



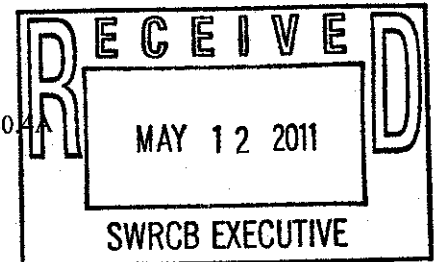
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COUNTY SANITATION DISTRICTS OF LOS ANGELES COUNTY

Public Comment
Sanitary Sewer System WDR
Deadline: 5/13/11 by 12 noon

STEPHEN R. MAGUIN
Chief Engineer and General Manager

May 12, 2011
File No. 31-370-404A



Via Electronic & U.S. Mail
Charles R. Hoppin, Chair and Members
c/o Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Dear Chair Hoppin and Members:

Comment Letter – SSS WDR Review & Update

The Sanitation Districts of Los Angeles County (Sanitation Districts) appreciate the opportunity to provide comments on the draft statewide Sanitary Sewer Systems Waste Discharge Requirements (SSS WDR), which would replace Order No. 2006-003 ("Statewide General Waste Discharge Requirements for Sanitary Sewer Systems," referred to herein as the "2006 General Order"). By way of background, the Sanitation Districts are a confederation of 23 individual special districts providing wastewater and solid waste management services to approximately 5.7 million people in 78 cities and unincorporated areas of Los Angeles County. The Sanitation Districts' sewerage system consists of 11 wastewater treatment plants, approximately 1,400 miles of sewer, and 52 active pump stations. Additionally, there are nearly 10,000 miles of locally owned sewers that are tributary to our regional collection and treatment system.

The Sanitation Districts have a number of serious concerns regarding the draft SSS WDR. An overview of our major concerns is provided below, and our detailed comments are contained in Attachment A. A separate letter discussing concerns with the draft SSS WDR is being submitted to the State Water Resources Control Board (State Water Board) by Tri-TAC, the California Association of Sanitation Agencies, and several other local government associations. We fully support the comments contained in that letter, and incorporate it herein by reference.

Regulating Sewer Systems by NPDES Permit is Unnecessary and Inappropriate

The public notice for the SSS WDR invites comments on whether the State Water 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 State Water Board not to move forward with this option, for policy, legal, and practical reasons.

The proposed SSS WDR does not authorize any discharges to waters. To the contrary, the SSS WDR would expressly prohibit all discharges of wastewater from the collection system to surface waters, regardless of water quality. If a sanitary sewer system discharges without a permit, it is already liable for discharging without a permit and subject to severe civil and criminal penalties. NPDES permits are to be issued "for the discharge of any pollutant, or combination of pollutants" to waters (33 U.S.C. § 1342(a)(1)). Similarly, a recent federal court decision found that, if a facility requests and obtains an NPDES permit, "it can discharge within certain parameters called effluent limitations." Thus, unless the

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proposed permit would authorize—or excuse through an affirmative defense—certain sanitary sewer overflows (SSOs) to waters, an NPDES permit is not appropriate.

We strongly disagree with the characterization in the Staff Report that an *advantage* of the NPDES permit would be to allow increased third party enforcement of the programmatic details of each system's operations and planning. Third party enforcement is already overly aggressive and consuming millions of dollars in public resources annually. Moreover, this view loses sight of the purpose of the SSS WDR in the first place, which is to reduce SSOs, not to second-guess every management and operation decision made by local government. As noted, SSOs to waters of the United States are already subject to citizen enforcement. Nor do we agree that higher monetary penalties are needed for administrative enforcement. The existing potential maximum monetary penalties are so high that the State Water Board's own Water Quality Enforcement Policy establishes a *far lower* per gallon factor than the statutory maximum for calculating monetary liability for SSOs.

The Proposed Changes to the SSS WDR and Monitoring & Reporting Program are Unnecessarily Burdensome and Overly Prescriptive

The dual purposes of the 2006 General Order were to reduce sanitary sewer overflows and to ensure accurate and publicly accessible SSO reporting information. The prohibitions in the 2006 General Order serve as the performance measure to which all enrollees are held. To facilitate compliance with these performance standards, enrollees are required to prepare and implement Sewer System Management Plans (SSMPs). The plans serve as a means to an end—better system performance—rather than an end in themselves. The 2006 General Order specifies the elements that must be included in the SSMP, but recognizes the flexibility needed by local agencies to determine how best to comply with the prohibitions and reduce SSOs.

The proposed SSS WDR does not remove the prohibitions and replace them with a programmatic approach. To the contrary, it expands the reach of those prohibitions to SSOs to additional surface waters and adds a new prohibition on chlorine residual. The proposed performance standard would be more stringent than under the 2006 General Order. No SSOs to waters are authorized or excused. Yet the draft SSS WDR would go far beyond the 2006 General Order to require very specific and detailed steps of each enrollee in addition to the prohibitions. In fact, as stated in the very first finding of the proposed SSS WDR, the primary goal of the State Water Board now appears to be collection of data and regulatory oversight of sanitary sewer system management, rather than focusing on prevention of SSOs and reduction of impacts from SSOs so as to protect public health and the environment.

For example, the draft SSS WDR imposes burdensome new and/or expanded administrative requirements, such as development of a Staff Assessment Program, requirements for contingency planning and natural disaster response planning, preparation of risk and threat analyses of each and every sanitary sewer system asset, and development and implementation of "performance targets" that are linked to each element of the SSMP and which must be assessed annually. It is inappropriate to add all of these administrative burdens to a performance-based standard and to deprive local agencies of the opportunity to decide how to best allocate their scarce resources. The draft SSS WDR also goes far beyond what is reasonable by dictating that enrollees allocate a sufficient amount of resources for compliance with the SSS WDR, by mandating that SSMPs include budgets for operation and maintenance as well as capital improvements, and by requiring enrollees to "demonstrate the agency's ability to properly fund the sewer system in perpetuity." While it is desirable to be able to identify the resources that will be available for implementation of any program, obviously public agency budgets must be approved from year-to-year and no public agency that is enrolled in the SSS WDR can guarantee a specified level of funding beyond what has been approved by its legislative body, let alone "in perpetuity."

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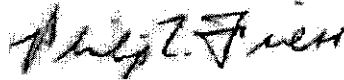
This broad expansion of the SSMP requirements is contrary to the Staff Report's statement that "[d]evelopment and implementation of SSMPs by SSS WDRs enrollees has just been completed statewide and these plans need to be allowed to be fully implemented so their effectiveness and shortcomings can be identified. Dramatically changing SSMP requirements before full implementation could lead to confusion regarding the SSMP requirements amongst enrollees, the public, and Water Board staff." (Staff Report at p. 11) We agree with the staff's assessment, and urge the State Water Board to change course by rescinding the many sweeping proposed revisions to the SSS WDR, which are identified above and in the attached detailed comments.

The Sanitation Districts believe the 2006 General Order, which was carefully crafted by the State Water Board utilizing a process that included extensive input from both the regulated community and non-governmental organizations, appears to have been very successful in achieving its stated goals, especially given the fact that SSMPs required under the order have only recently been developed and implemented statewide. The current order should be left intact to allow for continued data collection and evaluation of the order's effectiveness over time. Only after such a complete evaluation should significant revisions of the 2006 General Order be contemplated. Should the State Water Board nevertheless choose to implement the proposed SSS WDR, a number of suggested changes are detailed in Attachment A.

Thank you for the opportunity to provide input on these important issues. If you have any questions or require additional information, please contact me at (562) 908-4288, extension 2501, or pfriess@lacs.org.

Very truly yours,

Stephen R. Maguin



Philip L. Friess
Department Head
Technical Services

PLF:JN:lmb

cc: Tom Howard, Executive Director, State Water Resources Control Board
Russell Norman, Surface Water Regulatory Branch, State Water Resources Control Board

ATTACHMENT A

DETAILED COMMENTS

1. Reporting of private lateral spills should not be required.

The SSS WDR would require enrollees to report spills from privately owned sewer laterals (PSLs) when they become aware of them. Such reporting is currently voluntary. The justification offered for this change is that the State Water Board wants to "get a better picture of" the magnitude of PSL spills and better identify collection systems with "systemic issues" with PSLs. With regard to the latter point, the State Water Board has ample information already available to it from the online database to determine whether PSL problems are a significant contributing factor to a particular system's SSO rates. 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 (Wat. Code §13267). 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.

Additionally, such a requirement will inevitably lead to erroneous and duplicative data being submitted to the California Integrated Water Quality System (CIWQS), particularly in areas with satellite collection systems as in the service area of the Sanitation Districts. As written, the draft SSS WDRs would require enrollees to report any private lateral sewage discharges (PLSDs) of which they become aware. For a single overflow, several agencies may become aware of a spill and all of them would be required to report it, leading to multiple CIWQS entries for the same spill. For example, the Sanitation Districts may receive the initial report of a PLSD. The Sanitation Districts would respond and, since the discharge is not from one of our sewer lines, report it to the city with jurisdiction. CIWQS entries for the same spill would be entered by both the Sanitation Districts and the jurisdictional city. If another agency such as the Los Angeles County Department of Public Works has sewers in the area as well, there would be yet a third party responding to the spill and providing another CIWQS entry. Each of these entities will likely describe the circumstances of the spill in a slightly different manner, making identification of duplicate entries difficult. This multiple reporting would compromise the integrity of the CIWQS data and any statistics that are drawn from the CIWQS data, diluting its dependability and usefulness. In addition, duplicate entries will potentially be misinterpreted by the public because the impression will be created that additional spills have occurred, thus reducing credibility of CIWQS information.

The Sanitation Districts have found it to be tremendously difficult to have erroneous information corrected from CIWQS, and as a result will have to invest even more Sanitation Districts staff resources to review CIWQS entries for potential duplicates and having them corrected. Furthermore, the Sanitation Districts believe that, with the limited resources available to the State Water Board, these resources should be put toward correcting and analyzing the data that is already being collected through the CIWQS SSO module before requiring an expansion of the data that is put into the module. For example, since its inception the CIWQS SSO module has incorrectly portrayed a single overflow event where discharges from multiple manholes occurred as multiple overflows. Despite repeated requests to fix this issue and despite the State Water Board making it a priority to fix this issue, five years have passed with this issue still pending. Additional State Water Board efforts on CIWQS should seek to ensure the accuracy of reported information, to ensure the completeness of information, and to identify if there are performance concerns that need to be strategically addressed either as a whole or by individual permittees. This type of review would help ensure that future attention is focused on the most important issues when considering

protection of public health. Such focus is critical to enrollees, as it will help to concentrate their efforts on the highest priority issues during this time of limited resources.

Furthermore, we believe it is unlikely that PLSDs lead to significant environmental harm or widespread public health issues, though clearly they can be a personal property issue. These types of events, which are usually very small in volume and do not reach receiving waters, fall under the jurisdiction of local health officers. 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 and are, in most instances, the most appropriate agencies to respond to private lateral spill issues. The local environmental health officers would likely have insight as to the frequency and magnitude of PLSDs, which may help in determining the potential threat and consequently the priority with which this concern should be addressed by the State Water Board.

Thus, while the Sanitation Districts support modifications being made to the CIWQS SSO module to clarify that private lateral spills are not from enrollee-owned sewer pipes, we oppose the addition of a mandatory requirement to report PLSDs, as proposed in Provision D.4.

2. Definition of Combined Sanitary Sewer System needs to be clarified.

Definition A.1 defines "Combined Sanitary Sewer System" as "A system of pipes, pump stations, sewer lines, or other conveyances used to collect and convey wastewater and storm water runoff." As written, the definition could be interpreted to include separate sanitary sewer systems that convey incidental storm water runoff during storms or that accept some amount of storm water through industrial waste connections and/or storm water diversions in place to improve water quality (for instance, at beaches). This definition should be amended to change the phrase "used to collect" to "*designed and* used to collect." The recommended change will clarify that a sewer system is only considered to be a combined system if it is intentionally designed to collect and convey storm water runoff along with sanitary waste.

3. Definition of Sanitary Sewer Overflow is confusing and should be simplified.

Definition A.10(a) states that an overflow or release of untreated or partially treated wastewater that reaches a surface water of the state is an SSO and Definition A.10(b) states that an overflow or release of untreated or partially treated wastewater that does not reach surface waters of the state is an SSO. This appears to be an overly complex means of stating that an overflow or release of untreated or partially treated wastewater is an SSO, whether it reaches surface waters of the state or not. It is therefore recommended that Definitions A.10(a) and A.10(b) be combined for clarity and simplicity. Additionally, Definition A.10 specifies that spills of wastewater to storm drains tributary to waters of the state that are not recovered are SSOs. It is not clear why this specific case is called out. If untreated or partially treated wastewater is conveyed through a storm drain to a water of the state, it would be an overflow that reaches waters of the state and would therefore already be covered by the definition.

If it is the intent of the State Water Board to clarify that releases of untreated or partially treated wastewater to storm drain pipes are not considered SSOs if they do not reach waters the state, then this should be clearly stated. Suggested language is, "Overflows or releases of untreated or partially treated wastewater to storm drain pipes are not considered SSOs if they do not reach waters of the state."

4. Definition of Sanitary Sewer System inadvertently omits construction trenches.

The 2006 General Order included construction trenches in the definition of a sanitary sewer system. However, the proposed SSS WDR omits construction trenches from the definition of the sanitary sewer system. While it may seem like an insignificant change, this proposal will have serious consequences for

all sewer systems in the state. This proposed definition, combined with the lack of de minimus spill volume, will cause the Sanitation Districts to have an SSO almost every time a sewer main or lateral is repaired or replaced.

Even if a collection system agency could always use plugs, bypass pumping, or restrict water use by homeowners or business (which are actions that are not feasible at many locations), there will still be small amounts of sewage entering into the construction trench – an event that has never been suggested to cause impacts to water quality. The proposed change to the definition of a sanitary sewer system would cause each of those instances to be an SSO and enrollees would then be required to report and certify every time a drop of sewage entered a construction trench. For these reasons, we request that “construction trenches” be restored to the definition of Sanitary Sewer System in the draft SSS WDR.

5. Prohibition on SSOs reaching storm drains is confusing and should be clarified.

As written, the prohibition on discharges of untreated or partially treated wastewater to storm drains, Prohibition C.1(a), is confusing. It could easily be misinterpreted as including a prohibition on discharges to storm drains that are captured and appropriately disposed of, instead of just covering discharges to storm drains tributary to waters of the state that are not fully captured. It is recommended that this prohibition be rewritten as, “Discharges to storm drains that are not fully captured and appropriately disposed of, if the storm drain is tributary to a surface water of the state.” Appropriate disposal can include returning the spilled material to a sanitary sewer, so it is not necessary to specifically call out return to the sanitary sewer as an appropriate disposal method.

6. Prohibition on SSOs to drainage channels is overly broad.

Prohibition C.1(b) prohibits sewage spills resulting in “Discharges to drainage channels if the drainage channel is a surface water of the state or tributary to a surface water of the state.” As written, this provision prohibits an SSO that reaches a drainage channel tributary to a water of the state, even if the SSO was recovered in the drainage channel before reaching a water of the state. In many cases, SSOs can be and should be captured in drainage channels that are tributary to waters of the state before the SSOs reach waters of the state. As written, the provision would lessen the incentive for enrollees to capture SSOs in drainage channels that are not waters of the state before they flow to waters of the state. Prohibition C.1(b) should therefore be amended to read, “Discharge to a drainage channel if the drainage channel is a surface water of the state, or discharge to a drainage channel tributary to a surface water of the state if the discharge is not fully captured and appropriately disposed of prior to reaching waters of the state.”

7. Consideration of certain mitigating factors in Water Board enforcement actions for SSO should be required.

Provision D.6. of the draft SSS WDR would make optional the requirement that the State and/or Regional Water Boards must consider certain factors in pursuing enforcement action for SSOs, such as whether the discharger complied with the SSS WDR, whether the SSO was beyond the reasonable control of the enrollee, and whether the enrollee adequately mitigated the spill.

The Sanitation Districts strenuously object to this change. The State Water Board has a duty to develop reasonable and attainable water quality regulations and standards. To be achievable and thus legal, the SSS WDR must provide some means of appropriately addressing unpreventable SSOs. Therefore, the SSS WDR must include clear language recognizing that unpreventable SSOs will occur. This language would ideally be in the form of an affirmative defense, robust enforcement discretion language, or preferably both.

The 2006 General Order did not employ this approach. Instead, it included a prohibition on SSOs that was intentionally limited to SSOs reaching waters of the United States and those causing nuisance conditions. These prohibitions were the minimum that the State Water Board believed at the time to be

allowable under the Clean Water Act and state law. This narrow prohibition was coupled with clear language requiring the Water Boards to consider certain mitigating factors in any enforcement action under the SSS WDR.

The draft SSS WDR heads in the exact opposite direction, by broadening the prohibition on SSOs to include those reaching waters of the state as well as those reaching waters of the United States, and at the same time removing the requirement that the mitigating factors be considered. By taking these combined actions, the State Water Board is no longer recognizing that unpreventable SSOs will occur and providing a means of appropriately addressing them. Zero SSOs is not an achievable target, and thus compliance with the requirements of the draft SSS WDR is not possible.

8. Requirement for a Staff Assessment Program is overly prescriptive and burdensome and should be deleted.

The currently adopted 2006 General Order appropriately requires regular training of sanitary sewer operations and maintenance staff, while allowing flexibility for the enrollee to conduct the training as needed in a cost-effective manner. Provision D.12(d)(iv) would change this requirement to require development of a Staff Assessment Program, including an assessment of job duties, training, skill sets, and abilities, to be updated at least every 12 months. The State Water Board has not provided any justification as to why such a Staff Assessment Program is necessary or what benefits it is expected to provide. It is not clear that requiring a Staff Assessment Program would lead to increased performance in preventing SSOs, particularly for agencies that already have low rates of SSOs. Setting up and administering such a program would be an unnecessary drain on limited staff resources, which are better used for actually maintaining and upgrading their collection systems. In order to maximize government efficiency, new requirements should not be added in the SSS WDR unless they add value to program in terms of an expected reduction in SSOs. Requiring such a program seems misplaced since many enrollees employ qualified private contracting services to perform all or portions of their O&M work. Consequently, if contract services are employed, it is not necessary for all in-house staff resources to be trained to the same level to competently perform all O&M activities thus making a need for a Staff Assessment meaningless. Even the Sanitation Districts, which has over 120 full time employees in its Wastewater Collection Systems Section contracts out millions of dollars of O&M services every year. The dollar amount and services vary from year-to-year based on needs. The Sanitation Districts see no benefit or value added in developing such a program.

9. Requirement for Contingency Planning is duplicative and overly burdensome, and should be deleted.

Provision D.12(d)(v) is a new provision that would require identification of the most critical collection system assets and operation procedures, including components posing the highest risks and threats for an SSO. In operating a collection system, there are many assets and operational procedures that are essential to ensure sound operation of the system and prevent SSOs. The intent of this new proposed requirement is unclear as it seems to blur the lines of the already required Overflow Emergency Response Plan requirements in the SSMP and what appears to be a new expanded requirement for Asset Management implementation. The existing 2006 General Order already requires that enrollees must properly manage, operate, and maintain their systems, and the proposed SSS WDR contains this language as well (Provision D.7). It is overly burdensome to require more documents to be prepared that would detract from necessary job duties, with no proven benefit. Enrollees should have flexibility to determine the best measures to use to effectively maintain and operate their collection systems, and thus maximize the benefit that can be obtained from funding available. This new provision in the Draft Order requires identification of critical assets and critical replacement parts, which strongly resembles elements of a Strategic Asset Management Plan. Much of this type of information is institutional knowledge retained with enrollee staff and not necessarily documented. The Sanitation Districts believe that formally documenting critical assets is important and, from our own experience, takes a substantial effort to complete. The financial costs and staff investment are significant. Because of the magnitude of work involved in completing this new

requirement, the Sanitation Districts suggest that the State Water Board allow sufficient time for enrollees to complete this work. In addition, it is overly prescriptive to require a list of the most critical replacement parts inventoried for collection system assets, as asset management strategies will vary based on the level of redundancies that are already designed into the systems.

10. Requirements to include budgets in the SSMP are overly prescriptive and should be deleted.

Provision D.12(d)(vi) would require that the SSMP include budgets for routine operation and maintenance and capital improvement. Provision D.12(h)(v) would require that the SSMP include budgets for capital improvements. These requirements are overly prescriptive, and thus should be deleted. Other provisions from the 2006 General Order require the enrollee to allocate adequate resources for the operation, maintenance, and repair of its collection system using a proper rate structure (Provision D.8 draft SSS WDR). It is not appropriate to include detailed budgets in the SSMP, because budgets change annually and thus the SSMP would require constant updating. In addition, the budgeting structure can be very complex and therefore confusing to people unfamiliar with the process and specific cost breakdowns associated with collection systems operation and maintenance programs. In most cases, an accompanying explanation by the enrollee on the budget documents would be needed. Therefore, the Sanitation Districts recommend that this proposed provision be deleted or, at minimum, be revised to require that budgets be made available upon request. Including and maintaining the budgets in the SSMP would be an unnecessary duplicative effort and further task limited resources.

11. Requirement for sewer system funding in perpetuity should be deleted.

Provision D.12(d)(vi) requires that enrollees "demonstrate the agency's ability to properly fund the sewer system in perpetuity." While enrollees can provide general information about the funding mechanisms they currently use to finance sewer system improvements, as well as operations and maintenance, they cannot know what funding mechanisms will be used in the future, as these may change over time. Nor can current employees commit their governing bodies to approval of budgets far into the future (i.e. "in perpetuity"). Thus, this new proposed provision appears to be overreaching and will not really provide useful information for the enrollee, the public or the Water Boards. We therefore request that it be deleted.

12. Natural disaster response planning should not be a required element of the Overflow Emergency Response Plan.

The draft SSS WDR Provision D12 (f) (ii) includes a requirement to prepare a response plan for natural disasters. It is inappropriate to include natural disaster planning and response in an Overflow Emergency Response Plan, because natural disaster planning/response is an entirely separate issue from overflow response. Government agencies are already required to use National Incident Management System (NIMS) and Standardized Emergency Management System (SEMS) protocols, based on use of an Incident Command System, in managing incidents where more than one agency responds. Cities, special districts, and other enrollees must already be familiar with these protocols and trained in them, because response to incidents is inherent in the operation of a city or special district.

Natural disaster planning is also different than overflow response, because it involves many aspects of a city or special district's operations, not just collection systems. Many wastewater agencies in California are members of the California Water/Wastewater Agency Response Network (CalWARN), a water sector mutual aid organization. The purpose of this organization is to expedite assistance of one agency to another in the case of a natural disaster or other large-scale emergency. Since natural disaster response planning is covered by other California state government agencies such as the California Emergency Management Agency (CalEMA), natural disaster planning should not be included as a requirement in the SSS WDR. A requirement to include natural disaster planning as part of the SSMP would be duplicative and would waste resources, requiring additional staff time to be spent with no benefit. It could also

potentially be detrimental, if the natural disaster response plan in the SSMP differed from the agency-wide response plan, leading to confusion in emergency situations.

13. The requirement to prepare risk and threat analyses would unnecessarily consume extensive resources and should be deleted.

Provision D.12(f)(vi) of the draft SSS WDR contains a new requirement to prepare risk and threat analyses of each and every sanitary sewer system asset. What may appear at face value to be a simple program to develop and implement can actually require substantial resources and time commitment. In this case, preparation of the risk/threat analyses would require a tremendous amount of resources, significantly draining available staff and funding that is essential to providing sound operation of a collection system. Such an exercise would provide only a theoretical analysis of a collection system, and the State Water Board has not provided any evidence that any benefit would result. In fact, addition of this requirement was not even mentioned in the Staff Report associated with the draft SSS WDR. Collection system operators are intimately familiar with their systems, and have field-based knowledge of which areas and equipment are critical.

Furthermore, the existing requirement in the 2006 General Order on Rehabilitation and Replacement already specifies that enrollees must identify and prioritize system deficiencies. This existing requirement appropriately and adequately addresses the need to assess essential infrastructure elements and rank them in order of importance. The existing requirement is not overly prescriptive, but instead allows the enrollees the flexibility to most efficiently identify and prioritize the infrastructure elements in their systems that deserve attention. In contrast, the proposed requirement prescriptively specifies the method that must be used for prioritization. Most enrollees, particularly small systems, will not have the resources to perform the detailed analysis required themselves, meaning that precious funds must be directed away from sewer system upgrades to pay outside consultants to perform a "paper exercise." The focus of enrollees should be on the most critical assets (those that pose an actual risk of an SSO), rather than a comprehensive requirement to analyze all of the assets. The Sanitation Districts has over 50,000 collection system assets and consequently to perform the proposed analysis on all assets would not only be overly burdensome but also would not be an effective use of resources. As previously stated, valuable resources are best used when focused on the critical assets that actually pose an SSO threat. It is through systematic condition and hydraulic capacity monitoring programs that enrollees are able to identify poor condition assets and their repair (and timing of repair) will ultimately be determined based on the inherent risk they pose to public health and/or the environment. Current SSO WDR requirements, when fully implemented, should ensure that critical assets are being evaluated and addressed adequately by Enrollees.

The level of detail in the existing 2006 General Order was carefully considered and developed through a stakeholder task force process. The task force process drew on the lessons learned from regional programs initiated in prior years. A great deal of technical work was involved, as well as consideration of public policy and funding, and a determination of what was achievable. It is counterproductive for the State Water Board to arbitrarily add in new requirements that go over and above the carefully crafted SSMP requirements in the 2006 General Order. The State Water Board recognized this in its Staff Report for the draft SSS WDR, stating, "Development and implementation of SSMPs by SSS WDR [2006 General Order] enrollees has just been completed statewide and these plans need to be allowed to be fully implemented so their effectiveness and shortcomings can be identified. Dramatically changing SSMP requirements before full implementation could lead to confusion regarding SSMP requirements amongst enrollees, the public, and Water Board staff." The Sanitation Districts fully agree with this statement, and believe that proposed requirement to prepare risk/threat analyses for every sewer system asset should be deleted from the draft SSS WDR.

14. Performance target requirements are overly prescriptive and burdensome, and should be deleted.

Provision D.12(i) would modify existing requirements to monitor the implementation of the SSMP, making them substantially more prescriptive. In particular, it would require that performance targets be linked to each element of the SSMP and assessed annually. The Sanitation Districts believe that the monitoring, measurement, and program modification requirements in the existing 2006 General Order provide the appropriate level of detail, and that the newly proposed requirements would result in an additional burden on enrollees with no tangible benefit. The existing 2006 General Order already requires assessment of program success, including tracking of SSO trends; tracking of SSO trends is the key metric in assessing the success of any SSO reduction program.

It is only when a program is unsuccessful in reducing SSOs that additional analysis of the specific elements of a program could provide potential benefits. It is therefore a waste of public funds to require all enrollees to provide such a detailed analysis. The State Water Board could consider requiring this element during an enforcement action for a low-performing program, but it should not be imposed on every enrollee. Development and tracking of the performance targets for high-performing enrollees would simply be another required paperwork exercise that would drain enrollee resources while providing no environmental or public health benefit. As enrollee programs develop under the existing 2006 General Order, and as the State Water Board continues its review of reported data and program results, there may be justification in the future to develop specific performance targets that will be useful throughout the wastewater treatment industry to provide meaningful performance comparisons. However, at this time, the focus should remain on the most meaningful performance indicators identified to date: the number and trend of SSOs.

15. Requirement to maintain an SSMP change log is a waste of resources and should be deleted.

Provision D.12(vi) is a new provision that would require each enrollee to maintain a log of all changes to the SSMP, including the date each change was made and the name of the staff person responsible for each change. This is another example of an additional requirement that would provide no real benefit and certainly would not prevent any SSOs from occurring. The State Water Board's motivation in adding this requirement is not clear, as this proposed change is not mentioned in the associated Staff Report. However, maintaining this log would require dedication of staff resources on an ongoing basis. While in and of itself the staff time needed to fulfill this provision may be minimal after procedures to maintain the change log have been established, in conjunction with other paperwork exercises proposed for inclusion in the SSS WDR, the increased burden (cumulatively) spent on increased paperwork would be substantial, and the corresponding benefits have not been demonstrated.

16. Several uses of the term "wastewater" need to be replaced with "untreated or partially treated wastewater."

In a number of instances in the draft SSS WDR, the term "wastewater" is used where the term "untreated or partially treated wastewater" is more appropriate. This could cause unwarranted confusion in implementation of the SSS WDR, particularly with regard to the scope of the SSS WDR and to reporting of overflows. In some cases, use of the term "wastewater" could be misconstrued to include fully treated wastewater that is either delivered as recycled water or discharged under an NPDES permit. Particular instances that needed to be corrected include Definition A.1, Definition A.10, MRP B.1.B (in both the SSO Categories and PLSD Categories sections), and MRP B.1.C (in both the SSO Categories and PLSD Categories sections).

17. MRP language relating to SSOs reaching storm drains should be amended.

MRP B.1.C (in both the SSO Categories and PLSD Categories sections) incorrectly states, "Any volume of wastewater not recovered from a 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).” This statement is based on the faulty assumption that all storm drains flow either to a groundwater infiltration basin or to a water of the state. This is not always true. Counterexamples include storm drains flowing to debris catch basins, storm drains flowing to desiltation basins, and storm drains flowing to drainage channels that are not waters of the state. In all of these cases, the SSO may be captured prior to the SSO reaching a water of the state. Therefore, we request this sentence be deleted.