

CITY COUNCIL

Pedro "Pete" Sanchez, *Mayor*
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Sam Derting
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CITY COUNCIL MEETING

First and Third Tuesday
Every Month

CITY OF SUISUN CITY

701 Civic Center Blvd.
Suisun City, California 94585

Incorporated October 9, 1868

April 2, 2009

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

Subject: Comments on the Revised Municipal Regional Permit (MRP) Tentative Order – February 11, 2009

Dear Bruce:

This letter is submitted on behalf of the City of Suisun City regarding the Revised Municipal Regional Permit (MRP) Tentative Order (Revised TO) dated February 11, 2009, which was prepared by the Regional Water Quality Control Board staff (Water Board staff). The city has a population of approximately 30,000 and since 1992 the has been actively involved in the Fairfield-Suisun Urban Runoff Management Program (Program) in efforts to control urban runoff pollutants from causing impacts to local water bodies. This proactive involvement was 11 years prior to the first municipal stormwater National Pollutant Discharge Elimination System (NPDES) permit issued to the City in April 2003.

The City recognizes that although actions have been taken to reduce the impacts of stormwater, there are certain pollutants that have been listed on the state's impaired water body list and will require additional controls as part of implementing the total maximum daily load (TMDL) process. Therefore, the City is committed to implementing enhanced stormwater best management practices (BMPs) for the pollutants found to be impairing local waterways through implementation of the MRP.

The City appreciates the efforts that you and your staff have made in understanding the concerns brought forth by Bay Area Stormwater Management Agencies Association (BASMAA) member agencies, including the City, as they pertain to the Revised TO.

DEPARTMENTS: AREA CODE (707)

ADMINISTRATION 421-7300 ■ PLANNING 421-7200 ■ BUILDING 421-7310 ■ FINANCE 431-7320
FIRE 425-9133 ■ RECREATION & COMMUNITY SERVICES 421-7200 ■ POLICE 421-7373 ■ PUBLIC WORKS
421-7340

REDEVELOPMENT AGENCY 421-7309 ■ FAX 421-7366

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The following general and specific comments are those we believe are the most critical to the future success of our Program, the more practicable implementation of the MRP, and the improvement of water quality in our City and San Francisco Bay.

General Comments

- Our review of the Revised TO indicates that Water Board staff has made modifications and improvements relative to the previous of the MRP, particularly the “core” municipal stormwater management program elements that address municipal and industrial operations, construction inspection, public information and outreach. However, we still have some major concerns with the trash requirements. The Revised TO requires that capture devices be installed to drain a total of 30% of the retail/wholesale/commercial land use amount for the City. This proposed approach to solving the trash problem is overly prescriptive, and does not recognize a variety of possible trash and litter problems (e.g., homelessness living by creeks) within the City.
- The cost effectiveness of these new required stormwater management measures is even more critical during the current economic downturn. The City of Suisun City, like many other local jurisdictions in the Bay Area, is experiencing challenging economic times and considerable budget constraints and uncertainties. While this problem affects the entire City, it has a specific impact on stormwater programs and its resources.
- The Revised TO does not attempt to set priorities among the many new requirements; and requires the “immediate implementation” or implementation within the first few years of the revised TO.
- The Water Board should recognize that local municipalities need to find ways to fund new, significant permit requirements and that funding options are extremely limited. Due to the current economic downturn, funds are virtually non-existent for new stormwater tasks. As a result, local municipalities need an adequate phase-in period to secure sources of revenue and to achieve permit compliance. In some cases, particularly for trash, phasing should be over more than one Permit term

Specific Comments

New Development and Redevelopment (C.3.)

- C.3.a.ii. Due Dates for Full Implementation – The Revised TO needs to provide Permittees additional time to prepare to implement the new requirements and not assume that such new requirements are “effective immediately” as currently written. It is reasonable to provide Permittees time (e.g., one year from the adoption of the permit) to revise policies, procedures, update handbooks and guidance materials, and educate staff and project applicants about the permit changes.
- C.3.b.ii. (1) Effective Date for Threshold Change (“Grandfather” Clause) – The definition in the Revised TO is unworkable and too late in the development review process. The term “final, major, staff-level discretionary review and approval” needs to be revised to be consistent with California land use and planning law.

- C.3.b.iii. Green Streets Pilot Project – We support the idea of pilot projects to demonstrate the feasibility of “green” street design. However, we request some changes to this section to facilitate implementation by the Permittees:
 - Make the pilot projects contingent on securing funding;
 - Allow parking lots to qualify as a type of green streets project;
 - Allow green streets projects completed since February 2003, with appropriate documentation of project elements, to count toward the total of ten projects;
 - Allow new road projects and redevelopment projects to count toward the total of ten projects;
 - Delete the requirement to meet the numeric sizing criteria in C.3.d to make the redevelopment or retrofit projects feasible; and
 - Make the completion deadline for the ten projects July 1, 2014 to allow full permit term for achieving compliance with this provision.
- C.3.c.i.(2) Low Impact development (LID) – Within the Task Description for Site Design and Stormwater Treatment Requirements, please add the missing words “as practicable” to first sentence to be grammatical and consistent with paragraphs (f) and (g).
- C.3.c.i.(2) e through f - Low Impact development (LID) - These sections list site design measures which should be considered first through last. The verbiage in these sections makes the reader think that there is a train of treatment devices required to be used in series on every project to comply with the requirements of this section of the permit. These sections are overly prescriptive and confusing. Please delete and utilize section C.3.c.i.(2) (d) as a guidance for the Boards preferred site measures.
- C.3.c.i.(4), C.3.c.i.(5), C.3.c.i.(6) Low Impact development (LID) –A new requirement has been added that requires notification and approval of projects with vault-based treatment systems. The new section, under certain conditions requires Executive Officer approval before final approval can be granted by the local agency. This additional level of regulatory burden is not productive nor a reasonable change to the Permittees development project review processes. It will create unnecessary project delays, increase municipal planning staff work loads and encroach on the Permittees’ land use authority. We request that this section be revised to provide guidance when vault-systems may be used and why they are being limited.
- C.3.e.i. Alternative Compliance Project Description – The alternative compliance options should be made available to all development projects, including new roads and road widening projects. The language in the revised MRP Tentative Order limits the use of alternative compliance options to redevelopment projects and infill site development projects.
- C.3.h.ii.(5), iii.(1) and iii.(3) BMP O&M Verification Program Reporting. – The reporting requirements for BMP O&M inspections are still excessive and unrealistic. We believe that submittal of a summary of the total number and types of BMPs inspected and categories of problems found should be sufficient to evaluate a Permittee’s inspection program. All detailed inspection records can be kept by individual Permittees for review upon request. More specifically, information on facility name, address, and responsible operator name

should be kept in local files that are available upon request, and not be part of the Annual Report submitted to the Water Board.

Illicit Discharge Detection and Elimination (C.5.)

- C.5.c.i. Spill and Dumping Response, Complaint Response, and Frequency of Inspections – The requirement to maintain and publicize a staffed, non-emergency phone number with voicemail, which is checked daily, if 911 is selected as the central contact point, is unrealistic since stormwater inspection and compliance staff do not work weekends. We request that the non-emergency staff phone number be required to be checked daily during normal weekday business hours (i.e., Monday- Friday, 8 am to 5 pm) in the event that 911 is used as the central contact point. Any spill/dumping incident occurring before or after weekday hours and during weekends; and deemed to be a serious threat to a water body will be addressed by other responders (e.g., City Fire Departments, contract hazardous material responders, etc.).
- C.5.e.Collection System Screening- Municipal Separate Storm Sewer System (MS4) Map Availability – The requirement to survey at least one screening point per square mile per year including some key major outfalls draining industrial areas is very burdensome and unrealistic. For example, the total number for the areas in our Program alone is 30.

Construction Site Control (C.6.)

- C.6.e.ii (4) Inspection Tracking – The type of information each Permittee is required to track is unnecessary, burdensome, overly prescriptive, and in some cases, redundant. It is not clear why some of this information (e.g., inches of rain since last inspection) needs to be tracked within an electronic database or tabular format; and included in the Annual Report. An example of redundant tracking is the information requested under 4(f) Problem(s) observed under Discharge of Sediment or Construction Related Material and the six BMP categories listed in C.6.c.i a; and 4(g) Specific Problem(s) (List the specific problems(s) with the BMP categories. Both 4(f) and 4(g) appear to be an identical item. This requirement will also lead to major revisions to our database system and retraining of inspectors to ensure that we gather and track the required information. In addition, the requested information will vary by construction site and is not readily available to inspectors. As a result, we believe that tracking this information has no benefit to water quality and therefore not relevant to the construction site's effective use of BMPs.
- C.6.e.iii Reporting – The type of information each Permittee is required to summarize within the Annual Report is also unnecessary, burdensome and overly prescriptive. In addition, paragraphs C.6.e.iii (f) numbers of discharges and C.6.e.iii (g) sites with discharges are redundant. This information is already captured in C.6.e.iii (d) summary of violations. We request that paragraphs (f) and (g) deleted.

Public Information and Outreach (C.7.)

- C.7.e Public Outreach Events – In the December 14, 2007 version of the TO, “Fairfield-Suisun” (which includes the Fairfield-Suisun Sewer District, and the Cities of Fairfield and Suisun City) were collectively required to annually participate and/or host a total of two (2)

public outreach events. In the Revised TO, all three Permittees are required to annually participate and/or host a total of 14 public outreach events (6 for the Fairfield-Suisun Sewer District, 5 for the City of Fairfield and 3 for the City of Suisun City). It is unclear why this requirement was increased by factor of seven. The total of 14 public events three Permittees is burdensome and unrealistic for agencies of our size.

Water Quality Monitoring (C.8)

- **Monitoring Costs and Equity** – Water quality monitoring proposed in Provision C.8 poses a significant increase in requirements to all Bay Area stormwater programs, but especially our Program. The Fairfield-Suisun Urban Runoff Management Program makes up roughly 2.5 % of the population served by the Revised TO. Anticipated costs to the Program to comply with the C.8 provision are estimated at over \$135,000 per year (not including the permit monitoring surcharge fees collected by the SWRCB for the SWAMP program). Program estimated costs are significantly greater than the roughly \$30,000 annual estimate prepared by the Water Board staff in the permit Fact Sheet for FSURMP (assumes 2.5% of the \$1.2 million estimated by Water Board staff). Based on this obvious inequity, we recommend that the monitoring requirements for the FSURMP in the Revised TO be significantly reduced.

Trash Reduction (C.10)

- **C.10.a(iv) – Trash Hot Spot Cleanup to Trash Action Level** – A trash action level (TAL) is consistent with the concept developed by a panel of experts assembled by the State Board. As defined, a TAL is a numerical goal that defines a threshold for the potential need for further management actions. It is not a water quality objective or numeric effluent limit. We request that language be revised to make the TAL definition more clear. In addition, we recommend that the TAL be set at 100 pieces of trash or less per 100 foot of creek/shoreline instead of the proposed SCVURPPP “urban optimal” category. Having the number of trash items as the TAL is more consistent with the goal statement presented in provision C.10.a (i). It permits less subjectivity than the Urban Rapid Trash Assessment Protocol. In addition, it allows Permittees to focus on reducing the level of trash at a hot spot to a defined endpoint.
- **C.10.a(vii) – Booms or Sea Curtains** – The previous version of the draft MRP Tentative Order allowed non-tidal booms or sea curtains to receive credit for 25% of the area draining to the booms/curtain. It is unclear why the percentage credit was reduced to 10% in the Revised TO. We request that the original percentage (i.e., 25%) be reinstated as the percentage of the draining area required to be addressed by full trash capture devices.
- **C.10.b(i) - Trash Assessment and Reporting** – It is unclear what scientific basis was used to establish the frequency of twice per year for conducting assessments at each approved trash hot spot. Based on the numerous trash assessments conduct by other stormwater programs (i.e., SCVURPPP) within the Bay Area, we believe that this frequency could be reduced to once a year and still achieve the objectives stated above. In addition, if the TAL is based on the number of trash items per 100 feet of creek/shoreline, it is unclear why Rapid Trash Assessments (RTAs) are needed. As a result, we request that the assessment method require the quantification of trash items at hot spots but RTAs not be conducted. RTAs require

additional time, resources and yield subjective data that are not specifically needed to address the TAL.

Mercury Controls (C.11) and PCBs Control (C.12)

- We estimate that the costs to implement the Water Board staff permit requirements for PCBs and mercury for the FSURMP are over \$1.5 million dollars over the five-year permit term (not including abatement as required by C.11/12.c). Based on these cost estimates, it is clear that prioritizing and phasing these requirements over several permit terms is absolutely necessary.

Exempted and Conditionally Exempted Discharges (C.15)

- C.15.b. Conditionally Exempted Non-Stormwater Discharges – Permit Provision C.15.b of the Revised TO continues to be highly prescriptive and burdensome.

Some examples in which we have concerns include the following:

- The provision can be literally interpreted to apply to discharges from residential foundation drains;
- The level of tracking, monitoring and reporting of relatively minor discharges such as pumped groundwater and swimming pool discharges will be a huge burden on municipalities with little water quality benefit.
- The revised permit continues to include very prescriptive monitoring and reporting requirements for planned, unplanned, and emergency discharges of potable water, which will have significant impacts on the operations of municipal and private water purveyors.

It is requested that this provision be revised to emphasize the implementation of best management practices.

In summary, the Revised TO includes many potential new or significantly expanded requirements that would represent a significant inequitable expenditure of City resources that are not available at the local level and as written are unlikely to produce a significant return in terms of increased water quality benefits. It is essential that the Revised TO be prioritized to address identified, significant water quality problems and phased-in over time based on a realistic assessment of current resources and the other burdens currently being placed on the City.

The City appreciates this opportunity to comment on the Revised TO. We look forward to discussing these issues further at the May 13, 2009 public hearing. Should you have any questions, please call me at (707) 421-7340 or email me at dan@suisun.com.

Sincerely,



Daniel Kasperson
Public Works Director/Building Official/Fire Marshal