

City of Pacifica

On January 8, 2024, California River Watch (“River Watch”) provided the City of Pacifica (“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 NPDES permit No. CA0105376 that River Watch alleges are occurring through the ownership and operation of the Calera Creek Water Recycling Plant and associated 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 157 Sanitary Sewer Overflows (“SSOs”), resulting in 4,160,876 gallons of raw sewage discharged into the environment. Of this total volume, the City acknowledges at least 4,135,118 gallons, or 99% of the total, reached a surface water. A review of these records indicates an even greater percentage of SSOs reached a drainage to a surface water or a surface water itself. Of the 4,160,876 gallons of sewage spilled, the City reported only 24,067 gallons as recovered, allowing the remaining sewage to be discharged into the environment posing both a nuisance pursuant to California Water Code § 13050(m), and an imminent and substantial endangerment to public health and the environment; and
- The City’s inadequate reporting of its SSOs, 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.