

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

REVISED TENTATIVE ORDER

ADMINISTRATIVE CIVIL LIABILITY FOR:

**SEWERAGE AGENCY OF SOUTHERN MARIN
MILL VALLEY
MARIN COUNTY**

This Order is issued in reference to an adjudicative proceeding initiated by the California Regional Water Quality Control Board, San Francisco Bay Region's (Regional Water Board) issuance of Administrative Civil Liability Complaint No. R2-2008-0070, dated August 11, 2008 (Complaint), which proposed to assess a total of \$1,600,000 against the Sewerage Agency of Southern Marin (SASM) for certain alleged discharges that occurred on January 25 and 31, 2008, in violation of Order No. R2-2007-0056 (NPDES No. CA0037711). The parties to this proceeding are the Regional Water Board's Prosecution Team and SASM (Parties).

The Regional Water Board has been presented with a proposed settlement of the claims alleged in the Complaint, which has been developed during negotiations between the Parties. The Settlement Agreement is attached hereto as **Attachment A**. The proposed Settlement represents a mutually agreed-upon resolution of the Prosecution Team's claims (Claims) through the payment of an administrative civil liability in the amount of \$1,600,000 comprised of a cash payment to the State Water Resources Control Board's (State Water Board) State Water Pollution Cleanup and Abatement Account in the amount of \$800,000 and additional payments in the sum of \$800,000 to support the Supplemental Environmental Programs (SEPs) set forth in **Attachment B**. The Parties recommend that the Regional Water Board issue this Order to effectuate their proposed Settlement.

Having provided public notice of the proposed settlement and not less than thirty (30) days for public comment, the Regional Water Board finds that:

1. The Settlement is in the public interest and the proposed SEPs substantially comply with all essential requirements as set forth in the State Water Board's Enforcement Policy for SEPs.
2. The Executive Officer has considered the exhibits and information in the record and comments provided by the Parties and the public and finds that SASM is subject to civil penalties. In determining the amount of civil liability to be assessed against the SASM, the Executive Officer has taken into consideration the factors described in California Water Code (CWC) Section 13385(e).

The Executive Officer finds that the penalty amount agreed to by the Parties is reasonable based on the factors in CWC Section 13385(e). In addition to these factors, the civil liability recovers the costs incurred by the staff of the Regional Water Board in evaluating the Claims and preparing the Complaint and related documents.

3. A notice of the Settlement Agreement and assessment of civil liability was published on the Regional Water Board's website notifying the public of a 30-day review period and soliciting public comments on the terms of the proposed Settlement. The proposed Settlement supports the total assessment of administrative civil liability in the amount of \$1,600,000 for the Claims and is in the public interest. This Order provides for the full and final resolution of each of the Claims.
4. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000 *et seq.*) in accordance with section 15321, Chapter 3, Title 14, California Code of Regulations.

IT IS HEREBY ORDERED that:

1. Administrative civil liability under California Water Code Section 13385(c) is imposed upon SASM in the amount of \$1,600,000 consisting of a payment of \$800,000 to the State Water Pollution Cleanup and Abatement Account and implementation of the proposed SEPs valued at \$800,000.
2. The SEPs that are supported by contributions from this Order are:
 - a. \$200,000 to the Richardson Bay Audubon Sanctuary's Aramburu Island Clean Up, Restoration, and Enhancement Project; and
 - b. \$600,000 to the Private Lateral Replacement Program.

Details regarding each SEP and implementation requirements and time schedules following implementation are set forth in **Attachment B**.

3. Thirty (30) days following adoption of this Order by the Regional Water Board or approval by the Executive Officer under his delegated authority, SASM shall pay the sum of \$800,000 to the State Water Pollution Cleanup and Abatement Account in accordance with the schedule contained in the Settlement Agreement. Thirty (30) days from adoption of this Order by the Regional Water Board or approval by the Executive Officer under his delegated authority, SASM shall commence implementation of the proposed SEPs. These activities shall be suspended during the time in which any review is sought by any third party under Water Code Sections 13320 or 13330.
4. The Executive Officer is authorized to refer this matter to the Office of the Attorney General for enforcement if SASM fails to comply with paragraphs 1, 2 and 3.
5. Fulfillment of SASM's obligations under this Order constitutes full and final satisfaction of any and all liability for each Claim in the Complaint.

I, Bruce H. Wolfe, 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 Francisco Region, on _____.

Bruce H. Wolfe
Executive Officer

Attachments:

- A. Settlement Agreement
- B. Supplemental Environmental Projects
- C. Spill Table