



CALIFORNIA'S
COALITION
for ADEQUATE
SCHOOL HOUSINGSM

Public Comment
Draft Phase II Small MS4 General Permit
Deadline: 7/23/12 by 12 noon

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July 20, 2012

Jeanie Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street
Sacramento, CA 95812



RE: Comments to the Second Draft, Revised May 18, 2012, Small Municipal Separate Storm Sewer System (Small MS4) Storm Water Permit

Dear Ms. Townsend:

The Coalition for Adequate School Housing (C.A.S.H.) was formed in 1978 to promote, develop and support the enactment of new statewide and local funding alternatives for school construction. C.A.S.H.'s membership is a coalition of public and private interests that believe that school facilities are a critical component of the educational process. C.A.S.H. represents nearly 500 school districts serving 92 percent of California's school children. In 2002 C.A.S.H. became aware that K-12 schools would be regulated under the MS4 Permit. In response, the C.A.S.H. Board of Directors created the C.A.S.H. Storm Water Committee to address storm water regulation issues on behalf of our organization and members. In addition to the Municipal Permit, the C.A.S.H. Storm Water Committee has since worked on the Construction and Industrial Permits, and C.A.S.H. has become a leader in storm water quality in educational environments.

Unique Challenges of Schools

K-12 schools including County Offices of Education (COE) are unique entities with regard to complying with State Water Resources Control Board (SWRCB) permits. Specifically, building and modernizing schools requires a complex and often lengthy approval and funding process which poses unique challenges for compliance, as new construction and modernization projects must be approved by the California Department of Education (CDE), the Division of the State Architect (DSA), the Office of Public School Construction (OPSC), the Department of Industrial Relations (DIR), the Department of Toxic Substances Control (DTSC) and other state agencies to receive the state funding share.

In addition, school budgets have been drastically reduced in the past five years, including the capital side of school districts where funding to maintain schools has essentially been eliminated and funding for approved School Facility Program (SFP) projects has been exhausted without a statewide school bond on the immediate horizon. More recently, the 2012-13 State Budget education trailer bill contains language that suspends the ability of school districts to levy Level III developer fees until December 31, 2014, thus eliminating a vital source of capital funding for school districts. As a

result of these factors, school districts have very limited resources to comply with costly new state requirements.

Schools and the MS4

In light of the challenges schools face, C.A.S.H.'s primary concern has been to ensure that schools are able to contribute meaningfully to improving water quality, while still retaining the ability to build and modernize schools to meet the educational facility needs of their local communities. By categorizing K-12 schools and county offices of education as "Not-Designated" for the purposes of the MS4, C.A.S.H. believes the right balance has been struck between schools doing their part to improve water quality and retention of the ability to address the student enrollment needs of their communities. We believe it is important to note that while K-12 schools have of necessity been shown consideration for their unique circumstances, they continue to be accountable for water quality as the nine Regional Water Quality Control Boards (SWRCB) retain the authority to designate schools on a case-by-case basis. In addition, schools are required to follow new reporting requirements that are required of permittees from other sectors.

County Offices of Education

With regard to county offices of education, C.A.S.H. believes that it is vital for county offices of education to be included in the non-designation language with school districts. After expressing our concerns about county offices of education initially not being included in the non-designation provision, we were assured by SWRCB staff that the exclusion was a technical oversight and that going forward the inclusion of county offices of education would be made explicit in the language of the permit. County offices of education educate California's most vulnerable student populations, such as students with disabilities and juvenile offenders, and most regulatory statutes in the Education Code included county offices of education within the meaning of the term school district. In addition, county offices of education are prohibited from bonding, and so have less access to capital resources, frequently having to rely on 100% state funding for projects or deducting funding from programs to fund capital improvements. For these reasons, C.A.S.H. would like to thank the SWRCB staff for working with us to resolve this issue.

Jurisdiction Issues

C.A.S.H. is concerned that, while school districts and county offices of education are not designated, other agencies can/may be able to force school districts to pay for project work that the school district was excluded from performing. We request that the SWRCB clarify this issue to head off future conflicts at the local level. More broadly, because the review and approval of the MS4 is a significant undertaking for the SWRCB, your staff and the permittees, it is likely that issues will arise in this permit cycle, particularly in the process of initial implementation. C.A.S.H. is confident that, by working together to address the inevitable implementation challenges for school districts, we will be able to address these and unforeseen issues that may arise.

SWRCB Staff

C.A.S.H. would be remiss if we did not highlight the efforts of your staff, Jonathan Bishop, Eric Bernstsen and Christine Sotelo in particular. We spent many hours with them in stakeholder meetings, as well as communicating by phone and e-mail. We found your staff to be genuinely

willing to dedicate time and effort to listen to our concerns, as well as to being open to exploring alternative processes that could meet both of our objectives.

Looking Forward

C.A.S.H. looks forward to working with the SWRCB and your staff on outreach to the education community during this permit cycle, with an eye toward building capacity for the next permit cycle. Specifically, C.A.S.H. would like to work with your staff on a series of C.A.S.H. workshops, webinars and conference presentations to ensure that the education community is aware of storm water quality issues, and how they can efficiently mitigate them within existing resources to the extent possible.

Before we conclude our comments, we would like to express our conceptual support for an education-specific permit in the next permit cycle that would include K-12 schools and county offices of education, as well as community colleges. We believe an education-specific permit has the potential to address and clarify issues that we think are likely to arise in this permit cycle, particularly the jurisdiction issue outlined above. C.A.S.H. will initiate an effort to work with stakeholders and the SWRCB staff to explore this concept.

In conclusion, C.A.S.H. would like to thank the State Water Resources Control Board for providing this opportunity to express our concerns, and we look forward to continuing the partnership that we have built to address storm water mitigation issues in educational environments.

Sincerely,



Kathy Tanner

cc: Charles R. Hoppin, Chair, State Water Resources Control Board
Frances Spivy-Weber, Vice Chair, State Water Resources Control Board
Tam M. Doduc, Member, State Water Resources Control Board
Steven Moore, State Water Resources Control Board