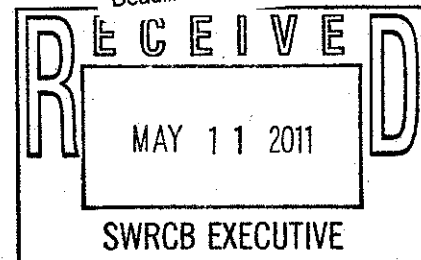




CITY OF FILLMORE
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May 11, 2011

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

COMMENT LETTER - SSS WDR REVIEW & UPDATE

The City Council of the City of Fillmore has reviewed a City staff analysis of the proposed changes to the Sanitary Sewer System Waste Discharge Requirements (SSS WDRs). The City respectfully requests that changes be made to the proposed regulations that will:

- 1) Lessen the staff time and the financial impact on the City (and hence the community) and
- 2) Delay their implementation until the existing regulations have had time to more fully develop a track record that indicates the significant changes proposed are all necessary.

Fillmore is a small City (population 15,787) in central Ventura County. The community has virtually no manufacturing base and serves as a residential enclave for the surrounding agricultural area as well as industrial and manufacturing bases in other communities. Based on 2006 census data, the community provides housing for extremely low and very low income levels. 35.3% of the City population has income below 50% of the county median income level. This is greater than any other community in the county. The City is facing a projected budget deficit of \$1.9 million in FY 2011-12 which is very likely to require further City staffing and service reductions.

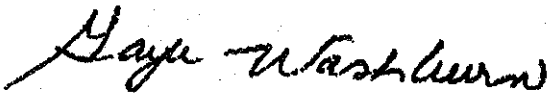
The following two items are examples of how the proposed changes will specifically impact the Fillmore community:

- 1) The City engineering staff consists of exactly one registered engineer. That person is responsible for all public works and development activity engineering for water, sewer, storm drain, streets, plan check, etc. Even with the slowdown in the economy and development activity, that person is already overloaded; adding even more engineering as proposed in the draft WDR is going to cause more of an overload.

- 2) The last Sewer System Master Plan Update prepared by an outside consulting engineer in 2006 cost \$80,000 or \$22.85 for each of the 3,500 sewer accounts. Having to increase the frequency to every 2 years as part of the SSMP update would add \$1 per month per customer account to the current \$82.00 per month sewer charge.

In addition to City staff analysis, the City Council has reviewed the CWEA/Tri-TAC comments and fully supports them.

It is recommended changes be made to the proposed regulations that will both lessen their financial impact and delay their implementation until the economy recovers more fully. Thank you for your thoughtful consideration of these comments.



Gayle Washburn
Mayor

ATTACHMENT 1

Proposed SSS WDR Review Selected Potential Impacts to City of Fillmore Prepared 05/02/2011

The following material is a selected list of the potential impacts of the proposed SWRCB changes to the SSS WDR based on the material made available in the March 22, 2011 draft. Many impacts are generally unknown because they are dependent upon requirement specifics and procedures which will not be written until after the proposed regulations have been adopted. Overall, the regulatory approach is "one size fits all" whether the Enrollee is Fillmore (population 15,787) or Los Angeles (population 3,792,621).

1. **Enrollee** – Adds to the existing regulations any private sewer systems greater than one mile in contiguous length that collects and conveys, at any time, more than 25,000 gallons per day of untreated or partially treated wastewater to a publically or privately owned treatment facility or sanitary sewer system in California.

Note: The City owns and is responsible for mainline sewers in public streets and easements only. All pipes from buildings to the mainline sewer owned by the City are owned by and are the sole responsibility of the property owner.

Comment: Two potential entities in the City that would be covered are thought to be the El Dorado Mobile Home Park and new developments before the sewage collection system is dedicated to the City such as Heritage Valley Park. Applicability depends upon the definition of contiguous. Could mean total length including all branching pipes -or- it could mean the longest line excluding all branching pipes. This will create significant additional work for the SWRCB staff. Impact to City is minimal, except to report any sewage spills it becomes aware of in the course of business. City has no affirmative requirement to police private sewer systems. Other requirements of the proposed changes appear to assign duties to public agency Enrollees regarding Private Laterals and Private Lateral Sewage Discharge. The proposed regulations are internally inconsistent.

2. **Sanitary Sewer System Overflow (SSO)** – Expands the definition of applicability from "Waters of the United States" to "Waters of the State."

Comment: By definition "Waters of the State" include "Waters of the United States" plus any surface waters that are not waters of the United States (e.g. non-jurisdictional wetlands). Waters of the state also includes groundwater and territorial seas. The need for this expansion is unclear.

The exact impact is unknown other than the proposed regulations cover more waters than previous regulations and will result in a larger regulated area than before. Having an expanded regulated area will likely increase the need for

SWRCB staff and therefore state costs. State costs typically are reflected in permit costs. It is just a matter of time until those permit costs are borne by the City.

3. Spill – New definition, but no change from prior regulation scope because it includes “Any” overflow, spill, release, discharge or diversion. No minimum volume.

Comment: This could mean any volume from as small as a single drop. The definition of an SSO also includes overflows that do not reach the waters of the state. This could include very small volumes that might splash or drip onto a street as sewer cleaning equipment is being removed from a manhole. There should be some definition of the minimum volume below which the regulations do not apply in order to avoid overzealous application.

4. Applications under the SSS WDR – Current enrollees of Order No. 2006-0003-DWQ (this includes the City) are required to submit a new application package under the revised regulations by an unspecified deadline. The SWRCB will send specific instructions on how to apply within sixty (60) days of the SSS WDR adoption.

Comment: Seems like unnecessary paperwork since these systems are already enrolled under the existing regulations. Impact is unknown because the enrollment package is not yet defined. If a person is suspicious, they might be concerned about some changed requirements being buried deep in the regulations that are triggered by the reapplication. Sort of like when a bank sends a new replacement credit card long before the old one has expired. As someone once said “Just because you are paranoid does not mean they aren’t out to get you!”

5. Prohibitions – The proposed regulations are expanded to cover the discharge of chlorine or any other toxic substance used for disinfection and cleanup of wastewater spills. The apparent intent is to prevent the clean up materials from reaching any surface water body. This prohibition applies to the chlorine residual in the potable water used for wash down and cleanup of wastewater spills.

Comment: Small amounts of swimming pool chlorine are sometimes used to disinfect spill areas such as paved street surfaces. Following disinfection, the water is vacuumed up to the extent practical; then the spill areas are frequently flushed with large volumes of potable water that may make its way to the storm drain system. This prohibition will require that all such flushing water be captured, vacuumed up and returned to the treatment plant for processing and disposal. Alternatively, the flushing water can be captured and de-chlorinated before discharge to the storm drain system. The added cost will depend upon the nature of each spill and the cleanup. “Any” is all encompassing, there needs to be some threshold that is allowable to prevent over zealous application.

Some common sense needs to be applied. Strict interpretation of the proposed words would make it illegal to discharge potable water from the City's system to a storm drain because of the small chlorine residual it contains. If water is clean enough to drink under state law, it should be clean enough to discharge to the storm drain system. Further, it may be just a matter of time until the fire department is required to follow the same sort of cleanup/de-chlorination procedure in order to prevent chlorine from reaching the waters of the state from any potable water it uses to put out a fire.

6. Funding – The words “adequate funding” or “fund” have been added to several of the provisions of the proposed regulations. Apparently, some entities have failed to provide sufficient funds to implement the prior regulation requirements. Adding funding to these changes are proposed to address that issue.

Comment: The meanings of these words are in the eye of the beholder and can give rise to considerable discussion, legal and otherwise. Impact is unknown at this time because there is no information available on how the regulation will be implemented.

7. Sewer System Management Plan (SSMP) – The required SSMP contains the same basic nine (9) elements as before; however, many of the requirements have been increased.

Mapping – Maintain an up-to-date map...showing, at a minimum, all gravity line segments...such as...backflow prevention devices...

Comment: The operation and maintenance section of the prior regulations required that the Enrollee maintain an up-to-date map of the sewage collection system; the map itself was not a required part of the SSMP. The revised regulations require that the map be part of the adopted SSMP. Including a map is no problem for the City because the map of its 33 miles of gravity sewer fits on one standard engineering drawing sheet. Imagine the problems for large entities with many hundreds or thousands of miles of collection system.

However, one possible issue is the phrase “up-to-date map.” When the Enrollee had to simply maintain a map, it was not a big deal to update the map on file in the City offices. Now that the map is a required part of the SSMP document it is unclear whether the SSMP must be re-adopted every time the map changes or whether maintaining the latest revised map in the City offices and including the revised map in the bi-annual update is adequate. Guidance is needed on how the regulation will be enforced. Impact is unknown.

Further, backflow prevention devices are commonly installed just outside the building being served on private property. A requirement to map backflow devices will require the City to expand its sewer system mapping greatly to map the privately owned laterals in addition. While maybe desirable in a utopian world,

this would be a requirement that the City cannot afford in the current economic environment. Mapping backflow devices should be eliminated from the proposed changes.

8. Organization – The proposed changes require the same style organization chart showing the lines of authority for SSMP implementation that was previously required. A requirement would be added that the names, e-mail addresses and telephone numbers of governing body members is included. The proposed changes also require identification of Data Submitters.

Comment: The governing body is responsible for setting and enforcing policy for its staff to implement; they do not and should not play any role in the day-to-day operation of the sewer system. Including the governing body information is not needed as that information is readily available elsewhere (agency directories, websites, etc.) and has the potential to create confusion as to who is responsible for SSMP operation. A Data Submitter can be a clerk within an organization; it is unclear how the public would benefit from knowing who typed the data entries.

Further, there is the same issue as described above for the map. It is unclear whether or not the SSMP must be readopted each time a person serving on the governing body or as a Data Submitter changes.

9. Ban New Connections – This authority can involve complete moratoriums on new sewer connections, which, in essence, becomes a complete building moratorium.

Comment: In situations where the sewer service entity and the land use entitlement entity are different public bodies, this requirement could become a very difficult point of contention between them. Since the City Council controls both parts of these processes no conflict should arise.

10. O&M -- ... The SSMP shall identify the name(s) of contractors conducting routine work on the sewer system for implementation of the SSMP and a description of the services provided.

Comment: The requirement is unworkable. For example, how will this requirement function when repairs are needed to raise manhole covers because of a street overlay or replace sewer pipe that is misaligned or broken. Are the permitted bidders only those that are named in the SSMP? Or once the low bidder is known must the SSMP be amended to include the low bidder before the contract can be awarded? This requirement is unworkable and should be eliminated.

11. Rehabilitation and Replacement Plan Adoption -- The present regulations require that a rehabilitation and replacement plan be "developed" to identify, prioritize and schedule repair and/or replacement to correct collection system deficiencies. The proposed regulations also require that there be a capital improvement plan...

... This section shall also include a description of any private sewer system lateral inspection and replacement programs implemented within the sewer system service area.

Comment: The City's sewer maintenance contractor currently does visual inspections of manholes and video inspection of mainline sewers to identify problem areas and notify the City. A system of grading severity to prioritize future repair work is under development now. The City should have such a rehabilitation and replacement plan feeding needs into the Citywide Capital Improvement Plan, but the mechanism does not now exist. The City cleans the entire sewer system every four (4) years and video inspects the entire system every eight (8) years. Thus, although highly desirable, such a plan and mechanism will take considerable staff effort and calendar time to complete even under the best of financial circumstances.

The requirement to map private sewer lateral components (backflow devices) is unwarranted and internally in conflict with other parts of the new requirements that state the Enrollee has no obligation for private lateral sewage discharges. This requirement should be eliminated.

12. System Evaluation and Capacity Assurance Plan – Under existing regulations, each Enrollee is required as part of the SSMP to perform periodic collection system evaluations to identify deficiencies, investigate alternative solutions and determine a recommended apparent best solution. Added by the new regulations is a requirement that the report must be certified (signed and stamped) by a professional licensed to practice professional engineering in California. Further it would be required that the recommended solutions shall then become part of a Capital Improvement Plan (CIP) that includes implementing the short- and long-term CIP. The proposed changes require the addition of a schedule for developing the funds needed to implement the CIP.

Comment: The City had an outside consultant perform such an evaluation (capacity evaluation, deficiencies, and planning level solution recommendations) in 2006 at a total cost of \$80,000 or \$22.85 for each of the 3,500 sewer accounts. The proposed regulation changes are unclear as to how often this system evaluation has to be done, but can be read to be required every two years as part of the SSMP update. Having to increase the frequency to every 2 years as part of the SSMP update would add \$1 per month per customer account to the current \$82.00 per month base sewer charge. It would be beneficial if this requirement was deleted. At the very least, guidance should be provided that would clarify how the regulation is to be interpreted so that Enrollees can determine the impact of the proposed changes.

13. Staff Assessment Program – The present regulations require that the Enrollees provide training on a regular basis for staff in sanitary sewer collection system maintenance and operation. The proposed regulations require development and annual implementation of a Staff Assessment Program from line staff through all

levels of supervision. The assessment program is required to review current staff job duties, training, skill sets and/or abilities against the requirements needed to comply with the SSS WDR.

NOTE: The City's entire 33 mile sewage collection system is gravity with no complications such as lift stations or force mains. The City's contractor has four (4) personnel who do collection system maintenance on a part-time basis.

Comment: These requirements of Enrollee substantially intrude into the day-to-day management of employees to satisfy the regulations, potentially causing interference with the privacy and due process rights of employees. This requirement should be eliminated or at least scaled back to provide guidance or set goals, but not set absolute requirements on exactly how to achieve the goals.

14. O&M and Sewer System Replacement Funding – The proposal is that the SSMP include budgets for routine sewer system operation and maintenance as well as for the Capital Improvement Plan.

Comment: It is hard enough to get all component parts of the annual budget coordinated into a complete document that is internally consistent. Having to include coordination with the SSMP is just plain unrealistic. Then there is the problem of how budget changes for differing actual conditions than anticipated would interact with the proposed regulations. Would the budget be limited to what's in the SSMP or would the SSMP have to be readopted to reflect what is in the budget? This requirement intrudes into organization management and is just plain unworkable. It should be eliminated.

15. Design and Performance Provisions – The existing regulations require that the Enrollee have design and construction standards for the installation of new sanitary sewer systems, pump stations and other appurtenances plus standards for the rehabilitation and repair of existing sanitary sewer systems. The proposed changes add the requirement that those standards be formally adopted by the Enrollee.

Comment: Fillmore has used the City of Thousand Oaks design standards by reference for years with specific standards from other agencies for unusual situations that are uncommon. The City will have to invest the staff time to gather these design standards into a new document and adopt them as the City's design standards. This task will take staff time that is not currently available.

16. Inspection and Testing Standards – The existing regulations require that the Enrollee have inspection and testing standards for the installation of new sewers, pumps and other appurtenances. The proposed changes add the requirement that those standards be formally adopted by the Enrollee.

Comment: Fillmore has historically used the Standard Specifications for Public Works Construction popularly known as the "Greenbook" and published by the Public Works Standards, Inc. (PWSI), a mutual benefit corporation. This is an evolving 44 year old living document; an updated version is published every three (3) years. The members of PWSI are the American Public Works Association (APWA), Associated General Contractors of California (AGCC), Engineering Contractors Association (ECA), Southern California Contractors Association (SCCA), BNI Publications, and others as may be added by the members. The Board of Directors of PWSI is composed of five members representing APWA, and four other members, one each representing each other member of the corporation.

The City will need to create a formal document adopting the Greenbook as its standard. This would be much like the way the City adopts other standards such as the Uniform Building Code, the Uniform Plumbing Code, etc. This is not a difficult task, but again will require staff time that is not currently available.

17. Overflow Emergency Response Plan – The overall laudable goal of being prepared for emergencies is not opposed. However, the added requirement includes "Program documentation should include contracts or agreements in place that may be needed in the event of SSOs to help mitigate the discharge."

Comment: There are an infinite number of things that may be needed in a contract to respond to an SSO. Actual requirements will depend upon the nature of the SSO and the circumstances at that time. The requirement that contract documentation be attached to the SSMP infers that exact requirements are known in advance and can be reduced to fixed contract language in advance. This proposed requirement is unworkable and should be eliminated.

Also, this requirement gets back to the chicken and the egg question raised earlier. Are only those firms who are named in the SSMP allowed to provide services or must the SSMP be amended to include a different firm or services once they are known. Neither situation is workable.