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KAMIL S. AZOURY, P.E.

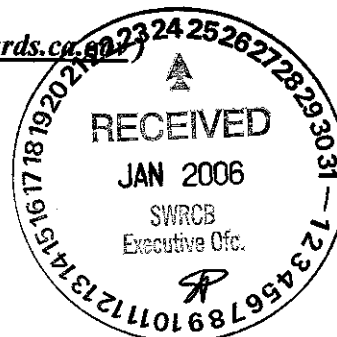
January 24, 2006

A PUBLIC AGENCY  
www.goletasanitary.org

SSO Hearing: 2/8/06

*Via Overnight Delivery and E-mail (commentletters@waterboards.ca.gov)*

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



**Subject: COMMENT LETTER – 1/19/06 PUBLIC HEARING FOR SSOPR**

Dear Board Members:

**I. INTRODUCTION**

We are writing to provide you with our comments relating to the proposed Statewide General Waste Discharge Requirements for Wastewater Collection System Agencies (the "WDRs"). It is our understanding that your Board will be considering the proposed WDRs at a public hearing scheduled for February 8, 2006.

**II. BACKGROUND**

The Goleta Sanitary District ("GSD") owns and operates a regional wastewater treatment facility located in the unincorporated area of Santa Barbara County known as Goleta, approximately 8 miles west of the City of Santa Barbara and adjacent to the City of Goleta. The GSD plant treats municipal wastewater from within the GSD boundaries and from (i) the adjacent Goleta West Sanitary District, (ii) the City of Santa Barbara Municipal Airport, (iii) certain facilities owned by the County of Santa Barbara, and (iv) the University of California at Santa Barbara. These tributary agencies each own capacity rights in the GSD treatment plant and own and operate their own wastewater collection systems.

GSD also owns and operates a collection system consisting of approximately 127 miles of sewer lines, as well as pump stations and related facilities. GSD has historically managed its collection system in an exemplary manner and has won numerous awards relating to its collection system operation, maintenance and repair programs. These awards are clear evidence that GSD takes very seriously its responsibility to protect the environment. In the past 5 years, GSD has had only one (1) sanitary sewage overflow

("SSO") from its collection system that exceeded the reporting threshold of 1000 gallons. This is far below the industry standard of 6-7 reportable SSOs per mile of collection system per year.

### III. COMMENTS ON PROPOSED WDRs

#### A. **The WDRs Need to Clearly State that Special Districts are not Responsible for Reporting and Responding to SSOs from Private Collection Facilities**

The draft WDRs dated August 1, 2005 indicate at the top of page 4 that agencies subject to the WDRs would not be responsible for reporting sanitary sewer overflows ("SSOs") originating from privately-owned laterals. The current draft WDRs (December 5, 2005) make it difficult to determine (i) whether agencies subject to the WDRs will be held responsible for responding to and/or reporting spills from private collection systems, (ii) whether an agency's obligations change if a spill from a private system reaches a street, storm drain or waters of the State, and (iii) whether a spill from a private system is considered an "SSO" for any purpose under the WDRs. The definitions for "Sanitary Sewer Overflow" under Sections A.1.(i) and (ii) at page 5 of the December 5, 2005 draft WDRs appear to apply to all overflows, regardless of where they originate. The definition for "Sanitary Sewer System" under Sections A.2. at page 5 makes no distinction between public and private facilities.

GSD strongly believes that agencies subject to the WDRs should have no responsibility for responding to and/or reporting spills from private collection systems, even when such spills reach a street, storm drain or waters of the State. This is of particular concern to GSD because, as a special district, it does not have the legal authority to adequately respond to private spills. GSD was formed under the Sanitary District Act of 1923 (Health & Safety Code Section 6400 et seq.). As such, it is a district of limited powers and can perform only those functions that its enabling legislation authorizes it to perform. GSD can also only perform such services as have been approved by the Local Agency Formation Commission (LAFCO). LAFCO reviews the functions and services of local agencies with overlapping boundaries to ensure that conflicts do not arise regarding the services the agencies provide. Responding to sewage spills on private property is not currently within the scope of GSD authorized services.

Unlike a city that owns wastewater collection facilities and also performs an array of other municipal functions including storm water control, GSD's jurisdiction is generally limited to the operation, maintenance and repair of its treatment plant and collection system facilities. The limited scope of GSD's authority means that it is not responsible for any portion of a sewage collection system located on private property, for other private sewer facilities, or for responding to or cleaning up sewage spills originating on private property.

The local roadways and storm drain systems within GSD's service area are owned and maintained by the County of Santa Barbara and City of Goleta, and come under the jurisdiction of those agencies' Public Works Departments. GSD has no ownership rights in and no authority to access storm drain facilities and, therefore, cannot address private sewer spills that enter storm drains. Similarly, GSD has no authority to enter creeks or other water bodies without permission from the Department of Fish & Game and/or other regulatory agencies, and GSD cannot enter private property without the consent of the owner in order to respond to private sewer spills.

Finally, the fees GSD collects from its ratepayers are tied directly to the cost of the specific services GSD provides. These fees do not cover the costs that would be incurred if the District were required to respond to sewage spills originating on private property. GSD believes it would be inequitable to impose a general rate increase to cover such costs and that such costs should instead be paid by the private party on whose property the spill originates. In addition, in light of Proposition 218's requirement for voter approval of "property related" charges, it may not be possible for GSD to increase its fees to cover the cost of cleaning up private sewage spills.

If any agency is to be given the responsibility for responding to sewage spills originating on private property, it should be an agency with the authority to properly address those situations. In addition, it should be an agency that has general sources of revenues available to cover the cost of such services. The responsibility should not be imposed on a district of limited powers like GSD because such agencies generally lack the necessary legal authority and have fee structures that cannot be readily adapted to cover the cost of such services.

For these reasons, GSD believes that the WDRs need to clearly state that they do not impose on agencies subject to the WDRs any responsibility for responding to, cleaning up or reporting wastewater spills or overflows originating from privately owned wastewater facilities.

#### **B. Other Interested Parties Need to Be Involved**

The foregoing discussion also highlights the need for coordination between the various affected agencies and interested parties with respect to collection system issues. Before any new collection system requirements are adopted, the SWRCB should hold workshops with other agencies and departments that play a role in responding to SSOs originating on private property, including, for example, representatives of (i) county and city public works departments, (ii) county and city public health departments, (iii) county and city fire and emergency services departments, (iv) California Department of Fish and Game, (v) U.S. Army Corps of Engineers, and (vi) private companies involved

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<sup>1</sup> We are enclosing for your information a letter dated November 2, 2005 from Penfield & Smith, a private engineering firm employed by GSD on certain projects. The letter illustrates the regulatory overlaps that exist and the number of separate agencies involved when an SSO occurs.

in responding to SSOs. All of these parties have an interest in any collection system requirements imposed by the SWRCB and all of them could provide valuable assistance with the development of reasonable and workable collection system provisions and SSO procedures. The participation of all these stakeholders should be required so that workable requirements for responding to private SSOs can be developed that recognize and harmonize the different areas of responsibility. If this is not done prior to the adoption of the WDRs, each agency subject to the WDRs will be required to address at the local level the complications associated with the overlapping jurisdictions and different areas of responsibility of the affected parties. Requiring collection system owners to address these issues on their own at the local level will also result in a lack of consistency with respect to how private SSOs are handled.

**C. The WDRs Need to Expressly Rescind and Supersede Collection System Requirements Previously Imposed by Regional Boards**

The WDRs do not adequately address the situation where a Regional Water Board has previously imposed its own collection system requirements on an agency through an NPDES permit or waste discharge requirements. The draft Fact Sheet states at page 7 that “[i]t is the State Water Board’s intent to have one statewide regulatory mechanism that lays out the foundation for consistent collection system management requirements and SSO reporting.” At page 8 the draft Fact Sheet states that, “as time allows and, at a minimum, upon readopting existing WDRs or permits, the Regional Water Boards should rescind redundant or inconsistent collection system requirements.” The Fact Sheet also states at page 8 that “there will be some instances where the Regional Water Boards will need to impose more stringent or prescriptive requirements. In those cases, this Order will not supersede a more specific or more stringent requirement contained in a WDR or NPDES permit issued by a Regional Water Board.”

GSD is currently subject to comprehensive collection system management requirements that were imposed by the Central Coast Regional Water Quality Control Board in November of 2004. GSD is in the process of implementing these requirements. In many cases the requirements imposed by the Regional Water Board differ from those contained in the State Water Board’s proposed WDRs. In addition, in many cases it cannot be readily determined whether one requirement is more stringent than another, or whether the State Board and Regional Board requirements are redundant, inconsistent or simply different. Accordingly, if the Regional Water Boards simply address these differing requirements “as time allows” or upon readopting existing WDRs or permits, there could be a period of years during which GSD may be forced to implement parallel and redundant collection system management and reporting programs to ensure compliance with the requirements of both the State Water Board and Regional Water Board.

GSD believes the best way to address this issue is to have the State Water Board’s WDRs clearly provide that they rescind and entirely supercede any collection system

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management and spill reporting requirements previously imposed by Regional Water Boards. If Regional Water Boards need to impose more stringent or prescriptive requirements in the future to address particular circumstances, they may do so after making appropriate findings and following required procedures. In this way it will be clear from the outset which collection system and reporting requirements apply to every agency.

**D. Support of CASA and Tri-TAC Comments**

GSD also wants to go on record as supporting the comments which have been submitted to the SWRCB by the California Association of Sanitation Agencies (CASA) and Tri-TAC in connection with the WDRs. In particular, in light of the fact that SSOs cannot be entirely eliminated, GSD believes the WDRs should provide for a specific affirmative defense in cases where an SSO is clearly beyond the reasonable control of the collection system owner who has fully implemented a certified SSMP. GSD also endorses the CASA and Tri-TAC proposal to establish different categories for spills and to trigger enforcement only where a spill reaches waters of the State or has the potential to harm public health and/or the environment.

\* \* \* \* \*

We appreciate your consideration of these comments.

Respectfully submitted,

GOLETA SANITARY DISTRICT



Kamil S. Azoury, P.E.  
General Manager/District Engineer

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**Penfield & Smith**  
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November 2, 2005

RECEIVED

NOV 03 2005

Mr. Kamil S. Azoury, P.E.  
General Manager/District Engineer  
Goleta Sanitary District  
One William Moffett Place  
Goleta, California 93117

Goleta Sanitary District

Subject: **Sewer Pipe Repair within Las Vegas Creek, APN 077-170-015**

Dear Mr. Azoury:

On October 24, 2005, Dave Rundle and I had an opportunity to view the area in which the Goleta Sanitary District (GSD) would like to repair an existing sewer pipe that traverses Las Vegas Creek near Stow Canyon and Barling Terrace Roads on Assessor Parcel No. 077-170-015. It is my understanding that during recent routine maintenance activities, the Santa Barbara County Flood Control and Water Conservation District (FC&WCD) severed the pipe causing raw sewage to spill into the creek. In response to the situation, the Goleta Sanitary District performed emergency work to repair the pipe. While the repair was suitable to temporarily cease the flow of sewage, the GSD would like a long-term solution so that the pipe will not be disturbed by future FC&WCD maintenance activities. The long-term design solution would include removing the vitrified clay pipe and replacing it with ductile iron or PVC pipe and encasing the pipe in concrete. This letter summarizes the permit requirements to perform such work. It should be noted that the emergency work performed also requires an "as-built" permit from each of the agencies identified, which could be incorporated into the proposed project.

The project site falls within the jurisdiction of several agencies including the City of Goleta, Regional Water Quality Control Board (RWQCB), the California Department of Fish and Game (CDFG), and the U.S. Army Corps of Engineers (COE). Each agency has its own definition of an emergency but all are very similar to that specified in Section 21060.3 of the Public Resources Code, which states:

*"Emergency means a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services. "Emergency" includes such occurrences as fire, flood, earthquake, or other soil or geologic movements, as well as such occurrences as riot, accident, or sabotage."*

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The COE has a more liberal definition in that it takes into consideration economic hardship:

*"Emergency means a situation which would result in an unacceptable hazard to life, a significant loss of property, or an immediate, unforeseen, and significant economic hardship if corrective action requiring a permit is not undertaken within a time period less than the normal time needed to process the application under standard procedures."*

Although the initial work performed to repair the pipe to halt the flow of sewage would qualify under both definitions, any subsequent work would require standard permits to be issued. Many of the required permits could be processed concurrently.

#### City of Goleta

Permits: Land Use Permit, Grading Permit  
 Estimated Time: 3-5 months for Land Use Permit, 1-2 for Grading Permit (these timelines run sequentially)  
 Fee: Approximately \$1,500

The City of Goleta's permit process is continually in flux as they have not finalized the city's general plan. Based on current requirements, any work within a creek would be subject to Environmentally Sensitive Habitat requirements. These standards state that a Land Use Permit is required when:

- ❖ Grading in excess of 50 cubic yards
- ❖ Removal of vegetation along 50 lineal feet of creek bank
- ❖ Removal of vegetation over an area greater than 5,000 s.f.

A subsequent Grading Permit would also be required.

#### Regional Water Quality Control Board

Permit: Water Quality Certification  
 Estimated Time: 3-4 months  
 Fee: Approximately \$500

Any work within a stream channel requires a Water Quality Certification issued by the Central Coast RWQCB.

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California Department of Fish and Game

Permit: Streambed Alteration Agreement  
Estimated Time: 3-4 months  
Fee: Approximately \$500

Any work within 50 feet of the top of a creek bank requires a Streambed Alteration Agreement (SAA). The SAA typically requires project mitigation to offset any impacts to the creek. Commonly applied mitigation encompasses conducting work outside of the designated rainy season (November to April) and implementing a habitat restoration plan.

Army Corps of Engineers

Permit: Nationwide Permit Authorization  
Estimated Time: 3-4 months  
Fee: Approximately \$500

Any work within a stream channel requires authorization by the Army Corps of Engineers. The COE also has common mitigation used to offset any impacts to a creek. Typical mitigation includes working outside of the rainy season and implementing a habitat restoration plan.

Given that the rainy season is rapidly approaching, it is very possible that the reviewing agencies would require the project to occur in Spring 2006. Permitting timeframes may cause the same result by default. Fees are estimated to be between \$3,000 and \$5,000, although they could increase depending on each agency's response to an application.

I would be happy to discuss this letter with you in greater detail. I can be reached at (805) 963-9538 x125.

Very truly yours,

PENFIELD & SMITH

*Jessica Kinnahan by NMP*  
Jessica Kinnahan, AICP  
Senior Planner

C: Dave Rundle