

# The struggle for fresh water

## The salt pollution of the Rhine

**RIWA**



**I A W R**



## Salt discharges in the Alsace: negotiations and legal procedures

During the first Rhine Conference of Ministers in October 1972, France made an agreement with the other Rhine bank nations that part of the waste salt from the potassium mines at Mulhouse (Alsace) would no longer be discharged in the Rhine but stored in the ground via salt injections. In 1980 it became clear that France did not intend to comply with this eight-year-old agreement. What took the cake was that in December 1980 the prefect of the French Haut-Rhin department extended the potassium mine permit to discharge the brine (water containing waste salt) into the Rhine via the Grand Alsace Canal. In response to this, ten Dutch agencies decided to attempt to reduce the salt load in the Rhine via administrative legislation. An administrative procedure was begun in Strasbourg in February 1981.

### Verdict after 20 years

Twenty years later, on April 11, 2000 the administrative procedure led to a verdict which may be considered a break-through. The verdict was given on the basis of a few documents with very divergent backgrounds: on the one hand, correspondence with the French government at the end of 1987/beginning of 1988, on the other an expert report from the end of 1996/beginning of 1997, originating from a criminal proceeding. Part of the damage the salt had inflicted on the water system of two of the ten Dutch parties was compensated by the French state. A number of years before that international agreements had already accomplished that the salinity in the Rhine at the Dutch border, as a result of partial storage of the waste salt, would be limited, in any case, to 200 mg/l.

### Termination of potassium production

At the moment, negotiations are being held about a possible termination of the current Rhine salt procedures and the potassium mines in the Alsace are making preparations to terminate potassium production in 2004. The following pages provide a summary on the international consequences of nearly one century of potassium production in the Alsace.

Storage place of salt residues of the potassium mines



Developments / International consultation	Civil procedure – horticulturist process
1904 The French Alsace is explored for salt layers to produce salt.	1904
1910 - The first salt layer is found in the French Alsace. - Beginning of mine construction and potassium production in the Alsace.	1910
1920 3,900 workers produce 203,000 tonnes of chemical fertiliser annually from the Alsace potassium mines. The waste product salt is stored in older mine shafts.	1920
1931 - Construction of the 3rd factory on the premises of the Alsace potassium mines. - <b>April 24:</b> Prefect of Haut-Rhin grants the national potassium mining company <b>a permit for the first time</b> for discharging brine (water with waste salts) in the Rhine up to a maximum of 200 gram per m <sup>3</sup> of water. - Federal Drinking Water Agency: salt measurements at Lobith.	1931
1932 The Netherlands protests in vain in Paris against the salt discharge.	1932
1935 Until this year, 10 gigantic mountains of waste salt are produced in the Alsace, resulting in ground water salinisation.	1935
- Preamble to and occurrence of WW II - Preamble to and occurrence of WW II -	
1946 The industrial production is taken up with renewed spirit. Pollution of rivers and other surface water increases. (Rhine pollution: heavy metals, biocides and salt.)	1946
1950 - <b>July 11:</b> Consultation is begun in Basel, at Dutch initiative, between the river-managing agencies of the Rhine bank nations, leading to the International Commission for the protection of the Rhine (IKSR). - <b>In 1950 MDPA* employed 12,700 workers.</b> -	1950
1951 <b>June 15:</b> Four Dutch water companies found RIWA.	1951
1953 IKSR begins Rhine water measurements at 8 sampling locations.	1953
1963 <b>April 29:</b> Formalisation of IKSR by means of the Treaty of Bern. Consultation authorisation; veto right limits decision making.	1963
1965 <b>May 1:</b> The Treaty of Bern takes effect (D, F, L, NL, CH).	1965
1966 <b>August 9:</b> Prefect of Haut-Rhin grants MDPA a discharge permit until <u>December 31, 1970</u> (discharge via the Grand Alsace Canal).	1966
1970 Oxygen economy of the Rhine improves, the concentration of heavy metals decreases considerably, the salt concentration does not change.	1970
1972 <b>October 25-26:</b> 1st Rhine Conference of Ministers, The Hague. The first agreements are made regarding storage of 60 kg/s chlorine ions in the Alsace, starting no later than January 1975. (Total potassium discharge in 1972 is ±130 kg/s (36% of the Rhine salt load).	1972
1973 December 4-5: 2nd Rhine Conference of Ministers, Bonn. Especially focuses on chemical and thermal pollution and the Rhine remediation plan.	1973
1974	<p>1974 With the objective of being able to begin a civil procedure (by the Environmental Defence Association) the Stichting Reinwater (Clean Water Foundation) is founded.</p> <p><b>October 4: Civil procedure is begun.</b>  <b>Demand:</b> damage compensation due to unlawful salt discharge.  <b>Plaintiffs:</b> Stichting Reinwater, horticulturist Bier (the Westland).  <b>Defendant:</b> potassium mines (MDPA), Mulhouse (Alsace).  <b>Location:</b> Rotterdam District Court.</p> <p><b>October 4: Civil procedure is begun.</b>  A similar damage claim due to salt discharge.  <b>Plaintiffs:</b> horticulturists Strik and Valstar (Aalsmeer).  <b>Defendant:</b> potassium mines (MDPA), Mulhouse (Alsace).  <b>Location:</b> Court of The Hague.</p>

\*MDPA=Mines de Potasse d'Alsace



Administrative procedure - 10 parties	Criminal proceedings - 10 parties	Civil procedure - 2 parties
1975	1975	1975
1976	1976	1976
1977	1977	1977
1978	1978	1978
1979	1979	1979
<p data-bbox="78 1290 436 1403">- <b>December 22:</b> RIWA initiates an opinion poll among the Alsace residents about possible objections to salt injections. (605 persons interviewed: 49% no objections, 28% object).</p> <p data-bbox="78 1403 436 1497">- Preparation of a petition against extending the discharge permit by RIWA and VEWIN, with 8 other parties joining them.</p>	1980	1980

Developments / International consultation	Civil procedure – horticulturist process
<p><b>1981 January 26:</b> 5th Rhine Conference of Ministers, Wassenaar. Discussion of the problem of France not ratifying the Rhine Salt Treaty.</p> <p><b>March 18:</b> Prefect of Haut-Rhin repeals the permit extension and grants a permit that was somewhat modified; this one until December 31, 1990.</p> <p><b>November 17:</b> 6th Rhine Conference of Ministers, Paris. France is requested to find a solution for the salt problem.</p>	<p><b>1981</b></p> <p><b>2nd half of 1981:</b> The experts send the report to the parties involved in the case for their commentary.</p>
<p><b>1982</b></p> <ul style="list-style-type: none"> <li>- <b>December 7:</b> Paris: Prime Ministers Lubbers &amp; Mauroy discuss the salt problem: in the spring of 1983, the Salt Treaty is submitted to the Assemblée for ratification. After 1.5 years there will be a 20 kg/s salt injection.</li> <li>- <b>December 9:</b> IRC delegation leaders do not succeed in setting up a firm time schedule to reduce the potassium mine salt discharges.</li> </ul>	<p><b>1982 April 22:</b> Definitive expert report is sent to the Rotterdam Court (8 months later than agreed upon).</p>
<p><b>1983 April 29-May 4:</b> Exchange of letters between the NL-F governments about adapting the 1976 Rhine Salt Treaty: a different location for salt injection (F-BRD border) 1.5 after the treaty takes effect; 2nd phase (40 kg/s) after 3.5 years.</p> <p><b>August 4:</b> Prefect of Haut-Rhin grants the potassium mines a temporary permit (mise en demeure), without being requested to do so, <u>this time with an unlimited period of validity</u> (but with the obligation to request a new permit before a certain date).</p> <p><b>October 7:</b> The Assemblée ratifies the Rhine Salt Treaty Bill including additional exchange of letters in April-May 1983.</p> <p><b>November 10:</b> The French Senate also ratifies the salt treaty.</p> <p>- <b>In 1983, MDPA reduces the number of its workers to 5,600.00 by means of automation/mechanisation.</b> -</p>	<p><b>1983</b></p> <p><b>December 16:</b> Verdict from the Rotterdam District Court: the potassium mine discharge is unlawful; they must pay damage compensation for the salinisation of the sprinkler water of the horticulturists from 1-1-75 + the court costs.</p>

Administrative procedure - 10 parties	Criminal proceedings - 10 parties	Civil procedure - 2 parties
<p><b>1981 A1</b> Prior to an administrative lawsuit, consultation takes place with Ministries of Foreign Affairs and Transportation and Public Works, who concur with the lawsuit.</p> <p><b>18 February: Administrative lawsuit is begun. Petition:</b> against 12-22-1980 salt discharge permit. <b>Plaintiffs:</b> 10 NL government agencies and organisations: the province of N-H, City of Amsterdam, VEWIN, RIWA, Stichting Reinwater, WRK, Delfland, Rijnland Water Authorities, Ministries of Foreign Affairs and Transportation and Public Works, Schieland, Rivierenland Z.schap.</p> <p><b>Attorneys:</b> Christian Huglo &amp; Corinne Lepage Jessua. <b>Location:</b> Tribunal Administratif, Strasbourg (French administrative or governmental court, Strasbourg).</p> <p><b>A1 May 6:</b> The plaintiffs submit a new petition of appeal, adapted to the modified discharge permit of March 18, 1981.</p>	<p><b>1981</b></p>	<p><b>1981</b></p>
<p><b>1982</b></p>	<p><b>1982</b></p>	<p><b>1982</b></p>
<p><b>1983 A1 July 27:</b> Tribunal Administratif Verdict: the December 22, 1980 and March 18, 1981 discharge permits are nullified.</p> <p><b>A2 - August 10:</b> Petition of appeal by the NL parties at the Tribunal Administratif of the August 4, 1983 interim permit.</p> <p>- NL parties also submit a complaint about improper government at the Appeals Commission of Conseil d'Etat.</p> <p><b>A1 - September:</b> appeal by the potassium mines at the Conseil d'Etat (State Council), Paris, of the 7-27-1983 Tribunal Administratif verdict.</p>	<p><b>1983</b></p> <p><b>October 7: Beginning of the criminal proceedings. Damage claim:</b> infringement by discharging without a permit (not complying with legal regulations for special industries (installations classées). <b>Re:</b> periods during which consecutive permits were granted which were later nullified; <b>a)</b> period 1981-1983, <b>b)</b> extended on 8-13-1986 to the period 1980-1986. <b>Demand:</b> damage compensation. <b>Plaintiffs:</b> 10 NL government agencies and organisations: the province of N-H, City of Amsterdam, VEWIN, RIWA, Stichting Reinwater, WRK, Delfland, Rijnland, Schieland, Rivierenland Z.schap. <b>Defendant(s):</b> (the consecutive) MDPA director(s) during the period(s) in question (see above). <b>Location:</b> Tribunal de Grande Instance (district court), Mulhouse.</p>	<p><b>1983</b></p>



Developments / International consultation	Civil procedure – horticulturist process
<p><b>1984</b></p> <p><b>May 15:</b> ratification by Luxembourg of the addition to the 1983 Rhine Salt Treaty.</p> <p>- <b>July 2: Prefect grants a permit for exploratory drilling at Chalampé</b> - Chalampé appeals the permit at the Trib. Administratif.</p> <p>- <b>November 6:</b> Trib. Adm. rejects the Chalampé appeal. - <b>December 14:</b> Ratification by Germany of the addition to the 1983 Rhine Salt Treaty.</p>	<p><b>1984</b></p> <p><b>March 15:</b> Appeal by potassium mines of the 1-8-1979, 4-28-1980 and 12-16-1983 verdicts at the Court in The Hague.</p> <p><b>December:</b> Appeal: potassium mines submit a memorandum of grievances.</p>
<p><b>1985</b></p> <p><b>July 5:</b> Ratification by the Netherlands of the addition to the 1983 Rhine Salt Treaty. <i>The Rhine Salt Treaty takes effect in 1976 including 1983 addition.</i></p> <p>- <b>September 5:</b> Prefect of Haut-Rhin grants the potassium mines a new discharge permit <u>until 2000</u>. The discharge is continued until the Prefect gives instructions about reductions in accordance with the salt treaty.</p> <p>- <b>New investments in potassium mines in 1985 despite statement from Marchant that the potassium mines will close in the near future.</b></p>	<p><b>1985</b></p>
<p><b>1986</b></p> <p><b>March:</b> GWA dune filtration is only 30% of the normal quantity due to the high salt concentration in the Rhine as a result of low water discharge.</p> <p><b>April 26:</b> Chernobyl nuclear reactor accident affects large areas in Europe.</p>	<p><b>1986</b></p> <p><b>March 19:</b> Pleas entered at the Hague Court in appeal by the potassium mines of the 16 December, 1983 verdict.</p>

Administrative procedure - 10 parties	Criminal proceedings - 10 parties	Civil procedure - 2 parties
<p>1984</p>	<p>1984</p> <p><b>June 7:</b> Procureur de la République appeals the damage claim of October 7, 1983 at the Tribunal de Grande Instance.</p> <p><b>August 30:</b> Conclusion submitted by 10 NL plaintiffs in connection with the solicitor's appeal; also submitted the City of Amsterdam GW-interests memorandum (damage memo submitted by the Province of Noord-Holland in 1985).</p>	<p>1984</p>
<p>1985</p> <p><b>A2 February 21:</b> The Appeals Commission Conseil d'Etat considers the complaint (8-10-1983 – improper management) as settled. The Prefect of Haut-Rhin had obligated the potassium mines to request a new discharge permit AND to draw up an environmental impact report on the consequences of the salt discharge.</p> <p><b>A3 November 5:</b> appeal by NL parties (petition of appeal) at the Tribunal Administratif of the September 5, 1985 discharge permits.</p>	<p>1985</p> <ul style="list-style-type: none"> <li>- <b>February 19:</b> The Judge of Instruction, Mulhouse, admits the October 7, 1983 damage claim by the 10 NL plaintiffs (<i>re: legal preliminary investigation of the damage claim</i>).</li> <li>- <b>February 20:</b> The la République solicitor appeals the declaration of admission at the Chambre d'Accusation (legal preliminary investigation control for criminal cases) de la Cour d'Appel, Colmar.</li> <li>- <b>April 11:</b> the Cour d'Appel agrees to decide the appeal by France.</li> <li>- <b>June 6:</b> Chambre d'Accusation does not admit the claim by 4 private law plaintiffs (RIWA, VEWIN, WRK, Reinwater). The damage claim investigation will be continued (6 parties admitted).</li> <li>- <b>June 11:</b> appeal by the plaintiffs of the non-admissible declaration at the Cour de Cassation (Court of Cassation), Chambre Criminelle, Paris.</li> </ul>	<p>1985</p>
<p>1986</p> <p><b>A1 April 18:</b> Conseil d'Etat confirms at the highest level the (favourable) July 27 1983 verdict by the Tribunal Administratif (<i>re: the potassium mine appeal of this</i>): the 3-18-1981 permit was justifiably nullified.</p> <p><b>A1 CONCLUDED:</b> the 18 March, 1981 permit (<u>issued May 6, 1981</u>).</p> <p><b>A2 - May 22:</b> The Tribunal Administratif rejects the complaint by the NL plaintiffs against the interim permit (mise en demeure) of August 4, 1983.</p> <p><b>A2 - Appeal</b> by the NL plaintiffs at the Conseil d'Etat, Paris, of the May 22, 1986 Tribunal Administratif verdict on the interim permit (mise en demeure) of August 4, 1983.</p>	<p>1986</p> <p><b>May 4-9:</b> Visit from the Judge of Instruction (Schiele) and 2 French experts (Meyer and Weber) to the Netherlands with respect to the damage claim at the Tribunal de Grande Instance.</p>	<p>1986</p>

Developments / International consultation	Civil procedure – horticulturist process
<p><b>1986</b> continued</p> <p><b>October:</b> Announcement from France: salt will be stored from 1987 on at 20 kg/s.</p> <ul style="list-style-type: none"> <li>- <b>November 1:</b> Sandoz, Schweizerhalle fire. The consequences of this Rhine disaster push the salt problem to the second level.</li> <li>- <b>November 12:</b> Rhine bank nation minister meeting, Zürich, prompted by the Sandoz disaster: date and propositions for the Rhine conference.</li> <li>- <b>December 11:</b> Delegation leader consultation, Brussels (with regard to IKSR and salt). Salt injection is not possible. Salt will have to be stored above-ground.</li> <li>- <b>December 19:</b> 7th Rhine Conference of Ministers, Rotterdam. Safety/recovery measures; IRC Rhine Action Program (RAP) order.</li> </ul>	<p><b>1986</b> continued</p> <p><b>September 10:</b> The potassium mines appeal at the Court in the Hague. The Court also upholds the Rotterdam Court verdicts. The potassium mines appeal at the Court of Cassation in the Hague. <i>Data: pleas entered on March 11, 1988/verdict before the end of 1988.</i></p>
<p><b>1987</b> <b>starting January 5:</b> 15 kg/s potassium mine salt storage (5% of the Rhine salt load) <i>(after more than 10-year delay).</i></p> <p><b>October 1:</b> 8th Rhine Conference of Ministers, Strasbourg, especially with respect to Sandoz and the Rhine Action Program (RAP).</p> <p><b>December 29:</b> A letter with complaint from NL parties sent to Prime Minister Chirac (and the ministers of the Environment and Industry) about the state of affairs in the Rhine processes, with a request for damage compensation. <i>(The letter lists the damage per year: Amsterdam + N.H. 3.5 million French francs, water authorities 350,000 French francs, other parties (including RIWA) 100,000 French francs)</i></p> <p>- <b>Potassium mines suffer a loss of 160 million guilders in 1987.</b> -</p>	<p><b>1987</b></p>
<p><b>1988</b> <b>February 23:</b> Response from the minister of the Environment to the letter of December 29; he rejects the request for damage compensation (also on behalf of Prime Minister Chirac and the minister of Industry).</p>	<p><b>1988</b></p> <p><b>March 11:</b> Pleas at the Court of Cassation regarding the appeal of the potassium mines concerning the Hague Court verdict September 10, 1986.</p>

Administrative procedure - 10 parties	Criminal proceedings - 10 parties	Civil procedure - 2 parties
<p><b>1986</b> continued</p>	<p><b>1986</b> continued</p> <p>- <b>July 10:</b> Favourable verdict from the Chambre d'Accusation, Colmar, (after new resistance by the solicitor): the claim by all 10 NL parties in the criminal proceedings was admitted by the Tribunal de Grande Instance. (<i>This independent from the appeal at the Cour de Cassation (Court of Cassation), Paris.</i>)</p> <p>- <b>August 13:</b> The 10 NL parties increase their time period (extension of the period the infringements took place) of the damage claim from 10-7-1983. An additional security deposit of 25,000 French francs is required. (= so-called 2nd damage claim of September 1986).</p> <p>- <b>October:</b> Report of 2 experts (Meyer and Weber) received which discusses the effects from the salt load and damage to the NL plaintiffs (damage claim).</p>	<p><b>1986</b> continued</p>
<p><b>1987</b></p> <p><b>A3</b> <b>November 23:</b> Defence by the French minister of the Environment related to the 11-5-1985 petition of appeal by the NL parties of the discharge permit of September 5, 1985.</p> <p><b>A3</b> <b>December 29:</b> Defence by the potassium mines related to the petition of appeal of the discharge permit of September 5, 1985.</p>	<p><b>1987</b></p> <p><b>June 23:</b> Cour de Cassation (Court of Cassation), Chambre Criminelle, Paris, nullifies the June 6, 1985 verdict and declares all NL parties admissible insofar as related to the July 19, 1976 legislation of legal action on the use of discharge installations. The case is referred to the Chambre d'Accusation de la Cour d'Appel, Paris.</p> <p><b>December 3:</b> At the request of the Dutch parties, the French bailiff summons the la République solicitor to no longer block access to the dossier on the damage claim.</p>	<p><b>1987</b></p>
<p><b>1988</b></p> <p><b>A4</b> <b>April 25:</b> request by the 10 NL plaintiffs at the Tribunal Administratif to nullify the decision of the 3 French ministers and grant N-H and Amsterdam damage compensation of 25 million guilders over the period 1976-1987, among other things for continually granting the potassium mines new discharge permits (See 12-29-1987 letters and 2-23-1988 column "Developments / International consultation". See also the expert report (1997) from the criminal proceedings. Both components combined lead to a favourable verdict by the Tribunal Administratif on April 11, 2000.)</p>	<p><b>1988</b></p> <p><b>March 4:</b> The la République solicitor is summoned with respect to the 2nd damage claim of September 1986.</p> <p><b>March 17:</b> Judge of Instruction Claviere Schiele is appointed.</p> <p><b>May 17:</b> Cour d'Appel (Court of Justice), Paris declares that all NL parties are admitted in the 10-7-1983 damage claim). The potassium mines did not observe the legislation on legal action concerning the use of discharge installations. (<i>concerns inspection of the preliminary investigation in the criminal case</i>)</p>	<p><b>1988</b></p>

Developments / International consultation	Civil procedure – horticulturist process
<p><b>1988</b> continued</p> <p><b>October 11:</b> 9th Conference of Ministers, Bonn. French plan presentation 2nd phase of the treaty (storage of 40 kg/s) per 1-5-1989 and for study until 1995 for possible other solutions. Smit-Kroes:</p> <ul style="list-style-type: none"> <li>- priority of the Rhine Salt Treaty is lower with respect to other contaminations</li> <li>- contributing to storage of salt is unacceptable (only a delay of discharge). Implementation of the 2nd phase is suspended as of 1-5-1989 because of this.</li> </ul> <p>- <b>Potassium mines suffer a loss of 75 million guilders in 1988.</b> -</p>	<p><b>1988</b> continued</p> <p><b>September 8:</b> In order to avoid going to court to determine the extent of damage, the 3 horticulturists sign a settlement with the potassium mines, which pay a sum of 3.75 million guilders.</p> <p><b>September 23:</b> The Court of Cassation upholds the Court's decision and confirms the Rotterdam verdict of December 16, 1983.</p> <p><b>CONCLUDED: civil horticulturist procedure (begun on October 4, 1974).</b></p>
<p><b>1989</b></p> <p><b>June 22:</b> Prefect of Haut-Rhin grants the potassium mines a new discharge permit (115 kg/s instead of the max. annual average of 130 kg/s). (<i>presumably anticipating the nullification of the permit of September 5, 1985 by the Tribunal Administratif on August 3, 1989.</i>)</p> <p><b>November 30:</b> 10th Rhine Conference of Ministers, Brussels. NL propositions (Maij-Weggen): regulation at Lobith of 200 mg/l; Wieringermeer diversion. (order to IRC: elaboration of Rhine Salt Treaty modifications).</p> <p>- <b>Potassium mines suffer a loss of 160 million guilders in 1989.</b>-</p>	<p><b>1989</b></p>
<p><b>1990</b></p> <p>- Now that the 2nd phase of the Rhine Salt Treaty will have a different content and the 3rd phase will definitely be implemented, the Netherlands and the IRC are deliberating about the <b>1</b>) 200 mg/l-regulation, <b>2</b>) technical and financial means for the seepage discharge of the Wieringermeer.</p> <p>- <b>October 1:</b> PWN is privatised into an N.V. and assumes the rights and obligations of the Province of North Holland in the salt procedures.</p>	<p><b>1990</b></p>

Administrative procedure - 10 parties	Criminal proceedings - 10 parties	Civil procedure - 2 parties
<p><b>1988</b> continued</p>	<p><b>1988</b> continued</p>	<p><b>1988</b> continued</p> <p><b>June 17: Injunction (Référé).</b> (Simplified procedure while awaiting a definitive verdict in the criminal proceedings). <b>Demand:</b> 4 million French francs (first damage compensation instalment) and request for assessment of the damage to the water system. <b>Plaintiffs:</b> 2 NL parties: Province of Noord-Holland &amp; the City of Amsterdam. <b>Defendant:</b> potassium mines (MDPA) Alsace. <b>Location:</b> Tribunal de Grande Instance (district court), Mulhouse. <b>September 2:</b> Tribunal de Grande Instance awards provisional damage compensation (N-H 1.5 million French francs/Amsterdam 0.5 million French francs) and orders an investigation of the GWA and PWN damage by corrosion of the pipes due to salt discharge by the potassium mines. The potassium mines appeal the September 2, 1988 verdict at the Cour d'Appel, Colmar, about provisional damage compensation.</p> <p>- <b>November 7:</b> Cour d'Appel, Colmar, potassium mine appeal: nullification of the provisional damage compensation and damage investigation.</p> <p>- <b>December:</b> Cassation N-H and Amsterdam at the Cour de Cassation (Cassation Court) Paris, against the Colmar verdict of 11-7-1988.</p>
<p><b>1989</b> <b>A3</b> <b>June 8:</b> Tribunal Administratif hearing. Strasbourg related to nullification of the 5 September, 1985, discharge permit demanded by the NL plaintiffs.</p> <p><b>A3</b> <b>August 3:</b> appeal by the NL parties of the 9-5-1985 permit. The Tribunal Administratif nullifies the September 5, 1985 discharge permit. (<i>MER insufficiently described the effects on the Netherlands from the discharge.</i>)</p> <p><b>A3</b> Appeal by the potassium mines at the Conseil d'Etat, Paris, of nullification of the September 5, 1985 permit by the Tribunal Administratif on August 3, 1989.</p> <p><b>A5</b> <b>December 29:</b> appeal by NL parties at the Tribunal Administratif of the new June 22, 1989 discharge permit.</p>	<p><b>1989</b></p>	<p><b>1989</b></p>
<p><b>1990</b></p> <p><b>A2</b> <b>October 15:</b> Conseil d'Etat confirms the Tribunal Administratif rejection of the complaint by the NL plaintiffs to the interim permit (...) of August 4, 1983 (<u>motivation</u>: serious economic and social problems if the production of the potassium mines were halted!)</p> <p><b>A2</b> <b>CONCLUDED: 8-4-1983 interim permit (initiated on 8-10-1983).</b></p>	<p><b>1990</b></p> <p><b>December:</b> Judge of Instruction Schiele urges the NL parties to make a decision on a new damage assessment. The 1986 report was made without involvement of the potassium mines; MDPa also has an expert now.</p>	<p><b>1990</b></p> <p><b>October 29:</b> Cour de Cassation (Court of Cassation) rejects the cassation appeal by N-H and Amsterdam against the Cour d'Appel, Colmar, verdict which rejects damage compensation and damage investigation. (the report did not sufficiently demonstrate the relation discharge-corrosion.) <b>CONCLUDED: injunction N-H + Amsterdam (initiated 9-2-1988).</b></p>

Developments / International consultation	Civil procedure – horticulturist process
<p><b>1991</b> - <b>September 25:</b> Signing of the Supplemental Rhine Salt Treaty Protocol, Brussels: <b>a)</b> regulation of 200 mg/l-concentration at Lobith, <b>b)</b> Wieringermeer seepage discharge (32.37 million guilders), <b>c)</b> post-ponement of discharge of salt in storage (total 170 million guilders).</p> <p>- <b>October:</b> MDPA makes preparations for the storage of salt.</p> <p>- <b>November 1:</b> The NL parties deliberate about <b>a)</b> continuation or <b>b)</b> halting the procedures (administrative and criminal proceedings) or <b>c)</b> settling with the potassium mines. That there may be less chance of success due to the Supplemental Protocol is taken into account.</p>	<p><b>1991</b></p>
<p><b>1992</b> - <b>March 22:</b> The 10 NL parties will only decide on whether the procedures will be continued after the Supplemental Protocol has been signed.</p>	<p><b>1992</b></p>
<p><b>1993</b> - <b>February 25:</b> Switzerland and France ratify the Supplemental Protocol included in the Rhine Salt Treaty.</p> <p>- <b>spring:</b> Preparations of storage of salt concluded at MDPA. France ratifies the Supplemental Protocol.</p> <p>- <b>June 2-4:</b> RIWA delegation visit to MDPA, Alsace.</p>	<p><b>1993</b></p>
<p><b>1994</b> <b>January 13:</b> Prefect of Haut-Rhin grants the potassium mines a new permit for discharging waste salts.</p> <p><b>April 20:</b> Luxembourg ratifies the Supplemental Protocol.</p> <p>- <b>August 25:</b> The Netherlands ratify the Supplemental Protocol.</p> <p>- <b>September 15:</b> Germany is the last party to ratify the Supplemental Protocol included in the Rhine Salt Treaty.</p> <p>- <b>September 25:</b> official deadline for ratifying the Supplemental Protocol.</p> <p><b>November 1:</b> The Supplemental Protocol takes effect.</p> <p><b>December 8:</b> 11th Rhine minister conference, Bern; 3rd RAP phase.</p>	<p><b>1994</b></p>

Administrative procedure - 10 parties	Criminal proceedings - 10 parties	Civil procedure - 2 parties
1991	1991	1991
1992	1992	1992
1993	<p><b>1993 beginning of 1993:</b> New Judge of Instruction Maman appointed.</p> <ul style="list-style-type: none"> <li>- <b>July 28:</b> Judge of Instruction Maman appoints 2 experts: Flaugnatti (contamination) and Le Gentil (damage estimate). <b>a)</b> The report will have to demonstrate a cause-and-effect relation between the salt discharge and the damage from corrosion. <b>b)</b> The report may be challenged by either party.</li> <li>- <b>October:</b> MDPA visit from experts Flaugnatti and Le Gentil.</li> <li>- <b>October 28:</b> Judge of Instruction Maman decides to have a rogatory commission investigation initiated (in cooperation with public prosecutor Botman).</li> </ul>	1993
<p><b>1994</b>  <b>A4</b> <b>April 11:</b> memorandum of response by the NL parties with respect to assignment of damage compensation as well as legal fees. The claim is raised to 48 million guilders.</p> <p><b>A3</b> - <b>June 14:</b> request by the potassium mines to repeal the appeal at the Conseil d'Etat.</p> <p><b>A5</b> - <b>June 22:</b> Continuation of the appeal by NL parties at the Tribunal Administratif of the most recently granted June 22, 1989 discharge permit. (<i>The criminal proceedings report may also be used in this lawsuit.</i>)</p> <p><b>A5</b> <b>October 4:</b> A verdict on the June 22, 1989 discharge permit will not be forthcoming, because a new permit was granted on January 13, 1994. France will pay the NL parties 10,000 French francs because the procedure was lawfully begun at the time.  <b>CONCLUDED: 6-22-1989 permit (initiated 12-29-1989).</b></p> <p><b>A3</b> <b>November 2:</b> repeal of the appeal by the potassium mines at the Conseil d'Etat of the nullification of the 9-5-1985 permit by the Tribunal Administratif.  <b>CONCLUDED: 9-5-1985 permit (initiated on August 3, 1989).</b></p>	<p><b>1994</b></p> <p><b>November 17-18:</b> 2 French experts visit the Netherlands. NL experts Oudshoorn and Schultze are appointed to assist. Questions related to the selection of sampling locations and the quality of the GWA and PWN pipe system.</p>	1994



Developments / International consultation	Civil procedure – horticulturist process
<p><b>1995</b></p> <p><b>November 7:</b> Corinne Lepage is appointed minister of the environment in the Juppé cabinet. Huglo transfers procedures to Choucroy. <i>(Huglo &amp; Lepage are partners in a law firm and in marriage.)</i></p>	<p><b>1995</b></p>
<p><b>1996</b></p>	<p><b>1996</b></p>
<p><b>1997</b></p> <p><b>June 3:</b> Corrine Lepage steps down as minister of the Environment along with the other members of the Juppé Cabinet. Huglo will handle the procedures himself again.</p> <p><b>November 24:</b> The Wieringermeer Excess Water Discharge into the Waddenzee is put into operation (cost: 41.7 million guilders).</p>	<p><b>1997</b></p>
<p><b>1998</b> <b>January 22:</b> 12th Rhine Conference of Ministers, Rotterdam. High water problems, biotope network, new Rhine Treaty design (groundwater is also included in the objectives).</p> <p><b>beginning of 1998:</b> memo from the French delegation to the IKSR: due to the high Rhine discharge since 1991 (Supplemental Protocol), the storage of salt was restricted to 833,300 tonnes through 1997. MDPA will maintain potassium production until sometime in 2004. There is a proposal to extend the Supplemental Protocol for 5 years (through 2004) with additional financing.</p> <p>- <b>December 31:</b> Expiration date of the Supplemental Salt Treaty Protocol.</p>	<p><b>1998</b></p>
<p><b>1999</b> - <b>from 1999 on:</b> Large mountains of waste salt on the MDPA terrain are led into the Rhine in a modulated manner by means of spraying.</p> <p>- <b>April 12:</b> The New Rhine Treaty, related to objectives, principles, obligations, organisation, etc., of the IKSR is signed.</p> <p>- <b>July 6-7:</b> An agreement is made within IKSR that the modulated salt storage will continue, despite the expiration of the Supplemental Protocol.</p>	<p><b>1999</b></p>

	Administrative procedure - 10 → 2 parties	Criminal proceedings - 10 parties	Civil procedure - 2 parties
1995		<p>1995 - <b>January 4:</b> Written questions from the 2 French experts.</p> <p>- <b>all of 1995:</b> The NL parties are busy answering all questions from experts Flaugnatti and Le Gentil.</p>	1995
1996		<p>1996 - <b>January:</b> answers from the NL parties are sent, accompanied by argumentation by their lawyer, to the 2 French experts.</p> <p>- <b>December 30:</b> the expert report is sent to Judge Maman.</p>	1996
1997	<p>fall 1997: Administrative judge inquires about the state of affairs in the criminal proceedings and the civil procedure.</p>	<p>1997 - <b>January 13:</b> the expert report is sent to the NL parties for commentary by March 15, 1997. Recommended 1980-1983 damage claims: PWN NLG 1,036,560/GWA NLG 1,340,186. 1983-1986 period damage compensation GWA NLG 1,420,597. Total damage compensation: NLG 3,797,343 (3.8 million guilders).</p> <p>- <b>April 25:</b> deadline for the potassium mines' commentary on the report. (MDPA does not see any reason for counter-assessment, does not want to settle either, so follows the NL plaintiffs' damage claim via the civil court procedure.)</p> <p>- <b>August 25-26:</b> With respect to the new legislation, Judge of Instruction Maman (Tribunal de Grande Instance, Paris) releases directors Greif and Marchand, respectively, from legal prosecution.</p> <p>- NL parties appeal the August 25-26, 1997 verdicts at the Chambre d'Accusation de la Cour d'Appel, Paris.</p>	1997
1998		<p>1998 <b>February 16:</b> Chambre d'Accusation de la Cour d'Appel, Paris, rejects the criminal proceedings; the directorate cannot be prosecuted.</p> <p><b>CONCLUDED: criminal proceedings against the MDPA directorate (initiated 10-7-1983).</b></p>	<p><b>August 5: Beginning of civil procedure. Demand:</b> 33 million French francs (Amsterdam 16.5 million/PWN 16.5 million). <b>Re:</b> Potassium mines do not pay attention to laws to limit the damage caused to others by salt discharge.</p> <p><b>Period:</b> 1980-1986. <b>Plaintiffs:</b> 2 NL parties: PWN and Amsterdam.</p> <p><b>Defendant:</b> Potassium mines (MDPA), Alsace. (the expert report in the criminal proceedings presumably plays a role.)</p> <p><b>Location:</b> Tribunal de Grande Instance (district court), Mulhouse.</p>
1999		1999	<p><b>December: Civil suit</b> against MDPA is postponed (initiated 8-5-1998) because the 4-25-1988 Administrative Procedure is going well all of a sudden and more can be expected from it.</p>

Developments / International consultation	Civil procedure – horticulturist process
<p><b>2000</b></p> <p><b>June 29:</b> European ministers of Environment and the European Parliament reach an agreement on the European Water Framework Directive.</p> <ul style="list-style-type: none"> <li>- <b>July 10:</b> Fish ladder (Europe's biggest) at Iffezheim is put into operation.</li> <li>- <b>July 11-12:</b> IKSR celebrates its 50th anniversary.</li> </ul> <p>- <b>December 22:</b> The European Water Policy Framework Directive (2000/60/EG) takes effect.</p> <p>- <b>end of 2000:</b> The Rhine Action Program (RAP) and the "Salmon 2000" program expire (both were begun after the 11-1-1986 Sandoz disaster).</p>	<p><b>2000</b></p>
<p><b>2001</b></p> <ul style="list-style-type: none"> <li>- <b>January 29:</b> 13th Rhine Conference of Ministers, Strasbourg. High Water Action Plan 2nd phase, durable development of the Rhine until 2020, water shed management (Rhine) according to the European Water Framework Directive.</li> <li>- <b>starting February:</b> France and the two remaining NL parties (PWN and Amsterdam) negotiate about the possibility of a settlement and termination of both the administrative and civil procedures.</li> </ul>	<p><b>2001</b></p>
<p><b>2004</b> The presumable closing of the potassium mines in the Alsace in that year does not yet mean that an end will come to 73 years of salt discharge into the Rhine in the Alsace (since 1931). The waste salt, stored on MDPA terrain in big mountains, will be discharged in a modulated way into the Rhine for a long time yet (up to concentrations of 200 mg/l at Lobith).</p>	<p><b>2004</b></p>

Administrative procedure - 2 parties	Criminal proceedings - 10 parties	Civil procedure - 2 parties
<p><b>2000</b> - <b>March 6:</b> in order to simplify further court procedures, the April 25, 1988 demand for damage compensation is repealed by all NL parties except PWN and Amsterdam.</p> <p><b>A4</b> - <b>March 10:</b> Tribunal Administratif hearing related to damage compensation to PWN and Amsterdam and nullification of the negative decision of the 3 French ministers of February 23, 1988. (Tribunal Administratif: président – Mrs. D. Mazzega, conseillers – Messrs Pommier and Prioleaud.)</p> <p>- <b>April 11:</b> Favourable verdict by the Tribunal Administratif related to the claim by PWN and Amsterdam, of which 20% is paid. France is sentenced to pay 24 million French francs to PWN (NLG 4,936,186) and Amsterdam (NLG 3,028,906) <i>(including interest since April 1988 totalling 47 million French francs; at the beginning of 2001 this has accumulated to a sum of approx. 50 million French francs)</i>. Appeal by the French State is possible until June 12, 2000. <i>(The verdict will possibly be inserted into the civil procedure.)</i></p> <p>- <b>June 7:</b> France appeals at the Court in Nancy and requests suspension of the payment obligation.</p> <p>- <b>end August:</b> in order to end the accumulation of the interest, France, despite its appeal, proceeds to pay the damage compensation to PWN and Amsterdam anyway.</p>	<p><b>2000</b></p>	<p><b>2000</b></p>
<p><b>2001</b> <b>January 18:</b> PWN and Amsterdam together receive an amount of 50 million French francs from the French State.</p>	<p><b>2001</b></p>	<p><b>2001</b></p>
<p><b>2004</b></p>	<p><b>2004</b></p>	<p><b>2004</b></p>

kg/s Cl

Salt discharge at Lobith (Rhine) 1885 - 2001



Water supply station along the Lekkanaal near Utrecht.



**RIWA**

Office RIWA/IAWR  
Phone +31 - (0)30 - 600 90 30  
Fax +31 - (0)30 - 600 90 39

e-mail: [riwa@riwa.org](mailto:riwa@riwa.org)  
e-mail: [iawr@riwa.org](mailto:iawr@riwa.org)  
<http://www.riwa.org>

P.O. Box 402  
NL - 3430 AK Nieuwegein

ISBN 90-6683-101-4