



January 26, 2015

John Madigan
Water Resources Control Engineer
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Via email: JMadigan@waterboards.ca.gov

Subject: Comment Letter - Fairfield-Suisun Sewer District Tentative Order for NPDES Permit

Dear Mr. Madigan:

The Bay Area Clean Water Agencies (BACWA) appreciates the opportunity to comment on the San Francisco Bay Regional Water Quality Control Board's (Regional Water Board's) Tentative Order for reissuance of the NPDES Permit for Fairfield-Suisun Sewer District (FSSD). BACWA is a joint powers agency whose members own and operate publicly-owned treatment works (POTWs) and sanitary sewer systems that collectively provide wastewater services to over 6.5 million people in the nine-county San Francisco Bay Area. BACWA members are public agencies, governed by elected officials and managed by professionals to protect the environment and public health.

BACWA acknowledges the extensive effort that Regional Water Board staff has undertaken to prepare this tentative permit. However, BACWA has a concern with one element of the tentative order. Table F-4, "SSO Rates," and associated language in the Tentative Order's Fact Sheet (Section II.D., Page F-7) contain information that is inappropriate for an NPDES Permit. For the reasons outlined below, this language should be removed from this Tentative Order, as well as the Regional Water Board's template for NPDES permits for POTWs.

Regulatory Authority. The State Water Resources Control Board's General Waste Discharge Requirements (WDR) for sanitary sewer systems (Order No. 2006-0003-DWQ) is the main regulatory mechanism for sanitary sewer systems. The General WDR establishes specific requirements for collections systems statewide, including FSSD's collection system and those of many other BACWA members. The General WDR is appropriately referenced in the Provisions section of the tentative order (Page 13), and additional information is not needed – especially since the State Water Board already makes SSO information publicly available through its *Interactive SSO Report* website¹. Including Table F-

¹ http://www.waterboards.ca.gov/water_issues/programs/ciwqs/chc_sso.shtml

4 and the discussion of SSOs in this permit's Fact Sheet is confusing and potentially contradictory with the General WDR.

Statements in the Fact Sheet are misleading without context. If SSO rates are included in the fact sheet, they should be accompanied by language from the State Water Board or the Regional Water Board. This explanatory language should either be inserted into the Fact Sheet, or included by reference. Examples are included below.

- a) The Regional Water Board's *2014 SSO Status Report*² states, "The number of SSOs per 100 miles of pipe per year metric is used to compare the relative performance of sanitary sewer systems. This metric is a common indicator of overall sanitary sewer system performance and can provide insight on each agency's management, operations, and maintenance practices. A well-managed and maintained system with adequate capacity tends to have a lower spill rate than a poorly managed system or a system with inadequate capacity."
- b) The State Water Board's *Enrollee's Guide to the SSO Database*³ defines the metric "Total # of SSOs per 100 miles of Sewer" as "Broad metric used to compare the relative performance of Enrollees and their sanitary sewer systems. This metric expresses the number of SSOs, for which the reporting Enrollee is responsible, for every 100 miles of pipe or sewer lines in an Enrollee's sanitary sewer system. Due to the large variation in facility specific characteristics, this metric should only be viewed as a rough comparison of the operation and maintenance performance of Enrollees and their sanitary sewer systems."

Despite these definitions, including the SSO rates in this Permit implies a standard exists where one does not. The State Water Board acknowledges this metric is to be used only for rough comparison.

SSOs and SSO Rates are not representative of Permit violations. The SSO rates in Table F-4 are calculated from the total number of SSOs, regardless of whether the SSOs reached surface waters. SSOs that do not reach surface waters are explicitly outside the scope of NPDES permits. Although the text on page F-7 states that FSSD "would have violated Prohibition III.D" of its NPDES permit if SSOs had reached waters of the U.S., the information provided in Table F-4 provides absolutely no information about whether SSOs did, or did not, reach surface waters. Neither the total number of SSOs, nor the SSO rate per 100 miles of sewer, correlates with the number of SSOs that reach surface waters, the volume reaching surface waters, the impacts to surface water quality, or the existence of a Permit violation.

Comparisons are not appropriate. The comparison between a single discharger's SSO rates and the median data for other systems in Solano County and the San Francisco Bay Region is inappropriate.

² *Sanitary Sewer Improvement Program – Status Report*. San Francisco Bay Regional Water Quality Control Board. July 2014. Accessed January 2015. Available at

http://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/SSO_Reduction.shtml

³ *Enrollee's Guide to the SSO Database*. State Water Resources Control Board, Sanitary Sewer Overflow Reduction Program. August 2013. Accessed January 2015. Available at

http://www.waterboards.ca.gov/water_issues/programs/sso/docs/discharger_workbook.pdf

Collection system operation and maintenance are influenced by the topography, climate, system age, and population density, and the State Water Board does not suggest any categories such as system size or geographical boundary for a “rough comparison of operation and maintenance performance.”

Given the lack of any framework for fairly categorizing collection systems, comparisons between collection systems are not an appropriate performance metric, and should not be included in the Fact Sheet. The General WDR is intended to provide a framework for enrollees to prevent, reduce, and mitigate the impact of SSOs within their own service area -- not to out-compete their neighbors. After all, even if SSO rates were to drop dramatically throughout the region, half of the collection systems would continue to perform below the median.

BACWA recognizes that the language in Table F-4 of the Fact Sheet has already been included in other NPDES permits, such as those for the San José-Santa Clara Regional Wastewater Facility (Order No. R2-2014-0034) and the Sunnyvale Water Pollution Control Plant (Order No. R2-2014-0035). BACWA urges the Regional Water Board to reconsider including this information in future NPDES Permits. This information is rightly in the public domain, but should be presented in context, where it can be explained in greater detail. Furthermore, many enrollees in the General WDR do not hold NPDES permits (for example, cities that own and operate their own collection systems, but not treatment facilities), and the current approach unfairly singles out NPDES permit-holders.

The requested changes are shown below.

(Page F-7)

D. Compliance Summary

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~~To the extent that some sanitary sewer overflows (SSOs) reached waters of the U.S., the Discharger would have violated Prohibition III.D. The table below shows the Discharger’s SSO rates (total SSOs per 100 miles of collection system for each of the past three years) and other information along with those for the county and region:~~

Table F-4. SSO Rates (SSOs/100 miles of sewer)
(based on CIWQS data analysis completed in January 2014)

	Length	Average Age	2011	2012	2013
Fairfield Suisun Sewer District	84 miles	34 years	0	0	2.4
Solano County median of 2 medium systems (10 to 99 miles)	80 miles	32 years	0.7	1.3	3.2
San Francisco Bay median of 49 medium systems (10 to 99 miles)	38 miles	45 years	5.9	9.3	9.1
San Francisco Bay Region median of all 132 systems	41 miles	45 years	4.0	4.6	4.5

BACWA appreciates the opportunity to comment on this Tentative Order and thanks you for considering our concerns.

Respectfully Submitted,

David R. Williams

David R. Williams
Executive Director
Bay Area Clean Water Agencies

Cc: BACWA Executive Board