CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
REGION 9, SAN DIEGO REGION

ORDER R9-2007-0005

WASTE DISCHARGE REQUIREMENTS
FOR SEWAGE COLLECTION AGENCIES
IN THE SAN DIEGO REGION

The California Regional Water Quality Control Board, San Diego Region (hereinafter Regional Board), finds that:

1. **STATEWIDE GENERAL WASTE DISCHARGE REQUIREMENTS:** State Water Resource Control Board (State Board) Order No. 2006-0003-DWQ, *Statewide General Waste Discharge Requirements for Sanitary Sewer Systems*, adopted by the State Board on May 2 2006, establishes minimum requirements to prevent sanitary sewer overflows (SSOs) from publicly owned/ operated sanitary sewer system. Order No. 2006-0003-DWQ is the primary regulatory mechanism for sanitary sewer systems statewide, but allows each regional board to issue more stringent or more prescriptive Waste Discharge Requirements (WDRs) for sanitary sewer systems within their respective jurisdiction.

2. **ENROLLMENT UNDER ORDER NO. 2006-0003-DWQ:** In accordance with Order No. 2006-0003-DWQ, all federal and state agencies, municipalities, counties, districts, and other public entities that own, operate, acquire, or assume responsibility for 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 are required to apply for coverage under the general WDRs.

3. **ORDER No. 96-04**: On May 9, 1996, this Regional Board adopted Order No. 96-04, *General Waste Discharge Requirements Prohibiting Sanitary Sewer Overflows by Sewage Collection Agencies*, prohibiting the discharge of sewage from a sanitary sewer system at any point upstream of a sewage treatment plant. Each Sewage Collection Agency currently regulated under Order No. 96-04 is required to obtain enrollment under the State Board Order No. 2006-0003-DWQ.

4. **SAN DIEGO REGION SANITARY SEWER OVERFLOW REGULATIONS:** Order No. 96-04 has been an effective regulatory mechanism in reducing the number and magnitude of sewage spills in the Region. The Order is more stringent and prescriptive than Order No. 2006-0003-DWQ in that Order No. 2006-0003-DWQ may allow some SSOs that are currently prohibited under Order No. 96-04. In order to maintain regulation of Sanitary Sewer Systems in the San Diego Region consistent with the provisions of Order No. 96-04, this Order reaffirms the prohibition on all SSOs upstream of a sewage treatment plant. This strict prohibition implements the requirements contained in the Basin Plan, California Water Code, and Federal Clean Water Act.

5. **CONSISTENT REGIONAL REQUIREMENTS:** The regulation of all Sewage Collection Agencies will be consistent within the San Diego Region by requiring agencies such as California Department of Corrections; California State University, San Marcos; San Diego State University; and University of California, San Diego, which have not been regulated under Order No. 96-04, to comply with Regional Board requirements that augment State Board Order No. 2006-0003-DWQ.

6. **BASIN PLAN**: The Regional Board adopted a Water Quality Control Plan for the San Diego Basin (hereinafter Basin Plan) on September 8, 1994. The Basin Plan was subsequently approved by the State Board on December 13, 1994. Subsequent revisions to the Basin Plan have also been adopted by the Regional Board and approved by the State Board. The Basin Plan designates beneficial uses, narrative, and numerical water quality objectives, and prohibitions which are applicable to the discharges prohibited under this Order.

7. **PROHIBITIONS CONTAINED IN BASIN PLAN**: The Basin Plan contains the following prohibitions which are applicable to the discharges prohibited under this Order:

   a. "The discharge of waste to waters of the state in a manner causing, or threatening to cause a condition of pollution, contamination, or nuisance as defined in California Water Code Section 13050, is prohibited."

   b. "The discharge of treated or untreated waste to lakes or reservoirs used for municipal water supply, or to inland surface water tributaries thereto, is prohibited."

   c. "The discharge of waste to inland surface waters, except in cases where the quality of the discharge complies with applicable receiving water quality objectives, is prohibited. ..."

   d. "The dumping, deposition, or discharge of waste directly into waters of the state, or adjacent to such waters in any manner which may permit its being transported into the waters, is prohibited unless authorized by the Regional Board."

   e. "The unauthorized discharge of treated or untreated sewage to waters of the state or to a storm water conveyance system is prohibited."

   f. "The discharge of waste to land, except as authorized by waste discharge requirements or the terms described in California Water Code Section 13264 is prohibited."

   g. "The discharge of waste in a manner causing flow, ponding, or surfacing on lands not owned or under the control of the discharger is prohibited, unless the discharge is authorized by the Regional Board."

8. **PORTER-COLOGNE WATER QUALITY CONTROL ACT (CALIFORNIA WATER CODE, DIVISION 7):** California Water Code Section 13243 provides that a Regional Board, in establishing waste discharge requirements, may specify certain conditions or areas where the discharge of waste, or certain types of waste, is prohibited. California Water Code 13260 prohibits the discharge of waste to land prior to the filing of a required report of waste discharge and the subsequent issuance of either WDRs or a waiver of WDRs. California Water Code 13264 prohibits discharge of waste absent a report of waste discharge and waste discharge requirements.

9. **FEDERAL CLEAN WATER ACT:** The Federal Clean Water Act largely prohibits any discharge of pollutants from a point source to waters of the United States except as authorized under an NPDES permit. In general, any point source discharge of sewage effluent to waters of the United States must comply with technology-based, secondary treatment standards, at a minimum, and any more stringent requirements necessary to meet applicable water quality standards and other requirements. Hence, the unpermitted discharge of wastewater from a sanitary sewer system to waters of the United States is illegal under the Clean Water Act. Furthermore, the Code of Federal Regulation requires proper operation and maintenance of all POTW facilities including collection systems, which results in prevention of SSOs.

10. **RESCISSION OF ORDER No. 96-04:** Order No. 96-04 can be rescinded after all of the Sewage Collection Agencies regulated under Order No. 96-04 have obtained coverage under Order No. 2006-0003-DWQ.

11. **PRIVATE LATERAL SEWAGE DISCHARGES REPORTING:** Order No. 96-04 does not require Sewage Collection Agencies to report Private Lateral Sewage Discharges. Over the past several years, however, this Regional Board has been tracking the number of Private Lateral Sewage Discharges based on courtesy reports from the Sewage Collection Agencies. Duringthe period from July 2004 through June 2006, a total of 268 Private Lateral Sewage Discharges were reported by the Agencies. Duringsome of those months, more Private Lateral Sewage Discharges were reported than public SSOs. Because the Agencies are not required to report Private Lateral Sewage Discharges, it is not known if the numbers reported fully represent the number and locations of Private Lateral Sewage Spills in the Region.

Finding Nos. 2, 3, and 4 of State Board Order No. 2006-0003-DWQ pertaining to causes of SSOs and the potential threat to water quality resulting from SSOs are also applicable to Private Lateral Sewage Discharges. Because Private Lateral Sewage Discharges are numerous and are a potential threat to public health and the environment, there is a need to have a reliable reporting system for Private Lateral Sewage Discharges for similar reasons as the public SSOs. Although sewage collection agencies are not responsible for the cause, cleanup, or repair of Private Lateral Sewage Discharges, sewage collection agencies are typically notified and/or are the first responders to Private Lateral Sewage Discharges. Consequently, requiring the sewage collection agencies to report all known Private Lateral Sewage Discharges is reasonable and a first step toward development of a regulatory approach for reducing Private Lateral Sewage Discharges in the San Diego Region.

12. **PERMITTING FEES:** This Order will serve as additional requirements to the State Board Order No. 2006-0003-DWQ. Sewage Collection Agencies that are covered and pay the fees under State Board Order No. 2006-0003-DWQ (or orders that supersede 2006-0003-DWQ) will not be required to pay for fees under this Order No. R9-2007-0005.

13. **CALIFORNIA ENVIRONMENTAL QUALITY ACT:** The action to adopt this Order is exempt from the California Environmental Quality Act (Public Resources Code §21000 et seq.) because it is an action taken by a regulatory agency to assure the protection of the environment and the regulatory process involves procedures for protection of the environment. (Cal. Code Regs., tit. 14, §15308). In addition, the action to adopt this Order is exempt from CEQA pursuant to Cal.Code Regs., title 14, §15301 to the extent that it applies to existing sanitary sewer collection systems that constitute "existing facilities" as that term is used in Section 15301, and §15302, to the extent that it results in the repair or replacement of existing systems involving negligible or no expansion of capacity.

14. **PUBLIC NOTICE:** The Regional Board has notified all known interested persons and the public of its intent to consider adoption of this Order. Interested persons and the public have had reasonable opportunity to participate in review of the proposed Order.

15. **PUBLIC HEARING:** The Regional Board has considered all comments pertaining to this Order submitted to the Regional Board in writing, or by oral presentations at the public hearing held on February 14, 2007.

IT IS HEREBY ORDERED, that all Sewage Collection Agencies within the San Diego Region, in order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted thereunder, shall comply with the following, in addition to the State Water Resource Control Board Order No. 2006-0003-DWQ (or orders that supersede 2006-0003-DWQ) and its addenda (hereinafter referred to as State Board Order):

A. Definitions

1. For purposes of this Order, a Sewage Collection Agency shall mean an "enrollee", as defined in the State Board Order, within the boundaries of the San Diego Region.

B. Prohibition

1. The discharge of sewage from a sanitary sewer system at any point upstream of a sewage treatment plant is prohibited.

C. Monitoring and Reporting Program Requirements

1. Each Sewage Collection Agency shall report all SSOs in accordance with the Monitoring and Reporting Program No. 96-04 until the Sewage Collection Agency notifies the Regional Board that they can successfully report the SSOs to the State Board Online SSO System. The notification shall be a letter signed and certified by a person designated, for a municipality, state, federal or other public agency, as either a principal executive officer or ranking elected official.

2. For Category 1 (as defined in State Board Monitoring and Reporting Program No. 2006-0003-DWQ) SSOs, the Sewage Collection Agency shall provide notification of the SSO to the Regional Board by phone, email, or fax within 24 hours after the Sewage Collection Agency becomes aware of the SSO, notification is possible, and notification can be provided without substantially impeding cleanup or other emergency measures. The information reported to the Regional Board shall include the name and phone number of the person reporting the SSO, the responsible sewage collection agency, the estimated total sewer overflow volume, the location of the SSO, the receiving water (if any), the start date/time of the SSO (if known), the end date/time of the SSO (or whether or not the sewer overflow is still occurring at the time of the report), and confirmation that the local health services agency was or will be notified as required under the reporting requirements of the local health services agency.

3. The Sewage Collection Agency shall provide notification of all Private Lateral Sewage Discharges (as defined in the State Board Order), for which they become aware of, that equal or exceed 1,000 gallons; result in a discharge to a drainage channel and/or surface water; and/or discharge to a storm drainpipe that was not fully captured and returned to the sanitary sewer system, to the Regional Board by phone or fax within 24 hours after the Sewage Collection Agency becomes aware of the Private Lateral Sewage Discharge, notification is possible, and notification can be provided without substantially impeding cleanup or other emergency measures. The information reported to the Regional Board shall include the following information, if known: the name and phone number of the person reporting the Private Lateral Sewage Discharge, the service area where the Private Lateral Sewage Discharge occurred, the responsible party (other than the Sewage Collection Agency, if known), the estimated Private

Lateral Sewage Discharge volume, the location of the Private Lateral Sewage Discharge, the receiving water (if any), the start date/time of the Private Lateral Sewage Discharge, the end date/time of the Private Lateral Sewage Discharge (or whether or not the sewer overflow is still occurring at the time of the report), and confirmation that the local health services agency was or will be notified as required under the reporting requirements of the local health services agency.

4. The following requirement supersedes the Private Lateral Sewage Discharge Reporting Timeframe for Private Lateral Sewage Discharges in the State Board Monitoring and Reporting Program No. 2006-0003-DWQ: For Private Lateral Sewage Discharges that occur within a Sewage Collection Agency's service area and that a Sewage Collection Agency becomes aware of, the Sewage Collection Agency shall report the Private Lateral Sewage Discharge to the State Board Online SSO Database within 30 days after the end of the calendar month in which the Private Lateral Sewage Discharge occurs. The Sewage Collection Agency must identify the sewage discharge as occurring and caused by a private lateral, and a responsible party (other than the Sewage Collection Agency) should be identified, if known. The Sewage Collection Agency will not be responsible for the cause, cleanup, or repair of Private Lateral Sewage Discharges, but only the reporting of those within their jurisdiction and for which they become aware of.

D. Notification

1. Upon completion with Monitoring and Reporting Program Requirement C.1, the Regional Board will give written notice to the Sewage Collection Agency stating that regulation of the Sewage Collection Agency under Order No. 96-04 is terminated.

2. Order No. 96-04 is rescinded once regulation of all Sewage Collection Agencies under Order No. 96-04 is terminated. The Regional Board will give written notice to all of the Sewage Collection Agencies stating that all Sewage Collection Agencies under Order No. 96-04 was terminated and, thus, Order 96-04 is rescinded.

I, John Robertus, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of Order No. 2007-0005 adopted by the California Regional Water Quality Control Board, San Diego Region on February 14, 2007.

JOHN H. ROBERTUS
Executive Officer

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