

California Regional Water Quality Control Board
North Coast Region

Administrative Civil Liability Order No. R1-2006-0066

Mandatory Minimum Penalties

For

Violation of NPDES Monitoring and Reporting Requirements
Waste Discharge Requirements Order No. R1-2002-0031
NPDES No. CA0024171

In the Matter of

Harwood Products, Inc
Branscomb Sawmill
And
Woodwaste Disposal Site
Class III Waste Management Unit
WDID No. 1B83056OMEN

Mendocino County

The California Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board), having received from Harwood Products, Inc. (hereinafter Discharger) a waiver of the right to a hearing in the matter of mandatory minimum penalties pursuant to California Water Code sections 13385(h) and 13385.1 for failure to submit five discharger monitoring reports in a timely manner as required by Order No. R1-2002-0031 (NPDES No. CA0024171) and the associated monitoring and reporting program, and having received Discharger's request for the opportunity to implement a Supplemental Environmental Project (SEP) in lieu of a portion of the penalty prescribed, finds the following:

1. The Discharger operates a sawmill and woodwaste disposal site (hereinafter facility) located at 14210 Branscomb Road in Branscomb, California. The Discharger discharges storm water to the South Fork Eel River at Discharge Serial No. 001 (Latitude 39°39'20" N and Longitude 123°37'47" W) and at Discharge Serial No. 002 (Latitude 39°39'20" N and Longitude 123°57'58" W). The storm water is susceptible to containing pollutants that can degrade water quality and impact beneficial uses of water.
2. On May 16, 2002, the Regional Water Board adopted Order No. R1-2002-0031, which prescribes waste discharge requirements and serves as an NPDES permit (NPDES No. CA0024171) for the discharge of treated wastewater from the facility to the Eel River.

3. Among the provisions in the Discharger's waste discharge requirements are the requirements to implement a discharge monitoring program and to prepare and submit NPDES self-monitoring reports to the Regional Water Board pursuant to Water Code section 13383.
4. The Regional Water Board received the Discharger's monthly reports as follows:

Report Type	Due Date	Received	Total days late
Monthly	Jan. 1, 2004	July 1, 2004	182 days
Monthly	Feb. 1, 2004	July 1, 2004	151 days
Monthly	March 1, 2004	July 1, 2004	122 days
Monthly	April 1, 2004	July 1, 2004	91 days
Monthly	May 1, 2004	July 1, 2004	61 days

5. Water Code section 13385(h) requires that the Regional Water Board assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each serious violation. Water Code section 13385.1(a)(1) identifies the failure to timely file a discharge monitoring report required pursuant to Water Code section 13383 for each complete period of 30 days following the deadline for submitting the report as a serious violation. Water Code section 13385(l)(1) allows the Regional Water Board to direct a portion of the penalty toward a Supplemental Environmental Project (SEP) in accordance with the *State Water Resources Control Board's Water Quality Enforcement Policy* (Enforcement Policy).
6. On February 15, 2005, the Executive Officer issued Administrative Civil Liability Complaint No. R1-2005-0015, assessing a mandatory minimum penalty of \$60,000 for untimely submittal of monitoring reports described in Finding No. 4 above. By letter dated April 1, 2005, the Discharger waived its right to a public hearing and requested to pay the sum of \$22,500 to the State Water Pollution Cleanup and Abatement Account (CAA) and spend the remaining sum of \$37,500 on a Supplemental Environmental Project (SEP). The Discharger paid a total of \$22,500 into the CAA in three installments on May 18, June 20, and July 19, 2005.
7. CWC Section 13385(l)(1) provides that a portion of the mandatory minimum penalties imposed under CWC 13385(h) or (i) may be directed to a supplemental environmental project (SEP) in accordance with the *State Water Resources Control Board's Water Quality Enforcement Policy*. 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).
8. A SEP was received from the Discharger on February 3, 2006 with the last revision received on May 1, 2006. The Discharger proposes a SEP to conduct a watershed assessment of Kenny Creek and Mud Springs Creek watersheds, part of the South Fork Eel River Watershed in Mendocino County, at a cost of \$46,425 as described in Attachments A and B incorporated herein. Implementation of the recommended

erosion control measure, fish passage improvement, and streamside revegetation will cost at least \$45,000 more. Total cost is at least \$91,425. Project completion is December 31, 2008. The proposed SEP and time schedule are attached and are hereby incorporated into this Order. The Mendocino County Resource Conservation District will oversee completion of the watershed assessment and recommended implementation. The watershed assessment will focus on: 1) identifying future or ongoing sediment sources throughout the area (both hillslope, road and streamside sources; 2) identifying any barriers to anadromous fish passage; and 3) identifying streamside areas along perennial streams in need of riparian planting. From May 1, 2007 through December 30, 2008, on-the-ground projects will be conducted. These projects will include erosion control, fish passage or riparian improvement measures in the Kenny and Mud Springs watersheds in order to improve watershed conditions and water quality.

9. A duly noticed public hearing on this matter was held before the Regional Water Board during a public meeting on September 20, 2006, in the Regional Water Board Hearing Room, 5550 Skylane Boulevard, Suite A, Santa Rosa, California. The documents for the agenda item were provided to the Discharger prior to the hearing.
10. At the hearing, the Regional Water Board considered whether to accept, reject, or modify the proposed SEP and any other action appropriate as a result of the hearing.
11. The Regional Water Board finds that the SEP, as proposed, meets the criteria established in the *State Water Resources Control Board's Enforcement Policy*.
12. The issuance of this Order 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, subdivision (a)(2).
13. Any person affected by this action of the Regional Water Board may petition the State Water Resources Control Board to review the action in accordance with section 13320 of the Water Code and title 23, California Code of Regulations, section 2050. The petition must be received by the State Water Resources Control Board within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request.

THEREFORE, IT IS HEREBY ORDERED pursuant to Water Code section 13385 that:

1. The Discharger shall be assessed the mandatory minimum penalty in the amount of \$60,000.
The Discharger has paid the sum of \$22,500 into the CAA. The remaining sum of \$37,500 is eligible to be permanently suspended upon satisfactory completion of the SEP as described in Attachments A and B of this Order. The SEP meets the criteria established in the Enforcement Policy and shall be completed on or before December 31, 2008, according to the following time schedule:

Task A: Air Photo Analysis	Progress report due on or before 12/31/2006 Final report due on or before 5/31/2007
Task B: Field Inventories	Progress report due on or before 12/31/2006 Final report due on or before 5/31/2007
Task C: Data Entry and Analysis	Progress report due on or before 12/31/2006 Final report due on or before 5/31/2007
Task D: Final Action Plan	Progress report due on or before 12/31/2006 Final report due on or before 5/31/2007
Task E: Complete Implementation of the Action Plan	Progress reports due on or before 11/31/07 and 5/31/08 Final report due on or before 12/31/2008

2. If, given written justification from the Discharger, the Executive Officer determines that a delay in the SEP implementation schedule was beyond the reasonable control of the Discharger, the Executive Officer may revise the implementation schedule as appropriate. Written justification must be received by the Executive Officer before the specific due date occurs, must describe circumstances causing the delay, and must state when each task of the SEP will be completed.
3. The remaining penalty amount of \$37,500 shall be permanently suspended if the Executive Officer determines that the Discharger provides the Regional Water Board with the scheduled progress reports toward completion of the SEP and the final report by December 31, 2008.
4. Notwithstanding the issuance of the Order, the Regional Water Board shall retain the authority to assess additional penalties for violations of the Discharger's Waste Discharge Requirements.

Certification

I, Catherine E. Kuhlman, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, North Coast Region, on September 20, 2006.

Catherine E. Kuhlman
Executive Officer