

1 spill over
3 days

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

ENFORCEMENT HEARING

STAFF SUMMARY REPORT
STAFF: Greg Walker
MEETING DATE: September 15, 2004

ITEM: 6

SUBJECT: CITY AND COUNTY OF SAN FRANCISCO, SHERIFF'S DEPARTMENT, SANITARY SEWER SYSTEM, San Mateo County - Hearing to Consider Administrative Civil Liability for Discharge of Untreated Wastewater to Waters of the State

CHRONOLOGY: The Board has not considered this item before.

DISCUSSION: During the period between April 12, 2003, and April 15, 2003, San Francisco's Sheriff's Department had an unauthorized discharge of up to 99,000 gallons of un-recovered raw sewage to Milagra Creek and to Pacific Manor, a beach located in the City of Pacifica, and to the Pacific Ocean. The ACL amount is \$118,000, which includes \$8,000 in staff cost. San Francisco may perform a supplemental environmental project (SEP) in an amount equivalent to \$110,000 in lieu of an equal amount of the ACL penalty.

San Francisco has signed the waiver to a Board hearing and intends to propose a SEP.

RECOMMEN-
DATION No action required

File No.: 2169.6009

Appendix: A. Complaint No. R2-2004-0007, staff report and signed waiver.

Appendix A

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

COMPLAINT NO. R2-2004-0007

ADMINISTRATIVE CIVIL LIABILITY
IN THE MATTER OF
THE SHERIFF'S DEPARTMENT
AND
THE CITY AND COUNTY OF SAN FRANCISCO

Pursuant to California Water Code (CWC) Sections 13323 and 13385, this Complaint to assess Administrative Civil Liability (ACL) is issued to the Sheriff's Department and the City and County of San Francisco (hereinafter the Dischargers). The Complaint addresses the Dischargers' violation of Discharge Prohibition 15 contained on page 4-10 of the 1995 Water Quality Control Plan (hereinafter the Basin Plan). ✓

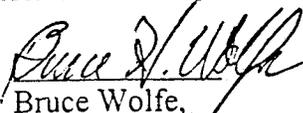
The Executive Officer finds that: is located

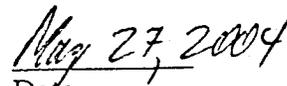
1. The Sheriff's Department Jail^A in San Bruno and is served by a private sewer lateral maintained and owned by the Dischargers. Sewage from the Jail is conveyed to the City of South San Francisco treatment plant for eventual treatment and disposal.
2. On Saturday evening of April 12, 2003, the City of San Bruno Police contacted Daly City Public Works concerning raw sewage flowing from a manhole into a storm drain inlet on 4100 Susan Drive in San Bruno. Daly City's Public Works crews responded to relieve the stoppage and were unsuccessful. The Dischargers were contacted regarding the overflow and San Francisco Public Utilities Commission (PUC) crews responded on April 13, 2003, discovering a blockage due to rubble from a collapsed manhole structure.
3. The rubble from the collapsed manhole resulted in an unauthorized discharge of untreated sewage to a storm drain inlet leading to Milagra Creek and the Pacific Ocean. The PUC had installed an odor control device in the sewer line, and its last inspection of the sewer line was two years prior. That inspection was "visual and casual" and concluded, "nothing out of the ordinary was noticed".
4. On Monday afternoon, April 14, 2003, the flow of sewage to Milagra Creek was halted. The PUC estimated the un-recovered sewage overflow was less than 99,000 gallons.
5. During sewer line repairs, an adjacent drinking water transmission pipeline belonging to the North Coast Water District was punctured and the Community Alert System was used to notify the residences of the City of Pacifica to boil or chlorinate their drinking water for several days.
6. The City of Pacifica notified Board staff, State Office of Emergency Services, San Mateo County Health Department and subsequently posted notification of the sewage contamination

"The nature, circumstances, extent, and gravity of the violation or violations, whether the discharge is susceptible to cleanup or abatement, the degree of toxicity of the discharge, and, with respect to the violator, the ability to pay, the effect on its ability to continue its business, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and such other matters that justice may require."

THE DISCHARGERS ARE HEREBY GIVEN NOTICE THAT:

1. The Executive Officer of the Water Board proposes that the Dischargers be assessed an ACL in the amount of \$118,000, which includes \$8,000 in staff cost.
2. The Water Board will hold a hearing on this Complaint on July 21, 2004, unless the Dischargers waive the right to a hearing by signing the last page of this Complaint and check the appropriate box. By doing so, the Dischargers agree to:
 - a) Pay the full penalty of \$118,000 within 30 days after the signed waiver becomes effective, or
 - b) Pay a penalty in the amount of \$8,000 within 30 days after the signed waiver becomes effective, and satisfactorily completes a supplemental environmental project (SEP) in an amount equivalent to \$110,000.
3. If the Dischargers choose to propose an SEP, they must submit a proposal by August 23, 2004 for the Executive Officer's approval. Any SEP proposal shall also conform to the requirements specified in Section IX of the Water Quality Enforcement Policy, which was adopted by the State Water Resources Control Board on February 19, 2002. If the proposed SEP is not acceptable to the Executive Officer, the Dischargers have 30 days from receipt of notice of an unacceptable SEP to either submit a new or revised proposal, or make a payment for the suspended amount of \$110,000. All payments, including any money not used for the SEP, must be payable to the State Water Pollution Cleanup and Abatement Account. Regular reports on the SEP implementation shall be provided to the Executive Officer according to a schedule to be determined. The completion report for the SEP shall be submitted to the Executive Officer within 60 days of project completion.
4. The signed waiver will become effective on the next day after the public comment period for this Complaint is closed, provided that there is no significant public comments on this Complaint during the public comment period. If there are significant public comments, the Executive Officer may withdraw the Complaint and re-issue it as appropriate.
5. If a hearing is held, the Water Board will consider whether to affirm, reject, or modify the proposed ACL, or whether to refer the matter to the Attorney General for recovery of the civil liability.


Bruce Wolfe,
Executive Officer


Date

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

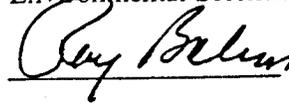
STAFF ANALYSIS AND RECOMMENDATIONS

TO: Bruce Wolfe
Executive Officer

FROM: Ray Balcom
Environmental Scientist

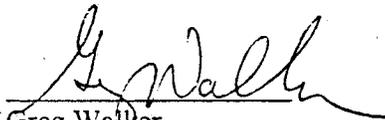
DATE: May 26, 2004

SIGNATURE:

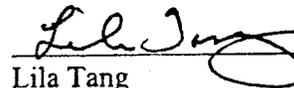


SUBJECT: Consideration of Administrative Civil Liability for Violation of Sewage Discharge Prohibition in 1995 Water Quality Control Plan - Complaint No. R2-2004-0007
Sheriff's Department and the City and County of San Francisco

CONCUR:

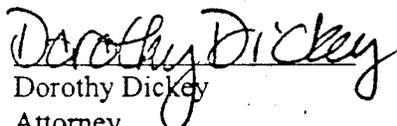


Greg Walker
Section Leader



Lila Tang
Division Chief

Reviewed for Legal
Form and Sufficiency:



Dorothy Dickey
Attorney

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untreated sewage to Milagra Creek and Pacific Ocean. The estimated volume of un-recovered sewage overflow was estimated to be 99,000 gallons.

B. Circumstances, Extent, and Gravity of Violation

According to the PUC, there were sand and rocks at the base of the collapsed manhole, and the debris caused the blockage that resulted in the overflow to Milagra Creek. The lateral was last inspected by the PUC about two years prior and the inspection was classified as "visual and casual". The sewer lateral failure was due in part to sulfide corrosion and an infrequent inspection schedule. In addition there was a delay in spill response and elimination of the overflow of approximately 18.5 hours from Saturday, 7PM on April 12, 2003 to 1:20 PM on Monday, April 14, 2003. During this time, the Dischargers' staff left the spill site without securing the overflow or installing a pump-around for about 12 hours from 6:50 P.M. on April 13, 2003 to 6:30 AM on April 14, 2003.

On April 15, 2003, during the day, a City of Pacifica Public Works inspector reportedly found the Dischargers' staff sleeping at the overflow site and notified them that their two portable pumps had run out of fuel and had stopped. Sewage was again overflowing to Milagra Creek.

The un-recovered overflow volume of 99,000 gallons is based on the PUC's April 18, 2003, spill report. The calculated volume is based on site observations in the storm drain of less than 100 gallons per minute for a calculated duration of 16.5 hours. The overflow to Milagra Creek resulted in the City of Pacifica needing to close the beach at Pacifica Manor for eleven days until water quality standards were met.

C. Degree of Toxicity of the Discharge

According to a City of Pacifica correspondence on the sewer spill dated June 18, 2003, Pacific Manor Beach was closed for an 11-day period and reopened after bacteria concentration in water samples were below bacteria standards used by the County of San Mateo. It is difficult for Board staff to accurately assess the direct impacts of the discharge. However, raw sewage typically has elevated concentrations of biochemical oxygen demand, trash, total suspended solids, oil and grease, ammonia, bacteria (which is measured in terms of total and fecal coliform), and viruses. Raw sewage from jails, such as this, commonly has higher concentrations of pollutants than typical residential sewage. These pollutants exert varying levels of impact on water quality, and hence may adversely affect beneficial uses of receiving waters and to some extent can adversely affect water quality and beneficial uses as a result of sewage overflows that includes:

- Adverse impact to fish, and other aquatic biota caused by bio-solid deposition and oil and grease;
- Creation of a localized toxic environment in the water column as a result of the discharge of oxygen demanding pollutants, that lower dissolved oxygen, and elevated ammonia concentration, which is a demonstrated fish toxicant at low concentrations; and,
- Impairment to water contact recreation and harm to fish and wildlife as a result of elevated bacteria levels including pathogens.

D. Discharge Susceptible to Cleanup and Abatement

Had the Dischargers immediately diverted the overflow to a downstream location when they were first notified on April 12, the overflow may have been contained within the storm drain system. Instead it emptied into Milagra Creek and Pacific Ocean. The overflow occurred for about three days while repair crews attempted to relieve the backup, and none of the unauthorized discharge was recovered.

According to the Pacifica Tribune, Pacifica residents were inconvenienced for three days with a "community boil water alert" because, during their response to the spill, the Dischargers' staff punctured the North Coast County Water District's pipeline that supplies a large portion of Pacifica.

It is difficult for Water Board staff to accurately assess the direct impact of the discharge to Milagra Creek Drainage, Pacific Manor Beach and the Pacific Ocean. Raw sewage has elevated concentrations of biochemical oxygen demand, total suspended solids, oil and grease, ammonia, and bacteria measured in terms of total and fecal coliforms. These pollutants exert varying levels of impact on water quality and hence which may adversely affect beneficial uses as a result of this sewage overflow which may include:

- Impact to fisheries.
- Localized toxicity due to ammonia and depressed dissolved oxygen levels.
- Impaired water contact recreation and the harming of fish and wildlife due to elevated bacteria levels and pathogens.

In conclusion, an additional \$20,000 assessment is added to the initial liability for beneficial use impacts.

C. Base Amount

The Enforcement Policy describes that the base amount can be a combination of the initial liability and the beneficial use liability. Board staff believes the above combined initial and beneficial use liabilities of \$80,000 is an appropriate base amount to reflect the significance of the violation.

D. Conduct of the Dischargers

Because of conduct of the Dischargers, the base amount is increased from \$80,000 to \$110,000. The private lateral failed due to corrosion and a lack of maintenance and inspection oversight. Repair crews thought the sewer system was combined and did not take immediate steps to contain the sewage overflow. The overflow was not completely diverted to the sanitary sewer until Monday afternoon on April 14, 2003 by the Dischargers' staff. As a result, the overflow entered a storm drain inlet across the street resulting in an unauthorized continuous discharge of untreated sewage to Milagra Creek for two days. To compound the problem, on April 15, 2003, according to a Pacifica Public Works inspector, the Dischargers' bypass pumps ran out of fuel around mid-day while repair crews were asleep, and an additional unquantified release of sewage to Milagra Creek was observed. After the initial overflow was eliminated, the Pacifica Tribune reported that the Dischargers' staff on April 16, 2003, had punctured the City of Pacifica water supply pipeline, resulting in a water supply interruption and a "community boil water alert". No cleanup efforts were reported for the Milagra Creek discharge.

E. Adjustment for Other Factors

As discussed in section IV.H above, Board staff believes the above ACL amount of \$110,000 is appropriate and no further adjustment is needed based on other factors.

F. Economic Benefit

The economic benefit to the Dischargers amounted to the interest and/or income earned from capital investments that would have otherwise been spent on the proper management of the collection system to comply with the Basin Plan requirements. The sewage overflow was attributed to the Dischargers' lack of deferred maintenance and inspections. The total cost of maintaining and inspecting the private lateral was considered less than the ACL amount of \$110,000.

WAIVER

(The signed waiver will become effective on the next day after the public comment period for this Complaint is closed, provided that there is no significant public comments on this Complaint during the public comment period. If there are significant public comments, the Executive Officer may withdraw the Complaint and re-issue it as appropriate.)

Waiver of the right to a hearing and agree to make payment in full.

By checking the box, I agree to waive my right to a hearing before the Water Board with regard to the violations alleged in Complaint No. R2-2004-0007 and to remit the full penalty payment to the State Water Pollution Cleanup and Abatement Account, c/o State Water Resources Control Board at 1515 Clay Street, Oakland, CA 94612, within 30 days after the signed waiver becomes effective as indicated above. I understand that I am giving up my right to be heard, and to argue against the allegations made by the Executive Officer in this Complaint, and against the imposition of, or the amount of, the civil liability proposed.

Waiver of the right to a hearing and agree to make payment and undertake an SEP.

By checking the box, I agree to waive my right to a hearing before the Water Board with regard to the violation alleged in Complaint No. R2-2004-0007 and to satisfactorily complete a supplemental environmental project (SEP) in lieu of a suspended liability of \$110,000. I also agree to remit payment of \$8,000 to the State Water Pollution Cleanup and Abatement Account within 30 days after the signed waiver becomes effective. I understand that the SEP proposal shall conform to the requirements specified in Section IX of the Water Quality Enforcement Policy, which was adopted by the State Water Resources Control Board on February 19, 2002, and be subject to approval by the Executive Officer. If the SEP proposal, or its revised version, is not acceptable to the Executive Officer, I agree to pay a suspended penalty amount of \$110,000 within 30 days of a letter from the Executive Officer denying the approval of the proposed SEP. I also understand that I am giving up my right to argue against the allegations made by the Executive Officer in the Complaint, and against the imposition of, or the amount of, the civil liability proposed. I further agree to complete the approved SEP within a time schedule set by the Executive Officer.

MICHAEL HENNESSEY
Name (print)

8-19-04
Date

Manuel J. Ramsey
Signature

SHERIFF of San Francisco
Title/Organization