

Regional Water Quality Control Board
North Coast Region

COMPLAINT NO. R1-2006-0091
FOR
ADMINISTRATIVE CIVIL LIABILITY
IN THE MATTER OF

THE CITY OF EUREKA
ELK RIVER WASTEWATER TREATMENT FACILITY
FOR
VIOLATION OF WASTE DISCHARGE REQUIREMENTS
ORDER NO. R1-2004-0013

Humboldt County

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

1. The City of Eureka (City) owns and operates the Elk River Wastewater Treatment Facility (WWTF). The WWTF serves both the City and the surrounding unincorporated areas within the Humboldt Community Services District (HCSD). The WWTF discharges secondary treated domestic wastewater to Humboldt Bay in a manner that is equivalent to an outfall to the Pacific Ocean. Associated with the WWTF is an extensive sanitary sewer system consisting of 125 miles of sewer mains, 9,500 service laterals, 17 lift stations, 3 pump stations, interceptor lines, collection lines and manholes. Sewage lateral lines connected to the public sewer serving buildings on private property are not within the jurisdiction of the City and are the responsibility of the land owner.
2. Sanitary sewer overflows (SSOs) are discharges from sanitary sewer systems of domestic, industrial, and commercial wastewater. In the City of Eureka, SSOs primarily consist of domestic and commercial wastewater. SSOs contain high levels of suspended solids, pathogenic organisms, nutrients, oxygen-demanding organic compounds, oil and grease, and other pollutants. SSOs may cause a public nuisance, when raw untreated wastewater is discharged to areas with high public exposure, such as streets or surface waters used for drinking, fishing, or body contact recreation. SSOs may pollute surface or ground waters, threaten public health, adversely affect aquatic life, and impair the recreational use and aesthetic enjoyment of surface waters.
3. The City's wastewater system is regulated by Waste Discharge Requirements Order No. R1-2004-003, adopted by the Regional Water Board on March 24, 2004. These waste discharge requirements serve as

a National Pollution Discharge Elimination System Permit (NPDES) under the federal Clean Water Act.

4. Water Code section 13385, subdivision (a) provides for the imposition of civil liability by the Regional Water Board. Section 13385, subdivision (c) provides the maximum amount of civil liability that may be imposed by the Regional Water Board. The amount may be up to \$10,000 dollars for each day in which the violation occurs, plus up to \$10 per gallon of waste discharged in excess of 1,000 gallons that is not susceptible to cleanup or is not cleaned up.
5. Discharge Prohibition A.1 contained in Order No. R1-2004-003 states that: "The discharge of waste to Humboldt Bay is prohibited unless it is done in such a manner to assure that all wastewater is conveyed to the mouth of the Bay and dispersed in the Pacific Ocean during periods of ebb tide." Discharge Prohibition no. A-5 states: "The discharge of untreated or partially treated waste from anywhere within the collection, treatment, or disposal system is prohibited".
6. During the period between October 1, 2004 and March 31, 2006 the City experienced 29 SSOs. Seven of the 29 overflows were private homeowner systems. Of the remaining 22 overflows, 15 resulted in discharges to receiving waters in violation of Waste Discharge Requirements as described in Finding 5 above. All sewage spills were reported to the Regional Water Board in a timely manner. A summary of the overflows follows:

DATE	LOCATION	QUANTITY	COMMENTS
Oct. 1, 2004	1552 Highland Ave.	100 gallons*	Unknown, private system
Oct. 20, 2004	"O" Street Lift Station	200 gallons*	Pump controller failure
Nov. 17, 2004	Manhole nr. "O" Street lift Station	200 gallons*	Line blockage
Nov. 18, 2004	1552 Highland Ave.	20 gallons*	Unknown, private system
Nov. 26, 2004	3347 Cottage Street	800 gallons, 600 recovered	Manhole failure
Dec. 1, 2004	3451 Broadway	300 gallons*	Unknown
Dec. 6, 2004	1552 Highland Ave.	20 gallons*	Unknown, private system
Dec. 8, 2004	H and Willow Streets	320 gallons	Blockage
Dec. 14, 2004	Simpson St. between B St. and C St.	50 gallons	Collapsed Main
Jan. 1, 2005	1552 Highland Ave.	100 gallons*	Unknown, private system

Jan. 8, 2005	"O" Street Lift Station	5,500 gallons	I&I Storm
Mar. 20, 2005	"O" Street Lift Station	200,000 gallons recovered 10,000 gallons	Pump controller failure
Mar. 29, 2005	1723 2 nd Street	1300 gallons*	Blockage, private lateral
April 7, 2005	"O" Street Lift Station	8,000 gallons	Power outage
April 9, 2005	Manhole, 3800 block of Hemlock	2,400 gallons	Main blockage
May 11, 2005	Pacifica Apartments	500 gallons*	Plugged line
July 11, 2005	Hilfiker lane	300 gallons*	Broken pump, private line
June 13, 2005	Martin Slough	265 gallons	Main break
July 22, 2005	1911 Hilfiker	100 gallons*	Broken pump private line
Dec. 28, 2005	"O" Street Lift Station	94,500 gallons, recovered 33,000 gallons	I&I, Storm
Dec. 28, 2005	Waterfront and T St.	2,400 gallons	I&I Storm
Dec. 30, 2005	"O" Street Lift Station	7,500 gallons, 7,000 gallons recovered	I&I Storm
Jan. 17, 2006	Waterfront and T St.	1,125	I&I Storm
Jan. 18, 2006	Central and Harris Streets	675	I&I Storm
Jan. 20, 2006	Waterfront and T St.	1,170 gallons	I&I Storm
Feb. 2, 2006	Waterfront and T St.	1,500 gallons	I&I Storm
Mar. 6, 2006	"O" Street Lift Station	7,200 gallons	I&I Storm
Mar. 26, 2006	Spring St. and West Hawthorne	180 gallons	Blockage
Mar. 28, 2006	Harris and "B" Streets	1,500 gallons	Blockage

7. Of the 29 overflows, 11 were cleaned up and 7 were less than 1000 gallons. The remaining 11 were significant discharges to surface waters with a potential to seriously impact beneficial uses. The significant spills ranged in volume from 1123 gallons to in excess of 200,000 gallons. With the exception of a power outage and a pump controller failure at the "O" Street lift station, all the significant spills were the result of Inflow and Infiltration during rain storms.
8. In determining the amount of civil liability, the Regional Water Board is required to take into account the nature, circumstances, extent, and gravity of the violation; the violator's ability to pay; any prior history of violations; the degree of culpability; economic benefit or savings, if any, resulting from the violation(s); and other matters that justice may require. At a minimum, liability

is assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation.

a. Nature, Circumstances, Extent, and Gravity of the Violations:

The SSOs documented in the above findings are clear violations of permit prohibitions with varying degrees of impact on water quality and beneficial uses. Liability was assessed, in part, by judging the impact of the discharges on the receiving waters based on their severity. Overflows that occur as the result of inflow and infiltration that is diluted by rainwater may have a lesser impact than overflows that occur during a dry period.

b. Ability to Pay:

Regional Water Board staff has no information to indicate that the City would be unable to pay any imposed administrative civil liability.

c. Prior History of Violations:

The City has a history of SSOs. Complaint No. R1-2004-0112 was issued on November 17, 2004, in part for 43 SSOs that occurred between February 1998 and March 2004. 39 resulted in discharges to receiving waters. The largest overflow of 14,000 gallons occurred at the "O" Street Lift Station and was the result of I&I during a rainstorm. The City's total civil liability for the SSOs was \$20,150. The City has been proactive in addressing the overflows and has attempted to mitigate or prevent reoccurrences. These actions were considered in determining the proposed liability.

d. Degree of Culpability:

The City is responsible for the violations described in Finding 6 above.

e. Economic Savings:

Judging from the City's actions to maintain, operate and improve the collection system, there were no cost savings associated with these violations.

f. Susceptibility to Cleanup or Abatement and Voluntary Efforts Undertaken:

Cleanup of some of the overflows was not possible. In those instances where it was possible, the City did capture or contain the overflow.

g. Other matters that justice may require:

In all instances the City responded immediately upon notification of an overflow and took immediate steps to resolve the problem. Where possible the discharged waste was recovered and the area cleaned up.

A major SSO occurred at the "O" Street Lift Station on March 20, 2005, when 200,000 gallons of wastewater was discharged to Martin Slough due to a pump controller failure. The major factor that contributed to the large volume of this spill was the failure of the alarm company's dispatch center to notify the City of the spill. At the time of the overflow, the City's procedures for notification during normal working hours was to receive alarms directly or by telephone from the alarm company. After hours alarms were responded to utilizing a prioritized call list of city staff. This system proved to be problematic and cumbersome resulting in slow response times. Consequently, the City has changed to an on call system where designated employees can be reached by cell phone 24 hours a day and 7 days a week. The City has also constructed an overflow containment system at a cost of about \$40,000, consisting of pumps and storage tanks at the "O" Street Lift Station to minimize potential overflows. Additionally, the pump control system has been upgraded to provide greater reliability and data transmission to the City's control system.

The annual budget for the collection system is in excess of 1.45 million dollars. This supports 10 full time employees and provides coverage 8 hours per day 5 days a week with 24 hour pager notification for after normal working hour's emergencies. Capital improvements in 2005 included the replacement of 2,222 feet of deteriorated clay pipe with PVC pipe, 25 sewer laterals, two manholes and the removal of 15 unused wye connections. A new lift station was installed a 3rd and Y Street to eliminate a problematic sewer main that crossed under Highway 101 and a small slough. The work included the installation of 1,715 feet of 8 inch force main and 965 feet of 8 inch gravity main. The cost of these improvements was in excess of \$1,150,000.

The City is installing remote transmitting units and wireless communications for a Supervisory Control and Data Acquisition (SCADA) system. This will allow the city to have up to the minute

information from remote pump stations to a computer system in the collection system office. This information provides city staff with the ability to be proactive during periods of high flow and pump problems.

On February 7, 2006 the City entered into a \$200,000 contract with Brown and Caldwell Consulting Engineers to address all aspects of the City's wastewater system including:

Hydraulic modeling of the system using data collected by city staff and a local consultant,

A sewer capacity assessment,

A sewer condition assessment,

A pump station and lift station condition assessment,

CMOM review which will be an evaluation of the city's compliance with EPA regulations regarding **C**apacity, **M**anagement, **O**perations, and **M**aintenance of collections systems,

An assessment of the Waste Water Treatment Plant capacity,

And a proposed capitol improvement program to address the issues discovered by the above assessments.

Ongoing maintenance includes television inspection of sewer mains, root removal and cleaning of mains with a water jet rodder.

In addition to the collection system staff, the city implements a **F**ats, **O**il and **G**rease (FOG) program through the wastewater treatment plant's pretreatment program. The goal of the program is to significantly reduce the amount of FOG that enters the sanitary sewer system and reduce related SSOs. The major contributors of FOG are restaurants and food processors.

Staff costs associated with this enforcement action is estimated to be \$10,000.

9. The maximum liability set forth in Water Code section 13385, subdivision (c) for the SSOs listed in Finding 6 amounts to \$2,845,950. In the interest of justice and fairness and taking into account the issues described in

Finding 8, a significant adjustment must be undertaken to account for the City's actions to prevent and mitigate SSOs.

10. Based on a review of the above facts and required factors, the Executive Officer of the Regional Water Board is issuing this complaint with a proposed administrative civil liability in the amount of **\$100,000**.
11. The issuance of this complaint is an enforcement action to protect the environment, and is therefore exempt from provisions of the California Environmental Quality Act (Public Resources Code sections 21000 et seq.) pursuant to title 14, California Code of Regulations, sections 15308 and 15321, subdivision (a)(2).

THE CITY OF EUREKA IS HEREBY GIVEN NOTICE THAT, pursuant to Water Code section 1323:

1. The Executive Officer of the Regional Water Board proposes that the City be assessed a proposed **administrative civil liability in the amount of \$100,000**.
2. A hearing shall be conducted on this complaint by the Regional Water Board On October 18, 2006, unless the City waives the right to a hearing by signing and returning the waiver form attached to this Complaint. By doing so, the City agrees to pay the \$100,000 in full to the State Water Pollution Cleanup and Abatement Account within 30 days of the date of this Complaint.
3. The settlement will become effective on the next day after the public comment period for this Complaint is closed, provided that there are no significant public comments on this Complaint during the public comment period. If there are significant public comments, the Executive Officer may withdraw the Complaint and reissue it as appropriate.
4. 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.
5. Regulations of the United States Environmental Protection Agency (USEPA) 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.

6. Notwithstanding the issuance of the Complaint, the Regional Water Board shall retain the authority to assess additional penalties for violation of the City's waste discharge requirements.


for Catherine E. Kuhlman
Executive Officer

August 22, 2006

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