

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

**ADVISORY TEAM SUMMARY REPORT
SEPTEMBER 11, 2024**

ITEM 5

SUBJECT

Tentative Order: Settlement of Administrative Civil Liability (ACL) in the Matter of City of Oceanside, April 2020 Sanitary Sewer Overflows as alleged in ACL Complaint R9-2023-0015 (Tentative Stipulated Order No. R9-2024-0060). (*Kate Buckley*)

BACKGROUND

Adoption of Tentative Order No. R9-2024-0060 (Tentative Order) would approve the terms of the settlement agreement between the Prosecution Team and the City of Oceanside (City) to resolve liability associated with two sanitary sewer overflows (SSOs) that occurred in April 2020.

As a condition of the Tentative Order, the City would pay \$1,537,737 to the State Water Board's Cleanup and Abatement Account (CAA). The City also plans to conduct a feasibility study to evaluate long-term alternatives to eliminate or minimize the risk of future flooding from Buena Vista Creek to the Buena Vista Lift Station (BVLS). The Tentative Order stipulates that the City will report findings and implementations plans from this study to the San Diego Water Board by January 2027.

Should the San Diego Water Board decide not to adopt the Tentative Order as drafted, the Prosecution Team may either take no action, re-open settlement discussions with the City, or proceed with a contested evidentiary hearing at a future meeting before the San Diego Water Board.

PRACTICAL VISION

The San Diego Water Board's regional enforcement priorities align with the Practical Vision by focusing on violations that affect one or more key beneficial use categories in a key area for that use. Buena Vista Lagoon is considered a key area for two beneficial use categories: recreation and aquatic habitats and ecosystems. In addition, the mouth of Buena Vista Lagoon drains to the Pacific Ocean when water levels are high. The Pacific Ocean is considered a key area for three beneficial use categories: recreation, aquatic habitats and ecosystems, and fish and shellfish consumption. Discharges of untreated sewage can negatively impact all beneficial use categories for these two key areas.

DISCUSSION

From April 5-10, 2020, the City received nearly six inches of rain, with over three inches recorded from April 9-10, 2020. On April 10, 2020, two SSOs occurred from (1) the City's collection system at the BVLS (**Supporting Document 2**) and (2) at the San Luis Rey Water Reclamation Facility ([SLRWRF]; **Supporting Document 3**) due to flooding and hydraulic overloading associated with storm water flows. The BVLS is located adjacent to Buena Vista Creek, which overtopped its banks and flooded the pumps and electrical equipment at the lift station on April 10, 2020. This resulted in an estimated 988,333 gallons of raw sewage discharged into Buena Vista Creek and ultimately to Buena Vista Lagoon (Violation 1), which is approximately 0.6 miles downstream of the BVLS, until a bypass was installed on April 11, 2020. The SSO at the SLRWRF occurred due to an increase of intake flows, from the rainfall infiltration in the City and its tributary collection systems, that exceeded the facility's capacity. An estimated 820,000 gallons of raw sewage spilled to Windmill and Pilgrim Creeks on April 10, 2020 (Violation 2).

On April 3, 2023, the Prosecution Team issued Administrative Civil Liability Complaint No. R9-2023-0015 ([Complaint], **Supporting Document 4**) to the City in the amount of \$1,807,321 for the alleged violations described above, as detailed in the Administrative Liability Methodology Summary (**Supporting Document 5**) prepared in accordance with the [State Board Water Quality Enforcement Policy](#). The City waived its right to a hearing on April 7, 2023, and the Parties began to engage in confidential settlement discussions during biweekly meetings thereafter. During this time, the City discovered a calculation error and revised the BVLS SSO (Violation 1) discharge volume from 1,121,000 to 988,333 gallons. The Prosecution Team agreed to further reduce the proposed liability amount by 10% in consideration of the risks inherent in litigation. In addition, the City agrees to complete a feasibility study to evaluate long-term improvement alternatives to eliminate or minimize the risk of future flooding from Buena Vista Creek to the BVLS and present these findings and implementation plans to the San Diego Water Board by January 2027. These settlement terms are included in the Tentative Order and result in a final administrative liability amount of \$1,537,737, which includes \$67,101 in staff costs associated with the investigation and preparation of ACL Complaint R9-2023-0015. If this Tentative Order is adopted, the City agrees to remit \$1,537,737 payable to the CAA within 30 days of the effective date.

PUBLIC NOTICE

San Diego Water Board staff posted the Tentative Order, Complaint, and a Notice of Public Hearing and Opportunity to Comment (**Supporting Document 6**) for a 30-day review and comment period on the "Tentative Orders" page of the San Diego Water Board's website. Staff also emailed a message to the "Penalty Assessment Notice" email list subscribers on July 1, 2024, to announce the review and comment period. Written comments were to be submitted no later than 5 pm on July 31, and as of August 1, no comments were received on the Tentative Order.

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. Tentative Order No. R9-2024-0060
2. Map of April 2020 Sanitary Sewer Overflow at the Buena Vista Lift Station (BVLS), City of Oceanside
3. Map of April 2020 Sanitary Sewer Overflow at the San Luis Rey Water Reclamation Facility (SLRWRF), City of Oceanside
4. Administrative Civil Liability Complaint No. R9-2023-0015
5. Administrative Civil Liability Complaint No. R9-2023-0015, Attachment A - Administrative Liability Methodology Summary
6. Notice of Public Hearing and Opportunity to Comment for Tentative Order No. R9-2024-0060