

PROPOSED DRAFT

NOTICE OF PUBLIC HEARING TO CONSIDER

ADMINISTRATIVE CIVIL LIABILITY COMPLAINTS
R2-2008-0067 ISSUED TO CITY OF SAN MATEO
R2-2008-0066 ISSUED TO TOWN OF HILLSBOROUGH
R2-2008-0065 ISSUED TO CRYSTAL SPRINGS SANITATION DISTRICT

AND

TENTATIVE CEASE DESIST ORDER ISSUED TO
CITY OF SAN MATEO, TOWN OF HILLSBOROUGH, AND CRYSTAL SPRINGS
SANITATION DISTRICT

NOTICE IS HEREBY GIVEN THAT A HEARING WILL BE HELD BEFORE THE REGIONAL BOARD ON NOVEMBER 12, 2008

Background

1. Administrative Civil Liability Complaints:

The Assistant Executive Officer has issued Administrative Civil Liability (ACL) Complaints pursuant to California Water Code Section 13323 (CWC) against the City of San Mateo, Town of Hillsborough and Crystal Springs Sanitation District (Dischargers) for alleged discharges of untreated sewage.

The Complaints allege that each has violated State Water Resources Control Board Order No. 2006-003 DWQ. The complaint issued to the City of San Mateo also alleges that it violated specific provisions of Order No. 01-071 (NPDES Permit No. CA 0037541) and Order No. R2-2007-0075 (NPDES permit No. CA 0037541). The Complaints issued against the Town of Hillsborough and the Crystal Springs Sanitation District also alleges that each violated Discharge Prohibition 15 in the Water Quality Control Plan for the San Francisco Bay Basin.

The ACL Complaints propose that administrative civil liability in the following amounts be imposed as authorized by CWC Section 13350:

- City of San Mateo, \$950,000
- Town of Hillsborough, \$750,000
- Crystal Springs Sanitation District, \$23,375

2. Tentative Cease and Desist Order:

The Assistant Executive Officer has issued a tentative Cease and Desist Order (CDO) pursuant to 13301, which if adopted by the San Francisco Bay Regional Water Control Board would require that the City of San Mateo, Town of Hillsborough and Crystal

Springs Sanitation District cease and desist from discharging waste from their respective sanitary sewer systems in violation of requirements in Board Order Nos. 01-071 and R2-2007-0075, Water Quality Control Plan for the San Francisco Bay Basin, and State Water Board Order No. 2006-003 DWQ. The Tentative Order also sets forth specific tasks including requirements concerning spill response, record keeping, notification, reporting, collection system maintenance and management, collection system condition and capacity assessments, capacity assurance, infrastructure renewal, coordination.

Purpose of Hearing

Unless the Dischargers waive their rights to a hearing and pay the proposed liability, hearings will be held on the ACL complaints before the Regional Water Board during its meeting of November 12, 2008. A hearing will be held on the same date concerning the tentative cease and desist orders. The purpose of the hearings will be to receive relevant evidence and testimony regarding the proposed ACL Complaints and Tentative Cease and Desist Order. At the ACL hearings, the Regional Water Board will consider whether to adopt the proposed ACL assessments, modify them, or reject them. Each Discharger can waive its right to a hearing to contest the allegations against it by paying the civil liability in full or undertaking an acceptable Supplemental Environmental Project in accordance with the procedures and limitations set forth in the waiver attached to the Complaint.

The public hearings on these matters on November 12 will commence at 9 am or as soon thereafter as practical, or as announced in the Water Board's meeting agenda. The meeting will be held in the Auditorium at 1515 Clay Street, Oakland, CA. An agenda for the meeting will be issued at least ten days before the meeting and will be posted on the Regional Water Board's web page at <http://www.waterboards.ca.gov/sanfranciscobay>.

Hearing Procedures

A copy of the procedures governing an adjudicatory hearing before the Regional Water Board may be found at Title 23 of the California Code of Regulations, § 648 et seq., and is available at <http://www.swrcb.ca.gov> or upon request. Except as provided in Title 23 of the California Code of Regulations (CCR), § 648(b), Chapter 5 of the Administrative Procedures Act (commencing with § 11500 of the Government Code) does not apply to adjudicatory hearings before the RWQCB. This Notice provides additional requirements and deadlines related to the proceeding. THIS NOTICE MAY BE AMENDED BY THE ADVISORY STAFF AS NECESSARY. FAILURE TO COMPLY WITH THE DEADLINES AND REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF DOCUMENTS AND/OR TESTIMONY.

Hearing Participation

Participants in these proceeding are designated as either "parties" or "interested persons". Designated parties to the hearings may present evidence and cross-examine witnesses and are subject to cross-examination. Interested persons may present non-evidentiary policy statements, but may not cross-examine witnesses and are not subject to cross-

examination. Both designated parties and interested persons may be asked to respond to clarifying questions from the Regional Water Board, staff or others, at the discretion of the Regional Water Board.

The following participants are hereby designated as parties in all of the proceedings:

1. Regional Water Board Prosecution Staff

The following participants are also designated as parties in the proposed ACL proceedings:

1. In the proceeding to consider R2-2008-0067 ISSUED TO CITY OF SAN MATEO, the City of San Mateo
2. In the proceeding to consider R2-2008-0066 ISSUED TO TOWN OF HILLSBOROUGH, the Town of Hillsborough
3. In the proceeding to consider R2-2008-0065 ISSUED TO CRYSTAL SPRINGS SANITATION DISTRICT, the Crystal Springs Sanitation District

The following participants are also designated as parties in the proposed CDO proceeding:

1. The City of San Mateo
2. The Town of Hillsborough
3. The Crystal Springs Sanitation District

Contacts

Prosecution Staff:

Dyan Whyte, Assistant Executive Officer, dwhyte@waterboards.ca.gov
Tom Mumley, Assistant Executive Officer, tmumley@waterboards.ca.gov
Lila Tang, NPDES Division Chief, ltang@waterboards.ca.gov
Gina Kathuria, Section Leader, gkathuria@waterboards.ca.gov
Michael Chee, Water Resources Control Engineer, mchee@waterboards.ca.gov
Dorothy Dickey, Attorney, ddickey@waterboards.ca.gov
Cris Carrigan, Attorney, ccarrigan@waterboards.ca.gov
Erik Spiess, Attorney, espeiss@waterboards.ca.gov

Regional Water Board Advisory Staff:

Bruce Wolfe, Executive Officer, bwolfe@waterboards.ca.gov
Yuri Won, Attorney, ywon@waterboards.ca.gov

City of San Mateo

[enter names and addresses]

Town of Hillsborough

[enter names and addresses]

Crystal Springs Sanitation District

[enter names and addresses]

Separation of Functions

To help ensure the fairness and impartiality of this proceeding, the functions of those who will act in a prosecutorial role by presenting evidence for consideration by the Regional Water Board (Prosecution Staff) have been separated from those who will provide advice to the Regional Water Board (Advisory Staff). Members of the Advisory Staff and the Prosecution Staff are listed above. This Notice has been issued by the Advisory Staff based on a draft proposed by the Prosecution Staff.

Ex Parte Communications

The designated parties and interested persons are forbidden from engaging in *ex parte* communications regarding this matter with members of the Advisory Staff or members of the Regional Water Board. An *ex parte* contact is any written or verbal communication pertaining to the investigation, preparation or prosecution of ACL Complaints or proposed Cease and Desist Orders between a member of a designated party or interested party on the one hand, and a Regional Water Board member or an Advisory Staff member on the other hand, unless the communication is copied to all other designated and interested parties or made at a proceeding open to all other parties and interested persons (if verbal). Communications regarding non-controversial procedural matters are not *ex parte* contacts and are not restricted. Communications among the designated and interested parties themselves are not *ex parte* contacts.

Requesting Designated Party Status

Persons who wish to participate in any of the hearings as a designated party shall request party status by submitting a request in writing (with copies to the designated parties) no later than 5 p.m. on October 16 to Yuri Won, ywon@waterboards.ca.gov or at 1515 Clay Street, Suite 1400, Oakland, CA 94612. The request shall include an explanation of the basis for status as a designated party (e.g., how the issues to be addressed in the hearing and the potential actions by the Regional Water Board affect the person), the information required of designated parties as provided below, and a statement explaining why the party or parties designated above do not adequately represent the person's interest. The parties will be notified within seven days if the request is denied.

Hearing Time limits

To ensure that all participants have an opportunity to participate in the hearing, the following time limits shall apply: each designated party shall have 20 minutes to testify in each matter in which they are designated, present evidence, and cross-examine witnesses, and each interested person shall have 3 minutes to present a non-evidentiary policy statement. Participants with similar interests or comments are requested to make

joint presentations, and participants are requested to avoid redundant comments. Additional time may be provided at the discretion of the hearing officer upon a showing that additional time is necessary.

Written Comment and Evidence Deadline

Designated parties shall submit in writing the following information to Bruce Wolfe, Executive Officer, at 1515 Clay Street, Suite 1400, Oakland, CA 94612 no later than 5 p.m. on October 16, 2008.

1. All written comments and evidence proposed to be offered at the hearing.
2. All legal and technical arguments or analysis.

In addition to the foregoing, each designated party shall send (1) one copy of the above written materials to prosecution staff Dyan Whyte, Michael Chee, and Dorothy Dickey, by email or at 1515 Clay Street, Suite 1400, Oakland, CA 94612 no later than 5 p.m. on October 16, 2008.

Power Point and other computer assisted visual presentations may be presented at the Hearing as long as the contents do not exceed the scope of other submitted written material. They may be submitted prior to the hearing.

Evidentiary Documents and File

The Complaints, Tentative Order, related evidentiary documents and comments received are on file and may be inspected or copied at the Regional Water Board's office at 1515 Clay Street, Oakland, CA 94612 during weekdays between 8 a.m. and 5 p.m. Please call (510) 622-2300 to make arrangements for file review. The Complaints and Tentative Cease and Desist Order are also available on the Board's website at www.waterboards.ca.gov/sanfranciscobay. Although the web page is updated regularly, to assure access to the latest information, you may contact Prosecution Team member Michael Chee at (510) 622-2333 or mchee@waterboards.ca.gov.

Questions

Questions concerning this proceeding may be addressed to Yuri Won at (510) 622-2491 or ywon@waterboards.ca.gov.

[signature]
Executive Officer

DATE