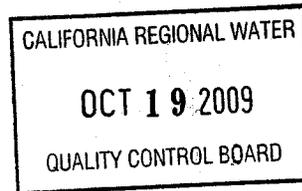




City of Alameda • California

October 15, 2009



Robert Schlipf, P.E.
Water Resource Control Engineer
California Regional Water Quality Control Board
San Francisco Bay Region
1515 Clay Street, Suite 1400
Oakland, CA 94612

Re: City of Alameda Comments for the East Bay Collection System Tentative Permits

Dear Mr. Schlipf,

This letter is submitted in response to the Tentative Order (TO) No. R2-2009-00xx received on July 14, 2009. Pursuant to your request for comments, the City of Alameda (City) is concerned about the strict prohibition outlined in Section III. D., of the TO.

It states:

D. "The Discharger shall not cause or contribute to discharges from EBMUD's Wet Weather Facilities that occur during wet weather or that are associated with wet weather."

The City cannot support this zero tolerance approach given the limited information available on the current maximum wet weather storage capacity at the East Bay Municipal Utility District (EBMUD) and to what degree this will limit the wastewater output of the City. Therefore, the prohibition is both too subjective and overly vague.

In particular, the following issues are of concern to the City:

1. The previous NPDES permit - Order No. R2-2004-0008, page 9, Section A. Prohibitions, took into account best practice efforts done by the City in preventing over flows. The permit also takes into account discharges caused by severe natural conditions and other factors. This fair and thorough description was removed in the new permit. The City requests that this provision be included in the proposed permit as it is fair, maintains a prudent degree of protection from unforeseen circumstances, recognizes and addresses the fact that there may be events beyond the City's direct control despite its best efforts. The new prohibition does not take into account these factors.

2. It is the City's understanding that EBMUD is required to perform approximately two years of flow monitoring and studies to assess the current regional inflow and infiltration situation and identify methodologies to address it. Until this is known, including the severity, the degree of financial burden and the technological feasibility of this rehabilitation brought to light and a more thorough understanding of individual jurisdiction's impacts are correctly tabulated, it is unreasonable and unfair to require a zero tolerance prohibition.
3. Prior to establishing prohibitions, defined, detailed methodology to determine when a specific satellite agency contributes to the Wet Weather Facility is needed. If there is no reliable method of determining this, then it is not reasonable to hold all satellite agencies accountable for any and all Wet Weather Facility discharges.

Moreover, if any of the cities are liable for any future improvements, it should be clearly defined who is responsible to fund the work.

The City has completed 100% of its compliance plan under the Cease & Desist Order, but could be held liable for any Wet Weather Facility discharges even if another were responsible for contributing the last bit of flow that puts the Wet Weather Facility over the edge.

4. The City has no authority over EBMUD or how EBMUD chooses to manage its Wet Weather Facility, yet the TO holds the City liable for EBMUD's decisions even if the solutions are insufficient.
5. The wording used in this prohibition is very limiting. The City recommends amending the wording to facilitate a TENTATIVE prohibition PENDING the results of the EBMUD flow monitoring and study.

Moreover, the TO should mention the fact that remedial actions enacted within the next few years will not yield results overnight. If a horizon of 20 to 30 years is the period in which the satellites are expected to feasibly "not cause and contribute" then this should be explicitly indicated. In this way it can be reasonable to expect that.

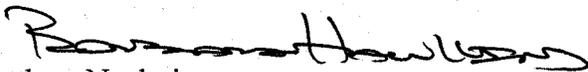
6. A clear cost-sharing schedule should be determined to define who is to contribute to the work. Instead of having all the burden be on the Satellite Agencies' shoulders, EBMUD should bear a prorate share of the costs of improvement and conformance, and this should go beyond the two year flow monitoring and study, and \$2 million private lateral incentive program.
7. Under Section IV. B. 3. Reopener. This section should be rewritten to identify distinct reasons and outlined parameters before the Board chooses to modify or reopen this Order, such as discharger negligence.

In conclusion, the City cannot support the proposed zero tolerance prohibition included in the TO. The TO should provide reasonable flexibility to the satellite agencies until the required EBMUD analysis is completed and accepted. This provides a fair and clear understanding of the issues at hand are available beforehand, then realistic goals can be set within clear, logical parameters. In this way we can all work together to reach achievable goals.

As proposed, the City may be forced to agree to compliance plans that cannot be completed without extreme hardship.

If you have any comments or questions, please do not hesitate to contact Barbara Hawkins, City Engineer at (510) 749-5840 or bhawkins@ci.alameda.ca.us.

Sincerely,



Matthew Naclerio
Public Works Director

For

BH/PSJ:ms

- cc: Ann Marie Gallant
Teresa Highsmith
Barbara Hawkins
Flavio Barrantes
Paul Soo, Jr.