

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

IN THE MATTER OF:

**SOUTH ORANGE COUNTY
WASTEWATER AUTHORITY
SAN JUAN CREEK OCEAN OUTFALL**

**SOUTH COAST WATER DISTRICT
GROUNDWATER RECOVERY FACILITY**

**VIOLATIONS OF EFFLUENT
LIMITATIONS IN ORDER NO.
R9-2006-00054, NPDES NO CA0107417,
WASTE DISCHARGE REQUIREMENTS
AND NPDES PERMIT FOR THE SOUTH
ORANGE COUNTY WASTEWATER
AUTHORITY DISCHARGE TO THE
PACIFIC OCEAN VIA SAN JUAN CREEK
OCEAN OUTFALL ORANGE COUNTY,
CALIFORNIA**

**COMPLAINT NO. R9-2009-0028
FOR
ADMINISTRATIVE CIVIL LIABILITY
WITH
MANDATORY MINIMUM PENALTIES**

February 27, 2009

Place ID 704670
WDID No. 9 00000175
RM: 360847

**SOUTH ORANGE COUNTY WASTEWATER AUTHORITY IS HEREBY GIVEN
NOTICE THAT:**

1. South Orange County Wastewater Authority (SOCWA) is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, San Diego Region (Regional Board) may impose civil liability pursuant to Section 13385 of the California Water Code (CWC). The violations alleged herein include violations of effluent limitations in waste discharge requirements for discharges of pollutants from point sources to navigable waters for which the Regional Board must impose mandatory minimum penalties (MMP).
2. SOCWA owns and holds the NPDES permit for the San Juan Creek Ocean Outfall on behalf of all its member agencies (Order No. R9-2006-0054, NPDES No. CA0107417, *Waste Discharge Requirement for the South Orange County Wastewater Authority, Discharge to the Pacific Ocean Via the San Juan Creek Ocean Outfall, Orange County*). The South Coast Water District (SCWD) operates the Groundwater Recovery Facility and discharges brine to the San Juan Creek Ocean Outfall as a member agency under Order No. R9-2006-0054.

3. Treated effluent discharged from the SCWD Groundwater Recovery Facility into the Pacific Ocean through the San Juan Creek Ocean Outfall is subject to numeric effluent limitations contained in Order No. R9-2006-0054.
4. Every violation of an NPDES permit is subject to discretionary liability under CWC section 13385(a)(2), and certain violations are subject to MMPs under CWC sections 13385(h) or (i).
5. CWC section 13385(h) requires that an MMP of \$3,000 be imposed for each serious violation. CWC section 13385 subdivision (h)(2) defines a 'serious' violation as any waste discharge that violates an effluent limitation contained in waste discharge requirements (applying to surface water discharges) for a Group I pollutant by 40 percent or more or for a Group II pollutant by 20 percent or more.
6. CWC section 13385(i) requires that an MMP of \$3,000 be imposed for each violation (i.e. any waste discharge that violates an effluent limitation contained in waste discharge requirements) beginning with the fourth violation in any six-month period.
7. On February 26, 2008, the Regional Board issued a Notice of Violation to SOCWA for violations of Order No. R9-2006-0054 occurring between October 2007 and December 2007, including eight violations of effluent limitations from the SCWD Groundwater Recovery Facility.
8. On August 14, 2008, the Regional Board issued ACL Complaint No. R9-2008-0093 with MMPs to SOCWA for nineteen violations of effluent limitations from the SCWD Groundwater Recovery Facility that occurred from August 2007 through March 2008. The Complaint was withdrawn on October 6, 2008 by the Regional Board with the stated intent to reissue a Complaint with additional MMPs after review of subsequent monitoring reports and an expected operational resolution to ongoing violations.
9. On December 30, 2008, SOCWA notified the Regional Board that the SCWD's Groundwater Recovery Facility began discharging its brine wastewater to the sanitary sewer in November 2008, rather than directly to the San Juan Creek Ocean Outfall.

ALLEGATIONS

10. Effluent Limitation Violations. SOCWA has reported, pursuant to the Monitoring and Reporting schedule for Order No. R9-2006-0054, effluent sampling results that document violations of effluent limitations prescribed by Order No. R9-2006-0054. Pursuant to CWC section 13385 subdivisions (h) and (i), sixty eight (68) reported effluent violations are subject to MMPs as described in Attachment 1, *Calculation of Mandatory Minimum Penalties Based on Reported Monitoring Results from August 2007 through December 2008.*
11. Fifty eight of the alleged violations subject to MMPs are considered serious violations pursuant to CWC Section 13385(h). Ten other alleged violations subject to the chronic MMPs provisions of CWC Section 13385(i) because they represent more than the third effluent limitation violation within a six month period, but do not exceed the respective effluent limitation enough to be considered an MMP pursuant to CWC Section 13385(h).

PROPOSED CIVIL LIABILITY

12. Pursuant to CWC section 13385(h), the Regional Board must impose mandatory minimum penalties in the amount of two hundred one thousand (\$204,000) on the South Orange County Wastewater Authority. Discretionary civil liability above the mandatory minimum for effluent violations alleged in this Complaint is not recommended.

Dated this 27th day of February 2009

BY THE EXECUTIVE OFFICER



MICHAEL P. McCANN
Assistant Executive Officer

Signed pursuant to the authority
delegated by the Executive Officer to
the Assistant Executive Officer

Attachments:

1. Calculation of Mandatory Minimum Penalties Based on Reported Monitoring Results from August 2007 through December 2008.
2. Excerpted Monitoring Report Pages from August 2007 through December 2008.

CIWQS Entries:

Reg Msr: 360847

Related Reg Msr (NPDES): 309059

Place ID: 704670

Party ID: 41388

Violations: 660728, 689220, 689715, 689237, 689307, 689310, 689267, 689282, 698165, 715317,
715322, 715281, 754137, 724233, 724234, 724195, 724241, 755310, 755198, 755317, 805397, 805277,
805281, 805283, 805285, 805286, 805288, 805290, 805330, 805332, 805795, 805819, 805797, 805799,
805803, 805804, 805806, 805842, 805843, 805824, 805825, 805844, 805827, 805823, 805833, 805838,
805836, 805826, 805835, 805832, 805820, 805821, 805822, 805828, 805824, 805829, 805831, 805813,
805814, 805815, 805817, 805818, 805812, 805810, 805808, 805805, 805802, 805796, 805793.

Attachment 1: Calculation of Mandatory Minimum Penalties Based on Reported Monitoring Results from August 2007 through December 2008.

**Calculation of Mandatory Minimum Penalties Based on Reported Monitoring Results
from August 2007 through December 2008**

Violation Date	Violation ID	Constituent	Effluent Limitation	Unit	Permitted Limit	Reported Value	Serious Violation ⁱⁱ	Mandatory Minimum Penalty ⁱⁱⁱ
8/23/2007	689715	TSS	average monthly	mg/L	60	119	Yes	\$3,000
	660728	turbidity	instantaneous max	NTU	225	260	No	\$0
	689220	turbidity	average weekly	NTU	100	260	Yes	\$3,000
	689237	turbidity	average monthly	NTU	75	260	Yes	\$3,000
	805397	SS	average monthly	ml/L	1	1.4	yes	\$3,000
9/27/2007	689307	SS	instantaneous max	mg/L	3.0	3.2	No	\$3,000
	689267	turbidity	average weekly	NTU	100	173	Yes	\$3,000
	689282	turbidity	average monthly	NTU	75	173	Yes	\$3,000
9/30/2007	689310	SS	average monthly	mg/L	1.0	1.1	No	\$3,000
10/31/2007	698165	TSS	average monthly	mg/L	60	71.0	No	\$3,000
11/21/2007	715317	turbidity	instantaneous max	NTU	225	273	No	\$3,000
	715322	turbidity	average weekly	NTU	100	273	Yes	\$3,000
11/28/2007	715281	TSS	average monthly	mg/L	60	65.0	No	\$3,000
	754137	turbidity	average monthly	NTU	75	120	Yes	\$3,000
12/21/2007	724195	TSS	average monthly	mg/L	60	114.0	Yes	\$3,000
	724233	turbidity	instantaneous max	NTU	225	393	Yes	\$3,000
	724234	turbidity	average weekly	NTU	100	393	Yes	\$3,000
	724241	turbidity	average monthly	NTU	75	393	Yes	\$3,000
3/24/2008	755198	TSS	average monthly	mg/L	60	85.9	Yes	\$3,000
	755310	turbidity	average weekly	NTU	100	177.1	Yes	\$3,000
	755317	turbidity	average monthly	NTU	75	177.1	Yes	\$3,000
4/29/2008	805277	turbidity	instantaneous max	NTU	225	280.8	no	\$3,000
	805281	turbidity	average weekly	NTU	100	280.8	yes	\$3,000
	805283	turbidity	average monthly	NTU	75	280.8	yes	\$3,000
	805285	SS	instantaneous max	ml/L	3.0	10.4	yes	\$3,000
	805286	SS	average weekly	ml/L	1.5	10.4	yes	\$3,000
	805288	SS	average monthly	ml/L	1.0	10.4	yes	\$3,000
5/3/2008	805290	turbidity	instantaneous max	NTU	225	249.0	no	\$3,000
	805330	turbidity	average weekly	NTU	100	249.0	yes	\$3,000
5/16/2008	805332	turbidity	instantaneous max	NTU	225	372.0	yes	\$3,000
	805795	turbidity	average weekly	NTU	100	372.0	yes	\$3,000
	805819	SS	average weekly	ml/L	1.5	1.6	no	\$3,000
5/29/2008	805797	TSS	average monthly	mg/L	60	132.0	yes	\$3,000
	805799	turbidity	instantaneous max	NTU	225	330.0	yes	\$3,000
	805803	turbidity	average weekly	NTU	100	330.0	yes	\$3,000
	805804	turbidity	average monthly	NTU	75	317.0	yes	\$3,000
	805806	SS	instantaneous max	ml/L	3.0	11.7	yes	\$3,000
	805842	SS	average weekly	ml/L	1.5	11.7	yes	\$3,000
	805843	SS	average monthly	ml/L	1.0	4.5	yes	\$3,000

Violation Date	Violation ID	Constituent ⁱ	Effluent Limitation	Unit	Permitted Limit	Reported Value	Serious Violation ⁱⁱ	Mandatory Minimum Penalty ⁱⁱⁱ
6/6/2008	805824	TSS	average monthly	mg/L	60	135.0	yes	\$3,000
	805825	turbidity	instantaneous max	NTU	225	381.0	yes	\$3,000
	805844	turbidity	average weekly	NTU	100	381.0	yes	\$3,000
	805827	turbidity	average monthly	NTU	75	381.0	yes	\$3,000
7/31/2008	805823	TSS	average monthly	mg/L	60	131.0	yes	\$3,000
	805833	turbidity	instantaneous max	NTU	225	314.0	no	\$3,000
	805838	turbidity	average weekly	NTU	100	314.0	yes	\$3,000
	805836	turbidity	average monthly	NTU	75	314.0	yes	\$3,000
	805826	SS	instantaneous max	ml/L	3.0	4.9	yes	\$3,000
	805835	SS	average weekly	ml/L	1.5	4.9	yes	\$3,000
	805832	SS	average monthly	ml/L	1.0	4.9	yes	\$3,000
8/27/2008	805820	TSS	average monthly	mg/L	60	130.0	yes	\$3,000
	805821	turbidity	instantaneous max	NTU	225	348.0	yes	\$3,000
	805822	turbidity	average weekly	NTU	100	348.0	yes	\$3,000
	805828	turbidity	average monthly	NTU	75	348.0	yes	\$3,000
	805824	SS	instantaneous max	ml/L	3.0	7.5	yes	\$3,000
	805829	SS	average weekly	ml/L	1.5	7.5	yes	\$3,000
	805831	SS	average monthly	ml/L	1.0	7.5	yes	\$3,000
9/30/2008	805813	TSS	average monthly	mg/L	60	232.0	yes	\$3,000
	805814	turbidity	instantaneous max	NTU	225	480.0	yes	\$3,000
	805815	turbidity	average weekly	NTU	100	480.0	yes	\$3,000
	805817	turbidity	average monthly	NTU	75	480.0	yes	\$3,000
	805818	SS	average monthly	ml/L	1.0	1.3	no	\$3,000
10/15/2008	805812	TSS	average monthly	mg/L	60	211.0	yes	\$3,000
	805810	turbidity	instantaneous max	NTU	225	422.0	yes	\$3,000
	805808	turbidity	average weekly	NTU	100	422.0	yes	\$3,000
	805805	turbidity	average monthly	NTU	75	422.0	yes	\$3,000
	805802	SS	instantaneous max	ml/L	3.0	9.7	yes	\$3,000
	805796	SS	average weekly	ml/L	1.5	9.7	yes	\$3,000
	805793	SS	average monthly	ml/L	1.0	9.7	yes	\$3,000
Total MMP Liability								\$204,000

i. TSS = Total Suspended Solids; SS = Settleable Solids

ii. CWC Section 13385(h)(1) requires that an MMP of \$3,000 be imposed for each serious violation. A serious violation occurs when the discharge exceeds Group I effluent limitations by 40 percent or more or Group II effluent limitations by 20 percent or more. TSS, settleable solids, and turbidity are Group I pollutants.

iii. MMPs are required for Serious violations (CWC Sec. 13385(h)) and for the fourth and subsequent effluent limitation violation in any six month period (CWC Section 13385(h)).