

California Regional Water Quality Control Board
North Coast Region

Administrative Civil Liability Complaint No. R1-2007-0101

For

Violation of Waste Discharge Requirements
Order No. R1-2003-0026 (NPDES No. CA0024058) and
Violation of Order No. 2006-0003-DWQ (Sanitary Sewer Systems)

In the Matter of
Sonoma County Water Agency and
Russian River County Sanitation District
Wastewater Treatment Facility
WDID No. 1B82045OSON

Sonoma County

This Complaint, to assess administrative civil liability for penalties pursuant to Water Code section 13385, subdivision (c) and mandatory minimum penalties pursuant to Water Code section 13385, subdivisions (h) and (i), is issued to the Russian River County Sanitation District and the Sonoma County Water Agency (both are hereinafter referred to as the Discharger) for violations of Waste Discharge Requirements (WDRs) Order No. R1-2003-0026 (NPDES Permit No. CA0024058) during the period from October 1, 2004 through May 31, 2007.

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

1. The Russian River County Sanitation District (RRCSD), 2150 W. College Avenue, Santa Rosa, owns a municipal wastewater treatment facility located southeast of Vacation Beach and north of the Russian River on Neely Road. The Sonoma County Water Agency (SCWA) is under contract to operate and maintain the Russian River Wastewater Treatment Facility (WWTF). The WWTF serves the communities of Armstrong Park, Drakes Road area, Guerneville, Guerneville Park, Rio Nido and Vacation Beach. Treated effluent is disposed by irrigation during the irrigation season (May 15 to September 30) and is discharged to the Russian River during the discharge season (October 1 to May 14).
2. On November 5, 2003, the Regional Water Board adopted WDRs Order No. R1-2003-0026 for the Discharger's WWTF in Guerneville. Order No. R1-2003-0026 became effective on December 26, 2003 and serves as a National Pollutant Discharge Elimination System (NPDES) Permit under the Federal Clean Water Act.

3. The State Water Resources Control Board adopted Order No. 2006-0003-DWQ, Statewide General Waste Discharge Requirements for Wastewater Collection Agencies on May 2, 2006. The Discharger enrolled in the General WDRs on June 1, 2006 and is assigned Permit No. 1SSO10067.
4. Sanitary sewer overflows (SSOs) are discharges from sanitary sewer systems of domestic, industrial, 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 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.
5. This Complaint covers violations of effluent limitations, discharge prohibitions and receiving water limitations that occurred from October 1, 2004 through May 31, 2007. The details of the effluent limitation violations are summarized in Finding 16 of this Complaint, details of the discharge prohibition violations are summarized in Finding 17, and details of the receiving water violations are summarized in Finding 18 of this Complaint. Violations in Finding 16 are subject to the mandatory minimum penalties provision contained in Water Code section 13385, subdivisions (h) and (i). Violations in Finding 17 and 18 are subject to penalties in Water Code section 13385, subdivision (c).
6. Among the provisions in the WDRs are requirements to implement a discharge monitoring program and to prepare and submit monthly and annual NPDES self-monitoring reports to the Regional Water Board pursuant to the authority of Water Code section 13383. These reports are designed to ensure compliance with effluent limitations contained in the WDRs.
7. Water Code section 13385, subdivision (a) provides 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 by the Regional Water Board. The amount may be up to \$10,000 for each 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.
8. Water Code section 13385, subdivision (h)(1) establishes a mandatory minimum penalty of three thousand dollars (\$3,000) for each serious violation of an NPDES permit effluent limitation. Water Code section 13385, subdivision (h)(2) states that a serious violation occurs if the discharge from a facility regulated by an NPDES permit exceeds the

effluent limitations for a Group I pollutant, as specified in Appendix A to Section 123.45 of title 40 of the Code of Federal Regulations, by 40 percent or more, or for a Group II pollutant, as specified in Appendix A to Section 123.45 of title 40 of the Code of Federal Regulations, by 20 percent or more.

9. Water Code section 13385, subdivision (i)(1) requires the Regional Water Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each violation, not counting the first three violations, if the discharger does any of the following four or more times in any six-month period:
 - (A) Violates a waste discharge requirement effluent limitation.
 - (B) Fails to file a report pursuant to Section 13260.
 - (C) Files an incomplete report pursuant to Section 13260.
 - (D) Violates a toxicity discharge limitation where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.

Violations under section 13385, subdivision (i)(1) of the Water Code are referred to as chronic violations in this Complaint.

10. 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 addresses, among other enforcement subjects, issues related to assessing mandatory minimum penalties.
11. Water Code section 13385, subdivision (k)(1) provides that the Regional Water Board may elect to require all or a portion of mandatory minimum penalties imposed under section 13385, subdivisions (h) or (i) against a publicly owned treatment works (POTW) serving an eligible small community to be directed to a compliance project (CP) in accordance with Section X of the Enforcement Policy. This Complaint includes requirements for CPs as specified in the Enforcement Policy.
12. Order No. R1-2003-0026 includes the following discharge prohibitions, effluent limitations, and receiving water limitations:
 - A. DISCHARGE PROHIBITIONS
 2. Creation of a pollution, contamination, or nuisance, as defined by Section 13050 of the California Water Code (CWC) is prohibited.

4. The discharge of untreated or partially treated waste from anywhere within the collection, treatment, or disposal facility is prohibited.
7. The discharge of wastewater effluent from the WWTF to the Russian River or its tributaries is prohibited during the period May 15 through September 30 each year.

B. EFFLUENT LIMITATIONS FOR DISCHARGES TO THE RUSSIAN RIVER

1. Advanced treated wastewater shall not contain constituents in excess of the following limitations [This table is abbreviated and includes only the parameter(s) violated]:

Parameter	Units	Effluent Limitations
		Average Weekly
Total Suspended Solids	mg/L	15
	lbs/day	90

2. The disinfected effluent discharged from the WWTF to the Russian River shall not contain concentrations of total coliform bacteria exceeding the following limitations:
 - a. The median concentration shall not exceed a Most Probable Number (MPN) of 2.2 per 100 milliliters, using the bacteriological results of the last seven days for which analyses have been completed.
3. The pH shall be not less than 6.5 nor greater than 8.5 when discharging to the Russian River.

C. RECEIVING WATER LIMITATIONS

1. The discharge shall not cause the turbidity of the receiving waters to be increased more than 20 percent above naturally occurring background levels.
13. The Enforcement Policy states that for the purpose of determining serious violations, TSS is identified as a Group I pollutant in title 40 Code of Federal Regulations, section 123.45, Appendix A. pH is identified as a Group II pollutant in title 40 Code of Federal Regulations, section 123.45, Appendix A. Total Coliform is neither a Group I nor a Group II pollutant;

therefore, exceedances of effluent limitations for total coliform bacteria do not count as serious violations.

14. 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.

15. Effluent Limitation Violations

According to monitoring reports submitted by the Discharger for the period from October 1, 2004 through May 31, 2007, the Discharger exceeded effluent limitations thirty-four times. Thirty-two of the exceedances are nonserious (chronic) effluent violations, as described in Water Code section 13385, subdivision (i)(1). Two of the exceedances are serious effluent violations, as described in Water Code section 13385, subdivisions (h)(1) and (2). The mandatory minimum penalty amount for these violations is \$78,000 as shown in the following table:

Table 1: Effluent Limitation Exceedances
October 1, 2004 through May 31, 2007

Date	Parameter	Reported Value	Permit Limit	Units	Violation Type	Mandatory Minimum Penalty
12/09/04	7-day Coliform Median	4.0	2.2	MPN/100 ml	1 st Chronic	\$0
12/10/04	7-day Coliform Median	4.0	2.2	MPN/100 ml	2 nd Chronic	\$0
12/11/04	7-day Coliform Median	4.0	2.2	MPN/100 ml	3 rd Chronic	\$0
01/01/06	7-day Coliform Median	4.0	2.2	MPN/100 ml	1 st Chronic	\$0
01/02/06	7-day Coliform Median	8.0	2.2	MPN/100 ml	2 nd Chronic	\$0
01/03/06	7-day Coliform Median	8.0	2.2	MPN/100 ml	3 rd Chronic	\$0
01/04/06	7-day Coliform Median	8.0	2.2	MPN/100 ml	Chronic	\$3,000
01/05/06	7-day Coliform Median	17.0	2.2	MPN/100 ml	Chronic	\$3,000
01/06/06	7-day Coliform Median	8.0	2.2	MPN/100 ml	Chronic	\$3,000
01/07/06	TSS Weekly Average (conc.)	29	15	mg/l	Serious	\$3,000
01/07/06	TSS Weekly Average (mass)	542.6	281	lbs/day	Serious	\$3,000
01/07/06	7-day Coliform Median	8.0	2.2	MPN/100 ml	Chronic	\$3,000
01/08/06	7-day Coliform Median	4.0	2.2	MPN/100 ml	Chronic	\$3,000

01/09/06	7-day Coliform Median	4.0	2.2	MPN/100 ml	Chronic	\$3,000
01/10/06	7-day Coliform Median	4.0	2.2	MPN/100 ml	Chronic	\$3,000
01/14/06	7-day Coliform Median	4.0	2.2	MPN/100 ml	Chronic	\$3,000
01/15/06	7-day Coliform Median	4.0	2.2	MPN/100 ml	Chronic	\$3,000
03/04/06	7-day Coliform Median	4.0	2.2	MPN/100 ml	Chronic	\$3,000
03/05/06	7-day Coliform Median	7.0	2.2	MPN/100 ml	Chronic	\$3,000
03/06/06	7-day Coliform Median	7.0	2.2	MPN/100 ml	Chronic	\$3,000
03/07/06	7-day Coliform Median	7.0	2.2	MPN/100 ml	Chronic	\$3,000
03/08/06	7-day Coliform Median	7.0	2.2	MPN/100 ml	Chronic	\$3,000
03/09/06	7-day Coliform Median	7.0	2.2	MPN/100 ml	Chronic	\$3,000
03/10/06	7-day Coliform Median	7.0	2.2	MPN/100 ml	Chronic	\$3,000
03/11/06	7-day Coliform Median	7.0	2.2	MPN/100 ml	Chronic	\$3,000
03/12/06	7-day Coliform Median	4.0	2.2	MPN/100 ml	Chronic	\$3,000
04/04/06	7-day Coliform Median	4.0	2.2	MPN/100 ml	Chronic	\$3,000
04/05/06	7-day Coliform Median	4.0	2.2	MPN/100 ml	Chronic	\$3,000
04/06/06	7-day Coliform Median	4.0	2.2	MPN/100 ml	Chronic	\$3,000
04/07/06	7-day Coliform Median	4.0	2.2	MPN/100 ml	Chronic	\$3,000
04/08/06	7-day Coliform Median	4.0	2.2	MPN/100 ml	Chronic	\$3,000
04/09/06	7-day Coliform Median	4.0	2.2	MPN/100 ml	Chronic	\$3,000
11/27/06	pH	6.4	6.5<pH>8.5	Std. units	1 st Chronic	\$0
12/01/06	pH	6.3	6.5<pH>8.5	Std. units	2 nd Chronic	\$0
					TOTAL	\$78,000

16. Discharge Prohibition Violations

During the period between October 1, 2004 and May 31, 2007, the Discharger experienced six prohibited discharges. Four of the violations were SSOs, one violation was a partially treated wastewater discharge to land, and one violation was an out-of-season discharge. The maximum liability for the six discharge violations is \$74,000 as described in the following table:

Table 2: Summary of Discharge Violations
October 1, 2004 through May 31, 2007

Date	Location	Estimated Volume Discharged (gallons)	Comments	Maximum Liability
10/24/04	14217 Armstrong Woods Road	30 gallons (est. 30 gallons recovered)	SSO (Blockage)	\$10,000

03/10/05	Between Manhole 46-8 and 46-9 on Old Monte Rio Road	165 gallons (est. 15 gallons recovered)	SSO (Blockage)	\$10,000
05/25/05	Leak in Lower Irrigation reclaimed water pipeline flowed into a tributary of the Russian River	2,400 gallons	Out-of-season discharge to Russian River	\$24,000
12/12/05	System leak flowed to the Lower Irrigation field	Unknown	Discharge of partially treated wastewater to land. Remained on-site	\$10,000
04/20/06	Between Manhole 46-8 and 46-9 on Old Monte Rio Road	480 gallons (est. 200 recovered)	SSO (Landslide)	\$10,000
01/16/07	Between Manhole 46-8 and 46-9 on Old Monte Rio Road	46 gallons (est. 16 recovered)	SSO (Blockage, possible line offset)	\$10,000
			TOTAL	\$74,000

17. Receiving Water Violations

The discharger violated the receiving water limitations set forth in WDR Order No. R1-2003-0026 two times during the period October 1, 2004 through May 31, 2007. The maximum liability for the two violations is \$20,000 as described in the following table:

Table 3: Summary of Receiving Water Violations
October 1, 2004 through May 31, 2007

Date	Parameter	Reported Value	Maximum Liability
12/06/06	Water Turbidity Increase	32%	\$10,000
05/02/07	Water Turbidity Increase	50%	\$10,000
		TOTAL	\$20,000

18. In determining the amount of any civil liability, pursuant to Water Code section 13385, subdivision (e), the Regional Water Board is required to take into account the nature, circumstances, extent, and gravity of the violation; and, with respect to the violator, the ability to pay, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters that justice may require. At a minimum, the Regional Water Board is required to assess liability at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation. Consideration of the most relevant factors is as follows:

The four SSOs were relatively small in quantity discharged. One of the SSOs did not result in a discharge of waste into surface waters. The Discharger responded to each SSO promptly and cleaned up spilled wastewater. The Discharger reports that it spent approximately 1,295 man-hours performing operation and maintenance activities on the collection system in 2006. This indicates that the Discharger has a proactive program to prevent SSOs and a commitment to complying with its WDRs. Three of the SSOs resulted in discharge of untreated waste into surface waters. The total penalty proposed for these four SSOs is \$10,000.

The system leak on December 12, 2005 was caused by a blown-off clean out end cap for the solids building drains and it was noticed by an operator only after some partially treated wastewater possibly entered Holding Pond I. The Discharger took prompt action to stop the leak and pump wastewater in Holding Pond I back through the WWTF for more treatment. Partially treated wastewater also entered an on-site drainage ditch and flowed onto the Lower Irrigation area. None of the discharge went into surface waters. The penalty proposed for this prohibited discharge is \$3,000.

The recycled water leak on May 25, 2005 consisted of treated wastewater. An estimated 2400 gallons of recycled water leaked from a pipe and flowed into a tributary to the Russian River. The discharge occurred during the seasonal discharge prohibition and immediately prior to the beginning of the summer season of intensive recreational contact water use. The penalty proposed for this out-of-season discharge is \$5,000.

The receiving water violations are difficult to trace back to the discharger due to the large distance between the discharge point and the sampling points on the river above and below the discharge. The penalty proposed for both of these violations is \$3,000.

19. Regional Water Board staff costs associated with the effluent limit violations are estimated to be a minimum of \$10,000. This includes staff time to tally violations and prepare this Complaint, public notices, public hearing, response to comments, and evaluation and tracking of a CP, if any, through to completion.
20. 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 section 21000 et seq.) pursuant to title 14, California Code of Regulations sections 15308 and 15321, subsection (a) (2).

THE SONOMA COUNTY WATER AGENCY AND THE RUSSIAN RIVER COUNTY SANITATION DISTRICT ARE HEREBY GIVEN NOTICE THAT:

1. Based on a review of the above facts and required factors, the Assistant Executive Officer of the Regional Water Board is issuing this Complaint for \$99,000 to the Discharger for violations of WDRs that occurred from October 1, 2004 through May 31, 2007.
2. A hearing will be conducted on this Complaint by the Regional Water Board on January 17, 2008, unless the Discharger waives the right to a hearing under Water Code section 13323, subdivision (b) 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:

Option 1:

Pay the penalty of \$99,000 in full to the State Water Pollution Cleanup and Abatement Account (CAA) within thirty days of the date of this Complaint or,

Option 2:

Propose a CP that will address the effluent limitation violations and that will cost at least \$68,000 and pay \$31,000 to the CAA within thirty days of the date of this Complaint (or in compliance with a payment schedule issued in writing by the Assistant Executive Officer) and,

The sum of the CP and the amount of the penalty to be paid to the CAA shall at least equal the amount of the full penalty.

3. If the Discharger chooses to propose a CP, it must submit a proposal within thirty days of the date of this Complaint to the Assistant Executive Officer for conceptual approval. The CP proposals shall conform to the requirements specified in the Enforcement Policy. Each proposal must include a time schedule, for concurrence by the Assistant Executive Officer, to address implementation and completion of the proposals. If the proposals and/or implementation schedules are not acceptable, the Assistant Executive Officer may allow the Discharger thirty days to submit a new or revised proposal, or may demand that, during the same thirty-day period the Discharger remit all or a portion of the assigned penalties. All payments, including money not used for the CP, must be payable to the CAA.
4. If the Discharger waives the hearing and pays the liability, the resulting settlement may become effective on the next day after the thirty day public comment period on this Complaint ends. If there are significant public

- comments, the Assistant Executive Officer may withdraw the Complaint, reissue it as appropriate, 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, including a proposed CP.
 7. The Assistant Executive Officer shall maintain oversight over approved CP implementation time schedules throughout the life of the CP. If, given written justification from the Discharger, the Assistant Executive Officer determines that a delay in the CP implementation schedule was beyond 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 violations of the Discharger's waste discharge requirements.

Luis G. Rivera
Assistant Executive Officer

November 14, 2007