



Public Works Department

September 12, 2012
File # 0780-85-KY181
Via: Email and Regular Mail

California Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340
Attention: Laurie Walsh

SUBJECT: COMMENTS ON THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) ORDER NO. R9-2012-0011 ADMINISTRATIVE DRAFT PERMIT FOR DISCHARGES FROM THE MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4s) DRAINING THE WATERSHEDS OF THE SAN DIEGO REGION

The City of Chula Vista appreciates the opportunity to provide comments on the Draft Order No. R9-2012-0011 (NPDES General Permit No. CAS0109266). City staff has carefully reviewed the Administrative Draft Order, and has specific comments that are presented in Attachment A to this letter. In addition, the City supports the comments and proposed revisions to the draft Administrative Order submitted by the County of San Diego on behalf of the San Diego Copermittees.

We trust that the San Diego Regional Board will give full consideration to our comments and recommendations in order to facilitate continued compliance, and increase effectiveness of the MS4 Permit for the San Diego Region.

Should you have any questions or if you need further information, please call me at (619) 397-6111. Thank you.

KHOSRO AMINPOUR
SENIOR CIVIL ENGINEER

Attachment

C: Richard Hopkins, Director of Public Works
William Valle, Assistant Director of Public Works Engineering
Silvester Evetovich, Principal Civil Engineer

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PROVISION II.B – WATER QUALITY IMPROVEMENT PLANS		
Comment No.	Page No.	Comment
1	19-20	II.B.4 – As Monitoring and Assessment (Provision II.D) is an integral component of WQIP development, Permit language should be revised to show that these two aspects are linked. As Copermittees establish and/or update priority water quality problems within their respective WMA(s), the Monitoring and Assessment plans should be modified to be consistent with these priorities.
PROVISION II.C – ACTION LEVELS		
2	22-25	II.C.1 and II.C.2 – The Permit requires Copermittees to incorporate NALs and SALs into their WQIPs, and Tables C-1 through C-5 include specific limits for which the Copermittees are to use to direct efforts for addressing MS4 discharges to receiving waters. However, Provision II.B requires that Copermittees develop WQIPs that focus on the highest water quality priorities in a watershed. The constituents as listed in Tables C-1 through C-5 may not be the highest watershed priorities for a particular WMA, which may lead to resources being used to address pollutants that are not the highest priority. More flexibility is needed in this provision for the Copermittees to develop NALs and SALs that address the highest priority pollutants in their respective WMA(s).
PROVISION II.D – MONITORING AND ASSESSMENT REQUIREMENTS		
3	26-52	Overall – The Monitoring and Assessment Program should follow a question-driven approach, allow Copermittees to make efficient use of resources for monitoring, incorporate past monitoring data into assessment, and utilize other region-wide monitoring programs.
4	26-52	Overall – Copermittees should only be responsible for discharges within their own jurisdictions.
5	41	II.D.2.b.(6) – Dry weather HMP monitoring should be conducted along with the Copermittees’ existing HMP Monitoring Program and not as duplicate efforts or added requirements.
PROVISION II.E – JURISDICTIONAL RUNOFF MANAGEMENT PROGRAMS		
6	54	II.E.2.a – 40 CFR 122.26.(d).(2).(iv).(B).(1) provides municipalities with discretion to determine if certain non-storm water discharges are sources of pollutants to waters of the United States and should be addressed. Such discharges include water line flushing, landscape irrigation, discharges from potable water sources, lawn watering, individual residential car washing, dechlorinated swimming pool discharges, etc. The Administrative Draft Permit exceeds federal regulations in requiring the Copermittees to categorically address all discharges by eliminating Copermittee discretion.

PROVISION II.E (continued)		
Comment No.	Page No.	Comment
7	57	II.E.2.b.(1) – The entire MS4 and all the locations required to be identified on the MS4 map cannot be shown on a single map of practical size. It is recommended that the MS4 map should only show the MS4. Detailed locations should be available in GIS or other mapping system and be made available to the Regional Board upon request.
8	61	II.E.3.a – Change “all development projects” to “all non-exempt development projects.” An exempt-projects category should be created to include projects such as tenant improvements, traffic signals, utility work, road resurfacing, and projects similar to those exempted under the definition of Redevelopment (Attachment “C”).
9	61	II.E.3.a.(1)(c) – By definition, all MS4s are waters of the state. Permanent BMPs require to be connected to drainage systems by conveyance systems that are also considered MS4s. Therefore, permanent BMPs inevitably are located within waters of the state. Please consider deleting “or waters of the state” per Order No. R9-2007-0001.
10	62	II.E.3.a.(3)(c) – After “Conservation of natural areas within the project footprint including existing trees, other vegetation, and soils” add “to the maximum extent practicable.”
11	64	II.E.3.b.(1)(b) – In the second line of this Provision, change “or” to “and” so the sentence will read, “...impervious surfaces on an already developed site, and the redevelopment project is a...”
12	66	II.E.3.b.(3)(a) – Directing runoff from sidewalks to landscaped areas may result in localized flooding, standing water, degradation/damage to sidewalks, and excessive infiltration into electrical and other utility trenches. It is recommended to provide categorical exemption for sidewalks from SUSMP requirements, similar to Order No. R9-2007-0001.
13	66	II.E.3.b.(3)(c) – After “Impervious trails” add “or maintenance access roads.”
14	66	II.E.3.c.(1) – This Provision is redundant since Provision II.E.3.a.(2) is applicable to all projects per Provision II.E.3.a.
15	66	II.E.3.(c)(2) – The requirement to retain and treat pollutants <u>onsite</u> eliminates the option of regional shared treatment and hydromodification control BMPs which are allowed under Provision II.E.3.a.(1)(b) on Page 61. It is recommended to delete “onsite.”
16	67	II.E.3.(c)(2)(a) – This provision is redundant since Provision II.E.3.a.(3) is applicable to all projects per Provision II.E.3.a.

PROVISION II.E (continued)		
Comment No.	Page No.	Comment
17	67	II.E.3.c.(2)(b) – Examples of LID BMPs that retain runoff should be provided. Retention facilities typically include retention basins, rain barrels, or underground vaults. Can these facilities be considered LID BMPs? What should be done with the retained water in situations where soils are impermeable and there is a lack of demand for irrigation water during the rainy season?
18	67	II.E.3.c.(2)(c) – In the last paragraph, mitigation is required for the portion of the pollutant load that is not retained onsite. Guidelines should be provided to calculate pollutant loads to be mitigated and sizing of mitigation if retrofitting projects or stream and/or habitat restoration are to be used, as provided in Provision II.E.3.c.(4)(c)(ii) on Page 71.
19	67	II.E.3.c.(2)(d) – Sizing and pollutant removal efficiency criteria have been established for <u>onsite</u> treatment control BMPs. Do these criteria also apply to <u>offsite</u> treatment control BMPs?
20	68	II.E.3.c.(3) – Compliance with hydromodification control requirements on small projects is often infeasible and inefficient. It is recommended to adopt a lower threshold of one acre of impervious area (addition or replacement) for hydromodification control compliance, in line with the San Francisco Bay Area NPDES Municipal Permit.
21	68	II.E.3.c.(3) – Considering that the San Diego HMP has many layers of conservative assumptions, comparing developed condition runoff rates with naturally occurring conditions will add another conservative layer, which may make hydromodification control BMPs infeasible for many projects or may adversely affect the integrity of downstream channels and habitat. This is particularly true for many redevelopment and infill projects.
22	68	II.E.3.c.(3)(a)(ii) – The intent of this Provision is not clear. If it is because of possible future rehabilitation of the channel to its natural condition, then the exemption in Provision II.E.3.c.(3)(d)(ii) on Page 69 should not be allowed by the same reasoning.
23	68	II.E.3.c.(3)(a)(iii) – Monitoring data from Provision II.D.2.b.(6) will not provide necessary information to re-define the range of flows causing erosion.
24	68	II.E.3.c.(3)(b) – The Permit should provide guidelines to calculate sediment loss and the methods by which sediment loss can be compensated.

PROVISION II.E (continued)		
Comment No.	Page No.	Comment
25	69	II.E.3.c.(3)(d) – The Copermittees have spent over \$1M and about four years to develop the Final HMP. The current HMP includes a monitoring plan that extends for five years. Data from the monitoring plan will determine if assumptions and criteria used in the Final HMP are appropriate or not. It is not reasonable to make any changes (including exemptions) to the HMP until monitoring data are available.
26	69	II.E.3.c.(4)(a)(iii) – The Permit requires project applicants to perform mitigation with a net result of at least the same level of water quality protection. The Permit should explain how the same level of water quality protection can be assessed if retrofitting projects or stream or habitat restoration is used as mitigation.
27	71	II.E.3.c.(4).(c)(iii) – It is hardly ever possible to synchronize mitigation projects with development projects. The requirement to complete mitigation prior to occupancy eliminates this option as a practical option.
28	71	II.E.3.c.(4)(c)(iv) – Pollutant credit system has not been explained in the Permit. This mechanism should be described in the context of this permit.
29	71	II.E.3.d – The update to the Design Manual should not include an update of the Final HMP for reasons discussed in Comment No. 25.
30	73	II.E.3.c.(2)(a) – Implementation of local SUSMPs in San Diego County started on 12/12/2002. Inventories of Priority Development Projects prior to that date are not available.
31	75	II.E.4.a.(1) and (3) – This Provision will create duplication of effort and overlap of responsibilities. The State Water Resources Control Board administers the Construction General Permit and has the authority to approve SWPPPs. While the Copermittees review SWPPPs during their construction site inspections, they enforce their own local storm water and grading ordinances. Further, SWPPPs are dynamic documents that reflect daily changes to construction activities on each site. Construction methods, site layout, and daily activities are planned by contractors. Prior to approval of construction or grading permits, such information is not generally available.
32	75	II.E.4.a.(4) – This requirement is already included in other environmental regulations and its inclusion in the Permit is redundant.

PROVISION II.E (continued)		
Comment No.	Page No.	Comment
33	79	II.E.5.a – The permit should provide the option for the Copermittees to use more than one data management system (inventory) to track the required information. For example, a GIS system can be used to identify and track the names and locations of existing facilities, while another system such as a business license database or a specially developed industrial/commercial database can provide the SIC codes, WDID No. etc.
34	79	II.E.5.a – The term “all its existing development” is too general and should not be used for identifying, tracking, inspections, implementation of BMPs, etc. A more selective term should be used for the purpose of this section.
35	79	II.E.5.a.(1), E.5.a.(2), E.5.a.(8), E.5.a.(9), E.5.a.(10), E.5.a.(11), E.5.a.(12) – Activities are not developments and should not be included in this section. Many of the requirements in Provision E.5 do not apply to activities. Such requirements include developing an inventory which includes names, locations, hydrologic sub-areas, SIC Codes, NOIs, WDID Nos., etc. It may be more appropriate to describe requirements for activities under a separate provision.
36	79	II.E.5.a.(8) – Pollutants generated and potentially generated by existing facilities, areas, and/or activities can only be identified for typical land uses and not individual facilities or areas.
37	83	II.E.5.d – Inspections of all parcels, streets, open spaces, drainage systems, sewage collections systems, etc. are neither feasible nor practicable. The permit should be more specific about the existing developments requiring inspections.
38	83	II.E.5.d.(1)(a) – Changes in property ownership or pollutant generating activities are not reported to the Copermittees in real time. They are generally identified during annual inspections.
39	86	II.E.6.a.(4) – This provision requires the Copermittees to determine if each identified non-storm water discharge is in exceedance of NALs developed pursuant to Provision C.1. For this purpose, the Copermittees would have to sample and test each and every non-storm water discharge, obtain laboratory results, and report to the San Diego Water Board within three business days. Clarification is needed regarding the intent of this requirement, since having qualified persons available for taking samples at multiple locations throughout the day and obtaining laboratory results within three business days are impossible tasks.