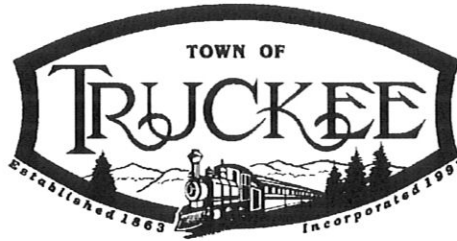


Town Council

Richard S. Anderson, Mayor

Joan deRyk Jones, Vice Mayor

Barbara Green, Council Member
Dr. Mark Brown D.C., Council Member
Carolyn Wallace Dee, Council Member



Tony Lashbrook, Town Manager
J. Dennis Crabb, Town Attorney
Nicholas Sensley, Chief of Police
John McLaughlin, Community Development Director
Kim Szczurek, Administrative Services Director
Judy Price, Town Clerk
Alex Terrazas, Assistant Town Manager
Daniel Wilkins, Public Works Director/Town Engineer

September 1, 2011

Jeanine Townsend,
State Water Resources Control Board
PO Box 100 Sacramento, CA 95812



RE: Comment Letter-Phase II Small MS4 General Permit

Dear Ms. Townsend and Members of the Board,

On behalf of the Town of Truckee, we thank you for the opportunity to provide comments on the Draft Phase II Small MS4 General Permit (Permit), issued for comments on June 7th, 2011.

The Town of Truckee encompasses 36 square miles of land, is located at elevations that range from 5,800 to 7,500 feet, and has a permanent population of approximately 16,000 residents. The Town receives an average of 204 inches of snow a year, and is one of the snowiest municipalities in the United States. The Town does not exceed the various thresholds that have been established by the SWRCB which require municipalities to be automatically regulated under the Statewide Phase II NPDES municipal permit. However, an order to comply with the current Small MS4 permit was issued by the Lahontan Regional Water Quality Control Board to the Town in December 2006 due to 'special findings' made by the regional board's executive officer at that time.

The protection of water quality is an ongoing priority of the Town of Truckee and the broader Truckee Community, and has been since the communities' inception. Towards that end, the Town of Truckee has been working since its incorporation in 1993 with local environmental advocacy groups such as the Truckee River Watershed Council, the Sierra Watershed Education Partnership, and others towards improved environmental stewardship and towards improved water quality in our region. These efforts have occurred on multiple fronts and include, but are not limited to, the following activities:

- Regulation of land development activities which have the potential for detrimental effect on water quality.
- Establishment of local BMP requirements for land development on both commercial and residential properties.
- Sponsoring of training for local residents and contractors regarding best practices as related to storm water.
- Sponsoring school programs and assemblies regarding environmental stewardship.

10183 Truckee Airport Road, Truckee, CA 96161-3306
www.townoftruckee.com

Administration: 530-582-7700 / Fax: 530-582-7710 / email: truckee@townoftruckee.com

Community Development: 530-582-7820 / Fax: 530-582-7889 / email: cdd@townoftruckee.com

Animal Services/Vehicle Abatement: 530-582-7830 / Fax: 530-582-7889 / email: animalservices@townoftruckee.com

Police Department: 530-550-2328 / Fax: 530-550-2326 / email: policedepartment@townoftruckee.com

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- Establishment and funding of a local water quality monitoring program.
- Pursuing the ongoing retrofit of our local roadway system to incorporate storm water treatment infrastructure.
- Ongoing improvement to municipal practices to improve storm water quality.
- Ongoing implementation and funding of wetland restoration, floodplain improvement, and stream restoration projects to improve water quality.

The Town of Truckee has reviewed the current draft Phase II permit that has been prepared by the SWRCB and has numerous concerns regarding the prescriptive nature of the new permit, the cost to local government of compliance with the permit, and the reduction in other services (through diversion of resources to permit compliance) that this permit will result in. We also have concern that the resources necessary to comply with this permit are going to detract from the Town's ability to accomplish water quality benefit through the programs which the Town has been voluntarily undertaking over the prior two decades.

Most of these concerns are being raised through our participation with the California Stormwater Quality Association (CASQA) which is providing comments on the draft permit as well. However, we also wish to raise the following points independent of CASQA as we see these as being the most critical from the Town of Truckee's perspective:

1. Along with this draft permit, a designation flow chart was provided (included with this letter). According to the flow chart, the Town would not be regulated automatically under the thresholds identified in the permit. The Town is, however, listed in an appendix to this permit which contains all municipalities who are intended to be regulated under this permit. The Town's assumption is that it was listed for regulation as a result of the special findings that were made by the Lahontan Regional Water Quality Control Board's executive officer under the existing permit. We do not believe that those special findings should be automatically assumed to continue to exist for purposes of this permit, and request that the SWRCB remove the Town from the list of entities intended to be regulated by this permit. This would not necessarily mean that the Town would not ultimately be regulated by this permit, but rather would provide an opportunity for the LRWQCB to consider within the context of the new permit requirements and current conditions in the Truckee Community whether or not special designation is still necessary or appropriate for the Town of Truckee.
2. The Permit contains a large reporting requirement and therefore many tasks that are to be completed on a required schedule, with likely little water quality benefit. Municipal operation and inspection schedules as required in the permit are difficult to impossible for the Town of Truckee to comply with due to winter snow and ice conditions that are unique to our area. While other areas have all year to complete these tasks, the Town is limited to doing so in the summer months. For example, inspecting all BMPs on a quarterly basis is not practical in the winter as required by Section E.9.h.i of the permit. The requirement to remove trash 3 times a year for most agencies would be done about every 4 months, while the Town would need to do this every 2 months and only in the summer as per Section E9.g.ii.d. of the draft permit. The Town does not believe that one-size fits all maintenance requirements in this permit will result in the most efficient use of resources to protect water quality. For example, the Town currently invests significant resources in road sweeping operations which collect sediment and debris from roadway

surfaces prior to that debris entering the drainage system. Complying with the inspection requirements of this permit would require us to reduce this activity in favor of digging BMP infrastructure out from under snow accumulations of up to 20 feet in depth so that we could inspect the BMP's on a quarterly basis. The Town requests that rather than the State establishing one size fits all mandated minimum inspection and maintenance intervals, that the permit be structured to allow municipalities flexibility in municipal maintenance operations that result in the most cost effective use of resources to minimize water quality degradation as a result of municipal roadway and drainage infrastructure.

3. The draft permit contains conditions that would have the effect of requiring the Town of Truckee to enforce the provisions of construction and industrial permits which are issued by the SWRCB. This would require that the Town conduct significant record keeping, inspection, and insure permit compliance for permits which are issued by the SWRCB. The Town has no ability to recover costs associated with the issuance, enforcement, or reporting tasks created by this requirement. The Town requests that these requirements be removed from this draft permit so that these tasks may more appropriately continue to lie with the State Agencies who are issuing these permits. Some examples of the areas where this occurs is in the following requirements proposed in the draft permit:
 - a. Section E.4.a.ii.g.-This would require the Town of Truckee to establish legal authority to require private parties to provide the Town with information regarding state issued industrial permits. This would include SWPPPs, monitoring results, inspection reports and other documents associated with those permits.
 - b. Section E.5.c.c.ii.a -- This would require the Town to develop a watershed-based inventory of industrial and commercial sites covered under the State Water Board Industrial General Permits.
 - c. Section E.8.a -- This would require the Town to develop an ongoing construction site inventory of all active construction sites that are permitted by the State construction general permits.
 - d. Section E.8.c -- This would require the Town to conduct inspections of private construction projects at prescribed intervals as established by the State which are already covered by the State Construction General Permit.
 - e. Sections E.11.c,d, and e – This would require the Town to conduct detailed inspections of private and public properties and take enforcement actions to insure that those properties are complying with State industrial permit requirements and to report to the State whether or not that is occurring.
 - f. Sections E.11.f.ii.g – This would require Town personnel to acquire training on the enforcement of the State Water Board's Industrial General Permit in addition to local codes and ordinances.
4. The Permit requires an Industrial and Commercial program (Section E.11) be implemented, including education, inspections and enforcement. This is above and beyond requirements of the Federal Clean Water Act for municipalities the size of Truckee. This will result in significant State mandated expenses for both the Town and businesses within the Town that

would be required to implement BMPs and obtain additional permits and inspections. Similar inspections are performed by other agencies that are already specifically tasked with these types of permits and inspections, such as industrial permits from the SWRCB, and health and hazardous material inspections and permits issued by the Nevada County Department of Environmental Health. The Nevada County Environmental Health Department conducts these inspections locally. However, the County is not under an NPDES permit. Requiring a new program is redundant and inefficient. The Town requests that this requirement be eliminated from the permit requirements.

5. The Permit requires a much more extensive Illicit Discharge Detection and Elimination Program (Section E.7) than what is required under the existing permit. The draft permit requirements also establish mandatory analytical water quality sampling. It is difficult for us to understand the amount of mandatory water quality sampling that the permit requires based on the permit language. The Permit is unclear on the definition of Urban Boundaries and outfalls. It appears that the annual analytical monitoring expense to the Town of Truckee could exceed \$100,000 based on a reasonable interpretation of the proposed permit. The Town is suggesting maintaining visual monitoring as a part of a dry weather screening program as a more cost effective approach to illicit discharge detection within our community. The Town believes that the analytical monitoring should be eliminated from the Permit requirements for this section.
6. Section E.4.a --Legal Authority requirements in the permit include items that the Town will not be able to comply with, such as controlling pollutants from one permittee to another (E.4.a.ii.l.). For instance, state roadways, federal lands and Union Pacific Railroad properties all discharge to Town drainage infrastructure, but the Town does not have regulatory authority over the State, the Federal Government, or the railroad. This is an issue that the State or Federal Government is better positioned to regulate than the Town. The Town cannot simply give ourselves authority to control State, Federal or railroad activities. Also included in this permit is the requirement to secure and certify adequate financial resources (Section E.4.d) for compliance with the Permit. Without a State funding source to accompany and fund this permit, this requirement will have the effect of the State dictating Town funding priorities, and will require reduction of other Town services, many of which may be the voluntary water quality improvement projects that we are pursuing.
7. Attachment G includes region specific requirements for compliance with TMDLs and specifically lists the City of Truckee. It is unknown how this potential new requirement specific to the Town of Truckee may affect the Town as the requirements are left blank. The Town requests a minimum 60 day review period to comment on the region specific TMDL requirements prior to permit adoption by the SWRCB.

The Town is a small rural municipality with unique circumstances that make compliance with the permit as written very expensive, inefficient and redundant, as well as some sections difficult to impossible to implement. The Town is facing budget shortfalls along with many other entities in the State. Many elements of this permit appear to be attempting to transfer

responsibility for implementing State [✓]permits and regulations to local agencies. The Town is in no position to take on these State functions.

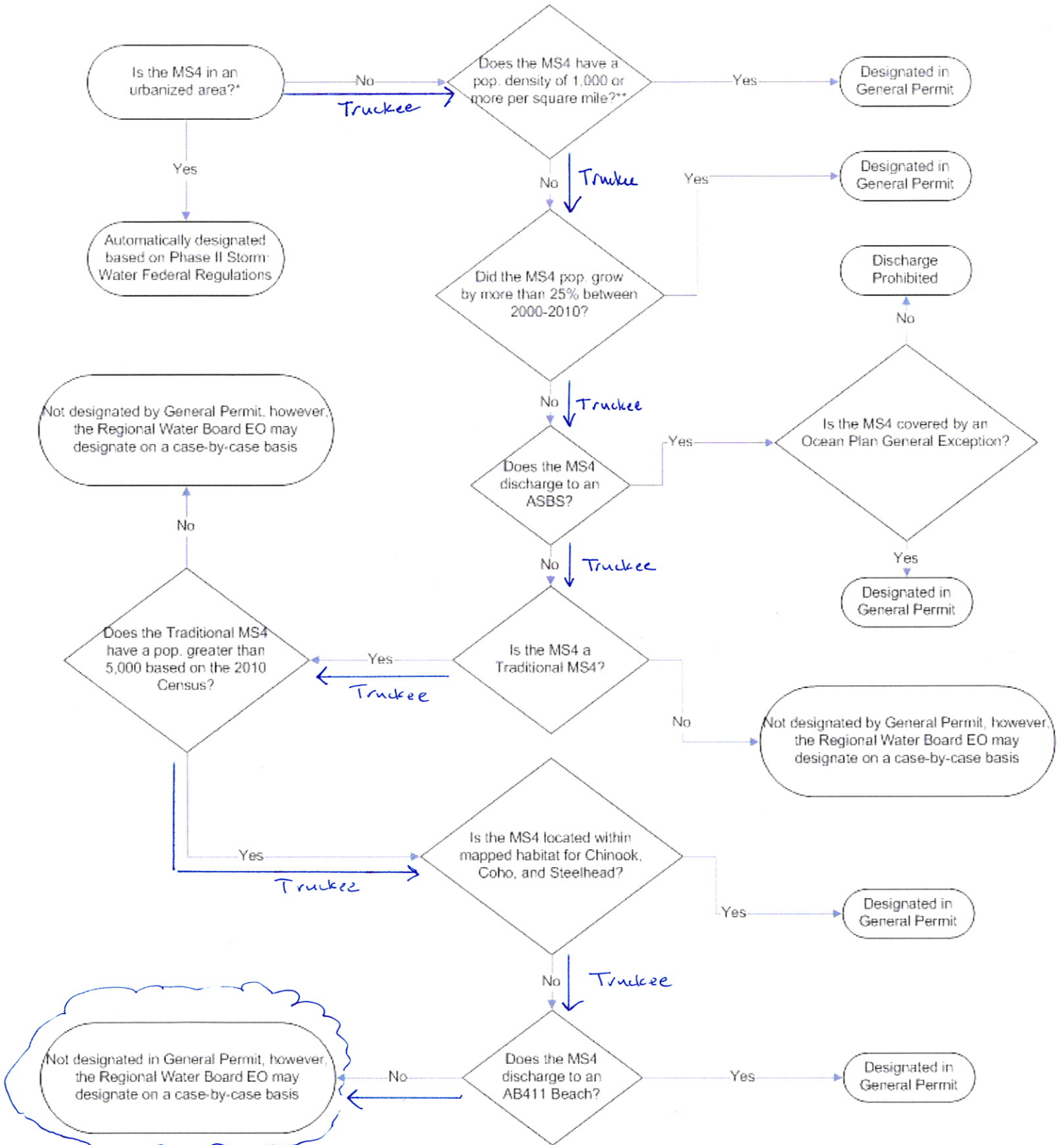
The Town recognizes the importance of clean water as a resource for our community, tourism, economy and health. We request that the permit revert to the principal of using "To the Maximum Extent Practicable" (MEP) as this takes into account each municipality's financial situation as well as specific pollutants of concern, location, and circumstances. We encourage the SWRCB to veer away from one-size-fits-all mandatory requirements. Please consider revising the permit to take into consideration the above comments and concerns. If you have any further questions, please contact Jessica Thompson at 530-582-2938.

Sincerely,

A handwritten signature in black ink, appearing to read 'Richard Anderson', written in a cursive style.

Richard Anderson
Mayor

Draft Phase II Small MS4 General Permit Designation Flow Chart Friday, July 8, 2011



*Current designation is based on U.S. Decennial Census data from 1990-2000.
 **Assumes MS4 population greater than 5000.
 At any time during the permit term, State and Regional Water Boards can designate additional MS4s when the U.S. Decennial Census data from 2000-2010 becomes available.

