

October 5, 2011

Mr. Bruce Wolfe
Executive Officer
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, California 94612

Subject: Comments on the Amendment to the San Francisco Bay Municipal Regional Stormwater NPDES Permit, Tentative Order No. R2-2011-XXXX

Dear Mr. Wolfe:

Thank you for the opportunity to submit comments on the Regional Water Board's Tentative Order to amend the Municipal Regional Permit (MRP) dated September 6, 2011. The San Mateo Countywide Water Pollution Prevention Program (Countywide Program) submits these comments on behalf of its 21 member agencies. You may also receive separate letters from individual member agencies with comments that are specific to their jurisdictions. Please note also that the Countywide Program supports and incorporates by reference the comments submitted by the Bay Area Stormwater Management Agencies Association (BASMAA).

The Tentative Order contains revisions to Provision C.3 and Attachment F of the MRP (Water Board Order No. R2-2009-0074). The Countywide Program appreciates the efforts by Water Board staff to review and comment on our MRP-required submittals over the last two years, and to work with the Permittees through BASMAA on approaches to meeting the C.3 requirements.

We have the following specific comments about the proposed amendments:

Special Projects Criteria

We appreciate that the proposed amendments to Provision C.3.e.ii. incorporate the general approach contained in BASMAA's Special Projects Proposal submitted on December 1, 2010, which recognizes the inherent environmental benefits of smart growth, urban infill and transit-oriented projects, provides LID treatment reduction credits to these types of projects, and allows the use of tree well filters and media filters on these projects as needed. Although very few projects within San Mateo County are anticipated to be eligible for Special Project treatment reduction credits, relief from the requirement to provide LID treatment is expected to be very important in helping some of our member agencies realize a small number of infill, high density, and transit-oriented development projects.

In 2010, the 21 municipalities in San Mateo County identified C.3 Regulated Projects that had been approved in their jurisdictions during the preceding four years that would have met the Special Projects criteria included in BASMAA's December 1, 2010, Special Projects report. We have updated the 2010 findings with new data provided by our member municipalities, and now estimate that Special Projects would comprise less than 5 percent of the impervious area created and/or replaced by C.3 Regulated projects within San Mateo County.

Although we are pleased that the criteria proposed in the Tentative Order will benefit that handful of Special Projects that will meet these criteria, we do have the following concerns about the amendment:

1. Special Project Categories "B" and "C" – Our Co-permittee agencies have concerns that smart growth projects in these categories that get partial LID treatment reduction credits will still have difficulty meeting LID requirements for the remaining impervious area. We would have preferred the credit system in BASMAA's Special Projects Proposal that granted 100% LID treatment reduction credit to Category B projects.
2. Special Projects Located in a Priority Development Area (PDA) – We are disappointed that projects located in PDAs are only able to get 25% in LID treatment reduction credits for location and not the 50% that was proposed in discussions with Water Board staff and regional transportation agency staff. The PDAs are designated by the Metropolitan Transportation Commission (MTC) as part of the San Francisco Bay Area's FOCUS program, a regional development strategy that promotes a more compact land use pattern, linking land use and transportation by encouraging the development of complete, livable communities in PDAs, and promoting conservation of the region's most significant resource lands. We understand that PDAs comprise about 3% of the land area in the Bay region, but are expected to accommodate 40% of the future growth. We believe that projects constructed within PDAs should receive greater incentives in the form of increased LID treatment reduction credits.
3. Former Special Project Category "D" – We are also disappointed that Category D, which was part of BASMAA's Special Project's Proposal, was not included in the MRP amendment. Category D consists of redevelopment projects that redevelop more than 50% of the existing impervious surface, and therefore are required to retrofit portions of their sites that are not being developed or redeveloped, in order to meet treatment requirements in accordance with the "50% rule." It is often difficult to make space for LID treatment measures in the part of the site not being redeveloped, or to get runoff from this part of the site to flow by gravity to LID treatment measures in the redeveloped part of the site. We do not want to disincentivize these types of urban infill projects and cause developers to choose instead an undeveloped site in a greenfield area that may be easier and cheaper to develop.

We appreciate your consideration of these comments on the Tentative Order to amend the MRP, and we look forward to your specific responses.

Sincerely,



Matthew Fabry, P.E.
Program Coordinator

cc: Countywide Program Technical Advisory Committee
Countywide Program New Development Subcommittee
Tom Mumley, Regional Water Quality Control Board
Shin-Roei Lee, Regional Water Quality Control Board
Dale Bowyer, Regional Water Quality Control Board
Sue Ma, Regional Water Quality Control Board
BASMAA Executive Board