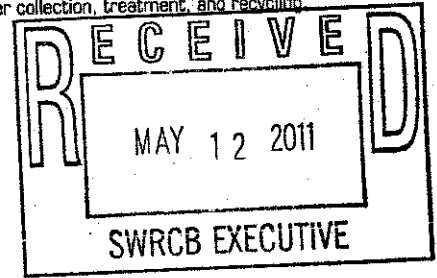




ORANGE COUNTY SANITATION DISTRICT

We protect public health and the environment by providing effective wastewater collection, treatment, and recycling.



May 12, 2011

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

SUBJECT: Comment Letter – SSS WDRs Review & Update

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Garden Grove

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Sanitary District

Irvine Ranch
Water District

County of Orange

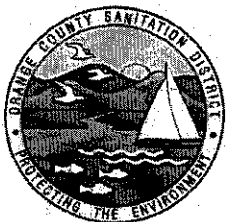
The Orange County Sanitation District (OCSD) appreciates the opportunity to provide the State Water Resources Control Board (Water Boards) with comments on the proposed revisions to the Sanitary Sewer System Waste Discharge Requirements (SSS WDR).

OCSD is a public agency responsible for collecting, treating and management of wastewater for 2.5 million residents and businesses within central and northwestern Orange County, California. OCSD operates two regional wastewater treatment plants, over 580 miles of sewer lines, sixteen pump stations and an ocean outfall disposal system. OCSD has been in conformance with the statewide WDR Order No. 2006-0003-DWQ and Order No. 2008-0002-EXEC adopted in 2006 by judiciously following the requirements and provisions of the WDR SSMP and its MRP. OCSD staff appreciates the efforts of the Water Boards staff to consider and integrate many of our comments. The adoption of this order will continue to be a trend-setting event in our state and will serve as a model for our nation.

Foremost, OCSD would like to offer our support for the positive aspects of the proposed SSS WDR revisions. OCSD believes that the revisions to streamline spill notification, modify applicability criteria to include a flow threshold, expand coverage of the SSS WDR to private collection systems, and clarify the focus of sanitary sewer overflows (SSOs) are very positive. However, we also believe in some aspects, the proposed revisions represent a major departure from the program that has been successfully implemented under the existing Sewer System Overflow Waste Discharge Requirements (SSOWDR) involving major capital improvements that will take time to be fully implemented.

OCSD believe the proposed SSS WDR revisions are moving away from the approach developed by the Stakeholder SSO Guidance Committee in 2005-2006, which focused on reporting and reducing SSOs with the potential to affect water quality or public health, to a very prescriptive order that seeks to dictate decisions regarding the way local sewer system programs are managed and implemented. OCSD further believes that compliance with the proposed revisions requires far greater resources, at a time when public agency budgets are shrinking. Furthermore, it is unclear how the additional efforts spent and information provided





Jeanine Townsend

Page 2

May 12, 2011

In response to these added requirements will be used by the Water Boards to produce corresponding environmental or public health benefits.

In an effort to ensure that the proposed changes are economically feasible and practical to implement, OCSO has carefully reviewed the draft SSSWDR and offers the following comments:

1. It is our understanding that although not part of the Water Boards staff proposal, the Water Board is also seeking comment on whether to adopt a "hybrid" two-tiered approach to regulation of sanitary sewer systems.

Under the two-tiered WDRs and 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 an 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 SSO WDR) would include a prohibition against all SSOs to waters of the United States.

OCSO Response - 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. In addition, the trigger proposed is vastly inappropriate and instead there should be a higher threshold value, number of spills or volume of spills or some other, before there is a switch from a WDR Order to an NPDES permit.

2. The existing SSS WDRs included language in Provision D.6 that provided some reassurance that, in the case of an SSO enforcement action, 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. Existing language read: "In assessing these factors,



Jeanine Townsend
Page 3
May 12, 2011

the State and/or Regional Water Boards will also consider whether..."
(emphasis added).

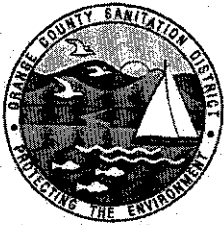
In the proposed revisions to the SSS WDRs, this language was changed to read: "*In assessing these factors, the State and/or Regional Water Boards may also consider whether..."* (emphasis added).

OCSD Response - The proposed revisions to the SSS WDRs would transform the existing enforcement discretion language, which expresses a clear statement of the Water Boards' intent regarding enforcement priorities and responses, into a purely advisory provision, which individual regional 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.

3. Under Applicability Criteria (page 1 of 33), the definition of who qualifies under the program has been changed to include a flow value as well pipe length component. Under the new proposed SSSWDR, sanitary collection systems that have one or more miles of contiguous pipe length and collect and convey 25,000 gallons of untreated or partially treated wastewater on any single day qualify for enrollment in the program. Private (trailer parks, private communities, commercial complexes, etc.) and federal (military bases, etc.) systems that meet the qualification of pipe length and flow volume also must enroll in the program and develop a certified system specific Sewer System Management Plan (SSMP).

OCSD Response - As mentioned earlier, OCSD supports the expansion of the definition to include private sewers meeting the above-mentioned qualifications.

4. Private property spills, referred to as Private Lateral Sewage Discharges (PLSD) require mandatory reporting by the public agency within whose jurisdiction the spill occurred as the public agency becomes aware of them. Currently only Region 9, San Diego, requires the reporting of private property spills.



Jeanine Townsend
Page 4
May 12, 2011

OCSD Response – For the purpose of inventory and trend analysis, we do not have any issue with this requirement. However, we believe the SSS WDR is overly focused on private sewer laterals ("PSL"), requiring reporting of PSL spills by enrollees who have no authority over the privately owned laterals and requiring detailed information regarding local lateral programs. We would also mention that reporting PLSD require additional resources, therefore, making large and especially smaller agencies stretch their staff's capabilities.

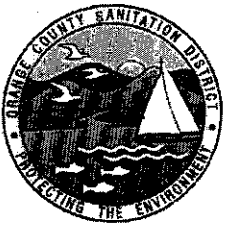
5. Under Application Requirements (page 11 of 33), New Enrollees, those who are now eligible for enrollment but were not eligible under the current WDR, will have 6 months to apply for enrollment. Current Enrollees are required to submit a new application package for coverage under the new proposed SSSWDR. Within 60 days of adoption of the new proposed SSSWDR the State Water Board staff will send specific instructions to all current and known potential Enrollees on how to apply for coverage.

OCSD Response – Although we believe an update of the changes and expansions may be useful where applicable, we do not believe a new application will be necessary and therefore, refocusing the efforts to implementing the changes.

6. Discharges of chlorine (page 13 of 33), including chlorine residual such as that in potable wash water, or any other toxic substance used for disinfection are prohibited. When performing a cleanup from an SSO.

OCSD Response – Although we understand the intent of this provision and currently we do not use disinfectant for cleaning purposes. OCSD believes when performing cleanup of an SSO, the prohibition on the use of chlorine during spill cleanups, including any potential chlorine residual in potable water, thus making it very difficult to wash down and fully clean up and disinfect SSOs on roads and gutters, and in storm drains or ditches. It should be mentioned that disinfection in some other area may be necessary to protect the public from the potential infectious contaminants. Until there is a practical alternative available to conduct disinfection cleaning, we do not believe the use of chlorine should be completely prohibited.

7. In the Organization element, the names, phone numbers and email address (page 16 of 33) of the current governing body must be included along with the contact information for the agency's staff. The website address where the Enrollee's SSMP is posted, if applicable, must be listed.



Jeanine Townsend
Page 5
May 12, 2011

OCSD Response – We do not have any issue with this requirement provided when organizational changes occur, adequate time is given to update the set-up and website.

8. Under the Legal Authority two new requirements have been added (page 17 of 33). One is the authority to limit flows to the sanitary sewer system from connected sources including laterals and satellite systems. The second is the authority to ban new connections. Also, under the Legal Authority the Enrollee shall specify whether they own or maintain sewer laterals or portions thereof including pipe, cleanouts, and backflow prevention devices. Policies, procedures related to the requirements for easements shall be addressed in this section.

OCSD Response – We do not have any issue with this requirement provided. There is enough justification to implement such an authority.

9. In the Operations and Maintenance element (page 18 of 33)

- The Enrollee must also describe any private lateral inspection or replacement programs implemented.

OCSD Response – We do not have any issue with this requirement provided we have the authority and responsibility for the private lateral that inspection is conducted.

- A Staff Assessment Program must be developed that annually assess the proficiency of the operations and maintenance staff including supervisors, contractors and others having oversight or the collection system operation.

OCSD Response – Although we understand the benefits and intent of the assessment program, considering today's economy, this program requires major resources and therefore impractical to implement. Moreover, considering lack of maturity in implementing the current WDR program, we do not believe implementation of this program will be practical on an annual basis. This may be implemented on a less frequent basis allowing full implementation of the new program (i.e. every five years).



Jeanine Townsend
Page 6
May 12, 2011

- A Contingency Plan that identifies the most critical collection system assets and procedures posing the highest risk for an SSO must be developed.

OCSD Response – Delete requirement for Contingency Planning since there may be many other considerations that need to be included in planning for future SSO conditions, and such planning should be left to an individual agency.

- O&M and system replacement budgets that include costs, revenue and revenue sources must be included in the SSMP.

OCSD Response – Delete requirement for an O&M and system replacement budget analysis since budgets are updated on a yearly basis, therefore, it is impractical and labor intensive to update the SSMP whenever a budget change occurs.

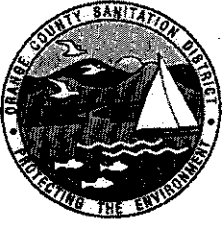
10. The Overflow Emergency Response Plan (page 19 of 33) must include documentation on the steps needed to prepare for natural disasters and hazardous weather events. A risk and threat analysis prioritizing the highest risks and threats to the collection system must be completed and must include the consequences of each identified failure.

OCSD Response – Delete requirement for a risk and threat analysis since this program requires major resources to implement and there may be many other considerations that need to be included in planning for future SSO conditions and such planning should be left to an individual agency.

11. In the System Evaluation and Capacity Assurance element, budgets showing costs, revenue and revenue sources for the System Evaluation and Capacity Assurance Plan must be included in the SSMP.

OCSD Response – Delete this requirement since budgets are updated on a yearly basis, therefore, it is impractical and labor intensive to update the SSMP whenever a budget change occurs.

12. The Monitoring Measurement and Program Modification element has been changed to Performance Targets and Program Modifications. In this element of the new proposed SSSWDR, the Enrollee is to create and track performance targets linked to elements of the SSMP to measure the



Jeanine Townsend
Page 7
May 12, 2011

effectiveness and success of the SSMP elements. A change log shall also be maintained tracking the modifications and changes that occur in the SSMP.

OCSD Response – Although we understand the benefits and intent of the program, this requires major resources to be devoted. We do not believe this is a practical approach since the WDR implementation is not mature enough to implement this requirement in a cost effective way. Considering today's economy, this may be implemented after the full implementation of the new program (i.e. after five years).

13. Re-certification of the SSMP by the governing body is now required every 4 years with re-certification to the California Integrated Water Quality System (CWIQS) on-line database every 2 years. The SSMP is to be posted to the Enrollee's internet site and if not posted than an electronic copy of the SSMP must be uploaded to CWIQS every time the SSMP is re-certified.

OCSD Response – Change the SSMP re-certification requirement to only when there are major changes to the existing SSMP.

In closing, we at OCSD would like to thank you for your consideration of our comments on the SSS WDR. If you have any questions please feel free to contact me at (714) 593-7110. The staff person working on this issue is Dindo Carrillo, and he may be reached at (714) 593-7476.

James D. Ruth
General Manager

JDR:DC:jb

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