

COUNTY OF EL DORADO

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December 17, 2012

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100



Subject: Comment Letter – 3rd Draft Phase II Small MS4 General Permit

The County of El Dorado Board of Supervisors (County) appreciates the opportunity to comment on the State Water Resources Control Board's (State Board) Phase II Small Municipal Separate Storm Sewer Systems General Permit (draft permit). The County is committed to helping the state achieve its water quality goals and will continue working with the state to adopt a permit that balances storm water quality objectives with the operational and economic realities of storm water management. However, the County has serious concerns with a number of the draft permit's requirements and the overall fiscal impact this draft imposes on the County. (Please find the attached Comment Spreadsheet outlining specific questions and concerns that the County has on the draft permit.)

As the County has expressed in the past, the County is very concerned about its ability to adequately fund staff to complete the requirements outlined in the draft permit. The County utilizes its general fund revenues to fund the NPDES Program activities, and with the limited discretionary revenue sources currently available, the Board of Supervisors must decide which core services are sacrificed in order to implement the County's storm water program. The ability to develop a property-related fee to fund this program is constrained by Proposition 218 which requires two-thirds voter approval. Today's voter climate has demonstrated repeatedly that increased fees for programs like storm water management are not supported. Grant funding is currently limited to funding specific capital improvement projects and NPDES Program funding is not an eligible reimbursable cost. Because of this, the County maintains its position that the draft permit represents an unfunded State and Federal mandate.


While the County knows the costs to implement the draft permit are substantial, the County is unable to accurately estimate permit costs because several major provisions of the draft permit will be determined, at the discretion of the Regional Board Executive Officer, after the permit is adopted. These include public outreach, post construction standards and water quality monitoring. In order to gain a full understanding of what this draft permit means for the County, we respectfully request that the State Board provides full disclosure to permittees on the above-mentioned provisions prior to adopting the draft permit.

This draft permit requires significant administration, data collection, management, analysis and reporting of water quality conditions. El Dorado County has an estimated 4000 outfalls throughout the West Slope. The County feels that the proposed monitoring requirements will create a substantial burden on the program resulting in inadequate staffing and financial resources. While the County recognizes the importance of this information in the overall goal for water quality, our current dollars would be better spent on activities with direct improvements to water quality. The County suggests that the State Board reevaluate the draft permit's requirements and to remove the substantial administrative and reporting costs and focus more on actions that will actually improve water quality on the ground.

We support the California Stormwater Quality Association (CASQA) comments on the draft permit and the Receiving Water Limitations language. The County needs to prioritize its limited financial and staff resources on improving critical water quality issues, which will result in achieving the greatest outcome for the environment. Additionally, this ensures that good faith compliance is not the subject of significant legal liability and lawsuits.

The County of El Dorado remains committed to storm water quality and collaborating with partnering agencies and the State and Regional Water Boards to develop regulations that are fiscally responsible and substantially effective. Please provide detailed written responses to the comments in the attached Comment Spreadsheet so that the County can determine how to proceed with either beginning to work under the draft permit or appealing its adoption. If you have additional questions of concerns, please contact Steve Kooyman (530-621-5932) or Eileen Crawford (530-621-6077).

Sincerely,


Kimberly A. Kerr, Interim Director
Community Development Agency

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Number	Page	Section	Comment
1	14	A.1.b.4.	What does 'overall planning' within the required Guidance Document entail? The County's Storm Water Management Plan will meet the requirement of the Guidance Document, so can the County submit that instead of a new Guidance Document?
2	16	B.4.	Managing and regulating 'Incidental Runoff' (i.e. Detecting and correcting leaking sprinkler heads within 72 hours) in all areas of the County will be impossible.
3	21	E.6.c.	The Enforcement Response Plan is duplicative with the requirement to establish Legal Authority. Having the appropriate Legal Authority to enforce the Permit will achieve what the Enforcement Response Plan is intended to do.
4	25	E.7.a.(i)(b)	How will implementing surveys twice during permit term improve water quality? How do we empirically measure how raising the level of awareness in target audiences improves water quality? This requirement seems costly and will not be effective.
5	26	E.7.a(iii)	How will we measure changes in public awareness and knowledge resulting from our public education efforts?
6	27	E.7.b.2.(ii)(a)	Requiring Plan reviewers and Permitting staff to be certified QSD's is cost prohibitive.
7	32	E.9.c.(i)	Sampling outfalls that are flowing more than 72 hours after the last rain event throughout the entire County will be impossible. What about pipes that are flowing 72 hours after a storm event that are carrying stream flows or base flow?
8	32	E.9.c.(ii)(a)(b)	Analyzing samples for all of the listed Action Level Concentrations at all pipes flowing 72 hours after a rain event will be extremely costly and time consuming.
9	39	E.11.c.(i)	Conducting annual assessments on all of the hundreds of County owned and operated facilities will be extremely costly and time consuming.
10	45	E.11.j.(i)	Implementing a landscape design and maintenance program into all Permittee operations and activities to reduce water, herbicides, fertilizer, etc. will be extremely costly and time consuming.
11	47	E.12.c.(i)	Implementing site design water quality requirements for all projects creating 2,500 square feet of impervious coverage will be costly and time consuming for the County.
12	48	E.12.d.(i)	Implementing LID site design water quality requirements for all projects creating 5,000 square feet of impervious coverage will be costly and time consuming for the County. LID principles for 5,000 square feet or more.
13	49	E.12.d.1(e)	Infiltrating the 85th percentile storm event from road projects adding impervious coverage will be virtually impossible and will require extremely large infiltration systems.
14	52	E.12.d.2(2)	Capturing the 85th percentile, 24 hour rainfall event for treatment will be virtually impossible.
15	55	E.12.e.(ii)	Requiring post project runoff to not exceed estimated preproject flow rates for the 2 year, 24 hour storm in the sierras will be extremely challenging.
16	57	E.12.f.(ii)	Requiring the County to perform such extensive General Plan updates, Code Amendments and Enforcement Regulation Modifications will be extremely costly and difficult.

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17	58	E. 12.g.(ii)	Requiring the County to manage a private property Operations & Maintenance Verification Program as properties pass on from one owner to another is extremely burdensome and costly.
18	61	E. 12.h.(i)	Requiring Permittees to inventory and assess the maintenance condition of private property structural post-construction BMPs within the County's jurisdiction will be virtually impossible. Gaining access to private property to effectively test BMPs to gain valuable data to make the determination will be impossible. There is no value in trying to inspect BMPs without a peer reviewed empiracle testing standard to determine the BMPs effectiveness.
19	63	E. 12.j.(ii)	Requiring the County to perform such extensive General Plan updates, Code Amendments and Enforcement Regulation modifications will be extremely costly and difficult.
20	67	E. 13.b.1.(ii)	Establishing and maintaining a permanent Monitoring Station in one characteristic waterway within the County will be extremely costly and difficult for the County. The County is not a scientific entity and the work required to actively maintain a monitoring station to gain valuable information is not within the County's abilities.
21	68	E. 13.b.1.(ii)d)	Requiring the County to establish a Monitoring Fund from developers is not realistic and not within the County's current abilities.
22	71	E. 14.a.(i)	Requiring the Permittees to develop another 'plan' - the Program Effectiveness Assessment and Improvement Plan - will not help to improve water quality, but will rather divert valuable resources away from protecting water quality. This Permit requires too many 'plans' and tying up the County's limited resources developing plans will do nothing to help with actual water quality gain. This requirement is duplicative with the County's Storm Water Management Plan and should be eliminated.
23	73	E. 14.b.(i)	How will the County Quantify annual subwatershed pollutant loads for fecal coliform, cadmium, chromium, etc.? Even if these are modeled with the model the Permit suggests, how accurate/useful will that actually be?