

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
COLORADO RIVER BASIN REGION**

**ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. 99-068
FOR
ADMINISTRATIVE CIVIL LIABILITY
IN THE MATTER OF
CITY OF NEEDLES WASTEWATER TREATMENT PLANT
FOR DISCHARGE OF IMPROPERLY TREATED WASTEWATER EFFLUENT
TO COLORADO RIVER
AND FOR
FAILURE TO MEET THE REQUIREMENTS OF BOARD ORDER NO. 99-002
NPDES NO. CA0104205
ISSUED TO CITY OF NEEDLES
SAN BERNARDINO COUNTY**

YOU ARE HEREBY GIVEN NOTICE THAT:

1. The City of Needles (hereinafter known as the discharger) is alleged to have violated orders and provisions of the law for which the California Regional Water Quality Control Board, Colorado River Basin Region, may impose civil liability under Section 13385 of the California Water Code.
2. Unless waived, a public hearing on this matter will be held before the Board within sixty (60) days of the issuance of this Complaint. The discharger, or its representative(s), will have an opportunity to be heard and to contest the allegations in this Complaint and the imposition of Civil Liability by the Regional Board. An agenda showing the location, date, and time of the hearing will be mailed to the discharger not less than ten working days before the hearing date.
3. The discharger owns a sewage collection, treatment and disposal system, which serves the City of Needles.
4. On January 13, 1999, the Regional Board adopted revised Waste Discharge Requirements, Board Order No. 99-002 (NPDES No. CA0104205), which allows discharge of a maximum of 1.80 million gallons-per-day (MGD) of treated wastewater to the Colorado River, a water of the United States. Current discharge to the River is around 0.58 MGD.

ALLEGATIONS

5. The discharger is alleged to have violated;
 - A. Effluent Limitation No. 2 of Board Order No. 99-002, which states that:

“The fecal coliform for any 30-day period shall not exceed log mean of 200 MPN/100 ml, nor shall more than ten percent of total samples during any 30-day period exceed 400 MPN per 100 ml.”
 - B. Receiving Water Limitation No. 8 of Board Order No. 99-002, which states that:

“Receiving Water Limitations are based upon water quality objectives contained in the Basin Plan. As such, they are a required part of this permit. The discharger shall not cause the following in the Colorado River:

“Deposition of material that causes nuisance or adversely affects beneficial uses.”

C. Discharge Specification No. 1 of Board Order No. 99-002, which states that:

“The treatment or disposal of wastes at this facility shall not cause pollution or nuisance as defined in Section 13050 of Division 7 of the California Water Code.”

California Water Code Section 13050(1) states that “pollution” may include “contamination”. It defines each of these terms and “nuisance” as:

“(k) ‘Contamination’ means an impairment of the quality of the waters of the state by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease.”

“(l) ‘Pollution’ means an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects either of the following:

“(1) The waters for beneficial uses.

“(2) Facilities which serve these beneficial uses.

“(m) ‘Nuisance’ means anything which meets all of the following requirements:

“(1) Is injurious to health, or is indecent or offensive to the senses, or an obstruction to free use of property, so as to interfere with the comfortable enjoyment of life or property.

“(2) Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

“(3) Occurs during, or as a result of, the treatment or disposal of wastes.”

D. Item No. 1 of the Standard Provisions which state that:

“Duty to Comply

“a. The discharger must comply with all the conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and the Porter-Cologne Water Quality Control Act and is grounds for enforcement action; for permit termination, revocation and, or modification; or denial of a permit renewal application. [40 CFR Part 122.41(a)]

“b. The discharger shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if this permit has not been modified to incorporate the requirement. [40 CFR Part 122.41(a)(1)].”

SUPPORTING INFORMATION

6. The following facts are the basis for the alleged violations in this matter:

A. Undisinfected secondarily treated wastewater effluent has fecal coliform levels of between 11,000 MPN and 1,590,000 MPN/100 ml.

- B. Beneficial uses of waters of the Colorado River and associated lakes and reservoirs are:
- a) Municipal and Domestic Supply (MUN)
 - b) Agricultural Supply (AGR)
 - c) Aquaculture (AQ)
 - d) Industrial Service Supply (IND)
 - e) Ground Water Recharge (GWR)
 - f) Water Contact Recreation (REC I)
 - g) Non-Contact Water Recreation (REC II)
 - h) Warm Water Habitat (WARM)
 - i) Cold Water Habitat (COLD)
 - j) Wildlife Habitat (WILD)
 - k) Hydropower Generation (POW)
 - l) Preservation of Rare, Threatened, or Endangered Species (RARE)
- C. Wastewater treatment plant effluent has significant nuisance potential and contains pathogens such as fecal coliform at concentrations that have the potential to effect the beneficial uses when it is not properly disinfected and disposed of. Discharge of undisinfected or improperly treated effluent falls in the criteria stated in California Water Code Sections 13050(k)(1) and (m). (Item No. 5C).
- D. Discharge of undisinfected or improperly treated effluent, which is likely to contain high levels of fecal coliform bacteria, constitutes non-compliance with Board Order No. 99-002, and is a violation of Standard Provision No. 1.
- E. Undisinfected secondarily treated wastewater contains high levels of bacteria, viruses and pathogens that can produce detrimental physiological responses in humans. Exposure to these disease-causing organisms can occur by ingestion of contaminated water, consumption of infected fish and invasion from skin contact with contaminated water. Diseases caused by these organisms include salmonellosis (including typhoid and paratyphoid fevers), cholera, gastroenteritis, and shigellosis.
- F. As reported by the discharger in letters dated July 12, 1999, and August 2, 1999, the following facts are the basis for the violations:
- a. The City reported that a failure of the Needles wastewater treatment plant system chlorination occurred between 9:30 p.m., Friday, July 2, 1999 and 11:00 a.m., Saturday, July 3, 1999.
 - The failure occurred because the chlorination system ran out of chlorine.
 - The system was not checked on Thursday, July 1 or on Friday, July 2, as normal.
 - The chlorine backup system also failed because the two backup containers were already empty.
 - The failure of the chlorination system resulted in discharge of effluent to the Colorado River, which was not disinfected.
 - Wastewater treatment plant personnel estimated that the total effluent discharged to the Colorado River, and not disinfected at 260,000 gallons.
 - b. A second failure of the chlorination system occurred on July 26, 1999, at around 5:45 a.m.
 - The discharge of undisinfected effluent to the Colorado River lasted for about 20 minutes and was estimated around 10,000 gallons.

- The incident was due to connection of an empty 150 lb. back-up chlorine cylinder to the disinfection system.
 - This error was attributed to a defective scale.
- c. The total undisinfected effluent discharge from the two incidents was estimated at 270,000 gallons.
- d. The stretch of Colorado River where the two discharges of undisinfected wastewater occurred, is heavily used for both Water Contact Recreation (REC I) and Non-Contact Water Recreation (RECII). The two discharges mentioned above (Item No. 6-F(a) and (b)) had the potential to adversely affect the health of persons engaged in recreational activities downstream of the discharge point.

PROPOSED CIVIL LIABILITY

7. Pursuant to California Water Code Section 13385(a)(2) and 13385(c), any person who violates waste discharge requirements shall be liable for the following amounts as stated in California Water Code, Sections 13385(c)(1) and (c)(2):
- a. Ten thousand dollars (\$10,000) for each day in which the violation occurs.
 - b. Where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) times the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.
8. The maximum liability available to the Regional Board based on an average discharge of 270,000 gallons is two million, seven hundred twenty thousand dollars (\$2,720,000).
9. The California Water Code, Section 13385(e) states:
- “(e) In determining the amount of any liability imposed under this section, the regional board, the state board, or the superior court, as the case may be, shall take into account the nature, circumstances, extent and gravity of the violation, and, with respect to the violator, the ability to pay, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters that justice may require.”
10. By letter dated September 8, 1999, the discharger proposes to pay five thousand dollars (\$5,000) to the Regional Water Quality Control Board and five thousand dollars (\$5,000) to the Colorado River Regional Sewer Coalition.
11. The Regional Board’s Executive officer considered the factors mentioned in California Water Code Section 13385(e) (Item No. 9).
12. The Regional Board’s Executive Officer proposes that an administrative civil liability be imposed by the Regional Board in the amount of ten thousand dollars (\$10,000) as follows:
- a. The discharger shall pay in full five thousand dollars (\$5,000) of the liability to the State Water Resources Control Board Cleanup and Abatement Account by October 7, 1999.
 - b. The discharger shall pay in full five thousand dollars (\$5,000) of the liability to the Colorado River Regional Sewer Coalition by October 7, 1999.

WAIVER OF HEARING

13. A hearing may be scheduled unless the City of Needles agrees to waive the hearing and pay the imposed civil liability in full.
14. If the hearing is held, the Regional Board will consider whether to affirm, reject, or modify the proposed administrative civil liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
15. In lieu of hearing, the City of Needles may waive the right of hearing. Any waiver will not be effective for 30 days from the date of this Complaint to allow other interested persons to comment on this action. If you wish to waive the hearing, please check and sign the waiver and return it with the amount of civil liability proposed in Item 12, above. The check should be made out to the State Water Resources Control Board, and mailed to the following address:

California Regional Water Quality Control Board
Colorado River Basin Region
73-720 Fred Waring Drive, Suite 100
Palm Desert, CA 92260

Ordered By: Mary Morris
for Executive Officer

10/4/99
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 Administrative Civil Liability Complaint No. 99-068 and to remit payment for the civil liability imposed. I understand that I am giving up my right to argue allegations made by the Executive Officer in this Complaint, and against the imposition of, or the amount of, the civil liability proposed.

Signature

Date