



Bay Area Clean Water Agencies

A Joint Powers Public Agency

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VIA EMAIL AND FACSIMILE: (510) 622-2501

Mr. Dale Bowyer
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Subject: Comments on the Municipal Regional Stormwater NPDES Permit Tentative Order (CAS612008)

Dear Mr. Bowyer:

The Bay Area Clean Water Agencies (BACWA) appreciate the opportunity to comment on the Tentative Order (TO) for the Municipal Regional Stormwater Permit (MRP). BACWA members own and operate publicly-owned treatment works (POTWs) that discharge to San Francisco Bay and its tributaries. Collectively, BACWA members serve over 6.5 million people in the nine-county Bay Area, treating domestic, commercial and a significant amount of industrial wastewater. BACWA was formed to develop a region-wide understanding of the watershed protection and enhancement needs through reliance on sound technical, scientific, environmental and economic information and to ensure that this understanding leads to long-term stewardship of the San Francisco Bay Estuary. BACWA member agencies are public agencies, governed by elected officials and managed by professionals who are dedicated to protecting our water environment and the public's health.

BACWA hopes that the following comments will result in changes to the tentative order prior to issuance of the final NPDES permit.

- 1. BACWA is concerned that the MRP conditions assume POTWs can and will accept and treat stormwater, dry weather urban runoff flow, and other traditionally storm drain conveyed waters.**

BACWA appreciates the leadership role taken by the Regional Water Board in the development of TMDLs which include enhanced pollution prevention measures to protect San Francisco Bay, as well as the streams and creeks that drain to the Bay. This groundbreaking MRP is an example of how new concepts may be incorporated in order to find solutions to difficult water quality problems. BACWA suggests that, in advance of implementation of the actual diversions, we all need to better understand how best to address some of the challenges associated with accepting stormwater flow into POTW systems.

BACWA is concerned that the requirement and language of the MRP assumes all POTWs can legally accept stormwater, dry weather urban runoff flow, and other traditionally storm drain conveyed waters. The MRP further assumes that acceptance of said flows will not create unintended compliance problems including permit violations and hydraulic capacity overload. While it is likely that some POTWs have capacity for dry weather diversions, it would need to be confirmed by those local agencies. The MRP does not adequately distinguish between dry weather diversions, and stormwater diversions during wet weather periods when many POTWs are challenged by capacity constraints and periodically have sanitary sewer overflows (SSOs) associated with those wet weather conditions. The MRP also needs to consider a process to review the many legal and financial issues that would need to be addressed prior to implementing a long-term diversion project. The review of legal issues should also include incidental taking of species of concern that may occur as a result of diversion of dry weather flows to the sanitary sewer system.

2. BACWA members are concerned about compliance with NPDES permit requirements.

POTWs need to better understand the Regional Water Board's approach to NPDES permit compliance. *Specifically, how will violation of pollutant specific numeric effluent limits attributable to accepting these flows be addressed?*

- Non-equipment or blockage-related SSOs occur when the collection system and/or treatment facilities exceed their hydraulic capacity. Generally this is due to infiltration and inflow and illegal connections to the collection system. Although we would expect that there should be capacity in collection systems and at POTWs to accept dry weather urban runoff, this should be analyzed before such action is taken. BACWA would not recommend that any first flush or wet weather stormwater runoff be accepted in collection systems or at POTWs without the wastewater facility having the opportunity to review their systems' capacities.
- How can acceptance of these flows allow BACWA members to gain credit for pollutant mass load reductions? Will loads be transferred from stormwater allocations to POTW allocations?

3. BACWA must have assurances that there are controls on swimming pool diversions.

BACWA members clearly understand the benefits of conveying chlorinated waters via sanitary sewers to a treatment plant rather than discharging these waters into the storm drains where they will flow directly to the Bay or streams. However, as with any discharge to the sanitary sewer system, such directed discharges must include controls that protect the delicate biological processes of the treatment facilities as well as limited capacity of the collection systems. In addition, there is significant attention on reduction of blending during wet weather events. We strongly urge the Water Board to ensure that stormwater agencies must:

- Work directly with POTWs to ensure all local considerations and concerns regarding spa and pool drainages are clearly addressed.
- Stormwater agencies provide a high level of public education about the “Dos and Don’ts” associated with spa and pool drainage to sanitary sewer collection systems.

4. The Regional Water Board must directly address inter-governmental jurisdictions and financing issues.

BACWA understands that the Regional Water Board is the regulatory agency that is responsible for setting standards and that it is up to the NPDES permit holder to meet those standards. However, BACWA wants to note to the Regional Water Board how difficult it is to work across inter-governmental jurisdictions. Overcoming inter-jurisdictional and financing issues takes time. Stormwater and wastewater agencies cannot legally provide free services as stipulated in municipal bonds, grants, and loan agreements. We want to be sure that the Regional Water Board’s expectations for how quickly diversions can occur are realistic.

An example of the difficulty in implementing an agreement involving multiple jurisdictions is the agreement between East Bay Dischargers Authority (EBDA) and Livermore-Amador Valley Water Management Agency (LAVWMA) to allow LAVWMA to discharge additional flow through EBDA’s system. Although all parties agreed that it was in the best interests of the public to develop an agreement, it took ten years for an agreement to finally be executed.

Thank you for the opportunity to comment. We are open and ready to meet with the stormwater and appropriate regulatory agencies to develop solutions to the issues raised above.

Respectfully submitted,



Michele Pla
BACWA Executive Director

Attachment

cc: BACWA Executive Board
Robert Cole, BACWA Permits Committee Chair
Bruce Wolfe, Regional Water Board
Lila Tang, Regional Water Board