Town of Moraga

MAYOR'S OFFICE

July 6, 2015

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

Via email to: mrp.reissuance@waterboards.ca.gov

Subject: Opposition to the Tentative Order Reissuing the Municipal Regional Stormwater Permit (MRP 2.0)

Dear Mr. Wolfe and Members of the Board:

The Town of Moraga continues to support the Water Board's objectives of reducing stormwater pollution and protecting our local creeks, the delta and San Francisco Bay. However, we must take this opportunity to express our significant concerns about the MRP 2.0 as currently drafted. We urge the Board to prioritize and consolidate less effective and less beneficial tasks so that small jurisdictions, like the Town of Moraga, can focus our limited resources where it matters most and is mutually beneficial to the regional and statewide effort.

Specifically, we are requesting the Board consolidate or eliminate less beneficial tasks in the permit; extend implementation dates so they become more practicable; reduce reporting requirements to enable jurisdictions to focus on action items; and adjust ongoing tasks to reduce effort while maintaining effectiveness in protecting water quality; as has been repeatedly expressed over the past two years by the Bay Area Stormwater Management Agencies Association (BASMAA).

The following are four issues we request you amend in the drafted MRP 2.0:

1. Improve Efficiencies, Extend Deadlines, and Remove Less Beneficial Tasks

We request that your staff review the attached table and work with Edric Kwan, Public Works Director, to make most or all of the recommended adjustments to "less beneficial tasks." The attached table summarizes adjustments that have been presented to Water Board staff that would improve program efficiencies or eliminate certain less beneficial tasks.

Comprehensive information and rationale has been presented to support these requests. Inclusion of these changes in the MRP 2.0 will allow the Town to focus and apply the Town's limited resources to the major new and expanded mandates as listed above, in order to achieve the greatest positive impact.

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2. Extend the Timeframe to Meet Trash Load Reduction Requirements.

The 70% load reduction by 2017 is too rigorous and should be extended to 2018. Within the last two years, the metrics to measure trash load reduction were significantly revamped by the Water Board with no time extension for compliance. Furthermore, as the percent load reduction increases, the reductions become increasingly difficult to attain and require additional time to implement effective measures.

The new MRP 2.0 would require allocating significant resources to all jurisdictions to demonstrate trash load reductions of 70% from 2009 levels—up from the current 40% requirement—by installing full trash capture devices or implementing equivalent trash control measures and evaluating their effectiveness through visual surveys.

The MRP 2.0 would further require private property owners in high-trash and moderate-trash areas to install full trash capture devices or implement equivalent measures.

3. Extend the Timeframe to Develop Green Infrastructure Plans.

The draft MRP 2.0 includes a new mandate to develop Green Infrastructure (GI) Plans. This multi-year effort to develop a comprehensive long-range plan to reduce the amounts of pollutants of concern flowing into our waterways will require significant investment.

The requirements to develop a GI Framework and Plan will be major, resource-intensive efforts for which the Town has not budgeted and yet have deadlines within one and two years, respectively. Additional time is necessary for both tasks. Further, the mechanism to develop the Plan should include other tools less complex than GreenPlan-IT to keep local jurisdictional costs down.

4. Provide a Clear Path of Compliance for PCBs.

Considerable time and effort has been spent discussing how to reduce levels of pollutants of concern flowing into our waterways, particularly PCBs. Failure to achieve the reductions specified in MRP 2.0 could result in our Town being held in noncompliance. We ask that the load reduction performance criteria not be the point of compliance, and that Water Board staff work with permittee representatives to revise the Draft Tentative Order so that it provides a clear and feasible pathway for permittees to attain compliance. Most factors that are key to meeting the load reduction performance criteria are uncertain and many are not within permittee control (e.g., extent of source properties that will be found, building demolition rates, and redevelopment rates), making achievement of compliance uncertain. Specifically,

- The draft Tentative Order mandates achieving specified reductions in the total quantity of PCBs discharged from municipal storm drains and sets as a default that the Town's share of the County load reduction performance criteria will be allocated by the proportion of Contra Costa County population.

- Based on field surveys conducted, the Town has identified no high or moderate potential source properties for PCB release to the municipal storm drain system.
- A major means of achieving these reductions is through removal of PCBs during building demolitions. However this fails to acknowledge that the Town has no control over timing of when properties redevelop. Given historical trends, little to no redevelopment of commercial properties will likely occur in the permit term and the Town would likely need to rely on GI projects to meet its share of PCB load reductions.
- To achieve its share of the County's load reduction based on population and land-use mass yields of PCBs in the Fact Sheet, the Town would need to install GI to treat runoff from approximately 10 acres in the last three years of the permit. This amount of green infrastructure would be cost prohibitive and of limited benefit in reducing PCB loads in a suburban-rural town with no industry.
- While other municipalities in the County with high potential PCB source properties may achieve higher rates of PCB reduction and reduce the burden on municipalities with low PCB source properties such as Moraga, there is no guarantee.

The Town of Moraga urges your staff to develop permit requirements that are implementable and effective in improving surface water quality—a goal which we share. We look forward to resolution of the remaining issues and to implementing MRP 2.0.

Sincerely,

Roger N. Wykle

Roger N. Wykle
Mayor, Town of Moraga

Attachment

Requested Adjustments to Improve Efficiency in the Municipal Regional Permit, Including Elimination of "Less Beneficial Tasks"

Provision	Task or Requirement	Requested Adjustments
C.2.f.	Corporation Yard inspection requirements.	Eliminate this requirement, as it duplicates the requirements for inspections already included in the Stormwater Pollution Prevention Plans (SWPPPs) for these same facilities.
C.3.b.i.	Eliminates grandfathering of Regulated Projects with vested tentative maps approved prior to advent of C.3 requirements	Allow municipalities flexibility to require these applicants to implement stormwater treatment requirements only to the extent not in conflict with state law and existing development agreements
C.3.b.ii.(4)	Certain Roads Projects are Regulated Projects under Provision C.3	Delete this requirement as the intent is superseded by the Green Infrastructure requirements in Provision C.3.j.
C.3.b.ii.(1)(c)	Requires projects where 50% or more of existing impervious area is redeveloped to provide treatment for entire area.	Delete this requirement as the intent is superseded by the Green Infrastructure requirements in Provision C.3.j.
C.3.e.ii.	Special Projects—allowance to use non-LID treatment on smart growth development projects that meet specified location and gross density criteria.	To avoid a disincentive for including pedestrian amenities, allow public plazas to be omitted from calculation of project gross density.
C.3.e.v.(1)	Requires Permittees to track Special Projects that have been identified (application submitted) but not approved.	Delete this requirement, as the number of projects, and amount of impervious area, has proven to be small.
C.3.e.v.(2)	Requires Permittees to conduct and document an analysis of the feasibility of LID treatment for Special Projects.	Delete this requirement, as it creates considerable additional effort for applicants and Permittees without any expected water-quality benefit.
C.3.g.vii.	Requires Contra Costa municipalities (through CCCWP) to submit a technical report describing how Contra Costa will implement current Permit hydromodification management requirements.	Delete requirement to submit a technical report. CCCWP submitted a 2013 report on the results of a multi-year monitoring study that concluded current policies and criteria meet these requirements.
C.3.g.iv.	Allows Permittees to propose a different method for sizing hydromodification management facilities that is not biased against Low Impact Development, but requires a Permit amendment before using the method.	Delete requirement for a Permit amendment before the method is used. Note: the Fact Sheet accompanying the Tentative Order states that Water Board Executive Officer approval would be required, not a Permit amendment.
C.3.h.ii.(6)(b)	Requires Permittees to inspect 20% of Regulated	Delete the annual requirement to allow flexibility in scheduling

Provision	Task or Requirement	Requested Adjustments
and (c)	Projects annually, as well as every project at least once every 5 years.	inspections.
C.3.j.i.(1)	Requires each Permittee to prepare and implement a Green Infrastructure Plan (framework for Plan due in 12 months; Plan due in 2019)	Extend the time for submittal of the required framework to a minimum of 20 months.
C.4, C.5, C.6	For inspections of businesses and construction sites, and for response to illicit discharges, requires that corrective actions of "actual or potential non-stormwater discharges" be implemented before the next rain event, but no longer than 10 business days after potential or actual non-stormwater discharges are discovered.	Delete references that specify types of corrective actions and timeframes for implementation, as these create a disincentive for identifying minor problems and create unproductive administrative work.
C.5.e.iii.	Requires Permittees to report a list of mobile cleaners operating in their jurisdiction.	Delete, as this information is unavailable.
C.5.e.iii.	Requires Permittees to report a list and summary of specific outreach events and education conducted to the different types of mobile businesses	Delete and clarify that requirements to inspect mobile businesses and abate discharges is covered by existing requirements elsewhere in Provisions C.4 and C.5.
C.7.a.	Permittees are required to mark and maintain "no dumping" markings on storm drain inlets.	Move this task to Provision C.2.
C.7.b.	Requires Permittees to participate in or contribute to "advertising" campaigns on specified subjects and assess results.	Change "advertising" to "outreach" to make explicit that a variety of methods, including social media, may be used. Delete references to specific subjects. Allow more flexibility.
C.9.c.	Requires Permittees to observe pesticide applications by their contractors.	Delete requirement.
C.10.a.i.a.	Requires Permittees to achieve a 70% load reduction by July 1, 2017	Extend this compliance date to 2018.
C.10.a.ii.b.	Requires Permittees to ensure private properties plumbed directly to municipal storm drains are equipped with full trash capture devices or to verify "low" trash generation rate. Requires Permittees to investigate and map these properties.	Delete the mapping requirement and integrate inspections and enforcement into Provision C.4 (Commercial and Industrial Inspections).
C.10.b.1.a.	Specifies maintenance frequencies for full trash capture devices based on trash generation rates.	Set minimum frequency of 1x/year for all devices, to be adjusted based on maintenance experience. Required maintenance frequency

Provision	Task or Requirement	Requested Adjustments
		is determined mostly by amount of leaf litter and type of device.
C.10.b.1.c.	Requires Permittees to certify that full trash capture systems are maintained to meet standard.	State that systems are maintained, and maintenance program is designed to meet standard.
C.10.b.iv.	Allows a credit of up to 5% toward trash reduction requirement for source control actions such as product bans.	Increase maximum to 20% to fully credit existing product bans and to create incentive for future source control actions.
C.10.e.i.	Creates a formula for crediting trash collected during additional creek and shoreline cleanups toward trash reduction requirement—at a 1:10 ratio, with a 5% maximum credit.	Make the ratio 1:3 and increase maximum credit to 10%.
C.10.e.	Credits on-land cleanups and litter reduction only if visual assessments show a categorical change (e.g., from "very high" to "high" trash)	Allow interim credit for demonstrated actions intended to achieve categorical change.
C.10.a.iii.	Requires bioretention facilities to be equipped with a screen to qualify as full-trash-capture facilities.	Specify that these facilities qualify as full trash capture. Screens could cause flooding.
C.10.b.iv.	Requires observations of creeks and shorelines to determine whether trash control actions have prevented trash from discharging to receiving waters.	Restate purpose of observations, as it is not possible to determine that trash originated from storm drains.
C.10.e.ii.	Provides 1:10 ratio up to 10% maximum credit for actions to reduce direct discharge of trash (e.g. dumping, encampments).	Increase ratio to 1:3, with no maximum, as in some locations this is the predominant source of trash.
C.10.f.ii.	Produce an updated trash generation map each year.	Tie updated maps to compliance dates (for 70% and 100%).