

Attachment B

CALIFORNIA REGIONAL WATER
DEC 14 2007
QUALITY CONTROL BOARD

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

Complaint No. R2-2007-0073

**Mandatory Minimum Penalty
In the Matter of
Catholic Cathedral Corporation of East Bay
Oakland, Alameda County**

Overview

This complaint assesses \$6,000 in Mandatory Minimum Penalties (MMPs) to the Catholic Cathedral Corporation of East Bay (hereafter Discharger). The complaint is based on a finding of the Discharger's violations of Waste Discharge Requirements Order No. 01-100 (NPDES No. CAG912002) for the period between January 01, 2006, and March 31, 2007.

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

A. Permit at the time of violations

On September 21, 2001, the California Regional Water Quality Control Board, San Francisco Bay Region (Water Board) adopted Order No. 01-100, to regulate discharges of waste from facilities discharging extracted groundwater, treated to remove fuels-related chemicals. This permit is known as the Fuels General Permit. The Discharger obtained coverage under the Fuels General Permit on August 2, 2005.

B. Effluent Limitation

Order No.01-100 specified the following effluent limitation:

Parameter	Effluent Limit
Total Petroleum Hydrocarbons (TPHg or TPHd) daily maximum	50 µg/L

CONVERSION MANAGEMENT ASSOCIATES, INC.
THE CATHEDRAL OF CHRIST THE LIGHT PROJECT ACCOUNT
180 SPEAR STREET, SUITE 208
SAN FRANCISCO, CA 94105

FIRST REPUBLIC BANK
Private Banking - San Francisco
101 Pine Street
San Francisco, CA 94111
Tel. (415) 392-1400

11-8168/3210
95

002072

Pay: *****Six thousand dollars and no cents
DATE CHECK NO. AMOUNT

December 13, 2007

2072 \$*****6,000.00

PAY
TO THE
ORDER
OF

State Water Pollution Cleanup
c/o Regional Water Qual. Control
1515 Clay Street
Oakland, CA 94612

Edman D. ...
Ed Ashark

MP

⑈002072⑈ ⑆321081669⑆ 99500844214⑈

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C. Water Board Staff's Consideration of Violations

At 55 µg/L, the Discharger's January 17, 2006, TPH-g sample result was in violation of the Fuels General Permit, but only slightly above the effluent limit of 50 µg/L. Even so, upon receiving the sample result on January 26, 2006, the Discharger resampled, as required by the Fuels General Permit. The additional sampling showed that the discharge had returned to compliance. The violation appeared to be an isolated incident.

On March 3, 2006, the Discharger violated the TPH-d effluent limit, this time by more than double. Again, the Discharger accelerated monitoring, which generated another TPH-d violation on March 15, 2006, also more than double the effluent limit. In response, the Discharger:

- Serviced its treatment system,

- Updated its operation and maintenance procedures to sample on a more regular basis for breakthrough of organic compounds, and _____
- Re-trained its on-site operator to maintain the treatment system more actively.

In sum, the Discharger took appropriate follow-up and corrective actions to minimize violation reoccurrences, and therefore the minimum penalty is sufficient for the violations.

D. Assessment of penalties

- **Serious Violations**
TPHg and TPHd are Group II pollutants. Serious violations for Group II pollutants are those that exceed the limitations by more than 20%. Two of the violations are serious, and therefore each is subject to a \$3,000 MMP, for a total of \$6,000.
- **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. The violations in this Complaint do not fall into this category.
- **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 \$6,000 on an SEP acceptable to the Executive Officer. Any such amount expended to satisfactorily complete an SEP will be permanently suspended.

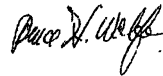
THE DISCHARGER IS HEREBY GIVEN NOTICE THAT:

1. The Executive Officer proposes that the Discharger be assessed MMPs in the total amount of \$6,000.
2. The Water Board will hold a hearing on this Complaint on January 30, 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 \$6,000. 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 not acceptable to the Executive Officer, the Discharger has 30 days from receipt of notice of an unacceptable SEP to either submit a new or revised proposal, or 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 a schedule to be determined. 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 on 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.

December 4, 2007



Digitally signed
by Bruce Wolfe
Date: 2007.12.04
16:27:25 -08'00'

Bruce H. Wolfe
Executive Officer

- Attachments:
- 1 - Waiver
 - 2 - Table 1, Violations
 - 3 - Standard Criteria and Reporting Requirement for Supplemental Environmental Project
 - 4 - General Overview of MMP Calculations

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 **January 7, 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. R2-2007-0073 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. R2-2007-0073, and to complete a supplemental environmental project (SEP) in lieu of the suspended liability up to \$6,000 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 **January 7, 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, or its revised version, 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/revised 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 set by the Executive Officer. I understand failure to adequately complete the approved SEP will require immediate payment of the suspended liability to the CAA.

John L. McDonnell, Jr.
Name (print)

12-11-07
Date

John L. McDonnell, Jr.
Signature

Project Director
Title/Organization
Catholic Cathedral
Corporation at the
East Bay

Table 1 - VIOLATIONS

Item	Date of Violation	Effluent Limitation Described	Effluent Limit	Reported Value	Type of Violations ¹	Penalty	Start of 180 Days ²
1	1/17/2006	TPH-g daily maximum (ug/L)	50	55	C1	0	7/21/2005
2	3/03/2006	TPH-d daily maximum (ug/L)	50	120	C2, S	\$3,000	9/05/2005
3	3/15/2006	TPH-d daily maximum (ug/L)	50	150	C3, S	\$3,000	9/18/2005
	TOTAL					\$6,000	

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 Section 13385(i) applies.

S = Serious, which means that a penalty under Water Code Section 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 Section 13385(i) applies.