

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

INVESTIGATIVE ORDER NO. R9-2011-0040

AN ORDER DIRECTING THE CITY OF LA MESA
TO SUBMIT A TECHNICAL REPORT PERTAINING TO INVESTIGATION OF THE
DISCHARGE OF UNTREATED SEWAGE TO ALVARADO CREEK AND CHOLLAS
CREEK AT FOUR SEPARATE LOCATIONS ON DECEMBER 21, 2010, CITY OF LA
MESA, SAN DIEGO COUNTY

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

1. **Legal and Regulatory Authority:** The San Diego Water Board is responsible for enforcement of waste discharge requirements and implementation of the *Water Quality Control Plan for the San Diego Basin* (Basin Plan). This Order is based in part on (1) sections 13260, 13267 and 13304 of the California Water Code (Water Code); (2) applicable state and federal regulations; (3) the Basin Plan adopted by the San Diego Water Board; (4) State Water Resources Control Board (State Water Board) policies and regulations, including State Water Board Resolution No. 68-16 (*Statement of Policy with Respect to Maintaining High Quality of Waters in California*); and (5) relevant standards, criteria, and advisories adopted by other state and federal agencies.
2. **Waste Discharge Requirements:** The City of La Mesa (hereinafter the City) sewage collection system is regulated by State Water Board Order No. 2006-0003-DWQ, *Statewide Waste Discharge Requirements for Sanitary Sewer Systems*, and San Diego Water Board Order No. R9-2007-0005, *Waste Discharge Requirements for Sewage Collection Agencies in the San Diego Region*.
3. **Persons Responsible for the Discharge of Wastes:** The City owns and operates its sewage collection system. The system is comprised of approximately 155 miles of gravity sewer lines.
4. **Discharge of Untreated Sewage:** During a six day storm event (December 17 – 23, 2010) the City of La Mesa received approximately 7.68 inches of rain, the equivalent of a 40 year storm event.¹ In total 1,314,700 gallons of untreated sewage was discharged to surface waters within the City on December 21, 2010. A total of 306,700 gallons of sewage was discharged to Alvarado Creek and 1,008,000 gallons was discharged to Chollas Creek. The City reported the following information about four discharges of raw sewage which all occurred on December 21, 2010:

¹ Rainfall data provided by the County of San Diego Hydrology Section in an email to Christopher Means (SDRWQCB) from Cid Tesoro, County of San Diego Department of Public Works dated January 20, 2011.

- a. At 10:00 a.m. on December 21, 2010 the City became aware of a sewage spill from a gravity sewer line in the vicinity of Parkway Drive and Guessman Avenue. The City reported that approximately 293,200 gallons of untreated sewage discharged into the storm drain system and Alvarado Creek. The City reported that the cause of the spill was that rainfall exceeded the collection system's design. The discharge ended at 9:00 p.m. the same day.
 - b. At 2:00 a.m. on December 21, 2010 the City became aware of a sewage spill from a gravity sewer line in the vicinity of Severin Drive and Gregory Street. The City reported that approximately 13,500 gallons of untreated sewage discharged into the storm drain system and Alvarado Creek. The City reported that the cause of the spill was that rainfall exceeded the collection system's design. The discharge ended at 11:00 a.m. the same day.
 - c. At 10:00 a.m. on December 21, 2010 the City became aware of a sewage spill from a gravity sewer line in the vicinity of Parks Avenue and Normal Avenue. The City reported that approximately 18,000 gallons of untreated sewage discharged into the storm drain system and Chollas Creek. The City reported that the cause of the spill was that rainfall exceeded the collection system's design. The discharge ended at 9:00 p.m. the same day.
 - d. At 7:30 a.m. on December 21, 2010 the City became aware of a sewage spill from a gravity sewer line in the vicinity of the 7100 block of University Avenue. The City reported that approximately 990,000 gallons of untreated sewage discharged into the storm drain system and Chollas Creek. The City reported that the cause of the spill was that rainfall exceeded the collection system's design. The discharge ended at 9:30 p.m. the same day.
5. **Impacted Surface Waters:** Alvarado Creek is a highly channelized tributary to the San Diego River which runs parallel to Interstate 8. Untreated sewage entered the City's storm drain system and discharged to Alvarado Creek, continuing on to the San Diego River and the Pacific Ocean. Chollas Creek is a highly urbanized creek and a direct tributary to San Diego Bay.
 6. **San Diego Water Board Notification:** The San Diego Water Board was first notified of the discharges by phone at 11:05 a.m. on December 21, 2010.
 7. **Violation of Order No. 2006-0003-DWQ:** The discharges of raw sewage described in Finding No. 4 of this Order is a violation of Prohibition C.1 of State Water Board Order No. 2006-0003-DWQ, *Statewide General Waste Discharge Requirements for Sanitary Sewer Systems*, which prohibits the discharge of untreated or partially treated wastewater to waters of the United States.

8. **Violation of Order No. R9-2007-0005:** The discharges of raw sewage described in Finding No. 4 of this Order is a violation of Prohibition B.1 of San Diego Water Board Order no. R9-2007-0005, *Waste Discharge Requirements for Sewage Collection Agencies in the San Diego Region*, which prohibits the discharge of sewage from a sanitary sewer system at any point upstream of a sewage treatment plant.
9. **Potential Impacts of the Discharge:** Untreated sewage contains a mixture of pollutants and high levels of pathogenic organisms, which could potentially transmit diseases to ecological receptors. Consequently, a discharge of untreated sewage has the potential to adversely affect public health, adversely affect animal and plant life, pollute surface water and/or groundwater, and cause a public nuisance, particularly when untreated sewage is discharged to areas with high public exposure.
10. **Basis for Requiring Reports:** Water Code section 13267 provides that the San Diego Water Board may require dischargers, past dischargers, or suspected dischargers to furnish technical or monitoring reports as the San Diego Water Board may specify, provided that the burden, including costs, of these reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. In requiring those reports, the San Diego Water Board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.
11. **Need for and Benefit of a Technical Report:** A technical report is needed to enable the San Diego Water Board to effectively evaluate the nature, circumstances, extent, and impacts of the illicit discharges of sewage. The burden of providing the required report bears a reasonable relationship to the need for the report and the benefits to be obtained from the report.
12. **California Environmental Quality Act (CEQA) Compliance:** This Order is exempt from the following provisions of the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.): enforcement actions taken for the protection of the environment are exempted in accordance with section 15308, Chapter 3, Title 14 of the California Code of Regulations (CCR); enforcement actions taken by a regulatory agency are exempted by the provisions of CEQA pursuant to section 15321(a) (2), Chapter 3, Title 14 of the CCR. This action is also exempt from the provisions of CEQA in accordance with section 15061(b) (3) of Chapter 3, Title 14 of the CCR because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.
13. **Qualified Professionals:** Qualified professionals are necessary for preparing the technical report required by this Order in order to ensure that information presented in the report is reliable and accurate. Professionals should be qualified, licensed where applicable, and competent and proficient in fields pertinent to the required activities.

14. **Cost Recovery:** Pursuant to Water Code section 13304, and consistent with other statutory and regulatory requirements, including not but limited to Water Code section 13365, the San Diego Water Board is entitled to, and will seek reimbursement for, all reasonable costs actually incurred by the San Diego Water Board to investigate unauthorized discharges of waste and to oversee cleanup of such waste, abatement of the effects thereof, or other remedial action, required by this Order.

IT IS HEREBY ORDERED, that pursuant to sections 13267 and 13304 of the California Water Code, the City of La Mesa is required to submit a technical report by **5:00 pm on May 6, 2011** presenting results of an investigation of the unauthorized discharges of sewage that occurred on December 21, 2010. The technical report must comply with the directives of this Order and include the following information:

A. CONTENTS OF THE TECHNICAL REPORT

Causes and Circumstances of the Discharge

1. A complete, detailed explanation of how and when the discharges of untreated sewage from the gravity sewer mains were discovered.
2. Diagrams showing the location of the sewage discharge points, including the storm drain systems where the sewage entered and the flow path to the point where the raw sewage entered receiving waters.
3. A detailed report of the total volume of untreated sewage discharged, including the methods and assumptions used in making the determination, including tabular and graphical summaries of the City's daily total influent flows to the Point Loma Wastewater Treatment Facility.
4. A detailed description of the cause(s) for each of the sewage spills, including any analyses or forensic studies performed by the City or its consultants to determine inadequacies in the collection system's capacity and design.
5. Copies of any City inspection reports/photo documentation relating to the four sewage discharges.

Response to the Discharge

6. A detailed chronological description of all actions taken by the City to investigate, terminate and mitigate the impacts from the discharges. The narrative must include an evaluation of the results of these actions.
7. A copy of the City's Sanitary Sewer Management Plan (SSMP) prepared in accordance with Order No. 2006-0003-DWQ. Please describe how the *Overflow Emergency Response Plan* (Section 6 of SSMP) was implemented during the course of the sewage spills. Your response must include a description of any changes/improvements that will be made in the *Overflow Emergency Response Plan* to more effectively respond to future sewage spills.

8. A discussion of any recent training provided to City staff on overflow emergency response measures.
9. A detailed discussion of the *System Evaluation and Capacity Assurance Plan* developed by the City and prepared in accordance with Sections 8 of Order No. 2006-0003-DWQ SSMP requirements. The discussion should include, but not be limited to all required evaluations, design criteria, capacity enhancement measures and capital improvement projects/schedules prepared per Sections 8.a – 8.d of the plan. Your response must include a description of any changes/improvements that will be made in the *System Evaluation and Capacity Assurance Plan* to minimize future sewage spills.
10. A detailed discussion of any additional measures the City plans to take to limit inflow/infiltration into the sanitary sewer system as a result of the December 2010 spills.

Monitoring and Analysis

11. A description of all water quality sampling activities conducted by or on behalf of the City associated with the sewage spills, analytical results, and an evaluation of the results.
12. A description of the City's accelerated or additional monitoring provisions developed as part of the Overflow Emergency Response Plan in the City's SSMP (Section 6.f).
13. A detailed location map for the water quality sampling and reference points.
14. Characterization of the quality of the City's influent to the Point Loma Wastewater Treatment Plant for the following chemical constituents: total nitrogen, total dissolved solids, chloride, sulfate, iron, manganese and biological oxygen demand.

Impacts of the Discharge

15. An assessment of the potential short and long term impacts of the discharge on public health, animal and plant communities (including sensitive and/or endangered species), and on the overall ecosystem downstream of the discharge. The assessment must include:
 - a. A summary of all threatened and endangered species located downstream of the spill sites within Alvarado Creek and Chollas Creek.
 - b. A description of all observations and sampling activities conducted by or on behalf of the City associated with potential short-term and long-term impacts to human health, vegetation and wildlife from the spill and an evaluation of these impacts.

This assessment must be prepared by a technical professional qualified to evaluate the short and long term impacts of the discharges on ecological receptors.

Additional Information

16. Any other pertinent information that will assist the San Diego Water Board in evaluating the nature, circumstances, extent, and impacts of the discharges.

B. PROVISIONS

1. **Use of Registered Professionals:** The City shall provide documentation that any reports required under this Order were prepared under the direction of appropriately qualified professionals. In preparing the technical report required by this Order, any engineering or geologic evaluations and judgments must be performed by or under the direction of registered professionals. A statement of qualifications and registration numbers of the responsible lead professional shall be included in the report submitted by the City. The lead professional shall sign and affix their registration stamp to the report.
2. **Use of Qualified Technical Professionals:** The City shall ensure that plans and reports, required under this Order, are prepared under the direction of technical professionals who are appropriately qualified to evaluate short and long term impacts to ecological receptors.
3. **Laboratory Qualifications:** Unless otherwise permitted by the San Diego Water Board, all analyses shall be conducted at a laboratory certified to perform such analyses by the California Department of Public Health (CDPH).
4. **Laboratory Analytical Reports:** Any report presenting new analytical data is required to include the complete laboratory analytical report(s). The laboratory analytical report must be signed by the laboratory director and contain:
 - a. Complete sample analytical report.
 - b. Complete laboratory quality assurance/quality control (QA/QC) report.
 - c. Discussion of the QA/QC data, and
 - d. A transmittal letter that shall indicate whether or not all the analytical work was supervised by the director of the laboratory, and contain the following statement, "All analyses were conducted at a laboratory certified for such analyses by the CDPH in accordance with current procedures approved by the United States Environmental Protection Agency."

5. **Analytical Methods:** Specific methods of analysis must be identified in the City's monitoring reports. If the City proposes to use methods or test procedures other than those included in the most current version of 40 CFR, Part 136, "*Guidelines Establishing Test Procedures for the Analysis of Pollutants; Procedures for Detection and Quantification*", and State Water Board SWAMP Bioassessment Standard Operating Procedures (SOP's),² then the exact methodology must be submitted for review and approval by the San Diego Water Board prior to use.
6. **Signatory Requirements:** All reports required under this Order shall be signed and certified by either a principal executive officer or ranking elected official or the person with overall responsibility for environmental matters for that municipality.

Certification Statement: Any person signing a document under this provision shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

7. **Report Submittal:** All reports required under this Order shall be submitted to the following address:

Assistant Executive Officer
California Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340

C. COST RECOVERY

Upon receipt of invoices, and in accordance with instructions therein, the City must reimburse the San Diego Water Board for all reasonable costs actually incurred by the San Diego Water Board to investigate unauthorized discharges of waste and to oversee cleanup of such waste, abatement of the effects thereof, or other remedial action, required by this Order.

² SWAMP SOP's for benthic macroinvertebrate samples and stream algae samples can be obtained at: <http://swamp.mpsl.mlml.calstate.edu/resources-and-downloads/standard-operating-procedures>.

D. NOTIFICATIONS

1. **Enforcement Discretion:** The San Diego Water Board reserves its right to take any enforcement action authorized by law for violations of the terms and conditions of this Order.
2. **Enforcement Notification:** Water Code section 13268 (a) (1) provides that any person failing or refusing to furnish technical or monitoring report information as required by Water Code section 13267(b), or falsifying any information provided therein, is guilty of a misdemeanor and may be liable civilly for an administratively imposed liability of up to \$1,000 per day for each day compliance is not achieved with an Order issued in accordance with subdivision 13268(b).
3. **Requesting Administrative Review by the State Water Board:** Any person affected by this action of the San Diego Water Board may petition the State Water Board to review the action in accordance with section 13320 of the Water Code and CCR Title 23 section 2050. The petition must be received by the SWRCB (Office of Chief Counsel, P.O. Box 100, Sacramento, California 95812) within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request.



JAMES G. SMITH
Assistant Executive Officer

28 Mar 11
Date

JGS: jh: cm

CIWQS Place ID	631922
Reg. Measure No	378046
Party ID	32484
Violation IDs	887799
	887805
	887806
	887804
SSO Event IDs	759733
	759739
	759740
	759737