



Sanitary Sewer Order Enforcement

Updated 7/2013

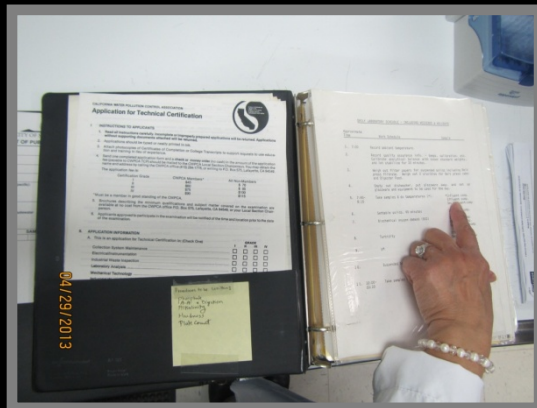
James Fischer, P.E.
State Water Resources Control Board
Office of Enforcement/Special Investigations Unit
1001 I Street, Sacramento, CA 95814
Jim.Fischer@waterboards.ca.gov

1. Areas Likely to be Checked

2. Top Audit Issues Identified

3. Example Enforcement Responses

4. Tips on Being Prepared

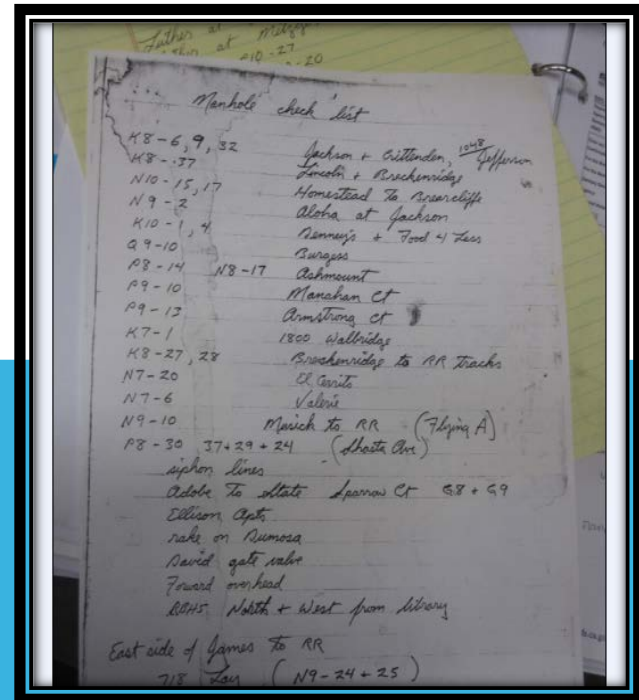
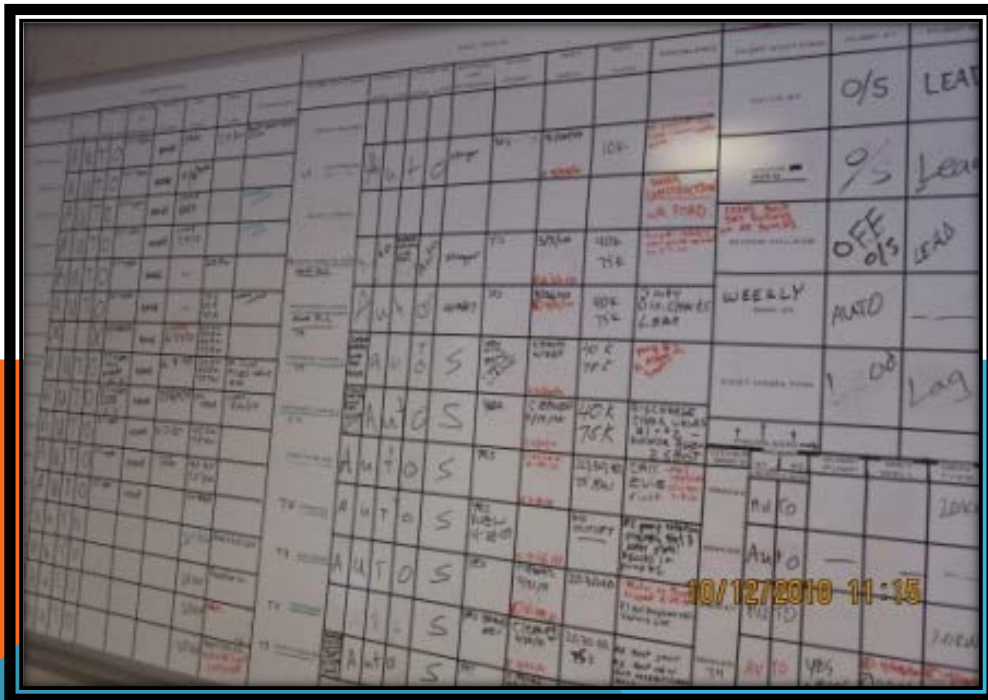


1. Areas Likely to be Checked

- High volume and/or chronic SSOs
- Referrals by Regional Boards
- Complaints from operators/public
- Failure to enroll/comply with reporting requirements
- Suspect reporting (few or no spills reported based on comparative metrics)
- Failing “Pre-Inspection Questionnaire”

1. Areas Likely to be Checked

- Records to verify accuracy of data certified by Legally Responsible Official(s)
 - Hard copies, including computerized records
 - Historic customer call-ins and call-outs
 - Crew logs and original field record documentation



1. Areas Likely to be Checked

- Sewer System Management Plan (SSMP) implementation
- Specific examples:
 - ✓ Procedures used to ensure staff/contractors follow Overflow Emergency Response Plan (OERP): D.13(vi)(d)
 - ✓ Process used to maintain up-to-date map of the sewer system: D.13(iv)(a)
 - ✓ Process used to evaluate service area for Fats, Oils, and Grease (FOG) control program: D.13(vii)
 - ✓ Implementation schedules for sewer rehabilitation and replacement [D.13(iv)(c)] and capacity improvement programs [D.13(viii)(d)]

1. Areas Likely to be Checked

- Work Service Orders, maintenance and related records
- All Available records to justify SSO volumetric estimates
 - Pump stations
 - Supervisory Control and Data Acquisition (SCADA)
 - Flow monitoring
 - Field data
 - Photos
 - other
- Staff training records
- Agency financial information
- Logbooks (incoming complaints, maintenance activities, etc.)

1. Areas Likely to be Checked

- **Standard Operating Procedures (SOPs)** for asset inspections and maintenance:
 - Pump stations
 - Line cleaning/pump station cleaning
 - Force main/air relief valve inspections and maintenance
 - Generator exercising
 - Pump station alarm testing
 - Valve exercising

1. Areas Likely to be Checked

- **SSO Emergency Operating Procedures (EOPs)** and evidence of Overflow Emergency Response Plan implementation
- Procedures in place to ensure only authorized representatives certify data in CIWQS
- SSMP “Self Audits”

1. Areas Likely to be Checked

- Typical sewer assets checked:
 - Those posing highest potential risks/threats for SSOs
- Lift/pumping facilities
- Force main conveyance systems
- Main line “hot spots”/problem areas
- Former SSO sites



Example: pump station located adjacent to storm drain inlet and major surface water body (State Water Project Canal)



Resulted in a violation for failure to maintain asset



Examples: pump stations or main lines located adjacent to public access, storm drains or surface waters

Example: major upgrades were performed to prevent likelihood of another SSO near this location



Example: check of agency's SOPs for proper maintenance and operations and SSO response/mitigation procedures for high risk assets



1. Areas Likely to be Checked

- Familiarity with permit and SSMP
- Adequacy of field records and data to ensure compliance
- Coordination of O&M and Engineering staff
- Interviews with O&M and Engineering staff to cross check evidence provided by sewer managers

2. Top Audit Issues Identified

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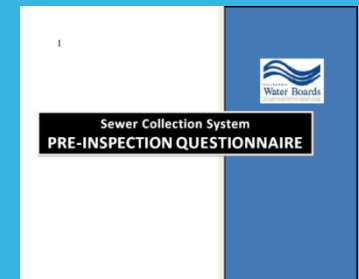
1. Failure to implement feasible alternatives and actions necessary to identify, correct problems, and prevent SSOs and impacts (Provisions D.3, D.4, D.6)
2. Failure to comply with SSS WDRs and Amended MRP requirements and report all SSOs
3. Failure to maintain adequate records to demonstrate compliance with Amended MRP
4. Failure to develop and implement schedules for sewer rehabilitation and replacement [D.13(iv)(c)] and capacity improvement program [D.13(viii)(d)]
5. Failure to develop and/or implement approved SSMP

3. Example Enforcement Responses

3. Example Enforcement Responses

1. “Pre-Inspection Questionnaire” Example

- Used by Water Boards to improve inspection efficiency
- Effective compliance screening tool
- Provides key program insights often beyond SSMP
- Assists regulated community with preparing for inspections + anticipating most likely areas to be checked



1 DOCUMENTATION

Please mail an electronic copy (e.g., CD) of the following documents to:

State Water Resources Control Board
Office of Enforcement, Special Investigations Unit
1001 I Street, 16th Floor, Sacramento, CA 95814

**ACTUAL
EXAMPLE**

- 1.1 Sewer System Management Plan [(SSMP) [Sanitary Sewer System General Waste Discharge Requirements (SSSWDR), Sect. D.13] and any documents referenced within the SSMP. Also include documentation showing approval of the SSMP by your agency's local governing board (e.g., Board Resolution or other documentation). We are in the process of securing a firm to do a gap analysis and taking the completed SSMP to council for adoption.
- 1.2 SSMP Program Audit² [SSSWDR, Sect. D.13(x)], if not contained within your agency's SSMP Draft audit available in hardcopy.
- 1.3 Sewer System Area Map [SSSWDR, Sect. D.13(iv)], if not contained within your agency's SSMP
- 1.4 Local Sewer Use Ordinance [SSSWDR, Sects. D.13(iii) and D.13(vi)], if not contained within your agency's SSMP

² To satisfy SSSWDR, Sect. D.13(x), the SSMP Audit must occur at least every two years following the original approval date of the agency's SSMP by the local governing board. The SSMP Audit must measure the effectiveness and compliance of an Enrollee's SSMP.

14 NOTIFICATION, REPORTING AND RECORD KEEPING

- 14.1 [SSSWDR, Amended MRP B(5)]: Are all the records required in the Amended MRP, B(5) ("Record Keeping") readily available for review by the Water Boards? [Y/N]
- 14.2 [SSSWDR, Amended MRP, B(5)]: Does your agency maintain a list and description of all sewer-related complaints from customers for the past 4 years, including calls received after normal working hours? [Y/N] Y
- 14.3 [SSSWDR, Amended MRP, B(5)]: If yes to question 13.2, does this include information regarding privately owned sewer laterals? [Y/N] N
- 14.4 [SSSWDR, G, and Amended MRP]: Does your agency have a quality assurance/quality control (QA/QC) procedure in place for review of technical information collected by field staff prior to certification of the SSO report(s) in the Water Board's online reporting system (CIWQS) by the Legally Responsible Official(s)? [Y/N] N
- 14.5 [SSSWDR, G and Amended MRP]: Does your agency require crews to take photos of all SSOs? [Y/N] N
- 14.6 [SSSWDR, G and Amended MRP]: If no to question 14.5, does your agency at least require crews to take photos of SSOs that result in backups into structures? [Y/N] Y
- 14.7 [SSSWDR, G and Amended MRP]: Does your agency have a procedure(s) in place for collecting field information to assist in determining the actual SSO start time? [Y/N] N
- 14.8 [SSSWDR, G and Amended MRP]: Does your agency use SOPs to estimate SSO volume spilled, recovered and not recovered, including estimation of cleanup water used? [Y/N] S
- 14.9 [SSSWDR, G and Amended MRP]: Does your agency regularly update initial reports given to the California Emergency Management Agency, local health department, and Regional Board as information develops regarding SSOs requiring notification? [Y/N] N
- 14.10 [Amended MRP, B.6]: Does your agency maintain water quality monitoring records as required by the Amended MRP, section B(6)? N

15 SSO PREVENTION AND MITIGATION

- 15.1 [SSSWDR, D.13(ix)]: Does your agency generate SSO reduction performance metric(s) for its collection system for use in future planning? [Y/N] N
- 15.2 [SSSWDR, D.13(ix)]: Does your agency have a program in place to conduct periodic video (CCTV) inspections of areas throughout the collection system that have never been evaluated by video (CCTV) to date? [Y/N or N/A] Y
- 15.3 [SSSWDR, D.13(ix)]: Does your agency document meetings between O&M and source control staff, if applicable? [Y/N or N/A] N
- 15.4 [SSSWDR, 8 and D.6]: Does your agency document meetings between O&M and engineering staff to discuss system problem areas and projects, if applicable? [Y/N or N/A] N
- 15.5 [SSSWDR, 8 and D.6]: Does your agency hold post-SSO briefings with collections staff, management and others involved, to evaluate root cause of SSOs and document service changes necessary to be prepared in responding to SSOs in the future? [Y/N] N
- 15.6 [SSSWDR, 8 and D.6]: Does your agency pursue investigation of upstream satellite(s) or potential illicit dischargers as part of the SSO cause determination process? [Y/N] N

- 15.7 [SSSWDR, 8 and D.6]: Does your agency adjust sewer collection system cleaning interval(s) for problem areas based on review and analysis of each past SSO? [Y/N] Y
- 15.8 [SSSWDR, 8 and D.6]: How many of the SSOs over the past 12 months were preventable through more proactive maintenance? [# OR Unknown] Unknown
- 15.9 [SSSWDR, 8 and D.6]: How many of the SSOs over the past 4 years occurred at repeat locations? [# OR Unknown] Unknown

3. Example Enforcement Responses

2. Example “Re-Inspection” Report



Los Angeles Regional Water Quality Control Board

March 12, 2013

Ms. Claudine Meeker
Deputy Director of Utilities
City of Alhambra
111 S. First Street
Alhambra, CA 91801

VIA US MAIL AND EMAIL

**INSPECTION REPORT FOR CITY OF ALHAMBRA COLLECTION SYSTEM, ALHAMBRA, CA
(ORDER NOS. 2006-0003-DWQ AND 2008-0002-EXEC)**

Dear Ms. Meeker:

The California Regional Water Quality Control Board, Los Angeles Region (Regional Board), is the public agency with primary responsibility for the protection of ground and surface water quality for all beneficial uses within major portions of Los Angeles and Ventura Counties, including the referenced site.

On December 20, 2011, USEPA, the State Water Resources Control Board (State Board), and the Regional Board conducted an inspection of the City of Alhambra Collection System, located at Alhambra, CA, as part of this Regional Board's effort to protect water quality pursuant to California Water Code section 13267. The Regional Board issued a Notice of Violation on June 18, 2012 to the City of Alhambra based on findings of this inspection.

On December 10, 2012, the State Board and Regional Board conducted a re-inspection of the City of Alhambra Collection System. On February 28, 2013, the Regional Board issued Investigative Order No. R4-2013-0010 requiring the City of Alhambra to submit additional information not immediately available during the re-inspection. Enclosed for your records is the inspection report for the re-inspection.

If you have any questions, please call Mr. Chris Lopez at (213) 576-6806 or Mr. Russ Colby at (213) 620-6373.

Sincerely,


Paula Rasmussen
Assistant Executive Officer

City of Alhambra

Sanitary Sewer Collection System Compliance Evaluation Re-Inspection

Alhambra, Los Angeles County

**Place ID #631880
Waste Discharge ID #4SSO10362**

Inspection Date: December 10, 2012

Inspection Report Prepared By: Julie Berrey, State Water Board, Office of Enforcement

Date of Report: December 24, 2012

Attachments:

- Attachment A – Summary of the City's Sanitary Sewer Overflows (SSOs)
- Attachment B – Summary of SSOs with Certification and Notification Violations
- Attachment C – SSO #764631 March 21, 2011 Documentation
- Attachment D – SSO #772308 October 20, 2011 Documentation
- Attachment E – City of Alhambra March 2009 Sewer System Rehabilitation Plan (Excerpts)
- Attachment F – City of Alhambra June 2007 Sewer Master Plan (Excerpts)
- Attachment G – City of Alhambra April 2009 Sanitary Sewer Management Plan (Excerpt)
- Attachment H – City of Alhambra March 3, 2012 Collection System Questionnaire

1. PURPOSE OF THE INSPECTION

The purpose of this re-inspection was to evaluate the City of Alhambra's (hereafter, City's) compliance with the Statewide General Waste Discharge Requirements for Sanitary Sewer Systems, State Water Resources Control Board Order No. 2006-0003-DWQ (hereafter, Sanitary Sewer Order), including the required CIWQS¹ reporting, sewer system management plan (SSMP) requirements, and amended Monitoring and Reporting Program (hereafter, Amended MRP) requirements, contained in Order No. 2008-0002-EXEC.

The City had been previously inspected on December 20, 2011, approximately one year earlier, which resulted in a Notice of Violation (NOV) dated June 18, 2012². The City responded to the NOV on June 27, 2012³, stating in what ways it had improved its program as a result of the inspection. This re-inspection was primarily focused on the City's NOV response and a review of all previously identified violations, areas of concern, and recommendations identified during the December 20, 2011 inspection.

The re-inspection consisted of interviews with City staff and management, a discussion of the City's collection system program, and a review of some of the City's sewer system records. The re-inspection included a partial review of the City's 2009 SSMP with a focus on capacity and capital improvement schedules and funding. Time did not allow for a field inspection to evaluate the City's operations, maintenance, and management of its sewer assets. Staff present at the re-inspection included:

Julie Berrey	State Water Resources Control Board
Chris López	Los Angeles Regional Water Quality Control Board
Jim Fischer	State Water Resources Control Board
David Dolphin	City of Alhambra
Martin Ray	City of Alhambra
Claudine Meeker	City of Alhambra
Ron Capotosto	City of Alhambra
Norman Kleinau	City of Alhambra

2. COLLECTION SYSTEM DESCRIPTION

As described in the City's March 7, 2012 annual Questionnaire⁴ (Attachment H), the City sanitary sewer collection system (hereafter, collection system) serves approximately 83,000 people. The collection system is composed of 130 miles of gravity flow pipelines, 1.3 miles of pressure force mains, manhole assets. Additionally, the City's SSMP states that the City operates and maintains manholes and 7 pump stations. The City currently has approximately 16,400 sewer connections.

3. FINDINGS

¹ California Integrated Water Quality System (CIWQS) online database, available at: https://ciwqs.waterboards.ca.gov/ciwqs/headOnlyPublicReportSSOorVat/reportAction=criteria&reportId=ssso_main

² June 18, 2012 Notice of Violation available at http://www.waterboards.ca.gov/water_issues/programs/ssos/

³ June 27, 2012 City of Alhambra Response to NOV available at http://www.waterboards.ca.gov/water_issues/programs/ssos/

⁴ Pursuant to the Amended MRP, all enrollees must complete the "Collection System Questionnaire" in CIWQS at least every 12 months.

The following findings in Tables 1 and 2 are inclusive of the onsite re-inspection and post-inspection review process.

TABLE 1: VIOLATIONS		
FINDING	APPLICABLE REQUIREMENT	SUPPORTING EVIDENCE
SSO DISCHARGES		
1) <i>Based on the review of CIWQS⁵ data between 1/2/07 and 12/10/12, the City certified 18 Sanitary Sewer Overflows (SSOs) of which 13 (or 72 percent) were Category 1⁶ SSOs, illegally discharged to surface waters.</i> REPEAT VIOLATION	Prohibition C.1 of Sanitary Sewer Order (see page 7)	All of the Category 1 SSOs that discharged to waters of the United States are in violation of Prohibition C.1 of the Sanitary Sewer Order. (See Attachment A.)
2) <i>Between 1/2/07 and 12/10/12, the City illegally discharged at least 1 additional Category 1 SSO that reached surface waters. (This SSO was not reported to CIWQS at the time of the re-inspection.)</i>	Prohibition C.1 of Sanitary Sewer Order (see page 7)	On August 22, 2012, the City discovered that the sewer lateral from a City-owned recreational pool facility was plumbed directly into the storm drain rather than to the sewer collection system. Martin Ray estimated that the pool facility had been built in 1991. The City illicitly discharged bathroom facility wastewater and pool filter backwash to surface waters.

⁵ California Integrated Water Quality System (CIWQS), hosted by the State Water Board (See www.waterboards.ca.gov/ciwqs/). The City was first required to report SSOs to CIWQS beginning January 2, 2007.

⁶ Pursuant to the Amended MRP, Category 1 SSO includes all discharges of sewage resulting from a failure in the Enrollee's sanitary sewer that (a) equal or exceed 1000 gallons; (b) result in a discharge to a drainage channel and/or surface water; or (c) discharge to a storm drainpipe that was not fully captured and returned to the sanitary sewer system. Category 2 SSOs are defined as all other SSOs that do not meet the definition of a Category 1 SSO.

TABLE I: VIOLATIONS (contd.)

FINDING	APPLICABLE REQUIREMENT	SUPPORTING EVIDENCE
SSO NOTIFICATION, REPORTING and DOCUMENTATION (contd.)		
5) <i>Between 1/2/07 and 12/10/12, the City failed to timely certify 5 out of at least 20 known Category 1 SSOs (25 percent noncompliance rate).</i>	Provision A.4 of Amended MRP (see page 2)	The City is required to complete and certify Category 1 SSO reports in CIWQS within 15 calendar days of the conclusion of SSO response and remediation. The City failed to timely certify three SSOs that were reported to CIWQS and at least two other SSOs that were never reported to CIWQS (see Violation #3 above). A list of the SSOs in which the City did not meet the required timeframes is included in Attachment B.
6) <i>The City failed to comply with the required 2-hour notification for at least 4 out of 13 known SSOs where sewage reportedly reached a drainage channel or surface water (31 percent noncompliance rate).</i>	Notification Provision 1 of Amended MRP (see page 1)	Since February 20, 2008, when the Amended MRP became effective, the City failed to timely notify all three required agencies (State Office of Emergency Services (California Emergency Management Agency after October 1, 2008), the local health officer, and the Regional Water Board) within two hours of becoming aware of an SSO reaching a drainage channel or surface water. A list of the SSOs that the City failed to provide timely 2-hour notification to the appropriate agencies is included in Attachment B.
7) <i>The City failed to retain and maintain adequate SSO records and documentation.</i> REPEAT VIOLATION	Provision B of Amended MRP (see page 5)	1) SSO Records: During the December 10, 2012 re-inspection, inspectors asked City staff to explain how SSO discharge volumes were calculated for the City's two most recent certified SSOs: SSO event #764631 that occurred on March 21, 2011; and SSO event #772308, a multiple-day SSO that occurred in October 2011. Despite reviewing all available written documentation and interviewing all available City collections staff (Martin Ray, Claudine Meeker, David Dolphin, Ron Capotosto, and Norman Kleinau), the City was not able to determine exactly who had responded to those SSOs or how the reported spill discharge and recovery volumes had been calculated. (See Attachments C and D.) 2) After-Hours Sewer Calls Records: Despite being told during the December 20, 2011 inspection and the resulting June 18, 2012 NOV to improve after-hours documentation of sewer-related calls, at the December 10, 2012 re-inspection, the City was still unable to produce proper documentation of SSO complaints received after normal business hours. The City has limited ability to control the Fire Department's record-keeping, as the contract for Fire Department response is administered by the County of Los Angeles. However, the City does have control over its Police Department and the City failed to require adequate documentation of after-hours calls taken by its 911 dispatch and Police Department.

TABLE I: VIOLATIONS (contd.)

FINDING	APPLICABLE REQUIREMENT	SUPPORTING EVIDENCE
OPERATION AND MAINTENANCE		
8) <i>The City failed to implement its approved Sanitary Sewer Management Plan (SSMP).</i>	Provision D.11 of Sanitary Sewer Order (see page 9)	1) CCTV Program: In 2007 – 2008, the City contracted to have its entire system visually inspected using closed circuit television (CCTV) as part of the development of a sewer rehabilitation plan. The City's March 2009 Sewer System Rehabilitation Plan recommends that follow up CCTV inspection and condition assessment will be conducted annually on portions of the system rated to be in severe structural deficiency, every 3 years on the portions of the system rated to be in major structural deficiency, every 4 years on the portions of the system with operational and maintenance deficiencies, and that the entire system should be inspected with CCTV equipment at least every 10 years. (See Attachment E, page 25 of the City's Sewer System Rehabilitation Plan.) The City purchased CCTV equipment in 2012, but Martin Ray stated during the re-inspection that the City does not routinely use the CCTV equipment because of a lack of field crews to operate it. He told the inspection team that the City has no regular CCTV program to assess its sewer assets, and that they have not inspected their sewer system using CCTV in accordance with their own Sewer System Rehabilitation Plan. Their only inspection "program" using CCTV is to visually inspect sewer lines using CCTV equipment after SSOs. Otherwise, the CCTV equipment is used by "special request." Martin Ray stated during the re-inspection that the City intends to have the recommended 10-year CCTV inspection of the entire sewer system conducted by an outside contractor; but this is still years into the future with no definite mechanism in place.

3. Example Enforcement Responses

2. “Notice of Violation/13267 Order”

All,

The State Water Board's Special Investigation Unit of the Office of Enforcement is assisting the San Diego Water Board in the investigation of the above Sanitary Sewer Overflow of approximately 250,000 gallons of untreated sewage to Escondido Creek, which occurred on August 28, 2011.

Please find attached a copy of Investigative Order R9-2013-0081 and an Word copy of the State Board's Pre-Inspection Collection System questionnaire. Pursuant to California Water Code section 13267, the City is directed to submit a Technical Report in response to the Order no later than June 7, 2013.

A hard copy of the signed Investigative Order and questionnaire was sent in todays mail to Dennis Sperino, and a copy of the Investigative Order will be faxed to City Manager Clay Phillips, due to the fact that the CIWQS database does not list his current email address.

Questions regarding this Order or its directives should be addressed to Leo Sarmiento of the State Board Office of Enforcement, at (916)327-8403 or by email at lsarmiento@waterboards.ca.gov

Respectfully,

Christopher Means
Environmental Scientist
Compliance Assurance Unit
San Diego RWQCB
Phone: 858-637-5581
Email: cmeans@waterboards.ca.gov

**ACTUAL
EXAMPLE**



EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

California Regional Water Quality Control Board, San Diego Region

April 29, 2013

Certified - Return Receipt Requested
7011 0470 0002 8961 8453

In reply, refer to: 631608:cmeans

Dennis Sperino
Deputy Director of Utilities/Wastewater
City of Escondido - HARRF
1521 South Hale Avenue
Escondido, CA 92029

SUBJECT: NOTICE OF VIOLATION NO. R9-2013-0081 FOR UNAUTHORIZED DISCHARGE OF UNTREATED SEWAGE TO WATERS OF THE UNITED STATES; REQUIREMENT TO SUBMIT TECHNICAL REPORT PURSUANT TO SECTION 13267 OF THE CALIFORNIA WATER CODE

Dear Mr. Sperino:

The City of Escondido (City) is hereby issued a Notice of Violation (NOV) for the reported unauthorized discharge of untreated sewage into waters of the United States during calendar year 2011. Pursuant to the requirements of section 13267 of the California Water Code (CWC), the City is directed to submit a technical report addressing the subject violation no later than **June 7, 2013**.

The City's sewage collection system is regulated by the State Water Resources Control Board (State Water Board) Order No. 2006-0003-DWQ (Sanitary Sewer System Waste Discharge Requirements, hereafter SSS WDRs) and San Diego Regional Water Quality Control Board (hereafter, San Diego Water Board) Order No. R9-2007-0005 (hereafter SDWB WDR). The SSS WDRs require enrollees to have a proactive system-wide, operation, maintenance, and management plan in place to reduce and prevent Sanitary Sewer Overflows (SSOs). In addition, the Sewer System Management Plans (SSMP) must contain a spill response plan to minimize any SSOs that do occur.

Prohibition C.1 of the SSS WDRs and Prohibition 7 of the SDWB WDR prohibit any SSO that results in a discharge of untreated or partially treated wastewater to waters of the United States. The City violated these requirements with one large Sanitary Sewer Overflow event (hereafter, SSO event) on August 28, 2011. This resulted in an illegal discharge of untreated sewage to waters of the United States, summarized below:

SSO Date	City Reported Discharge Volume (CIWQS)	Discharged From	Discharged To
08/28/2011	249,840 gallons	One manhole located immediately upstream of Hale Avenue Resource Recovery Facility (HARRF) influent pump station on HARRF property; and One manhole located upstream of HARRF influent pump station at intersection of Pineapple Street and Cherry Tree Lane	Pacific Ocean, San Elijo Lagoon and Escondido Creek through a storm drain inlet located adjacent to HARRF

The City reported the SSO event into the California Integrated Water Quality System (CIWQS), the State Water Board's SSO Online Database.¹ The City initially submitted a report about this SSO event to the San Diego Water Board on August 29, 2011, and then voluntarily provided a follow-up report to the San Diego Water Board on November 4, 2011.

CALIFORNIA WATER CODE SECTION 13267 ORDER

The State Water Board's Special Investigation Unit of the Office of Enforcement is assisting the San Diego Water Board in its inspection of the subject discharge. Both the State and San Diego Water Board staff (hereafter, Water Board staff) have reviewed and determined that the City's November 4, 2011 Technical Report is insufficient to fully determine the nature, circumstances, extent, and gravity of the unauthorized discharge of untreated sewage. This CWC section 13267 Order (hereafter, Order) is issued to address those factors and assess the City's compliance with requirements to prevent and respond to the SSO event. As part of this evaluation, the Water Board staff will conduct a compliance audit of the City's sanitary sewer collection system program to evaluate compliance with the SSS and SDWB WDRs. The compliance audit will include a review of the City's SSMP, SSMP implementation, sewer maintenance, operations, and management strategies being implemented by the City to reduce SSOs. The financial burden of providing the required report bears a reasonable relationship to the need for the report and the benefits to be obtained from the report.

The City is hereby required to submit the following information:

1. Nature, Causes and Circumstances of the Illegal Discharge of Untreated Sewage on August 28, 2011:
 - a. A complete, detailed explanation of how and when the discharge of untreated sewage from the City's sewer collection system was discovered. This discussion shall include cause(s) of the SSO event that led to the SSO discharge, including, but not limited to: equipment failure(s), human/operator error(s), administrative control failure(s), maintenance and repair failure(s).

- b. A diagram showing all location(s) of the actual sewage overflows, including, but not limited to: discharge location(s) from sewer lines, laterals, connections, cleanouts, sewer relief valves, or other assets owned by the City, and discharge location(s) from all known assets not owned or operated by the City. Also include the locations of equipment that failed and the location of impacted waters, including impacted beaches.
- c. A detailed report of the total volume of untreated sewage discharged, including the engineering method(s), diagram(s), model(s), reference(s), calculation(s), record(s), and assumption(s) used in estimating the total volume of untreated sewage discharged. This should include, at a minimum, tabular and graphical summaries of the daily total influent flows of untreated sewage received by the treatment plant one week before and one week after the subject SSO event. Additionally, please submit electronic (in Microsoft Excel format) total daily influent and effluent flows monitored at the HARRF for calendar years 2011 and 2012.
- d. Indicate the date and time period(s) of sewer overflow discharge (e.g., number of hours or days of continuous and/or intermittent sewer overflow) and include all associated records and data relied upon including Supervisory Control And Data Acquisition (SCADA) records for determining the overflow periods and volume estimates. This shall include all detailed test data used by the City for determining the actual influent flow rates and wet well level/capacity determination as outlined in the City's November 4, 2011 Technical Report.

2. City's Response to the Illegal Discharge of Untreated Sewage on August 28, 2011:

- a. A detailed chronological description of all actions taken by the City to terminate the illegal discharge of untreated sewage, divert sewage flows from the headworks including any bypass, and mitigate the impacts from the discharge. The narrative description must include an evaluation of the results of selected actions.
- b. Evidence of the City's approval of the Sewer System Management Plan (SSMP), prepared in accordance with the SSS WDRs. Please describe how the procedures detailed in the City's Overflow Emergency Response Plan were implemented during the mitigation and response activities associated with the SSO event, including any suggested changes planned to improve the plan as a result of the SSO event.
- c. A detailed description of the final corrective action(s), including an update of the status of the final equipment repair/replacement, documentation of associated costs involved in implementing corrective action(s), sources of funding for the project, and standard operating procedures (SOPs) implemented to ensure proper operation and maintenance of installed equipment.
- d. Copies of any field response documents during and/or after the SSO event, including site photos, interview notes and information related to sewer backups into private structures, if applicable.

3. Additional Information

- a. Completion of the attached **Collection System Questionnaire** (A Microsoft Word version of the document is provided via email for your use.)

- b. Copies of collection system service call records for any potential SSO(s) including logs of complaints received from City service area customers and field maintenance crew records documenting City cleaning, maintenance, repairs, and SSO response activities over the past 12 months, including any records for work conducted by outside contractors for collection system maintenance or repairs.
- c. Any other pertinent information that will assist the Water Board staff in evaluating the nature, circumstances, extent, and gravity of the SSO event on August 28, 2011.

PROVISIONS

1. Use of Registered Professionals: The City shall provide documentation that its Technical Report was prepared under the direction of appropriately qualified professionals. In preparing the Technical Report required by this Order, any engineering or geologic evaluations and judgments must be performed by or under the direction of registered professionals. A statement of qualifications and registration numbers of the responsible lead professional shall be included in the report submitted by the City. The lead professional shall sign and affix his/her registration stamp to the report.
2. Use of Qualified Technical Professionals: The City shall ensure that plans and reports required under this Order are prepared under the direction of technical professionals who are appropriately qualified to evaluate short and long term impacts to ecological receptors.
3. Signatory Requirements: The Technical Report shall be signed and certified by either a principal executive officer, ranking elected official, or the person with overall responsibility for environmental matters for that agency. Additional reports submitted in support of the Technical Report must be signed by the principal author.
4. Certification Statement: Any person signing a document under this provision shall make the following certification:

"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."

3. Example Enforcement Responses

3. Example Administrative Civil Liability (ACL) Complaint

California Regional Water Quality Control Board, San Diego Region

December 13, 2012

Certified Mail - Return Receipt Requested
7011 0470 0002 8961 5308

Mr. David Witt
City Manager
City of La Mesa
8130 Allison Avenue
La Mesa, CA 91942

In reply refer to / attn:
631922:rstewart

Dear Mr. Witt:

NOTICE OF HEARING AND ISSUANCE OF COMPLAINT NO. R9-2012-0014 FOR ADMINISTRATIVE CIVIL LIABILITY AGAINST THE CITY OF LA MESA FOR VIOLATIONS OF STATE WATER BOARD ORDER NO. 2006-0003-DWQ AND SAN DIEGO WATER BOARD ORDER NO. R9-2007-0005

Enclosed find Complaint No. R9-2012-0014 (Complaint) for Administrative Civil Liability against the City of La Mesa (City) for \$948,816 for alleged violations of State Water Resource Control Board Order No. 2006-0003-DWQ, *Statewide General Waste Discharge Requirements for Sanitary Sewer Systems*, and California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) Order No. R9-2007-0005, *Waste Discharge Requirements for Sewage Collection Agencies in the San Diego Region*. The alleged violations are described in the attached Technical Analysis to the Complaint. Pursuant to Water Code section 13323, the San Diego Water Board shall hold a hearing on the Complaint no later than ninety (90) days after it is issued.

Waiver of Hearing

The City may elect to waive its right to a hearing before the San Diego Water Board. Waiver of the hearing constitutes admission of the violations alleged in the Complaint and acceptance of the assessment of civil liability in the amount of \$948,816 as set forth in the Complaint. For the San Diego Water Board to accept the waiver of the right to a public hearing, the City must submit the following to the San Diego Water Board by 5 p.m., on **January 11, 2013**.

1. The enclosed waiver form signed by an authorized agent of the City with Option 1 selected; and
2. A check for the full amount of civil liability of \$948,816 made out to the "State Water Resources Control Board Cleanup and Abatement Account."

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

In the matter of:

City of La Mesa
Sanitary Sewer Overflows to
Chollas Creek and San Diego Bay; and
Alvarado Creek, the San Diego River,
and the Pacific Ocean

COMPLAINT NO. R9-2012-0014
FOR
ADMINISTRATIVE CIVIL LIABILITY

Violations of Order Nos.
2006-0003-DWQ and
R9-2007-0005, Waste Discharge
Requirements for Sanitary Sewer
Systems and Sewage Collection
Agencies in the San Diego Region,
collectively.

Place ID: 631922

December 13, 2012

THE CITY OF LA MESA IS HEREBY GIVEN NOTICE THAT:

1. The City of La Mesa (City) is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) may impose civil liability pursuant to section 13385 of the California Water Code (Water Code).
2. This Administrative Civil Liability Complaint is issued under authority of Water Code section 13323.
3. The City owns and operates 165 miles of sewer pipes in San Diego County, California. The City is required to operate and maintain its sewage collection system in compliance with requirements of State Water Resources Control Board Order No. 2006-0003-DWQ, *Statewide General Waste Discharge Requirements for Sanitary Sewer Systems*, and San Diego Water Board Order No. R9-2007-0005, *Waste Discharge Requirements for Sewage Collection Agencies in the San Diego Region*.
4. Prohibition C.1 of Order No. 2006-0003-DWQ states, "[a]ny SSO that results in the discharge of untreated or partially treated wastewater to waters of the United States is prohibited."
5. Prohibition C.2 of Order No. 2006-0003-DWQ states, "[a]ny SSO that results in a discharge of untreated or partially treated wastewater that creates a nuisance as defined in California Water Code Section 13050(m) is prohibited."
6. Prohibition B.1 of Order No. R9-2007-0005 states, "[t]he discharge of sewage from a sanitary sewer system at any point upstream of a sewage treatment plant is prohibited."

Complaint No. R9-2012-0040 2
City of La Mesa
December 21-22, 2010 Sanitary Sewer Overflows

7. California Regional Water Quality Control Plan, San Diego Region (Basin Plan) Waste Discharge Prohibition No. 9 states, "[t]he discharge of treated or untreated sewage to waters of the state or to a storm water conveyance system is prohibited."
8. Section 301 of the Clean Water Act (33 U.S.C. § 1311) and Water Code section 13376 prohibit the discharge of pollutants to surface waters except in compliance with a National Pollutant Discharge Elimination System (NPDES) permit. Order No 2006-0003-DWQ and Order No. R9-2007-0005 are not NPDES permits.

ALLEGED VIOLATIONS

9. The City violated Prohibitions C 1 and C.2 of Order No. 2006-0003-DWQ, Prohibition B.1 of Order No. R9-2007-0005, Basin Plan Waste Discharge Prohibition No. 9, section 301 of the Clean Water Act, and Water Code section 13376 by discharging 1,008,000 gallons of untreated sewage to Chollas Creek and ultimately San Diego Bay and by discharging 306,700 gallons of untreated sewage to Alvarado Creek, the San Diego River, and ultimately the Pacific Ocean on December 21, 2010 and December 22, 2010. Chollas Creek, San Diego Bay, Alvarado Creek, the San Diego River, and the Pacific Ocean are all waters of the State of California and waters of the United States.
10. The details of these violations are set forth in full in the accompanying Technical Analysis, which is incorporated herein by this reference as if set forth in full.

MAXIMUM LIABILITY

11. Pursuant to Water Code section 13385, subdivision (a), any person who violates Water Code section 13376 and/or any requirements of section 301 of the Clean Water Act is subject to administrative civil liability pursuant to Water Code section 13385, subdivision (c), in an amount not to exceed the sum of both of the following: (1) ten thousand dollars (\$10,000) for each day in which the violation occurs and (2) where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.
12. The alleged violations, set forth in full in the accompanying Technical Analysis, constitute violations subject to Water Code section 13385. Therefore, the maximum liability that the San Diego Water Board may assess pursuant to Water Code section 13385, subdivision (c) is \$13,157,000.

MINIMUM LIABILITY

Water Code section 13385, subdivision (e) requires that, at a minimum, liability shall be assessed at a level that recovers the economic benefit, if any, derived from the acts that constitute the violation(s). The State Water Resources Control Board Water Quality Enforcement Policy (Enforcement Policy) further instructs the Regional Water Boards to assess liability against a violator at least 10 percent higher than the economic benefit realized from the violation so that liabilities are not construed as the cost of doing business and that the assessed liability provides a meaningful deterrent to future violators.

13. As detailed in the incorporated Technical Analysis, and based on an economic benefit amount of \$130,932, the minimum liability amount the San Diego Water Board should assess is \$144,025.

PROPOSED LIABILITY

14. Pursuant to Water Code section 13385, subdivision (e), in determining the amount of any civil liability, the San Diego Water Board shall consider the nature, circumstances, extent, and gravity of the violations, whether the discharges are susceptible to cleanup or abatement, the degree of toxicity of the discharges; and with respect to the City, the ability to pay, the effect on the City's ability to continue in business, any prior history of violation, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters as justice may require.

15. The Enforcement Policy establishes a methodology for assessing administrative civil liability. The use of this methodology addresses the factors that are required to be considered when imposing a civil liability as outlined in Water Code section 13385, subdivision (e). The required factors have been considered for the violations alleged herein using the methodology in the Enforcement Policy, as explained in detail in the Technical Analysis and summarized in Attachment 1.

16. Based on consideration of the above facts, the applicable law, and after applying the penalty calculation methodology in section VI of the Enforcement Policy, it is recommended that the San Diego Water Board impose civil liability against the City of La Mesa in the amount of **\$948,816** for the violations alleged herein and set forth in full in the accompanying Technical Analysis.

Step 1: Potential Harm Factor				
Violations	Harm/Potential Harm to Beneficial Uses (0 - 5)	Physical, Chemical, Biological or Thermal Characteristics (0 - 4)	Susceptibility to Cleanup or Abatement (0 or 1)	Total Potential for Harm (0 - 10)
Sewage Spills	2	3	1	6

Step 2a: Assessments for Discharge Violations					
Violations	Per Gallon Factor				Statutory/Adjusted Max per Gallon (\$)
	Potential for Harm (0 - 10)	Deviation from Requirement (minor, moderate, major)	High Volume Discharges	Total Per Gallon Factor	
Sewage Spills	6	major	yes	0.022	\$2.00

Step 2b: Per Day Assessments for Discharge Violations				
Violations	Per Day Factor			Statutory/Max (\$)
	Potential for Harm (minor, moderate, major)	Deviation from Requirement (minor, moderate, major)	Total Per Day Factor	
Sewage Spills	6	major	0.22	\$10,000

Step 4: Adjustments					
Violations	Culpability (0.5 - 1.5)	Cleanup and Cooperation (0.75 - 1.5)	History of Violation	Multiple Violations (Same Incident)	Multiple Day Violations
sewage spills	1.2	1.2	1.1	yes	na

Step 5: Total Base Liability Amount
Sum of Steps 1- 4
\$845,558

Step 6: Ability to Pay/Continue in Business
(Yes, No, Partly, Unknown)
Yes

Step 7: Other Factors as Justice May Require	
Costs of Investigation and Enforcement Adjustment	Other
\$26,250	na

Step 8: Economic Benefit
\$130,932

Step 9	
Minimum Liability Amount	Maximum Liability Amount
\$144,025	\$13,157,000

Step 10: Final Liability Amount
\$948,816

3. Example Enforcement Responses

4. Los Angeles Regional Water Board activities (with assistance from State Water Board/Office of Enforcement):

- ✓ 12 active enforcement cases
 - Address violations identified during CY2012 collection system audits
 - Includes SSO discharge violations + SSS WDRs/MRP violations
- ✓ “Re-Inspections”
 - Check facilities previously inspected to ensure violations were corrected
 - Verify enrollee commitments promised are being implemented
- ✓ Other: SSMP Review
 - May be checked during routine WWTP compliance evaluation inspections

3. Example Enforcement Responses

5. San Diego Regional Water Board (with assistance from State Water Board/Office of Enforcement):

- ✓ 2 active enforcement cases
 - Investigations underway for large SSO discharges reaching waters of U.S.

3. Example Enforcement Responses

6. Central Coast Regional Water Board (with assistance from State Water Board/Office of Enforcement):

- ✓ 2 active enforcement cases
 - Investigations underway for large SSO discharges reaching waters of U.S.

- ✓ 2012 Investigation/enforcement
 - South San Luis Obispo County Sanitation District (ACL)

3. Example Enforcement Responses

- South San Luis Obispo County Sanitation District (ACL)

- Board Order and information available at:

http://www.waterboards.ca.gov/centralcoast/water_issues/programs/enforcement/slo_santi.shtml

The screenshot shows the website interface for the California Water Boards. At the top, there is a navigation bar with links for Members, Calendar, Meetings, Agendas, Minutes, Orders, and Webcasts. Below this is the header for the Office of Governor Jerry Brown, with a 'Visit his Website' link and a photo of the governor. The main content area is titled 'Enforcement' and features a breadcrumb trail: Home -> Water Issues -> Programs -> Enforcement. The primary heading is 'South San Luis Obispo County Sanitation District Administrative Civil Liability Complaint'. A list of items follows, including 'Hearing Notice', 'ACLCL Technical Report and Appendices', 'Prosecution's Case*' with sub-items 'Brief' and 'Index of reports', 'South San Luis Obispo County Case *' with sub-items 'Brief, Witness and Evidence List', 'Prosecution Team's Rebuttal*' with sub-items 'Brief' and 'Witness list (revised)', 'Index of documents', 'Public Comment Letters', 'Public Comment Letter 2', 'Hearing Transcript', 'Chair's Ruling on Objections to Conduct of Administrative Hearing', and 'Final Order No. R3-20120041 - adopted and signed'. A note explains that some draft order copies were missing page 10. Item 'k' is 'Press Release on Water Board's Decision', and item 'l' is 'October 3, 2012 - Transcript'. A disclaimer states that items marked with an asterisk have additional supporting documentation. At the bottom of the list are links for Audio 1 through Audio 7. On the left side, there is a sidebar with a 'Water Quality Performance Report' logo and a 'RESOURCES' section containing links for Email Subscriptions, Data & Databases, Business Help, Public Records Center, Grants & Loans, Fees, File an Environmental Complaint, Employment, Useful Links, and Website Index. The footer contains navigation links for Back to Top, Help, Contact Us, and Site Map.

4. Tips on Being Prepared

4. Tips on Being Prepared

1. Quarterly review (at minimum) of SSS WDRs, Amended MRP, and agency's SSMP
2. Quarterly review (at minimum) of agency's SSO data certified by your LRO in CIWQS to ensure continued accuracy
3. Quarterly review (at minimum) of required records (see Amended MRP, section B on page 5)
4. Document **HOW** your agency is implementing all elements of board-approved SSMP

4. Tips on Being Prepared

5. Complete all or sections of “Pre-Inspection Questionnaire” developed by State Water Board, Office of Enforcement
6. Call state/regional board contacts for answers beforehand
7. Review Water Boards **ENFORCEMENT POLICY**
http://www.swrcb.ca.gov/water_issues/programs/enforcement/policy.shtml
8. Review “SSMP Self Audits” presentation developed by State Water Board, Office of Enforcement:

http://bacwa.org/Portals/0/BACWA_SSMP%20Audits_OE_ppt-12-08-11.pdf

CONTACTS

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SSO Main Website:

http://www.waterboards.ca.gov/water_issues/programs/sso/index.shtml

List Serve Sign-Up:

http://www.waterboards.ca.gov/resources/email_subscriptions/swrcb_subscribe.shtml