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***VIA CERTIFIED MAIL -
RETURN RECEIPT REQUESTED***

January 29, 2008

Head of Operations
Novato Sanitary District
500 Davidson Street
Novato, CA 94945

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

Dear Head of Operations:

The Clean Water Act ("CWA" or the "Act") § 505(b) requires that sixty (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 intent to sue to the alleged violator, the Environmental Protection Agency ("EPA"), and the State in which the violations occur.

Northern California River Watch ("River Watch") hereby places the Novato Sanitary District, hereinafter referred to as "the Discharger" on notice that following the expiration of sixty (60) days from the date of this NOTICE, River Watch intends to bring suit in the United States District Court against the discharger for continuing violations of an effluent standard or limitation, permit condition or requirement, a Federal or State Order or Plan issued under the CWA in particular, but not limited to CWA § 505(a)(1), 33 U.S.C. §1365(a)(1), the Code of Federal Regulations, and the Basin Plan, as exemplified by violations of permit conditions or limitations in the Discharger's National Pollutant Discharge Elimination Systems ("NPDES") Permit.

I. INTRODUCTION

The CWA regulates the discharge of pollutants into navigable waters. The statute is structured in such a way that all discharge of pollutants is prohibited with the exception of enumerated statutory exceptions. 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 33 U.S.C. § 1311(a) prohibition, such that violation of a permit places a polluter in violation of 33 U.S.C. § 1311 (a) and thus in violation of the CWA. Private parties may bring citizens' suits pursuant to 33 U.S.C. § 1365 to enforce effluent standards or limitations, which are defined as including violations of 33 U.S.C. § 1311(a) and 33 U.S.C. § 1365(f).

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, San Francisco Bay Region ("RWQCB").

II. 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.

To comply with this requirement, River Watch has identified the NPDES permit of the Novato Sanitary District and specifically identified the applicable permit standard, limitation, or condition being violated. A violation of the permit is a violation of the CWA.

2. The activity alleged to constitute a violation.

Most often the Permit limitation being violated is self-explanatory and an examination of its language is sufficient to inform the Discharger, especially since the Discharger is responsible for complying with that Permit condition. In addition, River

Watch has set forth narratives describing with particularity the activities leading to violations and has incorporated by reference the Discharger's own records and other public documents in the Discharger's possession or otherwise available to the Discharger regarding its Permit, compliance with that Permit and any other information designed to inform the Discharger or the public.

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

The person or persons responsible for the alleged violation are the entities identified collectively in this NOTICE as the Discharger and those of its employees responsible for compliance with the Permit.

4. The location of the alleged violation.

The location or locations of the various violations are identified in the Discharger's Permit and also in records created and/or maintained by or for the Discharger which relate to the Discharger's wastewater treatment plant and related activities 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 RWQCB and the Discharger's records for the period from January 1, 2003, through January 1, 2008. The range of dates covered by this NOTICE is from January 1, 2003 through January 1, 2008. However, in this NOTICE River Watch has also listed the dates of violations admitted under oath by the Discharger in its self monitoring reports (see Attachments 2 and 3). River Watch will from time to time update this NOTICE to include all violations which occur after the range of dates currently covered by this NOTICE. Some of the 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 Northern California River Watch, a non-profit corporation dedicated to the protection and enhancement of the waters of the State of California including all rivers, creeks, streams, tributaries and groundwater in Northern California. River Watch is organized under the laws of the State of California. Its address is 6741 Sebastopol Avenue, Suite 140, Sebastopol, CA 95472, telephone 707-824-4372.

III. THE DISCHARGER'S OPERATIONS AND FACILITIES

The Discharger owns and operates a wastewater collection system, two municipal wastewater treatment facilities (the Novato and Ignacio plants, collectively hereafter, "the WWTPS"), and one combined effluent discharge outfall to the intertidal mud flats of San Pablo Bay (the receiving water), adjacent to the former Hamilton Air Force Base. The WWTPS collect sanitary waste from a primarily residential service area serving the Novato area with a current population of about 60,000. The Novato plant services the northern two-thirds of the City of Novato and the Ignacio plant services the southern one-third.

The Discharger's wastewater collection system collects and transports wastewater flows to the WWTPS through a series of gravity sewers and interceptors, pump stations, and force mains. The combined conveyance and collection system includes about 200 miles of sanitary sewer lines and 35 wastewater pump stations.

Effluent is disinfected at the WWTPS prior to discharge. Effluent from the WWTPS are combined and discharged via a common outfall to the mud flats of San Pablo Bay. The Ignacio treatment plant utilizes primary clarification, biofiltration, secondary clarification, nitrification, gravity filtration and disinfection with chlorine. The Novato treatment plant utilizes primary clarification, activated sludge treatment, secondary clarification, nitrification, gravity filtration, and disinfection with chlorine. For both plants, the treatment processes vary depending on influent flow.

Discharge to the San Pablo Bay is prohibited from June 1 through August 31, during which time effluent is reclaimed for land application to agricultural fields located at the Discharger's water reclamation facility. The reclamation facility consists of two effluent storage basins, a wildlife pond, sludge lagoons for the Novato treatment plant and a dedicated land disposal area for sludge from the WWTPS.

Effluent limits for conventional pollutants are established at Outfall E-001 (Ignacio Plant Effluent), Outfall E-002 (Novato Plant effluent), and for toxic pollutants at Outfall E-003 (combined discharge).

The Discharger is regulated under Order No. R2-2004-0093, NPDES Permit No. CA0037958, adopted by the RWQCB on November 17, 2004. This order became effective on February 1, 2005, superceding Order No. 99-036, adopted on May 25, 1999. Order No. R2-2004-0093 expires on December 31, 2009.

IV. VIOLATIONS

The Discharger has an extensive history of effluent limit violations, most notably for enterococcus, total suspended solids, ammonia, and biochemical oxygen demand. The RWQCB imposed mandatory minimum penalties for NPDES permit violations through May 2005, yet the exceedances have continued, indicating the ongoing nature of these violations.

A Compliance and Evaluation Inspection (CEI) was performed by Tetra Tech, Inc, a United States EPA contractor on December 7, 2006. (See Attachment 1.) The reviewers gave the Discharger an unsatisfactory rating in the Effluent and Receiving Waters category of the inspection because 18 permit limit exceedances were identified during the three-month period under review (March, April, and May 2006).

The reviewers also gave the Discharger an overall unsatisfactory rating regarding implementation of its self-monitoring program. The report noted excessive holding times for pH sample analysis. Levels of pH were not measured within 15 minutes of sample collection at WWTPS as required by 40 C.F.R. §136.

The 2006 CEI report also noted significant inflow and infiltration (I&I). At the Novato plant, average design dry weather flow is 4.53 million gallons per day (mgd). As permitted, flows up to 10 mgd receive full treatment; flows between 10 and 16 mgd receive only filtration and disinfection. Peak flows during the 2005/2006 wet season exceeded 40 mgd, indicating significant I&I. At the Ignacio plant, average design dry weather flow is 2.02 mgd. Under high flow conditions all flow is directed through secondary treatment and a portion of plant flow is nitrified and filtered. Peak flows during the 2005/2006 wet seasons exceeded 10 mgd, indicating significant I&I.

Additional concerns were raised in the CEI report regarding the Discharger's operations and maintenance. The Discharger received an unsatisfactory rating in this category. The report found that the chlorine contact basin at the Novato Plant did not provide sufficient residence time, because of short-circuiting, to allow proper disinfection to occur. Another major finding in the report pointed to a failure in the gravity sand filter at the Ignacio Plant which contributed to several effluent violations. A third unsatisfactory rating was given to the Discharger for its inability to handle hydraulic surges without excessive solids wash-out or bypasses.

In addition to the above-mentioned concerns raised by the CEI report, numerous sewer system overflows (SSOs) from the Discharger's collection system are documented in RWQCB records and in the California Integrated Water Quality System reporting system.

A number of the reported SSOs reached storm drains which discharge into waters of the State, in violation of the discharge prohibitions in the Discharger's permit.

The Discharger's illegal discharge of untreated wastewater and of treated wastewater exceeding effluent limits is a significant contribution to the degradation of the San Pablo Bay and tributary waters, with serious adverse effects on beneficial uses. River Watch members residing in the area have a vital interest in bringing the Discharger's operations into compliance with the CWA.

In addition to the admitted violations listed in this NOTICE from January 1, 2003 through January 1, 2008, the Discharger has violated the requirements of its NPDES Permit, the Basin Plan and the Code of Federal Regulations as those requirements are referenced in the NPDES Permit. Said violations are evidenced and reported in the Discharger's Self-Monitoring Reports and other documentation filed with the RWQCB, the California Integrated Water Quality System, or in the Discharger's possession, and as evidenced by unpermitted discharges due to failures in the collection system. Furthermore, these violations are continuing. The violations, established in Self-Monitoring Reports and records of the RWQCB, include but are not limited to the following categories in the Permit:

Discharge Prohibitions

<u># Violations</u>	<u>Description</u>
1800	Collection system overflows caused by underground exfiltration. This is a case in which untreated sewage is discharged from the collection system prior to the untreated sewage reaching the Plant. Underground discharges are alleged to have been continuous throughout the 5-year period from January 1, 2003 to January 1, 2008. (Order No. R2-2004-0093, Discharge Prohibitions A.1, A.4, A.5)
500	Sanitary Sewer Overflows (SSOs) SSOs occur when collection system capacity is exceeded due to wet weather as the result of I&I when normal dry weather flow is blocked for any of several reasons, or when mechanical failures prevent the system from operation. (Order No. R2-2004-0093, Discharge Prohibitions A.1, A.4, A.5). (See Attachment 2 for a description of ongoing SSO violations as evidenced in the RWQCB SSO Reporting Program Database Records, the Discharger's monthly self-monitoring reports, and California Integrated Water Quality System SSO reports).

Order No. R2-2004-0093 , Discharge Prohibition A.1: "Discharge of wastewater at any point where it does not receive a minimum initial dilution of 10:1, or into dead-end slough and similar confined waters is prohibited, except as specified here. Based on findings above, an exception to this Prohibition is granted for the discharge of treated effluent during the period from September 1 through May 31 annually, provided the Discharger continues to work to reuse the maximum feasible amount of treated wastewater and to minimize discharges to San Pablo Bay. Discharge of treated wastewater at a location or in a manner different than that described in the findings of this Order is prohibited."

Order No. R2-2004-0093, Discharge Prohibition A.4: "Discharge to San Pablo Bay is prohibited during the dry weather period from June 1 through August 31, unless it is pursuant to a specific request made by the Discharger and approved by the Executive Officer. This request may be submitted by telephone or in writing, and must fully explain the need for discharges during this period (e.g., high flows related to late spring or early fall storm events or, when reclamation is not feasible)."

Order No. R2-2004-0093, Discharge Prohibition A.5: "The discharge of untreated or partially treated wastewater from the collection system or pump stations to any surface water stream, natural or man-made, or to any drainage system intended to convey storm water runoff to surface waters, is prohibited. The discharge of chlorine, or any toxic substance used for disinfection and cleanup of wastewater spills, to any surface water body is prohibited."

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Effluent Limitations

The term "effluent" refers to the fully treated wastewater effluent from the Discharger's WWTPS as discharged to San Pablo Bay. The Discharger has violated and continues to violate Provision B. Effluent Limits, Order No. R2-2004-0093. (See Attachment 3 for a list of effluent violations).

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Monitoring and Reporting Requirements

The Discharger has failed to report incidents of SSO, exfiltration or other violations.

The violations as set forth in this NOTICE affect the health and enjoyment of members of River Watch who reside and recreate in the affected communities. Said members use the affected watershed for domestic water supply, agricultural water supply, recreation, sports, fishing, swimming, shell fish harvesting, hiking, photography, nature walks and the like. Their health, use and enjoyment of this natural resource are specifically impaired by the Discharger's violations of the CWA as set forth in this NOTICE.

V. CONTACT INFORMATION

River Watch has retained legal counsel to represent them in this matter. All communications should be addressed to:


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Claire Morel-Seytoux, Esquire
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VI. CONCLUSION

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 intends to file a citizen's suit under §505(a) of the Clean Water Act against the Discharger for the violations identified in this NOTICE.

During the 60-day notice period, River Watch is willing to discuss effective remedies for the violations noted in this NOTICE. However, if the Discharger wishes to pursue such discussions in the absence of litigation, it is suggested that those discussions be initiated soon so that they may be completed before the end of the 60-day notice period. River Watch does not intend to delay the filing of a lawsuit if discussions are continuing when that notice period ends.

Very truly yours,



Claire Morel-Seytoux

Attachments

cc:

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