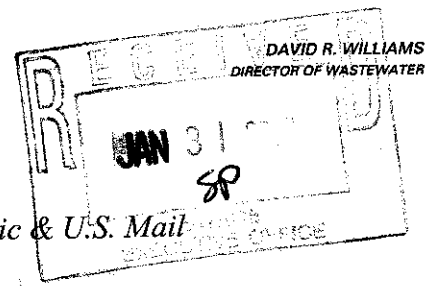




January 25, 2006

Ms. Tam Doduc, Chair & Members  
State Water Resources Control Board  
10011 I Street  
Sacramento, CA 95814

Via Electronic & U.S. Mail



Attention: Selica Potter, Acting Clerk to the Board

Dear Chair Doduc and Members:

Re: Proposed WDRS for Sanitary Sewer Collection Systems

East Bay Municipal Utility District (EBMUD) appreciates the opportunity to provide comments regarding the proposed waste discharge requirements (WDRs) for sanitary sewer collection systems in California. EBMUD provides water and wastewater services to approximately 2.2 million persons in the East San Francisco Bay area.

EBMUD would like to applaud State Board staff, specifically Mr. Bryan Brock. He developed an extensive robust outreach communication and participation process that was extremely resilient over a 2-year period. Mr. Brock had monthly meetings and conference calls with any and all interested parties that included dozens of collection system agencies, NGOs, and regulators. Mr. Brock worked to resolve issues of concern in a very open transparent manner, communicating the pros and cons of different approaches and sharing the legal, technical or practical basis behind his recommended alternatives. EBMUD believes the State Board should recognize Mr. Brock for this effort and perhaps consider a broad application of the process he developed to other State Board regulatory initiatives.

EBMUD supports the comments contained in the letter from TriTAC, CASA, and other local government associations. EBMUD comments are intended to highlight a key issue identified in that letter concerning with one specific issue. Some sanitary sewer overflows are simply beyond the control of agencies to prevent and a new regulatory scheme should recognize this and account for unpreventable overflows. This is a matter of "fairness," in that there will be significant costs to implement the provisions in the WDR yet no meaningful protection provided for unpreventable overflows. Part of the challenge in tackling this issue of unpreventable SSOs is that some may perceive this as a way to legalize all SSOs. That is simply not the case. A very small number, perhaps only 2-4% of SSOs, would meet a legitimate definition of unpreventable SSOs. This approach is similar to the rarely used upset and bypass defenses in POTW NPDES permits.

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EBMUD believes there is an opportunity to cut through the rhetoric on this issue and develop a more balanced approach to the legal and regulatory implications of SSOs, recognizing that there are rare exceptional events that public agencies are limited by real technical constraints from dealing with in a zero tolerance manner. Agencies should not continue to remain in enforcement and legal jeopardy for unpreventable SSOs.

Sincerely,

DAVID R. WILLIAMS

Director of Wastewater

A handwritten signature in black ink, appearing to read "Ben Horenstein". The signature is written in a cursive, somewhat stylized font.

BENNETT K. HORENSTEIN

Manager of Environmental Services

DRW:BKH:dlp