

Fire Department • Fire and Environmental Protection Division
500 Castro Street • City Hall • 4th Floor • Mountain View, California 94041-2010
650-903-6378 • FAX 650-903-6101

April 3, 2009

MR BRUCE WOLFE—EXECUTIVE OFFICER
SAN FRANCISCO BAY REGIONAL WATER QUALITY CONTROL BOARD
1515 CLAY STREET #1400
OAKLAND CA 94612

MUNICIPAL REGIONAL STORM WATER NPDES PERMIT FORMAL COMMENT
SUBMITTAL

Dear Mr. Wolfe:

Thank you for the opportunity to review and submit comments on the Tentative Order for the Municipal Regional Storm Water NPDES Permit (Regional Permit), which was issued by the San Francisco Bay Regional Water Quality Control Board (Regional Water Board) on February 11, 2009. The purpose of this letter is to submit the City of Mountain View's (City's) formal comments in accordance with the deadline for written comments established by the Regional Water Board's Revised Notice of Opportunity for Comment. This letter lists a compilation of questions and concerns that were identified during the City's review of the Regional Permit.

The City of Mountain View supports the Regional Permit as a mechanism to ensure consistent implementation and reporting requirements among regulated Bay Area storm water agencies. The City also appreciates the effort by Regional Water Board staff, BASMAA, the six Bay Area storm water programs and the individual permittees to develop the Regional Permit. In a letter dated February 29, 2008, the City submitted formal comments on the initial Tentative Order for the Regional Permit, and while the City appreciates some of the subsequent changes to the Regional Permit, concerns remain that some of the proposed requirements will result in increased demands on City resources and significant increases to the City's budget. These cost increases would be realized in the need for additional staff due to increased service levels, installation and maintenance of costly control mechanisms and increased cost to participate in the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP), which anticipates an increased operating budget of as much as 40 percent due to numerous additional requirements in the Regional Permit. The City's general comments and questions are listed first, followed by comments and questions related to specific permit provisions.

General Regional Permit Provision Comments and Questions

Storm Water Pump Station Diversion to POTWs

Different sections of the Regional Permit require Bay Area municipalities to monitor pump stations and study the feasibility of diverting first-flush and dry-weather flows from storm water pump stations to POTWs. The organization of the Regional Permit outlines monitoring and feasibility investigations but presumes that pump station diversions would be beneficial and feasible by requiring diversions from five pilot pump stations. Diversions from storm water pump stations would not only be potentially costly to implement, but would increase POTW treatment costs.

The City recommends modifications to the Regional Permit which would provide flexibility to allow municipalities and sanitary sewer agencies the opportunity to carefully evaluate the potential benefits, impact and cost implications of proposed diversions to POTWs in an organized, controlled and fiscally responsible manner.

Prioritization of Regional Permit Requirements

Individually, many of the increased requirements included in the Regional Permit and identified in this letter would not be insurmountable for the City to achieve and accomplish. Requiring implementation of all of these requirements, especially with respect to the requirements related to mercury, PCBs and other legacy pollutants, during one 5-year permit cycle represents a significant impact to the City's resources and operating budget.

The City recommends that the Regional Water Board reevaluate priorities in the Regional Permit. Prioritizing major goals and long-term phasing of these requirements over a 10-year period will provide municipalities the opportunity to successfully accomplish the challenge of meeting the enhanced requirements using a phased approach. From a budget planning perspective, this phasing will be critical as municipalities continue to seek ways to fund a wide range of important services in an increasingly difficult financial climate. Specifically, the City recommends deferral of the requirements for special studies and pilot programs related to mercury, PCBs and other legacy pollutants until future NPDES permits.

Specific Regional Permit Provision Comments and Questions

C.2.d.—Storm Water Pump Stations

The Regional Permit requires cities that operate storm water pump stations to conduct additional inspection and monitoring for dissolved oxygen levels and perform

corrective actions as necessary. Additional storm water pump station inspections and maintenance activities for trash control after 0.25 inch storms are also required in the Regional Permit. During significant rain events, personnel from various City departments, including Public Works employees responsible for pump stations, respond to a variety of critical situations to ensure the protection of lives and property. Requiring inspection and maintenance within 24 hours of significant rain events may divert personnel resources during critical "storm patrol" operations and could potentially endanger employees by requiring them to enter these facilities during high-flow conditions. The City operates and maintains five storm water pump stations, which vary in type, construction, drainage inputs and flow rate. The additional monitoring, inspection and maintenance required in the Regional Permit places an increased demand on limited staff resources.

The City recommends revising this provision to limit the monitoring and maintenance requirement to storm water pump stations having characteristics that may warrant the additional activities. For example, require the dissolved oxygen monitoring only at pump stations that could contribute sufficient flow of low dissolved oxygen water to have a deleterious effect on receiving water quality. Additionally, the City recommends extending the time after significant storms when inspection and maintenance are required to ensure that personnel can be dispatched according to resource needs and to ensure worker safety.

C.3.b.i.(1)—New Development and Redevelopment—Regulated Projects

The Regional Permit maintains the 10,000 square foot threshold for new development and redevelopment projects but reduces the impervious surface threshold to 5,000 square feet for special land use categories. This requirement places a burden on the City's Development Review Process and the BMP tracking program by significantly increasing the number of projects that will need to be evaluated for applicability during the Development Review Process, reviewed during plan review, inspected during construction and tracked for operations and maintenance activities after completion of the project. Additionally, the reduced threshold potentially places significant cost increases on small improvement projects to a degree that a project may not be feasible.

The City recommends maintaining the existing 10,000 square foot regulated project threshold. Is supporting data available showing that reducing the impervious threshold to 5,000 square feet for projects at special land use categories will improve water quality?

C.3.b.i.(4)—New Development and Redevelopment—New Road Projects

The Regional Permit requires storm water treatment BMPs for widened streets or roads with additional traffic lanes or sidewalks and does not include reference to a "50 percent rule" for these projects. The City's concern for street-widening projects is that new and existing street surfaces would require treatment, which may require significantly larger treatment controls compared to the imperviousness that may be proposed in a project. The installation and maintenance costs would be significantly higher for a larger treatment BMP. Additionally, while the Regional Permit partially exempts trail projects from the storm water treatment requirement, some trail projects would still require installation of treatment controls.

The City recommends exempting street- or road-widening projects with additional traffic lanes or sidewalks, as well as all trail projects from the treatment BMP requirement to keep costs of these projects at a manageable level. Is supporting data available showing that requiring treatment BMPs on street- or road-widening projects, and bicycle lane and trail projects will improve water quality? The requirement to treat runoff from new, nonexempt trail project may be difficult to design and construct, and may be a disincentive for cities to pursue development of these important pedestrian and bicycle trails.

C.3.c.i.(2)—Site Design and Storm Water Treatment Requirements

The Regional Permit requires Water Board Notification and, in some cases, Water Board Executive Officer approval for projects that propose installation of vault-based treatment systems to provide treatment for greater than 10 percent of the runoff. For projects with limited space to install adequate landscape-based treatment controls, such as high-density projects not eligible for "alternative compliance," vault-based BMPs may be the only feasible systems. The City is concerned that the additional notification and approval requirement will significantly delay the project approval process, which would increase project costs. The City is also concerned that limiting the use of vault-based systems conflicts with community development strategies that are promoted in Assembly Bill 375.

The City recommends eliminating the requirement for Water Board notification and approval of projects that include vault-based systems. Is supporting data available showing that properly maintained vault-based systems are ineffective?

C.3.—Effective Dates Throughout Provision C.3

Numerous sections throughout Provision C.3 list the "Effective Date" for implementation of the requirements as immediate. The Regional Permit significantly

modifies key sections of the Provision, including new road projects, low-impact development, and the hydromodification management threshold and applicability area definition that are currently implemented by SCVURPPP permittees. Revisions to these key sections do not allow for sufficient time to implement the requirements.

Implementation of the revised Provision C.3 will require staff training and substantial changes to the City's guidance documents and the development review process. Also, the effective date for implementation of the C.3 requirement on "new road projects" implies that treatment will be required on applicable public road or trail projects as early as this summer. This is not a reasonable effective date, since the treatment requirement was not considered during planning for public projects that have received funding and are in the plan development phase, but construction may not be scheduled until after the effective date. The City suggests extending the effective dates until one year after adoption of the Regional Permit, and clarifying the effective date for public projects.

C.5.d.—Illicit Discharge Detection and Elimination—MS4 Map Availability

The Regional Permit requires the City to make storm sewer maps available to the public either electronically or in hard copy. The City is concerned about publishing detailed infrastructure maps for security reasons.

The City answers public requests for information related to the storm drainage system, but does not provide maps for public review. Has the Regional Water Board evaluated the requirement to make storm sewer maps publicly available for potential conflicts with Federal Homeland Security regulations? What is the rationale for requiring publication of the infrastructure maps?

C.6.c.—Construction Site Control—Best Management Practices

The Regional Permit mandates that the City require all construction sites to have seasonally appropriate effective BMPs. This requirement will significantly increase the number of projects subject to review, approval and inspection to ensure compliance with the standard. Additionally, based on the definition, the City would need to review and inspect a large number of projects that would not pose a significant construction runoff threat.

The City recommends revising the definition to eliminate the requirement that "all" projects require the BMPs. The City recommends an allowance for flexibility to determine which projects are subject to the requirement for sediment and erosion control BMPs.

C.8.—Water Quality Monitoring

The Regional Permit prescribes an extensive monitoring program, including follow-up actions that would be required based on monitoring trends. These monitoring requirements are overly prescriptive and may result in significantly increased costs, especially during the later years of the permit cycle. The increased monitoring costs would further increase the SCVURPPP budget, which will result in an increased cost for the City to participate in SCVURPPP. Additionally, the monitoring program described in the Regional Permit does not allow storm water agencies to develop the monitoring program or the flexibility to streamline or modify monitoring activities based on analytical results.

The City recommends revisions to the monitoring provision that will allow the storm water agencies flexibility regarding the development and implementation of the monitoring activities based on analytical results.

C.10.a.iv.—Trash Hot Spot Clean-Up to Trash Action Level

The Regional Permit requires the City to identify a prescribed number of trash hot spots, then achieve and maintain cleanup of those sites to a "trash action level (TAL)." The clean-up TAL is less than 100 pieces of trash per 100' assessment reach and that there is no visual impact from trash within the assessment reach. Examples of some of the trash hot spots that could be identified are homeless encampments and locations that attract graffiti. These areas are often difficult to access and patrol, so maintaining the hot spots to the TAL level will be resource intensive and costly. It is the City's position that the TAL cannot be achieved consistently at some of the trash hot spots.

The City recommends revising the Regional Permit to include a TAL that can be achieved, or establishes the TAL as a goal instead of an enforceable limit.

C.10a.v.—Trash-Capture Requirement

The Regional Permit requires the City to install full trash-capture devices to treat a catchment area draining a total of 30 percent of the retail/wholesale commercial land use area. Installation and maintenance of these full trash-capture devices is costly and only treats storm water-related trash sources.

The City believes that the Regional Permit should be modified to allow the flexibility to implement cost-effective trash controls that are appropriate for local conditions and severity of trash problem areas. Is supporting data available showing that installation of full trash-capture devices will effectively remove trash to a level that will cause noticeable improvements to water quality?

C.11.—Mercury Controls and C.12.—PCB Controls

The Regional Permit requires municipalities to perform pilot projects to investigate and abate land sources of mercury and PCBs, and to evaluate and enhance sediment removal practices. The investigation and abatement requirements in the Regional Permit would require significant staff and budget and most likely would need to be conducted by professionals with specialized training investigating these sites.

The City believes that completion of the activities to address legacy pollutants should be deferred until subsequent municipal storm water NPDES permits, which will allow municipal agencies to complete higher-priority tasks.

C.15.b.iii—Planned, Unplanned and Emergency Discharges of the Potable Water System

The Regional Permit includes a requirement to monitor and report planned and unplanned discharges from routine water system operations and maintenance activities, including water system flushing and hydrant testing, which would significantly increase fieldwork-related record-keeping tasks impeding operational efficiency. These additional requirements would significantly impact City water utility maintenance operations by adding monitoring and data recording steps to these routine operations.

The City recommends regulating discharges from municipal water utility operations by continuing to require BMPs during routine and nonroutine activities. Is supporting information available showing that discharges from municipal water utility operations are contributing to receiving water pollution and additional monitoring and controls are needed?

The proposed Regional Permit will be the fourth Municipal NPDES Storm Water Permit that the City will implement. Mountain View has a comprehensive storm water pollution prevention program and is committed to implementing measures to reduce pollutants found to cause impairment to local waterways and San Francisco Bay. The City also supports using comprehensive and conclusive data to show that a source exists and that the required measures will effectively control the pollutant of concern. The City's position is that this data should be used as the basis for the enhanced requirements in the Regional Permit. Thank you for considering these comments. The

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City of Mountain View looks forward to the opportunity for further discussion of these issues at the public hearing on May 13, 2009.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric Anderson", with a long horizontal flourish extending to the right.

Eric Anderson
Urban Runoff Coordinator

EA/7/FIR
151-03-13-09L-E^

cc: Mr. Adam Olivieri, SCVURPPP Program Manager

City Council

CM, PWD, CDD, CSD, ATCM—Woodhouse, SACA—Emerson, FM,
PSM—Hurlburt