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September 6, 2011

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



Re: DRAFT General NPDES Permit for Storm Water Discharges
From Phase II Small Municipal Separate Storm Sewer Systems (Small MS4s)

Dear Jeanine:

We are writing to comment on the above referenced Tentative Order. All of our local municipalities are expressing concern about the Tentative Order issued by the State Water Resources Control Board (State Board). These draft regulations will have a significant impact on the way storm drainage is handled in our local jurisdictions in the coming years.

These new requirements will impose a significant administrative and cost burden on local jurisdictions. Needless to say, local cities and agencies across that state are struggling financially to maintain their existing staff and service levels during these hard economic times. The additional layer of regulations proposed in the Tentative Order will place a significant financial burden on local government when it can least afford it.

In addition to placing a significant burden on local government to develop and enforce new storm water regulations to meet the requirements of the Tentative Order, these regulations will impose costly storm water management standards on new development (as well as redevelopment) in local communities. This will have the direct effect of further raising the cost of housing when many families can't find affordable housing.

Further, these draft regulations will impose new trash reduction requirements on the local jurisdictions, and retrofit requirements on industrial/commercial facilities. These two requirements will place a tremendous financial burden on the local business community; again, being proposed at a time when they can least afford to comply.

The timing of these new regulations is a major concern to the local communities. Deferring the Tentative Order to a better economic climate would appear to be politically and financially justifiable. We recommend the SWRCB defer the adoption of these new regulations until better economic conditions exist in the state.

To be clear, we urge the SWRCB to delay action on these new regulations.

With regards to the technical aspects of the proposed permit, we have two technical comments.

1. **Interim Hydromodification Management** (Section E.12.b.4.ii.a): The Tentative Order will require projects in the geomorphic provinces of northern California to comply with an interim hydromodification standard that requires post-project

runoff “not exceed estimated pre-development volume and rate for the 2-year, 24-hour storm”. As written this standard requires 100% retention of the post-development additional volume of runoff generated by the 2-year, 24-hour storm.

Retention is not practical in many geomorphic provinces in California due to limited percolation rates of native soils. Additionally, the reliance on percolation and evaporation to “discharge” the additional runoff volumes resulting from increased impervious areas of new development projects is an inefficient use of land area.

This proposed standard needs modification to address these practical realities. For example, in areas where percolation is not physically feasible and/or large retention basins are not practical from a land use perspective, the standard should allow any additional volumes of runoff to be detained and discharged over a longer period of time such that the rate of flow doesn’t exceed the pre-development flow generated by the 2-year, 24-hour storm.

Flow duration control strategies (detention basins) will be required to achieve this objective. These basins will detain and meter out flows over time not to exceed specified rates of flow (2-year/24-hour storm flows). Maintaining flows at the pre-development level for this design event will, in all likelihood, not exacerbate the rate of erosion in the down stream receiving waters.

2. **Long-Term Watershed Process Management – Numeric Criteria** (Section E.12.b.5-7): The Tentative Order will require local jurisdictions to “adopt enforceable mechanisms for implementing numeric criteria to protect watershed processes affected by storm water” on regulated projects. To enable this enforcement to occur, local jurisdictions will be required to develop “numeric criteria to support and protect watershed processes affected by storm water”.

While we understand the concept of developing “numeric criteria” to support and protect the watershed processes, we have no idea at this time what the criteria will look like or how we will meet those requirements. We recommend that the Tentative Order be amended to include the “maximum extent practical” concept as the guiding principal in this matter.

Please let us know if you need any additional information relating to our comments.

Best Regards,
BHT II Northern Cal 1, LLC



Rick Langdon
Authorized Representative