

State of California – Natural Resources Agency

Memorandum

Date: July 23, 2012

To: Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street 24th floor
Sacramento, CA 95814
via e-mail: commentletters@waterboards.ca.gov

From: Department of Parks and Recreation

Subject: **Comment Letter – 2nd Draft Phase II Small MS4 General Permit**



California State Parks (CSP) appreciates the opportunity to provide comments on the [Revised Draft NPDES General Permit for Storm Water Discharges from Small MS4s](#) (Revised Draft Tentative Order). We appreciate the revisions that were made to the Revised Draft, but CSP has concerns on the draft permit provisions. The criteria used for our review was based on the following questions:

- Can CSP comply with the Permit requirement?
- Do the permit provisions represent a reasonable expenditure of public funds, in conformance with CSP's mission, business practices, and objectives?
- Are the requirements clearly stated to be implemented consistently at all our facilities and not subject to interpretation, as we will be regulated by nine Regional Boards?

Several of our comments from the 2011 Draft Permit remain. Specifically, Comments (numbered according to the State Board Annotated file) **16.1, 16.3, 16.4, 16.5, 16.9, 16.11, 16.14, 16.15, 16.16, 16.17, 16.20, 16.21, and 16.22** were not addressed. CSP needs these comments to be addressed prior to adoption of this Permit.

Our main concerns are described below in the form of general comments. Other major and minor comments and requests for clarification are provided in **Attachment A**.

General Comments

CSP's primary concern remains its ability to implement a new Phase II program at its multiple facilities statewide under the schedule specified in the Revised Draft Tentative Order. CSP has significant concerns relative to potential liability and exposure from third party litigation, compliance milestones, the extensive reporting requirements and other items.

CSP will apparently be engaged in a significant outfall and receiving water monitoring program pursuant to the Special Protections requirements for discharges to an ASBS. This monitoring program, required under the NPDES permit, will result in the collection of paired outfall and receiving water monitoring data. Receiving Water Limitations of the Revised Draft Permit specifically prohibits discharges from causing or contributing to the exceedance of a receiving water standard.

The draft permit places significant expense on CSP, and it would redirect a substantial portion of our funding to administrative tasks (e.g., inventories, inspections, monitoring) with no improvement in water quality.

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One very important secondary concern is the issue of conflicting requirements for historic properties. CSP is commenting on some specific items in this Draft permit (see Attachment A) pertaining to historic properties. As part of our General Comments we are also hereby requesting an exemption from all terms of this permit for any properties and townsites that are eligible or listed on a National, State or Local Historic Register.

We request that CSP and SWRCB collaborate in writing regulations for the next permit cycle that will address Historic properties.

A review of our comments points up a major problem. Including CSP in this program with cities and counties does not make sense. CSP land management is similar to that of other state agencies such as the State Lands Commission and the Department of Fish & Game. CSP's land management is also similar to that of federal agencies such as: the Bureau of Land Management, the Forest Service, and the National Park Service. These agencies are not included in the MS4 permitting process, but CSP is.

CSP's duties are similar to these agencies in that CSP's duties consist of preservation, stewardship, and land management. CSP does not deal with the same type of "development" that is approved in cities and counties. California State Parks is required to "administer, protect, develop, and interpret the property under its jurisdiction for the use and enjoyment of the public." (Pub.Res. Code, § 5003.) Within the State Park System, CSP must "preserve outstanding natural, scenic, and cultural values, indigenous aquatic and terrestrial fauna and flora." (Pub.Res. Code, § 5019.53.) CSP is accountable to the Governor, and must annually report to the Governor about "means for conserving, developing, and utilizing the scenic and recreational resources of the State," in order to enhance the State Park System. (Cal. Pub. Res. Code § 5004.) When facilities are planned and constructed for State Parks, they are carefully sited and designed in compliance with State and Regional Board.

The Off-Highway Motor Vehicle Recreation Division (OHMVRD) is also required to preserve and manage the land within its jurisdiction. OHMVRD has many duties, including: "[p]lanning, acquisition, development, conservation, and restoration of lands in the state vehicular recreation areas." (Cal. Pub. Res. Code § 5090.32, subd. (a).) The Legislature highlighted the importance of balance between the conservation of ecologically important areas and recreation in enacting Division 5, Chapter 1.25. (Cal. Pub. Res. Code § 5090.02, subd. (b).) The legislature also emphasized the importance of, "...the appropriate utilization of lands, and the conservation of land resources" when enacting the Off-Highway Motor Vehicle Recreation program and states that these goals "are of the highest priority in the management of the state vehicular recreation areas; and, accordingly, the division shall promptly repair and continuously maintain areas and trails, anticipate and prevent accelerated and unnatural erosion, and restore lands damaged by erosion to the extent possible." (Cal. Pub. Res. Code § 5090.35, subd. (a).)

"In an ideal world, stormwater discharges would be regulated through direct controls on land use, strict limits on both the quantity and quality of stormwater runoff into surface waters, and rigorous monitoring of adjacent waterbodies to ensure that they are not degraded by stormwater discharges." (National Research Council. *Water Science and Technology Board. Urban Stormwater Management in the United States*. The National Academies Press, 2008., p. 101.) The MS4 permitting program relies on the heavy use of general permits. (*Id.*, at p. 1, 29.) Instead, the EPA should implement a "watershed-based permitting program;" this type of program "is ultimately essential if the nation is to be successful in arresting aquatic resource depletion stemming from sources dispersed across the landscape. (*Id.*, at p. 452.) CSP and

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OHV are not proper candidates for the MS4 permitting program because their respective conservation, preservation, and stewardship goals are more like the state and federal agencies that are not included in the MS4 program. The EPA should consider a watershed-based permitting program that considers the public land management goals of agencies.

CSP requests that we engage in a process with the SWRCB to create a new permit type that suits the needs of public land management agencies. CSP is willing to move quickly on such a program.

We hope our comments are helpful and we look forward to your response. If you have any questions, please do not hesitate to contact Kenney Glaspie at (916) 324-1567, or Michael Stephens at (916)324-0412.

Sincerely,



Ronilee A. Clark, Acting Deputy Director
Park Operations
California State Parks



Phil Jenkins, Acting Deputy Director
Off-Highway Motor Vehicle Recreation
Division
California State Parks

Attachment A

General Comments on Receiving Water Limitations

1. **Comment:** Permittees have presumed that permit language like that expressed in Receiving Water Limitation D in conjunction with Board Policy (WQ 99-05) established an iterative management approach and process as the fundamental, and technically appropriate, basis of compliance.

As you are aware, on July 13, 2011, the United States Court of Appeals for the Ninth Circuit issued an opinion in *Natural Resources Defense Council, Inc., et al., v. County of Los Angeles, Los Angeles County Flood Control District, et al.* (NRDC v. County of LA). The court found that the Receiving Water Limitations language set forth in the County of Los Angeles MS4 permit does not forgive strict compliance with water quality standards. Instead, the court found that the language in question “. . . offers no textual support for the proposition that compliance with certain provisions [i.e., the iterative process provisions] shall forgive non-compliance with the discharge prohibitions.” Further, the court found that the discharge prohibition language in Receiving Water Limitation 2.1 of the County of Los Angeles MS4 permit provides no “safe harbor.” The court’s opinion addressed a key issue for California’s municipal separate storm sewer systems (MS4s). Multiple contaminants in stormwater runoff will typically be higher than receiving water quality standards (Ocean Plan Table B) before it is discharged into the receiving waters, and may cause or contribute to exceedances in the receiving water itself. Therefore, based on its reading of the permit, the court ultimately found that water quality standard exceedances detected at certain mass emission monitoring stations are permit violations subject to enforcement.

As a result of the court’s decision, and as noted in the Fact Sheet at paragraph XI. Receiving Water Limitations, CSP will be immediately vulnerable to enforcement actions by the state and third party citizen suits alleging violations of the permit terms in question. In other words, all of our monitoring data collected pursuant to the required program for ASBS discharges will put us in immediate non-compliance with virtually unlimited liability. Stormwater discharges to an ASBS must be in immediate compliance with Table B standards to avoid being in violation of permit terms. This is an untenable and unworkable position.

The liability resulting from these provisions is a risk to CSP regardless of the current or future enforcement policy of the State or Regional Water Boards. For example, the City of Stockton was engaged in the iterative process per the terms of its MS4 Permit, but was nonetheless challenged by a third party on the basis of the Receiving Water Limitations language. There is no regulatory benefit to imposing permit provisions that result in immediate non-compliance for the Permittee.

CSP Requests: *To avoid continuing third-party legal action, the Receiving Water Limitations language must be revised.* We understand that CASQA has submitted language to correct this problem. CASQA believes that their suggested Receiving Water Limitations language is drafted in a manner to clearly indicate that compliance with the iterative process provides effective compliance with the discharge prohibition, and the “shall not cause or contribute” receiving water limitations (Receiving Water Limitations D). Without such changes to the Revised Draft

Permit, CSP (and other municipalities) will be exposed to significant liability for failing to comply with the permit.

Revised Draft Tentative Order

2. Page 77 – Section F. NON-TRADITIONAL SMALL MS4 PERMITTEE PROVISIONS

Comment: The exclusions that applied to both Traditional and Non-Traditional MS4s have been excluded from Section F, Non-Traditional MS4s.

CSP Request: Please reinstate the exclusions, and, in reference to our comment from the 2011 Draft, please include projects for compliance with the Americans with Disabilities Act as an exclusion.

3. Previous draft of the Tentative Order, Table 1

Comment: Table 1 of the Draft MS4 Permit listed specific Program Elements, including Construction, Industrial, and Commercial, which were exempted for State Parks. Parks was not required to comply with these Program Elements. These exemptions appear to have been eliminated in the Final Draft Permit.

CSP Request: These exemptions be included back into the Final Permit.

4. Page 81-82 – Section F.5.b.2. Public Education and Outreach – Reporting

“(iii) Reporting – By the third year Annual Report and annually thereafter, complete and have available information on the public education strategy and general program development and progress. By the fifth year Annual Report, summarize changes in public awareness and knowledge resulting from the implementation of the program and any modifications to the public education and outreach program. If applicable, complete and have available a report on development of education materials, methods for educational material distribution, public input, Water Efficient Landscape Ordinance, elementary school education, reduction of discharges from mobile cleaning and pressure washing operations, and landscape irrigation efforts. Complete and have available an annual report of the number of trainings and the study and results to date.”

Comment: We appreciate the option to contribute to an existing outreach and education program. For CSP, we may pursue options to participate in another permittee’s public education program.

CSP Request: Modify F.5.b.2.iii, Reporting, to allow the lead permittee for public education to report for all others participating in the program. This will reduce otherwise unnecessary staff time and duplication to prepare the reports, as well as to review them.

5. Page 84 – F.5.d. ILLICIT DISCHARGE DETECTION AND ELIMINATION PROGRAM

“The Permittee shall develop an Illicit Discharge Detection and Elimination program to detect, investigate, and eliminate non-storm water discharges, including illegal dumping, into its system.”

Comment: This section requires the Permittee to maintain an up-to-date and accurate outfall map. We reiterate our comment from the previous Draft Permit: Unlike most MS4s, CSP has remote facilities located throughout the State, so outfall mapping cannot be completed in the same timeframe as the other MS4s.

CSP Request: We request the completion of this task be extended to Year 5.

6. Page 85 – **Section F.5.d.1 Field Sampling to Detect Illicit Discharges**

“(i) Task Description – While conducting the outfall inventory under Section B.4.a, the Permittee shall sample any outfalls that are flowing.”

Comment: This section requires the Permittee to “sample any outfalls that are flowing.” Our facilities include natural springs and perennial sources of water. It would not be productive to sample these discharges.

CSP Request: We request that an exception be allowed if, through visual observation, it can be documented at the time of the inventory that the discharge is non-anthropogenic.

7. Page 87 – **Section F.5.e. CONSTRUCTION SITE RUNOFF CONTROL PROGRAM**

“(i) Task Description - Each Permittee shall develop and implement contract language ensuring all outside contractors comply with the CGP and implement appropriate BMPs. Contract language shall apply to all projects that result in a total land disturbance of either one acre or more or that result in a total land disturbance of less than one acre if part of a larger common plan or development or sale.”

Comment: We wish to clarify that the Park System, nor its CIP, will be considered a “common plan of development.”

CSP Request: Add statement, “California Parks and Recreation park system and associated facilities, and its CIP are not considered a common plan of development under the CGP.”

8. Page 88 – **Section F.5.f.3. Facility Assessment**

“(ii) Implementation Levels - Within the third year of the effective date of the permit, the Permittee shall conduct an annual review and assessment of all owned or operated facilities to determine their potential to impact surface waters.”

Comment: An annual review and assessment of all facilities is excessive. An initial determination with bi-annual review is sufficient to detect changes in facility operations or the addition of new facilities.

CSP Request: We request a change to bi-annual facility reviews, with 50% of facilities being reviewed per year.

9. Page 90 – **F.5.f.5. Inspections, Visual Monitoring and Remedial Action**

“(d) Non-Hotspot Inspection – At a minimum, inspect each inventoried facility that is not a hotspot, once per permit term. The inspection shall investigate and assess each of the items identified above.”

Comment: This section requires non-hotspot inspection of each inventoried facility once per permit term. This will be unnecessary for facilities that are inventoried, but have no potential for stormwater pollution, such as office facilities.

CSP Request: We request that the permit provide an exclusion for facilities CSP certifies as having no pollution threat. CSP further requests a definition of “facility”. Our agency definition of facilities include, but are not limited to- structures, grounds, roads and parking lots, misc such as fences & gazebos, utility systems, paved and non paved trails, artifacts and collections and natural resource areas. Many of these obviously have no nexus to stormwater.

10. Page 91 – F.5.f.6 Storm Drain System Assessment and Prioritization

“(i) Task Description –The Permittee shall develop and implement procedures to assess and prioritize the MS4 storm drain system, including but not limited to catch basins, pipe and pump infrastructure, above-ground conveyances, including receiving waterbodies within the Permittee's urbanized area and detention basins.”

Comment: This section requires Permittees to assess and prioritize the MS4 storm drain system, on the same schedule as required for the Phase I Elimination Program.

CSP Request: We request that the permit provide additional time for CSP to comply with this task, for the reasons stated in the comment on section F.5.d. Additionally, we request that the implementation timeline for task F.5.f.7. Maintenance of Storm Drain System be extended for completion by Year 5.

11. Page 94 – F.5.g. POST CONSTRUCTION STORM WATER MANAGEMENT PROGRAM

“Reporting – By the third year Annual Report, all Permittees shall complete and have available an inventory of projects subject to post-construction treatment measures for new and redevelopment projects.”

Comment: This section requires Permittees within a Phase I MS4 permit boundary to follow the hydromodification plan of the surrounding Phase I area. However, CSP facilities are located throughout the state, and would be subject to multiple and varied Phase I programs. This requirement would result in a highly fractured and inefficient implementation program for CSP, and would complicate any effort at developing standardized training. Further, properties and townsites that are eligible or listed on National, State or Local Historic Registers must be exempt from post-construction stormwater requirements. These properties have statutory limitations on the allowable modifications.

CSP Request: We request that CSP be allowed to follow a single Hydromodification Plan throughout the state. We request that properties and townsites that are eligible or listed on a National, State or Local Historic Register be exempted from post-construction stormwater requirements.

12. Page 94 – Section F.5.g. POST CONSTRUCTION STORM WATER MANAGEMENT PROGRAM – Hydromodification Measures

“Reporting -

1. Permittees located within a Phase I MS4 permit boundary with a Regional Water Board approved Hydromodification Plan shall complete and have available a summary report in the year one Annual Report describing the strategies to implement and coordinate with the surrounding Phase I MS4 Permittee Hydromodification Plan. In subsequent Annual Reports, the Permittee shall complete and have available an inventory of projects subject to the surrounding Phase I MS4 Hydromodification Plan requirements."

Comment: This section prescribes requirements for a hydromodification mitigation program. Many of our facilities are outside of urban areas, or will otherwise not be covered under a Storm Water Management Plan. Construction in these areas will be subject to the post construction requirements in the Construction General Permit.

CSP Request: We request that this section of the Permit acknowledge that, for projects incorporating the post construction requirements in the Construction General Permit, this section will not apply.

13. Page 95-96 – **F.5.g.2. Low Impact Development Runoff Standards – (2) Site Design Measures**

"(2) Site Design Measures - The following site design measures shall be used to reduce the amount of runoff, to the extent technically feasible, for which retention and treatment is required. The methods are based on the objective of achieving infiltration, evapotranspiration and/or harvesting/reuse of the 85th percentile rainfall event."

Comment: Historic properties are constrained by The Secretary of The Interior Standards and the Historic Building Code which do not always conform to modern site design. Generally speaking, hardscapes, structures, and such have to be replaced "in-kind", and may not always allow for things such as "green roofs," pervious pavements etc.

CSP Request: We request that properties and townsites that are eligible or listed on a National, State, or local historic register be exempted from post-construction stormwater requirements.

14. Page 96 – **F.5.g.2. Low Impact Development Runoff Standards – (3) Storm Water Treatment Measures and Baseline Hydromodification Management Measures**

"(3) Storm Water Treatment Measures and Baseline Hydromodification Management Measures - Runoff from remaining impervious DMAs must be directed to one or more facilities designed to infiltrate, evapotranspire, and/or biotreat the amount of runoff specified in below."

Comment: Design details for treatment devices are not appropriate to be included in an MS4 Permit which essentially specifies the method of compliance. Specifying the method of compliance is prohibited pursuant to CWC Section 13360, and inappropriately forces the project proponents to implement particular solutions that may not best fit the situation of a particular project. Design details are appropriate for a design manual, not for an MS4 permit.

CSP Request: Delete this section from the permit.

15. Page 99 – F.5.g.2. Low Impact Development Runoff Standards

“(iii) Reporting – For each project approved, the following information shall be completed and be available annually in the Annual Report: ...”

Comment: Paragraph iii, Reporting, is excessive. Records are kept on the installation of LID projects in our facilities, but we do not see the value in reporting this information annually to the State.

CSP Request: Unless the SWRCB can provide justification that the benefits of this information are commensurate with the cost to provide it, we request that this reporting requirement be removed.

16. Page 100 – F.5.g.3. Hydromodification Management

“(b) Post-project runoff shall not exceed estimated pre-project flow rate for the 5-year, 24-hour storm in the following geomorphic provinces...”

Comment: For certain types of geomorphic provinces, post-project runoff shall not exceed the estimated pre-project flow rate for the 5-year, 24-hour storm. However, the fact sheet does not explain why the geomorphic provinces in Section (b) are required to meet a higher standard.

CSP Request: Provide technical justification for this higher standard for these geomorphic provinces or modify the permit to have all geomorphic provinces be required to meet the standard of post-project runoff and shall not exceed estimated pre-project flow rate for the 2-year, 24-hour storm. We request that properties and townsites that are eligible or listed on a National, State, or Local Historic Register be exempted from post-construction and HMP stormwater requirements.

17. Page 105 – Section F.5.I. TOTAL MAXIMUM DAILY LOADS COMPLIANCE REQUIREMENTS

“Compliance dates that have already passed are enforceable on the effective date of this General Permit.”

Comment: TMDL requirements may require time and expenses to implement the necessary actions and should be established as part of the reviews to be conducted by the Regional Water Boards (the Tentative Order states that the review must be conducted within six months of the effective date of the Order).

CSP Request: Remove the language that states that requirements in TMDLs that have passed dates will be effective immediately and replace with a statement that revised deadlines (for past due requirements) should be determined after review and consultation between the Permittees and State Water Board staff.

18. Page 105 – Section F.5.I. Total Maximum Daily Loads Compliance Requirements

“Attachment G additionally contains a list of TMDL-specific permit requirements developed by the Regional Boards for compliance with the implementation requirements of the relevant TMDLs.”

Comment: Many of the permit requirements discussed in Attachment G do not apply to CSP. Although some Basin Plan Amendments for TMDLs include specific requirements that

apply to CSP, these are much different from what is included in Attachment G. CSP participation in TMDLs should be limited to pollutants applicable to their the activities conducted in their facilities.

CSP Request: Revise the statement to say "Attachment G additionally contains a list of TMDL-specific permit requirements developed by the Regional Boards for compliance with the implementation requirements of the relevant TMDLs for the agencies named. Requirements described in Basin Plan Amendments for TMDLs listed in Attachment G that apply specifically to other Small MS4s are incorporated herein by reference."

19. Stormwater Discharges onto Park Property

Comment: Stormwater Discharges onto State Parks Property is an issue that needs to be addressed. CSP does not have any authority over Mexico or Indian lands for their stormwater discharges onto Park property, but CSP also has no authority over any other entity that discharges stormwater onto Parks. State Parks is not in the position to treat all stormwater flows from adjacent property and does not foresee being in such a position in the future.

CSP Request: State Parks requests collaborating with the State Water Resource Control Board and Regional Boards on this issue.

Attachment C, Special Conditions for Traditional and Non-Traditional Small MS4 ASBS Discharges.

20. Page 2 – ASBS (General Comment)

Comment: Inconsistencies exist between the ASBS requirements and the Permit. Additional ASBS specific requirements have been incorporated into the subject permit and are not presented in the adopted ASBS Specific Protections. Specifically, there is an inconsistency in implementation requirements and compliance dates between the Phase II Permit and the adopted ASBS requirements.

CSP Request: Correct inconsistencies between the draft permit ASBS requirements and adopted ASBS Special Protections, including compliance dates. Delete requirements that are above and beyond the ASBS Special Protections.

21. Page 2 – I.A.1. General Provisions for Permitted Point Source Discharges of Storm Water

"d. Only discharges from existing storm water outfalls are allowed. Any proposed or new storm water runoff discharge shall be routed to existing storm water discharge outfalls and shall not result in any new contribution of waste to an ASBS (i.e., no additional pollutant loading). "Existing storm water outfalls" are those that were constructed or under construction prior to January 1, 2005. "New contribution of waste" is defined as any addition of waste beyond what would have occurred as of January 1, 2005. A change to an existing storm water outfall, in terms of re-location or alteration, in order to comply with these special conditions, is allowed and does not constitute a new discharge."

Comment: Sub-paragraph d. requires that there be no new contribution of waste to an ASBS.

CSP Request: A design storm must be specified to make this provision practical. Further, it is not cost-effective to make this provision retroactive to January 1, 2005. We request that a new contribution of waste be defined as of the effective date of the Permit.

22. Page 4 – I.A.2.d. Compliance Plans for Inclusion in Storm Water Management Plans (SWMP) and Storm Water Pollution Prevention Plans (SWPPP)

“(2) A 90% reduction in pollutant loading during storm events, for the Permittee’s total discharges. The baseline for the reduction is the effective date of the Exception. The baseline for these determinations is the effective date of the Exception, and the reductions must be achieved and documented within six (6) years of the effective date.”

Comment: The sub-paragraph should be consistent with the adopted Special Protections. The burden of resources needed for monitoring and ultimately retrofit costs associated with our facilities will be substantial and difficult to meet by the six-year effective date.

CSP Request: Expectations and participation by CSP (a state agency with limited resources) should be clearly defined.

23. Page 6 – Paragraph I.A.3.b. Compliance Schedule

“b. Within one year from the effective date of the Exception, the Permittee shall submit a written ASBS Compliance Plan to the State Water Board Executive Director that describes its strategy to comply with these special conditions, including the requirement to maintain natural water quality in the affected ASBS. The ASBS Compliance Plan shall include a time schedule to implement appropriate non-structural and structural controls (implementation schedule) to comply with these special conditions.”

Comment: Developing a plan within one year of the effective date of the exception is not practical.

CSP Request: We request an additional year to develop an ASBS Compliance Plan.

24. FACILITIES – A. The Permittee shall include a section in an ASBS Compliance Plan to address storm water runoff from parks and recreation facilities.

“1. The Section shall identify all pollutant sources, including sediment sources, which may result in waste entering storm water runoff. Pollutant sources include, but are not limited to, roadside rest areas and vistas, picnic areas, campgrounds, trash receptacles, maintenance facilities, park personnel housing, portable toilets, leach fields, fuel tanks, roads, piers, and boat launch facilities.”

Comment: There is no justification to place these additional requirements on CSP beyond the ‘compliance plan’ required in Section I. Further, some of the State’s facilities, such as the Borderfield State Park, receive runoff and pollution from outside of the US (Tijuana River in Mexico) or other sovereign entities. CSP has no control over the actions or behavior of another sovereign nation or US tribal area.

CSP Request: We request that this section be deleted from the Permit.

25. Page 8 – II.A.3. **ADDITIONAL REQUIREMENTS FOR PARKS AND RECREATION FACILITIES – A. The Permittee shall include a section in an ASBS Compliance Plan to address storm water runoff from parks and recreation facilities.**

“3. The Section shall include BMPs or Management Measures/Practices to prevent the discharge of pesticides or other chemicals, including agricultural chemicals, in storm water runoff to the affected ASBS.”

Comment: This section requires BMPs to prevent the discharge of pesticides or other chemicals including agricultural chemicals. CSP should not be responsible for the discharge of pesticides that it does not use or apply on its facilities; rather, this should be regulated through other programs by the State Board.

CSP Request: We request this paragraph be eliminated.

26. Page 17 – C. **ASBS Flow Chart**

“Figure 2 – ASBS Special Protections – Flowchart to Determine Compliance with Natural Water Quality”

Comment: It is unclear how the 85% threshold will apply to toxicity. Also, the Toxicity Policy has not been adopted by the State Board and it is premature to include in the Phase II permit.

CSP Request: Delete applicability to toxicity monitoring.

27. **ASBS Specific Facilities Permit Requirements**

Comment: The Permit should not contain specific requirements for Parks and Recreation Facilities unless language included is simply restating already established ASBS requirements. We (CSP) cannot possibly meet the current schedule, and a more realistic compliance date is needed.

CSP Request: Provide allowances for Parks in Program elements, such as the schedule for outfall mapping because of unique Park specific conditions.

Again, CSP appreciates the opportunity to comment and looks forward to working with you to develop a practical permit that can be implemented effectively.