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save our wetlands

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

December 12, 2014

Mr. Alan C. Kapanicas
City Manager
City of Beaumont
550 E. 6th St.
Beaumont, CA 92223

Mr. Deepak Moorjani
Vice President
Urban Logic Consultants, Inc.
871 W 4th Street, Suite A
Beaumont, CA 92223

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

Dear Mr. Kapanicas, Mr. Moorjani or 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 believes are occurring at the City of Beaumont Wastewater Treatment Plant No.1 ("Plant") and through its associated collection system. River Watch hereby places the City of Beaumont, the owner of the Beaumont Wastewater Treatment Plant No.1 and owner and operator of its associated collection system, and Urban Logic Consultants, Inc., the operator of the Beaumont Wastewater Treatment Plant No.1 (collectively hereinafter referred to as "Beaumont"), on notice that following the expiration of 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 Beaumont 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, Santa Ana Region, Water Quality Control Plan ("Basin Plan"), as the result of alleged violations of permit conditions or limitations in Beaumont's National Pollutant Discharge Elimination System ("NPDES") Permit.

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 polluter, who 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 Beaumont's operations in the region at issue in this Notice is the Regional Water Quality Control Board, Santa Ana 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* 33 U.S.C. § 1365). River Watch is exercising such citizen enforcement to enforce compliance by Beaumont with its NPDES permit.

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. R8-2006-003, NPDES No. CA0105376 (Waste Discharge and Producer/User Water Recycling Requirements for the City of Beaumont Wastewater Treatment Plant No. 1 Riverside County), as amended by Order No. R8-2009-0002, as being violated. A violation of the 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 Beaumont of its failure to fully comply with the permit requirements. This is especially so since Beaumont is responsible for monitoring its operations to ensure compliance with all permit conditions. River Watch, however, sets forth the following narratives in this Notice describing with particularity the activities it alleges as violations. River Watch does so following a review of public records (e.g. Beaumont's Self Monitoring Reports ("SMRs")) relating to Beaumont's operations at the Plant. Additional records and other public documents in Beaumont's possession or otherwise available to Beaumont regarding its NPDES Permit (all of which are hereby incorporated by reference) may, upon discovery, reveal additional violations.

River Watch contends that from December 11, 2009 through December 11, 2014, Beaumont violated the following identified requirements of Beaumont's NPDES Permit, the Basin Plan and the Code of Federal Regulations, as those requirements are referenced in the NPDES Permit, with respect to the Plant and its associated collection system:

A. Collection System Subsurface Discharges Caused By Underground Exfiltration

Underground discharges in which untreated sewage is discharged from Beaumont's collection system prior to reaching the Plant are alleged to have been continuous throughout the period December 11, 2009 through December 11, 2014 (1825 separate violations) in violation of the following NPDES Permit Prohibitions:

- Order No. R8-2006-0003, Discharge Prohibition III.A: "Wastes discharged shall be limited to tertiary treated and disinfected effluent."

- Order No. R8-2006-0003, Discharge Prohibition III.B: "Discharge of wastewater at a location or in a manner different from that described in the Findings is prohibited."

- Order No. R8-2006-0003, Discharge Prohibition III.C: "The bypass or overflow of untreated wastewater or wastes to surface waters or surface water drainage courses is prohibited, except as allowed in Standard Provision I.H. of Attachment D, Federal Standard Provisions."

- Order No. R8-2006-0003, Discharge Prohibition III.D: "The discharge of any substance in concentrations toxic to animal or plant life in the affected receiving water is prohibited."

Exfiltration caused by pipeline cracks and other structural defects in the collection system result in discharges to adjacent surface waters via underground hydrological connections. Beaumont's internal reports indicate discharges to surface waters not reported to the California Integrated Water Quality System ("CIWQS"). Because the entire system has not been adequately inspected by means of closed circuit television ("CCTV"), Beaumont has insufficient information for a significant portion of the collection system concerning its condition or the extent of exfiltration. These sections of the system are old and in need of repair. Untreated sewage is discharged from cracks, displaced joints, eroded segments, etc., into ground water hydrologically connected to surface waters. Evidence indicates extensive exfiltration from lines within 200 feet of a surface water.

River Watch alleges that such discharges are continuous wherever aging, damaged, and/or structurally defective sewer lines in Beaumont's collection system are located adjacent to surface waters, including tributaries of both the Salton Sea and the Santa Ana River Basin. Surface waters and ground water become contaminated with fecal coliform, exposing people to 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 have verified the contamination of the adjacent waters with untreated sewage.[1]

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[1] *See* the Report of Human Marker Study issued in July of 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.

Evidence of exfiltration can be found in mass balance data, "inflow and infiltration" ("I/I") data, video inspection, and tests of waterways adjacent to sewer lines for nutrients, human pathogens and other human markers such as caffeine. Exfiltration from Beaumont's collection system is a daily occurrence and a violation of Beaumont's NPDES Permit and the CWA.

In addition to the above, a study was prepared in 2011 by the Department of Environmental Sciences at the University of California Riverside ("Final Report: Water Quality Assessment of Beaumont Management Zone: Identifying Sources of Groundwater Contamination Using Chemical and Isotopic Tracers"). This study was conducted in response to a request by the Ground Water Quality Evaluation Committee and funded by the RWQCB. Forty wells and 11 surface water sites were chosen for sampling in Beaumont Management Zone ("BMZ"). All wells sampled were in active use during that period and provided spatial coverage of the BMZ. The sample locations included areas where waste is handled by septic and sewer systems. Zone 1 is an area located in the southern part of the BMZ mostly affected by the Plant's effluent discharges, where 1.8 MGD is discharged into Cooper's Creek and San Timoteo Creek, both supporting riparian habitat. Ground water flows away from the Plant both northwest and southeast. Based on this report, the results closest to groundwater wells near the Plant had higher salt, nitrate, and Pharmaceuticals and Personal Care Products ("PPCP") concentrations, compared to downstream and other sites in the BMZ.

The PPCP data provides evidence that much of the nitrate in Zone 1 came from the City of Beaumont's treated effluent discharges. The PPCP index values in the ground water ranged from 9.1 to 1.1 and decreased along the northwest flow path of the Plant's effluent. Only 2 wells in Zone 1 had index values of zero along the southeast flow path of ground water. The study demonstrates the effects the Plant continues to have on ground water in the BMZ. In Zone 1, the substantial proportion of nitrate, derived from human waste, is converted to gaseous nitrogen forms, exiting the Plant. Also, mass balance computations show that nitrate-nitrogen inputs from septic tanks is one of the largest inputs of nitrogen to ground water in the BMZ. If this waste were diverted to the Plant, about 90.6% of the nitrate would be consumed by denitrification in the riparian areas of Zone 1, effectively removing about 30% of the current input of nitrate to ground water from human waste.

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 CIWQS Interactive Public SSO Reports (13 separate violations) and on dates when no reports were filed by Beaumont, all in violation of the following NPDES Permit Prohibitions:

- Order No. R8-2006-0003, Discharge Prohibition III.A: "Wastes discharged shall be limited to tertiary treated and disinfected effluent."

- Order No. R8-2006-0003, Discharge Prohibition III.B: "Discharge of wastewater at a location or in a manner different from that described in the Findings is prohibited."

- Order No. R8-2006-0003, Discharge Prohibition III.C: "The bypass or overflow of untreated wastewater or wastes to surface waters or surface water drainage courses is prohibited, except as allowed in Standard Provision I.H. of Attachment D, Federal Standard Provisions."

- Order No. R8-2006-0003, Discharge Prohibition III.D: "The discharge of any substance in concentrations toxic to animal or plant life in the affected receiving water is prohibited."

Releases Reported. Beaumont's aging collection system has historically experienced high I/I during wet weather. Sixty percent (60%) of the sewer lines were constructed prior to 1935. Forty percent (40%) were constructed prior to 2014. 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, Beaumont's collection system has experienced at least thirteen (13) SSOs between March 12, 2009 and September 22, 2014, with a combined volume of at least 353,727 gallons –221,160 gallons of which were reported as having reached surface waters. As an example, on August 20, 2009, a spill occurred at the Upper Oak Valley Lift Station. The total estimated volume of the spill was 2,000 gallons, 1,000 of which may have impacted Noble Creek due to its proximity. In addition,

on December 18, 2009, 195,450 gallons spilled from a pump station failure at the end of Ring Ranch Road, all of which are estimated to have reached Marshall Creek.[2]

Discharges to Surface Waters. River Watch's expert believes that many of the SSOs reported by Beaumont as having been contained without reaching a surface water did in fact discharge to surface waters, and those reported as partially reaching surface waters did so in greater volume than stated. The claim of full containment is further called into question by the fact that some of Beaumont's SSO Reports state the estimated start time of the SSO as the time when the reporting party first noticed the SSO. Studies have shown that most SSOs are noticed significantly after they have begun. Beaumont reports that some of the discharges reach a storm drain, but fails to determine the accurate amounts which reach a surface water.

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 the July 22, 2009 spill, the start and notification time are both reported as 07:30. For the SSO which occurred on May 03, 2010, the agency notification time is reported as 09:15, the operator arrival time is listed as 09:36. The estimated spill end time is 09:36, same as the operator arrival, and 21 minutes after the estimated spill start time. A recent SSO, occurring January 04, 2011, lists a start time of 10:00, agency notification time of 10:16, and operator arrival time of 10:40 – 24 minutes after the notification time. The estimated spill end time is 11:05. The reported volume of that SSO is 200 gallons, however given the unlikely accuracy of the times on the report, it is difficult to consider the stated volume as accurate.

Estimating Volume. River Watch's expert has also determined that Beaumont's method for estimating flow rate also underestimates the volume of a SSO. Furthermore, a review of the service records calls into question Beaumont's methodologies for determining the volume of SSOs captured. Beaumont 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

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[2] The SWRCB entered into a "Stipulation for Settlement of Administrative Civil Liability Complaints" on June 30, 2010 resolving ACL Complaint No. R8-2009-0068 issued on November 9, 2009, and ACL Complaint No. R8-2010-0007 issued on April 15, 2010.

in that reporting an estimate of the volume of any spill, the volume recovered and the volume which reached a surface water. Beaumont's field reports generally do not indicate what method was used to estimate the total volume of the spill, which further calls into question the estimates of volume recovered and volume reaching surface waters. River Watch contends that Beaumont is grossly underestimating the incidence and volume of SSOs that reach surface waters.

Mitigating Impacts. Beaumont 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 Beaumont's SSOs. There is no record of Beaumont 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 Beaumont 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 Beaumont is severely underestimating SSOs which reach surface waters, Beaumont is also not conducting sampling on most SSOs.

C. Violation of Effluent Limitations

SMRs identify the following violations of effluent limitations imposed under Beaumont's NPDES permit:

- Order No. R8-2006-0003, IV. Effluent Limitations and Discharge Specifications, A. Effluent Limitations, 1. Final Effluent Limitations – Discharge Point No. M-001:

  » **20** Effluent Discharges Exceeding the Permit Limit for Total Coliform: January 17, 2010, February 20, 2010, April 5, 2010, September 30, 2010,

October 1, 2010, May 3, 2011, May 4, 2011, May 8, 2011, June 4, 2011, (2x) July 12, 2011, September 3, 2011, December 5, 2012, May 6, 2013, June 18, 2013, June 19, 2013, June 20, 2013, March 9, 2014, March 28, 2014, and September 4, 2014 (*note* that 11 exceeded a specific limit more than once in a 30-day period, 3 exceeded "other limit" MPN/100mL, 1exceeded the 7-Day Median limit of 23 MPN/100mL, 2 exceeded the daily maximum limit of 240%, 1 exceeded the daily limit of 240 MPN/100mL, 1 exceeded "instantaneous maximum" limit o240 MPN/100mL, and 1 exceeded the Weekly Average limit of 2.2 MPN/100mL).

» **15** Effluent Discharges Exceeding the Permit Limit for Turbidity Daily Maximum: January 21, 2010, October 1, 2010, (2x) December 3, 2010, (2x) December 20, 2010, (2x) January 13, 2011, April 4, 2011, June 28, 2012, (2x) September 3, 2013, January 15, 2014, January 18, 2014, and September 22, 2014 (*note* that 4 exceeded a specific limit more than once in a 30 day period, 3 exceeded "instantaneous maximum" limit of 10 NTU, 2 violations exceeded the daily maximum of 2 NTU, 2 violations exceeded the daily maximum turbidity of 10 NTU, 1 did "not reach" its 19.5 NTU "other limit", 1 exceeded the "other limit" of 2 NTU, and 1 to exceed the 1 hour Average (Mean) limit of 10.0 NTU).

» **9** Effluent Discharges "not reaching" the permit limits for pH: August 3, 2010, August 15, 2010, August 16, 2010, August 17, 2010, October 1, 2010, (2x) January 16, 2011, (2x) January 17, 2011 (*note* that 8 did not reach the Daily Minimum limit of 6.5 SU, and 1 did not reach Instantaneous Minimum limit of 6.5 SU).

» **1** Effluent Discharge Exceeding the Permit Limits for Chloroform on May 9, 2010 exceeding the Daily Maximum limit of 23.0 MPN/100mL.

- Failure to Properly Monitor for Copper: **11** Effluent Discharges Only Identified as < 50 µg/L – November and December 2012; and January – August and October, 2013;

- Failure to Properly Monitor for Mercury: **11** Effluent Discharges Only Identified as <1.0 µg/L – November and December of 2012; January, February, March, April, May, June, July, August and October of 2013; and, **14** Effluent Discharges Only Identified as <0.2 µg/L – June, July, August, October, November and December of 2011 and March, April, May, June, July, August, October and December of 2012.

- Order No. R8-2006-0003, IV. Effluent Limitations and Discharge Specifications, A. Effluent Limitations, 1. Final Effluent Limitations – Discharge Point M-INF;

  » **1** Effluent Discharge on September 3, 2013 exceeding the Permit for Daily Average (Mean)

D. <u>Nuisance; Impacts to Beneficial Uses</u>

Beaumont's NPDES Permit prohibits the discharge of wastes that lead to the creation of a "nuisance" as defined under the California Water Code. The term "nuisance" is defined in California Water Code § 13050(m) as anything which meets all of the following requirements: 1) "is injurious to health, or is indecent or offensive to the senses . . . so as to interfere with the comfortable enjoyment of life or property;" 2) "affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal;" and, 3) "occurs during, or as a result of, the treatment or disposal of wastes."

Tributaries of the Salton Sea and the Santa Ana River Basin have many beneficial uses as defined in the RWQCB's Basin Plan. SSOs reaching both the Salton Sea and the Santa Ana River Basin or its tributaries cause prohibited pollution by unreasonably affecting the beneficial uses of these waters. Beaumont is also required by its NPDES Permit to comply with narrative standards as set forth in the Basin Plan, used when testing by numeric standards would be inadequate or impractical. Narrative standards include:

- Waters shall not contain taste or odor producing substances in concentrations that impart undesirable tastes or odors to fish flesh;

- Waters shall not contain floating material in concentrations that cause nuisance or affect beneficial uses;

- The pH shall not change within 0.5 units of the range needed for COLD or WARM beneficial uses, such as cold water habitat for fish;

- The bacteriological quality of waters shall not be degraded beyond natural background levels; and,

- Natural receiving water temperatures shall not be altered unless allowed by the RWQCB.

River Watch has found nothing in the public record to demonstrate that Beaumont has monitored for and complied with these narrative standards. River Watch is understandably concerned regarding the effects of both surface and underground SSOs on critical habitat in and around tributary waters of both the Salton Sea and the Santa Ana River Basin.

3. *The person or persons responsible for the alleged violation.*

The entity responsible for the alleged violations identified in this Notice is the City of Beaumont, as the owner of the Beaumont Wastewater Treatment Plant No.1 and as the owner and operator of its associated collection system, and Urban Logic Consultants, Inc, the operator of the Beaumont Wastewater Treatment Plant No.1, collectively referred to as "Beaumont" in this Notice, as well as Beaumont's employees responsible for compliance with Beaumont's NPDES Permit.

4. *The location of the alleged violation.*

The location or locations of the various violations are identified in Beaumont's NPDES Permit and also in records created and/or maintained by or for Beaumont which relate to the Plant and related activities as further described in this Notice.

The City of Beaumont, located at the intersections of Interstate 10, Highway 60, and Highway 79 in Riverside County, provides residents and visitors with access to deserts, mountains, beaches, and the greater Los Angeles area. Interstate 10 bisects the City with 6 east to west interchanges. Located within the City are 16 parks, 10 schools within the Beaumont Unified School District, and a 20-acre sports park. Ontario International Airport is located 40 miles west, and Palm Springs Airport 35 miles to the east. With a land area of 27.2 miles and current population of 40,000, the City is expected to support a population of

125,000 by year 2040. Businesses consist of local merchants as well as national retailers. The Union Pacific Railroad main line continues to run east-west along the commercial and industrial zones within city limits.

Beaumont owns the Plant and its associated wastewater collection system consisting of approximately 15 miles of pressure lines, and 140 miles of gravity sewer main. Wastewater is treated using a Biolac System, secondary clarifiers, tertiary filters and an ultraviolet light disinfection system. Beaumont operates the Plant through Urban Logic Consultants, Inc., a private contractor. The Plant has a design flow of 4 MGD and discharges advanced - secondary treated effluent into 3 distinct drainage areas.

Two drainage areas lie west of San Gorgonio Pass. The first drains generally south into Potrero Creek traversing the Badlands area to flow into the San Jacinto River, eventually draining into the Santa Ana River Basin. The second drainage area drains east into Smith Creek which descends into the east side of San Gorgonio Pass into the Whitewater River, continuing southeast through Coachella Valley into the Salton Sea. San Timoteo Creek drains westward from San Gorgonio Pass into the Santa Ana River Basin. In addition, 1.8 million gallons per day are fed into Cooper's Creek to preserve riparian habitat, and 700,000 gallons a day are drained into the Santa Ana River Basin to replenish water levels. The drainage course travels through the Santa Ana River flowing towards Orange County and finally the Pacific Ocean.

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 Beaumont's records with respect to the Plant and associated collection system for the period from December 11, 2009 through December 11, 2014, therefore the range of dates covered by this Notice is from December 11, 2009 through December 11, 2014. River Watch may from time to time update this Notice to include all violations of the CWA by Beaumont 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 this 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 protect, enhance, and help restore surface and ground waters of California including rivers, creeks, streams, wetlands, vernal pools, aquifers and associated environs, biota, flora and fauna. And to educate the public concerning environmental issues associated with these environs.

River Watch members residing in the area of the Plant and the surrounding watershed have a vital interest in bringing Beaumont's operations at the Plant and associated collection system into compliance with the CWA.

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 set forth in this Notice. All communications should be addressed as follows:

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RECOMMENDED REMEDIAL MEASURES

1. 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 200 feet of surface waters.

C. *Surface Water Condition Assessment*: A Condition Assessment of sewer lines in the sewer collection system located within 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

2. REMEDIAL MEASURES

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

A. SEWAGE COLLECTION SYSTEM INVESTIGATION AND REPAIR

- Repair or replacement, within two (2) years, of all sewer lines in Beaumont's sewage collection system located 200 feet from 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.

- Within two (2) years, the completion of a Surface Water Condition Assessment of sewer lines which have not been CCTV'd during the past ten (10) years.

- Within two (2) years after completion of the Surface Water Condition Assessment Beaumont will:

  » Repair or replace all sewer lines which have been found to be Significantly Defective;

  » 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 Beaumont determines such defects are in close proximity to Significantly Defective segments that are in the process of being repaired or replaced; and,

  » Ensure that sewer pipe segments that contain defects with a rating of 3 based on the PACP rating system that are not repaired or replaced within five (5) years after completion of the Surface Water Condition Assessment are re-CCTV'd not more than every five (5) years to ascertain the condition of the sewer line segment. If Beaumont determines that the grade-3 sewer pipe segment has deteriorated and needs to be repaired or replaced, Beaumont shall complete the repair or replacement within two (2) years after the last CCTV cycle.

- Beginning no more than one (1) year after completion of the Surface Water Condition Assessment, Beaumont 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 three (3) years of the rating determination.

- Implementation in Beaumont's Capital Improvements Plan of a program to provide a 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

- Modification of Beaumont's Backup and "SSO Response Plan" to include the method or calculations used for estimating total spill volume, spill volume that reached surface waters and spill volume recovered.

- For Category I Spills, creation of a listing of nearby residents 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 the SSO began).

- Taking of photographs of the manhole flow at the SSO site using the Santa Ana Method array, if applicable to the SSO; or, other photographic evidence that may aid in establishing the spill volume.

- Conduction of water quality sampling and testing whenever it is estimated that 50 gallons or more of untreated or partially treated waste water enters surface waters. Constituents tested for to include: Ammonia, Fecal Coliform, E. coli and a CAM-17 toxic metal analysis. Beaumont shall collect and test samples from 3 locations - the point of discharge, upstream of the point of discharge, and downstream of the point of discharge. If any of these constituents are found at higher levels in the point of discharge sample or at the downstream sample than in the upstream sample, Beaumont will determine and address the cause of the SSO that enters surface waters and employ the following measures to prevent future overflows:

  » if the SSO is caused by a structural defect, immediately spot repair the defect or replace the entire line; or,

  » if the defect is non-structural, such as a grease blockage or vandalism to a manhole cover, perform additional maintenance or cleaning and any other appropriate measures to fix the non-structural defect.

- Creation of a website capacity to track information regarding SSOs; or, in the alternative, creation of a link from Beaumont's website to the CIWQS SSO Public Reports. Notification to be given by Beaumont 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.

- Completion of human marker sampling on creeks, rivers, wetlands and areas of Cooper's Creek and the San Timoteo River adjacent to sewer lines to test for sewage contamination from exfiltration.

C. LATERAL INSPECTION/REPAIR PROGRAM

- Creation of a mandatory private sewer lateral inspection and repair program triggered by any of the following events:

  » Transfer of ownership of the property if no inspection/replacement of the sewer lateral occurred within twenty (20) years prior to the transfer;

  » Two (2) or more SSOs caused by the private sewer lateral within two (2) years;

  » A change in the use of the structure: (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, or (c) to non-residential uses where the structure served has been vacant or unoccupied for more than three (3) years;

  » Upon replacement or repair of any part of the sewer lateral;

  » Upon issuance of a building permit with a valuation of $25,000.00 or more; or,

  » Upon significant repair or replacement of the main sewer line to which the lateral is attached.

CONCLUSION

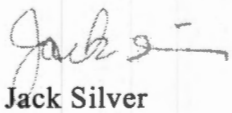
The violations set forth in this Notice effect the health and enjoyment of members of River Watch who reside and recreate in the affected community. Members of River Watch use the affected watershed for recreation, sports, fishing, swimming, hiking, photography,

nature walks and the like. Their health, use, and enjoyment of this natural resource is specifically impaired by Beaumont'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 Beaumont to contact River Watch within **20 days** after 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 Beaumont is in compliance with the strict terms and conditions of its NPDES Permit, River Watch intends to file a citizen's suit under CWA § 505(a) when the 60-day notice period ends.

Very truly yours,



Jack Silver

JS:lhm

cc:

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