

California Regional Water Quality Control Board
North Coast Region

Complaint No. R1-2004-0083

For

Administrative Civil Liability
In The Matter Of
City of Santa Rosa,
Subregional Wastewater Treatment, Reuse and Disposal Facilities

For

Violations of Waste Discharge Requirements
State Water Resources Control Board Order Nos. 2000-02 and 2000-03

Sonoma County

The Executive Officer of the California Regional Water Quality Control Board, North Coast Region (Regional Water Board), hereby gives notice that:

1. The City of Santa Rosa owns the Laguna Subregional Wastewater Treatment, Reuse, and Disposal Facilities (Laguna Subregional Facilities) located at 4300 Llano Road in Santa Rosa. The Laguna Subregional Facilities serve the communities of Cotati, Rohnert Park, Santa Rosa, Sebastopol, and the unincorporated South Park County Sanitation District. The Laguna Subregional Facilities are permitted to collect and treat an average of 21.3 million gallons of wastewater per day. Reuse and disposal of all advanced treated water is accomplished through a system that combines water reclamation with discharge to surface waters during the allowable discharge period (October 1 through May 14).
2. The Regional Water Board adopted Waste Discharge Requirements Order No. 90-79 for the Laguna Subregional Facilities on August 16, 1990. The Regional Water Board renewed the subject permit by issuing Order No. 95-18 on May 25, 1995. This permit was renewed with the issuance of Order No. 98-84 on August 26, 1998. This permit was renewed on March 1, 2000, with the issuance of Order No. 2000-02, and on March 15, 2000, with the issuance of Order No. 2000-03, by the State Water Resources Control Board. These Waste Discharge Requirements Orders are National Pollution Discharge Elimination System (NPDES) permits under the federal Clean Water Act.
3. During the period between July 1, 2001, through June 30, 2004, the City of Santa Rosa reported various violations of Waste Discharge Requirements Order Nos. 2000-02 and 2000-03 related to the following: violations of discharge prohibitions, effluent violations,

exceedances of receiving water limitations, and non-compliance with monitoring and reporting requirements. In all, 103 separate violations were reported during the above period, 63 of which are proposed for assessment of administrative civil liability under Section 13385 of the California Water Code. The violations are of various types and are not all directly connected other than the fact they occurred during the same time period.

4. Permit terms violated include various discharge prohibitions, effluent limitations, receiving water limitations, water reclamation requirements, and monitoring and reporting requirements, as specified in the Regional Water Board Staff Report entitled "Staff Report for the Proposed Administrative Civil Liability Complaint for Violations by the City of Santa Rosa" (Staff Report), which, along with its attachment, is incorporated herein by this reference in its entirety and made a part of this Complaint.
5. In addition, staff reviewed and considered the violations alleged in a "Notice of Violations and Intent to File Suit under the Clean Water Act" dated July 15, 2004, from the Law Office of Jack Silver to William Scott Stinebaugh, Deputy Director-Utilities Operations for the City of Santa Rosa (Notice). To the extent staff has been able to identify specific violations regarding discharge prohibitions, including collection system overflows, discharges in excess of the allowable flow limit, irrigation system overflows and system bypass; violations of receiving water limitations; and violations of monitoring and reporting requirements, those violations are addressed in this enforcement action. To the extent the Notice asserts general categories of alleged violations, staff has directed the City to supply additional information and data for staff review. After reviewing the facts concerning these alleged violations additional enforcement actions may be warranted.
6. Not all of the 103 reported violations are being proposed for civil liability. Many of the violations either did not result in discharges to receiving waters or did not significantly impact treatment plant operations.
7. The following facts are the basis for the alleged violations of NPDES permit conditions in this matter:

During the period July 1, 2001 to June 30, 2004, the City of Santa Rosa committed a total of 103 violations of NPDES permit conditions, as evidenced by monthly self-monitoring reports and spill reports submitted by the City to the Regional Water Board, related to the following:

- Discharge prohibitions
- Effluent limitations
- Receiving water limitations
- Monitoring and reporting requirements

The permit language covering each violation and the time period that each permit was in effect is included in the Staff Report.

Each of the violations of the NPDES permit conditions is set forth in the attachment to the Staff Report. The Executive Officer has determined that 63 of these violations are subject to mandatory penalties. Both the Staff Report and the attachment are incorporated herein by this reference as though fully set forth herein.

Proposed Civil Liability

8. Section 13385(a) of the California Water Code provides for the imposition of civil liability issued by the Regional Water Board. Section 13385(c) provides the maximum amount of civil liability which may be imposed by the Regional Water Board. The amount may be up to \$10,000 per day in which the violation occurs, plus up to \$10 per gallon of waste discharged in excess of 1,000 gallons that is not susceptible to cleanup or is not cleaned up. The maximum civil liability that could be imposed against the City of Santa Rosa in this matter is calculated as based on days of violation and the volume of waste discharged in excess of 1,000 gallons that is not susceptible to cleanup or has not been cleaned up. The maximum calculated amount that could be imposed against the City of Santa Rosa totals \$5,027,600.
9. In determining the amount of civil liability, the Regional Water Board is required to take into account the nature, circumstances, extent, and gravity of the violation; the violator's 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. The Regional Water Board is also required to consider the requirement in this section that states that, at a minimum, liability shall be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation.

- a. Nature, Circumstances, Extent and Gravity of the Violations

The violations documented in this action are all violations of permit conditions but have varying degrees of impact on water quality and beneficial uses. The Executive Officer has considered assessing liability based, in part, on an evaluation of the actual impact of each violation on water quality and beneficial uses and has assessed larger liability for violations with larger impacts.

- b. Ability to Pay

The Regional Water Board has no evidence that the proposed liability poses a significant financial burden on the City of Santa Rosa.

- c. Prior History of Violations

The City of Santa Rosa has a history of violations as documented in the Staff Report. They have been cooperative in addressing the violations and have taken aggressive steps to mitigate for or prevent such re-occurrences. This history was considered in determining the proposed liability.

d. Degree of Culpability

The City of Santa Rosa is culpable for the violations that are the subject of this civil liability.

e. Economic Savings

The City of Santa Rosa did not realize significant cost savings for violations.

10. The issuance of this Complaint is an enforcement action to protect the environment, and is therefore exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) pursuant to Title 14, California Code of Regulations, Sections 15308 and 15321.
11. Based on a review of the facts and the required factors, the Executive Officer of the Regional Water Board is issuing this Complaint with a proposed administrative civil liability in the amount of \$37,850.

Waiver of Hearing

12. You may waive the right to a future hearing. If you wish to waive the hearing, please sign the waiver and return it, together with a cashier's check or money order made payable to the State Water Resources Control Board for \$37,850, within 15 days of receipt of this Complaint to the California Regional Water Quality Control Board, North Coast Region, 5550 Skylane Boulevard, Suite A, Santa Rosa, CA 95403.

Catherine E. Kuhlman
Executive Officer