

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
NORTH COST REGION**

In the Matter of:	)	Order No.R1-2016-0022
	)	
Russian River County Sanitation	)	Settlement Agreement
District and Sonoma County	)	and Stipulation for Entry of
Water Agency	)	Administrative Civil Liability Order
WDID No. 1B820450SON	)	

This Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order ("Stipulated Order" or "Order") is entered into by and between the Assistant Executive Officer of the Regional Water Quality Control Board, North Coast Region (Regional Water Board), on behalf of the Regional Water Board Prosecution Team ("Prosecution Team"), the Russian River County Sanitation District and the Sonoma County Water Agency ("Dischargers") (collectively "Parties"). This Stipulation is presented to the Regional Water Board for adoption as an Order, by settlement, pursuant to Government Code section 11415.60.

RECITALS

1. The Dischargers own and operate the Russian River Wastewater Treatment Facility (WWTF) located at 18400 Neeley Road, Guerneville, California. The WWTF serves the communities of Guerneville, Guerneville Park, Rio Nido and Vacation Beach; all are located in Sonoma County in California. The WWTF discharges tertiary treated, disinfected (and dechlorinated) wastewater into the Russian River, a water of the United States.
2. The Regional Water Board has determined that the Dischargers meet the requirements under California Water Code section 13385(k) and the State Water Resources Control Board ("State Water Board") Water Quality Enforcement Policy ("Enforcement Policy") as a publicly owned treatment works serving a small community with a financial hardship. Attachment D attached hereto, incorporated herein, and made a part of this Order by this reference sets forth the basis of that determination.
3. On January 29, 2009, the Regional Water Board adopted Order No. R1-2009-0003 (NPDES Permit No. CA 0024058) to regulate discharges from the Dischargers'

WWTF to the Russian River. Order No. R1-2009-0003 became effective on March 20, 2009. On March 13, 2014, the Regional Water Board adopted Order No. R1-2014-0002, which became effective on April 30, 2014, to replace Order No. R1-2009-0003.

4. On February 8, 2010, the Regional Water Board adopted Order No. R1-2010-0006, Cease and Desist Order that set interim effluent limitations for dichlorobromomethane.
5. In monitoring reports covering the period between June 1, 2009 and November 30, 2014 (the "Complaint Period"), the Dischargers self-reported ninety-three (93) exceedances of the effluent limitations set forth in Orders No. R1-2009-0003, R1-2010-0006, and R1-2014-0002. Of the effluent limitation exceedances, eight (8) are for Nitrate, Total (as N), a Group I pollutant; three (3) are for Dichlorobromomethane, a Group II pollutant; thirty-four (34) are for Total Coliform Organisms, Other Effluent Violations (OEVs), all subject to Mandatory Minimum Penalties ("MMPs") pursuant to California Water Code section 13385 subdivisions (h) and (i) and forty-eight (48) exceedances are exempt from MMPs. These violations are summarized in Attachment A.
6. Water Code section 13385(h) requires the Regional Water Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each serious violation. Pursuant to Water Code section 13385(h)(2) a "serious violation" is defined as any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group II pollutant by 20 percent or more, or for a Group I pollutant by 40 percent or more. Appendix A of Part 123.45 of Title 40 of the Code of Federal Regulations specifies the Group I and II pollutants.
7. Water Code section 13385(i) requires the Regional Water Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each violation whenever the Dischargers do any of the following four or more times in any period of six consecutive months, except that the requirement to assess the mandatory minimum penalty shall not be applicable to the first three violations:
 - a. Violates a waste discharge requirement effluent limitation.
 - 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 discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.

8. From October 1 through May 14, the Dischargers are permitted to release treated wastewater to the Russian River as set forth in Order No. R1-2009-0003. The Dischargers reported that on May 23, 2010, nine days after the end of the permitted surface water discharge period, an operator of the facility placed an inflatable pig in the discharge line to check the discharge flow meter. The valve at the holding pond was opened to charge the pipeline. The operator walked away. Pressure pushed the pig out of the line and the discharge continued for approximately one hour and forty-five minutes. This led to a release of 300,000 gallons of treated wastewater into the Russian River. The operator's supervisor stated to Regional Water Board staff that this procedure was scheduled to occur on May 14th, the last day of the discharge season and that the operator did not follow instructions.
9. On February 12, 2014, the Sonoma County Water Agency ("SCWA") was notified of a sewage leak near the Vacation Beach Lift Station. A crew that was dispatched determined that sewage was leaking from a crack in the force main near an air valve adjacent to the Vacation Beach Lift Station and that the cracked section of the force main pipe would need to be replaced. During this initial visit to the site, the crew estimated that 450 gallons of sewage had been discharged to the ground and subsequently to the Russian River. On February 13, 2014, the crew returned to the site and began removing soil, and observed that the rate of leakage from the pipe had increased since the previous afternoon. With two septic tank haulers at the site, the crew continued to remove soil and prepare for the repair of the leaking force main pipe. At 12:20 p.m., the pipeline ruptured, and sewage began discharging to the Russian River. The crew operating the onsite septic hauling trucks immediately began capturing as much of the discharging sewage as possible and the site manager arranged for mobilization of additional septic hauling trucks, construction equipment, and field staff to respond to the spill incident. SCWA's post-incident technical report, submitted on March 31, 2014 states, "[t]he spill flowed down Vacation Summer Bridge Road to Vacation Beach and then into the Russian River. The second discharge point was a direct pumping operation from the District's Main Lift station to the Russian River. This operation was necessary to keep the force main dewatered at the rupture/repair site in order to facilitate the repair." SCWA submitted an addendum report on June 27, 2014 that includes an estimated spill volume of 132,000 gallons of raw sewage that flowed to, or was pumped into, the Russian River over a period of approximately 12 hours.
10. Water Code section 13385, subdivision (a)(2) provides for civil liability against any person who violates a waste discharge requirement issued pursuant to Chapter 5.5 of the Water Code.

11. Pursuant to Water Code section 13385, subdivision (c) the Regional Water Board may impose administrative civil liability for violations under subdivision (a), in an amount not to exceed the sum of both the following: (1) ten thousand dollars (\$10,000) for each day in which the violation occurs; and (2) where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.
12. This Stipulated Order imposes an administrative civil liability, in the amount of \$275,771. That amount includes a mandatory minimum penalty of \$135,000 for 45 effluent limit violations of Waste Discharge Requirements Order No. R1-2009-003 (NPDES Permit No. CA 0024058) that occurred during the Complaint Period. That amount also includes \$140,771 in discretionary penalties for spills that occurred in May of 2010 and February of 2014.
13. The Parties have engaged in settlement negotiations and agree to settle alleged violations of the California Water Code set forth in this Order without administrative or civil litigation and by presenting this Stipulated Order to the Regional Water Board for adoption as an Order pursuant to Government Code section 11415.60. The Prosecution Team believes that the resolution of the violations alleged herein is fair and reasonable and fulfills its enforcement objectives, that no further action is warranted concerning these violations except as provided in this Stipulated Order, and that this Stipulated Order is in the best interest of the public.
14. To resolve the violations alleged herein by consent and without further administrative proceedings, the Parties have agreed to the imposition of a penalty of \$275,771 against the Dischargers. Fifty percent of the discretionary penalty less staff costs (\$67,885) shall be suspended upon completion of an Enhanced Compliance Action and the whole MMP amount (\$135,000) shall be suspended upon completion of a Compliance Project in accordance with the terms of this Stipulated Order.

STIPULATIONS

The Parties Stipulate to the following:

15. Jurisdiction: The Parties agree that the Regional Water Board has subject matter jurisdiction over the matters alleged in this action and personal jurisdiction over the Parties to this Stipulated Order.

16. Administrative Civil Liability: The Dischargers hereby agree to the imposition of **TWO HUNDRED SEVENTY FIVE SEVEN HUNDRED AND SEVENTY-ONE DOLLARS (\$275,771)** in administrative civil liability to resolve the violations alleged herein. That amount reflects \$135,000 in mandatory minimum penalties and \$140,771 in discretionary penalties.

- a. The Dischargers shall pay \$72,885 to the *State Water Pollution Cleanup and Abatement Account* within 30 days. Within thirty (30) days of the effective date of the Stipulated Order, the Dischargers agree to remit, by check, \$72,885 payable to the *State Water Resources Control Board Cleanup and Abatement Account*, and shall indicate on the check the number of this Order. The Dischargers shall send the original signed check to the State Water Resources Control Board Accounting Office, Attn: ACL Payment, P.O. Box 1888, Sacramento, CA 95812-1888. A Copy of the check shall be sent to North Coast Regional Water Quality Control Board, 5550 Skylane Blvd, Suite A, Santa Rosa, CA 95403, Attn: Nancy Robinson.
- b. The Parties agree that \$67,885 (fifty percent of the discretionary penalties less staff costs) shall be suspended pending completion of the Enhanced Compliance Action ("ECA") as set forth herein, and Attachment C, incorporated herein by reference.
- c. The Parties agree that the complete mandatory minimum penalty amount of \$135,000 shall be suspended pending completion of the Compliance Project ("CP") as set forth herein, and Attachment C, incorporated herein by reference.
- d. Should the Dischargers fail to complete the CP or the ECA as described herein, the Dischargers shall pay the associated suspended penalty amount of \$67,885 or \$135,000, or a pro-rated amount determined by the Regional Water Board or its delegate, to the *State Water Pollution Cleanup and Abatement Account*. Payment of any or the entire previously suspended amount does not relieve the Dischargers of their independent obligation to take necessary actions to achieve compliance with Waste Discharge Requirements Order No. R1-2009-003.

17. Force Main Assessment: The Parties agree that the Dischargers shall perform and complete a force main assessment within five years from the effective date of this Stipulated Order.

- a. The Regional Water Board may extend the deadline for completing the force main assessment if the Dischargers demonstrate that more time is needed due to factors that are beyond the reasonable control of the Dischargers.
- b. Should the Dischargers fail to complete the force main assessment within five years of the effective date of this Stipulated Order, a penalty of \$34,000, which is additional to those described in Stipulation 16, will be imposed on the Dischargers.
- c. The Dischargers shall pay the *State Water Pollution Cleanup and Abatement Account* the \$34,000 within 30 days of receipt of notice of the Regional Water Board staffs determination that the Dischargers failed to comply with this Stipulation.

18. Compliance with Applicable Laws: The Dischargers understand that payment of administrative civil liability in accordance with the terms of this Order or compliance with the terms of this Order is not a substitute for compliance with applicable laws, and that continuing violations of the type alleged herein may subject it to further enforcement, including additional administrative civil liability.

19. Compliance Project Description: The Dischargers will implement a Tertiary Filter Upgrade project that will correct the problems that caused the underlying MMP violations, as described in detail in Attachment A, which is hereby incorporated.

- a. **CP Schedule:** The implementation schedule for completion of the design of the CP is as follows:

Task Description	Date Completed
Tertiary Filter Assessment	October 1, 2016
Filter Assessment Report (to include rehabilitate/replace determination)	November 15, 2016
Filter One rehabilitate/replace	October 31, 2017
Filter Two rehabilitate/replace	October 31, 2018

The CP shall be completed in its entirety no later than October 31, 2018 (the "CP Completion Date"), as indicated in the schedule above.

- b. **CP Cost:** The Dischargers shall spend \$135,000 in suspended penalties on the CP. The estimated costs of the project, which are itemized in Attachment C, range from \$246,400 to \$387,882, depending on the results of a field assessment. The Dischargers are prepared to provide the balance of funds necessary to complete the project.

20. Enhanced Compliance Action Description: The Dischargers shall perform a Manway Installation on Force Main at Main Lift Station project to allow for the permanent installation of a manway allowing interior access to the force main for advanced assessment purposes. The detailed ECA description is included in Attachment C.

- a. **ECA Schedule:** The implementation schedule for completion of the design of the ECA is as follows:

Task/Description	Date Completed
Design	December 31, 2016
Construction	October 1, 2017

The ECA shall be completed in its entirety no later than October 1, 2017 (the "ECA Completion Date") as indicated in the schedule above.

- b. **ECA Cost:** The Dischargers shall spend \$67,885 in suspended penalties on the ECA. The cost for the ECA is estimated to be approximately \$110,000, as detailed in Attachment C. The Dischargers are prepared to provide the balance of funds necessary to complete the project.

21. Extension of the CP or ECA Implementation Schedule Deadlines: If the Dischargers provide written justification and Regional Water Board staff concurs that a delay in the CP or ECA implementation schedules are beyond the reasonable control of the Dischargers, the Executive Officer may revise the implementation schedule as appropriate. Written justification must be received by Nancy Robinson ("Designated Regional Water Board Representative") prior to the Dischargers' failure to meet a milestone deadline, must describe circumstances causing the delay, and must state when each task of the CP or ECA will be completed. If any extension of the implementation schedule is granted, Regional Water Board staff shall provide the Dischargers with a new implementation schedule in writing, which shall include the date the CP or ECA will be completed ("Revised Completion Date").

- 22. Representations and Agreements of the Dischargers to Implement and Complete, Report, and Guarantee Implementation of the CP and ECA:** As a material consideration for the Regional Water Board's adoption of this Stipulated Order, the Dischargers represent and agree that (1) they will implement and complete the CP and ECA as described in this Stipulated Order and Attachment C; (2) they will provide certifications and written reports to the Designated Regional Water Board Representative and the Division of Financial Assistance of the State Water Board consistent with the terms of this Stipulation detailing the implementation of the CP and ECA; and (3) will guarantee implementation of the CP and ECA identified in Paragraphs 19 and 20 and Attachment C by remaining liable for the Suspended Liabilities until the CP and ECA are completed and accepted by the Regional Water Board in accordance with the terms of this Stipulated Order. The Dischargers agree that the Regional Water Board has the right to require an audit of the funds expended by it to implement the CP and ECA.
- 23. CP and ECA Quarterly Progress Reports:** The Dischargers shall provide quarterly reports of progress to the Designated Regional Water Board Representative commencing 30 days after this Stipulated Order becomes final and continuing through submittal of the certified statement of completion of the CP and ECA described in Paragraph 24 and Attachment C. If no activity occurred during a particular quarter, a quarterly report so stating shall be submitted. Quarterly reports are due within 30 days from the end of the quarter.
- 24. Certification of Completion of CP and ECA:** On or before the ECA Completion Date and the CP Completion Date, (or within 60 days of the Revised Completion Dates, if an extension to the Completion Dates are granted pursuant to Paragraph 21) the Dischargers shall provide for each project a certified statement of completion ("Certification of Completion"). The Certifications of Completion shall be submitted by a responsible official under penalty of perjury under the laws of the state of California, to the Designated Regional Water Board Representative and the Division of Financial Assistance of the State Water Board. The Certifications of Completion shall include the following:
- a. Certification that the CP and ECA have been completed in accordance with the terms of this Stipulated Order. Such documentation may include design plans, invoices, receipts, certifications, and other materials reasonably necessary for the Regional Water Board to evaluate the completion of the CP and ECA and the costs incurred by the Dischargers.
 - b. Certification documenting the expenditures by the Dischargers during the implementation of the CP and ECA in order to complete the CP and ECA. Expenditures may include, but are not limited to, payments to outside vendors or contractors implementing the CP and ECA. The Dischargers shall

provide any additional information requested by the Regional Water Board staff that is reasonably necessary to verify CP and ECA expenditures.

- c. Certification that the Dischargers followed all applicable environmental laws and regulations in the implementation of the CP and ECA including but not limited to the California Environmental Quality Act (CEQA), the federal Clean Water Act, and the Porter-Cologne Act.

25. Third Party Financial Audit: At the written request of Regional Water Board staff, the Dischargers, at their sole cost, shall submit a report prepared by an independent third party(ies) acceptable to the Regional Water Board staff providing such party's/ies') professional opinion that the Dischargers have expended money in the amounts claimed by the Dischargers. In the event of such an audit, the Dischargers agree that they will provide the third-party auditor with access to all documents that the auditor requests. The Regional Water Board staff's written request shall specify the reasons why the audit is being requested. The audit report shall be provided to the Designated Regional Water Board Representative within three (3) months of notice from Regional Water Board staff to the Dischargers of the need for an independent third party audit. The audit need not address any costs incurred by the Regional Water Board for oversight.

26. Failure to Expend the Entire Suspended Liability on the Approved CP and ECA: In the event that the Dischargers are not able to demonstrate to the reasonable satisfaction of the Regional Water Board staff that the entire suspended liability amounts of \$135,000 for the CP or \$67,885 for the ECA have been spent to complete the projects as required by this Stipulation and Order, the Dischargers shall pay the difference between the Suspended Liabilities and the amount the Dischargers can demonstrate was actually spent on the completion of the CP or ECA, as administrative civil liability. The Dischargers shall be liable to pay the *State Water Pollution Cleanup and Abatement Account* the difference within 30 days of receipt of notice of the Regional Water Board staffs determination that the Dischargers failed to demonstrate that the entire Suspended Liability was spent to complete the CP and ECA as required by this Stipulation and Order. Payment shall be submitted to the persons and addresses described in Stipulation 16.

27. Failure to Complete CP or ECA: If the Dischargers fail to complete the CP by October 31, 2018, or the ECA by June 30, 2019, as required by this Stipulation and Order, (or within 60 days of the Revised Completion Date, if an extension to the Completion Date is granted pursuant to Paragraph 21), or there has been a material failure to timely submit a progress report or the Certification of Completion as required by this Stipulation and Order, the Regional Water Board staff shall issue a Notice of Violation (NOV). The Dischargers shall be liable to pay the entire suspended liability of \$67,885 for the ECA or \$135,000 for the CP, or some portion thereof less the value of the completion of any milestone requirements satisfied in

accordance with this Stipulation and Order, to the *State Water Resources Control Board Cleanup and Abatement Account* within 30 days of receipt of the NOV.

- 28. Completion of the CP and ECA to the Satisfaction of Regional Water Board Staff:** Upon the Dischargers' satisfaction of the CP and ECA obligations under this Stipulated Order, and completion of the CP and ECA and any audit requested by the Regional Water Board, Regional Water Board staff shall send the Dischargers a letter recognizing satisfactory completion of their obligations under this Stipulation and Order. Receipt of this letter shall terminate any further obligations of the Dischargers under this Stipulation and Order and result in the permanent stay of the Suspended Liability.
- 29. Publicity:** Whenever the Dischargers or their agents or subcontractors publicizes one or more elements of the CP or ECA, the Dischargers shall state in a prominent manner that the CP or ECA is undertaken as part of the settlement of an enforcement action by the Regional Water Board against the Dischargers.
- 30. Attorneys' Fees and Costs:** Each Party shall bear all attorneys' fees and costs arising from the Party's own counsel in connection with the matters set forth herein.
- 31. Matters Addressed by Stipulation:** Upon the Regional Water Board's adoption of the Order incorporating the terms of this Stipulation, this Stipulated Order represents a final and binding resolution and settlement of the violations alleged herein (Covered Matters). The provisions of this Paragraph are expressly conditioned on the Dischargers' full satisfaction of the CP and ECA obligations described herein.
- 32. Public Notice:** Dischargers understand that federal regulations require that the Regional Water Board publish and allow the public thirty (30) days to comment on any settlement of an enforcement action addressing NPDES permit violations (40 C.F.R. section 123.27(d)(2)(iii)). This Stipulated Order will be noticed for a 30-day public comment period prior to being presented to the Regional Water Board, or its delegee, for adoption. In the event objections are raised during the public review and comment period, the Regional Water Board or its delegee may, under certain circumstances, require a public hearing regarding the Stipulated Order.
- In that event, the Parties agree to meet and confer concerning any such objections, and may agree to revise or adjust the proposed Order as necessary or advisable under the circumstances. Dischargers agree that they may not rescind or otherwise withdraw approval of this proposed Stipulated Order.
- 33. Addressing Objections Raised During Public Comment Period:** The Parties agree that the procedure contemplated for adopting the Order by the Regional Water Board and review of this Stipulation by the public is lawful and adequate.

- 34. Interpretation:** This Stipulation and Order shall be construed as if the Parties prepared it jointly. Any uncertainty or ambiguity shall not be interpreted against any one Party.
- 35. Modification:** This Stipulation and Order shall not be modified by any of the Parties by oral representation made before or after its execution. All modifications must be in writing, signed by all Parties, and approved by the Regional Water Board or the executive Officer.
- 36. If the Order Does Not Take Effect:** In the event that this Order does not take effect because it is not approved by the Regional Water Board or it is vacated in whole or in part by the State Water Board or a court, the Parties acknowledge that they expect to proceed to a contested evidentiary hearing before the Regional Water Board to determine whether to assess administrative civil liabilities for the underlying alleged violations, unless the Parties agree otherwise. The Parties agree that all oral and written statements and agreements made during the course of settlement discussions will not be admissible as evidence in the hearing. The Parties agree to waive any and all objections based on settlement communications in this matter, including, but not limited to:
- a. Objections related to prejudice or bias of any of the Regional Water Board members or their advisors and any other objections that are premised in whole or in part on the fact that the Regional Water Board members or their advisors were exposed to some of the material facts and the Parties' settlement positions as a consequence of reviewing the Stipulation and/or the Order, and therefore may have formed impressions or conclusions prior to any contested evidentiary hearing on the violations alleged in this matter; or
 - b. Laches or delay or other equitable defenses based on the time period for administrative or judicial review to the extent this period has been extended by these settlement proceedings.
- 37. Waiver of Hearing:** The Dischargers have been informed of the rights provided by Water Code section 13323, subdivision [b], and hereby waives their right to a hearing before the Regional Water Board prior to the adoption of the Order.
- 38. Waiver of Right to Petition:** The Dischargers hereby waive their right to petition the Regional Water Board's adoption of the Order for review by the State Water Resources Control Board, and further waives its rights, if any, to appeal the same to a California Superior Court and/or any California appellate level court.
- 39. Regional Water Board is Not Liable:** Neither the Regional Water Board members nor the Regional or State Water Board staff, attorneys, or representatives shall be liable for any injury or damage to persons or property resulting from acts or

omissions by the Dischargers, their directors, officers, employees, agents, representatives or contractors in carrying out activities pursuant to this Stipulation, Order, or CP or ECA, nor shall the Regional Water Board, its members or staff be held as parties to or guarantors of any contract entered into by the Dischargers, their directors, officers, employees, agents, representatives, or contractors in carrying out activities pursuant to this Stipulation and Order.

40. **Dischargers' Covenant Not to Sue:** The Dischargers covenant not to sue or pursue any administrative or civil claim(s) against any State Agency or the State of California, their officers, Board Members, employees, representatives, agents, or attorneys arising out of or relating to any Covered Matter.
41. **Necessity for Written Approvals:** All approvals and decisions of the Regional Water Board under the terms of this Order shall be communicated to the Dischargers in writing. No oral advice, guidance, suggestions, or comments by employees or officials of the Regional Water Board regarding submissions or notices shall be construed to relieve the Dischargers of their obligation to obtain any final written approval required by this Order.
42. **Authority to Bind:** Each person executing this Stipulation in a representative capacity represents and warrants that he or she is authorized to execute this Stipulation on behalf of and to bind the entity on whose behalf he or she executes the Stipulation.
43. **Effective Date:** The obligations under this Stipulation are effective and binding on the Parties only upon the entry of an Order by the Regional Water Board, which incorporates the terms of this Stipulation.
44. **Severability:** This Stipulation and Order are severable; should any provision be found invalid the remainder shall remain in full force and effect.
45. **Counterpart Signatures:** This Stipulation may be executed and delivered in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, but such counterparts shall together constitute one document.

IT IS SO STIPULATED.

California Regional Water Quality Control Board,
North Coast Region Prosecution Team

Date: _____

By: Shin-Roei Lee Shin-Roei Lee
2016.05.09 18:33:54 -07'00'
Shin Roei-Lee, Assistant Executive Officer

Russian River County Sanitation District

Date: 5/3/16

By: Efren Carrillo
Efren Carrillo, Chair

Sonoma County Water Agency

Date: 5/3/16

By: Efren Carrillo
Efren Carrillo, Chair

Order of the Regional Water Board;

IT IS HEREBY ORDERED:

46. This Order incorporates the terms of the foregoing Stipulation, and includes Attachment A (Effluent Limitation Violations Requiring Mandatory Minimum Penalties), Attachment B (Penalty Methodology), Attachment C (CP and ECA Descriptions), and Attachment D (Small Community with a Financial Hardship Determination).

47. Pursuant to Water Code section 13385, subdivision (k), the Regional Water Board, in lieu of assessing all or a portion of mandatory minimum penalties pursuant to Water Code section 13385, subdivisions (h) and (i), may require a publicly owned treatment works serving a small community to spend all or a portion of mandatory minimum penalties towards the completion of a CP proposed by the publicly owned treatment works. The CP must conform to the requirements specified in the State Water Board Water Quality Enforcement Policy (Enforcement Policy).
48. On November 17, 2009, 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 policy can be found at:
http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf.
49. Section VIII of the Enforcement Policy states that CPs shall only be considered where they are expressly authorized by statute, i.e., Water Code section 13385, subdivision (k), and may not be considered in connection with discretionary administrative civil liability.
50. This is an action to enforce the laws and regulations administered by the Regional Water Board. The Regional Water Board finds that issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, sections 21000 et seq.), in accordance with section 15321(a)(2), Title 14, of the California Code of Regulations.
51. The Parties believe that settlement of this matter is in the best interest of the People of the State. Therefore, to settle the violations alleged herein, the Dischargers hereby agree to comply with the terms and conditions of this Order.
52. The Regional Water Board finds that the Recitals set forth herein in Section II of the Stipulation are true.
53. The Executive Officer is authorized to refer this matter directly to the Attorney General for enforcement if the Dischargers fail to perform any of its obligations under the Order.

Pursuant to Water Code section 13323 and Government Code section 11415.60, **IT IS HEREBY ORDERED** on behalf of the California Regional Water Quality Control Board, North Coast Region.

Date

Matthias St. John, Executive Officer