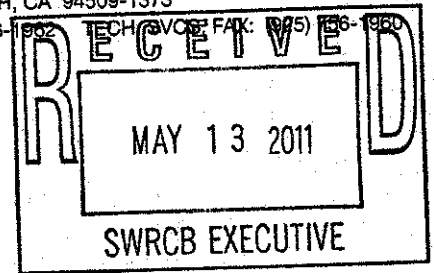


# Delta Diablo Sanitation District

OFFICE AND TREATMENT PLANT: 2500 PITTSBURG-ANTIOCH HIGHWAY, ANTIOCH, CA 94509-1373  
TEL.: (925) 756-1900 ADMIN. FAX: (925) 756-1961 MAINT. FAX: (925) 756-1963 OPER. FAX: (925) 756-1962  
www.ddsd.org



May 13, 2011

VIA ELECTRONIC MAIL (commentletters@waterboards.ca.gov) & U.S. MAIL

Ms. Jeanine Townsend, Clerk to the Board  
State Water Resources Control Board  
1001 I Street  
Sacramento, CA 95814

SUBJECT: COMMENT LETTER – SSS WDRs REVIEW & UPDATES

Ms. Townsend:

Delta Diablo Sanitation District appreciates the opportunity to provide comments to the State Water Resources Control Board (Water Board) regarding the proposed revisions to the Sanitary Sewer System Waste Discharge Requirements (SSS WDRs). Delta Diablo Sanitation District (the District) provides wastewater treatment for nearly 200,000 residents in the communities of Antioch, Bay Point and Pittsburg. In 2010 the District received the Platinum Peak Performance 6 award from the National Association of Clean Water Agencies for its history of compliance with its National Pollutant Discharge Elimination System permit for over six consecutive years. In addition to wastewater treatment, the District operates one of the largest industrial recycled water plants in California, performs street sweeping functions, conducts stormwater inspections, and provides household hazardous waste services to its ratepayers as well as neighboring communities. All of the services support the District's purpose to "safeguard and enhance the environment of the communities we serve."

The District's wastewater and conveyance systems include five pump stations, 57 miles of gravity sewers, and 14 miles of forcemains. The City of Antioch and the City of Pittsburg are satellite agencies to the District and all agencies work closely to share ideas for improved operations and to provide mutual aid support. While the District has always worked hard to prevent sanitary sewer overflows (SSOs), the existing SSS WDRs has helped refine and formalize the District's program and provide for more consistent documentation and reporting throughout the state. Since the adoption of the existing SSS WDRs, the District has had no spill reach waters of the United States.

The District is very concerned about the Water Board's proposed revisions to the SSS WDRs if adopted in its current form. The proposed revisions represent a major departure from the program that has been successfully implemented under the existing SSS WDRs. The District is particularly concerned with the two-tiered National Pollutant Discharge Elimination System

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(NPDES) permitting proposal, the revisions related to the reporting of private lateral sewage discharges (PLSDs), and onerous additions to the sewer system management plan (SSMP) requirements that should not be mandated unless Water Board guidance and funding is made available. A more detailed presentation of these concerns is provided below.

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

The District strongly opposes the two-tiered WDRs and NPDES permit alternative, whereby an SSO occurring previously or in the future would trigger the requirement to apply for an NPDES permit, and 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. The result of triggering an NPDES permit 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 improve water quality or further reduce SSOs. The District believes that limited resources and funds are better spent on projects and programs that reduce SSOs rather than fighting legal battles.

As described in the Staff Report, this alternative would also require significant additional Water Board staff resources to track and implement the different permit tiers. The District understands 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.

The District would also like to reinforce concerns about confusion and wasted resources resulting from adopting an NPDES permit component now, that may need to be revised again if the United States Environmental Protection Agency (USEPA) implements an NPDES permit for satellite sanitary sewer systems later. As a collection system operating in the San Francisco Bay Region, the District can speak to this issue with experience; the 2006 statewide requirements included in the existing SSS WDRs were different from our established regional program. In developing our SSMP, we had to sift through and identify strategies that addressed both sets of requirements. Changes to reporting requirements made everything more confusing. As requirements become more complicated and confusing, more agency staff time is directed towards preparing reports and re-organizing information and operating procedures, and less time is spent actually managing or conducting the appropriate operations and maintenance (O&M) activities to prevent SSOs and properly maintain the collection system.

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**2. Mandatory reporting of PLSDs does little to protect water quality and creates an inappropriate burden for public agency staff.**

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 waters. Requiring public agencies to provide detailed information regarding such a small percentage of overflow volumes from parts of the system over which they have no control is not appropriate and would divert limited staff resources from higher priority issues that actually protect waters.

In addition, it is unrealistic and inappropriate to expect public collection system agencies to solve (or even just report) all of the States' overflow problems, especially when they are insignificant in the realm of protecting water quality. PLSDs typically only impact the property owner, as they are usually very small in volume and do not reach receiving waters. These types of events fall under the jurisdiction of local health officers. The District recommends 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. The District believes that public health agencies have the best knowledge of overflows from laterals on private property, and are, in most instances, the most appropriate agencies to respond to these events.

As the mandatory PLSD reporting requirements are written, a number of questions immediately illustrate the intense staff resources required to deal with the issue. What if the collection system agency does not have all of the information for a PLSD, as requested on the reporting form? What if an agency finds out about two overflows at once and one is a PLSD and the other is from the public sewer and they only have resources to deal with one? What if an agency receives a telephone message about a PLSD and the information is incomplete? How much effort and resources should be used to hunt down missing information? Is there an expectation that if an overflow on private property is discovered by a public agency, that they assist with the cleanup? If a homeowner observes their own sewage in their bathtub, because their lateral has a stoppage due to actions they caused (e.g. flushable wipes), and the toilet and sink have not overflowed onto the floor, is that a PLSD? How are we supposed to estimate volume spilled or recovered? (Often a homeowner will be very guarded with information about what goes on inside the home.) What if a PLSD exists and someone thinks a public agency staff person knew about it and it wasn't reported? How will State Water Board staff enforce this provision? Most importantly of all, how relevant is this information to protecting water quality?

Also, although 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.

For all of the reasons indicated above, the District specifically requests that reporting of PLSDs remain voluntary.

**3. It is essential that the 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.

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 Water 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.

It is imperative that the existing language be retained. Public collection system agencies should not be made to suffer consequences for conditions that are outside their reasonable control.

**4. Significant additional Sewer System Management Plan (SSMP) requirements should not be mandated until the Water Board provides guidance and funding.**

The proposed "Risk and Threat Analysis" and "Staff Performance Assessment Program" are vague, not statistically supported, unnecessarily complicated, and overly prescriptive.

The proposed Risk and Threat Analysis of all sanitary sewer assets would be complex and resource-intensive, and would not provide incrementally more benefit than that provided by an otherwise well-operated and managed system. It is not appropriate to require every agency to

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implement this requirement unless the Water Board can demonstrate that those agencies complying with current requirements have been ineffective in reducing SSOs. This program should also only be required if and when adequate Water Board guidance has been developed and funding is provided.

Requiring development and implementation of the proposed Staff Assessment Program on an agency-by-agency basis is unrealistic. The expectations outlined in the proposed revisions to the SSS WDRs suggest that agency staff would be responsible for developing a program similar to the existing Technical Certification Program offered by the California Water Environment Association, which would require a substantial investment of resources to do redundant work at each agency. It is also not appropriate to require public agencies to train contractors (which are separate, private entities).

The Water Board should not implement these new requirements until detailed program guidance is provided. Also, Water Board staff has not demonstrated that the current training requirements are deficient.

**5. SSMP sections (i) and (j) should be combined, because otherwise the requirements for routine review and revisions of the SSMP are redundant and contradictory.**

SSMP Section (i) *Performance Targets and Program Modifications* and Section (j) *SSMP Program Audits* both require the Enrollee to evaluate the effectiveness of the SSMP and correct or update the document as necessary. Section (i) indicates that this process is to occur on an annual basis, while Section (j) specifies a minimum frequency of once every two years. We recommend that Water Board staff combine these two sections and clarify the requirements.

**6. The findings include several incorrect statements about PLSDs.**

Finding 7 in the proposed revisions to the SSS WDRs includes the statement: "SSOs and PLSDs may pollute surface or ground waters, threaten beneficial uses and public health, ..." The District disagrees that PLSDs are in the same category as SSOs from mainline sewers in terms of water quality impacts. These overflows are very small in volume individually, and overall. The words "...and PLSDs..." should be removed.

Finding 9 in the proposed revisions to the SSS WDRs includes the statement: "Major causes of SSOs and PLSDs include but are not limited to: grease blockages, root blockages, debris blockages, sewer line flood damage, manhole structure failures, pipe failures, vandalism, pump station mechanical failures, power outages, excessive storm or ground water inflow/infiltration, sanitary sewer age, construction and related material failures, lack of proper operation and maintenance, insufficient capacity, and contractor-caused damages. Many SSOs and PLSDs can

be prevented by having adequate facilities, source control measures, and proper operation and maintenance of the sanitary sewer system.” Including PLSDs in these descriptions is incorrect: many of the items on the first list are not causes of PLSDs, and many PLSDs cannot be prevented as described in the second sentence. References to PLSDs should be removed.

**7. Notification requirements need to be clarified.**

The District supports the Staff Report’s indication that only Cal EMA would need to be notified when spills to surface water of any volume occur. However, Paragraph G.4 indicates that Enrollees are to provide immediate notification of SSOs to the local health officer or the local director of environmental health, contrary to the instructions indicated in Section A of the Monitoring and Reporting Program and the Staff Report. Please clarify that notification shall only to be made to Cal EMA, and indicate that Cal EMA will notify other agencies.

**8. Revisions to SSMP requirements are premature.**

The District is concerned that the proposed revisions to the SSS WDRs include significant changes to SSMP program requirements. The District strongly urges that the existing SSMP requirements be preserved as in the existing SSS WDRs. As the Staff Report indicates, development and implementation of SSMPs by SSS WDRs enrollees has just been completed and these plans need to be fully implemented so their effectiveness can be properly identified. Further, it is recognized that dramatically changing SSMP requirements before full implementation will likely lead to confusion regarding the SSMP requirements among enrollees, the public, and Water Board staff.

In general, the District believes that the 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 in California. Additional improvements are expected as capital improvements identified under the current WDRs are completed. The District believes 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 current programs.

The District takes seriously its commitment to protect water quality and constantly seeks to use its limited resources to effectively address the most significant issues in the environment. The District requests that the Water Board refrain from making significant changes in the SSS WDRs to allow public collection system agencies the time to demonstrate the effectiveness of existing programs. The District has invested significant resources in meeting the current requirements and supports the Water Board’s desire to reduce SSOs and protect water quality and only asks

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that the SSS WDR accomplish those goals without presenting unreasonable costs and compliance risk for the District's operations. Thank you again for the opportunity to comment.

Sincerely,



Gary W. Darling  
General Manager

AWR/GWD:awr

cc: CORP.15.03-CORRES-XX  
Chron File

