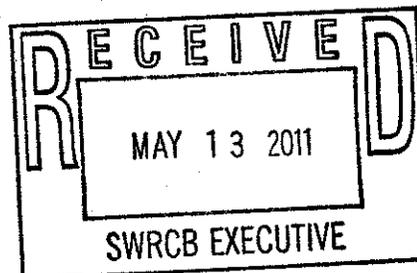


Public Comment  
Sanitary Sewer System WDRs  
Deadline: 5/13/11 by 12 noon

FILE:CF/43-0-25 STATE WATER RESOURCES CONTROL  
BOARD (SWRCB)



May 13, 2011

Sent Via email: [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)

Jeanine Townsend  
Clerk to the Board  
State Water Resources Control Board  
1001 I Street, Sacramento, CA 95814

**Subject: Comment Letter – Sanitary Sewer System Waste Discharge Requirements Review and Update**

Dear Ms. Townsend:

The Sonoma County Water Agency (Water Agency) appreciates the opportunity to comment on the State Water Quality Control Board's proposed revisions to the Sanitary Sewer System Waste Discharge Requirements (SSS WDRs). The Water Agency assumed management responsibilities for the County of Sonoma Sanitation Districts and Zones, January 1, 1995. County Sanitation Districts (CSD) include the Occidental CSD, Russian River CSD, Sonoma Valley CSD, and South Park CSD. County Sanitation Zones (SZ) include Airport/Larkfield/Wikiup SZ, Geyserville SZ, Penngrove SZ, Sea Ranch Central SZ and Sea Ranch North SZ. The County Sanitation Districts are separate legal entities, which own the assets of their respective Districts. The assets of the Sanitation Zones are owned by the Water Agency. The County Board of Supervisors acts as the Board of Directors for both the County Sanitation Districts and Zones. The County Sanitation Districts and Zones include seven wastewater treatment facilities that treat wastewater to secondary or tertiary standards. The average dry weather flow for these treatment facilities ranges from 2,000 (Sea Ranch Central) to 2,700,000 (Sonoma Valley) gallons per day. Discharge permits for these facilities are issued by the respective Regional Water Quality Control Boards (RWQCB). The Sonoma Valley CSD treatment facility is located within the jurisdiction of the San Francisco Bay Region of the RWQCB. The remaining facilities are located in the North Coast RWQCB jurisdiction area.

The proposed revisions to the SSS WDRs represent a major departure from the program that has been successfully implemented under the existing SSS WDRs. While we appreciate the State Water Board's efforts to address certain issues associated with the existing WDRs, the Water Agency is very concerned about a number of the proposed revisions, especially those related to reporting of private lateral sewage discharges (PLSDs), and onerous additions to sewer system management plan (SSMP) requirements that should not be mandated unless State Water Board guidance and funding is made available. Also, the Water Agency strongly opposes any kind of NPDES permitting approach.

**1. Sanitary sewer system regulations should not be adopted under a two-tiered WDRs and NPDES permit.**

The Water Agency strongly opposes the two-tiered WDRs and NPDES permit alternative, whereby an SSO occurring previously or in the future would trigger the requirement to apply for an NPDES permit, and

agree with several points included in the Staff Report also opposing an NPDES permit. Since the existing SSS WDRs and the proposed revisions to the SSS WDRs do not authorize sanitary-sewer overflows (SSOs) to waters of the United States, there is no need for an NPDES permit. The result of triggering an NPDES permit would subject local public agencies to additional and more egregious non-governmental organization (NGO) lawsuits and higher administrative penalties with absolutely no demonstration that this would improve water quality or further reduce SSOs. As you may know, several NGOs in the San Francisco Bay Region have already taken advantage of municipal government agencies, including the use of aggressive and shocking tactics, and pocketed precious funds that could have and should have been used for reducing SSOs. The Water Agency does not believe this type of behavior is an appropriate way to spend public funds or staff resources.

As described in the Staff Report, this alternative would also require significant additional Water Board staff resources to track and implement the different permit tiers. The Water Agency understands that staff resources are limited, and believe that they should instead be used to further improve SSO reduction efforts under the existing SSS WDRs.

The Water Agency would also like to reinforce concerns about confusion and wasted resources resulting from adopting an NPDES permit component now, that may need to be revised again if the United States Environmental Protection Agency (USEPA) implements an NPDES permit for satellite sanitary sewer systems later. As a collection system operating in the San Francisco Bay Region, the Water Agency can speak to this issue with experience; the 2006 statewide requirements included in the existing SSS WDRs were different from our established regional program. In developing our SSMP, the Water Agency had to sift through and identify strategies that addressed *both* sets of requirements. Changes to reporting requirements made everything more confusing. As requirements become more complicated and confusing, more Water Agency's staff time is directed towards preparing reports and re-organizing information and operating procedures, and less time is spent actually managing or conducting the appropriate operations and maintenance (O&M) activities to prevent SSOs and properly maintain the collection system.

**2. The basis for mandatory reporting of PLSDs is not justified and creates an inappropriate burden for public agency staff.**

Water Board staff has not provided adequate justification to require public agencies to report PLSDs that are not affiliated with the collection system agency. State Water Board staff has simply not sufficiently thought through what this requirement means.

Consider ... What if the collection system agency does not have all of the information for a PLSD, as requested on the reporting form? What if an agency finds out about two overflows at once and one is a PLSD and the other is from the public sewer and they only have resources to deal with one? What if an agency receives a telephone message about a PLSD and the information is incomplete? (Public resources should not be used to hunt it down.) Is there an expectation that if an overflow on private property is discovered by a public agency, that they assist with the cleanup? (Ratepayers should not pay for this.) If a homeowners observe their own sewage in their bathtub, because their lateral has a stoppage due to actions they caused (e.g. flushable wipes), and the toilet and sink have not overflowed onto the floor, is that a PLSD? How are we supposed to estimate volume spilled or recovered? (Often a homeowner will be very guarded with information about what goes on inside the home.) What if a PLSD exists and someone thinks a public agency staff person knew about it and it wasn't reported? In any event, how will State Water Board staff enforce this provision? Most importantly of all, how will State Water Board staff use this

information? There are many questions and very few answers or justifications addressed in the proposed revisions to the SSS WDRs.

In addition, it is unrealistic and inappropriate to expect public collection system agencies to solve (or even just report) all of the States' overflow problems, especially when they are insignificant in the realm of protecting water quality. It is difficult enough to manage the public system, the boundaries of which are likely to be well known. The State Water Board should only hold public agencies accountable and responsible for activities within their jurisdiction.

Moreover, the Staff Report includes a reference to a study that indicated that the total volume of sewage from private laterals is about 5% of the total volume from SSOs, almost all of which never pose a threat to waters. Requiring public agencies to provide detailed information regarding such a small percentage of overflow volumes from parts of the system over which they have no control is not appropriate and would divert limited staff resources from higher priority issues that actually protect waters.

Also, although the Staff Report includes recognition that existing reporting requirements may have indirectly created disincentives for agencies to maintain ownership of private laterals, the proposed revisions create further confusion rather than resolving this issue. In order to solve the problem, the Water Agency recommends that the California Integrated Water Quality System (CIWQS) database and SSO/mile/yr data reflect *only* mainline spills as a performance measure. These are the overflows that have the potential for water quality impact.

In addition, PLSDs typically only impact the property owner, as they are usually very small in volume and do not reach receiving waters. These types of events fall under the jurisdiction of local health officers. The Water Agency recommends that the State Water Board first work with the California Department of Public Health and local environmental health officers to determine if the desired information can be obtained through mutual agency cooperation. The Water Agency believes that public health agencies have the best knowledge of overflows from laterals on private property, and are, in most instances, the most appropriate agencies to respond to these events.

For all of the reasons indicated above, the Water Agency specifically requests that reporting of PLSDs remain voluntary.

**3. It is essential that State and Regional Water Board staff consider the reasons for each SSO in any enforcement action.**

The existing SSS WDRs included language in Provision D.6 that provided some reassurance that, in the case of an SSO enforcement action, the State and/or Regional Water Board would consider why the SSO might have occurred and to what extent it would have been reasonably possible for the Enrollee to prevent it.

Existing language read: "*In assessing these factors, the State and/or Regional Water Boards will also consider whether...*" (Emphasis added)

In the proposed revisions to the SSS WDRs, this language was changed to read: "*In assessing these factors, the State and/or Regional Water Boards may also consider whether...*" (Emphasis added)

The proposed revisions to the SSS WDRs would transform the existing enforcement discretion language, which expresses a clear statement of the State Board's intent regarding enforcement priorities and responses, into a purely advisory provision, which individual regional boards are free to follow or ignore as they choose. The factors described in (a) through (g) of Provision D.6 are highly relevant to the Enrollee's efforts to properly manage, operate and maintain its system and these factors should definitely be considered in enforcement actions.

It is imperative that the existing language be retained. Enrollees should not be made to suffer consequences for conditions that are outside their reasonable control.

**4. Significant additional Sewer System Management Plan (SSMP) requirements should not be mandated until the State Water Board provides guidance and funding.**

The proposed "Risk and Threat Analysis" and "Staff Performance Assessment Program" are vague, not statistically supported, unnecessarily complicated, and overly prescriptive.

The proposed Risk and Threat Analysis of all sanitary sewer assets would be complex and resource-intensive, and would not provide incrementally more benefit than that provided by an otherwise well-operated and managed system. It is not appropriate to require every agency to implement this requirement unless the Water Board can demonstrate that those agencies complying with current requirements have been ineffective in reducing SSOs. This program should also only be required if and when adequate Water Board guidance has been developed and funding is provided.

Requiring development and implementation of the proposed Staff Assessment Program on an agency-by-agency basis is unrealistic. The expectations outlined in the proposed revisions to the SSS WDRs suggest that the Water Agency staff would be responsible for developing a program similar to the existing Technical Certification Program offered by the California Water Environment Association, which would require a substantial investment of resources to do redundant work at each agency. It is also not appropriate to require public agencies to train contractors (which are separate, private entities).

The Water Board should not implement these new requirements until detailed program guidance is provided. Also, Water Board staff has not demonstrated that the current training requirements are deficient.

**5. SSMP sections (i) and (j) should be combined, because otherwise the requirements for routine review and revisions of the SSMP are redundant and contradictory.**

SSMP Section (i) *Performance Targets and Program Modifications* and Section (j) *SSMP Program Audits* both require the Enrollee to evaluate the effectiveness of the SSMP and correct or update the document as necessary. Section (i) indicates that this process is to occur on an annual basis, while Section (j) specifies a minimum frequency of once every two years. The Water Agency recommends that Water Board staff combine these two sections and clarify the requirements.

**6. Requiring de-chlorination of clean-up water is counter-productive.**

Prohibition C.3 indicates that potable water would have to be de-chlorinated before it could be used for spill clean-up (in the event water used for clean-up is not fully recovered). Putting restrictions on the use of

potable water in cleaning up an SSO that is otherwise likely to violate either of the first two prohibitions simply adds further unnecessary challenges. In addition, the amount of potable water used, combined with the distance it would have to travel to reach surface water (so the chlorine would readily degrade) does not warrant the additional on-site operational difficulty in dechlorination.

**7. Required reporting of PLSDs by all agencies does not improve the predicament faced by agencies that own lower laterals.**

Requirements for reporting of SSOs are applicable to all "discharges resulting from a failure in the Enrollee's sanitary sewer system." (Emphasis added) Requirements for reporting of PLSDs apply to all "discharges of wastewater resulting from a failure in a privately owned sewer lateral." (Emphasis added) These requirements do not change the fact that SSOs from lower laterals are unfairly attributed only to those agencies that own them. In order to solve the problem, the Water Agency recommends that the CIWQS database and SSO/mile/yr data reflect *only* mainline spills as a performance measure. Otherwise, comparisons of these data among agencies are incorrect.

In addition, the requirement for Enrollees to report PLSDs as they become aware of should be removed from Provision 4.

**8. The four-year board re-certification requirement is excessive.**

The proposed revisions to the SSS WDRs would also require each agency to bring its SSMP before its governing board for re-certification at a minimum every four years. This frequency is excessive considering that infrastructure projects typically occur over a longer timeframe. The Water Agency requests a re-certification every 5-10 years.

**9. Notification requirements need to be clarified.**

The Water Agency supports the Staff Report's indication that only Cal EMA would need to be notified when spills to surface water of any volume occur. However, Paragraph G.4 indicates that Enrollees are to provide immediate notification of SSOs to the local health officer or the local director of environmental health, contrary to the instructions indicated in Section A of the Monitoring and Reporting Program and the Staff Report. Please clarify that notification shall only to be made to Cal EMA, and indicate that Cal EMA will notify other agencies.

**10. Enrollees should not be required to report SSOs if they are fully-recovered.**

Fully-recovered SSOs cannot impact surface waters, and it is unlikely that they would impact public health. Therefore, they should not have to be reported to CIWQS. Not having to report these SSOs would provide an additional incentive to fully recover the overflow.

**11. A *de minimis* spill volume for reporting should be allowed.**

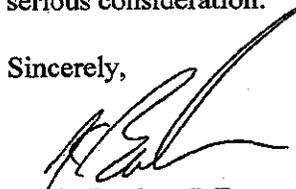
SSO reporting requirements do not apply to systems that do not meet the defined size threshold, recognizing that any spills from these systems would be insignificant, and therefore not worth reporting. Reporting of *de minimis* spill volumes from Enrollees' systems is likely equally insignificant in their potential impacts to public health and the environment. The limited value of information regarding the

physical condition and adequacy of collection system operation and maintenance obtained from reporting very small spill volumes does not warrant the staff resources required to make these reports. Given our past experience with CIWQS, the Water Agency is not confident that a batch uploading function will significantly save time. The Water Agency requests that overflows of less than 100 gallons need not be reported, a threshold previously established by the San Francisco Bay Regional Water Board.

In general, it is our view that significant proposed revisions to the SSS WDRs are premature and overly burdensome. Implementation of the existing permit has already successfully resulted in reduced impacts of SSOs on surface water. Additional improvements are expected as capital improvements identified under the current permit are completed. It would be frustrating to have invested significant resources in meeting the current requirements only to have them change before our current efforts have come to fruition. The Water Agency believes that it would be more productive for the Water Board to focus on bringing all agencies into compliance with the current permit rather than initiating sweeping revisions that would apply to all agencies, regardless of compliance history or the effectiveness of current programs.

The Water Agency hopes that the State Water Resources Control Board will take these comments under serious consideration.

Sincerely,



Kevin Booker, P.E.  
Water Agency Principal Engineer

c Pam Jeane, George Lincoln, Wendy Gjestland