

September 15, 2009 SWRCB Public Meeting at OCSD

SSO Reduction Program Review and Update

A. SSO General Order Applicability and Enrollment

- Keep Public Lateral Sewage Discharges (PLSD) as voluntary reporting and do not require them to be certified.
- Clarify whose jurisdiction a PLSD has to be reported to if an SSO occurs in 2 regions.
- Health Departments require their own notification and reporting for PLSD.
- Clarify whose responsibility is to clean the PLSD collection system (owner or operator)
- Want to report PLSD as mandatory.
 - Who reports the PLSD SSO, the private or the public agency
 - Burden to agency that reports it
 - The Health Department requires PLSD reporting as mandatory.
- Do agencies with a pumping station and less than a mile of collection system still required to enroll in the WDR.
- Provide education and outreach to private plumbers to help prevent SSOs.
- Have the SWRCB research Health Departments mandatory reporting of PLSD SSOs.
- Concerned that PLSD SSOs reported by a public agency will be seen as their responsibility and sued by NGOs.
- Determine the legal authority for reporting PLSD by an agency.
- What incentives/disincentives can SWRCB provide to private property to reduce their SSOs.
 - Code enforcement may cover penalties.
- Beneficial to report PLSD to determine their impact on the environment.
- There should be a definitive answer for reporting PLSD in the WDR.
- PLSD reporting is best handled locally to ensure less water quality impacts.
- Do agencies have sufficient resources to report PLSD.
- Should we focus more on PLSD that are more SSO prone.

B. Notification and Reporting Requirements

- Should there be a minimum gallon requirement for reporting a SSO.
- The CIWQS SSO Database should contain a field to reflect sewage loss to soil and not the waterway.
- Are the extra notification and reporting to the RWQCB (San Francisco) needed.
- Simplify (hide) CIWQS questions that are not required to be answered for a specific SSO.
- Can CIWQS be a one stop notification and reporting. E.g. Cal EMA double notification
- Can Cal EMA be informed that they are required to be called for SSOs less than 1,000 gallons.
 - Reconsider the threshold requirement for notifying Cal EMA
- Change CIWQS reporting from spill based reporting to event based reporting.
- Better define criteria required to report Cal EMA per environmental impact

- Does the Health Department want to be notified of all SSOs or are they only concerned for large SSOs or SSOs that will pose an environmental impact.
- Updating a certified report is difficult due to the time constraints in reporting. Change reporting timeframe or simplify process.
- Has the SWRCB gathered data from Collection System Questionnaire to conclude that the level of performance of an agency is equal to the operator experience.
- The 2 hour notification is hard to comply with for small agencies. Increase notification timeframe to 4 hours.
- Minimum reporting should be discussed.
- Agencies require additional resources for adequate SSO notification and reporting.
- Provide data export functionality to CIWQS.

C. Sewer System Management Plan (SSMP) Requirements

- The existing SSMP requirements are adequate
- Can an agency request the SWRCB to audit their SSMP for compliance
- Should contractors be provided with better education of WDR Order requirements. Needs to be better defined in the Order
- Can the SWRCB/RWQCB provide a contact list of staff that are responsible for the WDR Order, SSMP, reporting.

D. Compliance

- Clarify enforcement actions
 - Oct/Nov an enforcement plan will be published and made available on web
 - Shows details on what SWRCB will do
- When doing an audit, can the SWRCB speak with agencies first before issuing violations
- Can the SWRCB send an email to each agency that shows their non-compliances
- Clarify the agencies that are exempt from the WDR Order.
 - Military exempt
- Clarify on CIWQS who is the enrollee, owner, operator.
- Why is the SWRCB doing compliance audits since most agencies have not completed their SSMP.

E. Order Interpretation

- FOG Section
 - Clarify/expand the FOG section of the SSMP
 - Include a plan and schedule for disposal of FOG
- How much analysis has been done with the data obtained from CIWQS.
- Driver on high volume spills are different from low volume spills (roots)
- CIWQS is not design to figure what's problematic
- Do current regulations require reporting SSOs from broken buried pipes in the ground (broken and seeping into ground)

- An OCSO exfiltration report is available

F. Other Issues

- Mandatory Operator certification should be done
- Certification is not necessary since local systems require hands on training and not paper testing
- Minimum volume requirement to report SSOs
- There would be implementation issues on certifying operators since they have bargaining reps from Unions.
- Are certifications necessary and is there data to prove its decreases SSOs
- Certifications are good and an agency has seen its benefits
- Training for certifications is not difficult until it gets to higher levels of certification such as level 4
- Agencies don't have enough money to implement WDR program and it should be considered when improving the Order
- Can an agency develop their own program to teach and certify their Operators
- Don't penalize good agencies and focus enforcement on problem agencies.

I attended the WDR-SSO review meeting on Tuesday. I've attached notes from my staff member who also attended. The format was a brief introduction by the SWRCB staff followed by guided questions. I incorporated the Tri-TAC comments into responses to individual questions. Overall, I believe that I was able to get our points across through this process. It was more challenging than providing testimony, but it also allowed me to direct comments to specific areas under review. As such I recommend that Andy review the questions and reformat our testimony to fit the questions.

The meeting was very well attended at what I estimated were 60-70 participants. SWRCB staff included Jim Fisher, Russell Norman (Data and SSO User group), Gordon Ennis, and Ken Harris (Section Manager). There were also 3 SWRCB public participation staff members, one of whom led the guided question and answer process. Jim Fisher gave a brief introduction including presenting some of the statistics that we discussed at the Tri-TAC meeting. He asked by a show of hands who was attending.

Nearly everyone was an enrollee. There were about 5 consultants and a couple of RWQCB staff members (including Ken Theisen). Jim proposed an aggressive schedule: Compile and post comments from 2 public meetings; meet with RWQCB staff to discuss their issues; draft new order and post by the end of the year; hold a workshop in January; and Board action "after that." The public participating staff provided each person with colored dots (with the color based on the interest group, so they were also all enrollees) to place on a chart with the areas that they want changed in the process. I didn't get the final tally, so you may want to ask about that at the next meeting.

Ben's comment about shooting ourselves in the foot were prescient in one particular regard, private spill reporting. The comments were all over the map with some options that I'm not sure how to describe. One shining moment came when Ken Thiesen asked the SWRCB to show the legal authority to require public agencies to report private spills. Other than that, the enrollee comments were more unified. I asked for a spill threshold citing our testimony of 10, 50, or 100 gallons. A number of folks requested the 1,000 gallon threshold citing the Water Code. I also asked that they drop or separate reporting of lower lateral spills and explained what has been going in jurisdictions that have responsibility for these assets.

I stressed enrollment, implementation and giving the process time to work. I provided our local Water Quality report and read to them a number of statements showing that the process has been successful. I hope that these comments are helpful. Good luck at the next meeting. Please forward this on to whoever I have missed.

Jim Colston

Summary of Northern California Workshop Held September 29, 2009 on Sanitary Sewer Overflow (SSO) General Waste Discharge Requirements (WDR)

State Water Board Presentation

- Before the meeting started, Andy Morrison noticed that Daniel Cooper (representing Baykeeper) provided Jim Fischer with a CD that contained a PowerPoint presentation that Daniel wanted to present at the workshop. Jim accepted the PowerPoint presentation and told Daniel that it would be fine to make this presentation. Andy Morrison and Monica Oakley conferred about this predicament, since Tri-TAC had previously requested to make a presentation at the workshop and were denied this opportunity. Monica Oakley discussed the predicament with Jim Fischer and Gita Kapahi, and SWB staff denied the request to Baykeeper to show their presentation. (The denial was actually made a little later in the workshop right before they wanted to make the presentation under section D. Compliance.)
- Approximately 100 people attended the workshop.
- State Water Board (SWB) staff sitting at front of room (and introduced) were as follows:
 - Jim Fischer, SSO Reduction Program staff
 - Russell Norman, SSO Reduction Program staff
 - Gordon Innes
 - Ken Harris
 - Sarah Olinger, Staff Counsel
 - Gita Kapahi – Director of Public Participation for SWB and facilitator for September 29 meeting
- SWB staff indicated that they have an internal draft compliance plan, that has been circulated to Regional Water Boards for review (that review period is now over). SWB staff is now compiling the RWB comments on the draft compliance plan, and it is expected to be made available in November.
- SWB staff indicated that the slide show used for the workshop would be available on the website within a week after the September 29 workshop.
- The SWB has received four comment letters so far.
- The schedule for the WDR process was indicated as follows:
 - Comments from workshop will be posted on website
 - SWB staff will meet with RWBs to solicit input and draft new Order
 - SWB circulates Tentative Order (12/09)
 - SWB hold public workshop (early 2010)
 - Final adoption (mid-2010)

General Introductory Questions and Comments

- Chris Sproul, Environmental Advocates, representing California Coastkeeper Alliance – Have you selected the first 25 agencies that will get enforcement actions [number was indicated on a slide]? If not, how will they be selected? Will they be surprised that they will be receiving enforcement

action? -- Jim Fischer answered that the SWB will not indicate which agencies will receive enforcement actions. SWB staff will do both scheduled and random actions. Jim also indicated that showing up unannounced would not be productive use of people's time.

- Monica Oakley, Oakley Water Strategies – What is the driving force for making changes to the SSO WDR at this time? – Jim Fischer indicated that it was “administrative changes”. When questioned further, he indicated the following list:
 - The MRP has inconsistencies with the Water Code, but declined to say what those were.
 - Typos
 - Compliance and enforcement provisions need to be made more fair statewide (have received feedback to this extent)

[Editor's note – This would be a good topic of discussion at a face to face meeting with Jim and other SWB staff.]

- POTW – Will comments be posted? – Jim – yes.
- POTW – Can we also comment on CIWQS in addition to the WDR? -- Jim – yes.

A. SSO General Order Applicability and Enrollment (comments)

- Chris Sproul –
 - CSOs are already included in the order
 - Private laterals are a big driver of problems – a source of I/I, root intrusion, debris loading. Can't ignore private laterals.
 - Need to include privately operated sewer systems in WDR
 - No, should not have exemption for seasonal facilities like campgrounds.
- Ken Greenberg, USEPA –
 - WDR already requires CSO systems to report overflows. The State Water Board is just not enforcing.
 - Need to address private laterals.
 - WDR already requires backups into private property to be reported, this element should be strengthened because it is a serious public health risk.
- POTW – need to streamline reporting of private laterals to CIWQS because don't have all the information being requested, such as pipe size, etc. (because we don't own or maintain the property)
- Arleen Navarret, San Francisco PUC – CSOs should not be covered by the WDR because they are already covered under the federal CSO Policy, including notification.
- Andy Morrison, Union Sanitary District –
 - Most water is coming from very few spills. Most spills are very small. We need to focus on what's important.
 - It's not a level playing field on compliance, and so we support your enforcement on participation in the program.

- A small threshold for reporting, such as a cutoff of 10 or 50 gallons, is important because spills smaller than that are not useful information.
- Terrie Mitchell, Sac Regional –
 - We (Sac Regional) do not believe there is a need to open the WDR at this time.
 - It would be better to have more guidance to help agencies carry out the existing requirements.
 - We support a voluntary program for reporting of private lateral spills.
- Gordon Innes (SWB staff) – When we adopted the WDR, we made a commitment to relook at it in three years. When we got questions about the WDR, with people saying it was confusing, we told those people that we would be looking at it again at the three year mark.
- Bill Brennan, Central San – We don't have jurisdiction over private laterals. We don't have the legal authority for them. We prefer that reporting of private lateral SSOs be voluntary. We also don't want our name associated with something we have no control over.
- Cynthia Royer, North San Mateo County Sanitation District – There are legal considerations for public agencies getting involved in private laterals. Private owners need to take responsibility for private SSOs, not public agencies.
- Patrick Hassey, Holmes International – The concept of taking care of private laterals need to be advertised statewide. Newspapers don't interpret the problem correctly. If agencies report private lateral SSOs, they get penalized, and it doesn't address the things that public agencies are held responsible for in the WDR. I suggest going through the legislature to deal with the private sewer lateral issue.
- South SF – Private laterals include such entities as Stanford University, and dealing with these systems would tax existing staff. It may be more appropriate to call the county health department for those situations.
- Chris Sproul –
 - Need to report private lateral spills because we need to go to the “root” cause (pun intended), a high percentage of these spills are due to roots.
 - If roots are in the lateral, they will also grow into the main line.
 - If the City ignores laterals, they won't have complete control over the main lines.
 - So cities should report private lateral SSOs. This way, SSO regulators can also identify how well the SSMP is working.
 - The CSO polity was not issued by the State of California, so it doesn't require reporting of CSOs into public streets. Should be fair.
- Monterey Regional Water Pollution Control Agency (MRWPCA) –
 - If the maintenance program is good, we can track where root problems are, and can call county health department for private lateral SSOs.
 - Does CIWQS send a notification for revising the Questionnaire? -- Cynthia Royer – if your Questionnaire is outdated, you can't report anything until you update the Questionnaire. – Jim Fischer – we are also setting up a reminder ahead of the deadline for revising the Questionnaire.

- Andy Morrison – We want a different login for private SSOs, not associated with the agency name.

B. Notification and Reporting Requirements

- Ken Greenberg –
 - Would like CIWQS to have the capability to easily sort SSO data by spill volume, and also sorted by public laterals (separate them out).
 - Would like to see satellite agencies grouped with their downstream treatment plants. We want them to be working together on reducing SSOs.
 - Would like special requirements for SSOs upstream of drinking water intakes, including an enhanced mapping tool to show where the drinking water intakes are.
- Chris Sproul
 - Should also show location of reservoirs, in addition to drinking water intakes.
 - There is currently ambiguity in what constitutes surface water, drainage channel; these things need to be better defined. Surface water should include the ocean, tidal water, wetlands, and artificial channels
 - Should also have the name of the waterbody reported
 - The mapping tool should show waterbodies, public schools, beaches, waters used for contact recreation of all types, including kayaking
 - Need more standardization on how different agencies report spill volumes.
- Andy Morrison
 - Not all spills are equal. There needs to be a di minimus, say 10 or 50 gallons. We need to prioritize our scarce resources.
 - Maybe we need another category for the small ones.
 - There are a lot of really small spills.
 - We're still responding to spills within 2 hours, but amount spilled will change after that, because we are making a wild guess, especially if it happened on a weekend.
- POTW – 2-hour reporting of small spills is dumb.
- Cynthia Royer –
 - 2-hour reporting is a best guess.
 - We understand the need for 2-hour reporting for big spills, but OES gets angry when we call them for small spills. We need to revisit this requirement.
- South SF – The number of SSOs is coming down, as Jim presented. We're implementing the requirements that have been set. On some level you have to trust us to do the right thing after the direction is given.
- Jim Fischer asked what a good alternative to 2-hour reporting would be. The consensus of the discharger community was "same day".
- Chris Sproul –
 - Disagree with the concept of a minimum spill volume to be reported. Agencies are saying that it's difficult to estimate volume, so that's a reason all the spills should be reported – if there's uncertainty in the estimate.

- The City of SF has backed up sewage into my house two times.
- Small spills are good for determining larger spills down the road.
- It's okay for reporting of small spills from small systems to be greater than 2 hours.
- In Honolulu there was a force main rupture, with 10's of millions of gallons of sewage onto Waikiki Beach. Should they have had 4 hours to report that spill? No.
- Andy Morrison –
 - Agree with Chris Sproul (!) Some spills are very serious. Large spills coming from pump stations and force mains are very different problems, and very different fixes, than small spills caused by roots and grease.
 - Give the SSO WDR time to work. Results are not immediate.

C. SSMP Requirements

- Andy Morrison –
 - Increasing system capacity costs money and takes time to get approvals.
 - Some agencies are just finishing their SSMPs, give the SSO WDR a chance to work.
- Warren Telefson, CVCWA –
 - There could be a training document for spill estimating, maybe developed through the CIWQS User Group
 - Education is better than regulation.
- MJ Oliveri, City of Santa Rosa –
 - CWEA worked with SWB to do education.
 - We need more training generally.
 - There were two different types of people in the CWEA classes: (1) people who were writing the SSMPs, and (2) collection system operations crew. We need different classes for different groups.
- Patrick Hassey – We need supporting documents to complement the WDR on the communications program.
- MRWPCA – We need more education. Templates would be a good thing to have, for agencies who want to try to implement programs without outside assistance.
- Ken Greenberg –
 - WDR is a huge success. In meeting with other states, it has become clear that no other state in the US has such a comprehensive program as California, including public access to information.
 - I told the Obama administration that California would be a good model for a national CMOM rule.
 - I don't know the timing for changes to SSMPs by SWB, but need the following
 - Have requirements for satellite agencies to work with the treatment plants.
 - Create opportunities for satellites to work together and share resources with neighbors

- Force main spills are large spills and there is often no redundancy. The SSMP should require a contingency plan for force mains.
- Chris Sproul –
 - Lots about SSO WDR is like CMOM, this is good.
 - Should be an NPDES program, since we have a large database that shows there are lots of spills to waters of the US
 - We could have the Notice of Intent (NOI) be set up so agencies that have had SSOs check the box that they are seeking coverage under an NPDES permit and if there have not been any spills, the agency would seek coverage under a WDR.
- Andy Morrison – There are lots of elements in the SSMPs. If you make changes, it will be confusing to people.
- Monica Oakley – In Region 2 we had a comprehensive program a couple of years in advance of the State program. There was a lot of confusion with the changed provisions in the State program. We are still getting questions about it. Don't make changes unless you want to double your workload.
- Chris Sproul –
 - SSMP elements could be improved.
 - There needs to be a mandatory program for dealing with private sewer laterals (such as inspection and repair upon property sale)
 - We need a specific component for force mains, spill contingency plan, redundancy.
 - The existing spill response requirements are too vague.
 - The requirements for rehabilitation/replacement are very vague, need more specifics. Need to anticipate the useful life of facilities/pipelines and make plans for replacement at the end of the useful life.
 - Design and performance standards – need to specify the components that must be included
 - Capacity assurance program should have specific requirements – installing flow meters, rainfall gauges, modeling, critical flow areas where SSOs are expected, development of a design storm, which could be a 5-year, 24-hour storm event for example
- MJ Oliveri – Approach the SSMP on a tiered level. Different sized agencies could have a different amount of requirements. Small agencies don't same budget or staff as large agencies.
- Chris Sproul – The existing WDR does have flexibility. It says that each element has to be evaluated for whether it applies and if not, the agency doesn't have to do it.

D. Compliance

- Andy Morrison – One-third of agencies are not played ball (not participating in program). This is the most important thing to focus on.
- Patrick Hassey – Need to enforce on agencies getting SSOs in same location again and again, especially if large spills. Need to prioritize enforcement.

- Chris Sproul –
 - SSO problem statewide very serious. Many millions of SSOs since SSO WDR adopted.
 - SSO problem is overwhelming
 - Solution is broader enforcement playing field.
 - By issuing permit as WDR, shut out USEPA and the public from being involved in enforcement
 - Fines are doing next to nothing. It's a pay-to-pollute situation. We should start with Cease and Desist Orders (CDOs) to actually address specific issues. Only then issue penalties if needed.
 - Need benchmarks for what good performance is, so cities have something to shoot for.

- Ken Greenberg –
 - Enforcement is important.
 - Number one priority should be to complete enrollment and complete reporting of spills
 - USEPA has no authority to enforce on reporting of SSOs
 - Often times we need stronger enforcement action like a CDO or lawsuit. City of San Mateo and its satellites is a good example of what needs to happen.

- Daniel Cooper, representing Baykeeper –
 - SSOs are a huge problem.
 - Since the state is having a fiscal crisis, there is no funding for enforcement.
 - A very significant way to improve this situation would be increased cooperation with citizen enforcement.
 - Given limited resources, the resources need to be leveraged, and citizen suits are a way to do that.
 - WDR should be an NPDES permit, to facilitate citizen suits.
 - All SSOs should be prohibited, regardless of where it went, including an SSO that was recovered, because it is an indicator of problems in the system.
 - USEPA, as part of its enforcement against LA has indicated that 4 SSOs per 100 miles per year is average performance, and 0-2 is excellent performance.
 - There is overwhelming evidence that we have huge volumes of SSOs and so we need an NPDES permit.
 - The Clean Water Act requires this to be an NPDES permit. The WDR is illegal.
 - I guarantee that if we made this an NPDES permit the level of compliance would go up precipitously.

- MRWPCA – Technically there should not be an NPDES permit because the goal is to eliminate discharges.

- Daniel Cooper – USEPA issues NPDES permits prohibiting discharges all the time.

- Gary DeJesus, City of Modesto –
 - We don't need an NPDES permit. We have enough requirements.
 - Need to identify what improvements need to be made, and let us do the work, instead of wasting time in third party lawsuits

- Ken Greenberg –
 - There are several NPDES permits for collection systems already.

- We also have collection system requirements in treatment plant permits, based on the encouragement of USEPA.

E. Interpretation

- Chris Sproul – Surface waters are not properly defined. Provision 13.6.f, waters of the US with respect to response procedures. Waters of the US is what Justice Kennedy said. You're asking 1,000 operators to interpret Kennedy's definition. Instead of waters of the US, just say waters, and further define what waters are.
- Gary DeJesus – A clarification between events vs. spills would be good. – Russell Norman indicated that the CIWQS Work Group is working on this clarification.
- Daniel Cooper – There is a prohibition to waters of the US, but it's difficult to determine if a discharge is to waters of the US from how reporting is happening.

F. Other Issues

- MRWPCA – Collection system operator certification process would be excellent addition to WDR.
- Patrick Hassey – Collection system operator certification would be good.
- Andy Morrison – We don't see a difference in the CIWQS spill data until at least 60% of collection system staff have certification. Three also needs to be a mix at the different levels.
- Frank _____, City of Eureka – There are a lot of Hispanic and other nationality workers. If the State considers mandatory certification, the State has to have other languages included, because of the diverse workforce.
- MJ Oliveri – Need grant or insurance program for private sewer laterals.
- Michelle Moustakas – I was involved in the drinking water program for 26 years, at the national level, so dealt with all these issues already. It's difficult to implement but you can learn a lot from the programs that have come before. Certification does make a difference in how the systems are operated and maintained.
- Chris Sproul –
 - WDR should be modified to require reporting of spills from treatment plants.
 - It's a good idea to have a spill data review committee.
 - An area not looked at enough is the private sewer lateral contribution to SSOs in main lines.
- Terrie Mitchell –
 - Beneficial to have data review committee because you need to look at the resources it takes to enter the data.
 - Encourage stakeholder process before administrative draft Order.

- Chris Sproul – Publicize what San Francisco has done with respect to public outreach, it's a very good program. Agencies should look to San Francisco as a model.
- Air Force representative – Reconsider public comment timeline. First do informal process, then do formal process.
- MJ Oliveri – Approach to enforcement should include a needs/training assessment. You need to identify why the SSMP isn't done to see what the need is – maybe it's training. Should also look at online training.
- Patrick Hassey – Thank you for having this process.