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Via Certified Mail –
Return Receipt Requested

November 4, 2014

Mitch Mansfield, General Manager
Board of Directors
Salton Community Services District
1209 Van Buren Avenue, Suite 1
P.O. Box 526
Salton City, CA 92275

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

Dear Mr. Mansfield and Members of the Board:

NOTICE

The Clean Water Act ("CWA" or "Act") requires that 60 days prior to the initiation of a civil action under CWA § 505(a), 33 U.S.C. § 1365(a), a citizen must give notice of the intent to sue to the alleged violator, the Environmental Protection Agency ("EPA") and the State in which the violations occur.

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 Salton City Community Services District.

California River Watch ("River Watch") hereby places the Salton City Community Services District, hereinafter referred to as "the District," on notice, that following the expiration of 60 days from the date of this Notice, River Watch intends to bring suit in the United States District Court against the District for continuing violations of an effluent standard or limitation, permit condition or requirement, a Federal or State Order or Permit issued under the CWA, in particular, but not limited to CWA §505(a)(1), and consistent with the Code of Federal Regulations, and the Regional Water Quality Control Board, Colorado River Region, Water Quality Control Plan ("Basin Plan"), as exemplified by the illegal

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discharges of untreated sewage from the District's collection system to United States waters without a National Pollutant Discharge Elimination System ("NPDES") Permit.

The CWA regulates the discharge of pollutants into navigable waters. The statute is structured in such a way that discharge of pollutants is prohibited with the exception of enumerated statutory exceptions, CWA § 301(a), 33 U.S.C.§ 1311(a). One such exception authorizes a polluter, 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 33 U.S.C. § 1311(a) prohibition, such that violation of a NPDES permit limitation places a polluter in violation of 33 U.S.C. § 1365, which authorizes citizen enforcement of violations of effluent standards or limitation, which are defined as including violations of 33 U.S.C. § 1311(a) and 33 U.S.C. § 1365(f)(1). Currently, the District has no NPDES permit allowing it to discharge pollutants to waters of the United States. Therefore, by virtue of its discharge of untreated sewage to United States waters without a NPDES permit, the District has been and continues to be in violation of CWA § 301(a), 33 U.S.C.§ 1311(a).

The CWA provides that authority to administer the NPDES permitting system in any given state or region can be delegated by the 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 and several subsidiary regional water quality control boards to issue NPDES permits. The entity responsible for issuing NPDES permits and otherwise regulating discharges in the region at issue in this Notice is the Regional Water Quality Control Board, Colorado River Region ("RWQCB").

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

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

River Watch has identified discharges of raw sewage from the District's collection system to surface waters in violation of the prohibition of the CWA with regard to discharging a pollutant from a point source to waters of the United States without a NPDES permit, CWA § 301(a), 33 U.S.C. § 1311(a) and 33 U.S.C. § 1365(f).

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2. The activity alleged to constitute a violation.

River Watch has set forth narratives below describing the discharges of raw sewage to surface waters as the activities leading to violations, and describing with particularity specific incidents referenced in the California State Water Resources Control Board's CIWQS SSO Public Reports and other public documents in the District's possession or otherwise available to the District, and incorporates by reference records cited from which descriptions of specific incidents were obtained.

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

The entity responsible for the violations alleged in this Notice is the Salton City Community Services District, hereinafter referred to as "the District," as well as employees of the District 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 are identified in records created and/or maintained by or for the District which relate to the District's sewage collection system as further described in this Notice.

5. The date or dates of violation or a reasonable range of dates during which the alleged activity occurred.

River Watch has examined records of the SWRCB and the RWQCB relating to the District's collection system for the period from October 14, 2009 to October 14, 2014. The range of dates covered by this Notice is October 14, 2009 to October 14, 2014. River Watch will from time to time update this Notice to include violations which occur 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 throughout this notice as "River Watch". River Watch is a 501(c)(3) non-profit, public benefit corporation organized under the laws of the State of California, dedicated to the protection, enhancement, and restoration of the waters of California including, but not limited to, its rivers, creeks, streams, tributaries, wetlands, vernal pools, and groundwater. River Watch has a very active branch in Southern California. Its headquarters and main office are located in Northern

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California with a mailing address of 290 S. Main Street, #817, Sebastopol, California. 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 addressed to:

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BACKGROUND/THE DISTRICT'S OPERATIONS

The Salton Community Services District owns and operates two collection systems, Salton City Oxid Basin, and Desert Shores. Salton City Oxid Basin provides sewerage service to Salton City, and Desert Shores collection system provides sewerage service to Desert Shores, an unincorporated community located 11 miles to the north of Salton City. Desert Shores has a total area of .7 square miles, with a 2010 population of 1,104. Salton City, the largest city in Imperial County, has a total area of 21.1 square miles and a 2010 population of 3,763. The District provides residents and businesses in both Salton City and Desert Shores with sanitation, fire protection, lighting, emergency medical services, parks and recreation, and sewerage services.

Wastewater from the Salton City Oxid Basin collection system is conveyed through 300 miles of gravity sewer and 6 miles of pressure sewer to either the Lansing Avenue Wastewater Treatment Facility, with a disposal capacity of 0.12 mgd, or the Thomas R. Cannell Wastewater Treatment Facility, with a disposal capacity of 0.185 mgd. The Desert Shores collection system, with 60 miles of gravity sewer and 4 miles of pressure sewer, transports wastewater to the Desert Shores Wastewater Treatment Plant, which has a design capacity of .2 mgd.

Both Salton City and Desert Shores are located along the coast of the Salton Sea. The Salton Sea, created by a temporary, man-made diversion of the Colorado River in 1905, had been stocked with fish and was a popular fishing destination. The District's sewer system overflows (SSOs) have significantly contributed to the degradation of the Salton Sea. Since the 1970's, due to issues including agricultural runoff, ammonia, and wastewater, the waters of the Salton Sea have become increasingly saline and toxic. Much is put into the Sea, while

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it has no outlet. Evaporation has slowly concentrated salts and pollutants to levels that have been harming and eliminating fish species for the last few decades. The amount of water flowing into the Salton Sea has been drastically reduced since 2003, causing the Sea to shrink and the shore to recede, leaving boat docks and former marinas on dry land. If this continues, there is a growing concern that clouds of toxic, wind-blown dust from the seabed will pollute the surrounding communities, similar to what took place around Owens Lake, located about 5 miles south of Lone Pine, California, but on a larger scale. A tainted Salton Sea has far-reaching effects for Imperial Valley and the rest of Southern California. Toxins in the water negatively affect everything from fish, birds and other wildlife to the humans who fish and boat in the Sea. Over 400 species of birds have been documented at the Salton Sea. It supports 30% of the remaining population of the American white pelican, and is a major resting stop of the Pacific Flyway. Fresh water fish species, including the endangered desert pupfish, live in the rivers and canals that feed the Salton Sea.

The District has a history of SSOs from its aging sewer lines. Structural defects in the District's collection system, which allow inflow and infiltration (I/I) of rainwater and groundwater 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 onto land and into gutters, canals, and storm drains which are connected to adjacent surface waters such as The Salton Sea, Whitewater River, San Felipe Creek, Alamo River, The New River, Biloxi Wash, Anza Ditch, Zenas Wash, and Verde Wash, all waters of the United States. Discharges to washes are discharges to waters of the United States. Although some areas where discharges have occurred are dry, pollutants remain on the surface of the land and enter receiving waters following rainfall or flooding.

As recorded in California Integrated Water Quality System's (CIWQS) Public SSO Reports, the District's collection systems experienced 22 SSOs between October 14, 2009 and October 14, 2014, with a combined volume of 257,250 gallons. The District reports that 33,250 gallons were recovered, and reports 1,500 gallons as reaching surface waters, yet River Watch has good reason to believe, and upon that belief alleges, that significantly more sewage has affected surface waters. For example, on November 26, 2011, a spill occurred at the southeast corner of Clover Leaf Drive and Mars Ave in Salton City. The spill was reported as 200,000 gallons – only 10,000 of which were recovered – while the description is scant and none of the surface water information is given. The District was notified of and attended to the spill 3 days after it began. The sole SSO the District admits to having reached a surface water occurred on September 18, 2012, at Bering Avenue in Salton City, caused by a pump station failure. The spill volume was estimated at 2,000 gallons, 1,500 of which reached a surface water.

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The District has a history of non-compliance with the SSO reporting requirements mandated by the Statewide General Requirements for Sanitary Sewer Systems, Waste WDR Order No. 2006-0003-DWQ, 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 District's field reports regularly indicate the SSO start time as the same time or within a few minutes of the time the District was notified of the SSO. Some reports indicate the spill start, notification, and operator arrival time as the same. In reporting the spill which occurred at Sea View Drive in Salton City, on February 20, 2013, the District's field report indicates the time the sanitary sewer agency was notified and the estimated operator arrival time as 07:40:00, exactly the same time. The estimated spill start time is listed as 00:00:00.0. These equivalencies are highly unlikely and result in an under estimation of the duration of the spill. Studies have shown that SSOs are usually 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 District's common practice of estimating a later than actual start time leads to an under-estimation of both the duration and the volume.

Furthermore, the District's SSO reports do not indicate what method was used to estimate the total volume of the spill, which also calls into question the estimates of volume recovered and volume reaching a surface water. In the report referenced above, (Sea View Drive), the estimated spill volume was 10,000 gallons, with 5,000 reported as recovered. This spill was approximately 50 feet from the Alamo River, however the spill is reported as nothing having reached surface waters. River Watch contends there is a high degree of likelihood that the District regularly underestimates the volume of SSOs as well as the volume which reached surface waters, thereby underestimating its violations of the CWA's prohibition against discharging pollutants from a point source to U.S. waters without a NPDES Permit.

In addition to surface overflows which discharge over land into surface waters, underground leakages (exfiltration) caused by pipeline cracks and other structural defects result in discharges to adjacent surface waters 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 water with untreated sewage[1]. River Watch alleges that such discharges are continuous wherever aging, damaged, structurally defective sewer lines in the District's

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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 District of Ukiah, finding the presence of human derived bacteria in two creeks adjacent to defective sewer lines.

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collection system are located adjacent to surface waters. Surface waters and groundwater become contaminated with fecal coliform, exposing people to human pathogens. The chronic defects in the District's collection system pose a substantial threat to public health.

Numerous critical habitat areas are found within areas of these SSOs. The Salton Sea and neighboring waterways in and adjacent to the District's service area include coastal wetlands, ecological reserves, and wildlife protected areas. There is no record of the District 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.

Any point source discharge of sewage effluent to waters of the United States must comply with technology based, secondary treatment standards at a minimum, and any more stringent requirements necessary to meet applicable water quality standards and other requirements. As such, the unpermitted discharge of wastewater from a sanitary sewer system to waters of the United States is illegal under the CWA. In addition, the Basin Plan adopted by the RWQCB contains discharge prohibitions which apply to the discharge of untreated or partially treated wastewater.

Discharges by the District as described herein also constitute a nuisance. These discharges are either: injurious to health; indecent or offensive to the senses; or, an obstruction to the free use of property; and, occur during or as a result of the transportation, disposal or treatment of wastes.

River Watch contends that the District's ongoing violations of the CWA – discharging pollutants to waters of the United States without a NPDES Permit – pose an immediate threat to public health and the environment, both from surface water impacts of overflows and from underground leakage of untreated sewage, which impact both surface and groundwater. Furthermore, that the illegal discharge of untreated wastes from the District's collection system is a significant contribution to the degradation of the Salton Sea, its tributaries and nearby waters such as The New River, Whitewater River, San Felipe Creek, Alamo River, Biloxi Wash, Anza Ditch, Zenas Wash and Verde Wash, with serious adverse effects on the many beneficial uses of these waters. River Watch members residing and/or recreating in the area have a vital interest in bringing the District's operation of its collection system into compliance with the CWA.

VIOLATIONS

River Watch contends that for the period from October 14, 2009 to October 14, 2014, the District has violated the CWA, the Basin Plan and the Code of Federal Regulations by

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discharging pollutants from its collection system to waters of the United States without a NPDES permit. The below identified violations are reported by the State Water Resources Control Board and evidenced by the Board's CIWQS SSO Reporting Program Database Records. Furthermore, River Watch contends these violations are continuing.

Violations	**Description**
1825	Collection system overflows caused by underground exfiltration. This is an event in which untreated sewage is discharged from the collection system prior to reaching the wastewater treatment plant. Underground discharges are alleged to have been continuous throughout the 5-year period from October 14, 2009 to October 19, 2014. Evidence to support the allegation of underground discharge of raw sewage exists in the District's own mass balance data regarding the number of connections in the service area, estimates of average daily volume of wastewater per connection, influent flow volumes to the Lansing Avenue Wastewater Treatment Facility, Thomas R. Cannell Wastewater Treatment Facility and Desert Shores Wastewater Treatment Plant, reported in the District's records, video inspection of the collection system, and potentially by testing of waterways adjacent to sewer lines, creeks and the Salton Sea for nutrients, pathogens and other constituents indicating sewage contamination, such as caffeine and human specific intestinal bacteria.
22	SSOs – as evidenced in the State Water Resource Control Board's CIWQS Interactive Public SSO Reports, including the reports discussed above. Also, unrecorded surface overflows witnessed by local residents and overflows incorrectly reported as not reaching a surface water.

REMEDIAL MEASURES REQUESTED

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.

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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 the District into compliance with the CWA and the Basin Plan, and reflect the biological impacts of the District's ongoing noncompliance with the CWA:

A. Sewage Collection System Investigation and Repair

The repair or replacement, within two (2) years, of all sewer lines in the District's sewage collection system located within 200 feet of surface waters, including gutters, canals and storm drains which discharge to surface waters, which have been CCTV'd within the past 10 years and were rated as Significantly Defective, or given a comparable assessment.

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

Within 2 years after completion of the Surface Water Condition Assessment above, the District 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 in the District's discretion, such defects are in close proximity to Significantly Defective segments that are in the process of being repaired or replaced;

- Sewer pipe segments that contain defects with a rating of 3 that are not repaired or replaced within 5 years after completion of the Surface Water Condition Assessment shall be re-CCTV'd every 5 years to ascertain the condition of the sewer line segment. If the District determines that the grade -3 sewer pipe segment has deteriorated and needs to be repaired or replaced, the District shall complete such repair or replacement within 2 years after the rating determination;

- Beginning no more than one 1 year after completion of the Surface Water Condition Assessment, the District shall commence a Full Condition Assessment to be completed within 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 3 years of the rating determination;

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

B. SSO Reporting and Response

Modification of the District's Backup and SSO Response Plan to include in its reports submitted to the CIWQS State Reporting System the following items:

- The method or calculations used for estimating total spill volume, spill volume that reached surface waters and spill volume recovered.

- 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.

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- 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.

- Water quality sampling and testing to be required 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. The District 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 said constituents are found at higher levels in the point of discharge sample and the downstream sample than in the upstream sample, the District 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

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

- Performance of human marker sampling on creeks, rivers, wetlands and areas of the Salton Sea, The New River, Whitewater River, San Felipe Creek, Alamo River, Biloxi Wash, Anza Ditch, Zenas Wash and Verde Wash adjacent to sewer lines including 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 10 years prior to the transfer;

- The occurrence of 2 or more SSOs caused by the private sewer lateral within 2 years;

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- 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 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;

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

CONCLUSION

The violations as set forth in this Notice effect the health and enjoyment of members of River Watch who reside and/or recreate in the District's service areas and waterways effected by unpermitted discharges from the District's sewerage collection system. Members of River Watch use the affected watershed for domestic water supply, agricultural water supply, recreation, sports, fishing, picnicking, hiking, bird watching, photography, nature walks and the like. The members' health, use and enjoyment of these natural resources are specifically impaired by the District's alleged violations of the CWA as set forth herein.

River Watch believes this Notice sufficiently states grounds for filing suit. At the close of the 60-day notice period or shortly thereafter River Watch has cause to file a citizen's suit under CWA § 505 (a) against the District of for the violations identified in this Notice.

During the 60-day notice period River Watch is willing to discuss effective remedies for the violations referenced in this Notice. If the District wishes to pursue such discussions in the absence of litigation, it is encouraged to initiate such discussions immediately so that the parties might be on track to resolving the issues before the end of the Notice period. River Watch will not delay the filing of a lawsuit if discussions are continuing when the 60-day notice period ends.

Very truly yours,

Jerry Bernhaut

Jerry Bernhaut

JB:lhm

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cc: Administrator
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