

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN FRANCISCO BAY REGION**

**COMPLAINT NO. 00-074**

**MANDATORY PENALTY  
IN THE MATTER OF  
CENTRAL MARIN SANITATION DISTRICT  
SAN RAFAEL  
MARIN COUNTY**

This complaint assesses Mandatory Penalties pursuant to Water Code section 13385(h) and/or (i) is issued to the Central Marin Sanitation District (hereafter Discharger) based on a finding of a violation of Waste Discharger Requirements Order No. 96-034 (NPDES No. CA0038628).

The Executive Officer finds the following:

1. On March 20, 1996, the Regional Water Quality Control Board, San Francisco Bay Region, (Regional Board) adopted Waste Discharge Requirements Order No. 96-034 (NPDES No. CA0038628), for Central Marin Sanitation Agency, to regulate discharges of waste from the wastewater treatment plant.
2. Water Code section 13385(h)(1) requires the Regional Board to assess a mandatory penalty of three thousand dollars (\$3,000) for the first serious violation in any six-month period or in lieu of the penalty require the discharger to spend an equal amount for a supplemental environmental project or to develop a pollution prevention plan.
3. Water Code section 13385(i)(1) requires the Regional Board to assess a mandatory penalty of three thousand dollars (\$3,000) for two or more serious violations in any 6-month period
4. Water Code section 13385(i)(2) states: A MMP of three thousand dollars (\$3,000) shall be assessed 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. Exceeds 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. Exceeds a toxicity discharge limitation where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.

5. Order No. 96-034 includes the following effluent limitation:

**B. Effluent Limitations**  
**4. Concentration Criteria for Toxic Pollutants**

(i) The effluent shall not exceed the following concentration limits:

Constituent	Monthly Avg.	Weekly Avg.	Instantaneous Maximum
Settleable Solids, ml/L/hr	0.1	---	0.2
Chlorine Residual, mg/L	---	---	0.0

(ii) Fecal Coliform. The discharger shall meet the following bacteriological quality:

- The five (5) day log mean fecal coliform density shall not exceed 200 MPN/100 mL; and
- The ninetieth percentile value of fecal coliform density shall not exceed 400 MPN/100 mL

(iii) Effluent Acute Toxicity: The survival of organisms in undiluted effluent shall be an eleven (11) sample median value of not less than 90 percent survival, and an eleven (11) sample 90 percentile value of not less than 70 percent survival.

6. According to monitoring reports submitted by the Discharger, the Discharger has three (3) serious violations and two (2) chronic violations during the six-month period beginning January 1, 2000, and ending on June 30, 2000 (see table). The amount of the mandatory penalty for the serious violations is \$9,000 (3 violations\* \$3,000). The amount of the mandatory penalty for the chronic violations is \$6,000 (2\* \$3,000).

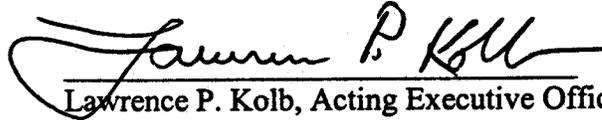
7. The total amount of the mandatory penalty is \$15,000.

**CENTRAL MARIN SANITATION DISTRICT IS HEREBY GIVEN NOTICE THAT:**

1. The Executive Officer of the Regional Board proposes that the Discharger be assessed a Mandatory Penalty in the amount of \$15,000.
2. A hearing shall be held by the Regional Board on October 18, 2000 unless the Discharger agrees to waive the hearing and pay the mandatory penalty of \$15,000 in full.
3. In lieu of the mandatory penalty for the first serious violation, the Executive Officer may allow the Discharger to complete a pollution prevention plan or conduct a supplemental

environmental project approved by the Executive Officer. The Discharger must make such a request by September 29, 2000.

4. The Discharger may waive the right to a hearing. If you wish to waive the hearing, please check the appropriate box and sign the attached waiver and return it and a check made payable to the State Water Resources Control Board for the full amount of the mandatory penalty, or a proposal pursuant to paragraph 3 above, to the Regional Board's office at 1515 Clay Street, Suite 1400, Oakland, CA 94612, by September 29, 2000.

  
Lawrence P. Kolb, Acting Executive Officer

9/21/2000  
Date

**WAIVER**

- By checking the box I agree to waive my right to a hearing before the Regional Board with regard to the violations alleged in Complaint No. 00-074 and to remit payment for the civil liability imposed. I understand that I am giving up my right to argue against the allegations made by the Acting Executive Officer in this Complaint, and against the imposition of, or the amount of, the civil liability proposed. I further agree to remit payment for the \$15,000 civil liability imposed under Complaint No. 00-074 by September 29, 2000.
  
- By checking the box I agree to waive my right to a hearing before the Regional Board with regard to the violations alleged in Complaint No. 00-074 and to complete a pollution prevention plan or conduct a supplemental environmental project in lieu of the civil liability imposed for the first serious violation, subject to approval by the Executive Officer. If the pollution prevention plan or supplemental environmental project is not acceptable to the Executive Officer, I agree to pay the civil liability within 30 days of a letter from the Executive Officer denying the approval of the proposed project. I understand that I am giving up my right to argue against the allegations made by the Executive Officer in this Complaint, and against the imposition of, or the amount of, the civil liability proposed. I further agree to complete a pollution prevention plan or conduct a supplemental environmental project approved by the Executive Officer within a time schedule set by the Executive Officer.

\_\_\_\_\_  
Name (print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title/Organization



# California Regional Water Quality Control Board

## San Francisco Bay Region

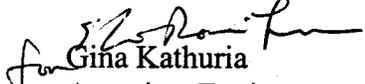


**Winston H. Hickox**  
Secretary for  
Environmental  
Protection

1515 Clay Street, Suite 1400, Oakland, California 94612  
Phone (510) 622-2300 • FAX (510) 622-2460

**Gray Davis**  
Governor

**TO:** Lawrence Kolb  
Acting Executive Officer

**FROM:**   
Gina Kathuria  
Associate Engineer

**DATE:** September 13, 2000

**SUBJECT:** MANDATORY MINIMUM PENALTY (MMP) FOR CENTRAL MARIN  
SANITATION AGENCY (CMSA)

### SUMMARY OF VIOLATIONS

#### **Serious Violations, as defined by Section 13385(h) and (i) of the California Water Code**

Attached is a table detailing each serious violation including type of violation, permit limit, and reported value. From January 2000 through June 2000, CMSA exceeded settleable solids limit by more than 40% on three (3) occasions, thus the plant is subject to penalties under Section 13385(h) and (i).

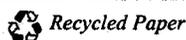
#### **Chronic Violations, as defined by Section 13385(i) of the California Water Code**

Attached is a table detailing each chronic violation including type of violation, permit limit, and reported value. From January 2000 through June 2000, CMSA exceeded their settleable solids, chlorine residual, acute toxicity, and coliform on six (6) occasions, thus the plant is subject to penalties under Section 13385(i).

For the following reasons I recommend we impose only the minimum penalty of \$15,000 for these permit violations:

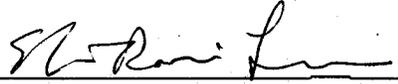
1. There are definitely both serious and chronic violations of their NPDES permit limits, see attached table for details. This was not due to any sampling, analytical, or reporting errors. The discharger has not raised any contention that these violations did not occur.
2. There are three (3) serious violations, as defined by Section 13385(h), during the first six months of 2000. Settleable solids is a Group I pollutant. For a Group I pollutant, a serious violation means any waste discharge that exceeds the effluent limitation by 40 percent or more.

*California Environmental Protection Agency*

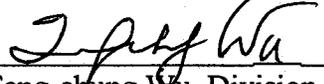


3. These settleable solids violations were due to extremely high rainfall-caused flows. On February 13, 2000, the final effluent flow was about 91 mgd, this is higher than the peak wet weather flow design of 90 mgd.
4. There are six (6) chronic violations, as defined Section 13385(i), during the first six months of 2000.
5. **Calculation of Penalties for Serious Violations.** Section 13385(h) states, "A MMP of three thousand dollars (\$3,000) shall be assessed for the first serious violation..." Section 13385(i) states a MMP of three thousand dollars (\$3,000) shall be assessed for each violation, not counting the first violation described in subdivision (h), if the person commits two or more serious violations in any 6-month period. As illustrated in the table, three (3) serious violations were reported. Therefore the MMP for serious violations is \$9,000 (3 @ \$3,000/each)
6. **Calculation of Penalties for Chronic Violations.** Section 13385(i) states, "A MMP of three thousand dollars (\$3,000) shall be assessed 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) exceeds 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) exceeds a toxicity discharge limitation where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants." As illustrated in the table, six (6) chronic violations were reported. Mandatory penalties are assessed only for the fourth and subsequent violations. Furthermore, to avoid penalizing the same violation twice, penalty for another one (1) chronic violation was not assessed as penalty has been assessed as a serious violation. Therefore the MMP for chronic violations is \$6,000 ((6-4) @ \$3,000/each) or (2 @ \$3,000/each).

If you have any questions please call me at 622-2378.

CONCUR:   
Shin-Roei Lee, Section Leader

DATE: 9/21/00

CONCUR:   
Teng-chung Wu, Division Chief

DATE: 9/21/00

