

STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

STAFF SUMMARY REPORT (Carolina Silva)
MEETING DATE: March 12, 2008

ITEM: 11

SUBJECT: **Novato Sanitary District, Wastewater Treatment Plant, Marin County -**
Hearing to Consider Mandatory Minimum Penalty for Discharge in Violation
of Effluent Limitations

CHRONOLOGY: Mandatory Minimum Penalty Assessed November 2005

DISCUSSION: The District violated its NPDES permit's effluent limits 57 times from
December 2005 to May 2007. These violations are summarized in Table 1 of
the attached complaint (Attachment A). They were primarily due to
insufficient treatment capacity at the District's Ignacio Facility. The District
identified this as an issue many years ago and is well into implementing a
\$90 million project to upgrade its treatment facilities. The Board's 2004
permit requires the District to complete the most critical upgrades. Because
corrective measures were already underway, we determined that the
minimum penalty was appropriate for these violations.

In January 2008, we issued a complaint to the District assessing \$153,000 in
mandatory minimum penalties. The District has signed a waiver to a hearing
(see Appendix B) and is working with staff to develop an acceptable
supplemental environmental project proposal. If the District does not
develop an acceptable proposal, the District will be required to pay the full
penalty to the State Water Pollution Cleanup and Abatement Account.

RECOMMEND-
ATION: No action is necessary

File Number: 2159.5022 (CS)

Appendices: A. Complaint No. R2-2007-0081
B. Signed Waiver

APPENDIX A

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

Complaint No. R2-2007-0081

**Mandatory Minimum Penalty
In the Matter of
Novato Sanitary District,
Novato, Marin County**

Overview

This complaint assesses \$153,000 in Mandatory Minimum Penalties (MMPs) to the Novato Sanitary District (hereafter Discharger). The complaint is based on a finding of the Discharger's violations of Waste Discharge Requirements Order No. R2-2004-0093 (NPDES No. CA 0037958) from December 2005 to October 2007.

This MMP complaint is issued pursuant to Water Code Sections 13385(h)(1-2), 13385(i) and 13385(l). For a general overview of how MMPs are calculated, please see General Overview of MMP Calculations.

A. Permit at the time of violations

On November 17, 2004, the California Regional Water Quality Control Board (Water Board) adopted Order No. R2-2004-0093 for the Discharger to regulate discharges of waste from its facility.

B. Effluent Limitations

Order No. R2-2004-0093 specifies the following effluent limitations:

Parameter	Effluent Limit
Ammonia (monthly average)	6 mg/L
5-day biochemical oxygen demand (weekly average)	45 mg/L
5-day biochemical oxygen demand (monthly average)	30 mg/L
5-day biochemical oxygen demand (monthly percent removal)	≥85%
Enterococcus (daily maximum)	276 MPN/100 mL
Enterococcus (30 day geometric mean)	35 MPN/100 mL
Total suspended solids (weekly average)	45 mg/L
Total suspended solids (monthly average)	30 mg/L
Total suspended solids (monthly percent removal)	≥85%
Chlorine residual (instantaneous maximum)	0.0 mg/L
Dieldrin (daily maximum)	0.01 µg/L

C. Summary of Effluent Limit Violations

Between December 18, 2005, and May 31, 2007, the Discharger had 57 violations of its effluent limitations, as summarized in Table 1 of this complaint.

D. Water Board Staff's Consideration of Violations

Insufficient secondary treatment capacity at one of the Discharger's two treatment facilities caused 55 of the violations addressed by this complaint. The other two violations were isolated incidents. The Discharger sufficiently addressed the violations by undertaking major capital improvements.

- **Technology-based limit violations**

Over the past two years, the Discharger violated its technology-based effluent limits, including those for enterococcus, total suspended solids, ammonia, and biochemical oxygen demand, 55 times. The Discharger determined that insufficient secondary treatment capacity caused these violations. In response, the Discharger is fixing the problem by building a new plant.

The Discharger's current treatment system consists of two treatment plants, the Novato plant and the Ignacio plant. The Ignacio plant's secondary treatment is under-capacity, which has caused numerous violations during wet weather. Therefore, the Discharger is building a larger treatment plant at the Novato property, decommissioning the Ignacio plant, and constructing a pump station at the Ignacio property to route flow to the Novato facility. The entire project will be completed by 2010, at a cost of 90 million dollars. When the new treatment system is operating, we anticipate the technology-based effluent limit violations will cease.

- **Isolated incident violations**

On January 3, 2006, during a large storm, the Discharger violated the dieldrin limit. The Discharger surmises that storm water carrying the dieldrin (a pesticide) got into the treatment plant. No corrective actions were taken because it was an isolated incident that was not anticipated to occur again.

On January 25, 2007, the Discharger violated the chlorine limit. The violation was caused by a power failure that lasted approximately 45 minutes. While the Discharger immediately supplied power to the dechlorination facility, the plant could not respond to the changing conditions fast enough to avoid the violation.

In sum, the Discharger responded appropriately to the violations, most notably, by building a new plant. This major, voluntary capital improvement project demonstrates that the minimum penalty is sufficient.

E. Assessment of penalties

- **Serious Violations**

Ammonia is a Group I pollutant. Serious violations for Group I pollutants are those that exceed the limitation by more than 40%. Five of these violations are serious, and therefore those five are each subject to a \$3,000 MMP.

Dieldrin and Chlorine are Group II pollutants. Serious violations for Group II pollutants are those that exceed the limitations by more than 20%. Two of these violations are serious, and therefore they are each subject to a \$3,000 MMP.

- **Fourth or greater within running 180-day period**

MMPs also apply to violations that are the fourth or greater consecutive violation within a running 180-day period. Fifty-one (51) of the violations fit into this category, and therefore each of the 51 is subject to a \$3,000 MMP.

- **Total assessment**

Violations that meet both the conditions listed above are only subject to one \$3,000 penalty under MMP regulations. Therefore, the total number of violations subject to MMP assessments of \$3,000 is 51, and the total MMP assessment for these violations is \$153,000.

- **Suspended MMP Amount**

Instead of paying the full penalty amount to the State Water Pollution Cleanup and Abatement Account, the Discharger may spend an amount of up to \$84,000 on a supplemental environmental project (SEP) acceptable to the Water Board. Any such amount expended to satisfactorily complete an SEP will be permanently suspended.

THE DISCHARGER IS HEREBY GIVEN NOTICE THAT:

1. The Executive Officer proposes that the Discharger be assessed MMPs in the total amount of \$153,000.
2. The Water Board will hold a hearing on this Complaint on March 11 - 12, 2008, unless the Discharger waives the right to a hearing by signing the included waiver and checks the appropriate box. By doing so, the Discharger agrees to
 - a) Pay the full penalty as stated above within 30 days after the signed waiver becomes effective, or
 - b) Propose an SEP in an amount up to \$84,000. Pay the balance of the penalty within 30 days after the signed waiver becomes effective. The sum of the SEP amount and the amount of the fine to be paid to the State Water Pollution Cleanup and Abatement Account shall equal the full penalty as stated above.
3. If the Discharger chooses to propose an SEP, it must submit a preliminary proposal by the close of the public comment period, as stated in the attached public notice, to the Executive Officer for conceptual approval. Any SEP proposal shall also conform to the requirements specified in Section IX of the Water Quality Enforcement Policy, which was adopted by the State Water Resources Control Board on February 19, 2002, and the attached Standard Criteria and Reporting Requirement for Supplemental Environmental Project. If the proposed SEP is acceptable to the Executive Officer, the Discharger has 15 days, working

with Water Board staff, to finalize the proposal and establish SEP milestones. The finalized SEP proposal and milestones will then be posted for public comment and will be considered by the Water Board at its next regularly-scheduled hearing.

If the proposed SEP is not acceptable to the Executive Director, the Discharger has 30 days to make a payment for the suspended portion of the penalty. All payments, including any money not used for the SEP, must be payable to the State Water Pollution Cleanup and Abatement Account. Regular reports on the SEP implementation shall be provided to the Executive Officer according to the milestone schedule set forth in the finalized SEP proposal. The completion report for the SEP shall be submitted to the Executive Officer within 60 days of project completion.

4. The signed waiver will become effective the day after the public comment period for this Complaint is closed, provided that there are no significant public comments on this Complaint during the public comment period. If there are significant public comments, the Executive Officer may withdraw the Complaint and reissue it as appropriate.
5. If a hearing is held, the Water Board may impose an administrative civil liability in the amount proposed or for a different amount; decline to seek civil liability; or refer the matter to the Attorney General to have a Superior Court consider imposition of a penalty.


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by Bruce Wolfe
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Bruce H. Wolfe
Executive Officer

- Attachments: – Table 1: Violations
– Waiver
– Stand Criteria and Reporting Requirements for SEPs
– General Overview of MMP Calculations

Table 1. VIOLATIONS

Novato, MMP No. R2-2007-0081

Item Number	Date of Violation	Effluent Limitation Described - E001	Permit Limit	Reported Value	Type of Violation ¹	Penalty	Start of 180 days
1	18-Dec-05	E-002 (Novato) Enterococcus eff daily maximum MPN/100mL	Max 276	2420	C1		21-Jun-05
2	19-Dec-05	E-001 (Ignacio) Enterococcus eff daily maximum MPN/100mL	Max 276	1733	C2		22-Jun-05
3	28-Dec-05	E-001 (Ignacio) Enterococcus eff daily maximum MPN/100mL	Max 276	2420	C3		1-Jul-05
4	31-Dec-05	E-001 (Ignacio) Total suspended solids eff weekly mg/L	Max 45	53.60	C4	\$3,000	4-Jul-05
5	31-Dec-05	E-003 (Combined) Ammonia eff monthly mg/L	Max 6	6.10	C5	\$3,000	4-Jul-05
6	3-Jan-06	E-002 (Novato) Enterococcus daily max MPN/100mL	Max 276	727	C6	\$3,000	7-Jul-05
7	3-Jan-06	E-003 (combined) Dieldrin daily max µg/L	Max 0.01	0.018	C7 (also S)	\$3,000	7-Jul-05
8	4-Jan-06	E-001 (Ignacio) Enterococcus eff daily maximum MPN/100mL	Max 276	770	C8	\$3,000	8-Jul-05
9	14-Jan-06	E-001 (Ignacio) Total suspended solids eff weekly mg/L	Max 45	50.90	C9	\$3,000	18-Jul-05
10	24-Jan-06	E-001 (Ignacio) Enterococcus eff daily maximum MPN/100mL	Max 276	517.20	C10	\$3,000	28-Jul-05
11	31-Jan-06	E-001 (Ignacio Plant) Total suspended solids eff monthly removal %	Min 85	81.10	C11	\$3,000	4-Aug-05
12	31-Jan-06	E-003 (Combined) Ammonia eff monthly mg/L	Max 6	8.10	C12 (also S)	\$3,000	4-Aug-05
13	27-Feb-06	E-001 (Ignacio) Enterococcus eff daily maximum MPN/100mL	Max 276	2420	C13	\$3,000	31-Aug-05
14	28-Feb-06	E-003 (Combined) Ammonia eff monthly mg/L	Max 6	9.45	C14 (also S)	\$3,000	1-Sep-05
15	4-Mar-06	E-001 (Ignacio) Total suspended solids eff weekly mg/L	Max 45	65.20	C15	\$3,000	5-Sep-05
16	6-Mar-06	E-001 (Ignacio) Enterococcus eff daily maximum MPN/100mL	Max 276	2420	C16	\$3,000	7-Sep-05

¹ C = Count – The number that follows represents the number of violations the Discharger has had in the past 180 days, including this violation. C4 or higher means that a penalty under Water Code § 13385(i) applies. S = Serious, which means that a penalty under Water Code § 13385(h) applies.

² This column documents the start date for counting violations that have occurred within the past 180 days, for the purpose of determining whether a penalty under Water Code § 13385(i) applies.

Table 1. VIOLATIONS

Novato, MMP No. R2-2007-0081

Item Number	Date of Violation	Effluent Limitation Described - E001	Permit Limit	Reported Value	Type of Violation ¹	Penalty	Start of 180 days ²
17	24-Mar-06	E-001 (Ignacio) 5-day biochemical oxygen demand eff weekly mg/L	Max 45	53	C17	\$3,000	25-Sep-05
18	25-Mar-06	E-001 (Ignacio) Total suspended solids eff weekly mg/L	Max 45	62.30	C18	\$3,000	26-Sep-05
19	31-Mar-06	E-001 (Ignacio) Total suspended solids eff monthly mg/L	Max 30	37.30	C19	\$3,000	2-Oct-05
20	31-Mar-06	E-001 (Ignacio) Total suspended solids eff monthly removal %	Min 85	76.30	C20	\$3,000	2-Oct-05
21	31-Mar-06	E-001 (Ignacio) 5-day biochemical oxygen demand eff monthly mg/L	Max 30	37	C21	\$3,000	2-Oct-05
22	31-Mar-06	E-001 (Ignacio) 5-day biochemical oxygen demand eff monthly removal %	Min 85	75.40	C22	\$3,000	2-Oct-05
23	31-Mar-06	E-003 (Combined) Ammonia eff monthly mg/L	Max 6	6.40	C23	\$3,000	2-Oct-05
24	3-Apr-06	E-001 (Ignacio) Enterococcus eff daily maximum MPN/100mL	Max 276	658.60	C24	\$3,000	5-Oct-05
25	4-Apr-06	E-001 (Ignacio) Enterococcus eff daily Maximum MPN/100mL	Max 276	2420	C25	\$3,000	6-Oct-05
26	8-Apr-06	E-001 (Ignacio) Total suspended solids eff weekly mg/L	Max 45	56.90	C26	\$3,000	10-Oct-05
27	10-Apr-06	E-001 (Ignacio) Enterococcus eff daily maximum MPN/100mL	Max 276	488.40	C27	\$3,000	12-Oct-05
28	11-Apr-06	E-002 (Novato) Enterococcus eff daily maximum MPN/100mL	Max 276	2420	C28	\$3,000	13-Oct-05
29	27-Apr-06	E-001 (Ignacio) Enterococcus eff daily maximum MPN/100mL	Max 276	2420	C29	\$3,000	29-Oct-05
30	29-Apr-06	E-001 (Ignacio) Total suspended solids eff weekly mg/L	Max 45	57.70	C30	\$3,000	31-Oct-05
31	30-Apr-06	E-001 (Ignacio) 5-day biochemical oxygen demand eff monthly removal%	Min 85	84.30	C31	\$3,000	1-Nov-05
32	30-Apr-06	E-001 (Ignacio) TSS eff monthly mg/L	Max 30	38.60	C32	\$3,000	1-Nov-05

Table 1. VIOLATIONS

Novato, MMP No. R2-2007-0081

Item Number	Date of Violation	Effluent Limitation Described - E001	Permit Limit	Reported Value	Type of Violation ¹	Penalty	Start of 180 days ²
33	30-Apr-06	E-001 (Ignacio) Total suspended solids eff monthly removal %	Min 85	75	C33	\$3,000	1-Nov-05
34	31-May-06	E-003 (Combined) Ammonia eff monthly mg/L	Max 6	7.50	C34	\$3,000	2-Dec-05
35	7-Nov-06	E-001 (Ignacio) Enterococcus eff daily maximum MPN/100mL	Max 276	2420	C2		11-May-06
36	11-Nov-06	E-001 (Ignacio) 5-day biochemical oxygen demand eff weekly mg/L	Max 45	49	C3		15-May-06
37	4-Dec-06	E-001 (Ignacio) Enterococcus eff daily max MPN/100mL	Max 276	980.40	C3		7-Jun-06
38	7-Dec-06	E-001 (Ignacio) Enterococcus eff daily max MPN/100mL	Max 276	866.40	C4	\$3,000	10-Jun-06
39	8-Dec-06	E-001 (Ignacio) Enterococcus eff daily max MPN/100mL	Max 276	601.50	C5	\$3,000	11-Jun-06
40	12-Dec-06	E-001 (Ignacio) Enterococcus eff daily max MPN/100mL	Max 276	2420	C6	\$3,000	15-Jun-06
41	12-Dec-06	E-002 (Novato) Enterococcus eff daily max MPN/100mL	Max 276	1120	C7	\$3,000	15-Jun-06
42	31-Dec-06	Ignacio (E-001) Enterococcus eff 30 day geometric mean MPN/100mL	Max 35	94.90	C8	\$3,000	4-Jul-06
43	25-Jan-07	E-003 (Combined) Chlorine eff residual instantaneous max mg/L	Max 0	2.10	C9 (also S)	\$3,000	29-Jul-06
44	31-Jan-07	E-003 (Combined) Ammonia eff monthly mg/L	Max 6	8.24	C10	\$3,000	4-Aug-06
45	9-Feb-07	E-001 (Ignacio) Enterococcus eff daily max MPN/100 mL	Max 276	365.40	C11	\$3,000	13-Aug-06
46	10-Feb-07	E-001 (Ignacio) Enterococcus eff daily max MPN/100 mL	Max 276	2420	C12	\$3,000	14-Aug-06
47	11-Feb-07	E-001 (Ignacio) Enterococcus eff daily max MPN/100 mL	Max 276	1046	C13	\$3,000	15-Aug-06
48	12-Feb-07	E-001 (Ignacio) Enterococcus eff daily max MPN/100 mL	Max 276	648.80	C14	\$3,000	16-Aug-06

Table 1. VIOLATIONS

Novato, MMP No. R2-2007-0081

Item Number	Date of Violation	Effluent Limitation Described - E001	Permit Limit	Reported Value	Type of Violation ¹	Penalty	Start of 180 days ²
49	15-Feb-07	E-001 (Ignacio) Enterococcus eff daily max MPN/100 mL	Max 276	416	C15	\$3,000	19-Aug-06
50	16-Feb-07	E-001 (Ignacio) Enterococcus eff daily max MPN/100 mL	Max 276	960.60	C16	\$3,000	20-Aug-06
51	27-Feb-07	E-001 (Ignacio) Enterococcus eff daily max MPN/100 mL	Max 276	686.70	C17	\$3,000	31-Aug-06
52	28-Feb-07	E-001 (Ignacio) Enterococcus eff 30-day geometric mean MPN/100 mL	Max 35	141.20	C18	\$3,000	1-Sep-06
53	28-Feb-07	E-003 (Combined) Ammonia eff monthly mg/L	Max 6	8.90	C19 (also S)	\$3,000	1-Sep-06
54	31-Mar-07	E-001 (Ignacio) Total suspended solids eff monthly removal %	Min 85	80.8	C20	\$3,000	2-Oct-06
55	31-Mar-07	E-003 (Combined) Ammonia eff monthly mg/L	Max 6	9.89	C21 (also S)	\$3,000	2-Oct-06
56	30-Apr-07	E-003 (Combined) Ammonia eff monthly mg/L	Max 6	10.70	C22 (also S)	\$3,000	1-Nov-06
57	31-May-07	E-003 (Combined) Ammonia eff monthly mg/L	Max 6	6.60	C21	\$3,000	2-Dec-06
Total Penalty Amount						\$153,000	

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION
JANUARY 2004, updated AUGUST 2007

STANDARD CRITERIA AND REPORTING REQUIREMENT
FOR
SUPPLEMENTAL ENVIRONMENTAL PROJECT

A. BASIS AND PURPOSE

The San Francisco Bay Regional Water Quality Control Board (Water Board) accepts and encourages Supplemental Environmental Projects (SEP) in lieu of a portion of the ACL imposed on Dischargers in the Bay Area.

The Water Board does not select projects for SEP; rather, the Discharger identifies a project it would like to fund and then obtains approval from the Water Board's Executive Officer. The Water Board facilitates the process by maintaining a list of possible projects, which is made available to Dischargers interested in pursuing the SEP option. This list is available on the Water Board web site:

<http://www.waterboards.ca.gov/sanfranciscobay/>

Dischargers are not required to select a project from this list. Dischargers may contact local governments or public interest groups for potential projects in their area, or develop projects of their own.

B. GENERAL SEP QUALIFICATION CRITERIA

All SEPs approved by the Water Board must satisfy the following general criteria:

- (a) An SEP shall only consist of measures that go above and beyond all legal obligations of the Discharger (including those from other agencies). For example, sewage pump stations should have appropriate reliability features to minimize the occurrence of sewage spills in that particular collection system. The installation of these reliability features following a pump station spill would not qualify as an SEP.
- (b) The SEP should benefit or study groundwater or surface water quality or quantity, and the beneficial uses of waters of the State. SEPs in the following categories have received approval from the Water Board's Executive Officer:
 - Pollution prevention. These are projects designed to reduce the amount of pollutants being discharged to either sewer systems or to storm drains. Examples include improved industrial processes that reduce production of pollutants or improved spill prevention programs.
 - Pollution reduction. These are projects that reduce the amounts of pollution being discharged to the environment from treatment facilities. An example is a program to recycle treated wastewaters.
 - Environmental restoration. These projects either restore or create natural environments. Typical examples are wetland restoration or planting of stream bank vegetation.
 - Environmental education. These projects involve funding environmental education programs in schools (or for teachers) or for the general public.

Further, an SEP should be located near the Discharger, in the same local watershed, unless the project is of region-wide importance.

C. APPROVAL PROCESS

The following information shall be submitted to the Executive Officer for approval of an SEP:

1. Name of the organization and contact person, with phone number.
2. Name and location of the project, including watershed (creek, river, bay) where it is located.
3. A detailed description of the proposed project, including proposed activities, time schedules, success criteria, other parties involved, monitoring program where applicable, and any other pertinent information.
4. General cost of the project.
5. Outline milestones and expected completion date.

Generally SEP proposals are submitted along with waivers of hearings. In such a case the approval of a proposal will not become effective until the waiver goes into effect, i.e. at the close of the public comment period. There will not be a public hearing on the SEP proposal unless new and significant information becomes available after the close of the public comment period that could not have been presented during the comment period.

If the Discharger needs additional time to prepare an SEP it may waive its right to a hearing within 30 days of the issuance of a Complaint (and retain its right to a hearing to contest the Complaint at a later date), and request additional time to prepare an SEP proposal. Any such time extension needs to be approved by Water Board staff.

D. REPORTING REQUIREMENT

On January 15 and July 15 of each year, progress reports shall be filed for the SEPs with expected completion date beyond 240 days after the issuance of the corresponding complaint.

E. FINAL NOTIFICATION

No later than 60 days after completion of the approved SEP, a final notification shall be filed. The final notification shall include the following information:

- Outline completed tasks and goals;
- Summary of all expenses with proof of payment; and
- Overall evaluation of the SEP.

F. THIRD PARTY PROJECT OVERSIGHT

For SEPs of more than \$9,000 the Water Board requires there to be third party oversight of the project. The Water Board has made arrangements with the San Francisco Estuary Project to provide this oversight, or a Discharger may choose an alternative third party acceptable to the Executive Officer. If the San Francisco Estuary Project is chosen, six per cent of the SEP funds shall be directed to the San Francisco Estuary Project for oversight services (the remaining 94% of funds go directly to the SEP). If an alternative third party is chosen, the amount of funds directed to the SEP, as opposed to oversight, shall not be less than 94% of the total SEP funding. For projects greater than \$9,000 the Discharger shall indicate when submitting the information required under C. above whether the San Francisco Estuary Project or an alternative third party oversight entity will be used.

General Overview of Mandatory Minimum Penalty (MMP) Calculations

The Water Board is required by State law to assess MMPs for certain types of permit violations from point-source facilities. These complaints are issued by the Water Board Executive Officer, and the MMPs are finalized in a public hearing before the Water Board, unless the Discharger decides to waive their right to the hearing. This is an overview of the general process for determining which violations are subject to MMPs, the amount of penalty the complaint will assess, and the portion of the penalty the Discharger may apply towards an environmental project. This procedure is the same for all facilities to which the MMP laws apply.

I. State law requires a \$3,000 minimum penalty for all serious violations, and requires a \$3,000 penalty for any sort of violation, if it is the 4th or greater violation within a running 6-month period.

Even though a specific violation may fit into both of the above categories, under the MMP laws, any one violation may only be assessed \$3,000.

A. State law requires a penalty for serious violations.

The Water Board must assess an MMP of \$3,000 for each serious violation, per Water Code Section 13385(h)(1). A “serious violation” is defined as any waste discharge of a Group I pollutant that exceeds the effluent limitation contained in the applicable waste discharge requirements by 40 percent or more, or any waste discharge of a Group II pollutant that exceeds the effluent limitation by 20 percent or more, per Water Code Section 13385(h)(2). Pollutants are assigned to Group I or Group II by federal regulations, and the MMP complaint specifies to which group each violation belongs. The full lists of Group I and Group II violations are defined in Section 123.45 of Title 40 of the Code of Federal Regulations. Additionally, the late submittal (by 30 days or more) of monitoring reports is also considered a serious violation, per Water Code Section 13385.1. Each full 30-day increment a report is late counts as a violation.

B. State law requires a penalty for 4th or higher violation within last six months.

The Water Board must assess an MMP of \$3,000 for each violation, in a running six-month period, per Water Code Section 13385(i), if the Discharger does any of the following **four or more times**:

1. Violates a waste discharge requirement effluent limitation.
2. Fails to file a report pursuant to Section 13260.
3. Files an incomplete report pursuant to Section 13260.
4. Violates 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.

The first three violations (meeting any of 1-4 above) occurring within a six month period do not trigger the \$3,000 penalty. Also, the running six-month period is counted backwards from each individual violation considered. For example, to determine whether a violation that occurred

on August 1st was subject to a penalty, you would count how many other violations had occurred since February 1st of the same year. If there had been at least three other violations in that period, the August 1st violation would be subject to a \$3,000 penalty.

C. State law limits the amount of the penalty that may be applied toward an environmental project (or to multiple projects).

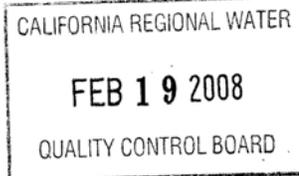
If the Water Board agrees, the Discharger may choose to direct a portion of the penalty amount to fund a supplemental environmental project (SEP) in accordance with the enforcement policy of the State Water Resources Control Board, per Water Code Section 13385(1). The Discharger may undertake an SEP up to the full amount of the penalty for liabilities less than or equal to \$15,000. If the penalty amount exceeds \$15,000, the maximum penalty amount that may be expended on an SEP may not exceed \$15,000 plus 50 percent of the penalty amount that exceeds \$15,000.

D. A supplemental environmental project (SEP) must be within certain categories.

If the Discharger chooses to propose an SEP, the proposed SEP shall be in the following categories:

1. Pollution prevention
2. Pollution reduction
3. Environmental clean-up or restoration
4. Environmental education

APPENDIX B



WAIVER

If you waive your right to a hearing, the matter will be included on the agenda of a Water Board meeting but there will be no hearing on the matter, unless a) the Water Board staff receives significant public comment during the comment period, or b) the Water Board determines it will hold a hearing because it finds that new and significant information has been presented at the meeting that could not have been submitted during the public comment period. If you waive your right to a hearing but the Water Board holds a hearing under either of the above circumstances, you will have a right to testify at the hearing notwithstanding your waiver. Your waiver is due no later than February 19, 2008.

Waiver of the right to a hearing and agreement to make payment in full.

By checking the box, I agree to waive my right to a hearing before the Water Board with regard to the violations alleged in Complaint No. R2-2007-0081 and to remit the full penalty payment to the State Water Pollution Cleanup and Abatement Account, c/o Regional Water Quality Control Board at 1515 Clay Street, Oakland, CA 94612, within 30 days after the Water Board meeting for which this matter is placed on the agenda. I understand that I am giving up my right to be heard, and to argue against the allegations made by the Executive Officer in this Complaint, and against the imposition of, or the amount of, the civil liability proposed unless the Water Board holds a hearing under either of the circumstances described above. If the Water Board holds such a hearing and imposes a civil liability, such amount shall be due 30 days from the date the Water Board adopts the order imposing the liability.

Waiver of right to a hearing and agree to make payment and undertake an SEP.

By checking the box, I agree to waive my right to a hearing before the Water Board with regard to the violations alleged in Complaint No. R2-2007-0081, and to complete a supplemental environmental project (SEP) in lieu of the suspended liability up to \$84,000 and paying the balance of the fine to the State Water Pollution Cleanup and Abatement Account (CAA) within 30 days after the Water Board meeting for which this matter is placed on the agenda. The SEP proposal shall be submitted no later than February 19, 2008. I understand that the SEP proposal shall conform to the requirements specified in Section IX of the Water Quality Enforcement Policy, which was adopted by the State Water Resources Control Board on February 19, 2002, and be subject to approval by the Executive Officer. If the SEP proposal is not acceptable to the Executive Officer, I agree to pay the suspended penalty amount within 30 days of the date of the letter from the Executive Officer rejecting the proposed SEP. I also understand that I am giving up my right to argue against the allegations made by the Executive Officer in the Complaint, and against the imposition of, or the amount of, the civil liability proposed unless the Water Board holds a hearing under either of the circumstances described above. If the Water Board holds such a hearing and imposes a civil liability, such amount shall be due 30 days from the date the Water Board adopts the order imposing the liability. I further agree to satisfactorily complete the approved SEP within a time schedule approved by the Water Board at its next regularly-scheduled hearing. I understand failure to adequately complete the approved SEP will require immediate payment of the suspended liability to the CAA.

Beverly B. James
Name (print)

Beverly B. James
Signature

February 19, 2008
Date

Manager-Engineer, Novato Sanitary District
Title/Organization

APPENDIX C