

**STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD  
NORTH COAST REGION**

In the Matter of:	)	
	)	
City of Crescent City	)	Complaint No. R1-2011-0093
Wastewater Treatment Facility	)	for
210 Battery Street	)	Administrative Civil Liability
Crescent City, CA 95531	)	
	)	
Attn: Mr. Jim Barnts	)	
Director of Public Works	)	

---

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

1. This Administrative Civil Liability Complaint (Complaint) is under the authority of California Water Code (CWC) 13323 to the City of Crescent City (hereinafter Discharger) to assess administrative civil liability for discharges from its Wastewater Treatment Facility (WWTF) in violation of provisions of law for which the California Regional Water Quality Control Board, North Coast Region (Regional Water Board) must impose mandatory minimum penalties pursuant to California Water Code (CWC) Section 13385, subdivisions (h) and (i). The Complaint alleges sixty-two (62) effluent limit violations of Waste Discharge Requirements (WDRs) Order No. R1-2006-0001 (National Pollution Discharge Elimination System [NPDES] Permit No. CA0022756). The violations cited herein occurred during the period from July 1, 2009 through May 31, 2010 (hereinafter Complaint Period) and are specifically listed in Attachment A, which is incorporated into this Complaint by reference. During the Complaint Period, the Discharger was subject to the waste discharge requirements established in Order No. R1-2006-0001.
2. Unless waived, the Regional Water Board will hold a hearing on this Complaint at the November 3, 2011, Board meeting located at the Regional Water Board office, 5550 Skylane Boulevard, Suite A, Santa Rosa, CA. The Discharger or its representative will have an opportunity to be heard and contest the allegations in this Complaint and the imposition of the civil liability. Not less than 10 days before the hearing date, an agenda for the meeting will be available on the Regional Water Board's website: [http://www.waterboards.ca.gov/northcoast/board\\_info/board\\_meetings/](http://www.waterboards.ca.gov/northcoast/board_info/board_meetings/).
3. 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 to have a Superior Court consider enforcement. 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.

4. 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.

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

**STATEMENT OF PROHIBITIONS, PROVISION, AND REQUIREMENT APPLICABLE TO THE DISCHARGER:**

5. Order No. R1-2006-0001 (Effluent Limitations and Discharge Specifications IV.A.1.a) sets forth effluent limitations for Biochemical Oxygen Demand 5-day @ 20°C (BOD), Ammonia, and Copper:

<b>Parameter</b>	<b>Units</b>	<b>Average Monthly</b>	<b>Six-Month Median</b>
Biochemical Oxygen Demand 5-day @ 20°C	mg/L	30	
Ammonia	mg N/L		18
Copper	mg/L		0.032

6. Order No. R1-2006-0001 (Effluent Limitations and Discharge Specifications IV.A.1.b) states that the average monthly percent removal of BOD 5-day 20°C shall not be less than 75 percent.
7. Order No. R1-2006-0001 (Effluent Limitations and Discharge Specifications IV.A.1.d) states that for the Most Probable Number (MPN) of Fecal Coliform Organisms per 100 milliliters the monthly median shall not exceed 14 and not more than ten percent of the samples collected in any calendar month shall exceed 43.

**ALLEGED VIOLATIONS OF PROHIBITIONS, PROVISIONS, AND REQUIREMENTS APPLICABLE TO THE DISCHARGER**

8. The Discharger's self monitoring reports for the Complaint Period document sixty-two (62) effluent limit exceedances, which are identified in Attachment A, Table A1.

**FACTUAL BASIS FOR THE ALLEGED VIOLATIONS**

The following evidence supports the alleged violations described above:

9. The Discharger owns and operates the City of Crescent City WWTF located at 210 Battery Street, Crescent City, California. The WWTF serves the City of Crescent City and the County Services Area #1; both are located in Del Norte County in California. The WWTF discharges secondary treated municipal wastewater into the Pacific Ocean, a water of the United States.
10. On January 25, 2006, the Regional Water Board adopted Order No. R1-2006-0001 to regulate discharges from the Discharger's WWTF to the Pacific Ocean. Order No. R1-2006-0001 became effective on February 24, 2006. Order No. R1-2011-0019 superseded Order No. R1-2006-001 as of June 30, 2011.
11. In its monitoring reports submitted for the Complaint Period, the Discharger self-reported sixty-two (62) exceedances of the effluent limitations for Biochemical Oxygen Demand 5-day @ 20°C (BOD), Ammonia, Copper, BOD percent removal, and fecal coliform set forth in Order No. R1-2006-0001, which are identified in Attachment A, Table A1. BOD, Ammonia, and BOD percent removal are Group I pollutants. Copper is a Group II pollutant.

#### **WATER CODE PROVISIONS UPON WHICH LIABILITY IS BEING ASSESSED DUE TO NONCOMPLIANCE WITH APPLICABLE REQUIREMENTS**

12. CWC section 13385(h) requires the Regional Water Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each serious violation. Pursuant to CWC section 13385(h)(2) a "serious violation" is defined as any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group II pollutant by 20 percent or more, or for a Group I pollutant by 40 percent or more. Appendix A of Part 123.45 of Title 40 of the Code of Federal Regulations specifies the Group I and II pollutants.
13. CWC section 13385(i) requires the Regional Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each violation whenever the Discharger does any of the following four or more times in any period of six consecutive months, except that the requirement to assess the mandatory minimum penalty shall not be applicable to the first three violations:
  - a. Violates a waste discharge requirement effluent limitation.
  - b. Fails to file a report pursuant to section 13260.
  - c. Files an incomplete report pursuant to section 13260.
  - d. Violates a toxicity effluent limitation contained in the applicable waste discharge requirements where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.
14. The maximum amount of discretionary administrative civil liability pursuant to CWC section 13385 subdivision (c) is \$10,000 per day of violation plus \$10 times the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.

15. The Regional Water Board may choose to assess discretionary penalties pursuant to CWC section 13385, subdivision (c) in lieu of assessing mandatory minimum penalties.
16. If the Regional Water Board decides to impose discretionary penalties, the Prosecution Team reserves the right to seek an increase in the civil liability amount, at the very least, to cover the costs of enforcement incurred subsequent to the issuance of this Complaint through hearing.

#### **PROPOSED ADMINISTRATIVE CIVIL LIABILITY**

17. The Assistant Executive Officer of the Regional Water Board proposes that mandatory minimum penalties be assessed against the Discharger in the amount of \$186,000 for the violations specifically identified in Attachment A to this Complaint.
18. There are no statutes of limitations that apply to administrative proceedings. The statutes of limitations that refer to “actions” and “special proceedings” and are contained in the California Code of Civil Procedure apply to judicial proceedings, not an administrative proceeding. See *City of Oakland v. Public Employees’ Retirement System* (2002) 95 Cal. App. 4th 29, 48; 3 Witkin, Cal. Procedure (4th ed. 1996) Actions, § 405(2), p. 510.)
19. Notwithstanding the issuance of this Complaint, the Regional Water Board retains the authority to assess additional penalties for violations of the requirements of the Discharger’s waste discharge requirements for which penalties have not yet been assessed or for violations that may subsequently occur.
20. Issuance of this Complaint is an enforcement action and is therefore exempt from the provisions of the California Environmental Quality Act (Pub. Res. Code § 21000 et seq.) pursuant to title 14, California Code of Regulations sections 15308 and 15321 subsection (a) (2).

---

Date

---

Luis G. Rivera  
Assistant Executive Officer  
Regional Water Board Prosecution Team