



CITY OF STOCKTON

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August 5, 2014

Submitted via email to: commentletters@waterboards.ca.gov

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

SUBJECT: COMMENT LETTER – TRASH AMENDMENTS

Dear Ms. Townsend:

The City of Stockton and the County of San Joaquin (City and County) appreciate the opportunity to provide comments on the proposed *Amendments to Statewide Water Quality Control Plans to Control Trash* (Proposed Trash Amendments). The City and County are covered under Order No. R5-2007-0173 for Storm Water Discharges from Municipal Separate Storm Sewer Systems (MS4s). The City and County share a strong commitment to protecting the environment and water quality. Individually and collectively, we successfully implement programs and projects to protect and enhance the local creeks, rivers, and watersheds. The City and County's current stormwater programs are minimizing trash related impacts on water quality through several programs to remove trash and debris, including the following:

City of Stockton

- Coastal Cleanup Day participation and community stream cleanup days (212 tons removed, 2003-2013)
- Inclusion of Special Event Use Provisions in Special Use Permits (94 tons collected, 2011-2013)
- Street sweeping program (56,579 tons removed, 2003-2013)
- Flood control detention basin cleaning program (231 yd³ removed, 2010-2013)

San Joaquin County

- Coastal Cleanup Day participation and community stream cleanup days (164 tons removed, 2003-2013)
- Inclusion of Special Use Provisions for Proper Management of Trash and Litter. Special events occur at County-owned/operated facilities (including parks)
- Street Sweeping program (10,664 tons removed, 2003-2013)
- Catch basin cleaning program (159

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| • Water quality/flood control detention basin cleaning program (109 yd ³ removed, 2010-2013) | tons removed, 2006-2013) |
| • Catch basin cleaning program (152 tons removed, 2005-2013) | • Channel/pipe cleaning program (9,638 tons removed, 2006-2013) |
| • Channel/pipe cleaning program (473 tons removed, 2003-2013) | • Pump station cleaning program (111 yd ³ removed, 2003-2013) |
| • Pump station cleaning program (3,375 tons removed, 2003-2013) | |
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Controlling trash is a societal problem, and MS4s will be an important part of the solution. As drafted, the Proposed Trash Amendments focus almost exclusively on point sources of trash delivered to receiving waters through storm drainage systems. MS4s are the conveyance systems for trash, rather than the source, and stormwater programs alone will not be able to solve the issue of societal trash. The provisions of the Proposed Trash Amendments need to recognize this in establishing implementation and assessment requirements to achieve the trash Water Quality Objectives.

We greatly appreciate the time and energy that State Water Board staff has dedicated to hearing and addressing our concerns. However, as written, the Proposed Trash Amendments will substantially increase current program implementation costs and divert resources from other priority programs. We urge you to direct staff to revise the Proposed Trash Amendments based on our comments and recommendations below to make implementation and compliance more feasible.

1. Funding mechanisms for compliance with the Trash Amendments

The State Water Board needs to assist with the development of funding sources for permittees to comply with the Proposed Trash Amendments. While the City and County do not dispute the water quality benefits of controlling trash, the costs presented in the Staff Report and Economic Analysis exceed most communities' ability to fund. The City estimates its costs of compliance to be \$1 - 2.3 million per year. These estimates assume that 228 of 653 outfalls are in high priority areas, and only those will be retrofitted with full capture devices. The City's average annual stormwater program budget is \$4.75 million/year, based on reported expenditures from 2003-2013. The County estimates its cost of compliance to be \$310,000 - 825,000 per year, based on the per capita cost range provided in Appendix C of the Proposed Trash Amendments. The County's average annual stormwater program budget is \$650,000/year, based on reported expenditures from 2003-2013. The costs of compliance with the Proposed Trash Amendments could be up to half of the City's annual budget and could exceed the County's annual budget, diverting excessive resources from the overall program.

In June 2010, the City completed a Stormwater Rate Study to review the current rate structure and make recommendations to increase the monthly stormwater user fees in order to assist in funding the stormwater program. A community vote on the proposed new Clean Water Fee occurred in the fall of 2010; however, the Clean Water Fee increase failed. There is concern that another attempt to increase user fees to fund this new effort would also be unsuccessful.

Grant funds have assisted many communities in installing full capture devices. This type of competitive grant funding, while valuable, takes a significant effort to win and manage. Grants, such as the Proposition 84 grants, do not address the ongoing costs of managing and maintaining treatment devices. At this time, no grant monies have been awarded to or received by the City or County.

Proposition 218 currently precludes stormwater entities from raising their fees for stormwater management. Even with the recent changes to Proposition 218, the typical types of full capture devices (catch basin inserts) would not be considered eligible for the water supply exception resulting from AB 2403.

Recommendation: The City and County recommend that the State Water Board partner with permittees to explore the creation of a non-competitive program to fund trash control measures. One such program that could serve as an example is the Used Oil Payment Program (OPP). The California Oil Recycling Enhancement Act provides funding to assist local governments in maintaining an on-going used oil and used oil filter collection/recycling program for their communities. The OPP is funded by a state tax on automotive oil. Another example is the program that exists for automobile tires. A fee is paid at purchase to fund the proper disposal at the end of the tire's life. California imposes a tax (CRV) for California Redemption containers and has recycled more than 300 billion aluminum, glass, and plastic beverage containers since the CRV program began in 1987. In 2013, Californians bought more than 21 billion CRV-eligible drinks and recycled more than 18.2 billion of those containers. The State Water Board should work with the California Product Stewardship Council to assess the most prevalent forms of litter and pursue legislative remedies for litter including taxes on products (such as cigarette butts) to fund local trash control programs.

2. Recognition of current pollutant prioritization programs

The City and County have completed a comprehensive planning process and pollutants of concern (POC) analysis and have directed their stormwater programs accordingly. As drafted, the Proposed Trash Amendments would supersede existing planning efforts, effectively determining that trash is the highest priority, targeting resources on trash, and minimizing resources available to address watershed-based priorities.

Recommendation: The City and County recommend that the Proposed Trash Amendments recognize the value of current management programs and not divert resources away from ongoing, successful efforts to control trash in our waterways or place additional demand on already-limited resources. We urge the State Water Board to allow MS4 programs with existing POCs-focused water quality implementation plans to address trash in the prioritization context of those existing plans.

3. Existing Trash Management Mechanisms

Solid waste and littering is an issue that has been handled by the California Integrated Waste Management Board (CIWMB) [now defunct] and the California Department of Resources Recycling and Recovery (CalRecycle) for over three decades. These agencies have developed and implemented programs statewide to address the issue of litter, including litter within waterways. Also, CalRecycle has developed funding mechanisms to specifically address the issue of litter within waterways. CalRecycle offers funding opportunities authorized by legislation to assist public and private entities in the safe and effective management of litter and waste.

Recommendation: The City and County recommend that the State Water Board assess how already-established CalRecycle funding could be enhanced and/or redirected to local agencies to meet the trash reduction control requirements of the Proposed Trash Amendments.

4. Trash in Large Waterways

Trash is ubiquitous, and areas with many waterways will be unfairly burdened with addressing a statewide issue and concern. For instance, 75% of the State relies upon the Delta region for potable water, thus, they have a vested interest and obligation to help fund Delta water quality programs. Since nearly the entire state benefits from Delta water, a statewide ballot initiative is reasonable for funding trash control efforts in this important resource.

Recommendation: A statewide ballot initiative should be proposed to help fund trash control in waterways with statewide impact.

5. Sources of Trash

Non-MS4 regulated sources (e.g., individual NPDES permit holders, agricultural operations) often also contribute trash to receiving waters. While the City and County continue to work to identify successful management strategies for preventing trash from reaching receiving waters, it is critical that the Proposed Trash Amendments limit the liability of MS4 Permit holders and support a process that allows the City and County to apply their resources towards controlling trash within their areas of responsibility.

Recommendation: Language in III.L.3 (Ocean Plan) and IV.B.4 (Inland Surface Waters, Enclosed Bays, and Estuaries Plan) appears to provide direction/authority to the permitting authority to address other sources of trash. Examples should be added to include other NPDES permit holders and agricultural operations. The language could be strengthened by citing the authority with which this oversight is provided in the California Water Code (i.e., CWC §13263, 13267). The City and County recommend the State Water Board also include provisions to require implementation of the Proposed Trash Amendments, not only through inclusion in MS4 Permit, but through other NPDES Permits, WDRs, and Waiver Provisions.

6. Planning and performance expectations for Track 1

The Proposed Trash Amendments state that for Permittees selecting Track 1, “one potential compliance schedule is 10% completion of controls per year” (p. C-30). This suggested compliance schedule is likely to be infeasible for many Permittees, given the time it will take to accurately identify high priority areas, request and evaluate bids for installation of control devices, establish contracts, and order and install the control devices.

Recommendation: The City and County recommend that Permittees be allowed to determine feasible milestones that are commensurate with the efforts that will need to take place each year.

7. Planning and performance expectations for Track 2

The Proposed Trash Amendments require Permittees selecting Track 2 to develop and submit an implementation plan that identifies the combination of controls that will achieve the same performance as Track 1. The Proposed Trash Amendments provide no guidance on either what will be considered an acceptable implementation plan or how equivalency should be demonstrated. We strongly recommend that clear guidance for the implementation plans and standards of equivalency be established prior to or with the adoption of the Trash Amendments. Clearly establishing these expectations is essential to informing the decisions regarding the choice of track. At present, it is unknown what efforts will be considered “equivalent” to full-trash capture. Permittees incur financial and compliance risks in choosing a Track which has no guidelines for determining compliance, placing them in a situation where the guidelines would be subject to on-going interpretation.

Recommendation: The City and County recommend that standards of equivalency be established prior to or with the adoption of the Proposed Trash Amendments.

8. Approach to Performance Demonstration and Receiving Water Monitoring

Demonstration of performance under Track 2 should not be limited to monitoring BMP performance, since demonstrating effectiveness of trash BMPs through

monitoring (e.g., counting, weighing, measuring volume) is extremely difficult and expensive. Permittees should be allowed to propose the method of demonstrating performance in their plan. For instance, rigorous visual assessments have proven to be effective tools in some jurisdictions. A current effort in the Bay Area ("Tracking California's Trash"), funded by a Proposition 84 grant, may provide additional tools for permittees to incorporate into their plans in the future. (This project is expected to be completed in 2017.)

Recommendation: While stormwater permittees may want to conduct receiving water monitoring to demonstrate performance, the City and County feel it should not be mandated. Other sources contribute trash to receiving waters, and imposing this requirement on stormwater permittees will not provide an indication of the effectiveness of stormwater trash control programs.

9. Certified Full-Capture Devices

The Proposed Trash Amendments indicate that the State Water Board would take responsibility for the certification process for full capture systems, but those full capture systems previously certified by the Los Angeles Regional Water Quality Control Board would remain certified for use by permittees as a compliance method (Chapter IV.B.1.b.(1) and Chapter III.L.1.b.(2) of the ISWEBE Plan and Ocean Plan, respectively). Full capture devices vary widely in capital and maintenance costs. Therefore, having a better idea of the devices that will be certified is necessary for developing credible cost estimates to inform permittees whether to commit to Track 1 or Track 2. Alternatively, the language could be revised to indicate that any full capture device that meets the stated criteria fulfills the certification requirement.

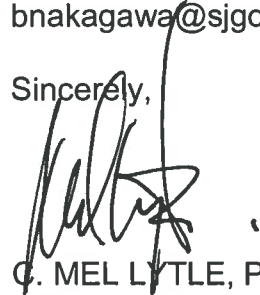
Additionally, the timeframe for obtaining certification is a concern. The Executive Officer approval process should have a rapid turnaround time to allow permittees to move forward with planning and installation within the time schedule granted.

Recommendation: The City and County recommend that a more extensive list of certified devices be prepared prior to the adoption of the Proposed Trash Amendments. We also recommend refining the full capture device certification process to streamline the certification process as much as possible.

Jeanine Townsend, Clerk to the Board
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Page 7

Thank you for your time and consideration of these comments. If you have questions, please contact Douglas Dowden at (209) 937-8705 or at Douglas.Dowden@stocktongov.com or Brandon Nakagawa at (209) 953-7460 or at bnakagawa@sjgov.org.

Sincerely,



C. MEL LITTLE, Ph.D.
DIRECTOR OF MUNICIPAL UTILITIES



GERARDO DOMINGUEZ, P.E.
COUNTY OF SAN JOAQUIN
ASSOCIATE ENGINEER

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Cc: Douglas Dowden, City of Stockton, Stormwater Program Manager III
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