



Napa County Flood Control and Water Conservation District

**JILL TECHEL
CHAIRPERSON
BOARD OF DIRECTORS**



August 2, 2011

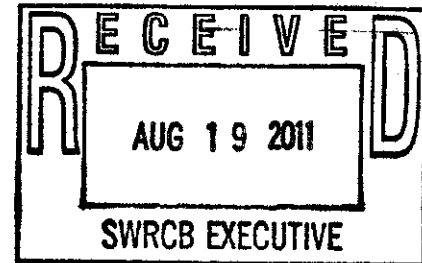
*NCSPPP
Participants*



A 2011 Plan of Stormwater
& Combined Sewerage



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



**Subject: Napa County Stormwater Pollution Prevention Program
Comments on Draft Phase II Municipal General Stormwater Permit**

Dear Ms. Townsend:

On behalf of the Napa County Stormwater Pollution Prevention Program (NCSPPP), please accept this comment letter on the draft Phase II Municipal Stormwater Permit (Permit). The NCSPPP is a joint effort of the County of Napa, Cities of American Canyon, Napa, St. Helena, and Calistoga and the Town of Yountville, facilitated by the Napa County Flood Control and Water Conservation District. Our program goals are to prevent stormwater pollution, protect and enhance water quality in the Napa River, local creeks and wetlands, preserve beneficial uses of local waterways, and comply with state and federal regulations.

The NCSPPP recognizes the State Board staff's efforts in drafting this new Permit are well-intentioned; however, many of its proposed elements will provide little, if any, demonstrable benefit towards our program's goals. Many important issues unique to small municipal agencies, such as ours, were not addressed because their representatives were inexplicably excluded from participating in the drafting of it, and it would be inappropriate for the Board to adopt this Permit under such conditions without developing a revised draft Permit that addresses the comments it has received. We recommend the Board direct staff to form a steering committee open to a local agency representative from each of the recognized Phase II stormwater programs in the State (such as ours) to develop a revised draft of the Permit.

Whereas the Permit is silent as to the sources of funding to cover the additional costs of compliance, its seeming reliance upon local funding sources to do so is misplaced in light of the Commission on State Mandates March 26, 2010 Statement of Decision in Test Case No.: 07-TC-09, which found that that numerous similar program

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elements in another National Pollutant Discharge Elimination System (NPDES) permit are a reimbursable State-mandated "new program" or "higher level of service under the California Constitution". We recommend the Permit be revised to eliminate and/or modify all such elements and/or expressly identify the source of State funding that will be provided to the NCSPPP and other programs such as ours, in order to implement this Permit. Furthermore, given the State's on-going budget shortfalls, we recommend any such revisions that rely upon State-funded implementation include a waiver should the State be unable to provide such funding in a particular budget year.

We are aware of numerous changes to the draft Permit that are being proposed by the California Stormwater Quality Control Association (CASQA) under a separate comment letter. While we believe a revised draft Permit that incorporates CASQA's comments would represent a more cost effective and responsible manner by which the Board could achieve its goals, and we generally support the proposed changes to the Permit proposed by CASQA, any such revised Permit would still ignore NCSWPPP's collective efforts regarding stormwater pollution prevention, watershed protection, restoration, and monitoring already in place in the Napa Valley. Most notably is the absence of any such consideration for the work associated with the federal Napa River/Napa Creek Flood Protection Project and numerous other local watershed enhancement projects undertaken by our member agencies in the past decade. These award winning projects, which have costs to date totaling in excess of \$600 million, are at the vanguard of environmentally responsible flood and watershed protection initiatives and represent our community's extraordinary commitment to the enhancement of water quality of the Napa River and its tributaries. We recommend the Permit be revised to include an exemption of Permit Elements E.7 through E.11 and E.13 through E.16 for our program because they provide zero additional water quality enhancement beyond the enumerable benefits already provided by these projects.

Additionally, the Permit's requirement to utilize the services a specific vendor (from Vancouver, British Columbia) to provide "Community Based Social Marketing" (CBSM) under the "Public Outreach" and "Public Participation" program elements is in stark contrast to the Qualifications-Based Selection and Public Bidding requirements of Public Contract Code and our local municipal ordinances and is generally antithetical to good public policy. The NCSPPP recommends Permit Elements E.5 and E.6 be revised and/or eliminated to exclude the prescriptive implementation levels and references to CBSM; our Program already has effective "Public Outreach" and "Public Participation" elements and additional prescriptive elements are unwarranted.

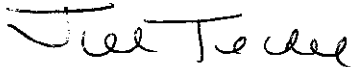
Furthermore, this Permit fails to consider its impacts on the land-use policies of Napa County; specifically, the zoning designations of Agricultural Resource and Agricultural Watershed, which for more than three decades have been paramount to preventing urban sprawl and thereby reducing stormwater runoff in the watershed. The overly prescriptive nature of Permit Element E.12 and the attendant requirement of volumetric hydromodification will be cost-prohibitive for private development and will result in a de facto prohibition of new infill development in our urban areas,

which is in direct conflict with the land-use policies of the Napa County General Plan and our local agencies' General Plans. We recommend the Board recognize our past efforts and exclude our program (and others whose land use policies are designed to prevent urban sprawl) from Element E.12.

Lastly, we renew our request for a 90-day extension of time (until January 8, 2012) to provide additional comments on the Permit. The above comments are an incomplete list given the inordinately brief timeframe which we've been given to review the Permit, and we expressly reserve the right to provide additional comments beyond September 8, 2011. It is incomprehensible that Board staff spent well over three years drafting this Permit behind closed doors while excluding an open dialogue with representatives from affected local agencies and then has allowed only 90 days for our Program to review and comment on this exhaustive Permit; we simply need more time to determine its implications.

Thank you for your consideration of this comment letter.

Sincerely,



Jill Techel
Chairperson of the Board of Directors
Napa County Flood Control and Water Conservation District

cc: NCSPPP Municipalities
Assemblymember Michael Allen
Assemblymember Noreen Evans