

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION
895 Aerovista Place, Suite 101
San Luis Obispo, California 93401-7906**

ORDER NO. R3-2004-008

**MANDATORY PENALTY
IN THE MATTER OF
WASTE DISCHARGE REQUIREMENTS
ORDER NO. 99-31
(NPDES NO. CA 0048151)**

For

**CITY OF PISMO BEACH
WASTEWATER FACILITY
SAN LUIS OBISPO COUNTY**

The California Regional Water Quality Control Board, Central Coast Region, finds the following:

1. On July 12, 1999, the Regional Water Quality Control Board, Central Coast Region, adopted Waste Discharge Requirements *Order No. 99-31 (NPDES No. CA0048151)*, *Waste Discharge Requirements for the City of Pismo Beach, San Luis Obispo County*.
2. California Water Code section 13385(h)(1) requires the Regional Board to assess a mandatory penalty of three thousand dollars (\$3,000) for each serious violation.
2. California Water Code section 13385(h)(1) requires the Regional Board to assess a mandatory penalty of three thousand dollars (\$3,000) for each violation, not counting the first violation, if the discharger commits two or more serious violations in any six-month period.
3. California Water Code section 13385(i) requires the Regional Board to assess a mandatory penalty 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 a consecutive six-month period:
 - a) Exceeds 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; or
 - d) Exceeds a toxicity discharge limitation contained in the applicable waste discharge requirements where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.
4. California Water Code section 13385(h)(2) provides a serious violation occurs if the discharge exceeds the effluent limitations for a Group II pollutant, as specified in Appendix A to section 123.45 of Title 40 Code of Federal Regulations, by 20 percent or more or for a Group I pollutant, as specified in Appendix A to section 123.45 of Title 40 Code of Federal Regulations, by 40 percent or more.
5. California Water Code section 13385(l) states that "(1) In lieu of assessing penalties pursuant to subdivision (h) or (i), the...[R]egional [B]oard, with the concurrence of the [D]ischarger, may direct a portion of the penalty amount to be expended on a supplemental environmental project in accordance with the enforcement policy of the [State Water Resources Control Board (State Board)]. If the penalty amount

exceeds fifteen thousand dollars (\$15,000), the portion of the penalty amount that may be directed to be expended on a supplemental environmental project may not exceed fifteen thousand dollars (\$15,000) plus 50 percent of the penalty amount that exceeds fifteen thousand dollars (\$15,000).

6. California Water Code section 13385(h)(2) provides a serious violation occurs if the discharge exceeds the effluent limitations for a Group II pollutant, as specified in Appendix A to section 123.45 of Title 40 Code of Federal Regulations, by 20 percent or more or for a Group I pollutant, as specified in Appendix A to section 123.45 of Title 40 Code of Federal Regulations, by 40 percent or more.
7. Biochemical Oxygen Demand (BOD, 5-day) and Total Suspended Solids are Group I Pollutants. Fecal Coliform is not listed as a Group I or a Group II Pollutant.
8. Order No. 99-31 includes in part the following:

Constituent	Units	Weekly (7-Day) Average	Monthly (30-Day) Average	Maximum
BOD, 5-day	mg/l	45	30	90
Total Suspended Solids	mg/l	45	30	90
Settleable Solids	mg/l	1.0	1.5	3.0
Fecal Coliform	MPN/100 ml	(7-day median)	200	

"Removal efficiencies" for Total Suspended Solids and Biochemical Oxygen Demand (BOD₅) shall not be less than 85 percent.

9. Effluent containing a BOD or Suspended Solids 30-Day average concentration of 42 mg/l (average limit + 40%) or more, or a 7-Day Average concentration of 63 mg/l (average limit + 40%) or more, or a single sample containing 126 mg/l (maximum limit + 40%) or more, are serious violations.
10. Effluent containing BOD or Suspended Solids concentrations that are less than the serious threshold but greater than the permit limits, are chronic violations when they occur four or more times in a consecutive six-month period, not counting the first three.
11. Effluent containing settleable solids 30-Day average concentration of 1.4 (Average limit +40%) or more, or a 7-Day Average concentration of 2.1 mg/l (average limit + 40%) or more, or a single sample containing 4.2 mg/l (maximum limit + 40%) or more, are serious violations.
12. Effluent containing fecal coliform values that exceed a 7-day median of 200 MPN/100 ml four or more times in a consecutive six-month period, not counting the first three, are chronic violations.
13. According to monitoring reports submitted by the Discharger, the Discharger committed the following violations of Order No. 99-31 in the period July 1, 2001 through July 31, 2003:

No.	Date	Constituent	Value	Permitted Limit	Violation Type
1	July 9, 2001	BOD Average for 7-Days	51 mg/L	45 mg/l	Serious
2	July 10, 2001	BOD Average for 7-Days	51 mg/L	45 mg/l	Serious
3	July 11, 2001	BOD Average for 7-Days	51 mg/L	45 mg/l	Serious
4	July 15, 2001	Settleable Solids for One Day	8 ml/L	3 mg/l	Serious
5	July 15, 2001	Suspended Solids for One Day	132 mg/L	90 mg/l	Serious
6	July 16, 2001	Suspended Solids for One Day	96 mg/L	90 mg/l	Serious
7	July 16, 2001	Suspended Solids 7-Day Average	51 mg/L	1.0 mg/l	Serious
8	July 16, 2001	BOD Average for 7-Days	60 mg/L	45 mg/l	Serious

No.	Date	Constituent	Value	Permitted Limit	Violation Type
9	July 17, 2001	Settleable Solids Average for 7-Days	1.63 ml/L	1.0 ml/l	Chronic
10	July 17, 2001	Suspended Solids Average for 7-Days	55 mg/L	45 mg/l	Serious
11	July 17, 2001	BOD Average for 7-Days	60 mg/L	45 mg/l	Chronic
12	July 18, 2001	Settleable Solids Average for 7-Days	1.81 ml/L	1.0 ml/l	Chronic
13	July 18, 2001	Suspended Solids Average for 7-Days	60 mg/L	45 mg/l	Chronic
14	July 18, 2001	BOD Average for 7-Days	60 mg/L	45 mg/l	Chronic
15	July 19, 2001	Settleable Solids Average for 7-Days	2.00 ml/L	1.0 ml/l	Chronic
16	July 19, 2001	Suspended Solids Average for 7-Days	64 mg/L	45 mg/l	Serious
17	July 19, 2001	BOD Average for 7-Days	70 mg/L	45 mg/l	Serious
18	July 20, 2001	Settleable Solids Average for 7-Days	2.21 ml/L	1.0 ml/l	Serious
19	July 20, 2001	Suspended Solids for One Day	124 mg/L	3 mg/l	Chronic
20	July 20, 2001	Suspended Solids Average for 7-Days	78 mg/L	45 mg/l	Serious
21	July 20, 2001	BOD Average for 7-Days	70 mg/L	45 mg/l	Serious
22	July 21, 2001	Settleable Solids Average for 7-Days	2.46 ml/L	1.0 ml/l	Serious
23	July 21, 2001	Suspended Solids Average for 7-Days	87 mg/L	45 mg/l	Serious
24	July 21, 2001	BOD Average for 7-Days	70 mg/L	45 mg/l	Serious
25	July 22, 2001	Suspended Solids Average for 7-Days	75 mg/L	45 mg/l	Serious
26	July 22, 2001	BOD Average for 7-Days	54 mg/L	45 mg/l	Chronic
27	July 23, 2001	Settleable Solids Average for 7-Days	1.60 ml/L	1.0 ml/l	Chronic
28	July 23, 2001	Settleable Solids Average for 7-Days	1.69 ml/L	1.0 ml/l	Chronic
29	July 23, 2001	Suspended Solids Average for 7-Days	66 mg/L	1.0 mg/l	Serious
30	July 24, 2001	Settleable Solids Average for 7-Days	1.60 ml/L	1.0 ml/l	Chronic
31	July 24, 2001	Suspended Solids Average for 7-Days	62 mg/L	1.0 mg/l	Chronic
32	July 25, 2001	Suspended Solids Average for 7-Days	56 mg/L	1.0 mg/l	Chronic
33	July 26, 2001	Settleable Solids for One Day	5 ml/L	3 ml/l	Serious
34	July 26, 2001	Settleable Solids Average for 7-Days	1.97 ml/L	1.0 ml/l	Chronic
35	July 26, 2001	Suspended Solids Average for 7-Days	58 mg/L	1.0 mg/l	Chronic
36	July 27, 2001	Settleable Solids for One Day	44 ml/L	3 ml/l	Serious
37	July 27, 2001	Settleable Solids Average for 7-Days	8.00 ml/L	1.0 ml/l	Serious
38	July 27, 2001	Suspended Solids for One Day	196 mg/L	90 mg/l	Serious
39	July 27, 2001	Suspended Solids Average for 7-Days	69 mg/L	45 mg/l	Chronic
40	July 28, 2001	Settleable Solids Average for 7-Days	8.00 ml/L	1.0 ml/l	Serious
41	July 28, 2001	Suspended Solids Average for 7-Days	60 mg/L	45 mg/l	Chronic

No.	Date	Constituent	Value	Permitted Limit	Violation Type
42	July 29, 2001	Settleable Solids Average for 7-Days	9.00 ml/L	1.0 ml/l	Serious
43	July 29, 2001	Suspended Solids Average for 7-Days	58 mg/L	45 mg/l	Chronic
44	July 30, 2001	Settleable Solids Average for 7-Days	8.97 ml/L	1.0 ml/l	Serious
45	July 30, 2001	Suspended Solids Average for 7-Days	58 mg/L	45 mg/l	Chronic
46	July 31, 2001	Settleable Solids Average for 30-Days	2.4 ml/L	1.0 ml/l	Serious
47	July 31, 2001	Settleable Solids for One Day	44 ml/L	3 ml/l	Serious
48	July 31, 2001	Settleable Solids Average for 7-Days	16.13 ml/L	1.0 mg/l	Serious
49	July 31, 2001	Settleable Solids Average for 30-Days	46 ml/L	30 ml/l	Serious
50	July 31, 2001	Suspended Solids for One Day	253 mg/L	90 mg/l	Serious
51	July 31, 2001	Suspended Solids Average for 7-Days	92 mg/L	45 mg/l	Serious
52	July 31, 2001	BOD Average for 30-Days	43 mg/L	30 mg/l	Serious
53	August 1, 2001	Settable Solids Average for 7-Days	16.1 ml/L	1.0 ml/l	Serious
54	August 1, 2001	Suspended Solids for One Day	172 mg/L	90 mg/l	Serious
55	August 1, 2001	Suspended Solids Average for 7-Days	114 mg/L	45 mg/l	Serious
56	August 1, 2001	Fecal Coliform Median for 7-Days	300 Colonies/100 ml	45 mg/l	Chronic
57	August 2, 2001	Settable Solids Average for 7-Days	15.4 ml/L	1.0 ml/l	Serious
58	August 2, 2001	Suspended Solids Average for 7-Days	107 mg/L	45 mg/l	Serious
59	August 2, 2001	Fecal Coliform Median for 7-Days	300 Colonies/100 ml	200 Colonies /100 ml	Chronic
60	August 3, 2001	Settable Solids Average for 7-Days	8.1 ml/L	1.0 ml/l	Serious
61	August 3, 2001	Suspended Solids Average for 7-Days	85 mg/L	45 mg/l	Serious
62	August 3, 2001	Fecal Coliform Median for 7-Days	300 Colonies/100 ml	200 Colonies /100 ml	Chronic
63	August 4, 2001	Settable Solids Average for 7-Days	7.8 ml/L	1.0 ml/l	Serious
64	August 4, 2001	Suspended Solids Average for 7-Days	85 mg/L	45 mg/l	Serious
65	August 4, 2001	Fecal Coliform Median for 7-Days	300 Colonies/100 ml	200 Colonies /100 ml	Chronic
66	August 5, 2001	Settable Solids Average for 7-Days	6.7 ml/L	1.0 ml/l	Serious
67	August 5, 2001	Suspended Solids Average for 7-Days	84 mg/L	45 mg/l	Serious
68	August 5, 2001	Fecal Coliform Median for 7-Days	300 Colonies/100 ml	200 Colonies /100 ml	Chronic

No.	Date	Constituent	Value	Permitted Limit	Violation Type
69	August 6, 2001	Settable Solids Average for 7-Days	6.6 ml/L	1.0 ml/l	Serious
70	August 6, 2001	Suspended Solids Average for 7-Days	82 mg/L	45 mg/l	Serious
71	August 6, 2001	Fecal Coliform Median for 7-Days	300 Colonies/100 ml	200 Colonies /100 ml	Chronic
72	August 7, 2001	Suspended Solids Average for 7-Days	50 mg/L	45 mg/l	Chronic
73	August 13, 2001	BOD Average for 7-Days	55 mg/L	45 mg/l	Chronic
74	August 13, 2001	Fecal Coliform Median for 7-Days	300 Colonies/100 ml	200 Colonies /100 ml	Chronic
75	August 14, 2001	BOD Average for 7-Days	55 mg/L	45 mg/l	Chronic
76	August 14, 2001	Fecal Coliform Median for 7-Days	300 Colonies/100 ml	200 Colonies /100 ml	Chronic
77	August 15, 2001	BOD Average for 7-Days	70 mg/L	45 mg/l	Serious
78	August 15, 2001	Fecal Coliform Median for 7-Days	300 Colonies/100 ml	200 Colonies /100 ml	Chronic
79	August 16, 2001	BOD Average for 7-Days	70 mg/L	45 mg/l	Serious
80	August 17, 2001	BOD Average for 7-Days	66 mg/L	45 mg/l	Serious
81	August 18, 2001	BOD Average for 7-Days	66 mg/L	45 mg/l	Serious
82	August 19, 2001	BOD Average for 7-Days	66 mg/L	45 mg/l	Serious
83	August 20, 2001	BOD for One Day	130 mg/L	90 mg/l	Serious
84	August 20, 2001	BOD Average for 7-Days	96 mg/L	45 mg/l	Serious
85	August 21, 2001	BOD Average for 7-Days	96 mg/L	45 mg/l	Serious
86	August 22, 2001	BOD for One Day	100 mg/L	90 mg/l	Chronic
87	August 22, 2001	BOD Average for 7-Days	97 mg/L	45 mg/l	Chronic
88	August 23, 2001	BOD Average for 7-Days	97 mg/L	45 mg/l	Chronic
89	August 24, 2001	BOD Average for 7-Days	115 mg/L	45 mg/l	Chronic
90	August 25, 2001	BOD Average for 7-Days	115 mg/L	45 mg/l	Chronic
91	August 26, 2001	BOD Average for 7-Days	115 mg/L	45 mg/l	Chronic
92	August 27, 2001	BOD Average for 7-Days	71 mg/L	45 mg/l	Serious
93	August 28, 2001	BOD Average for 7-Days	71 mg/L	45 mg/l	Serious
94	August 30, 2001	Fecal Coliform Median for 7-Days	300 Colonies/100 ml	200 Colonies /100 ml	Chronic
95	August 31, 2001	BOD Average for 30-Days	62 mg/L	45 mg/l	Serious
96	August 31, 2001	BOD Percent Removal	74 %	85%	Chronic
97	August 31, 2001	Fecal Coliform Median for 7-Days	300 Colonies/100 ml	200 Colonies /100 ml	Chronic
98	September 3, 2001	Fecal Coliform Median for 7-Days	300 Colonies/100 ml	200 Colonies /100 ml	Chronic
99	October 19, 2001	Fecal Coliform Median for 7-Days	220	200 Colonies	Chronic

No.	Date	Constituent	Value	Permitted Limit	Violation Type
			Colonies/100 ml	/100 ml	
100	December 31, 2001	BOD Average for 30-Days	38 mg/L	30 mg/l	Chronic
101	January 13, 2002	BOD Average for 7-Days	52 mg/L	45 mg/l	Chronic
102	January 31, 2002	BOD Average for 30-Days	39 mg/L	30 mg/l	Chronic
103	February 28, 2002	BOD Average for 30-Days	32 mg/L	30 mg/l	Chronic
104	April 7, 2002	BOD Average for 7-Days	59 mg/L	45 mg/l	Chronic
105	May 5, 2002	Effluent Suspended Solids one day	97 mg/l	90 mg/l	Chronic
106	May 7, 2002	Settable Solids Average for 7-Days	14.0 ml/l	1.0 ml/l	Serious
107	May 9, 2002	Fecal Coliform 7-day average	350 Colonies/100 ml	200 Colonies /100 ml	Serious
108	May 12, 2002	Fecal Coliform 7-day average	350 Colonies/100 ml	200 Colonies /100 ml	Serious
109	May 12, 2002	Effluent Suspended Solids 7-day average	56 mg/l	45 mg/l	Serious
110	May 29, 2002	Effluent Settleable Solids 7-day average	1.63 ml/l	1 ml/l	Chronic
111	May 30, 2002	Effluent Suspended Solids 30-day	35 mg/l	30 mg/l	Chronic
112	May 30, 2002	Effluent BOD Monthly average	48 mg/l	30 mg/l	Serious
113	May 30, 2002	Effluent BOD 7-day average	81 mg/l	45 mg/l	Serious
114	May 31, 2002	Effluent BOD 7-day average	66 mg/l	45 mg/l	Serious
115	May 31, 2002	Effluent settleable Solids 7-day average	2.26 ml/l	1.0 ml/l	Serious
116	June 1, 2002	Effluent Settleable Solids 7-day average	2.26 mg/l	1.0 mg/l	Serious
117	June 1, 2002	Effluent BOD 7-day average	64 mg/l	45 ml/l	Serious
118	June2, 2002	Effluent BOD 7-day average	64 mg/l	45 mg/l	Serious
119	June2, 2002	Effluent Settleable Solids 7-day average	2.26 mg/l	1.0 mg/l	Serious
120	June 3, 2002	Effluent Settleable Solids 7-day average	2.24 mg/l	1.0 mg/l	Serious
121	June 3, 2002	Fecal Coliform Median for 7-Days	280 Colonies/100 ml	200 Colonies /100 ml	Serious
122	June 3, 2002	Effluent BOD Monthly 7-day average	79 mg/l	45 mg/l	Serious
123	June 4, 2002	Effluent Settleable Solids 7-day average	2.24 mg/l	1.0 mg/l	Serious
124	June 4, 2002	Fecal Coliform Median for 7-Days	280 Colonies/100 ml	200 Colonies /100 ml	Chronic
125	June 5, 2002	Effluent Suspended Solids 7-day	45 mg/l	45 mg/l	Chronic
126	June 5, 2002	Effluent BOD 7-day average	54 mg/l	45 mg/l	Serious
127	June 16, 2002	Effluent BOD 7-day average	47 mg/l	45 mg/l	Chronic
128	June 17, 2002	Effluent BOD 7-day average	49 mg/l	45 mg/l	Serious

No.	Date	Constituent	Value	Permitted Limit	Violation Type
129	June 18, 2002	Effluent BOD 7-day average	49 mg/l	45 mg/l	Serious
130	June 19, 2002	Effluent BOD 7-day average	47 mg/l	45 mg/l	Chronic
131	June 20, 2002	Effluent BOD 7-day average	51 mg/l	45 mg/l	Serious
132	June 21, 2002	Effluent BOD 7-day average	46 mg/l	45 mg/l	Chronic
133	June 22, 2002	Effluent BOD 7-day average	46 mg/l	45 mg/l	Chronic
134	June 28, 2002	Effluent BOD 7-day average	49 mg/l	45 mg/l	Chronic
135	June 29, 2002	Effluent BOD 7-day average	49 mg/l	45 mg/l	Chronic
136	June 30, 2002	Effluent BOD 7-day average	47 mg/l	45 mg/l	Chronic
137	July 1, 2002	Effluent BOD 7-day average	47 mg/l	45 mg/l	Chronic
138	July 2, 2002	Effluent BOD 7-day average	46 mg/l	45 mg/l	Chronic
139	July 3, 2002	Effluent BOD 7-day average	46 mg/l	45 mg/l	Chronic
140	July 31, 2002	Effluent BOD Monthly average	31 mg/l	30 mg/l	Chronic
141	August 5, 2002	Effluent BOD 7-day average	55 mg/l	45 mg/l	Chronic
142	August 6, 2002	Effluent BOD 7-day average	55 mg/l	45 mg/l	Chronic
143	August 6, 2002	Effluent Settleable Solids 7-day	1.94 mg/l	1.5 mg/l	Chronic
144	August 6, 2002	Effluent Settleable Solids	13 ml/l	3.0 ml/l	Serious
145	August 7, 2002	Effluent Suspended Solids one day	92 mg/l	90 mg/l	Chronic
146	August 7, 2002	Effluent Suspended Solids 7-day	50 mg/l	45 mg/l	Chronic
147	August 7, 2002	Effluent Settleable Solids 7-day	2.17 ml/l	1.5 ml/l	Serious
148	August 7, 2002	Effluent BOD 7-day average	66 mg/l	45 mg/l	Chronic
149	August 8, 2002	Effluent Settleable Solids 7-day	2.2 ml/l	1.5 ml/l	Serious
150	August 8, 2002	Effluent Suspended Solids 7-day	54 mg/l	45 mg/l	Chronic
151	August 8, 2002	Effluent BOD for one day	92 mg/l	90 mg/l	Chronic
152	August 8, 2002	Effluent BOD 7-day average	75 mg/l	45 mg/l	Chronic
153	August 9, 2002	Effluent Settleable Solids 7-day	2.2 ml/l	1.5 ml/l	Serious
154	August 9, 2002	Effluent Suspended Solids 7-day	57 mg/l	45 mg/l	Serious
155	August 9, 2002	Effluent BOD 7-day average	84 mg/l	45 mg/l	Chronic
156	August 10, 2002	Effluent Suspended Solids 7-day	52 mg/l	45 mg/l	Serious
157	August 10, 2002	Effluent Settleable Solids 7-day	2.2 ml/l	1.5 ml/l	Serious
158	August 10, 2002	Effluent BOD 7-day average	84 mg/l	45 mg/l	Chronic
159	August 11, 2002	Effluent Suspended Solids 7-day	47 mg/l	45 mg/l	Chronic
160	August 11, 2002	Effluent Settleable Solids 7-day	2.2 ml/l	1.5 ml/l	Serious
161	August 11, 2002	Effluent BOD 7-day average	75 mg/l	45 mg/l	Chronic
162	August 12, 2002	Effluent Suspended Solids 7-day	47 mg/l	45 mg/l	Chronic
163	August 12, 2002	Effluent Settleable Solids 7-day	2.23 ml/l	1.5 ml/l	Serious
164	August 12, 2002	Effluent BOD 7-day average	75 mg/l	45 mg/l	Chronic
165	August 13, 2002	Effluent Suspended Solids 7-day	47 mg/l	45 mg/l	Chronic
166	August 13, 2002	Effluent BOD 7-day average	75 mg/l	45 mg/l	Chronic
167	August 14, 2002	Effluent BOD 7-day average	60 mg/l	45 mg/l	Serious
168	August 2002	BOD pounds per day	481 lb/day	438 lb/day	Chronic
169	August 2002	Effluent Suspended Solids 7-day	31 mg/l	30 mg/l	Chronic
170	August 2002	Effluent BOD 30-day	48 mg/l	45 mg/l	Chronic
171	August 2002	Effluent BOD	219 kg/d	199 kg/d	Chronic

No.	Date	Constituent	Value	Permitted Limit	Violation Type
172	September 2002	Effluent BOD Monthly Average	35 mg/l	30 mg/l	Chronic
173	October 10, 2002	Effluent BOD 7-day average	46 mg/l	45 mg/l	Chronic
174	October 2002	Effluent BOD Monthly Average	32 mg/l	30 mg/l	Chronic
175	November 4, 2002	Effluent BOD 7-day average	46 mg/l	45 mg/l	Chronic
176	November 5, 2002	Effluent BOD 7-day average	46 mg/l	45 mg/l	Chronic
177	November 6, 2002	Effluent BOD 7-day average	48 mg/l	45 mg/l	Chronic
178	November 10, 2002	Effluent BOD 7-day average	49 mg/l	45 mg/l	Chronic
179	November 2002	Effluent BOD Monthly Average	34 mg/l	30 mg/l	Chronic
180	February 2003	Effluent BOD Monthly Average	34 mg/l	30 mg/l	Chronic
181	March 7, 2003	Effluent BOD 7-day average	53 mg/l	45 mg/l	Chronic
182	March 8, 2003	Effluent BOD 7-day average	53 mg/l	45 mg/l	Chronic
183	March 9, 2003	Effluent BOD 7-day average	53 mg/l	45 mg/l	Chronic
184	March 10, 2003	Effluent BOD 7-day average	53 mg/l	45 mg/l	Chronic
185	March 11, 2003	Effluent BOD 7-day average	50 mg/l	45 mg/l	Chronic
186	March 12, 2003	Effluent BOD 7-day average	50 mg/l	45 mg/l	Chronic
187	March 13, 2003	Effluent BOD 7-day average	54 mg/l	45 mg/l	Chronic
188	March 17, 2003	Effluent BOD 7-day average	52 mg/l	45 mg/l	Chronic
189	March 18, 2003	Effluent BOD 7-day average	49 mg/l	45 mg/l	Chronic
190	March 19, 2003	Effluent BOD 7-day average	49 mg/l	45 mg/l	Chronic
191	March 20, 2003	Effluent BOD 7-day average	49 mg/l	45 mg/l	Chronic
192	March 21, 2003	Effluent BOD 7-day average	47 mg/l	45 mg/l	Chronic
193	March 21, 2003	Effluent BOD 7-day average	47 mg/l	45 mg/l	Chronic
194	March 22, 2003	Effluent BOD 7-day average	47 mg/l	45 mg/l	Chronic
195	March 23, 2003	Effluent BOD 7-day average	46 mg/l	45 mg/l	Chronic
196	March 24, 2003	Effluent BOD 7-day average	46 mg/l	45 mg/l	Chronic
197	March 2003	Effluent BOD Monthly Average	42 mg/l	30 mg/l	Chronic
198	April 8, 2003	Effluent BOD 7-day average	68 mg/l	45 mg/l	Serious
199	April 9, 2003	Effluent BOD 7-day average	68 mg/l	45 mg/l	Serious
200	April 10, 2003	Effluent BOD 7-day average	75 mg/l	45 mg/l	Serious
201	April 11, 2003	Effluent BOD 7-day average	75 mg/l	45 mg/l	Serious
202	April 12, 2003	Effluent BOD 7-day average	75 mg/l	45 mg/l	Serious
203	April 13, 2003	Effluent BOD 7-day average	75 mg/l	45 mg/l	Serious
204	April 14, 2003	Effluent BOD 7-day average	75 mg/l	45 mg/l	Serious
205	April 15, 2003	Effluent BOD 7-day average	81 mg/l	45 mg/l	Serious
206	April 16, 2003	Effluent BOD 7-day average	86 mg/l	45 mg/l	Serious
207	April 17, 2003	Effluent BOD 7-day average	90 mg/l	45 mg/l	Serious
208	April 18, 2003	Effluent BOD 7-day average	105 mg/l	45 mg/l	Serious
209	April 19, 2003	Effluent BOD 7-day average	105 mg/l	45 mg/l	Serious
210	April 20, 2003	Effluent BOD 7-day average	105 mg/l	45 mg/l	Serious
211	April 21, 2003	Effluent BOD 7-day average	105 mg/l	45 mg/l	Serious
212	April 22, 2003	Effluent BOD 7-day average	88 mg/l	45 mg/l	Serious
213	April 23, 2003	Effluent BOD 7-day average	88 mg/l	45 mg/l	Serious
214	April 24, 2003	Effluent BOD 7-day average	88 mg/l	45 mg/l	Serious

No.	Date	Constituent	Value	Permitted Limit	Violation Type
215	April 25, 2003	Effluent BOD 7-day average	49 mg/l	45 mg/l	Chronic
216	April 26, 2003	Effluent BOD 7-day average	49 mg/l	45 mg/l	Chronic
217	April 27, 2003	Effluent BOD 7-day average	49 mg/l	45 mg/l	Chronic
218	April 28, 2003	Effluent BOD 7-day average	49 mg/l	45 mg/l	Chronic
219	April 2003	Effluent BOD 30-day average	72 mg/l	30 mg/l	Chronic
220	May 1, 2003	Effluent BOD 7-day average	49 mg/l	45 mg/l	Chronic
221	May 2, 2003	Effluent BOD 7-day average	52 mg/l	45 mg/l	Chronic
222	May 3, 2003	Effluent BOD 7-day average	52 mg/l	45 mg/l	Chronic
223	May 4, 2003	Effluent BOD 7-day average	52 mg/l	45 mg/l	Chronic
224	May 5, 2003	Effluent BOD 7-day average	53 mg/l	45 mg/l	Chronic
225	May 6, 2003	Effluent BOD 7-day average	57 mg/l	45 mg/l	Chronic
226	May 7, 2003	Effluent BOD 7-day average	52 mg/l	45 mg/l	Chronic
227	May 8, 2003	Effluent BOD 7-day average	49 mg/l	45 mg/l	Chronic
228	May 9, 2003	Effluent BOD 7-day average	49 mg/l	45 mg/l	Chronic
229	May 10, 2003	Effluent BOD 7-day average	49 mg/l	45 mg/l	Chronic
230	May 11, 2003	Effluent BOD 7-day average	63 mg/l	45 mg/l	Serious
231	May 12, 2003	Effluent BOD 7-day average	66 mg/l	45 mg/l	Serious
232	May 13, 2003	Effluent BOD 7-day average	78 mg/l	45 mg/l	Serious
233	May 14, 2003	Effluent BOD 7-day average	78 mg/l	45 mg/l	Serious
234	May 15, 2003	Effluent BOD 7-day average	68 mg/l	45 mg/l	Serious
235	May 16, 2003	Effluent BOD 7-day average	68 mg/l	45 mg/l	Serious
236	May 17, 2003	Effluent BOD 7-day average	57 mg/l	45 mg/l	Chronic
237	May 18, 2003	Effluent BOD 7-day average	57 mg/l	45 mg/l	Chronic
238	May 19, 2003	Effluent BOD 7-day average	57 mg/l	45 mg/l	Chronic
239	May 20, 2003	Effluent BOD 7-day average	54 mg/l	45 mg/l	Chronic
240	May 21, 2003	Effluent BOD 7-day average	54 mg/l	45 mg/l	Chronic
241	May 22, 2003	Effluent BOD 7-day average	52 mg/l	45 mg/l	Chronic
242	May 23, 2003	Effluent BOD 7-day average	52 mg/l	45 mg/l	Chronic
243	May 24, 2003	Effluent BOD 7-day average	52 mg/l	45 mg/l	Chronic
244	May 2003	Effluent BOD 30-day average	54 mg/l	30 mg/l	Chronic
245	May 2003	Effluent BOD 30-day average	442 lb/day	438 lb/day	Chronic

16. According to Finding 13, the Discharger committed one hundred and fifteen (115) "serious" violations in the period from July 1, 2001 to July 31, 2003. The amount of the mandatory penalty for the above serious violations ($110 \times \$3,000$) is **\$330,000**.
17. According to Finding 13, the Discharger committed one hundred and thirty-five (135) chronic violations in the period from July 1, 2001 to July 31, 2003. In accordance with California Water Code section 13385(i) each chronic violation of four or more in a consecutive six-month period requires that the Regional Board assess a mandatory minimum penalty of three thousand dollars (\$3,000), occurring in a consecutive six-month period. In the case the Discharger committed three consecutive serious violations that also count as chronic violations. Thus, there is no exemption or deduction from any listed chronic violations. The mandatory minimum penalty for the above listed chronic violations ($135 - 0 = 135 \times \$3,000$) is **\$405,000**.
18. The total amount of the mandatory penalty from July 1, 2001 to July 31, 2003 is **(\$330,000 + 405,000) \$735,000**.

19. The Executive Officer of the Regional Board issued Mandatory Penalty Complaint No. R3-2003-050 on October 6, 2003 pursuant to Water Code Section 13385. The complaint proposed imposing a mandatory penalty of in the amount of seven hundred and thirty five thousand dollars (\$735,000).
20. The issuance of this order is exempt from the provisions of the California Environmental Quality Act (Public Resources code Section 21000, et seq.) in accordance with section 15321, Chapter 3, Title 14, California Code of Regulations.
21. On March 24, 2004, the City of Pismo Beach submitted a supplemental environmental project (SEP) proposal to defer the maximum allowable amount of the mandatory minimum penalty. The City's SEP proposal is attached to this Order as Attachment 1 and is incorporated by this reference. The SEP proposal consists of five distinct elements. Those elements are:
1. A reclamation feasibility study, economic analysis, and recommendation for the Pismo Beach Treatment plant.
 2. Wastewater biology education courses for Region 3 Wastewater Treatment Plant operators
 3. Agricultural short courses for local farmers
 4. Pismo pier and beach coliform investigation
 5. Pismo Creek watershed management plan

Additional funds not directly specified for use through the above five elements, will remain in the City of Pismo Beach Project Implementation fund

22. All elements of the proposed project qualify as a SEP in accordance with the State Water Resources Control Board's Enforcement Policy, Resolution No. 2002-0040. The proposed SEP goes above and beyond the obligations of the Discharger and is not an action required of the Discharger by any rule or regulation of any entity. The SEP will benefit water quality by reducing potential threats to both Pismo Creek and the Pacific Ocean.
23. The proposed SEP meets the Additional SEP Qualification Criteria as outlined in the State Board's Water Quality Enforcement Policy. These criteria include water quality focus, geographic nexus, type of violation, beneficial use protection, region wide use/benefit, and institutional stability and capacity.

IT IS HEREBY ORDERED, pursuant to California Water Code Section 13385, The City of Pismo Beach is assessed a Mandatory Penalty in the amount of seven hundred and thirty-five thousand dollars (\$735,000):

1. **By June 30, 2004**, the City of Pismo Beach shall expend three hundred and seventy five thousand dollars (\$375,000) to implement and complete the SEP described in Finding No. 21 above. The responsible party (listed below) will receive the designated payment from the City upon completion of each associated element of the SEP unless a fiscal agent is specified.

Element	Responsible Party	Date of Completion	Amount
Wastewater Reclamation Feasibility Study	John Wallace And Associates	February 1, 2005	\$30,000
Wastewater Biology Courses	Michael H. Gerardi	June 15, 2005	\$40,000
Agricultural Short Courses	Natural Resources Conservation Service	June 15, 2006	\$75,000
Pismo Creek, Watershed Management Plan	Central Coast Salmon Enhancement*	November 15, 2005	\$100,000
Pier Bacteria Source Tracking	Regional Water Quality Control Board - Non-Point	May 14, 2005	\$30,000

	Source Program*		
Project Implementation Fund	San Luis Obispo County Community Foundation	May 14, 2009 (Fund termination date)	\$100,000

*The fiscal agent designated to hold and dispense these funds will be The San Luis Obispo County Community Foundation upon approval of the Region 3 Executive Officer.

2. Upon completion of each element of the SEP, the responsible Party will submit:
 - a) Written proof certifying completion of the element as outlined in the SEP proposal;
 - b) A post-project accounting of expenditures related to the SEP element;
 - c) A certification of transfer of all unused funds to the back to the San Luis Obispo Community Foundation, City of Pismo Beach Implementation Fund.
3. At the listed date of completion, any element not certified by the Executive Officer to be complete according to the intent of and minimum standards listed in the SEP proposal will be designated as incomplete. Elements designated incomplete at the due date will require the ~~CITY~~ to pay the designated amount to the City of Pismo Beach Project Implementation Fund, held by the San Luis Obispo County Community Foundation.
4. Whenever the responsible party publicizes an element of the SEP, they shall state in a prominent manner that the project is being undertaken as part of the settlement of an enforcement action against the City of Pismo Beach. Upon request of the Discharger, the Executive Officer may extend any due date if the Executive Officer determines that delays are due to circumstances beyond the Responsible Party's reasonable control.
5. Unless otherwise modified by this Board, upon completion of all elements and associated projects of this SEP, or after five (5) years (May 14, 2009), the City of Pismo Beach Supplemental Environmental Projects Fund held by the San Luis Obispo Community Foundation will be dissolved and all remaining funds will be paid to the State Water Resource Control Board, Cleanup and Abatement Fund.
6. The City of Pismo Beach shall also submit a check payable to State Water Resources Control Board in the amount of three hundred and sixty thousand dollars (\$360,000) to *SWRCB Accounting, Attn: Enforcement, P.O. Box 100, Sacramento, California 95812-0100* by **June 14, 2004, 5:00 P.M.**
7. Any person affected by this action of the Regional Board may petition the State Water Resources Control Board to review the action in accordance with California Water Code Section 13320, and Title 23, California Code of Regulations, Section 2050. The State Water Resources Control Board, Office of Chief Counsel, P.O. Box 100, Sacramento, CA 95812, must receive the petition by June 14, 2004. Copies of the law and regulations applicable to filing petitions will be provided upon request.

I, Roger W. Briggs, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Coast Region, on May 14, 2004.

Executive Officer
Date