

**STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION**

STAFF REPORT FOR REGULAR MEETING OF OCTOBER 22, 2004

Prepared on September 30, 2004

ITEM NUMBER: 11

SUBJECT: Issuance of Waste Discharge Requirements for Wastewater Collection Agencies Tributary to the City of Santa Barbara El Estero Wastewater Treatment Facility, Santa Barbara County – Order No. R3-2004-0123

KEY INFORMATION

Permittees: County of Santa Barbara, Mission Canyon Sewer District
Location: County Service Area (CSA) 12 (just north of Mission Santa Barbara)
Discharge Type: Municipal Wastewater
Type of Waste: Municipal Wastewater
Discharge Capacity: Variable
Treatment: None
Disposal: Permittee-owned wastewater collection systems discharge to City of Santa Barbara El Estero Wastewater Treatment Facility
Reclamation: N/A
Existing Order: National Pollutant Discharge Elimination System Permit CA0048143 - Waste Discharge Requirements Order No. 99-40

SUMMARY

Historically, throughout the Central Coast Region, requirements pertaining to wastewater collection systems have been incorporated into Waste Discharge Requirements (WDR) for the treatment facility to which those collection systems are tributary. However, in recognition of the different discharge specifications, monitoring requirements, and responsible agencies involved in the tributary wastewater collection systems and the treatment facility, staff proposes to regulate the wastewater collection agencies using WDRs separate from the treatment facility permit.

Proposed WDR Order No. R3-2004-0123 is intended to regulate wastewater collection agencies with collection systems tributary to the City of Santa Barbara El Estero Wastewater Treatment Facility (Treatment Facility). Currently, those tributary collection agencies include only the County of Santa Barbara (referred to as Permittee). The Treatment Facility is owned and operated by the City of Santa Barbara (City). The Permittee and the

City have been regulated by National Pollutant Discharge Elimination System (NPDES) Permit CA0048143 (WDR Order No. 99-40) since September 1999.

DISCUSSION

On November 1, 2002, the Regional Board adopted *WDR Order No. R3-2002-0078 for Local Sewage Collection Agencies Tributary to Monterey Regional Wastewater Treatment Plant, Monterey County*, per staff's recommendation. Staff also indicated its intent to prepare separate WDR Orders for other sewerage agencies tributary to wastewater treatment facilities. Staff's recommendation to regulate sewerage agencies tributary to the City's Treatment Facility under the proposed WDR Order is consistent with staff's previous recommendation, the Regional Board's subsequent action, and recent waste discharge orders issued by other Regional Boards.

To date, collection system WDR Orders have been adopted for the following sewerage entities: Salinas,

Marina Coast Water District, Monterey County DPW (Boronda, Castroville, and Moss Landing), Monterey, Pacific Grove, Seaside CSD (Seaside, Sand City, and Del Rey Oaks), Freedom CSD, Salsipuedes CSD, Pajaro CSD, Arroyo Grande, Grover Beach, and Oceano. The proposed Order is consistent with requirements adopted for these sewerage entities.

Additional reasons for separating requirements for the collection systems from the City's NPDES Permit include expectation that such action will result in:

- Increased awareness and responsibility of the Permittee to facilitate proactive wastewater collection system management.
- The Permittee having a clear set of requirements applicable to its system, as opposed to having collection system requirements incorporated with other requirements in the NPDES Permit.
- Regional Board's improved ability to regulate each system independently. If compliance issues arise, the Order allows the Regional Board to work with the particular system to return it to compliance independently from the other system.
- The proposed Order will allow for more clear tracking through both electronic and hard copy files. This will enable greater efficiency in the evaluation of the collection systems' compliance with applicable requirements.

It is essential that the City's proposed NPDES Permit No. R3-2004-0122 and the proposed Waste Discharge Requirements Order No. R3-2004-0123 are adopted concurrently. Since the NPDES Permit will no longer directly regulate the tributary collection system agencies, these Waste Discharge Requirements are necessary to ensure consistent Permittee regulation.

The Permittee owns and/or operates a wastewater collection system in Santa Barbara County tributary to the Treatment Facility. Properly designed, operated, and maintained wastewater collection systems are meant to collect and

transport all of the wastewater that flows into them to a publicly owned treatment works. However, occasional unintentional discharges of wastewater from municipal sewers occur in every system. Unintentional discharges are commonly referred to as wastewater collection system overflows (or simply overflows). These overflows have a variety of causes, including but not limited to severe weather, improper system operation and maintenance, and vandalism. Nationwide, the United States Environmental Protection Agency (USEPA) estimates that there are at least 40,000 sewage overflows each year. Untreated sewage overflows can contaminate State waters, causing serious water quality problems. Sewage system blockages can back-up into basements, causing property damage and threatening public health.

Many avoidable overflows are caused by inadequate or negligent operation or maintenance, inadequate system capacity, and improper system design and construction. Overflows can be reduced or eliminated by:

- Regular sewer system cleaning and maintenance, including video surveys.
- Reducing infiltration and inflow through system rehabilitation and repairing broken or leaking service lines.
- Enlarging or upgrading sewer, pump station, or sewage treatment facility capacity and/or reliability.
- Constructing wet weather storage and treatment facilities to treat excess flows.
- Proper and ongoing employee training.

Communities need to address overflows during sewer system master planning and facilities planning, or while extending the sewer system into previously unsewered areas.

Some overflows are unavoidable. Unavoidable overflows include those occurring from unpreventable vandalism, some types of pipeline blockages, extreme rainfall, and acts of nature (e.g., earthquakes or floods).

Spill History: The Regional Board violation tracking system indicates that one 100-gallon overflow was reported for January 10, 2000. **It is staff's belief that this is probably incorrect, but that it emphasizes the violation tracking benefits of separate WDRs for collection systems.**

The NPDES Permit that previously covered the sewerage agency required the County's compliance with some sections of the Standard Provisions related to wastewater collection systems. The additional guidance included in the proposed Order requires regular reporting and will facilitate better Regional Board tracking and response.

The proposed Order requires the Permittees to develop a Wastewater Collection System Management Plan (Management Plan). The Management Plan is a more detailed and comprehensive approach to spill prevention with the goal of reducing overflow frequency and impacts. The Management Plan builds on the programs required by the previous NPDES Permit, and provides for their integration as the Management Plan is developed. Specific guidance regarding Management Plan contents is included as Monitoring and Reporting Program (MRP) Attachment 1 (to be adopted as part of the Order).

Beach Closure: In accordance with State statutes, the Santa Barbara County Health Department monitors ocean waters at public beaches and water contact recreation areas. Water samples are collected from sites that are: 1) visited by over 50,000 people annually; and 2) adjacent to storm drains (including rivers, creeks and streams). Collected samples are analyzed for bacteriological "indicator" organisms to determine the potential presence of pathogens known to threaten human health. Elevated indicator organism concentrations are suggestive of contamination by human sewage and other wastes, which may result in human disease. When bacterial indicator organisms exceed the State guidelines for beaches, the presiding County Health Department takes appropriate actions to ensure that the public is safe, and that the causes of contamination are addressed. Raw sewage from collection systems is very high in bacteria (on the order of millions of bacteria per 100 milliliters), so any collection system overflows that discharge to

beach waters threaten to violate public health standards for recreation.

The California Department of Health Services' minimum protective bacteriological standards for waters adjacent to public beaches and public water-contact sports areas are established in the California Code of Regulations, Title 17, Section 7958, and are as follows:

- (1) Based on a single sample, the density of bacteria in water from each sampling station or beach or public water contact sports area shall not exceed:
 - (A) 1,000 total coliform bacteria per 100 milliliters, if the ratio of fecal/total coliform bacteria exceeds 0.1; or
 - (B) 10,000 total coliform bacteria per 100 milliliters; or
 - (C) 400 fecal coliform bacteria per 100 milliliters; or
 - (D) 104 enterococcus bacteria per 100 milliliters.
- (2) Based on the mean of the logarithms of the results of at least five weekly samples during any 30-day sampling period, the density of bacteria in water from any sampling station at a public beach or public water contact sports area, shall not exceed:
 - (A) 1,000 total coliform bacteria per 100 milliliters; or
 - (B) 200 fecal coliform bacteria per 100 milliliters; or
 - (C) 35 enterococcus bacteria per 100 milliliters.

Ocean water quality standards for public beaches establish numeric limits for total coliform bacteria, fecal coliform bacteria, and enterococcus bacteria. These organisms do not necessarily cause disease in humans. They are indicators of microbiological contamination and are used as a substitute by health authorities for disease causing organisms

(such as hepatitis, dysentery, cholera, etc) that are likely to be present in sewage, but are difficult to analyze for directly. Statewide standards establish levels of bacteria that should not be exceeded at public beaches or public water contact sports areas. Contact with contaminated ocean water may cause illness.

Enforcement: The State Water Resources Control Board, Office of the Chief Counsel, issued a questions and answers paper on April 17, 2001, stating that sewage collection system overflows are not subject to minimum mandatory penalties pursuant to California Water Code Section 13385 (h) and (i). However, the Water Code does provide for discretionary penalties for unauthorized discharges, which, with few exceptions, include sewage overflows. The proposed Order does not change Regional Board enforcement authority.

The proposed Order's overall goal is consistent with the Discharger's goal to minimize overflows through a consistent and proactive collection system management program. The proposed Order allows local sewerage agencies to expand established programs while continuing to improve on collection system maintenance and operations.

ENVIRONMENTAL SUMMARY

Waste discharge requirements for related discharges are exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Section 21000, et. seq.) in accordance with Section 13389 of the California Water Code, and 14 California Code of Regulations Section 15301 (existing facilities).

COMMENTS AND RESPONSES

Drafts of Order No. R3-2004-0123 were mailed to all known interested parties and agencies. Written comments submitted to the Regional Board by August 27, 2004, are addressed in this section, including staff responses to comments, and any subsequent staff actions.

- A. County of Santa Barbara, Martin Wilder: Written comments were received August 26, 2004. A meeting with County representatives

was held on August 20, 2004. Staff preliminarily responded by electronic mail on September 1, 2004. Bracketed comments were added below to clarify references.

1. **County Comment:** The permit should specifically reference the Mission Canyon Sewer District (County Service Area 12). While the County of Santa Barbara owns and operates this collection system, it is a specific cost center with its own revenue generation mechanisms.

Staff Response: Staff concurs.

Staff Action: Staff changed Finding No. 1 of the Order, which now reads "County of Santa Barbara – Mission Canyon Sewer District (County Service Area 12)."

2. **County Comment:** Permit requirements specific to collection systems within WDRs [Waste Discharge Requirements] are relatively new. However, because collection systems in the past have functioned without any type of permit, it is somewhat problematic to adopt WDRs on collection only systems in such a short period of time (July 27, 2004 notice and October 22, 2004 adoption). While EPA CMOM [Capacity, Management, Operations, and Maintenance] criteria has been generally well distributed, implementation of the plans and requirements included in draft Order R3-2004-0123 will take a full fiscal year. This is primarily because [of the] funding structure of the sewer district, which goes through a funding review each spring.

Staff Response: Permit requirements specific to collection systems within WDRs are not new, nor is it correct that collection systems have functioned in the past without any type of permit. For example, the County's Mission Canyon Sewer District is currently regulated by WDR Order No. 99-40, the National Pollutant Discharge Elimination System (NPDES) permit which also currently regulates the City's ocean discharge from the El Estero Wastewater Treatment Plant. Order No. 99-40 was issued to the "City of Santa Barbara ... and Local Sewering Entity" (a.k.a., the County). The County's responsibilities are discussed in

Finding No. 2 of Order No. 99-40, and in the Order's last section following "It is Further Ordered." The above approach has been widely practiced by the Regional Board.

Among the primary reasons for separating collection systems from associated NPDES permits (where facilities are owned by different agencies) is the intent to increase the awareness of responsible agencies regarding system management, spill prevention, and reporting requirements. It is staff's position that the proposed Order facilitates this important goal.

The proposed Order provides two years for the County to develop the final Wastewater Collection System Management Plan (October 1, 2006). The time schedule is provided in Section XI of Monitoring and Reporting Program Attachment No. 1. Staff recommends all other requirements apply with immediate effect as they represent the most fundamental requirements for day-to-day operation of wastewater collection systems.

Staff Action: No changes recommended.

3. **County Comment:** Is there a minimum size (flow, length, population) for a collection system to be regulated by WDRs?

Staff Response: While there are no established minimum requirements, WDRs are applied on a case-by-case basis. This allows staff to also consider other characteristics, such as a given system's performance history or growth potential. Overall, staff's goal is to establish a comprehensive framework to assist sewerage entities in their development of system-specific plans to protect and improve the short and long-term performance of their systems. Because of their general nature, the required elements of the management plans can be scaled appropriately according to the individual characteristics of various systems.

Staff Action: No changes recommended.

4. **County Comment:** How does the permit fee structure work for this type of WDR?

Staff Response: The application/annual fee for wastewater collection system WDRs is equal to the minimum fee required for WDRs in Title 23 of the California Code of Regulations, Division 3, Chapter 9, *Waste Discharge Reports and Requirements*, Article 1, *Fees*, Section 2200, *Annual Fee Schedules*.

The current fee is \$872 (subject to change). This amount includes the annual fee of \$800, and the mandatory Ambient Water Monitoring surcharge of 9% of the annual fee (\$72). The fee schedule can be found at:

<http://www.swrcb.ca.gov/fees/index.html>.

Staff Action: No changes recommended.

5. **County Comment:** Finding No. 1, page 1 – Name Mission Canyon Sewer District (Santa Barbara County Service Area 12) as permittee instead of County of Santa Barbara.

Staff Response: Staff concurs.

Staff Action: Please see Comment No. 1 of this staff report.

6. **County Comment:** Finding No. 2, page 1 - Please state authority(ies) for issuance of WDRs on collection systems in the Order. The public when reading this Order needs to know these regulations are mandated and not simply the will of the permittee.

Staff Response: The authority to prohibit discharges of waste is cited in Finding No. 17. Finding No. 2 of the Order already notes that the regulation of the system is pre-existing, and also refers to the State's authority in the last sentence, "This Order sets specific wastewater collection system requirements for the Permittees and upholds State water quality standards."

Staff Action: No change was made to Finding No. 2. The section immediately following the Findings, beginning with "It is Hereby Ordered," was changed to, "It is Hereby Ordered pursuant to authority in sections 13243 and 13263 of the California Water Code, that the Permittee..."

7. **County Comment:** Finding No. 11, page 2 -

Please clarify "privately owned systems." Private systems include private main lines (such as in a condo or commercial development or shopping mall) in addition to the building and lateral sewers (side sewer) that extend from a building to a public main line but are privately owned and maintained. The Mission Canyon Sewer District cannot be held accountable for private facilities since it cannot be regulated on facilities it does not own. Responsibility for system maintenance and overflows on private facilities is that of the facility owner.

Staff Response: "Privately owned systems" refers to systems owned by entities other than the Permittee. Finding No. 11 factually states that overflows can occur from both publicly and privately owned systems. It does not assign responsibility of privately owned systems to the District. The proposed Order does not indicate that the sewerage entities own or maintain private sewer laterals. Any person who discharges sewage is responsible and liable for that spill. If a Permittee does not own the system from which a spill occurs, it is not liable.

Staff Action: No changes recommended.

8. **County Comment:** Finding No. 13, page 2 - Should this read "The issuance of waste discharge requirements order will:"? Line (a) - Does not make sense, individual requirements are proposed for each permittee (city and county). Line (d) - Please reference code section this assembly bill was written into.

Staff Response: The reference to a single waste discharge requirements Order is correct. WDRs for collection systems frequently apply to multiple sewerage entities. The "single" WDR refers to the Order at issue (R3-2004-0123), and not the NPDES permit that is being issued for the associated treatment plant/collection system. In this case, Santa Barbara County is the only entity proposed for coverage under R3-2004-0123 at this time. The WDR, however, would automatically apply to other entities as appropriate (per Finding No. 1 of the Order).

In this context, Finding No. 13.a refers to the reduced administrative burden of issuing a

single WDR for multiple sewerage entities, in comparison to issuing multiple WDR for multiple sewerage agencies (not the case in this particular circumstance).

AB285, October 4, 2001, amended Sections 5412 and 5413 of the Health and Safety Code, amended Section 13271 of the Water Code, and added Section 13193 to the Water Code.

Staff Action: Finding No. 13.d was changed to, "State Water Resources Control Board's reporting requirements per AB 285 (Water Code Sections 13193 and 13271)..."

9. **County Comment:** Finding No. 14, page 3 - Clarify County as "unincorporated County areas."

Staff Response: The only County area named in the proposed Order is CSA 12 (Finding No. 1), which is by definition an unincorporated County area.

Staff Action: No changes recommended.

10. **County Comment:** Finding No. 19, page 3 - The annual reporting date of January 30th is problematic for some of the reports listed in the Monitoring and Reporting Program (MRP) since the time frame between October 22, 2004 and January 30, 2005 is too short.

Staff Response: Staff concurs.

Staff Action: Staff changed MRP Section D, Reporting Schedule, so that the Infiltration/Inflow and Spill Prevention Program Report is due September 15th of each year (instead of January 30th). The first submittal is due September 15, 2005. This date is also supported by the requirement for the Permittee to review and update the program by September 1st of each year. Also regarding this program, staff changed the table reference to the WDR section from D.10 to D.4.

In the same MRP section, staff changed the footnote for the management plan updates to, "*The complete Wastewater Collection System Management Plan (addressing all of the

elements described in MRP Attachment 1) shall be initially submitted October 15, 2006. Subsequent submittals shall include all updates made to the plan since its previous submittal/update, with dated revisions. The Permittee's copy of the plan shall include dated revision references in a separate section near the beginning of the revised plan. If no updates were made, then the Permittee shall submit a statement certifying that the plan was reviewed and required no updates."

11. **County Comment:** Prohibition No. 5, page 4 - The term "pollutant-free" basically refers to storm water runoff. The County's ordinances already prohibit storm water discharge into its sewer systems. However, illegal connections have occurred in the past.

Staff Response: The County's ordinance appear consistent with Prohibition No. 5. "Pollutant-free" wastewater is defined in Section F.6 of the Order, and includes any sources of infiltration or inflow.

Staff Action: No changes recommended.

12. **County Comment:** General Provision No. 3, page 3 - the efforts required to comply with this provision will require additional revenues not currently built into the revenue structure. It will take at least one FY to determine the added costs as well as time to perform a capacity study.

Staff Response: This provision refers to Section IX of MRP Attachment No. 1, which does not require the completion of the Capacity Evaluation until February 1, 2006 (noted in Section XI).

Staff Action: No changes recommended.

13. **County Comment:** Reporting Provision No. 2, page 5 - Schedule in MRP may be a little aggressive.

Staff Response: Regarding the Management Plan development, one year is built into the WDR before any of the elements must be developed (by Oct 1, 2005), and another year is provided before the complete plan must be

developed and implemented. In other words, the time schedule table provided in MRP Attachment 1, Section XI, shows the developmental time schedule for some of the elements, but development and implementation of the final plan is not due until Oct 1, 2006. Nearly two years is available before ultimate implementation.

Staff anticipates that the County will enact any elements as soon as possible based on the needs of its system – the WDR sets a minimum time schedule. It is also notable that in some cases, these same WDR were adopted with much shorter time schedules. On September 10, 2004, the Regional Board adopted WDR Order No. R3-2004-0062, which provided the three sewerage entities with a little over four months to develop and implement their management plans.

In cases where Permittees demonstrate good-faith efforts to comply, time extensions can be considered on a case-by-case basis. Staff believes that the two-year development time schedule is reasonable for an established sewerage entity.

Staff Action: No changes recommended.

14. **County Comment:** Reporting Provision No. 4, page 5 - The Permittee shall report any sewage overflows from its system. Spills from private mains and private laterals should be reported directly to the regulatory agencies if required. Usually, private plumbers are called to remedy these situations. Also, in order to prevent private spills, the Uniform Plumbing Code regulates when backflow devices on laterals are required. The failure of a builder to install these devices can be problematic and yet is the responsibility of the building departments issuing building permits.

Staff Response: Reporting Provision C.4 requires the use of the Sewer Overflow Report Form provided in MRP Attachment No. 2, or equivalent, when reporting spills.

Any person who discharges sewage is responsible and liable for that spill. If a

Permittee does not own the system from which a spill occurs, it is not liable for the spill. However, once a spill reaches public property, the local sewerage agency becomes responsible to notify the public and direct cleanup.

Any known failures to install backflow prevention devices should first be addressed through the County's code enforcement authority. Reporting of such incidents is appropriate within the Permittee's annual report. Failures to require the installation of backflow devices should be immediately addressed through the County's building department.

Staff Action: No changes recommended.

15. **County Comment:** [Standard Provisions and Reporting Requirements No.) 22, page 8 - It is presumed that the 4 year capacity attainment is to be based on projected growth from a general or specific plan adopted by a planning department. Last sentence should read "... the required technical report shall be prepared with public participation and reviewed by all planning and building departments providing these services to the area served by the wastewater collection system". In the case of the Mission Canyon Sewer District, growth projections and capacities were addressed when the system was originally constructed as described in the Mission Canyon Specific Plan.

Staff Response: A design capacity estimate for the purpose of this provision is not limited to such planning documents. Where such documents may not adequately anticipate actual system demands and/or performance, contemporary engineering analysis can and should be utilized.

Formal approval and joint submittal of reports provides greater assurance of the report's technical integrity and the professional consensus among all jurisdictional authorities.

Staff Action: No changes recommended.

16. **County Comment:** Definitions, page 10 - Include a definition of "discharge." Ordinarily, discharge refers to effluent (influent having been

treated to certain standards).

Staff Response: The specific definition of "discharge" is dependent on its context. The example you have used is outside the context of the Order because no treatment is involved.

Because the intent of wastewater collection systems is to convey wastewater to a treatment facility (or to another conveyance system), and the proposed Order prohibits discharges other than these, staff believes the use of the word is unambiguous. The Order does not state or imply the term "discharge" as referring to the discharge of sewage from the County's collection system to the City's.

Staff Action: No changes recommended.

17. **County Comment:** Report of Waste Discharge I.a., page 11 - Water Code Sections 13260 (1) and 13263 identify the need to file reports of discharge for discharges of waste other than into a community sewer system since Section 13050 "person" includes cities, counties, districts, etc... In light of state law, it seems that WDRs are not the proper vehicle for implementation of SSO regulation on satellite or tributary sewage collection systems. Perhaps there are federal guidelines for implementing these kinds of requirements in the EPA CMOM criteria. This issue certainly needs to be addressed before the Order can be adopted.

Staff Response: Water Code Section 13243 states that WDRs can include discharge prohibitions, but WDRs (or a basin plan provision) are still necessary.

The authority to issue WDRs stems from Section 13263, which states that WDRs are not required for discharges into a community sewer system. That exception does not apply to the County for two reasons. First, the intent of the exception was to exclude the ultimate source of waste (i.e., homeowners) from having to obtain WDRs in order to discharge to the sewer. This rationale does not apply to the County, which actually operates the collection system. Second, the County's collection system is a community sewer system. The County's WDRs regulate

discharges from (not to) the County's community sewer system.

Staff Action: No changes recommended.

18. **County Comment:** Staff Report, Key Information - Identify permittee as Mission Canyon Sewer District. Location should state area encompassed by district.

Staff Response: Staff concurs

Staff Action: Recommended changes were made.

19. **County Comment:** Staff Report, Summary - Cite authority to issue WDR for collection system. WDRs are generally for discharges to land.

Staff Response: Please see Staff Responses #6 and #17.

Staff Action: No changes recommended.

20. **County Comment:** MRP, A.1.k. – [The County suggests inserting “its” as in] ...problems related to its sanitary sewer system overflows..."

Staff Response: The County is only responsible for spills from its collection system, however, if information pertaining to private spills is applicable to a particular spill site, those records are relevant in terms of facilitating a response to chronic incidents. Such records do not imply the County's liability for spills from privately owned systems.

Staff Action: No changes recommended.

21. **County Comment:** MRP, D – Reporting Schedule. Infiltration/Inflow and Spill Prevention Program Report should refer to WDR, Section D.4.

Staff Response: Staff concurs.

Staff Action: Recommended change made.

22. **County Comment:** MRP, B.4. - "For spills to fresh water, samples shall, at minimum, be

analyzed for total and fecal coliform bacteria and enterococcus bacteria to marine water.

Staff Response: The intent of the language is to specify what bacteria shall be sampled for spills to marine waters or fresh waters.

Staff Action: For clarity, staff changed the entry as follows: “For spills to marine waters, samples shall, at minimum, be analyzed for total and fecal coliform bacteria and enterococcus bacteria. For spills to fresh waters, samples shall, at minimum, be analyzed for fecal coliform bacteria.”

23. **County Comment:** MRP [Attachment 1], IV. I. - Overflows from private property caused by a plug in a private line are the responsibility of the property owner. The plan presumably relates to the overflows that may result from a private system as a result of a plug in the public sewer receiving flows from the private sewer.

Staff Response: The plan element relates to a Permittee's spill response once a spill from private property becomes, or reasonably threatens to become, a public health issue. This plan element addresses any sewer spills from private property that discharge to public right-of-ways and storm drains, and how a Permittee may respond to prevent such spills from reaching surface waters or storm drains.

This plan element does not transfer liability for private spills to the Permittee, but does assert the Permittee's responsibility to protect public health and the environment as needed in such events. The plan element is not contingent upon a determination of liability or specific cause, which often would not be clear until after response actions were taken.

In many circumstances, the local sewerage agency may be the only capable response option. The plan element does not discount the role that private companies may play in responding to private sewage spills, nor does it preclude the County from billing responsible parties.

Any person who discharges sewage is

responsible and liable for that spill. If a Permittee does not own the system from which a spill occurs, it is not liable for the spill. However, once a spill reaches public property, the local agency becomes responsible to notify the public and direct cleanup.

Staff Action: No changes recommended.

ATTACHMENTS

1. Proposed Order No. R3-2004-0123 and Monitoring & Reporting Program No. R3-2004-0123
2. County of Santa Barbara letter dated August 23, 2004, providing comments on the draft WDR.

RECOMMENDATION

Adopt WDR Order No. R3-2004-0123, with changes noted in the *Comments and Responses* Section of this Staff Report.

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Task: 121-01

File: Santa Barbara County DPW / El Estero Collection System SB