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

IN THE MATTER OF:

City of Riverside	)	Complaint No. R8-2007-0047
3900 Main Street	)	for
Riverside, CA 92522	)	Administrative Civil Liability
Attn: Siobhan Foster	)	

YOU ARE HEREBY GIVEN NOTICE THAT:

1. The City of Riverside (City) 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 13385.

2. A hearing concerning this Complaint will be held before the Board within 90 days of the date of issuance of this Complaint, unless the City waives its right to a hearing. Waiver procedures are specified in Paragraph 11 of this Complaint. If the hearing on this matter is not waived, the hearing will be held during the Board's regular meeting on September 7, 2007 at the City Council Chambers, 25541 Barton Road, Loma Linda, California. The City, 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.

3. 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.

4. The City is alleged to have violated California Water Code Section 13376 by allowing or causing waste (in this case, raw sewage) to be discharged to waters of the United States, without first filing a report of waste discharge, in accordance with California Water Code Section 13260.

5. This Complaint is based on the following allegations by Board staff:

   A. The City owns and operates the Wood Road Sewage Lift Station, located at 7802 Wood Road, in the City of Riverside. This location is just west of Trautwein Road in the Woodcrest area of the City. The lift station is designed to collect sanitary wastes (raw sewage) from the surrounding areas and convey it to the City's publicly owned treatment works (POTW), located at 5950 Acorn Street, in the City of Riverside. Until April 21, 2006, the City discharged treated effluent from the POTW in accordance with waste discharge requirements authorized by Board Order No. 01-03 (Order No. 01-03 has been renewed in 2006 by Order No. R8-2006-0009).

   B. At about 2:10 p.m. on Saturday, October 1, 2005, a sewage overflow began from a nearby manhole to the Wood Road Lift Station due to an electrical/mechanical failure of the pump station. Based on the City's estimates, from 2:10 p.m. until 11 p.m. that night (530 minutes), approximately 388,000 gallons of raw sewage overflowed from the nearby manhole. Board staff believes that a series of errors and omissions by the City ultimately led to this spill. In the early 1990s, the City installed four pumps with variable frequency drives (VFD) at the lift station; one primary and three back-up pumps. Each of the four pumps was capable of handling the entire flow at any given time. The manufacturer of the VFDs went out of business soon after the VFDs were installed. The lift station is also equipped with a back-up power generator and redundant communication systems. In 2003, after one of the pumps failed, the City decided to utilize that pump for spare parts for the other three pumps. That left three operational pumps. The City's October 6, 2005 Wood Road Lift Station Maintenance Review indicates that the City was fully aware of the problems at this lift station since its overhaul in the early 1990s. In October 2004 (approximately one year prior to the spill), a second pump failed. That pump was sent out for repairs. This pump was repaired and was physically installed at the Wood Road Lift Station on 9/15/05, but not wired in. At the time of the October 1, 2005 spill, this newly repaired pump was still not connected to the electrical panel. That left two operational pumps at the lift station. The City's collection system staff were also aware of the reliability issues with the primary operating pump prior to the October 1, 2005 spill incident. On October 1, 2005, when the primary pump failed due to a motor malfunction, the remaining operational pump (the only remaining backup) started up. Due to a buildup of sediment in the pump, wastewater was being forced against a closed inoperable check valve on the outlet side of the pump, which led to the failure of several capacitors that control power to that pump. This caused the second pump to fail and sewage to spill from a nearby manhole. If the City crew had followed proper maintenance procedures, the second pump would not have failed. The maintenance person was supposed to run the pump for a

few minutes several times a week to flush sediments out and to ensure that the pump was operational. In a letter from the City of Riverside, dated October 14, 2005, in which the circumstances of the spill were explained, the City indicated that the maintenance person had experienced problems with the pump and that internal communication problems and a lack of proper training for field crew contributed to this problem. In addition, the first pump that failed on October 1, 2005 had over 13,000 hours of run time on it, which is generally considered as excessive for this kind of equipment.

C. The City responded to the spill and recovered approximately 123,500 gallons of the spilled sewage. The remaining 264,500 gallons of sewage entered a nearby arroyo and flowed, along with urban runoff, to the Alessandro Flood Control Basin/Dam (Alessandro Basin) approximately 3 miles downstream (to the northwest). According to Riverside County Flood Control District staff, the outlet of this basin is normally kept open. However, at the time of this spill, this outlet was partially blocked due to sediment buildup and debris. According to information provided by the City, most of the sewage that entered the Alessandro Basin exited the basin through the outlet valve and was ultimately discharged into the Santa Ana River through a three mile-long storm drain pipe. The Santa Ana River is a water of the United States.

D. During Saturday evening (October 1, 2005 at approximately 8:10 p.m.) after making other agency notifications, City staff attempted to contact the Riverside County Flood Control District (District, owner/operator of the Alessandro Basin) by leaving a voice-mail message using an after-hours phone number. However, no direct contact was made with District staff until October 11th (10 days after the spill). The City indicated that it did not make any attempt to contain the spilled sewage either in the arroyo (because of the topography and ecological concerns) or in the Alessandro Basin (because of high volume of background flow).

E. According to information gathered during an investigation by Board staff, on September 28, 2005, (three days prior to the spill), the District had cleared the outlet structure of the Basin as part of the District's annual routine maintenance program. On Sunday, October 2, 2005 (the day after the spill), City staff (including the City Incident Commander from Saturday) who were posting the basin, observed approximately 10 to 12 feet of sewage combined with urban runoff in the basin behind the dam at its deepest point. On October 3 and 6, 2005, in response to calls about rising water levels, District maintenance staff went to the Alessandro Basin and cleared debris and sediment blocking the exit pipe, returning the Basin to its normal outflow. In any case, City staff did not make any attempt to recover the sewage that was already mixed with urban runoff from the Basin. The City revisited the Basin only on October 11 (ten days after the

spill), at which time they observed the Basin's normal outflow capacity restored. During a meeting on January 11, 2007, Board staff provided a copy of the preliminary investigation findings to City staff. In a letter dated February 2, 2007, the City responded to these preliminary findings. In the February 2, 2007 letter, the City reiterated their observation that indicated most of the spilled sewage had flowed through the Basin in the days following the spill.

F. During Board staff's investigation of the incident, the City's Incident Commander indicated that the City did not have a written spill response plan or a contingency response plan in existence, and the City had not provided training to staff to respond to a spill incident of the order of magnitude that occurred from Wood Road on October 1, 2005. However, in their February 2, 2007 letter, the City indicated that they had provided extensive training to staff and there were written procedures for responding to sewage spills. The City's letter also pointed out that site-specific spill containment for spills into arroyos was not part of its training program. The City contends that this was not a requirement of the Board. It also appears that City staff did not receive adequate training to deal with sewage in the Alessandro Basin, including potential containment options.

G. There have been a number of significant sewage spills from the Wood Road Sewage Lift Station. On September 25, 1997, approximately 311,000 gallons of sewage overflowed from the same lift station due to equipment failure, and flowed to the arroyo and the Santa Ana River. The City has never submitted a satisfactory explanation why all four pumps at the station had tripped off-line sometime in the early morning hours of September 25, 1997. A contractor working for the City had turned off the wet well alarm system the previous day. As such, the station alarms or telemetry links to staff at the City's treatment plant were not functioning at the time, which led to several hours elapsing before a response could be made to stop the spill and repair the pumps and telemetry.

H. On May 15, 2000, approximately 2,000 gallons of sewage overflowed from the station, and then to the arroyo, again, due to unspecified equipment failure.

I. On November 24, 2005, less than two months after the October 1, 2005 spill, City staff reported another 21,000 gallons of sewage spilled from the same lift station that also flowed into the arroyo and the Santa Ana River, as a result of electrical failure and potential operator errors. On the morning of November 24, 2005 (Thanksgiving Day) City staff at the treatment plant received a high wet well alarm from the lift station. On that day, there were three operational pumps at the lift station. Upon arrival at the lift station, City staff noted that two of the three pumps had tripped off. The third pump was running, but also tripped soon after City staff arrived.

When the staff person tried to restart the third pump, a control panel fire ensued, and the entire station went down. Pumper trucks were called to pump and haul away the sewage, and the station was operating again about three hours later.

J. According to the City's own account of the spill incidents, the City was aware of the problems at the lift station from the early 1990s, and the City continued to "cannibalize" the equipment at the lift station for spare parts. As indicated above, a series of errors and omissions by the City and/or its contractors caused raw sewage spills from the lift station. The sewage discharged from the Wood Road Sewage Lift Station to Reach 3 of the Santa Ana River impacted the beneficial uses of the Santa Ana River. The beneficial uses of the Santa Ana River, Reach 3 (Prado Dam to Mission Avenue in Riverside), include: body contact recreation; non-body contact recreation; warm fresh water habitat; wildlife habitat; habitats supporting rare, threatened or endangered species; agricultural supply; and groundwater recharge.

6. The lift station and the sewage collection system are owned and operated by the City. The City does not have authorization to discharge untreated sewage from its sewage collection system. Unauthorized discharges of wastes from the collection system are violations of California Water Code Section 13376.

7. The City wishes it to be acknowledged that it has a long history of environmental stewardship in the Santa Ana River Basin. The City takes this role seriously. Thousands of staff hours have been contributed to task forces over the years on topics such as the Santa Ana River Use Attainability Analysis, Nitrogen/TDS Basin Planning, the Santa Ana River Pathogen TMDL and Waste Load Allocation Studies. The City has also indicated that it provides funding and staff support to the Santa Ana Sucker Conservation Team and national, state, and regional environmental organizations/efforts including the Water Environment Research Foundation and the Arid West Water Quality Research Project. The City reports that last year the Sewerage Division alone spent more than $140,000 in staff time, contributions and fees to support these voluntary efforts. This does not include the cost of required permits, monitoring, emission fees, or any other legally mandated activity.

8. Pursuant to Section 13385(c), the Board can administratively assess civil liability in an amount not to exceed the sum of the following:

   A.) Ten thousand dollars ($10,000) for each day in which the violation occurs; and,

   B.) Where there is a discharge, any portion of which is not susceptible to clean up 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) times the number of gallons by which the volume discharged, but not cleaned up, exceeds 1,000 gallons.

9. In accordance with Water Code Section §13385(c), the maximum liability for the violations cited (October 1 and November 24, 2005 incidents) is $2,855,000. The maximum liability assessment has been calculated as follows:

   A) $20,000, based on two days of discharge (October 1, and November 24, 2005) at $10,000 per day, plus

   B) $2,835,000 based on $10 per gallon for each gallon over the first 1,000 gallons discharged but not cleaned up ([264,500 gallons –1,000 gallons = 263,500 gallons discharged on October 1, 2005 and 21,000 gallons -1,000 gallons =20,000 gallons discharged on November 24, 2007] x $10/gal = $2,835,000).

10. CWC §13385(e) 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	The City discharged approximately 285,000 gallons of sewage from the Wood Road Sewage Lift Station to the adjacent arroyo, and ultimately to the Santa Ana River, thereby impacting the beneficial uses of the River. Since 1997, there have been four sewage spills due to failures at the Wood Road Lift Station. The City was aware of reliability issues with the lift station from the early 1990s.
B. Culpability	The City of Riverside, being the owner/operator of the lift station, is responsible for its maintenance and upkeep, as well as clean up of any spills. The City of Riverside is therefore entirely culpable for the discharge of sewage from this facility.
C. Economic Benefit or Savings	Section § 13385(e) of CWC specifies, among other things, that, at a minimum, liability shall be assessed at a level that recovers the economic benefit derived from the act(s) that constitute the violation. The history of electrical-mechanical failures at the lift station suggests that the City operated and maintained a critical sewage conveyance facility in an unreliable manner. The City is currently upgrading and improving the Wood Road Sewage Lift Station. The City asserts that this upgrade project will correct whatever deficiencies that may have existed at the facility. Repeated sewage spills at the same lift station indicate that the needed upgrades for the lift station were inappropriately delayed. Based on information provided by the City, it appears that the City may have postponed the needed upgrades worth approximately $1.25 million for somewhere between one to four years. Due to several uncertainties relating to the percentage of the upgrade cost devoted to station reliability versus improved efficiency, and the exact amount of time the upgrade was delayed based on the City's actions as opposed to events outside of their control, Board staff were unable to quantify a cost benefit derived by the City with sufficient confidence to determine a credible dollar amount saved.

Factor	Comment
D. Prior History of violations	There have been several sewage spills from the Wood Road Sewage Lift Station caused by either electrical or mechanical failures. Spills in September 1997, May 2000, October and November 2005 have discharged an estimated total of 598,500 gallons of sewage into the arroyo that ultimately drains to the Santa Ana River.
E. Other Factors	Board staff spent 307 hours on investigation of the two spills in 2005 and the preparation of the ACL.
F. Ability to pay	Regional Board staff has no information to indicate that the City of Riverside would be unable to pay the proposed assessment.

10. After consideration of the above factors, the Executive Officer proposes that civil liability be imposed on the City of Riverside in the amount of $429,000 for the violations cited above. This amount is based on the following:

    a. $20,000 for two days of violation
    b. $409,000 for 283,500 gallons @ $1.4427 per gallon

WAIVER OF HEARING

The City of has indicated that it wishes to waive its right to a hearing and donate $200,000 of the assessed amount for a supplemental environmental project (SEP). As a SEP, the City is proposing to develop and implement a program for the collection and proper disposal of expired and/or unused medications to keep these materials from entering the City's wastewater treatment and disposal facilities, tributary to the Santa Ana River. The City will submit its SEP proposal for approval by the Executive Officer. The balance, $229,000, will be deposited into the Cleanup and Abatement Account maintained by the State Water Resources Control Board.

Please sign the attached waiver form and return it immediately. By September 28, 2007, please submit your SEP proposal and a check for $229,000 made payable to the State Water Resources Control Board to:

Stephen D. Mayville, Section Chief
Santa Ana Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, CA 92501-3348

If you have any questions concerning this complaint, contact the undersigned at 951-782-3284, or Stephen D. Mayville, Enforcement Section Chief, at 951-782-4992. All legal questions should be directed to Reed Sato, State Water Resources Control Board, Office of Enforcement, at 916-341-5889.

8/28/07
Date

Gerard J. Thibeault
Executive Officer

California Regional Water Quality Control Board
Santa Ana Region

IN THE MATTER OF:

City of Riverside 3900 Main Street Riverside, CA 92522	)))	Complaint No. R8-2007-0047 for Administrative Civil Liability

Waiver of Hearing

The City of Riverside, agrees to waive its right to a hearing before the Santa Ana Regional Water Quality Control Board with regard to the violation alleged in Complaint No. R8-2006-0047. The City of Riverside has enclosed a check payable to the State Water Resources Control in the amount of $229,000 and the City has agreed to expend $200,000 for or towards a Supplemental Environmental Project (SEP) agreed upon by the City and the Regional Board. I understand that I am giving up the right of the City of Riverside to be heard and to argue against allegations made by the Executive Officer in this complaint, and against the imposition of, and the amount of, the liability proposed.

_____ _____

Date for the City of Riverside