

Item No. 8
Supporting Document No. 3
February 14, 2007

November 22, 2006

VIA MAIL AND EMAIL

John Robertus, Executive Officer
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340

Re: Comments on Revised Tentative Order No. R9-2006-0121
Client-Matter No. 34662.00004

Dear Mr. Robertus:

We send this letter on behalf of the Fallbrook Public Utility District to request that the Regional Board not adopt the proposed tentative Order No. R9-2006-0121 and instead act to rescind Order No. 96-04 in light of the State Water Board's recent adoption of Order No. 2006-003-DWQ ("SSO WDR"), which regulates sanitary sewer overflows ("SSOs") on a statewide and consistent basis. The Regional Board should allow for the new statewide permit to become effective and be implemented before rushing to judgment that additional regulation is warranted or necessary. Subjecting agencies to the requirements of three different orders for the same spills is unnecessary, overly burdensome, and unfair.

The proposed justification for the Regional Board's new tentative order is that the State Board's SSO WDRs "may allow some SSOs that are currently prohibited under Order No. 96-04." Extensive debate occurred at the State Board level with stakeholders from across the State before the State Board's SSO WDR was adopted and a decision was made that not all SSOs needed to be expressly prohibited. Thus, the Regional Board is going beyond the statewide policy without adequate justification as to the need for more stringent requirements than any other region in the State. All administrative decisions must be based on findings and evidence in the rulemaking record. Without such evidence, the regulatory action represents an abuse of discretion. *Topanga Association for a Scenic Community v. County of Los Angeles*, 11 Cal.3d 506, 515 (1974); *California Edison v. SWRCB*, 116 Cal. App.3d 751, 761 (1981).

The new proposed Order will create confusion as it uses similar terminology to the SSO WDR, but proposes new names for similar items. For example, the "Category 1 Private Lateral Sewage Discharges" defined on page 5 of tentative Order No. R9-2006-0121 uses the same criteria a- c. as the definition of Category 1 SSOs in the Monitoring and Reporting Program ("MRP") for the statewide SSO WDR to apply to a different term. In addition, the tentative Order also includes

new requirements for Category 1 SSOs as defined in the SSO WDR, which adds to the confusion. The use of similar language to apply to different concepts creates confusion, which should be avoided.

Moreover, the requirements related to reporting SSOs from lateral sewers not owned by the Collection System Agency are not necessary. The SSO WDR requires that "all SSOs must be reported in accordance with Section G of the general WDRs." See Order No. 2006-003-DWQ at pg. 8, para. 5. Section G requires compliance with the MRP for the SSO WDR as well as immediate notification (as soon as the person has knowledge) of discharges of untreated wastewater pursuant to Health and Safety Code section 5411.5. *Id.* at pg. 18, para. G.4. The MRP also includes provisions related to private lateral discharges authorizing reporting of such spills, which would include all of the information required under paragraphs 9 and 10 of the MRP at pgs. 2-3, where such information is applicable and known. The tentative Regional Board Order would mandate such reporting, where known, even though the spills being required to be reported are not caused by or the responsibility of the Collection System Agency. Once reported by the Collection System Agency, third parties might attribute such spills to that agency and make the agency more likely to become subject to a citizen suit or a claim for reimbursement of expenses related to the spill even though the agency had no responsibility for the spill. Because of this potential jeopardy, leaving such reporting to the discretion of the agencies is a better policy choice and was the one made by the State Board.

Perhaps a better approach to reduce lateral sewer discharges would be to encourage Collection System Agencies to adopt lateral resale inspection and replacement programs. Many agencies in the State have *voluntarily* adopted such programs, which require lateral sewer lines to be inspected and repaired or replaced as necessary. Other agencies have adopted grant programs to assist home owners and businesses offset the costs of such repairs. These voluntary programs go further to address the cause of the problems than setting up a new strict regulatory regime, which does not prevent the spills, but merely provides for punishment for violating the prohibition or monitoring requirements.

Other issues arise with the proposed Order in that it may require duplicative reporting and the mechanism for triggering termination of the Order is unclear. By way of example, page 6, paragraph 2 of the tentative Order requires that the Collection System Agency provide 24-hour notice of the SSO to the Regional Board. Many Collection System Agencies that also have POTWs must already comply with a 24-hour notice requirement under 40 C.F.R. §122.41(d)(6). Therefore, this requirement is duplicative and subjects an agency to two violations of the same requirement. In addition, the termination trigger for Order No. 96-04 is not clear. How would the Regional Board be notified of compliance with Provision C.1. such that the termination is clear as to that agency? The previous draft at least had a mechanism for written notice. Without that notice, no one will be clear as to who is covered by which Order.

Finally, it is unclear that the Regional Board has complied with Water Code sections 13263, 13267(b), and 13225(c) prior to imposing these waste discharge requirements, and additional

monitoring and reporting requirements. The Regional Board must consider the factors set forth in Water Code sections 13263 and 13241 prior to imposing waste discharge requirements solely under state law. Further, for any monitoring and reporter requirements, the Regional Board must point to evidence in writing justifying the additional monitoring burden, and demonstrate that the burden, including cost, is reasonable given the benefits to be obtained. These analyses are missing from the body of this Order.

In addition to these general comments, Fallbrook has attached a markup of the tentative Order requesting changes that should be made if the Order is proposed for adoption notwithstanding the request made herein to not adopt the proposed tentative Order No. R9-2006-0121 and, instead, to rescind Order No. 96-04.

Sincerely,

DOWNEY BRAND LLP



Melissa A. Thorme
Special Counsel for Fallbrook

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
REGION 9, SAN DIEGO REGION
TENTATIVE ORDER R9-2006-0121
WASTE DISCHARGE REQUIREMENTS
FOR COLLECTION SYSTEM AGENCIES
IN THE SAN DIEGO REGION

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The California Regional Water Quality Control Board, San Diego Region (hereinafter Regional Board), finds that:

1. **STATEWIDE GENERAL WASTE DISCHARGE REQUIREMENTS:** State Water Resource Control Board (State Board) Order No. 2006-0003-DWQ, *Statewide General Waste Discharge Requirements for Sanitary Sewer Systems*, adopted by the State Board on May 2 2006, establishes minimum requirements to prevent sanitary sewer overflows (SSOs) from publicly owned/operated sanitary sewer systems. Order No. 2006-0003-DWQ is the primary regulatory mechanism for sanitary sewer systems statewide, but allows each regional board to issue more stringent or more prescriptive Waste Discharge Requirements (WDRs) for sanitary sewer systems within their respective jurisdiction.

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Comment [MT1]: This authorization is limited to situations where adequate findings and evidence are presented to justify additional regulation.

2. **ENROLLEES UNDER ORDER NO. 2006-0003-DWQ:** In accordance with Order No. 2006-0003-DWQ, all federal and state agencies, municipalities, counties, districts, and other public entities that own or operate sanitary sewer systems greater than one mile in length that collect and/or convey untreated or partially treated wastewater to a publicly owned treatment facility in the State of California are required to apply for coverage under that general WDRs, and are defined therein as "Enrollees." Enrollees in the San Diego Region are known as "Collection System Agencies."

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3. **ORDER No. 96-04:** On May 9, 1996, the this Regional Board adopted Order No. 96-04, *General Waste Discharge Requirements Prohibiting Sanitary Sewer Overflows by Sewage Collection Agencies*, prohibiting the discharge of sewage from a sanitary sewer system at any point upstream of a sewage treatment plant. Each Collection System Agency currently regulated enrolled under Order No. 96-04 is required to obtain enrollment under the State Board Order No. 2006-0003-DWQ.

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4. **SAN DIEGO REGION SANITARY SEWER OVERFLOW REGULATIONS:** Order No. 96-04 has been an effective regulatory mechanism in reducing the number and magnitude of sewage spills in the Region. The Order is more stringent and prescriptive than Order No. 2006-0003-DWQ in that Order No. 2006-0003-DWQ may allow some SSOs that are currently prohibited under Order No. 96-04. In order to maintain regulation of Sanitary Sewer Systems in the San Diego Region consistent with the provisions of Order No. 96-04, this Order reaffirms the prohibition on all SSOs upstream of a publicly owned treatment works (POTW). This strict prohibition implements the requirements

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contained in the Basin Plan, California Water Code, and Federal Clean Water Act.

5. CONSISTENT REGIONAL REQUIREMENTS: The regulation of all Collection System Agencies will be consistent within the San Diego Region by requiring agencies such as California Department of Corrections; California State University, San Marcos; San Diego State University; and University of California, San Diego, which have not been regulated under Order No. 96-04, to comply with Regional Board requirements that augment State Board Order No. 2006-0003-DWQ.

Comment [MT2]: This finding is inadequately explained. Such a prohibition is not required by any of these laws or regulations.

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5.6. BASIN PLAN: The Regional Water Board adopted a Water Quality Control Plan for the San Diego Basin (hereinafter Basin Plan) on September 8, 1994. The Basin Plan was subsequently approved by the State Board on December 13, 1994. Subsequent revisions to the Basin Plan have also been adopted by the Regional Board and approved by the State Board. The Basin Plan designates beneficial uses, narrative, and numerical water quality objectives, and prohibitions, which are applicable to the discharges prohibited under this Addendum Order.

Comment [MT3]: State Board is previously defined above in paragraph 1.

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6.7. PROHIBITIONS CONTAINED IN BASIN PLAN: The Basin Plan contains the following prohibitions, which may be applicable to the discharges prohibited under this Addendum Order:

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- a. "The discharge of waste to waters of the state in a manner causing, or threatening to cause a condition of pollution, contamination, or nuisance as defined in California Water Code Section 13050, is prohibited."
- b. "The discharge of treated or untreated waste to lakes or reservoirs used for municipal water supply, or to inland surface water tributaries thereto, is prohibited."
- c. "The discharge of waste to inland surface waters, except in cases where the quality of the discharge complies with applicable receiving water quality objectives, is prohibited. ..."
- d. "The dumping, deposition, or discharge of waste directly into waters of the state, or adjacent to such waters in any manner which may permit its being transported into the waters, is prohibited unless authorized by the Regional Board."
- e. "The unauthorized discharge of treated or untreated sewage to waters of the state or to a storm water conveyance system is prohibited."

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Comment [MT4]: All of these prohibitions apply only to discharges to waters directly and do not work to prohibit all SSOs, particularly those only to land that are cleaned up.

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- f. "The discharge of waste to land, except as authorized by waste discharge requirements or the terms described in California Water Code Section 13264 is prohibited."
- g. "The discharge of waste in a manner causing flow, ponding, or surfacing on lands not owned or under the control of the discharger is prohibited, unless the discharge is authorized by the Regional Board."

Comment [MT5]: This provision would allow SSOs so long as authorized by WDRs.

Comment [MT6]: This also would not prohibit SSOs if authorized by the Regional Board.

7.8. PORTER-COLOGNE WATER QUALITY CONTROL ACT (CALIFORNIA WATER CODE, DIVISION 7): California Water Code Section 13243 provides that a Regional Board, in establishing waste discharge requirements, may specify certain conditions or areas where the discharge of waste, or certain types of waste, is prohibited. California Water Code 13260 prohibits the discharge of waste to land prior to the filing of a required report of waste discharge and the subsequent issuance of either WDRs or a waiver of WDRs.

Comment [MT7]: Findings and evidence must be included to justify such a prohibition.

8.9. FEDERAL CLEAN WATER ACT: The Federal Clean Water Act largely prohibits any discharge of pollutants from a point source to waters of the United States except as authorized under an NPDES permit. In general, except under recognized upset and bypass conditions, any point source discharge of sewage effluent to waters of the United States must comply with technology-based standards, at a minimum, and any more stringent requirements necessary to meet applicable water quality standards. Hence, the unpermitted discharge of wastewater from a sanitary sewer system to waters of the United States is illegal under the Clean Water Act. Furthermore, the Code of Federal Regulation requires proper operation and maintenance of all POTW facilities, arguably including collection systems, which should result in the reduction or prevention of SSOs.

Comment [MT8]: Since the collection system is not a treatment system, arguably BAT would be the applicable technology-based requirement.

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Comment [MT9]: Such discharges could be permitted and in fact, for Combined Sewer Overflows (CSOs), such discharges are permitted in this state and others.

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9.10. RESCISSION OF ORDER No. 96-04: Order No. 96-04 will be rescinded after all of the Collection System Agencies regulated under Order No. 96-04 have obtained coverage under Order No. 2006-0003-DWQ.

11. PRIVATE LATERAL SEWAGE DISCHARGES PRIVATE SANITARY SEWER OVERFLOW REPORTING: Order No. 96-04 does not require Collection System Agencies to report Private Lateral Sewage Discharges SSOs from the privately owned portion of the Agency's sanitary sewer system. Over the past several years, however, the this Regional Board has been tracking the number of Private Lateral Sewage Discharges private SSOs based on courtesy reports from the Collection System Agencies. It is not known how many Agencies are currently reporting private SSOs to the Regional Board, since they are not required to do so. It is also not known if the Agencies that are reporting private spills, report all of the private SSOs they become aware of. Even so, during During the period from July

Comment [MT10]: By making it a requirement to report lateral spills, the Regional Board is punishing good behavior of those who provided this information voluntarily as a courtesy.

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2004 through June 2006, a total of 268 Private Lateral Sewage Discharges private SSOs were reported by the Agencies. ~~In fact, during~~ During some of those months, more Private Lateral Sewage Discharges private SSOs were reported than public SSOs. Because the Agencies are not required to report Private Lateral Sewage Discharges, it is not known if the numbers reported fully represent the number and locations of Private Lateral Sewage Spills in the Region.

Comment [MT11]: Given the large number of courtesy reports, it is unclear of the need for a mandated reporting requirement.

Finding Nos. 2, 3, and 4 of State Board Order No. 2006-0003-DWQ pertaining to causes of SSOs and the potential threat to water quality resulting from SSOs are also applicable to Private Lateral Sewage Discharges private SSOs. Since ~~Because~~ Private Lateral Sewage Discharges private SSOs are numerous and ~~may also be a~~ are a potential threat to public health and the environment, there is a need to have a reliable reporting system for Private Lateral Sewage Discharges private SSOs for similar reasons as the public SSOs. Although ~~Collection System Agencies are not responsible for the cause, cleanup, or repair of Private Lateral Sewage Discharges,~~ Collection System Agencies are typically notified and/or are the first responders to Private Lateral Sewage Discharges. Consequently, requiring the ~~Collection System Agencies to report all known Private Lateral Sewage Discharges is reasonable and a first step toward development of a regulatory approach for reducing Private Lateral Sewage Discharges in the San Diego Region. Since it is impractical to regulate private entities and it is typically the sewer collection agencies that are notified and/or are the first responders to private SSOs, the sewer collection agencies are the appropriate representative to report all known private SSOs. This is the first step toward development of a regulatory approach for reducing private SSOs in the San Diego Region.~~

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Comment [MT12]: Equally, or more, reasonable steps would be to require homeowners or businesses to report spills directly, or to encourage lateral inspection and replacement programs to avoid spills in the first place.

44.12. Permitting Fees: This Order will serve as additional requirements to the State Board Order No. 2006-0003-DWQ. Collection System Agencies that are covered and pay the fees under State Board Order No. 2006-0003-DWQ (or orders that supersede 2006-0003-DWQ) will not be required to pay for fees under this Tentative Order No. R9-2006-0121.

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Comment [MT13]: Fallbrook appreciates this addition.

44.13. CALIFORNIA ENVIRONMENTAL QUALITY ACT: This Order involves a prohibition of discharge and as such is exempt from the provisions of the California Environmental Quality Act in accordance with Title 14, California Administrative Code, Chapter 3, Section 15270.

Comment [MT14]: This exemption for disapproved projects does not apply to this permitting action. A permit is a project (see 14 C.C.R. §15378(a)(3)) and WDRs that are not also NPDES permits are not exempted from CEQA under Water Code section 13389. Another applicable exemption must be found or the Regional Board must comply with CEQA requirements.

44.14. PUBLIC NOTICE: The Regional Board has notified all known interested persons and the public of its intent to consider adoption of this Order. Interested persons and the public have had reasonable opportunity to participate in review of the proposed Order.

44.15. **PUBLIC HEARING:** The Regional Board has considered all comments pertaining to this Order submitted to the Regional Board in writing, or by oral presentations at the public hearing held on ~~November 8~~ December 13, 2006.

IT IS HEREBY ORDERED, that all ~~Sewer~~ Collection System Agencies within the San Diego Region, in order to meet the provisions contained in Division 7 of the

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California Water Code and regulations adopted thereunder, shall comply with the following, in addition to the State Water Resource Control Board (~~State Board~~) Order No. 2006- 0003-DWQ (or orders that supersede ~~SB-2006-0003-DWQ~~) and its addendums ~~addenda~~ (hereinafter referred to as State Board Order):

A. Definitions

1. For purposes of this Order, a Collection System Agency shall mean ~~a public agency that owns or operates any portion of a sanitary sewer system within the boundaries of the San Diego Region required to be enrolled under State Board Order No. 2006-0003-DWQ an "enrollee", as defined in the State Board Order and paragraph 2 of the Findings above, within the boundaries of the San Diego Region.~~

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2. ~~Private Sanitary Sewer Overflow (SSO) – A sanitary sewer overflow that is caused by blockages or other problems within a privately owned lateral connected to a sanitary sewer system owned or operated by a Sewage Collection Agency.~~

3. ~~Public Sanitary Sewer Overflow – An SSO that is caused by blockages or other problems within the portion of a sanitary sewer system owned or operated by a Collection System Agency.~~

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4. ~~2. Major Private Lateral Sewage Discharges Private SSO – All Private Lateral Sewage Discharges Private SSO, as defined in the State Board Order,~~
that:

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- a. Equal or exceed 1,000 gallons, or
- b. Result in a discharge to a drainage channel and/or surface water; or
- c. Discharge to a storm drainpipe that was not fully captured and returned to the sanitary sewer system.

5. ~~3. Minor Private Lateral Sewage Discharges Private SSO – All Private Lateral Sewage Discharges, as defined in the State Board Order, Private SSOs that do not meet the Major Private Lateral Sewage Discharges Private SSO definition above.~~

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B. Prohibition

1. The discharge of sewage from the publicly-owned portion of a sanitary sewer system at any point upstream of a sewage treatment plant is prohibited, except where upset or bypass as defined in the Standard Provisions applicable to the treatment plant can be demonstrated.

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C. Monitoring and Reporting Program Requirements

1. Each Collection System Agency shall provide written notification to this Regional Board no later than 14 days after its sanitary sewer overflows can successfully be reported to the State Board Online SSO System in accordance with Order No. 2006-0003-DWQ report all SSOs in accordance with the Monitoring and Reporting Program No. 96-04 until the Collection System Agency notifies the Regional Board in writing that the Collection System Agency can successfully report the SSOs to the State Board's Online SSO Reporting System.

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Sewage Collection Agencies -6-¶
in the San Diego Region¶
Tentative Order No. R9-2006-0121¶
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2. For Category 1 SSOs (as defined in the State Board Order's Order Monitoring and Reporting Program No. 2006-0003-DWQ) and Category 1 Private SSOs (as defined above), any Collection System Agency not subject to a separate NPDES permit shall provide notification of the SSO to the Regional Board by either phone, or email, or fax within 24 hours after the Sewage Collection Agency becomes aware of the SSO, notification is possible, and notification can be provided without substantially impeding cleanup or other emergency measures. The information reported to the Regional Board under this provision shall include the name and phone number of the person reporting the SSO, the responsible Collection System Agency or jurisdiction where the private SSO occurred, the estimated total sewer overflow volume, the location of the SSO, the receiving water (if any), the start date/time of the SSO (if known), the end date/time of the SSO (or whether or not the sewer overflow is still occurring at the time of the report), and confirmation that the local health services agency was or will be notified as required under the reporting requirements of the local health services agency.

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3. Major Private Lateral Sewage Discharges (as defined above), the Collection System Agency shall provide notification of the SSO to the Regional Board by either phone, or email, or fax within 24 hours after the Collection System Agency becomes aware of the Private Lateral Sewage Discharges, notification is possible, and notification can be provided without substantially impeding cleanup or other emergency measures. The information reported to the Regional Board shall include the name and phone number of the person reporting the Private Lateral Sewage Discharges, the reporting jurisdiction where the Private Lateral Sewage Discharge occurred, the private lateral owner (if known), the estimated total sewer overflow volume, the location of the Private Lateral Sewage Discharges, the receiving water

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(if any), the start date/time of the Private Lateral Sewage Discharges (if known), the end date/time of the Private Lateral Sewage Discharges (or whether or not the sewer overflow is still occurring at the time of the report), and confirmation that the local health services agency was or will be notified as required under the reporting requirements of the local health services agency (if necessary).

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4. The following requirement supersedes the SSO Reporting Timeframe for Private Lateral Sewage Discharges in the State Board Order: For Private Lateral Sewage Discharges Private SSOs that occur within a Collection System Agency's jurisdiction and that a Collection System Agency becomes aware of, the Collection System Agency shall report the SSO to the State Board's Online SSO Database within 30 days after the end of the calendar month in which the Private Lateral Sewage Discharge occurs. The Collection System Agency must identify the sewage discharge as occurring and caused by a private lateral, and a responsible party (other than the Collection System Agency) should be identified, if known. The Collection System Agency will not be responsible for the cause or cleanup of Private Lateral Sewage Discharges or the repair or replacement of private laterals, but only the reporting of Private Lateral Sewage Discharges within their jurisdiction for which the Collection System Agency becomes aware, System within 30 days after the Collection System Agency becomes aware of the SSO.

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D. Notification

1. All Collection System Agencies shall continue to comply with the Monitoring and Reporting Program No. 96-04 until sanitary sewer overflows can successfully be reported to the State Water Resource Control Board Online Sanitary Sewer Overflow System under Order No. 2006-0003-DWQ.

2. 1. Upon compliance with Monitoring and Reporting Program Requirements B.2 Monitoring and Reporting Program Requirement C.1 of this Order and written notice to the Regional Board, regulation of that Collection System Agency under Order No. 96-04 is terminated.

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3. 2. Order No. 96-04 is rescinded once regulation of all Collection System Agencies under Order No. 96-04 is terminated.

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Comment [MT15]: How will anyone know when this happens?

I, John Robertus, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of Addendum No. 7 to Order No. R9-1996-004-2006-0121 adopted by the California Regional Water Quality Control Board, San Diego Region on November 8 December 13, 2006.

TENTATIVE

JOHN H. ROBERTUS
Executive Officer



UNITED STATES MARINE CORPS

MARINE CORPS BASE
BOX 555008
CAMP PENDLETON, CALIFORNIA 92055-5008

IN REPLY REFER TO:

5090.7C
ENVSEC/02
29 Nov 06

Mr. Michael P. McCann
Supervising Engineer
California Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, California 92123-4340

Dear Mr. McCann:

SUBJECT: REVISED TENTATIVE ORDER NO. R9-2006-0121, WASTE
DISCHARGE REQUIREMENTS FOR SEWAGE COLLECTION AGENCIES
IN THE SAN DIEGO REGION

Marine Corps Base Camp Pendleton submits the following comments concerning the subject tentative order.

Private Lateral Sewage Discharges

Tentative Order R9-2006-0121 contains a provision to report sanitary sewer overflows (SSOs) from private laterals that sewage collection agency becomes aware of. Under Order 96-04, Camp Pendleton reported and accounted for all SSOs that occurred within the Base boundaries, to include those from laterals to single and multi-family structures, in contrast to most other sewage collection agencies in the region where a public/private property reporting distinction naturally existed. Although SSOs from single and multi-family housing laterals constituted less than 20 percent of all Camp Pendleton SSOs, the accounting of such events inflated Camp Pendleton's SSO statistics relative to the other sewage collection agencies in the region. Over the last couple of years, the management and maintenance of Camp Pendleton's family housing areas has transferred to private contractors under the Department of the Navy's public private venture (PPV). Under this long-term (i.e., 50 year) contractual arrangement, the PPV partner owns the housing structures - to include the building laterals - and in effect has become a private property within the confines of Camp Pendleton. Accordingly, Camp Pendleton intends to report future SSO events that occur from single and multi-family structures as *Private Lateral Sewage Discharges* in accordance with the reporting requirements of Tentative Order R9-2006-0121.

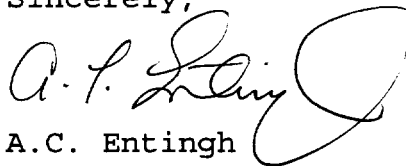
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CALTRANS Satellite Collection System

Camp Pendleton accepts and treats sewage generated from the CALTRANS Rest Area facilities that transit Camp Pendleton along Interstate 5 (I-5). A preliminary review of our GIS database indicates that CALTRANS may maintain more than one-mile of collection system infrastructure within the confines of their easement before connecting to Camp Pendleton's sewage collection system. Although we are unaware whether CALTRANS has sought, or intends to seek, coverage under State Water Resources Control Board (SWRCB) Order 2006-0003-DWQ as a satellite collection system over one mile in length, we intend to initiate formal dialogue with CALTRANS over the matter. If CALTRANS maintains greater than one mile of sewage collection system infrastructure, we anticipate that future SSO events from their satellite collection system would be attributed to CALTRANS, vice Camp Pendleton, in contrast to the SSO that occurred from the I-5 Rest Area on May 18, 2006.

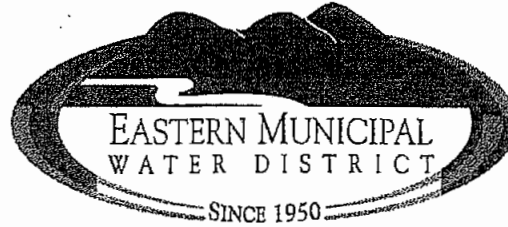
We greatly appreciate the opportunity to comment on the tentative order. If you have any questions regarding these comments, please do not hesitate calling Dr. Khalique Khan at (760) 725-9753 or myself at (760) 725-4557.

Sincerely,



A.C. Entingh
Head, Environmental Compliance
Department
Assistant Chief of Staff,
Environmental Security
By direction of the
Commanding Officer

Copy to:
CALTRANS NPDES Program Coordinator



Board of Directors

President

Randy A. Record

Vice President

David J. Slawson

Treasurer

Joseph J. Kuebler, CPA

Rodger D. Siems

Ronald W. Sullivan

Board Secretary

Rosemarie V. Howell

General Manager

Anthony J. Pack

*Director of the
Metropolitan Water
District of So. Calif.*
Randy A. Record

Legal Counsel

Redwine and Sherrill

December 4, 2006

Executive Officer

San Diego Region

California Regional Water Quality Control Board

9174 Sky Park Court, Suite 100

San Diego, CA 92123-4340

Subject: Comments on the Revised Tentative Order No. R9-2006-0121 Waste Discharge Requirements for Sewage Collection Agencies in the San Diego Region.

Dear Executive Office:

On behalf of Eastern Municipal Water District (EMWD), I would like to thank you for the opportunity to submit comments on the Revised Tentative Order No. R9-2006-0121, Waste Discharge Requirements for Sewage Collection Agencies in the San Diego Region. EMWD provides potable, wastewater and recycle water within a 555 square-mile area in Riverside County and serves a customer population of 630,000.

It is surprising to see in finding number 11 that the San Diego, California Regional Water Quality Control Board (CRWQCB) has taken the stand to require public agencies to report all known Private Lateral Sewage Discharges. Though the interest of these reports are to develop regulatory approaches for reducing Private Lateral Sewage (PLS) Discharges in the San Diego Region, it is an unfair burden placed upon public agencies to mandate reporting these discharges which public agencies are not responsible for. A concern that EMWD has with the PLS Discharge is the non-reporting issue and the possibility of associated fines with non-reporting, even though the District is not responsible for the PLS discharge and/or the clean-up associated with the PLS Discharge.

In addition, to mandate by Order the redirection of EMWD staff and resources to investigate PLS Discharge and eventually reporting will create a significant cost burden to public agencies. In particular the unknown quantity of PLS is a concern for District, especially from systems that we are unfamiliar with and lack the authority to maintain.

EMWD supports the current State Water Resources Control Board Order No. 2006-0003, Statewide General Waste Discharge Requirements for Sanitary Sewer Systems approach to reporting PLS Discharges on a voluntary basis. It allows public agencies to report PLS Discharges when and if pertinent information is available and complete.

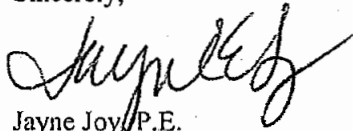
December 4, 2006

Page 2

EMWD recommends that Board remove this requirement from Tentative Order NO. R9-2006-0121 in order to evaluate the financial impact to public agencies and wait to see if the voluntary reporting process to the State provides the information sought by the Regional Board.

Again, EMWD would like to thank you for the opportunity to comment on the Revised Tentative Order. If you should have any questions, please feel free to contact Edward Filadelfia at (951) 928-3777 extension 4318.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jayne Joy".

Jayne Joy, P.E.

Director of Environmental and Regulatory Compliance



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December 6, 2006

Ref: 07-0919

San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340

Re: Revised Tentative Order No. R9-2006-0121

Dear Mr. Robertus:

The Leucadia Wastewater District is a public agency that provides wastewater collection and treatment services to approximately 60,000 residents in the Leucadia and Village Park areas of Encinitas and the La Costa area of Carlsbad. LWD operates a collection system consisting of over 200 miles of pipelines and 12 pump stations. LWD has historically maintained an excellent environmental compliance record.

The purpose of this letter is to convey LWD's comments on the Regional Water Quality Control Board – Region 9's (R9) proposed Tentative Order No. R9-2006-0121 (Tentative Order).

LWD's primary concern with implementation of the Tentative Order is that it would be in addition to the newly promulgated state General SSO WDR and the existing R9 Collection System WDR. This amounts to 3 different regulations governing wastewater collection systems, all administered by R9. We believe this is excessive and will lead to confusion amongst wastewater agencies and R9 in terms of implementation and reporting requirements.

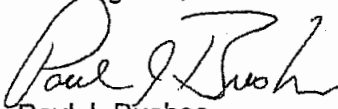
For example, it is our understanding that the Tentative Order would use the same electronic reporting system as the General SSO WDR. One potential problem is that the General SSO WDR's electronic reporting system would place private lateral spills in the "Other" category, whereas, the Tentative Order would treat private lateral spills either as a Category 1 or 2 depending on the magnitude. This makes it unclear as to how agencies should report this information.

LWD is also concerned with the Tentative Order's requirement for reporting private lateral spills. This issue was deliberated at length during the development of the General SSO WDR and was *not* made a mandatory requirement. LWD is concerned that mandatory private lateral spill reporting could make wastewater agencies the de-facto regulators, an area in which we have no control or legal authority to enforce. This requirement could also place wastewater agencies in the awkward position of having to testify against our own customers in the event of a 3rd party lawsuit.

In light of this, LWD urges R9 to delay consideration of the Tentative Order until all of these issues can be resolved. Because the General SSO WDR and the existing R9 WDR are already in place, LWD believes that delaying the Tentative Order would *not* endanger water quality in the region. LWD would be willing to participate in a stakeholders group or in any other type of forum to help resolve the aforementioned concerns.

Thank you for this opportunity to comment on the Tentative Order. If you any questions, please do not hesitate to contact Mr. Leo Schempp or myself at (760) 753-0155.

Best regards,

A handwritten signature in cursive script, appearing to read "Paul J. Bushee".

Paul J. Bushee
General Manager

Is:PJB