



Los Angeles Regional Water Quality Control Board

September 6, 2013

Mr. Glen Kau
Director of Public Works
City of Compton
205 S. Willowbrook Avenue
Compton, CA 90220

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
Claim No. 7012 3460 0001 6365 9858

PROPOSED RESOLUTION NO. R13-XXX AUTHORIZING REFERRAL TO THE ATTORNEY GENERAL REGARDING THE CITY OF COMPTON COLLECTION SYSTEM

Dear Mr. Kau,

This letter is intended to advise interested parties that the prosecution staff of the Regional Water Quality Control Board, Los Angeles Region (Regional Board) has proposed that the Regional Board hold a hearing to request the California Attorney General seek judicial civil enforcement under California Water Code sections 13350, 13385, and appropriate injunctive relief against the City of Compton based on noncompliance with State Water Resources Control Board Order No. 2006-0003-DWQ.

Please find attached the proposed Resolution No. R13-XXX referring the matter to the California Attorney General. A staff report providing information in support of the prosecution staff's recommendation for referral is included as Exhibit A of the proposed resolution. Consideration of the proposed resolution will be at a public hearing to be held on October 3, 2013 at a location to be determined.

Any comments regarding these documents must be submitted to the attention of Mr. Chris Lopez no later than 5:00 pm on September 18, 2013. If you have questions regarding this matter, please contact Mr. Russ Colby at (213) 620-6373 or Mr. Chris Lopez at (213) 576-6806.

Sincerely,

Paula Rasmussen
Assistant Executive Officer

Enclosures:

Proposed Resolution No. R13-XXX

cc: (See Mailing List)

MAILING LIST

Laura Drabandt, State Water Resources Control Board, Office of Enforcement
Jennifer Fordyce, State Water Resources Control Board, Office of Chief Counsel
Russell Norman, State Water Resources Control Board, Division of Water Quality
Matthew Buffleben, State Water Resources Control Board, Office of Enforcement
Ken Greenberg, Environmental Protection Agency, Region 9
Alix Hobbs, Heal the Bay
Liz Crosson, Los Angeles Waterkeeper
Grace Robinson Chan, County Sanitation Districts of Los Angeles County
Joe Baiocco, Los Angeles County Flood Control District
Jacqueline Taylor, Los Angeles County Department of Public Health

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION

RESOLUTION NO. R13-XXX

AUTHORIZING REFERRAL TO THE ATTORNEY GENERAL
REGARDING SEWER SYSTEM MANAGEMENT DEFICIENCIES AND MULTIPLE
SEWAGE SPILLS BY THE CITY OF COMPTON TO WATERS OF THE STATE

- A. WHEREAS, the City of Compton (hereinafter referred to as Discharger), operates and maintains approximately 175 miles of a wastewater collection system, in which 157 miles are more than 50 years old.
- B. WHEREAS, the Discharger is enrolled under State Water Resources Control Board Order No. 2006-0003-DWQ (State Wide Waste Discharge Requirements for Sanitary Sewer Systems), also known as the Sanitary Sewer System (SSS) WDR. The SSS WDR regulates sanitary sewer systems greater than one mile in length that collect and/or convey untreated or partially treated wastewater to a publicly owned treatment facility in the State of California. The wastewater is susceptible of containing high levels of suspended solids, pathogenic organisms, toxic pollutants, nutrients, oxygen-demanding organic compounds, oil and grease, and other pollutants which can degrade water quality and impact beneficial uses.
- C. WHEREAS, the Discharger has reported nine (9) SSOs into the SSO database, in accordance with the SSS WDR, between January 2, 2007 and September 3, 2013, resulting in the discharge of 19,943 gallons of untreated wastewater. Of that total, 10,163 gallons of wastewater was recovered, 9,730 gallons were discharged to surface waters, and 50 gallons were not accounted for.
- D. WHEREAS, at least three (3) of the nine (9) SSOs reached the Compton Creek, which is a water of the State and the United States.
- E. WHEREAS, the discharges of untreated wastewater may have adversely impacted waters of the State and the United States and the beneficial uses thereof, including but not limited to municipal and domestic supply, industrial process supply, ground water recharge, water contact recreation, non-water contact recreation, warm freshwater habitat, and wildlife habitat.
- F. WHEREAS, the Los Angeles Regional Water Quality Control Board (Regional Board) is a state agency, whose primary authority under the Porter-Cologne Water Quality Control Act (at California Water Code § 13000 et seq.; hereafter Water Code) is regulating, enforcing, and ensuring the quality of the waters of the State.
- G. WHEREAS, after considering the Staff Report, attached hereto as Exhibit A and incorporated by reference, the Regional Board finds it necessary and appropriate

to refer this matter to the California Attorney General's Office to seek injunctive relief, bring other applicable causes of action, and/or judicially imposed civil liabilities under applicable sections of the Water Code.

- H. WHEREAS, all enforcement options have been considered. Any Regional Board enforcement order (e.g., Cleanup and Abatement Order, Cease and Desist Order, or Time Schedule Order) may lead to compliance; however, if compliance with an order is not achieved, the Regional Board would follow up with an Administrative Civil Liability (ACL) assessing monetary penalties. Because the ultimate goal for the Discharger is compliance with the SSS WDR, a Regional Board issued ACL assessing only monetary penalties may not be the best and most direct remedy to fix the shortcomings of the Discharger's sanitary sewer system.
- I. WHEREAS, given the gravity of the multiple discharges, the age of the Discharger's infrastructure, and the apparent understaffed and underfunded sewer program, referral to the California Attorney General's Office will allow the Regional Board to pursue more appropriate civil liability and injunctive relief than would otherwise be allowed if the Regional Board pursued an administrative liability action. In particular, the ability to pursue injunctive relief would allow the Regional Board, through the California Attorney General's Office, to place the Discharger under a judicially enforceable timeline to make the needed improvements to the sewer infrastructure and management.
- J. WHEREAS, the Discharger has caused or permitted raw sewage to be deposited in or on waters of the State and is—at a minimum—civilly liable under Water Code Section 13350(a). Under Water Code section 13350(d), a court may impose such civil liability either on a daily basis not to exceed fifteen thousand dollars (\$15,000) for each day the violation occurs or on a per gallon basis not to exceed twenty dollars (\$20) for each gallon of waste discharged. The Discharger may also be civilly liable under Water Code section 13385 for discharging waste into waters of the United States without authorization and violating the prohibitions contained in the Water Quality Control Plan for the Los Angeles Region. Under Water Code section 13385, a court may impose civil liability of up to twenty-five dollars (\$25) for each gallon of waste discharged but not cleaned up in excess of one thousand gallons and up to twenty-five thousand dollars (\$25,000) for each day in which the violation occurs.
- K. WHEREAS, Water Code section 13350(g) requires the Regional Board to hold a hearing, with due notice of the hearing given to all affected persons, prior to requesting the Attorney General to petition a court to impose civil liability under Water Code section 13350. On August 14, 2013, notice was given to the Discharger regarding this hearing. On October 3, 2013, the Regional Board held such a hearing in compliance with section 13350(g), and considered the testimony and evidence offered at the hearing and in the record.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Regional Board hereby authorizes the Executive Officer to request that the Attorney General seek civil liabilities under the Water Code, including, but not limited to, Water Code sections 13350(a) and 13385, as appropriate, bring other applicable causes of action, and/or seek other relief as may be appropriate against the Discharger.
2. The Regional Board hereby authorizes the Executive Officer to participate in any settlement discussions regarding the resolution of the violations at issue. The Regional Board retains its authority to approve any proposed settlement of the alleged violations.

I, Samuel Unger, Executive Officer, hereby certify that the foregoing is a full, true, and correct copy of the Resolution adopted by the California Regional Water Quality Control Board, Los Angeles Region, at its regular meeting on October 3, 2013.

Samuel Unger, P.E.
Executive Officer

Exhibit A attached

EXHIBIT A

STAFF REPORT FOR CONSIDERATION OF RESOLUTION NO. R13-XXX REFERRING THE CITY OF COMPTON TO THE CALIFORNIA OFFICE OF THE ATTORNEY GENERAL

INTRODUCTION:

Regional Water Quality Control Board (Regional Board) staff is presenting Resolution No. R13-XXX for the Regional Board's consideration, referring the City of Compton (Discharger) to the Attorney General's Office (AGO) for multiple violations of its waste discharge requirements.

Resolution No. R13-XXX requests that the AGO seek injunctive relief, bring other applicable causes of action, and/or seek judicially imposed civil liabilities under California Water Code sections 13350 and/or 13385 as appropriate against the Discharger.

The Regional Board's enforcement program has established a streamlined case referral process for administrative or civil enforcement cases to the AGO. Due to the significant issues explained below, including the Discharger's failure to implement critical aspects of its Sewer System Management Plan (SSMP), the Regional Board believes that this case is warranted for referral to the AGO. Based on preliminary discussions with the AGO, the office is willing to enforce against the Discharger.

BACKGROUND:

SSS WDR

On January 2, 2007, the Discharger was enrolled under State Water Resources Control Board Order No. 2006-0003-DWQ (Statewide General Waste Discharge Requirements for Sanitary Sewer Systems),¹ also known as the SSS WDR. The SSS WDR regulates all federal and state agencies, municipalities, counties, districts, and other public entities that own or operate sanitary sewer systems greater than one mile in length that collect and/or convey untreated or partially treated wastewater to a publically owned treatment facility in the State of California. The wastewater is susceptible of containing high levels of suspended solids, pathogenic organisms, toxic pollutants, nutrients, oxygen-demanding organic compounds, oil and grease, and other pollutants which can degrade water quality and impact beneficial uses.

¹ All references to the SSS WDR Order No. 2006-0003-DWQ include its accompanying Monitoring and Reporting Program NO. 2006-0003-DWQ, and State Water Board Order No. WQ 2008-0002-EXEC.

The discharges of untreated wastewater may adversely impact waters of the State and the United States and the beneficial uses thereof, including but not limited to municipal and domestic supply, industrial process supply, ground water recharge, water contact recreation, non-water contact recreation, warm freshwater habitat, and wildlife habitat.

SSS WDR Prohibitions C.1 and C.2 prohibit any sanitary sewer overflow (SSO) that results in a discharge of treated or partially treated wastewater to waters of the United States, or SSO that creates a nuisance as defined in Water Code section 13050(m).

SSS WDR Provision D.13 requires enrollees to develop and implement a system-specific SSMP which includes provisions to provide a plan and schedule to ensure proper and efficient management, operation, and maintenance of sanitary sewer systems.

SSS WDR Provision D.13.iv(c) requires enrollees to develop a rehabilitation and replacement plan to identify and prioritize system deficiencies and implement short-term and long-term rehabilitation actions to address each deficiency. The rehabilitation and replacement plan shall also include a capital improvement plan that addresses proper management and protection of the infrastructure assets. The plan shall include a time schedule for implementing the short-term and long-term plans plus a schedule for developing the funds needed for the capital improvement plan.

SSS WDR General Monitoring and Reporting Requirements Provision G.1 through G.4 include notification requirements that require the enrollee to report, within defined timeframes, SSOs to the California Integrated Water Quality System (CIWQS) Online SSO Database.

Sanitary Sewer System Characteristics

The Discharger operates and maintains 175 miles of gravity sewer pipe. Approximately 157 miles of pipes are more than 50 years old, with 50% of the system constructed between 1920 and 1939; and 40% constructed between 1940 and 1959.

Sanitary Sewer Overflow (SSOs)

From the date of the Discharger's enrollment on January 2, 2007 through September 3, 2013, the Discharger has reported nine (9) SSOs, releasing a total of 19,943 gallons of raw sewage of which 9,730 gallons reached surface waters. A table of SSOs reported in CIWQS is attached.

2012 Investigative Order

On February 11, 2012, the Regional Board received notification from the California Governor's Office of Emergency Services (Cal OES) (Cal OES - #12-0816) of a discharge of approximately 6,000 gallons of raw sewage in the City of Compton on the corner of Rosecrans

Avenue and Tajuata Avenue. On March 16, 2012, the Regional Board issued Investigative Order No. R4-2012-0052 to the City of Compton to investigate the unauthorized discharge of raw sewage on February 11, 2012. The Investigative Order noted that the Discharger had not reported the February 11, 2012 SSO to the Online SSO Database, nor had the Discharger completed implementation of an SSMP.

2012 Inspection

On June 8, 2012, the Regional Board and PG Environmental (under contract to USEPA) conducted an inspection of the Discharger's collection system. On November 6, 2012, the Regional Board transmitted the Inspection Report for the June 8, 2012 inspection (2012 Inspection) to the Discharger and issued a Notice of Violation based on the inspection's findings. The following are some of the violations and findings cited in the Notice of Violation:

- A review of the Discharger's in-house Sewer Spill Report forms indicated that at least twenty-one (21) SSOs were not reported in the Online SSO Database. Of these unreported SSOs, at least eight (8) SSOs flowed to surface waters. Additionally, the Discharger was unable to provide Sewer Spill Report forms for SSOs occurring in 2011 or 2012.
- The Discharger's SSMP does not specifically describe Preventative Maintenance (PM) activities, scheduling, or documentation. No guidance on scheduling preventative maintenance activities was provided, or what those activities should be. The cleaning frequency of hot spots was neither indicated nor documented. Additionally, the Discharger's sewer staff was reduced from three full-time employees to two half-time employees, which may make routine and preventative cleaning activities difficult to schedule and accomplish.

Section D.13.iv.b of the SSS WDR requires that the Discharger's SSMP describe routine preventative operation and maintenance activities by staff and contractors, including a system for scheduling regular maintenance targeted at known problem areas. The PM program should have a system to document scheduled and conducted activities, such as work orders.

- The Discharger does not provide formal or documented training to sewer staff, nor does the SSMP describe any type of training program.

Section D.13.iv.d of the SSS WDR requires that the Discharger provide training on a regular basis for staff in sanitary sewer operations and maintenance, and requires that contractors be appropriately trained.

- The Discharger's SSMP does not describe procedures and standards for inspecting and testing the installation of new sewers, pumps, and other appurtenances and for rehabilitation and repair projects, as required by Section D.13.v.b of the SSS WDR.
- The Discharger's Overflow Emergency Response Plan does not provide training procedures. Additionally, the Discharger does not provide formal training to staff or contractor personnel on the Overflow Emergency Response Plan or operations and maintenance programs.

Section D.13.vi.d of the SSS WDR requires that the Discharger develop and implement procedures to ensure that appropriate staff and contractor personnel are aware of and follow the Emergency Response Plan and are appropriately trained.

- The Discharger indicated that SSO trends were not formally tracked and that the PM is mainly conducted using institutional knowledge.

Section D.13.ix.e of the SSS WDR requires that the Discharger identify and illustrate SSO trends, including: frequency, location, and volume.

OUTSTANDING PROGRAMMATIC COMPLIANCE ISSUES:

Based on the information provided by the Discharger, the following concerns remain:

- In the December 6, 2012 response to the Notice of Violation, the Discharger states that they will implement or are in the process of implementing corrective actions to the cited violations. However, no proof of corrective actions or timelines for implementation has been provided by the Discharger.
- As of September 4, 2013, the Discharger has failed to report SSOs to the Online SSO Database even after this issue was cited in the November 6, 2012 Notice of Violation. Based on the 2012 Inspection, the Discharger's in-house forms indicated at least twenty-one (21) SSOs were not reported. In the December 6, 2012 response to the Notice of Violation, the Discharger stated that they would input these unreported SSOs.
- SSOs continue to be a problem with the collection system. Based on information from the Cal OES, at least four (4) SSOs have occurred to date in 2013.

- The Discharger has not reported sewage releases in a timely manner to Cal OES. For example, the February 26, 2013 SSO at Center Avenue, in which 4,855 gallons of raw sewage reached surface water, was not reported to Cal OES until March 20, 2013, twenty-two (22) days after the release occurred. Proper and timely notification to Cal OES allows government agencies and downstream users to take any necessary prompt actions to protect public health and safety, the environment, and drinking water supplies. Order No. 2006-0003-DWQ requires that any enrollee notify Cal OES no later than two (2) hours after becoming aware of a discharge of sewage to a drainage channel or a surface water.
- There has not been a current evaluation of the entire sewer system to identify and prioritize system deficiencies. Based on conversations with the Discharger, a closed-circuit television (CCTV) inspection of the entire system was last performed approximately twenty-five (25) years ago.
- The Discharger's sewer system staffing may be inadequate to perform routine and preventative sewer maintenance. In the 2012 Inspection it was noted that the Discharger's sewer staff was reduced from three (3) full-time employees to two (2) half-time employees. Additionally, during the 2012 Inspection, it was noted that the Discharger does not provide formal or documented training to staff.
- The Discharger does not appear to track or document PM procedures. During the 2012 Inspection, no estimates were provided of the amount of PM work completed nor was there documentation of PM activities. Although the Discharger uses a computerized maintenance management system (CMMS), work orders in the CMMS system are only created in response to sewer complaints and calls. PM activities are not formally tracked.
- During the 2012 Inspection it was noted that sections of the Discharger's SSMP are missing adequate detail.

OPTIONS:

All enforcement options have been considered. Any Regional Board enforcement order issued (Cleanup and Abatement Order, Cease and Desist Order, or Time Schedule Order) may lead to compliance. If compliance with those orders is not achieved, the Regional Board would follow up with an Administrative Civil Liability complaint assessing monetary penalties. However, the ultimate goal is to have the Discharger come into and maintain compliance with the SSS WDR. Therefore, any Regional Board enforcement should emphasize this goal.

Given the multiple significant issues involved in this case, referral to the AGO will allow the Regional Board to better focus on and ensure permanent fixes to the Discharger's sewer program than would otherwise be allowed if the Board pursued another administrative enforcement action. In particular, the ability to impose injunctive relief would allow the Regional Board, through the AGO, to place the Discharger under a judicially enforceable timeline to make the needed improvements to the sewer infrastructure and management.

RECOMMENDATION:

Staff recommends that the Regional Board adopt the Resolution referring the City of Compton violations of the SSS WDR to the AGO for civil liabilities and injunctive relief.

DRAFT



California Integrated Water Quality System Project (CIWQS)

SSO Public Report - Detail Page

Here is the detail page of your SSO public report search for the selected region, responsible agency, or collection system. These results correspond to the following search criteria:

SEARCH CRITERIA: [\[REFINE SEARCH\]](#)

- Region (4)
- Spill Type (sso_cat1_2)
- Start Date (01/02/2007)
- End Date (09/05/2013)

The table below presents important details for all sewage discharge locations, as submitted through individual SSO reports, which meet the search criteria selected. If data is not shown for a particular field, it means the Enrollee did not provide the information and was not required to do so. To view the entire SSO report for a specific sewage discharge location, please select the corresponding EVENT ID.

DRILLDOWN HISTORY: [\[GO BACK TO SUMMARY PAGE\]](#)

REGION: 4

[\[VIEW PRINTER FRIENDLY VERSION\]](#)

<u>EVENT ID</u>	<u>Region</u>	<u>Responsible Agency</u>	<u>Collection System</u>	<u>SSO Category</u>	<u>Start Date</u>	<u>SSO Address</u>	<u>SSO City</u>	<u>SSO Vol</u>	<u>Vol of SSO Recovered</u>	<u>Vol of SSO Reached Surface Water</u>	<u>SSO Failure Point</u>	<u>WDI</u>
716823	4	Compton City	Compton City CS	Category 1	2008-03-25 12:30:00.0	1000 Rosecrans Avenue	Compton	6,600	6,600	0	4SSO1037	
744046	4	Compton City	Compton City CS	Category 2	2009-07-23 23:05:00.0	1400 Temple Avenue	Compton	1	1	0	Main 4SSO1037	
746378	4	Compton City	Compton City CS	Category 2	2009-09-19 14:00:00.0	Burriss Ave. Avenue	Compton	50	0	0	Main 4SSO1037	
746379	4	Compton City	Compton City CS	Category 1	2009-09-26 15:00:00.0	Rosecrans Avenue	Compton	112	37	75	4SSO1037	
788751	4	Compton City	Compton City CS	Category 1	2011-08-10 09:00:00.0	Spruce St. Street	Compton	900	600	300	Main 4SSO1037	
788752	4	Compton City	Compton City CS	Category 2	2011-08-29 12:40:00.0	909 Muriel Avenue	Compton	325	325	0	Main 4SSO1037	
788758	4	Compton City	Compton City CS	Category 2	2011-08-31 03:15:00.0	920 Long Beach Boulevard	Compton	225	225	0	Main 4SSO1037	
788788	4	Compton City	Compton City CS	Category 1	2012-02-11 00:00:00.0	1400 Rosecrans Avenue	Compton	6,375	1,875	4,500	Main 4SSO1037	
792410	4	Compton City	Compton City CS	Category 1	2013-02-26 06:00:00.0	center Avenue	compton	5,355	500	4,855	Main 4SSO1037	

The current report was generated with real-time data entered by Enrollees.

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