



THE CITY OF SAN DIEGO

April 15, 2013

Mr. David Gibson  
Executive Officer  
Regional Water Quality Control Board  
9174 Sky Park Court, Suite 100  
San Diego, CA 92123-4340

Dear Mr. Gibson:

Subject: Response to Comments on Order No R9-2013-0032 (Proposed) Settlement Agreement and Stipulated Entry of Order with the City of San Diego

The City of San Diego Public Utilities Department (Department) appreciates the opportunity to respond to the comments on the proposed settlement for the spills that occurred on September 8, 2011. We worked closely with the Regional Water Quality Control Board (Board) prosecutorial staff to negotiate what we believe is a fair and equitable settlement.

The Department operates a large, complex wastewater system. The overall wastewater system is comprised of the Municipal Sub-system and the Metro Sub-system. The Municipal Sub-system is the municipal sewer collection system for the City's residents and consists of over 3,000 miles of pipeline and 75 municipal pump stations. The Metro Sub-system is a regional sewer treatment and disposal system that serves the City and 15 other cities and public agencies. The Metro Sub-system consists of three wastewater treatment plants, a biosolids processing facility, eight large pump stations and two ocean outfalls. The wastewater system covers over 450 square miles and serves a regional population in excess of 2.5 million.

On September 8, 2011, the municipal collection system performed without any spills or major incidents, as did the Point Loma Wastewater Treatment Plant and the Metro Biosolids Center. On that day, the Department collected, conveyed and treated approximately 160 million gallons of sewage.

The Department operates a total of 83 wastewater pump stations. Unfortunately, the spills occurred at two pump stations that are equipped with redundant electrical feeds from two separate SDG&E substations, but had no backup generators. This design standard is in compliance with a Technical Bulletin titled "Design Criteria for Mechanical, Electrical, and Fluid System and Component Reliability" published by the Office of Water Program Operations at the Environmental Protection Agency. The spills were not due to an act of negligence on the part of the City or any mechanical failure, but rather the reliance on a reasonable method of electrical redundancy. The unprecedented power outage was beyond anyone's expectations and planning, including the providers in the gas and electric industry.



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Page 2

Mr. David Gibson, Executive Officer  
April 15, 2013

The Department takes seriously the operation of our wastewater system. It is part of our Mission Statement and Guiding Principles to provide safe and efficient operations and to be good stewards of the environment. To this end, over the last ten years between fiscal year 2002 and fiscal year 2012, the Department and its ratepayers have invested over \$930 million in infrastructure and maintenance improvements, significantly reducing sewer spills. The Department has replaced or rehabilitated 476 miles of sewer mains during the same time period. The Department is not the same as it was 25 years ago when there were many concerns about sewer spills and Pump Station 64. Sewer spills have been reduced by 90% from 365 spills per year in 2000 to 40 spills in 2012. Prior to the spill on September 8<sup>th</sup>, there has only been one spill at Pump Station 64 in ten years.

The Department has increased infrastructure funding and replacement, refined operational practices and continues to look for opportunities to enhance our practices. The Department has progressed to a point where there has been a cultural shift and these enhanced practices are ingrained and are part of the standard operating procedures for wastewater staff, and this is reflected in our reduced spill record. In fact, the California Water Environmental Association has selected the Department's Wastewater Collection System as the Large Collection System of the Year for 2012 for the entire state of California. This award evaluates regulatory compliance, administrative procedures, maintenance programs, and safety and training.

The Department supports the proposed settlement and believes it is appropriate given the events that occurred. Reflective of our new approach, the Department has taken the proactive step to install backup generators at a cost of over \$12 million. The City was not required to install the generators, but is installing them as a prudent measure to add another level of redundancy in addition to continuing to retain the dual electrical feeds at our pump stations and facilities that rely on SDG&E for backup. In addition to installing generators at the pump stations that spilled on September 8<sup>th</sup>, the Department has agreed to install generators at Pump Station 65, Penasquitos Pump Station, and the North City Water Reclamation Plant to further add redundancy and reduce the possibility of a sewer spill anywhere in the system related to a power outage. Of particular note is the fact that the Department is investing well over \$12 million and is receiving credit for only 6% of the cost of the generators as an Enhanced Compliance Action.

There is the perception of some stakeholders that the proposed settlement is just a "slap on the wrist". We would ask that the settlement be viewed with the same consideration that was afforded to the City of Oceanside who just entered into a settlement in March of this year for \$770,184 for a spill of 2,585,000 gallons into Buena Vista Creek, and to the Santa Margarita Water District who entered into a settlement in 2011 of \$890,000 for a spill of 2,293,000 gallons into Tijeras Creek. Additionally, if you consider settlements statewide, Lahontan Region 6 recently entered in a settlement with the Victor Valley Wastewater Reclamation Authority (Order No R6V-2012-0048) for a penalty of \$95,476 for a spill of 42.9 million gallons of raw sewage into the Mojave River as the Lahontan Board staff deemed the event occurred through no fault or negligence of Victor Valley.

Page 3  
Mr. David Gibson, Executive Officer  
April 15, 2013

While some stakeholders may disagree that \$1,245,414 is enough of a deterrent for a spill of 1,693,120 gallons, not including sewage that was recovered, the Department would like to point out that it is investing \$12 million in generators and we continue to fund a robust capital improvement program replacing at least 45 miles of sewer mains per year at a cost of over \$56 million per year, which will extend well into the future. We recognize the need to continue to properly maintain and operate our collection system and believe the investment in new infrastructure is a much better deterrent to future spills than increased penalties and fines.

A number of stakeholders have also raised the issue of enhanced monitoring in the lagoon. After the spill event, the Department performed extensive water quality monitoring at potential impacted creek and lagoon sites, which was followed by a three-month Bioassessment and Chemistry monitoring study, as directed by the Board in Investigative Order R9-2011-0070 (IO). The monitoring and report specifications were outlined by the Board in the IO, and the Department worked closely with the Board's staff to ensure that it complied with all the monitoring and reporting requirements. The studies concluded that all water chemistry and bioassessment parameters monitored returned to pre-spill levels. For example, dissolved oxygen and pH levels returned to pre-spill levels at all stations by early October 2011. All nitrogen values were below the Basin Plan Water Quality Objectives, and phosphorus and suspended solid levels returned to nominal levels. The results are consistent with and typical of all urban water bodies in San Diego County.

In addition, visual observations made during the monitoring project supported the conclusion that the area had returned to pre-spill conditions. Although some fish kill was observed and documented, this impact was very short-term and City staff observed no long-term effects on the aquatic habitat. The creek was suitable for re-habitation just a few weeks after the spill event. Largemouth bass were observed at the confluence of Carroll and Los Penasquitos Creeks less than a month after the spill. Water boatman, mayfly nymph, scuds, and dragonfly naiads were collected from the most downstream monitoring station during creek pumping operations. Blue herons were observed fishing from the railroad trestle on Vista Sorrento Parkway and mullets were seen at the lower reaches of the creek in the Torrey Pines Preserve near the southern arm of the lagoon. Re-establishment has likely happened through natural migration downstream from source populations upstream. In addition, over 7,000 benthic macroinvertebrates were collected during the bioassessment study. Prior to the spill, both the creek and the lagoon have for years been listed as impaired water bodies under the Clean Water Act Section 303(d). (Reference: [http://www.waterboards.ca.gov/water\\_issues/programs/tmdl/integrated2010.shtml](http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2010.shtml))

The Department reviewed the Supplemental Environment Projects submitted by the Los Penasquitos Lagoon Foundation. These projects included updating the Penasquitos Lagoon Enhancement Plan, maintenance of the lagoon inlet and biological monitoring in the lagoon. While we find all of the options suggested to be valuable and beneficial to the Lagoon, in our negotiations with Board staff we selected the Enhanced Compliance Action for the installation of generators as having the highest benefit to the citizens of San Diego. While the other options are admirable, without the identification of future funding sources to sustain the annual cost of those options, their long-term viability is at risk. Rather than funding a project that may not be

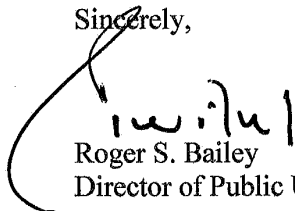
Page 4  
Mr. David Gibson, Executive Officer  
April 15, 2013

sustainable, looking at the larger picture the Department selected improvements to infrastructure, that is, installation of generators as having longer term impacts that will not only benefit the Los Penasquitos Lagoon but the larger wastewater system as well.

We would like to specifically correct a comment made by Coastkeeper regarding the spill volume from Pump Station 1. The number included in the September 22, 2011 report to the City's Natural Resources and Culture Committee was 870,231 gallons and was based on an estimate of flow metering data collected before, during and after the power outage. This data was collected by City owned ADS permanent flow meters. However, after the report was issued, the flow metering estimate was further refined by using the Infoworks Dynamic Modeling software to develop a dynamic hydraulic model to simulate the pump station shutdown and the spill. This is the same model that we used to estimate the Pump Station 64 spill. Based on the model, the spill volume was estimated to be 193,120 gallons. This revised estimate was submitted in the certified CIWQS report.

In closing, the Department would like to thank State Water Resource Control Board and Regional Board staff for working cooperatively with us to develop a fair and equitable settlement. The spills of September 8<sup>th</sup> were unfortunate, but were caused by an incident that was outside the City's control. The Department has come a long way in improving our wastewater operations, as evidenced by the reduction of sewer spills by 90% over the last twelve years and the reduction of public water spills by 97% from 33 in 2000 to one in 2012. The Department continues to make improvements in our infrastructure and these improvements are the best deterrent to future spills. The Mayor and City Council have approved the proposed settlement and consider it to be in the best interests of the citizens and ratepayers of San Diego, and urge the Board to confirm the agreement.

Sincerely,



Roger S. Bailey  
Director of Public Utilities