

California Regional Water Quality Control Board
North Coast Region

Administrative Civil Liability Order No. R1-2007-0016

For

Violation of Waste Discharge Requirements
Order Nos. 94-110 and R1-2001-22
NPDES No. CA0005304

In the Matter of
Georgia-Pacific Corporation
Fort Bragg Lumber Mill
WDID No. 1B84089OMEN

Mendocino County

The California Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board), having received from Georgia Pacific Corporation (hereinafter Discharger) a waiver of the right to a hearing in the matter of mandatory minimum penalties pursuant to Water Code sections 13385, subdivisions (h) and (i) for failure to meet mandatory effluent limitations as required by Waste Discharge Requirements Order Nos. 94-110 and R1-2001-22 and their associated monitoring and reporting programs, and having received the 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. On September 22, 1994, the Regional Water Board adopted Waste Discharge Requirements Order No. 94-110 and NPDES Permit No. CA0005304) regulating discharges of process wastewaters and storm water to the Pacific Ocean from the Fort Bragg Lumber Mill. Order No. 94-110 was rescinded and replaced with Waste Discharge Requirements Order No. R1-2001-22 on March 22, 2001. The Fort Bragg Mill ceased operations in 2002. On August 25, 2002, at the request of the Discharger, the Regional Water Board rescinded Waste Discharge Requirements Order No. R1-2001-22.
2. Among the provisions in the Discharger's Waste Discharge Requirement Orders 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. According to monitoring reports submitted by the Discharger, the discharge exceeded effluent limitations fifteen times during the period from January 1, 2000 through August 5, 2002.

3. Water Code section 13385, subdivisions (h) and (i) require that the Regional Water Board assess mandatory minimum penalties. Water Code section 13385, subsection (l) allows the Regional Water Board to direct a portion of the penalty toward a supplemental environmental project (SEP) in accordance with Water Code section 13385(l) and section IX of the State Water Resources Control Board's Water Quality Enforcement Policy (Enforcement Policy).
4. On May 11, 2005, the Executive Officer issued Administrative Civil Liability Complaint No. R1-2005-0038, assessing mandatory minimum penalties of \$36,000. By letter dated June 13, 2005, the Discharger waived its right to a public hearing and requested to pay the sum of \$10,500 to the State Water Pollution Cleanup and Abatement Account (CAA) and spend the remaining sum of \$25,500 on a SEP.
5. An updated SEP was received via fax from the Discharger on January 23, 2007. The Discharger proposes a SEP to secure and protect the water supply and reservoir in the Newman Gulch watershed from illegal solid waste disposal of unwanted vehicles, spent fuel and oil containers, household waste, construction waste materials and other debris. The site also is a favorite place for off road vehicle riding, which results in gully erosion of the easily eroded sandy topsoil common to the watershed. Protecting the water supply was identified as the City of Fort Bragg's No.1 priority through completion of the US EPA-required Vulnerability Assessment. The SEP and implementation of the proposed watershed protection work is estimated at a cost of \$27,600 as described in Attachment A incorporated herein. Protection of the watershed will focus on cleanup of illegally placed solid waste materials, installation of fences and gates to prevent trespass, and placement of barriers to block "volunteer" access routes into the Newman Gulch reservoir areas. The project must be completed by September 30, 2007. The proposed SEP and time schedule are attached and are hereby incorporated into this Order. This project will improve watershed conditions and protect the water quality of Ft. Bragg's domestic water supply. The City of Fort Bragg's Public Works Department Staff will oversee completion of the work to be performed.
6. A duly noticed public hearing on this matter was held before the Regional Water Board during a public meeting on April 26, 2007 in Santa Rosa, California. The documents for the agenda item were provided to the Discharger and made available to the public prior to the hearing. The Discharger and the public were given the opportunity to testify and present evidence regarding the proposed settlement.
7. At the hearing, the Regional Water Board considered whether to accept, reject, or modify the proposed Administrative Civil Liability Order and any other action found appropriate as a result of the hearing.
8. The Regional Water Board finds that the SEP, as proposed, meets the criteria established in Water Code section 13385, subsection (l) and the Enforcement Policy, including that the project consist of something not otherwise required of the Discharger and that there is a nexus between the violation and the SEP.

9. 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 (Pub. Resources Code, §§ 21000-21177) pursuant to title 14, California Code of Regulations, sections 15308 and 15321, subdivision (a)(2).
10. 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 thirty 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 a mandatory minimum penalty in the amount of \$36,000. The Discharger paid the sum of \$10,500 into the CAA on June 13, 2005. The remaining sum of \$25,500 is eligible to be permanently suspended upon satisfactory completion of the SEP as described in Attachment A of this Order. The SEP meets the criteria established in Water Code section 13385, subdivision (f) and the Enforcement Policy and shall be completed on or before September 30, 2007, according to the following time schedule:

TASK	DATE
Task A: Survey to identify easterly boundary of city property at Newman Gulch	Report of completion due on or before May 31, 2007
Task B: Develop Plans and Specifications for contract work Task C: Contract to City Council for approval	Progress report due on or before July 15, 2007
Task D: Fabrication of Gates	Progress report due on or before September 1, 2007
Task E: Complete installation of watershed protection measures	Final report due on or before October 30, 2007

2. If, after being 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 penalty amount of \$25,500 shall be permanently suspended if the Executive Officer determines that the Discharger has provided the Regional Water Board with the scheduled progress reports toward completion of the SEP and the final completion report as described in paragraph (1) above. If the Discharger fails to complete the approved SEP to the satisfaction of the Executive Officer or fails to complete any of the above-described tasks by the corresponding due date, the Executive Officer may require immediate payment of the suspended liability to the CAA. It is the Discharger's responsibility to complete the SEP, regardless of any agreements between the Discharger and any third party contracted to implement the SEP. Therefore, the Discharger may want to consider a third party performance bond or the inclusion of a penalty clause in their contract. The final report shall contain documentation of expenditures. If the final total cost of the successfully completed SEP is less than the amount suspended for completion of the SEP, the Discharger must remit the difference to the CAA.
4. Whenever the Discharger publicizes the SEP or the results of the SEP, it must state in a prominent manner that the project is being undertaken as part of the settlement of an enforcement action.

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 April 26, 2007.

Catherine E. Kuhlman
Executive Officer