UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

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OCT 0 2 2019

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Harlan Kelly, Jr.
General Manager
San Francisco Public Utilities Commission
525 Golden Gate Avenue
San Francisco, CA 94102

Re: Notice of Violation of National Pollutant Discharge Elimination System permits

Dear Mr. Kelly:

This letter serves to notify you that the EPA has identified Clean Water Act (CWA) violations of the City and County of San Francisco's (City's) National Pollutant Discharge Elimination System (NPDES) permits regulating discharges from the City's wastewater treatment plants, 36 combined sewer discharge (CSD) facilities and its combined sewer system. The permits in question are: (1) Waste Discharge Requirements for the City and County of San Francisco Oceanside Water Pollution Control Plant (Southwest Ocean Outfall) and Collection System, Including the Westside Wet Weather Facilities Order No. R2-2009-0062/NPDES No. CA0037681 (Oceanside Permit); and (2) Waste Discharge Requirements for the City and County of San Francisco Southeast Water Pollution Control Plant, North Point Wet Weather Facility, Bayside Wet Weather Facilities, and Wastewater Collection System Order No. R2-2013-0029/NPDES No. CA0037664 (Southeast Permit).

Historically, the City's data, which we also note are materially incomplete in numerous ways that likely masks the true nature and scope of certain violations, show it is discharging approximately one and a half billion gallons of combined sewage annually onto beaches and other sensitive areas, including areas where recreation takes place. Recent data show that the annual combined sewer discharges are closer to two billion gallons. The failure to properly operate and maintain the City's sewage collection and treatment facilities creates public health risks. For example, lack of proper operation and maintenance has caused force main and pump station failures that have diverted substantial volumes of raw and partially-treated sewage to flow across beaches and into the San Francisco Bay and the Pacific Ocean. There have been instances of sewage flowing in the streets and entering people's homes. Moreover, the City's data also show other pollutants of significant concern such as copper, zinc, lead, cyanide and ammonia that can threaten the water quality of the Bay and the ocean.

The City has violated and in many cases continues to violate the terms of its NPDES permits, including but not limited to the following:

1. Failure to properly operate and maintain its facilities including the associated collection systems as required by sections VI.C.4.c, VI.C.5.b.i.b, and Attachment D.I.D. of the

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Southeast Permit and sections VI.C.4.a.1, VI.C.6.b.1.ii, and Attachment D.I.D. of the Oceanside Permit. For example, the City has not cleaned, repaired and replaced sewer pipes on a schedule to ensure they remain in proper working order, the City does not inspect all accessible CSD outfalls every year, and the City has not provided adequate back-up power at critical facilities. Also, Attachment G.I.I.2 of the Southeast and Oceanside Permits requires that "[c]ollection, treatment, storage, and disposal systems shall be operated in a manner that precludes public contact with wastewater, except in cases where excluding the public is infeasible, such as private property," and EPA has documented several incidents when public contact with wastewater occurred, evidencing that the systems are not being properly operated and maintained.

2. Failure to comply with wet weather operational requirements to maximize use of the collection system for storage and to maximize flows to treatment plants pursuant to sections VI.C.5.b.ii, VI.C.5.b.iv, and VI.C.5.c.iii of the Southeast Permit and sections VI.C.6.b.(2), VI.C.6.b.(4), and VI.C.6.c.(3) of the Oceanside Permit. For example, critical pumps were not activated in order to maximize storage and treatment that could have avoided or reduced sewage discharges, and which resulted in unpermitted discharges.

3. Failure to post warning signs when public contact with wastewater could reasonably occur as required by Attachment G.I.I.2 of both the Southeast and Oceanside permits. For example, the City has failed to post warning signs when excursions have occurred on public property.

4. Failure to comply with reporting and recordkeeping requirements related to releases or diversions of untreated or partially-treated sewage from the combined sewer system pursuant to sections VI.C.4.c.ii.(a), VI.C.4.c.ii.(b), and VI.C.4.c.ii.(c) of the Southeast Permit. For example, the City has not collected or provided all required information about such releases or diversions in the Excursion Annual Report and has not reported all applicable releases and diversions that have occurred. The City has also failed to report all applicable releases and diversions greater than 1,000 gallons to the Regional Water Board and Department of Public Health.

5. Failure to comply with CSD monitoring and reporting as required by section VI.B of both the Southeast and Oceanside permits. For example, the City failed to monitor for all required parameters, did not monitor at the required frequency and failed to use a data-driven analysis of the pollutant removal efficacy of CSD structures.

6. Failure to notify the public of CSDs as required by section VI.C.5.b.viii of the Southeast Permit and section VI.C.6.b.(8) of the Oceanside Permit. For example, signs have been obscured, posted in inconspicuous areas, or unreadable from a reasonable distance, and warning signs have not been posted as required.

7. Failure to comply with water quality standards as required by section V.C of the Southeast Permit. For example, combined sewer discharges have exceeded water quality standards for pH, heavy metals, and bacteria

The City must operate in full compliance with the requirements of the CWA, including its NPDES permits. The violations identified in this letter may result in liability for appropriate

injunctive relief pursuant to CWA Section 309(b), 33 U.S.C. § 1319(b), and statutory civil penalties under CWA Section 309(d), 33 U.S.C. § 1319(d), as modified by 40 C.F.R. Part 19. Please note that the EPA is coordinating with the California Regional Water Quality Control Board, San Francisco Bay Region, to ensure that timely and appropriate enforcement action is taken and compliance with the permits is achieved.

The EPA takes CWA violations at municipal treatment plants very seriously and has pursued vigorous enforcement actions against other municipalities within California as well as elsewhere in the nation. The EPA expects the City to share its concern for the protection of public health and surface water resources and expects the City to address its ongoing CWA violations with significant and meaningful measures to ensure a prompt return to full compliance.

The notice provided in this letter is not an election by the EPA to forgo any remedies available to it under the law, including without limit any administrative, civil or criminal action to seek penalties, fines, or other appropriate injunctive relief under the CWA, and specifically any authority under CWA sections 309 and 504, 33 U.S.C. §§ 1319 and 1364. The EPA reserves all available legal and equitable rights and remedies to enforce any violations identified in this letter, as well as any other violations not specifically identified herein.

Sincerely,

Michael Stoker

Michael Stoker
Regional Administrator

cc: Michael Montgomery
Executive Officer SFRWQCB

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