

February 27, 2008

Mr. John Muller, Chairman
Members of the Board
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Ste. 1400
Oakland, CA 94612

Subject: Comment on Tentative Order No. R2-2008-00XX
NPDES Permit No. CAS612008
Municipal Regional Stormwater NPDES Permit

Dear Chairman Muller and Members of the Board:

This letter is submitted by the City of Pleasanton to provide comments on the Tentative Order for the subject Municipal Regional Stormwater NPDES Permit (MRP) released for public review by the San Francisco Bay Regional Water Quality Control Board on December 14, 2007. The City of Pleasanton appreciates the opportunity to provide comments on the MRP and acknowledges the effort by Regional Board staff in preparing the proposed regional NPDES permit.

It should be noted that the City has been an active participant in the efforts to control, mitigate or eliminate pollutants from stormwater which flows through and from our City since the late 1980's. The City of Pleasanton also remains dedicated to taking on measures for reduction of pollutants and improvements to water quality on a sustained approach. However, the proposed Tentative Order presents a significantly more aggressive approach to stormwater quality management than our current NPDES permit in almost all areas. These additional and more aggressive requirements will become a substantial and costly burden for the City to implement, and we have serious doubts regarding the actual water quality benefits over and above those urban water quality measures, programs and requirements that we are currently imposing on our residents and businesses under the our existing NPDES stormwater permit.

We also believe that many of the additional recordkeeping requirements in the proposed Tentative Order may in fact detract from the City's current programs to carry out existing and improved local clean water programs due to demands on funding, staff, and other resources.

The following information more specifically describes some of our major concerns with the Tentative Order:

Trash Reduction

The current Tentative Order language requires agencies to develop an enhanced trash control program for at least 10% of the land within their jurisdiction. Half of this targeted area must be treated with structural trash controls. If the Tentative Order is approved as written, the City will be required to provide structural controls treating approximately 500 acres in order to comply with the new requirements. Initial estimates of the cost to install and maintain these required new structures is

estimated at \$2.25 million and when annualized, this cost would represent approximately \$450,000 for each year of the 5-year permit. This additional cost would come close to the total of our City's current annual storm water assessments to residents and businesses. In essence, just to comply with this additional requirement alone would approximately double the cost to comply with our existing NPDES permit requirements.

The City believes that additional operation and maintenance activities such as placing additional trash receptacles in key areas and enhanced litter pickup could accomplish the trash reduction goals. In addition, public education activities in the City of Pleasanton regarding anti-littering have been successful and enhancing these educational activities, we believe, can meet or exceed the end goal of trash reduction in stormwater emanating from our City. The City's past efforts during the Annual Coastal Cleanup Day in the Tri-Valley area are a great indicator of the success of our public education outreach. The amount of trash and debris collected by volunteers from our major creeks in recent years has been reduced to less than half of the amount we used to collect from past events.

The City of Pleasanton requests that the permit requirement be revised from the proposed prescriptive 5% enhanced and 5% full capture trash removal to a performance goal language of 10%, allowing the use of variable percentages for removing trash within the 10% targeted area. This would allow local agencies such as the City an opportunity to assess the effectiveness of these methods, including enhanced trash capture methods, in achieving a better result based on practical cost and benefit analysis.

The cost to comply with this additional effort is also not currently funded under the City's limited Storm Water Runoff Assessment Fees. Hence, this and all other additional costs noted below to comply with the more aggressive permit language, we believe will require Proposition 218 public approval process.

Additional Monitoring Requirements, Record Keeping, and Reporting

The proposed permit requires extensive new monitoring, testing, and significant additional reporting efforts by the City, even though currently required reports are rarely reviewed by the Water Board staff in a timely manner due to its staffing limitations. Elimination or reduction of the required new monitoring requirements would not deter from the City's pollution reduction efforts and, in fact, would allow available resources to be directed to actual water quality improvement efforts in the field rather than in an office completing additional paperwork.

The additional monitoring, reporting and inspection efforts within the proposed Tentative Order are estimated to require an additional 1,000 hours to complete each year than currently budgeted for. The cost for additional employee hours, as with the trash reduction measures noted above, is not currently funded under the City's limited Storm Water Runoff Assessment Fees and would require a Proposition 218 public approval process.

Increased Treatment Requirements for New Development

The threshold for requiring installation and monitoring of water quality measures for new development was reduced under provision C3 of the City's existing NPDES permit from 1 acre to 10,000 square feet (sf). The new Tentative Order proposes dropping this limit to 5,000 sf in two years.

The City does not believe that the reduction to the 5,000 sf threshold will result in capturing significant pollutants loadings from new development within the City over and above the current 10,000 sf limit. In fact, we believe that this nominal improvement to water quality will come with a significant increase in staff time needed for plan processing and ongoing monitoring, and that the installation of relatively expensive privately maintained site-specific water quality measures will provide a negligible cost to benefit ratio.

The Tentative Order also requires treatment of previously exempt reconstructed pavement, even though impervious surfaces are not increased and no new activities are occurring that would generate additional pollution. The added cost of this requirement will dilute the limited funds already available to the City for pavement rehabilitation and further hinder our City's ability to adequately maintain our street systems. The proposed revision will additionally hamper our future efforts to add "free right turn lanes," "acceleration and de-acceleration lanes" for improving traffic movements, and enhancing the level of service to relieve traffic gridlock (which causes additional air pollution). The result will be that these typical streets and traffic improvements will not be as feasible and viable, and traffic delays will increase causing an increase in stormwater pollutants attributed to emissions from brake pad linings, fuel, oil, and anti-freeze leaks.

Development of Additional Spill Response Procedures

The proposed permit requires development of a formalized Emergency Response Plan (ERP) for use with business inspections, spill responses, other business processes and additional record keeping, and reporting. In addition, included in the more aggressive ERP are requirements to adopt by ordinance, escalating penalties for noncompliance.

The City's current spill response and business inspection practices are effective, and adoption of additional formal measures would provide no incremental benefit to water quality. This additional requirement would only add to funding requirements for additional record keeping with no significant benefit for enhancing urban runoff water quality.

Public Outreach

The proposed Tentative Order requires that the City complete additional local public outreach events. In past years, the City has met or exceeded its existing permit public outreach minimum requirements. However, the permit also requires additional region-level outreach and education, including measurement of effectiveness tests. We do not believe this is a warranted requirement due to the significant cost requirement for measuring qualitative items such as "awareness" or "behavioral changes" for City residents and those transient work only related populations in Pleasanton. We believe the effort for this performance measurement will be better postponed to future years in the next round of MRP permits

Copper

The permit requires additional copper-reduction measures, including specific changes to the municipal code regarding washing of buildings with copper architectural features. In accordance with the San Francisco Estuary Institutes' 2007 Regional Monitoring Report, copper was removed as a contributing pollutant to the Bay's status as an impaired water body under Section 303(d) of the Clean Water Act. Copper removal from storm runoff can, and will, continue under the City's existing NPDES permit compliance measures activities.

The permit requires continued participation by local agencies in the Brake Pad Partnership, which is developing means of reducing copper content in brake pads. The City supports this Brake Pad Partnership due to its success in achieving measurable statewide benefits. However, the new Tentative Order requires copper-specific activities along with specific record keeping and reporting requirements, none of which contribute to copper or other pollutant removal or overall water quality improvements. Some of the requirements (such as an ordinance prohibiting washing of buildings with exterior copper) would result in a very limited source of copper and would be impractical to enforce. It is also noteworthy to mention that the added requirements for copper removal result in a negligible cost to benefit ratio.

Delegation of State and Federal Duties to Local Government

The new permit requires the City to take on duties currently assigned to State and Federal agencies with regards to abatement or monitoring of certain pollutants of concern. Specifically, the permit requires that:

- 1) Local agencies monitor and participate in the regulatory process for pesticides and assume responsibilities for development and enforcement of regulations currently handled by Federal and State agencies. This activity is beyond the technical and legal scope of local government, and is and should continue to be handled at the State and Federal level.
- 2) Local agencies identify PCB's on private property as part of ongoing clean water business inspections, and coordinate with State/Federal regulatory agencies to facilitate the removal of PCB's. The City is committed to removing pollutants from the environment and will report any knowledge of potential PCB releases or contamination on private property to the appropriate State and Federal agencies, for abatement of the pollutants by those agencies.
- 3) Local agencies develop or participate in PCB and mercury health risk reduction programs for fish consumed from the San Francisco Bay. This activity is beyond the City of Pleasanton's funding and staffing level and is the responsibility of County, State, and Federal public health agencies.

Parking Restrictions

The Permit includes language that could potentially require that local streets be posted for no parking on street sweeping days.

The City is currently locked into a three-year contract with a private street sweeping contractor. Residential streets are swept once a month, downtown and commercial zones are swept twice a week, if not more frequently (in addition on an as-needed basis), and parking lots are swept twice a month. Specific sweeping schedules and a map for each area is posted every six months in advance on the City website for Pleasanton residents and commercial districts for viewing and notifications. For City residents who do not have access to the web, this information is available via the City's Operation Service Center's administrative staff. This systemic approach has been successful in our operation, and generally, our contractor is able to sweep the streets with minimum obstruction.

The City does not have an ordinance for removing cars in the path of street sweepers. Politically, the City does not wish to take on this challenge which will create havoc in our community. With the availability of our street sweeping schedule, the City has not needed to, nor believes it is cost-effective to, post signs on streets for sweeping days. Installing sweeping day signs on all streets bears a

significant additional capital and ongoing maintenance cost to the City and one for which the City has not budgeted.

Summary

We hope that this letter gives you some appreciation of the impacts from the current permit requirements to the City of Pleasanton. We concur that water quality goals should not be driven by cost. However, we do request your understanding that local agencies must work within their limited funding challenges and criteria. We are bound by laws such as Proposition 218 for devising funds for unplanned and new mandates. We are also accountable to our public for maximizing funds in a manner providing maximum benefits. The noted Tentative Order proposed new permit requirements for reporting, monitoring, or "nice to have" items that have no actual benefit to water quality improvements, do not serve the public and should be eliminated.

Please note that most of these issues have been raised in the City's past letter to the Regional Board staff on November 8, 2006, as comments to the Administrative Draft of the MRP.

We appreciate your attention to these comments. Please contact Rob Wilson, Director of Public Works, for further discussion of these comments.

Sincerely,

Jerry Thorne, Vice Mayor

cc: Shalom Eliahu, San Francisco Bay Regional Water Quality Control Board
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