



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 9  
75 Hawthorne Street  
San Francisco, CA 94105-3901

APR 05 2002

In Reply Refer to: CWA-309-9-02-17  
Mail Code: WTR-7  
Certified Mail: 7001 2510 0003 5944  
7345

Mr. Scott Tulloch  
City of San Diego  
Metropolitan Wastewater Department  
9192 Topaz Way  
San Diego, CA 92123

Dear Mr. Tulloch:

During 2001, EPA Region 9 and its contractor, SAIC, conducted an evaluation of the City of San Diego's wastewater collection system to examine the causes of sewage spills from the collection system and to determine potential corrective actions to address this concern. The City cooperated throughout the evaluation. The evaluation was documented in a November 2001 report prepared by SAIC which has already been provided to you.

From 1997 through 2001, the City reported 1535 sewage spills from its wastewater collection system. These sewage spills frequently enter waters of the United States as unauthorized discharges prohibited by the Clean Water Act ("the Act") and are also a violation of the City's NPDES permit, CA0107409. As a result of these spills, the City is in violation of section 301(a) of the Act. The frequency and volume of sewage spills from San Diego's collection system necessitate an aggressive, long-term program to reduce and eliminate these recurring spills. In order to address this problem, EPA Region 9 is issuing to the City of San Diego the enclosed Finding of Violation and Order pursuant to sections 308(a) and 309(a) of the Act, 33 U.S.C. §§ 1318(a), 1319(a).

The Order sets forth a comprehensive set of requirements that address all of the major components of controlling sewage spills, from operations and maintenance requirements to rehabilitation and replacement of sewer lines. Many of the requirements contained in the Order build on plans and programs in place or being developed by the City. Many of the plans required by the Order are due September 30, 2002.

We note that the City is already making important progress reducing sewage spills, and we look forward to working closely with you as you continue to make progress. The lead contact in our office for the work required under this Order is Jo Ann Cola. She can be reached at 415/972-3578.

Thank you for your attention and cooperation in this matter.

Sincerely,

  
Alexis Strauss, Director  
Water Division

5 April 2002

Enclosure

cc: John Robertus, California Regional Water Quality Control Board

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX

IN THE MATTER OF: )  
 )  
THE CITY OF SAN DIEGO )  
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Proceeding under Sections 308(a) and 309(a) of )  
the Clean Water Act )  
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Docket No. CWA-309-9-02-17

**FINDING OF VIOLATION AND ORDER**

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**AUTHORITY**

The following Findings are made and Order issued under authority vested in the Administrator of the United States Environmental Protection Agency ("EPA") under sections 308(a) and 309(a), 33 U.S.C. §§ 1318(a), 1319(a), of the Clean Water Act ("CWA"), which has been duly delegated to the Director, Water Division, EPA, Region IX ("Director"). Notice of this action has been given to the State of California Regional Water Quality Control Board, San Diego Region (Regional Board).

**FINDING OF VIOLATION**

The Director finds:

1. Under section 301(a) of the CWA, 33 U.S.C. § 1311(a), it is unlawful for any person to discharge any pollutant from a point source into "navigable waters" except in compliance with a permit issued under the CWA. Under section 402 of the CWA, EPA or the State of California, Regional Water Quality Control Board issues National Pollutant Discharge Elimination System permits ("NPDES permits") for the discharge of pollutants into navigable waters located within the State of California.
2. Pollutants include sanitary sewage. 33 U.S.C. § 1362(6). A point source is any confined and discrete conveyance, including a pipe or other conduit. 33 U.S.C. § 1362(14). Navigable waters are defined as "waters of the United States," which include all waters used in interstate commerce, including tidal waters and all their tributaries. 33 U.S.C. § 1362(7); 40 C.F.R. §§ 122.3, 230.3(s).
3. The City of San Diego ("San Diego" or "the City") is a political subdivision of the State of

California and as such is a person under section 502(5) of the CWA. 33 U.S.C. § 1362(5).

4. San Diego's Metropolitan Wastewater Department (MWWDD) operates publicly-owned treatment works as defined in CWA section 212 and 40 C.F.R. section 403.3(o). These publicly-owned treatment works collect, treat, and dispose of sanitary sewage in the metropolitan San Diego area. In San Diego, the City's publicly-owned treatment works system includes the Point Loma, North City, and South Bay wastewater treatment plants ("the WWTPs"), approximately 3,000 miles of collections system lines and 82 pump stations (this system hereinafter is collectively referred to as "the POTW").
5. During the period January 1, 1997 through December 31, 2001, San Diego reported 1,535 sewage spills from the POTW, many of which were spills to waters of the U.S. In 2000, 364 spills were reported, and in 2001, 238 spills were reported. EPA and its contractor, SAIC, conducted an evaluation of the City's wastewater collection system during 2001. The evaluation is documented in the Report titled *NPDES Compliance Evaluation Report: City of San Diego Wastewater Collection System*, prepared for EPA by SAIC and dated November 2001. The report, without its attachments, is included as Attachment 1 to this Order. This report includes 19 recommendations intended to improve collection system maintenance and reduce spills.
6. On November 9, 1995, the San Diego Regional Water Quality Control Board adopted Order No. 95-106, NPDES permit No. CA0107409, the Waste Discharge Requirements and National Pollutant Discharge Elimination System Permit for the City of San Diego Point Loma Wastewater Treatment Plant for Discharge through the Point Loma Ocean Outfall. The beneficial uses of affected waters include human contact and aquatic habitats. The following prohibitions pertain to discharges from the sewer system: A.11 prohibits discharge of waste causing flow, ponding, or surfacing on lands not owned or under the control of the City; A.12 prohibits dumping, deposition, or discharge of waste into waters of the state or adjacent to waters such that it may be transported to waters; A.13 prohibits discharge into storm drains; A.14 prohibits discharge of treated or untreated sewage to waters of the state or to a storm drain; and A.23 prohibits discharge of waste in any location not authorized by the Permit. The Permit also requires the City to prepare a sewer overflow prevention plan and a sewer overflow response plan, and to report sewer overflows. Standard Provision 1.d. of the Permit cites 40 C.F.R. § 122.41(d) which states, in part, that, "[t]he permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit."
7. The City's sewage spills as set forth in Paragraph 5, above, are a violation of the spill prohibitions A.11, A.12, A.13, A.14 and A.23 of NPDES permit CA0107409, and, taken as a whole, are a violation of Standard Provision 1.d of the permit. Based on these permit violations, the City is in violation of section 301(a) of the CWA.
8. The City of San Diego is subject to California Regional Water Quality Control Board (RWQCB) Waste Discharge Requirements Order No. 96-04 which covers collection systems and prohibits all spills.
9. On June 9, 1997, a Stipulated Final Order for Injunctive Relief was entered in the U.S. District Court which required the City of San Diego to perform the following work: 1) implement a concrete sewer main replacement program which required replacement/rehabilitation of at least 60 miles of concrete sewer mains; 2) conduct a sewer pump station and force main audit; 3) expand the residential grease program; 4) upgrade of information management system which included a criticality study of trunk sewers and model development; and 5) fund \$300,000 per year for chemical root inhibitor.

10. In the last two years, the City has paid penalties totaling \$5,058,900 for sewer spills to the California Regional Water Quality Control Board, a significant portion of which has been allocated to Supplemental Environmental Projects for the direct benefit of the affected environment.
11. City of San Diego sewer lines are located in the following 42 canyon areas: Tecolote, East Tecolote (East Clairemont), Stevenson, Van Nuys, San Clemente, Upper Rose, Middle Rose, Lower Rose, Dakota, Manning, Acuna, Park Mesa, Bounty & Waring, Mission Center Road, Lake Murray, Adobe Falls, Mission Gorge (Junipero Serra), Chollas Creek, Chocolate ( Home Avenue), Switzer, Carroll (Rock Quarry), Alvarado, Sorrento/Flintkote, Roselle/Sonico, Lopez, Penasquitos, Penasquitos Bluffs, Rose Creek East of I-805, Mesa College and I-805 (Onalaska), Black Mountain, Shawn, Shepherd (Santo Road), Woodman, Lexington, Washington Creek, Highway 163 Corridor, El Camino Real/San Dieguito Road, Florida, Sevan Court, Skylark, Rancho Mission, 45<sup>th</sup> & Boston.
12. The City of San Diego has set the following three goals for sewer spill reduction: 1) achieve a 25% reduction in city-caused spills from Calendar Year (CY) 2000 by CY 2004; 2) achieve a 25% reduction in city-caused spills to public waters from CY 2000 by CY 2004; and 3) achieve a metric of 6.6 city-caused spills per 100 miles of city-sewer main by July 2007. The City has also developed a plan for reducing sewage spills that is summarized in the City of San Diego Manager's Report, 01-194, dated September 13, 2001.
13. EPA finds that the most frequent cause of sewage spills from the POTW is blockage of sewer lines, usually caused by roots and grease build-ups. Sewer main breaks cause the highest volume spills. The City's canyon sewers pose a unique problem in that when blockages occur in these remote locations they may not be detected immediately, often leading to spills of very high volume. The City of San Diego must take more aggressive remedial measures to reduce and eliminate these recurring sewage spills.

Considering the foregoing Findings and the potential environmental and human health effects of the violations, EPA has determined that compliance in accordance with the following requirements is reasonable. Pursuant to the authority of sections 308(a) and 309(a) of the CWA, it is hereby ORDERED:

**ORDER**

The City of San Diego shall implement a Sewage Spill Reduction Action Plan that includes the following components for reducing and eliminating sewage spills from San Diego's wastewater collection system. The City shall continue to implement its current program for controlling sewage spills, and it shall take steps immediately to begin implementing improvements to its current program that are consistent with the requirements below.

**I. IMMEDIATE REDUCTION OF COLLECTION SYSTEM SPILLS**

- A. Full compliance with the CWA requires that there be no discharge of wastewater from the collection system to waters of the U.S. or which would otherwise violate the Point Loma NPDES permit. To ensure continuous improvement in spill reduction performance, as an interim standard, the City of San Diego shall, each year, consistently and substantially reduce the frequency and volume of sanitary sewage spills to waters of the U.S. or which would otherwise violate the Point Loma NPDES permit.
- B. Compliance with the reduction in spills specified by the preceding paragraph shall not,

however, constitute full compliance with the CWA. Only elimination of all overflows and spills to waters of the United States or which otherwise violate the Point Loma NPDES permit shall constitute full compliance.

- C. The City shall take actions necessary to cease all sewage spills from sewage collection pipes and maintenance holes located in all canyon areas by the earliest possible date.
- D. If, during any year, the City fails to meet the interim standard in Paragraph I.A, the annual report required pursuant to Paragraph VII shall describe actions the City plans to undertake in order to further eliminate spills and comply with the interim standard in Paragraph I.A. In addition, if in any two consecutive years the City fails to meet the interim standard in Paragraph I.A, the annual report shall also set forth numeric spill reduction goals for three subsequent years.

## **II. SPILL RESPONSE AND TRACKING**

- A. **Spill Response and Tracking Plan:** By June 30, 2002, the City of San Diego shall revise its Spill Response and Tracking Plan to include each of the following enhancements to the City's existing Spill Response Plan, and submit such revised Spill Response and Tracking Plan to EPA:
  - 1. The City shall enhance current spill reporting to assist in identification and tracking of particular problem areas. At a minimum, the City's spill records and reports submitted to the Regional Board shall list the name of the trunk sewer (for spills from trunk sewers), the name of the canyon (for spills from canyon sewers), the total spill volume, the volume returned to the system, the volume not captured, and all other spill information required to be reported pursuant to Regional Board Order WDR 96-04.
  - 2. The City shall include new standard communication procedures in order to ensure that spill reports received from the public are conveyed to the appropriate crews for action in a timely manner. The City shall have response crews available for response to spills 24 hours per day, 7 days per week. The City shall make all reasonable efforts to respond to a spill site within 30 minutes of becoming notified of a spill unless prevented from doing so by circumstances outside the City's control. A spill response log, which includes response times, shall be maintained by the City.
- B. **Spill Alarm System Plan:** By December 31, 2002, the City shall submit to EPA a Plan, including a schedule for implementation, for a spill alarm system capable of detecting and immediately notifying the City of spills from sewer pipes or maintenance holes located in remote areas or areas with difficult access. At a minimum, this system must consider enhancements and augmentations to the City's existing alarm system and the feasibility of an alarm system in every canyon sewer line. If feasible, the alarm system shall be capable of warning of impending spills and estimating the volume of spills.

## **III. CONTROL OF NON-CAPACITY RELATED SPILLS**

### **A. System-wide Cleaning Program**

- 1. By March 31, 2004, the City shall complete at least one cleaning of each sewer pipe in the City's 2,899 mile collection system or provide justification for those pipes not requiring cleaning (for example, pipes less than 5 years old).
- 2. By September 30, 2002 the City shall submit to EPA a report documenting which

sewers and how many miles of pipe were cleaned since the 2001 initiation of the system-wide cleaning program, and a schedule for system-wide cleaning program pursuant to Paragraph III.A.1 of this Order.

3. Beginning on April 1, 2004, the City shall initiate a continuing program to periodically clean the City's 2,899 mile collection system. By January 31, 2004, the City shall submit to EPA a plan, including a schedule, for a system-wide cleaning program.
4. By March 1 of each year the City shall submit an annual report to EPA documenting which sewers and how many miles of pipe were cleaned as part of the system-wide cleaning program during the previous year.

**B. Accelerated Preventive Maintenance (Accelerated PM) Cleaning Program**

1. By September 30, 2002 the City shall submit a Plan to EPA for its Accelerated PM Cleaning Program which includes:
  - a. procedures for identifying "hot spot" or "problem areas" based on a history of blockages and pipe condition and the criteria for including or deleting pipes from the cleaning program;
  - b. cleaning frequency for each problem area/hot spot;
  - c. procedures for documenting the condition of problem area/hot spot pipes based on findings of cleaning crews and closed-circuit television (CCTV) inspections, required under Paragraph III.D below, and making these documented findings readily available to cleaning crews, maintenance supervisors, and the engineering/planning department;
  - d. procedures for regular communications between cleaning crews, maintenance supervisors, grease control program, and the engineering/planning departments to assess the success of the cleaning program and make recommendations for program improvements including cleaning techniques, cleaning frequency, or the scheduling of pipes for rehabilitation or replacement; and
  - e. quality assurance and quality control procedures that continually assess the success of the City's sewer cleaning operations and establishes necessary improvements to cleaning techniques, scheduling or other aspects of the City's Accelerated PM Cleaning Program.
2. By March 1 of each year, the City shall submit an annual report to EPA documenting which sewers and how many miles of pipe were cleaned as part of the Accelerated PM cleaning program during the previous calendar year. The City shall include a description of changes to be made in the Accelerated PM cleaning program including a list of sewer pipes to be added or deleted from the program, changes in cleaning frequency, and a description of the success of the program at preventing repeat blockages and sewage overflows from pipes included in the Accelerated PM cleaning program. For each pipe in the Accelerated PM Cleaning Program, the report shall indicate the planned cleaning frequency, the condition of the pipe, including any defects that make the pipe prone to repeated blockages, and the City's plans to rehabilitate or replace the pipe.

### **C. Root Control Program**

1. To the extent not addressed in III.A, III.B, or III.E, by September 30, 2002 the City shall submit a Plan to EPA to implement a root control program designed to minimize spills caused by root blockages. The plan shall distinguish between various methods used by the City in their Root Control program, and the City shall provide the miles of sewer pipe subject to mechanical root control and indicate which sewers it expects to receive chemical root control treatment each year.
2. By March 1 of each year, the City shall submit an annual report to EPA documenting which sewers and how many miles of pipe were subject to mechanical and chemical root control, respectively, during the previous year. The report shall include an evaluation of the success of the program, a description of any proposed changes to the program, and a plan for the miles of sewer pipe that will be subject to mechanical root control and the miles subject to chemical root control during the current year.

### **D. Sewer Pipe Inspection and Condition Assessment** The City shall implement a program to inspect and assess in a timely manner the condition of all sewer pipe in the City.

1. By September 30, 2002, the City shall submit to EPA a Plan for its Sewer Pipe Inspection and Condition Assessment Program that provides for the following:
  - a. conduct Closed Circuit Television (CCTV) inspection of each sewer pipe in the City's collection system within the next ten years or provide justification for sewer lines not requiring CCTV inspection (for example, pipes less than 5 years old);
  - b. describe of the criteria used by the City to prioritize pipe for CCTV inspection;
  - c. a schedule for sewer pipe CCTV inspection;
  - d. inspect each sewer pipe that experiences a blockage leading to a sewage overflow, using CCTV or other appropriate inspection methods, as soon as is practicable but no later than one week following the overflow;
  - e. a schedule for visual inspections of maintenance hole structures;
  - f. CCTV inspections completed since January 1, 2000 and CCTV inspections conducted following blockage related sewage overflows may be included as part of the inspections required pursuant to Paragraph III.D.1.a and III.D.1.b of this Order if the City has saved the CCTV images and conducted the pipe condition assessment required pursuant to Paragraph III.D of this Order; and
  - g. the City shall make a timely evaluation of its inspection findings (CCTV images and visual inspection reports) and prepare condition assessment reports. The condition assessment shall document, at a minimum, the following:
    - (1) the presence of any defects that threaten the structural integrity of the pipe or structure;
    - (2) conditions that allow infiltration, inflow or exfiltration;
    - (3) pipe defects, including, but not limited to, cracks, holes, corrosion, misaligned joints, root intrusion, sags, improper lateral taps, or other defects

that make the pipe or structure prone to grease, root, or debris blockages;

- (4) a rank or score of the condition of each inspected pipe or structure on a sliding scale that indicates the severity of any defects found;
  - (5) whether the pipe or structure requires either short or long-term repair (see Paragraph III.E);
  - (6) changes to cleaning frequency as a result of the assessment; and
  - (7) an estimate of the expected remaining life of the pipe or structure.
2. By March 1 of each year, the City shall submit an annual report to EPA summarizing the findings of the sewer pipe condition assessments conducted during the previous calendar year and the miles of sewer pipe planned to be inspected during the current year. The report shall indicate the inspection methods used.

**E. Sewer Repair, Rehabilitation and Replacement** The City shall submit to EPA by September 30, 2002, a Plan, including schedules for implementation, for both short-term (repairs of acute defects to occur within one year of inspection and assessment completed) and long-term repair, rehabilitation and replacement of sewer pipes. This program shall consist of the following components:

1. The City shall describe its Short-Term Sewer Repair, Rehabilitation and Replacement Plan to address in a timely manner sewer lines or maintenance hole structures found to have acute defects. An acute defect increases the probability of a sewage spill and includes conditions leading to imminent structural collapse or that would create repeated blockages. The short-term repair program shall assure the repair or replacement of acutely defective pipes and structures on a schedule sufficient to prevent structural collapse, repeat blockages, or sewage overflows.
  - a. The City shall maintain a log which shall identify and list all sewer line acute defects in need of expeditious repair or replacement, the date the City discovered the acute defect, a schedule for performing the repair or replacement, and the completion date of the repair or replacement.
  - b. By March 1 of each year, the City shall submit an annual report to EPA documenting the acute defect remediation activities completed in the previous year and including copies of the acute defect logs for that year. This report shall highlight any Canyon Area projects (see Paragraph III.G).
2. The City shall describe its Long-Term Sewer Repair, Rehabilitation and Replacement Plan for rehabilitation or replacement of sewer pipes and structures. The plan shall include, at a minimum, the following:
  - a. at least 60 miles of sewer pipe rehabilitation or replacement (in addition to repairs) annually for at least 10 years beginning in 2004 or a modified plan, only if demonstrated by the results of the sewer pipe condition assessment program;
  - b. a 10-year "rolling" sewer repair, rehabilitation and replacement Capital Improvement Program (10-year CIP), with lists of each capital improvement needed to maintain the long-term integrity of the sewage collection system. The CIP shall include schedules, estimated costs, and a finance plan for the



completion of the projects;

- c. provisions for a log listing each sewer pipe and structure identified for long-term rehabilitation or replacement, the date the City determined the need for rehabilitation or replacement, a schedule for performing the rehabilitation or replacement, and completion dates.
3. By March 1 of each year, the City shall submit to EPA an annual report for EPA review and approval according to Paragraph V that documents any changes to the 10 year CIP plan, including:
    - a. all projects completed in the previous year;
    - b. all new projects added to the 10 year CIP plan;
    - c. updated schedules, costs and financial plans for the 10-year CIP; and
    - d. highlight any Canyon Area projects from Paragraph III.G in the CIP.

**F. Fats, Oils & Grease (FOG) Blockage Control Plan**

1. By September 30, 2002 the City shall submit a plan, including a schedule for implementation, to EPA describing enhancements to the City's existing FOG Program. The Plan shall include inspection and enforcement procedures, public outreach programs, and inspection schedules for the enhanced Program, and shall also include the following:
  - a. annual inspection of each permitted Food Service Establishment (FSE) or criteria for alternative inspection frequencies;
  - b. inspection of each new and substantially remodeled FSE within two months of start-up;
  - c. preparation and implementation of a staffing plan which will provide sufficient inspection staff to properly implement the program;
  - d. measures to determine the source of each FOG blockage resulting in a sewage spill and the inspection of likely FSE sources within two weeks of the spill;
  - e. a program for timely enforcement and inspection follow-up for each FSE violation including:
    - (1) issuance of a formal notice of violation within two weeks of discovery of a violation;
    - (2) criteria for when to issue a formal order requiring compliance or a penalty and the required time frame for issuance;
    - (3) follow-up inspections to determine that necessary corrective actions have been taken within 2 months of discovery of a violation; and
    - (4) if feasible, use of inspector issued in-the-field Notices of Violations (field citations);

- f. a program for implementation of measures the City will take to reduce spills due to grease blockages in residential areas; and
  - g. an FSE inspection and enforcement log that records inspection dates for each FSE, whether a violation was identified, and follow-up actions taken and the corresponding dates.
2. By March 1 of each year, the City shall submit an annual report to EPA documenting the activities carried out under the FOG Blockage Control Program during the previous year and including copies of the FSE inspection and enforcement log for that year.

**G. Canyon Area Sewage Spill Elimination**

1. By September 30, 2002, the City shall submit to EPA a Canyon Area Spill Elimination Plan for the elimination of sewage spills from sewer pipes located in canyon areas listed in Finding 11 by the earliest possible date. The plan shall include the following elements, and shall also include a schedule for implementation and describe interim measures that will be taken prior to final implementation of the plan:
- a. Completion of CCTV inspection or, when infeasible, an alternate inspection plan of each canyon area trunk sewer no later than December 31, 2003.
  - b. Annual visual inspection of each canyon area trunk sewer including examination of each maintenance hole structure for structural integrity and condition of locking or secured covers, examination of the condition of any exposed sewer pipes, and observation of erosion, landslides, excessive plant growth or other conditions that pose a threat to sewer pipes or maintenance hole structures.
  - c. An expanded condition assessment program that includes an assessment of environmental and other external physical factors which may lead to a structural failure as a result of erosion, landslides, flooding, excessive plant growth or similar circumstances.
  - d. Visual inspection of potentially impacted vulnerable sections of canyon pipelines within one week of every significant rainfall ( $\geq 0.5$ " measured rainfall within a 24-hour period).
  - e. Cleaning of each canyon area main sewer pipe pursuant to the City's Accelerated PM Cleaning Program (Paragraph III.B of this Order).
  - f. Annual maintenance of each canyon area sewer pipe and maintenance hole structure including, but not limited to, control of erosion that may undermine sewer pipes or maintenance hole structures, diversion of channels when necessary to protect infrastructure, rebuilding of deteriorated maintenance hole structures, and the securing of all maintenance hole covers to prevent vandalism.
  - g. A plan for short and long-term canyon access that includes schedules for obtaining access to each canyon area sewer pipe sufficient to allow for the practical inspection and cleaning of canyon area sewer pipes as required by this Order. For each canyon area sewer pipe, the plan shall identify the method to be employed for accessing the canyon and where appropriate, a financing plan for the developing access methods.

- h. A description of procedures used for conducting cleaning and maintenance.
  - i. Evaluation criteria for determining whether to relocate the sewer lines out of canyon bottoms, including an evaluation of the economic practicality and environmental risks from spills, and a plan for completing this analysis for every canyon sewer. In performing an economic evaluation, the City must use the costs of access and maintenance represented by the requirements of Paragraph III.G. For pipes that meet criteria for relocation, the City shall include the pipeline relocation on the next update of the 10-year Capital Improvement Program.
  - j. To the extent these requirements are specifically addressed in plans submitted under other paragraphs in this Order, include specific references to such other plans.
2. By March 1 of each year the City shall submit an annual report to EPA documenting which canyon sewers were cleaned and/or inspected during the previous calendar year, and describe plans the City intends to undertake for the current year pursuant to the Canyon Spill Elimination Program.

#### **H. Pump Station and Force Main Spill Reduction Action Plan**

1. By September 30, 2002, the City shall submit to EPA a Plan, including a schedule for implementation, to address the following:
- a. Re-evaluate and prioritize the pump station and force main replacement schedule, taking into account the spill record and the conditions which are known to have caused previous spills elsewhere. Aging cast-iron force mains, especially those near the coast, shall be given a high priority for replacement, based on the large number of spills attributable to failure;
  - b. install remote alarm systems in all pump stations, including those scheduled for future replacement;
  - c. develop a maintenance plan for the pump stations not scheduled for imminent upgrade;
  - d. provide standby power generation to prevent pump station spills due to power outages;
  - e. address each of the pump station recommendations contained in the 1997 Audit Report (cited in Attachment 1 of this Order), addressing first those recommendations which, had they been implemented, may have prevented spills; and
  - f. an evaluation of the feasibility and appropriateness of eliminating all pipes or connections from pump station wet wells which convey overflows to storm drains or surface waters;
2. By March 1 of each year, the City shall submit an annual report to EPA documenting the activities carried out under the Pump Station and Force Main Spill Reduction Action Plan during the previous year.

- I. **Plan to Address Other Causes of Spills:** If not dealt with in any other plan required under this Order, the City shall submit to EPA by September 30, 2002 a plan and implementation schedule describing additional spill reduction measures the City plans to take to eliminate sewage spills caused by vandalism, contractor or third party damage, debris and rocks. The plan shall consider, among other things, additional measures to secure manhole covers, outreach measures to contractors and the public, and increased penalties for contractor/third party caused spills. The plan shall consider and summarize the specific causes of spills related to vandalism, contractors, debris and rocks over the past five years.

#### **IV. COLLECTION SYSTEM CAPACITY ASSURANCE**

##### **A. Capacity Assessment**

1. By September 30, 2002, the City shall submit to EPA a list of:
  - a. all locations in the City sewer system that have experienced capacity-related sewage overflows (including wet weather overflows) in the last 10 years, a description of the causes of each overflow, and a description of any measures taken or planned to relieve the overflow problems in each listed location;
  - b. sewers that, based on flow monitoring and modeling, meet the City's definition of critical or semi-critical for hydraulic capacity availability (flow monitoring and modeling is required of the City under Paragraphs 7.c and 7.d of the 1997 Stipulated Final Order); and
  - c. any other sewer lines known to be at risk of capacity-related sewage overflows or surcharging conditions during expected peak dry weather or peak wet weather flow including but not limited to those sewers at risk of overflow due to excessive flows from sewer systems tributary to the City of San Diego collection system.
2. By March 1 of each year, the City shall provide EPA an updated list of sewers meeting the criteria established pursuant to Paragraph IV.A of this Order.

- B. **Capacity Assurance Plan** For each sewer line identified pursuant to Paragraph IV.A of this Order and Paragraph 7.c of the 1997 Stipulated Final Order, by September 30, 2002 the City shall submit to EPA a Plan, including a schedule for completion of relief measures, to provide the sewage conveyance capacity necessary to prevent sewage overflows. Relief measures may include relief sewers, excess flow storage, rerouting of excess flows, control of inflow and infiltration, and provisions for the control of excess flows from tributary sewage collection systems. Each sewer line identified pursuant to Paragraph IV.A.1 of this Order shall be placed on the City's 10-year "rolling" Capital Improvement Program (or alternatively, explain why this is not necessary) at the next update of the CIP. The City shall specifically consider in its Plan an evaluation and a schedule for implementation for the conveyance or control of excess wet weather flows introduced to the City collection system from the Miramar Marine Corps Air Station.

- V. **PLAN REVIEW AND APPROVAL:** Where this Order requires the submittal of a plan to EPA, that plan shall be subject to EPA review, comment and approval. EPA will, as expeditiously as possible, review and approve or comment on the plan. EPA will complete its review within 60 days of receipt of a plan, or a revised plan, or it will, in writing, extend EPA's review for an additional 30 days. The City shall make any revisions requested by EPA in writing or respond to any EPA comments and submit a revised plan to EPA within 30 days of receipt of EPA's comments or requested revisions. If EPA does not respond by the end of the review period, the

City shall implement the plan as submitted. Upon approval of the plans by EPA, the plans are incorporated by reference as an enforceable part of this Order. All annual reports required by this Order are also subject to EPA review and approval in accordance with this paragraph.

**VI. QUARTERLY SPILL REPORTS:** On the first day of February, May, August, and November in each calendar year in which activities are conducted pursuant to this Order, the City shall submit a summary of all sewage spills occurring during the previous calendar quarter, along with primary factors contributing to the spills, if known. The reports shall indicate whether spills are to Waters of the U.S., and include spills to storm drains or other man-made conveyances to such waters.

**VII. ANNUAL PROGRESS REPORTS** On March 1 of each calendar year in which activities are conducted pursuant to this Order, San Diego shall submit a written summary progress report detailing its implementation of the requirements of this Order during the preceding year. The reports shall also evaluate the effectiveness of the spill reduction programs, and detail additional actions the City plans to take to further eliminate spills. The annual progress report shall also contain the wastewater collection system annual budget for the current year. Annual progress reports are subject to EPA review and approval in accordance with Paragraph V.

**VIII. INFORMATION SUBMITTAL**

A. All submittals made pursuant to this Order shall be mailed to the following addresses:

Jo Ann Cola  
U.S. Environmental Protection Agency  
Clean Water Act Compliance Office (WTR-7)  
Water Division  
75 Hawthorne Street  
San Francisco, CA 94105

John Robertus  
Attn: POTW Compliance Unit  
California Regional Water Quality Control Board  
San Diego Region  
9174 Sky Park Court, Suite 100  
San Diego, CA 92123

B. Such submittals shall include the following certification signed by a duly authorized representative:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, I certify that the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

C. The information requested herein must be provided notwithstanding its possible characterization as confidential business information or trade secrets. EPA has promulgated regulations to protect the confidentiality of the business information it receives.


These regulations are set forth in part 2, subpart B of Title 40 of the Code of Federal Regulations. A claim of business confidentiality may be asserted in the manner specified by 40 C.F.R. section 2.203(b) for part or all of the information requested. EPA will disclose business information covered by such a claim only as authorized under 40 C.F.R. part 2, subpart B. If no such claim accompanies the business information at the time EPA receives it, EPA may make it available to the public without further notice.

## **IX. GENERAL PROVISIONS**

- A. This Order is not a permit under the Act, and does not relieve San Diego of any obligations imposed by the Act or any other law, regulation or permit.
- B. All requirements to submit information to EPA set forth in this Order are not subject to review by the Office of Management and Budget ("OMB") under the Paperwork Reduction Act because they are not "information collection requests" within the meaning of 44 U.S.C. §§3502(3), 3507, 3512, and 3518(c)(1). See also, 5 C.F.R. §§ 1320.3(c), 1320.4, and 1320.6(a). Furthermore, they are exempt from OMB review under the Paperwork Reduction Act because they are directed to fewer than ten persons and are an exempt investigation. 44 U.S.C. §§ 3502(4), (11), 3518(c)(1); 5 C.F.R. §§ 1320.4 and 1320.6(a).
- C. Issuance of an Order for Compliance shall not be deemed an election by EPA to forego any administrative, civil, or criminal action to seek penalties, fines, or other appropriate relief under the Act.
- D. Failure to respond, or any other violation of the terms of this Order could subject San Diego to a civil action for appropriate relief pursuant to Section 309(b) of the Act [33 U.S.C. 1319(b)], and/or penalties under Section 309(d) of the Act [33 U.S.C. 1319(d)]. In addition, Section 309(c)(1) of the Act [33 U.S.C. 1319(c)(1)] provides that negligent violations shall be punished by a fine of not less than \$2,500 per day or more than \$25,000 per day of violation, or imprisonment for not more than one year, or both. Section 309(c)(2) of the Act [33 U.S.C. 1319(c)(2)] provides that knowing violations shall be punished by a fine of not less than \$5,000 per day or more than \$50,000 per day of violation, or imprisonment for not more than three years, or both. Section 309(c)(4) of the Act [33 U.S.C. 1319(c)(4)] provides penalties for knowingly making false statements.
- E. If any event occurs that may cause a failure to timely carry out any requirement of this Order, the City shall notify EPA in writing within twenty-one (21) calendar days of the time the City becomes aware of the effect the event may have on compliance. The notice shall describe in detail the precise cause of the failure and measures taken to prevent or minimize the failure. The City shall implement reasonable measures to avoid or minimize any such failure. Failure of the City to timely notify shall render the provisions of this paragraph void and of no effect as to the particular incident involved unless notice is impossible due to catastrophic circumstances. For purposes of this Order, a Force Majeure is defined as any event arising from causes beyond the control of the City and which could not be overcome or prevented by due diligence, and which delays or prevents performance by a date required by this Order. If EPA agrees that the delay was caused by circumstances beyond the control of the City, EPA shall modify this Order to provide additional time for performance of the requirement and as applicable, any subsequent requirement.
- F. This Order remains in effect until terminated by the Director of the Water Division, EPA, Region 9. Such termination shall not occur before April 1, 2012, unless the Director determines otherwise. The City may petition the Director to terminate the order based on

the City's progress toward reducing and eliminating sewage spills that are a violation of the CWA.

Dated this 5<sup>th</sup> day of April, 2002



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Alexis Strauss, Director

Water Division  
U.S. Environmental Protection Agency  
Region 9  
75 Hawthorne Street  
San Francisco, CA 94105

**Attachment 1**

***NPDES Compliance Evaluation Report: City of San Diego Wastewater Collection System,  
November 2001***