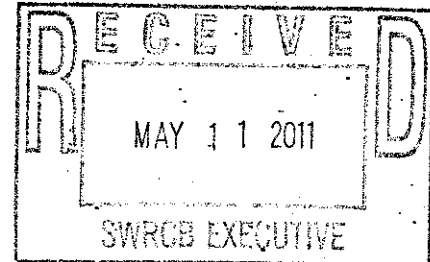


City of Downey

FUTURE UNLIMITED

May 10, 2011

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



Subject: City of Downey Comment Letter – SWRCB SSS WDRs Review & Update

Dear Ms. Townsend:

The City of Downey (City or Downey) appreciates the opportunity to comment on the State Water Resources Control Board's (SWRCB's or State Board's) proposed revisions to the Sanitary Sewer System Waste Discharge Requirements (SSS WDRs) and commends SWRCB's efforts to simplify and streamline the spill notification requirement that will reduce the unnecessary burden of making phone calls and reporting especially during an SSO event. While Downey commends these efforts to address notification inefficiencies with the existing WDRs, Downey opposes other proposed revisions including: reporting of private lateral sewage discharges (PLSDs) and cost prohibitive additions to Sewer System Management Plan (SSMP) requirements that are unnecessary given the successful implementation of the existing SSS WDRs and the significant costs incurred by cash-strapped agencies in implementing the current measures. The City also opposes an NPDES permitting approach of any kind now and in the future.

A summary of the City's comments to various aspects of the proposed SSS WDRs follows.

Mandatory reporting of PLSDs is not justified and creates a financial burden for public agency staff.

It is inequitable to require sewer agency resources (staff time, equipment, etc.) to report PLSDs that are not owned or maintained by the collection system agency.

Besides the inequity of requiring an agency to dedicate time and materials to report on facilities which it does not own or maintain, doing so raises serious questions as to the accuracy of the reporting due to the lack of ownership and knowledge of the private lateral system.

The State Board's Staff Report includes reference to a study that indicated the total volume of sewage from PLSDs is about 5% of the total volume from SSOs, almost all of which never pose a threat to waters of the state. Requiring sewer agencies to provide detailed information

May 10, 2011

Page 2

regarding such a small percentage of overflow volumes from parts of the system over which they have no control is inefficient and inequitable and would divert limited staff resources from higher priority issues that protect waters of the state.

Additional Sewer System Management Plan (SSMP) requirements should not be mandated.

The proposed revisions to the SSS WDRs include significant changes to SSMP program requirements. Existing SSMP requirements should be preserved as in the existing SSS WDRs. As the State Board's Staff Report indicates, development 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. Comments related to some of these proposed revisions follows.

Organization

Including names, email addresses, and telephone numbers for the staff described in paragraph (b) (ii) is excessive information and inappropriate in a public document.

Operations and Maintenance Program

- *Map* - Updating sewer system maps to identify and include all backflow prevention devices would be too time consuming and inefficient as they are not owned by the agency.
- *Staff Assessment Program* - SSMPs already require an extensive review of implementation effectiveness as well as employee and contractor training. Adding to the already cumbersome requirements associated with current SSMPs would require a substantial investment of resources only to perform redundant work.
- *O&M and Sewer System Replacement Funding* - Current SSMPs already require planning for development of funds necessary to implement improvements. Proposing and implementing budgets on an annual basis is the responsibility of the sewer agencies and additional reporting of such information is unnecessary and a waste of public resources.

Design and Performance Provisions

The addition of the phrase "all aspects of" in both paragraphs (i) and (ii) should be removed; requiring each agency to update their standards and specifications to cover every minor detail of sanitary sewer system construction and inspections just to meet this requirement would create an unwarranted burden on staff.

Overflow Emergency Response Plan

- *Risk and Threat Analysis* - The proposed Risk and Threat Analysis of all sanitary sewer assets would be resource-intensive, and would not provide more benefit than that provided by an otherwise well-operated and managed system resulting from implementation of current SSMPs.

Performance Targets and Program Modifications

Progress towards improving sewer system performance and reducing impacts of SSOs is already described in the SSMP and will be adequately characterized by a review of SSO trends.

May 10, 2011

Page 3

Definitions related to laterals are confusing.

The definition of a lateral should not include any reference to satellite sewer systems, as the management and performance of each are different.

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

This frequency is excessive considering that infrastructure projects typically occur over a longer timeframe. Re-certification should be every 5-10 years.

Notification requirements need to be clarified.

The City supports 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. Notification should only be required to be made to Cal EMA and Cal EMA should notify other agencies.

C., 1. A. of the proposed monitoring and reporting program requires keeping photographic evidence of each SSO. Since SSOs can occur at night and first responders may not have a camera available, this should be clarified to read "...if available ..." if used.

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

The City opposes 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. 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.

State and Regional Water Board staff should consider the reasons for each SSO in any enforcement action.

The existing SSS WDRs included language in Provision D.6 that provided some assurance 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.

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...*" instead of "...will also consider whether..."

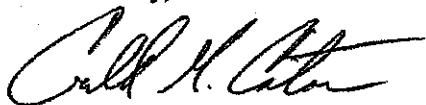
May 10, 2011

Page 4

The factors described in (a) through (g) of Provision D.6 are relevant to the Enrollee's efforts to properly manage, operate and maintain its system and these factors should be considered in any enforcement actions.

The proposed revisions to the SSS WDRs are cost prohibitive and unnecessary given the already extensive requirements included in the current SSS WDRs. Implementation of existing SSS WDR measures has successfully resulted in reduced impacts of SSOs on surface water and additional improvements are expected as measures continue to be implemented. Many agencies already suffer from financial hardships. Expansion of existing SSS WDRs would only further these hardships. It would be more productive for the State Board to focus on bringing agencies into compliance with current requirements rather than initiating revisions that would apply to all agencies, regardless of compliance history or effectiveness of current programs.

Sincerely,



Gerald M. Caton
City Manager