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*Scenic Pacifica*

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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**

Dear Mr. Wolfe:

The City of Pacifica offers the following comments on the February 11, 2009 revised draft municipal regional stormwater permit. Our intent is for these comments to contribute to a constructive dialog that results in additional permit revisions.

While there have been a number of important improvements to the permit compared with the December 2007 version, further movement in this positive direction is essential. The San Mateo Countywide Water Pollution Prevention Program's (Countywide Program) comment letter highlights many of the improvements that have been made.

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

The following categorizes some common types of problems that occur in the revised draft municipal regional stormwater permit.

1. A number of the permit's provisions, such as Provisions C.3 New Development and Redevelopment, C.6 Construction Site Control, and C.15 Exempted and Conditionally Exempted Discharges, remain overly prescriptive and will require additional staff time dealing with an unnecessary amount of information tracking and reporting unrelated to improving water quality.

2. Despite a decline in the number of unsound and technically questionable permit requirements, there still remain a number of areas that need modification.
3. The control actions needed to comply with some of the permit's requirements are unpredictable because they may be triggered by monitoring results, such as Provision C.8.e.i.(3). An additional uncertainty is posed by having to achieve an arbitrary and potentially unrealistic trash and litter clean up level.
4. Some of the permit's implementation and reporting dates are unrealistic and should be extended.

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

The following illustrates some specific examples of problems the current draft of the permit poses for the City of Pacifica and our requested change 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**

- ◆ Our municipality is operating on fewer staff than ever before. As multiple previous fiscal years budget processes' resulted in position freezes and deletion of positions, remaining staff workload has grown, calling for fewer staff to wear more hats related to task load. The requirements in this provision alone are so extensive it would call for a new staff position to implement and maintain compliance; focusing directly on provision c.15; internal, public and water purveyor. Working through new exempted and non-exempted discharge requirements with Fire, Code Enforcement, Engineering, Waste Water and our local Water Purveyor in addition to education and outreach for applicant driven projects processed through our planning and building department is a large task in and of itself. The amount of work called out in section c.15 related to monitoring and maintaining data along with additional reporting requirements is not plausible for Pacifica staff to carry out. Unless funding accompanies this permit for implementation of technological infrastructure upgrades, staffing, reporting and monitoring, the City of Pacifica will have significant issues implementing what is called for in the language of section c.15 as it currently reads.
- ◆ Duplicative compliance requirements in the tentative order permit language and the existing waste water POTW permit makes for more work for the Waste Water Department, duplicative reporting requirements are not necessary and result in no different outcome than would occur as a result of following existing SSO reporting requirements. As the POTW has its own NPDES permit, Pacifica's POTW should be required to comply with their permit in relation to illicit discharge reporting, exempted and non exempted discharges, and water quality/ testing associated with water processed

via the POTW. Waste Water has staffing shortfalls, and operates successfully with limited staff, meeting and exceeding reporting requirements, and water quality standards. In the next fiscal year Wastewater's revenue will decrease by -0.8772%. In fiscal year 2008/2009 WW revenue was \$11,400,000 and in the new fiscal year 2009/2010 it will be \$11,300,000. In the up coming fiscal year the sewer rate are increasing by 2.5335% and revenue decreases by \$100,000 because the WW sewer rates are obtained by calculating a formula that utilizes the revenue requirement in conjunction with the water usage during two consecutive wet months (January 09/February 09). Because of an increase effort to conserve water WW rates increased but revenue decreased. Unless funding is available to subsidize proposed provision requirements, the City of Pacifica will face serious challenges implementing what is called for in the tentative order.

- ◆ Our municipality should not be required to make sure that local potable water purveyors who discharge potable water conduct the burdensome amount of sampling, testing, and reporting required by the permit. It would be more efficient for the Water Board staff to adopt a general permit for potable water dischargers, who are not municipalities, and to make potable water dischargers apply for permit coverage so that they are directly responsible for meeting the types of requirements the Water Board believes necessary.
- ◆ The potential work load impacts to Code Enforcement as a result of this language being adopted are staggering. Pacifica has one Code Enforcement Officer who is very focused on abating illicit discharge as defined in the existing NDPES permit. If our CE must divert attention from illicit discharges as they are currently defined in section c.15 to issuing violations for car washing; the time and efforts currently directed towards more significant discharges will be redirected; potentially resulting in missed opportunities to abate a serious problem.
- ◆ The deletion of individual residential car washing as a conditionally exempted type of discharge is ill considered. In 2004 the Water Board adopted the Countywide Program's BMPs and Implementation Procedures for Conditionally Exempted Discharges, which includes individual residential car washing. We believe that 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**

- ◆ Under the current permit Provision C.3 requirements do not apply to privately-sponsored projects for which a development application had been deemed complete prior to the Provision C.3 start date. The revised draft permit introduces a lower threshold, of 5,000 square feet of impervious surface, for requiring specific types of development projects to meet Provision C.3 requirements. The new threshold would go into effect on July 1, 2011 (C.3.b.ii.(1)d) , and an exemption is provided for projects that have "final, major staff-level discretionary review and approval for adherence to applicable local, state, and

federal codes and regulations, prior to July 1, 2011.” This would occur later in the review process, after project applications have already been deemed complete. Introducing a new requirement after an application has been deemed complete is in opposition to the Permit Streamlining Act, which the state legislature adopted to ensure clear understanding of requirements for development review approvals. The new requirement should be changed to allow applications have been deemed complete per the Permit Streamlining Act prior to July 1, 2011, not to comply with new stormwater requirements.

- Provisions C.3.b.ii(1) and C.3.c.ii: Requiring projects that have yet to be approved to adhere to new regulations could cause major costs and delays to the developer. This is particularly problematic if the project was determined complete and/or underwent environmental review prior to the effective date, but the project has yet to be approved. Redesigning a project at such a late stage could render it unviable. Staff could also be burdened (i.e. permit streamlining adherence) by use of such an effective date. All similar effective dates should be determined by the date an application is deemed 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 only require treatment of stormwater runoff from an area equivalent to the widened section and not the entire road if the widened area is less than 50 percent of the entire road’s impervious surface.
- ◆ **Condition C.3 B. Regulated Projects:** The construction of new bicycle lanes regardless of whether they are built as part of a new street or roadway or added to an existing roadway should be excluded from compliance with Provision C.3. Delete bicycle lanes as part of the calculation of impervious surfaces that require compliance with C.3 under C.3.ii.b. (4). Under “specific exclusions to this category add bicycle lanes under the various options listed as qualifying for a specific exclusion along with sidewalks and trails. There needs to be limits on when treatment of runoff from existing roads should be triggered similar to the language for “Other Redevelopment Projects.” Modify language in this permit section and the fact sheet to allow treatment of stormwater from just the widened area, and not the existing road if the widened area is 50% or less of the existing road.
- ◆ References to various sections of the MRP are erroneous and confusing. For instance, there is no Provision C.3b.i. (1), yet there is a requirement tied to it. Errors of this type create confusion and undecipherable regulations and should be edited throughout the document and reissued for re-review.
- ◆ **C.3.B.iii:** It would be more useful for applying what is learned in the pilot projects if the pilot projects focused on locations where there are the most opportunities for these types of projects and not be prescribed by the types of streets, i.e., arterial, collector, and local, listed in the permit. The requirement that the pilot projects be representative of various

types of streets: arterial, collector, and local should be modified to state that the pilot projects should be conducted on the types of streets that provide the most opportunity for being retrofitted within each county.

- ◆ The requirement to “conduct appropriate monitoring of these projects” may be overly burdensome and will reduce the scope and scale of these types of projects. Remove the requirement for doing monitoring.
- ◆ **C.3c.i. (4):** If the provision is not removed, would the Board’s EO be subject to any sort of deadline? How would this fit in with permit streamlining? Pacifica is concerned about potential excessive project delays and would like to see the provision removed.
- ◆ **C.3.h.:** The permit requires that “all newly installed stormwater treatment systems and HM controls” be inspected within 45 days of installation. The permit should allow more flexibility. Modify the permit language to allow six months to perform the inspection following the installation of a stormwater treatment system and HM controls.
- ◆ **C.3.h.iii:** The permittees cannot ensure how well third parties will meet local requirements, and the permit should state that permittees will perform the inspections and follow up necessary to have an effective operation and maintenance verification program. Modify the permit language to state that permittees will have an effective operation and maintenance verification program for stormwater treatment systems and HM controls.
- ◆ The permit requires the implementation of new controls on projects as small as 2500 square feet in area by July 1, 2012. Additional time should be allowed for the implementation of these “staff time demanding” additional requirements. Modify the permit to allow a five year period before the new requirements must be met.
- ◆ All “effective immediately” dates should be changed to at least 6 months after the MRP is adopted. This would give permittees enough time to properly train staff (as would be required) and have any new procedures in place prior to implementation.

### **Provision C.10 Trash Reduction**

- ◆ Municipal separate storm sewer (MS4) permit should not be used to address trash and litter in creeks from direct dumping, littering, and wind transport. Remove requirements for controlling trash and litter that end up in creeks from sources other than MS4s owned or operated by Permittees.
- ◆ The requirement to assess trash hot spots twice a year detracts from efforts that could more usefully be spent correcting trash and litter problems. Modify the permit to reduce the trash assessments requirements to once every five years. In addition, the sentence

about reducing the assessments if less than 10 pieces of trash per 100 feet are found should be removed.

- ◆ The permit proposes a trash clean up (action) level for what it terms trash hotspots that should be expressed as a goal and not an inflexible mandate because of uncertainty about what levels of trash reduction is needed to protect beneficial uses and what levels are reasonably achievable.
- ◆ The requirement to install full capture devices on 30% of the ABAG 2005 Retail/Wholesale Commercial Land Use area is too ambitious. The installation of full capture on 20% of this land use is a reasonable level of implementation as part of what the permit characterizes as an initial pilot scale deployment. Due to infrastructure issues, costs associated with meeting this requirement are unreasonable for the City of Pacifica.

#### **Provision C.6 Construction Site Control**

- ◆ **C.6.a.**The permit language requires that each permittee “implement a construction site control program at all construction sites.” Modify the language to qualify that permittees are responsible for all construction sites that have a grading permit and are located where stormwater runoff from the site flows into the municipality’s MS4 and poses a threat to cause or contribute to a water quality standard exceedance. 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 are located where stormwater runoff from the site flows into a municipal separate storm sewer system owned or operated by the municipality.
- ◆ **C.6.b.ii:** The permit requires that an enforcement response plan be developed and implemented by April 1, 2010. Modify the language to allow up to one year following adoption of the MRP to develop and implement an enforcement response plan.
- ◆ **C.6.e.ii:** The permit requires that inspections include visual observations of discharges into storm drains and/or water bodies. The inspections should be limited to discharges to the MS4 owned and operated by the municipality. Delete the language in the permit about inspecting discharges to water bodies.
- ◆ The specific list of information that must be tracked and/or reported for each construction inspection is too prescriptive and unnecessary to protect water quality. Modify the permit language to delete C.6.e.ii.(4)(d), (g), and iii(1)(d),(e),(f),(h), and (i).
- ◆ 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 language in this section should be made clearer. It states that municipalities “shall conduct an abatement program in portions of drainages under their jurisdiction in conjunction with the Water Board...” Modify the permit to state that a total of four pilot projects to address abatement measures for both PCBs and mercury will be conducted. One pilot project will be located in San Mateo County, and one pilot project will be located in each of the other three large countywide programs. The permit requires a feasibility study and diversion of dry weather and first flush stormwater flows from five stormwater pump stations during this permit period. This requirement should be limited to conducting a paper feasibility study. Such a feasibility study is essential to resolve whether there is sufficient capacity in the sanitary sewer collection system and at wastewater treatment plants to handle these types of diversions. In addition, a feasibility study needs to evaluate the cost-effectiveness of doing diversions.
- ◆ The permit requires the implementation of “onsite treatment projects at the pilot scale in ten locations during this permit term.” Modify permit so that requirements are for a total of four studies that will be conducted during this permit term for PCBs and Hg together. As before, one per large countywide program.
- ◆ Feasibility study and diversion of both dry and first flush flows from 5 pump stations during the permit term is unrealistic, unattainable, and unnecessary. Modify the permit to delete this requirement and replace with a feasibility study.
- ◆ The reporting dates in this section are unrealistic and should be extended. The permit should be modified to require that progress on the pilot project be described in the 2011 Annual Report and that the final report be completed and submitted on the same schedule as the 2014 Annual Report.
- ◆ The permit requires that 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 be held accountable for what they are able to control. On this basis, 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.

### Additional Comments

- ◆ **Provision C.13.e.**The language in this provision is vague and the responsibility of conducting such an investigation should lie with the Board, not the permittees.
- ◆ **Provision C.4.a.:** Legal authority is too broad as regards ability to oversee, inspect, and require expedient compliance and abatement at all sites that cause or contribute to pollution of stormwater runoff. Revise the legal authority to what is required by federal Clean Water Act requirements to control pollutants that flow to municipally owned/operated MS4s
- ◆ **Provision C.5.a** The requirement to have adequate legal authority for “non-stormwater pollution” is too broad. The authority should be more specific to non-stormwater discharges to MS4s owned/operated by permittees. Revise the legal authority to what is required by federal Clean Water Act requirements to control pollutants that flow to municipally owned/operated MS4s.
- ◆ **Provision C.9.a.:** The permit requires that municipalities address their own and others pesticides use within their jurisdictions. The permit should be restricted to pesticide uses that reach stormwater that flows to MS4s owned and operated by the municipalities in order to meet the federal Clean Water Act requirements. Modify the permit language so that it more narrowly focuses on pesticides that adversely affect stormwater that flows to MS4s owned and operated by the municipalities.

### Waste Water Department Additional Information

Pacifica’s Collection System is focused on addressing I & I issues and in the next couple of years; the City is dedicating substantial resources to resolve current I &I infrastructure needs. In the next fiscal year we have budgeted \$ 3,500,000 for Capital Improvement Projects, all of which are related to the Collection System.

**Linda Mar Pump Station/Drainage Station.** The City has designated funding for a CIP Station Generator project. Currently the generator can not run the electric pumps for the sewer and drainage stations at the same time. During power outages an engine drive pump is run for the sewer station and the drainage station is powered by the generator. The City has allocated \$1,000,000 to this project via CIP. This project will result is meeting a higher water quality standard.

**Calera Creek Water Recycling Plant Bond Payment Status:** Last year was the first year where an increase occurred bringing the debt payment from \$1.4 million in 2007/08 to \$3.5 million in 2008/09. This debt is for the \$51 million for the construction of the new Treatment Plant (\$46 million for the 1995 State Revolving Loan and \$5 million for the 1996 Sewer Revenue Bond).

~~Pacifica has dedicated both staff and funding to infrastructure upgrades that will result in benefiting receiving waters. Our treatment plant is a "state of the art" facility, constructed to provide tertiary treatment which results in cleaner water, less pollutants and individual to Pacifica; endangered species habitat and a flourishing restored creek and wetlands. Before we can move into implementation of additional new requirements associated with water pollution prevention, we must resolve the task at hand. Pacifica must reduce its dept, incurred in order to provide the City with sewage treatment above and beyond the state and federal requirement; incurred to protect beneficial water bodies, receiving water bodies, wetlands, habitat from pollutants of concern.~~

**Closing**

We request that 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,



Stephen A. Rhodes  
City Manager

Cc; File  
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Fred Jarvis, E.O.A.