

California Regional Water Quality Control Board  
North Coast Region

Administrative Civil Liability Order No. R1-2005-0062

Mandatory Minimum Penalties

For

Violations of Waste Discharge Requirements  
Order No. 92-51  
and  
Order No. R1-2003-0026

In The Matter  
Of  
Sonoma County Water Agency  
and  
Russian River County Sanitation District Wastewater Treatment Facility  
WDID No. 1B82045OSON

Sonoma County

This Order to assess mandatory minimum penalties pursuant to CWC (CWC) section 13385(h) and/or (i) is issued to the Russian River County Sanitation District and the Sonoma County Water Agency (hereinafter collectively referred to as the Dischargers) for violations of Waste Discharge Requirements Order No. 92-51 (NPDES Permit No. CA0024058) for the period January 11, 2000, through December 24, 2003, and Waste Discharge Requirements Order No. R1-2003-0026 for the period December 25, 2003, through August 4, 2004.

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

1. On May 28, 1992, the Regional Water Board adopted Waste Discharge Requirements Order No. 92-51 (Order No. 92-51), for the Russian River County Sanitation District to regulate discharges of waste from its Wastewater Treatment Facility (WWTF) in Guerneville. Order No. 92-51 was rescinded and replaced with Waste Discharge Requirements Order No. R1-2003-0026 (Order No. R1-2004-0026) on November 5, 2003. Order No. R1-2003-0026 became effective on December 26, 2003. Both Orders require the Dischargers to implement a discharge monitoring program and to prepare and submit monthly NPDES self-monitoring reports to the Regional Water Board.
2. This Order covers violations of effluent limitations that occurred during periods of discharge to receiving waters for the period of January 11, 2000, through August 4, 2004. The details of these violations are summarized in Findings 11 through 14 of this Order. These violations are subject to the mandatory minimum penalties provision contained in sections 13385(h) through (l) of the CWC.

3. CWC Section 13385(h)(1) requires the Regional Water Board to assess a mandatory penalty of three thousand dollars (\$3,000) for each serious violation.
4. CWC Section 13385(h)(2) states that a serious violation occurs if the discharge from a facility regulated by an NPDES permit exceeds the effluent limitations for a Group I pollutant, as specified in Appendix A to Section 123.45 of Title 40 Code of Federal Regulations, by 40 percent or more, or for a Group II pollutant, as specified in Appendix B to Section 123.45 of Title 40 Code of Federal Regulations, by 20 percent or more.
5. CWC section 13385(i)(1) requires the Regional Water Board to assess a mandatory penalty of three thousand dollars (\$3,000) for each violation, not counting the first three violations, if the discharger does any of the following four or more times in any 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.
  - d. Violates a toxicity discharge limitation where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.

Violations under section 13385(i)(1) are referred to as “chronic” violations in this Order.

6. On February 19, 2002, the State Water Resources Control Board (State Water Board) adopted Resolution No. 2002-0040 amending the Water Quality Enforcement Policy (Enforcement Policy). The Enforcement Policy was approved by the Office of Administrative Law and became effective on July 30, 2002. The Enforcement Policy addresses, amongst other enforcement issues, issues related to assessing mandatory minimum penalties allowing compliance projects. This Order includes requirements for compliance projects specified in section X of the Enforcement Policy.
7. CWC section 13385(k)(1) provides that all or a portion of mandatory minimum penalties imposed against a POTW serving an eligible small community under CWC section 13385(h) or (i) may be directed to a compliance project (CP) in accordance with section X of the Enforcement Policy.
8. Order No. 92-51 included the following effluent limitations:

## **B. EFFLUENT LIMITATIONS**

1. Only advanced treated wastewater, as defined by the numerical limitations below shall be discharged from the wastewater treatment plant to the Russian River (Discharge Serial No. 001). The advanced treated wastewater shall be adequately disinfected, oxidized, coagulated, clarified and filtered (or equivalent), as determined by the State Department of Health Services. Advanced treated wastewater shall not contain constituents in excess of the following limits:

<b>Constituent</b>	<b>Unit</b>	<b>30-Day Average</b>	<b>7-Day Average</b>	<b>Daily Maximum</b>
Total Coliform Organisms	MPN/100ml	23 <sup>a</sup>	---	230
Chlorine Residual	mg/l	---	---	0.1
Turbidity	NTU	2	---	5 <sup>b</sup>

- a. Median
- b. Five NTU maximum not to be exceeded more than 5-percent of the time.

9. Order No. R1-2003-0026 includes the following effluent limitations:

**B. EFFLUENT LIMITATIONS**

- 2. The disinfected effluent discharged from the WWTF to the Russian River shall not contain concentrations of total coliform bacteria exceeding the following limitations:
  - a. The median concentration shall not exceed a Most Probable Number (MPN) of 2.2 per 100 milliliters, using the bacteriological results of the last seven days for which analyses have been completed.
  - b. The number of coliform bacteria does not exceed an MPN of 23 per 100 milliliters in more than one sample in any 30-day period.
  - c. No sample shall exceed an MPN of 240 total coliform bacteria per 100 milliliters.
- 10. The Enforcement Policy states that for the purpose of determining serious violations, total residual chlorine is identified as a Group II pollutant in Title 40 Code of Federal Regulations, section 123.45, Appendix B. Turbidity and total coliform are neither Group I nor Group II pollutants, therefore exceedances of them do not count as serious violations.
- 11. According to monitoring reports submitted by the Dischargers, the discharge exceeded discharge and effluent limitations five times during the 180-day period from February 13, 2000, through June 16, 2000. All of those five exceedances were chronic violations in accordance with CWC section 13385(i)(1). The mandatory penalty amount for those violations is \$6,000 as shown in the following table:

**Table 1. Effluent Limitation Exceedances  
 February 13, 2000, through June 16, 2000**

<b>Violation Date</b>	<b>Description of Violation</b>	<b>Violation Type</b>	<b>Mandatory Penalty</b>
02/13/00	Exceeded Daily Maximum turbidity limitation of 5 NTU for > 1.2 hrs (6.5 hrs)	1 <sup>st</sup> Chronic	No MMP
03/04/00	Exceeded Daily Maximum turbidity limitation of 5 NTU for > 1.2 hrs (6.2 hrs)	2 <sup>nd</sup> Chronic	No MMP
03/31/00	Exceeded Daily Maximum turbidity limitation of 5 NTU for > 1.2 hrs (> 9 hrs)	3 <sup>rd</sup> Chronic	No MMP
04/01/00	Exceeded Daily Maximum turbidity limitation of 5 NTU for > 1.2 hrs (13 hrs)	Chronic	\$3,000
05/14/00	Exceeded Daily Maximum turbidity limitation of 5 NTU for > 1.2 hrs (5.2 hrs)	Chronic	\$3,000
<b>Total</b>			<b>\$6,000</b>

12. According to monitoring reports submitted by the Dischargers, the discharge exceeded effluent limitations four times during the 180-day period from July 21, 2001, through January 16, 2002. Of those four exceedances, one was a serious violation in accordance with CWC section 13385(h) and three were chronic violations in accordance with CWC section 13385(i)(1). The mandatory penalty amount for those violations is \$6,000 as shown in the following table:

**Table 2. Effluent Limitation Exceedances  
 July 21, 2001, through January 16, 2002**

<b>Violation Date</b>	<b>Description of Violation</b>	<b>Violation Type</b>	<b>Mandatory Penalty</b>
11/30/01	Exceeded 30-Day Median Total Coliform limitation of 2.2 MPN/100 ml (3.0 MPN/100 ml)	1 <sup>st</sup> Chronic	No MMP
12/03/01	Exceeded Daily Maximum Total Coliform limitation of 23 MPN/100 ml (30 MPN/100 ml)	2 <sup>nd</sup> Chronic	No MMP
01/03/02	Exceeded Daily Maximum total Chlorine Residual limitation of 0.1 mg/l (0.5 mg/l)	3 <sup>rd</sup> Chronic (Serious)	\$3,000
01/16/02	Exceeded Daily Maximum turbidity limitation of 5 NTU for > 1.2 hrs (6 hrs)	Chronic	\$3,000
<b>Total</b>			<b>\$6,000</b>

13. According to monitoring reports submitted by the Dischargers, the discharge exceeded effluent limitations seven times during the 180-day period from July 19, 2002, through January 14, 2003. All of those seven exceedances were chronic violations in accordance with CWC section 13385(i)(1). The mandatory penalty amount for those violations is \$12,000 as shown in the following table:

**Table 3. Effluent Limitation Exceedances  
July 19, 2002, through January 14, 2003**

<b>Violation Date</b>	<b>Description of Violation</b>	<b>Violation Type</b>	<b>Mandatory Penalty</b>
12/17/02	Exceeded Daily Maximum Total Coliform limitation of 23 MPN/100 ml (27 MPN/100 ml)	1 <sup>st</sup> Chronic	No MMP
12/17/02	Exceeded Daily Maximum turbidity limitation of 5 NTU for > 1.2 hrs (25.5 hrs)	2 <sup>nd</sup> Chronic	No MMP
12/18/02	Exceeded Daily Maximum turbidity limitation of 5 NTU for > 1.2 hrs (5.5 hrs)	3 <sup>rd</sup> Chronic	No MMP
12/19/02	Exceeded Daily Maximum turbidity limitation of 5 NTU for > 1.2 hrs (5.8 hrs)	Chronic	\$3,000
01/11/03	Exceeded Daily Maximum turbidity limitation of 5 NTU for > 1.2 hrs (5 hrs)	Chronic	\$3,000
01/12/03	Exceeded Daily Maximum turbidity limitation of 5 NTU for > 1.2 hrs (12hrs)	Chronic	\$3,000
01/14/03	Exceeded Daily Maximum turbidity limitation of 5 NTU for > 1.2 hrs (10 hrs)	Chronic	\$3,000
<b>Total</b>			<b>\$12,000</b>

14. According to monitoring reports submitted by the Dischargers, the discharge exceeded effluent limitations 16 times during the 180-day period from January 2, 2004, through June 29, 2004. Of those sixteen exceedances, one was a serious violation in accordance with CWC section 13385(h) and fifteen were chronic violations in accordance with CWC section 13385(i)(1). The mandatory penalty amount for those violations is \$39,000 as shown in the following table:

**Table 4. Effluent Limitation Exceedances  
January 2, 2004, through June 29, 2004**

<b>Violation Date</b>	<b>Description of Violation</b>	<b>Violation Type</b>	<b>Mandatory Penalty</b>
01/02/04	Exceeded 7-Day Median Total Coliform limitation of 2.2 MPN (4 MPN/100 ml)	1 <sup>st</sup> Chronic	No MMP
01/03/04	Exceeded 7-Day Median Total Coliform limitation of 2.2 MPN (4 MPN/100 ml)	2 <sup>nd</sup> Chronic	No MMP
01/04/04	Exceeded 7-Day Median Total Coliform limitation of 2.2 MPN (4 MPN/100 ml)	3 <sup>rd</sup> Chronic	No MMP
01/28/04	Exceeded Maximum Total Coliform limitation of 240 MPN (300 MPN/100 ml)	Chronic	\$3,000
01/31/04	Monthly Maximum Total Coliform limitation of 23 MPN (300 MPN/100 ml)	Chronic	\$3,000
02/19/04	Exceeded Maximum Total Coliform limitation of 240 MPN (1600 MPN/100 ml)	Chronic	\$3,000
02/21/04	Exceeded 7-Day Median Total Coliform limitation of 2.2 MPN (13 MPN/100 ml)	Chronic	\$3,000
02/22/04	Exceeded 7-Day Median Total Coliform limitation of 2.2 MPN (13 MPN/100 ml)	Chronic	\$3,000

<b>Violation Date</b>	<b>Description of Violation</b>	<b>Violation Type</b>	<b>Mandatory Penalty</b>
02/23/04	Exceeded 7-Day Median Total Coliform limitation of 2.2 MPN (13 MPN/100 ml)	Chronic	\$3,000
02/24/04	Exceeded 7-Day Median Total Coliform limitation of 2.2 MPN (11 MPN/100 ml)	Chronic	\$3,000
02/25/04	Exceeded 7-Day Median Total Coliform limitations of 2.2 MPN (4 MPN/100 ml)	Chronic	\$3,000
02/26/04	Exceeded Daily Maximum Chlorine Residual limitation of 0.1 mg/l (0.2 mg/l)	Serious	\$3,000
02/27/04	Exceeded 7-Day Median Total Coliform limitation of 2.2 MPN (4 MPN/100 ml)	Chronic	\$3,000
02/29/04	Exceeded Monthly Maximum Total Coliform limitation of 23 MPN (1600 MPN/ 100 ml)	Chronic	\$3,000
03/23/04	Exceeded Maximum Total Coliform limitation of 240 MPN (900 MPN 100 ml)	Chronic	\$3,000
03/31/04	Exceeded Monthly Maximum Total Coliform limitation of 23 MPN (900 MPN/ 100 ml)	Chronic	\$3,000
<b>Total</b>			<b>\$39,000</b>

15. The total amount of the mandatory penalties for serious and chronic violations occurring during the period February 13, 2000, through January 2, 2004, is \$63,000. Regional Water Board staff costs for addressing this enforcement action are estimated at approximately \$2,600 for 40 hours of staff time to prepare this Order and associated documents for the enforcement hearing.<sup>1</sup>
16. On May 12, 2005, the Regional Water Board Executive Officer (Executive Officer) issued Complaint No. R1-2005-0031 proposing that the Dischargers pay \$63,000 in administrative civil liability for the violations or propose a supplemental compliance project in an amount of the liability less staff costs.
17. On June 3, 2005, the Dischargers proposed completion of a CP in an amount exceeding \$60,400 (Attachment) in lieu of payment of the balance of the civil liability. The CP is described as a project to upgrade and expand the treatment capacity of the disinfection system at the Russian River County Sanitation District WWTF. The CP will reduce the potential for future violations of effluent limitations for total coliform bacteria and total chlorine residual. The proposed final CP will be selected from a range of disinfection alternatives described in a recent study prepared for the Dischargers titled "Evaluation of Disinfection Alternatives: Russian River WWTF Disinfection Project."
18. A duly noticed public hearing on this matter was held before the Regional Water Board during a public meeting on June 22, 2005, in the Regional Water Board Hearing Room, 5550 Skylane Boulevard, Suite A, Santa Rosa, California. The Dischargers had an opportunity to be heard regarding the allegations in this Order and the imposition of mandatory penalties by the Regional Water Board. The documents for the agenda item were emailed to the Dischargers prior to the hearing.

<sup>1</sup> The cost of staff time is \$65.00 per hour.

19. At the hearing, the Regional Water Board considered whether to affirm, reject or modify the proposed mandatory penalties set forth herein, or whether to refer the matter to the Attorney General for recovery of judicial civil liability, or any other action appropriate as a result of the hearing.
20. 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 (Public Resources Code section 21000 et seq.) pursuant to Title 14, California Code of Regulations sections 15308 and 15321(a)(2).
21. Any person affected by this action of the Regional Water Board may petition the State Water Resources Control Board to review the action in accordance with section 13320 of the CWC and Title 23, California Code of Regulations, section 2050. The petition must be received by the State Water Resources Control Board within 30 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 section 13385 of the CWC that:

1. The Sonoma County Water Agency and the Russian River County Sanitation District shall be assessed a mandatory penalty in the amount of sixty-three thousand dollars (\$63,000).
2. Two thousand six hundred dollars (\$2,600) shall be paid to the State Water Pollution Cleanup and Abatement Account within 30 days of the date of this Order for staff costs incurred to prosecute this enforcement action: the costs include investigation, preparation of enforcement documents, communication with the Dischargers, and preparation of material for public review and hearing.
3. The remaining sixty thousand four hundred dollars (\$60,400) is eligible to be permanently suspended upon satisfactory completion of the CP (as referenced in Attachment "A" of this Order). The referenced compliance project meets the criteria established in the Enforcement Policy and shall be completed on or prior to five years from the adoption date of this Order. The Dischargers shall submit annual reports on the progress in completing this project. The Executive Officer may, at her discretion, modify the proposed CP. If significant progress is not being made on the CP, if the Discharger fails to submit the annual reports or if the CP is not completed on schedule, the Executive Officer may demand that the Dischargers pay the suspended penalty of sixty thousand four hundred dollars (\$60,400) to the State Water Pollution Cleanup and Abatement Account. The Executive Officer's demand for payment of the suspended penalty is reviewable by the Regional Water Board at a duly noticed public hearing if a written request from the Dischargers is received by the Regional Water Board within 20 days of the date of the demand for payment.

4. The penalty of sixty thousand four hundred dollars (\$60,400) shall be permanently suspended if the Executive Officer determines that the Dischargers have provided the Regional Water Board with annual updates of their progress toward completion of the CP and spent at least the suspended amount in good faith toward completion of the CP within five years from this date.
5. Payments pursuant to this Order shall be in the form of a check payable to the State Water Resources Control Board, State Water Pollution Cleanup and Abatement Account. The check shall be submitted to the Regional Water Board's office at 5550 Skylane Boulevard, Suite A, Santa Rosa CA 95403. The check shall contain a reference to this Order.
6. Notwithstanding the issuance of the 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 E. 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 22, 2005.

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Catherine E. Kuhlman  
Executive Officer