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***Via Certified Mail –
Return Receipt Requested***

February 14, 2024

Board of Supervisors
County of San Diego
County Administration Center
1600 Pacific Hwy. 4th Fl. Room 402
San Diego, CA 92101

San Diego County Sanitation District
Attn: Head of Agency
c/o County of San Diego, Department of Public Works
Wastewater Management
5500 Overland Ave. Suite 315
San Diego, CA 92123

**Re: Notice of Violations and Intent to File Suit Under the Federal Water Pollution
Control Act (Clean Water Act)**

Dear Members of the Board of Supervisors and Head of Agency:

STATUTORY NOTICE

This Notice is provided on behalf of California River Watch (“River Watch”) with regard to violations of the Clean Water Act (“CWA” or “Act”), 33 U.S.C. § 1251 *et seq.*, that River Watch alleges are occurring through the ownership and operation by the San Diego County Sanitation District (“District”) of its sewage collection system. The Notice is provided to the Board of Supervisors in its capacity as Board of Directors of the San Diego County Sanitation District.

The District provides approximately 36,000 customers with sewer service within the unincorporated communities of the County of San Diego including Alpine, Lakeside, Spring Valley, Pine Valley, Julian, Campo, East Otay Mesa and Winter Gardens. The

wastewater collection and conveyance system consists of approximately 432 miles of pipeline, 8,200 maintenance holes, and eight lift stations.

The District's three (3) treatment plants: Rancho Del Campo Water Pollution Control Facility located at 31035 Forest Gate Road in Campo, Julian Water Pollution Control Facility located at 2840 Highway 78, in Julian, and Pine Valley Water Pollution Control Facility located at Pine Valley County Park, Old Highway 80, in Pine Valley, discharge via percolation.

River Watch hereby places the District, as owner and operator of its collection system, on notice that following the expiration of sixty (60) days from the date of this Notice, River Watch will be entitled under CWA § 505(a), 33 U.S.C. § 1365(a), to bring suit in the U.S. District Court against the District for continuing violations of an effluent standard or limitation pursuant to CWA § 301(a), 33 U.S.C. § 1311(a), and the Regional Water Quality Control Board, San Diego Region ("RWQCB-SD"), Water Quality Control Plan ("Basin Plan"), as the result of alleged unlawful discharges of sewage from the District's sewer pipelines to Sweetwater River and Alpine Creek - navigable waters of the United States.

The CWA regulates the discharge of pollutants into navigable waters. The statute is structured in such a way that all discharges of pollutants are prohibited with the exception of enumerated statutory provisions. One such exception authorizes a discharger, which has been issued a permit pursuant to CWA § 402, 33 U.S.C. § 1342, to discharge designated pollutants at certain levels subject to certain conditions. The effluent discharge standards or limitations specified in a National Pollutant Discharge Elimination System ("NPDES") permit define the scope of the authorized exception to the CWA § 301(a), 33 U.S.C. § 1311(a), prohibition, such that violation of a permit limit places a discharger in violation of the CWA.

The District has no NPDES permit authorizing it to discharge sewage to a water of the United States for the violations alleged in this Notice Letter. Therefore, River Watch alleges the District violates the CWA by discharging pollutants from a point source to a water of the United States without complying with CWA §§ 301(a), 33 U.S.C. § 1311(a).

While delegating authority to administer the NPDES permitting system, the CWA provides that enforcement of the statute's permitting requirements relating to effluent standards or limitations imposed by the Regional Boards can be ensured by private parties acting under the citizen suit provision of the statute (*see* CWA § 505, 33 U.S.C. § 1365). River Watch is exercising such citizen enforcement to enforce compliance by the District with the CWA.

NOTICE REQUIREMENTS

The CWA requires that any Notice regarding an alleged violation of an effluent standard or limitation, or of an order with respect thereto, shall include sufficient information to permit the recipient to identify the following:

1. The specified standard, limitation, or order alleged to have been violated.

River Watch has identified discharges of raw sewage from the District's sewage collection system to waters of the United States in violation of CWA § 301(a), 33 U.S.C. § 1311(a) which states in part: "Except as in compliance with this section and sections 302, 306, 307, 318, 402, and 404 of this Act [33 U.S.C. §§ 1312, 1316, 1317, 1328, 1342, 1344], the discharge of any pollutant by any person shall be unlawful."

2. The Activity Alleged to Constitute a Violation.

River Watch contends that from February 14, 2019 to the present, the District has violated the Act as described in this Notice. River Watch contends these violations are continuing or have a likelihood of occurring in the future.

A. Sanitary Sewer Overflows (SSOs)

River Watch is understandably concerned as to the effects of both surface and underground Sanitary Sewer Overflows ("SSOs") on critical habitat in and around the District's diverse and sensitive ecosystem. SSOs, in which untreated sewage is discharged above ground from the sewage collection system prior to reaching a treatment plant, are alleged to have occurred both on the dates identified in California Integrated Water Quality System ("CIWQS") Interactive Public SSO Reports and on the dates when no reports were submitted to CIWQS by the District, all in violation of the CWA. All SSOs, directly or indirectly discharging to a surface water, are violations of CWA § 301(a), 33 U.S.C. § 1311(a), as they are discharges of a pollutant (sewage) from a point source (sewage collection system) to a water of the United States without complying with any other sections of the Act.

Numerous causes for SSOs include storm water inflow and/or groundwater infiltration (I/I), defects in sewer lines, root intrusion, and blockages due to grease and rags. Currently, the capacity of the District's sewage collection system is insufficient to handle peak wet weather flows. During heavy storms, the system becomes surcharged and untreated sewage overflows at various locations eventually draining to Sweetwater River and Alpine Creek. These SSOs impact the water quality and beneficial uses of these waters. Possible adverse effects on water quality and beneficial uses as a result of SSOs include the following:

- Adverse impacts to fish and aquatic biota caused by bio-solids deposition, oil and grease, and toxic pollutants common in sewage (such as heavy metals, pesticides, personal care products, and pharmaceuticals).
- Creation of a localized toxic environment in the water column as the result of the discharge of oxygen-demanding pollutants that lower dissolved oxygen, and elevated ammonia concentration which is a fish toxicant.
- Impairment of water contact recreation and non-contact water recreation and harm to fish and wildlife as a result of elevated bacteria levels including pathogens.

A review of the District's CIWQS Spill Public Report - Summary Page (Attachment A) identifies **109 SSOs**, resulting in **1,345,976** gallons of raw sewage discharged into the environment. Of this total volume, the District admits at least **1,173,873** gallons, or **87%** of the total, reached a surface water – a violation of the CWA, a nuisance pursuant to Calif. Water Code § 13050(m), and an imminent and substantial endangerment to public health and the environment. The District's CIWQS SSO Spill Public Report – Spill Event ID(s) Page (Attachment B) identifies these SSOs.

B. Inadequate Reporting of Discharges

Full and complete reporting of SSOs is essential to gauging their impact on public health and the environment. River Watch could not find evidence the District reports sufficient information to accurately assess and ensure these violations would not recur.

River Watch's expert believes that many of the SSOs reported by the District as having been contained without reaching a surface water did in fact discharge to surface waters; and those reported as partially reaching a surface water did so in greater volume than stated. River Watch notes that any claim of full containment requires the District to state the estimated start time of an SSO as the same time as, or very soon after, the reporting party first noticed the SSO. Studies have shown that most SSOs are noticed significantly after they have begun. In the absence of accurate reporting, River Watch is concerned that some of the discharges reach a storm drain, but in the absence of accurate reporting, the District is not able to determine the accurate amounts which in fact reach a surface water.

A critical remedial measure of compliance with the CWA is the performance of adequate sampling to determine the nature and impacts of SSOs on the environment. Underestimating SSOs which reach surface waters must be addressed by the District.

C. Failure to Mitigate Impacts

River Watch contends the District fails to adequately mitigate the impacts of SSOs. The District is subject to the requirements of the *General Requirements for Sanitary Sewer Systems, Statewide Waste Discharge Requirements*, Order WQ 2022-0103-DWQ (“Statewide WDR”) governing the operation of sanitary sewer systems. The Statewide WDR requires the District to take all feasible steps, and perform necessary remedial actions following the occurrence of an SSO, including limiting the volume of waste discharged, terminating the discharge, and recovering as much of the wastewater as possible. Further remedial actions include intercepting and re-routing of wastewater flows, vacuum truck recovery of the SSO, cleanup of debris at the site, and modification of the collection system to prevent further SSOs at the site.

The EPA’s *Report to Congress on the Impacts and Control of CSOs and SSOs* (EPA 833-R-04-001) identifies SSOs as a major source of microbial pathogens and oxygen depleting substances. River Watch finds no record indicating the District has performed any analysis of the impact of its SSOs on aquatic or wildlife habitat, nor any evaluation of the measures needed to restore water bodies designated as habitat from the impacts of SSOs.

D. Failure to Warn

River Watch could not find evidence that the District consistently posts health warning signs for discharges reaching a surface water.

E. Sewer Collection System Subsurface Discharges

It is a well-established fact that exfiltration caused by pipeline cracks and other structural defects in a sewer collection system result in discharges to adjacent surface waters via underground hydrological connections. River Watch is concerned by the absence in the public record of reports by the District confirming that no untreated sewage is discharged from cracks, displaced joints, eroded segments, etc., in the District’s sewer collection system into groundwater hydrologically connected to surface waters including, but not limited to, Sweetwater River and Alpine Creek. Surface waters become contaminated with pollutants including human pathogens. Chronic failures in a sewer collection system pose a substantial threat to public health.

Studies tracing human markers specific to the human digestive system in surface waters adjacent to defective sewer lines in other systems have verified the contamination of the adjacent waters with untreated sewage. Evidence of exfiltration can also be supported by reviewing mass balance data, I/I data, video inspection, as well as tests of waterways adjacent to sewer lines for nutrients, human pathogens, and other human

markers such as caffeine. Any exfiltration found is a violation of the CWA.

F. Percolation Ponds and Spray Irrigation

River Watch has received information regarding, and is concerned that the District's percolation ponds may be discharging to surface waters due to the recent large storms. River Watch has received information and is concerned that the District may be engaged in over spraying irrigation and spray irrigating during rain events when the area is saturated, resulting in runoff to surface waters.

3. The Person or Persons Responsible for the Alleged Violation.

The entity responsible for the alleged violations identified in this Notice is the San Diego County Sanitation District and those of its employees responsible for compliance with the CWA and with any applicable state and federal regulations and permits.

4. The Location of the Alleged Violation.

The location or locations of the various violations alleged in this Notice are identified in records created and/or maintained by or for the District which relate to its sewage collection system as further described in this Notice.

5. Range of Dates During Which the Alleged Activity Occurred.

The range of dates covered by this Notice is February 14, 2019 to the present. This Notice also includes all violations of the CWA by the District which occur after the range of dates covered by this Notice up to and including the time of trial. Some violations are continuous, and therefore each day constitutes a violation.

6. The Full Name, Address, and Telephone Number of the Person Giving Notice.

The entity giving notice is California River Watch, an Internal Revenue Code § 501(c)(3) nonprofit, public benefit corporation duly organized under the laws of the State of California. Its headquarters and main office are located in Sebastopol. Its mailing address is 290 South Main Street, #817, Sebastopol, CA 95472. River Watch is dedicated to protecting, enhancing, and helping to restore surface waters and ground waters of California including coastal waters, rivers, creeks, streams, wetlands, vernal pools, aquifers and associated environs, biota, flora and fauna, and educating the public concerning environmental issues associated with these environs.

River Watch may be contacted via email at US@criverwatch.org, or through its attorneys. River Watch has retained legal counsel with respect to the issues raised in this Notice. All communications should be directed to the following counsel:

Jack Silver, Esq.
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708 Gravenstein Hwy. North, #407
Sebastopol, CA 95472
Tel. (707) 528-8175
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138 Ridgeway Avenue
Fairfax, CA 94930
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RECOMMENDED REMEDIAL MEASURES

River Watch looks forward to meeting with District staff to tailor remedial measures to the specific operation of the District's sewage collection system. In advance of that conversation, River Watch identifies the following general remedial categories that will advance compliance with the CWA and the Basin Plan, and help economize the time and effort the parties need to resolve their concerns:

1. A full condition assessment of the sewage collection system including setting timelines for repairing or replacing significantly defective assets such as sewer lines, maintenance holes, and pump/lift stations.
2. Mitigating the effects of SSOs.
3. Adequate public and worker safety protocols, including protocols to minimize exposure to infectious vectors.
4. Elimination of the use of chemical root control.
5. Consideration of a Supplemental Environmental Project in lieu of penalties.
6. 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, implementation of programs and projects providing for the recycling and /or reuse of treated wastewater discharged from the wastewater facilities.

CONCLUSION

The violations set forth in this 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 alleged violations of the CWA as set forth in this Notice.

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. River Watch believes this Notice sufficiently states grounds for filing suit in federal court under the “citizen suit” provisions of CWA to obtain the relief provided for under the law.

The CWA specifically provides a **60-day** notice period to promote resolution of disputes. River Watch strongly encourages the District to contact counsel for River Watch within **20 days** after receipt of this Notice to initiate a discussion regarding the allegations detailed herein. In the absence of productive discussions to resolve this dispute, River Watch will have cause to file a citizen's suit under CWA § 505(a) when the 60-day notice period ends.

Very truly yours,



Jack Silver

JS:
Attachments

Service List

Michael Regan - Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Mail Code 1101A
Washington, DC 20460

Martha Guzman - Regional Administrator
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, CA 94105

Eileen Sobeck - Executive Director
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Claudia G. Silva, County Counsel
County of San Diego
County Administration Center
1600 Pacific Highway, Room 355
San Diego, CA 92101

ATTACHMENT A



California Integrated Water Quality System Project (CIWQS)

Spill Public Report – Summary Page

The information on this summary page is the result of your search. These results correspond to the following search criteria:

SEARCH CRITERIA: [\[REFINE SEARCH\]](#)

- Agency (San Diego County Dept of Public Works)
- Region (9)
- Spill Type (Category 1; Category 2; Category 3)

The information in this table does not include Category 4 spills, as defined in the Statewide Sanitary Sewer Systems General Order 2022-0103-DWQ (https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2022/wqo_2022-0103-dwq.pdf).

More information about the Spill Public Report is found at the bottom of this page.

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Region	Responsible Agency	Sanitary Sewer System	WDID	Total Number of Spills	Total Volume of Spills (gal)	Total Volume Recovered (gal)	Total Volume Reached Surface Water (gal)	Percent Recovered (%)	Percent Reached Surface Water (%)	Miles of Pressure Sewer	Miles of Gravity Sewer	Miles of Laterals	Number of Pump Stations
9	San Diego County Dept of Public Works	County of San Diego CS	9SSO10662	109	1,345,976	68,251	1,173,873	5	87	5.3	422.0	0.0	8
9	San Diego County Dept of Public Works	Julian Water Pollution Facil. CS	9SSO10673	1	850	300	550	35	64	0.6	3.0	0.0	1
				110	1,346,826	68,551	1,174,423			5.8	425.0	0.0	9.0

When assessing the performance of sanitary sewer systems regulated under the Statewide Sanitary Sewer Systems General Order, it is important to review spill reports in detail. There may be multiple individual spill event IDs that share the same location.

The search results on this summary page present summary data from individual spill reports submitted in the online CIWQS Sanitary Sewer System Database, meeting the search criteria selected. To determine if spill reports relate to a common failure point within the sanitary sewer system, the spill reports should be reviewed in detail by selecting a number under the "Total Number of Spills" column, corresponding to a specific sanitary sewer system.

The "Responsible Agency", or Enrollee, listed on a spill report is responsible for the spill described and should be contacted directly for questions related to that incident.

The current report was generated with real-time data entered by Enrollees.

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ATTACHMENT B



California Integrated Water Quality System Project (CIWQS)

Spill Public Report – Spill Event ID(s) Page

Here is the detail page of your Sanitary Sewer System Spill Report search for selected Regional Board, county, responsible agency, or sanitary sewer system. These results correspond to the following search criteria:

SEARCH CRITERIA: [\[REFINE SEARCH\]](#)

- Region (9)
- Spill Type (Category 1; Category 2; Category 3)
- Agency (Carlsbad MWD)
- Agency (Eastern Municipal Water District)
- Agency (Eastern Municipal Water District)
- Agency (Laguna Beach City)
- Agency (National City)
- Agency (National City)
- Agency (National City)
- Agency (Padre Dam Municipal Water District)
- Agency (San Clemente City)
- Agency (San Clemente City)
- Agency (San Diego County Dept of Public Works)

The table below presents important details from Enrollee-submitted certified spill events, as submitted through individual spill reports, which meet the search criteria selected on the Sanitary Sewer System (SSS) Spill Report Form. If data is not shown for a particular field, it means the Enrollee did not provide the information and was not required to do so. To view the entire spill report, select the corresponding “Spill Event ID”.

DRILLDOWN HISTORY: [\[GO BACK TO SUMMARY PAGE\]](#)

REGION: 9

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Event ID	Region	Responsible Agency	Sewer System	WDID	Spill Category	Spill Start Date	Spill Vol (gal)	Spill Vol Recovered (gal)	Spill Vol Reached Surface Water (gal)	System Failure Location	Spill Appearance Point
889518	9	San Diego County Dept of Public Works	County of San Diego CS	9SSO10662	Category 1 Spill	2023-07-16 18:09	980	1,182	980	Gravity Mainline	Manhole
885555	9	San Diego County Dept of Public Works	County of San Diego CS	9SSO10662	Category 1	2023-01-16 13:33	2,055	0	2,055	Manhole	Manhole
885548	9	San Diego County Dept of Public Works	County of San Diego CS	9SSO10662	Category 1	2023-01-16 09:44	6,340	4,980	1,360	Gravity Mainline	Manhole
885544	9	San Diego County Dept of Public Works	County of San Diego CS	9SSO10662	Category 1	2023-01-16 06:29	58,600	0	58,600	Gravity Mainline	Manhole
884470	9	San Diego County Dept of Public Works	County of San Diego CS	9SSO10662	Category 3	2022-11-29 15:30	35	0	0	Gravity Mainline	Manhole
884224	9	San Diego County Dept of Public Works	County of San Diego CS	9SSO10662	Category 2	2022-11-10 16:12	77,825	0	0	Gravity Mainline	Gravity Mainline
884081	9	San Diego County Dept of Public Works	County of San Diego CS	9SSO10662	Category 2	2022-11-01 16:28	1,575	1,575	0	Gravity Mainline	Manhole
880473	9	San Diego County Dept of Public Works	County of San Diego CS	9SSO10662	Category 3	2022-03-31 21:22	98	0	0	Gravity Mainline	Manhole
880471	9	San Diego County Dept of Public Works	County of San Diego CS	9SSO10662	Category 3	2022-03-31 14:30	720	450	0	Gravity Mainline	Inside Building or Structure

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873036	9	San Diego County of Public Works	San Diego CS	9SSO10662	Category 2	2021-03-18 21:00	26,010	23,700	0	Manhole	Inside Building or Structure;Manhole
871201	9	San Diego County of Public Works	San Diego CS	9SSO10662	Category 3	2020-12-20 17:00	62	0	0	Gravity Mainline	Manhole
869346	9	San Diego County of Public Works	San Diego CS	9SSO10662	Category 3	2020-09-28 06:30	171	0	0	Gravity Mainline	Lateral Clean Out (Private)
866134	9	San Diego County of Public Works	San Diego CS	9SSO10662	Category 1	2020-04-10 11:30	38,924	0	38,924	Manhole	Manhole
866128	9	San Diego County of Public Works	San Diego CS	9SSO10662	Category 1	2020-04-10 10:23	17,120	0	17,120	Manhole	Manhole
865771	9	San Diego County of Public Works	San Diego CS	9SSO10662	Category 3	2020-03-21 10:50	39	39	0	Manhole	Manhole
864623	9	San Diego County of Public Works	San Diego CS	9SSO10662	Category 3	2020-02-01 08:20	840	840	0	Manhole	Manhole
864078	9	San Diego County of Public Works	San Diego CS	9SSO10662	Category 3	2020-01-03 04:00	25	0	0	Gravity Mainline	Lateral Clean Out (Private)
861440	9	San Diego County of Public Works	San Diego CS	9SSO10662	Category 3	2019-09-20 08:00	225	225	0	Gravity Mainline	Inside Building or Structure;Lateral Clean Out (Private)
860318	9	San Diego County of Public Works	San Diego CS	9SSO10662	Category 3	2019-08-06 21:00	300	300	0	Gravity Mainline	Manhole
856256	9	San Diego County of Public Works	San Diego CS	9SSO10662	Category 3	2019-02-16 16:30	100	0	0	Gravity Mainline	Lateral Clean Out (Private)
856064	9	San Diego County of Public Works	San Diego CS	9SSO10662	Category 3	2019-02-08 15:00	130	100	0	Gravity Mainline	Lateral Clean Out (Private)
855053	9	San Diego County of Public Works	San Diego CS	9SSO10662	Category 2	2019-01-04 06:50	2,681	2,300	0	Force Main	Force Main
852731	9	San Diego County of Public Works	San Diego CS	9SSO10662	Category 2	2018-11-12 16:30	2,635	1,032	0	Force Main	Force Main
851271	9	San Diego County of Public Works	San Diego CS	9SSO10662	Category 1	2018-09-22 09:00	4,102	3,198	904	Gravity Mainline	Gravity Mainline
849660	9	San Diego County of Public Works	San Diego CS	9SSO10662	Category 3	2018-07-30 12:00	240	240	0	Gravity Mainline	Manhole

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