

# Bay Area Clean Water Agencies

Leading the Way to Protect Our Bay

A Joint Powers Public Agency

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Oakland, California 94623

January 25, 2006

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



SSO Hearing: 2/8/06

Email: [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)

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

Dear Ms. Potter:

Thank you for the opportunity to comment on the draft waste discharge requirements (WDR) for sanitary sewer overflows (SSOs) in California. The Bay Area Clean Water Agencies (BACWA) members own and operate publicly-owned treatment works (POTWs) that discharge to San Francisco Bay and its tributaries. In addition, BACWA members include collection system agencies that are either part of the same agency as the POTW, or are tributary to a separate POTW agency. Together, BACWA's members serve over 5 million people in the nine Bay Area counties, treating all domestic, commercial and a significant amount of industrial wastewater. BACWA was formed to develop a region-wide understanding of the watershed protection and enhancement needs through reliance on sound technical, scientific, environmental and economic information and to ensure that this understanding leads to long-term stewardship of the San Francisco Bay Estuary.

BACWA was instrumental in assisting the San Francisco Bay Regional Water Quality Control Board with the development of a comprehensive sanitary sewer overflow (SSO) control program including electronic reporting and the development of sewer system management plans in advance of the proposed state-wide program. We are very interested in ensuring that the new state program does not conflict with our successful regional program. Our comments are described below.

**1. BACWA supports a uniform state-wide approach to regulatory requirements for collection systems.**

BACWA supports the development and application of state-wide uniform regulatory direction for collection systems. It is important to be consistent state-wide, but also to rely on practical experience based on programs already implemented to date.

**2. BACWA urges the State Water Board to include an affirmative defense in the WDR.**

The absence of affirmative defense language is an omission that will have severe consequences for collection system agencies and will result in the expenditure of significant sums of public money with no appreciable improvement in public health or water quality, because some SSOs are unavoidable even within the best-operated collection systems in the state. We strongly support including an affirmative defense for SSOs in this WDR.

**3. Absent an affirmative defense language, the State Water Board should require Regional Water Quality Control Boards to use the enforcement discretion indicated in the proposed WDR.**

It is very important for Water Board staff to fully evaluate mitigating factors when analyzing SSOs for enforcement. The proposed language contains directions to staff to conduct such an analysis prior to executing enforcement action and we request that the Board reinforce such instructions at the time of adoption of the final WDR.

**4. The State Water Board must ensure that there are no conflicts with the Region 2 SSO Control Program already successfully implemented.**

BACWA requests the State Water Board carefully coordinate the WDR implementation with the existing Region 2 SSO Control Program in order to make the process as efficient as possible for implementation and compliance assessment. We do not want to witness a backlash from frustrated collection system agencies that have cooperated to date with regional efforts but could become confused and disengaged if state-wide efforts are not coordinated properly, including education and outreach about exactly what is expected.

BACWA specifically requests that all Bay Area agencies that currently participate in the Region 2 electronic reporting system be exempted from reporting to the State system until such time as the State system is fully operational and the Region 2 system can be seamlessly merged with the State system. This approach will ensure that no data is lost and avoids duplicate reporting.

**5. The State Water Board must indicate that the Operations and Maintenance Program should also be known as the Measures and Activities Program.**

It is important to recognize this additional term that is now in common usage around the state, due to the draft, unpublished federal regulations for sanitary sewer overflows, including requirements for a capacity, management, operations and maintenance (CMOM) program that used this terminology starting many years ago.

**6. The implementation of a Fats, Oils, and Grease (FOG) Program, if deemed appropriate and useful for an agency, must remain discretionary with respect to the content of a program.**

BACWA supports the development of FOG control programs for agencies that have FOG control issues within the sewer system. However, it is imperative that agencies retain discretion in the content of a FOG control program, since the nature of the problem varies among communities.

**7. The State Water Board should not waste scarce public resources for reporting very small overflows.**

BACWA requests that the State Water Board require reporting only for SSOs greater than 100 gallons except when there is a fish kill or a threat to public health and safety. The 100 gallon lower limit helps ensure two important goals of the WDR:

a. To monitor and prevent SSOs that have a material effect on the environment, and the public health and safety. SSOs smaller than 100 gallons do not pose a threat to water quality or public health and will divert attention and resources away from significant overflow events.

b. To ensure accurate SSO reporting by collection system agencies. SSO reporting requires agency staff time and resources to produce accurate results. Agency resources are finite and will be diluted by reporting small overflows to the detriment of the level of investigation and accuracy of reporting.

**8. The State Water Board must support the SSO control program with guidance documents, technology transfer, and financial assistance for communities.**

BACWA believes in the advantages of preparing an SSMP. These advantages include the development of an enhanced understanding of the means for improving the overall performance of wastewater collection systems and sustaining infrastructure integrity.

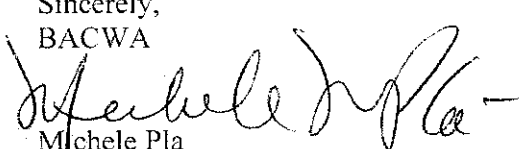
The chief disadvantages are cost and complexity, which will have the most negative impact on small and some medium utilities. We strongly suggest that the State Water Board support the development of guidance documents, technology transfer, and financial assistance for communities that will be the most heavily impacted.

**9. The State Water Board MUST allow enough time to implement an accurate electronic SSO reporting system.**

Early pilot testing of the state-wide electronic SSO reporting system has indicated that it has a long way to go prior to full scale operation. The information entered into and maintained in the system will have wide-ranging uses and impacts. The major challenge is that it will have thousands of agency staff entering data. Training, documentation, error checking, and quality control will be significant issues that will require significant time and resources to produce a reliable product. For this reason, and based on our experience in Region 2 with a very similar program, we ask the State Water Board to provide adequate resources and to be conservative in its implementation schedule.

Please let us know if you have any questions. Thanks again for the opportunity to comment.

Sincerely,  
BACWA

  
Michele Pla  
Executive Director

cc: BACWA Principals

Doug Humphrey, BACWA Collection Systems Committee Chair

Ben Horenstein, Tri-TAC Water Committee Co-chair

Jim Kelly, CASA Water Issues Forum Chair, CASA

Roberta Larson, CASA Director of Legal and Regulatory Affairs