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## North Coast Regional Water Quality Control Board

July 5, 2022

Mr. Robert Figas  
105 Alder Grove Road  
Arcata, CA 95521  
[bob.figas@sbcglobal.net](mailto:bob.figas@sbcglobal.net)

Dear Mr. Figas:

**Subject:** Notice of Violation of National Pollutant Discharge Elimination System Order No. R1-2018-0013 for Electronic Report Submittal

**File:** DG Fairhaven LLC, Fairhaven Power Facility WDID No. 1B85026RHUM, NPDES Permit No. CA0024571, Place ID 613197

The North Coast Regional Water Quality Control Board (Regional Water Board) is writing to notify DG Fairhaven Power, LLC (DG Fairhaven) that since January 1, 2021, DG Fairhaven has submitted eight (8) Self-Monitoring Reports and/or other technical reports past the due dates specified in WDR Order No. R1-2018-0013. Each late submitted report is considered a violation of the Water Code section 13385, subdivision (a)(2), and may be subject to discretionary penalties of up to \$10,000 per day pursuant to California Water Code (Water Code) section 13385, subdivision (c)(1).

Based on information in California Integrated Water Quality System (CIWQS) from January 1, 2021, through December 31, 2021, the eight late reports include four quarterly self-monitoring reports and four cooling tower maintenance chemical use records. The Regional Water Board did not consider all eight late reports as violations because DG Fairhaven was not in operation or discharging during 2021.

Regional Water Board staff Justin McSmith (Staff) has been in coordination with Julie Muog, a representative for Mr. Figas, to provide information on how to sign up as a Legally Responsible Officer (LRO) and a Data Submitter in CIWQS. Staff also provided training on the reporting requirements of the Facility's NPDES permit. The Facility hired a consultant in February 2022 and all late reports were submitted on March 15, 2022.

Considering these efforts on the part of the Discharger, the Regional Water Board is using their discretion to not enforce upon these eight late reports at this time. However, this does not preclude additional enforcement, including assessment of civil liability, for violations associated with the eight past due reports, nor any future violations. Your timeliness in meeting future reporting deadlines will be a consideration in our recommendations regarding further enforcement.

Should you have any questions regarding the violations described in this letter, please contact Justin McSmith at, [Justin.McSmith@waterboards.ca.gov](mailto:Justin.McSmith@waterboards.ca.gov) or Heaven Moore, at [Heaven.Moore@waterboards.ca.gov](mailto:Heaven.Moore@waterboards.ca.gov).

### **Alleged Violations**

The Regional Water Board alleges that you are in violation of your NPDES Permit due to your failure to submit the following reports:

1. Quarter 1, 2021 Self-Monitoring Report
2. Quarter 2, 2021 Self-Monitoring Report
3. Quarter 3, 2021 Self-Monitoring Report
4. Quarter 4, 2021 Self-Monitoring Report
5. Quarter 1, 2021 Cooling Tower Maintenance Chemical Use Records
6. Quarter 2, 2021 Cooling Tower Maintenance Chemical Use Records
7. Quarter 3, 2021 Cooling Tower Maintenance Chemical Use Records
8. Quarter 4, 2021 Cooling Tower Maintenance Chemical Use Records

### **Potential Liabilities**

This Notice of Violation is not a waiver of enforcement authority. The Regional Water Board reserves the right to take any enforcement action the law allows including issuing an administrative civil liability complaint and/or referring this matter to the Attorney General.

### **Plans to Address Violations**

Within 30 days of the date of this letter, please submit a written response to this Notice of Violation to Justin McSmith describing your intentions, plan, and schedule to correct violations and address areas of concern identified in the "Alleged Violations" section of this letter.

If you have any questions regarding this matter, please contact Justin McSmith at [Justin.Mcsmith@waterboards.ca.gov](mailto:Justin.Mcsmith@waterboards.ca.gov). You may also contact me at [Heaven.Moore@waterboards.ca.gov](mailto:Heaven.Moore@waterboards.ca.gov) or by phone at (707) 576-2350.

Sincerely,

Heaven Moore, P.E.  
NPDES Unit Supervisor

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cc: Erin Mustain, State Water Board Office of Enforcement,  
[Erin.Mustain@waterboards.ca.gov](mailto:Erin.Mustain@waterboards.ca.gov)

**North Coast Regional Water Quality Control Board**

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