

CITY OF REDDING



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September 8, 2011

S-050-430

Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-2000



Subject: Comment letter - Draft Phase II Small MS4 General Permit

Dear Ms. Townsend and Members of the Board:

The City of Redding (City) would like to thank the State Water Resources Control Board (Board) for allowing us to provide written comments on the draft Tentative Order for the Phase II Small MS4 General Permit (Draft Permit). The City of Redding's program goals are to prevent storm water pollution; protect and enhance water quality in the Sacramento River, local creeks and streams; preserve beneficial uses of local waterways; and comply with state and federal regulations. To that end, we are providing you with the following comments on the Draft Permit.

While the City of Redding recognizes the Board's significant efforts in drafting the Permit are well-intended, we believe the proposed requirements will result in many challenges for Phase II communities and not achieve the ultimate goal of protecting water quality. As such, we recommend that the Board direct staff to form a steering committee, similar to the CASQA subcommittee, composed of a broad cross-section of Phase II stakeholder communities throughout the State to develop a revised Draft Permit. This approach will provide the opportunity for a more realistic analysis and balanced process which considers pertinent stakeholder input.

The requirements within the Draft Permit are a significant change to the current version of the Phase II Small MS4 General Permit. The new requirements go above and beyond the existing Minimum Control Measures, and in some instances, actually exceed existing Phase I program requirements. The proposed requirements and provisions will adversely affect all Phase II communities. For example, imposing drastically short timeframes to implement provisions that go above and beyond current requirements in a single permit term is unfeasible. Measures imposed on Phase I programs were implemented over several permit terms, allowing Permittees



ample time to build up their program, secure funding, and acquire experienced staff and resources necessary to fulfill permit requirements. We suggest the Board consider accomplishing the goals of the Draft Permit over several permit terms.

The estimated cost to comply with the Draft Permit is a major concern for the City and all Phase II communities. Local jurisdictions have unprecedented budget constraints given the dismal state of our economy. The City is suffering through furloughs, layoffs, and hiring freezes. Significant additional funds and staffing will be needed to implement all the proposed requirements. The estimated program costs to implement the Draft Permit will increase in excess of three to four times the current program costs. The increases would be immediate, taking place in the first year of implementation. We simply cannot develop funding mechanisms in such a short time period to address the changes. We, along with most other municipalities, will be in non-compliance with the Draft Permit requirements from the outset.

Many of the proposed requirements found in the Draft Permit include significant new programs such as the Post-Construction Storm Water Management Program requirement for watershed baseline characterization, watershed sediment budget, interim hydro-modification management, and long-term watershed process management. In addition, there is the trash reduction program, receiving water monitoring program and the industrial/commercial runoff program. All of these new programs require substantial resources to implement and a much higher level of service that the City cannot afford. Phase II communities are constrained by Proposition 218 in developing new revenues from our local tax payers. It is impossible to accomplish the goals of the Draft Permit due to these restrictions without financial assistance from the State. Article XIII B, Section 6(a) of the California Constitution (Section 6) states that whenever the "Legislature or any state agency mandates a new program or higher level of service on any local government, the State shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service." (Please reference *County of Los Angeles v. Commission on State Mandates*, and *County of San Diego v. State Board and Regional Water Quality Control Boards*.)

The City recommends Permit Elements E.5 and E.6 be revised and/or eliminated. The Permit's requirement to utilize the services of a specific vendor from Vancouver BC to provide 'Community Based Social Marketing'(CBSM) under the 'Public Outreach' and 'Public Participation' program elements is in stark contrast to the Qualification Based Selection and Public Bidding requirements of Public Contract Code and our local municipal ordinances. Our Program has effective 'Public Outreach' and 'Public Participation' elements and additional prescriptive elements are unwarranted.

We appreciate the opportunity to provide comments on the Draft Permit. We have considerable concerns regarding the permit as currently structured. We strongly urge the Board to reconsider its approach and work with Phase II communities, CASQA, and other relevant stakeholders to produce a more reasonable Phase II Small MS4 General Permit that can realistically lead to water quality protection.

Jeanine Townsend

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If you have any questions please contact Jonathan Oldham at (530) 225-4046, or by email at joldham@ci.redding.ca.us.

Sincerely,



~~For~~ Kurt Starman
City Manager

KS:JO:sm

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Sent via email to: commentletters@waterboards.ca.gov

c: Brian Crane, Director of Public Works
Jonathan Oldham, Environmental Compliance Manager
Marth Vuist, NPDES Coordinator