



California State University

FACILITIES SERVICES

CHANNEL ISLANDS

Public Comment Small MS4 Permit Amendment Deadline: 7/20/17 by 12 noon



July 14, 2017

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

Subject: Comments on the Proposed Amendments Phase II MS4 General Permit and Attachment G

Members of the State Water Resources Control Board:

The California State University Channel Islands (CSUCI) appreciates the opportunity to provide comments on the proposed amendment to the Phase II Small MS4 General Permit (Permit) that was adopted on February 5, 2013. CSUCI is one 23 California State university campuses and supports efforts to improve water quality at every opportunity.

Our comments are presented on this and following pages. Unfortunately, within the given time constraints, these comments are general. With more time, more comments with more detail can be presented.

Comments

01. Page 56 of the Draft Fact Sheet states:

“When a state agency requires a local government to provide “a new program or higher level of service,” the state must “reimburse that local government for the costs of the program or increased level of service.” (Cal. Const., art. XIII B, §6, subd. (a).) The TMDL-specific requirements of this Order, as amended on XXXX XX 2017, do not constitute a new program or higher level of service for two reasons: . . .”

The permit then goes on at length to claim that the amendment is only a continuation of the existing MS4 permit language. The statement completely ignores the fact that the amendment requires the following in Attachment G:

“Requirements for Implementing the TMDL: The Phase II entities identified in this TMDL section must take either of the following actions to meet the requirements of this TMDL:

- 1. Enter in a cooperative agreement with Phase I MS4 Permittees to participate in a Watershed Management Program (WMP) or Enhanced Watershed Management Program (EWMP) developed and approved pursuant to one of the Los Angeles Region’s Phase I MS4 permits. A Permittee shall notify the Regional Water Board of its intent to enter into a cooperative agreement with Phase I MS4 Permittees. Such notification shall be provided by [Hard Date: 6 Months from adoption], and shall identify the Phase I MS4 Permittee(s) and the WMP or EWMP that the Permittee intends to

One University Drive, Camarillo, California 93012-8599 Tel: (805) 437-8400 Fax: (805) 437-2063 www.csuci.edu

*participate in. The cooperative agreement shall be finalized within one year of adoption of these permit amendments, and shall be submitted to the Regional Water Board Executive Officer upon finalization.
or alternatively,*

2. Propose a program plan for attaining the wasteload allocation(s). The Program Plan must identify the currently used and planned BMPs and any other planned actions to attain the wasteload allocation(s), which may include, but is not limited to, retaining the volume of runoff associated with the 85th percentile, 24-hour storm event on-site. The Program Plan must provide a technical demonstration (using modeling and/or empirical data) that there is a reasonable assurance that by implementing the BMPs and other planned actions in the Program Plan, the Permittee's MS4 discharges will achieve the wasteload allocation(s) by the compliance schedule deadline(s) identified within this specific TMDL section. The Program Plan must also include monitoring of the Permittee's MS4 discharges to track progress toward achieving the wasteload allocation(s) and validate the reasonable assurance demonstration. The Program Plan is subject to approval by the Los Angeles Regional Water Board Executive Officer. The Program Plan must be submitted for Los Angeles Regional Water Board Executive Officer approval by [Hard Date: 12 months from adoption]. Once approved, the Permittees must implement the Program Plan and are responsible for attaining applicable wasteload allocations and demonstrating such attainment with monitoring data."

The wasteload allocations identified in the Fact Sheet of this Order are incorporated by reference. The final wasteload allocations shall be achieved by March 26, 2022."

This is clearly additional effort, regardless of the alternative chosen. For any CSU campus, the selection of alternate 1 requires a detailed agreement between the campus and the adjacent or surrounding MS4, whether that be a Phase I or Phase II MS4. For the protection and autonomy of the campus, these details would include delineation of the jurisdictional authority of the outside MS4, sharing of costs, right-of-entry and inspection and an unlimited number of issues.

Once agreed upon, each MS4 must assign additional resources for implementation of the agreement, in addition to compliance efforts with MS4 permit requirements.

02. The TMDL substances are arbitrary to the campus. The Fact Sheet states that the Campus is a source of non-stormwater discharges of substances that are subject to TMDLs, but does not state how this was determined. In fact, the campus has one outfall that discharges to Calleguas Creek. This outfall is normally dry and the hydrology and hydraulic conditions of this outfall make it nearly impossible for it to discharge in any storm event smaller or equal to the 85th percentile event, or, for that matter, any storm event less than a flood-stage storm event. It's also impossible to sample this outfall when discharging because it's submerged and the channel would be at flood stage.

Portions of the campus discharge to Long Grade Canyon Creek; however, it is also highly unlikely for this discharge to reach Calleguas Creek in any storm event equal to or less than an 85th percentile storm. The remainder of the campus discharges through culverts that pass under Potrero Road. This discharge is transmitted in a pipe for at least 1,000 feet and then in open channels that drain adjacent privately owned agricultural land. It finally reaches Calleguas Creek two miles downstream of the campus.

03. The campus did not receive constructive notice of the comment period. The campus received a phone call from the State Water Board staff in June 2017, but the subject of the call was to inform the campus that Attachment G of the permit had been amended and CSUCI had been named as a Phase II entity for Calleguas Creek TMDLs; that required actions provided to the University in the amended Attachment G are to enter into a cooperative agreement with another MS4 or propose a program for compliance with the identified WLAs; that the TMDL for toxicity had already passed the attainment date

and the campus would be required to be in compliance with this TMDL at the adoption of the amendment; and that questions could be directed to the Los Angeles Regional Water Quality Control Board.

The previous Informal Draft of Proposed Revisions of Attachment G circulated June 19, 2015 did not include Calleguas Creek nor did it name CSUCI as a Municipality required to comply with TMDL WLAs. Effectively CSUCI was provided one month to review and comment on the revisions. This is an insufficient amount of time to adequately evaluate and respond to these new requirements.

04. The MS4 General Permit Issued in 2013 indicated in the Findings #40 "The Regional Water Boards are additionally being directed through this Order to review the TMDL-specific permit requirements of Attachment G in **consultation with the Permittees** and the State Water Board staff and propose any revisions to the State Water Board within one year of the effective date of this order." CSUCI was never contacted nor consulted with any representatives of the State Water Board or Los Angeles Water Board on Attachment G or TMDL requirements for the campus.

The lack of communication with CSUCI prior to the 2017/2018 budget schedule, presents additional problems to an already stressed state budget.

CSUCI requests that the board provide detailed analysis that CSUCI is discharging TMDL constituents to Calleguas Creek or remove CSUCI from the TMDL listing for Calleguas Creek.

Sincerely,

A handwritten signature in blue ink, appearing to read "John H. Gormley". The signature is fluid and cursive, with a large initial "J" and "G".

John H. Gormley, FAIA
Associate Vice President for Facilities Services

Cc: Jennifer Lindquist, CI
Jim Walsh, CI

