

City of La Mesa

On September 7, 2023, California River Watch (“River Watch”) provided the City of La Mesa (“City”) with a Notice Letter officially titled “Notice of Violations and Intent to File Suit Under the Clean Water Act” (“CWA” - 33 U.S.C. § 1251 *et seq.*), with regard to violations of the CWA that River Watch alleges are occurring through the ownership and operation of the City’s sewer collection system. River Watch bases its allegations in the Notice Letter on the following:

- The City’s CIWQS Spill Public Report – Summary Page identifies 100 Sanitary Sewer Overflows (“SSOs”), resulting in 1,364,552 gallons of raw sewage discharged into the environment. Of this total volume, the City acknowledges at least 1,339,190 gallons reached a surface water – a violation of the CWA, a nuisance pursuant to California Water Code § 13050(m), and an imminent and substantial endangerment to public health and the environment. During the five (5) years prior to the date of the service of the Notice Letter, the City reported discharging 13,438 gallons of raw sewage into the environment. The major portion of these discharges were reported as reaching a surface water. While some areas where spills have occurred were dry at the time, the discharged pollutants remain on the surface of the land and enter receiving waters following rainfall or flooding; and
- The City’s inadequate reporting of its SSOs, a failure to warn the public of the impacts of SSOs by failing to post health warnings; and the failure to mitigate the impacts of SSOs to human health and the environment.

River Watch seeks the following common sense remedial actions:

- A full condition assessment of the sewer collection system including setting timelines for repairing or replacing significantly defective assets such as sewer lines, manholes and pump/lift stations;
- Mitigating the effects of SSOs;
- Adequate public and worker safety, including protocols to minimize exposure to infectious vectors;
- Elimination of the use of chemical root control;
- Consideration of a Supplemental Environmental Project in lieu of penalties; and
- Consistent with Article X, Section 2 of the California Constitution and California Water Code Section 100 which prevents the waste or unreasonable use of water, implement programs and projects providing for the recycling and/or reuse of treated wastewater discharged from the Facility.

CWA §§ 505(a)(1) and 505(f) provide for citizen enforcement actions against any “person,” including a governmental instrumentality or agency, for violations of NPDES permit

requirements and for un-permitted discharges of pollutants. 33 U.S.C. §§ 1365(a)(1) and (f), 33 U.S.C. § 1362(5). An action for injunctive relief under the CWA is authorized by 33 U.S.C. § 1365(a). Violators of the Act are also subject to an assessment of civil penalties of up to \$66,712.00 per day/per violation for all violations pursuant to Sections 309(d) and 505 of the Act, 33 U.S.C. §§ 1319(d), 1365. *See also* 40 C.F.R. §§ 19.1 – 19.4 (as amended). River Watch believes its Notice sufficiently states grounds for filing suit in federal court under the “citizen suit” provisions of the CWA to obtain the relief provided for under the law.

The violations identified in the Notice affect the health and enjoyment of members of River Watch who reside and recreate in the affected community and may use the affected watershed for recreation, fishing, hiking, photography, or nature walks. Their health, use and enjoyment of this natural resource is specifically impaired by the City’s alleged violations of the CWA detailed in the Notice.