

GREENBERG GLUSKER FIELDS CLAMAN
& MACHTINGER LLP
1900 Avenue of the Stars, 21st Floor
Los Angeles, California 90067-4590

1 DAVID E. CRANSTON (SBN 122558)
dcranston@ggfirm.com
2 SEDINA L. BANKS (SBN 229193)
sbanks@ggfirm.com
3 GREENBERG GLUSKER FIELDS CLAMAN &
MACHTINGER LLP
4 1900 Avenue of the Stars, 21st Floor
Los Angeles, California 90067-4590
5 Telephone: 310.553.3610
Fax: 310.553.0687

6 Attorneys for Petitioner
7 City of Culver City

8 STATE OF CALIFORNIA

9 STATE WATER RESOURCES CONTROL BOARD

10
11 In The Matter of the Petition of

12 CITY OF CULVER CITY

13 Petitioner,

Petition Number: _____

PETITION FOR REVIEW OF THE
LARWQCB CLEANUP AND ABATEMENT
ORDER NO. R4-2010-0175 DATED
SEPTEMBER 30, 2010

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18 INTRODUCTION AND SUMMARY

19 Petitioner the City of Culver City ("Culver City") respectfully petitions the California
20 State Water Resources Control Board (the "State Board") to review the California Regional
21 Water Quality Control Board, Los Angeles Region's (the "Regional Board") "Cleanup and
22 Abatement Order No. R4-2010-0175 Requiring the City of Culver City to Take Remedial Action
23 to Cleanup and Abate the Unpermitted Discharge of Raw Sewage at 6161 West Centinela
24 Avenue, Los Angeles, CA," dated September 30, 2010 (the "Order"), pursuant to California
25 Water Code section 13320 and California Code of Regulations, title 23, section 2050. Culver
26 City also requests that the Petition be held in abeyance pursuant to California Code of
27 Regulations, title 23, section 2050.5(d).

28 Although Culver City does not request at this time a stay of the Order, Culver City seeks

14314-00020/1751342.2

1 to preserve its right to protect Culver City from any action (or inaction) which violates Culver
2 City's rights or applicable law or which would otherwise prejudice Culver City's interests.
3 Culver City expressly reserves its right to supplement this Petition.

4
5 **PETITION FOR REVIEW**

6 Pursuant to section 2050 of title 23 of the Code of Regulations, Culver City provides the
7 following information in support of the Petition:

8 **1. CONTACT INFORMATION OF PETITIONER**

9 City of Culver City
10 9770 Culver Blvd.
Culver City, CA 90232-0507
11 Attention: Carol A. Schwab, City Attorney
Heather S. Baker, Assistant City Attorney
12 Telephone: (310) 253-5660
13 E-mail: carol.schwab@culvercity.org and heather.baker@culvercity.org

14 David E. Cranston and Sedina L. Banks
15 Greenberg Glusker Fields Claman & Machtinger LLP
1900 Avenue of the Stars, Suite 2100
16 Los Angeles, California 90067
Telephone: (310) 553-3610
17 E-mail: dcranston@ggfirm.com and sbanks@ggfirm.com

18
19 **2. ACTIONS FOR WHICH PETITIONER SEEKS REVIEW**

20 Culver City seeks review of the Order (A true and correct copy of the Order is included as
21 Exhibit A in Culver City's Appendix in Support of Petition (the "Appendix") submitted
22 herewith).

23
24 **3. DATE ON WHICH THE REGIONAL BOARD ACTED**

25 The Order is dated September 30, 2010. The Regional Board sent a copy of the Order to
26 Culver City via facsimile on October 1, 2010.

1 4. STATEMENT OF REASONS WHY THE ACTION WAS
2 INAPPROPRIATE OR IMPROPER

3 The Regional Board's issuance of the Order was inappropriate, improper and/or not
4 supported by the record for the following reasons:

5 (1) The Regional Board abused its discretion in issuing the Order because the Order
6 includes findings of fact that are not supported by substantial evidence in the record including,
7 without limitation, that: (1) Culver City is responsible for the sewage discharge occurring on
8 September 29, 2010 (the "Sewage Overflow"), and (2) the Sewage Overflow occurred at 6161
9 West Centinela Avenue, Los Angeles, CA. In fact, the City of Los Angeles is responsible for the
10 sewage discharge and the Sewage Overflow actually occurred on the hillside adjacent to the 6100
11 block of the southwesterly side of Centinela Avenue in the City of Los Angeles.

12 (2) The Regional Board abused its discretion in issuing the Order because the issuance of
13 the Order was not based on substantial evidence. There is no substantial evidence that
14 demonstrates Culver City's responsibility or liability for the Sewage Overflow and the evidence
15 in the administrative record demonstrates that Culver City was not responsible for the Sewage
16 Overflow. The Regional Board did not provide Culver City with an opportunity to put relevant
17 evidence into the record that shows that the responsibility lies with the City of Los Angeles and
18 not Culver City before issuing the Order.

19 (3) The Regional Board abused its discretion in issuing the Order because the Order fails
20 to identify the City of Los Angeles, which is responsible for the Sewage Overflow.

21 (4) The Regional Board abused its discretion in requiring Culver City to take remedial
22 action to cleanup and abate the Sewage Overflow, because Culver City is not responsible for the
23 Sewage Overflow and therefore, the request was not based on substantial evidence.

24 (5) The Regional Board abused its discretion in requiring Culver City to submit a report
25 demonstrating compliance with the remedial action, because Culver City is not responsible for the
26 Sewage Overflow and, therefore, the request was not based on substantial evidence.

27 (6) The Regional Board abused its discretion in requiring Culver City to submit a report
28 demonstrating compliance with the remedial action, because the timeframe provided to submit a

1 report was unreasonable and arbitrary.
2

3 **5. THE MANNER IN WHICH CULVER CITY IS AGGRIEVED**

4 Culver City is aggrieved because the Order misstates the evidence in the administrative
5 record and improperly names Culver City as responsible for the Sewage Overflow.

6 Culver City is also aggrieved because the Regional Board has improperly attempted to
7 hold Culver City liable for the actions or inaction of the City of Los Angeles, which is responsible
8 for the Sewage Overflow.

9 Culver City is also aggrieved because the Order requires Culver City to take remedial
10 action to cleanup and abate the Sewage Overflow, which Culver City did not discharge and
11 requires Culver City to submit a technical report demonstrating compliance with the Order.

12
13 **6. SPECIFIC ACTION CULVER CITY REQUESTS OF THE STATE BOARD**

14 Culver City respectfully requests that the State Board: (1) accept this Petition; (2)
15 determine that the Order was inappropriate and improper; and (3) direct the Regional Board to
16 rescind the Order or in the alternative to take such action itself. However, Culver City requests at
17 this time that the Petition be held in abeyance pursuant to California Code of Regulations, title 23,
18 section 2050(d) and reserves the right to supplement the Petition.

19 Although Culver City has not requested a stay of the Order at this time, Culver City
20 requests that findings contained in the Order and the grounds for issuance be accurate. Culver
21 City also seeks to preserve its right to protect Culver City from any action (or inaction) which
22 violates Culver City's rights or applicable law or which would otherwise prejudice Culver City's
23 interests.

24
25 **7. STATEMENT OF POINTS AND AUTHORITIES IN SUPPORT OF THE**
26 **PETITION**

27 Culver City did not submit a statement of points and authorities at this time because it is
28 requesting that the Petition be held in abeyance pursuant to California Code of Regulations, title

1 23, section 2050.5(d). Culver City has been informed that should it request the Petition to be
2 converted to active status, it will be allowed to submit a statement of points and authorities at that
3 time. Culver City will provide a detailed statement of points and authorities in the event the
4 Executive Officer or Regional Board take further action which necessitate Culver City requesting
5 the State Board to convert this Petition to active status. In the interim, should the State Board
6 request a statement of points and authorities, Culver City will provide a detailed statement of
7 points and authorities.

8
9 **8. STATEMENT THAT THE PETITION WAS SENT TO THE REGIONAL**
10 **BOARD**

11 A true and correct copy of this Petition was sent to the Regional Board via electronic mail
12 and First Class Mail on October 29, 2010, to the attention of Sam Unger, Executive Officer. (A
13 true and correct copy of the correspondence reflecting the transmission is included in the
14 Appendix as Exhibit B).

15
16 **9. STATEMENT THAT ISSUES WERE RAISED BEFORE THE REGIONAL**
17 **BOARD, OR AN EXPLANATION WHY PETITIONER WAS UNABLE TO**
18 **RAISE SUBSTANTIVE ISSUES BEFORE THE REGIONAL BOARD**

19 The Regional Board did not provide Culver City with any notice of its intent to issue the
20 Order, nor did it provide Culver City with the opportunity to comment or otherwise be heard
21 before issuing the Order. However, after receipt of the Order, Culver City copied the Regional
22 Board on correspondence to the City of Los Angeles, explaining why Culver City is not
23 responsible for the Sewage Overflow. (A true and correct copy of this letter is included in the
24 Appendix as Exhibit C.)

25
26 **10. REQUEST FOR THE REGIONAL BOARD TO PREPARE THE RECORD**

27 Culver City requests that the Petition be held in abeyance pursuant to California Code of
28 Regulations, title 23, section 2050.5(d) and reserves the right to request that the Regional Board

GREENBERG GLUSKER FIELDS CLAMAN
& MACHTINGER LLP
1900 Avenue of the Stars, 21st Floor
Los Angeles, California 90067-4590

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prepare the record.

11. REQUEST FOR HEARING

Culver City requests that the Petition be held in abeyance pursuant to California Code of Regulations, title 23, section 2050.5(d) and reserves the right to request a hearing.

12. REQUEST TO HOLD THE PETITION IN ABEYANCE

Culver City requests that the Petition be held in abeyance pursuant to California Code of Regulations, title 23, section 2050.5(d).

DATED: October 29, 2010

Respectfully Submitted,

GREENBERG GLUSKER FIELDS CLAMAN
& MACHTINGER LLP

By: 

SEDINA L. BANKS
Attorneys for Petitioner City of Culver City

GREENBERG GLUSKER FIELDS CLAMAN
& MACHTINGER LLP
1900 Avenue of the Stars, 21st Floor
Los Angeles, California 90067-4590

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DAVID E. CRANSTON (SBN 122558)
dcranston@ggfirm.com
SEDINA L. BANKS (SBN 229193)
sbanks@ggfirm.com
GREENBERG GLUSKER FIELDS CLAMAN &
MACHTINGER LLP
1900 Avenue of the Stars, 21st Floor
Los Angeles, California 90067-4590
Telephone: 310.553.3610
Fax: 310.553.0687

Attorneys for Petitioner
City of Culver City

STATE OF CALIFORNIA

STATE WATER RESOURCES CONTROL BOARD

In The Matter of the Petition of

CITY OF CULVER CITY

Petitioner,

Petition Number: _____

APPENDIX IN SUPPORT OF THE PETITION
FOR REVIEW OF THE LARWQCB
CLEANUP AND ABATEMENT ORDER NO.
R4-2010-0175 DATED SEPTEMBER 30, 2010

CITY OF CULVER CITY

APPENDIX IN SUPPORT OF PETITION FOR REVIEW

<u>EXHIBIT</u>	<u>DATE</u>	<u>DESCRIPTION</u>
A	September 30, 2010	California Regional Water Quality Control Board, Los Angeles Region (the "Regional Board") Cleanup and Abatement Order No. R4-2010-0175 Requiring the City of Culver City to Take Remedial Action to Cleanup and Abate the Unpermitted Discharge of Raw Sewage at 6161 West Centinela Avenue, Los Angeles, CA
B	October 29, 2010	Letter from Greenberg Glusker to the Regional Board reflecting transmission of the Petition for Review

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C	October 5, 2010	Letter from the City of Culver City to the City of Los Angeles Re: Sewage Overflow at the 6100 Block of the Southwesterly Side of Centinela Avenue in the City of Los Angeles
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DATED: October 29, 2010

Respectfully Submitted,

GREENBERG GLUSKER FIELDS CLAMAN
& MACHTINGER LLP

By: *Sedina Banks*

SEDINA L. BANKS
Attorneys for Petitioner City of Culver City

GREENBERG GLUSKER FIELDS CLAMAN
& MACHTINGER LLP
1900 Avenue of the Stars, 21st Floor
Los Angeles, California 90067-4590

EXHIBIT A



California Regional Water Quality Control Board
Los Angeles Region



Linda S. Adams
 Agency Secretary

320 W. 4th Street, Suite 200, Los Angeles, California 90013
 Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.swrcb.ca.gov/rwqcb4>

Arnold Schwarzenegger
 Governor

September 30, 2010

Mr. Charles Herbertson
 Director of Public Works/City Engineer
 City of Culver City
 9770 Culver Blvd, 2nd Floor
 Culver City, CA 90232

CERTIFIED MAIL
 RETURN RECEIPT REQUESTED
 Claim No. 7007 2560 0001 7889 6439

**CLEANUP AND ABATEMENT ORDER NO. R4-2010-0175 - SEPTEMBER 29, 2010
 UNPERMITTED DISCHARGE OF RAW SEWAGE AT 6161 WEST CENTINELA
 AVENUE; CITY OF CULVER CITY, DEPARTMENT OF PUBLIC WORKS, 9770
 CULVER BOULEVARD, CULVER CITY, CA**

Dear Mr. Herbertson:

Enclosed is Cleanup and Abatement Order (Order) No. R4-2010-0175 (CAO), directing you to assess, report on, and cleanup and abate all the effects of the sewage release at 6161 West Centinela Avenue, Los Angeles, California. This Order is issued under section 13304 of the California Water Code. Should you fail to comply with any provision of this Order, you may be subject to further enforcement action, including injunction and civil monetary remedies, pursuant to applicable California Water Code sections including, but not limited to, sections 13268, 13304, 13308, and 13350.

Pursuant to California Water Code section 13320, you may seek review of this Order by filing a petition with the State Water Resources Control Board (State Board). Such a petition must be received by the State Board, located at 1001, I Street, Sacramento, California 95814, within 30 days of this Order.

Should you have any questions, please contact Mr. Hugh Marley at (213) 620-6375 or Mr. Chris Lopez at (213) 576-6806.

Sincerely,

Samuel Unger, P.E.
 Executive Officer

Enclosure: Cleanup and Abatement Order (CAO) No. R4-2010-0175

cc: see mailing list

California Environmental Protection Agency



Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

Doc. No. 10 2010 09 43 PM P2

FROM: LA REGNL WATER QUALITY BOARD FAX NO. :

Mr. Charles Herbertson
City of Culver City

- 2 -

September 30, 2010

MAILING LIST

Ms. Jennifer Fordyce, Office of Chief Counsel, State Water Resources Control Board
Mr. Enrique C. Zaldivar, Director, Bureau of Sanitation, City of Los Angeles
Mr. Joe Baiocco, Los Angeles County Department of Public Works

California Environmental Protection Agency

 Recycled Paper

Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

0ct 01 2010 09:43AM P3

FROM: LA REGNL WATER QUALITY BOARD FAX NO. :

STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION

CLEANUP AND ABATEMENT ORDER NO. R4-2010-0175
REQUIRING THE CITY OF CULVER CITY
TO TAKE REMEDIAL ACTION TO CLEANUP AND ABATE
THE UNPERMITTED DISCHARGE OF RAW SEWAGE AT
6161 WEST CENTINELA AVENUE, LOS ANGELES, CA

The California Regional Water Quality Control Board, Los Angeles Region (Regional Board), finds that:

On September 29, 2010, the Regional Board received a Hazardous Materials Spill Report from the Governor's Office of Emergency Services (OES) (OES Report #10-5872). The report gave notice of an ongoing overflow from a maintenance manhole due to an unknown blockage causing the release of sewage, which flowed into Ballona Creek and eventually to the Pacific Ocean, waters of the United States.

- To date, the Discharger's spill response and reporting has been inadequate in providing information on the sewage spill and the impacts to water quality in the area.
- Raw sewage may contain pathogenic organisms and viruses known to be harmful to human and animal health and the environment.
- Pursuant to section 13304 of the California Water Code, the Discharger has caused or permitted, and continues to threaten to cause or permit, waste including raw sewage to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and has created, and continues to threaten to create, a condition of pollution or nuisance.
- Discharges of waste including raw sewage at the incident location create a substantial probability of harm that makes it reasonably necessary for the Discharger to take immediate action to prevent, reduce, or mitigate damages to persons, property, and/or natural resources.

IT IS HEREBY ORDERED, pursuant to California Water Code section 13304, that the City of Culver City (City) shall comply with the following:

- A. The City shall take remedial action to cleanup and abate the unpermitted discharge of raw sewage at 6161 West Centinela Avenue. Such action shall include:

September 30, 2010

1. The immediate cessation of all unauthorized sewage discharges.
2. The immediate cleanup, abatement of all risks from, and proper disposal of any residual waste that is still remaining at the unpermitted discharge location.
3. Preparation of a report (Report) demonstrating compliance with these tasks and describing the measures the Discharger has taken to comply with this directive and to prevent public exposure to any such waste.

B. The City shall provide the Report to the Regional Board no later than November 1, 2010 which shall include, but not be limited to, the following information:

- Photographs of suitable quality that indicate compliance with this CAO;
- The dates and times that the discharge of raw sewage commenced and ended;
- The duration of the discharge event;
- The exact time that the City's response crews arrived on scene;
- A list of all agencies that the discharge was reported to and the time the reports were made;
- A detailed summary of the total volume of raw sewage discharged, including a copy of the calculations, records and data used in determining the estimate of the volume discharged;
- A detailed site map showing the discharge location(s), and point(s) of entry into waters of the State, including the Pacific Ocean (Ocean);
- A list of sampling locations and data relating to monitoring of waters of the State in the area of the spill. If monitoring was not conducted, please explain;
- A copy of all laboratory analytical results for any samples collected in the course of investigating the discharge;
- Any actions taken to cease and remediate the raw sewage discharge to the environment;
- A detailed list of discharges of sewage from the City's collection system in the vicinity of the spill for the past five years including the date, duration, total spill volume, location, and if applicable, the volume discharged to waters of the State;

September 30, 2010

- A copy of any maintenance records for the City's collection system in the vicinity of the spill for the past five years, including the frequency of cleaning and inspections;
- The standard operating procedures utilized to respond to the discharges;
- An analysis of the impacts of the discharge on beneficial uses of the receiving waters affected by the above-mentioned discharge;
- The names, locations and miles of beaches and other public access areas that were closed as a result of the discharge;
- The distance of the closed beaches and other public access areas from the discharge point;
- The number of days the beaches and other public access areas were closed as a result of the discharge;
- An analysis of the economic impact resulting from closures of public access areas in the areas affected by the discharge;
- A summary of the historical attendance data, for the last three years, for all public access areas closed as a result of the discharge;
- Any actions taken by the City to prevent future occurrences of a similar nature; and
- Any other documentation or correspondence the City feels is relevant to this discharge into waters of the State.

C. All reports shall contain a completed perjury statement, in the following format:

"I [NAME], do hereby declare, under penalty of perjury under the laws of the State of California, that I am [JOB TITLE] for [NAME OF RESPONSIBLE PARTY/DISCHARGER], that I am authorized to attest to the veracity of the information contained in the reports described herein, and that the information contained in [NAME AND DATE OF REPORT] is true and correct, and that this declaration was executed at [PLACE], [STATE], on [DATE]."

The perjury statement shall be signed by a senior authorized representative (or a senior authorized representative of the City) and not by a consultant.

D. This Order is not intended to stop or redirect any investigation, cleanup, and remediation programs ordered by this Board or any other agency.

September 30, 2010

- E. Pursuant to Water Code section 13304(c)(1), the Discharger shall reimburse the Regional Board for all reasonable and necessary costs incurred by Regional Board staff to investigate the Permittee's unauthorized discharges of waste and to oversee cleanup of such wastes, abatement of the effects thereof, or other remedial actions.
- F. This Order in no way limits the authority of the Board, as contained in the California Water Code, to institute additional enforcement actions or to require additional investigation and cleanup. This Order may be revised by the Executive Officer, as additional information becomes available.
- G. Consistent with California Water Code Section 13304, the Regional Board's authorized representative(s) shall be allowed:
- Entry upon premises where a regulated facility or activity is located, conducted, or where records are stored, under the conditions of this Order;
 - Access to copy any records that are stored under the conditions of this Order;
 - Access to inspect any facility, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order; and
 - The right to photograph, sample, and monitor for the purpose of ensuring compliance with this Order, or as otherwise authorized by the California Water Code.
- H. The Discharger shall submit 30-day advance notice to the Regional Board of any planned changes in name or ownership of the contractor or subcontractors and notice of any planned physical changes that may affect compliance with this Order. In the event of a change in ownership or operator, the Discharger also shall provide 30-day advance notice, by letter, to the succeeding owner/operator of the existence of this Order, and shall submit a copy of this advance notice to the Regional Board.
- I. The Regional Board, through its Executive Officer, may revise this Order as additional information becomes available. Upon request by the Discharger, and for good cause shown, the Executive Officer may defer, delete, or extend the date of compliance for any action required of the Discharger under this Order.
- J. Failure to comply with the terms or conditions of this Order may result in imposition of civil liabilities, either administratively by the Regional Board or judicially by a Superior Court, in accordance with sections 13268, 13304, 13308 and 13350, et seq., of the California Water Code or referral to the Attorney General of the State of California for action deemed appropriate, or both. Furthermore, the Regional Board may also request the United States Attorney, appropriate county District Attorney, or City Attorney to seek criminal prosecution. Any such penalties are in addition to any penalties that may otherwise be assessed for violations of waste discharge requirements or other applicable orders or prohibitions.

September 30, 2010

K. Any person aggrieved by this action of the Regional Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:

http://www.waterboards.ca.gov/public_notices/petitions/water_quality
or will be provided upon request.

Ordered by: Samuel Unger
Samuel Unger
Executive Officer

Date: September 30, 2010

September 30, 2010

EXHIBIT B

Sedina L. Banks
D: 310.201.7436
F: 310.201.4456
SBanks@GreenbergGlusker.com
File Number: 14314-00016

October 29, 2010

***Via E-mail and Certified Mail
Return Receipt Requested***

Sam Unger
Executive Officer
California Regional Water Quality Control Board - LA Region
320 West 4th Street
Suite 200
Los Angeles, CA 90013

Re: Cleanup and Abatement Order No. R4-2010-0175 Requiring the City of Culver City to Take Remedial Action to Cleanup and Abate the Unpermitted Discharge of Raw Sewage at 6161 West Centinela Avenue, Los Angeles, CA

Dear Mr. Unger:

We represent the City of Culver City ("Culver City"). Please find enclosed Culver City's Petition for Review of "Cleanup and Abatement Order No. R4-2010-0175 Requiring the City of Culver City to Take Remedial Action to Cleanup and Abate the Unpermitted Discharge of Raw Sewage at 6161 West Centinela Avenue, Los Angeles, CA" issued by the California Regional Water Quality Control Board, Los Angeles Region on September 30, 2010.

Culver City is requesting that the State Water Board hold this petition in abeyance pursuant to California Code of Regulations, title 23, section 2050.5(d).

Please contact me with any questions. Thank you.

Regards,



Sedina L. Banks

SLB/sl
Enclosure

cc: John Nachbar, City Manager
Carol A. Schwab, Esq., City Attorney, City of Culver City
Heather S. Baker, Esq., Assistant City Attorney, City of Culver City
Charles Herbertson, Public Works Director
David E. Cranston, Esq.

EXHIBIT C



CAROL A. SCHWAB
City Attorney

OFFICE OF THE CITY ATTORNEY

CITY OF CULVER CITY

9770 CULVER BOULEVARD, CULVER CITY, CALIFORNIA 90232-0507

(310) 253-5660

FAX (310) 253-5664

October 5, 2010

Via Facsimile, Email & U.S. Mail

Enrique C. Zaldivar, Director
City of Los Angeles - Bureau of Sanitation
1149 South Broadway, 9th Floor
Los Angeles, CA 90015

Carmen A. Trutanich, City Attorney
City of Los Angeles – Office of the City Attorney
200 North Main Street, 8th Floor
Los Angeles, Ca. 90012

**Re: Sewage Overflow at the 6100 Block of the Southwesterly Side of
Centinela Avenue in the City of Los Angeles**

Dear Mr. Zaldivar and Mr. Trutanich:

On Friday, October 1, 2010, the City of Culver City ("Culver City") received a Cleanup and Abatement Order (the "October 1st Order") from the Regional Water Quality Control Board, Los Angeles Region ("Regional Board"), in connection with the sewage overflow occurring on September 29, 2010, at the 6100 block of the southwesterly side of Centinela Avenue in the City of Los Angeles (the "Sewage Overflow"). As discussed in more detail below, the City of Los Angeles ("City of LA"), not Culver City, is responsible for the Sewage Overflow and cleanup. We write to address the City of LA's responsibility and to correct some misstatements made by the City of LA regarding the Sewage Overflow in its inter-departmental correspondence dated September 30, 2010 (the "September 30th Correspondence"), as well as other statements and documents.

The Sewage Overflow Occurred Within the City of Los Angeles

The Sewage Overflow did not occur within Culver City as the City of LA erroneously asserts. The Sewage Overflow occurred on the hillside adjacent to the 6100 block of the southwesterly side of Centinela Avenue in the City of LA. The Sewage Overflow originated from a City of LA manhole and flowed down the adjacent City of LA unimproved hillside, eroding the hillside before entering into a

Culver City Employees take pride in effectively providing the highest levels of service to enrich the quality of life for the community by building on our tradition of more than seventy-five years of public service, by our present commitment, and by our dedication to meet the challenges of the future.

Enrique C. Zaldivar, Director
City of Los Angeles - Bureau of Sanitation
Carmen A. Trutanich, City Attorney
City of Los Angeles - Office of the City Attorney
October 5, 2010
Page 2 of 4

storm drain opening located in the City of LA approximately 600 feet from the manhole.

The address given in the September 30th Correspondence (as well as other City of LA notifications regarding the Sewage Overflow), which was "6161 West Centinela Avenue, Culver City," is across the street from where the Sewage Overflow actually occurred. It is entirely inaccurate for the City of LA to claim that the Sewage Overflow occurred within Culver City's boundaries. Indeed, the trap maintenance manhole from which the sewage overflowed is plainly identified on its cover as "City of LA."

We request the City of LA cease asserting that the Sewage Overflow occurred in Culver City and correct any notifications sent to any governmental entity in which the City of LA asserted that the Sewage Overflow occurred in Culver City. Please forward us any copies of the corrected documents.

The Trap Maintenance Manhole is Not A Continuation of Culver City's System

In the September 30th Correspondence, the City of LA repeatedly asserts that the trap maintenance manhole from which the sewage overflowed "is a continuation of the Culver City force main and is part of Culver City's system." This is not a correct statement.

The trap maintenance manhole was both designed and built by the City of LA to accommodate sewage flow from the City of LA's 12-inch gravity sewer main. Sewage from the City of LA flows through the 12-inch gravity sewer main to the manhole. After reaching the manhole, the sewage flows through an 18-inch diameter PVC line to the approximately 120 inch diameter Lower North Outfall Sewer ("LNOS"). The purpose of the trap is to prevent gas from the LNOS from escaping into the manhole and flowing up the City of LA's 12-inch gravity sewer main.

Although Culver City's sewage also flows through the manhole, it is not necessary that it do so in order to reach the LNOS. Prior to the City of LA's installation of the trap maintenance manhole and the associated lines, sewage from Culver City's force main went directly to the LNOS. Therefore, the City of LA did not build the trap maintenance manhole to accommodate Culver City's sewage. Because Culver City has a force main which is under pressure, and not a gravity main, it is not necessary to have a trap manhole to prevent gas migration up Culver City's force main. In addition, Culver City's force main connects directly to Culver City's pump station without any intervening manholes,

Enrique C. Zaldivar, Director
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making it virtually impossible for gas to escape. In addition, the trap maintenance manhole is not a "continuation" of Culver City's system and Culver City staff has never maintained it. Indeed, after Culver City diverted the sewage flowing from its force main away from the trap maintenance manhole at or around 2:40 p.m. on September 29, 2010, sewage from the City of LA's 12-inch gravity main continued to flow into the trap maintenance manhole and overflowed onto the hillside and into the storm drain until fully contained by Culver City crews.

The City of Los Angeles is Responsible for the Sewage Overflow

The City of LA's insinuation in the September 30th Correspondence, as well as other statements and documents, that Culver City is responsible for the Sewage Overflow is baseless. As discussed above, the Sewage Overflow occurred entirely within the City of LA's jurisdiction, from a trap maintenance manhole designed, built and maintained by the City of LA to accommodate sewage flow from the City of LA's 12-inch gravity sewer main. In addition, the type of debris that caused the blockage in the trap came from the City of LA's 12-inch gravity sewer line as this type of debris (rags, mop heads, etc.) would not have been able to pass through the pumps at Culver City's pumping station.

Thus, the City of LA is solely responsible for the Sewage Overflow and cleanup.

We understand that the City of LA is performing all legally required cleanup necessary to address all impacts resulting from the Sewage Overflow. If our understanding is incorrect, we request that you inform us immediately. We further request that the City of LA immediately notify the Regional Board of the City of LA's responsibility for the Sewage Overflow and join Culver City in requesting that the Regional Board rescind its October 1st Order issued to Culver City. In addition, Culver City expects that any future public statements made by the City of LA regarding the Sewage Overflow will acknowledge that the City of LA is responsible, not Culver City.

Culver City notes that there have been additional misstatements by the City of LA relating to the facts surrounding the Sewage Overflow; however, for now, the important issue that needs to be immediately corrected is that the City of LA acknowledges its responsibility for the Sewage Overflow and is taking all necessary and legally required steps to cleanup the Sewage Overflow and address any resulting impacts.

It is our understanding that the City of LA has already contacted Culver City's Public Works Director/City Engineer, Charles D. Herbertson, to schedule a

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meeting to further discuss this matter. Please be advised that a representative from our office will also be in attendance at the meeting.

We look forward to resolving this matter expeditiously and amicably.

Sincerely,

Handwritten signature of Carol A. Schwab in cursive, followed by the initials "AB" in a box.

Carol A. Schwab
City Attorney

Cc: Honorable Mayor Christopher Armenta and Members of the City Council
John M. Nachbar, City Manager
Martin R. Cole, Assistant City Manager
Charles D. Herbertson, Public Works Director/City Engineer
Heather Baker, Assistant City Attorney
County of Los Angeles Department of Public Works
California Regional Water Quality Control Board