California Regional Water Quality Control Board
Santa Ana Region

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|---|---|---|
| IN THE MATTER OF: | ) | |
| | ) | |
| City of Rialto | ) | Complaint No. R8-2002-0061 |
| 150 South Palm Avenue | ) | for |
| Rialto, California 92376 | ) | Mandatory Penalties |

YOU ARE HEREBY GIVEN NOTICE THAT:

1. The City of Rialto (Rialto) is alleged to have violated provisions of law for which the California Regional Water Quality Control Board (Board), Santa Ana Region, must impose mandatory penalties pursuant to California Water Code (Water Code) Section 13385 (h) and (i).

2. A hearing concerning this complaint will be held before the Board within 60 days of the date of issuance of this complaint, unless Rialto waives its right to a hearing. Waiver procedures are specified on Page 2 of this complaint. If the hearing in this matter is not waived, the hearing will be held during the Board's regular meeting on September 6, 2002 at the Council Chambers of the City of Loma Linda, 25541 Barton Road, Loma Linda, California. Rialto or its representatives will have an opportunity to appear and be heard and to contest the allegations in this complaint and the imposition of mandatory penalties by the Board. An agenda and announcement for the meeting will be mailed to you not less than 10 days prior to the hearing date.

3. If the September 6, 2002 hearing is held, the Board will consider whether to affirm, reject or modify the proposed mandatory penalties or whether to refer this matter to the Attorney General for recovery of judicial civil liability.

4. This complaint is based on the following facts:

   a. On September 1, 1995, the Board adopted Waste Discharge Requirements (WDR) Order No. 95-50 (NPDES No. CA0105295), for Rialto. On June 1, 2001, the Board adopted WDR Order No. 01-4 to replace Order No. 95-50. These requirements regulate discharges of waste from Rialto's sewage treatment plant (STP).

   b. Rialto submitted self-monitoring reports (January 2000 – June 2001) for the STP, which show effluent limit violations of sodium (Na), pH, and total coliform (TC) densities. These violations are summarized on Attachment "A" which is Page 4 of this complaint.

5. Water Code Section 13385 (h) and (i) requires the Board to assess a mandatory minimum penalty of three thousand dollars ($3,000) for each serious and/or chronic violation.

6. As shown in Attachment "A", Rialto incurred a total of thirty-three violations between January 2000 and June 2001. For the eighteen-month period covered by Complaint No. R8-2002-0061, three non-serious violations that occurred during January 2000 are not subject to penalty assessments. In addition, Rialto has already paid a total of $60,000 for sixteen violations and for four exceedances, that were erroneously considered violations, in Complaint No. 00-72 that partially covered the period between January and June 2000.

7. Ten violations out of the total of thirty-thee violations are subject to mandatory minimum penalties of $3,000 for each violation. In accordance with Water Code Section 13385 (i), the mandatory minimum penalties for the ten effluent limit violations cited in Attachment "A" are $30,000.

8. In accordance with Water Code Section 13385(c), the Board may impose administrative civil liability for the thirty-three violations cited in Attachment "A". The maximum administrative civil liability which may be imposed for these violations, that occurred during 22 days, is $220,000 ($10,000 per day of violation), plus an additional assessment of $10 per gallon of effluent discharged, during the duration of the violation episode, in excess of the first 1000 gallons of effluent.

9. The Executive Officer proposes that mandatory penalties of $30,000 be imposed on Rialto by the Board for the violations cited above.

10. You may waive your right to a hearing. If you waive your right to a hearing, please sign the attached waiver, which is Page 5 of this complaint, and return it together with a check payable to the State Water Resources Control Board in the amount of the mandatory penalties proposed in paragraph 9, above. Send the check and waiver to:

    Santa Ana Regional Water Quality Control Board
    3737 Main Street, Suite 500
    Riverside, CA 92501-3339

If you have any questions regarding this complaint, please contact the undersigned, at (909) 782-3284, or Gary D. Stewart, Surveillance and Enforcement Section Chief at (909) 782-4379, or the Board's staff counsel, Jorge Leon, at (916) 341-5180.

8/2/02
Date

Gerard J. Thibeault
Executive Officer

# ATTACHMENT "A"

| MONTH/YEAR | Na 12-MONTH AVERAGE VIOLATIONS (I) | TIN 12-MONTH AVERAGE VIOLATIONS (II) | TC DENSITY 7-DAY MEDIAN VIOLATIONS (III) | pH VIOLATIONS < 6.5 pH UNITS >8.5 pH UNITS >60 MINUTES {A} >446 MINUTES {B} (IV) | | NUMBER OF ACTUAL VIOLATIONS UNDER MPC NO. 00-72 & MPC NO. R8-2002-0061 (V) | NUMBER OF VIOLATIONS SUBJECT TO MANDATORY PENALTIES UNDER MPC NO. R8-2002-0061 (VI) |
|---|---|---|---|---|---|---|---|
| | | | | A | B | | |
| January 2000 | (1) | 1 | (1) | 3 | (1) | 6 | 3 |
| February 2000 | 1* | 1** | 0 | 1 | 0 | 2 | 0 |
| March 2000 | 1* | 1** | 0 | 1 | 0 | 2 | 0 |
| April 2000 | 1* | 1** | 0 | 11* + 1 | 1 | 14 | 1 |
| May 2000 | 1* | 1** | 0 | 2 | 1 | 4 | 2 |
| June 2000 | 1* | 0 | 0 | 0 | 0 | 1 | 0 |
| July 2000 | 0 | 0 | 0 | 2 | 0 | 2 | 2 |
| August 2000 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| September 2000 | 0 | 0 | 0 | 1 | 1 | 2 | 2 |
| October 2000 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| November 2000 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| December 2000 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| January 2001 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| February 2001 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| March 2001 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| April 2001 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| May 2001 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| June 2001 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| TOTAL | **6** | **0** | **1** | **22** | **4** | **33** | **10** |

NOTES:

( ) = Non-serious violations waived under this compliant pursuant to Section 13385 (i)

* = Violations that have been paid under MPC No. 00-72

** = Considered violations by error and four of the five were paid under MPC No. 00-72. No credit was given under this MPC for the January 2000 TIN exceedance since it was waived under MPC No. 00-72. However, credit has been given for the four remaining exceedances under this new MPC by subtracting one violation from column **V**.

(VI) = The number of violations in this column were computed by subtracting exceedances with a single or double asterisk from column **V**.

{A} = Less than 6.5 pH units or greater than 8.5 pH units for more than 60 minutes

{B} = Less than 6.5 pH units or greater than 8.5 pH units for more than 7 hours and 26 minutes (446 minutes) within a calendar month

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| 150 South Palm Avenue | ) | for |
| Rialto, California 92376 | ) | Mandatory Penalties |

**WAIVER OF HEARING**

Rialto agrees to waive its right to a hearing before the Santa Ana Regional Water Quality Control Board with regard to the violations alleged in Complaint No. R8-2002-0061. Rialto has enclosed a check made payable to the State Water Resources Control Board in the amount of $30,000 in settlement of Complaint No. R8-2002-0061. Rialto understands that it is giving up its right to be heard and to argue against allegations made by the Executive Officer in Complaint No. R8-2002-0061, and against the imposition of, and amount of, the mandatory penalties.

_____ _____

Date for City of Rialto

# California Regional Water Quality Control Board
## Santa Ana Region

Winston H. Hickox
*Secretary for Environmental Protection*

Internet Address: http://www.swrcb.ca.gov/rwqcb8
3737 Main Street, Suite 500, Riverside, California 92501-3339
Phone (909) 782-4130 ∃ FAX (909) 781-6288

Gray Davis
*Governor*


*The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website at www.swrcb.ca.gov/rwqcb8.*

July 31, 2002

**CERTIFIED MAIL**
**RETURN RECEIPT REQUESTED**

Mr. Brad Baxter
Director of Public Works
CITY OF RIALTO
150 South Palm Avenue
Rialto, CA 92376

MANDATORY PENALTIES COMPLAINT NO. R8-2002-0061 – WASTE DISCHARGE REQUIREMENTS ORDER NO. 95-50 FOR CITY OF RIALTO SEWAGE TREATMENT PLANT (NPDES NO. CA0105295)

Dear Mr. Baxter:

This is to transmit a copy of Mandatory Penalties Complaint No. R8-2002-0061. The complaint is in response to violations of effluent limitations specified in waste discharge requirements, Order No. 95-50. It was issued pursuant to California Water Code Section 13385 (h) and (i) and proposes the assessment of a penalty of $30,000 for ten violations that occurred between January 2000 and June 2001.

Please note that MPC No. R8-2002-0061 supersedes MPC No. 01-114, which has been withdrawn. MPC No. R8-2002-0061 reflects our reconsideration of the compliance determination criteria used to prepare MPC No. 01-114. We have reduced the number of effluent violations for Sodium and total coliform density and eliminated the total inorganic nitrogen (TIN) violations cited in MPC No. 01-114 based on the following:

1. We have reconsidered the interpretation of compliance determination criteria that we used to establish whether an exceedance of effluent limits for total dissolved solids (TDS) and sub-ion minerals caused a violation. As a result, we have determined that effluent limit offset provisions for TDS should be applied to individual mineral ions effluent limits as well. This determination is based on the fact that mineral ions are components of TDS and that their effluent concentration may be affected by the discharger's offset efforts. This reinterpretation of the compliance determination criteria for mineral constituents may be applied retroactively to older rescinded or active waste discharge requirements providing that effluent exceedances were not settled under a separate complaint.

2. Recent waste discharge requirements issued by the Regional Board consider that a discharger that exceeds the 7-day median total coliform density limit of 2.2 MPN/100 mL one day or more within a calendar week is liable for only one violation of a weekly average limit. This means that even if the discharger exceeds the 7-day median total coliform density limit of 2.2 MPN/100mL a maximum of seven days during a calendar week, the discharger will only be liable for one violation. However, it only takes one exceedance in any day of the week to trigger a violation of the weekly average limit. This new compliance determination criteria for total coliform density is being applied retroactively to exceedances that occurred under older rescinded waste discharge requirements.

3. The five TIN violations cited in MPC No. 01-114 were not actual violations. Although Rialto exceeded the 10 mg/L effluent limit, Rialto was in compliance with the interim TIN effluent limit of 12.5 mg/L.

The interpretation of the compliance determination criteria for mineral and total coliform density effluent limits was discussed with several dischargers during a meeting held at the Regional Board office on January 10, 2002. Risk Sciences, the consultant for the group of dischargers that attended the meeting, researched the TDS and individual mineral ions effluent limit offset provision matter. On April 30, 2002, Risk Sciences submitted a report entitled, "Offsets for MMPs related to individual ions in NPDES permits." The findings in this report supported the discharger's claims that it was the Board's intent to apply offset provisions to individual mineral ions in the same manner as they are applied to TDS. We concur with these findings.

Consideration of Mandatory Penalties Complaint No. R8-2002-0061 is scheduled for the Board's September 6, 2002, meeting at the City of Loma Linda's Council Chamber. If you wish to waive your right to a hearing, please complete the form enclosed with the complaint and submit it to this office, along with a check in the amount of $30,000, by August 19, 2002.

If your staff wishes to discuss this matter further, please contact Gary D. Stewart, Surveillance and Enforcement Section Chief, at (909) 782–4379, or Julio C. Lara, Surveillance and Enforcement Section staff engineer, at (909) 782–4901.

Sincerely,

Gerard J. Thibeault
Executive Officer

Enclosure: Complaint No. R8-2002-0061

cc: w/enclosures

U.S. EPA - CWA Compliance Office (WTR-7), Tom Huetteman
State Water Resources Control Board – Office of the Chief Counsel, Jorge Leon
State Water Resources Control Board – Division of Water Quality, Jim Kassel
Orange County Coastkeeper
Lawyers for Clean Water
Regional Board

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