

County of Santa Barbara Public Works Department
Project Clean Water

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December 14, 2012

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



Subject: Comment Letter – Revised Draft Phase II Small MS4 Permit

Dear Ms. Townsend and Members of the Board:

Thank you for the opportunity to comment on the Phase II Small MS4 General Permit (Phase II Permit). Santa Barbara County understands the importance of the Phase II regulations for improving storm water quality and appreciates the effort of the State Water Board staff in developing a General Permit for statewide application. The County participated in the California Stormwater Quality Association (CASQA) Phase II subcommittee review of the Phase II Permit and fully supports the detailed comments and recommendations contained in their December 2012 letter. We strongly encourage you to incorporate their suggestions into the final version of the Phase II Permit.

Santa Barbara County is committed to protecting and improving water quality and has been implementing a model Storm Water Management Program that is successful and cost-effective. In general, we are in support of the more rigorous provisions of the Phase II Permit and believe that we can incorporate the new measures into our Storm Water Management Program.

The one exception to this is the newly inserted Central Coast Specific Post-Construction Requirements added as Attachment J. These first-of-their-kind requirements are overly complicated, unnecessarily stringent, and untested for real world application. The County respectfully requests that the State Board direct the Central Coast 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 Central Coast permittees. Short of this, we would request that Attachment J be removed from the Phase II Permit so that necessary and likely revisions can be made at the Regional Board level without having to reopen and amend the State Permit. Detailed comments are provided below.

Attachment J – Central Coast Specific Post-Construction Requirements

Problems with Central Coast Requirements

Santa Barbara County participated in the Joint Effort process to develop post-construction requirements for development projects in the Central Coast Region and provided technical review of interim products through participation on the Joint Effort Review Team (JERT). We very much support the process of basing hydromodification control measures on watershed processes. In theory, the Central Coast post-construction requirements were based upon a thorough and scientific assessment of watershed processes conducted by a team of scientists. The watershed processes assessed by the scientific team were in turn based upon natural, undeveloped conditions observed throughout the Central Coast region. Our concern is that the resulting post-construction requirements and applicability criteria are not clearly linked nor do they seem to benefit from the initial scientifically-based watershed analysis. Rather, they seem to have been developed independently by Central Coast Water Board staff with unknown scientific justification. Attachment D, which defines sizing criteria for both the retention and water quality design volumes, was added to the requirements just prior to the September 2012 adoption hearing without benefit of stakeholder or JERT review. The requirements are unique and unfamiliar, borrow unconnected components from various adopted programs, and are generally unclear, unnecessarily complex, and unproven as to their effectiveness or ease of implementation. Additionally, the Central Coast Water Board did not do the work of verifying whether it is technically feasible to apply the new requirements broadly throughout the Central Coast prior to their adoption.

This leaves Central Coast permittees with the challenge of trying to implement stringent requirements to retain and infiltrate in many cases the volume of runoff from the 95th percentile event in designated watershed management zones (which represent most urban areas). Preliminary engineering analysis indicates that these new runoff retention requirements cannot be met in many areas of Santa Barbara County where soils do not naturally infiltrate, without using a disproportionate percent of lot area. The volume of runoff retention would be infeasible for many projects. The complexity of the requirements increases with factors such as a 1.963 multiplier which doubles the size of retention volume (Attachment D), Urban Sustainability Areas, Effective Impervious Surface Areas, Alternative Compliance, and various credits or offsets for redevelopment.

Central Coast Requirements Cannot be Adaptively Improved by the Regional Board

Although Santa Barbara County actively participated in the Joint Effort process, we were very dissatisfied with the final product. As discussed above, the final adopted requirements are overly stringent, complicated and unproven and were adopted without a full public review process. Despite this, we choose not to petition the State Water Board in the hopes that the JERT advisory panel would be reconvened to test the feasibility of the requirements and propose any necessary changes. The JERT has been reconvened but has not yet completed its technical/engineering review of the new standards. If the Central Coast Post-Construction Requirements are included in the statewide Phase II Permit as Attachment J, any necessary improvements to the Region 3 requirements would then need to be approved at the state level by reopening the permit, making it doubly difficult to make any necessary revisions. Additionally, incorporating the Central Coast Post-Construction requirements into the statewide Phase II Permit nullifies the Region 3 petitions that have been filed with the State.

Implement E.12 Post Construction Requirements Statewide

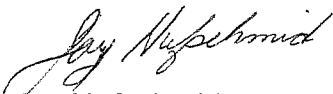
The post-construction standards contained in section E.12 of the Phase II Permit were carefully developed through the stakeholder review process by a team that included Water Board staff, CASQA representatives, professional engineers with expertise in hydromodification control, and representatives from environmental NGO's. The result is a set of straightforward and implementable LID and baseline hydromodification management requirements that will likely accomplish most or all of the hydrologic controls sought by the Region 3 post-construction requirements. We urge the State Water Board to allow Region 3 permittees to adopt the more reasonable and implementable E.12 post construction requirements along with the rest of the State. Doing so would be consistent with ongoing efforts to provide consistency in Phase 1 and Phase II permits across the state.

Santa Barbara County also supports CASQA's recommendation to allow a full permit term (5 years) to precede any revisions to the E.12 regulations for other Phase II permittees across the state, so that projects can be permitted, constructed, and evaluated prior to changing course once again.

In summary, the late addition of the Region 3 post-construction requirements to the Statewide General Permit is unjustified and unwise. At a minimum, Santa Barbara County encourages the State Water Board to remove the requirements so that any necessary improvements can more easily be made to the Central Coast requirements by Region 3. Ideally, we would request that the Water Board allow Central Coast permittees to adopt the E.12 statewide standards along with the rest of State Phase II permittees.

The County appreciates the opportunity to provide comment and looks forward to working together on implementing a successful and science-based Storm Water Management Program. If you have any questions, please don't hesitate to contact me.

Sincerely,



Joy Hufschmid
Project Clean Water Manager