



March 28, 2018

Sent via email to: [Diana.Messina@waterboards.ca.gov](mailto:Diana.Messina@waterboards.ca.gov) and [Gil.Vazquez@waterboards.ca.gov](mailto:Gil.Vazquez@waterboards.ca.gov)

State Water Resources Control Board  
1001 I Street  
Sacramento, CA 95814

**RE: Preliminary Suggestions of CASA, BACWA and SCAP on the Forthcoming Revisions to the SSS WDR**

Dear Ms. Messina and Mr. Vazquez:

The California Association of Sanitation Agencies (CASA), Bay Area Clean Water Agencies (BACWA), and the Southern California Alliance of Publicly Owned Treatment Works (SCAP) (collectively referred to herein as “Associations”) appreciate the opportunity to comment on the forthcoming revisions to the Sanitary Sewer System Waste Discharge Requirements (SSS WDR).

For 60 years, CASA has been the leading voice for public wastewater agencies on regulatory, legislative and legal issues. CASA is an association of local agencies, engaged in advancing the recycling of wastewater into usable water, generation of renewable energy, and other valuable resources. Through these efforts CASA’s members help create a clean and sustainable environment for Californians. BACWA is a joint powers agency whose members own and operate publicly owned treatment works (POTWs) and sanitary sewer systems that collectively provide sanitary services to over 7.1 million people in the nine-county San Francisco Bay (SF Bay) Area. SCAP represents over 80 public agencies providing water and wastewater service for 19 million people in 7 counties of southern California.

We appreciate State Water Board staff’s outreach activities over the last several months, including the recent listening sessions as part of multiple CWEA workshops and attending the CASA Winter Conference to discuss the SSS WDR. We also appreciate the opportunity to weigh in on potential updates in advance of language being fully developed or released. We hope this early stakeholder engagement and participation will help produce a better end product that has a significant amount of buy-in from the regulated community.

Below are a number of issues and concepts that have been raised in recent months, and the Associations’ collective thoughts and suggestions as it relates to their inclusion in the SSS WDR.

**Efficient and Effective Permitting**

We appreciate and support the State Water Board’s efforts to make the newly reissued SSS WDR more efficient and effective while cutting unnecessary regulatory costs to the municipalities governed under the order. CASA is actively examining what requirements (or frequency of requirements) in the current WDRs do not provide value to sanitary sewer system management, and we should have more comprehensive thoughts on that issue as the stakeholder process moves forward. In general, we support the increased use of templates, examples, and models

for various reports and requirements. The increased use of templates could be beneficial to many public collection system agencies, and SSMP-focused workshops and the Data Review Group CIWQS training efforts can be particularly helpful for smaller agencies. In an April 2017 letter to State Water Board staff, CASA suggested that the Water Board reexamine and clarify requirements related to the SSMP change log, the use of the pre-inspection questionnaire, and the SSO recordkeeping checklist among others. We appreciate this is being considered as part of the update, and we look forward to working with Water Board staff on modifications that will improve the clarity, efficiency and effectiveness of these regulations.

One additional item that has been raised in this context is the concept that the SSS WDR should be used to garner increased local elected official attention to collection system issues, or as a motivator to increase collection system budgets. The Associations believe that the SSS WDR is not the appropriate tool for this purpose. Additional requirements placed on some systems, while in unique circumstances may have been a catalyst for additional funding and improved system outcomes, are not a strategy that we would generally support as part of a statewide order applicable to all systems. Increasing the burdens on all permittees so that a few underperforming agencies have justification to get the financial resources to improve system outcomes is not an efficient use of the SSS WDR or local agency resources. However, we welcome the opportunity to work with State Water Board staff to find other ways to assist underperforming systems as well as small and/or disadvantaged communities.

### **De Minimus Threshold**

There has been a significant amount of discussion regarding the establishment of a “de minimus” spill reporting threshold and either reducing or eliminating some reporting requirements for overflows that fall below that threshold. The establishment of a de minimus gallon threshold (and/or set of criteria) below which reporting is not required (or is required far less frequently) is probably the single greatest efficiency that could be built into a revised SSS WDR.

Our initial analysis of the CIWQS system flat files shows that roughly 35% of all reported overflows are less than 10 gallons in size, and approximately 50% of all reported overflows are less than 50 gallons in size. Below is a table summary of data pulled from the CIWQS flat file. A significant number of these overflows never reach waters, and many are fully recovered by the agency. In addition, Category 3 SSOs (essentially the “catch all” category under the existing SSS WDR and MRP) represent more than 80% of all overflows reported. As State Water Board staff is aware, reporting each of these smaller overflows takes a significant amount of time and energy, and very often that work is being done when the underlying incident has had no impact on public health or the environment.

<b><u>Volume Range</u></b>	<b><u>SSOs</u></b>	<b><u>Percentages</u></b>	<b><u>Summary</u></b>
0 to 10	18,752	36.5%	50% of All Reported Overflows Are Less than 50 Gallons
11 to 49	7,937	15.5%	
50 to 99	5,603	10.9%	90% of All Reported Overflows are Less Than 1000 Gallons
100 to 999	13,915	27.1%	
>1000	5,163	10.1%	
Totals	51,370	100.0%	

<b><u>Volume Range</u></b>	<b><u>SSOs</u></b>	<b><u>Volumes</u></b>	<b><u>Percent (Volume)</u></b>	<b><u>Summary</u></b>
0 to 10	18,752	83,281	0.03%	Only 0.11% of All Volume Is From Overflows of Less Than 50 Gallons
11 to 49	7,937	247,279	0.08%	
50 to 99	5,603	348,896	0.12%	
100 to 999	13,915	4,689,647	1.55%	98% of All Volume Is From Category 1 Overflows
>1000	5,163	296,220,804	98.22%	
Totals	51,370	301,589,907	100.00%	

We would appreciate the opportunity to work with State Water Board staff to refine this analysis, and if the results are substantially similar to our initial examination of spill size and frequency, the State Water Board should consider setting the de minimus threshold at this 50 gallon level. These overflows of 50 gallon or less represent approximately one tenth of one percent of spill volume statewide, yet constitute 50% of the reporting required under the SSS WDR. Through further stakeholder efforts we can refine what it means for a spill to be “de minimus” and what the best methods for modifying the attendant reporting obligations might be. We strongly recommend that the large SSO and collection system data now available in CIWQS be used to drive modifications to the SSS WDR reporting requirements.

### **Regulation of Private Systems**

State Water Board staff have indicated they could consider adding the regulation of larger private collection systems to the reissued WDRs. Examples given include private homeowner associations, industrial parks, or other similarly situated facilities. Our assumption is that “private systems” is limited to these types of larger community facilities for purposes of this discussion. Because the Associations generally represent public agency collection systems and POTWs, we do not have a strong recommendation as to whether certain categories of private collection systems should be incorporated into the SSS WDR, nor the types of requirements that should be placed on those facilities if they are incorporated.

However, if the State Water Board pursues the inclusion of these types of private systems, we want to ensure that public agencies are not burdened with additional reporting or enforcement responsibilities as it relates to those newly included systems. Any new regulation must require the compliance and reporting be the responsibility of the homeowners association, large industrial complex or the underlying property owner. In addition, these privately owned systems should not be considered “satellites” of existing public collection systems, and the attendant burden of inspection or regulation of those private facilities should not fall on the local sanitation agency where those facilities are geographically located. If identifying the differences between these private facilities and public collection systems proves difficult, the State Water Board may want to consider a separate and distinct order to govern these types of facilities, though the Associations take no position on that particular approach.

### **Climate Change Considerations**

We understand that the State Water Board feels compelled to address climate change in some manner through the SSS WDR, consistent with the Climate Change Resolution adopted in Order No. 2017-0012. CASA and the other Associations are actively engaged on issues related to climate change mitigation and adaptation, and closely tracking how climate change is incorporated into individual permits and WDRs at the state and regional level.

In the context of the SSS WDR, the primary question seems to be how (or whether) the SSMPs or audits required under the SSS WDR should incorporate system, operation, or maintenance modifications necessary to address recent or future impacts of climate change. Some examples of impacts from climate change provided include lower flows (which can lead to solids build-up, root intrusions, increased odors, etc.), increased likelihood of overflows due to higher intensity rain events, and sea level rise in coastal communities.

Several agencies have observed secondary effects of climate change already (for example, decreased flows and attendant collection system problems as a result of water conservation and drought, which itself may be a result of climate change). We anticipate if storm events become more severe in the future as a result of climate change, this too would impact collection systems. The Associations would be happy to provide additional information from various research efforts in this area that we have participated in or that are currently ongoing. However, one thing we have learned is that each circumstance is very different, and a broad or universal requirement for climate change analysis is not likely to be productive or effective. One suggestion that State Water Board staff could explore is for climate change to be examined on an agency specific basis as part of the System Evaluation and Capacity Assurance Plan (SECAP) already in place under the SSMP (Item #8). An expanded discussion of how systems operate given changing climactic conditions within this existing mechanism would likely be appropriate and could be sufficiently flexible and tailored to a local agency's circumstances. Another option would be a simple requirement for the issue to be addressed more generally in a sewer system master plan or similar document.

However, the Associations would be concerned with any requirement pertaining to climate change that is too prescriptive. Since each agency will have unique issues dependent upon its location, size, and a variety of other factors, flexibility in level of detail for analysis is crucial. There should also be some consideration of analyses and documents that have already been developed or are being developed by agencies covered under the SSS WDR. Many agencies have developed or are developing responses to climate change as part of other regulatory requirements or as a proactive measure, and we would not want any efforts under the SSS WDR to be duplicative or additive to what an agency has already developed in regard to climate change. This is particularly relevant as it relates to issues that are far broader than collection systems (e.g. sea level rise) that are often being examined on a regional or watershed basis.

We look forward to working with Water Board staff to craft a flexible solution that adequately incorporates climate change considerations into the SSS WDR but does not duplicate efforts already underway.

### **Audit Schedule**

The Associations generally support proposed changes to the audit requirement that would move the audit to a specified period of time prior to the renewal of the SSMP. This is one of the items that CASA raised in its letter from April of 2017, where we highlighted that the existing language results in a year six audit for Enrollees coming just one year after the last SSMP re-adoption, an inefficient use of resources. In presentations it has been suggested that the audit instead occur 6 months prior to SSMP renewal, though some agencies are concerned this is an insufficient amount of time to perform a complete audit and suggest one year prior to SSMP renewal would be more appropriate. Because we represent a diverse array of agency sizes and capabilities, some of these options may be better for some than others, but in general we support a reduced audit requirement that better aligns with SSMP governing board renewal and adoption. The specific timing of this is something we can work through as stakeholder outreach occurs. We are also comfortable with the suggestion that the final audit report be certified by the agency's legally responsible official (LRO). We would also ask that the State develop general guidelines as it relates to the final audit report as there clearly is a significant diversity in opinion among the hundreds of agencies across the State as to what constitutes an acceptable final audit report.

### **Better QA/QC Protocol for CIWQS Data**

The accuracy and reliability of data in California Integrated Water Quality System (CIWQS) has been a significant issue for the wastewater community in recent years. We appreciate that the Data Review Group (DRG) has been reconstituted and has been meeting regularly for several months to resolve some of these issues for the future. Many Association members are participating in that group and providing feedback on a regular basis. We look forward to identifying additional areas for improvements to the CIWQS system going forward as part of the SSS WDR. We also believe that going forward the significant data in the SSO related files should be used to inform regulatory needs.

### **Certification Issues**

There has been some discussion surrounding the need for certification of collection system staff covered under the SSS WDR. Certification issues are typically handled through our fellow association, the California Water Environment Association (CWEA), though to the extent additional certification requirements may make it difficult to hire or retain adequate personnel to operate and maintain collection systems, we would have some concern about how such requirements are structured. The Associations look forward to hearing what State Water Board staff was considering in this regard and we can then formulate an appropriate position through the stakeholder process. We do recommend that if the State decides to move forward with collection system certification that this be implemented in a similar fashion to the treatment plant certification program in the past (i.e. a phased in program).

### **Streamlining Reporting**

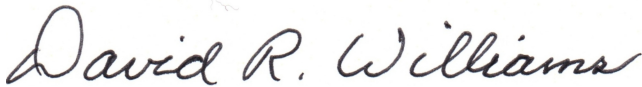
The Associations support streamlined spill reporting and notification, and look forward to working with State Water Board staff on various ways to make the reporting process more efficient and effective. One suggestion that has been raised is to modify the criteria for a "Category 1" spill that is fully recovered. Currently any spill that reaches waters is considered Category 1, regardless of size or whether the spill was entirely recovered. For example, if a small spill were to go to a concrete drainage channel, asphaltic concrete lined channel, culvert or pipeline that would eventually make its way to waters, that spill would automatically be categorized as "Category 1", even if the full amount of the spill was completely recovered and cleaned up before ever actually reaching waters or having any environmental impact. Requiring the heightened reporting requirements associated with Category 1 for these fully recovered overflows is not an efficient use of local agency resources. As noted above, even reporting very small overflows that have no impact on human health or the environment can result in significant staff time and energy. Modifying this requirement would be a straightforward way to streamline reporting without any impact on public health or the environment. We will also work to develop additional specific suggestions on streamlining reporting, and perhaps integrate them into the discussion of a "de minimus" threshold as described above.

Thank you for your consideration of our comments. If you have any follow up questions or comments please feel free to reach out to me directly at [alink@casaweb.org](mailto:alink@casaweb.org) or (916) 446-0388.

Sincerely,



Adam D. Link  
Director of Government Affairs, CASA



Dave Williams, BACWA



Steve Jepsen, SCAP

cc: Jim Fischer, Office of Enforcement