
North Coast Regional Water Quality Control Board

TO: Diana Henrioulle
Senior Water Resource Control Engineer

FROM: Cecile Morris
Water Resource Control Engineer

DATE: March 26, 2015

SUBJECT: FORT BRAGG WASTEWATER TREATMENT FACILITY, DETERMINATION OF ELIGIBILITY FOR COMPLIANCE PROJECT AS A SMALL COMMUNITY WITH A FINANCIAL HARDSHIP

Background and Summary

On May 16, 2014, the North Coast Regional Water Quality Control Board (Regional Board) issued Administrative Civil Liability (ACL) Complaint R1-2014-0035 (Complaint) to Fort Bragg Municipal Improvement District No.1 (Fort Bragg or Owner) for discharges from the City of Fort Bragg, Wastewater Treatment Facility (WWTF) in violation of provisions of law for which the Regional Water Board is required to impose mandatory minimum penalties (MMPs) pursuant to California Water Code (Water Code) section 13385, subdivisions (h) and (i). The Complaint alleges that the Discharger exceeded effluent limitations set forth in Waste Discharge Requirements (WDRs) Order No. R1-2009-0030 (NPDES No. CA0023078).

The Discharger waived the 90-day hearing requirement in order to engage in settlement discussions with the Regional Water Board Prosecution Team. On October 16, 2014, the Discharger submitted a revised compliance project proposal for the Regional Board's approval. *Based on the analysis below, Fort Bragg WWTF serves a small community that has a financial hardship and therefore, qualifies for a compliance project.*

Analysis

The City of Fort Bragg owns the WWTF, a publicly owned treatment works (POTW), located at 101 West Cypress Street, Fort Bragg, in Mendocino County. Water Code section 13385, subdivision (k), provides that the State or Regional Water Board may, contingent upon certain findings, require a POTW serving a small community to spend an amount of money equivalent to the MMP amount toward the completion of a compliance project proposed by the POTW, in lieu of paying the fine amount to the State Water Board's Cleanup and

Abatement Account. Water Code section 13385, subdivision (k)(2), defines a POTW “serving a small community” as:

“[A] publicly owned treatment works serving a population of 10,000 persons or fewer or a rural county, with a financial hardship as determined by the state board after considering such factors as median income of the residents, rate of unemployment, or low population density in the service area of the publicly owned treatment works.”

Determining whether a POTW is “serving a small community” entails two separate determinations, whether: (1) the POTW is either situated within a rural county or has a population of 10,000 or less; and (2) the POTW’s service area has a “financial hardship.”

1. Rural County/Population Cap

The State Water Resources Control Board’s (State Water Board) Water Quality Enforcement Policy¹ (*Enforcement Policy*), defines a “rural county” as “a county classified by the Economic Research Service, United States Department of Agriculture (ERS, USDA) with a rural-urban continuum code of four through nine.”

The Fort Bragg WWTF is a POTW located in Mendocino County serving the City of Fort Bragg and surrounding unincorporated areas. The population of the City of Fort Bragg is 7,250 people (U.S. Census Bureau, American Fact Finder, 2013 Population Estimate (as of July 1, 2013)). According to the 2013 Rural Urban Continuum Codes file updated May 10, 2013,² Mendocino County has a rural-urban continuum code of four (Nonmetro – Urban population of 20,000 or more, adjacent to a metro area) and therefore, falls within the “rural county” classification and meets the population requirement.

2. Financial Hardship

Consistent with Water Code section 13385, subdivision (k)(2), the *Enforcement Policy*, at page 24, defines “financial hardship” in terms of median household income (MHI), unemployment rate and poverty level. Specifically, the *Enforcement Policy* defines “financial hardship” as meaning that the community served by the POTW meets one of the following criteria:

- *Median household income⁴ for the community is less than 80 percent of the California median household income;*
- *The community has an unemployment rate⁵ of 10 percent or greater; or*

¹ A copy of the State Water Board’s Water Quality Enforcement Policy is available at http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf.

² <http://www.ers.usda.gov/data-products/rural-urban-continuum-codes.aspx>, accessed March 23, 2015.

- *Twenty percent of the population is below the poverty level.*⁶

“Median household income,” “unemployment rate,” and “poverty level” of the population served by the POTW are based on the most recent U.S. Census block group⁷ data or a local survey approved by the Regional Water Board in consultation with the State Water Board.

⁴ **Median household income**[.] *The median income divides the income distribution into two equal groups, one having incomes above the median and the other having incomes below the median.*

⁵ **Unemployed**[.] *All civilians, 16 years and older, are classified as unemployed if they (1) were neither “at work” nor “with a job but not at work” during the reference week, (2) were actively looking for work during the last 4 weeks, and (3) were available to accept a job. Also included as unemployed are civilians who (1) did not work at all during the reference week, (2) were waiting to be called back to a job from which they had been laid off, and (3) were available for work except for temporary illness.*

⁶ **Poverty**[.] *Following the Office of Management and Budget’s Directive 14, the Census Bureau uses a set of income thresholds that vary by family size and composition to detect who is poor. If the total income for a family or unrelated individual falls below the relevant poverty threshold, then the family or unrelated individual is classified as being “below the poverty level.”*

⁷ **Block group**[.] *A subdivision of a census tract (or, prior to 2000, a block numbering area). A block group is the smallest geographic unit for which the Census Bureau tabulates sample data. A block group consists of all the blocks within a census tract beginning with the same number. Example: block group 3 consists of all blocks within a 2000 census tract numbering from 3000 to 3999. In 1990, block group 3 consisted of all blocks numbered from 301 to 399Z.”*

As the 2010 decennial census did not include collection of economic data, the most recent available economic data are from the United States Census Bureau’s on-going American Community Survey (ACS) estimates. The Regional Water Board is currently relying on these data.

For smaller communities such as the City of Fort Bragg, ACS data are only available for 5-year estimates. The most recent available 5-year estimate with block group data is that for the 2013 5-year estimate. Based on the 5-year Appendices file, the following tables were identified as providing the necessary information at the block group level, and their data were retrieved in detail on “Attachment A” to this memo and summarized as follows:

Table #	Table Description	Tract 104 Block Group 1-4 2013 5- year	Tract 105 Block Group 1-4 2013 5- year	Tracts 104 & 105 2013 5- year	California 2013 5-year	Financial Hardship Criterion
B17017	Poverty Status In The Past 12 Months By Household Type By Age Of Householder	190/1330 14.29% below poverty level	398/1750 22.74% below poverty level	588/3080 19.09% below poverty level	N/A	20% below poverty level <i>Criterion not met</i>
B19013	Median Household Income In The Past 12 Months (In 2013)	\$42,283	\$36,556	\$39,420	\$61,094	MHI less than 80% of CA MHI

Table #	Table Description	Tract 104 Block Group 1-4 2013 5- year	Tract 105 Block Group 1-4 2013 5- year	Tracts 104 & 105 2013 5- year	California 2013 5-year	Financial Hardship Criterion
	Inflation-Adjusted Dollars)					80% CA MHI = \$48,875 <i>Criterion met</i>
B23025	Employment Status For The Population 16 Years And Over	1743 in labor force. Of those, 1537 employed. 11.8% unemployed	2182 in labor force. Of those, 2006 employed. 8.1% unemployed	3925 in labor force. Of those, 3543 employed. 9.7% unemployed	N/A	Unemployment rate 10% or greater <i>Criterion not met</i>

The Median Household Income for the City of Fort Bragg is \$39,420, which is less than 80% of the California Median Household Income of \$61,094. Based on the Enforcement Policy's criteria and the most recent U.S. Census block group data, the City of Fort Bragg qualifies as a small community with a financial hardship.

If the Discharger believes that the U.S. Census data used in this determination do not accurately represent the population served by the City of Fort Bragg, the *Enforcement Policy* provides for the possibility of a local survey approved by the Regional Water Quality Control Board in consultation with the State Water Board (p. 24) and a procedure by which the Discharger may present an alternative justification to the Regional Board for designation as a "POTW serving a small community (p. 25)." Pursuant to the *Enforcement Policy*, the Regional Water Board must consult with the State Water Board when making such determinations.

150518_CNM_ef_FortBraggWWTF_Small_Comm_Assessment

Enc: Attachment A

cc: Naomi Kaplowitz
Office of Enforcement
State Water Resources Control Board