



August 22, 2011

Charles R. Hoppin, Chair
State Water Resources Control Board
P.O. Box 100, Sacramento, CA 95812-2000

Re: Comment Letter – Phase II Small MS4 General Permit

Dear Chair Hoppin:

On behalf of the California State Association of Counties (CSAC), the Regional Council of Rural Counties (RCRC), and the League of California Cities (LCC), we appreciate the opportunity to comment on the State Water Resources Control Board's (Board) Phase II Small MS4 General Permit (draft Phase II permit).

Collectively, our organizations represent all of California's 483 cities and 58 counties. As representatives of local government, CSAC, RCRC and the LCC are in the somewhat unique position of viewing stormwater regulation from two perspectives—first, as enforcers of local water quality objectives and, secondly, as regulated dischargers. Cities and counties are committed to helping the state achieve its water quality goals, and we want to work with the state to adopt stormwater regulations that balance stormwater quality objectives with the operational and economic realities of stormwater management in the public and private sectors.

We appreciate the Board's extension of the initial comment period as this draft represents a significant departure from the previous version of the Phase II permit. Our organizations have serious concerns with a number of the new requirements included in the draft Phase II permit, and the overall fiscal impact this draft poses on the Phase II community.

Our overarching concern is related to the associated cost implications of the new permit. We understand and support the need to move forward with an updated permit. However, we are seriously concerned about the additional requirements included in this draft that go above and beyond the previous version, including but not limited to the proposed inventory/tracking requirements, trash reduction provisions and the public outreach component. We are also apprehensive about the feasibility of the proposed draft because it is extremely inflexible, preventing municipalities from structuring a program that meets their individual needs.

Significant additional funds and staffing will be needed to implement these new requirements. Thus, the cost of implementing the new permit presents a significant burden to local governments at a time when nearly every revenue stream (property tax, sales tax, and state funding) have fallen precipitously, and almost every city and county has already implemented or is strongly considering deep cuts and widespread layoffs. In addition, cities and counties must comply with Proposition 218, which requires local governments to meet the two-thirds voter approval requirement for increasing property-related fees. This presents a significant challenge particularly in our current fiscal climate, where voter tolerance for increased fees is close to zero. As a result, local governments will have to reach into their general funds and decide which core services to cut in order to implement the new storm water permit. For this reason, we believe the draft permit constitutes an unfunded mandate.

In addition, the Board has indicated that stormwater program fees will increase for the 2011-12 fiscal year by approximately 34.9 percent, almost a third of which is attributable to increases needed to offset a projected revenue shortfall at the Board. Fee increases coupled with costs associated with implementing the draft Phase II permit and our limited ability to raise revenue for stormwater projects represent an untenable burden for cities and counties.

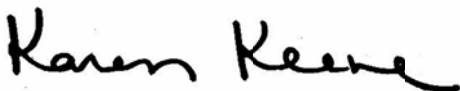
Finally, the proposed draft is extremely prescriptive compared to the current version of the permit. Each municipality has its own structure and storm water program needs. Many municipalities have crafted extremely successful storm water programs under the current permit, and are seeing good results from their BMPs and water quality improvement efforts. This draft prevents municipalities from customizing their programs, and will even interfere with some of the programs currently in place due to the costs of implementing new requirements.

It is for these reasons that we respectfully urge the Board to conduct a comprehensive cost benefit analysis on the draft permit that includes feedback from regulated local governments and business. That costs analysis will serve as a valuable tool to help the Board evaluate and prioritize permit provisions that meet the highest water quality objectives using limited local general fund resources wisely and with the highest benefit. We also recommend that the Board direct staff to work with the regulated municipalities to craft a permit that will be feasible and still achieve significant water quality benefits.

Finally, we also endorse the technical comments submitted by the California Stormwater Quality Association (CASQA). CASQA is comprised of stormwater quality management organizations and individuals, and includes cities and counties.

Local governments are committed to working with the Board to create a better permit that will achieve water quality benefits for all Californians. We thank you for your consideration of our input in this matter. Please feel free to contact us if you have any questions.

Sincerely,



Karen Keene
CSAC Senior Legislative Representative



Staci Heaton
RCRC Regulatory Affairs Advocate



Kyra Ross
LCC Legislative Representative