

California Regional Water Quality Control Board  
North Coast Region

Administrative Civil Liability Complaint No. R1-2009-0055

For  
Violations of Waste Discharge Requirements Order No. R1-2003-0047 and  
State Water Resources Control Board Order No. 2006-0003-DWQ

In the Matter of  
City of Yreka  
Wastewater Treatment Facility  
WDID No. 1A84073OSIS

Siskiyou County

This Complaint, to assess administrative civil liability for penalties pursuant to Water Code section 13350, is issued to the City of Yreka (hereinafter Discharger) for violations of discharge prohibitions contained in Waste Discharge Requirements Order No. R1-2003-0047, and State Water Resources Control Board Order No. 2006-0003-DWQ, Statewide General Waste Discharge Requirements for Sanitary Sewer Systems, which occurred between June 16, 2008 and March 31, 2009.

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 wastewater collection, treatment, and disposal facilities (WWTF) for municipal wastewater from the City of Yreka. The Discharger discharges treated effluent to a 31-acre subsurface drip disposal field (Disposal Facility) located 800 feet north of the WWTF in NW¼ Section 14, T45N, R7W. The Discharger uses percolation ponds for excess flows during high inflow periods. The Discharger's wastewater collection system consists of approximately 50 miles of gravity pipeline, pressure mains, 4 pump stations, interceptor lines, collection lines, cleanouts, and manholes.
2. On May 15, 2003, the Regional Water Board issued Waste Discharge Requirements (WDRs) Order No. R1-2003-0047, governing discharges associated with the Discharger's WWTF, sewer collection system, and Disposal Facility.
3. On May 2, 2006, the State Water Resources Control Board adopted Order No. 2006-0003-DWQ, Statewide General Waste Discharge Requirements for Wastewater Collection Agencies (General WDRs). On October 26, 2006, the Discharger enrolled for coverage under the General WDRs.
4. On May 22, 2008, the Regional Water Board issued ACL Complaint No. R1-2008-0059 which covers the period from May 15, 2003 to April 30, 2008. Complaint No. R1-2008-0059 was issued for seventy-one violations of discharge specifications and nine violations of discharge prohibitions as contained in the Discharger's WDRs R1-2003-0047. Complaint No. R1-2008-0059 describes the nine discharge prohibition violations, all SSOs, of which six reached state waters

and three discharged to land. The associated ACL Order No. R1-2008-0101 was issued by the Regional Water Board on October 23, 2008, assessing a civil liability of \$36,500 for the violations and confirming the Discharger's agreement to settle the Complaint by spending \$25,750 on a project to upgrade its collection system. The project identifies ten locations in the collection system, considered as large contributors to inflow and infiltration, and specifies the upgrade solution.

5. This Complaint covers ten sewage spills that occurred between June 16, 2008 and March 31, 2009. These spills, described in Finding 11 of this Complaint, are violations subject to discretionary penalties contained in Water Code section 13350, subdivision (e).
6. Sanitary sewer overflows (SSOs) are discharges of domestic, industrial, and/or commercial wastewater from sanitary sewer systems. This wastewater may contain high levels of suspended solids, pathogenic organisms, nutrients, oxygen-demanding organic compounds, oil and grease, and other pollutants. SSOs may result in 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.
7. The WDRs for the WWTF include requirements for the Discharger to develop and implement a Sewer Overflow Prevention Plan (SOPP) for its wastewater collection system, in order to reduce the possibility of SSOs. The Discharger is required to review and amend the SOPP as appropriate following any SSO. The WDRs also require the Discharger to develop and implement a Sewer Overflow Response Plan (SORP), intended to establish procedures for responding to SSOs to minimize the volume which enters surface waters and the associated adverse effects on beneficial uses.
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.
9. Water Code section 13350, subdivisions (a) and (e), provides for the imposition of civil liability by the Regional Water Board. Section 13350, subdivision (e), provides that civil liability imposed by the Regional Water Board may not exceed \$5,000 for each day in which the violation occurs, or on a per gallon basis, cannot exceed \$10 for each gallon of waste discharged.
10. WDRs Order No. R1-2003-0047 contain the following:
  - A. Discharge Prohibitions
    2. Discharge of waste from the wastewater treatment facility to Yreka Creek is prohibited.

3. The discharge of untreated waste from anywhere within the collection, treatment, or disposal facilities is prohibited.
4. Creation of a pollution, contamination, or nuisance, as defined by Section 13050 of the California Water Code (CWC), is prohibited.

E. General Provisions

3. Operation and Maintenance

The Discharger shall maintain in good working order and operate as efficiently as possible any facility or control system installed by the Discharger to achieve compliance with the waste discharge requirements.

6. Sewer Overflow Prevention Plan

The Discharger shall develop and submit to the Regional Board a Sewer Overflow Prevention Plan (SOPP) for the wastewater collection system no later than 90 days from adoption of this Order. The Discharger shall fully implement the SOPP to reduce the possibility of a sewer overflow event. The SOPP shall be amended whenever there is a change (e.g. in the design, construction, operation, or maintenance of the wastewater collection system) that materially affects the potential for sewer overflows. The Discharger shall review and amend the SOPP as appropriate after each sewer overflow. The Discharger shall submit the SOPP and any amendments thereto to the Executive Officer of the Regional Water Board (Executive Officer) upon request of the Executive Officer. The Discharger shall ensure that the up-to-date SOPP is readily available to sewerage system personnel at all times and that sewerage system personnel are familiar with it.

7. Sewer Overflow Response Plan

The Discharger shall develop and submit to the Regional Board a Sewer Overflow Response Plan (SORP) for the WWTF and the area tributary to the WWTF no later than 90 days from adoption of this Order. The Discharger shall fully implement the SORP to ensure ongoing protection from spills and other unpermitted releases from the facility. The SORP shall establish procedures for responding to sewer overflows from the WWTF and the area tributary to the WWTF so as to (a) minimize the sewer overflow volume which enters surface waters, and (b) minimize the adverse effects of sewer overflows on water quality and beneficial uses. The Discharger shall maintain the SORP in an up-to-date condition and shall amend the SORP as necessary to accomplish these objectives. The Discharger shall review and amend the SORP as appropriate after each sewer overflow from the WWTF and the area tributary to the WWTF. The Discharger shall submit the

SORP and any amendments thereto to the Executive Officer upon request of the Executive Officer. The Discharger shall ensure that the up-to-date SORP is readily available to sewerage system personnel at all times and that sewerage system personnel are familiar with it.

11. Violations of Discharge Prohibitions and General Provisions

Between June 16, 2008 and March 31, 2009, the Discharger had ten SSOs resulting in discharges of untreated wastewater to public and private lands and to surface waters in violation of WDRs and the General WDRs. These ten SSOs are subject to discretionary penalties as described in Finding 9 above. The total maximum penalty amount for the ten prohibited discharge violations is \$70,000, as summarized in the following table and discussed in more detail below:

Table 1  
Discharge Prohibitions Violations  
June 16, 2008 through March 31, 2009

<b>DATE</b>	<b>Location</b>	<b>Gallons Discharged</b>	<b>Gallons Recovered or Absorbed into the Ground</b>	<b>Gallons to Receiving Waters</b>	<b>Maximum Potential Liability</b>
6/16/2008	350 Oberlin Rd. @ Fairlane Rd.	400	400	0	\$5,000
6/30/2008	122 Miner St. @ I-5	4000	1500	2500	\$25,000
7/10/2008	818 North St. B/W Discovery and Fairchild	250	250	0	\$5,000
10/05/2008	208 Herzog @ Foothill	10	10	0	\$5,000
12/01/2008	1549 S. Main St.	80	0	Unknown	\$5,000
12/09/2008	1212 S. Oregon St.	80	0	80	\$5,000
1/10/2009	1119 S. Oregon St.	5	0	Unknown	\$5,000
1/15/2009	602 Lane St.	20	0	Unknown	\$5,000

DATE	Location	Gallons Discharged	Gallons Recovered or Absorbed into the Ground	Gallons to Receiving Waters	Maximum Potential Liability
2/25/2009	1114 S. Oregon St.	150	100	Unknown	\$5,000
3/24/2009	414 Lane St.	46	0	Unknown	\$5,000
TOTAL →					<b>\$70,000</b>

12. In determining the amount of civil liability, Water Code section 13327 requires that the Regional Water Board take into consideration the nature, circumstances, extent, and gravity of the violations, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, and the Discharger's ability to pay, the effect on its ability to continue in business, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violations, and other matters that justice may require.
13. Recommended Penalties after Consideration of Water Code 13327 Factors

**a. Nature, Circumstance, Extent and Gravity of the Violations**

**i. June 16, 2008 SSO**

At 8:50 AM on June 16, 2008, an estimated 400 gallons of untreated sewage overflowed from a manhole at the intersection of Oberlin and Fairlane Roads and continued to flow into a dirt drainage ditch where it was absorbed into the soil. The SSO occurred due to a blockage from debris in a 10" main line. The Discharger responded, cleared the blockage, ended the spill, and cleaned and disinfected the street; however, the majority of the spilled material was absorbed into the ground and not susceptible to cleanup nor recovery. The maximum potential penalty for this violation is \$5,000.

Because the spilled material absorbed into the ground and did not enter Yreka Creek, it is unlikely that it caused any adverse effects to the beneficial uses of Yreka Creek.

**ii. June 30, 2008 SSO**

On June 30, 2008 at 10:50 PM, approximately 4000 gallons of untreated sewage discharged from a cleanout at the Texaco Station at 122 E. Miner Street. A grease blockage in the main line first caused a minor spill overflow from a manhole at the driveway of Pacific Power & Light, where the spilled material percolated into the surrounding ground. Subsequently,

the blockage moved downstream in the mainline to the Miner's Inn, where it caused sewage to overflow onto a landscaped area and next to the bank of Yreka Creek, and from a cleanout at the Texaco Station. The sewage that spilled onto the landscaped area and the bank of Yreka Creek percolated absorbed into the ground; however, the sewage that spilled from the cleanout at the Texaco Station entered a storm drain and flowed into Yreka Creek. The Discharger responded and cleared the blockage within an hour; however, before the SSO was stopped, approximately 2,500 gallons of sewage had entered Yreka Creek which flows into the Shasta River and eventually into the Klamath River. The maximum potential penalty for this violation is \$25,000.

Yreka Creek is tributary to the Shasta River, which is impaired due to low dissolved oxygen and elevated temperatures; the Regional Water Board has adopted and is currently implementing a TMDL Action Plan to improve temperature and dissolved oxygen conditions and to restore impaired beneficial uses in the Shasta River watershed.

The 2,500 gallons of untreated sewage entered Yreka Creek, threatening the beneficial uses of Yreka Creek and the Shasta River, including beneficial uses related to public health and fish habitat. The County Health Department posted health warnings for 1 mile downstream along Yreka Creek and issued a press release.

### **iii. July 10, 2008 SSO**

At 7:39 PM on July 10, 2008, approximately 250 gallons of untreated sewage flowed from an existing break in a private lateral in the back yard of a residence at 818 North Street. This SSO was caused by root intrusion in the mainline which subsequently blocked the line and caused sewage to back up and overflow from the private lateral. The spilled sewage overflowed onto the ground and into a dirt drainage ditch where it absorbed into the ground and was not cleaned up. The maximum potential penalty for this violation is \$5,000.

Because the spilled material absorbed into the ground and did not enter Yreka Creek, it caused only a minor threat to beneficial uses of Yreka Creek.

### **iv. October 5, 2008 SSO**

On October 5, 2008 at 9:00 PM, approximately 10 gallons of untreated sewage discharged from a manhole behind a residence at 308 Herzog Blvd. and percolated into the ground. This SSO was caused by a debris blockage in the 4" clay mainline. The Discharger responded, cleared the blockage, and cleaned up the contaminated soil. The maximum potential penalty for this violation is \$5,000.

The spilled material was absorbed into the ground, did not enter Yreka Creek, and caused only a minor threat to the beneficial uses of Yreka Creek.

**v. December 1, 2008 SSO**

At 8:45 AM on December 1, 2008, approximately 80 gallons of untreated sewage spilled from a manhole pick hole south of Jim Wilson Ford Dealership at 1545 S. Main Street, and flowed into a 3,025 foot long storm drain leading to Greenhorn Creek, tributary to Yreka Creek. This SSO was caused by a grease blockage in the 6" mainline. The Discharger responded quickly, cleared the blockage and cleaned up the street. The volume of material that entered Yreka Creek is unknown. The maximum potential penalty for this violation is \$5,000.

The spilled material that may have entered Yreka Creek was relatively small, but was untreated sewage, which posed at least a short term threat to beneficial uses of Yreka Creek and the Shasta River, including beneficial uses related to public health and fish habitat.

**vi. December 9, 2008 SSO**

On December 9, 2008 at 7:40 AM, the City of Yreka was notified of an SSO coming from the pick hole on a manhole in front of a residence at 1212 S. Oregon Street (intersection of S. Oregon St. and Florentine). Approximately 80 gallons of untreated sewage spilled onto the street, flowed down the curb and gutter, entered a storm drain, and flowed into Yreka Creek. The spill was caused by a blockage of diapers & grease in the main line. The Discharger responded quickly, cleared the blockage, and ended the spill. No spilled material was recovered nor cleaned up. The maximum potential penalty for this violation is \$5,000.

The spilled material that entered Yreka Creek was relatively small, but was untreated sewage posing at least a short term threat to beneficial uses of Yreka Creek and the Shasta River, including beneficial uses related to public health and fish habitat.

**vii. January 10, 2009 SSO**

At 11:05 AM on January 10, 2009, approximately 5 gallons of untreated sewage spilled from a cleanout onto a sidewalk at 1119 South Oregon Streets of untreated sewage, flowed down the gutter, entered a storm drain and may have ultimately entered Yreka Creek. This SSO was caused by a debris blockage in the 4" mainline. The Discharger responded quickly, cleared the blockage and cleaned up the sidewalk and gutter. The volume of material that entered Yreka Creek is unknown. The maximum potential penalty for this violation is \$5,000.

The spilled material that may have entered Yreka Creek was extremely small, but was untreated sewage posing at least a short term threat to beneficial uses of Yreka Creek and the Shasta River, including beneficial uses related to public health and fish habitat.

**viii. January 15, 2009 SSO**

At approximately 10:00 AM on January 15, 2009, approximately 20 gallons of untreated sewage spilled from a cleanout located at 602 Lane Street, and entered a storm drain leading to Yreka Creek. The spill was caused by an unknown blockage in the main line. The spilled material was small in volume, but was untreated sewage and may have ultimately entered Yreka Creek, posing at least a short term threat to beneficial uses of Yreka Creek.

**ix. February 25, 2009 SSO**

On February 25, 2009 at 10:04 AM, an estimated 150 gallons of sewage overflowed from a cleanout located at 1117 South Oregon Street. Of the 150 gallons spilled, approximately 100 gallons was recovered with a vacuum truck and the remaining 50 gallons entered a storm drain, but was contained and recovered prior to entering Yreka Creek. The Discharger responded, cleared the blockage, vacuumed the spilled sewage into a truck, and cleaned the area. The SSO was caused by a blockage of paper in a 4" main line.

The spilled material was untreated sewage and may have ultimately entered Yreka Creek, posing at least a short term threat to beneficial uses of Yreka Creek.

**x. March 24, 2009 SSO**

At 8:23 AM on March 24, 2009, an estimated 46 gallons of untreated sewage overflowed from a manhole at 414 Lane Street in the City of Yreka. The spilled sewage flowed from the manhole into a storm drain located on South Oregon Street. The storm drain runs approximately half a mile before it reaches Yreka Creek. This SSO was caused by a blockage of grease and paper in a 6" clay main line. The Discharger responded quickly, cleared the blockage and cleaned the immediate area. The volume of spilled material that entered Yreka Creek is unknown. The maximum potential penalty for this violation is \$5,000.

The spilled material was untreated sewage and may have ultimately entered Yreka Creek, posing at least a short term threat to beneficial uses of Yreka Creek.

**b. Degree of Toxicity**

SSOs are discharges of domestic, industrial, and/or commercial wastewater from sanitary sewer systems. This wastewater may contain high levels of suspended solids, pathogenic organisms, nutrients, oxygen-demanding organic compounds, oil and grease, and other pollutants. SSOs may result in 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.

**c. Culpability and Susceptibility to Cleanup and Voluntary Cleanup Efforts**

The SSO discharges were unintentional; the collection system is not routinely monitored, and the SSOs are usually caused by unexpected blockages in the main lines. Five SSOs were small and not susceptible to cleanup or recovery. Three spills absorbed into the ground; one was relatively easy to clean up and the other two were not cleaned up. Two incidences were partially recovered; one incident involved a large volume of spilled sewage, and was partially recovered or contained by absorbing into the ground (1500 gallons) and partially not recovered or cleaned up (2500 gallons).

**d. Prior History of Violations**

These SSOs are consistent with the Discharger's history of infiltration and inflow (I/I) problems, lack of enforcement on collection system users (excessive grease coming from restaurants) and are in part due to deferred maintenance on the collection system.

1998

**Cease and Desist Order (CDO) No. 98-103**

On September 24, 1998, the Regional Water Board issued CDO No. 98-103, which, among other things, prohibited new connections in excess of 20,000 gpd to the WWTF. In response to the Cease and Desist Order and the restriction, the Discharger 1) increased water use and sewer rates, 2) conducted an I/I Study, and 3) developed a Water Use Program which encourages more efficient water use within the City of Yreka. Increasing water use and sewer rates caused reductions in water use, particularly for commercial users, and further promoted the Discharger's Water Use Program. An I/I Study was completed in July 1999 costing \$38,000 which identified sources of infiltration, including an inappropriate diversion of groundwater from a spring into the collection system, and helped to develop an I/I Reduction Program prioritizing collection system repairs. In 2001, the Discharger applied for and received a Loan from the State

Revolving Fund and a Small Community Development Block Grant to upgrade its WWTF at a cost of \$3,560,000.

#### 2002

In 2002, the Discharger expanded its collection system to include a developing industrial area on the east side of the City. This project was funded through the US Rural Development and California Economic Development Administration, cost \$1,156,100, and consisted of installing the main line and pumping system.

#### 2004

##### **Cleanup and Abatement Order (CAO) No. R1-2004-0037**

On April 27, 2004, the Regional Water Board issued CAO No. R1-2004-0037 because the subsurface disposal fields were out of service, and the Discharger was violating its WDRs.

In response to the CAO, the Discharger applied for and received a Development Block Grant to conduct a comprehensive evaluation of its wastewater collection and treatment facilities. The evaluation included looking at the condition of the facilities, developing recommendations for improvements, and prioritizing repairs.

In October of 2004, the Discharger began Phase 1 of a Sewer Rehabilitation Project which focused on sewer laterals by evaluating and prioritizing areas still needing I/I repairs. The project was partially funded using a Small Community Development Block Grant and cost \$500,000.

#### 2005

In July of 2005, the Discharger embarked on Phase 2 of a Sewer Rehabilitation Project which focused on repair, replacement, or relining of sewer main lines and laterals serving low-income households. Phase 2 included rehabilitating or replacing approximately 6000 feet of 6"-10" sewer lines and laterals; relining, cleaning and treating 3000 feet of sewer lines and laterals; and repairing 2150 feet of sewer lines and laterals.

#### 2006

The Discharger adopted new Development Impact Fees for wastewater which reflected capital improvement needs resulting from new development.

#### 2007

In May of 2007, the Discharger began Phase 3 of a Sewer Rehabilitation Project which rehabilitated or replaced approximately 2000 feet of 6"-10" sewer lines and laterals and relined, cleaned and treated another 3000 feet of sewer lines and laterals.

#### 2008

In April of 2008, the Discharger spent \$35,000 of Community Development Block Grant funds to conduct a review of the current rates

and develop recommendations for a financial plan which addresses the identified needs contained in the City's Master Plan, Sewer Master Plan, and Wastewater Expansion Plan.

In response to effluent limit violations and discharge prohibition violations occurring within the Discharger's collection, treatment, and disposal system over recent years, the Regional Water Board and/or its staff took the following enforcement actions over 2008:

**1) ACLC No. R1-2008-0059**

On May 22, 2008, the Assistant Executive Officer issued Administrative Civil Liability Complaint No. R1-2008-0059 proposing a total penalty of \$36,500 for 55 minor effluent limit violations and nine SSOs which occurred between May of 2003 and April of 2008. The spills ranged in volume from 1 gallon to 2,280 gallons. Six of the nine spills resulted in discharges to Yreka Creek (ranging from 2 gallons to 912 gallons), and three absorbed into the ground. The Complaint proposed a penalty of \$31,500 for the effluent limit violations and \$5,000 for the SSOs.

In lieu of paying the full penalty, the Discharger agreed to spend \$25,750 of the assessed penalties towards a proposed project to upgrade ten areas within its collection system identified as large contributors to I/I.

**2) Notice of Violation (NOV)**

On July 3, 2008, in response to the June 30, 2008 spill where approximately 2,500 gallons of sewage entered Yreka Creek, the Regional Water Board issued a NOV and Section 13267(b) Order requiring the Discharger to submit a sewer collection system spill contingency plan, and sewer collection system maintenance and capital improvement plan by September 1, 2008.

The Discharger requested, and was granted, an extension to October 16, 2008. On August 29, 2008 and October 15, 2008, the Discharger satisfied the Section 13267 Order by submitting the required plans.

**3) ACLO No. R1-2008-0101**

On October 23, 2008, the Regional Board issued Administrative Civil Liability Order (ACLO) No. R1-2008-0101 to the Discharger affirming Complaint R1-2008-0059; acknowledging that the Discharger had paid \$10,750 into the State Water Pollution Cleanup and Abatement Account; and, requiring the Discharger spend the remaining sum of \$25,750 on a Project to upgrade the collection system and complete the project by November 1, 2009.

2009

On March 23, 2009, the Discharger submitted a progress report stating that it had replaced broken sewer lines, completing two of the ten areas contained in its project as required by ACLO No. R1-2008-0101. Another area was scheduled to start the week of March 23, 2009 which includes installing a manhole, and replacing a problem section of sewer line.

The Discharger included the purchase of a vacuum truck in last year's (2008/2009) and in this year's budget, at an estimated cost of \$285,000. Staff supports and encourages the purchase and use of a vacuum truck to help recover spilled sewage and reduce the potential impacts to the beneficial uses of Yreka Creek, the Shasta River, and the Klamath River.

**e. Economic Benefit to the Discharger**

The Discharger has expended resources, such as the costs for personnel hours to initially address the SSOs. However, it appears that the Discharger has also received an economic benefit by avoiding actions that may have prevented the spills from occurring. The Discharger's collection system has deteriorated, causing excessive infiltration and inflow as well as a greater likelihood for blockages. It appears that the Discharger is not adequately overseeing the materials discharged into its system (e.g., excessive grease coming from restaurants). Until recently, the sewer collection system maintenance and capital improvement plan were neglected and the spill response plan was outdated and ineffective.

In response to several Regional Water Board Orders and staff enforcement actions, the Discharger has submitted a sewer collection system spill contingency plan, a sewer collection system maintenance and capital improvement plan, evaluated its collection system and prioritized needed improvements, made improvements to its collection system, and recently begun another Project to continue upgrading its collection system.

Although the Discharger has responded to Regional Water Board Orders, it continues to violate its WDRs; however, since the Discharger revised its spill response plan, spill response time has been quicker, resulting in smaller volumes of spilled sewage. The Discharger needs to pursue purchasing a vacuum truck to improve its SSO response and recovery of spilled material, and improve its enforcement program for collection system users in order to reduce the frequency of blockages that cause SSOs.

Regional Water Board Staff believe the primary economic benefits to the Discharger for the violations in this Complaint are avoided costs in updating its sewer collection system maintenance and capital improvement plan, updating its spill response plan, and upgrading its collection system. The Discharger has over the last several years, however, expended resources to implement and complete programs to upgrade its system, reducing any economic benefit to the Discharger for

the delayed maintenance that were the cause of the violations contained in this Complaint.

**f. Ability to Pay and Effect on Ability to Continue in Business**

The Discharger serves a small community with a low per capita income, so it may have difficulty paying a significant penalty.

**g. Other Factors as Justice May Require**

Regional Water Board staff believe that as a consequence of updating its spill response plan, the Discharger is now reporting all SSOs, even minor spills such as the January 10, 2009 spill of 5 gallons, possibly leading to the appearance of a recent increase in the number of SSOs in the City of Yreka. Regional Water Board staff, however, believe that the number of actual SSO incidents occurring has remained relatively constant, but the number reported to the Regional Water Board has increased.

vii. Regional Water Board Staff Costs

Regional Water Board staff cost associated with this enforcement action is estimated to be a minimum of \$5,000. This includes staff time to tally violations and prepare this Complaint and public notices; prepare for, and attend the public hearing; and respond to comments.

After considering all the above factors, staff recommend a total liability of **\$20,685**, including staff costs. Table 2 below summarizes the prohibited discharges from June 16, 2008 to March 31, 2009 and the associated proposed penalties:

Table 2  
 Proposed Civil Liability for WDRs Violations  
 June 16, 2008 through March 31, 2009

DATE	Location	Maximum Potential Liability	Proposed Liability
6/16/2008	350 Oberlin Rd. @ Fairlane Rd.	\$5,000	\$1,200
6/30/2008	122 Miner St. @ I-5	\$25,000	\$17,000
7/10/2008	818 North St. B/W Discovery and Fairchild	\$5,000	\$750
10/05/2008	208 Herzog @ Foothill	\$5,000	\$30

<b>DATE</b>	<b>Location</b>	<b>Maximum Potential Liability</b>	<b>Proposed Liability</b>
12/01/2008	1549 S. Main St.	\$5,000	\$400
12/09/2008	1212 S. Oregon St	\$5,000	\$400
1/10/2009	1119 S. Oregon St	\$5,000	\$25
1/15/2009	602 Lane St.	\$5,000	\$100
2/25/2009	1114 S. Oregon St.	\$5,000	\$350
3/24/2009	414 Lane St.	\$5,000	\$230
	<b>TOTALS</b>	<b>\$70,000</b>	<b>\$20,685</b>

14. The issuance of this Complaint is an enforcement action to protect the environment, and is therefore exempt from provisions of the California Environmental Quality Act (Public Resources Code sections 21000 et seq.) pursuant to title 14, California Code of Regulations, sections 15308 and 15321, subdivision (a)(2).

THE CITY OF YREKA IS HEREBY GIVEN NOTICE THAT:

1. Based on a review of the above facts and required factors, the Assistant Executive Officer proposes that the Discharger be assessed an administrative civil liability in the amount of \$20,685.
2. A hearing will be conducted on this Complaint by the Regional Water Board on October 28 or 29, 2009, unless the Discharger waives the right to a hearing by signing and returning the waiver form attached to this Complaint by September 18, 2009. By doing so, the Discharger agrees to:
  - a. Pay the assessed penalty of \$20,685 in full to the State Water Pollution Cleanup and Abatement Account (CAA) by September 18, 2009, or
  - b. In lieu of paying the full amount of the penalty for violations of discharge prohibitions, pay \$5,000 into the CAA by September 18, 2009 (or in compliance with a payment schedule issued in writing by the Assistant Executive Officer) and direct the balance of the penalty up to \$15,685 towards a Project, as approved by the Regional Water Board. The Project should be designed to enable the Discharger to make capital or operational improvements beyond

those required by law, and be separate from projects designed to merely bring the Discharger into compliance. The sum of the Project amount and the amount paid into the CAA shall be equal to or more than the full penalty.

3. If the Discharger waives the hearing and pays the liability, the resulting settlement may become effective on September 21, 2009. If there are significant public comments, the Assistant Executive Officer may withdraw the Complaint, reissue a new complaint, or take other appropriate action.
4. 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.
5. Notwithstanding the issuance of this Complaint, the Regional Water Board shall retain the authority to assess additional penalties for violation of the Discharger's WDRs.

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Luis G. Rivera  
Assistant Executive Officer

August 17, 2009