

California Regional Water Quality Control Board  
North Coast Region

Administrative Civil Liability Complaint No. R1-2005-0004

Mandatory Minimum Penalties

For

Violations of Waste Discharge Requirements  
Order No. 95-56  
WDID No. 1B84060OSON

In The Matter  
of

Graton Community Services District  
(formerly Sonoma County Water Agency/Graton Sanitation Zone)

Sonoma County

This Complaint to assess mandatory minimum penalties pursuant to California Water Code Section 13385(h) and/or (i) is issued to the Graton Community Services District (hereinafter referred to as the Discharger) for violations of Waste Discharge Requirements Order No. 95-56 (NPDES No. CA0023639) for the period January 1, 2000, through May 5, 2004.

The Executive Officer finds the following:

1. On August 24, 1995, the Regional Water Quality Control Board, North Coast Region, (hereinafter Regional Water Board) adopted Waste Discharge Requirements Order No. 95-56 (Order No. 95-56), for the Sonoma County Water Agency/Graton Sanitation Zone (SZ), to regulate discharges of waste from the Graton SZ wastewater collection, treatment and disposal facility (WWTF). Order No. 95-56 required the Sonoma County Water Agency/Graton SZ to implement a discharge monitoring program and to prepare and submit monthly NPDES self-monitoring reports to the Regional Water Board.
2. The WWTF was owned by the Sonoma County Water Agency/Graton SZ and operated by the Sonoma County Water Agency through June 30, 2004. The Graton Community Services District (CSD) submitted a Report of Waste Discharge to the Regional Water Board identifying the Graton CSD as the new owner of the municipal wastewater treatment facility as of July 1, 2004.<sup>1</sup> In accordance with Sonoma County Local Agency Formation Commission Resolution No. 2433, all liabilities and obligations of the Graton

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<sup>1</sup> The Sonoma County Local Agency Formation Commission (LAFCO) adopted Resolution No. 2433 on September 10, 2003, ordering a conditional reorganization consisting of dissolution of the Graton Sanitation Zone, formation of the Graton Community Services District, and designation of the Graton Community Services District as the successor in interest to the Graton Sanitation Zone subject to specified terms and conditions. LAFCO filed a Certificate of Completion with the Sonoma County Recorder on June 30, 2004, declaring that the terms and conditions of Resolution No. 2433 have been completed.

SZ transferred to the Graton CSD. Therefore, the Graton CSD is referred to as the Discharger in this Complaint.

3. This Complaint covers violations of effluent limitations that occurred during periods of discharge to receiving waters for the period of January 1, 2000, through May 5, 2004. During this time period, the Discharger violated Effluent Limitations B.1 and B.2.a of Order No. 95-56 a total of 10 times. The details of these 10 violations are summarized in Finding 11 of this Complaint. These violations are subject to the mandatory minimum penalties provision contained in Sections 13385(h) through (l) of the California Water Code.
4. California Water Code Section 13385(h)(1) requires the Regional Water Board to assess a mandatory penalty of three thousand dollars (\$3,000) for each serious violation.
5. California Water Code Section 13385(h)(2) states that a serious violation occurs if the discharge from a facility regulated by an NPDES permit exceeds the effluent limitations 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, or 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.
6. California Water Code Section 13385(i)(1) requires the Regional 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 any six-month period:
  - 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 discharge limitation where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.

Violations under Section 13385(i)(1) of the California Water Code are referred to as “chronic” violations in this Complaint.

7. On February 19, 2002, the State Water Resources Control Board (State Water Board) adopted Resolution No. 2002-0040 amending the Water Quality Enforcement Policy (Enforcement Policy). The Enforcement Policy was approved by the Office of Administrative Law and became effective on July 30, 2002. The Enforcement Policy addresses, amongst other enforcement issues, issues related to assessing mandatory minimum penalties.

8. CWC Section 13385(l)(1) provides that a portion of mandatory minimum penalties imposed under CWC 13385(h) or (i) can be directed to a supplemental environmental project in accordance with the Enforcement Policy. If the penalty amount exceeds fifteen thousand dollars (\$15,000), the portion of the penalty amount that may be directed to 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).
9. Order No. 95-56 includes the following effluent limitations:
- a. Effluent Limitation B.1.

Wastes discharged shall not contain constituents in excess of the following:

<u>Constituent</u>	<u>Units</u>	<u>30-day Average<sup>a</sup></u>	<u>7-day Average<sup>b</sup></u>	<u>Daily Maximum</u>
Settleable Solids	ml/l	0.1	---	0.2
Coliform Organisms (Total)	MPN/100ml	2.2 <sup>e</sup>	---	23

Footnotes:

- a The arithmetic mean of the values for effluent samples collected in a period of 30 consecutive days.  
 b The arithmetic mean of the values for effluent samples collected in a period of seven consecutive days.  
 e Median

- b. Effluent Limitation B.2.a.

Representative sample of Discharge Serial No. 002 must not contain constituents in excess of the following limits for the protection of freshwater aquatic life:

<u>Constituent</u>	<u>Unit</u>	<u>4-Day Average</u>	<u>1-Hour Average</u>
Copper**	ug/l	b	b
Lead**	ug/l	c	c
Zinc**	ug/l	f	f

Footnotes:

\*\* Specified effluent limitations must be determined based on the hardness of the receiving water at the time the discharge is sampled. Appendix A of Order No. 95-56 lists calculated values for each metal based on various hardness values.

Footnote b: 4-DAY AVERAGE copper =  $e^{0.8545H - 1.465}$ ; 1-HOUR AVERAGE copper =  $e^{0.9422H - 1.464}$ .  
 For example where hardness is 50 mg/l, the 4-DAY AVERAGE copper = 6.5 ug/l and the 1-HOUR AVERAGE copper = 9.2 ug/l

Footnote c: 4-DAY AVERAGE lead =  $e^{1.273H-4.705}$ ; 1-HOUR AVERAGE lead =  $e^{1.273H-1.460}$ . For example where hardness is 50 mg/l, the 4-DAY AVERAGE lead = 1.3 ug/l and the 1-HOUR AVERAGE lead = 3.4 ug/l.

Footnote f: 4-DAY AVERAGE zinc =  $e^{0.8473H+0.7614}$ ; 1-HOUR AVERAGE zinc =  $e^{0.8473H+0.8604}$ . For example, where hardness is 50 mg/l, the 4-DAY AVERAGE zinc = 59 ug/l and the 1-HOUR AVERAGE zinc = 65 ug/l.

10. The Enforcement Policy states that for the purpose of determining serious violations, settleable solids is identified as a Group I pollutant and copper, lead and zinc are identified as a Group II pollutants in Title 40 Code of Federal Regulations, Section 123.45, Appendix A. Total coliform is neither a Group I nor a Group II pollutant, therefore it has no serious threshold.
11. According to monitoring reports submitted by the Discharger, for the period January 4, 2000 through May 5, 2004, the Discharger exceeded effluent limitations 10 times during periods of discharge to receiving waters. Of those 10 exceedances, six were serious violations in accordance with CWC Section 13385(h) and four were chronic effluent violations in accordance with CWC Section 13385(i)(1). The mandatory penalty amount for those violations is \$21,000 as shown in the following table:

**Effluent Limitation Violations**<sup>2, 3, 4</sup>  
**January 4, 2000 through May 5, 2004**

Date	Parameter	Effluent Limitation	Reported Value	Violation Type <sup>5</sup>	Mandatory Penalty
1/4/00	Settleable Solids, Daily Max	0.2 ml/l	1.9 ml/l	Serious	\$3,000
11/8/00	Copper	22.7 ug/l	64 ug/l	Serious	\$3,000
3/7/01	Copper	15.21 ug/l	52 ug/l	Serious	\$3,000
2/6/02	Copper	17.73 ug/l	620 ug/l	Serious, 1 <sup>st</sup>	\$3,000
2/6/02	Lead	81.65 ug/l	100 ug/l	Serious, 2 <sup>nd</sup>	\$3,000
2/6/02	Zinc	117.04 ug/l	140 ug/l	Chronic, 3 <sup>rd</sup>	---
3/6/02	Copper	14.36 ug/l	15 ug/l	Chronic, 4 <sup>th</sup>	\$3,000
4/16/03	Coliform, Daily Max	23 MPN	33 MPN	Chronic, 1 <sup>st</sup>	---
3/31/04	Coliform, Daily Max	23 MPN	30 MPN	Chronic, 1 <sup>st</sup>	---
5/5/04	Copper	21.05 ug/l	32 ug/l	Serious, 2 <sup>nd</sup>	\$3,000
<b>Total</b>					<b>\$21,000</b>

<sup>2</sup> The table is arranged to show violations that occurred in four separate six consecutive month periods.

<sup>3</sup> See Finding 6 of this Complaint for the definition of a chronic violation.

<sup>4</sup> See Finding 5 of this Complaint for the definition of a serious violation.

<sup>5</sup> The notations 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> in the Violation Type column provide a tally of chronic violations. Serious violations also count in the tally of chronic violations. As stated in Finding 6, a penalty is assessed beginning with the 4<sup>th</sup> chronic violation. All serious violations are assessed a penalty.

12. The total amount of the mandatory penalties for serious and chronic violations occurring during the period January 4, 2000, through May 5, 2004, is \$21,000. Regional Water Board staff costs for addressing this enforcement action are estimated at approximately \$4,550: \$3,250 for 50 hours of staff time to prepare this Complaint<sup>6</sup> and \$1,300 for 20 future staff hours for tracking a supplemental environmental project. The total amount eligible for expenditure on a supplemental environmental project is \$16,450. The remaining \$4,550 must be paid to the State Water Pollution Cleanup and Abatement Account.
13. 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(a)(2).

**GRATON COMMUNITY SERVICES DISTRICT IS HEREBY GIVEN NOTICE THAT:**

1. The Executive Officer of the Regional Water Board proposes that the Discharger be assessed a Mandatory Penalty in the amount of \$21,000 for violations that occurred from January 4, 2000, through May 5, 2004.
2. A hearing shall be conducted on this Complaint by the Regional Board on March 15-16, 2005, unless the Discharger waives the right to a hearing by signing and returning the waiver form attached to this Complaint within 30 days of the date of this Complaint. By doing so, the Discharger agrees to:
  - a. Pay the mandatory penalty of \$21,000 in full within 30 days of the date of this Complaint, or
  - b. Propose an SEP in an amount up to \$16,450 and pay the balance of the penalty within 30 days of the date of this Complaint. The sum of the SEP amount and the amount of the fine to be paid to the State Water Pollution Cleanup and Abatement Account shall equal the full penalty of \$21,000.
3. If the Discharger chooses to propose an SEP, it must submit a proposal within 30 days of the date of this Complaint to the Executive Officer for conceptual approval. Any SEP proposal shall conform to the requirements specified in Section IX of the Enforcement Policy, and the attached *Standard Criteria and Requirements for Supplemental Environmental Projects*. If the proposed SEP is not acceptable, the Executive Officer may allow the Discharger 30 days to submit a new or revised proposal, or may demand that, during the same 30-day period, the Discharger pay the first installment of the suspended penalty of \$16,450. All payments, including money not used for the SEP, must be payable to the State Water Pollution Cleanup and Abatement Account.

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<sup>6</sup> The cost of staff time is \$65 per hour.

4. The signed waiver will become effective on the next day after the public comment period for this Complaint is closed, provided that there are no significant public comments on this Complaint during the public comment period. If there are significant public comments, the Executive Officer may withdraw the Complaint and reissue it as appropriate.
5. If a hearing is held, the Regional Water Board may impose an administrative civil liability in the amount proposed or for a different amount; decline to seek civil liability; or refer the matter to the Attorney General to have a Superior Court consider enforcement.
6. Regulations of the United States Environmental Protection Agency require public notification of any proposed settlement of the civil liability occasioned by violation of the Clean Water Act, including NPDES permit violations. Accordingly, interested persons will be given 30 days to comment on any proposed settlement of this Complaint.

Ordered by \_\_\_\_\_

Catherine E. Kuhlman  
Executive Officer

January 18, 2005