



May 12, 2011

**Via email:** [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)

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

**Subject: Comment Letter – SSS WDRs Review & Update**

Dear Ms. Townsend:

The West Valley Sanitation District (District) appreciates the opportunity to comment on the State Water Quality Control Board's (SWRCB's) proposed revisions to the Sanitary Sewer System Waste Discharge Requirements (WDRs). Following our review of the Draft WDR Revisions, including the Monitoring and Reporting Program and the corresponding Staff Report, we believe that the proposed revisions represent a major departure from the current WDRs. Although many of the proposed revisions represent commonsense changes that will help improve the understanding of the WDRs, we believe that there are a number of revisions that may be premature, are too prescriptive, and or, do not adequately consider the capability of the collection system owners to implement them.

As background to our District, we own and maintain 412 miles of sewer main and 200 miles of sewer laterals in the City of Campbell, City of Monte Sereno, and Town of Los Gatos, two-thirds of the City of Saratoga and intervening unincorporated portions of the County of Santa Clara. In total there are approximately 44,000 connections serving a population of approximately 107,000 people. In 2010 our system transported an average flow of approximately 9.76 million gallons of wastewater per day or 3.56 billion gallons of wastewater to the San Jose/Santa Clara Wastewater Water Pollution Control Plant for treatment and disposal. A commonly utilized measure of performance is the number of spills per 100 miles of sewer main. In our case we had 2.9 spills per 100 miles for 2010.

The following are the District's primary concerns regarding the proposed WDR revisions:

### **1. NPDES Permitting for Sanitary Sewer Collection Systems**

We strongly urge the SWRCB to abandon the proposed use of NPDES permits for sanitary sewer collection systems. This action would not serve any purpose beyond the existing WDRs, other than to allow for the imposition of higher monetary penalties and subject owners of sewer collection systems to third party lawsuits for all infractions of the NPDES permit. Our District is very conscientious about meeting the requirements of the existing WDRs and continually strive to reduce the number, frequency, and volume of SSOs. The assessment of higher penalties and third party lawsuits brought against the District will not eliminate, and may not even reduce the occurrence of SSOs. The only effect this may have will be to reduce and misdirect our scarce financial and staffing resources towards legal defenses.

We also believe that the use of NPDES permit requirements represents an unequal and unfair application of penalties against those agencies that encompass large areas of mountainous or hilly terrain that are subjected to heavy runoff events. This District has a large number of lines and structures in very close proximity (<100 feet) to creeks, and anticipate that we would be put at greater risk of third party lawsuits. We wholeheartedly agree with SWRCB's opinion that "current WDRs are functioning well".

### **2. Sanitary Sewer Management Plan (SSMP)**

Considering that many agencies have recently completed or are just beginning to implement their Sewer System Management Plan (SSMP), there appears to be an inadequate track record to properly evaluate its effectiveness and to know what needs improvement and what does not. Significant changes at this time would certainly create a high degree of confusion and frustration among the public and to collection system owners. There are also many revisions that are very prescriptive in directing operational details and that we consider overreaching into an agency's procedures, policies, and ordinances. The number of proposed sub-plans, programs, and analyses, proposed as part of the SSMP to provide "better oversight" of sanitary sewer systems, is not being tempered with a realistic or empathetic view of its impact to the collection system owner.

Although we disagree with a number of proposed SSMP revisions being made, the most significant concerns that we would like to mention include:

- (d) *Operations and Maintenance Program*
  - *Map* - The requirement to identify and include all backflow prevention devices is not possible without inspecting and investigating each property in the District. The backflow prevention devices are not a part of our sewer system, are under the purview of the City Building Department, are privately owned, and are located on private property.

For many, the inclusion of the storm water system on sewer system mapping is very difficult to do as these may be owned by other entities where this information is not readily available and may not necessarily be in an electronic format. The transfer of hand drawn storm water maps onto GIS mapping would take thousands of hours of labor and are not necessarily accurate without field verification.

- *Staff Assessment Program* – The initiation of a formal Staff Assessment Program as part of the SSMP seems excessively intrusive and delves into an agency's internal review and development of staffing and union agreements. The measure of whether line staff, supervisors, managers, and contractors, meet the requirements for a "competently performing collection system O&M activities" should remain as an internal personnel matter.
- *O&M and Sewer System Replacement Funding* – The proposed requirement to show budgets, costs, revenues, and revenue sources to illustrate proper funding of the sewer system in perpetuity, goes well beyond anyone's knowledge of future financial conditions.

### **3. Recognition of a *de minimis* spill volume.**

We support a provision in the WDR to allow for a *de minimis* spill volume when reporting SSOs. The proposed changes to the WDRs to merely simplify notification requirements does not address the fact that minor spills do not impact the public's health or safety and should not have to be reported. Since the District is responsible for lower laterals, many of the lateral spills reported (up to 60%) are less than ten gallons. We propose that a defined size threshold of less than ten gallons would be considered as insignificant or irrelevant, and therefore not a requirement to report.

### **4. SSMP Updating and Recertification**

The requirement to update and re-certify (online) the SSMP from a minimum 5 year interval to a 2 year interval is too frequent and does not allow adequate time to implement or evaluate measures taken. Similarly, requiring a minimum of four year re-certification of the SSMP by the governing body, where previously none was stated, also appears to be too frequent. The District would propose the use of a four year interval for updates and an eight year re-certification by the governing body.

### **5. Prohibition C.3 – Use of Chlorinated Potable Water**

We do not concur with the adoption of this prohibition as applied to the use of potable water for wash down and clean-up of wastewater spills. The use of readily available potable water is essential for a quick and efficient cleanup response to an SSO. This water is typically obtained from a fire hydrant and is stored in water storage tanks on the combination high velocity cleaner/vacuum unit and is used for both SSO cleanup and sewer line cleaning. Nearly all of the 1.5 million gallons of water used annually by the District is for cleaning sewers. A very small percentage is used for SSO cleanup, with almost all of this water either going back into the sewer manhole, or to the vacuum unit.

The amount of chlorinated water reaching surface water due to SSO cleanup is extremely small, if any, and it is very probable that there is no chlorine residual in this water even if it were to reach surface waters. It would appear that the cost and effort required to de-chlorinate all of the water we use has little to no value and to maintain a separate de-chlorinated water source specifically for SSO cleanup is not feasible.

## 7. Definitions

- (3) *Drainage Channel* – This term warrants a much clearer definition as it relates to the determination of a Category 1 SSO. Any small dry creek, or gully high in the mountainside, or swale in a landscaped yard will eventually flow downstream under the right circumstances (a large enough storm event and enough runoff is present). An SSO that soaks into the ground at these locations, especially one that has a small volume, will never reach surface water. These types of SSOs discharging to these types of drainage ways should not be considered to have reached a drainage channel.
- (5) *Lateral* – The pipe that connects a satellite sewer system to the Enrollee's sewer main is not considered a lateral. This connection pipe should just be considered a private main (if privately owned) or a connector trunk line identified by the public entity that owns it. This should include the definition of a upper (private) and lower (public) lateral in cases where the Enrollee has the responsibility for the maintenance and ownership of the lateral between the main and the property line. For some Enrollees, the entire lateral is private.
- (8) *Private Lateral* – Sewer Use Agreements are not a common or widely used document for determining lateral responsibility in public systems. That responsibility is generally defined within the Enrollee's Ordinances, or it can specifically be defined within a subdivision Tract Map. The method of determining "private" should not be included in the WDRs.
- (9) *Private Lateral Sewage Discharge* – The definition does not need to include the reason for discharge (blockages or other problems). The use of the term Enrollee in this definition is confusing because it can apply to both the owner of a public system and a satellite system.
- (11) *Sanitary Sewer System* - The deletion of "construction trenches" from the list of temporary storage and conveyance facilities, requires re-evaluation. Unless other provisions are made in the WDRs to accommodate this common circumstance, there would be several thousands of additional SSOs reported in California each year. The repair or replacement of any sewer line will result in some amount of wastewater discharge into a construction trench, regardless of the measures taken to stop or reroute sewage flows. Remnant wastewater in an existing pipe, unintentional discharges from commercial or residential properties, and emergency repairs on live sewer lines will all result in a reportable SSO. The District performs hundreds of repairs annually on both sewer mains and laterals, leaving the District susceptible to the reporting of as many SSOs if this revision is made.

- o (16) *Surface Waters of the State* – Any body of water lying within the boundaries of the US is inadequate for this description and requires further definition. Is there a legal definition of this? Is a privately owned pond, or a percolation pond, or detention pond included in this definition?

Although we recognize that some of the WDR revisions being proposed are straightforward and common sense changes, we are very concerned about a number of significant revisions being proposed. We believe that the process would benefit greatly by postponing implementation of these revisions to the current WDRs to ensure that there is an adequate experience base to properly evaluate its necessity and scope. We also ask that the proposed SSMP requirement to create more plans, programs, and analyses, be properly weighed against the significant impact it will have to collection system owners. Thank you for taking our comments under consideration.

Sincerely,



Robert R. Reid  
General Manager and District Engineer

RR/EHO

