



# El Toro Water District

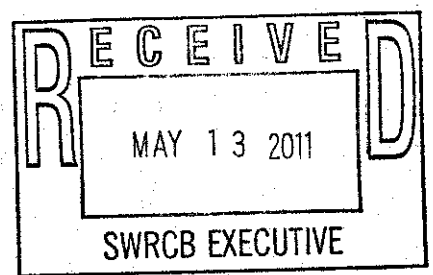
"A District of Distinction"  
Serving the Public - Respecting the Environment

May 12, 2011

Board of Directors  
Ted F. Marlin  
M. Scott Goldman  
John S. Dudley  
William H. Kahn  
Jerard B. Werner

General Manager  
Robert R. Hill

Ms. Jeanine Townsend  
Clerk to the Board  
State Water Resources Control Board  
1001 I Street, 24<sup>th</sup> Floor  
Sacramento, CA 95814  
Via email: [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)



Re: **Comments Regarding Proposed SSS WDR**

Dear Ms. Townsend:

The El Toro Water District (District) appreciates the opportunity to comment on the State Water Quality Control Board's proposed revisions to the Sanitary Sewer System Waste Discharge Requirements (SSS WDRs). The District is located in the southern portion of Orange County. The District's service area location and the location of the individual Regional Board boundaries are such that the District falls under the jurisdiction of both the Santa Ana Board (Region 8) and the San Diego Board (Region 9). The District provides potable water, recycled water and sewage collection and treatment services to a population of 52,000 people in five different cities.

The District has been in conformance with the regional WDR adopted by Region 8 in 2002 and the statewide WDR adopted in 2006 by judiciously following the requirements and provisions of the WDR and the District's SSMP. The District has a long history of dedicated effort to a proactive program of sewer system maintenance and sanitary sewer overflow prevention. The District takes great pride in the success of its maintenance and prevention program that predates the various versions of the WDRs. The District is committed to and supports comprehensive sewer system management including working with over 20 neighboring cities and sewer agencies in a regional and collaborative effort to improve upon and share sewer maintenance practices.

The District is concerned that the proposed revisions to the SSS WDRs represent a major departure from the program that has been successfully implemented under the existing SSS WDRs. While we appreciate the State Water Board's efforts to address certain issues associated with the existing WDRs, the District is very concerned about a number of the proposed revisions and several labor intensive additions to sewer system management plan (SSMP) requirements that should not be mandated unless State Water Board guidance and funding is made available.

The District hereby submits the following comments on the proposed SSS WDR that would replace the existing statewide SSO WDR (Order No. 2006-0003-DWQ):

# El Toro Water District

1. The proposed order was published on March 24, 2011 and written comments must be submitted by May 13, 2011. This period should be lengthened to allow sufficient time to analyze the impact on sewer agencies. The District's fiscal year budget for 2011-2012 has already been prepared while analysis on the proposed SSS WDR is just beginning.
2. The District understands that many of the proposed revisions evolved from discussions and recommendations of a stakeholder group. The District also understands that for many of the recommendations generated by that group there was a corresponding contrary recommendation. It does not appear that the actual proposed WDR revisions have been discussed at any state sponsored order review and data review committees as was the case in 2005-2006 to provide dialogue and open discussion to truly understand the impact of the proposed provisions.
3. It is the District's understanding that the concept of having an agency change from coverage under the state order to an NPDES permit due to a spill reaching surface waters is not currently included in the proposed WDR. That said, the District would strongly oppose the two-tiered WDRs and NPDES permit alternative. The District concurs with several points included in the Staff Report also opposing an NPDES permit. Since the existing SSS WDRs and the proposed revisions to the SSS WDRs do not authorize sanitary-sewer overflows (SSOs) to waters of the United States, there is no need for an NPDES permit.
4. The District believes that the requirement for de-chlorination of clean-up water, as defined in Prohibition C.3 is counter-productive. Putting restrictions on the use of potable water in cleaning up an SSO that is otherwise likely to violate either of the first two prohibitions simply adds further unnecessary challenges. The operational challenges associated with the de-chlorination of water used to mitigate the impacts of an SSO are unwarranted especially when considering the expected natural dissipation of the chlorine given the amount of potable water used and the distance it would have to travel to reach a surface water.
5. The District feels that revisions to the existing SSMP requirements are premature. The District remains concerned that the proposed revisions to the SSS WDRs include *significant* changes to SSMP program requirements. We strongly urge that the existing SSMP requirements be preserved as in the existing SSS WDRs. As the Staff Report indicates, development and implementation of SSMPs by SSS WDRs enrollees has just been completed and these plans need to be fully implemented so their effectiveness can be properly identified. Further, it is recognized that dramatically changing SSMP requirements before full implementation will likely lead to confusion regarding the SSMP requirements among enrollees, the public, and Water Board staff.
6. The District believes it is critical that State and Regional Water Board staff consider the reasons for each SSO in any enforcement action. The existing SSS WDRs included language in Provision D.6 that provided some reassurance that, in the case of an SSO enforcement action, the State and/or Regional Water Board would consider why the SSO might have occurred and to what extent it would have been reasonably possible for the Enrollee to prevent it.

# El Toro Water District

By the simple change of the word "will" to "may" the proposed revisions to the SSS WDRs would transform the existing enforcement discretion language, which expresses a clear statement of the State Board's intent regarding enforcement priorities and responses, into a purely advisory provision, which individual regional boards are free to follow or ignore as they choose. The factors described in (a) through (g) of Provision D.6 are highly relevant to the Enrollee's efforts to properly manage, operate and maintain its system and these factors should be considered in enforcement actions.

The District feels it is important that the existing language be retained. Enrollees should not be made to suffer consequences for conditions that are outside their reasonable control.

7. The proposed requirements include updating sewer system maps to identify and include all backflow prevention devices. There is no clearly defined benefit to updating sewer system maps with potable water devices. This requirement would entail significant effort to include facilities that are not owned by the agency on its maps. The requirement would also clutter the maps reducing their operational effectiveness.
8. There are several places in the proposed revisions that refer to the "eventual replacement" of sewer lines and budgeting for replacements due to "normal asset aging". These requirements are vague and unwarranted. The requirement for replacement of sewer piping is not a function of age but rather the condition of the pipe and its operational performance as determined and defined by the agencies on-going maintenance and inspection programs.
9. Requiring development and implementation of the proposed Staff Assessment Program on an agency-by-agency basis is unrealistic, invasive and overly prescriptive. The expectations outlined in the proposed revisions to the SSS WDRs suggest that agency staff would be responsible for developing a program similar to the existing Technical Certification Program offered by the California Water Environment Association, which would require a substantial investment of resources to do redundant work at each agency. The previous language required agencies to provide training of its staff appropriate to the maintenance of the sanitary sewer system. There has been no demonstration of any deficiency in current training requirements. There does not seem to be a benefit of the more prescriptive requirement over the previous training requirement that would warrant the administrative burden defined in the proposed language.
10. The proposed Risk and Threat Analysis of all sanitary sewer assets would be complex and resource-intensive, and would not provide incrementally more benefit than that provided by an otherwise well-operated and managed system. It is not appropriate to require every agency to implement this requirement unless the Water Board can demonstrate that those agencies complying with current requirements have been ineffective in reducing SSOs. This program should also only be required if and when adequate Water Board guidance has been developed and funding is provided.

# El Toro Water District

11. The proposed revisions to the SSS WDRs would also require each agency to bring its SSMP before its governing board for re-certification at a minimum every four years. This frequency is excessive considering that infrastructure projects typically occur over a longer timeframe. We request a re-certification every 5-10 years.
12. Notification requirements need to be clarified. We support the Staff Report's indication that only Cal EMA would need to be notified when spills to surface water of any volume occur. However, Paragraph G.4 indicates that Enrollees are to provide immediate notification of SSOs to the local health officer or the local director of environmental health, contrary to the instructions indicated in Section A of the Monitoring and Reporting Program and the Staff Report. Please clarify that notification shall only be made to Cal EMA, and indicate that Cal EMA will notify other agencies.

In summation, it is our view that significant proposed revisions to the SSS WDRs are premature and overly burdensome. Implementation of the existing permit has already successfully resulted in reduced impacts of SSOs on surface water. It would be frustrating to have invested significant resources in meeting the current requirements only to have them change before our current efforts have come to fruition. We believe that it would be more productive for the Water Board to focus on bringing all agencies into compliance with the current permit rather than initiating sweeping revisions that would apply to all agencies, regardless of compliance history or the effectiveness of current programs.

The El Toro Water District hopes that the State Water Resources Control Board will take these comments under serious consideration.

Sincerely,

EL TORO WATER DISTRICT



Dennis P. Cafferty, P.E.  
Director of Operations & Engineering

cc. Robert R. Hill, General Manager  
Michael P. Grandy, Chief Financial Officer  
RM