STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
NORTH COAST REGION

In the Matter of:	)	
	)	
The City of Santa Rosa	)	Complaint No. R1-2014-0024
Wastewater Treatment Facilities	)	for
Public Works Department	)	Administrative Civil Liability
69 Stony Circle	)	
Santa Rosa, CA 95401	)	

Attn: David Guhin
Director of Utilities

This Administrative Civil Liability Complaint (Complaint) is issued to the City of Santa Rosa (Discharger) to assess administrative civil liability for discharges of recycled water from its reclamation system in violation of provisions of law for which the California Regional Water Quality Control Board, North Coast Region (Regional Water Board) may impose civil liability pursuant to California Water Code section 13385. As shown in Exhibit A, the Complaint alleges (1) violations for partial filtration and/or disinfection during discharges to the recycling facilities that are violations of Waste Discharge Requirements (WDR) Order No. R1-2006-0045 (NPDES Permit No. CA0022764) and (2) discharge violations that resulted in sediment laden recycled water and/or recycled water discharges to the Laguna de Santa Rosa and other tributaries that are tributary to the Russian River and waters of the United States. Those discharges are violations of WDR Order No. R1-2006-0045 and the North Coast Regional Water Quality Control Board Basin Plan (Basin Plan). This Complaint covers the period from October 2, 2011 through October 31, 2013 (Complaint Period), but includes only those violations determined to be Class II Violations as described in the Water Quality Enforcement Policy.

The Assistant Executive Officer of the Regional Water Board hereby gives notice that:

1. Discharger is alleged to have violated provisions of law for which the Regional Water Board may impose administrative civil liability under Water Code section 13385. The Complaint proposes to assess **seventy-four thousand seven hundred and seventy-six dollars $74,776** in administrative civil liability for the violations cited based on considerations described herein.

2. This Complaint is issued pursuant to Water Code section 13323.

3. A hearing concerning this Complaint may be held before the Regional Water Board within ninety (90) days of the date of issuance of this Complaint, unless, pursuant to Water Code section13323, the Discharger waives its right to a hearing. The waiver procedures are specified in the attached Waiver Form. The hearing in this matter is scheduled for the Regional Water Board's regular meeting on June 19, 2014, at the Regional Water Board, 5550 Skylane Blvd., Santa Rosa, California. The Discharger or its designated representative will have an opportunity to appear and be heard, and to contest the allegations in this Complaint and the imposition of civil liability by the Regional Water Board. An agenda for the meeting will be available at http://www.waterboards.ca.gov/northcoast/board_info/board_meetings/ not less than 10 days before the hearing date.

4. If a hearing is held on this matter, 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 liability. If this matter proceeds to hearing, the Prosecution Team reserves the right to seek an increase in the civil liability amount to cover the costs of enforcement incurred subsequent to the issuance of this Complaint through hearing.

STATEMENT OF PROHIBITIONS, PROVISIONS, AND REQUIREMENTS APPLICABLE TO THE DISCHARGER:

5. Discharger is required to comply with WDRs Order No. R1-2006-0045, which contains specifications for the processes to be used for treating wastewater that will be reclaimed for permitted uses. WDRs Order No. R1-2006-0045 sets forth the following:

   Prohibitions

   A. The discharge or reclamation of untreated or partially treated waste (receiving a lower level of treatment than described in Section II. A of the Fact Sheet) from anywhere within the collection, treatment, or disposal facility is prohibited, except as provided for in Prohibition III. E and in Attachment D, Standard Provision G (Bypass Provision).

   B. The discharge of waste at any point not described in Finding II. B or authorized by any State Water Board or other Regional Water Board permit is prohibited.

   Reclamation Specifications

   C. Filtration Rate. The rate of filtration through the tertiary filters shall not exceed 5 gallons per minute per square foot of surface area or other filtration rates authorized in writing by the Executive Officer and under conditions recommended by the California Department of Public Health.

6. Discharges of advanced treated wastewater are specifically regulated by Attachment G of the WDRs Order No. R1-2006-0045 and state in part the following:

   Water Reclamation Requirements

   A. Recycled water shall not be allowed to escape the recycled use area(s) in the form of surface runoff. [CCR Title 22, Section 60310(e)]

   B. There shall be no bypass of untreated or partially treated wastewater from the recycled water plant or any intermediate processes to the point of use. [CCR Title 22, Section 60331]

7. Water Code section 13243 allows the Regional Water Board, in its Basin Plan, to specify certain conditions where the discharge of waste, or certain types of waste, is prohibited.

The Basin Plan contains the following prohibitions (Section 4-26) and water quality objectives (Section 3) for logging, construction and associated activities:

Prohibitions

A. The discharge of soil, silt, bark, slash, sawdust, or other organic and earthen material from any logging, construction, or associated activity of whatever nature into any stream or watercourse in the basin in quantities deleterious to fish, wildlife, or other beneficial uses is prohibited.

B. The placing or disposal of soil, silt, bark, slash, sawdust, or other organic and earthen material from any logging, construction, or associated activity of whatever nature at locations where such material could pass into any stream or watercourse in the basin in quantities which could be deleterious to fish, wildlife, or other beneficial uses is prohibited.

Water Quality Objectives

C. Waters shall be free of coloration that causes nuisance or adversely affects beneficial uses.

D. Turbidity shall not be increased more than 20 percent above naturally occurring background levels.

E. Waters shall not contain substances in concentrations that result in deposition of material that causes nuisance or adversely affect beneficial uses.

FACTUAL BASIS FOR THE ALLEGED VIOLATIONS

The following evidence supports the alleged violations described above:

8. The Discharger owns, operates and maintains the wastewater treatment facilities, including the reclamation system for recycled water distribution to public and private disposal facilities throughout the City of Santa Rosa and outlying authorized areas. During the Complaint Period, the following incidents occurred:

Violations of Reclamation Specifications

A. On December 23, 2012, during a significant storm event, the Laguna Treatment Plant filtration system flow exceeded 5 gpm/ft2 from 12:27 to 12:52 pm. Effluent flow during this time averaged 66.3 MGD and the filtration rate averaged 5.48 gpm/ft^2. The total amount of water affected was 1.15 MG. For a three minute period within this time, plant flow averaged 66.9 MGD, exceeding the UV disinfection facility's capacity of 66.7 MGD.

B. On May 18, 2013, the Laguna Treatment Plant disinfection system suffered a brief partial failure as two adjacent ultra-violet (UV) lamps failed simultaneously allowing for approximately 383,000 gallons of effluent to receive partial disinfection. At the time of the failure, three banks of lamps were on-line in the affected channel so that any amount of water passing through the "hole" of adjacent failed lamps still received nearly 60% of the dose required for complete

disinfection. The calculated UV dose during the period of lamp failure was 120 mJ/cm^2.

C. On July 11, 2013, at 8:26 am, while troubleshooting a control issue at the UV disinfection system, technicians inadvertently caused a communications failure between the computer controller and several UV lamp banks, causing all but one bank in each of the two on-line channels to turn off. Flow through the plant was 18.5 million gallons per day (MGD) prior to the incident, and an estimated 60,500 gallons of treated effluent received approximately half the UV dose it would normally have received.

D. On September 11, 2013, a technician preparing to perform routine maintenance on an off-line UV bank turned off power to the bank and inadvertently cut off power to the channel low level sensor, causing the channel's influent gate to close and the lamps to power off. All filtered effluent flow was directed to the only remaining on-line UV channel which had the capacity to disinfect 15.1 million gallons per day (MGD). Flow exceeded that limit for 16 minutes with a maximum flow of 17.5 MGD and an average flow of 16.84 MGD, resulting in the release of 187,100 gallons of under-disinfected water. Filtered effluent turbidity during this time was 0.4 nephelometric turbidity units.

E. The Laguna Treatment Plant's disinfection system suffered seven episodes of under-disinfection between October 8, 2013 and October 13, 2013, each lasting from five to 13.5 hours. The under-disinfection occurred when the control system under-calculated the lamp output required to achieve the target disinfection dose. Because UV lamp output is constantly changing in response to minor changes in flow, UV transmittance, and the number of banks on-line, it is very difficult for plant operators to confidently identify a sudden drop in lamp output due to an erroneous calculation when an event occurs. The estimated actual dose during these periods is 70 mJ/cm2, 30% below the required dose of 100 mJ/cm2. The total amount of affected flow was 46.67 million gallons. Filter effluent turbidity over these days averaged from 0.3 to 0.5 nephelometric turbidity units. Because each of these episodes occurred overnight no disinfection samples were collected during the events.

Recycled Water Discharge Violations

F. On January 20, 2012, a newly installed recycle water line began slowly leaking at approximately 7:00 pm until the entire line broke at 9:37 pm. The line had been checked for leaks the previous week, was considered acceptable and was pressurized. After noticing extremely high flows at the West College Pump Station, the Discharger was able to stop the discharge by shutting down the discharge valve the following morning at 10:36 am. Discharger estimates approximately 74,200 gallons of recycled water flowed into a storm drain entering Santa Rosa Creek.

G. On April 23, 2012, the Discharger observed and checked the monitoring and alarm (SCADA) system noting that the storage level of Kelly Pond was dropping faster than what would normally be expected from pond surface evaporation. The Discharger shut the discharge valve of the pump station to ensure that no water could flow through the piping. On April 24, 2012, the Discharger further noted that the pond had dropped another tenth of a foot from the previous day. The Discharger checked the perimeter of the pond and discovered evidence of leaking

above the pond discharge valve. A review of the trend log indicates the pond slowly started dropping in level on April 14, 2012. Between the period of April 14, 2012 and April 24, 2012 the leak at Kelly Pond caused a recycled water discharge into Duer Creek of approximately 480,000 gallons. Upstream and downstream samples were collected from Duer Creek by the Discharger and the laboratory analysis results were submitted to the Regional Water Board. The pond discharge valve area has been repaired with no further leaks.

H. On September 26, 2012, at about 4:00 pm, a field worker noticed a broken irrigation line flooding the east Denner Ranch field. To prevent further flooding and allow repair work to the irrigation line, the field worker set the valve at the pump station into the off position from the automatic mode. The field worker assumed this closed the valve, but the station continued to pump recycled water throughout the night. Once the discharge was discovered by the Discharger the next morning at 7:21 am, the valve was closed. Taking into account absorption from the field, the Discharger estimates that approximately 66,000 gallons of recycled water discharged into the Laguna de Santa Rosa.

I. On September 3, 2013, an independent contractor working on a road expansion project damaged one of the Discharger's 18-inch reclamation system lines discharging recycled water onto the levee road of the Wilfred Avenue flood control channel. The discharge of recycled water mixed with sediment from the levee road and flowed into the flood control channel tributary to the Laguna De Santa Rosa. A total volume of approximately 211,200 gallons of sediment laden recycled water was discharged into the flood control channel and Laguna de Santa Rosa.

WATER CODE PROVISIONS UPON WHICH LIABILITY IS BEING ASSESSED

9. Water Code section 13385, subdivision (a), paragraph (2) provides that a discharger is subject to civil liability for violating a waste discharge requirement imposed pursuant to Water Code Chapter 5.5 of Article 1 (commencing with section 13370), or any water quality certification issued pursuant to Section 13160.

10. Water Code section 13385, subdivision (a), paragraph (4), provides that a discharger is subject to civil liability for violating an order or prohibition issued pursuant to Section 13243 or Article 1 (commencing with Section 13300) of Chapter 5, if the activity subject to the order or prohibition is subject to regulation under Chapter 5.5 of Article 1 (commencing with section 13370).

11. Pursuant to Water Code section 13385, subdivision (c), violations of Water Code section 13385, subdivision (a), are subject to administrative civil liability in an amount not to exceed the sum of $10,000 for each day in which the violation occurs, and, where there is a discharge, $10 for each gallon of discharge that is not susceptible to cleanup or is not cleaned up in excess of 1,000 gallons.

ALLEGED VIOLATIONS OF PROHIBITIONS, PROVISIONS, AND REQUIREMENTS APPLICABLE TO THE DISCHARGER

Violation No. 1: The Discharger engaged in activities which caused partially treated wastewater to enter the recycle facilities and discharge to various recycle disposal areas, including public use areas, during the Complaint Period in violation of Water Code section 13385, subdivision (a), paragraph (2).

Violation No. 2: The Discharger engaged in activities which resulted in discharges of recycled water and/or sediment laden recycled water to the Laguna de Santa Rosa, as well as other tributaries, all of which are tributaries to the Russian River, waters of the State and the United States, during the Complaint Period in violation of Water Code section 13385, subdivision (a), paragraphs (2), and (4).

FACTORS CONSIDERED IN DETERMINING ADMINISTRATIVE CIVIL LIABILITY

12. On November 17, 2010, the State Water Board adopted Resolution No. 2009-0083 amending the Water Quality Enforcement Policy (Enforcement Policy). The Enforcement Policy was approved by the Office of Administrative Law and became effective on May 20, 2010. The Enforcement Policy establishes a methodology for assessing administrative civil liability. The use of this methodology addresses the factors that are required to be considered when imposing a civil liability as outlined in Water Code section 13385, subdivision (e). The entire Enforcement Policy can be found at:

    http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf

    The specific required factors in Water Code section 13385, subdivision (e), are the nature, circumstances, extent, and gravity of the violation or violations, whether the discharge is susceptible to cleanup or abatement, and the degree of toxicity of the discharge. With respect to the violator, the required factors are the ability to pay, the effect on the violator's 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 specific factors required by the Enforcement Policy are: the potential harm to beneficial uses; the physical, chemical, biological or thermal characteristics of the discharge; the discharge's susceptibility to cleanup; the violation's deviation from requirements; the discharger's culpability; cleanup and the discharger's cooperation; the history of violations; the discharger's ability to pay; other factors as justice may require; and economic benefit from the avoidance or delay of implementing requirements. These factors address the statute-required factors and also are used to calculate penalties consistent with both the Water Code and the Enforcement Policy.

    The required factors have been considered for violations 1 and 2 using the methodology in the Enforcement Policy, as explained in detail in Exhibit B.

PROPOSED ADMINISTRATIVE CIVIL LIABILITY

13. Based on consideration of the above facts and after applying the penalty methodology, the Assistant Executive Officer of the Regional Water Board proposes that civil liability be imposed administratively on the Discharger in the amount of **seventy-four thousand seven hundred and seventy-six dollars** (**$74,776**) pursuant to Water Code section 13385, subdivision (a), paragraphs (2), and (4). The proposed liability includes $7,200 for staff costs.

14. There are no statutes of limitations that apply to administrative proceedings. The statutes of limitations that refer to "actions" and "special proceedings" and are contained in the California Code of Civil Procedure apply to judicial proceedings, not an administrative

proceeding. See City of Oakland v. Public Employees' Retirement System (2002) 95 Cal. App. 4th 29, 48; 3 Witkin, Cal. Procedure (4th ed. 1996) Actions, §405(2), p. 510.)

15. Notwithstanding the issuance of this Complaint, the Regional Board retains the authority to assess additional penalties for violations of the requirements of the Discharger's waste discharge requirements for which penalties have not yet been assessed or for violations that may subsequently occur.

16. Issuance of this Complaint is an enforcement action and is therefore exempt from the provisions of the California Environmental Quality Act (Pub. Res. Code § 21000 et seq.) pursuant to title 14, California Code of Regulations sections 15308 and 15321 subsection (a) (2).

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David F. Leland, P.E.
Assistant Executive Officer
Regional Water Board Prosecution Team

March 24, 2014

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