

October 22, 2008

N C R W Q C B

HAND DELIVERED

OCT 22 2008

Catherine E. Kuhlman, Executive Officer
North Coast Regional Water Quality Control Board
5550 Skylane Boulevard
Santa Rosa, CA 95403

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**CITY OF SANTA ROSA COMMENTS ON ORDER NO. R1-2008-0106 SANTA ROSA AREA
DRAFT NPDES STORM WATER DISCHARGE PERMIT**

Dear Ms. Kuhlman:

On September 9, 2008, Order No. R1-2008-0106, NPDES No. CA0025054, Draft Storm Water Permit (Draft Permit), for County of Sonoma, City of Santa Rosa (City) and the Sonoma County Water Agency (Permittees) was issued. The deadline for comments on the 120-page Draft Permit is October 22, 2008. The City requested an extension of the comment period which was denied by the North Coast Regional Water Quality Control Board (Regional Board). Due to the length and complexity of the Draft Permit, we would urge the Regional Board to consider allowing additional time for comments. The comments contained in this letter and in the attached spreadsheet represent staff's best effort to respond to this permit within the limited review period. City staff worked cooperatively with Regional Board staff to develop the proposed Storm Water Management Plan (SWMP) submitted on December 21, 2007 and are disappointed with the Draft Permit requirements and language which differ quite drastically from what was submitted as part of the SWMP, including a substantial increase in requirements and disregard for proposed management practices developed with our unique basin conditions and needs in mind.

It is the City's intent to continue implementation of a comprehensive, cost-effective storm water pollution control program to protect and improve water quality in Sonoma County. The City is deeply concerned about the prescriptive nature and lack of flexibility of the provisions of the Draft Permit as it is currently written. The City is also concerned about the Draft Permit's lack of clarity regarding which provisions are applicable to each Permittee as well as the associated liability risks for each Permittee.

Existing Storm Water Management Program

The City has continuously worked to improve its storm water management program over the last eleven years during two permit terms. Additional monitoring beyond that required in the current permit has been conducted to address specific issues and improve overall program effectiveness. The program has expanded and was called a "model" program compared to other municipalities throughout the nation during the recent (November 2007) inspection audit by the U.S. Environmental Protection Agency (EPA). The audit covered a majority of the program elements including: Program Management; Private Construction Element;

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Industrial/Commercial Program; Municipal Operations Program (including Public Construction Activities Management, Vehicle Maintenance/Material Storage Facilities/Corporation Yards Management, Landscape and Recreational Facilities Management, Storm Drain Operation and Maintenance, and Streets and Road Maintenance); Illicit Discharge Detection and Elimination Program; Monitoring Plan; and Santa Rosa Area-Standard Urban Storm Water Mitigation Plan requirements. Deficiencies were only noted in three of the seven program elements reviewed and the City proposed programs to address all of these in its (SWMP).

Input regarding existing SWMP programs and activities was gathered from permittee internal staff and management, community representatives, U.S. EPA auditors and Regional Board staff

A Citizens Advisory Group (CAG) was formed to provide insight into the community's perspectives and understanding about the effectiveness of current SWMP programs and activities. The CAG included representatives from organizations such as the Santa Rosa Chamber of Commerce, Civil Engineers and Land Surveyors of California, American Society of Civil Engineers, Sonoma County Farm Bureau, California Department of Fish and Game, Sonoma County Grape Growers, the Sierra Club, the Laguna de Santa Rosa Foundation, City Community Advisory boards, and local consulting planners.

Permittee staff repeatedly met with Regional Board staff to discuss and coordinate the permit renewal process. As a result of these meetings, each Permittee revised their individual SWMP to describe both existing and new activities that will be undertaken to eliminate, prevent or reduce the load of storm water pollutants entering publicly owned or maintained storm water systems and to establish measurable goals to be implemented in Term 3.

In addition to the City's existing ongoing efforts to improve water quality, numerous new or enhanced programs were included in the proposed Term 3 SWMP. Some of the highlights of the SWMP include; updating the current City Storm Water Ordinance; establishing formal Best Management Practices (BMP) standards for erosion and sediment controls; developing a pesticide and fertilizer plan for the Bennett Valley Golf Course; implementing procedures to minimize incidental runoff from irrigation, nuisance summer flows, water line and hydrant flushing and reservoir draining, updating geographic information systems (GIS) layers for storm drain mapping; mapping outfalls in City parks; continuing the storm drain labeling program; prioritizing, cleaning and tracking of catch basin cleaning through GIS; evaluating the adoption of a Road Maintenance Standards Manual; installing pet waste signs and trash receptacles at prioritized locations; continuing to support the Russian River Watershed Association's monthly environmental column in local newspapers; implementing an enhanced storm water pollution awareness training program for City staff; exploring an outreach partnership with the Santa Rosa Junior College; and conducting another community storm water awareness survey.

Permit language is nearly identical to the disputed Ventura County and Bay Area Permits

A major concern is that the Draft Permit is not consistent with the submitted SWMP, which was developed with input from community, stakeholders, and many meetings with Regional Board staff. The Draft Permit language doesn't account for or acknowledge existing programs being implemented under the current SWMP. City staff is concerned that implementing programs applicable to southern California may not be appropriate in Sonoma County. Language in the Draft Permit is nearly identical to the 2007 draft of the Ventura County permit, including numerous areas requiring clarification and many typographical errors. Approximately 95% of the provisions have the same text as those within the Ventura County permit. An April, 2008 draft of the Ventura County permit has been released and another draft is expected to be out soon. It is unclear why an older draft of the disputed Ventura County permit was used as the basis for the Sonoma County permit. The Ventura County permit has been highly contested since the first draft was released in 2006. City staff contends that it is inappropriate to adopt a permit that includes language nearly identical to that of a draft permit that is still not adopted.

Much of the Draft Permit language may be more appropriate for southern California or areas more urban than Sonoma County. The initial draft San Francisco Bay Area-wide municipal permit was issued on December 4, 2007. Municipalities in that area are involved in disputes with their respective Regional Board over their draft permit language. Both Ventura and the Bay Area are more urban than Santa Rosa and have been under permit longer due to their larger populations (Ventura since August 22, 1994, and the Bay Area since October 16, 1991). There have been multiple public hearings related to the permit language in both of the above-mentioned areas, and there has been additional time allowed to review and revise the draft permits. Since disputes over similar draft permit language have not been resolved in other jurisdictions that are larger and have been under storm water regulations for a longer time, City staff concludes that it is unreasonable to finalize a permit for the Santa Rosa Area jurisdiction on December 11, 2008 as proposed.

Findings are not objective nor applicable to Sonoma County

Many of the 109 findings in the permit are not objective facts related to storm water in general or the Sonoma County area. Numerous claims suggest storm water in Sonoma County is responsible for causing impairment to water quality without any citations or data. These findings are not objective and many do not apply to Sonoma County. Water bodies within or downstream of Santa Rosa are currently listed as impaired on the EPA's 303(d) list for temperature, sediment, pathogens, nutrients (N&P), low dissolved oxygen and mercury. However a number of different findings in the Draft Permit identify pollutants of concern as including pesticides, PCBs, oil and grease, pharmaceuticals, toxic chemicals, PAHs, bis (2-ethylhexyl) phthalate, lead, copper, zinc, dioxins, food waste, heavy metals, litter, trash and debris. Many of these constituents have been sampled for in the Permittee's existing NPDES storm water permit monitoring program and were not determined to be issues in Santa Rosa area water bodies. Many of the findings and provisions in the Draft Permit are focused on trash, which has not been demonstrated to be an issue in the local area. The findings need to be reviewed and revised to address the actual pollutants impacting water quality in Sonoma County.

Provisions of the Draft Permit are not cost-effective and create a substantial financial burden for the City

Many of the required provisions in the Draft Permit are onerous, costly and many will not improve water quality. City staff has estimated implementation of the additional provisions in the Draft Permit would cost over three times more than the program proposed in the SWMP. The fiscal condition of the City is a serious concern at this time and proposals are being considered to cut staff and services. The City currently does not have the funding available to fund many of the provisions included in the Draft Permit and City staff are concerned many will not improve water quality. Examples of costly provisions contained in the Draft Permit are listed below:

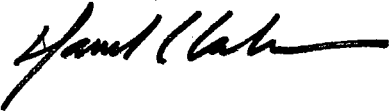
- The Draft Permit requires trash excluders on all catch basins/storm drain inlets in commercial and industrial areas and near educational institutions (about 3,600 inlets). Also requires trash cans at all bus stops (430 additional cans). Currently about 110 trash cans are placed in areas with known trash problems. Installing these devices and trash cans would cost over \$3,000,000 and ongoing maintenance costs are estimated to be \$800,000 a year. City staff are concerned the permit calls for spending millions of dollars on a pollutant that has not been shown to be a significant problem in our area.
- The Draft Permit requires costly storm water treatment over and beyond what is currently required as part of Capital Improvement Program projects (including street reconstruction and paving) that affect more than 5,000 square feet of existing impervious surface or undisturbed land. This requirement would add ~10% to all project costs or a total of nearly \$3,000,000 to City capital projects for replacing existing paved areas.

City staff is disappointed in the limited time allowed for review and preparation of comments on such a lengthy and complex document that differs significantly from the submitted SWMP that was prepared during the course of a year with Regional Board input. Given additional time, City staff would have been able to provide more extensive comments and recommendations for improvements to ensure the permit reflects the unique aspects of our region. City staff did request additional time to prepare comments, however that request was denied by the Regional Board.

The attached spreadsheet includes comments on specific findings and provisions of the Draft Permit. We request the opportunity to work with your staff to revise the current Draft Permit to develop cost-effective provisions that will supplement our current efforts in protecting water quality from storm water pollution in Santa Rosa. Please contact Rita Miller at 543-3879 if you have any questions or need further clarification.

Your consideration of these concerns is greatly appreciated.

Sincerely,



for MILES FERRIS
Director of Utilities

MF/SAB/pco [L:\NPDES Permit\Renewal - Term III\9 8 08 Draft Permit - Comments to
RWQCB\cover letter for draft comments 100708.doc]

cc: Kevin Booker, Principal Engineer, SCWA
Janice Gilligan, Stormwater Coordinator, Sonoma County PRMD
Jeff Kolin, City Manager, City of Santa Rosa
Greg Scoles, Assistant City Manager, City of Santa Rosa
Rick Moshier, Public Works Director, City of Santa Rosa
Rita Miller, Associate Civil Engineer, City of Santa Rosa