

California Regional Water Quality Control Board  
North Coast Region

Administrative Civil Liability Order No. R1-2007-0004

For

Violation of Cease and Desist  
Order No. R1-2006-0003  
ID No. 1A84118ODN

In the Matter of  
Klamath Community Services District  
Wastewater Treatment Facility

Del Norte County

This Order to assess a penalty pursuant to California Water Code section 13350(a)(1) is issued to Klamath Community Services District (hereinafter Discharger) for violations of Cease and Desist Order No. R1-2006-0003.

The California Regional Water Quality Control Board, North Coast Region (Regional Water Board), finds the following:

1. The Klamath Community Services District owns and operates wastewater collection, treatment, and disposal facilities that serve the New Klamath Town Site located adjacent to Highway 101 near the mouth of the Klamath River. The New Klamath Town Site consists of a total of ninety lots, primarily residential with some commercial development to serve the community.
2. Water treatment consists of a large septic tank having 20,000 gallons per day treatment capacity followed by disposal in two large leachfields adjacent to the Klamath River. The Regional Water Board adopted Waste Discharge Order No. 84-118 for the Discharger on September 27, 1984. The leachfield experienced solids carryover from the septic tank and surfacing effluent soon after its construction.
3. On February 25, 1987, the Regional Water Board adopted Cease and Desist Order No. 87-27 requiring the Discharger to cease and desist from discharging and threatening to discharge waste in violation of Waste Discharge Requirements. Cease and Desist Order No. 87-27 contained a list of tasks and a corresponding time schedule for the Discharger to complete them.

4. On December 1, 1988, the Regional Water Board adopted Cease and Desist Order No 88-153, revising Cease and Desist Order No. 87-27, requiring the Discharger to cease and desist from discharging and threatening to discharge waste in violation of Waste Discharge Requirements. Cease and Desist Order No. 88-153 contains a list of tasks and a corresponding time schedule.
5. Inspections by Regional Water Board staff and reports from the Discharger revealed that the required sewer system infiltration analysis was not conducted, septic tank effluent was discharged to the Klamath River for a prolonged period following flood damage, Klamath River flood damage resulted in loss of a portion of one of the leachfields, monitoring wells and instruments to monitor the discharge of waste and were not being maintained, leachfields were not being maintained, and service charge revenues were insufficient to operate and maintain the wastewater system. On January 25, 2006, the Regional Water Board adopted Cease and Desist Order No R1-2006-0003, revising Cease and Desist Order Nos. 87-27 and 88-153.
6. The Discharger was slow to respond and responded insufficiently to fully comply with some of the tasks delineated in Cease and Desist Order No. R1-2006-0003.
7. On May 10, 2006, the Regional Water Board Executive Officer (Executive Officer) issued Complaint No. R1-2006-0057 proposing that the Discharger pay \$7,000 in administrative civil liability for the violations they had accrued as of that date. By letter dated May 29, 2006, the Discharger requested a hearing on this matter.
8. A duly noticed public hearing on this matter was held before the Regional Water Board panel during a public meeting on August 9, 2006, in the Regional Water Board Hearing Room, 5550 Skylane Boulevard, Suite A, Santa Rosa, California. The Discharger had an opportunity to be heard regarding the allegations in this Order and the imposition of mandatory penalties. The documents for the agenda item were provided to the Discharger prior to the hearing.
9. At the hearing, the Regional Water Board panel considered whether to recommend that the Regional Water Board affirm, reject or modify the proposed penalties set forth herein, or whether to refer the matter to the Attorney General for recovery of judicial civil liability, or any other action appropriate as a result of the hearing. The hearing panel determined that the following portions of Cease and Desist Order No. R1-2006-0003 were being violated:
  - “3.b. By March 1, 2006, install an operational flow measuring device or cause the existing flow measuring device to give credible flow data in order to report the daily volume of wastewater discharged into the

leachfield disposal system. Submit a report of completion to the Regional Water Board by March 15, 2006, and thereafter, continue to report wastewater flows in conformance with Monitoring and Reporting Program No 84-118 and any revisions to the Monitoring and Reporting Program.”

Solar and 12-volt battery backup power was supplied to the existing flow meter on or about April 18, 2006, in order for the Discharger to obtain reliable daily wastewater flow readings. Backup power was installed approximately 48 days late.

“3.c. By March 1, 2006, submit a map prepared, stamped and signed by a California Registered Civil Engineer or Land Surveyor that shows the location of all wastewater transmission and disposal facilities, including pressure transmission and distribution lines, distribution boxes, leachlines, leachfields, existing monitoring wells, Klamath River, parking and traveled areas, property boundaries, and any other improvements on the property. The map also shall indicate the location of all proposed monitoring wells that must be installed in order to comply with Monitoring and Reporting Program No. 84-118.”

The map submitted on June 1, 2006, was substantially complete although it did not have all of the features that are needed. The (second) map was submitted 60 days late. A map showing the approximate location of community wells was received by Regional Water Board staff on August 24, 2006. The Regional Water Board did not establish a due date for submittal of a revised map showing community well(s) location; however, the second map was submitted 60 days late.

“3.d. By April 1, 2006, install all monitoring wells necessary to comply with Monitoring and Reporting Program No. 84-118. Submit a report of completion to the Regional Water Board by April 15, 2006, that describes well construction technique and materials, well locations and well depths. Thereafter, continue to report water level observations in conformance with Monitoring and Reporting Program No. 84-118 and any revisions to the Monitoring and Reporting Program.”

The report describing monitoring well construction was received by Regional Water Board staff on June 7, 2006, and was submitted 53 days late.

10. California Water Code section 13350(a)(1) provides for the imposition of civil liability to anyone who violates any cease and desist order issued by a regional board. Section 13350(e)(1) provides that the maximum amount of civil liability that may be imposed by the Regional Water Board may not exceed \$5,000 per day of violation. Section 13350(e)(1)(B) establishes a minimum liability of \$100 for each day in which the violation occurs.

11. Civil liability required by section 13350(e)(1) for each of the tasks required by CDO No. R1-2006-0003 is as follows:

Task 3b: 48 days late. Minimum liability is \$4,800. Maximum liability is \$240,000.

Task 3c: 60 days late. Minimum liability is \$6,000. Maximum liability is \$300,000.

Task 3d: 53 days late. Minimum liability is \$5,300. Maximum liability is \$265,000.

The cumulative minimum civil liability for all three tasks is \$16,100 and the cumulative maximum civil liability is \$805,000.

12. California Water Code section 13327 provides:

“In determining the amount of civil liability the regional board ... shall take into consideration the nature, circumstance, extent, and gravity of the violation or violations, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, and, with respect to the violator, the ability to pay, the effect on ability continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters as justice may require.”

While the history of violations has been extensive in this case, the Discharger has limited resources, to an unusual degree. On that basis, the Regional Water Board panel recommended liabilities of less than the minimum for all violations noted above. (Wat. Code, §13350(f).) In this instance, given the very tight budget currently available to the Discharger, even the relatively small proposed civil liability should still help provide the necessary incentive to avoid further violations and promote compliance.

13. 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(a)(2).
14. 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 section 13350 of the California Water Code that:

1. Taking into account the findings of fact and recommendations of the Regional Water Board hearing panel, including but not limited to the factors set forth in finding number twelve (12) above, and based on the history of the Discharger's performance, the multiple violations of Cease and Desist Order No. R1-2006-0003, and the potential threat to water quality, the Klamath Community Services District is assessed a penalty in the amount of \$5,000 for violations of Cease and Desist Order No. R1-2006-0003.
2. The full amount of the penalty shall be paid within thirty days in the form of a check or money order payable to the State Water Resources Control Board, Waste Discharge Permit Fund. The check/money order shall be submitted to the Regional Water Board's office at 5550 Skylane Boulevard, Suite A, Santa Rosa CA 95403. The check/money order shall contain a reference to this Order and shall be made out to State Water Resources Control Board.

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  
February 8, 2007.

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Catherine E. Kuhlman  
Executive Officer