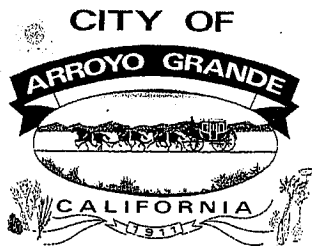


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September 4, 2012

Mr. Jeffrey Young, Chair  
Central Coast Region/  
Water Resources Control Board  
895 Aerovista Place, Suite 101  
San Luis Obispo, CA 93401

RE: ACL Complaint No. R9-2013-0030 / SSLOCSD



Dear Mr. Young:

I am unfortunately unable to attend the hearing scheduled for Friday, September 7, 2012, due to a previously scheduled out-of-town commitment. However, I'm hopeful that you will accept this letter in place of my intended in-person testimony before your Board.

I am writing this letter as a member of the Board of Directors for the South San Luis Obispo County Sanitation District (SSLOCSD). I have held this position for approximately 10 years.

My intent is simply to provide you and your Board with additional background, as well as some of my questions and concerns. Through this process, I will attempt to be direct and to the point.

The December, 2010 weather event was not the only phenomena affecting the District during that time-frame. As a result of diminishing revenues, we implemented a number of cost-saving measures that included the elimination of a position and subsequent lay-off of one employee. We were also experiencing some very serious personnel issues involving another employee. This ultimately led to his termination. Both employees affected by these actions began a very aggressive public relations campaign designed to tarnish the reputation of the District, the District Administrator, and the Board of Directors. Both employees claimed "whistleblower" status, initiated an intense negative media campaign, and enlisted support from our local Surfrider Chapter. It should be noted that both "whistleblower" claims were investigated by the State and determined to be "without foundation." In addition, the Plant Superintendent at the time had filed for a stress-related disability. He had just returned from his disability leave when the December event took place. Hopefully, you can begin to visualize that the December, 2010 event was the "perfect storm" for many reasons other than the concentrated intense rainfall and flooding.

You will hear testimony regarding the nature of the spill, the actions taken by the District and the technical dispute regarding the spill volume. I don't want to spend time addressing those issues here. What I do want you to consider are the questions and concerns I have regarding the actions of the SWRCB Enforcement Division.

1. Without question, the SWRCB Enforcement Division has clearly violated their own policy regarding the application of consistent and fair enforcement standards. There are, on record, several spills that have occurred throughout the State resulting in more severe consequences than our incident. Yet the fines were significantly lower than what is being assessed to the District. Why the disparity?
2. During the "negotiation" process, the District was informed that the nature of discussions were to remain confidential. When it was determined that virtually every evidentiary submission was categorically rejected by the Enforcement Division's negotiation team, we asked our Assembly Member to intervene. We requested that he ask, on our behalf, for a "fair and consistent" analysis of the District's violation. He did so in a letter. Shortly thereafter, one of our Board Members was contacted by a reporter from a local fringe media website. She asked about the "negotiations breaking down." When our Board Member asked how she knew about the negotiations, she said she had been contacted by two women from the Water Board in Sacramento. She also had a copy of the letter written by our Assembly Member to the Enforcement Division. She couldn't have obtained that copy from any other source other than the Water Board. If negotiations are required to remain confidential, how does an incident like this occur?
3. There are many examples of "bias" on the part of the SWRCB. Most notably was the "draft" Sewer Collection System Questionnaire that the District was required to complete during the NOV process. It contained over 400 questions. The current questionnaire contains less than 50 questions. Why the disparity?
4. We have been informed by residents of the Oceano community that they were recently interviewed by a team of investigators from the Enforcement Division who apparently went door-to-door during the past two weeks in the area that was flooded. According to residents, they were asked why they didn't file a complaint against the District two years ago. They were also asked if they "were sure they didn't feel a little sick during the floods."
5. To summarize, why the disparity and the bias? Why the unethical behavior? And is there a body within the Cal EPA, Office of the Secretary that provides oversight for the Enforcement Division, or does that responsibility rise to the Attorney General? The District may well be seeking answers to these questions in the very near future.

A primary element of the SWRCB Enforcement Policy is to "ensure future compliance." Yet the fine being imposed may well result in creating future incidents of "non-compliance." In order to comply with permitting requirements, the District has determined the necessity to fund through loans approximately \$15 million dollars in capital improvements over the next 5 years. As an enterprise agency, the District has no discretionary funds, and all rate increases are subject to a Prop. 218 vote of our ratepayers. The fine being imposed is over 1/3 of the District's cash assets and would cripple the District's ability to maintain and improve its facilities. Is this a fair and equitable action for a District that hasn't had a spill in over 25 years?

Despite the fact that the volume of storm water and sewage that rushed into our headworks during the storms of December, 2010, was unprecedented, we believe our personnel did the best that they could under the circumstances. We have already implemented measures to ensure that our plant is better prepared in the future. However, continued compliance is directly correlated to our ability to fund future infrastructure improvements as previously stated.

We realize that the State is operating in a deficit mode. However, local government shouldn't be held responsible for these shortfalls, nor should it be burdened with supplementing state agency budgets by paying excessive fines that are without basis.

We are respectfully requesting that your Board consider the information provided by District representatives in a fair and objective manner. We are hopeful that a reasonable compromise can be reached at this juncture, thus negating the need for costly litigation. I know you will agree that a protracted legal proceeding will only further burden the taxpayers of the State at a time when they can least afford it.

Sincerely,



TONY FERRARA

Mayor / City of Arroyo Grande

Board Member / South San Luis Obispo County Sanitation District

c: Michael Seitz / District Counsel  
John Wallace / District Administrator  
Bill Nichols / Chairman of the Board of Directors