



VALLEJO SANITATION &
FLOOD CONTROL DISTRICT

*Protecting public health
and the San Francisco Bay
since 1952.*

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May 9, 2011

Via email: commentletters@waterboards.ca.gov

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

SUBJECT: Comment Letter – SSS WDRs Review & Update

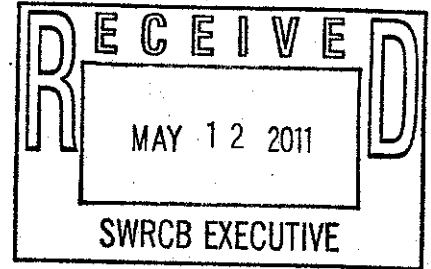
The Vallejo Sanitation and Flood Control District (District) hereby submits comments to the State Water Resources Control Board (Water Board) regarding proposed revisions to the statewide Sanitary Sewer Systems Waste Discharge Requirements (SSS WDRs). We applaud your efforts in the development of a statewide program that has substantially reduced sanitary sewer overflows (SSOs) throughout the State of California; we appreciate the opportunity to participate in the review and update process to address our mutual goal of protecting the beneficial uses of our water environment.

Responsible for providing flood control, wastewater and stormwater pollution prevention, industrial pretreatment, and wastewater treatment services to the City of Vallejo and unincorporated areas of Solano County, the District's service area covers 36 square miles serving a population of about 117,000. In addition to providing wastewater treatment, the District owns and operates a collection system consisting of 435 miles of sanitary sewer mainlines, 36 pump stations, and approximately 120 miles of lower laterals. Maintenance of private laterals is the responsibility of the property owner.

Understanding the importance of reducing SSOs, we have expended over \$60 million since 2000 on capital improvements to our collection system, reducing local inflow/infiltration (I/I) by approximately 30% in areas where improvements have been made. A program to aid homeowners in repairing and replacing defective private laterals replaced over 2,000 private laterals since 2001 at a cost exceeding \$4 million. The District has also committed to annual expenditures of \$1.25 million for rehabilitation and replacement of collection system infrastructure; these capital improvements are in addition to our comprehensive preventative maintenance program. The District's efforts and system improvements have resulted in a substantial decrease in the number and volume of overflows within the District's service area;

In addition to the activities described above, the District proactively implemented a Spill Response and Recovery Program to reduce the number of SSOs in 2006. Because this program included many of the SSMP elements required by the Statewide General WDR, submitting our SSMP was more of a formalization of existing practices.

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



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General Comments

Although we agree that changes such as streamlining reporting procedures and expanding coverage of the SSS WDRs to private collection systems would improve the current Statewide General WDRs, we strongly encourage the Water Board to limit changes to this program which has already resulted in a substantial reduction in the number of SSOs throughout California. While we appreciate the State Water Board's efforts to address certain issues associated with the existing WDRs, our agency is very concerned about a number of the proposed revisions, especially those related to reporting of private lateral sewage discharges (PLSDs), and burdensome additions to sewer system management plan (SSMP) requirements that should not be mandated unless State Water Board guidance and funding is made available.

We feel that the proposed SSS WDR is a significant change from the approach developed by the Stakeholder SSO Guidance Committee in 2005-2006; this committee focused on reporting of SSOs and reducing SSOs with the potential to affect water quality or public health, the outcome of these efforts is obvious as the number and volume of spills throughout the State have drastically reduced. In contrast, the proposed SSS WDR introduces very prescriptive and onerous requirements that could expend personnel time and ratepayer funds, redirecting efforts that would be better spent to further reduce the number and volume of SSOs.

In addition, this order seeks to dictate decisions regarding the way local sewer system programs are managed and implemented. The Water Board has not presented any evidence as to how the additional information that must be generated or the efforts required under the revised permit will produce corresponding environmental or public health benefits. We believe that the funds needed to implement these requirements would be better spent on efforts to reduce the number of SSOs.

The SSS WDR would expand liability for SSOs by including all spills to surface water as prohibited SSOs subject to enforcement, instead of only those reaching a "water of the United States." Liability would be further extended if the proposed enforcement discretion language, which expresses a clear statement of the State 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.

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 occurring previously or in the future would trigger the requirement to apply for an NPDES permit, and agree 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. As you may know, several NGOs in the San Francisco Bay Region have already taken advantage of municipal government agencies, including the use of aggressive tactics; these organizations have pocketed funds that could have and should have been used for reducing SSOs. The District has already expended over \$2.8 million in lawyer and settlement fees to negotiate and implement system repairs and upgrades, we do not believe this to be a responsible or appropriate way to spend public funds or staff resources.

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As described in the Water Board Staff Report, this alternative 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.

We would also like to reinforce our concerns that adopting an NPDES permit component now may result in confusion and the need for additional staff time to address changes if the United States Environmental Protection Agency (EPA) implements an NPDES permit for satellite sanitary sewer systems at a later date. As a collection system operating in the San Francisco Bay Region, we can speak to this issue with experience; already reporting and addressing SSOs under an established regional program we were required to report under the requirements of two programs when the 2006 Statewide General WDR, this caused much confusion and duplication of efforts. As requirements become more complicated and confusing, more agency staff time will be directed towards preparing reports and re-organizing information and operating procedures while less time is spent actually managing or conducting the appropriate operations and maintenance (O&M) activities to prevent SSOs.

Definition of Sanitary Sewer System

The original SSO WDR included construction trenches in the definition of a sanitary sewer system. However, the proposed SSS WDR omits construction trenches from the definition of the sanitary sewer system. While it may seem like an insignificant change, this proposal will have serious consequences for all sewer systems in the state. This proposed definition, combined with the lack of diminis spill volume, will cause the District to have an SSO every time a sewer main or lateral is repaired or replaced. We strongly urge the Water Board to change this definition to include construction trenches. If this change is not addressed, agencies like the District will be responsible for reporting hundreds of SSOs or to perform costly and time consuming pump-around procedures, which alone represent more of a threat to cause a spill than allowing a very small amount of water to flow through the construction trench for the short period that is need to perform repairs.

The basis for mandatory reporting of PLSDs is not justified and creates an inappropriate burden for public agency staff.

The District strongly opposes the requirement to report PLSDs to the Water Board, especially when PLSDs are already addressed by County Public Health Agencies as a threat to public health. The current approach is most effective because these health agencies have the authority to enter private property and possess police powers which local sewer districts do not have. Furthermore, the number and volume of PLSDs is insignificant when compared to SSOs; the time and effort (which equals money) used to identify and report PLSDs would be better spent improving the collection system.

There are numerous problems associated with this proposed change including the need to report information that may not be available to the public agency, resources used to address and prevent overflows are impacted hunting down these small and inconsequential discharges, not to mention the problems that would be caused when the public begins to think that the local agency is responsible for their private sewer laterals. 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. The State Water Board should only hold public agencies accountable and responsible for activities within their jurisdiction.

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In addition, 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; since most of these overflows are normally soaked up by landscape or evaporate before they reach waterways, they almost never pose a threat to water quality. 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 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 that reach water of the United States and/or the State (hereinafter referred to as waters) as a performance measure. These are the overflows that have the potential for water quality impact.

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

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

The existing Statewide General WDRs include language in Provision D.6 that provide some reassurance that 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, in the case of an SSO enforcement action.

The existing language reads: "In assessing these factors, the State and/or Regional Water Boards **will also consider whether...**"

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...**"

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 water 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. Enrollees should not be made to suffer consequences for conditions that are outside their reasonable control.

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

In this time of economic hardships, especially for the District which serves a bankrupt community, the proposed "Risk and Threat Analysis" and "Staff Performance Assessment Program" are ambiguous, not supported by statistics or reason, unnecessarily complicated, and overly prescriptive.

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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 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 current training requirements are deficient.

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

The proposed "Risk and Threat Analysis" and "Staff Performance Assessment Program" are vague, 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 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.

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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.

SSMP sections (i) and (j) should be combined, because 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.

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 for the public agency to address. In addition, potable water has very low chlorine residual which readily degrades when combined with sewage and surface debris, therefore this requirement is unreasonable.

We would also like to point out that fire prevention activities including firefighting, burning of vacant houses, and practice drills, are not subject to such restrictions; neither is water from over irrigation of lawns or potable water that is used in marinas.

Provision 8 (Section D.) 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, flow characteristics, geological conditions, pipe composition, sewage characteristics, and adjacent vegetation. 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. For example, the useful life of certain types of high strength plastic pipe has yet to be determined; also, some vitrified clay pipe has been in service for hundreds of years.

Provision 8 also requires public agencies to establish a proper rate structure. Under current laws the public has the right to reject rate increases, utility fee hikes are being challenged and overruled more and more as economic woes plague our communities. It is unreasonable to expect public agencies to increase fees for many of the unreasonable and unwarranted requirements proposed in the SSS WDRs.

Several of the definitions in the proposed SSS WDRs are confusing and contradictory.

We urge the Water Board Staff to review the proposed definitions to ensure that they are clear, accurate, and do not conflict or contradict other definitions or newly proposed provisions. For example, a lateral is defined as segment(s) of pipe that connect(s) a home, building, or satellite sewer system to a sewer main; this definition should not include satellite sewer systems which are distinctly different from a lateral. These definitions should be reworked for clarity and accuracy.

The District believes that the proposed revisions to SSMP requirements are premature and unwarranted.

We are concerned that the proposed revisions to the SSS WDRs include significant changes to SSMP program requirements. 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. Since it may take several years to realize the impact of these programs and activities the District is urging the Water Board to limit unwarranted and unessential changes to the SSMP.

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Further, it is recognized that dramatically changing SSMP requirements before full implementation of previous requirements will likely lead to confusion regarding the SSMP requirements among enrollees, the public, and Water Board staff, not to mention the thousands of rate payer dollars that will have been wasted on discontinuing activities before the benefits are realized.

Language describing SSMP requirements should be revised as follows (SSMP sections are listed in the order they appear in the proposed revisions to the SSS WDRs):

Organization - Including names, email addresses, and telephone numbers for the staff described in paragraph (b) (ii) is excessive information and inappropriate in a public document. Only the position and phone number should be included.

Legal Authority – Paragraph (c) (v) should be revised to read: "Ban new connections under certain conditions." In addition, Paragraph (c) (vi) indicates that agencies must have legal authority to "limit the discharge of roots..." It is not clear if this phrase is intended to refer to limiting root intrusion (which would be covered by good standard specifications), or to limiting the illicit discharge of debris including cut roots (which is already included in paragraph (c) (i)). In any case, the word "roots" should be removed from this paragraph.

Operations and Maintenance Program

Map - Updating sewer system maps to identify and include all backflow prevention devices would be too onerous as they are not owned by the agency; furthermore, since the completion of this requirement would neither prevent nor reduce the number of or impact cause by SSOs, this requirement should be removed.

Also, the last section of paragraph (d) (i) should be revised to read: "A map illustrating the current extent of the sewer system shall be included in the SSMP or in a GIS." Also, this requirement needs to be clarified. It is not clear if "the current extent of the sewer system" refers to a one page map of the service area, or the entire detailed map. The latter would be impractical to include in the SSMP.

Rehabilitation and Replacement - The third sentence in paragraph (d) (iii) should be revised to read: "Rehabilitation and replacement shall focus on sewer pipes that are at risk of collapse or prone to more frequent blockages due to pipe defects." It is not correct to imply that age alone is problematic, it is not correct to imply that 'aging' is the same as 'deteriorating'.

Although the District agrees that a rehabilitation and replacement program is an important element of an SSMP, we believe that this requirement is based on the false assumption that overflows would be significantly reduced by replacing infrastructure on a scheduled and planned basis. Reported SSO data indicates that roots and fats, oils, and grease (FOG) are the primary causes of SSOs.

O&M and Sewer System Replacement Funding – The first sentence in section (d) (vi) should be revised to read "The SSMP shall include budgets for routine sewer system operation and maintenance and for the capital improvement plan including proposed replacement of sewer system assets over time as determined by careful evaluation of condition of the system."

Design and Performance Provisions – The addition of the phrase "all aspects of" in both paragraphs (i) and (ii) should be removed; requiring each agency to update their standards and specifications to cover every last possible minor detail of sanitary sewer system construction and inspections just to meet this requirement would create an unwarranted burden on staff. Also, the phrase is not necessary and is already implied.

FOG Control Program – Proposed revisions to (g) (iii) would simultaneously require legal authority to prohibit FOG discharges to the system and to require FOG dischargers to implement measures to prevent SSOs and blockages caused by FOG. This revised language contradicts itself, first by indicating that FOG discharges are to be prohibited, and then by including requirements for FOG dischargers.

Also, the language appears to apply to both residential and commercial sources of FOG, but fails to recognize that logistical challenges may outweigh the benefits of requiring best management practices for residential FOG sources. We request that this existing language be preserved: "This plan shall include the following as appropriate:...The legal authority to prohibit discharges to the system and identify measures to prevent SSOs and blockages caused by FOG."

Performance Targets and Program Modifications – Progress towards improving sewer system performance and reducing impacts of SSOs is already described in the SSMP and will be adequately characterized by a review of SSO trends. Also, without specific guidance on how to develop these targets, the requirement is vague and offers no validation of success or failure. All references to performance targets should be removed from paragraphs (i) and (j).

Communication Program – The proposed revisions to the SSS WDRs would require each agency to communicate with the public on an annual basis regarding the development, implementation, and performance of its SSMP. This specified timeframe suggests that an agency would send out a notice of some sort at a certain time each year, but would not apply to agencies that communicate information to the public primarily via their websites; online information is made available 24 hours a day. The original language in the Statewide General WDRs should be retained.

The four-year board re-certification requirement is excessive.

The proposed revisions to the SSS WDRs would also require each agency to bring its SSMP before its governing board for re-certification at a minimum every four years. This frequency is excessive considering that infrastructure projects typically occur over a longer timeframe, and the results of improvements may take several years to measure. We request that a re-certification be required every 10 years.

Enrollees should not be required to report SSOs if they are fully-recovered.

Fully-recovered SSOs cannot impact surface waters, and it is unlikely that they would impact public health. Therefore, they should not have to be reported to CIWQS. Not having to report these SSOs would provide an additional incentive to fully recover the overflow.

A de minimis spill volume for reporting should be allowed.

SSO reporting requirements do not apply to systems that do not meet the defined size threshold, recognizing that any spills from these systems would be insignificant, and therefore not worth reporting. Reporting of de minimis spill volumes from Enrollees' systems is likely equally insignificant in their potential impacts to public health and the environment. The limited value of information regarding the physical condition and adequacy of collection system operation and maintenance obtained from reporting very small spill volumes does not warrant the staff resources required to make these reports.

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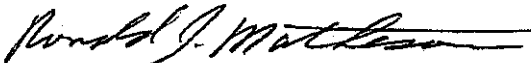
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Although the Water Board has proposed changes to allow batch entries of smaller spills, we are not confident that a batch uploading function will significantly save time. We request that overflows of less than 100 gallons need not be reported, a threshold previously established by the San Francisco Bay Regional Water Board.

In closing, the District would like to thank the Water Board for considering the comments and suggested improvements to the proposed SSS WDRs; we look forward to continuing to work with you to develop requirements to improve efforts which have already successfully resulted in reducing the impacts of SSOs on surface water. We strongly encourage you to allow time for agencies to fully implement capital improvements identified under the current permit before an unwarranted change in course is dictated. 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 current programs. Please contact Daniel Tafolla at 707-644-8949 ext. 261 if you have questions regarding the District comments and suggested changes.

VALLEJO SANITATION AND FLOOD CONTROL DISTRICT



RONALD J. MATHESON

District Manager