



DEPARTMENT OF PUBLIC WORKS
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Mr. Bruce Wolfe
Executive Officer
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Subject: ***Comments on the Tentative Order for the Municipal Regional Stormwater National Pollutant Discharge Elimination System Permit***

Dear Mr. Wolfe:

The City of San Mateo offers the following comments on the February 11, 2009 revised draft municipal regional stormwater permit. We recognize our essential role in promoting, demonstrating, and enforcing practical measures to protect the water environment. Indeed, we believe that water quality protection is an integral component of a sustainable San Mateo. However, our success with compliance is necessarily tied to financial resources available. We trust that the following comments will contribute to a constructive dialog that results in additional permit revisions.

We acknowledge there have been a number of important improvements to the permit compared with the December 2007 version. The San Mateo Countywide Water Pollution Prevention Program's (Countywide Program) comment letter highlights many of the improvements that have been made. However, more movement in this positive direction is essential.

It is essential to have a permit that is practical, predictable, and cost-effective. In addition, it is important to us that the permit avoids shifting the San Francisco Bay Regional Water Quality Control Board's (Water Board) pollutant control and cleanup responsibility to local public agencies.

The following categorizes some common types of problems that occur in the revised draft municipal regional stormwater permit.

1. A number of the permit's provisions, remain overly prescriptive and will require additional staff time dealing with an unnecessary amount of information tracking and reporting unrelated to improving water quality.

2. Despite a decline in the number of unsound and technically questionable permit requirements, there still remain a number of areas that need modification.
3. The control actions needed to comply with some of the permit's requirements are unpredictable because they may be triggered by monitoring results, such as Provision C.8.e.i.(3). An additional uncertainty is posed by having to achieve an arbitrary and potentially unrealistic trash and litter clean up level.
4. Some of the permit's implementation and reporting dates are unrealistic and should be extended.

Examples of Permit Problems and Requested Changes

The following illustrates some specific examples of problems the current draft of the permit poses for the City of San Mateo and our requested changes to the permit. For a more comprehensive list of issues and requested permit changes, please refer to the Countywide Program's List of Issues Table that was included with the Countywide Program's comment letter.

Provision C.2 Municipal Maintenance

- ◆ We reiterate Countywide Program comments that recommend the Permit conform to language in the Federal Clean Water Act, that corrective action be taken only when pump station discharge causes an unacceptable reduction of dissolved oxygen in the receiving water, and to avoid pump station inspection triggers based on size of rain events.

Provision C.3 New Development and Redevelopment

- ◆ Under the current permit Provision C.3 requirements do not apply to privately-sponsored projects for which a development application had been deemed complete prior to the Provision C.3 start date. The revised draft permit introduces a lower threshold, of 5,000 square feet of impervious surface, for requiring specific types of development projects to meet Provision C.3 requirements. The new threshold would go into effect on July 1, 2011 (C.3.b.ii.(1)d) , and an exemption is provided for projects that have "final, major staff-level discretionary review and approval for adherence to applicable local, state, and federal codes and regulations, prior to July 1, 2011." This would occur later in the review process, after project applications have already been deemed complete. Introducing a new requirement after an application has been deemed complete is in opposition to the Permit Streamlining Act, which the state legislature adopted to ensure clear understanding of requirements for development review approvals. The new requirement should be changed to allow applications have been deemed complete per the Permit Streamlining Act prior to July 1, 2011, not to comply with new stormwater requirements.
- ◆ Any widening of an existing road with 10,000 square feet or more of impervious surface will require treatment of all of the stormwater runoff from the road. The permit should be modified to only require treatment of stormwater runoff from an area equivalent to the

widened section and not the entire road if the widened area is less than 50 percent of the entire road's impervious surface.

Provision C.4 Industrial/Commercial Site Controls; C.5 Illicit Discharge Detection and Elimination

- ◆ These sections are an example of the cumbersome nature of the permit language. The language should be simplified and streamlined. For example, recordkeeping requirements should be consolidated in one section, annual reporting requirements in one section, enforcement response plan requirements in one section, etc.

Provision C.6 Construction Site Control

- ◆ The permit proposes a requirement that the City implement a construction site control program at all construction sites. The permit should focus on construction sites of a sufficient size to pose a reasonable threat to water quality and are located where stormwater runoff from the site flows into a municipal separate storm sewer system owned or operated by the City.
- ◆ The list of information from each construction site inspection that must be tracked and/or reported is too prescriptive and unnecessary to protect water quality. For example, there is no value to collecting information about the “inches of rainfall since the last inspection.” The list of items should be minimized as requested in the List of Issues Table submitted by the Countywide Program.

Provision C.8 Water Quality Monitoring

- ◆ The requirements in this section are certain to be very expensive and information gathering does not guarantee water quality benefits. We must reiterate the comments in the Countywide Program submittal that these monitoring requirements are unlikely to lead to improved water quality. At minimum, monitoring requirements should be reduced and phased in more gradually.

Provision C.10 Trash Reduction

- ◆ We believe the permit should not be used to address trash and litter in creeks from direct dumping and littering and wind transport, as these sources are outside the definition of a “municipal storm sewer system” as defined in the Federal Clean Water Act. The City would continue to clean up these deposits as we always have.
- ◆ The permit proposes a trash clean up (action) level for what it terms trash hotspots that should be expressed as a goal and not an inflexible mandate because of uncertainty about what levels of trash reduction is needed to protect beneficial uses and what levels are reasonably achievable.
- ◆ We believe the requirement to install full capture devices on 30% of the ABAG 2005 Retail/Wholesale Commercial Land Use area is too ambitious and does not guarantee meaningful trash reduction. As indicated above, direct littering and dumping into

waterways can be a more significant source. We concur with the countywide Program comments that the installation of full capture on 20% of this land use is a reasonable level of implementation as part of what the permit characterizes as an initial pilot scale deployment.

Provisions C.11 and C.12 Mercury and PCBs Controls

- ◆ The permit requires the Countywide program conduct feasibility studies and diversion of dry weather and first flush stormwater flows. While the City may or may not be selected as a site for such a study, we request that this requirement be limited to conducting a paper feasibility study. Such a feasibility study is essential to resolve whether there is sufficient capacity in the City's sanitary sewer collection system and at the wastewater treatment plant to handle these types of diversions. In addition, a feasibility study needs to evaluate the cost-effectiveness of doing diversions.
- ◆ The permit requires that municipalities ensure the clean up of mercury and PCBs contamination located on private properties by exercising direct authority to accomplish a clean up or by providing information to appropriate authorities. We believe the City should be accountable only for what the City is able to control. On this basis, this requirement should be modified to state that municipalities will attempt to identify private properties that may be contaminating their municipal separate storm sewer system with mercury and/or PCBs and forward this information to the Water Board.

Provision C.15 Exempted and Conditionally Exempted Discharges

- ◆ We concur with countywide program comments that this section is overly prescriptive, unnecessary, and disproportionate to the threat posed by these types of non-stormwater discharges. We strongly encourage that this section be simplified similar to the table titled "BMPs and Implementation Procedures for Conditionally Exempted Discharges" that was prepared by the Countywide Program and approved by the Water Board in 2004 as an amendment to the Countywide Program's Permit.
- ◆ The City should not be required to oversee the activities of California Water Service Company, our local private potable water purveyor, to assure their compliance with all of the discharge sampling, testing, and reporting required by the permit. It would be more efficient for the Water Board staff to adopt a general permit for potable water dischargers, who are not municipalities, and to make potable water dischargers apply for permit coverage so that they are directly responsible for meeting these types of requirements.
- ◆ The deletion of individual residential car washing as a conditionally exempted type of discharge is ill considered. In 2004 the Water Board adopted the Countywide Program's BMPs and Implementation Procedures for Conditionally Exempted Discharges, which includes individual residential car washing. We believe that a better approach is for the permit to recognize that individual residential car washing will occur and to promote the use of appropriate BMPs through education rather than to disallow these types of discharges.

- ◆ It should not be required of the City that small, incidental discharges of pumped groundwater, foundation drains, crawl space pumped water, and footing drains be assumed polluted until proven otherwise. Many San Mateo neighborhoods have natural springs and high water tables year-round, and sump pumps and drains are common. To require monitoring of these many sources is onerous and of little value.

We respectfully request that the permit be modified based on this and other comment letters submitted by members of the Countywide Program, the List of Issues Table included with the Countywide Program's comment letter, comments submitted by the Bay Area Stormwater Management Agencies Association, and the Santa Clara Valley Urban Runoff Pollution Prevention Program's comments. These and prior comment letters are included by reference. We hope that the final permit language will reflect a less cumbersome, more streamlined permit that contains tasks that apply only to the municipal separate storm sewer system as defined in the Clean Water Act, that reasonably guarantee cost-effective outcomes, and stretches out the a phase-in period in recognition of current and near-term financial challenges facing the City. We strongly desire to succeed in improving water quality and believe incorporation of our comments will help better achieve success.

We appreciate your consideration of our comments, and look forward to discussing these issues further at the May 13 public hearing.

Sincerely,



Larry A. Patterson, P.E.
Director of Public Works

c: Members of the City Council
Susan M. Loftus, City Manager
Darla G. Reams, Deputy Director
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