

State of California
Regional Water Quality Control Board
San Diego Region

ENFORCEMENT SUMMARY REPORT
November 12, 2008

ITEM: 9

SUBJECT: Administrative Assessment of Civil Liability: South Orange County Wastewater Authority (SOCWA), San Juan Ocean Outfall, San Clemente Water Reclamation Plant, Chiquita Water Reclamation Plant, and the San Juan Capistrano Reverse Osmosis Water Treatment Plant. The Regional Board will consider a tentative Order that would impose a \$60,000 Mandatory Minimum Penalty for violations of effluent limitations established in NPDES Permit Orders R9-2006-0054 and R9-2000-13, NPDES No. CA107417, *Waste Discharge Requirements and NPDES Permit for the South Orange County Wastewater Authority Discharge to the Pacific Ocean via San Juan Creek Ocean Outfall*. The tentative Order recommends that \$37,500 of the \$60,000 recommended penalty be directed to a Supplemental Environmental Project implemented by the Southern California Coastal Waters Research Project. (Tentative Order R9-2008-0144) (Joann Cofrancesco)

PURPOSE: The Regional Board will consider whether to approve, raise, lower, or reject assessment of the recommended liability. If the Regional Board rejects the tentative Order, the matter will be rescheduled to a future public hearing at which time the Regional Board will consider assessment of civil liability.

PUBLIC NOTICE: On October 10, 2008, the Regional Board published notice of this item in the Orange County Register and on the Regional Board web site.

DISCUSSION: The tentative Order imposes liability proposed in four separate ACL Complaints issued to the South Orange County Wastewater Authority (SOCWA). The NPDES permit for the San Juan Creek Ocean Outfall was issued to SOCWA on behalf of all its member agencies, including the Cities of San Clemente and

San Juan Capistrano, the Santa Margarita Water District (SMWD), and the South Coast Water District (SCWD). A vicinity map is provided in Supporting Document 1.

On June 27, 2008, the Regional Board issued Administrative Civil Liability (ACL) Complaint No. R9-2008-0064 to SOCWA for alleged effluent limitation violations of Regional Board Order No. R9-2006-0054 from four facilities operated by SOCWA member agencies (Supporting Document No. 3). SOCWA subsequently requested that individual Complaints be issued for each affected facility.

On August 14, 2008, ACL Complaint No. R9-2008-0064 was withdrawn and, in its place, five ACL Complaints were issued. Four following complaints were reissued for the alleged violations contained in the previous ACL Complaint, and a fifth was issued for newly discovered violations (Supporting Document No. 4). Subsequently, one complaint was withdrawn. The remaining four complaints, subject to Tentative Order No. R9-2008-0144, include the following:

1. ACL Complaint No. R9-2008-0090 in the amount of \$21,000 for alleged violations in discharges from the San Clemente Water Reclamation Plant, operated by City of San Clemente.
2. ACL Complaint No. R9-2008-0091 in the amount of \$27,000 for alleged violations in discharges from the Chiquita Water Reclamation Plant, operated by SMWD.
3. ACL Complaint No. R9-2008-0092 in the amount of \$6,000 for alleged violations in discharges from the Reverse Osmosis Water Treatment Plant, operated by City of San Juan Capistrano.
4. ACL Complaint No. R9-2008-0094 was issued to SOCWA in the amount of \$6,000 for alleged effluent limitation violations of Regional Board Order No. R9-2000-13 in discharges from the San Juan Creek Ocean Outfall.

Comments were received regarding one of the four ACL Complaints subject to the tentative Order. On September 24, 2008, SMWD who operates the Chiquita Water Reclamation Plant, requested that a number of alleged violations be considered as two single operational upsets (Supporting Document 5). On October 6, 2008, the Regional Board informed SOCWA and SMWD that they failed to demonstrate that single operational upset occurred. (Supporting Document 6)

On October 6, 2008, SOCWA waived its right to a hearing for the ACL Complaints and proposed a total settlement that includes: (1) payment of \$22,500 to the State Water Resources Control Board and (2) payment of \$37,500 to Southern California Coastal Water Research Project to fund a Supplemental Environmental Project (SEP) for investigation of environmental triggers of Harmful Algal Blooms (Supporting Document 7). On October 22, 2008, SOCWA submitted additional information about the SEP (Supporting Document 8). The SEP meets the Water Quality Enforcement Policy guidelines and involve minimal Regional Board oversight.

LEGAL CONCERNS: None

SUPPORTING DOCUMENTS:

- 1) Location Map of the Facilities
- 2) Tentative Order No. R9-2008-0144
- 3) Transmittal Letter and ACL Complaint No. R9-2008-0064
- 4) Transmittal Letter and ACL Complaint Nos. R9-2008-0090, R9-2008-0091, R9-2008-0092, R9-2008-0093, and R9-2008-0094
- 5) Memo from SMWD, dated September 24, 2008
- 6) Letter to SOCWA, dated October 6, 2008
- 7) SOCWA waiver and proposed SEP, dated October 6, 2008
- 8) Additional information from SOCWA on its proposed SEP, dated October 22, 2008

RECOMMENDATION: The adoption of Tentative Order No. R9-2008-0140 is recommended.