

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION
895 Aerovista Lane, Suite 101
San Luis Obispo, California 93401**

ORDER NO. R3-2004-0132

**MANDATORY PENALTY
IN THE MATTER OF THE
CITY OF LOMPOC
WASTEWATER TREATMENT PLANT
SANTA BARBARA COUNTY**

This Order to assess Mandatory Minimum Penalties pursuant to California Water Code section 13385(h) and (i) is issued to the City of Lompoc (Discharger) based on a finding of violations of Waste Discharge Requirements Order No. 01-87, National Pollutant Discharge Elimination System (NPDES) Permit No. CA0048127.

The Executive Officer finds the following:

1. On May 18, 2001, the Regional Water Quality Control Board, Central Coast Region (Regional Board), adopted *Waste Discharge Requirements Order No. 01-87, NPDES Permit No. CA0048127, for the City of Lompoc, Santa Barbara County* (Order No. 01-87).
2. California Water Code section 13385(h)(1) requires the Regional Board to assess a mandatory penalty of three thousand dollars (\$3,000) for each serious violation.
3. California Water Code section 13385(i) 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 a consecutive 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; or
 - d) Exceeds 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.
4. California Water Code section 13385(l) states: "(1) In lieu of assessing penalties pursuant to subdivision (h) or (i), the...regional board, with the concurrence of the discharger, may direct a portion of the penalty amount to be expended on a supplemental environmental project in accordance with the enforcement policy of the state board. If the penalty amount exceeds fifteen thousand dollars (\$15,000), the portion of the penalty amount that may be directed to be expended on a supplemental environmental project may not exceed fifteen thousand dollars (\$15,000) plus 50 percent of the penalty amount that exceeds fifteen thousand dollars (\$15,000)."
5. California Water Code section 13385(h)(2) provides a serious violation occurs if the discharge exceeds the effluent limitations for a Group II pollutant, as specified in Appendix A to section 123.45 of Title 40 Code of Federal Regulations, by 20 percent or more or for a Group I pollutant, as specified in Appendix A to section 123.45 of Title 40 Code of Federal Regulations, by 40 percent or more.

6. Un-ionized ammonia, pH and Settleable Solids are Group I Pollutants.
7. Acute toxicity, Total Chlorine Residual, chronic and acute ceriodaphnia toxicity are Group II pollutants.
8. Order No. 01-87 includes the following:

Effluent Limitation B.3, Table B

Constituent	Units	Effluent Limit
Chronic Toxicity	TUc	1
Acute Toxicity	TUa	P/F

Effluent Limitation B.6

When the Discharger continually monitors pH of wastewater, levels shall be maintained within the specified range 99 percent of the time. To determine 99 percent compliance, the following conditions shall be met:

- a) The total time during which the pH residual values are outside the range 6.5 to 8.3 (instantaneous maximum value) shall not exceed 7 hours and 26 minutes in any calendar month;
- b) No individual excursion from this range shall exceed 30 minutes; and
- c) No individual excursion shall fall outside the range 6.0 to 9.0 for any period of time.

Effluent Limitation B.8

Effluent discharged to the creek shall be adequately disinfected so the median most probable number (MPN) of total coliform organisms in the effluent does not exceed 23 per 100 milliliters based on the results of not less than seven samples for any 30-day period, shall not exceed a log mean of 200 MPN per 100 mL, nor shall more than 10 percent of the total samples during any 30-day period exceed 400 MPN per 100 mL.

Effluent Limitation B.9

Compliance determinations for total chlorine residual shall be based on 99 percent compliance. To determine 99 percent compliance with effluent limitations for total chlorine residual, the following conditions shall be satisfied.

- a) The total time during which the total chlorine residual values are above 0.01 mg/L (instantaneous maximum value) shall not exceed 7 hours and 26 minutes in any calendar month.
- b) No individual excursion above 0.01 mg/L shall exceed 30 minutes, and
- c) No individual excursion shall exceed 0.1 mg/L.

Effluent Limitations B.3:

Constituent	Units	Monthly (30-Day) Average	Weekly (7-Day) Average	Daily Maximum
Un-ionized ammonia	mg/L	-	0.025	-
Settleable solids	mL/L	0.1	-	0.3

9. **Serious Thresholds** – Effluent containing constituent concentrations that are greater than or equal to the following values (limit + 40% for Group I pollutants, limit + 20% for Group II pollutants) are serious violations:

Constituent	Units	Monthly (30-Day) Average	Weekly (7-Day) Average	Daily Maximum
Un-ionized ammonia	mg/L	-	0.035	-
Settleable solids	mL/L	0.14	-	0.42

10. Effluent containing constituent concentrations that are less than the serious threshold but greater than the permit limits, are chronic violations when they occur four or more times in a consecutive six-month period, not counting the first three.
11. According to monitoring reports submitted by the Discharger from August 16, 2001 to November 1, 2003, the discharge violated the following effluent limitations in Order No. 01-87:

#	Violation Date	Constituent	Permitted Limit	Reported Value	Violation Type
1	8/16/01	pH	< 6.5 for more than 30 min	6.45 for 4 hrs	Chronic
2	9/4/01	Acute ceriodaphnia toxicity	P	F	Chronic
3	9/20/01	Settleable solids	0.3 mg/L	1.6 mg/L	Serious
4	9/21/01	Total coliform	23 MPN/100mL	30 MPN/100mL	Chronic
5	2/28/02	pH	< 6.5 for more than 30 min	< 6.5 for more than 30 min	Chronic
6	3/1/02	pH	< 6.5 for more than 30 min	< 6.5 for more than 30 min	*Chronic
7	9/12/02	Whole effluent toxicity	P	F	Chronic
8	3/10/03	Acute ceriodaphnia toxicity	P	F	Chronic
9	3/17/03	Acute ceriodaphnia toxicity	P	F	Chronic
10	3/31/03	Acute ceriodaphnia toxicity	P	F	Chronic
11	10/01/03	pH	< 6.5 for more than 30 min	< 6.5 for more than 30 min	Chronic
12	10/2/03	pH	< 6.5 for more than 30 min	< 6.5 for more than 30 min	Chronic
13	11/1/03	pH	< 6.5 for more than 30 min	< 6.5 for more than 30 min	Chronic

* Denotes chronic violations subject to Mandatory Minimum Penalties

12. According to Finding No. 11, on September 20, 2001, one serious violations was reported.
13. According to Finding No. 11, the Discharger committed one (1) serious violation from August 16, 2001 to November 1, 2003. The amount of the mandatory penalty for the violations (\$3,000) is three thousand dollars (\$3,000).
14. According to Finding No. 11, the Discharger committed four (4) chronic violations for the period of July 31, 2001 to March 1, 2002. In addition, the serious violation committed during this time period also counts as a chronic violation. In accordance with California Water Code Section 13385(i), each chronic violation of four or more in a consecutive six-month period requires that the Regional Board assess a mandatory penalty of three thousand dollars (\$3,000), not counting the first three, occurring in a

consecutive six-month period. Therefore, one (1) chronic violation amounts to \$3,000, resulting in a three thousand dollar penalty (\$3,000).

15. The total amount of the mandatory minimum penalty from August 16, 2001 to November 1, 2003 is $(\$3,000 + \$3,000) = \$6,000$.
16. In a July 22, 2004 letter, the Discharger requested mandatory penalties be directed to the following Supplemental Environmental Project: The Discharger would contract with the Central Coast Vineyard Team (RCD) to conduct an educational program targeting Lompoc area vineyard owners, operators, and employees, providing them with information on recommended soil, irrigation, pest and fertilization practices designed to reduce adverse effects on water quality. The project qualifies as an SEP in accordance with the State Water Resource Control Board's Enforcement Policy, Resolution No. 2002-0040. The SEP goes above and beyond the obligations of the Discharger and is not an action required of the Discharger by any rule or regulation of any entity. The SEP will benefit water quality. The SEP will not directly benefit Regional Board functions or staff. The Discharger has not approved funding for the SEP in its budget.
17. The *Water Quality Enforcement Policy* specifies criteria each proposed project must satisfy to be a legal SEP. These criteria include: water quality focus, geographic nexus, type of violation, beneficial use protection, regionwide use/benefit, leveraged funding, and institutional stability and capacity. The SEP complies with all the criteria.
18. The amount of the mandatory penalty directed to the SEP is \$6,000.
19. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000, et seq.) in accordance with the California Code of Regulations Title 14, Chapter 3, section 15321.

IT IS HEREBY ORDERED, pursuant to California Water Code section 13385, the City of Lompoc is assessed a Mandatory Penalty in the amount of six thousand dollars (\$6,000). Six thousand dollars shall be used to fund the approved Supplemental Environmental Project described in Finding No. 16.

1. No later than October 10, 2004, the City of Lompoc shall either pay \$6,000 to State Water Resources Control Board, Cleanup and Abatement Account or provide evidence to the Executive Officer that the City has encumbered or paid the CCVT \$6,000 to fund the SEP.
2. Whenever the Discharger or its agents or subcontractors, or any fiscal agent holding SEP funds, publicize an element of the SEP, they shall state in a prominent manner that the project is being undertaken as part of the settlement of an enforcement action against the City of Lompoc.
3. Any person affected by this action of the Regional Board may petition the State Water Resources Control Board to review the action in accordance with California Water Code section 13320, and Title 23, California Code of Regulations, section 2050. The State Water Resources Control Board, Office of Chief Counsel, P.O. Box 100, Sacramento, CA 95812 must receive the petition by October 10, 2004. Copies of the law and regulations applicable to filing petitions will be provided upon request.