

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

**COMPLAINT NO. R2-2005-0050
MANDATORY MINIMUM PENALTY
IN THE MATTER OF
NOVATO SANITARY DISTRICT
NOVATO, MARIN COUNTY**

This complaint assesses Mandatory Minimum Penalties pursuant to Water Code sections 13385(h) and (i). It is issued to Novato Sanitary District (hereafter Discharger) based on a finding of violations of Waste Discharge Requirements Order Nos. 99-036 and 04-093 (NPDES No. CA0037958).

The Executive Officer finds the following:

1. On May 25, 1999, the Water Board adopted Order No. 99-036 for the Discharger, to regulate discharges of waste from its facility.
2. On November 17, 2004, the Water Board adopted Order No. 04-093 for the Discharger, to regulate discharges of wastewater from its facility. Order No. 04-093 became effective on February 1, 2005. Order No. 99-036 was superceded upon the effectiveness of Order No. 04-093.
3. Water Code Section 13385(h)(1) requires the Water Board to assess an MMP of three thousand dollars (\$3,000) for each serious violation.
4. 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 or more, or any waste discharge of a Group II pollutant that exceeds the effluent limitation by 20 percent or more.
5. 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 Section 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.
6. Water Code Section 13385(l) authorizes the Water Board to allow the discharger to undertake a Supplemental Environmental Project (SEP) for up to the full amount of the

penalty for liabilities less than or equal to \$15,000. For liabilities in excess of \$15,000, SEPs are authorized up to \$15,000 plus half the penalty amount that exceeds \$15,000.

7. Order Nos. 99-036 and 04-093 include the following effluent limitations:

B. Effluent Limitations (Order No. 99-036)

1.a. The effluent from the Novato Plant and the Ignacio Plant, from November 1 through April 30, individually, shall not exceed the following:

- Total Suspended Solids 30 mg/L monthly average;
- Settleable Matter 0.1 ml/L-hr instantaneous maximum, 0.2 ml/L-hr monthly average;
- Chlorine Residual 0.0 mg/L instantaneous maximum, applied to the combined effluent; and,
- Total Ammonia as N, 4.0 mg/L annual average, 6.0 mg/L monthly average.

b. The effluent from the Novato Plant and the Ignacio Plant, from May 1 through October 31, individually, shall not exceed the following:

- Settleable Matter, 0.2 ml/L-hr monthly average;
- Oil and Grease 5 mg/L monthly average;
- Chlorine Residual 0.0 mg/L instantaneous maximum, applied to the combined effluent; and,
- Total Ammonia as N, 4.0 mg/L annual average, 6.0 mg/L monthly average.

c. The effluent from the Ignacio Plant prior to November 1 or after April 30, shall not exceed:

- Interim Total Suspended Solids 23 mg/L monthly average.

2. The pH of the combined discharge shall not exceed 8.5.

3. Coliform Bacteria during the period of November 1 through April 30 for each plant shall be as follow:

- The moving median value for the MPN of total coliform bacteria in any seven consecutive samples shall not exceed 240 MPN/100 mL; and,
- Any single sample shall not exceed 10,000 MPN/100 mL.

From May 1 through October 31:

- The moving median value for the MPN of total coliform bacteria in any seven consecutive samples shall not exceed 23 MPN/100 mL; and,
- Any single sample shall not exceed 240 MPN/100 mL.

7. Cyanide in the combined effluent shall not exceed 5.0 ug/L daily average.

B. Effluent Limitations (Order No. 04-093)

1.a. The effluent from each plant, between November 1 and April 30, shall not exceed the following:

- Total Suspended Solids 30 mg/L monthly average;
- Chlorine Residual 0.0 mg/L instantaneous maximum, applied to the combined effluent; and,

- Oil & Grease 10 mg/L monthly Average.

1.b .The effluent from each plant, from May 1 through October 30, shall not exceed:

- Total Ammonia as N, 6.0 mg/L monthly average.

3. Treated wastewater from each plant shall not have a single effluent sample exceeding enterococcus of 276 MPN per 100mL.

4. The 85 per cent removal standard for total suspended solids applies to each plant.

6. The ammonia in the combined effluent shall not exceed 6.0 mg/L as a monthly average.

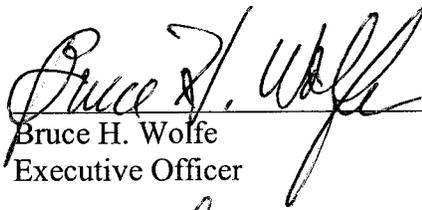
8. From March 5, 2001 to August 31, 2005, the Discharger exceeded its NPDES permit limits forty-nine times; no penalty has previously been assigned to these violations. A summary of the violations appears in Attachment A.
9. The nineteen settleable matter effluent limit violations are serious violations because settleable matter is a Group I pollutant and the violations exceed the effluent limitation by 40 percent or more. These serious violations are each subject to a \$3,000 MMP under Section 13385(h) for a total of \$57,000.
10. The six chlorine residual effluent limit violations are serious violations because chlorine is a Group II pollutant and the violations exceed the effluent limitation by 20 percent or more. These serious violations are each subject to a \$3,000 MMP under Section 13385(h) for a total of \$18,000.
11. Ammonia is a Group I pollutant. Three of the seven ammonia effluent limit violations are serious violations because the violations exceed the effluent limitation by 40 percent or more. These serious violations are each subject to a \$3,000 MMP under Section 13385(h) for a total of \$9,000. Four of the seven ammonia effluent limit violations are chronic violations because the violations exceed the effluent limitation by less than 40 percent. Because there were more than three effluent limit violations in the preceding 180 days, three of the four chronic ammonia effluent limit violations are each subject to a \$3,000 MMP under Section 13385(i) for a total of \$9,000.
12. Total suspended solids is a Group I pollutant. All four of the total suspended solids effluent limit violations are chronic violations because the violations exceed the effluent limitation by less than 40 percent, and because there were more than three effluent limit violations in the preceding 180 days, they are each subject to a \$3,000 MMP under Section 13385(i) for a total of \$12,000.
13. Total coliform is neither a Group I nor a Group II pollutant, but because there were more than three effluent limit violations in the preceding 180 days, five of the six total coliform effluent limit violations are each subject to a \$3,000 MMP under Section 13385(i) for a total of \$15,000.

14. The two cyanide effluent limit violations are serious violations because cyanide is a Group II pollutant and the violations exceed the effluent limitation by 20 percent or more. These serious violations are each subject to a \$3,000 MMP under Section 13385(h) for a total of \$6,000.
15. Enterococcus is neither a Group I nor a Group II pollutant, but because there were more than three effluent limit violations in the preceding 180 days, both enterococcus effluent limit violations are subject to a \$3,000 MMP under Section 13385(i) for a total of \$6,000.
16. pH is neither a Group I nor a Group II pollutant but because there were more than three effluent limit violations in the preceding 180 days, both pH effluent limit violations are subject to a \$3,000 MMP under Section 13385(i) for a total of \$6,000.
17. Oil and Grease is a Group I pollutant. The one oil and grease violation exceeds the effluent limitation by 40 percent or more. This serious violation is subject to a \$3,000 MMP under Section 13385(h) for \$3,000.
18. Water Code Section 13385(j) provides for 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.
19. The total MMP amount is \$141,000.
20. The Discharger is improving its treatment plant to address compliance issues. The Discharger is completing the design of a \$75 million wastewater facility upgrade. Construction is scheduled to start in June 2006, with full compliance anticipated by March 2008. The Discharger is also making interim improvements including solids processing upgrades, wet weather flow reduction, as well as a new dechlorination facility to address compliance problems.
21. In lieu of the first \$15,000 of the penalty the discharger may be permitted to conduct a supplemental environmental project (SEP) approved by the Executive Officer. Of the penalty amount in excess of \$15,000 the discharger may be permitted to contribute 50% towards an SEP. Thus, \$78,000 of the \$141,000 penalty in this complaint is eligible for SEP substitution.

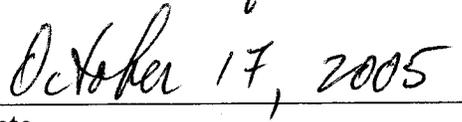
NOVATO SANITARY DISTRICT IS HEREBY GIVEN NOTICE THAT:

1. The Executive Officer of the Water Board proposes that the Discharger be assessed a MMP in the amount of \$141,000.
2. The Water Board shall hold a hearing on this Complaint on November 16, 2005, unless the Discharger waives the right to a hearing by signing the last page of this Complaint and checking the appropriate box, and there is no significant public comment. By doing so, the Discharger agrees to:
 - a. Pay the full penalty of \$141,000 within 30 days after the signed waiver becomes effective as indicated in item 4 below, or

- b. Pay a penalty of a minimum of \$63,000, and complete an SEP in an amount equivalent to a maximum of \$78,000. The sum of the SEP amount and the amount of the fine to be paid to the State Board shall equal the full penalty amount of \$141,000.
3. If the Discharger chooses to propose an SEP, it must submit a proposal by November 2, 2005, for the Executive Officer's approval. Any 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. 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 amount. All payment, including any money not expended 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 becomes effective upon closure of the public comment period for this Complaint, provided no significant public comment is received by Board staff by the due date indicated in the appropriate public notice.
5. If a hearing is held, the Water Board will consider whether to affirm, reject, or modify the proposed administrative civil liability, or whether to refer the matter to the Attorney General for recovery of the civil liability.



Bruce H. Wolfe
Executive Officer



Date

VIOLATIONS – ATTACHMENT A

Item No.	Date of Violation	Parameters in Violation	Permit Limit	Reported Value	Serious/Chronic	Amount Fined
1	5-Mar-01	Novato Settleable Matter	0.2	0.8	S1	\$3,000
2	5-Mar-01	Ignacio Settleable Matter	0.2	0.4	S2	\$3,000
3	2-Apr-01	Ignacio Settleable Matter	0.2	0.7	S3	\$3,000
4	8-Nov-01	Combined Chlorine Residual	0.0	0.2	S4	\$3,000
5	12-Nov-01	Ignacio Settleable Matter	0.2	0.3	S5	\$3,000
6	24-Nov-01	Combined Chlorine Residual	0.0	3	S6	\$3,000
7	30-Nov-01	Combined Cyanide	5	7	S7	\$3,000
8	4-Dec-01	Ignacio Settleable Matter	0.2	0.3	S8	\$3,000
9	5-Dec-01	Ignacio Settleable Matter	0.2	0.4	S9	\$3,000
10	6-Dec-01	Ignacio Settleable Matter	0.2	0.4	S10	\$3,000
11	31-Dec-01	Ignacio Ammonia	6.0	8.96	S11	\$3,000
12	31-Dec-01	Ignacio Ammonia	4.0	4.42	Over 3 chronic violations in a 180-day period: C1	\$3,000
13	5-Feb-02	Combined Cyanide	5	6	S12	\$3,000
14	22-Apr-02	Ignacio Settleable Matter	0.2	0.9	S13	\$3,000
15	30-Apr-02	Ignacio Total Suspended Solids	30	35.1	Over 3 chronic violations in a 180-day period: C2	\$3,000
16	29-May-02	Ignacio Ammonia	6.0	17.1	S14	\$3,000
17	30-Nov-02	Ignacio Ammonia	6.0	7.18	<u>Chronic violation, not fined</u>	
18	16-Dec-02	Ignacio Total Coliform	10000	16000	<u>Chronic violation, not fined</u>	
19	16-Dec-02	Novato Settleable Matter	0.2	4.5	S15	\$3,000
20	20-Dec-02	Ignacio Settleable Matter	0.2	0.4	S16	\$3,000
21	31-Dec-02	Ignacio Ammonia	6.0	8.6	S17	\$3,000
22	31-Dec-02	Novato Settleable Matter	0.1	0.2	S18	\$3,000

23	31-Jan-03	Ignacio Ammonia	6.0	8.2	Over 3 chronic violations in a 180-day period: C3	\$3,000
24	7-Feb-03	Ignacio Settleable Matter	0.2	0.3	S19	\$3,000
25	13-Feb-03	Ignacio Settleable Matter	0.2	0.3	S20	\$3,000
26	24-Feb-03	Novato Settleable Matter	0.2	0.5	S21	\$3,000
27	9-Mar-03	Combined Chlorine Residual	0.0	0.9	S22	\$3,000
28	5-May-03	Ignacio Total Coliform	240	1600	Over 3 chronic violations in a 180-day period: C4	\$3,000
29	7-May-03	Ignacio Settleable Matter	0.2	0.5	S23	\$3,000
30	12-May-03	Ignacio Total Coliform	240	920	Over 3 chronic violations in a 180-day period: C5	\$3,000
31	16-May-03	Ignacio Total Coliform	23	27	Over 3 chronic violations in a 180-day period: C6	\$3,000
32	31-May-03	Ignacio Total Suspended Solids	23	25.7	Over 3 chronic violations in a 180-day period: C7	\$3,000
33	2-Jan-04	Combined Chlorine Residual	0.0	8.5	S24	\$3,000
34	9-Mar-04	Combined Chlorine Residual	0.0	1	S25	\$3,000
35	19-Nov-04	Ignacio Total Coliform	240	500	Over 3 chronic violations in a 180-day period: C8	\$3,000
36	19-Nov-04	Ignacio pH	8.5	8.6	Over 3 chronic violations in a 180-day period: C9	\$3,000
37	6-Jan-05	Ignacio Plant Settleable Matter	0.2	0.4	S26	\$3,000
38	7-Jan-05	Ignacio Plant Settleable Matter	0.2	1.4	S27	\$3,000

39	7-Jan-05	Novato Plant Total Coliform Daily	10000	16000	Over 3 chronic violations in a 180-day period: C10	\$3,000
40	8-Jan-05	Ignacio Plant Settleable Matter	0.2	0.4	S28	\$3,000
41	31-Jan-05	Ignacio Plant Settleable Matter	0.1	0.5	S29	\$3,000
42	18-Feb-05	Combined Chlorine Residual Instant mg/L	0.0	4.5	S30	\$3,000
43	21-Mar-05	Ignacio pH	8.5	8.8	Over 3 chronic violations in a 180-day period: C11	\$3,000
44	22-Mar-05	Novato Plant Daily Enterococcus	276	866.4	Over 3 chronic violations in a 180-day period: C12	\$3,000
45	23-Mar-05	Novato Plant Daily Enterococcus	276	517.2	Over 3 chronic violations in a 180-day period: C13	\$3,000
46	30-Apr-05	Ignacio Total Suspended Solids	30	33.5	Over 3 chronic violations in a 180-day period: C14	\$3,000
47	30-Apr-05	Ignacio Total Suspended Solids	Min 85	81.9	Over 3 chronic violations in a 180-day period: C15	\$3,000
48	30-Apr-05	Ignacio Oil and Grease	10	16	S31	\$3,000
49	31-May-05	Ammonia Combined	6.0	7.1	Over 3 chronic violations in a 180-day period: C16	\$3,000
					16	
Number of Fineable Chronic Violations					31	
Number of Serious Violations						
Total Penalty						\$141,000

WAIVER

(The signed waiver becomes effective upon closure of the public comment period for this Complaint, provided no significant public comment is received by Board staff by the due date indicated in the appropriate public notice.)

- Waiver of the right to a hearing and agreement to make payment in full
By checking the box, I agree to waive my right to a hearing before the Water Board with regard to the violations alleged in Complaint No. R2-2005-0050 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 the right to a hearing and agreement to propose and complete an SEP
By checking the box, I agree to waive my right to a hearing before the Water Board with regard to the violations alleged in Complaint No. R2-2005-0050, and to complete a supplemental environmental project (SEP) in lieu of the suspended liability not to exceed \$78,000. I also agree to 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. The sum of the SEP amount and the amount of the fine to be paid shall equal the full penalty amount of \$141,000. 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 within 30 days of a letter from the Executive Officer denying the approval of the proposed 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 mandatory minimum penalty proposed. I further agree to complete the approved SEP within a time schedule set by the Executive Officer.

Name (print)

Signature

Date

Title/Organization