

**STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION**

STAFF REPORT FOR REGULAR MEETING OF MAY 14, 2004

Prepared April 21, 2004

ITEM: 24

**SUBJECT: STIPULATED MANDATORY PENALTY ORDER NO. R3-2004-0038;
CITY OF SANTA BARBARA WASTEWATER TREATMENT PLANT**

KEY INFORMATION

Location: 520 East Yanonali Street, Santa Barbara
Discharge Type: Effluent from Municipal WWTP
Current Flow Rate: Annual average daily flow in 2002 was 7.58 million gallons per day (MGD)
Design Capacity: Average dry weather flow of 11.0 MGD
Disposal: Ocean discharge to the Santa Barbara Channel via outfall and diffuser
Recycling: 1.6 MGD average, 4.3 design maximum
Existing Order: WDR Order No. 99-40 (NPDES Permit No. CA0048143)

SUMMARY

The City of Santa Barbara's (Discharger) El Estero Wastewater Treatment Plant violated effluent limitations of Waste Discharge Requirements Order No. 99-40 on twenty-four occasions from February 14, 2001 through October 30, 2003. . Complaint for Mandatory Penalty No. R3-2004-0038 was issued to the Discharger on April 2, 2004. The proposed Order assesses the City of Santa Barbara Mandatory Penalties of \$48,000.

BACKGROUND

The El Estero plant processes and stabilizes the City's municipal wastewater in aerated activated sludge reactors. The plant disinfects the treated wastewater with sodium hypochlorite and removes the chorine with sodium bisulfite to eliminate toxicity. The plant's tertiary treatment processes supply approximately 1.6 MGD of highly treated recycled water for landscape irrigation.

The Discharger disposes of plant effluent to the Santa Barbara Channel through a 8,720 foot-long outfall at a depth of approximately 70 feet. The diffuser achieves a minimum initial dilution of 120 parts seawater for every part effluent.

DISCUSSION

Effluent Violations

According to monitoring reports submitted by the Discharger, the Discharger committed the following violations of effluent limitations of Order No. 99-40 from February 14, 2001 through October 30, 2003:

Table 1					
#	Violation Date	Constituent	Permitted Limit	Reported Value	Violation Type
1	2/14/01	Total Suspended Solids (TSS)	45 mg/L 7-day Average	47.2 mg/L	Chronic
2	2/14/01	Settleable solids	1.5 mL/L 7-day Average	1.7 mL/L	Chronic
3	3/21/01	TSS	30 mg/L 30-day Average	34.4 mg/L	Chronic
4	3/31/01	Settleable solids	3.0 mL/L Daily Maximum	9.0 mL/L	Serious

Table 1					
#	Violation Date	Constituent	Permitted Limit	Reported Value	Violation Type
5	3/17/02	Settleable solids	3.0 mL/L Daily Maximum	11 mL/L	Serious
6	3/18/02	Settleable solids	3.0 mL/L Daily Maximum	18 mL/L	Serious
7	3/19/02	Settleable solids	3.0 mL/L Daily Maximum	3.5 mL/L	Chronic
8	3/21/02	TSS	45 mg/L 7-day Average	46.5 mg/L	*Chronic
9	3/21/02	Settleable solids	1.5 mL/L 7-day Average	5.3 mL/L	Serious
10	3/31/02	Settleable solids	1.0 mL/L 30-day average	1.3 mL/L	*Chronic
11	4/21/02	Settleable solids	3.0 mL/L Daily Maximum	4 mL/L	*Chronic
12	1/8/03	Settleable solids	3.0 mL/L Daily Maximum	7.5 mL/L	+Serious
13	1/9/03	Settleable solids	3.0 mL/L Daily Maximum	4.5 mL/L	+Serious
14	1/11/03	Settleable solids	3.0 mL/L Daily Maximum	5.2 mL/L	+Serious
15	1/14/03	Settleable solids	1.5 mL/L 7-day Average	2.9 mL/L	+Serious
16	3/15/03	Settleable solids	3.0 mL/L Daily Maximum	9.7 mL/L	Serious
17	5/21/03	Settleable solids	3.0 mL/L Daily Maximum	3.5 mL/L	Chronic
18	6/18/03	Settleable solids	3.0 mL/L Daily Maximum	3.3 mL/L	*Chronic
19	10/21/03	Settleable solids	1.5 mL/L 7-day Average	2.3 mL/L	Serious
20	10/22/03	Settleable solids	3.0 mL/L Daily Maximum	7.2 mL/L	Serious
21	10/23/03	Settleable solids	3.0 mL/L Daily Maximum	3.7 mL/L	Serious
22	10/24/03	Settleable solids	3.0 mL/L Daily Maximum	12 mL/L	Serious
23	10/28/03	Settleable solids	1.5 mL/L 7-day Average	3.6 mL/L	Serious
24	10/30/03	Settleable solids	1.0 mL/L 30-day average	1.8 mL/L	Serious

+ Denotes Single Operational Upset serious violations

* Denotes chronic violation

Mandatory Penalties

Lines 12, 13, 14, and 15, on Table 1 show four serious violations were reported, one violation for each day. These violations were likely caused by an illegal discharge of portable toilet waste to the sewer. The Discharger has demonstrated operator error or negligence did not cause the upset, the violations would not have occurred nor continued for more than one day but for the upset, and the discharger carried out all reasonable and immediately feasible actions to reduce noncompliance with the applicable effluent limitations. The Discharger is in the process of modifying the treatment plant's aeration tanks to eliminate the filamentous bacteria, which caused the exceedances. Therefore, in accordance with California Water Code section 13385(f)(2)(A), the violations are considered a single serious violation, thereby incurring a mandatory penalty of \$3,000. The Discharger committed 11 other serious violations in the period specified above. The mandatory minimum penalty for the serious violations is \$36,000.

Nine chronic violations were reported for the period of February 1, 2001 to October 30, 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 penalty of three thousand dollars (\$3,000), not counting the first three, occurring in a consecutive six-month period.

As detailed in the proposed Order, the Discharger committed four chronic violations subject to mandatory minimum penalties in the period specified above. California Water Code section 13385(i) requires the Regional Board to assess a minimum penalty of \$3,000 for each violation, not counting the first three, occurring in a consecutive six-month period. The mandatory minimum penalty for the chronic violations is \$12,000.

The total mandatory penalty amount for violations occurring in the specified period (\$36,000 + \$12,000) is \$48,000.

Supplemental Environmental Projects

California Water Code section 13385(l) states:

“(1) In lieu of assessing penalties pursuant to subdivision (h) or (i), the...regional board, with the concurrence of the discharger, 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 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).”

In a letter dated April 16, 2004, the Discharger requested that mandatory penalties be directed towards the following Supplemental Environmental Project (SEP). The City proposes to contract with the United States Geological Survey (USGS) to evaluate hydrologic conditions and sources and transport of bacteria in surface and groundwaters. The USGS will collect hydrologic data to identify surface discharges and quantify groundwater movement to streams and nearshore ocean waters.

The February 19, 2002 State Water Resources Control Board's *Water Quality Enforcement Policy* specifies criteria each Supplemental Environmental Project must satisfy. These criteria include water quality focus, geographic nexus, violation nexus, type of violation, beneficial use protection, region wide use/benefit, leveraged funding, and institutional stability and capacity. Proposed project satisfies all criteria.

Hearing

In its April 16, 2004 letter (Attachment 2), the Discharger asked to address the Regional Board to request the Board agree the six serious violations in October 2003 were caused by one upset and were not caused by operator error. Therefore, the Discharger believes the Board should reduce the penalty to \$3,000. The Discharger will also request the Board direct up to \$31,500 (if the Board does not reduce the penalty) to a SEP, discussed above.

Complaint No. R3-2004-0038

The Executive Officer issued Mandatory Penalty Complaint No. R3-2004-0038 (Attachment 1) to the City of Santa Barbara on April 2, 2004. The Complaint proposed imposing a mandatory penalty in the amount of forty-eight thousand dollars (\$48,000). Copies of the Complaint were also sent to U.S Environmental Protection Agency. All parties were invited to submit written comments by May 5, 2004.

COMMENTS

As discussed above, the Discharger submitted comments in a letter dated April 16, 2004. The Discharger requested the Board reduce the penalty and direct up to \$31,500, if the penalty is not reduced, to the proposed SEP.

Proposed Stipulated Order No. R3-2004-0038 (Attachment 4) assesses the Discharger a Mandatory Penalty of \$48,000, subject to the Board's decision whether to reduce the penalty. The Proposed Order stipulates the Discharger shall submit written proof of payment, in the form of a Purchase Order encumbering the amount of the penalty to the project, **by June 14, 2004**. (When the USGS invoices the Discharger for completed project tasks, the Discharger will send copies of the invoice and the cancelled check to the Executive Officer.)

Staff disagrees with the Discharger, and concludes the six serious violations in October 2003 were caused by operator error.

RECOMMENDATION

Adopt Stipulated Order No. R3-2004-0038, as proposed.

ATTACHMENTS

1. Complaint No. R3-2004-0038
2. April 16, 2004 letter.
3. Stipulated Order No. R3-2004-0038