

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

COMPLAINT NO. 00-097

**MANDATORY MINIMUM PENALTY
IN THE MATTER OF
CITY OF PINOLE
PINOLE-HERCULES WASTEWATER TREATMENT PLANT
CONTRA COSTA COUNTY**

This complaint to assess Mandatory Minimum Penalties pursuant to Water Code section 13385 (h) and (i) is issued to the City of Pinole (hereafter Discharger) based on a finding of violations of Waste Discharger Requirements Order No. 94-111 (NPDES No. CA0037796).

The Executive Officer finds the following:

1. On September 21, 1994, the Regional Water Quality Control Board, Region, (Regional Board) adopted Waste Discharge Requirements Order No. 94-111 (NPDES Permit No. CA0037796), for the City of Pinole, to regulate discharges of waste from the Pinole-Hercules Wastewater Treatment Plant.
2. Water Code section 13385(h)(1) requires the Regional Board to assess a mandatory minimum 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 minimum penalty of three thousand dollars (\$3,000) each, for the second and subsequent serious violations in any 6-month period.
4. Water Code section 13385(i)(2) requires the Regional 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. 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. 94-111 includes the following effluent limitations:

"The effluent discharged to San Pablo Bay shall not exceed the following limits:

<u>Constituent</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Daily Maximum</u>	<u>Instantaneous Maximum</u>
b. Total Suspended Solids	mg/l	30	45	60	--
e. Chlorine Residual ¹	mg/l	--	--	--	0.0

¹ Requirement defined as below the limit of detection in standard test methods defined in *Standard Methods for the Examination of Water and Wastewater*.

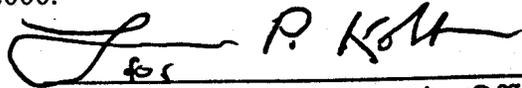
Coliform Bacteria: The treated wastewater, at some place in the treatment process prior to discharge, shall meet the following limits of bacteriological quality: The moving median value for the Most Probable Number (MPN) of total coliform bacteria in any (5) consecutive samples shall not exceed 240 MPN/100 ml; and any single sample shall not exceed 10,000 MPN/100 ml."

6. According to monitoring reports submitted by the Discharger, the Discharger had a total of one serious violation as defined by Section 13385 (h) during the first six months of 2000. The Discharger exceeded Effluent Limitation B.1.b, Total Suspended Solids daily maximum by more than 40 %. Therefore, the amount of the mandatory minimum penalty for this violation is \$3,000.
7. According to monitoring reports submitted by the Discharger, the Discharger had a total of five violations as defined by Section 13385 (i) (2) during the first six months of 2000. The attached table summarizes the violations. The mandatory minimum penalty assessed for these seven violations, not counting the first three, is (2 x \$3,000) \$6,000.
8. The total amount of the mandatory minimum penalty is \$9,000.

THE CITY OF PINOLE IS HEREBY GIVEN NOTICE THAT:

1. The Executive Officer of the Regional Board proposes that the Discharger be assessed a Mandatory Minimum Penalty in the amount of \$9,000.
2. The Regional Board shall hold a hearing on November 29, 2000 unless the Discharger agrees to waive the hearing and pay the mandatory minimum penalty of \$9,000 in full.
3. In lieu of the mandatory minimum penalty for the first serious violation, the Executive Officer may allow the Discharger to complete a pollution prevention plan (PPP) or conduct a supplemental environmental project (SEP) approved by the Executive Officer. The Discharger must make such a request by November 15, 2000.
4. The Discharger may waive the right to a hearing. If you wish to waive the hearing, please check the 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 (\$9,000), or a proposal pursuant to paragraph 3 above (PPP or SEP) with a check for

\$6,000, to the Regional Board's office at 1515 Clay Street, Suite 1400, Oakland, CA 94612, by November 15, 2000.

A handwritten signature in black ink, appearing to read "Loretta K. Barsamian". The signature is written in a cursive style with a large initial "L".

Loretta K. Barsamian, Executive Officer

11/9/00

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. 00-097 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 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 civil liability imposed under Complaint No. 00-097 by November 15, 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. 00-097 and to complete a pollution prevention plan or conduct a supplemental environmental project in lieu of the \$3,000 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 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: Loretta K. Barsamian
Executive Officer

FROM: 
James Nusrala
Associate Water Resource Control Engineer

DATE: November 8, 2000

SUBJECT: MANDATORY MINIMUM PENALTIES FOR CITY OF PINOLE

This year, during the month of February, of the City of Pinole (the Discharger) exceeded their total suspended solids (TSS) daily maximum limit on February 14, and both their TSS weekly average and monthly average limits on February 29. Board staff view these three violations as one serious violation, as the weekly and monthly February TSS exceedences are strictly mathematical propagations of the February 14, 2000 daily maximum TSS violations. This point is further discussed in bullet item 4 below. On April 28 and May 4, the Discharger exceeded their total coliform 5 sample moving median value. Finally, on February 14 and May 26 the Discharger exceeded the 0.0 mg/l chlorine residual effluent limit. Thus the plant is subject to penalties required under Water Code Section 13385 for the above total of five violations. Additionally, the February TSS daily maximum exceeded the permit limit of 60 mg/l by more than 40%. Therefore, this violation qualifies as a serious violations under Water Code Section 13385. For the following reasons I recommend the minimum penalty of \$9,000 for these permit violations:

1. There definitely were five violations, as defined under Water Code section 13385(i), during the period from January through June 2000 (1 TSS, 2 total coliform, and 2 chlorine residual). These violations are not due to any sampling, analytical, or reporting errors. The discharger has not raised any contention regarding the violations.
2. The daily maximum TSS violation, that occurred during the first six months of this year, is a serious violation, as defined under Water Code section 13385(h).
3. The February 14 TSS violation was due to excessive rainfall at the plant. On February 14 the instantaneous flow through the plant was 14.74 MGD, exceeding the peak flow design capacity of the plant of 10 MGD. The flows subsided, and the TSS value returned to normal by February 15.
4. Out of 13 TSS measurements during the month of February, only the February 14 value of 220 mg/l exceeded the monthly average limit of 30 mg/l. The February 14 TSS

violation alone caused the February weekly average and monthly average violations. Board staff considers the weekly and monthly TSS violations as strictly mathematical artifacts of the February 14 value, and thus classify the February TSS problems as one serious daily maximum TSS exceedence. Please see the attached Figure which illustrates the February variation of TSS at Pinole.

5. The positive chlorine residual violations on February 15 and May 26 were due to a hypochlorite malfunction. The malfunction was corrected each time, and the residual chlorine returned to 0.0 mg/l.
6. The two total coliform 5 sample median value excursions on April 28 and May 4 occurred when the Discharger was operating the plant in a nitrifying mode, and not enough chlorine was being applied. The plant adjusted the chlorine dosage each time, and the total coliform results returned to normal on May 2 and May 5 respectively.

If you have any questions please call me at 622-2320.

Concurred by *Greg Walker* for
Greg Walker, Section Leader

11-9-00
Date

Concurred by *Teng-Chung Wu*
Teng-Chung Wu, Division Chief

11-9-00
Date

PINOLE-HERCULES WASTEWATER TREATMENT PLANT

VIOLATIONS

Parameters in Violation	Permit Limit	Units	Date of Violation	Reported Value	Serious Violation	Mandatory Minimum Penalty
Total Suspended Solids Daily Maximum (Represents Weekly Average and Monthly Average as well)	Max. 60	mg/l	2/14/00	220	Yes	\$3,000
Chlorine Residual	Max 0.0	mg/l	2/15/00	0.1	No	
Total Coliform 5 Sample Moving Median	Max. 240	MPN/100 ml	4/28/00	300	No	
Total Coliform 5 Sample Moving Median	Max. 240	MPN/100 ml	5/4/00	300	No	\$3,000
Chlorine Residual	Max. 0.0	mg/l	5/26/00	0.9	No	\$3,000
Total Violations					5	
Serious Violations					1	

Violations under 13385 (i) (2), (first three are not counted, the fourth and subsequent violations equal \$3,000 each)
 Total Fine = (5-3) x \$3000 = 2 x \$3000 = \$6000

Serious Violation under 13385 (h); (each equals \$3,000); 1x \$3000 = \$3000

Total Mandatory Minimum Penalty

\$9,000

February Pinole Total Suspended Solids Values, mg/L

