



CITY OF ORANGE



CITY MANAGER

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July 31, 2014

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Submitted via email commentletters@waterboards.ca.gov

Subject: Proposed Amendments to Statewide Water Quality Control Plans to Control
Trash

Dear Ms. Townsend and Board Members:

The City of Orange appreciates the opportunity to comment on the proposed amendments to Statewide Water Quality Control Plans to control trash. The City recognizes the impact of trash on water body beneficial uses and over the last few years has been installing trash control devices in high trash generating areas as part of the storm water program's trash control strategy. This effort has proceeded cautiously as we have installed various trash control devices and evaluated their effectiveness and maintenance requirements.

Our concern with the proposed amendments is the speed at which this statewide program is being implemented without full stakeholder participation and the lack of verification of priority land uses to ensure they are in fact generating significant trash. Our comments follow below.

Trash Control Program Development

The Staff Report states the proposed program has been in development for a number of years and that a group of stakeholders was convened to provide input on the development of the program. It is also noted that stakeholder group meetings were not made public and the Staff Report is the first publicly available document that provides information on how the program is to be implemented.

We believe this is a large undertaking for a statewide program and our experience has shown that significant resources and costs will be expended to comply with these amendments. We urge the State to move slowly and provide additional time and more workshops to allow municipalities additional comments before these amendments are formally adopted. The time factor also does not allow for the review of the many supporting studies cited in the Staff Report within the comment period allowed.

Trash Control Strategy

The Staff Report states that the strategy to control trash is taken primarily from the experience in the San Francisco Bay and Los Angeles regions. We agree that those regions may have similar conditions applicable statewide but it must also be recognized that there are differences between regions and what is applicable in one region is not necessarily applicable in another region. It is important to recognize these differences because the cost to each municipality for the proposed program will be in the thousands to millions of dollars over the term of implementation as noted in the Appendix C of the Staff Report.

We commend the State for proposing a trash control strategy that is reasonable and applicable only to high trash generating areas instead of implementing a zero discharge policy for all land uses and water bodies. This latter option would make no sense and would be a waste of public funds and resources since wind driven trash can find its way to a water body and lead to a finding of noncompliance even with full implementation of trash control devices. It should also be noted that the storm events greater than the one-year event may produce trash that should not lead to a finding of noncompliance.

Recommendation: Recognize that storm events greater than one-year can carry trash into water bodies.

Priority Land Uses

The proposed amendments are based on strategy to control trash from priority land uses, which include residential high density, urban mixed, industrial and commercial, transportation hubs, bus stops and others. While it is clear that these land uses may produce high amounts of trash, how these land uses are incorporated into the program and defined needs to be considered.

High Density Residential

It is anticipated that residential high density neighborhoods will generate significant amounts of trash as shown in studies but it should be noted that the term and definition of high density varies among municipalities and the resulting densities are not all the same.

In Orange, the term "high density" is not a category within the City's Zoning Code. The proposed amendments define high density as ten dwelling units per acre. In Orange, this would translate to a zoning district categorized as Low Medium Density Residential-R-2 that allows within its mixture duplexes and small apartment buildings and has a density range of six to fifteen units per acre with an expected range of 8 units per acre. Impervious area in this district can range from 45% to 90% as noted in the Orange County Hydrology Manual for this building density.

Because the R-2 district allows ten units per acre, it would be categorized as a priority land use even though it may not meet the impervious area definition of 80-100% for high density as defined in Staff Report Section 3.2. Clearly, the lower range of Low Medium Density Residential in Orange of six units per acre would not meet this definition or be compatible with Figure 24 of the Staff Report.

Recommendation: The amendments should be revised to clarify that high density as used in the amendments with a building density of ten units per acre is a surrogate for residential land use that contains 80-100% impervious area. Municipalities should be allowed the opportunity to review their respective codes to ascertain what type of residential density meets the 80-100% impervious area criteria. It should also be recognized that zoning such as Orange's R-2 has a range of building densities and that trash control devices would only be used in areas where the existing built condition contains 80-100% impervious area. A field reconnaissance would be allowed to ensure only those areas with high impervious areas are retrofitted with trash control devices.

Industrial Classification

Within the category of Industrial land use there can be many subdivisions. In Orange, there is light and heavy manufacturing. Within the City we have seen a shift in industrial processing particularly in the Light Industrial use category where manufacturing processes are conducted indoors under cover and are not exposed to the elements. As a result, we have not seen a significant amount of trash generated on public streets in most areas with this land use. This is confirmed by the number of times City maintenance crews have had to clean catch basins within these areas. To require the use of trash control devices in industrial areas without verifying that significant trash is generated would result in a waste of public funds.

In heavy industrial manufacturing areas many facilities are subject to the State General Industrial Storm Water Permit where it is expected that trash control devices will be required onsite. The use of onsite trash control devices will minimize onsite trash discharged to the street and trash control devices may not be required within the public street.

Recommendation: The amendments should be revised to allow municipalities the opportunity to assess whether industrial land use areas are high trash generating areas.

The amendments should also be clear that municipalities are only responsible for providing trash control devices within a public street or areas they are responsible for maintaining. This does not include responsibility for providing and maintaining trash control devices on private land (shopping areas, apartment complexes, mobile home areas, etc.) or private communities with private streets.

Bus Stops

Bus stops are also designated a priority land use where trash controlling devices must be used. As with residential development, not all bus stops generate significant amounts of trash. Provisions should be included in the amendments to allow surveys of bus stop areas to determine which areas produce significant amounts of trash. In these areas, alternate methods to control trash such as more frequent cleaning should be allowed in lieu of providing a full capture device downstream.

Recommendation: Allow alternate methods to capture trash in lieu of installing full capture devices downstream.

Proposed Compliance

The amendments propose a two path alternative for compliance: Track 1 or Track 2. Track 1 requires operation and maintenance of full capture systems that capture runoff from priority land uses. Track 2 can be a combination of full capture systems and other alternative measures that achieve the same trash reduction goal.

Full Capture Devices

As defined in the amendments, full capture devices must be able to capture trash 5 mm and greater and sized for the 1-hr rainfall intensity of a 1-year storm event. Alternatively, it can be sized to handle the inlet storm drain capacity. This definition borrows from the full capture definition used in the Los Angeles River Watershed Trash TMDL.

Using this definition may make sense to match the ongoing trash control efforts in the Los Angeles and the San Francisco Bay Area where municipalities are trying to comply with existing trash TMDLs. However, this definition will have a negative impact in other regions where existing trash control devices, particularly vortex separators, were installed to meet MS4 permit design requirements such as the 0.2 inches per hour rainfall intensity specified in the Orange County Santa Ana Region permit. The proposed criteria will significantly reduce the usefulness of these devices that were installed at great expense.

Recommendation: The full capture design criteria should be revised to match existing criteria in municipal MS4 permits for rainfall intensity or at a minimum grandfather devices installed or under design in existing MS4 permits.

Certification Process

The Staff Reports indicates that devices already approved by the Los Angeles Regional Board will be accepted but that all new full capture devices used to satisfy Track 1 would be certified and approved by the State. A listing of these devices would be useful. However, there is no listing of approved devices nor is information provided on what needs to be submitted for obtaining approval of the new device. The processing and review time to get a device approved is also not specified.

This information is important to know in selecting future trash control devices. It may be possible that a municipality elects to implement a device that has not been approved and submits the device for State approval. If the State fails to act in a timely manner the potential exists for the municipality to be out of compliance because it failed to install 10% of the devices due to State delays or inaction.

Recommendation: Provide a listing of approved full capture devices and the information needed to get full capture devices approved and the anticipated review time.

Program Timing and Costs

Trash Control Program Timing

A major concern with the program is the timing of the proposed amendments and their cost implications. Over the last ten years there has been a significant expansion in the listing of impaired waters statewide and development of their corresponding TMDLs. TMDLs typically cover one pollutant and can cost millions of dollars annually to implement as shown by the statewide trash and bacteria TMDLs and the proposed solution for treating selenium in Orange County. Add to these existing TMDLs additional TMDL programs or a program such as the one proposed and the result can be millions of dollars in annual expenditures to municipalities.

Because of the significant cost of this program, the additional costs cannot be taken lightly and it must be noted that the proposed program is being implemented statewide without a finding of water body impairment that is typically a prerequisite before dischargers are required to comply with imposed limits. In addition, stakeholders are generally involved in developing TMDLs so that the solution is clear and everyone understands the potential costs. In this program, stakeholders are being given an opportunity to provide comments instead of a thorough vetting of the program.

Program Implementation Costs

To assess the expected program cost to municipalities, Appendix C provides tables of costs incurred by municipalities in the Los Angeles region and from a survey of MS4 permittees. These tables provide useful information and show that the anticipated program costs will be in the millions. Data from the City's experience with trash capturing devices has shown that automatic retractable screens cost an average of \$833 per catch basin. Add to that the cost of pipe screen connectors to make it a full capture system and the result would be an additional \$300-\$400 dollars per catch basin. This translates to about \$1100 per catch basin or about \$14.90 per capita. This amount is higher than the \$8.96 shown in Table 13 of Appendix C (page C-24) and the \$800 per unit noted on page C-30.

Experience with the automatic retractable screens has also shown that they require extensive maintenance to prevent captured trash from discharging downstream. As a preliminary estimate to assess the cost to the City, if we assume a range of one third to one half of the City's 1900 catch basins are to be retrofitted with automatic retractable screens and pipe connector screens, the anticipated costs would range from \$700,000 to about \$1,000,000. However, these devices are maintenance intensive and this cost must be balanced against a vortex separator which needs to be maintained 1-2 times per year but is likely to cost up to \$100,000 per unit. A mixture of the two types of trash control devices is likely to be the preferred solution but that would put the program cost in the millions of dollars.

Program Funding

Faced with the anticipated high costs of the program and the ever expanding universe of storm water programs that compete for the same resources, municipalities will have a difficult time securing funding without assistance. Municipalities cannot simply raise

rates. The Bighorn-Desert View Water Agency decision of 2006 effectively prohibited raising utility rates under Proposition 218 without voter approval.


With no money to fund trash control devices, this program along with health and safety programs will compete for General Fund revenues. Municipalities will be faced with the difficult choice of deciding which programs to fund at the expense of others. The State should consider ways to fund the program or assist municipalities in finding appropriate funding.

Another way to lessen the financial burden is to expand the time allowed for implementation of the program. TMDLs with anticipated high costs now routinely allow implementation periods up to twenty years.

Recommendation: a) The amendments should be revised to provide up to twenty years to implement the trash control program. b) The State should assist in funding the trash control program or find funding solutions.

Questions regarding these comments may be directed to Gene Estrada at 714-744-5547.

Sincerely,



John W. Sibley
City Manager

cc: Joe DeFrancesco, Public Works Director
Frank Sun, Deputy Director/City Engineer