City of Santa Rosa

Sent electronically on
December 17, 2012

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

Subject: Comment Letter – Revised Draft Phase II Small MS4 Permit

The City of Santa Rosa appreciates the opportunity to comment on the revised Phase II Small MS4 Permit (Draft Phase II Permit). While the City of Santa Rosa will not be subject to this Permit, key provisions will likely be precedential for future permit re-issuances and consequently we are compelled to comment on the Draft Phase II Permit.

Receiving Water Limitations Language

The Receiving Water Limitations Provision (Provision D, pages 19-20) is an important and relevant issue for all permittees within the State. While the revised order does not modify Provision D per se, it addresses the issue (see Finding #38, page 38; Provision I, page 140; and the Fact Sheet, pages 25-26) by creating a reopener clause. We believe the State Water Board should not defer this issue until a later date (by the use of a reopener clause) and recommend that the State Water Board address this issue in this permit. Following the November 20, 2012 workshop, we believe the State Water Board has sufficient input and cause to develop a resolution. We understand that CASQA offers its support and assistance to the State Water Board to address this issue.

We urge the State Water Board to direct staff to work with CASQA to revise the Receiving Water Limitation Language in Provision D now and not defer to a later point in time.

Attachment J – Central Coast Post-Construction Requirements

Our concerns with Attachment J are two-fold, policy/procedural and technical. First we are concerned with the apparent escalation in permit requirements being conducted by the various Water Board permit writers in drafting provisions for land development. Over the last few years we have seen the ratcheting up of land development requirements in each MS4 permit reissuance

with regard for neither the impact/effectiveness of the prior development requirements nor the key hydrologic principles of low impact development. This lack of a cogent and cohesive approach to standards has created an uneven playing field for communities and developers across the State. Furthermore, the clear absence of any consensus within the State on what the requirements are for land development (particularly with respect to hydromodification management) is damaging to the credibility of the entire stormwater program.

Another policy/procedural related issue is the timing of the inclusion of Region 3 requirements into the Draft Phase II Permit. By appending the Central Coast requirements, and stating, "the Water Board expects to amend this Order to incorporate similar requirements for Permittees in the remainder of the State", the Water Board has introduced an entirely new set of rules with insufficient time for Phase I or II permittees to fully evaluate the potential impacts of these standards. At a minimum, we believe it prudent to allow a full 5-year permit term to incorporate the requirements of Section E.12 to assess their effectiveness before charging off on a new set of requirements. As discussed below, there are significant technical issues in the Region 3 requirements and any revisions would require opening the Phase II permit to amend a regional requirement at the state level.

With respect to technical issues the magnitude and scope of the Region 3 requirements are not appropriate for the following reasons:

- The Region 3 requirements are not only the most stringent and complex in the State; they are also unique and entirely untested. For example, there is no demonstrated environmental benefit from retaining a 95th percentile storm event on small projects (15,000 sf and greater) in urban areas. It is well established that water quality control measures are most economical and efficient when they target small, frequent storm events that over time produce more total runoff than the larger, infrequent storms targeted for design of flood control facilities. Typically, design criteria for water quality control BMPs and baseline hydromodification controls are set to coincide with the "knee of the curve", i.e., the point of inflection where the magnitude of the event (and corresponding cost of facilities) increases more rapidly than the number of events captured. In other words, targeting design storms larger than this point will produce volume retention gains but at considerable incremental cost. This approach is the very basis of the criteria in most Phase I MS4 permits and the draft Phase II permit for sizing stormwater control measures to capture the 85th percentile, 24-hour storm.

- The Central Coast sizing criteria was placed in the Region 3 requirements after the public review process was completed in that region. The sizing criteria uses an out-dated and incorrectly applied Water Environmental Federation MOP 23 approach that multiplies the

retention/water quality volume by 1.963 in order to capture "all events up to and including" the 85th or 95th, as appropriate.

- The retention and hydromodification requirements, and some of the LID requirements, are inconsistent and go beyond those of existing or proposed statewide, regional, or local Phase I or Phase II MS4 permits in California. For example, thresholds for hydromodification requirements are much lower than existing or proposed permits (15,000 square feet and 22,500 square feet of created/replaced impervious surface for runoff retention and peak matching, respectively). Post-project vs. pre-project peak matching is required for the 2 through 10-year storm, which is beyond most existing requirements and more appropriate for flood control facilities. The technical basis for these requirements is unclear and in the absence of demonstrated environmental benefit, there is no justification for the significant increased cost for their implementation.

We urge you to delete direct references to the Central Coast Post-Construction Requirements, including Attachment J, from the Draft Phase II Permit.

Specific comments on the permit language changed since the last draft was released are provided in Attachment 1 to this letter. Please note that there are a number of issues that were noted in the City of Santa Rosa's last comment letter that were not addressed. However, per the guidance provided, these comments were not included in this letter.

If you wish to discuss any of the City's comments or suggestions, please contact Heaven Moore at (707) 543-4530 or hmoore@srcity.org.

Thank you for your consideration of our concerns.

Sincerely,

Glen Wright, P.E.
Deputy Director – Water and Engineering Resources

Attachment: Attachment 1 - City of Santa Rosa's detailed comments.

Page Number	Section	Comment
17	B.1. and 2.	By adding the language "from the MS4" is direct dumping into a waterway unintentionally excluded?
18	B.4.	Language states "Discharges in excess of an amount deemed to be incidental runoff..."-Who deems this level that is incidental? Leaving this undefined allows for third party exposure.
19	B.4.d.	"Regional Water Board is notified by email no later than 24 hours after the discharge"- While the Permittee can meet this requirement, Regional Board staff may not receive the email until the next working day if the spill occurs on a weekend. Is there a better way to conduct this notification so that response by Regional Board staff could be more timely?
25	E.6.b.(e) and E.6.c. (i)	Part (e) requires that in the first year of the permit that "A statement that the municipality will implement enforcement actions consistent with its Enforcement Response Plan developed pursuant to Section E.6.c." However section E.6.c (i) requires the development of the Enforcement Response Plan in the third year of the permit. These two sections need to be revised as the plan must be developed before it can be enforced. Recommend that the plan be developed in year two and the statement of enforcement per the plan be provided in year three.
30	E.7.a.(j)	How would a Permittee demonstrate it has "effectively educate school-age children"? Need to clarify to protect from third party lawsuits.
36	E.9.a. (i) and (ii)(a)	Requiring that "the development of the outfall map shall include a visual outfall inventory involving a site visit to each outfall" places a very large work load on the Permittees. The City of Santa Rosa believes in the value of a well mapped system and has our entire system mapped in GIS based on recorded improvement plans. We are also just completing a visual screening of our outfalls (~230 outfalls meeting our requirements). This process has taken the better part of 3 years, and has only resulted the identification of a very few (~4) non-storm water flows. By comparison Santa Rosa received 108 spill calls from the public and City staff in the last year alone. It is recommended that mapping be completed based on recorded improvement plans and that field verification be used on an as-needed basis only.

39	E.9.c.	See the above comment.
53	E.11.f.	Per the definition of "Catch Basin" in the glossary this section would not apply to most municipalities in Region 1 since by design they do not have a sump. The City of Santa Rosa has found that the majority of material is actually removed from the storm drain lines and opposed to the inlets. Recommend prioritization be based on historical information and events (such as parades or downtown markets) or allow Permittees to propose criteria for prioritization.
59	E.12.a.	Recommend that language be added to recognize that not all Permittees (such as schools) have land use authority.
60	E.12.b.	The SMARTS Post-Construction Calculator is designed to address the 5yr storm event, which is a larger event than this permit is intended to address. As such it is not the best tool for post development site design unless it is modified to allow for different storms to be entered.
62	E.12.c.(a)	"...impervious surfaces must be included to the extent feasible."- Need to define feasibility criteria or specify that this is at the Regional Board's discursion.
64	E.12.c.(d)	See comment above.
66	E.12.e. (a)	The items listed here for site design are land use planning issues and are beyond the purview of the State Board. Recommend changing this language to encourage Permittees to "adopt and support land use policies that support the following objectives."
67	E.12.e. (c)(a)(1)	The volumetric criteria proposed requires that more water be infiltrated after the development then naturally infiltrated before the site was developed. This requirement does not meet the intent of mimicking the pre-development hydrograph. Recommend that this criteria be changed to require that the same volume of storm water be infiltrated after the development of the site as infiltrated on the undeveloped site. This change would make it consistent with the Phase I permit and would address the design challenge of working in clay soil while still preventing the increase in runoff volume.
80	E.12.i.(ii)(a)	"...Permittee shall conduct an analysis of the landscape code to correct gaps..."- Recommend that the word "landscape" be replaced with "applicable City Code" since other codes may be where a city derives its authority for post-construction features.
82	E.12.j.	See comments in body of letter.