

## WDR & SSMP Compliance Failures: Causes & Consequences

2016 Sewer Summit  
Track 4 Regulatory Compliance  
Session I  
October 20, 2016  
Union City, CA

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## Causey Collection System Background

<ul style="list-style-type: none"> <li>! General Manager</li> <li>! SSMP Gap Analysis/Revisions</li> <li>! State Inspections Attended</li> <li>! Consent Decree Negotiations</li> <li>! Consolidations/Withdrawals</li> <li>! CASA Collections Workgroup</li> <li>! SSMP Development Guide Revisions</li> <li>! Collection System Trainings</li> <li>! Collection System Staffing Studies</li> <li>! Regulation commenter/testifier</li> <li>! Expert Witness</li> <li>! CCCSD Board member</li> </ul>	<ul style="list-style-type: none"> <li>4 special districts – 2 yrs</li> <li>22 agencies &amp; 17 SSMPs</li> <li>3 each</li> <li>EBMUD/Satellites</li> <li>8 agencies</li> <li>Chair</li> <li>Chair</li> <li>20 agencies</li> <li>6 each</li> <li>WDR and MRP</li> <li>3 Cleaner cases</li> <li>4 years</li> </ul>
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## What We Hope to Do Today?

- ! Convey increasing concerns for enforcement
- ! Briefly discuss risks and liabilities from lack of compliance
- ! Identify areas of weakness in SSMP documents
- ! Identify leading indicators for enforcement
- ! Identify new emerging compliance issues
- ! Provide compliance references
- ! Make recommendations
- ! Present conclusions and take questions

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### Why Worry About Compliance?

! Victor Valley	\$6,300,000
! City of Compton	\$ 268,365
! South San Luis Obispo CSD	\$1,109,813
! San Gabriel	\$ 67,106
! City of Jackson	+\$1,00,000
! Los Angeles CD	\$2,00,000
! EBMUD/7 Satellites CD	\$1,500,000,000
! Riverwatch (25+ and counting)	\$35-50,000 each
! Costa Mesa	\$851,000
! Santa Cruz	\$276,212

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### Why Worry About Compliance?

! Victor Valley	\$6,300,000
! City of Compton	\$268,365
! Sonoma Valley Sanitation District	Cease/Desist
! San Gabriel	\$67,106
! City of Jackson	\$1,000,000+?
! Los Angeles CD	\$2,000,000
! EBMUD/7 Satellites CD	\$1,500,000,000
! Riverwatch (25+ & counting)	\$35-50,000 each
! Costa Mesa	\$851,000
! Santa Cruz	\$276,212

Because when enforcement starts it is too late  
How much staff time can the agency afford to spend in enforcement?

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NEWS

## EPA investigating Novato Sanitary District

By The Associated Press | 6:15 p.m. May 15, 2009

NOVATO, CALIF. — Federal agents are investigating a Marin County sewage disposal district for possible criminal activity related to environmental issues.

The U.S. Environmental Protection Agency served a federal search warrant Thursday morning at the offices of the Novato Sanitary District.

EPA spokeswoman Mary Simms says the warrant is under seal and details of the criminal investigation are not being released.

Beverly James, manager engineer for the district, says agents took a wide range of records from 2006-2007 including personnel files and electronic data. James says the district also has been asked to provide the same records to a federal grand jury by June 5.

No criminal charges have been filed in the case.

Registration \$1  
only \$1  
call 800-985-

TOP STORIES

Philanthropist Conrad Prebys dies of cancer

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**2.4 million gallons into Los Angeles River**

**SOUTHERN CALIFORNIA BEACHES COVERED IN SLIME AFTER L.A. SEWAGE SPILL**  
By David J. Phillip

Closes Beaches LA to Long Beach – middle of summer \$\$\$\$\$  
7/18 to 7/25



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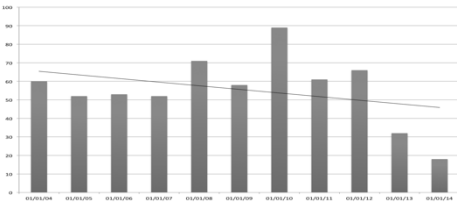
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**Why Worry about Compliance?**



Date	Compliance (%)
05/01/2010	60
05/01/2011	55
05/01/2012	55
05/01/2013	55
05/01/2014	65
05/01/2015	60
05/01/2016	85
05/01/2017	60
05/01/2018	65
05/01/2019	35
05/01/2020	20

Source: California Sanitation Risk Management Authority 2014 Loss Analysis Report

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**PROGRAM WEAKNESSES AND LEADING INDICATORS/ISSUES FOR ENFORCEMENT/NON-COMPLIANCE**

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### CIWQS Issues

- ! LRO and DS timely addition and removal – 30 days
- ! Completion of all data fields when SSO reporting
- ! Failure point – where is it?
- ! Falsified records after the fact
- ! Start times for SSOs – documentation
- ! Volume estimates – documentation/calcs
- ! Inadequate LRO coverage – 24/7/365
- ! Failure analysis follow-up/documentation

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### LRO Issues

- ! Formal designation required for LRO
- ! Don't share LRO CIWQS login
- ! Certify ALL reports – *under penalty of perjury*
- ! Understand personal responsibilities and liabilities
- ! Don't perjury your self – understand what certifying
- ! Don't forget reporting of ALL times
- ! Review others work – ask questions
- ! Be in charge

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### Satellite/Extraterritorial Issues

- ! What is a satellite?
- ! Municipal satellites vs. extraterritorial service
- ! Clear definition of roles and responsibilities
- ! CIWQS reporting roles well defined
- ! Lack of formal designation of LRO and data submitters
- ! Clear risk and liability definitions
- ! Communications – documented and frequent
- ! SSMP requirements for each agency

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**General SSMP Issues**

- ! No introduction/executive summary – system description
- ! No agency infrastructure definitions
- ! No SSMP Change Log (MRP requirement)
- ! No CWIQS identification number in SSMP
- ! Lack of available references used in the SSMP
- ! Hyperlink references don't include full documents
- ! Goal not a huge document – *won't be read*
- ! Lack of legal review of the final SSMP

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**General SSMP Issues (Cont.)**

- ! Do you have agency specific Water Quality Monitoring Plan
- ! SSMP still out of sight, out of mind not a living document
- ! Lack of historical performance information as a guide
- ! Lack of effectiveness evaluations from performance results
- ! Lack of compliance with WDR deadlines – audit, readoption
- ! Lack of regular training and field exercises
- ! No governing board adoption documents – by resolution?
- ! No Readoption for “substantial changes”
- ! Where are the audit reports – SWRCB looking at LRO cert

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**Goals and Performance Metrics**  
Elements 1 and 9

- ! Goals achievable and broad
- ! Agency specific
- ! Short and concise
- ! Do the metrics support the goals
- ! Metrics tracked regularly – don't include if don't track
- ! Graph historical performance results
- ! Compare to Region and State SSO rates/100 miles
- ! Compare to volume/100 mile rates
- ! Modify programs using historical results – log changes

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**Organization Issues**  
Element 2

- ! Formal designation of LRO and DS = Authorized Rep
- ! Updates of designated officials timely – w/in 30 days
- ! 24/7/365 coverage – multiple LROs and DS
- ! Review and update contacts at least annually
- ! Organization Narratives/Charts – all responsibilities
  - o LRO and DS classifications identified
  - o Building inspection and UPC
  - o FOG services
  - o Service contractors by service type

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**O&M Program Issues**  
Element 4

- ! Description of maintenance staffing – crew configuration
- ! Mapping processes and availability in the Field
- ! Storm water asset info available in field
- ! Cleaning – well defined program
  - o Regular cleaning frequency – small and large diameters, siphons
  - o Hot spot programs – how added or deleted
  - o Easement access and cleaning – what % of system?
  - o Pump station maintenance
  - o Force main maintenance
  - o CCTV and condition assessment – rating system?
  - o Miscellaneous programs – roots, manholes, ARV, etc.

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**O&M Program Issues(cont.)**  
Element 4

- ! Real frequencies supported by documented results
- ! Large diameter pipe cleaning (>12 inch)
- ! All maintenance programs – condition based?
- ! Provide historical results for at least five years
- ! Replacement – short and long term philosophy
- ! Replacement equipment and inventories stated/located

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**Capital Program Issues**  
Element 4

- ! Must include short and long term evaluations
- ! Priority rating system
- ! Up to date Master Plans/General Plans
- ! Replacement rates identified
- ! Comparison of projected vs. actual spending
- ! Lateral program/definitions if owned
- ! Contingency planning
- ! All assets – pump stations, force mains, siphons, mains, laterals

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**Training Issues**  
Element 4

- ! Train specifically on WDR, MRP, SSMP, OERP, WQMP
- ! New employee orientation and training
- ! Regular refresher training – especially emergency response
- ! Regular field exercises – volume estimation
- ! Start time training and documentation
- ! Develop a training matrix by classification
- ! Contractors? What are you doing?
  - Service contractors
  - Construction contractors
- ! Documentation – agenda, trainer, sign-ins, description

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**OERP Issues**  
Element 6

- ! Timely responses to notification
- ! Timely reporting to regulators
- ! Containment!!!!!!
- ! Failure to document or photograph or video
- ! Incident map of impacted area, signs, storm drains
- ! Incomplete cleanup post SSO
- ! Lack of training - no field exercises
- ! No specific WQMP or reference to new MRP requirement
- ! New reporting per MRP
- ! Start times/volume estimation – who, calcs, assumptions
- ! No failure analysis or incident debrief
- ! Document, document, document

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**SSMP Audit and Recertification Issues**  
Element 10 & 11

- ! 2 and 5 years from original adoption date of SSMP
- ! Formal Audit Report completed/certified by end of 2<sup>nd</sup> yr.
- ! Report attached to the SSMP separate appendices
- ! Evaluation of effectiveness based upon goals
- ! Program improvement based on performance results
- ! Schedule for revisions and updates
- ! Regular audits of SSO recordkeeping/files
- ! Remove old references to original applications

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**Communications Issues**  
Element 11

- ! SSMP + References on website or submitted to CIWQS
- ! SSMP easily found on website?
- ! Regular reporting to the governing body and public
- ! Statement of implementation results and future actions
- ! Satellite communications documentation
- ! Consider use of annual reports – short at end of fiscal yr.
- ! Crow successes to be prepared for challenging times
- ! Build trust in the community

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**Enforcement Issues**

- ! Effectiveness evaluation regularly?
- ! Audits and updates not timely or done at all - certified
- ! SSMP Change Log up to date
- ! CIWQS not managed properly
  - o Meet submittal deadlines
  - o LRO and DS – 30 day requirement
- ! Lack of proper SSO management/cleanup
- ! Lack of lateral definitions/responsibilities/inconsistencies
- ! Expanded involvement by RWQCBs
- ! State Water Quality Enforcement Policy May 2010
- ! Proactive efforts reduce financial liability

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**SWRCB Enforcement Policy**  
Penalty Calculation Methodology

- STEP 1 - Potential for Harm for Discharge Violations
- STEP 2 - Assessments for Discharge Violations
- STEP 3 - Per Day Assessments Non-Discharge Violations
- STEP 4 - Adjustment Factors
- STEP 5 - Determination of Total Base Liability Amount
- STEP 6 - Ability to Pay and Ability to Continue in Business
- STEP 7 - Other Factors As Justice May Require
- STEP 8 - Economic Advantage from Non-compliance
- STEP 9 - Maximum and Minimum Liability Amounts
- STEP 10 - Final Liability Amount

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**New Emerging Issues**

- ! Small agency compliance
- ! Satellite/extraterritorial service compliance
- ! Exfiltration from lines - especially dry cleaners
- ! Laterals - public and/or private
- ! Asset management program expectations
- ! Capital Program actual \$ versus proposed \$
- ! Real time monitoring - smart covers, etc.
- ! Economic benefit analysis - risk vs compliance
- ! Storm water acceptance into collection systems
- ! Affordability of low income customers - MHI
- ! Environmental Justice

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**COLLECTION SYSTEM RESOURCES**

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**Resources Available – see handout also**

- ! Guide for Developing and Updating of Sewer System Management Plans
- ! Best Management Practices for Sanitary Sewer Overflow Reduction Strategies, BACWA/CVCWA
- ! SWRCB Pre-Inspection Questionnaire version 2.0
- ! San Francisco RWQCB Inspection Questionnaire
- ! SSO Reduction Program Library
  - o Enrollee's Guide to the SSO Database
  - o Guide for Developing and Updating SSMPs
  - o Compliance and Enforcement Section
- ! California Consent Decrees and Settlement Agreements

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10/2016 Sewer Summit 2016 29

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**Recommendations**

- ! SSMP = "living document" - SSMP not Master Plan
- ! Audits and revisions very important in enforcement – change log
- ! Be timely about everything – completion by deadline
- ! Consider annual report to governing board – short and sweet
- ! Assure broad employee knowledge of VVDR, MRP, SSMP and OERP
- ! SSMP easy to find on website – include all references or hyperlink
- ! Understand economic consequences of a WDR failure/enforcement
- ! Start early and document everything – especially things not required by regs
- ! Graph performance results and compare – make info public
- ! Boast about your successes
- ! No longer out of sight and out of mind – no ostriches

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**Conclusions**

- ! Enforcement activities are growing and expanding
- ! History informs comparisons and compliance
- ! Understand your agencies risks and liabilities
- ! Non-compliance is expensive – hard \$\$ and staff time
- ! Understand what "could" happen from non-compliance
- ! Have a legal review of your SSMP documents
- ! Don't wait - be proactive – get head out of the sand
- ! Don't assume you won't be found – just takes a phone call
- ! Go beyond the basic requirements
- ! Make it easy for anyone to know your programs - crow
- ! "Be Prepared"

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**Questions and Discussion**

**THANKS FOR ATTENDING**

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## **2016 Sewer Summit Wastewater Acronym Listing**

- ACL Administrative Civil Liabilities
- AG Attorney General
- BACWA Bay Area Clean water Agencies
- CCTV Closed Circuit Television
- CD Consent Decree
- CIWQS California Integrated Water Quality System
- CMOM Capacity, Management, Operation and Maintenance
- CSD County Sanitation District
- CVCWA Central Valley Clean Water Association
- DS Data Submitter
- EBMUD East Bay Municipal Utility District
- EPA Environmental Protection District
- FOG Fats, Oils and Grease
- LRO Legally Responsible Official
- MHI Median Household Income
- MRP Monitoring and Reporting Plan
- NACWA National Association of Clean Water Agencies
- NOV Notice of Violation
- O&M Operations and Maintenance
- OCSD Orange County Sanitation District
- OERP Overflow Emergency Response Plan
- RWQCB Regional Water Quality Control Board (in your area – one of 9)
- SSMP Sanitary Sewer Management Plan
- SSO Sanitary Sewer Overflow
- SWRCB State Water Resources Control Board
- UPC Uniform Plumbing Code
- WDR Waste Discharge Requirement
- WEF Water Environment Federation
- WQMP Water Quality Monitoring Plan