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October 7, 2009

Mr. James Fischer  
Waste Discharge Requirements Unit  
State Water Resources Control Board  
1001 I Street, 15<sup>th</sup> Floor  
Sacramento, CA 95814

Subject: Comment Letter - SSO Reduction Program Review and Update

Dear Mr. Fischer:

In response to the Sanitary Sewer Overflow (SSO) Reduction Meeting of September 29<sup>th</sup>, the City of Modesto would like to register their opinions in regards to the issues that were raised during the program review and update.

In regards to the implementation of a new SSO – WDR General Orders, the City of Modesto agrees with Tri-TAC that the current WDR has not been in existence long enough for everyone to be in compliance or for any standards to have been established. In order to assess whether a program is working, it is imperative that there be sufficient time to study the results. If the program is changed at this point in time, it will not only make the process of data collection insignificant, but it will also cause undue stress and hardship on the agencies currently in compliance and confusion to agencies who are working to achieve compliance. It is also important to recognize that in the current financial climate, it is difficult, at best, to increase agency budgets to cover the additional requirements of the General Order. Many agencies are already stretched to the breaking point and are having difficulty finding funding to comply with the current General Order. If the General Orders are changed, it will require returning to Councils or Boards to request additional funding. In light of the fact that agencies have recently requested funds to comply with the current General Order, Councils and Boards may not be receptive to additional funds without data that supports that its monies are well spent. Until the current program has been completely implemented, it is unfair to the agencies that are reporting to change the rules. The City of Modesto requests that agencies be given additional time to comply with the current General Orders before any changes are implemented.

In the meeting, it was suggested that WDRs be converted to NPDES Permits. The City of Modesto opposes this conversion. Converting WDRs to NPDES Permits exposes agencies to the possibility of individual lawsuits by organizations such as Environmental Watch Groups. Although agencies are not unsympathetic to these organizations and their goals, exposing agencies to unnecessary litigation does not foster relationships that are mutually beneficial. With the current economic climate, it is difficult enough to find monies to fund the requirements of the General Order without adding unnecessary costs to strain the finances even more.

The City of Modesto also requests that there be some adjustment in the SSO General Order to better define the thresholds for spills that are reported. Small spills, i.e. less than 100 gallons, that do not impact public resources overburden the reporting system, as well as overburdening the Staff at OES under the 2-hour reporting requirement. The City of Modesto would also like to see definition regarding single blockages that cause multiple spills. By reporting individual SSOs rather than the precipitating event, it presents a skewed picture of the actual SSO events. It is advantageous to have SSOs linked to their participating events and would be more representative of the number of events for Benchmarking purposes. Additionally, the City of Modesto would like to have definitions regarding 'private laterals' which cause spills. When a spill is caused by a lateral on private property, the agency has little to no control over the event. There are legal issues involved in accessing and regulating laterals on private property. Many agencies only control the main laterals outside of the public right-of-way.

Thank you for your consideration to our concerns.

Yours truly,



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CC: Nick Pinhey, Director of Public Works