

June 19, 2012

Certified Mail  
No. 7004 1160 0002 0466 7347

Ms. Melissa Thorne, Special Counsel  
South San Luis Obispo County Sanitation District  
621 Capitol Mall, 18<sup>th</sup> Floor  
Sacramento, California 95814

Dear Ms. Thorne:

The Central Coast Regional Water Quality Control Board (Regional Water Board) is issuing an Administrative Civil Liability Complaint (Complaint) to your client, South San Luis Obispo County Sanitation District ("District"). The Complaint alleges that the District has violated California Water Code Sections 13268 and 13385(a)(2) by failing to comply with provisions of Section 301 of the Federal Water Pollution Control Act (33 U.S.C. § 1311) (Clean Water Act) and CWC 13376, Central Coast Water Board Order No. R3-2009-0046, NPDES Permit No. CA0048003, the Sanitary Sewer Collection System Order 2006-0003-DWQ, and Amended MRP 2008-0002-EXEC, for which a penalty may be imposed under the Water Code.

The Complaint recommends a penalty amount of \$1,383,007.50. The Complaint is enclosed, along with a Waiver Form, an ACLC Fact Sheet, and a draft set of Hearing Procedures that sets forth important requirements and deadlines for participation in the hearing. The Fact Sheet describes the Complaint process and explains what you can expect and your obligations as the process proceeds. Please read each document carefully. This Complaint may result in the issuance of an order by the Regional Water Board requiring that your client pay a penalty.

If you have questions about the Complaint or the enclosed documents, please contact Senior Staff Counsel Julie Macedo, State Water Resources Control Board's Office of Enforcement, by telephone at (916) 323-6847, or by email at

We look forward to resolving this matter in a fair and orderly process.

Sincerely,

Michael  
Thomas

Digitally signed by Michael Thomas  
DN: cn=Michael Thomas, o=Central Coast  
Water Board, ou,  
email=mthomas@waterboards.ca.gov, c=US  
Date: 2012.06.19 10:22:57 -0700

Michael Thomas  
Assistant Executive Officer

cc: See next page.

Item No. 3 Attachment No. 2  
So. San Luis Obispo County  
Sanitation District  
Sept. 6-7, 2012 Meeting

Ms. Melissa Thorne

- 2 -

June 19, 2012

cc: *(Via email only)*

Mr. Michael Seitz  
In-House Counsel  
Shipsey & Seitz, Inc.

Mr. John Wallace  
Wallace Group

Ms. Julie Macedo  
Senior Staff Counsel  
Office of Enforcement  
State Water Resources Control Board

**Proposed**

NOTICE OF PUBLIC HEARING  
TO CONSIDER ADMINISTRATIVE CIVIL LIABILITY COMPLAINT

NO. R3-2012-0030  
ISSUED TO

**South San Luis Obispo Sanitation District**

NOTICE IS HEREBY GIVEN THAT A HEARING WILL BE HELD  
BEFORE THE REGIONAL WATER QUALITY CONTROL BOARD,  
CENTRAL COAST REGION, ON September 6, 2012

**Background**

On June 18, 2012, the Assistant Executive Officer of the Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board) issued an Administrative Civil Liability (ACL) Complaint pursuant to California Water Code Section 13385 (CWC) against the South San Luis Obispo Sanitation District (Discharger) alleging that it has violated CWC Sections 13268 and 13385(a)(2) by failing to comply with provisions of Section 301 of the Federal Water Pollution Control Act (33 U.S.C. § 1311) (Clean Water Act) and CWC 13376, Central Coast Water Board Order No. R3-2009-0046, NPDES Permit No. CA0048003, the Sanitary Sewer Collection System Order 2006-0003-DWQ, and Amended MRP 2008-0002-EXEC, as described in the administrative civil liability complaint filed herewith. The Complaint proposes that administrative civil liability in the amount of \$1,383,007.50 be imposed as authorized by CWC Section 13385(c)(1). Unless the Discharger pays the proposed liability, a hearing will be held before the Central Coast Water Board during its meeting of **September 6, 2012**.

**Purpose of Hearing**

The purpose of the hearing is to receive relevant evidence and testimony regarding the proposed ACL Complaint. At the hearing, the Central Coast Water Board will consider whether to adopt, modify, or reject the proposed assessment, or whether to refer the matter to the Attorney General's Office to seek recovery of judicial civil liability. If it adopts an assessment, the Central Coast Water Board will issue an Administrative Civil Liability Order.

The public hearing on **September 6, 2012**, will commence no earlier than 10 a.m. or as soon thereafter as practical, or as announced in the Central Coast Water Board meeting agenda. The meeting will be held at the Water Board office located at 895 Aerovista Place, Suite 101, in San Luis Obispo, CA 93401. An agenda for the meeting will be issued at least ten days before the meeting and will be posted on the Central Coast Water Board's web page at:

**Hearing Procedures**

A copy of the procedures governing an adjudicatory hearing before the Central Coast Water Board may be found at Title 23 of the California Code of Regulations, § 648 et seq., and is available at <http://www.waterboards.ca.gov> or upon request. Except as provided in Title 23 of the California Code of Regulations (CCR), § 648(b), Chapter 5 of the Administrative Procedures Act (commencing with § 11500 of the Government Code) does not apply to adjudicatory hearings before the Central Coast Water Board. This Notice provides additional requirements and deadlines related to the proceeding. THIS NOTICE MAY BE AMENDED BY THE ADVISORY STAFF AS NECESSARY. FAILURE TO COMPLY WITH THE DEADLINES AND REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF DOCUMENTS AND/OR TESTIMONY. Any objections to the procedure set forth in this Notice must be submitted to Frances McChesney or Jessica Jahr at the address indicated below by **June 27, 2012**.

**Hearing Participation**

Participants in this proceeding are designated as either “parties” or “interested persons.” Designated parties to the hearing may present evidence and cross-examine witnesses and are subject to cross-examination. Interested persons may present non-evidentiary policy statements, but may not cross-examine witnesses and are not subject to cross-examination. Both designated parties and interested persons may be asked to respond to clarifying questions from the Central Coast Water Board, staff or others, at the discretion of the Water Board.

The following participants are hereby designated as parties in this proceeding:

- (1) Central Coast Water Board Prosecution Staff
- (2) South San Luis Obispo Sanitation District

**Contacts**

**Advisory Staff:**

Frances L. McChesney, Esq.  
State Water Resources Control Board  
Office of Chief Counsel  
P.O. Box 100  
Sacramento, CA 95812  
(916) 341-5174

Jessica Jahr, Esq.  
State Water Resources Control Board  
Office of Chief Counsel  
P.O. Box 100  
Sacramento, CA 95812  
(916) 341-5168

Roger W. Briggs\* (or his successor)  
Executive Officer  
Regional Water Quality Control Board, Central Coast Region  
895 Aerovista Place, Suite 101  
San Luis Obispo, CA 93401

\*Please note: Mr. Briggs is set to retire on or about August 1, 2012.

**Prosecution Staff:**

Michael Thomas  
Assistant Executive Officer  
Regional Water Quality Control Board (RWQCB), Central Coast Region  
895 Aerovista Place, Suite 101  
San Luis Obispo, CA 93401  
(805) 542-4623

Julie Macedo, Esq.  
State Water Resources Control Board  
Office of Enforcement  
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Sacramento, CA 95812  
(916) 323-6847

Dr. Matthew Buffleben  
State Water Resources Control Board  
Office of Enforcement  
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Leo Sarmiento  
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Harvey Packard  
RWQCB, Central Coast Region  
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Todd Stanley  
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San Luis Obispo, CA 93401  
(805) 542-4769

Katie DiSimone  
RWQCB, Central Coast Region  
895 Aerovista Place, Suite 101  
San Luis Obispo, CA 93401  
(805) 542-4638

Sheila Soderberg  
RWQCB, Central Coast Region  
895 Aerovista Place, Suite 101  
San Luis Obispo, CA 93401  
(805) 549-3592

**Discharger:**

South San Luis Obispo Sanitation District

**Special Counsel:**

Melissa Thorne  
Downey Brand  
621 Capitol Mall, 18<sup>th</sup> Floor  
Sacramento, CA 95814  
(916) 520-5376

**District Counsel:**

Michael Seitz  
Shipsey & Seitz, Inc.  
1066 Palm Street  
P.O. Box 953  
San Luis Obispo, CA 93406  
(805) 543-7272

**Contract Operator:**

Wallace Group  
John Wallace  
612 Clarion Street  
San Luis Obispo, CA 93401  
(805) 544-4011

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### **Separation of Functions**

To help ensure the fairness and impartiality of this proceeding, the functions of those who will act in a prosecutorial role by presenting evidence for consideration by the Central Coast Water Board (Prosecution Staff) have been separated from those who will provide advice to the Water Board (Advisory Staff). Members of the Advisory Staff are: Frances McChesney, Senior Staff Counsel, Jessica Jahr, Counsel, and Roger Briggs, Executive Officer. Members of the Prosecution Staff are: Julie Macedo, Senior Staff Counsel, Michael Thomas, Assistant Executive Officer, Harvey Packard, Matthew Buffleben, Leo Sarmiento, Jim Fischer, Todd Stanley, Sheila Soderberg, Katie DiSimone and Todd Stanley.

### **Ex Parte Communications**

The designated parties and interested persons are forbidden from engaging in *ex parte* communications regarding this matter with members of the Advisory Staff or members of the Central Coast Water Board. An *ex parte* contact is any written or verbal communication pertaining to the investigation, preparation or prosecution of the ACL Complaint between a member of a designated party or interested party on the one hand, and a Central Coast Water Board member or an Advisory Staff member on the other hand, unless the communication is copied to all other designated and interested parties or made at a proceeding open to all other parties and interested persons (if verbal). Communications regarding non-controversial procedural matters are not *ex parte* contacts and are not restricted. Communications among the designated and interested parties themselves are not *ex parte* contacts.

### **Requesting Designated Party Status**

Persons who wish to participate in the hearing as a designated party, and not already listed above, shall request party status by submitting a request in writing (with copies to the designated parties) no later than 5 p.m. on **July 20, 2012**, to Frances McChesney and Jessica Jahr, State Water Resources Control Board, P.O. Box 100, Sacramento, CA, 95812. The request shall include an explanation of the basis for status as a designated party (e.g., how the issues to be addressed in the hearing and the potential actions by the Central Coast Water Board affect the person) and a statement explaining why the party or parties designated above do not adequately represent the person's interest. Any opposition to the request must be submitted by 5 p.m. on **July 27, 2012**. The parties will be notified by 5 p.m. on **August 3, 2012**, as to whether the request has been granted or denied.

### **Hearing Time limits**

To ensure that all participants have an opportunity to participate in the hearing, the following time limits shall apply: each designated party shall have 60 minutes

to testify, present evidence, and cross-examine witnesses, and 5 minutes for closing statements, and each interested person shall have 3 minutes to present a non-evidentiary policy statement. Participants with similar interests or comments are requested to make joint presentations, and participants are requested to avoid redundant comments. Additional time may be provided at the discretion of the hearing officer upon a showing that additional time is necessary.

### **Written Evidence, Exhibits and Policy Statements**

Designated parties shall submit in writing one paper copy and an electronic file (e.g., pdf via email or CD) of the following information to Frances McChesney and Jessica Jahr, at the above listed address and 9 paper copies and an electronic file to Roger Briggs, Executive Officer, at the above listed addresses, no later than 5 p.m. as described herein:

1. All documentary evidence and exhibits proposed to be offered at the hearing.
2. All legal and technical arguments or analysis.

For the Prosecution Team's Initial Production: no later than 5 p.m. on **August 5, 2012**. For the Discharger and each Designated Party's Evidentiary Submission, no later than 5 p.m. on **August 17, 2012**. For the Prosecution's Rebuttal Submission, no later than 5 p.m. on **August 24, 2012**. For every evidentiary deadline, each designated party shall send one electronic copy of the above materials to each of the other designated parties at the address or addresses provided above by 5 p.m. on the deadline described above.

Interested persons may submit one (1) copy of non-evidentiary policy statements by the start of the hearing.

### **Evidentiary Objections**

A designated party objecting to evidence proposed by another party must submit a written objection by 5 p.m. on **August 29, 2012**, to Frances McChesney and Jessica Jahr, State Water Resources Control Board, P.O. Box 100, Sacramento, CA, 95812, and in electronic format to \_\_\_\_\_ and \_\_\_\_\_ and a copy to all other designated parties. The Advisory Staff will notify the parties about further action to be taken on such objections.

### **Questions**

Questions concerning this proceeding may be addressed to Frances McChesney and Jessica Jahr, State Water Resources Control Board, P.O. Box 100, Sacramento, CA, 95812; tel. (916) 341-5174 and (916) 341-5168, respectively, or by electronic mail, as indicated above.



**IMPORTANT DEADLINES**

June 19, 2012	ACLC and Proposed Hearing Procedures Issued
June 27, 2012	Comments due on draft Hearing Notice
July 6, 2012	Advisory Team issues final Hearing Notice
July 20, 2012	Deadline for submission of request for designated party status and objection to Notice.
July 27, 2012	Deadline for opposition to request for designated party status.
August 3, 2012	Decision issued on request for designated party status, if any.
August 3, 2012	Deadline for Prosecution Team's Initial Evidentiary Submission of evidence and legal argument.
August 17, 2012:	Deadline for Discharger/Designated Party Evidentiary Submission of evidence and legal argument.
August 24, 2012:	Deadline for Prosecution Team Rebuttal Evidentiary Submission of evidence and legal argument.
August 29, 2012	Deadline for submission of evidentiary objections.
September 3, 2012	Rulings on evidentiary objections, if any.
September 6, 2012	Hearing Date

(PROPOSED)

Roger W. Briggs  
Executive Officer

\_\_\_\_\_  
DATE

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL COAST REGION

COMPLAINT NO. R3-2012-0030

ADMINISTRATIVE CIVIL LIABILITY  
IN THE MATTER OF  
SOUTH SAN LUIS OBISPO COUNTY SANITATION DISTRICT,  
SAN LUIS OBISPO COUNTY

The Assistant Executive Officer of the California Regional Water Quality Control Board, Central Coast Region (Regional Water Board) hereby gives notice that:

1. The SOUTH SAN LUIS OBISPO COUNTY SANITATION DISTRICT (the Discharger) is alleged to have violated California Water Code (CWC) 13385(a)(2) for unauthorized wastewater discharges for which the Regional Water Board may impose civil liability pursuant to CWC sections 13323 and 13385(c). The Discharger also violated CWC 13268 by failing to certify six reports in the CIWQS SSO Online Database<sup>1</sup> within time frames required under Order No. 2006-0003-DWQ “Statewide Waste Discharge Requirements for Sanitary Sewer Systems” (hereafter, Sanitary Sewer Collection System Order). This Complaint seeks \$1,383,007.50 in administrative civil liability.
2. The Discharger owns and operates a sanitary sewer collection system (hereafter collection system) and a wastewater treatment plant (WWTP), providing both conveyance and treatment services for an estimated population of 37,648 from member agencies located in the City of Arroyo Grande, City of Grover Beach, and the Oceano Community Services District. These member agencies retain ownership and direct responsibility for individually-owned collection system assets within the boundaries of these member agencies which then discharge raw sewage into the Discharger’s gravity trunk sewer system and WWTP for proper treatment, conveyance and disposal.
3. This complaint alleges that the Discharger caused untreated wastewater discharges to surface waters of the United States on December 19 and 20, 2010. This sanitary sewer overflow (hereafter December 2010 sewer overflow), totaling 1,139,825 gallons reaching surface water, was unauthorized and caused by the Discharger’s failure to maintain and operate its sanitary sewer collection system as required in the corresponding National Pollutant Discharge Elimination System (NPDES) Permit, and in the Sanitary Sewer Collection System Order.
4. Since the December 2010 sewer overflow, the Discharger has been represented by Wallace Group, a consulting firm, which provides engineering and management services for the District. The Wallace Group and the Water Board’s Enforcement Team (members of the

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<sup>1</sup> California Integrated Water Quality System (CIWQS), the State Water Board’s SSO Online Database report, available at: [https://ciwqs.waterboards.ca.gov/ciwqs/readOnly/PublicReportSSOServlet?reportAction=criteria&reportId=sso\\_main](https://ciwqs.waterboards.ca.gov/ciwqs/readOnly/PublicReportSSOServlet?reportAction=criteria&reportId=sso_main)

Regional and State Boards involved with this matter) were unable to reach a mutually agreeable settlement for the Water Board's consideration.

5. The Discharger's collection system is comprised of approximately nine miles of gravity trunk sewers ranging from 15 to 30 inches in diameter that lead into the Discharger's Wastewater Treatment Plant (WWTP) located adjacent to the Oceano County Airport and the Pacific Ocean. The Discharger's WWTP consists of primary clarification, trickling filters, secondary clarification, chlorine disinfection, and a dechlorination system. The design capacity of the Discharger's WWTP is 5.0 million gallons per day (mgd). The Discharger's WWTP also accepts brine waste generated from public water softeners, which is mixed with the final treated wastewater prior to ocean discharge. In 2008, approximately 325,000 gallons of brine waste were discharged with the final effluent from the WWTP.
6. Treated wastewater exiting the Discharger's WWTP enters the Pacific Ocean at a depth of approximately 55 feet through a 4,400-foot outfall-diffuser system, jointly owned by the Discharger and City of Pismo Beach. The Discharger's final effluent is also mixed with approximately 1.9 mgd of treated wastewater effluent in the outfall diffuser system from the City of Pismo Beach (regulated under NPDES Permit No. CA00448151), prior to discharge into the Pacific Ocean.
7. Section 301 of the Federal Water Pollution Control Act (33 U.S.C. § 1311) (Clean Water Act) and CWC section 13376 prohibit the discharge of pollutants to surface waters of the United States except in compliance with an NPDES permit. The Discharger's wastewater treatment facility is regulated under the Regional Water Board's Order No. R3-2009-0046, NPDES Permit No. CA0048003, adopted on October 23, 2009. The Discharger's collection system is enrolled for coverage under the Sanitary Sewer Collection System Order, which applies to all federal and state agencies, municipalities, counties, district and other public entities that own or operate sanitary sewer systems greater than one mile in length that collect and/or convey untreated or partially treated wastewater to a publicly owned treatment facility in the State of California.
8. On December 19, 2010, the Discharger's WWTP influent pump station automatically shut down after floodwater entered an electrical conduit leading into a pump motor control system in the WWTP influent pump station. The penetrating floodwater shorted a critical motor control component (shunt switch) which then resulted in tripping a large main circuit breaker that supplied power to all four influent pumps located in the pump station.
9. The resulting loss of power to all four influent pumps caused untreated sewage to surcharge upstream into the Discharger's collection system and overflow which caused the December 2010 sewer overflow, discharging untreated sewage from the collection system into the environment. Additionally, the Discharger documented and certified six sewer backups where untreated sewage was discharged inside six residential homes through private sewer service lateral connections.
10. The Discharger initially reported overflow reports into the CIWQS SSO Online Database on December 22, 2010, totaling 898,600 gallons of sewage discharged into Arroyo Grande

Creek, Oceano Lagoon, and the Pacific Ocean. The Discharger then submitted a revised estimate of 384,200 gallons for the overflow volume in a report to the Central Coast Regional Water Board on January 3, 2011. On May 31, 2011, the Discharger further revised the overflow volume to 417,298 gallons. As of June 16, 2012, the publicly available CIWQS SSO Online Database report shows 418,842 gallons of sewage reaching surface waters as reported by the Discharger (See Appendix A of the Technical Report for more details).

11. In response to the December 2010 sewer overflow, the Discharger submitted a spill report to the Regional Water Board on January 3, 2011. On March 7-8, 2011, State Water Resources Control Board (State Water Board) staff inspected the Discharger's WWTP and collection system facilities.
12. On April 18, 2011, the Regional Water Board issued a Notice of Violation (NOV) and a 13267 Letter (CWC section 13267) requiring the Discharger to submit a technical report concerning the December 19, 2010 discharge of untreated sewage from its collection system. In response, the Discharger submitted a technical report dated May 31, 2011, detailing the nature, circumstances, extent and gravity of the unauthorized discharge of untreated sewage.
13. On September 23, 2011, the Discharger submitted supplemental information including but not limited to plant historical flow information, justification of calculation methodology and other plant hydraulic data.
14. The Discharger is required to properly maintain, operate and manage its sanitary sewer collection system in compliance with the Regional Water Board Order No. R3-2009-0046, NPDES Permit No. CA0048003 and the Sanitary Sewer Collection System Order, and is required by the Sanitary Sewer Collection System Order to provide adequate capacity to convey base flows and peaks flows, including flows related to wet weather.
15. The discharge of untreated sewage to waters of the United States is a violation of the requirements in R3-2009-0046, section 301 of the Clean Water Act, CWC section 13376, and the Sanitary Sewer Collection System Order. Violations of these requirements are the basis for assessing administrative civil liability pursuant to CWC section 13385.
16. The Discharger violated Discharge Prohibition G of Order No. R3-2009-0046 which states, "The overflow or bypass of wastewater from the Discharger's collection, treatment, or disposal facilities and the subsequent discharge of untreated or partially treated wastewater, except as provided for in Attachment D, Standard Provision 1.G (Bypass), is prohibited. This prohibition does not apply to brine discharges authorized herein."
17. The Discharger violated Provision VI.C.6 of Order No. R3-2009-0046 which states, "Stormwater flows from the wastewater treatment process areas are directed to the headworks and discharged with treated wastewater. These stormwater flows constitute all industrial stormwater at this facility and, consequently, this permit regulates all industrial stormwater discharges at this facility along with wastewater discharges." Portions of the untreated sewage were discharged from manholes located at the WWTP and mixed with stormwater which eventually reached the Pacific Ocean.

18. The Discharger violated the Standard Provisions (Attachment D-1.B.2) to Order No. R3-2009-0046, which states, "All facilities used for transport or treatment of wastes shall be adequately protected from inundation and washout as the result of a 100-year frequency flood." The underground utility boxes near the WWTP influent pump station that housed the electrical wiring/cables and conduits were not adequately protected from potential flooding. The migration of floodwater through the unsealed conduits shorted the shunt switch and influent pump motors.
19. The Discharger violated section 301 of the Clean Water Act, which prohibits the discharge of pollutants to waters of the United States except in compliance with an NPDES permit. The discharge of untreated sewage to the Pacific Ocean was not in compliance with the Discharger's NPDES permit.
20. The Discharger violated Prohibition C.1 of the Sanitary Sewer Collection System Order which states, "Any SSO that results in the discharge of untreated or partially treated wastewater to waters of the United States is prohibited."
21. The Discharger violated Prohibition C.2 of the Sanitary Sewer Collection System Order which states, "Any SSO that results in a discharge of untreated or partially treated wastewater that creates a nuisance as defined in CWC section 13050(m) is prohibited."
22. The Discharger violated Provision D.8 of the Sanitary Sewer Collection System Order which states in part, "The Enrollee shall properly manage, operate, and maintain all parts of the sanitary sewer system owned and operated by the enrollee..."
23. The Discharger violated Provision D.10 of the Sanitary Sewer Collection System Order which states, "The Enrollee shall provide adequate capacity to convey base flows and peak flows, including flows related to wet weather events."
24. The Discharger violated section A.6 of the Sanitary Sewer Collection System Order Amended Monitoring and Reporting Program, which states, "All SSOs that meet the above criteria for Category 2 SSOs must be reported to the Online SSO Database within 30 days after the end of the calendar month in which the SSO occurs."
25. Administrative civil liability (ACL) may be imposed pursuant to the procedures described in CWC sections 13323 and 13385. The complaint alleges that the act (or the failure to act) constitutes a violation of law, and describes the provisions of law authorizing civil liability to be imposed, and the proposed civil liability.
26. Pursuant to CWC section 13385(a), any person who violates CWC section 13376 or any requirements of section 301 of the Clean Water Act is subject to administrative civil liability pursuant to CWC section 13385(c), in an amount not to exceed the sum of both the following: (1) ten thousand dollars (\$10,000) for each day in which the violation occurs; and (2) where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an

additional liability not to exceed ten dollars (\$10) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.

27. CWC sections 13327 and 13385(e) require the State Water Board and Regional Water Boards to consider several factors when determining the amount of civil liability to impose. These factors include: "...the nature, circumstances, extent, and gravity of the violation or violations, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, and, with respect to the violator, the ability to pay, the effect on its ability to continue its business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters as justice may require." Staff costs are sought under this complaint as described in the Technical Report, consistent with the CWC and all applicable case law. Staff costs are continuing and will continue through the Water Board hearing.
28. Additionally the State Water Board in November 2009 adopted a Water Quality Enforcement Policy (Enforcement Policy) which outlines a calculation methodology for ACL assessments. The Enforcement Policy was approved by the Office of Administrative Law on May 20, 2010. Section VI of the Enforcement Policy provides a calculation methodology to enable the State and Regional Water Board staff to fairly and consistently implement liability provisions of the CWC. The calculation methodology presented in the Enforcement Policy provides a consistent approach and analysis of factors to determine liability and complies with the applicable sections of the CWC. The Enforcement Team also considered the Section D.6 factors of the Sanitary Sewer Collection System Order.
29. The violations alleged herein and described in the Technical Report include both "discharge violations" to waters of the United States and "non-discharge violations" for purposes of considering section 13385 of the CWC and the Enforcement Policy's civil liability calculation methodology. The Technical Report provides a lengthy discussion of how the Enforcement Team arrived at its recommended administrative civil liability.
30. The staff report entitled *Technical Report for Noncompliance with Central Coast RWQCB Order No. R3-2009-0046 and State Water Resources Control Board Order No. 2006-0003-DWQ, "Statewide General Waste Discharge Requirements for Sanitary Sewer Systems", Unauthorized SSO occurring on December 19-20, 2010*, dated June 2012, is attached and incorporated herein, as well as all accompanying appendices.
31. As a required minimum, the economic benefit of \$177,209 plus 10% received by the Discharger must be recovered to comply with statutory requirements and deter future non-compliance, for a total of \$194,930. However, based on the considerations of the factors listed in CWC sections 13327 and 13385(e) and the liability methodology contained in the Enforcement Policy, the Prosecution Team recommends a proposed administrative civil liability of \$1,383,007.50 for violations of CWC section 13385(a)(2) and 13268.

32. This issuance of this Complaint is an enforcement action and is, therefore, exempt from the California Environmental Quality Act, pursuant to Title 14, California Code of Regulations, Section 15321.

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Michael Thomas  
Assistant Executive Officer

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Date

Attachments:

1. *Technical Report for Noncompliance with Central Coast RWQCB Order No. R3-2009-0046 and SWRCB Order No. 2006-0003-DWQ (Sanitary Sewer Collection System Order, Unauthorized SSO (sanitary sewer overflow) Occurring on December 19-20, 2010, dated June 2012, and accompanying appendices*