

California Regional Water Quality Control Board  
North Coast Region

Administrative Civil Liability Complaint No. R1-2008-0064

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  
Humboldt Community Services District  
WDID No. 1SSO11419

Humboldt County

This Complaint, to assess administrative civil liability pursuant to Water Code section 13385, subdivisions (a)(2) and (a)(4) is issued to Humboldt Community Services District (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 State Water Resources Control Board 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, 2002 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 municipal wastewater collection system that serves the surrounding unincorporated areas of Eureka. The Discharger has 29 lift stations to service a sewered population of approximately 16,000 people. The Discharger pumps its wastewater into the City of Eureka's Elk River wastewater treatment facility, which is regulated by Waste Discharge Requirements, NPDES Permit No. CA0024449.
2. 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 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 13, 2006 and is designated as WDID No. 1SSO11419. Order No. 2006-0003-DWQ prohibits the discharge of untreated or partially treated wastewater from sanitary sewer systems to waters of the United States.
3. 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 or waste discharge requirements. The Water Quality Control Plan for the North Coast Region prohibits the discharge of waste into Humboldt Bay as described in Finding 6.

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. 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.
6. 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 [the authority of Water Code section 13242] 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

- (2) All bays and estuaries in accordance with the provisions of the State Water Resources Control Board's "Water Quality Control Policy for the Enclosed Bays and Estuaries of California."
7. During the period from January 2, 2002 to September 30, 2007, the Discharger experienced sixteen SSOs resulting in discharges of untreated wastewater to

public and private lands in violation of discharge prohibitions described above. A summary of the overflows with the associated maximum penalty follows:

Discharge Prohibition Violations  
January 1, 2002 to September 30, 2007

<b>Date</b>	<b>Location</b>	<b>Gallons Discharged</b>	<b>Gallons Recovered</b>	<b>Comments</b>	<b>Maximum Penalty</b>
1/28/02	Elk River Railroad Bridge	10,000	None	Valve Failure	\$100,000
12/16/02	King Salmon Area Manhole (MH)	100	None	Power Outage	\$10,000
12/27/02-12/28/02	Numerous	25,000	None	Heavy Rain	\$260,000
6/16/03	Pine Hill Lift Station	500	None	Check Valve Failure	\$10,000
12/23/03-12/24/03	King Salmon Area MH	<500	None	Flooded by High Tides	\$10,000
1/21/04	Fairway Dr.	<100	Not Known	Line Blockage	\$10,000
12/6/04	Campton Rd. Lift Station	<100	None	Power Outage	\$10,000
12/7/04	2787 Harris St.	<500	Not Known	Line Blockage	\$10,000
6/14/05	Berry Ln. Main	<250	Not Known	Line Blockage	\$10,000
12/20/05	Bailey St. Lift Station	<800	None	Power Outage	\$10,000
12/31/05	14 Lift Stations	>1,000 each lift station; >14,000 total	None	99% Humboldt Co. Without Power	\$140,000
1/17/06	Sequoia Ave. MH	>100	>100	Tree Roots in Line	\$10,000
4/23/07	Spruce St. MH	>50	>50	Line Blockage	\$10,000
6/18/07	Loma Dr. MH	600	540	Line Blockage	\$10,000
6/27/07	Bar View Ct. MH	<500	<500	Line Collapsed	\$10,000
9/7/07	Sea Ave. Pressure Line	<100	<100	Broken PVC Fitting	\$10,000
3/14/08-3/17/08	Moore Ave. Lift Station	2,250	None	Broken Pipe	\$22,500
				<b>TOTAL</b>	<b>\$652,500</b>

8. Water Code 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. The maximum Administrative Civil Liability for violations occurring during the period January 1, 2002 through September 30, 2007 is \$652,500.

9. 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.
10. Blockages and line collapse caused seven of the 30+ SSOs. The Discharger has independently compiled a list of problem spots in the collection system. These problem spots are checked every three months and repairs made when necessary. The Discharger has implemented a Fats, Oil and Grease (FOG) program in the last five years. Currently, all restaurant connections are hooked up to a grease trap.

Power outages and heavy rainfall caused more than seventeen of the 30+ SSOs. The Discharger has 29 lift stations. Four of the larger stations are equipped with dedicated auxiliary power supplies and the remaining 25 have been retrofitted with common electrical connections to facilitate use of the Discharger's three portable generators when needed. With high annual precipitation, the Discharger is at a high risk of having excessive inflow and infiltration (I&I). The Discharger completed smoke testing the entire system five years ago. Using this information a list of "problem spots" in the system was created. These "problem spots" are inspected every three months; some spots have been repaired and taken off the list. The Discharger has also purchased two Vac-Con Trucks and a bypass pump, all of which will allow better response to SSOs.

Valve and/or fitting failures caused four SSOs. This can be attributed to an aging system.

SSOs resulting in discharge of untreated wastewater adversely affect public health and beneficial uses of surface waters, such as Humboldt Bay, as described in Finding 4. However, many of the Discharger's actions are considered to be proactive and warrant a penalty less than the maximum amount.

11. 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. Criteria for completing a Supplemental Environmental Project (SEP) are set forth in the Enforcement Policy.
12. Government Code section 11415.60, subdivision (a) states that an agency may formulate and issue a settlement on any terms the parties determine are appropriate. Government Code section 11415.60 has been interpreted by the Office of Chief Counsel to allow the imposition of SEPs as part of the settlement of

an administrative enforcement action. The State Water Board supports the inclusion of SEPs in ACL actions so long as the projects have environmental value, further the enforcement goals of the Water Boards, and are subject to appropriate input and oversight by the Water Boards.

13. Regional Water Board staff costs associated with this administrative civil liability complaint are estimated to be a minimum of \$10,000. This includes staff time to tally and verify violations; prepare this Complaint, prepare public notices, conduct a public hearing, respond to comments; and evaluate and track a Supplemental Environmental Project, if any, through to completion.
14. 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).

HUMBOLDT COMMUNITY SERVICES DISTRICT IS HEREBY GIVEN NOTICE THAT:

1. Based on a review of the above facts and legal requirements, the Assistant Executive Officer of the Regional Water Board proposes that the Discharger be assessed an administrative liability in the amount of \$25,000.
2. A hearing will be conducted on this Complaint by the Regional Water Board on July 24, 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 total assessed penalty of \$25,000 to the State Water Pollution Cleanup and Abatement Account (CAA) within thirty days of the date of this Complaint, or
  - B) In lieu of paying the full amount of the penalty for violations of discharge prohibitions, propose a SEP in an amount up to \$15,000 and pay the balance of the penalty, which is \$10,000, to the CAA 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 SEP amount and the amount 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, 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. 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 the reasonable control of the Discharger, the Assistant Executive Officer may revise the implementation schedule as appropriate.
5. 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 is closed, provided that there are no significant public comments. If there are significant public comments, the Assistant Executive Officer may withdraw this Complaint and reissue a new complaint, or take other appropriate action.
6. 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.
7. 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 SEP.
8. Notwithstanding the issuance of the Complaint, the Regional Water Board shall retain the authority to assess additional penalties for violations of the Discharger's general waste discharge requirements.

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Luis G. Rivera  
Assistant Executive Officer

May 21, 2008

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