Public Comments on Sonoma County MS4 Permit Renewal

First Draft

SONOMA COUNTY WATER AGENCY

File: 43.1-1-9 NPDES Storm Water Permit No. CA0025054

October 22, 2008

NCRWQCB

OCT 22 2008

☐ EO ☐ WMgmt ☐ Admin
☐ AEO ☐ Timber ☐ Legal
☐ Reg/NPS ☐ Cleanups ☐
☐ Date

Ms. Catherine Kuhlman, Executive Officer
California Regional Water Quality Control Board
North Coast Region
5550 Skylane Boulevard
Santa Rosa, CA 95403

Subject: Comments on the Tentative Order Issued by the California Regional Water Quality Control Board, North Coast Region for NPDES Permit No. CA0025054

Dear Ms. Kuhlman:

The Sonoma County Water Agency (Water Agency) has prepared comments on the Tentative Order issued by the California Regional Water Quality Control Board, North Coast Region for NPDES Permit No. CA0025054 issued for the Draft Storm Water (Wet Weather) and Non-Storm Water (Dry Weather) Discharges from Municipal Separate Storm Sewer Systems for the City of Santa Rosa, the County of Sonoma , and the Sonoma County Water Agency (Permittees) on September 9, 2008, (Proposed Permit). This letter provides an overview of the Water Agency's comments; detailed comments are enclosed. The Water Agency also supports the comments submitted by the County of Sonoma (County) and the City of Santa Rosa (City).

The Water Agency is firmly committed to protection of water quality. For instance during the last permit term the Water Agency provided direct instruction to over 13,000 students, removed over 2400 tons of debris from creeks and channels using Water Agency staff, SAC crews, and through the Creek Stewardship Program, which is funded by the Water Agency and the City. The Water Agency's Water Education Program has always included storm water as well as water conservation as part of their curriculum. The Water Agency's commitment to storm water education was further demonstrated in 2006-2007 when we began sponsoring a school assembly program to increase educational outreach which focused specifically on storm water pollution prevention aimed at elementary and junior high school students. In the past two years, over 10,000 students have taken part in this school assembly program. In addition, the Water Agency has partnered with the Russian River Watershed Association to administer and fund a Storm Water Pollution Prevention Video Contest for high school students for the last five years. Many of the items described above are not required by the Storm Water Permit, but demonstrate the Water Agency's commitment to storm water pollution prevention.

As part of our ongoing effort to improve water quality and protect environmental resources, the Water Agency, along with its Co-Permittees, submitted an application in December 2007 for a permit that would meet the Water Agency's Clean Water Act (CWA) responsibilities under the

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MS4 program and provide for the continued protection and preservation of the County's surface waters. As discussed below, we were quite surprised to see many of the provisions your staff included in this Proposed Permit. Despite the many meetings and conversations between our staffs, most of the special provisions in the Proposed Permit were discussed only in general terms, or not discussed at all. Among others, the entire Public Information and Participation Program, Development Construction Program and Industrial/Commercial Facilities Program were a complete surprise and, as discussed below, do not apply to the Water Agency.

We are also quite surprised and disappointed that your staff immediately rejected all Water Agency, County and City requests for any extension of time to prepare comments or hold a hearing on the proposed changes. Your staff spent more than nine months reviewing our permit application, rejected our requests to review an administrative draft in order to collaboratively work through any issues, and then allows Permittees and the public less than two months to review and comment on the Proposed Permit containing significantly new and previously undisclosed provisions.

We hope that you will rectify these issues, and put our two agencies back on the road to a productive partnership to address storm water issues in Sonoma County. That result would be far preferable to all concerned, and would avoid the impasse and gridlock suffered by the Regional Board for the Los Angeles region. As you may be aware, that regional board has resumed negotiations with Ventura County after appointment of a veteran regulator, described as someone agreeable to listening to all sides, to handle the county's NPDES application. Such a collaborative approach would be equally beneficial here.

Given that our extension requests have been denied and the lack of collaboration thus far, we submit these comments. The following items summarize the Water Agency's primary concerns:

1. The Proposed Permit Fails to Acknowledge the Water Agency's Limited Legal Authority. The Water Agency is a Co-Permittee because it owns and maintains some of the flood control channels within the current permit boundary. The Water Agency's role is unique in that it is not a land use authority, and thus does not have the legal authority to enact grading ordinances, regulate or inspect industrial or commercial facilities, or impose controls on new development, among others. Throughout the Proposed Permit, the Regional Board needs to identify which Permittee is responsible for implementing the various components of the Proposed Permit. The current permit made the distinction between the Permittees. Compare, for example, Section D - Special Provisions, Part 4- Planning and Land Development Program states "The Permittees shall implement a Planning and Land Development Program for all New Development and Redevelopment projects subject to this Order to..." The Water Agency does not have legal authority over Planning and Land Development and, therefore, could not meet this requirement and consequently would not be in compliance with this Proposed Permit. In short, the Water Agency does not have the legal authority to carryout the majority of the provisions of the Proposed Permit and the Proposed Permit improperly fails to recognize this fact. 1.1

2. The Proposed Permit Exceeds the Regional Board's Authority under the MS4 Program. The Proposed Permit contradicts the plain language and legislative intent of the Clean Water Act. Phase I permits are intended to apply only to urban centers with a population of 100,000 or more, which do not exist in Sonoma County outside the City of Santa Rosa. The Proposed Permit currently provides no supporting arguments or justification, much less substantial evidence, supporting a notion that the area outside Santa Rosa should be regulated as a Phase I community. The intent of the CWA and the MS4 program was to target urban centers with defined population thresholds. Sonoma County is primarily rural in nature with several urban centers in the unincorporated areas ranging in size from about 7,500 to several hundred in population. Applying the MS4 permit to a rural environment is an inappropriate expansion of and contrary to the intent of the MS4 program. 1.2

3. The Regional Board is Creating Unfunded Mandates. The Proposed Permit contains a finding that asserts that the Proposed Permit "does not constitute an unfunded local government mandate." The Water Agency disagrees. As an initial matter, the Regional Board's jurisdiction does not include decisions or determinations regarding what is, or what is not, an unfunded mandate. Second, the Proposed Permit contains many provisions that individually and collectively exceed federal Clean Water Act requirements for MS4s and, therefore, amount to unfunded mandates. For example, the Proposed Permit requires compliance with water quality objectives found in the Regional Board's Basin Plan. The Regional Board is required to create a Basin Plan pursuant to the Porter-Cologne Water Quality Control Act, not the federal Clean Water Act. As a result, this provision (among others) creates an improper, unfunded mandate. Similarly, the Proposed Permit requires that the "Permittees" provide educational materials to each school district in the county (including live presentations) pursuant to Water Code section 13383.6. The California State Assembly passed AB 1721 (Pavley Environmental Education) to add section 13383.6, relating to environmental education. AB 1721 and Water Code §13383.6 are state statutes are not directly related to the CWA. 1.3

4. The Proposed Permit Is Contrary to the Porter-Cologne Water Quality Control Act. The Proposed Permit runs counter to the principle that the Regional Board should not specify the method and manner of compliance. In numerous instances, the Proposed Permit provides very specific guidance on how to achieve permit compliance. The Porter-Cologne Act does not permit this approach, and instead allows Permittees to devise the method and/or manner in which they comply with permit prohibitions or limits. 1.4

5. The Proposed Permit Imposes Significant Program Costs and Funding Uncertainty. Where, as here, the Regional Board imposes permit restrictions that are more stringent than what federal law requires, California law requires the Regional Board to take into account the public interest factors of Water Code section 13241, which includes economic factors and the cost of compliance. The Proposed Permit does not reflect any consideration of this important legal requirement. Your staff has added more than 90 new work items to the Proposed Permit. The Water Agency investigated the potential cost to implement the Storm Water Management Plan based upon the requirements in the Proposed Permit. The Water Agency estimates that the 1.5

Public Information Participation Program (PIPP) would take an additional three full time employees (approximately $204,000 salary only); the Media Outreach program would cost an additional $100,000; and the Monitoring Program would increase by ten-fold (from $10,000 annually to $100,000 annually). These costs do not include what it would take to create a volunteer monitoring and watershed programs (time and materials) need to have successful programs with in Region 1 in Sonoma County, costs to train employees as well as contractors on pesticide management and the storm water management plan, costs to implement all of the special studies in the Monitoring Plan, or costs to conduct outreach in the businesses sector. In all, the Water Agency estimates that costs would increase approximately $1 million per year. Finally, unlike the County or the City, the Water Agency has no means to collect permit fees to cover the costs of its storm water program.

6. The Proposed Permit Lacks Clarity. In addition to its lack of clarity regarding individual Permittee's responsibilities, the Proposed Permit lacks clarity in its organization, layout and explanation of goals and provisions for which the Permittees are to be held responsible. 1.6

7. Rejection of Permittees' Request for an Extension of Time is Unreasonable. The Permitees submitted its proposed storm water management plan to the Regional Board in December 2007. Due to unknown circumstances the Regional Board released the Proposed Permit on September 9, 2008, with a 42-day comment period, ending on October 22, 2008. The Proposed Permit was released over 120 days late. Considering the Regional Board released the Proposed Permit late, refusing to grant an additional 30 days for the Permittees to comment on the Proposed Permit, which has significant changes from the previous permit, is unreasonable. The Water Agency again respectfully requests that the written public comment period for the Permit be extended an additional 30 days and a public workshop be held after the new year before the Regional Board. This extension would allow the Permittees and the public the opportunity to provide written comments after hearing more about the proposed permit at the staff workshop and would provide for a more collaborative effort between the Regional Board, the Permittees, and the public to produce a storm water management plan that would benefit Sonoma County. 1.7

In summary, the Water Agency has implemented a robust storm water program in good faith for the last several years, and remains committed to doing the same in the future. We have an outstanding compliance record, and have exceeded the scope of our current permit. Our actions, however, have been rewarded with a Proposed Permit that improperly fails to recognize the Water Agency's lack of legal authority to implement significant portions of the Proposed Permit and improperly seeks to regulate rural Sonoma County on a level equivalent to an urban Phase I community.

The Water Agency is committed to protecting water quality, and looks forward to working with you in a collaborative manner to ensure adoption of a new permit which does so in a legal and rational manner.

Thank you for your consideration of our comments on this important issue. Please contact Kevin Booker at (707) 521-1865 if you have any questions on the enclosed comments or if you would like to discuss them in more detail.

Sincerely,

Pamela Jeane for
Randy D. Poole
General Manager/Chief Engineer

Enclosures:
Attachment 1 – Comments Regarding Order No. R1-2008-0106, NPDES No. CA0025054, WDID No. 1B96074SSON

Attachment 2 – Comments Regarding Monitoring and Reporting Program No. R1-2008-0106 NPDES No. CA002505

Attachment 3 – U.S. Census Bureau 2000 Census Urbanize Areas

c: Pam Jeane, Kevin Booker, SCWA
Janice Gilligan, Storm Water Coordinator, Sonoma County PRMD
Rita Miller, Associate Civil Engineer, City of Santa Rosa, 69 Stony Circle, Santa Rosa, CA 95401

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ATTACHMENT 1

October 22, 2008

Sonoma County Water Agency

Comments Regarding Order No. R1-2008-0106, NPDES No. CA0025054,
WDID No. 1B96074SSON

The Reissuance of NPDES
Permit No. CA0025054

For suggested revisions to the text of the TO, underline is shown for suggested additions, and ~~strike-out~~ is shown for suggested deletions.

Comments Regarding Draft Storm Water (Wet Weather) and Non-Storm Water (Dry Weather) Discharges from Municipal Separate Storm Sewer Systems For The City of Santa Rosa, the County of Sonoma, and the Sonoma County Water Agency follows.

Proposed Storm Water Permit

FINDINGS:

Finding 1:
Comment: The Permittees have significantly different land use authority. The Water Agency is a Co-Permittee because it owns and maintains some of the flood control channels within the current permit boundary. The Water Agency's role is unique in that it is not a land use authority, and thus does not have the legal authority to enact grading ordinances, regulate or inspect industrial or commercial facilities, or impose controls on new development, among others. The Water Agency has land use authority only for flood channels it owns in fee. Throughout the Permit, the Regional Board needs to identify which permittee is responsible for implementing the various components of this Permit. The previous permit made this distinction between the Permittees. 1.8

Findings 9 and 10: Permit Boundary
Comment: The U.S. EPA, using the 2000 (Attachment 3) census show, urbanizes areas in Sonoma County. The Permit should be revised to be limited to this area. It is unclear why has the Regional Board proposes to expand the Storm Water Permit boundary beyond what EPA has identified to include rural areas in Sonoma County. Please provide substantial evidence to support the proposed boundary expansion. 1.9

Finding 11:
Comment: The following edits should be made to Section 11. The Water Agency does not having any land use authority except for flood control channels it owns in fee. The added text below was included in the previous permit and should be included in this Permit. 1.10

This Order and its requirements are not intended to restrict or control local land use decision-making authority. The Permittees retain authority to make the final land-use decisions and retain full statutory authority for deciding what land uses are appropriate at specific locations within each Permittees' jurisdiction. The Regional Water Board recognizes that the Permittees' land use authority allows urban developments that may generate pollutants and runoff that could impair receiving water quality and beneficial uses. The Permittees are therefore responsible for considering potential storm water impacts when making planning decisions in order to fulfill the CWA requirement to reduce the discharge of pollutants in municipal storm water to MEP. This responsibility requires the Permittees to exercise their legal authority to ensure that any increased pollutant loads and flows do not affect the beneficial uses of the receiving water. The Sonoma County Water Agency (Water Agency) does not have ~~broad~~ land use authority and can control activities only on its own property ~~or through its flood control and stream maintenance responsibilities~~. References to the Agency land-use authority refer only to the boundaries of its fee-owned flood control channels. Therefore, not all requirements in this Order are applicable to the Water Agency. Do we want to include a map to show what these are?

Finding 24:
Comment: Finding 24 discusses impairments for the Mark West Creek and the Laguna de Santa Rosa. Is there such data for the other creeks in the proposed permit boundary? If not, how does the Regional Board plan to identify impairments causes by storm water? Is the Regional Board planning to initiate the TMDL processes for all creeks in the proposed expanded permit boundary? 1.11

Finding 30:
Comment: The Water Agency does not have the legal authority to inspect industries and businesses. Therefore, the Regional Board needs to identify the "Permittees" in Section 30 which have the legal authority to inspect industries and businesses for discharge contaminated storm water. 1.12

Finding 33:
Comment: In this Finding, the Regional Board acknowledges that each permittee is responsible for implementing its own Storm Water Management Plan. Therefore, the Regional Board needs to identify the Permittees with the authority to implement the various items in the Proposed Permit. 1.13

Finding 41:
Comment: This Finding is not clear. Please clarify the impacts of item 41 on sediment basins. If excess sediment is a potential pollutant, how does the new storm water permit affect in-channel sediment basins? Does the Regional Board consider sediment basins a pollution control facility? How will the Regional Board address existing sediment basins? 1.14

Finding 45:
Comment: This finding acknowledges that the federal Phase I MS4 program applies to areas with populations over 100,000. Given this, it is unclear why has the Regional Board proposes to expand the Storm Water Permit boundary beyond what EPA has identified to include rural areas 1.15

in Sonoma County. The Proposed Permit should be revised to be limited to urbanized areas. If not, please provide substantial evidence to support the proposed boundary expansion.

Finding 46:
Comment: This Finding is not clear. Has preliminary TMDL analysis been done on all creeks in the proposed expanded permit Boundary? If not, why? Does the Regional Board have data showing impairment, due to storm water, for all creeks in the expanded Boundary? Is there data to suggest the impairment is a result from storm water runoff? The Proposed Permit contains no substantial evidence to support this Finding. 1.16

Finding 49:
Comment: The Water Agency does not have the legal authority to inspect industrial or construction activities, other than its own construction sites, or issue permits. This Finding must be revised to clarify that it does not apply to the Water Agency. 1.17

Finding 50:
Comment: The Water Agency does not have legal authority to inspect industrial facilities or commercial establishments, therefore this Finding should be revised to clarify that it does not apply to the Water Agency. 1.18

Finding 51:
Comment: The Water Agency does not have the legal authority to inspect industrial or construction activities, other than its own construction sites. Finding 51, as well as all other sections in this Order, should specify the responsibilities of each permittee, rather than group all Permittees together. 1.19

Finding 52: State Mandates
Comment: The Water Agency disagrees with this Finding. As an initial matter, the Regional Board's jurisdiction does not include decisions or determinations regarding what are, or what is not, an unfunded mandate. Second, the Proposed Permit contains many provisions that individually and collectively exceed federal Clean Water Act requirements for MS4s and, therefore, amount to unfunded mandates. For example, the Proposed Permit requires compliance with water quality objectives found in the Regional Board's Basin Plan. The Regional Board is required to create a Basin Plan pursuant to the Porter-Cologne Water Quality Control Act, not the federal Clean Water Act. As a result, this provision (among others) creates an improper, unfunded mandate. Similarly, the Proposed Permit requires that the "Permittees" provide educational materials to each school district in the county (including live presentations) pursuant to Water Code section 13383.6. The California State Assembly passed AB 1721 (Pavley Environmental Education) to add section 13383.6, relating to environmental education. AB 1721 and Water Code §13383.6 are state statutes are not directly related to the CWA. 1.20

In addition, the Water Agency does not have the authority to levy charges or assessments for storm water as asserted in paragraph 4. Therefore, Finding 52 must be revised to clarify which Permittees have this authority. 1.21

Finding 66:
Comment: AB 1721 is an unfunded mandate as it is not part of the federal Clean Water Act's MS4 program. 1.22

Finding 87:
Comment: Has the model described in Finding 87 been verified by an independent third party? If yes, then who and what were their conclusions? If the model has not been reviewed by an independent party, then why not? 1.23

Finding 94:
Comment: The Water Agency disagrees with this Finding and asserts that the Proposed Permit contains many provisions which are more stringent than federal law. Accordingly, California law requires the Regional Board to take into account the public interest factors of Water Code section 13241, which includes economic factors and the cost of compliance. The Proposed Permit does not reflect any consideration of this important legal requirement. Your staff has added more than 90 new work items to the Proposed Permit which would result in significantly increased costs of compliance. 1.24

Finding 102: Public Process
Comment: The Water Agency disagrees with this Finding. Regional Board staff rejected multiple requests to review or discuss provisions of the Proposed Permit. Staff has also unreasonably rejected the Water Agency's reasonable requests for an extension of the public comment period. Scheduling a public workshop one day before written comments are due undermines effective public participation. Can you show where the Regional Board and the Permittees have work together to achieve a well integrated set of documents that will effectively protect water quality? 1.25

SECTION A – DISCHARGE PROHIBITIONS

Table 2 - Required or Suggested BMPs for Non-Storm Water Discharges

Comment: This table is not clear and must be revised. Most significantly, it is not clear whether the BMPs in Table 2 are required or whether they are a suggestion. There is a practical and legal difference between something being required and something being suggested. This must be clarified. 1.26

With respect to, non-commercial car washing by residents or non-profit organizations, it is not clear whether all car washes, performed by residents or non-profit organizations, are required to get authorization from the Regional Boards Executive Officer before proceeding. This must be clarified. 1.27

SECTION B – RECEIVING WATER LIMITATIONS

Section 3:

Comment: What if an exceedance is not a result of storm water? If fecal or total exceeds water quality limit how does one determine that the exceedance is caused by humans versus wildlife? 1.28

Comment: If through the monitoring program, an exceedance occurs, the Water Agency does not have the authority to modify BMPs, and therefore the Water Agency should not file a Receiving Water Limitations Compliance Report. Section B – Receiving Water Limitations should be revised to excluded the Water Agency from submitting such report due to the lack of authority the Water Agency has over BMP implementation. 1.29

SECTION C- STORM WATER QUALITY MANAGEMENT PROGRAM IMPLEMENTATION

Part 1 – General Requirements:
Comment: In Part 1 – General Requirements, subsection 2**,** should be revised to the following:

1.30

"Each Permittee shall comply with the requirements of 40 CFR 122.26(d)(2) and implement programs and control measures, within its authority, so as to reduce the discharges of pollutants in storm water to the MEP and achieve water quality objectives. "

Part 2 – Legal Authority:
Comment: The Water Agency does not have land use authority; therefore the Water Agency will not implement any part of Section C -Storm Water Quality Management Program Implementation, Part 2- Legal Authority of this Order

1.31

Part 3 – Fiscal Resources:
Comment: The Water Agency does not have land use authority; therefore the Water Agency will not implement any part of Section C -Storm Water Quality Management Program Implementation, Part 3- Fiscal Resources Part 3,1,a,3,B, (i-vi) of this Order.

1.32

Part 4 – Modifications/Revisions:
No Comment.

Part 5 – Responsibilities of the Permittees:
Comment: Part 5, Section 1g: Since some committees are outside Water Agency's authority, the Water Agency will assist with committees in the Flood Control Zone 1A Boundary, outside of city limits.

1.33

SECTION D - SPECIAL PROVISIONS

SPECIAL PROVISIONS: PART 2 – Public Information and Participation Program (PIPP)
Section 1:
Comment: The Water Agency does not have any regulatory or land use authority. 1.34

Special Provisions: Part 2 - Section 2: Residential Program
Comment: The Water Agency does not own any storm drains; therefore the Water Agency will continue to implement the education program it has in place.

Comment: With respect to Outreach and Education, the Water Agency has no legal authority to dictate educational curriculum in the schools. Moreover, this provision is overly prescriptive in that it goes well beyond requiring the Permittees to develop a PIPP but spells out exactly what must be in the PIPP. In all cases, the Proposed Permit fails to state how these specific requirements control pollutants to the maximum extent feasible or how they are necessary in order to meet water quality standards. These provisions exceed federal CWA requirements. 1.35

Comment: The Water Agency has determined that Part 2, Section 2, subsection c7 and c8 specifies a requirement to see behavioral changes. The Water Agency believes without a collaborative effort with teachers and the public, these requirements will provide little if any benefit to Storm Water. If a collaborative effort is not undertaken, then The Water Agency will not implement any part of Section D - Special Provisions, Part 2, Section 2, subsection c7 and c8 of this Order.

Special Provisions: Part 2 - Section 3: Businesses Program
Comment: The Water Agency does not have authority over businesses in Sonoma County therefore; the Water Agency will not implement any part of Section D - Special Provisions, Part 2 Section 3 – Businesses Program of this Order. 1.34

Special Provisions: Part 3 – Industrial/Commercial Facilities Program
Comment: The Water Agency does not have land use authority; therefore the Water Agency will not implement any part of Section D - Special Provisions, Part 3- Industrial/Commercial Facilities Program of this Order. 1.34

Special Provisions: Part 4 – Planning and Land Development Program
Comment: The Water Agency does not have legal authority over planning and Land Development; therefore the Water Agency will not implement any part of Section D - Special Provisions, Part 4- planning and Land Development Program of this Order. 1.34

Special Provisions: Part 5 – New Development/Redevelopment Integrated Water Quality/Water Resource Plan
Comment: The Water Agency does not have legal authority over New Development/Redevelopment; therefore the Water Agency will not implement any part of 1.34

Section D - Special Provisions, Part 5- New Development/Redevelopment Integrated Water Quality/Water Resource Plan of this Order.

Special Provisions Part 6 – Implementation of New Development/Redevelopment Post-Construction BMPs

Comment: The Water Agency does not have legal authority over New Development/Redevelopment; therefore the Water Agency will not implement any part of Section D - Special Provisions, Part 6- Implementation of New Development/Redevelopment Post Construction BMPs of this Order. 1.34

Special Provisions: Part 7 – State Statute Conformity

Section 2; Comment: The Water Agency does not have any authority over the General Plan; therefore the Water Agency will not implement any part of Special Provisions; Part 7 – State Statue Conformity, Section 2 of this Order. 1.34

Special Provisions: Part 8 – Development Construction Program

Comment: The Water Agency does not have legal authority over Development; therefore the Water Agency will not implement any part of Section D - Special Provisions, Part 8- Development Construction Program of this Order. 1.34

Special Provisions: Part 9 – Public Agency Activities Program

Section 1; Comment: The Water Agency does not have land use authority; therefore, the Water Agency will not implement any part of Section D - Special Provisions, Part 9- Public Agency Activities Program, subsections 1c through 1h of this Order. 1.34

Section 2; Comment: The Water Agency does not have land use authority ; therefore, the Water Agency will not implement any part of Section D - Special Provisions, Part 9- Public Agency Activities Program, subsections 2 Public Construction Activities Management of this Order. 1.34

Section 3; Comment: Identify where in the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with construction Activity (General Permit) Water Quality Order 99-08-DWQ does it discuss Maintenance of Flood Control Channel (such as vegetation removal)?

Comment: The following is a paragraph taken from the SWRCB website, under the Construction Storm Water Program.

"Dischargers whose projects disturb one or more acres of soil or whose projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Discharges of Storm Water Associated with Construction Activity (Construction General Permit, 99-08-DWQ). Construction activity subject to this permit includes clearing, grading and disturbances to the ground such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility." 1.36

The last sentence in the paragraph states "Construction activity subject to this permit includes clearing, grading and disturbances to the ground such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility." The Water Agency channel maintenance activities are to restore the channel to their design capacity. There are some instances where restoring the channel to its original capacity is not feasible due to public comments. Based upon the paragraph from the SWRCB website, the Water Agency will not implement Section D - Special Provisions, Part 9- Public Agency Activities Program, subsections 3b.

Section 4; Comment: The Water Agency does not have land use authority; therefore, the Water Agency will not implement any part of Section D - Special Provisions, Part 9- Public Agency Activities Program, subsections 2 Public Construction Activities Management of this Order. 1.34

Section 5; Comment: The Water Agency does not have land use authority over Parks and Recreation; therefore, the Water Agency will not implement any part of Section D - Special Provisions, Part 9- Public Agency Activities Program, subsections 4 Landscape, Park, and Recreational Facilities Management of this Order. 1.34

Section 6; Comment: The Water Agency does not have operate storm drains; therefore, the Water Agency will not implement any part of Section D - Special Provisions, Part 9- Public Agency Activities Program, subsections 6 Storm Drain Operations and Management of this Order. 1.34

Section 7; Comment: The Water Agency does not have legal authority over land use; therefore, the Water Agency will not implement any part of Section D - Special Provisions, Part 9- Public Agency Activities Program, subsections 7 Streets and Roads. 1.34

Section 8; Comment: Identify where in the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with construction Activity (General Permit) Water Quality Order 99-08-DWQ does it discusses channel maintenance? 1.37

Section 11; Comment: Section D - Special Provisions, Part 9- Public Agency Activities Program, subsections 11 MunicipalEmployee and Municipal Contractor Training should be revised to the following:

1. Municipal Employee and Municipal Contractor Training
   (a) Each Permittee shall, no later than (6 months after Order adoption date and <u>every other year</u> ~~annually thereafter~~ before June 30), train all of their employees ~~and contractors~~ in targeted positions (whose interactions, jobs, and activities affect storm water quality) on the requirements of the overall storm water management program to: 1.38
      (1) Promote a clear understanding of the potential for activities to pollute storm water.
      (2) Identify opportunities to require, implement, and maintain appropriate BMPs in their line of work.

(b) Each Permittee shall, no later than (6 months after Order adoption date and annually thereafter before June 30), train all of their employees and ~~contractors~~ who use or have the potential to use pesticides or fertilizers (whether or not they normally apply these as part of their work). Training programs shall address:
   (1) The potential for pesticide-related surface water toxicity.
   (2) Proper use, handling, and disposal of pesticides.
   (3) Least toxic methods of pest prevention and control, including IPM.
   (4) Reduction of pesticide use.

(c) Each Permittee shall, no later than (6 months after Order adoption date) and annually thereafter before June 30, train all of their employees ~~and contractors~~ who are responsible for illicit connections and illicit/ illegal discharges. Training programs shall address:
   (1) Identification.
   (2) Investigation.
   (3) Termination.
   (4) Cleanup.
   (5) Reporting of Incidents.
   (6) Documentation of Incidents.

Comment: The Water Agency recommends the above changes due to the Water Agency have the potential to use multiple contractors. The above requirement would require the Water Agency to train all contractors. The contractors could use this training for monetary gain, which could in turn be a gift of public funds.

Comment: The Water Agency does not have land use authority; therefore, the Water Agency will not implement Section D - Special Provisions, Part 9- Public Agency Activities Program, subsection 11(c)

Special Provisions: Part 10 – Illicit Connections and Illicit Discharges Elimination Program

Comment: The Water Agency does not have land use authority; therefore, the Water Agency will not implement any part of Section D - Special Provisions, Part 10- Illicit Connections and Illicit Discharges Elimination Program. 1.34

Special Provisions: Part 11 – Reporting Program

Comment: Throughout this Order a number of reports are due. All reports should be due at the same time the annual report is due rather than have different dates throughout the year. 1.39

ATTACHMENT 2

October 22, 2008

Sonoma County Water Agency

Comments Regarding Monitoring and Reporting Program No. R1-2008-0106
NPDES No. CA0025054

The Reissuance of NPDES
Permit No. CA0025054

For suggested revisions to the text of the Draft Permit, underline is shown for suggested additions, and ~~strike-out~~ is shown for suggested deletions.

Comments Regarding Draft Storm Water (Wet Weather) and Non-Storm Water (Dry Weather) Discharges from Municipal Separate Storm Sewer Systems For The City of Santa Rosa, the County of Sonoma, and the Sonoma County Water Agency follows.

Monitoring and Reporting Program

Section A - Chemical Monitoring:

Section 1 Outfall Chemical Monitoring:
Comment: The Water Agency does not own any outfalls; therefore, the Water Agency will not implement any part of Section A – Chemical Monitoring Subsection 1a and 1b Outfall Chemical Monitoring of this Order. 1.40

Section B - Aquatic Toxicity Monitoring (Wet Weather)

Comment: The Water Agency does not have land use authority and is unable to regulate storm water discharge; therefore, the Water Agency will not implement any part of Section B – Aquatic Toxicity Monitoring (Wet Weather) of this Order. 1.40

Section C – Bioassessment

Comment: The Water Agency does not have land use authority and is unable to regulate storm water discharge; therefore, the Water Agency will not implement any part of Section C – Bioassessment of this Order. 1.40

Section D - Special Studies

Temperature Monitoring

Comment: The Water Agency does not have land use authority and is unable to regulate storm water runoff; therefore, the Water Agency will not implement any part of Section D – Special Studies, Temperature Monitoring Program of this Order. 1.40

Bacteria Monitoring
Comment: The Water Agency does not have land use authority and is unable to regulate bacteria runoff within City Limits of Santa Rosa; therefore, the Water Agency will not implement any part of Section D – Special Studies, Bacteria Monitoring of this Order. 1.40

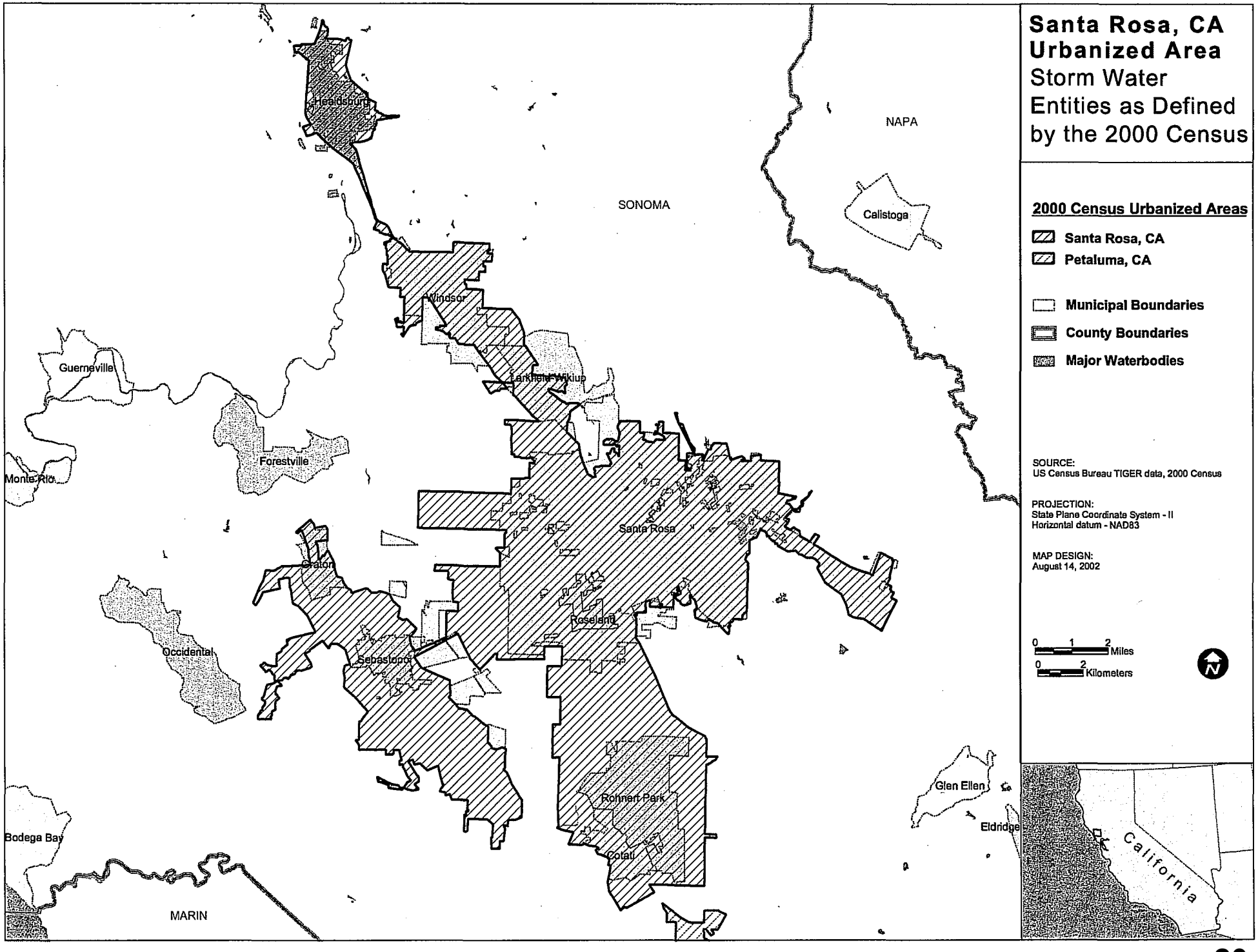
Visual Flow Monitoring
Comment: This section is unclear. What is the Regional Boards definition of excessive summertime flows? Water Agency will monitor flood control channels it owns in fee during the summertime. If Water Agency sees excessive flows leaving a storm drain discharging into a flood control channel the Water Agency owns in fee, then the Water Agency Storm Water Coordinator will attempt to contact person identified in Part 2 – Public Information and Participation Program, Section 2 – Residential Program, Part b Public Reporting. 1.41

Atmospheric Deposition
Comment: The Water Agency does not have land use authority and is unable to regulate Atmospheric Deposition in the Santa Rosa Area; therefore, the Water Agency will not implement any part of Section D – Special Studies, Atmospheric Deposition Study of this Order. 1.40

Kelly Farm Nutrient Monitoring
Comment: The Water Agency does not have land use authority over Kelly Farm; therefore, the Water Agency will not implement any part of Section D – Special Studies, Kelly Farm Nutrient Monitoring Study of this Order. 1.40

BMP Effectiveness Special Study
Comment: The Water Agency does not have land use authority, but will work with others Permittees on Section D – Special Studies, BMP Effectiveness Special Study of this Order. 1.40

Volunteer Monitoring Programs
Comment: The Water Agency has a number of concerns with the volunteer Monitoring Program. 1) How many watersheds are there in the expanded Permit Boundary? 2) Does the Regional Board expect every watershed to have a Volunteer Monitoring Program? 3) If not, then Regional Board should specify which watershed needs Volunteer Monitoring Programs? 4) What happens if volunteers cannot be found? 5) Is every watershed in the expanded permit boundary impaired? 6) With the potential for the number of watersheds to be in the hundreds, who will QA/QC the volunteer monitoring program? 7) How will this program be funded? 8) As the Water Agency has no land use authority, our participation will be limited. 1.42


Santa Rosa, CA
Urbanized Area
Storm Water
Entities as Defined
by the 2000 Census
2000 Census Urbanized Areas
Santa Rosa, CA
Petaluma, CA
Municipal Boundaries
County Boundaries
Major Waterbodies
SOURCE:
US Census Bureau TIGER data, 2000 Census
PROJECTION:
State Plane Coordinate System - II
Horizontal datum - NAD83
MAP DESIGN:
August 14, 2002
0 1 2 Miles
0 2 Kilometers
N
Healdsburg
NAPA
SONOMA
Calistoga
Windsor
Guerneville
Larkfield-Wikiup
Forestville
Monte Rio
Santa Rosa
Graton
Roseland
Occidental
Sebastopol
Rohnert Park
Cotati
Glen Ellen
Eldridge
Bodega Bay
MARIN
California

City of Santa Rosa

October 22, 2008

NCRWQCB

OCT 22 2008

☐ EO ☐ WMgmt ☐ Admin
☐ AEO ☐ Timber ☐ Legal
☐ Reg/NPS ☐ Cleanups ☐
☐ Date

HAND DELIVERED

Catherine E. Kuhlman, Executive Officer
North Coast Regional Water Quality Control Board
5550 Skylane Boulevard
Santa Rosa, CA 95403

CITY OF SANTA ROSA COMMENTS ON ORDER NO. R1-2008-0106 SANTA ROSA AREA DRAFT NPDES STORM WATER DISCHARGE PERMIT

Dear Ms. Kuhlman:

On September 9, 2008, Order No. R1-2008-0106, NPDES No. CA0025054, Draft Storm Water Permit (Draft Permit), for County of Sonoma, City of Santa Rosa (City) and the Sonoma County Water Agency (Permittees) was issued. The deadline for comments on the 120-page Draft Permit is October 22, 2008. The City requested an extension of the comment period which was denied by the North Coast Regional Water Quality Control Board (Regional Board). Due to the length and complexity of the Draft Permit, we would urge the Regional Board to consider allowing additional time for comments. The comments contained in this letter and in the attached spreadsheet represent staff's best effort to respond to this permit within the limited review period. City staff worked cooperatively with Regional Board staff to develop the proposed Storm Water Management Plan (SWMP) submitted on December 21, 2007 and are disappointed with the Draft Permit requirements and language which differ quite drastically from what was submitted as part of the SWMP, including a substantial increase in requirements and disregard for proposed management practices developed with our unique basin conditions and needs in mind. 2.1

It is the City's intent to continue implementation of a comprehensive, cost-effective storm water pollution control program to protect and improve water quality in Sonoma County. The City is deeply concerned about the prescriptive nature and lack of flexibility of the provisions of the Draft Permit as it is currently written. The City is also concerned about the Draft Permit's lack of clarity regarding which provisions are applicable to each Permittee as well as the associated liability risks for each Permittee. 2.2 2.3

Existing Storm Water Management Program

The City has continuously worked to improve its storm water management program over the last eleven years during two permit terms. Additional monitoring beyond that required in the current permit has been conducted to address specific issues and improve overall program effectiveness. The program has expanded and was called a "model" program compared to other municipalities throughout the nation during the recent (November 2007) inspection audit by the U.S. Environmental Protection Agency (EPA). The audit covered a majority of the program elements including: Program Management; Private Construction Element;

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www.srcity.org

Industrial/Commercial Program; Municipal Operations Program (including Public Construction Activities Management, Vehicle Maintenance/Material Storage Facilities/Corporation Yards Management, Landscape and Recreational Facilities Management, Storm Drain Operation and Maintenance, and Streets and Road Maintenance); Illicit Discharge Detection and Elimination Program; Monitoring Plan; and Santa Rosa Area-Standard Urban Storm Water Mitigation Plan requirements. Deficiencies were only noted in three of the seven program elements reviewed and the City proposed programs to address all of these in its (SWMP).

Input regarding existing SWMP programs and activities was gathered from permittee internal staff and management, community representatives, U.S. EPA auditors and Regional Board staff

A Citizens Advisory Group (CAG) was formed to provide insight into the community's perspectives and understanding about the effectiveness of current SWMP programs and activities. The CAG included representatives from organizations such as the Santa Rosa Chamber of Commerce, Civil Engineers and Land Surveyors of California, American Society of Civil Engineers, Sonoma County Farm Bureau, California Department of Fish and Game, Sonoma County Grape Growers, the Sierra Club, the Laguna de Santa Rosa Foundation, City Community Advisory boards, and local consulting planners.

Permittee staff repeatedly met with Regional Board staff to discuss and coordinate the permit renewal process. As a result of these meetings, each Permittee revised their individual SWMP to describe both existing and new activities that will be undertaken to eliminate, prevent or reduce the load of storm water pollutants entering publicly owned or maintained storm water systems and to establish measurable goals to be implemented in Term 3.

In addition to the City's existing ongoing efforts to improve water quality, numerous new or enhanced programs were included in the proposed Term 3 SWMP. Some of the highlights of the SWMP include; updating the current City Storm Water Ordinance; establishing formal Best Management Practices (BMP) standards for erosion and sediment controls; developing a pesticide and fertilizer plan for the Bennett Valley Golf Course; implementing procedures to minimize incidental runoff from irrigation, nuisance summer flows, water line and hydrant flushing and reservoir draining, updating geographic information systems (GIS) layers for storm drain mapping; mapping outfalls in City parks; continuing the storm drain labeling program; prioritizing, cleaning and tracking of catch basin cleaning through GIS; evaluating the adoption of a Road Maintenance Standards Manual; installing pet waste signs and trash receptacles at prioritized locations; continuing to support the Russian River Watershed Association's monthly environmental column in local newspapers; implementing an enhanced storm water pollution awareness training program for City staff; exploring an outreach partnership with the Santa Rosa Junior College; and conducting another community storm water awareness survey.

Permit language is nearly identical to the disputed Ventura County and Bay Area Permits

A major concern is that the Draft Permit is not consistent with the submitted SWMP, which was developed with input from community, stakeholders, and many meetings with Regional Board staff. The Draft Permit language doesn't account for or acknowledge existing programs being implemented under the current SWMP. City staff is concerned that implementing programs applicable to southern California may not be appropriate in Sonoma County. Language in the Draft Permit is nearly identical to the 2007 draft of the Ventura County permit, including numerous areas requiring clarification and many typographical errors. Approximately 95% of the provisions have the same text as those within the Ventura County permit. An April, 2008 draft of the Ventura County permit has been released and another draft is expected to be out soon. It is unclear why an older draft of the disputed Ventura County permit was used as the basis for the Sonoma County permit. The Ventura County permit has been highly contested since the first draft was released in 2006. City staff contends that it is inappropriate to adopt a permit that includes language nearly identical to that of a draft permit that is still not adopted.

2.4

Much of the Draft Permit language may be more appropriate for southern California or areas more urban than Sonoma County. The initial draft San Francisco Bay Area-wide municipal permit was issued on December 4, 2007. Municipalities in that area are involved in disputes with their respective Regional Board over their draft permit language. Both Ventura and the Bay Area are more urban than Santa Rosa and have been under permit longer due to their larger populations (Ventura since August 22, 1994, and the Bay Area since October 16, 1991). There have been multiple public hearings related to the permit language in both of the above-mentioned areas, and there has been additional time allowed to review and revise the draft permits. Since disputes over similar draft permit language have not been resolved in other jurisdictions that are larger and have been under storm water regulations for a longer time, City staff concludes that it is unreasonable to finalize a permit for the Santa Rosa Area jurisdiction on December 11, 2008 as proposed.

Findings are not objective nor applicable to Sonoma County

Many of the 109 findings in the permit are not objective facts related to storm water in general or the Sonoma County area. Numerous claims suggest storm water in Sonoma County is responsible for causing impairment to water quality without any citations or data. These findings are not objective and many do not apply to Sonoma County. Water bodies within or downstream of Santa Rosa are currently listed as impaired on the EPA's 303(d) list for temperature, sediment, pathogens, nutrients (N&P), low dissolved oxygen and mercury. However a number of different findings in the Draft Permit identify pollutants of concern as including pesticides, PCBs, oil and grease, pharmaceuticals, toxic chemicals, PAHs, bis (2-ethylhexyl) phthalate, lead, copper, zinc, dioxins, food waste, heavy metals, litter, trash and debris. Many of these constituents have been sampled for in the Permittee's existing NPDES storm water permit monitoring program and were not determined to be issues in Santa Rosa area water bodies. Many of the findings and provisions in the Draft Permit are focused on trash, which has not been demonstrated to be an issue in the local area. The findings need to be reviewed and revised to address the actual pollutants impacting water quality in Sonoma County.

2.5

2.6

Provisions of the Draft Permit are not cost-effective and create a substantial financial burden for the City

Many of the required provisions in the Draft Permit are onerous, costly and many will not improve water quality. City staff has estimated implementation of the additional provisions in the Draft Permit would cost over three times more than the program proposed in the SWMP. The fiscal condition of the City is a serious concern at this time and proposals are being considered to cut staff and services. The City currently does not have the funding available to fund many of the provisions included in the Draft Permit and City staff are concerned many will not improve water quality. Examples of costly provisions contained in the Draft Permit are listed below:

2.7

- The Draft Permit requires trash excluders on all catch basins/storm drain inlets in commercial and industrial areas and near educational institutions (about 3,600 inlets). Also requires trash cans at all bus stops (430 additional cans). Currently about 110 trash cans are placed in areas with known trash problems. Installing these devices and trash cans would cost over $3,000,000 and ongoing maintenance costs are estimated to be $800,000 a year. City staff are concerned the permit calls for spending millions of dollars on a pollutant that has not been shown to be a significant problem in our area.

2.8

- The Draft Permit requires costly storm water treatment over and beyond what is currently required as part of Capital Improvement Program projects (including street reconstruction and paving) that affect more than 5,000 square feet of existing impervious surface or undisturbed land. This requirement would add ~10% to all project costs or a total of nearly $3,000,000 to City capital projects for replacing existing paved areas.

2.9

City staff is disappointed in the limited time allowed for review and preparation of comments on such a lengthy and complex document that differs significantly from the submitted SWMP that was prepared during the course of a year with Regional Board input. Given additional time, City staff would have been able to provide more extensive comments and recommendations for improvements to ensure the permit reflects the unique aspects of our region. City staff did request additional time to prepare comments, however that request was denied by the Regional Board.

The attached spreadsheet includes comments on specific findings and provisions of the Draft Permit. We request the opportunity to work with your staff to revise the current Draft Permit to develop cost-effective provisions that will supplement our current efforts in protecting water quality from storm water pollution in Santa Rosa. Please contact Rita Miller at 543-3879 if you have any questions or need further clarification.

Your consideration of these concerns is greatly appreciated.

Sincerely,

for MILES FERRIS
Director of Utilities

MF/SAB/pco [L:\NPDES Permit\Renewal - Term III\9 8 08 Draft Permit - Comments to RWQCB\cover letter for draft comments 100708.doc]

cc: Kevin Booker, Principal Engineer, SCWA
Janice Gilligan, Stormwater Coordinator, Sonoma County PRMD
Jeff Kolin, City Manager, City of Santa Rosa
Greg Scoles, Assistant City Manager, City of Santa Rosa
Rick Moshier, Public Works Director, City of Santa Rosa
Rita Miller, Associate Civil Engineer, City of Santa Rosa

City of Santa Rosa Comments on Draft Order R1-2008-0106 - 10/22/08

SECTION	Page	Item#	Issue (note if none)	Requires Clarification (rc)	Unfunded Mandate (um)	Initial Cost ($)	Annual Cost ($)	Deadline Involved (d)	NCRWQCB COMMENT #
FINDINGS	1	2	Define designated storm water discharges.	x					2.10
	3	7	The NCRWQCB does not have jurisdiction on discharges that drain into San Francisco Bay.	x					2.11
	3	8	Include industrial/commercial program and municipal activities in accomplishments.						2.12
	3,4	9	The City suggests rewording portions of paragraphs 1 and 2 by replacing "do contribute cumulatively" with "may." Does RB have studies to support this claim?						2.13
	4	9	Paragraph 5. Please define storm water infrastructure.	x					2.14
	4	10	Define storm water runoff	x					2.15
	5	11	Requires the City to consider potential storm water impacts when making planning decisions in order to fulfill the CWA requirement to reduce the discharge of pollutants in municipal storm water to MEP. This finding is suggesting applying this order to the City's CEQA process. This would be an unfunded mandate since CEQA is a state regulation.		x				2.16
	5	12	This finding should only apply to permittee maintained storm water treatment controls.						2.17
	6	14	Development is now consistent with SUSMP and storm water runoff receives treatment so all these impacts may not apply.	x					2.18
	6	15	The City requests the following statements be reworded to read "Storm water runoff discharges may" and "Specific pollutants that may be contained…"						2.19
	7	17	The City requests the first sentence be change to read "Elevated bacterial indicator densities may impair…"						2.20
	7	18	The City suggests rewording the second paragraph as follows: "Excessive sediment may impact beneficial uses in many ways:…(3) Increased nutrient loading, shallow pools, impaired flows all of which may contribute to nuisance algal conditions..."						2.21
	7	19	The City suggests rewording the first sentence to read "Storm water flows may alter the natural temperature regime…"						2.22
	8	22	Please provide a citation for last sentence, which states "municipal point source discharges from urbanized areas remain a leading cause of impairment of surface waters in California."	x					2.23
	8	23	The City suggests rewording the first sentence to read "Urban development may change the quantity and flow characteristics of storm water runoff…"						2.24
	9	26	The City suggests rewording to illustrate that different discharges "may" impact the environment without appropriate BMPs as follows: "The discharge of wash waters, irrigation runoff, and other non-storm water flows as well as contaminated storm water from some categories of industries and businesses can be an environmental threat that can adverely impact public health and the environment unless proper BMPs are implemented."						2.25
	9	27	The City suggests rewording as follows: "is anticipated , however, that small or accidental discharges of recycled water will be included in the Basin Plan Amendment."	x					2.26

SECTION	Page	Item#	Issue (note if none)	Requires Clarification (rc)	Unfunded Mandate (um)	Initial Cost ($)	Annual Cost ($)	Deadline Involved (d)	NCRWQCB COMMENT #
	10	29	The City suggests rewording the last sentence to read "Studies indicate that storm water discharges from RGOs may have high concentrations of hydrocarbons and heavy metals." Additionally, please provide a citation to support the last sentence.						2.27
	10	30	The City is unaware of any sampling conducted under this permit that suggests trash or pesticides continue to contribute significant quantities of pollution and these pollutants are coming from industrial and commercial sites. Please provide data to support these statements. In the third sentence the City suggests adding "may" and would read "The POC is such waste water may include…"	x					2.28
	11	32	The City suggests rewording the third sentence to read "The Management Plan identifies measures to minimize or eliminate the volume and frequency of certain categories of non-storm water discharges…"						2.29
	12	34c	The City suggests expanding the monitoring program goals to read as follows: "The primary objectives of the Monitoring Program include, but are not limited to: a) Assessing the chemical, physical, and biological impacts of storm water discharges on receiving waters resulting from urban storm water discharges. b) Assessing the overall health and evaluating long-term trends in receiving water quality. c) Assessing compliance with water quality objectives. d) Characterization of the quality of storm water discharges. e) Identifying sources of pollutants. f) Measuring and improving the effectiveness of requirements implemented under this Order and assessing the resultant reductions in pollutant loads."						2.30
	13	36	The City suggests rewording the first sentence to read "The Management Plan contains specific measurable goals that the permittees and RWQCB believe would achieve storm water runoff pollution reductions to the MEP." Additionally, due to the serious budget issues being faced by the City, the management plan should be updated to reflect the current fiscal outlook. The fiscal outlook has changed significantly since the management plan was submitted in 2007. It doesn't make sense to approve a permit and then have the permittees request waivers of provisions due to budgetary constraints when budget issues are already known.						2.31

SECTION	Page	Item#	Issue (note if none)	Requires Clarification (rc)	Unfunded Mandate (um)	Initial Cost ($)	Annual Cost ($)	Deadline Involved (d)	NCRWQCB COMMENT #
	13	37	The City is concerned that provisions in permits by other regional boards (Ventura & Bay Area) are included in the Draft Permit. Both those permits are highly contested and have not been adopted. These areas are also outside of the north coast region and cover areas that are much different than the Santa Rosa area. If all MS4 permits throughout the state are going to include the same language, then why are permits issued at the regional board level? The City is also seriously concerned that cost considerations were not part of the decision to include additional provisions in the draft permit.						2.32
	13	38	The City is willing to look for grant opportunities to improve the storm water program, however grant programs typically don't allow grantees to use funds for mitigation or to fulfill permit requirements.						2.33
	14	40	Does this finding apply to all projects or SUSMP applicable projects? The existing SRA-SUSMP does require design review and post-construction storm water treatment for projects constructing or reconstructing less than 1 acre of impervious surface if projects are located adjacent to environmentally sensitive areas or if new storm drain outfalls to waterways are constructed.	x					2.34
	16	46	The City suggests rewording the second sentence to read "preliminary analyses indicate that storm water runoff may be a significant contributor of pollutants to impaired waters. The City also requests the Regional Board provide data supporting the claim that the MS4 is a significant contributor to the region's temperature and sediment impairments.	x					2.35
	17	48	Please clarify the last sentence that states certain categories of non-storm water discharges are allowed given Table 2 that prohibits all non-storm water discharges without approval of the Regional Board Executive Officer.	x					2.36
	17	49	The City is concerned that this finding would limit the ability to enforce on industrial and construction activities within the City's jurisdiction since these activities already require statewide general NPDES permits. This finding may also limit the City's ability to pursue cost recovery or levy fines if enforcement must be carried out by the Regional Board.				**Unknown**		2.37
	18	52	Any provision in the permit that goes beyond MEP or includes state requirements, such as CEQA, are unfunded mandates. Proposition 218 also limits the City's ability to raise revenues to comply with the permit. Therefore, the City can't assess properties without voter approval. Service charges and fees can only be assessed on new development.		x				2.38
	20	56	The introduction of the State Board Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays and Estuaries of California clearly states this policy does not apply to storm water discharges. Therefore, this finding should be removed.	x					2.39
	23	62	This sentence is unclear and the City requests that it be clarified.	x					2.40
	25	72-74	There is a typo in the last line of each finding (subsection 2 should be replaced with 3).						2.41

SECTION	Page	Item#	Issue (note if none)	Requires Clarification (rc)	Unfunded Mandate (um)	Initial Cost ($)	Annual Cost ($)	Deadline Involved (d)	NCRWQCB COMMENT #
	26	76	Table 2 does not authorize any of the non-storm discharges listed and this finding in not consistent. Please clarify this finding with regards to Table 2. The City requests rewording the first sentence to read "…Non-Storm Water Discharges are not a significant source of pollutants to the MS4." There is a typo in the last line of the finding (subsection 2 should be replaced with 3).	x					2.42
	27	77	The City is concerned that the fourth sentence is not a finding. Please clarify the sentence which states "The Permittees shall continue to look for additional opportunities to reduce pollutants discharged from the MS4."	x					2.43
	30	85	The City can not force other agencies or organizations to control pollutants or enter into agreements. The City can only use its best efforts to work with other agencies and organizations. The City also requests rewording the first sentence to read "Permittees are to work cooperatively to control the contribution of storm water pollutants from one portion of the MS4 to another portion..."						2.44
	30	87	The City suggests rewording the second paragraph as follows: "discharges in the dry season as one potentially significant source…"						2.45
	31	88	The Regional Board does not have the authority to require the City to change local ordinances regarding CEQA implementation and that would be a unfunded mandate. CEQA is a state regulation and not part of the CWA. Would storm water mitigation requirements be required for all new and redevelopment or above certain size thresholds?	x	x				2.46
	31	90	Is this the correct legal standard for the imposition of measures?	x					2.47
	31	91	The City suggests rewording the first sentence by adding "to the MEP."						2.48
	33	95	The City suggests rewording the first sentence to read "This Order provides a process for Permittees to petition…"						2.49
	33	97	The introduction of the State Board Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays and Estuaries of California clearly states this policy does not apply to storm water discharges. Therefore, this finding should be removed.	x					2.50
	33	98	The City suggests rewording the third sentence to read "…and maintenance of publicly owned treatment control BMPs…"						2.51
	34	99	The City suggests rewording the first sentence to read "This Order requires that Permittees use best efforts to ensure..."The second sentence also uses similar language and should read, "This Order requires that Permittees use best efforts to ensure."						2.52
	34	100	Requires coordination, response and notification requirements for MS4 Permittees when sanitary sewer overflows result in a discharge to the MS4 system. Sanitary sewer systems are already required to do these tasks under separate NPDES permits. Having this requirement in the storm water permit is duplicative and the City requests this finding be removed.						2.53

SECTION	Page	Item#	Issue (note if none)	Requires Clarification (rc)	Unfunded Mandate (um)	Initial Cost ($)	Annual Cost ($)	Deadline Involved (d)	NCRWQCB COMMENT #
	34	102	The Permittees worked cooperatively with Regional Board staff to develop a comprehensive SWMP. However, the Permittees were not provided specific input from Regional Board staff prior to the release of this draft order. The multitude of requirements in addition to the measures proposed in the SWMP are onerous and excessive. The workshop held on June 12, 2008 covered storm water issues in general and was not specific to this draft order. The City suggests changing the language of this finding to reflect that the June workshop was not a public hearing on this draft order.						2.54
A. DISCHARGE PROHIBITIONS	36	3	The City suggests rewording as follows, "Except as otherwise authorized by an individual or general NPDES permit, discharges to the MS4 are prohibited, unless specifically authorized as set forth below."						2.55
	36	4	The City is concerned that all non-storm water discharges are prohibited by this draft order. This is the first draft order we are aware of that contains this strict prohibition. The City recommends the Regional Board specify allowable non-storm discharges with required BMPs. If the Regional Board wants to prohibit all non- storm water discharges in the order, then the City suggests Prohibition 4 be reorganized to (1) distinguish between what non-storm discharges are and are not the responsibility of the Permittees; (2) reposition Table 2 at the end of sub-paragraphs (a) and (b); and change the ordering of sub-paragraphs (a) and (b) to better establish the procedural sequence of obtaining authorization of non-storm discharge. In addition, Prohibition 4 should have language included that makes it clear that a Permittee that either prohibits a non-storm discharge to the MS4 or watercourses OR obtains EO authorization for such non-storm discharge has met MEP as required by federal law. We therefore propose rewording as follows: Impacts to receiving waters from non-storm water flows may include increased pollutant loading, flow modification and related physical changes to receiving waters, and creation of a condition of nuisance. The Permittees <u>are not responsible for prohibiting non-storm discharges that originate from a State, federal, or other source which they are pre-empted by law from regulating. Permittees shall prohibit all other non-storm discharges (as identified in Table 2, below) into the MS4 and watercourses, except as otherwise authorized by the Executive Officer under this Prohibition 4. Compliance with the provisions of this Prohibition 4 shall be deemed to achieve the “maximum extent practicable” requirement identified in Finding 5.</u>						2.56

SECTION	Page	Item#	Issue (note if none)	Requires Clarification (rc)	Unfunded Mandate (um)	Initial Cost ($)	Annual Cost ($)	Deadline Involved (d)	NCRWQCB COMMENT #
	36	4	*continued* (a) If the Regional Water Board Executive Officer determines that any of the categories of non-storm water discharges identified in Table 2 are a source of pollutants, the Permittee(s) shall either: (1) Prohibit the discharge from entering the MS4; or (2) Authorize the discharge category and require implementation of appropriate or additional BMPs to ensure that the discharge will not be a source of pollutants; or (3) Require or obtain coverage under a separate NPDES permit for discharge into the MS4. (b) If the Executive Officer authorizes the discharge category and requires implementation of appropriate or additional BMPs to ensure that the discharge will not be a source of pollutants, then: (1) The Permittees shall require that non-storm water flows infiltrate where possible and shall perform public outreach and education as one of the BMPs associated with each type of non-storm water discharge that they seek authorization from the Executive Officer to allow into the MS4; and. (2) The Permittees shall modify their appropriate Management Plans to include, and thereafter implement, those BMPs designated by the Executive Officer in her or his authorization notice to Permittees.						
TABLE 2	37		Table 2 needs to be clarified. Would BMPs be required or suggested?						2.57
TABLE 2	37		"Natural springs and rising ground water" should only be prohibited in cases of contamination or water quality being altered by the discharger.						2.58
TABLE 2	37		Prohibits flows from emergency fire fighting activity. Please see letter to Regional Board from City Fire Dept. dated 10/20/08 regarding this prohibition.						2.59
TABLE 2	37		Define natural overflows from riparian habitats or wetlands. Would natural floodwaters not be allowed to be returned to receiving waters?	x					2.60
TABLE 2	39		Prohibits flows from buildings with foundation/footing/crawl drains and pumps. This should apply only to new construction.						2.61
TABLE 2	40		Dechlorinated pools - conditions allowed should read "if land is not available."						2.62
TABLE 2	40		Prohibits residential and non-profit car washing.						2.63

SECTION	Page	Item#	Issue (note if none)	Requires Clarification (rc)	Unfunded Mandate (um)	Initial Cost ($)	Annual Cost ($)	Deadline Involved (d)	NCRWQCB COMMENT #
TABLE 2	41		Prohibits discharge of pooled water from treatment BMPs. Conditions cover maintenance of BMPs and should only apply to structural BMPs. Would be a fiscal burden especially as more treatment devices are installed.			**$500,000**	**$250,000**		2.64
C. STORM WATER QUALITY MANAGEMENT PROGRAM IMPLEMENTATION	44	2a	The City can not force other agencies or organizations to control pollutants or enter into agreements. The City can only use its best efforts to work with other agencies and organizations.						2.65
	44	3	Update SW ordinance to enforce all requirements of this order					365	2.66
	44	4	Legal counsel must state the City has obtained and possesses all legal authority to comply with this order					365	2.67
PART 3 FISCAL RESOURCES	45	1	Proposed requirements include a very detailed and extensive accounting of storm water program activity implementation. This level of effort to breakdown expenditures is not justified in the Findings, is not cost-effective or reasonable and will be time intensive. This provision also conflicts with finding #47. Footnote 8 lists ways to fund SWMP activities, however benefit assessments can only be implemented on new development. Other similar funding mechanisms are also listed, however there are no additional funding sources available to the City. May require changing the City's accounting system. Currently catch basin and storm drain pipe cleaning labor charges are combined when City crew's clean our storm drain system and can't be separated. City requests that this provision be changed to address these concerns.				**$80,000**		2.68
PART 4 MODIFICATIONS/REVISIONS	46		All programs, protocols, practices and municipal codes need to be consistent to the permit requirements within 1 year of permit adoption. The timeframe is unrealistic given the numerous program and codes involved.					365	2.69
PART 1 GENERAL REQUIREMENTS	47	3	Standard BMPs are required for many activities and the City is concerned that those BMPs may not work or become updated by new technology. RB prescribes a procedure for Best Management Practice (BMP) Substitution from the RB's Executive Officer, with Public Notice. There is concern that the RB will not review requests in a timely manner. Additionally, site conditions could necessitate immediate action in the field to prevent impacts to water quality. This provision may severely constrict the ability of the Permittees to protect water quality. A short approval process or immediate approval should be implemented. The requirement of public notice prior to Executive Officer approval also is onerous and considered unnecessary.						2.70

SECTION	Page	Item#	Issue (note if none)	Requires Clarification (rc)	Unfunded Mandate (um)	Initial Cost ($)	Annual Cost ($)	Deadline Involved (d)	NCRWQCB COMMENT #
PART 2 PUBLIC INFORMATION AND PARTICIPATION PROGRAM (PIPP)	47	1	Requires coordination with Sonoma State University and the Santa Rosa Junior College to implement requires of the PIPP. The City has no control over these institutions and can only use best efforts to work with them.	x					2.71
	47	1a	Permittees can measure the knowledge base of our target audience, however current social research shows that an increase in knowledge does not constitute an increase in positive behavior. Even if people know the law and the environmental impacts, they may still choose to pollute creeks. The City recently completed a public poll that could serve as a baseline and a future assessment conducted to evaluate if there is an increase in knowledge base.			**$15,000**			2.72
	47	1b	To measurably change the waste disposal and storm water generation behavior of target audiences, the City would have to complete a comprehensive study of people's behavior. The study would require a large sampling of residents and need to be structured to distinguish behavior people report versus actual behavior.			**$50,000**			2.73
	47	2a	100% of storm drains to have decals by end of term. There is concern that 100% coverage can't be guaranteed. The City requests adding "to the Maximum Extent Practicable" to this requirement.				**$25,000**		2.74
	47	2a	Requires posting of "No Dumping" signs at designated creek access points. Field Services staff conveyed that dumping in creeks is not currently a major concern. These signs may actually invite dumping & detract from the natural beauty of our creeks. Please omit this requirement.				**$25,000**		2.75
	48	2b	Requires identifying staff as contacts for several PIPP areas. Should require programs and not staff as staff can turnover. Identifying program contacts vs. staff contacts may allow Permittees to address concerns more readily.						2.76
	48	2c	Requires conducting a pollution prevention advertising campaign, producing public service announcements and distributing outreach materials to retail stores. The campaign requirements are vague and have no time requirement. The City can send out PSAs, however the media company would decide whether they are played and at what time. Depending on the time slot, the PSAs may not be effective. Developing and printing rack cards for retail stores would require additional City fiscal resources. The stores may not want any information so the City can not guarantee the materials would be distributed. The City is only able to make materials available to interested retailers.			**$5,000**			2.77
	48	2c1e	The City completed a public awareness survey as part of the last permit term that provides a clear picture of what outreach methods would be most effective for our program. The City should use this existing specific local data and conclusions rather than "re-inventing the wheel" and spending valuable staff time and financial resources. The City requests this provision be removed or allow a process for approval of alternatives.						2.78

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	48	2c1e&f	The City is concerned about the wording (organize). It may be more appropriate to support or participate with these organizations and events.						2.79
	48	2c2	Ethnic Community Outreach – develop & implement a program within 180 days of permit adoption. Which ethnic communities would this apply to? Most ethnic minorities in Santa Rosa, either speak and/or read English. To develop a strategy, the City would have to complete a comprehensive survey to assess the size and type of ethnic minority groups in our community. It would also require the services of social studies professionals and focus groups to assess if our outreach methods were "culturally effective." This provision would be very costly and the timeframe is unrealistic.			**$50,000**		180	2.80
	49	2c5	Requires a minimum percentage of educational impressions per year to general population (25%) and impressions via newspaper, local access TV, local radio and/or internet (15%). The City is concerned how these percentages were developed?	x			**$5,000**		2.81
	49	2c6	School Children – reach 50% of all school kids (K-12) every 2 years & develop a method to assess outreach effectiveness. In Santa Rosa this would require the City to provide educational materials or in-school presentations to 16,000 students. The permittees currently conduct effective education through SCWA's elementary school program, the City's High School Bioassessment Program and the Environmental Discovery Center. Scaling the program up to the required numbers is not feasible, therefore to reach more students the permittees could mail more outreach materials. Conducting in-school presentations may prove problematic since educators today are increasingly reluctant to give up class time for outside presentations. Topics outside of the approved curriculum are difficult to justify when intensive testing dictates lesson plans. Providing materials to schools may be the only component of this provision that the City can support. Responsibilities of the Permittees should be separated by their jurisdictions.				**$40,000**	180	2.82
	49	2c7	Develop a strategy to measure effectiveness of in-school educational programs (within 180 days). This provision may not be applicable if Permittees are unable to get time with schools for in-class presentations. Given the wide range in ages (K-12) required for school education, numerous assessment tools would need to be developed to measure the effectiveness of the program. Educators also might not allow extra time before and after the program to measure effectiveness, given their lesson plans, etc. The timeline is also unrealistic.				**$20,000**	180	2.83
	49	2c8	Implement a behavioral change assessment strategy for the PIPP. To coordinate the various required outreach components and assess the impact on behavioral change, the City would need to hire an additional full time person. Currently we do not have the staffing allocation to do this. The timeline is also unrealistic given the City's budget situation and planning process.				**$100,000**	2 years	2.84
	49	2d	Requires the City to conduct pollutant-specific outreach for impaired waterbodies.				**$5,000**	180	2.85

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	50	3a1	Requires the permittees work with regional or statewide agencies and associations to develop and implement a Corporate Outreach program. The City has no control over regional or statewide organizations and suggests the language be change to "use best efforts." How were the numbers of 4 RGOs, 4 automotive parts, 2 home improvement centers, 6 mobile businesses and 6 restaurant franchisers developed for corporate outreach?	x		**$10,000**	**$5,000**	2 years	2.86
	50	3a1a	Requires permittees to meet with corporate management to explain storm water regulations. The City has no control over corporate management, who may be located out of state, and suggests the language be changed to "use best efforts."	x					2.87
	50	3a2	Requires corporate outreach to all RGOs, automotive parts stores, home improvement centers, mobile businesses, and restaurant chains.			**$25,000**	**$10,000**	2years	2.88
	50	3b1a	Requires the City to implement a Business Technical Assistance program that provides on-site technical assistance, telephone, and email support for BMPs.				**$5,000**		2.89
	51	2a	Requires the Permittees to maintain a "watershed-based" inventory/databases of all facilities within their jurisdiction that are critical sources of storm water pollution. Define critical sources.	x		**$5,000**	**$5,000**		2.90
PART 3 INDUSTRIAL/COMMERCIAL FACILITIES PROGRAM	52	3a-e	Specifies specific BMPs to be used at Restaurants, Auto Service Facilities, Retail Gas Outlets(RGO) and Nurseries. (Substitution will require RB approval & Public Notice). The City is concerned whether all these BMPs are required and that inspections would entail a significant cost increase compared to how these facilities are currently being inspected. Please clarify whether the BMPs are required or recommended.	x		**$70,000**	**$350,000**		2.91
PART 4 PLANNING AND LAND DEVELOPMENT PROGRAM	59	1b	Promotes percolation & infiltration of storm water into ground. The City is concerned that this provision is not applicable to the Santa Rosa plain, which has primarily clay soils that have limited infiltration capability. Would require a revision of the SUSMP manual.			**$2,000**			2.92
	59	1d	Reducing post-development surface flows can only be achieved downstream of a detention facility if a site is developed (impervious surfaces added).	x					2.93
	60	1e6	Clarification needed for the approval of offset projects. By whom?	x					2.94
	60	2	Requires the entitlement process to include storm water quality impacts for discretionary and ministerial projects. Would this also apply to all easements? This would be very costly to implement.	x		**$4,500**	**$600,000**		2.95
	60	3	Permeable pavements shall be considered impervious for this section if they have subdrains to preclude infiltration into underlying soils. Subdrains are needed to prevent saturation of the road base to prevent premature failure of asphalt roadways. Subdrains are also needed to carry water away after soils are saturated and won't allow additional infiltration. There is also no provision for treated storm water to be allowed in subdrains. Would require a SUSMP manual revision.			**$5,000**			2.96

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	61	4a1	Reducing the size threshold for post-development BMPs to 5,000 s.f. would likely double the projects reviewing SUSMP review, plan check and inspection. This would be a fiscal burden for the City and require a revision to the SUSMP manual.			**$5,000**	**$80,000**		2.97
	61	4a2	Requires projects to retrofit existing functioning projects with post development BMPs and this would be a financial and design burden on the citizens of Santa Rosa. This provision would also likely eliminate some projects due to unacceptable additional costs.			**$5,000**	**$80,000**		2.98
	62	4b	Redevelopment projects are subject to post-construction treatment controls if more than 5,000 square feet are redeveloped. And, will apply if site alteration will includes more than 50% of existing impervious surfaces. This would include the reconstruction of parking lots and roadways. Please define the "reconstruction of parking lots and roadways." Could have a huge impact on all City CIP projects involving paving. Would require additional design, review and possibly acquisition of additional right -of-way to maintain existing streets. The term "redevelopment" is also confusing since it is already a term used by state law to describe a process for local government to eliminate blight, as well as achieve goals of development, reconstruction and rehabilitation of residential, commercial, industrial and retail districts. Replacing the term throughout the permit with "reconstruction" or rehabilitation" may be more appropriate Requires SUSMP manual revision.	x		**$5,000**	**$3,000,000**		2.99
	62	4c	Exempts single-family structures from requirements unless 10,000 s.f. of impervious surface is created, added, or replaced. Requires SUSMP manual revision.			**$5,000**			2.100
	62	5	Effective date for all new and redevelopment requirements shall apply within 180 days of this order. The timeframe is unrealistic.					180	2.101
PART 5 NEW DEVELOPMENT/RE DEVELOPMENT INTEGRATED WATER QUALITY/WATER RESOURCE PLAN	62	1	Requires development of a New/Redevelopment Integrated Water Quality/Water Resource Plan for RB approval – ranking projects on their overall risk to critical water resources (3 primary risks include Hydromodification, water quality, and integrated water quality/water resource impacts). No timeframe specified. This requirement is not cost-effective. SUSMP already has thresholds and project specific applicable standards. Under SUSMP, all storm water must be treated and pollutants of concern are identified for specific projects. BMPs are based on the POCs. This requirement is beyond MEP and is an unfunded mandate.	x	x	**$10,000**	**$10,000**	Unknown	2.102
	63	3	Requires LID design of all development and redevelopment projects outlined in Part 4. May not be feasible in all cases. Requires guidance manual within 1 year of permit adoption. The City supports implementation of LID in all new construction, however developing a manual within 1 year is unrealistic. Due to the City's current fiscal situation this provision is also a financial burden.			**$75,000**		365	2.103
	63	3c	Requires development of a LID training program.			**$15,000**			2.104

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	64	4	Hydromodification – requires all new and redevelopment projects to maintain pre-development storm water runoff flow rates, time of concentration, volume and duration. Any time impervious area is added, and infiltration and percolation are minimal (clay soils), volume of runoff is always going to be increased. Increasing runoff from new impervious areas, and holding post-development discharge rates to pre-development discharge levels, will necessitate a longer duration of discharge from the site. The City would like clarification on how all these requirements in this section are possible simultaneously. Would require SUSMP manual revision.	x		**$5,000**		2 years	2.105
	64	4a1b	Develop an area specific hydromodification plan which includes a stream stability risk system, numerical hydrological change model (new development impacts), numerical flow control mitigation model and a simplified method that relies on LID. This requirement would require developing a large scale numerical model for Santa Rosa watersheds. This would be a fiscal burden on the City and the timeline is inadequate. Part iii of this section states "A numerical model to identify effective end of the pipe or flow duration control mitigation strategies." The City requests clarification of this statement.	x		**$100,000**		2 years	2.106
	65	4a2	Hydromodification Interim Criteria - Projects shall implement hydromodification controls such that storms up to and including the 2-year 24-hour storm event post development hydrograph peak flow, duration, time of concentration and volume will match within one percent the storm event pre-development peak flow and volume hydrograph. Any time impervious area is added, and infiltration and percolation are minimal (clay soils), volume of runoff is always going to be increased. Increasing runoff from new impervious areas, and holding pot-development discharge rates to pre-development discharge levels, will necessitate a longer duration of discharge from the site. The City would like clarification on how all these requirements in this section are possible simultaneously. The "one percent" criteria is also concerning given the degree of accuracy of these hydromodification designs and data used to develop these designs. Requires SUSMP manual revision.	x		**$5,000**		0	2.107
	65	4a3a	Hydromodification Final Criteria - Develop watershed specific hydromodification control plans that identify stream classifications, flow rate and duration control methods, sub-watershed mitigation strategies and stream restoration/preparation measures aimed at protecting or enhancing beneficial uses in the downstream receiving waters. The City is concerned about the timing of this requirement. Individual watershed analyses would need to be analyzed first and included in the area-wide hydromodification plan, however the area-wide plan is required first. Requires SUSMP manual revision.			**$100,000**		3 years	2.108
	66	5	Develop and implement a Water Quality Risk System, as part of the integrated plan (Page 62, #1), that is established based on watershed needs and interests – for projects < 50 acres and > 50 acres. No timeframe for completion stated. Requires SUSMP manual revision.			**$5,000**		Unknown	2.109

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	66	5a1bi	Flow based treatment control BMP - Please remove draft comments.						2.110
PART 6 IMPLEMENTATION OF NEW DEVELOPMENT/RE DEVELOPMENT POST-CONSTRUCTION BMPS	67	1	Requires that the City verify Post Construction BMP maintenance requirements through final map conditions, legal agreements, covenants, conditions or restrictions, CEQA mitigation requirements, conditional use permits, and/or other legally binding maintenance agreements. This would be a fiscal burden for the City. Requires SUSMP manual revision.			**$5,000**	**$210,000**		2.111
	67	2	Implement a tracking, inspection and enforcement program for new and redevelopment post construction BMPs. This would require development of a comprehensive program and involve legal staff to gain access to private property for inspection and follow up enforcement. Would require additional staff when the City is reducing the size of its workforce.			**$60,000**	**$200,000**	1 year	2.112
	68	3	May require coordination of the permittees' program with the statewide general construction permit. This is transferring a state program to the local level. Fees are collected at the state level and the state should continue to be responsible for compliance of these projects.						2.113
	69	4	Alternative Storm Water Mitigation Programs - Permittees may apply for approval of a program to substitute for on-site post-construction requirements. A timeframe should be included for the Regional board to respond to requests.						2.114
	69	6	Developer should be changed to Develop.	x					2.115
	69	6a	Requires permittees to update their storm water management plan to include hydromodification criteria, expected BMP pollutant removal performance, selection of appropriate BMPs, data on observed effectiveness and performance of BMPs, BMP maintenance and cost considerations, criteria to facilitate integrated water resources planning and management in the selection of BMPs and LID principles and specifications. Much of this section appears to be an unfunded mandate and would be more cost effective to be done at a larger, possibly statewide level. Requires SUSMP manual revisions.		x	**$20,000**			2.116
	70	7a1	Requires the Permittees to facilitate a process for approval of post-construction storm water control measures, including BMP sizing and BMP pollutant removal effectiveness. Again it is not cost effective to have municipalities across the state studying and determining BMP effectiveness when a coordinated effort could be undertaken at the region or state level.			**Costs in Pg.60 item 2**	**Costs in Pg.60 item 2**		2.117
	70	7a2	Requires a structure for communication and delineated authority between and among municipal departments that have jurisdiction over project review, plan approval and project construction through a MOU or an equivalent agreement. This is an unfunded mandate. How the City coordinates its internal review and approval of projects is not subject to requirements by the state.		x	**$25,000**	**$5,000**		2.118

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PART 7 STATE STATUE CONFORMITY	70	1	Requires Permittees to incorporate additional procedures into their CEQA process to consider potential storm water quality impacts and mitigation. This is an unfunded mandate that exceeds requirements in the Clean Water Act and existing CEQA checklist. This provision also conflicts with findings 11, 88 and 96 which state this order will not limit the City's land use authority under CEQA nor require changing local ordinance provisions.		x	**$10,000**		180	2.119
	71	2	Requires storm water quality considerations in General Plan updates (re: updates to Land Use, Housing, Conservation and Open Space elements) and drafts shall be sent to the Regional Board. Should include text specifiying that these provisions apply to general plan updates that have not yet been initiated (are not currently underway).			**$10,000**			2.120
PART 8 DEVELOPMENT CONSTRUCTION PROGRAM	70	1	Is this statement a finding? If it is a finding, then the item should be moved to the finding section of permit.	x					2.121
	71	2a1	Prohibits grading during rainy season on 20% or steeper slopes, directly discharging to a 303(d) listed waterbody for sediment or adjacent to an environmentally sensitive area between November 15 and April 15th. Page 72 item 2b states October 1 as the beginning of the wet season. Please clarify.	x					2.122
	71	2a1a	Describes grading restrictions on hillsides with slopes 20% or steeper prior to land disturbance (If hillside development is not defined by a zoning ordinance, then the prohibition will apply to steep or long continuous slopes, or areas with silty soils, fine sands, or soils lacking vegetative cover). This section contains confusing and vague language. Please clarify.	x			**Unknown**		2.123
	72	2c	Allows permittees to grant grading prohibition variances where projects can demonstrate the proposed BMP measures can keep storm water from causing degradation of water quality, ensure TSS is 100 mg/L, ensure turbidity is 50 NTUs or less and keep storm water from impairing beneficial uses. The City would have to create an issuing process, issue variances and purchase monitoring equipment at a substantial cost to the City.				**$50,000**		2.124
	72	3a	Requires implementation of a minimum set of BMPs at all construction sites less than 1 acre. Where the erosivity factor is 50 or greater, erosion controls are the preferred BMPs. This section contains vague and confusing language. It is also unclear whether all BMPs are required at all sites.	x					2.125
	72	3,4,5	The CASQA handbook allows for substitutions of the BMPs listed. Are these acceptable substitutions under the permit?	x					2.126

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	74	6a1a	Requires Permittees review and issue written approval of local storm water pollution prevention plans prior to issuance of grading permits for construction projects. This would require the City to create a process to review and approve these plans. These plans are already required under the statewide general construction permit where fees are collected. Requiring the permittees to essentially take over the program is duplicative and not consistent with finding 49.				**$20,000**		2.127
	76	7a11	Required BMP for roadway paving or repaving operations for private and public projects. Specifically calls for avoiding stockpiling soil, sand, sediment, asphalt material and asphalt grindings materials or rubble in or near storm water drainage system or watercourses. Please clarify the storm water drainage system. If this includes streets, the City requests a change to allow stockpiling on streets if there is no discharge leaving the area and it is cleaned up after construction.	x					2.128
	77	8a	Requires the permittees use an electronic system to track grading, encroachment, demolition, building and construction permits that cause land disturbance. The City would have to upgrade our current permit tracking system to include additional permits.				**$10,000**		2.129
	77	9d	Requires the City's Building Division to perform additional inspections to inspect for post construction SUSMP BMPs prior to occupancy.				**$40,000**		2.130
	78	11b	Requires the City to verify if Regional Board WDID permits have been issued and refer stop work orders to the Regional Board if projects are not compliant within 15 days after making the determination.				**$2,000**		2.131
PART 9 PUBLIC AGENCY ACTIVITIES PROGRAM	83	3b	Requires permittees to obtain coverage under the construction general permit for long-term maintenance programs including vegetation in flood control channels, maintenance or replacement of streets, sidewalks, roads, and any other project where 1 or more acres of soil is disturbed. The activities listed would not disturb soil and do not require coverage under the construction general permit. Therefore, the City suggests this provision be amended. The timeframe is also unreasonable to obtain coverage within 7 days.	x				7	2.132
	85	6a	Requires permittees to prioritize catch basin cleaning and clean structure a minimum of 4 times per year (A), 2 times per year (B) and 1 time per year (C). This is a substantial increase in the cleaning currently performed by the City. Currently, high priority sites are cleaned every year and low priority sites are cleaned once per 5 year permit term. The City is also concerned more staff resources would be spent on inspection and ranking catch basin and not cleaning them.			**$500,000**	**$250,000**		2.133
	85	6b	Requires trash management for public events including temporary screens on catch basins or cleaning out catch basins and surface areas after the event. The City requests adding text to include Permittee permitted events.						2.134

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	85	6c	Requires trash receptacles at all transit stops in commercial areas, near educational institutions, and in areas subject to high trash generation. This would require the City to install an additional 430 trash receptacles. Currently trash receptacles are placed in areas with trash problems (110 bus stops). This increase in trash receptacles is not cost-effective and would require significant levels of funding without a commensurate increase in water quality. The City request a language change to "requires trash receptacles at all transit stops in areas subject to high trash generation."			**$120,000**	**$300,000**	180	2.135
	85	6d	Requires inspection of all storm drain decals before each rainy season and replacement within 15 days of inspection. The City has over 10,000 inlets and this would require a substantial staffing effort and will not be not cost-effective in improving water quality. Request that this requirement be omitted.				**$20,000**		2.136
	86	6e	Requires trash excluders on catch basins in commercial areas, industrial areas, and near educational institutions. Trash is not a listed pollutant of concern in Santa Rosa area waterbodies and the City requests that this provision should be removed from the permit. This requirement would be costly and not cost-effective at improving water quality for pollutants of concern. There are approximately 10,800 inlets in Santa Rosa and ones in these areas could be up to 1/3 of the total number of inlets.			**$3,600,000**	**$500,000**	1 year	2.137
	86	6f	Requires annual inspection and maintenance of open channels to remove trash and debris. Would this activities require a separate 401 water quality certification/WDR or is it authorized by this permit?	x			**$25,000**	180	2.138
	87	6h3	Requires maintenance of residual water in treatment control BMPs. The City suggests this requirement should only apply to structural BMP and not all swales, detention ponds and retention ponds.	x					2.139
	87	8a	Requires permittees to obtain coverage under the construction general permit for long-term maintenance programs including vegetation in flood control channels, maintenance or replacement of streets, sidewalks, roads, and any other project where 1 or more acres of soil is disturbed. The activities listed would not disturb soil and do not require coverage under the construction general permit. Therefore, the City suggests this provision be amended. The timeframe is also unreasonable to obtain coverage within 7 days.	x					2.140
	88	11a	Municipal Employee/Municipal Contractor Training – Requires City to provide training to all those whose activities could affect the SWMP.				**$10,000**	180	2.141
	88	11b	Municipal Employee/Municipal Contractor Training – Requires City to provide training to all those who use or may use pesticides/fertilizers. State already requires contractors to be licensed and attend training for pesticide application. This provision is not reasonable, duplicates regulatory efforts and should be removed from the permit.					180	2.142

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PART 10 ILLICIT CONNECTIONS AND ILLICIT DISCHARGES ELIMINATION PROGRAM	89	2b	Requires mapping all permitted connections, illicit connections and discharges to the storm drain system.			**$10,000**	**$20,000**	2 years	2.143
	90	4a1a	The City is concerned about the requirement to map all channels as defined in the definitions. Would this require mapping of all ditches and swales or just creeks, streams, or waterways?	x					2.144
	90	4a2	Requires field screening of the storm drain system in accordance with procedures described in the Illicit Discharge Detection and Elimination, A Guidance Manual for Program Development and Technical Assessments. The only screening procedure contained in the document is the Outfall Reconnaissance Inventory (ORI), which is a screening of storm drain outfalls and not the entire storm drain system. Subsections A-C state all portions of specific storm drain sizes or ages, therefore the City requests clarification of this provision. Cost based on conducting the ORI on 90 miles of creeks.	x		**$108,000**		3 years	2.145
PART 11 REPORTING PROGRAM	91	1	Requires that the Permittees develop an Electronic Reporting form for all requirements in the permit within 180 days. Each year the permittees submit an annual report as a hard copy and electronically. Requiring an additional electronic report is duplicative and would not improve water quality. The City does not see the need to require this additional electronic reporting program.			**$50,000**	**$7,500**	180	2.146
MONITORING AND REPORTING PROGRAM	1	a1b	Are the constituents contained in this table suppose to be the same as those listed in a2b on page 2? The lists are not the same. Ammonia is not listed in a1b and fecal coliform is not listed in a2b.	x					2.147
	2	a2a	Requires monthly chemical sampling on Santa Rosa Creek upstream and downstream of Santa Rosa. This task was not proposed in the SWMP				**$20,000**		2.148
	2	b2a	Requires chronic bioassay sampling during 2 storm events. Does this eliminate the sampling during the first flush?	x					2.149
	2	b3a	The Permittees shall complete acute and/or chronic TIEs for all sites showing 90 percent or more toxicity to any 1 test organism in the first year. The City requests clarification on what constituents "90 percent or more toxicity." Costs based on conducting TIEs for all 3 locations for the 3 species.	x		**$40,000**			2.150
	2	b4a	Requires that Toxicity Reduction Evaluations (TREs) be performed for toxicants identified through TIEs that cause at least 50 percent of the toxic responses in at least 2 samples from the same location. This requirement also calls for a corrective action plan 30 days after the TRE is complete. This timeframe is onerous and the City is requesting additional time to meet this requirement.			**$50,000**			2.151

SECTION	Page	Item#	Issue (note if none)	Requires Clarification (rc)	Unfunded Mandate (um)	Initial Cost ($)	Annual Cost ($)	Deadline Involved (d)	NCRWQCB COMMENT #
	3	b4b3	Requires samples collected for toxicity to be flow weighted composites. Please clarify whether this requirement applies to the standard chronic bioassay tests performed under this permit.	x					2.152
	4	d7	Requires development and implementation of a volunteer monitoring program.			**$5,000**	**$5,000**		2.153
ATTACHMENT A BENEFICIAL USES			The City requests a legend be added so readers can interpret the table.	x					2.154
ATTACHMENT C DEFINITIIONS			The City requests the following terms be added to the definitions: background level, designated storm water discharge, direct flow, dry weather, elevated bacterial indicator densities, low threat discharges, natural flow, nonpoint pollution, nutrient loading, onsite water treatment system, private drain, receiving waters, MS4 discharges, storm water runoff discharges, storm water runoff, storm water discharge, urban development and wet weather.	x					2.155
	5		impervious surfaces definition considers permeable pavement to be impervious if they have subdrains to preclude infiltration into underlying soils. The City requests this definition be changed. Subdrains are needed to prevent saturation of the road base to prevent premature failure of asphalt roadways. Subdrains are also needed to carry water away after soils are saturated and won't allow additional infiltration.						2.156
	8		MEP - This does not appear to be a definition. It cites the section of the CWA that requires storm water programs to meet MEP. Please include a definition.	x					2.157
	8		Permittees - The City requests additional language be added to document the separation of liability between the different copermittees.						2.158
	9		Redevelopment - This word already is a term developed by state law to describe a process for local government to eliminate blight, as well as achieve goals of development, reconstruction and rehabilitation of residential, commercial, industrial and retail districts. Replacing the term throughout the permit with "reconstruction" or rehabilitation" may be more appropriate.						2.159
	11		TMDL definition is not consistent with finding #83 on page 28.	x					2.160
	12		Water Quality Objectives - Not consistent with finding #68 on page 24.	x					2.161
	13		Watershed Management - The City requests adding additional language from finding #57 on page 20.	x					2.162
			Total			**$5,689,500**	**$6,389,500**		

City of Santa Rosa

October 20, 2008

HAND DELIVERED
Catherine E. Kuhlman, Executive Officer
North Coast Regional Water Quality Control Board
5550 Skylane Boulevard
Santa Rosa, CA 95403

SANTA ROSA FIRE DEPARTMENT COMMENTS ON ORDER NO. R1-2208-0106 SANTA ROSA AREA DRAFT NPDES STORM WATER DISCHARGE PERMIT

Dear Ms. Kuhlman:

On September 9, 2008, Order No. R1-2008-0106, NPDES No. CA0025054, Draft Storm Water Permit (Draft Permit), for County of Sonoma, City of Santa Rosa (City) and the Sonoma County Water Agency (Permittees) was issued. The Santa Rosa Fire Department (Fire Department) and our regional cooperators are quite frankly alarmed by the extent of the prohibitions, requirements and/or suggestions as outlined in the Draft Permit.

Waste Discharge Requirements

EMERGENCY FIRE FIGHTING ACTIVITY (pp37) The Fire Department responds to over 700 fires per year. As a firefighting agency we rely on the ability to quickly secure a water supply, deploy hoselines and aggressively attack the fire. Our priorities are life safety, values at risk and the environment. Our firefighters are rigorously trained to effectively seek out the source of the fire and extinguish the blaze by whatever means are at their immediate disposal. This typically will include the use of water from a static water source such as a fire hydrant.

The successful extinguishment of a fire relies on some or all of the following elements: early detection, prompt dispatch of fire units, orderly accomplishment of preassigned tasks and an unfettered water supply.

Hostile fires are a threat to the community, air quality and the environment. As a matter of practice the Fire Department will routinely request vacuum trucks to ensure that contaminants are prevented from entering local streams. It is impractical and cost prohibitive for the Fire Department to allow for fires to burn while attempting to locate storm drain inlets. Often times we encounter structure fires in the middle of the night while the public is most at risk. Firefighters would be frequently placed in an impossible situation; choosing life safety over "potential" runoff. We would be unable to comply with this unfunded mandate. 2.163

TRAINING (pp38) Due to the hazardous nature of firefighting, training is an integral and legally required element of our operation. Water by nature is extremely heavy (8.3 lbs per gallon). In order to experience the

Fire Department
2373 Circadian Way • Santa Rosa, CA 95407
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www.srcity.org

weight of hoselines and the nozzle reaction associated with high pressures and flows, firefighters must train under actual conditions. This activity cannot be duplicated in any other manner. Flowing water is required in order to teach the correct and judicious application of fire streams. Fire crews are trained to operate as a team; each performing a valuable function. When a fire occurs they must be very competent in their roles in order to safely meet our public mandate to speedily put out fires as they happen.

In addition the City has gone to significant expense in placing a foam containment system at our Fire Training Center. This innovative secondary containment traps foam and prevents the deleterious effects of firefighting agents and surfactants from entering the riparian corridor. Ground infiltration is typically not an option for our personnel unless training for wildland firefighting. We avoid allowing powerful hose streams from denuding the landscape or causing erosion.

Preventing runoff from all training activities is again cost prohibitive and would essentially reduce the effectiveness of our firefighting personnel. We are currently unable to meet this element of the Draft Permit. 2.164

HYDRANTS (pp38) The City has over 6000 fire hydrants in a 45 square mile area. These emergency water supply sources ensure that the Fire Department is capable of reaching required fire flows during firefighting activities. Testing ensures that hydrants are in full working order and verifies their flow capacity. The annual hydrant testing also helps keep the hydrants flushed from any foreign debris that may clog pumps, hose and 2.165 nozzles impairing firefighting capability. The test provides information concerning pressure and the amount of water available at each hydrant. A diffuser is utilized during this process and minimal flows are needed to determine the working condition/capability of the hydrant. City workers are trained to limit runoff, waste of the resource, damage to vegetation, streets and infrastructure.

As a municipal firefighting agency the ability to have a readily available and reliable emergency water supply on a 24 hour basis is critical to our success. Over 15 years ago the maintenance of our hydrants was assumed by the Utilities Department. As the stewards of our water supply, we are confident that they continue to utilize the best management practices in the maintenance of the emergency firefighting fire hydrant system.

In addition to the prohibitive cost of implementing these measures, the public is potentially at risk due to lack of maintenance and testing of fire hydrants.

POTABLE WATER DISCHARGES The allied fire agencies in Sonoma County recently adopted the 2007 California Code. This was a monumental achievement for the county and the participating municipalities, districts and agencies. A single code developed to protect the citizens of our communities. One of the requirements within this unified document is the testing of sprinkler systems.

Automatic sprinkler systems are recognized as an integral part of a community fire protection system. California state law requires the quarterly opening of sprinkler test valves in order to ensure the alarm 2.166 activates. The owner of the system is required to ensure these tests are performed. When performing the test the owner, maintenance or testing firm may be in violation of the Draft Permit. If the test is not done they are in violation of state law. Small amounts of water are discharged during this procedure and the enhancements to life safety and property conservations have been amply demonstrated through study and actual events. This element of the Draft Permit would be extremely difficult to comply with and unworkable to enforce.

FIREFIGHTING MISSION As a profession the national fire service is a supporter of preserving the environment. Locally, 40 members of the Santa Rosa Fire Department are hazardous materials technicians and the remaining 100 are trained at the hazardous materials operational level. In addition the command staff of the Fire Department has received specialized training in the management of hazardous materials incidents.

We recognize and support the intent of the Draft Permit is to ensure the reduction and/or elimination of pollutants. However due the constraints placed on the Fire Department to accomplish our firefighting mission and rapidly extinguish fires on discovery, we are formally requesting exemptions from the following Waste Water Discharge Requirements:

Flows from emergency fire fighting activity
Fire Hydrant Testing
Discharges from potable water Sources

We would welcome working with your staff to provide suitable language to amend the current Draft Permit and meet the intent of the federal Clean Water Act.

BRUCE H. VARNER
Fire Chief
Fire Department

cc: Jeff Kolin, City Manager
Greg Scoles, Deputy City Manager
Miles Ferris, Director of Utilities
Rick Moshier, Public Works Director
Caroline Fowler, City Attorney

COUNTY OF SONOMA
BOARD OF SUPERVISORS
575 ADMINISTRATION DRIVE, RM. 100A
SANTA ROSA, CALIFORNIA 95403

(707) 565-2241
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October 21, 2008

Catherine Kuhlman, Executive Officer
North Coast Region Water Quality Control Board (RB1)
5550 Skylane Blvd., Suite A
Santa Rosa, CA 95403

RE: Comments on the draft storm water permit

Dear Ms. Kuhlman:

I am writing to transmit the comments of the County of Sonoma on the proposed National Pollutant Discharge Elimination System (NPDES) permit Phase 1 Term 3 (2008-2013) (hereinafter "proposed permit").

Sonoma County expects the federal, state and local governments to work together to protect water quality, as no one agency can do this job alone. To that end, the County and Sonoma County Water Agency have gone above and beyond the requirements of our current NPDES permit to ensure pollutant discharges are minimized. Among many other measures, the County regulates development projects during construction, funds street sweeping to keep pollutants out of storm drains, conducts training of staff and the public, manages pesticide use in landscaped areas, and conducts a wide variety of public outreach programs. As you know, no other municipality in Sonoma County, except of course the City of Santa Rosa, Water Agency and the County, or anywhere else in the North Coast Region has a Phase I permit, much less implements measures above and beyond that permit to minimize storm water pollution. These measures cost the County alone approximately $1.3 million per year, of which only a portion is recovered by development applicants.

The County has also worked extremely hard to develop a good working relationship and partnership with your staff. County staff reaches out to your staff to inspect alleged permit violations and pollution incidents. We forward applications for discretionary projects and draft California Environmental Quality Act (CEQA) documents for your review and comment, to better mitigate any potentially significant storm water impacts. We further instruct all applicants to be mindful of Regional Board requirements, and to apply for your general construction permit if necessary.

As part of our ongoing effort to improve water quality and protect environmental resources, the

3.1

County submitted an application in December 2007 for a permit that would meet the County's Clean Water Act (CWA) responsibilities and provide for the continued protection and preservation of the County's surface waters. Our staff then had several meetings and conversations with your staff, to explain our commitment to storm water quality, the programs included in our permit application, and the ways in which they would help us protect and ensure water quality above any other municipality in the North Coast Region.

We regret that your staff has rejected our proposed application, and instead drafted a permit that improperly shifts the Regional Board's duties and responsibilities to Sonoma County and the other co-permittees as unfunded mandates. We respectfully request that you withdraw this proposed permit, and work with staff from the co-permittees to draft a new permit that effectively regulates storm water from urban development.

As discussed below, we were quite surprised to see many of the provisions your staff included in this proposed permit. Despite the many meetings and conversations between our staffs, most of the special provisions in the proposed permit were discussed only in general terms, or not discussed at all. Among others, the entire Public Information and Participation Program, Development Construction Program and Industrial/Commercial Facilities Program were a complete surprise to the County. We were also quite surprised that your staff immediately rejected all County, Water Agency, and City requests for any extension of time to prepare comments or hold a hearing on the proposed changes. Your staff spent more than nine months reviewing our permit application, but allowed us less than two to review and comment on their surprising new proposed permit. 3.2

We hope that you will rectify these issues, and put our two agencies back on the road to a productive partnership to address storm water issues in Sonoma County. That result would be far preferable to all concerned, and would avoid the impasse and gridlock suffered by the Regional Board for the Los Angeles region. As you may be aware, that regional board has resumed negotiations with Ventura County after appointment of a veteran regulator, described as someone agreeable to listening to all sides, to handle the County's NPDES application. That approach would be equally beneficial here. 3.3

Absent that approach, and as detailed herein, the proposed permit contradicts the plain language and legislative intent of the Clean Water Act. Phase I permits are intended to apply only to urban centers with a population of 100,000 or more, which do not exist in Sonoma County outside the City of Santa Rosa. The proposed permit currently provides no supporting arguments or justification, much less substantial evidence, supporting a notion that the County should be regulated as a Phase I community. 3.4 3.5

As you know, the largest urbanized center in the unincorporated county is the Larkfield/Wikiup area with a population of roughly 7,500 people, followed by Guerneville with roughly 2,400 people. All the urban centers in the unincorporated county add up to just 20,000 people. As a result, the cumulative population of the urban centers does not meet half the threshold for a Phase I permit, much less justify this proposed permit. 3.6

As you also know, many cities in the North Coast Region have larger urban centers and larger populations, but are being regulated under a Phase II MS4 permit. The Regional Board has not required any other county in the region to submit a county-wide MS4 permit application, nor has the Regional Board issued a similar permit to any other entity. It is unfair and improper to include the County's unincorporated urban centers in a Phase I permit, especially since no other county in the North Coast Region has a comparable storm water program.

Coupled with its specific requirements, the permit's proposed six-fold boundary expansion would at least double the County's storm water costs and exceed the Regional Board's Clean Water Act authority.

The following items summarize our concerns:

1. Program costs and funding plus economic uncertainty. Your staff has added more than 90 new work items to this draft permit. These items would cost at least $2 million per year for the County and $1 million for the Sonoma County Water Agency (SCWA). Current County expenditures are $1.3 million per year and $160,000 per year for SCWA. Costs for the monitoring program for SCWA are uncertain.

3.7

Only a small portion of the overall cost is recovered through the issuance of building permits. The fiscal analysis documented in our Annual Reports indicate that PRMD (the County's permit center) expends roughly 30% of the annual outlay. The proposed permit states incorrectly on page 19 that the County can levy service charges, fees, or assessments sufficient to pay for compliance with the proposed permit. In fact, the County may not increase permit fees beyond what is required to process the permit itself. Nor can the County acquire any other funds sufficient to achieve compliance with this permit. For example, the County would need to more than triple our current permit fees to cover the current program expenditures, and increase fees roughly six to seven fold to cover the estimated costs of the proposed permit. Dramatically increasing our permit fees would act as a disincentive to applicants and decrease the number of permits. This would be a disservice to the community and would decrease water quality protection as the County would not be able to adequately staff the current water quality program, much less the proposed one.

As a result, complying with the new work described in the proposed permit would create severe fiscal impacts and reduce water quality protection at the local level. This would not have been acceptable in better fiscal times, but in today's local government finance environment it is completely unsustainable.

2. The Regional Board is creating unfunded mandates. The draft permit requires we modify our CEQA process and comply with water quality objectives found in the Regional Board's Basin Plan. CEQA is a state statute not directly related to the CWA, and the Regional Board is required to create a Basin Plan pursuant to the Porter-Cologne Water Quality Control Act, not the federal Clean Water Act. As a result, these provisions (among others) create improper, unfunded mandates. Similarly, the draft permit on page 49 requires that the County provide

3.8

educational materials to each school district in the county (including live presentations). The California State Assembly passed AB 1721 (Pavley Environmental Education) to add § 13383.6 to the CWC, relating to environmental education. AB 1721 and the CWC are state statutes and regulations and are not directly related to the CWA.

3. Expanding permit boundary. As noted above, your staff's proposed six-fold increase in the permit boundary (from the Santa Rosa Creek and Mark West Creek watersheds with some areas around Healdsburg and Graton to countywide) exceeds the Regional Board's authority under the Clean Water Act (see number 4 below). 3.9

4. Work in areas beyond municipal separate storm sewer system (MS4s). The proposed permit fails to acknowledge that most of Sonoma County is rural, without piped storm drain systems, and thus can't legally be made subject to a municipal MS4 permit.

The Regional Board has legal authority, under the Clean Water Act, to regulate discharges from a MS4. The MS4 program evolved from large and medium municipalities (over 100,000 in population) to small municipalities (between 10,000 and 100,000 in population), but stayed focused on urban centers. Regulating MS4 discharges in an urban center is understood as a pollutant discharged to an urbanized surface can easily be carried into a storm drain inlet, travel through the MS4 and be discharged to waters of the nation or waters of the state. 3.10

However, in a rural situation, where storm water conveyance systems are a wholly different system, regulating pollutant discharges into the MS4 can be problematic. Consider that in a rural situation, it is common to have a County road with a stream crossing. The stream crossing is typically constructed with a short segment of storm drain pipe underneath the roadway.

A typical scenario is that a pollutant enters the stream somewhere upstream of the county's road and associated stream crossing. The pollutant may enter the steam directly or through a private storm drain. The pollutant is then transported down the stream and passes through the County's MS4 system (the short segment of pipe below the County road) in a few seconds.

Now consider the discharge prohibition (Discharge Prohibition A.1) that prohibits the discharge of pollutants into and from the MS4. As currently written this prohibition applies to all pollutants regardless of where they first entered the waters of the nation or waters of the state and regardless of how the pollutant enters the MS4.

The County asserts that pollutant discharges that first enters waters of the nation or waters of the state, either directly or through private storm drain system, prior to or upstream of the County's MS4, are not subject to the NPDES MS4 permit. Further, the County asserts that the County should not be held responsible for or be required to regulate discharges that occur outside of the County's MS4 systems.

Further, the intent of the CWA and the MS4 program was to target urban centers with defined population thresholds. Sonoma County is primarily rural in nature with several urban centers in

the unincorporated areas ranging in size from about 7,500 to several hundred in population. The County asserts that applying the MS4 permit to a rural environment is an inappropriate expansion of and contrary to the intent of the MS4 program.

5. Porter-Cologne Water Quality Control Act. The proposed permit runs counter to the principle that the Regional Board should not specify the method and manner of compliance. In numerous instances, the proposed permit provides very specific guidance on how to achieve the permit compliance. The Porter-Cologne Act does not permit this approach, and instead allows permittees to devise the method and/or manner in which they comply with permit prohibitions or limits. 3.11

6. Expanding the applicable projects subject to SUSMP/Post-Construction BMPs.
The current thresholds for requiring post construction BMPs or SUSMP measures are that the project is within the current NPDES boundary, is discretionary, and has one or more acres of new impervious surfaces or creates a new storm drain outfall or the project is in close proximity to a stream. The proposed area threshold is being reduced down to 2,500-SF for certain environmentally sensitive areas (pg. 60, draft permit). 3.12

While the draft permit requires the County to regulate even smaller sites, Regional Board staff have indicated they do not enforce any post construction measures for sites that come under the general construction storm water permit. The proposed permit thus requires the County to regulate construction sites to a higher degree than is carried out by the Regional Board staff.

7. Requiring both ministerial and discretionary projects consider potential storm water impacts. Currently, only discretionary projects are subject to post-construction storm water quality requirements. Page 60 of the proposed permit would require that "any new development and redevelopment project" consider water quality impacts. The expansion of the water quality permit into the realm of ministerial projects would require the County review more projects, and again increase the County's work load beyond the capability of existing and reasonably foreseeable future staffing levels. 3.13

8. Hydromodification Control Criteria. The requirements that development maintain the projects' pre-development storm water runoff rates, time of concentration, volume and duration (not alter the hydrograph) will be extremely difficult to implement, even with the use of well designed infiltration galleries to remove runoff. The proposed permit nevertheless requires that new development and redevelopment address hydromodification (preventing changes to the flow from a site) according to 1) flow rates, 2) time of concentration, 3) volume, and 4) duration. Currently, engineers have been able to meet the requirement of limiting the post-project peak discharge to pre-project discharge, but the full constraints of "maintaining the project's pre-development storm water runoff" are extremely difficult. 3.14

In contrast, a recently released Phase I permit for the Sacramento area specifies "The increased runoff characteristics from new development must be controlled to protect against increased erosion of channel beds and banks, sediment pollutant generation, or other impacts to beneficial

uses and stream habitat due to increased erosive forces." This performance based standard is a far more reasonable approach.

9. Requirement of Local Storm Water Pollution Prevention Plan (Local SWPPP).
A SWPPP is already required for sites of 1 acre or more under the State Board's general construction storm water permit and the Regional Board is required to inspect those sites for compliance with the SWPPP. Requiring the County to require a Local SWPPP that is essentially the same as the state's SWPPP is clearly an effort to shift responsibility from the Regional Board to the County. 3.15

Finding 49 of the draft permit correctly states that the permittees can't enforce the State Board's NPDES General Permits. Our current permit recognizes this intent and the County has agreed to assist by informing applicants of the general construction storm water permit by letting our applicants know when they have exceeded the state permit thresholds and that a general construction permit is needed and by notifying the Regional Board if one of our applicants is a non-filer for the general construction permit. In this regard, the County is acting in good faith as a partner.

The proposed permit would improperly delegate the Regional Board's duties and responsibilities to the County. The proposed permit requires the submittal of the Local SWPPP to the County as well as a review and written approval of the Local SWPPP by the County. Under the current general construction permit, SWPPPs are not required to be submitted to the Regional Board. The SWPPPs are not reviewed by the Regional Board and the Regional Board does not approve (written or otherwise) the SWPPPs on a programmatic level. The proposed permit requires the County to regulate construction sites to a higher degree when compared to the regulatory activities currently carried out by the Regional Board staff.

10. Schedule too short for completion of new tasks. Of the nearly 90 new tasks in the draft permit 23 are due within 180-days of adoption. Two of those new tasks are to develop and implement a strategy to measure effectiveness of in-school water quality programs (pg. 49) and coordinate and develop outreach programs for watershed specific pollutants (pg. 49). All together the draft permit has an exceedingly aggressive schedule for completion that our current staffing levels can not accommodate. 3.16

In summary, Sonoma County has implemented a robust storm water program in good faith for the last several years, and remains committed to doing the same in the future. We have an outstanding compliance record, and have exceeded the scope of our current permit.

Our actions have been rewarded with a proposed permit that would improperly regulate on a level equivalent to an urban, Phase I community. Sonoma County's urban populations are an order of magnitude below the Phase I population thresholds. All other municipalities, excluding the Count, Water Agency and the City of Santa Rosa, are permitted under the State Board's Small MS4 permit (Phase II permit) and no other county is being asked to do what Sonoma County currently does.

The County requests a fair and equitable permit that would ensure a level playing field for similarly sized municipalities and that would attempt to have all parties (federal, state and local governments) share in the responsibility to protect water quality. The County is strongly committed to protecting water quality, but local government cannot and should not be carrying the burden alone.

Thank you for your consideration of our comments on this important issue.

Sincerely,

Mike Reilly, Vice Chair
Sonoma County Board of Supervisors

cc: Regional Board Members
Sonoma County Board of Supervisors
Sonoma County Administrator
Department of Transportation & Public Works
Sonoma County Regional Parks
Sonoma County Water Agency
Sonoma County Department of Emergency Services
Permit & Resource Management Department
Department of Health Services

Enclosures: Attachment A – Synthesis of Department Comments
Attachment B – Permit & Resource Management Comments
Attachment C – Department of Emergency Services Comments
Attachment D – Regional Parks Comments

Attachment A

Comments on Proposed Draft of NPDES MS4 Permit
from
Permit & Resource Management Department
(PRMD)

GENERAL DISCUSSION

The US EPA has developed guidance on writing Phase I MS4 permits (Gentile and Tinger, Region IX, SF, CA). That guidance clearly states permit elements address: 1) what needs to happen, 2) who needs to do it, 3) how much they need to do, 4) when they need to get it done, and 5) where it needs to be done. The draft MS4 does not meet the objectives of EPAs standard.

Requiring the county to follow this permit will make our storm water program dysfunctional. Adopting this draft permit will place the county in a position of attempting to document we are in compliance rather than making efforts to improve water quality in the streams and creeks.

In general, this draft permit is highly disorganized and lacks clarity. There was no Table of Contents to guide the reader to specific sections in the document and one had to search for provisions or sections that were referred to in the document. The sections have been re-organized and titles changed that no longer reflect the Storm Water Management Plan we submitted. In fact, the majority of the document diverges significantly from the submitted Storm Water Management Plan (SWMP), which had been developed with input from stakeholders and in cooperation with NCRWQCB staff. It is recommended that the permit be reorganized to more closely follow the SWMP and rewritten in clear language. 3.17

The overall impression of the draft permit is it is disorganized and unclear such that it will take tremendous effort to rewrite the Measurable Goals within our county Storm Water Management Plan to ensure the county is in compliance with the orders of the permit. This draft permit needs to be rewritten with a coherent reevaluation to format (like providing meaningful headers and considering a more meaningful outline system) and with the addition of a table of contents.

The Regional Water Board is creating unfunded mandates by requiring compliance with state statues and state regulations. Specifically, the permit requires we modify our CEQA process. CEQA is a state statute and not directly related to the Clean Water Act. The permit requires compliance with water quality objectives. Water quality objectives are found in the Regional Water Board's Basin Plan. The Regional Water Board is required to create a Basin Plan pursuant to the Porter-Cologne Water Quality Control Act, not the federal Clean Water Act. 3.18

The County has implemented the current MS4 permit in good faith. We have an outstanding compliance record. In certain respects, the County has exceeded the scope of the permit. The County 3.19

does a great deal to protect water quality. In response, the Regional Water Board is using the permit renewal to dramatically increase the permit boundary, to dramatically increase the measurable goals and to dramatically leverage their ability to protect water quality on the backs of local government.

The Regional Water Board has exceeded their authority under the Clean Water Act by requiring measurable goals that go beyond the MS4.

The Regional Water Board has not implemented their programs to the point their lack of enforcement has created water quality impairment and they are attempting to pass on their programs to local governments.

During our discussions with the Regional Water Board at our monthly co-permittee meetings, most of the Special Provisions were not discussed or were vague at best. Some of the more onerous new requirements that were a complete surprise to the County include: the entire Public Information and Participation Program; the Development Construction Program; and the Industrial/Commercial Facilities program. 3.20

County staff have discussed with RB1 staff many times our SUSMP[2] program is immature with critical elements not fully developed. Requiring many more types of projects and significantly smaller projects to comply with the SUSMP requirements is unconscionable until we clearly describe how the development community can comply more fully with SUSMP.

There are numerous new requirements in the permit that lack flexibility, are overly prescriptive, and do not appear to take local costs into consideration. In addition, this permit identifies the actions, activities, and best management practices (BMPs) that the Permittees must implement without the flexibility that allows for individual determinations. For example, to substitute a different BMP for any that have been specifically identified in the draft permit, the Permittees must petition the Regional Water Board's Executive Officer to obtain approval. This provision requires substantial fiscal and technical justification for using a different BMP, and places an increased burden on the Permittees. 3.21

This permit specifies method and manner and provides very specific guidance on how to achieve the permit goals. I was taught that Porter-Cologne prevented prescribing method and manner and that the state could only set limits and that it was up to the permittee to devise the method and/or manner in which they complied with the permit limit. 3.22

This draft permit regulates the county to a level not enforced by the state; including post-construction and sites smaller than 1-AC. The state "one-size fits all" approach to MS4 permits does not work well in rural counties like the County of Sonoma. 3.23

Several findings and their EO's recent letter (denying a request to postpone the hearing) attempts justify this permit because other Regional Water Board permits have similar requirements. However, 3.24

[2] Standard Urban Storm Water Mitigation Plan. A method of using post-construction best management practices to improve water quality.

a watershed or county wide might work for urbanized environments like Los Angeles or Oakland, but these requirements do not work well for a predominantly rural county such as Sonoma.

The shear magnitude of the estimated cost from the draft permit shows fiscal irresponsibility on the part of the state. The County of Sonoma must be more strategic in applying limited funds to the storm water program and can not accept the fiscal burden embedded within compliance of this draft permit. 3.25

The following table highlights the main issues from the draft MS4 permit:

topic/issue	current permit	draft permit
1. Storm water boundary	Mark West Creek watershed plus others: approx 220 mi^2	county wide approx. 1,250 mi^2 within RB1 area, 6X increase
2. SUSMP thresholds (post-construction BMPs or Standard Urban Storm Water Mitigation Plan)	discretionary, >=1-AC new impervious surface	ministerial and discretionary, >=0.12-AC (5,000-SF), even down to 2,500-SF for special environmental area; and based on land use
3. Hydromodification	Control peak discharge and velocities	Maintain the projects pre-development "storm water runoff flow rates, time of concentration, volume and duration." (pg 64) with interim criteria of matching within 1% the storm event pre-development peak flow and volume hydrograph" (pg 65)
4. Monitoring Plan	manageable	extensive additions with uncertain responsibilities
5. Cost	approx. $1,300,000 per year	assumed $25,000,000 per 5-yr term for all new tasks
6. Completion schedule	manageable	extremely difficult with current staff levels

7. Alter county CEQA process	none	address impacts to water quality[3] (pg. 70)
8. Amend General Plan	none	none, RB1 commented on recent Gen. Plan 2020
9. Annual Reports	manageable	greatly increased work to produce complete submittal
10. Types of applicable projects	discretionary	ministerial and discretionary
11. Clarity	vague with typos	unacceptable; too many questions/interpretations
12. Inconsistencies	uncertain -	many

Discussion of highlights

1. Storm water boundary. The draft permit increases our storm water boundary approximately six times beyond the current area. This increase will significantly increase our workload as more projects will come to PRMD from review. 3.26

2. SUSMP thresholds (post-construction BMPs). The area thresholds are significantly reduced from the current 1-AC threshold down to 2,500-SF for certain projects. This reduction is area threshold will significantly increase the workload for the county. Currently, the SUSMP Guidelines do not provide adequate guidance on how the applicant should address channel-forming discharge (hydromodification or trying to eliminate any changes to storm water runoff after development). We can not expand our program until we provide adequate guidance on channel-forming discharge. I have explained this problem to RB1 many times. The regional water boards have convinced the county not to fund consultant assistance with channel-forming discharge until the state produces other guidance documents (with uncertain release dates). 3.27

3. Hydromodification. RB1 is asking the county to maintain the projects pre-development "storm water runoff flow rates, time of concentration, volume and duration." (pg 64) This is possible with the 3.28

[3] County must consider potential to storm water impacts and provide appropriate mitigation for project: construction, post-construction, hazardous materials, impairment to the beneficial uses of receiving waters, harming biological integrity of waterways, changes to velocity or volume, causing erosion, and potential to cause or contribute to an exceedance of a water quality standard.

use of well-designed infiltration galleries to remove runoff from leaving this project area. In soils with a high clay content achieving the goals of hydromodification is very difficult and nearly impossible. The interim criteria of matching within 1% the pre-development peak flow and volume will be exceedingly difficult as well without infiltration capabilities. This is not what the county needs now. Instead, we need to more fully develop the hydromodification program then provide public outreach at workshops about hydromodification. Requiring more projects address hydromodification without providing the guidance is a recipe for disaster. A crude analogy is RB1 is asking DMV to lower the driving age to 14-yrs (bring in more work) without providing sufficient guidance on how to drive a car (providing outreach).

4. Monitoring Plan. Did not review. It was assumed SCWA would provide thorough comments.

5. Cost. The estimated cost of new work embedded within the findings is 25-million dollars. The burden of the estimated new cost to taxpayers could exceed $2,000,000 per year. A better, lower cost alternative is for RB1 to support the County Storm Water Management Plan as submitted to RB1 in December 2007. 3.29

6. Completion schedule. Very difficult with current staff levels and freezes on hiring. Of the approx. 90 new tasks in the draft permit at least 23 are due in 180-days. Two of those new task are develop and implement a strategy to measure effectiveness of in-school water quality programs (pg. 49)and coordinate and develop outreach programs for watershed specific pollutants (pg. 49). All together the draft permit has an exceedingly aggressive schedule for completion that our current staffing levels can not accommodate. 3.30

7. Alter county CEQA process. Not sure if this is a legal request from the state. One of the main issues regarding unfunded mandates is if the task simply passes through the state from the federal government under the Clean Water Act then the state request is not an unfunded mandate. However, having the state request we alter our CEQA process is, I believe, outside the scope of the Clean Water Act and NPDES program, a special requirement of the state, and hence an unfunded mandate. 3.31

8. Amend General Plan. In discussion with Division Manager Greg Carr (PRMD) I was given the impression that the state did review the recently adopted new General Plan 2020. Hence, Greg felt there would be no action on this item until the next revision of the county General Plan. 3.32

9. Annual Reports. The draft permit requires many new reports and plans. Compiling, referencing, and delivering these reports and plan will increase the amount of work on an annual basis. 3.33

10. Types of applicable projects. The intent of this draft permit is to cover both discretionary and ministerial projects. Broadening the types of projects to include ministerial will increase the number of projects subject to review by PRMD. 3.34

11. Clarity. Much of the wording is too vague in direction. For example D 2 2 c 1 A states: "Conduct a storm water pollution prevention advertising campaign." We could do this with flyers at PRMD for $100 or we could produce TV commercials for $1,000,000. It is only through clear reworking of the 3.35

Measurable Goals within any revised county Storm Water Management Plan that the county can know if we are in compliance or not. There are many more examples of unclear or vague wording.

12. Inconsistencies. One example of inconsistencies in the draft permit is the description of the wet season as November 1 - April 15 (pg. 71) then as the wet season beginning October 1st (pg. 72). Another example is the differences between the many descriptions of hydromodification; as 1) "reduce post-development surface flows" (pg. 59), 2) "Flow/Volume/Duration" control criteria (pg. 64), and 3) where hydromodification "shall be achieved by maintaining the projects's pre-development storm water runoff flow rates, time of concentration, volume and duration." (pg. 64). Beyond the inconsistencies between the descriptions of hydromodification the third item above is nearly impossible to achieve without the installation of infiltrations BMPs in well-drained soil layers. 3.36

DISCUSSION OF FINDINGS

The overall impression of the findings is they are a mixture of fact, assumption, and speculation. My overall impression of the conditions is they are often unclear and mostly excessive, exceeding costly to county taxpayers, and not all are applicable to the conditions found in county jurisdiction. Some of the findings and conditions do provide good direction. 3.37

Finding 5 (pg. 2) specifies MS4 permits must "require controls to reduce the discharge of pollutants to the maximum extent practicable (MEP)... MEP is defined (Att. C) as the standard for implementation of storm water management programs to reduce pollutants in storm water. The Clean Water Act5 requires that municipal permits "shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants." 3.38

Finding 7 correctly recognizes that MS4 discharges vary considerably in quality and quantity due to geology, land use, season, and the sequence and duration of hydrologic effects. This fact militates against a one-County-fits-all permit that imposes the same requirements on all pipes and projects, regardless of their specific geology, land use, season, and contribution of pollutants (or lack thereof) to waters of the United States. If the Regional Board has any quantifiable water quality data documenting the quantity or quality of MS4 discharges from the County MS4 systems, please provide it to the Permittees immediately. Otherwise, the proposed permit should be revised to abandon its proposed expansion of the permit boundary, and focus instead on the specific MS4s, geologies, and pollutant loads that have resulted in documented contributions to an impaired water body. 3.39

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[5] CWA § 402(p)(3)(B)(iii). State documents interpret MEP as including technical feasibility, cost, and benefit derived... MEP generally emphasizes pollution prevention and source control best management practices (BMPs) (as first line of defense) in combination with treatment methods as a backup (additional line of defense). Furthermore, it is recognized that the implementation of BMPs to ensure water quality protection is an iterative process. BMPs must be evaluated for success and, when necessary, additional BMPs implemented to provide required water quality protection.

Finding 7 further states the "Permittees have jurisdiction over and/or maintenance responsibility for their respective MS4s that they own and operate in Sonoma County. The MS4 discharges consist of storm water runoff generated from various land uses..."

Finding 8 asserts there is a refined working relationship between the permittees and the Regional Water Board with respect to reducing pollutants of concern in storm water runoff. The County of Sonoma challenges this assertion. This is a one side relationship at best. The County has diligently implemented the current MS4 permit and in several instances has exceeded the scope of the current permit. For example, the County conducts plan review and inspection activities on projects that do not drain to the County's MS4 system. The County conducted public outreach that extends beyond the Mark West Creek and Santa Rosa Creek watersheds. Whereas the Regional Water Board conducts a minimum amount of inspections on sites they have under permit, the Regional Water Board does not adequately enforce its general construction storm water permit to address post-construction impacts and the Regional Water Board rarely interacts with the County on discretionary projects. 3.40

Finding 9 discusses the requirement to extend the permit boundary to be county wide. This finding lists six reasons for the permit expansion. Most of these reasons are not unique to Sonoma County and apply to all counties within the Regional Water Board's jurisdiction. Sonoma County asserts this permit inappropriately singles out Sonoma County. Why is the Regional Water Board not pursuing similar permits for Mendocino, Humboldt, or Del Norte counties? All of the stated reasons apply to these counties as well, except for the first part of reason 6, which is unique to Sonoma and Mendocino counties. In regards to reason 6, one area of biological significance surely does not justify a county wide MS4 permit boundary. 3.41

Reason 1 states that a six-fold expansion in the permit boundary is required because some "areas" of Sonoma County produces runoff containing unspecified "constituents of concern" that flow into impaired water bodies. This statement does not constitute substantial evidence supporting an expansion of the permit boundary to encompass the entire North Coast Region. If specific MS4s or "areas" of the County are making documented contributions to an impaired water body, the County would be happy to work with the Regional Board to address that issue. 3.42

Reason 2 states that a 6-fold expansion in the permit boundary is justified because the Regional Board intends to develop TMDLs, and impaired water bodies must be protected in the interim. This logic appears backward. If TMDLs are warranted, the Regional Board should adopt and implement them, and then require NPDES permits to conform to the extent necessary. The Regional Board may not impose greater burdens on permittees based on what TMDLs might look like, if and when the Regional Board adopts them. Nor may the Regional Board abdicate its duty to regulate water quality, through TMDLs or similar measures, and delegate it local jurisdictions through NPDES permit requirements. 3.43

Reason 5 states the Regional Water Board has a goal to encourage permittees to provide consistent requirements and standards for development within Sonoma County. This finding also discusses that 3.44

the permit boundary expansion will help provide a consistent watershed-wide effort to control all MS4 sources of pollutants to receiving waters within the watershed. The County asserts these goals are outside the legal authority of the Clean Water Act which can only regulate discharges from a storm water conveyance system owned or operated by a municipality. Creating measurable goals that extend beyond the County's MS4 system is outside the legal framework of the MS4 permit. The County asserts there are vast areas of Sonoma County that do not drain to a county owned or operated MS4 system. The County asserts there are vast areas that drain to waters of the nation and/or to waters of the state through private storm drain systems or through non-point discharges that are outside the legal framework of the Clean Water Act. The County asserts that requiring the development of consistent requirements and standards for development for projects that flow to waters of the nation and/or waters of the state directly is outside the legal framework of the MS4 program.

Finding 9 concludes by correctly recognizing that land use areas are different, and call for different control strategies and management practices. This finding militates against a one-County-fits-all permit that imposes the same requirements on all pipes and projects in all land use areas. The County recommends that the Regional Board and County work together to identify those MS4s that actually do cause or contribute to water quality violations, and develop reasonable, appropriate control strategies and management practices tailored to those MS4s and land use areas. The alternative proposed by proposed by the draft permit would significantly increase County work load and costs without advancing our shared commitment to improving water quality. 3.45

Finding 10 describes "Provisions of this Order apply to the urbanized areas of the municipalities, areas undergoing urbanization and areas which the Regional Water Board Executive Officer determines are discharging storm water that causes or contributes to a violation of a water quality standard or is a significant contributor of pollutants to the waters of the United States pursuant to CWA." Again, the Regional Board must provide specific analyses of storm water quality changes as it passes through county MS4s, and other substantial evidence, before adopting the proposed permit. 3.46

Finding 10 discusses specific areas that are covered by this permit. These include the urbanized areas of the municipalities, areas undergoing urbanization and areas which the Regional Water Board determines are discharging storm water that cause or contributes to a violation of a water quality standard or is a significant contributor of pollutants to the waters of the United States. The County respectfully requests that the Regional Water Board identify specific areas where this permit applies. This permit lacks enforceability if the regulator and permittee do not know the specific areas that are being permitted. 3.47

Findings 14 through 31 attempt to summarize or present discharge characteristics. Of these findings only one, finding 24, quantifies a pollutant loading and this was an estimate. All of the other discharge characteristic findings make inferences but lack references to studies and lack quantifiable data to support the arguments. If the Regional Water Board has studies, hopefully local studies, and/or quantifiable water quality data to support these findings, the County respectfully requests this information. 3.48

Finding 15 (pg. 6) references "[n]ationwide studies" that allegedly show that storm water discharges result in exceedences of water quality standards. No one disputes that on a national level, improperly managed storm water can result in many harms, including exceedences of water quality standards. But national studies, or studies of completely different areas of the country, do not provide substantial evidence that these Permittees in this region are causing an exceedence of any water quality standard. 3.49
The proposed permit should be revised to disclose and analyze any local studies or data that support its expansion of the permit boundary and other requirements. In the absence of such studies or data, the permit should be withdrawn as arbitrary and capricious, and rewritten to focus more specifically on any specific MS4s that are making documented contributions to exceedences of water quality standards.

Finding 19 (pg. 7) describes how "Often direct flows are much warmer than the receiving water and can lead to temperature stress in many cold water aquatic species." This is unreferenced speculation for Sonoma County and unsupported in the draft permit. Finding 20 (pg 8) related to pesticides is also unsubstantiated. 3.50

Finding 22 (pg. 8) states "In general, the substances that are found in municipal storm water runoff can harm human health and aquatic ecosystems." I suggest storm water is mostly water and beneficial to aquatic ecosystems and ask RB1 to provide the data that shows storm water from county MS4s are harmful. 3.51

Finding 25 (pg. 9) states "Municipal storm water (wet weather) and non-storm water (dry weather) discharges may contain pollutants that cause or threaten to cause an exceedance of the water quality standards, as outlined in the Basin Plan." To my knowledge this finding is unsubstantiated speculation. 3.52

Finding 27 discloses that the Regional Board intends to amend the Basin Plan, and may develop a method for identifying and addressing low-threat discharges to surface waters. Even without this method, the proposed permit requires the Permittees to incorporate BMPs satisfying what the amended Basin Plan might look like. This logic appears backward. The Regional Board should amend the Basin Plan, if warranted, rather than prejudicing that process and imposing new requirements on the Permittees. 3.53

Finding 32 discusses the Permittees' storm water management plan and states the storm water management plan fulfills the Regional Water Board's permit application requirements subject to the condition that it will be improved and revised in accordance with the provisions of this order. This is the only time that the Regional Water Board has informed the County that our permit application was deficient. We do not know why it is deficient, and Finding 32 provides no specific information. 3.54

Finding 32 states only that modifications to the storm water management plan "could" include additional measurable goals, improvements in program elements, or modifications to implementation schedules. This finding contains no substantial evidence that the submitted Management Plan is deficient and, as noted above, merely lists broad types of changes that "could" be made to improve it. Providing such a late determination (approximately 8 months after submittal of the application) of a deficient application, and providing vague direction on how to meet the minimum submittal 3.55

requirements, is contrary to the discharger's bill of rights and does not support the refined working relations alluded to in Finding 8. The proposed permit should be revised to delete this finding, or to specifically identify perceived deficiencies in the Management Plan.

Finding 36 (pg. 12) discusses sources of funding for the county storm water program. The finding states: "If the state makes budgetary changes that reduce available discretionary funding for the municipalities, certain measurable goals now required by the Management Plan may become cost prohibitive." RB1 does not explain how the determination of "cost prohibitive" goals would occur. Further, to my knowledge the state has not give one penny directly to the county for any of the storm water programs. This finding is either spurious, erroneous, and/or needs clarification. 3.56

Finding 37 indicates Regional Water Board staff worked with the permittees in developing a storm water management plan. The County takes exception to this finding. The County asserts there were several meetings in which storm water management plan requirements were discussed and program elements were requests. The County asserts Regional Water Board staff shared some of their views on what the draft permit would contain. County staff raised concerns about many of the provisions, however, the draft permit does not reflect any of the concerns raised by the County. In fact, there are numerous additional provisions that appear in the permit that were not discussed with County staff. The County asserts that Regional Water Board staff told the County staff what to expect and did not listen in good faith to our concerns. 3.57

Finding 37 also correctly suggests that a new regulation may be legally permissible, and not arbitrary and capricious, if it is "consistent with permit language in other MS4 permits." This finding militates against the proposed six-fold increase in the permit boundary and many other specific requirements of this proposed permit. No other municipality in the North Coast Region is subject to a Phase I permit, much less a Phase I permit that covers all county areas within the region. Absent specific, substantial evidence that the regulated MS4s are demonstrably worse than all others in the North Coast Region, this permit should be withdrawn and substantially rewritten. 3.58

Finding 40 discusses requiring post-construction controls on site smaller than one acre. The Regional Water Board has a poor record in enforcing post-construction controls on development sites that disturb one or more acres. Regional Water Board staff indicated zero enforcement cases relative to post-construction provisions of the general construction storm water permit. The rationale, which is not supported by County staff, is that the post-construction provision is not enforceable, yet similar language appears in this permit. Please refer to provision A.10 of the general construction storm water permit and Part 4, 1(b). Regional Water Board staff assert the language of minimize is not quantifiable and therefore not enforceable. The County asserts this language appears as an example of a post construction BMP in the general construction storm water permit and that provision A.10; in combination with other provisions of the general permit, make the post-construction provisions of the general construction permit enforceable. This Regional Water Board has just not regulated or addressed post-construction impacts in their storm water program. The lack of regulation of the post-construction provisions since 1991 has lead to water quality impacts and possible impairment of the listed water bodies, which in turn is leading the Regional Water Board to require that local governments regulate these concerns. 3.59

Finding 40 specifies using LID strategies to solve the post-construction impacts. This is an example of the permit prescribing method and manner. 3.60

Finding 40 (pg. 14) describes that LID (low impact development) has the goal of maintaining or reproducing "the pre-development hydrologic system..." and "the volume and frequency of discharges are maintained..." However, Finding 79 (pg. 27) states LID principles address "...the peaks and durations of runoff are significantly reduced and, in the case of a new development, are substantially the same as before development occurred on the site..." This discrepancy should be resolved within the permit language. 3.61

Finding 42 need clarification. What does the following mean?: "Projects requiring only ministerial approvals can be required to prove compliance with pre-existing criteria before development is allowed." 3.62

Finding 45 (pg 16) describes that the US EPA is required to "establish regulations setting forth NPDES requirements for storm water discharges in two phases..." Phase I MS4s serve a population of 100,000 or more. Phase II MS4s serve a population of between 10,000 and 100,000. Investigations show the total county population served in urban clusters is approximately 25,000. I ask RB1 to provide the basis for providing coverage to the county as a Phase I entity. 3.63

Finding 46 relies on "preliminary TMDL analyses" that allegedly indicate that storm water runoff is a significant contributor of pollutants to all the impaired surface waters in Sonoma County. The Regional Board should provide those preliminary analyses immediately, and disclose why they support significant revisions to this NPDES permit, but not the establishment or implementation of TMDLs. 3.64

This finding also incorrectly states that "development patters in the County indicate that development pressure will continue." In fact, development applications have declined over the last several years, and the County recently adopted a 2020 General Plan that continues to direct future growth to incorporated cities rather than the unincorporated County. Those cities are not a part of this permit, except for Santa Rosa, and the County's southernmost cities are not in the North Coast Region at all. No substantial evidence suggests that the unincorporated areas of Sonoma County within the North Coast Region are facing development pressures sufficient to warrant the changes proposed by this permit. 3.65

Finding 47 alludes to reducing pollutants in storm water from the permitted areas in Sonoma County. Please elaborate on the permitted areas in Sonoma County. 3.66

Finding 48 states the Clean Water Act requires permits to effectively prohibit non-storm water discharges into MS4s. Discharge Prohibition A.1 mirrors this finding by prohibiting discharges into the MS4. The County asserts that discharges to waters of the nation and/or waters of the state that occurs upstream of the County's MS4 are outside the jurisdiction of the MS4 permit authority. The County asserts that if a pollutant enters waters of the nation and/or waters of the state prior to entering 3.67

a County MS4 and is merely being transported through the MS4, the County is not responsible or should not be held accountable for that pollutant discharge into or out of the County MS4.

Finding 49 asserts that permittees can not enforce NPDES general permits, yet there are requirements that mirror the NPDES general permit requirements and other requirements that we determine if a NPDES general permit is needed, determine if the applicant has obtained the general permit and to notify the RWB if a permit was not obtained. It appears that this permit requires us to enforce the NPDES general permits. 3.68

Finding 50 asserts that this permit incorporates a cooperative partnership between the RWB and us. There is no partnership. The RWB is requiring us to regulate sites that are under permit from the state. 3.69

Finding 52 asserts we voluntarily sought coverage and therefore the permit is not an unfunded mandate. We did not voluntarily seek coverage, but were required to. 3.70

Finding 52 asserts this permit is less stringent than obligations of non-governmental dischargers who are issued NPDES permits for storm water discharges. No other NPDES permit in the RWB jurisdiction requires the level of activity that is being proposed. The County asserts this is the most stringent NPDES storm water permit in the north coast. All other municipalities in the north coast are under the small MS4 NPDES general permit and have much less stringent requirements. 3.71

Finding 52 asserts the CWA and PCWQCA regulates with an even hand. The County asserts this permit creates an unlevel playing field between counties in the north coast region. Further, as this permit applies only to discharges to the MS4 and since there are many projects that will discharge directly to waters of the nation and/or state that this permit does not apply to, and due to the RWBs lack of inspections/enforcement, this permit will create an unlevel playing field within the County. 3.72

Finding 52 (pg. 18) describes state mandates and concludes the requirements of the draft permit do not constitute an unfunded mandate. One reason given is that the Permittees have the authority to charge fees to pay for compliance with the order. This indicates RB1 is aware additional costs will be associated with compliance with the draft MS4 permit yet are still somehow convinced it is not an unfunded mandate. I ask RB1 to provide funds for all new tasks that are outside the scope of the Clean Water Act. 3.73

Finding 54 asserts that there are entities within the permittee boundaries that discharge to storm drains systems regulated by this order and that the permittees may lack jurisdiction over these entities. The Regional Board recognizes the permittees should not be held responsible for such facilities and/or discharges. However, Discharge Prohibition A.1 prohibits all discharges into and from the County's MS4 regardless of Finding 54 and regardless of where or who originated the discharge. The County asserts that discharges to waters of the nation/state that occur prior to or after (upstream or downstream) the County's MS4 should not be subject to this permit. Permit provisions, such as Discharge Prohibition A.1 and others, need to be redrafted to reflect this legal limitation of the MS4 program. 3.74

Finding 66 (pg. 23) describes how the CA State Assembly passed AB 1721 in 2005 requiring elementary and secondary public schools be provided with educational materials on storm water pollution. However, this state requirement becomes county responsibility if the submitted Storm Water Management Plan includes elementary and secondary school education on storm water issues. I ask RB1 to use this educational task as a case study and describe why the county should be responsible for implementing the state requirement and not the state. 3.75

Finding 81. This finding states that renewal of this NPDES permit is exempt from CEQA because "it is for an existing facility." The proposed permit should be revised to clarify that it does not apply to one specific facility, but several miles of independent structures, facilities, and topographical features owned or operated by three separate governmental entities, and covering hundreds of square miles. The Regional Board should clarify whether this finding was made specifically for this permit, or merely copied from another permit, for an actual, existing facility. 3.76

Finding 81 should also be revised to acknowledge that the exemption is precluded because the proposed permit would have a significant effect on the environmental due to unusual circumstances. (CEQA Guidelines, § 15300.2, subd. (c). The Regional Board should specifically disclose and analyze the environmental impacts that would result from the massive increase in permit fees that this proposed permit would require, and that the Regional Board appears to contemplate in Finding 52. Those permit fees would create a tremendous incentive for private parties to avoid County fees by performing unpermitted work, resulting in significant adverse environmental effects. 3.77

Finding 88 (pg. 31) describes CEQA implementation and the differences between discretionary and ministerial projects. This finding states "For water quality purposes, regardless of whether a project is discretionary or ministerial, the Regional Water Board considers that all new development and significant redevelopment activity in specified categories, that receive approval or permits from a municipality, are subject to storm water mitigation requirements." The Regional Board should provide the legal basis for this finding. 3.78

Finding 88 should also be revised to delete the word "mitigation." Ministerial permits are not subject to CEQA, and their impacts may not be "mitigated." The proposed permit should be revised to clarify that projects should be subject to uniform measures and requirements to reduce storm water pollutants. 3.79

Finding 93 discusses Public Information and Participation Programs. Finding 66 discusses AB 1721 which is related to environmental education. The County asserts that an adequate PIPP does not necessarily needs to include providing elementary and secondary public schools with education materials. Radio spots, ads in public locations (billboards, bus stops, etc.), outreach to various industrial sectors, etc. can implement an effective PIPP. Further, AB 1721 is a state law that goes beyond the CWA and is an unfunded mandate at the state level. 3.80

Finding 101 (pg. 34) describes RB1 can pursue enforcement if the county can "not demonstrate a good faith enforcement effort...." This phrase must be described in detail or its use may become arbitrary. 3.81

Finding 101 discusses the roles and responsibilities of enforcement. The County asserts the Regional Board's authority to enforce on a municipality only applies to direct discharges to a MS4 and does not apply to direct discharges to waters of the nation/state or discharges to waters of the nation/state via a private storm drain system. 3.82

Finding 103. This finding incorrectly cites 35 Cal.4th 618, reportedly from *County of Los Angeles v. California Water Boards*, in support of its finding that the proposed permit is exempt from CEQA. The cited page is actually from an entirely different case, *City of Burbank v. State Water Resources Control Board*, that does not discuss CEQA. The proposed permit should be revised to accurately identify its judicial authority, and disclose whether this finding was made specifically for this permit, or merely copied from some other permit or document. 3.83

Finding 105 (pg. 35) describes the "The above paragraphs set forth the principal facts and the significant factual, legal, methodological and policy questions considered in preparing the Draft Order." Many of the "facts" are assumptions. I ask RB1 to completely review the findings to exclude speculation or assumption. 3.84

DISCUSSION OF SPECIFIC ORDERS

Discharge Prohibition A.1 does not allow for the latitude expressed in Finding 54. Findings are not enforceable provisions of NPDES permits. Future staff could strictly enforce Discharge Prohibition A.1. More of a concern is citizen lawsuits. A citizen group could sue the County for violation of this prohibition even though the County may not have legal jurisdiction over the discharge. 3.85

Regarding Discharge Prohibition A.3, there are many, many small construction projects that are not required to obtain or enroll in a general NPDES permit. It appears this MS4 permit prohibits these projects from discharging storm water to the MS4. There is no exception in section A that would allow projects that disturb less than an acre to discharge storm water to the MS4. 3.86

Discharge Prohibition A.4 describes, "The Permittees shall effectively prohibit non-storm discharges into the MS4 and watercourses except where discharges originate from a State, federal, or other source which they are pre-empted by law from regulating." This is the type of direction we are looking for in a storm water permit. The County assets that the county is not responsible for pollution in a county MS4 if the pollution entered the storm water from waters of the state or federal land. However, this prohibition is in conflict with prohibition A.1 and A.2 3.87

Discharge Prohibition A.4 is onerous. This prohibition requires the County to prevent the discharge of non-storm water that routinely occurs in nature. The County has no jurisdiction over Mother Nature. Specifically, natural springs is listed in Table 2. Natural overflows from riparian habitats or wetlands (floods) are listed in Table 2. Many other non-storm water discharges are authorized by the Basin Plan waiver policy. Under the proposed permit, the County would need to submit a request to have the Executive Officer authorize each of the list non-storm water discharges some of which that occur in nature or that were previously waived under the Basin Plan. 3.88

Receiving Water Limitations B.1 appears to be a prohibition versus a limitation.

Receiving Water Limitations B.1 states, "Discharges from the MS4 that cause or contribute to a violation of water quality standards are prohibited." B.2 states, "Discharges from the MS4 of storm water, or non-storm water, for which a Permittee is responsible, shall not cause or contribute to a condition of pollution or nuisance." 3.89

These two orders, Order B 1 and B 2, could form the sole basis of our relationship with RB1. It would be sufficient if the draft permit were to end here and let us decide how to comply with the orders through our Storm Water Management Plan and not through the prescriptive nature of many of the subsequent orders. 3.90

PART 2 – Public Information and Participation Program (PIPP)
Many of the requirements in this section would not be attainable due to the lack of staff and funding to implement. 3.91

2. (c) (1) Outreach and Education - Implement an advertising campaign, public service announcements, and organizing watershed Citizen Advisory Groups/Committees.
The County is interested in working with watershed groups to further the outreach and education program but does not have the staff or resources to organize and lead groups or committees. This goal should be modified and the County shall determine what can be accomplished and when. 3.92

2.(c) (2) Develop a strategy to educate ethnic communities through culturally effective methods. Please elaborate on the term ethnic communities and what is expected here, and alter the implementation date of 180 days after permit adoption. 3.93

2.(c) (6) Provide schools within each School District in the County with materials, videos, and live presentations to educate a minimum of 50% of all school children (K-12) every 2 years. 3.94

It is not the role of the County to fund the schools with educational materials and assess the effectiveness of their education. In addition to not being school teachers or sociologists, the County does not have the expertise to develop a behavioral change assessment strategy.

This order also states, Pursuant to AB 1721 (2005), the Permittees, in lieu of providing educational materials/funding to School Districts within the permit boundary, may opt to provide an equivalent amount of funds or fraction thereof to the Environmental Education Account established within the State Treasury. This option requires the written approval of the Regional Water Board Executive Officer. 3.95

We do not have the staff or funding to implement this program. This provision should be eliminated.
2. (d) Pollutant-Specific Outreach - Develop outreach programs that focus on watershed specific pollutants in Table 1.

The implementation date of 180 days should be modified. 3.96

PART 3 – Industrial Commercial Facilities Program

3. Inspect Critical Resources

(a) Commercial Facilities

This whole section is confusing. It does not specify who would be performing all the Industrial Inspections, maintaining records, enforcing, etc, and it may constitute a whole new program that the county does not have the training, resources, or staff to implement. The NPDES Industrial Program is supposed to be overseen and enforced on by the Regional Water Boards. It seems that the North Coast Water Board is trying to use the County to oversee their program. This goal should be eliminated, and the County shall continue with their current industrial/commercial inspection program. 3.97

PART 8 – Development Construction Program

2. Grading Restrictions

Implement a program to restrict grading between November 1 – April 15 (wet season) on hillsides with slopes 20% or steeper prior to land disturbance and in areas of high erosivity.
(a) (b) The grading prohibition should be considered on a case by case basis. Some areas such as hilltops would pose little risk in a discharge. This requirement could also be unwarranted as additional enhanced BMPs could be implemented to address any water quality concerns. This prohibition is not in our ordinance and should be modified. 3.98

(c) In the Grading Prohibition Variance would the County be requiring the developer to sample and monitor? I think this is a requirement the Water Board can impose under an NPDES Construction Permit. 3.99

3. Construction Sites Less that an Acre

PRMD would prefer the draft permit provide flexibility in selecting/requiring BMPs applicable to the site or construction activities. This requirement is over prescriptive and should be modified. 3.100

6. Local Agency Requirements

(a) (1) Local SWPPP

A Storm Water Pollution Prevention Plan (SWPPP) is already required for sites 1 acre or more under the State Construction Permit, and the Regional Water Boards are required to inspect those sites for compliance with the SWPPP. Our contribution to the RWB is to ask if the SWPPP is on-site and being maintained, and to send letters of non-filer when determined. It seems that the Water Board wants the County to oversee their Construction Program for them by requiring a separate SWPPP from the County. It even says in 6 (a) (ii) that a Local SWPPP may substitute for the State SWPPP. This is overly prescriptive and burdensome to the County. 3.101

The County does not foresee a benefit from requiring a Local SWPPP. The County has checklists, procedures, and guidelines for the installation and evaluation of BMPs that have proven to be very beneficial. Adding an onerous requirement that the State is already requiring for project proponents does not seem like the best way to change behavior. 3.102

However, providing storm water training for contractors may have a more significant long-term effect, which is one of the activities PRMD had planned on doing in the next permit term. 3.103

6. (a) (2) Certification Statement

This section also applies to the Local SWPPP and includes requiring a signed certification statement on the SWPPP from each landowner or landowner's agent. The County would prefer to develop other methods of seeking compliance and raising the awareness of landowners on storm water BMPs and our local codes and ordinances. 3.104

9. Inspections

Here again the Local SWPPP is being required, but on All construction sites. It seems the Water Board is trying to force us to change the way we operate no matter how successful we have been with our current program. The County has not had a problem with discharges from a construction site due to our inspection and enforcement actions. We do not feel there is a need or benefit in adopting the State model nor taking on the duties of the Water Board. This goal should be eliminated. 3.105

10. State Conformity Requirements

In this provision each permittee is to verify coverage under a State NPDES permit before issuing permits, check that a SWPPP has been prepared, and ask for proof of an updated NOI. It is not a policy at PRMD to hold up permit issuance until a SWPPP has been prepared, but we usually verify NPDES coverage and ask for a copy of the NOI, otherwise we refer sites to the Water Board as non-filers. If this was implemented, why would we need a Local SWPPP? 3.106

COUNTY OF SONOMA
PERMIT AND RESOURCE MANAGEMENT DEPARTMENT
2550 Ventura Avenue, Santa Rosa, CA 95403-2829
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Attachment B

Department of Transportation and Public Works

Responses to the draft Waste Discharge Requirements (Order No. R1-2008-0106)

Permit Boundary (Findings, No. 9)

The intent of the MS4 program would not seem to apply to outlying rural areas. The urban condition of developed land with interconnected storm drain systems and impervious surfaces is typically not present in rural areas. Surface water generally traverses native soils – swales, ditches, and overland sheet flow – which would seem to provide significant opportunity for natural cleansing of the water delivered from the non-concentrated sheet flow off of impervious roadway surfaces, resulting in little need, and by extension provide little cost effectiveness, for the MS4 type urban area requirements. Permit boundary should remain as is or be expanded only under careful analysis in consideration of the existence MS4 type conditions. The efficacy of applying such MS4 water quality practices to areas encompassing rural roads is questionable, particularly at the expense of scarce public resources that would need to be diverted to such activities. 3.107

New Development Projects (Part 4, No. 3)

(a)(7): For projects outside the urban setting, changing the threshold from the current one acre of impervious surface to 5000 square feet strains reason in regards to the cost effectiveness of providing post construction treatment controls. These potentially costly and maintenance inducing facilities should be limited to areas and impervious surface projects where they can be reasonably warranted, i.e. the existence of nearby sensitive receptors or the allowance for the existence of natural filtering typically present in rural settings. Applying judgement rather than a blanket approach would seem appropriate to this requirement. 3.108

While it is not clear what the actual impacts would be from this proposed change in the requirements, but the costs for treatment of runoff from new impervious surfaces could be substantial if detention ponds are necessary since land would in most cases have to be purchased as well as the added cost for design, permitting & construction of the treatment facility. Also, the reduced area that triggers the need for treatment is significant. For example, 650 feet of an 8' wide bike trail would require treatment as would 1250' of a paved shoulder. These same concerns are true for redevelopment projects. 3.109

Redevelopment Projects (Part 4, No. 4)

4(b): Projects that replace existing impervious surfacing should be exempt from the requirement for a permit and post construction treatment controls because logically this activity does not result in any increase in impervious surface area. There is no reasonable nexus to 3.110

this activity and the need to mitigate by implementing post construction treatment controls. This is particularly disagreeable when the threshold area is 5000 square feet.

Vehicle and Equipment Wash Areas (Part 9, No.4)

In rural corporation yards – Forestville, Guerneville, Healdsburg, and Annapolis – wash areas are available that capture and contain all runoff in permeable native soils, on site. Sanitary sewer is either not reasonably available or is cost prohibitive. Capturing wash water and transporting to disposal or treating are excessive and costly burdens which would seem to provide little reasonable benefit at these rural locations. 3.111

Storm Drain Operation and Management (Part 9, No. 6)

(a) Catch basin cleaning: This should apply specifically only to curbed streets and/or storm drain systems discharging into sensitive or significant waterways, which is more the case for typical urban areas rather than rural areas.

Drainage from native ground, which may include some minor impervious road area drainage, into a catch basin should not require the catch basin to be scheduled for regular cleaning, in the same manner that scrubbing the flow line of a native swale on a regular basis would not be of particular benefit. Similarly, regular cleaning of catch basins which lack connection to a storm drain system, particularly those that do not drain to sensitive receptors (common in rural areas), would seem to be of negligible benefit and less than cost effective. 3.112

The establishment of a zone system (A, B, & C) could significantly increase the costs for the inspection & cleaning routine, depending on the size of the zones. The change from an annual basis (or as needed if a problem occurs) to 4 cycles for Zone A & 2 cycles for Zone B (Zone C remains once a year) would out strip the department's capabilities at the current levels of funding, personnel, & equipment. This activity could be handled through contracts, but at a cost that is not currently part of the departmental budget.

To maintain this level of maintenance for this activity, it is anticipated that there would have to be additional equipment (2 vacuum trucks @ $200,000/unit) & personnel (2 operators & 2 maintenance workers) plus fuel, maintenance, & overhead. The total cost per year could be in the range of almost $500,000 (the capital equipment cost would be $400,000). This is potentially a very costly program. 3.113

(e) Trash Excluders: The cost overall of this requirement, even limited to curbed street catch basins connected to storm drain systems is considerable.

There could be several thousand catch basins involved in this program (there are approximately 400 in the vicinity of the airport alone). Retrofiting these basins could range from a few hundred dollars for a simple insert to several thousand dollars if the basins require replacement or a major reconstruction to accommodate a trash filtering device. 3.114

Of more concern is the creation of flooding potential. During storm events it is extremely unlikely that the excluders could be maintained in such timely manner to reasonably prevent clogging, which can well lead to localized flooding and create associated personal injury and property damage risk and liability. In view of this, trash excluders should only be considered on specific catch basins on a case by case basis where the benefit/risk is warranted. 3.115

The implementation of such a program (design, retrofit, permitting, etc.) will be a lengthy & expensive process. By adding these filtering devices, they will have to be monitored more

frequently to maintain proper operation. The personnel & equipment shown in item "a" above should be able to include most of the monitoring w/in their routine.

(f) Storm drain maintenance: This section is taken to essentially relate to open channels and not pipes. The words "and other drainage structures" is confusing.

COMMENT: the direction that these changes lead us is to the creation of a separate environmental storm water & drainage section. The vacuum trucks & the personnel described above would be included in this organization, but water quality becomes a significant task that will involve testing, monitoring, pollution investigations, & a host of other related activities. Quickly, these requirements could result in an annual cost more than $1 million that is not budgeted today. 3.116

Streets and Roads (Part 9, No. 7)

(a)Maintenance: The current permit calls for a sweeping frequency of six times per year or once every two months. This new requirement would quadruple this frequency. The additional costs of providing for this dramatic increase as a blanket or shotgun approach to all commercial areas is seemingly unwarranted and potentially wasteful. A more reasoned and cost effective approach would be to identify specific areas where the current sweeping frequency is considered inadequate and increase the frequency in those areas as necessary. This type of approach could include industrial and other areas as well. 3.117

The increased requirements could result in adding 1 or 2 additional sweepers w/their operators. The sweepers cost approximately $200,000/unit. Annual operating costs are approximately $450,000 for 2 sweepers. Again, this activity could be contracted, but it is not certain that any savings would accrue. If a separate environmental storm water & drainage section was developed, this operation would be included.

Illicit Connections (Part 10, No. 4)

(a)(1)(A) GIS layers: Mapping of storm drains should be defined as typically applying only to those associated with drainage of curbed streets. The non-curbed street drainage is usually not part of a bona fide storm drain system (interconnected and /or significant) and provides little opportunity for illicit connection. Instances where a storm drain system exists in a non-curbed street network could be identified on a case by case basis and included for mapping under this requirement. 3.118

Ken Giovanetti 9/30/08

COUNTY OF SONOMA
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Attachment C

Department of Emergency Services

Chief Vern Losh
Sonoma County Department of Emergency Services
2300 County Center Dr., Suite 221A
Santa Rosa, CA 95403

RE: ORDER NO. R1-2008-0106, NPDES NO. CA00025054, DRAFT STORMWATER PERMIT

Dear Chief Losh:

The Department of Emergency Services would like to provide comments regarding the Sonoma County NPDES Phase I, Term III Draft Storm water Permit issued by the North Coast Regional Water Quality Control Board (NCRWQCB). Our comments will be regarding emergency response, fire training, hydrant testing and potable water discharges from fire and life safety equipment such as fire sprinklers.

Page 3 of 92

This Order expands the current MS4 permit boundary which previously consisted of the Laguna de Santa Rosa and Mark West Creek watersheds to include the entire area of Sonoma County that falls within the North Coast Region.

This is a large expansion of the permit boundaries from the existing permit. The requirements capturing runoff during emergency response and incorporating the listed BMP's would be unlikely in most of the areas covered by the new permit due to lack of fire fighting personnel and required equipment. Most of the areas covered in the unincorporated areas of the County are volunteers. The staffing is covered by mutual aid from other neighboring Fire Districts when available. Incidents for larger fires and fires where the Sonoma County DES Hazmat Team is dispatched, the resources of personnel and equipment allow for the practice of the storm water BMP's. We have in fact used these BMP's in numerous fires and hazmat events to protect the storm water system. 3.119

Page 36 of 92

In lieu of a strict prohibition, the Permittees may submit a plan for Executive Officer authorization that includes categories of non-storm water discharges to the MS4. 1The Permitees shall require that non-storm water flows infiltrate where possible and perform public outreach and education as one of the BMP's associated with each type of non-storm water discharge that they seek authorization from the Executive Officer to allow into the MS4. The Executive Officer will consider authorizing the discharge of non-

storm water flows that are listed below in Table 2 (required or Suggested BMP's for Non-Storm Water Discharges), and are not a source of pollutants.

Table 2

Flows from emergency fire fighting activity	Shall be exempt from the comply with all conditions in the authorization but BMP's shall be performed whenever possible. Pooled water after fire must should be controlled (non-emergency repair or training flows are not allowed unless it would cause degradation to the nearest receiving waters)	Utilize the means necessary to allow mats over storm drain inlets to increase the distance and settling out of pollutants before discharge to the storm drain whenever possible. Runoff controls shall be considered for fires at industrial or other facilities where hazardous materials may be onsite.
Fire Hydrant Testing	Shall comply with all the conditions in the authorization Fire hydrants that are not in close proximity to a storm drain inlet can be tested without dechlorination.	Must be dechlorinated using aeration and/or sodium thiosulfite and/or other appropriate means and/or be allowed to infiltrate to the ground. Utilize the means necessary to prevent discharge to mats over the storm drain inlets to increase the distance and removal of chlorine by volatilization before discharge to the storm drain.
Discharge from potable water sources, testing of fire sprinkler flows above ground is exempt	Shall comply with all of the conditions in the authorization. Provide discharges from water	Must be dechlorinated using aeration and/or sodium thiosulfite and/or other appropriate means

3.120

	lines and potable water sources shall be dechlorintaed, pH adjusted if necessary, reoxygenated, and volumetrically and velocity controlled to prevent resuspension of sediments. Unless the MS4 is authorized by the regional Water Board, planned discharges require separate NPDES permit coverage.	and/or be allowed to infiltrate to the ground. Sediment removal in discharge through settling or filtration. Control flow rate of discharge to minimize erosion potential. BMP's such as sand bags or gravel bags shall be utilized to prevent erosion or sediment transport. All sediment shall be collected and disposed of in a legal and appropriate manner.

3.120

In the above language the Permittees may submit a plan to the Executive Officer for authorization of non-storm water discharges. The plan is requires public outreach and education. For the three issues of concern listed in Table 2 above public outreach does apply. Fire service personnel are educated on capturing discharges from fire and hazardous materials events during required hazardous materials training and decontamination training.

FLOWS FROM EMERGENCY FIRE FIGHTING ACTIVITY

During an emergency that has discharge to the storm drain and has the potential to runoff to a creek or stream, the fire officers are trained to notify County DES Hazardous Materials (Battalion 29) through REDCOM or call the State Office of Emergency Services (OES) to report the condition. OES in turn notifies the appropriate RWQCB, Fish & Game, or any other agency that OES deems necessary.

Most fire apparatus do not carry storm drain mats to use for covering storm drain inlets. Typically engine companies will perform damming, dyking, and berming with shovels and surrounding soil to protect the storm drain inlet. If this is a hazardous materials event this is a very high priority. DES is typically notified and they will provide spill response materials. However during a residential structure fire or passenger vehicle fire this procedure is done if there are personnel available that are not involved in fire fighting activities. Many of the areas of the County are covered by volunteer fire companies and smaller Fire Districts. Having enough personnel to cover the positions required to fight the fire and provide safety can be challenging. Once the fire fighting activities have ceased then the BMP's can be initiated.

3.121

Non-Emergency repair or training flows are not allowed. The last place to train for the fire is during the fire or hazmat event. Flowing water is an integral part of the training of fire fighters. Not all training can be done on the grassy or least sensitive areas. The water within the fire engines is typically stored for days and is aerated as the apparatus

3.122

is driven. The pumps on the engines provide further aeration as the water is discharged to the hose, and then the nozzles aerate the water before it is finally discharge to the ground. Water from a fire hydrant also has to go through the apparatus pumps and nozzles before being released. The chlorine residual is volatilized each time the water is aerated. Foam is not typically used during training and should not be discharged to th storm drain.

Decontamination training is a requirement for hazardous materials certification. The teaching of decontaminating individuals during emergencies require a large area where a potentially large number of victims can strip, be washed and the water captured in pools. This is a very structured procedure and requires training. The water from the pools is typically discharged to the storm drain after the drills. During a real emergency the water would be properly handled depending on the pollutants of concern.

FIRE HYDRANT TESTING

Fire hydrants that are tested in areas that do not have storm drain inlets or receiving waters nearby should be exempt from dechlorination. 3.123

DISCHARGE FROM POTABLE WATER SOURCES

Testing of the above ground portion of fire sprinklers should be exempted as in earlier permits.

If the previously exempted water flows were to be diverted to the sanitary sewer (such as training flows) this would cause an additional hydraulic loading to the treatment plants costing money to treat previously exempt discharges. At certain times of the year hydraulic loading to the treatment plants is a problem because of storage. This would only increase the problem, especially for the smaller treatment plants.

Fire Inspector – Robert MacIntyre

Flows from emergency fire fighting activity

Flows from emergency fire fighting activity	1. Shall comply with all conditions in the authorization. 2. Pooled water after fire must be controlled (non-emergency repair or training flows are not allowed).	**1. Utilize mats over storm drain inlets to increase the distance and settling out of pollutants before discharge to storm drain.** **2. Runoff controls shall be considered for fires at industrial**

This BMP places unreasonable expectations on firefighters to control flows and runoff from emergency firefighting during an incident and is realistically impractical: 3.124

Fire departments do not have the staff necessary to immediately deploy the pollution prevention measures described in this BMP in a fire condition.

Engine companies do not have the space available on the apparatus to carry the equipment necessary to contain water on a given property or within creeks.

Many fire departments do not have the ability to dewater once the runoff has been contained. Keeping an emergency resource at a scene until such resources arrive will place an increased burden on the emergency response system and should be avoided. 3.124

Even if at the time of arrival of fire apparatus to an incident a special request is placed for the required materials, equipment and staff to meet the BMP requirements, such resources will likely not arrive until after the water has migrated.

Additionally, this BMP will influence the incident commanders decision as to whether let the building burn or managing the runoff. Is air quality more or less important than water quality?

This BMP will not be considered a fireground priority by first responders (firefighters). Preventing the loss of human life, and preventing the fire from involving other structures and/or the wildland will be considered a priority rendering this BMP impractical.

Changes noted below.

Flows from emergency fire fighting activity	1. ~~Shall~~ Attempt to comply with all conditions in the authorization. 2. Pooled water after a structure fire ~~must~~ should be controlled (non-emergency repair or training flows are not allowed).	1. Utilize ~~mats over storm drain inlets~~ available resources to increase the distance and settling out of pollutants before discharge to storm drain. 2. Runoff controls shall be considered for fires at industrial or other facilities where hazardous materials may be onsite

Fire hydrant testing	Shall comply with all conditions in the authorization.	**1. Must be dechlorinated using aeration and/or sodium thiosulfate and/or other appropriate means and/or be allowed to infiltrate to the ground.** **2. Utilize mats over storm drain inlets to increase the distance and removal of chlorine by volatilization before discharge to storm drain.**

Fire hydrant testing

This BMP places restrictions on fire hydrant flushing ("testing") without regard to flow rates and is impractical and unrealistic:

"Fast-flushing" is done to clear the system (often domestic w/o back flow prevention) of rust gravel and to ensure that the fire hydrant is in an operable condition. If not completed, gravel may enter the fire-pumper and cause catastrophic damage to the pumper resulting in the interruption of water during an interior attack – which would place firefighters at risk.

3.125

This BMP would deter agencies form conducting necessary "fast-flushing" of fire hydrants thus increasing health risks to water users as well as an increased risk to firefighters lives.

The suggestion is to modify the BMP and place a benchmark for the conditions based on estimated flows as noted below.

Fire hydrant ~~testing~~ flushing when more than 500 gallons/minute and/or more than 20,000 gallons of water are released.	~~Shall~~ Comply with all necessary conditions in the authorization.	1. ~~Must be dechlorinated~~ May be declorinated using aeration and/or sodium thiosulfate and/or other appropriate means and/or be allowed to infiltrate to the ground. or 2. ~~Utilize mats over~~ Block storm drain inlets to increase the distance and removal of chlorine by volatilization before discharge to storm drain.

Discharges from potable water sources

Discharges from potable water sources.4	1. Shall comply with all conditions in the authorization. 2. Provided discharges from water lines and potable water sources shall be dechlorinated, pH adjusted if necessary, reoxygenated, and volumetrically and velocity controlled to prevent resuspension of sediments. 3. Unless the MS4 is authorized by the Regional Water Board, planned	1. Must be dechlorinated using aeration and/or sodium thiosulfate and/or other appropriate means and/or be allowed to infiltrate into the ground. 2. Sediment removal in discharge through settling or filtration. 3. Control flow rate of discharge to minimize erosion potential.

	discharges require separate NPDES permit coverage.	4. BMPs such as sand bags or gravel bags shall be utilized to prevent erosion and sediment transport. 5. All sediments shall be collected and disposed of in a legal and appropriate manner.

This BMP places conditions on un-quantified (and unlimited) discharges form potable water sources and places huge restrictions on firefighter training as well as fire protection system testing & maintenance.

"In-service" fire companies typically conduct individualized firefighter training (minor drills) requiring the use of minor amounts of water.

The resources and time necessary to manage all water discharges regardless of the amount released consistent with this BMP would mean that firefighters would have to go out-of-service to manage and monitor the "discharge event" prior their becoming available to respond to emergencies.

3.126

This BMP will also deter firefighters from conducting minor drills with in-service companies, which would result in a predictable reduction in the quality of service.

This practice will place an increased burden on the emergency response system and must be avoided.

The practice should be modified to allow firefighters to flow limited amounts of water for minor drills and training, and as necessary to conduct routine fire protection system testing/maintenance.

Recommended changes as follows:

Discharges from potable water sources.(4) Exception: 1.Low volume, incidental and infrequent releases necessary for fire suppression systems testing	1. ~~Shall~~ comply with all required conditions in the authorization. 2. ~~Provided~~ discharges from water lines and potable water sources ~~shall~~ may be required to be dechlorinated, pH adjusted if necessary, reoxygenated, and volumetrically and velocity controlled to prevent	1. ~~Must~~ Should be dechlorinated using aeration and/or sodium thiosulfate and/or other appropriate means and/or be allowed to infiltrate into the ground. 2. Sediment removal in discharge through settling or filtration. 3. Control flow rate of discharge to minimize

and maintenance. 2. Firefighter training/drills where less than 5000 gallons are flowed.	resuspension of sediments. 3. Unless the MS4 is authorized by the Regional Water Board, planned discharges require separate NPDES permit coverage.	erosion potential. 4. BMPs such as sand bags or gravel bags shall be utilized to prevent erosion and sediment transport. 5. All sediments shall be collected and disposed of in a legal and appropriate manner.

(4) The term applies to low volume, incidental and infrequent releases that are innocuous from a water quality perspective. It does not cover scheduled discharges by potable water purveyors for the (i) dewatering or hydro-testing or flushing of water supply and distribution mains, or (ii) dewatering or draining of reservoirs or water storage facilities. Releases may occur for discharges from potable water sources only with the implementation of appropriate BMPs, dechlorination prior to discharge. Discharges from utility vaults shall be conducted under coverage of a separate NPDES permit specific to that activity.

SONOMA
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REGIONAL
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October 10, 2008

Catherine E. Kuhlman, Executive Officer
Regional Water Quality Control Board, North Coast Region
5550 Skylane Boulevard, Suite A
Santa Rosa, CA 95403

RE: DRAFT WASTE DISCHARGE REQUIREMENTS
DRAFT ORDER NO. R1-2008-0106
NPDES NO. CA0025054
WDID NO. 1B96074SSON

Dear Catherine:

The Sonoma County Regional Parks Department (Regional Parks) has reviewed Draft Order No. R1-2008-0106 (Draft Order) and respectfully submits the following comments for your consideration in preparation of the Final Order. The most significant issues for Regional Parks are (1) Time Frame Considerations, (2) Budgetary Considerations, and (3) Lack of Clarity. Each of these items is discussed specifically below, followed by additional comments on the Draft Order.

The following specific comments are grouped according to importance:

Time Frame Considerations:
The Draft Order was delivered to the Permittees with very little turn around time. The comment period is too short to allow adequate review of the permit. The length of the Draft Permit and the magnitude of the document require significant time to fully respond to the proposed requirements. This draft permit places unreasonable time requirements regarding the implementation of the many goals and provisions. 3.127

1. **Pg 3, Item 9 - This provision states that the boundary will be expanded to the entire Sonoma County area.**

The Regional Board indicated in meetings with the Co-Permittees spanning the past several months, the boundary expansion would proceed in a phased approach. An immediate expansion of the boundary was not discussed in any of these meetings. The Draft Order stated the intention to immediately expand the boundary to the entire County. Regional Parks urges adherence to the originally proposed phased approach concerning boundary expansion. Regional Parks suggests implementing this phased approach in areas of dense population, where potential for water quality problems is highest. This approach allows for development and testing of these programs in urban pilot areas before implementing them county wide. 3.128

2. **Pg 62, Part 5, Item 1 – This provision states that a plan to rank all critical sources of water pollution be developed.**

The time frame for implementation of the requested "New and Redevelopment Integrated Water Quality/Water Resource Plan" is not clear. Please clarify as to whether all permittees will develop one overall plan, or one plan per permittee. Please clarify if the Regional Board intends for each permittee and their respective departments to implement their own plan. 3.129

2. **Pg 77, Part 8, Item a – This provision requests the development of an electronic tracking system that tracks movement of soil.**

Please quantify the amount of soil which constitutes a "movement of soil" or a "land disturbing activity." 3.130

Budgetary Issues:

The Draft Order places unreasonable financial burden on Regional Parks during a time when the State has cut back funds from the County and intends to do so in the future; and the economy is faltering. The Draft Order includes programs and regulations that will require additional staff and materials to comply with the permit provisions. The funding necessary to pay additional staff and complete the additional provisions in the draft permit is not available and constitutes an unfunded mandate. 3.131

1. **Pg 45, Part 3, Item 1 – This provision requires additional breakdown of budgetary expenditures.**

The annual budget summary report expansion requested by the Regional Board would require extensive staff hours to produce. This would not be cost effective and would contradict Finding 47 of the Draft Order. Regional Parks opposes this requirement and requests an explanation for the justification of this order. Compliance with this requirement would require Regional Parks to overhaul its accounting and time reporting system. The cost of doing so is excessive and not cost-efficient. Please demonstrate how this accounting would improve water quality. 3.132

2. **Pg 83, Part 9, Item 4 – This provision requires elimination of wash water discharges.**

Regional Parks requests the specification of acceptable equipment wash facilities. A majority of Regional Parks' vehicles are washed at the Central Fleet Operations car wash located in the County Center of Santa Rosa. However, many of our maintenance vehicles are located in remote park sites where it would cost tens of thousands of dollars in staff time and wash station installation costs to provide for all vehicles and equipment remotely located. This equipment is typically cleaned using sweeping and other dry methods. If conditions warrant washing, the current practice is to use minimal water and wash the equipment on grass or other surfaces that allow filtration of the wash water. Care is taken to ensure that occasional washing is not completed near a drain inlet, creek, other drainage facility, or on a slope. Any debris removed from the equipment cleaning and washing procedure is gathered and properly disposed. Additionally, many of our parks do not have closed system sewers. Therefore, the option of plumbing to the sanitary sewer is not always feasible.

The proposed requirements regarding wash areas would be an unfunded mandate, and place an undue financial hardship on Regional Parks. 3.133

3. **Pg 85, Part 9, Item 6(a) – This provision requires implementation of a catch basin cleaning and a ranking system.**

The proposed priority system would cause more staff time to be spent on ranking and documenting the existing drains than the current Regional Parks practice of inspecting and cleaning as necessary. Regional Parks inspects and cleans its catch basins as needed, especially those in high trash and debris areas like the County Center. Some catch basins require more cleaning than the proposed inspection and cleaning program specifies, while some require cleaning less often. Problem catch 3.134

basins are known by staff and cleaned out frequently. Others are inspected and cleaned as necessary. These additional practices would be an unfunded mandate, and place additional financial hardship on Regional Parks.

4. **Pg 86, Part 9, Item 6(f)(1)- The Draft Order states that the Permittees shall quantify the amount of materials removed during drain maintenance activities.**

Documenting this would require additional staff and additional budget expenditures that are not available. Regional Parks actively cleans the storm water infrastructure under our jurisdiction. However, quantities of materials removed are not estimated or tabulated. This requirement would add to the unfunded mandate. Please demonstrate how this requirement would improve water quality. 3.135

5. **Pg 87, Part 9, Item 7 - The Draft Order states that commercial areas and other areas subject to high trash generation must be swept at least twice per month.**

Regional Parks does not own or have access to a vacuum sweeper truck, so all street sweeping must be done by hand. Hand sweeping all parking lots, streets, and other paved areas under our jurisdiction twice per month would be exorbitantly expensive and require more staff than we currently have available. This additional requirement would add to the unfunded mandate, and places a significant financial hardship on Regional Parks 3.136

Lack of Clarity

The Draft Permit does not spell out individual Permittees' responsibility. The Draft Permit lacks clarity in its organization, layout and explanation of goals and provisions for which the Permittees are to be held responsible. It is Parks understanding that the Draft Permit was based extensively on the fourth draft of Ventura County's Permit, currently in litigation, which also suffers from the identified issues. 3.137

1. **Pg 14, Finding 40 – The Draft Order specifies, "this Order will require new development controls for smaller projects based on land use categories."**

Regional Parks cannot find a definition or example of the land use categories mentioned in the Draft Order. Further, it is unclear if the language in Finding 40 applies to all projects or solely to Standard Urban Stormwater Mitigation Plan applicable projects. 3.138

2. **Pg 47, Part 2, Item 2(a) – This provision requires labeling of all storm drain inlets.**

The requirement to label all storm drain inlets is not clear. Please clarify as to the labeling of storm drain inlets in circumstances that do not allow attachment of labels or posting thereof. Example: a drop inlet in the middle of an athletic field. 3.139

3. **Pg 48, Part 2, Item 2(b) – The Draft Order states, "Each Permittee must identify staff who will serve as the contact(s) person..."**

Please clarify as to whether the requirement is one contact per the three permittees, one contact per permittee, or one contact per department within each of the permittees organization. 3.140

Planning and Land Development Program

1. **Page 59 - 62. Part 4 - Planning and Land Development Program. This item requires that Permittees implement a Planning and Land Development Program for all New Development and Redevelopment projects subject to Order No. R1-2008-0106.**

Regional Parks agrees with the benefits of such a program, however, the Order lacks clarity in terms of how the program is implemented and is excessive in terms of content. 3.141

a. Effective Date. The requirement for Permittees to apply the orders to this new program within six months is unrealistic. Most planning projects require a longer timeframe for public outreach, environmental compliance, and obtaining regulatory permits. Regional Parks suggests that the language be changed to require that Permittees apply the requirements of this new program to new projects. 3.142

b. Item 1.(d) includes the following phrase "...reduce post-development surface flows..." Regional Parks suggests that this phrase be changed to "...maintain post-development surface flows..." Permittees should not be expected to reduce post-development surface flows. 3.143

c. Item 2. Entitlement Process. Regional Parks is unsure whether this applies to the conveyance and/or acceptance of easements, which is fairly common at Regional Parks and is a routine paperwork exercise. If this provision does apply to the conveyance and/or acceptance of easements, Regional Parks suggests that the provision is excessive. Regional Parks considers all impacts, including potential stormwater quality impacts, during the planning and environmental document preparation phases of project development. It would be extremely difficult, if not impossible, to analyze any potential impact to a property separate from its associated planning process. 3.144

d. Item 3 - New Development Projects. This provision seems to be requiring that impervious surfaces are required for the identified types of projects, including parking areas with 5,000 square feet or more of impervious surface area or with 25 or more parking spaces and for projects located in or directly adjacent to an environmentally sensitive area. If this is the case, the language in the Order should be made clearer. This item defines impervious surface and certain types of development projects. Furthermore, adherence to this provision would result in the build-up of water under roadways because it would actually undermine the roadway or parking area. 3.145

Additional Comments

1. **Pg 47-49, Part 2, Item 2, 3 – These provisions require increased public participation and education programs concerning storm water quality.**

Please clarify as to the activities for which each Permittee is responsible, regarding Items 2 and 3. The additional educational components specified in the draft permit may add financial burden to the department. These additional education requirements are an unfunded mandate. However, the department will continue its commitment to education providing storm water education through the Regional Parks Discovery Center at Spring Lake Regional Park. 3.146

2. **Pg 62, Part 4, Item 4(b) – This provision specifies certain projects that are considered routine maintenance.**

Regional Parks maintains that chip sealing, and culvert replacement are routine maintenance activities. Please explain the Regional Boards classification of these two activities as redevelopment activities. 3.147

3. **Pg 64, Part 5, Item 4(a)(1)(B) – This provision requests that development projects implement hydrologic control measures to protect stream habitat in receiving waters.**

Please clarify as to whether "Area Specific Plan" covers a project area or its surroundings as well. Please clarify what distance from the project site, or any other criteria and what constitutes surroundings. The Hydromodification Area Plan may require that Regional Parks hire additional staff and incur additional material expenses that currently are not funded. This would add to the unfunded mandate. 3.148

4. **Pg 68, Part 6, Item 2(b) – This provision requests inspection of Low Impact Development and Best Management Practices measures by trained personnel.**

Please clarify what constitutes a "trained person" as it relates to training for inspection of LID and BMP measures. 3.149

5. **Pg 69, Part 6, Item 6(a) – This provision states, "The Permittees shall update their Storm Water Management Plan..."**

Please clarify as to whether updating the "Storm Water Management Plan" actually refers to updating the "SUSMP Manual" 3.150

6. **Page 70, Part 7 - State Conformity. The Draft Order requires Permittees to incorporate additional procedures to consider potential storm water quality impacts and provide appropriate mitigation measures into California Environmental Quality Act (CEQA) documents.**

a. The existing CEQA Checklist provides the opportunity to evaluate the items listed in the Draft Order amongst the various resource categories.

b. Incorporation of additional procedures associated with CEQA implementation may trigger changes to Chapter 23A of the County Code, which governs CEQA implementation in Sonoma County. If this is the case, it is unlikely this requirement can be met within the six-month timeframe specified in the Draft Order because modification of the County Code would require substantial coordination between several County departments and ultimately approval by the Sonoma County Board of Supervisors. This item may be pursued within the permit term however; the County cannot be required to alter its own County Code. 3.151

c. This requirement seems to exceed the federal CWA provisions (reference to Finding #52 on page 18). While Regional Parks recognizes the benefits of reconciling the Draft Order with the County's CEQA process, the RWQCB should demonstrate the nexus of this requirement to the federal Clean Water Act (CWA) provisions. 3.152

d. Compliance of this requirement would result in an undetermined cost to Regional. Due to the missing link with the federal CWA, this requirement is an unfunded local government mandate, which contradicts Finding 52. 3.153

7. **Pg 71-72, Part 8, Item 2 – This provision discusses grading restrictions during the wet season.**

The provisions discussed regarding grading during the wet season do not include details key to estimating the departments ability to comply. 3.154

e. Please clarify if the grading prohibition applies to silty soils, fine sand, or areas lacking vegetative soil on any slope, or if the prohibition only applies to these areas on a slope of 20 percent or greater. 3.155

f. Please clarify as to whether there should be exceptions to this prohibition under the circumstances of dry winters or drought periods. 3.156

g. Please clarify as to whether this provision applies to all development projects, including public projects completed by Regional Parks. 3.157

h. Please clarify as to whether emergency maintenance projects will be prohibited by this restriction. 3.158

i. Regarding Item 2(a) (1): Please clarify as to the beginning of the wet season. 3.159

8. **Pg 87, Part 9, Item 8 – This provision requires long-term maintenance programs to obtain coverage under the General Construction Permit.**

   a. Regional Parks opposes obtaining coverage under the general construction activities less than one acre. Reducing the square footage for compliance with this issue adds to the requirement for increased staffing and materials and will add unfunded financial burden to Parks. This will constitute an unfunded mandate. 3.160

   b. Please define the time coefficient in the phrase "long-term."

9. **Pg 88, Part 9, Item 11 – This provision requires additional training of employees and contractors.**

Training of contractors does not fall under Regional Parks' responsibility. This additional education requirement is an unfunded mandate, and places a financial hardship on Regional Parks. 3.161

10. **Pg 89-90, Part 10, Item 4 – This provision requires the implementation of an Illicit Connections and Illicit Discharge Program including a GIS inventory of stormwater infrastructure.**

   a. Please provide clarification as to what is expected of Regional Parks to monitor and implement with regards to this provision. 3.162

   b. Under item 4(1)(A), the definition of a channel is unclear. Please clarify as to whether the Regional Board considers a channel as an "open conduit either naturally or artificially created that periodically or continuously contains moving water, or which forms a connecting link between two water bodies", as specified in Appendix C, or if a different interpretation is appropriate. Please clarify the definition in Appendix C, regarding whether all drainage ditches of all sizes are subject to mapping. Mapping all drainage ditches of all sizes would be financially burdening to Regional Parks and is currently unfunded. 3.163

11. **Monitoring Program**

Regional Parks requests the Regional Board specify the responsibility of each Permittee, and associated departments, regarding the implementation of the proposed monitoring program. Regional Parks also requests the Regional Board specify the types or locations of outfalls the Regional Board intends the Permittees to monitor. 3.164

Sincerely,

Mary E. Burns, Director
Sonoma County Regional Parks

cc: Allan Darrimon, Maintenance Manager
Corbin Johnson, Stormwater Coordinator
Michelle Julene, Environmental Specialist

RUSSIAN RIVER WATERSHED ASSOCIATION

MEMBER AGENCIES

- City of Cloverdale
- City of Cotati
- City of Healdsburg
- City of Rohnert Park
- City of Santa Rosa
- City of Ukiah
- County of Sonoma
- Sonoma County Water Agency
- Town of Windsor

DAVE RICHARDSON
Executive Director

300 Seminary Avenue
Ukiah, CA 95482
(707) 833-2553

October 22, 2008

Ms. Mona Dougherty
Regional Water Quality Control Board
5550 Skylane Boulevard, Suite A
Santa Rosa, CA 95403

Subject: Draft NPDES Phase I Permit Comments

Dear Ms. Dougherty:

The Russian River Watershed Association (RRWA) is an association of local public agencies in the Russian River Watershed that have come together to coordinate regional programs for clean water, fisheries restoration, and watershed enhancement. We represent both Phase I and Phase II communities. Three of our member agencies the City of Santa Rosa, the County of Sonoma and the Sonoma County Water Agency will be directly affected by the revised permit.

The RRWA is committed to achieving a healthier watershed through implementing effective, regional programs. We agree with the overall goals of the existing and revised permits and support the implementation of Low Impact Development, public education, inspections, and enforcement to achieve improved water quality.

The RRWA feels strongly that more time is needed by both the agencies and the RWQCB board members to consider the draft permit. As the draft permit is written, requirements are front-loaded calling for the implementation of most new programs within the first two years. What seems missing is a prioritization of items allowing the agencies to implement the most cost-effective and critical programs for reducing water quality impacts first. The RRWA feels that a more targeted and incremental approach will help agencies successfully develop and implement the new programs included in the draft permit. 4.1

What follows below are more detailed comments by permit category. The requirements highlighted in this letter are only a selection of the many new actions the agencies must undertake in order to satisfy the new permit.

Public Outreach and Education

The program elements that impact the activities of RRWA's member agencies are those relating to public outreach and education. Some of the new requirements in the permit include:

- Within 180 days: Develop and implement a strategy to measure the effectiveness of in-school educational programs.
- Within one year: Organize watershed Citizen Advisory Groups/ Committees to develop effective methods to educate the public about storm water pollution.
- Within two years: Develop and implement a behavioral change assessment strategy to gauge effectiveness of education and outreach activities.

We are concerned about the impact this permit will have on our member agencies. It contains many new programmatic and policy requirements with specific deadlines for implementation. Completing these mandates will require the development and implementation of new programs including the identification of new funding and staffing on relatively short timelines. 4.2

New Development and Redevelopment Standards

To meet new water quality and hydromodification control requirements the permit requires the development of the following policies and technical guidance documents, along with others:

- Within 180 days: develop and implement the New Development and Redevelopment requirements
- Within one year: develop an LID technical guidance manual.
- Within two years: Develop an area-specific Hydromodification Control Plan including extensive modeling analysis of existing conditions, and impacts of development and LID.

Developing these will require a significant amount of technical research and analysis that will be difficult to accomplish in the time given. 4.3

Oversight of Private Facilities

The permit contains new requirements for data collection, inspection and enforcement relating to privately run and maintained BMPs. The most labor intensive of the programs the Permittees must implement include:

- Within one year: The creation and implementation of a tracking system and an inspection and enforcement program for new development and redevelopment post-construction storm water BMPs.
- Within two years: Identify and inspect all industrial and commercial facilities deemed Critical Sources for pollutants.

Inspection programs require significant levels of staffing and will impact the budgets of the Permittees. 4.4

Trash Reductions
Despite trash not being listed as a pollutant of concern the permit covers many measures relating to trash control including:

- Within six months: Install trash receptacles at all transit stops in commercial areas, near educational institutions, and in areas subject to high trash generation.
- Within one year: Install trash excluders on catch basins in commercial areas, industrial areas, and near educational institutions.
- There are also requirements for catch basin cleaning, and trash management at public events.

We believe the permit should focus on identified pollutants of concern before imposing new requirements for other pollutants. 4.5

Public Process
We feel that the public process and timeline to submit comments on the permit has not been adequate for a highly-technical document that is nearly 100 pages long. We appreciate the scheduling of a public workshop, but scheduling the public hearing one day before the final deadline to submit comments limits the ability of the Permittees and other interested parties to take the insights of others into account when drafting their comments. We also believe that the amount of time (14 days prior to adoption) is not adequate for the board members to review not only the revised permit, but also the comments and responses. Currently, the only opportunity for public testimony is scheduled for the same Board meeting as the final vote on the permit. The Board should have time between hearing the public testimony and adoption of the permit to consider comments made in their final decision. 4.6

The RRWA supports the intent and general approach of the new permit. However, we are disappointed with the public process for permit review and are concerned about the timelines and lack of prioritization for the new requirements included in the permit. We appreciate your consideration of these comments.

Sincerely,

Jake Mackenzie, Chair, RRWA Board of Directors
Russian River Watershed Association, www.rrwatershed.org

cc: RRWA Board of Directors

Brelje & Race
CONSULTING CIVIL ENGINEERS

October 22, 2008

North Coast Regional Water Quality Control Board
5550 Skylane Boulevard, Suite A
Santa Rosa, CA 95403

Subject: Comments on Draft Order No. R1-2008-0106, Waste Discharge Requirements for the City of Santa Rosa, the Sonoma County Water Agency, and the County of Sonoma

The following are our comments regarding Draft Order No. R1-2008-0106:

FINDINGS

10. The permit area is expanded to include all of Sonoma County within the NCRWQCB's jurisdiction and the new permit will apply to "storm water runoff and non-storm water discharges that enter the Permittee's MS4's" **How will the RWQCB work with other entities' discharges into the Permittee's MS4's without requiring the other entities to follow this Order's requirements?** It could happen that water quality goals are not met because of discharges or runoff from other entities over which the Permittees lack jurisdiction. 5.1

18. The finding states that storm water can be a significant source of sediment in urban waterways by "direct transport of large volumes of sediment from impervious urban landscape(s)…" However, finding #14 states that during development "naturally vegetated, pervious surfaces are converted to impervious surfaces…" **How do impervious, paved areas create sediment?** Granted, some sediment will be tracked onto parking lots and other impervious surfaces, but doesn't sediment typically come from water flowing over partially vegetated or bare ground? On the other hand, undeveloped tributary areas can also create large sediment loads – the Colorado River comes to mind; it was a big muddy river before it was dammed. 5.2

26. Aren't discharges from industries and businesses covered by the General Industrial Activities Storm Water Permit? It's confusing to have them also covered by this permit. 5.3

40. "The permit also requires preferential consideration of Low Impact Development (LID) techniques…with a goal of maintaining or reproducing the pre-development hydrologic system. …Hydrologic functions of storage, infiltration and ground water recharge…are maintained through the use of integrated and distributed small scale storm water retention and detention areas, reduction of impervious surfaces…" **While some LID practices may be able to be incorporated into development design, it may not be as simple as it first appears.** Techniques developed in for the east coast, where it rains throughout the year, or southern California, with its permeable soils, may not be applicable for northern California. 5.4

    For example, the single-family example on the LID website shows lot sizes of close to 10,000 square feet with large yard setbacks. However, new typical Sonoma County urban lot sizes are closer to 4,000 square feet or less with only 400-500 square foot rear yards, 5'

side yard setbacks and 10' front yard setbacks. Smaller lot sizes and setbacks combined with clayey soils make bioretention difficult in Sonoma County.

LID's "Zero lot line" example also shows large lots (the septic system areas alone are larger than many recently created lots in Santa Rosa!) and common areas for bioretention. I believe that by State law an area owned in common by more than four lots requires the formation of a homeowners' association with all the additional costs required to set up and maintain the association. And homeowners' associations can be dissolved..

Cisterns are a great idea to store water for re-use but, since it rains only in the winter and spring in northern California, the water would be stored for months before it could be used for irrigation. In areas of the country where it rains throughout the year, cisterns can be filled and emptied multiple times per month. And stagnant water is, of course, a breeding ground for mosquitoes. 5.5

49. If the Permittees cannot enforce discharges associated with industrial and construction activities, **who is responsible for enforcing the General Permits for industrial and construction activities? Shouldn't that be the entity responsible for inspecting industrial and construction sites?** 5.6

76. The table shows mercury as a pollutant in Lake Sonoma. **Is this naturally occurring mercury and, if so, is there anything to be done about it?** The tributary area for Lake Sonoma has very little urban development. 5.7

89. "… the Order requires that BMPs will be implemented to reduce the discharge of pollutants in storm water and achieve water quality objectives and standards." **It is possible that the water quality standards will not be met even though implemented BMP's reduce the discharge of pollutants.** 5.8

90. …"the Permittees shall implement all necessary control measures **to the maximum extent practicable** to reduce pollutants…" 5.9

A. DISCHARGE PROHIBITIONS
Table 2
"Type of Discharge: …irrigation runoff" **Does this mean that a permit will be needed for all irrigation systems, just in case there's some runoff?** 5.10

B. RECEIVING WATER LIMITATIONS
1. Since there are no TMDL's, **where are the water quality standards described?** I did not see any Monitoring Program in this Order. 5.11

2. Again, where are the quality standards described?

C. SPECIAL PROVISIONS
Part 4 – Planning and Land Development Program

3. "Permeable pavements shall be considered impervious for this section if they have subdrains to preclude infiltration into underlying soils." Subdrains used in Sonoma County BMP's are not there to preclude the water from infiltrating into the soil. The drains are to prevent water that has not percolated into the soil (due to clay's low infiltration rates) from becoming stagnant or over-saturating the soil which can result in "pumping" soil. The drains can be located to maximize the soil/water contact time and, therefore, possible infiltration. 5.12

   Section 3(a)(6): When including the drive aisle to access the spaces, 5000 square feet is only about 9 -13 parking spaces. 5.13

4. These provisions inhibit rather than encourage re-development projects. Redevelopment projects in urban settings are usually on constrained sites without room for land-intensive BMP's like swales, detention/retention ponds and possibly even bio-retention areas. It is also not unusual for redevelopment areas to contain contaminated soils which would preclude the use of any sort of infiltration. Developers would most likely find it much easier to build on previously un-developed sites outside the City center where there are not the constraints already existing on redevelopment sites. 5.14
   (b) "Impervious surface replacement, such as the reconstruction of parking lots and roadways, is not considered a routine maintenance activity." Due to the clayey soils found in many parts of Sonoma County, it is not unusual to find deteriorated pavement that needs to be replaced, especially at the end of the rainy season. **Perhaps a square footage limitation (5000 sf?) could be used to distinguish between reconstruction of isolated areas and complete road or parking lot reconstruction.** 5.15

Part 5 – New Development/Redevelopment

2. Possible typo: "…where increased recharge could offset the need to transport water…the dischargees (?) will flag these areas…" 5.16

   "Any excess surface discharge…" **What constitutes "excess surface drainage"?** 5.17

3. While implementing LID practices is a laudable goal, it represents a paradigm shift in the way development projects are conceived, designed, approved and constructed. I think it wall take a massive re-education program and commitment from not only land planners and developers, but also land owners, end users, architects, engineers, landscape architects, soils engineers, contractors and reviewing agencies to name a few. 5.18

4. (c) "Existing single-family structures are exempt from the hydromodfication control requirements unless such projects disturb one acre or more of land." **This refers to remodeling/additions to homes?** Part 4, section 4(c) exempts single family structures from the redevelopment requirements "unless such projects create, add, or replace 10,000 square feet of impervious surface area." 5.19

5. (b)(1)(A)(ii) **Why is this method limited to projects that disturb 5 acres or less?** 5.20

Part 6 – Implementation of New Development/Redevelopment Post-Construction BMPs

1. (a)(1)(B) "Written conditions in the sales or lease agreement which require the property owner or tenant to assume responsibility for BMP maintenance…" **How will this get transferred to future owners, especially if the property is being sold without a realtor involvement?** 5.21

2. (c) **How will inspectors gain access to private property, i.e. single family lots?** LID recommends "small-scale hydrologic controls to more closely reflect predevelopment hydrologic functions" and it is likely that controls will be located inside fenced yards. 5.22

Part 8 – Development Construction Program 5.23

Shouldn't this section be a part of the General Construction Permit?

2. (b) "If grading operations…are not completed before the onset of the wet season beginning **October 1st**…" conflicts with Part 8, section 2 (a)(1) which states "No grading shall occur between **November 1**-April 15 (wet season)." 5.24

3. Even though the text states that larger construction sites much use the BMPs selected for smaller sites, some BMPs are repeated in the tables for the larger sites. 5.25

4. (a) "Each Permittee shall require the implementation of the BMPs in Table…" **Are ALL the BMPs required?** Soil binders, for example, are rarely used in Sonoma County, and geotextiles/mats may not be appropriate for flat sites. 5.26

6. (a)(1)(A) The project SWPPP is supposed to be a livable, changing, and evolving document through the life of the project It will add an unnecessary burden if all revisions are required to be reviewed and approved by the local agency. 5.27

7. (a)(1)(A)(iii)(1) "The BMPs not selected for implementation are redundant or not deemed applicable to the proposed construction activity." It is possible that BMPs not considered appropriate at one point in time become appropriate earlier or later in the construction process. Obviously some BMPs are never going to be used on a site – temporary batch plants, or working over water if there is no stream. However, it is helpful if the SWPPP includes the fact sheets for all possible BMPs (like Soil Binders even if hydroseeding has been selected in the SWPPP) so that the contractor has the most tools available to use in preventing erosion and controlling sediment. 5.28

Very truly yours,

Brelje & Race Engineers

Mary-Jane Stimson

ACEC
AMERICAN COUNCIL OF ENGINEERING COMPANIES
California
NORTH COAST CHAPTER | PO BOX 1563 | SANTA ROSA, CA | 95402

October 21, 2008

Catherine Kuhlman
California North Coast Regional Water Quality Control Board
5550 Skylane Blvd., Suite A
Santa Rosa, CA 95403

Re: Order No. R1-2008-0106
NPDES No. CA0025054
WDID No. 1B96074SSON

Dear Ms. Kuhlman,

The American Council of Engineering Companies (ACEC) would like to respond to the Waste Discharge Requirements for the City of Santa Rosa, the County of Sonoma, and the Sonoma County Water Agency. The members of ACEC are supportive of storm water treatment and limiting the channel forming discharge. We also support many of the points contained within the subject document. We offer the following comments:

- This order will create additional demands on the already stressed City budget. We would ask that an economic report be prepared to assess an approximate cost of the staff necessary to comply. Without this analysis, the extent of "maximum extent practicable" cannot be quantified. 6.1

- It is our opinion that the focus of the document is on new projects. Given the state of the economy in general and the depression that the housing industry is experiencing in particular, we believe that this focus is misplaced. The focus would be more appropriately placed on existing development. It appears that during the next five years, growth in the City of Santa Rosa and County of Sonoma will be minimal. More inspections and criteria on smaller projects may not be warranted. We, therefore, object to requirements for design and implementation of post-construction treatment of industrial and commercial projects with 5,000 sq. ft. of impervious surface. The present criteria which required all development projects with 1.0 acre or greater of impervious surface is adequate and appropriate. 6.2

- The preparation of a "New Development/Redevelopment Integrated Water Quality/Water Resource Plan" is not warranted because the general plans of the City and the County currently mandate city centered growth. Most of the development that is constructed is within the urban growth limits. It would follow, therefore, that we are proposing only infill projects using the Water Agency channels that are presently fully constructed. 6.3

- It is our opinion that many of the requirements of the "Outreach and Education" section of the order are more efficiently and effectively handled by the School District. Professional teachers would educate the benefits of storm water treatment while teaching the core subjects of reading and writing. 6.4

- The requirement to install and maintain trash excluders in commercial areas, industrial areas and near educational institutions is not practical given the state of the city budget for construction and maintenance. 6.5

- The level of storm drain maintenance required by the order seems excessive. 6.6

- Given that most of the storm water from the urban areas are conveyed by constructed channels, we would suggest that the hydro-modification control criteria is excessive. The channels have been designed to contain the flow from the ultimate urban buildout. 6.7

- The interim criteria requiring the duration, time of concentration and volume of flows from new projects to match within one percent of the storm event, pre-development peak flow and volume hydrograph is not practical or attainable. We would urge the Water Quality Control Board to work with the Cities, County and the private sector to obtain achievable and practical criteria. 6.8

We hope our comments are helpful and appreciate the opportunity to submit them to you.

Sincerely,

Mousa Abbasi
President, ACEC

Mona Dougherty - Comments on Santa Rosa and Sonoma County Discharge Requirements document

From: "Tom Kuhn" <tkuhn@burbankhousing.org>
To: <MDougherty@waterboards.ca.gov>
Date: 10/6/2008 10:10 AM
Subject: Comments on Santa Rosa and Sonoma County Discharge Requirements document

Hello Mona,

In a meeting earlier today with Stephen Bargsten on another subject, he suggested I contact you to make comments on the Waste Discharge Requirements For The City of Santa Rosa, the County of Sonoma, and the Sonoma County Water Agency Storm Water (Wet Weather) and Non-Storm Water (Dry Weather) Discharges from Municipal Separate Storm Sewer Systems Sonoma County.

My comment is to recommend that rather than require developers to mitigate on a project-by-project basis that they should be able to elect to pay an in-lieu fee. These fees could then be used by the municipality to develop broader measures that would allow treatment of storm water runoff on a larger, and more cost-effective scale. 7.1

The advantage of this approach is that it would have a net increase in the quality of storm water that is running to local streams and rivers. This is as opposed to developers treating runoff only from their own new projects, which would do nothing for the runoff from existing developed areas. The second advantage is that such an in-lieu fund would enable larger treatment projects which would ultimately be more cost effective.

Please let me know if you have any questions.

Thanks,
Tom

Tom Kuhn
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Sonoma County Fire Chiefs' Association

2373 Circadian Way.
Santa Rosa, CA 95407-5439
John Zanzi, President
(707) 823-8061

October , 2008

Ms. Mona Dougherty
North Coast Regional Water Quality Control Board
5550 Skylane Blvd Ste A
Santa Rosa, CA 95403

RE: ORDER NO. R1-2008-0106, NPDES NO. CA00025054, DRAFT STORMWATER PERMIT

Dear Ms. Dougherty:

On behalf of the Sonoma County Fire Chiefs Association, I am writing this letter to share with you our concerns regarding the Sonoma County NPDES Phase I, Term III Draft Storm Water Permit recently issued by your agency. These comments pertain to the proposed inclusion into Table 2 of a number of fire department related activities which if adopted, would compromise our ability to conduct emergency response, training and maintenance functions we feel are essential in maintaining public safety. In the order they appear in the draft permit they are: 8.1

Flows from Emergency Fire Fighting Activities: As found on page 37, flows from emergency firefighting and training activities shall comply with all conditions in the authorization:

Given the limited staffing faced by most fire agencies in Sonoma County, it would be difficult to implement this provision at a fire scene. Most fire agencies in the County rely on volunteers and are challenged to provide the staff needed to fight a fire. With the additional mandate to control potential run-off, fire personnel would be faced with a choice of conducting firefighting activities or implementing NPDES prevention measures which, from an emergency standpoint is not a viable option. Given the existing language, every fire we respond to could result in a violation subjecting the fire agency to punitive action, an action we find rather unsettling and extremely counterproductive. 8.2

It should be noted that a majority of departments make concerted efforts to control runoff whenever possible and most Firefighters are trained to the Hazardous Materials First Responder Level providing an enhanced awareness to initiate control measures when necessary. At times, this awareness has led fire personnel to even refrain from applying water to some fires due to the potential run-off. Furthermore, if a release from the site does occur, the Sonoma County Hazardous Materials Team is automatically dispatched to the scene which provides additional resources to control the run-off and results in OES (and subsequent Water Board) notification.

As applied to training activities this condition would also be detrimental as it would effectively eliminate all but a few locations where training could occur since in most instances grassy and less sensitive areas are not available. Flowing water is an integral component of a firefighter's training and the last place he or she should learn this activity is on the fire ground during a true emergency. The end result would be less experienced firefighters which would ultimately compromise the safety of the public. It should also be noted that with the water in a fire engine is typically stored for days and is aerated as the apparatus is driven and when discharged through a pump and nozzle, volatizing much of the chlorine.

Fire Hydrant Testing: As found on page 38, testing of fire hydrants shall comply with all conditions in the authorization.

To subject all hydrants to this requirement represents a broad brush approach which fails to consider mitigating measures such as those hydrants that are not near storm drains and receiving waters or the effects of aeration when a diffuser is used. This Fast-flushing" is done to clear the system (often domestic w/o back flow prevention) of rust gravel and to ensure that the fire hydrant is in an operable condition. If not completed, gravel may enter the fire engine and cause catastrophic damage to the pump resulting in the interruption of water during an interior attack – which would place firefighters at risk. It should be added that since "Fast Flushing" releases a relatively small amount of water (about 10 seconds of flow) and larger flow tests occur only when requested the net amount of water released is relatively small. 8.3

Discharge from Potable Sources: As found on page 38, discharges from potable sources shall also comply with all conditions in the authorization.

As presented in the draft permit, this provision would include fire sprinkler systems that would effectively make maintenance of fire sprinkler systems illegal without implementing the required BMP's. This can be problematic in that existing state law requires the owner of said systems to be maintained quarterly by opening of a test valve to flow enough water to verify the alarm operates. Whereas typically less than 18 gallons is used in this activity, the threat to receiving waters is minimal. However, with conflicting regulations, enforcement would be difficult and confusing for all parties. 8.4

Due the adverse impact the provisions of the authorization would have on our ability to conduct the critical components of our job we would formally request you provide exemptions for the above mentioned activities by incorporating the suggested language changes provided on the enclosed attachment "A". It is our strong belief that given the infrequency of these activities and the minimal amount of water discharged, there would be little or no threat to our watershed. Combined with the Hazardous Materials training & certifications most fire personnel possess as First Responders, Decontamination Specialists, Haz-Mat Scene Commanders as well as Haz-Mat Tec-Spec.'s, if a legitimate threat did arise, the expertise and resources to protect local waters would be available.

Your consideration in this matter is appreciated.

Sincerely,

John Zanzi,
President,

Enclosure: Attachment "A"

ATTACHMENT "A"
RECOMMENDED LANGUAGE CHANGES TABLE 2

Table 2

Flows from emergency fire fighting activity	1. Shall be exempt from the conditions in the authorization but BMP's shall be performed whenever possible. 2. Pooled water after fire should be controlled (non-emergency repair or training flows are allowed unless it would cause degradation to the nearest receiving waters)	1. Utilize the means necessary to allow settling out of pollutants before discharge to the storm drain whenever possible. 2. Runoff controls shall be considered for fires at industrial or other facilities where hazardous materials may be onsite.
Fire Hydrant Testing	1. Shall comply with all the conditions in the authorization 2. Fire hydrants that are not in close proximity to a storm drain inlet or receiving water can be tested without dechlorination.	1. Must be dechlorinated using aeration and/or sodium thiosulfite and/or other appropriate means and/or be allowed to infiltrate to the ground. 2. Utilize the means necessary to prevent discharge to the storm drain inlets to

8.5

		increase the distance and removal of chlorine by volatilization before discharge to the storm drain.
Discharge from potable water sources. * Exemptions: 1. Releases necessary for fire suppression systems testing and maintenance. 2. Firefighter training/drills	1. Shall comply with all of the conditions in the authorization. 2. Provide discharges from water lines and potable water sources shall be dechlorintaed, pH adjusted if necessary, reoxygenated, and volumetrically and velocity controlled to prevent resuspension of sediments. 3. Unless the MS4 is authorized by the Regional Water Board, planned discharges require separate NPDES permit coverage.	1. Must be dechlorinated using aeration and/or sodium thiosulfite and/or other appropriate means and/or be allowed to infiltrate to the ground. 2. Sediment removal in discharge through settling or filtration. 3. Control flow rate of discharge to minimize erosion potential. 4. BMP's such as sand bags or gravel bags shall be utilized to prevent erosion or sediment transport. 5. All sediment shall be collected and disposed of in a legal and appropriate manner.

8.5

* The term applies to incidental and infrequent releases that are innocuous from a water quality perspective. It does not cover scheduled discharges by potable water purveyors for the (i) dewatering or hydro-testing or flushing of water supply and distribution mains, or (ii) dewatering or draining of reservoirs or water storage facilities. Releases may occur for discharges from potable water sources only with the implementation of appropriate BMPs, dechlorination prior to discharge.

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Flex your power!
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October 22, 2008

Ms. Catherine Kuhlman
Executive Officer
California North Coast
Regional Water Quality Control Board
5550 Skylane Boulevard, Suite A
Santa Rosa, California 95403

RE: Proposed Renewal of Waste Discharge Requirements, NPDES No. CA0025054 for the City of Santa Rosa, the County of Sonoma, and the Sonoma County Water Agency

Dear Ms. Kuhlman:

The California Department of Transportation (Caltrans) appreciates the opportunity to comment on the proposed renewal of waste discharge requirements (WDR) for the City of Santa Rosa, the County of Sonoma, and the Sonoma County Water Agency. The proposed permit applies to dry and wet weather discharges from the municipal separate storm sewer systems (MS4).

As noted in Finding No. 54, the State Water Board has adopted a separate statewide NPDES permit applicable to the Caltrans' ongoing stormwater discharges and construction projects. Consequently, our comments are focused on issues that may be raised in revisions to the Caltrans Statewide Permit.

The following attachment contains our points of concern regarding the Draft Permit. We hope these comments and notes are helpful. If you have any questions, please call me at (916) 653-4446.

Sincerely,

G. SCOTT McGOWEN
Chief Environmental Engineer
Division of Environmental Analysis

KJones:rk

Notes and Comments

Proposed Renewal of Waste Discharge Requirements, NPDES No. CA0025054 for the City of Santa Rosa, the County of Sonoma, and the Sonoma County Water Agency[1]

1. Pages 36, 42. Exceedance or violations of water quality objectives. *Exceedance or violations of water quality objectives (and standards) are addressed in various locations in the permit including:*

   Prohibition A.2 - Discharges from the MS4, which cause or contribute to exceedances of receiving water quality objectives for surface waters are prohibited.

   Receiving Water Limitations B.1 - Discharges from the MS4 that cause or contribute to a violation of water quality standards are prohibited. [*Emphasis added*]

   Provision C. Part 1, 2. - Each Permittee shall comply with the requirements of 40 CFR 122.26(d)(2) and implement programs and control measures so as to reduce the discharges of pollutants in storm water to the MEP and achieve water quality objectives.

***Comments*:**

- How do these terms differ: "exceedance" vs. "violation"? 9.1
- How are exceedances and violations defined? 9.2
- Does the Regional Board expect immediate implementation of the iterative steps in the MS4 permit (B.3.)? 9.3

2. Page 61. New Development Projects.

   (a) Development projects subject to Permittee conditioning and approval for requiring the design and implementation of post-construction treatment controls to mitigate storm water pollution, prior to completion of the project(s), are: ...

   (7) Streets, roads, highways, and freeway construction of 5,000 square feet or more of impervious surface area.

   The wording should be changed to state that permittees will not be constructing state highways, and freeways, and that requirements for these facilities are covered under the Caltrans permit. 9.4

3. Pages 61, 62. "*4. Redevelopment Projects*

   (a) Redevelopment projects subject to Permittee conditioning and approval for the design and implementation of post-construction treatment controls to mitigate storm water pollution, prior to completion of the project(s), are:

   (1) Land-disturbing activity that results in the creation or addition or replacement of 5,000 square feet or more of impervious surface area on an already developed site in development categories identified in Special Provisions Part 4.3.

   (2) Where Redevelopment results in an alteration to more than fifty percent of impervious surfaces of a previously existing development, and the existing development was not subject to post development storm water quality control requirements, the entire project must be mitigated to protect water quality from storm water flows.

   (3) Where Redevelopment results in an alteration to less than fifty percent of impervious surfaces of a previously existing development, and the existing development was not subject to post development storm water quality control requirements, only the alteration must be mitigated to protect water quality from storm water flows, and not the entire development.

[1] The draft permit is posted

> *(b) Redevelopment does not include routine maintenance activities that are conducted to maintain original line and grade, hydraulic capacity, original purpose of facility or emergency redevelopment activity required to protect public health and safety. Impervious surface replacement, such as the reconstruction of parking lots and roadways, is not considered a routine maintenance activity.* [Emphasis added]

9.5

While these requirements do not pertain to the Caltrans, we do have concerns because these requirements may not be technically feasible or cost effective in the highway environment due to the constrained nature of rights-of-way (ROW) in developed areas. Frequently, only sections of pavement are replaced within a larger linear footprint and do not alter original line, hydraulic capacity, or the original purpose of the facility. We feel this activity should not trigger treatment or post-construction controls when such controls are not feasible within the ROW.

4. Page 63. LID required for projects. Provision 3(b) requires development of an LID manual. It would be just as effective and less costly if the permit allowed the adoption of an existing manual, such as the one being developed by CASQA. 9.6

5. Page 64. Section 4. Hydromodification. It would be efficient and cost-effective if the permit allowed and encouraged collaboration with other permittees to meet requirements and made provisions for exceptions (e.g., hardened channels). 9.7

6. Page 71. Development Construction Program. The permit has not justified provisions that are more restrictive than those contained in the Construction General Permit. Because having two sets of prescriptive requirements for the same construction activity adds confusion and could hinder compliance, we suggest the permit defer to the CGP. For example, the prohibition on grading during wet season on "steep" slopes should not be required if the site is adequately controlled. For some projects, it is not feasible to stop work during the wet season. 9.8

7. Page 72. Grading Prohibition Variance (numeric limitations). The TSS and turbidity limits are less than the amount of these pollutants that arise in the background from natural areas and therefore seem unnecessary. (TSS cannot exceed 100 mg/L; turbidity no more than 50 NTU). 9.9

8. Pages 72-74. The BMP Tables include Caltrans BMPs and associated numbers. In Table 7, Stockpile Management is WM-3, not WM-2. 9.10

9. Page 74. BMPs at Construction sites. Not all listed BMPs will be applicable to all sites. For example, since the requirement for a "local" SWPPP is a duplicate of CGP requirements, it should not be included in the permit. 9.11

10. Page 83. Maintenance

> *3. Vehicle Maintenance/Material Storage Facilities/Corporation Yards Management/Long Term Maintenance Programs ...*
>
> *(b) Each Permittee shall obtain coverage under the Construction General Permit no later than (7 days after Order adoption date) for long-term maintenance programs including maintenance of flood control channels (such as vegetation removal), maintenance or replacement of streets, sidewalks, roads, and any other project that the Permittee undertakes including all Capital Improvement Projects (CIP) if either 1 or more acres of land are disturbed by grading, clearing or excavation activities for an individual project or cumulatively as part of several projects involving a soil disturbance.* [emphasis added]

9.12

This will result in inappropriate mandated coverage under the CGP for "routine maintenance" for which the CGP was not developed. If these projects are to be regulated, separate agreements should be developed.

9.13

11. Page 64. Section 4. Hydromodification. It would be efficient and cost-effective if the permit allowed and encouraged collaboration with other permittees to meet requirements and made provisions for exceptions (e.g., hardened channels).

12. Attachment C, definition of Pre-developed condition.

9.14

Pre-Developed Condition means native vegetation and soils that existed at the site prior to first development. The pre-developed condition may be assumed to be an area with the typical vegetation, soil, and storm water runoff characteristics of open space areas in Sonoma County unless reasonable historic information is provided that the area was atypical.

This definition is in Attachment C to the proposed permit. It is utilized to determine hydromodification. Please clarify the source of the definition and how it is determined.

Monitoring Program

9.15

13. Page 2. The permit requires monthly receiving water monitoring upstream and downstream. This is an expensive requirement; monitoring of this type should only be done for TMDL implementation purposes.

9.16

14. Page 2. Aquatic Toxicity Monitoring is required for wet weather. Toxicity Identification Evaluation (TIE) and Toxicity Reduction Evaluation (TRE) are potentially very expensive and often inconclusive, leading to additional monitoring. To make this less burdensome, it could be implemented once during the permit cycle.

15. Page 4. Numerous special studies are required:

    a. Temperature Monitoring

    b. Bacteria Monitoring

    c. Visual Flow Monitoring

    d. Atmospheric Deposition. The Permittees shall identify a site, appropriate methods, and install a monitoring station to collect one year of data of nitrogen deposition. Sampling will include wet and dry collection methods to quantify the total amount of deposition.

    e. Kelly Farm Nutrient Monitoring

    f. BMP Effectiveness Special Study

    g. Volunteer Monitoring Programs

9.17

These studies exceed the requirements of NPDES permits, which are intended to be focused on compliance rather than scientific studies.

RRWPC
Russian River Watershed Protection Committee

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NORTH COAST R W Q C B

OCT 2 2 2008

October 22, 2008

Mona Dougherty
North Coast Regional Water Board
5550 Skylane Blvd.
Santa Rosa, CA 95403

☐ EO ☐ WMgmt ☐ Admin
☐ AEO ☐ Timber ☐ Legal
☑ Reg/NPS MD ☐ Cleanups ☐
☐ Date

Dear Ms. Dougherty:

This letter conveys Russian River Watershed Protection Committee's (RRWPC's) comments and questions on your Regional Board's Order #R1-2008-0106: Waste Discharge Requirements on Storm Water (Wet Weather) and Non-Storm Water (Dry Weather) Discharges from Municipal Separate Storm Sewer Systems (MS4s).

We have read this draft permit and are impressed with the broad scope of its contents. We note with interest that most of the County will now be held accountable for non-point and storm water discharges, although we are unclear whether any of this applies to agricultural and other large properties in rural areas. (Would small towns like Guerneville have the same requirements as the cities? It's unclear how that would work.) It seems like quite an ambitious program and we will watch how it evolves with great interest. 10.1

Storm water runoff is an issue that RRWPC has not tracked in the past and our expertise is very limited in terms of knowing the history and understanding all the complex implications of this effort. We will try to put our concerns in the form of questions as much as possible, and we ask for your patience if they occasionally get repetitive or seem uninformed. We are much more aware of the issues surrounding irrigation runoff however, and have studied this document with a focus on those concerns.

We were present for the discussions on Laguna water quality (preparation for the TMDL), including interrelationships between the various impairments, hosted by the Laguna Foundation and were quite impressed with the scope of their effort. It is too bad that the process is not moving forward at this time; the quality of work produced thus far seemed quite substantial and meaningful, especially in regard to identifying the various complex pollution sources and the huge variety of possible interactions and effects. It concerns us however, that the Laguna TMDL may be a long ways off. We appreciate that this Order attempts to fill major gaps in protection of our waterways.

Yet, we cannot help but wonder if it is perhaps too ambitious, overloading permittees with new requirements at a time when budgets are being relentlessly sliced and resources to carry out the work exceedingly thin. We suggest that this Order be rewritten to prioritize and phase in these new requirements over a longer time period. Permittees have indicated a willingness to participate and cooperate, but need more consideration of the constraints under which they find themselves. (RRWPC does not usually feel such sympathy, but we believe in the sincerity of the program managers present at the Oct. 21st meeting.)

RRWPC has general overall concerns about this Order, which we review here. Then we will get into more detailed comments. In general, we felt that the LID portions on new development and methods to retain water close to the source, seemed quite good. This is an area that has caught the enthusiasm of the public and the development community, and which we totally support. Minimizing impervious surfaces in new development

and holding water on site as much as possible is important, not only for pollution prevention, but also for aquifer recharge as well. It seems like only good can come from careful development of LID techniques and we support all efforts to encourage them.

The differentiation between summer and winter conditions and the interface between stream flows and water quality are of great concern to us. This Order does not clearly differentiate between the two in most sections. Conditions in summer and winter are so different, that we believe they should be treated separately, perhaps even in separate orders, even at the expense of some repetition. 10.2

We are also disturbed by acceptance of the State Water Board's position as described in this Order, that emerging contaminants need not be addressed since standardized testing methods and numerical criteria have not yet been developed. It is assumed that, until criteria are developed, these problems need not be addressed, and for all intentional purposes, therefore do not exist. Title 22 avoids addressing them as well. Summer water quality problems need to be clearly defined, apart from winter storm water issues. In fact, in the State Board's proposed Recycled Water Policy process, this has been a controversial issue. 10.3

There is so much information flooding science journals and extensively penetrating the mainstream media, that the public is being sensitized to this issue. Cancer rates have sustained themselves over many years, in spite of the "War on Cancer", and people are becoming more aware of the body burden of toxins we all carry inside ourselves. Various substances like aspirin, caffeine, personal care product chemicals, and numerous pharmaceuticals have been discovered in many waterways and even some drinking water supplies. It has become common knowledge that modern wastewater treatment plants fail to remove many of the 80,000 toxic chemical products produced yearly. Only 126 are regulated through the California Toxics Rule. Most disturbing of all, we have little information about their synergistic effects.

We could add mountains of attachments to these comments defending our statement above. This idea that it is okay to irrigate heavily populated areas with wastewater, with which large numbers of people can come in contact, is, in our view, hubris. I could better understand it if we were living in a desert environment that of necessity required such a use, such as they are facing in Southern California. Or it might be okay if irrigators were willing to institute more highly advanced treatment. In Sonoma County we could do a lot more conservation and we could fix our leaky sewer pipes that would in turn allow millions of gallons of aquifer recharge to occur.

The apparent lack of concern about emerging contaminants in this Order is definitely not in tune with other countries, especially in Europe, where the Precautionary Principle, requiring that before a practice be adopted, safety be proved first rather than harm, is taken very seriously. As long as there is no outcry from the public to change this situation, the State Board will probably be quite content to let this issue lie in the shadows. Rather the focus is on Title 22 standards, which authorizes contact with wastewater based on limited human criteria only, and focuses mostly on prevention of acute, rather than chronic illness. These criteria simply do not address either the needs of the environment or the severe problems with proliferation of invasive species and extirpation of alarming numbers of threatened species. (see attached report on latter)

We are anxious about the Board's encouraging the application of wastewater as irrigation before fully considering and understanding all the polluting aspects of this practice. We encourage the use of Best Management Practices to keep contaminants out

of naturally flowing storm water, but we do not think we know enough about the impacts of applying wastewater on lawns utilized by people, children, and pets. We can't rely on the pathogenic focus of Title 22 and State Health Department's proclamations that tertiary treated wastewater is safe for most human contact. What is also problematic is the failure of this Order to address the needs of wildlife.

We believe that this Order legitimizes expanding urban irrigation with wastewater before more is known about its health effects on humans and the environment. The summer discharge prohibition appears to be undermined by this effort. Where all discharges are currently deemed illegal between May 15th and October 1st, this Order appears to legitimize "incidental runoff" and "low threat discharges" without even defining what they are. 10.4

There are many signs that over-irrigation has already contributed heavily to the severe impairments in the Laguna. We enclose pictures of the Ludwigia at Stony Point and Rohnert Park Expressway, which has come back with a vengeance after millions were spent clearing it out. Will this Order control such proliferation from happening? The Order does not seem to contain enough of a regulatory hammer to make that happen. In fact, it appears to transfer its authority to the cities in the form of unfunded mandates. How will this all work out at a time when EVERYONE is hurting financially?

The City of Santa Rosa is contemplating spending $150,000,000 on an urban irrigation program. We believe that the money would be much better spent fixing the worst of their old, leaky sewage collection pipes. We have been gathering information on summer and winter inflow to the system and have discovered that huge amounts of water are wasted from this leakage. We will be recommending that fixing leaky sewer pipes be credited as an offset of water resources. (For instance, treatment plant flows can easily double in winter. If that water is allowed to filter into the aquifer, it could become available as potable water supply during the summer months.)

Furthermore, this document seems to isolate the pesticide/soil amendment issue from the irrigation with recycled water issue through the encouragement of wastewater application to potentially chemically treated lawns. Is there a way to prohibit people from combining the two? How might such a chemical soup affect children and pets who might be exposed as they play on treated lawns? Is it even possible to examine all the potential interactions (cumulative effects) that this practice can bring on? We also wonder if there are ways to assurance that wastewater applications are limited to that which can be utilized by the vegetation? How would this be controlled? 10.5

Throughout this document, it is difficult to decipher whether the limits and programs are for water and/or wastewater. While the Findings clearly state that no discharges are allowed, in other sections of the document, the phrase MEP (maximum extent practicable) is utilized when referencing efforts to prohibit discharge. We think it interesting that winter discharges require as much as 100 pages to lay out all the discharge requirements, yet the possibility of a summer discharge, (when waterways are most vulnerable) as described in this permit, is barely addressed. It is mostly assumed that if the BMPs are followed, no water quality impacts will ensue. Description of regulatory fines and penalties by the Regional Board for specific excursions are left unaddressed.

RRWPC does not share Regional Board staff's trust that the many requirements in this Order would control irrigation overflows. We believe the Ludwigia alone speaks volumes about the extent of the problem. Furthermore for years, Laguna flows ran full

every summer, as the City paid farmers generous amounts to irrigate with the wastewater. Two Clean Water Act lawsuits were threatened in the late 1990's because of irrigation overflows and the City ended up settling for substantial amounts. In fact, the Laguna Foundation's preliminary work on Laguna TMDL issues was funded by one of those settlements.

Summer discharges (irrigation overflows) could have enormous consequences, especially in light of much lower stream flows. How will the monitoring and oversight programs in this Order protect against possible contamination from multiple and diverse irrigation overflows? How will cumulative impacts be addressed? Is it assumed that all wastewater will receive tertiary treatment and that will be adequate? Will fulfilling all Best Management Practices provide security that all regulations are being met and water quality is being protected? (How can this be demonstrated?) How can you define the difference between accidental spill and discharge? What are the penalties for receiving water impacts?

BMPs can certainly improve some situations, but nonetheless, does not substitute for the complex monitoring requirements demanded in NPDES point source discharges. Linda Sheehan provided extensive comments to the State Board about the issue of "incidental runoff", and need for a joint NPDES/WDR permit. Linda was also part of a small committee put together to hammer out the compromise language of the State's Recycled Water Policy. They agreed on all points but the definition of "incidental runoff". It was Linda's strong belief that runoff is a discharge to the Waters of the State and therefore should be subject to a combined NPDES/WDR permit. I attach her letter to the State Board of June 26, 2008, in which she does a far more comprehensive job than I ever could in defining the issue. (Attached) I request that you address the issues raised in that letter.

Comments on Specific Sections:

Section 15: Does this refer to winter storm water? It would be helpful to clearly differentiate between winter and summer MS4 discharges in each of these sections. 10.6

The National Marine Fisheries Service recently released the Biological Opinion, about ten years in the making. It will call for revisions of Decision 1610 and a lowering of flows at Hacienda from 125 cfs in a normal year to 70-85 cfs. Lowered flows can have a much greater impact on water quality when spills do occur. Studies will take many years and much is not known about possible water quality impacts. It seems that this should be considered in the permit, which does not address cumulative impacts. Identification of Laguna flows is also problematic as there is limited historical information on this.

This could also have an impact on the amount of recycled water used in the summer time. The Biological Opinion only addresses current operations. It anticipates that habitat restoration in six miles of Dry Creek will be attempted to slow the water down so that more supply can be obtained from Lake Sonoma. NMFS suggested that it would take about ten years to determine whether a pipeline is necessary in order to get more water.

Yet SCWA's EIR/EIS that examines this issue regarding possible future supply, has already included study of a pipeline down Dry Creek. It is not yet known if, or when, that EIR might be released. Yet there is no doubt that water supply will be a topic of great concern for a long time to come. Unfortunately, this Order makes no attempt to quantify the extent of the situation. Rather, it relies on future policies to be written that 10.7

would address these issues. Greater limits on water availability could impact the amount available for irrigation. We also wonder about the impact of spills, when irrigation is occurring, on streams containing much lower flows.

Sec. 5: This section talks about CWA requiring MS4 permits to reduce discharge of pollutants to the maximum extent practicable (MEP). How does this interface with Sec. 25 where it states, "*Wet weather and dry weather discharges are subject to the conditions and requirements established in the Basin Plan for point source discharges.*" How is this determined in this plan? Also, in Sec. 46 where it states that, "*....storm water runoff is a significant contributor of pollutants to impaired waters.*" Then in Sec. 49 it states, "*...the CWA requires NPDES permits to effectively prohibit non-storm water discharges into MS4s.*" And Sec. 52, "*...federal requirements to effectively prohibit non-storm water discharges,...*" "*Federal cases have held these provisions require the development of permits and permit provisions on a case-by-case basis to satisfy federal requirements.*" Doesn't this imply that each discharge should have a separate permit? Can this permit serve the function noted above for Santa Rosa's Subregional System? 10.8

Can you further explain the statement in Sec. 52, "*...this Order does not require strict compliance with water quality standards.....This Order therefore, regulates the discharge of waste in municipal storm water more leniently than the discharge of waste from non-governmental sources.*" This has me very confused. Can you explain further? Also, here the term "storm water" is used. Does "storm water" always refer to winter conditions? 10.9

Santa Rosa is allowed "*no net increase*" in nutrients in their winter permit. Would this permit have the same requirement? In fact, would all requirements in this permit be comparable to that one? Does the MEP meet the same standard as the winter NPDES permit? How does the Anti-Degradation Policy apply here? How are the loadings mentioned in Sec. 24 get quantified if there are multiple spills in different locations? 10.10

In fact, Sec. 60 states, "*Both state and federal antidegradation policies acknowledge that an activity that results in a minor water quality lowering, even if incrementally small, can result in violation of Antidegradation Policies through cumulative effects, for example, when the waste is a cumulative, persistent, or bioaccumulative pollutant.*" This statement seems to support our concerns in regard to non-storm water discharges. How can this Order reconcile with this statement?

The answer supposedly comes in Sec. 61, giving us the extenuating circumstances, which in turn takes us back to our prior questions. How can we intelligently answer those questions as to the quality of the waters if numerical limits are not required? How can we know for sure whether BMPs actually prevent water quality conditions from worsening without numerical limits? (Sec. 75) How is this segment (61), which seems to provide for the possibility of a weakening of water quality requirements, maintain consistency with the requirements of the permit process? These are statements open for interpretation (and legal argument), whereas numerical standards are much more finite and easy to prove. 10.11

For instance, how does one measure "maximum benefit to the people of the State"? Or, "Maintain the highest water quality consistent with the maximum benefit to the people of the State."?

Sec. 53, page 20 refers to effective implementation of BMPs. How will this be determined/quantified? Who decides? 10.12

Sec. 8: This lists some of the many programs implements in the first phase of MS4 permitting. What is not explained is whether there is any quantification of the programs' effectiveness? Will there be any quantification with the new programs? How is success demonstrated? 10.13

Sec. 19: What programs can be instituted to increase riparian habitat? 10.14

Sec. 71, 75, 76: (Forgive the jumping around, but I am now running out of time to complete these comments. I will try to just go through in order from now on.) Do the same narrative limits apply to the non-storm water season? Given that there may be irrigation runoff, (I have attached my letter to the State Board on their Water Recycling Policy where I address the issue.) at a time when there is little flow, how will beneficial uses be protected? How do BAT/BCT protect beneficial uses? Shouldn't the Precautionary Principle be considered in this instance, rather than assuming that these BMPs will work effectively? 10.15

If they don't work, what are the long-range impacts to our waterways from allowing these discharges? What measures could/would be taken to assure that the BMPs are truly working? This section sites studies by industry officials. Who paid for these studies? Usually the group paying controls the outcome of the study. Industry journals are often influenced by those having a stake in the reports' findings. Similarly, it's hard to trust reports by the State Water Board on the efficacy of BMPs when they can't effectively regulate water diversions, their prime responsibility. (Please forgive my cynicism.)

Sec. 77: Does this mean that BMPs will protect us from illegal discharges that shouldn't be happening in the first place? Is this the purpose of implementing BMPS, an admission that dischargers can't comply with current regulations? Does this apply to non-storm water discharges as well? 10.16

Sec. 78 ©: What are appropriate and sustainable water management strategies? How is this defined? 10.17

Sec. 87: "...the preliminary loading analysis has identified.....urban non-storm water discharges in the dry season as a potentially significant source of impacts for all parameters of concern." If this is the case, how can you advocate authorization of urban irrigation with wastewater at this time? (Please see attached Ludwigia pictures as a case in point.) 10.18

(RRWPC supports many of the concerns expressed by County representatives at the Oct. 21st meeting on this Order, especially in regard to the scope of enforcement in the rural areas. How will this work out? We don't necessarily oppose regulation for rural areas, we just don't see how it will be implemented and enforced. We don't think this document addresses it in a feasible way. Please explain your views in more detail.)

Page 36: A. Discharge Prohibitions

#4: What is meant by "effectively prohibit non-storm discharges"? What constitutes a violation under this language? What is the system/range of penalties? 10.19

Comments on Table 2 (Pages 37-41)

At the top of page 37 it states that the Executive Officer can authorize discharge of numerous types of non-storm water flows that are not a source of pollutants. (I'm not familiar with most of these but for wastewater, so I will only comment on that.)

The required/suggested BMPs for irrigation with wastewater include setbacks to waterways. What amount of setback would be required? Would controls be implemented to assure that only appropriate amounts would be applied in a manner that assures no runoff? What would those include? This section states that irrigating entities would be in charge of enforcement, yet the City of Santa Rosa has stated that they would not promise to turn off the water source of people who are multiple violators. Does the Regional Board agree with this approach? What can you do about it? Would the permit include provision for mandatory penalties? Who will set the amounts? Does Regional Board have any say in this? Can it be part of the agreement? What kind of monitoring will be required? 10.20 10.21

Page 42: Receiving Water Limitations

Number 1 and number 3 seem contradictory. One says that discharges that cause a violation of water quality standards are prohibited. The other states that permittee should REDUCE pollutants in storm water discharges. Please explain seeming contradiction. 10.22

Page 71: Please add Water Resources to the list of General Plan Elements. 10.23

Page 84: (Section B (3)) Does this mean that wastewater irrigation shall not take place on surfaces that have had pesticide applications? Of not, why not? (Sounds like a good idea.) 10.24

This completes our questions and comments. We would like to request that you address all the issues raised in Linda Sheehan's comments that are pertinent to this issue, even though we have not referred directly to all of them in this letter.

Thank you for the effort you have put into this document. There are many good things in here that would help protect water quality; it's just unfortunate that many may be impractical in today's economic climate. I am aware that your agency has nothing but good intentions in attempting to get a handle on very difficult pollution problems, but I am concerned that in the process you are legitimizing activities (irrigation with wastewater) that have dubious benefits and may even ultimately cause harm. Finally, I urge you to separate summer and winter programs.

Sincerely,

Brenda Adelman

From: <Bromley.Eugene@epamail.epa.gov>
To: <mdougherty@waterboards.ca.gov>
CC: "Catherine Kuhlman" <CKuhlman@waterboards.ca.gov>, <Kemmerer.John@epamai...
Date: 10/22/2008 11:26 AM
Subject: Proposed MS4 Permit for Santa Rosa
Attachments: venturaMS4LID.pdf

We have reviewed the draft MS4 permit for the City of Santa Rosa and its co-permittees (NPDES permit No. CA0025054) public noticed on September 9, 2008 and we would like to offer the following comments regarding three aspects of the permit.

In April 2007, EPA entered into an agreement with several national organizations to promote green infrastructure (which is very similar to low impact development (LID)) to improve stormwater quality management for MS4s. In January 2008, EPA also published an action strategy for the new initiative which is available at http://cfpub.epa.gov/npdes/whatsnew.cfm?program_id=6). The strategy encourages green infrastructure/LID requirements (such as bioretention, green roofs) in MS4 permits and we are trying to ensure that MS4 permits in Region 9 include appropriate requirements to promote green infrastructure/LID. The effectiveness of vegetation-based treatment for stormwater is superior* to conventional treatment (such as detention basins, drain inlet inserts) which is the focus of Part 5.5 of the permit; landscape-based treatment also has greater capacity to reduce the impact of spills. A wide range of other benefits of green infrastructure/LID was identified in our action strategy (such as energy efficiency, cleaner air and moderating climate change), and again we believe it is important that this be emphasized in permits.

1) Part 5 - New Development/Redevelopment Integrated Water Quality/Water Resource Plan

The green infrastructure/LID permit requirements should be as quantitative as possible to ensure clarity and enforceability. Some possible approaches (but not necessarily the only approaches) which have been suggested for quantitative requirements are the following:

Requirements similar to the draft Ventura County MS4 permit which includes a 5% limit on effective impervious area (EIA) for new development and redevelopment (Provision E.III.1.(a)). It may also be necessary to develop exceptions provisions for some projects such as found in Provision E.IV.4 of the draft Ventura County permit. The draft Ventura County permit is available on the Los Angeles Regional Board's website. 11.1

Requirements for LID management measures that address a particular design storm (such as the first 1" or rain), but with reduced requirements for certain types of projects such as brownfield developments, infill, or transit oriented developments.

Currently, the draft permit for the City of Santa Rosa and its co-permittees requires the utilization of LID principles in developments and redevelopments. However, in order to promote substantial benefits from the use of these principles, the permit should incorporate specific 11.2

LID performance requirements such as those described above. Similarly, the draft permit calls for the preparation of a hydromodification plan, but doesn't specify performance expectations. In order to promote substantive benefits, the permit should incorporate specific hydromodification performance requirements. For example, a quantitative approach could compare pre- and post-development conditions and limit the % of hydromodification that would be acceptable. 11.3

2) Discharges to Impaired Waterbodies and TMDL Requirements

The Findings (Findings 83-87) note that the Regional Board is currently in the process of developing TMDLs for a number of impaired waterbodies within permitted area, and that MS4 discharges may be contributing to some of the impairments. As you know, NPDES permits must be consistent with TMDL requirements after they are approved by EPA (40 CFR 122.44(d)(1)(vii)(B)). Although the TMDLs have yet to be approved, some (such as the Laguna de Santa Rosa) may be approved during the term of the permit. We recommend that the Findings note that the permit may be reopened during the term of the permit to incorporate requirements of TMDLs that are approved during the permit term (as was done in 2006 for the Los Angeles County MS4 permit to incorporate the Santa Monica Bay bacteria TMDL). This would provide advance notice to the permittees of such a possibility and would facilitate expedited implementation of applicable TMDL requirements for MS4 discharges. Authority to reopen the permit already exists in Standard Condition H of the permit. 11.4

With regards to impaired waterbodies with no approved TMDLs, Finding 91 notes that the permit requires the implementation of "all necessary control measures to reduce pollutants which cause or contribute to water quality impairments . . ." While the draft permit does have some requirements along these lines (such as Part 3.1.3(a) for commercial sources), a comprehensive strategy to minimize pollutants contributing to impairments seems lacking. As such, we recommend that the permit include a requirement for an action strategy which would fulfill the intent of Finding 91. Such an action strategy would identify pollutants of concern and an overall strategy to minimize the discharge of such pollutants; the strategy would be due to the Board within one year of permit adoption. 11.5

3) Part 3 - Controls for Industrial/Commercial Facilities

We recommend that the inventory of critical sources required by Part 3.2(a)(2) be revised to include all industrial facilities as defined at 40 CFR 122.26(b)(14), including those subject to the statewide general permit. We suggest requirements such as found in the 2007 San Diego County MS4 permit (Part D.3.b(1)). This would ensure that all potentially significant industrial sources are included in the inventory and inspected as appropriate. 11.6

Thank you for the opportunity to review and comment on the draft permit. If there are questions, please call me at (415) 972-3510.

*See for example the analysis prepared by Dr. Richard Horner entitled

"Investigation of the Feasibility and Benefits of Low-Impact Site Design Practices ("LID") for Ventura County" submitted to the Los Angeles Regional Board by NRDC. This report is attached below:

(See attached file: venturaMS4LID.pdf)

October 22, 2008

Catherine Kuhlman
Executive Officer
Regional Water Quality Control Board
5550 Skylane Blvd., Suite A
Santa Rosa, CA 95403
Via e-mail to: ckuhlman@waterboards.ca.gov
cc: mdougherty@waterboards.ca.gov

Re: Order No. R1-2008-0106 NPDES No. CA0025054 Santa Rosa & Sonoma County MS4 Permit Comments

Dear Mrs. Kuhlman,

I am submitting these comments on behalf of our over 1400 members and in support of our mission to preserve, restore and enhance water quality and biological health of the Russian River watershed through community education, scientific research, expert advocacy and enforcement.

General Comments
We strongly support the draft Storm Water (Wet Weather) and Non-Storm Water (Dry Weather) Discharges from Municipal Separate Storm Sewer Systems covering the City of Santa Rosa, the County of Sonoma, and the Sonoma County Water Agency contained in OrderR1-2008-0106 (draft permit). Our support is driven by:

- Increased requirements to attenuate post-construction stormwater volume and pollutants and requirement that LID strategies be considered in the updated SRA-SUSMP
- Draft permit requirement that construction and post-construction stormwater controls apply to projects under one acre
- Increase in permit coverage area to the entire North Coast Waterboard jurisdiction in Sonoma County
- Requirement that stormwater controls be applied to both discretionary and ministerial projects
- Specification of minimum BMP's for construction sites and other activities that generate stormwater pollutants
- Inclusion of the illicit connections and illicit discharges elimination program
- Adherence to the Coastal Zone Management Act mandates

Our comments are informed by our activities in monitoring land use activities that increase stormwater pollution, rate and volume of flows to municipal stormwater systems and our six years of monitoring stormwater run-off. Our comments are also informed by the recently released report by the National Research Council titled, "Urban Stormwater Management in The U.S." (NRC Report) that provides an exhaustive evaluation of the role of stormwater pollution as a major cause of water quality impairment, the current municipal stormwater program and regulations and its effectiveness at preventing and reducing stormwater pollution through permit improvements. The NRC Report also provides conclusions and recommendations for improving stormwater permitting and land use controls to achieve the legal mandate of the Clean Water Act.

Stormwater in Sonoma County is a significant source of water quality and habitat degradation from increases in pollutants causing water quality impairments, increases in flow volumes and rates leading to erosion and degraded habitats in urban areas. In more rural areas sedimentation pollution from development and land use changes have resulted in increasing volumes of stormwater polluted with sediment that are impacting beneficial uses such as rare or endangered fish according to numerous reports and the draft permit fact sheet.

The NRC report examines the current permit system and concludes that, *"EPA's current approach to regulating stormwater is unlikely to produce an accurate or complete picture of the extent of the problem, nor is it likely to adequately control stormwater's contribution to waterbody impairment*[1]*"*, lending strong support to the strengthening of this permit over the pervious permit term. In addition the NRC report states that, "Future land development and its potential increases in stormwater must be considered and addressed in a stormwater regulatory program", which supports this permits inclusion of improved post-construction stormwater controls, the requirement to consider LID and expansion of permit boundary area to more fully regulate land use impacts in non-urban areas due to the sediment impairments across the Sonoma County permit region.

We also support the comments on improving LID provisions in the permit and on Alternative Post-Construction Mitigation Programs that were submitted by NRDC.

Specific Comments on Draft Permit WDR
Finding #9 & 10
We strongly support the inclusion of the entire area of the Russian River watershed and all coastal watersheds within Sonoma County inside the North Coast Waterboard area. Increasing development outside urban areas is the primary cause of sediment impairment that covers all streams in the new permit boundary area. In light of this fact increasing the permit boundary area is critical in order to reduce stormwater pollution to levels that meet water quality standards and fully support the RARE beneficial use in non-urban areas. 12.1
In the NRC Report it states, *"There is a direct relationship between land cover and the biological condition of downstream receiving waters. The possibility for the highest levels of aquatic biological condition exists only with very light urban transformation of the landscape. Even then, alterations to biological communities have been documented at such low levels of imperviousness, typically associated with roads and the clearing of native vegetation, that there has been no real "urban*

development" at all." This supports the need to regulate activities in the entire watershed not just in urban areas so the boundary expansion is warranted by the need to protect sensitive aquatic communities that already suffer from water quality impairment.

Finding #27
We are concerned that "small accidental" releases of recycled water that produce non-stormwater run-off could be considered a low threat. A major impairment of the Mark West

1. NRC, "Urban Stormwater Management in The U.S.", October 15, 2008, pg195

Creek/ Laguna de Santa Rosa watershed is for nutrients. The recycled water from the Sub-regional treatment facility in Santa Rosa is very high the nutrients nitrogen and phosphorous according to R1-2006-0045. Given the current budget climate, required maintenance of irrigation equipment using recycled water will be reduced potentially leading to larger volumes of "incidental run-off" of recycled water. This significantly contributes to the continuing impairment of receiving waters and should be addressed via strict BMP's, enforceable provisions and not given a pass due to the lower dilution factor during non-storm periods. 12.2

Finding #36
We disagree with the general idea that MEP is determined by economic conditions of the permittees. Under the Clean Water Act poverty is not a defense for lack of compliance so we wonder why meeting permit mandates is contingent upon budgets as a blanket statement. We do agree that the burden of proof for economic hardship lies with the permittees and agree that prioritizing MEP requirements is a good idea so that when defensible economic hardship is claimed MEP requirements with lower cost/benefit or requirements producing less actual pollutant reduction are delayed before requirements that yield the greater cost benefit ratio. We are concerned that even though the City of Santa Rosa has a stormwater utility fee that they are cutting out MEP activities like street sweeping, isn't this covered under the fee which hasn't changed? If fees are lower temporarily discontinuing public education should be employed before discontinuing a direct pollutant reduction activity such as street sweeping as priority has to be given to activities that reduce pollutants of concern. 12.3

Finding #40
We strongly support the inclusion of construction projects less than one acre in the SRA-SUMP and the requirements to adopt LID strategies in an updated SRA-SUMP. All development projects create stormwater pollution regardless of size. As developable land amounts decrease smaller infill projects of less than one acre will become more common as well as the economic climate reducing larger developments in favor of smaller ones with less risk so requiring stormwater controls is necessary to meet the mandates of this permit. 12.4

We also support the requirements for LID as they not only control stormwater pollutants but also flow rates and volumes unlike most structural post-construction BMP's. As the NRC report concludes, "*Nonstructural SCMs such as product substitution, better site design, downspout disconnection, conservation of natural areas, and watershed and land-use planning can dramatically* 12.5

reduce the volume of runoff and pollutant load from a new development"[2], which supports the use f LID for post-construction controls.

Finding #46
Again we agree with the permit expansion across the entire RB1 jurisdiction of Sonoma County as it allows adherence with the Coastal Zone Management Act requirements that EPA permits assure the recovery of ESA listed species. To be proactive in addressing stormwater pollution in new development the county will actually benefit from cost savings associated with more costly solutions if water bodies do not improve to meet water quality standards. 12.6

Finding #72
Since sediment is the most significant impairing pollutant to threatened steelhead and

2. NRC Report, pg 374 12.7

salmon the new requirements for construction site stormwater control are especially vital to any effort to meet water quality standards and meet the recovery goal of the Federal and State Endangered Species Acts.

Finding 78 & 79
We strongly support the use of LID strategies as BMP for post-construction stormwater controls to MEP. LID not only addresses pollutants but also volume and rate of discharge which if not addressed can lead to significant habitat degradation in spite of pollutants of concern being controlled. 12.8

Finding #88
SW mitigation required for ministerial projects, the permittees land use authority should require ministerial projects to meet SW mitigation requirements to be qualified as ministerial. If a ministerial project does not employ stormwater control BMP's then the project will likely lead to stormwater related impacts to water quality standards and beneficial uses and therefore should be discretionary due to the unmitigated impacts from stormwater. To avoid a ministerial project from being discretionary the use of stormwater control BMP's and LID strategies should allow continued designation of projects as ministerial. 12.9

#101
In reviewing the attached EPA Region IX MS4 Inspection Report of Sonoma County and Santa Rosa it is apparent that construction site inspections and adherence with the permittees own regulations governing construction sites are deficient. Our own field inspections have concluded that same result particularly our inspection of the Montage subdivision in Santa Rosa on November 2, 2006 that resulted in a Notice of Violation. The EPA MS4 report shows that the inspection and compliance system is not functioning and staff needs to receive additional training and guidance to complete their responsibility to ensure compliance with construction site stormwater controls. 12.10

Section C

Part 2.2
This section is important as from the EPA Region IX MS4 Inspection Report it is clear that the permittees are not using their authority to control construction site stormwater pollution or require adequate BMP's to meet MEP. The inclusion of stop-work orders and referrals to the have not occurred due to either lack of training or lack of willpower to enforce the permit on builders. It should be noted that not one single stop-work order has been issued and no referrals to the DA for prosecution despite the documented violations of permittees own regulations even on their own projects as highlighted in the attached EPA MS4 Report. 12.11
A requirement that annual reports include documentation of enforcement activities should be included to monitor progress to meeting the mandate of this section of the permit.

Part 3 -Fiscal Resources
It would be useful and feasible to include in this section revenue sources and amounts that support permit activities as well as a report on external funding sources sought by the permittees such as grant funds or similar to fully evaluate program effectiveness as allocating resources especially in light of the current economic climate and already stated desire of the permittees to delay or waive implementation of program activities. 12.12

Section D
Part 2 - Public Information and Participation Program
In light of limited resources we suggest that education and outreach programs be reviewed with priority given to the education efforts that produce the most direct reduction in stormwater impacts such as prioritizing educating employees from certain stormwater pollution generating industries or businesses over general public education. In addition in light of the conclusions in the EPA MS4 Report priority should be given to educating inspection and enforcement staff and permittees own development project staff to set the example for the public to follow. Failure of permittees own staff to meet permit requirements will lead to an erosion of public support for stormwater pollution control so the messenger should be the first to be educated. 12.13

Part 4
In light of the conclusions and recommendations of the NRC Report the requirements in this section are vital to meeting MS4 permit mandates and to fully meet water quality standards and support beneficial uses. 12.14

Part 5.3,4 &5
We strongly support the following reasons for the requirements in these sub-sections which are supported by the EPA Region IX MS4 report;
"To facilitate the oversight and enforcement process, it is strongly recommended that the County formally designate and require the implementation of a minimum set of specifications and design criteria for construction site BMPs. Formal adoption of such minimum BMP standards would provide a more enforceable basis to the County staff in making inspection determinations and would alleviate the burden of providing compliance assistance in an ad-hoc manner. Adoption of minimum BMP standards on a countywide basis would ideally serve as a coordinated interdepartmental standard and may deliver a 12.15

clear message to the development community on the County's expectations for BMP implementation."[3]

As stated earlier, the NRC Report concludes that, *"Individual controls on stormwater discharges are inadequate as the sole solution to stormwater in urban watersheds. SCM implementation needs to be designed as a system, integrating structural and nonstructural SCMs and incorporating watershed goals, site characteristics, development land use, construction erosion and sedimentation controls, aesthetics, monitoring, and maintenance. Stormwater cannot be adequately managed on a piecemeal basis due to the complexity of both the hydrologic and pollutant processes and their effect on habitat and stream quality. Past practices of designing detention basins on a site-by-site basis have been ineffective at protecting water quality in receiving waters and only partially effective in meeting flood control requirements.*

Nonstructural SCMs such as product substitution, better site design, downspout disconnection, conservation of natural areas, and watershed and land-use planning can dramatically reduce the volume of runoff and pollutant load from a new development.

Such SCMs should be considered first before structural practices. For example, lead concentrations in stormwater have been reduced by at least a factor of 4 after the removal of lead from gasoline. Not creating impervious surfaces or removing a contaminant from the runoff stream simplifies and reduces the reliance on structural SCMs. SCMs that harvest, infiltrate, and evapotranspirate stormwater are critical to reducing the volume and pollutant loading of small storms. Urban municipal separate stormwater conveyance systems have been designed for flood control to protect life and property from

3. USEPA Region IX MS4 Inspection Report, County of Sonoma and the Sonoma County Water Agency, Nov 2007, pg3

extreme rainfall events, but they have generally failed to address the more frequent rain events (<2.5 cm) that are key to recharge and baseflow in most areas. These small storms may only generate runoff from paved areas and transport the "first flush" of contaminants. SCMs designed to remove this class of storms from surface runoff (runoff-volume-reduction SCMs— rainwater harvesting, vegetated, and subsurface) can also address larger watershed flooding."[4]

Part 8 Development Construction Program

This section is vital to meeting water quality standards for sediment and fully supporting beneficial uses as required by this permit, the Basin Plan and the CZMA. In light of the previously mentioned documented failures to ensure proper construction stormwater permit compliance the use of strict BMP's will provide the tools needed for inspectors to determine compliance. 12.16

PART 10 – Illicit Connections and Illicit Discharges Elimination Program

We strongly support the inclusion of this program in the permit. This program will reduce stormwater pollution that will reduce the impairments of receiving water bodies and reduce the permittees burden to address these contributions to impairment. 12.17

Monitoring and Reporting Program

General Comments

In the permittees annual report the compliance point for nutrients should follow EPA Region IX criteria used in establishing the 2006 303(d) list for nutrient impairment of the Laguna de Santa Rosa. These limits were 0.1 mg/L for Phosphate and 1.0mg/L for nitrate-nitrogen and 12.18

any use of drinking water standards should be abandoned as the EPA limits were established to protect aquatic beneficial uses that are more sensitive than drinking water standards.

In the NRC Report a great amount of information is presented on atmospheric deposition of pollutants that are entrained in stormwater. Some of the conclusions were that most phosphate deposition was linked to sediment deposition and the majority is from local sources. Some pollutants such as nitrogen and mercury can have a significant amount or majority from distant sources.
We wonder in light of the economic climate whether this particular study is a priority. Whether or not a pollutant comes from distant or near sources or whether they are under control of the permittees does not seem material to this permit. Stormwater regulations require all pollutants be addressed via the permit regardless of source.
If any lessons are to be learned by the NRC Report that apply to this permit area it is the findings that depositional sediment and phosphate are from primarily local sources indicating that non-rain season windblown dust should be a priority from this permit as any windblown sediment and attached phosphate will add to the pollutant load during the rainy season. Dust control in the dry season should be addressed as part of the permit activities.

In conclusion this permit as written will lead to reductions in stormwater pollutants, stormwater amounts and rates which will lead to meeting water quality standards and reduction in impairing pollutants. In spite of the current economic climate the permit is fair and reasonable as allowing continued water quality degradation places a larger cost for reversing that degradation. This permit is an investment in future water quality benefits at a

12.19

4. NRC Report, pg 374

much lower cost that if certain permit activities were either not required or delayed due to current economic conditions.

I reiterate our strong support for additional development mitigations especially use of LID and reduced size for land use controls, hydromodification controls, illicit discharge program, specific BMP's to strengthen inspection controls and the expansion in permit boundaries.

Thank you for your consideration of our comments.

Sincerely,

Don McEnhill
Riverkeeper

Attachments:
National Research Council, "Urban Stormwater Management in The U.S.", October 2008
City of Santa Rosa Municipal Separate Storm Sewer System (MS4) Inspection Report
County of Sonoma and the Sonoma County Water Agency Municipal Separate Storm Sewer System (MS4) Inspection Report

MARIN / SONOMA
MOSQUITO AND VECTOR CONTROL DISTRICT

First Organized District in California
595 HELMAN LANE, COTATI, CALIFORNIA 94931
TELEPHONE (707) 285-2200 FAX (707) 285-2210

October 22, 2008

Ms. Mona Dougherty
Water Resource Control Engineer
North Coast Regional Water Quality Control Board
5550 Skylane Boulevard, Suite A
Santa Rosa, CA. 95403

Dear Ms. Dougherty:

The Marin/Sonoma Mosquito and Vector Control District (District) appreciates the opportunity to review and comment on the Draft MS4 National Pollutant Discharge Elimination System Storm Water Permit for Santa Rosa and Sonoma County (storm water permit). The District understands the importance of storm water treatment and has an interest in the design, function, and maintenance of many types of storm water treatment systems. As you are aware, the District closely monitors storm water treatment systems for mosquito and vector production. The proper management and maintenance of storm water treatment systems is essential to minimize the potential for mosquito production and public health issues.

In reviewing the draft storm water permit I was pleased to find mosquito and vector inspection and abatement included, as well as an expectation for cooperation and collaboration between the Permittees and the District (pages. 5 and 33). The language in the draft storm water permit pertaining to overall management and maintenance and specifically vegetation management with respect to storm water treatment systems and drains (catch basins) will help to minimize mosquito production and the need for repeated mosquito larvicide treatments. 13.1

In Part 6 of the draft storm water permit titled Implementaiton of New Development/Redevelopoment Post-Construction BMPs (page 68); I was concerned with the 2 year inspection interval for post construction storm water best management practices (BMPs). The District has found that inspection and maintenance of post construction BMPs is often required on a more frequent basis, specifically with systems that include vegetation types that could potentially provide habitat for mosquitoes. The District requests that the 2 year inspection interval be reconsidered and the potential for a more frequent inspection requirement be discussed. 13.2

Thank you for considering the Districts request and I look forward to working with you. Please contact me at 707-285-2200.

Respectfully,

Erik Hawk
Special Projects Supervisor/Biologist

SIERRA CLUB
FOUNDED 1892

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To: California Regional Water Quality Control Board
North Coast Region

DRAFT

Regarding:
Order No. R1-2008-0106
NPDES No. CA0025054
WDID NO. 1B96074SSON
Waste Discharge Requirements, (WDR), for the City of Santa Rosa, The County of Sonoma, and the Sonoma County Water Agency, Storm Water (Wet Weather) and (Dry Weather discharges from Municipal Separate Storm Sewer Systems-MS4) The City of Santa Rosa, The County of Sonoma and the Sonoma County Water Agency (herein after permittees) joined are requesting a renewal of their National Pollutant Discharge Elimination System (NPDES) permit

The Clean Water Act requires NPDES permits for storm water discharges from MS4, storm water discharges associated with industrial activity (including construction activities), and designated storm water discharges which are considered significant contributors of pollutants to waters of the United States. The State of California has in-lieu authority for the NPDES program, The Porter-Cologne Water Quality Control Act authorizes the State Water board, through the Regional Water Boards, to regulate and control the discharge of pollutants into the waters of the State.

The permittees' December 31, 2007 permit re-application package included the draft Storm Water Management Plan (aka Management Plan). The intent of the Management Plan is to identify specific tasks and programs to deter the discharge of pollutants in storm water to the maximum extent practicable, (MEP) in a manner designed to achieve compliance with water quality standards and objectives. The Management Plan identifies measures to effectively prohibit non-storm water discharges into municipal storm drain systems and watercourses within the permittees jurisdictions. The Management Plan was developed between the polluters/permittees and the Water Board (WB) staff. Based on

these discussions between the permittees and the WB staff, the permittees submitted a Management Plan including their recommendations on how to achieve maximum extent practicable best management practices (MEP BMP) to reduce the significant environmental impacts of pollutants reaching receiving waters and non sewer storm drains. The WB is requiring that the Management Plan be revised/modified including but not limited to: additional measurable goals, improvements in program elements to reduce pollutant discharge and modifications to implementation schedules. The Management Plan defines the actions and sets measurable goals that will meet the MEP standard, when revised. Through goals, objectives and activities the Management Plan (MP) describes a framework for management of storm water discharges during the term of this Order. Permittees are encouraged to form partnerships to improve beneficial uses. The MP is subject to periodic review and change. The existing MP requires design review and post-construction storm water treatment only for large projects (one acre or more). Consistent with the storm water program goals of requiring iterative improvements to storm water quality, this Order will require new development controls for smaller projects, based on land use categories. The MP shall also be revised during this permit term to prioritize post-construction storm water treatment best management practices, (BMP) for their efficacy in removing pollutants of concern and minimizing hydromodification. Each permittee is responsible for adopting ordinances that will effectively implement BMPs. Ministerial approvals can be required to prove compliance with pre-existing criteria before development is allowed.

REDWOOD CHAPTER COMMENTS

including

some of the Findings and status update of the North Coast National Pollutant Discharge Elimination System (NPDES) permit (for full finding refer to the North Coast Regional Water Quality Control Board's Waste Discharge Requirements Order No. R1-2008-0106, Draft MSA Storm Water Permit):

SCOPE OF THE PERMIT: Boundaries of the Waste Discharge Requirement (WDR) are being expanded from Laguna de Santa Rosa and Mark West Creek watershed to include the entire area of Sonoma County that falls within the North Coast Region and includes all or portions within Sonoma County of these watersheds: Salmon Creek hydrologic area (HA), Bodega Harbor HA, Estero San Antonio HA, and the Estero Americano HA within the bodega hydrologic Unit (HU); Lower Russian River HA, Guerneville hydrologic sub area, ((HAS) Austin Creek HAS, Middle Russian River HA, Laguna HA. Santa Rosa HAS, Mark West HAS, Warm Springs HAS, Geyserville HAS, and Sulphur Creek HAS within the Russian River HU; Gualala River HA, Rockpile Creek HAS, Buckeye Creek HAS, Wheatfield Fork HAS, Gualala HAS, and Russian Gulch HA within the

Mendocino Coast HU.

Finding: This modification to the NPDES permit will address pollutants, including sediment and nutrients that discharge to the waters of the State from permittee owned and or operated connected storm water infrastructure currently in place as well as future additions to the systems. These modifications of the order will help provide a consistent watershed-wide effort to control all MS4 sources of pollutants to receiving waters within the watershed. In making this modification to the permitted area, the Regional Water board recognizes that there will be different permittee control strategies and implementation timelines needed for different land use areas.

Comments are underlined: The major land use in this region is agriculture or vineyards and in many projects within this area it first involves deforestation, deep ripping of soils and removal of roots that hold slopes in place. Vineyards do not hold slopes in place during the wet season. Severe erosion does occur carrying with it nutrients, pesticides and herbicides from vineyard operations. This constitutes a significant storm water discharge as described in this staff report/findings. 14.1

Mendocino has no grading ordinance.

Sonoma County has a limited and ineffective grading ordinance that is a ministerial permit not allowing discretion.

These gaps in environmental protection are severely polluting the waters of the State and degrading aquatic ecosystems including spawning habitats for salmon and steelhead.

Finding: Storm Water runoff and non-storm water discharges that enter the permittees' MS4s are regulated by this Order. Provisions of this Order apply to the urbanized areas of the municipalities, area undergoing urbanization and areas which the Regional Water Board Executive Officer determines are discharging storm water that causes or contributes to the violation of a water quality standard or is a significant contributor of pollutants to the waters of the United States pursuant tow the Clean Water Act.

Vineyard projects are in this region expanding into fragile sloped landscapes and many are on steep slopes. Erosion control plans may be used and encouraged by the Sonoma and Mendocino. If underground perforated pipes, check dams, drop inlets are used to drain the slope of storm water this constitutes infrastructure or storm water drainage to a point source and or sheet flow to receiving waters. The pipes divert the water off project to down slope causing a point source that receives 'hungry water' (channalized and fast water ready to engage soil and transport). This 'hungry water' causes severe erosion and bank failure in streams. Installation of underground infrastructure is urbanization of 14.2

wildlands. This NPDES permit update must include all urbanization causing polluted storm water.

Finding: This Order will not restrict or control local land use decision-making authority, however, the permittees, are responsible for storm water and non-storm water impacts when making planning decision in order to fulfill the CWA requirements to reduce the discharge of pollutants to municipal storm water facilities and receiving waters of the State to maximum extent practicable (MEP).

Vineyard conversion of wildland creates urbanization by developing slopes with underground pipes, drop inlets, sediment basins and rock check dams that then collect storm water from sheet flow. Illicit discharges of sediment nutrients, pesticide residues and mercury are carried via these structures to receiving waters of the State entering and other MS4 structures. 14.3

Finding:The North Coast Regional Water board has adopted a Water Quality Control Plan for the North Coast Basin (Basin Plan). Regional Water Board staff is currently working on a Basin Plan amendment that will address threats from discharges to surface waters and municipal storm water facilities. The Storm Water Permit required for permittees to discharge pollutants to receiving waters and municipal facilities will include the practice of best management practices (BMP) to the MEP.

Sonoma is lacking a discretionary grading ordinance and both Mendocino County and Sonoma County underperform best management practices, BMP, to the maximum practicable, (MEP) as evidenced by stream listings on the 303 (d) list of the Clean Water Act, further listings on the Endangered Species Act of Salmon and steelhead with rising temperatures in most North Coast streams. 14.4

Findings: The State Water Board Resolution No. 68-16 contains the State Antidegradation Policy, titled "Statement of Policy with Respect to Maintaining High Quality Waters in California (Resolution 68-16); this policy applies to all waters of the State, including ground waters of the State, whose quality meets or exceeds (is better than) water quality objectives. Resolution No. 68-16 incorporates the federal Antidegradation Policy (40 CFR section 131.12) where the federal policy applies, (State Water Board Order WQO 86-17). Both, state and federal antidegradation policies acknowledge that an activity that results in a minor water quality lowering, even if incrementally small, can result in violation of antidegradation Policies through cumulative effects, for example, when the waste is a cumulative persistent, or bioaccumulative pollutant.

Groundwater resources lack any protection in the project area. 14.5

Finding: The State Water Board adopted a revised Water Quality Control Plan for

ocean Waters of California (Ocean Plan in 2005). The Ocean Plan establishes water quality objectives for California's ocean waters and provides the basis for regulation of waste discharged into the States coastal waters. It applies to point and nonpoint sources.

Vineyardization/urbanization of wildlands is vastly degrading this regions streams. Minor slopes, under 5% have no erosion protection. Sheet wash discharges pollutants to MS4 and municipal water supplies that discharge to receiving waters including ocean confluences. 14.6

Finding: On May 6, 2008, the State Water board adopted Resolution No. 2008-30 Requiring Sustainable Water Resources Management. It was resolved that the State Water Board: a) continues to commit to sustainability as a core value for all Water Boards' activities and programs b) Directs WB's staff to require sustainable water resources management such as low impact development, (LID) and climate change considerations, in all future policies, guidelines and regulatory actions; and c) Directs Regional Water Boards to aggressively promote measures such as recycled water, conservation and LID BMP where appropriate and work with dischargers to ensure proposed compliance documents include appropriate, sustainable water management strategies.

This region's predominate vegetation is coastal temperate rain forest and vast oak woodlands and chaparral. Wildland conversions to vineyards are destroying the carbon sequestration capacity of the region. Loss of trees to vineyardization of forests is not sustainable and continues to severely degrade our watersheds. 14.7

Finding: On May 15, 2008, The California Ocean Protection Council adopted the Resolution Regarding Low Impact Development. This resolves to promote policies that new developments and redevelopments should be designed consistent with LID principles so that storm water pollution and the peaks and durations of runoff are significantly reduced. This is implemented through the NPDES permit.

When it comes to vineyardization of wildlands, LID should include preservation of tree canopy and sensitive biological areas. Sonoma and Mendocino County lack LID alternative project designs. Vineyards projects in this region are not discretionary. 14.8

Findings: TMDLs are numerical calculations of the maximum amount of a pollutant that a water body can receive and still meet water quality standards, and an allocation of that amount to the pollutant's sources. A TMDL is the sum of the allowable loads of a single pollutant from all contributing points (Waste Load Allocation (WLA) and non-point sources (Load Allocation (WL)). Storm water (wet weather) and non storm water (dry weather) discharges from MS4s are considered point sources.

Finding: All permittees through this Order shall implement all necessary control measures to reduce pollutants which cause or continue to cause or contribute to water quality impairments, but for which TMDLs have not yet been developed or approved to eliminate the water quality impairments. 14.9

Most streams in this permit region lack any TMDL implementation plans.

Findings: The action to adapt an NPDES permit is exempt from the provisions of Chapter 3 of the California Environmental Quality Act (CEQA) in accordance with section 13389 of the California Water Code, (CWC). The renewal of this NPDES permit is also exempt from CEQA pursuant to Title 14, California Code of Regulations, section 15301, because it is for an existing facility.

Given the scope of this NPDES permit and the case being made by the Redwood Chapter that vineyardization of slopes constitutes infrastructure carrying polluted water, this permit includes future development of storm water infrastructure. Therefore, CEQA applies. This permit should undergo CEQA review. 14.10

Finding: Under 6217 (g) of the Coastal Zone Act Reauthorization Amendments of 1990 (CZARA), Coastal States with approved coastal zone management programs are required to address non-point pollution impacting or threatening coastal water quality. CZARA addresses five sources of non-point pollution: 1) agriculture; 2) silviculture; 3) urban; 4) marinas; and 5) hydromodification. This Order addresses the management measures required for some of the categories identified in the CZARA.

Given CZARA, what is the nexus with NPDE/WDR programs? 14.11

Finding: On May 2000, the US. EPA established numeric criteria for priority toxic pollutants for the State of California. This policy requires that discharges comply with TMDL derived load allocations as soon as possible.
The WB considers that all new development and significant redevelopment activity in specific categories, that receive approval or permits from a municipality (CEQA or ministerial) are subject to storm water mitigation requirements.

Erosion control plans/projects for vineyards in sloped wildlands often consist of pipes carrying polluted storm water. NPDE/WDR should include these projects new and old. 14.12

Finding: Urban development changes the quantity and flow characteristics of storm water runoff as compared to undeveloped conditions. Increases in the volume and velocity of storm water runoff due to development have the potential to greatly accelerate streambank erosion and impair stream habitat in receiving waters. Studies have demonstrated a direct correlation between the degree of

imperviousness of an area and the degradation of its receiving waters. Significant declines in the biological integrity and physical habitat of streams and other receiving waters have been found to occur with as little as 10 percent conversion from natural to impervious surfaces. Percentage of impervious cover is a reliable indicator and predictor of potential water quality degradation expected from new development. Added flow modifications from land clearing and grading, stream alteration and runoff channelization can exacerbate impacts from impervious surfaces.

Deforestation, and conversion to vineyards is the largest land use in Sonoma and Mendocino Counties. Fresh water niche habitats are essential to salmon and steelhead. These niche habitats are being degraded by this land use and NPDES/WDR shall protect water quality in these fragile stream ecosystems. Increased rate of runoff from removal of tree and understory canopy causes significant cumulative impacts to down stream receiving water. Bank failure and bed erosion are destroying stream geomorphology exacerbating the decline of special status aquatic species. Additionally, grading of fragile slopes, installation of pipes, drop inlet, check dams and channalization of stream networks causes severe hydrologic modifications that increase runoff rates off site of the project. While WB may see these erosion control methods as BMP, off site hydrologic impacts from these erosion control plans (often directed by the Resource Conservation Districts) or BMPs should be re-evaluated. 14.13

Finding: The WB places a high priority on planning to address water quality in the region with the highest environmental improvements available.

Management Plan additional Comments:

1. The findings for the revised MP fails to say why the current NPDES permit failed to succeed in the current MP goals. The public would like to understand the scope and gaps of the current permit that necessitated the revision of the NPDES permit. 14.14

2. Permittees and agencies enter into discussions about the permits to discharge pollution to the waters of the State. How can the WB make this more transparent and inclusionary for the public who must pay for the impacts of polluted water? Polluters and agencies are highly politicized. Not having the public at the table of crafting permits lacks full disclosure and puts the 'fox in the hen house' or the polluters setting their own permit restrictions. 14.15

2. The monitoring element of the revised MP appears insufficient. We need bioassessment monitoring and data results that are transparent and open to public access for scrutiny. Monitoring should be by an independent entity. Benthic Macro Invertebrate monitoring and snorkel surveys for salmon and steelhead along with adult and juvenile trapping are suggested methods of bio- 14.16

monitoring. Electro shocking is not recommended as it later kills the fish. Long term monitoring is essential to track the trends of ecosystems over time. Bio-monitoring is essential to determine if BMP MEP are working.

3. State budgets may cause constraints making this revised MP cost prohibitive. However, the price of doing nothing and/or minimal is a heavy price to pay when the public must loose water quality and pay for expensive infrastructure to clean water for public beneficial uses. Water resources are essential to quality of life and if left with inadequate funding and staffing this becomes a National security issue. 14.17

4. Detention and retention basins are often times engineered for the 2-10 year storm event. The engineers have no plan for protecting down stream resources when these basins overflow beyond the engineered storm event. The permittee should post a bond in the event the basins fail and cause illicit discharge s to receiving waters. Engineers must guarantee that their work to within a small margin of error. The project applicant and lead agencies who approve erosion control plans/BMP must be aware that detention have a high probability of failure. During predicted large storm events, owners of projects should be prepared to maintain overwhelmed basins. 14.18

6. Many BMP structures lack adequate maintenance. BMPs structures like, silt fences, straw swaddles, detention and retention basins, drop inlets, pipes etc. can fail to prevent pollution to receiving waters when maintenance is lacking or large storm events overwhelm storm systems. WDR need to build into the MP adequate maintenance provisions, with self monitoring and monthly reports during the wet period. 14.19

7. In the case of cover crops vineyards where BMP include 75-80% cover crop, often the cover crop fails and is not preventing erosion. If cover crop does not establish then the project should be re-evaluated. Projects could demonstrate cover crop viability prior to project construction. Incentives could be offered to projects that succeed in year around over 80% cover crop. 14.20

8. While MP encourage preservation of environmentally sensitive sites, staff reviewing storm water plans have few incentives to offer a permittee. MP could encourage preservation of environmentally sensitive sites and inclusion of incentives for good storm water management and success. 14.21

8. Enforcement is lacking in failure of BMP allowing pollution events to continue throughout the wet season. The permit process needs to include hard and fast enforcement of failed projects, restitution and rehabilitation to the land and streams must be required by the WB. Failed BMP due to negligence, improperly installed erosion control structures should require mitigations and fines. 14.22

9. Sheet runoff will eventually enter receiving waters or point sources (MS4). Therefore, sheet runoff or non-point source pollution must require NPDES/WDR permits. Much of the sediment, nutrient and pathogen discharges are from agricultural projects that have necessitated the 303 (d) listing of this regions streams. While agricultural projects under 5% slope fall outside most ordinances and regulations, this category of storm water discharges are highly under scrutinized by regulatory agencies yet these discharges are laden with sediment, nutrients, pesticides and herbicides etc. Year around cover crop with coverage of at least 80%, crop rotation and biodynamic farming could be alternatives to highly industrialized single row crops. Farming incentives could encourage agri-business to change their pattern and practices 14.23

10. Post construction BMP should have a framework of inspection, reporting, maintenance and repair of erosion control devices that is easily monitored by the agency enforcing BMP. 14.24

11. The public should be able to have access to enforcement of BMP MEP. Repeat offenders should post ponds and the public should have access to mitigation measures, restoration etc. 14.25

12. Construction projects should be made to show that their projects will be complete or have BMP erosion control in place by the end of the grading period Oct. 15th. 14.26

13. Waivers after August 15th should not be allowed unless the project proponent posts a bond large enough to cover the damage to the environment should rain set in and the project is exposed. 14.27

14. Pattern and practice in the development world uses the least amount of straw to cover a disturbed landscape. Rilling occurs under the straw. The WB should require higher levels of coverage over disturbed soils. 14.28

Submitted by:
Chris Malan
Redwood Chapter
Water Committee Chair
707-2555-7434

Mona Dougherty - Draft Storm Water permit

From: Mike Frey <mike_frey@valpak.com>
To: "mdougherty@waterboards.ca.gov" <mdougherty@waterboards.ca.gov>
Date: 10/22/2008 12:13 PM
Subject: Draft Storm Water permit
CC: "Stevetwalters@sbcglobal.net" <Stevetwalters@sbcglobal.net>, Surfrider <SCorbin@surfrider.org>

To the North Coast Regional Water Quality Board

The Sonoma Coast Chapter of Surfrider Foundation strongly supports adoption of the draft Santa Rosa - Sonoma County MS4 NPDES Stormwater Permit. The draft permit is a well-written, comprehensive document that proactively addresses water quality issues in the watersheds and nearshore coastal waters of Sonoma County. Our members are residents of the area who depend on clean water and healthy aquatic ecosystems to maintain their quality of life. 15.1

Expanding the permit boundaries is a great way to start making this happen. Throughout the state more and more communities are addressing this, and we are happy to lend our support to this latest document. While it does increase overall project costs, that is necessary to keep our watersheds from being the urban water filters they have become. 15.2
We fully support this latest MS4 document in its latest form, and appreciate the work that has gone into making this happen.

Michael Frey
Co-Chair Sonoma Coast
Surfrider Foundation
Office & fax: 707-664-8257
Cell: 707-328-1427
VM: 1-800-257-0506 ext 322

COAST ACTION GROUP
P.O. BOX 215
POINT ARENA, CA 95468

October 18, 2008

John Short
Regional Water Quality Control Board
North Coast Region
5550 Skylane Blvd.
Santa Rosa, CA

Subject: Proposed Renewal of Waste Discharge Requirements, Order No. R1-2008-0106, NPDES No. CA0025054, WDID No. 1B96074SSON For The City of Santa Rosa, the County of Sonoma, and the Sonoma County Water Agency

Storm Water (Wet Weather) and Non-Storm Water (Dry Weather) Discharges from Municipal Separate Storm Sewer Systems - Initial Comments

General

Coast Action Group appreciates that the Regional Board recognizes the necessity for taking such action as described in the proposed project, Stormwater NPDES for Sonoma County and the City of Santa Rosa, and making an effort to move forward with such policy. The proposed Stormwater NPDES is appropriate and indicated by the degraded condition of the Laguna de Santa Rosa, Russian River (and its tributaries), and other noticed impaired listed water bodies in the City of Santa Rosa and County of Sonoma. 16.1

The Regional, and State, Water Quality Control Board(s) have the responsibility to manage the State's water resources to meet Water Quality Objectives and protect the Beneficial Uses described in the Basin Plan. Impaired listing status and degraded resources necessitate this proposed Stormwater NPDES Permit and related action plans.

The regional planning bodies, Sonoma County and the City of Santa Rosa, have not successfully addressed issue through their own regional planning mechanisms (i.e. General Plans and GP updates, and Zoning Code, Ordinance, Stormwater Plans, and NPDES permits. The proposed Stormwater NPDES Permit , including water resource conditions assessment, authorities, MEPs, BMPs, and protection guidelines will serve to clarify and indicate what actions these planning bodies should employ regarding the management these resources (protect surface waters, wetlands, and riparian areas) their specific areas of responsibility.

1

Impaired Waterbodies and the Basin Plan

The Stormwater NPDES Permit make accurate Findings (causes and necessity, authority (statutory regulations), area of responsibility, Stormwater Management Plan description and characteristics - including MEPs and BMPs (from various sources), and SRA-SUSUMP (and modifications).

The intent of the Stormwater NPDES permit is to reduce pollution from the various sources, noted in the permit, in compliance with the Basin Plan (Including Anti-Degradation language - and other State and Federal mandates) WQ Objectives and Beneficial Use designation and protection via use of the standards set forth in the Stormwater NPDES permit - with the final objective of meeting Water Quality Standards.

Basin Plan Anti-degradation Policy: *"Controllable water quality factors shall conform to the water quality objectives contained [in the Basin Plan]. When other factors result in the degradation of water quality beyond the levels or limits established [in the Basin Plan] as water quality objectives, then controllable factors shall not cause further degradation of water quality. Controllable water quality factors are those actions, conditions, or circumstances resulting from man's activities that may influence the quality of waters of the State and that may reasonably be controlled."*

The fact that degradation that has occurred under existing permits, programs, and Basin Plan prohibitions indicates that additional control language in the form of this permit is necessary. 16.2

BMPs

The above mentioned regional planning authorities and mechanisms often mention use of BMPs to protect water quality values. However, a description of what actually constitutes a BMP is usually missing in the planning authority's lexicon.

Recommendation: The Regional Board provide complete description of what BMPs for various land use operations that potentially effect surface waters, streams and wetlands might look like. 16.3

Information for the BMP assessment or formulation can be obtained from:

"Riparian Setbacks: Technical Information for Decision Makers"
http://www.crwp.org/pdf_files/riparian_setback_paper_jan_2006.pdf

"Riparian Buffer Width, Vegetative Cover, and Nitrogen Removal Effectiveness: A Review of Current Science and
Regulations",http://www.epa.gov/ada/download/reports/600R05118/600R05118.pdf

Ordinance and General Plans

Both, Sonoma County and the City of Santa Rosa have failed to adopt ordinance and planning guidelines that sufficiently deal with construction, agricultural land use practices - and - business operation practices that sufficiently limit pollutant runoff to surface waters during storm events. Such ordinance, business, and land use pollutant control and resource protection language shall be developed by the County of Sonoma and the City of Santa Rosa to comply with the Stormwater and NPDES objectives and requirements.

Note: Attached are comments by Coast Action Group on proposed Sonoma County Grading Ordinance for discussion of control of construction and agricultural impacts to surface waters.

Pollutant Offset Trading

The City of Santa Rosa has request that the Regional Board consider pollutant offset trading for to meet compliance discharge standards. Such offset trading should not be considered if the City fails to make substantial progress with their Stromwater Control Implementation Program. Stormwater discharge impacts to the Laguna de Santa Rosa are by far the largest input of N and P. Without progress in Stormwater Plan implementation any pollutant trading program is useless. 16.4

Economics

Economic analysis for the implementation of projects for water quality resource protection is difficult. It is almost impossible to determine the costs over the range of possible actions that may need to be taken. Variability of range of actions is unknown and almost impossible to estimate. Assessing monitory value to accrued benefits of such policy is similarly vague. Their are accrued benefits to near stream landowners, fisher people, water users, recreationists, fish and wildlife values that would have to be accounted for. What is the value of clean water?

The proposed NPDES does call for financial responsibility to support needed programs.

The bottom lines is it is the responsibility of the Regional Board, under State Water Code and the regional Basin Plan, to take action that assures the protection of Beneficial Uses and attainment of Water Quality Objectives/Standards.

Other references to review for appropriate regulatory guidelines are:

Coho Recovery Guidelines (DFG) - DFG has specific land use recommendations to control pollutant impacts in for areas in Sonoma County - Russian River, Gualala River, and other coho water bodies in the County of Sonoma. This document should be referenced in this permit process.

NRDC
THE EARTH'S BEST DEFENSE

NATURAL RESOURCES DEFENSE COUNCIL

December 17, 2008

Via U.S. Mail and electronic mail

Mr. Robert E. Anderson and Members of the Board
North Coast Water Quality Control Board
5550 Skylane Boulevard, Suite A
Santa Rosa, CA 95403

Re: Draft NPDES Stormwater Permit for Sonoma County

Dear Chair Anderson and Members of the Board:

We write on behalf of the Natural Resources Defense Council and its 120,000 members in California. We have been involved in MS4 permit matters across the state, with a focus on the implementation of low-impact development ("LID") practices. As a general matter, we strongly support LID because it is the most effective means of addressing the water quality and quantity problems associated with urban runoff. LID practices seek to replicate pre-development hydrology through the deployment of measures that infiltrate or capture water onsite, thereby significantly reducing the amount of water and water-borne pollutants that drain from developed areas. Since urban runoff is the single greatest contributor to water pollution in California, widespread implementation of LID is vital to the health of our state's renowned ecosystems. LID techniques are also feasible on a very wide range of project sizes and land use categories,[1] as demonstrated in the attached studies by national stormwater expert Dr. Richard Horner.

We believe that LID techniques are required by the Clean Water Act's "maximum extent practicable" ("MEP") standard for pollution reduction because of their practicability, low cost, and superior performance relative to conventional BMPs. Additionally, LID practices generate significant ancillary benefits—such as cost

[1] The Permit's applicability section (D.4) is consistent with other MS4 permits in California and reflects the emerging consensus that nearly all development typologies can successfully and feasibly implement LID stormwater management techniques. We recommend that the Regional Board extend the reach of the Permit to all categories of development creating over 5,000 square feet of impervious surface, including residential development. Additionally, the threshold for single-family home redevelopment projects is set so high (10,000 square feet) that almost no project would ever qualify—this requirement should at least mirror the rest of the applicability section, which has set a threshold of 5,000 square feet.

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savings, reduced need for imported water, and improved aesthetics—for developers, building owners, and city residents. For all of these reasons, we support the North Coast Regional Water Quality Control Board's inclusion of LID practices in the Draft MS4 Permit ("Permit") for Sonoma County, the City of Santa Rosa, and the Sonoma County Water Agency.

There are, however, several areas in which the Permit should be strengthened to provide the robust protections needed to ensure healthy waters and ecosystems in California.

I. Effective Impervious Area Limitation

Currently, the Permit does not contain any numerical performance standards for LID BMPs. Although the Permit does require the Permittees to develop a LID technical guidance manual with specifications for the implementation of LID strategies (section D.5.3(b)), the Permit itself must establish the basic performance requirements for stormwater management systems. This would enable the Permit to achieve pollution reduction to the MEP standard, as well as consistency in the implementation of LID across jurisdictions in Sonoma County. 17.1

To accomplish specific water quality and water supply improvements, one of the most straightforward and effectual means of setting a numerical standard for LID implementation is to impose an effective impervious area ("EIA") limitation. This numerical standard requires development projects to decrease the total area that drains to storm sewer systems by "disconnecting" impervious surfaces. In other words, although a site may include 50% impervious cover, if stormwater is infiltrated or captured and reused to a significant extent, much less than 50% of the site will actually drain to the storm sewer system. An EIA provision, such as proposed for the Ventura County MS4 Permit and Orange County MS4 Permit,[2] would translate the objectives set forth in section D.4.1 of the Permit into a standard that can be implemented by builders and enforced by municipal inspectors. As the reports (Attachments 1, 2, and 3 to this letter) by Dr. Richard Horner demonstrate, a minimum 5% EIA limitation (with waiver possibilities in limited circumstances, such as non-infiltrative soils) is both necessary for maintaining the integrity of Northern California's watersheds and achievable for development typologies in the region. For this reason, we urge the Regional Board to include a binding 5% EIA limitation in the Permit.

II. Design Storms & Hydraulic Sizing

The lack of an EIA provision hobbles the Permit, and so too does the lack of any generally applicable design storm hydraulic sizing criteria (as listed in section D.5.5) that would apply without regard to "water quality risk." As currently written, the Permit would apply these sizing criteria only to "medium water quality risk projects," giving Permittees no direction

[2] NPDES Permit No. CAS004002 at 53 (April 29, 2008, Ventura County Draft Tentative); NPDES Permit No. CAS618030 at 48, 52-54 (November 10, 2008, Orange County First Draft). Note, however, that the Ventura County Draft Tentative fails to impose sizing criteria (such as a two-year storm event, as proposed in the Orange County First Draft, or SUSMP volume- and flow-based design storm criteria) for the EIA standard, which opens it to abuse.

regarding the appropriate sizing criteria for low risk and high risk projects. While high risk projects could be subjected to more stringent design storm standards, the sizing criteria in section D.5.5 should serve as a floor for compliance for all projects. This would make the Permit consistent with other MS4 permits in California, including, for instance, section D.1.d(6)(c) of the San Diego Region permit (Order No. R9-2007-0001) and section C.3.d of the San Francisco Bay Region draft permit (Order No. R2-2007-XXXX). We are also concerned about the subjectivity and arbitrary nature of a crude "low," "medium," and "high" paradigm. 17.2

III. Hydromodification Control Criteria

Adverse hydromodification is a major problem exacerbated by the early, high peak flow rates and volumes that result from impervious surfaces and traditional urban stormwater management practices. For this reason, we strongly support hydromodification control criteria to ensure that post-development peak flow rates and volumes do not exceed pre-development peak flow rates and volumes. Although the Permit does include interim criteria (section D.5.4(a)(2)), we recommend the following hydromodification standard for Sonoma County: 17.3

> *Post-development peak flow rates and volumes shall not exceed pre-development peak flow rates and volumes for all storms from the channel-forming event to the 100-year frequency stream flow.*

This standard could be implemented through the Permit itself or through the watershed-specific HCPs that the Permittees will be required to submit.

IV. Alternative Post-Construction Stormwater Mitigation Programs

The goal of LID practices is typically to distribute stormwater management features throughout project sites and to manage runoff on a lot-by-lot basis. We recognize that in certain circumstances developers may seek to comply on a broader scale. In this regard, we also believe that alternative, regional or sub-regional solutions should be strictly limited and crafted to ensure the same beneficial results vis-à-vis water quality and quantity. The alternative compliance option currently in the Permit is insufficient in this regard. As the Permit's alternative compliance provisions mirror the provisions in the Ventura County draft MS4 permit, we have included our redline suggestions for Ventura County's draft MS4 permit as Attachment 4 to this letter. 17.4

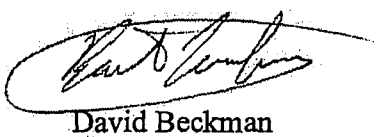
V. Conclusion

We support the Regional Board's efforts to integrate LID practices into the stormwater management requirements for new development and redevelopment in Sonoma County. This integration is necessary for the Permit to meet the Clean Water Act's MEP standard because of the superior water quality benefits and feasibility of widespread LID implementation. There remain, however, several gaps in the Permit that risk undermining its effectiveness, particularly the lack of numerical performance standards and the vague language of the alternative 17.5 17.6

stormwater mitigation program provisions. We urge you to rectify these problems before approving the Permit.

Please feel free to contact us if you have any questions.

Sincerely,



David Beckman
Bart Lounsbury
Natural Resources Defense Council

NCRWQCB

DEC 0 1 2008

☐ EO ☐ WMgmt ☐ Admin
☐ AEO ☐ Timber ☐ Legal
☐ Reg/NPS ☐ Cleanups ☐
☐ Date

O'KEEFE JAMES E
(Name: Please Print)

[redacted]

(Town) (Zip Code)

November, 2008

North Coast Regional Water Quality Control Board
Catherine Kuhlman: Executive Officer
5550 Skylane Blvd. Suite A
Santa Rosa, CA 95403

Dear Ms. Kuhlman and Board Members:

I am a supporter of Russian River Watershed Protection Committee (RRWPC) and an advocate of strong Russian River water quality policies. I urge you to share this letter with your Board Members and staff. I also request that you add my name and address to your list of concerned citizens so that I might receive notices of future meetings and availability of documents on proposed Basin Plan Amendments concerning "incidental runoff", as well as the recently released Storm Water Permit that promotes irrigation with wastewater and allows "incidental runoff". 18.1

For the following reasons, I am very concerned about this proposed permit in regards to "non-storm water discharges" and would like to request that you address the following:

- In summer, creeks are low and slow and cannot assimilate wastewater discharges Because this is the time of greatest recreational use and greatest vulnerability to toxins, no runoff of any kind should be allowed. The summer discharge prohibition has been in effect since the late 1970's and should continue indefinitely. 18.2
- Many people use pesticides on their lawns, which have estrogenic properties and can cause neurological, developmental, reproductive, and cancer causing health problems for humans, pets, and wildlife. Irrigation with wastewater that contains many unregulated toxins should not be allowed at all on sites where chemicals are used or bio-solids applied. There should also be required set backs from streams. 18.3
- The Laguna is listed as impaired for nitrogen, phosphorus, dissolved oxygen, temperature, and sediment Runoff may cause nutrient rich waters to enter the Laguna and further impair its water quality. This in turn can exacerbate Ludwigia growth, the exotic plant causing havoc in the Laguna area. 18.4
- The cumulative impacts of numerous runoff events can be devastating to the Laguna waterways and downstream beneficial recreation use. Please address these issues.

Sincerely,

James E. O'Keefe 11-19-08

(Signature) (Date)

January 20, 2009

Catherine Kuhlman, Executive Officer
North Coast Regional Water Quality Control Board
5550 Skylane Blvd., Suite A
Santa Rosa, CA 95403

RE: The Basin Plan Amendment, Third Proposal

Dear Ms. Kuhlman:

My wife and I own property on the Russian River in Guerneville, both rental property and personal property, right on the river bank. We boat and swim in it nearly every day in spring, summer and fall. The thought of creating regulations that make pollution easier causes us great alarm. 19.1

One of your proposals which allows incidental runoff should include strict attention to the toxic pollutants which occur in this manner.

Waste water irrigation should be monitored and analyzed to determine the pollutants it contains and procedures should be in place to remove them. 19.2

In view of this problem regulations should be put in place to avoid irrigation on lawns that have been treated with special chemicals.

I know you have a tough job, but I hope you will not ignore our urgent pleas for protection against these unseen steathy and deadly invaders of our environment.

Sincerely,

Hal Olson

Hal Olson

[redacted]

January 27, 2009

Catherine Kuhlman. Executive Officer
North Coast Regional Water Quality Control Board
5550 Skylane Blvd. Ste. A
Santa Rosa, CA 95403

Dear Ms Kuhlman
I am writing concerning the proposed Basin Plan amendment entitled

Water Quality Control plan for the north Coast Region to establish exception criteria to the Point source Waste Discharge Prohibitions By Revising the Action Plan for Storm Water Discharges and adding a new action Plan For Low threat Discharges. 20.1

as a property owner concerned about the environment and clean water, I am aware of the possibility of unregulated chemicals being released during winter rain conditions especially. therefre I support your efforts to ameliorate conditions that speed the flow of Pollutants into our waterways.

Secondly, this proposed amendment addresses situations that may occur any time of year, where a planned discharge is necessary for an activity that serves the public benefit and is determined to be of low threat to the environment. this includes well and public 20.2

infrastructure testing, Construction dewatering, and similar types of point source discharges that are considered a low threat to water quality, yet must be regulated. 20.3

It is the third proposal that causes great concern, and includes allowing non storm water runoff and/or "incidental" runoff defined as "incidental discharges that are unanticipated, accidental and infrequent." Originally this was going to be dealt with as a separate Basin Plan Amendment, but now relies on future implementation of Best Management Practices that have yet to be developed. Because these discharges have the potential for great harm, I am requesting that you remove this part of the Amendment until the "BMPs" to protect water quality can be further examined

Yours very truly,

Leo Smith

[redacted]