



COUNTY OF SAN MATEO

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April 1, 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 Tentative Order for the Municipal Regional Stormwater National Pollutant Discharge Elimination System Permit

Dear Mr. Wolfe:

The County of San Mateo (County) offers the following comments on the February 11, 2009 revised draft municipal regional stormwater permit.

Overall, the County appreciates the efforts the RWQCB has made to incorporate changes reflecting comments made by affected agencies. However, there are still areas of concern that the County believes need to be addressed before the permit is finalized. Included in the points below are a number of issues, recommendations, and questions the County would appreciate answered.

Provision C.2 Municipal Operations

1. C.2.c Bridge and Structure Maintenance and Graffiti Removal

Provision C.2.c.ii(1) requires permittees to prevent all debris, including structural materials and coating debris, such as paint chips, or other debris and pollutants generated in bridge maintenance or graffiti removal from entering storm drains or water courses. It would be extremely difficult, if not impossible, and prohibitively expensive to prevent all debris from cleaning and coating bridge structures to prevent corrosion, especially underneath the bridge deck, from entering water courses. County has some bridges that are rusting underneath the deck, in large part because of their proximity to the coast. Without proper maintenance, these bridge structures could require replacement prior to the end of their anticipated useful life.

2. C.2.d Stormwater Pump Stations

The stated objective of this sub-provision is to prevent the discharge of water with low dissolved oxygen (DO) from pump stations, and to explore the use of pump stations for trash capture and removal from waters to protect beneficial uses of receiving waters. Accordingly, provision C.2.d.ii(2) requires that DO levels at pump stations be monitored twice per year during the dry season. The Revised Tentative Order (TO) does not specify whether the DO measurements be taken from the forebay/wet well or at the pump station outfall. The location of the monitoring should be clarified in the TO.

Although the fact sheet provides two examples of water quality problems associated with pump stations and dry weather urban runoff, the technical basis for the required DO monitoring at the pump stations is not clear. It is unclear if the issue of concern is the quality of dry weather urban runoff or water quality problems directly related to the pump stations. In the two examples presented in the fact sheet, were DO levels measured at the inlet and outfall of the pump station and upstream and downstream of the pump station outfall in the receiving waters? What were the natural conditions of the receiving water? How frequently did the pumps run? It seems reasonable to assume that the process of pumping and delivery of water to the adjacent receiving water would actually increase DO levels due to turbulence and mixing. We recommend that the Board conduct further, more targeted studies to demonstrate that pump stations are in fact directly leading to degraded water quality before requiring dry season monitoring each year at every pump station. We recommend that provisions C.2.d.ii(2) be limited to the dry season of the first year of the permit. If during the first two rounds of dry season monitoring DO levels are detected at or below 3 mg/L, then increase the monitoring requirement to twice per year for the remainder of the permit term.

Provision C.2.d.ii(4) states that “if DO levels are at or below 3 milligrams per liter (3 mg/L), apply corrective actions, such as continuous pumping at a low flow rate, to maintain DO concentrations of the discharge above 3 mg/L...”. The Board should recognize that many pump stations might not be designed for continuous low flow pumping and may not have sufficient delivery of water for this to occur.

Provision C.2.d.ii(4) requires that the permittee “Inspect pump stations in the first business day after 1/4-inch within 24 hours and larger storm events...” As written, it is unclear whether pump stations must be inspected each day after a 1/4-inch of rainfall or after each storm event. The total cost for the monitoring would vary substantially depending on whether the requirement is per continuous storm event or per day. For example, in mid February 2009, the local area received rainfall every day for a continuous 8-day period and received over a 1/4-inch of rainfall on 4 of the 8 days. For this scenario, would the permittee be required to inspect the pump stations once following the entire 8-day storm event or 4 times for each day with rainfall greater than 1/4-inch? We recommend clarification and that the requirement be per storm event with rainfall greater than 1/4-inch. In the example stated above, inspection would be required once over the 8-day storm event.

3. C.2.e Rural Public Works Construction and Maintenance

The requirement mandates that BMPs be expanded to cover all rural roads during construction and post-construction, regardless of who maintains these roads. County has many rural roads, including numerous roads for which the County has no legal maintenance authority. This requirement would be a resource, financial, and logistical hardship. Further, it is not clear under what authority a local agency would uniformly enforce BMPs in conjunction with any level of construction on private roads.

4. C.2.f Municipal Operations Corp Yard BMP Implementation

Wash down racks will be required to connect to sanitary sewers. Although some County parks have installed wash down racks, not all have the capability of being connected to a sewer system.

This section also requires the preparation of a Stormwater Pollution Prevention Plan (SWPPP) for corporation yards and that the SWPPP incorporate all applicable BMPs from the Caltrans Storm Water Quality Handbook Maintenance Staff, May 2003, and its addenda. With new annual inspection requirements, new costs for implementation will be incurred.

5. Reporting

With the nature of the reporting forms still to be determined, the County remains concerned that the reporting process be kept simple, similar to many of the current reporting standards.

Provisions C.3 New Development and Redevelopment

1. Provisions b.ii(1) and C.3.c.ii

New Provisions C.3.b.ii(1) and C.3.c.ii would ‘grandfather’ regulated projects that have received ‘final, major, staff-level discretionary review and approval,’ rather than ‘grandfathering’ projects that have been deemed complete for Permit Streamlining Act purposes. It is unclear how the proposed language applies to projects that are approved by the Planning Commission or Board of Supervisors. The trigger for ‘grandfathering’ should be clarified and based on an application status that can be fairly and consistently implemented.

2. New Trails/Road Projects

New requirements create a 10,000 sq ft. threshold for impervious surfaces when widening existing roads or creating bike lanes and trails with the following exceptions:

- 1) For sidewalks or trails that drain to vegetated/permeable areas.
- 2) Sidewalks or trails constructed with permeable surfaces.

Most County Park multi-use trails (i.e. 10-12 foot wide paved) will drain to vegetated/permeable areas, so that exceptions should apply. Single track unpaved trails (i.e. 4 foot wide to facilitate pedestrian/equestrian) are constructed with permeable

materials. Current multi-use trail design anticipates these new Municipal Regional Permit requirements.

Whether existing roads, parking lots and multi-use trails would be allowed to be repaved is a concern. If they were not allowed it will result in deferred maintenance, create safety concerns, and significantly increase costs to retrofit an existing road/trail to create a new permeable road/trail.

Provision C.8 Water Quality Monitoring

1. Although the County recognizes the need for any efforts to increase the amount of data collection in our waterbodies, the proposed regulations are an expensive task, particularly given that data collection is to begin in December 2010. A delay in implementing provisions related to monitoring is encouraged given the ongoing impact of the economic situation, as well as the accelerated timeframe requiring municipalities to identify financial resources to be used for data collection and identify the appropriate waterbodies for study.

Provision C.10 Trash Reduction

1. C.10.a Implement Enhanced Trash Control Actions

We appreciate the improvement in this permit provision to require a more focused implementation of full-capture trash devices in retail and commercial areas, rather than the December 2007 draft permit's proposed implementation based on using a percentage of a municipality's urban and suburban land area. However, we feel that the provision still needs major revisions to be feasible to implement.

- a. Provision C.10.a.ii requires that permittees identify at least 1 trash hot spot per 30,000 population or per 100 acres of Retail/Wholesale Commercial Land Area. The revised TO states that these hot spots should be on State waters within the permittee's jurisdiction that are the most impacted by trash and be at least 100 yards of creek length or 200 yards of shoreline length. This approach may not be applicable for all permittees as their jurisdictions may not contain retail/wholesale commercial land use with creeks or shoreline located nearby. For example, the majority of the 71 acres of retail/wholesale commercial land use within the County's jurisdiction (unincorporated San Mateo County) are located in the community of North Fair Oaks. There are no creeks or shoreline located within this highly urbanized area. Do the hot spots need to be located in the same watershed as the retail/wholesale commercial land use? This should be clarified. If so, the Board should consider adding language allowing permittees to collaborate at strategic locations and also consider allowing hot spots to be located outside of a permittee's jurisdiction. The Board should recognize that if permittees are to collaboratively work outside of their jurisdiction, agreements and contracts will need to be executed and this process will take a significant amount of time. The February 1, 2010 date for hot spot selection will not be achievable for situations such as the one described above and the timeline should be adjusted accordingly.

- b. Provision C.10.a.iii specifies the number of trash hot spots and trash capture requirements for non-population based entities such as flood management districts. The San Mateo County Flood Control District (District) has four established zones: Colma Creek Flood Control Zone, San Bruno Creek Flood Control Zone, San Francisquito Creek Flood Control Zone, and the Ravenswood Slough Flood Control Zone. The District's jurisdiction within the four zones is limited to the channels that were constructed and maintained by the District. The District does not have jurisdiction over the surrounding area and upstream or downstream channel portions. The District flood control channels should be considered "receiving waters" rather than trash generating entities. The local flood control agencies/districts do not have the legal authority to regulate business and land use, increase street sweeping, or retrofit storm drain infrastructure within the adjacent municipalities. We acknowledge that flood control districts should be part of the solution and work collaboratively with the local municipalities to address trash problems. We support public outreach and citizen involvement events as described in provisions C.7.e and C.7.g and are dedicated to working with the surrounding jurisdictions, but the District cannot justify spending \$1.5 million over the permit term to install and maintain trash capture devices for cleanup of trash generated from other municipalities. This requirement would divert revenue away from existing, essential flood protection services and future capital improvement projects that are necessary for public safety. Furthermore, the majority of stormdrain outfalls flowing directly into the flood control channels are owned and maintained by the neighboring municipalities. Many of them are covered with flap gates to prevent the inflow of tidal water. Therefore, installing outfall devices will be both logistically and technically challenging. We recommend adding language allowing permittees to collaborate at strategic locations and allowing hot spots to be located outside of a permittee's jurisdiction. The District maintains only 7.7 miles of channel throughout the entire County. We recommend reducing the trash hot spot to one and the trash requirement to one trash boom or two outfall devices, which is comparable to what similarly sized flood control agencies would be required to do.
- c. Provision C.10.a.iv requires permittees to achieve a specified Trash Action Level (TAL) of 100 pieces of trash per 100 foot within the selected trash hot spot locations by July 2012. Limiting high litter areas to less than 100 pieces of litter in a 100 foot length, consistent with the Santa Clara Valley Urban Runoff Pollution Prevention Program, is a worthy goal but in many cases, not realistic. In many areas, agencies may have very limited control relative to the actual generation of litter. A more realistic approach would be to identify the extent of the problem and to progressively work towards reducing the problem. This action level should be expressed as a goal rather than an absolute mandated numeric limit because of uncertainty about what levels of trash reduction are needed to protect beneficial uses and what levels are reasonably achievable. Reducing trash in hot spots by a set percentage such as 20% per year would likely be a far more realistic goal than the proposed standard of no greater than 100 pieces of trash per 100 foot length. The deadline and TAL are unrealistic given the need for time to allocate and raise money, collaborate and develop agreements with neighboring municipalities, develop and implement a program, and make adjustments to the program. The TAL should be changed to a

site-specific goal and the deadline should be extended to allow agencies to successfully meet this requirement.

- d. Provision C.10.a.v requires the installation of full capture devices on 30% of the ABAG 2005 Retail/Wholesale Commercial Land Use area by July 2013. We feel this requirement and deadline may still be too ambitious. The resources necessary to install such devices on a large scale would likely be significant – both financially and in terms of the required labor. The installation of full capture on 20% of this land use is a more reasonable level of implementation as part of what the permit characterizes as an initial pilot scale deployment. We recommend reducing the requirement to 20% and extending the deadline to give permittees the needed time to allocate and raise funds, collaborate and develop agreements with neighboring municipalities, conduct necessary design and engineering, and to enable permittees to test selected devices at a subset of locations and determine the best devices and most efficient placement of these trash capture technologies for their specific watersheds and storm drain systems. In addition, the County has many areas that are extremely flat and which drain very poorly. Some of these areas are subject to regular flooding and nearby structures are already subject to significant damage during rain events. The requirement to retrofit the storm systems in place with a consequence of further limiting drainage facility capacity in such areas, even when properly maintained, can result in putting residents and structures at greater risk. Flood-prone areas should be excluded from this requirement while alternative approaches that strike a balance between water quality improvements and storm drain infrastructure are considered further.

Provisions C.11 and C.12: Mercury and PCBs Controls

The permit requires a feasibility study and diversion of dry weather and first flush stormwater flows from five stormwater pump stations during this permit period. Diversion of dry and first flush flows from 5 pump stations during the permit term is unrealistic and unattainable. This requirement should be limited to conducting a paper feasibility study including evaluation of the cost-effectiveness of doing diversions. Such a feasibility study is essential to resolve whether there is sufficient capacity in the local sanitary sewer collection system and at wastewater treatment plants to handle these types of diversions. It is likely infeasible to divert first flush flows in the County to Publicly Owned Treatment Works (POTWs) because of conveyance system and treatment plant capacity limitations, and appears to be in conflict with direction from the Board to limit inflow/infiltration into sanitary sewer systems. The municipalities within the County are currently addressing existing maintenance issues and upgrades to aging infrastructure, capacity deficiencies, reducing the number of sanitary sewer and treatment plant overflows, and continued public education and outreach related to the functioning of the system and what residents can do in their home to prevent overflows (i.e. grease, foreign objects). These issues should first be resolved before considering costly diversions that would increase problems associated with capacity issues. It should also be noted that not all municipalities own and operate both storm and sanitary sewer systems. In some cases, stormwater runoff from an upland area of a jurisdiction must, due to natural topography, flow to a low-lying area belonging to another jurisdiction. This could lead to customers of the low-lying jurisdiction to have to pay for upgrading their sanitary sewer facilities to accommodate the diversion from upstream contributors.

Provision C.15. Exempted and Conditionally Exempted Discharges

1. C.15.b. iv. Discharge Type – Swimming Pool, Hot Tub, Spa, and Fountain Water Discharges

- a. Provision C.15.b.iv (1) (c) states that the permittees shall require that new or rebuilt swimming pools, hot tubs, spas and fountains within their jurisdiction have a connection to the sanitary sewer to facilitate draining events. Provision C.15.b.iv (2) further states that the dischargers/permittees shall keep record of the authorized major discharges of dechlorinated pool, spa and fountain water, including BMPs employed and that such records shall be available for inspection to the Board. Currently, as the owners of sanitary sewer facilities, the municipalities and sewer districts are able to require dischargers to obtain permits to drain swimming pools, hot tubs, spas and fountains and require the appropriate BMPs to be implemented. Information to be reported on the amount to be discharged is part of the permit conditions. The permit also allows municipalities and sewer districts to conduct inspections to verify BMPs and discharge quantity. The proposed requirement to provide a connection to the sanitary sewer facilities would provide opportunities to the potential dischargers to bypass the permitting process and not disclose some or all of the draining events since the connection would most likely be underground or covered and not be visible to the general public or inspectors. The documentation mechanism currently in place would be more effective to provide accurate records for Board inspection. Furthermore, allowing easy access for discharging large quantities of non-sewage water at any time may result in sanitary sewer overflows as the added flow could overwhelm the sanitary sewer lines at peak flow conditions.
- b. Requirements related to a number of reporting requirements are not thoroughly explained. These include notification to discharge potable water into a stormwater system and a provision for a two-hour timeframe to report potential public health concerns on discharges. These new requirements will require a great increase in resources to enforce them.
- c. Previous language related to residential car washing have now been removed. It is not clear whether this indicates that residential car washing is now not allowed under the tentative order.

Other Issues

1. Increase Demands on Limited Department Resources

The MRP will place significant new demands on the limited resources on the many Departments responsible for its implementation and enforcement. For example, the Planning and Building Department will be required to:

- update its policies and regulations to incorporate MRP requirements¹;
- dedicate additional staff time to reviewing, inspecting, and reporting on developments that trigger MRP requirements; and,

¹ While the County has established policies and procedures to address existing NPDES requirements, new policies and regulations are needed to improve upon existing procedures and address new requirements

- pursue and obtain the staff training needed to understand and enforce MRP requirements.

As a result, the County would see significant increases in costs in all Departments responsible for implementing the stormwater program if the tentative order is approved and implemented as written. Provisional estimates suggest that the all responsible County departments would need to contribute at least \$1,000,000 extra every year to implement the new order. There are also additional one-time costs associated with rewriting the County's land use policies to implement the order that would cost an additional \$500,000. This, coupled with the realities of the economic situation and the unrealistic timeframes for implementation discussed above are a tremendous burden on the County's infrastructure.

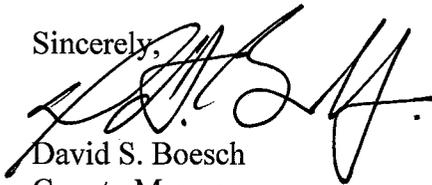
2. **New Data Collection Requirements in Provisions C.8, C.11, C.12, C.13, and C.14.**

While, it is difficult to argue the need for data collection on the health of our creeks, it is still an expensive task. These five provisions all seem to be requesting data collection, but for different pollutants of concern. Firstly, it would it be too difficult to combine them all into one provision. Secondly, the MRP is requesting data collection to begin by December 2010. As municipalities are impacted by the ongoing economic downturn, as well as the truncated timeframe for implementation, a delay in implementing provisions related to monitoring is encouraged.

We request that you and your staff modify the permit based on these and other comment letters submitted by members of the Countywide Program.

We appreciate your attention to our comments.

Sincerely,



David S. Boesch
County Manager
County of San Mateo

cc: Peggy Jensen, Deputy County Manager, Community Services
Jim Porter, Director of Public Works
Lisa Grote, Director of Planning and Building
Dean Peterson, Director of Environmental Health
David Holland, Director of Parks
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