



Order R1-2022-0014  
Stipulated Administrative Civil Liability Order  
McKinleyville CSD WWMF

2. Between March 10, 2010 and January 31, 2022, McKinleyville CSD operated under three separate National Pollutant Discharge Elimination System (NPDES) Permits, Permit No. CA0024490. All three Waste Discharge Requirements (WDRs) Orders (No. R1-2008-0039, No. R1-2011-0008-DWQ, and No R1-2018-0032) included Final Effluent Limitations for discharges to the Mad River, a Water of the United States, referred to as Discharge Point 001. All three NPDES Permits also included final effluent limitations for a groundwater discharge location (Discharge Point 002, Percolation Pond), and four other land discharge points (Discharge Points 003-006).
3. On August 12, 2021, Regional Water Board staff invited the Discharger to enter into settlement discussions prior to issuance of a formal administrative civil complaint for mandatory minimum penalties (MMPs) issued by the Regional Water Board regarding 4 exceedances of the effluent limitations for Dichlorobromomethane. These violations, which occurred during the period between March 10, 2010 and January 31, 2021, were subject to MMPs, pursuant to California Water Code (Water Code) section 13385, subdivisions (h) and (i), for an administrative civil liability totaling \$12,000.
4. Pursuant to Water Code section 13385, subdivision (h), the Regional Water Board shall assess a \$3,000 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 the person does any of the following four or more times in period of 180 days, 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 March 10, 2010 through January 31, 2022 document 5 violations of effluent limitations set forth in WDRs Orders R1-2008-0039, R1-2011-0008-DWQ, and R1-2018-0032. Of the 5 effluent limitation violations, 1 violation was exempt because it was the first non-serious violation within 180 days (the second and third violations within the 180-day period were both serious, non-exempt violations). The remaining 4 violations are subject to MMPs, as described in Findings 3 and 7.

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7. This Stipulated Order resolves 4 non-exempt effluent limitation violations subject to MMPs pursuant to Water Code section 13385, subdivisions (h) and (i), as identified in Attachment A, incorporated herein by reference. The total administrative civil liability amount is **\$12,000** (4 violations x \$3,000).
8. Pursuant to Water Code section 13385, subdivision (l)(1), in lieu of assessing penalties pursuant to subdivision (h) or (i), the Regional Water Board, with the concurrence of the Discharger, may direct a portion of the penalty amount to be expended on a supplemental environmental project (SEP) in accordance with the enforcement policy of the State Water Resources Control Board (State Board). If the penalty amount exceeds fifteen thousand dollars (\$15,000), the portion of the penalty amount that may be directed to be expended on a SEP may not exceed fifteen thousand dollars (\$15,000) plus 50 percent of the penalty amount that exceeds fifteen thousand dollars (\$15,000).
  - a. Water Code section 13385, subdivision (l)(2), provides: "For the purposes of this section, a 'supplemental environmental project' means an environmentally beneficial project that a person agrees to undertake, with the approval of the regional board, that would not be undertaken in the absence of an enforcement action under this section."
9. The Discharger has proposed to direct the entire penalty amount toward a watershed restoration and protection project with an estimated total cost of \$16,224. The Discharger will fund the entire project amount using monies from its own Sewer Fund.
10. To resolve the alleged violations set forth in Attachment A, by consent and without further administrative proceedings, the Parties have agreed to the imposition of an administrative civil liability of **\$12,000** against the Discharger. The Discharger will apply the full liability to implement a SEP, and this amount shall be permanently suspended upon timely completion of the SEP 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 foregoing Recitals are adopted by the Parties and they stipulate to the following:

13. **Jurisdiction:** The Regional Water Board has subject matter jurisdiction over the matters alleged in this action and personal jurisdiction over the Parties to this Stipulation.
14. **Administrative Civil Liability:** The Discharger hereby agrees to imposition of an administrative civil liability totaling **\$12,000** to resolve the alleged violations. The Parties agree that the Discharger shall expend the total liability amount of \$12,000 to implement the SEP. Upon the Regional Water Board's review and approval of the information submitted pursuant to paragraph 19, the Discharger's obligation to pay the total administrative civil liability amount shall be permanently suspended. If the suspended liability amount becomes due and payable pursuant to Section III, paragraphs 22 and 23, 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 ([Kason.Grady@waterboards.ca.gov](mailto:Kason.Grady@waterboards.ca.gov)).
15. **SEP Description:** The SEP will involve removal of invasive species and solid waste within and adjacent to an approximately one quarter mile segment of the salmonid-bearing Widow White Creek, tributary to the Mad River, in McKinleyville. The project site is on Humboldt County Assessor's Parcel Number (APN) 510-461-054-000, owned by McKinleyville CSD, approximately two miles upstream of the mouth of the Mad River, draining to the Pacific Ocean. This segment of Widow White Creek is heavily trafficked, as several footpaths and unpaved roads pass through and converge in this area, connecting McKinleyville High School, the Mid-Town Trail System, and nearby residential neighborhoods. The combination of heavy foot traffic and homeless encampments along this segment result in significant accumulations of trash. The Discharger proposes to clear invasive underbrush surrounding the creek up to 6 feet in height, as well as to remove trash and debris from the creek and its surrounding area. The California Conservation Corps (CCC) will provide a 14-person crew to complete the project over three 10-hour workdays. The Discharger has obtained written guidance from the California Department of Fish and Wildlife (CDFW) for removal of invasive species, and proposes to incorporate best management practices recommended

by Regional Water Board 401 program staff to protect water quality during and following the project; no additional permitting from CDFW or the Regional Water Board will be required. The Discharger proposes to stabilize soil along Widow White Creek during the process of invasive vegetation removal by applying coir and/or jute netting for erosion control, as well as weed-free straw mulch outside the creek channel, within seven days of vegetation removal.

Following completion of the project, the Discharger will conduct monthly light maintenance (trimming back invasive species regrowth and picking up trash), as well as more extensive semi-annual maintenance (removal of dense vegetation up to six feet, garbage, and debris).

Regional Water Board staff reviewed the project proposal and concluded that the project meets the requirements of a SEP, pursuant to the State Water Board’s 2017 Policy on Supplemental Environmental Projects (SEP Policy), fitting the SEP category of Environmental Restoration and Protection. The project will serve to improve and protect water quality and beneficial uses within the affected segment of Widow White Creek, and to remove and minimize the return of potential nuisance conditions within this segment. In addition, this project will enhance the safety and visual aesthetics for members of the public who visit and travel through this area on foot. Finally, this project will be completed within 6 months of Stipulated Order adoption.

The SEP includes the following tasks and schedule:

**Table 1 – Tasks and Schedule**

<b>Task</b>	<b>Description</b>	<b>Deadline</b>
<b>1</b>	<b>Obtain written guidance for invasive species removal from CDFW and share with Water Board Staff</b>	<b>February 10, 2021</b>
<b>2</b>	<b>Submit Site Management Plan (including stabilization control plans) to Regional Water Board</b>	<b>December 14, 2021</b>
<b>3</b>	<b>Implementation of SEP (clearing of invasive species/ removal of trash and debris)</b>	<b>February 28-March 3, 2022</b>

Task	Description	Deadline
4	Implementation of stabilization controls	February 28-March 3, 2022
5	Completion of SEP	March 3, 2022
6	Submit Final Report/ Certification of SEP Completion	April 1, 2022

16. **Representations and Agreements Regarding the SEP:**

- a. As a material condition for the Regional Water Board’s acceptance of this Stipulated Order, the Discharger agrees that it will spend the total administrative civil liability amount to implement the SEP in accordance with Table 1.
- b. The Discharger agrees that the Regional Water Board has the right to require a third-party audit, to be paid by the Discharger, of the funds expended to implement the SEP, and that the Discharger bears ultimate responsibility for meeting all deadlines specified in this Stipulated Order.

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

18. **Progress Reports and Inspection Authority:** Due to the short project duration, the Discharger will not be required to provide certified written quarterly reports describing the progress of SEP implementation. The Discharger agrees that Regional Water Board staff, or its third-party oversight staff, have permission to inspect the SEP at any time during normal business hours without notice.

19. **Certification of SEP Completion:** No later than 90 days after the SEP Completion Date, defined as item 6 in Table 1, 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 to implement the SEP and documents that the Discharger completed the SEP 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 and external payments to outside vendors, such as environmental and information technology contractors or consultants.

Documentation of SEP completion may include photographs, invoices, receipts, certifications, and other materials reasonably necessary for the Regional Water Board to evaluate SEP 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 SEP expenditures and completion. The Certification of Completion shall also include confirmation that the Discharger followed all applicable environmental laws and regulations in implementing the SEP, including the California Environmental Quality Act (CEQA), Porter-Cologne Act, and the federal Clean Water Act.

20. **Time Extension for SEP:** 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. Under no circumstances may the completion of the SEP extend past five (3) 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 SEP:** Upon the Discharger's satisfaction of its obligations under this Stipulated Order, completion of the SEP, 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 administrative civil liability amount.
22. **Failure to Expend All Suspended Funds on the Approved SEP:** If the Discharger is not able to demonstrate to the reasonable satisfaction of the Executive Officer that the entire administrative civil liability amount was spent on the completed SEP, the Discharger shall pay the difference between the administrative civil liability amount and the amount the Discharger can demonstrate was actually spent on the SEP (the Difference). The Executive Officer shall issue a "Notice of Violation" that will require the Discharger to pay the Difference to the State Water Pollution Cleanup and Abatement Account within 30 days of the Notice of Violation's issuance date. The Discharger shall submit payment consistent with the payment method described in Section III, paragraph 14. Timely

payment of the Difference shall satisfy the Discharger's obligations to implement the SEP.

23. **Failure to Complete the SEP:** If the SEP is not fully implemented by the SEP Completion Date, Regional Water Board staff shall issue a Notice of Violation to the Discharger requiring the Discharger to pay all of the administrative civil liability amount. The amount to be paid shall be determined via a Motion for Payment of Suspended Liability decided by the Regional Water Board or its delegate. The Discharger shall be liable to pay the entire administrative civil liability amount. 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 SEP prior to the Notice of Violation's issuance date. Within 30 days of the Regional Water Board's or its delegate's ruling on the Motion for Payment of Suspended Liability, the Discharger shall submit payment pursuant to the ruling and consistent with the payment method described in Section III, paragraph 14. Payment of the Suspended Liability amount determined by the Regional Water Board or its delegate, following the Motion for Payment of Suspended Liability, shall satisfy the Discharger's obligation to implement the SEP.
24. **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.

**25. Party Contacts for Communications related to Stipulation/Order:**

**For the Regional Water Board:**

Kason Grady  
Cannabis and Enforcement Division  
Chief  
North Coast Regional Water Quality  
Control Board  
5550 Skylane Boulevard, Suite A  
Santa Rosa, CA 95403  
[Kason.Grady@waterboards.ca.gov](mailto:Kason.Grady@waterboards.ca.gov)  
(707) 576-2682

**For the Discharger:**

Pat Kaspari  
General Manager  
McKinleyville CSD Wastewater  
Management Facility  
PO Box 2037,  
McKinleyville, Humboldt County,  
CA 95519  
[pkaspari@mckinleyvillecsd.com](mailto:pkaspari@mckinleyvillecsd.com)  
(707) 839-2351

26. **Compliance with Applicable Laws:** The Discharger understands that complying with the terms of this Stipulated Order, including payment of the administrative civil liability set forth herein, 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.
27. **Matters Addressed by Stipulation:** Upon the Regional Water Board's or its delegate's adoption, this Stipulated Order represents a final and binding resolution and settlement of the alleged violation(s) as of the effective date of this Stipulated Order. The provisions of this paragraph are expressly conditioned on the completion of the SEP as specified herein.
28. **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.
29. **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.
30. **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 Stipulated Order.
31. **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.

32. **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.
33. **Modification:** The Parties shall not modify this Stipulated Order by oral representation made before or after its execution. All modifications must be in writing, signed by all Parties, and approved by the Regional Water Board or its delegate.
34. **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 the matter may 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 settlement discussions will not be admissible as evidence in the hearing. The Parties agree to waive any and all objections that efforts to settle this matter preclude the Regional Water Board from proceeding with a contested evidentiary hearing on the 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.
35. **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.
36. **Waiver of Right to Petition or Appeal:** Discharger hereby waives its right to petition the Regional Water Board's adoption of the Order for review by the State Board, and further waives its rights, if any, to appeal the same to any court, such

as the 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, determination of SEP completion, and other terms contained in this Stipulated Order.

37. **Covenant Not to Sue:** 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 this Stipulated Order or the SEP.
38. **Necessity for Written Approvals:** All 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.
39. **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.
40. **Severability:** This Stipulated Order is severable; should any provision be found invalid; the remainder shall remain in full force and effect.
41. **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.
42. **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.

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**IT IS SO STIPULATED.**

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

Date: \_\_\_\_\_

By: \_\_\_\_\_

Claudia E. Villacorta, P.E.  
Assistant Executive Officer  
(Originally signed  
2/16/2022)

**McKinleyville CSD  
Wastewater Management  
Facility**

Date: February 15, 2022

By: *Patrick Kaspari*

**Pat Kaspari,  
General Manager**

**ORDER OF THE REGIONAL WATER BOARD**

43. This Order incorporates the foregoing Sections I through III by this reference as if set forth fully herein.
44. 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 SEP in the North Coast Region. If the Regional Water Board determines that implementation of any plan required by this Order will have a significant effect on the environment that is not otherwise exempt from CEQA, the Regional Water Board will conduct the necessary and appropriate environmental review prior to approval of the applicable plan. The Discharger will bear the costs, including the Regional Water Board's costs, of determining whether implementation of any plan required by this Order will have a significant effect on the environment and, if so, in preparing and handing any documents necessary for environmental review. If necessary, the Discharger and a consultant acceptable to the Regional Water Board shall enter a memorandum of understanding with the Regional Water Board regarding such costs prior to undertaking any environmental review.
45. 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.

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**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**

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Attachments:

- A. Effluent Limitation Violations Requiring Mandatory Minimum Penalties**
- B. SEP Proposal**