

Item No. 4, MS4 Storm Water Permit

**Santa Rosa, Sonoma County and the Sonoma County
Water Agency**

Executive Officer's Summary Report Attachment 6:

**Responses to Comments Received on the
2nd Draft Permit**

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 2nd 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 (RRWA)
5	California Department of Transportation
6	Fire Prevention Services
7	Coast Action Group
8	California Coastal Commission
9	Marin/Sonoma Vector Control District
10	Natural Resources Defense Council (NRDC)
11	OWL Foundation
12	Russian River Watershed Protection Council (RRWPC)
13	Russian Riverkeeper
14	Surfrider Foundation
15	United States Environmental Protection Agency
16	Harold and Marie Olson
17	Victoria Wikle

Comment numbers are contained in the accompanying PDF document that includes all the comment letters that the Regional Water Board received on the 2nd draft of this Permit. Attachments to the comment letters are posted on the Regional Water Board website, but were far too numerous to include in this document.

Note:

Regional Water Board staff received many comments on both the 1st and 2nd draft Permit. Some commenters resubmitted the same comments as on the 1st draft, perhaps thinking that the modifications made to the 1st draft Permit were not extensive enough, or that the comments were not adequately addressed in the responses to the comments on the 1st draft. Regional Water Board staff spent over a hundred hours meeting with interested parties to discuss comments and requested revisions to the draft Permit. Regional Water Board staff has also made hundreds of changes to the draft Permit in response to the comments. Regional Water Board staff has made every effort to respond to all the comments. Many of these issues were resolved during extensive meetings and will not be addressed at length in responses to comments because the issues were discussed in face-to-face meetings and in revisions to the 1st draft Permit. Even if commenters do not receive a response they agree with, please be assured that Regional Water Board staff considered every comment.

Comment Topics and Nos.	Summary Comment	Response
Accomplishments		
1.1	The Water Agency (SCWA) states that during the last permit term SCWA provided direct instruction to over 13,000 students, removed over 2,400 tons of debris from creeks and channels using SCWA staff and through the Creek Stewardship Program (the Creek Stewardship Program is funded by SCWA and the City).	Comment noted.
Annual Reports		
3.70	Sonoma County requests that Regional Water Board (RWB) staff commit to reviewing and commenting on annual reports.	RWB staff agrees that this is a good goal. As soon as renewing the MS4 permit is complete, RWB staff would be happy to do a more complete review and provide comments on the annual reports.
CEQA		
15.16	U.S.EPA supports the CEQA requirements in the draft Permit and states that they are consistent with other California MS4 permits. U.S.EPA guidance states that storm water issues should be considered in general plan updates.	Comment noted.
12.30	Commenter is concerned that the BMP plans for non-storm water discharges will not comply with CEQA.	If the Co-Permittees, as lead agency, conclude CEQA is needed for the approval of the BMP plans, it is likely that they could rely on the CEQA common sense exemption that the project would not have a significant effect on the environment because implementation of the plans would result in an improvement in water quality because the intent of the BMP plan is to decrease discharges that are currently occurring. The Low Threat Basin Plan Amendment already considered the potential effects of BMPs, and found very few

Comment Topics and Nos.	Summary Comment	Response
		potential impacts. Separately from the requirements of CEQA, the RWB will post the BMP plans for public review prior to Executive Officer approval.
13.7	Commenter supports the draft Permit in specifying that the Co-Permittees' CEQA processes should include analysis of storm water impacts.	Comment noted.
Comment Period and Permit Development		
2.31, 2.35, 3.45, 4.5	Commenters contend that the permit development process has not allowed enough opportunities for Co-Permittee participation and the comment periods have been too short.	Prior to drafting the Permit, 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 1 st draft Permit, which is almost two weeks longer than required by law. (40 CFR §124.10.) In addition, 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 1 st draft Permit, the RWB staff released a 2 nd draft Permit, which was given an additional 45 days comment period (more than two weeks longer than required by law). In drafting the final draft Permit for adoption, RWB staff met with the Co-Permittees four times in addition to the over 30 individual meetings held with commenters (the majority with the Co-Permittees) between the release of the 1 st draft and 2 nd draft Permit.

Comment Topics and Nos.	Summary Comment	Response
		RWB staff 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 draft Permit.
(1.4 – 1.9), 2.3, 2.7, (2.18 – 2.22), 2.26, 2.29, 2.30, 2.33, 2.40, 2.43, 2.44, 2.45, (2.48 – 2.50), 2.62, 2.63, (2.65 – 2.72), 2.74, 2.76, 2.79, 2.80, 2.81, 2.83, 2.87, 2.89, 2.91, 2.99, 2.104, 2.120, 2.121, 2.122, 2.105, 2.117, 2.129, 2.113, 2.116, 2.123, 2.135, 2.143, 3.5, 3.11, 3.15, 3.17, 3.19, 3.29, 3.30, 3.40, 3.42, 3.47, 3.48, 3.50, (3.52 – 3.56), 3.65, 3.71, 3.75, 3.79, 3.80, 3.81, 3.87, 3.92, 3.93, 3.95, 7.31	Commenters raise issues that were previously addressed during meetings, revisions to the 1 st draft and responses to comments on the 1 st draft.	Comments noted. Please review the response to comments on the 1 st draft Permit and changes made in the 2 nd draft Permit at http://www.waterboards.ca.gov/northcoast/water_issues/hot_topics/santa_rosa_ms4_npdes_stormwater_permit/
12.1	Commenter is concerned that some comments on the 1 st draft were not responded to and whether this is legal.	RWB staff made every attempt to respond completely to all comments, and certainly responded to all of the substantive issues raised. RWB staff responded to over 650 comments.
12.25	Commenter expressed concern about the response to comments on the Low Threat Discharge Basin Plan Amendment.	This is outside the scope of this draft Permit.
12.1	Commenter is concerned that RWB staff met with Co-Permittees many times, but did not contact the commenter regarding their comments.	RWB staff met with the commenter on November 19, 2008, to discuss the commenter's concerns.
3.14	Sonoma County requests a fair and equitable permit consistent with those of other municipalities.	In many areas, the draft Permit is less stringent than other MS4 permits adopted recently. RWB staff has worked over the last two years with the Co-Permittees on

Comment Topics and Nos.	Summary Comment	Response
		the draft Permit and made hundreds of changes to the draft Permit at their request.
5.1	Caltrans notes that they have their own statewide storm water permit and are not a permittee under the draft Permit.	Comment noted.
Construction Storm Water		
2.116, 3.87	Commenters raise issues that were responded to in the comments on the 1 st draft.	The construction storm water sections of the draft Permit were modified extensively to provide additional flexibility and clarity at the Co-Permittees' request. Additionally, RWB staff held numerous meetings with the Co-Permittees on these issues. Please see the draft Permit and responses to comments on the 1 st draft.
5.3	Caltrans requests the draft Permit cite generic references that can be updated easily.	RWB staff added footnotes that allow the manuals to be updated and require the Co-Permittees to use the updated manual or an equivalent resource.
7.33	Commenter requests RWB staff review and approve BMPs for projects larger than 5 acres.	U.S.EPA found construction sites to be a significant pollution concern and that dual regulation was warranted. RWB staff will regulate compliance at construction sites over an acre.
13.18	Commenter strongly supports the table of minimum BMPs for projects under an acre.	Comment noted.
Construction Storm Water - Grading Restrictions		
15.17	U.S.EPA strongly supports the grading restrictions in the draft Permit and believes they are fully supported by the Fact Sheet.	Comment noted.
2.113, 2.114, 2.115	Commenter asserts that the grading restrictions for hillside development are inappropriate because they exceed the requirements in the CGP [Construction General Permit].	The CGP contains many requirements for high risk sites such as effluent limits that may be subject to mandatory minimum penalties. RWB staff disagrees that the draft Permit is more

Comment Topics and Nos.	Summary Comment	Response
		stringent than the CGP. The grading restrictions for wet season hillside development are needed to protect our sediment impaired waters from the discharge of fine sediments.
3.86	Regional Parks asserts that it is not subject to the grading restrictions.	The grading restrictions are applicable to County issued permits.
7.20	Commenter requests RWB staff review their comments on the Sonoma County grading ordinance.	Comment noted.
7.32, 13.17	Commenter asserts that grading restrictions are necessary to protect sediment impaired waters.	Comment noted.
Cost Concerns		
(2.23 – 2.25), 2.57, 2.86, 2.88, 2.94, (2.96 – 2.98), (2.101 – 2.103), (2.106 – 2.112), 2.137, (2.139 – 2.142), 3.4, 3.13, 3.64, 4.2	Commenters contend that the draft Permit is too costly and will not improve water quality.	RWB staff disagrees that the draft Permit will not improve water quality. Additionally, RWB staff made 132 substantive changes to the first draft Permit at the Co-Permittees' request. Additionally, RWB staff met with the Co-Permittees following the July 22, 2009 public hearing to discuss costs. RWB staff was able to remove millions of dollars of costs from implementation of the Permit because the Co-Permittees had misinterpreted requirements and overestimated costs. RWB staff made over 53 additional changes to the draft Permit at their request. RWB staff sent the Co-Permittees letters on July 16, and August 20, 2009, requesting information on the estimated costs of implementing the Permit. The deadline in the August 20, 2009 letter for submitting detailed cost estimates was September 1, 2009. Santa Rosa submitted additional cost information that was

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		<p>significantly lower than previous estimates. RWB staff did not receive cost estimates from Sonoma County until September 8, 2009, and RWB staff did not have time to consider these cost estimates in the final draft Permit.</p> <p>Many of the costs of the draft Permit will also be charged to the entity for which the service is provided, such as permit fees for development project review and restaurant inspections.</p> <p>RWB staff also recommends that the Co-Permittees seek out opportunities to reduce inefficiencies and redundancies in their programs by streamlining inter-departmental cooperation and information sharing, and improving collaboration with other permittees and volunteer groups.</p>
2.56, 2.134	Commenter asserts that the Fact Sheet is incorrect and the City of Santa Rosa cannot impose new assessments, fees or charges.	RWB staff disagrees. The City imposes fees for development and other permits, and sets the amount of the fee. In addition, fees related to enforcement are within the City's authority. The Fact Sheet does not say that imposing new assessments is without effort, but it is possible.
13.11	Commenter supports the draft Permit specifying that the budget should include storm water related activities only and states that the budget can be inflated with activities not required by storm water permits.	Comment noted.
7.39	Commenter notes that defining monetary value for clean water is difficult. Landowners, fisher people, water users, recreationists,	Comment noted.

Comment Topics and Nos.	Summary Comment	Response
	fish and wildlife values must be evaluated.	
7.40	Commenter asserts that the draft Permit calls for financial responsibility to support a needed program.	Comment noted.
Definitions		
3.82	Sonoma County requests a definition for WQS.	WQS is an acronym for water quality standards and is defined in the draft Permit and the Fact Sheet.
Enforcement		
7.16, 7.18	Commenter states that the Co-Permittees should consider methods to recover funds in enforcement cases.	Comment noted.
Hydromodification Control Plan		
2.84	Commenter states that runoff captured by topsoil and evapotranspiration will be difficult to calculate.	These variables can be incorporated into a conservative estimate of the runoff rates and volumes from undeveloped sites and RWB staff will aid the Co-Permittees during the process of developing the hydromodification control plan.
2.100, 3.24	Commenters are concerned about local variability in the application of hydromodification controls.	RWB staff agrees. The Co-Permittees will be developing a hydromodification control plan for Executive Officer approval and local, individual concerns of each Co-Permittee can be incorporated into the plan.
3.23, 3.24, 3.26, 3.27, (3.34 – 3.37), 3.41, 3.43	Commenters assert that comments on the 1 st draft were not adequately responded to previously and that it would be unconscionable to require hydromodification controls until more detailed guidance is provided. Commenter states that outreach will be needed for the design community.	Hydromodification control is a required element of the MS4 program. The hydromodification sections of the draft Permit were entirely rewritten at the Co-Permittees' request after many meetings between RWB staff and the Co-Permittees. The Co-Permittees requested flexibility in developing a hydromodification plan, which was provided. There is not more that RWB staff can

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		change and still be consistent with MEP. The Co-Permittees have already been given two permit terms and an additional four year implementation schedule in the draft Permit to develop the plan and it is now time to develop the plan. Staff encourage the Co-Permittees to obtain guidance from other municipalities in the bay area and statewide for example programs.
3.25, 3.32	Sonoma County requests clarification on whether additional projects will require hydromodification controls beyond those required by SUSMP. Additionally, commenter states that hydromodification controls may not be feasible for every project.	Please review the draft Permit at http://www.waterboards.ca.gov/northcoast/water_issues/hot_topics/santa_rosa_ms4_npdes_stormwater_permit/ . The projects that require hydromodification controls are clearly identified in Part 5. The draft Permit also allows for an offset project for sites where treatment of storm water quality and/or quantity is infeasible.
7.29, 13.15, 15.15	Commenters support the hydromodification requirements in the draft Permit.	Comment noted.
Illicit Connections and Discharges		
2.131	Commenter is concerned with the cost of videotaping the storm drain system.	This is not required by the draft Permit and this issue has been discussed with the Co-Permittees.
3.63	Commenter asserts that RWB staff agreed to take out a requirement to allow the public to review Illicit Connection and Discharge Elimination procedures.	RWB staff does not remember agreeing to remove this and believes this is a reasonable requirement because public involvement and participation is a required minimum measure of the storm water program.
3.67, 3.97	Sonoma County states that they already have a procedure to notify appropriate agencies in the case of spills.	Comment noted.
Implementation Schedules		
2.27, 2.32, 2.54, 2.90, 2.95, 3.38, 3.49	Commenters request additional time to implement requirements in	RWB staff held over 30 individual meetings with commenters and

Comment Topics and Nos.	Summary Comment	Response
	the draft Permit.	attempted to provide feasible and fair implementation schedules in the draft Permit. Implementation schedules were extended in the 2 nd draft Permit and again in the final draft Permit. Most of the requests for extensions were granted.
Industrial/Commercial Facilities		
7.24, 7.37, 13.13	Commenters support the requirements included in this section.	Comment noted.
Lack of Clarity in the Comments		
2.124, 3.28, 3.74, 3.83	These comments were not clear to RWB staff.	RWB staff is unable to respond to these comments.
Lack of Clarity in the Draft Permit and Responsibilities of the Co-Permittees		
1.3, (1.11 – 1.13), 1.15, 1.17, (1.19 – 1.23), (1.27 – 1.46), 2.6, 2.39, 2.104, 7.10	Commenters state that the draft Permit is unclear and responsibilities of the Co-Permittees are not defined.	Please see the responses to comments on the 1 st draft regarding the responsibilities of Co-Permittees. The draft Permit was significantly modified at the request of the Co-Permittees and specific requests for clarifications of sections of the draft Permit were granted. If the Co-Permittees still find the draft Permit confusing, they should make specific comments or requests.
1.3, 1.11, 1.12, 1.13, 1.15, 1.17, (1.19 – 1.23), (1.27 – 1.46)	Sonoma County Water Agency states that they do not intend to comply with or implement many sections of the draft Permit because they lack legal authority to do so.	Please be aware that even if SCWA does not have legal authority to require compliance with sections of the draft Permit by other parties, the SCWA is required to comply with the entirety of the draft Permit for projects on their land or conducted by their staff. The draft Permit is applicable to the SCWA for discharges from their property, facilities and activities.
Low Impact Development		
1.2, 1.24	The SCWA notes that they have begun preparation of an LID manual that will comply with the	Comment noted. We look forward to working with the SCWA in the development of a draft manual for

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	requirements in the draft Permit and will participate with the Co-Permittees on development of LID concepts.	RWB approval. The proactive effort is appreciated.
2.34, 2.78	City of Santa Rosa is concerned that the LID sections of the draft Permit are in conflict with water conservation and reduction of turf area goals.	RWB staff does not think this is a conflict. The draft Permit does not mandate or even encourage the use of turf. RWB staff supports the City's efforts in water conservation.
2.93	Commenter thinks that the LID section of the draft Permit is confusing and suggests the addition of a "super LID" concept.	Staff has clarified some of the LID language.
3.31, 3.33	The County agrees that some of the requirements in the LID section are feasible.	Comment noted.
8.3	Coastal Commission strongly supports the draft Permit requiring that LID and hydromodification control be addressed early in the planning process.	Comment noted.
8.4	Coastal Commission notes the collaboration between their staff and RWB staff on LID training, education and outreach workshops.	Comment noted.
9.6	Marin/Sonoma Vector Control District supports the use of LID instead of large detention basins and supports the draft Permit to reduce the potential for mosquito production.	Comment noted.
15.8, 15.10	U.S.EPA states that the draft Permit does not contain clear, measurable LID requirements like they requested previously.	The draft Permit has been revised with more explicit requirements for LID implementation. We also agree that full capture (through infiltration storage and evapotranspiration) of the design storm is the preferred outcome, but recognize that the groundwater levels and soils in Sonoma County may make that difficult for some projects.
13.15	Commenter supports the LID	Comment noted.

Comment Topics and Nos.	Summary Comment	Response
	requirements in the draft Permit and notes that U.S.EPA finds that LID can lower building costs and better protect water quality than traditional building methods.	
10.1, 10.3, 10.5, 10.10	Commenters contend that the new development and redevelopment sections of the draft Permit are critical to protect water quality and are too weak on LID implementation.	RWB staff agrees with the importance of the new development requirements. The draft Permit has been revised with more explicit requirements for LID implementation.
10.2, 10.3, 10.4, 10.8, 10.9, 10.11, 10.12, 10.13, 10.23, 13.3	Commenters would prefer if the draft Permit followed other recently adopted MS4 permits in California and nationwide that require full capture onsite of the design storm primarily through infiltration. Commenter also fears that ineffective BMPs will be approved and still comply with the draft Permit. Commenter states that the draft Permit does not meet MEP without better storm water pollution reduction.	RWB shares the concern that the most effective BMPs should be used. We have revised the language in this section of the draft Permit to more stringently require LID. We also agree that full infiltration of the design storm is the preferred outcome, but recognize that the groundwater levels and soils in Sonoma County may make that difficult for some projects.
10.6, 10.7, 14.4	Commenter stated that the requirements for LID must be clear, measurable and enforceable. Commenter also stated that U.S.EPA has threatened to object to storm water permits that did not include these requirements. Commenter notes studies supporting LID.	Comments noted. RWB had added language to address this issue and shares the concern that the most effective BMPs should be used. We have revised the language in this section of the draft Permit to more stringently require LID. We also agree that full capture of the design storm is the preferred outcome, but recognize that the groundwater levels and soils in Sonoma County may make that difficult for some projects.
Maximum Extent Practicable		
2.28	Commenter states that the draft Permit exceeds MEP.	The Regional Water Board, the State Water Board and U.S.EPA determine MEP. Staff proposed a draft Permit that is consistent or more lenient than other recently adopted MS4 permits. Staff

Comment Topics and Nos.	Summary Comment	Response
		believes the draft Permit meets MEP at this time rather than exceeds MEP. This is supported by U.S.EPA's comments. U.S.EPA stated that the draft Permit includes acceptable <i>minimum</i> requirements.
Monitoring Requirements		
13.3, 13.19, 13.20	Commenters support new monitoring requirements, specifically for storm drain outfalls. Commenters also recommend sediment toxicology monitoring.	Comment noted.
13.21	Commenter questions how limited outfall and mainstem creek monitoring can verify compliance with WQS.	We agree that the proposed monitoring program is limited and will not be able to verify discharge compliance at all outfalls and should be improved in future permits. We believe, however, that the program will collect valuable information and is a vast improvement over previous monitoring efforts.
13.3, 13.22	Commenter requests the RWB specify detection limits.	The draft Monitoring Program requires compliance with federal regulations that mandate U.S.EPA methods for analyses.
Non-Storm Water Discharges		
2.21, 2.41, 2.42, 2.55	Santa Rosa requests that the requirement for a BMP plan be removed from the draft Permit for elimination of non-storm water discharges, especially irrigation overflow.	The BMP plan is not required by the draft Permit unless the Co-Permittees want to allow non-storm water discharges. The RWB cannot adopt a Permit that conflicts with the Basin Plan. Please see the Low Threat Discharge Basin Plan Amendment.
2.72	Santa Rosa asks if the City has the authority to prohibit irrigation overflow.	Yes. It is our understanding that the City has ordinances to prohibit non-storm water discharges into the MS4. Please review and update your storm drain ordinance if necessary.
1.14, 2.38, 3.46	Commenters assert that the CWA only regulates discharges from the	The CWA also effectively prohibits the discharge of non-storm water

Comment Topics and Nos.	Summary Comment	Response
	MS4 to receiving waters.	into the MS4, and therefore the draft Permit is consistent with the CWA.
(10.16 – 10.22), 12.7	Commenters are concerned that the draft Permit does not do enough to comply with the CWA requirement to effectively prohibit non-storm water discharges to storm sewers.	RWB staff understands the commenters' concern regarding non-storm water discharges. This issue is a high priority in the draft Permit. RWB staff has proposed an approach as described in our Basin Plan to use BMP plans developed by the Co-Permittees to effectively prohibit non-storm water discharges. RWB staff believes that this approach will be effective.
9.7	Marin/Sonoma Vector Control District supports the requirements in the draft Permit to eliminate non-storm water discharges and requests to be notified of unauthorized discharges.	Comment noted.
13.8	Commenter supports the exclusion of sidewalk rinsing as an allowable non-storm water discharge as the purpose is to remove dirt and other pollutants from the sidewalk.	Comment noted.
10.20, 10.21, 11.1, 11.2, (11.3 – 11.20), 12.8, (12.10 – 12.13), 12.19, 12.22, 12.23, (12.26 – 12.29), (12.31 – 12.36), 12.39, 12.41, 12.43, (12.44 – 12.48), 16.1, 17.1	Commenters request that the draft Permit either prohibit the use of reclaimed wastewater or mandate that wastewater treatment facilities upgrade their treatment systems.	RWB staff shares the concern that spills of reclaimed wastewater may impact water quality. The intent of the draft Permit is to effectively prohibit non-storm water discharges from entering the MS4 through the use of BMPs. Statewide policy encourages the use of reclaimed water for irrigation and the North Coast Basin Plan allows the use with appropriate BMPs. This draft Permit is consistent with both policies.
12.14, 12.15	Commenters are concerned that the draft Permit does not include enforcement requirements for reclaimed wastewater discharges.	The Co-Permittees have enforcement ordinances currently in place, but they should be updated if needed. References to the enforcement ordinances for

Comment Topics and Nos.	Summary Comment	Response
		reclaimed wastewater discharges should be referenced in the BMP plans for Executive Officer approval. The BMP plans will be noticed for public review prior to approval. If enforcement is necessary against the Co-Permittees, enforcement remedies can be found in the California Water Code.
7.12, 12.9	Commenter requests that the RWB designate BMPs for non-storm water discharges.	The draft Permit does set out some BMPs, but is also intended to provide flexibility to the Co-Permittees to develop BMP plans.
7.11, 7.13, 7.17	Commenter supports requirements in the draft Permit related to non-storm water discharges.	Comment noted.
2.47	Commenter requests language change regarding diverting ground water.	Monitoring may be needed to demonstrate that the ground water is not contaminated.
12.24	Commenter states that it is difficult to address the draft Permit because of concerns with the Basin Plan Amendment and the anti-degradation policy.	RWB staff disagrees. The draft Permit is consistent with both the Low Threat Discharge Basin Plan Amendment and the anti-degradation policy.
12.16, 12.18	Commenter asks about the lining of a reclamation pond and about the Kundes' irrigation.	These issues are outside the scope of this draft Permit.
12.37, 12.38	Commenter is concerned about illegal surface water diversions for vineyards.	This is outside the scope of this draft Permit.
12.17	Commenter is concerned with a potential link between drinking alcohol and breast cancer.	This is outside the scope of this draft Permit.
12.40, 12.42	Commenter is concerned with low summer time flows in the Russian River.	This is outside the scope of this draft Permit.
6.1, 6.2, 6.3	Commenter expresses concern with the impact to water quality from discharges from commercial fire sprinklers.	Comment noted.
Permit Boundary		
15.20	U.S.EPA supports the permit boundary.	Comment noted.

Comment Topics and Nos.	Summary Comment	Response
15.21	U.S.EPA supports the use of a waiver to require LID, new development requirements, municipal operations and spill response county-wide. U.S.EPA also supports reopening the adopted Permit if needed to include the entire County because of its significant contribution of pollutants to impaired waters.	Comment noted.
7.9, 7.15, 7.43, 7.44, 7.45, 7.46, 12.4, 13.6	Commenters object to RWB staff decreasing the permit boundary proposed in the 1 st draft. Commenters assert that increasing the permit boundary would improve water quality and are concerned that water quality will suffer because of the proposed boundary reduction in the 2 nd draft.	RWB staff agrees that a county-wide permit would offer water quality benefits. RWB staff intends to propose a waiver to the RWB for Sonoma County to implement a county-wide program for new development, municipal operations, and illicit discharges.
7.47	Commenter states that the reduction of the permit boundary is inconsistent with the requirements of the Coast Zone Management Act.	RWB staff agrees that the Coastal Zone Act Reauthorization Amendments of 1990 (CZARA) requires coastal states to regulate sources of non-point source pollution, including urban storm water and hydromodification. The state's implementation plan for non-point sources refers to the use of waste discharge requirements, waivers of waste discharge requirements and Basin Plan prohibitions as regulatory tools for addressing these discharges. RWB staff is drafting a county-wide waiver of waste discharge requirements for later consideration by the RWB. This Permit will provide a means for the County to address storm water and non-storm water discharges from County storm drain systems located outside the permit boundary.
14.6	Commenter supports the waiver	Comment noted.

Comment Topics and Nos.	Summary Comment	Response
	approach county-wide to address non-point source pollution as an acceptable alternative to expanding the permit boundary.	
Permit is not an Unfunded Mandate		
2.18	Santa Rosa included comments on previous Test Claims before the Commission on State Mandates.	<p>RWB staff disagrees that this permit includes unfunded mandates for reasons explained on page 16 of the Fact Sheet, and State Water Board legal staff is currently reviewing a recent decision of the Commission on Unfunded Mandates on test claims submitted by the County of Los Angeles and several cities.</p> <p>In that decision, the Commission found only the requirement for trash receptacles at transit stops to be an unfunded mandate. This draft Permit does not require trash receptacles to be placed specifically at transit stops, and allows the Co-Permittees to determine where trash receptacles should be placed within their jurisdiction and what number should be placed. Therefore, we do not believe that the language in the draft Permit would be considered unfunded mandates by the Commission. Nonetheless, even if the Commission and the court of appeal were to agree that the requirement was an unfunded state mandate, it would not mean that the Regional Water Board could not require that the Co-Permittees place trash receptacles in high trash areas, it would only mean that the State had to reimburse the Co-Permittees for the cost of implementing that provision.</p>

Comment Topics and Nos.	Summary Comment	Response
Permit Modified		
1.12, 1.13, (1.15 – 1.17), (1.19 – 1.23), (1.26 – 1.46), 2.30, 2.36, 2.51, 2.60, 2.64, 2.73, 2.75, 2.82, 2.126, 2.127, 2.130, 2.132, 2.136, 3.16, 3.18, 3.21, 3.51, 3.61, 3.38, (3.57 – 3.59), 3.66, 3.72, 3.84, 3.85, 3.88, 3.94, 3.96, 3.97, 13.5, 13.10, 13.16, 15.9	Commenters recommend language modifications to 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 either in the 2 nd draft or the final draft Permit.
4.4	Commenter requests the RWB consider additional revisions to the draft Permit to address the concerns of the Co-Permittees.	RWB staff has made hundreds of modifications to the draft Permit at the Co-Permittees' request. We have held over 20 meetings with the Co-Permittees to address their concerns. RWB staff has made all the modifications to the draft Permit that we think can be made and still provide protection for water quality.
Phase I Permittees		
3.2, (3.6 – 3.10), 3.12	Sonoma County argues that RWB staff has unfairly and improperly included them in a Phase I permit.	The proposed Phase I permit boundary is identical to the boundary in the existing permit. The County did not oppose this determination when the permit was adopted in 2003. U.S.EPA and federal regulations designate communities of 100,000 population or more, and <i>interconnected</i> MS4s for Phase I coverage. Sonoma County has an interconnected MS4 with the City of Santa Rosa. There are numerous examples throughout the State of similar small or medium-sized municipalities being included in a Phase I permit. There are opportunities for cost-sharing and added program efficiencies by including multiple MS4s into a single permit.

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		<p>Municipalities that contribute sources of significant pollutants to waters of the United States may also be designated under a Phase I permit. RWB staff and the U.S.EPA (see their comment letter) believe that the Fact Sheet supports such a determination.</p> <p>In addition to the County's MS4 being interconnected with Santa Rosa's MS4 and being a source of significant pollutants to the Laguna de Santa Rosa watershed, areas of Sonoma County are rapidly growing and continue to experience new development. In fact, the 2010 census may show that the population of the County now supports including additional areas within the MS4 Phase I permit boundary. Staff also notes that Sonoma County supports industrial areas where many people work that may not be counted in the population of those that live within the permit boundary. Sonoma County supports many visitors to the area with activities aimed at attracting tourists.</p> <p>Additionally, Sonoma County has been a Phase I permittee for over a decade and U.S.EPA has found that this is appropriate (see their comment letter on the 2nd draft). To allow the County to become a Phase II permittee at this late date may cause issues under the Clean Water Act with backsliding.</p> <p>Even if such a change was legally</p>

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		permissible, it is unlikely that being a Phase II permittee will allow the County to disregard their existing requirements under the Phase I MS4 program. The primary difference between the Phase I and II programs is the time allowed to develop a storm water management program. The substantive requirements of each permit, however, are similar and they both include the same minimum measures. The next statewide Phase II permit will most likely be very similar to a Phase I permit.
3.3	Commenter notes that the Co-Permittees have the only Phase I permit in the North Coast Region.	Comment noted.
Planning and New Development/Redevelopment Requirements		
15.11	U.S.EPA supports the size thresholds for post-construction BMPs in the draft Permit, although U.S.EPA finds them less stringent than thresholds contained in other recently adopted California MS4 permits. U.S.EPA finds the size thresholds to be an acceptable minimum requirement.	Comment noted.
9.1, 9.2, 9.4	Marin/Sonoma Vector Control District supports the requirements in the draft Permit for visual flow monitoring, BMP maintenance, tracking, inspections and enforcement if needed.	Comment noted.
9.3, 9.5	Marin/Sonoma Vector Control District notes that they have spent considerable staff time and resources correcting problematic BMPs, particularly detention basins. These issues could have been avoided with proper choice, design and maintenance of BMPs.	Comment noted.
10.15, 12.5	Commenters object to the	RWB staff agrees that the 2 nd draft

Comment Topics and Nos.	Summary Comment	Response
	weakening of the planning, new development and redevelopment requirements from the 1 st to the 2 nd draft Permit. Commenters particularly object to raising the threshold for requiring post-construction BMPs for new development and redevelopment projects from 5,000 ft ² to 10,000 ft ² .	Permit is less stringent in this area than the 1 st draft Permit and that the 2 nd draft Permit is not as stringent as other recently adopted MS4 permits. These revisions were difficult to make, but RWB staff made every effort to balance the economic concerns of the Co-Permittees and the requirements needed to protect water quality.
10.8, 10.14	Commenter asserts that the draft Permit is less stringent than others adopted recently statewide and nationwide. Commenter is concerned that the lack of a numeric performance standard in the area of new development keeps the Co-Permittees from meeting the MEP standard.	The permit has been revised to include a clearer performance standard to ensure implementation of LID measures for new development.
7.28, 8.2, 13.14	Commenters support the planning, new development and redevelopment requirements.	RWB staff agrees. The planning and land use development requirements of the draft Permit are critical to protect water quality.
7.27	Commenter notes that planning and development should occur in a way to protect water quality, streams, wetlands, riparian areas, limit impervious surfaces, limit hydromodification and encourage LID.	Comment noted.
Prescriptive Requirements		
15.18, 15.19	U.S.EPA fully supports the prescriptive, quantitative requirements in the draft Permit to ensure clear, measurable and enforceable requirements. U.S.EPA notes that these requirements are supported by the roughly 50 MS4 audits that have been conducted in U.S.EPA region IX since 2001.	Comment noted.
1.10, 2.2, 2.4, 2.5, 3.39, 3.44, 3.62,	Commenters contend that the draft Permit improperly specifies manner and method of compliance	This issue was addressed in the responses to comments received on the 1 st draft Permit. The Permit

Comment Topics and Nos.	Summary Comment	Response
	in conflict with the California Water Code.	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. If the Co-Permittees request effluent limits rather than the use of specific BMPs to achieve compliance, RWB staff would support this approach.
Public Agency Activities		
15.18	U.S.EPA supports the requirements in the non-storm water, illicit discharges and the public agency activities sections included in the draft Permit.	Comment noted.
2.125, 2.128, 3.22, 3.89, 3.90, 3.91	Commenters are concerned with the cost and feasibility of the catch basin cleanout requirements.	The benefit of requiring cleanout of catch basins is that it can reduce the amount of trash and debris that makes it to surface waters via the MS4. RWB staff does recognize, however, that this requirement is costly and that its major benefit is not pollution control, but rather reducing flooding. In addition, because most catch basins in the permit boundary do not have sumps that would trap trash and debris for removal, RWB staff believes that this may be a requirement that could be postponed until next permit term without causing substantial impacts to water quality.
3.20	Sonoma County requests that the	Additional clarification was added

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	clarification that post-construction BMPs are not needed for road maintenance projects such as chip sealing be removed because it is confusing.	at the request of the Co-Permittees.
7.35	Commenter supports the municipal operations requirements of the draft Permit because public agencies should limit available pollutants during their activities.	Comment noted.
7.34	Commenter notes that public agency programs should require use of the Fishnet 4-C road maintenance manual.	The draft Permit includes this requirement.
Public Information and Participation Program (PIPP)		
2.61	Commenter asserts that people will still pollute even if they are provided information and education.	Comment noted. However, studies have shown the effectiveness of well-designed public outreach efforts in changing public behavior. The PIPP is a required element of the MS4 program.
3.73	Commenter notes that Regional Parks educates thousands of individuals on the importance of storm water quality.	Comment noted. The Parks program is an important part of the PIPP.
7.23, 7.26	Commenter agrees the goals and requirements of the PIPP, as well as enforcement are important for water quality protection.	Comment noted.
13.12	Commenter supports the requirement to label storm drain inlets, but recommends the use of larger, easier to see and more durable materials than currently used by the Co-Permittees.	Comment noted, visibility is important.
Receiving Water Limits		
2.8, 2.52	Santa Rosa appreciates the previous modifications made to the receiving water limits (RWLs) in the draft Permit, but would like an additional change made.	RWB staff is concerned that the requested change is not consistent with the iterative approach that is the foundation of the MS4 program and that the lag time between being informed of a RWL exceedance (in an annual report)

Comment Topics and Nos.	Summary Comment	Response
		<p>may be too long to request the Co-Permittees to begin an iterative process. RWB staff prefers the current language that allows the Co-Permittees to request an end to the iterative process, but doesn't include a lag time for RWB staff to determine that a RWL was exceeded.</p>
2.37	<p>Commenter requests removal of Finding 17 because the commenter states that there is no data supporting a finding that storm water discharges contribute to exceedances of WQS.</p>	<p>RWB staff disagrees. Please see pages 18 – 29 of the Fact Sheet, the Co-Permittees' Annual Report monitoring data, the Co-Permittees permit applications, the Laguna TMDL and the comment letter from U.S.EPA.</p>
<p>Storm Water Management Plan</p>		
2.58, 2.59	<p>Santa Rosa requests that the SWMP updates be approved by the Executive Officer rather than the RWB.</p>	<p>During meetings on the 1st draft, Santa Rosa argued that the SWMP could not be incorporated into the Permit unless updates were approved by the RWB rather than the Executive Officer. To alleviate the City's concern, RWB staff added language to the draft Permit that the RWB would approve updates to the SWMP annually or less frequently if appropriate.</p>
<p>Support of the draft Permit</p>		
15.7	<p>U.S.EPA supports the draft Permit generally although clarifications are needed to make the draft Permit more enforceable.</p>	<p>Comment noted. RWB staff has added language to address U.S.EPA's concerns.</p>
15.18, 15.19	<p>U.S.EPA supports the requirements in the draft Permit related to non-storm water discharges, illicit discharges, and public agency activities. U.S.EPA believes the requirements in the draft Permit are consistent with other California MS4 permits and are fully supported by the Fact Sheet. U.S.EPA firmly supports</p>	<p>Comment noted.</p>

Comment Topics and Nos.	Summary Comment	Response
	the draft Permit.	
8.1, 8.5	Coastal Commission supports the draft Permit, especially the land use planning and development requirements.	Comment noted.
9.1, 9.2, 9.4	Marin/Sonoma Vector Control District supports the requirements in the draft Permit for control of non-storm water flows, visual flow monitoring, BMP maintenance, tracking, inspections and enforcement if needed.	Comment noted.
2.1, 2.92, 3.1, 3.60, 3.69, 4.1	The Co-Permittees appreciate the meetings held and changes made to the draft Permit that address some of their concerns.	Comment noted.
6.4, 7.4, 7.1, 7.5, 7.6, 13.1, 14.1	Commenters support the draft Permit and Fact Sheet. Commenters state that RWB staff has responded to economic concerns while retaining elements that meet the iterative improvement goal. Commenters strongly support adoption of the draft Permit.	Comment noted.
13.2	Commenter strongly supports outfall monitoring, a permit boundary expansion or a waiver for non-point source pollution county-wide, the industrial/commercial program and the requirements for hydromodification control and LID.	Comment noted.
7.7, 7.8, 7.19, 7.41, 12.2, 13.4	Commenters are concerned with ongoing water quality degradation and state that since water quality degradation increases under existing permits, programs, policies etc. additional controls are needed. Commenter supports the draft Permit.	Comment noted.
7.2, 7.3, 12.20	Commenters are concerned with water quality degradation in the Laguna, specifically nutrient and	Comment noted.

Comment Topics and Nos.	Summary Comment	Response
	sediment discharges that contribute to the Ludwigia condition.	
12.6	Commenter hopes RWB staff will be able to follow through with complete implementation of the Permit.	Comment noted.
TMDL		
15.14	U.S.EPA states that the Laguna TMDL is currently being updated and that until this occurs, the current TMDL remains in effect and the requirements need to be reflected in the Permit.	Comment noted.
15.12, 15.13	U.S.EPA requests clarification of whether the TMDL is enforceable, and if so, requests Waste Load Allocations be included in the draft Permit.	RWB staff and U.S.EPA have further discussed this issue and agreed that the TMDL is not directly enforceable since it doesn't contain a final compliance date. The draft Permit has been clarified on this issue.
9.8	Marin/Sonoma Vector Control District supports the inclusion of the Laguna TMDL and the outfall monitoring in the draft Permit to reduce invasive plants that provide mosquito habitat.	Comment noted.
(2.9 - 2.17), 2.53, 4.3	Santa Rosa contends that the 1995 TMDL is not valid.	RWB staff and U.S.EPA disagree that it is not valid for the reasons described in the Fact Sheet, but find that it is not enforceable. The draft Permit has been modified to clarify this issue.
7.14	Commenter notes the TMDL is meant to address water quality impairments.	Comment noted.
13.9	Commenter notes that compliance with the Laguna TMDL is difficult to assess.	RWB staff agrees. The TMDL is not enforceable but contains waste load goals only.
12.21	Commenter asserts that the Laguna TMDL is not a model TMDL.	The TMDL is being updated.

Trash		
14.5	Commenter recommends requiring recycling containers at public events along with trash containers.	This is somewhat outside the scope of the draft Permit, but RWB staff recommends this to the Co-Permittees.
Water Quality Standards		
2.77, 2.119	Commenters assert that the draft Permit requires that discharges from BMPs meet WQS and that this is tantamount to including numeric effluent limits.	RWB staff disagrees that the draft Permit includes numeric effluent limits in any form. Discharges from the Co-Permittees' MS4 to receiving waters must meet WQS, but this does not require strict compliance with WQS through numeric effluent limits, and instead allows the Co-Permittees to follow an iterative approach which seeks compliance with WQS over time.