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Member
Agencies:

December 17, 2012

Belvedere

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

Corte Madera

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

County
of Marin

Dear Ms. Townsend and Members of the State Water Board:

Fairfax

Thank you for the opportunity to submit comments on the third draft of the Phase II Small MS4 General Permit (Draft Permit). These comments are submitted to the State Water Resources Control Board (State Board) by the Marin County Stormwater Pollution Prevention Program (MCSTOPPP) on behalf of its 12 local government member agencies.¹

Larkspur

Mill Valley

Through MCSTOPPP and numerous other programs, the County of Marin (County) and Marin's municipalities share a strong commitment to protecting the environment and water quality. Individually and collectively we successfully implement programs and projects to protect and enhance Marin's creeks and watersheds.

Novato

Ross

MCSTOPPP greatly appreciates the time and energy that State Water Resources Control Board (State Board) staff dedicated to hearing and addressing a number of our concerns. Several key issues remain, including the need for the State Board to adopt a Phase II Permit that improves water quality and can be implemented with existing funding. The current Draft Permit will substantially increase current program implementation costs. At a minimum, we urge you to direct staff to revise the Draft Permit based on our comments below and on our additional comments included in the attached table (Attachment A).

San Anselmo

San Rafael

Sausalito

Tiburon

Comments and Recommendations:

1. Direct staff to work with the California Stormwater Quality Association (CASQA) to revise the Receiving Water Limitation Language in Provision D now and do not defer to a later point in time. As evidenced by the State Water Board's November 20, 2012 Workshop on the subject, the Receiving Water Limitations Provision (Provision D, pages 19-20) is a critical issue of concern for all MS4 Permittees within the State. Notwithstanding the Workshop, the revised order does not modify Provision D as it was previously drafted. Instead, it just bypasses the

¹ Belvedere, Corte Madera, County of Marin, Fairfax, Larkspur, Mill Valley, Novato, Ross, San Anselmo, San Rafael, Sausalito, Tiburon.

issue by creating a reopener clause (see Finding #38, page 38; Provision I, page 140; and the Fact Sheet, pages 25-26). In light of all of the effort that went into the Workshop and the importance of this issue to all municipalities in the State, moving forward on the Draft Permit as it stands is not reasonable. We believe the State Water Board should not defer this issue until a later date (by the use of a reopener clause) and contend that the State Water Board has sufficient input and cause to develop a resolution.

2. Eliminate Attachment J and Footnote 31 of the Draft Fact Sheet. 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 the State and Regional Boards expanded land development requirements in each stormwater permit reissuance without enough analysis of the impact and effectiveness of the prior development requirements and without enough consideration of the key hydrologic principles of low impact development. Due to the lack of a cogent and cohesive approach to land development standards, an uneven playing field now exists for communities and developers across the State. Furthermore, without a consensus within the State on what the requirements are for land development (particularly with respect to hydromodification management) the entire stormwater program loses credibility.

Another policy/procedural related issue is the timing of the inclusion of Region 3 requirements into the Draft 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 and to assess their effectiveness before asking Permittees to review and prepare for new requirements.

3. Eliminate errors in the outline structure of the permit. The Draft Permit is a long, complex and detailed document and a consistent outline structure is absolutely critical to understanding and implementing it. It would benefit all stakeholders, not just Permittees, if the State Board would direct staff to conduct an editorial review of the document in order to eliminate circular references, errors in content and outline structure, and redundant language.
4. Delete Section E.9.b.(ii).(e). Page 11 of the Fact Sheet (November 16, 2012 version) provides a list of the significant changes, including deleted provisions, to reduce costs in the 2nd Draft Permit. The Industrial/Commercial Inspection Program is one of the deleted provisions on the list. However, business inspections are now required under Section E.9.b.(ii).(e) in the Draft Permit on page 39. While MCSTOPPP intends to continue leveraging existing staff resources by encouraging routine business inspectors to identify and then refer stormwater issues to appropriate staff, we believe that business inspection requirements should be eliminated from the Draft Permit in order to prevent a further increase in permit implementation costs.
5. Eliminate references and language that indicate Permittees must conduct TMDL, 303(d) listing and E.13 water quality monitoring options as this is contradictory to existing and new statements provided in E.13.(4). E.13.(4) clearly states that Permittees with a

population greater than 50,000 that are not conducting monitoring related to ASBS, TMDLs or 303d impaired waterbodies are required to conduct monitoring as specified in E.13.a and E.13.b. This has not been clearly reflected in Attachment A and the monitoring flow chart.

6. Revise the Draft Permit to include findings regarding the maximum extent practicable (MEP) standard similar or identical those in the existing Phase II permit. The MEP standard is the cornerstone of the stormwater regulation, as federal law requires MS4 Permittees to reduce discharges of pollutants in stormwater to the MEP. (40 C.F.R. § 122.34(a).) These findings emphasize the flexible, site-specific, and iterative nature of MEP standard as described in the federal and state law and guidance. We support the addition of findings from the existing Phase II permit that are identified in CASQA's comment letter on the current Draft Permit (Revised Draft Phase II Small MS4 Permit).

Recommendation: Direct State Water Board staff to incorporate the revisions as provided above and in Attachment A.

Thank you for your consideration of this critical and urgent topic. We appreciate the opportunity to provide our comments.

Sincerely,



Terri Fashing
MCSTOPPP Stormwater Program Administrator

C (electronic): Bob Beaumont, Director of Public Works, County of Marin
Craig Tackabery, Assistant Director of Public Works, County of Marin
Tracy Clay, Principal Civil Engineer, MCFCWCD, County of Marin
Liz Lewis, Principal Planner, County of Marin
James Raives, Senior Open Space Planner, County of Marin
Elise Holland, Planning and Resource Chief, County of Marin
Marin Public Works Association
Paul Berlant, Executive Director, Marin General Services Authority
BASMAA Executive Board
MCSTOPPP Agency Staff Committee
MCSTOPPP Citizens Advisory Committee
Bruce Wolfe, Executive Officer, San Francisco Bay RWQCB



**Attachment A: Specific Comments on Draft Phase II Small MS4 General Permit – November 16, 2012 Tentative Order
Marin County Stormwater Pollution Prevention Program (MCSTOPPP)**

MCSTOPPP Comments - General			
Comment #	Permit Element/ Issue/ Concern	Location in Draft Permit	Comment/Recommendation
1	Permit Outline Structure	Throughout	<p>The outline structure is not consistent.</p> <p>Recommendation: Hire a professional editor to read and revise the organizational and outline structure of the permit. This effort will improve our ability to follow the permit provisions.</p>
2	All Reporting	Throughout	<p>Except for Planning & Development Review Process, E.12.i, all reporting now references the SMARTS online reporting system. We are unable to provide comment on this draft without knowing the content of the SMARTS report.</p> <p>Recommendation: Water Board staff should work closely with Permittees to develop appropriate reporting requirements that do not extend or expand upon the Order itself.</p>
3	NOI Filing Date – Consistency	Multiple	<p>Currently there are conflicting deadlines for NOI filing dates. Conversations with SWRCB staff indicate that this deadline should all read July 1, 2013.</p> <p>Recommendation: Please modify all NOI filing deadlines referencing 6 months from effective date to July 1, 2013. This includes but is not limited to:</p> <p><i>Fact Sheet:</i> <i>Page 7</i></p> <p><i>Order:</i> <i>A.1.a – page 15</i> <i>A.2.a – page 15</i></p>



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MCSTOPPP Comments - General			
Comment #	Permit Element/ Issue/ Concern	Location in Draft Permit	Comment/Recommendation
4	Findings	Finding #28 [pages 9-10]	<p>This finding states that all MS4s with a population of 50,000 or more must conduct monitoring specified in the Order or approved by the Executive Officer of the applicable Regional Board. The statement is not entirely consistent with Section E.13 of the Order.</p> <p>Recommendation: <i>Modify language as follows: "However, all Regulated Small MS4s that discharge to ASBS or impaired water bodies and all MS4s with a population of 50,000 or more must conduct monitoring specified in the Order or approved by the Executive Officer of the applicable Regional Board."</i></p>
5	Dispute Resolution – Modification	H. [pages 139 – 140]	<p>CASQA appreciates the addition of Provision H which was added in part to address Permittees request for clarification regarding the Dispute Resolution process. However, the language could be interpreted as an attempt to mollify a Permittee’s rights to use the formal petition process as it is outlined in Water Code 13320.</p> <p>Recommendation: <i>Modify language as follows: <u>This language does not circumvent, nullify or prevent a Permittee from pursuing the formal petition process as states in Water Code section 13320.</u></i></p>



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MCSTOPPP Comments - General			
Comment #	Permit Element/ Issue/ Concern	Location in Draft Permit	Comment/Recommendation
6	Glossary – Outfall Definition	Attachment I [page 6]	<p>Modify outfall definition so that it also applies to the IDDE section. This will provide the clarity needed to Permittees during field screening.</p> <p>Recommendation Modify as follows: <i>Outfall - A point source as defined by 40 CFR 122.2 at the point where a municipal separate storm sewer discharges to waters of the United States and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels or other conveyances which connect segments of the same stream or other waters of the United States and are used to convey waters of the United States. Specific to <u>IDDE provision requirements (E.9)</u> and Ocean Plan monitoring, outfalls include those measuring 18 inches or more in diameter.</i></p>



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MCSTOPPP Comments – Section B. Discharge Prohibitions			
Comment #	Permit Element/ Issue/ Concern	Location in Draft Permit	Comment/Recommendation
7	Discharges in Excess of an Amount Deemed to be Incidental – Clarification Edits	B.4 [page 18]	<p>New language (redline strikeout) clarified discharge prohibition with respect to incidental runoff. The following edits are needed to ensure the remainder of the paragraph aligns with new edits.</p> <p>Recommendation: <i>Modify language as follows:</i> <i>Discharges in excess of an amount deemed to be incidental runoff shall be controlled. Regulated Small MS4s shall require parties responsible for such to implement Sections B.4.a-ed below to control the incidental runoff. Incidental runoff is defined as unintended amounts (volume) of runoff from potable and recycled water use areas, such as unintended, minimal over-spray from sprinklers that escapes the area of intended use. Water leaving an intended use area is not considered incidental if it is part of the facility design, if it is due to excessive application, if it is due to intentional overflow or application, or if it is due to negligence.</i></p>



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MCSTOPPP Comments – Section E.6 Program Management			
Comment #	Permit Element/ Issue/ Concern	Location in Draft Permit	Comment/Recommendation
8	Legal Authority – Timeline Edits for Consistency	E.6.a.i & E.6.b.i [pages 23 & 25] & F.5.a.1(iii) [page 101]	<p>The redline text indicates that the permittee shall certify that the Permittee has and will maintain full legal authority (E.6.b.i), however E.6.a.i states that Permittees must obtain adequate legal authority within the second year. Permittees cannot certify that they have legal authority before they obtain that authority.</p> <p>Recommendation: <i>Revise the timeline in E.6.b(i) as follows: Within the first <u>second</u> year of the effective date of the permit...</i></p> <p><i>Likewise, revise the timeline under E.6.B(ii) and F.5.a.1(iii) as follows: All Permittees shall submit in the <u>second</u> first year online Annual Report...</i></p>



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MCSTOPPP Comments - Section E.7 Education and Outreach			
Comment #	Permit Element/ Issue/ Concern	Location in Draft Permit	Comment/Recommendation
9	Message about landscaping	E.7.a(ii)(g) [page 30]	<p>The words “if available” were added. This requirement should be reworded.</p> <p>Recommendation: <i>Modify language as follows: Convey messages (<u>from existing sources if desired</u>) (footnote 11) to explain the benefits of water-efficient and storm water friendly landscaping.</i></p>



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MCSTOPPP Comments - Section E.7 Education and Outreach			
Comment #	Permit Element/ Issue/ Concern	Location in Draft Permit	Comment/Recommendation
10	Public Education and Outreach – School Age Children Requirement Modification	E.7.a(ii)(j) [page 30]	<p><i>Cities, towns and counties should not be <u>required</u> to <u>educate</u> k-12 students. Unless the Permittee is a school district, it has no authority to educate students in elementary schools. In many cases, school curriculum and schedule requirements make it difficult for extra presentations to be made in the classroom. The revised redline language reduces Permittee’s flexibility and ability to provide <u>outreach</u> to school-aged children.</i></p> <p>Recommendation</p> <p><i>Replace current language with language similar to the K-12 outreach requirement included in the recently adopted Los Angeles NPDES MS4 Permit:</i></p> <p><i>Within the Permittee’s jurisdiction, effectively educate school –age children about storm water runoff and how they can help protect water quality habitat in their local watershed (s). The Permittee may use environmental and place-based, experiential learning which is integrated into school curricula and school facility management.¹² In the case that an environmental and place-based, experiential learning local program does not exist, the Permittee may use California’s Education and Environment Initiative Curriculum¹³ or equivalent.</i></p> <p><i><u>Permittees are encouraged to provide independent, parochial, and public schools within each Permittee’s jurisdiction with materials to educate school children (K-12) on storm water pollution. Material may include videos, live presentations, and/or other information. Permittees are encouraged to work with, or leverage, materials produced by local, regional or statewide agencies and associations such as the State Water Board’s “Erase the Waste” educational program and the California Environmental Education Interagency Network (CEEIN) to implement this voluntary requirement.</u></i></p>



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MCSTOPPP Comments – Section E.9 Illicit Discharge Detection and Elimination			
Comment #	Permit Element/ Issue/ Concern	Location in Draft Permit	Comment/Recommendation
11	Outfall Mapping	E.9.a. [page 36]	<p>New (redline) permit language indicates that “development of the outfall map shall include a visual outfall inventory involving a site visit to each outfall”. Some Permittees in Marin have up-to-date outfall maps. Please allow such Permittees to submit their up-to-date outfall map without visiting all Permittee-owned outfalls in the field.</p> <p>Recommendation: <i>Modify the language as follows:</i> <i>The map may be in hard copy and/or electronic form or within a geographic information system (GIS). <u>The development of the outfall map shall include a visual outfall inventory involving a site visit to each outfall unless the Permittee already has an up-to-date outfall map that can be submitted.</u></i></p>
12	Field Sampling – New Permittees	E.9.c. [pg. 39]	<p>Permittees should only be required to sample for unknown flows. Having to sample known flows from stream tributaries and perennial springs would add unnecessary costs.</p> <p>Recommendation: <i>Modify language as follows:</i> <i>Within the second year of the effective date of the permit (e.g. while conducting outfall inventory under Section E.9.a), the Permittee shall sample any outfalls <u>with unknown flows</u> that are flowing or ponding more than 72 hours after the last rain event.</i></p>



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MCSTOPPP Comments – Section E.9 Illicit Discharge Detection and Elimination			
Comment #	Permit Element/ Issue/ Concern	Location in Draft Permit	Comment/Recommendation
13	Field Sampling – Renewal Permittees	E.9.a. – c. [pages 36 – 39]	<p>New (redline) permit language indicates that “development of the outfall map shall include a visual outfall inventory involving a site visit to each outfall” and then the language goes on to say (in E.9.c) that, “within the second year of the effective date... (e.g., while conducting the outfall inventory under Section E.9.a), the Permittee shall sample any outfalls that are flowing...” This language provides needed clarification and connection to subsequent requirements such as field screening. However, it does not address municipalities that have already completed their outfall inventories.</p> <p>Recommendation <i>Modify language as follows:</i> <u>Within the third year of the effective date of the permit, the Permittee shall also conduct dry weather sampling of unknown flows (more than 72 hours since the last rain event) of sample outfalls annually identified as priority areas. Renewal Permittees that have already established an up-to-date outfall map and are not required to conduct a site visit to each outfall, shall only be required to conduct annual dry weather sampling (more than 72 hours since the last rain event) of outfalls identified as priority areas within the third year of the effective date of the permit.</u></p>



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MCSTOPPP Comments – Section E.9 Illicit Discharge Detection and Elimination			
Comment #	Permit Element/ Issue/ Concern	Location in Draft Permit	Comment/Recommendation
14	Illicit Discharge Source/ Facility Inventory – IGP Determination	E.9.b(ii)(c) [page 38]	<p>The permit requires Permittees to determine if facilities must be covered under the Statewide Industrial General Permit. Regional Boards should make this determination, not Permittees. Please modify the language to require the Permittee to 1) notify a facility if they have good reason to believe that the facility should have coverage under the IGP and 2) recommend that the facility contact the Regional Board to verify the requirement for coverage under the IGP.</p> <p>Recommendation Modify language as follows: <u>If the The Permittee shall determine if the has reason to believe that facilities that are required to be covered under the Statewide Industrial General Permit have <u>not yet</u> done so, then Upon discovering any facilities requiring permit coverage but are not yet permitted, the Permittee shall notify the appropriate Regional Water Board facility, and <u>recommend that the facility contact the Regional Board to verify the requirement for coverage under the IGP</u> include copies of the notification in the online Annual Report.</u></p>
15	Illicit Discharge Source/Facility Inventory – Facility Assessment	E.9.b(ii)(e) [page 39]	<p>The Permit requires the assessment of inventoried facilities and other priority areas for the presence of illicit discharges. As currently written, the section requires business inspections. As previous comments indicated, this is above and beyond requirements of the Federal Clean Water Act. Page 11 of the current Fact Sheet states that the industrial/commercial inspection program requirements were deleted from the permit. Therefore, the new language in section E.9.b.(ii)(e) should be deleted.</p> <p>Recommendation: Strike Provision E.9.b.(ii)(e)</p>



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MCSTOPPP Comments – Section E.9 Illicit Discharge Detection and Elimination			
Comment #	Permit Element/ Issue/ Concern	Location in Draft Permit	Comment/Recommendation
16	Field Sampling – Outfall Definition	E.9.c [page 39]	<p>A definition for outfall is now provided in Attachment I. This definition specifically calls out ASBS. Please also reference this newly added definition within the IDDE, Field Sampling provision to clarify what it meant by “outfalls.”</p> <p>Recommendation: Modify language by adding a footnote that references the outfall definition in Attachment I: ... the Permittee shall sample any outfalls¹⁹ that are flowing or ponding...shall also conduct dry weather sampling (more than 72 hours since the last rain event) of outfalls.</p> <p><u>19: See Attachment I for definition of outfall.</u></p>
17	Outfall Definition - Modification	Attachment I [page 6]	<p>Modify outfall definition so that it also applies to the IDDE section. This will provide the clarity needed to Permittees during field screening.</p> <p>Recommendation Modify as follows: Outfall - A point source as defined by 40 CFR 122.2 at the point where a municipal separate storm sewer discharges to waters of the United States and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels or other conveyances which connect segments of the same stream or other waters of the United States and are used to convey waters of the United States. Specific to <u>IDDE provision requirements (E.9) and Ocean Plan monitoring</u>, outfalls include those measuring 18 inches or more in diameter.</p>



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MCSTOPPP Comments - Section E.10 Construction			
Comment #	Identify Permit Element/ Issue/ Concern	Location in Draft Permit	Comment/Recommendation
18	Construction Site Inspection and Enforcement	E.10.c.(ii) [Page 46]	<p>This section would make more sense with the following edits:</p> <p>Recommendation: <i>Modify as follows:</i></p> <p><i>The inspection procedures shall be implemented per the Permittee's construction site storm water control ordinance and verify compliance with the project's erosion and sediment control ordinance. At a minimum, inspections must be conducted at priority construction sites (defined in the table below) prior to land disturbance (during the rainy season), during active construction and following active construction. Construction site inspections shall include assessment of compliance with the Permittee's construction site storm water runoff control...</i></p>



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MCSTOPPP Comments - Section E.10 Construction			
Comment #	Identify Permit Element/ Issue/ Concern	Location in Draft Permit	Comment/Recommendation
19	Construction Site Inspection and Enforcement	E.10.c. [Page 46]	<p>Allow the Permittee to require the project proponent to conduct inspections.</p> <p>Recommendation: <i>Modify as follows:</i></p> <p><i>Prior to allowing an operator to commence land disturbance during the rainy season, the Permittee must perform an inspection, <u>or must require the project proponent to perform an inspection</u>, to ensure all necessary sediment controls are in place. During active construction, the Permittee shall conduct, <u>or shall require the project proponent to conduct</u>, inspections based on prioritization of construction sites. Prioritization criteria shall be based on project threat to water quality. Project threat to water quality includes soil erosion potential, site slope, projects size and type, sensitivity of receiving water bodies, proximity to receiving water bodies, non-stormwater water discharges and past record of non-compliance by the operator of the construction site. Frequencies may be conducted in accordance with the <u>based on the recommended frequencies</u> described below. At the conclusion of the project, and prior to final occupancy approval, the Permittee must inspect, <u>or must require the project proponent to inspect</u>, to ensure that all disturbed areas have reached final stabilization and that all temporary control measures are no longer needed and have been removed.</i></p>



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MCSTOPPP Comments - Section E.10 Construction									
Comment #	Identify Permit Element/ Issue/ Concern	Location in Draft Permit	Comment/Recommendation						
20	Construction Site Inspection and Enforcement – Recommended Inspection Frequency Table Clarification	E.10.c.(ii) [page 47]	<p>The phrase, “not considered a Construction Site” does not make sense in the context of the construction provision. This language should be struck as it does not add clarity to recommended inspection frequencies. Projects with an erosivity waiver are not covered by the CGP and inspection frequency should be determined by the Permittee. Description for Other Sites is inconsistent with language in CGP. The table should be congruent with the rest of section E.10 and include small projects less than an acre.</p> <p>Recommendation - Modify the recommended inspection frequency table as follows:</p> <table border="1"> <tr> <td> <p><i>Priority Construction Sites including the following: sites with 5 acres or more of soil disturbance; sites with one acre or more of soil disturbance that discharge to a tributary listed as impaired water for sediment or turbidity under the CWA Section 303(d); and other sites with one acre or more of soil disturbance determined by the Permittee or State or Regional Water Quality Control Board to be a significant threat to water quality*.</i></p> </td> <td> <p><u><i>Bimonthly during the rainy season (October 1st to April 30). Monthly during the remainder of the year. Prior to land disturbance (during the rainy season), during active construction and following active construction. Consider the need for inspections every 14 days during the rainy season.</i></u></p> </td> </tr> <tr> <td> <p><i>Other sites covered by the Construction General Permit (CGP) not considered a Construction Site**</i></p> </td> <td> <p><u><i>Monthly during the rainy season. Every 60 calendar days Bimonthly during the remainder of the year. Prior to land disturbance (during the rainy season), during active construction and following active construction. Consider monthly inspections during the rainy season and inspections every 60 calendar days during the remainder of the year.</i></u></p> </td> </tr> <tr> <td> <p><i>Smaller projects less than one acre of soil disturbance not covered by the CGP and projects with Rainfall Erosivity Waivers</i></p> </td> <td> <p><u><i>Determined by Permittee based on Permittee’s evaluation of the threat to water quality*</i></u></p> </td> </tr> </table> <p><i>* In evaluating the threat to water quality, the Permittee must assess the following factors: soil erosion potential; site slope; project size and type; sensitivity of receiving waterbodies; proximity to receiving waterbodies; non-stormwater discharges; and past record of non-compliance by the operators of the construction site. **Sites that have obtained an Erosivity Waiver under the Construction General Permit from the State Water Resources Control Board do not need to be inspected during the dry season (May 1 to September 30).</i></p>	<p><i>Priority Construction Sites including the following: sites with 5 acres or more of soil disturbance; sites with one acre or more of soil disturbance that discharge to a tributary listed as impaired water for sediment or turbidity under the CWA Section 303(d); and other sites with one acre or more of soil disturbance determined by the Permittee or State or Regional Water Quality Control Board to be a significant threat to water quality*.</i></p>	<p><u><i>Bimonthly during the rainy season (October 1st to April 30). Monthly during the remainder of the year. Prior to land disturbance (during the rainy season), during active construction and following active construction. Consider the need for inspections every 14 days during the rainy season.</i></u></p>	<p><i>Other sites covered by the Construction General Permit (CGP) not considered a Construction Site**</i></p>	<p><u><i>Monthly during the rainy season. Every 60 calendar days Bimonthly during the remainder of the year. Prior to land disturbance (during the rainy season), during active construction and following active construction. Consider monthly inspections during the rainy season and inspections every 60 calendar days during the remainder of the year.</i></u></p>	<p><i>Smaller projects less than one acre of soil disturbance not covered by the CGP and projects with Rainfall Erosivity Waivers</i></p>	<p><u><i>Determined by Permittee based on Permittee’s evaluation of the threat to water quality*</i></u></p>
<p><i>Priority Construction Sites including the following: sites with 5 acres or more of soil disturbance; sites with one acre or more of soil disturbance that discharge to a tributary listed as impaired water for sediment or turbidity under the CWA Section 303(d); and other sites with one acre or more of soil disturbance determined by the Permittee or State or Regional Water Quality Control Board to be a significant threat to water quality*.</i></p>	<p><u><i>Bimonthly during the rainy season (October 1st to April 30). Monthly during the remainder of the year. Prior to land disturbance (during the rainy season), during active construction and following active construction. Consider the need for inspections every 14 days during the rainy season.</i></u></p>								
<p><i>Other sites covered by the Construction General Permit (CGP) not considered a Construction Site**</i></p>	<p><u><i>Monthly during the rainy season. Every 60 calendar days Bimonthly during the remainder of the year. Prior to land disturbance (during the rainy season), during active construction and following active construction. Consider monthly inspections during the rainy season and inspections every 60 calendar days during the remainder of the year.</i></u></p>								
<p><i>Smaller projects less than one acre of soil disturbance not covered by the CGP and projects with Rainfall Erosivity Waivers</i></p>	<p><u><i>Determined by Permittee based on Permittee’s evaluation of the threat to water quality*</i></u></p>								



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MCSTOPPP Comments – Section E.11 Pollution Prevention/ Good Housekeeping			
Comment #	Identify Permit Element/ Issue/ Concern	Location in Draft Permit	Comment/Recommendation
1	Hotspot Facility Inspections	E.11.e [page 52]	By adding “Hotspot Facility” to the title of this section, it no longer makes sense to include E.11.e.(ii)d in this section. E.11.e.(ii)d contains requirements for “Non-Hotspots”. Recommendation: Remove “Hotspot Facility” from the title of this section.
2	Permittee Operations and Maintenance Activities (O&M)	E.11.h.(ii)(d) [page 56]	This provision was changed and now requires quarterly evaluation of BMPs instead of annual evaluation. This increases the tracking and reporting requirements without a demonstrated water quality benefit. Annual evaluation is sufficient. Recommendation: Change this requirement to state: Evaluate BMPs – All BMPs implemented during O&M activities shall be evaluated <u>annually</u> quarterly .



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MCSTOPPP Comments – Section E.12 Post-Construction			
Comment #	Identify Permit Element/Issue/Concern	Location in Draft Permit	Comment/Recommendation
3	Site Design Measures, Post-Construction Calculator – Modification	E.12.b.ii [pages 60-61]	<p>Determining volume reductions for projects between 2,500 sf and 5,000 sf is an exercise with no purpose. The post-construction calculator is a detailed and complex spreadsheet used for CGP regulated projects, where the requirement is to reduce post-development volumes to pre-project volumes. It is not applicable or appropriate for projects of this small scope as it was developed for sites > 1ac in areas that are not part of an MS4, without provisions for projects located in existing developed areas.</p> <p>In this Order, the calculator is to be applied on very small projects, where level of detail and technical experience of the project developer may be limited. It would be more valuable to the Permittee to have a list of such projects, and a brief description of the measures that were included.</p> <p>Recommendation: <i>Modify language as follows:</i> Project proponents shall use the State Water Board SMARTS Post-Construction Calculator1, or equivalent to quantify the runoff reduction resulting from implementation of site design measures. <u>Permittees shall develop standard specifications to support implementation of these requirements and shall report on how they are being implemented.</u></p>
4	Site Design Measures – Modification	E.12.b.ii [page 60]	<p>Site Design measures are limited to eight specific measures. A project will have no site design options other than one of the listed eight items. A ninth bullet should be added in order to encompass other options that might be available to projects.</p> <p>Recommendation: <i>Add a ninth bullet as follows:</i> <i>(i) Other design measures that provide an effective means of reducing site runoff</i></p>



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MCSTOPPP Comments – Section E.12 Post-Construction			
Comment #	Identify Permit Element/Issue/Concern	Location in Draft Permit	Comment/Recommendation
5	Permittee’s Development Projects - Clarification	E.12.c.ii(c) [page 63]	It is unclear what is meant by a Permittee’s “most current version of the low impact development runoff standards” Recommendation: <i>Modify text as follows: The Permittee shall develop and implement an equivalent approach, <u>equivalent</u> to the approach used for private development projects, to apply the most current version of the low impact development runoff standards to use for applicable public development projects.</i>
6	Effective date for implementing requirements for Regulated Projects	E.12.c.(ii)(c)(c) (the second instance of (c) under (ii)) [Page 61]	Please allow more time to prepare to implement requirements for Regulated Projects. Recommendation: <i>By the second <u>third</u> year of the effective date of the permit, the Permittee shall require these Post-Construction Standards be applied on applicable new and redevelopment Regulated Projects, both private development requiring municipal permits and public projects.</i>
7	Low Impact Development Design Standards – Correction	E.12.e(i) [page 66]	Provision E.12.e.(i), the last line should refer to Section E.12.e.(ii)(c). Provision E.12.e.(ii)(f), the end of the first sentence should refer to Section E.12.e.(ii)(c). Recommendation: <i>Revise.</i>
8	Maintenance of Storm Drain System - Correction	E.12.g.(ii)(a) [page 75]	“Regulated Project” is defined elsewhere in the permit. Therefore, the addition of “greater than 5000 square feet” is unnecessary and confusing since the phrase does not include the words “impervious surface”. Recommendation: <i>Strike the redline language from this provision.</i>
9	Mosquito District	E.12.g.(ii)(b)	Recommendation: To keep tracking and reporting requirements cost-effective, revise this section to require the Permittee to submit a list of Regulated Projects that were completed. The list may include a brief description of the installed treatment systems/baseline hydromodification management controls.



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MCSTOPPP Comments – Section E.12 Post-Construction			
Comment #	Identify Permit Element/Issue/Concern	Location in Draft Permit	Comment/Recommendation
10	Operation and Maintenance of Post-Construction Storm Water Management Measures	E.12.g.(ii)	For smaller Regulated Projects the O&M requirements are excessive. Recommendation: <i>revise to scale O&M requirements based on the amount of impervious surface added or replaced.</i>
11	Appendix J and inclusion of the Central Coast Post-Construction Requirements	E.12.J and Appendix J	Including the Central Coast Post-Construction requirements as a separate matter in this Order nulls petitions from Permittees in Region 3 to the state; limits or prevents revisions that Region 3 might adopt; creates confusion due to technical errors and complexity within the Region 3 requirements; places uncertainty on implementation of E.12 provisions; and does not support the statewide NPDES Permit consistency effort. Recommendation: <i>Delete E.12.j and Appendix J.</i>
12	All E.12	E.12	This section in particular would benefit greatly from the talents of an editor. The outline structure is inconsistent and the entire section is poorly organized and somewhat confusing. Please invest time and resources to reorganize this section.



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MCSTOPPP Comments - Section E.13 Monitoring			
Comment #	Identify Permit Element/ Issue/ Concern	Location in Draft Permit	Comment/Recommendation
13	Outline Structure	Throughout and p. 83	<p>Everything after E.13.(4) should start with "E.13.(4)". However, the revised language that pertains to regional monitoring should move to the beginning of the section and should refer to sections E.13.(1)-(4) instead of sections E.13.i-iv.</p> <p>Recommendation: <i>Adhere to conventional outline structure rules.</i></p>
14	Regional Monitoring	P. 83	<p>Phase II Permittees may participate with nearby Phase I Permittees as well as other of organizations in establishing or implementing an existing regional monitoring program. It is not feasible to require all or a majority of the Permittees to collaborate to conduct water quality monitoring in order for the program to be considered "regional" because this is a statewide permit. Finally, the discussion of regional monitoring should be placed at the very beginning of the section under E.13 so that it does not appear to be part of E.13.(4).</p> <p>Recommendation: <i>Redefine "regional monitoring program" so that it makes sense for the broad variety of Phase II Permittees covered by this statewide permit and move the regional monitoring discussion to the beginning of the section under E.13.</i></p>
15	Regional Monitoring	Pp.83-84	<p>We agree with most of the changes that were made to the regional monitoring discussion with one exception. Revised language in the November 16, 2012 Tentative Order states: <u>"The following management questions shall be used to assist in guiding the development of a regional monitoring program, as applicable"</u>.</p> <p>Recommendation: <i>Replace the revised text with: "Regional monitoring programs shall address data needs, information requirements, and monitoring questions pertaining to items (1) through (4) above under E.13."</i></p>



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MCSTOPPP Comments - Section E.13 Monitoring			
Comment #	Identify Permit Element/ Issue/ Concern	Location in Draft Permit	Comment/Recommendation
16	Water Quality Monitoring – Consistency	E.13 after E.13 (4) [page 83]	<p>E.13 (4) states: “Traditional Small MS4 Permittees with a population greater than 50,000 listed in Attachment A that <u>are not already conducting ASBS, TMDL or 303(d) monitoring efforts</u> shall participate in one of the following monitoring programs, subject to Regional Water Board Executive Officer approval:</p> <p>E.13.a. Receiving Water Monitoring E.13.b. Special Studies</p> <p>We agree with the language above. However, the redline language in E.13 under E.13(4) conflicts with E.13(4) by replacing the word “or” with “and”. It states: “Traditional Small MS4 Permittees that are already conducting monitoring of discharges to ASBS, TMDL, and 303(d) impaired water bodies are not required to perform additional monitoring as specified in E.13.a and E.13.b.” At a minimum, the “and” after “TMDL” should be replaced with “or”.</p> <p>Recommendation Make the following edits to the section of E.13 right under E.13(4): <u>Traditional Small MS4 Permittees that are already required to conducting monitoring described in sections E.13.(1), (2) or (3) above of discharges to ASBS, TMDL, and 303(d) impaired water bodies</u> are not required to perform additional monitoring as specified in E.13.a and E.13.b.</p>



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MCSTOPPP Comments - Section E.13 Monitoring			
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17	303d List-Related Monitoring – Clarification	E.13.(3) & Monitoring Flow Chart [page 83]	<p>The permit should clearly state that consultations with Regional Board for 303(d) list – related monitoring only need occur when “urban runoff” is listed as a source.</p> <p>Recommendation: <i>Modify E.13.(3) as follows:</i></p> <p><i>(iii) All Permittees that discharge to waterbodies listed as impaired on the 303(d)²⁹ list, where urban runoff is listed as a source, shall consult with the Regional Water Board within one year of the effective date of the permit to assess whether monitoring is necessary and if so, determine the monitoring study design and a monitoring implementation schedule. Permittees shall implement monitoring of 303(d) impaired water bodies as specified by the Regional Water Board Executive Officer.</i></p>

MCSTOPPP Comments – Section E.14 Program Effectiveness			
Comment #	Identify Permit Element/ Issue/ Concern	Location in Draft Permit	Comment/Recommendation
1	Pollutant Load Quantification	E.14.b	We appreciate that you removed this section. The cost to implement the requirement would have been high and the benefit to water quality would have been low or nonexistent. Thanks.