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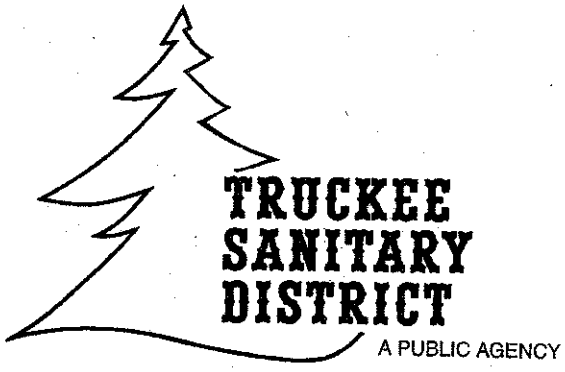

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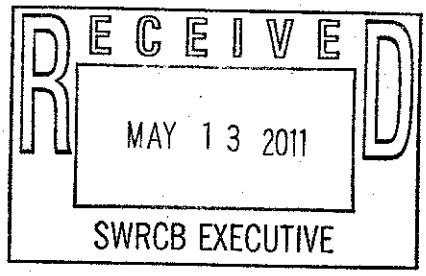

May 13, 2011

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 Truckee Sanitary District (District) appreciates the opportunity to comment on the State Water Quality Control Board's (Water Board) proposed revisions to the Sanitary Sewer System Waste Discharge Requirements (SSS WDRs). The District provides sewer collection services in the greater Truckee area including several neighborhoods in Placer County. The District has won multiple awards for its exceptional sewer service and maintenance record. Wastewater is discharged to the Tahoe Truckee Sanitation Agency, also located in Truckee.

The proposed revisions to the SSS WDRs represent a major departure from the approach developed by the Stakeholder SSO Guidance Committee in 2005-2006, which focused on reporting of SSOs and reducing SSOs with the potential to affect water quality or public health. The proposed SS WDR would expand liability for SSOs by including all spills to surface waters as prohibited SSOs subject to enforcement, instead of only those reaching a "water of the United States," and would move to a prescriptive and onerous order that seeks to dictate decisions regarding the way local sewer system programs are managed and implemented.

We are 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. These additions should not be mandated unless Water Board guidance and funding is made available. Also, we strongly oppose any kind of NPDES permitting approach.

Specific comments on the proposed SSS WDR are as follows:

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

We strongly oppose the two-tiered WDR and NPDES permit alternative, and agree with several points included in the Water Board's Staff Report on this subject also opposing an NPDES permit. Since the existing 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 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 these staff resources are limited, and believe that they should instead be used to further improve SSO reduction efforts under the existing SSS WDRs.

2. The basis for mandatory reporting of 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 these spills. This reporting is currently voluntary. Water Board staff have not provided adequate justification, nor thoroughly considered the staffing and financial resources necessary to require public agencies to report PLSDs that are not affiliated with the agency.

The Draft WDR's focus on private laterals raises several concerns. First, it appears to be directed towards shifting responsibility for privately owned sewer laterals to public agencies. For example, the Draft WDR would require public agencies to be responsible for mapping and documentation of all private lateral facilities, including the existence of back flow devices, clean outs, etc. The proposed revisions also appear to impose responsibility for lateral inspection and clean out programs on the agency.

These programs create a significant additional financial and liability burden on an agency. They also give the false impression that public agencies are in some way responsible for the condition of privately owned and maintained sewer laterals. The Water Board should hold public agencies accountable and responsible only for activities within their jurisdiction.

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 a small overflow volume from facilities over which they have no control is not appropriate and would divert limited staff resources from higher priority system issues.

We recommend that the Water Board 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. **State and Regional Water Board staff must consider the reasons for each SSO in any enforcement action.**

The existing SSS WDRs include language in Provision D.6 that provide 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 reads: "*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 change the existing enforcement discretion language into a purely advisory provision, which individual regional boards may not follow. 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. These factors should 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 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 (CWEA), which would require a substantial investment of resources, and would be redundant with the CWEA program. 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 to eliminate redundant and contradictory requirements for routine review and revisions of the SSMP

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. Requiring de-chlorination of clean-up water is counterproductive.

Prohibition C.3 indicates that potable water would have to be de-chlorinated before it could be used for spill clean-up (in the event water used for clean-up is not fully recovered). This requirement will add unneeded challenge to the clean-up process. Chlorine in the relatively small amount of potable water that is used would degrade quickly upon contact with the ground. The additional on-site operations associated with dechlorination would not be warranted.

7. 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 several factors besides age, including but not limited to: material, geologic setting, maintenance history, and SSO history. Sewers should not be replaced automatically when they reach a certain age, as many older pipes are in good condition and functioning as designed. This requirement would lead to inefficient use of limited public resources.

8. Definitions related to private laterals are confusing and contradictory.

We suggest that the following definitions be revised or added to the proposed SSS WDR, and that all five definitions of Lateral should be in one location.

Lateral – Segment(s) of pipe that connect(s) a home, building or other structures to a sewer main.

Upper Lateral – That portion of a lateral from the property or easement line up to the home, building, or other structure.

Lower Lateral – That portion of a lateral that runs from the connection to a sewer main to the property or easement line.

Enrollee Lateral – That portion of a lateral the Enrollee owns and maintains as dictated by the enrollee's ordinances, codes, contracts or agreements.

Private Lateral – That portion of a lateral that the enrollee does not own or maintain as dictated by the enrollee's ordinances, codes, contracts or agreements.

The various sections of the WDR that discuss laterals then should be amended to reflect the above changes. In addition we also suggest the following changes:

Private Lateral Sewage Discharge (PLSD) – The first sentence should specifically describe discharges caused by blockages or other problems within the Private Lateral, as defined above.

Satellite sanitary sewer system - Any system of publicly or privately owned pipes, pump stations, sewer lines, or other conveyances meeting the definition of a "sanitary sewer system" that is tributary to another system of publicly or privately owned pipes, pump stations, sewer lines, or other conveyances also meeting the definition of a "sanitary sewer system". A sewer system is not considered a "Satellite" unless it individually bills connected properties a maintenance or user fee established to provide for maintenance of said sewer system.

The above changes to the definition of a satellite system are intended to eliminate the need for enrollee coordination with individual private sewer systems that are large enough to apply for the WDR (under the new definitions) but are really only one private system not serving other private parcels. An example of this would be an industrial parcel that generates over 25,000 gallons per day of flow and has 1.1 miles of pipe.

9. 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.

10. 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.

11. A *de minimis* spill volume for reporting should be allowed.

SSO reporting requirements do not apply to systems that do not meet the defined size threshold. This exclusion recognizes that spills from these systems would result in insignificant impacts to public health and the environment. *De minimis* spill volumes from Enrollees' systems should be regarded as equally insignificant. Reports for very small spill volumes provide limited value in terms of indicating the physical condition and adequacy of collection system operation and maintenance. Therefore, the staff resources needed to report these small spills is not justified.

We request that the Water Board exclude overflows of less than 100 gallons from the reporting requirement. It should be noted that this is a threshold that was previously established by the San Francisco Bay Regional Water Board.

In closing, we believe 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.

We have invested significant resources to meet the current requirements. The proposed revisions would not provide us with the time needed to fully benefit from these efforts. 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 Truckee Sanitary District asks that the State Water Resources Control Board take these comments under serious consideration.

Sincerely,

Thomas S. Selfridge

Tom Selfridge
General Manager/Chief Engineer