

California Regional Water Quality Control Board
North Coast Region

Administrative Civil Liability Order No. R1-2007-0042

Mandatory Minimum Penalties

For
Violation of Waste Discharge Requirements
Order No. R1-2000-15
NPDES No. CA0022748

In the Matter of
City of Rio Dell
Wastewater Treatment Facility
WDID No. 1B83134OHUM

Humboldt County

The California Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board), having received from the City of Rio Dell (hereinafter Discharger) a waiver of the right to a hearing in the matter of mandatory minimum penalties pursuant to California Water Code section 13385, subdivisions (h) and (i) for failure to meet effluent limitations as required by Order No. R1-2000-15 (NPDES No. CA0022748) and associated monitoring and reporting program, and having received the Discharger's request for the opportunity to implement a Compliance Project (CP) in lieu of the penalty prescribed, finds the following:

1. The Discharger owns and operates a municipal wastewater treatment facility (WWTF), located in the City of Rio Dell to collect, treat, and dispose of wastewater generated within the City. The WWTF is designed to provide secondary treatment and then discharges the treated effluent to the Eel River during winter months (October 1 to May 14).
2. The Regional Water Board adopted Waste Discharge Requirements Order No. R1-2000-15 for the Discharger on February 24, 2000, which served as a National Pollutant Discharge Elimination System (NPDES) permit under the Federal Clean Water Act. Order No. R1-2000-15 was replaced by Waste Discharge Requirements Order No. R1-2006-0021, adopted by the Regional Water Board on May 17, 2006 and effective on June 16, 2006, which also serves as a NPDES permit.
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 the authority of Water Code section 13383.

4. According to monitoring reports submitted by the Discharger, the discharge exceeded effluent limitations thirty-one times during the period from February 24, 2000 through May 31, 2006.
5. Water Code section 13385, subdivisions (h) and (i) require the Regional Water Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each specified violation of effluent limits. Water Code section 13385, subdivision (k) allows the Regional Water Board to direct all or a portion of the penalty toward a CP in accordance with Section X of the *State Water Resources Control Board's Water Quality Enforcement Policy* (Enforcement Policy).
6. On March 1, 2007, the Executive Officer issued Administrative Civil Liability Complaint No. R1-2007-0020 assessing mandatory minimum penalties of \$63,000 for effluent violations as described in Finding No. 4 above. The Discharger found an error in the calculation of the violations. The total penalties for Administrative Civil Liability Complaint No. R1-2007-0020 should have been \$60,000.
7. On May 10, 2007, the Discharger waived its right to a public hearing and requested approval to conduct a CP in lieu of paying the mandatory minimum penalty of \$60,000. Regional Water Board staff costs associated with this enforcement action are estimated to be at least \$10,000, including staff time to tally violations, prepare the existing complaint and proposed Order, public notices, public hearing, response to comments, and evaluation and tracking of a CP through to completion. The Discharger requested that this amount be lowered due to financial hardship. The Discharger agreed to pay \$5,000 into the State Water Pollution Cleanup and Abatement Account (CAA) by August 28, 2007 to defray some of the staff costs.
8. The Regional Water Board received a CP from the Discharger on May 7, 2007. The Discharger proposes a CP to install automated chlorine and sulfur dioxide analyzers and metering equipment. The equipment would allow automatic adjustments of the chlorine and sulfur dioxide injection rates based on the WWTF's effluent flows, needed chlorine contact, time and desired chlorine residual. Total cost for the improvement is approximately \$55,000. Project completion is expected by February 1, 2008. The proposed CP and time schedule are described in Attachment A incorporated herein.
9. A duly noticed public hearing on this matter was held before the Regional Water Board during a public meeting on July 25, 2007, in the Yreka Community Center, Main Room, 810 North Oregon Street, Yreka, California. The documents for the agenda item were provided to the Discharger and made available to the public prior to the hearing. The Discharger was given the opportunity to testify and present evidence, and the public was given an opportunity to comment.

10. The Regional Water Board finds that the CP, as proposed, meets the criteria established in Water Code section 13385, subdivision (k) and the State Water Resources Control Board's Enforcement Policy.
11. 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).
12. 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 mandatory minimum penalties in the amount of \$60,000. The Discharger shall pay the sum of \$5,000 to the CAA by August 28, 2007. The remaining sum of \$55,000 will be permanently suspended upon satisfactory completion of the CP as described in Attachment A of this Order. The CP shall be completed on or before February 1, 2008 according to the following time schedule:

Task A:	<ol style="list-style-type: none"> 1. Hire a licensed engineer 2. Evaluate existing treatment conditions 3. Evaluate potential types of metering equipment 4. Determine appropriate equipment type and size 	Submit letter stating task completed on or before September 30, 2007
Task B:	<ol style="list-style-type: none"> 1. Develop preliminary design details for equipment installation 2. Develop preliminary specifications as they are known for the equipment installation 3. Develop cost estimate for completion of project 4. Prepare preliminary design. 	Submit preliminary design on or before November 30, 2007
Task C:	<ol style="list-style-type: none"> 1. Prepare and advertise bid package 2. Select and notify preferred contractor 3. Execute contract documents 	Submit letter stating task completed due on or before December 31, 2007
Task D:	<ol style="list-style-type: none"> 1. Initiate project construction 2. Order project equipment and supplies and 	Complete project by February 1,

	ensure permits are in place 3. Assign a qualified construction inspector/engineer to the project 4. Verify that all work was completed in accordance to the specifications 5. Complete construction project	2008 and submit report of completion on or before April 1, 2008
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2. If, given written justification from the Discharger, the Executive Officer determines that a delay in the CP 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 CP will be completed.
3. The remaining penalty amount of \$55,000 shall be permanently suspended if the Executive Officer determines that the Discharger completes the CP to her satisfaction and provides the Regional Water Board with the scheduled progress reports toward completion of the CP and the final report by April 1, 2008. The final report shall contain documentation of expenditures. The amount of the penalty suspended will not exceed the cost to return to and/or maintain future compliance.
4. Failure to meet the deadlines above, including satisfactorily completing the CP, will result in being required to pay the previously suspended \$55,000 penalty. Payment of the previously suspended amount does not relieve the Discharger of the independent obligation to take necessary actions to achieve compliance.
5. Notwithstanding the issuance of this Order, the Regional Water Board shall retain continuing jurisdiction to determine compliance with progress and completion of the CP as well as the authority to assess additional penalties for violations of the Discharger's Waste Discharge Requirements/NPDES Permit.

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 July 25, 2007

Catherine E. Kuhlman
Executive Officer