



SOLANO COUNTY
Department of Resource Management

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August 5, 2014

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

Re: Notes on the Draft Amendments to Statewide Water Quality Control Plans to Control Trash

Dear Ms. Townsend:

Recently the State Water Board released a Draft Staff Report for the Draft Trash Policy. This followed the small stakeholder meeting on the subject, which was attended by representatives from municipalities in the area, including Solano County (County). The County is a small, rural Phase II MS4-designated Permittee, and is consistent with other rural jurisdictions for which an MS4 applies for jurisdictions without a municipal separate storm sewer system. The County has no curb-and-gutter system, and the majority of stormwater conveyance that travels through the County goes through the open roadside ditch conveyance system.

Because the State designated Solano County as an MS4 which requires the County to comply with all MS4 policies, we are requesting that the State Water Board write policies and plans that include reasonable compliance for Permittees which govern rural areas without a separate storm sewer system such as Solano County. The County has concerns primarily due to the fact that the County is a low-risk Phase II MS4 with no curb-and-gutter system. This may force the County into more unnecessary and unreasonable requirements, combining the County with higher-risk, larger urban Permittees who are challenged with substantial amounts of trash in their system. These larger urban permittees seem to be the original target of the Draft Trash Policy, and are so afforded a clear path to compliance. These concerns were brought up in the stakeholder meetings and should be fully addressed in the final Trash Policy. In the following notes, Solano County will lay out its concerns for the Draft Trash Policy and Solano County's ability to comply.

Building & Safety David Cliche Chief Building Official	Planning Services Mike Yankovich Program Manager	Environmental Health Terry Schmidbauer Program Manager	Administrative Services Suganthi Krishnan Senior Staff Analyst	Public Works Engineering Matt Tuggle Engineering Manager	Public Works Operations Wayne Spencer Operations Manager
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Concern 1: Track 1 vs. Track 2

Solano County would like to follow the Track 1, with a 100% trash capture on all storm drains. However, without storm drains to service, the County could be forced into Track 2. The way the policy is written, Solano County would likely already be in compliance, as we have full capture system *for storm drains* (or, because there are no storm drains, there are no capture systems to put in place). However, at the workshop a representative from the State Board stated that this may instead force Solano County to follow Track 2, which appears to be an unreasonable approach. In the Draft Policy it states: “Under the proposed Trash Amendments, MS4 Phase I and Phase II NPDES permittees with regulatory authority over land uses can comply with the prohibition of discharge of trash under a dual alternative compliance approach or ‘Tracks’” (p. 12). This states that Phase II MS4s have the option of compliance with Track 1 or Track 2, and Solano County should be no exception, even though the policies appear to be misapplied.

Due to vagueness in the definition of “catch basins” in the 2012 Phase II MS4 Permit, the County has been working with San Francisco and Central Valley Regional Water Quality Control Boards to define “catch basins” to direct monitoring and compliance efforts for the MS4 Permit. Both Regional Water Boards have verbally or in writing agreed to define “catch basins” within Solano County as the spots in the County’s MS4 system where open roadside ditches drop into streams, rivers, and receiving waters. Monitoring and testing will occur at these locations within the County.

The County recommends that compliance with the final Trash Policy be kept consistent with Regional Boards’ determination of “catch basins” within Solano County. The County should be able to direct full trash capture to the identified “catch basins” to obtain Track 1 compliance. This necessitates regional consideration and variability within the Draft Policy to identify MS4s that do not fit into the Phase I large MS4 storm and gutter system. Smaller MS4s with no curb and gutter system should be able to comply with Track 1, full trash capture, without undue difficulty of compliance.

Concern 2: Full Capture System Certification

The State Water Board will be taking responsibility for the certification process for full capture systems going forward. Solano County asks that certification allows for reasonable methods of compliance for Solano County. For example, the County may not be able to use established catch basin and/or trash net systems for compliance, as the County cannot tie into a curb/gutter/drain system. However in the interest of full capture, the County would be able to establish trash capture devices at the previously mentioned “catch basins” in Solano County, or where the storm ditch system goes into a body of water.

The County recommends that the State Water Board take regional systems into consideration when certifying trash capture devices to allow for reasonable compliance for unusual conveyance systems such as Solano County. While statewide consistency is mentioned, if consistency creates unattainable trash capture compliance for small MS4s with no curb and gutter MS4 system, the Policy creates unfair difficulty for low-risk MS4s such as Solano County.

Concern 3: Track 2 requirements

If Solano County was forced into Track 2, the requirement for baseline and project-long monitoring would be difficult or impossible for Solano County because there are no drains to

monitor. The only ‘drains’ in Solano County are ditches, culverts, and bioswales on the sides of the road, which do not have a single entry point for monitoring and may be subject to dumping along their stretch. For an obviously rural and low trash-generating area like Solano County, it seems the difficulty of complying with Track 2 requirements would outweigh the marginal gains.

Concern 4: Drains vs. ditches

One of the biggest concerns for Solano County is how the State Water Board will classify Solano County’s stormwater system of roadside ditches in the Draft Trash Policy. The State Water Board made the determination to place Solano County under the Phase II Small MS4 permit despite the fact that Solano County has no separate sewer system, and there is an imperative that this should not create logistical and financial hardships for Solano County in complying with the Draft Trash Policy. We ask that the State Board make more detailed requirements for rural municipalities without sewer or drain systems for their commercial/industrial areas, including an equivalent Track 1 route.

Concern 5: Priority land use definitions

Solano County has concerns about the lack of definition for the priority land use areas (commercial, industrial, and transportation hub). The State Water Board needs to provide definitions for each area before implementing the policy for consistency across municipalities. Solano County appreciates that priority land use areas will be identified not by zoning code but by actual land use. As seen in the attached spreadsheet, Solano County has considerable acreage that would be zoned for commercial, industrial, etc. land uses. However when you examine the actual areas, most of the land is on the outskirts of incorporated cities and has little developed commercial, industrial, etc. land use.

This brings up the question of sizing to identify priority land use areas. There should be numerical sizing criteria for identifying priority land uses for commercial and industrial land use, as there is for high-density residential (30 units per acre). For example, although there is a zoned commercial area, it may have one or two commercial facilities per acre. While this is a ‘commercial’ area, it is not a high trash-generating area – similar to how not all residential areas are high trash-generating. By identifying a number of facilities per square foot, we can more accurately identify high trash-generating areas and avoid wasting resources on isolated commercial and industrial sites with little trash generation and foot traffic.

Concern 6: Track 2 Opt-out option for low priority (low trash) areas

If Solano County is forced into Track 2 requirements, we see an opportunity for prioritizing areas based on the initial monitoring requirement. Due to financial constraints (see next Concern), we believe that the Draft Trash Policy would be more effective if permittees could use the initial monitoring data to identify high- and low-trash generating areas, and direct resources accordingly.

The current Draft Trash Policy allows for Permittees to identify high-trash generating areas and direct resources accordingly. However with finite resources, there is no way for MS4s to identify lower-trash generating areas and de-prioritize accordingly. This creates an issue of being unable to move resources to higher-risk areas, and/or disproportionately applying too many resources to lower-risk areas. The only option is for MS4s to expend more resources at higher-generating areas, while still having to expend the same resources for all other land uses regardless of risk,

which would not be a reasonable approach. This creates the problem that MS4s will be unlikely to want to identify high-generating areas, as this will only necessitate unnecessary expenditure be spent on this trash program when funds are already limited. The Board must allow for more flexibility for MS4s to have the ability to move funds away from low-risk area.

The County recommends that if the initial monitoring results show an area to have little to no trash and/or little to no risk for trash impairment, Permittees should be able to present the evidence to the Board and opt out of Draft Trash Policy requirements in low-generating areas going forward. This would conserve limited resources while allowing Permittees to focus efforts and funds on high-generating areas for trash.

Concern 7: Funding

Solano County is committed to protecting and improving water quality, but has many concerns with appropriate funding levels when comparing risk levels. As with many MS4 policies state-wide, the Draft Trash Policy is targeted at larger MS4s with higher trash outputs and higher pollution risks than Solano County. Solano County has a few very small areas which may qualify as priority land uses, and these areas are largely on the outskirts of incorporated cities and are lower-risk than the high density commercial and industrial areas in cities. Additionally, there are no trash-impaired waterbodies within Solano County, which shows the relatively small risk that trash currently poses to beneficial use within the County.

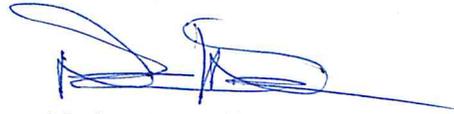
As with many policies, Solano County would have to comply with onerous requirements with no regard for relative trash risk. So, although Solano County is likely a very small contributor to trash in the watershed, it would still need to comply with costly regulations. Additionally, the fact that Solano County is so small and rural – placing it at a lower trash risk – is precisely why it may not be able to comply with the more straightforward and cost-effective Track 1. So rather than being rewarded for having a lower trash risk in the County, we will be burdened with higher relative costs to comply. We ask that the policy be amended to account for all MS4s in its logistics and its financial impact.

Lastly, there are no current funding mechanisms to help permittees to obtain compliance. Prop 218 precludes stormwater entities from raising their fees for stormwater management. As such there are no ways for MS4s to recoup costs for compliance

The County recommends that non-competitive funding opportunities be made available to all MS4s for compliance with the Draft Trash Policy. Additionally the County recommends that a sized approach to compliance be adopted, with lower-risk, unusual MS4s like Solano County not being penalized for their systems with relatively onerous, restrictive, and expensive costs for compliance.

Solano County looks forward to continued discussion and cooperation between the County and State Water Board on this issue. We hope that with our input and collaboration, the State Water Board will be able to create a feasible policy that effectively and efficiently protects water quality. Please contact Nick Burton at (707) 784-3155 or nsburton@solanocounty.com with any questions or comments.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Nathan Newell', with a long horizontal line extending to the right.

Nathan Newell
Sr. Civil Engineer