



CITY OF NEWARK, CALIFORNIA

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March 26, 2009

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

RE: FEBRUARY 11, 2009, TENTATIVE ORDER FOR THE MUNICIPAL
REGIONAL STORM WATER NPDES PERMIT

Dear Mr. Wolfe:

The City of Newark is submitting these comments with regard to the Tentative Order for the Municipal Regional Storm Water NPDES Permit issued on February 11, 2009. The City of Newark requests that you include these comments in the record of this administrative proceeding.

The City of Newark is a co-permittee of the Alameda Countywide Clean Water Program (ACCWP). This program is a recognized leader in water quality protection, having received national recognition and awards from the United States Environmental Protection Agency. Storm water programs throughout the State of California have utilized many of the policies, procedures, and programs developed in Alameda County. The City of Newark is an active member of the ACCWP and maintains a high level of effort in complying with the current NPDES permit.

Along with many other co-permittees, countywide programs, and the Bay Area Storm Water Management Agencies Association (BASMAA), the City of Newark expressed detailed and very serious concerns following Regional Board staff's issuance of the first Tentative Order of the MRP in December 2007. Among the major points of contention raised were:

1. The detailed comments and alternative language recommendations provided through BASMAA and from the individual county programs and local agencies on previous draft versions of the MRP were not addressed by Regional Board staff.

2. The MRP is far too prescriptive and lacks flexibility for implementation of new requirements.
3. The reporting requirements of the MRP are onerous and overly detailed.
4. The MRP does not consider the fiscal impact to local agencies and the reality of current budget deficits.

Since the public comment period and the March 2008 public hearing for the first Tentative Order, Regional Board staff has made some positive changes to the permit requirements, and their efforts are appreciated. However, it appears that most of the detailed concerns expressed in written comments and at the hearing were not incorporated into the MRP.

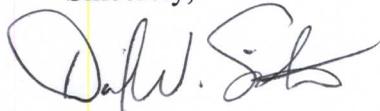
The draft permit remains overly prescriptive in many areas, requires implementation of very costly pilot projects of questionable value, and mandates the creation of numerous written plans, ordinances, and databases that do not serve to enhance water quality. It also requires co-permittees to implement costly but ineffective trash controls that may adversely impact flood control protection. These controls would require a constant level of maintenance that local jurisdictions cannot afford to provide. In short, this MRP still has significant cost implications and operational impacts on the City of Newark and other co-permittees, while offering very limited benefits in terms of improving water quality standards relative to the existing permit requirements.

City of Newark staff will provide additional written comments outlining specific concerns with the latest Tentative Order under a separate letter. Additionally, we are in full support of the efforts of the ACCWP and BASMAA in representing the interests of all co-permittees in the San Francisco Bay Region.

While the City of Newark remains firmly committed to implementation of an effective storm water program to benefit water quality, we find this Tentative Order for the latest version of the MRP severely flawed and still in need of major, fundamental revisions. Adopting the MRP as currently written would be irresponsible at this time given the severe economic recession and the fact that local municipalities, including Newark, are already faced with declining revenues and drastic budget cuts.

On behalf of the City Council of the City of Newark, I urge the Regional Board to delay adoption of the latest Tentative Order and direct its staff to continue to work with all co-permittees, countywide programs, and BASMAA to develop a practical and effective NPDES permit that gives appropriate consideration to the realities of today's economic climate.

Sincerely,



DAVID W. SMITH
Mayor, City of Newark