

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

COMPLAINT NO. R2-2002-0034

MANDATORY PENALTY
IN THE MATTER OF
HANSON AGGREGATES (SAN FRANCISCO SAND YARD)
SAN FRANCISCO COUNTY

This complaint to assess mandatory minimum penalties pursuant to Water Code Sections 13385 (h) and (i), is issued to the Hanson Aggregates, San Francisco Sand Yard, (hereafter Discharger) based on a finding of violations of Waste Discharge Requirements Order No. 98-062 (NPDES No. CA0030139).

The Executive Officer finds the following:

1. On December 16, 1998, the Regional Water Quality Control Board, San Francisco Bay Region, (Regional Board) adopted Waste Discharge Requirements Order No. 98-062, for the Discharger, to regulate discharges of waste from this 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(h)(2) defines a serious violation as any waste discharge of a Group I pollutant that exceeds the effluent limitation by 40 percent or more, or any waste discharge of a Group II pollutant that exceeds the effluent limitation by 20 percent or more.
4. Water Code Section 13385(i) requires the Regional Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each violation, excepting the first three violations, for any of the following occurrences four or more times in any six-month period:
 - a. Exceeding a waste discharge requirement effluent limitation.
 - b. Failure to file a report pursuant to Section 13260.
 - c. Filing an incomplete report pursuant to Section 13260.
 - d. Exceeding a toxicity discharge limitation where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.

5. Order No. 98-062 include the following effluent limitations:

B. Effluent Limitations

1. *The effluent shall not exceed the following limits:*

Total Suspended Solids daily maximum of 45 mg/l and monthly average of 30 mg/l

6. According to monitoring reports received, there were a total of 28 effluent limit violations of your NPDES permit during the period between January 1, 2001 and March 31, 2001.
7. There were total suspended solids daily maximum effluent limit violations on January 17, 18, 19, 22, 23, 24, 25, 26, 29, 30 and 31, 2001, and February 5, 6, 7, 8, 9, 20, 22 and 23, 2001, and March 5, 6, 7, 8, 9 and 12, 2001. A listing of these violations is presented in Table 1.
8. There were total suspended solids monthly average effluent limit violations on January 31, February 28, and March 31, 2001.
9. The twenty two total suspended solids daily maximum effluent limit violations on January 17, 18, 19, 22, 23, 24, 25, 26, 29, 30, and 31, 2001, and February 5, 6, 7, 8 and 9, 2001, and March 5, 6, 7, 8, 9, and 12, 2001; and the three total suspended solids monthly average effluent limit violations on January 31, February 28, and March 31, 2001, are serious violations because total suspended solids is a Group I pollutant and the violations exceed the effluent limitation by 40 percent or more. All serious violations are subject to a mandatory minimum \$3,000 penalty under Section 13385 (h) (1), for a mandatory penalty of \$75,000 for the 25 violations.
10. The three total suspended solids daily maximum effluent limit violations on February 20, 22 and 23, 2001 are not serious violations under Section 13385 (h) (1). The violations are subject to mandatory penalty under Section 13385 (i) as there have been four or more (six) violations within the preceding 180 days. The mandatory minimum penalty for each violation under Section 13385 (i) is \$3,000, for a mandatory penalty of \$9,000 for the 3 violations.
11. In lieu of the \$3,000 penalty for the first serious violation in the preceding 180 days the discharger may be permitted to complete a pollution prevention plan (PPP) or conduct a supplemental environmental project (SEP) approved by the Executive Officer.

HANSON AGGREGATES (OAKLAND) IS HEREBY GIVEN NOTICE THAT:

1. The Executive Officer of the Regional Board proposes that the Discharger be assessed a minimum mandatory penalty in the amount of \$ 84,000.
2. A hearing shall be held by the Regional Board on May 22, 2002 unless the Discharger agrees to waive the hearing and pay the mandatory minimum penalty of \$84,000 in full, or pay a penalty of \$81,000 and propose a pollution prevention plan or a supplemental environmental project equivalent to \$3,000.

3. You can waive the right to a hearing by signing the last page of the Complaint and checking the appropriate box. By doing so, you agree to pay the liability within 30 days of signing the waiver.

4. If a hearing is held, the Regional Board will consider whether to affirm, reject, or modify the proposed penalty, or whether to refer the matter to the Attorney General to have a Superior Court consider imposition of a penalty.

Loretta K. Barsamian

Loretta K. Barsamian
Executive Officer

April 10, 2002

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. R2-2002-0034 and to remit payment for the civil liability imposed to the State Water Resources Control Board at 1515 Clay Street, Oakland CA 94612. 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 within 30 days after signing this 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. R2-2002-0034 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

Table 1: Effluent Limit Violations - Hanson Aggregates (San Francisco Sand Yard)

Violation No.	Finding No.	DATE OF VIOLATION	EFFLUENT LIMITATION DESCRIPTION	EFFLUENT REPORTED LIMIT	VALUE E-001	COMMENTS	
						Penalty / Comment Chronic	Start of 180 days Serious
1	9	17-Jan-01	TSS Daily maximum violation	45 mg/L	69 mg/L.	SEP	\$3,000
2	9	18-Jan-01	TSS Daily maximum violation	45 mg/L	66 mg/L.		\$3,000
3	9	19-Jan-01	TSS Daily maximum violation	45 mg/L	66 mg/L.		\$3,000
4	9	22-Jan-01	TSS Daily maximum violation	45 mg/L	72 mg/L.		\$3,000
5	9	23-Jan-01	TSS Daily maximum violation	45 mg/L	85 mg/L.		\$3,000
6	9	24-Jan-01	TSS Daily maximum violation	45 mg/L	120 mg/L.		\$3,000
7	9	25-Jan-01	TSS Daily maximum violation	45 mg/L	100 mg/L.		\$3,000
8	9	26-Jan-01	TSS Daily maximum violation	45 mg/L	130 mg/L.		\$3,000
9	9	29-Jan-01	TSS Daily maximum violation	45 mg/L	610 mg/L.		\$3,000
10	9	30-Jan-01	TSS Daily maximum violation	45 mg/L	610 mg/L.		\$3,000
11	9	31-Jan-01	TSS Daily maximum violation	45 mg/L	630 mg/L.		\$3,000
12	9	31-Jan-01	TSS Monthly Average violation	30 mg/L	129 mg/L.		\$3,000
13	9	5-Feb-01	TSS Daily Maximum violation	45 mg/L	70 mg/L.		\$3,000
14	9	6-Feb-01	TSS Daily Maximum violation	45 mg/L	71 mg/L.		\$3,000
15	9	7-Feb-01	TSS Daily Maximum violation	45 mg/L	73 mg/L.		\$3,000
16	9	8-Feb-01	TSS Daily Maximum violation	45 mg/L	69 mg/L.		\$3,000
17	9	9-Feb-01	TSS Daily Maximum violation	45 mg/L	65 mg/L.		\$3,000
18	10	20-Feb-01	TSS Daily Maximum violation	45 mg/L	57 mg/L.	\$3,000	24-Aug-00
19	10	22-Feb-01	TSS Daily Maximum violation	45 mg/L	53 mg/L.	\$3,000	26-Aug-00
20	10	23-Feb-01	TSS Daily Maximum violation	45 mg/L	50 mg/L.	\$3,000	27-Aug-00
21	9	28-Feb-01	TSS Monthly Average violation	30 mg/L	42 mg/L.		\$3,000
22	9	5-Mar-01	TSS Daily Maximum violation	45 mg/L	130 mg/L.		\$3,000
23	9	6-Mar-01	TSS Daily Maximum violation	45 mg/L	130 mg/L.		\$3,000
24	9	7-Mar-01	TSS Daily Maximum violation	45 mg/L	130 mg/L.		\$3,000
25	9	8-Mar-01	TSS Daily Maximum violation	45 mg/L	120 mg/L.		\$3,000
26	9	9-Mar-01	TSS Daily Maximum violation	45 mg/L	120 mg/L.		\$3,000
27	9	12-Mar-01	TSS Daily Maximum violation	45 mg/L	79 mg/L.		\$3,000
28	9	31-Mar-01	TSS Monthly Average violation	30 mg/L	46 mg/L.		\$3,000
				Number of Chronic Violations	3	\$9,000	
				Number of Serious Violations	25		\$75,000
				Total Penalty			\$84,000

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.
 SEP - serious violation eligible for SEP or PPP