



*"Small Town Atmosphere
Outstanding Quality of Life"*

February 29, 2008

Mr. John Mueller, Chair
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

SUBJECT: Municipal Regional Permit Tentative Order

Dear Mr. Mueller:

Thank you for the opportunity to comment on the Tentative Order for the Municipal Permit (MRP) released by the San Francisco Bay Regional Water Quality Control Board in December 2007 with addendums.

Our agency has worked hard to meet the requirements of the current permit issued to the Contra Costa Clean Water Program. Danville recognizes and supports the need to protect water quality, and currently implements numerous programs and policies to support this goal.

This letter identifies major concerns that the Town has with respect to implementing the proposed MRP. In general, these can be grouped into three major areas:

First, these requirements represent a significant unfunded cost liability for local agencies. Preliminary estimates prepared indicate that the new MRP requirements will essentially double the cost of program implementation for Danville, from \$425,000 to \$840,000 annually. The magnitude of these increased costs appears to be consistent with costs being developed by other local agencies. We call upon the San Francisco Bay Regional Water Quality Control Board, the State of California, the federal government and all other stakeholders to work with local governments to identify new sources of funding that will be needed to successfully implement the new MRP. Absent the ability to identify a dedicated revenue source, municipalities will not be in a position to support and fund these new requirements on a permanent, on-going basis.

Second, there are a number of areas in the proposed MRP including but not limited to water quality monitoring, new development, data gathering and reporting etc., where it would be appropriate to allow additional time for current permit requirements to either operate or be assimilated, in order to ascertain their effectiveness prior to imposing

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added requirements. For example, in Danville, new development subject to the new C.3 requirements imposed in 2003 is only now being constructed, yet further changes are recommended in the new permit.

Third, we urge the Board to take a more practical and collaborative approach to implementing the new MRP especially as it relates to the goal of reducing trash.

As presently proposed, Danville is concerned that many of the new requirements will be aggressive and costly, and will not translate to a commensurate improvement in water quality for our community. We seek to achieve the goals sought by the proposed MRP in a way that most effectively utilizes resources available and results in the most direct and tangible benefits for our communities.

In addition to supporting comments made on the proposed MRP by the Contra Costa Clean Water Program and BASMA, following is a detailed review of those aspects of the proposed MRP which present major areas of concern for the Town, along with recommendations/requests related to some of these areas:

A. Provision C.8 - Water Quality Monitoring & C.11 (Mercury), C.12 (PCBs), C.13 (Copper), C.14 (PBDE - Legacy Pesticides and Selenium)

Currently all water quality monitoring efforts are conducted through the Contra Costa Clean Water Program (CCCWP), at an annual cost of approximately \$420,000 for 2007-08. As estimated by Brown and Caldwell, the proposed MRP monitoring program will increase these costs by up to 400%.

The CCCWP contributes annually to the San Francisco Bay Estuary Institute (SFEI) to maintain an on-going Regional Monitoring Program (MRP) for San Francisco Bay. This program is well respected in the scientific and environmental communities and provides direction and information to Clean Water Programs throughout the Bay Area. These studies have identified Pollutants of Concern, and this information is used in our County to target Pollutants of Concern through increased monitoring, inspection and enforcement efforts. This has resulted in certain pollutants being taken off the list when levels have decreased.

The CCCWP has been conducting Biological Assessments and Creek Survey data for several years. As a result of this and other data collected, Special Studies have been funded as required to further identify pollutant sources and problems. These Biological Assessments are extremely effective in determining long term stream health and identifying where pollutant sources may exist. The proposed MRP requires nine

additional parameters to be tested (i.e. temperature, chlorine, nutrients, toxicity in sediment, and bacteria) in addition to the existing data collection efforts.

Requirements in the new MRP to conduct toxicity tests are extremely costly. More importantly, such tests are frequently inconclusive. Finally, it makes little sense to abandon over 7 years of data and change the procedures at this point in time, rendering the existing data incomparable and of little or no use. Significantly increasing expenditures to undertake studies that will not necessarily provide more valuable information than that what is already known, does not result in cleaner water or effective use of public resources.

Suggested Recommendation: Implementation of this new requirement within one year is not plausible or realistic. Allow three years to develop a prioritized, appropriate and meaningful monitoring program that focuses on producing direct results within a defined cost cap. Consider continuing the current Biological Assessments to target where additional testing and enforcement efforts should be concentrated to produce better results that are more cost-effective.

B. Provision C.10 - Trash Reduction

Danville's current maintenance efforts related to trash pick-up/removal and street sweeping are well-established and successful. Previous volunteer efforts organized specifically to pick up trash in creeks has been suspended because little trash actually exists.

This section requires all municipalities to submit a Trash Management Plan for 2023 that complies with a "Zero Trash Impact" in 15 years. Implementation to provide "Full Capture" and "Enhanced Trash Management Controls" will be extremely costly to build and properly maintain. Danville estimates that this requirement will add \$1.25 million in costs to the Town's existing program, over the next five years. This is an extremely costly solution, for a concern that is not considered a major problem in Danville creeks.

Suggested Recommendation: Implement this program based on a comparative needs assessment with no minimum capital improvement requirements or allow another form of alternative compliance.

C. Provision C.2 – Municipal Maintenance Operations

Danville devotes considerable effort and resources to keeping Town drainage systems trash and sediment free and flowing to avoid blockages, flooding and slope failures. Catch basin maintenance efforts are evaluated to meet this need annually.

Typically, municipalities are responsible for maintaining *thousands* of catch basins – over 5,000 in Danville alone. This section would significantly increase the frequency for inspecting and cleaning catch basins in Danville, requiring that all catch basins must be inspected and cleaned annually. This represents a 500% increase in the current service level, which has proven to be effective over the past 16 years of operating the Clean Water Program.

Suggested Recommendation: Change “all” catch basins to be cleaned within one year to a requirement to clean and inspect all catch basins on a minimum 3 year cycle.

D. Provision C.3 – New Development

New C.3 requirements imposed in 2003 necessitated major changes in development standards, and significant increases in staffing and resources needed for implementation. This activity has changed project design and implementation including the way all discretionary applications are handled. These changes have considerably impacted staff resources, while imposing a significant installation cost to applicants. New development resulting from these new requirements is only now beginning to be built and added benefits have yet to be seen or quantified.

The major C.3 issues are outlined below:

- Additional time is required to ascertain whether or not the current C.3. facilities will function as hoped, prior to lowering the threshold from 10,000 sq. ft. to 5,000 sq. ft. for certain land uses.

Suggested Recommendation: Defer any changes until the next five year permit.

- New requirements related to “Road Rehabilitation” projects, including any “road reconstruction” project down to the gravel base or “road expansion” project when both sides of the street are developed and 10,000 sq. ft. of impervious area are added or replaced will significantly affect pavement management programs. These requirements were eliminated by the Board as a result of agency comments related to the new C.3 permit in 2003, but now again being proposed

for inclusion. Previous exemptions allowed for bicycle lanes and sidewalks that encourage people to walk or ride bikes have been eliminated, which doesn't make sense.

Suggested Recommendation: Retain the current permit language for road rehabilitation, reconstruction and exempted projects.

- Requirements to develop more detailed data collection records and systems for small projects involving any expansion or reconstruction of 1,000 - 10,000 sq. ft. of impervious area will be extremely labor intensive for local agencies, applicants and the SFRWQCB. This represents ineffective use of staff resources, given that workloads are such that SFRWQCB staff does not have adequate resources to review current reporting efforts in a timely fashion.

The current reporting requirements for discretionary permits (involving a minimum of 10,000 sq. ft. of impervious area added or reconstructed) is the most appropriate and best use of all staff resources. These types of applications are typically accompanied by development plans that require planning approvals. Existing data collection systems are already in place and have been expanded to include C.3 information. The new regulation will require implementation of a new intake system for virtually all small routine over-the-counter projects. This will be considerably time consuming and costly, and will affect individual homeowners that were previously not required to perform costly surveys or retain professional engineers.

Finally, State law prohibits applying Conditions of Approval on ministerial, over the counter projects. If in the future, it is the SFRWQCB's intension to apply C.3. regulations to ALL projects involving 1000 sq. ft., it would drastically change the entire permit issuing process for single family residential homes.

Suggested Recommendation: Delete this section.

E. Increased New Data Base Systems and Reporting

New record keeping and reporting requirements contained in Provisions C.3. - New Development and C.6 - Construction Site Controls, include additional tracking and reporting for projects either not regulated or "Screening Level Inspections" not resulting in a violation. These efforts will require the creation of data base systems, employee training and considerable implementation time. Candidly, SFRWQCB does not appear to have adequate resources available to comment or respond to the annual reports that have been submitted for the last several years, based upon the current level

of detail required. Staff time, both local and SFRWQCB, is more effectively spent elsewhere.

Suggested Recommendation: Reduce the extensive reporting requirements outlined in the proposed permit for both local agency and SFRWQCB benefit, and devote available staff resources toward program implementation.

F. Provision C.4 -Commercial Inspections

The proposed MRP significantly increases the number of annual business inspections required, is overly broad, and now includes inspections of mobile sources. The new provisions are projected to increase the number of inspections by over 60%, not including the added effort required to locate and inspect mobile businesses.

Increased inspections do not equate to improved water quality. Danville's inspection program currently targets the biggest potential polluters and evaluates the effectiveness of the program annually. This allows for periodic shifts to address local needs. Increasing the number of inspections required for other businesses is expected to result in little improvement in water quality at a very high cost.

Inspecting mobile sources will be extremely difficult to implement, resulting in a "hit and miss" approach. This activity is best addressed in the Illicit Discharge program and is currently being implemented that way in Danville. The BASMA Mobile Washer certification program is also supported and utilized for the Town of Danville municipal maintenance operations. This current program reasonably addresses clean water issues if implemented properly.

Suggested Recommendation: Clarify permit language to include only those businesses that could contribute a significant pollutant load. Retain support of the existing BASMA Certified Mobile Washer program and add better outreach to businesses through the Business Inspection Program. Address inspections of mobile sources through the Illicit Discharge Inspection program, not the Business Inspection Program.

G. Provision C.5 - Illicit Discharge and Detection

This section will increase the number of field screenings required to be performed in Town creeks, add more prescriptive requirements for conducting dry season field screening surveys/inspections, and require more active code enforcement procedures. In and of itself, this provision will require hiring of additional staff to meet the proposed requirements and handle the extra documentation and reporting efforts being requested.

Suggested Recommendation: Retain existing permit language including existing program, inspection plan, documentation and reporting requirements.

H. Provision C.15 – Exempted and Conditionally Exempted Discharges

This provision imposes requirements for municipalities to oversee and regulate planned and unplanned discharges by special districts (i.e., water supply districts and fire districts). These special districts are not under the authority of local agencies and cannot be regulated by local agencies.

Suggested Recommendation: Delete this requirement since it is impossible for cities to accomplish.

ESTIMATED COST SUMMARY

The following table summarizes *additional* costs associated with the proposed five year MRP, above and beyond the current \$425,000 annual budget:

Additional MRP Requirements	MRP Provision	5 Year Cost	Annual Cost
<ul style="list-style-type: none"> ■ Trash Removal 	C.10		
<ul style="list-style-type: none"> - Install filter system (capital cost) 		\$1,000,000	\$200,000
<ul style="list-style-type: none"> - Maintenance of filtering systems 		\$250,000	\$50,000
<ul style="list-style-type: none"> ■ Water Quality Monitoring 	C.8	\$250,000	\$50,000
<ul style="list-style-type: none"> ■ Municipal Maintenance Operations 	C.2	\$150,000	\$30,000
<ul style="list-style-type: none"> ■ New Dev't Processing Requirements 	C.3	\$100,000	\$20,000
<ul style="list-style-type: none"> ■ Commercial Inspections 	C.4	\$50,000	\$10,000
<ul style="list-style-type: none"> ■ Illicit Discharge and Detection 	C.5	\$250,000	\$50,000
<ul style="list-style-type: none"> ■ Public Information and Outreach 	C.7	\$25,000	\$5,000
TOTAL		\$2,075,000	\$415,000

Danville is committed toward protecting the natural environment, providing effective service delivery for the community and maintaining a high quality of life for our residents. Local government services must be prioritized, effectively delivered, and balanced with available revenues. Increased requirements contained in the proposed MRP represent significant ongoing costs that come without any offsetting revenue sources, at a time when local government revenues are declining due to the economy.

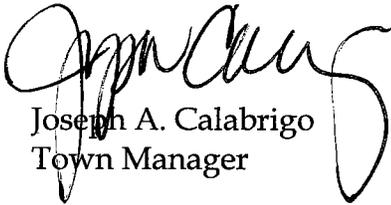
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Successful implementation of the new proposed MRP requirements will require working together to identify new sources of funding dedicated for this purpose. Until this occurs, we call upon your Board to work collaboratively with local government by adjusting certain requirements contained in the new MRP and allowing additional time to phase in compliance.

Sincerely,

TOWN OF DANVILLE

A handwritten signature in black ink, appearing to read "Joseph A. Calabrigo". The signature is stylized and cursive, with a large loop at the end.

Joseph A. Calabrigo
Town Manager