

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

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R1- 2024-0022

**IN THE MATTER OF
CITY OF EUREKA ELK RIVER
WASTEWATER TREATMENT PLANT
HUMBOLDT COUNTY**

This Administrative Civil Liability Complaint (Complaint) is issued by the Assistant Executive Officer of the North Coast Regional Water Quality Control Board (Regional Water Board) to the City of Eureka (Discharger) (collectively, Parties) for violations of effluent limitations contained in Waste Discharge Requirements (WDRs) Order Nos. R1-2016-0001 and R1-2023-0016, National Pollutant Discharge Elimination System (NPDES) Permit No. CA0024449, for which the Regional Water Board may impose civil liability pursuant to Water Code section 13385. The Regional Water Board's Executive Officer has delegated her/his authority under Water Code section 13323 to issue this Complaint to the Assistant Executive Officer.

1. City of Eureka Elk River Wastewater Treatment Plant (Facility) is a publicly owned treatment works (POTW), located at 4301 Hilfiker Lane, Eureka, Humboldt County, CA. The Facility is regulated under Waste Discharge Requirements Order Nos. R1-2016-0001 and R1-2023-0016. The orders serve as both NPDES permits and as waste discharge requirements for discharges from the Facility.
2. The Regional Water Board adopted WDRs Order No. R1-2016-0001 (2016 Order) on June 16, 2016, and it became effective on August 1, 2016. The Regional Water Board adopted WDRs Order No. R1-2023-0016 (2023 Order) on October 5, 2023, and it became effective on December 1, 2023. The 2016 Order and 2023 Order established, among other things, final effluent limitations for the discharges from the Discharger's permitted discharge location, Discharge Point 001. Discharge Point 001 is the only discharge location cited in the 2016 Order and 2023 Order, which permits discharges to Humboldt Bay, identified as a Water of the United States.
3. Section IV.A. of the 2016 Order and section 4.1.1 of the 2023 Order contains, in part, the following effluent limitations and discharge specifications for Cyanide, Ammonia Nitrogen, pH, and Fecal Coliform with which the Discharger is required to maintain compliance at Discharge Point 001:

Parameter	Units	Monthly Average	Daily Maximum	30-Day/ Monthly Median	Single Sample Maximum	Daily Minimum
Cyanide, Total (as CN)	ug/L	0.50	1.0	--	--	--
Ammonia Nitrogen, Total (as N)	mg/L	4.1	10	--	--	--
pH	Standard Units	--	--	--	--	6.0
Fecal Coliform	MPN/100 mL	--	--	14	43	--

ALLEGATIONS:

4. Self-monitoring reports submitted by the Discharger from September 5, 2022, through December 31, 2023, show the Discharger violated the above-referenced Ammonia Nitrogen effluent limitation on six (6) occasions, Fecal Coliform effluent limitation on six (6) occasions, Cyanide effluent limitation on four (4) occasions, and pH effluent limitation on one (1) occasion as identified in Exhibit A. Exhibit A is attached hereto and is incorporated herein by this reference. This Complaint only addresses administrative civil liability for the violations specifically identified in Exhibit A, which are subject to mandatory minimum penalties (MMPs) under Water Code section 13385(h) and/or (i).

LEGAL PROVISIONS UPON WHICH LIABILITY IS BASED:

5. Water Code section 13376 prohibits the discharge of pollutants in violation of effluent limitations set forth in WDRs.
6. Water Code section 13385(h)(1), requires the Regional Water Board to assess an MMP of three thousand dollars (\$3,000) for each serious violation.
7. Water Code section 13385,(h)(2), defines a “serious violation” as “any waste discharge that violates the effluent limitations contained in the applicable [WDRs] for a Group II pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 20 percent or more or for a Group I pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 40 percent or more.”
8. Water Code section 13385(i)(1), also requires the Regional Water Board to assess an MMP of three thousand dollars (\$3,000) for each violation, not counting the first three violations, if the Discharger does any of the following four or more times in a period of six consecutive months:
 - a. Violates a waste discharge requirement effluent limitation;

- b. Fails to file a report pursuant to section 13260;
 - c. Files an incomplete report pursuant to section 13260; or
 - d. Violates a toxicity effluent limitation contained in the applicable WDRs where the WDRs do not contain pollutant-specific effluent limitations for toxic pollutants.
9. Water Code section 13385(i)(2) defines a “period of six consecutive months” to mean “the period commencing on the date that one of the violations described in this subdivision occurs and ending 180 days after that date.”
10. Water Code section 13385.1(a)(1) also defines a “serious violation” as a failure to file a discharge monitoring report required pursuant to Section 13383 for each complete period of 30 days following the deadline for submitting the report, if the report is designed to ensure compliance with limitations contained in waste discharge requirements that contain effluent limitations.

PROPOSED ADMINISTRATIVE CIVIL LIABILITY ASSESSMENT:

11. The Assistant Executive Officer proposes the Discharger be assessed an MMP of fifty-one thousand dollars (\$51,000) for exceeding the effluent limitations for Cyanide, Ammonia Nitrogen, pH, and Fecal Coliform specifically identified in Exhibit A.

THE DISCHARGER IS HEREBY GIVEN NOTICE THAT:

12. The Regional Water Board will hold a hearing on this Complaint on a date proposed by the Regional Water Board Advisory Team, likely on June 13-14, 2024. The meeting is tentatively scheduled to take place in the town of Santa Rosa in Sonoma County, California, at a location to be announced, or at a location posted on the Regional Water Board’s website, unless the Discharger does one of the following by the deadline to submit the Waiver Form (Attachment B), which will be specified in the Notice of Public Hearing and Hearing Procedures that will subsequently be issued by the Advisory Team:
- a. Waive the right to a hearing before the Regional Water Board and pay the proposed MMP of **\$51,000** in full;
 - b. Waive the right to a hearing within 90-days before the Regional Water Board after service of this Complaint to engage the Regional Water Board Prosecution Team in settlement negotiations; or
 - c. Waive the right to a hearing within 90 days before the Regional Water Board after service of this Complaint to extend the hearing date and/or hearing deadlines and allow additional time to prepare for hearing.
13. To select one of the waiver options identified above, the Discharger must complete the enclosed Waiver Form and submit it to the Regional Water Board

Advisory Team. If the Discharger has questions about the Waiver Form or wishes to request an extension to the deadline, it should contact the Regional Water Board Advisory Team.

All submittals and communications to the Advisory Team shall be sent to:

Advisory Team

Valerie Quinto
Executive Officer
Regional Water Quality Control Board
North Coast Region
Valerie.Quinto@waterboards.ca.gov

Nathan Jacobsen
Attorney IV
Office of Chief Counsel
State Water Resources Control Board
(916) 341-5181
Nathan.Jacobsen@waterboards.ca.gov

14. If a hearing takes place, it will be governed by the Notice of Public Hearing and Hearing Procedures that will be provided by the Regional Water Board Advisory Team.
15. During the hearing, the Regional Water Board will hear testimony and arguments and affirm, reject, or modify the proposed MMP amount, or determine whether to refer the matter to the Attorney General for recovery of judicial civil liability.
16. Issuance of this Complaint is an enforcement action and is, therefore, exempt from the California Environmental Quality Act (Pub. Resources and Code section 21000 *et seq.*), pursuant to California Code of Regulations, title 14, section 15321(a)(2).

Claudia E. Villacorta, P.E.
Assistant Executive Officer

Attachments:

- A. Exhibit A: List of Violations Requiring Mandatory Minimum Penalties
- B. Hearing Waiver Form for Administrative Civil Liability Complaint

Effluent Limitations Violations Requiring Mandatory Minimum Penalties

#	Violation Number	Violation Date	Constituent	Pollutant Group	Limitation Period	Limit	Result/Average	Units	Exempted from MMP?	Exempt Reason	% Over Limit	Date 180 Days Prior	Serious or Chronic Violation?	No. of Violations within 180 days	Mandatory Fine?	Water Code	Penalty
1	1109710	08/10/2022	Fecal Coliform	Other	Single Sample Maximum	43	70	MPN/100	Y	a	63%	02/11/2022	C	1	N		\$0
2	1109712	08/21/2022	Fecal Coliform	Other	Single Sample Maximum	43	500	MPN/100	Y	a	1063%	02/22/2022	C	2	N		\$0
3	1109713	09/04/2022	Fecal Coliform	Other	Single Sample Maximum	43	140	MPN/100	Y	a	226%	03/08/2022	C	3	N		\$0
4	1112849	10/13/2022	Fecal Coliform	Other	Single Sample Maximum	43	50	MPN/100	N	N/A	N/A	04/16/2022	C	> Ct. 3	Y	13385(i)	\$ 3,000
5	1112848	11/30/2022	Cyanide, Total (as CN)	Group 2	Monthly Maximum	0.5	1.2	ug/L	N	N/A	140%	06/03/2022	S	> Ct. 3	Y	13385(i)	\$ 3,000
6	1112850	11/30/2022	Cyanide, Total (as CN)	Group 2	Daily Maximum	1	1.2	ug/L	N	N/A	20%	06/03/2022	S	> Ct. 3	Y	13385(i)	\$ 3,000
7	1112847	12/31/2022	Ammonia, Total (as N)	Group 1	Monthly Maximum	4.1	4.6	mg/L	N	N/A	12%	07/04/2022	C	> Ct. 3	Y	13385(i)	\$ 3,000
8	1115618	02/27/2023	Fecal Coliform	Other	Single Sample Maximum	43	130	MPN/100	N	N/A	N/A	08/31/2022	C	> Ct. 3	Y	13385(i)	\$ 3,000
9	1115617	03/13/2023	Fecal Coliform	Other	Single Sample Maximum	43	130	MPN/100	N	N/A	N/A	09/14/2022	C	> Ct. 3	Y	13385(i)	\$ 3,000
10	1118807	05/14/2023	Fecal Coliform	Other	Single Sample Maximum	43	80	MPN/100	N	N/A	N/A	11/15/2022	C	> Ct. 3	Y	13385(i)	\$ 3,000
11	1118806	05/15/2023	pH	Other	Daily Minimum	6	5.8	SU	N	N/A	N/A	11/16/2022	C	> Ct. 3	Y	13385(i)	\$ 3,000
12	1121431	08/10/2023	Ammonia, Total (as N)	Group 1	Daily Maximum	10	23	mg/L	N	N/A	130%	02/11/2023	S	> Ct. 3	Y	13385(i)	\$ 3,000
13	1121429	08/31/2023	Ammonia, Total (as N)	Group 1	Monthly Average	4.1	15	mg/L	N	N/A	266%	03/04/2023	S	> Ct. 3	Y	13385(i)	\$ 3,000
14	1121430	09/06/2023	Ammonia, Total (as N)	Group 1	Daily Maximum	10	20	mg/L	N	N/A	100%	03/10/2023	S	> Ct. 3	Y	13385(i)	\$ 3,000
15	1121433	09/18/2023	Fecal Coliform	Other	Single Sample Maximum	43	49	MPN/100	N	N/A	N/A	03/22/2023	C	> Ct. 3	Y	13385(i)	\$ 3,000
16	1121432	09/30/2023	Ammonia, Total (as N)	Group 1	Monthly Average	4.1	13	mg/L	N	N/A	217%	04/03/2023	S	> Ct. 3	Y	13385(i)	\$ 3,000
17	1123435	10/10/2023	Cyanide, Total (as CN)	Group 2	Daily Maximum	1	1.5	ug/L	N	N/A	50%	04/13/2023	S	> Ct. 3	Y	13385(i)	\$ 3,000
18	1123434	10/31/2023	Cyanide, Total (as CN)	Group 2	Monthly Average	0.5	1.5	ug/L	N	N/A	200%	05/04/2023	S	> Ct. 3	Y	13385(i)	\$ 3,000
19	1123433	10/31/2023	Ammonia, Total (as N)	Group 1	Monthly Average	4.1	4.2	mg/L	N	N/A	2%	05/04/2023	C	> Ct. 3	Y	13385(i)	\$ 3,000
20	1123437	12/19/2023	Fecal Coliform	Other	Single Sample Maximum	43	130	MPN/100	N	N/A	N/A	06/22/2023	C	> Ct. 3	Y	13385(i)	\$ 3,000

Total Penalty: \$ 51,000**Legend of Table**

a. Violation is not eligible for MMP because it was already included in a previous Enforcement Action. Included in this list to show rolling 180-day count.

Ct. Count – The number that follows represents the number of exceedances in the past 180 days. A count > than Ct. 3 means that a penalty under Water Code Section 13385 (i) applies.

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 Between September 5, 2022 and December 31, 2023

Group I Violations Assessed MMP:	6
Group II Violations Assessed MMP:	4
Other Effluent Violations Assessed MMP:	7
Violations Exempt from MMP:	0
Total Violations Assessed MMP:	17

Mandatory Minimum Penalty = (8 Serious Violations + 9 Non-Serious Violations) x \$3,000 = \$51,000

North Coast Regional Water Quality Control Board

WAIVER FORM FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT

By signing this waiver, I affirm and acknowledge the following:

I am duly authorized to represent the City of Eureka Elk River Wastewater Treatment Plant (Discharger) in connection with Administrative Civil Liability Complaint No. R1-2024-0022 (Complaint). I am informed that Water Code section 13323(b) provides, “a hearing before the regional board shall be conducted within 90 days after the party has been served [with the complaint]. The person who has been issued a complaint may waive the right to a hearing.”

- OPTION 1: Check here if the Discharger waives the hearing requirement and will pay the liability in full.**
 - a. I hereby waive any right the Discharger may have to a hearing before the North Coast Regional Water Quality Control Board (Regional Water Board).
 - b. I certify that the Discharger will remit payment for the proposed civil liability in the full amount of **fifty-one thousand dollars (\$51,000)** by submitting a check that references “ACL Complaint No. R1- 2024-0022” made payable to the Accounting Office, Attn: ACL Payment Accounting Office, PO Box 1888, Sacramento, California, 95812-1888, and a copy of the check to the Regional Water Board within 30 days from the date on which this waiver is executed.
 - c. I understand the payment of the above amount constitutes a proposed settlement of the Complaint, and that any settlement will not become final until after a 30-day public notice and comment period. Should the Regional Water Board receive significant new information or comments from any source (excluding the Regional Water Board’s Prosecution Team) during this comment period, the Regional Water Board’s Assistant Executive Officer may withdraw the Complaint, return payment, and issue a new Complaint. I understand that this proposed settlement is subject to approval by the Regional Water Board, and that the Regional Water Board may consider this proposed settlement in a public meeting or hearing. I also understand that approval of the settlement will result in the Discharger having waived the right to contest the allegations in the Complaint and the imposition of civil liability.
 - d. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type

alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.

OPTION 2: Check here if the Discharger waives the 90-day hearing requirement in order to engage in settlement discussions.

- a. I hereby waive any right the Discharger may have to a hearing before the Regional Water Board within 90 days after service of the Complaint, but I reserve the ability to request a hearing in the future. I certify that the Discharger will promptly engage the Regional Water Board Prosecution Team in settlement discussions to attempt to resolve the outstanding violation(s). By checking this box, the Discharger requests the Regional Water Board delay the hearing so the Discharger and the Prosecution Team may discuss settlement. It remains within the discretion of the Regional Water Board to agree to delay the hearing. Any proposed settlement is subject to the conditions described above under "Option 1." In these discussions, the Discharger may raise settlement options, including a Supplemental Environmental Project(s), that meet the State Water Resources Control Board's requirements. Copies of the State Water Resources Control Board's 2017 Water Quality Enforcement Policy and 2018 Policy on Supplemental Environmental Projects, are available at:
https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2017/040417_9_final%20adopted%20policy.pdf
and
https://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/seps/20180503_sep_policy_amd.pdf

OPTION 3: Check here if the Discharger waives the 90-day hearing requirement in order to extend the hearing date and/or hearing deadlines. Attach a separate sheet with the amount of additional time requested and the rationale.

- a. I hereby waive any right the Discharger may have to a hearing before the Regional Water Board within 90 days after service of the Complaint. By checking this box, the Discharger requests that the Regional Water Board delay the hearing and/or hearing deadlines so that the Discharger may have additional time to prepare for the hearing. It remains within the discretion of the Regional Water Board to approve the extension.

**CITY OF EUREKA ELK RIVER
WASTEWATER TREATMENT PLANT**

(Print Name and Title)

(Signature)

(Date)