



December 8, 2006

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 and regular mail

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 additional time to review and comment on the October 16, 2006 "working draft" storm water Municipal Regional Permit (MRP) that was provided to us via e-mail. Sunnyvale staff attended two workshops on the draft MRP on November 15 and 20 to participate in the Water Board staff proceedings to collect additional comments. Due to the limited time available at the workshops for discussion of the complex issues proposed in the draft MRP, all concerns that the City has could not be addressed.

In fact, no meaningful discussions on the proposed Water Board staff language occurred at these two workshops. Water Board staff presentations consisted of brief overviews of the various MRP requirements where no details or rationale supporting the need for changes to current permit criteria were presented. Also, there were no discussions that tied the need for the proposed changes back to water quality benefits or linkages to Total Maximum Daily Load (TMDL) implementation (with the exception for discussions on the Pollutants of Concern.) When Water Board staff did provide any rationale for the proposed changes, the rationale provided was either not clear or did not support the need for change (e.g., the need to reduce C.3 applicable project size thresholds to 5,000 square feet.)

Significantly more time is needed to discuss all the Water Board staff proposed requirements for the draft MRP. In particular, workshop attendees requested additional meetings on the new and redevelopment requirements, monitoring, conditionally exempt discharges, and trash reduction requirements. Any

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resulting proposed language from such meetings should be reviewed within the context of the need to optimize and prioritize all MRP requirements.

A major theme expressed by the co-permittees attending the two workshops was the need for Water Board staff to prioritize their requests for increased efforts and expenditures on the part of the co-permittees. This major refinement of the Water Board staff's wish-list of increased efforts has not been accomplished. Through Bay Area Stormwater Management Agencies Association (BASMAA), the co-permittees have submitted the program elements that can be done, given current agency budget constraints and the lack of any state or federal funding sources to enhance any new levels for program implementation. We strongly urge the Water Board to go through a prioritization exercise for all permit elements before the next draft permit is produced.

We would also like to know what plans the Water Board has for responding to the comments on the draft MRP provided by co-permittees and stakeholders. Will there be a response to comments provided for those who have commented prior to the posting of a revised draft permit for agencies to review? These questions were asked at the workshops by participants. However, no clear response was received as to the Water Board's intentions for dealing with submitted comments, other than indicating they would be posted on their website.

In our previous comment letter submitted on November 8, 2006, we strongly urged the Water Board to utilize the BASMAA working draft of the Municipal Regional Permit as a starting point to discuss the RWQCB staff's unresolved issues at the workshops. This was not done at the workshops, but Water Board staff has allowed additional time for submission of comments on their draft. The City has decided to submit more detailed comments on the Water Board draft permit in this letter, despite our belief that it is not the best draft MRP to be working from. We believe that the BASMAA draft is a significant accomplishment and resource based on our collective objectives for the MRP and we should be discussing that version, not the very "rough" draft provided by Water Board staff. We believe that the Water Board draft needs a significant amount of work in order to coordinate requirements and actually have the document reflect shared objectives among Water Board staff, the co-permittees and numerous stakeholders. The BASMAA draft already does this for the 76 co-permittees and we continue to strongly support its use as a basis for future permit discussions.

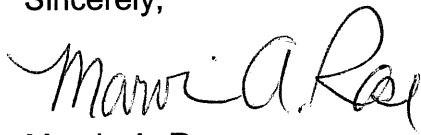
At the workshops, Water Board staff indicated that it was their intent to prepare a revised administrative draft permit by mid-January 2007. Again, we request that the staff use the BASMAA draft document as the starting point for this effort. Water Board staff should then provide proposed changes to that draft document along with the appropriate supporting rationale for those changes.

We request that stakeholders be given at least five weeks to review the next revision of the draft permit. This would allow for area-wide monthly program

management committee meetings to occur. New workshops could be scheduled after the five week comment period.

Please contact Lorrie Gervin at (408) 730-7268 if you have questions regarding this letter and the attached comment table provided.

Sincerely,

A handwritten signature in black ink that reads "Marvin A. Rose". The signature is written in a cursive style with a large, prominent 'M' and 'R'.

Marvin A. Rose
Director of Public Works

Attachments: Sunnyvale Comment Table on Draft Permit (10/16/06 version)

cc: Adam Olivieri, SCVURPPP Program Manager/ EOA, Inc.

Attachment

The following table identifies each section of the October 16, 2006 RWQCB working draft permit and the comments/concerns that the City of Sunnyvale has about the implementation of the provisions being proposed.

MRP Page Number, Provision Number & Provision Description	Sunnyvale Comments on Water Quality Benefit, Feasibility, Financial/Staffing Impacts, etc.
<p>Page 3 Street and Road Sweeping and Cleaning, Implementation Level items: ii, vi & v</p>	<ul style="list-style-type: none">• Increases in requirements for sweeping frequencies will have significant impacts on operations and management budgets for the city without adequately demonstrating the water quality benefit.• The water quality benefit of the requirement to replace 50% of our current regenerative air sweepers within the 5 – year permit cycle has not been demonstrated. Although it was stated in one workshop that this was included as an error in the permit draft, we want it to be very clear that this is not acceptable to the City the way the provision is currently worded.• These expensive sweepers generally have a life expectancy that is closer to 7 years or more, and up to 12 – 15 years in some cases, depending on their level of use. It would be more appropriate to require that as sweepers are replaced, they should be evaluated to determine if sweeping effectiveness could be improved by the use of vacuum, regenerative air sweepers for normal street sweeping. No water quality benefit has been identified that would demonstrate the need of their replacement before the end of their useful life.• Another concern staff has is that some types of debris and sweeping areas are not best served by a regenerative-air type of sweeper. In locations prone to having larger litter (e.g., papers, cans, containers, and leaves) a broom sweeper is more effective, as the regenerative air sweeper clogs too quickly and loses its effectiveness at removing small particles. Clogging also results in equipment breakage, uncompleted routes, and the loss of ability to remove the majority of litter and debris from these streets. In such locations, the removal of the bulk of the material along the street should be the primary goal, not the removal of fine particulate material.• Sunnyvale has four regenerative air sweepers. To replace 50% of the fleet over a 5 year period is an expensive and an unfunded mandate. New sweepers

	<p>are expensive and cost between \$200,000 - \$350,000 each. The increased frequency of sweeping proposed will likely double budgets for staff and O&M for equipment. Also, the disposal of sweeping equipment before the end of its useful life would have to be justified to taxpayers.</p>
<p>Page 4 Street and Road Sweeping and Cleaning: Implementation Level Items b.i & c.i - iii</p>	<ul style="list-style-type: none"> • The requirement to annually evaluate street sweeping efficiency in order to improve pollutant removal is vague and quite onerous. Cities are already providing information on amounts of debris collected, curb miles swept, and satisfaction of the community with sweeping efforts. However, municipalities are not able to perform detailed scientific studies on the varying conditions of sweeping efficiency on an annual basis. This item is burdensome and is open to a broad interpretation by regulatory agencies. • The City already operates street sweeping equipment per the manufacturer's recommendations as outlined in the City's URMP and having to verify that a sweeper is being operated properly is excessive. What is the Regional Board's expectation here? Does this mean that a municipality would have to install some kind of computerized device on all sweepers to show that appropriate speeds were met at all time? No water quality benefit had been provided to justify this potential expense. • We already evaluate our program annually and determine if there are things that need to be done differently. What water quality benefits will there be from the requirement for a quarterly audit of our street sweeping program? This seems to be a paper generating exercise that does not add value to existing annual evaluations, especially since it appears that RWQCB staff historically has not had the time to read and evaluate our current annual reports. What water quality benefit is achieved by increasing the frequency and expense of internal audits? • Potential capital costs to implement this provision which could include some type of electronic monitoring of sweeper operations, data collection, and staff time to prepare reports for the quarterly audits would be significant. If quarterly supervised inspections are called for, an increase in operating costs for the sweeping program will result without a demonstrated water quality benefit.

<p>Page 7 d. Storm Drain Inlet Marking .i, <u>also found on Page 12, a.ii, P. 52, 7a.ii; and Page 57, PIP Item 7.ii</u> (<u>First of four storm drain marking requirements listed in the draft permit</u>)</p>	<ul style="list-style-type: none"> • The City marked its storm drains beginning in the mid-1990s. We currently have a process to re-label a certain percentage of storm drains each year. • Requirements for storm drain inlet marking activities occur in multiple areas of this permit and are contradictory and confusing. For example, inlet marking requirements on page 57, Item 7.ii conflict with the inlet marking requirements on Page 12, item 7.a.ii. • One set of requirements should be established in one section of the permit (preferably in the Storm Drain O&M section).With the different requirements occurring in multiple sections of the permit, a municipality can not determine which of the requirements they are to follow.
<p>Page 9 5, Landscape Maintenance, c. Vegetation Controls</p>	<ul style="list-style-type: none"> • The task description refers to activities that remove excess vegetation from storm drainage ditches. However the Implementation Level item i. refers to the removal of vegetation along road sides as well as storm drain ditches. Having to mow or remove all vegetation by hand from roadsides and meridians (or ditches, if they are within a city's jurisdiction) is very costly. No demonstrated water quality benefits have been provided for these required actions. • Requiring the "mowing" of vegetation along road sides is both impracticable and does not necessarily follow the Integrated Pest Management hierarchy for dealing with roadside vegetation. The City currently employs IPM techniques when dealing with excess roadside vegetation. However, this does not mean that everything is "mowed". Other appropriate mechanisms such as use of pre-emergent herbicides, mulches, and mechanical control techniques, other than mowing, are employed. • When labor-intensive methods are prescribed as a permit condition, a municipality is prohibited from selecting appropriate methods that are less costly and may well be equally protective of water quality.
<p>Page 10, 6. Litter/Trash Control</p> <p>Note: Litter control requirements appear in three places in this</p>	<ul style="list-style-type: none"> • Page 10, Item iii of the Implementation Level items listed duplicate the requirements of what would be intended for b. on Page 13, items v-ix. The idea discussed at the MRP workgroup meetings last year, and agreed upon by that group and BASMAA were to select locations for pilot projects and to implement

document (Page 12-13 and page 92), making it extremely difficult to determine what the requirements are since some of them appear to overlap and conflict with each other. Our comments in this section are on the litter control requirements we found in these locations. We recommend that the BASMAA model be followed and litter/trash control actions be listed in the IC/ID section of the permit, since they fall in under the Illegal Discharge definitions.

studies to assess their effectiveness and associated costs. Then, based on an evaluation of these pilot projects, to develop a phased implementation of appropriate enhancements to existing litter removal and control programs.

- On page 10, Items iv and v appear to conflict:
 - 1) Provision iv states that trash removal programs in creeks needs to be done twice a year in the waterways, before and after the rainy season.
 - 2) Provision v provides contradictory instructions by requiring that trash removal is supposed to occur during the wet season after “first flush” and after the wet season.
 - 3) There is no definition provided as to what a “trash problem area” is for a waterway. Trash problem areas in mostly suburban, residential communities have different orders of magnitude in the amount of trash/litter present, especially when compared to communities with a more urban/commercial sources or homeless populations near waterways. The level of effort and actions needed to address the problems will be very different in each community. Often, the burden of dealing with larger trash issues falls upon communities with populations who live at a lower socio-economic status rather than those residing in more affluent areas.
- The removal of trash from waterways during the rainy season is problematic, unsafe, and is sometimes illegal. As pointed out in discussions with Regional Board staff during MRP meetings, working in and around creeks and waterways in winter months is often not safe due to high water flows and soft, unstable banks. Also, Fish and Game and other agencies prohibit in-stream activities in waterways during those wet-season months as these activities can disturb migration and spawning of endangered fish species.
- The additional actions being proposed on Page 10, Section vi would require hiring of more city staff or diversion of staff from other essential duties in order to perform the trash removal actions and implement the proposed pilot program. This would be in addition the current staff (and volunteers) that are already working on trash control/prevention assessments and actions.
- On Page 92, litter/trash has been added as a new Pollutant of Concern without having it being listed in

	<p>the 303(d) listings for this area. The co-permittees, through BASMAA agreed that we need to take actions to better assess and control litter/trash in waterways, but setting thresholds of compliance without an adequate basis or background is unrealistic for the following reasons:</p> <ol style="list-style-type: none"> 1) There is no linkage in this section to the other requirements being proposed on page 10. 2) This is a fragmented piece of a provision and needs to be consolidated with the all the efforts on the part of municipalities to control litter and trash conveyed into waterways by storm water conveyances. <ul style="list-style-type: none"> • On Page 92, the expectation that control measures could be implemented upstream within 3 years of the permit to meet an artificial threshold of trash accumulation is unrealistic. The threshold limits proposed for this permit amount to imposing a TMDL standard without going through the research, data evaluation, and process of developing a TMDL. • The requirements for trash control efforts should not be included in the Pollutant of Concern section (Page 92). Requirements should be located the ICID section of the permit as requested by BASMAA
<p>Page 13 7. Catch Basin Inspection and Cleaning and Retrofits b.</p>	<ul style="list-style-type: none"> • There was no finding or basis for requiring the prescriptive catch basin retrofit requirements listed in Item b of the Baseline List of BMPs. A study to identify the best retrofit options was proposed in the MRP – Municipal Section work group as opposed to the mandatory trash grate idea included here. As a result, the items v., vii, viii, and ix listed in the Level of Implementation section are duplicative of what was intended for the studies being proposed for Item 6, “Litter Trash Control” in the Level of Implementation items ii and iii on Page 10. • The implementation of the mandatory retrofit requirement for catch basins would have significant financial impacts for a municipality without supporting documentation that this is the best method to control litter from entering catch basins. Most built-out cities are not adding additional catch basins, so redesign is not a viable option for them. • Sunnyvale recommends completing a pilot study for trash enhancements which is supported by the BASMAA draft to identify the most effective alternatives to help control litter from entering

	<p>waterways. Implementing the actions identified by the studies would have financial impacts on municipalities. However, the measures identified in the pilot studies will have been demonstrated to be effective at controlling litter and not causing additional problems such as street flooding. If municipalities have information as to the O&M as well as capital costs for their installation, then municipalities could then more effectively include these requirements in budgets and begin a phased catch basin retrofit program, if that is determined to be the most effective option.</p>
<p>Page 14 8. Storm Drain Operation and Maintenance - Stormwater Pump station operations – a.iii – iv.</p>	<ul style="list-style-type: none"> • It is not clear what the water quality problem is that this permit provision is attempting to address. An adequate basis for requiring monitoring of dry weather flows (if any) from Storm Water Pump Stations has not been provided. • The addition of a monitoring requirement for pump station flows during dry weather will be a significant cost to cities, especially for an unknown list of potential pollutants. There is no evidence that there has been a problem in storm water pump station operation and maintenance for the two pump stations operated by Sunnyvale, so it is unclear why additional monitoring requirements are now included. • Municipalities will consider reviewing current Pump Station BMPs and SOPs to enhance and report on existing operation and maintenance actions. Currently SOPs and BMPs are in place as a part of our Urban Runoff Management Plan's section on Storm Drain maintenance and address inspection frequency and maintenance activities. The City's URMP was provided to Regional Board staff as part of the SCVURPPP permit renewal application.
<p>Page 14 8. Storm Water Pump Station and Conveyance Systems: item a.v – Dry weather flows and first flush diversions to POTWs</p>	<ul style="list-style-type: none"> • The term "explore" as used in this provision is so vague that a permittee has no idea what must be done to be in compliance. • To even begin to prepare a study assessing the feasibility of dry weather and first flush events to POTWs is a significant and potentially costly undertaking. We request that the Water Board establish priorities for imposing additional items beyond what was provided in the BASMAA submittal. • Storm water pump stations may not be near enough to sanitary sewer connections that could handle the increased flows from storm water influx without potentially causing a sanitary sewer line overflow.

	<ul style="list-style-type: none"> • This provision has the potential to cause problems for municipalities who operate POTWs that must meet the NPDES permit requirements for those facilities. POTW operations and processes are not designed to treat the relatively large quantities of dilute waters from the first flush of storm water conveyances. • This requirement is also the beginning of establishing numerical limits for storm water effluent, as treated stormwater would have to meet the discharge requirements for POTWs. • There has been no demonstrated water quality benefit for this provision in the San Francisco Bay area and we contend it is a waste of public funds to “explore” this idea further.
<p>Page 15 8. Storm Water Pump Stations and Conveyance System: item a. ix -</p>	<ul style="list-style-type: none"> • Provision ix on page 15 is not reasonable or practical and may be dangerous for employees to comply with. Inspecting trash racks during or within 24 hours of a storm event is not safe, especially when flows are exceptionally high. Proper maintenance and inspections of pump stations prior to and after storm events are essential city services to prevent potential flooding. Mandating that a potentially dangerous activity such as trash removal occur during storm events or shortly after when flows may still be high is not justified when compared to employee safety. • Establishing an arbitrary inspection and cleaning schedule for pump stations is not necessarily protective of water quality. The schedule should be designed and implemented by the municipality to ensure proper operation of the pump stations, designed to prevent flooding, and maintain public safety during storm events. • Most cities have already implemented Storm Drain Pump Station Operations and Maintenance SOPs and BMPs to frequently clean and prevent blockages and flooding of pump station fore-bays/trash racks. This information was provided to the RWQCB in our Urban Runoff Management Plan submitted as part of our application for permit renewal.
<p>Page 18 10. Corp Yard Maintenance, Implementation Level item vi</p>	<ul style="list-style-type: none"> • The requirement for covering all storage bins is not always feasible and other options for controlling discharges to storm drain systems need to be considered. For example, redirecting flow to landscaping or installing measures to protect existing storm drains and treatment of storm water should be considered as options.

<p>Page 19 10. Corp Yard Maintenance, Implementation Level, Items b and c</p>	<ul style="list-style-type: none"> • The basis for requiring staff other than Corp Yard staff to do inspections of Corp Yards is unclear. We are not aware of any documented problems with permittees not being truthful in their annual reports that they are implementing the requirements of their Storm Water Pollution Prevention Plans (SWPPPs). • This requirement for other parties to perform inspection activities at the Corp Yard does not appear to support any water quality benefit. Also, this provision questions whether a City's Corp Yard staff which is trained on their SWPPP, would not perform self inspections with the same level of knowledge, expertise, or integrity as another (yet to be determined) group of employees would. • The requirement that Corp Yard SWPPPs be updated annually does not make sense nor have a linkage to a water quality benefit. Cities should review their plans annually, and update them if conditions have changed. However requiring SWPPPs be updated irrespective of whether changes are needed is a waste of staff time and resources. These plans do not change that much from year to year. It would be more reasonable to require an update once per permit cycle, in order to include any new storm water permit requirements. • Cities certify that they comply with conditions of the Urban Runoff Management Plan in each Annual Report submitted to the Regional Board. If the Regional Board staff do not agree with these certifications, then we suggest they inspect or audit the facility themselves to ensure compliance. • The strict application of these rules will require an unjustified expense to the municipalities, especially when it has not been shown that the impact to water quality and pollution prevention will be improved by these actions.
<p>Page 20 11. Lagoon Maintenance</p>	<ul style="list-style-type: none"> • These requirements for lagoon maintenance apply to such a limited number of potential permittees (perhaps one permittee), their inclusion this provision seems to clutter an already complex permit with requirements that are not essential for implementation on a region-wide basis. Additionally, requirements for lagoon maintenance are handled by other permits issued by the RWQCB.

<p>Page 22 3. New and Redevelopment Item a</p>	<ul style="list-style-type: none"> • Item iii. “reporting to be determined” is problematic. How is a permittee supposed to provide meaningful comments on something that is not outlined?
<p>Page 23 3. New and Redevelopment – b. Regulated Projects</p>	<ul style="list-style-type: none"> • Item (2) i includes exemptions for pavement resurfacing within the existing footprint of a project. Then item (3) i appears to conflict with this statement by requiring that streets, roads, highways, or freeways under a co-permittee’s jurisdiction that create or replace 10,000 square feet of impervious area would be required to comply with the construction and sizing of storm water treatment systems of the permit. This provision is unclear as written, when compared to our current storm water permit that states: “Excluded routine maintenance and repair included roof or exterior surface replacement, pavement resurfacing, repaving and road pavement structural rehabilitation within the existing footprint, and any other reconstruction work within a public street or road right-of-way where both sides of the right-of-way are developed.” • We request that the Significant Redevelopment Project language be retained as stated in our current permit.
<p>Pages 24 –26 3. Effective Date: Beginning the fourth year after MRP adoption: New and Redevelopment – requirements for projects that add or replace 5,000 square feet</p>	<ul style="list-style-type: none"> • Proposing to reduce the size of C.3 applicable projects to 5,000 square feet in the fourth year of the permit is premature. Cities have just begun implementation of the 10,000 sf. threshold projects within the past year, and the first of these newly approved projects are just now completing construction. There is no rationale that demonstrates why this smaller threshold would provide a water quality benefit, especially in highly urbanized areas. The brief discussions allowed at the first workshop only touched on this issue and significantly more discussion is needed. • The exemption for single family residences has been removed without identifying the water quality benefit of doing so. Requiring single family homes to implement BMPs from a RWQCB list that has not yet been specified is unreasonable. There has not been an adequate assessment completed of the water quality benefits that might be realized in communities that are already highly urbanized. • It will be more difficult to implement the storm water treatment requirement on 5,000 sq. ft. impervious area addition infill projects as compared to undeveloped land. This approach of ratcheting down on the C.3

	<p>applicability project size seems to be contrary to the movement toward “smart growth” by promoting redevelopment rather than expansion into undeveloped areas.</p> <ul style="list-style-type: none"> • For public projects (especially roads) this size reduction would be an undue burden and is likely not feasible. For example, upgrading the safety of a city street by adding left turn or right turn lanes could exceed the 5,000 ft impervious threshold. There may not be any option for treatment for these small areas in an already developed street or roadway system. • City staff is concerned about the amount of time and resources needed to manage the additional numbers of small projects that would need to develop and implement Storm Water Management Plans to demonstrate compliance with the treatment and control requirements of this permit. These small projects would also have to be inspected for compliance, which will also add a significant cost increase for inspections and enforcement of Storm Water Management Plan requirements. Sunnyvale staff anticipates it would likely double our current work load of projects for review, inspection, and post-construction inspection based on the percentage of smaller projects projected from impervious surface data collected by the City in FY 02-03.
<p>Page 28 Item e, (5) Operation and Maintenance of Storm Water Treatment Systems</p>	<ul style="list-style-type: none"> • Mandating the inspection of a storm water treatment system occur within 30 days of its installation is unreasonable and does not provide a demonstrated water quality benefit. Often, the certificate of occupancy has not been granted for the new construction within this time frame after the installation. The City has established inspection frequencies in accordance with current permit conditions and has not received any comments from Water Board staff reviewing those programs that they are inadequate. • The mandated inspection schedule in items ii and iii do not make sense as written. Isn't a “vault system” considered a storm water treatment system? Also, no water quality related basis is provided for requiring 20% of a total number be inspected annually. • No water quality benefit is discussed here to show how this increase in effort (and cost to the municipality to implement the program) will improve existing inspection programs that have just started as first C.3 compliant projects complete construction.

<p>Page 29, f. Hydromodification Management, Item i.</p>	<ul style="list-style-type: none"> • To state under the Task Description that a placeholder is there for “tweaks” to the Santa Clara HMP is at best, unprofessional. How can a city or program be expected to provide clear and precise comments to a placeholder that will undergo some unknown “tweaking” of its requirements in a future draft document?
<p>Page 30 g. Alternative Compliance, Items ii & iii</p>	<ul style="list-style-type: none"> • There has been no water quality benefit identified to support rescinding the Alternative Compliance Program approvals that were already granted. Sunnyvale acted in good faith, pursuant to state law and included an Alternative Compliance provision in the Sunnyvale Municipal Code (SMC 12.60 270 and 280). This provision outlines the city’s requirements for a waiver for impracticability and compensatory mitigation. To remove the City’s ability to implement a program which has been in place for over 3 years is unfair and unreasonable. Such actions undercut the credibility and integrity of a regulatory authority. • The Alternative Compliance program proposed in the diagram entitled MRP Provision C.3.g on page 34 is basically identical to the existing program that the City of Sunnyvale has outlined in SMC 12.60.270 and 280. There is no demonstrated benefit of making the City re-apply for approval of an alternative compliance program that already meets the standards set in the RWQCB example. This duplicative effort is wasteful and will divert public funds from other more beneficial water quality improvement efforts.
<p>Page 30, h. Alternative Certification of Adherence to Design Criteria for Storm Water Treatment Systems, Item ii</p>	<ul style="list-style-type: none"> • While the City agrees that there should be a reasonable effort to ensure that third-party certifiers have no conflict of interest with a particular project, we do not agree that the project proponent should not directly pay the third-party reviewer for the project. The City already requires that two professional engineers (the engineer/designer for the project and a separate firm (from a list of qualified consultants that have had their qualifications reviewed and approved by City staff) certify that the project will meet the requirements of SMC 12.60 and the C.3 requirements included therein. • To require that the regulated project proponent should not pay for the services of a third-party performing the review calls into question the professional integrity of engineers or landscape architects as it suggests that they would be untruthful when placing their

	<p>professional stamp on a project.</p> <ul style="list-style-type: none"> • It is standard practice for the City to require a project applicant to provide environmental assessments for a proposed project to determine its level of environmental impact (e.g., traffic, noise study, etc.) and this is paid for by the project applicant. We believe that the risks of losing professional certification protect the City. All professional organizations that provide certification of professionals include an ethics component to their certification process. The person conducting the study or professional review/certification risks losing his or her professional license if they report in a dishonest manner. Checks and balances for determining who is qualified to provide certification is provided by the professional organizations and certified professionals do not take this responsibility lightly, as it means their ability to maintain their livelihood.
<p>Page 31 J. Collection of Impervious Surface Data for Small Projects</p>	<ul style="list-style-type: none"> • The development of a new database and the collection of impervious surface data for what amounts to almost all projects is an undue burden on the City, with no demonstrated a link to water quality benefits. The City went though this exercise in FY 02-03, when we collected data for projects that were adding 500 square feet in size or more of impervious area. We found it to be very unwieldy to implement as almost all projects had to be reviewed by staff and the data was difficult to perform QA/QC on unless a significant amount of staff time was spent with each applicant to ensure that their calculations for impervious area were accurate. • Relying mostly on single family homeowners or small businesses to provide this information without QA/QC when applying for ministerial permits does not provide quality data that should be used form making decisions that will have future major economic impacts homeowners, businesses, developers and municipalities. • The City of Sunnyvale administers approximately 1,200 planning permits each year, and staff spending at a minimum 30 minutes (we are conservative with this time estimate, as it often took longer) with an applicant, explaining the application to them, checking their calculations for accuracy, and entering the data into a database would require in excess of 600 staff hours per year to implement. With cities continuing to have “flat” budgets or facing budget cuts, there

	<p>appears to be no value-added information from this data collection exercise.</p> <ul style="list-style-type: none"> • There are other mechanisms available to determine impervious area, other than filling out forms and we strongly suggest that the Regional Board consider those other options rather than impose requirements that have been shown not to be cost-effective or provide accurate data in the past.
<p>Page 33 k. Development of Lot –Scale Stormwater Treatment Measures</p>	<ul style="list-style-type: none"> • What is the definition of “relatively small Regulated Projects”? There has been no linkage of water quality benefits to specific standard requirements for storm water treatment measures on “small projects” in highly urbanized watersheds. • Municipalities have already identified and are implementing BMPs for projects that do not meet the current C.3 size threshold. These BMPs include actions such as diverting roof runoff to landscaped areas, use of pervious paving materials, and minimizing impervious areas for paved surfaces.
<p>Page 36 4. Industrial/ Commercial Inspection Program a. Legal Authority</p>	<ul style="list-style-type: none"> • Sunnyvale has already provided information in our Urban Runoff Management Plan that was included as part of our Program’s NPDES Permit application that identified the City’s legal enforcement authority to implement storm water pollution prevention actions at Industrial/Commercial sites. It does not seem that there is an identified water quality benefit from re-submitting information on existing ordinances and legal authority which was submitted two years ago.
<p>Page 36-38 4. Industrial/ Commercial Inspection Program</p>	<ul style="list-style-type: none"> • In general, the added requirements, data base development, and additional types of businesses/sic codes to be inspected have not been shown to have any measurable water quality linkage and will add additional costs for program implementation. • This section needs to be prioritized as not all the increased efforts have a demonstrated water quality benefit.
<p>Page 41 4. Industrial /Commercial Inspection Program Staff Training, Item d</p>	<ul style="list-style-type: none"> • The extensive list of training being proposed by the RWQCB goes well beyond the basic requirements to identify urban runoff, ICID incidents, and the statewide NPDES Industrial storm water permit. While some of this information would be of interest, it appears that the Regional Board wants the municipalities to take on the implementation and inspection requirements for statewide programs without providing any financial benefit to do so. • The development of a guidebook could be useful, but

	<p>requiring that the co-permittees be responsible for annual updates in perpetuity seems extreme. The frequency of updates is excessive. Conditions may not change significantly from year to year which would require that annual updates be prepared. Revising once a permit cycle may be more reasonable.</p>
<p>Page 44 4. Industrial /Commercial Inspection Program,- Collection System Screening</p>	<ul style="list-style-type: none"> • The requirements for collection system screening are entirely new. Since the bulk of this requirement would be met by Field Services staff responsible for Storm Drain O&M, these requirements should be included in the Storm Drain O&M section of the permit • This provision has a significant potential cost to cities for implementation, especially the requirement to perform the screening twice a year in both wet and dry seasons. This requirement is in addition to the catch basin inspection and cleaning that is already being performed annually. • These requirements need to be prioritized in light of all the other new requirements being added for municipalities.
<p>Page 46 6. Construction Site Stormwater Pollution Management Implementation Level</p>	<ul style="list-style-type: none"> • This document changes the start date of the rainy season to two weeks earlier and finish two weeks later than it is in our current permit. • No support has been provided to explain the need for change in rainy season start and stop dates.
<p>Page 47 6. Construction Site Stormwater Pollution Management Item d. Plan Check .ii</p>	<ul style="list-style-type: none"> • The requirement to review Erosion Control plans during the pre-rainy season inspection may be reasonable. However the second part of the requirement “or more frequently as needed” does not provide any criteria for implementation. If a project is inspected at the beginning of the rainy season, that should be sufficient. If follow- up inspections of the site do not show the plan being implemented properly, then a compliance issue is created which can adequately be dealt with through enforcement action.
<p>Page 49 6. Construction Site Stormwater Pollution Management - table with inspection frequency</p>	<ul style="list-style-type: none"> • The requirement to perform storm water-specific inspections of large construction sites once per month during the dry season does not provide any demonstrated water quality benefit. Also screening inspections these sites 3 times per week in the wet season seems excessive, especially if there are no indications of problems with a site. • The increased inspection frequency requirements have staffing cost implications for cities. This requirement should be prioritized in light of all the other additional/new permit requirements.

<p>Page 51 6. Construction Site Stormwater Pollution Management Tracking/Self Evaluation</p>	<ul style="list-style-type: none"> • A recurring theme in many of the draft permit requirements is the development of an electronic database to track inspections and report on violations. While this may be an admirable goal, to institute it effectively so that it is useful and has some meaning is another issue. Requiring the development of a database for tracking purposes amounts to micromanagement of a permittee's methods for accounting. For small communities, this may not be feasible and cost prohibitive. The standard of reporting appropriate information should be set and then it should be left to the permittees to determine the best way to track and collect that data, based on their individual programs. Tracking, data entry, and report preparation take a considerable amount of time for a permittee. Based on the lack of review of current annual report submissions by Water Board staff, this seems to be more "reporting for the sake of reporting" with permittee staff potentially spending more time on data collection and reporting than actual inspection and implementation of actions in the field.
<p>Page 52 7. Public Information, Outreach, and Public Participation Efforts, Item b.i Task description</p>	<ul style="list-style-type: none"> • The requirement to "significantly Increase overall awareness of message and behavior change in target audience" is ambiguous in its value. Reporting on this would be difficult and would be poorly based on an unknown value of what constitutes "a significant increase".
<p>Page 53 7. Public Information, Outreach, and Public Participation Efforts, - Item e. iii Reporting and Footnote 1</p>	<ul style="list-style-type: none"> • There appears to be a conflict here with the task description suggesting participation in a Farmers Market to reach a broad spectrum of the community. This is then followed by a clarification that the Farmers Market may not reach a broad spectrum of the community. This incorrectly assumes that the Farmers Market is strictly an IPM event and is not the family-oriented community event that it truly is. • Sunnyvale outreach staff attends our local Farmers Market once per month for at least 10 months out of each year. Based on the numbers of people reached and the quality of our interactions with the public, we believe that this event reaches a broad spectrum of the Sunnyvale community (as well as many residents from neighboring cities) on a regular basis.
<p>Pages 57-74 8. Water Quality Monitoring</p>	<ul style="list-style-type: none"> • The significant increases in expectation for water quality monitoring included in this section needs to be prioritized. With current budget limitations for most co-permittees, this increase cannot be funded without a

	<p>significant impact on other general funded city services.</p> <ul style="list-style-type: none"> • Not all cities have a storm water utility that can pass on the increased costs to residents for the proposed increases in levels of monitoring and water body assessment efforts in this draft.
<p>Pages 64-65 8. Water Quality Monitoring Item e. . . i-iv Monitoring Projects</p>	<ul style="list-style-type: none"> • This whole section sets up a new data submission schedule that does not coincide with annual reporting. This is an added burden to a monitoring program that has been responsive with data sharing and updates at the earliest possible time frame. • To require additional report preparation outside of the established reporting periods is an undue burden that provides little water quality benefit.
<p>Page 66 8. Water Quality Monitoring, f. viii. TMDL Monitoring,</p>	<ul style="list-style-type: none"> • Developing a work plan and investigating emerging pollutants of concern, when an urban storm water runoff connection has not been identified for the pollutants (e.g., endocrine disrupting compounds) listed is an unreasonable and burdensome requirement for the storm water programs. • With limited funds available for new investigations by co-permittees, the Regional Board staff must prioritize pollutants of concern investigations. It will not be possible to find the funding necessary to investigate every potential pollutant of concern being listed in this draft of the permit.
<p>Page 88 9. Diazianon and Pesticide Related Toxicity, Item: Contract mechanisms to ensure IPM use</p>	<ul style="list-style-type: none"> • Mandating the language to be placed in City contracts with Pesticide applicators within 18 months of permit adoptions will not be possible in all cases. Not all contracts are issued annually. Having to renegotiate contracts to include specific wording (yet to be determined) will be costly for cities, without ensuring significant water quality benefit. • Currently Sunnyvale does require that pest control contractors hired by the City follow the requirements of the City's IPM policy. However, depending upon what changes might be included as part of the RWQCB "placeholder" language to prescribe specific standards for contract specifications, it could require that the City renegotiate current contracts. • A better approach would be to require the new language (once developed) be included in new or renewal contracts with pest management companies approved one year after the implementation date of the permit.
<p>Pages 92-93 10. Pollutant of</p>	<ul style="list-style-type: none"> • There is no linkage in this section to the other trash management requirements being proposed on page

<p>Concern Provisions for Trash</p>	<p>10.</p> <ul style="list-style-type: none"> • This is a fragmented section that needs to be consolidated with the all the efforts on the parts of municipalities to control litter and trash conveyed into waterways by storm water conveyances. • These new requirements need be prioritized in light of all the other proposed new permit requirements. • Numerical thresholds for compliance are being set without any clear basis or linkage to what other programs such as SCVURPP has found in its trash survey work. It is agreed that co-permittees need to take actions to control litter problems in waterways, but setting thresholds of compliance without adequate basis or background is unrealistic. • The expectation that control measures could be implemented upstream within 3 years of the permit to meet an artificial threshold of trash accumulation is unrealistic. The threshold limits they are proposing for this permit amount to imposing a TMDL standard without going through the research and process needed for developing a TMDL.
<p>Page 99 12. Pollutant of Concern Provisions for PCBs: Item 2. Investigation and abatement of PCBs in soils/sediments</p>	<ul style="list-style-type: none"> • The requirement to both investigate and abate PCB contamination at private sites and in areas where the municipality does not have jurisdiction is an unfunded mandate.
<p>Page 105-107 13. Pollutant of Concern Provisions for Copper: Item 1.2 Wash water management from copper roofs and copper brake pads</p>	<ul style="list-style-type: none"> • There is no finding presented to demonstrate that wash water from copper roofs or other architectural features is a significant source for copper in storm water. This provision requires a considerable effort to develop and implement ordinances to address this very limited waste stream where no significant water quality benefit has been demonstrated. • The requirement to conduct pilot tests to enhance collection system design, operation and maintenance to remove copper-containing brake pad wear does not appear to follow Brake Pad Partnerships brake pad wear debris plan development efforts.
<p>Page 112 14. Exempt and Conditionally Exempt Non-stormwater Discharges; f. Discharges of Flows</p>	<ul style="list-style-type: none"> • City staff has discussed this proposed permit provision with our Public Safety Fire Captains. They state that implementing the proposed provision would be extremely difficult if not impossible to implement, especially on a large scale fire. • Blocking the storm drains would cause localized

from Emergency Fire Fighting Activities

flooding, thus interfering with fire suppression activities and creating safety issues for fire fighters working at the site. It would also be very labor intensive to try and block drain after drain, as the water flows past a blocked drain and on to the next one downstream.

- Additional staffing would be needed to block the storm drains and additional equipment (extra vactor trucks that would follow the fire truck to an incident) would be needed to implement this provision. This would require significant outlays of funds by cities for new equipment and the staff to operate and maintain them, 24 hours a day/7 days a week.
- Water flows of 1,000 gpm are common at a residential fire and easily exceed 5,000 gpm at a large scale commercial fire. No single vactor truck could handle that quantity of water being produced at a fire, so multiple vehicles would be needed, adding to the cost.
- There has been no identified water quality benefit from implementing such an expensive and potentially unsafe practice.
- Public safety staff does block storm drains and collect materials in the event of hazardous materials spills threatening storm drains. However, these are generally of a much smaller nature, with higher potential for toxic materials release, and involve less water than what would be used to fight a fire.