

June 23, 2014

Mr. Bruce Wolfe, Executive Officer  
San Francisco Bay Regional Water Quality Control Board  
1515 Clay Street, Suite 1400  
Oakland, CA 92612

Attention: Susan Glendening

**Subject: Tentative Order for Discharges of Water from Drinking Water Supply Distribution, Transmission, and Groundwater Systems General NPDES Permit**

Dear Mr. Wolfe:

The City of San José appreciates the opportunity to provide comments regarding the Tentative Order (TO) for Discharges of Water from Drinking Water Supply Distribution, Transmission, and Groundwater Systems General NPDES Permit (Regional Potable Discharge General Permit) released on May 8, 2014. Potable water in the City of San José is supplied by a combination of private and public water purveyors. The City owns and operates the San José Municipal Water System, serving over 100,000 customers. As you are aware, co-permittees subject to the San Francisco Bay Regional NPDES Permit for Stormwater (MRP) have been complying with the requirements and conditions of exemption for potable water system discharge prohibitions in Provision C.15 for many years. Water Board staff has acknowledged that there are no specific problems with current MRP potable water discharge requirements or with compliance with them by the MRP Permittees. Staff has further indicated their intention not to make new requirements resulting from this new General Permit more burdensome to Permittees than ones currently in the MRP.

The City requests that its potable water system discharges continue to be regulated under the reissued MRP with requirements that provide *equivalent levels of protection* to water quality. We would appreciate modification of the Regional Potable Discharge General Permit's Tentative Order's fact sheet in this regard since it currently refers to an undefined "at least as stringent as" criterion that imposes a subjective comparison of the water quality protections in similar permits. A second NPDES permit is unnecessary for the following reasons:

- Requiring coverage under this permit for an entity ALREADY subject to an MS4 permit with provisions fully regulating this type of discharge is unnecessary and duplicative.
- Applying for and managing multiple NPDES permits would be unduly costly and burdensome as it would require additional annual permit fees, administrative costs and potential exposure to mandatory minimum penalties.

**Mr. Bruce Wolfe**

June 23, 2014

Page 2

- Duplicative permitting runs directly contrary to State Water Board Resolution No. 2013-0029's findings concerning constraining compliance costs while protecting water quality.
- The permit would impose large monitoring, analysis, notification, and reporting costs on public and private water purveyors with minimal benefit to maintaining or improving water quality.
- The language in the draft TO appears to be inappropriately based on a point source model. Much of the language in the draft TO consequently does not apply, or is inappropriate for the type of discharge. It would better fit a nonpoint source regulatory model because water supply discharges are broadly dispersed geographically and generally involve the storm drain system.

The City recommends the following amendments and clarifications to the draft TO:

- More explicitly limit required plans for erosion control, flood control, etc to instances where discharges are expected to be greater than 15K gallons, and where the waterbody is sensitive to such discharges (i.e. exclude hardened channels etc.).
- Make the terminology in the TO consistent with the existing and future MRP. Consistent terminology will reduce confusion between permits and clarify compliance requirements for all water purveyors.
- Remove specific BMP references such as those listed under provision 4.d.ii Sediment Control, and replace with "appropriate BMPs". Reference to specific BMPs tends to constrain actions to options that may not be necessary or appropriate in all cases.
- Specify that existing Water Utility Discharge Pollution Prevention Plans (WUDPPP) qualify as required BMP plans.

We appreciate your consideration of the comments above. The City also supports and includes by reference, comments submitted by the Santa Clara Valley Pollution Urban Runoff Pollution Prevention Program (SCVURPPP). We intend to continue to work cooperatively with the RWB staff on these and other, more pressing, MRP reissuance issues in the year ahead.

Sincerely,



Napp Fukuda

Deputy Director, Watershed Protection Division  
Environmental Services Department

CC: SCVURPPP Management Committee  
Dr. Thomas Mumley, RWB-EO