



Linda S. Adams
Secretary for
Environmental Protection

California Regional Water Quality Control Board San Diego Region

Over 50 Years Serving San Diego, Orange, and Riverside Counties
Recipient of the 2004 Environmental Award for Outstanding Achievement from U.S. EPA



Arnold Schwarzenegger
Governor

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<http://www.waterboards.ca.gov/sandiego>

February 9, 2007

CERTIFIED-RETURN RECEIPT REQUESTED
7005 1160 0000 4217 5584

Mr. Thomas R. Rosales
General Manager
South Orange County Wastewater Authority
34156 Del Obispo Street
Dana Point, California 92629

In reply refer to:
CA:01-0175.02:Rstewart

Dear Mr. Rosales:

COMPLAINT NO. R9-2007-0035 FOR ADMINISTRATIVE CIVIL LIABILITY FOR MANDATORY MINIMUM PENALTIES UNDER WATER CODE SECTION 13385, VIOLATION OF ORDER NO. R9-2000-0013, NPDES CO. CA0107417

Enclosed is Complaint No. R9-2007-0035, Administrative Civil Liability with Mandatory Minimum Penalties, for the amount of \$36,000 for violations of effluent limitations established by Order No. R9-2000-0013, NPDES No. CA0107417, Waste Discharge Requirements for the South Orange County Wastewater Authority, Orange County, Discharge to the Pacific Ocean through the South Orange County Wastewater Authority San Juan Creek Ocean Outfall.

If South Orange County Wastewater Authority intends to waive its right to a hearing before the California Regional Water Quality Control Board, San Diego Region (Regional Board), you or an authorized agent must sign and return the enclosed waiver form with a cashier's check for the amount of civil liability indicated in the Complaint by 5:00 p.m. **Friday, March 9, 2007**. Waiver of the hearing constitutes admission of the validity of the allegation of violations in the Complaint and acceptance of the assessment of civil liability in the amount of \$36,000 as set forth in the Complaint. In addition, South Orange County Wastewater Authority must publish the enclosed public notice in a newspaper circulated in the South Orange County area no later than **March 30, 2007**. Verification that the notice has been published must be submitted to the Regional Board no later than **April 9, 2007**.

If South Orange County Wastewater Authority does not elect to waive its right to a public hearing or verification that the newspaper notification has not been received by April 9, 2007, a hearing is tentatively scheduled to be held at the Regional Board

California Environmental Protection Agency

February 9, 2007

meeting on May 9, 2007. In order for the Regional Board to fully consider any argument on your behalf, you should submit twenty copies of all documents, including exhibits, you intend to provide the Regional Board by 5:00 p.m. **Friday, April 20, 2007.** Copies of material submitted will be forwarded to the Regional Board. An agenda for the hearing will be mailed to you not less than ten days before the hearing date.

The heading portion of this letter includes a Regional Board code number noted after "in reply refer to:" In order to assist us in the processing of your correspondence please include this code number in the heading or subject line portion of all correspondence and reports to the Regional Board pertaining to this matter.

Please contact Rebecca Stewart at (858) 467-2966 or via e-mail at Rstewart@waterboards.ca.gov if you have any questions concerning this matter.

Respectfully,



JOHN H. ROBERTUS
Executive Officer

JHR:mpm:mja:rls

Enclosures

cc: Ken Greenberg, Water Division (WTR-7), U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105 (with enclosures)

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

IN THE MATTER OF:)

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

COMPLAINT NO. R9-2007-0035

FOR)
ADMINISTRATIVE CIVIL LIABILITY)
WITH)

VIOLATIONS OF EFFLUENT LIMITATIONS)
IN ORDER NO. R9-2000-0013, NPDES NO.)
CA0107417, WASTE DISCHARGE)
REQUIREMENTS FOR THE SOUTH)
ORANGE COUNTY WASTEWATER)
AUTHORITY DISCHARGE TO THE PACIFIC)
OCEAN THROUGH THE SOUTH ORANGE)
COUNTY WASTEWATER AUTHORITY)
SAN JUAN CREEK OCEAN OUTFALL)
ORANGE COUNTY, CALIFORNIA)

MANDATORY MINIMUM PENALTIES

FEBRUARY 9, 2007

WDID NO. 9 000000175

**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 the Porter-Cologne Water Quality Control Act, §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 imposed mandatory minimum penalties (MMP).
2. SOCWA discharged treated wastewater to the Pacific Ocean subject to numeric effluent limitations contained in Order No. R9-2000-0013, NPDES Permit No. CA0107417, *Waste Discharge Requirement for the South Orange County Wastewater Authority, Orange County, Discharge to the Pacific Ocean through the South Orange County Wastewater Authority San Juan Creek Ocean Outfall, Orange County.*

3. The CWC includes provisions for MMP for serious and chronic violations of waste discharge requirements applying to surface water discharges.
4. The pertinent revisions can be found in CWC Sections 13385 (h) and (i). Each serious violation, defined as an exceedance of an effluent limitation for a Group I pollutant by 40 percent or more, or for a Group II pollutant by 20 percent or more, is subject to a \$3,000 MMP. Furthermore, the occurrence of four or more chronic violations, defined as any effluent limitation violation, in any six-month period triggers the assessment of a \$3,000 MMP for the fourth violation and each subsequent violation during the six-month period.

ALLEGATIONS

5. During May and June 2006, the discharge exceeded effluent limitations for TCDD and Settleable Solids as set forth in Table 1 (attached).
6. Under subdivisions (h) and (i) of Section 13385 of the CWC, the Regional Board must impose an MMP of \$36,000 for the alleged violations of effluent limitations, as determined by the following:
 - a. On May 1-2, 2006, the concentration of TCDD (a Group II pollutant) in monitoring reports submitted by the discharger was 3.15 pg/L which exceeded the monthly average effluent limitation (0.394 pg/L) by 20% or more.
 - b. On May 1-2, 2006, the mass loading concentration of TCDD in monitoring reports submitted by the discharger was 5.57E-07 lbs/day which exceeded the monthly average effluent limitation (1.07E-07 lbs/day) by 20% or more.
 - c. On May 25, 2006, the concentration of settleable solids (a Group I pollutant) in monitoring reports submitted by the discharger was 5.0 mg/L which exceeded the daily effluent limitation (3.0 mg/L) by 40% or more.
 - d. On May 25, 26, 27, and 28, 2007, the 7-day average concentrations of settleable solids in monitoring reports submitted by the discharger were 1.8 mg/L, 1.7 mg/L, 1.7 mg/L, and 1.7 mg/L respectively which exceeded the 7-day average effluent limitation (1.5 mg/L) by less than 40%. These effluent limitation violations are the fourth, fifth, sixth, and seventh violations in a six-month period.
 - e. On June 2, 2006, the concentration of settleable solids in monitoring reports submitted by the discharger was 3.2 mg/L which exceeded the daily effluent limitation (3.0 mg/L) by less than 40%. This effluent limitation violation is the eighth violation in a six-month period.

February 9, 2007

- g. On June 4, 2006, the 30-day average concentration of settleable solids in monitoring reports submitted by the discharger was 1.1 mg/L which exceeded the 30-day average effluent limitation (1.0 mg/L) by less than 40%. This effluent limitation violation is the ninth violation in a six-month period.
- h. On June 7, 2006, the 7-day average concentration of settleable solids in monitoring reports submitted by the discharger was 1.7 mg/L which exceeded the 7-day average effluent limitation (1.5 mg/L) by less than 40%. This effluent limitation violation is the tenth violation in a six-month period.
- i. On June 7, and 11 2006, the 30-day average concentrations of settleable solids in monitoring reports submitted by the discharger were 1.1 mg/L and 1.1 mg/L and respectively which exceeded the 30-day average effluent limitation of 1.0 mg/L by less than 40%. These effluent limitation violations are the eleventh and twelfth violations in a six-month period.

PROPOSED CIVIL LIABILITY

- 7. Pursuant to sections 13385 (h) and (i) of the CWC, the Regional Board must impose mandatory minimum penalties in the amount of thirty six thousand dollars (\$36,000) on South Orange County Wastewater Authority. Discretionary civil liability above the mandatory minimum for the violations alleged in this Complaint is not recommended.

Dated this 9th day of February 2007



JOHN H. ROBERTUS
Executive Officer



California Regional Water Quality Control Board San Diego Region



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**WAIVER
OF RIGHT TO A
PUBLIC HEARING**

Mr. Thomas R. Rosales
South Orange County Wastewater
Authority
34156 Del Obispo Street
Dana Point, California 92629

Complaint No. R9-2007-0035
For
Administrative Civil Liability

\$36,000

WDID No. 9 000000175

By signing below, I agree to waive South Orange County Wastewater Authority's right to a public hearing before the California Regional Water Quality Control Board, San Diego Region with regards to the violations alleged in the above referenced Complaint and to remit payment for the civil liability imposed. I understand that I am authorized to give up South Orange County Wastewater Authority's right to be heard, and to argue against the allegations made by the Executive Officer in the Complaint, and against the imposition of, or the amount of, civil liability proposed. I have enclosed a cashier's check or money order made payable to the State Water Resources Control Board for the civil liability imposed.

Signature

Title

Date

Print your name

Send this signed form to:

John H. Robertus, Executive Officer
C/O Compliance Assurance Unit
California Regional Water Quality Control Board – San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123

California Environmental Protection Agency

Violation Date	Constituent	Effluent Limitation	Unit	Permitted Limit	Reported/ Calculated Value	Serious Violation	Mandatory Minimum Penalty
5/1-2/2006	TCDD	Monthly average	pg/L	0.394	3.15	Yes	\$3,000
5/1-2/2006	TCDD	Monthly average	lbs/Day	1.07E-07	5.57E-07	Yes	\$3,000
5/25/2006	Settleable Solids	Daily	mg/L	3.0	5.0	Yes	\$3,000
5/25/2006	Settleable Solids	7-day average	mg/L	1.5	1.8	No	\$3,000
5/26/2006	Settleable Solids	7-day average	mg/L	1.5	1.7	No	\$3,000
5/27/2006	Settleable Solids	7-day average	mg/L	1.5	1.7	No	\$3,000
5/28/2006	Settleable Solids	7-day average	mg/L	1.5	1.7	No	\$3,000
6/2/2006	Settleable Solids	Daily	mg/L	3.0	3.2	No	\$3,000
6/4/2006	Settleable Solids	30-day average	mg/L	1.0	1.1	No	\$3,000
6/7/2006	Settleable Solids	7-day average	mg/L	1.5	1.7	No	\$3,000
6/7/2006	Settleable Solids	30-day average	mg/L	1.0	1.1	No	\$3,000
6/11/2006	Settleable Solids	30-day average	mg/L	1.0	1.1	No	\$3,000
TOTAL PENALTY							\$36,000

NOTICE OF WAIVER OF PUBLIC HEARING

**California Regional Water Quality Control Board, San Diego Region
Issuance of Administrative Civil Liability (ACL) Order
With Mandatory Minimum Penalties against
South Orange County Wastewater Authority
San Juan Creek Ocean Outfall**

On February 9, 2007, the California Regional Water Quality Control Board, San Diego Region (Regional Board) issued Complaint No. R9-2007-0035 to the South Orange County Wastewater Authority in the amount of \$36,000 for alleged violations of Regional Board Order No. R9-2000-0013, NPDES Permit No. CA0107417, *Waste Discharge Requirement for the South Orange County Wastewater Authority, Orange County, Discharge to the Pacific Ocean through the South Orange County Wastewater Authority San Juan Creek Ocean Outfall, Orange County.* South Orange County Wastewater Authority has elected to waive its right to a public hearing in this matter. Waiver of the hearing constitutes admission of the validity of the allegation of violations in the Complaint and acceptance of the assessment of civil liability in the amount of \$36,000 as set forth in the Complaint. The Regional Board will consider accepting South Orange County Wastewater Authority's waiver at its May 9, 2007 meeting.

Written comments regarding the allegations contained in Complaint No. R9-2007-0035, and/or acceptance of the waiver, will be accepted through Monday, April 30, 2007.

The Regional Board's May 9, 2007 meeting will be at the Regional Board office located at 9174 Sky Park Court, San Diego, California. The meeting will begin at 9:00 a.m. Oral comments for this item may be made during the meeting upon receipt of a request to speak slip. For more information regarding this matter please call Rebecca Stewart at (858) 467-2966 or visit the Regional Board's web site at www.waterboards.ca.gov/sandiego.

John H. Robertus
EXECUTIVE OFFICER

