

California Regional Water Quality Control Board
North Coast Region
5550 Skylane Boulevard, Suite A
Santa Rosa, CA 95403

Notice of Public Hearing and Notice of Issuance of a Complaint
Administrative Civil Liability Complaint No. R1-2011-0081

For

DG Fairhaven Power, LLC
97 Bay Street
Samoa, CA

For

Violation of Waste Discharge Requirements
Fairhaven Power Plant Permit,
Order No. R1-2002-0076 (NPDES No. CA0024571)
WDID No. 1B85026RHUM

Humboldt County

On August 5, 2011, the California Regional Water Quality Control Board, North Coast Region (Regional Water Board), Assistant Executive Officer issued Administrative Civil Liability Complaint No. R1-2011-0081 (Complaint) to DG Fairhaven Power, LLC (Discharger). The Complaint proposes civil penalties pursuant to Water Code section 13385 in the amount of \$172,950 for exceeding effluent limitations during direct discharges to state waters (Pacific Ocean), submitting deficient self-monitoring reports, and allowing unauthorized discharges to occur from its facility in violation of Waste Discharge Requirements Order No. R1-2002-0076 and Monitoring and Reporting Program Order No. R1-2002-0076.

Opportunity for Settlement without a Public Hearing

A public comment period has commenced beginning on the date of this notice and ending September 6, 2011. This matter may be settled without a hearing if no significant comments are received during the comment period and if the Discharger waives the hearing and agrees to pay the full amount of proposed civil liability. The Assistant Executive Officer will consider comments received and either finalize the settlement or take other appropriate action.

Public Hearing Procedures

If the Discharger expresses intent to contest the Complaint by not waiving the right to a hearing, the Regional Water Board will hold a public hearing on this matter on November 3, 2011 at 8:30 a.m., or as announced in the Regional Water Board's summary agenda to be mailed on or about October 1, 2011. The hearing is scheduled to be held at the Regional Water Board, 5550 Skylane Boulevard, Santa Rosa, California. At the hearing, the Regional Water Board will consider whether to affirm, reject, or modify the proposed ACL, or take other enforcement action.

If the Discharger or interested persons would like the Regional Water Board to consider technical reports, testimony, and other evidentiary material concerning this issue, written copies of such documentation must be submitted to the Regional Water Board office at 5550 Skylane Boulevard, Suite A, Santa Rosa, California, 95403 by 5:00 p.m. on October 6, 2011. This written material will be made available to the Regional Water Board members and all interested persons.

Written material received after the above date will not be accepted, except at the discretion of the Regional Water Board Chair. Untimely written material will not be accepted or incorporated into the administrative record if doing so would prejudice the Discharger or the Regional Water Board staff. The Chair may choose to modify this rule upon a showing of severe hardship (California Code of Regulations, title 23, sections 648.1 and 648.4).

All those who plan to testify at the hearing must submit written statements to the Regional Water Quality Control Board by August 25, 2011. The statements should provide the name of the witness, their qualifications (if an expert), and the scope of their intended testimony. Testimony at the above-scheduled hearing may summarize or explain timely submitted or late-accepted written evidence, but shall not add new evidence. The time constraints for oral testimony or comments will be set by the Regional Water Board Chair and usually will allow no more than ten minutes each for Regional Water Board staff and the Discharger and three minutes each for other interested persons. A timer may be used and speakers are expected to honor the time limits. Where speakers can be grouped by affiliation or interest, such groups will be expected to select a spokesperson and not be repetitive.

Separation of Functions

To ensure the fairness and impartiality of this proceeding, the functions of those who will act in a prosecutorial role by presenting evidence for consideration by the Regional Board ("Prosecution Team") have been separated from those who will provide advice to Region Board ("Advisory Team"). Members of the Prosecution Team are: Luis Rivera, Assistant Executive Officer; David Leland, Supervising Water Resources Control Engineer in charge of the Watershed Protection Division; Diana Henriouille, Senior Water Resources Control Engineer in charge of the Enforcement Unit; Cecile Morris, Water Resources Control Engineer; John Short, Senior Water Resources Control Engineer in charge of the Core Regulatory Unit; Reed Sato, staff counsel State Water Resources Control Board Office of Enforcement; Kim Niemeyer, North Coast Region attorney; Cecile Morris, Water Resource Control Engineer (Enforcement Unit); and Kason Grady, Water Resource Control Engineer (Core Regulatory Unit). Any members of the Advisory Team who normally supervise any members of the Prosecution Team are not acting as their supervisors in this proceeding, and vice versa. Members of the Advisory Team are Catherine Kuhlman, Executive Officer, and Samantha Olson, Senior Staff Counsel. Members of the Prosecution Team may have acted as advisors to the Regional Board in other, unrelated matters, but they are not advising the Regional Board in this proceeding. Members of the Prosecution Team may have acted as advisors to the Regional Board in other, unrelated matters, but they are not advising the Regional Board in this proceeding. Members of the Prosecution Team have not had

any ex parte communications with the members of the Regional Board or the Advisory Team regarding this proceeding.

Document Review

The Complaint is available for review on the Regional Water Board web site at http://water100.waterboards.ca.gov/rb1/adopted_orders/. That document, as well as the other evidentiary documents and file, may be inspected or copied at the Regional Water Board office on Mondays through Fridays from 8:00 a.m. to 5:00 p.m. Appointments are recommended for file review. Appointments can be made by calling (707) 576-2220. For further information, please contact Regional Water Board staff member Cecile Morris at (707) 576-2347 or email at cmorris@waterboards.ca.gov.

Luis G. Rivera
Assistant Executive Officer

August 5, 2011

080511_DG_Fairhaven_ACLC_Web_Notice