

February 28, 2008

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

SUBJECT: COMMENTS ON MUNICIPAL REGIONAL STORMWATER NPDES
PERMIT TENTATIVE ORDER

Dear Mr. Wolfe:

These comments are filed on behalf of the Unincorporated Area of Alameda County and the Alameda County Flood Control and Water Conservation District (Alameda County) with regard to the Tentative Order for the Municipal Regional Stormwater NPDES Permit for Discharges from Municipal Phase I Permittees in the San Francisco Bay Region (Tentative Order) issued on December 4, 2007 as amended. I request that you distribute a copy of these comments to the Regional Board members and include the comments in the record of this administrative proceeding.

Alameda County strongly supports the Water Board's objective to protect our local creeks and the San Francisco Bay from the detrimental impacts of stormwater runoff. For our local public agencies to be able to meet this objective, the enhanced measures that will be required under this permit must allow local agencies to focus our efforts on tasks that will produce actual water quality benefits and not divert our resources to unproductive tasks such as excessive data gathering and reporting. While we understand the need for increased specificity, the enhanced requirements must be flexible enough to allow local agencies to achieve this objective cost effectively. Unfortunately, despite the many hours that Water Board, local agency and NGO staff have expended in developing this tentative order, there are several requirements that will prove costly while providing only minimal water quality benefits. Several others deny Alameda County the flexibility we need to apply the most effective measures on our limited stormwater budget.

We support and concur with the comments filed by Alameda Countywide Clean Water Program (ACCWP) and the Bay Area Association of Stormwater Management Agencies (BAASMA). In addition, we describe our specific concerns below with proposed revisions to permit provisions. We hope that you and your Board will direct your staff to work with local agencies to address these concerns so that we can move forward in addressing pressing water quality problems expeditiously and efficiently.

Provision C.2.h. Rural Public Works Construction and Maintenance:

Background: Municipalities have existing criteria in place for prioritizing road maintenance based on preserving infrastructure and protecting public safety.

Concerns: C.2.h.ii.(2)(b) Additional criteria to our existing rural road maintenance program criteria are redundant and excesses. C.2.h.ii.(2)(f) Requirements to develop and implement an inspection program prior to the rainy season are vague. These onerous planning and reporting requirements would have devastating effects on our financial ability to actually maintain and repair our rural roadways.

Proposed Resolution: Provisions C.2.h.ii.(2)(b) and C.2.h.ii.(2)(f) should be removed.

Provision C.3.b. New Development and Construction Regulated Projects

Concerns: C.3.b.i(4) – the current exemptions for bike projects and sidewalk projects should not be removed. With the continued population growth, alternative modes of transportation should be encouraged to improve air quality, congestion, energy usage and the health condition of the population. With our limited resources, bicycle projects and sidewalk projects would not be feasible with the addition of treatment and hydraulic sizing requirements. The net benefit to the public and environment should be considered.

Proposed Resolution: C.3.b.i(4) – should include exemptions for bike projects and sidewalk projects.

Concerns: C.3.b.i (5) – the current exemption for pavement rehabilitation projects should not be removed. All roadway pavements eventually need to be rehabilitated down to the gravel base. With limited right-of-way and limited resources, adding new treatment facilities to pavement rehabilitation projects would be cost prohibitive. Acquisition of right-of-way in the urban environment to install treatment facilities is usually not possible due to zero or short front yards and congested underground space that does not allow for installation of new facilities. These new treatment requirements would reduce the amount of pavement that can be rehabilitated, further reducing the already poor condition of the roadway pavements.

Proposed Resolution: C.3.b.i (5) should include exemptions for pavement rehabilitation projects.

Provision C.4: Industrial and Commercial Site Controls

Background: Alameda County municipalities have been conducting industrial and commercial facility stormwater inspections for over fifteen years. Under the current permit, municipalities are required to prepare a five-year work plan that lists all facilities deemed to have a potential to contribute to stormwater pollution and develop a list of priority facilities.

Concerns: The required inspection frequency for particular categories of industrial and commercial facilities is too prescriptive and is not appropriate. Of particular concern is the requirement to inspect SARA Title III, Landfills and General Industrial Permit facilities every year. SARA Title III facilities include those with inert compressed gas on site in quantities over reporting thresholds (i.e., 200 scf). This may include such benign facilities as a gift shop with a helium cylinder for filling party balloons, its only “industrial” activity. To require annual inspections based on the presence of a compressed gas cylinder, in this example, would be a waste of public resources and contrary to common sense. Similarly, it is not appropriate to require inspections of all General Industrial Permit facilities every year. Some of these facilities have a very low likelihood of contributing to stormwater pollution. The Program inspectors are dedicated professionals. They have on-the-ground knowledge and are in the best position to determine which facilities should be high priority facilities. In addition, General Industrial Permit facilities pay an annual fee of \$830 per year to the State, so that the State can provide inspection, data management, and enforcement of stormwater permit requirements at those sites.

Proposed Resolution: Remove the designated frequency of inspection by business type. Require that all businesses with a potential to contribute to stormwater pollution be inspected at least once during the five-year permit term. Allow the municipalities to develop their own list of high-priority facilities, with commensurate inspection frequencies, reflecting both risk and compliance histories, as they are currently doing.

Provision C.10: Trash Reduction

Background: Litter is a serious problem in many communities throughout the Bay Area as well as in local creeks and in San Francisco Bay. Alameda County is currently conducting many significant litter reduction activities including: participating in Coastal Cleanup events, street sweeping, cleaning up hotspot dumping areas, conducting public outreach campaigns; and installing trash capture devices. Many of these efforts go well beyond those directly related to urban stormwater runoff and receive little credit in the Tentative Order with regard to trash abatement efforts.

Concerns: 1) C.10.a.-In discussions with your staff, it has become apparent that the language of Provision C.10.a.i. contains an unintended flaw in the definition of *Urban and Suburban Land Area*. In our discussions it has become clear that your staff

intended this definition to cover the developed area of each jurisdiction because that is where the vast majority of trash is produced.

As it is written now, this definition would include 358 square miles of our county, encompassing all the open grazing and undeveloped land of the eastern half of the County. Much of that area is entirely uninhabited and does not have roads. Instead, the actual size of the truly urban and suburban (developed) part of the Unincorporated County is a small fraction of this area.

As this provision is presently written, it would have the Unincorporated County installing full trash capture devices over 18 square miles of its watersheds (5% of 358 square miles). At the rate of \$4,500* per acre of watershed to install vortex screen separators (VSS devices), installation alone would cost the County \$51.8 million. That is approximately equal to the entire Unincorporated County budget for stormwater for 45 years.

2) The requirement to install structural control measures to treat all runoff from at least 5% of the land area of every municipality is not appropriate for all municipalities as the level of urbanization and associated litter problems varies widely between municipalities. Structural litter control mechanisms are expensive to construct and maintain and they do not address the issue of litter in our communities.

3) The requirements of the enhanced litter control measures are excessively prescriptive. The tentative order requires that the enhanced control measure areas include weekly street sweeping and parking restrictions. These measures may not be appropriate in many areas that municipalities would like to conduct enhanced litter control activities. In some areas enhanced enforcement or litter pickup would be a more appropriate measure.

4) The requirement to conduct in enhanced litter control in areas where structural control measures will later be installed should be removed. This would require municipalities to revise street sweeping routes and install no-parking signs, which would be very expensive, only to remove the signs and revise the routes again a year or so later when the structural control measures are in place.

*The figure for installation cost of VSS devices is taken from the direct experience of the City of Oakland. The Oakland figure of \$4,500 per acre served has been consistent for devices serving several watershed sizes ranging from 16.5 acres to 121 acres. The City costs are higher than manufacturer quotes because they include costs of street utility relocation, design review, site survey, and contract administration.

Proposed Resolution: In order to bring this definition in line with what I understand your staff intended and with the definition used by the County's professional planners, I propose revising the definition in MRP Section C.10.a.i. as follows: "Urban and Suburban Land Area is defined as the developed land area of a Permittee's jurisdiction, consisting of those areas in which the predominant property parcel size is 10,000 square feet or less, excluding natural resource protection areas, golf courses, cemeteries, grazing lands, farm lands, and estate residential development areas."

The problem of litter in our creeks and the Bay cannot be solved through controls on stormwater discharges alone. At the stormwater workshop the Water Board held last year, the Water Board recommended establishing a trash task force of State and local agency representatives to address trash related issues. This is an excellent idea that should be implemented. The County requests that the permit requirement of a minimum of 5% structural retrofit by 2012 be eliminated, allowing the use of structural or non-structural controls to achieve trash reduction. This would allow local agencies an opportunity to assess the effectiveness of various structural control methods and determine if structural controls are warranted under the Long Term 15-Year Trash Reduction Plan due in 2012. We also request that the options for enhanced control measures be revised to allow for selecting from a menu that includes items such as enhanced enforcement and litter pickup.

Provision C.8.e.ii. Monitoring Projects- Dry Weather & First Flush Investigation

Concern: This permit provision takes a list of specific pump stations and assumes that dry weather discharge may be creating problems. The requirements are too prescribed and require excessive and expensive monitoring. If the station isn't operating, taking 5 samples on consecutive days is unnecessary duplication of effort, monitoring water that may not be discharged to a receiving water body. Even if there is pump station discharge that might have negative effects on the receiving water, the Tentative Order assumes that diversion to a sanitary sewer is the best way to address this problem. This assumption isn't justified, as shown by the specific experience with the Alvarado Pump Station. When Water Board staff noticed in 2004 that water discharged from this pump station was lowering the dissolved oxygen in the adjacent salt pond, they contacted the District pump station manager, who was able to install a small bypass pump with a much lower flow rate than the regular pump which is sized for stormwater flood control, to address and solve the problem.

Proposed Resolution: Instead of prescribing detailed and expensive monitoring it makes sense to start with a qualitative survey or visual inspection by the agencies managing the stations, to determine if dry weather discharge is occurring. I recommend that the Tentative Order also allow more flexibility to utilize more efficient and effective methods (such as the method describe above).

Bruce H. Wolfe
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We look forward to continuing our dialog with you and your staff on the issues described in this letter and we request your consideration of Alameda County's recommended changes to the subject tentative order.

Sincerely,

Original signed by

Bill LePere
Interim Deputy Director of Development Services

Cc: Daniel Woldesenbet, , Ph.D., P.E., ACPWA Director