



TOWN OF LOS GATOS

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December 8, 2006

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

RE: Town of Los Gatos Comments on Regional Water Board Working Draft of Municipal Regional Permit (MRP), revised version issued October 16, 2006

Dear Mr. Wolfe:

Thank you for the extended opportunity to review and comment on the working draft of Municipal Regional Permit. Because of the small size of our community, approximately 30,000 persons and our small engineering staff, we were not able to review and comment on the document in the initial time allowed.

Many other municipalities in the Santa Clara Valley have made specific comments on the draft permit, most of which we agree with, our comments will be more general in nature and address the areas that concern us the most:

- We are particularly concerned with proposed provision C.3.b.i.(3), pertaining to the replacement of 10,000 sq. ft. or more of existing street, which in four years becomes 5,000 sq. ft. One of our most common complaints from our citizens is the poor condition of the roadways in our town. Some of our streets have been neglected for so long or have structural problems due to the sheer volume of traffic, that the only way to adequately maintain the road is to remove the road surface and subsurface and rebuild the street. We do not do this lightly because of the cost, disruption and inconvenience to our citizens and visitors. Adding another area of cost will only stretch our limited budgets even thinner than they are already. Additionally, since the roadways are existing, BMPs for the treatment of runoff is very limited, primarily the inclusion of vortex separators. Unless we obtain additional land (another expensive proposition) or remove existing median island landscaping (where they exist), we cannot install bioswales or similar, lesser cost BMPs. These proposed requirements could even be problematic when widening an existing street, say going from two (2) lanes to four (4) lanes. We don't always reconstruct the existing roadway when widening a street, because the existing roadway is in good condition. It is often not possible to construct the widened portion of the roadway so that runoff can flow to the BMP without creating an unsafe situation with dissimilar slopes.

We are also confused by the exclusions. Section C.3.b.i.(2) states that specific exclusions are "routine maintenance or repair such as: pavement resurfacing, repaving and rehabilitation within the existing footprint." Repaving, rehabilitation and replacement are so extremely similar to a municipal civil engineer that we are not sure exactly what your staff means by these terms. This should be clarified.

- Group 1 provisions went into effect on July 15, 2003. The Group 2A provisions went into effect on July 20, 2005 and Group 2B provisions went into effect on August 15, 2006. We have only approved **two (2)** Group 1 projects, and construction on neither has been completed. Since the Group 2 provisions have been in place, we have only approved **one (1)** project. There has obviously not been enough time or enough projects to evaluate the effectiveness of those provisions, let alone begin new, much more restrictive provisions.
- We are a "cost recovery" municipality. That means that people who use our services must pay for those services. We have no process to collect the money to pay for all the inspections and reporting that is required under the current permit, let alone what is proposed under the new permit. As a municipality, we are the first agency that people come to when they have concerns about their quality of life, but we do not control the amount of funding we receive, whether it is property tax or sales tax. The cost of providing these services is substantial. Between the inspections and reporting, we are estimating that it will average about four (4) hours per project. In 2006 dollars, that translates into about \$350 to \$400 per inspection, without cost recovery.
- Section C.3.h.ii states "... the Regulated Project proponent should not pay for the services of the third party conducting the review." Who is going to do the review and who is going to pay for it, if not the project developer? We currently have four registered civil engineers on our staff, including our Traffic Engineer. The small municipalities certainly can not afford this added cost or hiring another registered engineer for the few projects that we review each year. Even if we choose a third party to review and certify the project's adherence to Provision C.3.d. and are paid for those costs by the project developer, we are incurring cost in processing collection of monies from the developer and paying the third party reviewer. There is also the cost of choosing one or more third party reviewers. We must do a Request for Proposal (RFP) and then the third party chosen must have our minimum amount of insurance and have a Town business license. These are not simple processes. Additionally, municipalities are required to be audited each year, so we must clearly show how we arrived at the fees charged the developers. We also feel that this is an excessive burden for the estimated two or three projects each year.
- We were surprised by the removal of the single-family home exemption for projects that would add or replace 5,000 square feet or more of impervious surface within three years of the adoption of the MRP. The elimination of this exemption would impose significant burdens on municipal staff. By requiring these projects to incorporate stormwater treatment measures in addition to site design and source control measures, this provision of the MRP will require the municipalities to expend significant additional resources both at the project review stage and at the subsequent inspection and reporting stages. Los Gatos has been requiring appropriate site design and source control measures on all proposed projects, including single family homes. Because these measures do not require numeric sizing, engineering review or subsequent inspection and reporting, they are both possible to incorporate into projects and simple to

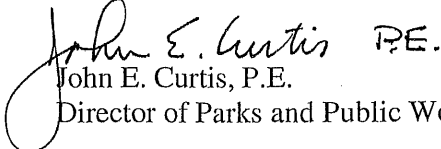
Page 3
Bruce Wolfe
RE: Comments on Draft MRP
December 8, 2006

maintain. We believe this approach—i.e., promoting site design and source control measures for all projects—will be more effective and cost-efficient than imposing a blanket requirement for numerically sized, post-construction stormwater treatment measures and subsequent inspections on single family homes.

- On the requirements for Single-Family Homes, what exactly is meant by “collectively over the entire project”? A property owner may construct a house, garage, driveway and patios that total 4,000 sq. ft. Then several years later, a subsequent owner may do an addition that is 1,500 sq. ft. Does this mean that the project is now over 5,000 sq. ft. and must install BMPs?
- In January 2005, the Town purchased an air-regenerative street sweeper. Although we have kept our older sweeper, we only use it in the autumn during heavy leaf drop or if our new sweeper is in the shop. For our daily sweeping, we only use one sweeper and only have one sweeper operator. The draft permit is requiring that we “phase in 50% of existing street sweepers with new street sweeping equipment purchases within five years after adoption of this Order.” This is another financial burden that is placed on the municipalities. Street sweepers should last seven to ten years and they cost several hundred thousand dollars.
- Los Gatos staff believes that a good starting point for revising the draft MRP is the BASMAA draft permit. This document was created with input from all 76 Phase I co-permittees in the Bay Area, reflects local government concerns, and provides an essential perspective on practical and realistic ways to achieve good stormwater management.
- In reviewing the draft MRP, it is clear that there are some processes and language differences between your staff and the staff of our municipality. Los Gatos staff recommends that the Water Board retain a municipal engineering/planning consultant to review the next draft MRP for language and process requirements.

To summarize, Los Gatos is a small city with limited staff and resources. While Los Gatos staff supports the MRP’s laudable goal of reducing stormwater pollution throughout the Bay Area, we believe the approach to achieving this goal outlined in the draft MRP is problematic. Thank you again for the opportunity to comment on the working draft of the MRP.

Sincerely,

 P.E.
John E. Curtis, P.E.
Director of Parks and Public Works

Cc: Cheri Donnelly, WVCWP
Jill Bicknell, SCVURPPP
Debra Figone, Town Manager