



B A S M A A

Alameda Countywide
Clean Water Program

Contra Costa
Clean Water Program

Fairfield-Suisun
Urban Runoff
Management Program

Marin County
Stormwater Pollution
Prevention Program

San Mateo Countywide
Stormwater Pollution
Prevention Program

Santa Clara Valley
Urban Runoff Pollution
Prevention Program

Vallejo
Sanitation and Flood
Control District

March 31, 2009

Bruce Wolfe, Executive Officer
California Regional Water Quality Control Board, San Francisco Bay Region
1515 Clay Street, Suite 1400
Oakland, CA 94612

Subject: Municipal Regional Stormwater NPDES Permit–Revised Tentative Order (February 11, 2009)

Dear Mr. Wolfe:

The purpose of this correspondence is to submit the Bay Area Stormwater Management Agencies Association's¹ ("BASMAA's") written comments to the San Francisco Bay Regional Water Quality Control Board ("Regional Water Board") staff's Municipal Regional Stormwater NPDES Permit–Revised Tentative Order ("MRP") that was recently released on February 11, 2009. Additional, more detailed written comments will be submitted by the countywide programs and many of the municipalities that are members of the stormwater programs that comprise BASMAA's membership (as well as several of their attorneys) and we incorporate all those comments into these comments by reference.

As you know, for almost five years representatives of Bay Area municipalities have been meeting and discussing with you and your staff the issuance of a Municipal Regional Permit to regulate urban stormwater runoff from the 77 Phase I MS4s (municipal separate storm sewer systems) in the San Francisco Bay Region. Although this process has covered many years, as we have conveyed to you many times, the process has not worked particularly well and so, not surprising, it has not satisfactorily addressed many of the significant issues raised by the permittees, and therefore has not produced a Revised Tentative Order that we can support.

A year ago, at the March 11, 2008 Board hearing on the previous version of the permit – the December 14, 2007 Tentative Order, virtually all of the Board Members delivered directives on the process²:

- "I'm just going to recommend the staff to work with the cities and municipalities to come out with certain agreements." (Board Member Eliahu)
- "There hasn't been perhaps as much narrowing of issues as I think this commission is going to need." (Board Member McGrath)
- "I think we do, we need to consult and compromise..." (Board Member Singh)
- "We heard a lot about the frustration with the process. And I was, frankly, a little surprised to hear that because this process has been going on for so long, and there have been so many workshops, and we got so many comments. ...certainly we should try to ease that frustration in whatever way we can." (Vice Chair Young)

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¹ BASMAA is a consortium of eight municipal stormwater programs in the San Francisco Bay Area representing 90 agencies, including 79 cities and 7 counties. The members of BASMAA are responsible for complying with the requirements of municipal separate storm sewer system (MS4) National Pollutant Discharge Elimination System (NPDES) permits issued by the San Francisco Bay Regional Water Quality Control Board.

² Transcript - March 11, 2008 Regional Water Board meeting; Item 3; Board Member's comments

Given that this process has clearly shown that the end product is only as good as the process that is used to develop it, BASMAA again recommends that Regional Water Board staff work collaboratively with BASMAA and permittee representatives on all portions of the Revised Tentative Order in an effort to reach a point where we can support adoption of the MRP.

In addition to our significant, continuing concerns with the permit development process, the following summarizes our major observations and concerns with the substance of the Revised Tentative Order and also provides the details and suggested revisions to address these major concerns. Details are provided in the attachment, as well as in the more detailed written comments submitted by the countywide programs and many of the municipalities that are members of the stormwater programs that comprise BASMAA's membership.

Our stormwater programs have relatively limited budgets and face significant economic, procedural, and political restrictions to increasing budgets to address new permit requirements – we need and are prepared to support a permit that is affordable

Local government stormwater management agencies face very real and serious fiscal challenges not only with respect to funding new permit requirements, but in continuing to implement current programs. Existing law, established by Proposition 218 in 1996, requires local voter approval of certain stormwater related fees and assessments. Proposition 218 partially exempts certain types of fees, such as those for water, wastewater, and refuse collection, but not stormwater-specific fees, from the voter approval requirements of Proposition 218. Since the passage of Proposition 218, the California Supreme Court and the Courts of Appeal have issued several precedential decisions that have very closely scrutinized proposed fee increases and assessments and have strongly favored taxpayer protection as intended by Proposition 218.

Over the last 15+ years the requirements and scope of the stormwater quality program have increased significantly from simply developing stormwater management programs as envisioned in USEPA's regulations. These increased requirements have significantly increased the cost of compliance for cities and counties. And yet, many local governments have reached the maximum funding levels approved for funding their stormwater management programs and Proposition 218 and other factors severely constrain local governments' ability to fund at higher than current levels.

Over the last six years, there have been three attempts to pass State legislation (ACA 10, ACA 13, and SCA 12) that would allow the State to place before California voters for approval a State Constitutional Amendment on the ballot. None of the three legislative attempts were successful in moving the bills out of their house of origin (Assembly or Senate), let alone to a full vote of the Legislature, to potential approval by the Governor, and to a vote of the people. Thus, legislative/voter relief cannot be considered a feasible alternative at this time. In addition, while we appreciate the efforts of the Regional Water Board staff to help seek funding for stormwater, including grant funds, those funds, if received are small and short-lived when compared to the very significant and long-term capital and operations and maintenance expenditures necessary to address the plethora of requirements that have been included in the Revised Tentative Order.

This systemic inability to significantly raise funds is compounded by the current and deepening recession – the worst economy in 80 years, since the Great Depression – which is expected to take years from which to recover. Like your agency, our agencies are being forced to make major cuts in staffing and services. Potential funding for stormwater quality, such as the State’s \$90 million Proposition 84 Storm Water Grant Program, which Regional Water Board staff have put forward as the way to fund many of the new MRP requirements, have vanished. \$140 million in potential funding from the Federal government’s American Recovery and Reinvestment Act of 2009 has been diverted from flowing to local governments for new water-related projects to covering State obligations. There is no “new money” to be found and designing and adopting a permit with a significant jump in the cost of the requirements, while the cost and expenditures of every other aspect of local government are being held at current levels or reduced, will not make money appear and does not demonstrate sound public policy direction.

A year ago, at the March 11, 2008 Board hearing on the previous version of the permit – the December 14, 2007 Tentative Order, all of the Board Members delivered directives on the related issues of affordability, prioritization, cost-effectiveness, and phasing³:

- “We’re going to have to look at our watersheds and think about the application of this and set priorities on the watershed basis” (Board Member McGrath)
- “...maybe we should look at the program and consult with them and rework so it can be easily implemented with certain given timetable and timeframe,...” (Board Member Singh)
- “...as we look at the cost issues, let’s leverage existing efforts.” (Board Member Moore)
- “And this is a very laudable objective that we have, that we need to do everything that we can, but it has to be balanced by the fact that municipalities are not like the federal government. They can’t print money. And if they don’t have the money to do it, it doesn’t matter how great the regulation we produce for them. They can’t do it. And I think we really got to come up with this more balanced approach.” (Board Member Peacock)
- “At the same time, benefit cost ratio is benefit is larger than the cost, and we take that in too. So I think we should look into that.” (Board Member Singh)
- “We heard a lot about actions that the permittees didn’t think were going to make a big, a significance to water quality and they wanted to have those requirements removed, and presumably be able to then focus efforts on other areas. I think that’s reasonable.” (Vice Chair Young)
- “Again, I think the idea of going through and trying to see what we’re going to get the biggest, what the biggest gains in water quality are going to be for efforts is a good idea.” (Vice Chair Young)

Given these directives from your Board and BASMAA members’ interests in having an affordable and effective permit, BASMAA recommends that Regional Water Board staff work collaboratively with BASMAA and permittee representatives to: 1) remove unnecessary and burdensome prescriptive requirements (e.g., in provision C.15 Exempted and Conditionally Exempted Discharges); 2) limit the expansion of the proposed monitoring requirements (provision C.8 Water Quality Monitoring) to more affordable levels and to answering existing questions directly linked to adaptively managing stormwater discharges; 3) focusing the proposed trash requirements (provision C.10) so as to try and ensure they will be cost-effective;

³ Transcript - March 11, 2008 Regional Water Board meeting; Item 3; Board Member’s comments

and 4) better coordinating between, and phasing-in over a more extended time period the implementation of measures addressing the mercury and PCBs TMDLs (provisions C.11 and 12) and limiting the number of associated special studies and pilot projects so as to make those efforts more affordable considering other priorities in this proposed permit (e.g., such as trash).

Please see the attachment for specific details on this major concern.

Specific provisions create untenable legal liability for or assume non-existent legal authority of both the permittees and the Regional Water Board; or are inconsistent with Clean Water Act and Porter-Cologne

Please see the legal comments filed by Bob Falk, legal counsel for the Santa Clara Program, and Gary Grimm, legal counsel for the Alameda County Program.

Specific, key provisions are unscientific, or technically or managerially unsound

Provisions in the elements: C.3 New Development and Redevelopment, C.8 Water Quality Monitoring, C.10 Trash Reduction, and C.11 Mercury Controls; and to a lesser degree in other provisions are not based on the latest scientific and technical information or are constructed or written in a way that is not managerially sound. Please see the attachment for specific details on this major concern.

Specific provisions have typographic, formatting, or document construction issues, or are written inconsistently with other provisions

Not surprisingly in a document of this size and complexity, developed over time by multiple authors, there are typographic, formatting, document construction, and inconsistent wording issues that need to be addressed. Please see the attachment for specific details on this major concern.

We need a smarter permit – one that is affordable, cost-effective, based on a real prioritization of objectives/new requirements, reflects a phased approach to addressing them in the next five years and across several future permit terms, and provides the biggest environmental benefit-for-the-buck

As BASMAA has been identifying for almost five years, that due to fiscal constraints and competing local needs (such as police and fire protection services), there is a **critical** need to both prioritize and phase municipal stormwater program actions so the most important issues and legal mandates (including TMDLs adopted by the Regional Water Board) are addressed. We look forward to working with you to produce a permit that facilitates meeting that need.

If you have any questions regarding these comments, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Donald P. Freitas". The signature is fluid and cursive, with a large, stylized initial 'D'.

Donald P. Freitas, Chair

cc: Tom Mumley, Assistant Executive Officer, Regional Water Board
Shin-Roei Lee, Chief – Watershed Management Division, Regional Water Board
Dale Bowyer, Section Leader – Southeast Bay Section, Regional Water Board
BASMAA Executive Board

Attachment: Annotated MRP outline with comments

BASMAA
Municipal Regional Stormwater Permit –
February 11, 2009 Revised Tentative Order
Outline¹ Annotated with Comments

Global comment categories (designation also shown in parenthesis after specific comments)

- A. Affordability - Increased cost / lack of resources / need for phasing of provisions and schedules
- B. Legal liability / Legal authority / Inconsistent with Basin Plan, Clean Water Act, and/or Porter-Cologne
- C. Unscientific / technically or managerially unsound
- D. Document construction / typographic / formatting / consistency
- E. Positive

Specific comments noted by section

C.2. Municipal Operations..... 10

- C.2 – support this provision with minor edits (E)

C.3. New Development and Redevelopment..... 15

- C.3 introductory paragraph – delete from last sentence of first paragraph “...employing landscape-based treatment measures.” as this changes and narrows the definition of LID and connotes that LID is not appropriate in ultra-urban areas or transit-oriented development (C)(D)
- C.3 (throughout) – change due dates listed as “immediate” to some later dates as new C.3 is sufficiently different from current version that time will be needed for program modifications (C)
- C.3 – provisions related to the following need revisions to the “grandfather clause”, as the definition in the revised TO is unworkable. Revise new term “final, major, staff-level discretionary review and approval” to be consistent with California land use and planning law (C)
 - Change to 5,000 square feet for special land uses (C.3.b.ii.(1))
 - LID/BMP selection process (C.3.c.ii.)
- C.3.a.i.(2) New Development and Redevelopment Performance Standard Implementation: Task Description – revise wording in 2nd sentence to be consistent with other provisions to “...conditions of approval must require that post-development-project runoff not exceed pre-development-project levels...” (D)
- C.3.b.ii.(4)(b) Regulated Projects: Regulated Projects are defined in the following categories: New Road Projects – make exclusions consistent with all of the exclusions for this provision listed on page 23 of the Fact Sheet, including bike lanes (rationale for excluding bike lanes associated with widening existing roads also applies to bike lanes associated with new roads) (C)(D)
- C.3.b.iii. Regulated Projects: Green Streets Pilot Projects – green parking lots should be explicitly qualified as “green streets projects” (A)(C)
- C.3.b.iii. Regulated Projects: Green Streets Pilot Projects – add to first sentence: “Permittees shall cumulatively endeavor to secure funding and complete...” (A)

¹ Outline drawn from Revised Tentative Order Table of Contents.

- C.3.b.iii. Regulated Projects: Green Streets Pilot Projects – add clause to explicitly count toward the implementation level of 10, green streets projects completed since February 2003, with appropriate documentation of project elements (A)
- C.3.b.iii. Regulated Projects: Green Streets Pilot Projects – reference to sizing criteria in C.3.d needs to be deleted or referenced as a goal to make redevelopment or retrofit projects feasible (A)(C)
- C.3.b.iii. Regulated Projects: Green Streets Pilot Projects: Due Date – make completion deadline July 1, 2014 to allow full permit term for achieving provision (A)
- C.3.c.i.(2)(e) Low impact development (LID): Task Description: Site Design and Stormwater Treatment Requirements – add missing words “as practicable” to first sentence to be grammatical and consistent with (f) and (g) (D)
- C.3.c.i.(4), C.3.c.i.(5), C.3.c.i.(6), Low impact development (LID): Task Description: – delete provisions (5) and (6) and modify the threshold in (4) to more than 20% “of the total provision C.3.d specified runoff from the site.” In lieu of Executive Officer review requirement, state the goal of limiting the use of vault-based systems and provide general guidance on when and where they can be used. (B)
- C.3.e.i. Alternative Compliance with Provisions C.3.b: Task Description – modify provision to remove ineligibility of new development projects, including transit-oriented and road projects, and explicitly include all road projects for alternative compliance option (C)
- C.3.e.i.(2)(b) Alternative Compliance with Provisions C.3.b: Task Description: Contributing Equivalent Funds to a Regional Project – delete new 2nd sentence regarding more time as unworkable as conditions of approval and design can not be changed after the fact (C)
- C.3.g.ii.(4) Hydromodification Management: HM Standard: Calculating Post-Project Runoff – delete 2nd sentence as counterproductive and a disincentive to good site planning and design, and is also inconsistent with the site design provisions in C.3.c. and BASMAA’s *Start at the Source* Guidance Manual (C)
- C.3.h.iii. Operation and Maintenance of Stormwater Treatment Systems: Maintenance Approvals – revise 1st sentence: “Permittees shall ~~ensure~~ require...” (B)
- C.3.b Collection of Impervious Surface Data for Small Projects – support deletion of this provision (E)

C.4. Industrial and Commercial Site Controls..... 38

- C.4.c.ii. Enforcement Response Plan (ERP) – make Recordkeeping (C.4.c.ii.(4)) and Reporting (C.4.c.iii.) consistent with same provisions for Enforcement Response Plans in C.5 Illicit Discharge Detection and Elimination and C.6 Construction (D)

C.6. Construction Site Control 47

- C.6 – revise first paragraph into a goal statement like other provisions rather than a summary (D)
- C.6.d.i. Task Description, 2nd sentence – make action consistent with ii. Implementation Level = Permittees shall also verify that sites disturbing one acre or more of land ~~obtain~~ have filed a Notice of Intent for permit coverage... (D)

- C.6.e.ii.(2)(b)vii. Inspections: Implementation Level: Frequency of Inspections: High Priority Sites: Any other relevant factors.... – delete “or the Water Board.” as too open-ended and undefined. (A)(B)
- C.6.e.ii.(4) Inspections: Implementation Level: Tracking – list is too prescriptive (A)(C)
- C.6.e.ii.(4) Inspections: Implementation Level: Tracking – delete “(d) Inches of rain since last inspection;” as onerous and unworkable (A)(C)(D)

C.8. Water Quality Monitoring..... 58

- Table 8.1 Status Monitoring Elements
 - Biological Assessment – change requirement for algae bioassessment, chlorophyll-a and ash free dry weight to design of a characterization study to be conducted next permit term (A)
 - Nutrients – change requirement from nutrients sampling and evaluation to design of a characterization study to be conducted next permit term (A)
 - Toxicity & Diazinon and Chlorpyrifos – move sampling of storm event into C.8.f Pollutants of Concern Monitoring (D)
 - Footnote 32: Temperature – change temperature trigger reference to water quality objective in Basin Plan (C)
 - Toxicity–Bedded Sediment – restore the minimum # of sample sites back to December 2007 values (i.e., 6/4/1) (A)
 - Pollutants–Bedded Sediment – restore the minimum # of sample sites back to December 2007 values (i.e., 6/4/1) (A)
 - Pathogen Indicators – delete parameter as agreed during WB/BASMAA meetings in summer 2008 (A)
- C.8.d Long-Term Monitoring – delete provision as redundant (A)(C)(D)
- C.8.e.i.(3) Monitoring Projects – delete provision; implementation requirement out of place in document (D)
- C.8.e.i.(6) Monitoring Projects – delete provision; legal language out of place in document (B)(D)
- C.8.e.ii. Monitoring Projects: BMP Effectiveness Investigation – delete provision as redundant with C.11 and C.12 (A)(D)
- C.8.f Pollutants of Concern – revise language to allow flexibility in requirement to use alternative methodologies and number of sites based on the Small Tributaries Loading Strategy, at an equivalent level of effort (A)
- C.8.h.i. Reporting: Water Quality Standard Exceedance – revise “within 30-days” (B)(D)
- C.8.h.ii. Reporting: Status & Trends Electronic Reporting – change submittal date to December 15 (A)(C)
- C.8.h.i. Reporting: Urban Creeks Monitoring Report – change submittal date to March 15 (D)

C.10. Trash Reduction..... 77

- C.10.a.i. Implement Enhanced Trash Control Actions, Including Full Trash Capture Device Installations – Demonstrate Improved Trash Assessments at Trash Hot Spots – Attain Trash Action Level: Goal Statement
 - reduce “goal statement” from 378 words and more of an executive summary to just a goal statement (66 words, first sentence only) (D)

- replace “tangible progress” with “improvement” in goal statement (C)
- remove or move rest of language that is not part of a goal statement to Fact Sheet (D)
- clarify that Trash Action Level (TAL) is a goal or a trigger for more actions, not a water quality objective or numeric effluent limitation (B)
- C.10.a.ii. Trash Hot Spot Selection
 - confirm identification of hot spots “on State waters” is doable for all 77 permittees (B)
 - delete the sentence “The Trash Hot Spots will be publicized on the Water Board web page to enable public review and comment for a minimum of 30 days.” (C)
 - change last sentence, 2nd paragraph to “If no communication is received by the Permittees April 1, 2010, the hot spot selections are approved.” (D)
- C.10.a.iii. Non-Population based Permittees Hot Spot Selection – move right hand column of Table 10-1 to provision C.10.a.v. Trash Capture Requirement; the column is not related to the header of this section - selection (D)
- C.10.a.iv. Trash Hot Spot Clean Up to Trash Action Level
 - clarify that Trash Action Level (TAL) is a goal or a trigger for more actions, not a water quality objective or numeric effluent limitation, and change the characterization of the goal from TAL to Trash Reduction Goal (B)
 - change date July 1, 2012 to July 1, 2014 – the date in this section, which is about achieving TALs/Trash Reduction Goals, should be after the date in the next section, which is about implementation to achieve TALs/Trash Reduction Goals (C)(D)
- C.10.a.vii. Booms or sea curtains – to be consistent, change reference in 3rd sentence regarding cleaning from “any storm” to be the same as the design storm in C.10.a.v. Trash Capture Requirement (one year, one hour) (D)
- C.10.a.viii. Trash Source Reduction
 - support this new, positive incentive (E)
 - change reporting date from 2012 to 2013 for receiving 20% credit (D)
- C.10.b.i. Trash Hot Spot Assessment: Assessment and Reporting
 - given assessment is based on counting trash items, change method to modified Urban RTA focused on that protocol (A)
 - change frequency of assessment from twice to once a year for each Trash Hot Spot and allow flexibility for assessments to be limited to Urban RTA Parameter 1 (Level of Trash) and Parameter 2 (Actual Number of Trash Items Found) except that at least one assessment during year two (2010) and at least one assessment during year four (2012) must include all six Urban RTA Parameters (A)(C)
- C.10.c. Long-Term Plan for Trash Impact Abatement
 - to be consistent, change dates 2024 to 2029 (20 years = other TMDLs) and 2013 to 2014 (C)(D)
 - in each occurrence of term “no impact”, add “unreasonable” (B)
- C.10.d. Reporting
 - in each occurrence, clarify that Trash Action Level (TAL) is a goal or a trigger for more actions, not a water quality objective or numeric effluent limitation (B)
 - in each occurrence, delete “funding” as a required reportable item (B)
- C.10.d.v. Reporting: 2013 Annual Report – change due date of Long-Term Plan for Trash Abatement to 2014 Annual Report (C)

C.11. Mercury Controls..... 83

- Combine C.11 and C.12 into one provision to eliminate duplication and inconsistencies (D)
- C.11 (throughout) – all references to quantifying pollutant loads and/or loads avoided should state "prepare quantitative estimates of loads and/or loads avoided" or something similar (C)
- C.11.b. Monitor Methylmercury – data from study will not be useful; not smart expenditure (A)
- C.11.c. Pilot Projects to Investigate and Abate... – like C.12.c, delete "Private Property," from title (D)
- C.11.c.i. Pilot Projects to Investigate and Abate... – reduce number of pilot project locations from five to four or one per large County (A)
- C.11.c.ii. Implementation Level – "must ensure" language may create untenable liability (B)
- C.11.c.ii. Implementation Level – delete last sentence "Permittees are responsible for contaminants located on public rights-of-way and the stormwater conveyance system." as unacceptable language to state that permittees are solely responsible for contaminants located on public right-of-way and in the stormwater conveyance system (B)(C)
- C.11.d.i. Pilot Projects to Evaluate and Enhance Municipal Sediment Removal...: Task Description – reduce number of pilot scale drainages from five to four or one per large County (A)
- C.11.d.ii. Pilot Projects to Evaluate and Enhance Municipal Sediment Removal...: Implementation Level – delete sentence "Beginning July 1, 2011, Permittees shall implement the most potentially effective measures(s) based on the evaluation of Provision C.11.d.ii. in all drainages for which PCB pilot projects are being conducted." as the PCBs TMDL Basin Plan Amendment specifies that PCBs actions during the five-year permit term should consist of cost-effective pilot studies, not implementation actions (A)(B)
- C.11.e.ii. Conduct Pilot Projects to Evaluate On-Site Stormwater Treatment via Retrofit – reduce number of locations from 10 to four or one per large County (A)
- C.11.f. Diversion of Dry Weather and First Flush Flows to Publicly Owned Treatment Works (POTWs) – unclear if section (2) is a repeat of section (1) or additional work (C)
- C.11.i.i. Development of a Risk Reduction Program Implemented throughout the Region; Task Description – focus scope on public education efforts that reflects the recent discussions with Water Board staff and approach described in the BACWA status report (B)(C)

C.12. Polychlorinated Biphenols (PCBs) Controls 90

- Combine C.11 and C.12 into one provision to eliminate duplication and inconsistencies (D)
- C.12 (throughout) – all references to quantifying pollutant loads and/or loads avoided should state "prepare quantitative estimates of loads and/or loads avoided" or something similar (C)
- C.12.b. Conduct Pilot Projects to Evaluate Managing PCB-Containing Materials... – revise provision to be performance-based and much less prescriptive (i.e., it

should state the required outcome and when it needs to be accomplished by, but it should not prescribe the exact methods and schedule for each step along the way) as this will facilitate coordinating this provision with the Proposition 50-funded “Taking Action for Clean Water” project, since the methods and schedule for the Proposition 50-funded project will largely be developed during its implementation through a stakeholder/advisory committee process (C)

- C.12.b.iii.(2)(3)(4) Conduct Pilot Projects to Evaluate Managing PCB-Containing Materials... – dates should be one year later (A)
- C.12.c.ii.(1) Pilot Projects to Investigate and Abate On-land Locations with Elevated PCB Concentrations...: Implementation Level – delete last sentence "Permittees are responsible for contaminants located on public rights-of-way and the stormwater conveyance system." as unacceptable language to state that permittees are solely responsible for contaminants located on public right-of-way and in the stormwater conveyance system (B)(C)
- C.12.c.ii.(5) Pilot Projects to Investigate and Abate On-land Locations with Elevated PCB Concentrations...: Implementation Level – revise sentence “In conjunction with the Water Board and other appropriate agencies, each Permittees shall conduct an abatement program in portions of and/or implement appropriate BMPs on properties that are owned by that Permittee and located within the pilot drainages under their jurisdiction in conjunction with the Water Board and other appropriate agencies.” as the current phrase "under their jurisdiction" could refer to private properties located within a city that are not necessarily owned by that city (B)
- C.12.d.iv. Conduct Pilot Projects to Evaluate and Enhance Municipal Sediment Removal... – delete provision as the PCBs TMDL Basin Plan Amendment specifies that PCBs actions during the five-year permit term should consist of cost-effective pilot studies, not implementation actions (A)(B)

C.15. Exempted and Conditionally Exempted Discharges 102

- C.15 – Design and content of section is fundamentally flawed; no basis for increased requirements or reporting on discharges that are considered of minor concern, hence the exempt and conditionally exempt designations (A)(B)(C)
- C.15 – Inclusion of requirements on non-MS4 systems in a MS4 permit is inappropriate, unworkable, and unprotective (A)(B)(C)

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- Pollutants of Concern – base on definition on Basin Plan, 303(d) listings or TMDLs (C)