

THE CITY OF



PLEASANTON.

Mr. Bruce Wolfe, Executive Officer
San Francisco Regional Water Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

June 23, 2014

Attn: Susan Glendening *via email*

SUBJECT: Comment Submittal – San Francisco Regional Water Quality Control Board’s General Waste Discharge Requirements for Discharges of Water from Drinking Water Supply Distribution, Transmission and Groundwater Systems

Dear Ms. Glendening:

The City of Pleasanton is a local municipality located in the Tri-valley area of Alameda County. The City shares many of the same goals as the Regional Water Quality Control Board (RWQCB) including improving water quality and the natural environment in our communities. The City would like to continue working with the RWQCB to meet these goals and appreciates the opportunity to comment on the Draft General Waste Discharge Permit for: Discharges of Water from Drinking Water Supply Distribution, Transmission, and Groundwater Systems. While we recognize the hard work that RWQCB staff has spent drafting this permit, we find that there are five significant flaws in this Draft Permit that justify stopping this permit from being adopted by the Regional Board as it is currently written.

First, on June 10, 2014 the the State Water Resources Control Board (SWRCB) distributed a Draft State-wide NPDES drinking water permit. This permit applies to all water purveyors in California, except if the water purveyor is covered under an MS4 permit. Clearly the intent of the SWRCB, as it pertains to municipalities, is for discharges from drinking water systems to be permitted through the NPDES Stormwater Permit. Therefore, the RWQCB Watershed Management staff should begin drafting permit language to be included in the next NPDES Municipal Regional Stormwater Permit (MRP).

Second, the City of Pleasanton recognizes that there are water agencies in the San Francisco Bay region that are not covered by an NPDES permit and that their discharges need to be regulated. However, if the RWQCB intends to pursue permitting at the local level we believe permits should be issued individually and not as part of a

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General Permit. The justification for implementing a General Permit versus individual permits as stated in Section II(A) - Legal Authorities (Draft Permit pg. F-8) is at best misinterpreted, and at worst blatantly misleading. The Draft Permit references 40 C.F.R. section 122.28(a)(2) and says that general permits for discharges are allowed if **“any”** one of five characteristics are true about Bay Area water agencies. What 40 C.F.R. section 122.28(a)(2) actually says is that **“all”** five characteristics must be true to allow general permits for dischargers. This Permit does not meet this threshold for the following two reasons:

- (1) Not all water purveyors operate in the same way, nor do they pose the same risk to the environment. For example, the Alameda County Water District uses free-chlorine to disinfect drinking water, whereas the City of Pleasanton uses Chloramine. Moreover, if the City of Oakland had a discharge that water would enter the San Francisco Bay within minutes, due to its proximity to the Bay, whereas a discharge in an inland city like Livermore would take days for that water to reach the Bay, by which time any residual chlorine would have degraded to undetectable levels and not pose a risk to beneficial uses in the Bay; and
- (2) Water purveyors discharge different types of wastes. For example, water purveyors who have water treatment plants (e.g. Zone 7, ACWD, SCVWD, etc.) have contaminants that are removed during the water treatment process that need to be discharged from their system. Conversely, the City of Pleasanton does not have a water treatment plant, and therefore does not discharge the same types of wastes as other purveyors.

Third, it is clear that this permit aims to regulate the discharge of residual chlorine into receiving waters, yet the RWQCB has not demonstrated that there is a problem that needs regulating. To begin with, chlorine is not listed as a pollutant of concern by the US EPA (Appendix A to 40 CFR Part 423). Next, none of the receiving waters in the San Francisco Bay Region are listed on the CWA 303(d) list as being impaired water bodies with beneficial uses by chlorine. Moreover, the RWQCB has not provided any scientific evidence that drinking water has a negative impact on the environment, much less at the reporting level of 0.13mg/L for residual chlorine which is significantly below the 0.20mg/L level required by the California Department of Public Health for “community water systems”. Last, in order to regulate a pollutant using the NPDES permit process a Total Maximum Daily Load (TMDL) must be established. To date a TMDL has not been created by the Regional Board.

Fourth, this Draft Permit has numerous internal inconsistencies that need to be corrected before this permit is presented to the Water Board.

- (1) This Permit proposes to mandate that drinking water system operators apply for coverage if they have unplanned discharges to waters of the United States (Draft Permit, pg. 3). However, Draft Permit section VII(A) states that dischargers shall comply with the “Standard Provisions” except in the cases due to “Upset” (Section I(H), pg. D3). “Upset” is an incident that causes unintentional

temporary noncompliance with effluent limitations because of factors beyond the control of the discharger.

By definition, a discharge that is “unplanned” is “beyond the control of the discharger.” So it begs the question, why is this permit trying to regulate something that it also acknowledges is exempt from needing to be covered by a discharge permit?

- (2) The Draft Permit (section VI.(A), pg. 7) states that “dischargers shall not cause a violation of any water quality standard for receiving waters adopted by the Regional Board... The problem with this provision is that many of the “receiving waters” as defined in the Draft Permit (Attachment A – Definitions) do not have adopted water quality standards for residual chlorine, nor do they have adopted beneficial uses. It is our recommendation that either the definition of “receiving waters” be changed to include only waters on the 303(d) list, and that either a Waste Load Allocation (WLA) or TMDL be adopted by the RWQCB.
- (3) If dischargers are expected to comply with all “Standard Provisions” except provisions I.(G), I.(H), V.(E), VII.(A), and VII.(B) (Draft Permit, section VII(A), pg. 7) then why leave these provisions in the Draft Permit when they could easily be removed and make the permit less confusing?
- (4) Attachment F – Fact Sheet (Table F-2, pg. F-9) incorrectly identifies each Inland Surface Water as having all the listed beneficial uses. This Table is inaccurate and misleading. In fact very few Inland Surface Waters (as defined in the Draft Permit) have beneficial uses, and most have none. Impaired Surface Waters with beneficial uses are very specific segments of water bodies and must be listed on the 303(d) list in order to be regulated. It is recommended that Table F-2 list the surface waters on the 303(d) list and their adopted beneficial uses.

Fifth, this Draft Permit should not be applied to municipalities and special districts that are covered by the Municipal Regional Stormwater Permit. It places an undue administrative burden on them because they will then be responsible for submitting two annual reports and conducting additional water quality monitoring, which will consume significant amounts of staff time. If you combine the operating expenses of this staff time with the expenses for monitoring plus the permit filing fee that will be required with this drinking water permit the RWQCB has created an unfunded mandate. The Clean Water Act states that “It is the policy of the Congress to support and aid research relating to the prevention, reduction, and elimination of pollution, and to provide Federal technical services and financial aid to State, and interstate agencies and municipalities in connection with the prevention, reduction, and elimination of pollution” (page 4). Whereas federal funding flows through the State of California and the State is not providing financial aid to municipalities to offset the costs associated with this drinking water permit, it is by definition an unfunded mandate.

For all of the reasons stated above we believe that this Drinking Water System Discharge Permit would be better implemented through the MRP. If that becomes infeasible then issuing individual permits is the preferred alternative, as opposed to a general permit, or the Draft Permit should be re-written to address the fundamental flaws that can be found throughout the document. If you have any questions or comments please contact Scott Lines, Assistant Director of Operations Services at 925-931-5505 or slines@cityofpleasantonca.gov.

A handwritten signature in blue ink, appearing to read "Daniel Smith".

Daniel Smith, Director
Operations Services Department
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