

STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD  
SAN FRANCISCO BAY REGION

STAFF SUMMARY REPORT  
STAFF: Greg Walker  
MEETING DATE: September 15, 2004

ITEM: 6

SUBJECT: CITY AND COUNTY OF SAN FRANCISCO, SHERIFF'S DEPARTMENT, SANITARY SEWER SYSTEM, San Mateo County - Hearing to Consider Administrative Civil Liability for Discharge of Untreated Wastewater to Waters of the State

CHRONOLOGY: The Board has not considered this item before.

DISCUSSION: During the period between April 12, 2003, and April 15, 2003, San Francisco's Sheriff's Department had an unauthorized discharge of up to 99,000 gallons of un-recovered raw sewage to Milagra Creek and to Pacific Manor, a beach located in the City of Pacifica, and to the Pacific Ocean. The ACL amount is \$118,000, which includes \$8,000 in staff cost. San Francisco may perform a supplemental environmental project (SEP) in an amount equivalent to \$110,000 in lieu of an equal amount of the ACL penalty.

San Francisco has signed the waiver to a Board hearing and intends to propose a SEP.

RECOMMEN-  
DATION No action required

File No.: 2169.6009

Appendix: A. Complaint No. R2-2004-0007, staff report and signed waiver.

## Appendix A

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN FRANCISCO BAY REGION

COMPLAINT NO. R2-2004-0007

ADMINISTRATIVE CIVIL LIABILITY  
IN THE MATTER OF  
SAN FRANCISCO COUNTY JAIL  
CITY AND COUNTY OF SAN FRANCISCO

Pursuant to California Water Code (CWC) Sections 13323 and 13385, this Complaint to assess administrative civil liability (ACL) is issued to San Francisco County Jail in San Bruno and City and County of San Francisco (hereinafter the Discharger). The Complaint addresses the Dischargers' violation of a Discharge Prohibition 15 contained on page 4-10 of the 1995 Water Quality Control Plan (hereinafter the Basin Plan).

The Executive Officer finds that:

1. The San Francisco County Jail (SFCJ) located in San Bruno and is served by a private sewer lateral maintained and owned by the Jail. Sewage is conveyed to the City of South San Francisco treatment plant for eventual treatment and disposal.
2. On Saturday evening on April 12, 2003 the City of San Bruno Police contacted Daly City Public Works of sewage flowing from a manhole cover into a drop inlet on 4100 Susan Drive in San Bruno. Daly City's Public Works crews responded to relieve the stoppage and were unsuccessful. SFJC was contacted regarding the discharge and the Sheriff's department contacted San Francisco Public Utilities Commission (SFPUC) and crews responded on April 13, 2003 discovering a blockage that was rubble from a collapsed manhole structure.
3. On Monday afternoon, April 14, 2003, the flow of sewage to Milagra Creek was halted. The rubble from the collapsed manhole resulted in an unauthorized discharge of untreated sewage to a storm drain inlet leading to Milagra Creek and the Pacific Ocean. SFPUC has previously reported maintaining an odor control device in the sewer line in the past and their last inspection of the sewer line was two years ago. That inspection was "visual and casual" and "nothing out of the ordinary was noticed". SFPUC estimated the un-recovered sewage overflow was less than 99,000 gallons.
4. During sewer line repairs an adjacent water transmission pipeline belonging to North Coast Water District (NCWD) was severed and the Community Alert System was used to notify the residences of the City of Pacifica to boil or chlorinate their drinking water for several days.
5. The City of Pacifica notified Board staff, OES and County Health and subsequently posted notification of the sewage contamination and sampled Pacific Manor beach and

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Milagra Creek. The City of Pacifica closed the beach on April 14, 2003 and later reopened it on April 25, 2003 after beach water quality standards were met.

6. The Basin Plan establishes water quality objectives and discharge prohibitions for protection of existing and potential beneficial uses of surface waters and beaches. Specifically, Discharge Prohibition 15 on page 4-10 of the Basin Plan states that it shall be prohibited to discharge raw sewage or any waste failing to meet waste discharge requirements to any waters of the Basin.
7. Pursuant to CWC Section 13323, the Executive Officer may issue a complaint to any person on whom an administrative civil liability (ACL) may be imposed. The complaint shall allege the act or failure to act that constitutes a violation of law, the provision of law authorizing an ACL to be imposed pursuant to this article, and the proposed civil liability.
8. Pursuant to CWC Section 13385(a)(4), a discharger is civilly liable for violations of waste discharge prohibitions specified in a water quality control plan.

#### ALLEGATION

9. The Discharger has alleged to have violated Discharge Prohibition 15 contained on page 4-1 of the Basin Plan for discharging 99,000 gallons of un-recovered raw sewage to Milagra Creek and to Pacific Manor, a beach located in the City of Pacifica and the Pacific Ocean for a duration of three days during the period between April 12, 2003 and April 15, 2003.

#### PROPOSED CIVIL LIABILITY

1. The Regional Board could impose the maximum civil liability in this matter as follows:
  - a. \$10,000 for each day in which a violation occurred; and
  - b. \$10 per gallon for the discharge volume that is not susceptible to cleanup and exceeds 1,000 gallons.

If the matter is referred to the Attorney General for judicial enforcement, a higher liability of \$25,000 per day of violation and \$25 per gallon may be imposed.

2. Issuance of this Complaint is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000, et seq.), in accordance with Section 15321(a)(2), Title 14, California Code of Regulations.
3. In determining the amount of ACL, the following factors, which are defined in Section 13385(e) of the CWC, have been taken into consideration and are discussed in the attached Staff Analysis and Recommendations, which is incorporated herein by this reference:

“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 such other matters that justice may require.”

SAN FRANCISCO CITY AND COUNTY JAIL IS HEREBY GIVEN NOTICE THAT:

1. The Executive Officer of the Regional Board proposes that the Discharger be assessed an ACL in the amount of \$79,000, which includes \$4,000 in staff cost.
2. The Regional Board will hold a hearing on this Complaint on \_\_\_\_\_2004, unless the Discharger waives the right to a hearing by signing the last page of this Complaint and check the appropriate box. By doing so, the Dischargers agrees to:
  - a) Pay the full penalty of \$79,000 within 30 days after the signed waiver becomes effective, or
  - b) Pay a penalty in an amount of \$4,000 within 30 days after the signed waiver becomes effective, and satisfactorily completes a supplemental environmental project (SEP) in an amount equivalent to \$75,000.
3. If the Discharger chooses to propose a SEP, they must submit a proposal by \_\_\_\_\_2004 for the Executive Officer’s approval. Any SEP proposal shall also conform to the requirements specified in Section IX of the Water Quality Enforcement Policy, which was adopted by the State Water Resources Control Board on February 19, 2002. If the proposed SEP is not acceptable to the Executive Officer, the Discharger has 30 days from receipt of notice of an unacceptable SEP to either submit a new or revised proposal, or make a payment for the suspended amount of \$75,000. All payments, including any money not used for the SEP, must be payable to the State Water Pollution Cleanup and Abatement Account. Regular reports on the SEP implementation shall be provided to the Executive Officer according to a schedule to be determined. The completion report for the SEP shall be submitted to the Executive Officer within 60 days of project completion.
4. The signed waiver will become effective on the next day after the public comment period for this Complaint is closed, provided that there is no significant public comments on this Complaint during the public comment period. If there are significant public comments, the Executive Officer may withdraw the Complaint and re-issue it as appropriate.
5. If a hearing is held, the Regional Board will consider whether to affirm, reject, or modify the proposed ACL, or whether to refer the matter to the Attorney General for recovery of the civil liability.

\_\_\_\_\_  
Bruce Wolfe  
Executive Officer

\_\_\_\_\_  
Date

#### WAIVER

(The signed waiver will become effective on the next day after the public comment period for this Complaint is closed, provided that there is no significant public comments on this Complaint during the public comment period. If there are significant public comments, the Executive Officer may withdraw the Complaint and re-issue it as appropriate.)

- Waiver of the right to a hearing and agree to make payment in full.  
By checking the box, I agree to waive my right to a hearing before the Regional Board with regard to the violations alleged in Complaint No. R2-2004-0007 and to remit the full penalty payment to the State Water Pollution Cleanup and Abatement Account, c/o State Water Resources Control Board at 1515 Clay Street, Oakland, CA 94612, within 30 days after the signed waiver becomes effective as indicated above. I understand that I am giving up my right to be heard, and to argue against the allegations made by the Executive Officer in this Complaint, and against the imposition of, or the amount of, the civil liability proposed.
  
- Waiver of the right to a hearing and agree to make payment and undertake an SEP. By checking the box, I agree to waive my right to a hearing before the Regional Board with regard to the violation alleged in Complaint No. R2-2004-0007 and to satisfactorily complete a supplemental environmental project (SEP) in lieu of a suspended liability of \$79,000. I also agree to remit payment of \$4,000 to the State Water Pollution Cleanup and Abatement Account within 30 days after the signed waiver becomes effective. I understand that the SEP proposal shall conform to the requirements specified in Section IX of the Water Quality Enforcement Policy, which was adopted by the State Water Resources Control Board on February 19, 2002, and be subject to approval by the Executive Officer. If the SEP proposal, or its revised version, is not acceptable to the Executive Officer, I agree to pay suspended penalty amount of \$79,000 within 30 days of a letter from the Executive Officer denying the approval of the proposed SEP. I also understand that I am giving up my right to argue against the allegations made by the Executive Officer in the Complaint, and against the

imposition of, or the amount of, the civil liability proposed. I further agree to complete the approved SEP within a time schedule set by the Executive Officer.

\_\_\_\_\_  
Name (print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title/Organization