

APPENDIX A

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

**COMPLAINT NO. R2-2006-0013
MANDATORY MINIMUM PENALTY
IN THE MATTER OF
SONOMA VALLEY COUNTY SANITATION DISTRICT,
SONOMA COUNTY**

This complaint assesses Mandatory Minimum Penalties pursuant to Water Code sections 13385(h) and (i). It is issued to Sonoma Valley County Sanitation District (hereafter Discharger) based on a finding of violations of Waste Discharge Requirement Order No. R2-2002-0046 (NPDES Permit No. CA0037800) for the period between April 1, 2002, and February 28, 2006.

The Executive Officer finds the following:

1. On March 20, 2002, the Water Board adopted Order No. R2-2002-0046 for the Discharger to regulate discharges of waste from its facility.
2. Water Code Section 13385(h)(1) requires the Water Board to assess an MMP of three thousand dollars (\$3,000) for each serious violation.
3. 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.
4. 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.
5. 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.
6. Order No. 02-0046 includes the following effluent limitations:

B. Effluent Limitations (Order No. 02-0046)

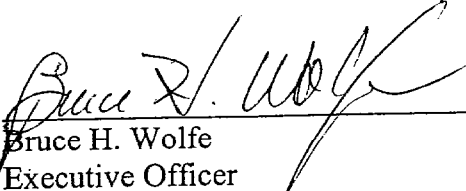
The following effluent limitations apply:

- 1.e. *Total Chlorine Residual shall not exceed 0.0 mg/l.*
- 2. *The pH of the effluent shall not exceed 8.5 nor be less than 6.5.*
- 4. *The treated wastewater, at some point in the treatment process prior to discharge, shall meet the following limits of bacteriological quality:*
 - a. *The moving median value for the MPN of total coliform bacteria in any seven consecutive samples shall not exceed 23 MPN/100ml; and*
 - b. *Any single sample shall not exceed 240 MPN/100ml.*

7. From April 1, 2002, to February 28, 2006, the Discharger exceeded its NPDES permit effluent limits twenty-one times; no penalty has previously been assigned to these violations. A summary of the violations appears in Attachment A.
8. The three chlorine residual effluent limit violations are serious violations because chlorine 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 \$9,000.
9. 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, six out of the nine pH effluent limit violations are subject to a \$3,000 MMP under Section 13385(i) for a total of \$18,000.
10. Total 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, four of the eight total coliform effluent limit violations are each subject to a \$3,000 MMP under Section 13385(i) for a total of \$12,000.
11. 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.
12. The total MMP amount is \$ 39,000.
13. 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, \$27,000 of the \$39,000 penalty in this complaint is eligible for SEP substitution.

SONOMA VALLEY COUNTY SANITATION DISTRICT 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 \$39,000.
2. The Water Board shall hold a hearing on this Complaint on May 10, 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 \$39,000 within 30 days after the signed waiver becomes effective as indicated in item 4 below, or
 - b. Pay a penalty of a minimum of \$12,000, and complete an SEP in an amount equivalent to a maximum of \$27,000. 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 \$39,000.
3. If the Discharger chooses to propose an SEP, it must submit a proposal by May 1, 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 on the date this complaint is presented to the Board, provided no significant public comment is received by the Board at that time.
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.



Bruce H. Wolfe
Executive Officer

MAR 23 2006

Date

WAIVER

(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.)

- [] Waiver of the right to a hearing and agreement to make payment in full
By checking the box, I agree to waive my right to a hearing before the Water Board with regard to the violations alleged in Complaint No. R2-2006-0013 and to remit the full penalty payment to the State Water Pollution Cleanup and Abatement Account, c/o Regional Water Quality Control Board at 1515 Clay Street, Oakland, CA 94612, within 30 days after the signed waiver becomes effective as indicated above. I understand that I am giving up my right to be heard, and 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.
- [] Waiver of the right to a hearing and agreement to propose and complete a supplemental environmental project (SEP)
By checking the box, I agree to waive my right to a hearing before the Water Board with regard to the violations alleged in Complaint No. R2-2006-0013, and to complete an SEP in lieu of the suspended liability not to exceed \$27,000. I also agree to remit the balance of the fine to the State Water Pollution Cleanup and Abatement Account within thirty (30) days after the signed waiver becomes effective. The sum of the SEP amount and the amount of the fine to be paid shall equal the full penalty amount of \$39,000. I understand that the 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, and shall be subject to approval by the Executive Officer. If the SEP proposal, or its revised version, is not acceptable to the Executive Officer, I agree to pay the suspended penalty within 30 days of a letter from the Executive Officer denying the approval of the proposed SEP. I also understand that I am giving up my right to argue against the allegations made by the Executive Officer in the Complaint, and against the imposition of, or the amount of, the mandatory minimum penalty proposed. I further agree to complete the approved SEP within a time schedule set by the Executive Officer.

Name (print)

Signature

Date

Title/Organization

Attachment A

Sonoma Valley County Sanitation District
Violations April 1, 2002 – February 28, 2006

Item No.	Date of Violation	Parameter in Violation	Effluent Limit	Reported Value	Serious/Chronic	Fine Amount
1	14-Nov-02	Total Chlorine Residual mg/l	0	0.4	S1	\$3,000
2	28-Apr-03	Total Chlorine Residual mg/l	0	1.2	S2	\$3,000
3	17-May-03	Effluent Coliform MPN/ml	23	300	C1	no fine
4	19-May-03	pH Effluent Grab Daily Minimum	6.5	6.4	C2	no fine
5	29-Dec-04	Effluent Coliform MPN/ml	240	300	C3	no fine
6	2-Jan-05	Total Coliform 7-Sample Moving Median Effluent MPN/100ml	23	30	C4	no fine
7	9-Mar-05	Effluent Coliform MPN/ml	240	280	C5	no fine
8	26-Nov-05	Effluent Coliform MPN/ml	240	500	C6	no fine
9	31-Dec-05	pH Effluent Grab Daily Minimum	6.5	6.3	C7	no fine
10	1-Jan-06	pH Effluent Grab Daily Minimum	6.5	6.2	C8	no fine
11	2-Jan-06	Total Chlorine Residual mg/l	0	0.25	S3	\$3,000
12	2-Jan-06	pH Effluent Grab Daily Minimum	6.5	6.2	C9	\$3,000
13	2-Jan-06	Effluent Coliform MPN/ml (Overflow of Equalization Basin)	240	≥1600	C10	\$3,000
14	3-Jan-06	pH Effluent Grab Daily Minimum	6.5	6.2	C11	\$3,000
15	3-Jan-06	Effluent Coliform MPN/ml (Overflow of Equalization Basin)	240	≥1600	C12	\$3,000
16	4-Jan-06	pH Effluent Grab Daily Minimum	6.5	6.3	C13	\$3,000
17	4-Jan-06	Effluent Coliform MPN/ml (Overflow of Equalization Basin)	240	≥1600	C14	\$3,000
18	5-Jan-06	pH Effluent Grab Daily Minimum	6.5	6.4	C15	\$3,000
19	5-Jan-06	Effluent Coliform MPN/ml (Overflow of Equalization Basin)	240	≥1600	C16	\$3,000
20	9-Jan-06	pH Effluent Grab Daily Minimum	6.5	6.4	C17	\$3,000
21	28-Feb-06	pH Effluent Grab Daily Minimum	6.5	6.4	C18	\$3,000

Number of fineable chronic violations

13

Number of serious violations

3

Total Penalty

\$39,000

Notations:

Cx - Running chronic violation, first three are not penalized, fourth and subsequent violations within a six-month period are penalized at \$3000 per violation.
Sx - Serious violation, penalized at \$3000 per violation.