

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN FRANCISCO BAY REGION**

**COMPLAINT NO. R2-2005-0066  
MANDATORY MINIMUM PENALTY  
IN THE MATTER OF  
CALERA CREEK WATER RECYCLING PLANT  
PACIFICA, SAN MATEO COUNTY**

This complaint assesses Mandatory Minimum Penalties pursuant to Water Code sections 13385(h) and (i). It is issued to Calera Creek Water Recycling Plant (hereafter Discharger) based on a finding of violations of Waste Discharge Requirements Order Nos. 99-066 and 02-088 (NPDES No. CA0038776).

The Executive Officer finds the following:

1. On September 15, 1999, the Water Board adopted Order No. 99-066 for the Discharger, to regulate discharges of waste from its facility.
2. On September 18, 2002, the Water Board adopted Order No. 02-088 for the Discharger, to amend the existing total coliform limit in the NPDES permit, Order No. 99-066, to a fecal coliform limit. Order No. 02-088 became effective on September 18, 2002.
3. Water Code Section 13385(h)(1) requires the Water Board to assess an MMP of three thousand dollars (\$3,000) for each serious violation.
4. Water Code Section 13385(h)(2) defines “serious violation” as any waste discharge of a Group I pollutant that exceeds the effluent limitation contained in the applicable waste discharge requirements by 40 percent or more, or any waste discharge of a Group II pollutant that exceeds the effluent limitation by 20 percent or more.
5. Water Code Section 13385(i)(1) requires the Water Board to assess an MMP 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 six consecutive months:
  - 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.
  - 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. Water Code Section 13385(l) authorizes the Water Board to allow the discharger to undertake a Supplemental Environmental Project (SEP) for up to the full amount of the penalty for liabilities less than or equal to \$15,000. For liabilities in excess of \$15,000, SEPs are authorized up to \$15,000 plus half the penalty amount that exceeds \$15,000.

7. Order Nos. 99-066 and 02-088 include the following effluent limitations:

**B. Effluent Limitations (Order No. 99-066)**

1. *The effluent discharged to Calera Creek shall not exceed the following limits:*
  - *Total Suspended Solids 20 mg/l Daily Maximum;*
  - *Ammonia-Nitrogen (NH<sub>3</sub>-N) Dry Season (June – Sept.) Monthly Average 2 mg/l;*
  - *Ammonia-Nitrogen (NH<sub>3</sub>-N) Dry Season (June – Sept.) Daily Maximum 5 mg/l;*
  - *Ammonia-Nitrogen (NH<sub>3</sub>-N) Wet Season (Oct. – May) Monthly Average 5 mg/l;*
  - *Ammonia-Nitrogen (NH<sub>3</sub>-N) Wet Season (Oct. – May) Daily Maximum 10 mg/l;*
  - *Oil and Grease Monthly Average 5 mg/l;*
  - *Oil and Grease Daily Maximum 10 mg/l,*
  - *Turbidity Instantaneous Maximum 10 NTUs.*
2. *The pH of the discharge shall not exceed 8.5 nor be less than 6.5.*
6. *Toxic Pollutant Effluent Limitations*  
*The effluent shall not exceed the following concentration limits:*
  - *Copper 9.3 µg/l (Daily Maximum);*
  - *Mercury 0.025 µg/l (Daily Maximum).*

**B. Effluent Limitations (Order No. 02-088)**

4. *Fecal Coliform Bacteria*
  - a. *The geometric mean value of the last five samples for fecal coliform density shall not exceed a Most Probable Number (MPN) of fecal coliform bacteria of 20 MPN/ 100 ml; and*
  - b. *The 90<sup>th</sup> percentile value of the last ten samples shall not exceed a fecal coliform bacteria level of 400 MPN/ 100 ml.*
8. From January 1, 2001 to November 30, 2005, the Discharger exceeded its NPDES permit limits one hundred and thirty-seven times; no penalty has previously been assigned to these violations. A summary of the violations appears in Attachment A.
9. The two mercury effluent limit violations are serious violations because mercury is a Group II pollutant and the violations exceed the effluent limitation by 20 percent or more. These serious violations are each subject to a \$3,000 MMP under Section 13385(h) for a total of \$6,000.
10. Total suspended solids is a Group I pollutant. Six of the seven total suspended solids effluent limit violations are serious violations because the violations exceed the effluent limitation by 40 percent or more. These serious violations are each subject to a \$3,000 MMP under Section 13385(h) for a total of \$18,000. One total suspended solids violation is a chronic violation because the violations exceed the effluent limitation by less than 40 percent. Because there were more than three effluent limit violations in the preceding 180 days, this chronic violation is subject to a \$3,000 MMP under Section 13385(i).

11. Turbidity is neither a Group I nor a Group II pollutant. All twelve of the turbidity effluent limit violations are considered serious violations because there were more than three effluent limit violations in the preceding 180 days, so these chronic turbidity effluent limit violations are each subject to a \$3,000 MMP under Section 13385(i) for a total of \$36,000.
12. Dischargers are to identify all violations in transmittal letters submitted with self-monitoring reports (SMRs). Failure to do so constitutes a violation. Eleven of the twelve turbidity violations were not entered into the transmittal letters of the corresponding SMRs. These violations were the object of a formal Notice of Violation (NOV) prior to this action.
13. Ammonia is a Group I pollutant. Ten of the twenty-three ammonia effluent limit violations are serious violations because the violations exceed the effluent limitation by 40 percent or more. These serious violations are each subject to a \$3,000 MMP under Section 13385(h) for a total of \$30,000. Thirteen of the twenty-three ammonia effluent limit violations are chronic violations because the violations exceed the effluent limitation by less than 40 percent. Because there were more than three effluent limit violations in the preceding 180 days, eleven of the thirteen chronic ammonia effluent limit violations are each subject to a \$3,000 MMP under Section 13385(i) for a total of \$33,000.
14. The Discharger has reported five oil and grease violations over the time period: two are daily maximum violations and three are monthly average violations. Per the self-monitoring program, if any maximum daily limit is exceeded, the sampling frequency shall be increased to daily until two samples collected on consecutive days show compliance with the maximum daily limit. The Discharger failed to sample for oil and grease in the days immediately following maximum values above 10 mg/l, as required by standard provisions in the self-monitoring program. These two violations will not be fined but were the object of a formal Notice of Violation (NOV) prior to this action.
15. Oil and Grease is a Group I pollutant. One of the daily maximum effluent limit violations is a serious violation because it exceeds the effluent limitation by 40 percent or more, and it is subject to a \$3,000 MMP under Section 13385(h). One of the daily maximum effluent limit violations is a chronic violation because it exceeds the effluent limitation by less than 40 percent. Because there were more than three effluent limit violations in the preceding 180 days, it is subject to a \$3,000 MMP under Section 13385(i).
16. The monthly average violations were calculated from three values, in which the unquantified reported values were assigned the value of the Minimum Detection Limit (MDL) used by the laboratory, resulting in an average which exceeded the effluent limitation. Because the real values of samples with a non detect results are unknown, we then applied the compliance determination guidelines from the Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California<sup>1</sup>:

When determining compliance with an AMEL (*Average Monthly Effluent Limitation*) and more than one sample result is available in a month, the discharger shall compute the

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<sup>1</sup> State Water Resources Control Board, 2005.

arithmetic mean unless the data set contains one or more reported determinations of DNQ (*Detected, Not Quantified*) or ND (*Not Detected*). In those cases, the discharger shall compute the median in place of the arithmetic mean.

The arithmetic median is 5 for each monthly average, so we were able to exempt these violations from this Order.

17. pH is neither a Group I nor a Group II pollutant but because there were more than three effluent limit violations in the preceding 180 days, the pH effluent limit violations is subject to a \$3,000 MMP under Section 13385(i).
18. Fecal coliform is neither a Group I nor a Group II pollutant, but because there were more than three effluent limit violations in the preceding 180 days, all of the eighty-four total coliform effluent limit violations are each subject to a \$3,000 MMP under Section 13385(i) for a total of \$252,000.
19. Water Code Section 13385(j) provides for some exceptions related to the assessment of an MMP for effluent limit violations. None of the exceptions apply to the violations cited in this Complaint.
20. The total MMP amount is \$ 396,000.
21. A sizeable proportion of the fine is due to a large amount of fecal coliform violations, seventy-two of which occurred in 2004. The Calera Creek Water Recycling Plant uses four Autothermal Thermophilic Aerobic Digesters (ATADs). Most of the fecal coliform violations happened because the ATADs foamed over and the foam would enter the Plant drain system. The Discharger is attempting to improve its treatment of coliforms and has installed four blowers and variable frequency drives on each digester. They are also adding aluminum sulfate to the centrifuge feed, which aids in the removal of finely divided solids, enhancing the UV disinfection system. As a result, there has been no violations at the Calera Creek Water Recycling Plant from June 9, 2005 to November 30, 2005.
22. In lieu of the first \$15,000 of the penalty the discharger may be permitted to conduct a supplemental environmental project (SEP) approved by the Executive Officer. Of the penalty amount in excess of \$15,000 the discharger may be permitted to contribute 50% towards an SEP. Thus, \$190,500 of the \$396,000 penalty in this complaint is eligible for SEP substitution.

**CALERA CREEK WATER RECYCLING PLANT IS HEREBY GIVEN NOTICE THAT:**

1. The Executive Officer of the Water Board proposes that the Discharger be assessed a MMP in the amount of \$396,000.
2. The Water Board shall hold a hearing on this Complaint on March 8, 2006, unless the Discharger waives the right to a hearing by signing the last page of this Complaint and checking the appropriate box, and there is no significant public comment. By doing so, the Discharger agrees to:

- a. Pay the full penalty of \$396,000 within 30 days after the signed waiver becomes effective as indicated in item 4 below, or
  - b. Pay a penalty of a minimum of \$205,500, and complete an SEP in an amount equivalent to a maximum of \$190,500. The sum of the SEP amount and the amount of the fine to be paid to the State Board shall equal the full penalty amount of \$396,000.
3. If the Discharger chooses to propose an SEP, it must submit a proposal by March 2, 2006, for the Executive Officer's approval. Any SEP proposal shall conform to the requirements specified in Section IX of the Water Quality Enforcement Policy, which was adopted by the State Water Resources Control Board on February 19, 2002. If the proposed SEP is not acceptable to the Executive Officer, the Discharger has 30 days from receipt of notice of an unacceptable SEP to either submit a new or revised proposal, or make a payment for the suspended amount. All payment, including any money not expended for the SEP must be payable to the State Water Pollution Cleanup and Abatement Account. Regular reports on the SEP implementation shall be provided to the Executive Officer according to a schedule to be determined. The completion report for the SEP shall be submitted to the Executive Officer within 60 days of project completion.
  4. The signed waiver becomes effective upon closure of the public comment period for this Complaint, provided no significant public comment is received by Board staff by the due date indicated in the appropriate public notice.
  5. If a hearing is held, the Water 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 the civil liability.

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Bruce H. Wolfe  
Executive Officer

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Date