



B A S M A A

September 22, 2006

Margaret Bruce, Chair – Stormwater Subcommittee
Bruce Wolfe, Executive Officer
San Francisco Bay Regional Water Quality Control Board
1515 Clay St., Ste. 1400
Oakland, CA 94612

Subject: Additional BASMAA comments – Stormwater Subcommittee and Municipal Regional Permit

Dear Ms. Bruce and Mr. Wolfe

Thank you for conducting the second Stormwater Subcommittee Workshop on September 8. We found the discussion to be constructive and complementary to the discussion at the first workshop. In response to your offer at the end of the workshop to receive additional comments on the general concepts of urban water quality management and how it relates to specific Board initiatives, such as our pending municipal regional permit (MRP), we submit the attached, which combines:

- Draft performance standards tables for all MRP elements, including the “baseline” municipal stormwater program elements identified in USEPA’s permitting regulations *and* additional elements that address implementation of TMDLs adopted by the Regional Water Board and other previously identified pollutants of concern; and
- Draft “provisions” for the MRP to encompass these elements, address the trial court decision in the prior BayKeeper litigation concerning the current San Mateo and Contra Costa municipal stormwater permits (such as specific monitoring measures), and define the parameters for State-mandated program components on hydromodification and watershed management.

As we have expressed to you on many occasions and in many forms, BASMAA is committed to the development and adoption of a MRP for Phase I stormwater programs in the Bay Area. We offer the attached in that spirit and to expedite the permit development and drafting process, which as you know is now almost 2 ½ years old and has been delayed and changed a number of times.

Bay Area

Stormwater Management

Agencies Association

1515 Clay Street

Suite 1400

Oakland, CA 94612

510.622.2326

www.basmaa.org

With the cessation of the MRP work groups’ efforts last spring, BASMAA Executive Board members worked with their co-permittees to educate them on, as well as review and consider, the final BMP or performance standards tables of the MRP work groups. The result is the attached document that, to a large degree, reflects the discussions within the MRP work groups, as well as moves those discussions forward by resolving; in a way municipalities are likely to be willing to accept, the “thorny issues” that the work groups were unable to resolve.

In summary, BASMAA believes the attached document achieves the following objectives:

- Stormwater Subcommittee Workshops issues – The draft tables and provisions address and resolve a number of the issues raised at the workshops.
- Organization – The 13 performance standards tables are generally organized and formatted the same way, greatly facilitating review and understanding (and ultimately compliance and Regional Water Board oversight).
- Consistency – In addition to a consistent organization and format, the tables and provisions are drafted in a consistent writing style and level of detail, and are cross-referenced to ensure the content is comprehensive and internally consistent.
- BayKeeper decision – As indicated above, the draft performance standards tables and provisions fully address the trial court decision in the prior BayKeeper lawsuit regarding San Mateo and Contra Costa permits.
- Prioritization – The dual impacts of Proposition 218 restrictions on increasing local government revenues for stormwater management programs and the concurrent anticipated increase in work load demands being placed on these programs are managed by building the concept of prioritization into the draft performance standards tables. As BASMAA has been identifying for approximately two years, due to fiscal constraints and competing local needs (such as police and fire protection services), there is now a **critical** need to prioritize municipal stormwater program actions so the most important issues and legal mandates (including TMDLs adopted by the Regional Water Board) are addressed. Proactively and candidly engaging in the difficult work of prioritizing the actions that realistically can be implemented in this permit round will help ensure consistent expectations among the Regional Water Board, interested parties (including the business/development and environmental advocacy communities), and municipal stormwater programs, and avoid frustration and disappointment going forward.
- MRP Goals – The combination of the draft performance standards tables and provisions achieve the following established goals for the MRP:
 - Consolidate six Phase 1 municipal stormwater permits (including one US EPA-issued permit) into one consistent permit for 76 co-permittees, including phasing of requirements where necessary
 - Incorporate detail currently in Stormwater Management Plans (SWMPs) into the permit by being more specific in requirements including new performance standards tables establishing (a) the required activities, (b) how much of each activity is required, and (c) reporting and effectiveness evaluation requirements for each activity
 - Add actions or enhance existing actions to address 303(d) listed pollutants and TMDL Waste Load Allocations
 - Add more specific and comprehensive stormwater monitoring, including monitoring for 303(d) listed pollutants

The attached document also addresses several other new requirements and Regional Water Board and community priorities, such as enhanced trash management program elements, full implementation of the previously phased-in new and redevelopment performance standards (e.g., site design, source control, and engineered stormwater treatment measures), and initial implementation of the first-in-the-State hydromodification management programs the Regional Water Board has only recently approved or is anticipated to approve before the end of this year.

As mentioned above, the attached document reflects *both* the MRP work group products and BASMAA member agencies' review and consideration of those products. It is important to recognize that combining the performance standards tables and provisions from six Phase I permits into one set for 76 agencies and moving them out of individual stormwater management plans and into a single permit structure has been quite a challenge. These tables and provisions reflect a significant accomplishment in terms of the development of a draft permit document.

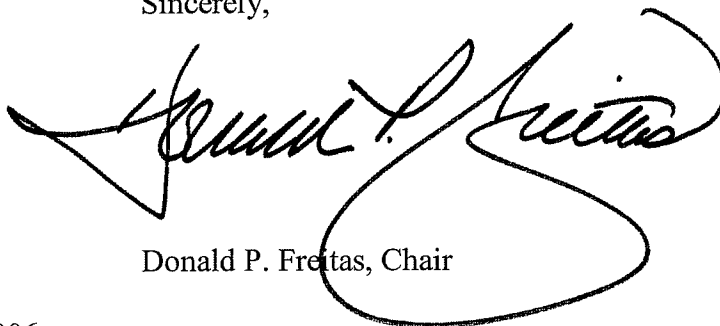
The attached document also represents a significant and substantive step up for many co-permittees. As a result, the co-permittees remain very concerned about the resources that will be necessary to implement these performance standards and provisions over the term of the MRP, even if adopted in BASMAA's suggested form. Requirements above and beyond BASMAA's proposed performance standards would be both unmanageable and unaffordable for many co-permittees. As such, BASMAA believes alternative approaches may not be practicable and would necessitate a re-prioritization of MRP objectives by the Board, enabling municipalities to redirect resources from lower priority program elements to those designated most legally important or beneficial to water quality. Alternatively, despite significant reservations concerning the challenge it would impose on many of its member agencies, the BASMAA Executive Board is prepared to recommend and advocate acceptance of the attached document and the prioritization of water quality-related objectives it reflects to the 76 BASMAA co-permittees that would be covered by an MRP.

BASMAA asks you to consider directing Board staff to utilize the attached document in its current form in the upcoming November MRP workshops/public meetings. We also encourage and would greatly appreciate your attendance at those meetings. Consistent with your stated process for submitting and distributing comments addressed to the Stormwater Subcommittee, we request the attached document be posted on the Regional Water Board website so it is readily available to all Board Members and interested stakeholders.

Finally, we express our appreciation of the effort of Regional Water Board staff and NGO representatives on the work groups and in the continuing process of adopting an MRP.

If you have any questions regarding these comments, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Donald P. Freitas". The signature is fluid and cursive, with a large loop at the end.

Donald P. Freitas, Chair

Additional BASMAA comments – Stormwater Subcommittee and MRP

cc: John Muller, Chair – Regional Water Board – San Francisco Bay Region
Shin-Roei Lee, Chief – South Bay Watershed Management Division, Regional Water Board
Wil Bruhns, Chief – North Bay Watershed Management Division, Regional Water Board
Tom Mumley, Chief – TMDL and Planning Division, Regional Water Board
Dale Bowyer, Section Leader – Southeast Bay Section, Regional Water Board
Alexis Strauss, Director – Water Division, USEPA Region IX
BASMAA Executive Board