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Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor, Sacramento, CA 95814

Email: commentletters@waterboards.ca.gov

Subject: Comment Letter – Phase II Small MS4 General Permit

Dear Ms. Townsend:

The Los Angeles Unified School District (LAUSD) understands the vital role of California's water resources in the State's past, present, and future. LAUSD is committed to doing its part to protect and restore these precious water resources such that their numerous beneficial uses may ultimately be achieved and sustained into the future.

In the spirit of stewardship, LAUSD has already developed and implemented many programs at its sites to protect the environment, and has done so without a permit mandate. These programs include but are not limited to Environmental Training Curriculum, Hazardous Waste Management Program, Medical Waste Management Program, Environmental Compliance Inspections, Safe School Inspections, Integrated Pest Management Program, Fats Oil and Grease Management Program, and (8) Solid Waste Management Program. Moreover the LAUSD developed a post-construction storm water white paper and followed it, at the Regional Water Quality Control Board – Los Angeles Region's (RWQCB-LA) request, with a technical manual for storm water management. These manuals, already presented to the RWQCB-LA set district policy for Low Impact Development (LID), design and maintenance of post construction Best Management Plans, BMPs. The white paper and manuals were developed and implemented on a cooperative basis with the RWQCB-LA, outside the confines of a permit mandate. These manuals help develop school specific guidelines for stormwater management and assist in keeping costs manageable for relatively clean instructional sites.

LAUSD provides additional environmental guidance to staff through audience specific manuals including:

- Environmental Guidance Manual for Plant Managers
- Environmental Guidance Manual for Maintenance and Operations
- Environmental Guidance Manual for Garages
- Environmental Guidance Manual for Science Centers
- Hazardous Water Guidance Manual for Maintenance and Operations and Garages

LAUSD asserts that it is already complying with the spirit of the Phase II Small MS4 General Permit and that the additional paperwork that would undoubtedly result from designation would divert precious staff and financial resources away from implementation of existing, environmentally beneficial programs which in turn may cause undue hardship and affect school opening schedules.

LAUSD has closely followed the evolution of the Phase II Small MS4 General Permit, from the discourse leading up to issuance of the first Phase II Small MS4 Permit in April 2003, through 8 years of implementation of the first Small MS4 Permit, and into the stakeholder process leading up to issuance of the June 7, 2011 draft Tentative Order. It is from this studied perspective that LAUSD offers the following comments regarding the June 7, 2011 draft Tentative Order. Through this submittal, LAUSD requests that our comments be included in the official record, be considered and addressed during development of the final Tentative Order, and be considered by the State Water Resources Control Board during adoption proceedings.

Comments on Phase II Small MS4 General Permit

Recognize the Unique Geographic Isolation of Schools within a School District

LAUSD operates 523 elementary schools, 111 middle schools, 136 high schools, 10 K-12 schools, 24 alternative schools, 17 special education schools, 40 continuation schools, 8 community day schools, and 4 opportunity schools. These schools are distributed throughout LAUSD's service area to optimally serve the education needs within the District. This distribution of schools means that from the standpoint of urban runoff, school sites are typically isolated from one another like islands and do not have interconnected school-to-school drainage systems. This means that the urban runoff drainage system at a typical school site is substantially more similar to the urban runoff drainage system at an office complex or apartment complex or other discrete area than it is to the urban runoff drainage system serving a municipality like a city or county.

The draft Fact Sheet to the draft Tentative Order begins to recognize the issue of storm drains serving discrete areas:

“Small MS4s include systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares, but do not include separate storm sewers in very discrete areas, such as individual buildings. This permit refers to MS4s that operate throughout a community as ‘traditional MS4s’ and MS4s that are similar to traditional MS4s but operate at a separate campus or facility as ‘non-traditional MS4s.’”[Emphasis added.]

While many school districts operate multiple school sites, school sites are typically isolated from one another and do not typically share school-to-school urban runoff drainage systems. Therefore, schools do not have an urban runoff drainage system that is similar to storm sewer systems in municipalities. Accordingly, LAUSD requests that school sites not be included in the definition of being a Small MS4 and be exempted from coverage under the proposed Small MS4 Permit.

School sites typically have urban runoff drainage systems that are similar to the systems that serve apartment complexes, office complexes, and commercial sites. Sometimes, a school site may consist of “individual buildings,” which the draft Tentative Permit considers to be “very discrete areas.” Accordingly, LAUSD requests that school sites not be included in the definition of being a Small MS4 and be exempted from coverage under the proposed Small MS4 Permit. This exemption would be consistent with the draft Tentative Order not including requirements for coverage of apartment complexes, office complexes, and commercial sites.

Include an Objective Method for Designating Non-Traditional MS4s

LAUSD recognizes that the draft Tentative Order has not automatically designated K-12 school districts, and is appreciative of said consideration. However, the lack of specific and objective criteria for being designated in the future creates uncertainty that complicates proactive future planning and programming.

The designation of Non-Traditional MS4s under the April 2003 Small MS4 Permit was observed to have created significant uncertainty and unnecessary hardships for many of the designated entities, and that these uncertainties and hardships were in part due to the lack of a well defined, objective, and consistent criteria for determining when designation was appropriate. For example, in Region 4 (Los Angeles) and Region 8 (Santa Ana), there were no Non-Traditional MS4s designated. In Region 3 (Central Coast), numerous Non-Traditional MS4s, including ultra small school districts serving just a few hundred students, received designation letters and thereafter developed and submitted Storm Water Management Plans (SWMPs): many of these SWMPs were never formally reviewed or approved by the Regional Water Quality Control Board and the school districts were essentially “undesignated”, but only after considerable effort and expense to develop and submit SWMPs.

Having a consistent and objective criteria for determining the appropriateness of designating a Non-Traditional MS4 for coverage under the Small MS4 Permit will allow school districts to look ahead and prepare for when they are to be designated, or to take the actions necessary to avoid being designated. LAUSD firmly believes that an objective criteria for designating a school district must include consideration of a school district’s on-going environmental programs that protect water quality. With advance preparation, school districts will have a better opportunity to plan and budget the resources required to be responsive to a school district’s designation for coverage under the Small MS4 Permit. Accordingly, LAUSD requests that consistent and objective criteria for designation of Non-Traditional MS4s be included in the proposed Small MS4 Permit and that the criteria consider and weigh heavily on-going environmental programs.

Non-Traditional MS4s Need Time to Develop Finances for Program Implementation

Compliance with the proposed Small SM4 Permit will cost something, and in these times of extreme financial uncertainty in California, raising new funds is next to impossible and reallocation of funds from other programs has its own significant challenges.

The draft Fact Sheet to the draft Tentative Order recognizes the potential costs of compliance with the requirements of the proposed Small MS4 Permit. The draft Fact Sheet says:

“It is very difficult to precisely determine the true cost of implementation of the Permittees’ storm water management program as affected by this Order.

A study by the Los Angeles Regional Water Board reported wide variability in the cost of compliance among municipal permit holders, which was not easily explained. Due to the wide diversity among the Permittees, Traditional and Non-traditional MS4s, the uncertainty of the extent of needed improvements, and the difficulty in isolating program costs attributable to permit compliance, the true cost of implementation can only be discussed in a general way.” [Emphasis added.]

LAUSD agrees with the statement that acknowledges the difficulty to determine the true cost to implement programs affected by the proposed order, and commends the State Water Resources Control Board for recognizing this difficulty in the draft Fact Sheet. By extension, if the cost to implement the programs is difficult to determine, the process to obtain the funds to implement the programs will be equally difficult. Accordingly, the LAUSD requests that the proposed Small MS4 Permit provide designated Non-Traditional MS4s at least one year after designation to develop a program implementation cost estimate, then one year to present the estimate to their governing board for approval, with funding beginning the following years in a progressive manner such as 33%, 67%, then 100%. All together, this results in a five year, phased process for cost estimating, budgeting and approval, the gradual implementation of the program.

The program implementation costs described in the draft Fact Sheet to the draft Tentative Order provide a glimpse into the potential magnitude of costs associated with these numbers. The implementation costs noted in the draft Fact Sheet include an estimate by USEPA of \$9/year per household (Phase I or Phase II program), an estimate by Los Angeles County of \$12/year per household (Phase I program), and an estimate by the State Water Resources Control Board of \$18/year to \$46/year per household (Phase I programs). The draft Fact Sheet also notes a California State University Sacramento study that finds that only 38% of program costs are new costs fully attributable to MS4 permits. LAUSD has utilized the program implementation cost estimates included in the draft Fact Sheet to make a preliminary estimate as to the magnitude of costs that LAUSD may be facing if ever designated.

• LAUSD Population Served:	Students:	671,088
	Teachers:	32,872
	Classified:	43,176
	Total:	747,136
	Household Equiv., 3/HH:	249,045
• Implementation Costs Per Year:	At \$9/HH Equivalent	\$2,241,405
	At \$12/HH Equivalent	\$2,988,540
	At \$18/HH Equivalent	\$4,482,810
	At \$46/HH Equivalent	\$11,456,070

The actual program implementation costs for LAUSD will likely be different. However, based on program implementation estimates included in the draft Fact Sheet, implementation costs for LAUSD could range from \$2,000,000 per year to \$12,000,000 per year. Factoring in directly attributable program costs, the costs could range from \$750,000 to \$4,500,000. These are significant numbers and could only be generated with careful and methodical advance planning,

budgeting, and funding. Accordingly, LAUSD again requests that the proposed Small MS4 Permit provide designated Non-Traditional MS4s at least one year after designation to develop a program implementation cost estimate, then one year to present the estimate to their governing board for approval, with funding beginning the following years in a progressive manner such as 33%, 67%, then 100%. All together, this results in a five year, phased process for cost estimating, budgeting and approval, the gradual implementation of the program.

Commitment to Protection and Restoration of Beneficial Uses of Receiving Waters

LAUSD is committed and already doing its part to protect and restore California's precious water resources such that their numerous beneficial uses may ultimately be achieved and sustained into the future. LAUSD firmly believes that this on-going and future commitment can be most effectively carried out by school districts by means other than through coverage under the proposed Small MS4 Permit. LAUSD believes that its commitment can be best achieved through the following actions:

Compliance with the Construction General Permit

Construction activities and redevelopment activities that trigger coverage under the Construction General Permit will obtain coverage under said permit and comply with its requirements, including but not limited to requirements for development and implementation of a Storm Water Pollution Prevention Plan that includes construction BMPs, post construction BMPs, monitoring, and reporting.

Compliance with Post-Construction Storm Water Management for New Development and Redevelopment

LAUSD new school facility construction projects and school redevelopment projects comply with the LAUSD's Storm Water White Paper and Technical Manual. These include LID and MS4 program requirements for post-construction storm water management that are appropriate for the types of facilities operated by a school district. To address requirements effectively, a school district needs the option to address post-construction storm water quality control by: 1) developing and implementing its own program similar to what LAUSD has done; 2) by complying with the requirements of the local county-wide, watershed, or area-wide program; 3) by complying with the requirements in the Construction General Permit; or 4) complying with the requirements of the local agency. Providing school districts the ability to select their own compliance option allows districts the ability to make choices that best fit their unique needs and constraints.

Compliance with the Industrial General Permit

School facilities that meet the requirements for coverage under the Industrial General Permit shall comply with the requirements of the Industrial General Permit, including but limited to development and implementation of a Storm Water Pollution Prevention Plan that includes BMPs, monitoring, and reporting.

Continued Teaching of the Environmental Elements of the State Curriculum

LAUSD utilizes the State-approved teaching curriculum that includes environmental elements. Continued implementation of these elements by school districts throughout the State will ensure that California students receive grade level appropriate environmental education, including education regarding water resources.

Continued Implementation of Related Environmental Programs

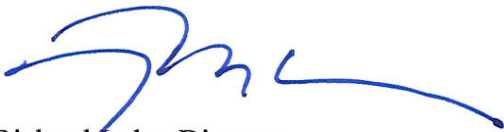
In the spirit of stewardship, LAUSD and other school districts have already developed and implemented many programs to protect the environment, and has done so without a permit mandate. For LAUSD, these programs include but are not limited to:

- (1) Environmental Training Curriculum,
- (2) Hazardous Waste Management Program,
- (3) Medical Waste Management Program,
- (4) Environmental Compliance Inspections,
- (5) Safe School Inspections,
- (6) Integrated Pest Management Program,
- (7) Fats Oil and Grease Management Program, and
- (8) Solid Waste Management Program.

Continued implementation of these programs will contribute to protection of California's precious water resources.

In closing, LAUSD appreciates having the opportunity to provide comments on the Tentative Phase II Small MS4 Permit. We hope that by considering the comments submitted herein, along with the description of proactive programs that LAUSD has implemented outside a permit mandate, will provide the State Water Resources Control Board the information it needs to revise the Tentative Phase II Small MS4 Permit with respect to school districts.

Sincerely,



Richard Luke, Director
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cc: Mr. Charles R. Hoppin, Chair, SWRCB
Ms. Frances Spivy-Weber, Vice Chair, SWRCB
Ms. Tam M. Doduc, Member, SWRCB
Mr. Roger Chang, Los Angeles County Office of Education