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April 24, 2006

Tam Doduc, Chair
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814
Attn: Song Her, Clerk to the Board

5/2/06 Item 7
SSORP
deadline: 4/24/06



**RE: Statewide General Waste Discharge Requirements for Wastewater
Collection System Agencies - Sanitary Sewer Overflow Reduction Program**

Dear Chairperson Doduc:

On behalf of its 30 member counties, the Regional Council of Rural Counties (RCRC) appreciates this opportunity to provide comments on the revised draft Statewide General Waste Discharge Requirements (WDRs) for Wastewater Collection System Agencies and the accompanying Monitoring and Reporting Program (MRP) to implement the Sanitary Sewer Overflow Reduction Program, released by the State Water Resources Control Board (SWRCB) on March 24, 2006. RCRC previously filed comments on this issue on January 25, 2006, and would like to submit the following points of concern as a response to the SWRCB revisions, which are scheduled to be heard on May 2, 2006.

Small wastewater treatment collection agencies in rural communities have unique staffing and funding challenges. The proposed WDRs and MRP not only impose reporting and monitoring requirements on agencies that may have never been subject to WDRs in the past, but assume that each agency will be able to recover the costs from their customer base. Many rural wastewater collection agencies have fewer than 100 connections, and must spread out the costs among a very small customer base. These agencies struggle with funding to meet current state and federal water quality requirements due to the small number of customers they serve, and will have great difficulty meeting the staffing and financial needs necessary to implement the onerous requirements proposed in the WDRs and MRP.

One example is the Markleeville Public Utility District (MPUD) in Amador County, which has only 68 connections and is a volunteer-run system. MPUD has just sufficient funding and staff to cover operations and compliance with existing mandates. However, small systems like MPUD will be destabilized by the proposed WDRs and may be faced with the decision of whether to fund and staff current operations and maintenance or to fund and staff implementation of the WDRs.

RCRC is troubled by the compliance cost estimate for small communities contained in the revised Draft Fact Sheet (fact sheet). The fact sheet states that costs for compliance in small communities may be as high as \$40 per month per household, compared with the estimated \$6

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per month per household for larger communities. If this estimate is accurate, then these regulations will more than double the fees per household paid by many residents of small rural communities, most of which already pay higher fees than residents in larger communities. In light of this, we continue to feel it is imperative that the SWRCB either provide financial assistance to small wastewater collection agencies to help cover the costs of implementing the new program requirements or redistribute costs to insure that our smaller communities are not disproportionately impacted by these regulations.

Additionally, RCRC has concerns with the proposed fee schedule. SWRCB staff has given no rational basis for the division of fee levels among agencies in communities with populations above 50,000 and communities with populations below 50,000. A more reasonable, sensible, and appropriate approach would be developing a graduated fee schedule based on number of connections, which is the real cost-driver of a wastewater collection system. Staff should also provide a reasonable estimate of the SWRCB's expected costs to administer the program as a justification for the proposed fees before any fee schedule is adopted by the SWRCB Board. RCRC would be happy to work with SWRCB staff to devise a fee schedule that is more appropriate and reasonable for wastewater collection agencies of all sizes.

Another issue of concern we previously stated in our January comments is the ability of Regional Water Quality Control Boards (regional boards) to establish more stringent standards than those contained in the WDRs. It is our understanding that one of the purposes of the WDRs is to ensure statewide consistency in the regulation of sanitary sewers. If this is the case, it is unclear why the WDRs still specify that regional boards may impose more stringent requirements than those found in the WDRs. RCRC believes that once a collection system operator is covered under the WDRs that a regional board should not impose new or different requirements except under extraordinary circumstances or where legally required. Likewise, where a collection system is subject to an existing NPDES permit, a determination should be made by the SWRCB and regional board whether the system will be governed by the general WDR or by the NPDES permit at the time of enrollment.

The revised WDRs also fail to adequately address the issue of legal implications for a wastewater collection agency in the instance of a sanitary sewer overflow (SSO) that is unavoidable. It is not unreasonable to assume that an unforeseeable and unavoidable SSO could occur even if an agency is in full compliance with the WDRs, such as SSOs due to extreme weather events. The SSO reporting system for the WDRs require water collection system operators to respond to legal questions under penalty of perjury, including making the statement of whether or not the SSO created a "public nuisance." It is unreasonable to ask collection system operators to respond to such questions. Legal protection from enforcement actions and third party lawsuits when a publicly-owned collection system is in full compliance with the draft WDR is appropriate. RCRC also recommends that the proposed enforcement discretion provisions be amended to include a safe harbor from enforcement actions should an unavoidable SSO occur prior to the development and implementation of the SSMP.

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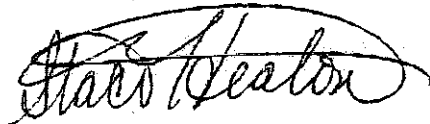
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Finally, RCRC appreciates the inclusion of a phase-in compliance schedule in the revised WDR. However, the schedule only amounts to a nine month difference between final Sanitary Sewer Management Plan (SSMP) compliance deadlines for the largest and smallest wastewater collection agencies. We feel the timeframe is still too short to accommodate the financial and staff considerations of small rural wastewater collection agencies.

We ask that the Board consider these comments and direct staff to continue working with stakeholders to resolve these issues before the WDRs are adopted. Please feel free to contact me at (916) 447-4806 if you have any questions or would like to discuss this matter further.

Sincerely,



Staci Heaton
Director of Regulatory Affairs

CC: Members, State Water Resources Control Board
Celeste Cantú, State Water Resources Control Board Executive Director
Bryan Brock, State Water Resources Control Board Office of Statewide Initiatives