



## **FAIRFIELD-SUISUN SEWER DISTRICT**

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KATHY HOPKINS, GENERAL MANAGER

April 2, 2009

UR-180.10.60 (F#3)

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

RE: Comments from the Fairfield-Suisun Sewer District on the Revised Municipal Regional Permit (MRP) Tentative Order – February 11, 2009

Dear Mr. Wolfe:

The Fairfield-Suisun Sewer District (District) has received and reviewed 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 District and the Fairfield-Suisun Urban Runoff Management Program (FSURMP) fully support the Water Board's efforts to protect our local creeks, Suisun Marsh and San Francisco Bay from the potentially detrimental impacts of stormwater runoff.

The District 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 District, as they pertain to the Revised TO. In particular, we appreciate the efforts of Tom Mumley, Dale Bowyer, Shin Roei-Lee and Jan O'Hara for developing the revised document and their willingness to consider comments received on the TO dated December 14, 2007.

The following general and specific comments are those we believe are critical to the overall success of our Program, the successful implementation of the MRP, and the improvement to water quality in our jurisdiction and the San Francisco Bay.

### General Comments

- Our review of the Revised TO shows that Water Board staff has made improvements relative to the December 14, 2007 version of the MRP. Improvements have been made particularly to the "core" municipal stormwater management program elements that address municipal and industrial operations, construction inspection, and public information and outreach. The District, however, still has major concerns regarding other permit provisions, especially those addressing monitoring, trash, mercury and PCB control.

- The revised MRP Tentative Order does not attempt to set priorities among the many new special studies and pilot projects required. The Water Board needs to allow for sufficient phasing of associated requirements in the non-core stormwater management program areas over more than one Permit term.

### Specific Comments

#### Municipal Operations (C.2.)

- C.2.d.ii (4) Stormwater Pump Stations – Provision C.2.d.ii (4) requires the inspection of all pump stations on the first business day following a ¼-inch storm. This requirement is problematic due to staffing limitations and the fact that local agencies have the knowledge and ability to operate pump stations remotely, without environmental consequences. We request that this provision be modified to apply to prioritized pump stations determined to be a significant water quality problem. Furthermore, we request that 48-hours be the allowed time window to conduct inspections following major storm events. In addition, the ¼-inch rainfall threshold for conducting inspections should be raised to a ½-inch rainfall threshold, a rainfall volume more indicative of runoff events.

#### 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 MRP Tentative Order 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 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 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

the first sentence to be grammatical and consistent with paragraphs (f) and (g). As it reads now, paragraphs (f) and (g) are confusing and unclear.

- 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 leads the reader to believe that there is a train of treatment devices required to be used in series on every project, in order 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 Board’s 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 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.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, is unrealistic as it requires additional and unfunded resources. 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. The total number surveys for the Cities within the FSURMP boundary is 30. This number is too many for Cities of Fairfield and Suisun City to realistically inspect with their current staff levels.

Please note that between 1992 and 1997 the FSURMP conducted over 100 dry weather screening inspections. During that period of time not one Illicit Discharge was detected. The requirement of one screening point per square mile is overly burdensome and wasteful. Please consider the reduction of that requirement to one screening point per 5 square miles.

### 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.e.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 correctly. In addition, the requested information will vary by construction site and is not readily available to inspectors. We believe that tracking this information has no benefit to water quality and will result in wasted public resources.

- C.6.e.iii Reporting – The type of information each Permittee is required to summarize within the Annual Report is unnecessary, burdensome and overly prescriptive. In addition, paragraphs C.6.e.iii (f) number of discharges and C.6.e.iii (g) sites with discharges are redundant. Please reduce and consolidate the reporting requirements to ensure a pragmatic and efficient approach to water quality protection.

### Public Information and Outreach (C.7.)

- C.7.e Public Outreach Events – The District has been assigned 6 – Public Outreach events. The FSURMP does not see the equity of clustering all non-population based agencies together and requiring the same number of events, regardless of size of the population served or service area or the service provided. For example, when you compare the roles and responsibilities of the District, with the Santa Clara Valley Water District or Zone 7 of the Alameda County Flood Control and Water Conservation District, it is apparent that each agency is quite different in what services they provide to their local citizenry. As a result, Water Board staff should review the roles of the non-population based agencies and determine a more equitable number of public outreach events. The previously designated number of events per non-population base agencies (December 14, 2007 MRP version) required the Fairfield-Suisun Sewer District to perform 2 Public Outreach events. This number seems equitable based on our service area, population serve and service provided.

### Water Quality Monitoring (C.8)

#### General Comments

- 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 to FSURMP. The FSURMP makes up roughly 2.5 % of the population served by the Revised TO. Anticipated costs to FSURMP 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 propose that the monitoring requirements for the FSURMP in the Revised TO be significantly reduced (see detailed comments below).

- Triggers for Stressor Identification Monitoring Projects are Not Consistent with Established Water Quality Objectives – The FSURMP believes that monitoring and stressor identification should follow a stepwise progression from screening through source identification, and that existing data should be used to prioritize and guide monitoring and data collection region-wide. We appreciate Water Board staff revisions to the stressor/source identification process in Provision C.8.e(i), which generally allows the FSURMP to follow this stepwise process and utilize existing data to evaluate the stressor or source of concern. However, as described below in our detailed comments, the applicability and accuracy of specific references (i.e., footnotes) and language used in the “trigger” column in Table 8.1 remain a concern.

#### Detailed Comments

- C.8.c – Status Monitoring/Rotating Watersheds (Table 8.1 ):
  1. Biological Assessment – The Algae bioassessment protocol for the State of California is currently in draft form and to-date has not been fully tested. Additionally, there is no evidence that algae are good bioindicators of the condition of urban creeks in Northern California. Therefore, algae bioassessments should not be incorporated into the status monitoring provision until protocols have been adopted by the State of California and a pilot test regarding the utility of algae to address the management questions in Provision C.8.c. is conducted.
  2. Nutrients – To our knowledge, there is no evidence that nutrients are impacting Bay Area urban creeks. Additionally, nutrient impacts are typically site/creek specific and require a more scientifically sound approach to assessing potential impacts. Therefore, we request that nutrients be removed from the status table and a “Nutrient Characterization Study Work Plan” be added to Provision C.8.e (Monitoring Projects) to allow for a scientifically robust nutrient characterization study to be conducted in Bay Area creeks, as opposed to the very prescriptive ambient monitoring requirement that does not appear to be based on clear objectives, management questions or a conceptual understanding of potential nutrient impacts (See comments on Provision C.8.e).
  3. Toxicity, Diazinon and Chlorpyrifos – The FSURMP requests that toxicity and organophosphate pesticide monitoring during “storm events” be moved to provision C.8.f (Pollutants of Concern Monitoring) and conducted at a frequency commensurate with the current level of understanding of impacts associated with these pollutants. Water column toxicity and diazinon concentrations in Bay Area creeks have dramatically decreased since the phase-out of diazinon. Therefore, the frequency of sampling should be minimal and we recommend that diazinon and water column toxicity be sampled at the same frequency that “Category 2” pollutants are sampled.
  4. Pollutants – Bedded Sediment – Footnote 35, page 62 of the revised MRP Tentative Order states that “Analytes shall include all of those reported in

MacDonald (including copper, nickel, mercury, PCBs, DDT, chlordane, dieldrin) as well as other contaminants of interest, including pyrethroids.” The “as well as other contaminants of interest” text is vague and in the future could lead to misunderstandings of the analytes required. Therefore, we request removal of this text.

5. Pathogen Indicators – During meetings between BASMAA representatives and Water Board staff in the summer of 2008, Water Board staff indicated that the pathogen indicator sampling requirement would be removed from Table 8.1. Based on these previous statements, we request that the Water Board remove this requirement from the revised MRP Tentative Order.
  6. Stream Survey – The Revised TO requires the FSURMP to assess three stream miles per year, or roughly 33% of the level of effort required of the larger county-wide stormwater programs. As mentioned above, the FSURMP only serves roughly 2.5 % of the population covered by the Revised TO. Based on this obvious inequity, we recommend that the requirement for stream surveys conducted by the FSURMP be reduced to a more equitable number (e.g., one stream mile per year).
- C.8.d – Long Term Trends Monitoring – As currently written, this provision is confusing and appears to be an amalgamation of disparate monitoring requirements that have significant overlap with provisions C.8.c and C.8.f. The objective of this provision could be made clearer by the development of management questions and comparison to the aforementioned provisions to evaluate the potential duplication of effort. Based on the language currently in Provision C.8.d, the FSURMP requests that this provision be significantly revised. Suggested revisions include: 1) an incorporation of “long-term trends” into C.8.c (Status Monitoring) by requiring that a portion of the sites sampled under status monitoring be considered long-term trend sites where routine sampling occurs; and, 2) an incorporation of storm event sampling into C.8.f. (Pollutants of Concern Monitoring).
  - C.8.e – Monitoring Projects – Instead of requiring the algae bioassessment and nutrient requirements in Provisions C.8.c and C.8.f, we recommended that a regional “Nutrient Characterization Study Work Plan” be required as a monitoring project in Provision C.8.e. The Work Plan would at a minimum include: a) a literature review of nutrient concentrations and associated impacts to biological communities; b) a summary of readily available data collected to-date in Bay Area creeks/rivers; and, c) a plan and timeframe for collection and analysis of additional water quality and biological community samples needed to answer the management questions presented above.
  - C.8.h – Status and Trends Electronic Reporting and Urban Creeks Monitoring Report – The reporting timelines in the revised MRP Tentative Order are unrealistic and inappropriate. Specifically, it is highly likely that the Status and Electronic Reporting due date (September 30) will not allow for all data collected during the previous fiscal annual to be included in the electronic data submittal. It would effectively require completion of sample processing, lab analysis and QA/QC to occur in 3 months, which is far less time than other regional collaborative monitoring programs (e.g., RMP) can currently achieve. The September 30 due date would also increase the likelihood of resource scheduling problems and added rush costs for analysis and QA/QC of data collected in spring and summer.

- The Urban Creeks Monitoring Report December 15 due date also limits the analyses that can be conducted, interpretation of data, and public comment on the report. Specifically, this due date will greatly reduce opportunities for creek groups, local managers or other stakeholders to review the data or have input to the Monitoring Reports. Based on these factors, we request that the due date for the Electronic Reporting in C.8.h(ii) be revised to December 15 and the Annual Urban Creeks Monitoring Report be moved back to March 15 to allow for the most accurate, complete and analyzed data to be submitted to the Water Board and assist in planning future monitoring efforts.

#### Trash Reduction (C.10)

- C.10.a through C.10.d – The District does not own, operate or maintain flood control channels, culverts, ditches or stormwater outfalls. As a result, the District does not have the authority to cleanup hot spots, or operate and maintain full capture treatment devices in the creeks of Fairfield and Suisun City. Furthermore, the District lacks the land use authority on which a permittee may rely on to control sources of litter. The District should be removed from all requirements contained in Provision C.10.

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

##### General Comments

- Many provisions in C.11 and C.12 are similar; however, many differences are apparent between provisions that have the same headings. In addition, it is unclear how many as to the number of pilot studies that are required between similar provisions in C.11 and C.12. To reduce what we believe are unintended ambiguities in these two provisions, the FSURMP recommends that provisions C.11 and C.12 be merged into one provision entitled “Mercury and PCB Controls”.
- Estimated POC Costs – 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. We have geared our suggested comments below to address our concerns.
- Revision of Anticipated Requirement Dates – The Water Board staff has not updated the dates in many of the provisions from the December 14, 2007 TO. We request that the staff review the Revised TO and include reasonable updates to the dates contained in the Revised TO that are (at a minimum) consistent with the time frames in the February 11, 2009 version of the TO.

##### Specific Comments

- C.12.b. Pilot Projects to Manage PCB Materials during Building Demolition and Renovation  
As written, the requirements for these pilot projects are overly prescriptive and do not allow for consistency with the scope and stakeholder process of an ongoing Proposition 50 grant-funded project that addresses the objectives of this provision. We request that these requirements are replaced with a requirement that BASMAA continues to participate in the Proposition 50 project as a stakeholder and project partner.

- C.11.c and C.12.c. Pilot Studies to Investigate and Abate On-land PCBs Sites – This provision requires identification and implementation of five pilot studies. To remain consistent with pilot nature of these studies, we recommend that the number of required studies be reduced to four, one conducted within the jurisdiction of each of the county-wide programs.
- C.11.d and C.12.d. Pilot Studies to Evaluate and Enhance Municipal Sediment Management Practices – The scope of this requirement is too extensive. Pilot testing in an excessive number of locations is not cost-effective. We request revision to specify an initial feasibility study and cost analysis of enhanced sediment management practices, including street sweeping, using existing information. This requirement should further be revised to require pilot testing of appropriate enhanced sediment management practices (selected based on the results of the feasibility study) in no less than four drainages.
- C.11.e and C.12.e. Conduct Pilot Projects to Evaluate On-site Stormwater Treatment via Retrofit – The scope of this requirement is too extensive. Pilot testing in an excessive number of locations is not cost-effective, nor is it consistent with the definition of pilot study provided in the fact sheet. We request revision to require pilot testing of appropriate on-site stormwater treatment retrofits at up to four sites. Additionally, it is unclear why Solano County is called out in this provision, as the City of Vallejo and the FSURMP only serve a combined 5% of the population covered by the Revised TO. We request that this requirement be revised to indicate that “the Permittees in Solano County that are covered under the Revised TO may comply with this provision by contributing their fair-share financially to these efforts.”
- C.11.f and C.12.f. Diversion of Dry Weather and First Flush Flows to POTWs – These requirements are premature, overly prescriptive and require actions outside of the jurisdiction and control of municipal stormwater agencies. In addition, the requirements are presumptuous in that they assume that the findings of the feasibility study will determine that diversions are feasible. In order to allow an iterative approach to be followed in this provision, we request that the language be revised to indicate that ability of stormwater programs to implement a minimum number of diversions (one per county-wide program) will be based upon the required feasibility study. Because the Permittees in Solano County are not “county-wide” programs, we request that this requirement be revised to indicate that “the Permittees in Solano County that are covered under the Revised TO may comply with this provision by contributing their fair-share financially to these efforts.”

#### Exempted and Conditionally Exempted Discharges (C.15)

- C.15.b. Conditionally Exempted Non-Stormwater Discharges – Permit Provision C.15.b of the revised MRP Tentative Order continues to be highly prescriptive and burdensome. Water Board staff has not provided clear documentation describing the specific problems that have arisen to validate these proposals for changes in the existing municipal programs.

Some examples in which we have concerns include the following:

- The provision can be literally interpreted to apply to discharges from residential foundation drains;

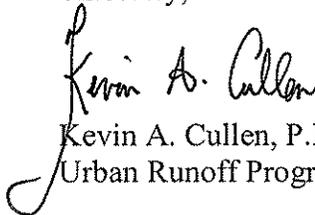
- The level of tracking, monitoring and reporting of relatively minor discharges such as pumped groundwater and swimming pool discharges will be a huge burden on municipalities with little water quality benefit.
- The revised permit continues to include very prescriptive monitoring and reporting requirements 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 District and FSURMP resources that are not available, 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 known, significant water quality problems (POCs). The Revised TO must be phased-in over time based on a realistic assessment of current resources and other burdens already being placed on the District and the FSURMP at this time.

The District appreciates this opportunity to comment on the Revised TO and we look forward to favorable consideration of our comments. Please feel free to contact me if you have questions regarding our comments at (707) 428-9120.

Sincerely,



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Urban Runoff Program Manager

cc: George Hicks, City of Fairfield  
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