious	\$3,000
7/30/2005	Monthly BOD 451 lb/day	350 lb/day	Chronic	\$3,000
7/30/2005	Monthly TSS = 362 lb/day	350 lb/day	Chronic	\$3,000

Violation Date	Violation	Effluent Limit	Violation Type	Mandatory Minimum Liability
7/31/2005	Monthly TSS % removal = 74%	85 %	Chronic	\$3,000
8/3/2005	Weekly TSS = 52 mg/l	45 mg/l	Chronic	\$3,000
8/10/2005	Weekly BOD = 48 mg/l	45 mg/l	Chronic	\$3,000
8/10/2005	Weekly BOD = 552 lb/day	525 lb/day	Chronic	\$3,000
8/24/2005	Weekly TSS = 72 mg/l	45 mg/l	Serious	\$3,000
8/24/2005	Weekly TSS = 829 lb/day	525 lb/day	Serious	\$3,000
8/31/2005	Monthly TSS = 44 mg/l	30 mg/l	Serious	\$3,000
8/31/2005	Monthly TSS = 474 lb/day	350 lb/day	Chronic	\$3,000
8/31/2005	Monthly TSS % removal = 69%	85 %	Chronic	\$3,000
8/31/2005	Monthly BOD 57 mg/l	30 mg/l	Serious	\$3,000
8/31/2005	Monthly BOD 362 lb/day	350 lb/day	Chronic	\$3,000
9/28/2005	Weekly BOD = 51 mg/l	45 mg/l	Chronic	\$3,000
9/28/2005	Weekly BOD 532 lb/day	525 lb/day	Chronic	\$3,000
9/28/2005	Weekly TSS = 46 mg/l	45 mg/l	Chronic	\$3,000
9/30/2005	Monthly TSS = 40 mg/l	30 mg/l	Chronic	\$3,000
9/30/2005	Monthly TSS % removal = 75%	85%	Chronic	\$3,000
9/30/2005	Monthly BOD = 36 mg/l	30 mg/l	Chronic	\$3,000
9/30/2005	Weekly TSS = 48 mg/l	45 mg/l	Chronic	\$3,000
9/30/2005	Monthly TSS = 380 lb/day	350 lb/day	Chronic	\$3,000
10/5/2005	Weekly BOD = 46 mg/l	45 mg/l	Chronic	\$3,000
10/5/2005	Weekly TSS = 58 mg/l	45 mg/l	Chronic	\$3,000
10/5/2005	Weekly TSS = 605 lb/day	525 lb/day	Chronic	\$3,000
		Total Table B		\$189,000

12. **October 12, 2005 to March 8, 2007: Violations of WDR Order No. R1-2005-0084**

On October 12, 2005, the Board adopted WDRs Order No. R1-2005-0084, rescinding WDRs Order No. R1-2004-0111. From the date of Board adoption through March 8, 2007, the Discharger violated the following provisions of WDRs Order No. R1-2005-0084:

“A. DISCHARGE PROHIBITIONS

“4. The discharge of untreated or partially treated waste from anywhere within the collection, treatment, or disposal facility is prohibited.

“B. EFFLUENT LIMITATIONS FOR DISCHARGES TO THE BASALT POND

“4. Effluent discharged to the Basalt Pond shall not contain detectable levels of total chlorine using an analytical method or chlorine analyzer with a minimum detection level of 0.1 mg/l.

“7. The arithmetic mean of the BOD (20 C, 5-day) and suspended solids values for effluent samples collected in a period of 30 consecutive days shall not exceed 15 percent of the arithmetic mean of the values for influent samples collected at approximately the same times during the same period (85 percent removal). Percent removal shall be determined from the 30-day average value of effluent concentration for the same constituent over the same time period.

“9. Interim limits in effect until December 31, 2007:

“Interim limitations to be in effect until December 31, 2007, in compliance with General Provision I.28. Secondly treated wastewater shall not contain constituents in excess of the following limitations:

<u>Constituent</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Weekly Average</u>
BOD ₅ @ 20°C	mg/l lb/day*	30 350	45 525
Suspended Solids	mg/l lb/day**	30 350	45 525

*Mass based effluent limitations are based on the WWTF dry weather design flow of 1.4 mgd. During wet-weather periods when the flow rate into the WWTF exceeds the dry weather design flow, the mass emission limitations shall be calculated using the concentration-based effluent limitations and the actual daily average flow rates (not to exceed the maximum sustained peak design flow of 6.5 mgd.)

**The Permit does not refer to the footnote for Suspended Solids lb/day. The intent was to also apply the wet weather design flow to Suspended Solids lb/day.

During the period from October 12, 2005 to March 8, 2007, the Discharger had the following SSOs in violation of WDRs Order No. R1-2005-0084:

TABLE C – WDRs ORDER NO. R1- 2005-0084 SSO Violations					
Violation Date	Discharge Type	Quantity Discharged (gallons)	Quantity Recovered (gallons)	Comments	Potential Liability
4/12/2006	City crews stopped the sewer overflow of domestic grease with a vacuum truck. After clearing the blockage, the sewage was vacuumed along with wash down water so the street and gutter had no residual sewage.	200 gallons	200 gallons	The resulting overflow was totally contained on the street and prevented from entering any storm drains.	\$10,000

Violation Date	Discharge Type	Quantity Discharged (gallons)	Quantity Recovered (gallons)	Comments	Potential Liability
5/22/2006	City crews immediately stopped the sewer overflow with a vacuum truck and cleared the domestic grease and solid blockage with a sewer auger. After clearing the blockage, the sewage was vacuumed along with wash down water so the street and gutter had no residual sewage.	40 gallons	0 gallons	The overflow went directly to a nearby storm drain. The 12" storm drain was flowing at half capacity and the spill was unrecoverable. The storm drain empties into the Russian River.	\$10,000
9/23/2006	Sewer overflow contained to a dirt fire road and in the vicinity of an adjacent manhole. Mechanical auger cleared the vegetative matter and roots blocking the sewer main.	50 gallons	n/a	Since the fire access road was dirt, the liquid debris had percolated into the soil before the City crews were demobilizing.	\$10,000
11/20/2006	City crews stopped the mainline sewer blockage with the hydrojetter truck. Overflow and wash down water was totally contained to the gutter and nearby storm drain.	200 gallons	200 gallons	Recovery of the sewage from the storm drain and gutter overflow was completed with the City's vacuum truck.	\$10,000
5/3/2007	Sewer overflow flowing to the gutter in front of the property. The spill was the result of private side kitchen grease accumulating in the sewer main.	3-6 gallons	3-6 gallons	Sewage was cleaned up and removed from the site.	\$10,000

Finding Number 18 discusses these SSO violations and recommended penalties.

During the period from October 12, 2005 to March 8, 2007, the Discharger had the following effluent violations associated with WDRs Order No. R1-2005-0084 and subject to Mandatory Minimum Penalties:

TABLE D – WDRs No. R1-2005-0084 MMP Violations (10/12/05 to 3/8/07)				
Violation Date	Violation	Effluent Limit	Violation Type	Liability
10/12/2005	Weekly BOD = 553 lb/day	525 lb/day	Chronic	\$3,000
10/12/2005	Weekly BOD = 51 mg/l	45 mg/l	Chronic	\$3,000
10/19/2005	Weekly BOD=74 mg/l	45 mg/l	Serious	\$3,000
10/19/2005	Weekly BOD = 926 lb/day	525 lb/day	Serious	\$3,000
10/26/2005	Weekly BOD = 52 mg/l	45 mg/l	Chronic	\$3,000
10/26/2005	Weekly BOD = 542 lb/day	525 lb/day	Chronic	\$3,000
10/31/2005	Monthly BOD = 56 mg/l	30 mg/l	Serious	\$3,000
10/31/2005	Weekly BOD = 643 lb/day	350 lb/day	Serious	\$3,000
10/31/2005	Monthly TSS % removal = 83%	85%	Chronic	\$3,000
10/31/2005	Monthly TSS = 35 mg/l	30 mg/l	Chronic	\$3,000
10/31/2005	Monthly TSS = 398 lb/day	350 lb/day	Chronic	\$3,000
11/2/2005	Weekly BOD = 62 mg/l	45 mg/l	Chronic	\$3,000
11/22/2005	Weekly TSS = 46 mg/l	45 mg/l	Chronic	\$3,000
11/30/2005	Monthly BOD = 35 mg/l	30 mg/l	Chronic	\$3,000
12/7/2005	Weekly BOD = 584 lb/day	525 lb/day	Chronic	\$3,000
12/7/2005	Weekly BOD = 56 mg/l	45 mg/l	Chronic	\$3,000
12/14/2005	Weekly BOD 48 mg/l	45 mg/l	Chronic	\$3,000
12/21/2005	Weekly BOD = 64 mg/l	45 mg/l	Chronic	\$3,000
12/21/2005	Weekly BOD = 1270 lb/day	788 lb/day	Serious	\$3,000
12/31/2005	Monthly TSS % removal = 74%	85 %	Chronic	\$3,000
12/31/2005	Monthly BOD = 49 mg/l	30 mg/l	Serious	\$3,000
12/31/2005	Monthly BOD = 852 lb/day	525 lb/day	Serious	\$3,000
1/13/2007	Daily chlorine residual = 15.9 mg/l	0.1 mg/l	Serious	\$3,000
1/26/2007	Daily chlorine residual = 2.82 mg/l	0.1 mg/l	Serious	\$3,000
Total Table D				\$72,000

13. **January 26, 2006 to March 7, 2007: Violations of Cease and Desist Order No. R1-2006-0002**

The Board adopted Cease and Desist Order (CDO) No. R1-2006-0002 on January 25, 2006. As shown below, the CDO provided a temporary increase in the effluent limitations for BOD and Suspended Solids; limitations in WDRs Order No. R1-2005-0084 related to constituents other than TSS and BOD remained in effect during the life of this CDO. Specifically, during the time period from January 26, 2006 to March 7, 2007, the Discharger was subject to the following interim effluent limitations:

“4. Interim limits in effect until March 7, 2007:

<u>Constituent</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Weekly Average</u>
BOD ₅ @ 20°C	mg/l lb/day*	50 584	80 934
Suspended Solids	mg/l lb/day**	50 584	80 934

*Mass based effluent limitations are based on the WWTF dry weather design flow of 1.4 mgd. During wet-weather periods when the flow rate into the WWTF exceeds the dry weather design flow, the mass emission limitations shall be calculated using the concentration-based effluent limitations and the actual daily average flow rates (not to exceed the maximum sustained peak design flow of 6.5 mgd.)

**The Permit does not refer to the footnote for Suspended Solids lb/day. The intent was to also apply the wet weather design flow to Suspended Solids lb/day.

“5. The Permittee shall not incur MMPs for violations of effluent limitations for BOD, TSS, and seasonal discharges to the Russian River, so long as it complies with the interim limitations and compliance schedules included in this Order.

During the term of the CDO, the Discharger had the following violations:

TABLE E – Cease & Desist Order No. R1-2006-0002 MMP Violations				
Violation Date	Violation	Effluent Limit	Violation Type	Liability
12/31/2006	Monthly TSS average = 62 mg/l	50 mg/l	1 st Chronic	0
12/31/2006	Monthly TSS average = 975 lb/day	784 lb/day	2 nd Chronic	0
Total Table E				0

14. **March 8, 2007 to December 31, 2007: Violations of WDR Order No. R1-2005-0084**

On March 8, 2007, the interim effluent limits in the CDOs expired, and the Discharger was once again subject to the BOD and TSS limitations contained in WDRs Order No. R1-2005-0084.

During the time period from March 8, 2007 to December 31, 2007, the Discharger violated the following provisions of WDRs Order No. R1-2005-0084:

“B. EFFLUENT LIMITATIONS FOR DISCHARGES TO THE BASALT POND

“7. The arithmetic mean of the BOD (20 C, 5-day) and suspended solids values for effluent samples collected in a period of 30 consecutive days shall not exceed 15 percent of the arithmetic mean of the values for influent samples collected at approximately the same times during the same period (85 percent removal).

Percent removal shall be determined from the 30-day average value of effluent concentration for the same constituent over the same time period.

“9. Interim limits in effect until December 31, 2007:

“Interim limitations to be in effect until December 31, 2007, in compliance with General Provision I.28. Secondly treated wastewater shall not contain constituents in excess of the following limitations:

<u>Constituent</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Weekly Average</u>
BOD ₅ @ 20°C	mg/l lb/day*	30 350	45 525
Suspended Solids	mg/l lb/day**	30 350	45 525

*Mass based effluent limitations are based on the WWTF dry weather design flow of 1.4 mgd. During wet-weather periods when the flow rate into the WWTF exceeds the dry weather design flow, the mass emission limitations shall be calculated using the concentration-based effluent limitations and the actual daily average flow rates (not to exceed the maximum sustained peak design flow of 6.5 mgd.)

**The Permit does not refer to the footnote for Suspended Solids lb/day. The intent was to also apply the wet weather design flow to Suspended Solids lb/day.

During the period from March 8, 2007 to December 31, 2007, the Discharger had the following effluent violations associated with WDRs Order No. R1-2005-0084, which are subject to Mandatory Minimum Penalties:

TABLE F – WDRs Order No. R1-2005-0084 MMP Violations of Interim limits occurring between March 8, 2007 and December 31, 2007.				
Violation Date	Violation	Effluent Limit	Violation Type	Liability
3/31/2007	Monthly BOD = 35 mg/l	30 mg/l	Chronic	\$3,000***
3/31/2007	Monthly BOD = 535 lb/day	458 lb/day	Chronic	\$3,000
7/31/2007	Monthly TSS % removal = 83%	85 %	Chronic	\$3,000
9/19/2007	Weekly TSS = 55 mg/l	45 mg/l	Chronic	\$3,000
9/19/2007	Weekly TSS = 904 lb/day	739 lb/day	Chronic	\$3,000
9/30/2007	Monthly BOD = 36 mg/l	30 mg/l	Chronic	\$3,000
9/30/2007	Monthly TSS = 42 mg/l	30 mg/l	Serious	\$3,000
9/30/2007	Monthly TSS % removal = 82%	85 %	Chronic	\$3,000
9/30/2007	Monthly BOD = 570 lb/day	478 lb/day	Chronic	\$3,000
9/30/2007	Monthly TSS = 670 lb/day	478 lb/day	Serious	\$3,000
11/28/2007	Weekly TSS = 555 lb/day	525 lb/day	Chronic	\$3,000
11/28/2007	Weekly TSS = 61 mg/l	45 mg/l	Serious	\$3,000
		Total	\$36,000	
		Table F		

*** Note that there were 4 violations within the previous six months, which are shown in Tables D and E.

15. **January 1, 2008 to January 16, 2008: Violations of WDRs Order No. R1-2005-0084**

On January 1, 2008, the final effluent limits in WDRs Order No. R1-2005-0084 became effective. During the time period from January 1, 2008 to January 16, 2008, the Discharger violated the following provisions of WDRs Order No. R1-2005-0084:

“1. Final limits in effect January 1, 2008. Wastewater shall be screened and degritted, adequately oxidized, clarified, and filtered, disinfected and dechlorinated prior to discharge to the Basalt Pond. Advanced treated wastewater shall not contain constituents in excess of the following limitations:

<u>Constituent</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Weekly Average</u>
BOD ₅ @ 20°C	mg/l	10	15
	lb/day*	117	175
Suspended Solids	mg/l	10	15
	lb/day**	117	175

*Mass based effluent limitations are based on the WWTF dry weather design flow of 1.4 mgd. During wet-weather periods when the flow rate into the WWTF exceeds the dry weather design flow, the mass emission limitations shall be calculated using the concentration-based effluent limitations and the actual daily average flow rates (not to exceed the maximum sustained peak design flow of 6.5 mgd.)

**The Permit does not refer to the footnote for Suspended Solids lb/day. The intent was to also apply the wet weather design flow to Suspended Solids lb/day.

“7. The arithmetic mean of the BOD (20 C, 5-day) and suspended solids values for effluent samples collected in a period of 30 consecutive days shall not exceed 15 percent of the arithmetic mean of the values for influent samples collected at approximately the same times during the same period (85 percent removal). Percent removal shall be determined from the 30-day average value of effluent concentration for the same constituent over the same time period.

During the period from January 1, 2008 to January 16, 2008 the Discharger had the following effluent violations associated with WDRs Order No. R1-2005-0084, which are subject to Mandatory Minimum Penalties:

TABLE G Violations of Final Effluent Limits (1/1/08-1/17/08)				
Violation Date	Violation	Effluent Limit	Violation Type	Liability
1/9/2008	Monthly BOD = 398 lb/day	Limit – 283 lb/day	Chronic	\$3,000***
1/9/2008	Weekly BOD = 21 mg/l	Limit – 15 mg/l	Chronic	\$3,000
1/9/2008	Weekly TSS = 22 mg/l	Limit = 15 mg/l	Chronic	\$3,000
1/9/2008	Weekly TSS = 416 lb/day	Limit = 283 lb/day	Chronic	\$3,000
Total Table G				\$12,000

*** Note that there were at least 4 violations within the previous six months, which are shown in Table F.

16. On January 17, 2008, the Regional Water Board revised WDRs Order No. R1-2005-0084, postponing implementation of more stringent final effluent limits for BOD and TSS from January 1 to May 1, 2008. From the date of the revision through April 30, 2008, the extension period for interim BOD and TSS effluent limitations, the Discharger violated the following provisions of WDRs Order No. R1-2005-0084:

“B. EFFLUENT LIMITATIONS FOR DISCHARGES TO THE BASALT POND

“7. The arithmetic mean of the BOD (20 C, 5-day) and suspended solids values for effluent samples collected in a period of 30 consecutive days shall not exceed 15 percent of the arithmetic mean of the values for influent samples collected at approximately the same times during the same period (85 percent removal). Percent removal shall be determined from the 30-day average value of influent wastewater concentration in comparison to the 30 day average value of effluent concentration for the same constituent over the same time period.

“8. Representative samples of effluent prior to discharge to the Basalt Pond shall not contain constituents in excess of the following limitations:

Interim Limitations
(effective until Oct 6, 2009)

<u>Constituent</u>	<u>Unit</u>	<u>Monthly Average</u>	<u>Daily Maximum</u>
Copper	ug/l	30.0	30.0

“The final effluent limitations for copper found in Attachment B will be in effect on October 6, 2009.

“9. Interim limits in effect until April 30, 2008:

“Interim limitations to be in effect until April 30, 2008, in compliance with General Provision I.28. Secondarily treated wastewater shall not contain constituents in excess of the following limitations:

<u>Constituent</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Weekly Average</u>
BOD ₅ @ 20°C	mg/l lb/day*	30 350	45 525
Suspended Solids	mg/l lb/day**	30 350	45 525

*Mass based effluent limitations are based on the WWTF dry weather design flow of 1.4 mgd. During wet-weather periods when the flow rate into the WWTF exceeds the dry weather design flow, the mass emission limitations shall be calculated using the concentration-based effluent limitations and the actual daily average flow rates (not to exceed the maximum sustained peak design flow of 6.5 mgd.)

**The Permit does not refer to the footnote for Suspended Solids lb/day. The intent was to also apply the wet weather design flow to Suspended Solids lb/day.

During the period from January 18, 2008 to April 30, 2008, the Discharger had the following effluent violations associated with WDRs Order No. R1-2005-0084, which are subject to Mandatory Minimum Penalties:

**TABLE H –
WDRs Order No. R1-2005-0084
MMP Violations of Interim
Limits (January 18 to April 30,
2008)**

Violation No.	Violation Date	Violation	Violation Limit	Violation Type	Liability
784345	1/18/2008	Weekly TSS = 120 mg/l	45 mg/l	Serious	\$3,000
784346	1/18/2008	Weekly TSS = 1361 lb/day	525 lb/day	Serious	\$3,000
784347	1/31/2008	Monthly TSS % removal = 53%	85 %	Serious	\$3,000
790623	1/31/2008	Monthly TSS = 45 mg/l	30 mg/l	Serious	\$3,000
791140	1/31/2008	Monthly TSS = 713 lb/day	475 lb/day	Serious	\$3,000
784348	2/5/2008	Copper = 84 ug/l	30 ug/l	Serious	\$3,000
784349	2/27/2008	Weekly BOD = 100 mg/l	45 mg/l	Serious	\$3,000
784350	2/29/2008	Weekly TSS = 1785 lb/day	803 lb/day	Serious	\$3,000
784351	2/29/2008	Monthly BOD = 44 mg/l	30 mg/l	Serious	\$3,000
784352	2/29/2008	Monthly BOD = 613 lb/day	415 lb/day	Serious	\$3,000
784353	2/29/2008	Monthly TSS % removal = 82%	85 %	Chronic	\$3,000
784354	3/4/2008	Copper = 31 ug/l	30 ug/l	Chronic	\$3,000
784357	3/5/2008	Weekly BOD = 52 mg/l	45 mg/l	Chronic	\$3,000
784359	3/5/2008	Weekly BOD = 854 lb/day	739 lb/day	Chronic	\$3,000
784355	3/12/2008	Weekly TSS = 811 lb/day	525 lb/day	Serious	\$3,000
784356	3/12/2008	Weekly TSS = 71 mg/l	45 mg/l	Serious	\$3,000
784360	3/31/2008	Monthly TSS = 40 mg/l	30 mg/l	Chronic	\$3,000
784361	3/31/2008	Monthly TSS = 418 lb/day	350 lb/day	Chronic	\$3,000
791142	3/31/2008	Monthly BOD = 35 mg/l	30 mg/l	Chronic	\$3,000
791143	3/31/2008	Monthly BOD = 379 lb/day	350 lb/day	Chronic	\$3,000
			Total Table H		\$60,000

17. Mandatory Minimum Penalties

In summary, based on the Discharger's self monitoring reports, during the period from November 30, 2004 through August 31, 2008, the Discharger violated effluent limitations 125 times. 44 of these are serious violations in accordance with Water Code section 13385, subdivision (h), and Finding 6., above. The remaining 81 violations are chronic violations in accordance with Water Code section 13385, subdivision (i)(1), and Finding 7., above. A summary of the totals from the Violation Tables follows:

Table B	\$189,000
Table D	\$ 72,000
Table E	\$ 0
Table F	\$ 36,000
Table G	\$ 12,000
Table H	\$ 60,000

Therefore, for the time period covered by this Complaint, the mandatory minimum penalty amount for all violations under 13385, subdivisions (h) and (i), is \$369,000.

18. Spills Subject to Discretionary Penalties

Tables A and C, above, provide information about the six Sanitary Sewer Overflows (SSOs) reported by the Discharger for the period covered by this Complaint. Of those six spills, only one resulted in the direct discharge of untreated effluent (40 gallons) into receiving waters. The remaining five spills were either completely contained and cleaned up or, in one case, had percolated into the soil.

Spills in general were small, ranging from 3-6 gallons to 400 gallons, and occurred during different times of the year, occurred at different locations for varying reasons, and the Discharger's staff responded quickly to contain and abate the discharge, recover any recoverable material, and identify and correct the cause. The reported spill history suggests that the Discharger is maintaining its collection system adequately and has an effective spill response program. Further, the reported spill history does not suggest that the Discharger is deferring necessary costs for operation and maintenance nor otherwise deriving an economic benefit from the acts that constituted the violation.

In determining the amount of any civil liability, pursuant to Water Code section 13385, subdivision (e), the Regional Water Board is required to take into account the nature, circumstances, 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 effect on its ability to continue its 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 that justice may require. The Regional Water Board is also required to consider the requirement in this section that states that, at a minimum, liability shall be assessed at a level that recovers the economic benefit, if any derived from the acts that constitute the violation(s).

Given these factors, and weighing them against those associated with SSOs occurring in other communities within the North Coast Region, staff recommend that the Board not assess a penalty for the SSOs discussed in this ACLC.

19. 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 Action (Public Resources Code section 21000 et seq.) pursuant to title 14, California Code of Regulations sections 15308 and 15321, subdivision (a)(2).

CITY OF HEALDSBURG IS HEREBY GIVEN NOTICE THAT:

1. Based on the review of the above facts and required factors, the Assistant Executive Officer proposes that the Discharger be assessed an administrative civil liability in the amount of \$369,000.
2. The Regional Water Board will conduct a hearing on this Complaint on March 12, 2009, unless the Discharger waives the right to a hearing under Water Code section 13323, subsection (b) by signing and returning the waiver form attached to this Complaint by January 16, 2009. By doing so, the Discharger agrees to:
 - a. Pay the total assessed penalty of \$369,000 to the State Water Pollution Cleanup and Abatement Account (CAA) by January 16, 2009, or
 - b. Remit \$177,000 to the CAA by January 16, 2009 (or in compliance with a payment schedule issued in writing by the Assistant Executive Officer) and, by January 16, 2009, submit to the Assistant Executive Officer, a proposal for a Supplemental Environmental Project (SEP). Completion of an SEP will result in suspension of payment of an equivalent amount into the CAA up to \$192,000; if the cost of the SEP is less than \$192,000, the Discharger must remit payment of the balance of the total assessed penalty to the CAA by January 16, 2009 (or in compliance with a payment schedule issued in writing by the Assistant Executive Officer).
3. If the Discharger chooses to propose an SEP, the proposal shall conform to the requirements specified in Chapter IX of the Enforcement Policy. The SEP proposal must include a time schedule, for concurrence by the Assistant Executive Officer, to address implementation and completion of the SEP.

If the proposed SEP and/or implementation schedule is not acceptable, the Assistant Executive Officer may allow the Discharger thirty days to submit a new or revised proposal, or may demand that the Discharger remit all or a portion of the assigned penalties. All payments, including money not used for the SEP, must be payable to the CAA.

4. The Assistant Executive Officer shall maintain jurisdiction over any approved SEP implementation time schedules throughout the life of the SEP. If, given written justification from the Discharger, the Assistant Executive Officer determines that a delay in the SEP implementation schedule was beyond the reasonable control of the Discharger, the Assistant Executive Officer may revise the implementation schedule as appropriate.
5. If the Discharger waives the hearing and pays the liability, the resulting settlement may become effective on January 17, 2009 without any further action by the Regional Water Board. If there are significant public comments, the Assistant Executive Officer may withdraw this Complaint, and reissue a new complaint, or take other appropriate action.
6. If a hearing is held, the Regional Water Board may impose an administrative civil liability in the amount proposed or for a different amount; decline to seek civil liability; or refer the matter to the Attorney General to have a Superior Court consider enforcement.
7. 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, including NPDES permit violations. Accordingly, interested persons are hereby given 30 days to comment on this Complaint, and will be given thirty days to comment on any proposed settlement of this Complaint in the event that it differs from this Complaint, including if an SEP is proposed as a part of a settlement.
8. Notwithstanding the issuance of the Complaint, the Regional Water Board shall retain the authority to assess additional penalties beyond the mandatory minimums for violations of the Discharger's WDRs.

Luis G. Rivera
Assistant Executive Officer

December 12, 2008