

California Regional Water Quality Control Board
North Coast Region

Administrative Civil Liability Complaint No. R1-2008-0021

For

Violation of Waste Discharge Requirements
Order No. R1-2002-0003 (NPDES No. CA0006700)

In the Matter of
Redwoods Community College District
College of the Redwoods
Wastewater Treatment Facility
WDID No. 1B80121OHUM

Humboldt County

This Complaint, to assess administrative civil liability for penalties pursuant to Water Code section 13385, is issued to the Redwoods Community College District, College of the Redwoods (hereinafter Discharger) for violations of Waste Discharge Requirements (WDRs) Order No. R1-2002-0003. Mandatory minimum penalties are assessed for violations of effluent limitations occurring during the period from January 24, 2002 (date WDR Order No. R1-2002-0003 was adopted) through November 30, 2007, and for failure to timely submit one discharge monitoring report pursuant to Water Code section 13385, subsection (h) and section 13385.1.

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

1. The Discharger owns and operates the College of the Redwoods Wastewater Treatment Facility (WWTF), which treats municipal wastewater from the college campus. Wastewater is treated by activated sludge process, disinfected with sodium hypochlorite generated on-site, and dechlorinated with sodium metabisulfite prior to discharge. Treated wastewater is discharged to White Slough, which is an estuarine tributary to south Humboldt Bay.
2. The Regional Water Board adopted WDRs Order No. R1-2002-0003 on January 24, 2002. The Order serves as a National Pollutant Discharge Elimination System Permit (NPDES No. CA0006700) under the Federal Clean Water Act and became effective upon adoption.
3. This Complaint covers violations of effluent limitations and untimely filing of one monitoring report that occurred from January 24, 2002 through November 30, 2007. Details of effluent limitations violations are summarized in Findings 12 and 13. The effluent limitations violations and

untimely submittal of monitoring reports are subject to the mandatory minimum penalties provision contained in Water Code section 13385, subdivisions (h) and (i) and section 13385.1.

4. Among the provisions in the WDRs are requirements to implement a discharge monitoring program and to prepare and submit timely 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.
5. 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.
6. For the purposes of 13385(h), Water Code section 13385.1(a)(1) also defines "serious violation" as a failure to file a discharge monitoring report required pursuant to Section 13383 for each complete period of thirty days following the deadline for submitting the report, if the report is designed to ensure compliance with limitations contained in waste discharge requirements that contain effluent limitations. The mandatory minimum penalty of three thousand dollars (\$3,000) for failing to file a discharge monitoring report applies only to violations that occur on or after January 1, 2004.
7. 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.

8. 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.
9. 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.
10. Order No. R1-2002-0003 includes the following effluent limitations:

B. EFFLUENT LIMITATIONS

1. Representative samples of the discharge shall not contain constituents in excess of the following limits:

<u>Constituent</u>	<u>Units</u>	<u>30-Day Average</u>	<u>Daily Maximum</u>
Total Coliform Organisms	MPN/100 ml	23 ¹	230
Hydrogen Ion	pH	Not less than 6.0 nor greater than 8.5	

3. There shall be no detectable levels of chlorine discharged, using a minimum detection limit of 0.1 mg/l.
4. The arithmetic mean of the BOD (20°C, 5-day) and Suspended Solids values, by weight, for effluent samples collected in a period of 30 consecutive days shall not exceed 15 percent of the arithmetic mean of the values, by weight, for influent samples collected at approximately the same times during the same period (85 percent removal).
11. The Enforcement Policy states that for the purpose of determining serious violations, Suspended Solids and pH are identified as Group I pollutants in title 40 Code of Federal Regulations, section 123.45, Appendix A. Chlorine is identified as a Group II pollutant 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.

¹ Calendar month median

12. Effluent Limitation Violations

According to monitoring reports submitted by the Discharger for the period from January 24, 2002 through November 30, 2007, the Discharger exceeded effluent limitations thirty-one times while discharging to White Slough. Fourteen of the exceedances are not serious (chronic) effluent violations, as described in Water Code section 13385, subdivision (i)(1). Seventeen of the exceedances are serious effluent violations, as described in Water Code section 13385, subdivisions (h)(1) and (h)(2). The mandatory minimum penalty amount for all of these violations is \$69,000 as shown in the following table:

Table 1: Effluent Limitation Exceedances
January 24, 2002 through November 30, 2007

Date	Parameter	Reported Value	Permit Limit	Units	Violation Type	Mandatory Penalty
08/01/02	Coliform, Daily Maximum	300	230	MPN/100 ml	1 st Chronic	\$0
08/31/02	Coliform, 30-day Median	94	23	MPN/100 ml	2 nd Chronic	\$0
11/08/02	Coliform, Daily Maximum	1600	230	MPN/100 ml	3 rd Chronic	\$0
06/09/03	pH, Daily Minimum	4.3	6.0	pH	Serious	\$3,000
11/11/03	pH, Daily Minimum	5.3	6.0	pH	Serious	\$3,000
12/28/03	Chlorine Residual	2.5	0.1	mg/l	Serious	\$3,000
01/15/04	Suspended Solids, Percent Removal	76	85	%	Serious	\$3,000
01/17/04	Chlorine Residual	2.5	0.1	mg/l	Serious	\$3,000
01/18/04	Chlorine Residual	2.5	0.1	mg/l	Serious	\$3,000
01/19/04	Chlorine Residual	2.5	0.1	mg/l	Serious	\$3,000
01/20/04	Chlorine Residual	2.5	0.1	mg/l	Serious	\$3,000
02/16/04	Chlorine Residual	4.9	0.1	mg/l	Serious	\$3,000
02/17/04	Chlorine Residual	4.9	0.1	mg/l	Serious	\$3,000
04/30/04	Coliform, 30-day Median	70	23	MPN/100 ml	Chronic	\$3,000
05/11/04	Chlorine Residual	0.4	0.1	mg/l	Serious	\$3,000
09/30/04	Chlorine Residual	2.2	0.1	mg/L	Serious	\$3,000
11/03/04	Chlorine Residual	2.3	0.1	mg/L	Serious	\$3,000
07/14/05	Chlorine Residual	1.5	0.1	mg/l	Serious	\$3,000
08/07/05	Chlorine Residual	1.7	0.1	mg/l	Serious	\$3,000
08/14/05	Coliform, Daily Maximum	Undisinfected	230	MPN/100 ml	3 rd Chronic	\$0
10/14/05	Chlorine Residual	2.6	0.1	mg/l	Serious	\$3,000
10/15/05	Chlorine Residual	2.6	0.1	mg/l	Serious	\$3,000
10/16/05	Coliform, Daily Maximum	Undisinfected	230	MPN/100 ml	Chronic	\$3,000

10/17/05	Coliform, Daily Maximum	Undisinfected	230	MPN/100 ml	Chronic	\$3,000
12/20/05	Chlorine Residual	1.9	0.1	mg/l	Serious	\$3,000
01/12/06	Coliform, Daily Maximum	240	230	MPN/100 ml	Chronic	\$3,000
04/30/06	Coliform, 30-day Median	34	23	MPN/100 ml	1 st Chronic	\$0
09/09/06	Coliform, Daily Maximum	300	230	MPN/100 ml	2 nd Chronic	\$0
10/26/06	Coliform, Daily Maximum	300	230	MPN/100 ml	3 rd Chronic	\$0
10/31/06	Coliform, 30-day Median	26	23	MPN/100 ml	3 rd Chronic	\$0
12/14/06	Suspended Solids, Percent Removal	78	85	%	Serious	\$3,000
					Total	\$69,000

13. On January 17, 2006, the Regional Water Board received the Discharger's October 2005 monthly monitoring report 47 days past the due date of December 1, 2005. The report was one complete 30-day period late. This violation is subject to a mandatory minimum penalty of \$3,000.
14. 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 and public notices for the hearing, respond to comments, prepare for and attend the public hearing, and evaluate and track a CP through to completion.
15. 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).

REDWOODS COMMUNITY COLLEGE DISTRICT IS HEREBY GIVEN NOTICE THAT:

1. The Assistant Executive Officer proposes that the Discharger be assessed an administrative civil liability in the amount of \$72,000. This assessment includes \$69,000 in mandatory minimum penalties for effluent violations and \$3,000 mandatory minimum penalty for untimely submittal of one monitoring report.
2. A hearing will be conducted on this Complaint by the Regional Water Board on April 24, 2008, 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:

Option 1

Pay the total assessed penalty of \$72,000 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 \$62,000, and pay \$10,000 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. All payments, including any portion of the \$62,000 not spent toward the CP, must be payable to the CAA.

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. Any CP proposal 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 projects. If the proposed projects 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.
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 that stem from 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. 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

February 8, 2008

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