



Bay Area Clean Water Agencies

A Joint Powers Public Agency

Leading the Way to Protect our Bay

July 28, 2010

Ms. Gina Kathuria
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

VIA EMAIL: gkathuria@waterboards.ca.gov; bwolfe@waterboards.ca.gov;
ltang@waterboards.ca.gov

Subject: Comments on Tentative Cease and Desist Order Issued to the City of Pacifica

Dear Ms. Kathuria:

The Bay Area Clean Water Agencies (BACWA) appreciates the opportunity to comment on the Tentative Cease and Desist Order (Tentative Order) issued to the City of Pacifica (City). BACWA is a joint powers agency whose members own and operate publicly-owned treatment works (POTWs) and sanitary sewer systems that collectively provide sanitary services to over 6.5 million people in the nine county San Francisco Bay Area. BACWA members are public agencies, governed by elected officials and managed by professionals charged with protecting the environment and public health.

The Tentative Order establishes performance standards and requirements for the reduction of Sanitary Sewer Overflows (SSOs), collection system operation and maintenance, collection system evaluation and capacity assurance, capital improvement and financial planning, training, and Sewer System Management Plan (SSMP) certification, communication and audit.

BACWA requests that the San Francisco Bay Regional Water Quality Control Board (Regional Water Board) considers the following comments, and hopes that changes will be made to the Tentative Order prior to issuance of the final Cease and Desist Order for the City.

1. The SSO Performance Standards should allow at least 60 minutes from the time the City becomes aware of an SSO to the time response crews must arrive at the scene.

The Tentative Order requires the City to maintain a SSO response time of no greater than 15 minutes from the time of becoming aware of the SSO to the time the crew arrives on the scene. BACWA acknowledges an efficient and timely response is highly desirable to minimize the volume of SSOs, however, allowing only 15 minutes to arrive on site is impractical and even infeasible. Accounting for safe travel time within City limits (12 square miles) alone could easily exceed the allotted 15 minutes. Also, mobilizing responders and equipment outside of normal business hours demands added time for staff to travel from their place of residence,

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which may be outside the City limits. An appropriate and more realistic response time - included in other recently issued San Francisco Bay Area enforcement orders - is 60 minutes from SSO notification.

For example, the Regional Water Board issued Cease and Desist Order No. R2-2009-0020, in which the City of San Mateo, Town of Hillsborough, and Crystal Springs County Sanitation District are all required to submit an overflow response plan with procedures for responders to arrive at the SSO location, with equipment, within 60 minutes from notification. In addition, the United States Environmental Protection Agency (USEPA) issued an Amended Order for Compliance to the Sewerage Agency of Southern Marin and its member agencies (September 2008), and Administrative Orders to the City of Oakland and the City of Emeryville (November 2009) requiring a 60 minute response time after notification of the overflow.

2. The Financial Plan should be for a shorter planning horizon.

The Tentative Order requires the City to develop a 10-year Financial Plan by November 1, 2011 and a 20-year Financial Plan by November 1, 2014. However, financial planning to identify current and projected future financial resources customarily occurs in five and/or ten year increments. The Financial Plan should therefore be for a shorter planning horizon.

3. Publication of SSMP progress on the City's website should be sufficient.

The City should be allowed to provide the public with information about its SSMP progress on the City's website. Written or other notification to individual customers is overly burdensome, inconsistent with a green approach, and may not be an effective communication tool. BACWA requests the following changes to Section 17 to clarify that publication on the City's website is adequate:

17. Beginning July 1, 2010, the Discharger shall communicate on an annual basis with the public by ~~notifying all customers billed by the Discharger~~ placing information on the City's website about the development, implementation and ~~performance, and~~ costs of its SSMP. The communication ~~system~~ must provide the public the opportunity to provide input and comments to the Discharger as on the SSMP ~~is developed and implemented~~. The Discharger shall document its communication program in its SSMP.

4. The Tentative Order should consider the institutional capabilities of meeting program implementation timelines.

The Tentative Order establishes an aggressive timeline for many of the provisions contained within the order. While BACWA acknowledges the value and necessity of implementing the corrective measures in a timely fashion, the institutional capabilities must be considered in establishing program implementation timelines. In particular, the Computerized Maintenance Management System tied together with a GIS, the Condition Assessment, and the Capacity Assurance Plan may have more aggressive schedules than can realistically be complied with.

5. The Tentative Order should identify all sources of information contained therein.

The tentative order contains numerous places where data and information are cited as having been compiled, or requirements previously issued. However, in many cases, the sources for these data and information are not provided. For example, "Whereas" No. 11 indicates a number of root-caused SSOs for the City, and compares it to a Bay Area average, however the source for these data is not indicated. BACWA member agencies, and our counterparts across the State, have identified errors in the data available via the California Integrated Water Quality Systems (CIWQS) and, in some cases, have had difficulty getting these errors corrected. The sources of the data that serve as the basis for this Tentative Order, therefore, are important and should be identified.

Similarly, the bases of the requirements enumerated in Section VIII, Paragraph No. 23, are not identified. The requirements with which Bay Area agencies must comply result from various regional and State requirements and are not codified in any single document. Clearly stating the regulatory basis for each requirement is necessary to provide a sound basis for the Tentative Order's claims and requirements.

BACWA appreciates the opportunity to comment on this Tentative Cease and Desist Order and thanks you for considering our concerns.

Respectfully Submitted,



Amy Chastain
Executive Director
Bay Area Clean Water Agencies

cc: BACWA Executive Board
James Ervin, BACWA Permits Committee Chair
Bruce Wolfe, Regional Water Board
Lila Tang, Regional Water Board
Bill Johnson, Regional Water Board