

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

In the matter of:

**Eastern Municipal Water District
Temecula Valley Regional Water
Reclamation Facility**

**COMPLAINT NO. R9-2010-0085
FOR
ADMINISTRATIVE CIVIL LIABILITY**

**Violations of Order No. R9-2000-
0165 Waste Discharge Requirements
for Eastern Municipal Water District
Temecula Valley Regional Water
Reclamation Facility Riverside
County, as amended**

Place ID: 263145

July 23, 2010

EMWD IS HEREBY GIVEN NOTICE THAT:

1. Eastern Municipal Water District (EMWD) is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) may impose civil liability pursuant to section 13350 of the California Water Code (Water Code).
2. This Administrative Civil Liability Complaint is issued under authority of Water Code section 13323.

WASTE DISCHARGE REQUIREMENTS

3. EMWD owns and operates the Temecula Valley Regional Water Reclamation Facility (TVRWRF) located at 42565 Avenida Alvarado, Temecula, California. EMWD is required to operate and maintain the TVRWRF in compliance with requirements of San Diego Water Board Order No. R9-2000-0165, *Waste Discharge Requirements for Eastern Municipal Water District Temecula Valley Regional Water Reclamation Facility Riverside County*.
4. Prohibition A.1 of Order No. R9-2000-0165 states "Discharges of waste to lands which have not been specifically described in the Report of Waste Discharge and for which valid waste discharge requirements are not in force are prohibited."
5. Prohibition A.2 of Order No. R9-2000-0165 states "Neither the treatment, storage nor disposal of waste shall create a pollution, contamination or nuisance, as defined by section 13050 of the California Water Code."

6. Prohibition A.3 of Order No. R9-2000-0165 states "Discharges of treated or untreated solid or liquid waste to a navigable water or tributary of a navigable water are prohibited unless authorized by a NPDES permit issued by the appropriate Regional Board."
7. Prohibition A.4 of Order No. R9-2000-0165 states "The discharge shall not cause a violation of the prohibitions contained in the Basin Plan."
8. Section 301 of the Clean Water Act (33 U.S.C. § 1311) and Water Code section 13376 prohibit the discharge of pollutants to surface waters except in compliance with a National Pollutant Discharge Elimination System (NPDES) permit. San Diego Water Board Order No. R9-2000-0165 is not an NPDES permit.

VIOLATIONS SUBJECT TO THIS COMPLAINT

9. EMWD violated Prohibitions A.1, A.2, A.3 and A.4 of Order No. R9-2000-0165, section 301 of the Clean Water Act and Water Code section 13376 by discharging 2.39 million gallons of untreated sewage to Murrieta Creek, a water of the State of California and a water of the United States, its tributary waters and land on December 25-26, 2009, from the TVRWRF.
10. The details of these violations are set forth in full in the accompanying Technical Analysis, which is incorporated herein by this reference as if set forth in full.

MAXIMUM LIABILITY

11. Water Code section 13350 provides that any person who violates any waste discharge requirement issued by a Regional Water Board shall be civilly liable. Water Code section 13350(e)(2) provides that civil liability on a per gallon basis may not exceed \$10 for each gallon of waste discharged.
12. Based on the discharge of 2,390,000 gallons of untreated sewage to Murrieta Creek, the total maximum liability for this discharge is \$23,900,000.

MINIMUM LIABILITY

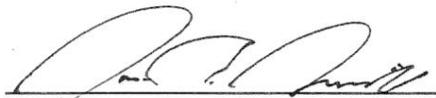
15. In the case of a discharge of pollutants, where no cleanup and abatement order is issued, Water Code section 13350(e) does not prescribe a minimum civil liability.

16. The Water Quality Enforcement Policy instructs the Regional Water Boards to assess liability at least 10 percent higher than the economic benefit amount so that liabilities are not construed as the cost of doing business and that the assessed liability provides a meaningful deterrent to future violations.
17. As detailed in the incorporated Technical Analysis, and based on an economic benefit amount of \$24,654, the minimum liability amount the San Diego Water Board should assess is \$27,119.

PROPOSED LIABILITY

18. The amount of discretionary assessment proposed is based upon consideration of factors contained in Water Code section 13327. Section 13327 specifies the factors that the San Diego Water Board shall consider in establishing the amount of discretionary liability for the alleged violations, which include: the nature, circumstance, extent, and gravity of the violations, the ability to pay, the effect on ability to continue in business, prior history of violation, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters as justice may require.
19. Based on the penalty calculation methodology within section VI of the Water Quality Enforcement Policy, it is recommended that the San Diego Water Board impose civil liability against the Eastern Municipal Water District in the amount of \$1,035,310 for the discharge of untreated sewage to Murrieta Creek, its tributary waters and land, on December 25-26, 2009.

Dated this 23rd day of July, 2010.



JAMES G. SMITH

Assistant Executive Officer

Signed pursuant to the authority delegated
by the Executive Officer to the Assistant
Executive Officer.

CIWQS: Reg Measure ID: 374160
Place ID: 263145
Party ID: 309528
Violation IDs: 870029; 870030; 870253; 870256; 870257