

**Contra Costa County
City/County Engineering Advisory Committee**

February 26, 2008

CALIFORNIA REGIONAL WATER

FEB 28 2008

QUALITY CONTROL BOARD

MRP Tentative Order Comments

Attn: Dale Bowyer

S.F. Bay Water Board

1515 Clay Street, Suite 1400

Oakland, California 94612

Subject: Proposed Municipal Regional Permit

Dear Mr. Bowyer:

The Contra Costa County City/County Engineering Advisory Committee would like to provide comments on the Regional Water Quality Control Board's draft Municipal Regional Permit (MRP). The City/County Engineering Advisory Committee was established in 1958 to provide a forum for engineering cooperation and collaboration between the cities and the County. The City Engineers and Public Works Directors from the cities in the County meet once a month to discuss matters of common concern and initiatives that the committee has collectively undertaken. The following are comments from our Committee on the proposed MRP. They are divided into general and specific comments.

General Comments

Scientific Studies – The draft MRP requires Permittees to conduct many scientific studies that go beyond the core mission, experience and expertise of municipal staff.

Accumulative Effort – The draft MRP has many new requirements for Permittees. Aside from a few extensive and problematic provisions, most provisions by themselves are manageable. However, when all of these individual manageable provisions are put together, the accumulative effort becomes unreasonable. Permittees only have so much capacity for performing work within each given year. The Regional Board must prioritize these requirements for Permittees and eliminate or postpone the lower priority provisions.

New Studies – The draft MRP requires many new studies, plans and reports including Source Control Evaluation Study (page 79), PCB Sampling and Analysis Plan (page 87), Fate and Transport Studies (page 90), Brake Pad/Desktop Study

(page 93), Copper Toxicity Study (page 94), PBDE Legacy Pesticides and Selenium Regional Study and many others, not to mention the overwhelming Urban Creeks Monitoring Report and Integrated Monitoring Report (page 74 and 75). Permittees do not have the staffing capacity nor funding to conduct all of these specialized studies. The Regional Board must prioritize these studies and eliminate or postpone the lower priority studies.

TMDL Development – One of the historic tasks of the Regional Board is to develop TMDL's. It is not the role of local agencies to develop TMDL's. The draft MRP, however, requires Permittees to essentially develop TMDL's through required work plans, schedules, loading estimates and sources for certain pollutants. The Regional Board is the appropriate agency to do this work with its experts and to coordinate such work with other State agencies.

Volunteer Work – The draft MRP encourages Permittees to utilize volunteers for conducting some of the required work. Permittees currently partner with volunteers on several efforts to provide cost effective services and meet our requirements. The testing protocols are very stringent and technical and tend to change. These protocols require a lot of training and the Regional Board should commit to not changing the protocols during the permit period.

Specific Comments

Bridges - Section C2e.i (1) (Page 10) requires Permittees to prevent pollutant discharge from bridges. Does this mean all bridges must be retrofitted? This may not be possible if the accumulated redirected water on the bridge becomes a traffic hazard.

Rural Roads – Section C2h (page 12) requires certain construction and maintenance practices on rural roads. As defined, rural roads would include roads such as Marsh Creek Road and Alhambra Valley Road. These types of roads link communities and provide alternative routes for improved overall circulation, emergency routes and rural access. These roads often follow the course of creeks through a valley and are cut into steep hillsides. The MRP requires road repair work that prevents and controls road related erosion and sediment transport and cross culverts that do not create a migratory fish passage barrier and maintain the natural stream geomorphology in a stable manner. Many roads have near vertical road cuts from when they were constructed many decades ago. It will be nearly impossible to control erosion and mudslides from these steep road cuts. Maintenance activities often include repairs to cross culverts. Adding a requirement to provide fish passage, erosion reduction and restoration of natural stream geomorphology will result in a much larger capital project rather than a simple maintenance project. This section also requires regrading of roads to slope outward at stream crossings and cross culverts. This would only be safe if the road curved across the drainage resulting in a super-elevated road section, otherwise regrading the road to slope outward would result in an unsafe traffic condition. The MRP requirements should make a

distinction between maintenance operations and capital investment. Maintenance of the road and road culverts should not bear requirements commensurate with a large scale capital project. Maintenance projects should not be burdened with reconstructing the road cross slope and enhancing and providing fish passage and natural stream geomorphology as part of the maintenance project.

Five Thousand Square Foot Threshold – Section C3bi1 (page 16) requires a reduction in the threshold of impervious surface from 10,000 square feet to 5,000 square feet. For public projects, this is required for projects where construction is scheduled to begin by July 1, 2010. The intent of requiring projects to meet these more stringent requirements has always been based on the funding commitment to a project. The cutoff time for applicability would more reasonably be established at the beginning of the project design rather than project construction. Once the design phase for a project commences, budgets have been set and committed to and changes in requirements would be unreasonable and politically difficult to justify.

Road Maintenance - Section C3b.i5 (page 18) requires stormwater treatment for road projects that are rehabilitated down to the gravel base. This was never contemplated to be included as a C3 requirement. In most cases it is not possible to comply with this requirement due to right of way limitations, and even if that obstacle could be overcome it adds very significant extra costs to already underfunded city road maintenance budgets. The result would be even more roads left to crumble due to lack of funding to meet such proposed requirements. Note that we often grind existing pavement and replace it with new paving as part of routine maintenance, and this grinding can go down to the gravel base. Road maintenance and road reconstruction projects should be exempt from the MRP. Widening an existing road to allow for bike lanes should also be exempt. The Regional Board needs to look at the overall net benefit to the public and the environment. If “C3” requirements are triggered by adding a bike lane, a city will likely not be able to afford adding the lane and you lose that potential benefit to the environment. Only new roads, where right of way, utilities and other key factors can be coordinated, should be subject to such requirements.

Alternative Compliance - Section C3e.i (page 23) allows alternative compliance for infill and redevelopment projects for stormwater treatment requirements. Section C11e.i (page 84) requires 10 onsite treatment systems for mercury reduction and Section C12e.i (page 89) also requires 10 onsite treatment systems for PCB's. Permittees should be allowed the flexibility to combine the utility of stormwater treatment facilities for both alternative compliance and treatment for pollutant's of concern.

Single Family Homes - Section C3i.i (page 32) includes for the first time single family houses in the requirement for treating runoff. Stormwater treatment has been a requirement of development and not a building permit for a single family home. This should not change and single family homes should remain exempt.

NOI Facilities - Section C4b.ii (Page 36) requires Permittees to inspect "Industrial facilities, as defined at 40 CFR 122.26 (b)(14)". These are NOI facilities permitted by the State. The State receives a fee to inspect these and should continue to do the inspections. If the current fee does not cover the costs for State inspection of these facilities then the State should increase the fee. Municipal staff does not have the expertise or resources to inspect industrial facilities.

Watershed Characteristics – Section C7d (page 55) requires Permittees to provide the public with information on watershed characteristics. The term "watershed characteristics" is not defined, however, we assume this entails information we currently have. We assume information contained in the Contra Costa Watershed Atlas would suffice to meet the requirements of watershed characteristics.

Policing Regulators – Section C9e (page 78) requires permittee's to determine if federal and state regulators are complying with federal/state regulations. It is not appropriate for Permittees to police federal/state regulators to determine if they are complying with their own statutory requirements.

Point of Purchase – Section C9h.i (page 79) requires Permittees to conduct outreach to consumers at point of purchase. This requirement should more appropriately be placed upon business owners rather than on Permittees and should be coordinated by State agencies who could more efficiently do the outreach on a regional or statewide level.

Pest Control Companies – Section C9h.iii (page 79) requires Permittees to outreach to residents who use structural or landscape pest control companies. It will be difficult for Permittees to determine which residents contract with structural pest control and landscape pest control companies. This requirement should more appropriately be placed upon the structural and landscape pest control industry and the regulatory agencies governing them.

Trash - Section C10b.i (page 80) requires installation of full trash capture infrastructure in at least half of a catchment in at least 10% of the land area by 2012 and 100% by 2023. This will be very expensive to install and maintain and the technology may not be available to remove 100% of the litter over 5 mm and still maintain flood protection.

The City of Oakland made a presentation at the last State of the Estuary Conference about litter control in their city. The City installed four CDS drainage units around Lake Meritt at a cost of \$1 million. They installed another CDS drainage unit at 27th Street and Valdez Street at a cost of \$500,000. They estimate to complete the work on the drainage system around Lake Meritt for full trash capture will cost \$20 million, and to achieve full trash capture for the rest of the City would be \$250 million. Obviously, addressing trash will be a huge fiscal burden on the cities and County. We will need to partner with the Regional Board to truly address this issue. We should start with pilot projects to determine what types of programs and infrastructure

work best before implementing a wholesale program. Communities should also be given credit for reducing trash throughout their city rather than meeting a strict requirement within a 10% area.

Health Risk Reduction – Section C11.i (page 86) requires Permittees to take action to manage human health risk from mercury in bay fish consumed by humans. The objective here is to reduce mercury in fish. This requirement would more accurately be expressed in terms of reducing mercury in fish rather than reducing human health risks. Reduction in human health risk may be much more complex than the simple objective of reducing mercury levels in fish. This same holds true for Section C12.i (page 91) for PCB's.

In summary, we request the Board consider these specific and general comments. We also request the Board take the lead, working with the Bay Area's communities, to develop the funding sources needed to implement the MRP and to develop timelines where implementation costs have offsetting revenue. We all support improved stormwater quality from non-point sources. It becomes difficult, however, when only one constituency is saddled with paying all the costs.

Thank you for the opportunity to comment on the proposed Municipal Regional Permit and we look forward to further discussions on the permit requirements.

Very Truly Yours,



Heather Ballenger, Chair
City/County Engineering Advisory Committee

cc: City Engineers/Public Works Directors
County Public Works Director
City Managers
County Administrator