



## TUOLUMNE UTILITIES DISTRICT

18885 NUGGET BLVD • P.O. BOX 3728 • SONORA, CA 95370  
(209) 532-5536 • Fax (209) 536-6485

### DIRECTORS

Barbara Balen  
Judy Dolbon  
Louise Giersch  
Ralph Richardson, M.D.

April 24, 2006

Song Her, Clerk to the Board  
State Water Resources Control Board  
Executive Office  
1001 I St., 24<sup>th</sup> Floor  
Sacramento, CA 95814

Subject: **COMMENT LETTER - 5/3/2006 BOARD MEETING - SSORP**

Dear State Board Members:

Please find herein comments on the proposed March 24, 2006 revised waste discharge requirements for sanitary sewer collection systems.

Tuolumne Utilities District (TUD) provides water and sewer service to a large segment of the population in Tuolumne County through a regional wastewater system first constructed in the early 1970's. All aspects of a wastewater system are represented in this rural foothill community in the central Sierra's, including collection at numerous outlying areas, transport through regional interceptor pipelines to the Sonora Regional Wastewater treatment plant, followed but further collection of the Jamestown system, for ultimate reuse in an agricultural reclamation system. TUD currently has active WDR's on the Sonora Regional WWTP, a Master Reclamation permit for the reclamation system, and an NPDES permit for seasonal discharges to Woods Creek. TUD's service area serves less than the 50,000 threshold population established in the proposal.

### *Issue #1. Effect of Additional WDR's.*

You may be aware that many public utilities provide more than just sewer service to its customers. It is common, as in our case, to be regulated by one or more state agencies in most every area of water or sewer service. For example, a recent typical reimbursement cost by the State Dept. of Health Services for one water system for one six month period was greater than \$12,000.

TUD has 13 small water systems. On the wastewater side, annual fees for the various WDR's described above are greater than \$50,000 annually. That is huge for a small agency. Regulatory compliance is a major component of local budgets and respective rate structures.

Most local government representatives recognize the numerous state shifts of the regulatory burden and cost of new state unfunded program mandates to local utilities at every opportunity and that the SWRCB has no regard for economic impacts to local citizens, and yet we are faced with another program that adds to both state or local fiscal instability. Unfortunately, we all know which will prevail.

The scope of the cost to operate this regulatory program has either not been reported or it has not been developed. This approach appears to indicate the SWRCB is attempting to raise the revenue first and then determine how to spend it. Any funding should first be justified. Obviously, it is very difficult for local utilities to plan for the typically massive impact of additional state fees imposed without input on an unknown economic burden yet to be revealed.



**Recommendation.** Relax the transition schedule for imposition of this program to allow for phased analysis of the impacts and scheduling for local budgets.

**Issue #2. No Affirmative Defense of Liability.**

There is no affirmative defense to liability for unavoidable SSO's that will occur despite the valiant efforts to prevent them. The SWRCB must provide *attainable* standards, an action that is not only reasonable and but which is just common sense.

**Recommendation.** Provide an affirmative defense of liability in the new program regulations.

**Issue #3. Unexpected Spills.**

The reality is that unexpected spills will occur despite the valiant efforts of any system operator. Current definitions of spill quantities require all spills to be reported regardless of quantity or circumstance. If a spill can be captured or contained before it creates a condition of pollution or nuisance or if it occurs in a privately owned service lateral due to blockages or other problems in the private service lateral, then the system operator should not be forcibly fined or otherwise penalized. Agencies like TUD must now become regulators when, in fact, TUD has no regulatory authority on private property, only on public lands or easements.

**Recommendation:** Return to the minimum spill quantity of 100 gallons without penalty where a spill does not reach surface water or create a condition of pollution or nuisance. That would address most private property issues and most incidental SSO's.

**Issue #4. Implementation Schedule.**

The proposed electronic reporting system and schedule for implementation provides little time for compliance when in fact most systems of this nature are fraught with last minute glitches. Not all system operators are as literate with the terminology or technology to meet the state schedule as the state expects.

**Recommendation:** Phase in the implementation of the reporting requirements over at least eighteen months. It would also help to extend the time line for the SSMP Development Plan and the tasks in Section D by 12 months.

**Issue #5. Reporting of Violations.**

The electronic reporting format requires system operators to make a judgment on each SSO as to whether the spill reached waters of the state or whether it created a nuisance. If that judgment is not accurate the system operator will likely be fined or penalized. Those judgments should be left to regulatory personnel at either the local or Regional Board level. Even an attempt to describe or define what "waters of the US" are is ambiguous at best. Field personnel are not equipped to make those judgments accurately.

**Recommendation:** Revise the SSO reporting form to eliminate those questions and leave that to trained regulatory personnel. Only require reporting of the pertinent facts of the incident.

The Tuolumne Utilities District requests that the SWRCB give consideration to the issues described herein. Agencies, whether large or small, will face a substantial increase in costs and ample time must be provided for compliance and adjustments to local budgets. With the lack of any state indication of the economic impacts upon local government many agencies will already be into the FY 06/07 budget year before the costs are known. That makes the burden extreme and the impact to rates untenable for at least 12 months.

Thank you for your consideration.

Sincerely,



Gary Egger  
General Manager

cc: Assemblyman Dave Cogdill  
Senator Chuck Poochigian  
TUD Board Members