California Regional Water Quality Control Board
Santa Ana Region

IN THE MATTER OF:	)	
	)	
Colton/San Bernardino Regional Tertiary	)	
Treatment and Water Reclamation Authority	)	Complaint No. R8-2002-0062
399 Chandler Place	)	for
San Bernardino, California 92408	)	Mandatory Penalties

YOU ARE HEREBY GIVEN NOTICE THAT:

1. Colton/San Bernardino Regional Tertiary Treatment and Water Reclamation Authority (CSBRTT&WRA) 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 (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 the CSBRTT&WRA 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. CSBRTT&WRA 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 July 16, 1993, the Board adopted Waste Discharge Requirements Order No. 93-45 (NPDES No. CA8000304), for CSBRTT&WRA. These requirements regulate discharges of waste from CSBRTT&WRA's Regional Tertiary Treatment and Rapid Infiltration and Extraction Facility (RIX).

   b. CSBRTT&WRA submitted self-monitoring reports (January 2001 – June 2001) from RIX, which show effluent limit violations of 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", CSBRTT&WRA incurred a total of twenty-one violations between January 2001 and June 2001. For the six-month period covered by Complaint No. R8-2002-0062, three non-serious violations, that occurred during January and February 2001, are not subject to penalty assessments.

7. Eighteen violations out of the total of twenty-one 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 eighteen effluent limit violations cited in Attachment "A" are $54,000.

8. In accordance with Water Code Section 13385(c), the Board may impose administrative civil liability for the twenty-one violations cited in Attachment "A". The maximum administrative civil liability which may be imposed for these violations is $210,000 ($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 $54,000 be imposed on CSBRTT&WRA 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	TOTAL COLIFORM VIOLATIONS > 2.2 MPN/100 mL AS 7-DAY MEDIAN	TOTAL COLIFORM VIOLATIONS > 23 MPN/100 mL MORE THAN ONCE IN A 30-DAY PERIOD	NUMBER OF VIOLATIONS	NUMBER OF VIOLATIONS SUBJECT TO MANDATORY PENALTIES
January 2001	1	0	1	0
February 2001	3	0	3	1
March 2001	4	1	5	5
April 2001	5	0	5	5
May 2001	3	2	5	5
June 2001	2	0	2	2
TOTAL	18	3	21	**18**

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WAIVER OF HEARING

CSBRTT&WRA 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. R8-2002-0062. CSBRTT&WRA has enclosed a check made payable to the State Water Resources Control Board in the amount of $54,000 in settlement of Complaint No. R8-2002-0062. CSBRTT&WRA understands that it is giving up its right to be heard and to argue against allegations made by the Executive Officer in Complaint No. R8-2002-0062, and against the imposition of, and amount of, the mandatory penalties.

_____ _____

Date for CSBRTT&WRA

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. Bernard C. Kersey, Chairman
Colton/San Bernardino Regional Tertiary
Treatment and Water Reclamation Authority
399 Chandler Place
San Bernardino, CA 92408

MANDATORY PENALTIES COMPLAINT NO. R8-2002-0062 – WASTE DISCHARGE REQUIREMENTS ORDER NO. 93-45 FOR COLTON/SAN BERNARDINO REGIONAL TERTIARY TREATMENT AND WATER RECLAMATION AUTHORITY (NPDES NO. CA8000304)

Dear Mr. Kersey:

This is to transmit a copy of Mandatory Penalties Complaint No. R8-2002-0062. The complaint is in response to violations of effluent limitations specified in waste discharge requirements, Order No. 93-45. It was issued pursuant to California Water Code Section 13385 (i) and proposes the assessment of a penalty of $54,000 for eighteen violations that occurred between January 2001 and June 2001.

Please note that MPC No. R8-2002-0062 supersedes MPC No. 01-109, which has been withdrawn. MPC No. R8-2002-0062 reflects our reconsideration of the compliance determination criteria used to prepare MPC No. 01-109. We have reduced the number of effluent violations for total coliform density by applying our new compliance determination criteria.

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/100 mL 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 orders.

The interpretation of the compliance determination criteria for 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, requested that Board staff apply retroactively the new disinfection compliance determination criteria which had been included in recently adopted orders. We agree with this request.

Consideration of Mandatory Penalties Complaint No. R8-2002-0062 is scheduled for the Board's September 6, 2002, meeting in Loma Linda. 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 $54,000, 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. R8-2002-0062

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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