

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

REVISED COMPLAINT NO. 00-099

**MANDATORY PENALTY
IN THE MATTER OF
WEST COUNTY AGENCY,
WEST COUNTY WASTEWATER DISTRICT, AND
CITY OF RICHMOND MUNICIPAL SEWER DISTRICT
CONTRA COSTA COUNTY**

This complaint to assess Mandatory Penalties pursuant to Water Code section 13385 (h) and/or (i). is issued to the West County Agency(hereafter Discharger) based on a finding of violations of Waste Discharger Requirements Order No. 94-014 (NPDES No. CA0038539).

The Executive Officer finds the following:

1. On January 19, 1994, the Regional Water Quality Control Board, Region, (Regional Board) adopted Waste Discharge Requirements Order No. 94-014 (NPDES Permit No. CA0038539), for the West County Agency, to regulate discharges of waste from the West County Wastewater District, and the City of Richmond Municipal Sewer District.
2. Water Code section 13385(h) 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) 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. 94-014 includes the following effluent limitations:

B. EFFLUENT LIMITATIONS

"1. The effluent discharged to the outfall 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>
a. Biochemical Oxygen Demand (BOD ₅ , 20 C)	mg/l	30	45	60	--
d. Settleable Matter	ml/l-hr	0.1	--	--	0.2

3. Total 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 1100 MPN/100 ml."
6. According to monitoring reports submitted by the Discharger, the Discharger had one serious violation as defined by Water Code Section 13385 (h) during the first 6 months of 2000. The Discharger exceeded Effluent Limitation B.1.d, Settleable Matter instantaneous maximum limit on March 5, 2000. Therefore, the amount of the mandatory penalty for this single violation is \$3,000.

According to monitoring reports submitted by the Discharger, the Discharger had seven (7) violations as defined by 13385 (i) (2) during the first 6 months of 2000. The attached table summarizes all of the violations in a chronological order. The mandatory penalty assessed for these violations not counting the first three is 4 x \$3,000, or \$12,000.

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

WEST COUNTY AGENCY 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. The Regional Board shall hold a hearing on November 29, 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 (PEP) 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

(\$15,000), or a proposal pursuant to paragraph 3 above (PPP or SEP) with a check for \$12,000, 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 "L. K. Barsamian", written over a horizontal line.

Loretta K. Barsamian, Executive Officer

11/21/00

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. 00-099 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. 00-099 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. 00-099 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 17, 2000

SUBJECT: MANDATORY MINIMUM PENALTIES FOR WEST COUNTY AGENCY

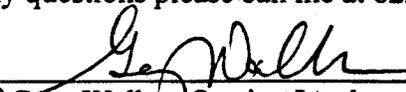
On March 5 and 31, the West County Agency (the Discharger) exceeded their instantaneous and monthly average settleable matter limits respectively. Board staff view these two violations as one serious violation, as the March monthly average settleable matter limit is strictly a mathematical propagation of the March 5 instantaneous settleable matter violation of 1.0 ml/l-hr. This point is further discussed in bullet item 5 below. During the month of April the Discharger exceeded their daily maximum, weekly average, and monthly average BOD limits once each. Finally, on February 11, May 22, and May 24, the Discharger exceeded the daily maximum total coliform limit of 240 MPN/100 ml. Thus, the plant is subject to penalties required under Water Code Section 13385 for the above eight violations. Additionally, the March 5 settleable matter value exceeded the permit limit (0.2 ml/l-hr instantaneous maximum) by more than 40%, thus this violation qualifies as a serious violation under Water Code Section 13385. For the following reasons I recommend we impose only the minimum penalty of \$15,000 for these permit violations:

1. There definitely were 7 violations, as defined under Water Code section 13385(i) (2), during the period from January through June 2000 (1 settleable matter, 3 BOD, and 3 total coliform). These violations are not due to any sampling, analytical, or reporting errors. The discharger has not raised any contention regarding the violations.
2. The March 5 settleable matter instantaneous maximum violation is classified as a serious violation, as defined under Water Code section 13385(h).
3. The elevated February 11 total coliform value occurred when the flow through the Richmond plant, 19.4 MGD, exceeded the average daily wet weather design capacity of the plant of 16 MGD. The problem was resolved, once the flow subsided, and the total coliform results returned to normal by February 12, 2000.
4. The elevated March 5 total settleable matter value occurred when the flow through the Richmond plant, 20.2 MGD, exceeded the average daily wet weather design capacity of

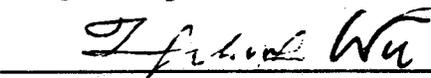
the plant of 16 MGD. The problem was resolved, once the flow subsided, and the settleable matter results returned to normal by March 6, 2000.

5. Out of 15 settleable matter measurements in March at the Richmond facility, only the March 5 value of 1.0 ml/l-hr exceeded either the instantaneous limit of 0.1, or the monthly average limit of 0.2 ml/l-hr. The March 5 violation alone cause the March average settleable matter violation. Board staff consider the March monthly average violation as strictly a mathematical manifestation of the March 5 instantaneous settleable matter exceedence. Please see the attached Figure which illustrates the March variation of settleable matter at the Richmond plant in relation to the instantaneous and monthly average permit limits.
6. The cause of the April daily maximum, weekly average, and monthly average BOD violations was a mechanical failure in the secondary treatment process at the Richmond facility which disabled the oxygen introduction system. The plant fixed the mechanical problem, and the BOD results returned to normal by April 21, 2000.
7. The BOD daily maximum exceedence of 70 mg/l on April 12, in combination with other BOD values which exceeded the monthly and weekly average permit limits, contributed to the violation of the April BOD monthly average limit. According to the State Board Memo dated December 6, 1999, these violations shall be considered as separate violations.
8. The cause of the May 22 and 24 total coliform violations was a mechanical failure in a secondary clarifier at the Richmond facility which disabled the sludge collection system, resulting in incomplete chlorination. The plant fixed the mechanical problem, and the total coliform results returned to normal by May 26, 2000.

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

Concurred by 
Greg Walker, Section Leader

11-17-00
Date

Concurred by 
Teng-Chung Wu, Division Chief

11-17-00
Date

Parameters in Violation	Permit Limit	Units	Date of Violation	Reported Value	Serious Violation	Mandatory Minimum Penalty
Total Coliform, Eff. Daily Max.	1100	MPN/100ml	2/11/00	1600	No	
Settleable Matter Instantaneous Maximum (Represents Monthly Average as well)	0.2	m/l-hr	3/5/00	1	Yes	\$3,000
BOD Weekly Average	45	mg/l	4/8/00	51	No	
BOD Daily Maximum	60	mg/l	4/12/00	70	No	\$3,000
BOD Monthly Average	30	mg/l	4/30/00	37.71	No	\$3,000
Total Coliform, Eff. Daily Max.	1100	MPN/100ml	5/22/00	1600	No	\$3,000
Total Coliform, Eff. Daily Max.	1100	MPN/100ml	5/24/00	1600	No	\$3,000
Total Violations					7	
Serious Violations					1	

Violations under 13385 (l) (2), (first three are not counted, the fourth and subsequent violations equal \$3,000 each)
 Total Fine = (7-3) x \$3000 = 4 x \$3000 = \$12000

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

Total Mandatory Minimum Penalty

\$15,000

March Richmond Settleable Matter Values (mL/L-Hr)

