

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
ORDER WQ 2011-0009

In the Matter of Administrative Civil Liability Against
**SONOMA COUNTY WATER AGENCY AND
RUSSIAN RIVER COUNTY SANITATION DISTRICT
WASTEWATER TREATMENT FACILITY
WDID No. 1B82045OSON**

For
Violation of Waste Discharge Requirements
Order No. R1-2003-0026 and Order No. R1-2009-0003

Sonoma County

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R1-2010-0011

BY THE BOARD:

The State Water Resources Control Board (State Water Board) finds the following:

1. The Russian River County Sanitation District (hereinafter RRCSD) owns the Russian River Wastewater Treatment Facility (hereinafter WWTF), a municipal wastewater treatment facility located at 18400 Neeley Road, Guerneville, Sonoma County, which is southeast of Vacation Beach and south of the Russian River on Neeley Road. Sonoma County Water Agency (hereinafter SCWA) is under contract with RRCSD to operate and maintain the WWTF, which serves the communities of Armstrong Park, Drakes Road area, Guerneville, Guerneville Park, Rio Nido and Vacation Beach. Tertiary treated wastewater is used for irrigation from May 15 to September 30 and is discharged to the Russian River during the discharge season (October 1 to May 14). Both RRCSD and SCWA, as the owner and operator, respectively, are responsible for ensuring that their acts or omissions comply with the National Pollutant Discharge Elimination System (NPDES) Permit. Hereinafter, RRCSD and SCWA are referred to collectively as "the Dischargers".
2. On November 5, 2003, the North Coast Regional Water Quality Control Board (North Coast Water Board or Regional Water Board) adopted WDRs [Order No. R1-2003-0026](#) for the Dischargers' WWTF. Order No. R1-2003-0026 became effective on December 26, 2003 and expired on November 5, 2008. Pursuant to 40 Code of Federal Regulations part 122.6 (2009) and California Code of Regulations Title 23, Section 2235.4, the expiration day of Order No. R1-2003-0026 was extended to March 19, 2009. On January 29, 2009, the Regional Water Board adopted WDRs [Order No. R1-2009-0003](#), which became effective March 20, 2009, and serves as a NPDES Permit under the Federal Clean Water Act.

3. California Water Code Section 13385(h)(1) requires the assessment of a mandatory minimum penalty (MMP) of three thousand dollars (\$3,000) for each serious violation.
4. California Water Code Section 13385(h)(2) states, in part, the following: “For the purpose of this section, a ‘serious violation’ means any waste discharge that violates the effluent limitations for a Group II pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 20 percent or more or for a Group I pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 40 percent or more.”
5. California Water Code Section 13385(i)(1) also requires the assessment of a MMP of three thousand dollars (\$3,000) for each violation, not counting the first three violations, if a discharger does any of the following four or more times in a 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; or
 - 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.
6. California Water Code Section 13385(i)(2) states the following: “For the purpose of this section [13385], a ‘period of six consecutive months’ means the period commencing on the date that one of the violations described in this subdivision occurs and ending 180 days after that date.”
7. Pursuant to California Water Code Section 13385(k), the State Water Board or the Regional Water Board may, in lieu of assessing all or a portion of mandatory minimum penalties pursuant to Section 13385(h) and (i), require a publicly owned treatment works serving a small community to spend all or a portion of mandatory minimum penalties towards the completion of a compliance project (CP) proposed by the publicly owned treatment works. The CP must conform to the requirements specified in the State Water Board Water Quality Enforcement Policy (Enforcement Policy).
8. The Dischargers qualify as a small community with a financial hardship. The basis of that determination is set forth in the analysis and recommendation prepared by the State Water Board, Office of Research, Planning, and Performance, approved by the State Water Board’s Executive Director. (See [Attachment “A”](#) attached hereto, incorporated herein, and made a part of the administrative civil liability order by this reference).
9. On January 14, 2010, the North Coast Water Board’s Assistant Executive Officer (Assistant Executive Officer) issued [Administrative Civil Liability Complaint No. R1-2010-0011](#) (hereinafter Complaint) that proposed the Dischargers be assessed an administrative civil liability in the amount of \$45,000 for sixteen effluent limit violations of Order No. R1-2003-0026 and five effluent limit violations of Order No. R1-2009-0003 that occurred during the period from June 1, 2007 through May 31, 2009. Subsequently, on February 4, 2010, the Dischargers submitted a letter requesting that the Regional Water Board prosecution staff (hereinafter Staff) amend the alleged violations as follows:

- a. Dismiss the May 9, 2008 Suspended Solids effluent limitation violation, as it is neither a serious nor a “chronic” violation subject to mandatory minimum penalties, and
- b. Add two violations that occurred on November 5, 2008, involving the exceedance of the dichlorobromomethane daily and monthly effluent limitations set forth in Order No. R1-2003-0026.

Staff reviewed these violations and agreed to amend the alleged violations per the Dischargers’ request.

10. After further review of the violations alleged in the Complaint, Staff determined that the alleged violations of the dichlorobromomethane effluent limitations set forth in Order Nos. R1-2003-0026 and R1-2009-0003 are serious violations as defined in Finding No. 4 above. As shown in Table 1 below, this determination increased the total amount of the mandatory minimum penalties proposed for violations of the dichlorobromomethane effluent limitation set forth in Order No. R1-2003-0026 from \$33,000 to \$42,000. As shown in Table 2 below, this determination did not affect the proposed mandatory minimum penalty for violations of the dichlorobromomethane effluent limitation set forth in Order No. R1-2009-0003. Thus, the total mandatory minimum penalty amount for these violations is amended to \$57,000.
11. According to monitoring reports submitted by the Dischargers for the period from June 1, 2007 through March 19, 2009, the Dischargers exceeded the effluent limitations set forth in Order No. R1-2003-0026 seventeen times as shown in Table 1 below.

**Table 1:
Effluent Limitation Exceedances
June 1, 2007 through March 19, 2009**

Date	Parameter	Reported Value	Permit Limit	Units	Violation Type	Mandatory Minimum Penalty
1/8/2008	7-day Coliform Median	4.0	2.2	MPN/100 ml	1 st Chronic	\$0
1/9/2008	7-day Coliform Median	4.0	2.2	MPN/100 ml	2 nd Chronic	\$0
1/10/2008	7-day Coliform Median	4.0	2.2	MPN/100 ml	3 rd Chronic	\$0
1/11/2008	7-day Coliform Median	4.0	2.2	MPN/100 ml	Chronic	\$3,000
1/12/2008	7-day Coliform Median	4.0	2.2	MPN/100 ml	Chronic	\$3,000
1/13/2008	7-day Coliform Median	4.0	2.2	MPN/100 ml	Chronic	\$3,000
1/14/2008	7-day Coliform Median	4.0	2.2	MPN/100 ml	Chronic	\$3,000
1/15/2008	7-day Coliform Median	4.0	2.2	MPN/100 ml	Chronic	\$3,000
1/16/2008	7-day Coliform Median	4.0	2.2	MPN/100 ml	Chronic	\$3,000
11/5/2008	Dichlorobromomethane	2.9	0.56 monthly	µg/l	Serious	\$3,000
11/5/2008	Dichlorobromomethane	2.9	1.12 daily	µg/l	Serious	\$3,000
12/3/2008	Dichlorobromomethane	3.34	0.56 monthly	µg/l	Serious	\$3,000
12/3/2008	Dichlorobromomethane	3.34	1.12 daily	µg/l	Serious	\$3,000

Date	Parameter	Reported Value	Permit Limit	Units	Violation Type	Mandatory Minimum Penalty
1/7/2009	Dichlorobromomethane	3.11	0.56 monthly	µg/l	Serious	\$3,000
1/7/2009	Dichlorobromomethane	3.11	1.12 daily	µg/l	Serious	\$3,000
3/4/2009	Dichlorobromomethane	2.92	0.56 monthly	µg/l	Serious	\$3,000
3/4/2009	Dichlorobromomethane	2.92	1.12 daily	µg/l	Serious	\$3,000
						Total: \$42,000

12. According to monitoring reports submitted by the Dischargers for the period from March 20, 2009 through May 31, 2009, the Dischargers exceeded the effluent limitations set forth in Order No. R1-2009-0003 five times as shown in Table 2 below

**Table 2:
Effluent Limitation Exceedances
March 20, 2009 through May 31, 2009**

Date	Parameter	Reported Value	Permit Limit	Units	Violation Type	Mandatory Minimum Penalty
4/8/2009	Dichlorobromomethane	3.03	0.56 monthly	µg/l	Serious	\$3,000
4/8/2009	Dichlorobromomethane	3.03	0.94 daily	µg/l	Serious	\$3,000
5/6/2009	Dichlorobromomethane	5.72	0.56 monthly	µg/l	Serious	\$3,000
5/6/2009	Dichlorobromomethane	5.72	0.94 daily	µg/l	Serious	\$3,000
5/6/2009	Nitrate	47	39	mg/l	Chronic	\$3,000
						Total: \$15,000

13. During the period from June 1, 2007 through May 31, 2009, the Dischargers reported two sanitary sewer overflows (SSOs) that violated discharge prohibitions in Order No. R1-2003-0026. The Complaint did not propose that an administrative civil liability be assessed because the SSOs did not reach waters of the state or the United States.
14. On February 4, 2010, the Dischargers waived their right to a public hearing and requested to pay the sum of \$6,000 to the State Water Pollution Cleanup and Abatement Account (CAA) and spend the sum of \$39,000 on a CP. On February 8, 2010, the Dischargers paid the \$6,000 to the CAA and sent in the CP. Based on the stipulated amendment to the alleged violations, the sum allocated to a CP has been increased to \$51,000.
15. The Dischargers proposed a CP to upgrade their WWTF disinfection system from chlorine disinfection to ultraviolet (UV) disinfection. The proposed CP is described in Attachment "B" attached hereto, incorporated herein, and made a part of the administrative civil liability order by this reference. Due to the magnitude of this WWTF upgrade, the Dischargers anticipate the completion date of the CP to be October 1, 2012. The CP is appropriate because 21 of the 22 effluent limitation violations were associated with the disinfection system: nine 7-Day Median Coliform violations and twelve dichlorobromomethane violations. Dichlorobromomethane is a byproduct formed through the use of chlorine as a disinfectant. The UV disinfection system would address the coliform violations by increasing the disinfection system capacity and contact. The UV disinfection system

would also eliminate the use of chlorine thereby eliminating any further dichlorobromomethane effluent limitation violations. Further, the total estimated projected cost of \$4,200,000 exceeds the \$51,000 suspended penalty.

16. Based on Finding Nos. 8 and 15 above, the State Water Board finds that the CP, as proposed, meets the criteria established in Water Code section 13385(k) and the Enforcement Policy.
17. Staff developed a draft ACLO for the North Coast Water Board meeting scheduled for January 27, 2011. A copy of the draft Order and/or information to access the draft on the North Coast Regional Water Board's website was mailed to the Dischargers, interested agencies, and persons. This item was opened for public comment from December 9, 2010 to January 7, 2011. No comments were received. However, the North Coast Water Board lacked a quorum to issue the Order at its January meeting. While the State Water Board agreed to hear this item, once issued, the Order shall be administered and implemented by the North Coast Water Board staff. The Regional Water Board may modify, revoke and/or amend the Order as it sees fit.
18. A public meeting on this matter was held before the State Water Board on April 19, 2011 at the Cal/EPA Building, 1001 I Street in Sacramento, California. The documents associated with the agenda item for this matter were provided to the Dischargers and made available to the public prior to the meeting. The Dischargers and the public were given the opportunity to testify and present evidence regarding the proposed settlement.
19. 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).

THEREFORE, IT IS HEREBY ORDERED, pursuant to Water Code section 13385, that:

1. The Dischargers shall be assessed a total civil liability of \$57,000. Of that \$57,000 in civil liability, the Dischargers have paid \$6,000 to the CAA. Pursuant to Water Code Section 13385(k), the Dischargers shall direct the remaining sum of \$51,000 to fund the CP described in [Attachment "B"](#) and discussed in Finding No. 15 above.
2. The Dischargers shall provide reports to the Regional Water Board staff describing the planning and construction of the CP and complete the CP as indicated and according to the following time schedule (Implementation Schedule):

TASK	DUE DATE
Secure State Revolving Fund (SRF) loan funding for construction of the Project	February 14, 2011
Prepare bid package, advertise for bids, and submit progress report to the Regional Water Board	February 1, 2011
Award construction contract and submit progress report to the Regional Water Board	May 2, 2011
Issue Notice to Proceed to construction contractor	June 1, 2011
Submit quarterly progress report to Regional Water Board	June 30, 2011

TASK	DUE DATE
Submit quarterly progress report to Regional Water Board	September 30, 2011
Submit quarterly progress report to Regional Water Board	December 30, 2011
Submit Engineering Report to California Department of Public Health and Regional Water Board	January 3, 2012
Submit Operations and Maintenance Plan to California Department of Public Health and Regional Water Board for approval	March 1, 2012
Submit quarterly progress report to Regional Water Board	March 30, 2012
Submit quarterly progress report to Regional Water Board	June 29, 2012
Test installed UV equipment and provide testing results to California Department of Public Health and Regional Water Board	July 2, 2012
Submit quarterly progress report to Regional Water Board	September 28, 2012
Complete CP	November 30, 2012
Submit a certified statement by an authorized representative that documents the funds expended by the Dischargers during the completion of the CP directly related to development and implementation of the CP. Dischargers shall provide any additional information requested by the Regional Water Board staff that is reasonably necessary to verify Dischargers' CP expenditures.	December 15, 2012
Submit a final report, under penalty of perjury under the laws of the State of California, stating the CP has been completed in accordance with the terms of this Order. Such documentation may include photographs, invoices, receipts, certifications, and other materials reasonably necessary for the Regional Water Board to evaluate the completion of the CP and the costs incurred by the Dischargers.	December 31, 2012

3. The funds expended by the Dischargers to complete the CP to return to and/or maintain future compliance and the amount paid by the Dischargers to the CAA shall at least equal the total assessed civil liability amount of \$57,000. In the event that the Dischargers are not able to demonstrate to the reasonable satisfaction of the Regional Water Board staff that it expended funds in the amount of \$51,000 for the completion of the CP, the Dischargers shall pay the difference between the suspended administrative civil liability and the amount the Dischargers can demonstrate they actually spent on the CP, as an administrative civil liability. All payments shall be made payable to the CAA.

4. If, given written justification from the Dischargers, the North Coast Water Board's Executive Officer (Executive Officer) determines that a delay in the CP Implementation Schedule, described above, is beyond the reasonable control of the Dischargers, 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 of the CP will be completed.

5. If the Dischargers fail to fully implement the CP per the time schedule provided in this Order, or any subsequent revisions made by the Executive Officer as described in Paragraph 4, the Regional Water Board staff shall issue a Notice of Violation to the Dischargers. As a consequence, the Dischargers shall be liable to pay the entire suspended administrative civil liability amount of \$51,000. Such payment shall not relieve the Dischargers of their independent obligation to take necessary actions to achieve compliance with its WDRs.
6. Upon the Assistant Executive Officer's determination that the CP, as described in Finding No. 15 of this Order, has been satisfactorily completed, the respective suspended liability of \$51,000 shall be permanently suspended.
7. Notwithstanding the issuance of this Order, the Regional Water Board shall retain continuing jurisdiction to determine compliance with the terms of this Order, as well as the authority to assess additional penalties for other violations of the Dischargers' waste discharge requirements.

CERTIFICATION

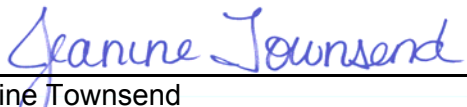
The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of an Administrative Civil Liability Order duly and regularly adopted at a meeting of the State Water Resources Control Board held on April 19, 2011.

AYE: Chairman Charles R. Hoppin
 Vice Chair Frances Spivy-Weber
 Board Member Tam M. Doduc

NAY: None

ABSENT: None

ABSTAIN: None



Jeanine Townsend
Clerk to the Board