COUNTY OF SONOMA

BOARD OF SUPERVISORS

575 ADMINISTRATION DRIVE, RM. 100A
SANTA ROSA, CALIFORNIA 95403

(707) 565-2241
FAX (707) 565-3778

July 6, 2009

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

RE: Comments on the revised draft storm water permit

Dear Ms. Kuhlman:

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

As you know, the County commented extensively on the first draft of the proposed permit last fall. The County appreciates that the Regional Water Board took those concerns seriously and met extensively with County staff prior to release of this second draft permit. Numerous substantial modifications were made in response to the County's comments. Further, we recognize the willingness of the Regional Board staff to negotiate an agreement to protect water quality outside the current permit boundary. This demonstrates a good collaborative effort on the part of both agencies. However, the County still believes that a Phase I permit is inappropriate and specific permit provisions remain in this second draft that are onerous, too costly and not commensurate to the size and potential impacts from the County's small urban areas.

Sonoma County expects the federal, state and local governments to work together to protect water quality, as no one agency can do this job alone. To that end, the County and Sonoma County Water Agency have gone above and beyond the requirements of our current NPDES permit to ensure pollutant discharges are minimized. Among many other measures, the County regulates development projects during construction, funds street sweeping to keep pollutants out of storm drains, conducts training of staff and the public, manages pesticide use in landscaped areas, and conducts a wide variety of public outreach programs. As you know, no other municipality in Sonoma County, except of course the City of Santa Rosa, Water Agency and the County, or anywhere else in the North Coast Region has a Phase I permit, much less implements measures above and beyond that permit to minimize storm water pollution. These measures cost the County alone approximately $1.9 million per year, of which only a portion is recovered by

development applicants.

The County also protects water quality in many other ways. For example, we conduct spill response activities, inspect certain industrial sectors, run a local oversight program for leaking underground storage tanks, regulate on-site wastewater disposal systems, conduct floodplain management activities, prohibit development in the floodway, ensure development does not adversely affect the flood carrying capacity of the floodplains, conduct hazardous materials collection and disposal activities, and the County is on the verge of adopting green building standards. Sonoma County is proactive in protecting the environment and water quality. Given all these efforts, we believe the State should treat the County as a partner, not as a discharger.

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

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

Requiring the County of Sonoma to obtain a Phase I NPDES MS4 permit outside of the City of Santa Rosa is contrary to Clean Water Act (CWA) and inconsistent treatment by the Regional Water Board. Further, the requirements of a Phase I permit are not commensurate to the potential discharges associated with small urban areas. The proposed permit proposes to regulate small urban areas in the unincorporated County (populations under 10,000 people) at the same level as the City of Santa Rosa which has a population of approximately 160,000 people and which is the largest metropolitan area in the North Coast Region. As such the draft Phase I permit is onerous and too costly for the potential benefit. It is not cost effective for small urban areas. Furthermore, elements of the proposed permit include numerous regulations for property owners and businesses. Imposition of these regulations creates a disparate economic burden for property owners and businesses located outside the City of Santa Rosa but within the unincorporated portions of the Phase I permit area.

Phase I permits are required for urbanized areas with large populations (>250,000 people for large municipalities and between 100,000 and 250,000 people for medium municipalities) or where the municipality is a significant source of pollutants. The unincorporated areas outside the City of Santa Rosa have a *total* population under 15,000 people (Larkfield/Wikiup – 7,500; Graton – 1,500, area outside of Windsor - ~2,000, area outside Healdsburg - ~1,500). These low populations do not support a Phase I permit.

The current draft of the Phase I permit refers to the Nationwide Urban Runoff Program (NURP) study to justify the RWB staff assertion that the County is a significant discharger of pollutants.

However, the NURP study does not provide data relevant to the County's small urbanized areas. The NURP studied approximately 30 locations across the United States back in the early 1980's. The storm water sampling data was categorized into several categories, one of which is "Urban Open and Nonurban." The data for this category shows consistently less pollution than the data for the other categories such as residential, commercial, industrial and mixed. Further, the State has not provided any local studies to support the assertion that small urban areas (less than 10,000 people) are a significant source of pollutants.

Requiring small unincorporated urban areas to obtain a Phase I permit results in unequal treatment compared to other municipalities. The census designated places (CDPs) identified as "urbanized areas" in the 2000 census are required to obtain coverage under a NPDES MS4 permit. However, the CWA regulations allow CDPs to obtain coverage under a Phase II NPDES MS4 permit. All other local municipalities (Healdsburg, Windsor, Sebastopol, Rohnert Park, Cotati) were allowed to file for and obtain coverage under a Phase II NPDES MS4 permit after the census designation. Further, forty-eight of the two hundred eight Phase II permittees listed on the SWRCB web site are a CDP. The Regional Water Board has inappropriately used a Phase I permit to regulate a low population, low risk municipality. The County is seeking consistent regulation under a Phase II permit similar to the incorporated municipalities of Healdsburg, Windsor, Sebastopol, Rohnert Park, and Cotati.

Regarding costs, the County alone expends $1.3 million dollars annually to comply with the current Phase I permit. The costs to comply with the revised proposed permit are estimated to be $2.7 million dollars annually. These costs, both current and estimated, are not commensurate with the water quality impacts in the urban areas under permit. For comparison, the City of Santa Rosa's average cost is $2 million dollars annually. The County's costs are of the same order of magnitude as the City's, however, the populations in the affected County areas are dramatically smaller than the City of Santa Rosa's population. Further, issues of equitability aside, costs of this magnitude are simply not sustainable under today's fiscal realities.

The financial implications of this permit cannot be discounted given the severity of the current economic climate. The additional $1.4 million annually required to implement the proposed permit represents a significant burden on the County's budget. The FY 09-10 budget includes reductions of approximately $20 million and approximately 150 positions. Furthermore, with the proposal to redirect gas tax funding from local jurisdictions to the state, our transportation and public works department is facing an additional reduction of approximately $8 million in FY 09-10—and the majority of permit costs are born by this department. The County simply does not have the discretionary revenue to fund the new permit costs.

It is important to note that despite these difficult fiscal realities, the County's overall commitment to environmental protection remains strong. We remain on track to achieve our self-imposed green house gas reduction target by 2015, as demonstrated by the approval of a $22 million comprehensive energy efficiency project to be implemented over the next three years. Our Board approved long term debt financing for this project because of its commitment to environmental protection, but also because it was the right business decision that will yield ongoing operational savings by reducing resource consumption. Over time, these savings will pay for the entire cost of the energy efficiency program and will generate an anticipated $58

million in savings. With limited resources, every taxpayer's dollar spent must live up to the same scrutiny, and the return on investment associated with the proposed permit is not clear.

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

The County continues to request a fair and equitable permit that reflects a level playing field for similarly sized municipalities and that ensures all parties (federal, state and local governments) share in the responsibility to protect water quality. The County supports protecting water quality, but local government cannot and should not be carrying the burden alone.

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

Sincerely,

Paul Kelley

Paul L. Kelley, Chair
Sonoma County Board of Supervisors

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

Enclosures: Attachment A –Transportation and Public Works Comments
Attachment B – Permit & Resource Management Comments
Attachment C – Department of Emergency Services Comments
Attachment D – Regional Parks Comments

Comments on the 2nd draft of the North Coast WQCB Waste Discharge Requirements

(KG 6/4/09)

Part 4, 6 (8): Impervious surface should be clarified as "new, not pre-existing". Resurfacing or reconstructing of existing impervious surfaces does not generate storm water runoff over and above the existing conditions. The threshold amount of impervious surface should be set at 20,000 square feet, rather than 10,000, so as not to unreasonably burden minor, incidental road improvement projects. On-street, not just off-street, bicycle lanes should be exempt in the apparently intended spirit of promoting non (potentially) water polluting modes of travel.

Part 9, 2 (b): Add "non-routine" to "long term maintenance projects". Many routine, insignificant (from a water quality standpoint) maintenance activities, pavement and crack sealing for instance, are actually relatively long term. "Non-routine" better captures the presumed intent that significant maintenance activities should require a Construction General Permit.

Part 9, 4 (a) (2): Exclude pothole and square cut patching and small area overlays as overly burdensome to these typically fast moving operations. The water quality risk posed by these operations would seem to be inconsequential.

Part 9, 4 (a) (7): Delete "by vacuuming or sweeping " as too exclusive. What's wrong with "shoveling" where appropriate?

Part 9, 4 (a) (11): Add "unless mitigated by appropriate BMP's". As written this is too restrictive and potentially overly burdensome, particularly if the potential ill effects can be controlled with BMP's.

Part 9, 5 (c) (1): Should be deleted as too exclusive. Many routine road maintenance activities have little effect on water quality and do not trigger the need for post construction BMP's – chip sealing, spot overlaying, and fog sealing for example. This requirement could be taken as confusing since post construction controls are only considered for non-routine, long term maintenance projects involving one acre or more (Part 9, 2(b)) in conjunction with the required Construction General Permit.

Attachment A

Part 9, 9 (a) (1): Need to clarify that "debris" is other than sediment, more akin to trash. My notes on the discussions with Regional Board staff on the first draft indicate that debris and sediment are different. Also, subsequent section (f) (1) (B) calls out debris and sediment separately.

Part 9, 9 (f) (1) (A): As above re. catch basins, clarify that "debris" is other than sediment. Define "other drainage structures" as open drainage facilities (e.g. roadside ditches), as opposed to pipes and culverts. It is expected that closed system storm drain pipes/culverts which receive runoff from curbed streets and roads would be inventoried, inspected regularly, and cleaned as necessary (as they are under the current requirements), but open system pipes/culverts on non-curbed streets and roads, such as simple cross culverts, should not be subject to this type of requirement. Pipes in these situations typically mimic the natural bottom, open drainage ways upstream and downstream, do not necessarily trap debris and, except for large diameter pipes and box culverts, are typically difficult and time consuming to visually monitor. Since visual monitoring will be and can be easily performed in the open channels upstream and downstream, it would seem to serve no practical benefit to invest the resources needed to monitor the interior of these pipes.

COUNTY OF SONOMA
PERMIT AND RESOURCE MANAGEMENT DEPARTMENT

2550 Ventura Avenue, Santa Rosa, CA 95403-2829
(707) 565-1900 FAX (707) 565-1103

To: Nathan Quarles, Engineering Div. Manager

From: Reg Cullen, PRMD RC

6 July 2009

Subject: Review of hydromodification[1] in the draft Phase I MS4[2] permit, Version 2

TWO POINT SUMMARY OF COMMENTS

1) We need to generate detailed guidance on hydromodification before any new projects (beyond existing SUSMP[3]) are required to examine the impacts to water quantity from the MS4 permit.

2) Need the North Coast Regional Water Quality Control Board to clarify exactly how many parameters (two or three) and which parameters (discharge, velocity, duration, or volume) will require analysis for hydromodification.

A. Review of North Coast Regional Water Quality Control Board (RB1) response to hydromodification comments by PRMD on Version 1 of the draft Phase I permit

On 21 October 2008 the Supervisors from the County of Sonoma sent comments to the North Coast Regional Water Quality Control Board (RB1) regarding compliance with hydromodification as a significant issue for the County. Hydromodification is found as main concern #8 in that letter from the Board of Supervisors and cross-referenced in red by RB1 comment number 3.14. However, Comment 3.14 is not addressed in the hydromodification section of the RB1 response to comments.

The County has a strong interest in supporting post-construction BMPs via SUSMP implementation and the County Grading ordinance; and RB1 should understand this commitment via interaction with County staff at our scheduled monthly SUSMP meetings. It is an oversight by RB1 that the County Board of Supervisor concerns about hydromodification requirements were not addressed.

---

[1]Hydromodification is a change in storm water runoff caused by land use modifications (CASQA, 2009) or altering the flows or the beds or banks of streams from their existing state (based on North Coast Regional Water Quality Control Board 1, abbreviated RB1). Unless managed, hydromodification can cause channel erosion, sediment transport, and impact riparian habitat.

[2]MS4 stands for municipal, separate storm sewer system. Version 2 of the RB1 MS4 was released for public comment on 22 May 2009. Version 1 was released in on 9 September 2008.

[3] SUSMP stands for Standard Urban Stormwater Mitigation Plan in effect June 2005 providing guidance on post-construction BMPs for the Co-Permittees and design community in the Santa Rosa area.

The county and RB1 know the SUSMP Guidelines do not provide detailed guidance on how the applicant should address hydromodification (also known as channel-forming discharge for SUSMP). In the initial response to comments PRMD described we can not expand our program until we provide adequate guidance on hydromodification.

It would be unconsionable to require more projects address hydromodification in an MS4 permit without providing viable guidance to engineers and the development community. This problem has been explained to RBI many times and the regional water boards convinced the county not to fund consultant assistance with channel-forming discharge until the state produces other guidance documents (with uncertain release dates).

RB1 cross-referenced comment 3.27 responds to the issues of the above paragraphs by stating "The draft permit allows time for development of a hydromodification plan in order to gain from knowledge propagated from other areas." The county needs a documented understanding from RB1 that no additional projects beyond those required by SUSMP will need to address hydromodification until the County can provide adequate direction to the engineering design community in the form of separate hydromodification guidance or an expansion of the hydromodification sections of SUSMP. Requiring more projects analyze hydromodification without providing detailed guidance will cause the loss of much time and money.

RB1 cross-referenced comment 3.28 summarizes PRMD's comments as PRMD "asserts" that hydromodification goals cannot be met in clay soils..." This comment misses the main point of PRMD's issue with hydromodification (item #3, pg 56 of RB1 compiled comments) in that requiring post-project hydrographs maintain pre-project hydrographs for four parameters (storm water runoff flow rates, time of concentration, volume and duration) will only be possible with appropriatedly designed infiltration galleries in well-drained soils (or with retention ponds). Where retention ponds are not viable (especially for in-fill projects in urban settings) and areas with clay, poorly drained soils (like much of the Santa Rosa Plain) meeting this requirement becomes nearly impossible.

The PRMD comment goes on to state "... we need to more fully develop the hydromodification program then provide public outreach at workshops about hydromodification. Requiring more projects address hydromodification without providing the guidance is a recipe for disaster." RB1 sidesteps commenting on the needs to develop detailed guidance before more projects fall under the requirements of hydromodification within the MS4 permit.

In summary, RB1 did not address the main issues the County had with hydromodification or it did not address issues at all in our initial response to comments.

B. Comments on hydromodification requirements of Version 2, draft Phase I MS4 permit

Version 2 of the RB1 draft MS4 permit mentions hydromodification once in the Findings (pg. 7/62) in the context of the County proposing implementation of a storm water program element that implements of post-construction treatment controls, such as Low Impact Development (LID) and hydromodification requirements to mitigate storm water from development. However, it is in Part E, Special Provisions that hydromodification requirements are described in detail (especially Part 4 , Part 5, and Part 6 discussed below).

PART 4 – Planning and Land Development Program (pg. 33/62)

Item 2 of this part requires the County to implement Standard Urban Stormwater Mitigation Plan (SUSMP, 2005) for Parts 4, 5, and 6. SUSMP is a discretionary program requiring source control, water quality treatment, an examination of hydromodification (channel-forming discharge) where the applicant is responsible for demonstrating that the post-development runoff rate and velocity from the project site will be limited to pre-development conditions for the two-year, 24-hr storm event, and the conservation of natural areas.

The County has a continued commitment to implement the SUSMP program. However the hydromodification element needs further development as borne out by statements in SUSMP (2005) that the County needs to evaluate approaches to mitigate volume and duration increases; and that the County needs to evaluate areas that may not be subject to water quantity considerations. Also, RB1 is aware the hydromodification section of SUSMP needs more detail and PRMD still firmly feels a need to develop this detailed guidance on hydromodification and educate the design community before the MS4 permit requires more projects abide by the principles of hydromodification analysis.

Item 3 (b) requires the County minimize the percentage of impervious surfaces on land development projects and implement mitigation measures to "mimic" the pre-development water balance through infiltration, evapotranspiration, and capture and reuse of storm water. The County can mimic pre-development hydrographs by closely resembling those hydrographs.

Item 3 (d) requires the County to "properly select, design and maintain treatment control BMPs and hydromodification control BMPs to address pollutants that are likely to be generated by land development, minimize post-development surface flows and velocities, assure long-term functionality of the BMPs, and avoid the breeding of vectors." The two hydrograph modification parameters specified in this item are 1) discharge (surface flows) and 2) velocity. The county feels it can assist the design community achieve compliance with these two parameters after developing detailed guidance and providing public education and outreach on hydromodification.

PART 5 – New development/Redevelopment Integrated Water Quality/Resource Plan (pg. 37/62)

Item 2 of this part requires the County to "develop a new development and redevelopment integrated water quality and water resource plan, for Executive Officer approval, which includes an LID manual, post-construction treatment BMP choice criteria, and a hydromodification control and mitigation plan. The integrated water quality/resource plan shall be included in an updated SUSMP manual, and shall include the following:

(a) Low impact development measures for (1) all new development and redevelopment projects shall be integrated into project design. This section of the draft permit defines Low impact development (LID) as a storm water management and land development strategy that emphasizes conservation and the use of on-site natural features integrated with engineered, small-scale hydrologic controls "to more closely reflect predevelopment hydrologic functions." The County is willing to abide by this requirement.

Section (a) (3) mandates the Co-Permittees shall develop a comprehensive LID technical guidance manual no later than October 1, 2011, for use by land planners, engineers and developers for both public and private development and redevelopment projects. The LID guidance manual shall include objectives and specifications for integration of LID strategies including (K) LID design and flow modeling guidance and (L) Hydrologic analysis; which form the basis of hydromodification. I ask RB1 to clearly state no new projects other than SUSMP projects shall be subject to hydromodification requirements until this LID guidance with hydromodification detail is produced by 1 October 2011.

Section (a) (4) mandates the Co-Permittees shall facilitate implementation of LID by providing key industry, regulatory, and other stakeholders with information regarding LID objectives and specifications through an LID training program. "The LID training program shall begin by April 1, 2012." The County agrees this time is sufficient to provide training after the hydromodification guidance is generated by Oct. 2011.

Item 2 (c) is entitled "Hydromodification (Flow/Volume/Duration) Control Criteria" and Section (1) requires the Co-Permittees to require all new development and redevelopment projects to implement hydrologic control measures, to prevent accelerated downstream erosion, minimize flooding and public nuisance conditions, to recharge ground water and to protect stream habitat in receiving waters. The County feels it can achieve this goal.

However, the paragraph goes on to state "The purpose of the hydrologic controls is to minimize changes in post-development hydrologic storm water runoff discharge rates, velocities, and duration." The County feels it can achieve this goal. But, it should be noted that while this paragraph lists the three parameters of discharge rates, velocities, and duration; the section is entitled with a different parameter of volume and does not include velocity. This is an inconsistency that must be clarified so the County can know which parameters must be examined. The county feels it can not adequately comment on the hydromodification section of this draft permit until the inconsistency is resolved.

This paragraph continues that hydromodification "... shall be achieved by maintaining the project's pre-development storm water runoff flow rates, and duration." This time the inconsistency is that only two parameters are listed (runoff rates and duration). Again, the number of parameters and type of parameters must be clarified so the County can know which parameters must be examined. The county feels it can not adequately comment on the hydromodification section of this draft permit until the inconsistency is resolved.

The paragraph concludes the Co-Permittees "shall also ensure that total storm water runoff volumes remain the same as the pre-development volumes, when possible." The County feels it can comply with this requirement.

Section (C) of this section requires the "Co-Permittees shall develop a Hydromodification Control Plan with input from local stakeholders and Regional Water Board staff by October 1, 2013, for Executive Officer approval, to address hydromodification based on accepted practices." The County seeks clarification on how the "Hydromodification Control Plan" of this section differs or integrates with the comprehensive LID technical guidance manual due no

later than October 1, 2011 mentioned above. The plan of this section seems redundant[4] and the County seeks clarification from RB1.

Section (E) identifies an "Interim Hydromodification Control Requirements." This interim plan is required to "protect receiving waters until Co-Permittees complete a Hydromodification Control Plan" mentioned above due 1 Oct 2013. Unfortunately, the deadline for the interim plan is January 1, 2010. While the county is extremely supportive of the use of an interim hydromodification plan until a more detailed plan is produced the deadline may be difficult to attain as the this version of the MS4 permit is scheduled to be adopted on 1 October 2009. The county asks for nine-months from adoption date of the MS4 to produce the interim hydromodification requirements.

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

Section 1 on Maintenance Agreement and Transfer requires the County obtain signed documents from the developer, public entities, or written text in CCRs/HOAs about transfer of responsibility for maintenance of post-construction BMPs. The County concurs maintenance is an important component of post-construction BMPs but believes prescribing the method and manner is inappropriate for an MS4 permit. The County would like this section struck from the permit and allowed to generate its own methodology for the efficient transfer of responsibility for post-construction BMPs.

Section 2, (c) 3 requires the County prepare a post-construction BMP maintenance inspection program that shall incorporate, in part, criteria and procedures for post-construction treatment control and hydromodification control BMP repair, replacement, or re-vegetation. This is something the County needs to address over the next permit term.

CONCLUSION

In order to adequately comment on the hydromodification components of Version 2 of the draft MS4 permit the County needs clarification on:

1. The number and exactly which parameters to be addressed when analyzing hydrograph modification. The County can abide with mimicking natural hydrologic processes at a site but it becomes more difficult until nearly impossible to meet hydrograph requirements when the list of parameters becomes long and there is a strict requirement not to exceed pre-project conditions.

The County feels it can continue to require post-project conditions be met for two parameters as described in the SUSMP Guidelines: 1) peak discharge and 2) peak velocities. Adding

---

[4] The Co-Permittees have discussed with RB1 how to best combine and use collective resources in addressing hydromodification. We have discussed 1) the Sonoma County Water Agency issuing an initial LID manual that would not go into hydromodification details, 2) the generation of hydromodification details that could be an appendix to the existing SUSMP guidelines and form the basis of public education and outreach, and 3) having the SCWA include a detailed section on hydromodification in the LID chapter of the next verions of their Flood Control Design Criteria (FCDC). The hydromod. details of an appendix to SUSMP could form the basis for the SCWA section on hydromod. in the next version of the FCDC.

volume and duration makes the analysis more difficult.

2. The County feels no new projects should be held to hydromodification requirements (beyond SUSMP projects) until a detailed guidance is developed and presented to the public via workshop. The County is dedicated to supporting the requirements of analysis of hydrograph modification for projects in an orderly manner.

July 6, 2009

To: Nathan Quarles, Engineering Div. Manager

From: Janice Gilligan, PRMD

Subject: COMMENTS ON DRAFT NPDES MS4 PERMIT – SECOND VERSION

General Comments

On May 22, 2009, the Regional Water Board released a second draft of the Storm Water Permit for Santa Rosa, Sonoma County, and the Sonoma County Water Agency. In the second draft, there are significant new requirements that lack flexibility, are overly prescriptive, and do not appear to take local costs into consideration. In addition, this permit identifies the actions, activities, and best management practices (BMPs) that the County must implement without the flexibility that allows for individual determinations.

The County of Sonoma continues to be committed to working with the Regional Board to collaboratively create a successful new permit that will achieve our mutual water quality goals. However, at this time we feel that we have invested an extraordinary amount of time and resources into this effort with minimal results. We have repeatedly drawn attention to elements in the proposed permit that are contradictory, unworkable, counter-productive and/or fiscally irresponsible. Unfortunately, the continued insistence on unwarranted regulatory requirements instead of a collaborative partnership between the County and the Regional Water Board squanders an extraordinary opportunity toward achieving environmental improvements.

Specific Comments

A. DISCHARGE PROHIBITIONS

1. The introduction to Discharge Prohibitions states "Discharges <u>from</u> the MS4... are prohibited," yet Table 1 has language that says "where such flows are diverted <u>into</u> the MS4, or enter the MS4." The CWA is clear that the NPDES program governs flows from MS4s. This permit should be consistent throughout that it governs flows from MS4s and not flows into County MS4s.

2. Table 1 also includes natural springs and uncontaminated groundwater as a type of discharge into the MS4. Please explain why these two items are included in this table, and why the Permittees would need to seek authorization from the Executive Officer to allow such flows into the MS4?

The CASQA BMP Handbook states, "Some non-storm water discharges do not include pollutants and may be discharged to the storm drain. These include uncontaminated groundwater and natural springs." This document is recommended by the Water Board to use as BMP guidance yet the revised draft permit is contradicting it.

Section 5 states, "In lieu of a strict prohibition of non-storm water flows the Permittees may submit a BMP Plan that is noticed for public review prior to authorization from the Executive Officer to allow specific non-storm water flows into the MS4." The County should not have to abide by this requirement for natural springs and rising groundwater.

No later than October 1, 2010 each Co-Permittee shall modify storm water management programs, protocols, practices, and municipal codes to make them consistent with the requirements herein, unless otherwise specified in this Order. This time frame is unrealistic given the numerous programs and codes involved. We recommend a phase approach or changing the due date to October 1, 2011.

Part 5 – Responsibilities of the Co-Permittees
(e) "Provide technical and administrative support for committees that will be organized to implement this Order and it's requirements."

"Committee" has not been defined. What type of committees should be supported, what constitutes a committee, who can organize a committee, how many members make up a committee?

Further, what level of technical and/or administrative support must we provide? These terms also are not defined. Are we required to type the committees letters as administrative support? Are we required to do engineering consulting work for these committees as technical support?

This provision is too vague and leaves too much room for interpretation. The County must use their limited resources to protect water quality in a cost effective manner and this requirement would detract from other goals we would want to implement. We suggest the following language, "County staff will voluntarily attend and participate in committee meetings when available."

E. SPECIAL PROVISIONS

Part 1 – General Requirements

3. Best Management Practice Program Substitution
This requirement was changed in the first draft permit but added back in as a "program substitution." The County maintains that this is an unnecessary process and suggests the following language: The Co-Permittees may substitute a BMP Program and will notify the Regional Water Board, for Executive Officer review, of any BMP Program substitution and document the reasoning for the substitution, including a demonstration that...

This would remove the obligation to petition the Executive Officer and include public notice while the Water Board would still have oversight of any substitution.

Part 2 – Public Information and Participation Program (PIPP)

1. "The co-permittees ...shall coordinate with SSU and SRJC to implement specific requirements."

The County is already coordinating with 6 departments, 2 co-permittees, RRWA, and 2 Water Boards. SSU and SRJC are under their own Phase II permits and the County has no control over these institutions or their programs. Please explain what is expected here. What are the specific requirements we are being asked to coordinate on and who will do the coordination?

1. (a) "To measurably increase the knowledge of the target audience about the MS4 and adverse impacts of storm water pollution."

2. (c) (6) "The Co-Permittees shall provide schools with materials, videos, and live presentations to educate a minimum of 40% of all school children (K-12) every 2 years."

It is not the role of the County (under an MS4 permit) to provide schools with educational materials and the County has no legal authority to dictate educational curriculum in the schools. The County proposes to work with the County Board of Education to provide educational materials on storm water runoff and pollution prevention to schools.

2. (c) (7) "The Co-Permittees shall develop and implement a strategy to measure the effectiveness of school educational programs, including an assessment of student's knowledge...

Item E.2.2(c)(6) requires that the Co-Permittees provide schools with materials so the schools can provide education regarding storm water impacts. At this point, the Co-Permittees have no control on how, or even if, the education is conducted nor do we any authority to change the teaching methods. Further we have no authority to grant us access to the students or teachers. Also, assessing knowledge or behavioral change can not be directly related to water quality improvements. It would be extremely difficult, if not impossible, to link someone's knowledge or a behavioral change to a quantitative water quality improvement. Assessing student's knowledge can not be tied directly to water quality.

It is not the role of the County (under an MS4 permit) to assess the effectiveness of school educational programs. In addition to not being school teachers or sociologists, the County does not have the expertise to develop a behavioral change assessment strategy. This provision would require additional staffing and detract from other goals. We suggest it be removed.

2.(c) (8) "The Co-Permittees shall develop and implement a behavioral change assessment strategy...

Here again, we are being asked to assess whether or not there has been a change in the behavior of the public. This is an onerous task and the County does not have the expertise to develop a behavioral change assessment strategy, nor do we see the benefit it would produce in protecting water quality or preventing pollution. This activity would detract from other goals that are more important to the County.

Assessing behavioral change can not be directly related to water quality improvements. It would be extremely difficult, if not impossible, to link someone's behavioral change to a quantitative water quality improvement. Assessing behavioral change can not be tied directly to water quality.

3. Business Program
(a) Corporate Outreach

3. (a) (1) (A) This provision for corporate outreach includes "Meetings with corporate management and/or facility operators and local facility managers to explain storm water regulations."

The County is uncertain about where these corporate managers are located, how many meetings would be required, and what level of effort would be necessary. This requirement would be very time consuming and detract from other outreach efforts. We suggest substituting this requirement with sending letters to a percentage of facility operators to explain storm water regulations by year 2011.

In the first draft permit comments we agreed to include Nurseries and Landscape material yards for public outreach but not inspect their facilities, yet these and other facilities were included as inspection provisions in the second draft that are beyond our ability to oversee or perform. In addition, the facilities listed in Part 3 are among the same facilities listed in Part 2 where we would distribute pollution prevention educational materials. We recommend deleting items B, D, E, F, and G, and changing the Outreach and Education section to say, "The County shall distribute pollution prevention materials to the following facilities within their jurisdiction."

2. (b - d) These sections dictate and/or recommend how each co-permittee shall document the new industrial/commercial inspections including GIS mapping or Internet-based system. The County departments who perform inspections at retail gasoline outlets and restaurants have an established protocol and tracking system. We propose that the Water Board accept or allow the current tracking method used by each permittee and delete the other mandatory tracking requirements.

3. Inspect Critical Resources

Part 3.3(a)(1) states each co-permittee shall inspect facilities identified in Part 3 twice ... Part 3.1(a) wants a industrial/commercial program that identifies applicable facilities. What does applicable facilities mean? The definition, Attachment C, for industrial/commercial facility is very broad and includes most if not all commercial enterprises. Hair salons, law offices, supermarkets, 7-elevens, etc. all meet the definition. Applicable facilities could also mean a critical source, but the term "critical source" is not defined. So Part 3.3(a)(1) means the co-permittee shall inspect all facilities that meet the industrial/commercial facility definition.

Part3.3(a)(1) starts off by requiring inspections and continues with, "The Co-Permittees shall require implementation of additional BMPs and controls to reduce pollutants in storm water runoff that may be causing or contributing to exceedances of WQS in CWA section 303(d) listed impaired water bodies." The next sentence is very similar.

Now consider that most, if not every, streams in the region is 303(d) listed for some form of soils (sediment, turbidity, etc). Also consider the RWB staff have stated numerous times that impervious surfaces cause or contribute to increase temperatures and increase sedimentation through hydrograph modification. This provision could mandate that the co-permittees require the retrofit of BMPs to address hydrograph modification for every industrial/commercial facility in our respective permit boundaries/MS4s. This would create a tremendous burden on the County to inspect and enforce these retrofit BMPs and this would create a disparate economic burden to those commercial establishments located within the permit boundary.

4. Interagency Coordination

The County would agree to perform item (c) and (e) of this provision which includes: Investigation of Complaints Regarding Facilities Not Covered Under a State Industrial Permit – Transmitted by the Regional Water Board Staff: and Participation in a Task Force.

Part 7 – State Statute Conformity

Part 7.2 requires the Co-Permittees to amend, revise or update its General Plan to include watershed and storm water quality and quantity management. The County recently adopted its General Plan 2020. The public and agencies alike were invited to provide comments on the draft General Plan and to participate in the adoption process.

4. Construction Sites Greater than 1 Acre
The County currently requires a minimum set of effective BMPs and has no opposition to this requirement.

5. Local Agency Requirements
(1) Erosion Control Plan
The County currently requires erosion control plans on all grading permits along with BMP locations. The problem with this provision is that the Water Board seems to be dictating what should be required in our permit applications. "The Co-Permittee shall not approve any erosion control plan unless it contains appropriate construction site BMPs...and maintenance schedules." By adding requirements such as maintenance schedules and a rationale for BMP selection to our permit process the Water Board is prescribing method and manner of conducting business.

PRMD currently requires an effective set of BMPs and will include a statement on all Erosion Control Plans that says, "The selected BMPs must be installed, monitored, and maintained to assure their effectiveness and meet compliance with local codes or other state regulations." We suggest removing maintenance schedules and a rationale for BMP selection as they are redundant.

Part 10 – Illicit Connection and Illicit Discharge (IC/ID) Elimination Program

2. General Permit Implementation
(a) During our meetings with the Water Board it was agreed to drop the requirement of making our IC/ID procedures available for public review. We do not agree that it is the public's business to review our procedures and comment on them. What purpose would this serve?

Conclusion:
The County is committed to protecting water quality and has substantially improved upon our program during the last permit term. We believe that a permit can be developed that provides a practicable means for Sonoma County to support its ongoing water quality and pollution prevention efforts. However, as with the first Draft Orders, we remain concerned with the same approach being taken with the second Draft Tentative Order.

In its adoption of an MS4 permit, the Regional Water Board should carefully balance the need to protect water quality, the activities associated with water quality protection and the financial cost of permit requirements. In many cases, the proposed permit requirements may not result in significant water quality improvements as compared to the cost of implementation. The County needs flexibility to be able to improve water quality in the most cost-effective and efficient manner possible, without being tied to a multitude of prescriptive and administrative actions that are not effective in improving water quality.

Thank you for your consideration of our comments. We look forward to working with the Regional Board and having a fair and equitable permit.

COUNTY OF SONOMA
DEPARTMENT OF EMERGENCY SERVICES

FIRE SERVICES * EMERGENCY MANAGEMENT * HAZARDOUS MATERIALS

MARK ASTON, DIRECTOR/FIRE CHIEF

June 23, 2009

Ms. Catherine Kuhlman, Executive Officer
North Coast Regional Water Quality Control Board
5550 Skylane Blvd., Ste. A
Santa Rosa, CA 95403

Dear Ms. Kuhlman,

Thank you for this opportunity to comment on the draft Santa Rosa – Sonoma County MS4 NDPES Stormwater Permit. We appreciate the work of the Regional Board in addressing water quality issues in Sonoma County and look forward to continuing the cooperative and mutually beneficial relationship we share with your agency.

The following are ~~my~~ staff comments on the draft of Order No. R1-2009-0050, "Waste Discharge Requirements," and the associated Fact Sheet as published on the North Coast RWQCB's website:

Page 24 of 62 notes the proposed corporate outreach program "shall target a minimum of four retail gasoline outlets (RGOs) franchisers and cover a minimum of 80% of RGO franchisees in the county..." As a Certified Unified Program Agency (CUPA), the County currently regulates all RGOs within its jurisdiction for operation of underground fuel storage tanks, handling of hazardous materials and, where applicable, generation of hazardous wastes. However, RGOs are not required by law to identify to CUPAs whether they are part of franchises. This would require additional reporting not mandated by Chapters 6.5, 6.7 or 6.95 of the California Health & Safety Code (HSC) or Titles 19, 22 or 23 of the California Code of Regulations (CCR). Further, the efficacy of such a corporate outreach program at the local level may be limited. As an alternative, we recommend that the State Water Resources Control Board consider launching an outreach program to the major oil companies to communicate stormwater best management practices for RGOs.

Page 26 of 62 notes that "Each Co-Permittee shall maintain a watershed-based inventory or database of facilities within its jurisdiction..." We find this language to be unclear. We currently maintain a detailed database of all of our CUPA-regulated facilities. Our inventory is sorted by street address (as required in the HSC) and does not identify the watershed in which a facility is located. We respectfully suggest that it be reworded to state "...maintain a database of sites or a watershed-based inventory of facilities within its jurisdiction..."

Page 58 of 62 states that the Spill Response Plan shall contain "Immediate notification to appropriate sewer and public health agencies, Sonoma County Department of Emergency Services (DES) ***and*** the Office of Emergency Services (OES)" (emphasis added). Since we have already created a matrix in Sonoma County through which the appropriate agency is notified, there is not a need to notify every agency of every spill. In addition, OES is now referred to as Cal EMA. Therefore, we suggest the following revision: "Immediate notification to appropriate sewer and public health agencies, Sonoma County Department of Emergency Services (DES) and/or the California Emergency Management Agency (Cal EMA)."

Attachment C

2300 County Center Drive, #221-A, Santa Rosa, CA 95403 * *Phone* (707) 565-1152 * *Fax* (707) 565-1172 * www.sonoma-county.org/des

Page 58 of 62 states that complaint investigations are to be initiated within 24 hours of receiving them, while **page 61 of 62** notes that Co-Permittees shall respond within 1 business day of discovery or a ***report*** of a suspected illicit /illegal discharge…" (emphasis added). Historically, DES has found that many of the complaints it investigates prove to be unsubstantiated. It would be a mistake for DES to commit itself to expending overtime on every after-hours complaint it receives regardless of probable validity. Therefore, we recommend that the more appropriate language found on page 61 also be used on page 58, rewording it to state that complaint investigations are to be initiated within 1 business day of receiving them.

Thank you for your consideration. Please let me know if you have any questions or comments. You can reach me at my office number of (707) 565-1152 or by e-mail at maston@sonoma-county.org.

Sincerely,

Mark Aston
Director/Fire Chief

SONOMA
COUNTY
REGIONAL
PARKS

MARY E. BURNS
DIRECTOR

2300
County Center Drive
Suite 120A
Santa Rosa
CA 95403
Tel: 707 565-2041
Fax: 707 579-8247
www.sonoma-county.org/parks

July 6, 2009

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

RE: DRAFT WASTE DISCHARGE REQUIREMENTS
DRAFT ORDER NO. R1-2009-0050
NPDES NO. CA0025054
WDID NO. 1B96074SSON

Dear Ms. Kuhlman:

The Sonoma County Regional Parks Department (Regional Parks) has reviewed Draft Order No. R1-2009-0050 (Draft Order) and respectfully submits the following comments for your consideration in preparation of the Final Order.

Regional Parks is committed to improving water quality associated with our construction projects and facility maintenance. As such, Regional Parks will strive to achieve compliance with the Final Order however; the Draft Order presents challenges to achieving this goal particularly in regards to the time-frames included in the Draft Order and budgetary issues within our Department.

Regional Parks appreciates RWQCB staff participation in the numerous meetings held to discuss the Draft Order and the work RWQCB staff has put into the revision and reorganization of the Draft Order and Fact sheet. While modifications have been made to clarify the regulations and expectations of public development & redevelopment projects undertaken by the Co-permittees, the Draft Order still appears to be written to regulate private development projects permitted by the Co-Permittees. The Draft Order is, in places, confusing for County Departments that will be implementing their own projects that do not require permits or approvals, such as grading permits.

Regional Parks also requests that the RWQCB commit to reviewing and commenting on the Annual Reports submitted by the Co-Permittees. The Co-Permittees spend a substantial amount of time and money complying with the requirements specified in the Waste Discharge Requirements and in preparing the Annual Reports. Regional Parks feels that the RWQCB's review and comments on the Annual Reports are an integral component to improving the overall storm water program and future storm water permits.

Following are comments specific to sections of the Draft Order:

1. **Pg 20, Part 3, Item 1 – This provision requires additional breakdown of budgetary expenditures.**

   The annual budget summary report expansion requested by the Regional Board would require extensive staff hours to produce. Regional Parks opposes this requirement and requests an explanation for the justification of this provision. Compliance with this requirement would require Regional Parks to extensively overhaul its accounting and time reporting system. The cost of doing so is very expensive and not cost-efficient.

Attachment D

2. **Pg 22, Part 2, Item 2(a) – This provision requires labeling of all storm drain inlets.**

It is not practicable to label all storm drain inlets. Example: a drop inlet in the middle of an athletic field. Regional Parks proposes that labels be required on storm drain inlets within or adjacent to sidewalks or parking lots.

3. **Pg 22-25, Part 2, Item 2, 3 – These provisions require increased public participation and education programs concerning storm water quality.**

Regional Parks continues to operate the Environmental Discovery Center (EDC) at Spring Lake Regional Park. The "Down the Drain" program relays messages about storm water pollution prevention, the "Habitat & Home" program illustrates the importance of wetland management and protection, and two other environmental education programs have storm water modules as well. Each year, the EDC educates thousands of individuals on the importance of storm water quality and environmental protection; during Fiscal Year 07-08, the EDC educated 11,600 participants. Consistent with the SWMP, Regional Parks will continue its commitment to education by providing storm water education through the EDC.

4. **Page 33 - 37. Part 4 - Planning and Land Development Program. This item requires that Permittees implement a Planning and Land Development Program for all New Development and Redevelopment projects subject to Order No. R1-2009-0050.**

   a. Item 5. Entitlement Process. Regional Parks is unsure whether this applies to the conveyance and/or acceptance of easements, which is fairly common at Regional Parks and is a routine paperwork exercise. If this provision is intended to apply to the conveyance and/or acceptance of easements, Regional Parks suggests that the provision is excessive and requests that language be added to specify these requirements not apply to easements.

5. **Pg 36, Part 4, Item 6 – This provision defines impervious surface and required post-construction treatment control thresholds.**

Please clarify the conditions in which permeable pavements with subdrains shall be considered impervious. The revised statement in the Draft Order concerning permeable pavements with subdrains lacking a properly engineered soil-based filter medium is inconsistent with the definition provided in Attachment C.

6. **Page 43, Part 6, Mitigation Funding.**

This provision should be numbered "5" and the lettering below it should be (a) – (e).

7. **Page 44, Part 6, Standard Urban Stormwater Mitigation Plan.**

This provision should be re-numbered "6."

8. **Page 44, Part 6, Project Coordination.**

This provision should be re-numbered "7."

9. **Page 44, Part 7 - State Conformity. The Draft Order requires Permittees to incorporate additional procedures to consider potential storm water quality impacts and provide appropriate mitigation measures into California Environmental Quality Act (CEQA) documents.**

   a. Regional Parks maintains that the existing CEQA Checklist provides the opportunity to evaluate the items listed in the Draft Order amongst the various resource categories. RWQCB comment letter states "RWB staff contends that storm water impacts are already required to be evaluated under CEQA". Regional Parks still questions why the Draft Order includes the requirement to change CEQA procedures when we are all in agreement that CEQA already requires the evaluation of storm water impacts.

   b. This requirement seems to exceed the federal CWA provisions (reference to the finding "Permit is Not an Unfunded State Mandate" on page 17 of the Fact Sheet). While Regional Parks recognizes the benefits of reconciling the Draft Order with the County's CEQA process, the RWQCB should demonstrate the nexus of this requirement to the federal Clean Water Act (CWA) provisions.

   c. Compliance of this requirement would result in an undetermined cost to Regional Parks. Due to the missing link with the federal CWA, this requirement is an unfunded local government mandate, which contradicts the finding "Permit is Not an Unfunded Mandate".

   d. Please spell out the meaning of "WQS" in (1)(a)(1)(H).

10. **Pg 45-46, Part 8, Item 2 – This provision discusses grading restrictions during the wet season.**

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

   a. Regarding Item 2(a) (1): Please clarify as to the beginning of the wet season. The wet season dates listed in the Draft Order need to be consistent with the definitions provided in Attachment C. Regional Parks does not support an October 1st wet season start date. Consistent with the Grading Ordinance, Regional Parks proposes a wet season beginning October 15th and ending April 15th because the month of October is generally dry. Regional Parks is supportive of having erosion control materials on-hand during the month of October, or whenever rainfall is in the weather forecast. Regional Parks is not supportive of an outright ban on grading during the wet season, and feels the wet season dates should be a general guideline. Actual grading times should be based on real-time weather conditions.

   b. Regarding Item 2(b): Regional Parks proposes the word "developer" be changed to "contractor and/or co-permittee." Co-permittees are not "developers," but public agencies who in many cases are regulating storm water above and beyond current permit requirements. The Regional Board should consider these agencies as partners, not regulate them as developers or dischargers.

   c. Regarding Items 2(c) & (d): It seems that these provisions are stating that co-permittees can conduct grading activities within the wet-season prescribed in the Draft Order if a Grading Prohibition Variance is obtained. If this is correct, please clearly state such in the provision. It should be noted that Regional Parks is not required to obtain grading permits per the 2008 Grading Ordinance and therefore would not be subject to a Grading Prohibition Variance. Regional Parks can document for its own records, the reasoning behind a decision to conduct grading activities within the wet-season prescribed in the Draft Order.

11. **Pg 49, Part 8, Item 5(1) – Erosion Control Plans.**

Please add language to this provision linking preparation of erosion control plans to requirements in the State Water Resource Control Boards General Construction Permit. Please note that Regional Parks is not required to obtain grading permits per the December 2008 Grading Ordinance. Regional Parks does prepare or have its contractor's prepare erosion control plans as needed for specific development and redevelopment projects.

12. **Pg 54, Part 9, Item 5 - The Draft Order states that commercial areas and other areas subject to high trash generation must be swept at least six times per year.**

Regional Parks does not own or have access to a vacuum sweeper truck, so all street sweeping must be done by hand. Hand sweeping all parking lots, streets, and other paved areas under our jurisdiction would be exorbitantly expensive and require more staff than we currently have available. Additional sweeping would add to the unfunded mandate and places a significant financial hardship on Regional Parks. Regional Parks commits to sweeping parking lots, streets, and other paved areas under our jurisdiction on an as needed basis or upon request. This commitment is consistent with the SWMP, our past & current maintenance practices, and our Departmental budget.

13. **Pg 56, Part 9, Item 9(a) – This provision requires implementation of a catch basin cleaning and a ranking system.**

Please clarify the definition of "catch basins," as subject to this provision.

The proposed priority system would cause more staff time to be spent on ranking and documenting the existing drains than the current Regional Parks practice of inspecting and cleaning as necessary. Regional Parks inspects and cleans its catch basins as needed, especially those in high trash and debris areas like the County Center. Some catch basins require more cleaning than the proposed inspection and cleaning program specifies, while some require cleaning less often. Problem catch basins are known by staff and cleaned out frequently. Others are inspected and cleaned as necessary. These additional practices would be an unfunded mandate, and place additional financial hardship on Regional Parks. Regional Parks cannot complete this provision by the October 1, 2010 due date included in the Draft Order, but will work towards completing this item over the 5-year permit term.

14. **Pg 58, Part 9, Item 9(f)(1)(D)- The Draft Order states that the Permittees shall quantify the amount of materials removed during drain maintenance activities.**

Documenting the amount of materials removed would require additional staff and additional budget expenditures that are not available. Regional Parks actively cleans the storm water infrastructure under our jurisdiction through the use of staff, volunteers, and General Assistance workers. However, quantities of materials removed are not estimated or tabulated. This requirement would add to the unfunded mandate.

15. **Pg 53, Part 9, Item 2(b) – This provision requires long-term maintenance programs, one or more acres in size, to obtain coverage under the General Construction Permit.**

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

16. Pg 59, Part 9, Item 11(a) – This provision requires the training or a written verification of training for contracted municipal employees.

Please clarify the type of written verification that will meet the requirement of this provision. As listed in the SWMP, the Co-permittees have agreed to put together a database to track the training efforts of staff. Regional Parks will continue with this agreement.

17. Attachment C, Pg 6, "Local SWPPP" – Definition

Please clarify as to whether the definition for "Local SWPPP" should be changed to define "Erosion Control Plan" to reflect the change of terminology in the Draft Order.

Sincerely,

Todd Holmes, Park Planning Manager
Sonoma County Regional Parks

cc: Mary E. Burns, Director
Allan Darrimon, Maintenance Manager
Corbin Johnson, Stormwater Coordinator
Michelle Julene, Environmental Specialist