

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

TENTATIVE

**ORDER NO. R9-2007-0215
ADMINISTRATIVE ASSESSMENT OF CIVIL LIABILITY
AGAINST
CITY OF VISTA
CITY OF CARLSBAD
FOR
VIOLATION OF STATE BOARD ORDER NO. R9-2006-0003-DWQ**

The California Regional Water Quality Control Board, San Diego Region (hereafter Regional Board), having held a public hearing on December 12, 2007, to hear evidence and comments on the issuance of liability against the City of Vista and the City of Carlsbad (hereafter Dischargers) in the amount of \$1,095,000, and having reviewed the allegations contained in Administrative Civil Liability (ACL) Complaint No. R9-2007-0099, dated September 28, 2007, having provided public notice thereof and not less than thirty (30) days for public comment, and on the recommendation for administrative assessment of Civil Liability in the amount of \$1,095,000 finds as follows:

1. The Dischargers are required to operate and maintain their sewage collection systems to prevent sanitary sewer overflows and spills in compliance with requirements of State Water Resources Control Board (SWRCB) Order No. 2006-0003-DWQ, Statewide General Waste Discharge Requirements for Sanitary Sewer Systems.
2. The Dischargers jointly own and operate a 24-inch diameter polyethylene encased ductile iron pipe (DIP) force sewer main that conveys sewage from the Buena Vista Pump Station to the Encina Wastewater Authority's treatment plant in Carlsbad. The Buena Vista Pump Station is located on Jefferson Street south of Highway 78 within the City of Carlsbad.
3. From March 31, 2007, to April 3, 2007, a total of 7.3 million gallons of untreated sewage discharged from this force sewer main into Buena Vista Lagoon in violation of Prohibition C.1 contained in SWRCB Order No. 2006-0003-DWQ. The Buena Vista Lagoon, a water of the U.S., is located near the intersection of I-5 and Highway 78, within the City of Carlsbad and City of Oceanside.
4. On September 28, 2007, the Assistant Executive Officer (acting) issued ACL Complaint No. R9-2007-0099 to the Dischargers proposing imposition of \$1,095,000 in liability for the above violation of SWRCB Order No. 2006-0003-DWQ.

5. Persons or entities that discharge waste in violation of Waste Discharge Requirements are subject to civil liability pursuant to California Water Code Section 13350, either on a daily basis, not to exceed five thousand dollars (\$5,000) for each day the violation occurs, or on a per gallon basis, not to exceed ten dollars (\$10) for each gallon of waste discharged, but not both. The statutory maximum ACL amount, for the discharge of 7,300,000 gallons of untreated sewage, is therefore is \$73,000,000.
6. Liability in the amount of \$1,095,000 is based on consideration of the factors prescribed in Water Code section 13327, factors prescribed in SWRCB Order No. 2006-0003-DWQ, and by the SWRCB Enforcement Policy; as applied to the allegations contained in ACL Complaint No. R9-2007-0099 and described in greater detail in the ACL Complaint's Staff Report. The liability is calculated at \$0.15 per gallon and is substantially less than the statutory maximum.
7. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000 et seq.) in accordance with section 15321, Chapter 3, Title 14, California Code of Regulations.
8. The Regional Board incurred cost \$17,900, which includes investigation, preparation of enforcement documents, and communication with the Dischargers regarding the enforcement action.

IT IS HEREBY ORDERED, that pursuant to section 13350 of the Water Code, that civil liability be imposed on the City of Vista and City of Carlsbad in the amount of \$1,095,000.

I, John H. Robertus, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order imposing civil liability assessed by the California Regional Water Quality Control Board, San Diego Region, on December 12, 2007.

Tentative

JOHN H. ROBERTUS
Executive Officer