



*"Small Town Atmosphere
Outstanding Quality of Life"*

April 1, 2009

Bruce H. Wolfe, Executive Officer
California Regional Water Quality Control Board
San Francisco Bay Region
1515 Clay Street, Suite 1400
Oakland, CA 94612

SUBJECT: Revised Municipal Regional Permit Tentative Order dated 2-11-09

Dear Mr. Wolfe:

Thank you for the opportunity to comment on the Revised Tentative Order (TO) for the Municipal Permit (MRP) released by the San Francisco Bay Regional Water Quality Control Board on February 11, 2009. Many improvements to the TO have been noted. These strides will serve to enhance the Town of Danville's ability to improve water quality in our community while utilizing resources efficiently.

This letter identifies and isolates only those major concerns that the Town has with respect to the revised MRP TO. These requirements still represent a significant unfunded cost liability for local agencies. Preliminary estimates prepared indicate that the new MRP requirements will increase program costs for Danville approximately \$221,000 annually or \$1,105,000 over the permit cycle. The magnitude of these increased costs represents a 33% increase over the current 2008-09 stormwater budget. Absent the ability to identify a dedicated revenue source, municipalities are not in a position to support and fund additional requirements on a permanent, on-going basis.

We urge the Board to take a practical and collaborative approach to implementing the new MRP, especially in the areas of water quality monitoring, pilot projects, trash assessments, data gathering and annual reporting.

Many of the new requirements are still too aggressive and costly, and will not translate to a commensurate improvement in water quality for our community. We seek to achieve the same goals sought by the proposed MRP in a way that most effectively utilizes resources available and results in the most direct and tangible benefits for our community.

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In addition to supporting comments made on the proposed MRP by the Contra Costa Clean Water Program and BASMA, following is a detailed review of those aspects of the proposed revised MRP, along with recommendations/requests related to some of these areas:

A. Provision C.8 - Water Quality Monitoring & C.11 (Mercury), C.12 (PCBs), C.13 (Copper), C.14 (PBDE - Legacy Pesticides and Selenium)

Currently all water quality monitoring efforts are conducted through the Contra Costa Clean Water Program (CCCWP), at an annual cost of approximately \$420,000 for 2008-09. The revised Tentative Order has further increased these costs beyond what was proposed in December 2007. As estimated by Brown and Caldwell, the proposed MRP monitoring program will increase these costs over 400%, and will result in a conservative estimate of \$50,000 per year for the Town of Danville. During recent CCCWP County-wide budget meetings where projections were evaluated, the CCCWP will run out of funds for these monitoring efforts in three years, and the program will not be sustainable.

The proposed MRP requires nine additional parameters to be tested (i.e. temperature, chlorine, nutrients, toxicity in sediment, and bacteria) in addition to the existing data collection efforts. The CCCWP also has been conducting Biological Assessments and Creek Survey data for many years. As a result of this and other data collected, Special Studies have been funded as required to further identify pollutant sources and problems. These Biological Assessments are extremely effective in determining long term stream health and identifying where pollutant sources may exist.

Requirements in the new MRP to conduct toxicity tests are extremely costly. More importantly, such tests are frequently inconclusive. Finally, it makes little sense to abandon over 7 years of data and change the procedures at this point in time, rendering the existing data incomparable and of little or no use. Significantly increasing expenditures to undertake studies that will not necessarily provide more valuable information than that what is already known, does not result in cleaner water or effective use of public resources.

Suggested Recommendation: Implementation of these requirements must be reduced to a realistic level. Allow three years to develop a **prioritized**, appropriate and meaningful monitoring program that focuses on producing direct results within a **defined cost cap**.

B. Provision C.10 – Trash Reduction

Language in the revised TO proposes to reduce the number of full capture trash devices that would be required for Danville, but adds a significant new trash management strategy that requires cities to identify Trash Hot Spots by February 1, 2010. These Hot Spots will be publically noticed and approved by the SFRWCQB. The trash Hot Spots will require cities to conduct regular maintenance, inspections, monitoring and annual reporting of the results of the Town's maintenance efforts. Cities will be required to achieve an interim Trash Action Level (TAL) by July 2012 of no visual trash impact and an Urban Optimal level of no more than 100 pieces of trash within 100 feet of the assessment creek reach. The TO is clear, this approach is the first phase of implementation and will allow cities time to develop expertise on trash assessments to achieve a long-term goal that will be defined during the permit term.

The Town of Danville values and has always emphasized the need for litter removal in our community. Danville's current maintenance efforts that relate to trash pick-up/removal and street sweeping are well-established and successful. The new TO requirements relating to trash assessments, monitoring efforts, documentation of results and reporting back to the SFRWQCB will only serve to expend unnecessary time and effort in exchange for little gain in our community at an annual cost increase of \$66,000.

The fact that this is only the first step in a continuum of ratcheted up requirements is of concern to our community. Trash collection efforts in Danville are currently very effective and there is little chance for significant improvement. However, these proposed requirements will only stand to cost the Town of Danville more money and will take time and effort away from the goal of trash reduction.

Suggested Recommendation: Implement a trash management program based on a comparative needs assessment, minimize the required reporting efforts when compliance is achieved and eliminate the minimum capital improvement requirements; or allow another form of alternative compliance.

C. Increased New Data Base Systems and Reporting

New record keeping and reporting requirements contained in Provisions C.3. New Development, C.6 Construction Site Controls, C.5. Illicit Discharge and Detection. And C.10 Trash. These efforts will require the creation of data base systems, employee training and considerable implementation time preparing reports that will have little impact on the environment. The Town does not have adequate resources available for these purposes and suggests that program funds be more effectively spent elsewhere.

Suggested Recommendation: Reduce the extensive data base reporting requirements outlined in the proposed permit for both local agency and SFRWQCB benefit, and devote available staff resources toward program implementation.

D. Provision C.5 - Illicit Discharge and Detection

This section will increase the number of field screenings required to be performed in Town creeks, add more prescriptive requirements for conducting dry season field screening surveys/inspections, and require more active code enforcement procedures. In and of itself, this provision will require hiring of additional staff to meet the proposed requirements and handle the extra documentation and reporting efforts being requested. The Town's cost is about \$50,000 annually.

Suggested Recommendation: Retain existing permit language including existing program, inspection plan, documentation and reporting requirements.

E. Provision C.15 - Exempted and Conditionally Exempted Discharges

This section of the TO includes provisions that impose requirements for municipalities to oversee and regulate planned and unplanned discharges by special districts (i.e., water supply districts and fire districts). These special districts are not under the authority of local agencies and cannot be regulated by local agencies.

Provision C.15.b.i.(1)(a), regarding pumped ground water, foundation and crawl space drains, should not be applicable to individual households. Monitoring of this provision would consume a disproportionate amount of Town resources.

Suggested Recommendation: Delete these requirements since it is impossible for cities to accomplish.

ESTIMATED COST SUMMARY

The following table summarizes *additional* costs associated with the revised five year MRP, above and beyond the Town's current \$662,000 annual budget:

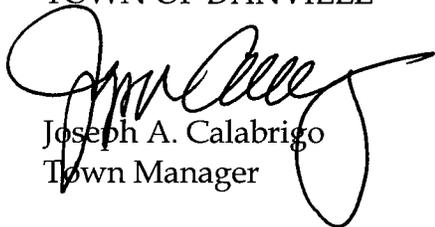
	Additional MRP Requirements	MRP Provision	5 Year Cost	Annual Cost
▪	Trash Removal	C.10		
	- Install filter system (capital cost)		\$250,000	\$50,000
	- Maintenance of filtering systems		\$80,000	\$16,000
▪	Water Quality Monitoring	C.8	\$250,000	\$50,000
▪	Municipal Maintenance Operations	C.2	\$150,000	\$30,000
▪	New Dev't Processing Requirements	C.3	\$50,000	\$10,000
▪	Commercial Inspections	C.4	\$50,000	\$10,000
▪	Illicit Discharge and Detection	C.5	\$250,000	\$50,000
▪	Public Information and Outreach	C.7	\$25,000	\$5,000
	TOTAL		\$1,105,000	\$221,000

Danville is committed to protecting the natural environment, providing effective service delivery for the community and maintaining a high quality of life for our residents. Local government services must be prioritized, effectively delivered, and balanced with available revenues.

Like all local agencies, Danville is dealing with the effects of the national economy, which has diminished available revenues, particularly property and sales tax. The Town has been required to reduce its 2008-09 expenditures at mid-year to affect revenue reductions and 2009-10 revenues are expected to decline by an additional 8%. Increased requirements contained in the proposed MRP represent significant ongoing costs that come without any offsetting revenue sources. Successful implementation of the new proposed MRP requirements will require working together to identify new sources of funding dedicated for this purpose. Until this occurs, we call upon your Board to work collaboratively with local government by adjusting certain requirements contained in the new MRP and allowing additional time to phase in compliance.

Sincerely,

TOWN OF DANVILLE



Joseph A. Calabrigo
Town Manager