

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION**

**RESOLUTION R5-2019-0006**

**DESIGNATION OF REGULATED SMALL MS4 FOR  
CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION  
MULE CREEK STATE PRISON  
AMADOR COUNTY**

**INTO THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM GENERAL  
PERMIT FOR WASTE DISCHARGE REQUIREMENTS FOR STORM WATER DISCHARGES  
FROM SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS  
PERMIT NO. CAS000004**

The California Regional Water Quality Control Board, Central Valley Region, (Central Valley Water Board) finds that:

**Authority for Designation**

1. The National Pollutant Discharge Elimination System (NPDES) General Permit for Waste Discharge Requirements for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems (MS4), Order No. 2013-0001-DWQ, (Small MS4 General Permit) was adopted by the State Water Resources Control Board (State Water Board) on 5 February 2013 and amended on 19 December 2017.
2. The Small MS4 General Permit applies to a subset of Small MS4s, designated in accordance with federal regulations and criteria identified in the Permit. The State Water Board designated all Small MS4s located within an urbanized area and Small MS4s located outside of an urbanized area that have high population and population density or discharges to an Area of Special Biological Significance.<sup>1</sup>
3. Additionally, the Small MS4 General Permit allows the Regional Water Boards to designate additional Small MS4s on a case-by-case determination. Designations must be “based on the potential of a Small MS4’s discharges to result in exceedances of water quality standards, including impairment of designated uses, or other significant water quality impacts, including habitat and biological impacts.”<sup>2</sup> Such designations must be approved by the Regional Water Board following public review and comment.<sup>3</sup>
4. If a Regional Water Board designates a Regulated Small MS4, the Executive Director of the State Water Board may amend Attachments A or B of the Small MS4 General Permit to add Regional Water Board designations.<sup>4</sup>
5. To allow for an appropriate regulatory approach, the Small MS4 General Permit addresses differences between Traditional and Non-Traditional Small MS4s. The Small MS4 General Permit identifies Non-Traditional Small MS4s as MS4s that are similar to

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<sup>1</sup> Findings 19 through 23 of the Small MS4 General Permit.

<sup>2</sup> Finding 24 and Section G of the Small MS4 General Permit.

<sup>3</sup> Finding 24 and Section G of the Small MS4 General Permit.

<sup>4</sup> Section G of the Small MS4 General Permit.

MS4s serving cities and counties but that are operated at other governmental facilities such as public campuses, military bases, and prison and hospital complexes. For purposes of the designation of state and federal prison complexes as Non-Traditional Small MS4s, the Small MS4 General Permit interprets prison complexes to mean prison facilities with a resident and staff population of 5,000 or more.<sup>5</sup>

### **Designation of Mule Creek State Prison**

6. The California Department of Corrections and Rehabilitation owns and operates a municipal separate storm sewer collection system at Mule Creek State Prison (MCSP) located in Lone within Amador County. The storm sewer collection system from MCSP discharges to Mule Creek.
7. The total MCSP population as of January 2019 is 5,395, which consists of 3,968 inmates<sup>6</sup> and 1,427 authorized staff positions.<sup>7</sup>
8. MCSP has had water quality issues in the past year. Sampling data collected by Central Valley Water Board and MCSP staff indicate that the discharge of stormwater from the facility has the potential to result in exceedances of water quality standards in Mule Creek.
9. The Central Valley Water Board has determined that MCSP meets the designation criteria in the Small MS4 General Permit and should be designated as a Non-Traditional Small MS4.
10. The Central Valley Water Board has notified the California Department of Corrections and Rehabilitation and interested agencies and persons of its intent to approve the resolution and has provided them with an opportunity to submit comments.
11. The Central Valley Water Board heard and considered all comments regarding this Resolution at a public hearing on 8 February 2019.
12. Following adoption of this Resolution, the Executive Director of the State Water Board may amend Attachment B to add MCSP as a Non-Traditional Small MS4.
13. The Executive Director will consider the record of these proceedings before the Central Valley Water Board, including comments submitted to the Central Valley Water Board from interested persons, prior to making any amendment to Attachment B. The State Water Board will accept additional written comments until 11 February 2019.

### **Trash Provisions**

14. On 7 April 2015, the State Water Board amended statewide Water Quality Control Plans<sup>8</sup> to address the pervasive impacts trash has on the beneficial uses of the State's surface waters (Trash Provisions).

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<sup>5</sup> Finding 17 of Small MS4 General Permit and p. 6 of the Small MS4 General Permit Fact Sheet.

<sup>6</sup> California Department of Corrections and Rehabilitation Division of Internal Oversight and Research Office of Research, 2 January 2019.

<sup>7</sup> COMPSTAT Strategic and Performance Planning Statistical Report (SB601), 4 December 2018

<sup>8</sup> Amendments to the Water Quality Control Plan for Ocean Waters of California (Ocean Plan) to Control Trash and Part 1 Trash Provisions of the Water Quality Control Plan for Inland Surface Waters, Enclosed

15. The Trash Provisions establish statewide narrative water quality objectives providing that trash shall not be present in surface waters and prohibitions of trash discharge to surface waters or trash deposition where it may be discharged into surface waters.
16. The Trash Provisions required the State Water Board to initiate implementation of the Trash Provisions by 2 June 2017 through an amendment to the Small MS4 General Permit or through monitoring and reporting orders issued pursuant to Water Code sections 13267 or 13383.<sup>9</sup>
17. The State Water Board did not amend the Small MS4 General Permit within the time frame specified in the Trash Provisions. Therefore, initial implementation steps are being required through the issuance of Water Code section 13383 Orders. For existing permittees, Water Code section 13383 Orders were issued on 1 June 2017. For newly Regulated Small MS4s, the State Water Board will issue Water Code section 13383 Orders upon designation.<sup>10</sup>
18. Newly designated Small MS4s must achieve full compliance with the Trash Provisions within 10 years of the effective date of designation.<sup>11</sup>

### **California Environmental Quality Act**

19. Issuance of this Resolution is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) (CEQA) pursuant to Water Code section 13389.

### **THEREFORE, BE IT RESOLVED THAT:**

1. The Central Valley Water Board designates Mule Creek State Prison as a Regulated Small MS4 under the Small MS4 General Permit.
2. The Central Valley Water Board requests that the Executive Director of the State Water Board amend Attachment B of the Small MS4 General Permit to include Mule Creek State Prison as a Non-Traditional Small MS4.
3. The Central Valley Water Board requests that the State Water Board issue a 13383 Order to California Department of Corrections and Rehabilitation in accordance with the Trash Provisions.

Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with California Water Code section 13320 and California Code of Regulations, title 23, section 2050 and following. The State Water Board must *receive* the petition by 5:00p.m., 30 days after the date of this Resolution, except that if the thirtieth day following the date of this Resolution falls on a Saturday, Sunday, or state holiday,

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Bays, And Estuaries of California (ISWEBE Plan) became effective on 2 December 2015. Documents associated with be Amendments may be downloaded from the following site at [http://www.waterboards.ca.gov/water\\_issues/programs/trash\\_control/documentation.shtml](http://www.waterboards.ca.gov/water_issues/programs/trash_control/documentation.shtml).

<sup>9</sup> Chapter IV.A.5.a(1) of the ISWEBE Plan and Chapter III.L.4.a(1) of the Ocean Plan.

<sup>10</sup> Chapter IV.A.5.a(1)(B) of the ISWEBE Plan and Chapter III.L.4.a(1)(B) of the Ocean Plan.

<sup>11</sup> Chapter IV.A.5.a(1)(B)(4) of the ISWEBE Plan and Chapter III.L.4.a(1)(B)(4) of the Ocean Plan.

the petition must be received by the State Water Board by 5:00p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the internet at [http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) or will be provided upon request.

I, PATRICK PULUPA, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of the Resolution adopted by the California Regional Water Quality Control Board, Central Valley Region, **on 8 February 2019**.

*Original signed by*

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PATRICK PULUPA, Executive Officer