

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

In the Matter of:	)	
	)	
Loleta Community Services District	)	Complaint No. R1-2012-0086
298 Eel River Drive	)	for
Loleta, CA 95551	)	Administrative Civil Liability
	)	
WDID No. 1B800814OHUM	)	
	)	
Attn: Markus Drumm	)	
General Manager	)	
	)	

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This Administrative Civil Liability Complaint (Complaint) is issued under the authority of California Water Code (CWC) section 13323 to the Loleta Community Services District (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 (MMPs) pursuant to California Water Code (Water Code) section 13385, subdivisions (h) and (i). The Complaint alleges: Eighty-six (86) effluent limit violations subject to MMPs. The violations cited herein occurred during the period from May 1, 2005 through May 30, 2012 (hereinafter Complaint Period) and are specifically listed in Attachment A, which is incorporated into this Complaint by reference. During the Violation Period, the Discharger was subject to the waste discharge requirements established in Order No. R1-2001-0059 and R1-2008-0001 (National Pollution Discharge Elimination System [NPDES] Permit No. CA0023671).

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

1. The Discharger is alleged to have violated provisions of law for which the Regional Water Board must impose mandatory minimum penalties under Water Code section 13385 subdivision (h) and (i). The Complaint proposes to assess \$228,000 in mandatory minimum penalties for the violations described herein.
2. A hearing concerning this Complaint will be held before the Regional Water Board within ninety (90) days of the date of issuance of this Complaint, unless, pursuant to Water Code section 13323, the Discharger waives its right to a hearing. The waiver procedures are specified in the attached Waiver Form. The hearing in this matter is scheduled for the Regional Water Board's regular meeting on October 4, 2012. The Discharger or its designated representative will have an opportunity to appear and be heard, and to contest the allegations in this Complaint and the imposition of civil

liability by the Regional Water Board. An agenda for the meeting will be available at [http://www.waterboards.ca.gov/northcoast/board\\_info/board\\_meetings/](http://www.waterboards.ca.gov/northcoast/board_info/board_meetings/) not less than 10 days before the hearing date.

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. 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.

**STATEMENT OF PROHIBITIONS, PROVISIONS, AND REQUIREMENTS APPLICABLE TO THE DISCHARGER:**

5. Order No. R1-2001-0059, effective June 28, 2001 includes, in part, the following effluent limitations:

**B. EFFLUENT LIMITATIONS**

1. Order No. R1-2006-0021 (Final Effluent Limitations for Discharge Point 001) states that the discharge of treated wastewater shall maintain compliance with the following effluent limitations for secondary treatment at Discharge Point 001, with compliance measured at Monitoring Location M-001.

<b>Constituent</b>	<b>Units</b>	<b>Average Monthly</b>	<b>Average Weekly</b>	<b>Daily Maximum</b>
Biochemical Oxygen Demand 5-day @ 20°C	mg/L	30	45	60
	lbs/day	25	38	50
Total Suspended Solids (TSS)	mg N/L	30	45	60
	lbs/day	25	38	50
Coliform Bacteria	MPN/100 ml	23	-	320
Settleable Solids	ml/l	0.1	-	0.2
Hydrogen Ion	pH	Not less than 6.5 nor greater than 8.5		

2. There shall be no detectable levels of chlorine in effluent discharged to discharge SN 001, using a minimum detection limit of 0.1 mg/l.
  3. The arithmetic mean of the BOD (20° C, 5-day) and Suspended Solids values, by weight, for effluent samples collected in a period of 30 consecutive days shall not exceed 15 percent of the arithmetic mean of the values, by weight, for influent samples collected at approximately the same time during the same period (85 percent removal).
6. Order No. R1-2008-0001, adopted March 6, 2008 and effective on May 2, 2008 (Effluent Limitations and Discharge Specifications IV.A.1.a), includes, in part, the following effluent limitations:

Parameter	Units	Average Monthly	Average Weekly	Maximum Daily
Biochemical Oxygen Demand 5-day @ 20°C	mg/L	30	45	60
	lbs/day	25	38	50
Total Suspended Solids (TSS)	mg N/L	30	45	60
	lbs/day	25	38	50
Settleable Solids	mL/L	0.1	--	0.2
Total Coliform Organisms	MPN/100L	23	--	230
Chlorine, Total Residual	mg/L	No detectable levels using a minimum detection limit of 0.1 mg/L		

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

7. The Discharger’s self-monitoring reports for the Complaint Period document eighty-six (86) effluent limit exceedences, identified in Appendix A, Table A1, of which seventy-six (76) are subject to mandatory minimum penalties.

**FACTUAL BASIS FOR THE ALLEGED VIOLATIONS**

The following evidence supports the alleged violations described above:

8. The Discharger owns and operates the Loleta CSD WWTF located at 298 Eel River Drive, Loleta, California. The WWTF serves the city of Loleta located in Humboldt County in California. The WWTF discharges secondary treated municipal wastewater into the Eel River, a water of the United States.
9. On June 28, 2001, the Regional Water Board adopted Order No. R1-2001-0059 to regulate discharges from the Discharger’s WWTF to the Eel River. Order No. R1-2001-0059 became effective on June 28, 2001. On March 6, 2008, the Regional Board adopted Order No. R1-2008-0001, which became effective on May 2, 2008. Order

R1-2008-0001 rescinded Order No. R1-2001-0059 upon the effective date of the new Order, except for enforcement purposes.

10. In its monitoring reports submitted for the Complaint Period, the Discharger self-reported eighty-six (86) exceedances of the effluent limitations set forth in Orders No. R1-2001-0059 and R1-2008-0001. The 86 effluent violations are for Biochemical Oxygen Demand 5-day @ 20°C (BOD), Total Suspended Solids (TSS), Coliform Bacteria, Stettleable Solids, pH, Total Residual Chlorine and BOD and TSS percent removal. These violations are shown in Appendix A, Table A1.

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

11. Water Code 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 Water Code 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.
12. Water Code section 13385(i) requires the Regional Water 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.

### **PROPOSED ADMINISTRATIVE CIVIL LIABILITY**

13. The Assistant Executive Officer of the Regional Water Board proposes that mandatory minimum penalties be assessed against the Discharger in the amount of \$228,000 for the violations specifically identified in this Complaint for effluent limitation exceedances.
14. 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.)
15. 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.

16. 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).

July 25, 2012

Date

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