

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

**ADVISORY TEAM SUMMARY REPORT  
OCTOBER 9, 2024**

**ITEM 5**

**SUBJECT**

Hearing on Administrative Civil Liability Complaint No. R9-2024-0090 against Olivia Yutang Liu (Respondent) for Alleged Failure to Comply with Cleanup and Abatement and Water Code Section 13267 Investigative Order No. R9-2021-0165 (Cleanup Order).

**KEY ISSUE**

The San Diego Water Board will hear arguments and consider evidence related to Administrative Civil Liability Complaint No. R9-2024-0090, which alleges violations of Cleanup and Abatement and Water Code Section 13267 Investigative Order No. R9-2021-0165. After considering the evidence, the Board may impose the proposed civil liability, impose a higher or lower amount, or decline to impose any liability.

**PRACTICAL VISION**

Consistent with the mission of the Strategize for Healthy Waters chapter of the Practical Vision, the San Diego Water Board will consider an enforcement action related to the alleged (1) unauthorized grading and land disturbance within the course of an ephemeral stream for cannabis cultivation activities and (2) discharge of nutrient-laden irrigation runoff into the ephemeral stream that is a tributary to Buena Vista Creek.

Beneficial uses designated in the Water Quality Control Plan for the San Diego Basin (Basin Plan) for Buena Vista Creek include: municipal and domestic supply (MUN), agricultural supply (AGR), industrial service supply (IND), freshwater replenishment (FRSH), hydropower generation (POW), contact water recreation (REC-1), non-contact water recreation (REC-2), warm freshwater habitat (WARM), cold freshwater habitat (COLD), and wildlife habitat (WILD). The designated beneficial uses of the underlying groundwaters for the Warner Hydrologic Subarea (HAS 3.31) include MUN, AGR, IND, and FRSH.

The San Diego Water Board has identified Buena Vista Creek as a key area for the habitat and ecosystem key beneficial uses and is a priority for protection within the region (Resolution No. R9-2017-0030).<sup>1</sup> Buena Vista Creek is listed as impaired in the 2020-2022 California Integrated Report (Clean Water Act Section 303(d) List and 305(b) Report)<sup>2</sup> due to benthic community effects, pyrethroids, bifenthrin, cyfluthrin,

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<sup>1</sup> Resolution No. R9-2017-0030 can be viewed at the following link:

[https://www.waterboards.ca.gov/sandiego/board\\_decisions/adopted\\_orders/2017/R9-2017-0030.pdf](https://www.waterboards.ca.gov/sandiego/board_decisions/adopted_orders/2017/R9-2017-0030.pdf)

<sup>2</sup> The Clean Water Act Section 303(d) List and 305(b) Report can be viewed at the following link:

[https://www.waterboards.ca.gov/water\\_issues/programs/water\\_quality\\_assessment/2020\\_2022\\_integrated\\_report.html](https://www.waterboards.ca.gov/water_issues/programs/water_quality_assessment/2020_2022_integrated_report.html).

cypermethrin, indicator bacteria, nitrogen, phosphorus, selenium, total dissolved solids, and toxicity.

## DISCUSSION

The San Diego Water Board Prosecution Team issued Administrative Civil Liability Complaint No. R9-2024-0090 (Supporting Document No. 1 (Complaint)) on May 23, 2024, for alleged violations of Cleanup and Abatement and Water Code Section 13267 Investigative Order No. R9-2021-0165 at the Respondent's property (Site) located at 3001 Chimney Rock Road, Ranchita, California 92066 (33.22164, -116.50130), San Diego County Assessor Parcel Number 197-100-02-00. The Complaint alleges that two violations occurred.

**Violation 1:** The Prosecution Team alleges that the Respondent violated Water Code section 13267 by failing to submit an adequate proposed Restoration and Monitoring Plan (RMP) for approval by the San Diego Water Boards or its delegated officer by October 15, 2021, as specified under Required Actions A of the Cleanup Order.

**Violation 2:** The Prosecution Team alleges that the Respondent violated Water Code section 13304 by failing to complete implementation of an approved RMP by October 1, 2022, as specified under Required Actions C of the Cleanup Order.

The Complaint proposes assessment of administrative civil liability in the amount of \$409,534 for these alleged violations of the Water Code, as detailed in Attachment A to Administrative Civil Liability Complaint No. R9-2024-0090: Liability Methodology (Supporting Document No. 2).

Violation 1	\$ 75,075
Violation 2	\$306,075
Staff Costs	\$ 28,384
Total	\$409,534

Interested persons were required to submit non-evidentiary policy statements by June 21, 2024. The San Diego Water Board did not receive any non-evidentiary policy statements from interested persons.

The parties submitted evidence and briefing on this matter in accordance with the Third Revised Hearing Procedure, issued by the San Diego Water Board on August 20, 2024 (Supporting Document No. 2). Prosecution Team's evidence can be found as digital files (Supporting Document No. 7). Respondent's evidence can be found as digital files (Supporting Document No. 8).

The Prosecution Team submitted their Proposed Findings of Fact and Conclusions of Law on September 27, 2024 (Supporting Document Nos. 4 and 5). The Respondent submitted a Proposed Findings of Fact and Conclusions of Law on September 27, 2024 (Supporting Document No. 6).

The San Diego Water Board will conduct a hearing to hear arguments and consider evidence regarding the alleged violations. The hearing will be conducted in accordance with the Hearing Procedure, the Order of Proceedings (Supporting Documents Nos. 2 & 3), and applicable laws and regulations. A Chinese-English interpreter will be present at the hearing at the request of the Respondent. Board members or Board counsel may ask questions of the parties or any witness (Cal. Code Regs., tit. 23, section 648.5(b)). The San Diego Water Board may meet in closed session to consider the evidence and to deliberate on a decision to be reached based upon that evidence (Gov. Code, section 11126(c)(3)).

Adoption of the Prosecution Team's Proposed Order (Supporting Document No. 5) would impose administrative civil liability in the amount of \$409,534 upon the Respondent for violations of the Water Code. The Board may also impose a higher or lower amount of administrative civil liability or decline to impose any liability. The Board may also elect to continue the hearing to a later date or take the matter under submission and issue an order at a later date.

### **PUBLIC NOTICE**

The Prosecution Team's Complaint was released for public review on the San Diego Water Board's meeting agenda webpage on May 23, 2024.

The agenda notice for today's meeting was posted on the San Diego Water Board's website and sent to subscribers to the email list for Board meetings. This satisfies the Bagley-Keene Open Meeting Act requirements to publish the meeting notice and agenda.

### **SUPPORTING DOCUMENTS**

1. Administrative Civil Liability Complaint No. R9-2024-0090 with Attachment A, Liability Methodology to Complaint No. R9-2024-0090
2. Third Revised Hearing Procedure for Administrative Civil Liability Complaint No. R9-2024-0090
3. Order of Proceedings for Administrative Civil Liability Complaint No. R9-2024-0090
4. Prosecution Team's Proposed Findings of Fact and Conclusions of Law (Prosecution Team's Proposed Order)
5. Attachment A to Prosecution Team's Proposed Order: Liability Methodology
6. Respondent's Proposed Findings of Fact and Conclusions of Law
7. Prosecution Team's Argument and Evidence
8. Respondent's Argument and Evidence