

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

STAFF REPORT FOR REGULAR MEETING OF SEPTEMBER 10, 2004

Prepared August 12, 2004

ITEM: 15

SUBJECT: **STIPULATED MANDATORY PENALTY ORDER NO. R3-2004-0126;
CITY OF SAN LUIS OBISPO WATER RECLAMATION FACILITY**

KEY INFORMATION

Location: 35 Prado Road, City of San Luis Obispo, San Luis Obispo County
Discharge Type: Effluent from Municipal WWTP
Current Flow Rate: Annual average effluent flow in 2003 was ~4 million gallons per day (MGD)
Design Capacity: Average Dry Weather Flow of 5.2 MGD
Disposal: Discharge to San Luis Obispo Creek
Recycling: Water recycling infrastructure is currently under construction
Existing Order: WDR Order No. R3-2002-0043 (NPDES Permit No. CA0049224)

SUMMARY

The City of San Luis Obispo Water Reclamation Facility (Discharger) violated its Chlorine Residual, Total Dissolved Solids, Total Coliform, Total Suspended Solids, and Biochemical Oxygen Demand (BOD) effluent limitations on several occasions from September 1, 2001 through March 31, 2004. Consequently, the proposed Stipulated Order (Attachment 1) assesses a Mandatory Penalty of \$21,000. The Order specifies that the Discharger may direct up to \$18,000 of the Mandatory Penalty to the Froom Creek Road Decommissioning Project, a qualified Supplemental Environmental Project.

DISCUSSION

Discharge Description

The City of San Luis Obispo Water Reclamation Facility is located at 35 Prado Road, in southern San Luis Obispo. Treatment facilities include wet-weather flow equalization, screening, grinding, aerated grit removal, primary settling, biofiltration, secondary settling, nitrification by activated sludge, final settling, dual media filtration, chlorination/dechlorination, and cooling. Solids are thickened, stabilized in anaerobic digesters, dewatered, and applied to non-food cropland. The design capacity of the treatment facility is 5.2 MGD (Average Dry Weather Flow). Average daily effluent flow in 2003 was 4.0 MGD. Treated wastewater is discharged to San Luis Obispo Creek. The discharge is currently regulated by Waste Discharge Requirements Order No. R3-2002-0043 (NPDES Permit No. CA0049224). Prior to May 31, 2002, the discharge was regulated by Waste Discharge Requirements Order No. 95-48.

Effluent Violations

According to monitoring reports submitted by the Discharger, the following violations of Effluent Limitations of Order No. 95-48 and Order No. R3-2002-0043 occurred in the period September 1, 2001 through March 31, 2004:

| No. | Violation Date | Constituent | Permitted Limit | Reported Value | Violation Type |
|-----|----------------|-------------------------|--|---------------------------|----------------------|
| 1 | 9/2/01 | Chlorine Residual | No measurable residual | 0.23 mg/L | Chronic |
| 2 | 10/1/01 | Chlorine Residual | No measurable residual | 0.4 mg/L | Chronic |
| 3 | 10/12/01 | Chlorine Residual | No measurable residual | 0.2 mg/L | Chronic |
| 4 | 11/28/01 | Total Dissolved Solids | Water Supply (250 mg/L) plus 450 mg/L (=700 mg/L) | 710 mg/L | Chronic ¹ |
| 5 | 11/29/01 | Total Coliform | 2.2 MPN/100mL | 4.8 MPN/100 mL | Chronic ¹ |
| 6 | 1/7/02 | Chlorine Residual | No measurable residual | 0.16 mg/L | Chronic ¹ |
| 7 | 1/31/02 | Total Dissolved Solids | Water Supply (360 mg/L) plus 450 mg/L (=810 mg/L) | 850 mg/L | Chronic ¹ |
| 8 | 2/6/02 | Chlorine Residual | No measurable residual | 1.6 mg/L | Chronic ¹ |
| 9 | 1/21/04 | Chlorine Residual | No individual excursion above 0.1 mg/L shall exceed 30 minutes | 0.58 mg/L over 69 minutes | Serious ¹ |
| 10 | 2/29/04 | Total Suspended Solids | 10 mg/L 30-Day Average | 10.7 mg/L | Chronic |
| 11 | 2/29/04 | BOD | 10 mg/L 30-Day Average | 11 mg/L | Chronic |
| 12 | 3/8/04 | Total Coliform | 23 MPN/100 mL 7-Day Median | 240 MPN/100 mL | Chronic ² |
| 13 | 3/9/04 | Total Coliform | 23 MPN/100 mL 7-Day Median | 240 MPN/100 mL | Chronic ² |
| 14 | 3/10/04 | Total Coliform | 23 MPN/100 mL 7-Day Median | 175 MPN/100 mL | Chronic ² |
| 15 | 3/13/04 | Total Coliform | 23 MPN/100 mL 7-Day Median | 175 MPN/100 mL | Chronic ² |
| 16 | 3/14/04 | Total Coliform | 23 MPN/100 mL 7-Day Median | 185 MPN/100 mL | Chronic ² |
| 17 | 3/16/04 | Total Coliform | 23 MPN/100 mL 7-Day Median | 240 MPN/100 mL | Chronic ² |
| 18 | 3/17/04 | Total Coliform | 23 MPN/100 mL 7-Day Median | 160 MPN/100 mL | Chronic ² |
| 19 | 3/17/04 | Total Coliform | 240 MPN/100 mL Maximum | 400 MPN/100 mL | Chronic ² |
| 20 | 3/18/04 | Total Coliform | 23 MPN/100 mL 7-Day Median | 315 MPN/100 mL | Chronic ² |
| 21 | 3/19/04 | Total Coliform | 23 MPN/100 mL 7-Day Median | 80 MPN/100 mL | Chronic ² |
| 22 | 3/20/04 | Total Coliform | 23 MPN/100 mL 7-Day Median | 240 MPN/100 mL | Chronic ² |
| 23 | 3/22/04 | Total Coliform | 240 MPN/100 mL Maximum | 315 MPN/100 mL | Chronic ² |
| 24 | 3/27/04 | Total Chlorine Residual | 2 mg/L Maximum | >2.2 mg/L | Chronic ² |

¹ Violation subject to mandatory minimum penalty

² Violation subject to single operational upset provision.

Mandatory Penalties

The Discharger reported eight chronic violations in the period September 1, 2001 through February 6, 2002. California Water Code section 13385(i) requires the Regional Board to assess a mandatory minimum penalty of \$3,000 for each chronic violation, not counting the first three, occurring in a consecutive six-month period. The mandatory minimum penalty for these chronic violations ($8 - 3 = 5 \times \$3,000$) is \$15,000.

Violations listed as No. 12 through 24 in the above table occurred due to a single operational upset of the Discharger's biological treatment process. 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 all reasonable and immediately feasible actions to reduce noncompliance were taken. In accordance with California Water Code section 13385(f)(2), violations listed as No. 12 through 24 are considered a single chronic violation for the purpose of assessing penalties.

The Discharger committed one serious violation in the period January 21, 2004 through March 31, 2004. The amount of the mandatory penalty for the serious violation is \$3,000. The Discharger also committed 15 chronic violations in the period January 21, 2004 through March 31, 2004. However, violations listed as No. 12 through 24 are considered a single chronic violation for the purpose of assessing penalties. California Water Code section 13385(i) requires the Regional Board to assess a mandatory minimum penalty of \$3,000 for each chronic violation, not counting the first three³, occurring in a consecutive six-month period. The mandatory minimum penalty for chronic violations in the period January 21, 2004 through March 31, 2004 is \$3,000 ($4 - 3 = 1 \times \$3,000$).

The total Mandatory Penalty amount for violations of effluent limitations occurring in the period September 1, 2001 through March 31, 2004 is \$21,000.

³ Serious violations also count as chronic violations for the purpose of enumerating chronic violations.

Complaint No. R3-2004-0126

The Executive Officer issued Mandatory Penalty Complaint No. R3-2004-0126 (Attachment 2) on July 15, 2004. The Complaint proposed imposing a Mandatory Penalty in the amount of \$21,000.

Supplemental Environmental Project

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 the Discharger's case, the maximum amount that may be directed to a Supplemental Environmental Project is \$18,000 ($\$15,000 + 0.5(\$21,000 - \$15,000) = \$18,000$).

In a letter dated August 10, 2004, the Discharger requested the maximum mandatory penalty amount possible be directed to the Froom Ranch Road Decommissioning Project. The project is located within City-designated open space known as the DeVaul Property. The objective is to decrease and control sediment inputs to Froom Creek from the unpaved and unstable Froom Creek jeep road. Froom Creek is tributary to San Luis Obispo Creek and provides habitat for steelhead trout. Reduction of sediment inputs and the threat of catastrophic slope failure will improve water quality and fish spawning habitat in Froom Creek, and reduce sediment inputs to San Luis Obispo Creek. Decommissioning will include re-grading, installation of erosion control devices, and revegetation. The jeep road will be converted to a hiking trail. Decommissioning is scheduled to begin shortly and be completed by late Fall 2004. The project includes two years of maintenance by the California Conservation Corps. Primary funding for the project is a \$75,000 grant from

California Department of Fish and Game. The Discharger has not previously budgeted money for this project, other than the Project Manager's administrative costs.

The Froom Ranch Road Decommissioning Project qualifies as a Supplemental Environmental Project in accordance with the State Water Resources Control Board's Enforcement Policy, Resolution No. 2002-0040. The project goes above and beyond the obligation of the Discharger and is not an action required of the Discharger by any rule or regulation of any entity. The project will benefit water quality and will not directly benefit Regional Board functions or staff.

On August 13, 2004, Regional Board staff notified the Discharger that we agreed with their proposal to direct \$18,000 to the Froom Ranch Road Decommissioning Project.

Stipulated Order No. R3-2004-0126

Proposed Stipulated Order No. R3-2004-0126 assesses the Discharger a Mandatory Penalty of \$21,000. The Order stipulates that the Discharger must submit written proof of payment of \$18,000 to the Froom Creek Road Decommissioning Project Account by October 30, 2004, and payment of the remaining mandatory penalty (\$3,000) to State Water Resources Control Board (State Board) by October 10, 2004. If proof of payment to the Project Account is not submitted by October 30, 2004, the suspended liability shall be immediately due and payable to State Board.

The Discharger must submit written certification of completion of the project and a post-project accounting of expenditures related to the project no later than 30 days after completion of the project. The Discharger must submit quarterly progress reports if the decommissioning portion of the project is not completed by February 20, 2005 (approximately 60 days after scheduled completion). If the final total cost of the project is less than \$93,000 (the California Department of Fish and Game grant amount (\$75,000) plus the amount of suspended penalty (\$18,000)), the Discharger must remit the difference, up to \$18,000, to State Water Resources Control Board no later than 30 days after completion of the project.

RECOMMENDATION

Staff recommends adoption of Stipulated Order No. R3-2004-0126.

ATTACHMENT

1. Stipulated Order No. R3-2004-0126
2. Complaint No. R3-2004-0126

S:\NPDES\NPDES Facilities\San Luis Obispo Co\San Luis Obispo\MMP No. R3-2004-0126\Order No. 04-0126\Staff Rpt Order No. 04-0126, SLO WWTP.doc