

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

**TENTATIVE**

**ORDER NO. R9-2008-0144**

**ADMINISTRATIVE ASSESSMENT OF CIVIL LIABILITY  
FOR  
MANDATORY MINIMUM PENALTIES  
AGAINST  
SOUTH ORANGE COUNTY WASTEWATER AUTHORITY  
DISCHARGE TO THE PACIFIC OCEAN  
THROUGH THE  
SAN JUAN CREEK OCEAN OUTFALL**

**FOR  
VIOLATIONS OF ORDERS NO. 2000-13 AND R9-2006-0054 NPDES PERMIT NO.  
CA0107417**

The California Regional Water Quality Control Board, San Diego Region (hereinafter Regional Board), having received a signed waiver of public hearing, having reviewed the allegations contained in Complaint Nos. R9-2008-0090, R9-2008-0091, R9-2008-0092, and R9-2008-0094, each dated August 14, 2008, having considered all comments received, and on the recommendation of Administrative Assessment of Civil Liability pursuant to California Water Code (CWC) Section 13385 in the amount of \$60,000, finds as follows:

1. The South Orange County Wastewater Authority (SOCWA), on behalf of all its member agencies, is responsible for meeting the requirements of the NPDES permit for the San Juan Creek Ocean Outfall (Order Nos. 2000-13, effective February 2000-September 2006, and R9-2006-0054, effective October 1, 2006),
  - a. The City of San Clemente operates the San Clemente Water Reclamation Plant (WRP) and discharges wastewater to the San Juan Creek Ocean Outfall as a member agency under Order No. R9-2006-0054. The discharge to the ocean outfall from the San Clemente WRP is subject to numeric effluent limitations contained in Order No. R9-2006-0054.
  - b. The Santa Margarita Water District (SMWD) operates the Chiquita WRP and discharges wastewater to the San Juan Creek Ocean Outfall as a member agency under Order No. R9-2006-0054. The discharge to the ocean outfall from the Chiquita WRP is subject to numeric effluent limitations contained in Order No. R9-2006-0054.

- c. The City of San Juan Capistrano operates the Reverse Osmosis (RO) Water Treatment Plant and discharges wastewater to the San Juan Creek Ocean Outfall as a member agency under Order No. R9-2006-0054. The discharge to the ocean outfall from the RO Water Treatment Plant is subject to numeric effluent limitations contained in Order No. R9-2006-0054.
  - d. SOCWA operates the San Juan Creek Ocean Outfall and discharges wastewater to the San Juan Creek Ocean Outfall. The discharge to the ocean outfall from the San Juan Creek Ocean Outfall was subject to numeric effluent limitations contained in Order No. 2000-13.
2. SOCWA reported effluent sampling results to the Regional Board pursuant to the Monitoring and Reporting schedule of Orders No. 2000-13 and R9-2006-0054. From September 2005 to November 2007, SOCWA reported 20 violations of effluent limitations subject to mandatory minimum penalties (MMPs) pursuant to California Water Code Sections 13385(h) and (i) as described in Table 1 of this Order.

Table 1. Summary of Reported Effluent Violations Subject to MMPs

Violation Date/ Period	Violation ID	Constituent	Effluent Limitation	Unit	Permitted Limit	Reported Value	Serious or Chronic Violation <sup>1</sup>
<b>San Clemente WRP</b>							
4/6/2007	596262	SS	instantaneous max	mg/L	3.0	11.0	Serious
4/1/07-4/7/07	596263	SS	average weekly	mg/L	1.5	<2.3	Serious
11/16/2007	712817	SS	instantaneous max	mg/L	3.0	6.5	Serious
11/19/2007	712818	SS	instantaneous max	mg/L	3.0	12.5	Serious
11/11/07-11/17/07	715220	SS	average weekly	mg/L	1.5	<2.7	Serious
11/18/07-11/24/07	715228	SS	average weekly	mg/L	1.5	<3.5	Serious
11/1/07-11/30/07	715243	SS	average monthly	mg/L	1.0	<1.5	Serious
<b>Chiquita WRP</b>							
12/26/2006	494046	SS	instantaneous max	mg/L	3.0	15.0	Serious

<sup>1</sup> CWC Section 13385 subdivision (h) requires that a mandatory minimum penalty (MMP) of \$3,000 be imposed for each serious violation. Water Code Section 13385 subdivision (h)(2) defines a 'serious' violation, as any waste discharge that violates an effluent limitation contained in waste discharge requirements (applying to surface water discharges) for a Group I pollutant by 40 percent or more or for a Group II pollutant by 20 percent or more.

CWC Section 13385 subdivision (i) also requires that a MMP of \$3,000 be imposed for each violation (i.e. incomplete reports and any waste discharge that violates an effluent limitation contained in waste discharge requirements and applies to surface water discharges) beginning with the fourth violation in any six-month period.

Violation Date/ Period	Violation ID	Constituent	Effluent Limitation	Unit	Permitted Limit	Reported Value	Serious or Chronic Violation <sup>1</sup>
12/24/06-12/30/06	494048	SS	average weekly	mg/L	1.5	<3.2	Serious
12/1/06-12/31/06	494049	SS	average monthly	mg/L	1.0	<1.3	Chronic
1/1/2007	494060	SS	instantaneous max	mg/L	3.0	8.0	Serious
12/31/06-1/6/07	494063	SS	average weekly	mg/L	1.5	2.1	Chronic
1/1/06-1/15/07, 1/24/07, 1/26/07-1/31/06	494067	SS	average monthly	mg/L	1.0	<1.1	Chronic
12/31/06-1/6/07	494057	CBOD <sub>5</sub>	average weekly	mg/L	40.0	>39	Serious
12/31/06-1/6/07	494073	TSS	failed to report	n/a	n/a	n/a	Chronic
1/1/2007	494074	Chlorine residual	max daily	ug/L	808.0	5500	Serious
RO Water Treatment Plant							
3/1/07-3/5/07, 3/9/07-3/31/07	541867	TSS	average monthly	mg/L	60	98.0	Serious
7/1/07 - 7/31/07	689414	TSS	average monthly	mg/L	60	98.0	Serious
San Juan Creek Ocean Outfall							
9/1/2005		SS	daily maximum	mg/L	3	5	Serious
9/21/2005		Chlorine	average weekly	mg/L	0.808	1	Serious

3. On August 14, 2008, the Assistant Executive Officer issued Administrative Civil Liability Complaints No. R9-2008-0090, R9-2008-0091, R9-2008-0092, and R9-2008-0094 to SOCWA proposing the cumulative imposition of \$60,000 in liability for violations alleged in the Complaints as follows:
  - a. R9-2008-0090 in the amount of \$21,000, for seven effluent limitation violations in discharges from the San Clemente WRP.
  - b. R9-2008-0091 in the amount of \$27,000, for nine effluent limitation violations in discharges from the Chiquita WRP.
  - c. R9-2008-0092 in the amount of \$6,000, for two effluent limitation violations in discharges from the RO Water Treatment Plant.
  - d. R9-2008-0094 in the amount of \$6,000, for two effluent limitation violations in discharges from the San Juan Creek Ocean Outfall.
  
4. On October 6, 2008, SOCWA offered to resolve the allegations in the Complaints by paying in full the liability proposed in the Complaints. On October 22, 2008, SOCWA submitted additional information and proposed:
  - a. To waive its right to hearings on the Complaints; and

- b. To pay the \$60,000 administrative civil liability, directing \$37,500 of the total amount to the Southern California Coastal Waters Research Project (SCCWRP) to fund a Supplemental Environmental Project (SEP) for the purpose of expanding the investigation of environmental triggers of Harmful Algal Blooms.
5. CWC Section 13385(l) allows the Regional Board to direct a portion of MMPs toward implementation of SEPs. The proposed SEP satisfies the provisions of Section IV, Part D of the State Water Resources Control Board Water Quality Enforcement Policy (Resolution 96-030 as amended).
6. Issuance of this Order is an enforcement action taken by a regulatory agency and is exempt from the provisions of the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.) pursuant to section 15321(a)(2), Chapter 3, Title 14 of the California Code of Regulations. This action is also exempt from the provisions of CEQA in accordance with section 15061(b)(3) of Chapter 3, Title 14 of the California Code of Regulations 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..

**IT IS HEREBY ORDERED**, that pursuant to California Water Code Section 13385, that:

1. Civil liability is imposed on the South Orange County Wastewater Authority in the amount of \$60,000 to be paid as follows:
  - a. SOCWA shall provide the Regional Board payment in the amount of \$22,500 payable to the "State Water Resources Control Board" for deposit into the Cleanup and Abatement Account within 30 days of adoption of this Order; and
  - b. SOCWA shall provide payment in the amount of \$37,500 to the Southern California Coastal Water Research Project within 30 days from the date of this Order to provide funding in support of the SEP known as "Harmful Algal Bloom Investigation" which shall be an element of the Atmospheric Deposition Component of the Bight '08 Survey. Failure to pay the full amount to SCCWRP within 30 days from the date of this Order will result in the full amount becoming immediately due and payable to the State Water Resources Control Board for deposit into the Cleanup and Abatement Account.
2. If SOCWA publicizes the SEP or the results of the SEP, it will state in a prominent manner that the Project is being undertaken as part of the resolution of an enforcement action by the Regional Board.
3. The Executive Officer is authorized to refer this matter to the Office of the Attorney General for collection if SOCWA fails to comply with paragraphs 1 or 2.

4. Fulfillment of SOCWA's obligations under this Order constitutes full and final satisfaction of any and all liability for each allegation in Complaint Nos. R9-2008-0090, R9-2008-0091, R9-2008-0092, and R9-2008-0094.

I, John H. Robertus, Executive Officer, do hereby certify the foregoing is a full, true and correct copy of an Order imposing civil liability assessed by the California Regional Water Quality Control Board, San Diego Region, on November 12, 2008.

*Tentative*

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JOHN H. ROBERTUS  
Executive Officer