



Marin County Department of Public Works
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Member Agencies: To: Marin General Services Authority Board and Paul Berlant,
Executive Director, MGSA
From: Terri Fashing, MCSTOPPP Manager
Belvedere Date: August 25, 2011
RE: Status of Phase II Stormwater Permit and MCSTOPPP Summary

Corte Madera

Status of CA Phase II Stormwater Permit

County of Marin

In 2003, Marin's municipalities were required by State mandate to seek coverage under the California State Water Resources Control Board (SWRCB) Phase II stormwater general permit.¹ Marin is covered by the current Phase II permit until it is re-issued in 2012.

Fairfax

Larkspur

The State Water Resources Control Board (SWRCB) released a public draft of the new Phase II Municipal Stormwater General Permit (Draft Phase II permit) on June 6, 2011. MCSTOPPP staff will submit comments on the draft permit to the SWRCB on September 8, 2011, on behalf of all of Marin's member agencies. The Draft Phase II permit and all of the accompanying permit documents are available on the SWRCB website: http://www.swrcb.ca.gov/water_issues/programs/stormwater/phase_ii_municipal.shtml.

Mill Valley

Novato

Ross

San Anselmo

Current Timeline:

San Rafael

September 8, 2011	Comments due on the 1 st Draft Phase II permit
October 2011	SWRCB Hearing on the 1 st Draft Phase II permit
November 2011	SWRCB will release the 2 nd Draft Phase II permit
December 2011	Comments due on the 2 nd Draft Phase II permit
February 2012	SWRCB Final Draft permit adoption hearing
June 15, 2012	Re-issued Phase II permit becomes effective

Sausalito

Tiburon

This permit will not impact the adopted MCSTOPPP budget in FY 11-12. Fiscal impacts from this new Phase II permit will be realized by the municipalities during FY 12-13.

¹ The permit regulates stormwater that enters our storm drain systems and waterways. Marin's municipalities have implemented countywide and local stormwater programs since 1993.

Cost to Implement the New Permit

Based on current information, we expect a substantial increase (anywhere from 2-5 times current local stormwater program costs depending on how ambiguous requirements are interpreted) in staffing, consultant, equipment and laboratory costs. The County’s Local Stormwater Program is currently conducting a thorough fiscal analysis of permit implementation costs and these will be updated once the 2nd draft is released in November. The **estimated County** costs (includes all departments) will increase as follows:

- Annual staff cost increase: \$400,000 - \$1,000,000
- Average annual cost increase for consultants, water quality monitoring, watershed assessment, outfall monitoring: \$500,000 - \$1,500,000

An increase in the County’s contribution to MCSTOPPP is factored into the estimate above. The estimated MCSTOPPP contribution increase during the next permit term is described in the table below and includes past contributions.

Re-issued Phase II Permit	MCSTOPPP Municipal Contribution		Water Quality Monitoring Contribution
	Fiscal Year	Total	Total (Would apply to Novato, County & San Rafael only).
-	2007-2008	\$585,666	
-	2008-2009	\$600,300	
-	2009-2010	\$600,300	
-	2010-2011	\$440,270	
Planning	2011-2012	\$550,000	
Year 1	2012-2013	~\$600,000 - \$800,000	
Year 2	2013-2014	~\$600,000 - \$800,000	~\$25,000
Year 3	2014-2015	~\$600,000 - \$800,000	~\$140,000
Year 4	2015-2016	~\$600,000 - \$800,000	~\$200,000
Year 5	2016-2017	~\$600,000 - \$800,000	~\$200,000

Outreach and Communication with MCSTOPPP municipalities

Staff updates the municipalities every other month through the Agency Staff Committee. Staff is also updating the Public Works directors through the MPWA and will continue to update the MGSA Board as requested. Presentations have been made to the North Bay Watershed Association and the MCSTOPPP Citizen’s Advisory committee. MCSTOPPP is an active member of the California Stormwater Quality Association (CASQA) another avenue for tracking Phase II permit issues. Through CASQA, MCSTOPPP was able to successfully lobby the State Board to extend the comment period and to release a 2nd Draft Phase II permit.

Negotiations with Executive Office of the Regional Board

The Draft Phase II permit allows the Executive Officer of the Regional Water Quality Control Board (Regional Board) to negotiate an equivalent permit compliance program with local

municipalities. In July, Farhad Mansourian, Marin County Public Works Director, sent a written request to all Marin City and Town Managers to grant permission to County Public Works staff to negotiate on their behalf with Regional Board staff regarding the draft Phase II permit. To date, letters have been received from Mill Valley, Novato, San Rafael and Belvedere. A meeting with Regional Board staff is being planned for November, 2011 once the 2nd draft is released.

Funding Issues

Prop 218 severely limits municipalities' ability to raise revenues needed to comply with new and expanded requirements and proposed legislations that would exempt stormwater have not passed the State senate. It is suggested we track this and then start to consider when we should petition our local legislators RE: prop 218.

The business inspection requirements could increase costs to the business community if municipalities pass these on to them.

MCSTOPPP Tracking and Preparation of Comments

MCSTOPPP prepared a draft comment letter and table of detailed comments on the Draft Phase II permit (attached). MCSTOPPP's member agencies are currently reviewing the letter and table.

The State recently held a public workshop with State Water Board members in attendance. All three State Water Board Members were there and they heard verbal comments for 2.5 hours. The comments were overwhelmingly in favor of a revised permit with more focus, less redundancy, less unnecessary reporting and tracking, no retrofit requirements, affordable water quality monitoring, more prioritizing, and requirements that reflect a phased approach over the next several permit terms. Many municipalities explained that they cannot afford the new permit as well.

The Board members were very appreciative of and responsive to the comments from municipalities in general, including the comments that I made on behalf of MCSTOPPP. They stated that they will investigate the feasibility of expanding a statewide water quality monitoring program (SWAMP) in order to meet the permit's monitoring goals at a fraction of the cost. The Board Members also said they will look into the efficacy of coordinating and collaborating with other state agencies to achieve a variety of water quality goals without adding layers of redundant regulations to the permit, and they directed staff to look into the CEQA implications of the permit.

On the other hand, the Board Members made it clear that the permit must be designed to ensure that municipalities implement stormwater program elements to the Maximum Extent Practicable and that they demonstrate compliance through tracking and reporting. One Board Member indicated that regulations must be funded, prescriptive and enforceable in order to achieve water quality goals. Another Board Member expressed support for prioritizing and streamlining the permit requirements.

Summary of NEW Phase II permit requirements

- Discharge Prohibitions – EXPANDED significantly.
- Program Management - resource intensive.
- Public Outreach – requires prescriptive, expensive approach.
- Illicit Discharge Elimination and Detection – requires **new** water quality pollutant testing of dry weather flow in storm drain outfalls; increased reporting, prescriptive corrective actions, and enforcement.
- Construction Site Controls - prescriptive approach requires increased inspection frequencies, reporting, staff certification, redundant implementation of State Water Board’s existing Construction General Permit.
- Pollution Prevention-Good Housekeeping (Municipal Maintenance) -requires increased reporting; inventory, mapping and inspection of municipally owned facilities, prescriptive storm drain system maintenance.
- Trash Reduction Program - requires installation of expensive trash capture structural controls and other prescriptive measures to reduce trash discharged from of areas zoned as commercial/retail/wholesale (applies to *County, San Rafael, and Novato only*).
- Industrial/Commercial Facility Runoff Control - requires more in-depth frequent stormwater inspections and reporting at an expanded list of business types
- Post Construction – for *East Marin County, San Rafael and Novato*, requires stormwater treatment and retention for development projects that add/replace 5000 ft² - 10,000 ft² (depends on project type) of impervious surface. Requires increased reporting and inspections.
- Water Quality Monitoring – County, San Rafael and Novato are required to monitor pollutants at creek sites (measure temperature, dissolved oxygen, pH, conductance, nutrients, pollutants in sediment, sediment toxicity, bio-assessments). When water quality thresholds are exceeded, municipalities must conduct extensive and expensive source detection analyses and implement corrective actions. County must conduct monitoring per the California Ocean Plan.
- Program Effectiveness Reporting – requires time-consuming desktop analyses, that don’t necessarily relate to water quality improvements. Municipalities must implement State’s effectiveness assessment guidance, and County, San Rafael and Novato must inspect and assess effectiveness of stormwater treatment facilities installed per requirements of current Phase II permit.
- Total Maximum Daily Loads – must comply with all applicable TMDLs.
- New “Non-Traditional” Entities - The draft permit lists additional entities that must comply with the new Phase II permit once re-issued (community colleges, state parks, prisons, etc. -

http://www.swrcb.ca.gov/water_issues/programs/stormwater/docs/revised_att_c.pdf)