



California Regional Water Quality Control Board

Central Coast Region



Linda Adams
Secretary for
Environmental
Protection

Internet Address: <http://www.swrcb.ca.gov/rwqcb3>
895 Aerovista Place, Suite 101, San Luis Obispo, California 93401
Phone (805) 549-3147 • FAX (805) 543-0397

Arnold Schwarzenegger
Governor

December 17, 2008

CERTIFIED MAIL 7007 0710 0004 4117 6250

U. S. Wilson, General Manager
Cuyama Community Services District
P. O. Box 368
Cuyama, CA 93254

Dear Mr. Wilson:

COMPLAINT FOR MANDATORY MINIMUM PENALTY, CUYAMA CSD WASTEWATER FACILITY, SANTA BARBARA COUNTY

Attached is Complaint for Mandatory Minimum Penalty No. R3-2009-0005 (Complaint). The Complaint is based on violations of effluent limitations in Waste Discharge Requirements Order No. R3-2007-0020, National Pollutant Discharge Elimination System Permit No. CA0048089, from September 1, 2007 to September 30, 2007. The attached Complaint specifies the occurrence dates and nature of the violations.

Unless you waive your right to a public hearing and pay the amount proposed in the Complaint (\$6,000), we will present an Order to the Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board) for the amount proposed in the Complaint at the February 5, 2009 Central Coast Water Board meeting to be held at 895 Aerovista Place, Suite 101, San Luis Obispo, California. The meeting is scheduled to begin at 8:30 a.m.; however, no specific time has been set for consideration of this item.

Please review the Complaint carefully and submit your comment or your *Waiver of Hearing* form and copy of payment by **January 12, 2009**. We will review and transmit to the Water Board written material received by 5:00 P.M on January 12, 2009.

If you have questions regarding this matter, please direct them to Central Coast Water Board staff, Sorrel Marks at (805) 549-3695, or Harvey Packard at (805) 542-4639.

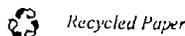
Sincerely,

Michael J. Thomas
Assistant Executive Officer

Attachments: 1) Mandatory Minimum Penalty Complaint No. R3-2009-0005
2) Waiver of Hearing Form

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California Environmental Protection Agency



Item No. 13 Attachment No. 2
February 5, 2009 Meeting
Cuyama CSD MMP Order

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION
895 Aerovista Place, Suite 101
San Luis Obispo, California 93401

COMPLAINT NO. R3-2009-0005

MANDATORY PENALTY
IN THE MATTER OF
CUYAMA COMMUNITY SERVICES DISTRICT
SANTA BARBARA COUNTY

This Complaint to assess Mandatory Minimum Penalties pursuant to California Water Code section 13385(h) and (i) is issued to the Cuyama Community Services District (Discharger) based on findings of violations of Waste Discharge Requirements Order No. R3-2007-0020, National Pollutant Discharge Elimination System (NPDES) Permit No. CA0048089.

The Assistant Executive Officer finds the following:

1. On May 11, 2007, the Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board), adopted *Waste Discharge Requirements Order No. 2007-0020, NPDES Permit No. CA0048089, for the Cuyama CSD Wastewater Facility* (Order No. R3-2007-0020).
2. California Water Code section 13385(h)(1) requires the Central Coast Water Board to assess a mandatory penalty of three thousand dollars (\$3,000) for each serious violation.
3. California Water Code section 13385(h)(2) provides a **serious violation** occurs if the discharge exceeds the effluent limitations for a Group II pollutant, as specified in Appendix A to section 123.45 of Title 40 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 Code of Federal Regulations, by 40 percent or more.
4. California Water Code section 13385(i) requires the Central Coast Water 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 a period of 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; or
 - 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.

Complaint No. R3-2009-0005

5. California Water Code section 13385(i)(2) defines a "period of six consecutive months" as "the period commencing on the date that one of the violations described in this subdivision [California Water Code section 13385(i) of Finding No. 3 of this Order] occurs and ending 180 days after that date." However, **serious violations** may qualify as chronic violations for the purpose of determining a "period of six consecutive months," and may count as the first three **chronic violations**, though such violations are not counted twice for the purpose of assessing the penalty amount.
6. In accordance to Appendix A to section 123.45 of Title 40 Code of Federal Regulations, dibromochloromethane and bromodichloromethane are categorized as Group II Pollutants. Group II pollutants are subject to serious violations as defined in Finding No. 3.
7. Order No. R3-2007-0020 includes the following:

Effluent Limitations – Discharge Point 001, No. 1:

The discharger shall maintain compliance with the following effluent limitations at Discharge Point 001, with compliance measured at Monitoring Location EFF-001, as described in the attached Monitoring and Reporting Program.

8. According to monitoring reports submitted by the Discharger from September 1, 2007, to September 30, 2007, the Discharger violated the following effluent limitations in Order No. R3-2007-0020:

Table 1 – Effluent Limit Violations

#	Violation Date	CIWQS Violation No.	Constituent	Permit Limit	Reported Value	Violation Type
1	09/10/2007	691952	Dibromochloromethane	30-day 0.40 µg/L and max daily 0.81 µg/L	3.7 µg/L	CAT1
2	09/10/2007	691958	Bromodichloromethane	30-day 0.56 µg/L and max daily 1.13 µg/L	4.8 µg/L	CAT1

CIWQS – California Integrated Water Quality System

9. According to the definition of **serious violation** in Finding No. 3, the Discharger committed two serious violations as shown on lines 1 and 2 of Table 1 from September 1st, 2007 to September 30th, 2007. The amount of the mandatory penalty for the two serious violations (\$3,000 x 2) is six thousand dollars (\$6,000).
10. The total amount of the mandatory minimum penalty from September 1, 2007, to September 30, 2007, is six thousand dollars (\$6,000).
11. California Water Code section 13385(l) states that "(1) In lieu of assessing penalties pursuant to subdivision (h) or (i), the...regional board, with the concurrence of the discharger, may direct a portion of the penalty amount to be expended on a

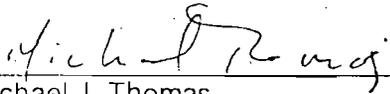
supplemental environmental project in accordance with the enforcement policy of the state board. If the penalty amount exceeds fifteen thousand dollars (\$15,000), the portion of the penalty amount that may be directed to be expended on a supplemental environmental project may not exceed fifteen thousand dollars (\$15,000) plus 50 percent of the penalty amount that exceeds fifteen thousand dollars (\$15,000).

12. 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 the California Code of Regulations Title 14, Chapter 3, section 15321.

CUYAMA CSD IS HEREBY GIVEN NOTICE, pursuant to California Water Code section 13385, that:

1. The Assistant Executive Officer of the Central Coast Water Board proposes that the Discharger be assessed a Mandatory Penalty in the amount of six thousand dollars (\$6,000).
2. The Central Coast Water Board will hold a public hearing on this matter on **February 6, 2009**, unless the Discharger agrees to waive its right to a public hearing by filling out, signing, and submitting the enclosed "Waiver of Hearing." If the Discharger chooses not to waive its right to a public hearing, the Central Coast Water Board may proceed with the scheduled public hearing and consider testimony received from interested persons during the public hearing and decide whether to accept the amount of Mandatory Minimum Penalty proposed by the Assistant Executive Officer. The Central Coast Water Board may also decide to continue the matter to a future hearing, direct the Assistant Executive Officer to reissue the Complaint to propose additional penalties under California Water Code section 13385(c) and (e), or refer the matter to the State Attorney General. The public hearing is scheduled at the regularly scheduled Central Coast Water Board meeting on February 6, 2009, at the Central Coast water Board Hearing Room, 895 Aerovista Place, Suite 101, San Luis Obispo, California. The meeting is scheduled to begin at 8:30 a.m.; however, no specific time has been set for consideration of this item.

If you have questions regarding this matter, please direct them to Central Coast Water Board staff, **Sorrel Marks** at (805) 549-3695, or **Harvey Packard** at (805) 542-4639.



Michael J. Thomas
Assistant Executive Officer

12-17-08
Date

PROCEDURAL INFORMATION
FOR
MANDATORY MINIMUM PENALTY COMPLAINT
PUBLIC HEARING AND PAYMENT

WAIVER OF PUBLIC HEARING

You may waive your right to a public hearing. If you wish to waive your right to a public hearing, a duly authorized person¹ must check, sign, and submit the following *Waiver of the Right to a Public Hearing* form and pay the mandatory minimum penalty amount specified in the Complaint **no later than January 12, 2009, 5:00 P.M.** Please follow the payment instructions below.

If you choose to waive your right to a public hearing, and if full payment and a signed *Waiver of the Right to a Public Hearing* form are received before the hearing, the hearing will not be held, and the violation will be settled. If full payment and a signed *Waiver of the Right to a Public Hearing* form are not received, the matter will be placed on the Central Coast Water Board's agenda for a hearing as stated below.

If you do not waive your right to a public hearing, the Assistant Executive Officer will present an Order to the Central Coast Water Board for the amount proposed in this Complaint at the Central Coast Water Board meeting on February 6, 2009, at the Central Coast Water Board Conference Room, 895 Aerovista Place, Suite 101, San Luis Obispo, California. The Central Coast Water Board will proceed with the scheduled hearing, consider testimony received from interested persons during the hearing, and decide whether to accept the amount of the mandatory minimum penalty proposed by the Assistant Executive Officer, or direct the Assistant Executive Officer to reissue the complaint alleging increased liability pursuant to Water Code Section 13385(c) and (e). If the proposed Order is adopted, payment of the mandatory minimum penalty to the State Water Resources Control Board will be due and payable no later than March 8, 2009, in accordance with the Order. If the proposed Order is rejected, the Central Coast Water Board may direct the Assistant Executive Officer to issue a new complaint and schedule another public hearing. The Central Coast Water Board may also decide to continue the matter to a future hearing or refer it to the State Attorney General. The meeting is scheduled to begin at 8:30 a.m.; however, no specific time has been set for consideration of the Order.

PAYMENT OF MANDATORY MINIMUM PENALTY

No later than January 12, 2009, please make your cashier's check payable to State Water Resources Control Board, and note "MMP Complaint No. R3-2009-0005" on the cashier's check. Please mail the cashier's check and signed waiver form to SWRCB Accounting, Attn: Enforcement, P.O. Box 100, Sacramento, CA 95812-0100.

¹ A duly authorized person is defined as a principal executive officer of at least the level of vice president in a corporation, a general partner or the proprietor in a partnership or sole proprietorship, a principal executive officer or ranking elected official in a public agency, or a duly authorized representative.

Cuyama Community Services
District

R3-2009-0005

Please also mail copies of the cashiers check and signed waiver form to *Regional Water Quality Control Board, Attn: Sorrel Marks, 895 Aerovista Place, Suite 101, San Luis Obispo, CA 93401.*

Complaint No. R3-2009-0005

WAIVER OF THE RIGHT TO A HEARING

By checking the box, I agree to waive **Cuyama Community Services District's** right to a hearing before the Central Coast Water Board with regard to the violations alleged in Complaint No. R3-2009-0005. Also, I agree to remit payment for the civil liability proposed. I understand that I am giving up **Cuyama Community Services District's** right to argue against the allegations made by the Assistant Executive Officer in this Complaint, and against the imposition or amount of proposed civil liability.

Signature

Printed Name

Title/Position²

Date

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A duly authorized person must sign the waiver. A duly authorized person is defined as a principal executive officer or at least the level of vice president in a corporation, a general partner or the proprietor in a partnership, a principal executive officer or ranking elected official in a public agency, or a representative authorized in writing by a vice president or higher ranking corporate officer, general partner, principal executive officer or ranking elected official.

Complaint No. R3-2009-0005