CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

INVESTIGATIVE ORDER NO. R9-2010-0009

AN ORDER DIRECTING EASTERN MUNICIPAL WATER DISTRICT TO SUBMIT A TECHNICAL REPORT PERTAINING TO INVESTIGATION OF A DISCHARGE OF UNTREATED SEWAGE FROM THE TEMECULA VALLEY REGIONAL WATER RECLAMATION FACILITY, RIVERSIDE 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 13267 and 13260 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*; (5) Order No. R9-2000-0165 (*Waste Discharge Requirements for Eastern Municipal Water District Temecula Valley Regional Water Reclamation Facility, Riverside County*); and (6) relevant standards, criteria, and advisories adopted by other state and federal agencies.

2. **Persons Responsible for the Discharge of Wastes:** Eastern Municipal Water District (hereinafter the District) owns and operates the Temecula Valley Regional Water Reclamation Facility (TVRWRF) which is located at 42565 Avenida Alvarado, Temecula, CA 92590.

3. **Discharge of Untreated Sewage:** The District reported the following about an illicit discharge of untreated sewage at the TVRWF that occurred between December 25, 2009 and December 26, 2009:

    a. On December 26, 2009 at 6:30 a.m., District staff, when arriving at TVRWRF found untreated sewage was overflowing from the influent structure to an offsite storm channel that discharged into Murrieta Creek near Via Montezuma Road, Temecula. The District staff immediately diverted the influent flow to a bypass screen to terminate the overflow and began cleanup efforts.

    b. The flow of sewage in Murrieta Creek extended no further than Rancho California Road, approximately one mile downstream of discharge point at Via Montezuma Road.

    c. The overflow began sometime after District staff left the facility on the previous day at 3:40 p.m.

    d. The total discharge volume was estimated to be 2.4 million gallons, with 966,800 gallons of that amount being recovered from Murrieta Creek.

e. The discharge was caused by an electronic miscommunication failure, which disrupted the automatic opening of the influent bar screens of the TVRWRF.

f. The District notified U.S. Marine Corps Base, Camp Pendleton, Fallbrook Public Utility District, and Rancho California Water District of the discharge.

4. **San Diego Water Board Notification:** The San Diego Water Board was first notified of the discharge at 6:53 a.m. on December 26, 2009 and was updated of the District's progress throughout the cleanup process.

5. **Violations of Order No. R9-2000-0165:** The discharge described in Finding No. 3 above is in violation of the following sections of Order No. R9-2000-0165, and subjects the District to potential enforcement actions, including, but not limited to, administrative civil liability pursuant to Water Code sections 13350 and 13385 in amounts up to $10,000 per day, and up to $10 per gallon for each gallon of waste discharged:

a. Prohibition A.1 of Order No. R9-2000-0165: The discharge of untreated sewage flowed offsite to land area not described in a Report of Waste Discharge (ROWD), and as a result is a violation of Prohibition A.1 of Order No. R9-2000-0165. This prohibition states that discharges of waste to lands which have not been specifically described in the ROWD and for which valid waste discharge requirements are not in force are prohibited.

b. Prohibition A.2 of Order No. R9-2000-0165: The discharge of untreated sewage to Murrieta Creek was in violation of Prohibition A.2 of Order No. R9-2000-0165. This prohibition states that the treatment, storage, or disposal of waste shall not create a condition of pollution, contamination, or nuisance as defined by Water Code section 13050.

c. Prohibition A.3 of Order No. R9-2000-0165: The discharge of untreated sewage entered Murrieta Creek, and as a result is in violation of Prohibition A.3 of Order No. R9-2000-0165. This prohibition states that discharges of treated or untreated solid or liquid waste to a navigable water or tributary of a navigable water are prohibited unless authorized by a National Pollutant Discharge Elimination System permit issued by the San Diego Water Board.

d. Prohibition A.4 of Order No. R9-2000-0165: This prohibition specifies that the discharge from the TVRWRF shall not cause a violation of prohibitions contained in the Basin Plan. The discharge of untreated sewage is in violation of Waste Discharge Prohibitions No. 5 and 7 of the Basin Plan. Waste Discharge Prohibition No. 5 states that the discharge of waste to inland surface waters, except in cases where the quality of discharge complies with applicable water quality objectives is prohibited, while Waste Discharge Prohibition No. 7 states that dumping, deposition, or discharge of waste directly into waters of the state, or adjacent to such waters in any manner which may permit its being transported into the waters, is prohibited unless authorized by the San Diego Water Board.

e. Discharge Specification B.3 of Order No. R9-2000-0165: Untreated sewage typically contains high levels of nitrogen, suspended solids, dissolved solids, fecal and coliform bacteria, and oxygen-demanding organic compounds, typically above effluent limitations contained in Order No. R9-2000-0165. The discharge of untreated sewage was in violation of Discharge Specifications B.3 of Order No. R9-2000-0165, because the sewage discharged contained pollutants in excess of effluent limitations contained in Order No. R9-2000-0165.

6. **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.

7. **Basis for Requiring Reports:** Water Code section 13267 provides that the San Diego Water Board may require discharges, 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.

8. **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 gravity 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.

9. **California Environmental Quality Act (CEQA) Compliance:** This enforcement action is being taken for the protection of the environment and is exempt from the provisions of the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.) in accordance with section 15308, Chapter 3, Title 14 of the California Code of Regulations (CCR). The issuance of this Order is also an enforcement action taken by a regulatory agency and is exempt from 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.

10. **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.

IT IS HEREBY ORDERED, that pursuant to section 13267 of the Water Code, Eastern Municipal Water District is required to submit a technical report by **5:00 pm on March 5, 2010** presenting results of an investigation of the unauthorized discharge of sewage that occurred from the Temecula Valley Regional Water Reclamation Facility. The technical report must including the following information, and must comply with directives specified in this Order:

A. CONTENTS OF THE TECHNICAL REPORT

Causes and Circumstances of the Discharge

1. A complete, detailed explanation of how and when the discharge from the influent structure of the TVRWRF was discovered, including tabular and graphical summaries of the daily total influent flows to the TVRWRF and flow data from the lift stations serving the TVRWRF from December 25, 2009 through December 26, 2009.

2. An explanation of the methods and assumptions used in determining the total volume of sewage discharged.

3. The portions of the facility operation manual pertaining to the headworks, the electronic components of the headworks, and the electronic alarm system serving the headworks. In addition, a copy of any operation, maintenance, and testing specifications provided to the District by the manufacturer of these systems must be submitted.

4. The names of all wastewater operators who were on duty at the TVRWRF between December 25 and 26, 2009. State the hours each wastewater operator was on duty during the specified period, and specify the hours each day that at least one wastewater operator is scheduled to work at the facility.

Response to the Discharge

5. A copy of the facility's overflow or spill response plan (for overflows or spills that occur within the TVRWRF). Describe how the plan was implemented before and during the discharge, and include a description of any changes/improvements that will be made in the plan as a result of experiences gained in responding to the discharge.

6. A detailed chronological description of all actions taken by the District to terminate the discharge, and mitigate its impacts. The narrative must include an evaluation of the results of these actions.

Monitoring and Analysis

7. Analyses results for any samples collected along Murrieta Creek at points upstream and downstream from where the discharge entered Murrieta Creek.

8. A detailed map of the discharge location, path of the discharge, and location of sampling points.

9. Characterization of the quality of the influent 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

10. 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.

11. 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 supporting rationale for conclusions made, and an explanation of what steps were taken, or will be taken to mitigate these impacts. This assessment must be prepared by a technical professional qualified to evaluate the short and long term impacts of the discharge on ecological receptors.

Additional Information

12. Any other pertinent information that will assist the San Diego Water Board in evaluating the nature, circumstances, extent, and gravity 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). The District must use a laboratory capable of producing and providing quality assurance/quality control (QA/QC) records for San Diego Water Board review. The director of the laboratory whose name appears on the certification shall supervise all analytical work in his/her laboratory and shall sign all reports submitted to the San Diego Water Board.

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 United States Environmental Protection Agency (USEPA) procedures."

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*", the exact methodology must be submitted for review and must be approved by the San Diego Water Board prior to use.

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:

   Executive Officer
   California Regional Water Quality Control Board
   San Diego Region
   9174 Sky Park Court, Suite 100
   San Diego, CA 92123-4340

C. 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 Evidentiary Hearing by the San Diego Water Board:** Any person affected by this action of the San Diego Water Board may request an evidentiary hearing before the San Diego Water Board. If you decide to request an evidentiary hearing, send your request to the San Diego Water Board Executive Officer, Attn: Mr. Robert W. Morris, Groundwater Basins Branch, at the address provided in Provision B.7 of this Order. Please consider the following carefully:

   a. The San Diego Water Board must receive your request within 30 days of the date of this Order.

   b. Your request must include all comments, technical analysis, documents, reports, and other evidence that you wish to submit for the evidentiary hearing. Please note, however, that the administrative record will include all materials the San Diego Water Board has previously received regarding this facility. You are not required to submit documents that are already in the record.

   c. The Executive Officer or San Diego Water Board may deny your request for a hearing after reviewing the evidence.

   d. If you do not request an evidentiary hearing, the State Water Board may prevent you from submitting new evidence in support of a State Water Board petition.

e. Your request for an evidentiary hearing, if you submit one, does not stay the effective date of the Order, whether or not a hearing is scheduled.

f. A request for a hearing does not extend the 30-day period to file a petition with the State Water Board (see below). We suggest, however, that you ask the State Water Board to hold the petition in abeyance while your request for a hearing is pending. (Refer to CCR Title 23 section 2050.5(d)) Additional information regarding the State Water Board petition process is provided below.

4. **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.

MICHAEL P. McCANN
Assistant Executive Officer

2/1/2010
Date

MPM: jc: rwm: oo