

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

INVESTIGATIVE ORDER NO. R9-2011-0035

**AN ORDER DIRECTING THE CITY OF OCEANSIDE
TO SUBMIT A TECHNICAL REPORT PERTAINING TO INVESTIGATION OF A
DISCHARGE OF UNTREATED SEWAGE TO BUENA VISTA CREEK, BUENA VISTA
LAGOON AND THE PACIFIC OCEAN FROM A 15- INCH GRAVITY SEWER MAIN,
HAYMAR DRIVE, OCEANSIDE, SAN DIEGO COUNTY**

The California Regional Water Quality Control Board, San Diego Region (hereinafter San Diego Water Board) finds that:

1. **Legal and Regulatory Authority:** This Order is based in part on (1) sections 13260, 13267 and 13304 of the California Water Code (Water Code); (2) applicable state and federal regulations; (3) the *Water Quality Control Plan for the San Diego Basin* (Basin Plan) adopted by the San Diego Water Board; (4) State Water Resources Control Board (State Water Board) policies and regulations, including State Water Board Resolution No. 68-16 (*Statement of Policy with Respect to Maintaining High Quality of Waters in California*); and (5) relevant standards, criteria, and advisories adopted by other state and federal agencies.
2. **Waste Discharge Requirements:** The City of Oceanside's (hereinafter the City) sewage collection system is regulated by State Water Board Order No. 2006-0003-DWQ, *Statewide Waste Discharge Requirements for Sanitary Sewer Systems*, and San Diego Water Board Order No. R9-2007-0005, *Waste Discharge Requirements for Sewage Collection Agencies in the San Diego Region*.
3. **Persons Responsible for the Discharge of Wastes:** The City owns and operates the 15-inch gravity main sewer line which crosses Buena Vista Creek near North Haymar Drive in the City of Oceanside.
4. **Discharge of Untreated Sewage:** The City reported the following information about an illicit discharge of untreated sewage that occurred between December 23, 2010 and December 28, 2010:
 - a. On December 28, 2010 at approximately 9:00 a.m., the City's inspection crews detected a break in the 15-inch gravity sewer line which crosses Buena Vista Creek near North Haymar Drive.
 - b. The 15-inch vitrified clay pipe (VCP) sewer line, which was installed in 1961, became exposed in 2006 and was scheduled for a re-alignment project for the winter of 2011.
 - c. The pipe break went undetected for approximately five days due to heavy rains experienced during the late December 2010 storms. The pipe was completely submerged in Buena Vista Creek for those five days.

- d. The total discharge volume of untreated sewage was estimated to be 5.5 million gallons.
 - e. The discharge of untreated sewage flowed unabated into Buena Vista Creek and continued into Buena Vista Lagoon and ultimately into the Pacific Ocean.
 - f. As result of the sewage spill, the County of San Diego Department of Environmental Health posted warning signs at Buena Vista Lagoon and 1,000 feet in each direction of the outlet of the lagoon at the Pacific Ocean.
5. **San Diego Water Board Notification:** The San Diego Water Board was first notified of the discharge by phone at 4:19 p.m. on December 28, 2010 and received an initial written notification by fax on January 3, 2011.
 6. **Violation of Order No. 2006-0003-DWQ:** The discharge of raw sewage described in Finding No. 4 of this Order is a violation of Prohibition C.1 of State Water Board Order No. 2006-0003-DWQ, *Statewide General Waste Discharge Requirements for Sanitary Sewer Systems*, which prohibits the discharge of untreated or partially treated wastewater to waters of the United States.
 7. **Violation of Order No. R9-2007-0005:** The discharge of raw sewage described in Finding No. 4 of this Order is a violation of Prohibition B.1 of San Diego Water Board Order no. R9-2007-0005, *Waste Discharge Requirements for Sewage Collection Agencies in the San Diego Region*, which prohibits the discharge of sewage from a sanitary sewer system at any point upstream of a sewage treatment plant.
 8. **Potential Impacts of the Discharge:** Untreated sewage contains a mixture of pollutants and high levels of pathogenic organisms, which could potentially transmit diseases to ecological receptors. Consequently, a discharge of untreated sewage has the potential to adversely affect public health, adversely affect animal and plant life, pollute surface water or groundwater, and cause a public nuisance, particularly when untreated sewage is discharged to areas with high public exposure.
 9. **Basis for Requiring Reports:** Water Code section 13267 provides that the San Diego Water Board may require dischargers, past dischargers, or suspected dischargers to furnish technical or monitoring reports as the San Diego Water Board may specify, provided that the burden, including costs, of these reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. In requiring those reports, the San Diego Water Board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.
 10. **Need for and Benefit of a Technical Report:** A technical report is needed to enable the San Diego Water Board to effectively evaluate the nature, circumstances, extent, and impacts of the illicit discharge of sewage. The burden of providing the required report bears a reasonable relationship to the need for the report and the benefits to be obtained from the report.

11. **California Environmental Quality Act (CEQA) Compliance:** This Order is exempt from the following provisions of the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.): enforcement actions taken for the protection of the environment are exempted in accordance with section 15308, Chapter 3, Title 14 of the California Code of Regulations (CCR); enforcement actions taken by a regulatory agency are exempted by the provisions of CEQA pursuant to section 15321(a) (2), Chapter 3, Title 14 of the CCR. This action is also exempt from the provisions of CEQA in accordance with section 15061(b) (3) of Chapter 3, Title 14 of the CCR because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.
12. **Qualified Professionals:** Qualified professionals are necessary for preparing the technical report required by this Order, in order to ensure that information presented in the report is reliable and accurate. Professionals should be qualified, licensed where applicable, and competent and proficient in fields pertinent to the required activities.
13. **Cost Recovery:** Pursuant to Water Code section 13304, and consistent with other statutory and regulatory requirements, including not but limited to Water Code section 13365, the San Diego Water Board is entitled to, and will seek reimbursement for, all reasonable costs actually incurred by the San Diego Water Board to investigate unauthorized discharges of waste and to oversee cleanup of such waste, abatement of the effects thereof, or other remedial action, required by this Order.

IT IS HEREBY ORDERED, that pursuant to sections 13267 and 13304 of the California Water Code, the City of Oceanside is required to submit a technical report by **5:00 pm on April 11, 2011** presenting results of an investigation of the unauthorized discharge of sewage that occurred from the 15-inch VCP gravity sewer main. The technical report must comply with the directives of this Order and include the following information:

A. CONTENTS OF THE TECHNICAL REPORT

Causes and Circumstances of the Discharge

1. A complete, detailed explanation of how and when the discharge of untreated sewage (the discharge) from the 15-inch gravity sewer main was discovered.
2. A diagram showing the location of the sewage line involved in the sewage discharge, including, but not limited to, the location of the pipe failure and any additional lines connecting it to the San Luis Rey Wastewater Treatment Plant.
3. A detailed report of the total volume of untreated sewage discharged, including the methods and assumptions used in making the determination, including tabular and graphical summaries of the daily total influent flows to the San Luis Rey Wastewater Treatment Plant and flow data from the ruptured line for the month of December 2010.

4. A detailed description of the cause(s) for the structural problem/failure of the gravity sewer main, including any analyses or forensic studies performed by the City or its consultants to determine the reasons for the pipe failure.
5. The date that the 15-inch VCP gravity sewer main was installed and the design and construction standards and specifications that were applied for the installation of the 24-inch force sewer main.
6. Copies of any City inspection reports relating to the exposed section of the 15-inch gravity sewer main from 2006 to the present.
7. A description of measures taken to ensure the integrity of the 15-inch gravity sewer main after the City discovered its exposure in 2006.
8. Copies of any CEQA documents prepared by the City or its consultants relating to the repair/rehabilitation of the exposed portion of the 15-inch VCP gravity sewer.

Response to the Discharge

9. A detailed chronological description of all actions taken by the City to terminate the discharge, divert flows from the ruptured gravity sewer, and mitigate the impacts from the discharge. The narrative must include an evaluation of the results of these actions.
10. A copy of the City's Sanitary Sewer Management Plan (SSMP) prepared in accordance with Order No. 2006-0003-DWQ. Please describe how the Overflow Emergency Response Plan (Section 6 of SSMP) was implemented during the course of the sewage spill. Your response must include a description of any changes/improvements that will be made in the Overflow Emergency Response Plan to more effectively respond to future sewage spills.
11. A detailed description of the final repair project (directional drilling) for the ruptured pipeline, including an update of the status of the final repair, documentation of associated costs involved in the project, sources of funding for the project, and plans and specifications for the repair.
12. A detailed description of the City's Sewer Reserve Fund, including the City's criteria for utilization of that fund for emergency projects, and an annual accounting of the monies available in that reserve from 2006 to the present.
13. A diagram of Buena Vista Creek, Buena Vista Lagoon and the Pacific Ocean showing the areas of these waters that were closed or restricted to the public as a result of the sewage discharge, including the dates these areas were closed to public use.

Monitoring and Analysis

14. A description of all water quality sampling activities, conducted by or on behalf of the City, associated with the sewage spill, analytical results, and an evaluation of the results.
15. A description of the City's accelerated or additional monitoring provisions developed as part of the Overflow Emergency Response Plan in the City's SSMP (Section 6.f).
16. A detailed location map for the water quality sampling and reference points.
17. Characterization of the quality of the influent to the San Luis Rey Wastewater Treatment Plant for the following chemical constituents: total nitrogen, total dissolved solids, chloride, sulfate, iron, manganese, biological oxygen demand, and methylene blue activated substances.

Impacts of the Discharge

18. An assessment of the potential short and long term impacts of the discharge on public health, animal and plant communities (including sensitive and/or endangered species), and on the overall ecosystem downstream of the discharge. The assessment must include:
 - a. A summary of all threatened and endangered species located downstream of the spill site within or adjacent to Buena Vista Creek, Buena Vista Lagoon and the Pacific Ocean.
 - b. A description of all observations and sampling activities, conducted by or on behalf of the City, associated with potential short-term and long-term impacts to human health, vegetation and wildlife from the spill and an evaluation of these impacts.

This assessment must be prepared by a technical professional qualified to evaluate the short and long term impacts of the discharge on ecological receptors.

19. A detailed discussion of the City's efforts to date to obtain the necessary permits, develop mitigation plans, and restore the environmental impacts to Buena Vista Creek as a result of the emergency pipeline repair. This discussion shall include any correspondence/applications submitted to other resource/regulatory agencies.

Additional Information

20. Any other pertinent information that will assist the San Diego Water Board in evaluating the nature, circumstances, extent, and impacts of the discharge.

B. PROVISIONS

1. **Use of Registered Professionals:** The City shall provide documentation that any reports required under this Order were prepared under the direction of appropriately qualified professionals. In preparing the technical report required by this Order, any engineering or geologic evaluations and judgments must be performed by or under the direction of registered professionals. A statement of qualifications and registration numbers of the responsible lead professional shall be included in the report submitted by the City. The lead professional shall sign and affix their registration stamp to the report.
2. **Use of Qualified Technical Professionals:** The City shall ensure that plans and reports, required under this Order, are prepared under the direction of technical professionals who are appropriately qualified to evaluate short and long term impacts to ecological receptors.
3. **Laboratory Qualifications:** Unless otherwise permitted by the San Diego Water Board, all analyses shall be conducted at a laboratory certified to perform such analyses by the California Department of Public Health (CDPH).
4. **Laboratory Analytical Reports:** Any report presenting new analytical data is required to include the complete laboratory analytical report(s). The laboratory analytical report must be signed by the laboratory director and contain:
 - a. Complete sample analytical report.
 - b. Complete laboratory quality assurance/quality control (QA/QC) report.
 - c. Discussion of the QA/QC data, and
 - d. A transmittal letter that shall indicate whether or not all the analytical work was supervised by the director of the laboratory, and contain the following statement, "All analyses were conducted at a laboratory certified for such analyses by the CDPH in accordance with current procedures approved by the United States Environmental Protection Agency."
5. **Analytical Methods:** Specific methods of analysis must be identified in the City's monitoring reports. If the District proposes to use methods or test procedures other than those included in the most current version of 40 CFR, Part 136, "*Guidelines Establishing Test Procedures for the Analysis of Pollutants; Procedures for Detection and Quantification*," and State Water Board SWAMP Bioassessment Standard Operating Procedures (SOP's),¹ then the exact methodology must be submitted for review and approval by the San Diego Water Board prior to use.

¹ SWAMP SOP's for benthic macroinvertebrate samples and stream algae samples can be obtained at: <http://swamp.mpsl.mlml.calstate.edu/resources-and-downloads/standard-operating-procedures>.

6. **Signatory Requirements:** The Technical Report required under this Order shall be signed and certified by either a principal executive officer, ranking elected official, or the person with overall responsibility for environmental matters for that municipality. Additional reports submitted in support of the Technical Report must be signed by the principal author.

Certification Statement: Any person signing a document under this provision shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

7. **Report Submittal:** The report required under this Order shall be submitted to the following address:

Assistant Executive Officer
California Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340

C. COST RECOVERY

Upon receipt of invoices, and in accordance with instructions therein, the City must reimburse the San Diego Water Board for all reasonable costs incurred by the San Diego Water Board to investigate unauthorized discharges of waste and to oversee cleanup of such waste, abatement of the effects thereof, or other remedial action, required by this Order.

D. NOTIFICATIONS

1. **Enforcement Discretion:** The San Diego Water Board reserves its right to take any enforcement action authorized by law for violations of the terms and conditions of this Order.
2. **Enforcement Notification:** Water Code section 13268 (a) (1) provides that any person failing or refusing to furnish technical or monitoring report information as required by Water Code section 13267(b), or falsifying any information provided therein, is guilty of a misdemeanor and may be liable civilly for an administered imposed liability of up to \$1,000 per day for each day compliance is not achieved with an Order issued in accordance with subdivision 13268(b).
3. **Requesting Administrative Review by the State Water Board:** Any person affected by this action of the San Diego Water Board may petition the State Water Board to review the action in accordance with section 13320 of the Water Code and CCR Title 23 section 2050. The petition must be received by the SWRCB (Office of Chief Counsel, P.O. Box 100, Sacramento, California 95812) within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request.



JAMES G. SMITH
Assistant Executive Officer

10 Mar 11
Date

JGS: jh: cm

CIWQS Place ID	631595
Reg. Measure No	377783
Party ID	32484
Violation ID	888091
SSO Event ID	759981