California Regional Water Quality Control Board
North Coast Region

Administrative Civil Liability Complaint No. R1-2009-0046

For

Violation of
Water Reclamation Requirements
Order No. 88-52

In the Matter of
City of Santa Rosa
Oakmont Wastewater Treatment Facility
WDID No. 1B782090SON

Sonoma County

This Complaint, to assess administrative civil liability for penalties pursuant to Water Code section 13385, is issued to the City of Santa Rosa (hereinafter Discharger) for violations of Water Reclamation Requirements (WRRs) Order No. 88-52 which occurred in 2006 and 2008.

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

1. The Discharger owns and operates the Oakmont Wastewater Treatment Facility (WWTF). The facility serves the Oakmont subdivision and has a design capacity of 65,000 gallons per day. During the summer months, the secondary-treated, filtered and disinfected municipal wastewater effluent from the WWTF is used to irrigate the Oakmont Golf Course. When irrigation is not practicable, the sewage is not treated, but is diverted to the Laguna Subregional WWTF.

2. The Regional Water Board adopted WRRs Order No. 88-52 for the Discharger on April 28, 1988. The Order includes the following discharge prohibitions:

   A. DISCHARGE PROHIBITIONS

   1. There shall be no discharge of treated effluent to Santa Rosa Creek or its tributaries.

   2. There shall be no discharge of untreated wastewater from the Oakmont wastewater treatment plant or collection system to waters of Santa Rosa Creek or its tributaries.

3. This Complaint covers violations of discharge prohibitions A.1 and A.2 that occurred on January 29, 2006, June 16, 2008, and August 20, 2008. Finding 5 includes summary details of the violations. The issuance of penalties for

violations of these discharge prohibitions is discretionary, and may include amounts for civil liability contained in Water Code section 13385, subdivision (c).

4. Water Code section 13385, subdivision (a) provides for the authority for the imposition of civil liability by the Regional Water Board, which includes civil liability for violation of any prohibition issued pursuant to Section 13243, if the activity would result in a violation of the Clean Water Act. Section 13385, subdivision (c) provides the maximum amount of civil liability that may be imposed by the Regional Water Board, which may be up to $10,000 for each day in which the violation occurs, plus up to $10 per gallon of waste discharged in excess of 1,000 gallons that is not susceptible to cleanup or is not cleaned up.

5. On January 29, 2006, an estimated 15 gallons of untreated wastewater was discharged from the reclaimed storage pond underdrain of the Oakmont WWTF to an unnamed tributary to Santa Rosa Creek, a water of the U.S. The discharge occurred during an operational adjustment of the underdrain valve, which purges high groundwater either to the Laguna WWTF or to the creek. The operator wanted to reduce the flow to the Laguna WWTF contributed by groundwater from the underdrain so he turned the valve to discharge to the creek without checking the vault first for residual wastewater; consequently, the 15 gallons of wastewater was discharged from the vault and immediately reached the creek.

   On June 16, 2008 the Regional Water Board received two faxed Hazardous Materials Spill Reports from the Office of Emergency Services (OES) regarding a release, occurring between approximately 3:00 am and 5:00 am, of an estimated 125,000 gallons of treated effluent from the Oakmont golf course to an unnamed tributary of Santa Rosa Creek. A break in the golf course irrigation line on June 15, 2008 required that the irrigation pump be shut down during the repair. The golf course operator inadvertently left the pump off after the repair, resulting in overfilling of the golf course's West Irrigation Pond and a subsequent release to surface waters during the automatic transfer of effluent from the WWTF later that night.

   The chief wastewater operator (Operator) for the City of Santa Rosa calculated the volume estimate based on the pump rates, pond volume and the suspected depth of the pond when the transfer of effluent began. Since the release had already stopped by the time it was noticed, the Operator took grab samples as soon as possible for nutrients, conductivity, pH and temperature upstream, at the source, and downstream of the release between 10:00 am and 12:00 noon on June 16, 2008. Grab samples were collected approximately five hours after the release, and downstream samples showed elevated levels of conductivity, total phosphorous, ammonia, nitrates, total Kjeldahl nitrogen, and organic nitrogen and increased temperature.

   On August 20, 2008 an estimated 4,180 gallons of treated wastewater were discharged from the Golf Course transmission line near 6398 Stone Bridge Drive.

The source of the discharge was a leak in a two inch lateral leading to a blow off valve. The City received notification of the leak at 10:50 p.m. and ceased pumping recycled water to the line.

The following table summarizes the January 29, 2006, June 16, 2008, and August 20, 2008 discharges:

Date	Volume Discharged (Gallons)	Volume Recovered	Volume Discharged to Surface Waters (Gallons)	Discharge Characteristics	Maximum Potential Penalty
1/29/2006	15	0	15	Untreated Wastewater	$10,000
6/16/2008	125,000	0	125,000	Treated Chlorinated Wastewater	$1,250,000
8/20/2008	4,180	0	4,180	Treated Chlorinated Wastewater	$41,800
Total →					$1,301,800

6. In determining the amount of any civil liability, the Regional Water Board is required to take into account the following:

a.) **The Nature, circumstances, extent, and gravity of the violations**

The 2006 untreated wastewater discharge was the result of Oakmont WWTF operational error. The discharge immediately reached surface waters and was not susceptible to cleanup. Untreated sewage has high levels of nutrients, suspended solids, oxygen-demanding organic compounds, pathogens, oil and grease, and other pollutants that pose threats to public health and have the potential to adversely affect the beneficial uses of surface waters, in this case Santa Rosa Creek, the Laguna de Santa Rosa and the Russian River.

The June 16, 2008 discharge of treated wastewater was a result of operational error associated with the golf course irrigation system. The discharge began and ended very early in the morning, so was not susceptible to cleanup by the time it was discovered. Treated effluent from the Oakmont WWTF contains high levels of residual chlorine before it enters the West Irrigation Pond at the golf course. Due to high levels of algal growth and the large quantity of waterfowl that reside in the West Irrigation Pond, a large release from the Pond would contain high levels of coliform bacteria, some residual chlorine, as well as high levels of nutrients and total suspended solids, and a high biochemical oxygen

demand (BOD). The discharge occurred during a summertime low flow regime, which is a sensitive time for the stream due to increased susceptibility to larger temperature swings, dissolved oxygen swings, and algal and bacterial growth.

Discharges of nutrients, coliform bacteria and/or residual chlorine have impacts on the beneficial uses related to public health. Increased nutrients cause increased algal and macrophyte growth, increased turbidity, larger dissolved oxygen swings and potential for increased sediment oxygen demand (SOD), all of which reduce the cold and warm water fish and aquatic life survival rates, and therefore impact many of the fisheries aquatic habitat beneficial uses. Nutrient discharges specifically impact the Laguna de Santa Rosa, which is already impaired for nutrients. The treated effluent released from the irrigation pond had a high BOD, as well as a high concentration of nutrients and indeterminable amounts of chlorine, all of which have potential to adversely impact the beneficial uses of Santa Rosa Creek, the Laguna de Santa Rosa and the Russian River. No information is available regarding actual impacts to the creek.

The August 20, 2008 spill was the result of equipment failure, which produced a discharge estimated to be 10 gallons per minute. The Discharger's immediate response was to shut down the pumps and cease using the transfer line. However, with the pump(s) off, the discharge continued at a rate of 1 gallon per minute. No attempt was made to contain or collect the ongoing discharge. The discharge continued for an additional 8 hours after the pump(s) were shut down until the line was repaired.

The discharged wastewater was fully treated and disinfected, but not de-chlorinated. The major impacts would include potential toxic levels of chlorine and unknown quantities of nutrients. On August 20, 2008, as part of the routine monitoring program, an eight hour composite sample of BOD in the wastewater was measured at <2 mg/l. The chlorine residual was measured by a single grab sample at 4.6 mg/l. These results are consistent with the samples collected throughout the month of August. Chlorine levels of this magnitude are toxic to fish and other sensitive stream inhabitants. No information is available regarding actual impact to stream flora and fauna. The discharger is not required to measure nutrient levels in the treated wastewater because of its use on the golf course.

The response to the spill was mixed. The pumps were turned off as soon as the leak was discovered, but a one gallon per minute leak over an eight hour period resulted in a discharge of 480 gallons that could have been prevented with a more aggressive response.

b.) **Whether the discharge is susceptible to cleanup or abatement:**

The 2006 spill was small and immediate. By the time the operator realized the discharge had occurred the wastewater had entered the creek and was not susceptible to cleanup.

The June 16, 2008 spill occurred early in the morning and was not discovered until the wastewater had entered the creek. Abatement had already occurred with the termination of the overflow when the pumps automatically turned off.

The August 20, 2008 spill occurred over a period of more than eight hours. The pumps were turned off as soon as the operator discovered that a 10 gallon per minute leak was ongoing. The initial spill prior to shutdown of the pumps was 3,700 gallons which immediately entered the creek and was not susceptible to cleanup. Following pump shutdown the leak continued at one gallon per minute for eight hours resulting in an additional discharge of 480 gallons. This portion of the discharge was preventable, and should not have occurred.

c.) **The degree of toxicity of the discharge**

Chlorine is potentially toxic to aquatic organisms. The material in both 2008 spills had been disinfected with chlorine and not de-chlorinated. In the June 16, 2008 spill, the treated and disinfected wastewater entered an irrigation pond prior to spilling into the creek. Chlorine demand from the organics in the pond may have reduced chlorine concentrations prior to the discharge to the creek. The August 20, 2008 discharge flowed directly to the creek with no mitigation of chlorine residual. No analysis was performed, but chlorine levels may have exceeded concentration limits that adversely affect aquatic life for an unknown reach of the creek. No fish or other aquatic organisms were reported killed.

d.) **The ability to pay**

The City of Santa Rosa has the ability to pay the penalty.

e.) **The effect on its ability to continue business**
The payment of an appropriate penalty will not impact the ability of the City to continue to operate.

f.) **Any voluntary cleanup efforts undertaken**

In each instance, the operators of the facility acted promptly to stop the discharges once detected. Cleanup of discharged waste is not practical or possible once the spilled wastewater reaches the creek. The partial stoppage of the August 20, 2008 spill is unacceptable. Further action was necessary and should have been taken to fully stop or contain the spill once it was discovered.

g.) **Any prior history of violations**

The Oakmont facility has a good record of compliance. Prior to the spills referenced in this Complaint the last spill occurred in June 1997.

h.) **The degree of culpability, economic benefit or savings, if any, resulting from the violation and other matters that justice may require.**

There is no question that the Discharger is fully responsible for the above-described spills of wastewater. The Discharger has not benefited economically by the spills. Two were the result of operator error and the third was an unanticipated pipe failure. Regional Water Board staff costs associated with the discharge violations is estimated to be a minimum of $10,000. This includes staff time to investigate violations and prepare this Complaint, public notices, public hearing, response to comments, and evaluation and tracking of a supplemental environmental project (SEP) or enhanced compliance action (ECA), if any, through to completion.

7. Taking into account the above factors the proposed penalties for the individual spills are:

a. 1/29/2006 The maximum penalty for this spill is $10,000. Staff propose a reduction from the maximum primarily due to the small volume of the discharge, which significantly reduces the likely adverse impacts associated with the discharge. A penalty of $500 has been proposed for this discharge.

b. 6/16/2008 The maximum penalty for this spill is $1,250,000. The spill was large, but the wastewater was treated and disinfected which minimized potential impacts to beneficial uses. There were residual chlorine levels that could be harmful to aquatic organisms. Consequently, staff propose a penalty for this spill of $50,000.

c. 8/20/2008 The maximum penalty for this spill is $41,800. The initial discharge of 3,700 gallons was the result of equipment failure and unanticipated. The final 480 gallons discharged was preventable. Consequently, staff propose a penalty of 10 dollars per gallon for the preventable discharge plus $10,000 for one day of discharge, for a total of $14,800.

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 subjects, issues related to discretionary penalties for violations of WRRs.

9 The Enforcement Policy provides that the Regional Water Board may elect to allow a discharger to satisfy some or all of the monetary assessment imposed in an administrative civil liability complaint or order by completing or funding one or more Supplemental Environmental Projects (SEPs). The SEPs must be completed in accordance with Section IX of the Enforcement Policy. This Complaint includes requirements for SEPs as specified in the Enforcement Policy.

10 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, subdivision (a) (2).

THE CITY OF SANTA ROSA 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 $65,300. The total includes the following:

January 2006 spill	$500
June 2008 spill	$50,000
August 2008 spill	$14,800
TOTAL	$65,300

2. A hearing will be conducted on this Complaint by the Regional Water Board on July 23, 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 within thirty days of the date of this Complaint. By doing so, the Discharger agrees to:

a. Pay the total assessed penalty of $65,300 to the State Water Pollution Cleanup and Abatement Account (CAA) by June 8, 2009, or

b In lieu of paying the full amount of the penalty for violations of discharge prohibitions, agree to pay $25,150 into the CAA by June 8, 2009 (or in compliance with a payment schedule issued in writing by the Assistant Executive Officer) and allow the Regional Water Board to direct the balance of the $40,150 penalty toward a SEP in the Santa Rosa vicinity. The sum of the SEP amount and the amount paid into the CAA shall at least equal the amount of the full penalty, or

c. Agree to pay $25,150 into the CAA by June 8, 2009 (or in compliance with a payment schedule issued in writing by the Assistant Executive Officer) and propose an Enhanced Compliance Action valued at $40,150 or more to make capital or operational improvements beyond those required by law at the Oakmont facility to minimize the potential for additional spills.

3. 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 on this Complaint ends. If there are significant public comments, the Assistant Executive Officer may withdraw this Complaint, and reissue a new complaint, or take other appropriate action.

4. 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.

5. 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. Accordingly, interested persons will be given thirty days to comment on any proposed settlement of this Complaint, including a proposed SEP.

6. 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 Water Reclamation Requirements.

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Luis G. Rivera
Assistant Executive Officer

May 7, 2009

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