

**ENFORCEMENT
BRANCH**
Environmental Enforcement



**DIRECTION GÉNÉRALE DE
L'APPLICATION DE LA LOI**
Application de la loi en environnement

WRITTEN WARNING

FISHERIES ACT

File: 5008-2011-04-15-004

PROTECTED B
ENFORCEMENT

2011/07/05

Registered with acknowledgement of receipt

The purpose of this warning is to inform:

Metro Vancouver
Greater Vancouver Sewerage and Drainage District
4330 Kingsway
Burnaby, BC, V5H 4G8

Mr. Johnny Carline
Commissioner/Chief Administrative Officer
Metro Vancouver
4330 Kingsway
Burnaby, BC, V5H 4G8

Mr. Doug Humphris
Manager
Operations and Maintenance Department
Metro Vancouver
4330 Kingsway
Burnaby, BC, V5H 4G8

Mr. Paul Lam
Wastewater Treatment Division Manager
Operations and Maintenance Department
Metro Vancouver
4330 Kingsway
Burnaby, BC, V5H 4G8

That information obtained by the undersigned inspector designated by the Minister of Fisheries and Oceans under the *Fisheries Act*, gives me reasonable grounds to believe that the Greater Vancouver Sewerage and Drainage District and its responsible officials are in violation of subsection 36(3) of the *Fisheries Act*.

ALLEGED FACTS

1. On March 31, 2011 Brian Hystad, Process Supervisor for Metro Vancouver, reported a power interruption at the Iona Island Waste Water Treatment Plant, resulting in a bypass of an estimated 16.5 million litres of untreated waste water to their deep sea outfall, which discharges into the Strait of Georgia.
2. On April 7, 2011 Paul Lam, Waste Water Treatment Division Manager, for Metro Vancouver provided the undersigned officer with a Process Emergency Report Form that confirmed the by-pass of an estimated 16.5 million liters of untreated sewage from the Iona Waste Water Treatment Plant on March 31, 2011 as a result of a power interruption.
3. On April 19, 2011 Paul Lam provided the undersigned officer with a letter addressed to the British Columbia Ministry of Environment providing additional information regarding the by-pass of untreated sewage from the Iona Island Waste Water Treatment Plant to the Strait of Georgia on March 31, 2011. The letter outlined the following information:
 - The power interruption caused the plant influent pumps to stop. As a result, the effluent pumps were stopped. However, one effluent pump started automatically and discharged an estimated 4.0 million liters of untreated sewage to the deep sea outfall, which discharges into the Strait of Georgia. The operating effluent pump was stopped and the flow was diverted to the containment pond;
 - Power to the influent pumps was restored and an estimated 16.5 million liters of untreated sewage was pumped to the deep sea outfall for 30 minutes. The untreated sewage was pumped because the containment pond was full and there were flood conditions in the influent well that prevented the influent gate from re-opening; and,
 - That the power interruption was not due to a hydro issue and that Metro Vancouver was currently investigating the cause.
4. On May 16, 2011 Paul Lam indicated to the undersigned officer that the power interruption was due to a failure in the portion of the electrical distribution system that controls the influent pumps. Hydro was available to the site during this failure.
5. That the aforementioned information gathered gives me reasonable grounds to believe that Greater Vancouver Sewerage and Drainage District discharged 20.5 million litres of untreated sewage into the Strait of Georgia.
6. That the Strait of Georgia is water frequented by fish, as defined by the *Fisheries Act*.
7. That untreated sewage is a substance that has been found by Environment Canada to be deleterious to fish and fish habitat.
8. That Metro Vancouver, more particularly the Greater Vancouver Sewerage and Drainage District and its officials owns the deleterious substance or has the charge, management or control thereof, or causes or contributes to the causation of the deposit or danger thereof.

THE LAW

Fisheries Act

Application of Act to Her Majesty

3(2) The Act is binding on Her Majesty in right of Canada or a province.

Deposit of Deleterious Substance Prohibited

36.(3) Subject to subsection (4), no person shall deposit or permit the deposit of a deleterious substance of any type in water frequented by fish or in any place under any conditions where the deleterious substance or any other deleterious substance that results from the deposit of the deleterious substance may enter any such water.

Subsection 36(4) refers to deposits made under the authority of certain types of regulations and does not apply in this instance.

Continuing Offence

78.1 Where any contravention of this Act or the regulations is committed or continued on more than one day, it constitutes a separate offence for each day on which the contravention is committed or continued. 1991, c. 1, s. 24.

Offences by employers, employees, or agents

78.3 In any prosecution for an offence under this Act, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused, whether or not the employee or agent is identified or has been prosecuted for the offence, unless the accused establishes that the offence was committed without the knowledge or consent of the accused. 1991, c. 1, s. 24.

Penalties

40(2) Every person who contravenes subsection 36(1) or (3) is guilty of

(a) an offence punishable on summary conviction and liable, for a first offence, to a fine not exceeding three hundred thousand dollars and, for any subsequent offence, to a fine not exceeding three hundred thousand dollars or to imprisonment for a term not exceeding six months, or to both; or

(b) an indictable offence and liable, for a first offence, to a fine not exceeding one million dollars and, for any subsequent offence, to a fine not exceeding one million dollars or to imprisonment for a term not exceeding three years, or to both.

CONCLUSION

This warning alleges a contravention of subsection 36(3) of the *Fisheries Act*. It is intended to bring this matter to your attention in order for you to take the necessary corrective action to ensure compliance with the *Fisheries Act*. This document is not a finding of guilt or civil liability, and is not an administrative adjudication.

This warning and the circumstances to which it refers will form part of Environment Canada's records of the Metro Vancouver, Iona Waste Water Treatment Plant and its responsible officials, and will be taken into account in future responses to alleged violations and for internal purposes such as setting the frequency of

inspections. Environment Canada will consider taking further action if you do not take all necessary corrective steps to comply.

This warning is issued in accordance with the Compliance and Enforcement Policy for the Habitat Protection and Pollution Prevention Provisions of the *Fisheries Act*. The complete text of this policy is available on Environment Canada's website: <http://www.ec.gc.ca/alef-ewe/default.asp?lang=En&n=D6B74D58-1>. The complete text of the *Fisheries Act* is available on the Department of Justice website: <http://laws-lois.justice.gc.ca/eng/>.

For more information or to respond to the alleged facts contained in this warning, please call or write the undersigned. Your comments will be considered, and where appropriate, a response provided. Any comments you make, as well as Environment Canada's response, will be maintained on file with this warning in Environment Canada's records.



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