

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

STAFF SUMMARY REPORT (Sam Plummer)
MEETING DATE: February 12, 2020

ITEM: 6.D

SUBJECT: **City of Piedmont, Wastewater Collection System, Alameda County – Reissuance of NPDES Permit**

CHRONOLOGY: September 2014 – Consent Decree entered by Court
November 2014 – Permit Reissued

DISCUSSION: This item is one of items 6.D through 6.J, which would reissue permits for the wastewater collection systems for the cities of Alameda, Albany, Berkeley, Emeryville, Oakland, and Piedmont and the Stege Sanitary District (collectively, the Satellites). All discharge untreated wastewater into the East Bay Municipal Utility District (EBMUD) interceptor system. The requirements proposed in these tentative orders are identical; only the facility descriptions differ. Item 6.C, which would reissue the permit for the EBMUD Wet Weather Facilities (WWFs), is also associated with these items.

This Revised Tentative Order (Appendix A) would reissue the NPDES permit for the City of Piedmont's wastewater collection system, continuing the previous permit prohibition on causing or contributing to discharges from the WWFs. This prohibition is consistent with a 2007 State Water Board order that the WWFs must either meet secondary treatment standards or cease discharge. The prohibition is necessary because inflow and infiltration within the Satellites' collection systems contribute to high wastewater flows during wet weather, which in turn results in excess wastewater discharged from the WWFs.

In 2009, the U.S. EPA brought a lawsuit, which the Regional and State Water Boards joined, against the Satellites to enforce the Satellites' NPDES permits' prohibition on causing or contributing to discharges from the WWFs. The U.S. District Court entered a Consent Decree on September 22, 2014, reached by the Regional Water Board, State Water Board, U.S. EPA, EBMUD, and the Satellites that sets forth various work obligations to address the WWF discharges and sanitary sewer overflows. This Consent Decree requires the reduction and eventual cessation of all WWF discharges, beginning with the San Antonio WWF in 2027 and ending with the Oakport WWF in 2035, with mid-course check-ins in 2022 and 2030.

The Consent Decree requires, among other things, that each of the Satellites undertakes the following work:

- Clean sewers at specified minimum rates,
- Rehabilitate sewer mains and manholes,
- Eliminate sources of inflow and infiltration, and
- Assist in implementation of a regional private sewer lateral rehabilitation program.

As of the Satellites' most recent Annual Reports, dated September 2019, all have met the Consent Decree's cumulative work requirements.

The Satellites collectively commented on the tentative orders (Appendix B). Many of the comments from the Satellites are identical to those they made during the 2009 and 2014 permit reissuances. We did not revise the tentative orders in response to these comments (Appendix C) because the circumstances have not significantly changed since the previous permit reissuances.

To summarize, the Satellites object to the cause and contribute prohibition, and reject the Board's authority to issue NPDES permits for the wastewater collection systems. The Satellites cite various legal arguments as bases for their objections, and we disagree. The prohibition is appropriately based on federal regulation that ensures compliance with the Clean Water Act. The Regional Water Board's authority to issue the NPDES permits is clear because the Satellites contribute to the discharge of pollutants through the WWFs into waters of the U.S.

The attached Revised Tentative Order reflects a minor editorial change made to the City of Piedmont's draft permit. We recommend adoption of the Revised Tentative Order as it is substantially the same as the previous permit that formed the basis of the Consent Decree. As of this writing, we expect this item to be uncontested.

RECOMMEN-
DATION: Adoption of the Revised Tentative Order.

FILE: CW-248352

APPENDICES: A. Revised Tentative Order
B. Comments
C. Response to Comments

Appendix A
Revised Tentative Order

Appendix B

Comments

In accordance with Section 11546.7 of the California Government Code, an electronic version of the comments received have not been posted online as they do not meet specified accessibility standards. For an electronic copy of the comments, please see the contact information provided in Fact Sheet section VIII.G of the revised tentative order.

Appendix C
Response to Comments