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February 29, 2008

Mr. Bruce Wolfe, Executive Officer  
San Francisco Bay Regional Water Quality Control Board  
1515 Clay Street, Ste. 1400  
Oakland, CA 94612

**SUBJECT: COMMENTS ON THE TENTATIVE ORDER FOR THE MUNICIPAL  
REGIONAL STORMWATER NATIONAL POLLUTANT DISCHARGE  
ELIMINATION SYSTEM PERMIT**

Dear Mr. Wolfe:

Since implementation of the first stormwater permit in 1993, the City of Menlo Park has implemented a proactive municipal stormwater pollution prevention and control program. The City of Menlo Park is committed to the ideas outlined for stormwater pollution prevention and control within the proposed Municipal Regional Permit (MRP).

The purpose of this letter is to provide comments on the 190-page Tentative Order. We are pleased that the tentative order shows improvement over the administrative draft permit released in 2006, however, the efforts to reinvent stormwater pollution prevention and control programs are still very inflexible.

The City is committed to implementing enhanced stormwater pollution prevention measures, however, the City has grave concerns over phasing, implementation, and cost of the following areas of the MRP. It is essential that the MRP allow the City to have flexibility to solve water quality problems. To that end, the new initiatives must be practical, understandable, and streamlined.

For a small agency like Menlo Park, the estimated cost is \$1.5 million dollars for the first three years of the new permit implementation. Implementation of the new permit will require the City to double its current annual stormwater budget. In addition to the above-mentioned City-specific costs, the San Mateo County Water Pollution Prevention Program will be required to increase their budget to address programmatic-level permit tasks.

These comments are specific to the City of Menlo Park, and are in addition to other comments submitted by the San Mateo Countywide Water Pollution Prevention Program and the Bay Area Stormwater Management Agencies Association.

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1) Trash and Litter Reduction (Draft Permit Condition C.10)

The draft permit condition requires each Permittee to identify high trash and litter catchments totaling at least 10 percent of the urbanized area within its jurisdiction and implement actions to reduce trash impacts. The permit requires full trash capture devices to be installed on five percent of the catchment area, and enhanced trash control management control measures be installed on an interim basis until all of the full capture devices are installed.

- The public outreach requirement is difficult to implement, as it is inefficient to target only a small portion of the City.
- The thresholds for street sweeping do not appear to be based upon any site-specific evidence.

The City's recommendation for this section of the permit are as follows:

- Modify the permit language to allow each municipality the flexibility in addressing trash and litter so that cost-effective solutions can be implemented which are tailored to particular problems.
- Delete the requirement for an arbitrary 10% catchment area; instead, allow each municipality the flexibility to select one high trash impact catchment tributary to the municipal storm drain system, implement an appropriate solution, and demonstrate measurable reductions in trash and litter.
- The permit should state that municipalities which are implementing sustainable green streets and parking lot projects using the vehicle registration fees collected under AB 1546 (Simitian – 2004) will meet the permit's trash and litter requirements through design, construction, and maintenance of its sustainable green street or parking lot project

2) New and Redevelopment (draft permit condition C.3)

- a. Public Street Rehabilitation, Resurfacing, and Repaving: Stormwater requirements for rehabilitating and reconstructing roads have become more stringent. The City of Menlo Park currently has limited resources for maintenance of public streets, without the added burden of having to add in stormwater treatment facilities.

It is recommended that the current permit wording remain in place, which allows exclusions for "...pavement surfacing, repaving and road pavement structural section rehabilitation, within the existing footprint, and any other reconstruction work within a public street or road right-of-way where both sides of the right-of-way are developed" (current provision c.3.c.i.3). This language is essential to continuing to allow the City to maintain existing roadways without the additional expense of retrofitting stormwater treatment controls.

- b. Development Projects: The draft permit requires the size threshold for Regulated Projects be reduced from 10,000 square feet to 5,000 square feet of impervious surface area for "Special Land Use Categories" starting July 1, 2010. In addition, specific site design and source control requirements are required for all projects

not regulated by provision C.3. These requirements are overly burdensome upon the City for the following reasons:

- The City has only recently adopted ordinances and policies regulating projects down to the 10,000 square feet threshold. Very few projects of this size have completed construction and have best management practices (BMP's) in place, and as such, those BMP's have not been properly evaluated for effectiveness and maintenance.
- Lowering the size threshold requires many more projects to be reviewed, without sufficient nexus for capturing additional data. Based upon studies that the Regional Water Board staff conducted and reported at its November 15, 2006 workshop, the current permit requirements are currently capturing 97% of all impervious surface area created and/or replaced. The amount of work that is placed upon City staff for additional review and reporting does not seem to directly equalize the small additional amount of information that would be received by the Board.
- The current permit requires the "Special Land Use Categories" to meet site design and source control requirements, regardless of the size of the project. It does not appear that there is any technical basis for requiring stormwater treatment control for these projects. The 5,000 square feet threshold is a number pulled from the Los Angeles Regional Board Stormwater Permit; however, the LA permit does not have the additional site design and source control requirements and does not demonstrate a nexus between the size threshold and significant water quality improvement.
- All parking lots greater than 5,000 square feet are required to provide stormwater treatment. This provision should be modified to state that if the parking lot is designed so as to not be exposed to stormwater (such as covered, or a lower level parking structure), and stormwater treatment measures are not required.
- Cities are required to collect impervious surface data from small projects in the 1,000 to 10,000 square feet range, including single family homes. Regulation of these small projects can be handled at the local level under the proposed permit's site design and source control requirements.

The City's recommendations for this portion of the project are as follows:

- Maintain the size threshold of 10,000 square feet for "Regulated Projects".
- Delete proposed requirements to collect additional impervious surface information for projects less than 10,000 square feet.
- Maintain the existing permit language pertaining to public street rehabilitation, resurfacing, and repaving.

### 3) Municipal Operations

- a. Street sweeping: The draft permit prescribes frequencies for street sweeping without evaluation of individual City needs. Currently, the City has developed a street sweeping plan which takes into account the amount of trash and litter for different sections of the City. The City's recommendation would be to allow each City the flexibility to develop its own street sweeping plan or continue the current street sweeping frequency that meets local needs.

b. Catch basin inspection and cleaning: The draft permit requires all catch basins within a municipality be cleaned and inspected by the municipality. This provision should be changed so that the requirements for municipality inspection and cleaning are limited to those catch basins owned or operated by the City. The City should not be responsible for any privately owned and maintained catch basins. Similarly, for the Public Information and Outreach section, the City should not be responsible for marking privately maintained inlets.

4) Recordkeeping and reporting

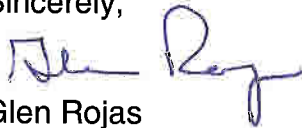
The proposed annual report form is in excess of 100 pages in length, not including the supplementing reporting tables. This amount of reporting on a yearly basis will require a significant amount of staff resources with very little direct benefit to protection of water quality. The City's recommendation would be to develop the form in concert with all other affected municipalities following the adoption of the permit, and reducing the amount of reporting to somewhere between 10 and 20 pages of essential information.

5) Phasing and funding issues

All new and enhanced requirements to the proposed permit will require funding for both hard and soft costs. Given the current financial difficult times and uncertainty with the State budget, the amount of available funds that could be diverted from existing stormwater tasks or from other existing municipal budget priorities is very limited. To successfully achieve permit compliance, an adequate phase-in period must be created to allow the City to secure additional funding sources. Potential funding sources which do not require voter approval are limited and unlikely to provide a large source of income needed to implement the permit. Most of the permit conditions are required within the first three years after permit adoption, leaving the City with little means to pay for the new requirements.

Thank you for consideration of the above mentioned comments. We look forward to providing additional comments at the March 11<sup>th</sup> public hearing.

Sincerely,

A handwritten signature in blue ink, appearing to read "Glen Rojas", is written over the printed name.

Glen Rojas  
City Manager  
City of Menlo Park