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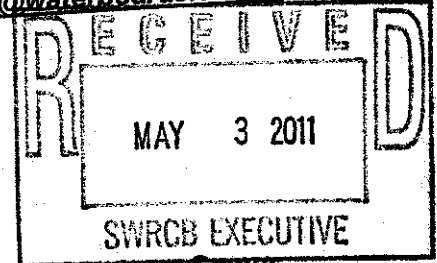
16600 Civic Center Drive, Bellflower, CA 90706
Tel 562.804.1424 Fax 562.925.8660 www.bellflower.org



May 3, 2011

Via e-mail to: commentletters@waterboards.ca.gov

Ms. Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Los Angeles, CA 90013



Re: **Comment Letter - Draft Waste Discharge Requirements for Sanitary Sewer Systems**

Dear Ms. Townsend:

The City of Bellflower (City) appreciates the opportunity to provide comments on the State Water Resources Control Board's (State Board's) draft Waste Discharge Requirements for Sanitary Sewer Systems (SSS WDRs). 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 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 Board guidance and funding is made available.

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 described in the Staff Report, this alternative would also require significant additional State 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.

Page 1 of 5

> Scott A. Larsen
Mayor

Dan Koops
Mayor Pro Tem

Randy Bomgaars
Council Member

Raymond Dunton
Council Member

Sonny Santa Ines
Council Member

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 WDR would require enrollees to report spills from privately owned laterals when they become aware of them. Such reporting is currently voluntary. State 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 State Board wants to "get a better picture of" the magnitude of PSLDs and better identify collection systems with "systemic issues" with PSLDs.

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.

Furthermore, enrollees that are also subject to Municipal Separate Storm Sewer System NPDES Permits are already required to report illicit discharges, including PLSDs, in their respective Annual Reports. Requiring enrollees to report PLSDs under the SSS WDRs would make this reporting redundant.

We recommend that the State 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.

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 Board and/or Regional Water Quality Control Board (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.

Existing language read: "In assessing these factors, the State and/or Regional Water Boards will also consider whether..."

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..."

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

- 6. Requiring dechlorination of clean-up water is counter-productive.**

Prohibition C.3 indicates that potable water would have to be dechlorinated before it could be used for spill clean-up (in the event water used for clean-up is not fully recovered). 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. In addition, the amount of potable water used, combined with the distance it would have to travel to reach a surface water (so the chlorine would readily degrade) does not warrant the additional on-site operational difficulty of dechlorination.

- 7. 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 assessed. 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 State Board staff.

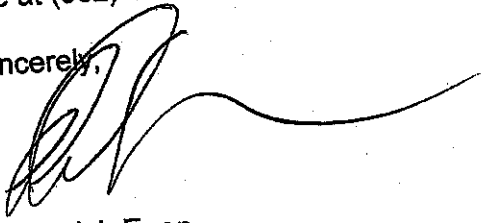
- 8. Notification requirements need to be clarified.**

We support the Staff Report's indication that only the California Emergency Management Agency (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 be responsible for notifying any other applicable agencies.

Ms. Jeanine Townsend
May 3, 2011
Page 5 of 5

In general, it is our view that significant proposed revisions to the SSS WDRs are premature and overly burdensome. Implementation of the existing SSS WDRs 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 State Board to focus on bringing all agencies into compliance with the current SSS WDRs rather than initiating sweeping revisions that would apply to all agencies, regardless of compliance history or the effectiveness of current programs. The City hopes that the State Board will take these comments under serious consideration. If you have any questions regarding this letter, you may contact me at (562) 804-1424, ext. 2207.

Sincerely,



Michael J. Egan
City Manager

