

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

In the matter of:)	
)	
Sewer Authority Mid-Coastside, SAN MATEO COUNTY)	SETTLEMENT AGREEMENT AND STIPULATION FOR ENTRY OF ADMINISTRATIVE CIVIL LIABILITY
)	
Discharges of Untreated Sewage to Surface Water between May 2, 2007, and December 31, 2017)	ORDER
)	
)	PROPOSED ORDER
)	

Section I: INTRODUCTION

1. This Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order (Stipulated Order) is entered into by and between the California Regional Water Quality Control Board, San Francisco Bay Region, Prosecution Team (Prosecution Team), and the Sewer Authority Mid-Coastside (Settling Respondent) (collectively, Parties), and is presented to the California Regional Water Quality Control Board, San Francisco Bay Region (Regional Water Board), or its delegate for adoption as an Order by settlement pursuant to Government Code section 11415.60. This Stipulated Order resolves all of the violations alleged herein by the imposition of administrative civil liability against the Settling Respondent in the amount of **\$600,000**.

Section II: RECITALS

2. The Settling Respondent owns and operates a sanitary sewer collection system consisting of approximately 1.9 miles of gravity sewer pipeline, 5.8 miles of force main, and 3 pump stations. Wastewater collected by the Settling Respondent's collection system is conveyed to its treatment plant for disposal. Treated wastewater is discharged to the Pacific Ocean, a water of the United States.
3. The Settling Respondent is required to operate and maintain its collection system in compliance with National Pollutant Discharge Elimination System (NPDES) Permit No. CA0038598 (Permit), an NPDES permit for point source discharges to surface water issued pursuant to Clean Water Act section 402 and California Water Code (Water Code) Chapter 5.5, Division 7 (commencing with section 13370). The Permit was most recently re-issued November 8, 2017, through Order No. R2-2017-0040 (2017 Order), which became effective January 1, 2018. The 2017 Order replaced Order No. R2-2012-0061 (2012 Order), which was adopted August 8, 2012, became effective October 1, 2012, and was administratively extended past its expiration date

of September 30, 2017, until the 2017 Order became effective. Similarly, the 2012 Order replaced Order No. R2-2007-0003 (2007 Order), which was adopted January 23, 2007, became effective March 1, 2007, and was administratively extended past its expiration date of February 28, 2012, until the 2012 Order became effective.

4. Discharge Prohibition III.F of the 2007 Order and Discharge Prohibition III.E of the 2012 Order prohibited any sanitary sewer overflow (SSO) that resulted in a discharge of untreated or partially-treated wastewater to waters of the United States.
5. The Settling Respondent is also required to operate and maintain its collection system in compliance with the State Water Resources Control Board Order No. 2006-0003-DWQ, Statewide General Waste Discharge Requirements for Sanitary Sewer Systems (adopted on May 2, 2006), and associated Monitoring and Reporting Program (MRP) as adopted in 2006 (effective May 2, 2007), in 2008 by Order No. WQ 2008-0002-EXEC (effective February 20, 2008), and in 2013 by Order No. WQ 2013-0058-EXEC (effective September 9, 2013).
6. The 2008 MRP requires notification to the California Office of Emergency Services (Cal OES) as soon as possible but not later than two hours after becoming aware of the discharge of sewage to a drainage channel or a surface water. The 2013 MRP requires notification to Cal OES within two hours of becoming aware an SSO of 1,000 gallons or greater that discharged to surface water.
7. The 2008 MRP and 2013 MRP require a “No Spill” certification to be submitted within 30 calendar days after the end of each calendar month in which there are no SSOs.
8. On August 21, 2017, the Prosecution Team issued Administrative Civil Liability Complaint No. R2-2017-1024 (Complaint) to the Settling Respondent alleging violations of the Permit and proposing penalties totaling \$522,700. The Complaint alleged a violation of Water Code section 13385, subdivision (a)(2), for violating Discharge Prohibition III.E of the 2012 Order by discharging approximately 344,000 gallons of untreated sewage to waters of the United States between February 28 through March 3, 2017. The discharge resulted from a failure of one of the Settling Respondent’s force mains. The Complaint is attached hereto as Attachment A and incorporated by reference herein.¹
9. The Settling Respondent had ten additional smaller SSOs between May 2, 2007, and December 31, 2017, that discharged a combined total of approximately 156,000 gallons of untreated sewage to the Pacific Ocean, a water of the United States. Those SSOs, detailed in Attachment C, which is incorporated by reference herein, were alleged to have violated either Discharge Prohibition III.E of the 2012 Order or Discharge Prohibition III.F of the 2007 Order, as applicable. The Settling Respondent

¹ The Prosecution Team discovered a typographical error in the penalty methodology of the Complaint, shown with the correction in red. The Harm or Potential for Harm factor should have been “4,” not “3.”

failed to timely notify Cal OES of four of these SSOs (on November 1, 2009; December 19, 2010; January 21, 2012; and January 25, 2012).² The Settling Respondent's failure to timely notify Cal OES violated the 2008 MRP notification requirement. The failure to meet this notification requirement is considered and incorporated into the penalty for these four SSOs (see Attachment A); the Prosecution Team is exercising its prosecutorial discretion and declining to pursue separate and independent monetary penalties for these violations.

10. The Parties entered into settlement discussions and agreed to resolve all allegations identified regarding the 11 outstanding SSOs that discharged to waters of the United States since May 2, 2007.
11. From March 2013 through August 2016, the Settling Respondent failed to timely submit "no SSO" certifications for 17 different months and failed to submit any "no SSO" certifications for 14 different months. These 31 late or missing "no SSO" certifications violated the 2008 and 2013 MRPs. The Regional Water Board issued the Settling Respondent a Notice of Violation (NOV) on October 13, 2016, for violations from September 2013 through June 2016. In an October 14, 2016, letter, the Settling Respondent adequately responded to the NOV by submitting the omitted "no SSO" certifications and explaining its methods to ensure timely future submittal of "no SSO" certifications. The Settling Respondent also submitted the omitted "no SSO" certifications for March 2013, July 2013, July 2016, and August 2016. The Prosecution Team considers this an adequate response. Therefore, the Prosecution Team is exercising its prosecutorial discretion and declining to pursue monetary penalties for these violations.
12. The Settling Respondent had two Category 2 SSOs and four Category 3 SSOs between September 4, 2013, and December 31, 2017, that discharged a combined total of approximately 9,355 gallons of untreated sewage, of which 1,100 gallons were recovered, and of which none reached any water of the United States.³ The details of those SSOs are provided in Attachment D, which is incorporated by reference herein. The Prosecution Team is exercising its prosecutorial discretion and declining to pursue monetary penalties for these violations.
13. The Settling Respondent takes issue with the issuance of penalties for SSOs that occurred more than 5 years ago, beyond the federal statute of limitations for actions to enforce alleged violations under the Clean Water Act. The Prosecution Team contends that the Water Boards are not subject to statutes of limitations or laches, and that such administrative penalties are appropriate. In the spirit of cooperation, the Parties have agreed to set this issue aside with the explicit understanding that this

² In the Collection System Inspection Report dated December 8, 2017, the Regional Water Board identified five times the Settling Respondent failed to timely notify Cal OES of SSO events. However, the January 25, 2008, SSO occurred prior to when the notification requirement became effective on February 20, 2008. Therefore, the Settling Respondent failed to timely notify Cal OES of four SSO events instead of five.

³ For Categories 2 and 3 SSO definitions, please see the Attachment D footnote.

settlement shall not be used as precedent for any future enforcement actions taken for alleged violations more than 5 years old.

14. To resolve the alleged violations in Section II, paragraphs 8 to 12 by consent and without further administrative proceedings, the Parties have agreed to the imposition of an administrative civil liability of **\$600,000** against the Settling Respondent. The administrative civil liability imposed for the Water Code violations (\$600,000) is less than the \$623,480 amount of proposed liability the Prosecution Team calculated and asserted using Steps 1 through 10 of the State Water Resources Control Board's Water Quality Enforcement Policy (May 2010) (Enforcement Policy) as shown in Attachments A and B. During settlement discussions, the Regional Water Board agreed to reduce the proposed liability by the amount of \$23,480 in consideration of litigation risks pursuant to Enforcement Policy section VI.B, Settlement Considerations. Payment of \$300,000 by the Settling Respondent to the State Water Pollution Cleanup and Abatement Account is due no later than 30 days following the Regional Water Board executing this Order. The remaining \$300,000 in penalties shall be suspended upon completion of an Enhanced Compliance Action (ECA) as outlined below in Section III, paragraph 18.
15. The Parties have engaged in settlement negotiations and agreed to settle this matter without administrative or civil litigation, and to present this Stipulated Order to the Regional Water Board or its delegate for adoption as an Order by settlement, pursuant to Government Code section 11415.60.
16. The Prosecution Team contends that the resolution of the alleged violations is fair and reasonable, and fulfills all of its enforcement objectives; that no further action is warranted concerning the violations, except as provided in this Stipulated Order; and that this Stipulated Order is in the public's best interest.

Section III: STIPULATIONS

The Parties incorporate the foregoing Recitals and stipulate to the following:

17. **Administrative Civil Liability:** The Settling Respondent hereby agrees to the imposition of an administrative civil liability totaling **\$600,000** to resolve all alleged violations set forth in Section II as follows:
 - a. No later than 30 days after the Regional Water Board or its delegate signs this Stipulated Order, the Settling Respondent shall submit a check for **\$300,000** made payable to the "State Water Pollution Cleanup and Abatement Account," reference the Order number on page one of this Stipulated Order, and mail it to:

State Water Resources Control Board Accounting Office
Attn: ACL Payment
P.O. Box 1888
Sacramento, CA 95812-1888

The Settling Respondent shall provide a copy of the check via e-mail to the State Water Resources Control Board, Office of Enforcement (susan.loscutoff@waterboards.ca.gov) and the Regional Water Board (michael.chee@waterboards.ca.gov).

- b. The Parties agree that **\$300,000** of the administrative liability amount shall be suspended pending completion of the ECA described in paragraph 18 and Attachment E, incorporated by reference herein.

18. Enhanced Compliance Action: The proposed ECA allows the Settling Respondent to make capital or operational improvements beyond those required by law and are separate from projects designed to merely bring the Settling Respondent into compliance. The project scope includes expansion of an existing underground wastewater storage tank system from 200,000 gallons to 400,000 gallons. The goal is to reduce wet weather SSOs caused by capacity exceedances at the Settling Respondent's Portola Pump Station, which historically has been subject to SSOs during heavy rains. The tank system works by gravity and requires no pumps. When the Portola Pump Station becomes overwhelmed, flow backs up and fills the storage tanks. When the flow decreases, the tanks drain by gravity back to the pump station.

The Portola Pump Station conveys wastewater from the communities of El Granada, Moss Beach, and Montara to the Settling Respondent's wastewater treatment plant in Half Moon Bay. Infiltration and inflow into the member agencies' separately owned collection systems can present a capacity problem during wet weather, and in 2012, the Settling Respondent implemented a Wet Weather Flow Management Project, which included five interconnected underground storage tanks to capture excess wastewater flows including infiltration and inflow that exceed the Portola Pump Station's capacity. The new ECA project will double the storage capacity of these tanks. The total project cost is estimated to be \$700,000, including the \$300,000 of suspended liability. The complete ECA description, project milestones, budget, and reporting schedule are contained in Attachment E, incorporated by reference herein.

19. Representations and Agreements Regarding ECA

- a. As a material condition for the Regional Water Board's acceptance of this Stipulated Order, the Settling Respondent agrees to use the suspended liability of \$300,000 (ECA Amount) to implement the ECA set forth in Attachment E. The Settling Respondent understands that its promise to implement the ECA, in its entirety, is a material condition of this settlement of liability between the Settling Respondent and the Regional Water Board.
- b. The Settling Respondent agrees to (1) spend the ECA Amount as described in this Stipulated Order, (2) provide certified, written reports to the Regional Water Board detailing ECA implementation consistent with the terms of this Stipulated Order, and (3) within 30 days of ECA completion, provide a certification by a responsible official, signed under penalty of perjury, that the Settling Respondent

- followed all applicable environmental laws and regulations in implementing the ECA, including the California Environmental Quality Act (CEQA), Porter-Cologne Act, and federal Clean Water Act. The Settling Respondent further agrees that the Regional Water Board has the right to require a third-party audit of the funds expended to implement the ECA at the Settling Respondent's cost, and that the Settling Respondent bears ultimate responsibility for meeting all deadlines specified in Attachment E.
20. **Publicity Associated with the ECA:** Whenever the Settling Respondent, or its agents or subcontractors, publicize one or more elements of the ECA, they shall state in a **prominent manner** that the project is undertaken as part of a settlement to a Regional Water Board enforcement action against the Settling Respondent.
21. **Progress Reports and Inspection Authority:** As described in Attachment E, the Settling Respondent shall provide reports to the Regional Water Board describing its progress in implementing the ECA. The Settling Respondent agrees that Regional Water Board staff, or its third-party oversight staff, have permission to inspect the ECA construction progress at any reasonable time during normal business hours, with 24 hours' notice.
22. **Certification of ECA Completion:** On or before March 31, 2020, a responsible official of the Settling Respondent shall submit a final report and certified statement that documents the Settling Respondent's ECA expenditures and documents that the Settling Respondent completed the ECA in accordance with the terms of this Stipulated Order. The expenditures may include external payments to outside vendors, but may not include normal, routine work undertaken by the Settling Respondent's staff. In making such certification, the signatories may rely upon normal organizational project tracking systems that capture employee time expenditures and external payments to outside vendors, such as environmental and information technology contractors or consultants. Documentation of ECA completion may include photographs, invoices, receipts, certifications, and other materials reasonably necessary for the Regional Water Board to evaluate ECA completion and the costs incurred. The Settling Respondent shall provide Regional Water Board staff with any additional information reasonably necessary to verify ECA expenditures and completion.
23. **Request for Extension:** The Executive Officer may extend the ECA deadlines contained in this Stipulated Order for good cause if the Settling Respondent demonstrates delays from unforeseeable contingencies, such as a delay in receipt of construction materials, provided that the Settling Respondent continues to undertake all appropriate measures to meet the deadlines. The Settling Respondent shall make any deadline extension request in writing at least 30 days prior to the deadline. Any request for an extension must be approved in writing by the Executive Officer. Approval by the Regional Water Board of such extension requests will not be unreasonably withheld.

- 24. Regional Water Board Acceptance of Completed ECA:** Upon the Settling Respondent's satisfaction of its obligations under this Stipulated Order, ECA completion, and any audits, the Executive Officer will issue a "Satisfaction of Order" terminating any further Settling Respondent obligations under this Stipulated Order and permanently suspending the remaining liability.
- 25. Failure to Expend All Suspended Funds on Approved ECA:** If the Settling Respondent is unable to demonstrate to the reasonable satisfaction of the Executive Officer that the entire ECA Amount was spent on the completed ECA, the Settling Respondent shall pay the difference between the ECA Amount and the amount the Settling Respondent can demonstrate was actually spent on the ECA (the Difference). The Executive Officer shall issue a "Notice" that will require the Settling Respondent to pay the Difference to the State Water Pollution Cleanup and Abatement Account within 30 days of the Notice issuance date. The Settling Respondent shall submit payment consistent with the payment method described in Section III, paragraph 17. Payment of the Difference shall satisfy the Settling Respondent's obligations to implement the ECA.
- 26. Failure to Complete ECA:** If the ECA is not fully implemented by March 31, 2020, or by the due date if extended pursuant to paragraph 23, or if there has been a material failure to satisfy a project milestone, the Executive Officer shall issue a Notice of Violation. The amount of suspended liability owed shall be determined by a written, stipulated agreement of the Parties, or, if the Parties cannot reach agreement, via a Motion for Payment of Suspended Liability before the Regional Water Board or its delegate. The Settling Respondent shall be liable to pay the entire ECA Amount, some portion thereof less the value of any completed milestones (if shown by the Settling Respondent) as stipulated to by the Parties in writing, or an amount determined by the Motion for Payment of Suspended Liability. Unless the Regional Water Board or its delegate determines otherwise, the Settling Respondent shall not be entitled to any credit, offset, or reimbursement from the Regional Water Board for expenditures made on the ECA prior to the Notice of Violation's issuance date. Within 30 days of the Regional Water Board's or its delegate's determination of the suspended liability amount assessed for the Settling Respondent to pay, the Settling Respondent shall submit payment consistent with the payment method described in Section III, paragraph 17. Payment of the assessed amount shall satisfy the Settling Respondent's obligations to implement the ECA.
- 27. Regional Water Board is not Liable:** Neither the Regional Water Board members nor the Regional Water Board staff, attorneys, or representatives shall be liable for any injury or damage to persons or property resulting from negligent or intentional acts or omissions by the Settling Respondent or its directors, officers, employees, agents, representatives, or contractors in carrying out activities pursuant to this Stipulated Order, nor shall the Regional Water Board, its members, or staff be held as parties to, or guarantors of, any contract entered into by the Settling Respondent or its directors, officers, employees, agents, representatives, or contractors in carrying out activities pursuant to this Stipulated Order.

28. **Compliance with Applicable Laws:** The Settling Respondent understands that payment of administrative civil liability in accordance with the terms of this Stipulated Order and/or compliance with the terms of this Stipulated Order is not a substitute for compliance with applicable laws, and that continuing violations of the type alleged herein may subject it to further enforcement, including additional administrative civil liability.

29. **Party Contacts for Communications related to this Stipulated Order:**

For the Regional Water Board:

Michael Chee
San Francisco Bay Regional Water
Quality Control Board
1515 Clay Street, 14th Floor
Oakland, CA 94612
michael.chee@waterboards.ca.gov
(510) 622-2333

For the Settling Respondent:

Beverli A. Marshall
General Manager
Sewer Authority Mid-Coastside
100 N. Cabrillo Hwy
Half Moon Bay, CA 94019
bmarshall@samcleanswater.org
(650) 726-0124

30. **Attorney's Fees and Costs:** Except as otherwise provided herein, each Party shall bear all attorneys' fees and costs arising from the Party's own counsel in connection with the matters set forth herein.

31. **Matters Addressed by this Stipulated Order:** Upon the Regional Water Board's or its delegate's adoption, this Stipulated Order represents a final and binding resolution and settlement of the alleged violations as of the effective date of this Stipulated Order. The provisions of this paragraph are expressly conditioned on the full payment of the administrative civil liability by the deadlines specified in Section III, paragraphs 17 and 18, and the Settling Respondent's full satisfaction of the obligations described in Paragraph 18.

32. **Public Notice:** The Settling Respondent understands that this Stipulated Order must be noticed for a 30-day public review and comment period prior to consideration by the Regional Water Board or its delegate. If significant new information is received that reasonably affects the propriety of presenting this Stipulated Order to the Regional Water Board or its delegate for adoption, the Prosecution Team may unilaterally declare this Stipulated Order void and decide not to present it to the Regional Water Board or its delegate. The Settling Respondent agrees that it may not rescind or otherwise withdraw its approval of this proposed Stipulated Order.

33. **Addressing Objections Raised During Public Comment Period:** The Parties agree that the procedure contemplated for public review of this Stipulated Order and the Regional Water Board's or its delegate's adoption of this Stipulated Order is lawful and adequate. The Parties understand that the Regional Water Board or its delegate has the authority to require a public hearing on this Stipulated Order. If procedural objections are raised or the Regional Water Board requires a public hearing prior to the Stipulated Order becoming effective, the Parties agree to meet and confer

concerning any such objections, and may agree to revise or adjust the procedure and/or this Stipulated Order as necessary or advisable under the circumstances.

34. **Interpretation:** This Stipulated Order shall be construed as if the Parties prepared it jointly. Any uncertainty or ambiguity shall not be interpreted against any one Party. The Parties are represented by counsel in this matter.
35. **Modification:** The Parties shall not modify this Stipulated Order by oral representation made before or after its execution. All modifications must be in writing, signed by all Parties, and approved by the Regional Water Board or its delegate.
36. **If the Stipulated Order Does Not Take Effect:** The Settling Respondent's obligations under Paragraphs 17-26 above are contingent upon the entry and continued effectiveness of the Stipulated Order of the Regional Water Board in the form attached hereto. If the Stipulated Order does not take effect because the Regional Water Board or its delegate does not approve it, or because the State Water Resources Control Board or a court vacates it in whole or in part, the Parties acknowledge that they expect to proceed to a contested evidentiary hearing before the Regional Water Board to determine whether to assess administrative civil liabilities for the underlying alleged violations, unless the Parties agree otherwise. The Parties agree that all oral and written statements and agreements made during the course of settlement discussions will not be admissible as evidence in the hearing, or in any other administrative or judicial proceeding. The Parties agree to waive any and all objections based on settlement communications in this matter, including, but not limited to the following:
- a. Objections related to prejudice or bias of any of the Regional Water Board members or their advisors or any other objections that are premised in whole or in part on the fact that the Regional Water Board members or their advisors were exposed to some of the material facts and the Parties' settlement positions as a consequence of reviewing the Stipulated Order, and therefore may have formed impressions or conclusions prior to any contested evidentiary hearing on the violations alleged herein in this matter; or
 - b. Laches or delay or other equitable defenses based on the time period for administrative or judicial review to the extent this period has been extended by these settlement proceedings. Nothing in the preceding sentence shall be construed to in any way limit, waive, or otherwise constrain the Settling Respondent from asserting that administrative civil liabilities for SSOs that occurred more than 5 years ago are barred by the federal statute of limitations for actions to enforce alleged violations under the Clean Water Act, or by laches, delay, or other equitable defenses.
37. **Waiver of Hearing:** The Settling Respondent has been informed of the rights Water Code section 13323, subdivision (b), provides and, if the settlement is adopted by the Regional Water Board, hereby waives its right to a hearing before the Regional Water

Board prior to the Order's adoption. However, should the settlement not be adopted, and should the matter proceed to the Regional Water Board or State Water Resources Control Board for hearing, the Settling Respondent does not waive the right to a hearing before an order is imposed.

38. **Waiver of Right to Petition or Appeal:** Except in the instance where the settlement is not adopted by the Regional Water Board, the Settling Respondent hereby waives its right to petition the Regional Water Board's adoption of the Order for review by the State Water Resources Control Board, and further waives its rights, if any, to appeal the same to a California Superior Court and/or any California appellate level court. This explicit waiver of rights includes potential future decisions by the Regional Water Board or its delegate directly related to this Stipulated Order, including, but not limited to time extensions, ECA completion, and other terms contained in this Stipulated Order.
39. **Covenant Not to Sue:** The Settling Respondent covenants not to sue or pursue any administrative or civil claims against the State of California, any State agency, or its officers, Board Members, employees, representatives, agents, or attorneys arising out of or relating to any matter expressly addressed by the Complaint, this Stipulated Order, or the ECA, except that this covenant is not intended to, and does not limit the Settling Respondent's rights to sue over other Regional Water Board orders (e.g., permits, cease and desist orders, etc.) or limit the Settling Respondent's rights to defend against any additional enforcement or other actions taken by the Regional Water Board or its employees, representatives, agents, or attorneys, and shall not release any claims or complaints against any state agency or the State of California, their officers, Regional Water Board Members, employees, representatives, agents, or attorneys to the extent such covenant would be prohibited by California Business and Professions Code Section 6090.5 or by any other statute, rule, regulation or legal principle of similar effect.
40. **No Admission of Liability/No Waiver of Defenses:** In settling this matter, neither the Settling Respondent nor any member agency thereof admit to liability or to the truth of the findings or allegations made by the Prosecution Team, or admit to any of the findings in this Stipulated Order or its attachments, or admit to any violations of the Water Code, the Permit, any Regional Water Board Order, or any other federal, state, or local laws or ordinances, but recognizes that this Stipulated Order may be used as evidence of resolution of a prior enforcement action consistent with Water Code section 13327 and the Enforcement Policy. By entering into this agreement, the Settling Respondent does not waive any defenses or arguments related to any new enforcement action that may be brought by the Regional Water Board, including any brought under its discretionary enforcement authority reserved herein.
41. **Necessity for Written Approvals:** All approvals and decisions of the Regional Water Board under the terms of this Stipulated Order shall be communicated to the Settling Respondent in writing. No oral advice, guidance, suggestions, or comments from Regional Water Board employees or officials regarding submissions or notices

shall be construed to relieve the Settling Respondent of its obligation to obtain any final written approval this Stipulated Order requires.

42. **Authority to Bind:** Each person executing this Stipulated Order in a representative capacity represents and warrants that he or she is authorized to execute this Stipulated Order on behalf of, and to bind, the entity on whose behalf he or she executes the Stipulated Order.
43. **No Third Party Beneficiaries:** This Stipulated Order is not intended to confer any rights or obligations on any third party and no third party shall have any right of action under this Stipulated Order for any cause whatsoever.
44. **Severability:** The Settling Respondent's obligations under Paragraphs 17-26 above are contingent upon the entry and continued effectiveness of the Stipulated Order of the Regional Water Board in the form attached hereto. Otherwise, this Stipulated Order is severable; if any provision is found to be invalid, the remainder shall remain in full force and effect.
45. **Counterpart Signatures; Facsimile and Electronic Signature:** This Stipulated Order may be executed and delivered in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, but such counterparts shall together constitute one document. Further, this Stipulated Order may be executed by facsimile or electronic signature, and any such facsimile or electronic signature by any Party hereto shall be deemed to be an original signature and shall be binding on such Party to the same extent as if such facsimile or electronic signature were an original signature.
46. **Effective Date:** This Stipulated Order shall be effective and binding on the Parties upon the date the Regional Water Board or its delegate enters the Order incorporating the terms of this Stipulated Order.

IT IS SO STIPULATED.

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION, PROSECUTION TEAM**

Date: June 19, 2018



By:

Thomas Mumley
Assistant Executive Officer

Approved as to form:



By:

Susie Loscutoff, Attorney
State Water Resources Control Board
Office of Enforcement

Settlement Agreement and Stipulated Administrative Civil Liability
Sewer Authority Mid-Coastside

Sewer Authority Mid-Coastside

Date: 6/22/2018

By: Beverli A. Marshall
Beverli A. Marshall, General Manager

Carl P. A. Nelson

Approved as to form:

By: _____
Carl P. A. Nelson, Attorney
Bold, Polisner, Maddow, Nelson & Judson

ORDER OF THE REGIONAL WATER BOARD

47. This Order incorporates the foregoing Sections I through III by this reference as if set forth fully herein.
48. In accepting this Stipulated Order, the Regional Water Board has considered, where applicable, each of the factors prescribed in Water Code section 13385, subdivision (e), and has applied the Penalty Calculation Methodology set forth in the State Water Resource Control Board’s Enforcement Policy, which is incorporated by reference herein. The Regional Water Board’s consideration of these factors, application of the Penalty Calculation Methodology and the adjustment made pursuant to Enforcement Policy section VI.B, Settlement Considerations, are based on information the Prosecution Team obtained in investigating the allegations set forth in the Stipulation or otherwise provided to the Regional Water Board.
49. This is an action to enforce the laws and regulations administered by the Regional Water Board. The Regional Water Board finds that issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, § 21000 et seq.) in accordance with section 15321, subdivision (a)(2), Title 14, of the California Code of Regulations. Additionally, this Order generally accepts the plans proposed for the ECA prior to implementation. Mere submittal of plans is exempt from CEQA because submittal will not cause a direct or indirect physical change in the environment.
50. The Executive Officer of the Regional Water Board is authorized to refer this matter directly to the Attorney General for enforcement if the Settling Respondent fails to perform any of its obligations under this Order.

IT IS HEREBY ORDERED pursuant to Water Code section 13323 and Government Code section 11415.60, on behalf of the California Regional Water Quality Control Board, San Francisco Bay Region.

Bruce H. Wolfe
Executive Officer
California Regional Water Quality Control Board
San Francisco Bay Region

Date

ATTACHMENT A
Administrative Civil Liability Complaint No. R2-2017-1024

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

In the matter of:

**Sewer Authority Mid-Coastside
Granada Force Main Sanitary Sewer
Overflow, Half Moon Bay, San Mateo
County**

**COMPLAINT R2-2017-1024
FOR
ADMINISTRATIVE CIVIL
LIABILITY**

**Violation of Waste Discharge
Requirements
Order No. R2-2012-0061 (NPDES No.
CA0038598)**

SSO Event ID: 833531

**THE SEWER AUTHORITY MID-COASTSIDE IS HEREBY GIVEN NOTICE
THAT:**

1. The Sewer Authority Mid-Coastside (Discharger) is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, San Francisco Bay Region (Regional Water Board), may impose civil liability pursuant to section 13385, subdivision (c) of the California Water Code (Water Code).
2. This Administrative Civil Liability Complaint is issued under authority of Water Code section 13323.

WASTE DISCHARGE REQUIREMENTS

3. The Discharger owns and operates a sanitary sewer collection system (collection system) consisting of approximately 1.9 miles of gravity sewer pipeline, 5.8 miles of force main, and 3 pump stations. Wastewater collected by the Discharger's collection system is conveyed to its treatment plant for disposal. Treated wastewater is discharged west of Pilarcitos Creek to the Pacific Ocean, a water of the United States.
4. The Discharger is required to operate and maintain its collection system in compliance with Order No. R2-2012-0061, National Pollutant Discharge Elimination System (NPDES) No. CA0038598 (SAM Permit), an individual NPDES permit issued August 8, 2012, and effective October 1, 2012, through September 20, 2017. The SAM Permit was issued pursuant to Clean Water Act section 402 and Water Code Chapter 5.5, Division 7 (commencing with section 13370). It serves as an NPDES permit for point source discharges to surface waters.

5. Discharge Prohibition III.E of the SAM Permit prohibits any sanitary sewer overflow that results in a discharge of untreated or partially-treated wastewater to waters of the United States.
6. On February 28, 2017, through March 3, 2017, due to a failure of the Granada force main, approximately 357,000 gallons of untreated sewage discharged from the Discharger's collection system as a sanitary sewer overflow (SSO) into an unnamed creek located in the City of Half Moon Bay, and ultimately to the Pacific Ocean. The Discharger recovered approximately 13,000 gallons of the untreated sewage and returned it to its collection system. The Granada force main failure was likely caused by internal cavitation, with the sewer pipe's age and abrasive wear due to grit contributing to the failure.
7. Water Code section 13385, subdivision (a)(2) provides that a person who violates a waste discharge requirement permit issued pursuant to Chapter 5.5 or any water quality certification issued pursuant to section 13160 shall be liable civilly in accordance with section 13385.

VIOLATIONS SUBJECT TO THIS COMPLAINT

8. On or about February 28, 2017, through March 3, 2017, and for four days, the Discharger violated SAM Permit Discharge Prohibition III.E by discharging approximately 344,000 gallons of untreated sewage to waters of the United States, and is thereby subject to civil liability under Water Code section 13385, subdivision (a)(2).
9. The details of this violation are set forth in full in the accompanying Administrative Civil Liability Factors (Attachment A), which is incorporated herein by this reference as if set forth in full.

MAXIMUM LIABILITY

10. Water Code section 13385, subdivision (c) provides that any person who violates a waste discharge requirement issued pursuant to Water Code Chapter 5.5 is subject to administrative liabilities of up to \$10,000 per day of violation, and up to \$10 per gallon for each gallon discharged but not cleaned up over 1,000 gallons. The SSO took place over a four-day period. Accordingly, the maximum potential civil liability for the Discharger's February 28, 2017 through March 3, 2017, SSO is \$40,000 for the four days of violation, plus \$3,430,000 for the 344,000 gallons discharged, but not cleaned up, less the 1,000 gallon as required by statute, for a total maximum administrative civil liability of \$3,470,000.

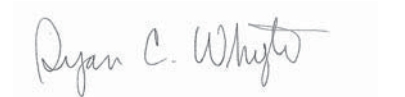
MINIMUM LIABILITY

11. Water Code section 13385, subdivision (e) requires, at a minimum, that an administrative civil liability be imposed that will capture the economic benefit to the violator from the violation. In this case, the Discharger realized an economic benefit of approximately \$179,000 in the form of cost savings for delaying the construction and replacement of the failed force main for nine years. The State Water Resources Control Board's Water Quality Enforcement Policy (Enforcement Policy) recommends the Regional Water Board assess liability at least 10 percent higher than the economic benefit so that liabilities are not construed as the cost of doing business and that the assessed liability provides a meaningful deterrent to future violations. Accordingly, the minimum administrative civil liability for the Discharger's SSO is \$196,469. See Attachment A for the full economic benefit analysis.

PROPOSED LIABILITY

12. The amount of administrative civil liability proposed is based on consideration of factors contained in Water Code section 13385, subdivision (e) and the Enforcement Policy, which specifies the factors that the Regional Water Board shall take into account in establishing the amount of discretionary liability for the alleged violations. These factors include the nature, circumstance, extent, and gravity of the violations; the Discharger's ability to pay, ability to continue in business, prior history of violation, degree of culpability, and economic benefit or savings, if any, resulting from the violations; and other matters as justice may require.
13. Based on the penalty calculation methodology set forth in section VI of the Enforcement Policy, the Regional Water Board Prosecution Team recommends that the Regional Water Board should impose administrative civil liability against the Discharger in the amount of \$522,700 for the discharge of untreated sewage to the Pacific Ocean on February 28 through March 3, 2017.

Dated this August 21, 2017



Dyan C. Whyte
Assistant Executive Officer

Signed pursuant to the authority delegated
by the Executive Officer to the Assistant
Executive Officer.

Attachment A: Administrative Civil Liability Factors

CIWQS: Reg Measure ID: 414947
Place ID: 630982
Party ID: 40516
Violation ID: 1021832

Factors in Determining Stipulated Administrative Civil Liability

SEWER AUTHORITY MID-COASTSIDE SANITARY SEWER OVERFLOWS, MAY 2, 2007, TO DECEMBER 31, 2017 HALF MOON BAY, SAN MATEO COUNTY

The State Water Resources Control Board Water Quality Enforcement Policy (Enforcement Policy) establishes a methodology for assessing administrative civil liability. Use of the methodology addresses the factors required by Water Code sections 13327 and 13385, subdivision (e). Each factor in the Enforcement Policy and its corresponding category, adjustment, and amount for the alleged violation, is presented below. The Enforcement Policy can be found at:

http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/enf_policy_final111709.pdf

From May 2, 2007, to December 31, 2017, the Sewer Authority Mid-Coastside (Settling Respondent) had 11 sanitary sewer overflows (SSOs) that allegedly discharged to waters of the United States, resulting in violations of Discharge Prohibition III.F of Order No. R2-2007-0003 (2007 Order) and Discharge Prohibition III.E of Order No. R2-2012-0061 (2012 Order).⁴ These orders re-issued National Pollutant Discharge Elimination System (NPDES) Permit No. CA0038598. Discharge Prohibition III.F of the 2007 Order and Discharge Prohibition III.E of the 2012 Order prohibited any SSO that resulted in a discharge of untreated or partially treated wastewater to waters of the United States.

The Regional Water Board Prosecution Team issued an administrative civil liability complaint against the Settling Respondent for a 357,000-gallon SSO occurring in February and March 2017 (see Attachment A). The 10 other smaller SSOs discharged a combined total of approximately 156,000 gallons of untreated sewage to waters of the United States (see Attachment C). To determine appropriate penalty factors pursuant to the Enforcement Policy, the 10 SSO violations are separated into four groups. The SSO-specific factors (Steps 1 through 3 of the Enforcement Policy) are presented below in four tables. The Settling Respondent-specific factors (Steps 4 through 10 of the Enforcement Policy) are presented in one table at the end. The SSO violation groups are as follows:

- **Violation Group 1:** Two dry weather SSOs that resulted in beach closures of one and two days. The reported causes were pipe structural problem/failure and pump station failure.
- **Violation Group 2:** One dry weather SSO that resulted in beach warning signs, but not actual beach closures, for eight days. The reported cause was pipe structural problem/failure.
- **Violation Group 3:** Six dry weather SSOs that did not result in beach closures. The reported causes were pipe structural problems/failures.

⁴ The Settling Respondent submits its certified SSO reports to the California Integrated Water Quality System (CIWQS) SSO database.

- **Violation Group 4:** One capacity-related wet weather SSO. The reported cause was rainfall exceeded design.

PENALTY FACTOR	VALUE	DISCUSSION
Violation Group 1: January 21, 2012, and January 25, 2012, SSOs		
Harm or Potential Harm to Beneficial Uses for Discharge Violations	4	<p>Harm or Potential for Harm: above moderate</p> <p>An “above moderate” potential for harm is selected for the two SSOs that occurred on January 21 and 25, 2012, because the impacts fit the Enforcement Policy definition for above moderate harm (“impacts are observed or likely substantial, temporary restrictions on beneficial uses [e.g., less than five days]...”). The San Francisco Bay Regional Water Quality Control Plan (Basin Plan) designates the following beneficial uses of the Pacific Ocean: industrial service supply (IND), commercial and sport fishing (COMM), shell harvesting (SHELL), marine habitat (MAR), fish migration (MIGR), preservation of rare and endangered species (RARE), fish spawning (SPWN), wildlife habitat (WILD), water contact recreation (REC1), noncontact water recreation (REC2), and navigation (NAV). Each of the discharges of untreated wastewater caused a beach closure of less than five days, which was a temporary restriction of the REC1 beneficial use.⁵ Each of the beach closures was at least a one-day but less than a five-day restriction on the REC1 beneficial use.</p>
Physical, Chemical, Biological, or Thermal Characteristics (Degree of Toxicity)	3	<p>Degree of Toxicity: above moderate</p> <p>For both the January 21 and 25, 2012, SSOs, an “above moderate” degree of toxicity is selected because the sewage discharged was not treated, was potentially toxic to aquatic organisms, and contained bacteria at levels exceeding human health standards. Therefore, the discharge posed an above moderate risk to potential receptors.</p>
Susceptibility to Cleanup or Abatement	0	<p>Susceptibility to Cleanup: yes</p> <p>Both SSOs occurred during dry weather; therefore, greater than 50 percent of each SSO was susceptible to cleanup. However, the Settling Respondent did not cleanup greater than 50 percent of either of the SSOs. The Settling Respondent recovered 500 gallons of the January 21, 2012, SSO, but did not recover any of the January 25, 2012, SSO.</p>
Final Potential for Harm Score	7	A value of 7 (4+3+0) applies to the January 21 and 25, 2012, SSOs.

⁵ An October 3, 2017, Settling Respondent email indicated the duration of the beach closures as a result of two SSOs.

PENALTY FACTOR	VALUE	DISCUSSION
Per Gallon and Per Day Factor for Discharge Violations	0.31	<p>Deviation from Requirement: major A major deviation from requirement occurs when the requirement has been rendered ineffective (e.g., a discharger disregards the requirement or the requirement is rendered ineffective in its essential functions). Discharge Prohibition III.E of the 2012 Order prohibited discharge of untreated sewage to waters of the United States. By discharging to waters of the United States, the discharges rendered the prohibition ineffective in its essential functions. This represents a “major” deviation from the requirement based on the Enforcement Policy.</p> <p>Based on Table 2 of the Enforcement Policy, a factor of 0.31 applies to the January 21 and 25, 2012, SSOs, due to the Potential for Harm score of “7” and the “major” deviation from requirement.</p>
Adjustment for High Volume Discharges	\$10	The January 21, 2012, SSO was only 3,136 gallons (500 gallons of which were recovered), and the January 25, 2012, SSO was only 500 gallons. Neither SSO is considered a “high volume discharge.” Therefore, \$10 per gallon is appropriate.
Initial Liability	\$11,272	<p>The initial liability is determined by adding each individual liability for the two SSOs: Each SSO liability = (per-gallon factor x [SSO gallons discharged to surface water but not recovered, minus 1,000 gallons]) + (per-day factor x maximum per day liability [\$10,000] x number of days of SSO duration).</p> <p>January 21, 2012: \$8,172 = (0.31 x 1,636 x 10) + (0.31 x 1 x 10,000)</p> <p>January 25, 2012: \$3,100 = (0.31 x 0 x 10) + (0.31 x 1 x 10,000)</p>

PENALTY FACTOR	VALUE	DISCUSSION
Violation Group 2: April 2, 2017 SSO		
Harm or Potential Harm to Beneficial Uses for Discharge Violations	3	<p>Harm or Potential for Harm: moderate</p> <p>A “moderate” potential for harm is selected for the April 2, 2017, SSO because the impacts fit the Enforcement Policy definition for moderate harm (“moderate threat to beneficial uses [i.e., impacts are observed or reasonably expected and impacts to beneficial uses are moderate and likely to attenuate without appreciable acute or chronic effects]”). The discharge of untreated wastewater did not cause an official beach closure, but warning signs were posted on the beach for eight days.⁶ At a minimum, the warning signs resulted in reasonably expected impacts to the REC1 beneficial use since it likely discouraged water contact recreational.</p>
Physical, Chemical, Biological, or Thermal Characteristics (Degree of Toxicity)	3	<p>Degree of Toxicity: above moderate</p> <p>For the April 2, 2017, SSO, an “above moderate” degree of toxicity is selected because the sewage discharged was not treated, was potentially toxic to aquatic organisms, and contained bacteria at levels exceeding human health standards. Therefore, the discharge posed an above moderate risk to potential receptors.</p>
Susceptibility to Cleanup or Abatement	0	<p>Susceptibility to Cleanup: yes</p> <p>The April 2, 2017, SSO occurred during dry weather; therefore, greater than 50 percent of the SSO was susceptible to cleanup. However, the Settling Respondent did not recover any of this SSO.</p>
Final Potential for Harm Score	6	<p>A value of 6 (3+3+0) applies to the April 2, 2017, SSO.</p>

⁶ An October 3, 2017, Settling Respondent email indicated the duration of the beach closure as a result of the SSO.

PENALTY FACTOR	VALUE	DISCUSSION
Per Gallon and Per Day Factor for Discharge Violations	0.22	<p>Deviation from Requirement: major A major deviation from requirement occurs when the requirement has been rendered ineffective (e.g., a discharger disregards the requirement or the requirement is rendered ineffective in its essential functions). Discharge Prohibition III.E of the 2012 Order prohibited discharge of untreated sewage to waters of the United States. By discharging to waters of the United States, the discharge rendered the prohibition ineffective in its essential functions. This represents a “major” deviation from the requirement based on the Enforcement Policy.</p> <p>Based on Table 2 of the Enforcement Policy, a factor of 0.22 applies to the April 2, 2017, SSO due to the Potential for Harm score of “6” and the “major” deviation from requirement.</p>
Adjustment for High Volume Discharges	\$10	The April 2, 2107, SSO was only 15,000 gallons. This is not considered a “high volume discharge.” Therefore, \$10 per gallon is appropriate.
Initial Liability	\$33,000	April 2, 2017: \$33,000 = (0.22 x 14,000 x10) + (0.22 x 1 x 10,000)

PENALTY FACTOR	VALUE	DISCUSSION
Violation Group 3: December 6, 2008, November 1, 2009, November 7, 2010, December 19, 2010, November 24, 2011, and February 2, 2014, SSOs		
Harm or Potential Harm to Beneficial Uses for Discharge Violations	2	<p>Harm or Potential for Harm: below moderate</p> <p>A “below moderate” potential for harm is selected for these six dry weather SSOs that did not result in a beach closure because the impacts fit the Enforcement Policy definition for below moderate harm (“less than moderate threat to beneficial uses [i.e., impacts are observed or reasonably expected, harm to beneficial uses is minor]”). The discharges occurred during dry weather when creek flows were lower and the waste was full strength. Since affected beaches were not officially closed, impacts to beneficial uses, while reasonably expected, likely posed minor harm.</p>
Physical, Chemical, Biological, or Thermal Characteristics (Degree of Toxicity)	3	<p>Degree of Toxicity: above moderate</p> <p>For these six SSOs, an “above moderate” degree of toxicity is selected because the sewage discharged was not treated, was potentially toxic to aquatic organisms, and contained bacteria at levels exceeding human health standards. Therefore, the discharge posed an above moderate risk to potential receptors.</p>
Susceptibility to Cleanup or Abatement	0	<p>Susceptibility to Cleanup: yes</p> <p>These SSOs occurred during dry weather; therefore, greater than 50 percent of each SSO was susceptible to cleanup. However, the Settling Respondent did not cleanup greater than 50 percent of any of the SSOs. The Settling Respondent recovered 250 gallons from the November 1, 2009, SSO and 90 gallons from the November 7, 2010 SSO, but did not recover any of the other SSOs.</p>
Final Potential for Harm Score	5	A value of 5 (2+3+0) applies to these six SSOs.
Per Gallon and Per Day Factor for Discharge Violations	0.15	<p>Deviation from Requirement: major</p> <p>A major deviation from requirement occurs when the requirement has been rendered ineffective (e.g., a discharger disregards the requirement or the requirement is rendered ineffective in its essential functions). Discharge Prohibitions III.F (of the 2007 Order) and III.E (of the 2012 Order) prohibited discharge of untreated sewage to waters of the United States. By discharging to waters of the United States, the discharges rendered the prohibitions ineffective in their essential functions. This represents a “major” deviation from the requirement based on the Enforcement Policy.</p>

Attachment B - Settlement Agreement and Stipulated Administrative Civil Liability
 Sewer Authority Mid-Coastside

PENALTY FACTOR	VALUE	DISCUSSION
		Based on Table 2 of the Enforcement Policy, a factor of 0.15 applies to these six SSOs due to the Potential for Harm score of “5” and the “major” deviation from requirement.
Adjustment for High Volume Discharges	\$10	The largest of these six SSOs was 3,162 gallons. This is not considered a “high volume discharge.” Therefore, a \$10 per gallon liability is appropriate.
Initial Liability	\$12,243	<p>December 6, 2008: \$1,500 = (0.15 x 0 x10) + (0.15 x 1 x 10,000)</p> <p>November 1, 2009: \$1,500 = (0.15 x 0 x10) + (0.15 x 1 x 10,000)</p> <p>November 7, 2010: \$1,500 = (0.15 x 0 x10) + (0.15 x 1 x 10,000)</p> <p>December 19, 2010: \$4,743 = (0.15 x 2,162 x10) + (0.15 x 1 x 10,000)</p> <p>November 24, 2011: \$1,500 = (0.15 x 0 x10) + (0.15 x 1 x 10,000)</p> <p>February 2, 2014: \$1,500 = (0.15 x 0 x10) + (0.15 x 1 x 10,000)</p>

PENALTY FACTOR	VALUE	DISCUSSION
Violation Group 4: January 25, 2008, SSO		
Harm or Potential Harm to Beneficial Uses for Discharge Violations	1	<p>Harm or Potential for Harm: minor</p> <p>A “minor” potential for harm is selected for the January 25, 2008, SSO because the impacts fit the Enforcement Policy definition for minor harm (“low threat to beneficial uses [i.e., no observed impacts but potential impacts to beneficial uses with no appreciable harm]”). There were impacts to the REC1 beneficial uses of the Pacific Ocean, but the discharge was diluted with high wet weather flows and quickly dispersed into the ocean. Moreover, actual recreational use is typically less during wet weather.</p>
Physical, Chemical, Biological, or Thermal Characteristics (Degree of Toxicity)	3	<p>For the January 25, 2008, SSO, an “above moderate” degree of toxicity is selected because the sewage discharged was not treated, was potentially toxic to aquatic organisms, and contained bacteria at levels exceeding human health standards. Therefore, the discharge posed an above moderate risk to potential receptors.</p>
Susceptibility to Cleanup or Abatement	1	<p>The January 25, 2008, SSO occurred during wet weather when less than 50 percent of the SSO was amenable to cleanup or containment. Once the discharge entered the ocean, the ocean current prevented cleaning up or containing the untreated sewage.</p>
Final Potential for Harm Score	5	<p>A value of 5 (1+3+1) applies to the January 25, 2008, SSO.</p>
Per Gallon and Per Day Factor for Discharge Violations	0.15	<p>Deviation from Requirement: major</p> <p>A major deviation from requirement occurs when the requirement has been rendered ineffective (e.g., a discharger disregards the requirement or the requirement is rendered ineffective in its essential functions). Discharge Prohibition III.F of the 2007 Order prohibited discharge of untreated sewage to waters of the United States. By discharging to waters of the United States, the discharge rendered the prohibition ineffective in its essential functions. This represents a “major” deviation from the requirement based on the Enforcement Policy.</p> <p>Based on Table 2 of the Enforcement Policy, a factor of 0.15 applies to the January 25, 2008, SSO due to the Potential for Harm score of “5” and the “major” deviation from requirement.</p>
Adjustment for High Volume Discharges	\$2	<p>The Enforcement Policy allows for a per-gallon liability adjustment for high-volume discharges, such as large sewage spills. The January 25, 2008, SSO was 132,710 gallons and is considered a “high volume discharge.” Therefore, a \$2 per gallon</p>

Attachment B - Settlement Agreement and Stipulated Administrative Civil Liability
 Sewer Authority Mid-Coastside

PENALTY FACTOR	VALUE	DISCUSSION
		liability, rather than a \$10 per gallon liability, results in an appropriate penalty and sufficient deterrent for this discharge.
Initial Liability	\$42,513	January 25, 2008, SSO: \$42,513 = $(0.15 \times 131,710 \times 2) + (0.15 \times 2 \times 10,000)$
Total Initial Liability (All Violation Groups)	\$99,028	The total initial liability is the sum of the initial liabilities for the four groups of violations above. \$99,028 = $\$11,272 + \$33,000 + \$12,243 + \$42,513$

Adjustments for Settling Respondent Conduct⁷		
Culpability	1.0	For the 10 SSOs, a neutral culpability factor is appropriate because, although the Settling Respondent is responsible for the operation and maintenance of its collection system pipelines, the SSOs were not caused by intentional or negligent behavior.
Cleanup and Cooperation	1.0	A neutral cleanup and cooperation factor is appropriate for six SSOs (those on January 25, 2008; December 6, 2008; November 7, 2010; November 24, 2011; February 2, 2014; and April 2, 2017) because the Settling Respondent cooperated during investigations and responded as required under the Orders.
	1.1	A slightly increased cleanup and cooperation factor is appropriate for four SSOs (those on November 1, 2009; December 19, 2010; January 21, 2012; and January 25, 2012) because the Settling Respondent failed to notify the Office of Emergency Services within the two-hour time frame as required.
History of Violations	1.0	A neutral history of violations factor is appropriate because the Regional Water Board has not previously taken formal enforcement against the Settling Respondent for SSOs.
Total Base Liability	\$100,780	Each factor relating to the Settling Respondent's conduct is multiplied by the total initial liability to determine the total base liability.
Ability to Pay and Continue in Business	1.0	The ability of a discharger to pay the recommended administrative civil liability is determined by its revenues and assets. The Settling Respondent's General Budget for Fiscal Year 2016/17 is \$5.1 million. ⁸ The Settling Respondent receives nearly all its revenue from its three member agencies. The remaining revenue comes from direct service fees and miscellaneous revenue. Based on the Settling Respondent's overall budget and sources of revenue, the Settling Respondent has the ability to pay the proposed liability amount and stay in business.
Economic Benefit	\$179,000	Pursuant to Water Code section 13385, subdivision (e), civil liability, at a minimum, must be assessed at a level that recovers the economic benefit, if any, derived from the acts that constitute a violation. As documented in the Complaint (Attachment A), the Settling Respondent's failure to address structural issues in the Granada force main is likely to have contributed to the pipe failures resulting in the nine SSOs that were not capacity related. Thus, the Settling Respondent enjoyed the same economic

⁷ The Adjustments for Settling Respondent Conduct and Other Factors are the same across all 10 SSOs and are therefore only explained once.

⁸ <http://samcleanswater.org/documents>

		<p>benefit as addressed in the Complaint of approximately \$179,000 for the nine SSOs.</p> <p>As to the insufficient capacity-related SSO, the Settling Respondent received minimal economic benefit as a result of the violation.</p>
Other Factors as Justice May Require		
Staff Costs	None	For this case, no Regional Water Board staff costs are assessed.
Maximum Liability	\$1.6 Million	Water Code section 13385 allows up to \$10,000 for each day in which the violation occurs and \$10 for each gallon exceeding 1,000 gallons that is discharged and not cleaned up. The maximum liability is based on 10 SSOs totaling 156,061 gallons discharged to surface water involving 11 days of violation.
Minimum Liability	\$196,469	Water Code section 13385, subdivision (e), requires that, at a minimum, the economic benefit received as a result of the violation be recovered. The Enforcement Policy states that the total liability must be at least 10 percent higher than the economic benefit, “so that liabilities are not construed as the cost of doing business and the assessed liability provides meaningful deterrent to future violations.” Therefore, the minimum total liability associated with the economic benefit was determined to be \$196,469.
Final Liability	\$100,780	The final liability amount is the total base liability after adjusting for ability to pay, economic benefit, other factors, and maximum and minimum liabilities.

ATTACHMENT C

**Sewer Authority Mid-Coastside
SSOs discharging to waters of the United States
from May 2, 2007, through December 31, 2017**

SSO Event ID	Start Date	End Date	SSO Location	Gallons Discharged	Gallons Recovered	Gallons Discharged to Surface Water	Final SSO Destination	Beach Impacted?	Beach closure, Number of days closed	Health Warning Sign Posted?	Impacted Surface Water	Cause
711896	1/25/08	1/26/08	Montara Pump Station	132,710	0	132,710	Surface water	Rocky coast adjacent to Pt. Montara Lighthouse	No	No	Pacific Ocean	Rainfall exceeded design ¹
730499	12/6/08	12/6/08	Vallemar Street Inter tie Pipe System	500	0	500	Storm drain; Surface water	No	No	No	Pacific Ocean	Pipe structural problem/failure ²
746478	11/1/09	11/1/09	CalTrans right of way adjacent to El Granada Elementary School	500	250	250	Other paved surface; Storm drain; Street/curb and gutter; Unpaved surface	No	No	No	NA	Pipe structural problem/failure ²
758457	11/7/10	11/7/10	2084 Vallemar St.	600	90	510	Beach; Separate storm drain	No	No	No	Pacific Ocean	Pipe structural problem/failure ²
759671	12/19/10	12/19/10	Vallemar St.	3,162	0	3,162	Other paved surface; Separate storm drain; Surface water	No	No	No	Pacific Ocean	Pipe structural problem/failure ²
773484	11/24/11	11/24/11	Vallemar St.	200	0	100	Other paved surface; Separate storm drain; Surface water	No	No	No	Pacific Ocean	Pipe structural problem/failure ²
776285	1/21/12	1/21/12	Coronado St.	3,136	500	2,636	Beach; Separate storm drain; Street/curb and gutter	Surfers Beach	Yes, 2	Yes	Pacific Ocean	Pipe structural problem/failure ²
776402	1/25/12	1/25/12	Coronado St.	500	0	500	Beach; Surface water	Surfers Beach in el Granada	Yes, 1	Yes	Pacific Ocean	Pump station failure ²
803569	2/2/14	2/3/14	Vallemar St.	693	0	693	Drainage Channel; Paved Surface; Surface Water; Unpaved surface	No	No	No	Pacific Ocean	Pipe Structural Problem/Failure ²
834198	4/2/17	4/2/17	Arroyo De En Medio Creek, Miramar	15,000	0	15,000	Surface Water	No	No	Yes, 8 days	Arroyo De En Medio Creek	Pipe Structural Problem/Failure ²

¹Wet Weather SSO

²Dry Weather SSO

ATTACHMENT D

Sewer Authority Mid-Coastside

SSOs discharging to land

from September 4, 2013, through December 31, 2017

SSO Event ID	SSO Category ¹	Start Date	End Date	SSO Location	Gallons Discharged	Gallons Recovered	Resulting Gallons Discharged to Land	Final SSO Destination	Cause
798461	3	9/4/13	9/4/13	141 California Avenue, El Granada	5	0	5	Street/curb and gutter	Pipe structural problem/failure
811436	3	12/13/14	12/13/14	2066 Vallemar Street	500	0	500	Majority of spill volume flowed through detached garage, across homeowner's property and then possibly down rock cliff to ocean. Wet ground from recent rains made determining if spill reached rock cliff face impossible. Staff not certain any flow made it to ocean. Volume estimate and distance from Force Main to ocean make it doubtful that any sewage reached the ocean. No beach at site, mostly rocky cliff face. High wind and surf conditions made taking grab samples too dangerous for staff.	Pipe structural problem/failure
821237	3	1/20/16	1/20/16	Between 2166 and 2150 Vallemar Street	625	400	225	Paved Surface/Street/Curb and Gutter/Unpaved surface	Pipe structural problem/failure
829271	2	10/19/16	10/19/16	470 Fortado Lane, Half Moon Bay	2,400	500	1,900	Unpaved surface	Pipe structural problem/failure
834641	2	4/16/17	4/16/17	501 Alto, Half Moon Bay	5,625	0	5,625	Unpaved surface	Pipe structural problem/failure
835414	3	5/16/17	5/16/17	3029 Cabrillo Highway	200	200	0	Unpaved surface	Pipe structural problem/failure

¹ A category 2 SSO is a discharge of untreated or partially treated wastewater of 1,000 gallons or greater resulting from an enrollee's sanitary sewer system failure or flow condition that does not reach surface water. A category 3 SSO is a discharge of untreated or partially treated wastewater of less than 1,000 gallons resulting from an enrollee's sanitary sewer system failure or flow condition that does not reach surface water.

ATTACHMENT E
Sewer Authority Mid-Coastside—Enhanced Compliance Action (ECA)
Wet Weather Storage Expansion Project

1. **Project Title:** Wet Weather Storage Expansion Project
2. **Service Area:** San Francisco Bay Region
3. **Name of Responsible Entity:** Sewer Authority Mid-Coastside
4. **Estimated Budget for Project Completion:** The estimated project cost is \$700,000, which includes \$300,000 of suspended liability, provided Sewer Authority Mid-Coastside meets the project milestones and completes the project to the satisfaction of the Regional Water Board by the specified date.
5. **Sewer Authority Mid-Coastside Contact Information:**
Beverli A. Marshall, General Manager
Sewer Authority Mid-Coastside
1000 N. Cabrillo Hwy
Half Moon Bay, CA 94019
Tel. No.: (650) 726-0124
[E-mail: bmarshall@samcleanswater.org](mailto:bmarshall@samcleanswater.org)
6. **Project Goals and Description:** The project scope includes expansion of an existing underground wastewater storage tank system from 200,000 gallons to 400,000 gallons. The goal is to reduce wet weather sanitary sewer overflows due to capacity exceedances at the Portola Pump Station. The tank system works by gravity and requires no pumps. When the Portola Pump Station becomes overwhelmed, flow backs up and fills the storage tanks. Once the flow decreases, the tanks drain by gravity back to the pump station. Figures 1 and 2, below, depict the existing and expanded systems.

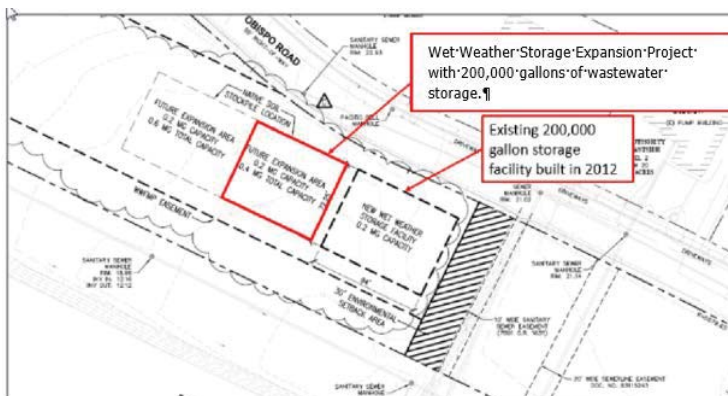


Figure 1. Wet Weather Storage Expansion Project



Figure 2. The project will expand existing storage capacity from 200,000 to 400,000 gallons.

Historically, Sewer Authority Mid-Coastside’s Portola Pump Station, located across the street from an open field known as Burnham Strip in El Granada (Figure 3), was subject to sewer system overflows during heavy rain. The Portola Pump Station conveys wastewater from the communities of El Granada, Moss Beach, and Montara to the Sewer Authority Mid-Coastside wastewater treatment plant located in Half Moon Bay. Infiltration and inflow into its member agencies’ separately owned collection systems can present a capacity problem during wet weather, and in 2012 Sewer Authority Mid-Coastside implemented a Wet Weather Flow Management Project at Burnham Strip.



Figure 3. Vicinity map showing Burnham Strip and Portola Pump Station

The 2012 project included five interconnected underground storage tanks to capture excess wastewater flows that exceed the Portola Pump Station's capacity. Each tank is 6 feet high, 10 feet wide, and 90 feet long (Figure 4). The existing tanks have a combined storage volume of 200,000 gallons.



Figure 4. View of storage tanks during installation of the 2012 Wet Weather Flow Management Project

The cost of the original wet weather project was \$601,377. The expansion to 400,000 gallons will be similar in scope to the original project. However, the ENR construction cost index indicates that construction costs have increased 16.10 percent since 2012. Therefore, the construction cost estimate for this project, in 2017 dollars, is approximately \$700,000.

- 7. Water Quality and Beneficial Uses:** The additional tanks will increase the existing temporary storage capability during storms and will prevent untreated sewage discharges that could potentially contaminate the Pacific Ocean, Monterey Bay National Marine Sanctuary, recreational beaches, and sensitive biological habitats.

Expansion of the Wet Weather Facility would also provide more time to perform preventive maintenance on the pumps and the ancillary features of the force main, such as the air/vacuum relief valves and surge tank. A larger storage facility would also provide Sewer Authority Mid-Coastside the ability to hold a portion of the peak daily flow and release it back to the collection system when plant influent flows are low, such as at night. This would help stabilize the dramatic diurnal flow variance the plant currently experiences. A steadier flow will benefit the biological treatment process since the bacteria will not be starved during the night. Also, the project will allow repairs to the pipes and manholes in the gravity portion of the intertie pipe system downstream of the force main to be completed more safely.

- 8. Confirmation that the ECA Contains Only Measures that Go Above and Beyond Applicable Obligations:** Sewer Authority Mid-Coastside is under no prior obligation to increase its available wet weather storage capacity.

- 9. Demonstration that ECA Does Not Directly Benefit, in Fiscal Manner, Water Board’s Functions, Members, or Staff:** While the installation of additional wet weather storage in environmentally sensitive areas will advance the Regional Water Board’s goals to protect water and riparian habitats from pollution, and enhance water quality, project funding will not directly benefit Regional Water Board functions. Likewise, it will not benefit Regional Water Board members or staff in any fiscal manner. Project funding will directly relate to the alleged violations addressed through the Regional Water Board’s imposition of an Administrative Civil Liability.

Sewer Authority Mid-Coastside will implement the project in the same region where the discharges subject to Administrative Civil Liability occurred. The project does not advance a project or activity directly under the purview or direction of the Regional Water Board, its members, or its staff, nor is it related to any abatement order or other legal or administrative mandate imposed by the Regional Water Board.

- 10. Project Schedule, Milestones, and Deliverables:** Sewer Authority Mid-Coastside is responsible for providing all deliverables described below and in Table 1 for each project phase.
- a. Design:** The Sewer Authority Mid-Coastside Board of Directors will discuss and authorize the design phase of the project no later than August 13, 2018. The project construction cost will be included in the FY 2018/19 budget request.
 - b. Construction Bidding:** Sewer Authority Mid-Coastside will advertise for bids no later than September 2018.
 - c. Construction:** Construction will start no later than December 1, 2018, and be completed no later than December 31, 2019.
 - d. Deliverables:**
 - i. Quarterly Reports:** Sewer Authority Mid-Coastside shall submit certified Quarterly Reports on its progress implementing the project as described in Table 1.
 - ii. Final Report:** Sewer Authority Mid-Coastside shall provide a final report documenting project completion. The final report shall summarize all tasks completed, including the project design, construction, and accounting of all project expenditures. The accounting shall clearly document that the final project cost equals or exceeds the suspended liability of \$300,000. The report shall be completed under penalty of perjury and shall include the certified statement required under Standard Provision, sections V.B.1 through V.B.6 of Order No. R2-2017-0040, NPDES permit CA0038598, as follows:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who

manage the system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Table 1 – Deliverables

Due Dates	Milestones	Deliverables
09/30/2018	Submit Quarterly Report, including status of following items: - Overall project progress - Design process - Final pre-bid estimate of project cost - Bid process	Quarterly Report #1
12/31/2018	Submit Quarterly Report, including status of following items: - Overall project progress - Construction Contract Award process	Quarterly Report #2
03/31/2019	Submit Quarterly Report, including status of following items: - Overall project progress - Construction Progress	Quarterly Report #3
06/30/2019	Submit Quarterly Report, including status of following items: - Overall project progress - Construction Progress	Quarterly Report #4
09/30/2019	Submit Quarterly Report, including status of following items: - Overall project progress - Construction Progress	Quarterly Report #5
12/31/2019	Submit Quarterly Report, including status of following items: - Overall project progress - Construction Progress	Quarterly Report #6
03/31/2020	Submit Final Report	Final Report

11. **Reports to the Regional Water Board:** All deliverables, reports, and accounting invoices pertaining to this project shall be submitted to the Regional Water Board, a third-party oversight organization (the San Francisco Estuary Partnership), and the State Water Resources Control Board Office of Enforcement. The San Francisco Estuary Partnership will review the reports to ensure that they meet the requirements set forth here and the Stipulated Order. Sewer Authority Mid-Coastside shall be deemed to have fully performed its ECA-related obligations at such time that it has timely completed all the actions listed in section 10, above, including the items in Table 1 for reporting and accounting obligations.
12. **Third Party Oversight Organization:** Sewer Authority Mid-Coastside shall cover all project oversight costs. Oversight costs are not considered part of the project’s direct cost. Sewer Authority Mid-Coastside shall use the San Francisco Estuary Partnership to provide third party project oversight and shall pay the San Francisco Estuary Partnership’s invoice for oversight services, which will be sent to Sewer Authority Mid-Coastside after the Stipulated Order becomes effective. If the Executive Officer extends the project completion

deadline past March 31, 2020, Sewer Authority Mid-Coastside shall be responsible for any additional oversight costs the San Francisco Estuary Partnership incurs as a result of the extension. For project oversight, the San Francisco Estuary Partnership will report directly to the Regional Water Board. All reports shall be emailed to the following:

Adrien Baudrimont
San Francisco Estuary Partnership
375 Beal St. Suite 500
San Francisco, CA 94105
(415) 778-6700
Adrien.Baudrimont@sfestuary.org

Michael Chee
Regional Water Board
1515 Clay Street, Suite 1400
Oakland, CA 94612
(510) 622-2333
Michael.Chee@waterboards.ca.gov

Jasmine Oaxaca
State Water Resources Control Board
Office of Enforcement
801 K Street, 23rd Floor
Sacramento, CA
(916) 322-5327
Jasmine.Oaxaca@waterboards.ca.gov