



Public Comment  
Sanitary Sewer System WDRs  
Deadline: 5/13/11 by 12 noon

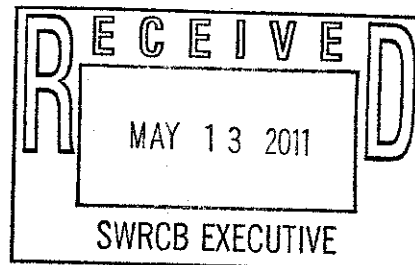
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May 13, 2011

**Via email:** [commentletters@waterboards.ca.gov](mailto: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 Las Gallinas Valley Sanitary 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 operates a collection system and sewage treatment plant that serves a population of approximately 32,000 people in the northern San Rafael area. The service area covers approximately 20 square miles. The collection system contains about 105 miles of gravity sanitary sewers, 6.72 miles of pressure sewers, and 28 pump stations. The District has a low rate of sanitary sewer overflows (SSOs), which we attribute to highly dedicated management and staff, backed by strong support from the District Board for both capital and operations and maintenance (O&M) programs. Our aggressive O&M programs include ongoing sewer inspections, frequent cleaning intervals, and an effective FOG program. Over the past eight years, we have significantly modernized and expanded our capabilities and equipment for sewer inspections, cleaning, and emergency response, and have reduced our reliance on outside contractors in order to minimize emergency response times. We have also committed significant resources to a Capital Improvements Program to address potential hydraulic capacity limitations, deteriorating sewer mains, and other infrastructure. Although the District's commitment to robust capital and O&M programs predates the current SSS WDRs, we acknowledge the role played by Regional Water Board requirements and the current SSS WDRs in elevating the importance of effective sewer system management and in contributing to a reduction in the number and volume of SSOs.

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, 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. Also, we strongly oppose any kind of NPDES permitting approach.

**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 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. 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 you may know, several NGOs in the San Francisco Bay Region have already taken advantage of municipal government agencies, including the use of aggressive and shocking tactics, and pocketed precious funds that could have and should have been used for reducing SSOs. We do not believe this type of behavior is an appropriate way to spend public funds or staff resources.

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 these staff resources are limited, and believe that they should instead be used to further improve SSO reduction efforts under the existing SSS WDRs.

We would also like to reinforce concerns about confusion and wasted resources resulting from adopting an NPDES permit component now, that may need to be revised again if the USEPA implements an NPDES permit for satellite sanitary sewer systems later. As a collection system operating in the San Francisco Bay Region, we can speak to this issue with experience; the 2006 statewide requirements included in the existing SSS WDRs were different from our established regional program. In developing our SSMP, we had to sift through and identify strategies that addressed *both* sets of requirements. The 2008 changes to reporting requirements made everything more confusing, when local notification and certification requirements were layered on top of State requirements. As requirements become more complicated and confusing, more District staff time is directed towards preparing reports and re-organizing information and operating procedures, leaving less time available for actually managing or conducting the appropriate operations and maintenance (O&M) activities to prevent SSOs and properly maintain the collection system.

**2. The basis for mandatory reporting of PLSDs is not justified and creates an inappropriate burden for public agency staff.**

Water Board staff has not provided adequate justification to require public agencies to report PLSDs that are not affiliated with the collection system agency. State Water Board staff has

simply not sufficiently thought through what this requirement entails. Consider the following questions.

- What if the collection system agency does not have all of the information for a PLSD, as requested on the reporting form? Information received second-hand (e.g., a telephone message regarding a PLSD) will almost certainly be incomplete. Is it our responsibility to conduct an investigation? Would such an investigation take precedence over scheduled sewer maintenance activities?
- Is there an expectation that if an overflow on private property is discovered by the District that we assist with the cleanup?
- How is the District supposed to estimate volume spilled or recovered? Often a homeowner will be very guarded with information about what happens on private property or inside the home.
- How reliable should information provided by others (e.g., a homeowner or other observer) be considered?
- How will State Water Board staff enforce this provision?
- Most importantly of all, how will State Water Board staff actually use this information? How will staff know what fraction of PLSDs are being reported?

The requirement that the sewer agency report PLSDs changes the dynamic between the agency and the public. In managing wastewater from domestic sources, collection system agencies rely primarily on public outreach and public education. Reporting of PLSDs will be viewed by the public as heavy-handed and punitive rather than cooperative, and could negatively impact the relationship between agencies and the public.

In addition, it is unrealistic and inappropriate to expect public collection system agencies to solve (or even just report) all of the States' overflow problems, especially when they are insignificant in the realm of protecting water quality. It is difficult enough to manage the public system, the boundaries of which are likely to be well known. The State Water Board should only hold public agencies accountable and responsible for activities within their jurisdiction.

Moreover, 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, almost all of which never pose a threat to waters. Requiring public agencies to provide detailed information regarding such a small percentage of overflow volumes from parts of the system over which they have no control is not appropriate and would divert limited staff resources from higher priority issues that actually protect waters. State Board staff do not seem to fully appreciate the significant effort required to investigate, document, and report PLSDs, even with the proposed streamlining of reporting requirements.

In addition, PLSDs typically only impact the property owner, as they are usually very small in volume and do not reach receiving waters. These types of events fall under the jurisdiction of

local health officers. We recommend that the State Water Board first work with the California Department of Public Health and local environmental health officers to determine if the desired information can be obtained through mutual agency cooperation. We believe that public health agencies have the best knowledge of overflows from laterals on private property, and are, in most instances, the most appropriate agencies to respond to these events.

For all of the reasons indicated above, we specifically request that reporting of PLSDs remain voluntary.

**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 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.

Existing language read: "*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 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 definitely be considered in enforcement actions.

It is imperative that the existing language be retained. Enrollees should not be made to suffer consequences 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 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.

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

The Water Board should not implement these new requirements until detailed program guidance is provided. Also, Water 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 Water Board staff combine these two sections and clarify the requirements.

**6. The findings include several incorrect statements about PLSDs.**

Finding 7 in the proposed revisions to the SSS WDRs includes the statement: "SSOs and PLSDs may pollute surface or ground waters, threaten beneficial uses and public health, ..." We disagree that PLSDs are in the same category as SSOs from mainline sewers in terms of water quality impacts. These overflows are very small in volume individually, and overall. The words "...and PLSDs..." should be removed.

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. It is inappropriate to use incomplete information about PLSDs to characterize sanitary sewer system condition and management.**

We do not believe that meaningful statistics could be derived from data collected only for those PLSDs that an agency becomes aware of, and we do not support the idea that Water Board staff would decide that collection systems have "systemic issues" based on these incomplete data sets. Again, we believe that the requirement for Enrollees to report PLSDs they become aware of should be removed from Provision 4.

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

Provision 8 suggests that sanitary sewer systems will need replacing within the timeframe of these WDRs. The reference to "eventual replacement" should be removed because the need to replace sewers is dependent on numerous factors, including pipe material, quality of construction, corrosivity of the sewage, characteristics of the surrounding soils (e.g. subsidence), seismic activity, presence of trees and groundwater, etc. Sewers should not be replaced automatically when they reach a certain age, especially if they are in good condition and functioning as designed. To do so would be a misuse of limited public resources. For example, the useful life of certain types of high strength plastic pipe has yet to be determined.

**9. Definitions related to private laterals are confusing and contradictory.**

The following definitions are confusing and contradictory, as explained in the following paragraphs.

- *Lateral – Segment(s) of pipe that connect(s) a home, building, or satellite sewer system to a sewer main.*

This definition of a lateral includes both upper and the lower laterals, regardless of whether or not the lower lateral is privately owned.

Also, the definition of a lateral should not include any reference to satellite sewer systems, as the management and performance of each are very different. Satellite systems should have a separate and distinct definition.

- *Private Lateral – Privately owned sewer piping that is tributary to an Enrollee's sanitary sewer system. The responsibility for maintaining private laterals can be solely that of the Enrollee or private property owner; or it can be shared between the two parties. Sewer use agreements dictate lateral responsibility and the basis for the shared agreement.*  
(emphasis added)

This definition does not make reference to upper laterals and lower laterals and is therefore confusing. Also, it is misleading to state that sewer use agreements dictate lateral responsibility, as these agreements seldom exist for individual homeowners.

- *Private Lateral Sewage Discharge (PLSD) – Wastewater discharges caused by blockages or other problems within laterals are the responsibility of the private lateral owner and not the Enrollee. Discharges from sanitary sewer systems which are tributary to the Enrollee's sanitary sewer system but are not owned by the Enrollee and do not meet the applicability requirements for enrollment under the SSS WDRs are also considered PLSDs. (emphasis added)*

This definition indicates that PLSDs include overflows from any portion of the lateral, regardless of whether or not the lower laterals are privately owned. The definition of a "private lateral sewage discharge" is inconsistent with that describing a "private lateral", as one includes publicly-owned lower laterals while the other does not.

These definitions should be reworked for clarity and accuracy.

#### **10. 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 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.

#### **11. 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, which the State Board encourages be posted on our web site. Only the position and phone number should be included.
- *Legal Authority* – Paragraph (c) (v) should be revised to read: "Ban 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 excessively onerous, as they are not owned by the District. We request that this requirement be removed.

Also, 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) should be removed. Requiring each agency to update their standards and specifications to cover every last detail of sanitary sewer system construction and inspections in order to meet this requirement would create an unwarranted burden on District resources. In addition, certain components of a sanitary sewer systems (e.g. pump stations) are constructed very infrequently (it may be ten years or more between such projects) and do not warrant the effort and expense to develop standard specifications as long as good engineering practice is used in their design.
- *FOG Control Program* – Proposed revisions to (g) (iii) would simultaneously require legal authority to prohibit FOG discharges to the system and to require FOG dischargers to implement measures to prevent SSOs and blockages caused by FOG. This revised language contradicts itself, first by indicating that FOG discharges are to be prohibited, and then by including requirements for FOG dischargers. Also, the language appears to apply to both residential and commercial sources of FOG, but fails to recognize that logistical challenges may outweigh the benefits of *requiring* best management practices for residential FOG sources. We request that this existing language be preserved: "This plan shall include the following as appropriate: The legal authority to prohibit discharges to the system and identify measures to prevent SSOs and blockages caused by FOG."
- *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).

- *Communication Program* – The proposed revisions to the SSS WDRs would require each agency to communicate with the public on an annual basis regarding the development, implementation, and performance of its SSMP. This specified timeframe suggests that an agency would send out a notice of some sort at a certain time each year, but would not apply to agencies that communicate information to the public primarily via their websites; online information is made available 24 hours a day. The original language should be retained as is.

## **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 to be made to Cal EMA, and indicate that Cal EMA will notify other agencies.

## **13. Construction trenches should remain part of the sanitary sewer system definition**

The proposed SSS WDR omits construction trenches from the definition of the sanitary sewer system. While it may seem like an insignificant change, it will have serious consequences for all sewer systems in the state. The new definition, combined with the lack of *de minimis* spill volume, will cause agencies to have an SSO almost every time a sewer main or lateral is repaired or replaced, because *de minimus* volumes are invariably released into construction trenches during such operations. This creates an unnecessary burden on agencies and exaggerates the number of SSOs that occur.

## **14. Providing the whole SSMPs in an electronic form may not be practical.**

This provision should acknowledge that certain components of the SSMP may not exist in electronic format, or may exist electronically but are included in the SSMP by reference because they are not amenable to incorporation into a single SSMP electronic document (e.g., an agency's computerized maps or maintenance management system).

## **15. The assumption that a discharge to a drainage channel is equivalent to a discharge to surface water is incorrect.**

In the definition of a Category I spill, the Monitoring and Reporting Program incorrectly treats a discharge to drainage channel as equivalent to a discharge to surface water. Many drainage

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channels in California have no flow during the dry season, and in many cases it is possible to prevent SSOs that enter a drainage channels from reaching waters of the State. With regard to whether a SSO is classified as Category I or Category II, drainage channels should be treated the same as storm drainpipes

**16. Certain Monitoring and Reporting Program requirements need to be clarified.**

In addition to the request that mandatory PLSD reporting be removed from the proposed revisions to the SSS WDRs, several minor revisions should be made to clarify Monitoring and Reporting Program requirements:

- The second paragraph referring to other notification and reporting requirements is unnecessarily confusing and should be removed.
- Item 1.H under the description of mandatory information to be included in Category 2 SSO reports should be revised to read: “SSS failure point (main, lateral, etc.), if applicable.”
- Item 3.I under the description of mandatory information to be included in Category 1 SSO reports should be revised to read: “Name of surface waters impacted (if applicable and if known)...”
- Item 1.D under the minimum records to be maintained by the Enrollee should be revised to read: “...and the complainant’s name and telephone number, if known.”

The District believes 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. Additional improvements are expected as capital improvements identified under the current permit are completed. 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 District hopes that the State Water Board will take these comments under serious consideration.



Mark R. Williams  
General Manager/Chief Operator

Cc: Board of Directors, LGVSD  
Ray Goebel, EOA, Inc