

STATE OF CALIFORNIA

California Regional Water Quality Control Board
North Coast Region

Order No. R1-2009-0050
NPDES No. CA0025054
WDID No. 1B96074SSON

Response to Comments on the First Draft
Waste Discharge Requirements
for

The City of Santa Rosa, the County of Sonoma, and
the Sonoma County Water Agency

Storm Water and Non-Storm Water Discharges from
Municipal Separate Storm Sewer Systems (MS4)

Comment Letter No.	Commenter
1	Sonoma County Water Agency (SCWA)
2	City of Santa Rosa
3	County of Sonoma
4	Russian River Watershed Association
5	Brelje and Race
6	American Council of Engineering Companies
7	Burbank Development Company
8	Sonoma County Fire Chiefs' Association
9	California Department of Transportation
10	Russian River Watershed Protection Council (RRWPC)
11	United States Environmental Protection Agency
12	Russian River Keepers
13	Marin/Sonoma Vector Control District
14	Sierra Club
15	Surfrider Foundation
16	Coast Action Group
17	Natural Resources Defense Council
18	RRWPC Form Letters
19	Hal Olson
20	Leo Smith

Comment numbers are contained in the accompanying PDF document that includes the comment letters that Regional Water Board received on the first draft of this Permit.

Comment Topics and Nos.	Summary Comment	Response
California Toxics Rule		
2.39, 2.50	Commenters assert that the California Toxics Rule does not apply to storm water discharges and the Rule should not be discussed in the draft Permit.	CTR objectives apply to all inland surface waters, enclosed bays and estuaries.
Comment Period		
1.7, 1.25, 2.54, 3.1, 3.2, 3.3, 4.1, 3.24, 3.127, 4.6	Commenters contend that the permit development process has not allowed enough opportunities for Co-Permittee participation and the comment periods have not been long enough.	Prior to the drafting of the Permit, Regional Water Board (RWB) staff met several times with the Co-Permittees to discuss issues related to the renewed permit. A 43 day comment period was provided after the release of the first draft Permit, which is almost two weeks longer than required by law. (40 CFR §124.10.) In addition, the RWB staff held numerous meetings with the Co-Permittees and interested persons to discuss issues and concerns. At these meetings, the Co-Permittees submitted redline versions of the Permit with specific requested changes for RWB staff consideration. After consideration of the issues raised in meetings and of written comments received on the draft Permit, the RWB staff released a second draft Permit, which is being given an additional 45 days comment period. RWB staff has held over 30 individual meetings with commenters (the majority with the Co-Permittees) and will have held at least three public workshops and a public hearing prior to adoption of the Permit. RWB staff has given the Co-Permittees unprecedented opportunities to participate in the development of this Permit.

Comment Topics and Nos.	Summary Comment	Response
Construction Storm Water		
3.86, 3.100	Commenters state draft Permit prohibits construction projects under an acre from discharging storm water to the MS4.	Commenters are incorrect. The draft Permit contains a table of BMPs for use on construction sites under an acre. The draft Permit requires that the Co-Permittees regulate small construction sites to keep pollutants out of the MS4 as they are responsible for the discharge from their MS4 to receiving waters.
14.1	Commenter states that construction storm water BMPs need to be properly maintained to be effective and requests additional requirements in the draft Permit to improve maintenance, monitoring and reporting.	RWB staff agrees with the comment. RWB staff carefully weighed the requirements in the construction storm water section of the draft Permit to reach a balance between protection of water quality and the economic situation of the Co-Permittees. RWB staff has determined that the requirements in the draft Permit are feasible, fair, and protective of water quality. We believe that the Permit already requires effective BMPs (properly maintained) to control sediment discharges into the MS4.
2.113, 3.68, 5.6, 5.23	Commenters assert that the Co-Permittees cannot regulate or enforce discharges from construction and industrial sites, and that these sites are regulated under statewide general permits.	Municipalities are required to regulate discharges into regulated MS4s from construction and industrial sites using their municipal legal authority. (40 CFR §122.26(d)(1)(ii).) Municipalities are responsible for discharges from their MS4 to waters of the United States, and they must have adequate legal authority to control pollutants entering their MS4. These sites have been identified by U.S.EPA for dual regulation and are regulated under statewide permits as well. Municipal storm water regulations require local municipalities to control the discharge of pollutants from construction activities.

Comment Topics and Nos.	Summary Comment	Response
5.26, 5.28, 9.11	Commenters question whether all BMPs listed in the Permit for construction storm water control are required even if inappropriate for the construction site.	Only appropriate BMPs should be used to control the discharge of pollutants in storm water.
Construction Storm Water, Grading Restrictions		
3.98, 3.99	Commenters request to allow some projects or sites to be exempt from wet season grading restrictions.	The draft Permit allows the Co-Permittees to grant a variance for this requirement if through plan review, inspections, monitoring and implementation of iterative BMPs the project can be reasonably expected to keep storm water runoff from causing or contributing to degradation of water quality.
3.158	Commenter asks if emergency projects would be prohibited.	No projects are prohibited.
9.9	Commenter questions the appropriateness of the numeric targets in the grading restrictions in the draft Permit.	The numeric goals in the grading restriction are achievable via the use of BMPs and are therefore appropriate.

Comment Topics and Nos.	Summary Comment	Response
Co-Permittee Separation of Responsibility for Permit Requirements		
1.1, 1.6, 1.8, 1.10, 1.12, 1.13, 1.17, 1.18, 1.19, 1.21, 1.29, 1.30, 1.31, 1.32, 1.33, 1.34, 1.40, 2.3, 3.12, 3.16, 3.97, 3.164, 9.7	The Co-Permittees request that the Permit specify what requirements, duties, and authorities are applicable to each Co-Permittee.	The Permit was modified in the second draft to discuss general responsibilities of the Co-Permittees for their MS4s, but it would be overly cumbersome to assign responsibility individually for every requirement in the draft Permit. Additionally, RWB staff believes that definitions within the regulations governing storm water requirements already limit the responsibilities of each Co-Permittee. Section 122.26(a)(3)(vi) states that Co-Permittees need only comply with permit conditions relating to discharges from the MS4s for which they are operators. RWB staff expect the Co-Permittees to work cooperatively to achieve the goals of the Permit, and do not want to remove flexibility from the Co-Permittees' process. If the Co-Permittees would like to add specificity in their SWMP, we would support that.

Comment Topics and Nos.	Summary Comment	Response
Cost Concerns and Financial Analysis		
1.5, 1.24, 2.7, 2.9, 2.31, 2.91, 2.124, 3.7, 3.10, 3.29, 3.56, 3.131, 6.1	Commenters contend that requirements in the draft Permit are financially infeasible and require Regional Water Board staff to perform a financial analysis.	The draft Permit contains measurable goals consistent with requirements contained in other MS4 permits in California and other states. RWB staff made 132 substantive modifications to the draft Permit between the first and second drafts at the Co-Permittees' request. Many of these changes were intended to lessen the financial impact of permit requirements. These modifications include removal of the proposed expansion of the permit boundary. The Fact Sheet includes a section on economic concerns and discusses a study recently commissioned by the State Water Board for the California State University, Sacramento to assess costs of the Phase I MS4 program. This study includes an assessment of costs incurred by Phase I MS4 permittees throughout the State to implement their programs. Annual cost per household in the study ranged from \$18-46, with the City of Encinitas in San Diego County representing the upper end of the range. RWB staff is not legally required to prepare a fiscal analysis, but we are willing to consider any information that the Co-Permittees submit.
Definition of Maximum Extent Practicable		
2.157	Commenter requests a definition of MEP.	Please review the definitions in attachment C. An expanded discussion of MEP can also be found in the Fact Sheet.

Comment Topics and Nos.	Summary Comment	Response
Definition of Violation		
9.1, 9.2	Commenters ask how the definition of violation differs from that of exceedance.	An exceedance of water quality standards or receiving water limits may not be a violation of permit conditions if the Co-Permittees are engaged in an iterative BMP process to achieve compliance.
Definitions		
2.10, 2.14, 2.15, 2.155	Commenters request definitions for common storm water terms.	These terms are understood by storm water professionals, and are either defined in the draft Permit and/or regulations, or do not have a specific regulatory context and specified requirements.

Comment Topics and Nos.	Summary Comment	Response
Firefighting and Related Flows		
2.16, 2.59, 2.164, 2.165, 2.166, 3.11, 3.122, 3.123, 3.125, 3.126, 8.1, 8.2, 8.3, 8.4, 8.5	Commenters request that all firefighting related flows (such as training, maintenance of equipment, fire hydrant flushing, testing of sprinkler systems) be exempt from developing a BMP program like emergency fire fighting flows are exempt in the draft Permit.	In the draft Permit, emergency firefighting flows are exempt from development of a BMP program, but the use of BMPs is recommended, where feasible. For non-emergency firefighting related flows, development of a BMP program is both appropriate and feasible. This requirement in the draft Permit is consistent with what is required in the Low Threat Discharge Basin Plan Amendment. BMPs for these activities can include outreach to fire departments, diversion of flows to land for infiltration and evaporation, and the use of chlorine treatment systems. Within the last few years, RWB staff has received complaints of polluted surface waters (in Occidental and Ukiah) due to improper discharge of pollutants during firefighting training and maintenance activities. We have also received anecdotal comments that the water flushed during sprinkler testing is not benign, but polluted because of stagnation and long term contact with metals. RWB staff met with the Fire Fighter's Association to discuss permit requirements and have provided flexibility in the second draft of the permit to the fullest extent possible under the Basin Plan. RWB staff believes simple, common sense BMPs can be easily implemented without impacting necessary fire department activities.
2.163, 3.121, 3.124, 8.2	Commenters assert that emergency firefighting flows are prohibited in the draft Permit without the use of BMPs.	The draft Permit does not require the use of BMPs during emergency firefighting activities, but instead recommends use of BMPs where feasible, especially if hazardous materials are involved.

Comment Topics and Nos.	Summary Comment	Response
Grant Funds		
2.33	Commenter notes that grant funds cannot be used to fund permit requirements.	RWB staff is aware of some grant programs that are unavailable for programs required by RWB permits. However, there are many state, federal and private funding opportunities for implementing storm water programs.
Hydromodification		
6.3	Commenter states that a hydromodification plan is not needed because of municipalities' general plans.	RWB staff disagrees that the general plans specifically address hydromodification and provide adequate protection from flooding and channel erosion. There are many examples of urban streams already impacted by hydromodification.
6.7	Commenter asserts that hydromodification requirements are not needed because the storm drain channels have been designed for ultimate urban buildout.	RWB staff strongly disagrees. Flooding, channel erosion and habitat degradation occur on streams within the permit boundary due to hydromodification and it is appropriate for the draft Permit to address this storm water problem.
3.27	Commenter states that RWB staff has asked them not to proceed with a hydromodification plan until the State produces guidance documents.	The draft Permit allows time for development of a hydromodification plan in order to gain from knowledge propagated in other areas.
3.28, 3.36	Commenters assert that the Permit's hydromodification goals cannot be met in clay soils because of reduced infiltration.	Low impact development (LID) techniques utilize evapotranspiration, storage as well as infiltration in order to reduce runoff from urban areas. Soil restoration by introduction of compost and other soil amendments is commonly used to enhance percolation. Commenters should also be aware this requirement is the same as in the previous permit adopted in 2003.

Comment Topics and Nos.	Summary Comment	Response
11.3, 17.3	Commenters request specific performance standards in a quantitative approach be added to the Permit and the requirement that “post-development peak flows and volumes match pre-development peak flows and volumes for all storms from channel forming to the 100-year frequency flow.”	RWB staff added performance standards to the draft Permit in the interim requirements, but left flexibility for the Co-Permittees, with RWB input and approval, to develop their own standards in the final plan based on what method is used to address hydromodification.
5.19	Commenter questions whether hydromodification requirements apply to projects that remodel or add on to an existing home.	If the remodel or home addition adds an acre or more of new impervious surface, hydromodification controls are required. However, in light of the benefits to ground water supply, energy savings and pollution reduction, we encourage the Co-Permittees to recommend use of Low Impact Development for all types of development.

Comment Topics and Nos.	Summary Comment	Response
9.7	Commenter states that it would be efficient and cost-effective if the draft Permit allowed collaboration between the Co-Permittees and made exceptions for channel hardening.	The draft Permit encourages the Co-Permittees to collaborate on tasks in order to avoid unnecessary repetition. To exempt development that discharges to a hardened channel from hydromodification requirements would only be protective of water quality if the channel hardening continued until the discharge entered the ocean. The North Coast Region is blessed with many natural stream systems and RWB staff does not believe that converting streams to hardened flood channels is appropriate. Furthermore, to qualify for this type of exemption, the Co-Permittees would have to evaluate the condition of all streams within the permit boundary and downstream for their risk of erosion. This would be very costly. Previously, the Co-Permittees requested that the option for this risk analysis (included in the first draft Permit) be removed from the second draft Permit.
Illicit Discharges and Connections		
3.77	Commenter contends that the Permit will cause an increase in illegal activity due to increase regulation of pollutants in storm water.	RWB staff does not agree with this comment. The intent of the draft Permit is to reduce the discharge of pollutants from the MS4. The Co-Permittees are required to implement programs to detect and eliminate illegal discharges. (40 CFR §122.26(d)(iv)(B).)
Implementation Schedules		
1.39, 2.69, 2.84, 3.7, 3.12, 3.30, 3.96, 4.1, 4.2, 4.3, 4.4, 4.5, 9.3	Commenters request additional time to implement requirements in the draft Permit.	RWB staff held over 30 individual meetings with commenters and attempted to provide feasible and fair implementation schedules in the second draft Permit. The second draft Permit reflects, in most cases, requests made by Co-Permittees for extended implementation schedules.

Comment Topics and Nos.	Summary Comment	Response
Industrial/Commercial Program		
3.97	Commenters contend that the Industrial and Commercial Program should be removed from the Permit and implemented by the RWB.	The industrial and commercial facilities program is a required element of a Phase I permit by U.S.EPA regulations. The Co-Permittees are responsible for the discharges from their MS4 to receiving waters, and must therefore regulate entities that discharge to their MS4.
11.6	U.S.EPA recommends that the draft Permit “include all industrial facilities as defined at 40 CFR 122.26(b)(14), including those subject to the state wide 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.”	Comment noted. RWB staff did not find a substantive difference between the permit referenced and the draft Permit. Please provide additional information and we will evaluate.

Comment Topics and Nos.	Summary Comment	Response
Iterative BMPs and Continual Improvement		
2.43	The City of Santa Rosa is concerned about one of the findings that states that the Co-Permittees shall continue to look for additional opportunities to reduce pollutants discharged from the MS4.	The storm water program is not intended to remain static. One of the most important tenets of the program is that as storm water programs, technologies, and technical knowledge evolves, permittees are expected to actively improve their programs and use of BMPs. Previous permits did not adequately require the Co-Permittees to re-evaluate their permit programs to focus on those BMPs that are most cost-effective and protective of water quality. Municipal storm water programs need to evolve over time and permittees should continually evaluate the success and shortcomings of their programs and make necessary changes. Grant funding is also becoming increasingly available for storm water projects and RWB staff expects the Co-Permittees to actively pursue grant funds to increase their protection of water quality.

Comment Topics and Nos.	Summary Comment	Response
Lack of Clarity		
1.14, 2.4, 2.11, 2.12, 2.29, 2.37, 2.40, 2.42, 2.47, 2.49, 2.52, 2.55, 2.66, 2.68, 2.89, 2.93, 2.110, 2.115, 2.121, 2.130, 2.160, 2.161, 2.162, 3.4, 3.17, 3.35, 3.37, 3.38, 3.56, 3.67, 3.76, 3.81, 3.84, 3.132, 3.141, 3.143, 3.144, 5.2, 5.9, 5.11, 5.15, 5.17, 5.19, 5.28, 6.3, 6.6, 9.3, 9.12, 9.13, 9.14, 10.6	Commenters submitted questions or statements that were unclear or referenced language that was not included in the draft Permit.	RWB staff attempted to address these comments, but could not find the reference in the draft Permit or was confused by the commenter's question. If the commenter's question persists in the second draft Permit, please submit additional comments within the second comment period (ending July 6, 2009 at 12:00 p.m.) with clarifying information.
Legal Basis		
3.78	Commenter questions the legal basis for requirements in the Permit.	The legal basis for the requirements of the draft Permit are primarily established in section 402(p) of the Clean Water Act and section 122.26 of title 40 of the Code of Federal Regulations, as detailed in the Fact Sheet.

Comment Topics and Nos.	Summary Comment	Response
Low Impact Development (LID)		
5.18	Commenters note that the LID program in the draft Permit will require land planners, developers, engineers, and contractors etc. to learn new site design techniques.	RWB staff agrees. The draft Permit references LID measures that are being actively utilized throughout California and nationwide. In the North Coast Region, many design consultants and developers have implemented LID measures. For those entities that are not familiar with these methods, there are many design manuals, training classes, demonstration projects and programs statewide to provide information on LID. Additionally, the Co-Permittees will provide outreach on their LID manual when it is developed. Some innovative engineers have already taken the initiative to become expert in LID techniques.
12.4, 12.5, 12.8, 17.5	Commenters support the use of LID to protect water quality. Commenters support the incorporation of LID into the Standard Urban Stormwater Mitigation Plan (SUSMP). Commenters note that LID helps control hydromodification.	Comments noted.
3.61	Commenter states that the discussion of LID in different areas of the Permit is not identical.	RWB staff agrees that the LID/SUSMP language in the first draft Permit may have been difficult to follow. In the second draft, RWB staff tried to ensure that the discussion and goals of LID are consistent throughout the draft Permit. If commenters want to submit more detail on the perceived inconsistency, RWB staff will reevaluate.
5.4	Commenter contends that LID techniques may not be applicable for northern California.	RWB staff strongly disagrees. Bioretention and treatment using soil and vegetation, rain water storage and reuse, as well as other LID BMPs are feasible in northern California.

Comment Topics and Nos.	Summary Comment	Response
5.5	Commenter contends that storing rainwater creates a habitat for breeding mosquitoes.	As with other potable and wastewater storage features, properly designed and operated rainwater storage devices do not create habitat for breeding mosquitoes.
5.22	Commenter questions how inspectors will gain access to LID BMPs on private property.	The Co-Permittees need to develop options, such as creating easements or agreements to allow inspection access, where necessary, for areas containing storm water treatment BMPs. Other options are approving designs that include the placement of BMPs in an easily accessible area, or encouraging the BMPs to be located on public land near a street or sidewalk.
9.6	Commenter states that it would be more cost effective for the Co-Permittees to adopt an existing LID manual than to create their own.	RWB staff has encouraged the Co-Permittees to adopt an LID manual prepared by another organization as long as that manual meets all the requirements in the draft Permit and contains all of the local information needed.
11.1, 11.2, 17.1	Commenters request that specific LID performance requirements be added to the draft Permit to ensure proper implementation of LID.	The revised draft Permit includes clarifications for the sizing and other design criteria for LID techniques.
14.8	Commenter states that LID requirements should include preservation of tree canopy and sensitive biological areas.	The existing SUSMP manual (required by the current MS4 permit) contains a requirement to preserve natural areas. RWB staff will collaborate with the Co-Permittees in the development of the LID manual to ensure that preservation of natural areas (including natural soils and vegetation) is considered in the project approval process.

Comment Topics and Nos.	Summary Comment	Response
Maximum Extent Practicable (MEP)		
2.48, 2.74, 5.9, 6.1	Commenters request the phrase "to the MEP" be added in various locations in the draft Permit.	RWB staff has included this phrase in many places in both drafts of the Permit. It is not needed, however, to include this phrase in every requirement of the draft Permit. The Co-Permittees are required to reduce the pollutants in their storm water discharges to the maximum extent practicable and comply with water quality standards. These concepts are discussed in the Fact Sheet and the draft Permit.
12.3	Commenter disagrees that MEP is partially determined by economic conditions.	RWB staff believes that an appropriate component of MEP analysis is economic feasibility. And RWB staff has accordingly drafted a Permit that achieves the MEP standard.
Monitoring and Reporting Program		
9.17	Commenter states that special studies exceed the requirements of NPDES permits.	RWB staff disagrees. The goal of special studies is to evaluate the effectiveness of BMP programs and to study how BMPs should be prioritized in the future. Storm water permits, and other NPDES permits typically contain requirements to perform special studies.

Comment Topics and Nos.	Summary Comment	Response
Non-Storm Water Discharges		
2.62, 2.92, 3.53, 10.2, 10.5, 12.2, 16.3, 18.3, 20.1	Commenters ask about specific BMPs that will be used to control non-storm water discharges.	The draft Permit allows the Co-Permittees to develop non-storm water BMP programs for Executive Officer approval. RWB staff does not intend to prescribe a complete complement of BMPs to control non-storm water discharges in the draft Permit. The draft Permit does, however, give the Co-Permittees direction with a limited set of BMPs. RWB staff expects the Co-Permittees to add to this list based on their specific programs. The RWB Executive Officer will decide whether to approve a specific BMP plan after an opportunity for public review and comment.
10.3, 10.5, 18.1, 18.2, 18.3, 18.4, 19.2, 20.1	Commenters are concerned that the State Water Board has not addressed emerging contaminants.	The State Water Board has addressed the issue of constituents of emerging concern in the recently adopted Recycled Water Policy.

Comment Topics and Nos.	Summary Comment	Response
10.8	<p>Commenter states “this section talks about CWA requiring MS4 permits to reduce discharge of pollutants to MEP. How does this interface with section 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 it determined in this plan? Also in Section 46 where it states that, "Storm water runoff is a significant contributor of pollutants to impaired waters." Then in section 49 it states, "the CWA requires NPDES permits to effectively prohibit non-storm water discharges,..." "Federal cases have held these 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?"</p>	<p>MS4 permittees must reduce the discharge of pollutants to the MEP and discharges to receiving waters must comply with water quality standards. RWB staff does not understand the rest of this question or the connection to the wastewater treatment plant permit.</p>

Comment Topics and Nos.	Summary Comment	Response
10.1	Commenter asks what is meant by "effectively prohibit non-storm water discharges".	The intent of the non-storm water BMP programs is to eliminate or minimize non-storm water discharges. The permit recognizes that eliminating some categories of non-storm water discharges are easier than others. For example, discharges due to pipeline breakage or vandalism of irrigation systems cannot realistically be eliminated in all cases.
10.4, 12.2, 18.1, 18.2, 18.4, 19.1	Commenters state that the draft Permit appears to legitimize "incidental runoff" and "low threat discharges"	RWB staff disagrees. The intent of the draft Permit is to reduce or eliminate non-storm water discharges. The draft Permit includes a public BMP approval process that will authorize the Co-Permittees to allow some low threat discharges if approved BMPs are used. The BMPs shall include inspection, operation and maintenance and enforcement provisions.
2.56, 2.58, 2.61, 2.62, 2.64, 3.53	Co-Permittees contend that the draft Permit prohibits the non-storm water discharges listed in Table 1.	The commenters are incorrect in stating that the draft Permit prohibits these discharges. Many of these discharges are already prohibited by the Clean Water Act, storm water regulations and Basin Plan prohibitions. Table 1 lists non-storm water discharges that the Co-Permittees can allow upon development of BMP programs for Executive Officer approval. If the Co-Permittees develop and implement approved BMP programs, they are allowed to discharge these non-storm water flows.

Comment Topics and Nos.	Summary Comment	Response
5.1	Commenter asks if anyone with an irrigation system needs a permit in case there is irrigation runoff.	Nothing in the permit requires irrigation systems to obtain a permit. The Co-Permittees have two choices in dealing with incidental runoff into storm drains; they can prohibit such activities from discharging to their MS4, or they can develop a BMP program for Executive Officer approval to allow these discharges with the proper use of BMPs. If a Co-Permittee chooses to prohibit discharges of irrigation runoff from entering the MS4 rather than develop a BMP program for Executive Officer approval to minimize or eliminate these discharges, the Co-Permittee must enforce their ordinance prohibiting these discharges.
1.27, 2.63	Commenters request clarification of whether non-commercial car washing needs the authorization of the RWB Executive Officer.	Co-Permittees have two choices in this matter; they can prohibit such activities from discharging to their MS4, or they can develop a BMP program for Executive Officer approval to allow these discharges with the proper use of BMPs.
1.41	Commenters request clarification on the meaning of excessive summertime flows in the visual monitoring requirements of the Monitoring and Reporting Program.	The MS4 should discharge only storm water to surface waters. Flow discharging from the MS4 during dry weather is non-storm water, and these flows should be eliminated, or minimized if authorized. Any visible flows discharging from the MS4 in the dry season should be monitored as required in the Monitoring and Reporting Program.
Nutrients		
16.4	Commenter requests that the RWB not consider pollutant offset trading for nutrients unless the City of Santa Rosa makes progress on implementation of their storm water program.	Comment noted.

Comment Topics and Nos.	Summary Comment	Response
Permit Boundary Expansion		
1.2, 1.9, 1.15, 1.16, 1.42, 3.5, 3.6, 3.9, 3.19, 3.24, 3.26, 3.39, 3.41, 3.42, 3.43, 3.44, 3.45, 3.47, 3.58, 3.63, 3.65, 3.66, 3.71, 3.72, 3.107, 3.119, 3.128, 5.1	Commenters are concerned about the proposed expansion of the permit boundary. Commenters state that the proposed expansion is not needed, is too expensive and exceeds the Regional Water Board's authority.	Federal regulations describing the requirements for NPDES permits for storm water discharges state that NPDES permits may be issued for storm water discharges "that are determined to contribute to a violation of a water quality standard or is a significant contributor of pollutants to Waters of the United States." (40 CFR 122.26(a)(1)(v).) However, RWB staff has decided to keep the existing, smaller permit boundary in the second draft permit because of the difficult economic position the County is in and because the County has proposed to implement three of the programs required in the draft Permit on a county-wide basis. These three programs include: (1) post-construction treatment controls, such as LID and hydromodification requirements; (2) a municipal operations program; and (3) an illicit connections and illicit discharges program. RWB staff has determined that implementation of these programs county-wide within the North Coast Region would be most effective for protecting water quality. RWB staff is willing to implement these program elements under another regulatory program instead of expanding the permit boundary in this Permit. If the RWB and Sonoma County cannot reach an agreement to implement the above programs on a County-wide basis within the North Coast Region, the RWB may reopen this Order to consider expansion of the permit boundary.

Comment Topics and Nos.	Summary Comment	Response
12.6, 15.2, 16.1	Commenters support the expansion of the previous permit boundary to include all of Sonoma County within the North Coast Region to protect water quality and comply with the Coastal Zone Management Act.	RWB staff agrees that storm water programs protect water quality and share the concern that polluted storm water runoff is contributing to Sonoma County's impaired watersheds and may adversely affect recreation and other beneficial uses. The Coastal Zone Act Reauthorization Amendments of 1990 (CZARA), Section 6217(g), requires coastal states with approved coastal zone management programs to address non-point source pollution impacting or threatening coastal water quality. CZARA addresses five sources of non-point source pollution: agriculture, silviculture, urban, marinas, and hydromodification. In September 1995, the State Water Board and the California Coastal Commission submitted the state's response to the CZARA requirements. In lieu of a separate state program for the coastal zone, the state decided to apply the CZARA requirements on a statewide basis. This Order does address some CZARA requirements (urban and hydromodification) within the permit boundary, however, this Order does not address the CZARA management measures required for the areas of Sonoma County that are not included within the permit boundary. Compliance with requirements specified in this Order does not relieve the Co-Permittees from developing a non-point source plan for other programs identified under CZARA.

Comment Topics and Nos.	Summary Comment	Response
Permit Development and Scope		
2.4, 2.32, 3.137	Commenter contends that the draft Permit includes language identical or similar to that found in other Phase I permits in the state, and that this is inappropriate.	The Permit was drafted appropriately incorporating language from different California permits and guided by U.S. EPA comments. By including programs implemented elsewhere, the Co-Permittees can potentially share guidance documents, outreach materials and other information generated by other MS4s. It is a goal of the State and Regional Water Boards to maintain consistency within programs and therefore RWB staff disagrees that this is unusual or inappropriate.
3.82	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."	This draft Permit regulates only discharges from the MS4 to waters of the United States. Discharges outside that description may be regulated using other regulatory actions.
14.5	Commenter notes that the draft Permit provides no protection for groundwaters.	In general, the commenter is correct. NPDES permits are applicable to surface waters only (waters of the United States). However, many permit elements (commercial and industrial inspections, spill response, public education and outreach, etc.) may result in the control of pollutants that pose threats to both surface and groundwaters.
10.7	Commenter wants the draft Permit to address future water availability issues.	While this is somewhat outside the scope of the draft Permit, one of the benefits of the use of LID is groundwater recharge and the widespread use of LID in future development in Sonoma County is expected to have a beneficial impact on water supply.

Comment Topics and Nos.	Summary Comment	Response
3.3	Commenter requests the use of a veteran negotiator and further discussions of the draft Permit.	RWB staff met with the Co-Permittees more than 20 times in developing the draft Permit. This is an unprecedented level of discharger involvement in developing a permit in the North Coast Region. Co-Permittees have the opportunity to comment on two draft permits, for 43 and 45 days. Ultimately, it is up to the Regional Water Board to decide on final permit requirements.
Permit Is Not an Unfunded Mandate		
1.3, 1.5, 1.20, 1.22, 1.24, 1.35, 2.11, 2.38, 2.46, 2.116, 2.118, 2.119, 2.120, 3.8, 3.31, 3.70, 3.73, 3.153, 3.160	Commenters contend that the Permit contains unfunded mandates, such as requiring compliance with water quality objectives, the Basin Plan, the public information and participation program, and the California Environmental Quality Act.	See page 17 of the Fact Sheet for RWB discussion of why Permit does not contain unfunded mandates.

Comment Topics and Nos.	Summary Comment	Response
3.70	<p>Commenter asserts that the Co-Permittees did not voluntarily seek coverage under this Permit, but the Permit was forced on them, and that the requirements are therefore, unfunded mandates.</p>	<p>The commenter misunderstands and is incorrect. The Co-Permittees are required to have a storm water permit if they choose to discharge storm water or non-storm water with a detectable level of pollutants into waters of the United States. The Co-Permittees filed an application for an MS4 permit indicating their intent to discharge their storm water and non-storm water into waters of the United States. If they did not obtain a permit, their storm water and non-storm water discharges to waters of the United States would be unpermitted, and RWB staff would be required to take enforcement action every time the Co-Permittees discharged without a permit. The Co-Permittees have a choice between a permit with numeric end-of-pipe effluent limits or a permit that uses BMPs to achieve compliance. The draft Permit requires implementation of BMPs to achieve compliance rather than numeric effluent limits, and RWB staff assumes that the Co-Permittees prefer a permit requiring BMPs rather than effluent limits. The Commenter is therefore incorrect and the Permit is not an unfunded mandate.</p>
Permit Is Not Stringent Enough		
11.2, 11.3, 11.5, 14.2, 14.8, 17.1, 17.3, 17.4	<p>Commenters contend that the draft Permit is not stringent enough in the areas of erosion and sediment control, action plans, early implementation of TMDLs, LID performance standards, and alternate regional/subregional treatment controls.</p>	<p>RWB staff supports the requirements in the draft Permit. Some additional language has been added to the second draft Permit to clarify the standards for LID implementation. The draft Permit balances the need to protect water quality and the current fiscal situation of the Co-Permittees.</p>

Comment Topics and Nos.	Summary Comment	Response
17.6	Commenter states that the lack of numerical standards and the flexibility of the alternative mitigation provisions risk undermining the Permit's effectiveness.	Comment noted.
Permit Is Too Stringent		
3.19, 3.59, 3.71, 3.88, 4.5	Commenters contend that the draft Permit is too stringent.	RWB staff made 132 substantive modifications to the draft Permit between the first and second drafts at the Co-Permittees' request. RWB staff also met with commenters over 30 times to receive input on the draft Permit. The draft Permit is consistent with other permits adopted statewide, and in some cases less stringent. For example, the draft Permit requires post-construction storm water treatment controls on new development or redevelopment projects with 10,000 ft ² or more of impervious surface (based on type of land use), rather than 5,000 ft ² such as in other California or national (Washington and Georgia) storm water permits. The draft Permit was drafted with U.S.EPA guidance and unprecedented Co-Permittee and public participation. We believe compliance with the draft Permit constitutes MEP.
2.9, 3.71	Commenters assert that this is the most stringent permit in the North Coast Region.	This is our only Phase I permit and therefore, there is no other similar North Coast permit available for comparison. The EPA-generated Phase I requirements are more stringent than Phase II requirements. The other municipalities in the North Coast Region are covered under the Phase II permit. The Santa Rosa, Sonoma County and Sonoma County Water Agency Storm Water Permit is, however, consistent and in some cases less stringent than other Phase I permits statewide.

Comment Topics and Nos.	Summary Comment	Response
Permit Modified		
1.2, 1.9, 1.26, (1.36 - 1.38), (2.6 - 2.10), 2.12, 2.14, 2.26, 2.28, 2.30, 2.34, 2.41, 2.53, 2.57, 2.58, 2.69, 2.70, (2.72 - 2.76), (2.78 - 2.85), 2.87, 2.90, 2.91, 2.94, 2.97, (2.99 - 2.103), 2.105, (2.107 - 2.109), 2.111, 2.112, 2.114, 2.122, 2.123, (2.125 - 2.129), (2.131 - 2.138), (2.140 - 2.146), (2.150 - 2.154), 2.158, (3.4 - 3.7), 3.9, 3.12, 3.13, (3.15 - 3.17), 3.21, (3.26 - 3.30), 3.33, 3.35, 3.36, (3.41 - 3.44), 3.46, 3.47, 3.58, 3.68, 3.72, 3.83, 3.88, (3.91 - 3.96), (3.101 - 3.107), (3.110 - 3.120), 3.128, 3.130, (3.133 - 3.136), 3.139, 3.140, 3.142, 3.145, 3.147, 3.148, (3.154 - 3.157), 3.159, (3.161 - 3.163), (4.1 - 4.5), 5.7, (5.14 - 5.16), 5.24, 5.25, 5.27, 5.28, 6.5, 6.6, 6.8, 9.10, 9.11, 9.16, 17.2	Commenters recommend language modifications in the draft Permit or ask for clarification on the requirements.	Modifications were made to the draft Permit to address all of the substantial issues raised in these comments.

Comment Topics and Nos.	Summary Comment	Response
Permit Will Protect Water Quality		
14.4, 16.1, 16.2	Commenters state that degradation of water quality continues under existing permits, programs and basin plan prohibitions, and therefore, the draft Permit is needed to protect water quality.	Comment noted.
12.1	Commenter supports the draft Permit, and states that it is fair and reasonable.	Comment noted.
15.1	Commenter strongly supports the adoption of the draft Permit and states the Permit is well written, comprehensive and proactively addresses water quality issues.	Comment noted.
Planning, Land Development		
3.65	Commenter states that Sonoma County is not facing significant new development in the future.	RWB staff finds this highly unlikely as the areas within municipalities slated for development also are within Sonoma County, if not under Sonoma County authority.
2.95, 3.34, 3.62, 3.138	Commenter requests clarification on ministerial projects that must comply with pre-existing criteria.	In developing a process for approving ministerial projects, the municipality determines criteria under which projects shall be considered ministerial. Development projects meeting the new development and redevelopment criteria need to comply with this Permit, regardless of whether the municipality's approval for the project is a ministerial or discretionary decision. Criteria for ministerial projects could be amended to require compliance with Permit conditions, rather than requiring a discretionary process.

Response to Comments on First Draft
 Santa Rosa, Sonoma County and Sonoma County Water Agency
 Municipal Separate Storm Sewer System Storm Water Permit

Comment Topics and Nos.	Summary Comment	Response
12.9, 14.8	Commenters state that storm water mitigation should require ministerial projects to meet storm water mitigation requirements.	RWB staff agrees. All projects that meet the criteria of the draft Permit shall comply with the Permit. If a Co-Permittee exempts a project from CEQA by making a land use approval ministerial rather than discretionary, that should not exempt that project from the requirements of this Permit.
3.32	Commenter states that the General Plan was just updated for the County, and the County would not take action on this until the next update.	RWB staff agrees. The draft Permit requires that the storm water element be updated when other specific areas of the general plan are updated. It does not require general plan updates.
3.138	Commenter states “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.”	The land use categories referenced are included in Part 4 – Planning and Land Development Program.
2.11, 2.38, 2.46, 3.8, 3.18, 3.31, 3.78, 3.79, 3.151, 3.152	Commenters contend that conditions of the draft Permit that require the Co-Permittees to modify their CEQA process to consider the environmental impacts related to storm water are unfunded mandates.	RWB staff contends that storm water impacts are already required to be evaluated under CEQA and that the Co-Permittees must make their planning processes consistent with this Permit to be successful in implementing the Permit. The Co-Permittees have the responsibility to develop an effective storm water program. This Permit includes requirements for the programs that the Co-Permittees are obligated by federal regulation to develop.

Comment Topics and Nos.	Summary Comment	Response
Post-Construction Storm Water BMPs		
3.109	Commenters contend that the new development requirements are not feasible because the cost and availability of land to construct detention ponds is prohibitive.	The draft Permit does not require the construction of detention basins. Alternatively, the Permit prioritizes the use of LID and small distributed, landscape based BMPs as opposed to large detention ponds.
2.98, 3.110, 5.13, 9.5	Commenters are concerned that the draft Permit requires redevelopment projects to include post-construction storm water treatment BMPs.	This requirement to include post-construction storm water treatment BMPs for redevelopment projects was in the previous permit and is consistent with permits statewide and U.S.EPA guidance.
2.97, 3.27, 3.59, 3.108	Commenters assert that the size threshold for projects that require post-construction BMPs in the draft Permit is too small and infeasible.	RWB staff disagrees. This third term permit does decrease the size threshold over the previous permit but still excludes some new private and public development projects. Municipalities both inside and outside of California comply with similar, and in some cases, smaller size thresholds for implementation of post-construction BMPs. Therefore, it is feasible and meets the requirements for MEP. RWB staff also asserts that reducing the discharge of pollutants from new development is crucial to the protection of impaired surface waters and much less costly than retrofitting existing development.
2.99, 2.159	Commenter states that redevelopment is a confusing word to use because of the use of the term in programs addressing urban blight.	Comment noted. This term is, however, consistent with other storm water permits, U.S.EPA guidance, and is clearly defined in the draft Permit and attachments. RWB staff feels that the term can be clearly used in both types of regulatory actions, without generating undue confusion.

Comment Topics and Nos.	Summary Comment	Response
6.2	Commenter requests that impervious surface area for requiring post-construction storm water treatment BMPs remain the same as in the previous permit and the draft Permit focus instead on existing development.	Discharges of untreated storm water runoff from new development constitutes new discharges of pollutants to already impaired water bodies. Our impaired waters need to be protected from new sources of pollutants (new development). Our permit allows some smaller projects to proceed without requiring that their storm water runoff be treated prior to discharge. However, please be aware that the retrofitting of existing development to comply with TMDLs or other regulatory measures is far more expensive than adding post-construction BMPs to new development. The Co-Permittees are encouraged, however, to promote storm water treatment for all new development and to seek retrofit opportunities for existing development.
12.4	Commenter strongly supports the provisions in the draft Permit that require the use of post-construction BMPs for development projects with less than an acre of new impervious surface.	Comment noted.
2.96, 5.12	Commenters note that subdrains are needed under permeable pavements to protect roadways.	The Permit does not prohibit subdrains. However, the Permit recognizes that permeable pavements with subdrains and a gravel base do not typically provide full treatment of storm water, but may provide some detention.

Comment Topics and Nos.	Summary Comment	Response
7.1	Commenter requests "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."	If the Co-Permittees choose to develop such a program, RWB staff would be happy to participate in the development. It would be irresponsible, however, to allow fees to be paid in lieu of storm water treatment without ensuring that the fees are devoted to projects that will offset storm water impacts from the project. RWB staff has cooperated with the Co-Permittees and Caltrans on offset projects and will continue to do so as needed.
17.4	Commenter asserts that alternative regional/subregional treatment facilities should be strictly limited and the current language in the draft Permit is insufficient.	RWB staff agrees that small dispersed onsite storm water treatment facilities using LID is the preferred alternative and is always appropriate, except in rare cases when it is not feasible. Alternative BMP compliance may be a necessary option as long as all offsite projects installed as alternative compliance measures are required to meet hydraulic sizing criteria and provide equivalent treatment that would be required of onsite projects.
Post-Construction Storm Water BMPs, Maintenance		
13.2	Vector Control requests "that the two year inspection interval for post construction BMPs be reconsidered and more frequent inspections be required. 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."	RWB staff feels that the maintenance schedule in the draft Permit is appropriate for most BMPs. The draft Permit prioritizes Low Impact Development and bioretention BMPs that should not have standing water. In the case of BMPs that are holding water beyond 72 hours, RWB staff will continue to work with vector control and the Co-Permittees to resolve maintenance issues on these BMPs.

Comment Topics and Nos.	Summary Comment	Response
5.21	Commenter asks how maintenance of post-construction BMPs will transfer during the sale of a home.	The Co-Permittees should develop a process to ensure long-term maintenance in their maintenance program. The Co-Permittees will track the installation and maintenance of these features. RWB staff recommends including the maintenance requirements in the covenants, conditions and restrictions on the property.
2.17, 2.64	Commenters request that maintenance requirements to remove residual water apply only to structural BMPs, rather than swales and detention ponds.	RWB staff is continuing to work with Marin/Sonoma Vector Control District on eliminating standing water from storm water treatment BMPs, including swales and detention ponds, that Vector Control has identified as a production site for mosquitoes. Language in the permit prioritizes the use of LID treatment measures that, if properly designed, should eliminate the need to deal with residual water.
2.51	Commenters request that the maintenance requirements in the draft Permit be applied only to publicly owned treatment control BMPs.	The Co-Permittees have the responsibility to ensure that post-construction storm water treatment BMPs that they approve in order to mitigate the effects of new development and redevelopment are properly maintained or the goals of this program element are not being met.

Comment Topics and Nos.	Summary Comment	Response
Prescriptive Requirements		
1.4, 2.2, 3.22, 3.60	Commenters contend that the Permit improperly specifies manner and method of compliance in conflict with the California Water Code. Some commenters requested the Permit include limits rather than specific BMPs.	The Permit does prescribe the use of industry accepted BMPs to provide guidance and inspection tools for the Co-Permittees, but allows for BMP substitution to provide flexibility. U.S.EPA inspectors identified modifications needed in the Co-Permittees' storm water programs, including specific standards, approved BMPs, references and manuals. The draft Permit is written to provide guidance in these matters. Commenters that requested limits in the Permit rather than the use of BMPs may not understand that the term "limits" means effluent limits. If the Co-Permittees request effluent limits rather than the use of BMPs to achieve compliance, RWB staff would support this approach.

Comment Topics and Nos.	Summary Comment	Response
3.21	<p>Commenter contends that the Permit lacks flexibility to achieve compliance.</p>	<p>In the first two storm water permits that were adopted by the RWB, RWB staff provided maximum flexibility to the Co-Permittees in order to allow time for program development. These permits did not contain significant measurable goals for program performance and did not require the Co-Permittees to document reductions in storm water pollution. Over that period, knowledge about BMP effectiveness has grown significantly. At this time, RWB staff believes that specific program goals and improvements are necessary. We have received detailed requests to add specific language to the draft Permit to promote flexibility and we have done so where it will not undermine program effectiveness. The draft Permit also provides direction and clarity where necessary to reduce ambiguity in the requirements, such as in inspection tools and reference manuals on BMP installation and maintenance.</p>

Comment Topics and Nos.	Summary Comment	Response
Public Information and Participation Program (PIPP)		
1.35, 2.71, 2.72, 2.73, 2.76, 2.77, 2.78, 2.80, 2.81, 2.82, 2.83, 2.84, 2.85, 2.86, 2.87, 2.88, 2.89, 3.8, 3.75, 3.80, 3.91, 3.92, 3.93, 3.94, 3.95, 3.146, 6.4	Commenters contend that the RWB has improperly imposed a public information and participation program on the Co-Permittees. Additionally, Commenters are concerned that the draft Permit encourages the Co-Permittees to cooperate with local schools and universities.	Permit requirements and timelines have been revised in the second draft of the Permit based on meetings with the Co-Permittees and many of the requested modifications have been included. The public information and participation program is a required element of a Phase I permit by U.S.EPA regulations. (40 CFR 122.26(d)(2)(iv)(B)(6).) As noted above, previous permits have not contained measurable goals for ensuring that the Co-Permittees' outreach program is effective. Cooperation and education in schools is a way to reach and influence a large group of people and provides benefit to the students that are interested in water quality. It would be far more difficult for the Co-Permittees to reach an equivalent number of people without coordinating outreach with schools and universities. Conversations with the County Department of Education and SCWA staff have indicated that the goals in the second draft Permit can be reasonably achieved.
Sediment Basins		
1.14	Commenters ask how the draft Permit will affect in-channel sediment basins.	RWB staff generally does not allow the construction of new in-channel sediment basins for the treatment of storm water. And without a more specific example from the commenter, it is not possible to provide a response related to how the draft Permit will affect existing in-channel sediment basins.

Comment Topics and Nos.	Summary Comment	Response
Sediment Discharges		
12.7	Commenter states that "sediment is the most significant impairing pollutant, and storm water control is vital to meet water quality standards and the recovery goal of the Federal and State endangered Species Act."	RWB staff concurs.
5.2	Commenter questions how impervious surface creates sediment.	Impervious surfaces and storm drain systems transport sediment without the attenuation/treatment that natural vegetated areas provide. In addition, changes to storm water quantity associated with impervious surfaces increases hydromodification often leading to channel erosion.
Staff Training		
3.149	Commenter requests clarification on what constitutes a trained person to inspect BMPs.	A trained person is someone who has adequate experience, knowledge and authority to adequately inspect BMPs.
Statewide Permits		
5.23, 9.8	Commenters contend that requirements in the Construction General Permit are adequate for every site and it is inappropriate to have local requirements. Commenters state that the Co-Permittees should not be required to have a construction storm water program.	The municipal storm water program requires local municipalities to control the discharge of pollutants from construction activities to the MEP and to achieve water quality standards. (40 CFR 122.26(d)(2)(D).) The Co-Permittees are responsible for the discharges from their MS4 into waters of the United States, and therefore must limit the discharge of pollutants into their MS4, or retrofit their outfalls to provide treatment prior to discharge.

Comment Topics and Nos.	Summary Comment	Response
9.4	Commenter states that draft Permit "should be changed to reflect that changes to state highways will not be constructed by the Permittees and Caltrans is covered under its own permit."	The draft Permit does not require the Co-Permittees to construct any projects on state highways.
Storm Water Discharge Characteristics		
1.28, 2.5, 2.6, 2.18, 2.21, 2.22, 2.23, 2.24, 2.25, 2.27, 2.28, 2.35, 2.45, 3.48, 3.50, 3.51	Commenters contend that the findings in the Permit related to the pollutants commonly found in storm water are inappropriate because those pollutants are not present in Sonoma County storm water.	The Fact Sheet makes general findings about the pollutants commonly occurring in storm water from categories of land uses and provides citations for studies that these findings are based on. Runoff data from the Co-Permittees and other local sources do not indicate that storm water runoff in Sonoma County is significantly different than runoff in other municipalities.
2.13, 2.19, 2.20, 2.21, 2.23, 2.25, 2.35, 3.39, 3.46, 3.49, 3.51, 3.52	Commenters contend that there is no evidence that storm water discharges contribute to impaired waters and therefore the Permit is arbitrary and capricious. Commenters also request that RWB staff include any reports or evidence of storm water runoff contributing to impairment of waters in the draft Permit.	RWB staff disagrees. Please review the Fact Sheet, Laguna de Santa Rosa TMDL (with urban runoff waste load), and the Altered Laguna Study. RWB staff has included the Laguna TMDL in the draft Permit and this satisfies the Co-Permittees' requests that RWB staff provide local studies that storm water contributes pollutants to receiving waters.

Comment Topics and Nos.	Summary Comment	Response
Standard Urban Stormwater Mitigation Plan (SUSMP)		
2.10, 2.92, 2.96, 2.97, 2.116, 3.150	Commenters note that the draft Permit will require revision of the Standard Urban Stormwater Mitigation Program (SUSMP).	Commenters are correct. SUSMP is required to be updated in the draft Permit, as is typical with any renewal of a five year permit. Additionally, U.S.EPA inspectors recommended updating the SUSMP in 2007 and the Co-Permittees have yet to do so.
Storm Water Management Plan (SWMP)		
2.1, 2.7, 2.31, 2.54, 2.148, 3.1, 3.3, 3.17, 3.20, 3.29, 3.40, 3.54, 3.55, 3.57, 3.69, 3.70, 3.90, 3.92	Commenters are concerned that the draft Permit diverges from the SWMP submitted by the Co-Permittees. Additionally, the Co-Permittees challenged findings in the Permit that state that RWB staff and the Co-Permittees worked together to develop the storm water program.	RWB staff met with the Co-Permittees more than 20 times in developing the draft Permit. This is an unprecedented level of discharger involvement in developing a permit in the North Coast Region. The Co-Permittees submitted the Storm Water Management Plan (SWMP), which is an application for permit renewal. The SWMP did not include all of the program elements that were discussed in earlier meetings between RWB staff and the Co-Permittees. RWB staff determined that additional requirements were needed to achieve MEP and meet water quality standards as described in the draft Permit and Fact Sheet.
Third Party Discharges of Storm Water or Non-Storm Water		
2.44, 2.65, 2.67, 3.67, 3.74, 3.85, 3.87, 5.1	Commenters contend that the Co-Permittees have no authority over discharges to their MS4s from third parties.	See page 11 of the Fact Sheet. Co-Permittees must have the legal authority to prohibit discharges to their MS4s from third parties that will cause a violation of water quality standards.

Comment Topics and Nos.	Summary Comment	Response
TMDLs		
1.23	SCWA asks "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?"	The Altered Laguna Model was developed with a Technical Advisory Group (TAG), and in fact, SCWA was a member of the TAG. Comments received on the Altered Laguna Model were all addressed in the development process. In addition, the Altered Laguna Model was subject to peer review by the San Francisco Estuary Institute.
9.15	Commenter states that monitoring and other requirements of the draft Permit should not be imposed unless there is a TMDL in place.	There is an established TMDL for the Laguna de Santa Rosa and it is described in the Fact Sheet and in section C of the second draft Permit.
11.5	U.S.EPA comments that the draft Permit lacks adequate control measures to protect impaired waters for which a TMDL has yet to be developed. U.S.EPA recommends adding an action strategy to protect impaired waters.	The draft Permit contains several action strategies to protect impaired waters. Reduced size threshold requiring post-construction controls on new development and redevelopment; outreach, education, and inspections for nutrient sources; and wet weather grading restrictions are examples of programs to protect impaired waters.
1.11, 1.16, 3.46, 3.64	Commenters question findings in the first draft of the permit wondering what data was used to list waters within the permit boundary on the 303(d) list, if storm water had been identified in the data, and if TMDLs would be developed for all waters within the permit boundary. Commenters request that RWB staff include any local studies or evidence on storm water's impact on beneficial uses in the draft Permit.	The Fact Sheet of the second draft Permit includes information on studies providing data on water quality impairments and the Laguna TMDL is incorporated into the draft Permit. TMDL staff uses data from many sources subject to rigorous scientific analysis to list impaired waters on the 303(d) list; commenters are encouraged to review our files for information on specific listings. TMDLs will be developed for all waters within the permit boundary that are designated impaired on the 303(d) list.

Comment Topics and Nos.	Summary Comment	Response
11.4	U.S.EPA expresses concern that the draft Permit should include a reopener provision to incorporate additional TMDLs after they are adopted.	Comment noted. The draft Permit includes a reopener provision in attachment B.
14.9	Commenter expresses concern that most of the streams within the permit boundary are impaired and lack TMDLs and action plans.	Comment noted. The draft Permit includes measures to protect impaired waters including reduced size threshold requiring post-construction controls on new development and redevelopment; outreach, education, and inspections for nutrient sources; and wet weather grading restrictions.
Vector Control		
13.1	Commenter states that Marin/Sonoma Vector Control supports the discussion of their inspection and abatement activities in the draft Permit.	Comment noted.
Water Quality Degradation		
14.3, 14.6, 14.7	Commenters state that the conversion of natural areas to vineyards and urbanized areas is degrading water quality through the increased discharge of pollutants into the MS4, lack of erosion control, and hydromodification. Commenters state that converting forests to vineyards is reducing the ability of vegetation and soil to sequester carbon.	Comment noted.

Comment Topics and Nos.	Summary Comment	Response
Water Quality Standards		
10.9	Commenter requests clarification for section 52, which states "...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? Does "storm water" refer to winter conditions?"	The draft Permit requires compliance with water quality standards, but the method of compliance is somewhat different than other NPDES permits. If the Co-Permittees or the RWB determines an exceedance of water quality standards, the Co-Permittees must begin an iterative BMP process to achieve compliance with water quality standards. If the Co-Permittees are proceeding with this iterative process as described in the draft Permit, they are considered to be in compliance with the Permit and not subject to enforcement for the water quality violations.
5.11	Commenters ask for clarification on the term "water quality standards".	Water quality standards are discussed at length in the draft Permit, Fact Sheet and defined in attachment C. Water quality standards include water quality objectives, protection of beneficial uses and the anti-degradation policy.
3.8, 5.8	Commenters contend that the Co-Permittees are not required to meet water quality standards.	See page 36 of the Fact Sheet. The Co-Permittees are required to meet water quality standards.
3.89	Commenter states that Receiving Water Limits are a prohibition because discharges from the MS4 are not allowed to cause or contribute to a violation of water quality standards.	Discharges from the MS4 to receiving waters must comply with water quality standards. Based on that fact, RWB staff does not understand the commenter's question.