



IRVINE RANCH WATER DISTRICT

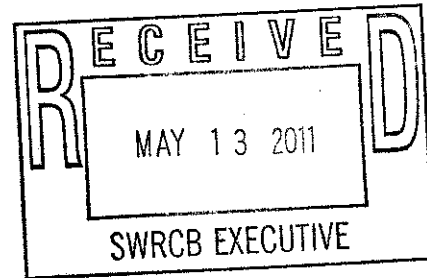
15600 Sand Canyon Ave., P.O. Box 57000, Irvine, CA 92619-7000 (949) 453-5300

0

May 12, 2011

Via email: commentletters@waterboards.ca.gov

Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street, Sacramento, CA 95814



Subject: Comment Letter – SSS WDRs Review & Update

Dear Ms. Townsend:

The Irvine Ranch Water District (IRWD) appreciates the opportunity to comment on the State Water Resources Control Board's (Board) proposed revisions to the Sanitary Sewer System Waste Discharge Requirements (SSS WDRs).

Established in 1961 as a California Water District, IRWD provides drinking water, wastewater collection and treatment, recycled water, and urban runoff treatment to Central Orange County, California. IRWD encompasses nearly 181 square miles extending from the Pacific coast to the foothills. IRWD serves the City of Irvine and portions of the cities of Costa Mesa, Lake Forest, Newport Beach, Tustin, Santa Ana, Orange and unincorporated areas of Orange County, serving more than 330,000 residents. IRWD operates and maintains approximately 927 miles of wastewater collection equipment, maintains a successful Fats, Oils and Grease program, and has been proactive by participating in the development of the existing Statewide WDR regulations.

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, our agency is very concerned about a number of the proposed revisions, especially those related to reporting of private lateral sewage discharges (PLSDs), and onerous additions to sewer system management plan (SSMP) requirements that should not be mandated unless State Water Board guidance and funding is made available. As the number and complexity of requirements increases, more agency staff time is directed towards preparing reports and re-organizing information and operating procedures, and less time is spent actually managing or conducting the appropriate operations and maintenance (O&M) activities to prevent SSOs and properly maintain the collection system.

- 1. Sanitary sewer system regulations should not be adopted under a two-tiered WDRs and NPDES permit.**

We strongly oppose the two-tiered WDRs and NPDES permit alternative, whereby an SSO occurring previously or in the future would trigger the requirement to apply for an NPDES permit, and agree with several points included in the Board's staff report 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. The result of triggering an NPDES permit would subject local public agencies to additional and more egregious non-governmental organization (NGO) lawsuits and higher administrative penalties with absolutely no demonstration that this would improve water quality or further reduce SSOs.

As described in the staff report, this alternative would also require significant additional Water Board staff resources to track and implement the different permit tiers. We understand that the Board's staff resources are limited, and believe that staff resources could be better utilized improving SSO reduction efforts under the existing SSS WDRs.

2. The basis for mandatory reporting of Private Lateral Sewage Discharges (PLSDs) is not justified and creates an inappropriate burden for public agency staff.

The SSS WDRs would require enrollees to report spills from privately owned laterals when they become aware of them. Such reporting is currently voluntary. Water Board staff has not provided adequate justification nor has it thoroughly considered the staffing and financial resources necessary to require public agencies to report PLSDs that are not affiliated with the collection system agency. The justification offered for this change is simply that the Board wants to "get a better picture of" the magnitude of PSLDs and better identify collection systems with "systemic issues" with PSLs.

The staff report includes a reference to a study that indicated that the total volume of sewage from private laterals is about 5% of the total volume from SSOs, most, if not all of which pose a minimal, if any threat to surface waters. Requiring public agencies to provide detailed information regarding such small overflow volumes from parts of the system over which they have no control would divert limited staff resources from higher priority issues that actually protect waters.

As to the goal of generating better information regarding PSL spills, we do not believe that the burden of requiring enrollees to report information or face being in noncompliance with the SSS WDR bears a reasonable relationship to the need for the information and the benefits to be obtained. Enrollees reporting spills may be liable to property owners for errors in reporting, and property owners may claim they are entitled to compensation from the local agencies for repair or replacement costs stemming from the reported spills. Under the current voluntary reporting scheme the enrollee can weigh these factors in deciding whether to report PSL spills or not.

Furthermore, if enrollees are required to report spills whether or not they occur within the enrollee's system, multiple entities (city, county, POTW, etc.) could all be required to report a single PSL spill with potentially differing estimates of volume and other information. Rather than enhance the Board's knowledge base, this will actually lead to greater confusion and require additional resources to sort out and resolve variations in multiple reports.

We recommend that the Board first work with the California Department of Public Health and local environmental health officials to determine if the desired information can be obtained

through mutual agency cooperation. We believe that public health agencies are the most qualified regarding response activity to overflows from laterals on private property, and are, in most instances, the most appropriate agencies to respond to these events.

3. It is essential 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 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.

The existing language is as follows: "*In assessing these factors, the State and/or Regional Water Boards will also consider whether...*" (emphasis added)

In the proposed revisions to the SSS WDRs, this language was changed to read: "*In assessing these factors, the State and/or Regional Water Boards may also consider whether...*" (emphasis added)

The proposed revisions to the SSS WDRs would transform the existing enforcement discretion language, which expresses a clear statement of the 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 definitely be considered in enforcement actions.

It is imperative that the existing language be retained. Enrollees should not be penalized for conditions that are outside their reasonable control.

4. Significant additional Sewer System Management Plan (SSMP) requirements should not be mandated until the State Water Board provides guidance and funding.

The proposed "Risk and Threat Analysis" and "Staff Performance Assessment Program" are vague, not statistically supported, unnecessarily complicated, and overly prescriptive.

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 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 Board guidance has been developed and funding is provided.

Requiring development and implementation of the proposed Staff Assessment Program on an agency-by-agency basis is unrealistic. 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 perform redundant

work at each agency. It is also not appropriate to require public agencies to train contractors (which are separate, private entities).

The Board should not implement these new requirements until detailed program guidance is provided. Also, Board staff has not demonstrated that the current training requirements are deficient.

5. SSMP sections (i) and (j) should be combined, because otherwise the requirements for routine review and revisions of the SSMP are redundant and contradictory.

SSMP Section (i) *Performance Targets and Program Modifications* and Section (j) *SSMP Program Audits* both require the Enrollee to evaluate the effectiveness of the SSMP and correct or update the document as necessary. Section (i) indicates that this process is to occur on an annual basis, while Section (j) specifies a minimum frequency of once every two years. We recommend that Board staff combine these two sections and clarify the requirements.

6. The findings include several incorrect statements about PLSDs.

Finding 9 in the proposed revisions to the SSS WDRs includes the statement: "Major causes of SSOs and PLSDs include but are not limited to: grease blockages, root blockages, debris blockages, sewer line flood damage, manhole structure failures, pipe failures, vandalism, pump station mechanical failures, power outages, excessive storm or ground water inflow/infiltration, sanitary sewer age, construction and related material failures, lack of proper operation and maintenance, insufficient capacity, and contractor-caused damages. Many SSOs and PLSDs can be prevented by having adequate facilities, source control measures, and proper operation and maintenance of the sanitary sewer system." Including PLSDs in these descriptions is incorrect: many of the items on the first list are not causes of PLSDs, and many PLSDs cannot be prevented as described in the second sentence. References to PLSDs should be removed.

7. Provision 8 includes an incorrect assumption regarding sanitary sewer system replacement.

1. Provision 8 suggests that sanitary sewer systems will need replacing within the timeframe of these WDRs. 2. The reference to "eventual replacement" should be removed because the need to replace sewers is dependent on several factors. 3. For example, the useful life of certain types of high strength plastic pipe has yet to be determined. 4. Sewers should not be replaced automatically when they reach a certain age, especially when they are in good condition and functioning as designed. 5. This would not be the best use of limited public resources.

8. Revisions to SSMP requirements are premature.

We are 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 evaluated. 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 Board staff.

9. Language describing SSMP requirements should be revised as follows (SSMP sections are listed in the order they appear in the proposed revisions to the SSS WDRs):

- *Organization* - Including names, email addresses, and telephone numbers for the staff described in paragraph (b) (ii) is excessive information and inappropriate in a public document. Only the position and phone number should be included.
- *Legal Authority* – Paragraph (c) (v) should be revised to read: “Restrict, condition or prohibit new connections under certain conditions.” In addition, Paragraph (c) (vi) indicates that agencies must have legal authority to “limit the discharge of roots...” It is not clear if this phrase is intended to refer to limiting root intrusion (which would be covered by good standard specifications), or to limiting the illicit discharge of debris including cut roots (which is already included in paragraph (c) (i)). In any case, the word “roots” should be removed from this paragraph.
- *Operations and Maintenance Program*
 - *Map* - Updating sewer system maps to identify and include all backflow prevention devices would be too onerous as they are not owned by the agency; this requirement should be removed.
 - The last section of paragraph (d) (i) should be revised to read: “A map illustrating the current extent of the sewer system shall be included in the SSMP or in a GIS.” Also, this requirement needs to be clarified. It is not clear if “the current extent of the sewer system” refers to a one page map of the service area, or the entire detailed map. The latter would be impractical to include in the SSMP.
 - *Rehabilitation and Replacement* - The third sentence in paragraph (d) (iii) should be revised to read: “Rehabilitation and replacement shall focus on sewer pipes that are at risk of collapse or prone to more frequent blockages due to pipe defects.” It is not correct to imply that age alone is problematic. We know that it does not, nor is it correct, to imply ‘aging’ is the same as ‘deteriorating’.
 - *O&M and Sewer System Replacement Funding* – The first sentence in section (d) (vi) should be revised to read “The SSMP shall include budgets for routine sewer system operation and maintenance and for the capital improvement plan including proposed replacement of sewer system assets over time as determined by careful evaluation of condition of the system.”
- *Design and Performance Provisions* – The addition of the phrase “all aspects of” in both paragraphs (i) and (ii) which requires each agency to update their standards and specifications to cover every last possible minor detail of sanitary sewer system construction and inspections should be removed. Just to meet this requirement would create an unwarranted burden on staff. Also, the phrase is not necessary and is already implied.
- *Performance Targets and Program Modifications* – Progress towards improving sewer system performance and reducing impacts of SSOs is already described in the SSMP and will be adequately characterized by a review of SSO trends. Also, without specific guidance on how to develop these targets, the requirement is vague and offers no

validation of success or failure. All references to performance targets should be removed from paragraphs (i) and (j).

10. The four-year board re-certification requirement is excessive.

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 five to ten years.

In general, it is our view that a number of the proposed revisions to the SSS WDRs are premature and overly burdensome. Implementation of the existing permit has already successfully resulted in a reduced number of SSOs and the impacts SSOs have had on surface water. Additional improvements are expected as capital improvements identified under the current permit are completed. It would be an inappropriate use of public funds to have invested significant resources in meeting the current requirements only to have them change before the industry's current efforts have been implemented and evaluated. We believe that it would be more productive for the 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 Irvine Ranch Water District hopes that the Board will take these comments under serious consideration.

Sincerely,

John Hills

John Hills
Director of Water Quality