

California Regional Water Quality Control Board  
North Coast Region

Administrative Civil Liability Order No. R1-2008-0050

For

Violation of Waste Discharge Requirements  
Order No. 97-24 and R1-2005-0009 (NPDES No.CA0024040)

In the Matter of  
Mendocino County Water Works District No. 2  
Anchor Bay Wastewater Treatment Facility  
WDID No. 1B83118OMEN

Mendocino County

This Order, to assess administrative civil liability for penalties pursuant to Water Code section 13385, is issued to the Mendocino County Water Works District No. 2 (hereinafter Discharger) for violations of Waste Discharge Requirements (WDRs) Order Nos. 97-24 and R1-2005-0009. Mandatory minimum penalties are assessed for violations of effluent limitations occurring during the period from March 10, 2004 through June 30, 2007.

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

1. The Discharger owns and operates the Anchor Bay Wastewater Treatment Facility (WWTF) that discharges secondary treated municipal wastewater into the Pacific Ocean during winter months (October 1 to May 14) only.
2. The Regional Water Board adopted Waste Discharge Requirements Order No. 97-24 for the Discharger on March 27, 1997. Order No. 97-24 was rescinded and replaced with Waste Discharge Requirements (WDRs) Order No. R1-2005-0009 on April 20, 2005. Both Orders serve as a National Pollutant Discharge Elimination System (NPDES) permit under the Federal Clean Water Act.
3. This Order covers violations of effluent limitations that occurred from March 10, 2004 through June 30, 2007. The effluent limitation violations are subject to the mandatory minimum penalties provision contained in Water Code section 13385, subdivisions (h) and (i). On February 25, 2008, the Assistant Executive Officer issued Administrative Civil Liability Complaint No. R1-2008-0026 (ACLC) assessing mandatory minimum penalties in the amount of \$3,000 for violations described in the following Findings.

4. Among the provisions in the Discharger's WDRs are the requirements to implement a discharge monitoring program, to prepare and submit NPDES self-monitoring reports pursuant to Water Code section 13383. These reports are designed to ensure compliance with effluent limitations contained in the WDRs.
  5. Water Code section 13385, subdivision (h)(1) establishes a mandatory minimum penalty of three thousand dollars (\$3,000) for each serious violation of NPDES permit effluent limitations. Water Code section 13385, subdivision (h)(2) states that a serious violation occurs if the discharge from a facility regulated by an NPDES permit exceeds the effluent limitations from a Group 1 pollutant, as specified in Appendix A section 123.45 title 40 of the Code of Federal Regulations, by 40 percent or more, or for a Group II pollutant, as specified in Appendix A section 123.45 of title 40 of the Code of Federal Regulations, by 20 percent or more. Total coliform is neither a Group I nor a Group II pollutant; therefore, exceedances of effluent limitations for total coliform bacteria do not count as serious violations.
  6. Water Code section 13385, subdivision (i)(1) establishes a mandatory penalty of three thousand dollars (\$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 Section 13260.
    - c. Files an incomplete report pursuant to Section 13260.
    - d. Violates a toxicity discharge limitation where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.
- Violations under section 13385, subdivision (i)(1) are referred to as chronic violations in this Complaint.
7. On February 19, 2002, the State Water Resources Control Board (State Water Board) adopted Resolution No. 2002-0040 amending the Water Quality Enforcement Policy (Enforcement Policy). The Enforcement Policy was approved by the Office of Administrative Law and became effective on July 30, 2002. The Enforcement Policy addresses, among other enforcement issues, issues related to assessing mandatory minimum penalties for violations of WDRs.
  8. 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.

9. Order No. 97-24 includes the following discharge prohibitions and effluent limitation:

**B. EFFLUENT LIMITATIONS**

Waste discharged to the Pacific Ocean (Discharge Serial 002) shall not contain constituents in excess of the following limits (Table A and Table B constituents are as described and defined in the California Ocean Plan, adopted on March 22, 1990):

TABLE A  
MAJOR WASTEWATER CONSTITUENTS

Constituent	Unit	30-Day Median	Daily Maximum
Coliform Organisms (Total)	MPN/100	23	230

10. According to monitoring reports submitted by the Discharger for the period from March 10, 2004 to June 30, 2007, the Discharger exceeded effluent limitations two times while discharging effluent to the Pacific Ocean. Both were chronic effluent violations, as described in Water Code section 13385, subdivision (i)(1). The mandatory minimum penalty amount for violations during this time period is \$3,000 as shown in the following table:

Effluent Limitation Exceedances  
March 10, 2004 to June 30, 2007

Date of Violation	Description of Violation and Permit Limits	Reported Value	Violation Type	Mandatory Penalty
5/31/04	Exceeded 30-Day Median of 23 MPN/100 ml for Coliform	41 MPN/100 ml	Chronic	\$3,000
3/31/05	Exceeded 30-Day Median of 23 MPN/100 ml for Coliform	33 MPN/100 ml	Chronic	\$0
			Total	\$3,000

11. A mandatory minimum penalty of \$3,000 is assessed for the chronic Coliform violation occurring on May 31, 2004 because five violations of effluent limitations occurred within the previous six-month period (violations occurred between January 14, 2004 through March 9, 2004). Penalty

assessment for the previous violations was considered in Administrative Civil Liability Complaint No. R1-2005-0050 issued on June 15, 2005.

12. A duly noticed public hearing on this matter was held before the Regional Water Board on June 11 and 12, 2008 in the Regional Water Board's Hearing Room, 5550 Skylane Boulevard, Suite A, Santa Rosa, California. 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.
13. 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).
14. 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 the Discharger pay an Administrative Civil Liability in the amount of \$3,000 due and payable within 30 days of the adoption of this order.

#### 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 June 11 and 12, 2008.

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Catherine Kuhlman  
Executive Officer