

February 28, 2008

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 Town of Portola Valley has had a proactive municipal stormwater pollution prevention and control program since the first eight-page countywide municipal stormwater was adopted in 1993. This letter provides our comments on the 190-page Tentative Order for the Municipal Regional Permit. The Town is committed to implementing enhanced stormwater pollution prevention measures for pollutants and agrees this area of increased stormwater regulation is appropriate for this cycle. The Town does not, however, support other areas of enhanced stormwater regulation in the Tentative Order unless there are substantial changes, as described in the following comments.

Need to Streamline and Add Flexibility to Permit to Solve Water Quality Problems

It is essential that new initiatives in the permit be practical, understandable, and allow municipalities flexibility to solve water quality problems. There are a number of critical areas in the permit where modifications are needed to achieve these objectives. The following issues raised by the Tentative Order are of greatest concern to our small municipality, and we have provided a detailed discussion of each along with recommended solutions.

1. Allow a More Flexible Approach to Trash and Litter Reduction

What the Draft Permit Proposes. The draft permit's Provision C.10 proposes that each Permittee identify high trash and litter catchments totaling at least 10 percent of the urbanized area within its jurisdiction and implement actions to reduce the impact of trash on beneficial uses. The permit would require two types of control actions: one, the installation of "full trash capture devices" on at least 5 percent of the catchment area, and two, the use of "enhanced trash management control measures." The permit would also require that the "enhanced trash management control measures" be implemented as interim controls in the areas where "full capture devices" would eventually be installed.

The proposed approach to solving trash and litter problems is overly prescriptive, and does not recognize the variety of possible trash and litter problems and the need to implement cost-

effective solutions that are tailored to solve a particular type of problem in a particular community.

Recommended Solution. The permit should be modified to allow flexibility in addressing trash and litter controls problems so that cost-effective solutions may be implemented that are tailored to solving particular problems. It is recommended that the permit be rewritten to require that each municipality select one high trash impact catchment tributary to the municipal separate storm sewer system that it owns or operates, implement an appropriate solution or require the responsible parties to implement a solution, and then demonstrate measurable reductions in trash and litter.

2. Minimize the Amount of Reporting and Recordkeeping

What the Draft Permit Proposes. The draft permit contains Attachment L "Annual Report Form" for San Francisco Bay Region Municipal Regional Stormwater NPDES Permit (Report Form). This Report Form is 100 pages in length, and, in addition to this Report Form, there are supplemental reporting tables to summarize business, construction site, and pump station inspections. The Report Form is highly prescriptive, and the amount of reporting and record keeping would require a significant amount of staff resources that provides little benefit to protecting water quality. In addition, the Report Form is in many instances inconsistent with the Tentative Order reporting provisions and often requires more information than what is required to be reported for a specific provision.

Recommended Solution. The reporting form should be developed following the adoption of the permit so that it reflects what has been included in the permit as adopted. The inclusion of the form with the permit also sends the wrong message to municipalities and stakeholders that the contents of the permit have already been decided, regardless of the comments submitted on the Tentative Order. If the Water Board is resolved to include a reporting form as part of the adopted permit, the reporting form needs to be pared down to about 10 to 20 pages of essential information. The completion of the proposed, lengthy Report Form would require a wasteful use of limited municipal staff resources on reporting and record keeping. One recommendation for making the reporting more manageable would be to have a different reporting form for each year of the permit with each annual report reporting form focused on just one area of the permit so that the entire permit is reported on once over a five-year period. Another recommendation would be to decrease the enormous amount of overly detailed information that is required in the reporting.

3. Simplify and Provide More Flexibility in Regulating Exempted and Conditionally Exempted Non-Stormwater Discharges.

The draft permit includes detailed requirements for planned, unplanned, and emergency discharges of potable water (Provision C.15.b.iii). The proposed requirements include very prescriptive monitoring and reporting requirements. In the Town's case, the potable water discharger would be a different agency than the Town, but the requirements would be imposed on the Town. Some municipalities have their own local water utilities, but the Town should not be responsible for large water utilities' compliance with the overly prescriptive and expensive requirements proposed in the draft permit.

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Language should be added to the permit to provide municipalities flexibility to choose whether they want to take responsibility for ensuring water utilities comply with the requirements proposed for potable water discharges. For municipalities that choose not to assume responsibility for water utility discharges, the Water Board should adopt a General Permit for these types for these types of discharges.

Need to Phase in Enhanced Pollution Controls That Would Increase Municipal Codes

The Water Board should recognize that municipalities need a way to fund significant, new, Permit requirements. This is particularly important given the current difficult financial times and lack of available funds that could be diverted from existing stormwater tasks to new stormwater tasks or from other existing municipal budget priorities to stormwater. The Water Board should recognize that municipalities need an opportunity to successfully achieve permit compliance by allowing an adequate phase in period for municipalities to attempt to secure additional sources of revenue.

Specific to the Town of Portola Valley, we have a population of 4,500 with 1,750 households. Out of a staff of thirteen, that includes administration, finance, building, engineering, planning and public works including maintenance, the implementation and reporting requirements currently involves 40% of our small staff. We are concerned over the impacts that the new requirements will impose upon our small staff and budget.

We appreciate your cooperation of our comments, and look forward to discussing these issues further at the March 11 public hearing.

Sincerely,

Maryann Derwin
Mayor

cc: Town Council
Town Manager
Town Attorney
Public Works Director
Planning Manager