



Linda S. Adams
Acting Secretary for
Environmental Protection

California Regional Water Quality Control Board

San Diego Region



Edmund G. Brown, Jr.
Governor

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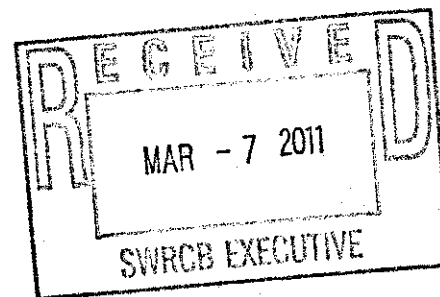
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Public Comment
Caltrans - MS4 Permit
Deadline: 3/14/11 by 12 noon

March 7, 2011

In reply refer to:
Place Number: 804967:carias

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



Dear Ms. Townsend:

SUBJECT: Comment Letter—Caltrans MS4 Permit

The California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) submits the following comments on Tentative Order No. 2011-XX-DWQ (Tentative Order). These comments largely repeat those comments submitted during review of a previous internal draft, which were essentially unaddressed in the Tentative Order dated January 7, 2011. The following comments pertain to non-storm water discharge prohibitions, project planning and design, and the monitoring program requirements of the Tentative Order.

Non-Storm Water Discharge Prohibitions

Prohibition B.2 states that certain non-storm water discharges are conditionally exempt from Prohibition B.1 unless the Department of Transportation (Department), State Water Board Executive Director, or the appropriate Regional Water Board Executive Officer identifies them as sources of pollutants to receiving waters. The San Diego Water Board has concluded that over-irrigation (landscape irrigation, irrigation water and lawn watering) into the municipal storm separate sewer (MS4) is a source of pollutants and shall be prohibited. These types of discharges were removed from the list of exempt non-storm water discharges into the MS4 for both the South Orange County MS4 Permit, adopted on December 18, 2009, and the Riverside County MS4 Permit, adopted on November 10, 2010. Although the San Diego County MS4 Permit does not specifically prohibit these types of discharges, we will seek to remove the over-irrigation exemption during the upcoming MS4 Permit reissuance to maintain consistency with the newly adopted MS4 Permits for Riverside County and South Orange County. Please amend the Tentative Order to ensure that the Department will not discharge over-irrigation water into their MS4s within the San Diego Water Board's jurisdiction. We also recommend that the over-irrigation exemption be removed entirely from the Tentative Order. We are available to assist with the development of the necessary findings.

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Project Planning and Design Requirements

We object to the changes made in the Tentative Order in section E.2.d, *Project Planning and Design*. In the previous internal draft, the language stated that if a project is partially or entirely located within the boundaries of one or more municipalities whose MS4 storm water programs have adopted project planning and design requirements pursuant to an NPDES permit, the project shall comply with the lawful and applicable project planning and design requirements of that municipality. We note that this language has been removed in the Tentative Order and hereby request that the language be re-inserted.

Local requirements for development planning are important because we have made significant progress with the San Diego Region MS4 Copermittees to achieve consistent requirements necessary for a watershed-based approach to improving water quality. For example, the San Diego County MS4 Permit Copermittees recently developed a Hydromodification Management Plan (HMP) in fulfillment of their NPDES permit requirements for new development. This HMP is the first of its kind in Southern California and reflects local creek hydrology in the design requirements to mitigate the effects of development. Both the Southern Orange County and Riverside County MS4 Permit Copermittees are developing similar local HMPs.

Southern Orange County and Riverside County MS4 Permits have more specific provisions for implementation of Low Impact Development (LID) than the Tentative Order. These two MS4 Permits require LID best management practices (BMPs) be sized and designed to ensure onsite retention without runoff, of the volume of runoff produced from a 24-hour 85th percentile storm event. As with the non-storm water discharge prohibitions previously discussed, these requirements will be included in the San Diego County MS4 Permit reissuance.

We request that the Tentative Order defer to local requirements for project planning and design, as was originally proposed. We expect the Department to implement the same HMP and LID requirements imposed on local dischargers for projects located within the San Diego Water Board's jurisdiction.

Monitoring Program

The Monitoring and Reporting Program requires acute and chronic toxicity testing, and water quality monitoring for several pollutants. In addition to these parameters, which will provide information on long-term trends, we recommend adding monitoring requirements for assessing hydromodification impacts from Department projects. During the development of the San Diego County HMP, we learned that data characterizing geomorphic stream conditions is sparse; therefore, several assumptions had to be made regarding stream response to changes in watershed hydrology. As a result, the San Diego County MS4 Permit Copermittees will be incorporating in-stream

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monitoring in various watersheds to assess stream stability before and after priority development projects are built. Specifically, the HMP calls for performing geomorphic assessments on an annual basis and collecting flow and sediment measurements. This will provide more data regarding the range of geomorphic conditions in the Region and also provide a basis for assessing the effectiveness of the HMP requirements on mitigating hydromodification impacts. Such in-stream data would be useful in other areas of the state because of the range of geomorphic conditions associated with the various watershed conditions statewide. This would be a good opportunity to assess the effectiveness of the hydromodification mitigation requirements implemented on Department projects.

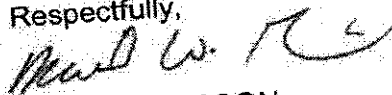
Additionally, we suggest that a requirement be added to the Tentative Order that the Department upload their receiving water monitoring data into the California Environmental Data Exchange Network (CEDEN).

General

We repeat our earlier request that region-specific requirements for San Diego be added to the list in Attachment 5 of the Tentative Order. This includes the non-storm water discharge prohibition for over-irrigation, and project planning and design requirements for projects within the San Diego Water Board's jurisdiction. To facilitate the incorporation of these Region-specific requirements, we are including with these comments a revised Attachment 5 for inclusion in the Tentative Order.

We can support a Tentative Order that incorporates our suggested changes. Please provide written responses to our comments and incorporate them into the public record. If you have any questions regarding these comments or require further information, please contact Ms. Christina Arias at (858) 627-3931 or carias@waterboards.ca.gov.

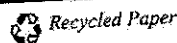
Respectfully,

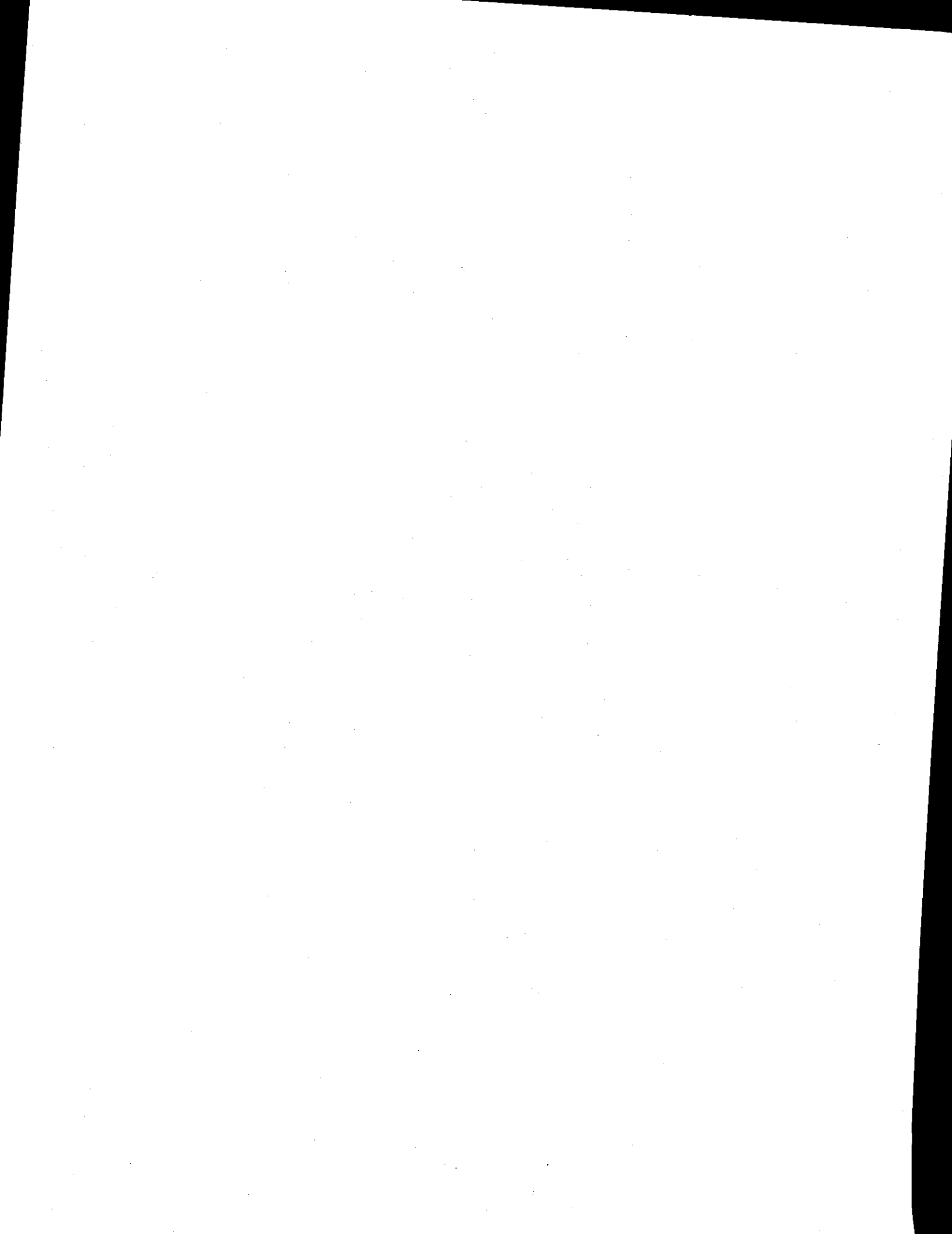


DAVID W. GIBSON
Executive Officer

DWG:jgs:esb:cma

California Environmental Protection Agency





PART 6 SAN DIEGO REGION

1. In connection with a Consent Decree entered to resolve litigation in United States v. California Department of Transportation (No. 97-0037-EIG), the Department agreed to implement certain retrofit and permanent post-construction treatment controls in watersheds under the jurisdiction of the San Diego Regional Water Board. Specifically, in a Certificate of Compliance submitted to USEPA on July 1, 2008, and in subsequent written correspondence dated August 12, 2008, October 3, 2008, and January 7, 2009, the Department represented that it would meet the requirements of paragraph 6.61 of the Consent Decree with a retrofit program as proposed at Table 5-3 of its proposed 2004 permit reapplication/SWMP, setting out a list of Approved Treatment BMPs, as supplemented by the list of controls identified in Table 2-5 of the Department's May 2007 Project Planning and Design Guide, at page 2-12. The foregoing information is part of the administrative record for this Order and the terms of this Order are consistent with the understandings and agreements reached in the Consent Decree, the Certificate Compliance, and the referenced subsequent written correspondence.
2. For each project, the Department must implement Low Impact Development (LID) BMPs and hydromodification management BMPs as described below.
 - (a) Specifically, each project must:
 - (i) Maintain or restore natural storage reservoirs and drainage corridors (including depressions, areas of permeable soils, swales, and ephemeral and intermittent streams) to the extent feasible.
 - (ii) Projects with landscaped or other pervious areas must, where feasible, properly design and construct the pervious areas to effectively receive and infiltrate, retain and/or treat runoff from impervious areas, prior to discharge. Soil compaction for these areas must be minimized. The amount of the impervious areas that are to drain to pervious areas must be based upon the total size, soil conditions, slope, and other pertinent factors.
 - (iii) Implement the hydromodification management BMP requirements set forth in *Final Hydromodification Management Plan*, prepared for County of San Diego, California, January 13, 2011.
 - (b) LID BMPs sizing criteria:
 - (i) LID BMPs must be sized and designed to ensure onsite retention without runoff, of the volume of runoff produced from a 24-hour 85th percentile storm event ("design capture volume");

- (ii) If onsite retention¹ LID BMPs are technically infeasible, other LID BMPs may treat any volume that is not retained onsite provided that the total volume of the other LID BMPs, including pore spaces and pre-filter detention volume, are sized to hold at least 0.75 times the portion of the design capture volume that is not retained onsite. The LID BMPs must be designed for an appropriate surface loading rate to prevent erosion, scour and channeling within the BMP.
3. Over-irrigation (landscape irrigation, irrigation water and lawn watering) into the Department's municipal storm separate sewer (MS4) is a source of pollutants and is prohibited at all Department projects.

¹ Infiltration LID BMPs are the preferred method for onsite retention, but does not preclude the use and implementation of all other retention LID BMPs (e.g. evapotranspiration, evaporation, and/or harvest), where technically feasible, prior to considering biofiltration LID BMPs for treatment of the design capture volume that is not otherwise retained onsite.