

California Regional Water Quality Control Board  
North Coast Region

Administrative Civil Liability Complaint No. R1-2007-0100

For

Violations of Waste Discharge Requirements  
Order Nos. 99-65 and R1-2006-0049  
NPDES No. CA0022888

In the Matter of  
City of Ukiah  
Wastewater Treatment Facility  
WDID No. 1B84029OMEN

Mendocino County

This Complaint to assess administrative civil liability pursuant to Water Code section 13385 is issued to the City of Ukiah (hereinafter Discharger) for violations of Waste Discharge Requirements (WDRs) Order Nos. 99-65 and R1-2006-0049 (NPDES No. CA0022888) for the period of January 1, 2000 through September 30, 2007.

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

1. The Discharger owns and operates the Ukiah Wastewater Treatment Facility (WWTF) that serves the City of Ukiah and residents served by the Ukiah Valley Sanitation District. The WWTF discharges tertiary treated wastewater during the wet season (October 1 to May 14) into the Russian River.
2. The Regional Water Board adopted Waste Discharge Requirements Order No. 99-65 for the Discharger on September 23, 1999. Order No. 99-65 was replaced by Order No. R1-2006-0046, adopted by the Regional Water Board on September 20, 2006 and became effective November 9, 2006. Both of these WDRs serve as a National Pollutant Discharge System (NPDES) permit under the Federal Clean Water Act.
3. This Complaint covers violations of effluent limitations for discharges that occurred from January 1, 2000, to September 30, 2007. The details of these violations are presented in Finding 11 of this Complaint. These violations are subject to the mandatory minimum penalties provisions contained in California Water Code section 13385, subdivisions (h) and (i).
4. Water Code section 13385, subdivision (h)(1) establishes a mandatory minimum penalty of three thousand dollars (\$3000) 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 limitation for a Group I pollutant, as specified in Appendix A to section 123.45 of title 40 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 Code of Federal Regulations, by 20 percent or more.

5. Water Code section 13385, subdivision (i)(1) establishes 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) are referred to as chronic violations in this Complaint.

6. 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.
7. Water Code section 13385, subdivision (l)(1) provides that the Regional Water Board may direct, with concurrence of the discharger, a portion of mandatory minimum penalties imposed under section 13385, subdivisions (h) or (i) to a supplemental environmental project (SEP) in accordance with Section IX of the Enforcement Policy. If the penalty amount exceeds fifteen thousand dollars (\$15,000), the portion of the penalty amount that may be directed to a SEP may not exceed fifteen thousand dollars (\$15,000) plus 50 percent of the penalty amount that exceeds fifteen thousand dollars (\$15,000). This Complaint incorporates requirements for SEPs as specified in the Enforcement Policy.
8. Order No. 99-65 includes the following effluent limitations:
  - A. DISCHARGE PROHIBITIONS
    6. The survival of test fish in 96-hour (static or continuous flow) bioassay in undiluted effluent samples shall equal or exceed 90 percent survival 67 percent of the time, and 70 percent survival 100 percent of the time.

9. Order No. R1-2006-0049 includes the following effluent limitations:

#### IV. EFFLUENT LIMITATIONS AND DISCHARGE SPECIFICATIONS

##### A. Effluent Limitations

1. Final Effluent Limitations – Discharge Point 001, Direct Discharge to Russian River

- a. The discharge of advanced treated wastewater, as defined by the numerical limitations below, shall maintain compliance with the following effluent limitations at Discharge Point 001, with compliance measured at Monitoring Location M-001B as described in the Monitoring and Reporting Program<sup>a</sup>. The advanced treated wastewater shall be adequately oxidized, filtered and disinfected in Title 22, Division 4, Chapter 3, California Code of Regulations (CCR).

<u>Parameter</u>	<u>Units</u>	<u>Effluent Limitations</u>	
		<u>Average Monthly<sup>1</sup></u>	<u>Average Weekly<sup>1</sup></u>
Biochemical Oxygen Demand (5-day @ 20°)	mg/l	10	15

<sup>1</sup> Average Monthly Effluent Limitations - The highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

<sup>1</sup> Average Weekly Effluent Limitations - The highest allowable average of daily discharges over a calendar week (Sunday through Saturday), calculated as the sum of all daily discharges measured during a calendar week, divided by the number of daily discharges measured during that week.

- b. The disinfected, advanced treated wastewater sampled at Monitoring Location M-001A<sup>b</sup> shall not contain concentrations of total coliform bacteria exceeding the following concentrations:
  - i. The median concentrations 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.
- c. Advanced treated disinfected wastewater discharged to the Russian River, sampled at Monitoring Location M-001B, shall not contain detectable levels of total chlorine using an analytical method or chlorine analyzer with a minimum detection level of 0.1 mg/L.
- g. There shall be no acute toxicity in the effluent, as measured at Monitoring Location M-001, when discharging to the Russian River.

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<sup>a</sup> M-001B as described in the Monitoring and Reporting Program – Treated wastewater after dechlorination and before effluent contacts receiving water.

<sup>b</sup> M-001A as described in the Monitoring and Reporting Program – A representative point immediately following disinfection but prior to dechlorination.

The Discharger will be considered in compliance with this limitation when the survival of aquatic organisms in a 96-hour bioassay using undiluted effluent complies with the following:

- i. Minimum for any one bioassay: 70 percent survival.
- ii. Median for any three or more consecutive bioassays: at least 90 percent survival.

2. Interim Effluent Limitations – Discharge Point 001, Direct Discharge to Russian River

- a. Priority pollutant effluent limitations. Interim priority pollutant effluent limitations shall be effective until May 18, 2010. During periods of discharge to the Russian River, representative samples of treated wastewater collected at Monitoring Location M-001B shall not contain constituents in excess of the following limits:

<u>Constituent</u>	<u>Units</u>	<u>Interim Limitation - MDEL<sup>1</sup></u>
Copper	µg/L	30

<sup>1</sup> Maximum Daily Effluent Limitation: the highest allowable daily discharge of a pollutant.

- 10. The Enforcement Policy states that for the purpose of determining serious violations, BOD is identified as Group I pollutant in title 40 Code of Federal Regulations, section 123.45, Appendix A. Chlorine, Copper, and Toxicity are identified as Group II pollutants in title 40, Code of Federal Regulations, section 123.45, Appendix B. Coliform is neither a Group I nor a Group II pollutant; therefore, exceedances of effluent limitations for coliform bacteria do not count as serious violations.
- 11. According to monitoring reports submitted by the Discharger for the period from January 1, 2000 through September 30, 2007, the Discharger exceeded effluent limitations eleven times while discharging effluent through Discharge Point 001 to the Russian River. Eight of the exceedances are serious effluent violations, as described in Water Code section 13385, subdivision (h) and in paragraph 4, above. Three of the exceedances are nonserious (chronic) effluent violations, as described in Water Code section 13385, subdivisions (i)(1) and (2) and paragraph 5, above. The mandatory minimum penalty amount for those violations is \$27,000 as shown in the following table:

Table 1: Effluent Limitation Exceedances  
January 1, 2000, through September 30, 2007

Date	Description of Violations	Permit Limits	Reported Values	Violation Type	Mandatory Minimum Penalty
12/26/02	Below Toxicity survival limit	70%	10%	Serious	\$3,000
2/12/07	Below Toxicity survival limit	70%	60%	1 <sup>st</sup> Chronic	\$0
2/13/07	Exceeded daily maximum Copper limit	30 ug/l	32 ug/l	2 <sup>nd</sup> Chronic	\$0
2/16/07	Exceeded weekly average BOD limit	15 mg/l	24 mg/l	Serious	\$3,000
2/21/07	Below toxicity survival limit	70%	0%	Serious	\$3,000
2/21/07	Exceeded daily maximum Chlorine limit	0.1 mg/l	3.7 mg/l	Serious	\$3,000
2/22/07	Exceeded daily maximum Chlorine limit	0.1 mg/l	3.7 mg/l	Serious	\$3,000
2/22/07	Below 3-sample median toxicity survival limit	90%	60%	Serious	\$3,000
3/7/07	Exceeded weekly average BOD limit	15 mg/l	25 mg/l	Serious	\$3,000
3/14/07	Exceeded weekly median Coliform limit	2.2 MPN/100ml	13 MPN/100ml	Chronic	\$3,000
3/31/07	Exceeded monthly average BOD limit	10 mg/l	15 mg/l	Serious	\$3,000
				TOTAL	\$27,000

12. Regional Water Board staff costs associated with this enforcement action are estimated to be a minimum of \$10,000. This includes staff time to tally violations and prepare this Complaint and the public notice, participate in the public hearing, respond to comments, and evaluate and track the progress of a SEP, if any, through to completion.
13. 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 CITY OF UKIAH IS HEREBY GIVEN NOTICE THAT:

1. The Assistant Executive Officer of the Regional Water Board is issuing this Complaint for \$27,000 against the Discharger for the mandatory minimum penalties associated with effluent violations that occurred from January 1, 2000 through September 30, 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, subsection (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:
  - a. Pay the mandatory minimum penalty of \$27,000 in full to the State Water Pollution Cleanup and Abatement Account within thirty days of the date of this Complaint or,
  - b. Propose an SEP in an amount up to \$17,000 and pay the \$10,000 balance of the penalty within thirty days from the date of the Complaint (or in compliance with a payment schedule issued in writing by the Assistant Executive Officer). The sum of the SEP amount and the amount of the fine to be paid to the State Water Pollution Cleanup and Abatement Account shall at least equal the amount of the full penalty.
3. If the Discharger chooses to propose an SEP, the Discharger must submit a proposal 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 project. If the proposed SEP and/or implementation schedules 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 State Water Pollution Cleanup and Abatement Account.
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 and 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 Compliant, including a proposed SEP.
7. The Assistant Executive Officer shall maintain jurisdiction over 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 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 beyond the mandatory minimums for violations of the Discharger's waste discharge requirements.

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Luis G. Rivera  
Assistant Executive Officer

November 14, 2007