

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

**ORDER NO. R3-2005-0032**

**MANDATORY PENALTY  
IN THE MATTER OF  
SAN SIMEON COMMUNITY SERVICES DISTRICT  
WASTEWATER TREATMENT PLANT  
SAN LUIS OBISPO COUNTY**

The Regional Water Quality Control Board, Central Coast Region (Regional Board) finds the following:

1. On May 31, 2002, the Regional Board adopted *Waste Discharge Requirements Order No. R3-2002-0046, NPDES Permit No. CA0047961, for San Simeon Community Services District (hereafter Discharger) and Local Sewering Entity of Hearst San Simeon State Historical Monument, San Luis Obispo County (Order No. R3-2002-0046)*.
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 by 20 percent or a Group I pollutant by 40 percent or more. Group I and II pollutants are specified in Appendix A to section 123.45 of Title 40 Code of Federal Regulations.
4. California Water Code Section 13385.1(a)(1) states that “a serious violation also means a failure to file a discharge monitoring report required pursuant to Section 13383 for each complete period of 30 days following the deadline for submitting the report, if the report is designed to ensure compliance with limitations contained in waste discharge requirements that contain effluent limitations.”
5. California Water Code Section 13385.1(c) states that for the purposes of section 13385.1(a)(1), section 13385(f)(2), (h), (i) and (j), “effluent limitation” means a numeric or numerically expressed narrative restriction on the quantity, discharge rate, concentration, or toxicity units of a pollutant or pollutants authorized to be discharged from a location that is specified in waste discharge requirements. An effluent limitation may be final or interim, and may be expressed as a prohibition. An effluent limitation, for those purposes, does not include a receiving water limitation, a compliance schedule, or a best management practice.”
6. 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) Violates 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) Violates 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.

7. California Water Code section 13385(1) 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).”
8. Order No. R3-2002-0046 includes in part the following:

Effluent Limitation No. 2:

“Effluent shall not exceed the following limits:

Constituent	Units	30-Day Average	7-Day Average	Daily Maximum
Settleable Solids	mL/L	1.0	1.5	3.0

Effluent Limitation No. 4:

“Effluent shall not exceed the following limits...

Constituent	Units	6-Month Median	Daily Maximum	Instantaneous Maximum
Total Chlorine Residual	mg/L	0.23	0.93	6.96
Total Coliform Bacteria	MPN/100 mL	--	230	2400

Monitoring and Reporting Program No. R3-2002-0046, page 7:

“Monthly monitoring reports shall be submitted for all monitoring and sampling herein by the last day of the month following the sampling or monitoring event.”

9. Settleable Solids is a Group I Pollutant. Total Chlorine Residual is a Group II Pollutant. Effluent containing constituent values that are greater than serious thresholds (limit + 40% for Group I pollutants, limit + 20% for Group II pollutants) are serious violations. Total Coliform Bacteria is neither a Group I nor Group II Pollutant; therefore serious violations do not apply to Total Coliform Bacteria.
10. Effluent containing constituent concentrations that are less than the serious threshold but greater than the permit limits are chronic violations.
11. According to monitoring reports submitted by the Discharger, the Discharger committed the following violations of effluent limitations of Order No. R3-2002-0046 in the period March 4, 2004, through December 31, 2004:

#	Violation Date	Constituent	Permitted Limit	Reported Value	Violation Type
1	3/4/04	Total Coliform	230 MPN/100 mL Daily Maximum	1600 MPN/100 mL	Chronic*
2	6/18/04	Total Coliform	230 MPN/100 mL Daily Maximum	>1600 MPN/100 mL	Chronic*
3	6/22/04	Total Coliform	230 MPN/100 mL Daily Maximum	300 MPN/100 mL	Chronic*
4	6/24/04	Total Coliform	230 MPN/100 mL Daily Maximum	500 MPN/100 mL	Chronic
5	7/9/04	Total Coliform	230 MPN/100 mL Daily Maximum	1600 MPN/100 mL	Chronic
6	7/15/04	Total Coliform	230 MPN/100 mL Daily Maximum	900 MPN/100 mL	Chronic

#	Violation Date	Constituent	Permitted Limit	Reported Value	Violation Type
7	7/15/04	Settleable Solids	3.0 mL/L Daily Maximum	5.0 mL/L	Serious
8	7/20/04	Total Coliform	230 MPN/100 mL Daily Maximum	300 MPN/100 mL	Chronic
9	9/2/04	Settleable Solids	3.0 mL/L Daily Maximum	23.00 mL/L	Serious
10	9/5/04	Settleable Solids	3.0 mL/L Daily Maximum	8.10 mL/L	Serious
11	9/7/04	Settleable Solids	1.5 mL/L 7-Day Average	5.1 mL/L	Serious
12	9/10/04	Settleable Solids	3.0 mL/L Daily Maximum	16.00 mL/L	Serious
13	9/14/04	Settleable Solids	3.0 mL/L Daily Maximum	5.00 mL/L	Serious
14	9/14/04	Settleable Solids	1.5 mL/L 7-Day Average	3.7 mL/L	Serious
15	9/15/04	Settleable Solids	3.0 mL/L Daily Maximum	24.00 mL/L	Serious
16	9/16/04	Settleable Solids	3.0 mL/L Daily Maximum	20.10 mL/L	Serious
17	9/17/04	Total Coliform	230 MPN/100 mL Daily Maximum	500 MPN/100 mL	Chronic
18	9/21/04	Settleable Solids	1.5 mL/L 7-Day Average	6.7 mL/L	Serious
19	9/29/04	Settleable Solids	3.0 mL/L Daily Maximum	15.00 mL/L	Serious
20	9/30/04	Settleable Solids	1.0 mL/L 30-Day Average	4.16 mL/L	Serious
21	10/1/04	Settleable Solids	3.0 mL/L Daily Maximum	5.00 mL/L	Serious
22	10/2/04	Settleable Solids	3.0 mL/L Daily Maximum	5.50 mL/L	Serious
23	10/3/04	Settleable Solids	3.0 mL/L Daily Maximum	5.00 mL/L	Serious
24	10/4/04	Settleable Solids	3.0 mL/L Daily Maximum	5.50 mL/L	Serious
25	10/7/04	Settleable Solids	1.5 mL/L 7-Day Average	3.0 mL/L	Serious
26	10/21/04	Total Coliform	230 MPN/100 mL Daily Maximum	280 MPN/100 mL	Chronic
27	10/30/04	Settleable Solids	3.0 mL/L Daily Maximum	5.00 mL/L	Serious
28	10/31/04	Settleable Solids	3.0 mL/L Daily Maximum	10.00 mL/L	Serious
29	10/31/04	Settleable Solids	1.0 mL/L 30-Day Average	1.3 mL/L	Chronic
30	11/8/04	Settleable Solids	3.0 mL/L Daily Maximum	10.10 mL/L	Serious
31	11/9/04	Total Chlorine Residual	0.93 mg/L Daily Maximum	1.0 mg/L	Chronic
32	11/9/04	Settleable Solids	3.0 mL/L Daily Maximum	10.10 mL/L	Chronic
33	11/14/04	Settleable Solids	1.5 mL/L 7-Day Average	2.9 mL/L	Serious
34	11/19/04	Settleable Solids	3.0 mL/L Daily Maximum	14.00 mL/L	Serious
35	11/22/04	Total Coliform	230 MPN/100 mL Daily Maximum	240 MPN/100 mL	Chronic
36	11/23/04	Settleable Solids	3.0 mL/L Daily Maximum	5.00 mL/L	Serious
37	11/24/04	Settleable Solids	3.0 mL/L Daily Maximum	4.00 mL/L	Chronic
38	11/24/04	Total Coliform	230 MPN/100 mL Daily Maximum	>1600 MPN/100 mL	Chronic
39	11/28/04	Settleable Solids	1.5 mL/L 7-Day Average	1.9 mL/L	Chronic
40	11/29/04	Settleable Solids	3.0 mL/L Daily Maximum	20.00 mL/L	Serious
41	11/30/04	Settleable Solids	3.0 mL/L Daily Maximum	12.00 mL/L	Serious
42	11/30/04	Total Coliform	230 MPN/100 mL Daily Maximum	900 MPN/100 mL	Chronic
43	11/30/04	Settleable Solids	1.0 mL/L 30-Day Average	3.22 mL/L	Serious
44	12/1/04	Settleable Solids	3.0 mL/L Daily Maximum	12.00 mL/L	Serious
45	12/2/04	Settleable Solids	3.0 mL/L Daily Maximum	9.00 mL/L	Serious
46	12/3/04	Total Coliform	230 MPN/100 mL Daily Maximum	>1600 MPN/100 mL	Chronic
47	12/7/04	Settleable Solids	1.5 mL/L 7-Day Average	3.2 mL/L	Serious
48	12/18/04	Total Coliform	230 MPN/100 mL Daily Maximum	500 MPN/100 mL	Chronic
49	12/23/04	Total Coliform	230 MPN/100 mL Daily Maximum	500 MPN/100 mL	Chronic
50	12/29/04	Total Coliform	230 MPN/100 mL Daily Maximum	1600 MPN/100 mL	Chronic

\* Denotes chronic violations that are not subject to mandatory penalties.

12. The Discharger committed a serious violation by failing to submit a discharge monitoring report within a period of 30 days following the deadline for submitting the report. The May 2004 discharge monitoring report was due by June 30, 2004, but was not submitted until August 9, 2004 (40 days past the deadline).
13. According to Finding Nos. 11 and 12, the Discharger committed thirty (30) serious violations in the period March 4, 2004 through December 31, 2004. The amount of the mandatory penalty for the serious violations (30 x \$3,000) is ninety thousand dollars (\$90,000).
14. According to Finding No. 11, the Discharger committed twenty-one (21) chronic violations in the period March 4, 2004 through December 31, 2004. California Water Code section 13385(i) requires the Regional Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each chronic violation, not counting the first three, occurring in a consecutive six-month period. The amount of mandatory penalty for the chronic violations (21 - 3 = 18 x \$3,000) is fifty-four thousand dollars (\$54,000).
15. The total amount of the mandatory penalty for violations occurring in the period March 4, 2004 through December 31, 2004 (\$90,000 + \$54,000) is one hundred forty-four thousand dollars (\$144,000).
16. The Executive Officer of the Regional Board issued Mandatory Penalty Complaint No. R3-2005-0032 on January 26, 2005, pursuant to California Water Code Section 13385. The Complaint proposed imposing a mandatory penalty in the amount of one hundred forty-four thousand dollars (\$144,000).
17. In a letter dated February 25, 2005, the Discharger requested that the mandatory penalties be directed towards a Supplemental Environmental Project (SEP) to install tertiary treatment facilities to produce recycled water and eliminate portion of their discharge to the Pacific Ocean. Installation of tertiary treatment facilities will cost approximately \$200,000.
18. This project qualifies as an SEP in accordance with the State Water Resources Control Board's Enforcement Policy, Resolution No. 2002-0040. SEPs go above and beyond the obligations of the Discharger and are not an action required of the Discharger by any rule or regulation of any entity. The SEP will benefit water quality. The SEP will not directly benefit Regional Board functions or staff.
19. According to California Water Code section 13385(l), the portion of the penalty amount that may be directed to an SEP may not exceed seventy-nine thousand, five hundred dollars (\$79,500).
20. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000, et seq.), in accordance with Section 15321, Chapter 3, Title 14, California Code of Regulations.

**IT IS HEREBY ORDERED**, pursuant to California Water Code Section 13385, that San Simeon Community Services District is assessed a Mandatory Penalty in the amount of one hundred forty-four thousand dollars (\$144,000).

San Simeon Community Services District shall submit written proof of payment to its Tertiary Treatment Facilities Construction Account in the amount of seventy-nine thousand, five hundred dollars (\$79,500) to the *Regional Water Quality Control Board, Attn: Matt Thompson, 895 Aerovista Place, Suite 101, San Luis Obispo, California, 93401*, by **May 25, 2005, 5:00 P.M.** The Tertiary Treatment Facilities Construction Account shall be utilized solely for construction of tertiary treatment facilities, not planning, design, or permitting. Written proof may consist of an approved Administrative Officer's report and Budget Amendment Request, or equivalent, to transfer funds to the Tertiary Treatment Facilities Construction Account. If proof of payment to the Tertiary Treatment Facilities Construction Account is not submitted by May 25, 2005, 5:00 P.M., the suspended liability shall be immediately due and payable to the State Water Resources Control Board.

San Simeon Community Services District shall complete construction of tertiary treatment facilities as soon as possible, but no later than **March 25, 2010 (5 years from issuance of this Order)**. San Simeon Community Services District shall submit written certification of completion of the tertiary treatment facilities construction and a post-project accounting of expenditures related to the project **no later than 30 days after completion of the project, but no later than April 25, 2010**. If this project completion report is not submitted by **April 25, 2010, 5:00 P.M.**, the entire suspended liability plus interest shall be immediately due and payable to the State Water Resources Control Board. If the final total cost of the project is less than seventy-nine thousand, five hundred dollars (\$79,500), San Simeon Community Services District shall remit the difference to State Water Resources Control Board **no later than 30 days after completion of the project**.

San Simeon Community Services District shall submit semiannual reports on the progress of tertiary treatment facilities construction to the Executive Officer by January 31<sup>st</sup> and July 31<sup>st</sup> of each year. The Progress Reports shall denote the current balance of the Tertiary Treatment Facilities Construction Account. Progress reports may be submitted with regular monthly monitoring reports.

San Simeon Community Services District shall also submit a check payable to State Water Resources Control Board in the amount of sixty-four thousand, five hundred dollars (\$64,500) to *SWRCB Accounting, Attn: Enforcement, P.O. Box 100, Sacramento, California 95812-0100* by **May 25, 2005, 5:00 P.M.** A copy of the check shall also be submitted to *Regional Water Quality Control Board, Attn: Matt Thompson, 895 Aerovista Place, Suite 101, San Luis Obispo, California 93401* by **May 25, 2005, 5:00 P.M.**

Any person affected by this action of the Regional Board may petition the State Water Resources Control Board to review the action in accordance with California Water Code Section 13320, and Title 23, California code of Regulations, Section 2050. The State Water Resources Control Board, Office of Chief Counsel, P.O. Box 100, Sacramento, CA 95812, must receive the petition by October 10, 2004. Copies of the law and regulations applicable to filing petitions will be provided upon request

I, **Roger W. Briggs**, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Coast Region, on March 24, 2005.

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Executive Officer