



California Regional Water Quality Control Board
Central Coast Region



Alan C. Lloyd, Ph.D.
Agency Secretary

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Arnold
Schwarzenegger
Governor

January 21, 2005

Dennis Delzeit, P.E.
Public Works Director
City of Pismo Beach
P. O. Box 3
Pismo Beach, CA 93449

Dear Mr. Delzeit:

**COMPLAINT NO. R3-2005-0009 FOR MANDATORY MINIMUM PENALTIES IN THE
MATTER OF CITY OF PISMO BEACH WASTEWATER FACILITY, SAN LUIS OBISPO
COUNTY**

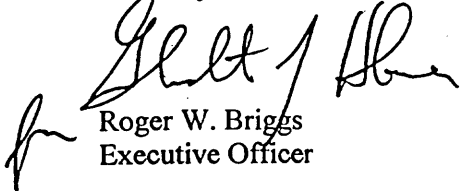
Attached is *Complaint for Mandatory Minimum Penalty No. R3-2005-0009* (Complaint). The Complaint is based on violations of effluent limitations in Waste Discharge Requirements Order No. 99-31 and R3-2004-0051/National Pollutant Discharge Elimination System (NPDES) Permit No. CA0003743, occurring between July 2001 and November 2004. The Complaint specifies the occurrence dates and nature of the violations.

We will present an Order to the Regional Water Quality Control Board, Central Coast Region (Regional Board) for the amount proposed in the Complaint (\$351,000) at the Regional Board meeting on March 25, 2005, at the 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.

In this case, California Water Code Section 13385(1) allows a portion of the penalty amount (\$183,000) to be expended on a supplemental environmental project (SEP) in accordance with the State Water Resources Control Board (SWRCB)'s Enforcement Policy. You may submit a proposal for one or more SEPs. If you do choose to submit a proposal, please submit it for consideration no later than **February 22, 2005**. The State Water Resources Control Board's February 19, 2002 *Water Quality Enforcement Policy* specifies the criteria a SEP must meet to qualify for funding at www.swrcb.ca.gov/plnspols/wqep.doc. You may find a number of SEPs listed, as well as other useful information, on our website at: www.swrcb.ca.gov/rwqcb3/sep/index.htm.

Please review the Complaint carefully and submit your comments and/or your *Waiver of Hearing* form and copy of payment, or an SEP proposal by **February 22, 2005**. If you have questions and/or would like to meet to discuss potential Supplemental Environmental Projects and other issues or concerns regards the Complaint, please contact Sorrel Marks at (805) 549-3695 or Regional Board Counsel, Lori Okun, at (916) 341-5165.

Sincerely,


Roger W. Briggs
Executive Officer

California Environmental Protection Agency



Item No. 5 Attachment No. 2
March 24-25, 2005 Meeting
City of Pismo Beach
Wastewater Facility

Mr. DeZell
-2-
January 21, 2005
Attachment: Complaint No. R3-2005-0009

es:

Lori Okun – OCC
Rafael Maestu - OSI
State Water Resources Control Board
P. O. Box 100
Sacramento, CA 95812-0100

Terry Flemming
U. S. EPA – Region 9
75 Hawthorne Street
San Francisco, CA 94105

Greg Ray
City of Pismo Beach
P. O. Box 3
Pismo Beach, CA 93449

Connie O'Henley
Central Coast Salmon Enhancement
P. O. Box 277
Avila Beach, CA 93424

Michael Gerardi
Water Pollution Biology
P. O. Box 1372
Williamsport, PA 17703

Mary Bianchi
University of California Cooperative Extension
2156 Sierra Way
San Luis Obispo, CA 93401

David Edwards
SLO County Community Foundation
P. O. Box 1580
San Luis Obispo, CA 93406

California Environmental Protection Agency



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

COMPLAINT NO. R3-2005-0009
(AMENDED COMPLAINT NO. R3-2003-050)

MANDATORY PENALTY
IN THE MATTER OF
CITY OF PISMO BEACH WASTEWATER FACILITY
SAN LUIS OBISPO COUNTY

This complaint to assess Mandatory Penalties pursuant to Water Code section 13385(h) and (i) is issued to the City of Pismo Beach (Discharger) based on a finding of violations of Waste Discharge Requirements Order Nos. 99-31 and R3-2004-0051 (NPDES No. CA0048151).

The Executive Officer finds the following:

1. On July 12, 1999, the Regional Water Quality Control Board, Central Coast Region (Regional Board) adopted *Order No. 99-31 (NPDES No. CA0048151), Waste Discharge Requirements for the City of Pismo Beach, San Luis Obispo County* and updated the requirements on September 10, 2004, by adoption of *Order No. R3-2004-0051*.
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(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.
4. 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.
5. California Water Code section 13385(l) states that "(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)."

6. Order Nos. 99-31 and R3-2004-0051 include in part the following Effluent Limitations:

| Constituent | Units | Monthly (30-day) Average | Weekly (7-day) Average | Maximum |
|------------------------|------------|-----------------------------|---|---------|
| BOD, 5-day | mg/l | 30 | 45 | 90 |
| BOD, 5-day | lb/day | 438 | 657 | 1314 |
| Total Suspended Solids | mg/l | 30 | 45 | 90 |
| Settleable Solids | ml/l | 1.0 | 1.5 | 3.0 |
| Fecal Coliform | MPN/100 ml | | 200* | 2000 |
| BOD, 5-day | % removal | | Order No. 99-31 requires 80% minimum Order No. R3-2004-0051 requires 85% minimum | |

*Order No. R3-2004-0051 specifies limit as 7-sample median rather than 7-day average.

7. Biochemical Oxygen Demand (BOD, 5-day), Total Suspended Solids and Settleable Solids are Group I Pollutants. Fecal Coliform is not listed as a Group I or a Group II Pollutant.
8. Effluent containing constituent concentrations that are greater than serious thresholds (limit + 40% for Group I pollutants, limit + 20% for Group II pollutants) are serious violations. Fecal Coliform is neither a Group I nor a Group II pollutant, therefore it has no serious threshold.
9. Effluent containing BOD, Suspended Solids or Settleable Solids concentrations that are less than the serious threshold but greater than the permit limits, are chronic violations.
10. Effluent containing fecal coliform values that exceed a 7-day average (between September 1, 2001 and September 9, 2004) or 7-sample median (after September 10, 2004) of 200 MPN/100 ml or maximum of 2000 MPN/100 ml are chronic violations.
11. On May 13, 2004, the Central Coast Regional Water Quality Control Board (Regional Board) issued an order (No. R3-2004-008) to the City of Pismo Beach (City) assessing mandatory minimum penalties (MMPs) in the amount of \$735,000 for violations of the effluent limits set forth above. All of the violations cited in the Complaint that resulted in Order No. R3-2004-0008 (Administrative Civil Liability Complaint No. R3-2003-050) were alleged as mandatory MMPs, and not as discretionary penalties under section 13385(c).
12. After the hearing, the City and the Regional Board continued to discuss the issues addressed in the Order No. R3-2004-0008. The City and Regional Board staff agreed that the City had over-reported violations of average limits and that the over-reporting resulted in the assessment of MMPs for reported violations that were not actually chronic violations for purposes of California Water Code Section 13385. The Regional Board's Executive Officer and the Discharger stipulated that the State Water Resources Control Board should vacate Order No. R3-2004-0008 so that the Executive Officer could reissue an administrative civil liability complaint with the MMPs calculated correctly. The correct calculations are set forth below. This Complaint amends and supercedes Complaint No. R3-2003-050. This Complaint also alleges violations that occurred subsequent to the issuance of Complaint No. R3-2003-050 (April 2003 through November 30, 2004).
13. According to monitoring reports submitted by the Discharger, the Discharger committed the following violations of Effluent Limitations specified in Order Nos. 99-31 and R3-2004-0051 during the period July 1, 2001 through November 30, 2004:

| No. | Date | Effluent Constituent | Reported Value | Permitted Limit | Violation Type |
|-----|---------|------------------------------|----------------|-----------------|----------------|
| 1 | 7/14/01 | Fecal Coliform 7-day average | 280 MPN/100 ml | 200 MPN/100 ml | Chronic |
| 2 | 7/15/01 | Settleable Solids maximum | 8 ml/l | 3 ml/l | Serious |

| No. | Date | Effluent Constituent | Reported Value | Permitted Limit | Violation Type |
|-----|----------|-----------------------------------|----------------|-----------------|----------------|
| 3 | 7/15/01 | Suspended Solids maximum | 132 mg/l | 90 mg/l | Serious |
| 4 | 7/16/01 | Suspended Solids maximum | 96 mg/l | 90 mg/l | Chronic |
| 5 | 7/20/01 | Suspended Solids maximum | 124 mg/l | 90 mg/l | Chronic |
| 6 | 7/21/01 | Fecal Coliform 7-day average | 250 MPN/100 ml | 200 MPN/100 ml | Chronic |
| 7 | 7/21/01 | Settleable Solids weekly average | 2.46 ml/l | 1.5 ml/l | Serious |
| 8 | 7/21/01 | Suspended Solids weekly average | 87 mg/l | 45 mg/l | Serious |
| 9 | 7/21/01 | BOD weekly average | 70 mg/l | 45 mg/l | Serious |
| 10 | 7/26/01 | Settleable Solids maximum | 5 ml/l | 3 ml/l | Serious |
| 11 | 7/27/01 | Settleable Solids maximum | 44 ml/l | 3 ml/l | Serious |
| 12 | 7/27/01 | Suspended Solids maximum | 196 mg/l | 90 mg/l | Serious |
| 13 | 7/28/01 | Fecal Coliform 7-day average | 401 MPN/100 ml | 200 MPN/100 ml | Chronic |
| 14 | 7/28/01 | Settleable Solids weekly average | 8.00 ml/l | 1.5 ml/l | Serious |
| 15 | 7/28/01 | Suspended Solids weekly average | 60 mg/l | 45 mg/l | Chronic |
| 16 | 7/31/01 | Settleable Solids monthly average | 3.9 ml/l | 1.0 ml/l | Serious |
| 17 | 7/31/01 | Settleable Solids maximum | 44 ml/l | 3 ml/l | Serious |
| 18 | 7/31/01 | Suspended Solids monthly average | 53 mg/l | 30 mg/l | Serious |
| 19 | 7/31/01 | Suspended Solids maximum | 253 mg/l | 90 mg/l | Serious |
| 20 | 7/31/01 | BOD monthly average | 43 mg/l | 30 mg/l | Serious |
| 21 | 8/1/01 | Suspended Solids maximum | 172 mg/l | 90 mg/l | Serious |
| 22 | 8/7/01 | Suspended Solids weekly average | 50 mg/l | 45 mg/l | Chronic |
| 23 | 8/14/01 | BOD weekly average | 55 mg/l | 45 mg/l | Chronic |
| 24 | 8/14/01 | Fecal Coliform 7-day average | 762 MPN/100 ml | 200 MPN/100 ml | Chronic |
| 25 | 8/20/01 | BOD maximum | 130 mg/l | 90 mg/l | Serious |
| 26 | 8/20/01 | BOD maximum mass | 1423 lb/day | 1314 lb/day | Chronic |
| 27 | 8/21/01 | Fecal Coliform 7-day average | 390 MPN/100 ml | 200 MPN/100 ml | Chronic |
| 28 | 8/21/01 | BOD weekly average | 96 mg/l | 45 mg/l | Serious |
| 29 | 8/22/01 | BOD maximum | 100 mg/l | 90 mg/l | Chronic |
| 30 | 8/28/01 | BOD weekly average | 71 mg/l | 45 mg/l | Serious |
| 31 | 8/28/01 | Fecal Coliform 7-day average | 562 MPN/100 ml | 200 MPN/100 ml | Chronic |
| 32 | 8/31/01 | Suspended Solids monthly average | 34 mg/l | 30 mg/l | Chronic |
| 33 | 8/31/01 | BOD monthly average | 62 mg/l | 30 mg/l | Serious |
| 34 | 8/31/01 | BOD percent removal | 77 % | 80% | Chronic |
| 35 | 8/31/01 | BOD monthly average mass | 624 lb/day | 438 lb/day | Serious |
| 36 | 9/7/01 | Fecal Coliform 7-day average | 254 MPN/100 ml | 200 MPN/100 ml | Chronic |
| 37 | 9/21/01 | Fecal Coliform 7-day average | 258 MPN/100 ml | 200 MPN/100 ml | Chronic |
| 38 | 12/31/01 | BOD monthly average | 38 mg/l | 30 mg/l | Chronic |
| 39 | 1/7/02 | BOD weekly average | 57 mg/l | 45 mg/l | Chronic |
| 40 | 1/31/02 | BOD monthly average | 39 mg/l | 30 mg/l | Chronic |
| 41 | 2/28/02 | BOD monthly average | 32 mg/l | 30 mg/l | Chronic |
| 42 | 3/31/02 | BOD monthly average | 34 mg/l | 30 mg/l | Chronic |
| 43 | 4/7/02 | BOD weekly average | 51 mg/l | 45 mg/l | Chronic |
| 44 | 5/5/02 | Suspended Solids maximum | 97 mg/l | 90 mg/l | Chronic |
| 45 | 5/5/02 | Settleable Solids maximum | 4.5 ml/l | 3 ml/l | Serious |

| No. | Date | Effluent Constituent | Reported Value | Permitted Limit | Violation Type |
|-----|----------|----------------------------------|----------------|-----------------|----------------|
| 46 | 5/7/02 | Settleable Solids maximum | 3.5 ml/l | 3 ml/l | Chronic |
| 47 | 5/7/02 | Settleable Solids weekly average | 1.63 ml/l | 1.5 ml/l | Chronic |
| 48 | 5/7/02 | BOD weekly average | 62 mg/l | 45 mg/l | Chronic |
| 49 | 5/7/02 | Fecal Coliform 7-day average | 386 MPN/100 ml | 200 MPN/100 ml | Chronic |
| 50 | 5/21/02 | Fecal Coliform 7-day average | 697 MPN/100 ml | 200 MPN/100 ml | Chronic |
| 51 | 5/29/02 | Settleable Solids maximum | 14 ml/l | 3 ml/l | Serious |
| 52 | 5/30/02 | Suspended Solids monthly average | 35 mg/l | 30 mg/l | Chronic |
| 53 | 5/30/02 | BOD monthly average | 48 mg/l | 30 mg/l | Serious |
| 54 | 5/30/02 | BOD maximum | 94 mg/l | 90 mg/l | Chronic |
| 55 | 5/30/02 | Suspended Solids maximum | 140 mg/l | 90 mg/l | Serious |
| 56 | 6/21/02 | BOD weekly average | 46 mg/l | 45 mg/l | Chronic |
| 57 | 6/28/02 | BOD weekly average | 49 mg/l | 45 mg/l | Chronic |
| 58 | 6/30/02 | BOD monthly average | 43 mg/l | 30 mg/l | Serious |
| 59 | 7/31/02 | BOD monthly average | 31 mg/l | 30 mg/l | Chronic |
| 60 | 8/6/02 | Settleable Solids maximum | 13 ml/l | 3.0 ml/l | Serious |
| 61 | 8/7/02 | Suspended Solids maximum | 92 mg/l | 90 mg/l | Chronic |
| 62 | 8/7/02 | Suspended Solids weekly average | 50 mg/l | 45 mg/l | Chronic |
| 63 | 8/7/02 | Settleable Solids weekly average | 2.17 ml/l | 1.5 ml/l | Serious |
| 64 | 8/7/02 | BOD weekly average | 66 mg/l | 45 mg/l | Serious |
| 65 | 8/8/02 | BOD maximum | 92 mg/l | 90 mg/l | Chronic |
| 66 | 8/14/02 | BOD weekly average | 60 mg/l | 45 mg/l | Chronic |
| 67 | 8/31/02 | BOD monthly average mass | 481 lb/day | 438 lb/day | Chronic |
| 68 | 8/31/02 | BOD monthly average | 48 mg/l | 30 mg/l | Serious |
| 69 | 8/31/02 | Suspended Solids monthly average | 31 mg/l | 30 mg/l | Chronic |
| 70 | 9/30/02 | BOD monthly average | 34 mg/l | 30 mg/l | Chronic |
| 71 | 10/31/02 | BOD monthly average | 32 mg/l | 30 mg/l | Chronic |
| 72 | 11/21/02 | Fecal Coliform 7-day average | 262 MPN/100 ml | 200 MPN/100 ml | Chronic |
| 73 | 11/30/02 | BOD monthly average | 34 mg/l | 30 mg/l | Chronic |
| 74 | 2/28/03 | BOD monthly average | 34 mg/l | 30 mg/l | Chronic |
| 75 | 3/7/03 | BOD weekly average | 53 mg/l | 45 mg/l | Chronic |
| 76 | 3/21/03 | BOD weekly average | 47 mg/l | 45 mg/l | Chronic |
| 77 | 3/31/03 | BOD monthly average | 42 mg/l | 30 mg/l | Chronic |
| 78 | 4/14/03 | BOD weekly average | 75 mg/l | 45 mg/l | Serious |
| 79 | 4/18/03 | BOD maximum | 120 mg/l | 90 mg/l | Chronic |
| 80 | 4/21/03 | BOD weekly average mass | 1131 lb/day | 657 lb/day | Serious |
| 81 | 4/21/03 | BOD weekly average | 105 mg/l | 45 mg/l | Serious |
| 82 | 4/28/03 | BOD weekly average | 49 mg/l | 45 mg/l | Chronic |
| 83 | 4/30/03 | BOD monthly average | 72 mg/l | 30 mg/l | Serious |
| 84 | 4/30/03 | BOD monthly average mass | 672 lb/day | 438 lb/day | Serious |
| 85 | 5/7/03 | BOD weekly average | 52 mg/l | 45 mg/l | Chronic |
| 86 | 5/14/03 | BOD weekly average | 78 mg/l | 45 mg/l | Serious |
| 87 | 5/21/03 | BOD weekly average | 54 mg/l | 45 mg/l | Chronic |
| 88 | 5/31/03 | BOD monthly average | 54 mg/l | 30 mg/l | Serious |

| No. | Date | Effluent Constituent | Reported Value | Permitted Limit | Violation Type |
|-----|----------|--------------------------------|----------------|-----------------|----------------|
| 89 | 5/31/03 | BOD monthly average mass | 442 lb/day | 438 lb/day | Chronic |
| 90 | 10/14/03 | Fecal Coliform 7-day average | 283 MPN/100 ml | 200 MPN/100 ml | Chronic |
| 91 | 10/28/03 | Fecal Coliform 7-day average | 324 MPN/100 ml | 200 MPN/100 ml | Chronic |
| 92 | 12/31/03 | BOD monthly average | 34 mg/l | 30 mg/l | *Chronic |
| 93 | 1/7/04 | BOD weekly average | 46 mg/l | 45 mg/l | Chronic |
| 94 | 1/21/04 | BOD weekly average | 53 mg/l | 45 mg/l | Chronic |
| 95 | 1/28/04 | BOD weekly average | 51 mg/l | 45 mg/l | Chronic |
| 96 | 1/30/04 | BOD monthly average | 45 mg/l | 30 mg/l | Serious |
| 97 | 2/7/04 | BOD weekly average | 50 mg/l | 45 mg/l | Chronic |
| 98 | 2/28/04 | BOD weekly average | 52 mg/l | 45 mg/l | Chronic |
| 99 | 2/29/04 | BOD monthly average | 44 mg/l | 30 mg/l | Serious |
| 100 | 3/7/04 | BOD weekly average | 47 mg/l | 45 mg/l | Chronic |
| 101 | 3/7/04 | Fecal Coliform 7-day average | 322 MPN/100 ml | 200 MPN/100 ml | Chronic |
| 102 | 3/14/04 | BOD weekly average | 71 mg/l | 45 mg/l | Serious |
| 103 | 3/21/04 | BOD weekly average | 51 mg/l | 45 mg/l | Chronic |
| 104 | 3/31/04 | BOD monthly average | 49 mg/l | 30 mg/l | Serious |
| 105 | 3/31/04 | BOD monthly average mass | 453 lb/day | 438 lb/day | Chronic |
| 106 | 4/30/04 | BOD monthly average | 38 mg/l | 30 mg/l | Chronic |
| 107 | 5/13/04 | Settleable Solids maximum | 9 ml/l | 3 ml/l | Serious |
| 108 | 5/14/04 | Fecal Coliform 7-day average | 697 MPN/100 ml | 200 MPN/100 ml | Chronic |
| 109 | 5/16/04 | BOD maximum | 110 mg/l | 90 mg/l | Chronic |
| 110 | 5/21/04 | BOD weekly average | 62 mg/l | 45 mg/l | Chronic |
| 111 | 5/30/04 | BOD monthly average | 44 mg/l | 30 mg/l | Serious |
| 112 | 9/23/04 | Fecal Coliform 7-sample median | 900 MPN/100 ml | 200 MPN/100 ml | Chronic |
| 113 | 9/24/04 | Fecal Coliform 7-sample median | 1600 MPN/100ml | 200 MPN/100 ml | Chronic |
| 114 | 9/27/04 | Fecal Coliform 7-sample median | 1600 MPN/100ml | 200 MPN/100 ml | Chronic |
| 115 | 9/28/04 | Fecal Coliform 7-sample median | 1600 MPN/100ml | 200 MPN/100 ml | Chronic |
| 116 | 9/29/04 | Fecal Coliform 7-sample median | 1600 MPN/100ml | 200 MPN/100 ml | Chronic |
| 117 | 9/30/04 | Fecal Coliform 7-sample median | 1600 MPN/100ml | 200 MPN/100 ml | Chronic |
| 118 | 10/1/04 | Fecal Coliform 7-sample median | 300 MPN/100ml | 200 MPN/100 ml | Chronic |

*Denotes Chronic violation not subject to Mandatory Minimum Penalties


14. According to Finding No. 13, the Discharger committed forty two (42) "serious" violations in the period from July 1, 2001 to November 30, 2004. In accordance with California Water Code section 13385(h), the amount of mandatory penalty for the above serious violations (42 x \$3,000) is one hundred twenty six thousand dollars (\$126,000).
15. According to Finding No. 13, the Discharger committed seventy six (76) "chronic" violations in the period from July 1, 2001 to November 30, 2004. Violation No. 1 was preceded by greater than three violations within a six-month period prior to July 1, 2001 (addressed in Order No. 01-117), therefore each subsequent violation is subject to mandatory penalty. Violation No. 92 is preceded by less than three violations within a six-month period, therefore no mandatory penalty for Violation No. 92 is required. In accordance with California Water Code section 13385(i), the mandatory minimum penalty for the above listed chronic violations $[(76 - 1) \times \$3000]$ is two hundred twenty five thousand dollars (\$225,000).

16. The total amount of the mandatory penalty from July 1, 2001 to November 30, 2004 (\$126,000 + \$225,000) is three hundred fifty-one thousand dollars (\$351,000).

THE CITY OF PISMO BEACH IS HEREBY GIVEN NOTICE THAT:

1. The Executive Officer of the Regional Board proposes that the Discharger be assessed a Mandatory Penalty in the amount of three hundred fifty-one thousand dollars (**\$351,000**).
2. The Regional Board shall hold a public hearing on March 25, 2005, 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. The Regional Board may also decide to continue the matter to a future hearing, direct the Executive Officer to reissue the Complaint to propose additional penalties under California Water Code section 13385(c) and (e), or refer the matter to the State Attorney General. The public hearing is scheduled at the regularly scheduled Regional Board meeting on March 25, 2005, at the 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 Regional Board staff, Sorrel Marks, at 805/549-3695 or Regional Board Counsel, Lori Okun, at 916/341-5165.



Roger W. Briggs
Executive Officer

1-21-05

Date

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

WAIVER OF HEARING

You may waive your right to a hearing. If you wish to waive the hearing, an authorized person must check and sign the waiver and return it to the Regional Water Quality Control Board, Central Coast Region, 895 Aerovista Place, Suite 101, San Luis Obispo, California 93401-7906.

If you choose to waive the right to a hearing, the Executive Officer will present an Order for the amount of liability proposed in the Complaint to the Regional Board at the March 25, 2005 Regional Board meeting. The Regional Board may adopt or reject the Order. If the proposed Order is adopted, payment will be due and payable by April 24, 2005 (check payable to State Water Resources Control Board). If the Order is rejected, the Regional Board may direct the Executive Officer to issue a new complaint and schedule another hearing. The Regional Board may adopt the proposed Order on the consent calendar. If an interested member of the public or a Regional Board member removes the item from the consent calendar for any reason, the Regional Board will accept public testimony, consider the administrative record and conduct deliberations before deciding whether to adopt or reject the Order. If the Regional Board rejects the proposed Order, it may direct the Executive Officer to re-issue the Complaint to include discretionary penalties and provide you with an opportunity for a hearing on the reissued complaint.

If you do not waive your right to a hearing, the Regional Board will proceed with the scheduled hearing and consider testimony received from interested persons during the hearing and decide whether to accept the amount proposed by the Executive Officer or increase or decrease the liability. Liability may be increased up to the amount of maximum potential liability stated in this Complaint. The Board may also decide to continue the matter to a future hearing, direct the Executive Officer to reissue the Complaint in a higher amount or refer it to the State Attorney General.

You may submit a check for the proposed amount of liability prior to March 25, 2005. If the Regional Board does not adopt the proposed Order, your check will be returned to you.

If you have questions regarding this matter, please direct them to Sorrel Marks at (805) 549-3695, or Regional Board Counsel, Lori T. Okun, at (916) 341-5165.

WAIVER OF THE RIGHT TO A HEARING**WAIVER**

- By checking the box, I agree to waive my right to a hearing before the Regional Board with regard to the violations alleged in Complaint No. R3-2005-0009. Also, I agree to remit payment for the civil liability proposed. I understand that I am giving up my right to argue against the allegations made by the Executive Officer in this Complaint, and against the imposition or amount of proposed civil liability.

Signature

Printed Name

Title/Position

Date

File:Pismo
S:\NPDES\NPDES Facilities\San Luis Obispo Co\Pismo\MMP 2005\MMP 05-0009.complaint