

California Regional Water Quality Control Board
North Coast Region

Administrative Civil Liability Order No. R1-2009-0099

For

Mandatory Minimum Penalties for
Violation of Waste Discharge Requirements
Order Nos. 99-59 and R1-2006-0020 (NPDES No. CA0006017)

In the Matter of
Town of Scotia Company, LLC
Wastewater Treatment Facility and Cogeneration Plant
WDID No. 1B83104OHUM

Humboldt County

The California Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board) finds the following:

1. The Permittee operates a secondary sewage treatment plant and an associated wood-fuel steam-electric power plant (hereinafter facility) located at Main Street in Scotia, California. Facility wastewater, consisting of treated municipal wastewater, multimedia filters back flush water, cooling water blow-down, boiler blow-down, once-through cooling water, and miscellaneous process waste, discharges to a 20-acre storage pond (the log pond), which discharges to the Eel River. The Regional Water Board regulates the Discharger's facility under Waste Discharge Requirements which serve as a National Pollutant Discharge Elimination System permit (NPDES No. CA0006017) under the federal Clean Water Act. The Waste Discharge Requirements authorize the Permittee to discharge pollutants from a 20-acre storage pond (the log pond) into the Eel River, a navigable water of the United States.
2. 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.
3. During the period from January 1, 2000 through September 30, 2008, staff tabulated twenty-five effluent limit violations, resulting in a \$66,000 mandatory minimum penalty. On January 27, 2009, the Assistant Executive Officer issued Administrative Civil Liability Complaint No. R1-2009-0010 (Complaint) assessing a civil liability penalty of \$66,000 for these violations. Subsequently, the Discharger submitted a letter requesting that the Regional Water Board staff remove several of the violations included in the Complaint based upon fact that there were several errors in the tabulation. Staff reviewed all of the violations and recalculated mass limits using actual effluent flow rates during wet weather conditions. In addition, four violations were reclassified from serious to chronic. Staff formally revised the violations table in a letter sent to the Discharger on April 13, 2009. The revisions resulted in a reduction of the recommended penalty from \$66,000 to \$42,000.

4. The Discharger exceeded effluent limitations eighteen times while discharging effluent to the Eel River. Twelve exceedances are nonserious (chronic) effluent violations, as described in Water Code section 13385, subdivision (i)(1). Six 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 violations is \$42,000.
5. 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.
6. The Discharger waived its right to a public hearing and requested to pay the sum of \$13,500 to the State Water Pollution Cleanup and Abatement Account (CAA) and to spend the remaining balance of \$28,500 on three Supplemental Environmental Projects (SEPs).
7. The first SEP will involve implementing a water conservation program for the Town of Scotia (TOS) by conducting two Residential Water Conservation Workshops and providing a rebate on the purchase of 150 new low-flow toilets. The two workshops will provide residential homeowners an opportunity to learn about water conservation efforts and the rebate program will encourage homeowners to replace existing fixtures with water-conserving fixtures in their homes. Reduced flows to the WWTF will improve treatment quality and help to better protect beneficial uses in the Eel River.

The second SEP involves development and implementation of a Storm Water Management Program (SWMP) for Scotia, and will include two Residential Storm Water Workshops and a Storm Water Training Session with TOS personnel. The SWMP will be modeled after applicable minimum control measures outlined in the Municipal Storm Water Program requirements. The project will also include marking residential storm drains with "No Dumping." These efforts should help to reduce the amount of non-point source pollution reaching the Eel River and adversely affecting water quality and beneficial uses.

The third SEP will consist of providing NPDES compliance training for TOS residents and personnel. The project will include one NPDES Training Session with TOS WWTF personnel, one NPDES Training Session with TOS Cogeneration Plant personnel and two Public NPDES Workshops. The information presented at the public workshops will cover many topics, including what should not be flushed down the drain (e.g. Fats, Oil and Grease (FOG), Pharmaceuticals). Informing the public on these topics can reduce clogging in the Sanitary Sewer System and prevent overflows and discharges that would negatively affect the beneficial uses of the receiving water, in this case the Eel River. Compliance training for WWTF and Cogeneration Plant operators will keep them updated on the latest compliance procedures.

8. Water Code section 13385, subdivision (l)(1), provides that a portion of MMPs 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. If the penalty amount exceeds fifteen thousand dollars (\$15,000), the portion of the penalty amount that may be directed to an SEP may not exceed fifteen thousand dollars (\$15,000) plus 50 percent of the penalty amount that exceeds fifteen thousand dollars (\$15,000).
9. A duly noticed public hearing on this matter was held before the Regional Water Board on December 10, 2009 at the North Coast Regional Water Quality Board, 5550 Skylane Blvd, Santa Rosa, CA 95403. The documents for the agenda item were provided to the Discharger and made available to the public prior to the hearing. The Discharger and the public were given the opportunity to testify and present evidence regarding the proposed settlement.
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 a total civil liability of \$42,000. The Discharger shall pay the sum of \$13,500 to the CAA. The Discharger shall spend at least the remaining sum of \$28,500 on three SEPs. The SEPs consist of three projects that will improve water conservation, implement a storm water management program, cultivate public awareness about water quality requirements and provide compliance training for Town of Scotia personnel.
2. The Discharger shall submit biannual progress reports due January 15th and July 15th of each year, and final compliance reports describing the planning and construction of the SEPs, and shall complete the SEPs according to the following time schedule:

| TASK | DUE DATE |
|--|---|
| Begin rebate program for water conserving fixtures. | Submit a report of compliance by January 15, 2010 |
| Prepare SWMP for Town of Scotia, conduct "No Dumping" marking on storm drains, and create and distribute NPDES public awareness brochure. | Submit a report of compliance by July 15, 2010 |
| Conduct: -Residential Water Conservation Workshop #1 -Residential Storm Water Workshop #1 -Public NPDES Workshop #1 -Storm water Training Session with TOS personnel -NPDES Training session with WWTF personnel -NPDES training session with Cogeneration Plant personnel | Submit a report of compliance by January 15, 2011 |
| Conduct: -Residential Water Conservation Workshop #2 -Residential Storm Water Workshop #2 -Public NPDES Workshop #2 | Submit a Final report by January 15, 2012. The report shall certify the completion of the SEP and include a post-project accounting of expenses. The report shall include an overall evaluation of the project and a determination as to the potential to meet the stated goals of the project. |

3. In accordance with the Enforcement Policy, if the Discharger publicizes a SEP or the results of a SEP, it must state clearly and prominently that the SEP is part of the settlement of an enforcement action.
4. If, given written justification from the Discharger, the Executive Officer determines that a delay in the SEP implementation schedule is 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.
5. The penalty amount of \$28,500 shall be permanently suspended if the Executive Officer determines that the Discharger has completed the SEPs satisfactorily, as described in Finding 7 of this Order. The sum of the SEPs and the amount paid to the CAA shall at least equal the amount of the full penalty. All payments, including money not used for the SEPs, must be payable to the CAA. The final report shall contain documentation of expenditures. The amount of the suspended penalty shall

not exceed the Discharger's actual expenses. Completion of the SEPs or payment of the suspended liability amount does not relieve the Discharger of its obligation to take necessary actions to achieve compliance with WDRs.

6. Failure to meet the deadlines above, including completion of the SEPs, will result in the Discharger being required to pay the suspended \$28,500 penalty.
7. Notwithstanding the issuance of this Order, the Regional Water Board shall retain continuing jurisdiction to determine compliance with the terms of the suspended penalty provisions above, as well as the authority to assess additional penalties for other violations of the Discharger's waste discharge requirements.

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 December 10, 2009.

Catherine Kuhlman
Executive Officer