

**STATE OF CALIFORNIA  
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL COAST REGION**

**STAFF REPORT FOR REGULAR MEETING OF OCTOBER 22, 2004**

Prepared on October 1, 2004

**ITEM NUMBER: 10**

**SUBJECT: Reissuance of National Pollutant Discharge Elimination System (NPDES) Permit / Waste Discharge Requirements, the City of Santa Barbara El Estero Wastewater Treatment Facility, Santa Barbara County, NPDES Permit No. CA0048143, Order No. R3-2004-0122**

**KEY INFORMATION**

Treatment System Location: 520 East Yanonali Street, Santa Barbara, CA 93103, Santa Barbara County  
Type of Discharge: Municipal wastewater  
Design Capacity: 11 million gallons per day (MGD)  
Current Flow: 8.5 MGD (average daily flow rate over last three years)  
Treatment: Secondary via activated sludge  
Disposal: Ocean outfall discharge to the Pacific Ocean  
Reclamation: Up to 4.3 MGD reclaimed for landscape irrigation  
Existing Orders: NPDES Waste Discharge Requirements Order No. 99-40; Waste Discharge Requirements and Master Reclamation Permit Order No. 97-44

**SUMMARY**

The City of Santa Barbara (hereafter City Permittee, or Discharger) owns and operates a wastewater collection, treatment, and disposal system to provide sewerage service to the City of Santa Barbara and portions of Santa Barbara County, serving a population of approximately 96,000. The wastewater treatment facility effluent is discharged through a 8,720-foot outfall/diffuser system to the Pacific Ocean.

Waste Discharge Requirements Order No. 99-40, which technically expired on September 8, 2004, currently serves as the National Pollutant Discharge Elimination System (NPDES) permit for discharges of secondary treated municipal wastewater from the City to the Pacific Ocean. The permit is administratively extended pending the outcome of the public hearing.

Proposed Order No. R3-2004-0122 updates the NPDES permit and will serve as a reissuance of Order No. 99-40. The Order also requires the City

of Santa Barbara to develop and implement a Wastewater Collection System Management Plan.

**DISCUSSION**

**Design and Treatment Capacity:** The City of Santa Barbara El Estero Wastewater Treatment Facility is located at 520 East Yanonali Street, Santa Barbara, in Santa Barbara County. Secondary treatment of domestic and industrial wastewater consists of screening and grinding, aerated grit removal, primary sedimentation, activated sludge stabilization, secondary clarification, disinfection by chlorination, and dechlorination facilities.

The City owns a seawater desalination facility, which is currently deactivated. When operational, the desalination plant discharges waste brine at one of five flowrates depending on the facility's rate of freshwater production. The waste brine discharge flowrates are 3.9, 4.1, 9.4, 10, and 12.5 MGD.

Biosolids are treated using gravity thickening, dissolved air flotation thickening, anaerobic

digestion, and belt press dewatering. Dewatered biosolids are transported and land-applied at various reuse sites in California under permit by the appropriate Regional Boards and Environmental Health Services.

In 2003, biosolids were: 1) Land-applied at McCarthy Family Farms, Inc. in Kern County under permits from the Central Valley Regional Board (Order No. R5-2002-0172) and the Kern County Environmental Health Service, and; 2) Incorporated into processed compost and sold in bulk by Engel & Gray in Santa Barbara County under permits by the Central Coast Regional Board (Order No. 99-11) and the Santa Barbara County Environmental Health Service.

Design average daily dry weather flow is 11 million gallons per day (MGD), and design daily peak flow is 19 MGD. The average daily flow for the three-year period preceding the Report of Waste Discharge was 8.5 MGD.

Since the adoption of Order No. 99-40, the City has made no significant modifications to the secondary treatment process configuration. The wastewater discharge proposed for regulation under Order No. R3-2004-0122 retains essentially the same character as the discharge regulated by the existing Order No. 99-40.

**Reclamation Facilities:** The facility provides tertiary wastewater treatment by means of coagulation, flocculation, filtration, and additional disinfection processes. The additional treatment allows the Discharger to provide up to 4.3 MGD of reclaimed wastewater for landscape irrigation within the City of Santa Barbara. WDRs and Master Reclamation Permit Order No. 97-44 governs the use of the reclaimed wastewater in accordance with the wastewater reclamation criteria specified in Title 22 of the California Code of Regulations.

**Discharge Type and Disposal:** Secondary treated municipal wastewater is discharged to the Pacific Ocean through the Discharger's 8,720-foot outfall/diffuser system. The outfall terminates in the Santa Barbara Channel in approximately 70 feet of water (34° 23' 31" N. Latitude, 119° 40' 08" W. Longitude). The minimum initial dilution ratio of the outfall/diffuser system is 120:1

(seawater:effluent, or parts seawater to parts effluent) without desalination facility brine discharge, and as low as 44:1 with brine discharge. The hydraulic capacity of the outfall is 28 MGD. The outfall location is shown on Attachment A to the proposed Order.

## ORDER REQUIREMENTS

Requirements in the proposed Order are provided with superscript to indicate their origin. The proposed Order implements federal regulations listed in Title 40 of the Code of Federal Regulations, Sections 122 & 133, and relevant State water quality control plans (i.e., California Ocean Plan, Basin Plan). Requirements without superscript are based on staff's professional judgment.

The Order incorporates by reference *Standard Provisions and Reporting Requirements for National Pollutant Discharge Elimination System Permits* (Standard Provisions), dated January 1985 (See Provision G.3 of the Order).

The proposed Order's prohibitions restrict treated wastewater discharge to the ocean outfall.

Effluent limitations reflect Ocean Plan criteria using an initial dilution of 120 parts seawater to one part effluent. The dilution ratio is used in conjunction with Ocean Plan Table B water quality objectives to determine effluent concentration limits and mass emission rate limits. Flow is limited to engineered design capacity of the treatment system to ensure effective treatment during dry weather. Narrative effluent limits are included to ensure compliance with the Ocean Plan.

Receiving water limitations also implement Ocean Plan bacteriological limits for body contact recreation, as well as California Code of Regulations, Title 17, Sections 7957 and 7958. Narrative receiving water limits are included to ensure compliance with the Ocean Plan and Basin Plan.

Order Section B, *Discharge Specifications*, Items B.5 and B.6 state effluent limits for total and fecal coliform. These limits were developed as part of

an extensive study conducted by the Discharger in coordination with the Department of Health Services and Regional Board staff. These limits continue to be protective of beneficial uses. No changes are proposed at this time.

**Monitoring and Reporting:** Monitoring and Reporting Program (MRP) No. R3-2004-0122 will serve as a primary means of determining compliance with all terms and conditions of Order No. R3-2004-0122, including Title 40 of the Code of Federal Regulations (CFR) and all applicable State water quality control plans (i.e., California Ocean Plan, Basin Plan). The monitoring and reporting program includes influent, effluent, receiving water, biosolids, and spill/overflow monitoring requirements. Also see similar section under **Changes to the Order**, below.

**Pretreatment Requirements:** 40 CFR 403 established the national pretreatment program to implement pretreatment standards to control pollutants which pass through or interfere with treatment processes in Publicly Owned Treatment Works (POTWs), or which contaminate sewage sludge (biosolids). Federal regulations require all POTWs with total design flows greater than 5 MGD to develop a pretreatment program.

In accordance with 40 CFR 403, a pretreatment program is mandatory for this facility (design flow rate is 11 MGD). While discharges from industrial sources are not known to have interfered with treatment plant operation or caused effluent violations, several plant upsets of unknown cause have occurred over the last four years (see also **Compliance History, Changes to the Order**, and **Reasonable Potential Analysis**, below). The Discharger will continue to implement its existing pretreatment program. See proposed Order No. R3-2004-0122, Section E, *Pretreatment Specifications*, and MRP Section X.

**Storm Water Requirements:** Storm water runoff due to rainfall which falls upon the wastewater treatment facility and which may be exposed to on-site pollutant sources is routed to the facility's headworks for treatment. The proposed permit regulates all storm water discharges at this facility and complies with Federal regulations [Title 40,

Code of Federal Regulations (CFR), Parts 122, 123, and 124] for storm water management.

**Desalination Facility:** Study and analysis of desalination facility operation and potential impacts on the discharge and receiving waters were conducted during previous renewals of the permit and no changes are proposed at this time. See Finding Nos. 12 and 13, and Attachment B to the Order.

## CHANGES TO THE ORDER

Changes to proposed Order No. R3-2004-0122 from the existing Order No. 99-40 include the following:

**Effluent Sampling – Ocean Plan Table B:** Staff recommends annual sampling of Ocean Plan Table B parameters.

Effluent sampling frequency for Ocean Plan Table B parameters in MRP No. 99-40 was required only once in 1999. The Discharger was otherwise allowed to submit quarterly certification that such pollutants were not added to the waste stream.

Section G.2 of the Ocean Plan, *Monitoring Program*, contains language allowing such certification. According to the State Water Resources Control Board, however, the language was not intended for application to municipal waste dischargers such as the City of Santa Barbara. In light of this and other inadvertent misapplications of the certification clause, State Board staff is currently proceeding with an Ocean Plan amendment to eliminate the certification clause.

Appendix III of the Ocean Plan, *Standard Monitoring Procedures*, establishes minimum effluent sampling requirements for Table B parameters depending on wastewater flow rate. For discharges between one and ten million gallons per day, the minimum monitoring frequency is one complete scan of Table B parameters annually. The Discharger's average daily wastewater flow rate is 8.5 MGD. The Ocean Plan does not specify whether to base monitoring on actual flows or permitted flows. Staff is recommending the use of observed flow in

this case (use of the permitted flow of 11 MGD would require sampling semi-annually).

The monitoring frequencies listed in Ocean Plan Appendix III represent the State Board's direction for what constitutes an adequate monitoring program for compliance with Table B water quality objectives or, equivalently, with effluent limitations derived from Table B objectives.

Based on the above, MRP No. R3-2004-0122, Tables 3, 4, and 5 require annual effluent sampling for all Ocean Plan Table B parameters. The timing of the sampling is varied to represent different months of the year during dry-weather conditions. The proposed sampling will ensure a minimum data set is available before the next permit renewal, and may serve the State Board to assess the attainability of new or revised water quality objectives.

**Effluent Limits – Ocean Plan Table B:** Staff is recommending the reinstatement of effluent limits based on Ocean Plan Table B.

Order No. 99-40 contained no effluent limits for Ocean Plan Table B parameters other than those for total chlorine residual, ammonia, and chronic toxicity. At the time of the Order's proposal, staff recommended the removal of the majority of Table B effluent limits based on a determination that those parameters would not cause, have a reasonable potential to cause, or contribute to an excursion above Ocean Plan Table B water quality objectives. This determination was based on an analysis of Discharger data collected in 1994, 1996, and 1998. The data was not analyzed in accordance with current reasonable potential analysis guidance.

When conducted, USEPA requires at least one reasonable potential analysis per NPDES permit cycle (five years). Since Ocean Plan Table B monitoring was reduced to once during the life of Order No. 99-40, sufficient effluent monitoring data is not available to conduct a formal, data-based reasonable potential analysis at this time (A formal reasonable potential analysis primarily constitutes applying an approved statistical model to sampling data). This same lack of data prevents

staff from affirming its previous recommendation to eliminate the majority of effluent limits.

The primary benefit of performing a reasonable potential analysis is eliminating effluent limits to potentially reduce effluent monitoring frequency and therefore costs. For example, in some cases monitoring frequencies for Table B parameters may be higher than the Ocean Plan minimum when parameters have reasonable potential to exceed water quality objectives. In this case, however, staff proposes only the minimum monitoring required by the Ocean Plan. Therefore, even if sufficient effluent monitoring data were available, findings of no reasonable potential would not economically benefit the Discharger. Similarly, reinstating effluent limits should not impose any undue burdens upon the Discharger.

Since 1999, the Discharger's facility has suffered several plant upsets which have intermittently and temporarily impacted the facility's biological treatment capabilities. The causes of these upsets, some of which have resulted in effluent violations, have not been determined despite laboratory testing and third-party consultation.

USEPA's method of conducting reasonable potential analyses includes approaches for circumstances where effluent data is limited or lacking. Given the nature of the discharge, the lack of economic benefit available to the Discharger, and a recent history of plant upsets of unknown cause, staff does not recommend applying such an approach in this case.

State Board staff was consulted on this issue, and concur that a lack of sufficient data is an adequate basis for determining that reasonable potential does exist and establishing effluent limits derived from Ocean Plan Table B. Furthermore, based on the nature of a given facility's waste discharge, it is valid to establish effluent limits even if data indicate no reasonable potential. Note that the absence of effluent limits derived from Ocean Plan Table B does not exempt dischargers from complying with Table B water quality objectives.

A formal reasonable potential analysis may be conducted during the next permit cycle, with the

benefit of the proposed annual effluent sampling and consideration of other relevant factors.

Order No. R3-2004-0122, Section B, Tables B-1 through B-3 (and Attachment B, Tables B-1b through B-3b for discharges including desalination facility brine waste) establishes effluent limits for Ocean Plan Table B parameters.

**Effluent Sampling for Remaining Priority Toxic**

**Pollutants:** USEPA Application Form 3510-2A (Rev. 1-99), which is a required part of the Discharger's Report of Waste Discharge every five years, requires a minimum of three pollutant scans within four and one-half years of the date of the application. The toxic pollutants listed in the application include Ocean Plan Table B parameters as well as other toxic pollutants not listed in the Ocean Plan. 40 CFR 131.36 (July 1, 2003 Edition) contains a similar priority toxic pollutant listing. MRP Table 6 lists these remaining priority toxic pollutants and requires annual sampling.

Of the toxic pollutants listed in MRP Table 6, all are common to USEPA's application and 40 CFR 131.36, with the following exceptions: 1) Endrin Aldehyde is listed only in 40 CFR, and; 2) P-Chloro-M-Cresol and 4,6-Dinitro-O-Cresol are listed only in USEPA's application.

Annual sampling of these remaining toxic pollutants will assure that a complete pollutant scan is available to meet USEPA's minimum application requirements.

**Mass Emission Rate Limits:** To clarify the application of these limits, the definition and application of mass emission rate limits was promoted from the Standard Provisions to Sections B.2 and B.3 of the Order.

**Local Wastewater Collection Entities:** The County of Santa Barbara Public Works Department, Mission Canyon Sewer District was removed from coverage under this proposed Order and will be regulated under a separate Order (proposed Order No. R3-2004-0123, October 22, 2004 meeting).

On November 1, 2002, the Regional Board adopted *Waste Discharge Requirements Order No.*

*R3-2002-0078 for Local Sewage Collection Agencies Tributary to Monterey Regional Wastewater Treatment Plant, Monterey County,* per staff's recommendation. The recommendation was made in recognition of the different discharge specifications, monitoring requirements, and responsible agencies involved in the tributary wastewater collection systems. Staff also indicated its intent to prepare separate WDR Orders for other wastewater collection agencies tributary to wastewater treatment facilities.

Staff's recommendation to regulate wastewater collection agencies tributary to the Discharger's treatment facility under separate waste discharge requirements (proposed WDR Order No. R3-2004-0123) is consistent with staff's previous recommendation, and the Regional Board's subsequent actions.

Additional reasons for separating the collection systems from the City's NPDES Permit include the following:

- Increases awareness and responsibility of permittees to facilitate proactive sanitary sewer collection system management.
- Provides permittees with a clear set of requirements applicable to their system, as opposed to having collection system requirements buried in the NPDES Permit.
- Enables the Regional Board to regulate each system independently. If compliance issues arise, the Order allows the Regional Board to work with the particular system to return it to compliance independent of the other systems.
- The Order will allow for clearer tracking through both electronic and hard copy files. This will enable more efficient evaluation of collection systems' compliance with applicable requirements.

**Wastewater Collection System Management**

**Plan:** The City has done an excellent job of operating and maintaining their collection system. Requirements for the development and implementation of a Wastewater Collection System Management Plan were added to the

proposed Order to help document the City's program. Proposed Monitoring and Reporting Program No. R3-2004-0122, Attachment 1, Section XI, presents a time schedule for management plan development and implementation. This requirement is recommended to facilitate a comprehensive organizational structure encompassing all facets of wastewater collection system management and operation. The Regional Board has adopted the same or similar requirements for other municipal waste discharges.

It is intended that the City's existing Collection System Maintenance and Renovation Program, and the *Wastewater Collection Overflow Prevention and Response* and *Infiltration/Inflow and Spill Prevention* requirements of the Order will be incorporated into the Wastewater Collection System Management Plan as the latter is developed and implemented. This approach allows the permittee to build on the programs established by previous permits while continuing to improve on collection system maintenance and operations.

Collection system management plan development and implementation requirements are proposed for local wastewater collection agencies tributary to the Discharger's treatment facility (proposed WDR Order No. R3-2004-0123), which represent only a small portion of the collection system served by the treatment plant.

See Section D of the Order, *Wastewater Collection System Requirements*, and MRP Section IX.

#### **Infiltration, Inflow, and Spill Prevention Measures:**

Infiltration, inflow, (I&I) and spill prevention measures were added to the Order (Requirements D.11 through D.17). These requirements have been used as this region's standard for many years, but had yet to be incorporated into the City's permit. While the Wastewater Collection System Management Plan discussed in the earlier section encompasses infiltration, inflow, and related spill prevention, this proposed I&I language more thoroughly explains the fundamental elements and goals of a good program, and requires the City to

describe how it addresses those elements, or to indicate which elements may not be applicable.

Of the overflows reported during the current permit cycle, several substantial overflows were attributed to infiltration and inflow:

#### **Recent Overflows Due to I&I, as reported**

<b>Date</b>	<b>Street Location</b>	<b>Est. Volume</b>
02/17/00	Quarantina and Cota	3,000 gal.
3/15/03	Harbor Way at Marina	2,500 gal.
3/15/03	700 Block of Spring	6,000 gal.
2/25/04	700 Block of Spring	3,600 gal.

In 2003, the City voluntarily conducted an extensive inflow and infiltration study to evaluate and prioritize problematic sections of its wastewater collection system. The *Santa Barbara Wastewater Collection System Infiltration & Inflow Study – 2003*, focused on identifying and prioritizing areas of the City that experienced excessive wet weather infiltration and inflow. Of the 43 sewer drainage basins delineated, 17 were identified as warranting further investigation for I&I sources. These 17 basins represent approximately 67 percent of the total wet weather infiltration and inflow generated within the City's entire system.

The study recommended the following:

- To identify infiltration and inflow sources, conduct Sanitary Sewer Evaluation Surveys (including smoke testing and manhole inspections) in the 17 identified basins
- Conduct flow analyses in specified basins to identify basins that may warrant sewer-main and/or lateral connection rehabilitation
- Implement a long-term flow-monitoring program in conjunction with a system-wide flow modeling program
- Conduct a hydraulic evaluation or model specified sites to confirm adequate downstream capacity and minimize risk of future overflows during wet weather events

According to the City's 2003 annual report, the I&I study data is being used to prioritize sub-basin pipes for follow-up inspection with the City's Sanitary Sewer Evaluation Survey program, which

includes closed-circuit televising, pipeline inspection, preventive maintenance, and smoke testing/dye water testing. In 2003, the City replaced 365 feet of sewer main line, and 68 manhole frames and covers. The City's investigation and response activities are consistent with the proposed requirements.

**Wastewater Collection System Overflow Prevention and Response:** Section D, *Wastewater Collection System Requirements*, also includes requirements for wastewater collection system overflow prevention and response. While such requirements were included in Order No. 99-40, detail has been added in concurrence with the language adopted by the Regional Board for other municipal wastewater discharges.

Wastewater collection system overflow reporting and recordkeeping requirements are included in MRP Sections XI and XII. These requirements are included to clarify the Regional Board's overflow reporting policy as issued on July 26, 1995. Reporting requirements for the Governor's Office of Emergency Services are also included in MRP Section XII.

**Ocean Plan Update:** The 2001 California Ocean Plan was adopted by the State Water Resources Control Board on November 16, 2000, and subsequently approved by USEPA on December 3, 2001. Order No. R3-2004-0122 and the accompanying MRP have been updated throughout in accordance with the revised Ocean Plan.

**Receiving Water Enterococcus Limits:** The California Code of Regulations (CCR), Title 17, Section 7958, establishes the minimum protective bacteriological standards for waters adjacent to public beaches and public water-contact sports areas. Similar standards exist in the Ocean Plan, although they are not identical to those in the CCR. It is staff's understanding that the State Board intends to rectify the discrepancies between the standards. Staff's review of both standards resulted in the addition of the enterococcus limits from 17 CCR. Total and fecal coliform receiving water limitations were found to be practically equivalent between the two sets of standards. See Section C.1.a.3) of this Order, *Receiving Water Limitations*.

**Acute Toxicity Testing Species:** By letter dated November 21, 2003, Regional Board staff incorrectly indicated its lack of objection to the Discharger's use of the Fathead Minnow (*Pimephales Promelas*, a freshwater species) instead of the Silversides (*Menidia Beryllina*, a saltwater species) in acute toxicity tests. The 2001 Ocean Plan explicitly directs Regional Boards to require the use of marine species for acute toxicity compliance determinations. MRP Table 2, Footnote 9 states this requirement, and allows the Discharger to use Silversides or other approved marine test species per the applicable USEPA methodology cited.

**Biosolids Standard Language:** 40 CFR 503 requires that producers of biosolids meet certain reporting, handling, and disposal requirements. As the USEPA has not delegated the authority to implement the federal sludge program to the State of California, the enforcement of biosolids requirements applying to the Discharger remains under USEPA's jurisdiction at this time. USEPA will oversee compliance with 40 CFR Part 503. Standard language provided by USEPA has been incorporated as Order Section F, and MRP Section VIII to clearly disclose the permittee's responsibilities regarding biosolids disposal.

**Monitoring and Reporting:** This section will address changes made to the MRP not otherwise addressed above.

Where influent, effluent, and biosolids sampling are intended to coincide, the timing of the sampling now requires consideration of the facility's hydraulic and solids detention times. This approach is intended to improve the representativeness of the sampling and provide an improved measure of the facility's removal capabilities.

Influent monitoring requirements in MRP Table 1 now require one complete scan of Ocean Plan Table B parameters during the life of the Order (in March 2009). This sampling is intended to provide a measure of the facility's removal capabilities in conjunction with the effluent sampling scheduled for the same year, and will provide an additional data set before the next scheduled permit renewal.

Requirements in MRP Section III, *Receiving Water Monitoring*, were developed during previous permit renewals and only one change is proposed at this time. Receiving water sampling is conditionally required at shore stations A, C, D, F, and H when three consecutive bacterial effluent limit violations occur. MRP No. 99-40 required this sampling once a week from June through September and monthly from October through May. MRP No. R3-2004-0122 requires no fewer than five samples for any 30-day period pursuant to Ocean Plan sampling requirements. See Order Section C, *Receiving Water Limitations*, and MRP Section III.

While no other receiving water monitoring changes are proposed at this time, the Discharger has verbally indicated its interest in modifying the ocean monitoring language to coordinate with monitoring conducted by the Southern California Coastal Water Research Project. Upon receipt, review, and approval of a formal written proposal from the Discharger, the Executive Officer may revise the MRP accordingly, provided there is not a reduction in monitoring. Monitoring reductions require a Board hearing and approval.

A reporting schedule is summarized in MRP Table 16 to assist the Discharger in identifying reporting responsibilities, related Order and MRP sections, and report due dates. The table is intended as a courtesy summary and does not supersede the requirements of any particular Order or MRP section.

### **CHANGES TO DRAFT ORDER AFTER PUBLIC COMMENT DRAFT MAILING**

Staff changed MRP Table 1 to include rainfall data reporting so that facility flows can be readily correlated to wet weather events.

Staff added a new footnote 3 to MRP Table 1, which refers to Remaining Priority Toxic Pollutants.

A new Finding No. 36 was added to the Order referring to reasonable potential analysis. Subsequent findings were renumbered.

MRP Attachment No. 1, Section XI., typos for the completion dates for the Source Control Program and the Final Wastewater Collection System Management Plan were corrected to October 1, 2006 (from 2007), providing two years for the plan's development and implementation. This correction is consistent with the maximum time schedules provided to other agencies.

Other changes are noted in the Comments and Responses section below. Please see the Staff Action related to each comment for details.

### **COMPLIANCE HISTORY / STATUS**

Staff review of Discharger monitoring reports, Regional Board files, and the State Water Information Management System (or SWIM, our database for violations and enforcement) indicates that the Discharger has complied with the requirements of Order No. 99-40 with intermittent violations. Twenty-seven effluent violations have occurred since the adoption of Order No. 99-40; one in each year of 1999 and 2000, five in 2001, seven in 2002, and thirteen in 2003. Twenty-five of the violations warranted formal enforcement action as taken in Mandatory Minimum Penalty Order No. R3-2004-0038 at the May 14, 2004 Regional Board meeting. Note that although thirteen effluent violations were cited in 2003, the Regional Board ruled that ten of those violations were due to single operational upsets (two upsets at different times).

The Discharger has investigated the cause of the violations, but has not confirmed their cause(s). The facility has experienced several upsets over the last four years which have each temporarily impacted the biological treatment capabilities of the facility, some resulting in effluent violations. The Discharger suspects that the upsets were caused by portable toilet waste discharges. Also see **Reasonable Potential Analysis**, below.

Staff has noted no violations or problems during facility inspections conducted each year since August 1999.

From January 2000, to May 2004, twenty-eight sanitary sewer overflows were reported. The untreated sewage spill estimates ranged from 100 to 9,000 gallons, with seventeen spills below 1,000



gallons, and eleven spills equal to or above 1,000 gallons. The spills primarily resulted from line blockages, infiltration due to heavy rains, and equipment or structural failure, with portions of some overflows discharging to surface waters, and others that were contained and/or cleaned up to the degree practicable.

Order No. 99-40 required the continued implementation of the Discharger's Collection System Maintenance and Renovation Program. Proposed Order No. R3-2004-0122 contains more specific requirements to enhance the overall management of wastewater collection systems and hopefully to further reduce the occurrence of such events (see Order Section D, *Wastewater Collection System Requirements*).

The Discharger conducts receiving water/ocean monitoring. No receiving water limitations are known to have been exceeded as a result of the discharge of treated wastewater from the Discharger.

No other problems (such as nuisance caused by odors) are known to have been associated with the Discharger at this time.

### REASONABLE POTENTIAL ANALYSIS

Federal regulations governing the Federal and State NPDES permit program require that NPDES permits contain effluent limitations for all pollutant parameters that:

“...may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any State water quality standard, including State narrative criteria for water quality.” [40 CFR 122.44 (d)]

No statistical RPA was performed for this renewal. Effluent monitoring requirements for Ocean Plan Table B toxic pollutants in Order No. 99-40 were reduced to one sampling event in 1999. A formal statistical RPA primarily constitutes applying an approved statistical model to sampling data. The reduced monitoring frequency resulted in an insufficient data set to conduct a Reasonable Potential Analysis (RPA). The proposed Order

requires annual effluent sampling pursuant to the Ocean Plan minimum requirements).

Regional Board staff did not require nor did the Discharger propose to conduct a RPA. Due to the highly variable nature of municipal wastewater, and the lack of data on which to base a formal statistical RPA, staff concluded that constituents may be discharged to the Pacific Ocean in concentrations that could cause, have reasonable potential to cause, or contribute to an excursion above State water quality objectives. Also see **Changes to the Order**, *Effluent Sampling – Ocean Plan Table B*, and *Effluent Limits – Ocean Plan Table B*, and **Compliance History**, above.

Order No. R3-2004-0122 therefore contains numeric effluent limitations for all Ocean Plan Table B parameters in accordance with 40 CFR 122.44(d). The Order also complies with California Water Code Section 13263, and contains effluent limitations that implement water quality objectives in the Basin Plan. These include the anti-degradation policy, numeric water quality objectives, and narrative water quality objectives.

### ANTI-BACKSLIDING

40 CFR 122.44(l) requires that reissued NPDES permits contain effluent limitations, standards, or conditions at least as stringent as the previous permit, with some exceptions. No exceptions apply to the discharge addressed in the proposed Order. As the effluent limitations, standards, or conditions in the proposed Order are the same as or more stringent than those in Order No. 99-40 (except for differences due to rounding, significant figures, or undetected calculation errors), adoption of the Order is consistent with anti-backsliding policies.

### ANTI-DEGRADATION

Waste discharge requirements for this discharge must be in conformance with 40 CFR 131.12 and State Board Resolution No. 68-16, *Statement of Policy with Respect to Maintaining High Quality of Waters in California* (known collectively as "anti-degradation" policies). These policies are intended to maintain and protect the existing

beneficial uses of receiving waters and the levels of water quality necessary to achieve those goals.

Staff has taken into consideration the requirements of the State and Federal anti-degradation policies in establishing the requirements contained herein, and has determined that any reduction in water quality as a result of this discharge will not result in any long-term deleterious effects on water quality or associated beneficial uses.

### ENVIRONMENTAL SUMMARY

The issuance of waste discharge requirements for this discharge is exempt from provisions of the California Environmental Quality Act (Division 13 of the Public Resources Code, Chapter 3 commencing with Section 21100, et. seq.), in accordance with Section 13389 of the California Water Code.

### STAFF CONTACT INFORMATION

Regional Board staff Todd Stanley: (805) 542-4769 or [tstanley@rb3.swrcb.ca.gov](mailto:tstanley@rb3.swrcb.ca.gov).

### SCHEDULED PUBLIC HEARING

A public hearing is scheduled on October 22, 2004, at the Santa Barbara County Supervisors Board Hearing Room, 105 East Anapamu St. - 4th Floor, Santa Barbara, CA 93101. The Regional Board will hear and consider all comments pertaining to the City of Santa Barbara's waste discharge to the Pacific Ocean. Interested parties should previously submit comments in writing **no later than August 27, 2004**. Speakers should plan to summarize key points within three minutes. For further instructions, please see our most recent posted Agenda at:

<http://www.swrcb.ca.gov/rwqcb3/Board/Meetings/2004meetings.htm>, or contact the above staff.

### COMMENTS AND RESPONSES

By letter dated July 16, 2004, the following known interested parties were mailed a draft of the Proposed Order and MRP and invited to submit written comments. The Discharger published a notice of the public comment period and the October 22, 2004 Regional Board hearing in a daily local newspaper

on July 26 and 27, 2004. Written comments were due **no later than August 27, 2004**.

- City of Santa Barbara Public Works Dept.
- County of Santa Barbara Public Works Dept.
- Santa Barbara County Environmental Health Services
- State Water Resources Control Board
- USEPA
- Ca. Dept of Health Services
- Dept. of Fish and Game
- Army Corps of Engineers
- National Marine Fisheries Service
- Fish and Wildlife Service
- Santa Barbara Channel Keeper
- Environmental Defense Center
- Heal The Ocean

A. City of Santa Barbara Public Works Dept., Rebecca Bjork: With staff approval to a two-week extension of the August 27<sup>th</sup> due date, written comments were received September 10, 2004. Staff met with City representatives on August 20<sup>th</sup>. Bracketed staff comments were added to the City's to clarify references.

1. **City Comment:** The RWQCB has begun routinely issuing permits specifying collection system management programs. Despite the fact that Board staff have indicated that they have a de facto policy of regulating collection systems, no actual policy has been developed.

**Staff Response:** As your comments acknowledge, no formal Regional Board policy statement exists which dictates the management plan language. The recommended management plan language is consistent with federal and state policies and laws which prohibit sewer overflows and mandate proper operation and maintenance of collection systems.

Along with the prohibition of sanitary sewer overflows, the Regional Board may include

measures within waste discharge requirements supporting that prohibition. As a comprehensive means of complying with the prohibition, the proposed Wastewater Collection System Management Plan (Management Plan) elements provide a framework of measures by which a Publicly Owned Treatment Works (POTW) can develop and document the proper operation and maintenance of its collection system.

**Staff Action:** No changes recommended.

2. **City Comment:** This [the previous comment] is important because the absence of a region-wide public process has precluded stakeholders from commenting during the policy development period. By implementing this new policy through the issuance of individual permits, the Board is circumventing the public process required for modifications of Basin Plans, and the Ocean Plan, and implementing an underground regulation.

**Staff Response:** The draft permit was distributed to all known interested parties by letter dated July 16, 2004, and provided for the submittal of written comments until August 27, 2004. In response to the City's request, Regional Board staff further extended the due date for the City's comments until September 10, for a total of 57 days. The circulation of the draft permit on July 16 also provides 98 days before the scheduled meeting for the Board's consideration, at which interested parties may also provide comments.

According to the City's letter dated August 13, 2004, a Notice of Public Hearing for consideration of the draft permit was posted at the city post office on July 22<sup>nd</sup>, and published in the local newspaper on July 26<sup>th</sup> and 27<sup>th</sup>, providing a minimum of 30 days for the public-at-large to submit written comments for staff's consideration and response, and 88 days before the scheduled meeting. Again, the public may also comment at the Board meeting.

This public notification process provides an opportunity for all interested parties to submit

comments or recommendations on any aspect of the permit, including the Management Plan.

Staff's recommendation for the City's development of a Management Plan does not propose to modify either the Basin Plan or the Ocean Plan.

**Staff Action:** No changes recommended.

3. **City Comment:** The City takes pride in funding and implementing a proactive collection system maintenance and management program. The City has implemented a performance management system to ensure that the work being done by staff is both efficient and effective. Scrutiny of the data developed during implementation of the performance management program has shown that by carefully targeting collection system cleaning efforts, the City can actually reduce the amount of time spent on cleaning and increase efforts for inspection and repair. This allows the City to run the system more effectively. It also clearly illustrates that mandates for collection system maintenance should not be included in a permit, but should be dictated by system need.

**Staff Response:** Staff acknowledges that the City's collection system program is operated and maintained with pride and diligence towards the prevention of overflows. The elements of the City's existing system discussed above are entirely compatible with the development of a Management Plan. The Plan should include the City's continued implementation of practices which prove successful.

Staff respectfully suggests that your comments illustrate the City's agreement with staff that system management is critically important to successful performance. The proposed permit's Management Plan will not impede the City's considered efforts to properly manage and operate its collection system. Where successful management practices already exist, they can be incorporated into the appropriate elements of the Management Plan. Furthermore, the Management Plan will foster

the refinement of incorporated elements, and the development of elements that do not currently exist but which may be beneficial to the system's performance. The Management Plan also provides a forum for documenting the City's collection system management plans for the benefit of the City, its public, and regulatory agencies. Staff's recent request to review the City's current program (such as the performance management program mentioned in the City's comments) was not available because staff was told the City's system of management does not provide a documented statement of the program.

All wastewater collection systems need proper management, operations, and maintenance. The Management Plan framework provided in the draft permit allows an agency to develop their own plan, in accordance with the elements outlined, and further allows for the omission of elements where appropriate, and with justification by the agency made within the plan (see permit requirement D.3).

The Management Plan is not an enforcement action, as if to be applied only by systems in dire need of improvement. These management principles are universal in nature, and scalable to the size and complexity of any collection system. In instances where an agency may already apply the management plan principles, then all that remains is the documentation of the program and its update with time.

**Staff Action:** No changes recommended.

4. **City Comment:** The cleaning schedule should correspond to the cleaning frequency that is required to effectively minimize blockages – not an arbitrary standard of cleaning the system every two years. In fact, because parameters that are pipeline specific, such as slope, flow, and scouring velocity, some lines do not require cleaning, only periodic inspection. The City should be responsible for effectively operating the system, rather than for systematically cleaning the system on a regular basis.

**Staff Response:** Staff concurs that conditions and characteristics of some wastewater conveyances may largely preclude the need for regular cleaning, and proposes the addition of the clarifying language shown in the Staff Action for this comment. Staff acknowledges that the draft language, as it has been used for many years, may be construed to mean that the unconditional cleaning and flushing of an entire sewer system is mandated.

The practical intent of the language referenced (see permit requirement D.13.b.1)) is that the City's spill prevention measures include a narrative description of equipment needed and a projected schedule necessary to address the cleaning and flushing needs of the entire system every two years. For example, if inspections, spill history, and/or other information indicate the projected need for cleaning/flushing of 10% of the entire system, then the City's description should address those specific needs on a reasonable time schedule such that spills can be avoided, but within two years. For some systems, this requirement may equate with cleaning the entire system at least every two years. For others, only a portion of the system may require such regular maintenance.

The City is responsible for effectively operating its entire system. The systematic cleaning/flushing of lines according to a system's needs is only one element of proper operation and maintenance.

If and when cleaning/flushing needs are identified, it is reasonable to expect that those needs must be addressed in a timely manner to avoid spills, even with consideration of adjustments in cleaning priorities as new cleaning needs are identified. If an identified cleaning or flushing need cannot be addressed within 24 months, then a sewerage agency may well be under-equipped or under-staffed to meet its system needs.

The intent of this cycle duration is to ensure that the City is properly equipped and staffed in preparedness to handle the cleaning and flushing needs of its system within 24 months.

In many cases, identified cleaning and flushing will require response earlier than 24 months to avoid spills. With the clarification that the projected cleaning and flushing schedule should address the needs of the City's system, the 24-month response time should be viewed as a minimum.

**Staff Action:** Permit requirement D.13.b.1) was changed to state, "Describe available equipment and projected schedule necessary to conduct the cleaning and flushing needs as identified for the collection system every two years, and assigned staff (this is not a requirement to clean and flush the entire collection system every two years)."

5. **City Comment:** This approach [mandating the City's responsibility for effectively operating its collection system, without requiring periodic cleaning] is consistent with the California Water Code, which specifies that Regional Boards shall indicate the measure to be achieved, not the means of achieving it (Water Code section 13360). Since the objective of cleaning sewer lines is to prevent spills, and since spills are already prohibited, the permit should simply state that the City should implement a program of cleaning its lines to prevent spills.

**Staff Response:** The measure to be achieved is the development and implementation of a Management Plan, including the infiltration, inflow, and spill prevention measures also noted in Section D of the permit. According to the proposed language, and in consideration of the clarification provided in Staff Response No. 4, it is the City's responsibility to describe the manner in which it will address these areas of collection system management. Providing an organizational structure in the permit which a permittee will use to develop its own plan and manner of implementation is consistent with Water Code Section 13360.

**Staff Action:** No changes recommended.

6. **City Comment:** It is very important that only requirements based on law or regulation be imposed within an NPDES discharge permit.

Unattainable standards, regardless of their good intentions, can subject the discharger and its rate payers to attorney's fees, fines and penalties that do nothing to improve water quality or protect the environment.

**Staff Response:** Staff agrees, the draft permit prohibits overflows in accordance with the Clean Water Act. Consistent with this prohibition, the Regional Board may also require permittees to undertake measures to protect human health and the environment from harmful pollutants. In this case, staff recommend the City develop and implement an organized and documented Plan by which to comply with this requirement, and which must address the minimum standards outlined in the permit.

It is staff's understanding that the phrase "unattainable standards" refers to the City's interpretation that its entire system would need cleaning every two years (please see the clarification provided in Staff Response No. 4). If it is intended to apply to the broader requirement for a Management Plan, staff disagrees with the assertion that an organized and documented Plan for proper operation and management of a collection system is unattainable.

**Staff Action:** No changes recommended.

7. **City Comment:** [Staff Report, Key Information]: The current capacity is stated as 8.5 MGD. This should be current influent flow rate, not current capacity. The current capacity is 11 MGD.

**Staff Response:** Staff concurs that this is the correct intent of the statement.

**Staff Action:** "Current Capacity" was changed to "Current Flow."

8. **City Comment:** [Staff Report, Discussion, Design and Treatment Capacity]: The report incorrectly states that biosolids are land applied when, in fact, they are composted – not land applied. This is an important distinction, because the Federal 40 CFR 503

regulations place responsibility for compliance on the person who “prepares” the biosolids. For the City, this is the composting firm.

**Staff Response:** Please see Staff Response No. 15.

**Staff Action:** No changes recommended.

9. **City Comment:** The discussion of the average dry weather flow is inaccurate. The average dry weather flow is indicated as 7.3 MGD or 66% of the design capacity. This is the effluent flow rate. It does not include approximately 1 MGD of flow that is further treated and recycled. Since this discussion is about plant capacity, the influent flow rate should be cited here.

**Staff Response:** Staff agrees, the draft staff report included average dry and wet weather effluent flow rates as reported in the City’s 2003 Annual Report.

**Staff Action:** Staff removed the dry and wet weather effluent average flow rates, and retained the average daily flow rate.

10. **City Comment:** Under the section discussion Effluent Sampling – Ocean Plan Table B [under Changes to Order], RWQCB staff is recommending annual sampling of Table B parameters. The City does not object to monitoring for these pollutants. However, the City believes that imposing limits for these pollutants in the absence of any data is contradictory to Ocean Plan implementation practices.

**Staff Response:** Staff recommends that the permit include the effluent limits for Ocean Plan Table B water quality objectives based on the nature of a discharge, compliance history, and other factors. Even in the presence of numeric data, a Regional Board may impose such effluent limits. Please see this Staff Report, Changes to Order, Ocean Plan – Table B Effluent Limits, and Reasonable Potential Analysis.

**Staff Action:** No changes recommended.

11. **City Comment:** Imposing [effluent] limits will require the RWQCB to issue minimum mandatory penalties if there are any exceedences of the parameters, with no provision for the City to develop a pollutant minimization plan.

**Staff Response:** Effluent limit violations may impose mandatory minimum penalties (MMP) pursuant to Water Code Section 13385. Violations must exceed established threshold levels, or occur more than 3 times in a six-month period before MMP will be imposed.

Including effluent limits in the permit does not prevent the City from developing a Pollutant Minimization Program in accordance with Monitoring and Reporting Program Section VII. The requirement to develop a Pollutant Minimization Program is dependent upon the evaluation of the permit’s effluent limitations

**Staff Action:** No changes recommended.

12. **City Comment:** There is precedence in the Ocean Plan for requiring sampling, without requiring limits until any identified pollutants can be addressed and reduced.

**Staff Response:** The Ocean Plan does not assert that a pollutant must first be detected and mitigated before an effluent limitation is applied.

**Staff Action:** No action recommended.

13. **City Comment:** One of the proposed major revisions to the Ocean Plan [per the August 2004 Draft Functional Equivalent Document] specifies the manner in which Reasonable Potential Analyses (RPA) are to be conducted and clearly specifies that if data is not available, the permittee should be required to monitor, but that limits shall not be assigned.

**Staff Response:** The proposed Ocean Plan amendments provide for the Regional Board’s use of Best Professional Judgement and other available information (other than numeric effluent data). The current Ocean Plan has no RPA provisions.

Section C of the Draft Functional Equivalent Document (FED), p.37, states, "If facility-specific monitoring data are insufficient to use the statistical procedures, then permit writers must use professional judgments similar to situations where effluent monitoring data are lacking, that is, a non-statistically-based reasonable potential decision. These situations include facilities having no effluent data or a single effluent sample..."

Furthermore, in Appendix VI of the FED, the steps shown for conducting a Reasonable Potential Analysis (RPA) illustrate the same option, and provide for an RPA based on Best Professional Judgment and other information, whether or not numeric effluent data exist. Please see Steps 2, 3, and 14.

Please also see the Reasonable Potential Analysis section of this Staff Report.

**Staff Action:** No action recommended.

14. **City Comment:** RWQCB Staff cites the periodic upsets that the plant has experienced since 1999, as one of the justifications for requiring Table B monitoring. The City believes that these upsets are associated with our continued commitment to accepting septic and portable toilet wastes. If continued acceptance of these wastes will subject the City to a higher level of scrutiny, the City may consider that it is in its best interest to discontinue this optional community service. It is clear that the upsets are not being caused by toxic substances, such as those found in Table B, since the City has not failed acute or chronic toxicity tests.

**Staff Response:** The City is not subject to a higher level of scrutiny because they are accepting septic and portable toilet wastes. The information regarding upsets is provided as information relevant to the Regional Board's consideration. The City's uncertainty regarding the cause of the upsets is acknowledged, as are its unsuccessful attempts to confirm its suspicion by bench-testing the suspected cause (portable toilet and septic wastes).

Please also see Staff Response No. 16.

**Staff Action:** No changes recommended.

15. **City Comment:** [Permit Section F, Biosolids Requirements] The City objects to the inclusion of the biosolids conditions in the permit. As RWQCB staff points out, they do not have the jurisdiction to oversee this program. The City must comply with the requirements of 40 CFR 503, regardless of whether the language is included in the permit. Since the City is not currently land applying its biosolids, and has no intentions to do so, the inclusion of the information about the requirements for land applied biosolids is confusing. The City is unaware of any requirement to include this language in the permit. Reference to the applicable regulations, rather than inclusion of a detailed excerpt from those regulations would be more clear and concise.

**Staff Response:** USEPA Region 9 Biosolids Coordinator responds: It was the original intent of the Clean Water Act that biosolids conditions be placed in all NPDES permits. The intent of permit language is also to go above and beyond the minimum reporting and notification requirements contained in the 503 rule itself, as additional mechanisms beyond the 503 requirements are needed to require notice of violations, reporting of all use and disposal practices, interstate notification for all use and disposal practices, handling of biosolids at the plant site and prior to final use or disposal, etc.

While the City is currently land applying its biosolids (via contracts with composters who treat it further and then arrange to have the compost product land applied), they may change practices within the five-year span of the permit. The language in the permit was intended to place conditions for specific use or disposal practices, which become applicable if the City selects that specific use or disposal option.

The 503 rule is very clear that the preparer of the biosolids is responsible for the use or

disposal. After several court cases where POTWs contracted with composters and then continued to send their biosolids to the compost sites even after it became blatantly evident that the "composters" were not composting and/or distributing the finished compost, USEPA decided it was desirable to put a clause in permits clarifying that the POTW still retains responsibility for the biosolids through final use or disposal. This is a necessary incentive for POTWs to terminate a contract with composters who are not performing, and to clean up if a composter leaves the country leaving behind the biosolids.

While the composter must test the pollutant levels of the compost, *testing of the biosolids from the City prior to being blended with other biosolids is desirable from a pretreatment standpoint. The City is required to test priority pollutants as part of the pretreatment program* (emphasis added); however, the pretreatment requirements do not cover all the metals regulated under 40 CFR 503, or require use of the solid waste methods and conversion to 100% dry weight basis, so in some cases the 503 tests are more indicative of any source control problems. Presumably the composter is also requiring this data from the City, so that the composter can identify any biosolids feedstocks with high metal concentrations.

If the City sends its biosolids to a composter in California, the City is not required to meet Class B pathogen reduction or vector attraction reduction at the plant. However, they should report as to whether they are or aren't meeting Class B; if they aren't meeting them, then in the case of a spill during transportation, additional care during cleanup may be needed, and the composter may want to take additional safety measures at the compost site.

In Monitoring and Reporting Program Section VIII, some of the language could be clarified to indicate that it's required only if the City has its biosolids directly applied as Class B (rather than sent to a composter for further treatment):

- In MRP Section VIII, No. 1., the requirement to test for organic and ammonium nitrogen is for when biosolids from the City are directly land applied without further treatment by a second preparer. There is no need to test these if the biosolids are sent to a composter. As noted above, it is advisable to have the City test for pollutants, even though the composter will also be testing the composted product for these pollutants. (See Staff Action a. on page 17)
- In MRP Section VIII, No. 2., the requirement to test seven grab samples for fecal coliform and do a geometric mean is for when biosolids from the City are directly land applied as Class B, without further treatment by a second preparer (the City has several other options for demonstrating Class B, such as anaerobic digestion for 15 days at 95 degrees F). (see Staff Action b. on page 17)
- In MRP Section VIII, No. 2., if the City sends biosolids to a second preparer, the City is not required to demonstrate pathogen reduction, assuming it is not Class B in that case. If the City wants to demonstrate Class A at the plant, they are only required under 503 to take one fecal coliform sample, but any sample they take must meet the Class A limits. EPA Region 9 recommends at least 4 samples, any one of which must be less than 1,000 mpn/g. (see Staff Action b. on page 17)
- In MRP Section VIII, No. 8c., the notification requirements are intended for cases where Class B biosolids from Santa Barbara are directly applied without further treatment. (see Staff Action c. on page 18)
- In MRP Section VIII, No. 9e., the reporting requirements are for cases where Class B biosolids from Santa Barbara are directly applied without further treatment. (see Staff Action d. on page 18)



The monitoring requirement in MRP Section VIII, No. 5 (to run the TCLP test in 40 CFR 261 for hazardous waste), is not necessary if the permittee is required to run the full TTLC test and identify whether any of the pollutants regulated under Title 22 need to be tested using the STLC test (it has been general policy in California to rely on the TTLC/STLC tests, which are more stringent than the TCLP test).

The TTLC test results are reported on an as-is basis, while the 503 tests are on a 100% dry weight basis. The TTLC requirements cover all of the metals that are in 503.

So, No. 5 could be rewritten to include the clause currently in No. 1 of the same section: "All constituents regulated under CA Title 22, Division 4.5, Chapter 11, Article 3 shall be analyzed for comparison with Total Threshold Limit Concentration (TTLC) criteria. The Waste Extraction Test shall be performed on any constituent when the total concentration of the waste exceeds ten times the Soluble Threshold Limit Concentration (STLC) limit for that substance" (see Staff Action e. on page 18)

In No. 9 of the same section, regarding reporting, the February 19 due date for annual reports is a required due date, and is stated in the 503 rule itself (503.18 and 503.28). (see Staff Action f. on page 18)

Regional Board staff further adds: The Porter-Cologne Water Quality Control Act requires waste discharge requirements to include all provisions necessary to protect beneficial uses and prevent nuisance, whether or not required by Chapter 5.5 (NPDES requirements).

40 CFR 122.44(b)(2) states that each NPDES permit shall include standards for sewage sludge use or disposal.

As stated in permit section F.1, "Management of all solids and sludge must comply with all requirements of CFR Parts 257, 258, 501, and 503, including all monitoring, record-keeping, and reporting requirements." Waste discharge requirements (WDR) issued by Regional

Boards in California also serve as federal NPDES permits, and so are issued with full authorization from the U.S. Environmental Protection Agency. While the Regional Board has not been delegated the authority to enforce the biosolids program, as federal NPDES permits, WDR include state and federal regulatory language applicable to a waste discharge. Since USEPA has recommended and supplied this standard language, and because of its applicability, staff recommends its cooperative inclusion in NPDES permits.

Staff agree with USEPA that the permit should properly disclose the City's responsibilities regarding biosolids disposal. Since the City must comply with the biosolids program regardless of whether or not the permit contains biosolids language, staff does not agree that removing the language improves disclosure or provides clarification of the City's responsibilities to comply with biosolids requirements.

Although not the City's intent at this time, other biosolids disposal or reuse methods may become necessary options during the five-year life of the permit.

**Staff Action: a.** Staff revised MRP Section VIII, Item No. 1, Footnote 2 to state, "If the City's biosolids are directly land applied without further treatment by another preparer, biosolids to be land applied shall also be tested for organic-N, ammonium-N, and nitrate-N at the frequencies required above. Staff also moved this statement to footnote 1, which applies to land application requirements.

**b.** Staff revised MRP Section VIII, Item No. 2, 3<sup>rd</sup> paragraph to, "The following applies when biosolids from the City are directly land applied as Class B, without further treatment by a second preparer: If the permittee demonstrates pathogen reduction by direct testing for fecal coliforms and/or pathogens, samples must be drawn at the frequency in the Amount/Frequency table above in No. 1. If the permittee demonstrates Class B pathogen reduction by testing for fecal coliform, at least seven grab samples must be drawn and

analyzed during each monitoring event, and a geometric mean calculated from these seven samples. If the permittee demonstrates Class A pathogen reduction by testing for fecal coliform and/or salmonella, plus one of the PFRP processes or testing for enteric viruses and helminth ova, at least four samples of fecal coliform or salmonella must be drawn during each monitoring event. All four samples must meet the limits specified in 503.32(a).

c. Staff revised MRP Section VIII, Item 8.c to, “(These notification requirements are intended for cases where Class B biosolids from the City are directly applied without further treatment) Prior to reuse...”

d. Staff revised MRP Section VIII, Item 9.e to, “(These reporting requirements are for cases where Class B biosolids from the City are directly applied without further treatment): The following information...”

e. Staff revised MRP Section VIII, Item No. 5 to include the proposed language, and remove the reference to testing requirements pursuant to 40 CFR 261.

f. Staff revised MRP Section VIII, Item No. 9 to remove the discretionary option for the City to submit its annual biosolids report to the Regional Board by March 31<sup>st</sup>. Per 40 CFR 503, the report is now also due to the Regional Board by February 19<sup>th</sup>, as it is to USEPA.

Staff added a new Table 15 to MRP Section VIII to clarify biosolids monitoring requirements. Staff commonly provides this table in NPDES permits (such as for the Goleta Sanitary District, which staff intends to again recommend during the District’s pending permit renewal). Subsequent tables were renumbered.

16. **City Comment:** [Staff Report, Reasonable Potential Analysis] The City would like the RWQCB to clarify that the RPA conducted in 1999 was done by, and at the discretion of, RWQCB staff. The language attributing plant upsets to the lack of an RPA is inappropriate

and should be removed. Concentrations of the Ocean Plan Table constituents and concentrations sufficient to upset the treatment plant would cause effluent toxicity. The plant has not experienced trouble passing effluent toxicity tests.

**Staff Response:** Staff acknowledges that the analysis conducted in 1999 was by RWQCB staff. The staff report does not contain language attributing plant upsets to the lack of a RPA.

According to the City’s monitoring reports, effluent toxicity testing was not performed during the two facility upsets recognized in Mandatory Minimum Penalty (MMP) Order No. R3-2004-0038, adopted May 14, 2004. Since effluent toxicity testing was not performed proximate to the facility upsets, the absence of effluent toxicity during those events is not conclusive.

For example, the City’s monitoring report for the facility-upset spanning the period of January 8<sup>th</sup> – 14<sup>th</sup> of 2003, stated that microscopic examination of the biological treatment process and toxicity testing of the plant’s upstream process flows indicated that toxicity was present in the system. Furthermore, the nearest effluent acute and chronic toxicity testing was conducted on December 5, 2002, and March 11, 2003, neither of which correspond with the period of upset.

In another example, the facility-upset spanning the period of October 21<sup>st</sup> – 30<sup>th</sup> of 2003 indicates that effluent acute and chronic toxicity testing was conducted on September 9, 2003, and December 10, 2003, neither of which correspond with the period of upset.

MMP Order No. R3-2004-0038 also enforced upon a violation span of March 17<sup>th</sup> – March 31<sup>st</sup> of 2002. It is notable that effluent acute toxicity testing was conducted during this reported upset on March 28, 2002. The monitoring report indicates that, while the effluent limit (1.5 acute toxicity units, or TUa) was not exceeded, the sample result was

elevated (1.28 acute toxicity units) in relation to testing results preceding and subsequent to this test. For comparison, quarterly effluent acute toxicity testing results before and after these violations were as follows:

Effluent Toxicity Testing Date	Effluent Toxicity, (TUa)
March 20, 2001	0.00
June 19, 2001	0.00
September 19, 2001	0.69
December 10, 2001	0.00
<b>March 28, 2001</b>	<b>1.28</b>
June 11, 2002	0.41
September 10, 2002	0.00
December 5, 2002	0.82
March 11, 2003	0.77
June 3, 2003	0.00
September 9, 2003	0.00
December 9, 2003	0.00

These data demonstrate that the one effluent acute toxicity sampling corresponding to a facility upset indicates an elevated level of toxicity in the effluent.

This discussion supports the uncertainty regarding the cause of the upsets, which staff asserts as a reasonable consideration in determining reasonable potential.

**Staff Action:** No changes recommended.

17. **City Comment:** Effluent has periodically been tested for some of the constituents on Ocean Plan Table B, and there were no significant levels of any of the listed pollutants observed.

**Staff Response:** Comment noted. Standard Provision B.5 requires results of effluent monitoring conducted more frequently than required in a permit be submitted. Staff welcomes any other monitoring data.

**Staff Action:** No action recommended.

18. **City Comment:** [Permit Finding] 4: The County of Santa Barbara owns five miles of mainlines in Mission Canyon that are maintained by the City. The City and County

are signatories to a Memorandum of Understanding regarding the operation and maintenance of this system.

**Staff Response:** Comment noted.

**Staff Action:** The City's comment was added to Finding 4.

19. **City Comment:** [Permit Finding] 6: This section currently reflects the average daily flows for effluent. Because it is discussing treatment plant capacity, which pertains to the total flow treated at the plant, this section should be revised to reflect influent flows. The average influent for January to December 2003 was 8.47 MGD (76% of the facility's respective design capacity), and the average dry weather peak flow was 13.13 MGD (69% of the facility's respective design capacity).

**Staff Response:** Staff concurs.

**Staff Action:** The City's information on influent flow was added to Finding No. 6 in place of the effluent data.

20. **City Comment:** [Permit Finding] 11: Reclaimed or recycled water is used for irrigation at locations throughout the City, and is also used for toilet flushing at restrooms in many of the City's park restrooms.

**Staff Response:** Comment noted.

**Staff Action:** The City's comment was incorporated into Finding No. 11.

21. **City Comment:** [Permit Finding] 16: The California Ocean plan is currently in the final phase of a triennial review. The State Water Resources Control Board (SWRCB) is scheduled to hear this item on October 22, 2004. One of the two proposed changes is addition of clarification of the manner in which RPA's should be conducted.

**Staff Response:** Comment noted.

**Staff Action:** No changes recommended.

22. **City Comment:** [Permit Finding] 18: The Basin plan does not include any plans or policies for management of wastewater collection systems. If the RWQCB wishes to implement a program of collection system management, it should follow the proper procedure of implementing this program through a revision to the Basin Plan.

**Staff Response:** As noted in Staff Responses No. 29 and No. 34 below, these provisions are not required to be included in the Basin Plan. We do not wish to implement a collection system program via a Basin Plan amendment.

**Staff Action:** No changes recommended.

23. **City Comment:** [Permit Finding] 20: In the discussion of the shellfish beneficial use, there is a statement that oyster harvesting does not exist at offshore commercial leases. Such practice would be a maricultural use, not a shellfish use, and this comment should be removed or moved to the next section, which discusses the Mariculture beneficial use.

**Staff Response:** The Basin Plan defines the Shellfish Harvesting beneficial use as, "Uses of water that support habitats suitable for the collection of filter-feeding shellfish (e.g., clams, oysters, and mussels) for human consumption, commercial, or sport purposes. This includes waters that have in the past, or may in the future, contain significant shellfisheries." (emphasis added, see Basin Plan, page II-21) Because oyster habitats are included within this beneficial use, no changes are required.

**Staff Action:** No changes recommended.

24. **City Comment:** [Permit Finding] 21: The wording that is currently in the permit regarding the shellfish harvesting prohibitive zone [is not clear]. Shellfishing is not allowed within three miles of the discharge. Thus shellfish harvesting, and MAR are existing beneficial uses in near shore areas that are outside the prohibitive zone only.

**Staff Response:** The draft finding is consistent with the City's comment, but the phrase "emergency notification safety zone (prohibitive zone)" may be misconstrued to imply shellfish harvesting may occur within the zone, and that emergency notification is required.

**Staff Action:** Staff removed the phrase "emergency notification safety zone," and retained "prohibitive zone" for clarity.

25. **City Comment:** [Permit Finding] 29: The definition of a collection system overflow should be modified to clearly state that a wastewater collection system overflow is defined as a discharge to groundwater or surface water. This is consistent with the authority vested in the RWQCB.

**Staff Response:** It is not necessary to demonstrate that ground water has been impacted by an overflow to determine that an overflow has occurred. Overflow is further defined in Standard Provision G.17.

**Staff Action:** No changes recommended.

26. **City Comment:** [Permit Finding] 32: States that the discharger is expected to take all necessary steps to adequately operate and maintain its wastewater collection system to prevent overflows. This seems to be an overly broad requirement, and is most likely unattainable. There are numerous constraints on the actions that the City can take to maintain the collection system; one of the most significant is limitations of financial resources. The same intent would be achieved without assigning an unreasonable burden to the City by substituting the word reasonable for necessary in the permit language.

**Staff Response:** Reasonableness is always implied.

**Staff Action:** Staff added "reasonably" before "necessary".

27. **City Comment:** [Permit Finding 32] also discusses a Wastewater Collection System

Management Plan. The SWRCB is currently working to develop a regional approach to management of collection systems. The term that they are using for the management plan is Sewer System Management Plan (SSMP). The City does not have an objection to either term, but since the term SSMP is becoming a common term in the industry, it might be helpful to cross reference this management plan here, so that it is clear that the two terms are the equivalent.

**Staff Response:** Comment noted, however, staff does not propose changing the term here. Until the State Board completes its process, its not clear whether the two terms will be equivalent.

**Staff Action:** No changes recommended.

28. **City Comment:** [Permit Finding] 35: In a meeting with City staff to discuss the draft permit RWQCB staff said that if a future RPA is conducted that shows no potential for discharge of a pollutant that has a limit in this permit, removing that limit in a future permit would not be backsliding. The City believes that this section should include a discussion that it is allowed to remove or relax a limit when new information is obtained.

**Staff Response:** 40 CFR 122.44(l)(2)(i)(B)(I) already provides for exceptions when information is available which was not available at the time of the previous permit's issuance.

**Staff Action:** No changes recommended.

29. **City Comment:** [Permit Finding] 36 [now Finding 37]: This paragraph states that issuance of the permit is exempt from CEQA. This is because the Basin Plans and Ocean Plan on which the permit conditions are based are required to go through a review process that is the functional equivalent of CEQA. There are no requirements for collection system management in either the Basin Plan or the Ocean Plan. Therefore, the inclusion of such requirements here illegally bypasses the CEQA process. The City requests that the RWQCB remove the collection system

provisions from the permit so that a regional management plan for collection systems can be developed with all interested stakeholders and incorporated into the basin plan, undergoing all required public notice and alternative review.

**Staff Response:** Pursuant to CEQA Guidelines, Section 15301, the proposed WDRs are exempt from CEQA because they are for existing facilities. The permit is also exempt from CEQA pursuant to Water Code section 13389.

Incorporation of requirements applicable to a specific facility into the Basin Plan is not appropriate.

The prohibition of sewer overflows and the proper operation and maintenance of collection systems are requirements contained in the Standard Provisions of the draft NPDES permit. The Regional Board is authorized to require that dischargers take actions to comply with these provisions. These Standard Provisions have been part of each of this Region's NPDES permits since 1984.

Regarding the public process, please see Staff Responses No. 2 and No. 34.

**Staff Action:** No changes recommended.

30. **City Comment:** [Permit Discharge Prohibition A.3] The City suggests that the prohibition on overflows be included in the Discharge Prohibitions section, and that an affirmative defense be included to protect the City's rate payers from being assessed penalties for overflows that occur, despite the City's best efforts to prevent them. There is precedent for such an approach in the NPDES permit recently issued by the San Francisco Regional Board to Stege Sanitary District. A copy of the relevant section is attached to these comments. This permit is in effect, and the U.S. EPA did not object to the language regarding sewer system overflows. Such an approach would protect the City from enforcement for unforeseeable situations or actions, such as vandalism. Further, this

approach meets the objectives of the RWQCB – protection of water quality – without unduly penalizing the City for spills that occur despite the City implementing a proactive and effective collection system management program.

**Staff Response:** Overflows are prohibited in Discharge Prohibition A.3, and Standard Provision A.4. Water Code Section 13385(e) already provides for the consideration of culpability and other matters that justice may require in determining the amount of any liability.

**Staff Action:** No changes recommended.

31. **City Comment:** [Permit Discharge Specification] B.3: Specifies the manner in which mass limits must be met. Please see the supplemental comments for a discussion of the legal issues that prohibit implementing mass limits in this manner. The City proposes that the RWQCB require compliance with a monthly median mass limit. Requirement of a daily mass limit is unnecessary to protect water quality as the concentration based limit and daily flow will dictate the daily mass discharge, and therefore, the concentration based limit is already sufficient to measure compliance with Ocean Plan standards.

**Staff Response:** Ocean Plan Section C.3.j states, “Discharge requirements shall also specify effluent limitations in terms of mass emission rate limits...” Specification B.3 specifies the manner in which the maximum allowable mass emission rate is calculated using the pollutant concentration limit and maximum allowable flow.

In this case, there is no daily maximum flow rate. Specification B.1 states that the effluent daily dry-weather flow shall not exceed a monthly average of 11 MGD. Therefore, pollutants with 30-day or monthly average concentration limits can be combined with the monthly average flow rate (calculated using daily flow values) to determine the applicable maximum allowable mass emission rate.

**Staff Action:** For clarification, the first sentence of Specification B.3 was changed to, “For ~~average~~ daily dry weather flows equal to or less than a monthly average of 11 MGD...”

32. **City Comment:** [Permit Tables B-1 through B-3] As discussed previously, given that there is no current data available for these pollutants, the RWQCB should require monitoring, but limits should not be contained in the permit at this time. Should a pollutant be detected in the effluent at a concentration above Ocean Plan Table B limits, the City should be directed to develop and implement a pollutant minimization plan. This approach both protects the ocean and allows a reasonable time and approach for compliance by the City.

**Staff Response:** Please see Staff Response No. 10 through No. 13.

**Staff Action:** No changes recommended.

33. **City Comment:** [Permit Section C, 1<sup>st</sup> paragraph] The City objects to the characterization of the area around the diffuser as a waste field. The City is unaware of any information or data that would suggest this is an appropriate designation for this part of the ocean. If the RWQCB wishes to denote the area outside of the ZID, but still within the area of influence of the wastewater plume a more appropriate and descriptive term would be area of potential influence.

**Staff Response:** Staff concurs. The draft language was transcribed from the Ocean Plan.

**Staff Action:** Staff replaced the reference to “waste field” with “area of potential influence.”

34. **City Comment:** [Permit Section D] As expressed above, the inclusion of these requirements is not supported by the Clean Water Act, its implementing regulations, the Ocean Plan or the Basin Plan. If the RWQCB wants to implement a program of collection system management, it must follow State and Federal laws and implement the program

through the prescribed public process. Failure to do so misuses the permitting system to implement an underground regulation. (For additional information on the legal issues associated with implementing an underground regulation through the NDPEs permit, please see the attached supplemental comments [Note: attached to the City's original comment submittal, and included with this staff report]. For information on legal barriers to using the Clean Water Act as the basis for implementing collection system regulation, please see the attached AMSA white paper on this topic.)

**Staff Response:** The Regional Board complied with the applicable public notice requirements for NDPEs permits and waste discharge requirements. Porter-Cologne allows the Regional Board to impose requirements on discharges from collection systems. (Water Code sections 13243, 13260, 13263) Permit requirements are not adopted as Basin Plan provisions, and are exempt from the Administrative Procedures Act provisions regarding adoption of regulations. (Government Code section 11352.) A permit is not a rule of general application, and no rule or guidance requires the Regional Board or its staff to include particular provisions in any given permit or WDRs. The discharger cannot argue at the same time that requirements are inconsistent and that Regional Board staff has adopted an underground regulation.

This comment cites a letter dated September 9, 2004 to Rebecca Bjork from Roberta Larson. The letter cites a January 4, 1994 memorandum by William R. Attwater. The memorandum addresses Section 13241, which requires the Regional Board to consider certain factors in adopting water quality objectives. Section 13241 does not apply to this permitting action, which does not adopt water quality objectives.

The comment letter also cites various documents prepared by other agencies. None of these have been provided to the Regional Board and they are not part of the administrative record. (See 23 Cal. Code of Regs. §648.3.)

**Staff Action:** No changes recommended.

35. **City Comment:** [Permit Section D] Despite the fact that the RWQCB has failed to follow proper procedures for implementation of a collection system management program, the City would be willing to accept reasonable requirements for collection system management on an interim basis, while the RWQCB develops a program for such regulation through the proper process. The City believes that the best approach for regulating collection systems is through the issuance of general Waste Discharge Requirements (WDR). This would achieve the goal of the RWQCB of regulating collection system management, but would do so in a manner that was consistent, and set a level playing field for all collection system operators. The current approach of site specific NPDES permits for collection system operators owning treatment plants, and WDRs for satellite collection systems is neither consistent in its provisions, nor consistent in the liability that it imposes on collection system operators.

**Staff Response:** It is not clear the manner in which the NPDES permits and WDRs impose inconsistent requirements. Since these are site-specific permits, any inconsistencies are based on the particular facts of each collection system. (See Staff Response No. 42 for specific information on why facility-specific requirements are necessary, and for a list requirements common to the permit and collection system WDRs.) Although the Clean Water Act and Porter-Cologne allow the Regional Board to adopt general rather than individual WDRs, there is no requirement for the Regional Board to do so.

**Staff Action:** No changes recommended.

36. **City Comment:** [Permit Requirement D.9. and D.10] should be removed. This discussion should be included in the section on Prohibitions. Please see the attached excerpt from the Stege Sanitary District's permit for an example of how this wording can more

appropriately be incorporated into the Prohibitions section.

**Staff Response:** Requirements D.9 and D.10 describe some aspects of the Board's consideration during enforcement actions, and do not establish prohibitions. These requirements also provide permittees with foreknowledge of such considerations for their use in management, design, operations, and maintenance.

**Staff Action:** No changes recommended.

37. **City Comment:** [Permit Requirement D.11] Staff requests that all reports be scheduled to be submitted at the same time, as a part of the annual report. This accomplishes several objectives: 1) It allows staff to take the time to do a comprehensive review of all programs at the same time, and to report on them all in one location; 2) It makes it easier to access these documents in the future, because all of the information is contained in the same documents; 3) It organizes all data by Calendar year, rather than having some reports cover a calendar year, and others cover some other interval and 4) It allows staff to maximize their time managing the system by reducing the number of different reports that they have to prepare. City staff is a working staff, and the addition of administrative duties, such as report writing to their responsibilities reduces their ability to focus on collection system and plant function.

**Staff Response:** Staff agrees. [Permit Requirement] D.11 does not require the submittal of reports. D.11 requires that the City review and update, as needed, its infiltration, inflow, and spill prevention measures no later than September 1<sup>st</sup> of each year. The report is to be submitted on March 31<sup>st</sup> with the annual report.

**Staff Action:** No changes recommended.

38. **City Comment:** [Permit Requirement] D.12.b.3: This section again mixes reporting requirements with the development of a program.

**Staff Response:** There is no Section D.12.b.3. From the letter's context, it appears the intended reference is to Section D.13.b.3, which makes no reference to reporting.

**Staff Action:** No changes recommended.

39. **City Comment:** [Permit Requirement] D.13.b.4 [listed incorrectly as D.12.b.4 – similar corrections made to Comments 40 and 41]: This section is particularly unwieldy. The requirement to list each reach of conveyance and include a schedule by which the listed reach will be replaced is unreasonable. Such a list, if created, would be current only on the day it was put together. To be effective, collection system maintenance must be dynamic. Some problems will arise that will displace others that had been scheduled. If the RWQCB feels compelled to dictate to experienced staff the details of how they maintain the collection system, it would be more effective to simply require that the City develop a system for identifying and prioritizing collection system rehabilitation and repair. The City currently has such a system, and has for many years.

**Staff Response:** For clarification, the requirement is to describe a projected schedule to eliminate sewage conveyance systems determined or projected to be structurally compromised, not to list each reach of conveyance (unless they are all known to be structurally compromised).

Board staff is not compelled to dictate to the City's experience staff. The City's current system for identifying and prioritizing collection system rehabilitation should be used to meet this requirement.

The City's knowledge of structurally compromised sewer conveyances must be documented to allow for replacement priorities to be set. The requirement in question does not preclude the City from reprioritizing replacement needs as new information becomes available, nor does it presume that the projected schedule is fixed in time. Staff agrees that the City's response to such



conditions must be dynamic, but data must first be collected and recorded before relative conditions can be assessed and prioritized.

The draft permit proposes to require that the City develop a system for identifying and prioritizing collection system rehabilitation and repair. Please see MRP Attachment 1, Section IV.e, *Elements of the Wastewater Collection System Management Plan*.

**Staff Action:** No changes recommended.

40. **City Comment:** [Permit Requirement] D.13.b.5: A program for pump station maintenance should not require previous year's operational problems. This is a reporting effort. A program for pump station maintenance should indicate the frequency of inspection and the required preventative maintenance. That said, the RWQCB should not prescribe these things, but should specify that a program be developed.

**Staff Response:** A pump station maintenance program cannot disregard the previous year's history of operational problems.

It is not the purpose of this item to prescribe maintenance schedules for pump stations. Requirements D.11 through D.17 are focused on infiltration, inflow, and spill prevention. In that regard, each pump station's location and wet/dry weather flow monitoring is very relevant to the City's awareness of problematic sections of its sewer system. Flow monitoring at these locations can alert the City to potential overflow conditions before spills occur.

**Staff Action:** No changes recommended.

41. **City Comment:** [Permit Requirement] D.13.b.6: This paragraph on alternate power should be included with the pump station maintenance program. They are not separate issues.

**Staff Response:** The requirement referred to (D.13.b.5) does not prescribe a pump station maintenance program, as discussed in Staff

Response No. 40. Each of the items of Requirement D.13.b describe a different element of the same issue – infiltration, inflow, and spill prevention.

**Staff Action:** No changes recommended.

42. **City Comment:** Paragraph D.13: The provisions of this paragraph and its subparagraphs are prescriptive. The California Water Code prohibits the RWQCB from prescribing the manner in which objects are obtained. The WDRs being issued to satellite collection systems do not include any of the language found in this section – yet they are regulating the same type of system. The WDRs and the City's draft permit both reference "MRP Attachment 1", which does a better job describing the elements of a collection system management plan, because it is descriptive rather than prescriptive. The City suggests that the format used for collection system management plans, used in the WDRs be used in the City's permits.

**Staff Response:** Specifying the minimum information which constitutes acceptable infiltration, inflow, and spill prevention measures does not constitute the Regional Board's prescription of how those tasks are performed.

Each of the requirements in question requires the City to describe how it addresses each item. For example, D.13.b.3 asks the City to describe current and five-year projected investigation methods. If staff were proposing to prescribe those investigation methods, it would include language specifying smoke-testing (not merely give it as an example).

The infiltration, inflow, and spill prevention language (Requirements D.11 through D.17) is not included verbatim in the proposed collection system WDR for Santa Barbara County's Mission Canyon Sewer District, CSA No. 12 (proposed WDR Order R3-2004-0123). That WDR, however, does require the County to develop and implement an I&I and Spill Prevention Program in Section D.4, and

to incorporate that program into the Management Plan as the latter is developed.

The more comprehensive language of the City's permit (Requirements D.11 through D.17) could be incorporated into the County's WDR. Staff commonly reserves this language for larger systems, or those with documented I&I problems. Because neither of these circumstances applies to the County's CSA No. 12, staff does not believe it is necessary.

The City's compliance history (see examples provided above in the Changes to the Order, Infiltration, Inflow, and Spill Prevention Measures) identifies overflows due to infiltration and inflow (I&I) is an issue for the City, so staff recommends the comprehensive I&I language to facilitate the City's progress in addressing this issue. Regional Board records do not indicate a similar history for Santa Barbara County's Mission Canyon system. That said, the County's WDR does not ignore the importance of addressing these issues, which are required in Sections IV.(E) and IX.(A) of MRP Attachment 1 (same as the City's), and, again, in Requirement D.4 of the proposed WDR for the County.

The County's Mission Canyon system comprises approximately 5 miles of residential sewer lines. The City's system includes 258 miles of municipal sewer lines (according to the City's September 10, 2004 letter; the City's 2003 annual report cites 277 miles), which include a greater variety of wastewater sources such as restaurants. The vastly greater expanse of the City's system corresponds with a proportionately greater number of I&I sources. The above differences between the City and County systems supports the application of the detailed I&I provisions to the City.

Other than the I&I-specific language (Requirements D.11 through D.17) in the City's permit, the proposed WDR for the County already shares much in common with the City's permit. The following sections of the proposed permit for the City are also required in the proposed WDR for the County:

Sections D.1, D.2, D.3, D.5, D.8, D.9, D.10, MRP Sections XI and XII, MRP Attachments 1 and 2, and various standard provisions and reporting requirements.

**Staff Action:** No changes recommended.

43. **City Comment:** [Permit Requirement D.13.b.1] The provision requiring the City's entire system to be cleaned every two years is an example of the unreasonable specificity of the draft permit. In fact, requiring that the system be cleaned at some given frequency – whatever it may be – will require City staff to focus on meeting that goal, rather than on allowing them the flexibility to spend their staffing resources in the manner that they find to be the most efficient and responsive for this particular collection system. Many of the City's lines have operated for many years without being cleaned. They were designed and constructed in such a manner that they are self scouring.

**Staff Response:** The City's interpretation is incorrect. The provision is not specifying a cleaning frequency. Please see Staff Response No. 4 for clarifications provided.

**Staff Action:** Please see Staff Action No. 4.

44. **City Comment:** [Permit Section D] The City strongly objects to the current format of the permit. Specific concerns are addressed below. The level of detail required by the current wording is unnecessary. It does nothing to further the RWQCB's understanding of the collection systems operation to require submission of the names of assigned staff persons. The level of detail required under the currently drafted provisions of this section will require that the City divert efforts from field activities to meet the overly specific requirements of the permit.

**Staff Response:** The City's identification of assigned staff demonstrates, for example, the number and qualifications of those staff. This information furthers the Regional Board's or other interested parties' understanding of staff resources the City dedicates to its collection

system management and operations. Such information should be readily available.

Permit Section D requires that the City describe the I&I and spill prevention measures it employs to address these issues. These requirements are directed at effectively organizing and employing those field staff.

**Staff Action:** No changes recommended.

45. **City Comment:** [Permit Requirement] D.13.a: The City believes that this requirement is overly detailed, while at the same time failing to require identification of key collection system features, such as the location of siphons. The City believes that a more effective requirement would be to require development of a map showing all significant collection system features, including, but not limited to lift stations, emergency generators and all trunk lines. The City currently has an extensive automated map that includes the above listed information, and much more.

**Staff Response:** These requirements establish the recommended minimum level of compliance. The City should incorporate any and all information that it already collects to meet the requirements. According to the City's comment, compliance with this requirement has already been achieved.

**Staff Action:** No changes recommended.

46. **City Comment:** [Permit Requirement] D.13.b.1: The narrative provisions of this section should more reasonably be required in an annual report, rather than in a collection system management program. The requirement to clean the entire system every two years is arbitrary, and would result in a waste of resources with no corresponding increase in collection system performance.

**Staff Response:** These provisions are already proposed for submittal in an annual report (see Requirement D.17). Such planning information is of greater value to the City. Please see Staff Responses No. 4 and No. 43.

**Staff Action:** No changes recommended.

47. **City Comment:** [Permit Requirement] D.13.b.2: It is difficult to understand the value of simply describing methods of inspection. Similarly, it is unimportant to identify assigned staff as this changes frequently and with a qualified staff, is of little consequence. The important part of visual inspection is that pipes are being inspected at a frequency that is adequate to identify defects prior to their creating back-ups or spills. The requirements for describing results and problem areas identified is clearly not intended to be part of a report of activities performed, not as part of a program.

**Staff Response:** Describing methods of inspection is valuable in demonstrating the City has and is prepared to implement methods of inspection. See Staff Response No. 44 regarding staff identification.

The informational aspects of this section are first for the City's use, and second for reporting to the Regional Board (per Requirement D.17). The City is encouraged to submit information it already collects and deems most important for compliance with these requirements.

**Staff Action:** No changes recommended.

48. **City Comment:** [Permit Requirement] D.14, Fiscal Resources: The WDRs issued to satellite collection systems specify simply that proper operation and maintenance requires adequate funding. Requiring a description of the fee structure for collection system management is not appropriate. The City's fee structure supports the operation and maintenance of both the collection system, and the treatment plant. Therefore, information regarding the fee structure within the body of a collection system program is meaningless. The City generally develops and implements a two-year budget for its programs. A six year capital program is also adopted with the two-year budgets. This information is available for review on the internet, and upon request. Requiring it in the body of the permit as a part

of a collection system management plan is not appropriate.

**Staff Response:** The City is already subject to this requirement in the current permit, Order No. 99-40, Section E.4.

The WDR for collection systems contains these requirements in MRP Attachment 1, Section IV.K, which state, "Describe fiscal resources necessary to ensure system operation, including fee structure, fiscal resources, actual and projected five-year budget expenses for staffing, operation, capital improvement projects, and reserves."

Requirement D.14 requests, at a minimum, the current and 5-year projected fees necessary to implement the City's program, and the necessary budget for the program's operation. Comparison of these data provide an indication that fee assessments are maintaining pace with budgetary needs.

Again, the City is encouraged to submit existing reports or information to meet the objectives of the Order.

**Staff Action:** No changes recommended.

49. **City Comment:** [Permit Requirement] D.15, Personnel Training: The level of detail included in these portions of the permit is unnecessary and cumbersome. Again, this level of detail is not necessary to be contained in the NPDES permit, or in a collection system management plan. Staffing changes frequently, the inclusion of a requirement to have a detailed description of staffing levels and training in a collection system management program does nothing to further the operation or maintenance of the system. A more effective requirement would be identifying specific jobs or duties requiring special training, and specifying how that level of training is obtained and maintained.

**Staff Response:** Staffing levels and training are an essential element to proper collection system management. Identifying staff and training levels is important because it assists

the City in maintaining the quantity and quality of staff necessary for proper system operation. Frequent staff changes make such a provision more important.

The City's suggestions are consistent with the currently proposed language.

**Staff Action:** No changes recommended.

50. **City Comment:** [Permit Requirement] D.16.b: The City requests to submit the Collection System Annual report in conjunction with the Wastewater Treatment Plant Annual Report. Additionally, staff requests to have these reports due on March 30th. These reports are reviewed by the City's Water Commission, and it is effective to take them one comprehensive report. The later date is requested because data is not generally available until the beginning of February. February is also budget time, and the time for submitting the City's internally required performance management reports. The requirement to also additionally compile a comprehensive report during February will add significantly to the workload of staff in this already busy month. Extending the deadline to March would significantly ease this crunch, and would not significantly delay submission of this data to the RWQCB.

**Staff Response:** Staff concurs.

**Staff Action:** The date for the report in Requirements D.16.b and D.17, and MRP Section IX and Table 16 was changed to March 31<sup>st</sup>.

51. **City Comment:** [Permit Requirement] D.16: This paragraph seems duplicative of the requirements of paragraph D.13. The City again urges the board to use the approach adopted for collection system WDRs, and allow the City the flexibility to develop and implement a responsive program. This will provide consistency in the way that this new program is implemented throughout the region.

**Staff Response:** The proposed permit incorporates the same management plan approach as is used in collection system WDRs, retaining the flexibility for the City to develop its own program. The language of D.16 establishes guidelines with respect to I&I and spill prevention.

**Staff Action:** No changes recommended.

52. **City Comment:** [Permit Requirements] D.16.e, f. & g: This financial information is currently also requested in the sub-paragraphs of D.13. This information is not appropriately placed in a program document that will describe how a program is implemented, and the collection system is properly managed.

**Staff Response:** Fiscal information is required in sub-paragraphs of D.14, but those address near and short-term fee assessment and operational budget issues. Requirements D.16.e, f, and g request current and projected work plan for making capital improvements to the system (such as upgrading a pump station), and short and long-term planning efforts related specifically to I&I and spill prevention efforts.

**Staff Action:** No changes recommended.

53. **City Comment:** [Permit Section] F. Biosolids Requirements: It is inappropriate to include the Biosolids Requirements in the body of the permit. If the board has been directed by EPA to include this language, the City would like to receive a copy of that direction. If the RWQCB believes it is necessary to address biosolids in the permit, a reference to the City's obligation to comply with applicable regulations should suffice. Inclusion of detailed requirements, many of which are not relevant to the City's operations, is confusing and misleading. At the current time, the City is having biosolids composted off site. Under 40 CFR 503 the requirement for compliance with the biosolids rules is placed on the person who processes and changes the biosolids. Therefore, none of the language about land application applies to the City. Including it in

the permit may subject us to having to comply with these provisions.

**Staff Response:** Please see Staff Response No. 15 regarding biosolids. Since biosolids disposal practices may change in the five-year permit cycle, other requirements may apply at that time. The applicable requirements are conditional based on the City's actual practices. USEPA staff has recommended that biosolids language be included in NPDES permits, and staff concurs.

**Staff Action:** No changes recommended.

54. **City Comment:** Permit Provision G.5: As currently drafted, the permit language for the toxicity indicates that the City would go directly to a TRE, without first conducting a Toxicity Identification Evaluation (TIE). The first step is to identify the toxicant; the second step is to find ways to reduce it. The City recommends that the following language be substituted for Provision G.5 in the permit: "If toxicity monitoring shows a violation of toxicity limitations of this Order or a toxicity objective in Table B of the Ocean Plan, the Permittee shall increase the frequency of toxicity testing to once per week, and submit the results within 15 days after each test to the Regional Board Executive Officer. If the discharge consistently exceeds toxicity effluent limitations as determined by the Executive Officer, the Executive Officer shall direct the Permittee to conduct a TIE to identify the causes of toxicity. Subsequent to the TIE, the Permittee will initiate a TRE, which shall include all reasonable steps to control the source(s) of toxicity. The objective of the TRE is to narrow the search for effective control measures for effluent toxicity."

**Staff Response:** Because toxicity identification procedures are a basic component of conducting a TRE, it is not necessary to require a TIE before a TRE. The requirement to conduct a TRE necessarily includes toxicity identification procedures, which, according USEPA, may include a formal TIE. Preliminary identification

procedures (such as a pretreatment program review) may allow a POTW to more quickly advance to implementing control measures.

Three of the USEPA documents listed in the draft specifically address TIE.

**Staff Action:** Staff changed the toxicity test result submittal period from 10 days to 15 days.

Staff updated the USEPA document titles and numbers.

55. **City Comment:** [Permit Requirement] G.6: The requirement to conduct sanitary sewer surveys whenever directed by the RWQCB Executive Officer is vague and unclear in scope. It should be removed.

**Staff Response:** Sanitary sewer surveys may be required to investigate and attempt to identify controllable sources of pollutants which may be causing or contributing to violations of the permit. Since the nature of such possible violations is unknown, it is appropriate that this requirement is stated generally. However, since the Executive Office may request such information as needed, staff concurs that the language can be removed.

**Staff Action:** Staff deleted Permit Requirement G.6.

56. **City Comment:** [Permit Requirement] G.11: The requirement to disinfect the El Estero effluent was based on data produced by an extensive scientific study. Therefore, it seems inappropriate to include this paragraph discussing when disinfection shall be required. Further, the City has already invested significant resources into constructing a disinfection system utilizing sodium bisulfate. Therefore, the discussion about what type of disinfection should be required is also inappropriate.

**Staff Response:** This language is from the Ocean Plan and is applicable to all ocean

dischargers. This provision does not direct the City to alter its disinfection practices.

**Staff Action:** No changes recommended.

57. **City Comment:** [MRP Section I] The Monitoring and Reporting program requires that flow composited influent samples be collected at the influent to the treatment plant. The plant was designed without an influent sampling point. The wastewater enters the treatment plant through three separate lines. None of these provides a good place for collecting a composite sample, and none of these is metered. The City has reported to the RWQCB that influent sampling is not feasible, and has been allowed to monitor plant influent using the confluent. The confluent is primarily composed of influent, but also includes plant return flows. A confluent sampler is set up after the headworks (screening), and collects flow proportioned samples.

The cost of installing three metered influent stations is high. Additionally, none of the influent lines is particularly suited to accurate flow measurement. The City proposed to provide calculated influent data by subtracting confluent flow and pollutant loads from the confluent to arrive at calculated influent data. The City believes that the confluent sampling location is far superior, even with calculated data, to any sampling locations that could be installed in the influent lines.

To allow an approach of calculated influent data, Table 1, Influent Monitoring, should be modified to specify that daily flows are calculated, not metered.

**Staff Response:** Staff concurs.

**Staff Action:** The requested change was made.

58. **City Comment:** [MRP Section I] Footnote 2 to Table 1 requires that influent sampling and effluent sampling should be scheduled to compensate for the plant's detention time. Because the production of recycled water

varies, and because this affects the plant detention time, it is not possible to calculate an exact detention time. The City can delay effluent sampling by some interval to compensate for detention in the plant, but it will be an estimate. However, the City questions whether there is really any value to this exercise, as it is extremely unlikely that the same water will be sampled regardless of efforts to account for plant detention, and delaying samples to account for detention adds significantly to plant efforts, requiring overtime for the plant personnel involved.

**Staff Response:** Staff concurs. Similar language is found in footnote 1.

**Staff Action:** MRP Table 1, footnotes 1 and 2 were consolidated to a single footnote 1, and changed to require that influent be coordinated with effluent sampling. Similar changes were made where necessary in the MRP.

59. **City Comment:** [MRP Section II] The City sees little benefit collecting samples at delayed intervals to account for plant detention time. This will add significantly the burden of operators, requiring effluent samples to be collected, and samplers reset at 5:00 a.m., when the plant is currently not staffed. Because influent and effluent samples for CBOD and TSS are collected daily and compliance is calculated daily the need to account for detention is unnecessary. The effluent is monitored for compliance with these parameters at all times, and any flows that would cause violations will still cause violations regardless of whether detention is considered or not. The only situation where this is not the case would be if a particularly concentrated load were to come into the plant over a short period of time. In this case, failure to account for detention time would actually subject the plant to a more strict limit as the effluent sample, which would be represented without the benefit of the elevated influent sample. The City is willing to accept this risk in exchange for the efficiency of collecting all samples on the same schedule.

**Staff Response:** Staff concurs.

**Staff Action:** MRP Section II, 1<sup>st</sup> paragraph was changed to remove the sentences requiring consideration of hydraulic detention time during influent and effluent sampling.

60. **City Comment:** RWQCB staff has clarified that our existing composite samplers (Isco and Sigma brand) are approved devices.

**Staff Response:** For clarification, staff verbally acknowledged its familiarity that these manufacturers' products are commonly used for compliance sampling.

**Staff Action:** No changes recommended.

61. **City Comment:** [MRP Section II, 4<sup>th</sup> paragraph] The Executive Officer has the authority to modify the Monitoring and Reporting Program. Therefore, it is unclear why the reference to requiring monitoring of bioaccumulation of toxicants in the discharge zone is included. The City is unaware of any data or information that suggests such monitoring is warranted.

**Staff Response:** As a foreseeable by-product of municipal waste discharges, such monitoring may be warranted at a later date, but is not currently proposed.

**Staff Action:** No changes recommended.

62. **City Comment:** [MRP Section II, 6<sup>th</sup> paragraph] The City requests that the language requiring samples to be collected in the specified months be modified to require that the City make their best attempt to collect the samples in the specified months. This will allow the City to avoid sampling during wet weather, or if other unanticipated incidents arise that might interfere with sampling.

**Staff Response:** If such circumstances arise, the City may, as always, contact staff with notice of the sampling delay.

**Staff Action:** No changes recommended.

63. **City Comment:** [MRP] Table 2, footnote 1: The City requests that the range of bacterial

densities required be changed to 2 to 16,000. This range is adequate to show compliance with the permit. Requiring a greater range of samples greatly increases the cost, time and space required for this test.

**Staff Response:** Staff concurs.

**Staff Action:** Staff made requested change.

64. **City Comment:** [MRP] Table 2, footnote 4 should remove the reference to strip charts. The City's data is stored electronically on the SCADA system.

**Staff Response:** Staff concurs.

**Staff Action:** Staff changed "strip charts" to "data".

65. **City Comment:** [MRP] Table 2, footnote 11 [now footnote 12 due to previously noted changes]: The City requests that the footnote be changed to clarify that the screening period will be the first set of samples collected during the permit term.

**Staff Response:** A screening period usually involves multiple samples to establish consistent results in determining specie sensitivity. USEPA recommends several (three or more) tests for sensitivity screening for effluent and receiving waters, and staff concurs.

**Staff Action:** Staff changed the footnote to clarify the screening period as "no fewer than three tests".

66. **City Comment:** [MRP] Table 8: Ocean Sampling Station Locations, is a bit confusing without the attachment of a map showing the locations. Previous permits have contained a map showing the required sampling locations.

**Staff Response:** Order No. 99-40 didn't contain a map of sampling stations, as is typical for most permits. The locations provided in Table 8 should allow the City to develop an updated map, and provide it with its report to the Regional Board.

**Staff Action:** No changes recommended.

67. **City Comment:** The City agrees that if sampling for bacterial analyses is required to be performed because of effluent excursions, the range of values should be 20 to 160,000 MPN.

**Staff Response:** Comment noted.

**Staff Action:** No changes recommended.

68. **City Comment:** The City requests to use E-coli as a surrogate for fecal coliform monitoring. There are USEPA approved test methods for E-coli that provide results in 24 hours, rather than the 48 or greater required for the multiple tube fermentation process. Obtaining results in a more timely manner allows the treatment plant operators to modify plant operations and respond to the data obtained.

**Staff Response:** At this time, fecal coliform remains a standard indicator organism in the Ocean Plan. The City may propose to use other approved fecal coliform methods which may offer shorter response times, as available. Please also note that the multiple tube fermentation method is not specified.

**Staff Action:** No changes recommended.

69. **City Comment:** [MRP Section VIII] Since the RWQCB does not have authority to enforce the 40 CFR 503 rules, it is unclear why the requirements of that rule are included in the City's MRP. In fact, because the City contracts with a company to compost its biosolids, the City is not technically required to sample the biosolids at the given frequency – the composting company is. The City proposes to replace this entire section of monitoring requirements with a requirement that the City include in its annual report to the RWQCB a copy of the annual report required to be filed with the USEPA. That report contains all biosolids sampling data and required certifications. This language is currently included in the draft report in Paragraph 9 a-e of this section.



Inclusion of biosolids monitoring requirements that are not strictly required under the Federal law is imposing additional, unauthorized regulatory oversight on the City.

**Staff Response:** Please see Staff Response No. 15.

**Staff Action:** No changes recommended.

70. **City Comment:** The City requests that this section be retitled “Collection System Reporting”. This will more accurately characterize the comprehensive nature of the reports pertaining to operation and maintenance of the collection system – not just Inflow/ Infiltration and Spills.

**Staff Response:** This reporting requirement specifically references the infiltration, inflow, and spill prevention Requirements D.11 through D.17.

**Staff Action:** For clarification, staff added “D.17” to the MRP reference to Permit Section D, and further referenced Permit Requirements D.11 through D.17.

71. **City Comment:** [MRP Section X] The City requests to have the date of the annual report changed to March 31, each year.

**Staff Response:** Staff concurs.

**Staff Action:** Staff made the requested change.

72. **City Comment:** [MRP Sections XI and XII] These sections are somewhat duplicative and redundant of Section IX. The City again requests that the RWQCB adopt the approach used in WDRs issued to satellite collection systems, which is better organized, more general and leaves the decisions for program management to the collection system operator.

**Staff Response:** MRP Section IX reporting includes spill prevention measures related to infiltration and inflow. MRP Section XI and XII addresses recordkeeping for all spill responses and associated reporting.

The recordkeeping and reporting requirements are also contained in the MRP of the WDRs for collection systems. Again, the City and the County share in common the requirements to develop a collection system management plan.

**Staff Action:** No changes recommended.

73. **City Comment:** [MRP Table 15 – now Table 16] The City requests that the date of the Annual Summary Report be moved to March 31, to provide adequate time to receive analytical and financial data from the previous calendar year, which is generally not available until February, and to compile the comprehensive report.

**Staff Response:** Staff concurs.

**Staff Action:** Staff made the requested change.

74. **City Comment:** [MRP Table 15 – now Table 16] The submission of the report on Bottom Sediment and Benthic Biota Sampling is due 60 days following inspection and March 1<sup>st</sup>. This is a comprehensive report that requires the categorization of the benthic biota, and the statistical analysis of populations. It generally takes several months for the data to be available. The City suggests that this report be required as soon as it is available, but no later than the Annual Report following the sampling.

**Staff Response:** Staff concurs.

**Staff Action:** Staff changed the report’s due date to March 31<sup>st</sup>.

75. **City Comment:** [MRP Table 15 – now Table 16] The Annual Inflow/Infiltration and Spill Prevention report is currently required by February 1<sup>st</sup>. Staff would like to include this with the Annual Summary report, and requests to have the date coincide with the date for submission of that report (March 31<sup>st</sup>).

**Staff Response:** Staff concurs.

**Staff Action:** Staff made the requested change.

76. **City Comment:** [MRP Table 15 – now Table 16] The Wastewater Collection System Overflow Cleanup Protocol Monitoring Program is required to be submitted March 1, but no year is specified. The City believes the RWQCB intended this document to be submitted by March 1, 2005.

**Staff Response:** This is correct, as is stated in Permit Requirement D.6.

**Staff Action:** Staff added the year 2005.

77. **City Comment:** [MRP Attachment 1] Paragraph III E. It is inappropriate to require implementation of pretreatment program requirements in a collection system management plan. Pretreatment program requirements are specifically linked to the operation of wastewater treatment plants.

**Staff Response:** This item only requires that the Plan demonstrate the City's legal authority (e.g., through an ordinance citation) to implement the authorities specified at 40 CFR 403.8(f)(1) (which states that a POTW shall have the legal authority to implement its pretreatment program). The definition of POTW includes collection systems (40 CFR 403.3).

**Staff Action:** No changes recommended.

78. **City Comment:** [MRP Attachment 1] Paragraph IV C. The City believes that this paragraph would be more effective if it was rewritten to require the development of a proactive Plan to reduce or prevent dry weather overflows. The plan shall include a component for public outreach and education.

**Staff Response:** This requirement establishes the maintenance of information related to prioritizing a variety of system management activities, and does not preclude the City developing those priorities.

**Staff Action:** No changes recommended.

79. **City Comment:** [MRP Attachment 1] Paragraph IV. E. The City believes it is counter productive to spend time scheduling rehabilitation and replacement of specific stretches of pipe. It is more effective to develop a plan that establishes how pipe replacement and rehabilitation are prioritized, and to develop a program that will replace system components prior to their failure.

**Staff Response:** Paragraph IV.E, states, in part, that the management plan shall, "Identify and prioritize structural deficiencies and implement short-term and long-term rehabilitation actions to address each deficiency. This shall include a rehabilitation plan including schedules for the entire system." Schedules of rehabilitation needs are only one part of the plan. See also Staff Response No. 39.

The City's suggestions are compatible with this plan element.

**Staff Action:** No changes recommended.

80. **City Comment:** [MRP Attachment 1] Paragraph IV. I. This section requires a plan to respond to spills from private property. Such spills are the responsibility of the property owner. Requiring a public agency to respond on the property owners behalf rewards those property owners who have failed to adequately maintained their laterals. This paragraph should be deleted.

**Staff Response:** This plan element states, "Establish a plan for responding to overflows from private property that discharge to public right of ways and storm drains, to prevent discharges from overflows to surface waters and storm drains."

Any person who discharges sewage is responsible and liable for that spill. If a Permittee does not own the system from which a spill occurs, it is not liable for the spill. However, once a spill reaches public property, the local agency becomes responsible to notify the public and direct cleanup.

In many circumstances, the local sewerage agency may be the only capable response option. The plan element does not discount the role that private companies may play in responding to private sewage spills, nor does it preclude the City from billing responsible parties.

This language does not require that the City respond to all private spills. It requires the City to develop a plan of response for those spills which become a threat to public health and the environment.

**Staff Action:** No changes recommended.

81. **City Comment:** [MRP Attachment 1] Paragraph IV. J. Requiring collection system operators to develop a plan for grease disposal may be beyond the scope of their control and/or may endanger the treatment process at the local treatment plant. This paragraph should be deleted.

**Staff Response:** The analysis of potential alternative methods for grease and fat disposal would include all relevant and qualified City staff.

**Staff Action:** No changes recommended.

82. **City Comment:** [MRP Attachment 1] Paragraph IV. K. In the City, wastewater fees cover the operation and maintenance of both the treatment plant and collection system. Therefore, it is inappropriate to require a fee structure to support collection system operations. Further, it is the responsibility for collection system operators to properly operate and maintain their systems. NPDES permits do not require financial system information for treatment plants and should not require this information from collection system operators. It increases the administrative burden on the collection system operator without doing anything to achieve the goals of the RWQCB, proper operation and maintenance of the collection system.

**Staff Response:** According to this statement, the City already has a fee structure in place in

support of the collection system management and operations. Thus, it appears the City has already met this requirement.

Please also see Staff Response No. 48.

**Staff Action:** No changes recommended.

83. **City Comment:** [MRP Attachment 1] Paragraph IV. L. The level of detailed required in this paragraph should be limited to the inclusion of an organizational chart. The duties and training frequencies of staff are internal operational issues. If the RWQCB wishes to address staff capabilities, they should follow the lead of the Department of Health Services and mandate that collection system personnel be certified.

**Staff Response:** Please see Staff Responses No. 44 and No. 47.

**Staff Action:** No changes recommended.

84. **City Comment:** [MRP Attachment 1] Paragraph VII.B. This paragraph should be revised to change the requirement for reporting overflows from “immediately” to “in a timely manner”.

**Staff Response:** Once an overflow report is received by the City, it is expected that the report will be immediately dispatched to relevant staff for response.

**Staff Action:** No changes recommended.

85. **City Comment:** [MRP Attachment 1] Paragraph VII.C. requires immediate notification of health agencies and other impacted entities. This requirement should be changed to require that notification be made in a timely manner. The RWQCB’s spill reporting policy already sets forth the timeframe for reporting such spills.

**Staff Response:** Immediate notification here applies to health agencies and other agencies whose jurisdiction is impacted or imminently threatened by an overflow. This requirement does not preempt the reporting requirements of

the agencies listed (and, in fact, refers to those policies). Immediate notification, for example, is required for agencies whose rapid response is of immediate service to public health.

**Staff Action:** No changes recommended.

86. **City Comment:** [MRP Attachment 1] Paragraph VIII. Source Control Programs: This requirement should state that the collection system operator should evaluate the need for source control programs, rather than dictating that they must be developed. In many cases treatment plants already have such programs in place and there is no need for the collection system operator to implement a duplicative program. In other situations, fats, oils and grease are not a significant problem for collection systems.

**Staff Response:** In cases where a program already exists, it may be referenced to or incorporated within the plan. Duplication of plan elements is obviously a waste of time.

Per Permit Requirement D.3, "If any element of MRP Attachment 1 is not appropriate or applicable to a Permittee's Management Plan, then the plan shall provide the rationale for not including the element."

**Staff Action:** No changes recommended.

87. **City Comment:** [MRP Attachment 1] Paragraph IX. C. Plan Updates. The City believes that requiring annual plan updates minimizes the importance of the review process. A less frequent review would be more of an event, rather than routine. This would allow operators to focus their efforts more carefully at assessing the plan.

**Staff Response:** Comment noted.

**Staff Action:** No changes recommended.

- B. **Santa Barbara Channel Keeper,** Kira Schmidt: Written comments were received August 27, 2004. Excerpts of some Channel Keeper comments are transcribed below due to length.

All original comments are available as an attachment to this staff report. Bracketed language was added to the comments for clarification.

1. **Channel Keeper Comment:** Discharge Prohibition [A.2] includes a discussion of the impact of AB2800 on Areas of Special Biological Significance ("ASBS"). As an initial matter, we are unclear why this section is in the draft Permit at all. The draft Permit includes no discussion of potential impacts from the discharge to ASBSs, and none of the effluent limitations were developed based on the ASBS Beneficial Use or the zero discharge Water Quality Standard articulated in the Ocean Plan for ASBSs.

**Staff Response:** Staff recommended the prohibition because it is applicable to waste discharges to the ocean such as the City's. The City does not currently discharge to an ASBS or State Water Quality Protection Area (SWQPA), so the permit requires no further discussion at this time. The Ocean Plan does, however, provide for the designation of ASBS, so future consideration of ASBS relative to the City's discharge may be appropriate at that time. Furthermore, prohibitions are proactive in nature. The application of prohibitions is not contingent upon the existence of the prohibited activity.

**Staff Action:** Staff changed the paragraph 2 of Prohibition A.2 by adding, "The City does not discharge waste to ASBS, nor does staff have any information indicating that the discharge location is being considered for ASBS designation."

Staff relocated the amended prohibition to Finding No. 40, and renumbered subsequent findings.

2. **Channel Keeper Comment:** The draft Permit's discussion of the impact of AB2800 is simply incorrect. The draft Permit states that AB 2800, which adds Chapter 7 (commencing with Section 36600) to the Public Resources Code ("PRC"), renamed ASBS as Water Quality Protection Areas

("WQPA"), and that the State Water Resources Control Board ("State Board") is evaluating alternatives for amending the Ocean Plan to coordinate with the PRC.

**Staff Response:** At the time of the draft permit's circulation (July 16, 2004), the first paragraph of Discharge Prohibition A.2 was correct according to State Board, as evidenced in the April 9, 2004, *Notice of Public Hearing, California Ocean Plan – Triennial Review*. The notice identified the reclassification of ASBS to SWQPA as an issue of consideration.

On August 6, 2004 (after the draft permit's mailing), State Board issued *Notice of Public Hearing, California Ocean Plan Amendments*, in which the consideration of this issue was discontinued with regard to the October 6, 2004 State Board public hearing. The notice did not confirm or eliminate the future consideration of this issue.

**Staff Action:** For clarification, staff replaced the term "renamed" with "named", and deleted the last two sentences of the first paragraph of Discharge Prohibition A.2, which read, "To facilitate this transition in nomenclature, and recognizing that the current Ocean Plan uses the "ASBS" designation, "ASBS" has been used in regulatory references made below. The State Water Resources Control Board is evaluating various alternatives for amending the Ocean Plan to coordinate with the Public Resources Code."

Please also see Staff Response No. 1.

3. **Channel Keeper Comment:** Mass emissions are only limited during dry weather and only when flow is less than 11 million gallons per day. Mass emission standards apply at all times, and we are unclear why mass emission limits are to be applied only to lower flows in the draft Permit. We recommend that the Permit be revised to include mass limits applicable to all discharges.

**Staff Response:** The purpose of Discharge Specification B.2 is to specify the use of the observed flow in determining applicable mass

emission limits, so limits already apply to all discharges according to the time period associated with the concentration limit.

In addition, Discharge Specification B.3 establishes maximum mass emission limits based on the concentration and flow rate limits. In other words, Specification B.3 establishes the upper end of the range of limits established in Specification B.2.

The flow rate limit of 11 MGD is established in Discharge Specification B.1, based on the facility's designed daily dry-weather flow rate averaged over each month. Because this is the only applicable flow rate limit, it is the only appropriate value to use in determining the maximum allowable mass emission rate limit.

The main purpose of mass emission limits is to inhibit a discharger's use of "clean" water resources to dilute pollutant concentrations in its waste stream(s). It is notable that a discharger is more likely to employ such practices during dry-weather conditions, as most treatment facilities experience some degree of flow increase during wet weather (and are designed to do so), and thereby already realize some dilution. Sewer system management measures such as inflow and infiltration prevention, maintenance, renovation, and replacement provisions can be useful to avoid excessive wet weather flow impacts.

**Staff Action:** No changes recommended.

4. **Channel Keeper Comment:** The receiving water limitations for physical and chemical characteristics contain qualifiers, such as that dissolved sulfide concentrations shall not be "significantly" increased above that present in natural conditions, or that nutrient materials shall not cause objectionable aquatic growth or "degrade" indigenous biota. We note that none of the qualifying terms are defined, but rather are subjective, and therefore demonstrating compliance or non-compliance with those limitations will be extremely difficult. We recommend that these terms be clearly defined in the permit.

**Staff Response:** The terms in question (shown in the draft with bold text and quotation marks) are defined in the Ocean Plan.

**Staff Action:** The last sentence of the bracketed note shown immediately after “It is Hereby Ordered...” was revised to read, “Throughout this Order, terms in bold and within quotation marks (“ ”) are defined in the attached Standard Provisions or the Ocean Plan.”

5. **Channel Keeper Comment:** Channelkeeper applauds the Draft Order’s addition of a requirement for the development and implementation of a Wastewater Collection System Management Plan. However, we find that the elements to be included in the plan, as laid out in Attachment 1 of the Monitoring and Reporting Program, are inadequate in that they fail to provide standards to gauge the adequacy of implementation nor a meaningful implementation schedule. Channelkeeper recommends that the permit set minimum performance standards for the program, with deadlines. [Examples provided; please see original letter]

**Staff Response:** The Wastewater Collection System Management Plan is intended to provide the City with a flexible framework of elements related to optimizing the short and long-term performance of their system, while also allowing them to incorporate existing practices into a comprehensive management approach. The standard for gauging adequate implementation is the development of the plan in accordance with the required elements and minimum time schedule.

The general nature of the proposed plan elements provides a framework of established management principles for the enhancement of a collection system’s operation and the prevention of overflows. At this time, staff believe the implementation of such plans provides the most appropriate step towards promoting the reduction of overflows for the City and in our region, while allowing such responsible agencies to respond according to the needs of their particular systems.

Staff does not agree that the adequacy of the proposed approach can be determined prematurely. Determinations of adequacy should be case-specific and made with due consideration of the actions taken by a given responsible agency. While numeric standards similar to your suggestions may prove appropriate in the future, staff believe it prudent to establish the proposed foundational elements for the step-wise advancement towards overall operational improvements. Staff further disagrees that the adequacy of the plan is dependent on numeric standards for implementation. Staff’s evaluation of the City’s compliance and performance history does not indicate it is warranted to impose your suggested numeric performance standards at this time.

**Staff Action:** No changes recommended.

6. **Channel Keeper Comment:** Regarding the legal authority element of the Wastewater Collection System Management Plan, we further recommend that it explicitly require that the City have legal authority to require repair or replacement of private laterals if they cause or contribute to sanitary sewer overflows (“SSOs”).

**Staff Response:** MRP Attachment No. 1, *Elements of the Wastewater Collection System Management Plan*, Item III.A, *Legal Authority*, states, “The Wastewater Collection System Management Plan shall include legal authority, through sewer use ordinances, service agreements, or other legally binding procedures, to control infiltration and connections from inflow sources...”

If a private lateral is causing or contributing to overflows as a source of infiltration or inflow, then the current language already addresses the establishment of control procedures, which may include repair or replacement.

Item III.D further states, “...Limit fats and greases and other debris that may cause blockages in the collection system...” Again, if this is the nature of private lateral’s impact on the collection system, this statement

already requires the legal authority for the City to respond.

Overflows from private laterals are the responsibility of the lateral owner. Any person who discharges sewage is responsible and liable for that spill. However, once a spill reaches public property, the local sewerage agency becomes responsible to notify the public and direct cleanup.

Santa Barbara Municipal Code 14.44.160, *Maintenance of Private Systems, Etc*, states, "It shall be the responsibility of each property owner whose property is connected to the City sewer system to maintain continuously and satisfactorily in operation at his own expense, any house connection sewer..." If a private lateral is causing or contributing to overflows, the City's enforcement of this code reference should enable the necessary corrective action.

**Staff Action:** No changes recommended.

7. **Channel Keeper Comment:** Channelkeeper commends the Draft Order's strict prohibition on the discharge of untreated or partially treated sewage. However, the Draft Order provides an exception to Regional Board enforcement against "Discharges Caused by Severe Natural Conditions." This is a new term created for this Permit, and is undefined. The Clean Water Act, EPA regulations, and Federal Courts have carefully defined when unexpected and uncontrollable events excuse a sewage spill. These circumstances are codified at 40 CFR § 122.41(m) and (n), setting forth the bypass and overflow definitions and requirements. Rather than creating uncertainty for the Regional Board and Staff in evaluating spills, as well as potential inconsistency with Federal Law, Channelkeeper recommends that the Permit simply refer to bypasses and overflows as defined by Federal Regulations.

**Staff Response:** The phrase "Discharges Caused by Severe Natural Conditions" was used as a header to highlight the discussion in Requirement D.9.

Conditions considered "severe" are defined in Requirement D.9.a, which states, "...the discharge was caused by one or more severe natural conditions, including hurricanes, tornadoes, widespread flooding, earthquakes, tsunamis, and other similar natural conditions."

The exception discussed in Requirement D.9 is conditional, based on the type and severity of the natural event, and consideration of feasible alternatives that may have been reasonably anticipated.

Neither of the regulatory citations you provide apply to sanitary sewer overflows. 40 CFR 122.41(m) defines "bypass" as the "intentional diversion of waste streams from any portion of a treatment facility." 40 CFR 122.41(n) defines "upset" as "an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee." (emphasis added)

The Regional Board may take enforcement action for any discharge that results from natural conditions, as stated in Requirement D.9. In cases where the discharger demonstrates that the natural conditions were severe, and further that those conditions could not have been anticipated, the Regional Board may exercise discretion in determining whether the discharge warrants formal enforcement action. Requirement D.9 asserts that communities have limited protection from enforcement in very rare circumstances.

Staff does not agree that the requirement creates uncertainty for either staff or the Regional Board. The requirement notifies dischargers that such events will not be automatically exempted from enforcement, and, by stating the conditions under which Board consideration may be granted, promotes a discharger's consideration of the alternatives of Requirement D.9.b.

**Staff Action:** Because the header "Discharges Caused by Severe Natural Conditions" applies

only to Requirement D.9, staff deleted the header because it is not necessary.

Staff deleted the 1<sup>st</sup> paragraph of D.9 because of redundancy with the 2<sup>nd</sup>. This paragraph formerly read, "The Regional Board may take enforcement action against the Permittee for any wastewater collection system discharge caused by natural conditions, unless the Permittee demonstrates such incident is caused by severe natural conditions."

8. **Channel Keeper Comment:** Channelkeeper finds that the Infiltration/Inflow ("I/I") and Spill Prevention Measures required in the Draft Order are inadequate and fail to require the permittee to take actions beyond those currently being conducted under existing and inadequate plans and programs.

**Staff Response:** The City's current permit does not include specific I&I requirements. The requirements recommended in the draft permit are intended to facilitate the City's improvement on this issue while incorporating them into the Wastewater Collection System Management Plan as the latter is developed. The I&I measures are not proposed to address the specific needs of a particular system. It is the purpose of this language to establish a foundational framework for successfully addressing I&I issues according to a system's needs. It is incumbent upon each municipality to make those determinations to realize improvements.

**Staff Action:** No changes recommended.

9. **Channel Keeper Comment:** Channelkeeper notes that the City identified a serious I/I problem in studies conducted in 1983, and again in 2003, and yet has made no meaningful progress towards addressing the issue in the intervening 20 years. Simply endorsing the City's program will perpetuate this failure to act.

**Staff Response:** Addressing I&I issues are important for the City. The addition of the I&I measures and the requirement to develop a collection system management plan, however,

does not constitute an endorsement of the City's current program.

I&I problems develop with time, and those problems addressed twenty years ago do not account for new problem areas which develop. It is staff's contention that the City's implementation of the comprehensive and documented approach promoted by the permit's I&I language can be effectively and dynamically used to realize substantial improvements on this issue.

**Staff Action:** No changes recommended.

10. **Channel Keeper Comment:** Channelkeeper notes that Pacific Grove's wastewater collection system was causing frequent SSOs, and that a permit very similar to that under consideration here was inadequate to address the problem. Pacific Grove has since developed a Sewer System Asset Management Plan ("SSAMP") which, if implemented, will go a long ways toward addressing the SSO problem. That SSAMP represents the appropriate level of effort for collection systems, not the minimal program requirements set forth in this Permit.

**Staff Response:** Pacific Grove is regulated under WDR Order No. R3-2002-0078 for sewer systems tributary to the Monterey Regional Wastewater Treatment Plant, which contains the same Wastewater Collection Management Plan requirements as the proposed permit for the City. As was the case with Pacific Grove, the City is not prohibited from taking additional or more stringent actions according to the needs of its system to protect public health and the environment. Staff believes the City's development and implementation of a Wastewater Collection System Management Plan will be an effective and appropriate level of response for its collection system.

**Staff Action:** No changes recommended.

11. **Channel Keeper Comment:** With regard to the Staff Report's assertion that "no other problems (such as nuisance caused by odors)



are known to have been associated with the Discharger at this time,” [see staff report section titled Compliance History / Status] Channelkeeper calls to Staff’s attention the findings of the City’s recent evaluation of the El Estero Wastewater Treatment Plant. The City of Santa Barbara hired Carollo Engineers to conduct said evaluation and develop a strategic plan for replacement and rehabilitation of the facility’s infrastructure. Carollo Engineers, in their final report issued in January 2003, identified major capital replacement projects for the next ten years that include more than \$6 million worth of projects pertaining to odor control. Facility staff have admitted to Channelkeeper in a recent meeting that there have been problems and complaints related to odor at the facility. We recommend that Staff consult the Carollo report and complaint logs and incorporate their findings into the final Staff Report.

**Staff Response:** Regional Board staff has not observed odor problems during its inspections, nor have complaints been reported to staff.

The City’s Capital Improvement Plan, December 2002, Appendix E, Odor Science Report – *Odor Assessment at the Santa Barbara El Estero Wastewater Treatment Plant*, Chapter 6.1, notes that the “El Estero plant has not been receiving an appreciable number of odor complaints.” Furthermore, while the assessment acknowledges that odors were detected offsite, the odor intensity was generally below that which is generally termed objectionable.

Additionally, on September 27, 2004, staff requested odor complaint logs from the City, and will review them upon receipt.

**Staff Action:** No changes recommended.

## ATTACHMENTS

1. Waste Discharge Requirements Order No. R3-2004-0122, and Monitoring and Reporting Program No. R3-2004-0122.
2. City of Santa Barbara letter dated September 10, 2004, providing comments on the draft NPDES permit.
3. Santa Barbara Channelkeeper letter dated August 26, 2004, providing comments on the draft NPDES permit.

## RECOMMENDATION

Adopt Waste Discharge Requirements Order No. R3-2004-0122, including changes recommended in the Response to Comments Section of this Staff Report.

S:\NPDES\NPDES Facilities\Santa Barbara Co\Santa Barbara\2004 Permit\SB Stf Rpt R3-2004-0122.doc  
 Task: 101-01  
 File: Discharger Correspondence; Santa Barbara City PWD / El Estero WWTP