

California Regional Water Quality Control Board
North Coast Region

Administrative Civil Liability Complaint No. R1-2007-0012

For

Violation of Waste Discharge Requirements
Order No. SWRCB 2000-03 and Order No. R1-2006-0045
WDID No. 1B83099OSON
NPDES Permit No. CA0022764

In the Matter of
City of Santa Rosa
Subregional Water Reclamation Facility

Sonoma County

This Complaint to assess discretionary penalties pursuant to California Water Code section 13385 is issued to the City of Santa Rosa (hereinafter Discharger), for violations of Waste Discharge Requirements Order No. SWRCB 2000-03 and Order No. 2006-0045 for the period August 2, 2004 through December 31, 2006.

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

1. The City of Santa Rosa owns, operates, and maintains the Subregional Water Reclamation Facility (Facility) located at 4300 Llano Road in Santa Rosa. The Facility serves the communities of Cotati, Rohnert Park, Santa Rosa, Sebastopol, and the unincorporated South Park County Sanitation District. The Facility is permitted to collect and treat an average of 21.3 million gallons of wastewater per day. Reuse and disposal of all advanced treated water is accomplished through a system that combines water reclamation with discharge to surface waters during the allowable discharge period (October 1 through May 14).
2. The violations occurred when the facility was regulated by Waste Discharge Requirements Order No. SWRCB 2000-03 adopted on March 15, 2000 and subsequently by Order No. R1-2006-0045 adopted on September 20, 2006. Order No. R1-2006-0045 became effective November 9, 2006 and states in part that: "IT IS HEREBY ORDERED, that Order No 2000-03 (the "Long Range" NPDES Order) is rescinded upon the effective date of this Order except for enforcement purposes...."
3. Section 13385(a) of the Water Code provides for the imposition of civil liability by the Regional Water Board for any person who violates waste discharge

requirements and monitoring and reporting programs. Section 13385(c) provides the maximum amount of civil liability that may be imposed by the Regional Water Board. The amount may be up to \$10,000 dollars per day in which the violation occurs, plus up to \$10 per gallon of waste discharged in excess of 1,000 gallons that is not susceptible to cleanup or is not cleaned up.

4. Between August 2, 2004 and December 31, 2006 the City of Santa Rosa reported violations of Waste Discharge Requirements Order Nos. SWRCB 2000-03 and R1-2006-0045 in the following categories:
- a. Discharge Prohibitions
 - b. Discharge of Recycled Water to Unpermitted Lands
 - c. Spills of Recycled Water
 - d. Bypass of Treatment Plant Processes
 - e. Effluent Limitations
 - f. Receiving Water Limitations
 - g. Water Reclamation Requirements
 - h. Solids Disposal
 - i. Monitoring and Reporting

These violations are described in detail below along with the appropriate civil liability.

5. Discharge Prohibitions

Between August 2, 2004 and December 31, 2006, the City of Santa Rosa reported twenty-two discharges of untreated waste from the wastewater collection system (Sewer System Overflows, or SSOs) as follows:

Date	Location	Volume Discharged (gallons)	Volume to Storm Sewer (gallons)	Volume Recovered from Storm Sewer (gallons)	Volume to Receiving Waters (gallons)	Comments
8/02/04	2304 Lake View Drive	75	75	75	0	
8/28/04	748 Church Street	20	0	0	0	grease
9/30/04	3027 Sunridge Drive	450	450	450	0	
10/5/04	1511 Ridley Avenue	500	450	450	0	
10/25/04	Second Street	350	50	50	0	grease
10/16/04	853 Aston Avenue	180	180	180	0	grease
2/10/05	1245 Parson Drive	75	0	0	0	
3/06/05	534 Brownwyn Glen	2400	2400	50	2350	
10/31/05	5151 Alejandro Court	1300	1050	1050	0	
10/31/05	74 Montgomery Drive	Slow drip	Slow drip	0	Slow drip	Repaired when found
11/07/05	2755 Chanate Road	4400	4400	0	4400	
12/9/05	3818 Shadowhill Drive	250	1	1	0	
12/15/05	748 Brentwood Drive	40	0	0	0	

12/31/05	5525 Kathleen Court	?	?	?	?	Flood
12/31/05	5363 Sharon Court	?	?	?	?	Flood
12/31/05	247 Folia Court	?	?	?	?	Flood
12/31/05	4325 Chico Avenue	?	?	?	?	Flood
12/31/05	402, 467, 475 Countryside Circle	?	?	?	?	Flood
1/13/06	3535 Industrial Drive	1200	1200	500	700	Grease
1/31/06	6200 Stone Bridge Road	15	15	0	15	
1/16/06	500 South Avenue	10	0	0	0	
5/20/06	8004 Oakmont Drive	1000	1000	1000	0	
7/05/06	3640 Industrial Drive	40	40	40	0	Grease
9/03/06	5817 Sonoma Highway	800	800	500	300	Grease
10/08/06	South Park Lift Sta. 200 Todd Road	200	200	200	0	Pipe Corrosion
11/03/06	1525 Fountain Grove Parkway	80	80	80	0	Construction Debris

SSOs are prohibited by section A.6 of Order No. SWRCB 2000-03, which reads:

“A.6 The discharge of untreated or partially treated waste from the Laguna Subregional Facilities is prohibited.”

SSOs are prohibited by section III E of Order No. R1-2006-0045 which states:

“Any sanitary sewer overflow (SSO) that results in a discharge of untreated or partially treated wastewater to (a) waters of the state, (b) groundwater, or (c) land that creates a pollution, contamination, or nuisance as defined in CWC section 130050(m) is prohibited.”

All twenty-six overflows are violations of prohibitions contained in the NPDES permits. However, violations that did not result in overflows reaching receiving waters are not being considered for penalties because they did not impact surface waters or cause nuisance, pollution or contamination. Of these twenty-six reported instances, 11 overflows resulted in discharges to receiving waters.

(Note: Other reported SSOs emanating from private residence laterals are not considered part of the treatment plant collection system and are not within the City’s jurisdiction.)

6. Discharge of Recycled Water to Unpermitted Lands

On September 3, 2004, the City of Santa Rosa discharged 500,000 gallons of advanced treated water for fire suppression at the Geysers. The City does not

own or control the land where the fire occurred. This event is in violation of section A.3 of Order No. SWRCB 2000-03, which reads:

“A.3 There shall be no discharge of advanced treated wastewater or any wastewaters to land which is not owned or under agreement to use by the permittee.”

7. Spills of Recycled Water

Between September 9, 2005 and December 31, 2006, the City of Santa Rosa reported seven discharges of advanced treated water from the reclamation system. These violated section A.4 of Order No. SWRCB 2000-03, which reads:

“A.4 There shall be no discharge of advanced treated water from any point in the Laguna Subregional Facilities other than those identified in Finding 10.” (Finding 10 identifies the allowable locations for discharge of recycled water to surface waters.);

And section III G. of Order No. R1-2006-0045 which state: “The discharge of waste at any point not described in Finding II.B or authorized by any State Water Board or Regional Water Board permit is prohibited.”

The specific violations are listed below:

Date	Location	Volume Discharged (gallons)	Volume to Receiving Water (gallons)	Volume Recovered (gallons)	Comments
9/9/05	Ambrosini Farm	3,000	0	3,000	Water contained in a ditch, then pumped out
10/17/05	Denner Ranch	22,600	22,600	0	
2/22/06	Mononi Pump station	678,000	678,000	0	Possible damage to pump station from New Years Eve flood. Leak not discovered until 1 week after pump station activated for frost protection.
5/30/06	North Pump Station	290,000	56,000	0	234,000 gallons discharged to field on Denner Ranch, and then evaporated or seeped into soil

6/13/06	Arlington Pipeline	38,880	38,880	0	Leaking valve, occurred over 9 days
11/06/06	415 Countryside Circle	24,100	24,100	0	Discharged to Santa Rosa Cr.
12/18/06	Stone Farm	640,400	360,000	0	360,000 gallons flowed into Irwin Cr.

All seven discharges are violations of prohibitions contained in the Order No. SWRCB 2000-03 and Order No. R1-2006-0045. However, violations that did not result in overflows reaching receiving waters are not being considered for penalties because they did not impact surface waters. Of these seven reported instances, six resulted in discharges to receiving waters and are proposed for assessment of administrative civil liability under section 13385 of the Water Code as described in Finding 3 above.

Section 13385(c) provides the maximum amount of civil liability which may be imposed by the Regional Water Board. The amount may be up to \$10,000 per day in which the violation occurs, plus up to \$10 per gallon of waste discharged in excess of 1,000 gallons that is not susceptible to cleanup or is not cleaned up. The maximum civil liability that could be imposed against the City of Santa Rosa in this matter is calculated as based on days of violation and the volume of waste discharged in excess of 1,000 gallons that is not susceptible to cleanup or has not been cleaned up. Given six violations, plus extra volume over 1,000 gallons for each spill, the maximum calculated amount that could be imposed against the City of Santa Rosa totals \$11,564,800.

8. **Bypass of Treatment Plant Processes**

On December 31, 2005, the Laguna de Santa Rosa overflowed its banks and flooded portions of the Facility to a depth of one to two feet. During the flooding that occurred on December 31 and January 1, the Facilities continued to operate. However, flooding of the channel conveying partially treated water from the secondary clarifiers to the filtration facility resulted in a massive amount of floodwater inflow to the system and bypassing of the ultraviolet disinfection system. Furthermore, floodwaters inundated the Facilities' discharge ponds, which hold treated effluent, and inundated the Facilities' effluent channel.

Inflow of floodwaters to the Facilities resulted in a variety of violations of Order No. SWRCB 2000-03. These violations are summarized below:

Discharge prohibitions

- i. Spills of recycled water

Date	Location	Volume Discharged (gallons)	Volume to Receiving Water (gallons)	Volume Recovered from Receiving Waters (gallons)	Comments
12/31/05	B – Pond (distribution pond)	30,000	30,000	0	Hydraulic overload of B - Pond caused by floodwaters entering into A - Pond - New Years Eve flood

This spill is in violation of section A.4 of Order No. SWRCB 2000-03, which reads:

“A.4. There shall be no discharge of advanced treated water from any point in the Laguna Subregional Facilities other than those identified in Finding 10.” (B-Pond is not identified in Finding 10 of the permit.)

ii. Bypass of treatment plant processes:

Date	Volume (gals)	Description
12/31/05 to 1/1/06	50,000	Wastewater partially treated in the secondary system discharged to surface water - caused by New Years Eve flood
12/31/05 to 1/1/06	9,000,000	Filter process bypassed - caused by New Years Eve flood
12/31/05 to 1/1/06	23,000,000	Disinfection process bypassed - caused by New Years Eve flood

This event is in violation of section A.6 of Order No. SWRCB 2000-03, which reads:

“A.6. The discharge of untreated or partially treated waste from the Laguna Subregional Facilities is prohibited.”

The three listed bypasses are treated as one violation because Water Code section 13385(f)(1) provides that “...a single operational upset that leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.”

Effluent limitations

Date	Effluent Limit	Allowable Concentration	Discharge Concentration	Comments
12/31/05	Daily maximum lbs/day suspended solids	3552	5543	Caused by severe wet weather conditions - New Years Eve flood
12/31/05	Final effluent turbidity exceeded 5 NTU's for more than 5% of the 24 hour period	5	Maximum of 6.4	Caused by severe wet weather conditions - New Years Eve flood

These exceedances are both in violation of section B.1. of Order No. SWRCB 2000-03, which specifies allowable limits for constituent concentrations in effluent. However, Water Code section 13385(f)(1) instructs that both of the violations on December 31, 2005 be treated as one violation of the type subject to discretionary penalties. Mandatory minimum penalties will be discussed below. Therefore, the total number of violations is one.

As described above, the New Year's Eve flood resulted in over 23 million gallons of combined wastewater and floodwater receiving only partial treatment. Since all this water bypassed the UV disinfection process, it may have contained pathogenic organisms, which are potentially dangerous to human and aquatic health, and threaten many beneficial uses of the Laguna de Santa Rosa.

Furthermore, the Facilities' southern power distribution station, which supplies power to the filters and disinfection system, was nearly flooded. Flooding of the power distribution station would have removed the filters and disinfection system from operation for an extended period of time (multiple days or weeks), and would have resulted in further discharge of partially treated water to the Laguna.

9. Effluent Limitations

Between November 6, 2004 and December 31, 2005, the City of Santa Rosa reported the following two exceedances of effluent limits specified in Order No. SWRCB 2000-03:

Date	Effluent Limit	Allowable Concentration	Discharge Concentration
11/6/04	Total Coliform,	2.2	3

	7-day median (MPN)		
1/21/05	Total Coliform daily maximum (MPN)	23	57

These exceedances are both in violation of section B.1. of Order No. SWRCB 2000-03, which specifies allowable limits for constituent concentrations in effluent.

10. **Receiving Water Limitations**

From May 10, 2005 until May 14, 2005, the City of Santa Rosa reported 5 exceedances of temperature limitations that are in violation of sections C.10.a and C.10.b of Order No. SWRCB 2000-03, which read as follows:

“C.10.a. When the receiving water is below 58°F, the discharge shall cause an increase of no more than 4°F in the receiving water, and shall not increase the temperature of the receiving water beyond 59°F. No instantaneous increase in receiving water temperature shall exceed 4°F at any time.”

“C.10.b. When the receiving water is between 59°F and 67°F, the discharge shall cause an increase of no more than 1°F in the receiving water. No instantaneous increase in receiving water temperature shall exceed 1°F at any time.”

Date	Water Quality Objective Receiving Water Limitations	Exceedance
5/11/05	Temperature - 06B Discharge	3°F
5/12/05	Temperature - 06B Discharge	3°F
5/13/05	Temperature - 06B Discharge	4°F
5/10/05	Temperature - 06B Discharge	3°F
5/14/05	Temperature - 06B Discharge	4°F

During this period, ambient water temperature varied diurnally, from a lower bound of 58°F, to an upper bound of 65°F. Therefore, these five exceedances are all in violation of Order No. SWRCB 2000-03.

11. **Water Reclamation Requirements**

Between December 28, 2005 and February 27, 2006, the City of Santa Rosa reported nine violations of section D.1 of Order No. SWRCB 2000-03, which provides:

“D.1. Reclaimed water shall be managed in conformance with regulations contained in Title 22, Division 4, Chapter 3, California Code of Regulations.”

The cited reference in the California Code of Regulations is section 22 CCRs 60301.320, which, as it applies to the City of Santa Rosa's subregional water reclamation system, states that:

“Filtered wastewater” means an oxidized wastewater that... has been coagulated and passed through natural undisturbed soils or a bed of filter media... at a rate that does not exceed 5 gallons per minute per square foot of surface area in mono, dual or mixed media gravity, up-flow or pressure filtration systems.”

The events which violated water reclamation requirements follow:

Date	Description
12/28/05	5 gpm/sf filtration limit exceeded - due to extreme wet weather flow conditions - New Years Eve flood
12/29/05	5 gpm/sf filtration limit exceeded - due to extreme wet weather flow conditions - New Years Eve flood
12/30/05	5 gpm/sf filtration limit exceeded - due to extreme wet weather flow conditions - New Years Eve flood
12/31/05	5 gpm/sf filtration limit exceeded - due to extreme wet weather flow conditions - New Years Eve flood
1/1/06	5 gpm/sf filtration limit exceeded - due to extreme wet weather flow conditions - New Years Eve flood
1/2/06	5 gpm/sf filtration limit exceeded - due to extreme wet weather flow conditions - New Years Eve flood
1/3/06	5 gpm/sf filtration limit exceeded - due to extreme wet weather flow conditions - New Years Eve flood
1/4/06	5 gpm/sf filtration limit exceeded - due to extreme wet weather flow conditions - New Years Eve flood
2/27/06	5 gpm/sf filtration limit exceeded - due to extreme wet weather flow conditions

12. Solids Disposal

On April 14 and April 19, 2006, the City of Santa Rosa reported two violations of Order No. SWRCB 2000-03, which provides:

“E.1. Collected screenings, sludges, and other solids removed from liquid wastes shall be disposed of at a legal point of disposal, and in accordance with the provisions of Title 27, Division 2 of the California Code of Regulations.”

These events were as listed below:

Date	Location	Volume Discharged (gallons)	Comments
4/14/06	Laguna Treatment Plant	500	Biosolids discharged onto Llano Road right of way from faulty pipe, then cleaned up
4/19/06	Laguna Treatment Plant	2,000	Biosolids discharged onto Llano Road right of way from faulty pipe, then cleaned up

13. Monitoring and Reporting

During the period between October 1, 2004 and December 31, 2006, the City reported 44 instances of equipment malfunction or monitoring incidents, in violation of Order No. SWRCB 2000-03, which provides:

“G.24. Monitoring: The Regional Water Board or State Water Board may require the permittee to establish and maintain records, make reports, install, use and maintain monitoring equipment or methods (including where appropriate biological monitoring methods), sample effluent as prescribed, and provide other information as may be reasonably required. (CWC Section 13267 and 13383)”;

and, VI. B.1. of Order No. R1-2006-0045 which says:

“The Discharger shall comply with the Monitoring and Reporting Program, and future revisions thereto, in Attachment E of this order.”

A list of these events follows:

Date	Number of Occurrences/Days	Description
4 th quarter 2004	2 samples	Quarterly monitoring requirement for selenium not met
01/31/05	3 samples	Monthly monitoring for discharge and receiving water copper and calcium carbonate hardness for Kelly Pond not accomplished
2/6-12/05	2 samples	Twice weekly BOD monitoring requirement not attained for influent and effluent - Lab QC failure (only one sample for the week validated)
2/6-12/05	1 sample	Weekly monitoring for BOD not accomplished for the Kelly Pond Discharge - Lab QC failure

4/14/05	1 sample	Coliform monitoring requirement not met - incubator failure
4/15/05	2 samples	Coliform monitoring requirement not met - incubator failure
4/16/05	2 samples	Coliform monitoring requirement not met - incubator failure
4/18/05	1 day	Continuous monitoring for temperature did not occur for discharge at 016 - Laguna Joint Wetlands
4/19/05	1 day	Continuous monitoring for temperature did not occur for discharge at 016 - Laguna Joint Wetlands
4/20/05	1 day	Continuous monitoring for temperature did not occur for discharge at 016 - Laguna Joint Wetlands
5/5/05	1 sample	Coliform monitoring requirement not met - incubator failure
5/6/05	2 samples	Coliform monitoring requirement not met - incubator failure
5/7/05	2 samples	Coliform monitoring requirement not met - incubator failure
5/8/05	2 samples	Coliform monitoring requirement not met - incubator failure
5/9/05	3 samples	Coliform monitoring requirement not met - incubator failure
10/27/05	2 samples	Coliform monitoring requirement not met - incubator failure
10/28/05	2 samples	Coliform monitoring requirement not met - incubator failure
10/29/05	2 samples	Coliform monitoring requirement not met - incubator failure
12/2/05	1 sample	Laboratory failed to collect sample
1/1/06	1 day	Continuous monitoring for temperature did not occur for discharge at 014 - A – Pond
1/23/06	1 sample	Coliform monitoring requirement not met - incubator failure
1/25/06	2 samples	Coliform monitoring requirement not met - incubator failure
1/26/06	2 samples	Coliform monitoring requirement not met - incubator failure
2/27/06	1 day	5 hourly turbidity reading not accomplished after on-line metering failure
2/28/06	1 day	6 hourly turbidity reading not accomplished after on-line metering failure
05/31/06	1 sample	Weekly receiving water monitoring requirement for phosphorus not met for the

		upstream Russian River monitoring location
12/13/06	1-sample	Laboratory staff failed to sample one of three online disinfection channels
12/14/06	1-sample	Laboratory staff failed to sample one of three online disinfection channels

All 44 of these incidents have been determined to be violations of applicable permit terms. They resulted from monitoring and reporting not being performed due to equipment failure or human error. The violations related to coliform testing have been resolved by the purchase of a new incubator.

14. In determining the amount of civil liability imposed, the Regional Water Board is required to take into account the nature, circumstance, extent, and gravity of the violation(s); whether the discharge is susceptible to cleanup or abatement; the degree of toxicity of the discharge; and, with respect to the violator, the effect on ability to continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation(s); and other matters as justice may require. At a minimum, liability is assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation.
15. 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 establishes a framework for identifying and prioritizing instances of noncompliance and responding with appropriate enforcement action relative to the nature and severity of violations.
16. The issuance of this Complaint is an enforcement action to protect the environment, and is therefore exempt from the provisions of the California Environmental Quality Act (Public Resources Code, sections 21000-21177) pursuant to title 14, California Code of Regulations, sections 15308 and 15321.

The City of Santa Rosa is hereby given notice that:

1. Based on a review of the above facts and required factors, the Executive Officer of the Regional Water Board is issuing this complaint with a proposed administrative civil liability in the amount of **\$194,500**. This amount was arrived at using the sum of **a.-i.** below:

a. Discharge Prohibitions

Collection system overflows –eleven discharge prohibition violations were related to raw sewage overflows that discharged from the City-owned collection system

to receiving waters within the Laguna, the lower Russian River and their tributaries. Significant spills of raw sewage that reach surface waters constitute a serious public health concern and have significant water quality concerns due to typically high loadings of nutrients, biochemical oxygen demand, pathogens and other pollutants.

Overflows are caused primarily by grease blockages, and less frequently by tree root intrusions and vandalism. Historically, the City of Santa Rosa's Public Works Department has rapidly responded to reports of raw sewage overflows, and has the appropriate equipment to dislodge blockages and promptly clean up raw sewage overflows, when possible. Staff did not identify any pattern of overflows from any particular sections of collection system line.

Of the eleven collection system failures that resulted in discharge to receiving waters, five were a result of extreme weather conditions, and the volume of sewage discharged was not known. For the violation at Montgomery Drive on October 31, 2005, the volume discharged is not known, but is likely less than 100 gallons. Likewise, for the five overflows of December 31, 2005, the volume discharged is unknown. Since rainfall and Inflow/Infiltration were heavy during that day, it's likely that over 1000 gallons of combined wastewater and floodwater were spilled. The total civil liability assessed for collection system overflows is **\$20,000**.

b. Discharge of recycled water to unpermitted lands

The use of recycled water for fire suppression at the Geysers resulted in the discharge of 500,000 gallons of recycled water. An unknown amount of this water flowed into ephemeral drainages of the Russian River watershed. However, since the spill occurred during the dry season, it's likely that much of the discharged water either evaporated, or percolated into the soil, and did not have an impact on the quality of surface waters. Therefore, at the Regional Board's discretion, this violation will not be assessed a civil liability.

c. Spills of Recycled Water

The seven discharge prohibition/permit violations related to advance treated water spills from the irrigation system to receiving waters include six that resulted in discharged water reaching surface waters. These incidents were primarily due to equipment failure (pipeline separation, pipeline leaks, end cap blow off, etc.), human error, over-irrigation, and inundation of the Laguna treatment plant storage ponds during the New Year's Eve flood.

Dry-season discharges can result in short-term, effluent-dominated flows in small stretches of the Laguna. Although thorough receiving water monitoring was not conducted, impacts due to nutrients and temperature may occur during times when receiving waters are impacted from other nutrient and temperature

changes. Most of these releases were discharged to the Laguna de Santa Rosa, which is listed as impaired for sediments, dissolved oxygen, nutrients and temperature. Another potential deleterious effect of these discharges is the likelihood of turbidity and sediment discharge that may result from overland flow of high volumes (>100,000 gallons) of effluent traversing exposed soils prior to discharging to receiving waters.

Civil liability is being assessed for the six spills that reached receiving waters. Based on a review of the above facts and required factors, the civil liability for these discharges is **\$100,000**.

d. Bypass of Treatment Plant Processes

These three violations were the result of flooding during the December 31, 2006 flood in the Laguna de Santa Rosa. The City is providing flood protection for the Facilities' southern power distribution system by December 31, 2006. This will prevent the potential flooding of a key power distribution system that could result in the disinfection system and filter to be off line for an extended period of time. Plans to provide flood protection for the remainder of the Facilities are being proposed. The civil liability for these high volume discharges is **\$30,000**.

e. Effluent Violations

A discretionary civil liability is being assessed against the two effluent limit violations not related to the New Year's Eve flood. These were both violations of coliform limits, which could pose a threat to both human health and the environment. The civil liability for these violations is **\$6,000**.

f. Receiving Water Violations

Temperature – Elevated receiving water temperatures due to effluent discharges can, if extreme, be deleterious to aquatic life. The five temperature violations are assessed a total civil liability of **\$10,000**.

g. Water reclamation requirements

All nine violations of water reclamation requirements are due to excessive infiltration and inflow during extremely wet weather. Civil liability is assessed at **\$18,000**.

h. Solids Disposal

The two violations of solids disposal requirements can be serious violations, as they can pose a threat to human health. However, the City acted immediately to clean up the spills and to subsequently repair the faulty pressure line that caused

the spills. Surface water quality was not impacted; consequently, no civil liability will be assessed for these violations.

i. Monitoring and Reporting

The 44 monitoring and reporting violations consisted of isolated events (usually equipment failure). They are assessed a total civil liability of **\$10,500**.

2. A hearing shall be conducted on this Complaint by the Regional Board on April 26, 2007, unless the Discharger waives the right to a hearing by signing and returning the waiver form attached to this Complaint within 30 days of the date of this Complaint. By signing and returning the waiver form the Discharger agrees to :
 - a. Pay the total assessed penalty of \$194,500 to the State Water Resources Cleanup and Abatement Account (CAA) within thirty days of the date of this complaint, or
 - b. Propose a SEP (project) in the amount of \$104,750 and pay the balance of the penalty (\$89,750) to the CAA within thirty days for the date of this Complaint (or in compliance with a payment schedule issued in writing by the Executive Officer). The sum of the SEP (project) amount and the amount of the penalty to be paid to the CAA shall equal the full penalty amount of \$194,500.
3. If the Discharger chooses to propose an SEP, a proposal must be submitted within thirty days of the date of this Complaint to the Executive Officer for conceptual approval. Any SEP proposal shall conform to the requirements specified in Sections IX of the Enforcement Policy. The SEP proposal must include a time schedule, for concurrence by the Executive Officer, to address implementation and completion for the SEP. If the proposed SEP and/or implementation schedule is not acceptable, the Executive Officer may allow the Discharger thirty days to submit a new or revised proposal, or may demand that, during the same thirty-day period the Discharger remit all or a portion of the assessed penalties. All payments, including money not used for the SEP, must be payable to the State Water Pollution Cleanup and Abatement Account.
4. If the Discharger waives the hearing and pays the liability, the resulting settlement may become effective on the next day after the public comment period for this Complaint is closed, provided that there are no significant public comments on this Complaint during the public comment period. If there are significant public comments, the Executive Officer may withdraw the Complaint, reissue it as appropriate, or take other appropriate action.

5. If a hearing is held, the Regional Water Board may impose an administrative civil liability in the amount proposed or for a different amount; decline to seek civil liability; or refer the matter to the attorney General to have a Superior Court consider enforcement.
6. Regulations of the United States Environmental Protection Agency require public notification of any proposed settlement of the civil liability occasioned by violation of the Clean Water Act, including NPDES permit violations. Accordingly, interested persons will be given thirty days to comment on any proposed settlement of this Complaint.
7. The Executive Officer shall maintain jurisdiction over approved SEP implementation time schedules throughout the life of the SEP. If, given written justification from the Discharger, the Executive Officer determines that a delay in the SEP implementation schedule was beyond the reasonable control of the Discharger; the Executive Officer may revise the implementation schedule as appropriate.
8. Notwithstanding the issuance of this Complaint, the Regional Water Board shall retain the authority to assess additional penalties for violations of the Discharger's waste discharge requirements.

Ordered by: _____

Catherine E. Kuhlman
Executive Officer

February 1, 2007