



**Santa Clara Valley
Urban Runoff
Pollution Prevention Program**

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October 6, 2011

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

Subject: Comments on the Amendment to the San Francisco Bay Municipal Regional
Stormwater NPDES Permit, Tentative Order No. R2-2011-XXXX

Dear Mr. Wolfe,

Thank you for the opportunity to submit comments on the Regional Water Board's Tentative Order to amend the Municipal Regional Permit (MRP) dated September 6, 2011. These comments were prepared by the Santa Clara Valley Urban Runoff Pollution Prevention Program (Santa Clara Program) on behalf of its 15 Co-permittee agencies. You may also receive separate letters from individual Co-permittees with comments that are specific to their jurisdictions. In addition, the Santa Clara Program supports and incorporates by reference the comments submitted by the Bay Area Stormwater Management Agencies Association (BASMAA).

The Tentative Order contains revisions to Provision C.3 and Attachment F of the MRP (Water Board Order No. R2-2009-0074). The Santa Clara Program appreciates the efforts by Water Board staff to review and comment on the MRP-required submittals over the last year, and to work with BASMAA on implementable approaches to meeting the C.3 requirements that protect water quality and encourage smart growth in the Bay Area. We also appreciate Water Board staff's acceptance of the revisions to our Hydromodification Management Applicability Map and inclusion of the revised map in the MRP amendment.

We have the following specific comments about the proposed amendments:

Special Projects Criteria

We appreciate that the proposed amendments to Provision C.3.e.ii. incorporate the general approach contained in BASMAA's Special Projects Proposal submitted on December 1, 2010, which recognizes the inherent environmental benefits of smart growth, urban infill and transit-oriented projects, provides LID treatment reduction credits for these types of projects, and allows the use of tree well filters and media filters on these projects as needed. We expect the LID treatment reduction credits to be applied to a small percentage of the total number of

development projects in our region and that the use of non-LID treatment will be limited. For example, the City of San Jose conducted an analysis of projects approved during the last five years and estimated that, if the Special Projects requirements had been in place during that time, approximately 91% of the total impervious surface created or replaced would have been required to use LID treatment measures and less than 9% of the total would have had the option to use non-LID treatment measures. Countywide, the overall percentage of impervious surface with the option to use non-LID treatment measures would be much lower, as many of our co-permittees do not expect to have the types of development that would qualify as Special Projects.

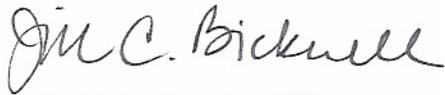
1. Special Project Categories “B” and “C” – Our Co-permittee agencies have concerns that smart growth projects in these categories that are only allowed partial LID treatment reduction credits will still have difficulty meeting LID requirements for the remaining impervious area. We would have preferred the credit system in BASMAA’s Special Projects Proposal that granted 100% LID treatment reduction credit to Category B projects.
2. Special Projects Located in a Priority Development Area (PDA) – We are concerned that projects located in PDAs are only able to get 25% in LID treatment reduction credits for location and not the 50% that was proposed in discussions with Water Board staff and regional transportation agency staff. The PDAs are designated by the Metropolitan Transportation Commission (MTC) as part of the San Francisco Bay Area’s FOCUS program, a regional development strategy that promotes a more compact land use pattern, linking land use and transportation by encouraging the development of complete, livable communities in PDAs, and promoting conservation of the region’s most significant resource lands. We understand that PDAs comprise only about 3% of the land area in the Bay region, but are expected to accommodate almost half of the projected housing growth. We believe that projects constructed within PDAs should receive greater incentives in the form of increased LID treatment reduction credits.
3. Former Special Project Category “D” – We are also concerned that Category D, which was part of BASMAA’s Special Project’s Proposal, was not included in the MRP amendment. Category D consists of redevelopment projects that redevelop more than 50% of the existing impervious surface, and therefore are required to retrofit portions of their sites that are not being developed or redeveloped, in order to meet treatment requirements in accordance with the “50% rule.” It is often difficult to make space for LID treatment measures in the part of the site not being redeveloped, or to get runoff from this part of the site to flow by gravity to LID treatment measures in the redeveloped part of the site. We do not want to disincentivize these types of urban infill projects and cause developers to choose instead an undeveloped site in a greenfield area that may be easier and cheaper to develop.
4. Biotreatment Soil Specifications – We object to the incorporation of the biotreatment soil specifications as Attachment I to the MRP amendment. BASMAA recommended in the transmittal letter for the soil specifications dated December 1, 2010 that only the biotreatment soil objectives (i.e., a minimum infiltration rate of 5 inches per hour and the ability to sustain vigorous, healthy plant growth and maximize stormwater runoff retention and pollutant removal) be included in the permit, and that the detailed specifications be referenced as guidance in order to allow room for further field experience and innovation with bioretention soils, as long as it is within the bounds of the

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minimum requirements needed to achieve effective stormwater treatment. We request that Attachment I be removed from the amendment so that the specifications are able to be refined over time based on experience with bioretention installations and performance.

We appreciate your consideration of these comments on the Tentative Order to amend the MRP, and we look forward to your specific responses.

Very truly yours,



Jill C. Bicknell, P.E., EOA, Inc.
Assistant Program Manager

cc: SCVURPPP Management Committee
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