



# Culver CITY

PUBLIC WORKS DEPARTMENT

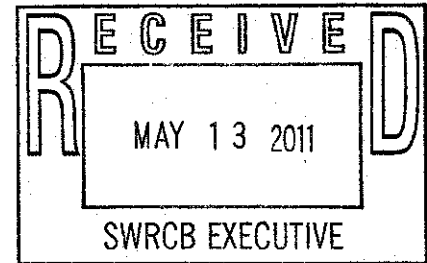
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Public Works Director  
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May 12, 2011

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



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

Dear Ms. Townsend:

The City of Culver City appreciates the opportunity to comment on the State Water Quality Control Board's proposed revisions to the Sanitary Sewer System Waste Discharge Requirements (SSS WDRs). Culver City is a city of approximately 40,000 in population within a little over 5 square miles. Even prior to the SSS WDRs requirements coming into existence, Culver City had embarked on an effort to upgrade and improve its sanitary sewer system to minimize SSOs. Efforts in this regard include upgrades to sewer lines including sewer line replacement and lining projects, major upgrades to sewer pumping stations and the associated system control, monitoring and emergency notifications system, a program to construct by-passes and secondary force mains at all major pump stations, and increases in sewer maintenance staffing and equipment including the addition of a second crew for sewer maintenance, creation of an electro-mechanic position dedicated to sewer pump station maintenance and purchase of a special truck equipped to respond to sewer overflows. All significant overflows are responded to by two crews, one to correct the condition causing the overflow and the other to contain and clean up any sewage that overflows outside of the sewer system. Since putting the above into place the City's number of sewer overflows have decreased in number and severity and our ability to respond to sewer overflows and effectively mitigate their impacts has increased substantially.

The proposed revisions to the SSS WDRs represent a major departure from the program that has been successfully implemented under the existing SSS WDRs. While we appreciate the State Water Board's efforts to address certain issues associated with the existing WDRs, our agency is very concerned about a number of the proposed revisions, especially those related to reporting of private lateral sewage discharges (PLSDs), and onerous additions to sewer system management plan (SSMP) requirements that should not be mandated unless State Water Board guidance and funding is made available. As requirements become more complicated and

confusing, more agency staff time and precious limited resources are directed towards preparing reports and re-organizing information and operating procedures, and less time is spent actually managing or conducting the appropriate operations and maintenance (O&M) activities to prevent SSOs and properly maintain the collection system.

Also, we strongly oppose any kind of NPDES permitting approach.

**1. Sanitary sewer system regulations should not be adopted under a two-tiered WDRs and NPDES permit.**

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.

As described in the Staff Report, this alternative would also require significant additional Water Board staff resources to track and implement the different permit tiers. We understand that these staff resources are limited, and believe that they should instead be used to further improve SSO reduction efforts under the existing SSS WDRs.

**2. The basis for mandatory reporting of Private Lateral Sewage Discharges (PLSDs) is not justified and creates an inappropriate burden for public agency staff.**

The SSS WDR would require enrollees to report spills from privately owned laterals when they become aware of them. Such reporting is currently voluntary. Water Board staff has not provided adequate justification nor has it thoroughly considered the staffing and financial resources necessary to require public agencies to report PLSDs that are not affiliated with the collection system agency.

The Staff Report includes a reference to a study that indicated that the total volume of sewage from private laterals is about 5% of the total volume from SSOs, almost all of which never pose a threat to waters. Requiring public agencies to provide detailed information regarding such a small percentage of overflow volumes from parts of the system over which they have no control is not appropriate and would divert limited staff resources from higher priority issues that actually protect waters.

As to the goal of generating better information regarding PSL spills, we do not believe that the burden of requiring enrollees to report information or face being in noncompliance with the SSS WDR bears a reasonable relationship to the need for the information and the benefits to be obtained. 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.

We recommend that the State Water Board first work with the California Department of Public Health and local environmental health officers to determine if the desired information can be obtained through mutual agency cooperation. We believe that public health agencies have the best knowledge of overflows from laterals on private property, and are, in most instances, the most appropriate agencies to respond to these events.

**3. It is essential that State and Regional Water Board staff consider the reasons for each SSO in any enforcement action.**

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, 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)

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

**4. Significant additional Sewer System Management Plan (SSMP) requirements should not be mandated until the State Water Board provides guidance and funding.**

The proposed "Risk and Threat Analysis" and "Staff Performance Assessment Program" are vague, not statistically supported, unnecessarily complicated, and overly prescriptive.

The proposed Risk and Threat Analysis of all sanitary sewer assets would be complex and resource-intensive, and would not provide incrementally more benefit than that provided by an otherwise well-operated and managed system. It is not appropriate to require every agency to implement this requirement unless the Water Board can demonstrate that those agencies complying with current requirements have been ineffective in reducing SSOs. This program should also only be required if and when adequate Water Board guidance has been developed and funding is provided.

Requiring development and implementation of the proposed Staff Assessment Program on an agency-by-agency basis is unrealistic. The expectations outlined in the proposed revisions to the SSS WDRs suggest that agency staff would be responsible for developing a program similar to the existing Technical Certification Program offered by the California Water Environment Association, which would require a substantial investment of resources to do redundant work at each agency. It is also not appropriate to require public agencies to train contractors (which are separate, private entities).

The Water Board should not implement these new requirements until detailed program guidance is provided. Also, Water Board staff has not demonstrated that the current training requirements are deficient.

**5. SSMP sections (i) and (j) should be combined, because otherwise the requirements for routine review and revisions of the SSMP are redundant and contradictory.**

SSMP Section (i) *Performance Targets and Program Modifications* and Section (j) *SSMP Program Audits* both require the Enrollee to evaluate the effectiveness of the SSMP and correct or update the document as necessary. Section (i) indicates that this process is to occur on an annual basis, while Section (j) specifies a minimum frequency of once every two years. We recommend that Water Board staff combine these two sections and clarify the requirements.

**6. Requiring de-chlorination of clean-up water is counter-productive.**

Prohibition C.3 indicates that potable water would have to be de-chlorinated before it could be used for spill clean-up (in the event water used for clean-up is not fully recovered). Putting restrictions on the use of potable water in cleaning up an SSO that is otherwise likely to violate either of the first two prohibitions simply adds further unnecessary challenges. In addition, the amount of potable water used, combined with the distance it would have to travel to reach a surface water (so the chlorine would readily degrade) does not warrant the additional on-site operational difficulty in dechlorination.

**7. Provision 8 includes an incorrect assumption regarding sanitary sewer system replacement.**

*Provision 8* suggests that sanitary sewer systems will need replacing within the timeframe of these WDRs. The reference to "eventual replacement" should be removed because the need to replace sewers is dependent on several factors. Culver City has used a process of examining and documenting sewer condition by video analysis and rating of the individual lines in the sewer system. In addition, we confer with our field staff to determine maintenance problem areas. These areas are examined carefully to determine if sewer line maintenance, repair or replacement is necessary. The City has also purchased its own sewer camera system so that City crews can examine individual lines that have maintenance issues and may need repair or replacement. Sewers should not be replaced automatically when they reach a certain age, especially when they are in good condition and functioning as designed. This would not be a

good use of limited public resources. For example, the useful life of certain types of high strength plastic pipe has yet to be determined.

**8. Definitions related to private laterals are confusing and contradictory.**

The following definitions are confusing and contradictory, as explained in the following paragraphs.

- *Lateral – Segment(s) of pipe that connect(s) a home, building, or satellite sewer system to a sewer main.*

This definition of a lateral includes both upper and the lower laterals, regardless of whether or not the lower lateral is privately owned.

Also, the definition of a lateral should not include any reference to satellite sewer systems, as the management and performance of each are very different. Satellite systems should have a separate and distinct definition.

- *Private Lateral – Privately owned sewer piping that is tributary to an Enrollee's sanitary sewer system. The responsibility for maintaining private laterals can be solely that of the Enrollee or private property owner; or it can be shared between the two parties. Sewer use agreements dictate lateral responsibility and the basis for the shared agreement. (emphasis added)*

This definition does not make reference to upper laterals and lower laterals and is therefore confusing. Also, it is misleading to state that sewer use agreements dictate lateral responsibility, as these agreements seldom exist for individual homeowners. In the case of Culver City, individual property owners are responsible for maintaining sewer laterals.

These definitions should be reworked for clarity and accuracy.

**9. Revisions to SSMP requirements are premature.**

We are concerned that the proposed revisions to the SSS WDRs include *significant* changes to SSMP program requirements. We strongly urge that the existing SSMP requirements be preserved as in the existing SSS WDRs. As the Staff Report indicates, development and implementation of SSMPs by SSS WDRs enrollees has just been completed and these plans need to be fully implemented so their effectiveness can be properly identified. Further, it is recognized that dramatically changing SSMP requirements before full implementation will likely lead to confusion regarding the SSMP requirements among enrollees, the public, and Water Board staff.

**10. The four-year board re-certification requirement is excessive.**

The proposed revisions to the SSS WDRs would also require each agency to bring its SSMP before its governing board for re-certification at a minimum every four years. This frequency is excessive considering that infrastructure projects typically occur over a longer timeframe. We suggest that a re-certification frequency of every 5-10 years is more appropriate.

**11. Certain Monitoring and Reporting Program requirements need to be clarified.**

In addition to the request that mandatory PLSD reporting be removed from the proposed revisions to the SSS WDRs, several minor revisions should be made to clarify Monitoring and Reporting Program requirements:

- The second paragraph referring to other notification and reporting requirements is unnecessarily confusing and should be removed.
- Item 1.H under the description of mandatory information to be included in Category 2 SSO reports should be revised to read: "SSS failure point (main, lateral, etc.), if applicable."
- Item 3.I under the description of mandatory information to be included in Category 1 SSO reports should be revised to read: "Name of surface waters impacted (if applicable and if known)..."
- Item 1.D under the minimum records to be maintained by the Enrollee should be revised to read: "...and the complainant's name and telephone number, if known."

In general, it is our view that significant proposed revisions to the SSS WDRs are premature and overly burdensome. Implementation of the existing permit has already successfully resulted in reduced impacts of SSOs on surface water. Additional improvements are expected as capital improvements identified under the current permit are completed. It would be frustrating to have invested significant resources in meeting the current requirements only to have them change before our current efforts have come to fruition. We believe that it would be more productive for the Water Board to focus on bringing all agencies into compliance with the current permit rather than initiating sweeping revisions that would apply to all agencies, regardless of compliance history or the effectiveness of current programs.

The City of Culver City thanks the State Water Resources Control Board for consideration of our comments. .

Sincerely,



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