



# California Regional Water Quality Control Board Central Valley Region



**Terry Tamminen**  
Secretary for  
Environmental  
Protection

**Robert Schneider, Chair**

**Arnold Schwarzenegger**  
Governor

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25 June 2004

CERTIFIED MAIL  
7003 1680 0002 6514 1114

Mr. Steven Bayley  
City of Tracy  
Department of Public Works  
520 Tracy Boulevard  
Tracy, CA 95376

## **CITY OF TRACY WASTEWATER TREATMENT PLANT, SAN JOAQUIN COUNTY, ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2004-0528**

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. 96-104 (NPDES No. CA0079154) by the City of Tracy. The Complaint proposes that the City of Tracy pay \$9,000 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: Pat Leary.

If you have any questions or comments, please call Pat Leary at (916) 464-4623.

THOMAS R. PINKOS  
Executive Officer

Enclosure

cc: See Attached List

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

***California Environmental Protection Agency***



cc: Ms. Kathi Moore, U.S. Environmental Protection Agency, Region IX, San Francisco  
Ms. Lisa Brown, CalEPA, Sacramento  
Mr. Mark Bradley, State Water Resources Control Board, Sacramento  
Ms. Frances McChesney, State Water Resources Control Board, Sacramento  
Mr. Phil Isorena, State Water Resources Control Board, Sacramento  
Mr. Joe Spano, Department of Health Services, Office of Drinking Water, Stockton  
Department of Health Services, Environmental Management Branch, Sacramento  
Ms. Janna Herren, Department of Fish & Game, Region II, Rancho Cordova  
Delta Protection Commission, Walnut Grove  
Department of Environmental Health, San Joaquin County, Stockton  
Mr. Steve Macaulay, California Urban Water Agencies, Sacramento  
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. Eric Parfrey, Sierra Club, Stockton  
Mr. Bill Jennings, Delta Keeper, Stockton

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

**ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2004-0528**

**MANDATORY PENALTY  
IN THE MATTER OF  
CITY OF TRACY  
WASTEWATER TREATMENT PLANT  
SAN JOAQUIN COUNTY**

This Complaint to assess Mandatory Penalties pursuant to California Water Code (CWC) Section 13385(h) and/or (i) is issued to the City of Tracy (hereafter Discharger) based on a finding of violations of Waste Discharge Requirements Order No. 96-104 (NPDES No. CA0079154).

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 3 May 1996, the Regional Board adopted Waste Discharge Requirements Order No. 96-104 (NPDES No. CA0079154) for the City of Tracy to regulate discharges of waste from the Wastewater Treatment Plant.

3. Order No. 96-104 includes, in part, the following effluent limitations:

**EFFLUENT LIMITATIONS:**

1. Effluent shall not exceed the following limits:

| <u>Constituents</u>       | <u>Units</u> | <u>30-Day<br/>Average</u> | <u>7-Day<br/>Average</u> | <u>30-Day<br/>Median</u> | <u>Daily<br/>Maximum</u> |
|---------------------------|--------------|---------------------------|--------------------------|--------------------------|--------------------------|
| BOD                       | mg/l         | 20                        | 40                       |                          | 50                       |
| Total Suspended<br>Matter | mg/l         | 20                        | 40                       |                          | 50                       |
| Settleable Matter         | ml/l         | 0.1                       |                          |                          | 0.2                      |
| Total Coliform            | MPN/100ml    |                           |                          | 23                       | 500                      |

2. The discharge shall not have a pH less than 6.5 nor greater than 8.5.
4. According to monitoring reports submitted by the Discharger between 1 January 2000 and 31 December 2002, the Discharger had a total of 7 violations of effluent limitations that were considered non-serious violations (BOD and total suspended solids). However, four (4) of the violations are exempt from the mandatory minimum penalty under CWC Section 13385(i) (i.e. fall under the category of first three violations in any six consecutive month period). The amount of the mandatory penalty for the remaining 3 non-serious violations is therefore \$9,000.
5. The total amount of the mandatory penalty is **\$9,000**.
6. 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 CITY OF TRACY 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 \$9,000.
2. A hearing shall be held by the Regional Board, unless the Discharger agrees to waive the hearing and pay the mandatory penalty of \$9,000 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

25 June 2004

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**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 City of Tracy (hereinafter “Discharger”) in connection with Administrative Civil Liability Complaint No. R5-2004-0528 (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 \$9,000 by check, which contains a reference to “ACL Complaint No. R5-2004-0528” 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)