

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

In the Matter of:	)	
	)	
City of Ferndale	)	Complaint No. R1-2017-0017
Wastewater Treatment Facility	)	for
Ferndale, CA	)	Administrative Civil Liability
	)	
WDID # 1B831860HUM	)	

---

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 Ferndale (hereinafter Discharger) to assess administrative civil liability for discharges from the Ferndale Wastewater Treatment Facility (WWTF) 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 ten (10) effluent limit violations of Waste Discharge Requirements (WDRs) Order Nos. R1-2009-0036 and R1-2012-0097, all of which 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 May 18, 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

---

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

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 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 facility and associated wastewater collection, reclamation, and disposal facilities that serves a population of approximately 1,500 residential and commercial users. From October 1 through May 14, treated wastewater is discharged to Francis Creek, a water of the United States, at its confluence with the Salt River. From May 15 through September 30, treated wastewater is applied to neighboring agricultural land.
6. The Discharger completed construction of a new WWTF in late 2011. The new WWTF system provides tertiary treatment of wastewater. Raw wastewater flows from the municipal collection system by gravity to the headworks. Within the headworks, a comminutor and bar screen provide primary treatment. Wastewater from the headworks up to 0.95 mgd is then pumped to a selector tank flowing by gravity to one of two rectangular extended aeration basins for biological treatment. From the aeration basins wastewater flows by gravity to the adjacent rectangular clarifiers. Return activated sludge (RAS) is selectively injected into the selector tank and aeration basins as appropriate to achieve maximum nitrogen removal efficiencies. Aerobically digested sludge is then pumped to a belt press for dewatering. The dewatered sludge is removed offsite for recycling or disposal at a permitted facility. Clarified wastewater undergoes disc filtration prior to ultraviolet disinfection. A holding basin is used at the end of the treatment train for temporary storage of treated effluent during periods of land application. Variable drive pumps are located within the basin to provide continuous flows when discharging to surface water.
7. Influent exceeding 0.95 mgd is automatically diverted from the headworks to a synthetically lined wet-weather flow equalization basin, located in the historic oxidation pond. Flows from the wet-weather flow equalization basin automatically flow back to the headworks to proceed with full treatment through the WWTF once influent flows subside below 0.95 mgd.

8. The Regional Water Board adopted WDRs Order No. R1-2009-0036 on July 23, 2009 to regulate discharges from the WWTF. WDRs Order No. R1-2009-0036 became effective September 1, 2009, and served as an NPDES permit under the federal Clean Water Act. WDRs Order No. R1-2009-0036 was replaced by WDRs Order No. R1-2012-0097, adopted by the Regional Water Board on December 6, 2012 and effective on February 1, 2013.

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

9. WDRs Order No. R1-2009-0036 sets forth effluent limits for constituents, including Biochemical Oxygen Demand (BOD) and Total Suspended Solids (TSS), at Discharge Point 001 as summarized as follows:
- a. For the duration of operation of the existing WWTF as well as during the initial 90 day start-up period after activation of the new WWTF, the Discharger shall maintain compliance with the following limitations at Discharge Point 001, with compliance measured at Monitoring Location EFF-001 as described in the Monitoring and Reporting Program. These effluent limitations shall apply in lieu of the corresponding effluent limitations specified for the same parameters that will take effect upon activation of the new WWTF.

Parameter	Units	Average Monthly	Average Weekly	Maximum Daily
BOD 5-day @ 20°C	mg/L	30	45	---
	lbs/day <sup>3,4</sup>	144	216	---

<sup>3</sup> The mass discharge (lbs/day) is obtained from the following calculation for any calendar week or month:

$$\frac{8.34}{N} \sum_i^N Q_i C_i$$

in which N is the number of samples analyzed in any calendar week or month. Qi and Ci are the flow rate (mgd) and the constituent concentration (mg/L), respectively, which are associated with each of the N grab samples, which may be taken in any calendar week or month. If a composite sample is taken, Ci is the concentration measured in the composite sample; and Qi is the average flow rate occurring during the period over which samples are composited.

<sup>4</sup> Mass-based effluent limitations are based on the wet weather design flow of 0.95 mgd.

- b. **Percent Removal.** The average monthly percent removal of BOD<sub>5</sub> and TSS shall not be less than 65 percent for the existing WWTF. 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 as measured at Monitoring Locations M-INF and EFF-001, respectively.

10. WDRs Order No. R1-2012-0097, which rescinded WDRs Order No. R1-2009-0036 except for enforcement purposes, sets forth effluent limits for Ammonia, 2,3,7,8 TCDD, and flow which are summarized as follows:

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

Parameter	Units	Average Monthly	Average Weekly	Maximum Daily
Ammonia Nitrogen	mg/L	1	---	---
2,3,7,8 TCDD	µg/L	0.000000013	---	0.000000026

<sup>2</sup> The mass discharge (lbs/day) is obtained from the following calculation for any calendar week or month:

$$\frac{8.34}{N} \sum_i^N Q_i C_i$$

in which N is the number of samples analyzed in any calendar week or month. Qi and Ci are the flow rate (mgd) and the constituent concentration (mg/L), respectively, which are associated with each of the N grab samples, which may be taken in any calendar week or month. If a composite sample is taken, Ci is the concentration measured in the composite sample; and Qi is the average flow rate occurring during the period over which samples are composited.

<sup>3</sup> Mass-based effluent limitations are based on the wet weather design flow of 0.95 mgd.

<sup>4</sup> The median of all samples collected in a 30-day calendar period.

b. **Flow.** The mean daily dry weather flow of waste through the treatment plant shall not exceed 0.55 mgd, measured over a calendar month. The average wet weather flow of waste through the treatment plant shall not exceed 0.95 mgd, measured daily and averaged over a calendar month.

11. BOD, TSS, and Ammonia Nitrogen are Group I pollutants and 2, 3, 7, 8 TCDD is a Group II pollutant. Flow is neither a Group I or a Group II pollutant.

**ALLEGED VIOLATIONS**

12. The Discharger's self-monitoring reports show five (5) effluent limit violations of WDRs Order Nos. R1-2009-0036 and R1-2012-0097 from November 1, 2010, to November 13, 2014, subject to MMPs that were not previously resolved by Administrative Civil

Liability Order No. R1-2012-0025, Acceptance of Conditional Resolution and Waiver of Right to Hearing Order No. R1-2013-0038, and Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order No. R1-2015-0046. These violations are specifically listed in Attachment A. Of the five (5) violations subject to MMPs, two (2) are serious violations and three (3) are chronic violations which occurred after at least three chronic violations during the previous six month period.

13. The Discharger's self-monitoring reports for the period from January 1, 2015, to August 31, 2016, document five (5) violations that occurred during the Complaint Period, of which all are subject to MMPs and are specifically listed in Attachment A. Of the five violations subject to MMPs, four (4) are serious violations and one (1) is a chronic violation which occurred after at least three chronic violations during the previous six month period.

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

14. 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.
15. 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.
16. 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**

17. The Assistant Executive Officer of the Regional Water Board proposes that mandatory minimum penalties be assessed against the Discharger in the amount of thirty thousand dollars (**\$30,000**) for the violations specifically identified in Attachment A to this Complaint.
18. 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.
19. 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, P.E.  
Assistant Executive Officer  
Regional Water Board Prosecution Team

Attachment A: Effluent Limitation Violations Requiring Mandatory Minimum Penalties