

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

IN THE MATTER OF:)	
)	
CITY OF SAN DIEGO)	COMPLAINT NO. R9-2009-0042
SANITARY SEWER SYSTEM)	FOR
SAN DIEGO COUNTY)	ADMINISTRATIVE CIVIL LIABILITY
)	
)	
)	
Place ID: 631631)	
Regulatory Measure ID: 213943)	July 22, 2009

THE CITY OF SAN DIEGO IS HEREBY GIVEN NOTICE THAT:

1. The City of San Diego (Discharger) is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, San Diego Region (Regional Water Board) may impose civil liability pursuant to Section 13350 or Section 13385 of the California Water Code (CWC).
2. This Administrative Civil Liability (ACL) Complaint is issued under authority of CWC Section 13323.
3. The Discharger owns and operates approximately 3,000 miles of sewer lines with an estimated wastewater total flow of 180 million gallons per day. The Discharger is required to operate and maintain its sewage collection systems to prevent sanitary sewer overflows and spills in compliance with requirements of State Board Order No. 2006-0003-DWQ, *Statewide General Waste Discharge Requirements for Sanitary Sewer Systems*. Prohibition C.1 of statewide General Order states that any SSO that results in a discharge of untreated or partially treated wastewater to waters of the United States is prohibited. Additionally, Prohibition C.2 states that any SSO that results in a discharge of untreated or partially treated wastewater that creates a nuisance as defined in CWC Section 13050(m) is prohibited.
4. Section 301 of the Clean Water Act (33 U.S.C. § 1311) and CWC Section 13376 prohibit the discharge of pollutants to surface waters except in compliance with a National Pollutant Discharge Elimination System (NPDES) permit. State Board Order No. 2006-0003-DWQ is not an NPDES permit.

ALLEGATIONS

5. The Discharger violated Prohibitions C.1 and C.2 of Order No. 2006-0003-DWQ, Section 301 of the Clean Water Act, and CWC section 13376 by discharging a total of 381,185 gallons of untreated sewage to Lake Hodges, a water of the State of California, a water of the United States and a domestic supply reservoir, during the period of August 20-24, 2007, from Manhole No. K09N-108 located south of Escala Drive in Rancho Bernardo, without authorization under an NPDES permit, The details of this violation are set forth in full in the accompanying Staff Report, which is incorporated herein by this reference as if set forth in full.
6. Pursuant to CWC Section 13350(a), any person or entity who, in violation of any Waste Discharge Requirements issued by the State Water Board, discharges waste, or causes or permits waste to be deposited where it is discharged, into waters of the state, is subject to administrative civil liability pursuant to CWC Section 13350(e), either (1) on a daily basis not to exceed five thousand dollars (\$5,000) for each day the violation occurs; or (2) on a per gallon basis in an amount not to exceed ten dollars (\$10) per gallon of waste discharged.
7. Pursuant to CWC Section 13385(a), any person who violates CWC Section 13376 or any requirements of Section 301 of the Clean Water Act is subject to administrative civil liability pursuant to CWC Section 13385(c), in an amount not to exceed the sum of both the following: (1) ten thousand dollars (\$10,000) for each day in which the violation occurs; and (2) where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.
8. The alleged violation, set forth in full in the accompanying Staff Report, constitutes a violation under CWC Section 13350, or, in the alternative, CWC Section 13385.
 - a. The maximum liability that the Regional Water Board may assess pursuant to CWC section 13350(e) is **\$3,811,850**, calculated using the per gallon option.
 1. $(381,185 \text{ [gallons discharged]} \times \$10 \text{ [per gallon]}) = \$3,811,850$

b. The maximum liability that the Regional Water Board may assess pursuant to CWC Section 13385(e) is **\$3,841,850**.

1. $(380,185 \text{ [gallons discharged but not cleaned up in excess of 1,000 gallons]} \times \$10 \text{ [per gallon]}) + (5 \text{ [days of violation]} \times \$10,000 \text{ [per day of violation]}) = \$3,851,850$

PROPOSED CIVIL LIABILITY

9. It is recommended that pursuant to CWC Section 13350(e) or, in the alternative, Section 13385(e), the Regional Water Board should impose a civil liability of six hundred twenty thousand two hundred seventy eight dollars (\$620,278) on the City of San Diego for the discharge of 381,185 gallons of untreated sewage from August 20-24, 2007.

Dated this 22nd Day of July 2009



MICHAEL P. McCANN
Assistant Executive Officer

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

- b. The maximum liability that the Regional Water Board may assess pursuant to CWC Section 13385(e) is **\$3,841,850**.
 1. $(380,185 \text{ [gallons discharged but not cleaned up in excess of 1,000 gallons]} \times \$10 \text{ [per gallon]}) + (5 \text{ [days of violation]} \times \$10,000 \text{ [per day of violation]}) = \$3,851,850$

PROPOSED CIVIL LIABILITY

9. It is recommended that pursuant to CWC Section 13350(e) or, in the alternative, Section 13385(e), the Regional Water Board should impose a civil liability of six hundred twenty thousand two hundred seventy eight dollars (\$620,278) on the City of San Diego for the discharge of 381,185 gallons of untreated sewage from August 20-24, 2007.

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