



PUBLIC WORKS DEPARTMENT

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July 10, 2015

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

Subject: Comments from the City of Cupertino on the Municipal Regional Permit (MRP) Tentative Order – May 11, 2015

Dear Mr. Wolfe:

Thank you for the opportunity to submit comments on the Regional Water Board's Revised Municipal Regional Permit (MRP or Permit) Tentative Order dated May 11, 2015. The City of Cupertino's key concerns and issues are summarized in this letter. Most importantly, the City strongly agrees with the letter and requested revisions to the Tentative Order submitted by the Santa Clara Valley Urban Runoff Pollution Prevention Program (7/10/15).

Progress toward Improved Water Quality

As of June 30, 2014, the City of Cupertino had achieved a little more than 70% trash load reduction by adopting a variety of initiatives and reduction measures which built, cost effectively, on unique opportunities in our community. We very much appreciate the flexibility allowed the Permittees to choose the best methods to achieve these load reductions, seeing that the characteristics and opportunities vary widely by municipality and agency. The Cupertino City Council favored adopting an anti-litter ordinance in 2013 along with its single use bag ban, which requires business property owners to maintain trash free premises to the perimeter of their property including adjacent sidewalks. Staff was then allocated to provide for commensurate enforcement to ensure compliance. The City installed 107 trash full capture devices in high and medium trash generation areas, about twice as many as were required for Cupertino under MRP 1.0. To address litter that does not enter receiving waters from the City's drainage system (MS4), staff began conducting monthly cleanups at our hot spot (also a graffiti site) on Water District property at Stevens Creek. These cleanups have recently been included in local college curriculum by a professor to give his environmental science classes a hands-on watershed stewardship experience.

Trash Reduction Programs-

To maintain and grow Cupertino's success with its trash load reduction programs we request the following revisions to Provision C.10:

- **Source Controls** - The most important actions that can be taken by Permittees are those that eliminate the generation of litter prone items in perpetuity. The data support that ordinances and product bans are working to eliminate problematic and pervasive trash before it enters the streets, the MS4 and the creeks. However, we were disappointed to find that the "maximum" allowed credit indicated via the evaluation of FY 13-14 Annual Reports had been reduced in the Tentative Order to roughly one-third of that credit (i.e., it was 14%, and is now 5%). Therefore, the City requests, as have environmental NGOs that have partnered with municipalities to achieve these measures, that the maximum reduction value for all source control actions be increased to allow for additional innovative actions and appropriate value for those actions already in place. Supporting evidence would be required to claim reductions associated with each source control.
- **Trash Generation Area Management (Private Drainage Areas)** - The City of Cupertino requests the removal of the requirement for "screening" all Green Infrastructure treatment facilities that are installed and maintained consistent with provision C.3 and that they be deemed equivalent to full capture systems. These facilities were designed consistent with the new and redevelopment requirements and perform at a level similar to typical trash full capture systems. These systems have been designed to prevent flooding and effectively remove pollutants from stormwater. However, the T.O. currently requires Permittees to install a screen (5mm) to the overflow pipes of all Green Infrastructure facilities before these devices can be considered full capture systems. Screening the overflow pipes would be out of the scope of the municipality's authority, as nearly all treatment facilities are privately owned and maintained. Additionally, adding screens to existing facilities would have unknown effects on the performance of these systems and would likely increase flooding.
- **Maintenance (of Full Capture Systems)** - We request that the TO be revised to allow Permittees to develop, implement and report on Permittee-specific maintenance programs of full capture devices to ensure a frequency that meets full capture criteria. As noted by the City's Public Works Director, Timm Borden, when he provided testimony for the Public Hearing on July 8th, the City of Cupertino has a maintenance plan that has been developed and verified by experienced staff maintenance technicians working with the devices to be effective and efficient. Yet, the TO requires prescriptive maintenance of small trash full capture devices based on the trash generation level of the surrounding area. This is inconsistent with Permittee experience and knowledge. Maintenance is currently site specific and is required at greater frequency where there is more vegetative material (85% of the debris captured by full capture devices). Implementing maintenance programs that are tailored to the specific device needs is the only way to ensure their effectiveness. Additionally, the cost savings from more flexibility may be transferred to the installation of additional full capture devices We request that the T.O. allow for municipalities to continue successful and cost efficient maintenance programs.

Green Infrastructure (C.3) – Green Infrastructure implementation will be one of the most challenging requirements of MRP 2.0. Without careful planning, optimum opportunities may be squandered or missed. More time should be spent on developing a very cohesive plan among all the Co-Permittees. We could share commonalities among our 76 agencies so that, as we put together very specific goals that have long lives, we do it in the right direction the first time. We request that the T.O. be revised to allow two years to complete and obtain governing body approval of the GI framework; the entire permit term to complete the GI Plan and elimination the 2-year deadline to complete prioritization and

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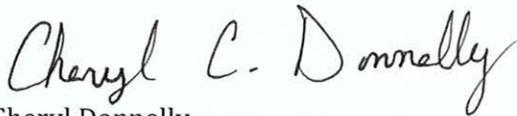
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mapping. Implementation should begin after the GI Plan is completed. Efforts during the MRP 2.0 term should focus on development of long-term opportunistic implementation of green infrastructure projects where feasible and where funding is available.

PCB and Mercury Control Programs – Finally and most importantly, with regard to PCB Controls, the City strongly suggests that the Tentative Order be revised so that compliance is based on a “control program” approach designed to achieve a Numeric Action Level, rather than compliance based on a load reduction number for PCBs. We also request that compliance be based on effective goals and implementation rather than on enforceable targets.

We appreciate your consideration of these comments and look forward to your response.

Very truly yours,

A handwritten signature in cursive script that reads "Cheryl C. Donnelly".

Cheryl Donnelly
Public Works Environmental Programs Manager

cc: Tom Mumley and Dale Bowyer, RWQCB