

Order R1-2020-0014
Stipulated Administrative Civil Liability Order
City of Arcata

2. During the respective effective dates listed above, Waste Discharge Requirements (WDRs) Order Nos. R1-2004-0036 and R1-2012-0031 (National Pollutant Discharge Elimination System (NPDES) Permit No. CA0022713) established, among other things, final effluent limitations for the discharges from the Discharger's permitted discharge location, Discharge Point 001.
3. On June 10, 2019, Regional Water Board staff invited the Discharger to enter settlement negotiations prior to the Regional Water Board issuing an administrative complaint. The Parties have agreed to resolve 122 violations for exceeding effluent limits for biochemical oxygen demands (BODs), chlorine, carbon tetrachloride, copper, cyanide, total suspended solids, pH, and dichlorobromomethane. These violations, which occurred during the period between June 2012 and February 2019 are subject to MMPs pursuant to Water Code section 13385, subdivisions (h) and (i), as identified in Exhibit A to this Stipulated Order, for an administrative civil liability totaling \$366,000.
4. Pursuant to Water Code section 13385, subdivision (h), the Regional Water Board shall assess a \$3,000 mandatory minimum penalty (MMP) for each serious violation. A "serious violation" means any waste discharge that violates the effluent limitations contained in the applicable WDRs for a Group II pollutant by 20 percent or more or for a Group I pollutant by 40 percent or more.
5. Pursuant to Water Code section 13385, subdivision (i), the Regional Water Board shall assess a \$3,000 MMP for each violation whenever a discharger does any of the following four or more times in period of six consecutive months, except that the requirement to assess the MMP shall not be applicable to the first three violations:
 - a. Violates a WDRs effluent limitation.
 - b. Fails to file a report pursuant to Water Code section 13260.
 - c. Files an incomplete report pursuant to Water Code section 13260.
 - d. Violates a toxicity effluent limitation contained in the applicable WDRs where the WDRs do not contain pollutant-specific effluent limitations for toxic pollutants.
6. The Discharger's self-monitoring reports, from January 1, 2012 through October 1, 2019, document 122 violations of effluent limitations set forth in WDRs Order Nos. R1-2004-0036 and R1-2014-0013. Of the 122 effluent limitation violations, no violations were exempt based on compliance with CDO interim effluent limitations. All the 122 violations are subject to MMPs pursuant to Water Code section 13385, subdivisions (h) and (i), as identified in Exhibit A, in the amount of \$366,000 (122 violations x \$3,000).

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7. Pursuant to Water Code section 13385, subdivision (k)(1), in lieu of assessing all or a portion of MMPs, the Regional Water Board may require a POTW serving a small community to spend an equivalent amount towards completion of a compliance project proposed by the POTW, if the Regional Water Board finds all of the following:
 - a. The compliance project is designed to correct the violations in five years;
 - b. The compliance project is in accordance with the State Water Board's Water Quality Enforcement Policy; and
 - c. The POTW has prepared a financing plan to complete the compliance project.
8. For the reasons discussed in Exhibit B, Regional Water Board staff have determined that the Discharger meets the requirements under Water Code section 13385, subdivision (k), and the State Water Board's 2017 Water Quality Enforcement Policy (Enforcement Policy) to be recognized as a POTW serving a small community with a financial hardship. This determination makes the Discharger eligible for a compliance project (CP).
9. Pursuant to the Enforcement Policy, the Discharger must spend an amount of money on an approved CP that is equal to or more than the penalty amount held in abeyance pending completion of the project. The City of Arcata has proposed a CP with an estimated cost of \$366,000, funded through money in its reserves.
10. To resolve the alleged violations set forth in Exhibit A, by consent and without further administrative proceedings, the Parties have agreed to the imposition of an administrative civil liability of **\$366,000** against the Discharger. The Discharger may offset up to \$366,000 of this penalty through costs incurred to implement the CP. Up to \$366,000 shall be permanently suspended upon timely completion of the Compliance Project required herein.
11. The Parties have agreed to settle the matter without administrative or civil litigation and to present this Stipulated Order to the Regional Water Board, or its delegate, for adoption as an Order by settlement pursuant to Government Code section 11415.60.

12. The Prosecution Team believes that the resolution of the alleged violations is fair and reasonable and fulfills its enforcement objectives, that no further action is warranted concerning the alleged violations except as provided in this Stipulated Order, and that this Stipulated Order is in the public's best interest.

Section III: Stipulations

The Parties incorporate the foregoing Recitals and stipulate to the following:

13. **Administrative Civil Liability:** The Discharger hereby agrees to pay the administrative civil liability totaling **\$366,000** to resolve the alleged violations. The Parties agree that up to the full \$366,000 of this administrative civil liability shall be permanently suspended pending completion of the compliance project described in Section III, paragraph 15. If the suspended liability amount becomes due and payable pursuant to Section III, paragraph 22, the assessed amount shall be submitted by check made payable to the "State Water Pollution Cleanup and Abatement Account," no later than 30 days following notification from the Executive Officer. The check shall reference the Order number on page one of the Stipulated Order, and mailed to:

State Water Resources Control Board Accounting Office
Attn: ACL Payment
P.O. Box 1888
Sacramento, CA 95812-1888

The Discharger shall provide a copy of the check via e-mail to the Regional Water Board (diana.henriouille@waterboards.ca.gov).

14. **Compliance Project Description:** The Discharger has proposed, and is in the process of implementing, a CP consisting of two separate improvements to wastewater treatment efficiency. The first aspect of the project is the replacement of eight existing aerators in Oxidation Pond 1 with eight aerator/blower units. Additional work for this aspect of the project includes replacing the existing electrical transformer, installing a new motor control center for the aerators and blowers and installing electrical line for the blower units. This project will improve biochemical oxygen demand (BOD) treatment in the Oxidation Ponds by providing a source of dissolved oxygen when it is not naturally saturating the wastewater.

Additionally, blowers will suspend accumulated solids in Oxidation Pond 1, making the material available for treatment and redistribution within the natural treatment system.

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The second aspect of the CP is the installation of a baffle wall in Oxidation Pond 2 in an east/west orientation. Additional work for this aspect of the project includes an anchoring system and coordination with the Wastewater Treatment Plant Upgrade engineering team to ensure the baffle wall is compatible with planned oxidation pond modifications. This project will reduce short-circuiting in Oxidation Pond 2, thereby increasing hydraulic retention time and improving treatment efficiency. The primary benefit to water quality is improved biochemical oxygen demand (BOD) treatment in the Oxidation Ponds and a decreased potential for the formation of disinfection byproducts in the chlorine contact basin. Per the project schedule, the CP will be completed by February 26, 2021.

Separately from the proposed Compliance Project, the City of Arcata is implementing and planning additional projects that will serve to produce a higher quality effluent, further reducing the potential for effluent limit violations. At present the City’s wastewater treatment facility upgrade project (Upgrade Project) is underway, with first phase completed June 30, 2020, and second phase due to be completed by June 30, 2024. The first phase of the Upgrade Project will include construction of a new 9.8 MGD ultraviolet light disinfection system to replace the existing chlorine disinfection system. During the Complaint period, forty percent of the cited violations were associated with the chlorine disinfection process, namely, effluent limitation violations for disinfection by-products (dichlorobromomethane, carbon tetrachloride and cyanide) and total residual chlorine. The chlorine disinfection system will remain available through the phased construction of the Upgrade Project and for peak wet weather discharges, if needed.

15. **CP Milestone Requirements:** The Discharger agrees that this Stipulated Order includes the Milestone Requirements set forth below. The Discharger acknowledges that credit for completing any Milestone Requirement is dependent on the Regional Water Board’s adoption of this Stipulated Order. The implementation schedule for completion of the CP, and current completion status for milestones, is as follows:

Task	Description	Proposed Completion Date	Status
1	Release Request for Quotes on aeration/blower equipment, review proposals and select vendor	March 11, 2020	Completed
2	Review proposals and select vendor for aeration/blower equipment	April 22, 2020	Completed

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Task	Description	Proposed Completion Date	Status
3	Award purchase of aerator/blower equipment, electrical equipment	May 6, 2020	Completed
4	Finalize contract/work agreement(s) for installation, startup, and field testing of aerator/blower equipment	June 8, 2020	Completed
5	Release Request for Quotes for baffle wall construction material	July 8, 2020	Completed
6	Receive project materials for aeration/blower installation	July 31, 2020	Completed
7	Review Proposals and select vendor for baffle wall project	August 7, 2020	Completed
8	Award purchase of baffle wall vinyl sheet piling	September 2, 2020	Completed
9	Release Invitation for Bids for baffle wall installation project.	November 23, 2020	Completed
10	Receive project materials for baffle wall installation	December 7, 2020	Completed
11	Install baffle wall	February 26, 2021	
12	Install, startup, and field test new transformer, power for blowers, and motor control panel for aerators	February 26, 2021	
13	Install, start up, and field test aerator/blower units	February 26, 2021	

Task	Description	Proposed Completion Date	Status
14	Delivery of final O&M manual(s), drawings, specifications, and installation details	March 8, 2021	
15	Submit Final Report/Certification of Completion	March 29, 2021	

16. Representations and Agreements Regarding the Compliance Project:

- a. As a material condition for the Regional Water Board’s acceptance of this Stipulated Order, the Discharger represents that it will use the suspended liability amount of \$366,000 (CP Amount) to implement the CP. The Discharger understands that its promise to implement the CP, in its entirety and in accordance with the schedule for implementation, is a material condition of this settlement of liability between the Discharger and the Regional Water Board.
- b. The Discharger agrees to (1) spend the CP Amount as described in this Stipulated Order, (2) provide certified, written reports on CP implementation to the Regional Water Board consistent with the terms of this Stipulated Order, and (3) within 30 days of the CP Completion Date, provide a certification by a responsible official, signed under penalty of perjury, that the Discharger followed all applicable environmental laws and regulations in implementing the CP, including the California Environmental Quality Act (CEQA), Porter-Cologne Act, and the federal Clean Water Act. The Discharger further agrees that the Regional Water Board has the right to require a third-party audit of the funds expended to implement the CP at the Discharger’s cost, and that the Discharger bears ultimate responsibility for meeting all deadlines specified in this Stipulated Order.

17. Publicity Associated with the Compliance Project: Whenever the Discharger or its agents or subcontractors publicize one or more elements of the CP, they shall state in a **prominent manner** that the project is undertaken as part of a settlement to a Regional Water Board enforcement action against the Discharger.

18. Progress Reports: As the CP will be completed within less than a year, this Order does not require submission of progress reports while the Project is underway. A Final Report is due by March 29, 2021 and shall include a description of work completed, photograph documentation and documentation of expended money.

19. **Certification of Compliance Project Completion:** No later than 90 days after the CP Completion Date, a responsible official of the Discharger shall submit the certification of project completion, including a certified statement, signed under penalty of perjury, which documents the Discharger's expenditures during the CP completion period and documents that the Discharger completed the CP in accordance with the terms of this Stipulated Order. The expenditures may include external payments to outside vendors, but may not include the normal, routine work undertaken by Discharger staff. In making such certification, the signatories may rely upon normal organizational project tracking systems that capture employee time expenditures and external payments to outside vendors, such as environmental and information technology contractors or consultants. Documentation of CP completion may include photographs, invoices, receipts, certifications, and other materials reasonably necessary for the Regional Water Board to evaluate CP completion and the costs incurred. The Discharger shall provide Regional Water Board staff with any additional information that is reasonably necessary to verify the Discharger's CP expenditures and completion.
20. **Time Extension for CP:** The Executive Officer may extend the deadlines contained in this Stipulated Order if the Discharger demonstrates delays from unforeseeable contingencies, provided that the Discharger continues to undertake all appropriate measures to meet its deadlines. The Discharger shall make any deadline extension request in writing at least 30 days prior to the applicable deadline if practicable.
- Under no circumstances may the completion of the CP extend past five (5) years from the effective date of this Stipulated Order. Any approval of extension by the Executive Officer must be in writing.
21. **Regional Water Board Acceptance of Completed CP:** Upon the Discharger's satisfaction of its obligations under this Stipulated Order, completion of the CP, and any audits, the Executive Officer will issue a "Satisfaction of Order." The Satisfaction of Order shall terminate any further obligations of the Discharger under this Stipulated Order and permanently suspend the remaining penalty amount.
22. **Failure to Expend All Suspended Funds on the Approved CP:** If the Discharger is not able to demonstrate to the reasonable satisfaction of the Executive Officer that the entire CP Amount was spent on the completed CP, the Discharger shall pay the difference between the CP Amount and the amount the Discharger can demonstrate was actually spent on the CP (the Difference). If the Parties do not agree on the amount of suspended liability owed it shall be determined via a Motion for Payment of Suspended Liability before the Regional Water Board or its delegate. Unless the Regional Water Board or its delegate determines otherwise, the Discharger shall not be entitled to any credit, offset, or reimbursement from the Regional Water Board for expenditures made on the CP prior to the Notice of Violation's issuance date.

If there is a material failure to satisfy a project milestone, the Executive Officer shall issue a "Notice of Violation" that will inform the Discharger to pay the Difference to the State Water Pollution Cleanup and Abatement Account. Within 30 days of the Regional Water Board's or its delegate's determination of the suspended liability amount assessed for the Discharger to pay, the Discharger shall submit payment consistent with the payment method described in Section III, paragraph 13. Timely payment of the Difference shall satisfy the Discharger's obligations to implement the CP.

23. **Regional Water Board is not Liable:** Neither the Regional Water Board members nor the Regional Water Board staff, attorneys, or representatives shall be liable for any injury or damage to persons or property resulting from negligent or intentional acts or omissions by the Discharger, its directors, officers, employees, agents, representatives or contractors in carrying out activities pursuant to this Stipulated Order, nor shall the Regional Water Board, its members or staff be held as parties to or guarantors of any contract entered into by the Discharger, its directors, officers, employees, agents, representatives or contractors in carrying out activities pursuant to this Stipulated Order.
24. **Party Contacts for Communications related to Stipulation/Order:**

For the Regional Water Board:

Diana Henriouille
Senior Water Resource Control
Engineer
North Coast Regional Water
Quality Control Board
5550 Skylane Boulevard, Suite A
Santa Rosa, CA 95403
Diana, Henriouille
@waterboards.ca.gov
(707) 576-2350

For the Discharger:

Karen Diemer
City Manager
City of Arcata
Wastewater Treatment Facility
City of Arcata
736 F Street
Arcata, CA 95521
kdiemer@cityofarcata.org

25. **Compliance with Applicable Laws:** The Discharger understands that payment of administrative civil liability in accordance with the terms of this Stipulated Order or compliance with the terms of this Stipulated 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.

26. **Matters Addressed by Stipulation:** Upon the Regional Water Board's this Stipulated Order represents a final and binding resolution and settlement of the alleged violations as of the effective date of this Stipulated Order. The provisions of this paragraph are expressly conditioned on the completion of the Compliance Project as specified herein.
27. **No Waiver of Right to Enforce:** The failure of the Prosecution Team or Regional Water Board to enforce any provision of this Stipulated Order shall in no way be deemed a waiver of such provision, or in any way affect the validity of this Stipulated Order. The failure of the Prosecution Team or Regional Water Board to enforce any such provision shall not preclude it from later enforcing the same or any other provision of this Stipulated Order. No oral advice, guidance, suggestions or comments by employees or officials of any Party regarding matters covered under this Stipulated Order shall be construed to relieve any Party regarding matters covered in this Stipulated Order. The Regional Water Board reserves all rights to take additional enforcement actions, including without limitation the issuance of administrative civil liability complaints or orders for violations other than those addressed by this Stipulated Order.
28. **Attorney's Fees and Costs:** Except as otherwise provided herein, each Party shall bear all attorneys' fees and costs arising from the Party's own counsel in connection with the matters set forth herein.
29. **Public Notice:** The Discharger understands that this Stipulated Order must be noticed for a 30-day public review and comment period prior to consideration by the Regional Water Board or its delegate. If significant new information is received that reasonably affects the propriety of presenting this Stipulated Order to the Regional Water Board, or its delegate, for adoption, the Prosecution Team may unilaterally declare this Stipulated Order void and decide not to present it to the Regional Water Board or its delegate. The Discharger agrees that it may not rescind or otherwise withdraw its approval of this proposed Stipulated Order.
30. **Addressing Objections Raised During Public Comment Period:** The Parties agree that the procedure contemplated for the Regional Water Board's or its delegate's adoption of the Order, and public review of this Stipulated Order is lawful and adequate. The Parties understand that the Regional Water Board, or its delegate, have the authority to require a public hearing on this Stipulated Order. In the event procedural objections are raised or the Regional Water Board requires a public hearing prior to the Order becoming effective, the Parties agree to meet and confer concerning any such objections, and may agree to revise or adjust the procedure and/or this Stipulated Order as necessary or advisable under the circumstances.

31. **Interpretation:** This Stipulated Order shall be construed as if the Parties prepared it jointly. Any uncertainty or ambiguity shall not be interpreted against any one Party. The Parties are represented by counsel in this matter.
32. **If Order Does Not Take Effect:** In the event that the Order does not take effect because the Regional Water Board or its delegate does not approve it, or the State Water Board or a court vacates it in whole or in part, 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 violation(s), 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 the following:
 - 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 Stipulated 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.
33. **Waiver of Hearing:** Discharger has been informed of the rights Water Code section 13323, subdivision (b) provides, and hereby waives its right to a hearing before the Regional Water Board prior to the Order's adoption.
34. **Waiver of Right to Petition or Appeal:** The Discharger hereby waives its right to petition the Regional Water Board's adoption of the Order for review by the State Water Board, and further waives its rights, if any, to appeal the same to a California Superior Court and/or any California appellate level court. This explicit waiver of rights includes potential future decisions by the Regional Water Board, or its delegate directly related to this Stipulated Order, including, but not limited to time extensions, Compliance Project completion, and other terms contained in this Stipulated Order.
35. **Covenant Not to Sue:** The Discharger covenants 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 matter expressly addressed by the Complaint, this Stipulated Order or the Compliance Project.

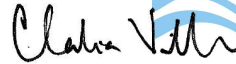
36. **Necessity for Written Modifications and Approvals:** All modifications to this Stipulated Order and approvals and decisions of the Regional Water Board under the terms of this Stipulated Order shall be communicated to the Discharger in writing. No oral advice, guidance, suggestions, or comments from Regional Water Board employees or officials regarding submissions or notices shall be construed to relieve the Discharger of its obligation to obtain any final written approval this Stipulated Order requires.
37. **Authority to Bind:** Each person executing this Stipulated Order in a representative capacity represents and warrants that he or she is authorized to execute this Stipulated Order on behalf of and to bind the entity on whose behalf he or she executes the Stipulated Order.
38. **Severability:** This Stipulated Order is severable; should any provision be found invalid the remainder shall remain in full force and effect.
39. **Counterpart Signatures; Facsimile and Electronic Signature:** This Stipulated Order 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. Further, this Stipulated Order may be executed by facsimile or electronic signature, and any such facsimile or electronic signature by any Party hereto shall be deemed to be an original signature and shall be binding on such Party to the same extent as if such facsimile or electronic signature were an original signature.
40. **Effective Date:** This Stipulated Order shall be effective and binding on the Parties upon the date the Regional Water Board, or its delegate, enters the Order incorporating the terms of this Stipulated Order.

(continued on next page)

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IT IS SO STIPULATED.

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


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Claudia E. Villacorta
Date: 2020.11.06
14:50:03 -08'00'

Date: _____ **By:** _____
Claudia Villacorta
Assistant Executive Officer

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City of Arcata

Date: 10.29.2020

By: 

**Karen Diemer
City Manager**

ORDER OF THE REGIONAL WATER BOARD

41. This Order incorporates the foregoing Sections I through III by this reference as if set forth fully herein.
42. Issuance of this Order is being taken for the protection of the environment and to enforce the laws and regulations administered by the Regional Water Board and is exempt from provisions of the California Environmental Quality Act (CEQA) (Public Resources Code, § 21000 et seq.) in accordance with California Code of Regulations, title 14, section 15321(a)(2). This Order includes a Compliance Project in the North Coast Region. This Order generally accepts the plans proposed for the compliance project prior to implementation. Mere submittal of plans is exempt from CEQA as submittal will not cause a direct or indirect physical change in the environment.
43. The Executive Officer is authorized to refer this matter directly to the Attorney General for enforcement if the Discharger fails to perform any of its obligations under the Order.

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

Date:

By:

Matthias St. John
Executive Officer

Exhibits:

- A. Effluent Limitation Violations Requiring Mandatory Minimum Penalties
- B. Determination of Financial Hardship Memo
- C. Compliance Project Proposal

Effluent Limitation Violations Requiring Mandatory Minimum Penalties

#	Violation Number	Violation Date	Constituent	Pollutant Group	Limitation Period	Limit	Result/Average	Units	Exempted from MMP?	% Over Limit	Date 180 Days Prior	Serious or Chronic Violation?	No. of Violations within 180 days	Mandatory Fine?	Water Code	Penalty
1	931859	06/30/2012	Copper, Total	Group 2	Monthly Average	2.8	4.2	ug/L	N	50%	01/02/2012	S	N/A	Y	13385(h)	\$ 3,000
2	935634	07/31/2012	Copper, Total	Group 2	Monthly Average	2.8	3.6	ug/L	N	29%	02/02/2012	S	N/A	Y	13385(h)	\$ 3,000
3	984608	08/28/2012	Dichlorobromo-methane	Group 2	Daily Maximum	1.12	2.2	ug/L	N	96%	03/01/2012	S	N/A	Y	13385(h)	\$ 3,000
4	938763	08/28/2012	Carbon Tetrachloride	Group 2	Daily Maximum	0.5	0.8	ug/L	N	60%	03/01/2012	S	N/A	Y	13385(h)	\$ 3,000
5	938765	08/31/2012	Copper, Total	Group 2	Monthly Average	2.9	3.3	ug/L	N	14%	03/04/2012	C	7	Y	13385(i)	\$ 3,000
6	938764	08/31/2012	Carbon Tetrachloride	Group 2	Monthly Average	0.25	0.8	ug/L	N	220%	03/04/2012	S	N/A	Y	13385(h)	\$ 3,000
7	938762	08/31/2012	Dichlorobromo-methane	Group 2	Monthly Average	0.56	2.2	ug/L	N	293%	03/04/2012	S	N/A	Y	13385(h)	\$ 3,000
8	938766	09/30/2012	Copper, Total	Group 2	Monthly Average	2.9	3.3	ug/L	N	14%	04/03/2012	C	8	Y	13385(i)	\$ 3,000
9	940074	10/31/2012	Copper, Total	Group 2	Monthly Average	2.9	3.2	ug/L	N	10%	05/04/2012	C	9	Y	13385(i)	\$ 3,000
10	941291	11/30/2012	Copper, Total	Group 2	Monthly Average	2.9	3.8	ug/L	N	31%	06/03/2012	S	N/A	Y	13385(h)	\$ 3,000
11	942887	12/01/2012	Chlorine, Total Residual	Group 2	Daily Maximum	0.02	0.073	mg/L	N	265%	06/04/2012	S	N/A	Y	13385(h)	\$ 3,000
12	942888	12/02/2012	Settleable Solids	Group 1	Daily Maximum	0.2	0.4	ml/L	N	100%	06/05/2012	S	N/A	Y	13385(h)	\$ 3,000
13	942886	12/08/2012	Total Suspended Solids	Group 1	Weekly Average	1900	2200	lb/day	N	16%	06/11/2012	C	13	Y	13385(i)	\$ 3,000

#	Violation Number	Violation Date	Constituent	Pollutant Group	Limitation Period	Limit	Result/Average	Units	Exempted from MMP?	% Over Limit	Date 180 Days Prior	Serious or Chronic Violation?	No. of Violations within 180 days	Mandatory Fine?	Water Code	Penalty
14	942891	12/10/2012	2,3,7,8-TCDD (Dioxin)	Group 2	Daily Maximum	0.026	0.28	pg/L	N	977%	06/13/2012	S	N/A	Y	13385(h)	\$ 3,000
15	1055062	12/31/2012	Settleable Solids	Group 1	Monthly Average	0.1	0.4	ml/L	N	300%	07/04/2012	S	N/A	Y	13385(h)	\$ 3,000
16	1055049	12/31/2012	Chlorine, Total Residual	Group 2	Monthly Average	0.01	0.073	mg/L	N	630%	07/04/2012	S	N/A	Y	13385(h)	\$ 3,000
17	942892	12/31/2012	Dichlorobromomethane	Group 2	Monthly Average	0.56	0.7	ug/L	N	25%	07/04/2012	S	N/A	Y	13385(h)	\$ 3,000
18	942893	12/31/2012	Copper, Total	Group 2	Monthly Average	2.9	3.7	ug/L	N	28%	07/04/2012	S	N/A	Y	13385(h)	\$ 3,000
19	942890	12/31/2012	2,3,7,8-TCDD (Dioxin)	Group 2	Monthly Average	0.013	0.28	pg/L	N	2054%	07/04/2012	S	N/A	Y	13385(h)	\$ 3,000
20	944432	01/31/2013	Copper, Total	Group 2	Monthly Average	2.9	3.5	ug/L	N	21%	08/04/2012	S	N/A	Y	13385(h)	\$ 3,000
21	944931	02/28/2013	Copper, Total	Group 2	Monthly Average	2.9	3.5	ug/L	N	21%	09/01/2012	S	N/A	Y	13385(h)	\$ 3,000
22	947223	03/31/2013	Total Suspended Solids	Group 1	Monthly Average	85	82	%	N	-4%	10/02/2012	C	14	Y	13385(i)	\$ 3,000
23	984611	03/31/2013	Total Suspended Solids	Group 1	Monthly Average	30	34	mg/L	N	13%	10/02/2012	C	15	Y	13385(i)	\$ 3,000
24	947222	03/31/2013	Copper, Total	Group 2	Monthly Average	2.9	5	ug/L	N	72%	10/02/2012	S	N/A	Y	13385(h)	\$ 3,000
25	948881	04/30/2013	Copper, Total	Group 2	Monthly Average	2.9	5.7	ug/L	N	97%	11/01/2012	S	N/A	Y	13385(h)	\$ 3,000
26	950310	05/31/2013	Dichlorobromo-methane	Group 2	Monthly Average	0.56	0.76	ug/L	N	36%	12/02/2012	S	N/A	Y	13385(h)	\$ 3,000
27	950312	05/31/2013	Copper, Total	Group 2	Monthly Average	2.9	3.9	ug/L	N	34%	12/02/2012	S	N/A	Y	13385(h)	\$ 3,000
28	1044512	08/05/2013	Dichlorobromo-methane	Group 2	Maximum Daily	1.12	2.2	ug/L	N	96%	02/06/2013	S	N/A	Y	13385(h)	\$ 3,000
29	955720	08/16/2013	pH	Other	Instantaneous	6	5.9	SU	N	N/A	02/17/2013	C	9	Y	13385(i)	\$ 3,000

#	Violation Number	Violation Date	Constituent	Pollutant Group	Limitation Period	Limit	Result/Average	Units	Exempted from MMP?	% Over Limit	Date 180 Days Prior	Serious or Chronic Violation?	No. of Violations within 180 days	Mandatory Fine?	Water Code	Penalty
30	955719	08/31/2013	Copper, Total	Group 2	Monthly Average	2.9	4.3	ug/L	N	48%	03/04/2013	S	N/A	Y	13385(h)	\$ 3,000
31	1044513	08/31/2013	Dichlorobromo-methane	Group 2	Monthly Average	0.56	2.2	ug/L	N	293%	03/04/2013	S	N/A	Y	13385(h)	\$ 3,000
32	957556	09/30/2013	Copper, Total	Group 2	Monthly Average	2.9	3	ug/L	N	3%	04/03/2013	C	8	Y	13385(i)	\$ 3,000
33	962764	10/14/2013	Dichlorobromo-methane	Group 2	Daily Maximum	1.12	1.4	ug/L	N	25%	04/17/2013	S	N/A	Y	13385(h)	\$ 3,000
34	958994	10/31/2013	Copper, Total	Group 2	Monthly Average	2.9	5.2	ug/L	N	79%	05/04/2013	S	N/A	Y	13385(h)	\$ 3,000
35	962765	10/31/2013	Dichlorobromo-methane	Group 2	Monthly Average	0.56	1.4	ug/L	N	150%	05/04/2013	S	N/A	Y	13385(h)	\$ 3,000
36	960857	11/30/2013	Copper, Total	Group 2	Monthly Average	2.9	4.9	ug/L	N	69%	06/03/2013	S	N/A	Y	13385(h)	\$ 3,000
37	962767	12/31/2013	Copper, Total	Group 2	Monthly Average	2.9	4.2	ug/L	N	45%	07/04/2013	S	N/A	Y	13385(h)	\$ 3,000
38	964232	01/13/2014	Copper, Total	Group 2	Daily Maximum	5.8	6.7	ug/L	N	16%	07/17/2013	C	11	Y	13385(i)	\$ 3,000
39	964233	01/31/2014	Total Suspended Solids	Group 1	Monthly Average	30	31	mg/L	N	3%	08/04/2013	C	12	Y	13385(i)	\$ 3,000
40	964235	01/31/2014	Copper, Total	Group 2	Monthly Average	2.9	6.7	ug/L	N	131%	08/04/2013	S	N/A	Y	13385(h)	\$ 3,000
41	966041	02/15/2014	Total Suspended Solids	Group 1	Weekly Average	45	49	mg/L	N	9%	08/19/2013	C	12	Y	13385(i)	\$ 3,000
42	966038	02/22/2014	Total Suspended Solids	Group 1	Weekly Average	1500	2000	lb/day	N	33%	08/26/2013	C	13	Y	13385(i)	\$ 3,000
43	984614	02/22/2014	Total Suspended Solids	Group 1	Weekly Average	45	47	mg/L	N	4%	08/26/2013	C	14	Y	13385(i)	\$ 3,000
44	966039	02/25/2014	Copper, Total	Group 2	Daily Maximum	5.8	6.8	ug/L	N	17%	08/29/2013	C	15	Y	13385(i)	\$ 3,000

#	Violation Number	Violation Date	Constituent	Pollutant Group	Limitation Period	Limit	Result/Average	Units	Exempted from MMP?	% Over Limit	Date 180 Days Prior	Serious or Chronic Violation?	No. of Violations within 180 days	Mandatory Fine?	Water Code	Penalty
45	966037	02/28/2014	Total Suspended Solids	Group 1	Monthly Average	30	38	mg/L	N	27%	09/01/2013	C	14	Y	13385(i)	\$ 3,000
46	966042	02/28/2014	Total Suspended Solids	Group 1	Monthly Average	85	84	%	N	-1%	09/01/2013	C	15	Y	13385(i)	\$ 3,000
47	966043	02/28/2014	Total Suspended Solids	Group 1	Monthly Average	755	878	lb/day	N	16%	09/01/2013	C	16	Y	13385(i)	\$ 3,000
48	966036	02/28/2014	Copper, Total	Group 2	Monthly Average	2.9	6.8	ug/L	N	134%	09/01/2013	S	N/A	Y	13385(h)	\$ 3,000
49	967694	03/05/2014	Copper, Total	Group 2	Daily Maximum	5.8	7.6	ug/L	N	31%	09/06/2013	S	N/A	Y	13385(h)	\$ 3,000
50	967693	03/15/2014	Total Suspended Solids	Group 1	Weekly Average	1700	2000	lb/day	N	18%	09/16/2013	C	19	Y	13385(i)	\$ 3,000
51	967700	03/15/2014	Total Suspended Solids	Group 1	Weekly Average	45	48	mg/L	N	7%	09/16/2013	C	20	Y	13385(i)	\$ 3,000
52	1055076	03/31/2014	Total Suspended Solids	Group 1	Weekly Average	575	672	lb/day	N	17%	10/02/2013	C	20	Y	13385(i)	\$ 3,000
53	967699	03/31/2014	Copper, Total	Group 2	Monthly Average	2.9	7.6	ug/L	N	162%	10/02/2013	S	N/A	Y	13385(h)	\$ 3,000
54	969587	04/30/2014	Copper, Total	Group 2	Monthly Average	2.9	5.6	ug/L	N	93%	11/01/2013	S	N/A	Y	13385(h)	\$ 3,000
55	971014	05/31/2014	Copper, Total	Group 2	Monthly Average	2.9	5.1	ug/L	N	76%	12/02/2013	S	N/A	Y	13385(h)	\$ 3,000
56	975641	07/09/2014	pH	Other	Instantaneous	6	5.9	SU	N	N/A	01/10/2014	C	19	Y	13385(i)	\$ 3,000
57	978712	07/24/2014	Dichlorobromo-methane	Group 2	Maximum Daily	1.12	5.7	ug/L	N	409%	01/25/2014	S	N/A	Y	13385(h)	\$ 3,000
58	978711	07/31/2014	Dichlorobromo-methane	Group 2	Monthly Average	0.56	5.7	ug/L	N	918%	02/01/2014	S	N/A	Y	13385(h)	\$ 3,000

#	Violation Number	Violation Date	Constituent	Pollutant Group	Limitation Period	Limit	Result/Average	Units	Exempted from MMP?	% Over Limit	Date 180 Days Prior	Serious or Chronic Violation?	No. of Violations within 180 days	Mandatory Fine?	Water Code	Penalty
59	980069	08/30/2014	Fecal Coliform	Other	Maximum Daily	43	49	MPN/100	N	N/A	03/03/2014	C	11	Y	13385(i)	\$ 3,000
60	1055077	10/21/2014	Dichlorobromo-methane	Group 2	Daily Maximum	1.12	2	ug/L	N	79%	04/24/2014	S	N/A	Y	13385(h)	\$ 3,000
61	981410	10/31/2014	Copper, Total	Group 2	Monthly Average	2.9	3.9	ug/L	N	34%	05/04/2014	S	N/A	Y	13385(h)	\$ 3,000
62	983417	10/31/2014	Dichlorobromo-methane	Group 2	Monthly Average	0.56	2	ug/L	N	257%	05/04/2014	S	N/A	Y	13385(h)	\$ 3,000
63	983586	11/30/2014	Copper, Total	Group 2	Monthly Average	2.9	3.9	ug/L	N	34%	06/03/2014	S	N/A	Y	13385(h)	\$ 3,000
64	1001927	12/13/2014	Total Suspended Solids	Group 1	Weekly Average	1490	1565	lb/day	N	5%	06/16/2014	C	9	Y	13385(i)	\$ 3,000
65	1001929	12/27/2014	Total Suspended Solids	Group 1	Weekly Average	45	61	mg/L	N	36%	06/30/2014	C	10	Y	13385(i)	\$ 3,000
66	993130	12/27/2014	Total Suspended Solids	Group 1	Weekly Average	1900	2900	lb/day	N	53%	06/30/2014	S	N/A	Y	13385(h)	\$ 3,000
67	985526	12/31/2014	Total Suspended Solids	Group 1	Percent Reduction	85	75	%	N	-12%	07/04/2014	C	12	Y	13385(i)	\$ 3,000
68	993132	12/31/2014	Total Suspended Solids	Group 1	Monthly Average	970	1300	lb/day	N	34%	07/04/2014	C	13	Y	13385(i)	\$ 3,000
69	1001930	12/31/2014	Total Suspended Solids	Group 1	Monthly Average	30	37	mg/L	N	23%	07/04/2014	C	14	Y	13385(i)	\$ 3,000
70	993131	02/14/2015	Total Suspended Solids	Group 1	Weekly Average	1200	1400	lb/day	N	17%	08/18/2014	C	12	Y	13385(i)	\$ 3,000
71	993133	02/14/2015	Total Suspended Solids	Group 1	Weekly Average	45	47	mg/L	N	4%	08/18/2014	C	13	Y	13385(i)	\$ 3,000

#	Violation Number	Violation Date	Constituent	Pollutant Group	Limitation Period	Limit	Result/Average	Units	Exempted from MMP?	% Over Limit	Date 180 Days Prior	Serious or Chronic Violation?	No. of Violations within 180 days	Mandatory Fine?	Water Code	Penalty
72	990185	02/18/2015	Dichlorobromomethane	Group 2	Maximum Daily	1.12	1.6	ug/L	N	43%	08/22/2014	S	N/A	Y	13385(h)	\$ 3,000
73	990182	02/28/2015	Dichlorobromomethane	Group 2	Monthly Average	0.56	1.6	ug/L	N	186%	09/01/2014	S	N/A	Y	13385(h)	\$ 3,000
74	992687	04/07/2015	Dichlorobromomethane	Group 2	Daily Maximum	1.12	2.5	ug/L	N	123%	10/09/2014	S	N/A	Y	13385(h)	\$ 3,000
75	992689	04/30/2015	Dichlorobromomethane	Group 2	Monthly Average	0.56	2.5	ug/L	N	346%	11/01/2014	S	N/A	Y	13385(h)	\$ 3,000
76	998558	08/20/2015	Dichlorobromomethane	Group 2	Daily Maximum	1.12	5.5	ug/L	N	391%	02/21/2015	S	N/A	Y	13385(h)	\$ 3,000
77	998559	08/31/2015	Dichlorobromomethane	Group 2	Monthly Average	0.56	5.5	ug/L	N	882%	03/04/2015	S	N/A	Y	13385(h)	\$ 3,000
78	1002473	10/28/2015	Dichlorobromomethane	Group 2	Daily Maximum	1.12	3.2	ug/L	N	186%	05/01/2015	S	N/A	Y	13385(h)	\$ 3,000
79	1002472	10/31/2015	Dichlorobromomethane	Group 2	Monthly Average	0.56	3.2	ug/L	N	471%	05/04/2015	S	N/A	Y	13385(h)	\$ 3,000
80	1006595	01/07/2016	Dichlorobromomethane	Group 2	Daily Maximum	1.12	1.3	ug/L	N	16%	07/11/2015	C	5	Y	13385(i)	\$ 3,000
81	1055078	01/31/2016	Dichlorobromomethane	Group 2	Monthly Average	0.56	1.3	ug/L	N	132%	08/04/2015	S	N/A	Y	13385(h)	\$ 3,000
82	1010924	04/30/2016	Dichlorobromomethane	Group 2	Monthly Average	0.56	0.68	ug/L	N	21%	11/02/2015	S	N/A	Y	13385(h)	\$ 3,000
83	1012380	07/19/2016	Cyanide, Total (as CN)	Group 2	Daily Maximum	1	7	ug/L	N	600%	01/21/2016	S	N/A	Y	13385(h)	\$ 3,000
84	1014559	09/22/2016	Dichlorobromomethane	Group 2	Daily Maximum	1.12	5.5	ug/L	N	391%	03/26/2016	S	N/A	Y	13385(h)	\$ 3,000
85	1014558	09/30/2016	Dichlorobromomethane	Group 2	Monthly Average	0.56	5.5	ug/L	N	882%	04/03/2016	S	N/A	Y	13385(h)	\$ 3,000
86	1016115	10/15/2016	Total Suspended Solids	Group 1	High Weekly Average	863	910	lb/day	N	5%	04/18/2016	C	5	Y	13385(i)	\$ 3,000
87	1016114	10/22/2016	Biochemical Oxygen	Group 1	High Weekly Average	45	47	mg/L	N	4%	04/25/2016	C	6	Y	13385(i)	\$ 3,000
88	1016119	10/22/2016	Biochemical Oxygen	Group 1	High Weekly Average	863	884	lb/day	N	2%	04/25/2016	C	7	Y	13385(i)	\$ 3,000

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89	1016118	10/31/2016	Biochemical Oxygen	Group 1	Monthly Average	30	32	mg/L	N	7%	05/04/2016	C	10	Y	13385(i)	\$ 3,000
90	1016113	10/31/2016	Total Suspended Solids	Group 1	Monthly Average	30	31	mg/L	N	3%	05/04/2016	C	7	Y	13385(i)	\$ 3,000
91	1016116	10/31/2016	Biochemical Oxygen	Group 1	Monthly Average	575	734	lb/day	N	28%	05/04/2016	C	8	Y	13385(i)	\$ 3,000
92	1016117	10/31/2016	Total Suspended Solids	Group 1	Monthly Average	575	708	lb/day	N	23%	05/04/2016	C	9	Y	13385(i)	\$ 3,000
93	1020421	11/21/2016	Dichlorobromo-methane	Group 2	Daily Maximum	1.12	1.6	ug/L	N	43%	05/25/2016	S	N/A	Y	13385(h)	\$ 3,000
94	1017335	11/30/2016	Total Suspended Solids	Group 1	Monthly Average	85	84	%	N	-1%	06/03/2016	C	12	Y	13385(i)	\$ 3,000
95	1017337	11/30/2016	BOD5 @ 20 Deg. C,	Group 1	Monthly Average	85	84	%	N	-1%	06/03/2016	C	13	Y	13385(i)	\$ 3,000
96	1020420	11/30/2016	Dichlorobromo-methane	Group 2	Monthly Average	0.56	1.6	ug/L	N	186%	06/03/2016	S	N/A	Y	13385(h)	\$ 3,000
97	1024350	01/05/2017	Dichlorobromo-methane	Group 2	Monthly Average	0.56	0.94	ug/L	N	68%	07/09/2016	S	N/A	Y	13385(h)	\$ 3,000
98	1021453	01/31/2017	Total Suspended Solids	Group 1	Percent Reduction	85	84	%	N	-1%	08/04/2016	C	15	Y	13385(i)	\$ 3,000
99	1021454	01/31/2017	Biochemical Oxygen	Group 1	Percent Reduction	85	74	%	N	-13%	08/04/2016	C	16	Y	13385(i)	\$ 3,000
100	1023055	02/28/2017	Biochemical Oxygen	Group 1	Percent Reduction	85	78	%	N	-8%	09/01/2016	C	17	Y	13385(i)	\$ 3,000
101	1024091	03/31/2017	Biochemical Oxygen	Group 1	Percent Reduction	85	81	%	N	-5%	10/02/2016	C	16	Y	13385(i)	\$ 3,000
102	1025534	04/30/2017	Biochemical Oxygen	Group 1	Percent Reduction	85	82	%	N	-4%	11/01/2016	C	10	Y	13385(i)	\$ 3,000
103	1029005	06/27/2017	Dichlorobromo-methane	Group 2	Daily Maximum	1.12	6.6	ug/L	N	489%	12/29/2016	S	N/A	Y	13385(h)	\$ 3,000

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104	1028912	06/30/2017	BOD5 @ 20 Deg. C,	Group 1	Percent Reduction	85	82	%	N	-4%	01/01/2017	C	8	Y	13385(i)	\$ 3,000
105	1028913	06/30/2017	Biochemical Oxygen	Group 1	Monthly Average	30	33	mg/L	N	10%	01/01/2017	C	9	Y	13385(i)	\$ 3,000
106	1029004	06/30/2017	Dichlorobromo-methane	Group 2	Monthly Average	0.56	6.6	ug/L	N	1079%	01/01/2017	S	N/A	Y	13385(h)	\$ 3,000
107	1030539	07/17/2017	Cyanide, Total (as CN)	Group 2	Daily Maximum	1	6.5	ug/L	N	550%	01/18/2017	S	N/A	Y	13385(h)	\$ 3,000
108	1030541	07/27/2017	Cyanide, Total (as CN)	Group 2	Daily Maximum	1	10	ug/L	N	900%	01/28/2017	S	N/A	Y	13385(h)	\$ 3,000
109	1030540	07/31/2017	Cyanide, Total (as CN)	Group 2	Monthly Average	0.5	8.2	ug/L	N	1540%	02/01/2017	S	N/A	Y	13385(h)	\$ 3,000
110	1032744	08/08/2017	Cyanide, Total (as CN)	Group 2	Daily Maximum	1	8.8	ug/L	N	780%	02/09/2017	S	N/A	Y	13385(h)	\$ 3,000
111	1032743	08/31/2017	Cyanide, Total (as CN)	Group 2	Monthly Average	0.5	8.8	ug/L	N	1660%	03/04/2017	S	N/A	Y	13385(h)	\$ 3,000
112	1033859	09/12/2017	Dichlorobromo-methane	Group 2	Daily Maximum	1.12	3.4	ug/L	N	204%	03/16/2017	S	N/A	Y	13385(h)	\$ 3,000
113	1033860	09/30/2017	Dichlorobromo-methane	Group 2	Monthly Average	0.56	3.4	ug/L	N	507%	04/03/2017	S	N/A	Y	13385(h)	\$ 3,000
114	1038013	10/25/2017	Dichlorobromo-methane	Group 2	Daily Maximum	1.12	2.6	ug/L	N	132%	04/28/2017	S	N/A	Y	13385(h)	\$ 3,000
115	1038015	10/31/2017	Dichlorobromo-methane	Group 2	Monthly Average	0.56	2.6	ug/L	N	364%	05/04/2017	S	N/A	Y	13385(h)	\$ 3,000
116	1046086	05/23/2018	Dichlorobromo-methane	Group 2	Maximum Daily	1.12	2.6	ug/L	N	132%	11/24/2017	S	N/A	Y	13385(h)	\$ 3,000
117	1045077	05/31/2018	Total Suspended Solids	Group 1	Monthly Average	30	31	mg/L	N	3%	12/02/2017	C	2	N		\$ 0
118	1046087	05/31/2018	Dichlorobromo-methane	Group 2	Monthly Average	0.56	2.6	ug/L	N	364%	12/02/2017	S	N/A	Y	13385(h)	\$ 3,000
119	1048803	08/09/2018	pH	Other	Daily Maximum	6	5.8	SU	N	N/A	02/10/2018	C	4	Y	13385(i)	\$ 3,000

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120	1050542	09/19/2018	Dichlorobromomethane	Group 2	Daily Maximum	1.12	2.7	ug/L	N	141%	03/23/2018	S	N/A	Y	13385(h)	\$ 3,000
121	1050541	09/30/2018	Dichlorobromomethane	Group 2	Monthly Average	0.56	2.7	ug/L	N	382%	04/03/2018	S	N/A	Y	13385(h)	\$ 3,000
122	1055228	11/30/2018	Dichlorobromomethane	Group 2	Monthly Average	0.56	0.94	ug/L	N	68%	06/03/2018	C	4	Y	13385(i)	\$ 3,000
123	1057247	02/28/2019	BOD5 @ 20 Deg. C,	Group 1	Monthly Average	85	84	%	N	-1%	09/01/2018	C	4	Y	13385(i)	\$ 3,000

Total Penalty: \$ 366,000

1 - Violation occurs on sample date or last date of averaging period.
2 - For Group I pollutants, a violation is serious when the limit is exceeded by 40% or more
- For Group II pollutants, a violation is serious when the limit is exceeded by 20% or more
3 - When a serious violation occurs on the same day as a chronic, the serious violation is only assessed an MMP once and is counted last for the day when determining the number of chronic violations to be assessed a penalty.

Violation period August 1, 2012, to February 28, 2019

Group I Violations Assessed MMP:	40
Group II Violations Assessed MMP:	78
Other Effluent Violations Assessed MMP:	4
Violations Exempt from MMP:	0
<u>Total Violations Assessed MMP:</u>	<u>122</u>

Mandatory Minimum Penalty = (73 Serious Violations + 49 Non-Serious Violations) x \$3,000 = \$366,000

State of California
North Coast Water Quality Control Board
Interoffice Memorandum

TO: Diana Henriouille
FROM: Jordan Filak
DATE: February 13, 2020

SUBJECT: ARCATA COMMUNITY SERVICES DISTRICT, WASTEWATER TREATMENT FACILITY (ARCATA WWTF), DETERMINATION OF ELIGIBILITY FOR COMPLIANCE PROJECT AS A PUBLICLY OWNED TREATMENT WORKS (POTW) SERVING A SMALL COMMUNITY WITH A FINANCIAL HARDSHIP

Background and Summary

Arcata WWTF has accrued \$366,000 in mandatory minimum penalties (MMPs) for the period from January 1, 2012 through October 1, 2019. The analysis described below suggests Arcata WWTF is currently eligible to complete a Compliance Project.

Analysis

Water Code section 13385, subdivision (k), provides that the State Water Resources Control Board (State Water Board) or Regional Water Board may, contingent upon certain findings, require a POTW serving a small community to spend an amount of money equivalent to the MMP amount toward the completion of a compliance project proposed by the POTW, in lieu of paying the penalty amount to the State Water Board's Cleanup and Abatement Account. Water Code section 13385, subdivision (k)(2), defines a POTW "serving a small community" as:

"[A] publicly owned treatment works serving a population of 20,000 persons or fewer or a rural county, with a financial hardship as determined by the state board after considering such factors as median income of the residents, rate of unemployment, or low population density in the service area of the publicly owned treatment works."

Determining whether a POTW is "serving a small community" entails two separate determinations, whether: (1) the POTW is either situated within a rural county or has a population of 20,000 or less; and (2) the POTW's service area has a "financial hardship."

1. Rural County/Population Cap

Consistent with Water Code section 13385, subdivision (k)(2), the State Water Resources Control Board's 2017 Enforcement Policy¹, at page 26, identifies a "rural county" as a county classified by the Economic Research Service (ERS), United States Department of Agriculture (USDA), with a rural-urban continuum code of four through nine.

The Arcata WWTF is a POTW located in Humboldt County. According to the 2013 Rural Urban Continuum Codes file updated on May 10, 2013², Humboldt County has a rural-urban continuum code of five (Nonmetro - Urban population of 20,000 or more, not adjacent to a metro area) and therefore, falls within the "rural county" classification. Furthermore, based on United States Census Bureau data discussed below, the block groups approximating the services area for the Arcata WWTF have a total population of 18,552. By either criterion, the community served by the Arcata WWTF meets the definition of "small."

2. Financial Hardship

Consistent with Water Code section 13385, subdivision (k)(2), the *Enforcement Policy*, at page 26, defines "financial hardship" in terms of median household income (MHI), unemployment rate and poverty level.³ Specifically, the Enforcement Policy defines "financial hardship" as meaning that the community served by the POTW meets one of the following criteria:

- *Median household income⁴ for the community is less than 80 percent of the California median household income;*

¹ A copy of the State Water Board's Water Quality Enforcement Policy is available at https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2017/040417_9_final%20adopted%20policy.pdf

² <http://www.ers.usda.gov/data-products/rural-urban-continuum-codes.aspx>, accessed January 22, 2020.

³ *Median household income, unemployment rate, and poverty level of the population served by the POTW are based on the most recent U.S. Census block group data or a local survey approved by the Regional Water Board in consultation with the State Water Board.*

⁴ **Median household income:** *The median income divides the income distribution into two equal groups, one having incomes above the median and the other having incomes below the median.*

- *The community has an unemployment rate⁵ of 10 percent or greater; or*
- *Twenty percent of the population is below the poverty⁶ level.*

Figure 1, below, shows the service area covered by the Arcata WWTF, and identifies the United States Census Bureau census tracts and block groups⁷ included within the service area, including Humboldt County Tract 9, Block groups 1 and 2; Tract 10, Block groups 1-4; Tract 11.01, Block groups 1-4; and Tract 12, Block groups 1 and 2.

In order to conduct the analysis to determine financial hardship, staff reviewed datasets available through the Census.gov portal at: <https://data.census.gov/cedsci/>. At the time of this review, the most recent available economic data are from the United States Census Bureau's ongoing 5-year estimates, and the most recent available 5-year estimate with block group data is that for 2018. Datasets staff reviewed to determine financial hardship included those for Total Population (B01003); Number of Households (B19001); Median Household Income weighted by number of households (B19013); Employment Status (B23025); and Ratio of Individuals Below the Poverty Line (C17002).

Accessing the U.S. census link above, staff entered individual dataset numbers into the search window, then filtered the results for each dataset, filtering Geography to: Block Group/California/Humboldt County/All Block Groups within Humboldt County; filtering Years to 2018; and filtering Surveys to ACS 5-Year Estimates Detailed Tables. Table 1, below, shows the results of staff's analysis.

⁵ **Unemployed:** *All civilians, 16 years and older, are classified as unemployed if they (1) were neither "at work" nor "with a job but not at work" during the reference week, (2) were actively looking for work during the last 4 weeks, and (3) were available to accept a job. Also included as unemployed are civilians who (1) did not work at all during the reference week, (2) were waiting to be called back to a job from which they had been laid off, and (3) were available for work except for temporary illness.*

⁶ **Poverty:** *Following the Office of Management and Budget's Directive 14, the Census Bureau uses a set of income thresholds that vary by family size and composition to detect who is poor. If the total income for a family or unrelated individual falls below the relevant poverty threshold, then the family or unrelated individual is classified as being "below the poverty level."*

⁷ **Block group:** *A subdivision of a census tract (or, prior to 2000, a block numbering area). A block group is the smallest geographic unit for which the Census Bureau tabulates sample data. A block group consists of all the blocks within a census tract beginning with the same number. Example: block group 3 consists of all blocks within a 2000 census tract numbering from 3000 to 3999. In 1990, block group 3 consisted of all blocks numbered from 301 to 399Z."*

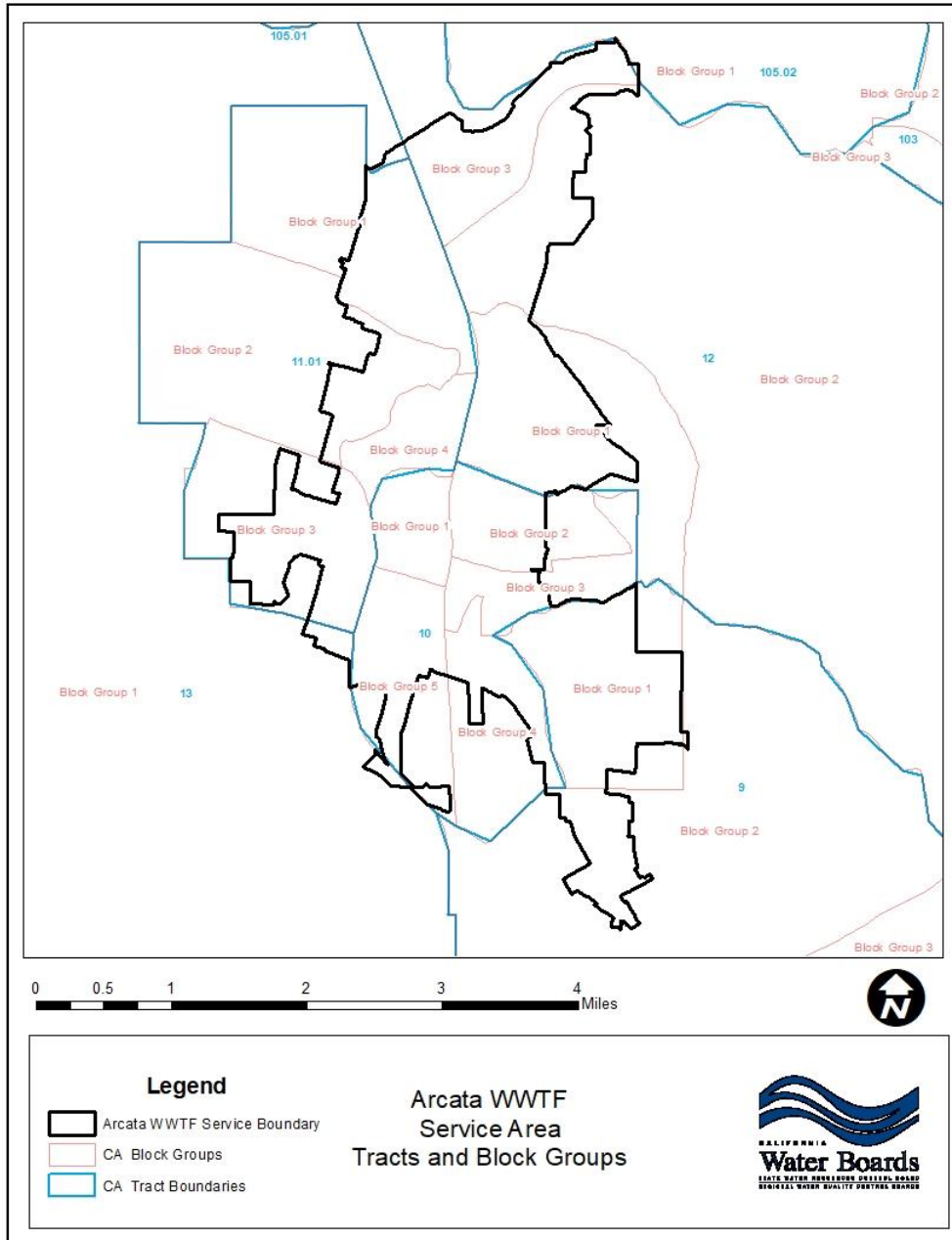


Figure 1

Table 1 – Summary of census data and hardship analysis

Dataset #	Table description	Tract 9 Block groups 1 and 2 2018 5-year	Tract 10 Block groups 1, 2, 3, and 4 2018 5-year	Tract 11.01 Block groups 1, 2, 3, and 4 2018 5-year	Tract 12 Block groups 1 and 2 2018 5-year	Combined Block group Data	Financial Hardship Criterion
B01003	Total Population	2,955 people	4,642 people	7,250 people	3,705 people	18,552 people	Population <20,000 <i>criteria met</i>
B19001	Number of Households	1,222 Total Households	1,883 Total Households	2,748 Total Households	1,348 Total Households	7,201 Total households	N/A
B19013	Median Household Income weighted by number of households	\$69,161	\$30,850	\$42,599	\$52,037	\$48,661	MHI less than 80% of CA MHI 80% CA MHI = \$57,444 <i>criteria met</i>
B23025	Employment Status	1,527 in labor force. Of those, 124 unemployed. 8.0% unemployed	2,793 in labor force. Of those, 347 unemployed. 12.4% unemployed	4,034 in labor force. Of those, 333 unemployed. 8.2% unemployed	1,847 in labor force. Of those, 271 unemployed. 14.7% unemployed	10,201 in labor force. Of those, 1,350 unemployed. 10.5% unemployed	Unemployment rate 10% or greater <i>criteria met</i>
C17002	Ratio of individuals below the Poverty Level	15.5% below poverty level	40.2% below poverty level	36% below poverty level	30.8% below poverty level	30.6% below poverty level	20% below poverty level <i>criteria met</i>

Based on the Enforcement Policy's criteria and the most recent U.S. Census block group data, Arcata WWTF does qualify as a small community with a financial hardship. The median household income weighted by the number of households is less than 80 percent of the California median household income. The service area has an unemployment rate that is more than 10 percent, and more than 20 percent of the population is below the poverty level.

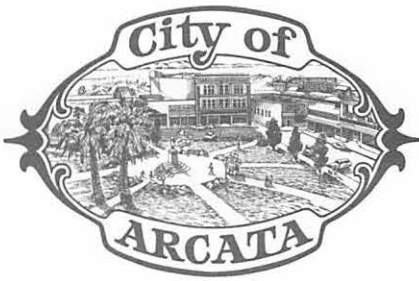
If the Discharger believes that the U.S. Census data used in this determination do not accurately represent the population served by the Arcata WWTF, the Enforcement Policy provides for the possibility of a local survey approved by the Regional Water Board in consultation with the State Water Board and a procedure by which the Discharger may present an alternative justification to the Regional Water Board for designation as a "POTW serving a small community (p. 27)." Pursuant to the Enforcement Policy, the Regional Water Board must consult with the State Water Board when making such determinations.

cc:

Office of Enforcement
State Water Resources Control Board

Exhibit C

City of Arcata Compliance Project Proposal



736 F Street
Arcata, CA 95521

<i>City Manager</i> (707) 822-5953	<i>Environmental Services</i> 822-8184	<i>Police</i> 822-2428	<i>Recreation</i> 822-7091
<i>Community Development</i> 822-5955	<i>Finance</i> 822-5951	<i>Public Works</i> 822-5957	<i>Transportation</i> 822-3775

January 21, 2020

Sent via email to Diana.Henrioulle@waterboards.ca.gov

Diana Henrioulle
North Coast Regional Water Quality Control Board
5550 Skylane Boulevard, Suite A
Santa Rosa, CA 95403

Scope

This document is a Compliance Project proposal for consideration by the North Coast Regional Water Quality Control Board (Regional Board) during settlement negotiations prior to issuance of a formal Administrative Civil Complaint for Mandatory Minimum Penalties issued by the North Coast Regional Water Quality Control Board. The purpose of this submittal is to provide a description, schedule and costs for a proposed compliance project that will improve wastewater treatment efficiency within the Oxidation Ponds and reduce effluent limitation violations for Biochemical Oxygen Demand (BOD₅) and disinfection byproducts at the Arcata Wastewater Treatment Facility.

Background

On June 10, 2019, the City of Arcata received an Invitation to Enter into Settlement Prior to Issuance of Formal Administrative Civil Complaint for Mandatory Minimum Penalties issued by the North Coast Region Water Quality Control Board. The Complaint spanned a period of more than 6 years (August 2012 – February 2019) and included 122 exceedances of the effluent limits for BOD, chlorine, carbon tetrachloride, copper, cyanide, total suspended solids, pH and dichlorobromomethane subject to mandatory minimum penalties (MMP). On July 3, 2019, the City of Arcata responded to the invitation to initiate confidential proceedings with the Regional Board to settle alleged violations of the Clean Water Act and the California Water Code. In subsequent meetings, City and Regional Board staff worked to settle discrepancies in the alleged violation list and discuss several projects within the overall treatment plant upgrade project that qualify as Compliance Projects towards which the City would like to apply the full Mandatory Minimum Penalty amount.

On October 17, 2019, the Regional Board adopted Waste Discharge Order R1-2019-0006/NPDES Permit No. CA0022713 (Permit). The Permit requires several treatment plant upgrades, including installation of ultraviolet disinfection and rerouting of flows to new Outfall-003. The Permit also establishes new final effluent limits for ammonia. On November 6, 2019, the North Coast Regional Water Quality Control Board Executive Officer issued Time Schedule Order R1-2019-0011 to Provide Time Schedules to Comply with Order No. R1-2019-0006 for the City of Arcata Wastewater Treatment Facility.

On October 17, 2019, a meeting between City and Regional Board staff took place in regards to a potential Compliance Project. During the meeting, City staff described the project proposed in this submittal. Regional Board staff directed City staff to submit a written Compliance Project proposal.

Project Description

The proposed Compliance Project (CP) consists of two projects to improve wastewater treatment efficiency. The first project is replacement of eight existing aerators in Oxidation Pond 1 with eight aerator/blower units. Support work for this aspect of the project includes replacing the existing electrical transformer, installing a new motor control center for the aerators and blowers and installing electrical line for the blower units. This project will improve BOD₅ treatment in the Oxidation Ponds by providing a source of dissolved oxygen when it is not naturally saturating the wastewater. Additionally, blowers will suspend accumulated solids in Oxidation Pond 1, making the material available for treatment and redistribution within the natural treatment system. The second project is installation of a baffle wall in Oxidation Pond 2 in an east/west orientation. Support work includes an anchoring system and coordination with the Wastewater Treatment Plant Upgrade engineering team to ensure the baffle wall is compatible with planned oxidation pond modifications. This project will reduce short-circuiting in Oxidation Pond 2, thereby increasing hydraulic retention time and improving treatment efficiency. The primary benefit to water quality is improved BOD₅ treatment in the Oxidation Ponds and a decreased potential for the formation of disinfection byproducts in the chlorine contact basin.

Preliminary Project Schedule

Milestone	Description	Completion Date
1	Release Request for Quotes for aeration/blower equipment, review proposals and select vendor.	March 6, 2020
2	Review proposals and select vendor	April 15, 2020
3	Award purchase of aerator/blower equipment, electrical equipment, and baffle wall construction material	May 15, 2020
4	Finalize contract/work agreement(s) for installation, startup, and field testing	July 3, 2020
5	Receive project materials	July 31, 2020
6	Install, startup, and field test new transformer, power for blowers, and motor control panel	August 31, 2020
7	Install baffle wall	August 31, 2020
8	Install, startup, and field test aerator/blower units	September 28, 2020
9	Delivery of final O&M manual(s), drawings, specifications, installation details	November 16, 2020
10	Submit Final Report/Certification of Completion	December 14, 2020

Preliminary Project Estimate

Project 1 – Aerators/Blowers in Oxidation Pond 1

Aerators, blowers, float assemblies, mooring, and motor control panels	\$298,890
Transformer improvements and replacement of equipment to 480V	\$14,000
Transformer electrical design and installation	\$12,000
New electrical wire runs for blower units/circuits	\$8,500
Miscellaneous electrical equipment and installations	\$15,000
Equipment rental for installation	\$2,500
Project 1 subtotal	\$350,890

<u>Project 2 – Baffle Wall in Oxidation Pond 2</u>	
Vinyl Sheet Piling (approximately 1200 L.F.)	\$173,331
Specialty anchor material and concrete cabling	\$20,000
Installation/labor	\$15,000
Equipment rental for installation	\$15,000
Project 2 subtotal	\$223,331
Project Subtotal	\$574,221
Contingency (10%)	\$57,422
Preliminary Total Project Cost	\$631,643

Eligibility for a Compliance Project as a Small Community with Financial Hardship

Water Code § 13385, subdivision (k) allows the Regional Water Board to require a POTW serving a small community to spend an amount of money equivalent to the mandatory minimum penalty toward the completion of a compliance project in lieu of paying the administrative civil liability amount to the State Water Pollution Cleanup and Abatement Account. Considering the following factors, the City of Arcata request that the Regional Board allow 100 percent of the financial penalty be eligible for a Compliance Project that, in conjunction with the wastewater treatment plant upgrade project, would bring the discharge back into compliance and prevent future noncompliance.

- The Arcata Wastewater Treatment Facility is a POTW located in Humboldt County serving the City of Arcata and the Fieldbrook-Glendale Community Services District.
- Arcata is situated in a rural county. According to the 2013 Rural Urban Continuum Codes file updated May 10, 2013, Humboldt County has a rural-urban continuum code of five (Nonmetro – urban population of 20,000 or more, not adjacent to a metro area).
- The City meets the SWRCB’s definition of “financial hardship” with a median annual household income totaling 45.9 percent of the California median. SWRCB’s threshold is less than eighty percent of the California median. Additionally, 28.6 percent of families with children under 18 years of age live below the established poverty level (as compared to 16.7 percent statewide and 17.3 percent countywide). Arcata has an unemployment rate of 8.6 percent.
- The delayed nature of the enforcement action has created excessive fines that will exacerbate financial hardship on the City. The SWRCB’s enforcement policy reads, “the Water Boards recognize that timely initiation of progressive enforcement action is important for a noncompliant facility serving a small community. When enforcement is taken before a large liability accumulates, there is greater likelihood the facility serving the small community will be able to address the liability and return to compliance within its financial capabilities.”
- The City has unmet funding needs for the Arcata Wastewater Treatment Plant Upgrade Project that total more than \$50 million.
- The City has allocated additional funding for the proposed Compliance Project in the 2019/2020 fiscal year budget

If you have any questions regarding this Compliance Project Proposal, please contact me at (707) 822-8184.

Regards,

Mark Andre
Environmental Services Director