

California Regional Water Quality Control Board
North Coast Region

Administrative Civil Liability Complaint No. R1-2007-0068

For

Discharges in Violation of the Water Quality Control Plan
for the North Coast Region and
State Water Resources Control Board Order No. 2006-0003-DWQ

In the Matter of

City of Sebastopol
Morris Street Pump Station
WDID No. 1B76176OSON

Sonoma County

This Complaint to assess administrative civil liability pursuant to Water Code section 13385, subdivisions (a)(2) and (4) is issued to the City of Sebastopol (hereinafter Discharger) for discharges of untreated municipal wastewater in violation of the Water Quality Control Plan for the North Coast Region and in violation of Order No. 2006-0003-DWQ, Statewide General Waste Discharge Requirements for Sanitary Sewer Systems, as a result of Sewer System Overflows (SSOs). Violations cited herein occurred during the period January 1 through January 4, 2006 and on April 21, 2007.

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

1. The Discharger owns and operates the Morris Street Pump Station (MSPS). The MSPS is located at 275 Morris Street, which is approximately 600 feet north of the Sebastopol Avenue and Morris Street intersection and about 500 feet westerly from the Laguna de Santa Rosa. The MSPS pumps the City's wastewater from the sanitary sewer collection system to the City of Santa Rosa's subregional wastewater treatment plant, which is regulated by Waste Discharge Requirements, NPDES Permit No. CA0022764. The pump station was put in service on September 18, 1978 when the City's wastewater treatment plant was abandoned. The average daily flow for the City in 2005 was 0.61 million gallons per day (mgd).
2. The MSPS is a multistory building which is split into a wet side, where the inflowing wastewater enters a wet well, and a dry side housing two sewage pumps. To prevent flooding of the structure during the wet

- season when flows may exceed the capacity of the pumps, inflows are regulated by a sluice gate that is raised and lowered by a hydraulic piston. The gate is activated by a solenoid and switch that is controlled by a float. The continuous adjustment of the gate, based on the position of the float, regulates the flow and prevents overwhelming the pumps, which would result in flooding the building. During the operation of the gate, an alarm is activated, which alerts the Public Works staff that the pump station is experiencing high flows.
3. Water Code Section 13385, subdivision (a)(2) states, in part, that a discharger is subject to administrative civil liability for violation any waste discharge requirements. The Discharger's wastewater collection and pumping system is regulated by the Statewide General Waste Discharge Requirements for Sanitary Sewer Systems, Order No. 2006-003-DWQ, which was adopted by the State Water Resources Control Board on May 2, 2006. The Discharger enrolled in the General WDRs on October 30, 2006. Order No. 2006-0003-DWQ prohibits the discharge of untreated or partially treated wastewater from sanitary sewer systems to waters of the United States.
 4. Water Code section 13385, subdivision (a)(4) states in part that a discharger is subject to administrative civil liability if the discharger violates a discharge prohibition contained in a water quality control plan. The Water Quality Control Plan for the North Coast Region prohibits the discharge of municipal waste into the Russian River or its tributaries unless the waste is advanced treated wastewater that meets effluent limitations contained in NPDES permits for each discharger.
 5. Sanitary sewer overflows (SSOs) are discharges from sanitary sewer systems of domestic, industrial, and commercial wastewater. In the City of Sebastopol, 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.
 6. On December 31, 2005, the Laguna de Santa Rosa overflowed its banks and flooded portions of eastern Sebastopol, including Morris Street and the area surrounding the MSPS, to a depth of 3 to 4 feet. During the flooding that occurred on December 31, 2005 and January 1, 2006, the pump station continued to operate. The MSPS was being regularly

checked by Public Works personnel. The station was known to be operating at 5 pm on January 1 but when next checked at 7:30 am on January 2nd the MSPS was flooded and the pumps were not operating. Flooding of the MSPS was caused by malfunction of the gate controller float (described in Finding no. 2 above) that controls the flow of wastewater into the wet well causing the pump station building to fill with water.

7. The MSPS was out of service from sometime after 5:00 p.m. on January 1, 2006 to 2:00 a.m. on January 4, 2006, approximately 57 hours. During that time, it was estimated by the Discharger that about 7 million gallons of a combination of flood water and untreated municipal wastewater flowed to the pump station. The Discharger was able to capture about 0.8 million gallons by damming the manhole upstream of the MSPS and pumping to trucks that hauled the wastewater to the treatment plant.
8. In a separate incident on April 21, 2007, an overflow occurred from manholes E00-009 and E00-013 near 400 Morris Street. The discharge of untreated municipal wastewater flowed from the manholes to the street gutter, storm drains, and then to the Laguna de Santa Rosa. The overflow began at approximately 6:00 p.m. and was stopped at 8:05 p.m. According to the Discharger about 18,000 gallons of wastewater was discharged. The cause of the discharge was the result of an operator error that occurred during routine cleaning of a solids pit associated with the MSPS.
9. A summary of the above incidents follows:

Date	Location	Volume Discharged	Volume Recovered	Volume to Receiving Waters	Comments
1/1/2006 to 1/4/2006	275 Morris Street.	7.0 million gallons	0.8 million gallons	6.2 million gallons	I & I storm event and equipment failure
4/21/07	400 Morris Street	18,000 gallons	None	18,000 gallons	Operator error

10. The Water Quality Control Plan for the North Coast Region contains Chapter 4: Implementation Plans, which states the following:

POINT SOURCE MEASURES: WASTE DISCHARGE PROHIBITIONS

...Under this authority and in order to achieve water quality objectives, protect present and future beneficial water uses, protect public health,

and prevent nuisance, the Regional Water board declares that point source waste discharges, except as stipulated by the Thermal Plan, the Ocean Plan, and the action plans and policies contained in the Point Source Measures section of this Water Quality Control Plan, are prohibited in the following locations in the Region:

North Coastal Basin

4. The Russian River and its tributaries during the period of May 15 through September 30 and during all other periods when the waste discharge flow is greater than one percent of the receiving stream's flow as set forth in NPDES permits. In addition, the discharge of municipal waste during October 1 through May 14 shall be of advanced treated wastewater in accordance with effluent limitations contained in NPDES permits for each affected discharger, and shall meet a median coliform level of 2.2 mpn/100 ml.
11. State Water Resources Control Board Order No. 2006-0003 DWQ includes the following prohibitions:

C. PROHIBITIONS

1. Any SSO that results in a discharge of untreated or partially treated wastewater to waters of the United States is prohibited.
 2. Any SSO that results in a discharge of untreated or partially treated wastewater that creates a nuisance as defined in California Water Code Section 13050(m) is prohibited.
12. Water Code section 13385, subdivisions (a)(2) and (4) provide 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 may be up to \$10,000 dollars per 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. The maximum liability set forth in Water Code section 13385, subdivision (c) for the SSOs listed in Finding 9 amounts to \$62,180,000.
 13. In determining the amount of civil liability imposed, the Regional Water Board is required to take into account the nature, circumstances, extent, and gravity of the violation(s), 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 its ability to continue in its 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(s); and other matters as justice may require. At a minimum, liability must be

- assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation.
14. The two SSOs resulted in discharges of untreated wastewater to public streets, storm drains, and the Laguna de Santa Rosa, which posed a serious threat to public health and a potential to seriously impact beneficial uses. One of the SSOs was the result of inflow and infiltration during a significant storm event coupled with a mechanical failure in the pump station. The second discharge was the result of operator error. In view of the circumstances and the City's status as a small community, a total penalty of \$50,000 is assessed for these two SSOs.
 15. On February 19, 2002, the State Water Resources Control Board (State Water Board) adopted Resolution No. 2002-0040 amending the Water Quality Enforcement Policy (Enforcement Policy). The Enforcement Policy was approved by the Office of Administrative Law and became effective on July 30, 2002. The Enforcement Policy establishes a framework for identifying and prioritizing instances of noncompliance and responding with appropriate enforcement action relative to the nature and severity of violations.
 16. The Regional Water Board may allow a discharger to satisfy some of all of the monetary assessment imposed in an administrative civil liability complaint by completing or funding one or more Supplemental Environmental Projects (SEPs). SEPs are projects that enhance the beneficial uses of the waters of the State, provide a benefit to the public at large, and that, at the time they are included in an administrative civil liability action, are not otherwise required of the discharger. Enforcement Policy states that the State Water Board supports the inclusion of SEPs in administrative civil liability actions, so long as the project meets the criteria specified in section IX of the Enforcement Policy. This Complaint includes requirements for SEPs as specified in the Enforcement Policy.
 17. The issuance of this Complaint is an enforcement action to protect the environment, and is therefore exempt from the provisions of the California Environmental Quality Act (Public Resources Code, sections 21000-21177) pursuant to title 14, California Code of Regulations, sections 15308 and 15321.

THE CITY OF SEBASTOPOL IS HEREBY GIVEN NOTICE THAT:

1. Based on a review of the above facts and required factors, the Assistant Executive Officer proposes that the Discharger be assessed an administrative civil liability in the amount of \$50,000.

2. A hearing shall be conducted on this Complaint by the Regional Water Board On October 24 or 25, 2007, unless the Discharger waives the right to a hearing by signing and returning the waiver form attached to this Complaint within thirty days of the date of this Complaint. By doing so, the Discharger agrees to:
 - a. Pay the total assessed penalty of \$50,000 to the State Water Pollution Cleanup and Abatement Account (CAA) within thirty days of the date of this Complaint, or
 - b. Propose a SEP in an amount of at least \$32,500 and pay the balance of the penalty (\$17,500) within thirty days from the date of the Complaint (or in compliance with a payment schedule issued in writing by the Executive Officer). The sum of the proposed SEP amount and the amount of the penalty to be paid to the CAA shall at least equal the full penalty amount of \$50,000.
3. If the Discharger chooses to propose an SEP, a proposal must be submitted within thirty days of the date of this Complaint to the Assistant Executive Officer for conceptual approval. Any SEP proposal shall also conform to the requirements specified in the Enforcement Policy. The SEP proposal must include a time schedule, for concurrence by the Assistant Executive Officer, to address implementation and completion of the SEP. If the proposed SEP and/or implementation schedule is not acceptable, the Assistant Executive Officer may allow the Discharger thirty days to submit a new or revised proposal, or may demand that the Discharger remit all or a portion of the assigned penalties. All payments, including money not used for the SEP must be payable to the CAA.
4. If the Discharger waives the right to a hearing and pays the proposed liability, the resulting settlement will become effective on the next day after the thirty-day public comment period for this Complaint ends. If there are significant public comments, the Assistant Executive Officer may withdraw the Complaint, reissue a new complaint, or take other appropriate action.
5. 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.
6. Regulations of the United States Environmental Protection Agency 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 thirty days to comment on any proposed settlement of this Complaint.

7. The Assistant Executive Officer shall maintain jurisdiction over the approved SEP implementation time schedules throughout the life of the SEP. If, given written justification from the Discharger, the Assistant Executive Officer determines that a delay in the SEP implementation schedule was beyond the reasonable control of the Discharger; the Assistant Executive Officer may revise the implementation schedule as appropriate.
8. Notwithstanding the issuance of this Complaint, the Regional Water Board shall retain the authority to assess additional penalties for violation of the City's statewide general waste discharge requirements.

Luis G. Rivera
Assistant Executive Officer

August 14, 2007