

# Culver CITY

PUBLIC WORKS DEPARTMENT

9770 Culver Boulevard, Culver City, California 90232

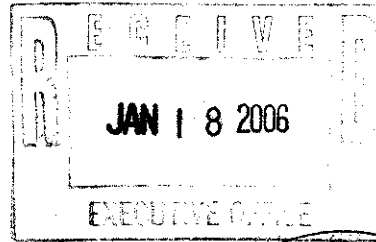


(310) 253-5600

FAX (310) 253-5626

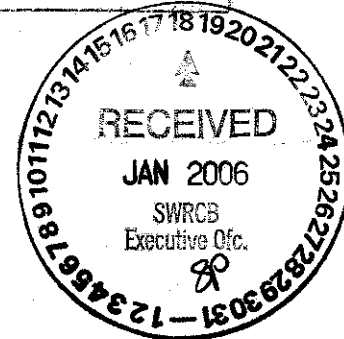
Charles D. Herbertson, PE, LS  
Public Works Director and  
City Engineer

Mate Gaspar, PE  
Engineering Services Manager



January 12, 2006

Tam Doduc, Chair and Members  
State Water Resources Control Board  
Executive Office  
1001 I Street, 24<sup>th</sup> Floor  
Sacramento, CA 95814  
Attn: Selica Potter, Acting Clerk of the Board



**Subject: Comments on the 12/5/05 Draft of Statewide General Waste Discharge Requirements (WDR) for Sewage Collection System Agencies**

Dear Chairwoman Doduc and Members:

In general, the proposed legislation appears to have some useful parts that may improve the sewer industry by preventing Sanitary Sewer Overflows (SSO's) such as having a Sewer System Management Plan (SSMP) with an Overflow Emergency Response Plan. However, there are some parts that seem to overlap other existing legislation (ie fats, oils & grease programs) and some sections of this proposal that may appear to overstep their stated purpose by regulating design of sewer systems that may for example, straddle authorities of general law cities and charter cities. There is still a lot of vagueness and questions of implementation in the proposal as it stands, yet the proposed legislation has an accelerated time schedule proposed. Therefore, the City of Culver City opposes the proposed legislation in its current form.

The City of Culver City recommends pushing the time frame back for implementation until at least 2010 and getting more input from proposed permittees. The state should organize input from Public Works Director/Sanitation Director's forums on this topic since these are the people that will be responsible for implementation of this proposed legislation.

The legislation should focus on its goal of preventing SSO's, be more up front about how the "civil monetary remedies for discharge violations" will be

administered (not just another taking by the state) and to further clarify the details of the proposal. Input by the attorney's should also be incorporated since there is a section for them in the SSMP. There are still many questions on how this legislation will actually be implemented. For example, the authority to certify and administer must be at the top of an organization and generally the SSO clean-up personnel are not. Until this program is workable in both a charter city and a general law city, this legislation should not be brought forward for implementation.

Some specific issues with the legislation as it stands are commented on below:

1. (#1) For established charter cities such as Culver City, how will this self-certifying "permit to operate a sewage collection system" work? How will it be administered by the State Water Resources Control Board? What are the liabilities for violations of the permit? What sort of other conditions will be attached to each permit? What will constitute a violation of the permit? Will it be based on the quantity of SSO? What will be the penalties for violation of the permit conditions?
2. (#9) How will the standards for "uniform SSO reporting" be developed. What will be the criterion? How will the "statewide electronic database" be paid for or administered? Will permittees have access to this database? In analyzing SSO's, what will be the goal of the analysis? Will stiffer penalties be developed from this analysis?
3. (#10) What is the extent of information that the SWRCB will be expecting following an SSO? What will constitute "complete, concise and timely fashion?" Why not have the Regional Board be the only reporting agency for an SSO and have them be responsible for reporting to all interested parties?
4. (#11) In these initiatives, does an SSO constitute a violation of the NPDES permit? How large of an SSO volume constitutes a violation?
5. (#13a) For clarification of this particular item, it needs to be recognized that Regional Boards throughout the state administer the California Clean Water Act differently. To "make uniform" the requirements throughout the state will more than likely make the requirements stricter for all. There should be some discussion among the proposed permittees about what the conditions of this "single general waste discharge requirement" will be.
6. (#13b) Need clarification on "unified statewide approach."
7. (#13c) How will "consistent and uniform standards of performance, etc." be defined?

8. (#13e) What constitutes a violation and what types of enforcement are being considered?
9. A. Definitions (#1) What is the Monitoring and Reporting Program?
10. (#4) Will permittees have access to this reporting system and the contents contained in it for other jurisdictions within the state?
11. C. Provisions (#1) What constitutes noncompliance?
12. (#2) How will an SSO be administered as to not overlap the violation of an NPDES permit? Will this constitute 2 violations? One for the NPDES permit and one for the "Permit to Operate a Sewage Collection System?"
13. (#13 SSMP iii a) In the goal of this section (i), it states that the SSMP goal is to prevent SSO's. Here it states that it is trying to regulate "illicit discharges" into the sewer system. Which one is it?
14. (#13 SSMP iii e) Will any monies or percentage thereof collected on municipal sewer violations as part of this act be intended to or required to be sent to the state?
15. (#13 SSMP iv c) What "relevant information" is expected to be maintained?
16. (#13 SSMP iv e) Need more criteria on the program for deficient systems.
17. (#13 SSMP iv f) Describe the "rehabilitation" plan. What type of "schedules" is this act referring to?
18. (#13 SSMP iv i & j) I believe these provisions overlap other existing legislation already in place.
19. (#13 SSMP v – Design & Performance Provisions) I believe this section can be developed by the state for general law cities and others working under the state's jurisprudence. For charter cities, these standards should be developed for city specific applications.
20. (#13 SSMP vii) Same comment as 17 above.
21. (#13 SSMP viii) Is this SECAP overstepping into sewer design requirements? How about a component system like Culver City? We take sewage from LA and it passes through our system back to an LA

system before going to Hyperion Treatment Plant. If a sewer system is dependent on another system, there are many hydraulic deficiency issues that are beyond the control of Culver City. I think this section should be deleted and perhaps focus on SSO's. For example, if there are constant SSO violations on a particular sewer, this should trigger a penalty larger than it would cost to operate the sewer throughout the year (rainy and non-rain seasons). This penalty can then be mitigated to improve the problem for the long term if the jurisdiction performs the improvement.

22. (#13 SSMP x) What will be the measurement of "effectiveness?" For example, if you had no SSO's one year and you had one SSO the next but you have been improving your sewer system, does this still constitute ineffectiveness? What will be the penalty for not complying with the two year audits?
23. (#13 SSMP xi) The City can do a staff report once per year to comply with this section. "Satellite systems" needs to be further clarified.
24. (#14) How is compliance established? Who in the agency can be the representative? Does it have to be the City Manager or can it be a clerk or the Governing Board?
25. (#15) The schedule is quite quick. Is this an unfunded mandate since the state has taken money from cities, how are jurisdictions expected to pay for these programs? Perhaps the schedule should be put back to at least 2010.
26. (11) If only an executive officer or ranking elected official are allowed to certify reports, applications ,etc. will sanitation workers or those responsible for SSO clean-up and reporting be restricted from access to the SSO Database?

The City of Culver City is supportive of the goals of the State Water Resources Control Board to implement the Sanitary Sewer Overflow Reduction Program to reduce the number and volume of Sanitary Sewer Overflows throughout the state.

However, the City of Culver City believes that the projected \$72 annual cost per household to implement the Statewide WDR that is shown in the Fact Sheet may underestimate the true cost for smaller cities such as ours. Even if the cost projection proves accurate, it does represent a very significant cost increase to be borne by our ratepayers. The State should attempt to identify a source of funding to support these new costs rather than simply requiring the cities to enact rate increases to cover the costs. Most importantly, these additional costs should not be further increased by fines or third party litigation due to SSO's that occur

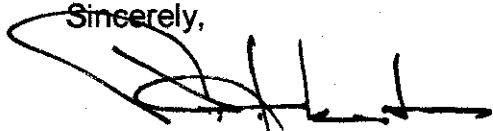
even after full SSMP implementation and full compliance with WDR and MRP requirements. The WDR must strongly differentiate between negligent and non-negligent SSO's, and must provide our residents with protection against the cost impact of fines and lawsuits based on SSO's that occur even after our collection system is managed, operated and maintained according to the standards and requirements established by this new regulatory program.

Additionally, the City of Culver City believes that the proposed time schedule for implementation of the various program elements is too short and overly prescriptive. In particular, for our city, with a population of approximately 40,000, development and implementation of a comprehensive Overflow Emergency Response Program within 12 months, which will require new equipment, personnel and training, would be difficult. The City of Culver City believes that more time should be afforded and separate deadlines for individual program elements should be eliminated.

The City of Culver City strongly urges the SWRCB not to adopt the WDR and MRP without cost support, protection for our ratepayers from potentially unfair and unreasonable regulatory fines and third party litigation, workability for a charter city and additional time for program implementation.

If you should have any questions, please contact myself at (310) 253-5630 or Senior Civil Engineer Dan Garcia at (310) 253-5604.

Sincerely,



Charles D. Herbertson, PE, LS  
Public Works Director and City Engineer

cc: Members of the City Council  
Jerry Fulwood, Chief Administrative Officer  
Carol Schwab, City Attorney  
James F. Stahl, Director of the LA County Sanitation District