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5/2/06 - Item 7  
SSORP  
Deadline: 4/24/06

April 24, 2006

Song Her, Clerk to the Board  
State Water Resources Control Board  
Executive Office  
1001 I Street, 24th Floor  
Sacramento, CA 95814



Re: Comments on the Draft Statewide General Waste Discharge Requirements and Monitoring and Reporting Program for Wastewater Collection System Agencies

Dear Chairwomen Doduc and State Board Members:

On behalf of Heal the Bay, we submit the following comments on the Draft Statewide General Waste Discharge Requirements and Monitoring and Reporting Program for Wastewater Collection System Agencies ("Draft WDRs"). We appreciate the opportunity to provide these comments.

Heal the Bay has significant concerns that, as written, the Draft WDRs will not adequately fill the role of the "primary regulatory mechanism for sanitary sewer systems," as intended by the State Water Quality Control Board ("State Board") (Draft WDRs at 3). For instance, the Draft WDRs do not include specific requirements for areas vital to maintaining water quality and ensuring public health such as monitoring sanitary sewer overflow ("SSO") impacts and promptly notifying the public of spill events. Further, there is no guarantee that the discharger-developed-and-approved Sewer System Management Plans (SSMPs) will provide these necessary details. The recent devastating Manhattan Beach sewage spill and subsequent lessons learned clearly demonstrate that such requirements are critical. Our comments are discussed in more detail below.

**The monitoring requirements should be enhanced to adequately characterize sanitary sewer overflow impacts.**

The Draft WDRs call for "adequate sampling to determine the nature and impact of the release." (Draft WDRs at 9). How does the State Board define "adequate sampling," as there is no sampling protocol included in the Draft WDRs? The Monitoring and Reporting Program of the Draft WDRs should *require* extensive sampling for any spill reaching a receiving water, as this is an unregulated discharge to a surface water. The Draft WDRs should outline specific procedures for conducting monitoring that captures the size of the plume and any variability in the system. Specifically, the State Board should outline a detailed water quality monitoring protocol that includes parameters, such as frequency (i.e. daily or hourly sampling), number of sample points (i.e. 3 upstream and 3 downstream), time of collection (i.e. a set time after a spill has occurred), upstream and downstream distances of the spill (i.e. every 100 yards). Spill monitoring efforts should occur until such time as Fecal Indicator Bacteria densities are below water quality standards. Such a protocol is necessary to



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capture the variability in the type of spill and current environmental conditions such as tides, flows, time of day, and currents. Also, all spills that visibly reach receiving waters must be monitored immediately. It should take no more than two hours after the spill is known to reach receiving waters to initiate receiving water sampling after a spill.

In addition, the Draft WDRs should require that the discharger secure an additional, unbiased party to collect samples concurrently with its own sampling. In other words, the agency responsible for the pollution should not be the only party monitoring all aspects of a possible catastrophic event. This critical weakness was highlighted during the recent Manhattan Beach spill. In that case, ideally, the independent party should have been the Los Angeles County Department of Health Services, however, the health department completely failed to provide that role. Many parties and the public have questioned how the Manhattan Beach sewage spill was handled in terms of volume estimates and sampling protocol, both of which were conducted solely by the County Sanitation Districts. Independent involvement in such an effort helps to ameliorate, if not eliminate, perceived or actual bias in the reporting process. Given the breakdowns that occurred during recent events, we urge the State Board to revise the Draft WDRs to require third party participation.

**Public Notification should take place as soon as possible but not later than two hours after knowledge of an incident, and notification procedures should be independent of spill volume.**

The Draft WDRs call for "adequate public notification to protect the public from exposure to the SSO." (Draft WDRs at 9). Again, what does the State Board find to be "adequate?" The Draft WDRs outline SSO Reporting timeframes but do not include notification specifics. Last month the City of Los Angeles had a 25,000 gallon sewage spill to Ballona Creek. However, the Regional Board and health departments were not notified until 48 hours after the spill and no spill-focused monitoring occurred within 48 hours. As a result of this delay, local beaches were neither posted or closed. After a spill to receiving waters of any size is identified by a responsible party, notification should take place *immediately*, so that water quality and public health are not compromised due to a reporting time-lag and appropriate protective measures are implemented in a timely fashion. A two-hour maximum after the spill is known to reach receiving waters for completing public notification is more appropriate as public notification will become a priority for the discharger in the event of a spill and not just an after-thought. Notification can not consist of leaving a message on an answering machine. Notification must be directly to a Regional Board staff member. In addition, the State Board should include local media as part of the public notification protocol for spills deemed a threat to public health. The public is blatantly absent from the Overflow Emergency Response Plan in the Draft WDRs. The Draft WDRs state that "[p]rocedures to ensure prompt notification to appropriate regulatory agencies and other potentially affected entities (e.g. health agencies, regional water boards, water suppliers, etc...) of all SSOs that potentially affect public health ...." (Draft WDRs at 12). Clearly, the public is a "potentially affected entity" and should be promptly notified of a SSO via the media or other means.



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Heal the Bay expressed these same concerns to the Los Angeles Regional Board last month during the public comment period for the Los Angeles County Sanitation District's Joint Water Pollution Control Plant NPDES permit renewal. In response, the Regional Board included some more detailed language in the adopted permit such as requiring notification and sampling immediately after a spill of *any* volume reaches a receiving water. However, the Regional Board is also relying heavily on the General WDRs to provide specific requirements. In fact, the Regional Board responded to Heal the Bay's comments by stating that "...staff believe that the proposed SSO WDR [Draft WDRs] contains a detailed set of requirements that addresses many of the HTB's concerns." As the Regional Boards plainly are relying on the Draft WDRs for SSO regulation, *strong* requirements are necessary for ensuring that public health and water quality are not compromised.

### Conclusion

Simply stated, much of the language in the Draft WDRs is very weak and nonspecific. The vagueness of the permit language can be interpreted many ways, which will translate into inconsistent applications in the development of SSMPs Statewide. Moreover, relying on discharger-approved SSMPs to provide the details is not an appropriate form of regulation. Given recent events, along with these weaknesses in the Draft WDRs, the State Board should re-examine this language at this time and include a more detailed protocol for appropriate spill response measures.

If you have any questions or would like to discuss any of these comments, please feel free to contact us at (310) 451-1500. Thank you for your consideration of these comments.

Sincerely,

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Director of Science and Policy

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