350 Frank H. Ogawa Plaza, Suite 900
Oakland, CA 94612-2016

t. 510.452.9261
f. 510.452.9266

saveSFbay.org

November 8, 2006

John Muller, Chair
San Francisco Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Dear John:

Thank you for the opportunity to provide comments on the draft Municipal Regional Urban Runoff Phase I NPDES Stormwater Permit (MRP). Our comments on this draft of the MRP focus on water pollution by trash and how the permit should address the issue. We appreciate the intensive effort of the Board staff to craft new trash provisions for the draft MRP and the significant progress to date.

Save The Bay represents 10,000 members throughout the Bay Area with a direct stake in improving San Francisco Bay water quality. Save The Bay's **Keep It Clean!** campaign has provided the region's residents with tools to reduce runoff pollution from their homes, cars and businesses, and we partner with municipal agencies on wholesale efforts to reduce Bay pollution. Our communications with the public about Bay trash levels in particular have touched a nerve, sparking a flood of responses from Bay Area residents who are concerned about the significant and visible trash buildup in the Bay and want more aggressive action to reduce trash and other runoff pollution.

We are pleased to see the serious steps forward in this draft permit's treatment of trash as a pollutant with significant impacts on water quality. Recent research from around the world confirms the detrimental impacts of trash on aquatic life, including plastic and its burden of contaminants breaking down into small particles that are ingested and incorporated into the food web. To minimize these impacts on San Francisco Bay fish and wildlife, it is imperative to reduce trash inputs to the Bay as quickly as possible. Requiring permittees to conduct assessments of creek and land trash hot spots and then implement measurable trash reduction is the right approach.

From watch list to MRP

This permit appropriately requires much stricter assessment and controls on trash than previous permits. The increased level of attention is justified by the lack of action by most permittees in response to the November 14, 2001 staff report, "Proposed Revisions to the Section 303(d) List and Priorities for Development of Total Maximum Daily Loads (TMDLs) for the San Francisco Bay Region." The Water Board called for increased action on trash five years ago through the "watch list" approach, which gave permittees the flexibility to gather data without

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any specified methodology, timeline, or other requirements. Except for data and reports produced by the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP), that approach yielded no significant action. The more prescriptive approach proposed in the current permit draft is necessary to produce real action, and is an appropriate effort by the Board to reduce the negative impacts of trash on water quality where local stormwater programs have made minimal progress.

Trash entering waterways impairs water quality, no matter what the pathway

This permit should state explicitly that permittees are responsible for all trash that reaches a waterway under the jurisdiction of the Water Board. There are many pathways by which trash can reach waterways and impact water quality, including via storm drains, littering and dumping in creeks, and water- or wind-borne movement of trash into creeks and the Bay. Whether trash is blown from parking lots, commercial centers or overflowing trash cans into creeks that flow to the Bay, is transported to creeks by rain runoff over land, or washes in storm drains, it is impairing the Bay and its tributaries and harming water quality, fish and wildlife. Stormwater programs that claim their responsibility for trash is limited to items flowing through a storm drain are not complying with the Basin Plan, which explicitly prohibits discharges of "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." This MRP draft appropriately details provisions for trash that flows through storm drains and trash that is found in urban tributaries. Additional language should be inserted to ensure clear, uniform understanding that trash entering waterways impairs water quality no matter what the pathway, and that permit holders are responsible for reducing and preventing impacts from trash through all pathways, not just storm drains.

Enforcement

Current permittee actions are not producing water quality that meets the requirements of the Clean Water Act. Failure to comply with provisions of the new MRP should be met with appropriate consequences. The current draft does not spell out consequences or accountability provisions for permittees who do not achieve the water quality improvements required in the permit or make good-faith efforts by implementing the required actions. We recommend adding to this permit clear provisions for enforcement and penalties for failure to comply with the requirements of the MRP.

Individual areas to clarify or strengthen

Before the draft is finalized, several individual items should be revisited to clarify their intent. Trash provisions are located in four separate subsections within the Municipal Maintenance Activities section, in the Water Quality Monitoring section, and in the Pollutant of Concern Provisions for Trash section. The references are not always consistent with each other, and those inconsistencies should be removed in order to provide clarity for permittees and a basis for enforcement. Individual instances are listed below, with suggestions to clarify or strengthen the language to preclude confusion or multiple interpretations of the intent of the passages.

In Permit: **Municipal Maintenance Activities, Street Sweeping, Recording/Reporting provision ii (page 3):** Keep records of types of sweepers used, swept curb miles, volume or weight of materials removed.

Recommendation: Consider standardizing the unit of measure for street sweeping records. All municipalities reporting standardized and comparable measurements will produce meaningful data across the Bay Area.

In Permit: **Municipal Maintenance Activities, Litter/Trash Control, Implementation Level, provision i (page 10):** Identify and assess potential litter/trash accumulation areas, particularly in high priority street sweeping areas.
Recommendation: Describe further what is meant by "assess:" what level of detail is required, how many areas must be assessed, and what the goal of assessment is. Does this refer to detailed trash level characterization, by the Keep America Beautiful land method, or merely to rating the trash spot as high/medium/low priority? We recommend that these assessments parallel the creekside trash assessments spelled out in Section 10, Pollutant of Concern Provisions for Trash. There is a significant need to collect data on current trash levels.

In Permit: **Municipal Maintenance Activities, Litter/Trash Control, Implementation Level, provision vi (page 11):** For major water courses … identify and prioritize business centers … based on their proximity to waterways and the likelihood of contributing trash to waterways. Implement, at least ten (10) sites for each Program or County, litter/trash prevention and removal activities for the prioritized business/areas on a pilot basis.
Compare to provision i (page 10), as above.
Recommendation: This approach singles out one type of trash-generating area and requires projects to be implemented there. We recommend prioritizing projects based on which sites are most heavily impacted by trash – regardless of what type of site that is – and determining the causes of trash deposition and implementing appropriate management actions.

In Permit: **Municipal Maintenance Activities, Litter/Trash Control, provision b, Litter Receptacles Placement and Maintenance (page 10):** Permittees shall place and regularly maintain litter receptacles in parks and public places as part of their pollutant sources control efforts.
Recommendation: Though it seems simple, this item may prove too difficult to enforce in practice. SCVURPPP co-permittees have expressed frustration with an obvious lack of adequate trash receptacles in many high-trash areas. We recommend strengthening the language on this provision along these lines: "Assess where more trash receptacles would reduce trash accumulation, and install additional receptacles."

In Permit: **Municipal Maintenance Activities, Litter/Trash Control, provision d, Enforcement of Anti-Littering Codes (page 11):** Permittees shall develop and enforce anti-littering codes.
Recommendation: The proposed language could be interpreted as a blanket requirement to enforce codes. Currently enforcement is rare, and a more realistic approach may be to require small but increasing steps towards enforcement. We recommend specifying or giving examples of cases in which enforcement should be pursued.

In Permit: **Municipal Maintenance Activities, Storm Drain Operation and Maintenance, Catch Basin Inspection and Cleaning, provision a (page 12):** …annually inspect all catch basins or storm drain inlets, and as needed, clean them…

Municipal Maintenance Activities, Storm Drain Operation and Maintenance, Catch Basin Inspection and Cleaning, level of implementation iii (a) (page 12): Inspect and clean storm drain inlets/catch basins of trash and accumulated debris at least annually…
Recommendation: Clarify whether cleaning of catch basins is to occur annually or as needed.

In Permit: **Municipal Maintenance Activities, Storm Drain Operation and Maintenance, Catch Basin Inspection and Cleaning, level of implementation ix:** Identify additional areas for implementing storm drain inlet retrofits or other trash control/collection options each year.
Recommendation: Add a requirement to *implement* additional retrofits at identified sites, with a minimum number of sites each year. The language points towards a step-wise increase in the number of retrofit projects, but perhaps accidentally omits a final provision requiring the identified project sites to be implemented.

In Permit: **Municipal Maintenance Activities, Storm Drain Operation and Maintenance, Stormwater Pump Station and Conveyance Systems, implementation level iv (page 14):** Monitor dry weather flows, dissolved oxygen, conductivity, and other pollutants.
Recommendation: Include trash in the list of pollutants to be monitored.

In Permit: **Municipal Maintenance Activities, Storm Drain Operation and Maintenance, Stormwater Pump Station and Conveyance Systems, implementation level v (page 14):** Explore diversion of dry weather and first flush discharges from pump station to sanitary sewer to reduce impacts to water quality.
Recommendation: To clarify the intent of "explore," insert additional language, such as: "Identify which pump stations have the most significant environmental impact, and which may be the best candidates for future diversion to sanitary sewer. Work with the appropriate sanitary sewer treatment plant to determine the feasibility of dry season diversion for treatment plant capacity. By end of permit term, have identified one or more pump stations for which sanitary sewer diversion can be implemented and a schedule for implementation."

In Permit: **Municipal Maintenance Activities, Storm Drain Operation and Maintenance, Stormwater Pump Station and Conveyance Systems (pages 14-15):**
Recommendation: This section does not include a requirement to retrofit or include trash capture projects at pump stations. In the inventory of pump stations called for in section iii, include the age of the pump station facility. When pump station equipment reaches the end of its useful life and needs to be rehabilitated or rebuilt, require enhanced trash management (an upgrade from current trash racks or existing mechanisms at pump station) to be incorporated into the infrastructure upgrade project. Vortex separator units just upstream from the pump station facility could be installed where possible, or other technology that best fits the site.

In Permit: **Water Quality Monitoring, Table 1, Status and Trends Monitoring Elements, Trash Assessment – Baseline & Trends (page 63):** See provision __, requirements regarding trash monitoring.
Recommendation: This section is currently a placeholder and refers permittees to see a master list of trash monitoring requirements elsewhere (currently unspecified which section). We agree that trash monitoring requirements should be standardized with clear, easy-to-follow

recommendations that are consistent from section to section. However, it would be useful to summarize the trash monitoring requirements in the monitoring section as well.

In Permit: **Pollutant of Concern Provisions for TRASH (page 92):** There are two components to the Plan – a component targeting trash in urban tributaries and a component targeting trash entering the Bay from urban storm drains.
Recommendation: Define "urban," and ensure that use of this term does not exclude from trash management activities areas that are less urbanized but are nonetheless highly impacted by trash, whether from upstream creeks delivering trash, homeless encampments (which can be a significant source of trash even in less urbanized areas), dumping, or other pathways.

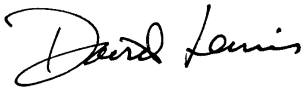
In Permit: **Pollutant of Concern Provisions for TRASH (page 92):** Conduct two wet weather and two dry weather baseline trash assessments using the Rapid Trash Assessment method (RTA, version 8) in the lower reaches or upstream portion of the tidal reach of all major (need to define, also for Monitoring Provision) tributaries flowing through urbanized watersheds (may just need to sit down and map these!).
Recommendation: Complete this section by including or attaching a list of applicable tributaries.

In Permit: **Pollutant of Concern Provisions for TRASH, provision b, For trash conveyed in urban storm drains to the Bay, section ii (page 93):** Submit a report during year 4 that evaluates compliance with the tributary trash performance standards and reports the results of the urban storm drain assessment.
Recommendation: The urban tributaries section gives permittees two years to gather baseline data and then calls for measurable reductions from that baseline. This performance standard also should be used for urban storm drains.

Finally, the MRP should call for a central location for data collected by the permittees so that it may be publicly available.

Thank you for considering these comments. We look forward to the next draft of the MRP and continuing to work with you to reduce trash and its impacts in San Francisco Bay.

Sincerely,



David Lewis
Executive Director