



Legislation Text

File #: 10-0123, **Version:** 7

HEARING - Community Development Agency, Long Range Planning Division, recommending the Board consider Final Passage (Second Reading) of Ordinance **5022** amending Ordinance 4992, Chapter 8.79 of Title 8 of the El Dorado County Ordinance Code in order to meet the requirements of Section E.6. of the State Water Resources Control Board Water Quality Order No. 2013-0001-DWQ, NPDES General Permit No. CAS000004, Waste Discharge Requirements for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems (MS4s) (West Slope MS4 Permit). (Est. Time: 5 Min.) (Cont. 5/5/15, Item 24)

FUNDING: Public Utility Franchise Fees and General Fund.

DEPARTMENT RECOMMENDATION

The Community Development Agency (CDA), Long Range Planning Division (LRP), is recommending the Board amend the County's Storm Water Quality Ordinance (Chapter 8.79 of the County Ordinance Code) in order to meet the requirements of Section E.6. of the State Water Resources Control Board Water Quality Order No. 2013-0001-DWQ, NPDES General Permit No. CAS000004, Waste Discharge Requirements ("WDRs") for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems (MS4s) (West Slope MS4 Permit). The proposed Ordinance is included as Attachment 6B; the ~~strikeout/underline~~ (in red type) of the revisions in track-changes format is included as Attachment 5B.

DISCUSSION / BACKGROUND

On May 5, 2015 (Item 24) the Board approved the Introduction (First Reading) of Ordinance 5022 and set a public hearing for May 19, 2015 for Final Passage (Second Reading).

Per the West Slope MS4 Permit, the County shall establish, maintain and enforce, where appropriate, adequate Legal Authority to control pollutant discharges into and from its storm water collection, conveyance and treatment facilities through an Ordinance or other regulatory mechanism. The Legal Authority requirements for the West Slope of the County are outlined in Section E.6. of the West Slope MS4 Permit (Attachment 6C).

(
<http://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/phsii2012_5th/order_final.pdf>)

The purpose of the Ordinance is to ensure that the County is compliant with state and federal laws and fulfills its requirements to:

- i) protect the health, safety, and general welfare of the citizens of the County;
- ii) enhance and protect the quality of Waters of the State in the County by reducing pollutants in storm water discharges to the maximum extent practicable and controlling non-storm water discharges to the storm drain system; and
- iii) cause the use of Best Management Practices (§8.79.050) by the County and its citizens that will reduce the adverse effects of polluted runoff discharges on Waters of the State.

This Ordinance seeks to promote these purposes by:

- i) prohibiting illicit discharges to the storm drain system;
- ii) establishing authority to adopt requirements for storm water management, including source control requirements, to reduce pollution to the maximum extent practicable;
- iii) establishing authority to adopt requirements for development projects to reduce storm water pollution and erosion both during construction and after the project is complete; and
- iv) establishing authority that will enable the County to implement and enforce any Storm Water Management Plan adopted by the County. This Ordinance will apply to all unincorporated areas of the County.

In February 2013, the County adopted a Storm Water Quality Ordinance that provides this legal authority for the Lake Tahoe Basin (Ordinance No. 4992 - Section 8.79 of the County's Code of Ordinances). Because the Legal Authority requirements are nearly identical in the County's West Slope and Lake Tahoe NPDES Permits, staff recommends amending the existing Storm Water Quality Ordinance, which is currently applicable only to the Lake Tahoe Basin, to include the entire unincorporated portion of the West Slope. The first reading of the amended Ordinance occurred at the April 14, 2015 Board of Supervisors meeting.

Outreach

LRP staff has met with key stakeholders on the required amendments to obtain feedback, including the County's Building Industry Advisory Committee (BIAC), the County Surveyors, Architects, Geologists and Engineers Association (SAGE), the Farm Bureau and various development and design professionals. The BIAC submitted a comment letter stating that "if El Dorado County absolutely has to have this ordinance, we believe what is presented is acceptable". Similarly, SAGE submitted a comment letter stating that they "have no objection to the language of the ordinance". However, both letters question whether the County needs a new ordinance at this time since "many other...County ordinances (and) the California Building Standards Code appear to cover many storm water issues" and "allow sufficient oversight and control".

County Counsel and the County's Storm Water staff have carefully considered this issue and have determined that existing ordinances and codes do not adequately meet the legal authority requirements outlined in E.6. of the Permit, whereby we must be able to prevent and control illicit discharges and illegal connections to our MS4. County Counsel and Storm Water staff believe that the new Ordinance is necessary to cohesively meet the legal authority requirements of the Permit. The Ordinance would primarily be used only to address egregious violations where water quality impacts are deemed significant.

ALTERNATIVES

This Ordinance amendment is being proposed to meet the Legal Authority requirements in the County's West Slope MS4 Permit outlined in Section E.6. Instead of amending the County's current Ordinance to make it applicable to both the Lake Tahoe Basin and the unincorporated portion of the West Slope, the County could create a new stand-alone Ordinance for the unincorporated portion of the West Slope. However, because the Legal Authority requirements are nearly identical in the County's West Slope and Lake Tahoe NPDES Permits, the County would then have two nearly identical Ordinances - one applicable to the Lake Tahoe Basin and one applicable to the unincorporated portion of the West Slope. One other option is to not adopt a Storm Water Quality Ordinance that is applicable to the West Slope. Staff does not recommend this option due to potential Water Board penalties that are associated with noncompliance (40 CFR 122.41), (§ 13385

(a) (California Water Code)).

OTHER DEPARTMENT / AGENCY INVOLVEMENT

Development Services Division, Transportation Division, Environmental Management Division, Code Enforcement, County Counsel

CAO RECOMMENDATION

CAO recommending the Board conduct a public hearing to introduce proposed ordinance revisions related to the Stormwater Quality ordinance (8.79).

FINANCIAL IMPACT

There is no change to Net County Cost associated with this item.

CLERK OF THE BOARD FOLLOW UP ACTIONS

- 1) Publish the Summary Ordinance in the appropriate local newspaper(s) following Board approval of the Introduction (First Reading) of the Ordinance;
- 2) Continue this agenda item to Tuesday, May 19, 2015 for Final Passage of Ordinance.

STRATEGIC PLAN COMPONENT

N/A

CONTACT

Brendan Ferry, Principal Planner
CDA, Long Range Planning