



Linda S. Adams  
Secretary for  
Environmental Protection

# California Regional Water Quality Control Board San Diego Region



Over 50 Years Serving San Diego, Orange, and Riverside Counties  
Recipient of the 2004 Environmental Award for Outstanding Achievement from U.S. EPA

Arnold Schwarzenegger  
Governor

9174 Sky Park Court, Suite 100, San Diego, California 92123-4353  
(858) 467-2952 • Fax (858) 571-6972  
<http://www.waterboards.ca.gov/sandiego>

Item No. 6  
Supporting Document 5  
March 12, 2008

September 28, 2007

In reply refer to:  
**NCRU:01-0764.02& 01-0743.02:ebecker**

Rita Geldert  
City Manager  
City of Vista  
600 Eucalyptus Av  
Vista, CA 92084-6240

**CERTIFIED MAIL**  
**Registration Number**  
7004 1350 0003 5763 2880

Glenn Prium,  
Public Works Director  
City of Carlsbad  
1635 Faraday Avenue  
Carlsbad, CA 92008

**CERTIFIED MAIL**  
**Registration Number**  
7004 1350 0003 5763 2866

Dear Ms. Geldert & Mr. Prium:

**COMPLAINT NO. R9-2007-0099 FOR ADMINISTRATIVE CIVIL LIABILITY AGAINST THE CITIES OF VISTA AND CARLSBAD FOR VIOLATION OF NO. R9-2006-0003-DWQ, STATEWIDE GENERAL WASTE DISCHARGE REQUIREMENTS FOR SANITARY SEWER SYSTEMS**

Enclosed with this letter is Administrative Civil Liability Complaint No. R9-2007-0099 against the City of Vista and the City of Carlsbad (Cities) for the discharge of raw sewage between March 31, 2007 through April 3, 2007 from a 24-inch diameter force sewer main at the Buena Vista Pump Station into Buena Vista Lagoon. The Buena Vista Lagoon, a water of the United States, is located near the intersection of I-5 and Highway 78, within the City of Carlsbad and City of Oceanside. The Complaint in the amount of \$1,095,000 is for violations of State Water Resources Control Board (SWRCB) Order No. 2006-0003-DWQ, Statewide General Waste Discharge Requirements for Sanitary Sewer Systems. A Staff Report that explains the basis for the issuance of the Complaint is also included.

**Waiver of Hearing**

The Cities may elect to waive their right to a hearing before the California Regional Water Quality Control Board, San Diego Region (Regional Board). Waiver of the hearing constitutes admission of the validity of the allegation of violations in the Complaint and acceptance of the assessment of civil liability in the amount of \$1,095,000 as set forth in the Complaint. For the Regional Board to accept the waiver

of the Cities' right to a public hearing, the Cities must submit the following by 5 P.M., October 26, 2007:

1. The enclosed waiver form signed by an authorized agent of the Cities;
2. A check for the full amount of civil liability of \$1,095,000 made out to the California State Water Resources Control Board; and
3. Verification that the enclosed public notice has been published in a newspaper circulated in the project's area.

**Public Hearing**

If the Cities do not elect to waive their right to a public hearing, a hearing is tentatively scheduled to be held at the Regional Board meeting on December 12, 2007. The meeting is scheduled to begin at 9 A.M. If the Cities intend to present any written exculpatory evidence, or written evidence at the hearing in response to Complaint No. R9-2007-0099, such evidence must be received by 5 P.M. November 13, 2007 in order to be considered by the Regional Board at the public hearing.

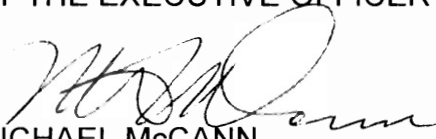
The *Submittal of Written Information Procedures* further describing the written materials and prescribed submittal dates required by the Regional Board and *Hearing Procedures* for the public hearing will be mailed to you at a later date prior to the hearing. An agenda for the hearing will also be mailed to you approximately 10 days before the hearing date.

The heading portion of this letter includes a Regional Board code number noted after "In reply refer to:" In order to assist us in the processing of your correspondence please include this code number in the heading or subject line portion of all correspondence and reports to the Regional Board pertaining to this matter.

If you have any questions regarding the above, please contact Mr. Eric Becker at (858) 492-1785, or at [Ebecker@waterboards.ca.gov](mailto:Ebecker@waterboards.ca.gov)

Respectfully,

BY THE EXECUTIVE OFFICER

  
MICHAEL McCANN  
Assistant Executive Officer (Acting)

MM:jro:esb

Cities of Vista & Carlsbad  
Buena Vista Pump Station Force  
Main Sewage Discharge

- 3 -

September 28, 2007

Attachments: 1. ACL Complaint No. R9-2007-0099  
2. Waiver of Hearing Forms  
3. Public Notice of Waiver of Hearing  
4. Staff Report

Enclosure

cc:

Mark Stone  
General Manager  
Carlsbad Municipal Water District  
5950 El Camino Real  
Carlsbad, CA 92008

Bill Paznokas  
California Department of Fish & Game  
4949 Viewridge Road  
San Diego, CA 92123

Larry D. Pierce P.E.  
Director of Engineering/Public Works  
City of Vista  
600 Eucalyptus Av  
Vista, CA 92084-6240

Michael Hogan  
General Manager  
Encina Wastewater Authority  
6200 Avenida Encinas  
Carlsbad, CA 92011-1095

Ron Wootton, Executive Director  
Buena Vista Lagoon Foundation  
P.O. Box 4516  
Carlsbad, CA 92008

Cari Dale  
Assistant General Manager  
Carlsbad Municipal Water District  
5950 El Camino Real  
Carlsbad, CA 92008

Sharon Taylor  
Division Chief  
United States Fish & Wildlife Services  
6010 Hidden Valley Road  
Carlsbad, CA 92011

John Brooks  
Special Agent  
United States Fish & Wildlife Services  
185 West F Street, Suite 440  
San Diego, CA 92101

Keith Merkel  
Merkel & Associates, Inc.  
5434 Ruffin Road  
San Diego, CA 92123

*California Environmental Protection Agency*



September 28, 2007

**ALLEGATIONS**

6. The Dischargers violated Prohibition C.1 of Order No. 2006-0003-DWQ by discharging 7.3 million gallons of untreated sewage from March 31, 2007 through April 3, 2007 from their 24-inch diameter sewer main at the Buena Vista Pump Station to Buena Vista Lagoon, a water of the United States.

**PROPOSED CIVIL LIABILITY**

7. Persons or entities that discharge waste in violation of Waste Discharge requirements are subject to civil liability pursuant to CWC Sections 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 March 31, 2007 through April 3, 2007 sewage discharges therefore is \$ 73,000,000.
8. It is recommended that, pursuant to sections 13350 (a) and (e)(2) of the CWC, the Regional Board impose a civil liability of one million ninety-five thousand dollars (\$1,095,000) on the Dischargers for the violations alleged herein.
9. The factual and legal bases supporting this Complaint are contained in the attached "Staff Report Buena Vista Lagoon Sewage Discharge City of Vista & City of Carlsbad."

Dated this 28 day of September 2007

BY THE EXECUTIVE OFFICER



MICHAEL McCANN

Assistant Executive Officer (Acting)

Signed pursuant to the authority  
delegated by the Executive Officer to  
the Assistant Executive Officer



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## WAIVER OF RIGHT TO A PUBLIC HEARING

Glenn Prium,  
Public Works Director  
City of Carlsbad  
1635 Faraday Avenue  
Carlsbad, CA 92008

Complaint No. R9-2007-0099  
For  
Administrative Civil Liability

**\$1,095,000**

By signing below, I agree to waive City of Carlsbad's right to a public hearing before the California Regional Water Quality Control Board, San Diego Region with regards to the violations alleged in the above referenced Complaint and to remit payment for the civil liability imposed. I understand that I am authorized to give up City of Carlsbad's right to be heard, and to argue against the allegations made by the Executive Officer in the Complaint, and against the imposition of, or the amount of, civil liability proposed. I have enclosed a cashier's check or money order made payable to the State Water Resources Control Board for the civil liability imposed.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print your name

**Send this signed form to:**  
Michael McCann, Assistant Executive Officer (Acting)  
C/O Compliance Assurance Unit  
California Regional Water Quality Control Board – San Diego Region  
9174 Sky Park Court, Suite 100  
San Diego, CA 92123



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## WAIVER OF RIGHT TO A PUBLIC HEARING

Rita Geldert  
City Manager  
City of Vista  
600 Eucalyptus Av  
Vista, CA 92084-6240

Complaint No. R9-2007-0099  
For  
Administrative Civil Liability

**\$1,095,000**

By signing below, I agree to waive City of Vista's right to a public hearing before the California Regional Water Quality Control Board, San Diego Region with regards to the violations alleged in the above referenced Complaint and to remit payment for the civil liability imposed. I understand that I am authorized to give up City of Vista's right to be heard, and to argue against the allegations made by the Executive Officer in the Complaint, and against the imposition of, or the amount of, civil liability proposed. I have enclosed a cashier's check or money order made payable to the State Water Resources Control Board for the civil liability imposed.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print your name

**Send this signed form to:**

Michael McCann, Assistant Executive Officer (Acting)  
C/O Compliance Assurance Unit  
California Regional Water Quality Control Board – San Diego Region  
9174 Sky Park Court, Suite 100  
San Diego, CA 92123

## NOTICE OF WAIVER OF PUBLIC HEARING

**California Regional Water Quality Control Board, San Diego Region  
Issuance of Administrative Civil Liability (ACL) Order  
Against  
City of Vista and City of Carlsbad  
Buena Vista Lagoon Sewage Discharge  
Carlsbad, California**

On September 28, 2007, the California Regional Water Quality Control Board, San Diego Region (Regional Board) issued Complaint No. R9-2007-0099 to the City of Vista and the City of Carlsbad (Cities) in the amount of \$1,095,000 for alleged violations of State Water Resources Control Board (SWRCB) Order No. 2006-0003-DWQ, Statewide General Waste Discharge Requirements for Sanitary Sewer Systems. The Cities have elected to waive their right to a public hearing in this matter. Waiver of the hearing constitutes admission of the validity of the allegation of violations in the Complaint and acceptance of the assessment of civil liability in the amount of \$1,095,000 as set forth in the Complaint. The Regional Board will consider accepting the Cities' waiver at its December 12, 2007 meeting.

Written comments regarding the allegations contained in Complaint No. R9-2007-0099, and/or acceptance of the waiver, will be accepted through November 13, 2007.

The Regional Board's December 12, 2007 meeting will be at the Regional Board office located at 9174 Sky Park Court, San Diego, California. The meeting will begin at 9:00 A.M. Oral comments for this item may be made during the meeting upon receipt of a request to speak slip. For more information regarding this matter please contact Mr. Eric Becker at (858) 492-1785, or at [Ebecker@waterboards.ca.gov](mailto:Ebecker@waterboards.ca.gov) or visit the Regional Board's web site at [www.waterboards.ca.gov/sandiego](http://www.waterboards.ca.gov/sandiego).

Michael McCann  
Assistant Executive Officer (Acting)