

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION

TENTATIVE

ORDER NO. R9-2009-0168

ADMINISTRATIVE ASSESSMENT OF CIVIL LIABILITY  
AGAINST  
CITY OF LAGUNA BEACH  
SEWAGE COLLECTION SYSTEM  
FOR  
VIOLATIONS OF ORDER NO. R9-2006-003-DWQ  
AND  
CALIFORNIA WATER CODE SECTION 13376

The California Regional Water Quality Control Board, San Diego Region (Regional Board), having considered in a public meeting on November 18, 2009, all comments received on the issuance of liability against the City of Laguna Beach regarding violations alleged in Complaint No. R9-2009-0040, dated August 28, 2009 (Complaint), having provided public notice thereof and not less than thirty (30) days for public comment, and on the recommendation for administrative assessment of Administrative Civil Liability in the amount of \$70,680 finds as follows:

1. The City of Laguna Beach is required to operate and maintain its sewage collection systems to prevent sanitary sewer overflows in compliance with requirements of State Board Order No. 2006-0003-DWQ, *Statewide General Waste Discharge Requirements for Sanitary Sewer Systems*. State Board Order No. 2006-0003-DWQ is not a National Pollutant Discharge Elimination System (NPDES) permit.
2. Prohibition C.1 of Order No. 2006-0003-DWQ states that any sanitary sewer overflow that results in a discharge of untreated or partially treated wastewater to waters of the United States is prohibited.
3. Section 301 of the Clean Water Act (33 U.S.C. § 1311) and California Water Code (CWC) Section 13376 prohibit the discharge of pollutants to waters of the United States except in compliance with a NPDES permit.
4. On October 29, 2008, the City of Laguna Beach discharged 590,000 gallons of untreated sewage from the Bluebird SOCWA Lift Station to the Pacific Ocean, a water of the United States, in violation of Prohibition C.1 of Order No. 2006-0003-DWQ.

5. The discharge of untreated sewage to the Pacific Ocean without authorization under an NPDES permit is a violation of CWC Section 13376.
6. Pursuant to CWC Section 13385(a), any person who violates CWC Section 13376, or any other 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 both of 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, 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.
7. On August 18, 2009, the Assistant Executive Officer issued Complaint No. R9-2009-0040 to the City of Laguna Beach proposing \$70,680 in administrative civil liability for the aforementioned violations.
8. On September 17, 2009, the City of Laguna Beach waived its right to a public hearing before the Regional Board and paid the recommended \$70,680 in administrative civil liability to the State Water Resources Control Board's Cleanup and Abatement Account.
9. 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.
10. Consideration of the factors prescribed in CWC Section 13385(e) based upon information available to the Regional Board prior to the hearing and described in greater detail in the technical report for Complaint No. R9-2009-0040 supports the assessment of administrative civil liability in the amount of \$70,680.
11. The Regional Board incurred costs totaling \$18,464, which includes investigation, preparation of enforcement documents and communication with the City of Laguna Beach regarding the enforcement action.

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

1. Administrative civil liability is imposed on the City of Laguna Beach in the amount of \$70,680.
2. Fulfillment of the City of Laguna Beach's obligations under this Order constitutes full and final satisfaction of any and all liability for each allegation in Complaint No. R9-2009-0040.

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 18, 2009.

TENTATIVE

---

JOHN H. ROBERTUS  
Executive Officer

CIWQS Entries  
Regulatory Measure ID 363145  
Place ID 631920  
Party ID 278717