

**FACILITY PLANNING, CONSTRUCTION AND MANAGEMENT**P.O. Box 942883  
Sacramento, CA 94283-0001

August 16, 2011

Charles R. Hoppin, Chair  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812-0100

Dear Mr. Hoppin:

**COMMENTS ON DRAFT PHASE II MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4) PERMIT**

On June 7, 2011, the State Water Resources Control Board (SWRCB) issued a Notice of Opportunity for Public Comment (Notice) pertaining to the Draft National Pollutant Discharge Elimination System (NPDES) General Permit and Waste Discharge Requirements for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems, hereafter referred to as the "draft permit." This draft permit represents the reissuance of the original Phase II MS4 permit (Order No. 2003-005-DWQ), and allowed for a 62-day review period ending August 8, 2011. The review period was recently extended to September 8, 2011.

The draft permit identifies the California Department of Corrections and Rehabilitation (CDCR) as being subject to the terms of the proposed permit as a "Non-Traditional Small MS4 Permittee." CDCR staff and consultants have therefore conducted a review of the draft permit and have identified a number of concerns relating to the operational and financial implications of the proposed permit. Our comments regarding these concerns are presented below, and are organized numerically by topic with specific permit sections shown in parentheses.

**15.1 → Comment 1 – Possible Additional Site Designations (Attachment C)**

CDCR understands the SWRCB may add prison facilities to the Attachment C list of covered sites after the 2010 Census data is finalized. CDCR requests the list be finalized based on data available now. If this is not possible, CDCR requests that notice of listings be given at least one full year to come into compliance. This request is based on the fact that CDCR budget cycles are revisited annually, and budget constraints would preclude any compliance activities until such budget is approved.

**15.2 → Comment 2 – Site Designation for a Specific Site (Attachment C, Region 3)**

The Ben Lomond Youth Conservation Camp is listed on the New Non-Traditional Small MS4 Permittees list. This facility houses 100 low security inmates and minimal

staff and is located in the Santa Cruz Mountains. CDCR requests this facility be removed from the Attachment C list due to the extremely small size of the facility and the absence at the facility of activities which pose a threat to water quality.

**15.3** → **Comment 3 – Closed Facilities**

CDCR requests an exemption for closed or non-utilized facilities.

**15.4** → **Comment 4 – General Comments Regarding Security Concern**

Some of the permit's provisions may pose a security risk to CDCR facilities. CDCR requests a waiver from compliance with all sections of the permit which could compromise facility security.

**15.5** → **Comment 5 – MS4 Mapping Requirements (Section E.7.a )**

A specific example of the security concerns introduced in Comment 4 is the permit's requirement for GIS mapping of storm drain systems. These maps cannot be made public as they could provide information to inmates or the public that could compromise facility security. CDCR requests a waiver from compliance with this section of the permit.

**15.6** → **Comment 6 – Field Screening to Detect Illicit Discharges (Section E.7.c)**

Regarding illicit discharges, CDCR requests confirmation in writing that as a non-Traditional MS4, the CDCR facilities will not be required to conduct sampling and analytical analysis of discharge.

**15.7** → **Comment 7 – Field Screening to Detect Illicit Discharges (Section E.7.c (i))**

The draft permit states that: “. . . the Permittee shall develop and implement a dry weather field screening and analytical monitoring program procedures to detect and eliminate illicit connections and illicit discharges to the MS4.” Illicit connections are not a concern for CDCR due to the secured nature of CDCR facilities (i.e., prisons). CDCR therefore requests a waiver from compliance with all provisions related to illicit connections.

**15.8** → **Comment 8 – CDCR as a Permittee within a Phase I MS4 Permit Area (E.12.a.(i) and (ii))**

The draft permit states that, for region-wide consistency, a Permittee located within a Phase I MS4 permit area shall implement the regional Phase I MS4 post-construction storm water management requirements for new and redevelopment projects. Design plans for new prison facilities are not reviewed by local municipalities; they are reviewed internally because local municipalities have no jurisdiction over prison facilities. CDCR therefore requests a waiver of exemption for all requirements which would place CDCR under the jurisdictional authority of a local municipality.

15.9

**Comment 9 – Water Quality Runoff Standards (E.12.b.3.i.(a)(2))**

Section E.12.b.3.i.(a)(2) states: "Where a redevelopment project in the categories specified above results in an alteration of more than 50 percent of the impervious surface of a previously existing development, runoff from the entire project, consisting of all existing, new, and/or replaced impervious surfaces, must be included in the treatment system design."

This requirement is overly stringent and may create situations where compliance is not achievable due to existing site constraints, especially for dense infill urban areas. CDCR requests that this section correspond to, or adopt, the Construction General Permit (CGP) Post Construction Standards.

15.10

**Comment 10 – Post-Construction Requirements in General (E.12.f)**

Prison facility design has specific requirements related to security which may be incompatible with many or most post-construction design requirements. CDCR therefore requests an exemption from post-construction requirements. If a complete waiver is not granted, CDCR requests that language be added to the effect of: "Post-construction requirements shall be implemented when consistent with security design features and security requirements. CDCR facility design shall not be subject to municipal review."

15.11

**Comment 11 – SMARTS System**

CDCR's past experience with the initial implementation of similar reporting systems has shown that training facility staff can be a lengthy and time consuming process. CDCR therefore requests the SWRCB assist Permittees by providing training for Permittees and their staff in the use of the SMARTS reporting system.

15.12

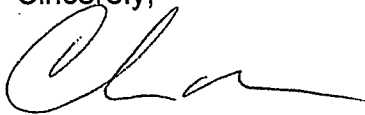
**General Comment – Financial Burden**

The harsh reality is that the state of California is experiencing unprecedented budget constraints at this time. One of the most disturbing aspects of the new Phase II permit is that significant additional staff resources would need to be funded to implement the new Phase II permit requirements. Additionally, since the new permit requirements would begin in the first year of permit implementation, increased Phase II program costs would be required immediately. CDCR Phase II Permittees would not be able to obtain additional staffing due to economic constraints that have already resulted in furloughs, layoffs, hiring freezes, and facility closures at the State level. Likewise, stretching CDCR facility resources would not result in improved water quality, but would likely result in its inability to comply with the permit. Given these fiscal challenges, it is imperative that SWRCB develop a permit that protects water quality in the most cost effective manner, thus allowing CDCR facilities to more effectively implement a Phase II program that is within the capacity of their current resources.

Charles R. Hoppin, Chair  
Page 4

Thank you for this opportunity to provide comments on the draft permit. If you have any questions regarding our comments as identified above, please contact John Sharp, Senior Environmental Planner, at (916) 255-3013 or via email at [John.Sharp@cdcr.ca.gov](mailto:John.Sharp@cdcr.ca.gov).

Sincerely,



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Director  
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