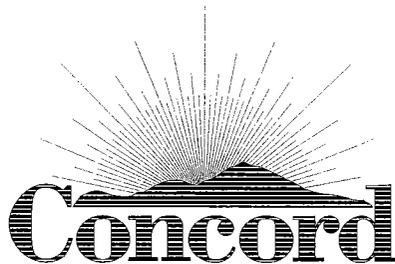


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February 29, 2008

MRP Tentative Order Comments
Attn: Dale Bowyer
S.F. Bay WaterBoard
1515 Clay Street, Suite 1400
Oakland, CA 94612

SUBJECT: Regional Water Quality Control Board's MRP

To Whom It May Concern:

The City of Concord would like to provide the following comments and concerns regarding of the Regional Water Quality Control Board's (Water Board) draft Municipal Regional Permit (MRP):

1. Cumulative effect of draft MRP: The draft MRP adds many new requirements for Permittees to undertake, many of which are, in and of themselves, manageable. However, the cumulative effect of these new requirements, when viewed as a whole, is unmanageable. Concord simply does not have the necessary budget or staff to perform all of these tasks each year. The Water Board must eliminate many of these new requirements in order for the draft MRP to be manageable.
2. New Studies: The draft MRP requires many new studies, plans and reports including. Concord does not have the staffing capacity or funding to conduct all of these specialized studies. The Water Board must prioritize and require Permittees to perform only the most important provisions, and eliminate or take on the lower priority provisions themselves.
3. Five Thousand Square Foot Threshold: MRP §C3bi1 (pg 16) requires a reduction in the threshold of impervious surface from 10,000 square feet to 5,000 square feet. First, this change will strike a huge blow to the funding of public projects. When this change goes into effect, Concord will have to seriously reconsider undertaking any capital projects, leaving in place impervious surfaces that might otherwise be diminished. Furthermore, the cutoff time, as stated in the MRP is illogical and problematic. The threshold change will be required for public 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 point of construction. Once design for a project commences, budgets have been set and committed to and changes in requirements would be unreasonable and politically difficult to justify.

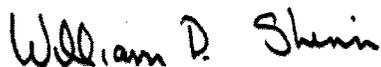
4. Rural Roads – MRP § C2h (page 12) The MRP requires certain construction and maintenance practices on rural roads. Rural roads provide essential transportation links throughout the Bay Area. They link communities, provide alternative routes for improved overall circulation, are important emergency routes and provide rural access to agricultural operations and the routes to get agricultural goods to market. These roads often follow the course of creeks through a valley and are cut into steep hillsides. The MRP requires road repair work to prevent and control road related erosion and associated sediment transport as well as the replacement or modification of cross culverts that impede migratory fish passage or alter the natural stream geomorphology. Many roads have been vertically cut into steep hillsides 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 with potentially significant environmental impacts and costs 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.
5. Road Maintenance: MRP §C3b.i5 (pg 18) requires stormwater treatment for road projects that are rehabilitated down to the gravel base. Generally, it is not possible to comply with this requirement due to right of way limitations. Assuming right of way limitations were not a problem, nonetheless, this requirement will add significant extra costs to Concord's already under-funded road maintenance budget. If this requirement is included, Concord will be forced to reduce the number of roads that are maintained each year due to a lack of funding. (Note that we often grind down pavement and replace it with new paving as part of even routine maintenance, and this grinding can go down to the gravel base.) Including this requirement in the MRP will have a profound negative effect on the condition of Concord's infrastructure. Road maintenance and capital reconstructions projects should be exempt.
6. Bike Lanes and Sidewalks – MRP §C3b.i4 (page 18) The MRP eliminates a current exemption for bike lanes and sidewalks. Furthermore, widening an existing road to allow for bike lanes or adding sidewalks to an existing road should both be exempt. Across the country, greater emphasis is being placed on increasing bicycle and pedestrian accessibility, encouraging physical fitness and reducing road congestion and energy consumption to improve air quality. The Water 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 or sidewalk,

Concord will likely not be able to afford adding bike lanes or sidewalks, thereby forfeiting potential benefit to the environment, and to our community. Only new roads, where right of way, utilities and other key factors can be coordinated, should be subject to these requirements.

7. Alternative Compliance: MRP §C3e.i (pg 23) allows alternative compliance for infill and redevelopment projects for stormwater treatment requirements. Section C11e.i (pg84) requires 10 onsite treatment systems for mercury reduction and Section C12e.i (pg89) 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 pollutants of concern.
8. Bridges: MRP §C2e.i(1) (pg 10) requires Permittees to prevent pollutant discharge from bridges. If this requires that all bridges be retrofitted, this is infeasible based on current budget restrictions.
9. Single Family Homes: MRP §C3i.i (pg 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.

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

Sincerely,



William D. Shinn
Mayor of Concord