California Regional Water Quality Control Board
North Coast Region

Administrative Civil Liability Order No. R1-2008-0048
For

Violation of Waste Discharge Requirements
Order No. R1-2004-0036, and
Order No. SWRCB 2006-03-DWQ
NPDES No. CA0022713

In the Matter of
City of Arcata
Wastewater Treatment Facility
WDID No. 1B82114OHUM

Humboldt County

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

1. The City of Arcata (hereafter Discharger) owns and operates the City of Arcata Wastewater Treatment Facility (WWTF) that serves both the City of Arcata and the Glendale area, which is administered by the Fieldbrook Community Services District. The WWTF discharges secondary treated domestic wastewater into Arcata Bay (Humboldt Bay).

2. The Regional Water Board adopted Waste Discharge Requirements (WDRs), Order No. R1-2004-0036 on June 22, 2004. The Permit serves as a National Pollutant Discharge Elimination System Permit (NPDES) under the federal Clean Water Act and became effective upon adoption.

3. The State Water Resources Control Board adopted Order No. 2006-0003-DWQ, Statewide General Waste Discharge Requirements (GWDRs) for Wastewater Collection Agencies on May 2, 2006. The Discharger enrolled in the GWDRs on June 1, 2006.

4. The Regional Water Board issued Administrative Civil Liability Complaint No. R1-2006-0006 to the Discharger on January 4, 2006 for violations of Waste Discharge Requirements Order No. 98-13, which was subsequently rescinded with the adoption of Order No. R1-2004-0036. The Complaint assessed $306,000 in administrative civil penalties for 114 violations of effluent limits, primarily related to biological oxygen demand (BOD), total suspended solids (TSS), Percent Removal, and Coliform Bacteria. The Complaint covered the time period between January 1, 2000 and June 21, 2004, when the new permit was adopted. The penalty was amended down to $297,000 with the

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adoption of Administrative Civil Liability Order No. R1-2006-0054 on May 17, 2006. On June 16, 2006, the Discharger filed a "Petition for Review" with the State Water Resources Control Board. The State Water Resources Control Board on January 15, 2008, held a public hearing and dismissed the issues raised in the petition and reduced the penalty to $285,000. On February 13, 2008 the City of Arcata filed a lawsuit in the Humboldt County Superior Court. The suit seeks to vacate the mandatory minimum penalties (MMPs) and invalidate and modify certain provisions of the current and expired NPDES Permits.

5. On July 30, 2007, the Executive Officer issued Administrative Civil Liability Complaint No. R1-2007-0064 assessing a civil liability of $104,000 for violations of the 2004 waste discharge requirements for the period June 22, 2004 to March 31, 2007. There were $54,000 in MMPs and $50,000 for Sewer System Overflows (SSOs). Thirty-three thousand dollars ($33,000) of the MMPs relate to violations of BOD, TSS, Percent Removal, and Coliform Bacteria.

6. The Discharger has proposed to settle all aspects of ACLC No. R1-2007-0064, except for the $33,000 in MMPs related to violations of BOD, TSS, Percent Removal, and Coliform Bacteria, as the legality of the effluent limits for those parameters is currently at issue in the litigation brought by the City of Arcata, described in Finding 4 above. The Regional Water Board has agreed not to pursue the MMPs resulting from violations of BOD, TSS, Percent Removal, and Coliform Bacteria at this time and will hold those MMPs in abeyance until the lawsuit is settled.

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7. For the remaining $21,000 in MMPs for copper and cyanide, the Discharger will pay $3,000 to the State Water Pollution Cleanup and Abatement Account (CAA), and will spend $18,000 on a Supplemental Environmental Project (SEP) to reroute a portion of the South Fork Janes Creek to improve the flow regimen, reduce siltation and improve instream and riparian habitat. For the $50,000 discretionary penalty for SSOs, the Discharger will spend a minimum of $32,500 on two projects to reduce SSOs. The first project will provide secondary containment at the Pickwick apartment to eliminate a chronic overflow. The second project will reconstruct four manholes located along Bayside Road and one manhole on 10th street to eliminate infiltration and exfiltration. The remaining $17,500 of the $50,000 penalty will be paid to the CAA.

8. A duly noticed public hearing on this matter was held before the Regional Water Board on June 11 and 12, 2008 at the Regional Water Board office in 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.

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9. 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).

10. Any person affected by this action of the Regional Water Board may petition the State Water 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 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 sections 13385 that:

1. The Discharger shall be assessed a total civil liability of $104,000. Thirty-three thousand ($33,000) of this total will be held in abeyance until the lawsuit described in Finding 4 above is resolved. Of the remaining balance of $71,000 the Discharger shall pay the sum of $20,500 to the CAA within thirty days of adoption of this Order. The Discharger has proposed a SEP and two collection system projects with a minimum value of $50,500. Upon the Executive Officer's determination that the SEP and collection system projects, as described in Finding 7 of this Order, have been completed, the remaining balance of $50,500 will be suspended.

2. The Discharger shall submit progress reports describing the planning and implementation of the SEP and collection system projects according to the following time schedules:

SEP	
TASK	**DUE DATE**
Complete Final Engineering Designs for Culvert Replacement and Habitat Restoration, review and award bid for project	Submit a report of compliance no later than July 15, 2008.
Commence Construction	No later than August 31, 2008 and submit a report of compliance by September 30, 2008.
Complete Construction	No later than October 31, 2008, and submit a report of compliance by November 30, 2008. The report shall certify the completion of the SEP and include a post-project

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	accounting of expenses. The report shall include an overall evaluation of the project and a judgment as to the potential to meet the stated goals of the project.

Pickwick Containment Project	
Construction is Complete	Submit a report of compliance no later than July 15, 2008. The report shall certify completion of the project and include a post-project accounting of expenses. The report shall include an overall evaluation of the project and its ability to meet the stated goal of preventing overflows from the cleanout.

Manhole Rehabilitation	
Design is complete, Bid has been awarded to contractor	Submit a report of compliance no later than July 15, 2008.
Commence Construction	No later than July 31, 2008. Submit a report of compliance no later than August 30, 2008
Complete Construction	No later than September 30, 2008 and submit a report of compliance no later than October 31, 2008. The report shall certify the completion of the project and include a post-project accounting of expenses. The report shall include an overall evaluation of the project and a judgment as to the potential to meet the stated goals of the project.

3. If, given written justification from the Discharger, the Executive Officer determines that a delay in the project implementation schedule was beyond the reasonable control of the Discharger, the Executive Officer may revise the implementation schedule as appropriate. Written justification must be received by the Executive Officer before the specific due date occurs, must describe circumstances causing the delay, and must state when each task will be completed.

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4. Failure to meet the deadlines above, including completing the project, will result in the Discharger being required to pay the full penalty. Payment of the penalty does not relieve the Discharger of the independent obligation to take necessary actions to achieve compliance.

5. Notwithstanding the issuance of this Order, the Regional Water Board shall retain the authority to assess additional penalties for violations of the Discharger's Waste Discharge Requirements.

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 12, 2008

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Catherine Kuhlman
Executive Officer

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