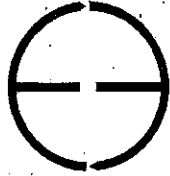


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California Council for Environmental and Economic Balance

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

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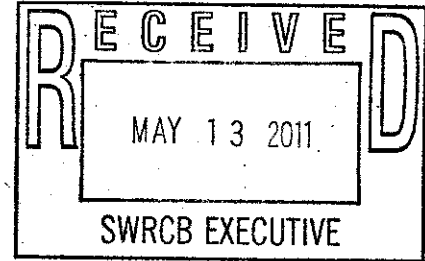
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May 13, 2011

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



Subject: Comments on Statewide General Waste Discharge
Requirements for Sanitary Sewer Systems (SSS WDRs)

Dear Ms. Townsend:

The California Council for Environmental and Economic Balance (CCEEB) is a non-partisan, non-profit organization of business, labor and community leaders that seeks to achieve the State's environmental goals in a manner consistent with a sound economy. On behalf of CCEEB, we want to thank the State Water Resources Control Board (SWRCB) for the opportunity to comment on the Statewide General Waste Discharge Requirements for Sanitary Sewer Systems (SSS WDRs).

Private and publicly-owned sanitary sewer systems should be regulated separately

In 2006 the SWRCB issued Order No. 2006-0003-DWQ (2006 Order) that applied to public agencies which own and operate sanitary sewer systems. The goal of the 2006 Order was to reduce sanitary sewer overflows (SSOs) from publicly-owned sanitary sewer systems. The proposed 2011 Waste Discharge Requirements (WDR) in essence makes a wholesale extension of 2006 Order requirements to private sanitary sewer systems. In making this extension, the SWRCB assumes private and public sanitary sewer systems are functionally and operationally equivalent and equally as likely to have reportable discharges. This assumption is central to SWRCB's proposal to regulate publicly-owned and privately-owned systems in identical fashion. We believe this assumption is invalid and recommend that the SWRCB abandon its effort to regulate public and private sanitary systems in the proposed one-size-fits-all approach.

In reality, private systems handle significantly smaller volumes of wastewater, and are generally self-contained within defined property limits. Private system conveyances are self-contained within buildings or in highly visible use areas (walkways, parking lots, etc.) that prompt swift response by operators and rarely result in releases beyond the property limits. As a result, privately-owned systems are less likely to have discharges to storm drains or receiving waters. This is best illustrated by the SWRCB's own data. The Statewide Sanitary Sewer Overflow Program Annual Compliance Update report dated May 2010 compares overflow data from public and private systems, including the number of SSOs per 100 miles of sanitary sewer piping. The data from Table 1 of this report shows that from January 2, 2007 through January 31, 2010, public systems had 7.4 SSOs per 100 miles of piping, compared to 0.05 SSOs per 100 miles for privately-owned systems. This means that the likelihood of an SSO from a public system is about 150 times greater than one from a private system. Moreover, the same table also showed that the

average spill size from a private system was approximately 700 gallons, compared to an average spill size of approximately 3,500 gallons from public systems. This means that spills from public systems are, on average, about five times greater in volume than those from private systems. Consistent with this, the Staff Report for the SSS WDR notes that the total volume of public system SSOs is about 20 times greater than the total volume from private lateral sewage discharges (PLSDs). This data demonstrates that the relative risk of an SSO, in terms of both frequency and size of release, is far greater from a public system than from a private system.

Design standards for public and private sanitary systems are also different. For example, a common design metric for public systems is the ratio of depth of flow to diameter of pipe. For larger pipes this ratio is typically 0.75, and 0.50 for pipes 12" diameter and under. Private systems are governed by plumbing codes and are typically sized based on the number of plumbing fixtures such as sinks and toilets, instead of by the above-described ratio.

The substantial differences in the size and frequency of sewage discharges, combined with the different approaches to designing public and private systems, illustrates the fundamental differences between public and private sanitary systems. The Staff Report for the SSS WDR notes that the SWRCB relied on input from the Sanitary Sewer Overflow Guidance Committee, which included stakeholders from the Regional Water Quality Control Boards, publicly-owned sanitary sewer system agencies, Environmental Protection Agency, and non-governmental environmental organizations. Stakeholders from private sanitary sewer operators were noticeably absent from this committee. The Staff Report does not make any factual findings in support of regulating private and public sanitary systems in identical fashion. SWRCB staff must recognize that these are two very unique systems that cannot be summarily combined and regulated under a single statewide SSS WDR.

The proposed SSS WDR substantially overregulates private sanitary sewer systems

Private sanitary system sewer operators potentially subject to this regulation include hundreds of facilities such as public and private educational facilities, amusement parks and fairgrounds, large shopping malls, and other large commercial developments whose sanitary sewer systems are typically maintained and operated by a facility's operations or plumbing department. This proposed WDR would require the private operator to develop a:

1. Sewer System Management Plan, which must be made available to the public, be updated every two years, and be formally certified by the private entity's "governing board";
2. Management chain of command for reporting SSOs;
3. System of system use ordinances, service agreements or other legally binding procedures demonstrating it has the necessary legal authority to manage its sewer system and prevent illicit discharges;
4. Operations and Maintenance Program;
5. Rehabilitation and Replacement Plan to identify and prioritize sanitary sewer system deficiencies;
6. Staff Assessment Program for all staff members that operate and maintain the sanitary sewer system;
7. Contingency Plan that contains a list of the most critical replacement part inventories
8. Formal budget for system operations and maintenance and system replacement
9. Formal set of sewer design, construction, inspection, and testing standards and specifications;
10. Overflow Emergency Response Plan;
11. Fats, Oils and Grease (FOG) control plan;
12. System Evaluation and Capacity Assurance Plan;

13. Capital Improvement Plan;
14. Set of Performance Targets that monitors progress in reducing SSOs over time;
15. Sewer System Management Plan Audit Program; and
16. Sewer System Management Plan Communication Program.

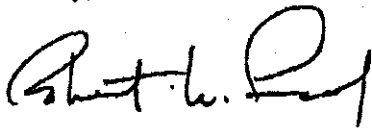
These requirements would apply even if there has been no history of releases from the private system. We believe that this is a highly unnecessary and unduly prescriptive level of regulation for private system operators, especially given the lesser risk of sewage releases from private systems compared to public systems. The above-listed requirements also impose significant and unwarranted costs and administrative burdens for private sanitary sewer operators. However, we believe that several of the above-listed requirements, such as the FOG control plan and an overflow emergency response plan, are beneficial and constructive for private systems operators to implement on a voluntary basis, or as best management practices through SWRCB outreach and education, or through enforcement action against private systems with chronic SSOs. Additionally, the proposed definition of "Sanitary Sewer System" could lead to some confusion and could potentially be misapplied. The definition should be revised to make sure it is clear that when considering the length of the private SSS, the owner would not take into consideration the length of the downstream public SSS or other private SSS into which it drains.

We believe the SWRCB can adequately regulate private sanitary systems with chronic SSOs under its existing legislative, regulatory and enforcement authority and that the proposed SSS WDR is unnecessary. If warranted in response to a release or releases from a private system, the SWRCB can require additional protective measures from private system owners as part of consent decrees or stipulated orders of abatement.

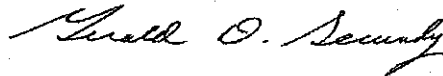
However, should the SWRCB choose to regulate private sanitary systems, including those with no history of SSOs, we recommend that the SWRCB commence new rulemaking with an Order specifically tailored to privately-owned systems and seek meaningful participation in the rulemaking from privately-owned systems.

Thank you for considering our comments. If you wish to discuss this matter further, please contact Bob Lucas at 916-444-7337.

Sincerely,



Robert W. Lucas
Waste & Water Quality Project Manager



Gerald D. Secundy
President

cc: The Gualco Group, Inc.