
North Coast Regional Water Quality Control Board

Regional Water Quality Control Board North Coast Region Staff Summary Report December 12-13, 2023

ITEM: 6

SUBJECT: Public Hearing on Order No. R1-2023-0049 to consider Proposed Settlement Agreement and Stipulation for Entry of Order in the matter of Sonoma County Water Agency and Russian River County Sanitation District Administrative Civil Liability (Valerie Quinto)

BOARD ACTION: The Board will consider approval of the Stipulated Settlement Agreement, Order No. R1-2023-0049.

BACKGROUND: Sonoma County Water Agency (SCWA) is the contract operator, and the Russian River County Sanitation District (RRCSD or District) (collectively, Dischargers) is the owner of the Russian River Wastewater Treatment Facility at 18400 Neeley Road, in Guerneville. The District also owns and is responsible for the wastewater collection system, including associated infrastructure that collects and carries wastewater from the service area to the Russian River Wastewater Treatment Facility (collectively, collection system). The Treatment Facility and the collection system are subject to the requirements of multiple regulatory orders including Regional Water Board Waste Discharge Requirements (WDR) Order No. R1-2014-0002 and State Water Resources Control Board Order No. 2006-0003-DWQ, Statewide General WDRs for Sanitary Sewer Systems, as amended by Order No. WQ-2013-0058-EXEC (SSS General WDRs), and the federal Clean Water Act (33 U.S.C. § 1251 et seq.).

The collection system consists of 34.1 miles of gravity sewers and 4.2 miles of forced mains and other pressure systems, with 2,497 service lateral connections. In 2019, the Dischargers reported multiple unauthorized discharges of raw sewage from the collection system. The Prosecution Team alleges that the Dischargers discharged 885,664 gallons of raw sewage diluted with rainwater into the Russian River, a water of the United States, on February 14-15, February 26, and March 1-2, 2019, for a total of eight days. These alleged acts constitute violations of Water Code section 13385, subdivision (a), for which discretionary penalties may be assessed pursuant to Water Code section 13385, subdivision (c).

DISCUSSION: To resolve by consent and without further administrative proceedings the alleged violations, the Parties have agreed to the imposition of \$1,033,546 of liability

against the Dischargers. The amount of administrative civil liability imposed pursuant to this Stipulation and Order comports with the State Water Resources Control Board Water Quality Enforcement Policy methodology. Payment of \$147,001 to the State Water Resources Control Board Cleanup and Abatement Account and the remaining \$886,545 in liability shall be suspended upon completion of an Enhanced Compliance Action (ECA) for the West County Water Quality and Recycled Water Supply Feasibility Project with Stakeholder Committee as described in the Discussion below.

The ECA would have the Dischargers conduct a high-level feasibility study to evaluate potential regional projects that could improve water quality, water supply reliability, Pathogen TMDL compliance, and climate change resiliency in the Russian River watershed. Additionally, the ECA is intended to address ratepayer costs for West County wastewater systems by exploring the cost savings of regionalization of wastewater collection and treatment in the region. Significant goals of the ECA include the following:

- Investigate the feasibility of creating regional wastewater treatment and reuse systems to provide more reliable and cost-effective services to local rate payers.
- Study the feasibility of expanding water recycling systems and pipelines in West Sonoma County.
- Survey wastewater connection and consolidation opportunities for onsite wastewater treatment systems (OWTS), especially failing OWTS in areas subject to TMDL requirements, due to their proximity to pathogen and nitrogen impaired waterbodies.
- Explore the feasibility of increasing climate change resiliency, especially to counter the impacts of extended drought and seasonal flooding.

Additionally, the ECA proposes to implement a Stakeholder Program to help inform and guide the feasibility study by determining which of the identified projects would have the necessary public support to move forward.

The Prosecution Team contends that the resolution of the alleged violations is fair and reasonable and fulfills its enforcement objectives, that no further action is warranted concerning the specific violations alleged except as provided in the proposed Stipulation, and that the Stipulation is in the best interests of the public.

Comments on the Draft Stipulated Settlement Agreement were received from 81 citizens and the Russian River Watershed Protection Committee. A full explanation of the comments and Regional Water Board Staff's (Staff) responses is provided in the attached Response to Comments document. No changes have been made to the

Proposed Stipulated Settlement Agreement in response to the comments received. Significant categories of comments received have been summarized below:

1. **Public Hearing.** The Russian River Watershed Protection Committee and its supporters expressed a desire to have the proposed Stipulated Settlement Agreement Order presented at a public meeting. In response to this concern, the Prosecution Team has recommended to the Advisory Team that this matter be reviewed at the December 12, 2023, Board Meeting.
2. **Allocation of Suspended Penalty Funds.** The Russian River Watershed Protection Committee and its supporters expressed their concern for the proposed use of the suspended penalty amount and are not supportive of using the suspended penalty funds for any purpose other than to be applied to corrective actions directly related to the District's collection system. Regional Water Board staff identify within the Response to Comments Document that the Enforcement Policy does not allow for the suspended penalty to be allocated towards a Compliance Project and that these funds may only be directed towards an Enhanced Compliance Action or Supplemental Environmental Project. The Response to Comments document further details how these project types are differentiated and how the proposed Enhanced Compliance Action is intended to support the western Sonoma County community.
3. **Violation Days and Spill Volumes.** The Russian River Watershed Protection Committee does not agree with the number of days that sanitary sewer overflows were considered, nor the proposed spill volumes addressed by this enforcement action. It is explained within the Response to Comments document that the Prosecution Team is aware that a resident reported the sanitary sewer overflow adjacent to the Vacation Beach Lift Station beginning several days before the assessed overflow period, but elected to not include these days because no supporting evidence was provided. Furthermore, the Response to Comments document identifies how the spill volumes from each accessed sanitary sewer overflow violations were determined.

A copy of the Draft Settlement Agreement and Stipulation for Entry of Order, Order No. R1-2023-0049 was posted on the Regional Water Board website and was available for public comment from August 30, 2023 through September 28, 2023 for a 30-day comment period. Staff requested input from the District on the draft responses on November 2, 2023 and incorporated feedback received into the Response to Comments document. Staff additionally discussed draft responses with the Russian River Watershed Protection Committee on November 14, 2023. A full explanation of the comments received, and corresponding responses is provided in the attached Response to Comments document. The Proposed Stipulated Settlement Agreement Order was not revised in response to the comments received.

While the Dischargers are in support of the proposed Stipulated Settlement Agreement, Staff expect that outside parties will address the Board and contest the Proposed Stipulated Settlement Agreement Order during the public hearing.

RECOMMENDATION: Adopt Order No. R1-2023-0049 as proposed.

SUPPORTING DOCUMENTS:

1. Proposed Order No. R1-2023-0049
2. Attachment A (Methodology)
3. Attachment B (Enhanced Compliance Action)
4. Response to Comments Document
5. Public Notice and Hearing Procedure

Copies of the public comment letters received regarding this Order are available upon request by emailing Matthew.Herman@Waterboards.ca.gov