

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

**ADVISORY TEAM SUMMARY REPORT  
AUGUST 14, 2024**

**ITEM 9**

**SUBJECT**

Administrative Civil Liability Hearing: Administrative Civil Liability Order in the Matter of Olivia Yutang Liu for Failure to Comply with Cleanup and Abatement and Water Code Section 13267 Order No. R9-2021-0165 as set forth in Administrative Civil Liability (ACL) Complaint No. R9-2024-0090. (*David Gibson, Alex Sauerwein*)

**KEY ISSUE**

The San Diego Water Board will hear evidence and testimony related to Administrative Civil Liability Complaint No. R9-2024-0090, which alleges violations of Cleanup and Abatement Order and Water Code Section Order No. R9-2021-0165 (Cleanup Order), in violation of Water Code section 13267, and consider whether to impose administrative civil liability upon Olivia Yutang Liu (Respondent).

**PRACTICAL VISION**

Consistent with the mission of the Strategize for Healthy Waters chapter of the Practical Vision, the San Diego Water Board will consider an enforcement action related to the (1) unauthorized grading and land disturbance within the course of an ephemeral stream for cannabis cultivation activities and (2) the discharge of nutrient-laden irrigation runoff into the ephemeral stream that is a tributary to Buena Vista Creek.

Beneficial uses designated in the Water Quality Control Plan for the San Diego Basin (Basin Plan) for Buena Vista Creek include: municipal and domestic supply (MUN), agricultural supply (AGR), industrial service supply (IND), freshwater replenishment (FRSH), hydropower generation (POW), contact water recreation (REC-1), non-contact water recreation (REC-2), warm freshwater habitat (WARM), cold freshwater habitat (COLD), and wildlife habitat (WILD). The designated beneficial uses of the underlying groundwaters for the Warner Hydrologic Subarea (HAS 3.31) include MUN, AGR, IND, and FRSH.

The San Diego Water Board has identified Buena Vista Creek as a key area for the habitat and ecosystem key beneficial uses and is a priority for protection within the region (Resolution No. R9-2017-0030).<sup>1</sup> Buena Vista Creek is listed as impaired in the

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<sup>1</sup> Resolution No. R9-2017-0030 can be viewed at the following link:  
[https://www.waterboards.ca.gov/sandiego/board\\_decisions/adopted\\_orders/2017/R9-2017-0030.pdf](https://www.waterboards.ca.gov/sandiego/board_decisions/adopted_orders/2017/R9-2017-0030.pdf)

2020-2022 California Integrated Report (Clean Water Act Section 303(d) List and 305(b) Report)<sup>2</sup> due to benthic community effects, pyrethroids, bifenthrin, cyfluthrin, cypermethrin, indicator bacteria, nitrogen, phosphorus, selenium, total dissolved solids, and toxicity.

## DISCUSSION

The San Diego Water Board Prosecution Team issued Administrative Civil Liability Complaint No. R9-2024-0090 (Supporting Document No. 1 (Complaint)) on May 23, 2024, for alleged violations of the Cleanup and Abatement and Water Code Section 13267 Order No. R9-2021-0165 at the Respondent's property (Site) located at 3001 Chimney Rock Road, Ranchita, California 92066 (33.22164, -116.50130), San Diego County Assessor Parcel Number 197-100-02-00. The Complaint alleges that two violations occurred.

**Violation 1:** The Prosecution Team alleges that the Respondent violated Water Code section 13267 by failing to submit an adequate proposed Restoration and Monitoring Plan (RMP) for approval by the San Diego Water Boards or its delegated officer by October 15, 2021, as specified under Required Actions A of the Cleanup Order.

**Violation 2:** The Prosecution Team alleges that the Respondent violated Water Code section 13304 by failing to complete implementation of an approved RMP by October 1, 2022, as specified under Required Actions C of the Cleanup Order.

The Complaint proposes assessment of administrative civil liability in the amount of \$409,534 for these alleged violations of the Water Code, as detailed in Attachment A to Administrative Civil Liability Complaint No. R9-2024-0090: Liability Methodology (Supporting Document No. 2).

Violation 1	\$ 75,075
Violation 2	\$306,075
Staff Costs	\$ 28,384
Total	\$409,534

Interested persons were required to submit non-evidentiary policy statements by June 21, 2024. The San Diego Water Board did not receive any non-evidentiary policy statements from interested persons.

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<sup>2</sup> The Clean Water Act Section 303(d) List and 305(b) Report can be viewed at the following link:  
[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).

The parties submitted evidence and briefing on this matter in accordance with the Hearing Procedure, issued by the San Diego Water Board on June 20, 2024, and revised on August 5, 2024 (Supporting Document No. 4). The Prosecution Team objected to submittals of evidence sent by Respondent on the basis that they were submitted late and not relevant to the two violations included in the ACLC. The San Diego Water Board Chair issued an order ruling that Respondent's submittals were not relevant and considered late evidence because they were submitted after the July 19, 2024, deadline, so not admissible at the August 14, 2024, hearing.

The Prosecution Team submitted their Proposed Findings of Fact and Conclusions of Law (Supporting Document No. 5) on July 31, 2024. The Respondent did not submit any Proposed Findings of Fact and Conclusions of Law.

The San Diego Water Board will conduct a hearing to receive evidence and testimony regarding the alleged violations. The hearing will be conducted in accordance with the Hearing Procedure and applicable laws and regulations. A Chinese-English interpreter will be present at the hearing at the request of the Respondent. Board members or Board counsel may ask questions of the parties or any witness. (Cal. Code Regs., tit. 23, section 648.5(b).) Upon the conclusion of the hearing, the San Diego Water Board may meet in closed session to consider the evidence and to deliberate on a decision to be reached based upon that evidence. (Gov. Code, section 11126(c)(3).)

Adoption of the Prosecution Team's Proposed Order (Supporting Document No. 5) would impose administrative civil liability in the amount of \$409,534 upon the Respondent for violations of the Water Code. The Board may also elect to continue the hearing to a later date, to take the matter under submission, or refer the matter to the Attorney General's Office for judicial enforcement.

## **PUBLIC NOTICE**

The Prosecution Team's Proposed Order was released for public review on the San Diego Water Board's meeting agenda webpage on May 23, 2024.

The agenda notice for today's meeting was posted on the San Diego Water Board's website and sent to subscribers to the email list for Board meetings. This satisfies the Bagley-Keene Open Meeting Act requirements to publish the meeting notice and agenda.

## **SUPPORTING DOCUMENTS**

1. Administrative Civil Liability Complaint No. R9-2024-0090
2. Attachment A, Liability Methodology to Complaint No. R9-2024-0090
3. Prosecution Team's Prehearing Evidence and Argument (exhibits available electronically)
4. Revised Hearing Procedure for Administrative Civil Liability Complaint No. R9-2024-0090

5. Prosecution Team's Proposed Findings of Fact and Conclusions of Law (Prosecution Team's Proposed Order)
6. Attachment A to Prosecution Team's Proposed Order: Liability Methodology
7. Map of site