

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD**

**SAN DIEGO REGION**

**In the matter of City of San Diego, January 2016 Sanitary Sewer Overflow,**

**Tecolote Creek, Mission Bay, CA**

**Settlement Agreement and Stipulation for Entry of Administrative Civil Liability**

**Order No. R9-2020-0150, Place ID 631631**

**I. INTRODUCTION**

This Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order (Order or Stipulated Order) is entered into by and between the Assistant Executive Officer of the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) on behalf of the San Diego Water Board Prosecution Team (Prosecution Team), and the City of San Diego (City or Discharger) (collectively, Parties). This Order is presented to the San Diego Water Board for adoption as an order by settlement pursuant to Government Code section 11415.60.

**II. RECITALS**

1. The City owns and operates a municipal sanitary sewer system, comprised of the municipal sub-system and the metropolitan sub-system, which transports and treats an average of 160 million gallons of sewage every day. The municipal sub-system serves the residents of the City and includes approximately 3,000 miles of sewer lines, 59,000 sewer manholes and 73 municipal pump stations. Approximately 250 miles of these sewer lines are located in 42 canyons and other non-right-of-way areas throughout the City.
2. The Tecolote Creek Watershed (Hydrologic Unit No. 906.50) is located in central San Diego in the neighborhood of Clairemont (see Attachment A, Figure 1). The Water Quality Control Plan for the San Diego Basin (Basin Plan) designates the following Beneficial Uses for Tecolote Creek: Contact Water Recreation (**REC-1**, Potential), Non-contact Water Recreation (**REC-2**), Warm Freshwater Habitat (**WARM**) and Wildlife Habitat (**WILD**). Additionally, Tecolote Creek is designated as a water quality limited segment for indicator bacteria pursuant to Clean Water Act section 303(d). Total Maximum Daily Loads have been adopted to address these impairments.

3. At its southern terminus, Tecolote Creek discharges into Mission Bay. The Basin Plan designates the following Beneficial Uses for the Bay: Industrial Service Supply (**IND**), **REC-1**, **REC-2**, Commercial and Sport Fishing (**COMM**), Estuarine Habitat (**EST**), **WILD**, Rare Threatened or Endangered Species (**RARE**), Marine Habitat (**MAR**), Migration of Aquatic Organisms (**MIGR**), Spawning, Reproduction and/or Early Development (**SPWN**), and Shellfish Harvesting (**SHELL**). In accordance with Resolution No. R9-2017-0030, Mission Bay is considered a key area for three key beneficial use categories: recreation, consumption of fish and shellfish, and habitats and ecosystems. Discharges of sewage into Mission Bay can negatively impact all three of these key uses.
4. From January 5, 2016 to January 10, 2016, the City discharged **6,750,734 gallons** of untreated raw sewage into Tecolote Creek, a water of the United States and tributary to Mission Bay, from a section of 15-inch (diameter) pipe which had broken during a storm event. The pipe, located in the canyon adjacent to Tecolote Creek, was damaged as result of stream bank erosion that occurred during an intense storm event in January 2016. The damaged pipe was identified by City staff after several calls from citizens between January 8, 2016 and January 10, 2016, reported a concern that sewage was pouring into Tecolote Canyon.
5. The City received a Notice of Violation and Investigative Order No. R9-2016-0049 on February 10, 2016, and timely responded to the investigative order on March 30, 2016.
6. In September 2017, the Prosecution Team and the City entered into confidential settlement negotiations to resolve alleged violations arising from the sanitary sewer overflow (SSO).
7. The *Statewide General Waste Discharge Requirements for Sanitary Sewer Systems*, Order No. 2006-003-DWQ (Statewide General Order) regulates all entities that own or operate a sanitary sewer system, greater than one mile in length that collects or conveys untreated or partially treated wastewater to a publicly owned treatment facility in the State of California. Prohibition C.1 of the Statewide General Order states that “[a]ny SSO that results in a discharge of untreated or partially treated wastewater to waters of the United States is prohibited.” Prohibition C.2 states “[a]ny 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.”

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8. In addition to the Statewide General Order, the San Diego Water Board adopted Waste Discharge Requirements for Sewage Collection Agencies in the San Diego Region (Order No. R9-2007-0005, Regional General Order). The Regional General Order establishes additional requirements beyond the minimum requirements established in the Statewide General Order. Prohibition B.1 of the Regional General Order states “[t]he discharge of sewage from a sanitary sewer system at any point upstream of a sewage treatment plant is prohibited.”
9. The City’s discharge of raw sewage from January 5, 2016 to January 10, 2016, was in violation of Clean Water Act section 301 and California Water Code (Water Code) section 13376, which prohibit the discharge of pollutants to surface waters except in compliance with a National Pollutant Discharge Elimination System (NPDES) permit. The discharge was also in violation of Basin Plan Waste Discharge Prohibition No. 9 which states “The unauthorized discharge of treated or untreated sewage to waters of the state or to a storm water conveyance system is prohibited.” The discharge of raw sewage was also in violation of the Statewide General Order and the Regional General Order.
10. These alleged violations constitute violations of the Water Code for which discretionary penalties may be assessed pursuant to Water Code section 13385, subdivisions (a) and (c).
11. The Parties have engaged in settlement negotiations and agree to settle this matter without administrative or civil litigation by presenting this Order to the San Diego Water Board for adoption as an order pursuant to Government Code section 11415.60. Additional detail on the factors considered in determining the liability agreed upon by the Parties is discussed in Attachment A, attached hereto and incorporated by reference.
12. The amount of administrative civil liability imposed pursuant to this Stipulated Order comports with the State Water Resources Control Board’s (State Water Board) Water Quality Enforcement Policy (Enforcement Policy) methodology as discussed in Attachment A.
13. The Prosecution Team asserts that the resolution of the alleged violations is fair, reasonable, and fulfills its enforcement objectives, that no further action is warranted concerning the specific violations alleged in Attachment A except as provided in this Order, and that this Order is in the best interest of the public.

III. STIPULATIONS

The Parties stipulate to the following:

14. **Administrative Civil Liability:** The Discharger hereby agrees to pay administrative civil liability totaling **TWO MILLION FIVE HUNDRED FORTY-ONE THOUSAND EIGHT HUNDRED SEVENTY-FOUR DOLLARS (\$2,541,874)**, which includes \$41,874 in staff costs associated with the investigation and preparation of this enforcement action. Within thirty (30) days of the effective date of this Order, the Discharger agrees to remit, by check, **\$1,291,874**, payable to *State Water Pollution Cleanup and Abatement Account*, and shall indicate "Order No. R9-2020-0150" on the check. The Discharger shall send the original signed check to the following address:

State Water Resources Control Board; Accounting Office  
ATTN: ACL Payment  
P.O. Box 1888  
Sacramento, California 95812-1888

The Discharger shall send a copy of the check to the Prosecution Team Party Contact at the address listed in Paragraph 17. Alternative forms of payment are acceptable if agreed upon in advance.

The remaining **\$1,250,000** in administrative civil liability will be satisfied through the complete implementation of a Supplemental Environmental Project (hereinafter "SEP" or "Project"). The total cost associated with the SEP (**\$1,293,605**) will be referred to as the "SEP Amount" and the **\$1,250,000** will be referred to as the "Suspended Liability" of the total administrative civil liability.

15. **Due Diligence Measures:** The Discharger has initiated measures to minimize the risk of similar violations occurring along the Tecolote sewer pipeline. The Discharger is planning to implement a capital improvement project (CIP). The CIP will rehabilitate 1.2 miles of trunk sewer and replace and upsize 5 miles of trunk sewer. The project includes all manholes and appurtenances in addition to access improvements and mitigation for impacts. The total cost of the CIP is approximately \$35,000,000, and construction completion is anticipated to occur in 2024.
16. **Compliance with Applicable Laws:** The Discharger understands that the payment of administrative civil liability and implementation of the SEP in accordance with the terms of this Order does not relieve the Discharger of its obligation to comply with applicable laws and that new violations of the type alleged in Attachment A may subject it to further enforcement, including additional administrative civil liability.

**17. Party Contacts for Communications related to the Order:**

**For the Prosecution Team:**

Chiara Clemente  
California Regional Water Quality Control Board, San Diego Region  
2375 Northside Drive, Suite 100  
San Diego, California 92108  
[Chiara.Clemente@waterboards.ca.gov](mailto:Chiara.Clemente@waterboards.ca.gov)  
(619) 521-3371

**For the Discharger:**

Johnnie Perkins Jr.  
Deputy Chief Operating Officer, Infrastructure/Public Works  
City of San Diego  
[JLPerkins@sandiego.gov](mailto:JLPerkins@sandiego.gov)  
(619) 236-6953

**18. Supplemental Environmental Project:** The Parties agree that the Suspended Liability specified in Paragraph 14 will be used to fund a SEP. The amount associated with the Project shall be treated as a suspended administrative civil liability at the time of Project completion for purposes of this Order. The San Diego Water Board is entitled to recover any portion of the Suspended Liability that is not expended in accordance with this Order. A detailed project description, including milestones, budgets, and performance measures are attached hereto as Attachment B, and incorporated by this reference.

**a. Project Description: Northeast Mission Bay Wetland Restoration:**

The City proposes a three-pronged approach, including assessments, environmental restoration, and protection to further the goals of native habitat restoration in northeast Mission Bay in order to improve water quality and beneficial uses by funding:

- i. Additional analysis and study of an expanded restoration alternative for the Programmatic Environmental Impact Report (PEIR) of the De Anza Cove Amendment to the Mission Bay Park Master Plan;
- ii. Technical studies to supplement the Mission Bay Park Improvement Plan PEIR and Rose Creek Preliminary Engineering Report; and
- iii. Planning and implementation of native habitat enhancement and restoration in the Kendall Frost Reserve.

**b. Agreement for the Discharger to Fund, Report, and Guarantee Implementation of the Project:** The City represents that:

- i. The Project conforms to the criteria identified in the 2017 Policy on Supplemental Environmental Projects (SEP Policy);
  - ii. The Project is unrelated in scope to the actions completed to remedy the alleged violations identified in this Order, is not otherwise required by law, and the City is not otherwise obligated to undertake;
  - iii. The Project addresses the overall environmental harm posed by the SSO;
  - iv. It will fund the Project in the amount described in this Order;
  - v. It will provide certifications and written quarterly reports detailing Project implementation, consistent with the terms of this Order; and,
  - vi. It will guarantee payment by remaining liable for the Suspended Liability until the Project is completed and accepted by the San Diego Water Board according to the terms of this Order.
- c. **SEP Completion Date:** The proposed timeline for completion of the SEP is consistent with the SEP Policy, which requires that all projects be completed within 36 months of the adoption of a stipulated order.
- d. **Representation of the Discharger:** As a material consideration for the San Diego Water Board's acceptance of this Order, the Discharger represents that it will utilize the Suspended Liability outlined in Paragraph 14 to implement the Project in accordance with the Project proposal as described in Attachment B. The Discharger understands that its promise to implement the Project in accordance with the schedule and deliverables for implementation is a material condition of this settlement of liability between the Parties.
- e. **Request for Extension of Completion Date:** If the Discharger cannot complete the Project within 36 months following adoption of the Order (Completion Date), due to circumstances beyond the Discharger's anticipation or control, the Discharger shall notify the San Diego Water Board Executive Officer in writing within thirty (30) days of the date the Discharger first knew of the event or circumstance that caused or could cause a violation of this Order. The notice shall describe the reason for the nonperformance and specifically refer to this Paragraph. The notice shall describe the anticipated length of time the delay may persist, the cause or causes of the delay, an updated schedule for implementation, and the anticipated date of compliance. The Discharger shall adopt all reasonable measures to avoid and minimize such delays.

The determination as to whether circumstances were beyond the reasonable control of the Discharger and its agents will be made by the Executive Officer. Where the Executive Officer concurs that compliance was or is impossible, despite the timely good faith efforts of the Discharger, due to circumstances beyond the control of the Discharger that could not have been reasonably foreseen and prevented by the exercise of reasonable diligence by the Discharger, a new Completion Date shall be established and this Order will be revised accordingly. The Executive Officer will endeavor to grant a reasonable extension of time if warranted up to, but not exceeding, one year.

- f. **Project Oversight:** The Discharger agrees to oversee implementation of the Project. Additional oversight of the Project will be provided by the San Diego Water Board. Pursuant to Section VIII.G of the SEP Policy, the Discharger is responsible for paying all reasonable oversight costs incurred by the San Diego Water Board to oversee the Project. The oversight costs are in addition to the total administrative civil liability and are not credited towards the Discharger's obligation to fund the Project. Reasonable oversight tasks to be performed by the San Diego Water Board include, but are not limited to, updating regulatory and records databases (CIWQS and ECM), reviewing and evaluating progress, conducting site inspections, meeting participation, reviewing the final completion report, verifying completion of the Project with a site inspection, and auditing appropriate expenditure of Suspended Liability funds. The Discharger agrees to pay **\$6,000** in Oversight Costs for the life of the Project. Similar to the administrative civil liability, this payment is due within 30 days of the entry of this Order by the San Diego Water Board, and under the terms articulated in paragraph 14. If the Discharger elects to send one check to cover the administrative civil liability and the Project oversight costs for a total of **\$1,297,874**, the Discharger will submit a cover letter with the check explaining the combined amounts and identifying the number of this Order.
- g. **Publicity:** If the Discharger publicizes the Project or results of the Project it will state in a prominent manner that the Project is being undertaken as part of a settlement of a San Diego Water Board enforcement action.
- h. **Site Inspections:** The Discharger shall permit San Diego Water Board staff to inspect the SEP implementation location during normal business hours as well as review any documents associated with SEP implementation at any time without notice.

- i. **Submission of Reports:** The Discharger agrees to submit quarterly reports to the San Diego Water Board. Quarterly progress reports will be due on the 15<sup>th</sup> day of each of the months of April, July, October, and January, starting with the first full quarter after the adoption date of this Order, and will include information relating to the implementation progress of the Project, including photo-documentation, and any relevant deliverables. The Discharger shall submit a Final Report within thirty (30) days of the SEP Completion Date. The reports shall be provided in electronic copy to [sandiego@waterboards.ca.gov](mailto:sandiego@waterboards.ca.gov) with **CMeans:PIN#631631** included in the subject line.
  
- j. **Certification of Completion of Project in Final Report:** Within thirty (30) days of the SEP Completion Date, the Discharger shall submit a certified statement of completion (Certification of Completion) as a component of the Final Report. The Discharger's authorized representative shall submit the Certification of Completion under penalty of perjury to the Party Contact listed in Paragraph 17 above. The certification shall include the following:
  - i. **Certification of Expenditures:** Certification documenting all expenditures by the Discharger. The expenditures may include external payments to outside vendors or contractors implementing the Project. The expenditures may include the costs of internal management resources, provided that such expenditures are directly related to the development and implementation of the Project. In making such verification, the official may rely upon normal company and project tracking systems that capture employee time expenditures and external payments to outside vendors such as environmental or information technology contractors or consultants. The Discharger shall provide any additional information requested by the San Diego Water Board staff which is reasonably necessary to verify Project expenditures. The certification need not address any costs incurred by the San Diego Water Board for oversight.
  
  - ii. **Certification of Performance of Work:** Certification that the Project has been completed in accordance with terms of this Order. Such documentation may include photographs, invoices, receipts, certifications, and other material reasonably necessary for the San Diego Water Board to evaluate the completion of the Project and costs incurred by the Discharger.



- iii. **Certification that Work Performed Met or Exceeded Requirements of CEQA and other Environmental Laws (where applicable):** Certification that the Project met or exceeded the requirements of CEQA and/or other environmental laws. Unless a project is categorically or statutorily exempt from compliance with CEQA, the Discharger shall, before initiating construction, consult with other interested State Agencies regarding potential impacts of the Project. Other interested State Agencies include, but are not limited to, the California Department of Fish and Wildlife. To ensure compliance with CEQA where necessary, the Discharger shall provide the San Diego Water Board with the following documents prior to commencing the Project:
  - 1. Categorical or statutory exemptions;
  - 2. Negative Declaration if there are no “significant” impacts;
  - 3. Mitigated Negative Declaration if there are potential “significant” impacts but revisions to the Project have been made or may be made to avoid or mitigate those potential significant impacts; or,
  - 4. Environmental Impact Report if there are “significant” impacts.
  
- k. **Third Party Audit:** The SEP Policy requires that if a project has a direct cost of over one million dollars, the Discharger is required to have a third party financial audit to be performed after the completion of the project. Pursuant to Section IX.I of the SEP Policy, the City shall submit an audit report prepared by an independent third party, acceptable to the San Diego Water Board, providing such party’s professional opinion that the City has expended money in the amount claimed by the City. This audit report shall be at the sole cost of the City and shall be submitted within three (3) months of the SEP Completion Date. The audit need not address any costs incurred by the San Diego Water Board for project oversight.
  
- l. **San Diego Water Board Acceptance of Completed Project:** Upon the Discharger’s satisfaction of its obligations under this Order, the completion of the Project and third party audit, the Discharger’s Party Contact shall request that the San Diego Water Board, or the Board’s delegee, issue a statement indicating that the Project has been completed in satisfaction of the terms of this Order and that any remaining Suspended Liability is permanently suspended. The issuance of the statement shall terminate any further obligation of the Discharger under this Order.

- m. **Failure to Expend All Suspended Administrative Civil Liability Funds on the Approved Project:** In the event that the Project is fully implemented but the Discharger is not able to demonstrate through the submission of a third party audit as required by Paragraph 18.k that the Suspended Liability amount listed in Paragraph 14 has been spent for the completed Project, the Discharger shall pay, as an administrative civil liability the difference between the Suspended Liability amount and the amount the Discharger can demonstrate was actually spent on the Project.
- n. **Failure to Complete the Project:** If the Project is not fully implemented as described in Attachment B and required by this Order by the agreed upon Completion Date, the San Diego Water Board shall issue a Notice of Violation. As a consequence, the Discharger shall be liable to pay the entire Suspended Liability, or some portion thereof.
- o. **Reporting Dates:** The following is a list of required reports and respective due dates for activities presented in the preceding stipulations:

**Stipulated Order Reporting Dates**

| Activity  | Due Date  |
|---|---|
| 1 <sup>st</sup> Project status report                                 | January 15, 2021  |
| Remaining Project Status Reports                                      | 15 <sup>th</sup> day of April, July, October, and January |
| Certification of Completion   | No later than October 14, 2023<br>+30 days                |
| Independent Audit Report and Request for Project Completion Statement | No later than October 14, 2023<br>+90 days                |

19. **San Diego Water Board Not Liable:** Neither the San Diego Water Board members nor the San Diego Water Board staff, attorneys, or representatives shall be liable for any injury or damage to person or property resulting from acts or omissions by the Discharger, its directors, officers, employees, agents, representatives, or contractors in carrying out activities pursuant to this Order, nor shall the San Diego Water Board, its members or staff be held as parties to or guarantors of any contract entered into by the Discharger, its directors, officers, employees, agents, representatives, or contractors in carrying out activities pursuant to this Order.

The Discharger covenants not to sue or pursue any administrative or civil claim or claims against any State Agency or the State of California, or their officers, employees, representatives, agents, or attorneys arising out of or relating to any matter expressly addressed by this Agreement, this Order, or the Project.

20. **Attorney's Fees and Costs:** As between the Parties, Discharger shall bear its own attorneys' fees and costs arising from its own counsel in connection with the matters set forth herein. The San Diego Water Board shall not seek and shall bear its own fees and costs beyond the amounts paid pursuant to the Order. No staff costs calculated herein, either for prosecution of this matter or for Project oversight, represent attorneys' fees.
21. **Matters Addressed by Order:** Upon the San Diego Water Board's adoption of this Order, this Order presents a final and binding resolution and settlement of alleged violations of the Statewide and Regional General Orders as identified in the February 11, 2016 NOV No. R9-2016-0049. The provisions of this Paragraph are expressly conditioned on the payment of the administrative civil liability and the successful completion of the Project as outlined in the Attachment B and detailed above.
22. **Public Notice:** The Discharger understands that the San Diego Water Board will conduct a thirty (30) day public review and comment period prior to consideration and adoption of the Order. If significant new information is received that reasonably affects the propriety of presenting this Order to the San Diego Water Board for adoption, the Assistant Executive Officer may unilaterally declare this Order void and decide not to present it to the San Diego Water Board. The Discharger agrees that it may not rescind or otherwise withdraw its approval of this proposed Order.
23. **No Waiver of Right to Enforce:** The failure of the Prosecution Team or the San Diego Water Board to enforce any provision of this Order shall in no way be deemed a waiver of such provision, or in any way affect the validity of the Order. The failure of the Prosecution Team or San Diego Water board to enforce any such provision shall not preclude it from later enforcing the same or any other provision of this Order.
24. **Procedural Objections:** The Parties agree that the procedure contemplated for adopting the Order by the San Diego Water Board and review of this Order by the public is lawful and adequate. In the event procedural objections are raised prior to the Order becoming effective, the Parties agree to meet and confer concerning any such objections and may agree to revise or adjust the procedure as necessary and advisable.
25. **Interpretation:** This Order shall be construed as if the parties prepared it jointly. Any uncertainty or ambiguity shall not be interpreted against any one Party.

**26. Modification:** This Order shall not be modified by any of the Parties by oral representation made before or after its execution. With the exception of Paragraph 18.e above, all modifications must be in writing, signed by all Parties, and approved by the San Diego Water Board.

**27. If Order Does Not Take Effect:** In the event that this Order does not take effect because it is not approved by the San Diego Water Board or is vacated in whole or in part by the State Water Board or a court, the Parties acknowledge that they expect to proceed to a contested evidentiary hearing before the San Diego Water Board, on a future date after reasonable notice and opportunity for preparation, to determine whether to assess administrative civil liability for the underlying alleged violations, unless the Parties agree otherwise. The Parties agree that all oral and written statements and agreements made during the course of the settlement discussions will not be admissible as evidence in such a hearing. The Parties agree to waive any and all objections based on settlement communications in this matter, including, but not limited to:

- a. Objections related to prejudice or bias of any of the San Diego Water Board members or their advisors and any other objections that are premised in whole or in part on the fact that the San Diego Water Board members or their advisors were exposed to some of the material facts and the Parties' settlement positions as a consequence of reviewing this Order, and therefore may have formed impressions or conclusions prior to any contested evidentiary hearing on a Complaint in this matter; or,
- b. Laches or delay or other equitable defenses based on the time period for administrative or judicial review to the extent this period has been extended by these settlement proceedings.

**28. Waiver of Hearing:** The Discharger has been informed of the rights provided by California Water Code section 13323(b), and subject to this Paragraph hereby waives its right to a hearing before the San Diego Water Board prior to the adoption of this Order. This waiver will not apply if the Order does not take effect.

**29. Waiver of Right to Petition or Appeal:** The Discharger hereby waives its right to petition the San Diego Water Board's adoption of the Order as written for review by the State Water Board, and further waives its right, if any, to appeal the same to a California Superior Court and/or any California appellate level court. The waiver will not apply if the Order does not take effect.

30. **Covenant Not to Sue:** Upon adoption of the Order, the Discharger covenants not to sue or pursue any administrative civil claim(s) against any State Agency or the State of California its officers, board members, employees, representatives, agents or attorneys arising out of or relating to this Order, and the San Diego Water Board covenants not to sue or pursue any additional administrative civil claims against the Discharger for the violation alleged in Attachment A.
31. **San Diego Water Board is Not Liable:** Neither the San Diego Water Board members nor the San Diego Water Board staff, attorneys, or representatives shall be liable for any injury or damage to persons or property resulting from the acts or omissions by the Discharger, its directors, officers, employees, agents, representatives or contractors in carrying out activities pursuant to this Order.
32. **Authority to Bind:** Each person executing this Order in a representative capacity represents and warrants that he or she is authorized to execute this Order on behalf of and to bind the entity on whose behalf he or she executes the Order.
33. **No Third Party Beneficiaries:** Except as described in this Order, the Order is not intended to confer any rights or obligations on any third party or parties, and no third party or parties shall have any right of action under this Order for any cause whatsoever.
34. **Effective Date:** This Order shall be effective and binding on the Parties on the date that the San Diego Water Board enters the Order.
35. **Counterpart Signatures:** This Order may be executed and delivered in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, but such counterpart shall together constitute one document.
36. **Severability:** The provisions of this Order are severable, and should any provision be found invalid, the remainder shall remain in full force and effect.

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IT IS SO STIPULATED

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, SAN DIEGO  
REGION  
PROSECUTION TEAM

By:



KELLY DORSEY, P.G., Assistant Executive Officer

Date: August 10, 2020

CITY OF SAN DIEGO

By:



JEFF STURAK, Assistant Chief Operating Officer

Date: *August 11, 2020*

ATTACHMENT A: Penalty Calculation Summary  
ATTACHMENT B: Northeast Mission Bay Wetland Restoration SEP

**IV. FINDINGS OF THE SAN DIEGO WATER BOARD**

37. The San Diego Water Board incorporates Paragraphs 1 through 36 by reference as if set forth fully herein.
38. In accepting this settlement, the San Diego Water Board has considered, where applicable, each of the factors prescribed in California Water Code section 13385. The San Diego Water Board's consideration of these factors is based upon information obtained by the San Diego Water Board's staff in investigating the violations alleged herein or otherwise provided to the San Diego Water Board. In addition to these factors, this settlement recovers costs incurred by the San Diego Water Board Prosecution Team for this matter.
39. This is an action to enforce the laws and regulations administered by the San Diego Water Board. The San Diego Water Board finds that issuance of this Order is exempt from the provisions of the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.), in accordance with section 15321(a)(2), Title 14, of the California Code of Regulations.
40. The San Diego Water Board's Executive Officer is hereby authorized to refer this matter directly to the Attorney General for enforcement if the Discharger fails to perform any of its obligations under this Order.
41. Fulfillment of the Discharger's obligations under the Order constitutes full and final satisfaction of any and all liability for Covered Matters in accordance with the terms of the Order.
42. The attached Agreement between the Assistant Executive Officer and the City of San Diego is approved pursuant to Government Code section 11415.60 and is incorporated by reference into this Order.
43. The Board may modify the findings prior to the adoption of the Order, provided that the modifications do not change the terms of the Settlement Agreement.

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Pursuant to Water Code section 13323 and Government Code section 11415.60, IT IS HEREBY ORDERED on behalf of the California Regional Water Quality Control Board, San Diego Region.

I, David W. Gibson, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Diego Region.

DAVID. W. GIBSON  
Executive Officer