

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

IN THE MATTER OF:)

NORTH COUNTY TRANSIT DISTRICT)

Facility: Sprinter Crouch Street Station)
Culvert Replacement Construction)

Violations of Effluent Limitations in Order)
No. 2001-96, NPDES NO. CAG919002,)
General Waste Discharge Requirements for)
Groundwater Extraction Waste Discharges)
From Construction, Remediation, and)
Permanent Groundwater Extraction)
Projects to Surface Waters within the San)
Diego Region except for San Diego Bay)

Mailing Address:)
810 Mission Boulevard)
Oceanside, CA 92054)

**COMPLAINT NO. R9-2009-0020
FOR
ADMINISTRATIVE CIVIL LIABILITY
WITH
MANDATORY MINIMUM PENALTIES**

February 2, 2009

) Place ID 633406
) WDID No. 9 000001410
) RM: 360462

NORTH COUNTY TRANSIT DISTRICT IS HEREBY GIVEN NOTICE THAT:

1. North County Transit District (NCTD) is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, San Diego Region (Regional Board) may impose civil liability pursuant to Section 13385 of the California Water Code (CWC). The violations alleged herein include violations of effluent limitations in waste discharge requirements for discharges of pollutants from point sources to navigable waters for which the Regional Board must impose mandatory minimum penalties (MMP).
2. Effluent discharged to Loma Alta Creek from NCTD's construction activity at the Sprinter Crouch Street Station Culvert Replacement Project is subject to the Regional Board's general waste discharge requirements for groundwater extraction waste discharges, NPDES Order No. R9-2001-0096.¹ Order No. R9-2001-0096 prescribes effluent limitations for the discharge of extracted groundwater to Loma Alta Creek.

¹ Order No. 2001-96, NPDES NO. CAG919002, *General Waste Discharge Requirements for Groundwater Extraction Waste Discharges From Construction, Remediation, and Permanent Groundwater Extraction Projects to Surface Waters within the San Diego Region except for San Diego Bay*. Order No. R9-2001-0096 was superseded on March 12, 2008 by Order No. R9-2008-0002.

3. CWC section 13385 requires that a MMP of \$3,000 be imposed for each serious violation. CWC section 13385 subdivision (h)(2) defines a 'serious' violation, as any waste discharge that violates an effluent limitation contained in waste discharge requirements (applying to surface water discharges) for a Group I pollutant by 40 percent or more or for a Group II pollutant by 20 percent or more.
4. CWC section 13385(i) also requires that an MMP of \$3,000 be imposed for each violation (i.e. any waste discharge that violates an effluent limitation contained in waste discharge requirements) beginning with the fourth violation in any six-month period.
5. In addition, every violation of an NPDES permit is subject to discretionary liability under CWC section 13385(a)(2), including violations not subject to mandatory minimum penalties under CWC sections 13385(h) or (i).

ALLEGATIONS

6. Effluent Limitation Violations. On June 30, 2006, NCTD reported, pursuant to the Monitoring and Reporting schedule for Order No. R9-2001-0096, effluent sampling results that document violations of effluent limitations prescribed by Order No. R9-2001-0096. See Attachment 1, *Reported Monitoring Results from January 30, 2006 Monitoring Report (Kleinfelder, Inc.)*.

7. Pursuant to CWC section 13385 subdivision (h), certain reported effluent violations are subject to mandatory minimum penalties as determined by the following:

Violation Date	Violation ID	Parameter	Effluent Limitation	Reported Value (percent over limitation)	Serious Violation Subject to MMP
5/9/2006	427153	Total Nitrogen Instantaneous Maximum	2.0 mg/L	3.3 mg/L (65% over)	Yes
5/9/2006	427146	Total Phosphorus Instantaneous Maximum	0.2 mg/L	0.4 mg/L (100% over)	Yes
5/17/2006	427154	Total Nitrogen Instantaneous Maximum	2.0 mg/L	2.6 mg/L (30% over)	No
5/17/2006	427152	Total Phosphorus Instantaneous Maximum	0.2 mg/L	0.3 mg/L (50% over)	Yes
May 2006	804477	Total Phosphorus Average Monthly Effluent Limitation	0.1 mg/L	0.2 mg/L ^a (100% over)	Yes
May 2006	804476	Total Nitrogen Average Monthly Effluent Limitation	1.0 mg/L	1.8 mg/L ^b (80% over)	Yes
<p>^a Average monthly concentration for total phosphorus determined by results from samples collected on May 6, 2006 (0.4 mg/L), May 17, 2006 (0.3 mg/L), May 19, 2006 (0.09 mg/L), and May 25, 2008 (0.02 mg/L)</p> <p>^b Average monthly concentration for total nitrogen determined by results from samples collected on May 6, 2006 (3.3 mg/L), May 17, 2006 (2.6 mg/L), May 19, 2006 (0.8 mg/L), and May 25, 2008 (0.5 mg/L).</p>					

8. On August 7, 2006, the Regional Board issued Notice of Violation (NOV) No. R9-2006-0103 to NCTD for violations of the total nitrogen and total phosphorus instantaneous maximum effluent limitations. The NOV indicated that the alleged instantaneous maximum effluent limitation violations were subject to mandatory minimum penalties. In its August 28, 2006 written response to the NOV, NCTD acknowledged the alleged violations and described management measures intended to prevent further violations.
9. On August 30, 2006 NCTD requested termination of enrollment to discharge pursuant to Order No. R9-2001-0096. On January 19, 2007 the Regional Board notified NCTD that it had terminated its enrollment and that NCTD remained subject to further enforcement actions for violations that occurred prior to termination.

PROPOSED CIVIL LIABILITY

10. Pursuant to CWC section 13385(h), the Regional Board must impose mandatory minimum penalties in the amount of fifteen thousand dollars (\$15,000) on the North County Transit District. Discretionary civil liability above the mandatory minimum for effluent violations alleged in this Complaint is not recommended.

Dated this 2nd day of February 2009

BY THE EXECUTIVE OFFICER



MICHAEL P. McCANN
Assistant Executive Officer

Signed pursuant to the authority
delegated by the Executive
Officer to the Assistant Executive
Officer

Attachment:

1. Monitoring and Reporting Data Submitted by North County Transit District on June 30, 2006

CIWQS Entries:

Reg Msr: 360462

Related Reg Msr (NPDES): 302982

Related Reg Msr (NOV): 307069

Place ID: 633406

Party ID: 31651

Violations: 427146, 427152, 427153, 427154, 804476, 804477

Attachment 1: Reported Monitoring Results from January 30, 2006 Monitoring Report (Kleinfelder, Inc.)

- a. Summary Table of Analytical Results for May 2006
- b. May 9, 2006 laboratory results from Calscience Environmental Laboratories, Inc.
- c. May 17, 2006 laboratory results from EnviroMatrix Analytical, Inc.
- d. May 19, 2006 laboratory results from Associated Laboratories
- e. May 25, 2006 laboratory results from Associated Laboratories. Note, the "date sampled" is incorrectly noted on the results page as "02/25/2006," although the "Order #" and "Client Sample ID" correctly match the cover page.

Table 3
Summary Table of Analytical Results for May 2006

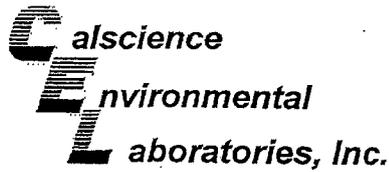
Required Analytical Constituent	Method	Constituent	Results	Permit Requirement	Pass/Fail
KA01-050906D – Discharge (Effluent) Initial Sample Collected on 5/9/06					
pH	EPA 150.1	pH	7.62 SU ✓	7.0 to 8.5 SU	PASS
Total Phosphorus	EPA 365.3	Total Phosphorus	0.40 mg/L	0.2 mg/L	FAIL
Total Nitrogen	EPA 300.0/351.3 (calculation)	Total Nitrogen	3.3 mg/L	2.0 mg/L	FAIL
Hydrogen Sulfide	HACH Model HS-C	H ₂ S	< 0.10 mg/L	10 µg/L	PASS
Settleable Solids	EPA 160.5	Settleable Solids	< 0.10 mL/L/hr	0.2 mL/L	PASS
Total Suspended Solids	EPA 160.2	TSS	< 1.0 mg/L	50 mg/L	PASS
Total Petroleum Hydrocarbons-gasoline	DHS LUFT	TPH-g	< 100 µg/L	0.5 mg/L	PASS
Total Petroleum Hydrocarbons-diesel	DHS LUFT	TPH-d	< 500 µg/L	0.5 mg/L	PASS
BTEX/MTBE	EPA 8260B	Benzene	< 0.50 µg/L	5 µg/L	PASS
		Ethylbenzene	< 1.0 µg/L	5 µg/L	PASS
		Toluene	< 1.0 µg/L	5 µg/L	PASS
		Total Xylenes	< 1.0 µg/L	5 µg/L	PASS
		MTBE	< 1.0 µg/L	5 µg/L	PASS
KA02-051706D – Discharge (Effluent) Regular Sample Collected on 5/17/06					
pH	EPA 150.1	pH	7.47 SU	7.0 to 8.5 SU	PASS
Total Phosphorus	SM4500 P B, E	Total Phosphorus	0.30 mg/L	0.2 mg/L	FAIL
Total Nitrogen	SM4500 NO ₃ E/ SM4500 N C (calculation)	Total Nitrogen	2.6 mg/L	2.0 mg/L	FAIL
Hydrogen Sulfide	SM4500 S D	H ₂ S	< 0.05 mg/L	10 µg/L	PASS
Total Settleable Solids	SM2540 F	Settleable Solids	< 0.20 mL/L	0.2 mL/L	PASS
Total Suspended Solids	SM2540 D	TSS	< 20 mg/L	50 mg/L	PASS
Total Petroleum Hydrocarbons-gasoline	EPA 8015M	TPH-g	< 20 µg/L	0.5 mg/L	PASS
Total Petroleum Hydrocarbons-diesel	EPA 8015M	TPH-d	< 500 µg/L	0.5 mg/L	PASS
BTEX/MTBE	EPA 8260B	Benzene	< 1.00 µg/L	5 µg/L	PASS
		Ethylbenzene	< 1.00 µg/L	5 µg/L	PASS
		Toluene	< 1.00 µg/L	5 µg/L	PASS
		Total Xylenes	< 2.00 µg/L	5 µg/L	PASS
		MTBE	< 1.00 µg/L	5 µg/L	PASS

Required Analytical Constituent	Method	Constituent	Results	Permit Requirement	Pass/Fail
52506-EFF-CS – Discharge (Effluent) Regular Sample Collected on 5/25/06					
pH	EPA 150.1	pH	7.86 SU ✓	7.0 to 8.5 SU	PASS
Total Phosphorus	EPA 365.2	Total Phosphorus (as P)	0.02 mg/L ✓	0.2 mg/L	PASS
Total Nitrogen	EPA 351-353 (calculation)	Total Nitrogen	0.5 mg/L ✓	2.0 mg/L	PASS
Hydrogen Sulfide	4500-S	Soluble Sulfide	< 0.1 mg/L	10 µg/L	PASS
Settleable Solids	EPA 160.5	Settleable Solids	< 0.1 ml/L	0.2 mL/L	PASS
Total Suspended Solids	SM2540 D	TSS	< 5.0 mg/L	50 mg/L	PASS
Total Petroleum Hydrocarbons-gasoline	TPH-DHS	TPH-g	< 50 µg/L	0.5 mg/L	PASS
Total Petroleum Hydrocarbons-diesel	EPA 8015	TEPH-Diesel	< 0.1 mg/L	0.5 mg/L	PASS
Total Recoverable Petroleum Hydrocarbons	EPA 418.1	TRPH	< 1.0 mg/L	NL	PASS
Volatile Organic Compounds (VOCs)	EPA 8260B	Benzene	< 1 µg/L	5 µg/L	PASS
		Ethylbenzene	< 5 µg/L	5 µg/L	
		Toluene	< 5 µg/L	5 µg/L	
		Total Xylenes	< 5 µg/L	5 µg/L	
		MTBE	< 1 µg/L	5 µg/L	
		Other VOCs	< 5 to < 200 µg/L	see Order 2001-96	
Phenols	EPA 8270C	Phenols	< 0.40 µg/L	1 µg/L	PASS
Semi-Volatile Organic Compounds (SVOCs)	EPA 8270C	SVOCs	< 10 to < 50 µg/L	see Order 2001-96	PASS
Metals	EPA 200.8	Arsenic	< 0.002 mg/L	0.05 mg/L	PASS
	EPA 200.8	Cadmium	< 0.001 mg/L	0.01 mg/L	PASS
	EPA 200.8	Copper	< 0.005 mg/L	0.114 mg/L	PASS
	EPA 200.8	Lead	< 0.005 mg/L	0.05 mg/L	PASS
	EPA 245.1	Mercury	< 0.0004 mg/L	0.002 mg/L	PASS
	EPA 200.8	Nickel	0.0021 mg/L ✓	0.61 mg/L	PASS
	EPA 200.8	Silver	< 0.005 mg/L	0.028 mg/L	PASS
	EPA 200.8	Zinc	0.039 mg/L ✓	0.776 mg/L	PASS
Hexavalent Chromium	EPA 218.6	Hexavalent Chromium	< 0.3 µg/L	80 µg/L	PASS
Cyanide	EPA 335.4	Cyanide	< 0.01 mg/L	0.04 mg/L	PASS
Tributyl Tin	ALCH535	Tributyl Tin	< 0.12 µg/L	NL ¹	PASS

Required Analytical Constituent	Method	Constituent	Results	Permit Requirement	Pass/Fail
51906-EFF-CS² – Discharge (Effluent) Additional Sample Collected on 5/19/06					
Total Phosphorus	EPA 365.2	Phosphate (as PO ₄)	0.09 mg/L ✓	0.2 mg/L	PASS
Total Nitrogen	EPA 300.0/351.2 (calculation)	Total Nitrogen	0.8 mg/L ✓	2.0 mg/L	PASS
60106-EFF-CS² – Discharge (Effluent) Additional Sample Collected on 6/1/06					
Total Phosphorus	EPA 365.2	Total Phosphorus (as P)	0.02 mg/L ✓	0.2 mg/L	PASS
Total Nitrogen	EPA 300-351 (calculation)	Total Nitrogen	< 0.5 mg/L ✓	2.0 mg/L	PASS
51806-INF-CS³ – Influent Sample Collected on 5/18/06					
Total Phosphorus	EPA 365.2	Total Phosphate (as PO ₄)	0.25 mg/L	0.2 mg/L	N/A
Total Nitrogen	EPA 300.0/351.2 (calculation)	Total Nitrogen	3.6 mg/L	2.0 mg/L	N/A

NOTES:

- 1 No instantaneous or daily maximum listed for Tributyl Tin
 - 2 Only total nitrogen and total phosphorus were analyzed because of exceedance to confirm effectiveness of treatment to below permit requirements.
 - 3 Influent sample collected by Pure Effect; only total nitrogen and total phosphorus were of concern (because of exceedance) so the analysis of the influent sample was limited to these analyses.
- SU standard units
 mg/L milligrams per liter
 mL/L milliliters per liter
 µg/L micrograms per liter
 H₂S hydrogen sulfide
 TSS total suspended solids
 TPH-g total petroleum hydrocarbon as gasoline
 TPH-d total petroleum hydrocarbon as diesel
 BTEX benzene, toluene, ethylbenzene, and xylene
 MTBE methyl tert-butyl ether
 TEPH total extractable petroleum hydrocarbon
 TRPH total recoverable petroleum hydrocarbon
 (as P) as phosphorus
 (as PO₄) as phosphate
 < XX not detected above reporting limit
 J laboratory estimated concentration; above method detection limit but below reporting limit
 NL not listed
 N/A not applicable
BOLD exceeds
- NPDES Permit requirements



Analytical Report



Kleinfelder, Inc.
5015 Shoreham Place
San Diego, CA 92122-5993

Date Received: 05/09/06
Work Order No: 06-05-0606
Preparation: N/A
Method: EPA 365.3

Project: Crouch St. / 58558

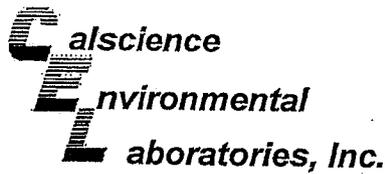
Page 1 of 1

Client Sample Number	Lab Sample Number	Date Collected	Matrix	Date Prepared	Date Analyzed	QC Batch ID
KA01-050906D	05-05-0606-1	05/09/06	Aqueous	05/15/06	05/15/06	60515TPL1

Parameter	Result	RL	DF	Qual	Units
Phosphorus, Total	0.40	0.10	1		mg/L
Method Blank		0.10	N/A		

Parameter	Result	RL	DF	Qual	Units
Phosphorus, Total	ND	0.10	1		mg/L

RL - Reporting Limit , DF - Dilution Factor , Qual - Qualifiers



Analytical Report



Kleinfelder, Inc.
5015 Shoreham Place
San Diego, CA 92122-5993

Date Received: 05/09/06
Work Order No: 06-05-0606
Preparation: N/A
Method: EPA 300.0
Units: mg/L

Project: Crouch St. / 58558

Page 1 of 1

Client Sample Number	Lab Sample Number	Date Collected	Matrix	Date Prepared	Date Analyzed	QC Batch ID
KA01-050906D	06-05-0606-1	05/09/06	Aqueous	N/A	05/10/06	060509L01

Parameter	Result	RL	DF	Qual	Parameter	Result	RL	DF	Qual
Nitrite (as N)	ND	0.10	1		Nitrate (as N)	3.3	0.1	1	
Method Blank									

Parameter	Result	RL	DF	Qual	Parameter	Result	RL	DF	Qual
Nitrite (as N)	ND	0.10	1		Nitrate (as N)	ND	0.10	1	

RL - Reporting Limit , DF - Dilution Factor , Qual - Qualifiers

Client Name: Kleinfelder, Inc.
Project Name: Crouch St.

EMA Log #: 0605311

Conventional Chemistry Parameters by Standard/EPA Methods

Analyte	Result	Reporting Limit	Units	Dilution	Batch	Prepared	Analyzed	Method	Notes
KA02-051706D (0605311-01) Liquid Sampled: 05/17/06 07:45 Received: 05/17/06 09:18									
Nitrate/Nitrite as N	2.63	0.50	mg/l	10	6051705	05/17/06	05/17/06	SM4500 NO3 E	
Total Kjeldahl Nitrogen	ND	0.5	"	1	6051813	05/18/06	05/18/06	SM4500 N C	
Total Nitrogen	2.6	0.5	"	"	6052217	05/19/06	05/19/06	Calculation	
pH	7.47	0.10	pH Units	"	6051718	05/17/06	05/17/06	EPA 150.1	
Phosphorus, Total	0.30	0.05	mg/l	"	6052315	05/23/06	05/24/06	SM4500 P B, E	
Total Settleable Solids	ND	0.20	ml/l	"	6051716	05/17/06	05/17/06	SM2540 F	
Total Suspended Solids	ND	20	mg/l	"	6052520	05/23/06	05/23/06	SM2540 D	
Hydrogen sulfide	ND	0.05	"	"	6051910	05/19/06	05/19/06	SM4500 S D	

The results in this report apply to the samples analyzed in accordance with the chain of custody document. This analytical report must be reproduced in its entirety.





ASSOCIATED LABORATORIES

806 North Batavia - Orange, California 92868 - 714/771-6900

FAX 714/538-1209

CLIENT Pure Effect, Inc. (10043)
ATTN: Jeff Sherod
611 W. Palm Avenue
Orange, CA 92868

LAB REQUEST 170070

REPORTED 05/22/2006

RECEIVED 05/19/2006

PROJECT Kleinfelder - Crouch Street - Oceanside, CA

SUBMITTER Client

COMMENTS P.O. #5192006-JS-CrouchStreet-SeeJeff

This laboratory request covers the following listed samples which were analyzed for the parameters indicated on the attached Analytical Result Report. All analyses were conducted using the appropriate methods as indicated on the report. This cover letter is an integral part of the final report.

Order No.

713012

713013

Client Sample Identification

51906-EFF-CS

Laboratory Method Blank

Thank you for the opportunity to be of service to your company. Please feel free to call if there are any questions regarding this report or if we can be of further service.

ASSOCIATED LABORATORIES by,

Edward S. Behare, Ph.D.
President

Unless notified in writing, all samples will be discarded by appropriate disposal protocol 30 days from date reported.

TESTING & CONSULTING
Chemical
Microbiological
Environmental

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Order #: 713012

Client Sample ID: 51906-EFF-CS

Matrix: WATER

Date Sampled: 05/19/2006

Time Sampled: 07:00

Method	Analyte	Result	DF	EQL	MDL	Units	Date/Analyst
300.0	Nitrate (as N)	0.5	/	1	0.1	0.01 mg/L	05/19/06 QN
300.0	Nitrate/Nitrite - N	0.5	/	1	0.1	0.04 mg/L	05/19/06 QN
300.0	Nitrite (as N)	ND	/	1	0.1	0.04 mg/L	05/19/06 QN
365.2	Phosphate (as PO4)	0.09	/	1	0.06	0.03 mg/L	05/19/06 DK
351.2	Total Kjeldahl Nitrogen (TKN)	0.3	/	1	0.4	0.2 mg/L	05/19/06 CM

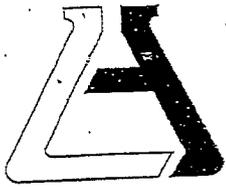
EQL = Estimated Quantitation Limit, MDL = Method detection limit, DF = Dilution Factor
ND = Not detected below indicated MDL, J=Trace, S = Surrogate outside control limits



ASSOCIATED LABORATORIES

Analytical Results Report

Lab Request 170070 results, page 1 of 2



ASSOCIATED LABORATORIES

806 North Batavia - Orange, California 92868 - 714/771-6900

FAX 714/538-1209

CLIENT Pure Effect, Inc.
ATTN: Jeff Sherod
611 W. Palm Avenue
Orange, CA 92868

(10043)

LAB REQUEST 170451

REPORTED 06/08/2006

RECEIVED 05/26/2006

PROJECT Kleinfelder-Crouch Street-Oceanside, CA

SUBMITTER Client

COMMENTS P.O. #5252006-JS-CrouchStreet-SeeJeff

This laboratory request covers the following listed samples which were analyzed for the parameters indicated on the attached Analytical Result Report. All analyses were conducted using the appropriate methods as indicated on the report. This cover letter is an integral part of the final report.

Order No.

714825

714826

Client Sample Identification

52506-EFF-CS

Laboratory Method Blank

Thank you for the opportunity to be of service to your company. Please feel free to call if there are any questions regarding this report or if we can be of further service.

ASSOCIATED LABORATORIES by,

Edward S. Behare, Ph.D.
Vice President

NOTE: Unless notified in writing, all samples will be discarded by appropriate disposal protocol 30 days from date reported.

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Chemical
Microbiological
Environmental

Order #: 714825

Client Sample ID: 52506-EFF-CS

Matrix: WATER

Date Sampled: 02/25/2006

Time Sampled: 06:22

Method	Analyte	Result	DF	EQL	MDL	Units	Date/Analyst
300.0	Nitrate (as N)	0.5	1	0.1	0.01	mg/L	05/26/06 QN
300.0	Nitrite (as N)	ND	1	0.1	0.04	mg/L	05/26/06 QN
353-351	TKN	ND	1	0.5		mg/L	06/01/06 CM
351-353	Total Nitrogen	0.5	1	0.5		mg/L	06/01/06 CM
365.2	Total Phosphate (as PO4)	0.06	1	0.06	0.03	mg/L	05/31/06 DK
365.2	Total Phosphorus as P	0.02	1	0.02	0.01	mg/L	05/31/06 DK

Estimated Quantitation Limit, MDL = Method detection limit, DF = Dilution Factor
Not detected below indicated MDL, J=Trace, S = Surrogate outside control limits



ASSOCIATED LABORATORIES

Analytical Results Report

Lab Request 170451 results, page 1 of 2