

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
NORTH COAST REGION**

**SECOND AMENDED ADMINISTRATIVE CIVIL LIABILITY COMPLAINT
NO. R1-2023-0033B
IN THE MATTER OF**

**CITY OF FORTUNA
TOM COOKE MEMORIAL WASTEWATER TREATMENT PLANT
FORTUNA MUNICIPAL WASTEWATER TREATMENT FACILITY
HUMBOLDT COUNTY**

This Second Amended Administrative Civil Liability Complaint (Complaint) is issued by the Assistant Executive Officer of the North Coast Regional Water Quality Control Board (North Coast Water Board) on behalf of the North Coast Water Board Prosecution Team to the City of Fortuna (Respondent) for violations of effluent limitations contained in its Waste Discharge Requirements (WDRs) Order No. R1-2017-0005, National Pollutant Discharge Elimination System (NPDES) Permit No. CA0022730 (2017 Order), for which the North Coast Water Board may impose civil liability pursuant to California Water Code (Water Code) section 13385. The North Coast Water Board's Executive Officer has delegated her authority under Water Code section 13323 to issue this Complaint to the Assistant Executive Officer.

The Assistant Executive Officer of the North Coast Water Board alleges the following:

BACKGROUND:

1. The Tom Cooke Memorial Wastewater Treatment Facility, previously known as the Fortuna Municipal Wastewater Treatment Facility, (Facility), is a publicly owned treatment works (POTW) located at 180 Dinsmore Drive, Fortuna, Humboldt County, California. The Facility is regulated under the 2017 Order, which serves as both an NPDES permit and as WDRs for discharges from the Facility.
2. The original Administrative Civil Liability Complaint (ACLC), R1-2023-0033, was issued on May 8, 2023 for \$15,000. The first Amended ACLC, R1-2023-0033A, was issued on October 30, 2024 for \$48,000.
3. The North Coast Water Board adopted the 2017 Order on August 17, 2017, and it became effective on November 1, 2017. Before the 2017 Order was set to expire on November 1, 2021, the 2017 Order was administratively extended to-date. The 2017 Order established, among other things, final effluent limitations for discharges from the Respondent's permitted discharge locations, Discharge Points 001 and 003.

4. The Facility discharges wastewater runoff through Discharge Point 001 to Strongs Creek, a water of the United States. Additionally, the Facility discharges wastewater to waters of the United States from a second permitted discharge location, Discharge Point 003.
5. Section IV.A. of the 2017 Order contains, in part, the following effluent limitations for Nitrate, Ammonia, pH, Dichlorobromomethane, Total Coliform, and Settleable Solids with which the Respondent is required to maintain compliance at Discharge Points 001 and 003:

Parameter	Units	Monthly Average	30-Day/ Monthly Median	Daily Minimum	Daily maximum
Nitrate, Total (as N)	mg/L	32	--	--	--
Ammonia, Total (as N)	mg/L	9.4	--	--	--
pH	s.u.	--	--	6.5	--
Dichlorobromomethane	ug/L	0.56	--	--	1.1
Total Coliform	MPN/100 mL	--	23	240	--
Settleable Solids	ml/L	0.1	--	--	0.2

ALLEGED VIOLATIONS:

6. The Respondent's self-monitoring reports (SMRs) from April 1, 2021, through March 31, 2026, show that it violated the above-referenced effluent limitations, respectively, as identified in Exhibit A: Nitrate on fifteen (15) occasions, Ammonia Nitrogen on one (1) occasion, pH on one (1) occasion, Dichlorobromomethane on nine (9) occasions, Total Coliform on five (5) occasions, and Settleable Solids on fourteen (14) occasions. The forty-five (45) instances of effluent limit exceedance resulted in forty-one (41) alleged violations that are either serious violations under Water Code section 13385, subdivision (h), or non-serious violations that are at least the fourth violation in a six-month period under Water Code section 13385, subdivision (i). Exhibit A is attached, hereto, and is incorporated, herein, by this reference. This Complaint only addresses administrative civil liability for the forty-one (41) alleged violations specifically

identified in Exhibit A, which are subject to mandatory minimum penalties (MMPs) under Water Code section 13385, subdivisions (h) or (i).

LEGAL PROVISIONS UPON WHICH LIABILITY IS BASED:

7. Water Code section 13376 prohibits the discharge of pollutants in violation of effluent limitations set forth in WDRs, such as the 2017 Order.
8. Water Code section 13385, subdivision (h)(1), requires the North Coast Water Board to assess an MMP of three thousand dollars (\$3,000) for each serious violation.
9. Water Code section 13385, subdivision (h)(2), defines a “serious violation” as “any waste discharge that violates the effluent limitations contained in the applicable [WDRs] 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.”
10. Water Code section 13385.1, subdivision (a)(1), also defines a “serious violation” as “a failure to file a discharge monitoring report required pursuant to Section 13383 for each complete period of 30 days following the deadline for submitting the report, if the report is designed to ensure compliance with limitations contained in waste discharge requirements that contain effluent limitations.”
11. Water Code section 13385, subdivision (i)(1), also requires the North Coast Water Board to assess an MMP of three thousand dollars (\$3,000) for each violation, not counting the first three violations, if the Respondent does any of the following four or more times in a period of six consecutive months:
 - a. Violates a waste discharge requirement effluent limitation;
 - b. Fails to file a report pursuant to Water Code Section 13260;
 - c. Files an incomplete report pursuant to Water Code Section 13260; or
 - d. Violates a toxicity effluent limitation contained in the applicable WDRs where the WDRs do not contain pollutant-specific effluent limitations for toxic pollutants.
12. Water Code section 13385, subdivision (i)(2), defines a “period of six consecutive months” to mean “the period commencing on the date that one of the violations described in this subdivision occurs and ending 180 days after that date.”

PROPOSED ADMINISTRATIVE CIVIL LIABILITY ASSESSMENT:

13. The Assistant Executive Officer proposes that the Respondent be assessed an MMP under Water Code section 13385, subdivision (h), and Water Code section 13385, subdivision (i), for a total of one hundred twenty-three thousand dollars

(\$123,000) for exceeding the effluent limitations for Nitrate, Ammonia, Dichlorobromomethane, pH, Coliform, and Settleable Solids specifically identified in Exhibit A.

THE RESPONDENT IS HEREBY GIVEN NOTICE THAT:

14. The North Coast Water Board will hold a hearing on this Complaint on August 5 and/or 6, 2026. The meeting is tentatively scheduled to take place in the town of Crescent City in Del Norte County, California, at a location to be announced, or at a location posted on the North Coast Water Board's website, unless the Respondent does any of the below listed actions by the May 25, 2026, deadline to submit the Waiver Form (Attachment B). The Waiver Form and Hearing Procedures are issued concurrently with this Complaint.
 - a. Waive the right to a hearing before the North Coast Water Board and pay the proposed MMP of **one hundred twenty-three thousand dollars (\$123,000)** in full;
 - b. Waive the right to a hearing within 90 days before the North Coast Water Board after service of this Complaint to allow for additional time to engage in settlement negotiations with the North Coast Water Board Prosecution Team; or
 - c. Waive the right to a hearing within 90 days before the North Coast Water Board after service of this Complaint to extend the hearing date and/or hearing deadlines and allow additional time to prepare for hearing, accompanied by a letter specifically identifying the reasons for additional times.
15. To select one of the waiver options identified above, the Respondent must complete the enclosed Waiver Form and submit it to the North Coast Water Board Advisory Team. If the Respondent has questions about the Waiver Form or wishes to request an extension to the deadline, it should contact the North Coast Water Board Advisory Team.

All submittals and communications to the Advisory Team shall be sent to:

Advisory Team

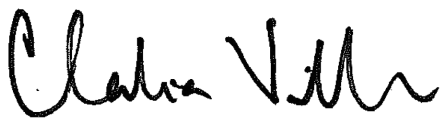
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16. If a hearing takes place, it will be governed by the Notice of Public Hearing and Hearing Procedures issued concurrently with this Complaint.
17. During the hearing, the North Coast Water Board will hear testimony and arguments and affirm, reject, or modify the proposed MMP amount, or determine whether to refer the matter to the Attorney General for recovery of judicial civil liability.
18. The Assistant Executive Officer reserves the right to amend the proposed liability amount sought in this Complaint to conform to evidence presented.
19. Issuance of this Complaint to enforce Water Code, Division 7, Chapter 5.5 is an enforcement action and is, therefore, exempt from the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 *et seq.*) pursuant to California Code of Regulations, title 14, section 15321, subdivision (a)(2).



Claudia E. Villacorta, P.E.
Assistant Executive Officer

May 8, 2026

Date

Attachments:

- A. Exhibit A: List of Violations Requiring Mandatory Minimum Penalties
- B. Hearing Waiver Form for Administrative Civil Liability Complaint

MANDATORY PENALTY ADMINISTRATIVE CIVIL LIABILITY

Fortuna City

Fortuna City WWTP

WDID No. NPDES No.
1B83135OHUM CA0022730
Exhibit A

Effluent Limitation Violations Requiring Mandatory Minimum Penalties

#	Violation Number	Violation Date	Constituent	Pollutant Group	Limitation Period	Limit	Result/Average	Units	Exempted from MMP?	Exempt Reason	% Over Limit	Date 180 Days Prior	Serious or Chronic Violation?	No. of Violations within 180 days	Mandatory Fine?	Water Code	Penalty
1	1083797	12/08/2020	Total Coliform	Other	Maximum Daily	240	350	MPN/100	Y	b (R1-2021-0044)	46%	06/11/2020	N/A	Ct. 1	N		\$ 0
2	1088517	02/19/2021	Chlorine, Total Residual	Group 2	Maximum Daily	0.02	0.03	mg/L	Y	b (R1-2021-0044)	50%	08/23/2020	N/A	Ct. 2	N		\$ 0
3	1092054	04/13/2021	Nitrate, Total (as N)	Group 1	Monthly Average	32	37	mg/L	Y	a	16%	10/15/2020	N/A	Ct. 3	N		\$ 0
4	1092051	04/20/2021	Total Coliform	Other	Single Sample	240	350	MPN/100	N		N/A	10/22/2020	C	Ct. 4	Y	13385(i)	\$ 3,000
5	1092052	04/26/2021	Total Coliform	Other	Single Sample	240	350	MPN/100	N		N/A	10/28/2020	C	Ct. 5	Y	13385(i)	\$ 3,000
6	1092053	04/30/2021	Total Coliform	Other	Monthly Median	23	214.5	MPN/100	N		N/A	11/01/2020	C	Ct. 6	Y	13385(i)	\$ 3,000
7	1095607	07/13/2021	Ammonia, Total (as N)	Group 1	Monthly Average	9.4	9.7	mg/L	N		3%	01/14/2021	C	Ct. 6	Y	13385(i)	\$ 3,000
8	1106084	05/19/2022	Dichlorobromomethane	Group 2	Monthly Average	0.56	0.92	ug/L	N		64%	11/20/2021	S	Ct. 1	Y	13385(h)	\$ 3,000
9	1106086	05/31/2022	Total Coliform	Other	30-Day Median	23	49	MPN/100	Y	a	N/A	12/02/2021	N/A	Ct. 2	N		\$ 0
10	1106085	06/16/2022	Nitrate, Total (as N)	Group 1	Monthly Average	32	35	mg/L	Y	a	9%	12/18/2021	N/A	Ct. 3	N		\$ 0
11	1109356	07/11/2022	Nitrate, Total (as N)	Group 1	Monthly Average	32	33	mg/L	N		3%	01/12/2022	C	Ct. 4	Y	13385(i)	\$ 3,000
12	1118686	05/30/2023	Settleable Solids	Group 1	Daily Maximum	0.2	0.5	ml/L	N		150%	12/01/2022	S	Ct. 1	Y	13385(h)	\$ 3,000
13	1118687	06/06/2023	Settleable Solids	Group 1	Maximum Daily	0.2	0.5	ml/L	N		150%	12/08/2022	S	Ct. 2	Y	13385(h)	\$ 3,000
14	1118688	06/30/2023	Settleable Solids	Group 1	Monthly Average	0.1	0.225	ml/L	N		125%	01/01/2023	S	Ct. 3	Y	13385(h)	\$ 3,000
15	1120976	07/10/2023	Settleable Solids	Group 1	Daily Maximum	0.2	0.4	ml/L	N		100%	01/11/2023	S	Ct. 4	Y	13385(h)	\$ 3,000
16	1120973	07/31/2023	Settleable Solids	Group 1	Monthly Average	0.1	0.2	ml/L	N		100%	02/01/2023	S	Ct. 5	Y	13385(h)	\$ 3,000
17	1120977	07/31/2023	Nitrate, Total (as N)	Group 1	Monthly Average	32	43	mg/L	N		34%	02/01/2023	C	Ct. 6	Y	13385(i)	\$ 3,000
18	1120975	08/31/2023	Nitrate, Total (as N)	Group 1	Monthly Average	32	44	mg/L	N		38%	03/04/2023	C	Ct. 7	Y	13385(i)	\$ 3,000
19	1120974	09/12/2023	Nitrate, Total (as N)	Group 1	Monthly Average	32	38	mg/L	N		19%	03/16/2023	C	Ct. 8	Y	13385(i)	\$ 3,000
20	1123390	10/10/2023	Nitrate, Total (as N)	Group 1	Monthly Average	32	33	mg/L	N		3%	04/13/2023	C	Ct. 9	Y	13385(i)	\$ 3,000
21	1123391	11/14/2023	Total Coliform	Other	Maximum Daily	240	350	MPN/100	N		N/A	05/18/2023	C	Ct. 10	Y	13385(i)	\$ 3,000
22	1129539	06/24/2024	Settleable Solids	Group 1	Maximum Daily	0.2	0.3	mg/L	N		50%	12/27/2023	S	Ct. 1	Y	13385(h)	\$ 3,000
23	1129538	06/30/2024	Settleable Solids	Group 1	Monthly Average	0.1	0.15	mg/L	N		50%	01/02/2024	S	Ct. 2	Y	13385(h)	\$ 3,000
24	1134339	07/31/2024	Settleable Solids	Group 1	Monthly Average	0.1	0.13	ml/L	Y	a	30%	02/02/2024	N/A	Ct. 3	N		\$ 0
25	1134336	08/13/2024	Dichlorobromomethane	Group 2	Monthly Average	0.56	0.87	ug/L	N		55%	02/15/2024	S	Ct. 4	Y	13385(h)	\$ 3,000
26	1134338	08/31/2024	Nitrate, Total (as N)	Group 1	Monthly Average	32	37	mg/L	N		16%	03/04/2024	C	Ct. 5	Y	13385(i)	\$ 3,000
27	1134335	09/30/2024	Dichlorobromomethane	Group 2	Monthly Average	0.56	0.84	ug/L	N		50%	04/03/2024	S	Ct. 6	Y	13385(h)	\$ 3,000
28	1134337	09/30/2024	Nitrate, Total (as N)	Group 1	Monthly Average	32	39	mg/L	N		22%	04/03/2024	C	Ct. 7	Y	13385(i)	\$ 3,000
29	1134340	09/30/2024	Settleable Solids	Group 1	Monthly Average	0.1	0.125	ml/L	N		25%	04/03/2024	C	Ct. 8	Y	13385(i)	\$ 3,000
30	1139095	10/08/2024	Nitrate, Total (as N)	Group 1	Monthly Average	32	35	mg/L	N		9%	04/11/2024	C	Ct. 9	Y	13385(i)	\$ 3,000
31	1139094	12/10/2024	Nitrate, Total (as N)	Group 1	Monthly Average	32	38	mg/L	N		19%	06/13/2024	C	Ct. 10	Y	13385(i)	\$ 3,000
32	1141838	01/22/2025	Nitrate, Total (as N)	Group 1	Monthly Average	32	38	mg/L	N		19%	07/26/2024	C	Ct. 9	Y	13385(i)	\$ 3,000
33	1141837	02/03/2025	pH	Other	Daily Minimum	6.5	6.2	SU	N		N/A	08/07/2024	C	Ct. 9	Y	13385(i)	\$ 3,000
34	1145024	05/31/2025	Settleable Solids	Group 1	Monthly Average	0.1	0.125	ml/L	N		25%	12/02/2024	C	Ct. 4	Y	13385(i)	\$ 3,000
35	1145023	06/10/2025	Nitrate, Total (as N)	Group 1	Monthly Average	32	36	mg/L	N		13%	12/12/2024	C	Ct. 4	Y	13385(i)	\$ 3,000
36	1148699	07/07/2025	Settleable Solids	Group 1	Daily Maximum	0.2	0.3	ml/L	N		50%	01/08/2025	S	Ct. 5	Y	13385(h)	\$ 3,000
37	1148698	07/31/2025	Settleable Solids	Group 1	Monthly Average	0.1	0.15	mg/L	N		50%	02/01/2025	S	Ct. 5	Y	13385(h)	\$ 3,000
38	1150469	10/15/2025	Dichlorobromomethane	Group 2	Daily Maximum	1.1	2	ug/L	N		82%	04/18/2025	S	Ct. 5	Y	13385(h)	\$ 3,000
39	1150470	10/15/2025	Dichlorobromomethane	Group 2	Monthly Average	1.1	2	%	N		82%	04/18/2025	S	Ct. 6	Y	13385(h)	\$ 3,000
40	1150471	11/11/2025	Dichlorobromomethane	Group 2	Daily Maximum	1.1	1.3	ug/L	N		18%	05/15/2025	C	Ct. 7	Y	13385(i)	\$ 3,000
41	1150472	11/11/2025	Dichlorobromomethane	Group 2	Monthly Average	1.1	1.3	ug/L	N		18%	05/15/2025	C	Ct. 8	Y	13385(i)	\$ 3,000
42	1150473	11/17/2025	Settleable Solids	Group 1	Daily Maximum	0.1	7	mg/L	N		6900%	05/21/2025	S	Ct. 9	Y	13385(h)	\$ 3,000
43	1150474	11/30/2025	Settleable Solids	Group 1	Monthly Average	0.1	1.8	mg/L	N		1700%	06/03/2025	S	Ct. 9	Y	13385(h)	\$ 3,000
44	1150468	12/09/2025	Nitrate, Total (as N)	Group 1	Monthly Average	32	34	mg/L	N		3%	06/12/2025	C	Ct. 9	Y	13385(i)	\$ 3,000
45	1153103	02/10/2026	Dichlorobromomethane	Group 2	Maximum Daily	1.1	1.2	ug/L	N		9%	08/14/2025	C	Ct. 8	Y	13385(i)	\$ 3,000
46	1153104	02/10/2026	Dichlorobromomethane	Group 2	Monthly Average	0.56	1.2	ug/L	N		114%	08/14/2025	S	Ct. 9	Y	13385(h)	\$ 3,000
47	1153105	03/11/2026	Nitrate, Total (as N)	Group 1	Monthly Average	32	33	mg/L	N		3%	09/12/2025	C	Ct. 10	Y	13385(i)	\$ 3,000

Total Penalty: \$ 123,000

Legend of Table

a. The first three violations in a 180-day period shall not receive MMP assessment unless serious.

b. Violation is not eligible for MMP because it was already included in a previous Enforcement Action. Included in this list to show rolling 180-day count.

Ct. Count – The number that follows represents the number of exceedances in the past 180 days. A count > than Ct. 3 means that a penalty under Water Code Section 13385 (i) applies.

1 - Violation occurs on sample date or last date of averaging period.

2 - For Group I pollutants, a violation is serious when the limit is exceeded by 40% or more

- For Group II pollutants, a violation is serious when the limit is exceeded by 20% or more

3 - When a serious violation occurs on the same day as a chronic, the serious violation is only assessed an MMP once and is counted last for the day when determining the number of chronic violations to be assessed a penalty.

Violation Period Between April 1, 2021 and March 31, 2026

Group I Violations Assessed MMP: 27

Group II Violations Assessed MMP: 9

Other Effluent Violations Assessed MMP: 5

Violations Exempt from MMP: 4

Total Violations Assessed MMP: 41

Mandatory Minimum Penalty = (17 Serious Violations + 24 Non-Serious Violations) x \$3,000 = \$123,000

North Coast Regional Water Quality Control Board

ATTACHMENT B - WAIVER FORM FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT

By signing this waiver, I affirm and acknowledge the following:

I am duly authorized to represent the City of Fortuna (Respondent) in connection with Administrative Civil Liability Complaint No. R1-2023-0033B (Complaint).

I am informed that California Water Code section 13323, subdivision (b), states that, “a hearing before the regional board shall be conducted within 90 days after the party has been served [with the complaint]. The person who has been issued a complaint may waive the right to a hearing.”

OPTION 1: Check here if the Respondent waives the hearing requirement and will pay the liability in full.

- a. I hereby waive any right the Respondent may have to a hearing before the North Coast Regional Water Quality Control Board (North Coast Water Board) regarding the Complaint; and
- b. I certify that the Respondent will remit payment for the proposed civil liability in the full amount of **one hundred twenty-three thousand dollars (\$123,000)** by submitting a check that references “ACL Complaint No. R1-2023-0033B” made payable to the “*State Water Pollution Cleanup and Abatement Account*”. Payment in full must be received by the Accounting Office, Attn: ACL Payment Accounting Office, P.O. Box 1888, Sacramento, California, 95812-1888, and a copy of the check to the North Coast Water Board within 30 days from the date on which this waiver is executed.
- c. I understand the payment of the above amount constitutes a proposed settlement of the Complaint, and that any settlement will not become final until after a 30-day public notice and comment period. Should the North Coast Water Board receive significant new information or comments from any source (excluding the North Coast Water Board’s Prosecution Team) during this comment period, the North Coast Water Board’s Assistant Executive Officer may withdraw the Complaint, return payment, and issue a new Complaint. I understand that this proposed settlement is subject to approval by the North Coast Water Board, and that the North Coast Water Board may consider this

proposed settlement in a public meeting or hearing. I also understand that approval of the settlement will result in the Respondent having waived the right to contest the allegations in the Complaint and the imposition of civil liability.

- d. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Respondent to further enforcement, including additional civil liability.

OPTION 2: Check here if the Respondent waives the 90 day hearing requirement in order to engage in settlement discussions.

I hereby waive any right the Respondent may have to a hearing before the North Coast Water Board within 90 days after service of this Complaint, but I reserve the ability to request a hearing in the future. I certify that the Respondent will promptly engage the North Coast Water Board Prosecution Team in settlement discussions to attempt to resolve the outstanding violation(s). By checking this box, the Respondent requests that the North Coast Water Board delay the hearing so that the Respondent and the Prosecution Team can discuss settlement. It remains within the discretion of the North Coast Water Board to agree to delay the hearing. Any proposed settlement is subject to the conditions described above under "Option 1."

In these discussions, the Respondent may raise settlement options, including a Supplemental Environmental Project(s), that meet the State Water Resources Control Board's requirements. Copies of the State Water Resources Control Board's 2024 Water Quality Enforcement Policy and 2018 Policy on Supplemental Environmental Projects, are available at:

https://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/2024/2024-enforcement-policy.pdf

and

https://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/seps/20180503_sep_policy_amd.pdf.

OPTION 3: Check here if the Respondent waives the 90 day hearing requirement in order to extend the hearing date and/or hearing deadlines. Attach a separate sheet with the amount of additional time requested and the rationale.

I hereby waive any right the Respondent may have to a hearing before the North Coast Water Board within 90 days after service of the Complaint. By checking this box, the Respondent requests that the North Coast Water Board delay the hearing and/or hearing deadlines so that the Respondent may have

additional time to prepare for the hearing. It remains within the discretion of the North Coast Water Board to approve the extension.

**CITY OF FORTUNA
MUNICIPAL WASTEWATER TREATMENT FACILITY**

(Signature)

(Print Name and Title)

(Date)