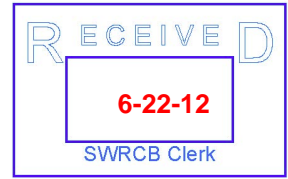
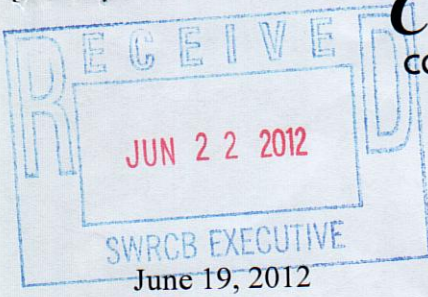


# City of Carmel-by-the-Sea

COMMUNITY PLANNING AND BUILDING DEPARTMENT

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

**Subject: Comment Letter – National Pollutant Discharge Elimination System (NPDES)  
General Permit for Storm Water Discharges From Small Municipal Separate Storm Sewer  
Systems (MS4s) Revised Draft Tentative Order**

**Reference: Notice of Opportunity for Public Comment and Notice of Public Hearing,  
Dated May 21, 2012**

Dear Ms. Townsend:

This letter responds to the SWRCB's Notice of Opportunity for Public Comment and Notice of Public Hearing, dated May 21, 2012, subject as above. The table below contains the specific comments of the City of Carmel-by-the-Sea regarding the proposed requirements contained in the Revised Draft Tentative Order.

The City is a Participating Entity in the Monterey Regional Storm Water Management Program, and also supports the comments contained in the letter being submitted by that body on behalf of its member entities.

Sincerely,

A handwritten signature in blue ink, appearing to be "Sean Conroy".

Sean Conroy  
Planning & Building Services Manager



**CITY OF CARMEL-BY-THE-SEA SPECIFIC COMMENTS**

**On the  
 “National Pollutant Discharge Elimination System (NPDES) General Permit  
 for Storm Water Discharges From Small Municipal Separate Storm Sewer  
 Systems (MS4s) Revised Draft Tentative Order” dated May 18, 2012**

PAGE	SECTION OR PARAGRAPH NO.	TOPIC	COMMENTS
9	Finding 30	RWQCB Discretion	<p>The draft permit gives the RWQCB the discretion to decide whether the BMPs of an existing SWMP of a permittee that is regulated under the <u>current</u> General Permit are equally or more effective than the BMPs required under the new General Permit. If the RWQCB wishes to, it may then require that the permittee continue to implement its current BMPs rather than those contained in the new General Permit, even if some of the BMPs in the existing SWMP are more comprehensive than those required under the new General Permit. This is clearly discriminatory against current permittees, in that it would allow the RWQCB to hold current permittees (under the existing General Permit) to potentially more stringent requirements than new permittees that enroll for the first time under the new General Permit. As the “Fact Sheet” for the draft General Permit states “This Order specifies the actions necessary to reduce the discharge of pollutants in storm water to the Maximum Extent Practicable (MEP)...” thereby defining MEP. It goes on to say “This set of specific actions is equivalent to the requirements that were included in a separate SWMP for each Permittee in the existing General Permit,” thereby confirming that the BMPs in the new General Permit fulfill the requirements of the current General Permit. Since the new draft General Permit defines in great detail what actions must be taken to achieve MEP, it should not be necessary for ANY permittee to take actions beyond those specified. The language in Finding No. 30 and in Section E.1.b of the Permit should be revised to read as follows: “If a Renewal Traditional MS4 Permittee believes that certain of the BMPs in its existing SWMP meet the MEP standard and are equally or more effective at reducing pollutant discharges than implementation of the requirements of this Section, the Permittee may request approval by its RWQCB to continue implementing its existing BMPs in lieu of implementation of the requirements of this Section.”</p>



PAGE	SECTION OR PARAGRAPH NO.	TOPIC	COMMENTS
18	E.1.a	Renewal MS4s	Renewal MS4s are required to continue implementing their existing SWMP activities for those Sections of the new General Permit for which the specified compliance date is past the effective date of the new General Permit. The intent of this language is not clear and should be clarified.
18	E.1.b	RWQCB Discretion	Same comment as for Finding 30 on page 9.
24	E.7	Community Based Social Marketing	The RWQCB will determine, on a case-by-case basis, whether a permittee will have to implement "Community-Based Social Marketing" requirements. These are complex and would likely require a consultant to develop and help with implementing. It is not clear what the basis for making such a determination by the RWQCB will be. The determination process should be described so permittees will be able to anticipate whether or not these requirements will be applied to them.
27	E.7.b.2.a). (ii)	Construction Training	The Permit requires Permittee staff to have training including Qualified SWPPP Developer (QSD) or Qualified SWPPP Practitioner (QSP) for staff members involved in reviewing development Plans and/or inspecting sites. This was not previously required unless the development projects were > one acre in size. The cost and effort associated with having Permittee staff members obtain and maintain these certifications is not warranted, if those staff members are only reviewing and/or inspecting small projects such as single family residential construction or remodeling, or small additions or remodels of commercial establishments. These certification requirements should only be applicable to staff members involved in reviewing and/or inspecting projects that are > one acre in size.
28	E.7.b.3	Staff Training on Good Housekeeping	This section states that the annual report is to include "oversight procedures." Please clarify the intent of this language.
65	E.13	Water Quality Monitoring	It appears that if a Permittee discharges to an ASBS, and is therefore subject to complying with the ASBS Special Protections requirements, that doing so will comply with all of the requirements set forth in this Section. If this is correct then paragraph E.13(i) should clearly state this. If this is not correct, please explain what the additional requirements in this Section are that apply to ASBS dischargers.



PAGE	SECTION OR PARAGRAPH NO.	TOPIC	COMMENTS
71	E.14.a	Program Effectiveness Assessment	It appears that subsection E.14.a (ii.).f, which pertains to Water Quality Monitoring Data, should not apply to ASBS dischargers who are subject to the ASBS Special Protections. If this is correct then paragraph E.14.a (ii.).f should clearly state this. If this is not correct, please explain what the additional requirements in this Section are that apply to ASBS dischargers.
---	Fact Sheet IV.	Unfunded Mandates	<p>There are several references in this Section of the Fact Sheet that incorrectly deny that any of the requirements imposed by the MS4 Permit will be unfunded mandates. Specifically:</p> <ol style="list-style-type: none"> <li>1. The statement is made that the requirements of the Order do not constitute a new program, and that new and advanced measures do not constitute a new program or higher level of service. These are erroneous statements. Clearly in order to comply with the new requirements the Permittees will have to expend considerably more time and effort than is currently required to comply with the existing General MS4 permit in order to fulfill this higher level of service. This is clearly a mandate, and it is not being funded by the State. Therefore, it is an unfunded mandate</li> <li>2. The statement is made that the Order implements federally mandated requirements and is therefore exempt from the unfunded mandates policy. Many of the specific requirements contained in the new Permit, and which are too numerous to enumerate in this comment letter, are not required by the Federal Clean Water Act, and thus are not exempt from the unfunded mandates policy.</li> </ol>
---	Fact Sheet VII.	Application Requirements	This section states that an NOI must be filed within six months (100 days) from the effective date of the Permit. Six months does not equal 100 days.