

August 30, 2011

Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street
Sacramento, CA 95812



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RE: Comments To The Proposed Draft Small Municipal Separate Storm Sewer System (Small MS4) Storm Water General Permit

Dear Ms. Townsend:

The County School Facilities Consortium (CSFC), an organization made up of 34 County Offices of Education (COEs) statewide, is respectfully **requesting that COEs be given the same exclusion from automatic designation for the Small MS4 storm water permit that the State Water Resources Control Board (SWRCB) granted to K-12 school districts and charter schools.**

We believe the intent of the exclusion was to grant compliance relief to educational agencies that teach K-12 students in public schools. COEs perform the same mandated education function for K-12 students in public schools as school districts. Additionally, COEs educate the most vulnerable students and provide direct classroom instruction and school housing for special education, children with severe disabilities and alternative education, such as juvenile offenders.

Many state agencies treat COEs the same as school districts. For example the Division of the State Architect, Office of Public School Construction and California Department of Education treat COEs, for facility and many other purposes, exactly as a school district in implementing regulations.

Additionally, many regulatory statutes include COEs within the meaning of the term school districts. For example, Assembly Bill 169 (Chapter 95, Statutes 2011) of the Education Code, Section 12000 (c) reads in part "...For purposes of this section and Section 12001, "school districts" include school districts, county offices of education, and other educational agencies or entities deemed eligible pursuant to state and federal law."

The substantial reductions in state funding over the last four years for K-12 school districts and possible mid-year 2011-12 budget reductions set to be triggered if state revenues do not materialize are also applicable to COEs. Moreover, student funding for COEs have historically been under funded for special education.

Requiring the implementation of the Small MS4 permit would create a funding and legal dilemma for COEs. Every dollar spent to implement the Small MS4 permit would have to come from programs to educate and assist children or to meet compliance with other state and federal programs. There are no viable solutions when educational mandates and environmental mandates compete for dwindling funds and when each mandate includes penalties or dramatic funding reductions if goals are not met.

Budget reductions over the last four years have required COEs to:

- Eliminate positions
- Implement furlough programs
- Borrow funds to meet their payroll
- Eliminate or reduce services, or other programs
- Increase class sizes

Since COEs would be designated in the future, our biggest concern is the first year and ongoing cost to implement and sustain the requirements of the permit. Preliminary estimates of the cost to implement the permit have ranged from \$30,000 to \$50,000 for centralized COE activities and \$5,000 to \$10,000 per site during the first year of implementation (we are still determining costs from discussion with vendors and realize that costs will vary depending on site location, cleanliness, and proximity to protected bodies of water). Under these cost assumptions, the projected cost for a COE with 11 sites is estimated to be \$85,000 to \$160,000. These costs do not include any provision for structural costs for water storage or filtration.

CSFC is strongly committed to the protection of the natural environment and water quality and we understand and respect your role in protecting it. We also appreciate your clear understanding of our role and exempting schools – and simply ask that you make clear that this includes county schools and extend the exemption specifically to COEs.

Therefore we respectfully request that COEs be granted the same exclusion from automatic designation that was granted to K-12 school districts and charter schools.

Questions regarding this letter should be directed to Anna Ferrera at aferrera@m-w-h.com or (916) 441-3300.

Sincerely,



Anna Ferrera
Executive Director

cc: Mr. Charles R. Hoppin, Chair, SWRCB
Ms. Frances Spivy-Weber, Vice Chair, SWRCB
Ms. Tam M. Doduc, Member, SWRCB
Ms. Pamela Gibbs, Los Angeles County Office of Education