



DEC 08 2006

# CITY OF DALY CITY

333-90TH STREET

DALY CITY, CA 94015-1895

PHONE: (650) 991-8000

December 7, 2006

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

SUBJECT: Preliminary Comments on Staff Draft Municipal Regional NPDES Permit  
Dated October 13, 2006

Dear Mr. Wolfe:

The City of Daly City appreciates the opportunity to review and provide comments on the draft Municipal Regional Permit (MRP) distributed by Water Board staff on October 14. While the Board coordinated workshops conducted on November 15 and 20, 2006 were very informative and helpful, they underscore that there are many significant issues of both program approach and expected implementation standards that must be worked through before a final permit is achieved. At the workshop of November 15, it was understood the comment period would be extended to December 8. It was also suggested that a separate workgroup consisting of water utility and sanitary sewer representatives be convened to address issues specifically associated with the use of potable water. Daly City is interested in participating in these meetings and has so informed your staff.

Daly City, along with other Bay Area stormwater programs and municipal agency staff, has spent countless hours working with Water Board staff and non-governmental organization (NGO) representatives for over two years to develop an MRP to satisfactorily coordinate and implement urban runoff pollution control for the San Francisco Bay area. Therefore, it was somewhat of a surprise to find that the MRP draft released by Water Board staff didn't seem to reflect the time and consensus reached within the technical working groups that met over an approximately one-year period.

Moreover, the Bay Area Municipal Stormwater Management Agencies Association (BASMAA) submitted a proposed draft permit to the Water Board on September 22, 2006 and again on November 8, 2006 that reflects the serious effort spent by BASMAA member agencies working to craft and implement an achievable approach. Its development is consistent in content and format and includes the tables developed by the technical work groups, provides for streamlined reporting, and incorporates an increased level of performance across all components with a particular emphasis for the pollutants of concern, which many believe should be the priority and focus for this round of permitting. It furthermore provides for real achievements in water quality protection and improvement and it is an accurate account of what the BASMAA agencies believe to be realistic and reasonable levels of effort for this permit cycle. The City of Daly City is one of 76 public BASMAA agencies that participated in this process and supports the BASMAA proposal.

Mr. Bruce Wolfe, Executive Officer  
SF Bay RWQCB  
December 7, 2006  
Page 2 of 4

It is for these reasons Daly City believes and requests that the BASMAA proposal be used as the framework and basis for future permit negotiations when moving this process forward. It is Daly City's contention this will result not only in an improved document, but an improved process that better achieves the Water Board, NGO and local agencies' objectives for improving regional water quality.

What follows are select excerpts from the November 8, 2006 Alameda County Clean Water Program (ACCWP) comments and those submitted December 5, 2006 by the San Mateo Countywide Stormwater Pollution Prevention Program (STOPPP) on the draft MRP that are reflective of Daly City's general concerns.

- 1) **Provisions are too prescriptive:** There needs to be a balance between providing clear requirements and providing for flexibility in implementation. This draft permit prescribes the manner of implementation in too much detail.
- 2) **Provisions require excessive reporting:** Enormously burdensome level of reporting with little benefit. Our understanding is that streamlining the reporting process is a goal that we share with the Water Board. This draft permit greatly increases the level of paperwork required. For any reporting that is required, the Water Board should be able to clearly articulate the need.
- 3) **Provisions outside proper scope of an MS4 permit:** Some provisions relate to requirements that are covered under other permits, such as 401 Certifications. Other provisions relate to activities that are beyond the scope of a stormwater discharge permit.
- 4) **Provisions requiring action outside of permittees' authority/control:** Each permittee is individually responsible for their own permit compliance. The permit should not make a permittee liable for the inaction of an entity outside of their jurisdiction. These provisions need to be deleted or rewritten to specify the requirement for the permittee.
- 5) **Monitoring and Watershed Assessment:** A very expensive monitoring and assessment program, much of which has little connection to or nexus with improving water quality, is proposed. The draft MRP harkens back to a time early in the development of MS4 permits that any monitoring, if not all monitoring, would somehow advance program development. Such is not the case and it's a disappointing development as it had been perceived Water Board staff and municipal agencies had moved beyond such an antiquated approach. A more efficient use of municipal funds should be focused monitoring to help answer specific questions toward assessment of program implementation, not the proposed suites of monitoring activities. Other comments fall into four general categories: (1) This draft permit includes many provisions that were not included in the work group product, and many of these new provisions go beyond what could be considered a reasonable level of effort; (2) Many of these new provisions did not receive consideration from the work group or have been altered, without any justification, from the provisions that did achieve consensus in the work group; (3) Draft provisions do not include prioritization or optimization to make best use of limited resources and address the most critical information needs; and (4) Includes provisions outside of appropriate scope for MS4 permit.

- 6) **Optimize MRP Requirements:** It is troubling to recognize the lack of integration and linkage on existing program responsibilities with new and enhanced permit requirements. Water Board staff and the general public must understand and appreciate the significant issues facing municipal agencies to allocate limited public resources.
- 7) **New Development Requirements:** Modifications to the C.3 Requirements appear questionable at this time and the reduction from the current 10,000 square foot threshold to 5,000 square feet seems more symbolic than substantive in rationale. It would be more prudent to assess ongoing compliance based on existing criteria and re-evaluate those before moving forward on new standards.

Daly City offers the following specific considerations.

- 1) Cost remains an issue. A city's ability to raise fees is subject to Proposition 218 requirements as recently clarified by the State Supreme Court. A local constituency must be able to equate both the value and benefit generated against the anticipated cost. A lack of community support will not sufficiently fund these extensive new requirements, and existing revenue sources are insufficient. Water Board staff must understand there are many local programs, i.e., public safety, recreation, senior activities, library services, just to name a few, competing for limited resources requiring the evaluation of local priorities.
- 2) The sheer volume of work to be accomplished is overly ambitious. Even if funding wasn't an issue, the amount of work to be performed along with the timeframes under which they are to be accomplished is unrealistic. In addition, time is needed to gather information so a comprehensive analysis can be conducted to determine the next best course of action such as the previously mentioned provision to reduce the size threshold for numerically sized treatment controls from 10,000 to 5,000 square feet. This draft MRP prescribes multiple competing tasks that are not linked together and actually end up working against each other. The monitoring program is a good example. It should be a question driven process that leads us down the right path, not data gathering for the sake of information. The monitoring process should be reorganized and made more cost effective to ensure valuable resources are not wasted on unnecessary/premature activities.
- 3) With respect to reporting justification, Daly City contends the benefit of databases and voluminous reporting is hard to quantify. What is clear is that several staff positions and outside consultant services will be needed to comply with just the reporting provisions. Without resources to pay for these requirements, it will mean that existing staff will spend more time in the office maintaining databases, filling out and compiling forms instead of being in the field working with residents and businesses to prevent non-stormwater discharges.

Add in the significant requirements for each aspect of the provisions that require additional resources for staff, materials, equipment, and monitoring and the costs are considerable. But, what is the benefit? What is the goal and can that goal be measured in a meaningful way? It's not clear, for example, how

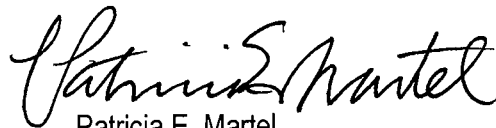
Mr. Bruce Wolfe, Executive Officer  
SF Bay RWQCB  
December 7, 2006  
Page 4 of 4

increased and prescriptive reporting, documentation, public education, and non-prioritized monitoring will translate into the goal of prohibiting non-stormwater discharges to improve regional water quality.

Clearly there is more work and rigor that must take place in moving the MRP process forward. Daly City will remain a close partner with STOPPP and BASMAA toward achieving a goal of a meaningful program that integrates and links up with efforts already taking place.

I trust you will find these comments helpful. Should you have any questions or require additional information, please contact Patrick Sweetland, Director of Water and Wastewater Resources, at (650) 991-8201.

Sincerely,

A handwritten signature in black ink that reads "Patricia E. Martel". The signature is written in a cursive, flowing style.

Patricia E. Martel  
City Manager

PEM/ps