

**STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD  
NORTH COAST REGION**

In the Matter of:	)	
	)	
City of Eureka	)	Complaint No. R1-2017-0029
Publics Works Department	)	for
Elk River Wastewater Treatment Plant	)	Administrative Civil Liability
	)	
WDID # 1B821510HUM	)	

---

The Assistant Executive Officer of the California Regional Water Quality Control Board, North Coast Region (Regional Water Board) hereby gives notice that:

1. This Administrative Civil Liability Complaint (Complaint) is issued under the authority of California Water Code<sup>1</sup> section 13323 to the City of Eureka (hereinafter Discharger) to assess administrative civil liability for discharges from the Elk River Wastewater Treatment Plant (WWTP) (formerly the Elk River Wastewater Treatment Facility) in violation of provisions of law for which the Regional Water Board is required to impose mandatory minimum penalties (MMPs) pursuant to Water Code section 13385, subdivisions (h) and (i). This Complaint alleges twelve (12) effluent limit violations of Waste Discharge Requirements (WDRs) Order Numbers R1-2009-0033 and R1-2016-0001, of which nine (9) are subject to MMPs as specifically listed in Attachment A. Attachment A is hereby incorporated by reference.
2. Unless waived, the Regional Water Board will hold a hearing on this Complaint at the August 17, 2017, Board meeting located at the Regional Water Board office, 5550 Skylane Boulevard, Suite A, Santa Rosa, CA or at a location as posted on the Regional Water Board's website (address listed below). The Discharger or its representative will have an opportunity to be heard and to contest the allegations in this Complaint and the imposition of the civil liability. Not less than 10 days before the hearing date, an agenda for the meeting will be available on the Regional Water Board's website: [http://www.waterboards.ca.gov/northcoast/board\\_info/board\\_meetings/](http://www.waterboards.ca.gov/northcoast/board_info/board_meetings/).
3. At the hearing, the Regional Water Board will consider whether to affirm, reject, or modify the proposed civil liability up to the maximum penalty provided for by law, or refer the matter to the Attorney General to have a Superior Court consider civil enforcement. The Discharger can waive its right to a hearing to contest the allegations contained in this Complaint by submitting a signed waiver and paying the MMPs in full or by taking other actions as described in the waiver form. Any such resolution of this Complaint will be subject to approval by the Regional Water Board or its delegee. If this matter proceeds to hearing and the Regional Water Board decides to impose

---

<sup>1</sup> All subsequent references to the Water Code refer to the California Water Code until otherwise noted.

discretionary penalties, the Prosecution Team reserves the right to seek an increase in the civil liability amount.

4. 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 (30) days to comment on any proposed settlement of this Complaint.

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

## **BACKGROUND**

5. The Discharger owns and operates a municipal wastewater treatment plant and associated wastewater collection and disposal facilities (hereinafter "Facility") that serves a population of approximately 44,000 from the City of Eureka and unincorporated areas within the Humboldt Community Services District. The Facility treats domestic, commercial, and industrial wastewater as well as treated groundwater from remediation projects and septage from local area haulers. At the Facility, wastewater undergoes primary treatment with mechanical bar screens, grit removal, and primary clarification. Biological secondary treatment is accomplished using two trickling filters, followed by secondary clarification, and chlorine disinfection. The chlorinated effluent is stored in a holding pond then dechlorinated and discharged at Discharge Point 001 to Humboldt Bay in conjunction with ebb tide cycles which drains directly to the Pacific Ocean and are Waters of the state and United States. During periods of high flows, excess treated wastewater from the effluent holding pond can be directed to the 13-acre freshwater holding marsh (Overflow Marsh) and pumped back to the effluent storage pond once flows subside. The Overflow Marsh is a component of the Facility.
6. The Regional Water Board adopted WDRs Order No. R1-2009-0033 on June 4, 2009, replacing WDRs Order No. R1-2004-0013, to regulate discharges from the WWTP. The Order became effective on July 24, 2009. WDRs Order No. R1-2009-0033 was replaced by WDRs Order No. R1-2016-0001, adopted by the Regional Water Board on June 16, 2016, and effective on August 1, 2016.

## **STATEMENT OF REQUIREMENTS APPLICABLE TO THE DISCHARGER:**

7. WDRs Order No. R1-2009-0033, which rescinded WDRs Order No. R1-2004-0013 except for enforcement purposes, sets forth effluent limits for constituents, including pH, total copper, and fecal coliform at Discharge Point 001 as summarized as follows:
  - a. The Discharger shall maintain compliance with the following final effluent limitations at Discharge Point 001, with compliance measured at Monitoring

Location EFF-001, as described in the attached Monitoring and Reporting Program (MRP).

Parameter	Units	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum	Six-Month Median
Copper	ug/L	---	---	312	870	33
pH	s.u.	Not less than 6.0 nor greater than 9.0				

b. **Bacteria:** Disinfected effluent discharged from the WWTP at Discharge Point 001 shall not contain fecal coliform bacteria in excess of the following concentrations:

- 1) The median value of fecal coliform bacteria shall not exceed an MPN of 14 per 100 milliliters in a calendar month, and
- 2) In not more than 10 percent of samples collected in a calendar month shall fecal coliform bacteria exceed an MPN of 43 per 100 milliliters.

8. WDRs Order No. R1-2016-0001, which rescinded WDRs Order No. R1-2009-0033 except for enforcement purposes, sets forth effluent limits for ammonia and fecal coliform which are summarized as follows:

a. **Effluent Limitations - Discharge Point 001**

Parameter	Units	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
Ammonia Nitrogen, Total (as N)	mg/L	4.1	---	10	---	---

b. **Disinfection.** Disinfected effluent discharged from the wastewater treatment plant through Discharge Point 001 to Humboldt Bay shall not contain fecal coliform bacteria in excess of the following concentrations, as measured at Monitoring Location EFF-001:

- i. The median value of fecal coliform bacteria shall not exceed a Most Probable Number (MPN) of 14 per 100 milliliters (mL) in a calendar month, and
- ii. No samples shall exceed an MPN of 43 per 100 mL.

9. Settleable solids and ammonia nitrogen are Group I pollutants, and total chlorine residual and total copper are Group II pollutants. Fecal coliform and pH are neither Group I nor Group II pollutants.

### **ALLEGED VIOLATIONS**

10. The Discharger's self-monitoring reports show six (6) effluent limit violations of WDRs Order No. R1-2009-0033 from October 1, 2015 (end of period included in Stipulation Order No. R1-2016-0005), to July 31, 2016 (expiration date of WDR s Order No. R1-2009-0033), of which five (5) are subject to MMPs. These violations are specifically listed in Attachment A. Of the five violations subject to MMPs, all are chronic violations which occurred after at least three chronic violations during the previous six month period.
11. The Discharger's self-monitoring reports for the period from August 1, 2016 (effective date of WDR s Order No. R1-2016-0001), to December 31, 2016, document six (6) effluent violations, of which four (4) are subject to MMPs and are listed in Attachment A. Of the four violations subject to MMPs, all are chronic violations which occurred after at least three violations during the previous six month period.

### **WATER CODE PROVISIONS UPON WHICH LIABILITY IS BEING ASSESSED DUE TO NONCOMPLIANCE WITH APPLICABLE REQUIREMENTS**

12. Water Code section 13385, subdivision (h) requires the Regional Water Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each serious violation. Pursuant to Water Code section 13385, subdivision (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.
13. Water Code section 13385, subdivision (i) requires the Regional Water Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each violation whenever the Discharger does 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.

14. The maximum amount of discretionary administrative civil liability pursuant to Water Code section 13385, subdivision (c) is \$10,000 per day of violation plus \$10 times the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.

#### **PROPOSED ADMINISTRATIVE CIVIL LIABILITY**

15. The Assistant Executive Officer of the Regional Water Board proposes that mandatory minimum penalties be assessed against the Discharger in the amount of twenty-seven thousand dollars (**\$27,000**) for the violations specifically identified in Attachment A to this Complaint.
16. Notwithstanding the issuance of this Complaint, the Regional Water 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.
17. 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).

---

Shin-Roei Lee  
Assistant Executive Officer  
Regional Water Board Prosecution Team

Attachment A: Effluent Limitation Violations Requiring Mandatory Minimum Penalties