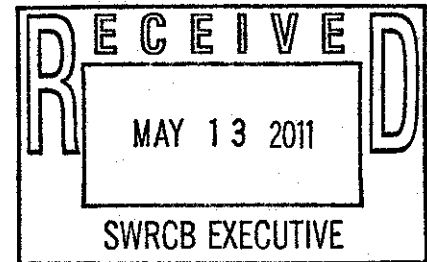




Water & Sewer Utilities



May 13, 2011

Jeanine Townsend
Clerk of the Board
State Water Resources Control Board
1001 I street, 24th Floor
Sacramento, CA 95184

Re: Comment Letter SSS WDRs Review and Update

Dear Ms. Townsend:

The City of Santa Clara Sewer Utility (Utility) appreciates the opportunity to comment on the State Water Resources Control Board's proposed revisions to the Sanitary Sewer System Waste Discharge Requirements (SSS WDR). The Utility is fully committed to protecting public health and the environment as well as complying with all applicable regulations. The existing Sanitary Sewer Overflow Waste Discharge Requirements (SSO WDR) has given the efforts of the Sewer Utility the much desired recognition for the work and staff resources that are provided for the health, welfare and safety of the public.

The Utility is very concerned about a number of the proposed revisions. The Utility contends that the additions to the Sewer System Management Plan (SSMP) requirements are onerous and that the additional protection resulting from the revisions, if any, are minimal compared to the burden placed on sewer utilities. Specifically, the requirements for the developments of Risk and Threat Analysis, a Staff Performance Assessment Program, and Performance Targets are examples of documents that are costly and time consuming to prepare and of questionable value in preventing accidental overflows from the sanitary sewer system. Furthermore, the Utility would suggest that the proposed revisions not be mandated unless or until the State Water Resources Control Board has made funding available for implementation and developed the associated processes and guidance materials.

The Utility would suggest that the existing SSO WDR continue to be implemented and that the effectiveness of the existing requirements be fully evaluated before major changes are mandated. Audits have not yet been completed on all implementing agencies to determine the effectiveness, or degree of implementation, that has been achieved to date. The Utility would propose that the State use the auditing process to determine overall performance prior to making changes to the existing requirements.

Ms. Townsend
May 13, 2011
Page 2

The Utility contend that draft SSS WDR requires revisions of Sanitary Sewer Management Plan SSMP more frequently than is necessary to ensure the document is current. Revision of these SSMP requires public hearings and formal adoption which is both time consuming and costly. The current frequency of revision required by the SSO WDR has appeared adequate to keep the SSMP up to date. If the intention of the requirement were to ensure the documents are kept current, the Utility would suggest a requirement based on changes to the sewer system or program rather than merely the passage of time.

The proposed SSS WDR also focuses on a level of detail that does not appear to be necessary to meet regulatory requirements. One specific example would be the requirement to publish of names, e-mail addresses, and phone numbers of staff. The disclosure of this personnel information does not ensure or increase the potential for compliance. Furthermore, it is unclear how this additional information required under the draft SSSWDR would be used by the Water Boards or how the required information will generate any additional environmental or public health benefits. The Utility would suggest that any requested information have a direct an obvious connection to additional environmental or public health benefits.

The Utility disagrees with the inclusion of language in the draft SSS WDR that would require the Utility to have regulatory oversight and responsibility for private laterals. The Utility has no jurisdiction over the operation or maintenance of these laterals. An argument could be raised for some maintenance responsibility for the portion of a lateral in the public right of way. However, sewer laterals on private property are clearly the responsibility of the property owner as are the sewer lines within a residence or industrial facility.

The Utility objects to the inclusion of language that would suggest that a sewer utility is in some way responsible for Private Sewer Systems within their jurisdiction. If the State Board believes that the Private Systems need additional oversight, these Private Systems should be individually permitted by the State. The State Board should only hold public agencies accountable and responsible for activities within their jurisdiction.

The Utility would encourage both the State and Regional Water Boards to consider all contributing factors while investigating an SSO incident. The proposed revisions to the SSO WDR would transform the existing enforcement discretion language. The Utility is concerned that these changes may allow Regional Boards ignore factors that would indicate that an overflow could not reasonable have been prevented.

The Utility support the proposed revision to streamline the reporting process for SSOs by making Cal EMA the single point for reporting purposes. The Utility would support this revision to the reporting requirements regardless of the outcome of the draft SSS WDR.

In conclusion, the Utility contend that focusing on compliance with and evaluating the effectiveness of the current SSO WDR would be more productive than making extensive

Ms. Townsend
May 13, 2011
Page 3

revisions to the requirements at this time. In the absence of a complete and extensive evaluation of the effectiveness of the existing program, the significant revisions contained in the SSS WDR may be more restrictive than is necessary to protect public health and the environment.

The Utility appreciate the State Water Resources Control Board time and consideration of these comments. If you have any questions or require clarification of any of these comments, please feel free to contact Nina Hawk at (408) 615-2018 or by email at nhawk@santaclaraca.gov.

Sincerely,



Christopher L de Groot
Acting Director of Water and Sewer Utilities

cc: City Manager

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