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CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

TENTATIVE ORDER NO. R2-2009-XXXX

ADMINISTRATIVE CIVIL LIABILITY FOR:

SAUSALITO-MARIN CITY SANITARY DISTRICT
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's") investigation of two unauthorized discharge events of partially treated wastewater and one sanitary sewer overflow (SSO) by the Sausalito-Marin City Sanitary District ("Discharger") and the issuance of Administrative Civil Liability Complaint No. R2-2009-0043. The parties to the proceeding are the Regional Water Board's Prosecution Team and the Discharger.

The Regional Water Board has been presented with a proposed settlement of the claims alleged in Complaint No. R2-2009-0043. The proposed settlement is set forth in a Settlement Agreement (Attachment 1) that represents a mutually agreed-upon resolution of the Prosecution Team's claims through the payment of an administrative civil liability under California Water Code ("CWC") section 13385 in the amount of $258,000 to the Cleanup and Abatement Account ($119,000 of which will be suspended provided it is satisfied through completion of a Supplemental Environmental Project ("SEP") as provided in the Settlement Agreement). The Parties recommend that the Regional Water Board or the Executive Officer under his delegated authority issue this Order to effectuate their proposed settlement.

Having provided public notice of the proposed settlement and an opportunity for comment, the Regional Water Board, or the Executive Officer under his delegated authority, finds that:

1. The Discharger owns and operates a wastewater treatment plant that provides secondary treatment for domestic wastewater from Marin City, the City of Sausalito, Tamalpais Community Services District, and Golden Gate National Recreation Area. The Discharger's sanitary sewer collection system (collection system) consists of approximately 10 miles of sanitary sewer lines and seven pump stations. The Discharger's collection system serves an approximate population of 18,000 consisting primarily of residential customers and some light industrial/commercial customers.

2. There were two unauthorized discharge events of partially treated wastewater from the District's wastewater treatment plant. One occurred from February 15 through February 21, 2009, and the other occurred on February 27, 2009. The

discharges originated from a leaking bypass pipeline at the Discharger's facility and were released directly into Central San Francisco Bay. Both discharge events resulted in closures of some area beaches and posting of signs warning against the use of bay water-contact sports areas along East Road in Sausalito. The February 15 through 21 discharge caused approximately 630,000 gallons of partially treated wastewater to be discharged. The February 27 discharge caused approximately 2700 gallons of primary treated wastewater to be discharged.

3. On August 10, 2008, there was a sanitary sewer overflow (SSO) of approximately 9,000 gallons of undiluted, raw wastewater that entered Central San Francisco Bay via a storm drain. The SSO was caused by the Discharger's failure to open a sluice gate and resulted in the posting of closure signs along Swedes' Beach for three days.

4. The Discharger is subject to Regional Water Board Order No. R2-2003-0109 (NPDES Permit No. CA0038067). Order No. R2-2003-0109 prescribes waste discharge requirements for discharges.

5. Order No. R2-2003-0109 includes the following prohibitions:

   Section III. Discharge Prohibitions

   C. The bypass of untreated or partially treated wastewater to waters of the United States is prohibited, except as provided for in the conditions stated in 40 CFR 122.41(m) (4) and in A.13 of the Standard Provisions and Reporting Requirements for NPDES Surface Water Discharge Permits, August 1993 (Attachment G).

   E. Any sanitary sewer overflow that results in a discharge of untreated or partially treated wastewater to waters of the United States is prohibited.

6. Order No. R2-2003-0109 includes the following standard provision:

   Attachment D. Federal Standard Provisions

   I. D. Proper Operation and Maintenance

   The Discharger shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Discharger to achieve compliance with the conditions of this Order. Proper operation and maintenance also includes laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems that are installed by a Discharger only when necessary to achieve compliance with the conditions of this Order [40 CFR §122.41(e)].

7. The two unauthorized discharge events violated Discharge Prohibition III.C. of Regional Water Board Order No. R2-2003-0109.

8. The SSO that occurred on August 10, 2008 violated Prohibition III.E. and Federal Standard Provision I.D in attachment D of Regional Water Board Order No. 2003-0109.

9. Pursuant to CWC Section 13385(a)(2), a discharger is subject to civil liability for violating any waste discharge requirement issued pursuant to Chapter 5.5, which is the Water Code chapter that applies to the Board's issuance of NPDES permits. The Regional Water Board may impose civil liability administratively pursuant to CWC, Chapter 5, Article 2.5 (commencing at Section 13323) in an amount not to exceed the sum of ten thousand dollars ($10,000) for each day in which a violation occurred plus ten dollars ($10) for each gallon exceeding 1,000 gallons of the discharge that is not cleaned up.

10. On June 11, 2009, the Regional Water Board's Assistant Executive Officer issued an Administrative Civil Liability Complaint in the amount of $332,000 for public notice and comment.

11. The Regional Board or the Executive Officer has considered the exhibits and information in the record and comments provided by the Parties and the public, including the revised penalty amount discussed in the attached Settlement Agreement, and has determined that the Discharger is subject to civil penalties. In determining the amount of civil liability to be assessed against the Discharger, the Regional Board or the Executive Officer has taken into consideration the factors described in CWC Sections 13385(e), as applicable. The Regional Board or the Executive Officer finds that the penalty amount agreed to by the Parties is reasonable based on the factors in CWC Sections 13385(e).

12. This issuance of this order is an enforcement action and is, therefore, exempt from the California Environmental Quality Act, pursuant to Title 14, California Code of Regulations, Section 15321.

IT IS HEREBY ORDERED that:

1. The Settlement is approved;

2. The Discharger shall pay the sums agreed to under the Settlement Agreement (Attachment 1), which are:

A. The Discharger will pay a total penalty of $258,000 to the State Water Resources Control Board's Cleanup and Abatement Account.

    a. In lieu of $ 119,000 of that penalty, the Discharger agrees to complete a Supplemental Environmental Project (SEP) at a cost of no less than

$119,000 towards a project to enhance protection of San Francisco Bay marine mammals by installing piping and vaults for the Marine Mammal Center seal rehabilitation ponds. This SEP is described in Attachment B of the Settlement Agreement and includes a schedule for implementation. The Discharger will comply with the specific terms and conditions detailed in Attachment 2. Any information produced by the Discharger concerning the SEP shall indicate that the SEP is being performed in fulfillment of the settlement of an enforcement action with the Regional Water Board. Further, the District shall require that the Marine Mammal Center agree that if the Marine Mammal Center indicates on any signs or written materials that the District was the source of funding for the project, such signs or written materials shall indicate that the SEP is being performed in fulfillment of the settlement of an enforcement action with the Regional Water Board.

3. In the event that the Discharger does not complete the SEP, then the Discharger shall pay $119,000 in accordance with the terms of the Settlement Agreement.

4. Fulfillment of the Discharger's obligations under the Settlement Agreement constitutes full and final satisfaction of any and all liability for each claim in the Complaint in accordance with the terms of the Settlement Agreement.

Date:_____ _____

Bruce H. Wolfe
Executive Officer

List of Attachments
Attachment 1: Settlement Agreement, dated XX