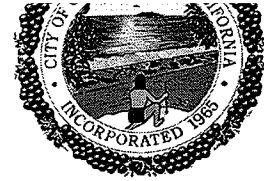


CITY OF CARPINTERIA, CALIFORNIA

DEPARTMENT OF PUBLIC WORKS



December 14, 2012

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



Subject: Revised Draft Phase II Small MS4 Phase II Permit Comments

Dear Ms. Townsend and Members of the Board,

Thank you for providing the opportunity to comment on the Draft Phase II Small MS4 General Phase II Permit (Phase II Permit). The City of Carpinteria supports the goal of the State Water Resources Control Board to maintain and improve watershed processes and water. The City participated in the California Storm Water Quality Association (CASQA) subcommittee review of the Phase II Permit as well and supports their comments. The City offers the following comments with the intention of improving the effectiveness of the Phase II Permit and ensuring the adopted requirements will be effective and both technically and economically feasible.

The City of Carpinteria generally supports the new and revised requirements proposed in the Phase II Permit and believes we can incorporate the new measures into our existing Storm Water Management Program. However, the exception to this is Attachment J, the Resolution adopted by the Central Coast Water Board detailing new post-construction Runoff Controls for the Central Coast Region. These requirements are complex and untested, having as yet not been applied to real development projects. The City requests that the State Board direct the Central Coast Regional Water Board to rescind the Region 3 post-construction requirements (Resolution No. R3-2012-0025) and apply the statewide E.12 post-construction standards of the Phase II Permit to the Central Coast Permittees. Short of this, the City requests that Attachment J be removed from the Phase II Permit, as it is likely that revisions will be made to the requirements through the Joint Effort Review Team (JERT), reformed at the direction of the Regional Board. Additionally, attaching the Resolution would require reopening and amending the State Permit, a lengthy and unnecessary process.

The City of Carpinteria, along with other Central Coast Agencies, participated in the Join Effort process to develop post-construction control measures for development in the Central Coast Region. Theoretically, the hydromodification requirements were developed using a science based approach that incorporates measures to protect watershed processes. The City is concerned that the post-construction requirements that were developed are not clearly linked to the initial science based watershed analysis. Additionally, Attachment D of Resolution No. R3-2012-0025, which defines sizing criteria for retention and water quality design, was added shortly before the September 2012 adoption hearing and was not subject to stakeholder or JERT review. Detailed comments on Attachment J of the Phase II Permit are below.

Technical Infeasibility

The City has an overarching concern that the regulations have not been tested for feasibility on projects in our region, and these requirements may not be attainable in many areas of the Central Coast. The City has suggested that the Central Coast Water Board work on verifying the technical feasibility of the regulations and offer greater flexibility for those project sites where regulations are shown to be technically infeasible.

Runoff Retention

The 95th percentile retention requirement of regulated projects in WMZ 1 and WMZ 4 where it overlays a groundwater basin would encompass the majority of the City of Carpinteria. This requirement is an unreasonably high standard for projects to meet with onsite retention/infiltration while still allowing for a reasonable use of property. Some areas may not be able to infiltrate a 95th percentile storm event even under undeveloped conditions due to high groundwater and a combination of high rainfall and low infiltration soils. There is also the possibility that applying this requirement to retain/infiltrate all projects over a certain size would have unintended consequences on local habitat that could lead to a decrease in watershed health.

The City understands that the 95th percentile retention requirements are adapted from Section 438 of the Energy Independence and Security Act (EISA) and has concerns with the omission of the additional option listed in the above section. The second option, to perform a site-specific hydrologic analysis and use this data to provide appropriate site-specific compliance, would allow those areas that do not historically infiltrate a 95th percentile storm event to match existing site conditions and should be included in the post-construction requirements.

These requirements become even more complex when applying the 1.963 multiplier (Attachment D), which almost doubles the volume of runoff retention. Again, we have not yet seen any scientific evidence that this multiplication factor would benefit the local watershed processes.

Alternative (Off-site) Compliance

Alternative compliance is new territory for the Central Coast and could be difficult and cost-prohibitive for project applicants and the City. There are several limiting factors that would inhibit the effectiveness of requiring off-site compliance in many areas of the Central Coast Region, as listed below:

- Small, built out WMZ's: Carpinteria falls into two different Watershed Management Zones. The requirements state that alternative compliance must be implemented within the same WMZ; however, due to development and property rights, there are limited locations that alternative compliance would be feasible.
- Permitting: Project applicants, or the City, may have to go through additional permitting requirements which would include environmental review and possibly obtaining permits from other jurisdictions, including the Department of Fish and Game for these off-site improvements. This could be a time consuming and expensive process.

If technical infeasibility prohibits a site from meeting the standards, then an approach similar to what is now used by the City, implementing to the maximum extent practicable, is suggested. There are several examples of this approach already in use in California and we suggest that the State Water Board explore examples that have been shown to work and allow agencies to explore the feasibility of alternative compliance within their boundaries as a pilot program, as originally proposed, instead of as a mandatory requirement.

The City believes that there may be opportunities for agencies to implement alternative compliance on a large scale, such as using regional detention basins, which would be maintained by the agency instead of individual property owners and reduce the possibility of long-term maintenance problems. However, greater flexibility for sites with constraints that do not allow them to implement the post-construction requirements, as written, is needed.

Undesired consequences

Requiring infiltration of runoff to the extent described in the regulations may have undesired consequences on local habitat landscapes that have adjusted over time to the increased water inputs afforded by urban development. For example, in the case of Carpinteria Creek, historic dry season creek flows at the point where the creek enters the City limits have diminished over the years due to drawdown from agricultural and private domestic wells in the vicinity. Within City limits, the creek receives inputs from urban runoff. While this runoff may not be clean or “natural,” it does serve to help offset the reductions in creek flows from aquifer drawdown upstream. Some of this urban runoff helps to provide for year-round pools of fresh water in lower Carpinteria Creek that support sensitive species, including the Federally listed Southern Steelhead and Tidewater Goby. Carpinteria Creek is listed as critical habitat for both species; as such, any land use or regulatory decisions that would affect their habitat, such as measures to significantly reduce or alter freshwater inputs to the habitat need to be carefully considered and reviewed.

Cost-Prohibitive

The regulations would increase the cost for both private and public developments, both during the review process and for implementation. Smaller projects, particularly residential new/redevelopment, will be required to hire engineers and pay for hydrologic modeling, which could be such a financial burden to project applicants that they abandon the project. This will have wider spread economic impacts than intended. The City suggests finding more effective and efficient methods of protecting and improving water quality that do not have adverse effects on the Central Coast’s economic vitality.

Thank you for providing the opportunity to comment on the Draft Phase II Small MS4 Phase II Permit. The City looks forward to working with the State Water resource Control Board on implementing standards that are both feasible and cost-effective. If you have any questions, please contact me.

Sincerely,



Erin Maker
Environmental Coordinator
Department of Public Works

cc: Dave Durflinger, City Manager
Charlie Ebeling, C.E., T.E., Director of Public Works

