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SSO Hearing: 2/8/06

January 18, 2006

Selica Potter, Acting Clerk to the Board
State Water Resources Control Board
Executive Office
1001 I Street, 24th Floor
Sacramento, CA 95814



Subject: **COMMENT LETTER**
2/08/06 PUBLIC HEARING FOR SSORP

Dear Ms. Potter:

Las Virgenes MWD is a special district located in the western portion of Los Angeles County and provides water and wastewater services to four incorporated cities and unincorporated county lands over a 122 square mile service area. The majority of our service area lies within the Malibu Creek Watershed. The district owns and operates the Tapia Water Reclamation Facility and 60 miles of trunk sewer lines. There are several more hundreds of miles of satellite collection systems owned and operated by the cities and counties over which the district has no legal authority.

We appreciate this opportunity to present the following comments on the proposed statewide collection system waste discharge requirements.

- **The WDRs require local agencies to undertake an extensive and expensive new program without providing adequate protection from enforcement of unavoidable SSOs:** A "zero SSO standard" is not attainable, because spills can be caused by factors beyond the control of the system owner/operator. Therefore, the WDRs should provide collection system entities with protection against fines and lawsuits based on SSOs if a collection system is managed, operated and maintained according to the standards and requirements established by this new regulatory program. Ideally, this protection would come in the form of an "affirmative defense" to liability for the SSO; at a minimum, the WDRs should include language providing clear direction to the Regional Water Boards that they should ordinarily not take enforcement action where certain criteria are satisfied.



- **Unless amended, the WDRs Will Subject Some Agencies to Duplicative or Conflicting Requirements:** The WDRs specify that Regional Boards may impose more stringent or more prescriptive requirements than those set forth in the WDRs, which subjects collection systems to a moving target and is directly contrary to the goal of a unified statewide program. The WDRs should specify that once a collection system operator has been approved for coverage under the WDRs, the regional boards may not impose different or more stringent requirements except where legally required. A similar problem is presented with regard to existing permits that include collection system requirements. The WDRs should be amended to make clear that each collection system is governed by either an individual permit or the general WDRs—not both. The district received a new NPDES permit for our Tapia facility in November 2005. This order contains provisions related to our trunk sewer system that differ and exceed those in the proposed WDRs illustrating that public agencies are subject to a moving target and uncoordinated regulations.
- **The proposed WDRs set forth an overly prescriptive detailed schedule for completing individual elements of the SSMP.** This approach does not provide sufficient flexibility for individual agencies to design and implement an SSMP appropriate to their particular circumstances. Rather than specify individual compliance dates for the SSMP interim milestones, the WDRs should simply specify the deadline for completion of an SSMP that includes all the required components.
- **The WDRs require reporting of every SSO, which is inconsistent with existing regulations.** Current regulation requires reporting of SSOs of 1,000 gallons or more as well as of any spill that reaches or threatens to reach surface waters. There is no water quality or public health benefit from reporting all spills, and the result will be misleading statistics suggesting a dramatic increase in SSOs when the online reporting system goes into effect. The district received a new NPDES permit for our Tapia facility in November 2005. This order contains provisions that SSOs over 500 gallons be reported while the previous requirement was to report SSOs over 1,000 gallons. This illustrates the very concern expressed above.
- **The water quality and public health benefits of the WDRs have not been demonstrated.** The WDRs are founded upon an assumption that reducing SSOs statewide will improve water quality and protect public health. This premise is taken from the experience of some coastal communities with regard to beach closures, yet the benefits in other regions, particularly inland, desert and rural areas have not been articulated by the State Water Board.

Comment Letter
2/8/2006 Public Hearing for SSORP
January 19, 2006

- **The WDRs need to clearly state that the responsibility for satellite systems are the owners of those systems and NOT the POTW.** Although the district receives and treats sewage from local cities and counties within our service area we do not own or operate the satellite systems and have no legal authority to enforce provisions of the proposed WDRs. If the interpretation that all current POTW NPDES permits can be expanded to include satellite systems is used it would place a significant unfunded mandate on the district in particular if the "zero SSO standard" is used for systems we have no control over.

I would like to thank you for this opportunity to comment on these proposed regulations. If you have any questions please do not hesitate to contact me at 818-251-2221.

Very Truly Yours,



David R. Lippman, P.E.
Director of Facilities and Operations

c: Roberta Larson, Esq.