

City of Santa Rosa Comments on Draft Order R1-2009-0050 - July 6, 2009

SECTION	Page	Item#	Issue (note if none)	Requires Clarification (rc)	Unfunded Mandate (um)	Initial/One time Cost (\$)	Annual Cost (\$)
GENERAL CONCERNS							
			<p>1) Please revise the timeline to eliminate the date certain requirements and to instead tie the timeline to the effective date of the permit, e.g., "within two years from the effective date of this Order."</p> <p>2) The Order exceeds the legal authorities cited in the Facts Sheets. For instance, the CFR contains various regulations providing for a description of programs for operating public streets, assuring flood management, monitoring pollutants, maintenance activities, and procedures for reducing impacts on receiving waters, and identifying priorities and procedures to accomplish program goals, all to the extent that is reasonable and practicable. This Order exceeds that authority by providing detailed mandates and requiring specific policies, procedures, ordinances, staff, training, outreach, and advertising to eliminate pollutant loads that have not been identified as originating from the City or tied in any way to the City's storm water or non-storm water runoff.</p>				
			Concern that some of the requirements may be in conflict with water conservation requirements or with requirements on water rights permits. For example, the current commercial turf prohibition does not take into account the benefit of LID development and the role turf can play in slowing down storm water runoff. RWQCB needs to be aware of and reasonably accommodate these conflicts so the City isn't caught between regulatory authorities				
	3	4	Concern that responses to City's comments on first draft of permit were received on 6-22-09, 30 days after the second draft was issued. This provided less than 2 weeks for the CoPermitees to evaluate, this is insufficient for proper assessment and evaluation. Item 4 of the Public Process Section misleadingly infers a timely response of the response to comments.				
			Request a finding be added that recognizes the Basin Plan Amendment and the Low Threat Discharge General Permit. The relationship between the proposed Low Threat General Permit and the MS4 permit should be clarified. At the Regional Water Board's January 8, 2009, public workshop, staff explained that the general permit is intended to apply to activities occurring outside the area covered by municipal separate storm water system (MS4) permits. Section II Application/Enrollment Requirement D.2 refers to issuance of an individual NPDES permit or WDR as a basis for termination of coverage under the general permit. Is the reference to NPDES permits under D.2 intended to include MS4 permits? The City of Santa Rosa objects to the notion that an MS4 permit is a preferred regulatory mechanism and requests that the general order be clarified to state that all discharges meeting eligibility criteria should be regulated under the Low Threat General Permit regardless of MS4 permit coverage.				



City of Santa Rosa Comments on Draft Order R1-2009-0050 - July 6, 2009

SECTION	Page	Item#	Issue (note if none)	Requires Clarification (rc)	Unfunded Mandate (um)	Initial/One time Cost (\$)	Annual Cost (\$)
<b>FINDINGS</b>							
	5	17	There is no data/watershed or empirical evidence to back up Finding 17 that storm water discharges cause water quality standards not to be attained. Action taken by the Regional Water Board that is not supported by findings, or the findings made are not supported by evidence in the administrative record, constitute an abuse of discretion. Topanga Association for a Scenic Community v. County of Los Angeles, 11 Cal.3d 506, 515; California Edison v. SWRCB, 116 Cal. App.3d 751, 761 (4th Dt. 1981). In this case, the Regional Water Board made a finding regarding the effect of municipal storm water discharges on receiving waters that is not sufficiently supported by evidence in the administrative record. Specifically, in Finding 17, the Regional Water Board made the finding that "the discharges from the Co-Permittees' MS4s as detailed in the Fact Sheet, contribute to violations of water quality standards and are a contributor of pollutants to the Laguna watershed." The evidence in the administrative record does not support this finding, and the finding is unnecessary to regulate the City's discharge of municipal storm water. For these reasons, the City requests that Finding 17 be removed from the Tentative Order.	rc			
	8	23	It is noted that storm water runoff that enters the MS4 is regulated by the Draft Permit. In a technical sense the permit (Provision A.1) is for discharges <i>from</i> the MS4 not <i>into</i> the MS4. The finding should be modified to reflect that the permit is for discharges <i>from</i> the MS4 <i>and</i> there are discharges (e.g. agriculture runoff) <i>into</i> the MS4 that the municipalities have limited or no authority to control, similar to the conclusion made in Finding 24.				
<b>DISCHARGE PROHIBITIONS</b>							
	9-10	4	This sentence is confusing. Request language be clarified to state discharges in accordance with Prohibition #5 are allowed with appropriate BMP's	rc			
	10	A5	Under the Porter-Cologne Water Quality Control Act, the California Legislature found and declared that activities affecting water quality "shall be regulated to attain the highest water quality which is reasonable, considering all demands being made and to be made on those waters and the total values involved, beneficial and detrimental, economic and social, tangible and intangible." Cal. Water Code §13000. This section sets the baseline for all state water quality policy, and imposes an overriding requirement on the State Water Board that all water quality regulation be reasonable considering all circumstances. The City believes that many of the overly stringent, prescriptive requirements in the Tentative Order are not reasonable, given the available resources to monitor compliance and take enforcement action, and the limited benefits to be derived by the requirements. For example, the requirements regarding non-commercial car washing by residents and residential landscape irrigation runoff (see Tentative Order at Section A.5., Table 1) are not reasonable requirements given the City's scarce resources, and the environmental benefits that may or may not be gained by regulating such activity. The City requests the Regional Water Board review the City's comments with respect to the "reasonableness" requirement of Water Code Section 13000 in mind, and to make the modifications requested by the City, especially in such cases where the resource demands outweigh any potential benefit.				



City of Santa Rosa Comments on Draft Order R1-2009-0050 - July 6, 2009

SECTION	Page	Item#	Issue (note if none)	Requires Clarification (rc)	Unfunded Mandate (um)	Initial/One time Cost (\$)	Annual Cost (\$)
	10	A.5	This section and Table 1 prohibit all non-storm discharges. The section outlines provisions to obtain approval of specific non-storm water discharges by submitting a plan to the EO. This is the first permit known to contain such a strict prohibition. The recently adopted Ventura County permit does not require submittal of a plan to the EO for future authorization. BMPs are outlined in the permit. The City is concerned about the timeframe for getting EO approval. Without EO approval of a plan for these non-storm water discharges the City would not be in compliance with the permit. The BMPs should be worked out and specific authorization included in the permit to ensure compliance upon approval of the permit. Authorization similar to the recent Ventura permit is requested.	rc			
	10	A.5.d	"Upon request by a Co-Permittee, the Executive Officer may consider authorizing the discharge of <i>additional</i> (emphasis added) non-storm water flows." "[A]additional" relative to what? Clarification is requested.				
	10	A.5	<p>Table 1 remains cumbersome and difficult to understand. There is no clear distinction between the two columns labeled "conditions under which allowed" and "BMP plan shall include, but not be limited to". The City requests adding "as needed" at the end of any such BMP's or change the column heading to "BMP plans may include, but not be limited to." All these activities may not be appropriate in each situation.</p> <p>BMPs for natural streams: 55 Fed.Reg. 47995 intended to not hold permittees responsible for ground water infiltration, natural springs and stream diversions from the MS4s. This is also inconsistent with page 3 of the Fact Sheet. Please remove these non-storm water discharge categories from Table 1.</p> <p>Other concerns:</p> <ul style="list-style-type: none"> <li>o Please modify Footnote 12 on page per the redline request as follows: " the term applies to low volume, incidental and infrequent releases that are innocuous from a water quality perspective. Those releases for dewatering or hydro-testing or flushing of water supply and distribution mains and incidental and infrequent releases from well heads shall be allowed with the implementation of appropriate BMP's until such time as a new General Permit is adopted that addresses those types of releases. Discharges from hydrostatic pipe testing shall be subject to separate NPDES general permit coverage (CAG674001) and Discharges from utility vaults shall be conducted under coverage of a separate NPDES permit specific to that activity.</li> <li>o Air conditioning condensate. Minor flow and very clean but required to segregate flow from pollutant sources. The City requests this be removed from the list.</li> </ul> <p>The City notes an important change that is supported – the addition of the word "significant" to sources of pollutants that are prohibited (see provisions A.d.(d) and (e)). This is consistent with Federal regulations at 40 CFR 122.26 (d)(2)(iv)(B)(1).</p>				



City of Santa Rosa Comments on Draft Order R1-2009-0050 - July 6, 2009

SECTION	Page	Item#	Issue (note if none)	Requires Clarification (rc)	Unfunded Mandate (um)	Initial/One time Cost (\$)	Annual Cost (\$)
	10	Table 1	Propose the following change: "No sources of contaminated ground water near the diversion site." The City could only know if the groundwater is contaminated, not whether sources of contamination exist.  What does "[s]egregation of flow to prevent introduction of pollutants" mean? This is ambiguous and should be clarified for all non storm water discharge BMP's within Table 1.				
	12	Table 1	"Utility Vault Dewatering " The Regional Board should not give permits to Utility companies without requiring an evaluation to determine whether vault dewatering will contain contaminated water.				
	13	Table 1	Reclaimed & potable landscape irrigation runoff. #4 - Change to "Implement structural BMP's <u>such as appropriate, efficient irrigation application methods/hardware</u> low flow emitters." Low flow emitters usually refers to drip irrigation, which would not be appropriate for irrigating all landscapes (such as turf)				
	14&15	Table 1	Prohibits discharge of pooled water from treatment BMP's. Conditions cover maintenance of BMP's and should only apply to structural BMP's. Would be a fiscal burden especially as more treatment devices are installed. In addition, maintenance shall be performed to ensure BMP effectiveness rather than per the manufacturer's recommendations.			\$500,000	\$250,000
RECEIVING WATER LIMITATIONS							
	16	B.4	Non-ending BMP Iterative Process not consistent with State Water Board Order 99-05. The provision requires the Co-permittees to implement BMPs as identified in the Receiving Water Limitation Compliance Report and storm water Management Plan (SWMP) (see Provision B.3). The iterative process would need to continue unless directed otherwise by the Executive Officer. This provision is different from the language prescribed by the State Water Board and from other adopted permits (including the recently adopted Ventura permit). The implementation of BMPs and programmatic changes require time for implementation (e.g. public outreach message, train public employees, etc.) and resulting changes in runoff quality. Thus it is usually acknowledged that as long as the Permittee identifies and implements additional BMPs to address the water quality exceedances then repeating the process is unnecessary unless determined by the Regional Board. The following language is from State Water Board Order 99-05 and is requested for this Draft Permit:  "So long as the Permittees have complied with the procedures set forth above and are implementing the revised SWMP, the Permittees do not have to repeat the same procedure for continuing or recurring exceedances of the same receiving water limitations unless directed by the Executive Officer to develop additional BMPs."				



City of Santa Rosa Comments on Draft Order R1-2009-0050 - July 6, 2009

SECTION	Page	Item#	Issue (note if none)	Requires Clarification (rc)	Unfunded Mandate (um)	Initial/One time Cost (\$)	Annual Cost (\$)
<b>TOTAL MAX DAILY LOAD PROVISIONS</b>							
	16	B.4	1995 Laguna TMDL: Please refer to July 6, 2009 transmittal letter for an extensive discussion of the City's concerns regarding the "Laguna TMDL." Compliance with the TMDL is required yet no monitoring is required. Flow weighted composite sampling for Nitrogen and Ammonia would be needed at the 4 attainment points in the Laguna de Santa Rosa.			\$30,000	\$15,000
	17	D-Part 1.1	Program implementation by 1/1/10. Given the enormity and complexity of the new requirements and the limited resources of the CoPermittees, the target date is not possible.				
<b>SWMP IMPLEMENTATION</b>							
<b>PART 2</b>							
	18	D Part 2.1 (7)	Prohibition of Runoff from Landscape Irrigation The Regional Board staff expanded the list of non-storm water discharges that need to be prohibited to include landscape irrigation overflow. At the same time the Draft Permit may allow irrigation runoff to be discharged when appropriate BMPs are implemented (see Table 1, page 13). Thus the Draft Permit is inconsistent. On the one hand it requires the CoPermittees to prohibit irrigation runoff while on the other hand it allows irrigation runoff to occur. In a practical sense prohibiting irrigation runoff will be challenging and from a water quality perspective not much return for the effort (i.e. irrigation runoff is primarily of portable water quality). Please remove this item from the list.				
<b>PART 3</b>							
	20		Proposed requirements include a very detailed and extensive accounting of storm water program activity implementation. This level of effort to breakdown expenditures is not justified in the findings, is not cost effective or reasonable and will be time intensive. Footnote 7 lists ways to fund SWMP activities, however benefit assessments can only be implemented on new developments. Other similar funding mechanisms are also listed, however, realistically there are no additional funding sources available to the City. These provisions may require changing the City's accounting system. Currently catch basin and storm drain pipe cleaning labor charges are combined when City crew's clean our storm drain system and can't be separated. City requests that this provision be changed to address concerns and allow the current method of tracking costs to remain.				\$80,000
<b>PART 4</b>							
	20	1	Projected cost to modify programs, protocols, standards and municipal codes			\$100,000	
	20	2	Regarding the provision for SWMP the City requests that modifications be considered "as needed", rather than "annually or less frequently".				



City of Santa Rosa Comments on Draft Order R1-2009-0050 - July 6, 2009

SECTION	Page	Item#	Issue (note if none)	Requires Clarification (rc)	Unfunded Mandate (um)	Initial/One time Cost (\$)	Annual Cost (\$)
<b>SPECIAL PROVISIONS</b>							
<b>PART 1</b>							
	21	2	If the SWMP is incorporated into the Order, then any change to the SWMP must include a public comment period, public hearing and formal adoption by the Regional Board. To promote timely and effective changes to protect water quality and reduce pollution, SWMP changes should be allowed by Regional Board Executive Officer. This provision allows impermissible prospective amendments to the permit.	rc			
	21	3	Best Management Practice Program Substitution requires clarification. It is the City's understanding that Section 3 applies to programmatic substitutions, while Section 4 applies to site specific substitutions, which would require notice but not approval of the Executive Officer. The City understands that the BMP substitution applies to Table 1. This provision would only allow BMP substitutions for less costly alternatives, which may limit use of more effective alternatives.				
<b>PART 2</b>							
	22	1A	Permittees can measure the knowledge base of target audiences, however current social research shows that an increase in knowledge does not constitute an increase in positive behavior. Even if people know the law and the environmental impacts, they may still choose to pollute creeks. The City recently completed a public poll that could serve as a baseline and a future assessment conducted to evaluate if there is an increase in knowledge base.			<b>\$25,000</b>	
	22	1b	To measurable change the behavior of targeted audiences, the City would have to complete a comprehensive study of people's behavior. The study would require a large sampling of "targeted" residents and need to be structured to distinguish behavior people report versus actual behavior. The cost of this study may not be commensurate with improvements to water quality.			<b>\$80,000</b>	
	22	1	"shall coordinate with other entities" change to "will coordinate as opportunities arise with other entities" as there is no guarantee another entity will agree to work with a Co-Permittee or there is an actual task where coordination with others is practical. Consider allowing contributions toward public outreach to offset site-required BMPs. ( i.e., developer run newspaper article about storm water treatment a television commercial created about where storm water goes and the benefits of storm water quality. Also consider allowing money to be paid into a storm water offset fund for larger municipal storm water treatment projects that would provide more effective, regional benefit.				
	22-23	2(a)(1)	Santa Rosa already has more than 80% decayed catch basins. Part 9 (9) (d)... "Storm drain inlets" should be changed to read "Catch basins" since all storm drain inlets do not have curb or areas to label/decals.	rc		<b>\$25,000</b>	<b>\$25,000</b>
	22	2(a)(1)	Requires posting of "No Dumping" signs at designated creek access points and channels where dumping has occurred. Field services staff conveyed that dumping in creeks is not currently a major concern. These signs may actually invite dumping and detract from the natural beauty of our creeks.				<b>\$5,000</b>



**City of Santa Rosa Comments on Draft Order R1-2009-0050 - July 6, 2009**

SECTION	Page	Item#	Issue (note if none)	Requires Clarification (rc)	Unfunded Mandate (um)	Initial/One time Cost (\$)	Annual Cost (\$)
	23	2	Requires a strategy to educate Spanish-speaking communities through "cultural effective methods" – impossibly vague. To develop a strategy the City would have to complete a comprehensive survey to assess the size and type of ethnic minority groups in the community. It would also require the services of social studies professionals and focus groups to assess if outreach methods were "culturally effective." This provision would be very costly and the timeframe "October 1, 2010" is unrealistic			\$50,000	
	23	2	(c) (1) (C and D) Needs clarification whether list of businesses is to be provided vendor information or given outreach material to be provided to the public. Businesses don't have to accept materials from the City which will take up valuable merchandise space. There is a large cost to design new brochures and print them as well as outreach to the business. Using Point of Purchase outreach can be effective, but this entails staff time and resource costs.	rc	um	\$5,000	
	24	3 (a) (1)	Costs of outreach material and meeting expenses.			\$7,000	\$10,000
	24	E Part 2.2 (d)(1)	Pollutant Specific Outreach This provision requires an outreach program for the pollutants identified in Table 1 of the Fact Sheet. However, a review of Table 1 shows that the pollutants are primarily temperature and sediment. It's unclear how to develop an outreach program for many of the constituents. The City requests that the pollutant specific outreach program be required to only focus on the pollutants that have been determined to be urban related, typical sources of pollution from homes and businesses, and less on the chemistry of the pollution.				\$5,000
	24	5	Requires "impressions on at least 25% of the permanent population" – immeasurable. Suggest, "intended to make impressions on at least 25% ..."				\$5,000
	24	6 and 7	The City can provide materials to the various school districts in the permit area. However, we have no control over how the materials will get distributed or utilized. Measuring the effectiveness of these outreach materials would be very difficult to determine. There may be administrative obstacles with regard to conducting an assessment of ALL K-12 students' knowledge of storm water pollution and its solutions. There is no assurance the school districts will be receptive to subjecting their entire student body to a survey of this type. Please delete this requirement.				\$60,000
	24	8	Behavior Change Assessment Strategy - This section is vague. Measuring behavior should be focused on a very specific behavior, such as littering, or proper disposal of paint, or proper disposal of motor oil. An assessment of this type could be built into the community survey in Year 4. If done separately, this type of survey could be a significant expense to the program. See comment on part 2 item 1B for cost (\$70,000).				
<b>PART 3</b>							
	26	2 (a) +(b)	"Nurdle " using facilities are not permitted at this point. In the Subregional System these industries are not permitted.			\$1,000	
	26	E Part 3.2 (d)	Industrial Critical Source Inventory This provision requires the Permittees to update their critical source inventory annually although this provision was requested to be deleted. Annual updates seem excessive and too prescriptive. Instead the CoPermittees should be able to update the inventory to reflect the business climate. Suggest an update every 2 years.				
	26	(a)(1)(g)	In addition to the listed business types, requires an inventory of "other commercial facilities that may discharge pollutants of concern." – vague, impossible to achieve or maintain. Suggest, "other commercial facilities identified as dischargers of pollutants of concern."				



City of Santa Rosa Comments on Draft Order R1-2009-0050 - July 6, 2009

SECTION	Page	Item#	Issue (note if none)	Requires Clarification (rc)	Unfunded Mandate (um)	Initial/One time Cost (\$)	Annual Cost (\$)
	26-27		Specifies typical BMP's to be used at Restaurants, Auto Service Facilities, Retail Gas Outlets (RGO) and Nurseries. Inspections would entail a significant cost increase compared to how these facilities are currently being inspected.			\$70,000	\$350,000
	27, 31	E Part 3.3 (a)(1) and Part 3.3 (f)(1)	<p>BMPs to Achieve Water Quality Standards</p> <p>These provisions seem to imply that discharges from BMPs must comply with water quality standards which would be the equivalent of assigning numeric effluent limits to BMPs. The provision reads as follows: Likewise, for those BMPs that are not <i>adequate to achieve</i> WQS, Co-Permittees shall require additional site-specific controls.</p> <p>The City requests the following changes to make it clear that the Board is not stipulating numeric limits:</p> <p>Likewise, for those BMPs that are not <i>protective</i> of WQS, Co-Permittees shall require additional site-specific controls.</p> <p>The suggested language allows for dilution, averaging periods, and water effect ratio adjustments but at the same time effect compliance with water quality standards.</p>				
	32		<p>The following text is inconsistent with SWRCB's mandate to reduce commercial turf. The City's ability to implement this requirement is subject to limitations imposed by SWRCB and the City requests that this limitation be recognized and accommodated in the permit.</p> <p>"The Co-Permittees shall implement a Planning and Land Development Program with a goal to:</p> <p>(a) Minimize the adverse impacts from storm water runoff on water quality, the biological integrity of receiving waters, and the beneficial uses of water bodies in accordance with requirements under CEQA (Cal. Pub. Resources Code § 21100), and local government ordinances.</p> <p>(b) 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. Pre-development water balance . . . ."</p>				
	32	4	Allows referral to Regional Board only after initial enforcement action by the City. This requirement impermissibly shifts the Regional Board's obligations to the City, and requires the City to hire/train additional staff, equating to an unfunded mandate.		um		



City of Santa Rosa Comments on Draft Order R1-2009-0050 - July 6, 2009

SECTION	Page	Item#	Issue (note if none)	Requires Clarification (rc)	Unfunded Mandate (um)	Initial/One time Cost (\$)	Annual Cost (\$)
<b>PART 4</b>							
	33 & 44	Part 4 and Part 7 (and elsewhere)	While the City agrees it is appropriate for the City's CEQA process to consider the impacts of a project on storm water quality, it is wholly inappropriate for this permit to prescribe the exact analysis that the City must undertake. The permit requires minimization of the "adverse impacts . . . under CEQA and local government ordinances," and provides a detailed list of purported CEQA considerations. CEQA does not require this level of analysis. Pub Res Code 21100(d) strictly limits CEQA review to "substantial, or potentially substantial, adverse changes in physical conditions which exist within the area as defined in Section 21060.5. In addition, Pg 31-32 of the Facts requires creation of an ordinance expanding CEQA review for development and redevelopment to incorporate the terms of the order. This language should be amended to require appropriate review consistent with CEQA statutes. This order seeks to administratively legislate an area outside of the jurisdiction of the Regional Board in contravention of the state's statutory CEQA requirements. In addition, it is unclear whether the requirements in Part 4 would apply to development as discussed in Parts 5 and 6.				
	33&34	Part 4 (3)(b)	Promotes percolation & infiltration of storm water into ground. The City is concerned that this provision is not applicable to the Santa Rosa plain, which has primarily clay soils that have limited infiltration capability. Would require a revision of the SUSMP manual.			<b>\$5,000</b>	
	34	3	Please clarify- will engineered media filter (not biological filtration) be allowed as a last priority treatment device?	rc		<b>na</b>	<b>na</b>
	34	Part 4 (4)	It is not realistic to treat "all impervious surfaces." There may be small areas difficult to treat (i.e. , replacement of an existing non compliant driveway curb cut under encroachment permit for a commercial development where treatment controls are integrated into the site design, but not along the existing public street.) Please modify this language.				
	34	Part 4(3)(b)	Runoff captured by topsoil, debris layers and evapotranspiration will be difficult to calculate.				
	35	Part 4(3)(b)	If the objective is to treat the 24-hour storm to the maximum extent practicable, then why apply a safety factor? If the BMPs aren't functioning as designed, then they should be maintained instead of oversized to compensate for a lack of maintenance.				
	35	5(a)	Projected cost for Entitlement Review regarding storm water concerns.			<b>\$50,000</b>	<b>\$100,000</b>
	36	Part 4 (6)	Pervious pavements filter and detain storm water. Furthermore, groundwater recharge is likely to occur under pervious pavement sections, whether or not a subdrain has been incorporated into the design. Therefore, consideration should be given to allowing some form of credit for pervious pavement. Subdrains are absolutely necessary considering the clay soils in Santa Rosa.				
	36	6	Projected cost for new development final plan review regarding storm water provisions.			<b>\$50,000</b>	<b>\$200,000</b>
	36	Part 4 (6)(a)	The existing requirement to provide source/treatment control BMPs in new/redevelopment projects where 1-acre or more of impervious surface is created or where adjacent to or creating a new outfall in a waterway is appropriate. Given the current state of the economy, with the exception of gas stations and automotive service facilities which have the potential to be a significant source of pollution, reducing the threshold to 10,000sf is not reasonable and maintaining a 1 acre threshold other than the exceptions noted, is requested.				
	37	b	The effective date should be based relative to a completed project application not permit approval. This is in keeping with CEQA and other agency application requirements.	rc		<b>na</b>	<b>na</b>



**City of Santa Rosa Comments on Draft Order R1-2009-0050 - July 6, 2009**

SECTION	Page	Item#	Issue (note if none)	Requires Clarification (rc)	Unfunded Mandate (um)	Initial/One time Cost (\$)	Annual Cost (\$)
	37	b	Redevelopment projects are subject to post-construction treatment controls if more than 10,000 square feet are redeveloped. And, will apply if the project alters more than 50% of existing impervious surfaces on site. This will have a huge impact on all CIP projects involving paving. Would require additional design review and possible acquisition of additional right of way to maintain existing streets. Will require SUSMP manual revision.			\$20,000	\$3,000,000
<b>PART 5</b>							
	33-41	E Parts 4&5	Planning and Land Development Program – Points of Agreements Before providing comments regarding concerns/deficiencies of the Draft Permit in the Planning and Land Development Program, the City shall identify some points of agreement/improvement in Draft Permit. First, the prioritization of BMPs (as noted in Part 4.3 (e), page 34) and Part 5.2(b)(3), page 39) is reasonable and will allow the development of a practical BMP program. Second, the draft permit in a number of sections (Part 4.3(b) and Part 5.2, pages 33 and 37 respectively) correctly captures the goal/intent of low impact development strategies and integrated resources plan. The goal is to incorporate design features that mimic predevelopment water balance and/or hydrologic functions.				
	33-41	E Parts 4&5	New Development/Redevelopment Integrated Water Quality/Resource Plan The Draft Permit requires all priority projects to implement a comprehensive list of BMPs. Some permit sections that could lead to confusion are highlighted below: o LID design standard (Part 5.2(b)(1), page 39). This provision is confusing and does not specify a design criterion for LID strategies. The intent of this provision is to have all priority development implement LID for the water quality storm of Part 4.4 at a minimum. And pending the results of the HMP then LID may also be used to accommodate the hydromodification requirement (call it "super LID") . However, the provision could be interpreted in various ways. First it could be read to not specify any LID storm criteria as Part 4 includes more that just the water quality storm criteria and includes the description of priority projects required to implement BMPs. So when the statement reads "projects that meet the new development and redevelopment criteria in Part 4" one could interpret it to just refer to the priority project classification. This provision should be deleted and a new section added to the LID section. The City suggests the following: Part 5.2(5) (new language) (5) LID strategies shall be designed to address the water quality storm specified in Part 4.4. Regarding hydromodification and LID, the HMP will not be precluded from identifying a LID equivalent standard (Super LID) to meet the hydromodification criteria. o Relationship of LID manual, integrated water quality plan, HMP, and SUSMP (pages 37, 38, 40, and 44). The relationship between the LID Technical Guidance Manual (page 38), the Integrated Water Quality/Resources Plan (Page 37-41), Hydromodification Control Plan (page 40) and Standard Urban storm water Mitigation Plan (page 44) is confusing and conflicting. A provision should be provided to clarify the relationship between them.				



**City of Santa Rosa Comments on Draft Order R1-2009-0050 - July 6, 2009**

SECTION	Page	Item#	Issue (note if none)	Requires Clarification (rc)	Unfunded Mandate (um)	Initial/One time Cost (\$)	Annual Cost (\$)
	33-41 continued		<p>o Lack of exceptions to hydromodification requirements (page 40). Most permits provide a provision that describes the situations where hydromodification requirements do not apply. No such exemptions are found in the Draft Permit. Some examples of exemptions include</p> <p>a) Discharges into improved channels.</p> <p>b) Discharges from urban redevelopment projects where the footprint or impervious area is not changed. Alternatively there could be a threshold value determined where hydromod controls are not required but that the impervious area must be reduced from the original site conditions, e.g. 10% change reduction in impervious area.</p> <p>c) Discharges into lakes, estuaries (i.e. areas w/ no erosion potential)</p> <p>The City suggests that Provision E, Part 5.2(c)(1)(D) be modified to provide the flexibility if the permittees so choose to allow exemptions to hydromodification controls. Suggested language is noted below:</p> <p>Provision E, Part 5.2(c)(1)(D)(ix) (new language)</p> <p>(ix) Describe conditions where hydromodification controls are not required.</p>				
	37	2	Projected costs for water resource plan			\$100,000	
	38	2	shall initiate by January 2010...this is too soon (less than 6 months from current date). Propose changing this to January 2011.				
	38	2(a)(2)	Projected cost SUSMP guidance formalization			\$10,000	
	38	2(a)(3)	Projected cost LID technical manual			\$200,000	
	38	2(a)(4)	Projected cost LID training			\$100,000	
	39	Part 5 (2)-c (6)	<p>Three different sets of variables are listed in this first paragraph: Flow/Volume/Duration, Flow/Rate/Velocity/Duration, and Flow Rate/Duration. Clarification is needed.</p> <p>It is not possible to create impervious surface, maintain the predevelopment flow rate and maintain discharge duration. When detention is implemented to maintain predevelopment flow rates, the discharge duration needs to be increased unless water is permanently stored on site. Furthermore, infiltration and evapotranspiration cannot be easily assessed. It is possible to include measures which ensure that the flow rate doesn't exceed the predevelopment condition for the event being mitigated, but it will be difficult to demonstrate that it remains "the same".</p>				
	40	Part 5(2)-c-(1)	Each of the hydromodification control plan elements required don't apply in every situation. i.e. not all projects have a stream, so restoration measures will not be required with all projects. Recommend that the text be reworded to read: "Where applicable, the Hydromodification Control Plan shall include".				
	40	2c(1)C	Projected cost Hydromodification Control Plan.			\$100,000	\$10,000
	40	2c(1)E	Projected cost Interim Hydromodification Control Plan.			\$100,000	



**City of Santa Rosa Comments on Draft Order R1-2009-0050 - July 6, 2009**

SECTION	Page	Item#	Issue (note if none)	Requires Clarification (rc)	Unfunded Mandate (um)	Initial/One time Cost (\$)	Annual Cost (\$)
<b>PART 6</b>							
	41	1	Projected cost maintenance assurance policy			\$20,000	
	41	1(a)(1)(A)	Requires public entity to assume responsibility for all BMP in private development unless developer assigns BMP maintenance to buyer, tenant or HOA in sale/lease contract or CCRs. The City has no ability/authority to enter private land for maintenance. Even if the City had the authority, this requirement would mandate the creation of an additional City department to comply, which creates an undue financial hardship. Please delete this provision.		um		
	41-43		Re post-construction inspections, and elsewhere in the document related to additional inspections which requires staff training and additional staff. This is an unfunded state mandate and financially impractical. Generally as for dictating the manner in which the City will develop, implement, inspect, train, et cetera, it's employees – Cal Const. Art XI Section 5(b) (4) "plenary authority is hereby granted, subject only to the restrictions of this article, to provide therein or by amendment thereto, the manner in which, the method by which, the times at which, and the terms for which the several municipal officers and employees whose compensation is paid by the city shall be elected or appointed, and for their removal, and for their compensation, and for the number of deputies, clerks and other employees that each shall have, and for the compensation, method of appointment, qualifications, tenure of office and removal of such deputies, clerks and other employees." Because this Order effectively dictates that the City will hire and train additional employees to engage in tasks inconsistent with and beyond the scope of the Basin Plan, or state and federal statutes, the Order usurps the City's plenary authority to provide for the number, terms and conditions of its workforce.		um		
	42	2(a)	Projected cost Tracking System				\$100,000
	42	2(b)	Projected cost Construction Final Inspection			\$10,000	\$100,000
	42	2(c)	Projected cost BMP Maintenance Inspection 2 yrs.			\$50,000	\$100,000
	42	2(d)	Projected cost Maintenance Reporting by 3rd party.			\$50,000	\$50,000
	43	3(a)	Projected cost of Enforcement			\$20,000	\$50,000
	44	5	Projected cost SUSMP Manual Update			\$200,000	
	44	Part 6 (5)(a)(2)	BMP pollutant removal performance and removal efficiency ranges will be difficult to assess.				



City of Santa Rosa Comments on Draft Order R1-2009-0050 - July 6, 2009

SECTION	Page	Item#	Issue (note if none)	Requires Clarification (rc)	Unfunded Mandate (um)	Initial/One time Cost (\$)	Annual Cost (\$)
PART 8							
	45-51	E Part 8	<p>Inconsistency between Draft Permit with Draft Construction General Permit</p> <p>The Draft Permit requirements are not consistent with the draft April 2009 Construction General Permit (GCP). The Draft Permit appears to set conditions that were drafted without consideration for the augmented requirements proposed in the CGP. The variation in specificity, especially with regard to minimum BMPs, will lead to confusion for the Co-permittees and developers. As a case in point, the Draft Permit doesn't acknowledge the rainfall erosivity waiver, which would exempt projects that disturb 1 to less than 5 acres from the CGP, instead the Draft Permit requires these projects obtain a CGP and implement the Draft Permit's minimum BMPs. Essentially the Draft Permit should be modified to require all eligible projects (both public and private) to comply with the GCP, nothing more, nothing less. In addition the provision would still include the implementation requirements for tracking, inspection, enforcement. Some permit modifications are highlighted below:</p> <p>o Rainfall Erosivity Waiver (Provision E Part 8.2, page 46) CGP provides for waiver of permit requirements for small project (1 to &lt; 5) acres that have an R-factor of 5 or less. A similar condition is should provided in the Draft Permit, probably under Part 8.2.</p> <p>o Grading Restriction ( Provision E Part 8. 2, page 45-46) The Draft Permit requires the Co-permittees to enforce a grading restriction between 10/1 and 4/15 for hillside projects (hillsides 20% or steeper). Variance can be granted when project proponent demonstrates water quality can be achieved. Projects granted variance, must monitor and demonstrate effluent quality of 100 mg/L TSS and 50 NTU. The condition to impose a rainy season grading limitation is not contained in the CGP; furthermore the draft permit sets turbidity effluent quality criterion 5 to 10 times lower than the CGP. The draft permit also requires TSS monitoring which is not required by CGP.</p> <p>The CGP establishes tiered risk levels for projects. Risk determination criteria include risk of sediment discharge and proximity to sensitive receiving water. Under the CGP, sites with risk levels 2 and 3 must monitor turbidity. A numeric action level of 250 NTU applies to these sites, and a numeric effluent limit, set at 500 NTU, applies only to Risk level 3. In summary the grading restriction goes well beyond the CGP and the City requests that it be deleted entirely from the Draft Permit.</p>				



City of Santa Rosa Comments on Draft Order R1-2009-0050 - July 6, 2009

SECTION	Page	Item#	Issue (note if none)	Requires Clarification (rc)	Unfunded Mandate (um)	Initial/One time Cost (\$)	Annual Cost (\$)
	45-51 continued		<p>o Minimum set of BMPs for sites greater than 1 acre (Provision E Part 8.4, page 47) The Draft Permit requires a specific set of BMPs, specified by Fact sheets from CASQA or Caltrans handbooks. The provision is not clear as to whether all listed BMPs are required or if it is a menu of choices. Nor is it clear whether the CoPermittees can require or whether projects will be able to use non-listed BMPs in-lieu of the listed BMPs, even when they might provide equal or superior protection. In general, the CGP identifies minimum BMPs by category rather than specific practice e.g. silt fence vs. perimeter control. In the area of erosion and sediment control, there are notable differences between the CGP and MS4 permit approaches. The CGP identifies expected outcomes and design requirements, but leaves the selection of the practice to the SWPPP developer.</p> <p>To address these comments the following modifications are requested:</p> <p>4. Construction Sites Greater than 1 Acre</p> <p>(a) Each Co-Permittee shall require the implementation of an effective combination of the BMPs in Table 9 (BMPs at Construction Sites Greater than 1 Acre) at all construction sites greater than 1 acre as needed to prevent minimize erosion and sediment loss, and to prevent the discharge of construction wastes.</p> <p>MS4 Permit requiring coverage under State Water Board GEneral NPDES permit for undefined furture consturction projects.</p> <p>Part 9, Section 2(b), requires the City to obtain coverage under the State Water Board General NPDES permit for storm water discharges associated with construction activity no later than October 8, 2009 for long-term maintenance projects, including maintenance or replacement of streets, sidewalks, roads, and any other project that the City undertakes including all capital improvement projects if ether one or more acres of land are disturbed by grading, clearing or excavation activities. This requirement should be removed from the Tentative Order. Whether the City must obtain coverage under the State Board's General NPDES Construction Storm Water Permit for a particular</p>				



City of Santa Rosa Comments on Draft Order R1-2009-0050 - July 6, 2009

SECTION	Page	Item#	Issue (note if none)	Requires Clarification (rc)	Unfunded Mandate (um)	Initial/One time Cost (\$)	Annual Cost (\$)
	45-51 continued	E Part 8	<p>project is a site-specific factual inquiry that the City must undertake pursuant to the Clean Water Act, federal regulations, and the terms of the State Water Board's General NPDES permit for construction activities, and should not involve the Tentative Order's regulation of municipal storm water discharges. The Tentative Order cannot mandate a deadline for obtaining coverage under the State Water Board's General NPDES permit for undefined, future projects, for which the City can not currently obtain coverage due to the lack of factual information regarding the project and disability to fashion appropriate BMP's and a SWPP. Subjecting the City to enforcement under the Tentative Order for failure to obtain coverage by a specific date, when the City may be unable to do so, is unreasonable and violates Water Code section 13000.</p> <p>o Incorrect Provision Format (Provision E, Part 8.2, page 45 and 46)  Notwithstanding the suggestion to delete the entire grading restriction provision there appears to be a formatting issue with Part 8.2. It appears that Part 8.2(b) should be Part 8.2(a)(2) as noted below.</p> <p>8.2 Grading Restrictions  (a) Each Co-Permittee shall implement a program..... During the wet season (October 1 – April 15), the program shall ensure that the following requirements are effectively implemented at all the construction sites in the categories listed below:  (1) No grading shall occur during the wet season for construction projects in the following areas of high erosivity: On hillsides with slopes 20% or steeper prior to land disturbance (If hillside development is not defined by a zoning ordinance, then the prohibition will apply to steep or long continuous slopes, or areas with silty soils, fine sands, or soils lacking vegetative cover).  <del>(b)-</del> (2) If grading operations in these areas are not completed before the onset of the wet season, grading shall be halted and effective erosion control measures shall be put in place to minimize erosion. Grading shall not resume until after April 15th. Depending on the project area, the developer shall implement the Erosion and Sediment Control BMPs listed in the following Tables 8 and 9.  In a similar vein Part 8.2(d) refers to "above goals" but it's unclear what goals the section is referring to.</p>				
	45-51 continued	E Part 8	<p>o BMPs to achieve water quality standards (Provision E Part 8.3(a) and 8.4(a), pages 46 and 47, respectively. The current language seems to imply that construction BMPs must meet water quality standards and therefore numeric effluent limits equal to water quality objectives. The City requests the same language changes for these provisions as noted for provision E, Part 3.3 (a)(1) and (f)(1).</p> <p>8.3 Construction Sites Less than 1 Acre  (a) Each Co-Permittee shall require the implementation of a minimum set of BMPs in combination at all construction sites (see Table 8 BMP's at Construction Sites Less than 1 Acre) to prevent erosion and sediment loss, and the discharge of construction wastes. 14 Erosion Control BMPs for erosion avoidance shall be the highest priority. If the site soils, hydrology, and geography are such that the BMPs in Table 8 are not adequate to meet protect WQS, additional (treatment train, redundant, and/or advanced)BMPs shall be deployed.</p>				



City of Santa Rosa Comments on Draft Order R1-2009-0050 - July 6, 2009

SECTION	Page	Item#	Issue (note if none)	Requires Clarification (rc)	Unfunded Mandate (um)	Initial/One time Cost (\$)	Annual Cost (\$)
	Continued		By standardizing BMPs and setting minimums the RWQCB is dictating to the developer what erosion and sediment controls that can and cannot be used. The language indicates that other BMPs could be used in addition to the minimums, but a developer would not use best available technologies concurrent with the standardized BMPs cost effectively. In the current storm water program, the City meets with the responsible parties concerning erosion and sediment controls, and indicates where the likely problems will be and developers or their agents choose which BMPs to install. This is done so the City of Santa Rosa is not culpable in case of failure. By dictating which BMPs will be deployed, the City or the RWQCB may be taking responsibility for any measures that fail.				
	Continued		The revision process section is vague, and needs clarification. The City requires an erosion control plan as a part of the subdivision improvement plans. If revised the engineered drawings are needed every time a change is made out in the field, this would be very costly. When a project is in the active construction phase there would not be enough time for the Property Owner, Engineer or City to submit written changes effectively. Currently a map of the project on site is required and all changes made to the site noted. The City prefers to maintain this current practice to maximize protection of water quality.				
<b>PART 9</b>							
	52	Table	If a facility has a General Industrial Permit and is also permitted by Environmental Compliance(EC), it is unclear whose enforcement authority supersedes the other. Please clarify.	rc			
	56	8-b-3	Section 8 (b)(3) page 56. Not every unregistered pesticide is a problem. Registration is sometimes voluntarily suspended by the manufacturer for economic reasons and when this is the case they can still legally be used. Please accommodate this circumstance in the permit provisions.	rc			
	56	d	Requires a finding that the City is incapable of making (use of pesticides does not threaten water quality.) This requirement should be removed.				
	56-57	9	Requires the City to inspect and clean catch basins for priority A more than is currently being done. This would require an increase in staff time and would likely not result in improved water quality protection.				\$50,000
	57	9-c-1	The City understand this to mean that trash receptacles shall be installed in certain transit stops and schools when they are determined by the City to be high trash generating areas.				
	57	9-b-d	Will place the City at risk of non compliance if garbage contractor does not empty containers within 24 hours. Rather than a specific time frame (within 24 hours), please revise to "in a timely manner."				
	58	9-f-d	It will be difficult to quantify while cleaning with Vacuum truck as debris is not always be seen going up the tube.				
	58	9-h	Requires the CoPermittees to inspect and maintain all treatment control BMPs, including post development treatment controls.			\$25,000	\$100,000



City of Santa Rosa Comments on Draft Order R1-2009-0050 - July 6, 2009

SECTION	Page	Item#	Issue (note if none)	Requires Clarification (rc)	Unfunded Mandate (um)	Initial/One time Cost (\$)	Annual Cost (\$)
	58	E9 9(h)	Lack of reasonable options for disposal of BMP residual water The Permittees had requested that the options available for the disposal of residual water from treatment control BMPs include the opportunity to dispose the water on the land at agronomic rates (i.e. no runoff). The Draft Permit does not include this option. The request is still reasonable especially in light of the emphasis in Parts 5 and 6 to implement LID and the preferred hierarchy of LID strategies (page 39) that shows landscape and infiltration BMPs as the top two preferred strategies. This is essentially what is being asked for with the residual water. Again suggested language is: (h) Co-Permittee Owned Treatment Control BMPs (3) Any residual water not internal to the BMP performance within a treatment control BMP when being maintained shall be: (A) Hauled away and legally disposed of; (B) Applied to the land at agronomic rates; (BC) Discharged to the sanitary sewer system (with permits or authorization); or (CD) Treated or filtered to remove sediments and oil and grease, and meet the limitations set in Table 11 (Discharge Limitations for Dewatering Treatment BMPs) prior to discharge to the MS4.				
<b>PART 10</b>							
	60	2(b)(1)	Requires CoPermittees to map or document all permitted connections to the Storm Drain System. This would require the City to videotape over 338 miles of storm drain pipes. Considered very expensive with no direct benefit to water quality. Please consider requiring the CoPermittees to videotape only those areas with excessive flow or observed illicit discharges.			\$4,700,000	
	61	4(a)	Requires Copermittees to screen certain storm drain pipes for illicit connections. The City assumes this is a requirement to visually observe outfalls for flow. Please clarify.	rc			
<b>FACT SHEET</b>							
	14&15		The Fact Sheet contains reference to ASBS related to Marine waters, without saying anything further. Those statements should be removed as irrelevant to this permit. If not removed, the City requests that it be noted that the City MS4 does not drain into an ASBS.				
	18		The Fact Sheet inaccurately describes the City's authority to impose fees and assessments to raise revenue in order to fund the new permit required activities. The City cannot simply impose new assessments, fees or charges. An assessment must be put to a vote of the people; if the assessment fails, the City would be without the capital to fund any of the activities. In support of the assessment language, the Regional Board states, "The Fact Sheet demonstrates that numerous activities contribute to the pollutant loading in the MS4." However each of the "facts" referred to are general global statements, and without data or any empirical evidence. The City objects to each of these conclusory "facts." And asks that the information regarding fees/assessments be clarified, in order to not mislead the public and other interested parties about funding possibilities and monies available to fund permit compliance.				



City of Santa Rosa Comments on Draft Order R1-2009-0050 - July 6, 2009

SECTION	Page	Item#	Issue (note if none)	Requires Clarification (rc)	Unfunded Mandate (um)	Initial/One time Cost (\$)	Annual Cost (\$)
	44		Please cite the specific studies that support the statement in the first paragraph that pharmaceuticals are being found in non-storm water discharges.	rc			
	44		Please see previous comment regarding clarity between Low Threat Discharge permit and MS4 permit. Based on the Fact Sheet, it appears both apply. The City requests clarification within the permit for which applies.	rc			
<b>Monitoring and Reporting Program</b>							
	1	A1	Requires flow weighted composite sampling for outfall monitoring at six locations. Task would require purchasing samplers and flow meters at a significant cost.			<b>\$60,000</b>	<b>\$20,000</b>
	2	A2	Requires monthly grab samples at two locations on Santa Rosa Creek.			<b>None</b>	<b>\$40,000</b>
	3	B2	Chronic Bioassays			<b>None</b>	<b>\$20,000</b>
	3	C1	Bioassessment sampling			<b>\$10,000</b>	
	3	D1	Temperature Monitoring				<b>\$2,500</b>
	3	D2	Bacteria Aerial Imagery			<b>\$10,000</b>	
<b>ATTACHMENT D</b>							
	page 1-26		The community survey referenced here is different from the behavior study listed on page 22 /1a. and page 24 /2(8) of the Waste Discharge Requirements document. The community survey that will be completed in Year 4 of Term 3, will cost an estimated \$25,000 to complete. It is important that we distinguish between the two studies as they are not measuring the same things. The Community Survey is assessing residents knowledge of the sources of creek pollution and the activities that lead to creek pollution. The Behavior Study would require that the City measure the actual behavior of residents. A study of this type is quite elaborate and costly due to the labor hours and the large scope of behaviors covered in the PIPP.			<b>\$25,000</b>	
<b>Totals</b>						<b>\$6,783,000</b>	<b>\$4,747,500</b>