CITY OF OAKLAND

AGENDA REPORT

TO:	Jestin D. Johnson City Administrator	**FROM:**	Liam Garland Director, Oakland Public Works
SUBJECT:	Compliance Status of the Sewer Consent Decree Program	**DATE:**	May 04, 2026

City Administrator Approval Jestin Johnson (May 13, 2026 14:40:33 PDT) Date: May 13, 2026

RECOMMENDATION

Staff Recommends That The City Council Receive An Informational Report On The Status Of Compliance With The Sewer Consent Decree, Wastewater Discharge Requirements For Wastewater Sewer Systems, And National Pollutant Discharge Elimination System Permit, During The 24-Month Period From January 1, 2024, Through December 31, 2025.

EXECUTIVE SUMMARY

This Informational Report provides an update regarding the status of the City of Oakland (City) compliance with the following regulatory mandate(s): 1) Final Consent Decree, Case No. 3:09-cv-00186-RS (CD); 2) National Pollutant Discharge Elimination System Permit, CA0038512 (NPDES); and 3) State Waste Discharge Requirements for Wastewater Sewer Systems, Order No. 2022-0103-DWQ (WDR). These three mandates (CD, NPDES and WDR requirements) represent the complete regulatory obligations under which the City operates its wastewater programs and wastewater sewer system. The report covers a two-year assessment period from January 1, 2024 through December 31, 2025, and provides a detailed summary of the planning, implementation, and administration of the City's programs to achieve (or maintain) compliance with its regulatory obligations.

Consent Decree

In Fall of 2024 and 2025, the City submitted to the United States Environmental Protection Agency (EPA) and State Water Resources Control Board (State Water Board), annual progress reports of all planning, reporting, and regional collaboration related to sewer infrastructure work mandated by the CD. The operational periods reported on the fiscal year (FY): FY24 (July 1, 2023 – June 30, 2024); and FY25 (July 1, 2024 – June 30, 2025).

As reported, the City achieved full compliance with a cumulative 87% of the performance mandates and work requirements stipulated by the CD for FY24 and FY25; and met partial compliance with *sewer system monitoring* requirements and *Fats, Oils, and Grease (FOG) prevention* mandates for the same period.

The City surpassed work requirements for maintenance, inspection, and assessment of the sanitary sewer system, and achieved significant reduction in sewer system spills over the 24-month reporting period.

The City did not meet the minimum amount of *sewer repair and replacement work* required for FY25. Non-compliance with this key performance provision and deliverable were the direct result of contracting delays resulting from the City's Local/Small Local Business Enterprise (L/SLBE) requirements. On October 7, 2025, Oakland City Council adopted Resolution No. 90891—waiving the minimum L/SLBE participation requirements for sanitary sewer construction contracts—with the intent to prevent delays in delivery of sanitary sewer repair and rehabilitation projects, and their associated stipulated penalties, until the CD ends on December 31, 2035. The City, along with its regional partners, made marginal progress towards meeting the final goals and objectives of the CD. As a result of continued repair and rehabilitation of public sewer systems; and repair, replacement, and certification of private sewer laterals, the regional sewer system achieved an estimated 76 million gallons per day (MGD) of accumulated reductions in wet-weather inflow and infiltration. However, the overall decrease in effluent flow volume did not meet the expected reductions necessary to achieve compliance with target benchmark(s) established by the CD—namely, for both the *2028 Compliance Output Test* and *2030 Mid-Course Check-In* for the San Antonio Wet-weather Facility (WWF). Achievement of these two compliance milestones remains at significant risk.

Waste Discharge Requirements

In Spring of 2025 and 2026, the City submitted to the State Water Board annual performance reports of all sewer system assets, personnel, and performance data for sewer infrastructure work required by the General Order WDR (2022). The operational periods reported on the following calendar year (CY): CY24 (January 1, 2024 – December 31, 2024); and CY25 (January 1, 2025 – December 31, 2025).

The City reduced the total number of sewer system spills by 60% over this two-year reporting period—which included reducing by half the number of sewer spills that discharged to local streams, creeks, or the SF Bay. The drastic improvement was the result of increased real-time monitoring of the sewer system and implementation of a revised maintenance workplan that ensured more frequent sewer cleaning.

In addition, the City maintained compliance with all operational and reporting requirements of the State Water Board's General Order WDR regulations. An exception has been made for the delayed re-certification of the City's Sewer System Management Plan (SSMP). Due to legal constraints related to the federal consent decree, the City experienced delays in its update and re-certification of the SSMP. The City is working with the EPA and Regional Water Board to resolve existing program conflicts, and it anticipates having the plan revised and fully implemented by July 2026.

NPDES Permit

The City reported 67 instances of discharge of untreated wastewater into local waterways in violation to its NPDES permit. The total estimated volume spilled over the two-year period was less than one-half percent of the average daily flow for a single operational day—and most

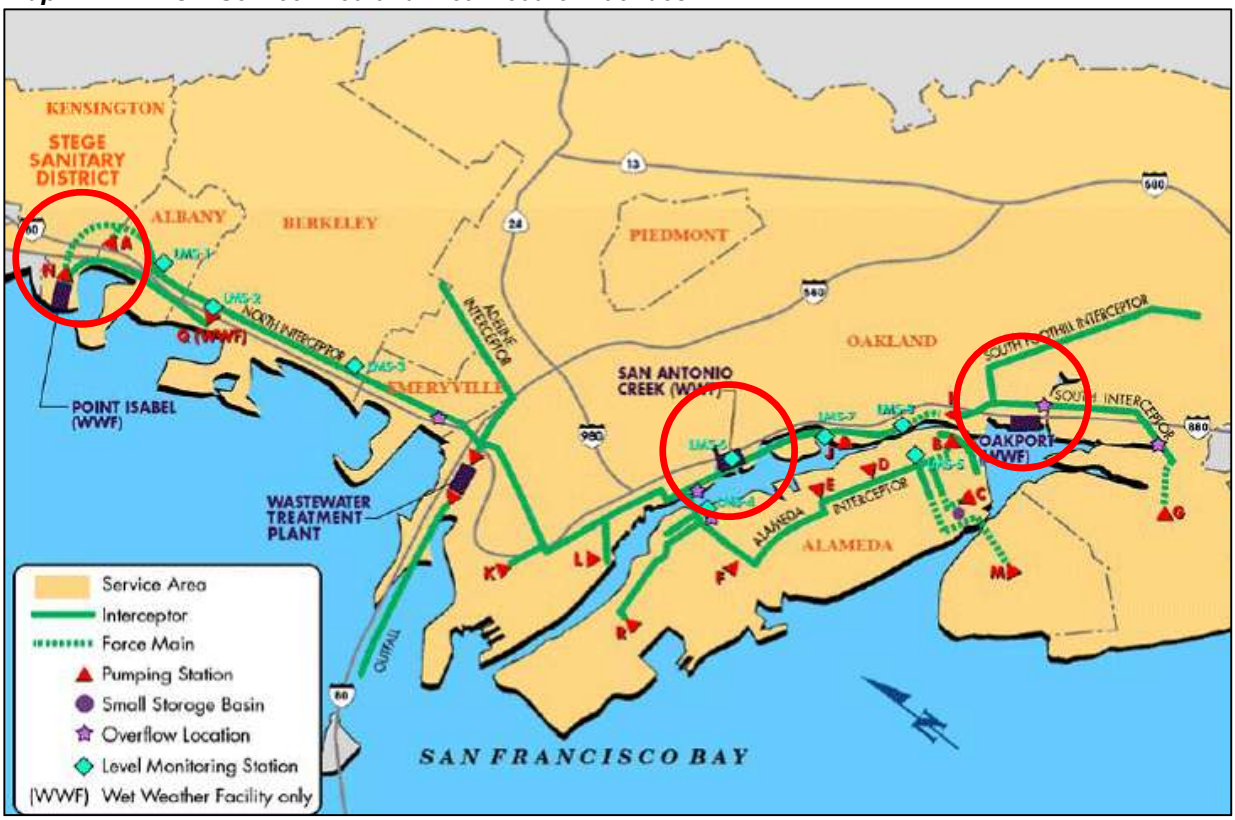
critically, no sewer spill resulted in any serious or lasting environmental damage or sustained risk to public health.

BACKGROUND / LEGISLATIVE HISTORY

Sewer Consent Decree

The CD was the result of several years of negotiations between the Cities of Alameda, Albany, Berkeley, Emeryville, Oakland, Piedmont; Stege Wastewater District (collectively, the Satellite Agencies); East Bay Municipal Utilities District (EBMUD); EPA/Regional Water Board; and local environmental non-government organizations (NGOs). The CD was finalized on September 22, 2014, and mandates that the Defendants (EBMUD and the seven Satellite Agencies) perform appropriate management, operation, and improvements to their respective sewer systems such that the occurrence of wastewater sewer spills that flow into US Waters (or waters of the State of California), and discharges of partially treated wastewater into San Francisco Bay from three (3) wet-weather storage and treatment facilities (see ***Map A***)[1], are eliminated by 2036. As a condition of compliance, the City must submit an annual progress report to the regulatory agencies and the Plaintiff NGOs by September 30 of each calendar year.

Map A: *- EBMUD Service Area and Wet-Weather Facilities*



[1] The wet-weather facilities are owned-operated by EBMUD and serve a substantial portion of Oakland residences and businesses. The facilities are activated when excessive stormwater inflow/infiltration causes conditions that exceed the capacity of EBMUD's main wastewater treatment plant. Excess flow volume in the sewer system is re-routed to one or more of the wet-weather facilities, where it is minimally treated before being released to the San Francisco Bay.

State Board Waste Discharge Requirements (WDR)
The WDR functions as the statewide regulation for wastewater sewer systems. First issued in May 2006, the WDR was re-issued by the State Water Board in December 2022 and the City extended its regulatory coverage in April 2023.

All entities—including municipalities—that own or operate wastewater sewer systems greater than one mile in length and convey wastewater to a publicly owned treatment facility in the State of California, are required as part of the WDR to develop and implement a system-wide operation, maintenance, and management plan to facilitate proper funding and management of its wastewater sewer system(s). Specifically, the WDR requires the development, implementation, review, and periodic update of a Sewer System Management Plan (SSMP).

National Pollutant Discharge Elimination System (NPDES) Permit
An NPDES permit for operation of a wastewater sewer system was initially issued to the City in 1976, and subsequently re-issued by the State Water Board in 1984, 1987, 1992, 1998, 2005, 2009, 2014, 2020, and most recently in March 2025. The permit functions as a federal regulatory mandate redundant to the State Water Board's WDR—but ties the City's obligation to reduce and/or eliminate excessive wet-weather inflow/infiltration into its wastewater sewer system, to the bypass or discharge of untreated/partially treated wastewater from EBMUD's wet-weather facilities.

ANALYSIS AND POLICY ALTERNATIVES

Sewer System Repair and Rehabilitation
From July 1, 2023 through June 30, 2024, the City reported full compliance with the pipeline assessment and improvement work mandated by the CD to reduce stormwater inflow and infiltration into the wastewater sewer system. During that 12-month period, the City spent approximately $31.5M on design and improvements to the sewer system and repaired or replaced approximately 12.5 miles of sewer pipelines.

Due to administrative delays and persistent contracting constraints, the City was unable to achieve the mandated footage requirement for sewer improvements during the subsequent 12-month reporting period, July 1, 2024 through June 30, 2025. During this period, the City completed approximately six (6) miles of pipeline repair and rehabilitation work, at a cost of just under $20M.

The cumulative total length of sewer pipe repaired or replaced was slightly less than the target minimum required by the CD (see ***Figure 1***). In total, the amount of sewer pipe renewed and improved since the inception of the CD increased to approximately 132 miles—just over 15% of the sewer system. By the expiration of the CD in 2036, the City anticipates it will have repaired or replaced approximately 33% of its entire wastewater sewer system.

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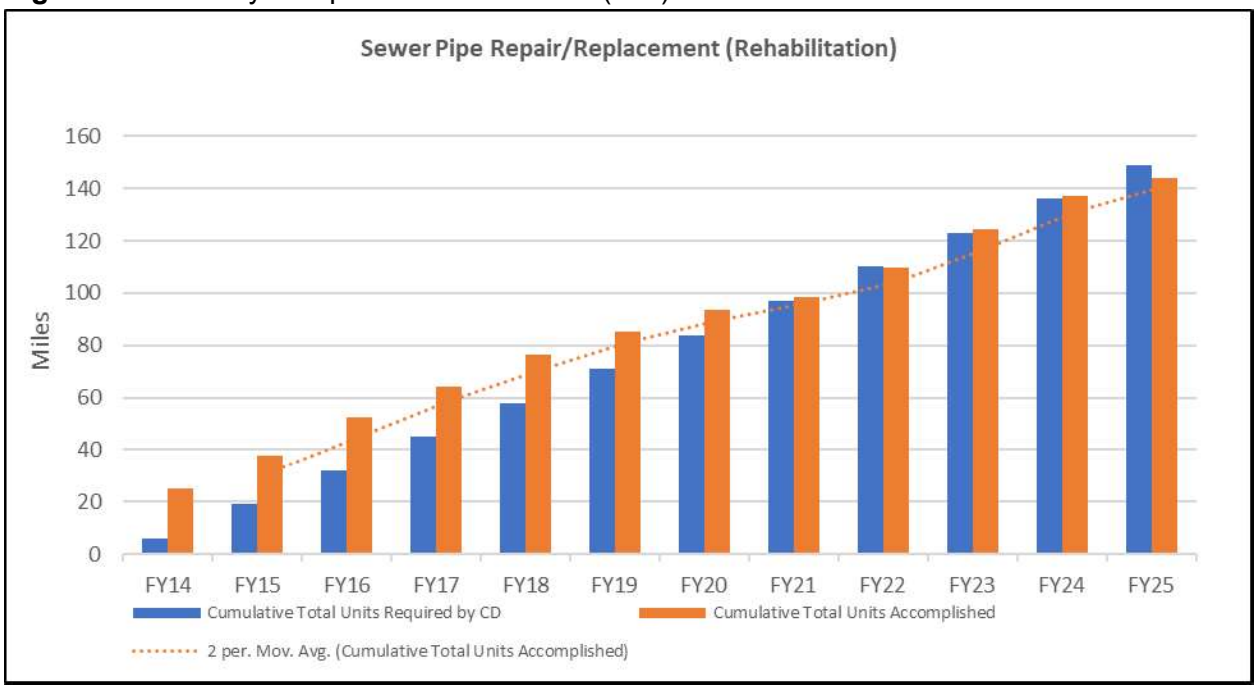
Figure 1: Summary of Pipeline Rehabilitation (CIP)



Sewer System Maintenance and Inspection

In an effort to reduce the number of sewer pipe blockages and spills, the City cleared approximately 500 miles of sewer pipe during the two-year operational period—which doubled the minimum amount of maintenance required by the CD. In addition to clearing sewer pipes, the City used EPA-approved chemical pesticide treatment on approximately 115 miles of pipelines in designated portions of the sewer system—primarily in heavily wooded and hard to access easement areas. The chemical root treatment is designed to prevent and retard plant root intrusion into the sewer system (see **Figure 2**).

In conjunction with maintenance activity, the City inspected just over 200 miles of the sewer system using closed-circuit televideo. Since the inception of the CD, a cumulative total of 1,079

miles of sewer pipeline has been inspected and assessed—which also met the required amount stipulated by the CD. The inspection data collected as part of this activity is a critical driver of the capital sewer infrastructure work mandated by the CD (see ***Figure 3***).

Figure 2: *Summary of Pipeline Maintenance Work Completed*

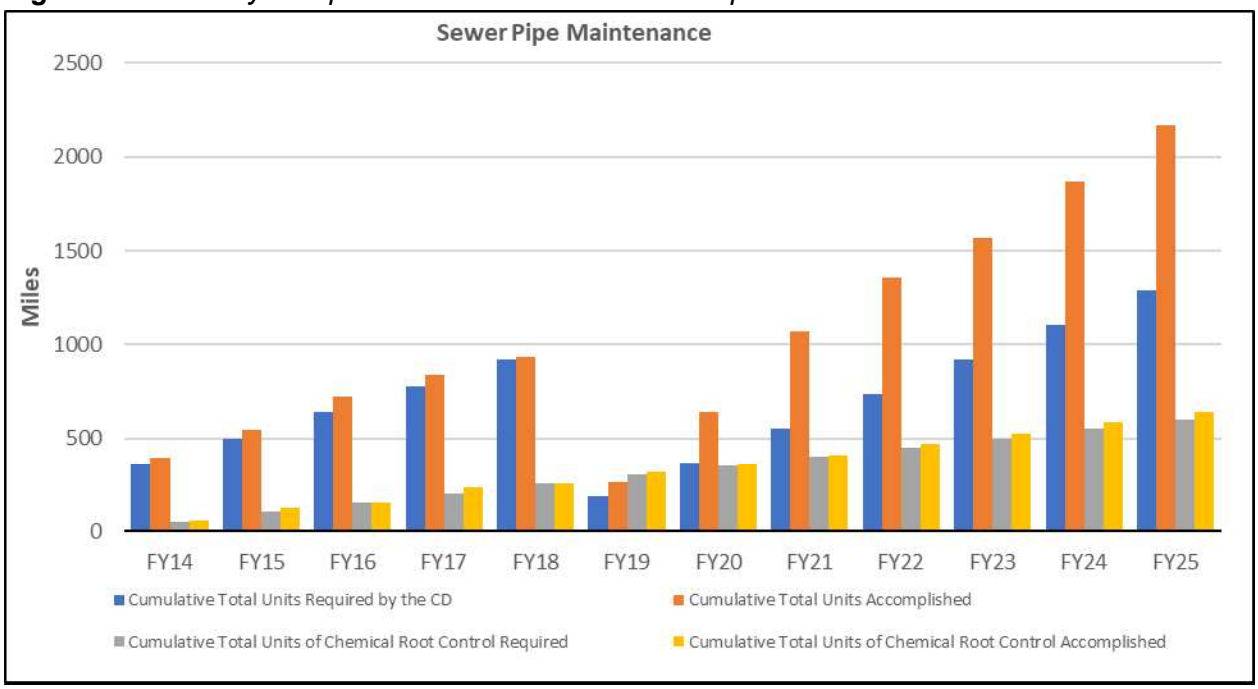
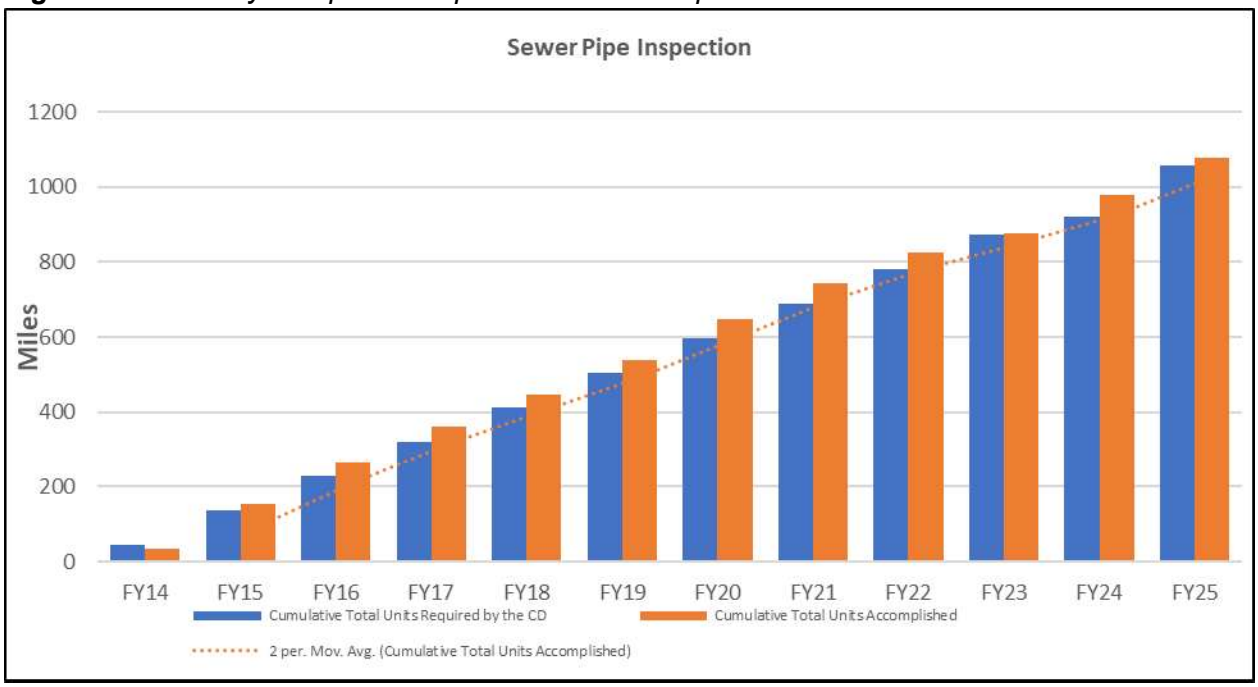


Figure 3: *Summary of Pipeline Inspection Work Completed*



Infiltration and Inflow Reduction

The primary purpose of the CD is to facilitate the City's legal obligation to reduce wet-weather inflow/infiltration that contributes to discharges of partially treated wastewater from EBMUD's wet-weather facilities into the San Francisco Bay. Repair and replacement of sewer pipes, and sealing of defective maintenance holes, are the primary activities the City has pursued to reduce inflow/infiltration into the sewer system. Staff estimate that the publicly owned portion of the sewer system accounts for thirty-five to forty percent (35-40%) of the source wet-weather inflow/infiltration. An additional sixty to sixty-five percent (60-65%) comes from defective private sewer laterals or roof-leader and sump-pump connections that discharge to the sewer system. Completion of sewer system capital improvement work by the City, in conjunction with enforcement of private sewer lateral requirements, appears to be effective at reducing total wet-weather flow volumes within the regional sewer system—but not enough to move the City toward meeting the regional flow reduction goals of the CD. Recent flow model output test data comparing current wet-weather flow volumes to baseline flow volumes for each of EBMUD's regional wet-weather facilities shows inconsistent reductions in wet-weather inflow/infiltration, both annually and averaged over a three-year period. A critical compliance objective of the City's inflow/infiltration reduction program is to demonstrate regional wet-weather flow reductions that meet target flow rates by the *2028 San Antonio WWF Compliance Output Test* and *2030 Mid-Course Check-In* milestone(s). Current flow output values are shown in **Table 1** and **Table 2** below. Similar data, and projected reduction values for each wet-weather facility, is presented graphically in **Figure(s) 4-6**.

Table 1: *FY 2025 Wet Weather Facility Output Ratio and Test Results*

FY25 Output Ratio and Test Results*		
Facility	**FY23 Output Ratio**	**CD Benchmark**

	Baseline Flow Model Volume (MG)	*Calibrated Flow Model Volume FY25 (MG)*	*Facility Ratio FY25 (%)*	*2030*	*Final Compliance*
San Antonio Creek	13.2	8.2	62%	0%	0% by 2028
Point Ysabel	23.3	14.0	60%	18%	0% by 2034
Oakport	53.7	35.6	66%	31%	0% by 2036
**** Data provided by FY25 Flow Model Calibration Report prepared by EBMUD.***					

Table 2: *FY 2023 Wet Weather Facility Output Ratio Three-Year Average*

FY25 Three-Year-Average*				
Facility	**Annual Output Ratio**			
	FY23	**FY24**	**FY25**	**Three-Year Average**
San Antonio Creek	69%	49%	62%	60%
Point Ysabel	72%	55%	60%	62%
Oakport	79%	72%	66%	72%
** Data provided by FY25 Flow Model Calibration Report prepared by EBMUD.*				

Figure 4: *Inflow/Infiltration Reduction for Point Isabel*

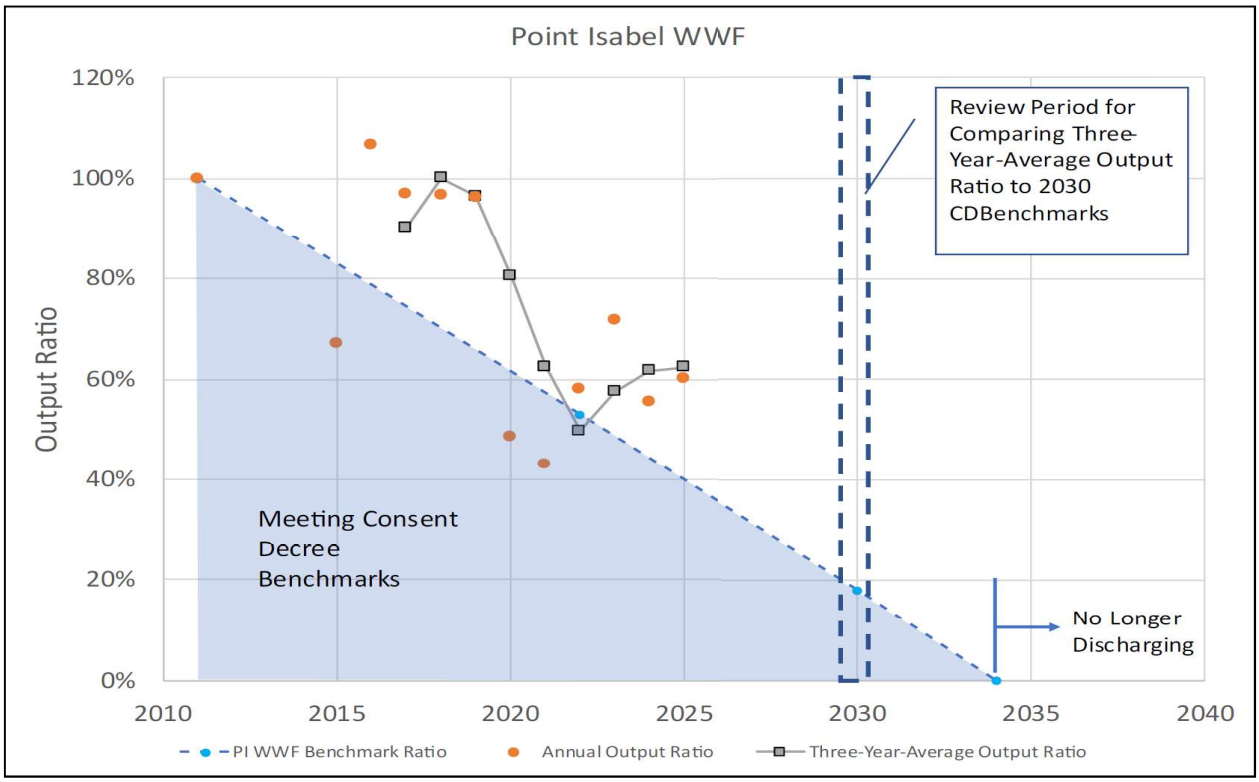


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Figure 5: *Inflow/Infiltration Reduction for Oakport*

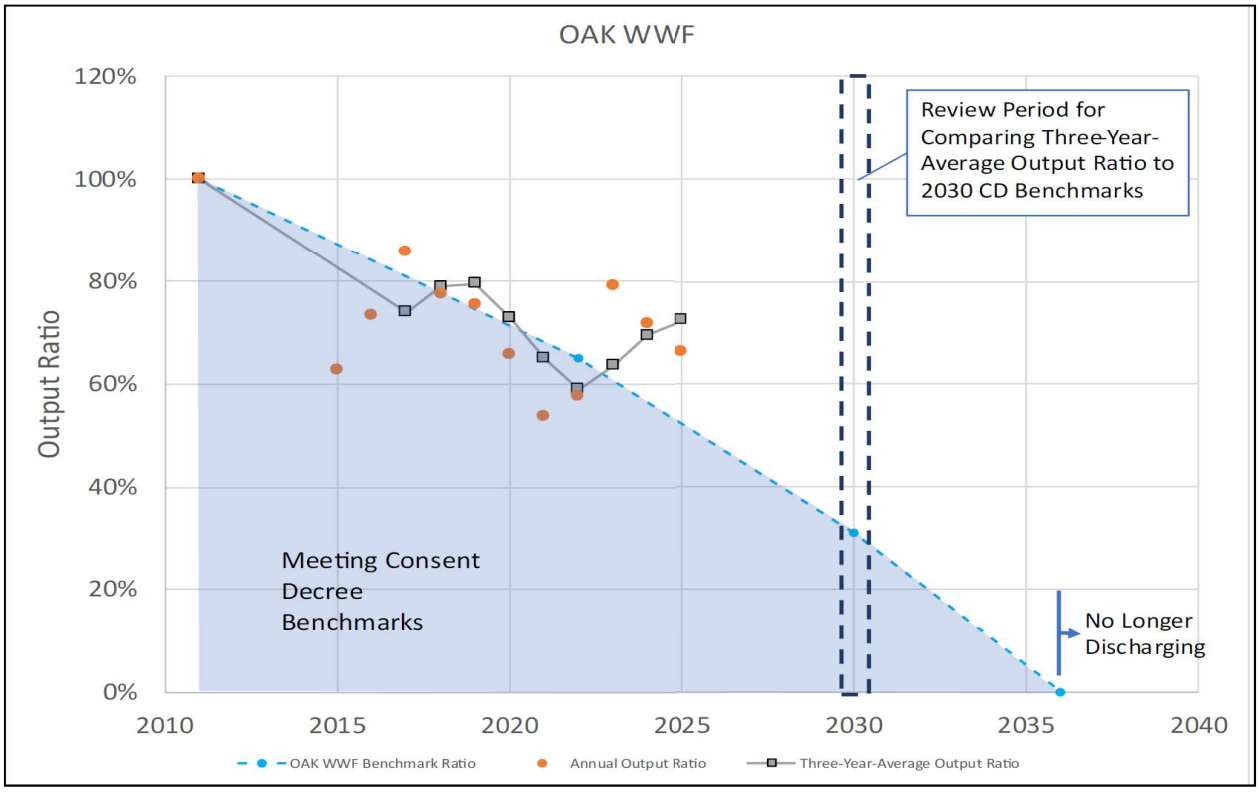
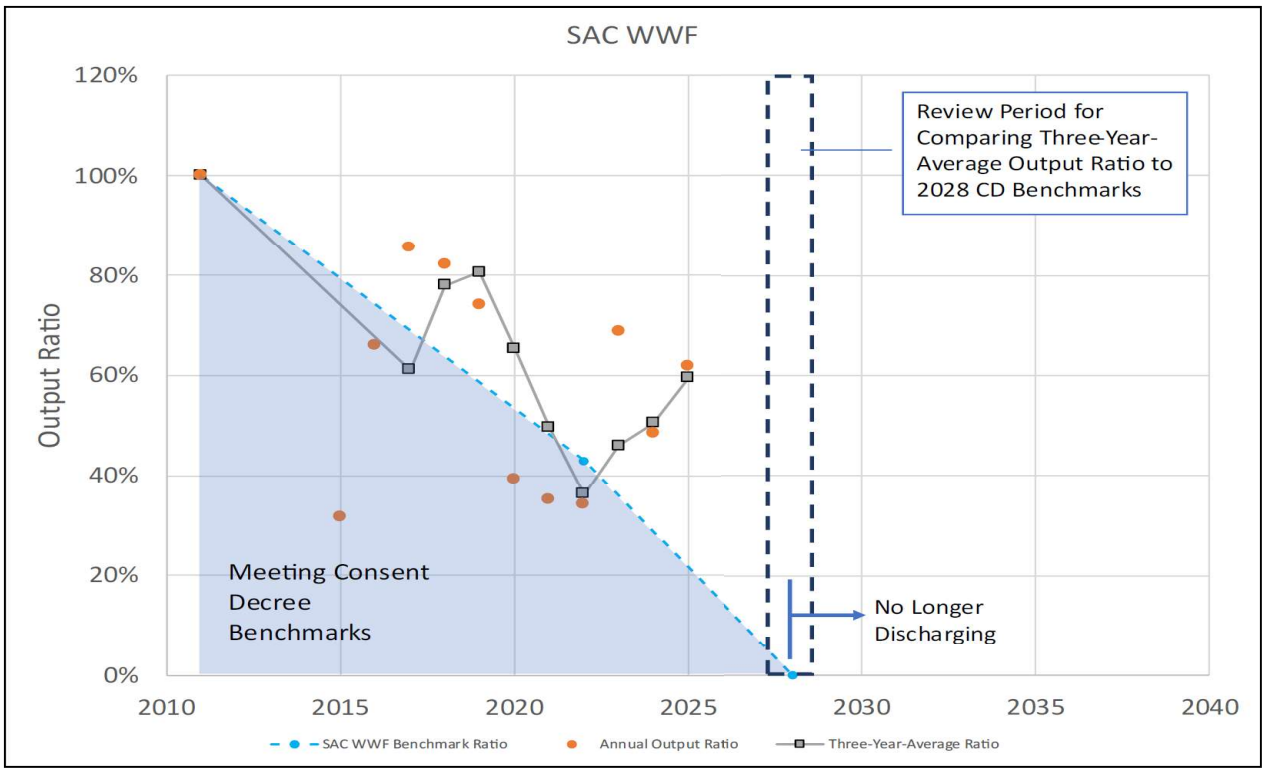


Figure 6: *Inflow/Infiltration Reduction for San Antonio Creek*



Sewer System Spills

The City noted a 41% decrease in the number of sewer spills that occurred over the two-year reporting period. Of the sewer spills that occurred, 67 of them—roughly, 64%—reached surface water and resulted in discharges of untreated wastewater in violation of the City's NPDES permit. **Figures 7 and 8** show a two-year histogram of sewer spills reported by the City, and the percent distribution of NPDES permit violation/non-violation of those sewer spills, respectively. **Figure 9** captures the total estimated volume for all sewer spills that occurred between July 1, 2024, and June 30, 2025—as well as the estimated volume of untreated wastewater that was recovered and disposed of back into the sewer system. A fiscal year period was used to demonstrate the impact of this metric, as it covers the traditional Bay Area wet-weather season (November-April) in its entirety.

Preventive measures to reduce the occurrence and frequency of sewer blockages and spills were undertaken year-around. The City utilized an industry standard performance strategy of targeting sewer pipes with a known history of operational issues for aggressive maintenance. As prescribed by the CD, pipelines with observed defects, as well as those in which a blockage or an overflow had previously occurred, were placed on an accelerated schedule to be cleared more frequently.

Figure 7: *Total Sewer System Spills (2-Year)*

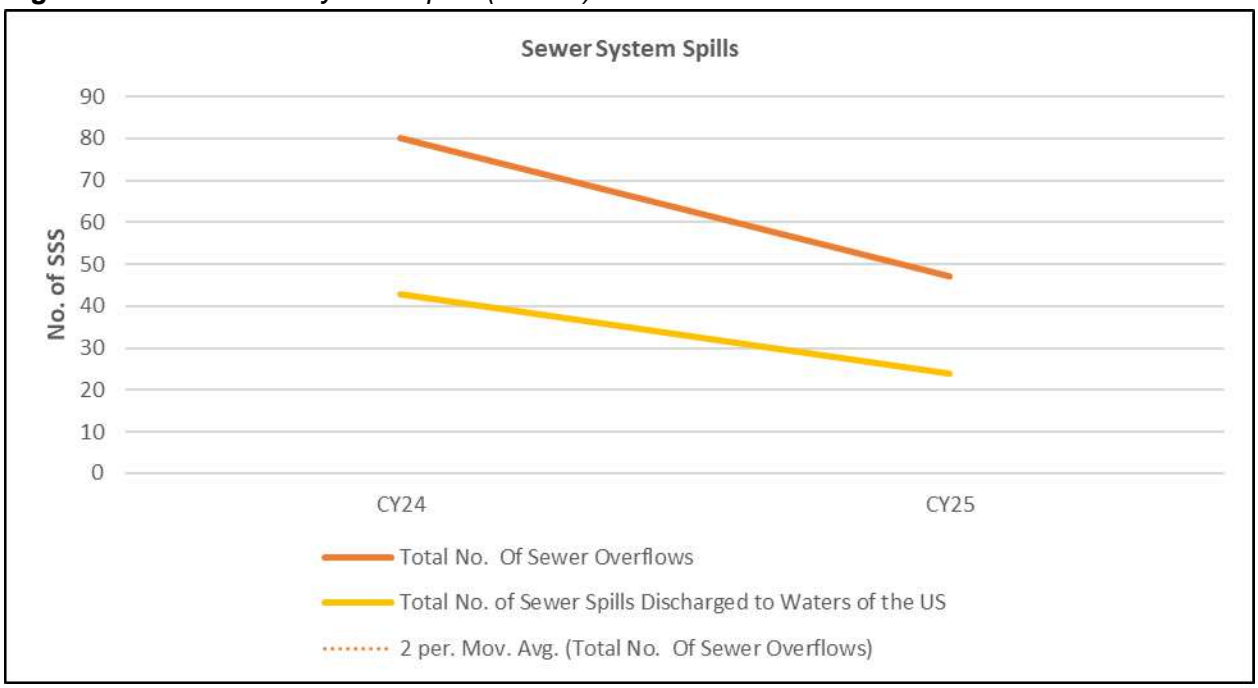


Figure 8: *Distribution of Permit Violation/Non-Violation Sewer Spills (10-Year)*

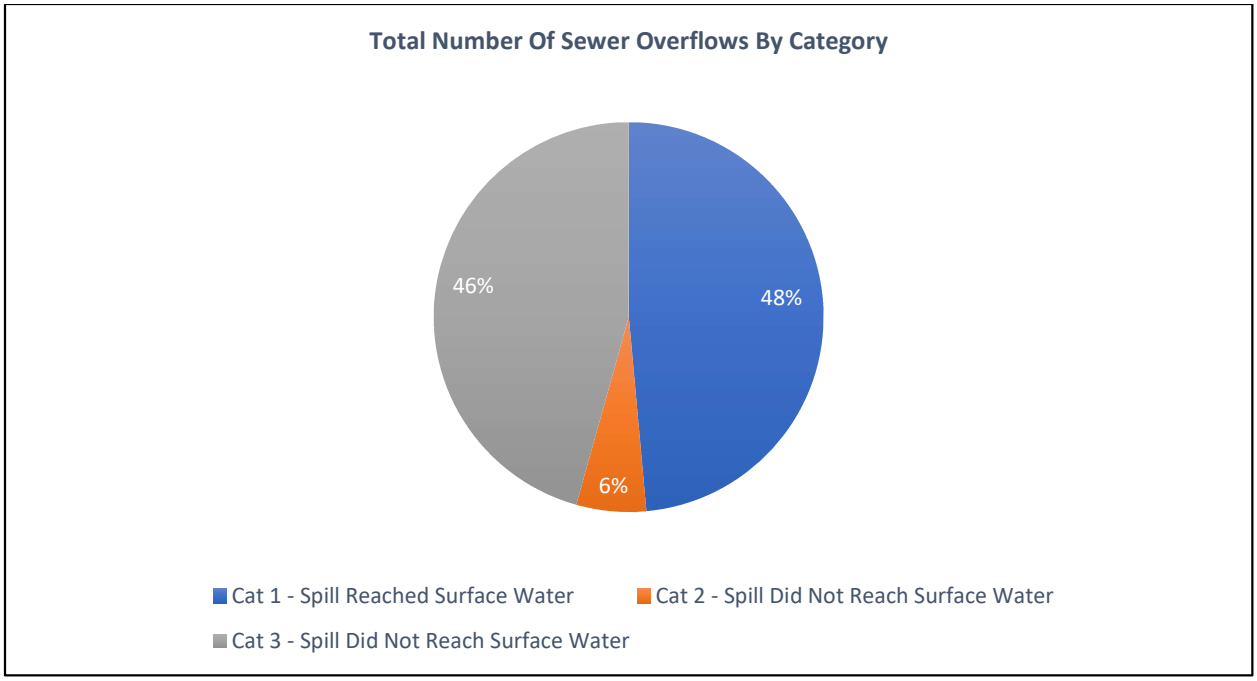
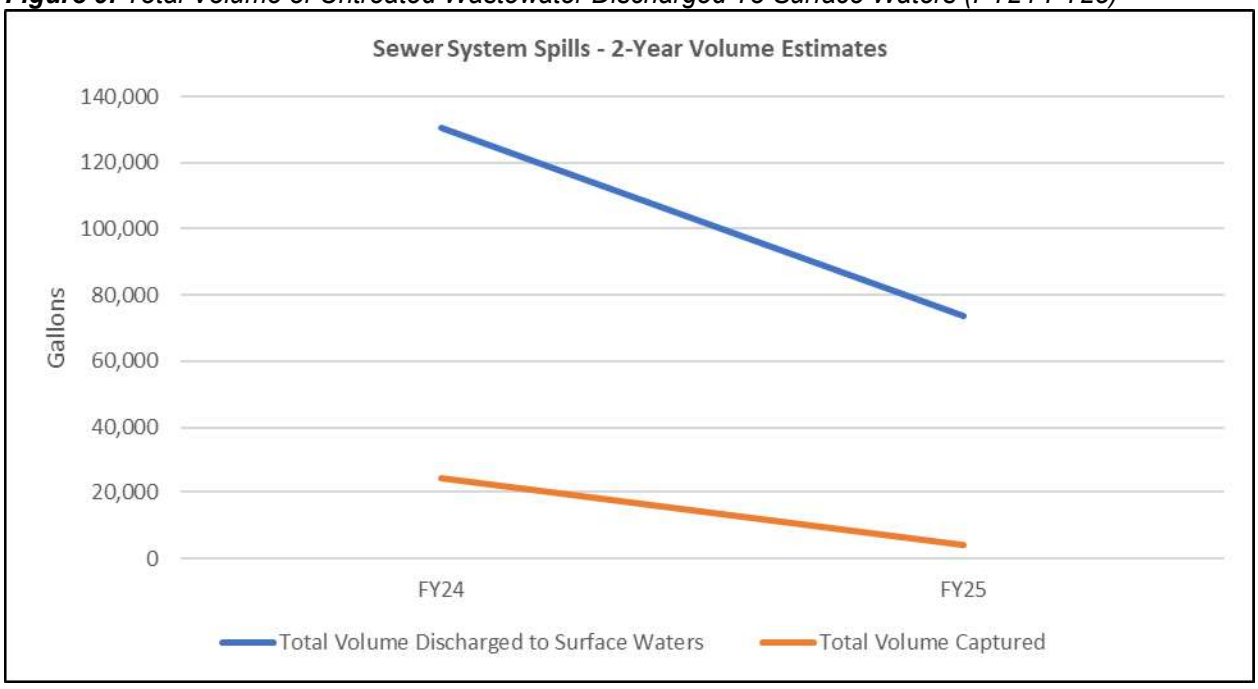


Figure 9: *Total Volume of Untreated Wastewater Discharged To Surface Waters (FY24-FY25)*



FISCAL IMPACT

This item is for informational purposes and does not have a direct fiscal impact or cost.

Funding for Sanitary Sewer System

Per the City Charter, the Sewer Service fund (Fund 3100) is used to construct, operate, and maintain the City's wastewater sewer infrastructure. This use includes all mandates placed on

the City by the CD and/or the WDR to address wastewater sewer spills and to reduce stormwater inflow/infiltration. All operational and administrative functions needed to manage the City's wastewater sewer assets and ensure that all compliance obligations are met were fully funded during the reporting period. **Table 3** below outlines the appropriation of Fund 3100 through FY25. It outlines how the Sewer Fund is distributed, and for what purpose.
This explains the fiscal impact that a recommended action will have on the City's budget. Staff should provide concise, relevant information to inform Council about the fiscal impacts of the proposed action.

Table 3: *Sanitary Sewer Budget Appropriation*

Department	FY24-25 Adopted Appropriation	Percentage
City Administrator	$302,651	0.33%
City Attorney	$1,115,290	1.20%
Finance Department	$2,355,968	2.54%
Fire Department	$307,408	0.33%
Public Works Department	$46,489,684	50.21%
Department of Transportation	$1,630,383	1.76%
Information Technology Department	$31,884	0.03%
Non-Departmental and Port of Oakland	$6,689,240	7.22%
Capital Improvement Projects	$33,671,604	36.36%
Total	**$92,594,112**	**100%**

PUBLIC OUTREACH / INTEREST

Pursuant to Attachment D Element 11 of State Water Board Order WQ 2022-0103-DWQ, this report must be presented to Oakland City Council/Council Committee, and/or be made available to the public via the City's website.

COORDINATION

The Office of the City Attorney and Budget Bureau were consulted in the preparation of this report.

RACE AND EQUITY

Continued compliance with the CD, WDR and NPDES permit for Sanitary Sewer Systems will ensure adequate and reliable sewer service for underserved communities by incorporating social equity components in planning for both emergency response and capital improvement activity, as applicable. The City's Sewer Operations and Maintenance Master Plan and draft Sewer Asset Master Plan incorporate a social equity component into their respective risk models, which are used to identify level of service needs throughout the sewer system.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Receive An Informational Report On The Status Of Compliance With The Sewer Consent Decree, Wastewater Discharge Requirements For Wastewater Sewer Systems, And National Pollutant Discharge Elimination System Permit, During The 24-Month Period From January 1, 2024, Through December 31, 2025.

For questions regarding this report, please contact Tyree Jackson, Compliance Officer at (510) 238-3672.

Respectfully submitted,

Liam Garland (May 13, 2026 11:41:31 PDT)

LIAM GARLAND
Director, Oakland Public Works

Prepared by:
Tyree Jackson, Compliance Officer
Director and Human Resource