

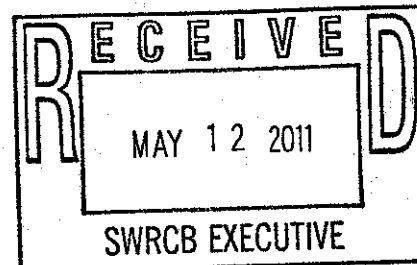
**DUBLIN
SAN RAMON
SERVICES
DISTRICT**



Public Comment
Sanitary Sewer System WDR
Deadline: 5/13/11 by 12 noon

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May 11, 2011



State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

Subject: COMMENT LETTER – SSS WDRs REVIEW AND UPDATE

Dear Chairman Hoppin and Members of the Board:

The Dublin San Ramon Services District (DSRSD) appreciates the opportunity to provide comments on the proposed revisions to the Statewide General Waste Discharge Requirements for Sanitary Sewer Systems (SSS WDR). Historically our agency has done well in regards to managing, operating, and maintaining our sanitary sewer system. Recently, we have been in compliance with the existing general order (Order 2006-003-DWQ) and DSRSD continues to expend significant resources toward continuous implementation of our wastewater collection and conveyance system.

DSRSD was established in 1953. DSRSD is located in the San Francisco/Oakland Bay area where it provides water, wastewater, and recycled water services to customers in Alameda and Contra Costa counties. DSRSD provides wastewater collection and treatment services for the City of Dublin, CA and a small portion of the City of San Ramon, CA. Under contract DSRSD also provides wastewater treatment services for the City of Pleasanton, CA. DSRSD provides recycled water (for irrigation and construction) to 173 commercial customers and serves a population of approximately 145,000 citizens. DSRSD is responsible for maintaining approximately 190 miles of collection system sewer mains. Last year DSRSD experienced one (300 gallon) sanitary sewer overflow from this wastewater collection system and over the last six years DSRSD has averaged a little over 1.5 SSOs per year.

While we appreciate the State Water Board's efforts to address certain issues associated with the operation and maintenance of sanitary sewer systems our agency is very concerned about a number of the proposed revisions to the existing SSS WDR. In particular, DSRSD is very concerned about provisions that would require public agencies to report discharges from privately owned and maintained sewer laterals; we strongly oppose the idea of requiring NPDES permits for collection systems that have or ever will have a sanitary sewer overflow; we disagree with other additions to sewer system management plan (SSMP) requirements that we request not be mandated, and we have a

list of other concerns. Below you will find a short list of other concerns we have with the proposed changes to the SSS WDR.

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

We strongly oppose the two-tiered WDRs and NPDES permit alternative, whereby an SSO that occurred in the past or anytime in the future triggers the requirement to apply for an NPDES permit. DSRSD agrees with several points included in the Staff Report also opposing an NPDES permit. Since the existing SSS WDRs and the proposed revisions to the SSS WDRs do not authorize sanitary sewer overflows (SSOs) to waters of the United States, there is no need for an NPDES permit. A NPDES permit for an SSO would subject local public agencies to additional and more egregious non-governmental organization (NGO) lawsuits and higher administrative penalties with absolutely no demonstration that this would reduce SSOs or improve water quality.

As described in the Staff Report, this change 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.

DSRSD would also like to emphasize our concerns particularly in light of the potential that this issue may need to be revised again if the United States Environmental Protection Agency (USEPA) implements an NPDES permit for satellite sanitary sewer systems at some future date. DSRSD would like to dedicate our resources at continuing to implement the best management practices and conducting the appropriate operations and maintenance (O&M) activities that have proven to be effective at preventing SSOs and properly maintaining our collection system. A NPDES permit related to SSOs in no way will help our agency in regards to meeting these objectives. We do not believe this would be an effective way to spend public funds or staffing resources.

2. The basis for mandatory reporting of Private Lateral Sewer Discharges (PLSDs) is not justified and creates an inappropriate burden for public agency staff.

DSRSD believes that there is not adequate justification to require public agencies to report PLSDs. There are a number of issues which must be sufficiently explored. First, the impacts of such a change must be considered both in terms whether or not proper implementation is possible and/or practical. Secondly, the State Board should thoroughly consider whether or not such a program will have any justifiable benefit to the State.

Private property owners are very guarded about information related to activities on their property. This is particularly true of property owners in regards to government agencies. Given this fact, imagine the difficulty public agencies will face in trying to determine all of the pertinent information related to PLSDs and reporting the same to the State Water Board. If the public agency has incomplete information related to a PLSD how would the agency properly complete report forms or write reports related to PLSDs and how useful

would that information be to the Board? How should public agencies prioritize responses to and reporting of PLSDs and SSOs? Is there an expectation that if a PLSD is discovered by a public agency, that they assist with the cleanup? How are PLSDs defined? For example, if a homeowner observes sewage in their bathtub as a result of a blockage in their lateral, is that a PLSD?

The requirement is particularly troublesome given that 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 receiving waters. PLSDs typically only impact the property owner. These types of events fall under the jurisdiction of local health officers. We recommend that the State Water Board first 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. Requiring public agencies to provide detailed information regarding PLSDs over which they have no control is not appropriate and would divert limited staff resources from higher priority issues that actually protect receiving waters.

The Staff Report includes recognition that existing reporting requirements may have indirectly created disincentives for agencies to maintain ownership of private laterals, the proposed revisions create further confusion rather than resolving this issue. In order to solve the problem, we recommend that the California Integrated Water Quality System (CIWQS) database and SSO/mile/yr data reflect only mainline spills as a performance measure. These are the overflows that have the potential for water quality impact.

DSRSD believes that our ratepayers should not pay staff to manage activities related to privately owned systems. In any event, how will State Water Board staff enforce this provision? Most importantly, how will State Water Board staff use this information to reduce SSOs and improve water quality? The State Water Board should only hold public agencies accountable and responsible for activities within the public agency's jurisdiction.

For all of the reasons indicated above, we specifically request that reporting of PLSDs remain voluntary.

3. It is essential that State and Regional Water Board staff consider the reasons for each SSO in any enforcement action.

The existing SSS WDRs included language in Provision D.6 that provided 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.

The 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 transform the existing enforcement discretion language, which expresses a clear statement of the State Board's intent regarding enforcement priorities and responses, into a purely advisory provision, which individual regional boards are free to follow or ignore as they choose. 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 and these factors should definitely be considered in enforcement actions. For example, if an SSO occurs because an area experience a 50 year wet weather storm event that exceeds the capacity of a well operated and maintained collection system that was constructed assuming a 20 year storm event, such information must always be considered when assessing the need for or severity of an enforcement action.

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. Requiring de-chlorination of clean-up water is counter-productive.

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). Putting restrictions on the use of potable water in cleaning up an SSO that is otherwise likely to violate either of the first two prohibitions simply adds further unnecessary challenges. In addition, the amount of potable water used, combined with the distance it would have to travel to reach surface water (so the chlorine would readily degrade) does not warrant the additional on-site operational difficulty in dechlorination.

5. We support the revised definition of a "sanitary sewer overflow".

We support the revision to the definition of "sanitary sewer overflow" which specifies that fully-recovered releases to storm drains are *not* included. We would like to see an additional clarification that spills to drainage channels that are not waters of the U.S. are similarly excluded from the definition of SSO. Excluding these events properly incentivizes full recovery of wastewater. The Monitoring and Reporting Program definitions of Category 2 overflows should be clarified to indicate that these events would not be reported. In addition, it is critical that construction trenches be retained as an example within the definition of a "sanitary sewer system."

6. Provision 8 includes an incorrect assumption regarding sanitary sewer system replacement.

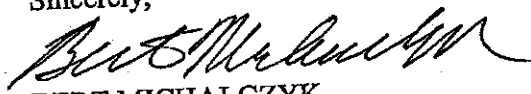
Provision 8 suggests that sanitary sewer systems will need replacing within the timeframe of these WDRs. The reference to "eventual replacement" should be removed because the need to replace sewers is dependent on several factors. In our improvement efforts DSRSD understands that the best functioning collection systems consider a variety of

factors in order to determine when a section of sewer pipe and other associated appurtenances should be replaced. Those factors are, but are not limited to, the following: pipe or component age, pipe or component material, soil type, site condition, risk of a spill, probability of failure, estimated impact of spill, system redundancy, cleaning frequency, and closed circuit television inspection of collection system mains. Sewers should not be replaced automatically when they reach a certain age, especially when they are in good condition and functioning as designed. This would not be a good use of limited public resources.

In closing, it is our view that significant proposed revisions to the SSS WDRs are redundant and overly burdensome. Implementation of the existing permit has already successfully supported DSRSD's on going efforts at maintaining a well operated wastewater collection system. DSRSD has recently embarked upon the formal creation of a comprehensive Asset Management Program focused on our wastewater collection. These efforts have been undertaken as part of our commitment to be good stewards to these public assets. As in the past additional improvements are expected as we continue to implement our existing wastewater collection system capital improvement program. We feel compelled to say that it would be frustrating to have invested significant resources in maintaining our system while protecting the environment and meeting the provisions in the current requirements only to have them change before our current efforts have come to fruition. 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 existing programs.

The Dublin San Ramon Services District hopes that the State Water Resources Control Board will take these comments under serious consideration. Again, thank you and the Water Board Staff for your time, effort, and the opportunity to comment on these proposed changes to the SSS WDR.

Sincerely,



BERT MICHALCZYK
General Manager

cc: Dave Requa, AGM/District Engineer, DSRSD
Dan Gallagher, Operations Manager, DSRSD
Jim Dryden, Field Services Supervisor, DSRSD
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Operations Department File

