

# **SEWER SMART SUMMIT OCTOBER 27, 2009**

## **CLEAN WATER ACT LAWSUITS AND YOUR AGENCIES**

**E.J. SHALABY, GENERAL  
MANAGER  
WEST COUNTY WASTEWATER**



## **OVERVIEW**

- ▶ CWA QUIZ
- ▶ BACKGROUND
- ▶ WCA JOINT OUTFALL SETTLEMENT
- ▶ SANITARY SEWER OVERFLOW  
SETTLEMENT
- ▶ SUMMARY
- ▶ QUESTIONS



## CWA QUIZ

*How do you avoid shark attacks*

- 1. Put on Shark repellent before entering the water?
- 2. Wear a stainless steel wet suit?
- 3. Stay out of the water?

*How do you reduce your chances of a Clean Water Lawsuit?*

- 1. Funding Capital Improvement Program
- 2. System Evaluation and Capacity Assurance Plan (SECAP)
- 3. Zero SSO goal (spills/overflows)



## **BACKGROUND**

**60 DAY LETTER - JULY 2005**

**LAWSUIT FILED – SEPTEMBER 2005/SETTLEMENT-  
MID 2006**

Violations of the Clean Water Act

Previous five (5) year period

West County Agency

- Joint Powers Agency:
  - West County Wastewater District (WCWD)
  - Richmond Municipal Sewer District (RMSD)
  - WCA NPDES
    - Combined Effluent Permit
- West County Wastewater District/ RMSD
  - Sanitary Sewer Overflows (SSO)
  - Municipal Stormwater Discharge (RMSD only)



## **BACKGROUND**

**PLAINTIFFS:**

Baykeeper, West County Toxic Coalition

**REPRESENTATION:**

Lawyers for Clean Water, Environmental Advocates

**DEFENDANTS:**

West County Wastewater District

City of Richmond, Veolia Water NA

**REPRESENTATION:**

Downey Brand LLC



## **WCA JOINT OUTFALL SETTLEMENT**

- **WCA NPDES EFFLUENT VIOLATIONS**
  - NPDES Violations not subject to lawsuit
    - RWQCB enforcement action
    - NPDES Violations subject to lawsuit - 13
- **AGREEMENT**
  - Attorneys Fees \$57,000 (Plaintiff)
  - Supplemental Environmental Project - \$80,000
    - Rose Foundation 501(c)(3) Non-Profit



## **SANITARY SEWER OVERFLOW SETTLEMENT**

- **COLLECTION SYSTEM CAPITAL IMPROVEMENT PROGRAM**
  - Commit \$5M over 10 years (2016)
    - Current CIP budget \$9 million 2011
- **SYSTEM EVALUATION AND CAPACITY ASSURANCE PLAN**
  - Revise within 18 months (done)
  - Update 2015
  - Continue CCTV-Sewer Condition Grading (defect rating matrix)
  - Gravity Sewer Line Cleaning Schedule
    - <12" once every 4 years
    - >12" once every 10 years
  - Design for 5 year-24/hr Storm Event (2012)
  - Continue FOG Program



## SANITARY SEWER OVERFLOW SETTLEMENT

- **Attain SSO Reduction Goals (annually)**

- 2007 - 6.02
- 2008 - 5.5
- 2009 - 4.2

- SSO Reduction Action Plan
  - Specific action items to reach goals

SSO Reduction Goals	
Year	SSO/100 miles
2007	15 (36)
2008	14 (34)
2009	13 (31)
2010	12 (29)
2011	11 (27)
2012	10 (24)
2013	9 (22)
2014	8 (19)
2015	7 (17)
2016	5 (12)

( ) = # of spills



## SANITARY SEWER OVERFLOW SETTLEMENT

### SUPPLEMENTAL ENVIRONMENTAL PROJECTS

- Fund Private Lateral Sewer Replacement Grant
  - \$250,000 per FY for 10 years (\$2.5M)
  - Funds Rollover Each Year
  - Allow up to \$3,000 Towards a full Lateral Replacement
- Grant Program
  - FY 07/08 \$300,000
  - FY 08/09 \$260,000
  - FY 09/10 \$80,000 (to date)



# SANITARY SEWER OVERFLOW SETTLEMENT

## SETTLEMENT AGREEMENT FEES

### Collection System Settlement

Attorneys Fees (Plaintiff) - \$538,000\*

Oversight Cost (Plaintiff) - \$100,000\*

Attorneys Fees (Defendants) - \$300,000\*

\*(Cost were shared between WCWD, COR, Veolia WNA)

**Settlement Agreement was reached in 15 months**



## SUMMARY

- Collection System Capital Improvement Program
  - Adequate Infrastructure Funding
- System Evaluation and Capacity Assurance Plan
  - Update, Design Adequate Storm Events Capacity
- Attain SSO Reduction
  - Zero is the Goal
- NPDES Compliance



# QUESTIONS

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