



CITY OF
HAYWARD
HEART OF THE BAY

February 27, 2008

MRP Tentative Order Comments

Attn: Dale Bowyer
S.F. Bay Water Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Subject: Municipal Regional Permit Tentative Order

Dear Mr. Bowyer,

The City of Hayward appreciates the opportunity to comment on the draft Municipal Regional Permit Tentative Order (MRP), released December 14, 2007. The City acknowledges the work and effort that has gone into the draft and supports the Water Board's goal of protecting local creeks and the San Francisco Bay from the detrimental impacts of stormwater runoff. However, the MRP as currently drafted contains many new requirements that are potentially very costly yet may be of questionable efficacy in addressing stormwater pollution. Local agencies must work with a finite amount of funding and must allocate those funds in a manner that maximizes the return on those funds for the public. In addition, agencies' ability to increase stormwater fees to fund additional requirements is severely hampered by Proposition 218's amendment to the California Constitution.

The City acknowledges and concurs with the comment letters submitted by the Bay Area Stormwater Management Agencies Association (BASMAA) and the Alameda Countywide Clean Water Program (ACCWP), and would additionally like to emphasize the following concerns regarding the MRP.

One major concern is the trash reduction component of the MRP, found in Provision C.10. The City recognizes that litter is a serious problem. In fact, the City has recently redoubled its efforts and commitment to trash reduction through public education and cleanup activities. However, the City believes that the litter problem cannot be solved through stormwater controls alone. The overly prescriptive trash-related requirements in the MRP impose a significant burden on local agency resources, while allowing little flexibility. The required enhanced litter control measures may not be applicable in all situations. It would improve the MRP if the designated measures were available as a menu for local agencies to choose from, rather than be required in each impacted area. In addition, enforceable parking restrictions could result in significant capital and staff costs to install and maintain signage and a drain on police resources for enforcement. The MRP should allow local agencies to pursue other, more cost-effective options such as public

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outreach. Lastly, the requirement in the MRP to install trash capture devices on one half of the area already subject to enhanced trash control measures is duplicative; in addition, structural devices are very costly to install and maintain and may not be appropriate for all communities.

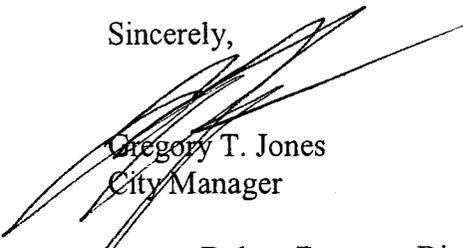
Another major concern is the requirement to conduct pilot projects to divert discharges from stormwater pump stations to the sanitary sewer, found in Provisions C.8, C.11, and C.12. First of all, requiring these additional projects before the data from current diversion projects has been evaluated is premature. Second, these requirements assume that local POTWs have the hydraulic and treatment capacity to handle stormwater discharges and the infrastructure in place to carry stormwater to the sanitary sewer, which is far from the case for many local jurisdictions. In addition, wastewater treatment plants are designed to treat biological waste and not the pollutants that the MRP is trying to address with the required diversion pilot projects (mercury and PCBs). Diverting such pollutants to the POTW could affect treatment processes and result in NPDES effluent limitation violations.

Also of concern are the rigid requirements found in Provision C.4 mandating the frequency of industrial and commercial inspections and adding new business types that must be inspected. These requirements, that include inspecting annually facilities subject to coverage under the statewide General Industrial Permit, are very burdensome for cities like Hayward that have many commercial and industrial facilities. The MRP should allow for inspectors to use their professional judgment and expertise to determine the frequency a facility should be inspected, as is the case under the current ACCWP permit. Moreover, considering that facilities covered by the General Industrial Permit currently pay an annual fee of \$700 to the state for state inspection and enforcement, it does not make sense to focus local agency resources on these particular facilities.

Lastly, new requirements found in Provision C.3 increase the burden on local agencies with limited returns. Reducing the threshold of regulated new development and redevelopment projects from 10,000 square feet to 5,000 square feet of impervious surface requires a disproportionate amount of resources to be directed at oversight and inspection of small treatment devices. Also, requiring structural treatment controls for road construction projects within existing right-of-way would place a significant burden on municipal street maintenance programs. Because of severe logistical constraints involved with installation of stormwater treatment controls within an existing roadway, the MRP should continue to exempt from numeric treatment requirements road construction within the existing right-of-way in areas where there is existing development on both sides of the road.

We appreciate your consideration of these comments.

Sincerely,



Gregory T. Jones
City Manager

cc: Robert Bauman, Director of Public Works