



# Friends of Five Creeks

*Preserving and restoring watersheds of  
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March 30, 2009

## MRP Tentative Order Comments

Attn.: Dale Bowyer  
San Francisco Bay Water Quality Control Board  
1515 Clay St., Suit 1400  
Oakland, CA 94612

Members of the San Francisco Bay Water Quality Control Board and Staff:

In these difficult economic times, it is hard to know how best move forward to lessen urban-runoff pollution and fulfill the requirements of the federal Clean Water Act.

One may legitimately argue over wording, intent, and legal adequacy of many requirements in February tentative order, the most recent draft of a proposed unified Municipal Regional Permit. However, the current permits now have remained in effect two years beyond the time when they should have been revised, strengthened, and unified. It may be wisest to move ahead with an imperfect unified permit that makes some progress and plan for an early start that will lead to timely adoption in the next round.

The current draft tentative order is simpler and more flexible than current rules or earlier drafts – probably too simple and too flexible in some areas. I leave others to determine whether it meets legal requirements. In any event, the overall trend is desirable, and Friends of Five Creeks, a 14-year-old, all-volunteer creek- and watershed restoration group, supports adoption of this tentative order.

This letter comments briefly on the two areas I know best. I was part of two stakeholders' groups convened by the Board, which met for months in the first attempt at revising this plan. These dealt with:

- (a) monitoring and
- (b) low-impact new development and redevelopment -- C.3 runoff treatment and hydromodification requirements.

In the area of monitoring, I am pleased that the current draft retains most of the framework our stakeholders' group proposed as the minimum needed to obtain some basic idea of the status and trends in water quality in the Bay Area. The Board and staff, and we all, need this information in order to not flail in the dark. This draft does eliminate important components. In particular, there will be no real measurement of whether various methods to treat and retain urban runoff – that is, C.3 and hydromodification measures -- really work. We will basically continue to base requirements for low-impact development -- swales, bioretention, green roofs, etc.-- on imperfect projections and faith.

In the area of low-impact development and redevelopment, in the seven years since the current permit was adopted, stunningly few projects have been actually built incorporating the current rules. (I made a

pretty thorough search in the East Bay in the course of developing a website, [www.bluegreenbldg.org](http://www.bluegreenbldg.org), that showcases such projects.) Please do not credit mythical projections of widespread effect of these weak, exception-ridden rules. The reality is that the current permit has led to a handful of what amount to pilot projects. Importantly, though, these show that urban-runoff pollution can be curbed without great hardship, financial or otherwise.

With these pilots and this experience, the upcoming permit should strengthen these first-try rules so that low-impact development and hydromodification rules begin to have actual effect on runoff pollution and volume in our Bay Area cities. The February draft moves modestly in that direction. It lowers to 5,000 square feet the threshold for requiring treatment of runoff in parking lots and for certain types of high-pollution business (though I suspect those latter measures will be avoided by claiming uncertainty about future use). It closes some loopholes in the ways applications are deemed complete and projects are exempted from requirements. It also calls for a next generation of pilots, e.g. in “green streets” projects and allowing large single-family homes to choose from a menu of measures that lessen runoff.

This modest progress is not everything an environmentalist could want. But it at least does not freeze a cumbersome but ineffective regulatory framework, speciously declare victory, and move on to the next cause *du jour*.

This next cause appears to be trash. Others will comment in detail on the proposed measures to curb trash pollution. I will only say that, as with low-impact development, the Board should not adopt a cumbersome framework, vague long-term goals, and weak actual requirements and then move on thinking that the job is done.

Thank you for your attention.

Sincerely,

A handwritten signature in black ink, appearing to read "Susan Schwartz", with a long horizontal flourish extending to the right.

Susan Schwartz, President  
Friends of Five Creeks