

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

<p>In the matter of:</p> <p>Loleta Community Services District, Complaint No. R1-2018-0026 for Administrative Civil Liability</p> <p>Attn: Marcus Drumm General Manager WDID No. 1B800810HUM</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>Order R1-2020-0008 (Proposed)</p> <p>SETTLEMENT AGREEMENT AND STIPULATION FOR ENTRY OF ADMINISTRATIVE CIVIL LIABILITY ORDER (Proposed)</p>
--	--	---

Section I: Introduction

This Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order (Stipulated Order) is entered into by and between the Regional Water Quality Control Board, North Coast Region, Prosecution Team (Prosecution Team) and Loleta Community Services District (Discharger) (collectively, Parties) and is presented to the Regional Water Quality Control Board, North Coast Region (Regional Water Board), or its delegate, for adoption as an Order by settlement pursuant to Water Code section 13323 and Government Code section 11415.60. This Stipulated Order resolves the violations alleged in Administrative Civil Liability Complaint No. R1-2018-0026 (Complaint), by the imposition of administrative civil liability against the Discharger in the amount of **\$330,000**. The Complaint is included as Attachment A to this Stipulated Order and is herein incorporated by reference.

Section II: Recitals

1. The Discharger owns and operates a Wastewater Treatment Facility (WWTF), a publicly owned treatment works (POTW), located at 2656 Eel River Drive in Loleta, California. From June 1, 2014, to the effective date of this Stipulated Order, the Discharger was or is subject to the following requirements issued by the Regional Water Board:

Regulatory Measure	Order Number	Effective Dates
NPDES Permit	R1-2014-0013	06/01/2014 – 05/31/2019
Cease and Desist Order	R1-2015-0008	03/12/2015 – 12/31/2019

2. During the respective effective dates listed above, Waste Discharge Requirements (WDRs) Order No R1-2014-0013 (National Pollutant Discharge Elimination System (NPDES) Permit No. CA0023671) established, among other things, final effluent limitations for the discharges from the Discharger's permitted discharge location, Discharge Point 001.
3. During the effective dates listed above, Cease and Desist Order (CDO) No. R1-2015-0008, issued pursuant to California Water Code (Water Code) section 13301, established interim effluent limitations for copper, lead, and silver.
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 the person 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. Water Code section 13385, subdivision (j) exempts certain violations from the mandatory minimum penalties, and states, in relevant part:

Subdivisions (h) and (i) do not apply to any of the following:

 - 3) A violation of an effluent limitation where the waste discharge is in compliance with either a cease and desist order issued pursuant to Section 13301 or a time schedule order issued pursuant to Section 13300 or 13308 if all of the following requirements are met:
 - C) The regional board establishes a time schedule for bringing the waste discharge into compliance with the effluent limitation that is as short as possible....For the purposes of this subdivision, the time schedule may not exceed five years in length The interim requirements shall include both of the following:
 - i) Effluent limitations for the pollutant or pollutants of concern.
 - ii) Actions and milestones leading to compliance with the effluent limitation.

7. On April 24, 2018, the Prosecution Team issued the Complaint to the Discharger. The Discharger's self-monitoring reports from June 1, 2014, through February 28, 2018, document 111 violations of effluent limitations set forth in WDR R1-2014-0013. Of the 111 effluent limitation violations, one violation was exempt under Water Code section 13385, subdivision (j) based on compliance with CDO interim effluent limitations. The remaining 110 violations are subject to MMPs pursuant to Water Code section 13385, subdivisions (h) and (i), as identified in Attachment A. The Complaint proposed assessment of a total penalty of \$330,000.
8. This Stipulated Order resolves the 111 effluent limitation violations alleged in the Complaint, as identified in Attachment B, incorporated herein by reference. The total proposed administrative civil liability amount is **\$330,000** (110 violations x \$3,000).
9. Pursuant to Water Code section 13385, subdivision (k)(1), in lieu of assessing all or a portion of MMPs, the Regional Water Board may allow 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.
10. For the reasons discussed in Attachment C, herein incorporated by reference, 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.
11. Pursuant to the Enforcement Policy, the Discharger must spend an amount of money on an approved compliance project that is equal to or more than the penalty amount held in abeyance pending completion of the project. The Discharger has proposed a project with an estimated cost of \$323,000, project funded through money in its reserves.
12. To resolve the alleged violations set forth in Attachment B, by consent and without further administrative proceedings, the Parties have agreed to the imposition of an administrative civil liability of \$330,000 against the Discharger.
13. 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 Water Code section 13323 and Government Code section 11415.60.

14. 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:

15. **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.
16. **Administrative Civil Liability:** The Discharger hereby agrees to pay the administrative civil liability totaling **\$330,000** to resolve the alleged violations. The Discharger agrees to pay \$7,000 of this penalty within 30 days of execution of this settlement order, to the account and address below. The Parties further agree that up to \$323,000 of this administrative civil liability shall be permanently suspended pending completion of the compliance project described in paragraph 17. If the suspended liability amount becomes due a payable pursuant to paragraphs 25 and 26, 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 or its delegate. 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 State Water Resources Control Board, Office of Enforcement (kailyn.ellison@waterboards.ca.gov) and the Regional Water Board (diana.henriouille@waterboards.ca.gov).

17. **Compliance Project Description:** The Discharger has secured funds from the Clean Water State Revolving Fund (CWSRF) to upgrade its wastewater treatment facility by replacing the existing treatment system with an extended aeration system, replacing the chlorine disinfection system with an ultraviolet (UV) disinfection system, and constructing a new land application system to eliminate seasonal discharges to the Eel River. In addition, the Discharger has evaluated its wastewater collection system, and has prioritized segments for replacement to reduce or eliminate inflow and infiltration. The Discharger has secured funds from the CWSRF to replace or rehabilitate many of the high priority collection system segments.

The Compliance Project to be completed pursuant to this settlement agreement will involve replacement or rehabilitation of additional high priority segments, specifically addressing the collection system at five locations in the town of Loleta: 1) Montgomery to Loleta (replace 6 laterals; install, clean, CCTV, and conduct post-inspection of 265 feet of 6” cured-in-place pipe (CIPP)); 2) Stockwell (replace lateral); 3) Lincoln and Scenic (replace manhole); Lincoln to Scenic (replace 4 laterals; replace 335 feet of 4” to 6” line by pipe bursting); and 5) Perott and Park (replace 40’ of sewer main, replace manhole, and replace Loleta Grammar School lateral).

Collectively, the proposed projects, including the Compliance Project, will serve to address most of the deficiencies in the Discharger’s collection and treatment system that are resulting in or responsible for water quality violations associated with waste discharges from the facility. Per the project schedule, The Compliance Project will be completed by January 29, 2021. Attachment D, herein incorporated by reference, contains additional Compliance Project details and requirements.

18. **Compliance Project 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 or its delegate’s adoption of this Stipulated Order. The implementation schedule for completion of the Compliance Project is as follows:

Task	Description	Proposed Completion Date
1	90% Plans and Specifications	3/1/2020
2	100% plans, Specifications, and Draft Contract Documents	4/1/2020
3	Complete Permit Applications	4/1/2020
4	First quarterly progress report	4/30/2020
5	Release Requests for Proposals	5/1/2020

Task	Description	Proposed Completion Date
6	Issue Notice to Proceed	6/1/2020
7	Begin Construction	7/01/2020
8	Second quarterly progress report	7/30/2020
9	Third quarterly progress report	10/30/2020
10	Complete Construction	10/31/2020
11	Final Completion Report	1/29/2021

19. 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 \$323,000 (Compliance Project Amount) to implement the Compliance Project. The Discharger understands that its promise to implement the Compliance Project, 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 Compliance Project Amount as described in this Stipulated Order, (2) provide certified, written report(s) on Compliance Project implementation to the Regional Water Board consistent with the terms of this Stipulated Order, (3) the Regional Water Board has the right to require a third-party audit of the funds expended to implement the Compliance Project at the Discharger’s cost, and (4) that the Discharger bears ultimate responsibility for meeting all deadlines specified in this Stipulated Order and Attachment D.

20. **Publicity Associated with the Compliance Project:** Whenever the Discharger or its agents or subcontractors publicize one or more elements of the Compliance Project, 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.
21. **Progress Reports and Inspection Authority:** The Discharger shall provide quarterly reports describing the progress of Compliance Project implementation, including the status of the milestones, as described in Attachment D. The Discharger agrees that Regional Water Board staff, or its third-party oversight staff, have permission to inspect the Compliance Project at any time during normal business hours without notice.
22. **Certification of Compliance Project Completion:** No later than January 29, 2021, a responsible official of the Discharger shall submit a final report and certified statement, signed under penalty of perjury, which documents the Discharger's expenditures during the Compliance Project completion period and documents that the Discharger completed the Compliance Project 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 Compliance Project completion may include photographs, invoices, receipts, certifications, and other materials reasonably necessary for the Regional Water Board to evaluate Compliance Project 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 Compliance Project expenditures and completion.
23. **Time Extension for Compliance Project:** 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 Compliance Project 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.

24. **Regional Water Board Acceptance of Completed Compliance Project:** Upon the Discharger's satisfaction of its obligations under this Stipulated Order, completion of the Compliance Project, 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.

25. **Failure to Expend All Suspended Funds on the Approved Compliance Project:** If the Discharger is not able to demonstrate to the reasonable satisfaction of the Executive Officer that the entire Compliance Project Amount was spent on the completed Compliance Project, the Discharger shall pay the difference between the Compliance Project Amount and the amount the Discharger can demonstrate was actually spent on the Compliance Project (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 18. Timely payment of the Difference shall satisfy the Discharger's obligations to implement the Compliance Project.

26. **Failure to Complete the Compliance Project:** If the Compliance Project is not fully implemented by the Compliance Project Completion Date, or if there has been a material failure to satisfy a project milestone, Regional Water Board staff shall issue a Notice of Violation to the Discharger. The amount of suspended liability owed shall be determined via a Motion for Payment of Suspended Liability before the Regional Water Board or its delegate. The Discharger shall be liable to pay the entire Compliance Project Amount, or, if shown by the Discharger, some portion thereof less the value of any completed milestones as stipulated to by the Parties in writing, or as determined by the Motion for Payment of Suspended Liability. 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 Compliance Project prior to the Notice of Violation's issuance date. 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 paragraph 18. Payment of the assessed amount shall satisfy the Discharger's obligation to implement the Compliance Project.

27. **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.

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

For the Regional Water Board:

Diana Henriouille
Senior Water Resources 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:

Marcus Drumm
Loleta Community Services District
Wastewater Treatment Facility
2656 Eel River Drive
Loleta, CA 95551
loletacsd@att.net
(707) 733-1717

29. **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.

30. **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 Compliance Project as specified herein.

31. **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.

32. **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.
33. **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.
34. **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.
35. **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.
36. **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.
37. **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.

38. 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.
39. **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.
40. **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 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.
41. **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 the Complaint, this Stipulated Order or the Compliance Project.
42. **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.
43. **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.

44. **Severability:** This Stipulated Order is severable; should any provision be found invalid, the remainder shall remain in full force and effect.
45. **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.
46. **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.

Order R1-2020-0008

IT IS SO STIPULATED.

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

By:

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

Loleta Community
Services District

Date: Jan. 23, 2020 By: Tammy E. Forsell

Tammy E. Forsell Director
(Printed name and title)

ORDER OF THE REGIONAL WATER BOARD

- 47. This Order incorporates the foregoing Sections I through III by this reference as if set forth fully herein.

- 48. 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. 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 into a memorandum of understanding with the Regional Water Board regarding such costs prior to undertaking any environmental review.

- 49. 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.

By: **Matthias St. John**
Executive Officer

20_0008_Loleta CSD_Proposed Stip Order

Attachments:

- A. ACLC No. R1-2018-0026
- B. Effluent Limitation Violations Requiring Mandatory Minimum Penalties
- C. Determination of Financial Hardship Memo
- D. Compliance Project Proposal

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

In the Matter of:)	
)	
Loleta Community Services District)	Complaint No. R1-2018-0026
Wastewater Treatment Facility)	for
2656 Eel River Drive)	Administrative Civil Liability
Loleta, CA 95551)	
<hr/>		
Attn: Mr. Marcus Drumm)	
General Manager)	

WDID No. 1B80081OHUM

The Assistant Executive Officer of the California Regional Water Quality Control Board, North Coast Region (Regional Water Board) hereby gives notice that:

1. This Administrative Civil Liability Complaint (Complaint) is issued under the authority of California Water Code section 13323 to the Loleta Community Services District (hereinafter Discharger) to assess administrative civil liability for discharges from its Wastewater Treatment Facility (WWTF) in violation of provisions of law for which the Regional Water Board is required to impose mandatory minimum penalties (MMPs) pursuant to Water Code section 13385, subdivisions (h) and (i).
2. This Complaint alleges one hundred eleven (111) effluent limit violations of Waste Discharge Requirements (WDRs) Order No. R1-2014-0013, NPDES Permit No. CA 0023671 and Cease and Desist Order No. R1-2015-0008. The violations cited herein occurred during the period from June 1, 2014, through February 28, 2018, (hereinafter Complaint Period) and are specifically listed in Attachment A, which is incorporated into this Complaint by reference.
3. Unless waived, the Regional Water Board will hold a hearing on this Complaint at the July 11, 2018, Board meeting located at the Regional Water Board office, 5550 Skylane Boulevard, Suite A, Santa Rosa, CA or at a location as posted on the Regional Water Board's website (address listed below). The Discharger or its representative will have an opportunity to be heard and to contest the allegations in this Complaint and the imposition of the civil liability. Not less than 10 days before the hearing date, an agenda for the meeting will be available on the Regional Water Board's website:

https://www.waterboards.ca.gov/northcoast/board_info/board_meetings/

4. At the hearing, the Regional Water Board will consider whether to affirm, reject, or modify the proposed civil liability up to the maximum penalty provided for by law, or refer the matter to the Attorney General to have a Superior Court consider civil enforcement. The Discharger can waive its right to a hearing to contest the allegations contained in this Complaint by submitting a signed waiver and paying the MMPs in full or by taking other actions as described in the waiver form. Any such resolution of this Complaint will be subject to approval by the Regional Water Board or its delegee. If this matter proceeds to hearing and the Regional Water Board decides to impose discretionary penalties, the Prosecution Team reserves the right to seek an increase in the civil liability amount.
5. Regulations of the United States Environmental Protection Agency require public notification of any proposed settlement of the civil liability occasioned by violation of the Clean Water Act. Accordingly, interested persons will be given 30 days to comment on any proposed settlement of this Complaint.

The Assistant Executive Officer of the Regional Water Board hereby alleges that:

BACKGROUND

6. The WWTF is a wastewater collection, treatment, and disposal facility that serves approximately 750 residential customers and three commercial customers. The WWTF treats domestic, commercial, and industrial wastewater. The WWTF has an average dry weather treatment capacity of 0.081 mgd, and an average wet weather treatment capacity of 0.143 mgd. The WWTF includes an aeration basin, clarifier, chlorine contact chamber, and chlorine and sulfur flow-proportioning equipment. Biosolids from the clarifier are stored in a vault at the Facility, which is periodically pumped and the biosolids hauled to an offsite permitted facility for further treatment and disposal. The system is augmented with an emergency alarm system and generator.
7. On May 8, 2014, the Regional Water Board adopted Order No R1-2014-0013, which became effective on June 1, 2014. Order No. R1-2014-0013 regulates discharges from the WWTF, and serves as an NPDES permit under the federal Clean Water Act.
8. On November 20, 2014, the Discharger submitted a statement of noncompliance issues for the WWTF indicating concerns that it is unable to comply with specific discharge prohibitions. The Regional Water Board adopted Cease and Desist Order (CDO) No. R1-2015-0008 on March 12, 2015, which required the Discharger to take action and comply with effluent limitations. CDO No. R1-2015-0008 provided interim effluent limits for copper, carbon tetrachloride, chlorodibromomethane, dichlorobromomethane, and nitrate, and included a compliance schedule for the Discharger to comply with final effluent limits by December 31, 2019.

REGULATORY AUTHORITY

9. WDRs Order No. R1-2014-0013 (Effluent Limitations & Discharge Specifications, Section IV.A.1.a.) sets forth limits for BOD₅, Total Suspended Solids, pH, Settleable Solids, Total Coliform, Total Residual Chlorine, Copper, Carbon Tetrachloride, Chlorodibromomethane, Dichlorobromomethane, Nitrate, BOD % removal, and TSS % removal, summarized as follows:

a. The Permittee shall maintain compliance with the following effluent limitations at Discharge Point 001, with compliance measured at Monitoring Location EFF-001 as described in the Monitoring and Reporting Program, Attachment E:

Parameter	Units	Effluent Limitations				
		Average Monthly ²	Average Weekly ²	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
BOD ₅ ¹	mg/L	30	45	---	---	---
	lbs/day	36 ³	543 ³	---	---	---
Total Suspended Solids	mg/L	30	45	---	---	---
	lbs/day	36 ³	54 ³	---	---	---
pH	standard units	---	---	---	6.5	8.5
Settleable Solids	ml/L	0.1	---	0.2	---	---
Total Coliform Bacteria	MPN/100 mL	23 ⁴	---	230 ⁵	---	---
Total Residual Chlorine	mg/L	---	---	---	---	<0.1
Copper	µg/L	7.6	---	15.3	---	---
Carbon tetrachloride	µg/L	0.25	---	0.50	---	---
Chlorodibromomethane	µg/L	0.40	---	0.80	---	---
Dichlorobromomethane	µg/L	0.56	---	1.12	---	---
Nitrate	mg/L	10	---	20.1	---	---

Table Notes:	
1	BOD ₅ (Biochemical Oxygen Demand 5-day @ 20°).
2	See Definitions in Attachment A and Compliance Determination discussion in section of this Order.
3	Mass-based effluent limitations apply during periods of allowable discharge to surface waters. Mass-based effluent limitations are based on the Facility wet weather design flow of 0.146 MGD.
4	The monthly total coliform bacteria limitation is expressed as the 30-day median – the median of all effluent samples collected in a 30-day calendar period.
5	No sample shall exceed an MPN 9 (most probable number) of 230 total coliform bacteria per 100 mL.

b. **Percent Removal:** The average monthly percent removal of BOD₅ and total suspended solids shall not be less than 85%. Percent removal shall be determined from the 30-day average value of influent wastewater concentration in comparison to the 30-day average value of effluent concentration for the same constituent over the same time period.

10. CDO No. 2015-0008, adopted and effective on March 12, 2015, sets forth interim effluent limitations for copper, carbon tetrachloride, chlorodibromomethane, dichlorobromomethane, and nitrate at Discharge Point 001 (Monitoring Location EFF-001) summarized as follows:

Parameter	Units	Effluent limitations
		Average Monthly (AMEL)
Copper	µg/L	18.4
Carbon tetrachloride	µg/L	1.2
Chlorodibromomethane	µg/L	4.22
Dichlorobromomethane	µg/L	20.8
Nitrate	mg/L	32.6

VIOLATIONS

11. The Discharger’s self-monitoring reports document one hundred eleven (111) violations of effluent limitations. Of these one hundred eleven violations, one hundred ten (110) are subject to MMPs and one (1) is exempt from MMPs. These violations are listed in Attachment A.

12. In its monitoring reports submitted for the Complaint Period, the Discharger self-reported one hundred eleven (111) exceedances of the effluent limitations for BOD₅, Total Suspended Solids, pH, Settleable Solids, Total Coliform, Nitrate Total Residual Chlorine, Copper, Carbon Tetrachloride, Chlorodibromomethane, Dichlorobromomethane, Nitrate, BOD % removal and TSS % removal set forth in

Order No. R1-2014-0013 and CDO R1-2015-0008, as identified in Attachment A. BOD₅, Total Suspended Solids, Settleable Solids, BOD % removal and TSS % removal are Group I pollutants, Total Residual Chlorine, Copper, Carbon Tetrachloride, Chlorodibromomethane, Dichlorobromomethane are Group II pollutants and pH and Total Coliform Bacteria are Over Effluent Violations (OEV). The remaining one exceedance (shown as #1 on the table in Attachment A) is exempt from MMPs, as it was the first of four violations in a six-month period, and was considered chronic, rather than serious, pursuant to Water Code section 13385(h) and (i), as discussed in Findings 13. and 14. below.

STATUTORY AUTHORITY

- 13.** Water Code section 13385, subdivision (h) requires the Regional Water Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each serious violation. Pursuant to Water Code section 13385, subdivision (h)(2) a “serious violation” is defined as any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group II pollutant by 20 percent or more, or for a Group I pollutant by 40 percent or more. Appendix A of Part 123.45 of Title 40 of the Code of Federal Regulations specifies the Group I and II pollutants.
- 14.** Water Code section 13385, subdivision (i) requires the Regional Water Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each violation whenever the Discharger does any of the following four or more times in any period of six consecutive months, except that the requirement to assess the mandatory minimum penalty shall not be applicable to the first three violations:
 - a. Violates a waste discharge requirement effluent limitation.
 - b. Fails to file a report pursuant to section 13260.
 - c. Files an incomplete report pursuant to section 13260.
 - d. Violates a toxicity effluent limitation contained in the applicable waste discharge requirements where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.

PROPOSED ADMINISTRATIVE CIVIL LIABILITY

- 15.** The Assistant Executive Officer of the Regional Water Board proposes that mandatory minimum penalties be assessed against the Discharger in the amount of \$330,000 for the violations specifically identified in Attachment A of this Complaint.
- 16.** Notwithstanding the issuance of this Complaint, the Regional Water Board retains the authority to assess additional penalties for violations of the requirements of the Discharger’s waste discharge requirements for which penalties have not yet been assessed or for violations that may subsequently occur.

17. Issuance of this Complaint is an enforcement action and is therefore exempt from the provisions of the California Environmental Quality Act (Pub. Res. Code § 21000 et seq.) pursuant to title 14, California Code of Regulations sections 15308 and 15321 subsection (a) (2).

Original Signed By

Joshua Curtis
Assistant Executive Officer
Regional Water Board Prosecution Team

18_0026_Loleta_ACLC

Attachment A

Mandatory Penalty Administrative Civil Liability

Loleta CSD

Loleta WWTF

WDID No. 1B800810 HUM NPDES No. CA 0023671

Effluent Limitations and Late Reporting Violations Requiring Mandatory Minimum Penalties Violation Period June 1, 2014, through February 28, 2018.

#	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	1010260	10/20/2014	Nitrate, Total (as N)	Group 1	Maximum Daily	20.1	24	Ug/L	Y	CDO Compliance	19%	04/23/2014	Exempt	N/A	N	13385(h)	\$ 0
2	1010260	10/20/2014	Copper, Total	Group 2	Maximum Daily	15.3	19	ug/L	N		24%	04/23/2014	S	N/A	Y	13385(h)	\$ 3,000
3	1010261	10/20/2014	Dichlorobromomethane	Group 2	Maximum Daily	1.12	1.4	ug/L	N		25%	04/23/2014	S	N/A	Y	13385(h)	\$ 3,000
4	1010262	10/20/2014	Dibromochloromethane	Group 2	Maximum Daily	0.8	2.3	ug/L	N		188%	04/23/2014	S	N/A	Y	13385(h)	\$ 3,000
5	984450	10/20/2014	Carbon Tetrachloride	Group 2	Daily Maximum	0.5	1.2	ug/L	N		140%	04/23/2014	S	N/A	Y	13385(h)	\$ 3,000
6	984447	10/31/2014	Dibromochloromethane	Group 2	Monthly Average	0.4	2.3	ug/L	N		475%	05/04/2014	S	N/A	Y	13385(h)	\$ 3,000
7	984446	10/31/2014	Nitrate, Total (as N)	Group 1	Monthly Average	10	24	mg/L	N		140%	05/04/2014	S	N/A	Y	13385(h)	\$ 3,000
8	984448	10/31/2014	Copper, Total	Group 2	Monthly Average	7.6	19	ug/L	N		150%	05/04/2014	S	N/A	Y	13385(h)	\$ 3,000
9	1010263	10/31/2014	Carbon Tetrachloride	Group 2	Monthly Average	0.25	1.2	ug/L	N		380%	05/04/2014	S	N/A	Y	13385(h)	\$ 3,000
10	984449	10/31/2014	Dichlorobromomethane	Group 2	Monthly Average	0.56	1.4	ug/L	N		150%	05/04/2014	S	N/A	Y	13385(h)	\$ 3,000

11	1010265	11/12/2014	Nitrate, Total (as N)	Group 1	Maximum Daily	20.1	26	mg/L	N		29%	05/16/2014	C	11	Y	13385(i)	\$ 3,000
12	1010266	11/12/2014	Dibromochloromethane	Group 2	Maximum Daily	0.8	3.2	ug/L	N		300%	05/16/2014	S	N/A	Y	13385(h)	\$ 3,000
13	1010264	11/12/2014	Dichlorobromomethane	Group 2	Maximum Daily	1.12	14	ug/L	N		1150%	05/16/2014	S	N/A	Y	13385(h)	\$ 3,000
14	984501	11/30/2014	Copper, Total	Group 2	Monthly Average	7.6	14	ug/L	N		84%	06/03/2014	S	N/A	Y	13385(h)	\$ 3,000
15	984500	11/30/2014	Nitrate, Total (as N)	Group 1	Monthly Average	10	26	mg/L	N		160%	06/03/2014	S	N/A	Y	13385(h)	\$ 3,000
16	984503	11/30/2014	Dichlorobromomethane	Group 2	Monthly Average	0.56	14	ug/L	N		2400%	06/03/2014	S	N/A	Y	13385(h)	\$ 3,000
17	984502	11/30/2014	Dibromochloromethane	Group 2	Monthly Average	0.4	3.2	ug/L	N		700%	06/03/2014	S	N/A	Y	13385(h)	\$ 3,000
18	1010267	12/09/2014	Dichlorobromomethane	Group 2	Maximum Daily	1.12	7.2	ug/L	N		543%	06/12/2014	S	N/A	Y	13385(h)	\$ 3,000
19	1010268	12/09/2014	Dibromochloromethane	Group 2	Maximum Daily	0.8	2	ug/L	N		150%	06/12/2014	S	N/A	Y	13385(h)	\$ 3,000
20	984512	12/11/2014	pH	Other	Instantaneous	6.5	6.3	SU	N		N/A	06/14/2014	C	20	Y	13385(i)	\$ 3,000
21	984519	12/18/2014	pH	Other	Instantaneous	6.5	6.2	SU	N		N/A	06/21/2014	C	21	Y	13385(i)	\$ 3,000
22	984517	12/25/2014	pH	Other	Instantaneous	6.5	6	SU	N		N/A	06/28/2014	C	22	Y	13385(i)	\$ 3,000
23	984513	12/31/2014	pH	Other	Instantaneous	6.5	6.4	SU	N		N/A	07/04/2014	C	23	Y	13385(i)	\$ 3,000
24	984518	12/31/2014	Nitrate, Total (as N)	Group 1	Monthly Average	10	12	mg/L	N		20%	07/04/2014	C	24	Y	13385(i)	\$ 3,000
25	984516	12/31/2014	Dibromochloromethane	Group 2	Monthly Average	0.4	2	ug/L	N		400%	07/04/2014	S	N/A	Y	13385(h)	\$ 3,000
26	984514	12/31/2014	Dichlorobromomethane	Group 2	Monthly Average	0.56	7.2	ug/L	N		1186%	07/04/2014	S	N/A	Y	13385(h)	\$ 3,000

27	1010269	01/20/2015	Dichlorobromomethane	Group 2	Maximum Daily	1.12	6	ug/L	N		436%	07/24/2014	S	N/A	Y	13385(h)	\$ 3,000
28	986694	01/31/2015	Nitrate, Total (as N)	Group 1	Monthly Average	10	11	mg/L	N		10%	08/04/2014	C	28	Y	13385(i)	\$ 3,000
29	986693	01/31/2015	Dichlorobromomethane	Group 2	Monthly Average	0.56	6	ug/L	N		971%	08/04/2014	S	N/A	Y	13385(h)	\$ 3,000
30	1010270	02/10/2015	Dichlorobromomethane	Group 2	Maximum Daily	1.12	3.8	ug/L	N		239%	08/14/2014	S	N/A	Y	13385(h)	\$ 3,000
31	987532	02/28/2015	Dichlorobromomethane	Group 2	Monthly Average	0.56	3.8	ug/L	N		579%	09/01/2014	S	N/A	Y	13385(h)	\$ 3,000
32	990638	03/26/2015	pH	Other	Instantaneous	6.5	6.3	SU	N		N/A	09/27/2014	C	32	Y	13385(i)	\$ 3,000
33	990787	04/28/2015	Total Coliform	Other	Maximum Daily	230	1600	MPN/100	N		N/A	10/30/2014	C	28	Y	13385(i)	\$ 3,000
34	992127	05/07/2015	pH	Other	Instantaneous	6.5	6.3	SU	N		N/A	11/08/2014	C	24	Y	13385(i)	\$ 3,000
35	992129	05/12/2015	Nitrate, Total (as N)	Group 1	Monthly Average	32.6	39	mg/L	N		20%	11/13/2014	C	22	Y	13385(i)	\$ 3,000
36	992130	05/12/2015	Copper, Total	Group 2	Monthly Average	18.4	26	ug/L	N		41%	11/13/2014	S	N/A	Y	13385(h)	\$ 3,000
37	998779	10/08/2015	pH	Other	Instantaneous	6.5	6.3	SU	N		N/A	04/11/2015	C	5	Y	13385(i)	\$ 3,000
38	998780	10/13/2015	Nitrate, Total (as N)	Group 1	Monthly Discharge	32.6	43	mg/L	N		32%	04/16/2015	C	6	Y	13385(i)	\$ 3,000
39	998781	10/15/2015	pH	Other	Instantaneous	6.5	6.2	SU	N		N/A	04/18/2015	C	7	Y	13385(i)	\$ 3,000
40	1002093	12/31/2015	Copper, Dissolved	Group 2	Monthly Average	18.4	25	mg/L	N		36%	07/04/2015	S	N/A	Y	13385(h)	\$ 3,000
41	1003241	01/07/2016	pH	Other	Instantaneous	6.5	6.2	SU	N		N/A	07/11/2015	C	5	Y	13385(i)	\$ 3,000
42	1003245	01/07/2016	Total Suspended Solids	Group 1	Weekly Average	54	101	lb/day	N		87%	07/11/2015	S	N/A	Y	13385(h)	\$ 3,000

43	1003242	01/07/2016	Settleable Solids	Group 1	Weekly Average	0.1	5	ml/L	N		4900%	07/11/2015	S	N/A	Y	13385(h)	\$ 3,000
44	1003228	01/14/2016	pH	Other	Instantaneous	6.5	6	SU	N		N/A	07/18/2015	C	8	Y	13385(i)	\$ 3,000
45	1003234	01/14/2016	Total Suspended Solids	Group 1	Weekly Average	45	582	mg/L	N		1193%	07/18/2015	S	N/A	Y	13385(h)	\$ 3,000
46	1003238	01/14/2016	Biochemical Oxygen	Group 1	Weekly Average	45	285	mg/L	N		533%	07/18/2015	S	N/A	Y	13385(h)	\$ 3,000
47	1003227	01/14/2016	Chlorine, Total Residual	Group 2	Daily Maximum	0.1	0.25	mg/L	N		150%	07/18/2015	S	N/A	Y	13385(h)	\$ 3,000
48	1003230	01/14/2016	Biochemical Oxygen	Group 1	Weekly Average	54	789	lb/day	N		1361%	07/18/2015	S	N/A	Y	13385(h)	\$ 3,000
49	1003231	01/14/2016	Total Suspended Solids	Group 1	Weekly Average	54	1612	lb/day	N		2885%	07/18/2015	S	N/A	Y	13385(h)	\$ 3,000
50	1003237	01/31/2016	Total Coliform	Other	Monthly Median	23	40	MPN/100	N		N/A	08/04/2015	C	14	Y	13385(i)	\$ 3,000
51	1003243	01/31/2016	BOD5 @ 20 Deg. C.	Group 1	Monthly Average	85	52	%	N		-39%	08/04/2015	S	N/A	Y	13385(h)	\$ 3,000
52	1003240	01/31/2016	Total Suspended Solids	Group 1	Monthly Average	85	14	%	N		-84%	08/04/2015	S	N/A	Y	13385(h)	\$ 3,000
53	1003239	01/31/2016	Biochemical Oxygen	Group 1	Monthly Average	30	83	mg/L	N		177%	08/04/2015	S	N/A	Y	13385(h)	\$ 3,000
54	1003235	01/31/2016	Biochemical Oxygen	Group 1	Monthly Average	36	216	lb/day	N		500%	08/04/2015	S	N/A	Y	13385(h)	\$ 3,000
55	1003244	01/31/2016	Settleable Solids	Group 1	Monthly Average	0.1	25	ml/L	N		24900%	08/04/2015	S	N/A	Y	13385(h)	\$ 3,000
56	1003232	01/31/2016	Total Suspended Solids	Group 1	Monthly Average	30	170	mg/L	N		467%	08/04/2015	S	N/A	Y	13385(h)	\$ 3,000
57	1003233	01/31/2016	Total Suspended Solids	Group 1	Monthly Average	36	444	lb/day	N		1133%	08/04/2015	S	N/A	Y	13385(h)	\$ 3,000
58	1004991	02/25/2016	pH	Other	Instantaneous	6.5	6.4	SU	N		N/A	08/29/2015	C	22	Y	13385(i)	\$ 3,000

59	1006084	03/03/2016	pH	Other	Instantaneous	6.5	6.3	SU	N		N/A	09/05/2015	C	23	Y	13385(i)	\$ 3,000
60	1006085	03/10/2016	pH	Other	Instantaneous	6.5	6	SU	N		N/A	09/12/2015	C	24	Y	13385(i)	\$ 3,000
61	1006086	03/17/2016	pH	Other	Instantaneous	6.5	6	SU	N		N/A	09/19/2015	C	25	Y	13385(i)	\$ 3,000
62	1006087	03/24/2016	pH	Other	Instantaneous	6.5	6.2	SU	N		N/A	09/26/2015	C	26	Y	13385(i)	\$ 3,000
63	1007613	04/30/2016	Nitrate, Total (as N)	Group 1	Monthly Average	32.6	34	mg/L	N		4%	11/02/2015	C	24	Y	13385(i)	\$ 3,000
64	1007612	04/30/2016	Dichlorobromomethane	Group 2	Monthly Average	20.8	40	ug/L	N		92%	11/02/2015	S	N/A	Y	13385(h)	\$ 3,000
65	1007611	04/30/2016	Dibromochloromethane	Group 2	Monthly Average	4.22	5.6	ug/L	N		33%	11/02/2015	S	N/A	Y	13385(h)	\$ 3,000
66	1009194	05/31/2016	Nitrate, Total (as N)	Group 1	Monthly Average	32.6	34	mg/L	N		4%	12/03/2015	C	27	Y	13385(i)	\$ 3,000
67	1009196	05/31/2016	Dibromochloromethane	Group 2	Monthly Average	4.22	7.5	ug/L	N		78%	12/03/2015	S	N/A	Y	13385(h)	\$ 3,000
68	1009195	05/31/2016	Dichlorobromomethane	Group 2	Monthly Average	20.8	39	ug/L	N		88%	12/03/2015	S	N/A	Y	13385(h)	\$ 3,000
69	1015290	10/27/2016	pH	Other	Instantaneous	6.5	6.1	SU	N		N/A	04/30/2016	C	7	Y	13385(i)	\$ 3,000
70	1015291	10/31/2016	Nitrate, Total (as N)	Group 1	Monthly Average	32.6	42	mg/L	N		29%	05/04/2016	C	5	Y	13385(i)	\$ 3,000
71	1016683	11/24/2016	pH	Other	Instantaneous	6.5	5.8	SU	N		N/A	05/28/2016	C	6	Y	13385(i)	\$ 3,000
72	1017916	12/08/2016	pH	Other	Instantaneous	6.5	6.1	SU	N		N/A	06/11/2016	C	4	Y	13385(i)	\$ 3,000
73	1017919	12/20/2016	Total Coliform	Other	Maximum Daily	230	540	MPN/100	N		N/A	06/23/2016	C	5	Y	13385(i)	\$ 3,000
74	1017917	12/31/2016	Total Coliform	Other	Monthly Median	23	97	MPN/100	N		N/A	07/04/2016	C	6	Y	13385(i)	\$ 3,000

75	1020981	01/03/2017	Total Coliform	Other	Maximum Daily	230	540	MPN/100	N		N/A	07/07/2016	C	7	Y	13385(i)	\$ 3,000
76	1020982	01/31/2017	Total Coliform	Other	Monthly Median	23	33	MPN/100	N		N/A	08/04/2016	C	8	Y	13385(i)	\$ 3,000
77	1020985	01/31/2017	Total Suspended Solids	Group 1	Weekly Average	54	82.1	lb/day	N		52%	08/04/2016	S	N/A	Y	13385(h)	\$ 3,000
78	1022660	02/14/2017	Total Coliform	Other	Weekly Average	230	1600	mg/L	N		N/A	08/18/2016	C	10	Y	13385(i)	\$ 3,000
79	1022654	02/14/2017	Settleable Solids	Group 1	Weekly Average	0.2	1	ml/L	N		400%	08/18/2016	S	N/A	Y	13385(h)	\$ 3,000
80	1022655	02/28/2017	Biochemical Oxygen	Group 1	Weekly Average	54	84.1	lb/day	N		56%	09/01/2016	S	N/A	Y	13385(h)	\$ 3,000
81	1022658	02/28/2017	Settleable Solids	Group 1	Monthly Average	0.1	0.3	ml/L	N		200%	09/01/2016	S	N/A	Y	13385(h)	\$ 3,000
82	1022659	02/28/2017	BOD5 @ 20 Deg. C,	Group 1	Monthly Average	85	5.6	%	N		-93%	09/01/2016	S	N/A	Y	13385(h)	\$ 3,000
83	1022661	02/28/2017	Total Suspended Solids	Group 1	Monthly Average	85	2.4	%	N		-97%	09/01/2016	S	N/A	Y	13385(h)	\$ 3,000
84	1024791	03/31/2017	BOD5 @ 20 Deg. C,	Group 1	Monthly Average	85	52.6	%	N		-38%	10/02/2016	S	N/A	Y	13385(h)	\$ 3,000
85	1024792	03/31/2017	Total Suspended Solids	Group 1	Monthly Average	85	74.9	%	N		-12%	10/02/2016	S	N/A	Y	13385(h)	\$ 3,000
86	1031011	04/06/2017	Biochemical Oxygen	Group 1	Weekly Average	54	140	lb/day	N		159%	10/08/2016	S	N/A	Y	13385(h)	\$ 3,000
87	1031005	04/06/2017	Biochemical Oxygen	Group 1	Weekly Average	45	253	mg/L	N		462%	10/08/2016	S	N/A	Y	13385(h)	\$ 3,000
88	1031012	04/13/2017	Biochemical Oxygen	Group 1	Weekly Average	54	166	lb./day	N		207%	10/15/2016	S	N/A	Y	13385(h)	\$ 3,000
89	1031006	04/13/2017	Biochemical Oxygen	Group 1	Weekly Average	45	130	mg/L	N		189%	10/15/2016	S	N/A	Y	13385(h)	\$ 3,000
90	1031013	04/20/2017	Biochemical Oxygen	Group 1	Weekly Average	54	231	lb/day	N		328%	10/22/2016	S	N/A	Y	13385(h)	\$ 3,000
91	1031007	04/20/2017	Biochemical Oxygen	Group 1	Weekly Average	45	220	mg/L	N		389%	10/22/2016	S	N/A	Y	13385(h)	\$ 3,000

92	1031014	04/27/2017	Biochemical Oxygen	Group 1	Weekly Average	54	86	lb/day	N		59%	10/29/2016	S	N/A	Y	13385(h)	\$ 3,000
93	1031008	04/27/2017	Biochemical Oxygen	Group 1	Weekly Average	45	117	mg/L	N		160%	10/29/2016	S	N/A	Y	13385(h)	\$ 3,000
94	1025209	04/30/2017	Total Suspended Solids	Group 1	Weekly Average	30	36.5	mg/L	N		22%	11/01/2016	C	24	Y	13385(i)	\$ 3,000
95	1025206	04/30/2017	Biochemical Oxygen	Group 1	Monthly Average	30	180	mg/L	N		500%	11/01/2016	S	N/A	Y	13385(h)	\$ 3,000
96	1025207	04/30/2017	BOD5 @ 20 Deg. C,	Group 1	Monthly Average	85	0	%	N		-100%	11/01/2016	S	N/A	Y	13385(h)	\$ 3,000
97	1031015	04/30/2017	Biochemical Oxygen	Group 1	Monthly Average	36	159	lb/day	N		342%	11/01/2016	S	N/A	Y	13385(h)	\$ 3,000
98	1025208	04/30/2017	Total Suspended Solids	Group 1	Monthly Average	85	41.4	%	N		-51%	11/01/2016	S	N/A	Y	13385(h)	\$ 3,000
99	1031017	05/05/2017	Biochemical Oxygen	Group 1	Weekly Average	45	50	mg/L	N		11%	11/06/2016	C	29	Y	13385(i)	\$ 3,000
100	1028199	05/31/2017	Copper, Dissolved	Group 2	Monthly Average	18.4	23	ug/L	N		25%	12/02/2016	S	N/A	Y	13385(h)	\$ 3,000
101	1034611	10/12/2017	pH	Other	Instantaneous	6.5	6.4	SU	N		N/A	04/15/2017	C	12	Y	13385(i)	\$ 3,000
102	1034610	10/31/2017	Nitrate, Total (as N)	Group 1	Monthly Average	32.6	35	mg/L	N		7%	05/04/2017	C	4	Y	13385(i)	\$ 3,000
103	1036193	11/16/2017	pH	Other	Instantaneous	6.5	6	SU	N		N/A	05/20/2017	C	4	Y	13385(i)	\$ 3,000
104	1036187	11/22/2017	pH	Other	Instantaneous	6.5	5.9	SU	N		N/A	05/26/2017	C	5	Y	13385(i)	\$ 3,000
105	1036188	11/30/2017	Total Coliform	Other	Monthly Median	23	46	MPN/100	N		N/A	06/03/2017	C	5	Y	13385(i)	\$ 3,000
106	1036189	11/30/2017	Copper, Dissolved	Group 2	Monthly Average	18.4	19	ug/L	N		3%	06/03/2017	C	6	Y	13385(i)	\$ 3,000
107	1039200	12/28/2017	pH	Other	Weekly Discharge	6.5	6.1	SU	N		N/A	07/01/2017	C	7	Y	13385(i)	\$ 3,000

108	1039201	12/31/2017	Total Coliform	Other	Monthly Median	23	41	MPN/100	N		N/A	07/04/2017	C	8	Y	13385(i)	\$ 3,000
109	1039210	1/25/2018	Settleable Solids	Group 1	Weekly Average	0.2	0.7	m/L	N		250%	7/29/2017	S	N/A	Y	13385(i)	
110	1039209	01/31/2018	Settleable Solids	Group 1	Monthly Mean	0.1	0.2	ml/L	N		100%	08/04/2017	S	N/A	Y	13385(i)	\$ 3,000
111	1040007	02/13/2018	Nitrate, Total (as N)	Group 1	Monthly Discharge	32.6	37	mg/L	N		13%	08/17/2017	C	11	Y	13385(i)	\$ 3,000
																Total Penalty	\$ 330,000

Summary: Group 1 violations assessed MMP: 50; Group 11 violations assessed MMP: 29; other violations assessed MMP: 31; violations exempt from MMP: 1; total violations assessed MMP: 111

Mandatory Minimum Penalty = (66 Serious Violations + 44 Non-Serious Violations) x \$3,000 = Total penalty \$330,000

Notes/ Explanation

- ❖ Violations occurs on a sample date or last date of averaging period.
- ❖ For group 1 pollutants, a violation is serious when the limit is exceeded by 40% or more
- ❖ For group 2 pollutants, a violation is serious when the limit is exceeded by 20% or more.
- ❖ 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.

State of California
North Coast Water Quality Control Board
Interoffice Memorandum

TO: Diana Henrioulle

FROM: Doreen Kiruja

DATE: 11/06/2019

SUBJECT: LOLETA COMMUNITY SERVICES DISTRICT DETERMINATION OF ELIGIBILITY FOR COMPLIANCE PROJECT AS A SMALL COMMUNITY WITH A FINANCIAL HARDSHIP

Background and Summary

Loleta Community Services District (Discharger) has accrued \$330,000 in mandatory minimum penalties (MMPs) for the period from June 1, 2014 through February 28, 2019. Following the issuance of Complaint No. R1-2018-0026, staff determined the Discharger is eligible to complete a Compliance Project (CP) in lieu of paying their penalty.

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 10,000¹ 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 10,000 or less; and (2) the POTW's service area has a "financial hardship."

1. Rural County/Population Cap

The State Water Resources Control Board's (State Water Board) Water Quality Enforcement Policy² (*Enforcement Policy*), defines a "rural county" as "a county classified by the Economic Research Service, United States Department of Agriculture (ERS, USDA) with a rural-urban continuum code of **four** through **nine**."

The Discharger owns and operates a wastewater treatment facility (Loleta WWTF) that is a POTW located in Humboldt County. According to the 2013 Rural Urban Continuum Codes file updated on May 10, 2013,³ 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, does fall within the "rural county" classification.

2. Financial Hardship

Consistent with Water Code section 13385, subdivision (k)(2), the *Enforcement Policy*, at page 24, defines "financial hardship" in terms of median household income (MHI), unemployment rate and poverty level. 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;*
- *The community has an unemployment rate⁵ of 10 percent or greater;*
or
- *Twenty percent of the population is below the poverty level.⁶*

"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 group⁷ 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.*

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.*

¹A copy of the State Water Board's Water Quality Enforcement Policy is available at http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf.

² <http://www.ers.usda.gov/data-products/rural-urban-continuum-codes.aspx>, accessed July 8, 2017.

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."*

Based on the Discharger's service area boundary line (the closest boundary line available geospatially related to the Loleta WWTF boundary), which is publicly provided by the City of Loleta , and the United States Census Bureau tract and block group map layers available in ArcGIS, Loleta WWTF service area appears to lie within Humboldt County Census Tracts 108, block group 1, as shown in Figure 1.

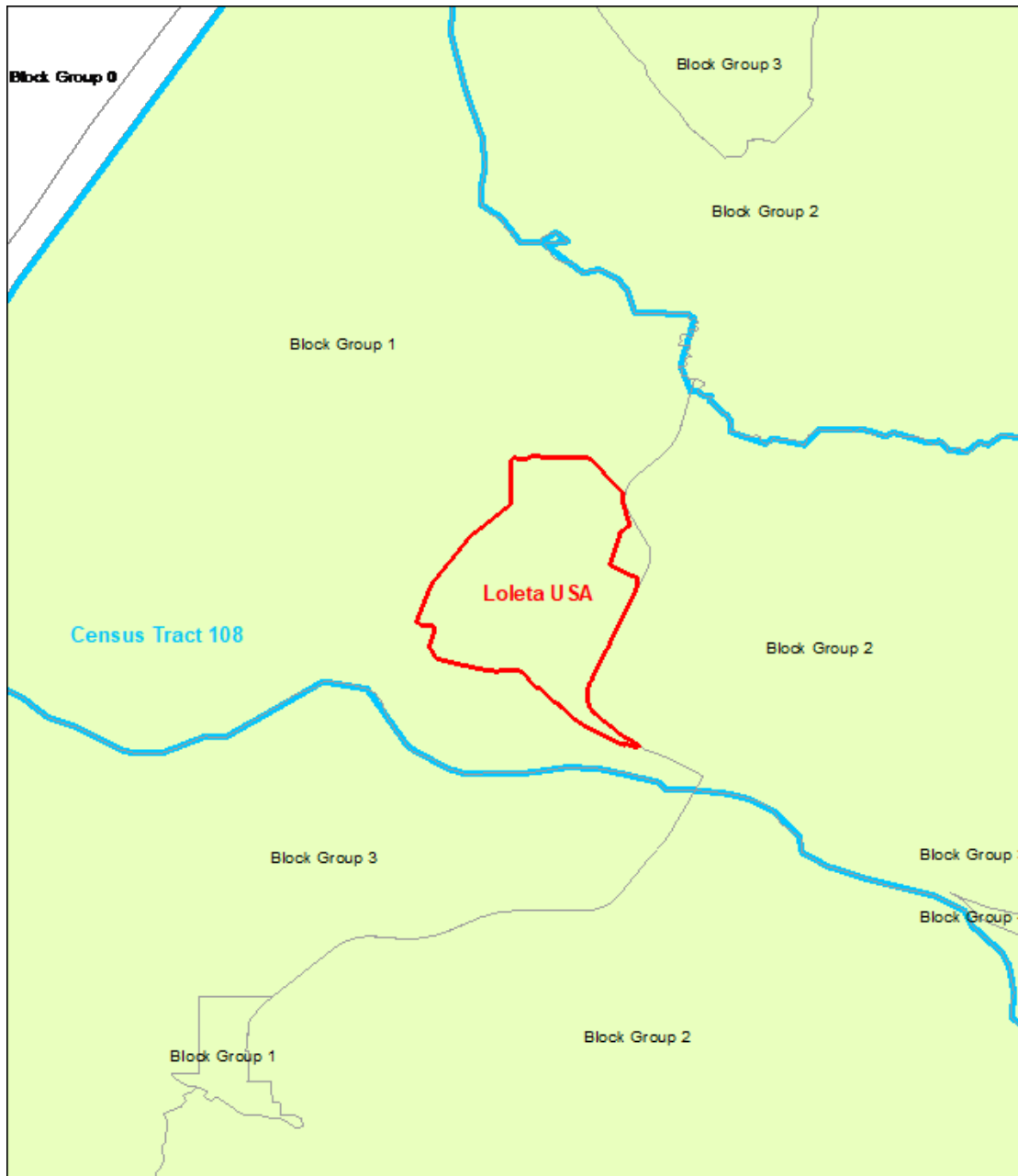


Figure 1 – Loleta Service Area, Census Tract, and Census Block Group Boundaries

As the 2010 decennial census did not include collection of economic data, the most recent available economic data are from the United States Census Bureau's ongoing American Community Survey (ACS) estimates. For smaller communities such as Loleta, ACS data are only available for 5-year estimates. The most recent available 5-year estimate with block group data is that for 2017. Selected data tables may be retrieved through the Census Bureau's American Factfinder portal, available at <http://factfinder.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t>.

The following tables were identified as providing the necessary information at the block group level, and the data were retrieved:

Table #	Table description	Tract 108 Block group1 2017 5-year	California 5-year	Financial Hardship Criterion
B19013	Median Household Income weighted by number of households	47,426	\$67,169	MHI less than 80% of CA MHI 80% CA MHI = \$53,735 <i>criteria met</i>
B23025	Employment Status	1,878 in labor force. Of those, 183 unemployed. 9.7% unemployed	N/A	Unemployment rate 10% or greater <i>criteria not met</i>
C17002	Ratio of individuals below the Poverty Level	152/ 1073 = 14.2% below poverty level	N/A	20% below poverty level <i>criteria not met</i>

Based on the Enforcement Policy's criteria and the most recent U.S. Census block group data, the Discharger does qualify as a small community with a financial hardship. The Median Household Income (MHI) for the tract that Loleta WWTF serves is less than 80% of CA MHI. If the Discharger believes that the U.S. Census data used in this determination do not accurately represent the population served by the Loleta 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 (p. 24) 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. 25). Pursuant to the Enforcement Policy, the Regional Water Board must consult with the State Water Board when making such determinations.

Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order R1-2019-0052, Attachment D: Compliance Project Description

Project Title: Loleta Community Services District Wastewater Treatment Plant Improvements

Geographic Area of Interest: Loleta, California, Humboldt County

Name of Responsible Entity: Loleta Community Services District

Contact Information:

Marcus Drumm
General Manager
Loleta Community Services District
P.O. Box 236
Loleta, California 95551
(707) 733-1717

Project Description:

Rehabilitation of the sanitary sewer collection system (SSCS) will reduce inflow and infiltration (I/I) that enters the wastewater system during wet weather causing high flow rates through the wastewater treatment facility (WWTF) that reduces the efficiency of the treatment processes. As I/I enters the wastewater system, it dilutes the wastewater, reducing pollutant concentrations while significantly increasing flow rates. Biological treatment systems (such as, the activated sludge process at the WWTF) rely on hydraulic residence time to remove pollutants from the waste stream. As flows increase, the residence time decreases, and the ability of the biological system to remove pollutants decreases. This significantly reduces the ability of the WWTF to remove pollutants (such as, biochemical oxygen demand [BOD], total suspended solids [TSS], settleable solids, and nitrate).

The reduction in pollutant concentrations due to high I/I in the SSCS can also reduce the efficiency of the biological treatment process at the WWTF. Biological systems metabolize waste products at a higher rate at higher pollutant concentrations than they do at lower pollutant concentrations. The combination of decreased residence time and decreased pollutant concentrations due to high I/I in the SSCS combine to significantly reduce the efficiency of the WWTF resulting in effluent violations. Violations associated with the existing chlorine disinfection system include pH, total coliform, carbon tetrachloride, chlorodibromomethane, and dichlorobromomethane. These violations are being addressed through the replacement of the chlorine disinfection system with a new ultraviolet (UV) disinfection system included in the State Water Resources Control Board (SWRCB) Clean Water State Revolving Fund (CWSRF) projects described below.

The Discharger has conducted over \$500,000 in planning, permitting, and preliminary engineering design to address the causes of the violations and is in the process of submitting two financial assistance applications for design and construction funding from the SWRCB CWSRF program. These two projects include rehabilitation of much of the SSCS to reduce I/I problems that cause high flows to the WWTF during wet weather, replacement of the existing WWTF with a state-of-the-art extended aeration WWTF, replacement of the existing chlorine disinfection system with an UV disinfection system, repair of the outfall pipe, and construction of a new summertime land application system to eliminate seasonal discharges to the Eel River.

The CWSRF projects will address many of the causes of the waste discharge violations. This project includes additional SSCS rehabilitation work to further reduce I/I, which will improve the effectiveness of the WWTF to remove pollutants associated with the violations; specifically, those associated with BOD, TSS, and settleable solids. A sanitary sewer evaluation survey (SSES) was conducted as a part of the CWSRF project's preliminary engineering phase. The SSES identified problems in the SSCS that contribute to I/I. Following identification of problems in the system, these areas were ranked and prioritized for rehabilitation based on cost and impact to I/I. Due to the high cost of SSCS rehabilitation, all the problems identified could not be addressed, and only the highest priority projects were selected for that project. This project includes additional high priority items identified in the SSES that were not included in the CWSRF projects.

Estimated Cost of Project Completion:

The total cost of the Compliance Project is estimated to be \$323,000. Due to the uncertainty associated with estimating construction costs at a planning level, the engineer's opinion of cost included below is an estimate and includes a 20% contingency. Individual task cost estimates are provided in the table below.

Item	Description	Units	Quantity	Unit Cost	Total Cost
1	Mobilization (12%)	LS	1	\$23,000	\$23,000
2	4- to 6-inch Pipe Burst	LF	335	\$100	\$34,000
3	Dig and Replace	LF	40	\$100	\$4,000
4	6-inch cast-in-place pipe (CIPP)	LF	265	\$60	\$16,000
5	Clean and closed circuit television (CCTV)	LF	265	\$15	\$4,000
6	Post Inspection	LF	265	\$5	\$1,000
7	Traffic Control	LS	1	\$10,000	\$10,000

Item	Description	Units	Quantity	Unit Cost	Total Cost
8	Erosion and Sediment Control	LS	1	\$10,000	\$10,000
9	Lateral Replacement (less than 6 feet deep)	EA	12	\$7,200	\$86,000
10	Manholes	EA	2	\$10,000	\$20,000
Subtotal:					\$208,000
Contingency (20%):					\$42,000
TOTAL CONSTRUCTION:					\$250,000
Facilities Design (10%):					\$25,000
Construction Services (15%):					\$38,000
Administration and Legal (4%):					\$10,000
TOTAL PROJECT:					\$323,000

Water body, beneficial use and/or pollutant addressed by this project:

The proposed Compliance Project will reduce infiltration and inflow (I/I) entering the SSCS. Reducing I/I reduces peak wet weather flows entering the WWTF which will result in greater treatment effectiveness. Improving treatment effectiveness by reducing peak wet weather flows will help eliminate discharge violations to the Eel River (receiving water). Projected improvements to the effectiveness of the WWTF will be supplemented by construction of a new WWTF and rehabilitation/repair of a larger portion of the SSCS as described in the Discharger’s CWSRF projects.

Project Schedule and Deliverables:

1. Project Management

This task will include communication and coordination with the Regional Water Board, project budget tracking, project documentation, project reporting, and task management.

Deliverables:

Progress reports shall be submitted to the Regional Water Board describing the progress of the Compliance Project implementation, including the status of the milestones described in this Attachment.

Final Completion Report shall include a summary of all tasks completed per this compliance project, an analysis of the success of the project, and a post-project accounting of all expenditures.

The Final Completion Report shall contain a certification that the Discharger followed all applicable environmental laws and regulations in the implementation of the Compliance Project, including the California Environmental Quality Act (CEQA), the Porter-Cologne Act, and the federal Clean Water Act. The accounting shall clearly show whether the final cost of the completed compliance project is less than, equal to, or more than the suspended liability of \$323,000. The report shall be completed under penalty of perjury.

Deadline:

Progress reports shall be due on April 30, 2020; July 30, 2020; and October 30, 2020.

Final Completion Report shall be submitted to RWQCB within three months of substantial completion of project; on or before January 29, 2021.

2. Permitting

This task will include complete construction permit application submittals to the appropriate agencies. The Discharger has received confirmation from the California Coastal Commission, US Army Corps of Engineers, California Department of Fish and Wildlife, and RWQCB that no permits will be required by these agencies for the Compliance Project. A County of Humboldt encroachment permit is anticipated to be required for the Compliance Project.

Deliverables: RWQCB notification of complete permit applications receipt by all applicable agencies. RWQCB notification of receipt of construction permits by all applicable agencies.

Deadline: Completed permit applications on or before April 1, 2020. Receipt of all construction permits on or before construction begins June 1, 2020.

3. 90% Design

This task will include 90% design package for review and comment by the RWQCB. The 90% design package will include design drawings and construction specifications.

Deliverables: Submit 90% Plans (in digital form) to RWQCB. Submit 90% Specifications (in digital form) to RWQCB.

Deadline: Submit all deliverables for this task to RWQCB for review on or before March 1, 2020.

4. 100% Design

This task will include revision of 90% plans and specifications to address RWQCB comments to complete 100% design. This task will also include compilation of a bid package for construction including draft contract documents.

Deliverables: Submit 100% Plans (in digital form) to RWQCB. Submit 100% Specifications (in digital form) to RWQCB. Submit Draft Contract Documents (in digital form) to RWQCB.

Deadline: Submit all deliverables for this task to RWQCB on or before April 1, 2020.

5. Construction Bidding

This task will include issuance of public bid documents, review of contractor bids, and selection of a contractor for construction.

Deliverables: RWQCB notification of selection of construction contractor. RWQCB notification of updated project cost estimate based on contractor bids. RWQCB notification of completed construction contract.

Deadlines: Release request for proposals May 1, 2020. Issue notice to proceed June 1, 2020.

6. Construction

This task will include construction of the Compliance Project.

Deliverables: See Task 1, Project Management for reporting submittals.

Deadlines: Begin construction on or before July 1, 2020. Complete construction on or before October 31, 2020.

