



## CITY OF BRISBANE

50 Park Place  
Brisbane, California 94005-1310  
(415) 508-2100  
Fax (415) 467-4989

April 3, 2009

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

Mr. Wolfe:

This letter forwards the City of Brisbane's comments on the February 11, 2009 revised draft municipal regional stormwater permit. Our intent is for these comments to contribute to a constructive dialogue that results in additional permit revisions.

The City's February 2008 letter on the previous version of the Tentative Order highlighted some of the financial constraints facing Brisbane at that time. Since then, the City's financial outlook has continued to deteriorate, with economic forecasts indicating a budget deficit over the next five years that will require significant cuts to City services. We continue to face severe restrictions under Proposition 218 from increasing our local stormwater management fees, yet were subjected to higher stormwater permit fees to cover a portion of the State Water Resources Control Board's budget shortfall. We remain committed to protecting water quality and are willing to devote resources to stormwater management; however, prioritization and pruning of the proposed permit requirements must occur to prevent overwhelming municipal resources.

At the local level, it is essential to have a permit that is practical, predictable, and cost-effective. Additionally, it is important to us that the permit avoids shifting the San Francisco Bay Regional Water Quality Control Board's pollutant control and cleanup responsibility to local public agencies.

### **Specific Examples of Permit Problems and Requested Changes**

The following examples illustrate some of the major problems the current draft of the permit poses for the City of Brisbane, and describes our recommended changes to the permit. For a more comprehensive list of issues and requested permit changes, please refer to the Countywide Program's List of Issues Table that was included with the Countywide Program's comment letter.

### Provision C.15 Exempted and Conditionally Exempted Discharges

- ◆ It is unreasonable to require monitoring and treatment of pumped groundwater from foundation drains, crawl space pumps, and footing drains. There are a large number of residential properties that have crawl space pumps, foundation drains, and/or footing drains. Placing the burden on municipalities to ensure that all of these property owners perform rigorous and expensive testing on an ongoing basis is inappropriate and inconsistent with the purpose of conditionally exempting low-threat discharges. **These types of discharges should be considered exempt discharges, unless the municipality has reason to believe the groundwater may contain pollutants.**
- ◆ The City has significant concerns with the notification and reporting requirements for planned potable water discharges as they impact the operation of our water systems.. The City, as part of its stormwater management program associated with municipal maintenance activities, ensures any planned discharges of potable water do not impact downstream receiving waters. In many cases, the City will direct potable water discharges to the sanitary sewer system when feasible, but in cases where the discharge must go to the storm drain system, dechlorination systems are deployed and maintenance crews ensure the discharge does not cause any downstream erosion or other concerns. Also, in cases where a water quality emergency arises that requires a planned, timely discharge of a water line or storage reservoir, the City may not be able to provide a week's notice prior to discharge. **These requirements should be deleted.** If the Regional Board has concerns about non-municipal potable water systems, it should consider adopting a general permit for those entities to ensure their operations are protective of water quality.
- ◆ The City is concerned with the notification and monitoring requirements for unplanned discharges. In the case of water main breaks, in order to protect public health of water consumers, maintenance crews must maintain positive pressure in water lines until the area around the break can be completely excavated to a point where there will be no backwash of water from the excavation into the water lines. Although it is standard practice for maintenance crews to deploy dechlorination systems and BMPs to protect downstream storm drain inlets, the ability of these BMPs to significantly improve turbidity is limited while discharge due to line pressure continues. **The highly prescriptive requirements for monitoring and notification should be deleted for these events, and municipalities who operate potable water systems should simply be required to implement dechlorination, inlet protection BMPs, and post-event cleanup during these types of unplanned discharges.**
- ◆ The deletion of individual residential car washing as a conditionally exempted type of discharge is inappropriate. In 2004, the Water Board adopted the Countywide Program's BMPs and Implementation Procedures for Conditionally Exempted Discharges, which includes individual residential car washing. **A better approach is for the permit to recognize that individual residential car washing will occur, and to promote the use of appropriate BMPs rather than to disallow these types of discharges.**

### Provision C.3 New Development and Redevelopment

- ◆ The current permit allows projects that are deemed complete per the Permit Streamlining Act to not meet new stormwater treatment and other requirements. The revised draft permit would require projects to meet new stormwater requirements (e.g., C.3.b.ii.(1)d) as soon as they have final, major staff-level discretionary review and approval for adherence to applicable local, state, and federal codes and regulations. The proposed change would be very difficult to enforce due to the ambiguities of the language on determining at what point in time a project is subject to then current requirements. **This new requirement should be changed back to allow applications that are deemed complete per the Permit Streamlining Act to comply only with the stormwater requirements in effect at the time the project was found to be complete.**
- ◆ Any widening of an existing road with 10,000 square feet or more of impervious surface will require treatment of all of the stormwater runoff from the road. **The permit should be modified to require treatment of stormwater runoff from an area equivalent only to the widened section, not to the entire road when the widened area is less than 50 percent of the entire road's impervious surface.**
- ◆ The City is concerned with proposed provisions requiring small projects to implement one or more of a list of site design measures. Brisbane has many relatively small lots with very little opportunity for vegetated areas or rainwater storage. Furthermore, many Brisbane lots are located on steep topography subject to the threat of landslide if the slope were oversaturated. There may be instances where it is technically infeasible or unsafe to require small projects to implement one of the site design measures. **The permit should include exemption language for properties where it is technically infeasible or unsafe to implement any of the listed site design measures.**

### Provision C.10 Trash Reduction

- ◆ The permit proposes a trash clean up (action) level for what it terms "trash hotspots"; **the permit should be modified so this action is expressed as a goal and not an inflexible mandate** due to uncertainty about what levels of trash reduction are needed to protect beneficial uses, and what levels are reasonably achievable.
- ◆ The City supports the revisions in the Tentative Order exempting small municipalities from the requirement to install full capture trash control devices. **Small municipalities should also be provided an opportunity to be exempted from hot spot assessment and cleanup if they can document that they do not have any hot spots.**
- ◆ Municipalities should only be required to address trash in hot spots originating from the storm drain system. **Any requirement to address trash generated by other sources such as illegal dumping, homeless encampments, or wind should be deleted.**

**Provision C.6 Construction Site Control**

- ◆ The permit proposes a requirement that each municipality implement a construction site control program at all construction sites. **The permit should focus on construction sites of a sufficient size to pose a reasonable threat to water quality and that are located where stormwater runoff from the site flows into a municipal separate storm sewer system owned or operated by the municipality. This requirement should also be linked to municipal permitting actions, such as issuing a grading permit.**
- ◆ The list of information from each construction site inspection that must be tracked and/or reported is too prescriptive and unnecessary to protect water quality. For example, there is no value to collecting information about the “inches of rainfall since the last inspection.” **The list of items should be minimized as requested in the List of Issues Table submitted by the Countywide Program.**

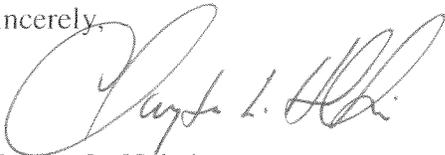
**Provisions C.11 and C.12 Mercury and PCBs Controls**

- ◆ The permit requires municipalities ensure the clean up of mercury and PCBs contamination located on private properties by exercising direct authority to accomplish a clean up, or by providing information to appropriate authorities. Municipalities should only be held accountable for what they are able to control. **This requirement should be modified to state that municipalities will attempt to identify private properties that may be contaminating their municipal separate storm sewer system with mercury and/or PCBs and forward this information to the Water Board.**

We request you direct your staff to modify the permit based on this and other comment letters submitted by members of the Countywide Program, the List of Issues Table included with the Countywide Program’s comment letter, comments submitted by the Bay Area Stormwater Management Agencies Association, and the Santa Clara Valley Urban Runoff Pollution Prevention Program’s comments. These and prior comment letters are included by reference.

We appreciate your consideration of our comments, and look forward to discussing these issues further at the May 13 public hearing.

Sincerely,



Clayton L. Holstine  
City Manager