

# City of Morro Bay

Morro Bay, CA 93442

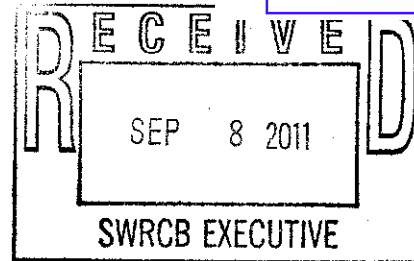
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September 7, 2011

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



Re: Comments on the Draft General NPDES Permit for Small MS4s (Phase II Permit)

Dear Chair Hoppin and Members of the Board,

On behalf of the City of Morro Bay, thank you for extending the comment period on the Draft Phase II Small MS4 General Permit. The City is pleased to submit comments on this Draft Permit due to the enormous implications this permit will have on the City of Morro Bay. The City would also like to state its support for the California Stormwater Quality Association's (CASQA) and the Statewide Stormwater Coalition (SSC) comment letters regarding the Draft Permit.

Water quality is a priority to the City of Morro Bay. As a coastal community, we rely on the fishing and tourism communities for our economic health. Morro Bay has worked closely with the Central Coast Regional Water Board over the last three years to develop a Stormwater Program we are proud of. Morro Bay has made great strides in implementing the Central Coast Water Board's healthy watershed approach, but we feel this Draft Permit goes far beyond this approach and what the City can implement.

Morro Bay's greatest concern with the Draft Permit is the high cost and the lack of consideration for the efficient use of limited financial resources. The fact that California is in a severe recession and that the City of Morro Bay has had significant cutbacks is a fact that cannot be dismissed. The City of Roseville retained Best Best and Krieger (BB&K), Attorneys at Law to provide legal comments on the draft permit.

**FINANCE**  
595 Harbor Street

**ADMINISTRATION**  
595 Harbor Street

**FIRE DEPT.**  
715 Harbor Street

**PUBLIC SERVICES**  
955 Shasta Avenue

**HARBOR DEPT.**  
1275 Embarcadero Road

**CITY ATTORNEY**  
595 Harbor Street

**POLICE DEPT.**  
870 Morro Bay Boulevard

**RECREATION & PARKS**  
1001 Kennedy Way

Section I.A of BB&K's letter speaks to Section 6 of the California Constitution which states "any state agency mandates a new program of higher level of service on any local government, shall provide a subvention of funds to reimburse that local government for the cost of the program or increased level of service..."

The US EPA stated in guidance to the Phase II regulations that it "strongly recommends that until the evaluation of the storm water program in 40 CFR (Section 122.37), no additional requirements beyond the minimum control measures (BMPs) be imposed on regulated MS4s without the agreement of the operator of the affected small MS4." Therefore Morro Bay is requesting that the State Board remove the sections which are beyond the minimum control requirements, specifically the Monitoring, Industrial/Commercial and Trash Reduction Provisions which far exceed EPA's recommendations.

Morro Bay is in much the same financial situation as most, if not all, of the Small MS4s and the State, therefore this permit gives us great concerns due to the cost of implementation. The City has estimated the Draft Permit will increase to approximately \$400,000 per year over what the City currently spends on our Stormwater Program. The City lacks the adequate fee authority to collect adequate funds to pay for these state mandated new programs and higher levels of service. Local agencies and businesses simply cannot afford the cost to comply with the Draft Permit.

The City of Morro Bay is requesting the following revisions:

*Remove unnecessary reporting requirements which provide no water quality benefit.*

- There are numerous areas in the Draft Permit which require extra and unnecessary tracking and reporting which do not result in a water quality benefit and should be removed. For example (E.4.d); the annual analysis of Capital and O&M expenditures, the necessary staff allocated to meet the requirements, description of the sources of funds that are proposed to meet necessary expenditures and a description of the staff resources necessary to meet this order are all examples of reporting which produces no water quality benefit. These requirements are not something Morro Bay is currently reporting, therefore would waste precious resources on unnecessary paperwork.

*Remove the prescriptive components and allow the MS4s to determine what these baselines should be:*

- Many places in the Draft Permit are specific numerical requirements for Morro Bay to follow. Many are time related, "within 48 hours" and many are percentages, "mandatory 20% high priority" all of these specific numbers seem to have no water quality or scientific basis. The specific numbers should be removed from the permit and allow the City to define our own specific parameters to coordinate Morro Bay's stormwater program with the water quality objectives.

*Allow adequate "ramping up time" for phase II MS4s:*

- The City of Morro Bay is only in year **three** of the **first** permit term. Therefore we are being asked to go from very minimal staff and resources to a comprehensive, staff demanding costly storm water program. Phase IIs should be allowed the significant

amount of "ramping up time" that the Phase I's have been allowed. The purpose of the phased permit system is to be able to learn from and work off of the Phase I permits, not for phase II communities to be the leaders. Phase I agencies have had three or four permit terms (15 or more years) to increase and build up their programs.

*Public Education and Outreach section revision:*

- The Public Outreach and Education Programs, section E.5, mandates the use of Community-Based Social Marketing (CBSM) strategies or equivalent. CBSM was developed by Doug Mc-Kenzie-Mohr an Environmental Psychologist. Morro Bay does not have an Environmental Psychologist on staff and currently there is an introductory workshop in Toronto Canada for two days at a cost of \$495.00 plus travel expenses. This is an expensive endeavor for this proprietary method to assess effectiveness measures, without a proven track record.

*Illicit Discharge Detection and Elimination section revision:*

- The Illicit Discharge Detection and Elimination program section which requires field screening monitoring and analytical monitoring should be removed. The Draft permit requires a grid system of ¼ mile cells which would require approximately 72 sites in Morro Bay (with a mandatory 20% being high priority) and all cells containing a storm drain system are required to conduct one field screening and analytical monitoring station in each cell. What this means to the City of Morro Bay is that approximately 14 sites will be required to conduct dry weather field screening and analytical monitoring at each of these station once a year. This is an inefficient way of monitoring and very cost prohibitive. There is no reason to monitor for monitoring sake.

*Industrial/Commercial and Construction section:*

- The Industrial/Commercial section of the Draft Permit should be required of MS4s with a population larger than 25,000 or removed completely. Also the City believes that these requirements are not necessary since an Industrial Stormwater permit program currently exists, making this section redundant and therefore not an efficient use of time and money. The same can be said for much of the Construction section of the Draft Permit. The City should not be required to do what the Regional Boards are already required to do and collects fees to conduct these sections. It is unreasonable for the State to shift the costs and enforcement responsibility to the Cities.

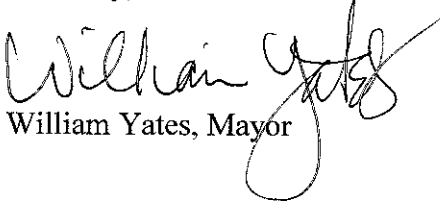
*Post-Construction section*

- The City is requesting clarification to be included in the Draft Permit regarding section E.12. Post Construction Storm Water Management Program. As you are aware, the \$600,000 funding from the State Cleanup Fund has been awarded to fund the Joint Effort. The Joint Effort was developed by the Central Coast Regional Water Board's progressive approach to achieving a healthy watershed. The Joint Effort is an effort to develop a methodology for developing hydromodification control criteria, and derive the criteria by applying the methodology and support the implementation of the resulting criteria throughout the Central Coast for new and redevelopment. The City has been working with the Central Coast Regional Water Board in this Joint Effort and request the State

Board modify the Draft Permit to exclude the participants of the Central Coast Joint Effort from this section of the permit.

It is the City of Morro Bay's position these higher levels of services and increasing permit regulations with no perceived tangible water quality benefit are excessive. The current economic times make such a program difficult to fund and yet still provide adequate police, fire protection, street repairs, and other essential services. Lastly the City would just like to reiterate the importance of implementing a permit that will accomplish water quality results and is implementable in these tough economic times. The State Board should evaluate the Draft Permit and the resulting economic impacts the Draft Permit would have on our economy. The City of Morro Bay is requesting that the Board take the City of Morro Bay's comments/concerns and revise the Draft permit accordingly.

Sincerely,



William Yates, Mayor

Cc: Andrea Lueker, City Manager  
Rob Schultz, City Attorney  
Rob Livick, Public Services Director  
City Council