



# California Regional Water Quality Control Board

## Central Coast Region



Alan C. Lloyd, Ph.D.  
Secretary for  
Environmental  
Protection

Internet Address: <http://www.swrcb.ca.gov/rwqcb3>  
895 Aerovista Place, Suite 101, San Luis Obispo, California 93401  
Phone (805) 549-3147 • FAX (805) 543-0397

Arnold Schwarzenegger  
Governor

September 19, 2005

BY CERTIFIED MAIL  
70040750000183149759

Tom O'Neill, General Manager  
San Simeon CSD  
111 Pico Avenue  
San Simeon, CA 93452

Dear Mr. O'Neill:

### COMPLAINT FOR MANDATORY MINIMUM PENALTY, SAN SIMEON COMMUNITY SERVICES DISTRICT, SAN LUIS OBISPO COUNTY


Attached is *Complaint for Mandatory Minimum Penalty No. R3-2005-0120* (Complaint). The Complaint is based on violations of Waste Discharge Requirements Order No. R3-2002-0046 (National Pollutant Discharge Elimination System Permit No. CA0047961) from January 1, 2005, through June 30, 2005. The attached Complaint specifies the occurrence dates and nature of the violations.

Unless you waive your right to a public hearing and pay the amount proposed in the Complaint (\$24,000), we will present an Order to the Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board) for the amount proposed in the Complaint at the Central Coast Water Board meeting on December 2, 2005, at the above address. The meeting is scheduled to begin at 8:30 a.m.; however, no specific time has been set for consideration of this item.

California Water Code Section 13385(l), allows up to \$19,500 of the penalty amount to be expended on a supplemental environmental project (SEP) in accordance with the State Water Resources Control Board's *Water Quality Enforcement Policy*. You may submit a proposal for one or more SEPs. If you do choose to submit a proposal, please submit it for consideration no later than **October 12, 2005**. The *Water Quality Enforcement Policy* specifies the criteria a SEP must meet to qualify for funding at [www.swrcb.ca.gov/plnspols/wqep.doc](http://www.swrcb.ca.gov/plnspols/wqep.doc). You may find a number of SEPs listed, as well as other useful information, on our website at: [www.swrcb.ca.gov/rwqcb3/sep/index.htm](http://www.swrcb.ca.gov/rwqcb3/sep/index.htm).

Please review the Complaint carefully and submit your comments and/or your *Waiver of Hearing* form and copy of payment, or an SEP proposal by **October 12, 2005**. If you have questions, please contact **Matt Thompson** at (805) 549-3159 or **Harvey Packard** at (805) 542-4639.

Sincerely,

  
for Roger W. Briggs  
Executive Officer

Attachment: Mandatory Minimum Penalty Complaint No. R3-2005-0120

California Environmental Protection Agency



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Item No.19 Attachment No.2  
San Simeon CSD MMP  
Dec. 2, 2005 Meeting

cc:

Terry Lambeth, President  
San Simeon CSD  
P.O. Box 26  
San Simeon, CA 93452

Rob Schultz  
595 Harbor Street  
Morro Bay, California 93442

Steve Richardson  
ECO Resources  
5820 Stoneridge Mall Road, Suite 204  
Pleasanton, CA 94588

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*California Environmental Protection Agency*

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

**COMPLAINT NO. R3-2005-0120**

**MANDATORY MINIMUM PENALTY  
IN THE MATTER OF  
SAN SIMEON COMMUNITY SERVICES DISTRICT  
WASTEWATER TREATMENT PLANT  
SAN LUIS OBISPO COUNTY**

This complaint to assess Mandatory Minimum Penalties pursuant to Water Code section 13385(h) and (i) is issued to San Simeon Community Services District (Discharger), based on a finding of violations of Waste Discharge Requirements Order No. R3-2002-0046, National Pollutant Discharge Elimination System (NPDES) Permit No. CA0047961.

The Executive Officer finds the following:

1. On May 31, 2002, the Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board), adopted *Waste Discharge Requirements Order No. R3-2002-0046, NPDES Permit No. CA0047961, for San Simeon Community Services District and Local Sewering Entity of Hearst San Simeon State Historical Monument, San Luis Obispo County* (Order No. R3-2002-0046).
2. California Water Code section 13385(h)(1) requires the Central Coast Water Board to assess a mandatory penalty of three thousand dollars (\$3,000) for each serious violation.
3. California Water Code section 13385(h)(2) provides a serious violation occurs if the discharge exceeds the effluent limitations for a Group II pollutant by 20 percent or a Group I pollutant by 40 percent or more. Group I and II pollutants are specified in Appendix A to section 123.45 of Title 40 Code of Federal Regulations.
4. California Water Code Section 13385.1(c) states that for the purposes of section 13385.1(a)(1), section 13385(f)(2), (h), (i) and (j), "effluent limitation" means a numeric or numerically expressed narrative restriction on the quantity, discharge rate, concentration, or toxicity units of a pollutant or pollutants authorized to be discharged from a location that is specified in waste discharge requirements. An effluent limitation may be final or interim, and may be expressed as a prohibition. An effluent limitation, for those purposes, does not include a receiving water limitation, a compliance schedule, or a best management practice."
5. California Water Code section 13385(i) requires the Central Coast Water 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) 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; or
  - 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. California Water Code section 13385(I) states that "(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)."
7. Order No. R3-2002-0046 includes in part the following:

Effluent Limitation No. 2:

"Effluent shall not exceed the following limits:

| Constituent       | Units | 30-Day Average | 7-Day Average | Daily Maximum |
|-------------------|-------|----------------|---------------|---------------|
| Settleable Solids | mL/L  | 1.0            | 1.5           | 3.0           |

Effluent Limitation No. 4:

"Effluent shall not exceed the following limits:

| Constituent             | Units      | 6-Month Median | Daily Maximum | Instantaneous Maximum |
|-------------------------|------------|----------------|---------------|-----------------------|
| Total Chlorine Residual | mg/L       | 0.23           | 0.93          | 6.96                  |
| Total Coliform Bacteria | MPN/100 mL | --             | 230           | 2400                  |

8. Settleable Solids is a Group I Pollutant. Total Chlorine Residual is a Group II Pollutant. Effluent containing constituent values that are greater than serious thresholds (limit + 40% for Group I pollutants, limit + 20% for Group II pollutants) are serious violations. Total Coliform Bacteria is neither a Group I nor Group II Pollutant; therefore serious violations do not apply to Total Coliform Bacteria.
9. A chronic violation occurs when effluent contains a constituent concentration that is less than the serious threshold but greater than the permit limit.
10. According to monitoring reports submitted by the Discharger, the Discharger committed the following violations of effluent limitations of Order No. R3-2002-0046 in the period January 1, 2005, through June 30, 2005. The three violations listed prior to January 1, 2005 are included for the purpose of enumerating chronic violations subject to mandatory penalties:

| #  | Violation Date | Constituent             | Permitted Limit              | Reported Value   | Violation Type |
|----|----------------|-------------------------|------------------------------|------------------|----------------|
| -- | 12/18/04       | Total Coliform          | 230 MPN/100 mL Daily Maximum | 500 MPN/100 mL   | Chronic        |
| -- | 12/23/04       | Total Coliform          | 230 MPN/100 mL Daily Maximum | 500 MPN/100 mL   | Chronic        |
| -- | 12/29/04       | Total Coliform          | 230 MPN/100 mL Daily Maximum | 1600 MPN/100 mL  | Chronic        |
| 1  | 1/7/05         | Total Coliform          | 230 MPN/100 mL Daily Maximum | 300 MPN/100 mL   | Chronic        |
| 2  | 1/18/05        | Total Coliform          | 230 MPN/100 mL Daily Maximum | 300 MPN/100 mL   | Chronic        |
| 3  | 1/25/05        | Total Coliform          | 230 MPN/100 mL Daily Maximum | 300 MPN/100 mL   | Chronic        |
| 4  | 3/1/05         | Total Coliform          | 230 MPN/100 mL Daily Maximum | >1600 MPN/100 mL | Chronic        |
| 5  | 3/26/05        | Total Chlorine Residual | 0.93 mg/L Daily Maximum      | 8 mg/L           | Serious        |
| 6  | 5/13/05        | Total Chlorine Residual | 0.93 mg/L Daily Maximum      | 6.80 mg/L        | Serious        |


| # | Violation Date | Constituent       | Permitted Limit              | Reported Value | Violation Type |
|---|----------------|-------------------|------------------------------|----------------|----------------|
| 7 | 6/7/05         | Total Coliform    | 230 MPN/100 mL Daily Maximum | 300 MPN/100 mL | Chronic        |
| 8 | 6/28/05        | Settleable Solids | 1.5 mL/L 7-Day Average       | 1.75 mL/L      | Chronic        |

11. According to Finding No. 10, the Discharger committed two serious violations in the period January 1, 2005, through June 30, 2005. The amount of the mandatory penalty for the serious violations (2 x \$3,000) is six thousand dollars (\$6,000).
12. According to Finding No. 10, the Discharger committed six chronic violations in the period January 1, 2005, through June 30, 2005. California Water Code section 13385(i) requires the Central Coast Water Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each violation, not counting the first three, occurring in a consecutive six-month period. In this case, at least three effluent violations occurred in the six months prior to the first violation listed in Finding No. 10, therefore none of these chronic violations are exempt from mandatory penalty. The mandatory penalty for the above chronic violations (6 x \$3,000) is eighteen thousand dollars (\$18,000).
13. The total amount of the mandatory penalty for violations occurring in the period January 1, 2005, through June 30, 2005 (\$6,000 + \$18,000) is twenty-four thousand dollars (\$24,000).

**THE SAN SIMEON COMMUNITY SERVICES DISTRICT IS HEREBY GIVEN NOTICE THAT:**

1. The Executive Officer of the Central Coast Water Board proposes that the Discharger be assessed a Mandatory Minimum Penalty in the amount of twenty-four thousand dollars (\$24,000).
2. The Central Coast Water Board will hold a public hearing on this matter on December 2, 2005, unless the Discharger agrees to waive its right to a public hearing by filling out, signing, and submitting the enclosed "Waiver of Hearing." If the Discharger chooses not to waive its right to a public hearing, the Central Coast Water Board may proceed with the scheduled public hearing and consider testimony received from interested persons during the public hearing and decide whether to accept the amount of Mandatory Minimum Penalty proposed by the Executive Officer. The Central Coast Water Board may also decide to continue the matter to a future hearing, direct the Executive Officer to reissue the Complaint to propose additional penalties under California Water Code section 13385(c) and (e), or refer the matter to the State Attorney General. The public hearing is scheduled at the regularly scheduled Central Coast Water Board meeting on December 2, 2005, at the Central Coast Water Board Conference Room, 895 Aerovista Place, Suite 101, San Luis Obispo, California. The meeting is scheduled to begin at 8:30 a.m.; however, no specific time has been set for consideration of this item.

If you have questions regarding this matter, please direct them to Central Coast Water Board staff, **Matt Thompson**, at (805) 549-3159, or Harvey Packard at (805) 542-4639.

*for*   
 Roger W. Briggs  
 Executive Officer

9-19-05  
 Date

**PROCEDURAL INFORMATION  
FOR  
MANDATORY MINIMUM PENALTY COMPLAINT  
PUBLIC HEARING AND PAYMENT**

**WAIVER OF PUBLIC HEARING**

You may waive your right to a public hearing. If you wish to waive your right to a public hearing, a duly authorized person<sup>1</sup> must check, sign, and submit the following *Waiver of the Right to a Public Hearing* form and pay the mandatory minimum penalty amount specified in the Complaint **no later than October 12, 2005, 5:00 P.M.** Please follow the payment instructions below.

If you choose to waive your right to a public hearing, and if full payment and a signed *Waiver of the Right to a Public Hearing* form are received before the hearing, the hearing will not be held, and the violation will be settled. If full payment and a signed *Waiver of the Right to a Public Hearing* form are not received, the matter will be placed on the Central Coast Water Board's agenda for a hearing as stated below.

If you do not waive your right to a public hearing, the Executive Officer will present an Order to the Central Coast Water Board for the amount proposed in this Complaint at the Central Coast Water Board meeting on December 2, 2005, at the Central Coast Water Board Conference Room, 895 Aerovista Place, Suite 101, San Luis Obispo, California. The Central Coast Water Board will proceed with the scheduled hearing, consider testimony received from interested persons during the hearing, and decide whether to accept the amount of the mandatory minimum penalty proposed by the Executive Officer, or direct the Executive Officer to reissue the complaint alleging increased liability pursuant to Water Code Section 13385(c) and (e). If the proposed Order is adopted, payment of the mandatory minimum penalty to the State Water Resources Control Board will be due and payable no later than January 1, 2006, in accordance with the Order. If the proposed Order is rejected, the Central Coast Water Board may direct the Executive Officer to issue a new complaint and schedule another public hearing. The Central Coast Water Board may also decide to continue the matter to a future hearing or refer it to the State Attorney General. The meeting is scheduled to begin at 8:30 A.M.; however, no specific time has been set for consideration of the Order.

**PAYMENT OF MANDATORY MINIMUM PENALTY**

**No later than October 12, 2005**, please make your check payable to *State Water Resources Control Board*, and note "MMP Complaint No. R3-2005-0120" on the check. Please mail the check and signed waiver form to:

**SWRCB Accounting  
Attn: Enforcement  
P.O. Box 100  
Sacramento, CA 95812-0100**

Please also mail copies of the check and signed waiver form to:

**Regional Water Quality Control Board  
Attn: Matt Thompson  
895 Aerovista Place, Suite 101  
San Luis Obispo, CA 93401**

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<sup>1</sup> A duly authorized person is defined as a principal executive officer of at least the level of vice president in a corporation, a general partner or the proprietor in a partnership or sole proprietorship, a principal executive officer or ranking elected official in a public agency, or a duly authorized representative.

WAIVER OF THE RIGHT TO A PUBLIC HEARING

- [ ] By checking this box, I agree to waive the San Simeon Community Services District's right to a public hearing before the Central Coast Water Board with regard to the violations alleged in Complaint for Mandatory Minimum Penalty No. R3-2005-0120. I agree to provide payment of the mandatory minimum penalty for the amount proposed in Complaint for Mandatory Minimum Penalty No. R3-2005-0120. I understand that I am giving up the San Simeon Community Services District's right to be heard, and its right to argue against the allegations made by the Executive Officer in Complaint for Mandatory Minimum Penalty No. R3-2005-0120, and against the imposition of, or the amount of, the mandatory minimum penalty proposed.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title/Position

\_\_\_\_\_  
Date