

**CERTIFIED MAIL --
RETURN RECEIPT REQUESTED**

September 17, 2001

Healdsburg Wastewater Treatment Facility
Head of Agency
City of Healdsburg
550 Westside Road
Healdsburg, CA 95448

RE: Notice of Violations and Intent to File Suit Under the Clean Water Act

Dear Managing Agent and/or Owner:

Section 505(b) of the Federal Water Pollution Control Act (“Clean Water Act” or “CWA”) requires that sixty (60) days prior to the initiation of a civil action under 33 U.S.C. §1365(a), §505(a) of the Clean Water Act, a citizen must give notice of his/her intent to sue to the alleged violator, the U.S. Environmental Protection Agency, the State in which the violations occur and the registered agent of the alleged violator.

Northern California River Watch (“River Watch”) hereby places the City of Healdsburg (“Healdsburg”) on notice that following the expiration of sixty (60) days from the date of this NOTICE OF INTENT TO FILE SUIT, we intend to bring suit in Federal District Court against Healdsburg for its continuing violations of “an effluent standard or limitation”, permit condition or requirement and/or “an order issued by the Administrator or a State with respect to such standard or limitation” under §505(a)(1) of the Clean Water Act, 33 U.S.C. §1365(a)(1), the Code of Federal Regulations, and the Basin Plan, as exemplified by Healdsburg’s illegally discharging from its wastewater treatment collection system and facility without an NPDES permit.

The Clean Water Act regulates the discharge of pollutants into navigable waters. The statute is structured in such a way that all discharge of pollutants is prohibited with the exception of several enumerated statutory exceptions. One such exception authorizes a polluter who has been issued a permit pursuant to the NPDES, to discharge designated pollutants at certain levels subject to certain conditions. The effluent discharge standards or limitations specified in an NPDES permit define the scope of the authorized exception to the 33 U.S.C. §1311(a) prohibition. Without an NPDES permit all discharges from Healdsburg's wastewater treatment and collection system to waters of the United States are illegal.

Healdsburg owns, maintains, and operates a wastewater treatment, refuse and disposal facility ("the Facility") that serves the City of Healdsburg and adjacent areas. Regional Water Quality Control Board ("RWQCB") Order 92-80 identifies the Facility as being located "in the SE 1/4 of Section 33, T9N, R9W, MDB&M." Treated effluent is disposed of in Basalt Pond located south of the Facility and adjacent to the Russian River. Basalt Pond is hydrologically connected to the Russian River and can be considered a tributary to the Russian River. The Russian River and its tributaries are waters of the United States.

The Facility has chronic pollution problems associated with, among other things, its antiquated collection system, undersized facility, old equipment and inconsistent maintenance schedule. Several times over the past decade Basalt Pond has either breached or been flooded by the Russian River causing its contents to empty into the Russian River. In 1995 the RWQCB filed a Cease and Desist Order ("CDO #95-97") against Healdsburg. CDO #95-97 sets forth a schedule which required complete project construction by October 1, 1999. To date no project to cure the problems at the Facility has begun.

Due to its proximity to and hydrological connection with the Russian River, Basalt Pond discharges directly to the Russian River. It is believed that Healdsburg discharges from 1 to 5 million gallons into Basalt Pond every day. Each day Healdsburg discharges into Basalt Pond it is violating the Clean Water Act. Healdsburg has no NPDES permit allowing it to discharge to any waters of the United States.

Healdsburg's wastewater collection system includes approximately 177,000 feet of gravity sewers, nine lift stations, and 5,900 feet of pressure mains. The conveyance system includes from 3-inch to 33-inch pipes. The collection suffers frequent sewer overflows which often enter storm drains, ditches, creeks and the Russian River. Healdsburg has no NPDES permit allowing such discharges.

Pursuant to §301(a) of the Clean Water Act, 33 U.S.C. §1311(a), the Environmental Protection Agency and the State of California have formally concluded that violations by Healdsburg are prohibited by law. Beneficial uses of the Russian River and its tributaries in the vicinity of the Facility are being affected in a prohibited manner by these violations. Pursuant

to §304 of the Clean Water Act, 33 U.S.C. §1311, the Environmental Protection Agency and the State have identified Healdsburg's Facility as a point source, the discharges from which contribute to violations of applicable water quality standards.

From October 1, 1996 through October 1, 2001, Healdsburg has violated the Clean Water Act, the Basin Plan and the Code of Federal Regulation for discharging pollutants into waters of the United States without an NPDES permit.

These enumerated violations are based upon review of the RWQCB files for Healdsburg as well as studies conducted by Healdsburg in compliance with CEQA. In addition to all of the above violations, this NOTICE OF INTENT TO FILE SUIT covers any and all violations evidenced by Healdsburg's records and monitoring data which Healdsburg has submitted (or failed to submit) to the RWQCB and/or other agencies during the period October 1, 1996 through October 1, 2001. This NOTICE OF INTENT TO FILE SUIT also covers any and all violations which may have occurred but for which data may not have been available or submitted or apparent from the face of the reports or data submitted by Healdsburg to the RWQCB or other agencies.

Pursuant to §309(d) of the Clean Water Act, 33 U.S.C. §1319(d), each of the above described violations of the Clean Water Act subjects the violator to a penalty of up to \$27,500.00 per day per violation for violations occurring within five (5) years prior to the initiation of a citizen enforcement action. In addition to civil penalties, River Watch will seek injunctive relief preventing further violations of the Clean Water Act pursuant to §505(a) and §505(d), 33 U.S.C. §1365(a) & (d), and such other relief as is permitted by law. Lastly, §505(d) of the Clean Water Act, 33 U.S.C. §1365(d), permits prevailing parties to recover costs and fees.

River Watch is a non-profit corporation dedicated to the protection and enhancement of the waters of the State of California including all rivers, creeks, streams and groundwater in Northern California. River Watch is organized under the laws of the State of California. Its address is 74 Main Street, Suite D., P.O. Box 1360, Occidental, CA, 95465, telephone number 707-874-2579.

The violations of Healdsburg as set forth in this NOTICE OF INTENT TO FILE SUIT effect the health and enjoyment of members of River Watch who reside and recreate in the City of Healdsburg area and Russian River watershed. The members of River Watch use this watershed for domestic water supply, agricultural water supply, recreation, sports, fishing, swimming, shell fish harvesting, hiking, photography, nature walks and the like. Their health, use and enjoyment of this natural resource is specifically impaired by Healdsburg's violations of the Clean Water Act.

River Watch has retained legal counsel to represent them in this matter. All communications should be addressed to:

Jack Silver, Esq.
SILVER & SILVER
902 Stevenson Street
Santa Rosa, CA 95404
Tel. 707-527-8811
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River Watch believes this NOTICE OF INTENT TO FILE SUIT sufficiently states grounds for filing suit. At the close of the 60-day notice period or shortly thereafter River Watch intends to file a citizen's suit under § 505(a) of the Clean Water Act against Healdsburg for violations at the Facility.

During the 60-day notice period, River Watch is willing to discuss effective remedies for the violations noted in this NOTICE OF INTENT TO FILE SUIT. However, if you wish to pursue such discussions in the absence of litigation, we suggest that you initiate those discussions within the next twenty (20) days so that they may be completed before the end of the 60-day notice period. We do not intend to delay the filing of a lawsuit if discussions are continuing when that period ends.

Sincerely,

Jack Silver

cc:

Christine Todd Whitman, Administrator
U.S. Environmental Protection Agency
401 M Street, N.W.
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