

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2008-0545

IN THE MATTER OF
SACRAMENTO AREA SEWER DISTRICT
SACRAMENTO COUNTY

This Complaint is issued to the Sacramento Area Sewer District (hereafter Discharger) pursuant to California Water Code (CWC) section 13385, which authorizes the imposition of Administrative Civil Liability, CWC section 13323, which authorizes the Executive Officer to issue this Complaint, and CWC section 7, which authorizes the delegation of the Executive Officer's authority to a deputy, in this case the Assistant Executive Officer. This Complaint is based on findings that the Discharger violated provisions of the State Water Resources Control Board (State Water Board) Order No. 2006-0003-DWQ, General Waste Discharge Requirements (WDRs) for Sanitary Sewer Systems.

The Assistant Executive Officer of the California Regional Water Quality Control Board, Central Valley Region (Regional Water Board) finds the following:

1. The Discharger owns and operates a wastewater collection system that serves urbanized areas of Sacramento County, an area covering more than 250 square miles. The collection system is regulated by State Water Board Order No. 2006-0003-DWQ, adopted on 2 May 2006. The Discharger is solely responsible for compliance with the WDRs.
2. The collection system conveys an average of 115 million gallons of wastewater per day through more than 3,000 miles of main line pipe with approximately 1,200 miles of lower lateral pipelines to the Sacramento Regional Wastewater Treatment Plant in Elk Grove.
3. The Discharger is required to operate and maintain its sewage collection system to prevent sanitary sewer overflows and spills in compliance with requirements of State Water Board Order No. 2006-0003-DWQ, Statewide General WDRs for Sanitary Sewer Systems. The District was required to obtain coverage under the General WDRs as of 2 November 2006.
4. State Water Board Order No. 2006-0003-DWQ includes Prohibitions C.1 and C.2.

Prohibition C.1 states: *"Any SSO that results in a discharge of untreated or partially treated wastewater to waters of the United States is prohibited."*

Prohibition C.2 states: *"Any SSO that results in a discharge of untreated or partially treated wastewater that creates a nuisance as defined in California Water Code Section 13050(m) is prohibited."*

5. From 2 November 2006 through 14 April 2008, the Sacramento Area Sewer District has reported overflows of 897,637 gallons of sewage from its collection system. Of this volume, 855,832 gallons were discharged into surface waters. Since enrollment under Order No. 2006-0003-DWQ, the Discharger has reported at least 33 spills of raw sewage

from its collection system, excluding reported spills from private laterals. Of the approximately 33 spills, 27 impacted surface waters, as summarized in Attachment A, Table of Sanitary Sewer Overflows, a part of this Complaint.

6. The largest of these discharges occurred on 13 February 2008, when over 700,000 gallons of raw sewage spilled into Arcade Creek after the pipeline that bridged the creek collapsed. There were signs of erosion along the bank and around the pipeline transition point. The collapse was attributed to erosion of the bank around the pipeline and antiquated pipeline design that provided for a susceptible transition point to be exposed over the creek.
7. In response to the 13 February 2008 spill, the Discharger initially set up two sandbag barrier dams approximately two miles downstream of the spill location in an attempt to contain the pulse while it dewatered the creek to remove spilled sewage. After Regional Water Board staff observed that the dams did not contain all the sewage, an additional dam was placed below the other two in order to improve collection of more of the spilled sewage. No documentation has been provided regarding the amount of waste (sewage and contaminated creek water) removed by pumps in the creek bed. Regional Water Board staff observed that the spill was not entirely contained by the dams, and that at least two miles of the creek was not cleaned up.
8. The Discharger stated in an email dated 15 February 2008 that it was initiating an urgent inspection program of all known creek crossings and parallel alignments, and would conduct immediate creek erosion repair where needed, would develop a set of design standards for different creek crossing situations, and would implement repairs or replacements to crossings as needed.
9. The Discharger has reported previous SSOs from pipelines located near creeks. In particular, on 20 November 2002, a pipeline coupling failed due to erosion and a significant volume of raw sewage was discharged into Chicago Creek. In response to that spill, the Discharger submitted a report, dated 4 December 2002, indicating that it would identify similar situations where pipelines run through ravines or waterways, and determine the most feasible method of performing physical maintenance or inspections, and evaluate the feasibility of relocating the pipes to more accessible locations. If this program had resulted in a system upgrade, the pipeline break over Arcade Creek may not have occurred.

Regulatory Considerations

10. As described above, the Discharger discharged untreated sewage to waters of the United States in violation of Prohibitions C.1 and C.2 contained in State Water Board Order No. 2006-0003-DWQ, Statewide General WDRs for Sanitary Sewer Systems.

11. Section 301 of the Clean Water Act (33 U.S.C. § 1311) and CWC section 13376 prohibits discharge of pollutants to surface waters except in compliance with a National Pollutant Discharge Elimination System (NPDES) permit.
12. CWC section 13376 states, in part: *“Any person discharging pollutants or proposing to discharge pollutants to the navigable waters of the United States ... shall file a report of the discharge in compliance with the procedures set forth in Section 13260...”* and *“The discharge of pollutants...except as authorized by waste discharge requirements [NPDES permit]...is prohibited.”*
13. State Water Board Order No. 2006-0003-DWQ is not an NPDES permit. Therefore, by failing to file a report of waste discharge as set forth in CWC section 13260 and failing to obtain an NPDES permit prior to the discharges described in the above Findings, the Discharger violated CWC section 13376.
14. CWC section 13385 states, in part:

*“(a) Any person who violates any of the following shall be liable civilly in accordance with subdivisions (b), (c), (d), (e), and (f):
(1) Section 13375 or 13376.”*

*“(c) Civil liability may be imposed administratively by the state board or a regional board pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 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.
(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) times the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.”*
15. Pursuant to CWC section 13385, the maximum administrative civil liability which can be imposed by the Regional Water Board under CWC section 13385 is between \$359,250 and \$8,644,530. This range was calculated as follows:

From 2 November 2006 through 14 April 2008, approximately 855,832 gallons of raw sewage was discharged to surface waters on 27 days. For some of the spill incidents, the Discharger installed downstream dams in the receiving waterbody and removed a portion of the contaminated water. However, for 2 spill incidents, which collectively resulted in the spill of 10,925 gallons of sewage, none of the contaminated water was removed from the affected waterbodies. If it is assumed that all the spilled sewage was cleaned up from the incidents where the Discharger removed a portion of the contaminated water, then a total of 8,925 gallons was discharged in excess of 1,000 gallons, and the maximum liability is calculated to be \$270,000 (27 days times \$10,000 per day) plus \$89,250 (8,925 gallons times \$10 per gallon). If it is assumed that once the sewage contaminated the receiving water, it was not susceptible to cleanup, then a

total of 837,453 gallons was discharged in excess of the 1,000 gallons per spill event, and the maximum administrative civil liability is calculated to be \$270,000 (27 days times \$10,000 per day) plus \$8,374,530 (837,453 gallons times \$10 per gallon). The assessed penalty is significantly lower than the lesser of these two figures.

16. CWC section 13385(e) states: *“In determining the amount of any liability imposed under this section, the regional board, the state board, or the superior court, as the case may be, shall take into account 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 that justice may require. At a minimum, liability shall be assessed at a level that recovers the economic benefits, if any, derived from the acts that constitute the violation.”*
17. Pursuant to CWC section 13385(e), administrative civil liability at minimum must be equivalent to the economic benefit accrued by the Discharger for not implementing management and physical improvements necessary to prevent the discharges. All of the discharges of raw sewage resulted from inadequate maintenance and/or implementation of collection system improvements. Because of the unknown problems throughout the collection system, Regional Water Board staff is unable to precisely calculate the economic benefit. However, the economic benefit would be equal to the deferred costs associated with postponing repairs to fix problematic portions of the collection system, and is estimated to be below the assessed penalty.
18. Issuance of this Complaint is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code section 21000 et seq.), in accordance with California Code of Regulations, title 14, section 15321(a)(2).

SACRAMENTO AREA SEWER DISTRICT IS HEREBY GIVEN NOTICE THAT:

1. ACL complaint No. R5-2008-0531 is hereby rescinded.
2. The Assistant Executive Officer of the Regional Water Board charges the Discharger with an administrative civil liability in the amount of **two hundred and one thousand dollars (\$201,000)**. The amount of the proposed liability is based upon a review of the factors cited in California Water Code section 13385 and the State Water Resources Control Board's Water Quality Enforcement Policy, and includes consideration of the economic benefit or savings resulting from the violations.
3. A hearing on this matter will be held at the Regional Water Board meeting scheduled on **11/12 September 2008**, unless the Discharger agrees to complete the following by **6 August 2008**:

- a. Waive the hearing by completing the attached form and returning it to the Regional Water Board; and
 - b. Pay the proposed civil liability of **two hundred and one thousand dollars (\$201,000)** in full.
4. If a hearing is held, the Regional Water 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.

JACK E. DEL CONTE, Assistant Executive Officer

2 July 2008

**WAIVER OF HEARING FOR
ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

By signing this waiver, I affirm and acknowledge the following:

1. I am duly authorized to represent Sacramento Area Sewer District (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint No. R5-2008-0545 (hereinafter the "Complaint");
2. I am informed of the right provided by California Water Code section 13323, subdivision (b), to a hearing within ninety (90) days of service of the Complaint;
3. I hereby waive the Discharger's right to a hearing before the California Regional Water Quality Control Board, Central Valley Region, within ninety (90) days of the date of service of the Complaint; and
4. I certify that the Discharger will remit payment for the civil liability imposed in the amount of **two hundred and one thousand dollars (\$201,000)** by check, which contains a reference to "ACL Complaint No. R5-2008-0545" and is made payable to the "*State Water Pollution Cleanup and Abatement Account.*"
5. I understand the payment of the above amount constitutes a settlement of the Complaint, and that any settlement will not become final until after the 30-day public notice and comment period mandated by Federal regulations (40 CFR 123.27) expires. Should the Regional Board receive new information during this comment period, the Regional Board may withdraw the complaint, return payment, and issue a new complaint.
6. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.

(Print Name and Title)

(Signature)

(Date)

Attachment A to ACLC R5-2008-0545
Table of Sanitary Sewer Overflows from 2 November 2006 to 14 April 2008
Sacramento Area Sewer District

Date of Spill	Reported Volume Discharged [gallons]	Discharge to Surface Water Drainage Course?	Volume in excess of 1,000 gallons reaching surface Water Drainage Course	Spill Location	Cause of Spill	OES Control #	City
16-Dec-06	13,485	Yes	12,485	6416 Terra Way	Cobble in the line.	06-7428	Citrus Heights
23-Dec-06	6,900	No	0	6900 Airport Blvd.	Pump station failure	06-7584	Sacramento
22-Jan-07	22,250	Yes	0	5927 Lemon Park Way	Vandalism	07-0489	Sacramento
31-Jan-07	11,400	Yes	10,400	8138 Bonnie Oak Way	Roots and grease in mainline	07-0675	Citrus Heights
14-Feb-07	1,875	Yes	875	Bruceville Rd.	Open gate valve on air release valve	07-1016	Elk Grove
12-Mar-07	6,325	No	0	4336 Watt Ave.	Maintenance hole overflowed during repairs	07-1600	Sacramento
02-Apr-07	6,500	Yes	5,500	Howe Park	Debris blockage in mainline	07-2079	Sacramento
04-Apr-07	30,000	Yes	29,000	Whitelock Parkway and Bruceville Rd.	Air relief valve vent line separated	07-2129	Elk Grove
09-Apr-07	93	Yes	0	Madison (650 ft west of Primrose Dr.)	Roots blocking the mainline	07-2210	Fair Oaks
09-Apr-07	73	Yes	0	14 Quail Point Place	Root blockage in mainline	07-2215	Sacramento
19-Apr-07	3,737	Yes	2,737	7541 Fireweed Circle	Combination of roots and grease	07-2415	Citrus Heights
22-May-07	102	Yes	0	9584 East Stockton	Blockage of service line	07-3130	Elk Grove
26-May-07	1,180	No	0	6955 Los Olivos Way	Root blockage in mainline	07-3215	Carmichael
30-Jun-07	800	No	0	Intersection of Matheson and Fulton	Grease	07-3937	Sacramento
05-Jul-07	8,300	Yes	7,300	5811 Muldrow Rd.	Debris in sewer mainline	07-4690	Sacramento
05-Jul-07	48,750	Yes	47,750	0 Ackley Dr.	Failure of PVC pipe fitting on an air release valve	07-4020	Elk Grove

Attachment A

-2-

**Table of Sanitary Sewer Overflows from 2 November 2006 to 14 April 2008
Sacramento Area Sewer District**

Date of Spill	Reported Volume Discharged [gallons]	Discharge to Surface Water Drainage Course?	Volume in excess of 1,000 gallons reaching surface Water Drainage Course	Spill Location	Cause of Spill	OES Control #	City
12-Aug-07	610	Yes	0	4325 Oxwood Dr.	Grease stoppage in mainline	07-4842	Sacramento
25-Aug-07	6,875	Yes	5,875	3600 Owens Way/7016 Watt Ave.	Roots in mainline	07-5120	North Highlands
27-Aug-07	1,675	Yes	675	7372 Auburn Blvd.	Roots in mainline	07-5151	Citrus Heights
07-Oct-07	at least 6,750	Yes	5,750	5062 Patti Jo Dr.	Blockage	07-6089	Carmichael
17-Nov-07	620	Yes	0	8441 Fair Oaks Blvd.	Grease stoppage in mainline	07-7131	Carmichael
19-Nov-07	8,460	Yes	7,460	8661 Elk Grove Blvd.	Grease in manhole drop	07-7175	Elk Grove
03-Jan-08	3,400	No	0	6740 Landis Ave.	Grease stoppage in mainline	08-0039	Carmichael
04-Jan-08	2,625	Yes	1,625	3600 Owens Ave.	Historical Spill- Manhole overflows due to heavy rains	08-0284	North Highlands
09-Jan-08	150	Yes	0	6324 Kenneth Ave.	Grease stoppage in mainline	08-0331	Carmichael
10-Jan-08	169	Yes	0	8467 Sunset Ave.	Debris stoppage in mainline	08-0354	Fair Oaks
14-Jan-08	660	Yes	0	Ancil Hoffman Park	Grease stoppage in mainline	08-0424	Carmichael
26-Jan-08	534	Yes	0	7406 del Coronado Way	Grease stoppage in mainline	08-0783	Florin
13-Feb-08	701,021	Yes	700,021	0 Hemlock St.	Pipe failure at coupling due to bank erosion and pipe failure	08-1296	Sacramento
06-Mar-08	197	Yes	0	4210 Pocono Ct.	Grease stoppage in mainline	08-1859	Fair Oaks

Attachment A

**Table of Sanitary Sewer Overflows from 2 November 2008 to 14 April 2008
Sacramento Area Sewer District**

Date of Spill	Reported Volume Discharged [gallons]	Discharge to Surface Water Drainage Course?	Volume in excess of 1,000 gallons reaching surface Water Drainage Course	Spill Location	Cause of Spill	OES Control #	City
11-Mar-08	950	No	0	Bruceville at Elk Grove	Air relief valve failure	08-1980	Elk Grove
09-Apr-08	904	Yes	0	116 Riverbank Place	Root and grease blockage	08-2673	Fair Oaks
14-Apr-08	267	Yes	0	5641 South Grove Drive	Mainline stoppage due to roots	08-2803	Citrus Heights

Total Volume of discharges = 897,637 gallons

Total Volume of discharges to surface waters = 855,832 gallons

Total Volume of discharges in excess of 1,000 gallons reaching surface Water Drainage Course = 837,453 gallons