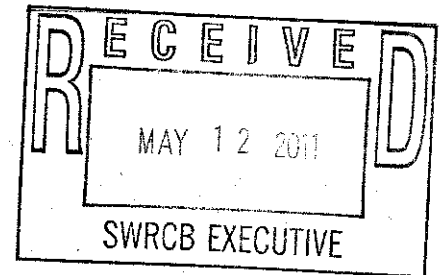




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May 12, 2011

Via email: 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:

As the City Manager of the City of Chico, I appreciate the opportunity to comment on the State Water Resources Control Board's (State Water Board) proposed revisions to the Sanitary Sewer System Waste Discharge Requirements (SSS WDRs). The City operates over 280 miles of sanitary sewer pipelines, and a 12 Million Gallon per Day secondary process, wastewater treatment plant, providing sanitary sewer service to the citizens of Chico serving a connected population of approximately 85,000 persons. The City's existing Sanitary Sewer Management Plan (SSMP), which was adopted in July 2009, has served the City well in reducing Sanitary Sewer Overflows (SSOs). By adherence to the SSMP components and guidelines, the City has been successful in limiting the number of SSO's from the collection to six (6) minor, Category 2 (less than 1,000 gallon), SSO's in the past two year period since SSMP implementation. It is the City's experience with the SSMP in place, that the existing SSS WDRs have proved successful in reducing the number and volume of SSO's that have the potential to reach surface water sources.

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 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 is 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.

The public notice for the SSS WDR invites comments on whether the Board should consider substituting a two tiered "hybrid" system for regulating collection systems, in which some agencies are regulated via NPDES permit and others via WDR. We urge the Board not to move forward with this option, for policy, legal and practical reasons.

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.

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.

The Draft WDR's focus on private laterals appears to be directed towards shifting responsibility for privately owned sewer laterals to public agencies.

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.

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 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 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. The findings include several incorrect statements about PLSDs.

Finding 7 in the proposed revisions to the SSS WDRs includes the statement: "SSOs and PLSDs may pollute surface or ground waters, threaten beneficial uses and public health," We disagree that PLSDs are in the same category as SSOs from mainline sewers in terms of water quality impacts. These overflows are very small in volume individually, and overall. The words "...and PLSDs..." should be removed.

Finding 9 in the proposed revisions to the SSS WDRs includes statements of major causes of SSOs and PLSDs, and how they can be prevented. Including PLSDs in these descriptions is incorrect: many of the items are not causes of PLSDs, and many PLSDs cannot be prevented as described in the second sentence. References to PLSDs should be removed.

7. 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 for agency personnel. In addition, the amount of potable water used, combined with the distance it would have to travel to reach surface water (so the chlorine would readily degrade) does not warrant the additional on-site operational difficulty in dechlorination.

8. Required reporting of PLSDs by all agencies does not improve the predicament faced by agencies that own lower laterals.

Requirements for reporting of SSOs are applicable to all "discharges resulting from a failure in the Enrollee's sanitary sewer system." (emphasis added) Requirements for reporting of PLSDs apply to all "discharges of wastewater resulting from a failure in a privately owned sewer lateral." (emphasis added) These requirements do not change the fact that SSOs from lower laterals are unfairly attributed only to those agencies that own them. In order to solve the problem, we recommend that the CIWQS database and SSO/mile/yr data reflect *only* mainline spills as a performance measure. Otherwise, comparisons of these data among agencies are incorrect.

In addition, the requirement for Enrollees to report PLSDs as they become aware of should be removed from Provision 4.

9. It is inappropriate to use incomplete information about PLSDs to characterize sanitary sewer system condition and management.

We do not believe that meaningful statistics could be derived from data collected only for those PLSDs that an agency becomes aware of, and we do not support the idea that Water Board staff would decide that collection systems have "systemic issues" based on these incomplete data sets.

The requirement for Enrollees to report PLSDs they become aware of should be removed from Provision 4.

10. 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 many factors. 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.

11. Definitions related to private laterals are confusing and contradictory. Suggestions of revisions to certain definitions of private laterals are detailed in a separate comment letter from Mr. Ruben Martinez, City of Chico General Service Director.

12. We suggest that the current definition of Satellite Sanitary Sewer System be changed to read as follows (underline/strikeout):

Satellite sanitary sewer system - Any system of publicly or privately owned pipes, pump stations, sewer lines, or other conveyances meeting the definition of a "sanitary sewer system" that is tributary to another system of publicly or privately owned pipes, pump stations, sewer lines, or other conveyances also meeting the definition of a "sanitary sewer system". A sewer system is not considered a "Satellite" unless it individually bills connected properties a maintenance or user fee established to provide for maintenance of said sewer system.

13. 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.

14. Language describing SSMP requirements should be revised in the following SSMP sections as detailed in a separate comment letter from Mr. Ruben Martinez, City of Chico General Services Director.

- *Organization, Legal Authority, Operations and Maintenance Program, Rehabilitation and Replacement, O&M and Sewer Replacement Funding, Design and Performance Provisions,*

FOG Control Program, Performance Targets and Program Modification and Communication Program. -

15. 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 request that the recertification requirement be removed as the existing SSMP requires that the plan be thoroughly reviewed every two (2) years.

16. Notification requirements need to be clarified.

We support the Staff Report's indication that only Cal EMA would need to be notified when spills to surface water of any volume occur. However, Paragraph G.4 indicates that Enrollees are to provide immediate notification of SSOs to the local health officer or the local director of environmental health, contrary to the instructions indicated in Section A of the Monitoring and Reporting Program and the Staff Report. Please clarify that notification shall only to be made to Cal EMA, and indicate that Cal EMA will notify other agencies.

17. Providing whole SSMPs in an electronic form is not always practical.

Not every agency has their SSMP in one electronic document, and, in many cases, the SSMP makes reference to other documents which may only exist in hard copy form. These issues would make it difficult or impossible for some agencies to provide the whole SSMP in an electronic format.

18. 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."

19. A *de minimis* spill volume for reporting should be allowed.

SSO reporting requirements do not apply to systems that do not meet the defined size threshold, recognizing that any spills from these systems would be insignificant, and therefore not worth reporting. Reporting of *de minimis* spill volumes from Enrollees' systems is likely equally insignificant in their potential impacts to public health and the environment. The limited value of

information regarding the physical condition and adequacy of collection system operation and maintenance obtained from reporting very small spill volumes does not warrant the staff resources required to make these reports in the past two year period were less than 100 gallons in volume which were insignificant in regard to their impact on the environment.

20. The Proposed SSS WDR is Unreasonably Prescriptive With Regard to Local Program Implementation.

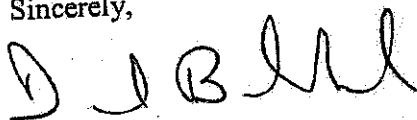
The dual purposes of the 2006 general order were to reduce SSOs and to ensure accurate and publicly accessible SSO reporting information. The prohibitions in the general order serve as the performance measure to which all enrollees are held. The 2006 general order specifies the elements that must be included in the SSMP, but recognizes the flexibility retained by local agencies to determine how best to comply with the prohibitions and reduce SSOs. The proposed order is increasingly becoming prescriptive in that it now dictates how sewer systems are to be operated. In essence, a sewer system can have no recorded overflows and still be in violation of the WDR because it is not operating its system as dictated by your Board.

21. Line by Line Comments (eleven total) on Individual Portions of the SSS WDR are detailed in a separate comment letter from Mr. Ruben Martinez, City of Chico General Services Director.

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 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.

I respectfully ask that the State Water Resources Control Board take these comments under serious consideration.

Sincerely,



David M. Burkland
City Manager

c: CM File
GSD
PWM
WTM