



November 8, 2006

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

Copy to be sent via e-mail to MRP@waterboards.ca.gov

Re: City of Sunnyvale Comments on Regional Water Board Working
Draft of Municipal Regional Permit (revised version issued October
16, 2006)

Dear Mr. Wolfe:

Thank you for the opportunity to review and comment on the working draft storm water Municipal Regional Permit that was provided to us via e-mail by your staff. We appreciate the early circulation of current thinking on draft permit language.

While we have many comments related to specific requirements in the proposed permit language, our comments can be summarized in the following general areas of concern:

- Proposed language and requirements are overly prescriptive, specifying methods and means of compliance. This level of specificity prevents permittees from individually or collectively determining the most cost-effective and efficient means of achieving water quality goals. An example is the proposed requirement to retrofit all storm drain inlets/catch basins with a grate-type of device. This retrofit with trash grates has not been demonstrated to be the most effective or efficient method for preventing litter from entering catch basins. As suggested by BASMAA, this would seem to be a very appropriate area for pilot studies to identify what is most cost-effective and efficient for particular applications.
- New permit requirements go beyond existing requirements without providing the link to water quality benefits obtained from increased requirements. The increased requirements have substantial costs

associated with them. One example is the proposed requirement to replace 50% of street sweepers within five years. Street sweepers have estimated useful lives of at least seven years, and possibly up to 12 or 15 years. Replacing them before the end of their useful life is wasteful of public funds and would constitute an unfunded mandate.

- Lack of understanding of current programs as detailed in annual work plans and annual reports. Understanding of current programs in place would provide better guidance as to what would be helpful to include in the new permit. An example is the proposed new requirement for mowing or removing all vegetation by hand from roadsides and medians. Existing Integrated Pest Management Policy, as spelled out in our Urban Runoff Management Plan and previous submissions of Annual Reports, identifies the hierarchy of alternatives for this maintenance, in keeping with integrated pest management principles and environmentally protective practices.
- No indication of priorities or focus for the new permit. Instead, the proposed permit appears to be a comprehensive “wish list” of new requirements, with the overall result being a larger burden on permittees than the current funding climate will support, and without a demonstrated link to water quality benefit.
- Rescinding approval of previously approved programs for alternative compliance would seem to require duplicative effort and be wasteful of public funds, diverting them from other water quality efforts. What is the basis for rescinding approval of the previously approved alternative compliance program, which the City has implemented, including modifications of our municipal code?
- What is the basis for suggesting that third party certifications not be paid by the project applicant? The stakes to such consultants are small in terms of any benefits or favors they might receive other than simply reasonable pay for their professional work. The suggested requirement appears to unjustly imply that registered professional engineers would risk their certification for no other stake than their professional pay for work completed, or future work in relatively minor amounts, and would pose a significant additional workload on city staff to administer such contracts.
- While the working draft was public noticed as “not a polished document,” the form it was in made it difficult to review due to the

format design, lack of a consistent format, repetition of permit conditions in several sections, and contradictory provisions found in several locations in the document (e.g., trash/litter control and storm drain marking).

We strongly support the use of the BASMAA working draft of the Municipal Regional Permit as a starting point to discuss the RWQCB staff's unresolved issues at the workshop scheduled for November 15, 2006. The BASMAA Draft Tables and provisions offer solutions to most of the issues raised in previous RWQCB work shops and the tables are formatted and organized in a logical and consistent manner, making it easier to review and discuss the unresolved issues.

We hope that you will use the draft BASMAA MRP Provisions and Tables to help prioritize the discussions on the extensive list of actions and requirements of the draft MRP.

If you have questions regarding these comments, please contact Lorrie Gervin at (408) 730-7268.

Sincerely,



Marvin A. Rose
Director of Public Works

cc: Shin-Roei Lee, Chief – South Bay Watershed Management Division,
Regional Water Board
Adam Olivieri, Program Manager, SCVURPPP
Donald Freitas, Chair, BASMAA