

California Regional Water Quality Control Board
North Coast Region

Administrative Civil Liability Complaint No. R1-2010-0070

For
Violations of Waste Discharge Requirements
Order No. R1-2006-0049 (NPDES No. CA0022888) and
State Water Resources Control Board Order No. 2006-0003-DWQ

In the Matter of the
City of Ukiah
Wastewater Treatment Facility
WDID No. 1B84029OMEN

Mendocino County

The Assistant Executive Officer of the Regional Water Quality Control Board, North Coast Region (Regional Water Board) hereby gives notice that:

1. This Administrative Civil Liability Complaint is issued under the authority of California Water Code (CWC) section 13323 to the City of Ukiah (Discharger) to assess administrative civil liability pursuant to CWC sections 13268, 13350, and 13385 for violations of Waste Discharge Requirements (WDRs) Order No. R1-2006-0049 (NPDES No. CA0022888), and State Water Resources Control Board Order No. 2006-0003-DWQ, Statewide General Waste Discharge Requirements for Sanitary Sewer Systems (General Order), which occurred during the period January 1, 2007 through May 31, 2010.
2. The Discharger owns and operates the Ukiah Wastewater Treatment Facility (WWTF) that serves 15,000 residential, commercial, and institutional users in the City of Ukiah and 5,000 residential users served by the Ukiah Valley Sanitation District. Disinfected, tertiary treated wastewater can be discharged to the Russian River as needed during winter months (October 1 to May 14). Year-round, disinfected secondary wastewater is discharged to percolation ponds adjacent to the Russian River.
3. Unless waived, a hearing shall be conducted on this Complaint by the Regional Water Board on October 28, 2010, at the Regional Water Boards David C. Joseph Meeting Room, Santa Rosa, CA. The Dischargers or their representatives will have an opportunity to be heard and contest the allegations in this Complaint and the imposition of civil liability. An agenda for the meeting will be available at http://www.waterboards.ca.gov/northcoast/board_info/board_meetings/ not less than 10 days before the hearing date.
4. At the hearing, the Regional Water Board will consider whether to affirm, reject, or modify the proposed civil liability, or refer the matter to the Attorney General's Office for recovery of judicial liability. The Discharger can waive its right to a hearing to contest the allegations contained in this Complaint by submitting a signed waiver and paying the civil liability in full or by taking other actions as described in the attached waiver form. If this matter proceeds to hearing, the Prosecution Team reserves the right to seek an increase in the civil liability amount to cover the costs of enforcement incurred subsequent to the issuance of this

administrative civil liability complaint through hearing. The enforcement costs can be considered as an additional factor as justice may require.

5. 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. Accordingly, interested persons will be given thirty days to comment on any proposed settlement of this Complaint.

STATEMENT OF REQUIREMENTS APPLICABLE TO THE DISCHARGER

6. 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), which establishes minimum requirements to prevent sanitary sewer overflows (SSOs) from publicly owned and/or operated sanitary sewer collection systems. The General WDRs is not a National Pollutant Discharge Elimination System (NPDES) Permit. On August 16, 2006, the Discharger enrolled for coverage under the General WDRs.
7. Prohibition C.1 of the General WDRs states that any SSO that results in a discharge of untreated or partially treated wastewater to waters of the United States is prohibited.
8. Section 301 of the Federal Water Pollution Control Act (33 U.S.C. § 1311) (Clean Water Act) and CWC Section 13376 prohibit the discharge of pollutants to surface water except in compliance with an NPDES permit. The Regional Water Board adopted WDRs Order No. R1-2006-0049 (replacing WDR Order No. 99-65) on September 20, 2006 and became effective November 9, 2006, and which serves as an NPDES permit under the Federal Clean Water Act.

Discharge Prohibitions

9. The discharge prohibitions set forth in the WDRs include, but are not limited to, the following:
 - The discharge of untreated or partially treated waste from anywhere within the collection, treatment, or disposal facility is prohibited, except as provided for in Prohibition III.E. and Attachment D, Standard Provision I.G. (Bypass).
 - Any SSO that results in a discharge of untreated or partially treated wastewater to (a) waters of the State, (b) groundwater, or (c) land that creates a pollution, contamination, or nuisance as defined in CWC section 13050(m) is prohibited.

Effluent Limitations and Discharge Specifications

10. The effluent limitations and discharge specifications set forth in the WDRs include, but are not limited to, the following:
 - Final Effluent Limitations – Discharge Point 001, Direct Discharge to Russian River

- a. Advanced treated disinfected wastewater discharged to the Russian River, sampled at Monitoring Location M-001B, shall not contain detectable levels of total chlorine using an analytical method or chlorine analyzer with a minimum detection level of 0.1 mg/L.
- Interim Effluent Limitations – Discharge Point 001, Direct Discharge to Russian River
 - a. Priority pollutant effluent limitations. Interim priority pollutant effluent limitations shall be effective until May 18, 2010. During periods of discharge to the Russian River, representative samples of treated wastewater collected at Monitoring Location M-001B shall not contain constituents in excess of the following limits:

Constituent	Unit	Interim Limitations	
		Average Monthly Effluent Limit	Maximum Daily Effluent Limit
Copper	ug/L	---	30

- Final Effluent Limitations – Discharge Point 002, Discharge to Evaporation/Percolation Ponds
 - a. The discharge of secondary treated wastewater, as defined by the Facility’s treatment design and the numerical limitations below, shall maintain compliance with the following effluent limitations at Discharge Point 002, with compliance measured at Monitoring Location M-002, as described in the attached Monitoring and Reporting Program (Attachment E). The secondary treated wastewater shall be adequately oxidized and disinfected as defined in Title 22, Division 4, Chapter 3, CCR.

Parameter	Units	Effluent Limitations		
		Average Monthly	Average Weekly	Maximum Daily
Biochemical Oxygen Demand	mg/l	30	45	60
Total Suspended Solids	mg/l	30	45	60

- b. The disinfected effluent, sampled at Monitoring Location M-002 shall not contain concentrations of total coliform bacteria exceeding the following concentrations:
 - i. The median concentrations shall not exceed a Most Probable Number (MPN) of 23 per 100 milliliters, using the bacteriological results of the last seven days for which analyses have been completed.
 - ii. The number of coliform bacteria shall not exceed an MPN of 240 per 100 milliliters in any sample.

Compliance Schedules

11. The WDRs contain Interim Requirements and Compliance Schedule for Priority Pollutants and Nitrate which state, in part, the following:

The Discharger shall comply with the following schedules to achieve compliance with final effluent limitations for dichlorobromomethane, copper, and nitrate. No later than 14 days following each compliance date, the Discharger shall notify the Regional Water Board, in writing of its compliance with the compliance requirement.

- Copper

During the term of this Order, the Discharger shall complete the following tasks in accordance with the April 11, 2006 Infeasibility Analysis for Copper and in compliance with the following time schedule to achieve compliance with the final effluent limitations for copper in section IV.A.1.h of this Order by May 18, 2010.

Task	Task Description	Compliance Date
7	Submit for Executive Officer review, an implementation plan to achieve compliance with final effluent limitations for copper.	No later than January 1, 2010

- Nitrate

During the term of this Order, the Discharger shall complete the following tasks in accordance with the June 26, 2006 Infeasibility Analysis for Nitrate and in compliance with the following time schedule to achieve compliance with the final effluent limitations for nitrate in section IV.A.1.a of this Order by September 20, 2011.

Task	Task Description	Compliance Date
5	Evaluate performance of upgraded WWTF with regard to nitrate removals.	December 30, 2009

Monitoring and Reporting Program

12. The Monitoring and Reporting Program requirements set forth in the WDRs state that “The Discharger shall comply with the Monitoring and Reporting Program (Attachment E of this Order), and future revisions thereto.” Attachment E sets forth, in part, the following effluent monitoring requirements:

- The Discharger shall monitor the disinfected treated effluent at Monitoring Location M-002 during periods of discharge to the percolation ponds as follows:

Parameter	Units	Sample Type	Minimum Sampling Frequency	Required Analytical Test Method
BOD	mg/L	24-hour composite	weekly	Standard Methods

13. Further, all NPDES permits must specify requirements for recording and reporting monitoring results. (40 C.F.R. § 122.48). CWC section 13383 authorizes the Regional Water Board to establish monitoring and reporting requirements. The WDRs require the Discharger to implement a discharge monitoring program and to prepare and submit timely monthly and annual NPDES self-monitoring reports to the Regional Water Board, which are designed to ensure compliance with effluent limitations contained in the WDRs.
14. On November 14, 2007, the Regional Water Board issued Administrative Civil Liability (ACL) Complaint No. R1-2007-0100 which covers the period from January 1, 2000 to September 30, 2007. ACL Complaint No. R1-2007-0100 was issued for exceeding effluent limitations eleven times for discharges of effluent to the Russian River in violation of the Discharger's WDRs and which were subject to mandatory minimum penalties. The associated ACL Order No. R1-2008-0022 was issued by the Regional Water Board on April 24, 2008, assessing a civil liability of \$27,000 for the violations and confirming the Discharger's agreement to settle the Complaint by spending \$17,000 on a Supplemental Environmental Project (SEP) to restore capacity and stabilize a 300-foot portion of a tributary that flows into Orr Creek. The SEP was aimed at reducing sediment discharges into Orr Creek.
15. During the period covered by ACL Complaint No. R1-2007-0100 described in Finding 14 above, there were also discharges from the facility that resulted in violations of discharge prohibitions, violations of effluent limitations for waste discharged to percolation ponds, and deficient self-monitoring reports, all of which may be subject to discretionary penalties. ACL Complaint No. R1-2007-0100 did not cover any of those violations at the time of issuance, but Regional Water Board staff planned to review those violations at a future date as resources and priorities dictated. Regional Water Board staff has reviewed those violations and have included them in this Complaint.
16. This Complaint covers violations of effluent limitations while discharging to the Russian River that occurred between October 1, 2007 (starting after the period covered in ACL Complaint No. R1-2007-0100) and May 31, 2010 which are subject to minimum mandatory penalties contained in CWC section 13385(h) and (i). Additionally, this complaint covers violations of effluent limitations while discharging to percolation ponds, violations of discharge prohibitions including discharges of secondary effluent and chlorinated effluent to the Russian River and sanitary sewer overflows (SSOs), failure to provide technical reports, and deficient self-monitoring reports that occurred between January 1, 2007 and May 31, 2010, all of which may be subject to discretionary penalties contained in CWC section 13385(c), 13268(b) and section 13350(e). The details of these violations are presented in Findings 25 thru 29 of this Complaint.
17. 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.

18. The WDRs and the General Permit include requirements for the Discharger to develop and implement a Sewer System Management Plan (SSMP) to provide proper and efficient management, operation and maintenance of its sanitary sewer system in order to reduce SSOs. The SSMP must include an Overflow Emergency Response Plan (OERP) that identifies measures to protect public health and the environment. The OERP includes establishing procedures for appropriate response to SSOs including procedures to minimize the volume which enters surface waters and reduce the associated adverse effects on beneficial uses. The Discharger is required to review and amend the SSMP as appropriate to the size of the system and number of SSOs or, at a minimum, every two years. The Discharger recently updated its SSMP in July 2009.

WATER CODE SECTIONS UPON WHICH LIABILITY IS BEING ASSESSED

19. CWC section 13385(h)(1) establishes a mandatory minimum penalty (MMP) of \$3,000 for each "serious violation" of an NPDES permit effluent limitation. These penalties apply to violations that occur on or after January 1, 2004. CWC section 13385(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 20 percent or more.
20. CWC section 13385(i)(1), requires the Regional Water Board to assess a mandatory minimum penalty of \$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 CWC section 13260;
 - (C) Files an incomplete report pursuant to CWC section 13260; or
 - (D) Violates a toxicity discharge limitation where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.

Violations defined by section 13385(i)(1) are referred to as chronic violations in this Complaint.

21. CWC section 13350 applies to violations of WDRs. As set forth in this Complaint, CWC section 13350, subdivision (e) provides for the imposition of civil liability by the Regional Water Board for discretionary penalties for violations of effluent limitations while discharging to percolation ponds. Section 13350, subdivision (e)(1) and (2) provide that the amount of civil liability that may be imposed by the

Regional Water Board may be up to \$5,000 for each day in which the violation occurs, or up to \$10 per gallon of waste discharged.

22. CWC section 13385, subdivision (a) provides for the imposition of civil liability by the Regional Water Board for discretionary penalties for NPDES permit program violations or discharges to surface water. For this Complaint, discretionary penalties under CWC section 13385(c) apply to unauthorized discharges of chlorinated effluent, SSOs, and deficient self-monitoring reports. Section 13385, subdivision (c) provides that the amount of civil liability that may be imposed by the Regional Water Board 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.
23. CWC section 13268 subdivisions (a)(1) and (b) provide for the imposition of civil liabilities by the Regional Water Board against Dischargers for failing or refusing to furnish technical or monitoring reports. The amount of civil liability imposed by the Regional Water Board may be up to \$1,000 per day for each day in which a violation occurs.
24. For the purpose of determining a Discharger's compliance with effluent limitations in its Waste Discharge Requirements Order/NPDES permit, the 30 day average is equivalent to the monthly average, which is defined as the arithmetic mean of all daily determinations made during a calendar month. Where less than daily sampling is required, the average shall be determined by the sum of all the measured daily discharges divided by the number of days during the calendar month when the measurements were made. If only one sample is collected during that period of time, the value of the single sample shall constitute the monthly average.

ALLEGED VIOLATIONS

Effluent Limitation Violations while Discharging to the Russian River:

25. According to monitoring reports submitted by the Discharger for the period from October 1, 2007 through May 31, 2010, the Discharger had five violations of effluent limitations, all of which were copper violations, while discharging to the Russian River. These violations are subject to mandatory minimum penalties as described in Findings 19 and 20 above. The total mandatory minimum penalty amount for these violations is **\$9,000**, as shown in the following table:

Table 1
 Violation of Effluent Limitations while Discharging to the Russian River
 (Subject to CWC section 13385)

Date	Parameter	Reported Value	Permit Limit	Units	Violation Type	Mandatory Minimum Penalty
2/13/2007	Copper (Daily Maximum)	32	30	ug/l	1 st Chronic	\$0

Date	Parameter	Reported Value	Permit Limit	Units	Violation Type	Mandatory Minimum Penalty
1/28/2010	Copper (Daily Maximum)	60	30	ug/l	Serious	\$3,000
2/3/2010	Copper (Daily Maximum)	33	30	ug/l	2 nd Chronic	\$0
2/24/2010	Copper (Daily Maximum)	49	30	ug/l	Serious	\$3,000
3/12/2010	Copper (Daily Maximum)	34	30	ug/l	Chronic	\$3,000
TOTAL						\$9,000

Effluent Limitation Violations while Discharging to Percolation Ponds:

26. According to monitoring reports submitted by the Discharger for the period from January 1, 2007 through May 31, 2010, the Discharger had thirteen violations of effluent limitations while discharging to percolation ponds which may be subject to discretionary penalties as described in Finding 21 above. The total maximum potential penalty amount for these violations is **\$65,000**, as shown in the following table:

Table 2
Violation of Effluent Limitations while Discharging to Percolation Ponds
(Subject to CWC section 13350)

Date	Parameter	Reported Value	Permit Limit	Units	Maximum Potential Penalty
1/11/2007	Coliform Weekly Median	170	23	MPN	\$5,000
2/9/2007	Total Suspended Solids Weekly Average	51	45	mg/l	\$5,000
2/16/2007	Biochemical Oxygen Demand Daily Maximum	70	60	mg/l	\$5,000
2/16/2007	Biochemical Oxygen Demand Weekly Average	70	45	mg/l	\$5,000
2/16/2007	Total Suspended Solids Weekly Average	49	45	mg/l	\$5,000
2/28/2007	Total Suspended Solids Monthly Average	33	30	mg/l	\$5,000
3/24/2007	Coliform Weekly Median	80	23	MPN	\$5,000
6/4/2007	Coliform Weekly Median	80	23	MPN	\$5,000
6/25/2007	Coliform Weekly Median	30	23	MPN	\$5,000

Date	Parameter	Reported Value	Permit Limit	Units	Maximum Potential Penalty
7/9/2007	Coliform Weekly Median	130	23	MPN	\$5,000
9/7/2007	Biochemical Oxygen Demand Daily Maximum	61	60	mg/l	\$5,000
9/7/2007	Biochemical Oxygen Demand Weekly Average	61	45	mg/l	\$5,000
9/21/09	Coliform Weekly Median	170	23	MPN	\$5,000
TOTAL					\$65,000

Violations of Discharge Prohibitions:

27. According to monitoring reports submitted by the Discharger for the period from January 1, 2007, through May 31, 2010, the Discharger had fifteen violations of discharge prohibitions including a five-day unauthorized discharge of chlorinated effluent to the Russian River, and fourteen SSOs; all which may be subject to discretionary penalties as described in Finding 22, above. The total maximum potential penalty amount for these violations is **\$3,010,000**, as shown in the following table:

Table 3
Violations of Discharge Prohibitions
(Subject to CWC section 13385)

DATE	Type & Location (cause)	Gallons Discharged	Gallons Recovered or Absorbed into the Ground	Gallons to Receiving Waters	Maximum Potential Liability
5/12/2007	SSO: 555 Cypress Ave. (roots)	125	60	65 (Orr Creek)	\$10,000
11/30/2007	SSO: 127 Thompson Ave (paper towels)	750	300	450 (unnamed tributary to Russian River)	\$10,000
12/30/2007	SSO: 700 N. State St. (rags)	50	0	50 (Orr Creek)	\$10,000
1/15/2008	SSO: 1068 N. State St. (unknown)	300	70	230 (Russian River)	\$10,000

DATE	Type & Location (cause)	Gallons Discharged	Gallons Recovered or Absorbed into the Ground	Gallons to Receiving Waters	Maximum Potential Liability
2/15/08 – 2/19/08	Discharge of chlorinated effluent to Russian River (operator error)	282,000 - 564,000	0	282,000 - 564,000 (Russian River)	\$2,870,000
4/27/2008	SSO: Perkins St. and Bush St. (rags)	250	250	0	\$10,000
5/17/2008	SSO: Lift Station Ford St. and Orchard Ave. (unknown blockage)	950	0	950 (Orr Creek)	\$10,000
5/21/2008	SSO: W. Standley St. and N. Bush St. (rags)	98	98	0	\$10,000
10/25/2008	SSO: S. Orchard Ave. and Cindee Ct. (grease)	200	200 (dry creek bed)	0 (tributary to Doolin Creek)	\$10,000
10/29/2008	SSO: 660 N. State St. (need for line maintenance)	50	50 (dry creek bed)	0 (Orr Creek)	\$10,000
12/21/2008	SSO: 207 N. Pine St. (roots)	240	0	240 (Gibson Creek)	\$10,000
1/4/2009	SSO: W. Mill St. And Barbara St. (roots)	300	300	0	\$10,000
5/27/2009	SSO: Perkins St. and Barnes St. (rags)	25	25	0	\$10,000
6/17/2009	SSO: W. Clay St. and S. Bush St. (roots)	150	150	0	\$10,000
6/27/2009	SSO: 600 W. Standley St. and N. Hortense St. (rags)	5	5	0	\$10,000
TOTAL					\$3,010,000

Deficient Self-Monitoring Reports:

28. According to monitoring reports submitted by the Discharger for the period from January 1, 2007, through May 31, 2010, the Discharger had five deficient self-monitoring reports which may be subject to discretionary penalties as described in Finding 22, above. The total maximum potential penalty amount for these violations is **\$50,000**, as shown in the following table:

Table 4
Deficient Self-Monitoring Reports
(Subject to CWC section 13385)

Report Received	Number of Days	Deficiency Description	Parameter	Maximum Potential Penalty
1/18/2007	1	Compliance Could Not Be Determined	Weekly BOD	\$10,000
1/25/2007	1	Compliance Could Not Be Determined	Weekly BOD	\$10,000
2/1/2007	1	Compliance Could Not Be Determined	Weekly BOD	\$10,000
8/2/2007	1	Missing Effluent Water Data	Weekly BOD	\$10,000
8/9/2007	1	Missing Effluent Water Data	Weekly BOD	\$10,000
TOTAL				\$50,000

Failing or Refusing to Provide Technical Reports

29. As required in the WDRs, the Discharger failed to complete specific tasks and submit compliance reports by the required compliance schedule due dates (Provision VI.7.a.ii and iii) to achieve final effluent limitations for copper and nitrate. These violations may be subject to discretionary penalties as described in Finding 23, above. The days of violation associated with each task and associated compliance report not submitted, calculated through May 31, 2010, and the total maximum potential penalty are shown in the following table:

Table 5
Violation of Compliance Schedule
(Subject to CWC section 13268)

Provision Task	Task and Compliance Report	Due Date	Date Received	Days Overdue	Maximum Potential Penalty
VI.7.a.ii.7	Submit, for Executive Officer approval, an implementation plan to achieve compliance with the final effluent limitation for copper	1/1/2010	Not Received	130	\$130,000
VI.7.a.iii.5	Evaluate Performance of WWTF for Nitrate Removal	12/30/2009	Not Received	122	\$122,000

Provision Task	Task and Compliance Report	Due Date	Date Received	Days Overdue	Maximum Potential Penalty
TOTALS				252	\$252,000

CONSIDERATION OF CWC SECTION 13327 FACTORS and MANDATORY AND RECOMMENDED CIVIL LIABILITY

30. In determining the amount of civil liability, Water Code sections 13385, 13350 and 13327 require 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. At a minimum, the penalties assessed under Water Code section 13385 must recover the economic benefit to the Discharger, if any, derived from the violation. The Regional Water Board is required to impose mandatory minimum penalties pursuant to CWC section 13385(h) and (i) and thus is not required to consider these factors for violations that incur mandatory minimum penalties.

The Water Quality Enforcement Policy (Enforcement Policy) adopted by the State Water Resources Control Board on November 19, 2009, establishes a methodology for assessing administrative civil liability that addresses the factors in CWC section 13327 discussed in detail above.. The policy can be found at:

http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf

Attachment A presents the administrative civil liability derived from the use of the penalty methodology in the Enforcement Policy. In calculating the days of violations for purposes of the penalty methodology, the alternative approach for calculation liability for multiday violations was used in considering the Discharger’s failure to provide technical reports as set forth in paragraphs 29, 35, and 61.

Nature, Circumstance, Extent and Gravity of the Violations

Violations of Effluent Limitations while Discharging to Percolation Pond

31. The Discharger violated effluent limitations thirteen times while discharging to percolation ponds; 6 were Coliform exceedances, 4 were exceedances of biochemical oxygen demand (BOD) and 3 were total suspended solids (TSS) exceedances. These violations are summarized as follows:
- Five of the six coliform exceedances occurred during 2007 coinciding with major construction work for a WWTF upgrade project. The coliform exceedances were most likely caused by operational and facility constraints during the WWTF upgrade construction phases.

- Five of the BOD and TSS exceedances were most likely caused by influent toxicity. However after investigation of potential sources by the Discharger, the cause of the toxicity was undetermined;
- Two BOD and TSS violations were caused by overloading the WWTF system. The Discharger cleaned the chlorine contact chamber, returned the chamber wastewater to two out-of-service clarifiers, but discovered a drain valve in one clarifier was discharging the chamber wastewater back into the system while only one trickling filter was in operation at the time and, subsequently overloaded the WWTF system.

Violations of Discharge Prohibitions

Discharge of Chlorinated Effluent:

32. On February 15, 2008 through February 19, 2008 the Discharger had an unauthorized discharge of chlorinated effluent into the Russian River. The discharge was likely caused by operator error. The operator failed to completely close a discharge valve subsequently allowing chlorinated effluent to discharge at a rate of approximately 50-100 gallons per minute into the Russian River. This discharge incident began Friday evening and continued over an extended holiday weekend until the Discharger discovered it on the following Tuesday morning. The Discharger estimated a dilution ratio of river flow to effluent flow of 2500 to 1. During the incident, the chlorine residual was between 4.8 and 5.7 parts per million. For three days following the incident, the Discharger visually monitored the river approximately 0.25 miles downstream from the discharge point. The purpose of the river monitoring was to observe, document and possibly determine if any environmental impacts such as dead or stressed fish or other aquatic animals had occurred due to the discharge incident; none were observed. The total volume of chlorinate effluent discharged was approximately 282,000 – 564,000 gallons.

Sanitary Sewer Overflows:

33. During the period covered by this complaint, the Discharger had fourteen sanitary sewer overflows. Of those fourteen SSOs, six discharged into State waters. The remaining eight SSOs were either recovered and cleaned up or absorbed into the ground. The SSO incidents that reached State waters ranged from 50 to 950 gallons and the total volume of sewage entering State waters was approximately 1,985 gallons. The Discharger's sanitary sewer system lies within the Ukiah Valley which supports the Upper Russian River and its tributaries. Six of these SSOs discharged into tributaries to the Russian River, such as Orr Creek, and likely caused minor to moderate impacts to the beneficial uses of these tributaries and minor impacts to the beneficial uses of the Russian River. The following is a summary of the six SSOs that reached state waters:

- **May 12, 2007 SSO**

On May 12, 2007, approximately 125 gallons of untreated sewage discharged from the sewer collection system at 555 Cypress Avenue. Sixty gallons were recovered, but 65 gallons entered a storm drain leading to Orr Creek and was

not susceptible to cleanup nor recovery. The Discharger responded, contained a portion of the spilled material, cleared a root blockage and stopped the spill. As follow-up, the Discharger cleaned the line with a root cutter and foamed the line for root-control.

- **November 30, 2007 SSO**

On November 30, 2007, approximately 750 gallons of untreated sewage spilled from a manhole at 127 Thompson Avenue. The spilled material flowed down the street and entered a storm drain leading to an unnamed tributary to the Russian River. Approximately 300 gallons of spilled material was contained and recovered, but 450 gallons entered the storm drain system and was not recovered nor cleaned up. The cause of the spill was a blockage created by paper towels in the main line. The Discharger informed Regional Water Board staff that at the time of the spill, the Discharger was unaware of access routes to the storm drain system, interception points within the storm drain system or the drainage outlet where the spilled material could likely be recovered or contained and cleaned up. Following this incident, the Discharger has determined an accessible route to this section of the storm drain system, and adjusted its maintenance schedule to increase the frequency of cleaning the sewage line.

- **December 30, 2007 SSO**

On December 30, 2007, approximately 50 gallons of untreated sewage discharged from a manhole at the intersection of North State Street and Gibson Lane, entered a storm drain leading to Orr Creek, and was not susceptible to cleanup nor recovery. This SSO was caused by a blockage of rags in the mainline. The Discharger responded, cleared the blockage with a jet truck, cleaned the street and vacuumed up contaminated cleaning water.

- **January 15, 2008 SSO**

On January 15, 2008, approximately 300 gallons of untreated sewage spilled from a manhole at the intersection of North State Street and Magnolia Street, and flowed into a storm drain likely leading to the Russian River. Once the spilled material entered the storm drain system, the spilled material was not intercepted nor contained, and it was not susceptible to cleanup nor recovery. The Discharger was able to contain and recover about 70 gallons of spilled material prior to it entering the storm drain, but 230 gallons escaped containment and recovery. The cause of the blockage is unknown. The Discharger responded quickly, cleared the blockage and cleaned up the street. The Discharger followed-up this SSO incident by inspecting the line with a TV camera, but found no defects or problems.

- **May 17, 2008 SSO**

On May 17, 2008, the Discharger was notified of an SSO coming from a cleanout cap near a lift station at the corner of Ford and Orchard Avenue. Approximately 950 gallons of untreated sewage spilled onto the street, flowed down the curb and gutter, and entered a storm drain leading to Orr Creek. The spill was caused by a suspected blockage of grease and aggravated by a

defective cleanout cap (threads were defective), causing the cap to fail and the spill to occur at this location. The Discharger responded, temporarily shut down the lift station, ended the spill, cleaned the lines, repaired the cleanout, and cleaned the area. Along Orr Creek, water quality samples were collected and Health Warning Notices posted by the Discharger. Follow-up actions included more frequent cleaning of the lines and inspecting the lift station daily to ensure no further problems occurred.

- **December 21, 2008 SSO**

At approximately 3:00 PM on December 21, 2008, the Discharger received a report of a SSO at 207 North Pine Street. Approximately 240 gallons of untreated sewage spilled from a cleanout, down the street and into a storm drain leading to Gibson Creek. The cause of the spill was a grease and root blockage in the mainline of the Discharger's collection system and subsequently causing sewage to backup into a private lateral and a cleanout line. The cap to the cleanout line had been removed by a local plumber after servicing the customer on this line. After discussions with the reporting party, the Discharger responded to the spill, cleared the blockage and cleaned up the contaminated area. The Discharger followed up on this SSO incident with an educational outreach workshop to the community, specifically local plumbers, and developed a flier to circulate.

Deficient Self-Monitoring Reports

34. The Discharger had five deficient self-monitoring reports, of which two were missing effluent water sampling data and three contained unclear information to the extent that Regional Water Board staff could not determine compliance. The deficient self-monitoring reports are summarized as follows:
 - The missing effluent water data was not reported due to a failure of quality assurance/quality control for the analytical tests. The Discharger determined that the batch of nutrient stock used for these two analyses was defective; and
 - The unclear data violations were sample results from effluent samples sent to an outside laboratory for analysis. The outside laboratory reported estimated values rather than exact values for the samples due to excessive oxygen depletion in the sample dilutions. Because of this, compliance for these samples cannot be determined.

Failure to Provide Technical Reports

35. The Discharger has failed to provide two compliance reports as required in the WDRs for (1) establishing a plan to comply with the final effluent limitation for copper and (2) evaluating the upgraded WWTF performance with regard to achieving nitrate removals to a level that complies with effluent limitations. As of May 31, 2010, these reports have not been submitted by the Discharger and total 252 days overdue.

Nitrate

At the time the WDRs were renewed, the Discharger's effluent contained levels of nitrate that exceed the State maximum contaminant level (MCL) of 10 mg/L as nitrogen (45 mg/L as nitrate). The performance evaluation is needed to determine whether the upgraded WWTF provides additional nitrate removal to a level that achieves compliance with the MCL or whether further actions are needed to achieve compliance.

Copper

Copper data collected from the Discharger's effluent during the term of the WDRs reveals that the Discharger's tertiary treated effluent contains copper at levels that exceeded both the interim and final effluent limitations required in the WDRs. Copper is identified as a Group II pollutant in title 40 Code of Federal Regulations, section 123.45, Appendix A. Based on this determination, the Discharger is required to comply with a compliance schedule for achieving final effluent limitations for copper. As of May 18, 2010, the final copper effluent limitations are in effect. For the protection of aquatic life, it is important that the Discharger achieve compliance with the compliance schedule contained in the WDRs and the final effluent limits for copper.

Degree of Toxicity

Violations of Effluent Limitations while Discharging to Percolation Ponds

BOD and TSS

36. During the period covered by this complaint, the Discharger exceeded limitations of BOD and TSS seven times while discharging to its percolation ponds. Two violations were exceedances of the daily maximum limitation, four were exceedances of the weekly average, and one was an exceedance of the monthly average. Several of these violations were separate violations attributed to the reported value of a single sample, and four violations are most likely attributed to a single incident of influent toxicity and WWTF upset. BOD is a measure of how much oxygen is required to biologically decompose organic matter in water. TSS is a measure of the total amount of suspended materials in water. BOD and TSS measure the strength of wastewater discharges, and high concentrations of these constituents can adversely impact beneficial uses. The violations of effluent limitations for BOD and TSS were infrequent and occurred during discharges to percolation ponds, and most likely caused only minor impacts to beneficial uses.

Coliform

37. The Discharger exceeded the total coliform (weekly median) limitation contained in the WDRs six times while discharging to percolation ponds; five exceedances occurred in 2007 and one in 2009. Water quality analysis for total coliform indicates the effectiveness of disinfection treatment and eliminating bacteria. A subgroup of total coliform is fecal coliform. Fecal coliform are indicator organisms, which means they may indicate the presence of other pathogenic (disease-

causing) organisms. Increased levels of total and/or fecal coliform provide a warning of failure in wastewater treatment. Exposure to waters with high levels of fecal coliform bacteria increases the chance of developing illness from pathogens entering the body. The violations of effluent limitations for coliform were infrequent and occurred during discharges to percolation ponds, and most likely caused only minor impacts to beneficial uses.

Violations of Discharge Prohibitions

Discharge of Chlorinated Effluent:

38. The discharge of chlorinated effluent may cause significant impacts to aquatic life and impair beneficial uses. Although this incident occurred during the winter, the Russian River watershed was experiencing drought conditions during this release and the volume of chlorinated effluent discharged was significant. Staff believes this incident likely caused moderate impacts to the beneficial uses of the Russian River.

Sanitary Sewer Overflows:

39. 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. During the period covered by this complaint, the Discharger had six SSOs which reached State waters with a total volume of approximately 1,985 gallons. These prohibited discharges most likely caused moderate short-term impacts to the beneficial uses of the tributaries affected by the direct sewage discharge, and minor impacts to the beneficial uses of the Russian River.

Deficient Self-Monitoring Reports

40. Samples taken before and after the deficient sampling data for January, February, and August of 2007 show compliance with the daily and weekly effluent limitations for BOD. Staff believes it is unlikely that the small amount of missing or deficient self-monitoring report information led to a failure to detect effluent violations or significant impacts to beneficial uses.

Failure to Provide Technical Reports

41. The Discharger's failure to submit technical reports are tasks developed to achieve compliance with nitrate and copper final effluent limitations. This section addresses the level of toxicity of the discharge violations, not reporting violations. Thus, this factor does not apply to these violations.

Culpability and Susceptibility to Cleanup and Voluntary Cleanup Efforts

Violations of Effluent Limitations while Discharging to Percolation Ponds

42. The Discharger conducts routine sampling and analysis, and reports the results in its monthly self-monitoring reports. The Discharger is aware of violations that exceed the effluent limitations contained in its WDRs.

Violations of Discharge Prohibitions

Sanitary Sewer Overflows:

43. SSO discharges described in this Complaint were unintentional and usually caused by unexpected blockages in the main lines. The Discharger has developed a Sewer System Management Plan (SSMP) and updated this plan in July of 2009; therefore, the Discharger is aware of its responsibilities to manage and maintain its sanitary sewer system to reduce infiltration and inflow and ultimately SSOs, and its responsibilities regarding SSO containment, recovery and cleanup to reduce impacts to State waters.

Discharge of Chlorinated Effluent:

44. The discharge of chlorinated effluent was unintentional and due to an operator error. Once the discharge was discovered, the Discharger was able to stop it, but the volume of chlorinated effluent discharged into the Russian River was not susceptible to cleanup.

Deficient Self-Monitoring Reports

45. Missing information in the self-monitoring reports was unintentional, and due to defective products and inadequate laboratory analysis provided by an outside laboratory. The Discharger is aware of its responsibilities to provide adequate analysis reporting and has recently upgraded its WWTF to include expanded laboratory facilities which are certified under the California Department of Public Health and provide prompt and adequate sampling results to ensure adequate wastewater treatment.

Failure to Submit Technical Reports

46. The Discharger is fully aware of the requirements contained in the WDRs and culpable of the reporting violations. This section addresses reporting violations, not discharge violations. Thus, the factors regarding susceptibility to cleanup or abatement and voluntary cleanup efforts do not apply to the reporting violations.

Prior History of Violations

Violations of Effluent Limitations while Discharging to Percolation Ponds

47. The Discharger has a history of effluent limitation exceedences which may have been addressed with the WWTF Improvement Project completed in 2009. Only one coliform exceedance has occurred since completion of the WWTF upgrade.

Compliance with final copper effluent limitations remains to be achieved, and the evaluation of the WWTF for nitrate removal remains to be completed to determine compliance.

Violations of Discharge Prohibitions

Sanitary Sewer Overflows:

48. The Discharger has a history of SSOs, but these violations have been addressed with an active sanitary sewer operation and maintenance program which includes routine cleaning, inspection and assessment of the system lines, prioritizing the deficient sections, and replacing, rehabilitating, and repairing the lines. As a result of these actions, the frequency and severity of SSOs reaching State waters has decreased. The Discharger has undertaken various other programs to educate businesses and the public regarding the effects of fats, oils and grease (FOG) as well as rags in the collection system. However, the Discharger has the capability to improve its SSO response, containment and clean up by becoming more familiar with the storm drain system (often the conduit used by SSOs to enter State waters), the storm drain system's proximity to the sewer collection system, possible storm drain interception and containment points, and access to these areas.

Discharge of Chlorinated Effluent:

49. The Discharger does not have a history of discharging chlorinated effluent.

Deficient Self-Monitoring Reports

50. The Discharger does not have a history of submitting deficient self-monitoring reports.

Failure to Submit Technical Reports

51. The Discharger does not have a history of failing to submit technical reports.

Economic Benefit to the Discharger

52. Regional Water Board Staff believe the Discharger did not receive any economic benefit for the violations contained in this complaint. The areas more specifically considered were avoided or delayed costs in (1) upgrading the sewer collection system, (2) improving SSO incident response for containment and cleanup, and (3) preparation of technical reports.

SSOs

i. Upgrading the Sanitary Sewer System

The Discharger has provided information in a letter dated June 24, 2010 including corresponding attachments which describes its efforts to implement sanitary sewer system improvements. The information provided by the Discharger includes a list containing the description, date and costs of improvements implemented since the beginning of 2007. Additional efforts

are described in Finding 49, below. All of these demonstrate that the Discharger has made a concerted effort towards reducing SSOs with system improvements, educational outreach programs and Infiltration/Inflow studies. Staff believes the Discharger has not benefited economically as a result of avoided or delayed collection system improvements.

ii. SSO Incident Response

After discussions with the Discharger regarding various SSO incidents, staff believes the Discharger should become more familiar with the proximity of the collection system to the storm drain system, and possible interception and containment points within the storm drain system as well as access to these points. The Discharger has developed and is using Geographic Information System (GIS) maps for its sewer collection system and portions of the storm drain system. Regional Water Board staff believes the Discharger needs to become more familiar with the features of the two systems to effectively intercept, contain and reduce the volume of spilled sewage that reaches State waters.

Failure to Provide Technical Reports

The Discharger failed to provide two technical reports as described in Findings 29 and 35, above. The potential economic benefit to the Discharger includes avoided or delayed costs for preparing these reports. Regional Water Board staff believes the Discharger has conducted the work (water quality sampling, etc.) and the one-time cost associated with delaying preparation of the two reports is minimal.

Ability to Pay and Effect on Ability to Continue in Business

53. The Discharger serves a community within Mendocino County which qualifies as a rural county with a financial hardship (based on 1990 Census Data) with a low median annual household income, so it may have difficulty paying a significant penalty. The WWTF Improvement Project was funded by a revenue bond to be paid for by increasing the connection fee, increasing the monthly sewer charges and a federal grant for \$500,000. In a letter dated December 11, 2009, the Discharger informed Regional Water Board staff that it recently increased its sewer connection fee from \$1,000 to \$11,000, and increased its sewer charges from about \$16 to about \$45 per month. Any additional increases of sewer collection fees to the community to help pay for a significant penalty would likely be difficult.

Other Factors as Justice May Require

54. To achieve compliance with its WDRs, the Discharger has undertaken several major projects over the last few years to improve WWTF performance and reduce collection system Infiltration and Inflow (I/I).

i. WWTF Improvement Project:

Due to the age of the WWTF, changing regulations, infiltration and inflow, and increased flows and loads due to growth in the community, the Discharger

planned to undertake a major WWTF improvement project. The Discharger completed the WWTF Improvement Project in July 2009 costing approximately \$70,000,000, and has additional future plans to improve specific elements of the WWTF.

ii. Infiltration/Inflow Studies:

To address excessive I/I, the Discharger hired a consultant to conduct a wet weather flow analysis in January and February of 2003. Due to limited data from small rainfall events in 2003, the Discharger recently hired another consultant to conduct an I/I study (augmenting the previous one) and develop a hydraulic model of the sewer collection system. The model will help the Discharger develop least cost alternatives to its I/I problems, determine system capacity, and estimate the volume and assess the impact of SSOs.

iii. Sewer System Management Plan and Other Programs:

The Discharger has taken and plans to take several actions to help reduce SSO incidents. In July of 2009, the Discharger updated its SSMP at a cost of \$275,000. The Discharger's SSMP includes the elements required under the General Permit. Additionally, as described in the SSMP and in two letters with corresponding attachments from the Discharger dated December 11, 2009 and December 16, 2009, the Discharger has taken the following actions and/or developed the following programs:

- a. An operation and maintenance program to replace, rehabilitate, or repair sewer lines including inspection, condition assessment, and prioritizing the lines with an annual budget for this program of about \$400,000;
- b. A residential Fats, Oils and Grease (FOG) Source Control Program including fliers, distributing grease can kits and educating the public and businesses regarding the effects of fats, oils and grease on the collection and WWTF systems;
- c. A program to develop, use and store GIS maps of the sanitary sewer system and portions of the storm drain system;
- d. A residential and commercial outreach program to educate the public on the effects of discarding debris and rags into the collection system;
- e. An educational outreach program targeting commercial services that provide construction and maintenance on private laterals and blockage prevention; and
- f. Membership in and support of the Russian River Watershed Association (RRWA) which works to promote cooperation and implementation of projects designed to protect watershed resources, restore fisheries and improve water quality. The Discharger's share of costs to support the RRWA programs is \$16,000.

TOTAL PROPOSED LIABILITY

Violations of Effluent Limitations while Discharging to the Russian River

56. During the period covered by this Complaint, the Discharger violated effluent limitations five times while discharging to the Russian River. The minimum mandatory penalty for these violations is **\$9,000**.

Violations of Effluent Limitations while Discharging to Percolation Ponds

57. During the period covered by this complaint, the Discharger violated effluent limitations thirteen times while discharging to percolation ponds. The maximum potential penalty for these violations is \$65,000. After considering all the above factors, staff recommends a total liability of **\$13,000**.

Violations of Discharge Prohibitions

SSOs:

58. The Discharger had fourteen sanitary sewer overflows. Of those fourteen SSOs, six discharged into State waters. The remaining eight SSOs were either recovered and cleaned up or absorbed into the ground. All SSOs are violations of prohibitions contained in the WDRs. Those SSOs that did not reach State waters are not being considered for penalties because, although they were a threat, they did not impact water quality and beneficial uses. Six of the SSOs resulted in discharges of at least 1,985 gallons of sewage into State waters. The maximum potential penalty for the SSO violations that discharged into State waters contained in this Complaint is \$60,000. After considering all the above factors, staff recommends a total liability of **\$8,783**.

Chlorinated Effluent:

59. From February 15, 2008 through February 19, 2008, the Discharger had an unauthorized discharge of chlorinated effluent into the Russian River. The discharge was likely caused by operator error. The total volume of chlorinated effluent discharged was approximately 282,000 – 564,000 gallons. The maximum potential penalty for this violation is \$2,870,000. After considering all the above factors, staff recommends a total liability of **\$69,075**.

Deficient Self-Monitoring Reports

60. The Discharger had five deficient self-monitoring reports, of which two were missing effluent water sampling data and three contained unclear information to the extent that Regional Water Board staff could not determine compliance. The maximum potential penalty for the deficient reports is \$50,000. After considering all the above factors, staff recommends a total liability of **\$7,500**.

Failure to Provide Technical Reports

61. The Discharger failed to provide two technical reports required in its WDRs. As calculated through May 31, 2010, the Discharger was 252 days overdue (see paragraph 35 above) for the two technical reports not submitted as required in the compliance schedule contained in the WDRs.

The alternative approach for calculating liability for multiday violations in the Enforcement Policy is applicable because: (1) the violations in the Complaint are not causing daily detrimental impacts to the environment or the regulatory program. The technical reporting requirements are not daily requirements. The Discharger's failure to provide the two technical reports does not result in a daily detriment to the environment or the regulatory program. Generally, it is an extended time period of non-compliance with effluent limitations that causes the detrimental impact to both the environment and the regulatory program. Furthermore, Regional Water Board staff believes the Discharger does not receive an economic benefit for the delay on the one-time action of preparing the reports.

In calculating the number of days of violations, staff considered these two reporting violations as multiple day violations totaling 20 days of violation (10 days for each reporting violation). This is based on the finding that the violations did not cause daily detrimental impacts to the environment or the regulatory program. The maximum potential penalty for these two reporting violations is \$252,000. After considering all the above factors and calculating these reporting violations as multiple day violations, staff recommends a total liability of **\$50,000**.

62. The minimum mandatory penalty (MMP), maximum potential penalties and recommended discretionary penalties are summarized in the following table:

Table 8: Summary of Violations and Penalties
January 1, 2007 through May 31, 2010

Violation	Minimum Mandatory Penalty	Maximum Potential Penalties	Recommended Discretionary Penalty
Effluent Limits while discharging to the Russian River	\$9,000	---	---
Effluent Limits while discharging to percolation ponds	---	\$65,000	\$13,000
Violations of Discharge Prohibitions: SSOs	---	\$60,000	\$8,783
Violations of Discharge Prohibitions:	---	\$2,870,000	\$69,075

Violation	Minimum Mandatory Penalty	Maximum Potential Penalties	Recommended Discretionary Penalty
Chlorinated Effluent Discharge			
Deficient Self-Monitoring Reports	---	\$50,000	\$7,500
Failure to Submit Technical Reports	---	\$252,000	\$50,000
TOTALS	\$9,000	\$3,377,000	\$148,358

63. As shown in Attachment A, the total base liability amount recommended is \$148,358. Because the Discharger serves a community within Mendocino County which qualifies as a rural county with a financial hardship (based on 1990 Census Data) with a low median annual household income, it may have difficulty paying a significant penalty. Additionally, the WWTF Improvement Project was funded by a revenue bond to be paid for by increasing the connection fee from \$1,000 to \$11,000, increasing the monthly sewer charges from about \$16 to about \$45 per month and a federal grant for \$500,000. Although the Discharger has the ability to increase sewer collection fees, any additional increases of sewer collection fees to the community to help pay for a significant penalty would likely be difficult. After considering these factors, the total base liability amount is adjusted to **\$111,268**.

64. Regional Water Board and State Water Board staff costs associated with this enforcement action are estimated to be a minimum of \$10,500. This amount is calculated based on an averaged hourly wage of \$150 multiplied by 70 hours of staff time, which includes time to review and tally violations, and prepare this Complaint and the accompanying public notices. If this matter proceeds to hearing, the Regional Water Board Prosecution Team reserves the right to seek an increase in the civil liability amount to cover the costs of enforcement incurred subsequent to the issuance of this Complaint through hearing. To consider staff costs, the total base liability amount is adjusted to **\$121,768**.

65. 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).

66.

THE CITY OF UKIAH IS HEREBY GIVEN NOTICE THAT:

66. The Assistant Executive Officer of the Regional Water Board is issuing this Complaint for **\$130,768** (\$121,768 + MMP) to the Discharger for violations of its WDRs, subject to minimum mandatory and discretionary penalties that occurred from January 1, 2007 to May 31, 2010.

67. A hearing will be conducted on this Complaint by the Regional Water Board on October 28, 2010, unless the Discharger waives the right to a hearing under Water Code section 13323, subdivision (b) by signing and returning the waiver form attached to this Complaint within thirty days of the date of this Complaint. If the Discharger waives the hearing and pays the full liability, the resulting settlement may become effective on August 30, 2010 without any further action by the Regional Water Board. If there are significant public comments, the Assistant Executive Officer may withdraw the Complaint, reissue it as appropriate, or take other appropriate action.
68. 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. If this matter proceeds to hearing, the Prosecution Team reserves the right to seek an increase in the civil liability amount to cover the costs of enforcement incurred subsequent to the issuance of this administrative civil liability complaint through hearing.
69. Notwithstanding the issuance of this Complaint, the Regional Water Board shall retain the authority to assess additional penalties for violations of the Discharger's WDRs.

Luis G. Rivera
Assistant Executive Officer

August 3, 2010

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