

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

COMPLAINT NO. 00-075

**MANDATORY PENALTY
IN THE MATTER OF
NOVATO SANITARY DISTRICT
NOVATO
MARIN COUNTY**

This complaint assesses Mandatory Penalties pursuant to Water Code section 13385(h) and (i) is issued to the Novato Sanitary District (hereinafter the Discharger) based on a finding of a violation of Waste Discharger Requirements Order No. 99-036 (NPDES No. CA0037958).

The Executive Officer finds the following:

1. On March 25, 1999, the Regional Water Quality Control Board, San Francisco Bay Region, (Regional Board) adopted Waste Discharge Requirements Order No. 99-036 (NPDES No. CA0037958), for Novato Sanitary District, to regulate discharges of waste from the wastewater treatment plant.
2. Water Code section 13385(h)(1) requires the Regional Board to assess a mandatory penalty of three thousand dollars (\$3,000) for the first serious violation in any six-month period or in lieu of the penalty require the discharger to spend an equal amount for a supplemental environmental project or to develop a pollution prevention plan.
3. Water Code section 13385(i)(1) states: A Mandatory Minimum Penalty (MMP) of three thousand dollars (\$3,000) shall be assessed for each serious violation, not counting the first violation as described in 13385 (h), if the discharger commits two or more serious violations in any six-month period.
4. Water Code section 13385(i)(2) states: A MMP of three thousand dollars (\$3,000) shall be assessed 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. Exceeds 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. Exceeds a toxicity discharge limitation where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.

5. Order No. 99-036 includes the following effluent limitation:

**B. Effluent Limitations
Concentration Criteria for Toxic Pollutants**

(i) The Novato Treatment Plant, Ignacio Treatment Plant, and combined effluent shall not exceed the following concentration limits:

Constituent	Monthly Avg.	Weekly Avg.	Instantaneous Maximum
Settleable Solids (mL/L/hr)	0.1	---	0.2
Chlorine Residual (mg/L)	---	---	0.0

(ii) Total Coliform during the wet weather discharge periods of November 1 through April 30 of each year

- The moving median value for the MPN of total coliform bacteria in any seven consecutive samples shall not exceed 240 MPN/100 mL; and
- Any single sample shall not exceed 10,000 MPN/100 mL

(iii) Total Coliform during the discharge periods before November 1 and after April 30 of each year

- The moving median value for the MPN of total coliform bacteria in any seven consecutive samples shall not exceed 23 MPN/100 mL; and
- Any single sample shall not exceed 240 MPN/100 mL

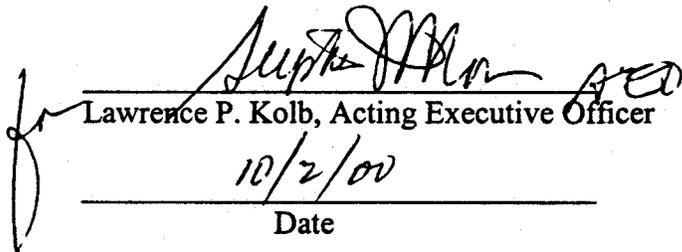
6. According to monitoring reports submitted by the Discharger, the Discharger had six (6) serious violations and four (4) chronic violations during the six-month period beginning January 1, 2000, and ending on June 30, 2000 (see attached table). The amount of the mandatory penalty for the serious violations is \$18,000 (6 violations * \$3,000). The amount of the mandatory penalty for the chronic violations is \$12,000 (4 * \$3,000).

7. The total amount of the mandatory penalty is \$30,000.

NOVATO SANITARY DISTRICT IS HEREBY GIVEN NOTICE THAT:

1. The Executive Officer of the Regional Board proposes that the Discharger be assessed a Mandatory Penalty in the amount of \$30,000.
2. A hearing shall be held by the Regional Board on October 18, 2000 unless the Discharger agrees to waive the hearing and pay the mandatory penalty of \$30,000 in full.

3. In lieu of the mandatory penalty for the first serious violation the Executive Officer may allow the Discharger to complete a pollution prevention plan or conduct a supplemental environmental project approved by the Executive Officer. The Discharger must make such a request by October 6, 2000.
4. The Discharger may waive the right to a hearing. If the discharger wishes to waive the hearing, please check the appropriate box and sign the attached waiver and return it and a check made payable to the State Water Resources Control Board for the full amount of the mandatory penalty, or a proposal pursuant to paragraph 3 above, to the Regional Board's office at 1515 Clay Street, Suite 1400, Oakland, CA 94612 by October 6, 2000.



Lawrence P. Kolb, Acting Executive Officer

10/2/00

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 Complaint No. 00-075 and to remit payment for the civil liability imposed. I understand that I am giving up my right to argue against the allegations made by the Acting Executive Officer in this Complaint, and against the imposition of, or the amount of, the civil liability proposed. I further agree to remit payment for the civil liability imposed under Complaint No. 00-075 by October 6, 2000.
- [] By checking the box I agree to waive my right to a hearing before the Regional Board with regard to the violations alleged in Complaint No. 00-075 and to complete a pollution prevention plan or conduct a supplemental environmental project in lieu of the civil liability imposed for the first serious violation, subject to approval by the Executive Officer. If the pollution prevention plan or supplemental environmental project is not acceptable to the Executive Officer, I agree to pay the civil liability within 30 days of a letter from the Executive Officer denying the approval of the proposed project. I understand that I am giving up my right to argue against the allegations made by the Executive Officer in this Complaint, and against the imposition of, or the amount of, the civil liability proposed. I further agree to complete a pollution prevention plan or conduct a supplemental environmental project approved by the Executive Officer within a time schedule set by the Executive Officer.

Name (print)

Signature

Date

Title/Organization



California Regional Water Quality Control Board

San Francisco Bay Region



Winston H. Hickox
Secretary for
Environmental
Protection

1515 Clay Street, Suite 1400, Oakland, California 94612
Phone (510) 622-2300 • FAX (510) 622-2460

Gray Davis
Governor

TO: Lawrence Kolb
Acting Executive Officer

FROM: Gina Kathuria 
Associate Engineer

DATE: September 29, 2000

SUBJECT: MANDATORY MINIMUM PENALTY (MMP) FOR NOVATO SANITARY DISTRICT (NSD)

Novato Sanitary District has two separate treatment plants, the Novato Treatment Plant and the Ignacio Treatment Plant. The flows from both plants join a combined outfall where the effluent is dechlorinated prior to discharge.

Serious Violations, as defined by Sections 13385(h) and (i)

Attached is a table detailing each serious violation including type of violation, permit limit, and reported value. From January 2000 through June 2000, NSD exceeded its settleable solids limit by more than 40% on six (6) occasions, thus the District is subject to penalties under California Water Code Sections 13385(h) and (i).

Chronic Violations, as defined by Section 13385(i).

Attached is a table detailing each chronic violation including type of violation, permit limit, and reported value. From January 2000 through June 2000, NSD exceeded its settleable solids, chlorine residual and total coliform limits on eleven (11) occasions, thus the District is subject to penalties under Section 13385(i).

For the following reasons I recommend we impose only the minimum penalty of \$30,000 for these permit violations:

1. There are definitely both serious and chronic violations of their NPDES permit limits, see attached table for details). This was not due to any sampling, analytical, or reporting errors. The discharger has not raised any contention that these violations did not occur.
2. There were six (6) serious violations, as defined by Section 13385(h), during the first six months of 2000. Settleable solids is a Group I pollutant. For a Group I pollutant, a

California Environmental Protection Agency

serious violation means any waste discharge that exceeds the effluent limitations by 40 percent or more.

3. There were eleven (11) chronic violations, as defined by Section 13385(i) , during the first six months of 2000.
4. The two violations (coliform and settleable solids) reported on January 24, 2000, at the Novato plant, are considered one violation. On January 24, 2000, the peak wet weather flow was 18 mgd which exceeds the design peak wet weather flow of 16.5 mgd, this is considered a single operational upset. A single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as one single violation.
5. Novato Sanitary District has two separate treatment plants, the Novato Treatment Plant and the Ignacio Treatment Plant. On January 24, 2000, one serious (settleable solids) violation at the Ignacio Treatment Plant was reported. This violation is considered a separate violation from the other settleable solids violation that was reported on the same day at the Novato Treatment Plant. The NPDES permit requires the discharger to comply with technology-based effluent limitations including the settleable solids at each treatment plant because the two treatment plants have different treatment processes and are operated independently from each other. Therefore, although these two settleable solids violations occurred on the same day, they were not considered one violation.
6. ***Calculation of Penalties for Serious Violations.*** Section 13385(h) states, "A MMP of three thousand dollars (\$3,000) shall be assessed for the first serious violation..." Section 13385(i) states, "a MMP of three thousand dollars (\$3,000) shall be assessed for each violation , not counting the first violation described in subdivision (h), if the person commits two or more serious violations in any 6-month period." As illustrated in the table, six (6) serious violations were reported. Therefore the MMP for serious violations is \$18,000 (6 @ \$3,000/each)
7. ***Calculation of Penalties for Chronic Violations.*** Section 13385(i) states, "A MMP of three thousand dollars (\$3,000) shall be assessed 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) exceeds 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) exceeds a toxicity discharge limitation where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants." As illustrated in the table, twelve (12) chronic violations were reported. Under subdivision (i), mandatory penalties are assessed only for the forth and subsequent violations. Furthermore, to avoid penalizing the same violation twice, penalty on another four (4)

chronic violations were not assessed as penalty has been assessed for serious violations.
Therefore the MMP for chronic violations is \$12,000 ((11-3-4) @ \$3,000/each) or (4 @ \$3,000/each).

If you have any questions please call me at 622-2378.

CONCUR: _____ DATE: _____
Shin-Roei Lee *SR Lee 6/2/10*
Section Leader

CONCUR: _____ DATE: _____
Teng-chung Wu
Division Chief

NOVATO SANITARY DISTRICT

VIOLATIONS

TYPE OF 709 VIOLATION	DATE	POLLUTANT	EFFLUENT LIMIT	REPORTED VALUE	COMMENTS
C1	19-Jan	Chlorine Residual	0.0 mg/L	0.2 mg/L	due to feed pump failure, Combined Effluent
C2	24-Jan	Coliform	10,000 MPN/100 mL	>16,000 MPN/100mL	heavy rainfall, Novato Plant
S, C2	24-Jan	Settleable Solids	0.2 (mL/L/hr)	0.8 (mL/L/hr)	heavy rainfall, Novato Plant
S, C3	24-Jan	Settleable Solids	0.2 (mL/L/hr)	0.3 (mL/L/hr)	heavy rainfall, Ignacio Plant
C4	4-Feb	Coliform	240 MPN/100mL (7-day median)	300 MPN/100mL	heavy rainfall, Novato Plant
C5	7-Feb	Coliform	240 MPN/100mL (7-day median)	300 MPN/100mL	heavy rainfall, Novato Plant
C6	9-Feb	Coliform	240 MPN/100mL (7-day median)	300 MPN/100mL	heavy rainfall, Novato Plant
S, C7	14-Feb	Settleable solids	0.2 (mL/L/hr)	0.5 (mL/L/hr)	high rainfall, Novato Plant
S, C8	29-Feb	Settleable solids	0.2 (mL/L/hr)	0.5 (mL/L/hr)	high rainfall, Ignacio Plant
N, false positive	10-Feb	Chlorine Residual	0.0 mg/L	0.2 mg/L	Combined Effluent, bisulfite confirmation
N, false positive	14-Feb	Chlorine Residual	0.0 mg/L	0.2 mg/L	Combined Effluent, bisulfite confirmation
S, C9	9-Mar	Settleable Solids	0.2 (mL/L/hr)	0.4 (mL/L/hr)	heavy rainfall, Ignacio Plant
S, C10	25-Apr	Settleable Solids	0.2 (mL/L/hr)	0.3 (mL/L/hr)	feed pump to sand filter failed, Ignacio Plant
C11	29-May	Coliform	240 MPN/100 mL	>1,600 MPN/100mL	intermittent shortage of ammonia, which resulted in reduced chlorination efficiency, Novato Plant
No Violations					
June					
Number of Chronic Violations	11			Number of Chronic Violations to assess penalty	4
Number of Serious Violations	6			Number of Serious Violations to assess penalty	6
				TOTAL	\$12,000
					\$18,000
					\$30,000
Notations					
C (x):	Running Chronic Violation, (first three are not penalized, the fourth and subsequent violations equals \$3,000 each, except for those violations where serious violation penalties are assessed too)				
S	Serious Violation (each equals \$3,000)				