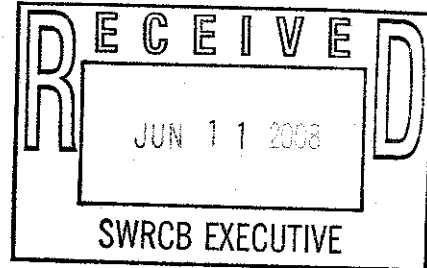


15561 Glen Una Drive
Los Gatos, CA 95030
June 11, 2008

Via e-mail: commentletters@waterboards.ca.gov

State Water Resources Control Board
Attn: Jeanine Townsend
Clerk to the Board
1001 I Street, 24th Floor
Sacramento, CA 95814



RE: Comment Letter – Draft Construction Permit

Honorable Members of the State Water Resources Control Board:

Thank you for the opportunity to comment on the Draft Permit. Our comments are offered largely on the basis of observed impacts to a local creek. This “case study-based” input may be useful as it reflects actual problems from minimally-regulated development

We urge pro-active steps to safeguard area creeks and watersheds, as such steps are both protective and cost-effective. Prevention is important because of the identified difficulty of monitoring and dealing with tributary watersheds affected by greater-than-anticipated runoff pollutants (sediment, etc.).

Self-monitoring is not sufficient, as it implies and requires a certain willingness to comply.¹ We support creation of a scientifically valid database on management practice performance via rigorous third party ‘random’ monitoring – at least partially paid for by permittees.

On a local level, third party random monitoring could be supplemented by notice to the affected riparian neighbors. Persons receiving such notice would then be alerted of the need for stream monitoring and could alert the involved water board of potential problems. Such notice should be mandatory for any new development or redevelopment, and should be part of the land-use permitting process, with notice to the applicable water control board. A water board “hotline” could be established to report potential problems.

¹ The problem is a lack of willingness to comply, not lack of ability, financial or otherwise (see, especially, Giberson oral comments to RWQCB on March 11, 2008, re Saratoga’s \$2.5 million “gateway” project. This low stone wall gateway project was constructed at about the same time that city was pleading poverty as its reason for its failure on May 2, 2007, to integrate the Santa Clara Valley Water Resources Protection Collaborative’s Guidelines and Standards into its municipal code—although it had previously sworn to do so.

Further, the identification of properties affected by, or affecting, a particular watershed would be facilitated by this notice requirement. Such identification would, in turn, become self-reinforcing as it would promote formation of a database that a local or state jurisdiction could use to screen projects that might potentially affect particular watersheds.

A registry of projects affecting area creeks—made available to the public—would be particularly useful, since the Board recognizes that analysis of the National Stormwater Quality Database indicates that geographical location and land use are the most important factors affecting stormwater quality for most constituents. Public awareness of the problems can help create solutions.

In view of the Board's recognition that the primary storm water pollutant at construction sites is excess sediment, we urge that the Board NOT recommend waiving NPDES permit requirements for small construction projects (between 1 and 5 acres). Evidence of observed and documented excess sediment entering the local watershed from such sites has been sent to our RWQCB. See, *e.g.*, our 2/28/07 fax to the San Francisco RWQCB requesting listing of Willow Creek on the 2008 303(d) list because of sediment-impaired stretches from previous Saratoga-controlled construction projects.²

A hydromodification management plan (HMP) should be required for projects along Bay Area creeks and streams where HMPs are currently only designated "encouraged."³

Again, we appreciate the opportunity the Board provides for public input.

Respectfully submitted,

Alan and Meg Giberson

² See also, our June 8, 2007, supplement to that listing request, including colored pictures, mailed to the SF RWQCB.

³ Currently, for instance, Saratoga creeks are only under an HMP "encouraged" designation. Creeks affected include: Willow, Saratoga, Wildcat and San Tomas Aquino Creeks. At least the first two of these have been affected by excess sedimentation from construction projects.