

WEST VALLEY CLEAN WATER PROGRAM

Mr. Bruce Wolfe, Executive Officer
San Francisco Bay, RWQCB
1515 Clay Street, Suite 1400
Oakland, CA 94612

April 3, 2009



Subject: Comments on Municipal Regional
Permit Revised Tentative Order, dated February 11, 2009

Dear Mr. Wolfe:

West Valley Clean Water Program (WV CWP), on behalf of its member agencies, the Cities of Campbell, Monte Sereno, Saratoga, and Town of Los Gatos, remains committed to improving water quality through a variety of stormwater and urban runoff BMPs. However, in order to continue maximizing our efforts, we cannot stress enough the need for prioritization and focus on cost-effective stormwater management measures in the draft Municipal Regional Permit (MRP), dated February 11, 2009. In general we request the following modifications to the draft MRP (more specific comments are attached):

- Implementation requirements, particularly those already in place, consistent with current (already approved) performance standards, which have been developed for nearly every element of our current permit and have effectively served as guiding principles for MEP;
- Prioritization of requirements and proposed improvements or enhancements of existing municipal stormwater programs;
- Scaling back or further phasing out the more fiscally burdensome of these requirements into future permits; particularly measures consistent with currently adopted pesticide, mercury and PCB TMDLs.

Our agencies remain concerned about the MRP's lack of priorities and lack of phasing-in of requirements over several permit cycles, to take into consideration limited municipal resources. The implementation of cost-effective stormwater management measures which provide significant stormwater quality improvement, continue to be our highest focus. While several of the proposed provisions are well aimed to improve water quality, the aggregate places a considerable strain on public agency resources without likely improvement to water quality (i.e., stringent and prescriptive controls on conditionally exempted discharges). Moving forward, we earnestly request RWQCB Staff to assist local governments (and our countywide collaboration program) in obtaining federal and state grants and other forgivable loans which may be used to help our agencies improve stormwater quality through the implementation of more watershed based stormwater and urban runoff management and prevention measures.

In addition to these comments, the West Valley Clean Water Program and the Cities of Campbell, Monte Sereno, Saratoga and Town of Los Gatos, support and incorporate by reference the comments submitted by Santa Clara Valley Urban Runoff Program (SCVURPPP), the Bay Area Stormwater Management Agencies Association (BASMAA), Mr. Robert Falk (Morrison and Forester).

Respectfully,

A handwritten signature in blue ink that reads "Kelly J. Carroll".

Kelly J. Carroll
Program Manager
West Valley Clean Water Program

cc: WVCWP Municipalities
SCVURPPP

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WV CWP Comments on specific issues and concerns regarding TO MRP, released Feb 11, 2009:

New Development and Redevelopment (C.3.)

- C3 In General Time (at least one year from permit adoption) should be afforded the co-permittees, to prepare for implementation of the many new requirements and changes, particularly those which predicate ordinance revision, policy and procedure changes, as well as educating staff and informing project applicants of these new [C3] requirements.
- C3ci(4), C3ci(5) - Newly added language for projects with vault-based treatment systems requires unreasonable uncertain process delay by requiring RWQCB notification and/or approval as a contingency of municipal final approval of projects. Changes to this section should include the stated goal to limit use of vault-based systems, specify when they may be used, and aggregate reporting of projects utilizing vault based treatment systems in the annual report.
- C3e Alternative Compliance option should be available to all projects, including roads and widening projects. Road projects likely projects to use the alternative compliance option due to limited right of way for treatment controls and piecemeal nature of road improvements. The additional capacity required for 'off-site' projects, should they not be completed within the designated timeframe of the corresponding project, is an unreasonable in-field change to treatment BMP criteria given the fact that that the treatment BMP has already been sized, located, engineered, approved and funded for the original factors.
- C3h.iii Maintenance Approvals should be changed to state: 'for Regulated Projects that construct wetlands, Permittees should *inform* Regulated Projects of the need to comply with Water Board Resolution 94-102: Policy on Use of Constructed Wetlands for Urban Runoff Pollution Control...'
- C3h.iv Reporting Should be eliminated as it is redundant to C3b.v, or at minimum changed to 'report newly installed stormwater treatment systems and HM controls with the annual report' only.

C7 Public Information and Outreach in C7c.iii, clarify that reporting on media pitches that are implemented at the county-wide or regional levels (see C7c.ii) may be reported by Countywide Program, rather than by each co-permittee as stated (as is allowed in other sections of this element, i.e., C7b.iii).

C10 Trash The draft revised permit needs to prioritize the highly aggressive and many new requirements in this section, with the combined efforts of all permit requirements; Priority focus to be on cost-effective efforts to address trash in or likely to be conveyed by stormwater conveyance systems into our waterways, with assessment work and data analysis driving the nature and location of the measures to be implemented;

C11 and C12 Mercury and PCBs Controls

- Combine C.11 and C.12 into one provision to eliminate duplication and inconsistencies.
- C.11/C.12 (in general) Reduce the number of regional pilot projects and investigations and add language such that existing treatment systems can be utilized where applicable.
- C.11f/12.f Diversion of Dry Weather and First Flush Flows to POTWs Any potential stormwater diversion to the sanitary system will pose significant engineering, regulatory, financial, legal and institutional challenges, much of which is out of the jurisdictional control of our agencies, which do not own or operate sanitary sewers in this area. We request that during this permit term a feasibility study be conducted in coordination with the POTWs, and any requirements in

subsequent permits consider the findings of the feasibility study prior to requiring implementation of dry weather or first flush diversions.

C5 Conditionally Exempted Discharges

- We request that our current BMP-based program, based on the SCVURPPP Conditionally Exempted Discharges Report submitted and approved by Water Board in 2000, be grandfathered and remain in full effect