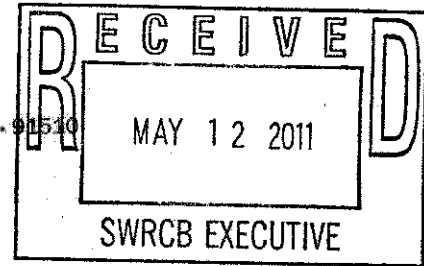




PUBLIC WORKS DEPARTMENT

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May 12, 2011

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

Dear Ms. Townsend:

COMMENT LETTER – SSS WDRs REVIEW & UPDATE

Thank you for the opportunity to comment on the draft Statewide General Waste Discharge Requirements for Sanitary Sewer Systems (SSS WDRs). The City of Burbank (City) has the following comments:

1. The proposed SSS WDR moves away from the approach developed by the Stakeholder Sanitary Sewer Overflow (SSO) Guidance Committee in 2005-2006, which focused on reporting of SSOs and reducing SSOs with the potential to affect water quality or public health, to a very prescriptive and onerous order that seeks to dictate decisions regarding the way local sewer system programs are managed and implemented. It is unclear how the additional information that must be generated will be used by the Water Boards or that the efforts required under the proposed permit will produce corresponding environmental or public health benefits.
2. The requirement for all existing enrollees under 2006-0003-DWQ to submit a new application for coverage under the proposed SSS WDR (B.4) is unnecessary and burdensome. This requirement distracts from the implementation of existing Sewer System Management Plans (SSMPs).
3. The draft SSS WDR goes far beyond what is reasonable in attempting to dictate that enrollees allocate a sufficient amount of resources for compliance with the SSS WDR, by mandating that SSMPs include budgets for operation and maintenance as well as capital improvements, as well as requiring enrollees to "demonstrate the agency's ability to properly fund the sewer system in perpetuity." While it is desirable to identify the resources that will be available for implementation of any program, public agency budgets must be approved from year-to-year and no public agency that is enrolled in the SSS WDR can guarantee a specified level of funding beyond what has been approved by its legislative body, let alone "in perpetuity." These requirements are unreasonable and overly prescriptive, and should not be included in the revisions to the SSS WDR.

THE CELEBRATION OF A CENTURY

4. We strongly disagree with the mandatory reporting of Private Lateral Sewer Discharges (PLSDs) in the SSS WDR. Most enrollees, including Burbank, have no authority over the privately-owned laterals. Obtaining detailed information on PLSDs will be difficult if not impossible to obtain due to the necessary reliance on reports from private-property owners. Including this reporting requirement places a burden on public agencies over a system they do not own, maintain, or control. At best, uneven data will be collected that will yield useless information. As stated in the State's Staff Report, the highest risk spills are those which reach water of the State. This should remain the focus of the SSS-WDR rather than adding burdensome requirements to enrollees that result in little or no benefit.

In addition, enrollees reporting spills may be liable to the property owner for errors in reporting, and property owners may claim they are entitled to compensation from the local agency for repair or replacement costs stemming from the reported spill. Under the current voluntary reporting scheme, the enrollee can weigh these factors in deciding whether to report PSL spills or not.

5. We oppose the adoption of a "hybrid" two-tiered approach to regulation of sanitary sewer systems. Under the two-tiered Waste Discharge Requirements (WDRs) and National Pollutant Discharge Elimination System (NPDES) permit: (1) enrollees who have had at least one SSO that has reached waters of the United States would be required to seek coverage under the NPDES permit; (2) enrollees who have never had any SSO that has reached waters of the United States would be required to seek coverage only under the WDRs; and (3) when an Enrollee covered under the WDRs reports a SSO that has reached waters of the United States, the Enrollee would be required to switch coverage from the WDRs to the NPDES permit. The NPDES permit (as does the existing SSO WDR) would include a prohibition against all SSOs to waters of the United States.

Since the SSS WDR does not authorize any SSOs to waters of the United States, there is no need for a NPDES permit. The result of such a change would be to subject local public agencies to additional citizen group lawsuits and higher administrative penalties with absolutely no demonstration that this would improve water quality or reduce SSOs. This alternative would also require additional Water Board staff resources to track and implement the different permit tiers.

6. Item 12.f(vi) under the SSMP section on page 20 of 33 states, "A program and procedures to ensure that all reasonable steps are taken to contain and prevent the discharge of untreated and partially treated wastewater to surface waters of the State that includes a risk and threat analysis of all sanitary sewer system assets. The program shall also specify steps to minimize or correct any adverse impact on the environment resulting from SSOs including such accelerated or additional monitoring as may be necessary to determine the nature and impact of the discharge."

It is unreasonable to request a risk and threat analysis of all sanitary sewer system assets. We believe this requirement should only apply to those that have had a multitude of SSOs. This creates an unnecessary administrative burden on enrollees who are performing well. This requirement should be reserved for those facilities which have demonstrated failure. A blanket requirement for a risk assessment on all facilities will likely result in cookie-cutter responses which are unbeneficial.

7. The proposed SSS WDR requires that all backflow prevention be included on a map of the sanitary sewer system (Item D.12.d.i on page 17 of 33). This requirement should be

modified to read, "Maintain an up to date map of the sanitary sewer system owned and operated by the enrollee. . . ."

8. Many of the requirements under the Operations and Maintenance Program (page 17 of 33) place additional unnecessary burdens on the enrollees. Examples include a mandated Staff Assessment Program and Contingency Planning. These elements are already being implemented by enrollees as needed. Mandating their inclusion in a SSMP creates an administrative burden on enrollees who should remain focused on maintaining their systems.
9. The proposed SSS WDR requires recertification by the governing board every four years (page 24 of 33). This requirement is burdensome for cities and should be modified to state that recertification is necessary only when significant changes are made to the SSMP.
10. Page 28 of 33 includes a requirement for the "bi-annual SSMP audit schedule to address the clarifications and additions to their SSMP." The term "bi-annual" means twice a year. The proper word for this sentence is "biennial," signifying every two years as indicated on page 23 of 33.
11. Page 1 of the Monitoring and Reporting Program (MRP) requires that the enrollee report a SSO that "may result" in a discharge to a surface water of the state within two hours. This is unreasonable since the first two hours of a spill are the most critical time to be placing all available resources to preventing it from reaching surface waters, not reporting that it may reach surface waters. This requirement should only apply to those SSOs which have reached surface waters.
12. On page 2 of 6 of the MRP, Item 1 under SSO Reporting Timeframes states " ... Draft reports for Category 1 SSOs shall be submitted to the Online SSO Database as soon as possible but no later than 3 business days after the Enrollee is made aware of the SSO by citizen complaint or discovery." Given all the requirements to report in Item 3 under Mandatory Information to be Included in SSO Online Reporting on page 5 of 6, we recommend 5 business days be allowed for the submittal of the draft report.
13. On page 6 of 6 of the draft MRP, Item 1 under Record Keeping Requirements states "At a minimum, the following records shall be maintained by the Enrollee:
 - A. Photographic evidence of each SSO event to document the spill and the response activities; ...
 - D. Records of all incoming SSO and/or PLSD complaints, both during and after business hours, including the date, time, and method of notification, the nature of each incoming complaint, and the complainant's name and telephone number; ...

We are concerned with Item 1.A above in that for PLSDs, the property owner may not allow us access to his/her property to take pictures or that the SSO may occur during non-business hours making it impossible to take pictures since limited sewer crew staff is on call to respond. Furthermore, depending on the severity of the SSO, our staff may not have time to take pictures of the SSO event. We are requesting to add a clause for Item 1.A above that states, "Photographic evidence of each SSO event to document the spill and the response activities when practicable."

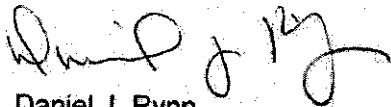
We are also concerned with Item 1.D above in that our dispatch personnel after business hours will contact the sewer crew for emergency/immediate response. With

our dispatch not having expertise on SSOs, coupled with the incoming caller having limited or incorrect information, Item 1.D has the potential to report inaccurate information.

14. On page 7 of 6 [sic] of the MRP, Item 5 under Record Keeping Requirements states "If water quality samples are required by an environmental or health regulatory agency or state law or if voluntary monitoring is conducted by the Enrollee or its agent(s) as a result of any SSO or PLSD, ..." Burbank disagrees with the sampling of wastewater in a SSO event. First, since it is obvious that sewage will have high bacteria counts, the results from these samples are useless. Second, taking samples diverts from the mission of the responding party – clear the sewer blockage and clean up the overflow before it hits waters of the State. Third, if an overflow does not hit a water of the State, the sampling and analysis are useless since the spill was completely contained and remediated. This provision concerning sampling should be removed from the SSS WDR.

We appreciate this opportunity to comment on the draft SSS WDR and look forward to continuing to do our part to minimize/prevent SSOs. Should you have any questions, please contact me at (818) 238-3940 or drynn@ci.burbank.ca.us.

Sincerely,



Daniel J. Rynn
City of Burbank
Assistant Public Works Director