

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

COMPLAINT NO. R3-2004-0072

**MANDATORY PENALTY
IN THE MATTER OF THE
CITY OF LOMPOC
WASTEWATER TREATMENT PLANT
SANTA BARBARA COUNTY**

This complaint to assess Mandatory Minimum Penalties pursuant to California Water Code section 13385(h) and (i) is issued to the City of Lompoc (Discharger) based on a finding of violations of Waste Discharge Requirements Order No. 01-87 National Pollutant Discharge Elimination System (NPDES) Permit No. CA0048127.

The Executive Officer finds the following:

1. On May 18, 2001, the Regional Water Quality Control Board, Central Coast Region (Regional Board), adopted *Waste Discharge Requirements Order No. 01-8740, NPDES Permit No. CA0048127, for the City of Lompoc, Santa Barbara County* (Order No. 01-87).
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.
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 effluent 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(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)."
5. 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.

**Item No. 16, Attachment 1
Lompoc WWTP MMP
September 10, 2004 Meeting**

6. Unionized ammonia, Total Dissolved Solids, pH and Settleable Solids are Group I Pollutants.
7. Total Chlorine Residual is a Group II pollutant.
8. Order No. 99-40 includes the following:

Effluent Limitation B.6

When the Discharger continuously monitors pH of wastewater, levels shall be maintained within the specified range, 99 percent of the time. To determine 99 percent compliance the following conditions shall be met:

- a) The total time during which the pH residual values are outside the range 6.5 to 8.3 (instantaneous maximum value) shall not exceed 7 hours and 26 minutes in any calendar month.
- b) No individual excursion from this range shall exceed 30 minutes; and
- c) No individual excursion shall fall outside the range 6.0 to 9.0 for any period of time.

Effluent Limitation B.8

Effluent discharged to the creek shall be adequately disinfected so that the median most probable number (MPN) of total coliform organisms in the effluent does not exceed 23 per 100 milliliters based on the results of not less than seven samples for any 30-day period, shall not exceed a log mean of 200 MPN per 100 mL, or shall more than 10 percent of the total samples during any 30-day period exceed 400 MPN per 100 mL.

Effluent Limitation B.9

Compliance determinations for total chlorine residual shall be based on 99% compliance. To determine 99% compliance with effluent limitations for total chlorine residual, the following conditions shall be satisfied.

- d) The total time during which the total chlorine residual values are above 0.01 mg/L (instantaneous maximum value) shall not exceed 7 hours and 26 minutes in any calendar month.
- e) No individual excursion above 0.01 mg/L shall exceed 30 minutes, and
- f) No individual excursion shall exceed 0.1 mg/L.

Effluent Limitations B.3:

Constituent	Units	Monthly (30-Day) Average	Weekly (7-Day) Average	Daily Maximum
Un-ionized ammonia	mg/L	-	0.025	-
Total Dissolved Solids	mg/L	WS + 250*	-	-
Settleable solids	mL/L	0.1	-	0.3

* Water supply + 250 mg/L, per WDRs Order 95-29, replaced by WDRs Order 01-87 on May 8, 2001

13. **Serious Thresholds** – Effluent containing constituent concentrations that are greater than or equal to the following values (limit + 40% for Group I pollutants, limit + 20% for Group II pollutants) are serious violations:

Constituent	Units	Monthly (30-Day) Average	Weekly (7-Day) Average	Daily Maximum
Un-ionized ammonia	mg/L	-	0.035	-
Total Dissolved Solids	mg/L	WS + 350	-	-

Settleable solids	mL/L	0.14	-	0.42
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14. Effluent containing constituent 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.
15. According to monitoring reports submitted by the Discharger from July 1, 2001 to December 31, 2003, the discharge violated the following effluent limitations in Order No. 01-87:

#	Violation Date	Constituent	Permitted Limit	Reported Value	Violation Type
1	7/31/01	Total Dissolved Solids	WS + 250 mg/L	WS + 400	Serious
2	8/16/01	pH	< 6.5 for more than 30 min	6.45 for 4 hrs	Chronic
3	9/20/01	Settleable solids	0.3 mg/L	1.6 mg/L	Serious
4	9/21/01	Total coliform	23 MPN/100mL	30 MPN/100mL	*Chronic
5	2/28/02	pH	< 6.5 for more than 30 min	< 6.5 for more than 30 min	*Chronic
6	3/1/02	pH	< 6.5 for more than 30 min	< 6.5 for more than 30 min	*Chronic
7	10/01/03	pH	< 6.5 for more than 30 min	< 6.5 for more than 30 min	Chronic
8	10/2/03	pH	< 6.5 for more than 30 min	< 6.5 for more than 30 min	Chronic
9	11/1/03	pH	< 6.5 for more than 30 min	< 6.5 for more than 30 min	Chronic

* Denotes chronic violations subject to Mandatory Minimum Penalties

16. According to Finding No. 15, Lines 1, and 3, on July 31st, and September 20, 2001, two serious violations were reported, one violation for each day.
17. According to Finding No. 15, the Discharger committed two (2) serious violations from July 1, 2001 to November 1, 2003. The amount of the mandatory penalty for the violations (2 x \$3,000) is six thousand dollars (\$6,000).
18. According to Finding No. 15, the Discharger committed four (4) chronic violations for the period of July 31, 2001 to March 1, 2002. In addition two of the serious violations committed during this time period also count as chronic violations. 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. Therefore, (4 Chronic + 2 Serious - 3) = three (3) chronic violations amounts to 3 x \$3,000, resulting in a nine thousand dollar penalty (\$9,000).
19. The total amount of the mandatory minimum penalty from January 5, 2001 to November 1, 2003 is (\$6,000 + \$9,000) = \$15,000.

THE CITY OF LOMPOC IS HEREBY GIVEN NOTICE THAT:

1. The Executive Officer of the Regional Board proposes that the Discharger be assessed a Mandatory Minimum Penalty in the amount of fifteen thousand dollars (\$15,000).

2. The Regional Board shall hold a public hearing on September 10, 2004, unless the Discharger agrees to waive its right to a public hearing by filling out, signing, and submitting the enclosed "Waiver of Hearing". If the Discharger chooses not to waive its right to a public hearing, the Regional Board may proceed with the scheduled public hearing and consider testimony received from interested persons during the public hearing and decide whether to accept the amount of Mandatory Penalty proposed by the Executive Officer or increase the liability. The Regional Board may also decide to continue the matter to a future hearing or refer it to the State Attorney General. The public hearing is scheduled at the regularly scheduled Regional Board meeting on September 10, 2004 at Regional Board Conference Room, 895 Aerovista Place, Suite 101, San Luis Obispo, California. The meeting is scheduled to begin at 8:30 a.m.; however, no specific time has been set for consideration of this item.

If you have questions regarding this matter, please direct them to **Michael Higgins** at (805) 542-4649, or Regional Board Counsel, Lori Okun, at (916) 341-5165.



Roger W. Briggs
Executive Officer

6-16-04

Date

**PROCEDURAL INFORMATION
FOR
MANDATORY MINIMUM PENALTY COMPLAINT
PUBLIC HEARING AND PAYMENT**

WAIVER OF PUBLIC HEARING

You may waive your right to a public hearing. If you wish to waive your right to a public hearing, a duly authorized person¹ must check, sign, and submit the following *Waiver of the Right to a Public Hearing* form and pay the mandatory minimum penalty amount specified in the Complaint **no later than July 23, 2004, 5:00 P.M.** Please follow the payment instructions below.

If you choose to waive your right to a public hearing, and if full payment and a signed *Waiver of the Right to a Public Hearing* form are received before the hearing, the hearing will not be held, and the violation will be settled. If full payment and a signed *Waiver of the Right to a Public Hearing* form are not received, the matter will be placed on the Regional Board's agenda for a hearing as stated below.

If you do not waive your right to a public hearing, the Executive Officer will present an Order to the Regional Board for the amount proposed in this Complaint at the Regional Board meeting on September 10, 2004, at the Regional Board Conference Room, 895 Aerovista Place, Suite 101, San Luis Obispo, California. The Regional Board will proceed with the scheduled hearing, consider testimony received from interested persons during the hearing, and decide whether to accept the amount of the mandatory minimum penalty proposed by the Executive Officer, or direct the Executive Officer to reissue the complaint alleging increased liability pursuant to Water Code Section 13385(c) and (e). If the proposed Order is adopted, payment of the mandatory minimum penalty to the State Water Resources Control Board will be due and payable no later than October 10, 2004, in accordance with the Order. If the proposed Order is rejected, the Regional Board may direct the Executive Officer to issue a new complaint and schedule another public hearing. The Regional Board may also decide to continue the matter to a future hearing or refer it to the State Attorney General. The meeting is scheduled to begin at 8:30 A.M.; however, no specific time has been set for consideration of the Order.

PAYMENT OF MANDATORY MINIMUM PENALTY

No later than July 23, 2004, please make your check payable to State Water Resources Control Board, and note "MMP Complaint No. R3-2004-0072" on the check. Please mail the check and signed waiver form to:

**SWRCB ACCOUNTING
ATTN: ENFORCEMENT
P.O. BOX 100
SACRAMENTO, CA 95812-0100**

At the same time, please also mail copies of the check and signed waiver form to:
Regional Water Quality Control Board
Attn: Mike Higgins
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401

¹ A duly authorized person is defined as a principal executive officer of at least the level of vice president in a corporation, a general partner or the proprietor in a partnership or sole proprietorship, a principal executive officer or ranking elected official in a public agency, or a duly authorized representative.

WAIVER OF THE RIGHT TO A PUBLIC HEARING

[] By checking this box, I agree to waive the City of Lompoc's right to a public hearing before the Regional Board with regard to the violations alleged in Complaint for Mandatory Minimum Penalty No. R3-2004-0072. I agree to provide payment of the mandatory minimum penalty for the amount proposed in Complaint for Mandatory Minimum Penalty No. R3-2004-0072. I understand that I am giving up the City of Lompoc's right to be heard, and its right to argue against the allegations made by the Executive Officer in Complaint for Mandatory Minimum Penalty No. R3-2004-0072, and against the imposition of, or the amount of, the mandatory minimum penalty proposed.

Signature

Printed Name

Title/Position

Date