

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

REVISED TENTATIVE CEASE AND DESIST ORDER NO. R2-2009-XXXX

**AMENDMENT OF CEASE & DESIST ORDER NO. 93-134
FOR:**

**CITY OF OAKLAND
SANITARY SEWER COLLECTION SYSTEM
ALAMEDA COUNTY**

WHEREAS the California Regional Water Quality Control Board, San Francisco Bay Region (hereinafter "Regional Water Board"), finds that:

1. The City of Oakland (hereinafter "Discharger") owns and maintains approximately 1,000 miles of mains and seven pump stations in its sanitary sewer (or wastewater) collection system, which serves a population of about 400,000 people in the City of Oakland. The Discharger is one of seven "Satellite Agencies" that operates wastewater collection systems in the East Bay that route sewage to the East Bay Municipal Utility District's (EBMUD) wastewater treatment facilities. The other six Satellite Agencies are Stege Sanitary District and the cities of Alameda, Albany, Berkeley, Emeryville, and Piedmont. The Discharger's wastewater collection system transports wastewater from industrial, commercial, and residential sources to EBMUD's main wastewater treatment plant where EBMUD treats the wastewater and discharges it to San Francisco Bay. During wet weather, because of increased wastewater flows caused by inflow and infiltration (I&I) from the collection systems tributary to EBMUD's facilities, the Discharger's wastewater also flows to EBMUD's Wet Weather Facilities (WWFs) where EBMUD stores the wastewater or partially treats it prior to discharge to San Francisco Bay.
2. Under Order No. R2-2005-0047, EBMUD was permitted to discharge partially treated wastewater from its WWFs to San Francisco Bay. This is because EBMUD's effluent limits for treating wet weather flows were technology-based. These effluent limits were developed because of U.S. EPA's determination in its June 18, 1986, letter that EBMUD's WWFs are not Publicly Owned Treatment Works, and therefore are not subject to secondary treatment requirements pursuant to 40 CFR Part 122.2. Since adoption of Order No. R2-2005-0047, the regulatory landscape has changed. In May 2007, as a result of its own motion review, the State Water Board adopted Order No. WQ 2007-0004 (the "Remand Order"), requiring the Regional Water Board to revise EBMUD's WWFs permit so that it complies with Section 301(b) of the federal Clean Water Act. This effectively required that EBMUD comply with secondary treatment or cease discharge at the WWFs. Secondary treatment is not a reasonable alternative for the WWFs. This is because wet weather discharges are intermittent in nature and not conducive to the biological treatment methods used to

achieve secondary standards. The costs of implementing alternative treatment technologies to achieve secondary standards are well above any sort of infrastructure renewal and upgrade program that would help eliminate discharges from the WWFs. As such, the Regional Water Board prohibited discharges from the WWFs when it adopted Order No. R2-2009-0004 for EBMUD's WWFs on January 14, 2009.

3. Concurrent with the adoption of this Cease and Desist Order (CDO), the Regional Water Board adopted Order No. R2-2009-XXXX (hereinafter "Permit"), reissuing NPDES permit No. CA0038512 and waste discharge requirements for the Discharger. The Permit prohibits the Discharger from causing or contributing to discharges from EBMUD's WWFs. This prohibition is necessary because the Discharger's entire wastewater collection system connects to EBMUD's interceptor system and causes or contributes to discharges from at least one of the WWFs. During wet weather, I&I into the Discharger's wastewater collection system causes peak wastewater flows to EBMUD's system that the WWFs cannot fully store. This in turn causes EBMUD to discharge from the WWFs in violation of Order No. R2-2009-0004. In essence, a portion of the Discharger's wastewater is discharged by EBMUD in violation of the Clean Water Act.
4. CDO No. 93-134 includes compliance plans with projects that the Discharger and the six other Satellite Agencies must implement each year to reduce and eliminate wastewater discharges in violation of waste discharge requirements from each of the Satellite Agencies' seven collection systems. At this time, the Stege Sanitary District and the cities of Alameda, Emeryville, and Piedmont have completed their respective requirements under CDO No. 93-134. The cities of Albany and Berkeley still have additional rehabilitation work to complete, while the Discharger has additional rehabilitation work and relief lines to complete. Despite completing much of the work required by CDO No. 93-134, the Discharger continues to experience wastewater discharges from its collection system to Waters of the State. These discharges may be addressed through a future enforcement action by the Regional Water Board or U.S. EPA.
5. **Purpose of Amendment.** This amendment revises the Discharger's Compliance Plan to only require rehabilitation projects. This is because relief sewers convey much higher quantities of I&I than rehabilitation projects, and therefore, would not help to eliminate discharges from EBMUD's WWFs. As indicated above, the other six Satellite Agencies have already installed relief lines as required by CDO No. 93-134. Therefore, an amendment of CDO No. 93-134 for those dischargers is unnecessary.
6. Water Code §13301 authorizes the Regional Water Board to issue a CDO when it finds that a waste discharge is taking place, or threatening to take place, in violation of Regional Water Board requirements.
7. This CDO is an enforcement action and, as such, is exempt from the provisions of

8. The Regional Water Board notified the Discharger and interested persons of its intent to consider adoption of this CDO, and provided an opportunity to submit written comments and appear at a public hearing. The Regional Water Board, in a public hearing, heard and considered all comments.

IT IS HEREBY ORDERED, in accordance with Water Code §13301, the Discharger shall comply with CDO No. 93-134 as amended.

1. Amendment to Compliance Plan. The Discharger is no longer required to construct the relief sewers shown in Table 1. These relief sewers were required by the Discharger's Compliance Plan under CDO No. 93-134.

Table 1: Relief Sewers No Longer Required to be Constructed

| Sewer System Designation | Feet of Relief Sewer |
|---------------------------------|-----------------------------|
| 52-1.000 | 494 |
| 52-2.000 | 724 |
| 52-3.000 | 946 |
| 52-4.000 | 959 |
| 52-5.000 | 629 |
| 52-6.000 | 891 |
| 52-7.000 | 364 |
| 52-8.000 | 222 |
| 52-9.000 | 285 |
| 54-2.100 | 393 |
| 54-2.200 | 728 |
| 54-5.100 | 989 |
| 54-5.120 | 58 |
| 54-5.200 | 469 |
| 54-5.300 | 1700 |
| 54-8.400 | 711 |
| 54-8.500 | 1381 |
| 54-8.600 | 1575 |
| 54-8.610 | 1974 |
| 54-8.700 | 2175 |
| 54-8.900 | 235 |
| 56-3.100 | 1113 |
| 56-3.200 | 2955 |
| 56-6.120 | 998 |
| 61-2.000 | 721 |
| 6404-1.000 | 288 |
| 6405-2.000 | 24 |
| 6405-3.000 | 2482 |

| Sewer System Designation | Feet of Relief Sewer |
|---------------------------------|-----------------------------|
| 6405-4.000 | 2281 |
| 81-1 | 3858 |
| 81-2 | 2462 |
| 81-3A | 720 |
| 81-3B | 3800 |
| 81-4 | 3057 |
| 82-2 | 690 |
| 82-3 | 1889 |

2. Rehabilitation Work. Within 90 days of the effective date of this Order, the Discharger shall propose rehabilitation work at a funding level commensurate with the relief line work (shown in Table 1) that is no longer required. Within 180 days of the date of this Order, the Discharger shall commence implementation of the proposed rehabilitation work in accordance with any changes identified by the Executive Officer.
3. Consequences of Non-Compliance. If the Discharger fails to comply with the provisions of this Order, the Executive Officer is authorized to take further enforcement action or to request the Attorney General to take appropriate actions against the Discharger in accordance with Water Code §§ 13331 and 13350 or other applicable provisions of law.
4. Effective Date. This Order shall be effective on the effective date of the Permit.

I, Bruce H. Wolfe, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on November 18, 2009.

BRUCE H. WOLFE
Executive Officer