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March 19, 2009

TO: Supervisor Don Knabe, Chairman
Supervisor Gloria Molina
Supervisor Mark Ridley-Thomas
Supervisor Zev Yaroslavsky
Supervisor Michael D. Antonovich

FROM: Wendy L. Watanabe
Auditor-Controller

SUBJECT: **SEWAGE SPILL REPORT FOLLOW-UP (BOARD AGENDA ITEM #S1, MARCH 25, 2008)**

On March 25, 2008, your Board instructed the Auditor-Controller, in consultation with the County's Public Health Commission, to conduct a follow-up review on the implementation status of all open recommendations related to our sewage spill reports dated January 2007, March 2007, and March 2008 and report back as a set item on the Board's agenda in one year. The three reports contained a total of 23 recommendations of which, eight remained opened as of March 25, 2008.

In addition, at the request of the Public Health Commission, we examined the Department of Public Health's sewage spill database to determine the number of spills reaching surface streets.

Below is the status of the eight open recommendations and our response to the Commission's request for additional information.

Observations

As noted in our March 3, 2008 Sewage Spill Follow-up Report, there has been a dramatic increase (i.e., 2900% from 25 in 2006 to 773 in 2007) in the reporting of sewage spills to the County Public Health Officer (or Public Health Officer) since the issuance of the January 2007 Sewage Spill Report. During our recent follow-up review, we determined that the reporting of sewage spills to the Public Health Officer continued

to increase. The Public Health Officer received 828 reports of sewage spills in 2008, which is 55 (7%) more than reported in 2007.

In contrast, during this follow-up period, we noted that the reporting of sewage spills of 1,000 gallons or greater decreased by 21 (26%) spills, from 82 in 2007 to 61 in 2008. However, this still represents a significant increase when compared to the number of spills reported prior to the issuance of our January 2007 Sewage Spill Report.

We also noted that approximately 70% of the spills reported during 2008 were caused by blockage, roots, grease, and problems stemming from private sewer lines.[1] Pump failures, ruptured/damaged lines, power outages and vandalism caused 10% of the spills during the year. The cause of the remaining spills (20%) was unknown (the reporting entity or caller could/did not identify the cause).

We believe that, beginning in 2007, the increase in spills reported to the County Public Health Officer is the direct result of several factors, including:

- Increased awareness by dischargers of their responsibility to notify the local public health officer when a sewage spill occurs.
- Amendment to Water Code Section 13271 (Assembly Bill 800), which requires persons, without regard to intent or negligence, who permits or causes the discharge of sewage or waste in or on any "waters of the state" to immediately notify the local health officer (or director of environmental health).
- Improved inter-jurisdictional communications between the Department of Public Health and other agencies.

Attachment I provides a comparison of reported sewage spills, including the magnitude (by gallons) and cause.

Status of Recommendations

Of the eight open recommendations (one from the January 24, 2007 and seven from March 3, 2008), the County has fully implemented all eight recommendations. However, for two recommendations (Recommendations #1 and #2), additional action is needed by the State to fully implement the intent of these recommendations. The detailed status of each recommendation is discussed below.

Recommendation #1 (March 3, 2008 Report, page 10)

The Department of Public Health management follow-up with the Regional and State Water Board's Executive Director to learn the outcome of the Management

[1] Private sewer lines connect a home or building to a main sewer line, and the responsibility for maintenance belongs with the private property owner.

Coordinating Committees' discussion on your Board's requests for amendments to the Los Angeles County's National Pollutant Discharge Elimination System (NPDES) permit and Wastewater Discharge Requirements (WDR), and monitor these issues until they are addressed.

Status: IMPLEMENTED (Additional State Action Required)

On February 26, 2009, County representatives contacted the State Water Board regarding the County's recommendations to amend the NPDES and the WDR permits and to convene a statewide workgroup to develop specific sanitary sewer system maintenance standards. The County previously made four recommendations to the State Water Board and the status of the recommendations are presented below.

✓ **Recommendation #1 (January 24, 2007 Report, page 9)**

Amend the National Pollutant Discharge Elimination System (NPDES) permit and Waste Discharge Requirements (WDR) to require sewer system owners/operators to:

a) **At a minimum, operate and maintain their sewer system equipment at the level specified by the equipment's manufacturer with additional maintenance performed as necessary to prevent sewage spills from occurring.**

b) **Perform regular tests of their pumping station alarm systems, backup pumps, and the electrical generators to ensure they will function as intended during an emergency.**

c) **Maintain documentation to support all maintenance and testing of their sewer systems.**

✓ **Recommendation #2 (January 24, 2007 Report, page 10)**

Convene a work group of key stakeholders to develop specific maintenance standards for owners/operators of sanitary sewer systems in Los Angeles County.

✓ **Recommendation #3 (January 24, 2007 Report, page 10)**

Seek appropriate authority and funding to create and operate an ongoing independent sanitary sewer collection system monitoring program. The program would monitor sanitary sewer owners/operators for compliance with established maintenance standards and would include a written report on the monitoring results.

Status: Additional State Action Required

In September 2008, the State Water Resources Control Board (State Water Board) stated that it will evaluate the appropriateness of additional NPDES permit language for maintenance and testing requirements in early 2009. On February 26, 2009, during a telephone conference with County representatives (i.e., Department of Public Health, Los Angeles County Sanitation Districts, and the Auditor-Controller), the State Water Board's representative stated that the State Water Board is committed to establishing a committee to review proposed changes to the Statewide General Waste Discharge Requirements for Sanitary Sewer Systems (Order No. 2006-0003).

The State Water Board's representative added that this committee would provide the appropriate forum to address the County's recommendations and plans to form the committee by May 2009. He also thanked Los Angeles County for its work to improve the timeliness in which dischargers report sewage spills to local public health officers and for supporting the establishment of maintenance standards for operators/owners of sanitary sewer systems.

The State Water Board's representative stated that the Water Board would be seeking committee participants very soon and invited County representatives to join in order to advocate for matters important to Los Angeles County. According to Environmental Health management, they plan to join the committee and will provide your Board with updates on the committee's status/actions as appropriate.

✓ **Recommendation #5 (January 24, 2007, page 10)**

Amend the Waste Discharge Requirements (WDR) to include a requirement that specifies when the County's Public Health Officer should be notified of a sewage spill.

Status: IMPLEMENTED

On February 20, 2008, the State Water Board issued an Amendment to the Monitoring and Reporting Program (MRP) Requirements for Order No. 2006-0003-DWQ to address the two-hour critical notification issue. The new MRP requires immediate notification of a spill or overflow that affects a drainage channel or surface water body to the Governor's Office of Emergency Services (OES), local public health officials, and the appropriate Regional Water Board. The State Water Board indicated that implementation of the "notification requirements statewide has proved successful [and] without significant complications after one year of experience".

Recommendation #2 (March 3, 2008 Report, page 10)

The Department of Public Health management work with and monitor the County Legislative Advocate's efforts to continue to pursue the addition of a Regional Water Board Member with Public Health expertise.

Status: IMPLEMENTED (Additional State Action Required)

According to DPH management, the County's Sacramento Legislative Advocate advised that it is highly unlikely that the County would be successful at this time in sponsoring legislation requiring a member of the Regional Water Board to have public health expertise. DPH management indicated that they will continue to periodically monitor this matter as appropriate.

Recommendation #3 (March 3, 2008 Report, page 11)

The Department of Public Health management, at least quarterly, review the Governor's Office of Emergency Services' website to determine whether sewage spills are being reported to the County Public Health Officer.

Status: IMPLEMENTED

In early 2008, DPH began quarterly monitoring reviews of the Governor's Office of Emergency Services' (OES) website to determine whether sewage spills are being reported to the County Public Health Officer. According to Environmental Health management, OES has improved its reporting of sewage spills to the County Public Health Officer. Environmental Health's review of OES' website for the period January 1, 2008 to November 30, 2008 determined that OES reported all spill incidents to the Public Health Officer as required. According to DPH management, Environmental Health will continue to monitor OES' website on a quarterly basis. The next quarterly review is scheduled for early March 2009 for the period December 1, 2008 through February 28, 2009.

Recommendation #4 (March 3, 2008 Report, page 11)

The Department of Public Health management send letters to dischargers and the Governor's Office of Emergency Services to remind them of their legal responsibility to notify the County Public Health Officer of sewage spills.

Status: IMPLEMENTED

As noted above, Environmental Health conducts quarterly reviews of OES' website to ensure all sewage spills are reported to the County Public Health Officer. In addition, Environmental Health now receives and reviews reports of sewage spills from the

Regional Water Quality Control Board (Regional Water Board), which are also used to determine if all spills are being reported.

From September 1, 2008 to November 30, 2008, Environmental Health identified five cities that reported sewage spills to the Regional Water Board but did not report sewage spills to the County Public Health Officer. DPH sent each city a letter reminding them of their reporting responsibilities.

According to Environmental Health, cities have significantly improved their reporting of sewage spills in recent months. Only one city repeatedly did not report spills to the County Public Health Officer. See discussion below.

Recommendation #5 (March 3, 2008 Report, page 11)

The Department of Public Health management, as appropriate, consult County Counsel regarding the enforcement of the State's sewage spill notification requirements.

Status: IMPLEMENTED

On December 5, 2008, Environmental Health staff met with County Counsel regarding possible enforcement actions against cities that continually do not report sewage spills to the County Public Health Officer. County Counsel advised Environmental Health to meet with cities to review sewage spill reporting requirements prior to initiating action against them for violating the requirements.

According to Environmental Health, only one city has repeatedly not reported sewage spills to the County Public Health Officer. On February 19, 2009 Environmental Health met with the city's officials to discuss sewage spill reporting requirements. Environmental Health management also indicated that it will monitor this city and will conduct additional follow-up meetings with city management as appropriate.

Recommendation #6 (January 24, 2007 Report, page 11)

The Board of Supervisors instruct the Department of Public Health, in consultation with the Public Health Commission, to develop an educational program for owners/operators of sanitary sewer systems, which shall include, but not limited to, clarification on how soon the public health officer must be contacted after a spill and the names and telephone numbers of all County representatives that should be notified following a sewage spill.

Recommendation #6 (March 3, 2008 Report, page 12)

The Department of Public Health management report back to the Board of Supervisors in three months on the status of the educational brochures/posters,

including what action has been taken to finalize/distribute the brochures/posters, feedback from owners/operators of sanitary sewer systems, and any recommendations for improving these educational materials.

Status: IMPLEMENTED

After consultation with the Public Health Commission, DPH's Environmental Health distributed on June 23, 2008, approximately 17,000 educational brochures to public agencies that own or operate wastewater collection systems in Los Angeles County, including the County Department of Public Works and the Sanitation Districts of Los Angeles County. Included with the brochures were instructions for cities and sewer agencies to distribute the brochures to sewer contractors when issuing construction permits.

Environmental Health also distributed similar brochures to owners of approximately 42,000 food facilities and 70,000 multiple family dwelling units. The brochures provide information on common causes of spills, spill prevention methods for sewage dischargers, the environmental and public health impact of discharges, and the reporting responsibilities including where/how to report discharges. DPH management reported receiving positive feedback from the owners of food facilities and multiple family dwellings after the brochures were mailed, with many owners requesting additional brochures to distribute to employees and tenants.

DPH staff also distributed a notification poster to all public agencies that own and operate pump stations in Los Angeles County. The poster provides pump station personnel with immediate access to emergency contact telephone numbers for reporting sewage spills to DPH and the Governor's Office of Emergency Services (OES).

In its July 2008 quarterly status report, DPH reported on the distribution of its educational brochures/posters to the Board of Supervisors.

Recommendation #7 (March 3, 2008 Report, page 13)

The Department of Public Health management in collaboration with the County Public Health Commission, work with the Regional Water Quality Control Board (Regional Water Board) in developing and distributing a sewage spill notification chart that shows the timeline requirements for reporting sewage spills to agencies such as the Department of Public Health, Regional Water Board, and Governor's Office of Emergency Services.

Status: IMPLEMENTED

Environmental Health indicated that the Spill Notification Chart that shows the timeline requirements for reporting sewage spills was mailed on March 13, 2009 to all 88 Los

Angeles County contract cities, including Long Beach, Pasadena, and Vernon. The Spill Notification Chart was also mailed to the primary sewer agencies (i.e., Los Angeles County Department of Public Works, Los Angeles County Sanitation Districts and City of Los Angeles Bureau of Sanitation).

Additional Comments and Recommendations

As noted earlier in this report, the County has fully implemented all eight recommendations. However, our follow-up review determined that for two recommendations (Recommendations #1 and #2 from the March 3, 2008 Report) additional State action is required to fully implement the intent of these recommendations. For example, one recommendation requires the Los Angeles Regional Water Board to convene a work group of key stakeholders to develop specific maintenance standards for owners/operators of sanitary sewer systems.

DPH management, in coordination with the Public Health Commission, needs to continue to monitor State actions on Recommendations #1 and #2, as appropriate.

Public Health Commission Request

As part of our follow-up review, the County Public Health Commission requested data on sewage spills that reached surface streets. The Commission expressed a concern that such spills pose a greater public health risk, especially spills that occur in or around public areas, such as schools, hospitals, playgrounds, etc.

Currently, DPH's sewage spill database does not identify spills reaching surface streets. However, DPH plans to revise their database so that information regarding sewage spills reaching surface streets can be documented and monitored. Environmental Health management indicated that it will work with the Commission to ensure its concerns are adequately addressed.

Acknowledgements

We would like to thank the Public Health Commission and the representatives from the Department of Public Health, Department of Public Works, Los Angeles County Sanitation Districts, and City of Los Angeles Bureau of Sanitation for their cooperation and assistance throughout our review.

Unless otherwise instructed by your Board, this will be our last follow-up report. The Department of Public Health will continue to provide your Board with status reports on the implementation status of all outstanding recommendations, as appropriate.

Please let me know if you have any questions, or your staff may contact DeWitt Roberts at (213) 253-0199.

WLW:MMO:DR
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c: County of Los Angeles
Public Health Commission
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Public Information Office
Audit Committee
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Enrique Zaldivar, Director, City of Los Angeles Bureau of Sanitation
Ronald Arias, Director, City of Long Beach Health and Human Services
Lewis Pozzebon, Director, City of Vernon Environmental Health
Mel Lim, Director, City of Pasadena Environmental Health
Mark Gold, Director, Heal the Bay
Tom Ford, Baykeeper, Santa Monica Baykeeper

Table I

Magnitude of Sewage Spills

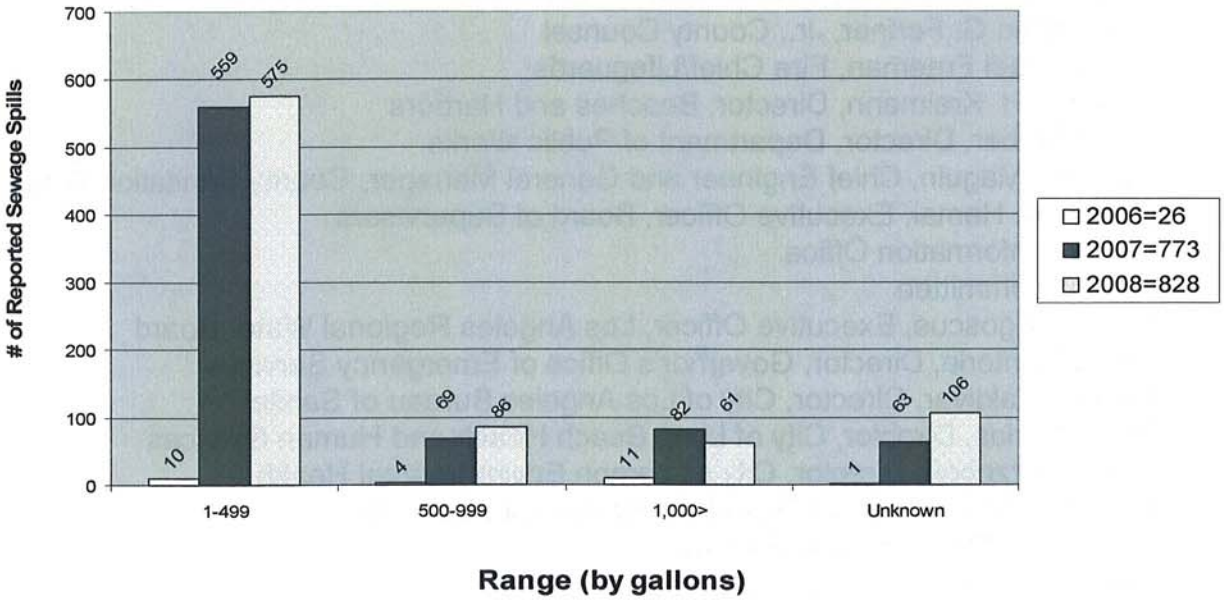


Table II

Comparison of Reported Sewage Spills

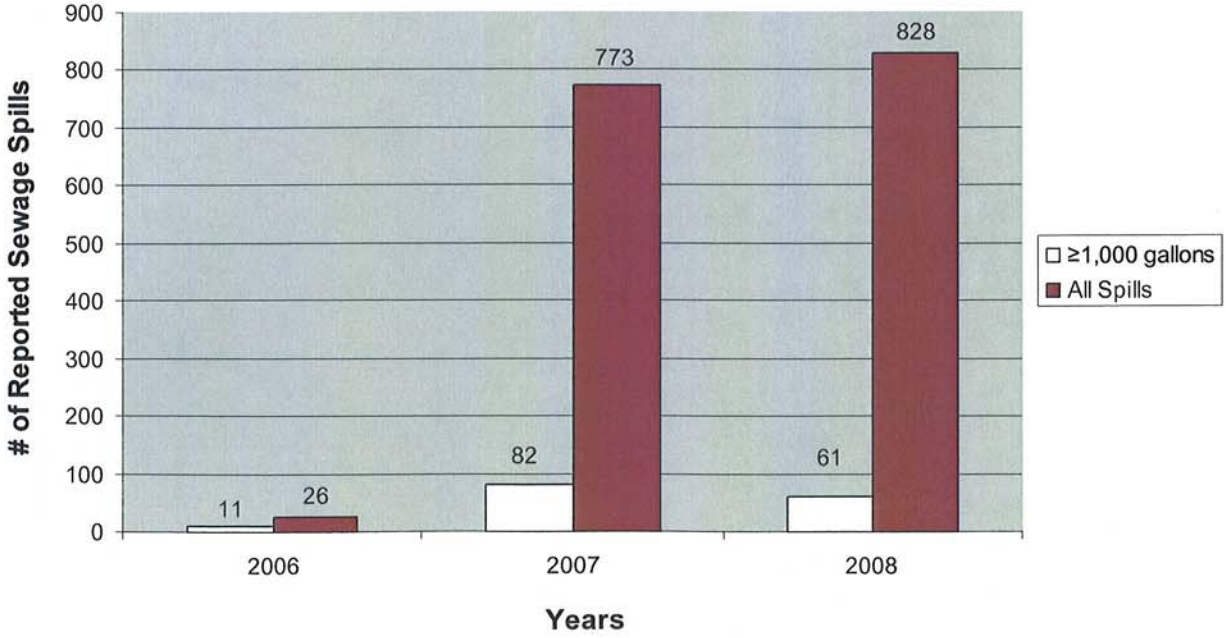
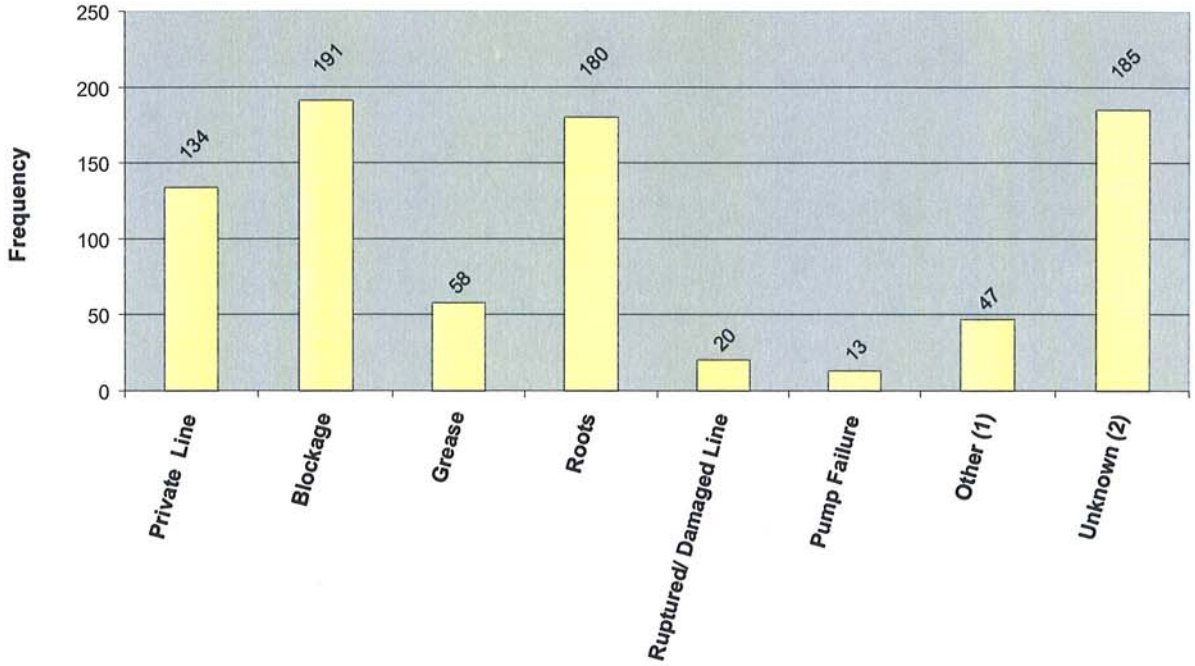


Table III

Cause of Reported Sewage Spills
(Calendar Year 2008)



(1) "Other" includes: Debris, Power Outage, Accidents Car/Equipment, Vandalism, etc.
(2) The reporting entity or caller could/did not identify the cause.