

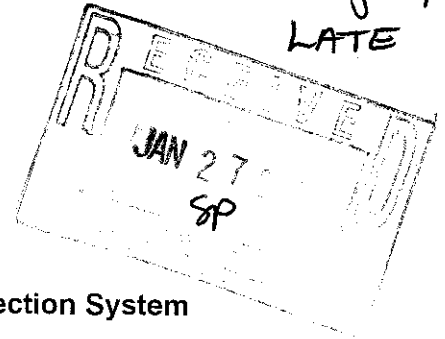
# City of Downey

FUTURE UNLIMITED

SSO Hearing: 2/8/06  
LATE

January 23, 2006

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



**Re: Comments on 12/5/05 Draft Wastewater Collection System  
Statewide General WDR**

**CITY COUNCIL**  
MEREDITH H. PERKINS  
MAYOR  
RICK TREJO  
MAYOR PRO TEMPORE  
DAVID R. GAFIN  
COUNCIL MEMBER  
KIRK O. CARTOZIAN  
COUNCIL MEMBER  
ANNE M. BAYER  
COUNCIL MEMBER

**CITY MANAGER**  
GERALD M. CATON

**CITY CLERK**  
KATHLEEN L. MIDSTOKKE

Dear Chair Doduc and Board Members:

The City of Downey would like to provide the following comments and express our opposition to the draft proposal to impose Statewide General Waste Discharge Requirements (WDR) on Wastewater Collection System Agencies. The City of Downey has a dedicated Wastewater Utilities Department that provides conveyance services for over 110,000 residents, through nearly 22,000 residential and over 700 commercial connections and cooperated in allowing the County Sanitation Districts of Los Angeles County to represent our interests during statewide negotiations. While we share the Board's desire to control Sanitary Sewer Overflows (SSOs), it was discouraging to learn that the December 5, 2005 draft, incorporated Non-Governmental Organization recommended changes that doubled the length and complexity of the August draft, ignores how unpredictable conveyance system failures are, will result in increased sewerage conveyance costs, and facilitate frivolous third party initiated litigation that saps local resources.

The December draft overlaps with Section F.1 of Part 4 of the Municipal Separate Storm Sewer System (MS4) Permit and has the potential to result in significant duplication of effort, increased agency conflicts, and few water quality improvements. The draft should have been shortened by eliminating deficient clarifications, such as paragraphs A.1(i) and (ii), which attempt to modify the definition of Sanitary Sewer Overflow (SSO) based on wastewater spills "that reach" or "that do not reach" surface waters, begging the question as what third possibility might exist. The following paragraph (iii) then defines a SSO based on the blockage location, ignoring that the discharge impact might be identical in any case and that tree roots and other blockages often extend down privately owned systems into the "public owned portion" of the sewer. In fact, integrity failures in privately owned systems often results in blockages of the public system and this proposal will simply increase the tension that exists between citizens and public agencies. This SSO definition should respect an intentional agency "diversion", during sewer maintenance and replacement activities, which in fact are often contained along their entire length. The Untreated Wastewater definition

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includes a volume component, which should be in the SSO definition. The City also rejects finding 18 and recommends that full CEQA analysis be conducted as this proposal significantly impacts the provision of all government services (due to funding diversions), the supply of housing (due to significantly higher connection costs), and will require the construction of new facilities, rather than only applying to "existing facilities". Technically, the December 2005 document is flawed and favors conflict over water quality.

Starting with the findings, the December draft ignores the contribution of rare "Act of God" level of events, common natural intrusion of tree roots, and vandalism on sanitary systems. After the January 1994 Northridge earthquake, sewer lines throughout the cities of Los Angeles and Santa Monica were found to be fractured and only a small fraction of those in other areas of the County were sufficiently inspected to assess structural damage. During major storms, inflow and infiltration can overwhelm even a well-maintained sewer system, causing manholes to rise and discharges to occur. The proposed WDRs are so draconian as to encourage the removal of parkway trees, whose roots often aggressively intrude into the public sewer through privately owned laterals. Finally, in many areas, vandals continue to open access holes to illegally drain runoff or dump trash, sand and other materials. These factors are beyond the control or prediction of any agency and although we should all try to reduce their occurrence and impact, this proposal encourages too many changes than can be instituted within the provided timeline.

The fact sheet that accompanies the December 2005 draft concludes with an estimated annual household cost of nearly \$72 and characterizes this as a "manageable sum." While this estimate provides a useful point of discussion, it does not include what might be substantial litigation costs and many of our retired and disadvantaged residents would disagree with the accompanying assertion. The City of Downey would encourage that this Statewide General WDR be funded initially through the initiative process and furthermore, once instituted by the State government, it could be adjusted through additional local fees and assessments. This would most clearly link the protection of state waters with each and every resident of the state.

The most discouraging aspect of the December draft is the loss of an affirmative agency defense clause, especially in light of the extensive certification and self reporting requirements. While it is reasonable to regulate this program under a State Waste Discharge Requirement, the continue shortfall in government resources suggest the beginning of a protracted program discussion or worse. The citizens of Downey, and other agencies throughout the rest of the state, which generally provide well managed and maintained wastewater conveyance systems, should not be held hostage by interlopers who may only be responsible to themselves. The City of Downey believes that staff of the State Water Boards can best serve the citizens of California by directly enforcing these regulations and not encouraging the wasteful efforts of trial lawyers.

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In conclusion, the City of Downey strongly urges the State Board to return the proposed Waste Discharge Requirements and Monitoring and Reporting Plan to staff, with a direction that it incorporate language that protects the wastewater agencies from unfair and reasonable regulatory fines and third party litigation. During this revision, the staff should further review the document with the original stakeholder group to eliminate technical irregularities, regulatory duplications, and nebulous definitions that will fuel further fruitless contentions and conflict.

Sincerely,

  
Meredith Perkins  
Mayor

cc: City Council Members  
City Manager  
Mr. James Stahl, County Sanitation Districts of Los Angeles County