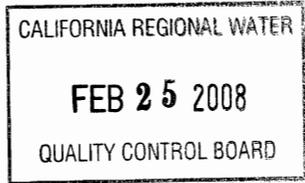


CITY OF FAIRFIELD

Founded 1856

Incorporated December 12, 1903

Home of
Travis Air Force Base



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February 22, 2008

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 Draft Tentative Order for the Municipal Regional Stormwater NPDES Permit

Dear Mr. Wolfe:

This letter is submitted on behalf of the City of Fairfield regarding the Draft Tentative Order for the Municipal Regional Stormwater NPDES Permit (Draft MRP). The City has a population of 105,000 and since 1992 the has been actively involved in the Fairfield-Suisun Urban Runoff Management Program (Program) in efforts to control urban runoff pollutants from causing impacts to local water bodies. This proactive involvement was 11 years prior to the first municipal stormwater National Pollutant Discharge Elimination System (NPDES) permit issued to the City in April of 2003. The City has supported environmental enhancement through improved operations, capital improvements and program funding. The City supports environmental enhancement of our natural and man-made waterways through stormwater and sewer system management programs. We are concerned the proposed requirements will overwhelm our City's public works program and budget.

Fairfield, like many other local jurisdictions, is experiencing challenging economic times. In addition to revenue shortages from the economic downturn, Fairfield voters through provisions of Proposition 218 recently repealed a water in-lieu administrative charge. As a result, the City is in the process of immediately and permanently reducing General Fund expenditures by approximately 10% (or \$7.3 million per year). While this problem affects the entire City, it has a specific impact on stormwater programs, which are funded out of the City's General Fund.

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The City is committed to implementing enhanced stormwater best management practices (BMPs) for the pollutants found to be impairing local waterways via implementation of the MRP. However, much of the 190 pages of the Draft MRP reflect un-prioritized and costly efforts, many of which are “reinventions” of existing stormwater management programs. The draft permit also has an unnecessarily prescriptive and inflexible approach to stormwater regulation. The lack of prioritization and focus on new issues, coupled with the rigid approach, seems to completely ignore cost/benefit considerations. With increasing economic pressures and very limited funding opportunities, a more flexible and considerate approach to this permit is needed.

For the sake of efficiency, we have limited our comments to the most problematic provisions of the draft permit and provide solutions for resolving these issues, including establishing a more practicable phase-in period for new water quality control initiatives that are appropriate and in consideration of given budget constraints and uncertainties.

A Streamlined Permit to Solve Water Quality Problems

It is essential that the new initiatives in the permit be practical, understandable, and provide flexibility in addressing water quality issues. There are a number of areas in the permit where modifications are needed to achieve these objectives. The following lists some examples where improvement in the Draft MRP is needed.

1. Water quality monitoring tasks in Provision C.8. should be practical, feasible and designed to answer specific questions that important to understanding potential stormwater impacts, sources and trends.
2. Reduce the amount and level of detailed reporting that would be required by the MRP's proposed 110-page reporting form.
3. As opposed to the current language in Provisions C.8, C.11 and C.12 regarding pump stations, a more scientifically-based process should be developed to characterize pump station discharges, prior to requiring a diversion to the sanitary sewer.
4. Allow a more flexible, pollution prevention, and pilot-scale trash control device evaluation approach for better controlling trash and litter that affect the Bay and local waterways.
5. Allow for adaptive management on the timing and prioritization of the inspection and cleaning of storm drain drop inlets.

Each of these areas of needed improvement is described in more detail below.

1. Reduce and Simplify Water Quality Monitoring Requirements

The Draft MRP includes Provision C.8 (Water Quality Monitoring) that contains a lengthy 18 page description of proposed monitoring requirements. In addition, the draft permit contains Attachment G that describes follow up actions that would be required based on the results of status and trends monitoring of sediment. As drafted, the monitoring requirements appear to be a "wish list" of requirements that are overly burdensome, costly, and do not bear a reasonable relationship to the benefit the monitoring results might provide. The amount of monitoring needs to be pared back substantially so that the benefits from the monitoring better match the expenditure of effort and funds. Some of the proposed monitoring tasks should be deleted and others need to be reduced and simplified.

In addition, many of the proposed monitoring sections are overlapping and duplicative and miss opportunities for efficiently combining and coordinating proposed studies. For example, the types of monitoring that fit under the Status and Trends monitoring section should also serve to meet any needs for Long-Term Trends Monitoring, and Pollutants of Concern Monitoring. The frequency of monitoring should be reduced to match what is needed to track long-term trends in pollutant concentrations. For example, annual monitoring is unnecessary for pollutants whose concentrations would be expected to change slowly over many decades.

It is proposed that Provision C.8 (Water Quality Monitoring) be totally rewritten to pare back the monitoring to what would be reasonable for municipalities to implement. Another option would be for this permit section to require that the municipalities develop a monitoring plan that addresses and describes the type, interval, and frequency of monitoring that would be conducted to yield data which are representative of the monitored activity. This monitoring plan could be available for public and peer review, comment, and modification before being accepted by the Water Board's Executive Officer.

2. Minimize the Amount of Reporting and Recordkeeping

The Draft MRP contains Attachment L Annual Report Form for San Francisco Bay Region Municipal Regional Stormwater NPDES Permit (Report Form). This Report Form is 110 pages in length, and, in addition to this Report Form, there are supplemental reporting tables to summarize business, construction site, and pump station inspections. The Report Form is now required for each co-permittee and is highly prescriptive.

The amount of reporting and recordkeeping would require a significant amount of staff resources that provides little benefit to protecting water quality. In addition, the Report Form is in many instances inconsistent with the Tentative Order reporting provisions and often requires more information than what is required to be reported for a specific provision.

The reporting form should be developed following the adoption of the permit so that it reflects what has been included in the permit as adopted. The inclusion of the form with the permit also sends the wrong message to municipalities and stakeholders that the contents of the permit have already been decided, regardless of the comments submitted on the Tentative Order. If the Water Board is resolved to include a reporting form as part of the adopted permit, the reporting form needs to be pared down to about 10 to 20 pages of essential information in order to maximize our productive time improving water quality. The completion of the proposed, lengthy Report Form would require a wasteful use of limited municipal staff resources on reporting and record keeping.

3. Stormwater Pump Station Diversion to Sanitary Sewers

The Draft MRP would require studies about storm drain pump stations under Provisions C.8.e.iii (Monitoring Projects); Dry Weather & First Flush Investigation, C.11.f. (Mercury Controls) Diversion of Dry Weather and First Flush Flows to Publicly Owned Treatment Works (POTWs); and C.12.f. (PCB Controls) Diversion of Dry Weather and First Flush Flows to POTWs. In addition, the latter two provisions would require that diversions be implemented from five pilot projects to sanitary sewers. The Draft MRP is overly focused on diverting stormwater pump station dry weather and first-flush flows to the sanitary sewer without an adequate understanding of the problems, if any, posed by pump station discharges. The Draft MRP also fails to recognize the physical, institutional and financial obstacles associated with the diversion of dry weather and first flush flows to the sanitary sewer. It would be more practical and cost-effective to first develop and implement a plan to characterize the possible water quality problems associated with storm drain pump station discharges and evaluating a range of possible solutions for any problems found before implementing a requirement. If problems exist, the range of solutions might include diversions to the sanitary sewer, but the solutions should not be limited exclusively to this possible alternative.

It is proposed that all Provisions that reference Pump Stations be replaced with a requirement for the Permittees to work with the sanitary sewer agencies to develop a work plan to better characterize the possible problems with stormwater pump station discharges and identify a range of possible solutions depending on the types of problems, if any, that are identified.

4. A Flexible Approach to Trash and Litter Reduction

Perhaps the most expensive provision in the Draft MRP, Provision C.10 proposes that each Permittee identify high trash and litter catchments totaling at least 10 percent of the urbanized area within its jurisdiction and implement actions to reduce the impact of trash on beneficial uses. The permit would require two types of control actions: one, the installation of "full trash capture devices" on at least 5 percent of the catchment area and, two, the use of "enhanced trash management control measures." The permit would also require that the "enhanced trash management control measures" be implemented as interim controls in the areas where "full capture devices" would eventually be installed. For the City of Fairfield it is estimated that the capital cost for the installation of a full capture CDS unit, in order to comply with the requirements of the permit, would cost between \$1,340,000 and \$1,800,000. Ongoing maintenance costs would be in addition to these capital costs.

This proposed approach to solving trash and litter problems is overly prescriptive, and does not recognize the variety of possible trash and litter problems or the need to implement cost-effective solutions that are well tailored to solve a particular type of problem. For example, the ongoing challenge of homeless encampments in the Bay Area has caused many individuals to become "creek residents", although they are consistently asked and required to leave. These individuals deposit enormous amounts of trash in creeks, and are likely the greatest source of trash in creeks within the City. However, the Draft MRP requires an arbitrary amount of municipal land area to have "full trash capture devices" and another arbitrary amount of land be subject to very prescriptive "enhanced trash management control measures", regardless of whether trash conveyed through the stormwater conveyance is a significant source to creeks and water bodies.

The MRP should be modified to allow flexibility in addressing trash and litter controls problems so that cost-effective solutions may be implemented that are tailored to solving particular problems. It is recommended that the permit be rewritten to require that each municipality select one high trash impact catchment tributary to the municipal separate storm sewer system that it owns or operates, implement an appropriate solution or require the responsible parties to implement a solution, and then demonstrate measurable reductions in trash and litter.

5. An Adaptive Approach to Inlet Inspection and Cleaning

One of the most labor intensive requirements contained in the permit, which would be heaped upon our already under-resourced Public Works staff, is the requirement to inspect and clean all storm drain inlets prior to the rainy season. These inspections are currently being done, however the additional documentation associated with each inspection will require a large amount of paperwork, which will reduce productivity with no offsetting environmental improvement.

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The City requests the deletion of the requirement to report on the inspection results at the field level. For Fairfield/Suisun City this requirement would result in the recording of approximately 4,000 drop inlet inspections each year for this Program. This excessive record keeping requirement would result in wasted public resources.

A Phased Approach to Implementing Significant Enhancements

The Water Board should recognize that municipalities need a way to fund significant, new, Permit requirements and that the options are limited at best. This is particularly important now given the current difficult financial times and the lack of available funds for new stormwater tasks or the transfer of funds from other existing municipal budget priorities to stormwater. The Water Board should recognize that municipalities need an opportunity to successfully achieve permit compliance by allowing an adequate phase-in period for municipalities to attempt to secure additional sources of revenue and adequate protections against fines and penalties if funding cannot be secured despite legitimate best efforts.

Through Proposition 218, the electorate has taken away the ability of local jurisdictions to raise revenues without prior voter approval. We are therefore extremely concerned about any permit requirements that would add costs to an already financially challenged city. Temporary grant funding, as has been suggested by RWQCB staff, is not a viable alternative either since these requirements, once included in an NPDES permit cannot be removed. Unless and until a permanent revenue stream can be identified and secured to fund additional programs and requirements, local agencies are in an extremely perilous position with respect to new requirements. Time is required, and must be provided, to develop a financial plan, educate property owners and/or voters on the need for additional funding, attempt to secure voter approval of bonds and/or additional taxes and assessments, and, if successful, start to collect sufficient funds to undertake the projects needed to comply with the permit. The permit's compliance dates should be adjusted to provide at least a five year period to attempt to secure and accrue the revenue needed to meet significant new permit requirements. Provisions should also be added which protect against fines, penalties, and anti-backsliding regulations if the funding required to implement new permit provisions cannot be obtained.

We appreciate your consideration of our comments, and look forward to discussing these issues further at the March 11th public hearing. Should you have any questions please contact our City Engineer, George Hicks at (707) 428-7494.

Sincerely,



Gene S. Cortright,
Director of Public Works