

State of California
California Regional Water Quality Control Board
Santa Ana Region

IN THE MATTER OF:

South Orange County Wastewater Authority)	
34156 Del Obispo Street)	Complaint No. R8-2008-0096
Dana Point, CA 92629)	for
Attn: Tom Rosales)	Administrative Civil Liability

YOU ARE HEREBY GIVEN NOTICE THAT:

2. The South Orange County Wastewater Authority (SOCWA) is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), may impose administrative civil liability pursuant to California Water Code Section 13350.
3. A hearing concerning this Complaint will be held before the Board within 90 days of the date of issuance of this Complaint, unless SOCWA waives its right to a hearing. Waiver procedures are specified on Page 5 of this Complaint. If the hearing on this matter is not waived, the hearing will be held during the Board's regular meeting on January 23, 2008 at the City Council Chambers, located at 25541 Barton Road in the City of Loma Linda, CA. SOCWA, or its representative, will have the opportunity to appear and be heard and to contest the allegations in this Complaint and the imposition of civil liability by the Board.
4. If a hearing is held on this matter, the Board will consider whether to affirm, reject, or modify the proposed administrative civil liability or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
5. SOCWA is alleged to have violated California Water Code Section 13350 which states:

"Any person ...in violation of any waste discharge requirements... [who] discharges waste, or causes or permits waste to be deposited where it is discharged, into the waters of the state... shall be liable civilly..."
5. This Complaint is based on the following:
 - A. SOCWA is a Joint Powers Authority with ten member agencies. It collects, transmits, treats and disposes of wastewater from its service areas that are mostly in the southern and southwestern portions of Orange County. SOCWA's service areas lie within the Santa Ana and San Diego Regional Boards' jurisdictions.

- B. SOCWA's operations within the Santa Ana Regional Board's jurisdiction are regulated under Order No. 94-3, "Waste Discharge and Producer User Reclamation Requirements for South Orange County Reclamation Authority." (SOCWA is the legal successor to South Orange County Reclamation Authority.)
- C. Prohibition A.4 of Order 94-3 specifies that reclaimed water shall not, "cause a surface flow recognizable as reclaimed water in any inland watercourse" or "cause a pollution, contamination, nuisance, or adversely affect the beneficial uses established in the Basin Plan for the ground or surface waters affected or potentially affected by the use of reclaimed water." Prohibition A.9 states, "Discharge of treated or untreated wastewater to any inland surface water bodies is prohibited."
- D. A portion of SOCWA's pressurized secondary-treated effluent transmission main (ETM) traverses Laguna Woods Golf Course, located at 24112 Moulton Parkway in Laguna Woods.
- E. Laguna Woods Golf Course contracted D.R.E. Power & Cabling (DRE) to install a communications conduit. The excavation activities included a 1,100-foot directional bore, and the base for a 16-foot security camera pole. These excavation activities required notification to the Underground Service Alert of Southern California (Dig Alert). Dig Alert forwards that information to parties that may have underground service lines in the proposed excavation area. If underground lines are present in the work area, the owner/operator of the underground lines must communicate that to the party doing the work.
- F. On July 19, 2007, DRE notified Dig Alert of proposed excavation activities at Laguna Woods Golf Course and delineated the area within which the work would be performed. The delineation included the directional bore areas and the area for the base of the security camera pole. Dig Alert forwarded the notice to service providers, including SOCWA. SOCWA had service lines in the area, but failed to respond to the notification. A Dig Alert notice should be provided at least two days prior to, and not more than fourteen days prior to, the start of excavation activities. If the work has not been completed, the Dig Alert Notice should be revalidated every 28 days. On August 13, 2007, DRE revalidated the Dig Alert notice. SOCWA received the revalidation notice and again did not respond to the notice. The revalidated Dig Alert notice was valid through September 10, 2007. DRE did not obtain further revalidation. On September 24, 2007, DRE performed excavation work in order to install the security camera pole, without valid notification to Dig Alert.
- G. DRE broke the ETM line during excavation activities on September 24, 2007. The line break resulted in the spill of approximately 55,000 gallons of undisinfected secondary treated effluent from SOCWA's ETM line into a storm drain that empties into Veeh Lake. SOCWA estimated the discharge rate at 733 gallons per minute and it lasted for 75 minutes. Veeh Lake, a reservoir of approximately 15 million gallons capacity, is tributary to San Diego Creek.

Pollutants associated with undisinfected secondary-treated effluent include bacteria, viruses and nutrients. The effluent that entered Veeh Lake was not captured or treated.

- H. Board staff investigations indicate that although DRE performed excavation work after its Dig Alert notification had expired, the ETM line break was caused by the lack of response by SOCWA staff to both DRE’s initial Dig Alert notice and its revalidation notice.
- 6. SOCWA does not have authorization to discharge undisinfected secondary treated effluent to any inland surface water bodies. The unauthorized discharge of wastewater was in violation of SOCWA’s Waste Discharge Requirements and is therefore a violation of California Water Code Section 13350.
- 7. Pursuant to California Water Code Section 13350(e) the Board can administratively assess civil liability on a per day (\$5,000/day) or a per gallon basis (\$10/gallon).
- 8. In accordance with Water Code §13350(e), the maximum liability for the violations cited is \$550,000 based on an assessment of \$10/gallon.
- 9. By not responding to the Dig Alert notices, SOCWA did not recognize any significant cost savings. Regional Board staff costs for investigating this incident are approximately \$6,652.
- 10. CWC §13327 specifies factors that the Board shall consider in establishing the amount of civil liability. These factors are addressed in the following table.

Factor	Comment
A. Nature, Circumstance, Extent, and Gravity of Violation	SOCWA discharged 55,000 gallons of undisinfected secondary treated effluent from its effluent transmission main to Veeh Lake. Pollutants associated with undisinfected secondary treated effluent include bacteria, viruses and nutrients. These discharges occurred because SOCWA staff failed to adequately review and respond to the Dig Alert notices.
B. Cleanup or Abatement	No cleanup or abatement measures were enacted for the discharge to Veeh Lake.
C. Degree of Toxicity	Pollutants associated with undisinfected secondary treated effluent include bacteria, viruses and nutrients. Board staff did not collect any samples to determine the degree of toxicity of the discharge.

D. Ability to Pay	Board staff has no information to indicate that SOCWA would be unable to pay the proposed assessment.
E. Ability to Continue in Business	Board staff has no information to indicate that SOCWA would be unable to continue in business as a result of the proposed assessment.
F. Voluntary Cleanup Efforts	SOCWA did not voluntarily enact cleanup for the effluent discharged to Veeh Lake.
G. Prior History of Violations	SOCWA does not have any prior history of violations.
H. Culpability	SOCWA received proper initial notifications regarding excavation work to be performed by DRE. The discharge could have been prevented through a proper review and response to the Dig Alert notices. SOWCA is therefore culpable for the discharges.
I. Economic Benefit or Savings	By not responding to the Dig Alert notices, SOCWA did not recognize any significant cost savings.
J. Other Factors	Board staff spent 63 hours on the investigation and response to the release that occurred on September 24, 2007.

11. After consideration of the above factors, the Assistant Executive Officer proposes that civil liability be imposed on South Orange County Wastewater Authority in the amount of \$11,000 for the violations cited above. This amount is based on the following:
- a. 55,000 gallons of undisinfected secondary treated effluent @ \$0.20 per gallon

WAIVER OF HEARING

SOCWA may waive its right to a hearing. If you choose to do so, please sign the attached waiver form and return it, together with a check for \$11,000 payable to the State Water Resources Control Board, in the enclosed preprinted envelope. If you waive your right to a hearing and pay the assessed amount, the Regional Board may not hold a hearing regarding this complaint.

If you have any questions, please contact Stephen D. Mayville at (951) 782-4992.

12/5/08
 Date


 Kurt V. Berchtold
 Assistant Executive Officer

South Orange County Wastewater Authority)
34156 Del Obispo Street)
Dana Point, CA 92629)
Attn: Tom Rosales)

Complaint No. R8-2008-0096
for
Administrative Civil Liability

WAIVER OF HEARING

I agree to waive the right of South Orange County Wastewater Authority to a hearing before the Santa Ana Regional Water Quality Control Board with regard to the violations alleged in Complaint No. R8-2008-0096. I have enclosed a check, made payable to the State Water Resources Control Board, in the amount of \$11,000. I understand that I am giving up the right of South Orange County Wastewater Authority to be heard and to argue against allegations made by the Assistant Executive Officer in this complaint, and against the imposition of, and the amount of, the liability proposed.

Date

for South Orange County Wastewater Authority