



# California Regional Water Quality Control Board Central Valley Region



**Terry Tamminen**  
Secretary for  
Environmental  
Protection

**Robert Schneider, Chair**

**Arnold Schwarzenegger**  
Governor

Internet Address: <http://www.swrcb.ca.gov/rwqcb5>  
11020 Sun Center Drive #200 Rancho Cordova, CA 95670-6114  
Phone (916) 464-4730

25 June 2004

CERTIFIED MAIL  
7004 1160 0000 0143 0168

Mr. Vigil Koehne  
General Manager  
Town of Discovery Bay  
1800 Willow Lake Road  
Discovery Bay, CA 94514

**TOWN OF DISCOVERY BAY, DISCOVERY BAY WASTEWATER TREATMENT FACILITY,  
CONTRA COSTA COUNTY, ADMINISTRATIVE CIVIL LIABILITY COMPLAINT  
NO. R5-2004-0523**

Enclosed is an Administrative Civil Liability Complaint for Mandatory Minimum Penalties issued pursuant to the California Water Code Section 13385 (h) and/or (i) for violations of Waste Discharge Requirements (WDRs) Order No. 99-096 (NPDES No. CA0078590) by the Town of Discovery Bay. The Complaint proposes that the Town of Discovery Bay pay \$75,000 to the State's Cleanup and Abatement Account.

You may agree to pay the civil liability and waive a hearing before the Regional Water Quality Control Board, Central Valley Region ("Regional Board") on the matter. If you waive a hearing, a duly authorized person should sign the waiver and submit it to this office, along with a check payable to the State Water Resources Control Board in the full amount of the civil liability. However, any waiver will not be effective until 30 days from the date of this Complaint to allow other interested persons to comment on this action. If the Regional Board does not receive a waiver and a check for the full amount by **26 July 2004**, a hearing will be scheduled at the 9/10 September 2004 Regional Board Meeting in Sacramento. Persons wishing to submit comments on this action should submit written comments within 30 days from the date of this letter to the Regional Board, attention: Greg Vaughn.

If you have any questions or comments, please call Greg Vaughn at (916) 464-4742.

THOMAS R. PINKOS  
Executive Officer

Enclosure

cc: See Attached List

<b>APPROVED</b>
_____
STAFF
_____
SENIOR

CC List for Discovery Bay

**California Environmental Protection Agency**



Ms. Kathi Moore, USEPA, Region IX, Chief NPDES Enforcement, San Francisco  
Ms. Lisa Brown, CalEPA, Sacramento  
Ms. Frances McChesney, State Water Resources Control Board, OCC, Sacramento  
Mr. Mark Bradley, State Water Resources Control Board, OSI, Sacramento  
Mr. Philip Isorena, State Water Resources Control Board, DWQ, Sacramento  
Department of Environmental Health, Contra Costa County, Martinez  
Mr. Don Freitas, Contra Costa County Clean Water Program, Martinez  
Mr. Richard Denton, Contra Costa Water District, Concord  
Mr. Dante Nomellini, Jr., Central Delta Water Agency, Stockton  
Mr. John Herrick, South Delta Water Agency, Stockton  
Mr. Bill Jennings, Delta Keeper, Stockton  
Ms. Marjit Aramburu, Delta Protection Commission, Walnut Grove  
Mr. Steve Macaulay, California Urban Water Agencies, Sacramento  
Mr. H.F. Brennan, Citizen's for Safe Drinking Water, Oakley  
Ms Sandy Fredrickson, Oakley  
Mr. Erik Parfrey, Stockton

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION**

**ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2004-0523**

**MANDATORY PENALTY  
IN THE MATTER OF  
TOWN OF DISCOVERY BAY  
WASTEWATER TREATMENT FACILITY  
CONTRA COSTA COUNTY**

This Complaint to assess Mandatory Penalties pursuant to California Water Code (CWC) Section 13385(h) and/or (i) is issued to the Town of Discovery Bay (hereafter Discharger) based on a finding of violations of Waste Discharge Requirements Order No. 99-096 (NPDES No. CA0078590).

The Executive Officer of the Central Valley Regional Water Quality Control Board (Regional Board) finds the following:

1. CWC Section 13385(h) and (i) requires assessment of mandatory penalties and states, in part, the following:

CWC Section 13385(h)(1) requires the Regional Board to assess a mandatory penalty of three thousand dollars (\$3,000) for each serious violation.

CWC Section 13385 (h)(2) states for purposes of this section, a “serious violation” means any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group II pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the 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 of the Code of Federal Regulations, by 40 percent or more.

CWC Section 13385(i)(1) 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 any period of six consecutive months.

1. Violates a waste discharge requirement effluent limitation.
  2. Fails to file a report pursuant to Section 13260.
  3. Files an incomplete report pursuant to Section 13260.
  4. 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.
2. On 11 June 1999, the Regional Board adopted Waste Discharge Requirements Order No. 99-096 for Discovery Bay Community Services District (now known as Town of Discovery Bay) to regulate discharges of waste from the Wastewater Treatment Facility.

3. Order No. 99-096 includes, in part, the following effluent limitations:

**EFFLUENT LIMITATIONS:**

Effluent shall not exceed the following limits:

<u>Constituents</u>	<u>Units</u>	<u>Daily Maximum</u>	<u>4-day Average</u>	<u>Monthly Median</u>
Copper	µg/l	10	20	
Total coliform	MPN/100 ml	500		23

4. According to monitoring reports submitted by the Discharger, the Discharger committed twenty four (24) serious violations during the twenty four-month period beginning 1 April 2002 and ending on 31 March 2004.

Copper is listed as a Group II pollutant in Title 40 of the Code of Federal Regulations. The Town of Discovery Bay Wastewater Treatment Facility discharged effluent that exceeded the daily maximum and 4-day average effluent limitation for copper by 20 percent or more as shown in the attached table.

The amount of the mandatory penalty for these serious violations is \$72,000.

5. According to monitoring reports submitted by the Discharger, the Discharger also had a total of 2 other violations of effluent limitations that were not considered serious violations (Total coliform, and copper). However, the total coliform violation is exempt from the mandatory minimum penalty under CWC Section 13385(i) (falls under the category of first three violations in any six consecutive month period). The amount of the mandatory penalty for this non-serious violation is therefore \$3,000.
6. The total amount of the mandatory penalty (for serious + non-serious) is **\$75,000**.
7. Issuance of this complaint is exempt from the Provisions of the California Environmental Quality Act (Public Resources Code Section 21000, et. seq.), in accordance with Title 14, California Code of Regulations Section 15321(a)(2) (“Enforcement Actions by Regulatory Agencies”).

**THE TOWN OF DISCOVERY BAY IS HEREBY GIVEN NOTICE THAT:**

1. The Executive Officer of the Regional Board proposes that the Discharger be assessed a Mandatory Penalty in the amount of \$75,000.
2. A hearing shall be held by the Regional Board, unless the Discharger agrees to waive the hearing and pay the mandatory penalty of \$75,000 in full.

3. The Discharger may waive the right to a hearing. If the Discharger chooses to waive the hearing, the Discharger must complete and sign the attached waiver and return it and a check made payable to the State Water Resources Control Board for the full amount of the mandatory penalty to the Regional Board's office at the letterhead address by **26 July 2004**.

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THOMAS R. PINKOS, Executive Officer

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25 June 2004

**WAIVER OF HEARING FOR**

**ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

By signing this waiver, I affirm and acknowledge the following:

1. I am duly authorized to represent the Town of Discovery Bay (hereinafter “Discharger”) in connection with Administrative Civil Liability Complaint No. R5-2004-0523 (hereinafter the “Complaint”);
2. I am informed of the right provided by Water Code section 13323, subdivision (b), to a hearing within ninety (90) days of issuance of the Complaint;
3. I hereby waive the Discharger’s right to a hearing before the California Regional Water Quality Control Board, Central Valley Region; and
4. Without admitting liability for the matters alleged in the Complaint, I otherwise agree to remit payment for the civil liability imposed in the amount of \$75,000 by check, which contains a reference to “ACL Complaint No. R5-2004-0523” and is made payable to the “*State Water Resources Control Board Cleanup and Abatement Account.*”
5. I understand the payment of the above amount constitutes a settlement of the Complaint that will not become final until after a public comment period.
6. I understand that the Executive Officer has complete discretion to modify or terminate this settlement during the 30-day public comment period, which began on the date of the Complaint.
7. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.

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(Name)

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(Title)

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(Date)