



GAIL FARBER, Director

COUNTY OF LOS ANGELES
DEPARTMENT OF PUBLIC WORKS

"To Enrich Lives Through Effective and Caring Service"

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

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SWRCB EXECUTIVE

ADDRESS ALL CORRESPONDENCE TO:
P.O. BOX 1460
ALHAMBRA, CALIFORNIA 91802-1460

IN REPLY PLEASE
REFER TO FILE:

SM-0

May 12, 2011

Ms. Jeanine Townsend, Clerk of the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Dear Ms. Townsend:

**COMMENT LETTER – STATEWIDE GENERAL WASTE DISCHARGE
REQUIREMENTS FOR SANITARY SEWER SYSTEMS REVIEW AND UPDATE**

Thank you for the opportunity to comment on the draft Statewide General Waste Discharge Requirements for Sanitary Sewer Systems (SSS WDRs). We support the State Water Resources Control Board's (Board) goal of providing uniformity in reporting on the number of wastewater spills, the wastewater volume spilled, and the causes of wastewater spills in the State. However, the County of Los Angeles Department of Public Works (Department) has concerns over the proposed plan to replace the existing Statewide General Waste Discharge Requirements (WDRs) under Order No. 2006-0003-DWQ. Our concerns include the need to revise the existing WDRs at this time, the financial implications on our Sewer Maintenance Districts, and the prescriptive nature of the proposed SSS WDRs.

Under the existing WDRs, adopted in May 2006, large agencies had up to three years to implement a Sewer System Management Plan (SSMP). As a result, most agencies have been operating for less than two years under their respective SSMP and have not even had the opportunity to audit the effectiveness of their program. We urge the Board to delay or significantly scale back the proposed SSS WDRs and allow the programs and progress started under the existing WDRs to fully develop, especially since many of the programs involve capital improvements that will take time to be put in place.

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The County of Los Angeles Board of Supervisors made the difficult decision to increase the Consolidated Sewer Maintenance District's annual sewer service charge by 45 percent to comply with the requirements under the existing WDRs. This generated approximately \$8,000,000 of additional annual revenue and was used to fund ten full-time maintenance crews along with purchasing additional sewer maintenance vehicles and equipment for those crews. Two satellite maintenance yards were opened and the Department developed a Condition Assessment Program to televise approximately 500 miles of sewer lines each year allowing us to identify and correct structural and maintenance deficiencies in our system. These efforts have been very effective in significantly reducing the number of sanitary sewer overflows (SSOs), dropping from 226 Districtwide in 2007 to only 90 in 2010 (approximately 60 percent reduction). It will be extremely difficult to justify additional rate increases to comply with the proposed SSS WDRs, especially since it is unclear how the additional efforts required under the revised permit will produce corresponding environmental or public health benefits.

The draft SSS WDR goes far beyond the 2006 WDRs and requires very specific and detailed steps of each Enrollee in addition to the prohibitions on SSOs. The prescriptive and programmatic mandates of the SSS WDRs must be scaled back substantially to allow local governments to design and implement programs appropriate to their communities that serve the end goal of reducing SSOs that threaten public health or the environment. The following are specific comments to the draft SSS WDRs:

Section B: Application Requirements

- Item 1, page 9 of 26: The draft SSS WDRs are specific to Enrollees who "own" a sanitary sewer system. The existing WDRs include Enrollees who "operate" sanitary sewer systems. The Department operates two Sewer Maintenance Districts, the Consolidated and Marina Sewer Maintenance Districts (Districts), established under the provisions of the State of California's Health and Safety Code. The Districts include unincorporated County territory and 38 cities within the County of Los Angeles. The Districts operate and maintain the sewers, but do not own the sewers. The language in the SSS WDRs needs to include Enrollees who "operate" sanitary sewer systems in addition to those who "own" sanitary sewer systems.
- Item 3, page 10 of 26: The requirement to have Enrollees cover all sanitary sewer systems they own has far reaching implications that we feel have not been fully considered by the Board's staff. Most county and city governments will fall under the SSS WDRs for the public sanitary sewer system serving their community. However, the same municipalities have private sewer laterals

servicing such facilities as airports, administration buildings, local colleges, courthouses, fire stations, golf courses, hospitals, libraries, maintenance yards, museums, parks, probation camps, public schools, and transportation facilities. The wastewater flow in these private sewer laterals is very limited and far below the 25,000 gallons per day threshold. Furthermore, any interruptions in the wastewater flow in the private sewer lateral will be quickly identified and resolved. To require all of these municipal facilities to be enrolled and covered under the SSS WDRs is unrealistic and imposes a huge administrative and financial burden that will have little if any benefit to the environment or public health. This section needs to be excluded or revised to exclude the private sewer laterals servicing such facilities.

Section C: Prohibitions

- Item 3, page 10 of 26: The discharge of potable water containing chlorine residual for wash down and clean up of spills needs to be clarified. Is the use of potable water for clean up permissible as long as all wash water is fully captured and contained and returned to the sanitary sewer system?

Section D: Provisions

- Item 4, page 11 of 26: The requirement for Enrollees to report private lateral spills should be eliminated. To mandate that Enrollees expend resources to investigate and report private lateral spills is an unfunded State mandate and in our opinion goes beyond the authority of the Board. There is no authority under the Water Code or any other provision of law that allows the Board to require Enrollees to report on the activities of others that, by definition, are the responsibility of the private lateral owner and not a discharge resulting from the actions of the Enrollee.
- Items 12 b (i) and b (ii), page 14 of 26: This section should be modified to exclude requirements of names, e-mail addresses, and phone numbers for agency officials responsible for the sewer collection system. These requirements are unnecessarily detailed and may infringe upon the privacy rights of employees. We question the need for this information, particularly as it relates to field personnel that respond to spills, and to continually update this information would be burdensome on Enrollees. Instead, titles of holders of the positions should be included, which would eliminate the need for frequent changes to the SSMP.

- Item 12 b (iii), page 14 of 26: The chain of communication should include notification of the impacted MS4 owner/operator for any SSO that enters the storm drain system.
- Item 12 d (iv), page 16 of 26: It is unclear what is required under this section and it needs to be clarified or excluded in its entirety. The assessment of employee performance is confidential information and protected by law. It is not open to public inspection or available to the State for review. This is a very prescriptive and onerous order and it is unclear how the information will be used by the Board or how the efforts required will produce corresponding environmental or public health benefits.
- Item 12 d (vi), page 16 of 26: The requirement to demonstrate an agency's ability to fund the sanitary sewer system in perpetuity is unrealistic and should be deleted. Public agencies' budgets must be approved year-to-year. No public agency can guarantee a specified level of funding beyond what has been approved by its legislative body, let alone, in perpetuity.
- Item 12 f (iii), page 17 of 26: The procedures should include notification of the impacted MS4 owner/operator for any SSO that enters the storm drain system.
- Item 12 f (vi), page 17 of 26: The second paragraph should be excluded from the Order. The proposed risk analysis requirement would create a tremendous burden on each Enrollee to create a document that includes all of the detailed information proposed. For example, requiring an analysis that includes "the expected consequences of each identified failure" would require engineering, geological, topographical, and flood plain information to model the potential direction and scope of various spills. The cost of such analysis would be significant with a corresponding value that would be extremely limited at best. We recommend that the SSS WDRs language require that agencies follow industry-accepted standards, such as the National Association of Sewer Service Companies' Pipeline Assessment and Certification Program Quick Rating Methodology, to rank, prioritize, and address potential sewer system failures.
- Item 12 i (vi), page 20 of 26: This section should be removed. The SSMP is a comprehensive document containing operations maps, equipment inventory, asset information, performance measures, capital programs, overflow logs, etc., and is updated on a continuous basis. To compile a log of every change is an onerous task that will not reduce or mitigate the impact of sewer overflows.

Monitoring and Reporting Program

- Section B, Item 1(C), page 2 of 6: Many storm drain systems discharge into soft-bottom channels. The channels are dry for the majority of the year and discharges quickly percolate into the ground. Wastewater that reaches a storm drain system and is discharged into a dry soft-bottom channel is no different than a discharge into an infiltration pit or percolation pond and that volume of sewage discharged into the dry soft-bottom channel needs to be excluded as well.

In general, it is our view 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. It would be frustrating to have invested significant resources in meeting 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 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.

Additionally, the public notice for the SSS WDRs invites comments on whether the Board should consider substituting a two-tiered "hybrid" system for regulating collection systems in which some agencies are regulated under a National Pollutant Discharge Elimination System (NPDES) permit and others under WDRs. We strongly urge the Board not to move forward with this option for policy, legal, and practical reasons.

The proposed SSS WDRs do not authorize any discharges to waters. The SSS WDRs expressly prohibit all discharges of wastewater from the collection system to surface waters. If a sanitary sewer system discharges without a permit, it is already liable for discharging without a permit and subject to civil and criminal penalties.

We disagree with the characterization in the staff report that an advantage of the NPDES permit would be to allow increased third-party enforcement of the programmatic details of each system's operations and planning. Third-party enforcement is already overly aggressive and consuming millions of dollars in public resources. Moreover, this view loses sight of the purpose of the SSS WDRs in the first place, which is to reduce sewer overflows not to second-guess every management and operation decision made by local government.

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Thank you again for the opportunity to comment on the proposed SSS WDRs. If you have any questions on these comments, please contact Mr. Nicholas A. Agbobu, Sewer Maintenance Division, at (626) 300-3382 or nagbobu@dpw.lacounty.gov.

Very truly yours,

GAIL FARBER
Director of Public Works



 DENNIS HUNTER, PLS PE
Deputy Director

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