

California Regional Water Quality Control Board
North Coast Region

Administrative Civil Liability Complaint No. R1-2006-0070
Mandatory Minimum Penalties

For

Violations of Waste Discharge Requirements
Order Nos. 99-62 and R1-2004-0075
(WDID No. 1A84002OSIS)
NPDES No. CA0023272

In The Matter Of
City of Tulelake
Wastewater Treatment Facility

Siskiyou County

This Complaint to assess mandatory minimum penalties and administrative civil liability pursuant to California Water Code 13385 (Complaint) is issued to the City of Tulelake (hereinafter Discharger) for violations of Waste Discharge Requirements Order No. 99-62 (NPDES No. CA0023272) and Waste Discharge Requirements Order No. R1-2004-0075 for the period of January 1, 2000, through April 30, 2006.

The Executive Officer of the Regional Water Board finds the following:

1. The Discharger owns and operates the City of Tulelake Wastewater Treatment Facility (WWTF), which serves the community and discharges secondary-treated domestic wastewater into the Tulelake Irrigation District Drain No. 44-B-1, a tributary to the Tulelake-Lower Klamath Lake reach of the Lost River Basin.
2. The Regional Water Board adopted Waste Discharge Requirements Order No. 99-62 for the Discharger on August 26, 1999. The Discharger currently is regulated by Waste Discharge Requirements Order No. R1-2004-0075, adopted by the Regional Water Board on October 6, 2004. Both of these Waste Discharge Requirements serve as National Pollutant Discharge Elimination System (NPDES) permits under the Federal Clean Water Act. Order No. 99-62 was rescinded on October 6, 2004.
3. This Complaint covers violations of effluent limitations that occurred during the periods of discharge to receiving water for the period of January 1, 2000, through April 30, 2006. The details of these violations are presented in Finding 15 of this Complaint. Violations in Finding 15 are subject to the mandatory minimum penalties provision contained in California Water Code sections 13385(h) through (l).

4. Water Code section 13385(h)(1) requires the Regional Water Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each serious violation of an NPDES permit effluent limitation.
5. Water Code section 13385(h)(2) states that a serious violation occurs if the discharge from a facility regulated by an NPDES permit exceeds the effluent limitations for a Group I pollutant, as specified in Appendix A to Section 123.45 of Title 40 Code of Federal Regulations, by 40 percent or more, or for a Group II pollutant, as specified in Appendix A to Section 123.45 of Title 40 Code of Federal Regulations, by 20 percent or more.
6. Water Code section 13385(i)(1) requires the Regional Water Board to assess a mandatory penalty 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 any six-month period:
 - a. Exceeds 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. Exceeds a toxicity discharge limitation where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.

Violations under section 13385(i)(1) are referred to as chronic violations in this Complaint.

7. On February 19, 2002, the State Water Resources Control Board (State Water Board) adopted Resolution No. 2002-0040 amending the Water Quality Enforcement Policy (Enforcement Policy). The Enforcement Policy was approved by the Office of Administrative Law and became effective on July 30, 2002. The Enforcement Policy addresses, among other enforcement issues, issues related to assessing mandatory minimum penalties.
8. Water Code section 13385(l)(1) provides that a portion of mandatory minimum penalties imposed under section 13385(h) or (i) may be directed to a supplemental environmental project (SEP) in accordance with Section IX of the Enforcement Policy of the State Water Board. If the penalty amount exceeds fifteen thousand dollars (\$15,000), the portion of the penalty amount that may be directed to a supplemental environmental project may not exceed fifteen thousand dollars (\$15,000) plus 50 percent of the penalty amount that exceeds fifteen thousand dollars (\$15,000). This Complaint includes requirements for SEPs as specified in the Enforcement Policy.
9. Water Code section 1335(k)(1) provides that the Regional Water Board may elect to require all or a portion of mandatory minimum penalties imposed under

section 13385(h) or (i) against a POTW serving an eligible small community may be directed to a compliance project (CP) in accordance with Section X of the Enforcement Policy of the State Water board. This Complaint includes requirements for CPs as specified in the Enforcement Policy.

10. For the purpose of compliance determinations, the 30-day average is equivalent to the monthly average, which is defined as the arithmetic mean of all daily determinations made during a calendar month. Where less than daily sampling is required, the average shall be determined by the sum of all the measured daily discharges divided by the number of days during the calendar month when the measurements were made. If only one sample is collected during that period of time, the value of the single sample shall constitute the monthly average.
11. For the purpose of compliance determinations, the 7-day average is equivalent to the weekly average, which is defined as the arithmetic mean of all daily determinations made during a calendar week, Sunday to Saturday. Where less than daily sampling is required, the average shall be determined by the sum of all the measured daily discharges divided by the number of days during the calendar week when the measurements were made. If only one sample is collected during that period of time, the value of the single sample shall constitute the weekly average.

1. Order No. 99-62 includes the following effluent limitations:

B. EFFLUENT LIMITATIONS

1. Representative sample of the discharge must not contain constituents in excess of the following limits:

<u>Constituent</u>	<u>Units</u>	<u>Monthly Average^a</u>	<u>Daily Mean</u>	<u>Daily Maximum</u>
BOD (20°C, 5-day)	mg/l	30	----	60
	lb/day ^b	40	----	80

^a The arithmetic mean of the values for effluent samples collected in a period of 30 consecutive days.

^b The daily discharge (lbs/day) is obtained from the following calculation for any calendar day:

Daily discharge (lb/day) =

$$\frac{8.34}{N} \sum_i^N Q_i C_i$$

in which N is the number of samples analyzed in any calendar day. Qi and Ci are the flow rate and (mgd) and the constituent concentration (mg/l) respectively, which are associated with each of the N grab samples which may be taken in any calendar day. If a composite sample is taken, Ci is the concentration measured in the composite sample; and Qi is the average flow rate occurring during the period over which samples are composite.

Suspended Solids	mg/l	50	----	80
	lb/day ^b	67	----	107
Settleable Solids	mg/l		0.1	0.2
Coliform Organisms (Total)	MPN/100 ml		23 ^c	230
Chlorine Residual	mg/l	---	---	0.1

Hydrogen Ion pH Not less than 6.5 nor greater than 8.5

2. The arithmetic mean of the BOD (20°C, 5-day) and Suspended Solids values by weight for effluent samples collected in a period of 30 consecutive days shall not exceed 15 percent of the arithmetic mean of the values, by weight, for influent samples collected at approximately the same time during the same period (85 percent removal).
3. The mean daily dry weather flow of waste shall not exceed 0.16 million gallons per day (MGD) averaged over a period of 30 consecutive days.
4. The survival of test fish in 96-hour [static or continuous flow] bioassays in undiluted effluent samples shall equal or exceed 90% survival 67% of the time, and 70% survival 100% of the time.

2. Order No. R1-2004-0075 includes the following effluent limitations:

B. EFFLUENT LIMITATIONS

1. Treated effluent shall not contain constituents in excess of the following:

Constituent	Unit	Monthly Average ¹	Weekly Average ²	Daily Maximum ³
BOD (20°C, 5-day)	mg/l	45	65	---
	lb/day ⁴	60	87	---

^c Median [NOTE: The value 23 in B.1 was intended to be a monthly median. This interpretation was employed for the purpose of assessing violations in this complaint. The literal interpretation from the table above would require multiple Total Coliform samples per day, which does not occur.]

¹ The arithmetic mean all samples collected in a calendar month.

² The arithmetic mean of all samples collected in a calendar day.

³ The maximum result of all samples collected in a calendar day.

Suspended Solids	mg/l	---	---	95 ⁵
	lb/day	---	---	127
Settleable Solids	mg/l	0.1	---	0.2
Coliform	MPN/100 ml	23 ⁶	---	240
Organisms (Total)				

5. The arithmetic mean of the BOD (20°C, 5-day) and suspended solids values for effluent samples collected in a period of 30 consecutive days shall not exceed 35 percent of the arithmetic mean of the values for influent samples collected at approximately the same times during the same period (65 percent removal). Percent removal shall be determined from the 30-day average value of influent.

3. The Enforcement Policy states that for the purpose of determining serious violations, BOD, suspended solids, and pH are identified as Group I pollutants in Title 40 Code of Federal Regulations, Section 123.45, Appendix A. Total Coliform is neither a Group I nor a Group II pollutant; therefore, exceedances of effluent limitations for total coliform bacteria do not count as serious violations.

4. According to monitoring reports submitted by the Discharger for the period between January 1, 2000, and April 30, 2006, the Discharger exceeded effluent limitations one hundred sixty-nine times while discharging effluent to the Tulelake Irrigation District Drain No. 44-B-1, a tributary of the Tulelake-Lower Klamath Lake reach of the Lost River Basin. Of those one hundred sixty-nine exceedances, eighty-eight were serious violations in accordance with CWC Section 13385(h) and eighty-one were chronic effluent violations in accordance with CWC Section 13385(i)(1). The mandatory minimum penalty amount for those violations is \$495,000 as shown in the following table:

⁴ Mass-based effluent limitations are based on the WWTF dry weather flow of 2.3 mgd. During wet-weather periods when the flow into the WWTF exceeds the dayweather design flow, the mass exsion limitation shall be calculated using the concentration-cased effluent limitations and the actual flow rates (not to exceed the 30-day average wet weather design flow of 5.0 mgd)

The mass discharge (lbs/day) is obtained from the following formula for any calendar day, week, or month:

$$\frac{8.34}{N} \sum_{i=1}^N Q_i C_i$$

In which N is the number of samples analyzed in any calendar day, week, or month. Q_i and C_i are the flow rate (MGD) and the constituent concentration (mg/l), respectively, which are associated with each of the N grab samples that may be taken in any calendar day, week, or month. If a composite sample is take, C_i is the concentration measured in the composite sample; and Q_i is the average flow rate occurring during the period over which samples are composited.

⁵ Daily maximum not to be exceeded 90% of the time.

⁶ Median

**Effluent Limitation Exceedances
January 1, 2000 to April 30, 2006**

Date	Pollutant	Reported Value	Violation Type	Mandatory Penalty
02/29/00	Coliform Monthly Median	801 MPN/100 ml	1 st Chronic	\$0
04/30/00	BOD Monthly Average	33 mg/l	2 nd Chronic	\$0
04/30/00	Coliform Monthly Median	240 MPN/100 ml	3 rd Chronic	\$0
04/30/00	TSS Monthly Average	74 mg/l	Serious	\$3,000
06/30/00	Coliform Monthly Median	826 MPN/100 ml	Chronic	\$3,000
07/31/00	Coliform Monthly Median	900 MPN/100 ml	Chronic	\$3,000
08/31/00	Coliform Monthly Median	165 MPN/100 ml	Chronic	\$3,000
09/30/00	Coliform Monthly Median	155 MPN/100 ml	Chronic	\$3,000
10/31/00	Coliform Monthly Median	130 MPN/100 ml	Chronic	\$3,000
12/31/00	BOD % Removal	75%	Serious	\$3,000
12/31/00	TSS % Removal	19%	Serious	\$3,000
01/02/01	Hydrogen Ion	pH 8.64	Chronic	\$3,000
01/11/01	Chlorine Residual	0.20 mg/l	Serious	\$3,000
01/22/01	Hydrogen Ion	pH 8.94	Serious	\$3,000
01/31/01	BOD Monthly Average	36 mg/l	Chronic	\$3,000
01/31/01	BOD % Removal	70%	Serious	\$3,000
01/31/01	TSS % Removal	12%	Serious	\$3,000
02/21/01	TSS Daily Maximum	84 mg/l	Chronic	\$3,000
02/26/01	TSS Daily Maximum	112 mg/l	Serious	\$3,000
02/28/01	TSS Monthly Average	84 mg/l	Serious	\$3,000
02/28/01	BOD % Removal	78%	Serious	\$3,000
02/28/01	TSS % Removal	37%	Serious	\$3,000
03/05/01	TSS Daily Maximum	124 mg/l	Serious	\$3,000
03/31/01	TSS Monthly Average	64 mg/l	Chronic	\$3,000
03/31/01	BOD % Removal	80%	Chronic	\$3,000
03/31/01	TSS % Removal	5%	Serious	\$3,000
04/02/01	Chlorine Residual	0.30 mg/l	Serious	\$3,000
04/03/01	Chlorine Residual	0.50 mg/l	Serious	\$3,000
04/04/01	Chlorine Residual	0.50 mg/l	Serious	\$3,000
04/05/01	Chlorine Residual	0.50 mg/l	Serious	\$3,000
04/06/01	Chlorine Residual	0.40 mg/l	Serious	\$3,000
04/10/01	Chlorine Residual	0.30 mg/l	Serious	\$3,000
04/11/01	Chlorine Residual	0.50 mg/l	Serious	\$3,000
04/12/01	Chlorine Residual	0.50 mg/l	Serious	\$3,000
04/18/01	Hydrogen Ion	pH 8.56	Chronic	\$3,000
04/25/01	Chlorine Residual	0.30 mg/l	Serious	\$3,000
04/26/01	Chlorine Residual	0.30 mg/l	Serious	\$3,000
04/30/01	BOD % Removal	82%	Chronic	\$3,000
04/30/01	TSS % Removal	63%	Serious	\$3,000

05/08/01	Chlorine Residual	0.20 mg/l	Serious	\$3,000
05/31/01	Chlorine Residual	0.40 mg/l	Serious	\$3,000
05/31/01	BOD % Removal	72%	Serious	\$3,000
05/31/01	TSS % Removal	75%	Serious	\$3,000
05/31/01	Coliform Monthly Median	131 MPN/100 ml	Chronic	\$3,000
06/01/01	Chlorine Residual	0.20 mg/l	Serious	\$3,000
06/04/01	BOD Weekly Average	1205 lbs/day	Serious	\$3,000
06/04/01	TSS Daily Maximum	224 mg/l	Chronic	\$3,000
06/05/01	Chlorine Residual	0.15 mg/l	Serious	\$3,000
06/07/01	Chlorine Residual	0.40 mg/l	Serious	\$3,000
06/08/01	Chlorine Residual	0.40 mg/l	Serious	\$3,000
06/11/01	Chlorine Residual	0.35 mg/l	Serious	\$3,000
06/13/01	Chlorine Residual	0.40 mg/l	Serious	\$3,000
06/14/01	Chlorine Residual	0.30 mg/l	Serious	\$3,000
06/21/01	Chlorine Residual	0.50 mg/l	Serious	\$3,000
06/22/01	Chlorine Residual	0.30 mg/l	Serious	\$3,000
06/26/01	Chlorine Residual	0.50 mg/l	Serious	\$3,000
06/27/01	Chlorine Residual	0.50 mg/l	Serious	\$3,000
06/29/01	Chlorine Residual	0.50 mg/l	Serious	\$3,000
06/30/01	TSS Monthly Average	115 mg/l	Serious	\$3,000
06/30/01	BOD % Removal	79%	Chronic	\$3,000
06/30/01	TSS % Removal	0%	Serious	\$3,000
06/30/01	Coliform Monthly Median	240 MPN/100 ml	Chronic	\$3,000
07/12/01	Chlorine Residual	0.20 mg/l	Serious	\$3,000
07/13/01	Chlorine Residual	0.40 mg/l	Serious	\$3,000
07/17/01	Chlorine Residual	0.40 mg/l	Serious	\$3,000
07/18/01	Chlorine Residual	0.40 mg/l	Serious	\$3,000
07/19/01	Chlorine Residual	0.40 mg/l	Serious	\$3,000
07/20/01	Chlorine Residual	0.40 mg/l	Serious	\$3,000
07/25/01	Coliform Daily Max	>1600 MPN/100 ml	Chronic	\$3,000
07/31/01	Coliform Daily Max	>1600 MPN/100 ml	Chronic	\$3,000
07/31/01	BOD % Removal	81%	Chronic	\$3,000
07/31/01	TSS % Removal	81%	Serious	\$3,000
07/31/01	Coliform Monthly Median	240 MPN/100 ml	Chronic	\$3,000
08/06/01	Coliform Daily Max	>1600 MPN/100 ml	Chronic	\$3,000
08/22/01	Coliform Daily Max	>1600 MPN/100 ml	Chronic	\$3,000
08/31/01	BOD % Removal	77%	Serious	\$3,000
08/31/01	TSS % Removal	62%	Serious	\$3,000
08/31/01	Coliform Monthly Median	920 MPN/100 ml	Chronic	\$3,000
09/30/01	TSS % Removal	63%	Serious	\$3,000
09/30/01	Coliform Monthly Median	240 MPN/100 ml	Chronic	\$3,000
10/31/01	Coliform Monthly Median	240 MPN/100 ml	Chronic	\$3,000
12/03/01	Chlorine Residual	1.00 mg/l	Serious	\$3,000
12/12/01	Chlorine Residual	0.50 mg/l	Serious	\$3,000

12/31/01	BOD % Removal	80%	Chronic	\$3,000
12/31/01	TSS % Removal	73%	Serious	\$3,000
01/31/02	Coliform Monthly Median	26 MPN/100 ml	Chronic	\$3,000
02/05/02	Chlorine Residual	1.70 mg/l	Serious	\$3,000
02/25/02	Chlorine Residual	2.50 mg/l	Serious	\$3,000
02/26/02	Hydrogen Ion	pH 8.54	Chronic	\$3,000
02/28/02	BOD % Removal	82%	Chronic	\$3,000
02/28/02	TSS % Removal	56%	Serious	\$3,000
03/04/02	TSS Daily Maximum	88 mg/l	Chronic	\$3,000
03/19/02	TSS Daily Maximum	113 mg/l	Serious	\$3,000
03/26/02	TSS Daily Maximum	148 mg/l	Serious	\$3,000
03/26/02	TSS Daily Maximum	111 lbs/day	Chronic	\$3,000
03/31/02	TSS Monthly Average	116 mg/l	Serious	\$3,000
03/31/02	TSS Monthly Average	87 lbs/day	Chronic	\$3,000
03/31/02	BOD % Removal	60%	Serious	\$3,000
03/31/02	TSS % Removal	61%	Serious	\$3,000
04/02/02	TSS Daily Maximum	143 mg/l	Serious	\$3,000
04/02/02	Hydrogen Ion	pH 8.88	Chronic	\$3,000
04/09/02	TSS Daily Maximum	152 mg/l	Serious	\$3,000
04/29/02	TSS Daily Maximum	160 mg/l	Serious	\$3,000
04/29/02	TSS Daily Maximum	120 lbs/day	Chronic	\$3,000
04/30/02	TSS Monthly Average	99 mg/l	Serious	\$3,000
04/30/02	BOD % Removal	83%	Chronic	\$3,000
04/30/02	TSS % Removal	4%	Serious	\$3,000
04/30/02	Coliform Monthly Median	70 MPN/100 ml	Chronic	\$3,000
05/06/02	Chlorine Residual	0.20 mg/l	Serious	\$3,000
05/31/02	TSS % Removal	48%	Serious	\$3,000
05/31/02	Coliform Monthly Median	160 MPN/100 ml	Chronic	\$3,000
06/03/02	Chlorine Residual	0.30 mg/l	Serious	\$3,000
06/24/02	Coliform Daily Max	900 MPN/100 ml	Chronic	\$3,000
06/30/02	BOD % Removal	75%	Serious	\$3,000
06/30/02	TSS % Removal	80%	Chronic	\$3,000
07/08/02	TSS Daily Maximum	102 mg/l	Chronic	\$3,000
07/15/02	Coliform Daily Max	900 MPN/100 ml	Chronic	\$3,000
07/31/02	BOD % Removal	76%	Serious	\$3,000
07/31/02	TSS % Removal	46%	Serious	\$3,000
07/31/02	Coliform Monthly Median	240 MPN/100 ml	Chronic	\$3,000
08/31/02	BOD % Removal	83%	Chronic	\$3,000
08/31/02	Coliform Monthly Median	240 MPN/100 ml	Chronic	\$3,000
09/04/02	Coliform Daily Max	>1600 MPN/100 ml	Chronic	\$3,000
09/30/02	BOD % Removal	80%	Chronic	\$3,000
09/30/02	Coliform Monthly Median	240 MPN/100 ml	Chronic	\$3,000
10/31/02	BOD % Removal	83%	Chronic	\$3,000
10/31/02	Coliform Monthly Median	50 MPN/100 ml	Chronic	\$3,000

11/13/02	Chlorine Residual	0.20 mg/l	Serious	\$3,000
11/30/02	BOD % Removal	82%	Chronic	\$3,000
12/31/02	BOD % Removal	74%	Serious	\$3,000
12/31/02	TSS % Removal	77%	Serious	\$3,000
01/31/03	BOD % Removal	80%	Chronic	\$3,000
02/28/03	BOD % Removal	83%	Chronic	\$3,000
02/28/03	TSS % Removal	68%	Serious	\$3,000
03/25/03	TSS Daily Maximum	112 mg/l	Chronic	\$3,000
03/25/03	Hydrogen Ion	pH 8.98	Serious	\$3,000
03/31/03	TSS Monthly Average	51 mg/l	Chronic	\$3,000
03/31/03	BOD % Removal	81%	Chronic	\$3,000
03/31/03	TSS % Removal	16%	Serious	\$3,000
04/01/03	TSS Daily Maximum	91 mg/l	Chronic	\$3,000
04/30/03	BOD % Removal	84%	Chronic	\$3,000
04/30/03	TSS % Removal	54%	Serious	\$3,000
05/19/03	Hydrogen Ion	pH 8.72	Chronic	\$3,000
05/27/03	Coliform Daily Max	>1600 MPN/100 ml	Chronic	\$3,000
05/31/03	BOD % Removal	74%	Serious	\$3,000
05/31/03	TSS % Removal	80%	Chronic	\$3,000
05/31/03	Coliform Monthly Median	27 MPN/100 ml	Chronic	\$3,000
06/30/03	BOD % Removal	77%	Serious	\$3,000
06/30/03	Coliform Monthly Median	51 MPN/100 ml	Chronic	\$3,000
07/22/03	Coliform Daily Max	300 MPN/100 ml	Chronic	\$3,000
07/31/03	BOD % Removal	74%	Serious	\$3,000
07/31/03	Coliform Monthly Median	240 MPN/100 ml	Chronic	\$3,000
08/12/03	Coliform Daily Max	1600 MPN/100 ml	Chronic	\$3,000
08/31/03	BOD % Removal	79%	Serious	\$3,000
08/31/03	Coliform Monthly Median	205 MPN/100 ml	Chronic	\$3,000
09/30/03	BOD % Removal	80%	Chronic	\$3,000
10/31/03	BOD % Removal	84%	Chronic	\$3,000
11/30/03	BOD % Removal	80%	Chronic	\$3,000
12/31/03	BOD % Removal	82%	Chronic	\$3,000
01/31/04	BOD % Removal	83%	Chronic	\$3,000
03/31/04	BOD % Removal	83%	Chronic	\$3,000
04/30/04	BOD % Removal	83%	Chronic	\$3,000
05/31/04	BOD % Removal	81%	Chronic	\$3,000
06/30/04	BOD % Removal	80%	Chronic	\$3,000
07/31/04	BOD % Removal	83%	Chronic	\$3,000
08/30/04	BOD % Removal	77%	Serious	\$3,000
08/30/04	TSS% Removal	84%	Chronic	\$3,000
10/26/04	TSS% Removal	59%	Serious	\$3,000
04/30/05	BOD % Removal	64%	1 st Chronic	\$0
			Total	\$495,000

11. The total amount of mandatory minimum penalties for serious and chronic violations occurring during the period January 1, 2000, through April 30, 2006 is \$495,000. Regional Water Board staff costs associated with this enforcement action amount to approximately \$10,000 at this time, including staff time to tally violations and prepare this Complaint, public notices, public hearing, response to comments, and evaluation and tracking of a Compliance Project, if any, through to completion.
11. The issuance of this Complaint is an enforcement action to protect the environment, and is therefore exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) pursuant to Title 14, California Code of Regulations Sections 15308 and 15321(a)(2).

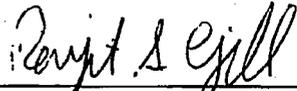
THE CITY OF TULELAKE IS HEREBY GIVEN NOTICE THAT:

0. The Executive Officer of the Regional Water Board proposes that the Discharger be assessed a **mandatory minimum penalty in the amount of \$495,000** for effluent violations that occurred from January 1, 2000, through April 30, 2006.
0. A hearing shall be conducted on this Complaint by the Regional Water Board on September 19 and 20, 2006, unless the Discharger waives the right to a hearing within 90 days under Water Code section 13323(b) by signing and returning the waiver form attached to this Complaint within 30 days of the date of this Complaint. By doing so, the Discharger agrees to:
 - a. Pay the mandatory minimum penalty of \$495,000 in full to the State Water Pollution Cleanup and Abatement Account within 30 days of the date of this Complaint, or
 - a. Propose a SEP in an amount up to \$255,000 and pay the balance of the penalty (to recover staff costs) within 30 days from the date of the Complaint (or in compliance with a payment schedule issued in writing by the Executive Officer) balance of the penalty (to recover staff costs) within 30 days from the date of this Complaint (or in compliance with a payment schedule issued in writing by the Executive Officer). The sum of the SEP amount and the amount of the fine to be paid to the State Water Pollution Cleanup and Abatement Account shall equal the full penalty.
 - a. Propose a CP in the amount up to \$485,000 and pay the \$10,000 balance of the penalty (to recover staff costs) within 30 days from the

date of the Complaint (or in compliance with a payment schedule issued in writing by the Executive Officer). The sum of the CP amount and the amount of the fine to be paid to the State Water Pollution Cleanup and Abatement Account shall equal the full penalty.

3. If the Discharger chooses to propose an SEP or CP, a proposal must be submitted within 30 days of the date of this Complaint to the Executive Officer for conceptual approval. Any SEP or CP proposal shall also conform to the requirements specified in the Enforcement Policy. The SEP or CP proposal must include a time schedule, for concurrence by the Executive Officer, to address implementation and completion of the SEP or CP. If the proposed SEP or CP and/or implementation schedule is not acceptable, the Executive Officer may allow the Discharger 30 days to submit a new or revised proposal, or may demand that, during the same 30 day period the Discharger remit all or a portion of the assigned penalties. All payments, including money not used for the SEP or CP, must be payable to the State Water Pollution Cleanup and Abatement Account.
4. If the Discharger waives the hearing and pays the liability, the resulting settlement may become effective on the next day after the public comments on this Complaint during the public comment period. If there are significant public comments, the Executive Officer may withdraw the Complaint, reissued in as appropriate, or take other appropriate action.
5. If a hearing is held, the Regional Water Board may impose an administrative civil liability in the amount proposed or for a different amount; decline to seek civil liability; or refer the matter to the Attorney General to have a Superior Court consider enforcement.
6. 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, including NPDES permit violations. Accordingly, interested persons will be given 30 days to comment on any proposed settlement of this Complaint.
0. In the event that the Discharger is required to pay a previously suspended penalty amount, payment of the previously suspended penalty amount does not relieve the Discharge of the independent obligation to take necessary actions to achieve compliance.
0. The Executive Officer shall maintain jurisdiction over approved SEP and CP implementation time schedules throughout the life of the SEP or CP. If, given written justification from the Discharger, the Executive Officer determines that a delay in the SEP or CP implementation schedule was beyond the reasonable control of the Discharger; the Executive Officer may revise the implementation schedule as appropriate.

9. All payments, including money not used for the SEP or CP and or previously suspended liabilities assessed for failure to comply with the SEP or CP must be payable to the State Water Pollution Cleanup and Abatement Account.
10. Notwithstanding the issuance of the Compliant, the Regional Water Board shall retain the authority to assess additional penalties beyond the mandatory minimums for violations of the Discharger's waste discharge requirements.



For: Catherine E. Kuhlman
Executive Officer

June 21, 2006

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