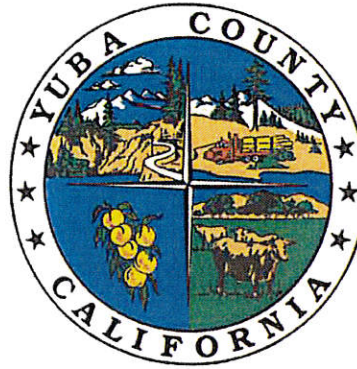


# The County of Yuba

## Community Development & Services Agency

**Kevin Mallen, Director**

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**Public Comment  
Trash Amendments  
Deadline: 8/5/14 by 12:00 noon**

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July 31, 2014

Ms. Jeanine Townsend, Clerk to the Board  
State Water Resources Control Board  
1001 I Street, 24<sup>th</sup> Floor  
Sacramento, CA 95814



Subject: Comment Letter – Trash Amendments

Ms. Townsend:

This letter is being submitted by the County of Yuba (County) regarding the proposed *Draft Amendments to Statewide Water Quality Control Plans to Control Trash*. The County is currently regulated under the General Permit for storm water discharges from small municipal separate storm sewer systems (MS4s), Order No. 2013-0001-DWQ. This National Pollutant Discharge Elimination System (NPDES) permit contains specific requirements for reducing trash discharged from MS4s to surface waters.

The County appreciates the opportunity to submit comments on the proposed trash amendments. Our comments summarize our primary issues of concern and in many cases provide suggestions to assist the State Water Resources Control Board (SWRCB) in developing a workable policy. The County does encourage the SWRCB to conduct a thorough CEQA review that evaluates the environmental justice aspect of the trash amendments.

The County encourages the SWRCB to support and enforce source controls statewide through existing NPDES permits, and to support statewide legislation or regulation of recognized problem materials such as cigarettes, single-use plastic bags, and Styrofoam food packaging. We feel that these types of source controls would be far more effective and efficient than requiring local agencies to construct and maintain expensive treatment best management practices (BMPs). It also places the onus for compliance on those individuals or entities that are the source of litter, as opposed to placing responsibility upon small local governments that are not significant contributors to the trash problem. The County feels that a comprehensive, statewide effort to eliminate trash at its source would provide a greater benefit to all receiving waters of the State, and would be far more efficient from a benefit/cost viewpoint.

The County is also concerned about the effect the proposed trash amendments may have on rural communities. Rural towns have commercial areas that would fall under the proposed trash



amendments. These rural communities have limited resources available to fund programs, and there is not a reasonable return on investment for these small communities to implement extensive trash controls. Based on their local planning processes, addressing issues such as the provision of safe and affordable drinking water or other local priorities may be the best use of their limited resources. The County therefore recommends that the State exempt rural areas from the trash amendments that are not directly contiguous to urbanized areas.

#### Comments on Specific Elements:

1. The draft amendments provide for two tracks for achieving compliance. However, Track 1 appears to be the only viable option, as there is no effective means by which a community could verify that any selected combination of controls would achieve the same performance as full capture. Any community adopting Track 2 would be placing itself at risk of subjective compliance actions by the State or at risk of third party lawsuits. Recommend eliminating the monitoring requirement for Track 2, and substitute an annual plan demonstrating compliance with a State-approved implementation plan.
2. The draft trash amendment claims that this change is necessary to promote consistency throughout the state. However, statewide consistency has never been a primary goal of the statewide NPDES program; pollutants and BMPs are tailored to specific receiving water bodies. Recommend adopting TMDLs to address impaired water bodies, while allowing the recently adopted NPDES permits a chance to demonstrate improved trash control.
3. The existing NPDES permits already contain provisions for the control of trash. For example, Order No. 2013-0001-DWQ requires that removal of trash from high priority areas (storm drains, open channels, and other drainage structures) occur annually prior to the rainy season. There are also other statewide laws and local ordinances already in effect to regulate and control trash. The County recommends that the State postpone action on the proposed trash amendments until such time that the effectiveness of the new NPDES permits for Phase II communities can be determined.
4. The draft amendments would require full capture systems, which are to be designed to capture all trash 5mm and larger in size. However, we have seen no documentation verifying that this goal is achievable, nor does this goal truly address the issue of micro-debris. The primary component of litter reaching surface water bodies is plastic debris, compromising 60% to 80% of marine litter in most areas. However, currently installed BMPs have not been demonstrated to be successful in removing plastic debris. Exacerbating this issue is the fact that in the Los Angeles watershed, 90% of plastic debris by count and 13% by weight is smaller than the proposed 5mm targeted size. The County therefore recommends that the State reconsider comprehensive source control regulations instead of imposing the proposed trash amendments.
5. The staff report referred frequently to the findings of the National Resources Defense Council (NRDC) Report prepared by Kier Associates. However, the cost estimates provided in Appendix C of the staff report do not accurately reflect the findings of that report. The following discrepancies were noted:

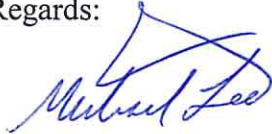


- a. Not all the communities in the survey have fully integrated the BMPs necessary to satisfy the proposed trash amendment;
  - b. Communities in San Diego and Los Angeles areas that are currently implementing trash BMPs spend from \$23.42 to \$71.22 per capita annually;
  - c. According to the NRDC report, the average per capita spending within small communities with fewer than 15,000 citizens was nearly double the per capita spending within large communities. The report also noted that many of the small communities that participated in the survey are not implementing all the BMPs that would be required under the trash amendment;
  - d. The NRDC report also noted that the actual total cost is certainly higher than reported, as the study did not assess expenses incurred by counties or state agencies, nor did it include costs for monitoring and reporting.
6. The staff report does not take into account that costs of compliance will not be spread across the entire population of a rural, Phase II community. Only drainage districts that have high-density areas will have to retrofit their storm drain systems, so only those affected property owners would bear the expense of a retrofit.
  7. The staff report does not discuss how communities are supposed to fund the mandatory retrofit. Phase II communities would have a difficult time raising funds under existing Proposition 218 requirements. Additionally, the draft trash amendments do not consider the financial limitations of economically challenged communities. The median household income within the County of Yuba is \$46,641, which is 76% of the statewide average. Neither the staff report nor the draft trash amendments discuss how economically-challenged communities can pay for what would be an unfunded mandate.
  8. Retrofitting existing high trash volume areas would be technically infeasible in many developed areas due to localized flooding issues:
    - a. Roadway storm drain inlets are built to accommodate design flows without flooding the adjacent roadways. The inexpensive retrofit options of installing trash racks, screens, or inserts would reduce the flow capacity of the storm drain system, leading to localized flooding and a threat to public safety;
    - b. Existing, fully developed commercial or high-density residential neighborhoods will not have sufficient open space to install infiltration basins, detention basins, or trash nets.
  9. Some BMPs, such as the Gross Solids Removal Devices, have high vandalism rates that are not mentioned in the staff report.

The County also recommends that the SWRCB investigate statewide funding sources for water quality controls. For example, pursuant to the California Health and Safety Code Section 25299.41, the state charges a special maintenance fee on underground storage tanks; this fee is due to sunset within the next year. The SWRCB should consider repurposing this special tax for purpose of providing financial assistance to communities for installation of permanent BMPs.

We hope that the SWRCB will find these comments useful, and that the SWRCB will carefully consider whether the proposed trash amendments are appropriate or feasible. Please contact Mr. Daniel Peterson, P.E., at (530) 749-5642 if you have any questions regarding these comments or suggested changes.

Regards:

A handwritten signature in blue ink, appearing to read "Michael Lee". The signature is stylized with a large, sweeping initial "M" and a long, horizontal stroke extending to the right.

Michael G. Lee, P.E., LS.  
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