



CITY OF CLAYTON

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April 3, 2009

Bruce H. Wolfe, Executive Officer
California Regional Water Quality Control Board
San Francisco Bay Region
1515 Clay Street, Suite 1400
Oakland, CA 94612

Re: City of Clayton Comments on the San Francisco Bay Regional Water Quality Control Board's February 11, 2009 Revised Tentative Order for the Municipal Regional Permit

Dear Mr. Wolfe:

This letter provides the City of Clayton written comments on the San Francisco Bay Regional Water Quality Control Board (Water Board) staff's February 11, 2009 Revised Tentative Order for the Municipal Regional Permit (MRP). By reference we are also herby supporting the written comments submitted by The Contra Costa Clean Water Program, dated April 3, 2009; and those the Bay Area Stormwater Management Agencies Association's (BASMAA's) comment letter (i.e., "Municipal Regional Stormwater NPDES Permit-Revised Tentative Order (February 11, 2009)") submitted and dated March 31, 2009.

Prior written comments and testimony have repeatedly asked for the requirements to be prioritized, integrated and coordinated. Although some modifications have taken place the proposed MRP still falls short of these objectives. Specifically the prioritization. Most all of the permit requirements are treated as all being equal in priority. If everything is number one priority than there are not going to be ability to accomplish most any of them due to lack of funds to carry out the mandates.

There are many areas where there is excessive monitoring quantification data asked by the cities to be collected. It is not necessary to count the number of cigarette buts, gum wrappers and cans etc., in the rapid trash assessment on an ongoing basis – maybe do initially at the beginning and then at the end of the permit period, but to do every time? What good is the data collected? What is it going to be used for? Wouldn't be more prudent to use limited funds for actual improvements such as targeted trash collection along the creeks than to count what has been picked up. Again what is the priority to clean or to count?

The City of Clayton does not have the financial resources to undertake the proposed permit requirements and we do not believe that a local tax increase especially this time would be achievable, plus the costs to hold an election alone would need to be considered. A preliminary cost analysis of the proposed permit indicates that within the first year the city would have a \$67,522 need for additional funds at the least and could be twice this amount. The City of Clayton general fund has a \$200,000 shortfall for this fiscal year and estimated to grow to \$400,000 next year. The City of Clayton is not unlike other communities facing severe financial challenges at this time. Thusly we are all cutting back services and in some cities staffing. Asking cities to do more at a time when the revenue reality is doing less and cutting is putting your head in the sand to the situation at hand and over the next several years.

We have attached an estimated 5 year analysis of the financial impact that we forecast from the proposed permit. Although the cost estimates are about 50% less than the minimum we expected under the prior permit – the costs increases are impacting and the likelihood of failure to meet the requirements due to lack of financial resources great. As noted the first year alone would add \$78,300 to our annual costs and by year five the added annual costs would be over a half million dollars! Our City budget is only \$3.7 million thus the stormwater requirements would increase be 20% of the city budget by permit year 5. This cost could even be higher depending on the creek water testing requirement costs and outcomes. You are certainly aware of the historic economic conditions we are all in, and appears to be for the next few years very difficult financial times. These costs are not able to be offset from any city general fund revenues or from other revenue sources – grants are mostly limited to capital needs,-- our concerns are the ongoing operational and maintenance costs. Staff suggests even raising taxes and fees to offset these costs. The City of Clayton is an 11,000 population residential bedroom community that does not have any significant commercial retail tax base. The City of Clayton is a community that is very skeptical of increased taxes and fees. The City's current recycling and refuse costs are in the top 33% of the rates in our area. The ability of raising taxes is further limited by laws that require elections and the costs of the election are expensive as well.

We believe that there is much that can still be accomplished in a new permit, however this is not yet the right balance. There needs to be reasonable and rational prioritization. Furthermore, the permit has many reporting requirements that would require the city to obtain new hardware and software and likely add staffing to undertake the reporting—again what purpose would the data gathered be used for, we would like to note that these costs are in addition to those on the attachment, and we do not have the funds to undertake such efforts. It appears the cities are being used to conduct research and studies for the Board staff and various other interest groups, beyond what is necessary for basic water quality objectives.

Enforcement actions are asked to be increased by the cities; beyond that already in place. The City of Clayton we does not have a full time code enforcement staff person. The person we have is only 20% time and at that can not respond to all the complaints currently received in a timely basis. Again it appears that the enforcement of many minor items takes valuable resources, and prioritization needed. Additionally the enforcement actions identified in the permit will require staff to be trained in Penal Code Section 8. This is the training necessary to write tickets. However since these would be misdemeanors who would handle? -- as the Contra Costa County District Attorney's office has just laid off 15-18 DA's and the Board of Supervisors approved as part of the budget cuts to eliminate misdemeanor prosecutions (except DUI's an domestic violence) – thus there is not any enforcement actions that would result. If one was to modify to infractions and establish a city hearing officer it would require additional staff and related training. Again in the current environment we are unable to take on additional cost or requirements. The City of Clayton would also be supportive of an approach that would replace current permit measures with more effective measures provided they do not increase our current costs. Again this permit has not achieved this objective.

As mentioned previously, we applaud the goal to improve our environment, however we need to do it in such a manner that is cost effective and within current available resources – and that would be establishing limited real priorities in a phased approach, that provide the potential for the greatest improvement, with the least amount of cost, and within the funds realistically currently available. In other words we need to keep to the basics.

Thank you for the opportunity to comment on the proposed permit. We look forward to working with you to make the MRP both effective in its objective to improve water quality from stormwater runoff in a cost efficient yet effective manner to implement.

Please do not hesitate to contact me if you have any questions.

Sincerely,



Julie K. Pierce
Mayor, City of Clayton

Clayton NPDES costs for MRP

activity	Year	current FY	Year 1	Year 2	Year 3	Year 4	Year 5	
clayton program costs (1.03% of total)		41,017	45,000	70,000	90,000	126,800	183,600	assume group program budget of \$18 million in year 5 (costs could be up to 2x more than shown)
commercial inspection		6,000	49,650	90,620	119,635	180,700	241,916	assume all businesses inspected annually in year 5
street sweeping		42,000	43,050	44,100	45,200	46,330	47,800	
flood control fiscal mgmt costs		3,000	3,000	3,000	3,000	3,000	3,000	
county auditor/contrlr costs		3,800	3,800	3,800	3,800	3,800	3,800	
state discharge permit fee		5,500	5,500	5,500	5,500	5,500	5,500	
DI's special trash		0	0	10,200	0	0	0	minimum 2 required
DI's special trash		0	11,200	17,530	17,530	17,530	17,530	includes rapid creek trash coll and quantification
city maint/admin		122,762	141,175	151,057	173,715	162,097	186,411	
Total est FY cost		224,079	302,375	395,807	458,380	545,757	689,537	total cost over 5 years
Total revenue recvd @ \$29/ERU		126,362	126,362	126,362	126,362	126,362	126,362	631,810
Street Sweeping revenue		42,000	43,050	44,100	45,200	46,330	47,800	226,480
sw (npdes) reserve use		55,717	65,441	0	0	0	0	65,441
Total Revenues		224,079	234,853	170,462	171,562	172,692	174,162	923,731
financial annual shortfall		0	67,522	225,345	286,818	373,065	515,395	total shortfall over 5 years
adtl per parcel funds needed (400 parcels)		0	17	57	72	94	129	new or higher fee or tax reqs voter or parcel approval in election
Total city of Clayton annual GF budget is \$3.7 million								
% of city budget for total NPDES costs		6%	8%	11%	12%	15%	20%	
% from GF needed for shortage		0%	2%	6%	8%	10%	14%	
requires equal offsetting reductions to ensure balanced budget or new revenues but voter approval needed								
police services are 47% of GF each officer = \$135,000								
maintenance services are 13% of GF each main worker = \$115,000								
residents garbage/recycling rates are \$37-40/month top 33% in the county								
city street repair project estimate \$864,000 over next 4 years. Must be used for road repairs per region public vote (Measure J) of special tax that pays for them								
City has over \$500,000 in current deferred maintenance projects needs								
City has FY 08/09 FY general fund shortfall of \$200,000								