



# California Regional Water Quality Control Board

## Central Coast Region



Linda S. Adams  
Agency Secretary

Arnold Schwarzenegger  
Governor

[www.waterboards.ca.gov/centralcoast](http://www.waterboards.ca.gov/centralcoast)  
895 Aerovista Place, Suite 101, San Luis Obispo, California 93401  
Phone (805) 549-3147 • FAX (805) 543-0397

May 30, 2006

**CERTIFIED MAIL 7005 0390 0002 9553 5175**

Bradley E. Hagemann, P.E.  
Waste Resources Manager  
City of El Paso De Robles  
1000 Spring Street  
Paso Robles, CA 93446

Dear Mr. Hagemann:

### **COMPLAINT FOR MANDATORY MINIMUM PENALTY, THE CITY OF EL PASO DE ROBLES, SAN LUIS OBISPO COUNTY**

Attached is *Complaint for Mandatory Minimum Penalty No. R3-2006-52* (Complaint). The Complaint is based on violations of effluent limitations in Waste Discharge Requirements Order No. R3-2004-0031, National Pollutant Discharge Elimination System Permit No. CA0047953, from July 1, 2004, through February 28, 2006. The attached Complaint specifies the occurrence dates and nature of the violations.

Unless you waive your right to a public hearing and pay the amount proposed in the Complaint (\$33,000), we will present an Order to the Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board) for the amount proposed in the Complaint at the Central Coast Water Board meeting on September 8, 2006. The meeting will be held at the Central Coast Water Board office and is scheduled to begin at 8:30 a.m.; however, no specific time has been set for consideration of this item.

California Water Code Section 13385(l), allows up to \$24,000 of the penalty amount to be expended on a supplemental environmental project (SEP) in accordance with the State Water Resources Control Board's *Water Quality Enforcement Policy*. You may submit a proposal for one or more SEPs. If you do choose to submit a proposal, please submit it for our consideration no later than **July 31, 2006**. The *Water Quality Enforcement Policy* (<http://www.swrcb.ca.gov/plnspols/docs/wqep.doc>) specifies the criteria a SEP must meet to qualify for funding. You may find a number of SEPs listed, as well as other useful information, on our website at: <http://www.waterboards.ca.gov/centralcoast/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 **July 31, 2006**. If you have questions, please contact **Tom Kukol at (805) 549-3689** or Harvey Packard at (805) 542-4639.

Sincerely,



*for* Roger W. Briggs  
Executive Officer

Attachment: Mandatory Minimum Penalty Complaint No. R3-2006-52

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

**COMPLAINT NO. R3-2006-52**

**MANDATORY PENALTY  
IN THE MATTER OF  
THE CITY OF EL PASO DE ROBLES  
SAN LUIS OBISPO COUNTY**

This complaint to assess Mandatory Minimum Penalties pursuant to Water Code section 13385(h) and (i) is issued to the City of El Paso de Robles (Discharger), based on a finding of violations of Waste Discharge Requirements Order No. R3-2004-0031, National Pollutant Discharge Elimination System (NPDES) Permit No. CA0047953.

The Executive Officer finds the following:

1. On May 14, 2004, the Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board), adopted *Waste Discharge Requirements Order No. R3-2004-0031, NPDES Permit No. CA0047953, for the City of El Paso de Robles, Community of Templeton, and the El Paso de Robles Boys School, San Luis Obispo County* (Order No. R3-2004-0031).
2. California Water Code section 13385(h)(1) requires the Central Coast Water 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 Central Coast Water 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.
4. 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.
5. Order R3-2004-0031 includes in part the following:

Effluent Limitation No. 1:

Effluent shall not exceed the following limitations:

Constituent	Units	Monthly (30 day) Average	Weekly (7 day) Average	Daily Maximum
Sodium	mg/L			225

		Daily Max
Chloride	mg/L	310
Sulfate	mg/L	180

## Effluent Limitation No. 2:

Effluent discharged to the Salinas River shall not exceed the following interim limitations for toxic pollutants, which, except for the limitation for bis(2-ethylhexyl)phthalate, will become effective upon adoption of this Order.

Interim Daily Maximum Effluent Limitation	
Copper	29 µg/L
Selenium	6.0 µg/L
Bis(2-ethylhexyl)phthalate	5.0 µg/L

- Sodium, chloride, and sulfate are Group I Pollutants. Selenium, Copper, and bis(2-ethylhexyl)phthalate are Group II Pollutants. Effluent containing constituent values that are greater than or equal to the limit + 40% for Group I pollutants or the limit + 20% for Group II pollutants are serious violations.
- A chronic violation occurs when effluent contains a constituent at a concentration that is less than the serious threshold but greater than the permit limit.
- According to monitoring reports submitted by the Discharger, the Discharger committed the following violations of effluent limitations of Order No. R3-2004-0031 in the period July 1, 2004, through February 28, 2006:

#	Violation Date	Constituent	Permitted Limit	Reported Value	Violation Type
1	7/7/2004	Chloride	310 mg/L Daily Maximum	360 mg/L	Chronic
2	7/7/2004	Sodium	225 mg/L Daily Maximum	240 mg/L	Chronic
3	7/8/2004	Selenium	6 µg /L Interim Daily Maximum	7 µg /L	Chronic
4	9/1/2004	Sodium	225 mg/L Daily Maximum	240 mg/L	Chronic
5	10/4/2004	Sodium	225 mg/L Daily Maximum	230 mg/L	Chronic
6	10/4/2004	Copper	29 µg /L Daily Maximum	33 µg /L	Chronic
7	10/4/2004	Chloride	310 mg/L Daily Maximum	320 mg/L	Chronic
8	12/2/2004	Chloride	310 mg/L Daily Maximum	320 mg/L	Chronic
9	4/4/2005	Copper	29 mg/L Daily Maximum	33 mg/L	Chronic
10	7/11/2005	Sodium	225 mg/L Daily Maximum	230 mg/L	Chronic
11	7/11/2005	Chloride	310 mg/L Daily Maximum	330 mg/L	Chronic
12	8/30/2005	Sodium	225 mg/L Daily Maximum	230 mg/L	Chronic
13	9/8/2005	Sodium	225 mg/L Daily Maximum	230 mg/L	Chronic
14	10/3/2005	Selenium	6 µg /L Interim Daily Maximum	9 µg /L	Serious
15	1/9/2006	bis(2-ethylhexyl)phthalate	5 µg/L Interim Daily Maximum	7.1 µg/L	Serious
16	1/9/2006	Selenium	6 µg /L Interim Daily Maximum	9 µg /L	Serious
17	2/16/2006	Sulfate	180 mg/L Daily Maximum	190 mg/L	Chronic

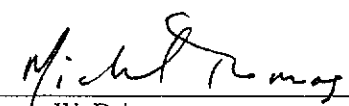
- According to Finding No. 8, the Discharger committed three serious violations in the period July 1, 2004, through February 28, 2006. The amount of the mandatory penalty for the serious violations (3 x \$3,000) is nine thousand dollars (\$9,000).

10. According to Finding No. 8, the Discharger committed fourteen chronic violations in the period July 1, 2004, through February 28, 2006. California Water Code section 13385(i) requires the Central Coast Water Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each violation, not counting the first three, occurring in a consecutive six-month period. The mandatory penalty for the above chronic violations (8 x \$3,000) is twenty four thousand dollars (\$24,000).
11. The total amount of the mandatory penalty for violations occurring in the period July 1, 2004, through February 28, 2006 (\$9,000 + \$24,000) is thirty-three thousand dollars (\$33,000).
12. 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). The total amount that may be expended on a supplemental environmental project is twenty four thousand dollars (\$24,000).

**THE CITY OF EL PASO DE ROBLES IS HEREBY GIVEN NOTICE THAT:**

1. The Executive Officer of the Central Coast Water Board proposes that the Discharger be assessed a Mandatory Penalty in the amount of thirty-three thousand dollars (\$33,000).
2. The Central Coast Water Board will hold a public hearing on this matter on July 7, 2006, 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 Central Coast Water 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 Central Coast Water 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 Central Coast Water Board meeting on September 8, 2006, at the Central Coast Water 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 **Tom Kukol** at (805) 549-3689 or **Harvey Packard** at (805) 542-4639.

  
for \_\_\_\_\_  
Roger W. Briggs  
Executive Officer

  
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 person<sup>1</sup> 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 prior to the hearing. 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 Central Coast Water 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 Central Coast Water Board for the amount proposed in this Complaint at the Central Coast Water Board meeting on September 8, 2006, at the Central Coast Water Board Conference Room, 895 Aerovista Place, Suite 101, San Luis Obispo, California. The Central Coast Water 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 September 8, 2006, in accordance with the Order. If the proposed Order is rejected, the Central Coast Water Board may direct the Executive Officer to issue a new complaint and schedule another public hearing. The Central Coast Water 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 September 8, 2006**, please make your check payable to State Water Resources Control Board, and note "MMP Complaint No. R3-2006-52" on the check. Please mail the check and signed waiver form to:

SWRCB Accounting  
Attn: Enforcement  
P.O. Box 100  
Sacramento, CA 95812-0100

Please also mail copies of the check and signed waiver form to:

Regional Water Quality Control Board  
Attn: Tom Kukol  
895 Aerovista Place, Suite 101  
San Luis Obispo, CA 93401

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<sup>1</sup> 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 HEARING

[ ] By checking the box, I agree to waive my right to a hearing before the Central Coast Water Board with regard to the violations alleged in Complaint No. R3-2006-52. 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<sup>2</sup>

\_\_\_\_\_  
Date

<sup>2</sup> A duly authorized person must sign the waiver. 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, a principal executive officer or ranking elected official in a public agency, or a representative authorized in writing by a vice president or higher ranking corporate officer, general partner, principal executive officer or ranking elected official.