



CUPERTINO

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April 2, 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 Municipal Regional Permit (MRP) Revised Tentative Order
(February 11, 2009)

Dear Mr. Wolfe:

The City of Cupertino appreciates the opportunity to comment on the Board's Municipal Regional Permit (MRP) Revised Tentative Order dated February 11, 2009. We are encouraged to see that more flexibility has been afforded the Permittees in the implementation of Provisions C.2, C.4, C.5 and C.6.

However, while we recognize that the goals underlying the Tentative Order are worthy, we must emphasize in the strongest possible terms that Cupertino, like other local government agencies, is facing fiscal challenges on an unprecedented scale. At the same time, the myriad of new stormwater requirements create deadlines that barely provide time for training, as well as the difficult tasks of developing guidance for stakeholders and introducing new ordinances to Council. Each of these implementation efforts requires extensive staff time and cost, in addition to the resources City staff already devotes to maintaining, evaluating and improving the current stormwater standards that the City has worked hard to achieve.

Cupertino, as a Santa Clara Valley Co-Permittee, has worked with Water Board staff over the past four years to create a regional permit that achieves consistency throughout the Bay Area. This intensive effort, conducted as the Co-Permittees continue to evaluate and improve their existing programs is truly worthwhile. However, it is doubtful that we will successfully implement every water quality and watershed restoration if we make each a top priority and rush to implement all of them.

Among the proposed requirements in the Tentative Order that we think will not achieve a worthwhile purpose are

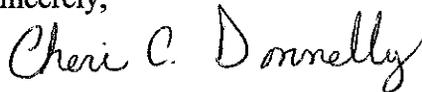
- Provision C.6.e (4) (d), Construction Site Control Inspections, tracking the number of inches of rain since the last inspection.

- Documenting planned potable water discharges as required by Provision C.15.b.iii (1) b.ii., **Planned Discharge Reporting Requirements for Conditionally Exempted Non-Stormwater Discharges**. Provision C.15's objective is to identify, monitor and ensure implementation of effective control measures for non-stormwater discharges to eliminate adverse impacts to waters of the State. However, the City is concerned that the unnecessary reporting requirement associated with this objective may interfere with its intended purpose as it will shift the focus from eliminating adverse water quality impacts, to figuring out how to stretch municipal resources to hire administrative staff that will set up a database and collect and enter the data. An example is fire-sprinkler testing associated with every tenant improvement project in the City. The requirement states that Permittees shall **report monthly** or require that potable water dischargers **report monthly** via electronic summary reports in tabular form and annual self-audit summary reports for **all potable water planned discharges**. Reporting content shall include (1) the project name; (2) type of discharges; (3) receiving waterbody(ies); (4) date of discharge; (5) duration of discharge (in military time); (6) estimated volume (gallons); (7) estimated flow rate (gallons per day); (8) chlorine residual (mg/L); (9) pH; (10) turbidity (NTU) for receiving water where feasible and point of discharge, and (11) description of implemented BMPs or corrective actions.

It may seem like an insignificant task, but the implementation will be costly. The City is extremely concerned that similar new requirements are sprinkled throughout the permit, as documented in both the SCVURPPP and BASMAA comment letters. And implementation of all of them without thresholds and prioritization will take its toll on the effectiveness of the programs that we want to achieve and those that we have already worked hard to build.

Therefore, we strongly second the comments from SCVURPPP Management, SCVURPPP Legal Counsel and BASMAA's Chair to phase in certain of the proposed provisions over a longer period, carefully prioritize or consider others before their inclusion in the MRP and provide a reasonable threshold for implementation

Sincerely,



Cheri Donnelly
Environmental Programs Manager

cc: Adam Olivieri, Program Manager, SCVURPPP
Donald Freitas, Chair, BASMAA