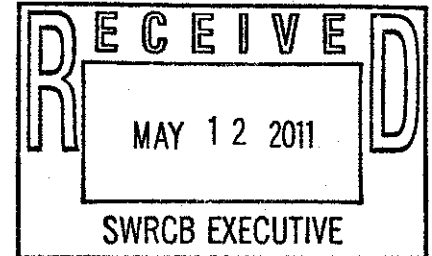


May 12, 2011

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



Subject: Comment Letter – SSS WDRs Review & Update

Dear Ms. Townsend:

LaRoc Environmental is a consulting firm specializing in providing permitting and compliance services to private and public clients. We have prepared these comments to address inconsistencies and complexities in the proposed Statewide General Waste Discharge Requirements for Sanitary Sewer Systems (SSS WDRs). We believe that incorporation of these comments into the SSS WDRs will make implementation more practical and effective. We want to thank the State Water Resources Control Board (SWRCB) for the opportunity to provide comments on the latest version of the SSS WDRs.

Comment No. 1. Separate WDRs for Privately- and Publicly-Owned Sanitary Sewer Systems

The existing SWRCB Order No. 2006-0003-DWQ (Order) applies to public agencies that own and operate sanitary sewer systems. Adopted in 2006, this Order imposed requirements to reduce sanitary sewer overflows (SSOs) from publicly-owned sanitary sewer systems.

The proposed 2011 SSS WDRs extend the previous Order's requirements to private sanitary sewer systems. The SWRCB assumes that private and public sanitary sewer systems function, operate and are maintained in the same manner (SSS WDRs Regulatory Considerations, No.19). It also assumes that both types of sanitary sewer systems have the same number and type of SSOs. This assumption by the SWRCB to regulate both publicly-owned and privately-owned systems under the same and identical WDR or regulations is impractical. The State's own data show that private systems handle significantly smaller volumes of wastewater, use relatively shorter length conveyances that are generally self-contained within defined property limits, and are far less likely to have SSOs. Therefore, proposed regulatory requirements drafted to address both systems in a uniform manner results in a complex permitting mechanism that will not accomplish the intended environmental benefits.

This is evident in our review of the definitions and specific requirements contained in the 2011 SSS WDRs, as outlined in Comment No. 2 below.

We believe the SWRCB should consider existing legislative, regulatory and enforcement authority including the California Water Code to regulate private sanitary systems with chronic SSOs, in lieu of issuing WDRs that will add a significant economical and regulatory burden on California businesses. There is little evidence that these additional requirements will reduce the number of discharges to surface waters, thereby having a positive impact on the environment. As noted in the 2011 SSS WDRs in finding no. 13, the Regional Boards have and may continue to issue NPDES permits or stringent WDRs to individual sanitary sewer systems. We believe this is a far more effective way to regulate problematic systems, private or public.

If warranted, the SWRCB can require proactive and preventive measures from privately-owned sanitary sewer system owners as part of existing mechanisms such as consent decrees or stipulated abatement orders.

Alternatively, if the SWRCB were to proceed to regulate privately-owned sanitary sewer systems, we recommend a new, separate rulemaking for WDRs exclusively for privately-owned sanitary sewer systems, with direct participation in the rulemaking by the affected parties.

Comment No. 2. Definitions and Requirements

The following 2011 SSS WDRs definitions in Section A need additional clarification. Our recommendations are provided for SWRCB staff's consideration.

4. Enrollee – The SWRCB should provide justification for the one mile criteria for private sanitary sewer system length. The length should be stated in feet instead of miles. We seek clarification of the term “contiguous”. Does it refer to the longest segment of pipeline in a system that may include multiple branches? In which case the length measurement would include the longest branch only? Or is it referring to the total length of the system including all branches for a cumulative length (the system's total length)?

5. Lateral – The following changes are recommended for this definition. *“A segment of pipe tributary to a publicly-owned sewer system or a distinctly separate privately-owned sanitary sewer system.”*

6. Legally Responsible Official (LRO) – Change “enrolled agency” to “enrollee.” Privately-owned sanitary sewer system owners will not have an “enrolled agency.”

8. Private Lateral – The definition needs revisions since it defines a private lateral as “privately-owned sewer piping that is *tributary* to an Enrollee's sanitary sewer system.” Private laterals are a single segment of sewer piping that connects a system of pipes or conveyances at the most downstream point to a publicly-owned sanitary sewer system or a distinctly separate privately-owned sanitary sewer system.

A private lateral may end at the property line in some jurisdictions. For others, the private lateral ends at the point where it connects to the publicly-owned sanitary sewer system main line.

The recommended definition for private lateral is: *“A segment of privately-owned pipe tributary to a publicly-owned sewer system or a distinctly separate privately-owned sanitary sewer system as defined by jurisdictional boundaries or agreements.”*

Finally, the Enrolled should be required to specify in the SSMP the extent of the sanitary sewer system, including public and private lateral(s) or sections of lateral(s) consistent with jurisdictional boundaries or agreements such that roles and responsibilities for operation, maintenance, repair, notifications, and reporting are clearly defined.

This is an example of definitions that are confusing in the SSS WDRs because it attempts to address two very distinct sanitary sewer systems (private and public).

9. Private Lateral Sewage Discharge (PLSD) – This term and definition can be removed if the suggested changes to the definition of SSO, provided below, are incorporated into the 2011 SSS WDR. It will simplify the requirements and eliminate possible confusion.

10. Sanitary Sewer Overflow (SSO) – The following changes are recommended in order to simplify the number of terms used, and for consistency with the Monitoring and Reporting Program notification and reporting requirements.

“Any overflow, spill, release, discharge or diversion of untreated or partially treated wastewater from a sanitary sewer system or lateral upstream of a treatment plant head works. SSOs include:

(a) Overflows or releases of untreated or partially treated wastewater that reach surface waters of the state. This includes all wastewater releases ~~to~~ from a private storm drain system pipes entering a public storm drain system that are tributary to waters of the state that are not fully recovered;

(b) Overflows or releases of untreated or partially treated wastewater that enter public storm drain systems that do not reach surface waters of the state; and

~~(c) Wastewater backups into buildings and on private properties that are caused by blockages or flow conditions within the Enrollee owned portion of the sanitary sewer system.~~

Note that “upstream of a treatment plant head works” is already part of the sanitary sewer system definition and redundant. The third definition of a SSO covers self-contained spills that do not result in any release to the environment, to another conveyance, or to surface waters. This definition adds an unjustified and extremely burdensome requirement on privately-owned

sanitary sewer system enrollees, and provides no benefit or additional protection to the waters of the state.

12. Satellite Sanitary Sewer System – Eliminating this definition simplifies the SSS WDRs and removes any possible confusion. The definition for sanitary sewer system already covers all of these conveyances.

14. Storm Drain – Additional definitions should include *private storm drain system* and *public storm drain system*. The terms are suggested to clarify roles and responsibilities for clean-up and other activities associated with SSOs that may enter these conveyances. For example, in most cases privately-owned sanitary sewer system Enrollees are not provided direct access or clean-up authority within publicly-owned storm drain systems, and vice versa.

Additional definitions.

Definitions for *Privately-Owned Sanitary Sewer Systems* and *Publicly-Owned Sanitary Sewer Systems* should be included in SSS WDRs Section A to support their use in Sections D.14(a) and D.14(b).

Comment No. 3. Monitoring and Reporting Program (M&RP) for SSS WDRs

Sanitary Sewer Overflow Notification Requirements - We recommend changing Section A title to emphasize *emergency* notification requirements as noted below.

A. **SANITARY SEWER OVERFLOW EMERGENCY NOTIFICATION REQUIREMENTS**

SSO Categories – Change the title to SSO Reporting Categories. SWRCB should consider that SSO Reporting Categories and the reporting requirements may need to be tailored differently for publicly-owned sanitary sewer system enrollees and privately-owned sanitary sewer system enrollees. Separate WDRs for the two types of Enrollees would be more appropriate to accommodate this and other changes needed to the 2011 SSS WDRs to avoid confusion and inadvertent noncompliance.

The following changes are recommended for SSO Reporting Category 1 to distinguish between private and public storm drain system discharges, capture, and clean-up efforts by private sanitary sewer system Enrollees and public sanitary sewer system Enrollees. These suggested changes are consistent with the recommended changes for the 2011 SSS WDRs definition of SSO (see above).

1. ~~Category 1 – All discharges of wastewater SSOs~~ *Category 1 – All discharges of wastewater SSOs resulting from a failure in the Enrollee's sanitary sewer system that:*
 - A. *Equal or exceed 1000 gallons, ~~or~~ and*
 - B. *~~Any volume of wastewater that discharges to~~ Reaches a drainage channel tributary to a surface water of the state and/or directly to a surface water of the state; or*

- C. ~~Any volume of wastewater that reaches a publicly-owned storm drainpipe and is not fully captured and returned to the sanitary sewer system or not otherwise captured and disposed~~ of properly. Any volume of wastewater not recovered from a publicly-owned or privately-owned storm drainpipe is considered to have reached surface water of the state unless the storm water system discharges to a groundwater infiltration basin (e.g., infiltration pit, percolation pond).
2. Category 2 – All other ~~discharges of wastewater~~ SSOs resulting from a failure in the Enrollee's sanitary sewer system that:
- A. Reach a drainage channel tributary to a surface water of the state and/or directly to a surface water of the state; or
- D. Reach a publicly-owned storm drainpipe and is not fully captured and returned to the sanitary sewer system or not otherwise captured and disposed of properly. Any volume of wastewater not recovered from a publicly-owned or privately-owned storm drainpipe is considered to have reached surface water of the state unless the storm water system discharges to a groundwater infiltration basin (e.g., infiltration pit, percolation pond)

PLSD Categories - As noted above in item 9, for Private Lateral Sewage Discharge, the PLSD Category can be removed. This type of overflow or discharge can be included by definition within SSOs with our recommended revision to definition A.10 in the SSS WDRs. As result, we recommend eliminating separate reporting requirements for the PLSD Category.

SSO Reporting Timeframes for Category 1 PLSDs– We recommend removing the PLSDs reporting timeframes. PLSD reporting timeframes are listed in item 3 on page 3 in the section intended for SSOs. Consistent with our previous recommendation, we believe that a separate category for PLSD reporting is not necessary. The reporting requirements for PLSDs as written in the M&RP describe responsibilities of the Enrollees for both the privately-owned sanitary sewer systems and the publicly-owned sanitary sewer systems without distinction. As written, it is unclear what reporting responsibilities are assigned to each of the two types of Enrollees. Although we do not advocate keeping the requirement for PLSD reporting, if it is to remain, this specific requirement should be reworded. We provide our suggested language below.

Category 1 PLSDs – For Category 1 PLSDs within the Enrollee's service area and that the publicly-owned sanitary sewer system Enrollee becomes aware of, the publicly-owned sanitary sewer system Enrollee shall report the Category 1 PLSD to the Online SSO Database within 30 days after the end of the calendar month in which the Category 1 PLSD occurs. The publicly-owned sanitary sewer system Enrollee will not be responsible for the cause or cleanup of the Category 1 PLSD or the repair of the private lateral. However, the publicly-owned sanitary sewer system Enrollee shall be responsible for reporting Category 1 PLSDs that occur within its jurisdiction and for which it becomes aware. The publicly-owned sanitary sewer system eEnrollee is encouraged to provide

notification to Cal EMA per section A above ~~or~~ and notify the PLSDs responsible party that such notification ~~should be~~ has been completed as required by state law.

SSO Reporting Timeframes. Publicly-owned versus privately-owned sanitary sewer systems -
The M&RP's reporting timeframes for the Category 1 SSOs and Category 2 SSOs should be defined separately for publicly-owned sanitary sewer systems and privately-owned sanitary sewer systems. Due to the significantly lower risk of large (greater than 50,000 gallons) and chronic SSOs from privately-owned sanitary sewer systems, we recommend modified Category 2 SSO reporting timeframes commensurate with releases that are generally self-contained within defined property limits, are smaller in volumes, and are from relatively shorter length conveyances.

SSO Reporting Timeframes – Publicly-owned sanitary sewer systems.

- 1. Category 1 SSOs for Publicly-Owned Sanitary Sewer System Enrollees. – ~~Except as provided above,~~ All SSOs that meet the above criteria for Category 1 SSOs shall be reported as soon as: (1) the Enrollee has knowledge of the discharge, (2) reporting is possible, and (3) reporting can be provided without substantially impeding cleanup or other emergency measures. 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. Minimum information that shall be contained in the draft report shall include all information identified below, except for items 1.K-O. A final certified report shall be completed through the Online SSO Database within 15 calendar days of the conclusion of SSO response and clean-up activities. Additional information may be added to the certified report, by amending the report or by adding an attachment to the report, at any time.*
- 2. Category 2 SSOs for Publicly-Owned Sanitary Sewer Systems – All SSOs that meet the above criteria for Category 2 SSOs shall be reported to the Online SSO Database within 30 days after the end of the calendar month in which the SSO occurs (e.g. all SSOs occurring in the month of February shall be entered into the database by March 30th).*

Note that "Except as provided above" was removed since it appears to be referring to the Sanitary Sewer Overflow Notification Requirements in Section A. This reference back to notification requirements in Section A within the reporting requirement in Section B creates uncertainty in what the compliance mandate requires.

SSO Reporting Timeframes – Privately-owned sanitary sewer systems. (New)

- 1. Category 1 SSOs for Privately-owned sanitary sewer systems. All SSOs that meet the above criteria for Category 1 SSOs shall be reported as soon as: (1) the Enrollee has knowledge of the discharge, (2) reporting is possible, and (3) reporting can be provided without substantially impeding cleanup or other emergency measures. Draft reports for*

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Category 1 SSOs shall be submitted to the Online SSO Database as soon as possible but no later than 15 days after the Enrollee is made aware of the SSO by citizen complaint or discovery. Minimum information that shall be contained in the draft report shall include all information identified below, except for items 1.K-O. A final certified report shall be completed through the Online SSO Database within 15 calendar days of the conclusion of SSO response and cleanup activities. Additional information may be added to the certified report, by amending the report or by adding an attachment to the report, at any time.

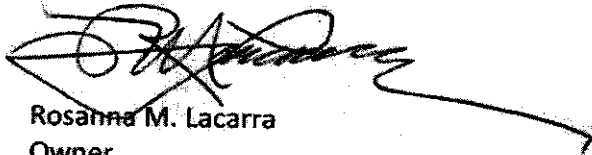
2. Category 2 SSOs – All SSOs that meet the above criteria for Category 2 SSOs shall be reported to the Online SSO Database within 30 days after the end of the calendar month in which the SSO occurs (e.g. all SSOs occurring in the month of February shall be entered into the database by March 30th).

Mandatory Information to be Included in SSO Online Reporting - Consistent with previous recommendations, the minimum requirements for PLSDs would be removed and included as part of Category 1 or Category 2 SSOs.

Comment No. 4. SWRCB Staff Report

The draft SWRCB Staff Report for the SSS WDRs rulemaking has not been provided and would have been helpful to the public review and the preparation of comments. The Staff Report may provide additional areas for comment on the assumptions and possible interpretation associated with this rulemaking. Ample time for review and comments on SWRCB staff's assumptions and interpretations is respectfully requested during the adoption process.

Respectfully submitted,



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