CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

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 wastewater collection systems and seven pump stations that serve a population of about 400,000 people in the City of Oakland. The Discharger operates one of seven collection systems in the East Bay that route sewage to East Bay Municipal Utility District's (EBMUD) wastewater treatment facilities. The other six collection systems include Stege Sanitary District and the Cities of Alameda, Albany, Berkeley, Emeryville, and Piedmont. The Discharger's sewer 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 flows caused by inflow and infiltration (I&I) from collection systems tributary to EBMUD facilities, the 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 the reissuance of the 2005 permit the regulatory landscape has changed. In May 2007, as a result of its own motion review, the State Board adopted Order No. WQ 2007-0004 or the "Remand Order" requiring the Regional Water Board to revise the 2005 permit so that it complies with Section 301(b) of the Clean Water Act. This effectively required that EBMUD comply with secondary treatment or cease discharge. 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 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 sewage 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. Cease & Desist Order (CDO) No. 93-014 includes compliance plans with projects that the Discharger and the six other collection systems tributary to EBMUD must implement each year to reduce and eliminate wastewater discharges in violation of waste discharge requirements from each of the 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 sewer system 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 collection systems tributary to EBMUD have already installed relief lines as required by Order No. 93-014. Therefore, an amendment of Order No. 93-014 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 Order is an enforcement action and, as such, is exempt from the provisions of the California Environmental Quality Act (Public Resources Code § 21000 et seq.) in accordance with 14 CCR § 15321.

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 required by CDO No. 93-134

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
6405-4.000	2281
81-1	3858

Sewer System Designation	Feet of Relief Sewer
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 under CDO No. 93-134. 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 September 9, 2009.

BRUCE H. WOLFE
Executive Officer