

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

**STAFF SUMMARY REPORT: Samuel Plummer
MEETING DATE: March 12, 2025**

ITEM: 5E

**City of Berkeley, Wastewater Collection System, Alameda County – Reissuance of NPDES
Permit**

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DISCUSSION:

This Revised Tentative Order (Appendix A) would reissue the NPDES permit for the City of Berkeley's wastewater collection system. It is one of seven agenda items (Items 5C through 5I) that would reissue permits for the wastewater collection systems for the cities of Alameda, Albany, Berkeley, Emeryville, Oakland, and Piedmont and the Stege Sanitary District (collectively, the Satellites), which all discharge untreated wastewater into the East Bay Municipal Utility District (EBMUD) interceptor system. These tentative orders are nearly identical; only the facility descriptions differ. Agenda Item 5B would reissue the permit for the related EBMUD Wet Weather Facilities (WWFs).

This Revised Tentative Order would continue the previous permit prohibition on causing or contributing to discharges from the WWFs. This prohibition is consistent with a 2007 State Water Board order that the WWFs must either meet secondary treatment standards or cease discharge. The prohibition is necessary because inflow and infiltration within the Satellites' collection systems contribute to high wastewater flows during wet weather, which in turn results in excess wastewater discharged from the WWFs.

In 2009, the Regional Water Board, State Water Board, and U.S. EPA sued EBMUD and the Satellites, culminating in a Consent Decree entered by the U.S. District Court on September 22, 2014. The Consent Decree requires the reduction and eventual cessation of all WWF discharges, beginning with the San Antonio WWF in 2027 and ending with the Oakport WWF in 2035. The Consent Decree sets forth various work obligations to address the WWF discharges and sanitary sewer overflows, with mid-course check-ins in 2022 and 2030. The 2022 mid-course check-in results showed that EBMUD and the Satellites are on track to meet these deadlines.

The Consent Decree requires, among other things, that each of the Satellites undertakes the following work:

- Clean sewers at specified minimum rates,
- Rehabilitate sewer mains and manholes,
- Eliminate sources of inflow and infiltration, and
- Assist in implementation of a regional private sewer lateral rehabilitation program.

The Satellites collectively commented on the tentative orders (Appendix B). Many of the comments are identical to those made during the 2009, 2014, and 2020 permit reissuances. As explained in our response to these comments (Appendix C), we did not revise the tentative orders because the circumstances have not significantly changed since the previous permit reissuances.

To summarize, the Satellites object to the cause and contribute prohibition, and reject the Board's authority to issue NPDES permits for the wastewater collection systems. The Satellites cite various

legal arguments as bases for their objections, and we disagree. The prohibition is appropriately based on federal regulation that ensures compliance with the Clean Water Act. The Regional Water Board's authority to issue the NPDES permits is clear because the Satellites contribute to the discharge of pollutants through the WWFs into waters of the U.S.

The attached Revised Tentative Order reflects a minor editorial change made to the draft permit, and we expect this item to be uncontested.

APPENDICIES:

- A. Revised Tentative Order
- B. Comments
- C. Response to Comments

Appendix A

Revised Tentative Order

Appendix B

Comments

For an electronic copy of the comments, please contact Samuel Plummer via email at sam.plummer@waterboards.ca.gov or at (510) 622-2486.

Appendix C

Response to Comments