
From: Jacob Patterson [<mailto:jacob.patterson.esq@gmail.com>]

Sent: Thursday, May 24, 2018 9:39 PM

To: Miller, Tabatha

Subject: Public Comment -- 5/29/18 CC Mtg., Item No. 7A, Wastewater Project Funding

Tabatha,

Please include this email and the letter from River Watch, attached, as a public comment for Item No. 7A, which includes the USDA Grant agreement about which I expressed serious concerns.

I was, and continue to be, concerned that the draft funding agreement included language whereby the City effectively certified it was in compliance with a variety of applicable laws and regulations. I am specifically concerned about these provisions:

"The Grantor may terminate the grant in whole, or in part, at any time before the date of completion, whenever it is determined that the Grantee has failed to comply with the Conditions of the grant.

As a condition of this grant agreement, the Grantee assures and certifies that it is in compliance with and will comply in the course of the agreement with all applicable laws, regulations, Executive orders and other generally applicable requirements, including those set out in 7 CFR 3015.205(b), which hereby are incorporated into this agreement by reference, and such other statutory provisions as are specifically set forth herein."
(Recitals, at Page 1.)

"I. Upon any default under its representations or agreements set forth in this instrument, Grantee, at the option and demand of Grantor, will repay to Grantor forthwith the original principal amount of the grant stated herein above with the interest at the rate of 5 percentum per annum from the date of the default. Default by the Grantee will constitute termination of the grant thereby causing cancellation of Federal assistance under the grant."
(Conditions, at Page 2.)

I expressed this concern at several City meetings, including the earlier budget review workshop your first week of working as our new City Manager. I even referenced River Watch as a past plaintiff for two similar lawsuits against the City and related agencies.

Based on my reading on the River Watch letter, the alleged violations, which appear to be based on significant supporting evidence, directly relate to the kinds of laws the City is attesting it is compliance with in order to receive the funding. (I believe another financing agreement had similar language.)

I would like to request clarity about the security of our funding stream for the Wastewater Treatment Upgrade project in light of the pending litigation from River Watch. Please have staff or the City Attorney think about

this issue prior to Tuesday's City Council meeting. You may want to include such information in the staff presentation.

Thanks,

--Jacob

Law Office of Jack Silver

708 Gravenstein Hwy North, Suite 407 Sebastopol, CA 95472
Phone 707-528-8175 Email JSilverEnvironmental@gmail.com



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

May 21, 2018

Tabatha Miller - City Manager
City of Fort Bragg
City Council in its capacity as Board
Fort Bragg Municipal Improvement District No. 1
416 N. Franklin St.
Fort Bragg, CA 95437

Tom Z. Varga - Public Works Director
Head of Agency
Fort Bragg Wastewater Treatment Facility
416 North Franklin Street
Fort Bragg, CA 95437

RECEIVED

MAY 18 2018

**CITY OF FORT BRAGG
CITY CLERK**

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

Dear Ms. Miller, City Council members, Mr. Varga and Head of Agency:

STATUTORY NOTICE

This Notice is provided on behalf of California River Watch ("River Watch") in 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/or operation of the Fort Bragg Wastewater Treatment Facility ("Facility") and its associated sewer collection system.

River Watch hereby places the City of Fort Bragg and Fort Bragg Municipal Improvement District No. 1, as owners and operators of the Facility and associated collection system (collectively referred to as the "Discharger"), 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 Discharger 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, North Coast Region, Water Quality Control Plan ("Basin Plan"), as the result of violations of the Discharger's National Pollution Discharge Elimination System ("NPDES") Permit.

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, who 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 an 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. River Watch alleges the Discharger is in violation of the CWA by violating the terms of its NPDES permit.

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 Discharger’s operations in the region at issue in this Notice is the Regional Water Quality Control Board, North Coast Region (“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* CWA § 505, 33 U.S.C. § 1365). River Watch is exercising such citizen enforcement to enforce compliance by the Discharger 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 contends the order being violated is NPDES No. CA0023078, SWRCB Order No. R1-2015-0024, which superseded Order No. R1-2009-0030, collectively referred to as “the NPDES Permit”. River Watch has identified specific violations of the Discharger’s NPDES Permit including raw sewage discharges and failure to either comply with or provide evidence that it has complied with all the terms of the NPDES Permit.

2. The Activity Alleged to Constitute a Violation

River Watch contends the Discharger has violated the Act as described below in this Notice.

A. Sanitary Sewer Overflows, Inadequate Reporting, and Failure to Mitigate Impacts

i. Sanitary Sewer Overflows Occurrence

Sanitary Sewer Overflows (“SSOs”), in which untreated sewage is discharged above-ground from the collection system prior to reaching the Facility, 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 filed by the Discharger, all in violation of the CWA.

The Facility’s aging sewer collection system has historically experienced high inflow and infiltration (“I/I”) during wet weather. Structural defects which allow I/I into the sewer lines result in a buildup of pressure, causing SSOs. Overflows caused by blockages and I/I result in the discharge of raw sewage into gutters, canals and storm drains connected to adjacent surface waters including Noyo River, Pudding Creek, and Cedar Creek - all waters of the United States.

A review of the CIWQS Spill Public Report – Summary Page identifies the “Total Number of SSO locations” as 42, with 18,830 “Total Vol. of SSOs (gal)” discharged into the environment. Of this total volume, the Discharger admits at least 14,136 gallons, or 75% of the total, reached a surface water. This discharge poses both a nuisance pursuant to California Water Code § 13050(m) and an imminent and substantial endangerment to health and the environment.

A review of the CIWQS SSO Reporting Program Database specifically identifies 8 recent SSOs reported as having reached a water of the United States, identified by Event ID numbers 800381, 800732, 804855, 805106, 807597, 813926, 820433, and 834117. Included in the 8 reported SSOs are the following incidents:

- March 31, 2017 (Event ID# 834117) - an SSO estimated at 258 gallons occurred at a manhole at the intersection of Nancy Way and Cedar Street as a result of grease deposition. 50 gallons reached Cedar Creek through a storm drainage channel.
- March 14, 2015 (Event ID# 813926) - an SSO estimated at 5,959 gallons occurred at a manhole at the intersection of Nancy Way and Cedar Street as a result of grease deposition. Only 59 gallons were recovered; 5,900 gallons discharged to Cedar Creek.
- March 30, 2014 (Event ID# 805106) - an SSO estimated at 4,630 gallons occurred at E. Oak Street and Dana Street caused by grease deposition. Only 225 gallons were recovered, with 4,400 gallons of sewage entering a storm drain and an unnamed surface water.

All of the above-identified discharges are violations of CWA § 301(a), 33 U.S.C. § 1311(a), as discharges of a pollutant (sewage) from a point source (sewer collection system) to a water of the United States without complying with any other sections of the Act. Further, these alleged discharges are violations of the Discharger’s NPDES Permit, specifically Order No. CA0023078, which states in Section III. Discharge Prohibitions:

- A. The discharge of any waste not disclosed by the Permittee or not within the reasonable contemplation of the Regional Board is prohibited.
- B. Creation of pollution, contamination, or nuisance, as defined by section 13050 of the Water Code is prohibited.
- C. The discharge of sludge or digester supernatant is prohibited, except as authorized under section VI.C.5.c of this Order (Sludge Disposal and Handling Requirements).

- D. The discharge or reuse 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 Provisions G (Bypass) and H (Upset.)
- E. Any sanitary sewer overflow (SSO) that results in a discharge of untreated or partially treated wastewater to (a) waters of the state or (b) land that creates pollution, contamination, or nuisance, as defined in Water Code section 13050 is prohibited.
- F. The discharge of waste to land that is not owned by the Permittee, government by District ordinance, or under agreement by use by the Permittee, or for which the Permittee has explicitly permitted such use, is prohibited, except for fire suppression as provided in title 22, sections 60307(a) and 60307 (b) of the California Code of Regulations (CCR).
- G. The discharge of waste at any point not described in Finding II.B of the Fact Sheet or authorized by a permit issued by the State Water Resources Control Board (State Water Board) or another Regional Water Board is prohibited....
- K. The by passing of untreated wastes containing concentrations of pollutants in excess of those of Ocean Plan Tables 1 or 2 (2012) is prohibited.

River Watch contends these violations are continuing in nature or have a likelihood of occurring in the future.

ii. Inadequate Reporting of Discharges

a. Incomplete and Inaccurate SSO Reporting

Full and complete reporting of SSOs is essential to gauging their impact upon public health and the environment. The Discharger's SSO Reports, which should reveal critical details about each of these SSOs, lack responses to specific questions that would present sufficient information to accurately assess and ensure these violations would not recur.

In addition, River Watch's expert believes many of the SSOs reported by the Discharger as not reaching a surface water did in fact reach surface waters, and those reported as reaching surface waters did so in greater volume than stated. River Watch's expert also believes that a careful reading of the time when the SSO began, the time the Discharger received notification of the SSO, the time of its response, and the time at which the SSO ended, too often appear as unlikely estimations. For example:

- March 30, 2014 (Event ID #805106) - the spill start time and agency notification time are both reported as 12:37 pm, the operator is reported as arriving just three minutes later at 12:40 pm and the 4,630 gallon spill is reported to have ended just 20 minutes later at 1:00 pm.

- March 31, 2015 (Event ID #814383) - the spill start time and agency notification time are both reported as 3:55 pm, and the operator arrival time and spill end time are both reported as occurring five minutes later, at 4:00 pm. The spill is stated as being 50 gallons.
- March 31, 2017 (Event ID #834117) - the spill start time is recorded as 09:12 am and the operator arrival and spill end are both listed as just three minutes later, at 09:15 am. The spill is reported as being 258 gallons.

Given the unlikely accuracy of the times and intervals provided in these reports, it is difficult to consider the stated volumes as accurate. Without correctly reporting the spill start and end time, there is a danger that the duration and volume of a spill will be underestimated.

b. Failure to Warn

The Discharger has not posted any warning signs for the 8 most recent SSOs (Event ID#s 834117, 820433, 813926, 807597, 803106, 804855, 800732, 800381) that reached a surface water. River Watch contends the Discharger is understating the significance of the impacts of its CWA violations by failing to post health warning signs for all SSOs which pose an imminent and substantial endangerment to health or the environment regardless of location.

iii. Failure to Mitigate Impacts

River Watch contends the Discharger fails to adequately mitigate the impacts of its SSOs. 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 the Discharger 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.

A critical remedial measure is the performance of adequate sampling to determine the nature and impact of the release. As the Discharger is severely underestimating SSOs which reach surface waters, River Watch contends the Discharger is not conducting sampling on most SSOs.

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 biological habitat areas exist within areas of the Discharger's SSOs. Neighboring waterways include sensitive areas for steelhead trout, coho salmon, and chinook salmon. River Watch finds no record of the Discharger performing any analysis of the impact of its SSOs on habitat of protected species under the ESA, nor any evaluation of the measures needed to restore water bodies containing biological habitat from the impacts of SSOs.

B. Sewer Collection System Subsurface Discharges Caused by Underground Exfiltration

It is a well-established fact that exfiltration caused by structural defects in a sewer collection system results in discharges to adjacent surface waters either directly or via underground hydrological connections. 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.

River Watch contends untreated or partially treated sewage is discharged from the Discharger's collection system either directly or via hydrologically connected groundwater to surface waters including Cedar Creek, Pudding Creek, Noyo River, and the Pacific Ocean. Due to SSOs, surface waters become contaminated with pollutants, including human pathogens. Chronic failures in the collection system pose a substantial threat to public health.

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 from the Discharger is a violation of its NPDES Permit and thus the CWA.

C. Violations of Effluent Limitations and Monitoring Requirements

A review of the Discharger's Self-Monitoring Reports ("SMRs") identifies the following violations of effluent limitations imposed under the Discharger's NPDES Permit:

i. Reported Violations

a. Deficient Monitoring

The SMRs identify 1 violation of the NPDES Permit, Attachment E - Monitoring and Reporting Program (MRP), IV. Effluent Monitoring Requirements:

(08/01/2017) During the August monitoring and reporting period, plant limits were not exceeded. However, the lab did not use proper dilutions for BOD samples causing deficient monitoring for both influent and effluent monitoring.

b. Violations of Effluent Limitations

The SMRs identify 31 violations of the NPDES Permit, IV. Effluent Limitations and Discharge Specifications, A. Effluent Limitations - Discharge Point 001:

- (02/28/2017) Total Suspended Solids (TSS), Percent Removal Percent Reduction limit is 85% and reported value was 83.6% at EFF-001.
- (03/19/2015) Chlorine, Total Residual Daily Maximum limit is 3.40 lb/day and reported value was 19.50 lb/day at EFF-001.

- (03/19/2015) Chlorine, Total Residual Daily Maximum limit is 4190 ug/L and reported value was 408 ug/L at EFF-001.
- (03/19/2015) Chlorine, Total Residual Instantaneous Maximum limit is 3060 ug/L and reported value was 04190 ug/L at EFF-001.
- (03/19/2015) Chlorine, Total Residual Maximum Daily (MDEL) limit is 3.4 lb/day and reported value was 19.5 lb/day at EFF-001.
- (03/19/2015) Chlorine, Total Residual MDEL limit is 408 ug/L and reported value was 4190 ug/L at EFF-001.
- (05/31/2014) Biochemical Oxygen Demand (BOD) (5-day @ 20 Deg. C) Monthly Average limit is 30 mg/L and reported value was 32 mg/L at EFF-001.
- (03/31/2014) TSS, Percent Removal Percent Reduction limit is 85% and reported value was 83.9% at EFF-001.
- (02/28/2014) Biochemical Oxygen Demand (BOD) (5-day @ 20 Deg. C) Monthly Average limit is 30 mg/L and reported value was 34 mg/L at EFF-001.
- (02/28/2014) TSS Monthly Average limit is 30 mg/L and reported value was 31 mg/L at EFF-001.
- (02/08/2014) TSS Weekly Average limit is 45 mg/L and reported value was 56 mg/L at EFF-001.
- (01/31/2014) BOD (5-day @ 20 Deg. C) Monthly Average limit is 30 mg/L and reported value was 37 mg/L at EFF-001.
- (01/31/2014) TSS Monthly Average limit is 30 mg/L and reported value was 34 mg/L at EFF-001.
- (01/25/2014) TSS Weekly Average limit is 45 mg/L and reported value was 52 mg/L at EFF-001.
- (01/04/2014) TSS Weekly Average limit is 375 lb/day and reported value was 380 lb/day at EFF-001.
- (12/31/2013) BOD (5-day @ 20 Deg. C) Monthly Average limit is 30 mg/L and reported value was 34 mg/L at EFF-001.
- (12/31/2013) TSS Monthly Average limit is 30 mg/L and reported value was 34 mg/L at EFF-001.
- (07/31/2013) TSS Monthly Average limit is 30 mg/L and reported value was 34 mg/L.
- (07/13/2013) TSS Weekly Average limit is 45 mg/L and reported value was 53 mg/L.
- (07/03/2013) TSS Weekly Average limit is 45 mg/L and reported value was 53 mg/L.
- (06/30/2013) BOD (5-day @ 20 Deg. C) Monthly Average limit is 30 mg/L and reported value was 33 mg/L.

- (06/30/2013) TSS Monthly Average limit is 30 mg/L and reported value was 31 mg/L.
- (06/01/2013) BOD (5-day @ 20 Deg. C) Weekly Average limit is 45 mg/L and reported value was 61 mg/L.
- (06/01/2013) TSS Weekly Average limit is 45 mg/L and reported value was 54 mg/L.
- (05/31/2013) TSS Monthly Average limit is 30 mg/L and reported value was 45 mg/L.
- (05/31/2013) TSS Percent Removal Percent Reduction limit is 85% and reported value was 83%.
- (05/31/2013) BOD (5-day @ 20 Deg. C) Monthly Average limit is 250 lb/day and reported value was 265 lb/day.
- (05/25/2013) TSS Weekly Average limit is 45 mg/L and reported value was 50 mg/L.
- (05/25/2013) BOD (5-day @ 20 Deg. C) Weekly Average limit is 45 mg/L and reported value was 52 mg/L.
- (05/11/2013) BOD (5-day @ 20 Deg. C) Weekly Average limit is 45 mg/L and reported value was 51 mg/L.
- (05/04/2013) TSS Weekly Average limit is 45 mg/L and reported value was 47 mg/L.

The SMRs identify 6 violations of the NPDES Permit, IV. Effluent Limitations and Discharge Specifications:

- (02/02/2016) Total Coliform Single Sample Maximum limit is 230 MPN/100 mL and reported value was 350 MPN/100 mL at EFF-001.
- (01/31/2016) Total Coliform Monthly Median limit is 70 MPN/100 mL and reported value was 286.5 MPN/100mL at EFF-001.
- (01/26/2016) Total Coliform Single Sample Maximum limit is 230 MPN/100 mL and reported value was 540 MPN/100 mL at EFF-001.
- (01/19/2016) Total Coliform Single Sample Maximum limit is 230 MPN/100 mL and reported value was 540 MPN/100 mL at EFF-001.
- (10/21/2014) Total Coliform Monthly 90th% limit is 230 MPN/100 mL and reported value was 350 MPN/100 mL at EFF-001.
- (10/21/2014) Total Coliform Monthly Median limit is 70 MPN/100 mL and reported value was 181 MPN/100 mL at EFF-001.

E. Impacts to Beneficial Uses

Discharges in excess of effluent limitations, SSOs, and overwhelming already saturated irrigation fields cause prohibited pollution by unreasonably affecting beneficial uses of neighboring

waterways. The Noyo River watershed is a 72,323-acre coastal tributary immediately west of the City of Willits that flows to the Pacific Ocean at the City of Fort Bragg. The Noyo River supports an anadromous fishery including steelhead trout, coho salmon, and chinook salmon, all of which are listed as threatened under the federal Endangered Species Act. The Noyo River, pursuant to CWA § 303(d), is listed as impaired by excessive sediment loading. The Noyo River estuary is recognized for protection by the California Bays and Estuaries Policy. Critical Coastal Areas in and around the Noyo River watershed include Pudding Creek, and the Pygmy Forest Ecological Staircase.

The City of Fort Bragg uses surface water from the Noyo River as a primary source of drinking water. The River provides groundwater recharge and wildlife habitat including cold freshwater habitat for fish migration and spawning. Non-salmonid species in the watershed include the three-spined stickleback, Pacific lamprey and sculpin. The Noyo River Estuary is home to harbor seals, seagulls, river otters, sea lions, many species of coastal birds, bobcats, spotted skunks, black bear, beaver, mountain lion, and deer.

River Watch is understandably concerned as to the effects of both surface and underground exceedances of the Discharger's NPDES Permit limitations to beneficial uses applicable to the Noyo River and its tributaries, as well as the impacts of SSOs in and around the diverse and sensitive ecosystem of the Facility and the locations where sewage spills from the Discharger's collection system have occurred.

3. The Person or Persons Responsible for the Alleged Violation

The entities responsible for the alleged violations identified in this Notice are Fort Bragg Municipal Improvement District No. 1 and the City of Fort Bragg, as owners and operators of the Fort Bragg Wastewater Treatment Facility and its associated collection system, as well as those of their 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 Discharger which relate to its ownership and operation of the Facility and associated sewer collection system as described in this Notice.

The Discharger owns and operates the Facility, a domestic wastewater facility serving a population of approximately 7,000 within the City of Fort Bragg and surrounding unincorporated areas. The Facility is located on West Cypress Street in Mendocino County. The Facility has an average dry weather design treatment capacity of 1.0 mgd, and an average wet weather treatment capacity of 2.2 mgd. The Facility consists of rag screening, grit removal, primary clarification, two stage trickling filters, secondary clarification, chlorination using gaseous chlorine, and sulfur dioxide dechlorination. Effluent is discharged through a diffuser to the Pacific Ocean at Discharge Point 001 at 39° 26' 20" N latitude and 123° 48' 48" W longitude via a 650-foot outfall.

Sludge from the primary clarifier is pumped to a gravity thickener and then to 2 anaerobic digesters. Skimmings from the primary clarifier are sent to an unlined grease lagoon for drying and

storage, and then are taken to a municipal solid waste landfill for final disposal. Sludge from the secondary clarifier is pumped back to the primary clarifier. The commingled sludge is then pumped to the sludge thickener before being conveyed to the primary digester. The digested primary and secondary settled sludge is dewatered to a minimum of 15 percent solids in a gravity belt press. Additional sludge drying takes place in sludge drying beds prior to landfill disposal.

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

The range of dates covered by this Notice is May 18, 2013 through May 18, 2018. This Notice also includes all violations of the CWA by the Discharger which occur during and after this Notice period up to and including the time of trial.

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

The entity giving notice is California River Watch, referred to throughout this notice as "River Watch," an Internal Revenue Code § 501(c)(3) non-profit, 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 groundwater 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: US@ncriverwatch.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 counsel identified below:

Jack Silver, Esq.
Law Office of Jack Silver
708 Gravenstein Highway N., #407
Sebastopol, CA 95472
Tel. 707-528-8175
Email: jsilverEnvironmental@gmail.com

David J. Weinsoff, Esq.
Law Office of David J. Weinsoff
138 Ridgeway Avenue
Fairfax, CA 94930
Tel. 415-460-9760
Email: david@weinsofflaw.com

RECOMMENDED REMEDIAL MEASURES

River Watch looks forward to meeting with the Discharger and its staff to tailor remedial measures to the specific operation of the Facility and associated sewage collection system. In advance of that conversation, River Watch identifies the following set of remedial measures 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.

- Determining the specific sewer collection system repairs required, and establishing deadlines for compliance.
- Requiring implementation of an effective SSO reporting and response program.

- Providing a lateral inspection and repair program.
- Ensuring application of chemical root control complies with federal EPA or the RWQCB as well as manufacturer and Cal-OSHA requirements.
- Keeping the Sewer System Management Plant up-to-date and properly certified.
- Promoting staff training and education.

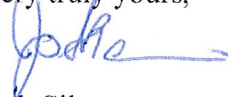
CONCLUSION

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 may use the affected watershed for recreation, swimming, fishing, hiking, photography or nature walks. 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), 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 \$53,484.00 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 Discharger 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

Service List

Scott Pruitt, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N. W.
Washington, D.C. 20460

Alexis Strauss, Acting Regional Administrator
U.S. Environmental Protection Agency
Pacific Southwest
75 Hawthorne Street
San Francisco, CA 94105

Michael A.M. Lauffer, Acting Executive Director
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812