

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

In the Matter of:	)	
	)	
City of Ukiah	)	Complaint No. R1-2017-0030
Publics Works Department	)	for
Ukiah Wastewater Treatment Plant	)	Administrative Civil Liability
WDID # 1B84029OMEN	)	
_____	)	

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 Ukiah (hereinafter Discharger) to assess administrative civil liability for discharges from its Wastewater Treatment Plant (WWTP) 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 forty (40) effluent limit violations of Waste Discharge Requirements (WDRs) Order No. R1-2012-0068, National Pollution Discharge Elimination System (NPDES) Permit No. CA 0022888, of which eleven (11) 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 discretionary penalties, the Prosecution Team reserves the right to seek an increase in the civil liability amount.

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

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 the Ukiah WWTP located at 300 Plant Road, Ukiah, California in Mendocino County. The WWTP serves 15,000 residential, commercial, and institutional users in the City of Ukiah and 5,000 residential users served by the Ukiah Valley Sanitation District. Disinfected, tertiary treated wastewater can be discharged to the Russian River, a water of the United States, as needed during winter months (October 1 to May 14). Year-round, disinfected secondary wastewater is discharged to percolation ponds adjacent to the Russian River. The Russian River is also a water of the state.
6. The Regional Water Board adopted WDRs Order No. R1-2012-0068 on August 23, 2012 to regulate discharges from the WWTP which became effective on October 1, 2012 and serves as an NPDES Permit under the Federal Clean Water Act.
7. The Regional Water Board adopted Cease and Desist Order (CDO) No. R1-2012-0069 on August 23, 2012, concurrently with WDRs Order No. R1-2012-0068, requiring the Discharger to take action and comply with effluent limitations. CDO No. R1-2012-0069 contains interim effluent limits for ammonia and nitrate, and includes a compliance schedule for the Permittee to comply with final effluent limits for ammonia and nitrate by August 1, 2017.

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

8. WDRs Order No. R1-2012-0068 sets forth effluent limits for constituents, including copper, dichlorobromomethane, nitrate and ammonia at Discharge Point EFF-001, summarized as follows:
  - a. Representative samples of the discharge to the Russian River shall not contain constituents in excess of the following limitations:

<b>Parameter</b>	<b>Units</b>	<b>Monthly Average</b>	<b>Weekly Average</b>	<b>Daily Maximum</b>
Copper, Total Recoverable	ug/l	35	---	70
Dichlorobromomethane	ug/l	0.56	---	1.1
Nitrate (as N)	mg/L	10	---	---
Ammonia	mg/L	3.5	---	6.8

9. CDO Order No. R1-2012-0069, sets forth interim effluent limits for ammonia and nitrate at Discharge Point 001 (Monitoring Location EFF-001B) as summarized as follows:

Parameter	Units	Average Monthly	Maximum Daily
Ammonia Nitrogen, as N	mg/L	14	20
Nitrate Nitrogen, total (as N)	mg/L	26.6	---

10. Ammonia nitrogen and nitrate nitrogen are Group I pollutants, and total copper and dichlorobromomethane are Group II pollutants.

### **ALLEGED VIOLATIONS**

11. The Discharger's self-monitoring reports show three (3) effluent limit violations of WDRs Order No. R1-2012-0068 occurring on March 18, 27, and 31, 2015, which were not previously resolved by Settlement and Stipulation Administrative Civil Liability (Stipulation) Order No. R1-2015-0069. Of the three violations, one is subject to MMPs as a serious violation and two meet the interim effluent limits contained in CDO No. R1-2012-0069 and are exempt from penalties. These violations are listed in Attachment A.
12. The Discharger's self-monitoring reports show thirty-seven (37) effluent limit violations of WDRs Order No. R1-2012-0068 from June 1, 2015 (end of period included in Stipulation Order No. R1-2015-0069) to January 31, 2017 (Compliance Period), of which ten (10) are subject to MMPs as serious violations and twenty-seven (27) are exempt for meeting the CDO interim limits. These violations are listed in Attachment A.
13. As described above and shown in Attachment A, the total number of violations subject to MMPs is eleven (11).

### **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-three thousand dollars (**\$33,000**) 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, subdivision (a)(2).

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

Attachment A: Effluent Limitation Violations Requiring Mandatory Minimum Penalties