

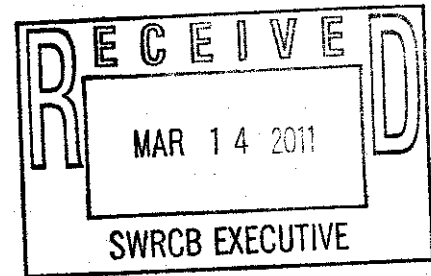
SAN FRANCISCO
BAYKEEPER.

March 14, 2011

Charles Hoppin, Chair and Board Members
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

VIA ELECTRONIC MAIL: commentletters@waterboards.ca.gov

Re: Comment Letter - Caltrans MS4 Permit



Dear Chair Hoppin and Board Members:

Thank you for considering the following comments, which we submit on behalf of San Francisco Baykeeper and our approximately 2,300 members. In addition to the brief comments regarding pesticide minimization practices and site controls, below, we also support and fully incorporate by reference the comments submitted by the California Coastkeeper Alliance, March 14, 2011, on this Caltrans MS4 permit.

The draft Caltrans MS4 permit does not contain adequate provisions to reduce discharges of pesticides to the maximum extent practicable ("MEP"). To improve this permit, the State Board should draw from the pesticide planning and minimization processes required by the Statewide General NPDES Permit for Residual Pesticide Discharges to Waters of the United States from Spray Applications ("Spray Permit").¹ Although the draft Caltrans permit states that Caltrans must reduce or eliminate pesticide discharges "to the MEP," it goes on to provide examples that "at a minimum" constitute MEP, when in fact, nearly every provision is less protective than the analogous, practicable processes set forth in the Spray Permit. For example, the Spray Permit requires each application plan to "describe details of the buffer zone that will be used to prevent off target spray drift" (Spray Permit at C.9), while the MS4 permit merely requires consideration of "[p]roximity to water bodies" without specific consideration of any necessary buffer to avoid or minimize impacts to waters (Caltrans MS4 Permit at 44.) The Spray Permit specifically requires an evaluation of *whether* pesticide use is appropriate, and "the least intrusive method of pesticide application" (Spray Permit at 14-16), while the Caltrans permit does not. The Spray Permit requires an applicator to maintain a "Pesticide Application Log" that includes all of the necessary information to determine whether any particular application actually complied with the appropriate management plan; this level of verification is missing from the Caltrans MS4 permit, and should be required.

We list the above issues merely as examples. Ultimately, we request that the State Board carefully review the "Pesticide Use Requirements" section of the Spray Permit, and revise the Caltrans MS4 permit to be at least as detailed and protective. At the same time, we request that Caltrans be made to undertake this planning and monitoring through site-specific plans, rather than generalized, state wide plans.

Thank you,
/s/ Jason Flanders
Staff Attorney, San Francisco Baykeeper

¹ Note that we are only recommending reliance on the "Pesticide Use Requirements" section of the Spray Permit, but not the Spray Permit's "Monitoring and Reporting Program," as we strenuously oppose the Board's deletion of toxicity monitoring therein.

