

California Regional Water Quality Control Board
North Coast Region

Administrative Civil Liability Order No. R1-2008-0022

For
Violation 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

The California Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board), having received from the City of Ukiah (hereinafter Discharger) a waiver of the right to a hearing in the matter of mandatory minimum penalties, issued pursuant to California Water Code section 13385, subdivisions (h) and (i) for failure to comply with effluent limitations as required by Order Nos. 99-65 and R1-2006-0049 (NPDES No. CA0022888), and having received the Discharger's request for the opportunity to implement a Supplemental Environmental Project (SEP) in lieu of paying the full penalty prescribed, 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 is designed to provide tertiary treatment and discharges the treated effluent 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 and reissued Waste Discharge Requirements Order No. R1-2006-0049 on September 20, 2006. Both Orders serve as a National Pollutant Discharge Elimination System (NPDES) permit under the Federal Clean Water Act.
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 pursuant to Water Code section 13383.
4. According to monitoring reports submitted by the Discharger, effluent limits were violated eleven times during the period from January 1, 2000 through September 30, 2007.

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. On November 14, 2007, the Assistant Executive Officer issued Administrative Civil Liability Complaint No. R1-2007-0100 assessing mandatory minimum penalties of \$27,000 for effluent violations as described in Finding No. 4 above.
6. Water Code section 13385, subdivision (l)(1) provides that a portion of mandatory minimum penalties imposed under section 13385, subdivisions (h) or (i) may be directed to a supplemental environmental project (SEP) in accordance with Section IX of the Enforcement Policy. The Complaint provided the Discharger the option of completing a SEP, in accordance with the specifications in the Enforcement Policy.
7. On December 10, 2007, the Discharger waived its right to a public hearing and requested approval to conduct a SEP in lieu of paying all of the mandatory minimum penalty. The Discharger agreed to pay \$10,000 into the State Water Pollution Cleanup and Abatement Account (CAA) and conduct a SEP that would cost in excess of the remaining \$17,000 penalty. On December 12, 2007, the Discharger paid the \$10,000 into the CAA.
8. On January 15, 2008, staff received the proposed SEP. The Discharger proposes to restore capacity and stabilize a 300-foot portion of a tributary that flows into Orr Creek. Sediment discharges to Orr Creek adversely impact salmonid habitat in Orr Creek. The project is aimed at reducing sediment discharges into Orr Creek. The SEP is estimated to cost \$17,000 plus the cost of in-kind City staff time. Project completion is expected by December 31, 2008. The Regional Water Board finds that the SEP, as proposed, meets the criteria established in Water Code section 13385, subdivision (l) and the State Water Resources Control Board's Enforcement Policy.
9. A duly noticed public hearing on this matter was held before the Regional Water Board during a public meeting on April 24, 2008, in the Sons of Italy Weed Lodge No. 1269, 155 Clay Street, Weed, 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 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).
11. 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 \$27,000. The Discharger paid the sum of \$10,000 to the CAA on December 12, 2007. The remaining sum of \$17,000 will be suspended upon completion of the SEP as described in the January 15, 2008 submittal. The SEP shall be completed on or before December 31, 2008, according to the following time schedule:
 - a. Submit erosion control and planting plan to California Department of Fish and Game and the Regional Water Board by July 30, 2008.
 - b. Complete SEP and submit a report of completion to the Regional Water board by December 31, 2008.
2. If, given written justification from the Discharger, the Executive Officer determines that a delay in the SEP 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 SEP will be completed.
3. The penalty amount of \$17,000 will be suspended if the Executive Officer determines that the Discharger provides the Regional Water Board with the scheduled reports and completes the SEP by December 31, 2008. The final report shall contain documentation of expenditures. The amount of the penalty suspended shall not exceed the Discharger's actual expenses. Completion of the SEP or payment of the suspended liability amount does not relieve the Discharger of its obligation to take necessary actions to achieve compliance with Waste Discharge Requirements.
4. Failure to meet the deadlines above, including completing the SEP by December 31, 2008, will result in the Discharger being required to pay the suspended \$17,000 penalty.
5. Notwithstanding the issuance of this Order, the Regional Water Board shall retain continuing jurisdiction to determine compliance with progress and completion of the SEP as well as the authority to assess additional penalties for violations of the Discharger's Waste Discharge Requirements/NPDES Permit.

Certification

I, Catherine 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 April 24, 2008.

Catherine Kuhlman
Executive Officer