

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

**IN THE MATTER OF CITY OF SAN DIEGO,  
JANUARY 2023 SANITARY SEWER OVERFLOW  
SAN DIEGO BAY AND SAN DIEGO RIVER**

**SETTLEMENT AGREEMENT AND STIPULATION FOR ENTRY OF  
ADMINISTRATIVE CIVIL LIABILITY**

**ORDER NO. R9-2025-0010**

**I. INTRODUCTION**

1. This Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order (Order or Stipulated Order) is entered into by and between the Assistant Executive Officer of the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) on behalf of the San Diego Water Board Prosecution Team (Prosecution Team), and the City of San Diego (City) (collectively, Parties). This Order is presented to the San Diego Water Board for adoption as an order by settlement pursuant to California Water Code (Water Code) section 13323 and Government Code section 11415.60.

**II. RECITALS**

2. The City owns and operates the municipal sanitary sewer system of the City and provides wastewater conveyance and treatment services to its residents and 12 other cities and special districts. The wastewater system serves over 2 million residents in San Diego County and includes over 3,000 miles of sewer pipelines and 82 pump stations.

**JANUARY 16, 2023 SANITARY SEWER OVERFLOW**

3. Pump Station 2 is a critical part of the sanitary sewer system and located at 4077 North Harbor Drive. Approximately 80 percent of the total sewage from the system flows through Pump Station 2 and is subsequently treated at the Point Loma Wastewater Treatment Plant. Pump Station 2 was commissioned in 1963 and has 8 vertical shaft-driven pumps for a rated capacity of 432 million gallons a day (MGD).
4. The City completed upgrades to Pump Station 2 in 1986, 1987, 1990, and 1992. The City is planning a capital improvement project (CIP) to perform a broader, comprehensive project to upgrade and rehabilitate the pump station to further improve performance and reliability. The City anticipates construction to be completed in the winter of 2029.

5. On January 16, 2023, after heavy rains (approximately 2.77 inches over a 3-day period as measured from the San Diego International Airport, equating to a 5-year frequency storm event), Pump Station 2 experienced an equipment malfunction that resulted in a sanitary sewer overflow (SSO) event of 9,781,765 gallons. Untreated sewage was discharged from 20 manhole locations and 10 non-manhole locations within the sanitary sewer collection system upstream of Pump Station 2. An unknown volume of untreated sewage was conveyed via the municipal separate storm sewer system (MS4) to multiple locations along the San Diego Bay shoreline and the lower San Diego River. The San Diego Bay and San Diego River are waters of the United States.
6. The City conducted an analysis of possible flow paths in March 2023 and concluded that untreated sewage may have reached up to eight locations along the lower San Diego River and up to ten locations along the northern San Diego Bay shoreline.
7. The Water Quality Control Plan for the San Diego Basin (9) (Basin Plan) designates the following existing and potential beneficial uses for the San Diego River:
  - a. Agricultural Supply (AGR) – Includes uses of water for farming, horticulture, or ranching including, but not limited to, irrigation, stock watering, or support of vegetation for range grazing.
  - b. Preservation of Biological Habitats of Special Significance (BIOL) – Includes uses of water that support designated areas or habitats, such as established refuges, parks, sanctuaries, ecological reserves, or Areas of Special Biological Significance (ASBS), where the preservation or enhancement of natural resources requires special protection.
  - c. Industrial Service Supply (IND) – Includes uses of water for industrial activities that do not depend primarily on water quality including, but not limited to, mining, cooling water supply, hydraulic conveyance, gravel washing, fire protection, or oil well re-pressurization.
  - d. Water Contact Recreation (REC-1) – Includes uses of water for recreational activities involving body contact with water, where ingestion of water is reasonably possible. These uses include, but are not limited to, swimming, wading, water-skiing, skin and SCUBA diving, surfing, white water activities, fishing, or use of natural hot springs.
  - e. Non-Contact Water Recreation (REC-2) – Includes the uses of water for recreational activities involving proximity to water, but not normally involving body contact with water, where ingestion of water is reasonably possible. These uses include, but are not limited to, picnicking, sunbathing, hiking, beachcombing, camping, boating, tidepool and marine life study, hunting, sightseeing, or aesthetic enjoyment in conjunction with the above activities.

- f. Warm Freshwater Habitat (WARM) – Includes uses of water that support warm water ecosystems including, but not limited to, preservation or enhancement of aquatic habitats, vegetation, fish or wildlife, including invertebrates.
  - g. Wildlife Habitat (WILD) – Includes uses of water that support terrestrial ecosystems including, but not limited to, preservation and enhancement of terrestrial habitats, vegetation, wildlife (e.g., mammals, birds, reptiles, amphibians, invertebrates), or wildlife water and food sources.
8. The lower San Diego River is listed on the [California 2020-2022 Integrated Report \(Integrated Report\)](#)<sup>1</sup> as impaired for pesticides, indicator bacteria, toxicity, dissolved oxygen, nutrients, total dissolved solids, turbidity, and benthic community effects.
9. San Diego Bay is also designated as having the IND, REC-1, REC-2, WARM, and WILD beneficial uses as described above. Additionally, the Basin Plan designates the following additional existing and potential beneficial uses for San Diego Bay:
- a. Preservation of Biological Habitats of Special Significance (BIOL) – Includes uses of water that support designated areas or habitats, such as established refuges, parks, sanctuaries, ecological reserves, or Areas of Special Biological Significance (ASBS), where the preservation or enhancement of natural resources requires special protection.
  - b. Commercial and Sport Fishing (COMM) – Includes the uses of water for commercial or recreational collection of fish, shellfish, or other organisms including, but not limited to, uses involving organisms intended for human consumption or bait purposes.
  - c. Estuarine Habitat (EST) – Includes uses of water that support estuarine ecosystems including, but not limited to, preservation or enhancement of estuarine habitats, vegetation, fish, shellfish, or wildlife (e.g., estuarine mammals, waterfowl, shorebirds).
  - d. Marine Habitat (MAR) – Includes uses of water that support marine ecosystems including, but not limited to, preservation or enhancement of marine habitats, vegetation such as kelp, fish, shellfish, or wildlife (e.g., marine mammals, shorebirds).
  - e. Migration of Aquatic Organisms (MIGR) – Includes uses of water that support habitats necessary for migration, acclimatization between fresh and salt water, or other temporary activities by aquatic organisms, such as anadromous fish.

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<sup>1</sup> The Integrated Report is available at:  
[https://www.waterboards.ca.gov/water\\_issues/programs/water\\_quality\\_assessment/2020\\_2022\\_integrated\\_report.html](https://www.waterboards.ca.gov/water_issues/programs/water_quality_assessment/2020_2022_integrated_report.html).

- f. Navigation (NAV) – Includes uses of water for shipping, travel, or other transportation by private, military, or commercial vessels.
  - g. Rare, Threatened, or Endangered Species (RARE) – Includes uses of water that support habitats necessary, at least in part, for the survival and successful maintenance of plant or animal species established under state or federal law as rare, threatened or endangered.
  - h. Shellfish Harvesting (SHELL) – Includes uses of water that support habitats suitable for the collection of filter-feeding shellfish (e.g., clams, oysters and mussels) for human consumption, commercial, or sport purposes.
  - i. Spawning, Reproduction, and/or Early Development (SPWN) – Includes uses of water that support high quality aquatic habitats suitable for reproduction and early development of fish. This use is applicable only for the protection of anadromous fish.
10. San Diego Bay is listed as impaired for mercury, polycyclic aromatic hydrocarbons (PAHs), and polychlorinated biphenyls (PCBs) on the Integrated Report.
11. In accordance with [Resolution No. R9-2017-0030](#),<sup>2</sup> the San Diego River is considered a key area for habitats and ecosystems and the mouth of the San Diego River is a key area for recreation and a popular swimming location. San Diego Bay is considered a key area for three beneficial use categories: habitats and ecosystems, consumption of fish and shellfish, and contact and non-contact recreation. San Diego Bay is a high priority waterbody for the San Diego Water Board for restoration and protection due to its ecological value and because it supports tourism, commercial and subsistence fishing, and a variety of recreational, maritime, industrial, commercial, and military uses.
12. The SSO discharge locations at the San Diego River and north San Diego Bay shoreline are not considered Disadvantaged Communities (DACs) according to [CalEnviroScreen](#).<sup>3</sup> However, one or more of the discharge locations may be in a community where the median household income is less than 80 percent of the statewide annual median household income level according to the [Department of Water Resources Mapping Tool](#).<sup>4</sup> Moreover, the larger San Diego Bay provides

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<sup>2</sup> A copy of the Resolution is available at: [https://www.waterboards.ca.gov/rwqcb9/board\\_decisions/adopted\\_orders/2017/R9-2017-0030.pdf](https://www.waterboards.ca.gov/rwqcb9/board_decisions/adopted_orders/2017/R9-2017-0030.pdf).

<sup>3</sup> CalEnviroScreen is a mapping tool created by the Office of Environmental Health and Hazard Assessment to geographically display a community's multi-media pollution burden and identify disadvantaged communities per Senate Bill 535. CalEnviroScreen is available at: <https://oehha.ca.gov/calenviroscreen/sb535>.

<sup>4</sup> The Department of Water Resources Mapping Tool is a geospatial display of disadvantaged communities based on median household income. The Department of Water Resources Mapping Tool is available at: <https://gis.water.ca.gov/app/dacs/>.

critical ecosystem functions for the surrounding underserved communities who rely on the Bay for recreation and subsistence fishing.

13. The City reported that the cause of the SSO on January 16, 2023, was false readings by two ultrasonic level sensors and their programmed logic at Pump Station 2. These level sensors record the sewage levels in the wet wells and use this information to control the pump speeds and the number of pumps in use. The level sensors likely became inundated with sewage during the peak of the storm and registered a false low-level reading. This false low-level reading automatically caused all working pumps to shut off per the programmed logic, causing sewage to backup into the collection system and discharge from multiple locations.
14. Another contributing factor to the SSO was that two of the eight pumps at Pump Station 2 were out of service during the storm on January 16, 2023.<sup>5</sup> The City had been attempting to repair both downed pumps over the course of several years prior to the SSO but experienced numerous unforeseen technical difficulties and setbacks.
15. Pump Station 2 operators were immediately aware of the pump shut-off and instituted protocols to bring them back online. Operators restored pump operation, which required overriding the programmed logic that caused the pumps to shut off. The electrical demand required for pump restart necessitated that they be brought online sequentially considering wet well levels, system hydraulics, and specified durations between pump startups. The City reported that it took approximately one hour for all working pumps to return to full service.
16. The SSO resulted in beach closures along seven San Diego Bay shoreline locations from January 16, 2023, to January 23, 2023. The closed segment of San Diego Bay included all water north and west of Chollas Creek, including beaches at Coronado, up to Shelter Island. The closure signs were lifted once concentrations of indicator bacteria were within Basin Plan water quality objectives at all seven posted locations (some of the locations reached water quality objectives sooner than January 23, 2023; however, the closure signs remained up until all locations were cleared).
17. The City did not take bacteria samples at the San Diego River and downstream beaches as part of its SSO response because it was unaware that untreated sewage reached the San Diego River until modeling analysis was completed in March 2023. The City relied on public complaints in its initial SSO response, which were generated around San Diego Bay.
18. The City called the California Office of Emergency Services (OES) on January 16, 2023, to report the SSO. The City submitted a certified spill report (Spill Event ID: 885537) to the California Integrated Water Quality System (CIWQS) database on January 27, 2023, in accordance with the reporting requirements of *Statewide*

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<sup>5</sup> The City's normal operating procedure is to utilize seven pumps to reach maximum station capacity and have one pump on standby.

*General Waste Discharge Requirements for Sanitary Sewer Systems*, Order No. 2006-0003-DWQ (Statewide General Order), which was in effect at the time of the SSO.

19. In the months following the SSO, the City purchased and installed two new ultrasonic level sensors and equipment guards that should prevent the sensors from malfunctioning if the wet well levels rise above the sensor levels again. The City changed the programming logic so that a low-level reading from the level sensors will not cause the pumps to shut down without staff intervention.
20. The City continued to experience numerous setbacks with pump repairs despite soliciting help from industry experts including contractors, vendors, and engineers from the pump manufacturer, and because some repair work could not be diagnosed and tested until the pumps were shipped to the manufacturer and completely disassembled. Additionally, some work could not be completed during the rainy season. The City finally reported that the two downed pumps returned to full service in November, 2024.

#### **RELEVANT REGULATORY REQUIREMENTS**

21. The Statewide General Order regulates all entities that own or operate a sanitary sewer system, greater than one mile in length, that collects or conveys untreated or partially treated wastewater to a publicly owned treatment facility in the State of California. Prohibition C.1 of the Statewide General Order states that “[a]ny SSO that results in a discharge of untreated or partially treated wastewater to waters of the United States is prohibited.” Provision D.8 of the Statewide General Order states that the Enrollee “shall properly manage, operate, and maintain all parts of the sanitary sewer system owned or operated by the Enrollee, and shall ensure that the system operators (including employees, contractors, or other agents) are adequately trained and possess adequate knowledge, skills, and abilities.”
22. The San Diego Water Board adopted *Waste Discharge Requirements for Sewage Collection Agencies in the San Diego Region*, Order No. R9-2007-0005 (Regional General Order) that establish additional requirements beyond the minimum requirements established in the Statewide General Order. Prohibition B.1 of the Regional General Order states “[t]he discharge of sewage from a sanitary sewer system at any point upstream of a sewage treatment plant is prohibited.”
23. The San Diego Water Board adopted *Waste Discharge Requirements and National Pollutant Discharge Elimination System Permit for the City of San Diego E.W. Blom Point Loma Wastewater Treatment Plant Discharge to the Pacific Ocean through the Point Loma Ocean Outfall*, Order No. R9-2017-0007, NPDES No. CA0107409 (NPDES Order) applicable to Pump Station 2. Section III.A of the NPDES Order prohibits the discharge of waste from Pump Station 2 to a location other than Discharge Point No. 001, unless otherwise permitted by the NPDES Order or other waste discharge requirements. Section III.C of the NPDES Order requires the City to

comply with Discharge Prohibitions contained in chapter 4 of the *Water Quality Control Plan for the San Diego Basin* (Basin Plan), which are incorporated and summarized in Attachment G of the NPDES Order. Discharge Prohibition B.7 of Attachment G of the NPDES Order prohibits the 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, unless authorized by the San Diego Water Board.

24. Basin Plan Waste Discharge Prohibition No. 1, and NPDES Order, Attachment G, Basin Plan Discharge Prohibition B.1, state “[t]he discharge of waste to waters of the state in a manner causing, or threatening to cause a condition of pollution, contamination or nuisance as defined in Water Code section 13050, is prohibited.”
25. Basin Plan Waste Discharge Prohibition No. 9 and NPDES Order, Attachment G, Basin Plan Discharge Prohibition B.9, state “[t]he unauthorized discharge of treated or untreated sewage to waters of the state or to a storm water conveyance system is prohibited.”
26. Clean Water Act section 301 and Water Code section 13376 prohibit the discharge of pollutants to surface waters except in compliance with a National Pollutant Discharge Elimination System (NPDES) permit.

#### **ALLEGED VIOLATION**

27. The City’s unauthorized discharge 9,781,765 gallons of untreated sewage to the San Diego Bay and San Diego River on January 16, 2023, violated Statewide General Order Prohibition C.1; Regional General Order Prohibition B.1; Clean Water Act section 301; Water Code section 13376; Basin Plan Waste Discharge Prohibition Nos. 1 and 9; and NPDES Order, Attachment G, Basin Plan Discharge Prohibitions B.1 and B.9.
28. On December 5, 2023 and August 20, 2024, the State Water Resources Control Board (State Water Board) adopted Resolution Nos. 2023-0043 and 2024-0027, which adopted the 2024 Water Quality Enforcement Policy ([2024 Enforcement Policy](#)).<sup>6</sup> The 2024 Enforcement Policy was approved by the Office of Administrative Law and become effective on November 7, 2024. The Prosecution Team developed the administrative civil liability based on the [2017 Enforcement Policy](#)<sup>7</sup> since the alleged violation occurred prior to the adoption of the 2024 Enforcement Policy. However, the 2024 Enforcement Policy was used to the extent it provides

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<sup>6</sup> The 2024 Enforcement Policy is available at: [https://waterboards.ca.gov/water\\_issues/programs/enforcement/docs/2024/2024-enforcement-policy.pdf](https://waterboards.ca.gov/water_issues/programs/enforcement/docs/2024/2024-enforcement-policy.pdf).

<sup>7</sup> The 2017 Enforcement Policy is available at: [https://www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/resolutions/2017/040417\\_9\\_fi nal%20adopted%20policy.pdf](https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2017/040417_9_fi nal%20adopted%20policy.pdf).

clarifications or procedural changes to the 2017 Enforcement Policy (See 2024 Enforcement Policy, Appendix D).

29. Water Code section 13385(e) requires the San Diego Water Board to consider several factors in determining administrative civil liability, such as the potential for harm to the environment, and a Discharger's culpability and ability to pay. The 2017 and 2024 Enforcement Policies incorporate these factors in a methodology for determining administrative civil liability in instances of noncompliance.
30. As allowed by the 2017 Enforcement Policy, violations of multiple permit and Basin Plan requirements were consolidated into a single base liability amount per SSO since the violations of the requirements are not independent of one another, are not substantially distinguishable, and are the result of a single act that violates similar requirements in different applicable permits and plans that are designed to address the same water quality issue.<sup>8</sup>
31. A discharger that violates Water Code section 13376, Clean Water Act section 301, or the NPDES Order is subject to administrative civil liability pursuant to Water Code section 13385(a). Additionally, the unauthorized discharges of untreated sewage in violation of the Statewide General Order, Regional General Order, and Basin Plan Prohibitions is subject to administrative civil liability pursuant to Water Code section 13350. The San Diego Water Board Prosecution Team elected to pursue enforcement of the alleged violation pursuant to Water Code section 13385. Water Code section 13385(c) authorizes the San Diego Water Board to impose administrative civil liability up to \$10,000 per day of violation, plus \$10 for each gallon exceeding 1,000 gallons discharged but not cleaned up.

### **ENFORCEMENT PROCESS**

32. In early 2024, the Prosecution Team and the City entered into confidential settlement negotiations to resolve the alleged violation. The Parties agreed to settle this matter without administrative or civil litigation by presenting this Order to the San Diego Water Board for adoption as an order by settlement pursuant to Water Code section 13323 and Government Code section 11415.60. Additional detail on the factors considered in determining the liability agreed upon by the Parties is discussed in Attachment A (*North San Diego Bay and San Diego River Sanitary Sewer Overflow Penalty Calculation Methodology*), attached hereto and incorporated by reference.
- 33 The amount of administrative civil liability imposed pursuant to this Stipulated Order comports with the 2017 Enforcement Policy methodology as discussed in Attachment A.

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<sup>8</sup> See 2017 Enforcement Policy, Section VI.A, Step 4, Multiple Violations Resulting from the Same Incident.

34. To resolve the alleged violation by consent and without further administrative or civil proceedings, the Parties agree to the imposition of an administrative civil liability against the City in the amount of eleven million, four hundred nineteen thousand, six hundred eight dollars (\$11,419,608).
35. The Prosecution Team asserts that the resolution of the alleged violation is fair, reasonable, and fulfills the enforcement objective of creating a deterrent that would compel a timely return to compliance. No further action is warranted concerning the specific violation alleged in Attachment A except as provided in this Order. This Order is in the best interest of the public.

### III. STIPULATIONS

The Parties stipulate the following:

36. **Jurisdiction:** The Parties agree that the San Diego Water Board has subject matter jurisdiction over the matters alleged in this action and personal jurisdiction of the Parties to this Stipulated Order.
37. **Administrative Civil Liability:** The City hereby agrees to the imposition of an administrative civil liability totaling eleven million, four hundred nineteen thousand, six hundred eight dollars \$11,419,608, which includes \$46,655 in staff costs associated with the investigation and preparation of this enforcement action, to resolve the violation specifically alleged in this Stipulated Order. Within thirty (30) days of the effective date of this Order, the City agrees to remit, by check, \$11,419,608 payable to State Water Pollution Cleanup and Abatement Account, and shall indicate "Order No. R9-2025-0010" on the check. The City shall send the original signed check to the following address:

State Water Resources Control Board; Accounting Office  
ATTN: ACL Payment / Order No. R9-2025-0010  
P.O. Box 1888  
Sacramento, California 95812-1888

The City shall send a redacted copy of the check to the Prosecution Team Party Contact at the address listed in Paragraph 38. Alternative forms of payment are acceptable if agreed upon in advance.

38. **Party Contacts for Communications related to this Order:**

For the Prosecution Team:

Christina Arias  
California Regional Water Quality Control Board, San Diego Region  
2375 Northside Drive, Suite 100  
San Diego, California 92108  
sandiego@waterboards.ca.gov  
(619) 521-3361

For the City:

Doug Campbell  
Public Utilities Department, City of San Diego  
202 C Street, 11<sup>th</sup> Floor  
San Diego, California 92101  
dacampbell@sandiego.gov  
(858) 292-6304

39. **Compliance with Applicable Law:** The City understands that the payment of the administrative civil liability in accordance with the terms of this Order does not relieve the City of its obligation to comply with applicable laws and new violations of the type alleged in Attachment A may be subject to further enforcement, including additional administrative civil liability.
40. **Covenant Not to Sue:** The City covenants not to sue or pursue any administrative or civil claim or claims against any State Agency or the State of California, or their officers, employees, representatives, agents, or attorneys arising out of or relating to any matter expressly addressed by this Stipulation and Order.
41. **Attorneys' Fees and Costs:** Each Party shall bear all attorneys' fees and costs arising from the Party's own counsel in connection with the matters set forth herein.
42. **Covered Matters:** Upon the San Diego Water Board's adoption of this Order, this Order presents a final and binding resolution and settlement of the alleged violation in this Stipulated Order. The provisions of this Paragraph are expressly conditioned on the full payment of the administrative civil liability by the deadline specified in paragraph 37.
43. **Public Notice:** The City understands that the San Diego Water Board will conduct a thirty (30) day public review and comment period prior to consideration and adoption of the Order. If significant new information is received that reasonably affects the propriety of presenting this Order to the San Diego Water Board for adoption, the Assistant Executive Officer may unilaterally declare this Order void and decide not to present it to the San Diego Water Board. The City agrees that it may not rescind or otherwise withdraw its approval of this proposed Order.
44. **No Waiver of Right to Enforce:** The failure of the Prosecution Team or the San Diego Water Board to enforce any provision of this Order shall in no way be deemed a waiver of such provision, or in any way affect the validity of the Order. The failure of the Prosecution Team or San Diego Water Board to enforce any such provision shall not preclude it from later enforcing the same or any other provision of this Order.
45. **Procedural Objections:** The Parties agree that the procedure contemplated for adopting the Order by the San Diego Water Board and review of this Order by the public is lawful and adequate. In the event procedural objections are raised prior to

the Order becoming effective, the Parties agree to meet and confer concerning any such objections and may agree to revise or adjust the procedure as necessary and advisable.

46. **Interpretation:** This Order shall be construed as if the parties prepared it jointly. Any uncertainty or ambiguity shall not be interpreted against any one Party.
47. **Modification:** This Order shall not be modified by any of the Parties by oral representation made before or after its execution. All modifications must be in writing, signed by all Parties, and approved by the San Diego Water Board.
48. **If Order Does Not Take Effect:** In the event that this Order does not take effect because it is not approved by the San Diego Water Board or is vacated in whole or in material part by the State Water Board or a final judgment of a court of competent jurisdiction, the Parties acknowledge that they expect to proceed to a contested evidentiary hearing before the San Diego Water Board, on a future date after reasonable notice and opportunity for preparation, to determine whether to assess administrative civil liability for the underlying alleged violation, unless the Parties agree otherwise. The Parties agree that all oral and written statements and agreements made during the course of the settlement discussions will not be admissible as evidence in such a hearing. The Parties agree to waive any and all objections related to their efforts to settle this matter, including, but not limited to:
- a. Objections related to prejudice or bias of any of the San Diego Water Board members or their advisors and any other objections that are premised in whole or in part on the fact that the San Diego Water Board members or their advisors were exposed to some of the material facts and the Parties' settlement positions as a consequence of reviewing this Order, and therefore may have formed impressions or conclusions prior to any contested evidentiary hearing on a Complaint in this matter; or,
  - b. Laches or delay or other equitable defenses based on the time period for administrative or judicial review to the extent this period has been extended by these settlement proceedings.
49. **Waiver of Hearing:** The City has been informed of the rights provided by Water Code section 13323(b), and provided this Stipulated Order is approved by the San Diego Water Board, hereby waives its right to a hearing before the San Diego Water Board.
50. **Waiver of Right to Petition or Appeal:** The City hereby waives its right to petition the San Diego Water Board's adoption of the Order as written for review by the State Water Board, and further waives its right, if any, to appeal the same to a California Superior Court and/or any California appellate level court.
51. **Authority to Bind:** Each person executing this Order in a representative capacity represents and warrants that he or she is authorized to execute this Order on behalf of and to bind the entity on whose behalf he or she executes the Order.

52. **No Third-Party Beneficiaries:** Except as described in this Order, the Order is not intended to confer any rights or obligations on any third party or parties, and no third party or parties shall have any right of action under this Order for any cause whatsoever.
53. **Effective Date:** This Order shall be effective and binding on the Parties on the date that the San Diego Water Board adopts the Order.
54. **Counterpart Signatures:** This Order may be executed and delivered in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, but such counterpart shall together constitute one document. Further, this Stipulated Order may be executed by facsimile or electronic signature, and any such facsimile or electronic signature by any Party hereto shall be deemed to be an original signature and shall be binding on such Party to the same extent as if such facsimile or electronic signature were an original signature.
55. **Severability:** The provisions of this Order are severable, and should any provision be found invalid, the remainder shall remain in full force and effect.

**IT IS SO STIPULATED**

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, SAN DIEGO  
REGION, PROSECUTION TEAM**

**By:**

**KELLY DORSEY, P.G., Assistant Executive Officer**

**CITY OF SAN DIEGO**

**By:**

**Approved As To Form By:**

**MATTHEW VESPI,  
Chief Financial Officer**

**MELISSA ABLES,  
Chief Deputy City Attorney**

#### IV. FINDINGS OF THE SAN DIEGO WATER BOARD

56. The San Diego Water Board incorporates Sections I through III by reference as if set forth fully herein.
57. In accepting this settlement, the San Diego Water Board has considered, where applicable, each of the factors prescribed in Water Code section 13385(e). The San Diego Water Board's consideration of these factors is based upon information obtained by the San Diego Water Board's staff in investigating the violation alleged herein or otherwise provided to the San Diego Water Board. In addition to these factors, this settlement recovers a portion of the costs incurred by the San Diego Water Board Prosecution Team for this matter.
58. This is an action to enforce the laws and regulations administered by the San Diego Water Board. The San Diego Water Board finds that issuance of this Order is exempt from the provisions of the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.), in accordance with section 15321(a)(2), Title 14, of the California Code of Regulations.
59. The San Diego Water Board's Executive Officer is hereby authorized to refer this matter directly to the Attorney General for enforcement if the City fails to perform any of its obligations under this Order.
60. Fulfillment of the City's obligations under the Order constitutes full and final satisfaction of any and all liability for Covered Matters in accordance with the terms of the Order.
61. The attached Stipulation (Attachment A) between the Assistant Executive Officer and the City is approved pursuant to Water Code section 13323 and Government Code section 11415.60 and is incorporated by reference into this Order.

*I, David W. Gibson, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Diego Region.*

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David W. Gibson  
Executive Officer