



David R. Williams
Tri-TAC Chair
EBMUD
375 11th Street
Oakland, CA 94612
(510) 287-1496
dwilliam@ebmud.com

December 14, 2001

Mr. Gerard J. Thibeault
Executive Officer
Santa Ana Regional Board
3737 Main Street, Suite 500
Riverside, CA 94501-3348

Dear Mr. Thibeault:

Re: Permitting for Satellite Collection Agencies in the Santa Ana Region of Orange County

The purpose of this letter is to provide comments on the Regional Board's Tentative Order 01-99, which includes draft General Waste Discharge Requirements (GWDRs) and a Tentative Monitoring and Reporting Program for sewage collection agencies in Orange County. Tri-TAC is a California-based technical advisory committee comprised of members from public agencies and other professionals responsible for wastewater treatment. Tri-TAC is jointly sponsored by the California Association of Sanitation Agencies, the California Water Environment Association, and the League of California Cities. The constituency base for Tri-TAC treats and reclaims more than two billion gallons of wastewater each day and serves most of the sewered population of California.

Tri-TAC supports the goal of improving water quality by reducing sewage spills in Orange County. We recognize that sewage spills have caused some beach closures in coastal waters within the Santa Ana Region, and that sanitation agencies must continue -- and in some cases, increase -- their diligence in preventing spills and responding to those that occur despite their best efforts. Having said this, we believe that, overall, sanitation agencies are doing an excellent job of conveying sewage to treatment facilities, as evidenced by the fact that in 1999 and 2000, **99.5%** of the 15,330 beach-mile days available each year were **unimpacted** by sanitary sewer overflows (SSOs). For example, for the Orange County Sanitation District, this translates into successful conveyance of 178 billion gallons of sewage through their collection system between July 1999 and June 2001, with only 82,000 gallons lost due to overflows. While there is still room for improvement, we think it is important to recognize the high quality sewage conveyance services already being provided within the region.

Vice Chair
Sharon Green
Sanitation Districts of Los Angeles County
P.O. Box 4998
Whittier, CA 90607
(562) 699-7411 ext. 2503
sgreen@lacsod.org

Water Committee Co-Chairs
Monica Oakley
Larry Walker Associates
250 Lafayette Circle,
Suite 200
Lafayette, CA 94549
(925) 962-9700
monicao@lwa.com

Jim Colston
Orange County Sanitation District
P.O. Box 8127
Fountain Valley, CA 92728
(714) 593-7458
icolston@ocsd.com

Air Committee Co-Chairs
Daniel McGivney
Eastern Municipal Water District
P.O. Box 8300
Perris, CA 92572
(909) 928-6177
dmcgivney@emwd.org

Jay Witherspoon
CH2M Hill
1111 Broadway, #1200
Oakland, CA 94607
(510) 251-2888
jwithers@ch2m.com

Land Committee Co-Chairs
Layne Baroldi
Orange County Sanitation District
P.O. Box 9127
Fountain Valley, CA 92728
(714) 593-7456
lbaroldi@ocsd.com

Bob Gillette
Carollo Engineers
2500 Venture Oaks Way,
#320
Sacramento, CA 95833
(916) 565-4888
rgillette@carollo.com

We support the efforts of the Santa Ana Regional Board to develop requirements and a permitting mechanism to reduce controllable SSOs. The draft GWDRs and monitoring requirements have the potential to establish important performance standards for collection system owners and operators that may very well be used as a model throughout the state.

Tri-TAC supports the use of a general permit approach to the regulation of municipal collection systems. We do, however, have concerns regarding some of the proposed provisions of the GWDRs. Tri-TAC's primary concern is that the proposed requirements and prohibitions do not sufficiently take into account unavoidable overflows of collection systems, and thereby will make entities subject to this permit liable for SSOs that are beyond their ability to prevent. Tri-TAC also has concerns about the multiple (and inconsistent) definitions of an SSO included in the permit and monitoring and reporting program. Additionally, we believe it would be appropriate for the Regional Board to provide additional information about how enforcement discretion will be applied, either within the permit itself, or in the staff report. These issues, as well as our other comments, are explained more fully below. Tri-TAC would welcome the opportunity to collaborate with you to address these issues in a manner that creates a workable framework to decrease SSOs and improve water quality.

1.1. Major Comments

- 1) Prohibition of SSOs. The draft GWDRs are based on the premise that sanitary sewer collection systems can be built and operated to prevent overflows under any and all conditions. This premise is simply false. Currently, certain local sewer agencies are reporting zero overflows because of differing understandings of what data is to be gathered and reported. Until all agencies are gathering and reporting data in a consistent fashion, it may continue to appear that it is possible to avoid all overflows.

Even the most optimally operated and maintained systems can and will experience unavoidable overflows during both wet and dry weather conditions. With respect to wet weather, sewer collection systems are designed and built based on acceptable risk and probability whereby the system will overflow once every 5 to 15 years (when a very large storm event occurs). This is an accepted industry standard, and has historically been widely supported by EPA and the states as appropriate for communities. With respect to dry weather, there can also be infrequent overflows due to blockages caused by construction contractors, restaurant grease, vandalism and other actions by outside entities. As with the design size of a sewer pipe, the SSMP program will provide a standard by which compliance with the GWDRs can be determined for dry weather overflows (in addition to wet weather overflows).

Regarding a prohibition for SSOs, the preference of Tri-TAC is to delete the language regarding a prohibition. We feel it is unnecessary with the standards set forth in the SSMP, and with an acknowledgement of acceptable risk in the size of the sewer pipe for conveyance capacity during wet weather. Surely, the goal statement of the SSMP states, "The main goal of the SSMP is to prevent SSOs and to provide a plan and schedule for measures to be implemented to prevent SSO." Tri-TAC concurs with this statement and believes a focus on the SSMPs will productively work towards achieving improvements in water quality through a reduction in SSOs.

A zero discharge standard also circumvents the required process for developing CWA technology-based standards. EPA is required to develop technology-based standards using studies and data regarding the performance of well-operated systems. The draft proposal establishes a zero discharge standard for collection systems without supporting studies showing that this represents an attainable level of performance. Given engineering principles and industry-accepted knowledge that eliminating overflows is impossible, the standard is at odds with the understanding of the physical limitations under which collection systems operate. When taken in conjunction with the stated elimination of the bypass and upset defenses (A.1.), Tri-TAC vigorously asserts that the zero discharge standard imposes an unachievable and unsupportable standard on municipalities. Another alternative is to set zero overflows as a goal only.

If the Regional Board still feels compelled to insert a prohibition in the GWDRs, then we strongly recommend adding the following language adapted from SWRCB Order 2001-12-WQ after the inclusion of any SSO prohibition, which should state:

"The Permittees will not be in violation of SSO prohibition as long as the Permittees have, and timely implement, control measures set forth in their SSMP..."

This recent State Water Resources Board Order provides the most timely guidance on the proper language to be used to deal with prohibition language similar to that proposed here. Most importantly, EPA did not object to this language, thereby allowing this language to apply even if the permit was adopted as a joint NPDES/WDRs.

- 1) Definition of a Sanitary Sewer Overflow (SSO). The proposed permit includes two definitions of SSO, one in the Findings (Finding 2) and one in Provision A.1 (Prohibitions). Additionally, the Monitoring and Reporting Program includes a formal definition of SSO (Definition A.1), which appears to be similar (if not identical) to that contained in the draft proposed federal CMOM regulations. This is confusing, and we believe the inclusion of multiple definitions will lead to inconsistent interpretations of the permit. Therefore, we recommend that the Regional Board delete the SSO definition contained in the Monitoring and Reporting Program. This definition is the most confusing (and contains some questionable, as well as controversial, components), and is not really necessary to allow a straightforward reading of the permit and Monitoring and Reporting Program.
- 2) Enforcement Discretion. We appreciate the inclusion in the permit (in Provision 12) of a recognition by the Regional Board that enforcement discretion will be used to take into account the quality of the Sewer System Management Plan (SSMP), its implementation and effectiveness in any relevant enforcement action. We believe that it would be helpful for the Regional Board to provide additional information on how enforcement discretion will be applied, as well as to specify other circumstances under which enforcement discretion will be applied. For instance, many spills can be (and are) totally contained in streets and/or channels and returned to the sewer, along with water used to wash down

exposed surfaces. These activities result in essentially zero impact to public health and the environment. Therefore, they should be encouraged and should not be subjected to enforcement actions. As such, we believe it is essential for the Regional Board to assess and take into account the impact of any given spill on beneficial uses in any enforcement proceeding.

- 3) Sewer Exfiltration. Monitoring and Reporting Program Section C.10 states "The discharger shall report SSOs resulting from pipe breaks, leaking sewer pipes and joints, and other subsurface discharges of sewage as part of the sewer system audit, and in the quarterly reports thereafter. Subsurface discharges of sewages, that reach the ground surface, shall be reported immediately, in accordance with C.1."

It is important to recognize that cracking is characteristic of many sewer pipes and the presence of cracks does not mean that extensive exfiltration is occurring. It has been our experience that water in a pipe will, indeed, follow the path of least resistance and continue through the pipe rather than out small cracks and joints and through the surrounding soil to any appreciable distance. To identify the water associated with these small cracks and joints as SSOs will be burdensome to the permittees insofar as it will divert resources from activities of a higher priority. In addition, we believe that the Regional Board should create a phased approach for this program, as the program requirements represent a significant commitment for permittees. Therefore, we strongly recommend that the language be modified to read "Subsurface discharges of sewages, that reach the ground surface, shall be reported immediately, in accordance with C.1."

- 4) Relationship Between Permittee and NPDES Holder (OCSD). Tri-TAC supports the approach contained in the most recent draft of the GWDRs, wherein the NPDES permit holder (OCSD) is not a co-permittee and does not have a distinct regulatory requirement regarding the performance and compliance of the satellite agencies with regards to the GWDRs. We believe that, in most circumstances, this is preferable to other models that put the NPDES permit-holder in a regulatory role with respect to satellite collection systems, which may be difficult to administer due to the composition of regional agencies' board of directors (i.e. those entities that own/operate the satellite systems). This approach recognizes the many different structures and relationships between the NPDES permit-holder and satellite agencies and provides for necessary and appropriate flexibility to comply with the GWDRs.
- 5) Consistency with EPA SSO Rule, SWRCB SSO CMOM and Reporting Requirements and AB285. This effort by the Santa Ana Regional Board to address the issue of SSOs through the development of a permitting and reporting process is on a parallel track with a number of other regulatory efforts. U.S. EPA's SSO regulations, which have been distributed in a draft format and appear to be the basis for a significant portion of the GWDRs, are expected to soon be published for comments. There is also an effort by the SWRCB to develop common state-wide requirements similar to U.S. EPA's draft SSO regulations. Finally, AB285, state legislation regarding reporting of SSOs, was enacted in 2001, and will take effect on January 1, 2002. . All of these efforts focus on SSOs, which . raises questions regarding the likelihood of overlapping and conflicting regulations at the regional, state and federal levels. This underscores the need for the

Mr. Gerard J. Thibeault

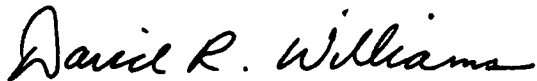
December 14, 2001

Page 5

Regional Board to recognize the need for a phased approach with this permitting effort, and to commit to reopen the permit as needed to ensure consistency with new regulatory requirements as they are adopted.

Given the significant agreement we share with you on the goal to develop a framework to reduce SSOs, and the complexity of these issues, we would welcome the opportunity to meet with you and your staff to explore and develop a process to address the concerns we have identified. Please feel free to contact me at (510) 287-1496 to arrange a meeting or if you have any questions regarding our comments.

Sincerely,



DAVID R. WILLIAMS, Chair

DRW:BHK:dlp