

DISTRICT MANAGER-ENGINEER
MARK THOMAS & COMPANY, INC.
RICHARD K. TANAKA

DISTRICT COUNSEL
ATKINSON • FARASYN, LLP.
HAROLD S. TOPPEL

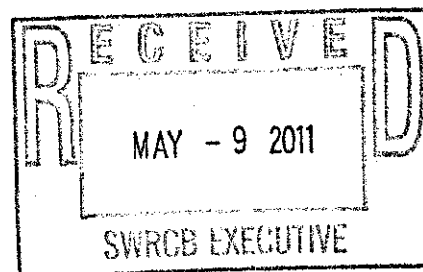


20833 STEVENS CREEK BOULEVARD, SUITE 104
CUPERTINO, CALIFORNIA 95014-2154
(408) 253-7071 PHONE • (408) 253-5173 FAX
www.cupertinosanitarydistrict.com

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April 27, 2011

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814



Subject: Comment Letter – SSS WDRs Review & Update

Dear Ms. Townsend,

Cupertino Sanitary District (CuSD) acknowledges receipt of the DRAFT SSS WDR that will replace the existing statewide SSO WDR (Order WQ 2006-003). The purpose of this letter to provide CuSD comments on positive aspects and items of concern as presented in the DRAFT document.

The District has been implementing elements of the Board of Directors certified Sewer System Management Plan (SSMP) for the past three years. The elements were developed using guidelines as set forth in the existing SSO WDR (Order WQ 2006-003). Significant resources have been allocated to the implementation of the SSMP to date. Although there appears to be a measurable reduction in SSO events, there is not enough data at this time to accurately attribute the reduction of SSOs to the SSMP implementation.

After review of the DRAFT SSS WDR, CuSD is pleased to see the following revisions in the DRAFT SSS WDR:

- Streamlining spill notification points of contact;
- Applicability criteria to include a flow and pipe mileage threshold;
- Expansion of the coverage of the SSS WDR to include private collection systems within the flow and pipe mileage threshold;
- Further clarification that SSOs to land are not the main focus of the SSS WDR.

The items listed above will simplify the criteria and reporting process for SSO events.

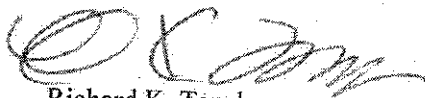
There are several items of concern that will need to be addressed prior to adoption of the DRAFT SSO WDR:

- Compliance with the new requirements would be a financial and resource burden for the District. Despite aggressive expenditure cutbacks for District administration, continued increases in capital expenditures for the rehabilitation of the San Jose/Santa Clara Water Pollution Control Plant has made it very difficult for the District to maintain a balanced budget without increasing the sewer service charges for our customers.
- Compliance with the proposed two-tiered WDR's and NPDES permit would expose the District to lawsuits from non-governmental organizations (NGO) and increased administrative penalties that may or may not improve the overall water quality or reduce SSOs.
- Justification of additional information requirements in the SSS WDR needs to be provided. Compliance with the requirements will be labor and resource intensive and will be reflected in a substantial increase in the District Operation and Maintenance budget.
- Enforcement inclusion of all spills to surface waters instead of limiting SSOs to "waters of the United States" would expose the District to greater liability for SSO events.
- Requiring enrollees to report on private sewer laterals can be challenging given that the enrollees do not have all necessary information or jurisdiction over privately owned laterals.
- Emphasis on the original goal of the SSO WDR of reporting and reduction of SSOs that can affect water quality or public health is replaced with requirements in the way local sewer system programs are managed and implemented.
- Clear enforcement discretion language in the existing SSO WDR is being replaced by language that gives latitude to individual regional boards to implement provisions as they see fit.
- Cleanups and disinfection of SSOs can be delayed and costs significantly increased due to the new prohibition on the use of chlorine including residual chlorine in potable water.

CuSD appreciates the State Board making available for review and comment the DRAFT SSS WDR and hope that the comments provided will be taken into consideration prior to the adoption of the SSS WDR. Please do not hesitate to contact our office if you have any questions or need clarification on the items listed above.

Sincerely,

MARK THOMAS & CO, INC.



Richard K. Tanaka
District Manager-Engineer