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Secretary for  
Environmental Protection

# California Regional Water Quality Control Board San Diego Region



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<http://www.waterboards.ca.gov/sandiego>

April 28, 2010

**CERTIFIED MAIL: 7009 1410 0002 2347 4305**

Mr. John J. Schatz  
General Manager  
Santa Margarita Water District  
26111 Antonio Parkway  
Las Flores, CA 92688

**In reply refer to:  
631542:cmeans**

Dear Mr. Schatz:

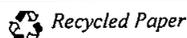
**SUBJECT: INVESTIGATIVE ORDER NO. R9-2010-0078, DISCHARGE OF  
UNTREATED SEWAGE FROM THE PLANO LIFT STATION FORCE  
SEWER MAIN, RANCHO SANTA MARGARITA, CA**

Enclosed is Investigative Order No. R9-2010-0078 (Order) issued by the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) to Santa Margarita Water District (District). The Order concerns the investigation and reporting of information related to the discharge of approximately 2.4 million gallons of untreated sewage, from the Plano Lift Station 24-inch force sewer main, into Tijeras Creek between March 23 and 26, 2010. This Order is issued under authority of California Water Code section 13267, and directs the District to submit a technical report, by **5:00 pm on May 28, 2010**, providing further information. This information is necessary for the San Diego Water Board to evaluate the nature, circumstances, extent, and impacts of the discharge of untreated sewage.

Please review the requirements contained within the Order and note that all technical reports submitted to the San Diego Water Board must be accompanied by the certification, under penalty of law, that the information is true, accurate, and complete. Failure to meet the requirements of this Order may subject the District to further enforcement action by the San Diego Water Board, including the imposition of administrative civil liability pursuant to Water Code section 13268.

Water Code section 13304(c) provides that the San Diego Water Board is entitled to, and may 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 the enclosed Order.

*California Environmental Protection Agency*



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April 28, 2010

In the subject line of any response, please include the requested "in reply refer to" information located in the heading of this letter. For questions pertaining to the subject matter, please contact Mr. Christopher Means at (858) 637-5581 or via email at [cmeans@waterboards.ca.gov](mailto:cmeans@waterboards.ca.gov).

Sincerely,



JAMES G. SMITH  
Assistant Executive Officer

JGS:jo:jh:cjm

Enclosure: Investigative Order No. R9-2010-0078

cc w/encl via email:

James Fischer, State Water Board, Office of Enforcement, [jfischer@waterboards.ca.gov](mailto:jfischer@waterboards.ca.gov)

✓ Russell Norman, State Water Board, SSO Program, [rnorman@waterboards.ca.gov](mailto:rnorman@waterboards.ca.gov)

✓ William Paznokas, California Dept. of Fish & Game, [wpaznokas@dfg.ca.gov](mailto:wpaznokas@dfg.ca.gov)

Gerre Bedell, Santa Margarita Water District, [GERREB@smwd.com](mailto:GERREB@smwd.com)

Dan Ferons, Santa Margarita Water District, [DANF@smwd.com](mailto:DANF@smwd.com)

✓ Grant Sharp, County of Orange, [Grant.Sharp@ocpw.ocgov.com](mailto:Grant.Sharp@ocpw.ocgov.com)

✓ Judy Gibson U.S. Fish & Wildlife Service [Judy\\_Gibson@fws.gov](mailto:Judy_Gibson@fws.gov)

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

**INVESTIGATIVE ORDER NO. R9-2010-0078**

**AN ORDER DIRECTING SANTA MARGARITA WATER DISTRICT  
TO SUBMIT A TECHNICAL REPORT PERTAINING TO INVESTIGATION OF A  
DISCHARGE OF UNTREATED SEWAGE FROM THE PLANO LIFT STATION FORCE  
SEWER MAIN, ORANGE 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 Santa Margarita Water District's (hereinafter the District) 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 District owns and operates the Plano Lift Station and the associated 24-inch force sewer main near Antonio Parkway, City of Rancho Santa Margarita, California.
4. **Discharge of Untreated Sewage:** The District reported the following information about an illicit discharge of untreated sewage that occurred between March 23, 2010 and March 26, 2010:
  - a. On March 23, 2010 at approximately 4:15 p.m., the District detected a break in the Plano force sewer main when it received two alarms on its System Control and Data Acquisition (SCADA) system.
  - b. Due to the initial pipe failure, sewage seeped from the break and flowed into Tijeras Creek, which is tributary to Arroyo Trabuco Creek, San Juan Creek and the Pacific Ocean in Orange County.
  - c. On March 24, 2010 the County of Orange assisted in containing the extent of the ongoing spill by constructing an earthen berm upstream of the confluence of Tijeras Creek and Arroyo Trabuco Creek.

- d. The total discharge volume of untreated sewage was estimated to be 2.4 million gallons, with approximately 1.5 million gallons of that amount being recovered at the containment berm constructed downstream of the spill within Tijeras Creek.
  - e. Approximately 898,000 gallons of untreated sewage was uncontained and made it's way to the Pacific Ocean. Upon construction of the containment berm within Tijeras Creek, the continued discharge 1.4 million gallons of untreated sewage flowed over a total distance of approximately 1-mile from the discharge point to the containment berm.
  - f. As result of the sewage spill, the County of Orange Health Care Agency closed a three mile stretch of beach from the Dana Point Harbor breakwater downcoast to the end of the park at Doheny State Beach, Capistrano County beach and all of Capistrano Bay Community Beach. The beach closures were in effect from 5:35 p.m. on March 23, 2010 to 3:35 p.m. on March 29, 2010.
  - g. The District reported that repairs to the force sewer main were completed as of 11:30 p.m. on March 26, 2010.
5. **San Diego Water Board Notification:** The San Diego Water Board was first notified of the discharge at 6:50 p.m. on March 23, 2010 and was updated on the District's progress throughout the cleanup process.
  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 Santa Margarita Water District (District) is required to submit a technical report by **5:00 pm on May 28, 2010** presenting results of an investigation of the unauthorized discharge of sewage that occurred from the Plano force 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 Plano force sewer main, was discovered.
2. 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 Chiquita Wastewater Reclamation Plant and flow data from the Plano lift stations from March 23, 2010 through March 26, 2010.

3. A detailed description of the cause(s) for the structural problem/failure of the force sewer main, including any analyses or forensic studies performed by the discharger or their consultants to determine the reasons for the pipe failure.
4. The date that the 24-inch force 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.

Response to the Discharge

5. A detailed chronological description of all actions taken by the discharger to terminate the discharge, repair the force sewer main, and mitigate the impacts from the discharge. The narrative must include an evaluation of the results of these actions. The narrative must also include an evaluation of any alternatives, such as bypassing the break by "high lining" the force sewer main, that were considered but ultimately rejected to minimize the volume of discharge and impacts to the environment.
6. A copy of the 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.
7. Documentation of any staff training in the past year on the SSMP and overflow emergency response actions.

Monitoring and Analysis

8. A description of all water quality sampling activities, conducted by or on behalf of the District, associated with the sewage spill, analytical results, and an evaluation of the results.
9. A detailed location map for the water quality sampling and reference points.
10. Characterization of the quality of the influent to the Chiquita Wastewater Reclamation 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

11. Identification of the hydrogeologic characteristics of the area impacted by the discharge; including groundwater depth, flow rate and direction, groundwater storage and assimilation capacity, and any interaction of groundwater with surface water bodies and water courses.
12. 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 Tijeras and Arroyo Trabuco Creeks
  - b. A description of all observations and sampling activities, conducted by or on behalf of the District, associated with potential short-term and long-term impacts to vegetation and wildlife from the spill and an evaluation of these impacts.
  - c. An evaluation of all benthic macroinvertebrate and steam algae bioassessment monitoring, conducted by or on behalf of the District as a result of the sewage spill. The technical evaluation shall include an assessment of the sewage spill's short-term and long-term impacts on these communities and the ecosystem of the spill impact area. The evaluation must include a map of the locations for all reference sites and sampling points used in this evaluation.

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

13. A detailed discussion of the District's efforts to date, to obtain the necessary permits and develop mitigation plans, to restore the environmental impacts to Tijeras Creek as a result of the emergency pipeline repair and construction of the earthen berms within Tijeras Creek. This discussion shall include any correspondence/applications submitted to other resource/regulatory agencies.

Additional Information

14. 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 District 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 District. The lead professional shall sign and affix their registration stamp to the report.

2. **Use of Qualified Technical Professionals:** The District 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 District'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),<sup>1</sup> then the exact methodology must be submitted for review and approval by the San Diego Water Board prior to use.

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<sup>1</sup> 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:** All reports required under this Order shall be signed and certified by either a principal executive officer or ranking elected official or the person with overall responsibility for environmental matters for that municipality.

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:** All reports 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 District must reimburse the San Diego Water Board 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.

**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

28 Apr 10  
Date

JGS: jo: jh: cm

CIWQS Place ID      631542  
Reg. Measure No.    373879  
Party ID              39979

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 Margarita Water District  
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 City, State, ZIP+4 Las Flores, CA 92688-5596

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5150 510 14