



California Regional Water Quality Control Board

San Francisco Bay Region



Terry Tamminen
Secretary for
Environmental
Protection

1515 Clay Street, Suite 1400, Oakland, California 94612
(510) 622-2300 • Fax (510) 622-2460
<http://www.swrcb.ca.gov/rwqcb2>

Arnold Schwarzenegger
Governor

Date **OCT 08 2004**
File No. 2199.9328 (MTC)

CERTIFIED MAIL NO. 70032260000212595448
RETURN RECEIPT REQUESTED

Mr. Kazuo Ogata, President
Kobe Precision, Inc.
1510 Zephyr Avenue
Hayward, CA 94544

Subject: Mandatory Minimum Penalty (MMP) assessed under Water Code Section 13385
(h) and (i)

Dear Mr. Ogata,

Enclosed is Complaint No. R2-2004-0071. The Complaint alleges that during the period between January 1, 2002, and March 31, 2002, Kobe Precision, Inc. had several violations of its effluent discharge limits. The violations are subject to a \$6,000 MMP.

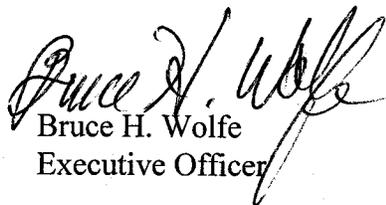
I plan to bring this matter to the Water Board at its November 17, 2004, meeting. You have three options:

1. You can appear before the Water Board at the meeting to contest the matter. Written comments are due by October 22, 2004. At the meeting the 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 case to the Attorney General to have a Superior Court consider imposition of a penalty.
2. You can waive the right to a hearing by signing the attached waiver form and checking the first box. There will be no hearing on this matter, provided Water Board staff receives no significant public comment during the comment period. By checking the first box and signing the waiver you agree to pay the liability within 30 days after the signed waiver becomes effective.

3. You can waive the right to a hearing and agree to undertake a Supplemental Environmental Project (SEP) by signing the waiver and checking the second box. There will be no hearing on this matter, provided Water Board staff receives no significant public comment during the comment period. By checking the second box and signing the waiver, you agree to complete an SEP in lieu of paying a suspended amount of up to \$6,000 of the penalty and remit the balance of the fine to the State Water Pollution Cleanup and Abatement Account within thirty (30) days after the signed waiver becomes effective. Note that the SEP must be acceptable to the Executive Officer of the Water Board. If the Executive Officer determines that either, the SEP proposal is not acceptable, or the SEP is not adequately completed within the approved time schedule, you will be required to pay the suspended liability within 30 days of notification by the Executive Officer.

For options 2 or 3 above, you are requested to mail and fax a copy of the signed waiver to the attention of Michael Chee at (510) 622-2460 no later than October 22, 2004, and if you intend to complete an SEP, a preliminary proposal must accompany the waiver for approval of concept. If you have any questions regarding this matter, please contact Michael Chee of my staff at (510) 622-2333 or email address mtc@rb2.swrcb.ca.gov.

Sincerely,


Bruce H. Wolfe
Executive Officer

Enclosure: Complaint No. R2-2004-0071

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

COMPLAINT NO R2-2004-0071
MANDATORY MINIMUM PENALTIES
IN THE MATTER OF
KOBE PRECISION, INC.
HAYWARD, ALAMEDA COUNTY

Pursuant to California Water Code Section 13385, this Complaint is issued to Kobe Precision, Inc. (hereinafter called the Discharger) to assess mandatory minimum penalties, based on a finding of the Discharger's violations of Waste Discharge Requirements contained in Order No. 97-141 (NPDES No. CA0030112) for the period between January 1, 2002, and March 31, 2002.

The Executive Officer finds the following:

1. On December 17, 1997, the Regional Water Quality Control Board, San Francisco Bay Region, (the Water Board) adopted Order No. 97-141 for the Discharger, to regulate discharges of waste from the Discharger's facility.
2. Water Code Section 13385(h)(1) requires the Water Board to assess an MMP of three thousand dollars (\$3,000) for each serious violation.
3. Water Code Section 13385(h)(2) defines "serious violation" as any waste discharge of a Group I pollutant that exceeds the effluent limitation contained in the applicable waste discharge requirements by 40 percent of more, or any waste discharge of a Group II pollutant that exceeds the effluent limitation by 20 percent of more.
4. Water Code Section 13385(i)(1) requires the Water Board to assess an MMP 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 consecutive months:
 - a. Violates a waste discharge requirement effluent limitation.
 - b. Fails to file a report pursuant to Section 13260.
 - c. Files an incomplete report pursuant to 13260.
 - d. Violates a toxicity effluent limitation contained in the applicable waste discharge requirements where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.
5. Effluent Limitations
Order No. 97-141 includes the following applicable effluent limitation:

The pH of the discharge shall not exceed 8.5 nor be less than 6.5.

6. Summary of Effluent Limit Violations

During the period between January 1, 2002, and March 31, 2002, the Discharger had five pH violations of its effluent discharge limit. The details of these pH limit violations are summarized in the attached Table 1, which is incorporated herein by reference, and described in the following finding.

7. pH

The first three pH violations (items 1-3 in Table 1) are all non-serious violations and count as the three chronic violations in the 180-day period counting back from March 3 2002, and are exempt from an MMP. The two remaining violations (items 4 and 5 in Table 1) are chronic violations and subject to an MMP since there have been four or more violations in a six-month period. Therefore, these violations are subject to a \$6,000 MMP.

8. Water Code Exception

Water Code Section 13385(j) provides some exceptions related to the assessment of an MMP for effluent limit violations. None of the exceptions apply to the violations cited in this Complaint.

9. MMP Assessment

The total MMP amount is \$6,000.

10. Partial Suspended MMP Amounts

Instead of paying the full penalty amount to the State Water Pollution Cleanup and Abatement Account, the Discharger may spend an amount up to \$6,000 on a supplemental environmental project (SEP) acceptable to the Executive Officer. Any such amount expended to satisfactorily complete an SEP will be permanently suspended.

11. SEP Categories

If the Discharger chooses to propose an SEP, the proposed SEP shall be in the following categories:

- a. Pollution prevention;
- b. Pollution reduction;
- c. Environmental clean-up or restoration; and
- d. Environmental education.

KOBE PRECISION, INC. IS HEREBY GIVEN NOTICE THAT:

1. The Executive Officer proposes that the Discharger be assessed an MMP in the total amount of \$6,000.
2. The Water Board will hold a hearing on this Complaint on November 17, 2004, unless the Discharger waives the right to a hearing by signing the last page of this Complaint and checks the appropriate box. By doing so, the Discharger agrees to:

- a. Pay the full penalty of \$6,000 within 30 days after the signed waiver becomes effective, or
 - b. Propose an SEP in an amount up to \$6,000. Pay the balance of the penalty within 30 days after the signed waiver becomes effective. The sum of the SEP amount and the amount of the fine to be paid to the State Water Pollution Cleanup and Abatement Account shall equal the full penalty of \$6,000.
3. If the Discharger chooses to propose an SEP, it must submit a preliminary proposal by October 22, 2004, to the Executive Officer for conceptual approval. Any SEP proposal shall also conform to the requirements specified in Section IX of the Water Quality Enforcement Policy, which was adopted by the State Water Resources Control Board on February 19, 2002, and the attached Standard Criteria and Reporting Requirement for Supplemental Environmental Projects. If the proposed SEP is not acceptable to the Executive Officer, the Discharger has 30 days from receipt of notice of an unacceptable SEP to either submit a new or revised proposal, or make a payment for the suspended penalty of \$6,000. All payments, including money not used for the SEP, must be payable to the State Water Pollution Cleanup and Abatement Account. Regular reports on the SEP implementation shall be provided to the Executive Officer according to a schedule to be determined. The completion report for the SEP shall be submitted to the Executive Officer within 60 days of project completion.
4. The signed waiver will 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 and reissue it as appropriate.
5. If a hearing is held, the 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 imposition of penalty.



Bruce H. Wolfe
Executive Officer

OCT 08 2004

Date

Table 1 – Violations Summary
Attachment A- Standard Criteria and Reporting Requirement for Supplemental Environmental
Projects

WAIVER

(The signed waiver will 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 and reissue it as appropriate.)

Waiver of the right to a hearing and agree to make payment in full.
By checking the box, I agree to waive my right to a hearing before the Board with regard to the violations alleged in Complaint No. R2-2004-0071 and to remit the full penalty payment to the State Water Pollution Cleanup and Abatement Account, c/o Regional Water Quality Control Board at 1515 Clay Street, Oakland, CA 94612, within 30 days after the signed waiver becomes effective as indicated above. I understand that I am giving up my right to be heard, and 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.

Waiver of right to a hearing and agree to make payment and undertake an SEP.
By checking the box, I agree to waive my right to a hearing before the Board with regard to the violations alleged in Complaint No. R2-2004-0071, and to complete a supplemental environmental project (SEP) in lieu of the suspended liability up to \$6,000. I also agree to remit payment of the balance of the fine to the State Water Pollution Cleanup and Abatement Account (CAA) within 30 days after the signed waiver becomes effective. I understand that the SEP proposal shall conform to the requirements specified in Section IX of the Water Quality Enforcement Policy, which was adopted by the State Water Resources Control Board on February 19, 2002, and be subject to approval by the Executive Officer. If the SEP proposal, or its revised version, is not acceptable to the Executive Officer, I agree to pay the suspended penalty amount for the SEP within 30 days of the date of the letter from the Executive Officer denying the approval of the proposed/revised SEP. I also understand that I am giving up my right to argue against the allegations made by the Executive Officer in the Complaint, and against the imposition of, or the amount of, the civil liability proposed. I further agree to satisfactorily complete the approved SEP within a time schedule set by the Executive Officer. I understand failure to adequately complete the approved SEP will require immediate payment of the suspended liability to the CAA.

Name (print)

Signature

Date

Title/Organization

Table 1: Violations --Kobe Precision (January 2002 to March 2002)

Item No.	DATE	POLLUTANT	EFFLUENT LIMIT	DAILY VALUE	Penalty / Comment		
					Chronic	Serious	
1	1/17/2002	pH	6.5 to 8.5	6.25	C1		
2	3/1/2002	pH	6.5 to 8.5	9.37	C2		
3	3/3/2002	pH	6.5 to 8.5	9.28	C3		
4	3/7/2002	pH	6.5 to 8.5	9.59	\$3,000		
5	3/21/2002	pH	6.5 to 8.5	8.85	\$3,000		
Number of Fineable Chronic Violations					2	\$6,000	
Number of Serious Violations					0	\$0	
Total Penalty						\$6,000	
Notations							
C(X) - Running chronic violation. First three are not penalized, fourth and subsequent violations are penalized at \$3,000 per violation.							
S - serious violation, penalized at \$3,000 per violation.							
ORDER NO. 97-141 WDID 2 019328001 File No. 2199.9328 NPDES PERMIT NO. CA 0030112							

