

COUNTY OF EL DORADO

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December 11, 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, we have 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 we have 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 to pay for its NPDES Program, and with the limited dollars 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 limited 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 stance that the draft permit is an unfunded mandate.

While we know 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.

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Many of the requirements included in the draft permit require significant administration, data collection, management, analysis and reporting which do nothing to directly improve water quality conditions. Further, the County feels that the proposed monitoring requirements will generate data that will not be able to be aggregated and evaluated because of inadequate staffing and financial resources. This will result in data that is not applied in any meaningful way to improving water quality. The County suggests that the State Board reevaluate the draft permit's requirements 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 Storm water 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 or concerns, please contact Steve Kooyman (530-621-5932) or Eileen Crawford (530-621-6077).

Sincerely,

John R. Knight, Chair
Board of Supervisors
County of El Dorado