California Regional Water Quality Control Board
San Francisco Bay Region
Municipal Regional Stormwater NPDES Permit

Final Tentative Order R2-2009-XXXX
NPDES Permit No. CAS612008
September 24, 2009

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Issuing Waste Discharge Requirements and National Pollutant Discharge Elimination System (NPDES) Permit for the discharge of stormwater runoff from the municipal separate storm sewer systems (MS4s) of the following jurisdictions and entities, which are permitted under this San Francisco Bay Municipal Regional Stormwater Permit (MRP):

The cities of Alameda, Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Newark, Oakland, Piedmont, Pleasanton, San Leandro, and Union City, Alameda County, the Alameda County Flood Control and Water Conservation District, and Zone 7 of the Alameda County Flood Control and Water Conservation District, which have joined together to form the Alameda Countywide Clean Water Program (Alameda Permittees)

The cities of Clayton, Concord, El Cerrito, Hercules, Lafayette, Martinez, Orinda, Pinole, Pittsburg, Pleasant Hill, Richmond, San Pablo, San Ramon, and Walnut Creek, the towns of Danville and Moraga, Contra Costa County, the Contra Costa County Flood Control and Water Conservation District, which have joined together to form the Contra Costa Clean Water Program (Contra Costa Permittees)

The cities of Campbell, Cupertino, Los Altos, Milpitas, Monte Sereno, Mountain View, Palo Alto, San Jose, Santa Clara, Saratoga, and Sunnyvale, the towns of Los Altos Hills and Los Gatos, the Santa Clara Valley Water District, and Santa Clara County, which have joined together to form the Santa Clara Valley Urban Runoff Pollution Prevention Program (Santa Clara Permittees)

The cities of Belmont, Brisbane, Burlingame, Daly City, East Palo Alto, Foster City, Half Moon Bay, Menlo Park, Millbrae, Pacifica, Redwood City, San Bruno, San Carlos, San Mateo, and South San Francisco, the towns of Atherton, Colma, Hillsborough, Portola Valley, and Woodside, the San Mateo County Flood Control District, and San Mateo County, which have joined together to form the San Mateo Countywide Water Pollution Prevention Program (San Mateo Permittees)

The ~~Fairfield-Suisun Sewer District and the~~ cities of Fairfield and Suisun City, which have joined together to form the Fairfield-Suisun Urban Runoff Management Program (Fairfield-Suisun Permittees)

The City of Vallejo and the Vallejo Sanitation and Flood Control District (Vallejo Permittees)

Table of Contents

FINDINGS 3
Finding 1: Incorporation of Fact Sheet 3
Findings 2-8: Existing Permits 3
Findings 9-13: Applicable Federal, State and Regional Regulations 4
Findings 14-18: Nature of Discharges and Sources of Pollutants 7
A. Discharge Prohibitions 8
B. Receiving Water Limitations 8

The California Regional Water Quality Control Board, San Francisco Bay Region, (hereinafter referred to as the Water Board) finds that:

FINDINGS

Incorporation of Fact Sheet

1. The Fact Sheet for the San Francisco Bay Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) Permit (Appendix I) includes cited regulatory and legal references and additional explanatory information in support of the requirements of this Permit. This information, including any supplements thereto, and any future response to comments on the Revised Tentative Order, is hereby incorporated by reference.

Existing Permits

2. **Alameda County—**The cities of Alameda, Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Newark, Oakland, Piedmont, Pleasanton, San Leandro, and Union City, Alameda County (Unincorporated area), the Alameda County Flood Control and Water Conservation District, and Zone 7 of the Alameda County Flood Control and Water Conservation District have joined together to form the Alameda Countywide Clean Water Program (hereinafter collectively referred to as the Alameda Permittees) and have submitted a permit application (Report of Waste Discharge), dated July 26, 2007, for reissuance of their waste discharge requirements under the NPDES permit to discharge stormwater runoff from storm drains and watercourses within the Alameda Permittees' jurisdictions. The Alameda Permittees are currently subject to NPDES Permit No. CAS0029831 issued by Order No. R2-2003-0021 on February 19, 2003, and amended by Order No. R2-2007-0025 on March 14, 2007, to the Alameda Permittees to discharge stormwater runoff from storm drains and watercourses within their jurisdictions.

3. **Contra Costa County—**The cities of Clayton, Concord, El Cerrito, Hercules, Lafayette, Martinez, Orinda, Pinole, Pittsburg, Pleasant Hill, Richmond, San Pablo, San Ramon, and Walnut Creek, the towns of Danville and Moraga, Contra Costa County, and the Contra Costa County Flood Control and Water Conservation District have joined together to form the Contra Costa Clean Water Program (hereinafter collectively referred to as the Contra Costa Permittees) and have submitted a permit application (Report of Waste Discharge), dated September 30, 2003, for reissuance of their waste discharge requirements under the NPDES permit to discharge stormwater runoff from storm drains and watercourses within the Contra Costa Permittees' jurisdictions. The Contra Costa Permittees are currently subject to NPDES Permit No. CAS0029912 issued by Order No. 99-058 on July 21, 1999, amended by Order No. R2-2003-0022 on February 9, 2003, amended by Order Nos. R2-2004-059 and R2-2004-0061 on July 21, 2004, and amended by Order No. R2-2006-0050 on July 12, 2006, to the Contra Costa Permittees to discharge stormwater runoff from storm drains and watercourses within their jurisdictions.

4. **San Mateo County—**The cities of Belmont, Brisbane, Burlingame, Daly City, East Palo Alto, Foster City, Half Moon Bay, Menlo Park, Millbrae, Pacifica, Redwood City, San Bruno, San Carlos, San Mateo, and South San Francisco, the towns of Atherton, Colma, Hillsborough, Portola Valley, and Woodside, the San Mateo County Flood Control District and San Mateo County have joined together to form the San Mateo Countywide Water Pollution Prevention

Program (hereinafter collectively referred to as the San Mateo Permittees) and have submitted a permit application (Report of Waste Discharge), dated January 23, 2004, for reissuance of their waste discharge requirements under the NPDES permit to discharge stormwater runoff from storm drains and watercourses within the San Mateo Permittees' jurisdictions. The San Mateo Permittees are currently subject to NPDES Permit No. CAS0029921 issued by Order No. 99-059 on July 21, 1999, amended by Order No. R2-2003-0023 on February 19, 2003, amended by Order Nos. R2-2004-0060 and R2-2004-0062 on July 21, 2004, and amended by Order R2-2007-0027 on March 14, 2007, to the San Mateo Permittees to discharge stormwater runoff from storm drains and watercourses within their jurisdictions.

5. **Santa Clara County—**The cities of Campbell, Cupertino, Los Altos, Milpitas, Monte Sereno, Mountain View, Palo Alto, San Jose, Santa Clara, Saratoga, and Sunnyvale, the towns of Los Altos Hills and Los Gatos, the Santa Clara Valley Water District, and the County of Santa Clara have joined together to form the Santa Clara Valley Urban Runoff Pollution Prevention Program (hereinafter collectively referred to as the Santa Clara Permittees) and have submitted a permit application (Report of Waste Discharge), dated February 25, 2005, for reissuance of their waste discharge requirements under the NPDES permit to discharge stormwater runoff from storm drains and watercourses within the Santa Clara Permittees' jurisdictions. The Santa Clara Permittees are currently subject to NPDES Permit No. CAS029718 issued by Order No. 01-024 on April 21, 2001, amended by Order No. 01-119 on October 17, 2001, and Order No. R2-2005-0035 on July 20, 2005, to the Santa Clara Permittees to discharge stormwater runoff from storm drains and watercourses within their jurisdictions.

6. **Fairfield-Suisun—**The cities of Fairfield and Suisun City ~~and the Fairfield-Suisun Sewer District~~ have joined together to form the Fairfield-Suisun Urban Runoff Management Program (hereinafter referred to as the Fairfield-Suisun Permittees) and have submitted a permit application (Report of Waste Discharge), dated October 17, 2007, for reissuance of their waste discharge requirements under the NPDES permit to discharge stormwater runoff from storm drains and watercourses within the Fairfield-Suisun Permittees' jurisdictions. The Fairfield-Suisun Permittees are currently subject to NPDES Permit No. CAS0612005 issued by Order No. R2-2003-0034 on April 16, 2003, and amended by Order R2-2007-0026 on March 14, 2007, to the Fairfield-Suisun Permittees to discharge stormwater runoff from storm drains and watercourses within their jurisdictions.

7. **Vallejo—**The City of Vallejo and the Vallejo Sanitary District (hereinafter referred to as the Vallejo Permittees) are currently subject to NPDES Permit No. CAS612006 issued by United States Environmental Protection Agency (USEPA) on April 27, 1999, and that became effective on May 30, 1999 for the discharge of stormwater runoff from storm drains and watercourses within the Vallejo Permittees' jurisdictions.

8. The Alameda, Contra Costa, San Mateo, Santa Clara, Fairfield-Suisun, and Vallejo Permittees are hereinafter referred to in this Order as Permittees.

Applicable Federal, State and Regional Regulations

9. Section 402(p) of the federal Clean Water Act (CWA), as amended by the Water Quality Act of 1987, requires NPDES permits for stormwater discharges from municipal separate storm sewer systems (MS4s), stormwater discharges associated with industrial activity (including construction activities), and designated stormwater discharges, which are considered significant contributors of pollutants to waters of the United States. On November 16, 1990, USEPA published regulations (40 CFR Part 122), which prescribe permit application requirements for

MS4s pursuant to CWA 402(p). On May 17, 1996, USEPA published an Interpretive Policy Memorandum on Reapplication Requirements for Municipal Separate Storm Sewer Systems, which provided guidance on permit application requirements for regulated MS4s.

10. The Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan) is the Water Board's master water quality control planning document. It designates beneficial uses and water quality objectives for waters of the State, including surface waters and groundwater. It also includes programs of implementation to achieve water quality objectives. The Basin Plan was duly adopted by the Water Board and approved by the State Water Resources Control Board (State Board), Office of Administrative Law and the USEPA, where required.

11. The Water Board finds stormwater discharges from urban and developing areas in the San Francisco Bay Region to be significant sources of certain pollutants that cause or may be causing or threatening to cause or contribute to water quality impairment in waters of the Region. Furthermore, as delineated in the CWA section 303(d) list, the Water Board has found that there is a reasonable potential that municipal stormwater discharges cause or may cause or contribute to an excursion above water quality standards for the following pollutants: mercury, PCBs, furans, dieldrin, chlordane, DDT, and selenium in San Francisco Bay segments; pesticide associated toxicity in all urban creeks; and trash and low dissolved oxygen in Lake Merritt, in Alameda County. In accordance with CWA section 303(d), the Water Board is required to establish TMDLs for these pollutants to these waters to gradually eliminate impairment and attain water quality standards. Therefore, certain early pollutant control actions and further pollutant impact assessments by the Permittees are warranted and required pursuant to this Order.

12. The San Francisco Estuary Project, established pursuant to CWA Section 320, culminated in June 1993 with completion of its Comprehensive Conservation and Management Plan (CCMP) for the preservation, restoration, and enhancement of the San Francisco Bay-Delta Estuary. The 2007 update of the CCMP includes new and revised actions, while retaining many of the original plan's actions. The CCMP includes recommended actions in the areas of aquatic resources, wildlife, wetlands, water use, pollution prevention and reduction, dredging and waterway modification, land use, public involvement and education, and research and monitoring. Recommended actions which may, in part, be addressed through implementation of this Permit include, but are not limited to, the following:

    (1) ACTION AR-9.1 (New 2007)
    Improve understanding of sources, types, and impacts of marine debris in the Estuary.

    (5) ACTION AR-9.2 (New 2007)
    Expand existing marine debris prevention and cleanup programs and develop new initiatives to reduce discharge of debris to waterways.

    (10) ACTION PO-1.2 (Revised 2007)
    Recommend institutional and financial changes needed to place more focus on pollution prevention.

    (12) ACTION PO-1.6 (Revised 2007)
    Implement a comprehensive strategy to reduce pesticides coming into the Estuary.

    (13) ACTION PO-1.7.1 (New 2007)
    Develop product stewardship program for new commercial products to minimize future pollutant releases.

(14) ACTION PO-1.8 (New 2007)
Develop and implement programs to prevent pollution of the Estuary by other harmful pollutants like trash, bacteria, sediments, and nutrients.

(15) ACTION PO-2.1 (Revised 2007)
Pursue a mass emissions strategy to reduce pollutant discharges into the Estuary from point and nonpoint sources and to address the accumulation of pollutants in estuarine organisms and sediments.

(16) ACTION PO-2.4 (Revised 2007)
Improve the management and control of urban runoff from public and private sources.

(18) ACTION PO-3.3 (New 2007)
Accomplish large-scale improvements to Bay-Delta area infrastructure and implement pollution prevention strategies to prevent pollution threats to public health and wildlife.

(19) ACTION PO-4.1 (New 2007)
Increase regulatory incentives for municipalities, through urban runoff and other programs, to invest in projects that restore or enhance stream and wetland functions.

(20) ACTION LU-1.1 (Revised 2007)
Local land use jurisdiction's General Plans should incorporate watershed protection goals for wetlands and stream environments and to reduce pollutants in runoff.

(21) ACTION LU-1.1.1 (New 2007): Provide assistance to local agencies to ensure that applicable nonpoint source control elements are incorporated into local government and business practices.

(22) ACTION LU-1.5 (LU-3.2 in 1993 CCMP; Revised 2007)
Provide incentives and promote the use of building, planning, and maintenance guidelines for site planning and implementation of best management practices (BMPs) as related to stormwater and encourage local jurisdictions to adopt these guidelines as local ordinances.

(23) ACTION LU-1.6 (New 2007)
Continue and enhance training and certification for planners, public works departments, consultants, and builders on sustainable design and building practices with the goal of preventing or minimizing alteration of watershed functions (e.g., flood water conveyance, groundwater infiltration, stream channel and floodplain maintenance), and preventing construction-related erosion and post-construction pollution.

(24) ACTION LU-2.7 (New 2007)
Adopt and implement policies and plans that protect and restore water quality, flood water storage, and other natural functions of stream and wetland systems.

(25) ACTION LU-3.1 (New 2007)
Promote, encourage, and support collaborative partnerships with broad stakeholder representation, such as watershed councils, in order to develop diverse community-based approaches to long-term stewardship.

(26) ACTION LU-4.1 (Revised 2007)
Educate the public about how human actions impact the Estuary and its watersheds.

(28) ACTION PI-2.5 (Revised 2007)
Assist in the development of long-term educational programs designed to prevent pollution to the Estuary's ecosystem and provide assistance to other programs as needed.

13. Under section 13389 of the California Water Code, this action to adopt an NPDES permit is exempt from the provisions of Chapter 3 of the California Environmental Quality Act (CEQA).

Nature of Discharges and Sources of Pollutants

14. Stormwater runoff is generated from various land uses in all the hydrologic sub basins in the Basin and discharges into watercourses, which in turn flow into Central, Lower and South San Francisco Bay.

15. The quality and quantity of runoff discharges vary considerably and are affected by hydrology, geology, land use, season, and sequence and duration of hydrologic events. Pollutants of concern in these discharges are certain heavy metals; excessive sediment production from erosion due to anthropogenic activities; petroleum hydrocarbons from sources such as used motor oil; microbial pathogens of domestic sewage origin from illicit discharges; certain pesticides associated with acute aquatic toxicity; excessive nutrient loads, which can cause or contribute to the depletion of dissolved oxygen and/or toxic concentrations of dissolved ammonia; trash, which impairs beneficial uses including, but not limited to, support for aquatic life; and other pollutants which can cause aquatic toxicity in the receiving waters.

16. Certain pollutants present in stormwater and/or urban runoff can be derived from extraneous sources over which the Permittees have limited or no direct jurisdiction. Examples of such pollutants and their respective sources are polycyclic aromatic hydrocarbons (PAHs), which are products of internal combustion engine operation and other sources; heavy metals, such as copper from vehicle brake pad wear and zinc from vehicle tire wear; dioxins as products of combustion; polybrominated diphenyl ethers that are incorporated in many household products as flame retardants; mercury resulting from atmospheric deposition; and naturally occurring minerals from local geology. All these pollutants, and others, can be deposited on paved surfaces, rooftops, and other impervious surfaces as fine airborne particles—thus yielding stormwater runoff pollution that is unrelated to the activity associated with a given project site.

17. The Water Board will notify interested agencies and interested persons of the availability of reports, plans, and schedules, including Annual Reports, and will provide interested persons with an opportunity for a public hearing and/or an opportunity to submit their written views and recommendations. The Water Board will consider all comments and may modify the reports, plans, or schedules or may modify this Order in accordance with applicable law. All submittals required by this Order conditioned with acceptance by the Water Board will be subject to these notification, comment, and public hearing procedures.

18. This Order supersedes and rescinds Order Nos. 99-058, 99-059, 01-024, R2-2003-0021, R2-2003-0034, and supersedes NPDES Permit Nos. CAS0029831, CAS0029912, CAS0029921, CAS029718, CAS0612005, and CAS612006.

    This Order serves as a NPDES permit, pursuant to CWA section 402, or amendments thereto, and shall become effective July 1, 2009, provided the Regional Administrator, USEPA, Region 9, has no objections.

IT IS HEREBY ORDERED that the Permittees, in order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted hereunder and the provisions of the Clean Water Act as amended and regulations and guidelines adopted hereunder, shall comply with the following:

A. DISCHARGE PROHIBITIONS

A.1. The Permittees shall, within their respective jurisdictions, effectively prohibit the discharge of non-stormwater (materials other than stormwater) into, storm drain systems and watercourses. NPDES-permitted discharges are exempt from this prohibition. Provision C.15 describes a tiered categorization of non-stormwater discharges based on potential for pollutant content that may be discharged upon adequate assurance that the discharge contains no pollutants of concern at concentrations that will impact beneficial uses or cause exceedances of water quality standards.

A.2. It shall be prohibited to discharge rubbish, refuse, bark, sawdust, or other solid wastes into surface waters or at any place where they would contact or where they would be eventually transported to surface waters, including flood plain areas.

B. RECEIVING WATER LIMITATIONS

B.1. The discharge shall not cause the following conditions to create a condition of nuisance or to adversely affect beneficial uses of waters of the State:

- **a.** Floating, suspended, or deposited macroscopic particulate matter, or foam;
- **b.** Bottom deposits or aquatic growths;
- **c.** Alteration of temperature, turbidity, or apparent color beyond present natural background levels;
- **d.** Visible, floating, suspended, or deposited oil or other products of petroleum origin; and
- **e.** Substances present in concentrations or quantities that would cause deleterious effects on aquatic biota, wildlife, or waterfowl, or that render any of these unfit for human consumption.

B.2. The discharge shall not cause or contribute to a violation of any applicable water quality standard for receiving waters. If applicable water quality objectives are adopted and approved by the State Board after the date of the adoption of this Order, the Water Board may revise and modify this Order as appropriate.