

**LAW OFFICE OF JERRY BERNHAUT**

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

October 29, 2015

Sonoma County Board of Supervisors  
Acting as Board of Directors for the  
Russian River Community Sanitation District  
575 Administration Drive, Room 100A  
Santa Rosa, CA 95403

Grant Davis - General Manager  
Pamela Jeane - Asst. General Manager for  
Water and Wastewater Operations  
Sonoma County Water Agency  
404 Aviation Boulevard  
Santa Rosa, CA 95403

Operations/Site Manager  
Russian River Community Sanitation District  
Treatment Plant  
18400 Neely Road  
Guerneville, CA 95446

**Re: Notice of Violations and Intent to File Suit Under the Clean Water Act**

Dear Owners and Operators:

**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 believes are occurring at the Russian River Community Sanitation District Treatment Plant (“Plant”) and through its associated collection system. River Watch hereby

places the Russian River Community Sanitation District (“District”) as the owner of the Plant and its associated collection system, and the Sonoma County Water Agency (“Agency”) as the operator of the Plant and its associated collection system (collectively hereafter, the “Discharger”) on notice, that following the expiration of 60 days from receipt of this Notice by the Discharger, 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 Discharger for continuing violations of an effluent standard or limitation, permit condition or requirement, or a Federal or State Order or Permit issued under CWA § 402 pursuant to CWA § 301(a), and the Regional Water Quality Control Board, North Coast Region (“RWQCB”) Water Quality Control Plan (“Basin Plan”), as the result of alleged violations of permit conditions or limitations in the Discharger’s National Pollutant Discharge Elimination System (“NPDES”) Permits.

River Watch takes this action to ensure compliance with the CWA which 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, to discharge designated pollutants at certain levels subject to certain conditions. The effluent discharge standards or limitations specified in a 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 polluter in violation of the CWA.

The CWA provides that authority to administer the NPDES permitting system in any given state or region can be delegated by the Environmental Protection Agency (“EPA”) to a state or to a regional regulatory agency, provided that the applicable state or regional regulatory scheme under which the local agency operates satisfies certain criteria (*see* 33 U.S.C. § 1342(b)). In California, the EPA has granted authorization to a state regulatory apparatus comprised of the State Water Resources Control Board (“SWRCB”) and several subsidiary regional water quality control boards to issue NPDES permits. The entity responsible for issuing NPDES permits and otherwise regulating the operations of the Plant in the region at issue in this Notice is the RWQCB.

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* 33 U.S.C. § 1365). River Watch is exercising such citizen enforcement to enforce compliance by the Discharger with the Discharger’s NPDES permits.

## 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 Specific Standard, Limitation, or Order Alleged to Have Been Violated**

River Watch identifies in this Notice specific standards and limitations of RWQCB Order No. R1-2009-0003, NPDES No. CA0024058 and RWQCB Order No. R1-2014-0002 NPDES No. CA0024058 (Waste Discharge and Producer/User Water Recycling Requirements for the Russian River County Sanitation District) as being violated. A violation of an NPDES permit is a violation of the CWA.

### **2. The Activity Alleged to Constitute a Violation**

Most often, the NPDES Permit standards and limitations being violated are self-explanatory and an examination of the language of the Permit itself is sufficient to inform the Discharger of its failure to fully comply with permit requirements. This is especially so since the Discharger is responsible for monitoring its operations of the Plant and associated collection system to ensure compliance with all Permit conditions.

River Watch, however, sets forth the following narratives describing with particularity the activities it alleges as violations. River Watch does so following a review of public records, including the Discharger's Self Monitoring Reports, regulatory enforcement orders relating to the Discharger's operations at the Plant, and the Discharger's Sewer System Overflow Reports relating to the Plant and its associated sewage collection system. Additional records and other public documents in the Discharger's possession or otherwise available to the Discharger regarding its NPDES Permits (all of which are hereby incorporated by reference) may, upon discovery, reveal additional violations.

River Watch contends that from October 25, 2010 through October 25, 2015, the Discharger has violated the Act as described herein. River Watch contends these violations are continuing or have a likelihood of occurring in the future.

#### **A. Collection System Subsurface Discharges To Adjacent Surface Waters Caused By Underground Exfiltration**

Underground discharges, in which untreated sewage is discharged from the collection system prior to reaching the Plant, are alleged to have occurred throughout the period

October 25, 2010 through October 25, 2015. Discharges are alleged to have occurred from sewer lines in the collection system located within 200 feet of a surface water, and identified in the Discharger's Capital Improvement Plan(s) as requiring structural repair or replacement; whenever pressure in said sewer lines was sufficient to cause discharges through structural defects in the lines.

It is known throughout the industry that subsurface discharges occur wherever aging, damaged, and/or structurally defective sewer lines in a collection systems are located adjacent to surface waters. Surface waters become contaminated with pollutants including human pathogens. Chronic failures in the 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.<sup>1</sup>

During the course of discovery River Watch will test surface waters adjacent to sewer lines in the collection system located within 200 feet of a surface water, and identified in the Discharger's Capital Improvement Plan(s) as requiring structural repair or replacement, to determine the location and extent of exfiltration. Evidence of exfiltration can also be supported by reviewing mass balance data and "inflow and infiltration" ("I/I") data. Said discharges were in violation of the following NPDES Permit Prohibitions:

- Order No. R1-2009-0003, Discharge Prohibition III.A: The discharge of any waste not disclosed by the Discharger or not within the reasonable contemplation of the Regional Water Board is prohibited.
- Order No. R1-2009-0003, Discharge Prohibition III.B: Creation of pollution, contamination, or nuisance, as defined by section 13050 of the California Water Code is prohibited.
- Order No. R1-2009-0003, Discharge Prohibition III.D: The discharge or reclamation use of untreated or partially treated waste (receiving a lower level of treatment than described in section II. A of the Fact Sheet) from anywhere within the collection, treatment, or disposal systems is prohibited, except as provided for in Attachment D, Standard Provision G (Bypass).

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<sup>1</sup> See Report of Human Marker Study issued July, 2008 and conducted by Dr. Michael L. Johnson, U.C. Davis water quality expert, performed for the City of Ukiah, finding the presence of human derived bacteria in two creeks adjacent to defective sewer lines.

- Order No. R1- 2014-0002, Discharge Prohibition III.A: The discharge of any waste not disclosed by the Permittee or not within the reasonable contemplation of the Regional Water Board is prohibited.
- Order No. R1- 2014-0002, Discharge Prohibition III. B: Creation of pollution, contamination, or nuisance, as defined by section 13050 of the California Water Code is prohibited.
- Order No. R1- 2014-0002, Discharge Prohibition III.D. The discharge or reclamation use of untreated or partially treated waste (receiving a lower level of treatment than described in section II. A of the Fact Sheet) from anywhere within the collection, treatment, or disposal systems is prohibited, except as provided for in Attachment D, Standard Provision G (Bypass).

B. Collection System Surface Discharges Caused By Sanitary Sewer Overflows

Sanitary Sewer Overflows (“SSOs”) in which untreated sewage is discharged above ground from the collection system prior to reaching the Plant, are alleged to have occurred both on the dates identified in the Discharger’s Interactive Public SSO Reports (11 separate violations) filed with the California Integrated Water Quality System (“CIWQS”) web based information and data program, and on dates when no reports were filed by the Discharger, all in violation of the following NPDES Permit Prohibitions:

- Order No. R1-2009-0003, Discharge Prohibition III.A: The discharge of any waste not disclosed by the Discharger or not within the reasonable contemplation of the Regional Water Board is prohibited.
- Order No. R1-2009-0003, Discharge Prohibition III.B: Creation of pollution, contamination, or nuisance, as defined by section 13050 of the California Water Code is prohibited.
- Order No. R1-2009-0003, Discharge Prohibition III.D: The discharge or reclamation use of untreated or partially treated waste (receiving a lower level of treatment than described in section II. A of the Fact Sheet) from anywhere within the collection, treatment, or disposal systems is prohibited, except as provided for in Attachment D, Standard Provision G (Bypass).
- Order No. R1- 2014-0002, Discharge Prohibition III.A: The discharge of any waste not disclosed by the Permittee or not within the reasonable contemplation of the Regional Water Board is prohibited.

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- Order No. R1- 2014-0002, Discharge Prohibition III.D. The discharge or reclamation use of untreated or partially treated waste (receiving a lower level of treatment than described in section II. A of the Fact Sheet) from anywhere within the collection, treatment, or disposal systems is prohibited, except as provided for in Attachment D, Standard Provision G (Bypass).

*Releases Reported.* The Discharger's collection system has historically experienced high I/I during wet weather. Structural defects which allow I/I into the sewer lines result in a buildup of pressure which causes SSOs. Overflows caused by blockages and I/I result in the discharge of raw sewage into gutters, canals, and storm drains which are connected to adjacent surface waters – all waters of the United States.

As recorded in CIWQS Public SSO Reports, the Discharger's collection system has experienced at least nine (9) SSOs between December 15, 2010 and July 5, 2015, with a combined volume of at least 135,235 gallons –133,154 gallons of which were reported as having reached surface waters. As an example, on February 13, 2014 a spill occurred from a force main just downstream from the Vacation Beach Lift Station. The total estimated volume of the spill was 132,000 gallons, all of which was reported as reaching the Russian River. Field crews found it necessary to pump untreated wastewater directly from the rupture site to the Beach and the River to de-water the defective section of pipeline in order to make repairs. Subsequent investigation revealed the Discharger was unaware of the air valve prior to the leak, and was unaware of events of leakage from other air valves in the collection system which need to be assessed in its Natural Hazard Assessment and Modeling and Master Plan.

*Discharges to Surface Waters.* River Watch's expert believes that some of the SSOs reported by the Discharger as having been contained without reaching a surface water did in fact discharge to surface waters; and, that those reported as partially reaching surface waters did so in greater volume than stated. The claim of full containment is called into question by the fact that some of the Discharger's SSO Reports state the estimated start time of the SSO as the time when the Discharger was first notified or otherwise became aware of the SSO, or within a few minutes thereof. Studies have shown that most SSOs are noticed significantly after they have begun. Since the volume of SSOs of any significance is estimated by multiplying the estimated flow rate by the duration, the practice of estimating a later than actual start time leads to an underestimation of both the duration and the volume.

In a report for a spill occurring on December 29, 2014 at 16515 Watson Road in Guerneville, the start, notification and field crew arrival times are all reported as 11:00. For the SSO which occurred on July 5, 2015 at 14568 Cherry Street, the start time is reported as 15:05 and agency notification time as 15:06. Given the unlikely accuracy of the start times on the reports, it is difficult to consider the stated volume as accurate.

*Estimating Volume.* River Watch contends the Discharger is substantially underestimating the incidence and volume of SSOs that reach surface waters. The Discharger is a permittee under the Statewide General Requirements for Sanitary Sewer Systems, Waste Discharge Requirements Order No. 2006-0003-DWQ (“Statewide WDR”) governing the operation of sanitary sewer systems. The Statewide WDR requires that sewer system operators report SSOs to the CIWQS and include in that reporting an estimate of the volume of any spill, the volume recovered and the volume which reached a surface water. The Discharger’s field reports generally do not indicate what method was used to estimate the total volume of the spill, with “null” as a standard response to “Explanation of volume estimation method used”, which calls into question the estimates of volume recovered and volume reaching surface waters.

*Mitigating Impacts.* River Watch contends the Discharger also fails to adequately mitigate the impacts of SSOs. The Statewide WDR mandates that the permittee shall take all feasible steps to contain and mitigate the impacts of a SSO. The EPA’s “Report to Congress on the Impacts of SSOs” identifies SSOs as a major source of microbial pathogens and oxygen depleting substances. Numerous critical habitat areas exist within the areas of the Discharger’s SSOs. There is no record of the Discharger performing any analysis of the impacts of SSOs on critical habitat of protected species under the ESA, nor any evaluation of the measures needed to restore water bodies designated as critical habitat from the impacts of SSOs.

The Statewide WDR requires the Discharger to take all feasible steps and perform necessary remedial actions following the occurrence of a 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. One of the most important remedial measures is the performance of adequate sampling to determine the nature and the impact of the release. As the Discharger is substantially underestimating SSOs which reach surface waters, the Discharger is also not conducting sampling on most SSOs.

C. Violations of Effluent Limitations

A review of the Discharger's Self Monitoring Reports reveals the following violations of effluent limitations imposed under the Discharger's NPDES Permits:

**13 Violations** - Order No. R1-2009-0003, IV., EFFLUENT LIMITATIONS AND DISCHARGE SPECIFICATIONS A. Effluent Limitations, 2. Interim Effluent Limitations- Discharge Point 002 (Discharge to the Russian River) Nitrate (as N) Maximum Daily-39 mg/L

**30 Violations** - Order No. R1-2014-0002, IV. EFFLUENT LIMITATIONS AND DISCHARGE SPECIFICATIONS, B. Land Discharge Specifications – Table 7, Total Dissolved Solids-Average Monthly Limit-500 mg/L

Order No. R1-2009-0003, IV., EFFLUENT LIMITATIONS AND DISCHARGE SPECIFICATIONS, B. Land Discharge Specifications – Table 10, Total Dissolved Solids-Average Monthly Limit-500 mg/L

D. Violation of Receiving Water Limitations

- Order No. R1-2009-0003, V. RECEIVING WATER LIMITATIONS, B. GROUNDWATER LIMITATIONS

1. The collection, storage, and use of wastewater or recycled water shall not cause or contribute to a statistically significant degradation of groundwater quality.

2. The collection, storage, and use of wastewater shall not cause groundwater to contain taste- or odor-producing substances in concentrations that cause nuisance or adversely affect beneficial uses.

- Order No. R1-2014-0002, V. RECEIVING WATER LIMITATIONS, GROUNDWATER LIMITATIONS

B. Groundwater Limitations

1. The collection, treatment, storage, and disposal of wastewater shall not cause a statistically significant degradation of groundwater quality unless a technical evaluation is performed that demonstrates that any degradation that could reasonably be expected to occur, after implementation of all regulatory requirements (e.g., title 27, best practicable treatment and control) and



reasonable best management practices (BMPs), will not violate groundwater quality objectives or cause impacts to beneficial uses of groundwater.

2. The collection, treatment, storage, and disposal of treated wastewater shall not cause alterations of groundwater that result in chemical concentrations in groundwater in excess of limits specified in title 22, division 4, chapter 15, article 4, sections 64431 (Tables 2 and 3) and 64444, and the Basin Plan.
3. The collection, treatment, storage and disposal of the treated wastewater shall not cause levels of radionuclides in groundwater in excess of the limits specified in title 22, division 4, chapter 15, article 5, section 64443 of the CCR.
4. The collection, treatment, storage, and disposal of wastewater or recycled water shall not cause groundwater to contain taste- or odor-producing substances in concentrations that cause nuisance or adversely affect beneficial uses.

A review of CDO Order No. 2014-0034 provides that during the term of Order No. R1-2009-0003 NPDES No. CA0024058, the Discharger's monitoring of ground water in the vicinity of land adjacent to the Plant owned by Roger and Michele Burch ("Burch Property") reclamation site revealed higher concentrations of nitrate, TDS, sodium, chloride and aluminum, and lower levels of pH in monitoring well MW-001 downgradient of the reclamation site than in MW-003, 500 feet upgradient of the land disposal area. Violations of the above narrative standards occurred on a seasonal basis whenever irrigation of the lower Burch Property reclamation site was applied at rates exceeding the agronomic capacity of the land to assimilate the identified pollutants.

E. Reclamation Site Runoff To Surface Waters

The RWQCB acknowledges that irrigation of the Burch property is generally performed at greater than hydraulic agronomic rates, i.e., rates that exceed the water needs of the vegetation at the site. (see CDO Order No. 2014-0034, p.4). The Discharger irrigates the Burch property from mid-May through mid-October each year. Throughout that period, any irrigation poses a threat of discharge to the nearby Russian River. Members of River Watch have observed unreported discharges from the Burch property reclamation site. Said discharges are in violation of the following provisions in the Discharger's NPDES Permits:

- Order No. R1-2009-0003, Discharge Prohibition III.A: The discharge of any waste not disclosed by the Discharger or not within the reasonable contemplation of the Regional Water Board is prohibited.

- Order No. R1-2009-0003, Discharge Prohibition III.B: Creation of pollution, contamination, or nuisance, as defined by section 13050 of the California Water Code is prohibited.
- Order No. R1-2009-0003, Discharge Prohibition III.D: The discharge or reclamation use of untreated or partially treated waste (receiving a lower level of treatment than described in section II. A of the Fact Sheet) from anywhere within the collection, treatment, or disposal systems is prohibited, except as provided for in Attachment D, Standard Provision G (Bypass).
- Order No. R1- 2014-0002, Discharge Prohibition III.A: The discharge of any waste not disclosed by the Permittee or not within the reasonable contemplation of the Regional Water Board is prohibited.
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- Order No. R1- 2014-0002, Discharge Prohibition III.D. The discharge or reclamation use of untreated or partially treated waste (receiving a lower level of treatment than described in section II. A of the Fact Sheet) from anywhere within the collection, treatment, or disposal systems is prohibited, except as provided for in Attachment D, Standard Provision G (Bypass).

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

The entity responsible for the alleged violations identified in this Notice is the Russian River Community Sanitation District and the Sonoma County Water Agency collectively referred to as “Discharger”, as well as the those of the Discharger’s employees responsible for compliance with the Discharger’s NPDES Permits.

### **4. The Location of the Alleged Violation**

The location or locations of the various violations are identified in the Discharger’s NPDES Permits and also in records created and/or maintained by or for the Discharger which relate to the Plant, associated collections system, collection and disposal activities as described in this Notice.

The Discharger owns and operates the Plant located in Guerneville, California and adjacent to the Russian River. The Plant provides advanced wastewater treatment and consists of a collection system, coarse screening and aerated grit removal, three extended

aeration activated sludge basins, three secondary clarifiers, two tertiary filters, and ultraviolet light disinfection. Design treatment capacities are 0.71 million gallons per day (mgd) (average dry weather flow) and 3.5 mgd (maximum sustained peak flow).

The Discharger discharges disinfected advanced treated effluent to the Russian River during the period October 1 through May 14 (Discharge Point 002). During the dry weather season, disinfected advanced treated effluent is recycled for irrigation at the 43-acre Northwood Golf Course (Discharge Point 004). Treated effluent in excess of the needs of the Golf Course is disposed of by spray irrigation on the Burch Property (Discharge Point 003). The Burch Property consists of approximately 4 acres on steep slopes above the Plant and approximately 13 acres of flatter land between the Plant and the Russian River.

**5. The Date or Dates of Violation or a Reasonable Range of Dates During Which the Alleged Activity Occurred**

River Watch has examined both RWQCB files and the Discharger's records with respect to the Plant, associated collection system and reclamation activities for the period from October 25, 2010 through October 25, 2015. The range of dates covered by this Notice is from October 25, 2010 through October 25, 2015. River Watch may from time to time update this Notice to include all violations of the CWA by the Discharger which occur during and after the range of dates currently covered. 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, referred to herein as "River Watch". River Watch is a 501(c)(3) non-profit, public benefit corporation organized under the laws of the State of California, with headquarters located in Sebastopol, California and offices in Los Angeles, California. The mailing address of River Watch's northern California office is 290 S. Main Street, #817, Sebastopol, CA 95472. The mailing address of River Watch's Southern California office is 7401 Crenshaw Blvd. # 422, Los Angeles, CA 90043.

River Watch is dedicated to protecting, enhancing, and helping to restore surface and ground waters of California including 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.

**CONTACT INFORMATION**

River Watch may be contacted via email: [US@ncriverwatch.org](mailto:US@ncriverwatch.org) or through its attorneys. River Watch has retained legal counsel with respect to the issues set forth in this

Notice. All communications should be directed as follows:

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## RECOMMENDED REMEDIAL MEASURES

### I. DEFINITIONS

- A. Condition Assessment: A report that comprises inspection, rating, and evaluation of the existing condition of a sewer collection system. Inspection is based upon closed circuit television (“CCTV”) inspections for gravity mains, manhole inspections for structural defects, and inspections of pipe connections at the manhole. After CCTV inspection occurs, pipe conditions are assigned a grade based on the Pipeline Assessment and Certification Program ("PACP") rating system, developed by the National Association of Sewer Service Companies. The PACP is a nationally recognized sewer pipeline condition rating system for CCTV inspections.
- B. Full Condition Assessment: A Condition Assessment of all sewer lines in the sewer collection system with the exception of sewer lines located within two hundred (200) feet of surface waters.
- C. Surface Water Condition Assessment: A Condition Assessment of sewer lines in the sewer collection system located within two hundred (200) feet of surface waters, including gutters, canals and storm drains which discharge to surface waters.
- D. Significantly Defective: A sewer pipe is considered to be Significantly Defective if its condition receives a grade of 4 or 5 based on the PACP rating system. The PACP assigns grades based on the significance of the defect, extent of damage, percentage of flow capacity restriction, and/or the amount of pipe wall loss due to deterioration. Grades are assigned as follows:
- 5 – Most significant defect
  - 4 – Significant defect
  - 3 - Moderate defect
  - 2 – Minor to moderate defect
  - 1 – Minor defect.

## II. REMEDIAL MEASURES

River Watch believes the following remedial measures are necessary to bring the Discharger into compliance with the CWA and the Basin Plan, and reflect the biological impacts of the Discharger's on-going noncompliance with the CWA:

### A. Sewage Collection System Investigation and Repair

1. The repair or replacement, within two (2) years, of all sewer lines in the Discharger's sewage collection system located within two hundred (200) feet of surface waters, including gutters, canals and storm drains which discharge to surface waters, which have been CCTV'd within the past five (5) years and were rated as Significantly Defective or given a comparable assessment.
2. Within two (2) years, the completion of a Surface Water Condition Assessment of sewer lines which have not been CCTV'd during the past five (5) years.
3. Within two (2) years after completion of the Surface Water Condition Assessment the Discharger will:
  - i. Repair or replace all sewer lines found to be Significantly Defective;
  - ii. Repair or replace sewer pipe segments containing defects with a rating of 3 based on the PACP rating system, if such defect resulted in a SSO, or, if in the City's discretion, such defects are in close proximity to Significantly Defective segments that are in the process of being repaired or replaced;
  - iii. Sewer pipe segments which contain defects with a rating of 3 that are not repaired or replaced within five (5) years after completion of the Surface Water Condition Assessment are to be re-CCTV'd not more than every five (5) years to ascertain the condition of the sewer line segment. If the Discharger determines the grade-3 sewer pipe segment has deteriorated and needs to be repaired or replaced, the Discharger shall complete such repair or replacement within two (2) years after the last CCTV cycle.
4. Beginning no more than one (1) year after completion of the Surface Water Condition Assessment, the Discharger shall commence a Full Condition Assessment to be completed within seven (7) years. Any sewer pipe segment receiving a rating of 4 or 5 based on the PACP rating system shall be repaired

or replaced within two (2) years of the rating determination.

5. Provision in the Discharger's Capital Improvements Plan to implement a program of Condition Assessment of all sewer lines at least every five (5) years. Said program to begin one (1) year following the Full Condition Assessment described above.

B. SSO Reporting and Response

1. Modification of the Discharger's Backup and SSO Response Plan to include in its reports submitted to the CIWQS State Reporting System the following items:
  - i. The method or calculations used for estimating total spill volume, spill volume that reached surface waters and spill volume recovered.
  - ii. For Category I Spills, a listing of nearby residences or business owners who have been contacted to attempt to establish the SSO start time, duration, and flow rate, if such start time, duration, and flow rate have not been otherwise reasonably ascertained, such as from a caller who provides information that brackets a given time that the SSO began.
  - iii. Taking of photographs of the manhole flow at the SSO site using the San Diego Method array, if applicable to the SSO; or other photographic evidence that may aid in establishing the spill volume.
2. Water quality sampling and testing to be required whenever it is estimated that fifty (50) gallons or more of untreated or partially treated wastewater enters surface waters. Constituents tested for to include: Ammonia, Fecal Coliform, E. coli and a CAM-17 toxic metal analysis. The Discharger shall collect and test samples from three (3) locations: the point of discharge, upstream of the point of discharge, and downstream of the point of discharge. If any of said constituents are found at higher levels in the point of discharge sample and the downstream sample than in the upstream sample, the Discharger will determine and address the cause of the SSO that enters surface waters, and employ the following measures to prevent future overflows: (a) if the SSO is caused by a structural defect, then immediately spot repair the defect or replace the entire line; (b) if the defect is non-structural, such as a grease blockage or vandalism to a manhole cover, then perform additional maintenance or cleaning, and any other appropriate measures to fix the nonstructural defect.

3. Creation of website capacity to track information regarding SSOs; or in the alternative, the creation of a link from the Discharger's website to the CIWQS SSO Public Reports. Notification to be given by the Discharger to all customers and other members of the public of the existence of the web based program, including a commitment to respond to private parties submitting overflow reports.
4. Performance of human marker sampling on creeks, the Russian River and wetlands in areas adjacent to sewer lines, to test for sewage contamination from exfiltration.

C. Lateral Inspection/Repair Program

1. Creation of a mandatory, private sewer lateral inspection and repair program triggered by any of the following events:
  - i. Transfer of ownership of the property if no inspection/replacement of the sewer lateral occurred within twenty (20) years prior to the transfer;
  - ii. The occurrence of two (2) or more SSOs caused by the private sewer lateral within two (2) years;
  - iii. A change of the use of the structure served (a) from residential to non-residential use, (b) to a non-residential use that will result in a higher flow than the current non-residential use, and (c) to non-residential uses where the structure served has been vacant or unoccupied for more than three (3) years;
  - iv. Upon replacement or repair of any part of the sewer lateral;
  - v. Upon issuance of a building permit with a valuation of \$50,000.00 or more; or
  - vi. Upon significant repair or replacement of the main sewer line to which the lateral is attached.

D. Reclamation Monitoring And Capacity

1. Requirement of daily visual monitoring of irrigation activities on the Burch Property during the land disposal season from mid-May to mid-October, and weekly photographing to document conditions in the irrigation area. The

person designated by the owner of the Burch Property as responsible for reclamation oversight shall report any observed incident of ponding or runoff to the Discharger within twenty-four (24) hours. Upon a report of ponding or runoff, the Discharger shall discontinue irrigation activities at the Burch Property until such time as it is determined that irrigation can resume without exceeding the hydraulic capacity of the land.

2. If results of the Assimilative Capacity Analysis (scheduled to be completed by December 31, 2015) determine that the assimilative capacity of nitrogen and salt in groundwater is used by existing land disposal reclamation sites, the Discharger shall implement source control activities to decrease the levels of nitrogen and salt in its reclamation effluent.
3. Good faith efforts on the part of the Discharger to increase its reclamation site capacity by 25% within two (2) years.

E. Collection System Improvements

1. Completion within one (1) year of a system evaluation to identify the existence of air valves and assess the vulnerabilities of force mains.
2. Grant funding to allow for the repair and/or replacement, in a timely manner, of the most vulnerable components of the collection system, as disclosed by the system evaluation in section E.1 above and by the Condition Assessments described in section A above.

## CONCLUSION

The violations set forth in this Notice effect the health and enjoyment of members of River Watch who reside and recreate in the affected community. Members of River Watch use the affected watershed for recreation, sports, fishing, swimming, hiking, photography, nature walks and the like. Their health, use, and enjoyment of this natural resource is specifically impaired by the Discharger's 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), § 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 \$37,500 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 Discharger or its representative to contact River Watch within **20 days** of receipt of this Notice Letter to: (1) initiate a discussion regarding the allegations detailed in this Notice, and (2) set a date for a site visit. In the absence of productive discussions to resolve this dispute, or receipt of additional information demonstrating that the Discharger is in compliance with the strict terms and conditions of its NPDES Permits and the CWA, River Watch intends to file a citizen’s suit under CWA § 505(a) when the 60-day notice period ends.

Very truly yours,



Jerry Bernhaut

JB:lhbm

*Service List*

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State Water Resources Control Board  
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