

**Staff Response to Comments on November 16, 2012 Small MS4 Phase II Permit Draft**

Comment Letter #	Comment #	Agency/Name of Commenter	Section	Category	Comment Summary	Response
1	1	Calaveras County, Department of Public Works - Robert Pachinger	Throughout	Cost	As noted in correspondence to you dated July 23, 2012, and September 8, 2011, the potential cost of compliance remains a significant issue. The Board's response to comments directs us to Economic Considerations of the Fact Sheet and notes that the draft order has been substantially revised to address the comments. In reviewing the subject section of the Fact Sheet, we appreciate the discussion regarding the potential costs of implementing the permit and agree with the State that quantifying costs at this time is not possible due to the varying complexities of storm water programs and particular issues that each jurisdiction faces. However, we are one of the jurisdictions who struggle to implement the mandates because the General Fund is the only source of revenue for the program. Although current funding is limited, we have implemented an effective program appropriate for this area under current permit requirements. It is our hope that, as the new permit requirements are implemented, these factors are taken into consideration.	Comment noted. This General Order aims to regulate a diverse group of Phase II Permittees statewide. At the time of permit renewal adoption, there will be various renewal permittees (much like the County of Calaveras) that have varying levels of existing storm water program sophistication. The bottom line is that this General Order aims to recognize the various levels of existing programs and allow the flexibility for Permittees such as Calaveras County to leverage existing resources and programs to achieve this Permit's baseline requirements. Further, each Regional Board throughout the state can assist the County in implementing the requirements of this Permit while also considering local factors and characteristics of the existing program.
2	1	California Coastkeeper Alliance - Sara Aminzadeh, Sean Bothwell	E.14.	Program Effectiveness	First, the "Municipal Watershed Pollutant Load Quantification" has been removed from the Revised Draft Permit. These provisions required BMP efficiency calculations in previous drafts. It is important that the Permit include requirements to evaluate BMP performance. We recommend that the Revised Draft Permit require a performance evaluation for all structural BMPs used by the discharger to comply with the Revised Draft Permit, including retrofits and iterative requirements. We recommend that at least once per permit cycle, the Permittee should submit a report to the	Municipal pollutant load quantification has been removed from the draft permit due to a couple of important factors. First, this Order constitutes an increased level of program implementation than the previous iteration. As such, it is imperative that efforts are focused on priority areas as established by the State Water Board. The priority areas include discharges to ASBS, TMDL/303(d) listed waterbodies, post-construction and monitoring. Second, while staff recognizes the value in quantifying pollutant loads, the mechanism by which loads are quantified are yet to be vetted. During the

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					<p>State Water Board or regional board that includes a BMP performance evaluation. Furthermore, the Revised Draft Permit replaces the requirement in previous drafts to evaluate each BMP with a new requirement to evaluate only “prioritized” BMPs. However, it is unclear how Permittees are to classify prioritized BMPs. The Revised Draft Permit should provide guidance or clarification on how to identify “prioritized BMPs. Long-term assessment is important, but it is crucial that the Revised Draft Permit require Permittees to evaluate BMPs during the permit term and make adjustments accordingly. We urge the Board to require effectiveness assessment within the permit term, so that management decisions can be modified appropriately.</p>	<p>permit cycle (next 5 years), staff may conduct pollutant load quantifications by way of the Center for Watershed Protection’s pollutant load quantification calculator and tailor it to California’s local conditions and characteristics. Staff fully intends to incorporate pollutant load quantification into the next permit cycle.</p> <p>Section E.12.h. Post-Construction Best Management Practice Condition Assessment requires Permittees to inventory and assess the maintenance condition of structural post-construction BMPs. Further, the authorized parties must demonstrate proper maintenance and operation through a self-certification report which includes field observations to determine the effectiveness of the structural BMP in removing pollutants of concern.</p> <p>Lastly, prioritized BMPs are defined as BMPs installed or implemented based on pollutants of concern. In the case that local pollutants of concern have not been identified or are unknown, the prioritized BMPs designed to address common pollutants of concern. The program effectiveness plan requires short term and long-term effectiveness analysis. By the second year Annual Report Permittees develop a Program Effectiveness and Improvement Plan (PEAIP). By the fifth year Annual Report, Permittees complete an analysis of the effectiveness of modification made at improving BMP and/or program effectiveness as described in the PEAIP. Finally, each Annual Report summary addresses the relationship between the program element activities and the Permittee’s PEAIP that tracks annual and long-</p>

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						term effectiveness of the storm water program.
2	2	California Coastkeeper Alliance - Sara Aminzadeh, Sean Bothwell	E.12.	Post-Construction	We are concerned that language in the Revised Draft Permit creates the potential for approval or implementation of such in-lieu programs in place of the Revised Draft Permit's Post Construction controls. Further, several provisions lack clarity and could allow for regulated projects to escape requirements to implement the Revised Draft Permit's otherwise applicable terms. These issues must be addressed so that the Revised Draft Permit meets the Clean Water Act's MEP standard, and to maximize the benefits of storm water capture as a sustainable water supply option.	This permit provision has been revised to address this comment.
2	3	California Coastkeeper Alliance - Sara Aminzadeh, Sean Bothwell	E.12.	Post-Construction	We fully support the Revised Draft Permit's generally applicable standard requiring retention of the 85th percentile, 24-hour storm event. However, we are concerned that the Revised Draft Permit's definitions for "Regulated Project Categories" under section E.12.d.1.a could be construed as unlawfully limiting the type of development that the permit's LID provisions are applied. For example, while the Revised Draft Permit requires projects under specific commercial designations to comply with the Revised Draft Permit's LID controls, as well as broadly "industrial," "mixed-use," and "residential housing subdivisions," there is no catch-all category for commercial development generally. We recommend that the Revised Draft Permit include all commercial development under its categories of Regulated Projects, and that the Draft Permit additionally provide a catch-all for "all other development not specified under the category of Regulated Projects, with a threshold trigger of creating	This permit provision has been revised to address this comment.

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					and/or replacing 10,000 square feet of impervious surface.”	
2	4	California Coastkeeper Alliance - Sara Aminzadeh, Sean Bothwell	E.12.	Post-Construction	To the extent that the Revised Draft Permit allows use of biofiltration in place of retention to meet a project’s LID requirements, the Revised Draft Permit must specify that biofiltration is available only in cases of technical infeasibility for on-site retention, and then must, consistent with other permits in California, require a performance multiplier to ensure that receiving waters are adequately protected. Therefore, we request the Revised Draft Permit be revised to allow for biofiltration as an alternative design only when it is proven to be infeasible, and then require a 1.5 multiplier for any off-site project.	This permit provision has been clarified to specify that biofiltration is available only in cases of technical infeasibility for on-site retention. However, staff does not agree that a 1.5 multiplier must be required for any off-site project. Due to the complex and diverse conditions of California’s geography, the requirement of a one-size-fits all multiplier may not be feasible. The Water Boards have historically derived site design, runoff reduction and hydromodification control criteria without identifying the dominant watershed processes and the sensitivity of receiving waterbodies to degradation of those processes. In most MS4 permits, projects are subject to the same set of criteria regardless of the dominant watershed processes and the sensitivity of receiving waters to degradation of those processes. In reality, every location on the landscape does not require the same set of control criteria because of intrinsic differences in the dominant watershed processes at each location and sensitivity of receiving waters to degradation of those processes. In recognizing this, the State Water Board is developing criteria that are more protective of receiving water quality.
2	5	California Coastkeeper Alliance - Sara Aminzadeh, Sean Bothwell	E.12.	Post-Construction	The Revised Draft Permit contains baseline hydromodification provisions, but unfortunately those provisions do not provide the same protections as previous versions of the Permit. Hydromodification requirements rely on matching a specific peak flow, an	This permit provision has been revised to address this comment.

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					<p>approach commonly implemented in flood management. The peak flow matching standard is protective of stream channels because all projects are required to reduce runoff volume through implementation of LID, resulting in post-project volumes that mimic pre-project conditions. We request that Section E.12.e be re-inserted in its entirety to protect stream channels from flooding by mimicking pre-project conditions.</p>	
2	6	<p>California Coastkeeper Alliance - Sara Aminzadeh, Sean Bothwell</p>	E.12.	<p>Post-Construction</p>	<p>These provisions read together provide a loophole for detached single family homes exceeding 5,000 square feet. A single family home over 5,000 square feet is not covered under Section E.12.b., which identifies projects between 2,500 to 5,000 square feet, nor is it covered under Section E.12.c.ii. because of the exemption for detached single family homes. We request that the State Water Board close this loophole by clarifying that all single family homes over 2,500 square feet must comply with Section E.12.b., even if that home exceeds the 5,000 square foot threshold. The Revised Draft Permit requires Permittees to implement one or more site-design measures identified within the section. We request that Second, Section E.12.b.ii. be revised to require at least two site design measures be implemented per project. It is unclear whether the State Water Board intends to apply these exceptions to only bioretention facilities, or a more broad definition. We therefore request that Section E.12.e(ii) be revised to state: "Exceptions to Requirements for All Retention Facilities." We also request that any reference to bioretention within that section be revised to the broader term of "retention."</p>	<p>Single family homes that are part of a larger plan of development are not exempt from the requirements in E.12.b. In addition, project proponents must quantify the amount of runoff reduced using site design measures. We feel this approach is more appropriate than having project proponents choose an arbitrary number of site design measures without quantification.</p>

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2	7	California Coastkeeper Alliance - Sara Aminzadeh, Sean Bothwell	Attachment G	TMDLs	<p>Attachment G is still incomplete. For example, the Revised Draft Permit now lists Region Four TMDLs but does not include the necessary deliverables and actions. There are thirteen TMDLs that are inappropriately missing from the Attachment such as the Long Beach City Beaches and Los Angeles River Estuary Bacteria TMDL and Marina del Rey Toxics TMDL. The Permit provides regional boards one year (previously 6 months) to propose revisions to Attachment G. Further, the Draft Permit states that there “may” be a reopener to include the updates. Instead, State Water Board staff should coordinate with all regions to ensure that all applicable TMDL WLAs and implementation measures are reflected in Attachment G upon adoption of the Permit. At a minimum, the Revised Draft Permit should state that the reopener will occur within one year.</p>	<p>The one year consultation period has two main objectives. First, because the Permittees have not had an opportunity to meet with Regional Water Board staff to review and discuss the TMDL-specific permit requirements incorporated into this permit, the Regional Water Boards are additionally being directed through this Order to review the TMDL-specific permit requirements of Attachment G in consultation with the Permittees and propose any revisions to the State Water Board Any such revisions will be incorporated into the permit through a reopener. Second, the high variance in the level of detail and specificity of TMDLs necessitates the development of more specific permit requirements in many cases to provide clarity to the Permittees regarding responsibilities for compliance. TMDL-specific permit requirements for TMDLs established in the Los Angeles Regional Water Quality Control Board’s region, which apply to Non-Traditional MS4s in the region, have not been included in Attachment G. These TMDL-specific permit requirements will be developed during the one-year review period described above. Finally, to the extent that any TMDLs have mistakenly been left off of Attachment G, the one-year review period will also provide an opportunity to add those to the Attachment.</p>

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2	8	California Coastkeeper Alliance - Sara Aminzadeh, Sean Bothwell	E.1.b.	Continued Implementation	<p>We recognize the State Water Board’s interest in providing Executive Officers with the flexibility to require Permittees to continue implementing BMPs that are more effective at reducing pollutant discharges. However, an Executive Officer’s unchecked discretion to disregard the newly adopted MS4 Phase II Permit constitutes self-regulation and is illegal. Finding 31 on page 10, and Section E.1.b. on page 20, circumvents the public review and comment requirements of the Clean Water Act by allowing a Regional Water Boards’ Executive Officer alone to determine whether a Permittee’s storm water management plan (SWMP) controls pollution to the MEP. As such, this section violates the Clean Water Act and is directly contrary to the Ninth Circuit’s ruling in Environmental Defense Center. We request that Finding 31 and Section E.1.b. be deleted in its entirety. Finding 31 and Section E.1.b. suggests that the State Water Board believes the Revised Draft Permit contains weaker BMP requirements than what current Permittees are implementing. If BMPs are currently being implemented that are more effective than proposed requirements, the State Water Board must incorporate those BMPs into the Revised Draft Permit to meet the MEP standard required by the Clean Water Act.</p>	<p>This permit provision has been revised to address this comment.</p>
2	9	California Coastkeeper Alliance - Sara Aminzadeh, Sean Bothwell	E.1.b.	Continued Implementation	<p>The Revised Draft Permit’s stated goals include implementing “more specific and comprehensive storm water monitoring, including monitoring for 303(d) listed pollutants;” and incorporating “emerging technologies, especially those that are being increasingly utilized by municipalities (e.g., low impact development).”<sup>14</sup> Deleting Section</p>	<p>This permit provision has been revised to address this comment.</p>

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					E.1.b.'s requirement to require Permittees operating under a previous SWMP to implement the Revised Draft Permit's post-construction and monitoring programs does not achieve those stated goals. We request that Section E.1.b. be revised to require: "All Permittees must implement post-construction and monitoring programs as specified in this Order."	
2	10	California Coastkeeper Alliance - Sara Aminzadeh, Sean Bothwell	E.9.	Trash Reduction	<p>Our July 23 letter describes ways to improve the Permit in this area. We also have several additional concerns with the new Draft Permit's requirements for trash abatement. First, the Draft Permit should revise the definition of "high priority" catchment. The Draft Permit requires storm drain system assessment and prioritization. Specifically, it requires the prioritization of high priority catch basins and defines what these are. The definition appears to require that five criterion be met in order for the catch basin to be deemed high priority. Instead, we urge the Board to require that a catch basin be deemed high priority if it meets any of the criterion. It would be an inappropriately high bar to meet all five, and as a result, little progress would be made in trash abatement. <i>Thus we suggest that the language on page 53 of the Draft Permit be modified as follows: "In particular, assign high priority to catch basins meeting <u>any of the following criteria...."</u></i> We also appreciate the added reopener for the pending statewide trash policy. However, we ask that the Permit include a mandatory re-opener to ensure that progress is made on trash reduction during the term of the permit.</p>	<p>The intent of the language is not for all five criterions to be met in order to be considered a high priority catch basin. In order to address the multiple characteristics of various Phase II Permittees varying prioritization criterion is included.</p> <p>Staff will reopen the permit to incorporate trash requirements upon adoption of the Statewide Trash Policy.</p>

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2	11	California Coastkeeper Alliance - Sara Aminzadeh, Sean Bothwell	Section B.4.	Incidental Runoff	Section B.4., page 18, no longer requires incidental runoff to involve the specific use of recycled water, leaving the entire section ambiguous and obsolete. We propose the following revision to Section B.4. to address these issues: "Discharges of incidental runoff shall be controlled. Regulated Small MS4s shall require parties responsible for incidental runoff to implement Sections B.4.a-e below to control the incidental runoff. Incidental runoff is defined as any unintended amounts (volume) of runoff, such as unintended, minimal over-spray from sprinklers that escapes the area of intended use."	Staff does not agree that the removal of the specific use of recycled water creates an ambiguous and obsolete Section B.4. Instead, the definition of incidental runoff as written is not limited only to recycled water and potable water use areas. Instead, it specifies that incidental runoff is the unintended volume of runoff escaping an area of intended use. Runoff includes recycled and potable water.
2	12	California Coastkeeper Alliance - Sara Aminzadeh, Sean Bothwell	E.13.	Monitoring	The water quality monitoring program continues to fail its legal responsibility to ensure that storm water discharges are not degrading water quality. In the response to comments on the May 21, 2012 draft, staff agrees with many of our concerns for inadequate monitoring, yet points to Permittee cost constraints as an excuse for not strengthening the monitoring program. Water quality monitoring is not part of the MEP standard, and thus cost is an irrelevant reason for failing to meet Clean Water Act requirements.	The water quality monitoring section of this Order focuses on priority areas established by the State Water Board (ASBS, TMDL and 303(d) listed waterbodies). For the majority of Phase II Permittees, this permit term will be the first time a monitoring program has been implemented. As such, prioritization of monitoring allows for a firm foundation from which Phase II Permittees may initiate and develop monitoring programs that will result in improvement of local knowledge of water quality impacts and implementation of storm water management practices. Staff does not agree that the monitoring program of this Order is inadequate. In staff's response, the importance of monitoring is recognized in conjunction with the importance of creating cost-effective requirements. The Order addresses critical water quality priorities, namely discharges to ASBS, TMDLs, and waterbodies listed as impaired on the 303(d) list, but aims to do so in a focused and cost-effective manner.

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2	13	California Coastkeeper Alliance - Sara Aminzadeh, Sean Bothwell	E.13.	Monitoring - Receiving Water Monitoring	<p>Receiving water monitoring is a critical component of an adequate monitoring regime and should not be eliminated under any circumstances. Further this provision is especially concerning because the Revised Draft Permit states that the special study may focus on “assessment of effectiveness of habitat enhancement efforts and assessment of effectiveness of stream restoration projects.” This study goal has nothing to do with evaluating a storm water program and the “management questions” outlined in the Revised Draft Permit. In other words, monitoring under this proposal may not provide any insight to determine if water quality is improving or what the pollution sources may be. Another relaxation to the monitoring requirements in the Revised Draft Permit is the provision providing Permittees to participate in a regional monitoring program in lieu of requirements in sections E.13.i-iv. In sum, the various off-ramps to monitoring requirements discussed above further weaken an already insufficient monitoring program. Thus, we urge the State Water Board to remove these weakening provisions and strengthen the program, as described in our July 23, 2012 letter.</p>	<p>The monitoring requirements included in this Order take into account the highly diverse and complex structures of various Phase II Permittees throughout the state. There are Permittees with more sophisticated programs that already have established program priorities and on the other end of the spectrum, Permittees that have never implemented a storm water program. In order to address the state’s diverse conditions, flexibility is included in the Order’s monitoring program. Further, it is important to note that the Regional Board reviewed and approved Special Studies plan must include reasoning to implement a special study plan in lieu of the Receiving Water Monitoring requirements. Staff does not agree that assessing the effectiveness of habitat enhancement and stream restoration efforts has no relation to evaluation of a storm water program. On the contrary, stream restoration and habitat restoration efforts have a direct tie to watershed scale improvements. It is important for storm water programs to assess program effectiveness on a watershed level scale. There are several studies that demonstrate the relationship between in-stream restoration and water quality improvements. Moreover, the main objective of storm water permits is to protect beneficial uses. Stream restoration and habitat restoration are related to Aquatic Life and Recreation Beneficial Uses.</p>

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2	14	California Coastkeeper Alliance - Sara Aminzadeh, Sean Bothwell	E.13.	Monitoring - Receiving Water Monitoring	While we appreciate the addition of benthic algal biomass and percent cover monitoring and strongly support bioassessment monitoring, the Draft Permit lacks key monitoring parameters that are often found in storm water. For instance nutrients, metals (e.g., copper and zinc), and conventional pollutants (TSS, TDS, specific conductance, pH, turbidity, total hardness) are notably absent. The State Board should include these parameters in order to meet the goals of a receiving water program. Another concern with the Draft Permit is that the sole stated objective for the “urban/rural interface” location is to understand “receiving water quality change[s] as LID BMPs are integrated into new development.” The objectives of a receiving water program must be much more far-reaching. Additional goals should be incorporated in the requirements and utilized to develop a sufficient receiving water monitoring program.	Comment noted. The Receiving Water Monitoring program does in fact include nutrients. Clear and focused water quality monitoring objectives are important for Permittees to implement an effective monitoring program. As data is collected, the Permittee will have a clear objective in mind while conducting the analysis. The effectiveness of almost a decade of storm water management in Phase I MS4s has not been systematically evaluated through receiving water monitoring. Nationwide, there are few analyses of available data and guidance on how Permittees should be using the data to inform their storm water management decisions. This Order aims to require monitoring based on focused objectives, questions and hypotheses. As such, storm water programs may be adaptively managed and water quality issues addressed appropriately.
2	15	California Coastkeeper Alliance - Sara Aminzadeh, Sean Bothwell	Attachment G	TMDLs	It is concerning that there are TMDL monitoring requirements absent from Attachment G, especially given the lengthy development process for this Permit. TMDL monitoring requirements must be incorporated in Attachment G of the Draft Permit. “[O]nce a TMDL is developed; effluent limitations in NPDES permits must be consistent with the WLA’s in the TMDL.” (Communities for a Better Env’t v. State Water Res. Control Bd. 132 Cal.App.4th at 1322 (citing 40 C.F.R. § 122.44(d)(1)(vii)(B) (NPDES permits must be “consistent with the assumptions and requirements of any available waste load allocation for the discharge prepared by the State and approved by the EPA”)); see also, City	Please see response to comment number 7.

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					<p>of Arcadia v. State Water Resources Control Board (2006) 135 Cal.App.4th 1392, 1404.) Many of these TMDLs have been in effect for numerous years. Monitoring should have already started, and in cases where it has not been implemented, it should start as soon as possible.</p>	
3	1	California Council for Environmental and Economic Balance - Robert Lucas Gerald Secundy	E.12.	Post-Construction	<p>While staff has made changes, it still imposes significant unnecessary and inappropriate requirements on linear underground/overhead projects. To install new underground utilities or to maintain or replace existing underground facilities, LUPs remove and replace existing impervious surfaces (e.g. Pavement, concrete) via trenching and excavation. These activities occur mainly within public rights of way (e.g., streets, parkways) or on private property (e.g., parking lots). To require implementation of the Post Construction Measures as described in Section E.12.a. et. seq. for these projects is unnecessary and inappropriate and will not lead to the improvement of water quality. Replacing existing impervious surfaces as part of a LUP does not increase runoff or increase pollutants or pollutant loads. Requiring site design measures, source control measures, runoff reduction measures, stormwater treatment measures and baseline hydromodification management measures would significantly hinder the installation or maintenance (including replacement) of facilities that are for essential public services. As mentioned above, utilities conduct these activities in public rights of way and on private property which also complicates the placement of and ultimate responsibility for any installed</p>	This permit provision has been revised to address this comment.

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					<p>post- construction facilities that may be required.</p> <p>We believe that the Permit should follow the definition of "redevelopment" in the recently adopted Caltrans MS4 Permit (Order No 2012-0011-DWQ). This definition specifically excludes trenching and resurfacing associated with utility work from post-construction requirements</p>	
3	2	California Council for Environmental and Economic Balance - Robert Lucas Gerald Secundy	E.12.	Post-Construction	<p>Further, the proposed requirements are inconsistent with existing municipal stormwater permits within California that contain the following language:  "Redevelopment does not include trenching and/or resurfacing associated with utility work; resurfacing and reconfiguring surface parking lots and existing roadways; and routine replacement of damaged pavement, such as pothole repair." [e.g., see the definition of "Redevelopment" in the California Regional Water Quality Control Board San Diego Region Order No. R9-2007-0001NPDES No. CAS0108758 Waste Discharge Requirements for Discharges of Urban Runoff From the Municipal Separate Storm Sewer Systems (Ms4s) Draining the Watersheds of the County of San Diego, the Incorporated Cities of San Diego County, the San Diego Unified Port District, and the San Diego County Regional Airport Authority, p. C-7].</p>	This permit provision has been revised to address this comment.
3	3	California Council for Environmental and Economic Balance - Robert Lucas Gerald Secundy	E.12.	Post-Construction	<p>CCEEB understands that, for a project that creates 5,000 sq-ft of new impervious surface, the Board wants the requirements for Regulated Projects to apply. These requirements make sense on projects when all of their new impervious surfaces are located in a discrete area. However, LUPs are different</p>	This permit provision has been revised to address this comment.

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					<p>from a "traditional" construction project; any new impervious surfaces are small and spread out over the length of the project. It would be unusual for a LUP to have 5,000 sq-ft or more of new impervious surface in any one location; new impervious surfaces in most all instances would generally be small sites (e.g., poles, pole foundations, utility vault access covers) that are disconnected typically by hundreds of feet and located along the length of the project.</p> <p>LUPs do not pose the same kind of potential impacts which the proposed permit is trying to address through the requirements in Section E.12. Therefore, it is inappropriate to require the Post Construction Measures to apply to the cumulative amount of new impervious surface along the length of a LUP (i.e., if it exceeds 5,000 sq-ft) when these new small areas of impervious surfaces are located along the length (e.g., miles) of a long line as opposed to when all of the 5,000 sq-ft occurs in one location.</p>	
3	4	California Council for Environmental and Economic Balance - Robert Lucas Gerald Secundy	E.12.	Post-Construction	<p>CCEEB requests that the proposed permit be revised to:</p> <ul style="list-style-type: none"> <li>• Clarify that LUPs are excluded from the Post Construction Measures except for situations where a LUP has &gt;5,000 sq-ft of new impervious surface located in one discrete location; and</li> <li>• Clarify that Post Construction Measures do not apply to trenching and/or resurfacing associated with utility work; resurfacing and reconfiguring surface parking lots and existing roadways; and routine replacement of damaged pavement, such as pothole</li> </ul>	This permit provision has been revised to address this comment.

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					repair.	
3	5	California Council for Environmental and Economic Balance - Robert Lucas Gerald Secundy	Throughout	General	CCEEB appreciates the revisions made by staff in this draft permit to correctly distinguish between the terms "illicit discharges" and "non-storm water discharges". However, there appear to be a few more sections in which this distinction needs to be made. These sections, with proposed revisions are: Section E.6.a.ii.a, F.5.b.2.i., F.5.d.	References to illicit discharges in Section E.6.a.ii.a and F.5.a.1.ii.a are intended to be listed as such. The distinction has been made for Sections F.5.b.2.i. and F.5.d. however.
3	6	California Council for Environmental and Economic Balance - Robert Lucas Gerald Secundy	Finding 39	Prohibited Discharges	CCEEB also appreciates that staff made corrections to sections of the permit to correctly state that it is those conditionally authorized non-storm water discharges that are "significant sources of pollutants" that must be terminated or obtain a NPDES permit. However, in Finding 39 this correction was not made. For consistency with EPA regulations for small MS4s (see 40 CFR 122.34.b.3.iii.L CCEEB requests that the following revision be made to Finding 39: Prohibited non-storm water discharges include conditionally exempt discharges that are found to be a <u>significant</u> source of pollutants to waters of the U.S.	This permit provision has been revised to address this comment.
3	7	California Council for Environmental and Economic Balance -	Attachment C	ASBS	As written, Attachment C.I.A.1.e.2.vii. would only authorize the discharges from vaults and underground structures if they are "...essential	This permit provision has been revised to address this comment.

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		Robert Lucas Gerald Secundy			for emergency response purposes, structural stability, slope stability or occur naturally." see Section I.A.1.e.2). However, this wording is inconsistent with the structure and meaning of the Resolution which does not condition these discharges on being essential for emergency response purposes, structural stability, slope stability or occur naturally. CCEEB requests that the permit be revised so that Section I.A.1.e.2.vii. is not conditioned by Section I.A.1.e.2. and is consistent with the structure and meaning of the Resolution.	
3	8	California Council for Environmental and Economic Balance - Robert Lucas Gerald Secundy	Attachment C	ASBS	<p>This permit seeks to incorporate the requirements of the Resolution (No. 2012-0012). Consistent with the Resolution, this permit's Finding 40 states that:</p> <p>...the NPDES permitting authority may authorize discharges of non-storm water discharges to an MS4 with a direct discharge to an ASBS to the extent the NPDES permitting authority finds that the discharge does not alter natural ocean water quality in the ASBS.</p> <p>However, Attachment C, Section I.A.1.e.2 states that:</p> <p>Additional non-storm water discharges to a segment of the MS4 with a direct discharge to an ASBS are allowed only to the extent the relevant Regional Water Board finds that the discharge does not alter natural ocean water quality in the ASBS. [emphasis added]</p> <p>This statement in Attachment C limits the ability to authorize these discharges to the Regional Boards. However, this MS4 permit is a more appropriate vehicle to make a generic</p>	This permit provision has been revised to address this comment.

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					<p>finding that short duration, intermittent discharges (e.g., groundwater dewatering, potable water system flushing, hydrotest discharges, vault discharges, etc.) made pursuant to a NPDES permit are authorized to discharge to a MS4 segment that has a direct discharge to an ASBS. This would be consistent with the approach in federal regulations (see 40 CFR 122.26.d.2.iv.B. to 122.26.d.2.iv.B.1.) and in MS4 permits (including this one- see Section B.3.) that prohibits non-stormwater discharges to a MS4, except as otherwise authorized by a separate NPDES permit. That is, a discharge of non-stormwater is permitted anywhere in a MS4 where that segment of the MS4 does not have a direct discharge to an ASBS as long as the discharge is made pursuant to a NPDES permit. Therefore, authorizing the discharge of non-stormwater to a MS4 with a direct discharge to an ASBS made pursuant to a NPDES permit in this permit is no different than what is already authorized under federal regulation for discharges of non-stormwater (i.e., pursuant to a NPDES permit) to a MS4 with a direct discharge to areas other than ASBSs.</p>	
3	9	California Council for Environmental and Economic Balance - Robert Lucas Gerald Secundy	Attachment C	ASBS	<p>CCEEB requests that the permit be revised to add a new paragraph to the end of Attachment C.I.A.1.e.2.) that states: Discharges from other sources of non-stormwater to a segment of the MS4 with a direct discharge to an ASBS are permitted if such discharges are authorized by an NPDES permit. A Regional Water Board may nonetheless prohibit a specific discharge if it determines that the discharge is causing the MS4 discharge to the ASBS to alter natural</p>	<p>This permit provision has been revised to address this comment.</p>

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					ocean water quality in the ASBS.	
3	10	California Council for Environmental and Economic Balance - Robert Lucas Gerald Secundy	E.10.	Construction	Since EPA's requirements for the operator of a regulated small MS4 related to construction activity (see 40 CFR 122.34.b.4. -Construction Site Storm Water Runoff Control do not include specific conditions on the application for or issuance of a grading permit, it appears that this requirement goes over and above what is required by federal regulations.	This permit provision has been revised to address this comment.
3	11	California Council for Environmental and Economic Balance - Robert Lucas Gerald Secundy	E.10.	Construction	Further, since the wording of Section is E.10.b.ii.c. is focused on the grading activity and the associated erosion and sediment control plan, it may be fair to assume that the "applicable permits" required to be listed (and obtained before initiating soil disturbance) are limited to those associated with the actual grading. However, based on the way this section is worded ("...including, but not limited to..."L it could be read to include other (if not all) permits. CCEEB is doubtful that staff intended to require all of the plumbing and electrical permits for each house in a residential subdivision be listed, or obtained before soil disturbing activities are initiated on a project. Or for that matter, that all of the ancillary permits (e.g., traffic control permits, encroachment permits) along the entire length of a linear utility project must be listed, or obtained before soil disturbing activities are initiated.	This permit provision has been revised to address this comment.
3	12	California Council for Environmental and Economic Balance - Robert Lucas	E.10.	Construction	For traditional projects (e.g., those covered under the traditional portion of the Stormwater Construction General Permit this requirement may be workable, however, for LUPs (i.e., those	This permit provision has been revised to address this comment.

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		Gerald Secundy			<p>described by the definition of Linear Underground/ Overhead Projects in Attachment A of the Stormwater Construction General Permit) this requirement is unnecessarily burdensome.</p> <p>CCEEB request that these requirements to list all permits for the project in the erosion and sediment control plan and to obtain all permits for the project prior commencing soil disturbing activities be deleted. However, assuming there is a clear federal regulatory basis for this section, CCEEB requests that this it be revised to clarify that:</p> <ul style="list-style-type: none"> <li>• the permits to be subject to this section are only those federal and state permits directly associated with the grading activity (e.g., CGP when ,2: 1acre of soil disturbance; 404/401and DFG approvals when grading will impact a water of the USL not "all permits required for the project;" and</li> <li>• permits need to be obtained before the specific activity that requires the permits is initiated at a particular location, not "all permits required for the project ... prior to commencing soil disturbing activities."</li> </ul>	
3	13	California Council for Environmental and Economic Balance - Robert Lucas Gerald Secundy	E.10.	Construction	<p>Since the State Water Board's issuance of coverage under the Construction General Permit (CGP) authorizes the Permittee to proceed with their construction activities in accordance with the terms and conditions of the CGP and the project's Storm Water Pollution Prevention Plan which embodies the requirements of the CGP for that project, it is unreasonable to further require that the start</p>	<p>The Permittees and Regional Water Boards are encouraged to work together to accomplish the goals of the storm water program, specifically, by coordinating the oversight of construction and industrial sites. For example, certain Permittees are required to implement a construction program that must include procedures for construction site inspection and enforcement. Construction sites disturbing an</p>

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					of construction activities be contingent upon a pre-construction inspection by the small MS4. In fact, the CGP does not contain this inspection requirement. The Small MS4s will likely be resource limited and may have difficulty responding in a timely manner, which would likely result in project crews being constrained from proceeding with soil disturbing work until the Small MS4 conducts the pre-construction inspection. This requirement will likely result in unnecessarily delaying the start of projects and increase costs. CCEEB requests that the draft permit be revised to delete this pre-construction inspection requirement.	acre of land or more are also subject to inspections by the Regional Water Board under the State Water Board's Construction General Permit for Storm Water Discharges associated with Construction and Land Disturbance Activities (CGP). Construction inspections are to be conducted to verify compliance with the Permittee's construction site storm water control ordinance.
3	14	California Council for Environmental and Economic Balance - Robert Lucas Gerald Secundy	E.10.	Construction	It is also unreasonable to require all disturbed areas to reach final stabilization and all temporary control measures to be no longer needed (and have been removed), prior to the Small MS4 approving occupancy. Where revegetation is being used for final stabilization, depending on soil types and time of year, it could be months before final stabilization is achieved. It is unreasonable to delay occupancy of an otherwise habitable structure during this time period. CCEEB requests that the draft permit be revised to delete this occupancy requirement.	Please see response to comment number 13.
3	15	California Council for Environmental and Economic Balance - Robert Lucas Gerald Secundy	E.12.	Post-Construction	The permit proposes to implement "watershed management zones" and associated "criteria for runoff retention and hydromodification control." However, these zones and the associated criteria are not available at this time and staff proposes to develop the zones and criteria and to incorporate them into the permit at a later time through a permit reopener. This raises the following questions:	This Order incorporates a baseline peak flow matching requirement for hydromodification control. During this permit term, the State Board will work towards developing runoff retention and hydromodification control criteria that are keyed to watershed processes. (See discussion in Section VIII of the Fact Sheet.) Watershed management zones will be delineated by the State Board during this permit term. The Watershed management zones will

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					<ul style="list-style-type: none"> <li>• What criteria are to be utilized in the interim?</li> <li>• How is the regulated community (MS4s and those entities subject to the permit indirectly through the MS4s) able to comment on these requirements in this permit proceeding?</li> </ul> <p>CCEEB recommends that runoff retention and hydromodification control requirements be removed from this permit entirely until staff has developed and fully vetted the requirements.</p>	<p>be used to identify applicable areas and to determine appropriate criteria for runoff retention and hydromodification control. Watershed process based runoff retention and hydromodification criteria will be incorporated into the next permit.</p>
4	1	California State University - Elvira San Juan	Provision F.4	Cost	<p>It is estimated that the costs for CSU to implement the program will be significant, ranging from \$9 million to \$17 million annually and greatly affect the CSU's limited budgetary resources. This estimate covers CSU staff and consultant costs to manage the program (documentation, testing, reporting) but does not include the hard cost of construction for storm water retention ponds and monitoring stations. In the July 19, 2012 letter, CSU recommended that the Draft Permit add a provision that would enable public higher educational institutions to alternatively comply with the Permit program through the development of a campus storm water management plan which would identify administrative and implementation actions, as well as a schedule, necessary to meet water quality performance standards rather than through the prescriptive approach in the Draft Permit. <i>Amend F4 of the Revised Draft Permit to provide an option for public higher educational institutions to comply with the Permit program through the development of a</i></p>	<p>Provisions F.3. Maximize Efficiencies and F.4. Equivalent or Existing Document are included in the Order to address the diverse program structures of non-traditional Permittees, including CSU. Permittees are allotted the flexibility to incorporate the required storm water provisions into already existing programs and leverage existing staff to implement BMPs during its day to day activities. Further, Provision F.4. specifically addresses the utilization of existing documents to fulfill compliance with the provisions contained within this Order. As such, staff does not agree that an option specific to public higher educational institutions to develop a separate storm water management plan is necessary to address the issues of cost. Further, non-traditional Permittees are not required to establish monitoring stations in this permit term. State Board recognizes that the cost of monitoring may constitute up to half storm water program costs.</p> <p>Further, please see Economic considerations in Fact sheet. In addition, as part of Phase 2 of a</p>

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					<i>campus storm water management plan which would identify administrative and implementation actions, as well as a schedule, necessary to meet water quality performance standards (which would be established by the State Water Resources Control Board).</i>	Workplan adopted by the State Board to assess and align priorities, resources and performance targets, staff has initiated an assessment of the costs of compliance for dischargers subject to Water Board regulation and oversight in the following four programs: 1) NPDES wastewater, 2) NPDES stormwater 3) Irrigated lands, and 3) Waste discharge requirements (WDR). "
4	2	California State University - Elvira San Juan	F.5.g.	Post-Construction	The Revised Draft Permit requires the treatment of runoff as measured by volume at the 85th percentile of a 24-hour storm runoff event (or the 80th percentile of annual runoff) or as measured by flow rate at 0.2 inches per hour (or two times the 85th percentile hourly rainfall intensity). In geographic areas with low average annual rainfall and/or large variations in intensities of storms, this will result in the capture of all runoff in almost every storm season. The property within CSU campuses is generally constrained and constructing retention basins or other similar structural best management practices (BMPs), would create a burden upon funding and land resources necessary for the support of the academic mission of universities. In addition, many campuses have soil conditions, topographic characteristics and infrastructure that do not lend to economical implementation of BMPs. <i>To resolve the issues with the numeric sizing criteria, it is recommended that the Final Permit include as an alternative to the numeric sizing criteria section that utilizes the United State's Green Building Council's (USGBC) LEED standards for storm water quality control for new construction.</i>	Comments on the November 16, 2012, Draft were limited by the Public Notice dated November 16, 2012, and the Revised Public Notice dated November 30, 2012, to revisions made since the May 21, 2012, Draft. The commenter has submitted a comment on a provision that was not revised after May 21, 2012, and the comment is therefore untimely. All comments on the May 21, 2012, Draft were addressed in the Staff Response to Comments document available at: <a href="http://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/comments_rev_phase_ii_ms4permit/resp_to_comments.pdf">http://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/comments_rev_phase_ii_ms4permit/resp_to_comments.pdf</a>

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4	3	California State University - Elvyra San Juan	Throughout	General	The CSU wishes to thank the State Water Quality Control Board for providing an opportunity for input to the Board on the Revised Phase II Small MS4 General Permit program. By incorporating the changes identified in this letter, we believe that the CSU and other higher educational institutions will be better able to address the goal of improving water quality.	Comment noted.
5	1	California Stormwater Quality Association - Geoff Brouseau	Section D	Receiving Water Limitations	The Receiving Water Limitations Provision (Provision D, pages 19-20) is an important and relevant issue for all Permittees within the State. While the revised order does not modify Provision D per se, it addresses the issue (see Finding #38, page 38; Provision I, page 140; and the Fact Sheet, pages 25-26) by creating a reopener clause. The State Water Board should not defer this issue until a later date (by the use of a reopener clause) and we recommend that the State Water Board address this issue in this permit. Based on the November 20, 2012, workshop, we believe the State Water Board has sufficient input and cause to develop a resolution. CASQA remains ready to support and assist the State Water Board in addressing this issue. Our second comment relates to the statement in the Fact Sheet (see XI. RECEIVING WATER LIMITATIONS, pages 25-26) that the State Water Board's position on this issue is consistent with the 9th Circuit decision. This statement implies that if the State Water Board modifies the Receiving Water Limitation Provision to provide compliance options, the new position would be in conflict with the 9th Circuit decision. We do not believe that is the intent of the Fact Sheet narrative. It is valid to state that a State Water	The discussion of the receiving water limitations in the Fact Sheet has been revised to clarify the State Water Board's position to date and to address the Supreme Court's recent decision reversing the Ninth Circuit judgment in <i>NRDC v. LA County</i> and remanding the case. The State Water Board heard from interested persons at the November 20, 2012, workshop held to consider receiving water limitations provisions in municipal storm water permits and the Board is evaluating options going forward. The State Water Board considers the receiving water limitations question to be an important and complicated issue -- independent of the court ruling -- and believes it requires careful consideration. The Board will continue to rely on the specific reopener clause at Section H to facilitate future revisions, if any, rather than delay consideration of adoption of the Phase II permit.

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					<p>Board position on violations of the permit is subject to enforcement by the State Water Board or through a citizen suit. However, the State Water Board has the discretion to establish the permit conditions and provide compliance mechanisms that if violated, would be subject to enforcement or lawsuit. We recommend that the sentence that begins with "The Ninth Circuit holding is consistent....or through a citizen suit." be deleted from the fact sheet. Direct staff to work with CASQA to revise the Receiving Water Limitation Language in Provision D. Delete "The Ninth Circuit holding is consistent....or through a citizen suit." from page 25 of the Fact Sheet.</p>	
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	2	California Stormwater Quality Association - Geoff Brouseau	E.12.J and Attachment J	Central Coast Post-Construction Requirements	<p>Our concerns with Attachment J are two-fold, policy/procedural and technical. First we are concerned with the apparent escalation in permit requirements being conducted by the various Water Board permit writers in drafting provisions for land development. Furthermore, the clear absence of any consensus within the State on what the requirements are for land development (particularly with respect to hydromodification management) is damaging to the credibility of the entire storm water program. Another policy/procedural related issue is the timing of the inclusion of Region 3 requirements into the draft Phase II Permit. By appending the Central Coast requirements, and stating, "the Water Board expects to amend this Order to incorporate similar requirements for Permittees in the remainder of the State"; the Water Board has introduced an entirely new set of rules with insufficient time for Permittees to fully evaluate the potential</p>	<p>In response to extensive comments received from interested persons, Attachment J has been deleted from the Order. The State Water Board determined that, while the Board continues to support a watershed process-based approach to hydromodification requirements, the Joint Effort process should be allowed to evolve and proceed without direct incorporation into the Small MS4 General Order. This allows an independent process to address several unresolved issues acknowledged by the parties to the Join Effort, including the Regional Water Board. Under new Provision E.12.k, if a Regional Water Board develops post-construction storm water management requirements based on a watershed process approach and consistent with criteria specified, Small MS4s in that Region must implement the developed requirements in lieu of most sections of E.12.k. The implication of these Provisions for the Central Coast regional Small MS4s is that they will be required to</p>
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					impacts of these standards.	<p>implement watershed process-based requirements developed through the Joint Effort after those requirements have been reconsidered and approved by the Central Coast Water Board Resolution NO. R-3-2012-0025 operated as update to SWMPs that are no longer required by this Order.</p> <p>Please see the Fact Sheet Post Construction Storm Water Management for New Development and Re-development discussion for further details. Staff notes that, because E.12.k. precludes imposition of the Joint Effort requirements through Resolution No.R3-2012-0025, the State Water Board considers the pending petitions on that Resolution moot as of adoption of this Order. However, any future action by a Regional Water Board, including the Central Coast Water Board, to adopt a regional watershed process-based approach would be subject to petitions for review by the State Water Board.</p>
5	3	California Stormwater Quality Association - Geoff Brouseau	E.9.b	IDDE – Industrial / Commercial Inspections	As currently written, this requirement reads as an industrial/commercial-light inspection program. As noted in CASQA's previous comments, any industrial/commercial inspection program is above and beyond requirements of the Federal Phase II Final Rule. <i>Direct staff to revise language to clarify that site visits are limited to assessment of outfalls and to indicate that Permittees have the option of creating a self-certification program in lieu of site visits. See Attachment 1 for specifics on recommended modifications.</i>	This permit provision has been revised to address this comment.

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5	4	California Stormwater Quality Association - Geoff Brouseau	Findings	Maximum Extent Practicable Language	CASQA requests that the draft Phase II permit be revised to include findings regarding the maximum extent practicable (MEP) standard similar or identical to those in the existing Phase II permit. The MEP standard is the cornerstone of the storm water regulation, as federal law requires MS4 Permittees to reduce discharges of pollutants in storm water to the MEP. (40 C.F.R. § 122.34(a).) These findings emphasize the flexible, site-specific, and iterative nature of MEP standard as described in the Federal law and guidance. <i>Direct staff to add findings regarding MEP back into the permit.</i>	The proposed Final Order retains Finding 36 (formerly Finding 37) which discusses MEP. In addition, staff has added a discussion of the MEP standard to the Fact Sheet to address this comment.
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5	5	California Stormwater Quality Association - Geoff Brouseau	Section H	Regional Water Board Discretion	We recognize that a Dispute Resolution provision was added to this version of the draft Phase II permit (Provision H, pages 139-140). However, such a process is a reaction-based approach, which is inherently wasteful when there is an absence of a dispute avoidance process, thereby engendering disputes to occur when they could be avoided. A more efficient, management-based approach would be to design into permit administration, a discretion exercise request process. Such a process would require that when a Regional Water Board wants to exercise its discretion, it would create a request to the State Water Board to be reviewed and approved or denied administratively by the State Water Board Executive Director. The request would make the case as to why the Regional Water Board must exercise its discretion and demonstrate that in doing so it would be consistent with the adopted Phase II Small MS4 Permit and applicable policies, plans, and Water Code section 13140, Policy adoption: "The state	Staff has made edits to the Dispute Resolution provision and to the Fact Sheet to further clarify the process for review of permit interpretation and implementation that requires Regional Water Board discretion. Although staff appreciates the suggestions made by CASQA and others to create a process whereby the Regional Water Board requests review by the State Water Board prior to exercising its discretion, staff believes that this proposed process will unnecessarily slow down implementation of the permit by involving the State Water Board management in every instance of discretion. Instead, staff continues to support a process whereby the discharger and the Regional Water Board initially attempt to come to agreement on the appropriate exercise of discretion and bring the issue for review to the State Water Board only if they are unable to come to agreement. The Dispute Resolution provision has been revised, however, to clarify the interplay between the Dispute Resolution process and the petition process. Where the Regional Water
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					board shall formulate and adopt state policy for water quality control.”	Board Executive Officer exercises discretion in interpreting or implementing the Permit, the Regional Water Board Executive Officer is considered to be acting as an agent of the State Water Board under this State Water Board-issued general permit. Those actions are actions of the State Water Board rather than actions of the Regional Water Board and therefore not petitionable actions under Water Code 13320. (However, actions may be subject to a petition for writ of mandate for review in Superior Court under Water Code 13330). Because the petition process is not available to dischargers in such cases, the Dispute Resolution provision has been revised to extend the time limit for submitting a request for dispute resolution from 10 days to 30 days. The revisions also make it clear that actions taken by the Regional Water Board itself or by the Executive Officer under authority independent of the permit terms, as under Water Code 13300, 13304, or 13383, are actions subject to a petition pursuant to Water Code 13320.
5	6	California Stormwater Quality Association - Geoff Brouseau	Throughout	Applicability of Provision E Comments to Provision F	Provision E comments also apply to the non---traditional provision (Provision F), where applicable.	Comment noted.
5	7	California Stormwater Quality Association - Geoff Brouseau	Fact Sheet (page 21)	NOI Filing Date – Consistency	Currently there are conflicting deadlines for NOI filing dates for renewal permitted. We recommend the NOI filing date be consistent with all designated permitted and be required six months from effective date of the permit. Based on our current understanding of the effective date (no less than 50 days from the adoption date per the glossary– also see Comment #36 on this definition) this would	This permit provision has been revised to address this comment. The permit effective date is no less than 100 days from the adoption date of the permit (June 25, 2013). NOI filing date is set at July 1, 2013.

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					place the NOI filing after July 1, 2013. This allows permittees sufficient time to budget for fees, especially those permittees on a fiscal year budget of July 1 through June 30.	
5	8	California Stormwater Quality Association - Geoff Brouseau	Throughout	Reporting	Except for Planning & Development Review Process, E.12.i, all reporting now references the SMARTS online reporting system. CASQA had significant comment on prior draft's reporting requirements, but is unable to provide comment on this draft without knowing the content of the SMARTS report. Water Board staff should work closely with Permittees to develop appropriate reporting requirements that do not extend or expand upon the Order itself.	Comment noted. Staff is currently organizing a SMARTS test group to assist in the compilation of appropriate reporting requirements. The test group process will initiate shortly after adoption of this Order.
5	9	California Stormwater Quality Association - Geoff Brouseau	Fact Sheet, Post-Construction Storm Water Management for New Development and Re-development – Modification	Central Coast Post-Construction Requirements	This portion of the fact sheet states: "The requirements developed in the Joint Effort have been adopted in this Order as Attachment J (Central Coast---Specific Post---Construction Requirements) and are applicable to specified Permittees in the Central Coast Water Board region.31" As indicated in our post---construction comments (see cover letter, post---construction comment below, and Attachment 2), including the Central Coast Post---Construction Requirements (either as an attachment or direct reference) nulls petitions from Permittees in Region 3 to the State; limits or prevents revisions that Region 3 might adopt; creates confusion due to technical errors and complexity within the Region 3 requirements; places uncertainty on implementation of E.12 provisions; and does not support the statewide NPDES Permit consistency effort. Additionally, changing any portion of E.12 midway through the permit	The Fact Sheet has been revised to address this comment. Please see response to comment number 2.

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					term would be a burden on MS4s and present numerous technical issues with these requirements. Delete references to Central Coast Post---Construction Requirements and text that implies that these Requirements are likely to be adopted statewide.	
5	10	California Stormwater Quality Association - Geoff Brouseau	Finding # 28	Monitoring	This finding states that all MS4s with a population of 50,000 or more must conduct monitoring specified in the Order or approved by the Executive Officer of the applicable Regional Board. The statement is not entirely consistent with Section E.13 of the Order. Change the text as follows: "However, all Regulated Small MS4s <del>that discharge to ASBS or impaired water bodies and all MS4s with a population of 50,000 or more</del> must conduct monitoring specified in the Order or approved by the Executive Officer of the applicable Regional Board."	Finding 28 has been clarified to address the commenter's concerns.
5	11	California Stormwater Quality Association - Geoff Brouseau	Section B.4 and E.6.a(ii)(d)	Incidental Runoff	New language (redline strikeout) clarified discharge prohibition with respect to incidental runoff. The following edits are needed to ensure the remainder of the paragraph and E.6.a align with new edits. <i>Modify B.4 language as follows:</i> <i>Discharges in excess of an amount deemed to be incidental runoff shall be controlled. Regulated Small MS4s shall require parties responsible for such to implement Sections B.4.a---ed below to control the incidental runoff. Incidental runoff is defined as unintended amounts (volume) of runoff from potable and recycled water use areas, such as unintended, minimal over---spray from sprinklers that escapes the area of intended use. Water leaving</i>	This permit provision has been revised to address this comment.

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					<p><i>an intended use area is not considered incidental if it is part of the facility design, if it is due to excessive application, if it is due to intentional overflow or application, or if it is due to negligence. Modify E.6.a(ii)(d) language as follows:</i></p> <p><i>Require parties responsible for <u>runoff in excess of incidental runoff</u> to implement Discharge Prohibition B.4 <del>a---d-a</del> to control incidental runoff.</i></p>	
5	12	California Stormwater Quality Association - Geoff Brouseau	E.1.b	Continued Implementation	<p>The third draft includes new, redline specificity regarding SWMP submittal requirements. This section contradicts previous statements that SWMPs are no longer required. The new language explicitly states that Permittees “shall submit”...an updated SWMP. Additionally if a Renewal Permittees is notified by the Regional Board EO that they can continue implementation of BMPs it does not make sense to require them to update their SWMP with additional BMPs. If they are continuing their program, it’s unlikely that there will be new or additional BMPs. This language should be simplified to reduce conflict with previous statements. Additionally, deadlines should be placed on Regional Boards for notification so that a Permittee is able to appropriately plan for and implement their storm water program on the effective date of the Phase II Permit renewal. <i>(Please see CASQA comment letter, page 1-5 of 1-29 and 1-6 of 1-29 for detailed recommended language).</i></p>	This permit provision has been deleted.
5	13	California Stormwater Quality Association - Geoff Brouseau	E.3.b.	Continued Implementation	Same comment as above.	Please see response to comment number 12.

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5	14	California Stormwater Quality Association - Geoff Brouseau	E.6.a.i & E.6.b.i [pages 23 & 25] & F.5.a.1(iii) [page 101]	Legal Authority	The redline text indicates that the permittee shall certify that the Permittee has and will maintain full legal authority (E.6.b.i), however E.6.a.i states that Permittees must obtain adequate legal authority within the second year. Permittees cannot certify that they have legal authority before they obtain that authority. <i>Revise the timeline to require certification by year two.</i>	This permit provision has been revised to address this comment.
5	15	California Stormwater Quality Association - Geoff Brouseau	E.7.a(ii)(j) [page 30]	Education and Outreach	As previously indicated (CASQA Comments on the February 2011 Confidential Draft), unless the Permittee is a school district, it has no authority to educate students in elementary schools. In many cases, school curriculum and schedule requirements make it difficult for extra presentations to be made within the classroom. The revised redline language reduces Permittee's flexibility and ability to provide outreach to school-aged children. <i>Replace current language with language similar to the K-12 outreach requirement included in the recently adopted Los Angeles NPDES MS4 Permit: <u>Provide independent, parochial, and public schools within in each Permittee's jurisdiction with materials to educate school children (K-12) on storm water pollution. Material may include videos, live presentations, and other information. Permittees are encouraged to work with, or leverage, materials produced by other statewide agencies and associations such as the State Water Board's "Erase the Waste" educational program and the California Environmental Education Interagency Network (CEEIN) to implement this requirement.</u></i>	This permit provision has been revised to address this comment.
5	16	California Stormwater Quality Association - Geoff Brouseau	E.9.a. [pages 36]	Outfall Mapping-Renewal	New (redline) permit language indicates that "development of the outfall map shall include a visual outfall inventory involving a site visit to	Staff does not agree that Renewal Small MS4 Permittees that have already developed an outfall map should be exempt from site visits to

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				Permittees	<p>each outfall". Many Renewal Permittees have up-to-date outfall maps. Please allow such Permittees to submit their up-to-date outfall map without visiting all Permittee-owned outfalls in the field. <i>Modify language as follows: The map may be in hard copy and/or electronic form or within a geographic information system (GIS). The development of the outfall map shall include a visual outfall inventory involving a site visit to each outfall unless the Permittee already has an up-to-date outfall map that can be submitted.</i></p>	<p>each outfall. The intent of the outfall inventory and associated field sampling (as specified in Section E.9.c. Field Sampling to Detect Illicit Discharges) is to effectively detect, investigate and eliminate illicit discharges into the Permittee's system. The permit requires Permittees to proactively detect and sample flowing outfalls while conducting the outfall inventory. In the case that a Permittee has previously completed an outfall map, they must also conduct a survey of outfalls within the urbanized area to detect dry weather flows. However, this permit provision (E.9.a.) has been revised to include language pertaining to Renewal Permittees with an existing and up to date outfall map. The up-to-date outfall map must include the minimum requirements specified in E.9.a.(ii)(a - e) and does not exempt Renewal Permittees from conducting field sampling as specified in E.9.c. Field Sampling to Detect Illicit Discharges.</p>
5	17	California Stormwater Quality Association - Geoff Brouseau	E.9.b(ii)(c) [page 38]	Illicit Discharge Source/ Facility Inventory – IGP Determination	<p>The permit requires Permittees to determine if facilities are required to be covered under the Statewide Industrial General Permit. Regional Boards are the proper authority for determination of IGP coverage, not Permittees. <i>Instead of the current language, it should be modified such that the Permittee is required to 1) notify a facility if they have good reason to believe that the facility should have coverage under the IGP and 2) strongly urge the facility to contact the Regional Board to verify the requirement for coverage under the IGP.</i></p>	<p>While staff is appreciative of the suggested language, staff does not agree that permit language should be modified to require the Permittee to (1) notify the facility if they have good reason to believe coverage is needed under the IGP and (2) urge the facility to obtain coverage under the IGP. This permit provision requires Permittees to notify the applicable Regional Water Board of any facilities requiring permit coverage that are not yet permitted. The permit language states '<b>Upon discovering</b> any facilities requiring permit coverage but are not yet permitted...'. The intent of the language is not to put the onus of non-filer enforcement on the Permittee.</p>

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5	18	California Stormwater Quality Association - Geoff Brouseau	E.9.b(ii)(e) [page 39]	Illicit Discharge Source/Facility Inventory – Facility Assessment	<p>The Permit requires the assessment of inventoried facilities and other priority areas for the presence of illicit discharges. The requirement should be modified such that it is clearly not an assessment or inspection of commercial or industrial site. Modify language so that site visits are limited to assessment of outfalls in priority areas and allow an alternative to site visits in the form of self---certification – similar to the self---certifications as mentioned under post---construction BMP maintenance. At a minimum this requirement should be limited to priority areas and should not cover “all inventoried facilities.” There is little benefit in establishing priority areas if Permittees cannot utilize that to assist in the prioritization of limited resources. <i>Modify language as follows:</i></p> <p><i>The Permittee shall develop and implement procedures to proactively identify illicit discharges originating from inventoried facilities and the other priority areas identified in section E.9.a.(ii).(c). The Permittee shall implement the procedures to assess outfalls <del>in all inventoried facilities and other priority areas</del> for the presence of illicit discharges at least once over the length of the permit term. The procedures shall include field observations, field screening, inspections, and any other appropriate and effective survey methods. <u>Alternatively, Permittees may establish a self---certification program where Permittees require reports from authorized parties demonstrating the prevention and elimination of illicit discharges at their facilities in priority areas at least once over the length of the permit term.</u></i></p>	<p>This permit provision has been revised to address this comment. Language has been clarified to demonstrate that the intent of Section E.9.b.(ii)(e) is not for Permittee's to conduct inspections of all commercial and industrial facilities. The main objective is to proactively identify potential illicit discharges originating from priority areas. There are numerous studies that show dry weather flows from the storm drain system may contribute to a greater amount of some pollutants than wet weather storm water flows. To effectively detect and eliminate these discharges, detective work is required. Proactive procedures as required in Section E.9.b.(ii)(e) are one component of such detective work that must be implemented as part of the detection and elimination process. This requirement may be accomplished as part of the outfall mapping and inventory exercise as required in Sections E.9.a. and E.9.c. of this Order.</p>

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5	19	California Stormwater Quality Association - Geoff Brouseau		Field Sampling – Modifications	<p>A definition for outfall is now provided in Attachment I. This definition specifically calls out ASBS. Please also reference this newly added definition within the IDDE, Field Sampling provision to clarify what it meant by “outfalls.”</p> <p>Permittees should only be required to sample for unknown flows. Having to sample known flows from stream tributaries and perennial springs would add unnecessary costs. In addition, the language does not address municipalities that have already completed their outfall inventories. <i>Modify language by providing clarify for renewal permittees, adding “with unknown flows” and adding a footnote that references the outfall definition in Attachment I:</i></p> <p><i>... (e.g., while conducting the outfall inventory under Section E.9.a) <del>the</del> New Permittees shall sample any outfalls<sup>19</sup> with unknown flows that are flowing or ponding...shall also conduct dry weather sampling (more than 72 hours since the last rain event) of outfalls annually identified as priority areas. Within the third year of the effective date of the permit, Renewal Permittees that have already established an up- --to---date outfall map and are not required to conduct a site visit to each outfall, shall only be required to conduct annual dry weather sampling (more than 72 hours since the last rain event) of outfalls identified as priority areas within the third year of the effective date of the permit.</i></p> <p><i>19: See Attachment I for definition of outfall.</i></p>	<p>Staff does not agree that outfall sizes for Section E.9. should be limited to a size of 18 inches in diameter. An illicit discharge could directly discharge into a receiving water body by way of an outfall measuring less than 18 inches in diameter. Additionally, both EPA and CWP recommend mapping and sampling of all outfalls located within the urbanized area (<a href="http://cfpub.epa.gov/npdes/stormwater/idde.cfm">http://cfpub.epa.gov/npdes/stormwater/idde.cfm</a>).</p>

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5	20	California Stormwater Quality Association - Geoff Brouseau			<p>Some of the constituents are not relevant for discharges to marine waters (e.g., conductivity and hardness). Permittees should be allowed to tailor their response activities to local conditions. For example, a dewatering sump in a building may continue pumping for more than 72 hours after the last rain event (and may in fact be continuous in winter months) and permittees should not have to conduct follow-up investigations, enforcement, etc., if the conductivity exceeds 2,000 <math>\mu\text{S}/\text{cm}</math> which may just be representative of local saline conditions and of no environmental consequence. The permittee must have discretion to tailor the program to meet local needs. <i>Modify text as follows: Verify that indicator parameter as specified in Table 2...are not exceeded. Alternatively, permittees may tailor Table 2 to align with local conditions. Modifications and associated justifications shall be identified within SMARTS within the third year of the effective date.</i></p>	This permit provision has been revised to address the comment.
5	21	California Stormwater Quality Association - Geoff Brouseau	E.10.c.(ii) [page 46]	Construction Site Inspection and Enforcement – Edit	Recent redline strikeout/revisions to this section created some errors in the language. Recommendations below are intended to correct these errors. For example, with the recent edits, the language reads as though projects have erosion and sediment control ordinances which is not the case as municipalities are the ones with the ordinances.	This permit provision has been revised to address this comment.

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5	22	California Stormwater Quality Association - Geoff Brouseau	E.10.c. [page 46]	Construction Site Inspection and Enforcement – Modification	<p>Allow the Permittees to require the project proponent to conduct inspections. <i>Modify as follows:</i></p> <p><i>Prior to allowing an operator to commence land disturbance during the rainy season, the Permittee must perform an inspection, <u>or must require the project proponent to perform an inspection</u>, to ensure all necessary sediment controls are in place. During active construction, the Permittee shall conduct inspections based on prioritization of construction sites. Prioritization criteria shall be based on project threat to water quality. Project threat to water quality includes soil erosion potential, site slope, projects size and type, sensitivity of receiving water bodies, proximity to receiving water bodies, non---storm water, storm water discharges and past record of non---compliance by the operator of the construction site. Frequencies may be conducted in accordance with the frequencies described below. At the conclusion of the project, and prior to final occupancy approval, the Permittee must inspect, <u>or must require the project proponent to inspect</u>, to ensure that all disturbed areas have reached final stabilization and that all temporary control measures are no longer needed and have been removed.</i></p>	<p>Staff does not agree that the project proponent may be allowed to conduct construction site inspections. The requirement is intended for the Permittee to inspect project proponents for compliance with the local construction site storm water control ordinance. Such inspections must be conducted by the Permittee to ensure project oversight is provided and implemented.</p>
5	23	California Stormwater Quality Association - Geoff Brouseau	E.10.c.(ii) [page 47]	Construction Site Inspection and Enforcement – Recommended Inspection Frequency Table Clarification	<p>This section includes a table with recommended inspection frequencies. The table includes the use of the term “bimonthly” which can be interpreted in several ways including every other month and twice a month. The use of “bimonthly” should be replaced with a more descriptive term. The use of the phrase, “not considered a</p>	<p>This permit provision has been revised to address this comment.</p>

Comment Letter #	Comment #	Agency/Name of Commenter	Section	Category	Comment Summary	Response
					Construction Site” does not make sense in the context of the construction provision. This language should be struck as it does not add clarity to recommended inspection frequencies. Projects with an erosivity waiver are not covered by the CGP and therefore inspection should not be required for these sites. (Please see CASQA comment letter page 1-17 of 1-29 for specific recommended language).	
5	24	California Stormwater Quality Association - Geoff Brouseau	E.11.h.(ii)(d) [page 56]	Permittee O&M Activities – Modification	This provision was changed and now requires quarterly evaluation of BMPs instead of annual evaluation. This increases the tracking and reporting requirements without a demonstrated water quality benefit. Annual evaluation is sufficient. <i>Change this requirement to state: Evaluate BMPs – All BMPs implemented during O&amp;M activities shall be evaluated <u>annually</u> <del>quarterly</del>. Also modify E.11.h(i) to annual match frequency.</i>	E.11.h.(ii)(d) was revised to quarterly evaluations to be consistent with the Task Description E.11.h.(i) which requires assessment and inspection of Permittee O&M activities and BMPs on a quarterly basis. Quarterly basis is essential due to the change in seasons. Permittees should inspect BMPs for efficacy and identify failures. It is important to conduct regular inspections and perform maintenance as necessary throughout seasonal changes. If not properly inspected, BMP can result in pollutant discharges.
5	25	California Stormwater Quality Association - Geoff Brouseau	E.12.b.ii [page 60]	Site Design Measures – Modification	Site Design measures are limited to eight specific measures. A project will have no site design options other than one of the listed eight items. A ninth bullet should be added in order to encompass other options that might be available to projects. <i>Add a ninth bullet as follows: (i) Other design measures that are an effective means of reducing site runoff</i>	The SMARTS post-construction calculator allows for the use of other design measures. Staff does not agree that the addition of “other site design measures” within the Order is necessary.
5	26	California Stormwater Quality Association - Geoff Brouseau	E.12.b.ii [pages 60---61]	Site Design Measures, Post-- Construction Calculator – Modification	Determining volume reductions for projects between 2,500 sf and 5,000 sf is an exercise with no purpose. The post---construction calculator is a detailed and complex spreadsheet used for CGP regulated projects,	Staff does not agree that the use of the SMARTS post-construction calculator is inappropriate for projects between 2,500 sf and 5,000 sf. CGP projects that disturb more than 1 acre but result in impervious of less than 2, 500 sf must also use

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					where the requirement is to reduce post---development volumes to pre---project volumes. It is not applicable or appropriate for projects of this small scope as it was developed for sites > 1ac in areas that are not part of an MS4, without provisions for projects located in existing developed areas. Delete the requirement to use the SMARTS Post-Construction Calculator.	the calculator to quantify runoff reduction.
5	27	California Stormwater Quality Association - Geoff Brouseau	E.12.c.ii(c) [page 63]	Permittee's Development Projects --- Clarification	It is unclear what is meant by a Permittee's "most current version of the low impact development runoff standards" <i>Modify text as follows:</i> <i>The Permittee shall develop and implement for public development projects an equivalent approach, equivalent to the approach used for private development projects, to apply the most current version of the low impact development runoff standards to applicable public development projects.</i>	Staff feels that the suggested text edits do not provide further clarity.
5	28	California Stormwater Quality Association - Geoff Brouseau	E.12.e(i) [page 66]	Low Impact Development Design Standards – Correction	Provision E.12.e.(i), the last line should refer to Section E.12.e.(ii)(c). Provision E.12.e.(ii)(f), the end of the first sentence should refer to Section E.12.e.(ii)(c). Please revise.	This permit provision has been revised to address this comment.
5	29	California Stormwater Quality Association - Geoff Brouseau	E.12.J and Attachment J	Attachment J and inclusion of the Central Coast Post---Construction Requirements	Including the Central Coast Post---Construction requirements as a separate matter in this Order nulls petitions from Permittees in Region 3 to the state; limits or prevents revisions that Region 3 might adopt; creates confusion due to technical errors and complexity within the Region 3 requirements; places uncertainty on implementation of E.12 provisions; and does not support the statewide NPDES Permit consistency effort. Additional comments on the	Please see response to comment number 2.

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					Central Coast Post---Construction Requirements are included as Attachment 2. <i>Delete E.12.j. and Attachment J.</i>	
5	30	California Stormwater Quality Association - Geoff Brouseau	E.13(3) & Monitoring Flow Chart	Water Quality Monitoring – Modification	As currently written 303d listing monitoring requirement is too broadly defined and could eventually apply to virtually all waterways in the state. The requirement should be modified to clarify that monitoring for listed waters only pertains to Permittees that are potentially significant contributors and where urban runoff is a source. Note that in one location on the flow chart it indicated “where urban runoff is a source” – this should be carried (where appropriate) throughout the permit and flow chart for consistency and clarity. <i>Modify text as follows: Permittees shall implement monitoring of 303(d) impaired water bodies <u>where urban runoff is a source and where the permittee is potentially a significant contributor, as specified by the Regional Water Board Executive Officer.</u> Modify monitoring flow chart as indicated in Attachment 3.</i>	This permit provision has been revised to address this comment.
5	31	California Stormwater Quality Association - Geoff Brouseau	E.13.(4) [page 83] & Attachment A & Monitoring Flow Chart	Water Quality Monitoring --- Consistency	E.13.(4) clearly states that permittees with a population greater than 50,000 that are not conducting monitoring related to ASBS, TMDLs or 303d impaired waterbodies are required to conduct monitoring as specified in E.13.a and E.13.b. This has not been clearly reflected in Attachment A and the monitoring flow chart. As currently formatted, Attachment A indicates that municipalities with “Ω” and “λ” must do both. Additionally the flow chart should eliminate pathways that indicate that TMDL and 303d listed municipalities should check Attachment A --- Water Quality Monitoring Option requirements. These references should	This permit provision has been revised to address this comment.

Comment Letter #	Comment #	Agency/Name of Commenter	Section	Category	Comment Summary	Response
					<p>be eliminated as it is confusing and is counter to the new redline statement in E.13.(4). Currently the flow chart indicates that municipalities that discharge to a 303d listed waterbody should implement E.13 water quality monitoring and then consult Regional Board within 1 year. A municipality may invest in the planning necessary to comply with E.13 even though the Regional Board may impose 303d listed monitoring requirements later. This could lead to unnecessary expenditure of limited resources since E.13.(4) requirements are only for designated municipalities (≥ 50,000 population without 303d listed monitoring requirements). Correct by simplifying the flow chart to align with E.13.(3) and E.13.(4) and removing references to Attachment A for TMDL and 303d listed municipalities.</p> <p><i>Remove “Ω” where “λ” is indicated to clarify that municipalities conducting TMDL monitoring do not also have to conduct E.13a and b monitoring in Attachment A of the third draft permit.</i></p> <p><i>Edit the monitoring flow chart to align with E.13.(4) and to eliminate confusion. See Attachment 3 of comment letter for flow chart edits.</i></p>	
5	32	California Stormwater Quality Association - Geoff Brouseau	E.13 after E.13 (4) [page 83]	Water Quality Monitoring – Consistency	<p><i>Make the following edits to the section of E.13 right under E.13(4):</i></p> <p><i>Traditional Small MS4 Permittees that are <del>already</del> <u>required</u> to conducting monitoring described in sections E.13.(1), (2) or (3) above of discharges to ASBS, TMDL, and 303(d) impaired water bodies are not required to perform additional monitoring as specified in E.13.a and</i></p>	This permit provision has been revised to address this comment.

Comment Letter #	Comment #	Agency/Name of Commenter	Section	Category	Comment Summary	Response
					<i>E.13.b.</i>	
5	33	California Stormwater Quality Association - Geoff Brouseau	Throughout E.13 and page 83	Outline Structure – Modification	Everything after E.13.(4) should start with “E.13.(4)” until a new section begins. The redline statement under E.13.(4) and the revised language that pertains to regional monitoring should move to the beginning of the section and should refer to sections E.13.(1)---(4) instead of sections E.13.i---iv.	This permit provision has been revised to address this comment.
5	34	California Stormwater Quality Association - Geoff Brouseau	E.13 [page 83]	Regional Monitoring – Clarification	Phase II Permittees may participate with nearby Phase I Permittees as well as other of organizations in establishing or implementing an existing regional monitoring program. It is not feasible to require all or a majority of the Permittees to collaborate to conduct water quality monitoring in order for the program to be considered “regional” because this is a statewide permit. Finally, the discussion of regional monitoring should be placed at the very beginning of the section under E.13 so that it does not appear to be part of E.13.(4).	This permit provision has been formatted for improved clarity.
5	35	California Stormwater Quality Association - Geoff Brouseau	E.13 [pages 83---84]	Regional Monitoring – Modification	We agree with most of the changes that were made to the regional monitoring discussion with one exception. Revised language in the November 16, 2012 Tentative Order states: “The following management questions shall be used to assist in guiding the development of a regional monitoring program, as applicable”. <i>Replace the revised text with: <u>Regional monitoring programs shall address data needs, information requirements, and monitoring questions pertaining to items (1) through (4) above under E.13.</u> Alternatively, revise the redline text to say: <u>The following management questions shall may be used to assist in guiding the development of a regional monitoring program, as applicable.</u></i>	This permit provision has been revised to address this comment.

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5	36	California Stormwater Quality Association - Geoff Brouseau	E.13.(3) & Monitoring Flow Chart [page 83]	303d List--- Related Monitoring – Clarification	The permit should clearly state that consultations with Regional Board for 303(d) list – related monitoring only need occur when “urban runoff” is listed as a source.	This permit provision has been revised to address this comment.
5	37	California Stormwater Quality Association - Geoff Brouseau	E.13.a. [pages 84--- 89]	Additional Clarification	Thank you for your revisions to E.13.a. The section would benefit from additional clarification. <i>Clearly state that upstream and downstream monitoring stations shall be located in the same watershed.</i>	This permit provision has been revised to address this comment.
5	38	California Stormwater Quality Association - Geoff Brouseau	F.5.g.3 [page 130]	Non-Traditional Post-Construction Requirements – Option for Offsite Mitigation	Many Non---traditional Permittees will have difficulty implementing onsite retention requirements due to the unique nature of their sites. For example in a port setting it is common to encounter site conditions that have a high groundwater table (less than 5 ft to surface), tidal influence, soil contamination, and heavy industrial land uses. Unlike Traditional Permittees, many Nontraditional Permittees own much of the land that drains to their MS4. Given the combination of challenging site constraints combined with land ownership, Nontraditional Permittees have the opportunity to identify the most effective and feasible locations for storm water treatment and retention within their MS4. Language should make the establishment of an offsite mitigation program optional (vs. required) as not all Nontraditional Permittees own the land that drains to their MS4. Additionally language should be flexible so that Nontraditional Permittees have the ability to implement the offsite mitigation framework that works best in the context of their storm water program (i.e., language should not constrain their ability to	This permit provision has been revised to address this comment.

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					<p>select a banking program, fee in---lieu, etc.).  <i>Include the following language:</i>  <b><u>F.5.g.3 Alternative Compliance</u></b>  <u>a) Alternative Compliance Measures</u>  <u>When a Permittee determines a project has demonstrated that it is technically infeasible to retain</u>  <u>100 percent of the numeric sizing criteria onsite as specified in F.5.g.2.b, the Permittee may allow the use of infiltration or bioretention BMPs to intercept the volume of storm water runoff not retained onsite at an approved offsite project; or</u></p> <p><u>b) Regional Storm Water Mitigation Program</u>  <u>A Permittee may implement a regional storm water mitigation program to substitute in part or wholly for New and Redevelopment requirements for the area covered by the regional storm water mitigation program.</u>  <u>Implementation of the program must retain the runoff as specified in F.5.g.2.b and result in improved storm water quality.</u></p>	
5	39	California Stormwater Quality Association - Geoff Brouseau	H. [pages 139 – 140]	Dispute Resolution – Modification	<p>CASQA appreciates the addition of Provision H which was added in part to address Permittees request for clarification regarding the Dispute Resolution process. However, the language could be interpreted as an attempt to mollify a Permittee’s rights to use the formal petition process as it is outlined in Water Code 13320. <i>Modify language as follows:</i>  <u>This language does not circumvent, nullify or prevent a Permittee from pursuing the formal petition process as stated in Water Code section 13320.</u></p>	This permit provision has been revised to address this comment.

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5	40	California Stormwater Quality Association - Geoff Brouseau	Attachment I [page 6]	Glossary – Outfall Definition	<p>Modify outfall definition so that it also applies to the IDDE section. This will provide the clarity needed to permittees during field screening.</p> <p><i>Modify as follows:</i>  <i>Outfall --- A point source as defined by 40 CFR 122.2 at the point where a municipal separate storm sewer discharges to waters of the United States and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels or other conveyances which connect segments of the same stream or other waters of the United States and are used to convey waters of the United States. Specific to IDDE provision requirements (E.9) and Ocean Plan monitoring, outfalls include those measuring 18 inches or more in diameter.</i></p>	Please see response to comment number 19.
5	41	California Stormwater Quality Association - Geoff Brouseau	Attachment I [page 6]	Glossary – Permit Effective Date	<p>Although this definition is not shown in redline strikeout, we do wish to point out that the reference to “50 days” after adoption is incorrect. The memorandum of understanding between the US EPA and SWRCB (NPDES Memorandum of Agreement Between the U.S. Environmental Protection Agency and the California State Water Resources Control Board, 1989) indicates that “General permits adopted by the State Board or Regional Boards shall become effective on the 100th day after the date of adoption, if EPA has made no objection to the permit...” [page 22].</p>	The definition of "permit effective date" has been revised to address this comment.
5	42	California Stormwater Quality Association - Geoff Brouseau	Attachment J --- entirety	Central Coast Post-Construction	<p>See comments in cover letter, post--- construction section above, and Attachment 2. <i>Delete.</i></p>	Please see response to comment number 2.

Comment Letter #	Comment #	Agency/Name of Commenter	Section	Category	Comment Summary	Response
				Requirements		
5	43	California Stormwater Quality Association - Geoff Brouseau	Attachment J	Central Coast Post-Construction Requirements	CASQA submitted comments on the Draft Resolution for the Central Coast Post-Construction Requirements on July 6, 2012. Among other things, these comments address the lack of technical justification behind the use of the 95th percentile, 24-hour rainfall event and inconsistencies that these requirements create statewide. These comments are relevant to the third draft of the Phase II permit due to the direct references and inclusion of the Central Coast Post-Construction Requirements in Attachment J. These comments are included below and are provided as part of CASQA's comments on the third draft of the Phase II permit.	Please see response to comment number 2.
5	44	California Stormwater Quality Association - Geoff Brouseau	Attachment J	Central Coast Post-Construction Requirements	Significant, last minutes changes were made to the Central Coast Post-Construction Requirements and therefore CASQA's July 6 comment letter does not address the hydrologic analysis to be used for determining design volume of runoff to be retained and treated onsite (included as Attachment D of the Central Coast Requirements). These requirements are of great concern as they technically unjustified and were integrated without stakeholder input. Background regarding these requirements is provided below.	Please see response to comment number 2.

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5	45	California Stormwater Quality Association - Geoff Brouseau	Attachment J	Central Coast Post-Construction Requirements	<p>The hydrologic analysis to be used for determining design volume of runoff to be retained and treated onsite (included as Attachment D) provides an event-based sizing methodology as an option to a locally calibrated continuous simulation-based model. This event-based methodology originates from a WEF Manual of Practice sizing method that was applied incorrectly. The WEF Manual of Practice (No. 23) is used for determining the water quality capture volume based upon long-term mean precipitation depths throughout the U.S. (generally, the 82-88th percentile). Simple regression equations were then determined to relate the mean rainfall depth to the maximized water quality runoff capture volume. Regression constants based upon those data are provided, depending upon the drain time of a water quality detention facility. The regression constant for a 48-hr drain time is 1.963. (Note: the 2012 WEF Manual of Practice is updated and no longer includes the regression constant at all.)</p> <p>From WEF Manual of Practice (No. 23):</p> <p>Po = (a * C) * P6 Where,  Po = maximized detention volume determined using either the event capture ratio or the volume capture ratio as its basis (watershed in.)  a = regression constant from least-squares analysis  C = watershed runoff coefficient  P6 = mean storm precipitation (watershed in.)</p> <p style="text-align: center;"><b>Drain time of capture volume</b>  <b>12 hours 24</b>  <b>hours 48 hours</b></p>	Please see response to comment number 2.

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					<p>Event capture ratio a = 1.109 1.299 1.545</p> <p>r2 = 0.97 0.91</p> <p>0.85</p> <p>Volume capture ratio a = 1.312 1.582 <b>1.963</b></p> <p>r2 = 0.80 0.93</p> <p>0.85</p> <p>Where r2 = correlation of determination coefficient, which ranges from 0.80 to 0.97, implies a strong level of reliability</p> <p>This value was incorrectly used in the Central Coast Requirements for determining both the Retention Volume and the Water Quality Volume using the 85th and 95th percentile runoff events, respectively. The end result is doubling the volume of runoff that must be retained and treated onsite</p>	
5	46	California Stormwater Quality Association - Geoff Brouseau	Attachment J	Central Coast Post-Construction Requirements	<p>It is unclear how this sizing factor relates to the provision for water quality treatment, because Attachment D is not referenced under PR#2 (Water Quality) where the 85th percentile is cited, but rather under PR#3 (Retention). Also unclear how the sizing factor relates to the Attachment E of the Central Coast Requirements, which address a ten percent adjustment to the Retention Requirement, resulting in a minimum area of (10% of the Equivalent Impervious Surface Area) that must be dedicated to structural Storm Water Control Measures. Considering this is a surface area for a volume retention requirement, it is unclear if Storm Water Control Measures should therefore be sized very deep to accommodate the design</p>	Please see response to comment number 2.

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					retention and water quality treatment volumes within 10% of the site’s equivalent impervious surface area.	
5	47	California Stormwater Quality Association - Geoff Brouseau	Attachment J	Central Coast Post-Construction Requirements	<p>In addition to Attachment D of the Central Coast Requirements, other areas of concern and complexity that were not addressed in the CASQA’s July 6 letter include:</p> <ul style="list-style-type: none"> <li>• Net Impervious Area, which is used for calculating the area for Water Quality Treatment (PR2 Provision (a))</li> <li>• Adjustments to the Runoff Retention requirements for redevelopment based on whether project is located in an Urban Sustainability Area or not</li> <li>• Attachment E, Equivalent Impervious Surface Area, which is used to calculate the area dedicated to structural storm water control measures, includes a table of correction factors for mostly-pervious surfaces such as pervious concrete (0.60), pervious asphalt (0.55), stone (0.25), grass (0.1), and “managed turf” (varies from 0.15-0.25 depending on Hydrologic Soil Group). If measures such as pervious concrete and asphalt are counted towards a site’s imperviousness, there may be disincentive to use these measures.</li> <li>• “10% Rule” (PR3 Retention provision (e)), which is the minimum Equivalent Impervious Surface Area of the project that must be dedicated to “retention-based Storm Water Control Measures” (not defined). It is unclear how this relates to the Retention Volume and Water Quality Volume calculated in Attachment D.</li> </ul>	Please see response to comment number 2.

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					<ul style="list-style-type: none"> <li>• Attachment F, Off-Site Retention Requirements, which includes an “On-site Retention Feasibility Factor” which is the ratio of the Design Retention Volume (of Attachment D) managed on-site to the actual area allocated to structural SCMs,. Then this value is compared to Actual Off-site Mitigation Retention Volume. CASQA is unclear how these calculations result in determining effective performance requirements.</li> </ul>	
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5	48	California Stormwater Quality Association - Geoff Brouseau	Attachment J	Central Coast Post-Construction Requirements	<p>Additionally, Attachment J introduces further inconsistency regarding post-construction requirements across the state and within the Phase II permit (E.12). To illustrate, in some aspects Attachment J is more stringent and in other, less stringent depending on the circumstances, some of which seem arbitrary and create confusion amongst requirements. A few examples:</p> <ul style="list-style-type: none"> <li>• Attachment J uses the E.12 bioretention design configuration, but arbitrarily increases the depth of the soil layer from 18 inches to 24 inches.</li> <li>• The sizing criteria for treatment (Water Quality Volume, in Central Coast Attachment D to Attachment J) are different from the E.12 sizing criteria.</li> <li>• Attachment J allows treatment requirements to be met off-site; this is different from Provision E.12 (where onsite options are somewhat more flexible).</li> <li>• The project-size thresholds for applicability of the treatment requirements are different.</li> <li>• The content and format of submittals for treatment-only projects is substantially different in Attachment J than in Provision E.12.</li> </ul>	Please see response to comment number 2.
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					<ul style="list-style-type: none"> <li>The requirements for verifying operation and maintenance of treatment-only facilities are different.</li> </ul>	
5	49	California Stormwater Quality Association - Geoff Brouseau	Attachment J	Central Coast Post-Construction Requirements	<p>Many of these elements are completely new and unfamiliar, or borrow elements taken from various programs, but taken altogether are unclear and certainly unproven as to their effectiveness or ease of implementation. Given the level of complexity in these new provisions, and the challenges of providing meaningful comment CASQA strongly recommends deletion of any reference to and inclusion of the Central Coast Post-Construction Requirements. Instead, CASQA recommends to allow at least one permit cycle to implement the current administrative draft of the Phase II permit, which incorporates straightforward and implementable LID and “baseline hydromodification management” requirements, which has already been carefully reviewed and crafted resulting in a relatively noncontroversial requirement that will likely accomplish most or all of the hydrologic controls sought by the Central Coast Post-Construction Requirements.</p>	Please see response to comment number 2.
5	50	California Stormwater Quality Association - Geoff Brouseau	Attachment J	Central Coast Post-Construction Requirements	<p>State Water Board staff indicated that the reopener would occur upon delineation of watershed management zones, similar to that produced for the Central Coast. The Central Coast’s watershed management zones are based solely on underlying geology and slope and as such, delineating these zones is not the challenge. The challenge is in selecting hydromodification standards. If the Region 3</p>	Please see response to comment number 2.

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					standards are adopted statewide, that would include retention of all events up to and including the 95th percentile storm event for projects > 15,000 sq ft in delineated watershed management zones that overly a groundwater basin. Although this applies to projects located in delineated WMZs that overly a groundwater basin, these WMZs are typical of urban areas with gentle slopes, good soil, and available water, such as coastal alluvial fans. Applying retention of runoff from all events up to and including the 95th percentile storm event would be a significant shift in LID/hydromod standards statewide.	
5	51	California Stormwater Quality Association - Geoff Brouseau	Monitoring Flowchart	Monitoring Flowchart - Clarifications	Please Attachment 3 of CASQA comment letter for specific revisions to Monitoring Flowchart.	This permit provision has been revised to address this comment.
6	1	Central Coast Joint Effort Review Team - Robert Ketley, Thomas Harty, Cathleen Garnand, Frank Lopez, Valerie Huff	E.12. and Attachment J	Central Coast Post-Construction Requirements	This letter requests that Attachment J be removed from the Phase II Small MS4 General Permit, or that references to the Central Coast Regional Water Board's Post-Construction Stormwater Requirements be removed from the Permit. This request is not to circumvent the Central Coast's Post-Construction program, but rather to provide the Executive Officer a measure of flexibility to revise the Post-Construction Requirements as technical issues are analyzed and resolved. It is understood that the Central Coast's program is more protective of natural watershed processes than the Statewide program described in E-12, providing the Executive Officer latitude to include the Requirements in municipalities' storm water management plans as provided in Findings 30 and 31.	In response to extensive comments received from interested persons, Attachment J has been deleted from the Order. The State Water Board determined that, while the Board continues to support a watershed process-based approach to hydromodification requirements, the Joint Effort process should be allowed to evolve and proceed without direct incorporation into the Small MS4 General Order. This allows an independent process to address several unresolved issues acknowledged by the parties to the Join Effort, including the Regional Water Board. Under new Provision E.12.k, if a Regional Water Board develops post-construction storm water management requirements based on a watershed process approach and consistent with criteria specified, Small MS4s in that Region must implement the developed requirements in lieu of most sections of E.12.k. The implication

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						<p>of this Provisions for the Central Coast regional Small MS4s is that they will be required to implement watershed process-based requirements developed through the Joint Effort after those requirements have been reconsidered and approved by the Central Coast Water Board Resolution NO. R-3-2012-0025 operated as update to SWMPs that are no longer required by this Order.</p> <p>Please see the Fact Sheet Post Construction Storm Water Management for New Development and Re-development discussion for further details. Staff notes that, because E.12.k. precludes imposition of the Joint Effort requirements through Resolution No.R3-2012-0025, the State Water Board considers the pending petitions on that Resolution moot as of adoption of this Order. However, any future action by a Regional Water Board, including the Central Coast Water Board, to adopt a regional watershed process-based approach would be subject to petitions for review by the State Water Board.</p>
6	2	Central Coast Joint Effort Review Team - Robert Ketley, Thomas Harty, Cathleen Garnand, Frank Lopez, Valerie Huff	E.12. and Attachment J	Central Coast Post-Construction Requirements	As you are aware, the central coast Joint Effort Review Team (JERT) is a stakeholder-based, volunteer technical panel that reviewed the technical approach of the Central Coast Water Board’s consultant team, for development of the Central Coast Post-Construction Requirements. The below-signed individual members of the JERT have concern over portions of the Requirements, in particular the attached sizing and design criteria. The technical problems our team has identified, while fairly limited, have the potential to result	Please see response to comment number 1.

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					in unintended and negative consequences on the health of our watersheds. We are in the process of carefully reviewing the criteria to provide feedback and recommendations to Water Board staff. As long as the recommendations comply with the intent of the adopted Requirements, it is our understanding that the Central Coast Water Board intends to approve our recommended modifications to the Requirements prior to the effective date of Sept 6, 2013.	
6	3	Central Coast Joint Effort Review Team - Robert Ketley, Thomas Harty, Cathleen Garnand, Frank Lopez, Valerie Huff	E.12. and Attachment J	Central Coast Post-Construction Requirements	Because the Central Coast Requirements have been incorporated verbatim into the State Board's proposed Phase II Small MS4 General Permit as Attachment J, we are concerned that if the Requirements are adopted into the State Permit, any potential revisions will be delayed and our efforts confounded. This is because the State Permit would need to be reopened to make changes to the Requirements, with the associated public review and comment period. Therefore, we respectfully request that either Attachment J or all reference to the Region 3 Post-Construction Requirements be removed from the Draft Tentative Order.	Please see response to comment number 1.
7	1	City and County of San Francisco Public Utilities Commission - Tommy Moala	Attachment A	Attachment A	The current draft lists the City and County of San Francisco under Attachment A as a Traditional. However, it also continues to list San Francisco under Attachment B as a non-Traditional which, per earlier discussions with staff, does not appear to be the correct designation. We request that San Francisco be removed from Attachment B.	Attachments A and B have been revised to address this comment.
7	2	City and County of San Francisco Public Utilities Commission - Tommy Moala	Throughout	Receiving Water Limitations	We strongly believe that the permit should not be adopted until the issue of strictly applying water quality standards (WSQS) to MS4s is resolved. As drafted the proposed permit would	The discussion of the receiving water limitations in the Fact Sheet has been revised to clarify the State Water Board's position to date and to address the

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					extend strict compliance to these smaller MS4s and expose them to third party lawsuits even though cost-effective BMPs are not available to meet WQS (for example, the bacteria objectives for which disinfection BMPs do not exist).	Supreme Court's recent decision reversing the Ninth Circuit judgment in <i>NRDC v. LA County</i> and remanding the case. The State Water Board heard from interested persons at the November 20, 2012, workshop held to consider receiving water limitations provisions in municipal storm water permits and the Board is evaluating options going forward. The State Water Board considers the receiving water limitations question to be an important and complicated issue -- independent of the court ruling -- and believes it requires careful consideration. The Board will continue to rely on the specific reopener clause at Section H to facilitate future revisions, if any, rather than delay consideration of adoption of the Phase II permit.
7	3	City and County of San Francisco Public Utilities Commission - Tommy Moala	Finding # 28	Monitoring	The new requirement for monitoring listed or potentially listed waters should be made more specific and should only pertain to Small MS4s that are potentially significant contributors (in aggregate) to a listed waterway.	This Finding has been revised for clarity to address this comment.
7	4	City and County of San Francisco Public Utilities Commission - Tommy Moala	Finding # 38	Receiving Water Limitations	The permit should not be issued until this issue of strictly applying water quality standards to MS4s is resolved.	Please see response to comment number 2.
7	5	City and County of San Francisco Public Utilities Commission - Tommy Moala	Finding # 39	Non-storm water Discharges	In most of the Water Boards' regulatory initiatives, "pollutant" is defined or effectively considered as any constituent in a discharge that is not water. Every discharge has measureable constituents, and thus all conditionally exempt discharges would be prohibited. Therefore, the current language of the draft permit leaves all conditionally exempt discharges at risk of being found to be prohibited. We therefore request that you	The use of the phrase "source of pollutants" in Finding 38 (previously Finding 39) is consistent with phrasing in 40 Code of Federal Regulation section 122.26(d)(2)(iv)(B)(1). However, staff has added the term "significant" as a qualifier.

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					clarify that this Finding and the related permit provisions that "pollutant" in context of this permit means a constituent in a concentration presenting an identifiable risk to beneficial uses.	
7	6	City and County of San Francisco Public Utilities Commission - Tommy Moala	Finding # 42	Watershed Process-based Criteria	Please include which Boards have approved criteria and where they apply.	Watershed process-based criteria discussion has been added to the Fact Sheet. Please see the Post-Construction discussion for more details.
7	7	City and County of San Francisco Public Utilities Commission - Tommy Moala	Section D	Receiving Water Limitations	The permit should not be issued until this issue of strictly applying water quality standards to MS4s is resolved	Please see response to comment number 2.
7	8	City and County of San Francisco Public Utilities Commission - Tommy Moala	E.1.b	Continued Implementation	Please provide an understanding of the factors that will be used as the basis for the Executive Officer to the determination that "a Renewal Traditional Small MS4 Permittee's current implementation of BMPs is equally or more effective at reducing pollutant discharges than implementation of the requirements of a given subsection". We request the factors for making this decision be specified in the permit.	Section E.1.b. has been deleted from this Order.
7	9	City and County of San Francisco Public Utilities Commission - Tommy Moala	E.1.b.	Continued Implementation	As it is up to the Regional Board to determine if the SWMP or updated SWMP BMPs will achieve compliance with the order, we believe the language should be modified to "The updated SWMP shall include a signed certified statement by the Permittee, in accordance with Attachment F Sections 11 and 12 of this Order, certifying implementation of the SWMP." We request that the language "will achieve compliance with this order" be removed.	Please see response to comment number 8.
7	10	City and County of San Francisco Public Utilities Commission - Tommy Moala	E.7.	Education and Outreach	We request that parameters and guidance be established by the State Water Board and provided to the Regional Water Boards for establishing the basis for Permittees required to	This permit provision has been revised to address this comment. Please see the Fact Sheet discussion of Public Education and Outreach for a detailed discussion. USEPA has developed a

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					implement Community Based Social Marketing. More specifically, CBSM should only be required for larger MS4s and only when a specific need exists. CBSM is relatively new, complex, and potentially expensive to implement.	document that identifies principles of CBSM. See <a href="http://www.epa.gov/owow/watershed/outreach/documents/getnstep.pdf">http://www.epa.gov/owow/watershed/outreach/documents/getnstep.pdf</a> The Regional Water Boards have greater knowledge and expertise as to the specific storm water issues in their region and may exercise their authority to require CBSM as specified in (Wat. Code §13377.)
7	11	City and County of San Francisco Public Utilities Commission - Tommy Moala	E.10.c.	Construction	We respectfully request that you remove "other sites with one acre of more of soil disturbance (or part of a larger common plan of development not considered a construction site". We do not believe that it would be realistic to recommend/require inspection of sites with disturbed area not part of a construction project as defined in the Construction Site Runoff Control Program.	This permit provision has been revised to address this comment.
7	12	City and County of San Francisco Public Utilities Commission - Tommy Moala	E.11.f.(ii)	Pollution Prevention/Good Housekeeping	Please define "large volumes of runoff".	The definition of "large volumes of runoff" varies with a Permittee's local climate conditions and characteristics. Generally, a large volume of runoff exceeds the average volume of runoff generated in a particular area.
7	13	City and County of San Francisco Public Utilities Commission - Tommy Moala	E.12.f.	Post-Construction	An additional measure should be added to the end of the list of Site Design Measures that covers other, not listed but effective measures. Suggest adding Site Design Measure "i) or other site design measure that has been proven effective to reduce project site runoff." For example, Bioretention Planters are often used by projects in San Francisco to reduce storm water runoff but they are not included in this list.	The site design measures listed are based on the measures included in the SMARTS post-construction calculator. The calculator allows for alternative site design measures to be entered.
7	14	City and County of San Francisco Public Utilities Commission - Tommy Moala	E.12.b.(ii)	Post-Construction	Without an associated performance requirement it is unclear what benefit will come from requiring the use of the calculator for these small projects. San Francisco has developed our own calculator for use in complying with post construction requirements	The performance requirement is included in Section E.12.e.ii. Please the revised Order for details. If an equivalent method of calculating runoff reduction is being used, the Permittee may use the equivalent.

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					but it is designed specifically for our performance measure and would not work well for projects that do not have to comply with that performance measure. Also, completing the SMART calculator or an equivalent, such as San Francisco's calculator, requires a level of expertise that design teams for these smaller projects may not often have. We therefore recommend removing the requirement to calculate the runoff reduction.	
7	15	City and County of San Francisco Public Utilities Commission - Tommy Moala	E.12.c.	Post-Construction	The numbering format is inconsistent. After the first (a)-(c), the lettering restarts at (a). Please update. It is not clear from the text of this section what design storm needs to be infiltrated or treated for regulated road projects. Infiltration in highly urban and sometimes contaminated conditions may not be allowed or practicable. The requirement to treat runoff that cannot be infiltrated on site to the "extent feasible" leaves the Permittee unclear on how to implement this requirement. We recommend that road projects be added to the "Exceptions to Requirements for Bioretention Facilities" outlined in E.12.e (ii) (i) instead.	This permit provision has been revised to address this comment.
7	16	City and County of San Francisco Public Utilities Commission - Tommy Moala	E.12.e.	Post-Construction	The reference to numeric sizing criteria in the task description should be changed from "E.12.c" to "E.12.e.ii(c)"	This permit provision has been revised to address this comment.
7	17	City and County of San Francisco Public Utilities Commission - Tommy Moala	E.12.e.	Post-Construction	We recommend that you add a note that the 85th percentile 24-hour storm runoff event is available in the SMARTS calculator.	Please see response to comment number 14.
7	18	City and County of San Francisco Public Utilities Commission - Tommy Moala	E.12.e	Post-Construction	The numbering format is inconsistent. Section (c) is missing.	This permit provision has been revised to address this comment.

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7	19	City and County of San Francisco Public Utilities Commission - Tommy Moala	E.12.i	Post-Construction	It is not clear what the term "landscape code" is referring to. If the purpose is to reference the local building code, which included outdoor space code requirements, then the language should be amended to reflect this clarification.	This permit provision has been revised to address this comment.
7	20	City and County of San Francisco Public Utilities Commission - Tommy Moala	E.13	Monitoring	Please include some guidance, within the Permit, to the Boards on how they make this decision regarding Water Quality Monitoring. Please take into account specific factors, such as: Receiving water monitoring is designed for streams rather than for those discharging to lakes, ocean, or bays; the selected parameters, justifications, and protocols may be inappropriate in some cases. For example, increased bacteria cell count could be due to changes in bird populations; monitoring for E. Coli is not appropriate for marine waters; nutrients are generally not significant for marine waters; and pyrethroids are unlikely to be an issue for the duration of the permit period because of recent action by the California Department of Pesticide Regulation.	Regional Water Boards are autonomous entities responsible for water quality protection within their boundaries. There are slight nuances regionally based upon the varying degrees to which receiving waters need to be protected. Accordingly, the Regional Water Boards have greater knowledge and expertise as to the specific storm water issues in their region and may exercise their designation discretion accordingly.
7	21	City and County of San Francisco Public Utilities Commission - Tommy Moala	E.14.a.(ii)(a)(9)	Program Effectiveness	As the permit is the basis for the Effectiveness Assessment and Improvement Plan requirements, please remove the language "beyond the permit term".	The Program Effectiveness Assessment and Improvement Plan includes short-term and long-term analyses. It is important for Permittees to initiate planning for long-term effectiveness.
7	22	City and County of San Francisco Public Utilities Commission - Tommy Moala	E.14.a.(ii)(a)(4)	Program Effectiveness	During the last permit review period, comments were submitted regarding the difficulty of assessing pollutant source reductions achieved by individual BMPs, and the challenge in assessing BMP performance at achieving outcome levels, because such an assessment will still rely on an assessment of individual BMPs. We appreciate Water Board Staff recognizing these challenges. However, requirements for 1) assessment of BMP performance at achieving outcome levels	Assessment of pollutant source reductions is one of the Outcome Levels developed by CASQA and the Municipal Storm Water Program Effectiveness Assessment Guide (CASQA May 2007). While pollutant load quantification is not required in this permit cycle, staff maintains that it is in an important component of program effectiveness assessment. It is also important to note that pollutant load quantification is made optional in Section E.14. and is not a mandatory requirement as written.

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					(Section E.14.a.ii.a.4, page 93 and 2) assessment of pollutant source reductions achieved by individual BMPs (Section E.14.a.ii.a.5) still remain in the third draft. We request these sections be removed. Deletion of the sections will allow Permittees to devote resources to program implementation and enforcement instead of re-allocating our resources to pollutant removal efficiency assessment.	
7	23	City and County of San Francisco Public Utilities Commission - Tommy Moala	E.14.a.(ii)(a)(4)	Program Effectiveness	During the last permit review period, comments were submitted regarding the difficulty of quantifying pollutant loads and pollutant reductions achieved by the program as a whole. We appreciate the Water Board Staff's recognition of these challenges, demonstrated by the deletion of E.14.b Municipal Watershed Pollutant Load Quantification. However, requirements for quantification of pollutant loads and pollutant load reductions still remain in the third draft. We request that the Water Board Staff remain consistent with their decision to remove E.14.b and remove the requirements for 1) quantifying pollutant load reductions (Section E.14.a.ii.b.4, page 93) and 2) quantifying pollutant loads and pollutant load reductions achieved by the program as a whole (Section E.14.a.ii.a.6, page 93).	Duplicate comment, please see response to comment number 22.
7	24	City and County of San Francisco Public Utilities Commission - Tommy Moala	Throughout	General	We greatly appreciate the responsiveness of your staff to previous comments, and we hope that the comments provided here are also useful in achieving an effective regulation which will help further responsible stewardship of the water environment.	Comment noted.
8	1	City of Carmel-by-the-Sea - Jason Stilwell	E.7.b.2.a.(ii)	Construction	The revision does NOT address the heart of the comment, namely the smaller entities that will not have larger projects will still be required to	Staff does not agree that certification of one designated staff person will cause unnecessary costs. Further, this requirement has previously

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					<p>obtain training and certification for at least one individual on their staff as a QSD and as a QSP. This will cause these smaller cities to incur unnecessary costs.</p>	<p>undergone substantial revisions to address cost.</p>
9	1	City of Carpinteria, Department of Public Works - Erin Maker	Attachment J	Central Coast Post-Construction Requirements - General	<p>The City of Carpinteria generally supports the new and revised requirements proposed in the Phase II Permit and believes we can incorporate the new measures into our existing Storm Water Management Program. However, the exception to this is Attachment J, the Resolution adopted by the Central Coast Water Board detailing new post-construction Runoff Controls for the Central Coast Region. These requirements are complex and untested, having as yet not been applied to real development projects. The City requests that the State Board direct the Central Coast Regional Water Board to rescind the Region 3 post-construction requirements (Resolution No. R3-2012-0025) and apply the statewide E.12 post-construction standards of the Phase II Permit to the Central Coast Permittees</p>	<p>In response to extensive comments received from interested persons, Attachment J has been deleted from the Order. The State Water Board determined that, while the Board continues to support a watershed process-based approach to hydromodification requirements, the Joint Effort process should be allowed to evolve and proceed without direct incorporation into the Small MS4 General Order. This allows an independent process to address several unresolved issues acknowledged by the parties to the Joint Effort, including the Regional Water Board. Under new Provision E.12.k, if a Regional Water Board develops post-construction storm water management requirements based on a watershed process approach and consistent with criteria specified, Small MS4s in that Region must implement the developed requirements in lieu of most sections of E.12.k. The implication of this Provisions for the Central Coast regional Small MS4s is that they will be required to implement watershed process-based requirements developed through the Joint Effort after those requirements have been reconsidered and approved by the Central Coast Water Board Resolution NO. R-3-2012-0025 operated as update to SWMPs that are no longer required by this Order.</p> <p>Please see the Fact Sheet Post Construction Storm Water Management for New Development and Re-development discussion for further details. Staff notes that, because E.12.k.</p>

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						precludes imposition of the Joint Effort requirements through Resolution No.R3-2012-0025, the State Water Board considers the pending petitions on that Resolution moot as of adoption of this Order. However, any future action by a Regional Water Board, including the Central Coast Water Board, to adopt a regional watershed process-based approach would be subject to petitions for review by the State Water Board.
9	2	City of Carpinteria, Department of Public Works - Erin Maker	Attachment J	Central Coast Post-Construction Requirements - General	Alternatively, the City requests that Attachment J be removed from the Phase II Permit, as it is likely that revisions will be made to the requirements through the Joint Effort Review Team (JERT), reformed at the direction of the Regional Board. Additionally, attaching the Resolution would require reopening and amending the State Permit, a lengthy and unnecessary process.	Please see response to comment number 1.
9	3	City of Carpinteria, Department of Public Works - Erin Maker	Attachment J	Central Coast Post-Construction Requirements - General	The City is concerned that the post-construction requirements that were developed are not clearly linked to the initial science based watershed analysis. Additionally, Attachment D of Resolution No. R3-2012-0025, which defines sizing criteria for retention and water quality design, was added shortly before the September 2012 adoption hearing and was not subject to stakeholder or JERT review.	Please see response to comment number 1.
9	4	City of Carpinteria, Department of Public Works - Erin Maker	Attachment J	Central Coast Post-Construction Requirements - Technical Infeasibility	The City has an overarching concern that the regulations have not been tested for feasibility on projects in our region, and these requirements may not be attainable in many areas of the Central Coast. The City has suggested that the Central Coast Water Board work on verifying the technical feasibility of the	Please see response to comment number 1.

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					regulations and offer greater flexibility for those project sites where regulations are shown to be technically infeasible.	
9	5	City of Carpinteria, Department of Public Works - Erin Maker	Attachment J	Central Coast Post-Construction Requirements - Runoff Retention	This requirement is an unreasonably high standard for projects to meet with onsite retention/infiltration while still allowing for a reasonable use of property. Some areas may not be able to infiltrate a 95th percentile storm event even under undeveloped conditions due to high groundwater and a combination of high rainfall and low infiltration soils. There is also the possibility that applying this requirement to retain/infiltrate all projects over a certain size would have unintended consequences on local habitat that could lead to a decrease in watershed health. The second option, to perform a site-specific hydrologic analysis and use this data to provide appropriate site-specific compliance, would allow those areas that do not historically infiltrate a 95th percentile storm event to match existing site conditions and should be included in the post-construction requirements. These requirements become even more complex when applying the 1.963 multiplier (Attachment D), which almost doubles the volume of runoff retention. Again, we have not yet seen any scientific evidence that this multiplication factor would benefit the local watershed processes.	Please see response to comment number 1.
9	6	City of Carpinteria, Department of Public Works - Erin Maker	Attachment J	Central Coast Post-Construction Requirements - Alternative Compliance	There are several limiting factors that would inhibit the effectiveness of requiring off-site compliance in many areas of the Central Coast Region, as listed below: <ul style="list-style-type: none"> <li>• Small, built out WMZ's: Carpinteria falls into two different Watershed Management Zones. The requirements state that alternative compliance must be implemented within the</li> </ul>	Please see response to comment number 1.

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					<p>same WMZ; however, due to development and property rights, there are limited locations that alternative compliance would be feasible.</p> <ul style="list-style-type: none"> <li>Permitting: Project applicants, or the City, may have to go through additional permitting requirements which would include environmental review and possibly obtaining permits from other jurisdictions, including the Department of Fish and Game for these off-site improvements. This could be a time consuming and expensive process.</li> </ul> <p>If technical infeasibility prohibits a site from meeting the standards, then an approach similar to what is now used by the City, implementing to the maximum extent practicable, is suggested. However, greater flexibility for sites with constraints that do not allow them to implement the post-construction requirements, as written, is needed.</p>	
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9	7	City of Carpinteria, Department of Public Works - Erin Maker	Attachment J	Central Coast Post-Construction Requirements - General	Requiring infiltration of runoff to the extent described in the regulations may have undesired consequences on local habitat landscapes that have adjusted over time to the increased water inputs afforded by urban development.	Please see response to comment number 1.
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9	8	City of Carpinteria, Department of Public Works - Erin Maker	Attachment J	Central Coast Post-Construction Requirements - Cost	The regulations would increase the cost for both private and public developments, both during the review process and for implementation. Smaller projects, particularly residential new/redevelopment, will be required to hire engineers and pay for hydrologic modeling, which could be such a financial burden to project applicants that they abandon the project. This will have wider spread economic impacts than intended. The City suggests finding more effective and efficient methods of protecting and improving	Please see response to comment number 1.
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					water quality that do not have adverse effects on the Central Coast's economic vitality.	
10	1	City of El Paso De Robles - Patti Gwathmey	E.1.	Continued Implementation	The City believes that the Permittee should be the party to request the continued implementation of a current SWMP subsection, not the EO. Additionally, requiring the Permittee to update the SWMP with additional BMPs to bring the Permittee's program into compliance the draft permit does not make sense. <i>Recommendation: The permit language should be modified to allow the Permittee to initiate the continued implementation of a current SWMP subsection, not the EO and remove the requirement to update the subsection with additional BMPs.</i>	This permit provision has been deleted from this Order.
10	2	City of El Paso De Robles - Patti Gwathmey	E.6.b.	Certification	The requirement to do this within the first year conflicts with E.6.a Legal Authority that states the Permittee shall review and revise ordinances and other regulatory mechanisms to obtain adequate legal authority within the second year. Additionally, E.6.b.(ii)(e) was added stating that the permittee will implement enforcement actions consistent with the Enforcement Response Plan developed during the third year pursuant to Section e.6.c. <i>Recommendation: Revise the certification date in E.6.b.(i) to be consistent with due dates for E.6.a., Legal Authority and E.6.b.(ii)(e), development of the Enforcement Response Plan.</i>	This permit provision has been revised to address this comment.
10	3	City of El Paso De Robles - Patti Gwathmey	E.9.b(ii)(c)	Illicit Discharge Source/ Facility Inventory – IGP Determination	The Permit requires Permittees to determine if facilities are required to be covered under the Statewide Industrial General Permit (IGP). Regional Boards are the proper agency to make this determination, not the Permittee. <i>Recommendation: This section should be</i>	Staff does not agree that permit language should be modified to require the Permittee to (1) notify the facility if they have good reason to believe coverage is needed under the IGP and (2) urge the facility to obtain coverage under the IGP. This permit provision requires Permittees to notify the

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					<i>revised to read that the Permittee should notify the facility that they should contact the Regional Board to determine if coverage under the IGP is required.</i>	applicable Regional Water Board of any facilities requiring permit coverage that are not yet permitted. The permit language states ' <u>Upon discovering</u> any facilities requiring permit coverage but are not yet permitted...'. The intent of the language is not to put the onus of non-filer enforcement on the Permittee.
10	4	City of El Paso De Robles - Patti Gwathmey	E.9.b(ii)(e)	Illicit Discharge Source/Facility Inventory	This section was added requiring the Permittee to develop and implement procedures to proactively identify illicit discharges originating from the inventoried facilities in section E.9.a(ii)(c). The procedures shall include field observations, field screening, and inspections. As written, this is an inspection program which was removed in the second draft due to it being too costly for the Permittees to implement and it is above and beyond the requirements of the Federal Clean Water Act. <i>Delete this section.</i>	This permit provision has been revised to address this comment.
10	5	City of El Paso De Robles - Patti Gwathmey	E.14.a.	Program Effectiveness	Section E.14.a.(ii)(a)(9) has been added requiring the Permittee to include the identification of long-term effectiveness assessment, to be implemented beyond the permit term in the Program Effectiveness Assessment and Improvement Plan. <i>Recommendation: This section should be deleted. Permittees should not be required to impose requirements beyond the term of the order.</i>	The Program Effectiveness Assessment and Improvement Plan includes short-term and long-term analyses. It is important for Permittees to initiate planning for long-term effectiveness. This Order does not require the Permittee to implement measures past the permit term, instead, the language requires Permittees to consider long term questions in order to adaptively manage their programs. Adaptive management is the appropriate process for assessing new opportunities for improving program effectiveness in controlling storm water pollution.
11	1	City of Goleta - Roger Aceves	E.12. and Attachment J	Central Coast Post-Construction Requirements	Goleta is one of many statewide entities and public agencies constituting the Statewide Stormwater Coalition (Coalition). The Coalition submitted comments dated July 23, 2012, on the second draft of the Phase II Permit and is submitting comments, which Goleta supports,	In response to extensive comments received from interested persons, Attachment J has been deleted from the Order. The State Water Board determined that, while the Board continues to support a watershed process-based approach to hydromodification requirements, the Joint Effort

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					<p>on the Revised Phase II Permit.</p>	<p>process should be allowed to evolve and proceed without direct incorporation into the Small MS4 General Order. This allows an independent process to address several unresolved issues acknowledged by the parties to the Joint Effort, including the Regional Water Board. Under new Provision E.12.k, if a Regional Water Board develops post-construction storm water management requirements based on a watershed process approach and consistent with criteria specified, Small MS4s in that Region must implement the developed requirements in lieu of most sections of E.12.k. The implication of this Provisions for the Central Coast regional Small MS4s is that they will be required to implement watershed process-based requirements developed through the Joint Effort after those requirements have been reconsidered and approved by the Central Coast Water Board Resolution NO. R-3-2012-0025 operated as update to SWMPs that are no longer required by this Order.</p> <p>Please see the Fact Sheet Post Construction Storm Water Management for New Development and Re-development discussion for further details. Staff notes that, because E.12.k. precludes imposition of the Joint Effort requirements through Resolution No.R3-2012-0025, the State Water Board considers the pending petitions on that Resolution moot as of adoption of this Order. However, any future action by a Regional Water Board, including the Central Coast Water Board, to adopt a regional watershed process-based approach would be subject to petitions for review by the State Water Board.</p>

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11	2	City of Goleta - Roger Aceves	E.12. and Attachment J	Central Coast Post-Construction Requirements	Goleta continues to have concerns with the Revised Phase II Permit to the extent it is inconsistent with the July 23, 2012 comments. However, as required by the public notice for the Revised Phase II Permit, we limited these comments to the revisions made to the second draft Phase II Permit. Specifically, these comments address the Revised Phase II Permit's: (1) denial of the petitions for review related to the adoption of Resolution No. R3-2012-0025 filed by Goleta and others (Petitions for Review); and (2) incorporation of the Post-Construction Requirements at issue in the Petitions for Review. These actions are highly inappropriate and would have severe economic and environmental consequences for Goleta.	Please see response to comment number 1.
11	3	City of Goleta - Roger Aceves	E.12. and Attachment J	Central Coast Post-Construction Requirements	Goleta respectfully requests that you modify the Revised Phase II Permit to delete the denial of the Petitions for Review, remove the Post-Construction Requirements and any directive to comply with them, and make Central Coast small MS4s subject to the same post-construction standards as all other Phase II MS4s under the general permit. We also ask that you consider the Petitions for Review and incorporate by reference the Coalition's and California Stormwater Quality Association's comments.	Please see response to comment number 1.
11	4	City of Goleta - Roger Aceves	E.12. and Attachment J	Central Coast Post-Construction Requirements	This proposed denial of the Petitions for Review is inconsistent with applicable legal procedure and fundamental due process rights. By way of the footnote, the State Water Board is proposing to deny the Petitions for Review because the "Post-Construction Requirements are appropriate for adoption in this Order	Please see response to comment number 1.

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					<p>for all Central Coast Small MS4s."<sup>11</sup> However, the Revised Phase II Permit and its Fact Sheet contain no findings explaining why the Post- Construction Requirements in particular (as a whole or each individual requirement) are appropriate for adoption by the State Water Board. Indeed, the only finding specific to the Post- Construction Requirements is in the Fact Sheet and states: "A watershed process-based approach is already being used for Phase II MS4s that participated in the Central coast [sic] Joint Effort for developing hydromodification control criteria."<sup>12</sup> This finding is insufficient to bridge the analytic gap between the evidence in the record and decision to adopt the Post- Construction Requirements and deny review of the Petitions for Review. Moreover, Goleta submits that the evidence before the State Water Board does not support adoption of the Post- Construction Requirements in the Phase II Permit. Further, dismissing pending petitions in proceedings for adoption of a permit creates great risk of circumventing state regulations and due process rights. Due process "calls for such protections as the particular situation demands."<sup>17</sup> Further, basic fairness dictates that a party must have adequate notice of the procedure that determinates or affects the party's legal rights. <sup>18</sup> For the reasons stated and because complying with the Post- Construction Requirements has significant adverse consequences for Goleta (see below), dismissing the Petitions for Review in the Phase II Permit proceeding offends basic notions of due process principals and fairness.</p>	
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11	5	City of Goleta - Roger Aceves	E.12. and Attachment J	Central Coast Post-Construction Requirements	As a result of new Attachment J and other related revisions to the Revised Phase II Permit, the State Water Board is proposing to adopt and include as part of its general permit order hydromodification requirements that run afoul of state and federal law. For the reasons explained below, the State Water Board should reject the Post-Construction Requirements and revise the Revised Phase II Permit to require Central Coast small MS4s to comply with the same general permit requirements as all other small MS4s.	Please see response to comment number 1.
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11	6	City of Goleta - Roger Aceves	E.12. and Attachment J	Central Coast Post-Construction Requirements	As mentioned, adopted permit requirements must include findings that bridge the analytic gap between the evidence and the ultimate order and are supported by the evidence. The Post-Construction Requirements in Attachment J do not satisfy these standards. Rather, the findings make general statements regarding the need for hydromodification measures and, without citing evidence in the record, state that the "Post-Construction Requirements are appropriate for adoption in this Order[.]" The findings do not explain the basis for each Post-Construction Requirement being proposed for the State Water Board's adoption or how the requirements relate to Goleta or any other Central Coast area. For example, there is no rationale for the claim that the 95th percentile rainfall event and multiplier of 1.963 for the 85th and 95th percentile rainfall events are appropriate. The findings do not explain how the broad-scale watershed management zone	Please see response to comment number 1.
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					<p>(WMZ) designations for the Post-Construction Requirements account for local differences in soils, topography, and other conditions. Nor do the findings explain how each requirement constitutes MEP or why Central Coast small MS4s should be subject to controls that are different than those for all other small MS4s in the state. Accordingly, the findings impermissibly fail to "bridge the analytic gap" between the evidence and Post-Construction Requirements. Based on the foregoing, the State Water Board should remove the Post-Construction Requirements from the Revised Phase II Permit and require the Central Coast small MS4s to comply with the same general permit terms as all other small MS4s.</p>	
11	7	City of Goleta - Roger Aceves	E.12. and Attachment J	Central Coast Post-Construction Requirements	<p>Given that the Post-Construction Requirements exceed the MEP standard (see below), the State Water Board has a duty to consider economics and the other public interest factors in Water Code section 13241. Further, as explained in pages 19 to 20 of Goleta's Petition for Review and incorporated by reference herein, the Central Coast Water Board also failed to consider the factors of Water Code section 13241 as required.</p> <p>For these reasons, the State Water Board should remove the Post-Construction Requirements from the Revised Phase II Permit and require the Central Coast small MS4s to comply with the same general permit terms as all other small MS4s.</p>	Please see response to comment number 1.
11	8	City of Goleta - Roger	E.12. and	Central Coast	Nothing in the Clean Water Act, federal	Please see response to comment number 1.

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		Aceves	Attachment J	Post-Construction Requirements	regulations, or State Water Board orders or guidance requires or supports the specific Post-Construction Requirements at issue. Nor do these authorities identify hydromodification criteria as necessary or appropriate to fulfill any of the six minimum control measures that a SWMP must include. The Post-Construction Requirements are highly prescriptive that apply across the Central Coast Region without proper regard for local economic and environmental conditions or technical feasibility. Once adopted, such requirements could be changed only through adoption of a resolution. This approach is anything but flexible, amenable to evolution, or site-specific and exceeds the MEP standard. As subsequently described, the Post-Construction Requirements exceed the MEP standard for being technically infeasible, far surpassing their economic benefits and/or being economically infeasible, and being generally and overwhelming unaccepted by the public.	
11	9	City of Goleta - Roger Aceves	E.12. and Attachment J	Central Coast Post-Construction Requirements	The Post-Construction Requirements exceed MEP because they are technically infeasible. For Goleta, and presumably for other municipalities, some of the most infeasible and troubling requirements are those to prevent off-site discharge from storms up to the 95th percentile 24-hour rainfall event and use of a multiplier of 1.963 when calculating retention volume and water quality volumes for storms. Goleta's soil type does not allow infiltration at a rate conducive to these retention/infiltration requirements. Compounding the problem is that Goleta primarily has only infill and redevelopment	Please see response to comment number 1.

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					<p>properties available within its sphere of influence. Based on these conditions, much (if not all) of Goleta would be incapable of infiltrating the 95th percentile 24-hour rainfall event (with or without the use of multipliers) or 85th percentile 24-hour rainfall event with the 1.963 multiplier even in an undeveloped state. Further, the combination of the 95th percentile, 24-hour storm event with the 1.936 multiplier results in a retention requirement of approximately 5 inches of rainfall runoff for the City of Goleta. Under the Post-Construction Requirements, the proponent of a regulated project may undertake alternative compliance measures (off-site compliance) if the water quality or infiltration requirements cannot be met due to infeasibility. Alternative compliance refers to achieving the requirement off-site through mechanisms such as developer fee-in-lieu arrangements and/or use of regional facilities. However, this alternative means compliance is also infeasible.</p>	
11	10	City of Goleta - Roger Aceves	E.12. and Attachment J	Central Coast Post-Construction Requirements	<p>The costs of the Post-Construction Requirements unquestionably exceed their benefits, and in some cases, the costs make the requirements economically infeasible to implement. Further, the Post-Construction Requirements come on the heels of the elimination of redevelopment funds by the state. Other than Housing and Urban Development monies, this was the only source of funding that was available to encourage beneficial redevelopment and property improvement within Goleta.</p>	Please see response to comment number 1.
11	11	City of Goleta - Roger	E.12. and	Central Coast	The fact that many other Regional Water	Please see response to comment number 1.

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		Aceves	Attachment J	Post-Construction Requirements	Boards have determined that the 85th percentile 24-hour storm is an appropriate basis for sizing of stormwater control measures for Phase I communities further demonstrates that the Post-Construction Requirements exceed MEP for small MS4s. The federal regulatory scheme establishes separate requirements for MS4 permits and applications based on whether the discharger is a large, medium, or small MS4. The Phase I regulations govern stormwater permits for large and medium MS4s, which by definition serve incorporated areas with populations of 100,000 or more. The Phase II regulations govern the issuance of stormwater permits for small MS4s, which serve populations of less than 100,000	
11	12	City of Goleta – Roger Aceves	E.12. and Attachment J	Central Coast Post-Construction Requirements	Public comments related to the adoption of Resolution No. R3-2012-0025 provide overwhelming evidence of an overall lack of public acceptance for applying the Post-Construction Requirements to small MS4s. This is demonstrated by the fact that in addition to a typical "responses to comments" document (which in this case was 141 pages), Central Coast Water Board staff prepared a summary of responses to major comments titled: "Key Issues in Public Comments on May 14, 2012 Draft Resolution No. R3-2012-0025 and Central Coast Water Board Staff Responses" (Key Issues). Two of the requirements most frequently and consistently commented on as problematic are the requirements to prevent off-site discharge from events up to the 95th percentile 24-hour storm event and apply the Post-Construction Requirements to ministerial projects. Neither the Key Issues nor written	Please see response to comment number 1.

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					<p>comments address the 1.963 multiplier, calculation of a project's Equivalent Impervious Surface Area, or other aspects of Attachments D and E to Resolution, respectively (i.e., Revised Phase II Permit, Appendix J pages 27 to 31), because Central Coast Water Board staff added the requirements to Resolution No. R3-2012-0025 <i>after the close of the written public comment period</i>. Goleta and others expressed concerns over these provisions to the extent possible at the September 6, 2012 hearing.</p>	
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11	13	City of Goleta – Roger Aceves	E.12. and Attachment J	Central Coast Post-Construction Requirements	<p>The Revised Phase II Permit would require Goleta to impose the Post-Construction Requirements on regulated projects. Regulated projects subject to the requirement to infiltrate the 95th percentile 24-hour storm event include projects that create and/or replace greater than or equal to 15,000 square feet of impervious surface. Falling entirely within WMZ 1, Goleta will be forced to require regulated projects to retain on-site stormwater from events up to the 95th percentile rainfall, and compliance with the retention requirement must be achieved solely through infiltration. Such a requirement is a governmental regulation that may deprive project proponents of the economic benefit of their private property. The state and federal Constitutions guarantee real property owners just compensation when their land is taken for public use? Regulatory takings, though not direct appropriation or physical invasion of private property, are compensable under the Fifth</p>	Please see response to comment number 1.
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					Amendment. Courts examining regulatory takings challenges generally analyze three factors to determine whether a taking has occurred, including the economic impact of the regulation on the claimant, the extent to which the regulation has interfered with distinct investment-backed expectations, and the character of the governmental action? The Post-Construction Requirements may be considered a regulatory taking if the application of such requirements to regulated projects deprives project proponents of the economic benefit of the property.	
11	14	City of Goleta – Roger Aceves	E.12. and Attachment J	Central Coast Post-Construction Requirements	Given these concerns and others, the State Water Board should not adopt the Post-Construction Requirements and instead regulate the Central Coast small MS4s in the same manner as all other small MS4s.	Please see response to comment number 1.
12	1	City of Lompoc - Laurel Barcelona	Fact Sheet (page 39) Footnote 31	Central Coast Post-Construction Requirements	We were dismayed to find our timely filed and seriously considered Petition to the State Water Resources Control Board was ignored completely by Water Board Staff. The recommendation is being made to the Water Board (Fact Sheet, Page 39, Footnote 31) that no consideration be given ours or the other two validly filed Petitions of the Central Coast Regional Water Quality Control Board's (CCRWQCB) action in adopting the Joint Effort Post-Construction Requirements on September 6, 2012, now proposed as Attachment J. In addition to being a flagrant violation of due process, this proposed action exposes the Water Board 's "public process" for what it is, a thinly veiled lip-service attempt to appear responsive to public interests, while at the	In response to extensive comments received from interested persons, Attachment J has been deleted from the Order. The State Water Board determined that, while the Board continues to support a watershed process-based approach to hydromodification requirements, the Joint Effort process should be allowed to evolve and proceed without direct incorporation into the Small MS4 General Order. This allows an independent process to address several unresolved issues acknowledged by the parties to the Join Effort, including the Regional Water Board. Under new Provision E.12.k, if a Regional Water Board develops post-construction storm water management requirements based on a watershed process approach and consistent with criteria specified, Small MS4s in that Region must

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					<p>same time giving them no consideration whatsoever in State or Regional Board decision making. Denying the Petition for Review in the Phase II Permit proceeding is inconsistent with applicable legal procedure and fundamental due process rights. The State Water Board should separately consider and evaluate the three petitions filed, as they address the basis for, and appropriateness of, regulations which were imposed without adequate time for review or public comment.</p>	<p>implement the developed requirements in lieu of most sections of E.12.k. The implication of this Provisions for the Central Coast regional Small MS4s is that they will be required to implement watershed process-based requirements developed through the Joint Effort after those requirements have been reconsidered and approved by the Central Coast Water Board Resolution NO. R-3-2012-0025 operated as update to SWMPs that are no longer required by this Order.</p> <p>Please see the Fact Sheet Post Construction Storm Water Management for New Development and Re-development discussion for further details. Staff notes that, because E.12.k. precludes imposition of the Joint Effort requirements through Resolution No.R3-2012-0025, the State Water Board considers the pending petitions on that Resolution moot as of adoption of this Order. However, any future action by a Regional Water Board, including the Central Coast Water Board, to adopt a regional watershed process-based approach would be subject to petitions for review by the State Water Board.</p>
12	2	City of Lompoc - Laurel Barcelona	Attachment J	Central Coast Post-Construction Requirements - Infeasibility	<p>Lompoc has shown good faith in participating in the Joint Effort R3 Committee to develop the Joint Effort Post-Construction requirements and in adopting and implementing a requirement for infiltration of the 85th percentile - 24 hour storm over 95% of the impervious space to be created or replaced on a project site. Due to the fact Lompoc's soils are types C and D, projects have had great difficulty designing Low Impact Development (LID) Best Management</p>	<p>Please see response to comment number 1.</p>

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					<p>Practices (BMPs) which can infiltrate the required 85th percentile storm. In at least one case of the eight approved projects thus far subject to this requirement, it is unlikely they will be able to meet the infiltration requirement, due to a lack of percolation. In other instances, every spare square foot of the project site has been utilized in order to infiltrate the 85th percentile storm requirement. The Attachment requirements for the City of Lompoc require infiltration of the 95th percentile storm. This is the difference between .7 inch (85th) and 1.7 inch (95th). In addition, this number is required by Attachment D of the Joint Effort requirements to be multiplied by 1.963, thereby requiring infiltration of 3.337 inches over the impervious area calculated using Attachment E of the Joint Effort Requirements. When .7 inch is not able to be consistently infiltrated, it is clear that infiltrating 3.337 inches is infeasible.</p>	
12	3	City of Lompoc - Laurel Barcelona	Attachment J	Central Coast Post-Construction Requirements - Inadequate Public Review	<p>The Central Coast Regional Board has imprudently adopted the Joint Effort requirements (Attachment J of the Draft Final Order) without providing for adequate public review and comment on their feasibility.</p>	Please see response to comment number 1.
12	4	City of Lompoc - Laurel Barcelona	Attachment J	Central Coast Post-Construction Requirements - 95th Percentile	<p>Consideration of the 95th percentile storm versus the 85th percentile storm was not discussed prior to its inclusion and release in the May Joint Effort 2012 draft. The federal law source for this requirement allows an opportunity for the applicant to show the project site would not infiltrate the 95th percentile storm in an undeveloped state, and allows for compliance through alternate</p>	Please see response to comment number 1.

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					infiltration of the amount of water it is calculated to have been infiltrated before any development occurred on-site. The Joint Effort Requirements did not include this reasonable and essential provision. It is unclear what additional benefit is to be gained by trying to force more infiltration on a site than occurred pre-development. Without this alternative requirement, the Joint Effort Requirements exceed the Maximum Extent Practicable (MEP) standard by going beyond what is necessary to mimic an area's specific watershed hydrology.	
12	5	City of Lompoc - Laurel Barcelona	Attachment J	Central Coast Post-Construction Requirements - Multiplier	The Central Coast Regional Board staff significantly revised the proposed Joint Effort requirements in the weeks directly preceding their adoption on September 6, 2012, well after the written comment period closed. During this time Regional Board staff added a 1.963 multiplying factor to the Water Quality and Retention Requirements. Infiltration of the 95th percentile x 1.963 is roughly four times the City of Lompoc's existing 85th percentile requirement. It is also the post construction requirement proposed to be applied to all other regions through E.12 of the Statewide MS4 draft Final Order. The 85th percentile storm has proven to be difficult to impossible to infiltrate in Lompoc's soils.	Please see response to comment number 1.
12	6	City of Lompoc - Laurel Barcelona	Attachment J	Central Coast Post-Construction Requirements - Runoff Requirement	While this requirement reduction is only available to project sites that can show technical infeasibility in infiltrating the required 95th percentile x 1.963 storm event, once technical infeasibility has been shown, the usefulness and appropriateness of dedicating 10% of the site to retention-based Storm Water Control Measures (SCMs) becomes unclear.	Please see response to comment number 1.

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					This is especially true in a jurisdiction such as Lompoc which discharges to a concrete-lined channel. The benefit of a 10% site SCM on a small urban site, coupled with the loss of valuable area on-site for infill or redevelopment is not clear when retention will have no impact on hydromodification, and the long-term cumulative effect will be to push development out of urbanized and developed areas	
12	7	City of Lompoc - Laurel Barcelona	Attachment J	Central Coast Post-Construction Requirements - Alternative Compliance	The proposed off-site alternative compliance is not feasible. Establishing a clear nexus between a project's individual reduction in infiltration, the cost allocated for alternative compliance, and ensuring the alternative compliance will achieve the same result commensurate with infiltration on-site will be very difficult or impossible to achieve. It will require a detailed analysis of the legal nexus of the actual project impact to the amount of the fee or alternative compliance requirement levied. This is added to the complications of timing restrictions, actual implementation and a developer's ability to purchase or lease a suitable site on which to conduct alternative compliance. In areas such as Lompoc, where the MS4 permittee is built-out, alternative compliance would need to be conducted on property outside the MS4's jurisdiction and permitting and land use approvals for the alternative compliance project would be dependent upon the actions of another agency.	Please see response to comment number 1.
12	8	City of Lompoc - Laurel Barcelona	Attachment J	Central Coast Post-Construction Requirements -	Inclusion of Attachment J is contrary to the State Board's Stated Goal of Consistency The Central Coast MS4s have been "carved-out" and are required to implement	Please see response to comment number 1.

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				Consistency	post-construction standards that exceed those required for other permittees. This "carve-out" is inappropriate given the goal of general application of the permit statewide and the Water Board's stated desire for consistency between regions.	
12	9	City of Lompoc - Laurel Barcelona	Attachment J	Central Coast Post-Construction Requirements - Unfunded Mandate	To the extent the requirements in Attachment J result in additional administrative and development costs to permittees, they constitute an unfunded mandate that is subject to reimbursement pursuant to California Government Code sections 17550 et seq.	Please see response to comment number 1.
12	10	City of Lompoc - Laurel Barcelona	Attachment J	Central Coast Post-Construction Requirements - MEP	The draft post-construction requirements proposed in Attachment J exceed the Clean Water Act Standard (CWA) of reducing pollution to the Maximum Extent Practicable (MEP). The State Water Resources Control Board has stated that "if a permittee employs all applicable BMPs except those where it can show that they are not technically feasible in the locality, or whose cost would exceed any benefit to be derived, it would have met the standard. MEP requires permittees to choose effective BMPs, and to reject applicable BMPs only where other effective BMPs will serve the same purpose, the BMPs would not be technically feasible, or the cost would be prohibitive." (Order No. WQ 2000-11, at p.20.) The City of Lompoc believes the requirement to infiltrate the 95th percentile storm x 1.963 for Retention (including the 10% reduction factor) and the 85th percentile storm x 1.963 for Water Quality, without the 10% reduction factor, or any direct exception for	Please see response to comment number 1.

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					technical infeasibility, exceeds MEP.	
12	11	City of Lompoc - Laurel Barcelona		Central Coast Post-Construction Requirements - Ministerial Permits	Applying the Performance Requirements to Ministerial Permits, including building permits, grading permits and other permits that do not undergo a discretionary review process, cannot be implemented. Ministerial permits are those which are acted upon in a prescribed manner in obedience to the mandate of legal authority, without regard to, or the exercise of, personal judgment. As such, conditions cannot be applied to ministerial permits and decisions about the appropriateness of one BMP and its implementation, versus another cannot be made.	Please see response to comment number 1.
12	12	City of Lompoc - Laurel Barcelona	Attachment J	Central Coast Post-Construction Requirements - Cost	The proposed use of off-site alternative compliance measures, instead of allowing exceptions for technical infeasibility to infiltration requirements, will result in infill and redevelopment projects becoming economically and physically infeasible. The time and money necessary to establish, monitor and maintain alternative compliance projects, will increase the cost and commitment required for construction beyond what the region's economy can support.	Please see response to comment number 1.
12	13	City of Lompoc - Laurel Barcelona	Attachment J	Central Coast Post-Construction Requirements - Unintended Consequences	The City of Lompoc believes the potential unintended consequences of adopting the requirement included in Attachment J were not made clear to the CCRWQCB by their staff, prior to their taking action in adopting the regulations. Because infiltration of the 95th percentile storm x	Please see response to comment number 1.

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					<p>1.963 required for Retention and the 85th percentile storm x 1.963 required for Water Quality cannot be infiltrated in many permittees' MS4 jurisdictions, developers will choose to focus their efforts on rural areas not governed by these permit requirements. This will result in greater adverse impacts on Region 3 watersheds and the natural landscape than would limiting the infiltration requirement to the 85th percentile storm (E.12. requirements), as is proposed for all other regions. The loss of agricultural lands and the impact on water quality of this new regulation could easily negate any intended water quality benefit. The impact on MS4s permittee agencies will be severe. With a reduction in development of infill parcels and redevelopment, struggling small local economies will further stagnate.</p>	
12	14	City of Lompoc - Laurel Barcelona	Attachment J	Central Coast Post-Construction Requirements - General	<p>We request the State Water Resources Control Board:</p> <ol style="list-style-type: none"> <li>1. Take formal action on each of the three timely filed Petitions of the Joint Effort Post-Construction Requirements (Resolution No. R3-2012-0025), and notify the petitioners of the action, clearly stating the required findings made in determining the action taken and the decision date of the action.</li> <li>2. Remove Attachment J from the Draft Final Order and apply Post-Construction Provisions (E.12.) to the Central Coast MS4s. The provisions of E.12. have been painstakingly drafted and thoroughly vetted through the public process, and then reviewed and agreed upon by permittees, environmental non-governmental organizations (NGOs), and Water Board staff.</li> </ol>	Please see response to comment number 1.

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					The Post-Construction requirements of E.12 are protective of watershed quality and meet MEP. 3. Direct the Central Coast Water Board to rescind the Region 3 post construction requirements (Resolution No. R3-2012-0025)	
13	1	City of Los Angeles Harbor Department - Christopher Cannon	Attachment B	Attachment B	Please delete the City of Los Angeles Harbor Department (a.k.a. "Port of Los Angeles") from the draft Phase II Permit. The City of Los Angeles Harbor Department is currently covered under the City of Los Angeles Phase I Permit.	The Port of Los Angeles has been deleted from Attachment B.
14	1	City of Los Angeles, Department of Public Works, Bureau of Sanitation - Shahram Kharaghani	Attachment B	Attachment B	Please delete the City of Los Angeles Harbor Department (a.k.a. "Port of Los Angeles") from the draft Phase II Permit. The City of Los Angeles Harbor Department is currently covered under the City of Los Angeles Phase I Permit.	The Port of Los Angeles has been deleted from Attachment B.
15	1	City of Napa, Public Works Department - Jacques LaRochelle	Throughout	General	This letter focuses on the key issues of concern to the City. Napa is an active member of both the California Stormwater Quality Association ("CASQA") and the Statewide Stormwater Coalition ("SSC"). The City joins in, and incorporates by reference, the comment letters submitted by CASQA and SSC.	Comment noted.
15	2	City of Napa, Public Works Department - Jacques LaRochelle	Throughout	General	The revisions to the Draft Permit do a better job of linking public expenditures to measurable water quality benefits. However, Napa believes that the additional changes requested below strike a more appropriate balance between resources spent and effective water quality outcomes.	Comment noted.

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15	3	City of Napa, Public Works Department - Jacques LaRochelle	Section D.	Receiving Water Limitations	<p>First, rather than include the reopener in Section 1, page 140 of the Draft Permit, the State Board should address the issue now before adopting the final Permit. As Permittees move forward with implementation of the final Permit, they need regulatory certainty about Permit compliance. The reopener only creates more uncertainty, both by allowing the current language to remain unaddressed and by putting in place a process that might reopen the new Permit on this crucial issue soon after Permit adoption. This approach simply defers resolution of this key issue. Second, Section XI, pages 25-26 of the Draft Fact Sheet adds unnecessary language that conflicts with the reopener concept and with the State Board's ongoing consideration of the receiving water limitations language. State Board should delete the new reopener related to the receiving water limitations language and address the issue now. At a minimum, the State Board should instruct staff to eliminate the language in the Draft Fact Sheet that "prejudges" the issue and prevents the State Board from continuing to have an open and productive dialogue on the need for regulatory certainty regarding compliance with water quality standards in MS4 permits.</p>	<p>The discussion of the receiving water limitations in the Fact Sheet has been revised to clarify the State Water Board's position to date and to address the Supreme Court's recent decision reversing the Ninth Circuit judgment in <i>NRDC v. LA County</i> and remanding the case. The State Water Board heard from interested persons at the November 20, 2012, workshop held to consider receiving water limitations provisions in municipal storm water permits and the Board is evaluating options going forward. The State Water Board considers the receiving water limitations question to be an important and complicated issue -- independent of the court ruling -- and believes it requires careful consideration. The Board will continue to rely on the specific reopener clause at Section H to facilitate future revisions, if any, rather than delay consideration of adoption of the Phase II permit.</p>
15	4	City of Napa, Public Works Department - Jacques LaRochelle	Section B.4	Incidental Runoff	<p>Section B.4 has also been revised to attempt to explain what is prohibited "excess" runoff. However, as explained in detail in the SSC comment letter, the revisions create ambiguities that require clarification. As explained in Napa's July 20, 2012 comment letter, Napa already has in place many market-based and education tools to address over-watering and to reduce the use of water for</p>	<p>The incidental runoff requirements language is based on the Recycled Water Policy and California Department of Water Resources' (DWR) Water Efficient Landscape Ordinance. The market based approaches that the City currently employs as effective measures to reduce and control incidental runoff should address Section B.4.(a-d) if implemented as stated in the comment.</p>

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					irrigation of landscaped areas. These market-based approaches are believed to be a more effective way to address this issue than the top-down regulatory approach in Section B.4.	
15	5	City of Napa, Public Works Department - Jacques LaRochelle	E.1.b.	Regional Board Discretion	Specifically, Section E.1.b has been revised to establish a procedure to be followed when a Regional Board EO compels a Permittee to continue its existing SWMP. Section E.7 now requires a "statement of reasons" when a Regional Board EO compels a Permittee to implement Community Based Social Marketing ("CBSM"). Napa continues to believe that both of these provisions, as revised, should be deleted or significantly constrained. With regard to the continuation of existing programs, Napa believes that this option should only be considered when requested by a Permittee. At a minimum, short deadlines must be established in which Regional Board EOs may compel continuation of a SWMP. Permittees need regulatory certainty on which program they are to implement. In addition, updating the SWMP should not be required when continuation of the SWMP is compelled. The obligation should merely be to continue the existing program. With regard to CBSM, Regional Board EOs should not be provided the option to compel this expensive effort, even when a "statement of reasons" is provided.	Section E.1.b has been deleted from this Order. Further, USEPA has developed a document that identifies principles of CBSM. See <a href="http://www.epa.gov/owow/watershed/outreach/documents/getnstep.pdf">http://www.epa.gov/owow/watershed/outreach/documents/getnstep.pdf</a> The Regional Water Boards have greater knowledge and expertise as to the specific storm water issues in their region and may exercise their authority to require CBSM as specified in (Wat. Code §13377.)
15	6	City of Napa, Public Works Department - Jacques LaRochelle	E.9.b.(ii)(e)	Illicit Discharge Source/ Facility Inventory – IGP Determination	The revisions would require Permittees to inspect certain designated industrial and commercial facilities at least once during the Permit term. These revisions should be deleted from the Draft Permit. Indeed, the Draft Fact Sheet represents on page 11 that the industrial and commercial inspection program	Staff does not agree that permit language should be modified to require the Permittee to (1) notify the facility if they have good reason to believe coverage is needed under the IGP and (2) urge the facility to obtain coverage under the IGP. This permit provision requires Permittees to notify the applicable Regional Water Board of any facilities

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					has been deleted from the Draft Permit to reduce costs. Such a program, even in this revised form, should not be added back into the Draft Permit.	requiring permit coverage that are not yet permitted. The permit language states ' <b>Upon discovering</b> any facilities requiring permit coverage but are not yet permitted...'. The intent of the language is not to put the onus of non-filer enforcement on the Permittee.
15	7	City of Napa, Public Works Department - Jacques LaRochelle	E.10.c.(ii)	Construction	To avoid ambiguity about the enforceable requirements of the Draft Permit, these "recommended" inspection frequencies should be deleted. This would be consistent with the statement on page 11 of the Draft Fact Sheet that the "mandatory" construction inspection frequencies have been deleted from the Permit. If the State Board believes that it is important to provide a "recommendation" about when inspections should occur, it should include those "recommendations" in the Fact Sheet or other guidance document, not in the Permit itself.	This permit provision has been revised to address this comment.
15	8	City of Napa, Public Works Department - Jacques LaRochelle	E.12.	Post-Construction	Section E.12 contains many positive revisions that address, in part, the concerns expressed in the City's July 20, 2012 comment letter. However, Section E.12 as revised still contains site design measures (E.12.b) and low impact development runoff standards (E.12.e) that Napa believes will undermine its long-standing and highly successful urban growth management approach and the significant water quality benefits that flow from that approach. Some of the revisions to Section E.12.e.(ii).(h), including the specific reference to "smart growth projects" may help address some of Napa's concerns; however, more clarity is needed to address Napa's specific comment about the runoff standards and their relationship to Napa's Rural Urban Limit Line. Napa requests a more specific exemption that	This permit provision has been revised to address this comment.

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					better fits its situation.	
15	9	City of Napa, Public Works Department - Jacques LaRochelle	E.13.(1)-(4)	Monitoring	However, the revisions create an ambiguity about the monitoring requirements applicable to Napa, a City with a population greater than 50,000. New language in Section E.13 provides as follows: "Traditional Small MS4 Permittees that are already conducting monitoring of discharges to ASBS, TMDL and impaired water bodies are not required to perform additional monitoring as specified in E.13.a and E.13.b." Napa believes that the use of the word "and" is erroneous and that the word should be "or" as used in other portions of Section E.13. Please make this important correction to clarify Napa's monitoring obligations.	This permit provision has been revised to address this comment.
15	10	City of Napa, Public Works Department - Jacques LaRochelle	E.15.c.	TMDLs and Receiving Water Limitations	Section E.15.c on page 98 and Attachment G have been revised to incorporate certain TMDL-specific requirements and to allow additional time for Regional Board's to work with Permittees to develop TMDL-specific permit requirements for other TMDLs. In this regard, Napa also requests that the State Board address the receiving water limitations language of Section D of the Draft Permit now, prior to Permit adoption. This is particularly important in connection with TMDLs and their relationship to requirements of Section D. At the State Board's recent workshop on the receiving water limitations language, there appeared to be broad consensus among stakeholders, including U.S. EPA, that linking receiving water limitations language to TMDL implementation plans made regulatory sense. To provide regulatory certainty, Napa asks that	The State Water Board heard from interested persons at the November 20, 2012, workshop held to consider receiving water limitations provisions in municipal storm water permits and the Board is evaluating options going forward. The State Water Board considers the receiving water limitations question to be an important and complicated issue and believes it requires careful consideration. The Board will continue to rely on the specific reopener clause at Section H to facilitate future revisions, if any, rather than delay consideration of adoption of the Phase II permit. Although there may be significant support among stakeholders for linking receiving water limitations language to TMDL implementation plans as suggested by the commenter, the State Water Board believes that the most productive process is for the Board to consider all the issues and alternatives together

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					the State Board address this issue now.	and not to engage in piecemeal revisions to the receiving water limitations provisions.
15	11	City of Napa, Public Works Department - Jacques LaRochelle	Throughout	General	In conclusion, the Draft Permit and Draft Fact Sheet include many positive revisions. Napa thanks the State Board staff for making those revisions. It is believed that the comments in this letter will help make the Permit clearer and more understandable to all parties. We appreciate the opportunity to provide these comments and look forward to revisions based upon them.	Comment noted.
16	1	City of Roseville, City Council - Susan Rohan	Throughout	General	We appreciate the efforts of State Board staff to respond to our last round of comments and to continue to engage in discussion on permit concerns. The 3rd draft Permit includes many positive revisions. While discussions facilitated through the California Stormwater Quality Association (CASQA) Phase II subcommittee have resulted in general agreement on many areas of the permit, issues and concerns remain. We are particularly concerned with the following topics.	Comment noted.
16	2	City of Roseville, City Council - Susan Rohan	Attachment J	Central Coast Post-Construction Requirements	We urge the State Water Board to delete reference to mid-permit term incorporation of the Region 3 Central Coast standards included as Attachment J with in the Tentative Order. We further request the State Water Board delete the carve-out for Region 3 permittees. The post-construction requirements contained in Section E.12 should be applicable to all statewide Phase II permittees. The E.12 provisions have been through a thorough review process including CASQA professionals, environmental NGOs, Permittees, and Water	In response to extensive comments received from interested persons, Attachment J has been deleted from the Order. The State Water Board determined that, while the Board continues to support a watershed process-based approach to hydromodification requirements, the Joint Effort process should be allowed to evolve and proceed without direct incorporation into the Small MS4 General Order. This allows an independent process to address several unresolved issues acknowledged by the parties to the Join Effort, including the Regional Water Board. Under new

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					<p>Board staff. By appending the Region 3 requirements, and stating, “the Water Board expects to amend this Order to incorporate similar requirements for Permittees in the remainder of the State”, the Water Board has introduced an entirely new set of rules which have not had the same public review opportunities as have Section E.12 provisions.</p>	<p>Provision E.12.k, if a Regional Water Board develops post-construction storm water management requirements based on a watershed process approach and consistent with criteria specified, Small MS4s in that Region must implement the developed requirements in lieu of most sections of E.12.k. The implication of this Provisions for the Central Coast regional Small MS4s is that they will be required to implement watershed process-based requirements developed through the Joint Effort after those requirements have been reconsidered and approved by the Central Coast Water Board Resolution NO. R-3-2012-0025 operated as update to SWMPs that are no longer required by this Order.</p> <p>Please see the Fact Sheet Post Construction Storm Water Management for New Development and Re-development discussion for further details. Staff notes that, because E.12.k. precludes imposition of the Joint Effort requirements through Resolution No.R3-2012-0025, the State Water Board considers the pending petitions on that Resolution moot as of adoption of this Order. However, any future action by a Regional Water Board, including the Central Coast Water Board, to adopt a regional watershed process-based approach would be subject to petitions for review by the State Water Board.</p>
16	3	City of Roseville, City Council - Susan Rohan	Attachment J	Central Coast Post-Construction Requirements	Appendix J conflicts with ongoing efforts to provide consistency in Phase I and Phase II permits in both scope and magnitude.	Please see response to comment number 2.

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16	4	City of Roseville, City Council - Susan Rohan	Attachment J	Central Coast Post-Construction Requirements	Phase II permittees will have just begun implementing E.12 when the State will reopen and amend the Order to incorporate watershed based hydromodification criteria based on the Region 3 model. A full permit term (5 years) should precede any revisions to the E.12 regulations, so that projects can be reviewed, permitted, constructed, and evaluated by Permittees	Please see response to comment number 2.
16	5	City of Roseville, City Council - Susan Rohan	Attachment J	Central Coast Post-Construction Requirements	The Appendix J standards are the most stringent, complex, and as-yet unproven hydromodification requirements. There is no demonstrated environmental benefit from retaining a 95th percentile storm event in urban areas. The volume of runoff retention would be infeasible for many projects, in particular green field development outside of an urban core.	Please see response to comment number 2.
16	6	City of Roseville, City Council - Susan Rohan	Attachment J	Central Coast Post-Construction Requirements	Permittees, such as the City, have only had 30 days, this public review period, to fully evaluate the potential impacts of implementing Attachment J requirements within their region. It is insufficient time to fully understand the complexity and impact upon development within our community.	Please see response to comment number 2.
16	7	City of Roseville, City Council - Susan Rohan	Section I	Permit Reopeners	We urge the State Water Board to delete the reopener language associated with receiving water limitations and states efforts to develop watershed based criteria for hydromodification measures. Until this issue is resolved, Phase II permittees are open to state enforcement and/or third party litigation should water quality monitoring indicate contribution to or exceedance of a water quality standard, regardless of the permittee's good faith efforts to implement its storm water program. It is well recognized by the State Water Board that	The State Water Board heard from interested persons at the November 20, 2012, workshop held to consider receiving water limitations provisions in municipal storm water permits and the Board is evaluating options going forward. The State Water Board considers the receiving water limitations question to be an important and complicated issue and believes it requires careful consideration. The Board will continue to rely on the specific reopener clause at Section H to facilitate future revisions, if any, rather than delay consideration of adoption of the Phase II

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					<p>complying with water quality standards will take time. As such it is imperative the permit be adopted with language that allows a means for permittees to comply with their permits. This issue is not new; it has been raised to the State Water Board since the first draft of the Phase II permit in 2011. This issue should not be held at bay any longer but should be addressed prior to permit adoption.</p>	<p>permit. Although there may be significant support among stakeholders for linking receiving water limitations language to TMDL implementation plans as suggested by the commenter, the State Water Board believes that the most productive process is for the Board to consider all the issues and alternatives together and not to engage in piecemeal revisions to the receiving water limitations provisions.</p> <p>In regards to the development of watershed process based criteria, the Water Boards have historically derived site design, runoff reduction and hydromodification control criteria without identifying the dominant watershed processes and the sensitivity of receiving waterbodies to degradation of those processes. In most MS4 permits, projects are subject to the same set of criteria regardless of the dominant watershed processes and the sensitivity of receiving waters to degradation of those processes. In reality, every location on the landscape does not require the same set of control criteria because of intrinsic differences in the dominant watershed processes at each location and sensitivity of receiving waters to degradation of those processes. In recognizing this, the State Water Board is developing criteria that are more protective of receiving water quality.</p>
16	8	City of Roseville, City Council - Susan Rohan	Section I	Permit Reopeners	<p>The 3rd draft of the permit requires MS4s from outside Region 3 to implement new design standards to comply with E.12 provisions. Implementing new standards will require the expenditure of funds and staff time to develop and incorporate these standards into new projects. The idea the City would develop new standards only for the permit to be reopened</p>	<p>Please see response to comment number 2.</p>

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					and the State Water Board require implementation of yet another set of new standards is objectionable. Beyond impacts to permittees, there will be significant impact upon the development community statewide to incorporate new standards into projects. Changing design standards mid-permit term will cause significant frustration for permittees and the development community.	
16	9	City of Roseville, City Council - Susan Rohan	Section E	Regional Board Discretion	Several areas within the revised 3rd draft Permit serve to complicate and confuse the efforts of permittees by allowing the Regional Water Boards discretion on a variety of topics. In order to provide for more consistency throughout the Regions of the State and to encourage sharing and comparison of data, these issues should be more definitively addressed through requirements contained within the Permit rather than determined by Regional Board discretion. At a minimum, criteria for addressing these discretionary decisions should be included in the Permit to guide Regional Water Board actions.	This permit provision has been revised to address this comment. Please see the Public Education and Outreach discussion of the Fact Sheet for a more detailed discussion. It is important to note, however, that Regional Water Boards are autonomous entities responsible for water quality protection within their boundaries. There are slight nuances regionally based upon the varying degrees to which receiving waters need to be protected. Accordingly, the Regional Water Boards have greater knowledge and expertise as to the specific storm water issues in their region and may exercise their discretion accordingly.
16	10	City of Roseville, City Council - Susan Rohan	Throughout	General	In summary we respectfully request the State Water Board: <input checked="" type="checkbox"/> Delete attachment J from the Phase II permit and allow all Phase II permittees the opportunity to implement the proposed E.12 post-construction requirements for the full 5-year permit term; <input checked="" type="checkbox"/> Delete the reopener language associated with the receiving water limitations language and address permittees' concern by providing a clear compliance pathway prior to permit adoption; <input checked="" type="checkbox"/> Eliminate Regional Water Board discretion or	Please see responses to comment numbers 7, 8 and 9 respectively.

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					at a minimum develop, through a public process, clear criteria associated with Regional Water Board decision making authority.	
17	1	City of San Diego, Transportation & Storm Water Department - Kris McFadden	Throughout	General	The City of San Diego has provided comments during two previous comment periods for these amendments: Comments were submitted on August 22, 2011 and July 16, 2012. The City maintains the same position with regard to submitted comments. Not all City comments were addressed by the State Board in the formal response to comments. The attached table (Table 1) includes comments previously submitted that were not addressed.	After review of Table 1 and comments submitted by the City of San Diego dated August 2011 and July 23, 2011, the City of San Diego did not submit comments on the specific provisions contained in Table 1.
17	2	City of San Diego, Transportation & Storm Water Department - Kris McFadden	Attachment G	TMDLs	The City appreciates the inclusion of the Chollas Creek Dissolved Copper, Lead, and Zinc TMDL and the Bacteria Project I - 20 Beaches and Creeks (Including Tecolote Creek) in Attachment G. The City recommends that TMDL specific permit requirements be added to Attachment G for Region 9 TMDLs and a discussion of these requirements be provided by the San Diego Region Water Board in the Fact Sheet.	Comments on the November 16, 2012, Draft were limited by the Public Notice dated November 16, 2012, and the Revised Public Notice dated November 30, 2012, to revisions made since the May 21, 2012, Draft. The commenter has submitted a comment on a provision that was not revised after May 21, 2012, and the comment is therefore untimely. All comments on the May 21, 2012, Draft were addressed in the Staff Response to Comments document available at: <a href="http://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/comments_rev_phase_ii_ms4permit/resp_to_comments.pdf">http://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/comments_rev_phase_ii_ms4permit/resp_to_comments.pdf</a>
17	3	City of San Diego, Transportation & Storm Water Department - Kris McFadden	E.13.	Monitoring	Monitoring data collected by Phase II MS4s should be submitted to the same database used by the Phase I MS4 programs to facilitate data sharing for regional watershed-based activities.	Water quality data must be uploaded to SMARTS and must conform to California Environmental Data Exchange Network (CEDEN) Minimum Data Templates format.
17	4	City of San Diego, Transportation &	Findings, #30, 42, 43, 44		As previously submitted, we recommend that the Phase II Permittees also comply with all pre-	Comment noted.

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		Storm Water Department - Kris McFadden	E.6.a.(f, g) E.10. E.12. F.5.g.		construction requirements that are being implemented in a Phase I jurisdiction. These actions will allow for consistent implementation of activities across municipal boundaries, particularly when non-traditional Phase II permittees are within a Phase I jurisdiction.	
17	5	City of San Diego, Transportation & Storm Water Department - Kris McFadden	Finding #41	TMDLs	According to this finding TMDL requirements should be included in this permit. We recommend that TMDL specific permit requirements be added to Attachment G for Region 9 TMDLs and a discussion of these requirements be provided by the San Diego Region Water Board in the Fact Sheet.	Because the Permittees have not had an opportunity to meet with Regional Water Board staff to review and discuss the TMDL-specific permit requirements incorporated into this permit, the Regional Water Boards are additionally being directed through this Order to review the TMDL-specific permit requirements of Attachment G in consultation with the Permittees and propose any revisions to the State Water Board within one year of the effective date of this Order. Any such revisions will be incorporated into the permit through a reopener. To the extent they have not already done so, the Regional Water Boards will be expected during that process to prepare a statement for inclusion in the Fact Sheet explaining how the requirements are consistent with the assumptions and requirements of the TMDL WLAs and how they are designed to achieve the goals of the TMDLs.
17	6	City of San Diego, Transportation & Storm Water Department - Kris McFadden	E.7.	Education and Outreach Program	As previously submitted, the public outreach and education component also mandates coordination with the Phase I permittees. This requirement is favorable; however, there may be instances where Phase II MS4 storm water outreach to their clients and/or employees may vary from the municipalities' program requirements.	Comments on the November 16, 2012, Draft were limited by the Public Notice dated November 16, 2012, and the Revised Public Notice dated November 30, 2012, to revisions made since the May 21, 2012, Draft. The commenter has submitted a comment on a provision that was not revised after May 21, 2012, and the comment is therefore untimely. All comments on the May 21, 2012, Draft were

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						addressed in the Staff Response to Comments document available at: <a href="http://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/comments_rev_phase_ii_ms4permit/resp_to_comments.pdf">http://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/comments_rev_phase_ii_ms4permit/resp_to_comments.pdf</a>
17	7	City of San Diego, Transportation & Storm Water Department - Kris McFadden	E.9.c.(iii)	illicit Discharge Detection and Elimination	There should be a requirement to submit the monitoring data, as opposed to the summary of activities that goes to SMART, to the same database used by the regional or countywide storm water program. For example, CEDEN is used in southern California as the data center to facilitate data sharing and ensure that monitoring data is submitted in a comparable format.	Staff appreciates the commenter's suggestion to submit the monitoring data for IDDE to a regional or countywide storm water program. At this time, staff is working to coordinate data sharing databases (eg. CEDEN) with storm water permit requirements. Receiving water monitoring data can be shared through CEDEN, however, the system is not currently designed to register the data collected through the IDDE program.
17	8	City of San Diego, Transportation & Storm Water Department - Kris McFadden	E.9.d.(ii).e.	Illicit Discharge Detection and Elimination	This section assumes that the source of an illicit discharge will always be identified, which may not always be possible, especially where discharges are sporadic. This section should include a stopping rule that will prevent ongoing source identification efforts with little or no chance of success.	Generally, the source of the illicit discharge is not impossible to identify. In the case that the source is impossible to identify, the Permittee can demonstrate through proper documentation that all necessary actions were taken to identify the source and notify the Regional Water Board.
17	9	City of San Diego, Transportation & Storm Water Department - Kris McFadden	E.9.d.(ii).e.	Illicit Discharge Detection and Elimination	This section could be interpreted to mean that the illicit discharge has been eliminated within 72 hours of notification. This may not be feasible in all instances. Should be reworded to require that corrective actions begin within 72 hours of notification.	If the source cannot be identified within 72 hours, the Permittee can document and notify the local Regional Water Board of the specific situation involving the illicit discharge.
17	10	City of San Diego, Transportation & Storm Water Department - Kris McFadden	E.11.a.(ii) E. 11 .c.(ii)	Pollution Prevention/Good House Keeping	As previously submitted this draft permit includes marinas; however, the State Board Water Resources Control Board (State Board) sent out a public notice regarding a tentative marina permit on May 6, 2009. Research on the State Board's website documents the continuing activities of the Marina & Recreational Boating Interagency Coordination	Comment noted. The tentative marina permit has not yet been adopted and as such does not serve a regulatory tool to address marina activities.

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					Committee. The committee's meeting notes and the tentative marina permit appears to address the marina landside and waterside activities; whereas, this draft permit only addresses the landside activities. Based on the review of both programs, the City of San Diego strongly recommends removing marinas from this draft permit in favor of the comprehensive marina permit.	
17	11	City of San Diego, Transportation & Storm Water Department - Kris McFadden	E.13	Monitoring	As previously submitted, we recommend collaborative efforts with the Phase I permittees regarding monitoring activities to minimize duplication and possible right of entry permitting issues.	Section E.13 encourages Permittees to engage in regional monitoring efforts in order to share costs and monitoring data information. Regional monitoring may be conducted through a collaborative process between Phase II entities and Phase I entities.
17	12	City of San Diego, Transportation & Storm Water Department - Kris McFadden	E.13.a	Monitoring	As previously submitted, the draft permit requirements for a Phase II permittee to collect samples from the downstream receiving water that is outside of their boundaries will require them to obtain right of entry permits from the local municipality. For example, if a Phase II permittee has to collect samples from the downstream river system within the City of San Diego, that institution will have to obtain a right of entry permit. We request that Phase II permittees be required to obtain authorization from the Phase I jurisdiction when monitoring beyond their boundaries or within other agencies' easements.	The Receiving Water Monitoring protocol requires monitoring within the Permittee's jurisdiction, not outside of the Permittee's jurisdiction. As such, this comment does not apply to the monitoring requirements contained in Section E.13.
17	13	City of San Diego, Transportation & Storm Water Department - Kris McFadden	Attachment G	TMDLs	We request TMDL-specific permit requirements be added. This permit should require Phase II dischargers to monitor and demonstrate that their runoff discharges do not contribute to exceedances of water quality criteria for	Regional Water Board 9 submitted TMDL-specific permit requirements and they are included in Attachment G. In addition, please see response to comment number 5, above.

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					copper, lead, and zinc before discharged to Phase I MS4 or Chollas Creek and its tributaries.	
17	14	City of San Diego, Transportation & Storm Water Department - Kris McFadden	Attachment G	TMDLs	We request TMDL-specific permit requirements be added. This permit should require Phase II dischargers to monitor and demonstrate that their runoff discharges do not cause or contribute to exceedances of WLAs assigned to municipal dischargers.	Please see response to comment number 13.
17	15	City of San Diego, Transportation & Storm Water Department - Kris McFadden	Attachment G	TMDLs	The San Diego Regional Board does not have a detailed discussion of Region 9 TMDLs. We request that a Region 9 discussion be included. As the September 2011 Fact Sheet states, "Without progress by each responsible party, the Water Board will not be able to demonstrate progress towards correcting the impairment."	Please see response to comment number 13.
18	1	City of Santa Cruz, Public Works Department - Mark Dettle	Attachment J	Central Coast Post-Construction Requirements - General	In theory, the Central Coast post-construction requirements were based upon a thorough and scientific assessment of watershed processes conducted by a team of scientists. The watershed processes assessed by the scientific team were in turn based upon natural, undeveloped conditions observed throughout the Central Coast region. Our concern is that the resulting post-construction requirements and applicability criteria are not clearly linked to the initial scientifically-based watershed analysis, are generally unclear, very complex, and unproven as to their effectiveness or ease of implementation.	In response to extensive comments received from interested persons, Attachment J has been deleted from the Order. The State Water Board determined that, while the Board continues to support a watershed process-based approach to hydromodification requirements, the Joint Effort process should be allowed to evolve and proceed without direct incorporation into the Small MS4 General Order. This allows an independent process to address several unresolved issues acknowledged by the parties to the Join Effort, including the Regional Water Board. Under new Provision E.12.k, if a Regional Water Board develops post-construction storm water management requirements based on a watershed process approach and consistent with criteria specified, Small MS4s in that Region must implement the developed requirements in lieu of

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						<p>most sections of E.12.k. The implication of this Provisions for the Central Coast regional Small MS4s is that they will be required to implement watershed process-based requirements developed through the Joint Effort after those requirements have been reconsidered and approved by the Central Coast Water Board Resolution NO. R-3-2012-0025 operated as update to SWMPs that are no longer required by this Order.</p> <p>Please see the Fact Sheet Post Construction Storm Water Management for New Development and Re-development discussion for further details. Staff notes that, because E.12.k. precludes imposition of the Joint Effort requirements through Resolution No.R3-2012-0025, the State Water Board considers the pending petitions on that Resolution moot as of adoption of this Order. However, any future action by a Regional Water Board, including the Central Coast Water Board, to adopt a regional watershed process-based approach would be subject to petitions for review by the State Water Board.</p>
18	2	City of Santa Cruz, Public Works Department - Mark Dettle	Attachment J	Central Coast Post-Construction Requirements - 95th Percentile	There is no demonstrated environmental benefit from retaining a 95th percentile storm event on small projects (15,000 sf and greater) in urban areas. It is well established that water quality control measures are most economical and efficient when they target small, frequent storm events that over time produce more total runoff than the larger, infrequent storms targeted for design of flood control facilities. Targeting larger design storms will produce volume retention gains but at considerable	Please see response to comment number 1.

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					incremental cost. We are concerned that, as a result, developers are likely to abandon efforts to create infill and smart growth projects in existing urbanized areas in favor of new development projects in rural areas outside of designated MS4s where these requirements do not apply. The loss of agricultural lands and open space, and resulting sprawl development, could easily negate any hoped-for water quality benefit.	
18	3	City of Santa Cruz, Public Works Department - Mark Dettle	Attachment J	Central Coast Post-Construction Requirements - Multiplier	The Central Coast sizing criteria were placed in the Region 3 requirements after the public review process was completed in that region. The sizing criteria uses an outdated and incorrectly applied Water Environmental Federation MOP 23 approach that multiplies the retention/water quality volume by 1.963 in order to capture "all events up to and including" the 85th or 95th, as appropriate.	Please see response to comment number 1.
18	4	City of Santa Cruz, Public Works Department - Mark Dettle	Attachment J	Central Coast Post-Construction Requirements -	By appending the Central Coast requirements, and stating, "the Water Board expects to amend this Order to incorporate similar requirements for Permittees in the remainder of the State", the Water Board has introduced an entirely new set of rules with insufficient time for Phase II Permittees to fully evaluate the potential impacts of these standards. As noted above, there are significant technical issues in the Region 3 requirements and any revisions would require opening the Phase II permit to amend a regional requirement at the state level.	Please see response to comment number 1.
18	5	City of Santa Cruz, Public Works Department - Mark Dettle	Attachment J	Central Coast Post-Construction Requirements	As a result, we urge you to delete direct references to the Central Coast Post-Construction Requirements, including Attachment J, from the Draft Phase II Permit so	Please see response to comment number 1.

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					that any necessary improvements can more easily be made to these requirements by Region 3.	
19	1	City of Santa Maria, Utilities Department - Richard Sweet		General - Cost	The revisions to the Draft Permit do a much better job of linking public expenditures to measurable water quality benefits. However, Santa Maria believes the additional changes requested below strike a more appropriate balance between resources allocated and effective water quality outcomes. Without additional revisions, each of these items could drastically increase compliance costs without a corresponding demonstration of measurable water quality benefits.	Comment noted. Please see Economic considerations in Fact sheet. In addition, as part of Phase 2 of a Workplan adopted by the State Board to assess and align priorities, resources and performance targets, staff has initiated an assessment of the costs of compliance for dischargers subject to Water Board regulation and oversight in the following four programs: 1) NPDES wastewater, 2) NPDES stormwater 3) Irrigated lands, and 3) Waste discharge requirements (WDR).
19	2	City of Santa Maria, Utilities Department - Richard Sweet		Regional Board Discretion	Specifically, Section E.1.b has been revised to establish a procedure to be followed when a Regional Board EO compels a Permittee to continue its existing SWMP. Section E.1.b. now requires a "statement of reasons" when a Regional Board EO compels a Permittee to implement Community Based Social Marketing ("CBSM"). Santa Maria continues to believe that both of these provisions, as revised, should be deleted or significantly constrained. With regard to the continuation of existing programs, Santa Maria believes that this option should only be considered when requested by a Permittee. At a minimum, short deadlines must be established in which Regional Board EOs may compel continuation of a SWMP. Permittees need regulatory certainty on which program they are to implement. In addition, updating the SWMP should not be required when continuation of the SWMP is compelled. The obligation should merely be to continue the existing program. With regard to CBSM,	Section E.1.b. has been deleted from this Order. Further, USEPA has developed a document that identifies principles of CBSM. See <a href="http://www.epa.gov/owow/watershed/outreach/documents/getnstep.pdf">http://www.epa.gov/owow/watershed/outreach/documents/getnstep.pdf</a> The Regional Water Boards have greater knowledge and expertise as to the specific storm water issues in their region and may exercise their authority to require CBSM as specified in (Wat. Code §13377.)

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					Regional Board EOs should not be provided the option to compel this expensive effort even when a "statement of reasons" is provided.	
19	3	City of Santa Maria, Utilities Department - Richard Sweet	E.9.a. and E.9.c.	Outfall Mapping and Sampling	These revisions and other similar requirements of the Draft Permit linked to the term "outfall" should be considered in light of the new definition of "outfall" contained in Attachment I. The new definition of "outfall" is based on the definition of that term in 40 CFR 122.26(b)(9), which in turn is based on the definition of a "point source" in 40 CFR 122.2. Without reasonable limitations based on pipe size, this new definition will make the outfall mapping and sampling requirements of the Draft Permit overly broad and difficult to meet. Attachment J limits the scope of this definition to outfalls measuring 18 inches or more in diameter with regard to Ocean Plan monitoring. Similar constraints should be included for the other mapping, sampling and monitoring requirements of the Draft Permit.	Staff does not agree that outfall sizes for Section E.9. should be limited to a size of 18 inches in diameter. An illicit discharge could directly discharge into a receiving water body by way of an outfall measuring less than 18 inches in diameter. Additionally, both EPA and CWP recommend mapping and sampling of all outfalls located within the urbanized area ( <a href="http://cfpub.epa.gov/npdes/stormwater/idde.cfm">http://cfpub.epa.gov/npdes/stormwater/idde.cfm</a> ).
19	4	City of Santa Maria, Utilities Department - Richard Sweet	E.9.b.(ii)(e)	illicit Discharge Detection and Elimination	Section E.9.b.(ii)(e) on page 39 has been revised to add back into the Draft Permit a form of industrial and commercial inspection program. The revisions would require Permittees to inspect certain designated industrial and commercial facilities at least once during the Permit term. These revisions should be deleted from the Draft Permit. Indeed, the Draft Fact Sheet represents on page 11 that the industrial and commercial inspection program has been deleted from the Draft Permit to reduce costs. Such a program, even in this	This permit provision has been revised to address this comment. Language has been clarified to demonstrate that the intent of Section E.9.b.(ii)(e) is not for Permittee's to conduct inspections of all commercial and industrial facilities. The main objective is to proactively identify potential illicit discharges originating from priority areas. There are numerous studies that show dry weather flows from the storm drain system may contribute to a greater amount of some pollutants than wet weather storm water flows. To effectively detect and eliminate these

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					revised form, should not be added back into the Draft Permit.	discharges, detective work is required. Proactive procedures as required in Section E.9.b.(ii)(e) are one component of such detective work that must be implemented as part of the detection and elimination process. This requirement may be accomplished as part of the outfall mapping and inventory exercise as required in Sections E.9.a. and E.9.c. of this Order.
19	5	City of Santa Maria, Utilities Department - Richard Sweet	E.10.c.(ii)	Construction	Section E.10.c.(ii) on page 47 has been revised to insert certain "recommended" construction inspection frequencies. To avoid ambiguity about enforceable requirements of the Draft Permit, these "recommended" inspection frequencies should be deleted. This would be consistent with the statement on page 11 of the Draft Fact Sheet that the "mandatory" construction inspection frequencies have been deleted from the Permit. If the State Board believes it is important to provide a "recommendation" about when inspections should occur, it should include those "recommendations" in the Fact Sheet or other guidance document, not in the Permit itself.	This permit provision has been revised to address this comment.
19	6	City of Santa Maria, Utilities Department - Richard Sweet	Attachment J	Central Coast Post-Construction Requirements	Santa Maria joins in the comments of CASQA and SSC regarding the many technical and legal problems associated with having the State Board adopt the Post-Construction Requirements through its action on the Draft Permit.	Comment noted.
19	7	City of Santa Maria, Utilities Department - Richard Sweet	Attachment J	Central Coast Post-Construction Requirements	Santa Maria has contended for many years that it and other Permittees within the Central Coast Region be placed on an equal footing as other Permittees throughout California, and not be subject to the untested provisions of the Post-Construction Requirements. Santa Maria's preference is to be subject to the post-	In response to extensive comments received from interested persons, Attachment J has been deleted from the Order. The State Water Board determined that, while the Board continues to support a watershed process-based approach to hydromodification requirements, the Joint Effort process should be allowed to evolve and proceed

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					<p>construction requirements of the Draft Permit. However, Santa Maria has also invested a good deal of time and money in seeking to craft an alternative approach within the context of the Post-Construction Requirements that it wishes to have the Central Coast Regional Board consider. The adoption of the Post-Construction Requirements by the State Board complicates this process, since it raises the Central Coast issues to the State Board level. This limits the flexibility of the Central Coast Region to amend and implement the Post-Construction Requirements. Santa Maria recommends that the State Board not adopt the Central Coast Region's Post-Construction requirements or create a special "carve-out" for this Region. Rather, the Central Coast Regional Board and the Permittees within the Region should be allowed to work out on a regional level how the Post-Construction Requirements should be implemented after Permit adoption.</p>	<p>without direct incorporation into the Small MS4 General Order. This allows an independent process to address several unresolved issues acknowledged by the parties to the Joint Effort, including the Regional Water Board. Under new Provision E.12.k, if a Regional Water Board develops post-construction storm water management requirements based on a watershed process approach and consistent with criteria specified, Small MS4s in that Region must implement the developed requirements in lieu of most sections of E.12.k. The implication of this Provisions for the Central Coast regional Small MS4s is that they will be required to implement watershed process-based requirements developed through the Joint Effort after those requirements have been reconsidered and approved by the Central Coast Water Board Resolution NO. R-3-2012-0025 operated as update to SWMPs that are no longer required by this Order.</p> <p>Please see the Fact Sheet Post Construction Storm Water Management for New Development and Re-development discussion for further details. Staff notes that, because E.12.k. precludes imposition of the Joint Effort requirements through Resolution No.R3-2012-0025, the State Water Board considers the pending petitions on that Resolution moot as of adoption of this Order. However, any future action by a Regional Water Board, including the Central Coast Water Board, to adopt a regional watershed process-based approach would be subject to petitions for review by the State Water Board.</p>

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19	8	City of Santa Maria, Utilities Department - Richard Sweet	E.13	Monitoring	Section E.13.(1)-(4) on pages 82-83 has been revised to attempt to clarify the Draft Permit's monitoring requirements. However, the revisions create an ambiguity about the monitoring requirements applicable to Santa Maria, a City with a population greater than 50,000. New language in Section E.13 provides as follows: "Traditional Small MS4 Permittees that are already conducting monitoring of discharges to ASBS, TMDL and impaired water bodies are not required to perform additional monitoring as specified in E.13.a and E.13.b." Santa Maria believes that the use of the word "and" is erroneous and that the word should be "or" as used in other portions of Section E.13. Please make this important correction to clarify the City's monitoring obligations.	This permit provision has been revised to address this comment.
19	9	City of Santa Maria, Utilities Department - Richard Sweet	E.15.c.	TMDLs and Receiving Water Limitations	Section E.15.c on page 98 and Attachment G have been revised to allow additional time for Regional Boards to work with Permittees to develop TMDL-specific permit requirements. This is an important issue to Santa Maria because the City is facing several important TMDLs, including the recently adopted Fecal Indicator Bacteria TMDL for the Santa Maria River. The manner in which those TMDLs are ultimately incorporated into the Permit as enforceable requirements is very important to the City. In this regard, Santa Maria also requests that the State Board address the receiving water limitations language of Section D of the Draft Permit now, prior to Permit adoption. This is particularly	The State Water Board heard from interested persons at the November 20, 2012, workshop held to consider receiving water limitations provisions in municipal storm water permits and the Board is evaluating options going forward. The State Water Board considers the receiving water limitations question to be an important and complicated issue and believes it requires careful consideration. The Board will continue to rely on the specific reopener clause at Section H to facilitate future revisions, if any, rather than delay consideration of adoption of the Phase II permit. Although there may be significant support among stakeholders for linking receiving water limitations language to TMDL implementation plans as suggested by the

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					important in connection with TMDLs and their relationship to requirements of Section D. At the State Board's recent workshop on the receiving water limitations language, there appeared to be broad consensus among stakeholders, including U.S. EPA, that linking receiving water limitations language to TMDL implementation plans made regulatory sense. The adopted Permit must provide a pathway to compliance. To provide regulatory certainty, the City asks that the State Board address this issue now.	commenter, the State Water Board believes that the most productive process is for the Board to consider all the issues and alternatives together and not to engage in piecemeal revisions to the receiving water limitations provisions.
19	10	City of Santa Maria, Utilities Department - Richard Sweet	Throughout	General	The Draft Permit and Draft Fact Sheet include many positive revisions. Santa Maria thanks the State Board staff for making those revisions. It is believed the comments in this letter will help make the Permit clearer and more understandable to all parties. We appreciate the opportunity to provide these comments and look forward to revisions based upon them.	Comment noted.
20	1	City of Santa Rosa - Glen Wright		Receiving Water Limitations	The Receiving Water Limitations Provision (Provision D, pages 19-20) is an important and relevant issue for all permittees within the State. While the revised order does not modify Provision D per se, it addresses the issue (see Finding #38, page 38; Provision I, page 140; and the Fact Sheet, pages 25-26) by creating a reopener clause. We believe the State Water Board should not defer this issue until a later date (by the use of a reopener clause) and recommend that the State Water Board address this issue in this permit. Following the November 20, 2012 workshop, we believe the State Water Board has sufficient input and cause to develop a resolution. We understand that CASQA offers its support and assistance to	The discussion of the receiving water limitations in the Fact Sheet has been revised to clarify the State Water Board's position to date and to address the Supreme Court's recent decision reversing the Ninth Circuit judgment in <i>NRDC v. LA County</i> and remanding the case. The State Water Board heard from interested persons at the November 20, 2012, workshop held to consider receiving water limitations provisions in municipal storm water permits and the Board is evaluating options going forward. The State Water Board considers the receiving water limitations question to be an important and complicated issue -- independent of the court ruling -- and believes it requires careful consideration. The Board will continue to rely on

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					the State Water Board to address this issue. We urge the State Water Board to direct staff to work with CASQA to revise the Receiving Water Limitation Language in Provision D now and not defer to a later point in time.	the specific reopener clause at Section H to facilitate future revisions, if any, rather than delay consideration of adoption of the Phase II permit.
20	2	City of Santa Rosa - Glen Wright		Central Coast Post-Construction Requirements	Our concerns with Attachment J are two-fold, policy/procedural and technical. First we are concerned with the apparent escalation in permit requirements being conducted by the various Water Board permit writers in drafting provisions for land development. Over the last few years we have seen the ratcheting up of land development requirements in each MS4 permit reissuance with regard for neither the impact/effectiveness of the prior development requirements nor the key hydrologic principles of low impact development. Another policy/procedural related issue is the timing of the inclusion of Region 3 requirements into the Draft Phase II Permit. By appending the Central Coast requirements, and stating, "the Water Board expects to amend this Order to incorporate similar requirements for Permittees in the remainder of the State", the Water Board has introduced an entirely new set of rules with insufficient time for Phase I or II permittees to fully evaluate the potential impacts of these standards. At a minimum, we believe it prudent to allow a full 5-year permit term to incorporate the requirements of Section E.12 to assess their effectiveness before charging off on a new set of requirements.	In response to extensive comments received from interested persons, Attachment J has been deleted from the Order. The State Water Board determined that, while the Board continues to support a watershed process-based approach to hydromodification requirements, the Joint Effort process should be allowed to evolve and proceed without direct incorporation into the Small MS4 General Order. This allows an independent process to address several unresolved issues acknowledged by the parties to the Joint Effort, including the Regional Water Board. Under new Provision E.12.k, if a Regional Water Board develops post-construction storm water management requirements based on a watershed process approach and consistent with criteria specified, Small MS4s in that Region must implement the developed requirements in lieu of most sections of E.12.k. The implication of this Provisions for the Central Coast regional Small MS4s is that they will be required to implement watershed process-based requirements developed through the Joint Effort after those requirements have been reconsidered and approved by the Central Coast Water Board Resolution NO. R-3-2012-0025 operated as update to SWMPs that are no longer required by this Order.  Please see the Fact Sheet Post Construction

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						Storm Water Management for New Development and Re-development discussion for further details. Staff notes that, because E.12.k. precludes imposition of the Joint Effort requirements through Resolution No.R3-2012-0025, the State Water Board considers the pending petitions on that Resolution moot as of adoption of this Order. However, any future action by a Regional Water Board, including the Central Coast Water Board, to adopt a regional watershed process-based approach would be subject to petitions for review by the State Water Board.
20	3	City of Santa Rosa - Glen Wright		Central Coast Post-Construction Requirements	The Region 3 requirements are not only the most stringent and complex in the State; they are also unique and entirely untested. For example, there is no demonstrated environmental benefit from retaining a 95th percentile storm event on small projects (15,000 sf and greater) in urban areas. It is well established that water quality control measures are most economical and efficient when they target small, frequent storm events that over time produce more total runoff than the larger, infrequent storms targeted for design of flood control facilities. In other words, targeting design storms larger than this point will produce volume retention gains but at considerable incremental cost.	Please see response to comment number 2.
20	4	City of Santa Rosa - Glen Wright		Central Coast Post-Construction Requirements	The Central Coast sizing criteria was placed in the Region 3 requirements after the public review process was completed in that region. The sizing criteria uses an outdated and incorrectly applied Water Environmental Federation MOP 23 approach that multiplies the retention/water quality volume by 1.963 in	Please see response to comment number 2.

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					order to capture "all events up to and including" the 85th or 95th, as appropriate.	
20	5	City of Santa Rosa - Glen Wright		Central Coast Post-Construction Requirements	The retention and hydromodification requirements, and some of the LID requirements, are inconsistent and go beyond those of existing or proposed statewide, regional, or local Phase I or Phase II MS4 permits in California. For example, thresholds for hydromodification requirements are much lower than existing or proposed permits (15,000 square feet and 22,500 square feet of created/replaced impervious surface for runoff retention and peak matching, respectively). Post-project vs. pre-project peak matching is required for the 2 through 10-year storm, which is beyond most existing requirements and more appropriate for flood control facilities. The technical basis for these requirements is unclear and in the absence of demonstrated environmental benefit, there is no justification for the significant increased cost for their implementation.	Please see response to comment number 2.
20	6	City of Santa Rosa - Glen Wright		Central Coast Post-Construction Requirements	We urge you to delete direct references to the Central Coast Post-Construction Requirements, including Attachment J, from the Draft Phase II Permit.	Please see response to comment number 2.
20	7	City of Santa Rosa - Glen Wright	B.1. and 2.	Discharge Prohibitions	By adding the language "from the MS4" is direct dumping into a waterway unintentionally excluded?	The phrase "from the MS4" was added to make the language consistent with the Clean Water Act which requires NPDES permits for discharges "from municipal storm sewers." Direct dumping into a waterway of waste is still subject to regulation under the Water Code and the Clean Water Act as a discharge of waste.

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20	8	City of Santa Rosa - Glen Wright	B.4.	Incidental Runoff	Language states "Discharges in excess of an amount deemed to be incidental runoff..."-Who deems this level that is incidental? Leaving this undefined allows for third party exposure.	The incidental runoff requirements language is based on the Recycled Water Policy and California Department of Water Resources' (DWR) Water Efficient Landscape Ordinance. The discretion to determine the level that is incidental runoff is based on the definition included in Section B.4. as unintended amounts (volume) of runoff that escapes the area of intended use.
20	9	City of Santa Rosa - Glen Wright	B.4.d.	Incidental Runoff	"Regional Water Board is notified by email no later than 24 hours after the discharge"- While the Permittee can meet this requirement, Regional Board staff may not receive the email until the next working day if the spill occurs on a weekend. Is there a better way to conduct this notification so that response by Regional Board staff could be more timely?	The notification process can be addressed through the local Regional Water Board (eg. weekend notifications) and Permittee coordination.
20	10	City of Santa Rosa - Glen Wright	E.6.b.(e) and E.6.c. (i)	Program Management	Part (e) requires that in the first year of the permit that "A statement that the municipality will implement enforcement actions consistent with its Enforcement Response Plan developed pursuant to Section E.6.c." However section E.6.c (i) requires the development of the Enforcement Response Plan in the third year of the permit. These two sections need to be revised as the plan must be developed before it can be enforced. Recommend that the plan be developed in year two and the statement of enforcement per the plan be provided in year three.	This permit provision has been revised to address this comment.
20	11	City of Santa Rosa - Glen Wright	E.7.a.(j)	Public Education and Outreach	How would a Permittee demonstrate it has "effectively educate school-age children"? Need to clarify to protect from third party lawsuits.	This permit provision has been revised to address this comment.
20	12	City of Santa Rosa - Glen Wright	E.9.a. (i) and (ii)(a)	Illicit Discharge Detection and Elimination	Requiring that "the development of the outfall map shall include a visual outfall inventory involving a site visit to each outfall" places a	One of the main objectives of the outfall inventory is to proactively detect, identify and eliminate illicit discharges. Moreover, the visual

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					very large work load on the Permittees. It is recommended that mapping be completed based on recorded improvement plans and that field verification be used on an as- needed basis only.	inventory lends to a clear understanding of the stream system and storm drain system within a Permittee's jurisdiction. The mapping and inventory does not have to be completed until the end of year two and may be done incrementally.
20	13	City of Santa Rosa - Glen Wright	E.9.c.	Illicit Discharge Detection and Elimination	See the above comment.	Please see response to comment number 13.
20	14	City of Santa Rosa - Glen Wright	E.11.f.	Pollution Prevention/Good Housekeeping	Per the definition of "Catch Basin" in the glossary this section would not apply to most municipalities in Region 1 since by design they do not have a sump. The City of Santa Rosa has found that the majority of material is actually removed from the storm drain lines and opposed to the inlets. Recommend prioritization be based on historical information and events (such as parades or downtown markets) or allow Permittees to propose criteria for prioritization.	Due to extensive comments regarding catch basin maintenance, staff included a set of prioritization criteria to allow flexibility. In the case that the criteria does not apply to a Permittee, the Permittee may coordinate with the local Regional Water Board to tailor specific criteria for prioritization of catch basin maintenance schedules.
20	15	City of Santa Rosa - Glen Wright	E.12.a.	Post-Construction	Recommend that language be added to recognize that not all Permittees (such as schools) have land use authority.	The Order includes language that recognizes the different levels of land use authority amongst Permittee types.
20	16	City of Santa Rosa - Glen Wright	E.12.b.	Post-Construction	The SMARTS Post-Construction Calculator is designed to address the 5yr storm event, which is a larger event than this permit is intended to address. As such it is not the best tool for post development site design unless it is modified to allow for different storms to be entered.	The SMARTS post-construction calculator is not designed to address the 5-year storm event, but rather, the 85 <sup>th</sup> percentile, 24-hour storm event.
20	17	City of Santa Rosa - Glen Wright	E.12.c.(a)	Post-Construction	"...impervious surfaces must be included to the extent feasible."- Need to define feasibility criteria or specify that this is at the Regional Board's discretion.	Infeasibility criteria are included in this Order. Please see Section Allowed Variations for Special Site Conditions of Section E.12.
20	18	City of Santa Rosa -	E.12.c.(d)	Post-	See comment above.	Please see response to comment number 17.

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		Glen Wright		Construction		
20	19	City of Santa Rosa - Glen Wright	E.12.e. (a)	Post-Construction	The items listed here for site design are land use planning issues and are beyond the purview of the State Board. Recommend changing this language to encourage Permittees to "adopt and support land use policies that support the following objectives."	This Order has specific site design and LID requirements for all projects. The LID requirements emphasize landscape-based site design features that are already required elsewhere (e.g., the Water Efficient Landscape Ordinance required under AB 1881.
20	20	City of Santa Rosa - Glen Wright	E.12.e. (c)(a)(1)	Post-Construction	The volumetric criteria proposed requires that more water be infiltrated after the development then naturally infiltrated before the site was developed. This requirement does not meet the intent of mimicking the pre-development hydrograph. Recommend that this criteria be changed to require that the same volume of storm water be infiltrated after the development of the site as infiltrated on the undeveloped site. This change would make it consistent with the Phase I permit and would address the design challenge of working in clay soil while still preventing the increase in runoff volume.	Comments on the November 16, 2012, Draft were limited by the Public Notice dated November 16, 2012, and the Revised Public Notice dated November 30, 2012, to revisions made since the May 21, 2012, Draft. The commenter has submitted a comment on a provision that was not revised after May 21, 2012, and the comment is therefore untimely. All comments on the May 21, 2012, Draft were addressed in the Staff Response to Comments document available at: <a href="http://www.waterboards.ca.gov/water_issues/pr ograms/stormwater/docs/comments_rev_phase_ii_ms4permit/resp_to_comments.pdf">http://www.waterboards.ca.gov/water_issues/pr ograms/stormwater/docs/comments_rev_phase_ii_ms4permit/resp_to_comments.pdf</a>
20	21	City of Santa Rosa - Glen Wright	E.12.i.(ii)(a)	Post-Construction	"...Permittee shall conduct an analysis of the landscape code to correct gaps..."- Recommend that the word "landscape:" be replaced with "applicable City Code" since other codes may be where a city derives its authority for post-construction features.	Staff appreciates the suggested language regarding the landscape code. However, staff does not agree that that "landscape" should be replaced with "applicable City Code". Section E.12 focuses on landscape level, site design measure implementation. As such, the landscape code will address such post-construction features.
20	22	City of Santa Rosa - Glen Wright	E.12.j.	Post-Construction	See comments in body of letter.	In response to extensive comments received from interested persons, Attachment J has been deleted from the Order. The State Water Board determined that, while the Board continues to support a watershed process-based approach to hydromodification requirements, the Joint Effort process should be allowed to evolve and proceed without direct incorporation into the Small MS4

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						<p>General Order. This allows an independent process to address several unresolved issues acknowledged by the parties to the Joint Effort, including the Regional Water Board. Under new Provision E.12.k, if a Regional Water Board develops post-construction storm water management requirements based on a watershed process approach and consistent with criteria specified, Small MS4s in that Region must implement the developed requirements in lieu of most sections of E.12.k. The implication of this Provisions for the Central Coast regional Small MS4s is that they will be required to implement watershed process-based requirements developed through the Joint Effort after those requirements have been reconsidered and approved by the Central Coast Water Board Resolution NO. R-3-2012-0025 operated as update to SWMPs that are no longer required by this Order.</p> <p>Please see the Fact Sheet Post Construction Storm Water Management for New Development and Re-development discussion for further details. Staff notes that, because E.12.k. precludes imposition of the Joint Effort requirements through Resolution No.R3-2012-0025, the State Water Board considers the pending petitions on that Resolution moot as of adoption of this Order. However, any future action by a Regional Water Board, including the Central Coast Water Board, to adopt a regional watershed process-based approach would be subject to petitions for review by the State Water Board.</p>
21	1	City of Sonoma Stormwater	Throughout	General	The City of Sonoma supports the comments provided by CASQA.	Comment noted.

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		Coordinator and Interim Public Works Director - Wendy Atkins and Wayne Wirick				
22	1	City of Woodland - Paul Navazio	Throughout	General	<p>The City of Woodland is a member of both the California Stormwater Quality Association (CASQA) and the Statewide Stormwater Coalition (SSC). We contributed to, and endorse, the detailed comments provided by these two organizations on the third Draft Permit and will not repeat them here. We urge the State Water Board to continue the positive momentum achieved to date by addressing the significant remaining concerns expressed in those letters on the following topics:</p> <ul style="list-style-type: none"> <li>• Receiving Water Limitations Language and permit reopener clause (Finding 38 and Provision I)</li> <li>• Central Coast Post-Construction Requirements (Attachment J)</li> <li>• Consistency of monitoring requirements (E.13.(4), Attachment A, and monitoring flow chart)</li> <li>• Industrial/commercial inspections (E.9.b(ii)(e))</li> <li>• Regional Water Board discretion (Finding 31, E.1.b,E.7,E.16.c)</li> <li>• Dispute resolution process (Provision H)</li> <li>• Education of schoolchildren (E.7.a(ii)(j))</li> <li>• Runoff reduction calculations for smaller lots (E.12.b(ii))</li> </ul>	Comment noted.
22	2	City of Woodland - Paul Navazio	E.9.	Illicit Discharge Detection and Elimination	The introductory paragraph in this section establishes the requirement to develop an IDDE program, and closes with the following new	While the footnote reads “shall” it also states that the Permittee can use an equivalent document to the CWP’s guide on IDDE. This document is

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					sentence: "The Permittee may utilize the CWP's guide on Illicit Discharge Detection and Elimination as guidance" (emphasis added). However, Footnote 15, referenced in the preceding sentence, indicates "The Permittee shall use the Center for Watershed Protection's guide on Illicit Discharge Detection and Elimination..."(emphasis added). The language of the footnote needs to be reconciled with the sentence in text, and the footnote reference should be moved to this sentence.	provided for guidance and to assist the Permittee in implementation of Section E.9 requirements.
22	3	City of Woodland - Paul Navazio	E.12.c.	Post-Construction	At the bottom of page 62 under "Effective Date for Applicability of Low Impact Development Runoff Standards to Regulated Projects," the requirement reads, "By the second year of the effective date of the permit, the Permittee shall require..." We assume this is intended to mean "Within the second year...". However, it could be interpreted to mean before the beginning of the second year. Throughout the Draft Permit, timelines are expressed using the wording "Within the [first, second, etc.] year...". Please reword the statement on page 62 to clarify the intended timing of the requirement and for consistency with other Draft Permit schedule requirements. In addition, this scheduling requirement should be moved to the end of E.12.c.	All references to 'by the (insert date)' are expected to be completed by the end of that year.
22	4	City of Woodland - Paul Navazio	E.12.e.(ii)	Post-Construction	In the final paragraph on page 69, the requirement reads, "By the second year of the effective date of the permit, each permittee shall adopt..." We assume this is intended to mean "Within the second year...". However, it could be interpreted to mean before the beginning of the second year. Please reword the statement on page 69 to clarify the	Please see response to comment number 3.

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					intended timing of the requirement and for consistency with other Draft Permit schedule requirements.	
23	1	Construction Industry Coalition on Water Quality - Mark Grey	Attachment J	Central Coast Post-Construction Requirements	<p>The State Water Board made a substantial and unjustified change in the Draft Small MS4 permit by inserting Attachment J (Central Coast Specific Post-Construction Requirements: Post-Construction Stormwater Management Requirements for Development Projects in the Central Coast Region) and suggesting that the hydrologic site design criteria contained in it is appropriate for application throughout California. The addition of Attachment J is technically unjustified in several fundamental respects, and by our estimation, virtually all of the municipal stakeholders whose systems are regulated by the permit in California strongly oppose it. There are at least three petitions that challenge the imposition of the criteria like that contained in Attachment J. The petitions were brought by permittees in the Central Coast region, where the Central Coast Regional Water Quality Control Board recently adopted such criteria. Respectfully, we view it as unjustified to propose the inclusion of such a highly controversial permit provision at this point in what has already been a multi-year permitting process.</p>	<p>In response to extensive comments received from interested persons, Attachment J has been deleted from the Order. The State Water Board determined that, while the Board continues to support a watershed process-based approach to hydromodification requirements, the Joint Effort process should be allowed to evolve and proceed without direct incorporation into the Small MS4 General Order. This allows an independent process to address several unresolved issues acknowledged by the parties to the Joint Effort, including the Regional Water Board. Under new Provision E.12.k, if a Regional Water Board develops post-construction storm water management requirements based on a watershed process approach and consistent with criteria specified, Small MS4s in that Region must implement the developed requirements in lieu of most sections of E.12.k. The implication of this Provisions for the Central Coast regional Small MS4s is that they will be required to implement watershed process-based requirements developed through the Joint Effort after those requirements have been reconsidered and approved by the Central Coast Water Board Resolution NO. R-3-2012-0025 operated as update to SWMPs that are no longer required by this Order.</p> <p>Please see the Fact Sheet Post Construction Storm Water Management for New Development and Re-development discussion for further details. Staff notes that, because E.12.k. precludes imposition of the Joint Effort requirements</p>

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						through Resolution No.R3-2012-0025, the State Water Board considers the pending petitions on that Resolution moot as of adoption of this Order. However, any future action by a Regional Water Board, including the Central Coast Water Board, to adopt a regional watershed process-based approach would be subject to petitions for review by the State Water Board.
23	2	Construction Industry Coalition on Water Quality - Mark Grey	Attachment J	Central Coast Post-Construction Requirements	The California Stormwater Quality Association (CASQA) and its Phase II subcommittee have prepared detailed comments addressing Attachment J in their comment letter. There they discuss why it is inappropriate for inclusion in the Draft Small MS4 Permit. CASQA's comment letter and attachments discuss Attachment J's technical shortcomings clearly, and in great detail. CICWQ is a member of CASQA, and hereby joins in all of CASQA's comments submitted to the State Water Board with respect to the Draft Phase II Small MS4 Permit.	Comment noted.
23	3	Construction Industry Coalition on Water Quality - Mark Grey	Attachment J	Central Coast Post-Construction Requirements	We cannot emphasize enough our disappointment with this late addition to the Draft Phase II Small MS4 Permit, and we respectfully ask the State Water Board members to direct staff to delete it from the Permit.	Please see response to comment number 1.
24	1	County of El Dorado, Department of Transportation - Kimberly Kerr	Throughout	Cost/Unfunded Mandates	As the County has expressed in the past, the County is very concerned about its ability to adequately fund staff to complete the requirements outlined in the draft permit. The County utilizes its general fund revenues to fund the NPDES Program activities, and with the limited discretionary revenue sources currently available, the Board of Supervisors must decide which core services are sacrificed	The draft order has been substantially revised to address comments received regarding costs of implementation. Please see Economic considerations in Fact sheet. In addition, as part of Phase 2 of a Workplan adopted by the State Board to assess and align priorities, resources and performance targets, staff has initiated an assessment of the costs of compliance for dischargers subject to Water Board regulation

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					<p>in order to implement the County's storm water program. The ability to develop a property-related fee to fund this program is constrained by Proposition 218 which requires two-thirds voter approval. Today's voter climate has demonstrated repeatedly that increased fees for programs like storm water management are not supported. Grant funding is currently limited to funding specific capital improvement projects and NPDES Program funding is not an eligible reimbursable cost. Because of this, the County maintains its position that the draft permit represents an unfunded State and Federal mandate.</p>	<p>and oversight in the following four programs: 1) NPDES wastewater, 2) NPDES stormwater 3) Irrigated lands, and 3) Waste discharge requirements (WDR).</p>
24	2	<p>County of El Dorado, Department of Transportation - Kimberly Kerr</p>	Throughout	Regional Board Discretion	<p>While the County knows the costs to implement the draft permit are substantial, the County is unable to accurately estimate permit costs because several major provisions of the draft permit will be determined, at the discretion of the Regional Board Executive Officer, after the permit is adopted. These include public outreach, post construction standards and water quality monitoring. In order to gain a full understanding of what this draft permit means for the County, we respectfully request that the State Board provides full disclosure to permittees on the above-mentioned provisions prior to adopting the draft permit.</p>	<p>Regional Water Boards are autonomous entities responsible for water quality protection within their boundaries. While this permit is intended to achieve stateside consistency, there are slight nuances regionally based upon the varying degrees to which receiving waters need to be protected. In the case that a Regional Board has established storm water management measures that effectively achieve MEP, they have the authority to require those requirements within their jurisdiction., as specified in (Wat. Code §13377.) However, in response to comments and recognizing the need for some level of statewide consistency in interpretation of Order provisions, the revised Order includes a dispute resolution process where there is disagreement between a Permittee and a Regional Water Board over the interpretation of any provision of the Order, including the need to continue an existing program. Under the dispute resolution process, the Permittee should first attempt to resolve the issue with the Executive Officer of the Regional Water Board. If a satisfactory resolution is not</p>

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						<p>obtained at the Regional Water Board level, the Permittee may submit the issue in writing to the Executive Director of the State Water Board or his designee for resolution, with a copy to the Executive Officer of the Regional Water Board. The issue must be submitted to the Executive Director within ten days of any final determination by the Executive Officer of the Regional Water Board. The Executive Officer of the Regional Water Board will be provided an opportunity to respond. The determination of the Executive Director or his designee will be considered a final decision of the State Water Board subject to judicial review under Water Code section 13330.</p>
24	3	County of El Dorado, Department of Transportation - Kimberly Kerr	Throughout	Cost	<p>This draft permit requires significant administration, data collection, management, analysis and reporting of water quality conditions. El Dorado County has an estimated 4000 outfalls throughout the West Slope. The County feels that the proposed monitoring requirements will create a substantial burden on the program resulting in inadequate staffing and financial resources. While the County recognizes the importance of this information in the overall goal for water quality, our current dollars would be better spent on activities with direct improvements to water quality. The County suggests that the State Board reevaluate the draft permit's requirements and to remove the substantial administrative and reporting costs and focus more on actions that will actually improve water quality on the ground.</p>	<p>This Order has undergone significant revisions to address cost. Please see Economic considerations in Fact sheet. In addition, as part of Phase 2 of a Workplan adopted by the State Board to assess and align priorities, resources and performance targets, staff has initiated an assessment of the costs of compliance for dischargers subject to Water Board regulation and oversight in the following four programs: 1) NPDES wastewater, 2) NPDES stormwater 3) Irrigated lands, and 3) Waste discharge requirements (WDR).</p>
24	4	County of El Dorado, Department of	Throughout	General	<p>We support the California Stormwater Quality Association (CASQA) comments on the draft</p>	<p>Comment noted.</p>

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		Transportation - Kimberly Kerr			permit and the Receiving Water Limitations language. The County needs to prioritize its limited financial and staff resources on improving critical water quality issues, which will result in achieving the greatest outcome for the environment. Additionally, this ensures that good faith compliance is not the subject of significant legal liability and lawsuits.	
24	5	County of El Dorado, Department of Transportation - Kimberly Kerr	A.1.b.4.	Guidance Document	What does 'overall planning' within the required Guidance Document entail? The County's Storm Water Management Plan will meet the requirement of the Guidance Document, so can the County submit that instead of a new Guidance Document?	Comments on the November 16, 2012, Draft were limited by the Public Notice dated November 16, 2012, and the Revised Public Notice dated November 30, 2012, to revisions made since the May 21, 2012, Draft. The commenter has submitted a comment on a provision that was not revised after May 21, 2012, and the comment is therefore untimely. All comments on the May 21, 2012, Draft were addressed in the Staff Response to Comments document available at: <a href="http://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/comments_rev_phase_ii_ms4permit/resp_to_comments.pdf">http://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/comments_rev_phase_ii_ms4permit/resp_to_comments.pdf</a>
24	6	County of El Dorado, Department of Transportation - Kimberly Kerr	B.4.	Incidental Runoff	Managing and regulating 'Incidental Runoff (i.e. Detecting and correcting leaking sprinkler heads within 72 hours) in all areas of the County will be impossible.	Please see response to comment number 5.
24	7	County of El Dorado, Department of Transportation - Kimberly Kerr	E.6.c.	Program Management	The Enforcement Response Plan is duplicative with the requirement to establish Legal Authority. Having the appropriate Legal Authority to enforce the Permit will achieve what the Enforcement Response Plan is intended to do.	Please see response to comment number 5.
24	8	County of El Dorado, Department of Transportation - Kimberly Kerr	E.7.a.(i)(b)	Public Education and Outreach	How will implementing surveys twice during permit term improve water quality? How do we empirically measure how raising the level of awareness in target audiences improves water quality? This requirement seems costly and will not be effective.	Please see response to comment number 5.
24	9	County of El Dorado,		Public Education	How will measure changes in public awareness and knowledge resulting from our	The requirements to design a Public Education

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		Department of Transportation - Kimberly Kerr	E.7.a(iii)	and Outreach	public education efforts?	and Outreach Program that measurably increases the knowledge and awareness of targeted audience are specified within this Order.
24	10	County of El Dorado, Department of Transportation - Kimberly Kerr	E.7.b.2.(ii)(a)	QSD	Requiring Plan reviewers and Permitting staff to be certified QSD's is cost prohibitive.	The Order language states that a designated person on staff can possess the QSD credential instead of all plan review and permitting staff. For more information regarding QSP/QSD information please see the following webpage: <a href="http://www.waterboards.ca.gov/water_issues/programs/stormwater/gen_const_faq.shtml">http://www.waterboards.ca.gov/water_issues/programs/stormwater/gen_const_faq.shtml</a>
24	11	County of El Dorado, Department of Transportation - Kimberly Kerr	E.9.c.(i)	Outfall Sampling	Sampling outfalls that are flowing more than 72 hours after the last rain event throughout the entire County will be impossible. What about pipes that are flowing 72 hours after a storm event that are carrying flows below?	If an outfall is flowing and it has been more than 72 hours (while conducting the outfall mapping), then sampling must be conducted. This task is required to be completed by the end of year two (i.e. July 1, 2015). In the case that outfalls exist within the urbanized areas that constantly flow, such constantly flowing outfalls can be identified as such on the outfall map. Additionally, if the constantly flowing outfall is unknown or has not been previously identified, then the outfall should be sampled.
24	12	County of El Dorado, Department of Transportation - Kimberly Kerr	E.9.c.(ii)(a)(b)	Outfall sampling	Analyzing samples for all of the listed Action Level Concentrations at all pipes flowing 72 hours after a rain event will be extremely costly and time consuming.	Please see response to comment number 5.
24	13	County of El Dorado, Department of Transportation - Kimberly Kerr	E.11.c.(i)	Pollution Prevention and Good Housekeeping	Conducting annual assessments on all of the hundreds of County owned and operated facilities will be extremely costly and time consuming.	Please see response to comment number 5.
24	14	County of El Dorado, Department of Transportation - Kimberly Kerr	E.11.j.(i)	Pollution Prevention and Good Housekeeping	Implementing a landscape design and maintenance program into all Permittee operations and activities to reduce water, herbicides, fertilizer, etc. will be extremely costly and time consuming.	Please see response to comment number 5.
24	15	County of El Dorado,		Post-	Implementing site design water quality	Please see response to comment number 5.

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		Department of Transportation - Kimberly Kerr	E.12.c.(i)	Construction	requirements for all projects creating 2,500 square feet of impervious coverage will be costly and time consuming for the County.	
24	16	County of El Dorado, Department of Transportation - Kimberly Kerr	E.12.d.(i)	Post-Construction	Implementing LID site design water quality requirements for all projects creating 5,000 square feet of impervious coverage will be costly and time consuming for the County. LID principles for 5,000 square feet or more.	Please see response to comment number 5.
24	17	County of El Dorado, Department of Transportation - Kimberly Kerr	E.12.d.1(e)	Post-Construction	Infiltrating the 85th percentile storm event from road projects adding impervious coverage will be virtually impossible and will require extremely large infiltration systems.	In the case that a project site cannot infiltrate, evapotranspire and/or harvest/reuse the entire volume of the 85th percentile rainfall event, remaining runoff may be infiltrated, evapotranspired, and/or harvested/reused through the use of a biofiltration system as specified in Section E.12.e.ii.f.
24	18	County of El Dorado, Department of Transportation - Kimberly Kerr	E.12.d.2(2)	Post-Construction	Capturing the 85th percentile, 24 hour rainfall event for treatment will be virtually impossible.	Please see response to comment number 5.
24	19	County of El Dorado, Department of Transportation - Kimberly Kerr	E.12.e.(ii)	Post-Construction	Requiring post project runoff to not exceed estimated preproject flow rates for the 2 year, 24 hour storm in the sierras will be extremely challenging.	The commenter has submitted comments on a previous version of the draft permit. As such, staff cannot appropriately respond to this comment.
24	20	County of El Dorado, Department of Transportation - Kimberly Kerr	E.12.f.(ii)	Post-Construction	Requiring the County to perform such extensive General Plan updates, Code Amendments and cement Regulation Modifications will be extremely costly and difficult.	The landscape code is the focus of the Planning and Development Review Process during this permit term. Landscape code updates will support the implementation of site design measures as required by this Order. Site design measures provide a cost-effective approach to post-construction requirements. Further, the use of site design measures through landscape codes will allow the use of required landscaping for multiple uses and benefits.
24	21	County of El Dorado, Department of Transportation -	E.12.g.(ii)	Post-Construction	Requiring the County to manage a private property Operations & Maintenance	Please see response to comment number 5.

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		Kimberly Kerr			Verification Program as properties pass on from one owner to another is extremely burdensome and costly.	
24	22	County of El Dorado, Department of Transportation - Kimberly Kerr	E.12.h.(i)	Post-Construction	Requiring Permittees to inventory and assess the maintenance condition of private property structural post-construction BMPs within the County's jurisdiction will be virtually impossible. Gaining access to private property to effectively test BMPs to gain valuable data to make the determination will be impossible. There is no value in trying to inspect BMPs without a peer reviewed empirical testing standard to determine the BMPs effectiveness.	Please see response to comment number 5.
24	23	County of El Dorado, Department of Transportation - Kimberly Kerr	E.12.j.(ii)	Post-Construction	Requiring the County to perform such extensive General Plan updates, Code Amendments and Enforcement Regulation modifications will be extremely costly and difficult.	Please see response to comment number 20.
24	24	County of El Dorado, Department of Transportation - Kimberly Kerr	E.13.b.1.(ii)	Post-Construction	Establishing and maintaining a permanent Monitoring Station in one characteristic waterway within the County will be extremely costly and difficult for the County. The County is not a scientific entity and the work required to actively maintain a monitoring station to gain valuable information is not within the County's abilities.	A key requirement in the stormwater Phase II rule is a report (40 CFR 122.34(g)(3)) that includes "the status of compliance with permit conditions, an assessment of the appropriateness of identified [control measures] and progress towards achieving identified measurable goals for each of the minimum control measures." This assessment is critical to the stormwater program framework which uses the iterative approach of implementing controls, conducting assessments, and designating refocused controls leading toward attainment of water quality standards. Monitoring data can be utilized to assess program

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						effectiveness and prioritize program element implementation for the next permit cycle.
24	25	County of El Dorado, Department of Transportation - Kimberly Kerr	E.13.b.1.(ii)d)	Monitoring	Requiring the County to establish a Monitoring Fund from developers is not realistic and not within the County's current abilities.	The establishment of a monitoring fund is not a mandatory requirement. Rather, it is provided as funding guidance for the Permittee .
24	26	County of El Dorado, Department of Transportation - Kimberly Kerr	E.14.a.(i)	Program Effectiveness and Assessment	Requiring the Permittees to develop another 'plan' -the Program Effectiveness Assessment and Improvement Plan -will not help to improve water quality, but will rather divert valuable resources away from protecting water quality. This Permit requires too many 'plans' and tying up the County's limited resources developing plans will do nothing to help with actual water quality gain. This requirement is duplicative with the County's Storm Water Management Plan and should be eliminated.	Please see response to comment number 5.
24	27	County of El Dorado, Department of Transportation - Kimberly Kerr	E.14.b.(i)		How will the County Quantify annual subwatershed pollutant loads for fecal coliform, cadmium, chromium, etc.? Even if these are modeled with the model the Permit suggests, how accurate/useful will that actually be?	This permit provision was deleted from the November 16, 2012 draft. The commenter has submitted comments on a previous draft of the order.
25	1	County of Orange, Public Works - Chris Crompton	Section D	Receiving Water Limitations	The Receiving Water Limitations Provision (Provision D,pages 19-20) is an important and relevant issue for all storm water permittees within the State. While the revised order does not modify Provision D per se, it addresses the issue (see Finding #38,page 38; Provision I, page 140;and the Fact Sheet, pages 25- 26) by creating a reopener clause. We believe the State Water Board should not defer this issue until a later date (by the use of a reopener	The discussion of the receiving water limitations in the Fact Sheet has been revised to clarify the State Water Board's position to date and to address the Supreme Court's recent decision reversing the Ninth Circuit judgment in <i>NRDC v. LA County</i> and remanding the case. The State Water Board heard from interested persons at the November 20, 2012, workshop held to consider receiving water limitations provisions in municipal storm water permits and the Board is

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					<p>clause) and recommend that the State Water Board address the issue in this permit now. Following the November 20, 2012 workshop, we believe the State Water Board has sufficient input and cause to develop a resolution. It would provide important direction for Phase I Permit issuance including the San Diego Regional Permit.</p>	<p>evaluating options going forward. The State Water Board considers the receiving water limitations question to be an important and complicated issue -- independent of the court ruling – and believes it requires careful consideration. The Board will continue to rely on the specific reopener clause at Section H to facilitate future revisions, if any, rather than delay consideration of adoption of the Phase II permit.</p>
25	2	County of Orange, Public Works - Chris Crompton	Attachment J	Central Coast Post-Construction Requirements	<p>We are concerned with the apparent escalation in permit requirements being conducted by the various Water Board permit writers in drafting provisions for land development. Over the last few years we have seen the ratcheting up of land development requirements in each MS4 permit reissuance without consideration of the impact/effectiveness of the prior development requirements or the key hydrologic principles of low impact development. This approach to standards has created an uneven playing field for communities and developers across the State. Furthermore, the clear absence of any consensus within the State on what are the appropriate requirements for land development (particularly with respect to hydromodification management) has damaged the credibility of storm water regulation.</p>	<p>In response to extensive comments received from interested persons, Attachment J has been deleted from the Order. The State Water Board determined that, while the Board continues to support a watershed process-based approach to hydromodification requirements, the Joint Effort process should be allowed to evolve and proceed without direct incorporation into the Small MS4 General Order. This allows an independent process to address several unresolved issues acknowledged by the parties to the Joint Effort, including the Regional Water Board. Under new Provision E.12.k, if a Regional Water Board develops post-construction storm water management requirements based on a watershed process approach and consistent with criteria specified, Small MS4s in that Region must implement the developed requirements in lieu of most sections of E.12.k. The implication of this Provisions for the Central Coast regional Small MS4s is that they will be required to implement watershed process-based requirements developed through the Joint Effort after those requirements have been reconsidered and approved by the Central Coast Water Board Resolution NO. R-3-2012-0025 operated as update to SWMPs that are no longer required by this Order.</p>

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						<p>Please see the Fact Sheet Post Construction Storm Water Management for New Development and Re-development discussion for further details. Staff notes that, because E.12.k. precludes imposition of the Joint Effort requirements through Resolution No.R3-2012-0025, the State Water Board considers the pending petitions on that Resolution moot as of adoption of this Order. However, any future action by a Regional Water Board, including the Central Coast Water Board, to adopt a regional watershed process-based approach would be subject to petitions for review by the State Water Board.</p>
25	3	County of Orange, Public Works - Chris Crompton	Attachment J	Central Coast Post-Construction Requirements	<p>By appending the Central Coast requirements, and stating, "the Water Board expects to amend this Order to incorporate similar requirements for Permittees in the remainder of the State", the Water Board has introduced an entirely new set of rules with insufficient time for Phase I or II permittees to fully evaluate the potential impacts of these standards. At a minimum, it is prudent to allow a full 5-year permit term to incorporate the requirements of Section E.12 to assess their effectiveness before initiating a new set of requirements. As discussed below, there are significant technical issues in the Region 3 requirements and, from our experience, considerable challenges implementing such mid-permit changes in the development planning process.</p>	<p>Please see response to comment number 2.</p>
25	4	County of Orange, Public Works - Chris Crompton	Attachment J	Central Coast Post-Construction	<p>It is worth noting that the post-construction requirements contained in Section E.12 have been through a thorough two-year review</p>	<p>Please see response to comment number 2.</p>

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				Requirements	process including CASQA, environmental organizations, permittees, and Water Board staff. The result is a set of straightforward and implementable LID and storm water baseline hydromodification controls accomplishing most or all of the Region 3 requirements. This approach is one that Phase 1 permittees could also follow statewide.	
25	5	County of Orange, Public Works - Chris Crompton	Attachment J	Central Coast Post-Construction Requirements	With respect to technical issues, the Region 3 requirements are not appropriate for the following reasons: (1) The Region 3 requirements are not only the most stringent and complex in the State; they are also unique and entirely untested. (2) The Central Coast sizing criteria was placed in the Region 3 requirements after the public review process was completed in that region. (3) The retention and hydromodification requirements, and some of the LID requirements, go significantly beyond those of existing or proposed statewide, regional, or local Phase I or Phase II MS4 permits in California.	Please see response to comment number 2.
25	6	County of Orange, Public Works - Chris Crompton	Attachment J	Central Coast Post-Construction Requirements	We request that you delete direct references to the Central Coast Post-Construction Requirements, including Attachment J, from the Draft Phase II Permit.	Please see response to comment number 2.
26	1	County of San Bernardino, Department of Public Works - Gerry Newcombe	Throughout	General	The County supports the comment letter submitted by CASQA.	Comment noted.
26	2	County of San Bernardino, Department of Public Works - Gerry Newcombe	Section D	Receiving Water Limitations	While Board staff has inserted a welcome commitment to reopen the Receiving Water Limitations section of the Draft Permit, the County respectfully disagrees with the staff response to comments regarding the RWL language. Pending some potential future	The discussion of the receiving water limitations in the Fact Sheet has been revised to clarify the State Water Board's position to date and to address the Supreme Court's recent decision reversing the Ninth Circuit judgment in <i>NRDC v. LA County</i> and remanding the case. The State

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					outcome from the November 20, 2012 Board RWL Workshop and December 4, 2012 United States Supreme Court hearing the Board has already adopted the Caltrans MS4 permit an explicit iterative management approach. Without fully reiterating our comments on this issue, we request the State Board to provide local municipalities with similar protection to that granted the State Department of Transportation. Otherwise, we believe that the Draft Permit contains RWL language that may potentially likewise expose Permittees statewide to challenge by third parties.	Water Board heard from interested persons at the November 20, 2012, workshop held to consider receiving water limitations provisions in municipal storm water permits and the Board is evaluating options going forward. The State Water Board considers the receiving water limitations question to be an important and complicated issue -- independent of the court ruling -- and believes it requires careful consideration. The Board will continue to rely on the specific reopener clause at Section H to facilitate future revisions, if any, rather than delay consideration of adoption of the Phase II permit.
26	3	County of San Bernardino, Department of Public Works - Gerry Newcombe	Throughout	Timeline	The December 4, 2012 Response to Comments, summarizes our July 23, 2012 comments regarding the number of reports due at the conclusion of the second year, with an apparently generic assertion that the State Board "considered the implementation schedule and revised dates accordingly." However, there now appear to be two dozen significant milestones required by the end of the second year. We request relief in the spacing of these significant and divergent milestones. It is doubtful that the County will have adequate time, resources, or expertise to simultaneously achieve all of these objectives.	Staff does not agree that the timeline is unreasonable. There are specific tasks that must be accomplished in the first part of the permit term in order to establish a solid program foundation. Staff did carefully consider each of the required tasks and revised the timeline accordingly.
26	4	County of San Bernardino, Department of Public Works - Gerry Newcombe	Throughout	Cost and Unfunded Mandates	Our July 23, 2012 comment letter noted the financial difficulties that local agencies are encountering and our opinion that many of the Draft Permit requirements appear to be significant and new unfunded state mandates. The December 4, 2012 Response To Comments, referencing the availability of state grants, seems less than useful to local agencies hard pressed to operate under existing furloughs,	This Order has undergone substantial revisions to address cost. Please see Economic considerations in Fact sheet. In addition, as part of Phase 2 of a Workplan adopted by the State Board to assess and align priorities, resources and performance targets, staff has initiated an assessment of the costs of compliance for dischargers subject to Water Board regulation and oversight in the following four programs: 1) NPDES wastewater,

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					layoffs, and/or hiring freezes. Similarly, the State Board has repeatedly asserted that no new unfunded mandate exists, sometimes to eventually be rebuffed by the State Commission on Mandates. With these facts in mind and cognizant of the generic reply provided by Board staff, the County would like to reiterate and reassert our prior comments and encourage the Board's full consideration of our dire local financial straits.	2) NPDES stormwater 3) Irrigated lands, and 3) Waste discharge requirements (WDR).
26	5	County of San Bernardino, Department of Public Works - Gerry Newcombe	Throughout	General	There have been many significant changes to the Third Draft Permit, which was already a very complex and wide ranging regulatory document. The magnitude and number of changes warrants that the document receives a longer review period. Otherwise, the County recommends that a Fourth Draft be issued for public comment. An additional review is also warranted in that the Board is imposing a significantly increased exposure risk and additional implementation costs on the many financially challenged Permittees. Due to its significant implications, this document must be well written and clear.	Comment noted. Comment review period extension requests must be submitted to the Clerk to the Board for approval.
26	6	County of San Bernardino, Department of Public Works - Gerry Newcombe	Throughout	Reporting	The Draft Permit now requires that most of the required reports be submitted through SMARTS. While this change could be beneficial for both the Permittees and Board, without knowing the format that will be used, this requirement could also result in an overly complex or fallible system. The Construction General Permit SMARTS NOI Application and Annual Report processes, have become unexpectedly challenging and complex as a result from automated error checking that responds with unclear error messages and submissions that do not always accurately	Staff is currently forming a SMARTS test group. The test group will consist of collaboration with State Board staff to provide feedback regarding the SMARTS test pages to be developed. The goal is to create web pages within SMARTS that are user-friendly, efficient and informative. Please contact staff if the commenter is interested in participating in the SMARTS test group process.

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					convey the project's information submission and report completion status. Permittees have filed documents or even "placeholders", which were not compliant with Permit requirements, but were accepted and used by in the decision making portion of SMARTS to make a compliance determination. The County would encourage the Board to direct its staff to work cooperatively with CASQA during the Phase II Small MS4 General Permit SMARTS development effort.	
26	7	County of San Bernardino, Department of Public Works - Gerry Newcombe	Finding 6		Suggest changing "A higher percentage of impervious area in urban areas..." to :The higher percentage of impervious areas within urban areas..."	Comments on the November 16, 2012, Draft were limited by the Public Notice dated November 16, 2012, and the Revised Public Notice dated November 30, 2012, to revisions made since the May 21, 2012, Draft. The commenter has submitted a comment on a provision that was not revised after May 21, 2012, and the comment is therefore untimely. All comments on the May 21, 2012, Draft were addressed in the Staff Response to Comments document available at: <a href="http://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/comments_rev_phase_ii_ms4permit/resp_to_comments.pdf">http://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/comments_rev_phase_ii_ms4permit/resp_to_comments.pdf</a>
26	8	County of San Bernardino, Department of Public Works - Gerry Newcombe	Footnote 20		Change "less than" back to "under"	This permit provision has been revised to address this comment.
26	9	County of San Bernardino, Department of Public Works - Gerry Newcombe	B.3.	Discharge Prohibitions	The permit should include other non-storm water discharges allowed in other MS4 Permits	Please see response to comment number 7.
26	10	County of San Bernardino,	B.4.a.	Incidental Runoff	Rephrase language. The correction of leak within 72 hours may not be reasonable. It is	Please see response to comment number 7.

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		Department of Public Works - Gerry Newcombe			recommended that this provision be modified to require Permittee to demonstrate the initiation of enforcement and/or corrective actions within 72 hours.	
26	11	County of San Bernardino, Department of Public Works - Gerry Newcombe	B.4.c.	Incidental Runoff	This would be a water conservation rather than a water quality issue. We suggest it be addressed by water conservation ordinances, while remaining a prohibited discharge under B.3.n.	Please see response to comment number 7.
26	12	County of San Bernardino, Department of Public Works - Gerry Newcombe	E.6.a.(ii).(b)	Program Management	It is recommended that Permittees not be required to provide adequate legal authority to address discharges from charity washes, mobile cleaning and pressure wash operations	Please see response to comment number 7.
26	13	County of San Bernardino, Department of Public Works - Gerry Newcombe	E.6.b(iii) F.5.a.1.(iii)	Program Management	Section E.6.a(i) allows two years but reporting requires the first year. Please revise.	This permit provision has been revised to address this comment.
26	14	County of San Bernardino, Department of Public Works - Gerry Newcombe	E.7.a.(ii).(k – m)	Public Education and Outreach	Sections E.7.a.(ii).(l) and (m) appear to be duplicative with (k). Paragraph (m) does not indicate the kind of message to be developed.	Please see response to comment number 7.
26	15	County of San Bernardino, Department of Public Works - Gerry Newcombe	E.9.	Illicit Discharge Detection and Elimination	Costs associated with IDDE are prohibitive for Phase II Permittees. The IDDE program should eliminate requirements associated with costly program elements such as sample analysis, program administration and reporting.	Studies have shown that dry weather flows from the storm drain system may contribute to a larger amount of some pollutants than wet weather storm water flows (Evaluation of Non-Storm Water Discharges to California Storm Drains and Potential Policies for Effective Prohibition, California Regional Water Quality Control Board. Los Angeles, CA. ; Duke, L.R. 1997., Results of the Nationwide Urban Runoff Program. Water Planning Division, PB 84-185552, Washington, DC. USEPA. 1983). The detection and elimination of these illicit discharges involves detective work. At a minimum, communities need to systematically

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						understand and characterize their stream, conveyance and storm sewer systems. If an illicit discharge is detected it must be sampled to effectively identify the source then eliminate the discharge. Program structure and administration is crucial to proactive detection, identification and elimination of illicit discharges. Lastly, the reporting requirements have been modified throughout this Order.
26	16	County of San Bernardino, Department of Public Works - Gerry Newcombe	E.9.(a)(ii)(c)(1)	Illicit Discharge Detection and Elimination	Define "older infrastructure".	Please see response to comment number 7.
26	17	County of San Bernardino, Department of Public Works - Gerry Newcombe	E.9.a(ii)(c)(6)	Illicit Discharge Detection and Elimination	Define "upstream of sensitive waterbodies"	Please see response to comment number 7.
26	18	County of San Bernardino, Department of Public Works - Gerry Newcombe	E.9.b(ii)(c)	Illicit Discharge Detection and Elimination	Permittees could electronically refer IGP non-filers to the State Water Board but should not be responsible for determining coverage.	This Order does not put the onus of IGP coverage determination on the Permittee. Instead, the language states that upon discovering a facility that does not have IGP coverage but is required to, the Permittee must notify the Regional Water Board. In this way, the responsibility is with the Regional Board to take further action. Permittees should, however, provide regulatory reference if they encounter an IGP non-filer.
26	19	County of San Bernardino, Department of Public Works - Gerry Newcombe	E.9.c.(i) F.5.d.1.(i)	Illicit Discharge Detection and Elimination	Sampling of all outfalls that are flowing more than 72 hours after the last rain event and at the locations identified as priority areas will be too costly. It is recommended that requirements for analytical monitoring be removed.	If an outfall is flowing and it has been more than 72 hours (while conducting the outfall mapping), then sampling must be conducted. This task is required to be completed by the end of year two (i.e. July 1, 2015). In the case that outfalls exist within the urbanized areas that constantly flow, such constantly flowing outfalls can be identified as such on the outfall map. Additionally, if the constantly flowing outfall is unknown or has not

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						been previously identified, then the outfall should be sampled.
26	20	County of San Bernardino, Department of Public Works - Gerry Newcombe	E.9.d.(ii)(e)	Illicit Discharge Detection and Elimination	Requiring dischargers to eliminate illicit discharges within 72 hours of notification is unrealistic. It is suggested that this provision be revised to be consistent with other current Phase I Permit requirements.	Please see response to comment number 7.
26	21	County of San Bernardino, Department of Public Works - Gerry Newcombe	E.11.c(i)	Pollution Prevention and Good Housekeeping	Either the term “hotspots” should be defined or replaced by “priority sources of high pollutant loads”	Please see response to comment number 7.
26	22	County of San Bernardino, Department of Public Works - Gerry Newcombe	E.11.i(i)	Pollution Prevention and Good Housekeeping	Requiring the retrofit of existing flood management facilities to incorporate water quality and habitat enhancement features is excessive.	Please see response to comment number 7.
26	23	County of San Bernardino, Department of Public Works - Gerry Newcombe	E.12.b.(i) F.5.g.1(i)	Post-Construction	A 2,500 square feet impervious surface threshold is lower than in current Phase I Permits. It is recommended that the trigger for site design measures be 5,000 square feet.	Please see response to comment number 7.
26	24	County of San Bernardino, Department of Public Works - Gerry Newcombe	E.12.c.(ii)(d)(1)	Post-Construction	Define what is considered “new streets or roads”	Please see response to comment number 7.
26	25	County of San Bernardino, Department of Public Works - Gerry Newcombe	E.12.c.(ii)(d)3	Post-Construction	The specific exclusions are very limited and should be expanded to include protection of source water, potential for pollutant mobilization, clay and impermeable soils, land use concerns, impairment of beneficial uses, conflict with water conservation goals and lack of demand for harvested water.	Please see response to comment number 7.
26	26	County of San Bernardino, Department of Public	E.12.i(ii)(a)	Post-Construction	Requiring Permittees to modify the landscape code within a year of the effective date of the permit is unfeasible. It is recommended that	Section E.12.i. does not require modification of the landscape code until the end of year two (July 2015).

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		Works - Gerry Newcombe			Permittees are given at least two years to comply.	
26	27	County of San Bernardino, Department of Public Works - Gerry Newcombe	E.13.a.	Monitoring	A receiving water monitoring program was never anticipated under the Federal Phase II Rule. This section should be removed from this permit.	A key requirement in the stormwater Phase II rule is a report (40 CFR 122.34(g)(3)) that includes “the status of compliance with permit conditions, an assessment of the appropriateness of identified [control measures] and progress towards achieving identified measurable goals for each of the minimum control measures.” This assessment is critical to the stormwater program framework which uses the iterative approach of implementing controls, conducting assessments, and designating refocused controls leading toward attainment of water quality standards. Monitoring data can be utilized to assess program effectiveness and prioritize program element implementation for the next permit cycle.
26	28	County of San Bernardino, Department of Public Works - Gerry Newcombe	E.13.a.1.	Monitoring	The permit should only determine water quality parameters to measure, not identify the analytical methods or detection limits.	In order to achieve consistent data sharing, monitoring procedures and protocol must be consistent as well. This Order allows flexibility for tailoring parameters and action level concentrations based on local pollutants of concern.
26	29	County of San Bernardino, Department of Public Works - Gerry Newcombe		Dispute Resolution	This paragraph is a welcome addition to the draft, but should be modified to indicate that disputes can often be best resolved at a Staff, Supervisor or Chief Level rather than raising the issue to the RB EO level.	Please see response to CASQA comment number 5.
26	30	County of San Bernardino, Department of Public Works - Gerry Newcombe	Attachment A	Designations	The City of Barstow should be added as a “New” Permittee. Bloomington CDP is covered under the Phase I Permit and should be deleted.	
26	31	County of San Bernardino, Department of Public Works - Gerry	Attachment A	Designations	Delete last 8 rows of data	This permit provision has been revised to address this comment.

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26	32	Newcombe County of San Bernardino, Department of Public Works - Gerry Newcombe	Attachment H	Acronyms	Revise the acronym for QSP	Attachment H has been revised to address this comment.
26	33	County of San Bernardino, Department of Public Works - Gerry Newcombe	Monitoring Flowchart	Flowchart	The two left most light blue diamonds should be combined.	This permit provision has been revised to address this comment.
27	1	County of San Diego, Department of Public Works - Cid Tesoro	Section D	Receiving Water Limitations	<p>The Receiving Water Limitations Provision (Provision D, pages 19-20) is an important and relevant issue for all municipal permittees within the State. While the revised order does not modify Provision D per se, it addresses the issue (see Finding #38, page 38; Provision I, page 140; and the Fact Sheet, pages 25-26) by creating a reopener clause. The State Water Board should not defer this issue until a later date (by the use of a reopener clause) and recommend that they address this issue in this Permit. Following the November 20, 2012 workshop, we believe the State Water Board has sufficient input and cause to develop a resolution. We understand that California Stormwater Quality Association (CASQA) has offered its support and assistance to the State Water Board in resolving this issue.</p> <p>We urge the State Water Board to direct staff to work with CASQA to revise the Receiving Water Limitation Language in Provision D now and not defer to a later point in time. Specifically, we urge the State Water Board to remove or reform the Receiving Water approach to permit requirements. EPA issued</p>	<p>The discussion of the receiving water limitations in the Fact Sheet has been revised to clarify the State Water Board's position to date and to address the Supreme Court's recent decision reversing the Ninth Circuit judgment in <i>NRDC v. LA County</i> and remanding the case. The State Water Board heard from interested persons at the November 20, 2012, workshop held to consider receiving water limitations provisions in municipal storm water permits and the Board is evaluating options going forward. The State Water Board considers the receiving water limitations question to be an important and complicated issue -- independent of the court ruling -- and believes it requires careful consideration. The Board will continue to rely on the specific reopener clause at Section H to facilitate future revisions, if any, rather than delay consideration of adoption of the Phase II permit.</p>

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					permits in other states that do not include RWL prohibitions language. In California, the State Water Board has the discretion to reaffirm the policy set forth in prior Water Quality Orders (2001-15 and 99-05).	
27	2	County of San Diego, Department of Public Works - Cid Tesoro	Attachment J	Central Coast Post-Construction Requirements	<p>Our concerns with Attachment J are two-fold; policy/procedural and technical. First we are concerned with the apparent escalation in permit requirements being conducted by the various Water Board permit writers in drafting provisions for land development. Over the last few years we have seen the increase of land development requirements in each MS4 permit re-issuance with regard for neither the impact nor effectiveness of the prior development requirements nor the key hydrologic principles of low impact development. This lack of a rational and consistent approach to standards has created an uneven and subjective playing field for communities and developers across the State. Furthermore, the clear absence of any consensus within the State on land development requirements (particularly with respect to hydromodification management) is damaging to the credibility of the entire storm water program.</p>	<p>In response to extensive comments received from interested persons, Attachment J has been deleted from the Order. The State Water Board determined that, while the Board continues to support a watershed process-based approach to hydromodification requirements, the Joint Effort process should be allowed to evolve and proceed without direct incorporation into the Small MS4 General Order. This allows an independent process to address several unresolved issues acknowledged by the parties to the Join Effort, including the Regional Water Board. Under new Provision E.12.k, if a Regional Water Board develops post-construction storm water management requirements based on a watershed process approach and consistent with criteria specified, Small MS4s in that Region must implement the developed requirements in lieu of most sections of E.12.k. The implication of this Provisions for the Central Coast regional Small MS4s is that they will be required to implement watershed process-based requirements developed through the Joint Effort after those requirements have been reconsidered and approved by the Central Coast Water Board Resolution NO. R-3-2012-0025 operated as update to SWMPs that are no longer required by this Order.</p> <p>Please see the Fact Sheet Post Construction Storm</p>

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						Water Management for New Development and Re-development discussion for further details. Staff notes that, because E.12.k. precludes imposition of the Joint Effort requirements through Resolution No.R3-2012-0025, the State Water Board considers the pending petitions on that Resolution moot as of adoption of this Order. However, any future action by a Regional Water Board, including the Central Coast Water Board, to adopt a regional watershed process-based approach would be subject to petitions for review by the State Water Board.
27	3	County of San Diego, Department of Public Works - Cid Tesoro	Attachment J	Central Coast Post-Construction Requirements	Another policy/procedural related issue is the timing of the inclusion of Region 3 requirements into the Draft Phase II Permit. By appending the Central Coast requirements, and stating, "the Water Board expects to amend this Order to incorporate similar requirements for Permittees in the remainder of the State", the Water Board has introduced an entirely new set of rules with insufficient time for Phase I or II permittees to fully evaluate the potential impacts of these standards. At a minimum, we believe it prudent to allow a full 5-year permit term to incorporate the requirements of Section E.12 and to assess their effectiveness before pursuing a new set of requirements. As discussed below, there are significant technical issues in the Region 3 requirements and any revisions would require opening the Phase II permit to amend a regional requirement at the state level.	Please see response to comment number 2.
27	4	County of San Diego, Department of Public Works - Cid Tesoro	Attachment J	Central Coast Post-Construction	It is worth noting that the post-construction requirements contained in Section E.12 have been through a thorough two-year review	Please see response to comment number 2.

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				Requirements	process including CASQA professionals, environmental NGOs, Permittees, and State Water Board staff. The result is a set of straightforward and implementable LID and baseline hydromodification controls accomplishing most or all of the Region 3 requirements. This direction is one that Phase I permittees could better follow.	
27	5	County of San Diego, Department of Public Works - Cid Tesoro	Attachment J	Central Coast Post-Construction Requirements	With respect to technical issues the magnitude and scope of the Region 3 requirements are not appropriate for the following reasons: (1) The Region 3 requirements are not only the most stringent and complex in the State; they are also unique and entirely untested. (2) The Central Coast sizing criteria was placed in the Region 3 requirements after the public review process was completed in that region. (3) The retention and hydromodification requirements, and some of the LID requirements, are inconsistent and go beyond those of existing or proposed statewide, regional, or local Phase I or Phase II MS4 permits in California.	Please see response to comment number 2.
27	6	County of San Diego, Department of Public Works - Cid Tesoro	Attachment J	Central Coast Post-Construction Requirements	We urge you to delete direct references to the Central Coast Post-Construction Requirements, including Attachment J, from the Draft Phase II Permit. As a permittee subject to a Phase I permit in the San Diego Region 9, we would prefer to see a statewide land development policy that establishes consistency where needed, but that defers key details to reflect local jurisdictional differences (i.e., hydrology, soil, topography, etc.). We are concerned that Phase II permit conditions .as proposed will establish important precedent without the benefit of a full and open dialogue involving all	Please see response to comment number 2.

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					affected Phase I permittees.	
28	1	County of San Luis Obispo, Department of Public Works - Paavo Ogren	Attachment J	Central Coast Post-Construction Requirements	<p>We acknowledge that this latest Draft Phase II General Permit contains substantial revisions from the previous draft and appreciate the State Water Resources Control Board for continuing to refine requirements as shown by your efforts with Receiving Water Limitation language. However, we find there are portions of the draft requirements which continue to be unrealistic, ambiguous, and inconsistent. Of significant concern is the inclusion of Attachment J that incorporates the Central Coast Specific Post-Construction Requirements into the State Permit. If Attachment J is adopted into the State Permit, anticipated revisions to the Region 3 Post-Construction Requirements would also require revisions and a reopening to the State Permit.</p>	<p>In response to extensive comments received from interested persons, Attachment J has been deleted from the Order. The State Water Board determined that, while the Board continues to support a watershed process-based approach to hydromodification requirements, the Joint Effort process should be allowed to evolve and proceed without direct incorporation into the Small MS4 General Order. This allows an independent process to address several unresolved issues acknowledged by the parties to the Joint Effort, including the Regional Water Board. Under new Provision E.12.k, if a Regional Water Board develops post-construction storm water management requirements based on a watershed process approach and consistent with criteria specified, Small MS4s in that Region must implement the developed requirements in lieu of most sections of E.12.k. The implication of this Provisions for the Central Coast regional Small MS4s is that they will be required to implement watershed process-based requirements developed through the Joint Effort after those requirements have been reconsidered and approved by the Central Coast Water Board Resolution NO. R-3-2012-0025 operated as update to SWMPs that are no longer required by this Order.</p> <p>Please see the Fact Sheet Post Construction Storm Water Management for New Development and Re-development discussion for further details. Staff notes that, because E.12.k. precludes imposition of the Joint Effort requirements</p>

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						through Resolution No.R3-2012-0025, the State Water Board considers the pending petitions on that Resolution moot as of adoption of this Order. However, any future action by a Regional Water Board, including the Central Coast Water Board, to adopt a regional watershed process-based approach would be subject to petitions for review by the State Water Board.
28	2	County of San Luis Obispo, Department of Public Works - Paavo Ogren	Attachment J	Central Coast Post-Construction Requirements	For nearly three years, the County has been engaged in the Joint Hydromodification Effort process being overseen by Dominic Roques of the Central Coast Regional Water Quality Control Board. In September, the Regional Board adopted Order #R3-2012-0025, which imposed the post construction hydromodification control measures developed through the Joint Effort. During that hearing, the Regional Board considered written and oral testimony from the development community and several Central Coast jurisdictions raising serious concerns about the Joint Effort's mandates. We are attaching our letter of July 6, 2012 for your review, as many of the concerns about the Joint Effort requirements are equally applicable to Attachment J of the proposed State General Permit.	Please see response to comment number 1.
28	3	County of San Luis Obispo, Department of Public Works - Paavo Ogren	Attachment J	Central Coast Post-Construction Requirements	We continue to be concerned that post-construction hydromodification requirements may conflict with AB 32 and SB 375. Assembly Bill 32 and Senate Bill 375 seek to reduce the state's greenhouse gas emissions. This is achieved by implementing a "sustainable community" strategy. Generally, the strategy involves reducing barriers to development in urban areas in order to protect agricultural and	Please see response to comment number 1.

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					open space lands. From a water quality perspective, this strategy ensures that urban development (dominated by impervious surfaces) remains clustered around existing developed areas, thereby precluding conversion of open space lands to urban uses. From the local perspective and experience of working with individual projects and sites, we can see that applying hydromodification control measures on a site-specific level can conflict with the state's more regional approach to achieving sustainable development.	
28	4	County of San Luis Obispo, Department of Public Works - Paavo Ogren	Attachment J	Central Coast Post-Construction Requirements	Joint Effort Hydromodification requirements have not been fully tested and necessitate revisions. To eliminate comment-redundancy, the County fully supports the comments submitted by the Statewide Stormwater Coalition (SSC) dated December 17, 2012 and CASQA comments dated July 6, 2012. Rather than focusing on the highly criticized 95th percentile runoff retention requirements and alternative compliance, we would like to focus on one aspect of the Watershed Management Zones (WMZ): the basis of whether a project will be subject to the 95th percentile requirement.	Please see response to comment number 1.
28	5	County of San Luis Obispo, Department of Public Works - Paavo Ogren	Attachment J	Central Coast Post-Construction Requirements	As the County began to implement the requirements, we discovered portions of Watershed Management Zones 1, 4, 7, and 10 that trigger 95% percentile retention requirements that encroach into areas with type C and D soils. For example, the WMZ 1 in Nipomo, California extends east of Highway 101 into areas which historically contain clay soils. Site specific soil reports taken from projects in this area clearly show the soils are not conducive to infiltration (i.e., C & D soils).	Please see response to comment number 1.

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					<p>The development of the Water Management Zones did not include site specific soils analysis as that would be unreasonable; however, if a site specific soils report finds C or D soils, it is reasonable that these projects should not be held to the 95% requirement rather, they should be allowed to immediately default to the 85% percentile criteria. There is little justification to start the project at the highest tier requirement solely based on its location. Though we appreciate the Board's desire to recharge the underlying groundwater basins, is it the State's intention to require a developer to retain more run-off than the pre-project condition?</p>	
28	6	County of San Luis Obispo, Department of Public Works - Paavo Ogren	Attachment J	Central Coast Post-Construction Requirements	<p>To better illustrate, the data from CIMIS station #52 in San Luis Obispo suggests the 95th percentile storm in the area to be 2.0 inches, and the 85th percentile is 1.2 inches! During the adoption hearing for Resolution R3-2012-0025, Board staff verbally claimed to the Regional Water Board that pre-project conditions would absorb all such run-off. Such statements are misleading as only in certain circumstances would this be the case. Unfortunately, the requirements ignore such circumstances and require projects to retain the entire 95% storm volume, clearly exceeding the pre-project condition in a majority of cases and requiring the capture of twice as much storm volume as the 85th percentile.</p>	Please see response to comment number 1.
28	7	County of San Luis Obispo, Department of Public Works - Paavo Ogren	Attachment J	Central Coast Post-Construction Requirements	<p>We request that the State Water Resources Control Board take the following action:</p> <ul style="list-style-type: none"> <li>• Apply State General Permit requirements on a statewide basis. With Attachment J, the State permit will essentially impose a different set of</li> </ul>	Please see response to comment number 1.

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					requirements on the Central Coast Region. Other regions of the state will follow the "general" requirements. If the intent is not to apply general standards, but instead to base requirements on region-specific hydrologic characteristics, this is something best left to the Regional Boards.	
28	8	County of San Luis Obispo, Department of Public Works - Paavo Ogren	Attachment J	Central Coast Post-Construction Requirements	Do not include Attachment J with the State General Permit. Instead, allow the statewide standards to apply to the Central Coast Region. We understand that the Regional Board still has the authority to issue orders and require more stringent standards. If the State Board's legal counsel determines this not to be the case, then all references to the determinations of a Regional Board Executive Officer must be removed from the permit.	Please see response to comment number 1.
28	9	County of San Luis Obispo, Department of Public Works - Paavo Ogren	Attachment J	Central Coast Post-Construction Requirements	Consider the issues raised by the petitioners. The Cities of Lompoc, Goleta, and Watsonville have petitioned the State Board for review of the Regional Board's Joint Effort order. In addition, the Statewide Stormwater Coalition (SSG) and CASQA have commented. We urge you to consider and address all issues raised by these jurisdictions and organizations.	Please see response to comment number 1.
28	10	County of San Luis Obispo, Department of Public Works - Paavo Ogren	Attachment J	Central Coast Post-Construction Requirements	Allow the Joint Effort Review Team to proceed. The Joint Effort Review Team (JERT) was reconvened by the Regional Board. The JERT is considering the practical application of Joint Effort requirements. There is a general agreement among the JERT members that certain requirements are impractical or infeasible and may require modification. The State should seek input from the JERT before including Joint Effort requirements within the State General Permit.	Please see response to comment number 1.
28	11	County of San Luis	Attachment J	Central Coast	We urge your Board to again reconsider the	Please see response to comment number 1.

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		Obispo, Department of Public Works - Paavo Ogren		Post-Construction Requirements	Draft Phase II Permit language and incorporate our recommendations. We appreciate the opportunity to comment and look forward to language that sets forth a clear process for agencies to maintain permit compliance.	
29	1	County of Santa Barbara Public Works Department, Project Clean Water - Joy Hufschmid	Attachment J	Central Coast Post-Construction Requirements	Santa Barbara County is committed to protecting and improving water quality and has been implementing a model Storm Water Management Program that is successful and cost-effective. In general, we are in support of the more rigorous provisions of the Phase II Permit and believe that we can incorporate the new measures into our Storm Water Management Program.	Comment noted.
29	2	County of Santa Barbara Public Works Department, Project Clean Water - Joy Hufschmid	Attachment J	Central Coast Post-Construction Requirements	The one exception to this is the newly inserted Central Coast Specific Post-Construction Requirements added as Attachment J. These first-of-their-kind requirements are overly complicated, unnecessarily stringent, and untested for real world application. The County respectfully requests that the State Board direct the Central Coast Water Board to rescind the Region 3 post-construction requirements (Resolution No. R3-2012-0025) and apply the statewide E.12 post construction standards of the Phase II Permit to Central Coast permittees. Short of this, we would request that Attachment J be removed from the Phase II Permit so that necessary and likely revisions can be made at the Regional Board level without having to reopen and amend the State Permit. Detailed comments are provided below.	This permit provision has been revised to address this comment. Attachment J has been deleted from this Order. The State Water Board determined that, while the Board continues to support a watershed process-based approach to hydromodification requirements, the Joint Effort process should be allowed to evolve and proceed, without incorporation into this Order, to address several unresolved issues acknowledged by the parties to that process, including the Regional Water Board. Under Provisions E.12.k (also referenced in F.5.g), the Central Coast Region Small MS4s will be required to implement watershed process-based requirements developed through the Joint Effort only after those requirements have been reconsidered and approved by the Central Coast Water Board.  Please see the Fact Sheet: Post Construction Storm Water Management for New Development and Re-development discuss for further details.

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29	3	County of Santa Barbara Public Works Department, Project Clean Water - Joy Hufschmid	Attachment J	Central Coast Post-Construction Requirements	<p>Santa Barbara County participated in the Joint Effort process to develop post-construction requirements for development projects in the Central Coast Region and provided technical review of interim products through participation on the Joint Effort Review Team (JERT). We very much support the process of basing hydromodification control measures on watershed processes. In theory, the Central Coast post-construction requirements were based upon a thorough and scientific assessment of watershed processes conducted by a team of scientists. The watershed processes assessed by the scientific team were in turn based upon natural, undeveloped conditions observed throughout the Central Coast region. Our concern is that the resulting post-construction requirements and applicability criteria are not clearly linked nor do they seem to benefit from the initial scientifically-based watershed analysis. Rather, they seem to have been developed independently by Central Coast Water Board staff with unknown scientific justification. Attachment D, which defines sizing criteria for both the retention and water quality design volumes, was added to the requirements just prior to the September 2012 adoption hearing without benefit of stakeholder or JERT review. The requirements are unique and unfamiliar, borrow unconnected components from various adopted programs, and are generally unclear, unnecessarily complex, and unproven as to their effectiveness or ease of implementation</p>	Please see response to comment number 2.
29	4	County of Santa Barbara Public Works Department, Project	Attachment J	Central Coast Post-Construction	<p>Additionally, the Central Coast Water Board did not do the work of verifying whether it is technically feasible to apply the new</p>	Please see response to comment number 2.

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		Clean Water - Joy Hufschmid		Requirements	<p>requirements broadly throughout the Central Coast prior to their adoption. This leaves Central Coast permittees with the challenge of trying to implement stringent requirements to retain and infiltrate in many cases the volume of runoff from the 95th percentile event in designated watershed management zones (which represent most urban areas). Preliminary engineering analysis indicates that these new runoff retention requirements cannot be met in many areas of Santa Barbara County where soils do not naturally infiltrate, without using a disproportionate percent of lot area. The volume of runoff retention would be infeasible for many projects. The complexity of the requirements increases with factors such as a 1.963 multiplier which doubles the size of retention volume (Attachment D), Urban Sustainability Areas, Effective Impervious Surface Areas, Alternative Compliance, and various credits or offsets for redevelopment.</p>	
29	5	County of Santa Barbara Public Works Department, Project Clean Water - Joy Hufschmid	Attachment J	Central Coast Post-Construction Requirements	<p>Although Santa Barbara County actively participated in the Joint Effort process, we were very dissatisfied with the final product. As discussed above, the final adopted requirements are overly stringent, complicated and unproven and were adopted without a full public review process. Despite this, we choose not to petition the State Water Board in the hopes that the JERT advisory panel would be reconvened to test the feasibility of the requirements and propose any necessary changes. The JERT has been reconvened but has not yet completed its technical/engineering review of the new standards. If the Central Coast Post-Construction Requirements are included in the statewide Phase II Permit as</p>	Please see response to comment number 2.

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					Attachment J, any necessary improvements to the Region 3 requirements would then need to be approved at the state level by reopening the permit, making it doubly difficult to make any necessary revisions. Additionally, incorporating the Central Coast Post-Construction requirements into the statewide Phase II Permit nullifies the Region 3 petitions that have been filed with the State.	
29	6	County of Santa Barbara Public Works Department, Project Clean Water - Joy Hufschmid	Attachment J	Central Coast Post-Construction Requirements	The post-construction standards contained in section E.12 of the Phase II Permit were carefully developed through the stakeholder review process by a team that included Water Board staff, CASQA representatives, professional engineers with expertise in hydromodification control, and representatives from environmental NGO's. The result is a set of straightforward and implementable LID and baseline hydromodification management requirements that will likely accomplish most or all of the hydrologic controls sought by the Region 3 post-construction requirements. We urge the State Water Board to allow Region 3 permittees to adopt the more reasonable and implementable E.12 post construction requirements along with the rest of the State. Doing so would be consistent with ongoing efforts to provide consistency in Phase 1 and Phase II permits across the state.	Please see response to comment number 2.
29	7	County of Santa Barbara Public Works Department, Project Clean Water - Joy Hufschmid	Attachment J	Central Coast Post-Construction Requirements	Santa Barbara County also supports CASQA's recommendation to allow a full permit term (5 years) to precede any revisions to the E.12 regulations for other Phase II permittees across the state, so that projects can be permitted, constructed, and evaluated prior to changing course once again.	Please see response to comment number 2.
29	8	County of Santa	Attachment J	Central Coast	In summary, the late addition of the Region 3	Please see response to comment number 2.

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		Barbara Public Works Department, Project Clean Water - Joy Hufschmid		Post-Construction Requirements	post-construction requirements to the Statewide General Permit is unjustified and unwise. At a minimum, Santa Barbara County encourages the State Water Board to remove the requirements so that any necessary improvements can more easily be made to the Central Coast requirements by Region 3. Ideally, we would request that the Water Board allow Central Coast permittees to adopt the E.12 statewide standards along with the rest of State Phase II permittees.	
30	1	County of Santa Clara Department of Planning and Development - Ignacio Gonzalez	Throughout	General	The County appreciates that the State Water Resource Control Board (Water Board) staff incorporated our comments submitted in a letter dated July 23, 2012, and attached hereto as Attachment A, and modified many of the requirements that 1) are not within our jurisdiction to enforce; 2) would represent a significant expenditure of public resources that are not available at the local level; and 3) reducing reporting requirements. However, many of the concerns the County commented on in the 2nd Draft Phase II Small MS4 General Permit were not addressed and still remain a concern. The sections that were not addressed and still remain a concern are highlighted. The County understands that only the revision made to the Revised Draft Permit may be commented and the comments in this letter are only on those sections that have been revised. However, the County would like to be on record that the County's comments from the prior draft have not been fully addressed.	Comment noted.
30	2	County of Santa Clara Department of Planning and Development - Ignacio	Throughout	Cost and Timeline	The majority of the tasks in the Revised Draft Permit are to be completed or to begin implementation in years one and two. With limited funding and staff sources it is difficult to	

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		Gonzalez			comply with the permit with such ambitious tasks and time line. The most ambitious tasks included E.9.a Outfall Mapping, E.9.b Illicit Discharge Source/ Facility Inventory, and E.11.a Inventory of Permittee-owned and Operated Facilities Owned/Operated Facilities. In order to establish appropriate funding and staffing the permit the County requests that the tasks be spread throughout the five years of the permit term.	
30	3	County of Santa Clara Department of Planning and Development - Ignacio Gonzalez		Effective Date	The Revised Draft Permit also does not have an effective date. If the permit is adopted in February it will be impossible to obtain the necessary funding and implement the tasks for the first year, assuming the first year is July 1, 2013, in just 5 months. The first year should be considered March 1, 2013 through June 30, 2014.	The definition of "permit effective date" has been revised to address this comment.
30	4	County of Santa Clara Department of Planning and Development - Ignacio Gonzalez	Fact Sheet	Receiving Water Limitations	The County is still concerned with language in the Fact Sheet Section XI-Receiving Water Limitation. This language does not allow the County to comply with water quality standards over time by using best management practices (BMPs) supplemented by the iterative process. It also has the potential to expose the County to enforcement actions despite the County's efforts to fully implement its Stormwater Program.	The discussion of the receiving water limitations in the Fact Sheet has been revised to clarify the State Water Board's position to date and to address the Supreme Court's recent decision reversing the Ninth Circuit judgment in <i>NRDC v. LA County</i> and remanding the case. The State Water Board heard from interested persons at the November 20, 2012, workshop held to consider receiving water limitations provisions in municipal storm water permits and the Board is evaluating options going forward. The State Water Board considers the receiving water limitations question to be an important and complicated issue -- independent of the court ruling -- and believes it requires careful consideration. The Board will continue to rely on the specific reopener clause at Section H to facilitate future revisions, if any, rather than delay

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						consideration of adoption of the Phase II permit.
30	5	County of Santa Clara Department of Planning and Development - Ignacio Gonzalez	E.6.b	Program Management	This provision requires the permittee to certify that it has and will maintain full legal authority to implement and enforce each of the requirements contained in the Order within the first year. However, this is inconsistent with requirements in E.6.a Legal Authority, which gives the pe1mittee until the second year to review and revise relevant ordinances or other regulatory mechanisms. The County recommends revising E.6.b to be within the second year of the effective date of the pe1mit.	This permit provision has been revised to address this comment.
30	6	County of Santa Clara Department of Planning and Development - Ignacio Gonzalez	E.9.c	Illicit Discharge Detection and Elimination	There needs to be some limit to how many investigations need to be performed. This requirement is similar to the Municipal Regional Stormwater NPDES Permit for San Francisco Bay Region Stressor/Source Identification requirements, which require Stress/ Source Identification Projects to be conducted when status monitoring results trigger follow-up actions. The MRP also established a cap on how many Stress/ Source Identification Projects need to be conducted. The MRP caps the Stress/ Source Identification Projects for the Santa Clara Valley Urban Runoff Pollution Prevent Program to five projects for the permit. For San Mateo and Contra Costa permittees the cap is three and for Fairfield-Suisan and Vallejo Permittees the cap is one for the permit term. The County suggests including a cap to how many investigations need to be performed.	This permit provision has been revised.
30	7	County of Santa Clara Department of Planning and Development - Ignacio Gonzalez	E.10.c	Construction	Clarification is needed with respect to what is meant by bi-monthly inspections. This can be interpreted to mean either: 1) perform inspections twice in one month or 2) every other month. The inspection frequency for priority sites during the rainy season should not	This permit provision has been revised.

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					be the same frequency as other sites with one acre or more of soil disturbance not considered a construction site during the dry season, which are both currently listed as bimonthly. The County suggests changing the language under other sites with one acre or more of soil disturbance not considered a construction site inspection frequency during the dry season to every other month instead of bimonthly.	
30	8	County of Santa Clara Department of Planning and Development - Ignacio Gonzalez	E.14.a	Program Effectiveness	The reporting for each Provision requires a summary to address the relationship between the program elements activities and the Permittee's Effectiveness Assessment and Improvement Plan. However, the Effectiveness Assessment and Improvement Plan are not required to be completed until year two. The County recommends changing the reporting requirements to provide a summary to address the relationship between the program elements activities and the Permittee's Effectiveness Assessment and Improvement Plan until year three. This will allow the County to focus on developing the Effectiveness Assessment and Improvement Plan in year two and evaluate the relationship between the Plan and activities completed starting in year three.	Staff does not agree. The Plan submitted in year two summarizes Permittees' program "as a whole." Each Permittee must evaluate their program activities annually to ensure the yearly task completed are effective.
30	9	County of Santa Clara Department of Planning and Development - Ignacio Gonzalez	Throughout	General	In conclusion, the Revised Draft Permit has significantly improved since the first version that was released. However, there are still some requirements that: (1) need to be clarified, 2) have inconsistencies with implementation time, and 3) need to be adjusted to allow more time to comply with and implement. It is essential that the Revised Draft Permit address this concerns and create a NPDES Municipal Phase II Permit that reflects the capabilities of	This permit has been revised to address a majority of Stakeholder concerns. Numerous Stakeholder meetings were conducted over the 5-year permit renewal efforts.

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					small cities, counties and special districts that are subject to this permit and also recognize the limitations these agencies have with regards to available staff and funding resources available.	
31	1	County of Santa Cruz Department of Public Works - John Presleigh	Attachment J	Central Coast Post-Construction Requirements	In theory, the Central Coast Post-Construction Requirements were based upon a thorough and scientific assessment of watershed processes conducted by a team of scientists. The watershed processes assessed by the scientific team were in turn based upon natural, undeveloped conditions observed throughout the Central Coast region. Our concern is that the resulting post construction requirements and applicability criteria are not clearly linked nor do they seem to benefit from the initial scientifically-based watershed analysis.	This permit provision has been revised to address this comment. Attachment J has been deleted from this Order. The State Water Board determined that, while the Board continues to support a watershed process-based approach to hydromodification requirements, the Joint Effort process should be allowed to evolve and proceed, without incorporation into this Order, to address several unresolved issues acknowledged by the parties to that process, including the Regional Water Board. Under Provisions E.12.k (also referenced in F.5.g), the Central Coast Region Small MS4s will be required to implement watershed process-based requirements developed through the Joint Effort only after those requirements have been reconsidered and approved by the Central Coast Water Board.  Please see the Fact Sheet: Post Construction Storm Water Management for New Development and Re-development discuss for further details.
31	2	County of Santa Cruz Department of Public Works - John Presleigh	Attachment J	Central Coast Post-Construction Requirements	The requirements are unique, complex and unproven. There is no way to ascertain their effectiveness or feasibility of implementation. Preliminary engineering analysis indicates that these new runoff retention requirements cannot be met in many urban areas of the region where soils do not naturally infiltrate without using a disproportionate percent of lot area. The volume of runoff retention would be infeasible for many projects.	Please see response to comment number 1.

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31	3	County of Santa Cruz Department of Public Works - John Presleigh	Attachment J	Central Coast Post-Construction Requirements	If the Central Coast Post-Construction Requirements are included in the Statewide Phase II Permit as Attachment J, any necessary improvements to the Region 3 requirements would then need to be approved at the State level by re-opening the permit, making it additionally difficult to make any revisions. Additionally, incorporating the Central Coast Post-Construction Requirements into the Statewide Phase II Permit nullifies the Region 3 petitions that have been filed with the State."	Please see response to comment number 1.
31	4	County of Santa Cruz Department of Public Works - John Presleigh	Attachment J	Central Coast Post-Construction Requirements	Developers will likely abandon efforts to create infill and smart growth projects in existing urbanized areas where it appears that retention measures must cover at least 10 percent of the project's Equivalent Impervious Surface Area, in favor of new development projects in rural areas outside of designated MS4s urbanized areas where these requirements do not apply. The loss of agricultural lands and open space, and resulting sprawl development in perhaps otherwise relatively intact watersheds could easily negate any hoped-for water quality benefit."	Please see response to comment number 1.
31	5	County of Santa Cruz Department of Public Works - John Presleigh	Attachment J	Central Coast Post-Construction Requirements	Public Works requests that the State Board direct the Central Coast Water Board to rescind the Region 3 Post-Construction Requirements (Resolution No. R3-2012-0025) and apply the Statewide E.12 Post Construction Standards of the Phase II Permit to Central Coast permittees. Short of this, we would request that Attachment J be removed from the Phase II Permit so that necessary revisions can be made at the Regional Board level without having to reopen and amend the State Permit.	Please see response to comment number 1.
32	1	County of Ventura, Public Works Agency -	Section D	Receiving Water Limitations	The Receiving Water Limitations Provision (Provision D, pages 19-20) is an important and	The discussion of the receiving water limitations in the Fact Sheet has been revised to clarify the

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		Jeff Pratt			<p>relevant issue for all permittees within the State, as your Board heard at the November 20, 2012 workshop. While the revised order does not modify Provision D per se, it addresses the issue (see Finding #38, page 38; Provision I, page 140; and the Fact Sheet, pages 25-26) by creating a reopener clause. We believe the State Water Board should not defer this issue until a later date (by the use of a reopener clause) and recommend that the State Water Board address this issue in this permit. We believe the State Water Board has sufficient input and cause to develop a resolution prior to permit adoption. We understand that the California Stormwater Quality Association (CASQA) offers its support and assistance to the State Water Board to address this issue. We urge the State Water Board to direct staff to work with CASQA to revise the Receiving Water Limitation Language in Provision D now and not defer to a later point in time.</p>	<p>State Water Board's position to date and to address the Supreme Court's recent decision reversing the Ninth Circuit judgment in <i>NRDC v. LA County</i> and remanding the case. The State Water Board heard from interested persons at the November 20, 2012, workshop held to consider receiving water limitations provisions in municipal storm water permits and the Board is evaluating options going forward. The State Water Board considers the receiving water limitations question to be an important and complicated issue -- independent of the court ruling -- and believes it requires careful consideration. The Board will continue to rely on the specific reopener clause at Section H to facilitate future revisions, if any, rather than delay consideration of adoption of the Phase II permit.</p>
32	2	County of Ventura, Public Works Agency - Jeff Pratt	Attachment J	Central Coast Post-Construction Requirements	<p>Our concerns with Attachment J are two-fold, policy/procedural and technical. First we are concerned with the apparent escalation in permit requirements being conducted by the various Water Board permit writers in drafting provisions for land development. Furthermore, the clear absence of any consensus within the State on what the requirements are for land development (particularly with respect to hydromodification management) is damaging to the credibility of the entire storm water program.</p>	<p>This permit provision has been revised to address this comment. Attachment J has been deleted from this Order. The State Water Board determined that, while the Board continues to support a watershed process-based approach to hydromodification requirements, the Joint Effort process should be allowed to evolve and proceed, without incorporation into this Order, to address several unresolved issues acknowledged by the parties to that process, including the Regional Water Board. Under Provisions E.12.k (also referenced in F.5.g), the Central Coast Region Small MS4s will be required to implement watershed process-based requirements developed through the Joint Effort only after</p>

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						those requirements have been reconsidered and approved by the Central Coast Water Board.  Please see the Fact Sheet: Post Construction Storm Water Management for New Development and Re-development discuss for further details.
32	3	County of Ventura, Public Works Agency - Jeff Pratt	Attachment J	Central Coast Post-Construction Requirements	Another policy/procedural related issue is the timing of the inclusion of Region 3 requirements into the draft Phase II Permit. By appending the Central Coast requirements, and stating, "the Water Board expects to amend this Order to incorporate similar requirements for Permittees in the remainder of the State"; the Water Board has introduced an entirely new set of rules with insufficient time for Permittees to fully evaluate the potential impacts of these standards.	Please see response to comment number 2.
32	4	County of Ventura, Public Works Agency - Jeff Pratt	Attachment J	Central Coast Post-Construction Requirements	It is worth noting that the post-construction requirements contained in Section E.12 have been through a thorough two-year review process including CASQA professionals, environmental NGOs, Permittees, and Water Board staff. The result is a set of straightforward and implementable LID and baseline hydromodification controls accomplishing most or all of the Region 3 requirements. This direction is one that Phase 1 permittees could better follow.	Please see response to comment number 2.
32	5	County of Ventura, Public Works Agency - Jeff Pratt	Attachment J	Central Coast Post-Construction Requirements	With respect to technical issues, the magnitude and scope of the Region 3 requirements are not appropriate for the following reasons: (1) The Region 3 requirements are not only the most stringent and complex in the State, they are also unique and entirely untested. (2) The Central Coast sizing criteria was placed in	Please see response to comment number 2.

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					the Region 3 requirements after the public review process was completed in that region. (3) The retention and hydromodification requirements, and some of the LID requirements, are inconsistent and go beyond those of existing or proposed statewide, regional, or local Phase I or Phase II MS4 permits in California. We urge you to delete direct references to the Central Coast Post-Construction Requirements, including Attachment J, from the Draft Phase II Permit.	
32	6	County of Ventura, Public Works Agency - Jeff Pratt	Attachment J	Central Coast Post-Construction Requirements	<p>Lastly, we are concerned about the inconsistent regulations creating inequitable conditions in the neighboring cities or adjacent counties, for example more stringent and technically unproven and infeasible post-construction requirements such as in Santa Barbara County versus those in Ventura County.</p> <p>We urge you to delete direct references to the Central Coast Post-Construction Requirements, including Attachment J, from the Draft Phase II Permit.</p>	Please see response to comment number 2.
33	1	Department of Defense - C.L. Stathos	F.5.g.4; Attachment J	Central Coast Post-Construction Requirements	It is our understanding that the SWRCB and the Central Coast Water Board both intend to revise the Permit to allow renewal Permittees, such as Vandenberg Air Force Base (VAFB), to continue developing site-specific post-construction programs apart from the specific approach of Attachment J and the Permit, as long as such programs are equally or more protective of receiving water quality and are approved by the Regional Board's Executive Officer. Per the enrollment guidance issued by the Central Coast Water Board on February 15, 2008, V AFB has made a costly and good faith effort to develop a Hydromodification	This permit provision has been revised to address this comment. Attachment J has been deleted from this Order. The State Water Board determined that, while the Board continues to support a watershed process-based approach to hydromodification requirements, the Joint Effort process should be allowed to evolve and proceed, without incorporation into this Order, to address several unresolved issues acknowledged by the parties to that process, including the Regional Water Board. Under Provisions E.12.k (also referenced in F.5.g), the Central Coast Region Small MS4s will be required to implement watershed process-based requirements

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					<p>Management Plan (HMP) with post-construction storm water controls that will effectively protect receiving water quality and reduce storm water discharges to the Maximum Extent Practicable. <i>Revise the second sentence of Section F.5.g.4. (page 134) to read "Central Coast Small MS4s subject to Provision F of this Order shall adhere to the Central Coast Specific Post-Construction Requirements unless the Regional Board permits them to develop an alternative strategy that is equally protective of receiving water quality. The alternative strategy shall include a Hydromodification or Watershed Management Plan with post-construction storm water standards approved by the Central Coast Water Board Executive Officer." Also recommend additional changes to carry this revision throughout the entire Permit (please see page 2 of comment letter for additional specific edits).</i></p>	<p>developed through the Joint Effort only after those requirements have been reconsidered and approved by the Central Coast Water Board.</p> <p>Please see the Fact Sheet: Post Construction Storm Water Management for New Development and Re-development discuss for further details.</p>
33	2	Department of Defense - C.L. Stathos	Attachment B	Attachment B	<p>Non-Traditional Small MS4 Permittees with population less than 5,000 should not be included in Attachment B based on criteria discussed at public workshops, and Draft Phase II Small MS4 General Permit Designation Flow Chart dated November 16, 2012. Some of the installations included in Attachment B have populations less than 5,000. None of these installations were designated by the applicable Regional Board. <i>Delete the following installations from Attachment B: MCRD San Diego (3,000 personnel) and Petaluma Coast Guard Training Center (2,750 personnel)</i></p>	<p>MCRD San Diego (3,000 personnel) and Petaluma Coast Guard Training Center (2,750 personnel) have been deleted from Attachment B. However, the Regional Water Boards may make case-by-case determinations of designation during the permit term by notification to the discharger which will include a statement of reasons for the designation. Case-by-case determinations of designation are based on the potential of a Small MS4's discharges to result in exceedances of water quality standards, including impairment of designated uses, or other significant water quality impacts, including habitat and biological impacts.</p>

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33	3	Department of Defense - C.L. Stathos	Attachment B	Attachment B	Camp Pendleton was mistakenly listed on Attachment A as well as Attachment B. It is not a Traditional Small MS4 Permittees so it only should be listed on Attachment B. <i>Remove Camp Pendleton from Attachment.</i>	Camp Pendleton has been removed from Attachment A. Entities listed on Attachment A located in San Diego County were erroneously included in the November 16, 2012 draft as well as shown as "Deleted". Attachment A has been revised to correctly reflect the removal of San Diego County entities. San Diego County entities are covered under the Phase I MS4 permit.
34	1	Natural Resources Defense Council, Heal the Bay - Noah Garrison and Kirsten James	Section D	Receiving Water Limitations	Consistent with the prior Phase II MS4 permit and federal authority, the Draft Permit requires that "Discharges shall not cause or contribute to an exceedance of water quality standards contained in a Statewide Water Quality Control Plan, the California Toxics Rule (CTR), or in the applicable Regional Water Board Basin Plan." (Draft Permit, at Part D.) Multiple California and federal courts have upheld such provisions in California permits, including in MS4 permits for San Diego County and Los Angeles County. As such, the prohibition against discharges that cause or contribute to violations of water quality standards is appropriately incorporated into the Draft Permit's receiving water limitations here. Moreover, any weakening of the receiving water limitations language would constitute a violation of the Clean Water Act's anti-backsliding provisions. The adopted permit must require compliance with water quality standards, without restriction.	The discussion of the receiving water limitations in the Fact Sheet has been revised to clarify the State Water Board's position to date and to address the Supreme Court's recent decision reversing the Ninth Circuit judgment in NRDC v. LA County and remanding the case. The State Water Board heard from interested persons at the November 20, 2012, workshop held to consider receiving water limitations provisions in municipal storm water permits and the Board is evaluating options going forward. The State Water Board considers the receiving water limitations question to be an important and complicated issue -- independent of the court ruling -- and believes it requires careful consideration. The Board will continue to rely on the specific reopener clause at Section H to facilitate future revisions, if any, rather than delay consideration of adoption of the Phase II permit.

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34	2	Natural Resources Defense Council, Heal the Bay - Noah Garrison and Kirsten James	E.12	Post-Construction	<p>We generally support the approach to post-construction storm water management taken in the Draft Permit, and appreciate State Board staff's efforts to improve this section from the prior version of the Draft Permit. In particular, we support staff's inclusion of requirements for implementation of site design measures for projects creating or replacing over 2,500 square feet of impervious surface. (Draft Permit, at E.12.b.) However, we are concerned by provisions in the Draft Permit that still lack clarity or allow for regulated projects to escape requirements to implement the Draft Permit's otherwise applicable terms, and by the seeming lack of hydromodification requirements for management of runoff from large storm events. These issues must be addressed in order for the permit to pass legal muster under the Clean Water Act's MEP standard. To this end, the Draft Permit should further make clear that use of an alternative design under Part E.12.e(ii)(g) is authorized only where all four listed criteria of this part are met, and that discharge of runoff from the 85th percentile storm is authorized only where retention is technically infeasible. Second, the Draft Permit's "Exceptions to Requirements for Bioretention Facilities" under part E.12.e.ii(i) should be revised to ensure that all means of retention (including infiltration, evaporation/evapotranspiration, and harvest and reuse) are demonstrated to be infeasible before alternative practices, including biotreatment, are authorized. In addition, Environmental Groups are concerned with several provisions of the permit that either omit key terms or are unclear (E.12.e(ii)(f),</p>	This permit provision has been revised to address the comment.

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					E.12.c(ii)(d) and E.12.b(i)). Finally, NRDC and Heal the Bay strongly support efforts to use LID and groundwater recharge or other storm water capture practices to increase water supplies in California and would additionally support incorporation of permit provisions that allow for permittees to use a regional groundwater infiltration project as a means of meeting on-site retention requirements for new development and redevelopment projects, under certain conditions.	
34	3	Natural Resources Defense Council, Heal the Bay - Noah Garrison and Kirsten James	Section E.1.b.	Continued Implementation	Section E.1.b. of the Draft Permit effectively allow Permittees or Regional Board Executive Officers, with minimal and wholly inadequate oversight by the State Board or the Regional Boards and inadequate public input,9 to rewrite vast and critical sections of the Draft Permit. These requirements implicated by the self-regulatory provision are necessarily reviewed by the State Board, or at minimum, a Regional Board, through a process of public notice, comment, and hearing, in order to determine whether the permit meets the requirements of the Clean Water Act’s MEP standard. We noted with approval that the prior version of the Draft Permit stated “All Permittees must implement post-construction and monitoring programs as specified in this order.” While we have significant concerns with the Draft Permit’s monitoring requirements, as detailed below, this requirement should be reinstated in the Draft Permit.	This permit provision has been deleted from this Order.

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34	4	Natural Resources Defense Council, Heal the Bay - Noah Garrison and Kirsten James	Attachment G	TMDL	Attachment G is itself incomplete in the Draft Permit. For instance, the Draft Permit now lists Region 4 TMDLs but does not include the necessary deliverables and actions. (Draft Permit, at Attachment G, 44.) Further, there are thirteen TMDLs that are inappropriately missing from the Attachment such as the Long Beach City Beaches and Los Angeles River Estuary Bacteria TMDL and Marina del Rey Toxics TMDL. The Permit provides regional boards one year (previously 6 months) to propose revisions to Attachment G. Further, the Draft Permit states that there “may” be a reopener to include the updates. The Draft Permit is the regulatory mechanism that makes the TMDL and its requirements enforceable, thus it is critical to include all these requirements to ensure that they are actually undertaken by the Permittee and that water quality standards are attained.	A one year consultation period has been included in this Order. The one year consultation period has two main objectives. First, because the Permittees have not had an opportunity to meet with Regional Water Board staff to review and discuss the TMDL-specific permit requirements incorporated into this permit, the Regional Water Boards are additionally being directed through this Order to review the TMDL-specific permit requirements of Attachment G in consultation with the Permittees and propose any revisions to the State Water Board Any such revisions will be incorporated into the permit through a reopener. Second, the high variance in the level of detail and specificity of TMDLs necessitates the development of more specific permit requirements in many cases to provide clarity to the Permittees regarding responsibilities for compliance. During the one year consultation period, the thirteen TMDLs that are missing from the Attachment can/may be included and the TMDL-specific permit requirements will be developed during the one-year review period.
34	5	Natural Resources Defense Council, Heal the Bay - Noah Garrison and Kirsten James	E.13.	Monitoring - General	An NPDES permit must require the discharger to conduct water quality monitoring sufficient to determine whether it is complying with its permit limits. (33 U.S.C. § 1342(a)(2); 40 C.F.R. § 122.44(i)(1).) NPDES permits must specify monitoring requirements necessary to determine compliance with effluent limitations. (33 U.S.C. § 1318(a); 40 C.F.R. §§ 122.48, 122.41.) The CWA mandates, “The Administrator shall require the owner or operator of any point source to . . . install, use and maintain such monitoring equipment and methods,” which includes biological monitoring and sampling of effluent. (33 U.S.C. § 1318(a).)	The water quality monitoring section of this Order focuses on priority areas established by the State Water Board (ASBS, TMDL and 303(d) listed waterbodies). For the majority of Phase II Permittees, this permit term will be the first time a monitoring program has been implemented. As such, prioritization of monitoring allows for a firm foundation from which Phase II Permittees may initiate and develop monitoring programs that will result in improvement of local knowledge of water quality impacts and implementation of storm water management practices. Staff does not agree that the monitoring program of this Order is inadequate. In staff’s response, the

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					Likewise, the federal regulations direct: "All permits shall specify. . . [r]equired monitoring including type, intervals, and frequency." (See, 40 C.F.R. §§ 122.48; 122.41(j).) Because these monitoring requirements dominate the Clean Water Act's permitting program, the Act clearly views monitoring as an integral part of all permits.	importance of monitoring is recognized in conjunction with the importance of creating cost-effective requirements. The Order addresses critical water quality priorities, namely discharges to ASBS, TMDLs, and waterbodies listed as impaired on the 303(d) list, but aims to do so in a focused and cost-effective manner.
34	6	Natural Resources Defense Council, Heal the Bay - Noah Garrison and Kirsten James	E.13.	Monitoring - Applicability	The Draft Permit requires receiving water monitoring only when no ASBS, TMDL or 303(d) monitoring is conducted. (Draft Permit, at Part E.13.) This provision is inappropriate and unlawful and should be removed. Under this provision, a Permittee could monitor for a single waterbody-pollutant impairment under a TMDL and have no additional monitoring requirements. ASBS, TMDL and 303(d) monitoring is not necessarily sufficient to assess the condition of a waterbody and impacts from discharges. These types of monitoring each serve different purposes. The Draft Permit should not focus solely on known impairments but instead should assess the overall water quality. Receiving water monitoring is a critical component of an adequate monitoring regime and should not be eliminated under any circumstances. Special study goal has no correlation to evaluating a storm water program or the "management questions" outlined in the Draft Permit. In sum, the various off-ramps to monitoring requirements further weaken an already insufficient and unlawful monitoring program. It is critical that Permittees gather sufficient water quality monitoring data consistently statewide in order	This permit provision has been revised to address the comment.

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					to better understand impacts from MS4 dischargers and determine appropriate management decisions. Thus, we urge the Board to reject the changes in the Draft Permit and revise the Draft Permit's monitoring program as described in our July 23 letter.	
34	7	Natural Resources Defense Council, Heal the Bay - Noah Garrison and Kirsten James	E.13.a. [pages 84 - 89]	Monitoring - Receiving Water Monitoring	While we appreciate the addition of benthic algal biomass and percent cover monitoring and strongly support bioassessment monitoring, the Draft Permit lacks key monitoring parameters that are often found in storm water. For instance nutrients, metals (e.g., copper and zinc), and conventional pollutants (TSS, TDS, specific conductance, pH, turbidity, total hardness) are notably absent. The State Board should include these parameters in order to meet the goals of a receiving water program. Another concern with the Draft Permit is that the sole stated objective for the "urban/rural interface" location is to understand "receiving water quality change[s] as LID BMPs are integrated into new development."15 The objectives of a receiving water program must be much more far-reaching. Additional goals should be incorporated in the requirements and utilized to develop a sufficient receiving water monitoring program.	The water quality monitoring section of this Order focuses on priority areas established by the State Water Board (ASBS, TMDL and 303(d) listed waterbodies). For the majority of Phase II Permittees, this permit term will be the first time a monitoring program has been implemented. As such, prioritization of monitoring allows for a firm foundation from which Phase II Permittees may initiate and develop monitoring programs that will result in improvement of local knowledge of water quality impacts and implementation of storm water management practices. Staff does not agree that the monitoring program of this Order is inadequate. In staff's response, the importance of monitoring is recognized in conjunction with the importance of creating cost-effective requirements. The Order addresses critical water quality priorities, namely discharges to ASBS, TMDLs, and waterbodies listed as impaired on the 303(d) list, but aims to do so in a focused and cost-effective manner.
34	8	Natural Resources Defense Council, Heal the Bay - Noah Garrison and Kirsten James	Attachment G	TMDL	It is concerning that there are TMDL monitoring requirements absent from Attachment G, especially given the lengthy development process for this Permit. TMDL monitoring requirements must be incorporated in Attachment G of the Draft Permit. "[O]nce a TMDL is developed, effluent limitations in NPDES permits must be consistent with the WLA's in the TMDL." (Communities for	The one year consultation period has two main objectives. First, because the Permittees have not had an opportunity to meet with Regional Water Board staff to review and discuss the TMDL-specific permit requirements incorporated into this permit, the Regional Water Boards are additionally being directed through this Order to review the TMDL-specific permit requirements of Attachment G in consultation with the Permittees

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					<p>a Better Env't v. State Water Res. Control Bd. 132 Cal.App.4th at 1322 (citing 40 C.F.R. § 122.44(d)(1)(vii)(B) (NPDES permits must be "consistent with the assumptions and requirements of any available waste load allocation for the discharge prepared by the State and approved by the EPA")); see also, City of Arcadia v. State Water Resources Control Board (2006) 135 Cal.App.4th 1392, 1404.) Many of these TMDLs have been in effect for numerous years. Monitoring should have already started, and in cases where it has not been implemented, it should start as soon as possible.</p>	<p>and propose any revisions to the State Water Board Any such revisions will be incorporated into the permit through a reopener. Second, the high variance in the level of detail and specificity of TMDLs necessitates the development of more specific permit requirements in many cases to provide clarity to the Permittees regarding responsibilities for compliance. During the one year consultation period, the thirteen TMDLs that are missing from the Attachment can/may be included and the TMDL-specific permit requirements will be developed during the one-year review period.</p>
34	9	Natural Resources Defense Council, Heal the Bay - Noah Garrison and Kirsten James	E.15.	Program Effectiveness	<p>While we support that the Draft Permit contemplates "Program Effectiveness Assessment and Improvement" requirements, (Draft Permit, at Part E.13.a(ii)), we believe that this section should be significantly strengthened and clarified in order to improve water quality. First, staff has removed the "Municipal Watershed Pollutant Load Quantification" from this section of the Draft Permit, which in previous drafts had required BMP removal efficiency calculations. One of the most significant shortcomings of previous storm water permits has been the lack of performance-based criteria for BMPs. As a result, BMPs are added as part of permit requirements or pollution abatement efforts without any focus on the quality of the water exiting the BMPs. It is important that the permit include requirements to evaluate BMP performance. We recommend that the Draft Permit require a performance evaluation for all structural (or engineered) best management practices used by the discharger to comply with</p>	<p>Municipal pollutant load quantification has been removed from the draft permit due to a couple of important factors. First, this Order constitutes an increased level of program implementation than the previous iteration. As such, it is imperative that efforts are focused on priority areas as established by the State Water Board. The priority areas include discharges to ASBS, TMDL/303(d) listed waterbodies, post-construction and monitoring. Second, while staff recognizes the value in quantifying pollutant loads, the mechanism by which loads are quantified are yet to be vetted. During the permit cycle (next 5 years), staff may conduct pollutant load quantifications by way of the Center for Watershed Protection's pollutant load quantification calculator and tailor it to California's local conditions and characteristics. Staff fully intends to incorporate pollutant load quantification into the next permit cycle.</p> <p>Section E.12.h. Post-Construction Best Management Practice Condition Assessment</p>

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					<p>the Permit, including retrofits and iterative requirements. Specifically, at least once per permit cycle, the Permittee should submit a report to the State Board or regional board that includes a BMP performance evaluation. We urge the Board to require effectiveness assessment within the permit term, so that management decisions can be modified appropriately. In addition, it is critical to have a robust data set, in order to properly assess effectiveness. As stated above, we are concerned that the monitoring requirements will not provide a sufficient data set for such analysis.</p>	<p>requires Permittees to inventory and assess the maintenance condition of structural post-construction BMPs. Further, the authorized parties must demonstrate proper maintenance and operation through a self-certification report which includes field observations to determine the effectiveness of the structural BMP in removing pollutants of concern.</p> <p>Lastly, prioritized BMPs are defined as BMPs installed or implemented based on pollutants of concern. In the case that local pollutants of concern have not been identified or are unknown, the prioritized BMPs designed to address common pollutants of concern. The program effectiveness plan requires short term and long-term effectiveness analysis. By the second year Annual Report Permittees develop a Program Effectiveness and Improvement Plan (PEAIP). By the fifth year Annual Report, Permittees complete an analysis of the effectiveness of modification made at improving BMP and/or program effectiveness as described in the PEAIP. Finally, each Annual Report summary addresses the relationship between the program element activities and the Permittee's PEAIP that tracks annual and long-term effectiveness of the storm water program.</p>
34	10	Natural Resources Defense Council, Heal the Bay - Noah Garrison and Kirsten James	E.11.f. [page 53] and Section I.6. [page 140]	Trash Reduction	<p>Our July 23 letter describes ways to improve the Permit in this area. We also have several additional concerns with the new Draft Permit's requirements for trash abatement. First, the Draft Permit should revise the definition of "high priority" catchment. The Draft Permit requires storm drain system assessment and prioritization.<sup>19</sup> Specifically, it requires the prioritization of high priority catch basins and</p>	<p>The intent of the language is not for all five criterion to be met in order to be considered a high priority catch basin. In order to address the multiple characteristics of various Phase II Permittees varying prioritization criterion is included.</p>

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					<p>defines what these are. The definition appears to require that five criterion be met in order for the catch basin to be deemed high priority. Instead, we urge the Board to require that a catch basin be deemed high priority if it meets any of the criterion. It would be an inappropriately high bar to meet all five, and as a result, little progress would be made in trash abatement. <i>Thus we suggest that the language on page 53 of the Draft Permit be modified as follows: "In particular, assign high priority to catch basins meeting <u>any</u> of the following criteria..."</i> We also appreciate the added reopener for the pending statewide trash policy. However, we ask that the Permit include a mandatory re-opener to ensure that progress is made on trash reduction during the term of the permit</p>	
35	1	Howard Jarvis Taxpayers Association - Eric Eisenhammer			<p>We encourage the Board to ultimately include only requirements that are scientifically shown to be necessary, that are within the permittee's control, that have been developed based on permittee input, that will achieve significant water quality improvements and that can be easily and inexpensively implemented.</p>	<p>The draft permit was developed using USEPA's MS4 Improvement Guide, April 2010 EPA 833-R-10-001 and represents the direction that USEPA is taking to strengthen the program. The Guide focused on Phase II MS4s and was developed to facilitate the creation of MS4 permits which are clear, consistent with applicable regulations,</p>
35	2	Howard Jarvis Taxpayers Association - Eric Eisenhammer			<p>The cost of receiving water regulations is ultimately borne by California's taxpayers, falling either directly on regulated business taxpayers or indirectly on all taxpayers of regulated public agencies. And the cost of compliance is only the tip of the iceberg. Lurking beneath the surface is the threat of administrative fines and third-party litigation if, through one's unintentional mistake or circumstances beyond one's control, an applicable standard is briefly exceeded.</p>	<p>The discussion of the receiving water limitations in the Fact Sheet has been revised to clarify the State Water Board's position to date and to address the Supreme Court's recent decision reversing the Ninth Circuit judgment in NRDC v. LA County and remanding the case. The State Water Board heard from interested persons at the November 20, 2012, workshop held to consider receiving water limitations provisions in municipal storm water permits and the Board is evaluating options going forward. The State</p>

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						Water Board considers the receiving water limitations question to be an important and complicated issue -- independent of the court ruling – and believes it requires careful consideration. The Board will continue to rely on the specific reopener clause at Section H to facilitate future revisions, if any, rather than delay consideration of adoption of the Phase II permit.
35	3	Howard Jarvis Taxpayers Association - Eric Eisenhammer			Local businesses are the economic engine that runs our State's economy. They directly pay property taxes, sales taxes, and income taxes that sustain government at every level, and they provide jobs that indirectly generate more tax revenue for government. Local businesses face unprecedented competition from internet sellers located in other states or countries where the cost of California regulations is not part of their overhead. California should be doing everything in its power to protect local businesses, which are disappearing at an alarming rate.	This permit has been revised to address a majority of Stakeholder concerns. Numerous Stakeholder meetings were conducted over the 5-year permit renewal efforts, specifically cost of implementation. In addition, please see Section III, Economic Considerations in the Fact Sheet.
35	4	Howard Jarvis Taxpayers Association - Eric Eisenhammer			As local businesses fail or move, jobs are lost. California's unemployment rate currently stands at a near-record 10.2% and the US Census' recently released Supplemental Poverty Measure shows California suffering from the highest poverty rate in America. The adverse economic climate has reduced revenues to state and local governments and strained their ability to provide quality services. The added cost of any unnecessary or inefficient requirement still contained in the RWL proposal could be the straw that breaks the camel's back for some businesses that are barely making ends meet, or for some municipal governments that must choose between continuing to provide adequate levels of service to their	The discussion of the receiving water limitations in the Fact Sheet has been revised to clarify the State Water Board's position to date and to address the Supreme Court's recent decision reversing the Ninth Circuit judgment in NRDC v. LA County and remanding the case. The State Water Board heard from interested persons at the November 20, 2012, workshop held to consider receiving water limitations provisions in municipal storm water permits and the Board is evaluating options going forward. The State Water Board considers the receiving water limitations question to be an important and complicated issue -- independent of the court ruling – and believes it requires careful consideration. The Board will continue to rely on

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					communities or endangering fragile job creation efforts with tax increases.	<p>the specific reopener clause at Section H to facilitate future revisions, if any, rather than delay consideration of adoption of the Phase II permit.</p> <p>Numerous Stakeholder meetings were conducted over the 5-year permit renewal efforts, specifically cost of implementation. In addition, please see Section III, Economic Considerations in the Fact Sheet.</p>
35	5	Howard Jarvis Taxpayers Association - Eric Eisenhammer			Of even greater concern to struggling businesses and public agencies is their exposure to potential fines and third-party lawsuits. It is critical that permittees be guarded from liability if they have acted in good faith to meet the provisions of the permit and the water quality conditions under their direct control. They cannot be required to guarantee receiving water quality; they can only be required to do their best to comply with clearly written, reasonable regulations.	<p>Numerous Stakeholder meetings were conducted over the 5-year permit renewal efforts, specifically cost of implementation. In addition, please see Section III, Economic Considerations in the Fact Sheet.</p>
35	6	Howard Jarvis Taxpayers Association - Eric Eisenhammer			This brings us to our final point. We are informed that many of the water quality standards imposed on storm water dischargers will be impossible for Caltrans, cities, counties and businesses to meet because these standards rely upon technology not yet available or not yet invented, or on modifications to consumer products not required for many years to come (e.g., brake pad linings to remove copper by 2025 under S.B. 346 (2010)). Regulations for which compliance is impossible do not actually protect the environment; they only create economic and compliance uncertainty for permittees and worsen California's reputation as an unfriendly place to do business.	<p>Numerous Stakeholder meetings were conducted over the 5-year permit renewal efforts, specifically cost of implementation. In addition, please see Section III, Economic Considerations in the Fact Sheet.</p>

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35	7	Howard Jarvis Taxpayers Association - Eric Eisenhammer			We urge the State Water Resources Control Board to consider the Small MS4 permit and the RWL proposal in a way that adopts a common sense approach that allows compliance with current best available technology and avoids major unnecessary costs on businesses and public agencies.	Comment noted.
36	1	Marin County Stormwater Pollution Prevention Program - Terri Fashing	Throughout	General	MCSTOPPP greatly appreciates the time and energy that State Water Resources Control Board (State Board) staff dedicated to hearing and addressing a number of our concerns. Several key issues remain, including the need for the State Board to adopt a Phase II Permit that improves water quality and can be implemented with existing funding. The current Draft Permit will substantially increase current program implementation costs. At a minimum, we urge you to direct staff to revise the Draft Permit based on our comments below.	Comment noted.
36	2	Marin County Stormwater Pollution Prevention Program - Terri Fashing	Section D	Receiving Water Limitations	Direct staff to work with the California Stormwater Quality Association (CASQA) to revise the Receiving Water Limitation Language in Provision D now and do not defer to a later point in time. As evidenced by the State Water Board's November 20, 2012 Workshop on the subject, the Receiving Water Limitations Provision (Provision D, pages 19-20) is a critical issue of concern for all MS4 Permittees within the State. Notwithstanding the Workshop, the revised order does not modify Provision D as it was previously drafted. Instead, it just bypasses the issue by creating a reopener clause (see Finding #38, page 38; Provision I, page 140; and the Fact Sheet, pages 25-26). In light of all of the effort that went into the Workshop and the importance of this issue to all municipalities in the State, moving forward on the Draft Permit	The discussion of the receiving water limitations in the Fact Sheet has been revised to clarify the State Water Board's position to date and to address the Supreme Court's recent decision reversing the Ninth Circuit judgment in NRDC v. LA County and remanding the case. The State Water Board heard from interested persons at the November 20, 2012, workshop held to consider receiving water limitations provisions in municipal storm water permits and the Board is evaluating options going forward. The State Water Board considers the receiving water limitations question to be an important and complicated issue -- independent of the court ruling -- and believes it requires careful consideration. The Board will continue to rely on the specific reopener clause at Section H to facilitate future revisions, if any, rather than delay

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					as it stands is not reasonable. We believe the State Water Board should not defer this issue until a later date (by the use of a reopener clause) and contend that the State Water Board has sufficient input and cause to develop a resolution.	consideration of adoption of the Phase II permit.
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36	3	Marin County Stormwater Pollution Prevention Program - Terri Fashing	Attachment J	Central Coast Post-Construction Requirements	Eliminate Attachment J and Footnote 31 of the Draft Fact Sheet. Our concerns with Attachment J are two-fold, policy/procedural and technical. First we are concerned with the apparent escalation in permit requirements being conducted by the various Water Board permit writers in drafting provisions for land development. Over the last few years the State and Regional Boards expanded land development requirements in each storm water permit reissuance without enough analysis of the impact and effectiveness of the prior development requirements and without enough consideration of the key hydrologic principles of low impact development. Due to the lack of a cogent and cohesive approach to land development standards, an uneven playing field now exists for communities and developers across the State. Furthermore, without a consensus within the State on what the requirements are for land development (particularly with respect to hydromodification management) the entire storm water program loses credibility. Another policy/procedural related issue is the timing of the inclusion of Region 3 requirements into the Draft Permit. By appending the Central Coast requirements, and stating, "the Water Board expects to amend this Order to incorporate similar requirements for Permittees in the remainder	In response to extensive comments received from interested persons, Attachment J has been deleted from the Order. The State Water Board determined that, while the Board continues to support a watershed process-based approach to hydromodification requirements, the Joint Effort process should be allowed to evolve and proceed without direct incorporation into the Small MS4 General Order. This allows an independent process to address several unresolved issues acknowledged by the parties to the Joint Effort, including the Regional Water Board. Under new Provision E.12.k, if a Regional Water Board develops post-construction storm water management requirements based on a watershed-process approach and consistent with criteria specified, Small MS4s in that region must implement the developed requirements in lieu of most sections of E.12.k. The implication of this Provision for the Central Coast region Small MS4s is that they will be required to implement watershed process-based requirements developed through the Joint Effort after those requirements have been reconsidered and approved by the Central Coast Water Board. Existing Central Coast Water Board Resolution No. R3-2012-0025 operated as an update to SWMPs that are no longer required under this Order.  Please see the Fact Sheet Post Construction Storm
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					of the State", the Water Board has introduced an entirely new set of rules with insufficient time for Phase I or II Permittees to fully evaluate the potential impacts of these standards. At a minimum, we believe it prudent to allow a full 5-year permit term to incorporate the requirements of Section E.12 and to assess their effectiveness before asking Permittees to review and prepare for new requirements	Water Management for New Development and Re-development discussion for further details. Staff notes that, because E.12.k. precludes imposition of the Joint Effort requirements through Resolution No. R3-2012-0025, the State Water Board considers the pending petitions on that Resolution moot as of adoption of this Order. However, any future action by a Regional Water Board, including the Central Coast Water Board, to adopt a regional watershed process-based approach would be subject to petitions for review by the State Water Board.
36	4	Marin County Stormwater Pollution Prevention Program - Terri Fashing	Throughout	General	Eliminate errors in the outline structure of the permit. The Draft Permit is a long, complex and detailed document and a consistent outline structure is absolutely critical to understanding and implementing it. It would benefit all stakeholders, not just Permittees, if the State Board would direct staff to conduct an editorial review of the document in order to eliminate circular references, errors in content and outline structure, and redundant language.	Comment noted.
36	5	Marin County Stormwater Pollution Prevention Program - Terri Fashing	E.9.b.(ii)(e)	Illicit Discharge Detection and Elimination	Delete Section E.9.b.(ii).(e). Page 11 of the Fact Sheet (November 16,2012 version) provides a list of the significant changes, including deleted provisions, to reduce costs in the 2"d Draft Permit. The Industrial/Commercial Inspection Program is one of the deleted provisions on the list. However, business inspections are now required under Section E.9.b.(ii).(e) in the Draft Permit on page 39. While MCSTOPPP intends to continue leveraging existing staff resources by encouraging routine business inspectors to identify and then refer storm water issues to appropriate staff, we believe that business inspection requirements should be eliminated from the Draft Permit in order to prevent a	This permit provision has been revised to address this comment.

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					further increase in permit implementation costs.	
36	6	Marin County Stormwater Pollution Prevention Program - Terri Fashing	E.13. and Monitoring Flowchart	Monitoring	Eliminate references and language that indicate Permittees must conduct TMDL, 303(d) listing and E.13 water quality monitoring options as this is contradictory to existing and new statements provided in E.13.(4). E.13.(4) clearly states that Permittees with a population greater than 50,000 that are not conducting monitoring related to ASBS, TMDLs or 303d impaired waterbodies are required to conduct monitoring as specified in E.13.a and E.13.b. This has not been clearly reflected in Attachment A and the monitoring flow chart.	This permit provision has been revised to address this comment.
36	7	Marin County Stormwater Pollution Prevention Program - Terri Fashing	Findings	MEP	Revise the Draft Permit to include findings regarding the maximum extent practicable (MEP) standard similar or identical those in the existing Phase II permit. The MEP standard is the cornerstone of the storm water regulation, as federal law requires MS4 Permittees to reduce discharges of pollutants in storm water to the MEP. (40 C.F.R. § 122.34(a).) These findings emphasize the flexible, site-specific, and iterative nature of MEP standard as described in the federal and state law and guidance. We support the addition of findings from the existing Phase II permit that are identified in CASQA's comment letter on the current Draft Permit (Revised Draft Phase II Small MS4 Permit).	See Response to CASQA Comment 4.
36	8	Marin County Stormwater Pollution Prevention Program - Terri Fashing	Throughout	Permit Outline Structure	The outline structure is not consistent.  Recommendation: Hire a professional editor to read and revise the organizational and outline	Comment noted.

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					structure of the permit. This effort will improve our ability to follow the permit provisions.	
36	9	Marin County Stormwater Pollution Prevention Program - Terri Fashing	Throughout	Reporting	<p>Except for Planning &amp; Development Review Process, E.12.i, all reporting now references the SMARTS online reporting system. We are unable to provide comment on this draft without knowing the content of the SMARTS report.</p> <p>Recommendation: Water Board staff should work closely with Permittees to develop appropriate reporting requirements that do not extend or expand upon the Order itself.</p>	Water Board staff is currently building a SMARTS test group in order to work closely with Permittees to develop appropriate reporting pages.
36	10	Marin County Stormwater Pollution Prevention Program - Terri Fashing	Throughout	NOI Filing Date	<p>Currently there are conflicting deadlines for NOI filing dates. Conversations with SWRCB staff indicate that this deadline should all read July 1, 2013.</p> <p>Recommendation: Please modify all NOI filing deadlines referencing 6 months from effective date to July 1, 2013. This includes but is not limited to:  Fact Sheet: Page 7  Order:  A.1.a – page 15  A.2.a – page 15</p>	This permit provision has been revised to address this comment.
36	11	Marin County Stormwater Pollution Prevention Program - Terri Fashing	Finding #28 [pages 9-10]	Findings	This finding states that all MS4s with a population of 50,000 or more must conduct monitoring specified in the Order or approved by the Executive Officer of the applicable Regional Board. The statement is not entirely consistent with Section E.13 of the Order.	This permit provision has been revised to address this comment.

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36	12	Marin County Stormwater Pollution Prevention Program - Terri Fashing	H. [pages 139 – 140]	Dispute Resolution – Modification	CASQA appreciates the addition of Provision H which was added in part to address Permittees request for clarification regarding the Dispute Resolution process. However, the language could be interpreted as an attempt to mollify a Permittee’s rights to use the formal petition process as it is outlined in Water Code 13320.	Comment noted.
36	13	Marin County Stormwater Pollution Prevention Program - Terri Fashing	Attachment I [page 6]	Glossary	Modify outfall definition so that it also applies to the IDDE section. This will provide the clarity needed to Permittees during field screening.	Comment noted.
36	14	Marin County Stormwater Pollution Prevention Program - Terri Fashing	B.4 [page 18]	Incidental Runoff	New language (redline strikeout) clarified discharge prohibition with respect to incidental runoff. The following edits are needed to ensure the remainder of the paragraph aligns with new edits.	Comment noted.
36	15	Marin County Stormwater Pollution Prevention Program - Terri Fashing	E.6.a.i & E.6.b.i [pages 23 & 25] & F.5.a.1(iii) [page 101]	Program Management	The redline text indicates that the permittee shall certify that the Permittee has and will maintain full legal authority (E.6.b.i), however E.6.a.i states that Permittees must obtain adequate legal authority within the second year. Permittees cannot certify that they have legal authority before they obtain that authority.	This permit provision has been revised to address the comment.

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36	16	Marin County Stormwater Pollution Prevention Program - Terri Fashing	E.7.a(ii)(g) [page 30]	Public Education and Outreach	The words "if available" were added. This requirement should be reworded.	Comment noted.
36	17	Marin County Stormwater Pollution Prevention Program - Terri Fashing	E.7.a(ii)(j) [page 30]	Public Education and Outreach	Cities, towns and counties should not be required to educate k-12 students. Unless the Permittee is a school district, it has no authority to educate students in elementary schools. In many cases, school curriculum and schedule requirements make it difficult for extra presentations to be made in the classroom. The revised redline language reduces Permittee's flexibility and ability to provide outreach to school-aged children.	This permit provision has been revised to address the comment.
36	18	Marin County Stormwater Pollution Prevention Program - Terri Fashing	E.9.a. [page 36]	Outfall Mapping	New (redline) permit language indicates that "development of the outfall map shall include a visual outfall inventory involving a site visit to each outfall". Some Permittees in Marin have up-to-date outfall maps. Please allow such Permittees to submit their up-to-date outfall map without visiting all Permittee-owned outfalls in the field.	This permit provision has been revised to address the comment.
36	19	Marin County Stormwater Pollution Prevention Program - Terri Fashing	E.9.c. [pg. 39]	Illicit Discharge Detection and Elimination	Permittees should only be required to sample for unknown flows. Having to sample known flows from stream tributaries and perennial springs would add unnecessary costs.	Staff does not agree. If an outfall is flowing and it has been more than 72 hours (while conducting the outfall mapping), then sampling must be conducted. This task is required to be completed by the end of year two (i.e. July 1, 2015). In the case that outfalls exist within the urbanized areas that constantly flow, such constantly flowing outfalls can be identified as such on the outfall map. Additionally, if the constantly flowing outfall

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						is unknown or has not been previously identified, then the outfall should be sampled.
36	20	Marin County Stormwater Pollution Prevention Program - Terri Fashing	E.9.a. – c. [pages 36 – 39]	Illicit Discharge Detection and Elimination	New (redline) permit language indicates that “development of the outfall map shall include a visual outfall inventory involving a site visit to each outfall” and then the language goes on to say (in E.9.c) that, “within the second year of the effective date... (e.g., while conducting the outfall inventory under Section E.9.a), the Permittee shall sample any outfalls that are flowing...” This language provides needed clarification and connection to subsequent requirements such as field screening. However, it does not address municipalities that have already completed their outfall inventories.	Staff does not agree that Renewal Small MS4 Permittees that have already developed an outfall map should be exempt from site visits to each outfall. The intent of the outfall inventory and associated field sampling (as specified in Section E.9.c. Field Sampling to Detect Illicit Discharges) is to effectively detect, investigate and eliminate illicit discharges into the Permittee's system. The permit requires Permittees to proactively detect and sample flowing outfalls while conducting the outfall inventory. In the case that a Permittee has previously completed an outfall map, they must also conduct a survey of outfalls within the urbanized area to detect dry weather flows. However, this permit provision (E.9.a.) has been revised to include language pertaining to Renewal Permittees with an existing and up to date outfall map. The up-to-date outfall map must include the minimum requirements specified in E.9.a.(ii)(a - e) and does not exempt Renewal Permittees from conducting field sampling as specified in E.9.c. Field Sampling to Detect Illicit Discharges.
36	21	Marin County Stormwater Pollution Prevention Program - Terri Fashing	E.9.b(ii)(c) [page 38]	Illicit Discharge Source/ Facility Inventory – IGP Determination	The permit requires Permittees to determine if facilities must be covered under the Statewide Industrial General Permit. Regional Boards should make this determination, not Permittees. Please modify the language to require the Permittee to 1) notify a facility if they have good reason to believe that the facility should have coverage under the IGP and 2) recommend that the facility contact the Regional Board to verify the requirement for coverage under the IGP.	Permittees should leverage already existing staff to determine compliance of environmental permits and the potential to discharge pollutants to their municipally-owned storm drain system. Many Permittees have Inspectors out in the field on a daily basis, therefore, the on-site inspector simply needs to include the question of coverage under the Statewide Industrial General Permit.

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36	22	Marin County Stormwater Pollution Prevention Program - Terri Fashing	E.9.b(ii)(e) [page 39]	Illicit Discharge Source/Facility Inventory – Facility Assessment	<p>The Permit requires the assessment of inventoried facilities and other priority areas for the presence of illicit discharges. As currently written, the section requires business inspections. As previous comments indicated, this is above and beyond requirements of the Federal Clean Water Act. Page 11 of the current Fact Sheet states that the industrial/commercial inspection program requirements were deleted from the permit. Therefore, the new language in section E.9.b.(ii)(e) should be deleted.</p> <p>Recommendation: Strike Provision E.9.b.(ii)(e)</p>	This permit provision has been revised to address the comment.
36	23	Marin County Stormwater Pollution Prevention Program - Terri Fashing	E.9.c [page 39]	Field Sampling – Outfall Definition	A definition for outfall is now provided in Attachment I. This definition specifically calls out ASBS. Please also reference this newly added definition within the IDDE, Field Sampling provision to clarify what it meant by “outfalls.”	Comment noted.
36	24	Marin County Stormwater Pollution Prevention Program - Terri Fashing	Attachment I [page 6]	Outfall Definition - Modification	Modify outfall definition so that it also applies to the IDDE section. This will provide the clarity needed to Permittees during field screening.	Comment noted.

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36	25	Marin County Stormwater Pollution Prevention Program - Terri Fashing	E.10.c.(ii) [Page 46]	Construction Site Inspection and Enforcement	<p>This section would make more sense with the following edits:</p> <p>Recommendation: Modify as follows:  The inspection procedures shall be implemented per the Permittee's construction site storm water control ordinance and verify compliance with the project's erosion and sediment control ordinance. At a minimum, inspections must be conducted at priority construction sites (defined in the table below) prior to land disturbance (during the rainy season), during active construction and following active construction. Construction site inspections shall include assessment of compliance with the Permittee's construction site storm water runoff control...</p>	This permit provision has been revised.
36	26	Marin County Stormwater Pollution Prevention Program - Terri Fashing	E.10.c. [Page 46]	Construction Site Inspection and Enforcement	Allow the Permittee to require the project proponent to conduct inspections.	Comment noted.
36	27	Marin County Stormwater Pollution Prevention Program - Terri Fashing	E.10.c.(ii) [page 47]	Construction Site Inspection and Enforcement – Recommended Inspection Frequency Table Clarification	The phrase, "not considered a Construction Site" does not make sense in the context of the construction provision. This language should be struck as it does not add clarity to recommended inspection frequencies. Projects with an erosivity waiver are not covered by the CGP and inspection frequency should be determined by the Permittee. Description for Other Sites is inconsistent with language in CGP. The table should be congruent with the	This permit provision has been deleted.

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					rest of section E.10 and include small projects less than an acre.  Recommendation - Modify the recommended inspection frequency table as detailed in the comment letter.	
36	28	Marin County Stormwater Pollution Prevention Program - Terri Fashing	E.11.e [page 52]	Hotspot Facility Inspections	By adding "Hotspot Facility" to the title of this section, it no longer makes sense to include E.11.e.(ii)d in this section. E.11.e.(ii)d contains requirements for "Non-Hotspots".  Recommendation: Remove "Hotspot Facility" from the title of this section.	This permit provision has been revised to address the comment.
36	29	Marin County Stormwater Pollution Prevention Program - Terri Fashing	E.11.h.(ii)(d) [page 56]	Permittee Operations and Maintenance Activities (O&M)	This provision was changed and now requires quarterly evaluation of BMPs instead of annual evaluation. This increases the tracking and reporting requirements without a demonstrated water quality benefit. Annual evaluation is sufficient.  Recommendation: Change this requirement to state: Evaluate BMPs – All BMPs implemented during O&M activities shall be evaluated annually quarterly.	Comment noted.
36	30	Marin County Stormwater Pollution Prevention Program - Terri Fashing	E.12.b.ii [pages 60-61]	Site Design Measures, Post-Construction Calculator – Modification	Determining volume reductions for projects between 2,500 sf and 5,000 sf is an exercise with no purpose. The post-construction calculator is a detailed and complex spreadsheet used for CGP regulated projects, where the requirement is to reduce post-development volumes to pre-project volumes. It is not applicable or appropriate for projects of this small scope as it was developed for sites >	Staff does not agree that the use of the SMARTS post-construction calculator is inappropriate for projects between 2,500 sf and 5,000 sf. CGP projects that disturb more than 1 acre but result in impervious of less than 2, 500 sf must also use the calculator to quantify runoff reduction.

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					<p>1ac in areas that are not part of an MS4, without provisions for projects located in existing developed areas.</p> <p>In this Order, the calculator is to be applied on very small projects, where level of detail and technical experience of the project developer may be limited. It would be more valuable to the Permittee to have a list of such projects, and a brief description of the measures that were included.</p>	
36	31	Marin County Stormwater Pollution Prevention Program - Terri Fashing	E.12.b.ii [page 60]	Site Design Measures – Modification	<p>Site Design measures are limited to eight specific measures. A project will have no site design options other than one of the listed eight items. A ninth bullet should be added in order to encompass other options that might be available to projects.</p> <p>Recommendation: Add a ninth bullet as follows:            (i) Other design measures that provide an effective means of reducing site runoff</p>	The SMARTS post-construction calculator allows for the use of other design measures. Staff does not agree that the addition of “other site design measures” within the Order is necessary.
36	32	Marin County Stormwater Pollution Prevention Program - Terri Fashing	E.12.c.ii(c) [page 63]	Permittee’s Development Projects - Clarification	It is unclear what is meant by a Permittee’s “most current version of the low impact development runoff standards”	The intent of this language is to ensure that projects used the most recent, codified LID standards.
36	33	Marin County Stormwater Pollution Prevention Program - Terri Fashing	E.12.c.(ii)(c)(c) (the second instance of (c) under (ii)) [Page 61]	Effective date for implementing requirements for Regulated Projects	Please allow more time to prepare to implement requirements for Regulated Projects.	Comment noted.
36	34	Marin County Stormwater Pollution Prevention Program -	E.12.e(i) [page 66]	Low Impact Development Design	Provision E.12.e.(i), the last line should refer to Section E.12.e.(ii)(c). Provision E.12.e.(ii)(f), the end of the first	This typo has been corrected.

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		Terri Fashing		Standards – Correction	sentence should refer to Section E.12.e.(ii)(c).  Recommendation: Revise.	
36	35	Marin County Stormwater Pollution Prevention Program - Terri Fashing	E.12.g.(ii)(a) [page 75]	Maintenance of Storm Drain System - Correction	“Regulated Project” is defined elsewhere in the permit. Therefore, the addition of “greater than 5000 square feet” is unnecessary and confusing since the phrase does not include the words “impervious surface”.  Recommendation: Strike the redline language from this provision.	This permit provision has been revised to address this comment.
36	36	Marin County Stormwater Pollution Prevention Program - Terri Fashing	E.12.g.(ii)(b)	Mosquito District	Recommendation: To keep tracking and reporting requirements cost-effective, revise this section to require the Permittee to submit a list of Regulated Projects that were completed. The list may include a brief description of the installed treatment systems/baseline hydromodification management controls.	This permit provision has been revised to address this comment.
36	37	Marin County Stormwater Pollution Prevention Program - Terri Fashing	E.12.g.(ii)	Operation and Maintenance of Post-Construction Storm Water Management Measures	For smaller Regulated Projects the O&M requirements are excessive.  Recommendation: revise to scale O&M requirements based on the amount of impervious surface added or replaced.	Staff feels that O & M requirements for projects 5,000 square feet and greater are appropriate based on prior audits and inspections of municipalities. The audits showed that many BMPs were not maintained as designed.
36	38	Marin County Stormwater Pollution Prevention Program - Terri Fashing	E.12.J and Appendix J	Central Coast Post-Construction Requirements	Including the Central Coast Post-Construction requirements as a separate matter in this Order nulls petitions from Permittees in Region 3 to the state; limits or prevents revisions that Region 3 might adopt; creates confusion due to technical errors and complexity within the Region 3 requirements; places uncertainty on	Please see response to comment number 3.

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					<p>implementation of E.12 provisions; and does not support the statewide NPDES Permit consistency effort.</p> <p>Recommendation: Delete E.12.j and Appendix J.</p>	
36	39	Marin County Stormwater Pollution Prevention Program - Terri Fashing	E.12	Post-Construction	<p>This section in particular would benefit greatly from the talents of an editor. The outline structure is inconsistent and the entire section is poorly organized and somewhat confusing. Please invest time and resources to reorganize this section.</p>	This permit provision has been revised to address this comment.
36	40	Marin County Stormwater Pollution Prevention Program - Terri Fashing	E.13.	Outline Structure	<p>Everything after E.13.(4) should start with "E.13.(4)". However, the revised language that pertains to regional monitoring should move to the beginning of the section and should refer to sections E.13.(1)-(4) instead of sections E.13.i-iv.</p> <p>Recommendation: Adhere to conventional outline structure rules.</p>	This permit provision has been revised to address the comment.
36	41	Marin County Stormwater Pollution Prevention Program - Terri Fashing	E.13.	Regional Monitoring	<p>Phase II Permittees may participate with nearby Phase I Permittees as well as other of organizations in establishing or implementing an existing regional monitoring program. It is not feasible to require all or a majority of the Permittees to collaborate to conduct water quality monitoring in order for the program to be considered "regional" because this is a statewide permit. Finally, the discussion of regional monitoring should be placed at the very beginning of the section under E.13 so that it does not appear to be part of E.13.(4).</p>	This permit provision has been revised to address the comment.

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					<p>Recommendation: Redefine “regional monitoring program” so that it makes sense for the broad variety of Phase II Permittees covered by this statewide permit and move the regional monitoring discussion to the beginning of the section under E.13.</p>	
36	42	Marin County Stormwater Pollution Prevention Program - Terri Fashing	E.13.	Regional Monitoring	<p>We agree with most of the changes that were made to the regional monitoring discussion with one exception. Revised language in the November 16, 2012 Tentative Order states: “The following management questions shall be used to assist in guiding the development of a regional monitoring program, as applicable”.</p> <p>Recommendation: Replace the revised text with: “Regional monitoring programs shall address data needs, information requirements, and monitoring questions pertaining to items (1) through (4) above under E.13.”</p>	This permit provision has been revised to address the comment.
36	43	Marin County Stormwater Pollution Prevention Program - Terri Fashing	E.13 after E.13 (4) [page 83]	Monitoring	<p>E.13 (4) states: “Traditional Small MS4 Permittees with a population greater than 50,000 listed in Attachment A that are not already conducting ASBS, TMDL or 303(d) monitoring efforts shall participate in one of the following monitoring programs, subject to Regional Water Board Executive Officer approval: E.13.a. Receiving Water Monitoring E.13.b. Special Studies</p> <p>We agree with the language above. However, the redline language in E.13 under E.13(4)</p>	This permit provision has been revised to address the comment.

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					conflicts with E.13(4) by replacing the word “or” with “and”. It states: “Traditional Small MS4 Permittees that are already conducting monitoring of discharges to ASBS, TMDL, and 303(d) impaired water bodies are not required to perform additional monitoring as specified in E.13.a and E.13.b.” At a minimum, the “and” after “TMDL” should be replaced with “or”.	
36	44	Marin County Stormwater Pollution Prevention Program - Terri Fashing	E.13.(3) & Monitoring Flow Chart [page 83]	303d List-Related Monitoring – Clarification	The permit should clearly state that consultations with Regional Board for 303(d) list –related monitoring only need occur when “urban runoff” is listed as a source.	Comment noted.
36	45	Marin County Stormwater Pollution Prevention Program - Terri Fashing	E.14.b.	Pollutant Load Quantification	We appreciate that you removed this section. The cost to implement the requirement would have been high and the benefit to water quality would have been low or nonexistent. Thanks.	Comment noted.
37	1	Monterey Regional Storm Water Management Program - Sarah Hardgrave	Throughout	General	The members of MRSWMP appreciate the time and effort that both Staff and the Board have taken in reviewing and addressing many of the previous concerns expressed in regards to the Draft Phase II permit. However, as a group we concur with the concerns and detailed comments submitted by the following groups, entities and/or organizations: ☐ Phase II Permittees of Monterey, Santa Clara and Santa Cruz Counties (December 2012), ☐ Statewide Stormwater Coalition (December 2012) and associated legal review from Best, Best & Krieger Attorneys at Law (December 2012), and, ☐ California Stormwater Quality Association (December 2012).	Comment noted.

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37	2	Monterey Regional Storm Water Management Program - Sarah Hardgrave	Attachment J	Central Coast Post-Construction Requirements	<p>Of particular concern to members of the MRSWMP is the inclusion of the Central Coast Regional Post Construction Requirements (PCRs) (Attachment J) into the Permit. It is our understanding and belief that the inclusion of these PCR's into the Permit will virtually eliminate any flexibility and /or future modifications to the unproven program requirements contained within Attachment J at the local level (i.e. RWQCB and agencies). It has and is still our understanding that the Central Coast PCRs and Joint Effort Hydromodification Effort Program were posed to the members of our group, in effect as a test pilot program that would be implemented and modified as needed in response to program implementation difficulties, program management difficulties, changes in industry standards, changes in applicable technologies and lastly in response to the needs of the individual communities affected by this worthwhile program. We raise these concerns, simply because of the complexity of the program elements contained in the final approved version (9/6/12) of Attachment J. It is also worth note that since these PCRs (Attachment J) are region specific that it would not be appropriate to include requirements for a specific region in a "Statewide Permit".</p>	<p>In response to extensive comments received from interested persons, Attachment J has been deleted from the Order. The State Water Board determined that, while the Board continues to support a watershed process-based approach to hydromodification requirements, the Joint Effort process should be allowed to evolve and proceed without direct incorporation into the Small MS4 General Order. This allows an independent process to address several unresolved issues acknowledged by the parties to the Joint Effort, including the Regional Water Board. Under new Provision E.12.k, if a Regional Water Board develops post-construction storm water management requirements based on a watershed-process approach and consistent with criteria specified, Small MS4s in that region must implement the developed requirements in lieu of most sections of E.12.k. The implication of this Provision for the Central Coast region Small MS4s is that they will be required to implement watershed process-based requirements developed through the Joint Effort after those requirements have been reconsidered and approved by the Central Coast Water Board. Existing Central Coast Water Board Resolution No. R3-2012-0025 operated as an update to SWMPs that are no longer required under this Order.</p> <p>Please see the Fact Sheet Post Construction Storm Water Management for New Development and Re-development discussion for further details. Staff notes that, because E.12.k. precludes imposition of the Joint Effort requirements through Resolution No. R3-2012-0025, the State Water Board considers the pending petitions on that Resolution moot as of adoption of this Order.</p>

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						However, any future action by a Regional Water Board, including the Central Coast Water Board, to adopt a regional watershed process-based approach would be subject to petitions for review by the State Water Board.
37	3	Monterey Regional Storm Water Management Program - Sarah Hardgrave	Attachment J	Central Coast Post-Construction Requirements	We urge the SWRCB reconsider including the Central Coast PCR's into the new Permit and suggest that the document (Attachment J) just be referenced within the final Permit. This change will enable the Staff and Board at the Central Coast RWQCB who have first-hand knowledge of the region and program members the flexibility in allowing necessary modifications to the program over time in order to more effectively and efficiently not only protect, but improve water quality within our region.	Please see response to comment number 2.
37	4	Monterey Regional Storm Water Management Program - Sarah Hardgrave	Attachment J	Central Coast Post-Construction Requirements	However, if the Central Coast PCRs are to remain in the final Draft Phase II Permit, we request Attachment J [page 3, Part B(1)(e)(1) and B(1)(e)(2)] be revised to be consistent with and utilize the same development applicability verbiage found in E.12.c.(ii)(c) "Effective Date for Applicability of Low Impact Development Runoff Standards to Regulated Projects" (found on pages 62-63 of third Draft Phase II Permit). This would allow the applicability of Attachment J PCRs standards to fall in-line with existing State Planning Laws and the E.12 applicability standards as they relate to development projects. It would also remove existing conflict between the PCRs and State Law as they currently relate to Ministerial Projects.	Please see response to comment number 2.

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38	1	Mosquito and Vector Control Association of California - Catherine Smith	Throughout	General	On behalf of the Mosquito and Vector Control Association of California (MVCAC), we are very pleased to see the incorporation of the California Department of Public Health's 2012 guidance manual, "Best Management Practices for Mosquito Control in California" (BMP), in the Revised Draft National Pollutant Discharge Elimination System (NPDES) Permit for the discharge of stormwater from Phase II Small Municipal Separate Storm Sewer Systems (Phase II Small MS4 Permit). We have two main suggestions for improvement, the first to clarify use of the BMP manual, and the second to ensure regulatory clarity and consistency with statute.	Comment noted. Staff did not make revisions based on the comment. The permit provision is clear and appropriate.
38	2	Mosquito and Vector Control Association of California - Catherine Smith	Throughout	General	The BMP manual was developed in July 2012 by the California Department of Public Health in collaboration with MVCAC to promote mosquito control in California and enhance early detection of West Nile virus. As you may be well aware, deaths from West Nile virus reached an all-time high of 236 this year across the nation. Sixteen deaths and 429 total cases have been reported in California. The BMP document contains many low-cost, effective tools and techniques for reducing the risk of mosquito-borne diseases such as West Nile virus. It guides permittees on how to work with local mosquito and vector control agencies to develop and implement site-specific Integrated Pest Management (IPM) strategies that maximize the efficacy of chemical control measures, decrease total pesticide use, and successfully reduce or eliminate mosquito breeding sites.	Comment noted.

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38	3	Mosquito and Vector Control Association of California - Catherine Smith	E.12.	Post-Construction	We are very appreciative of the references to the BMP manual included in footnote 27 to section E.12.g.(ii)(b) and footnote 45 to section F.5.g.3(ii)(b). We would recommend referencing the BMP manual in one additional location, specifically paragraph 50 of the Findings. In all three instances, we recommend minor revisions to the language to clarify how permittees may best coordinate with mosquito and vector control agencies and utilize the BMP manual. The suggested edits to the three sections are provided in detail in the comment letter and below.	Comment noted.
38	4	Mosquito and Vector Control Association of California - Catherine Smith	E.12.g. and F.5.g.3.	Post-Construction	Operation and Maintenance of Post-Construction Storm Water Management Measures (b) Coordination with the appropriate mosquito and vector control agency with jurisdiction to establish a protocol for notification of installed treatment systems and hydromodification management controls, <u>and review and incorporate, where appropriate, the best management practices identified by the California Department of Public Health.27.</u> On an annual basis, before the wet season, prepare a list of newly installed (installed within the reporting period) storm water treatment systems and hydromodification management controls to the local mosquito and vector control agency and the appropriate Regional Water Board. This list shall include the facility locations and a description of the storm water treatment measures and hydromodification management controls installed. (Revise footnote as recommended in comment letter).	Staff feels that the appropriate references regarding mosquito control and BMP maintenance have been made. Additionally, staff included an extensive discussion of proper maintenance of BMPs to alleviate related public health concerns.

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38	5	Mosquito and Vector Control Association of California - Catherine Smith	Finding # 50	Findings	<p>Add the following sentence to Finding # 50: Permittees should review and incorporate, where appropriate, the best management practices identified in the California Department of Public Health’s 2012 guidance manual, “Best Management Practices for Mosquito Control in California.</p> <p>Add footnote reference to BMPs for Mosquito Control in California.</p>	The Best Management Practices for Mosquito Control in California has been referenced in Section E.12. of the permit and the Fact Sheet.
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38	6	Mosquito and Vector Control Association of California - Catherine Smith	Throughout	Discharge Prohibitions	<p>The California Legislature has sanctioned public health pesticide applications for the purpose of protection of public health where local mosquito and vector control agencies are signatory to, and in compliance with, agreements approved by the California Department of Public Health. Section 13050 (p)(2)(B) of the California Water Code excludes from the definition of “hazardous substance” and hence the prohibition on discharge to waters of the state, “[a]ny pesticide which is applied for agricultural purposes or is applied in accordance with a cooperative agreement authorized by Section 116180 of the Health and Safety Code, and is not discharged accidentally or for purposes of disposal, the application of which is in compliance with all applicable state and federal laws and regulations.” Similarly, pesticides applied pursuant to a cooperative agreement with the Department of Public Health are excluded from the definition of “petroleum product” and the prohibition on discharge to waters of the state. California Fish and Game Code, Section 5655(e)(1). The California Legislature has determined that public health pesticide applications, made under the review and in</p>	Staff does not agree that the described discharges constitute non-storm water discharges under the proposed Final Order. To the extent that such pesticides reach storm water drains through other non-storm water discharges, such as landscape irrigation, the limited exceptions enumerated for non-storm water discharges control, unless the discharge occurs under an NPDES permit. To the extent such pesticides are applied directly to surface water, they do not constitute a discharge covered by the Small MS4 permit.
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					<p>compliance with the requirements prescribed by the California Department of Public Health, are necessary to protect the public health and do not constitute an illegal discharge to waters. Thus, the Phase II Small MS4 Permit should be revised to cross reference this important statutory requirement. Below is a minor addition to section B.3 to add the proper reference, shown below in underline. (3) Discharges through the MS4 of material other than storm water to waters of the U.S. shall be effectively prohibited, except as allowed under this Provision, <u>under cooperative agreements pursuant to Section 116180 of the Health and Safety Code</u>, or as otherwise authorized by a separate NPDES permit. The following non-storm water discharges are not prohibited provided any pollutant discharges are identified and appropriate control measures to minimize the impacts of such discharges, are developed and implemented under the Permittee’s storm water program. . .</p>	
39	1	Napa County Flood Control and Water Conservation District - Jamison Crosby	Throughout	General	<p>The NCSPPP greatly appreciates the work of State Board staff to date in listening to stakeholders and making meaningful edits to the permit. Several key issues remain as sticking points but we are hopeful changes will still be made resulting in a permit that is implementable and has positive benefits to water quality.</p>	Comment noted.
39	2	Napa County Flood Control and Water Conservation District - Jamison Crosby	Throughout	General	<p>Representatives from the NCSPPP have actively and diligently collaborated with the California Stormwater Quality Association (CASQA) Phase II Subcommittee to review the Third Draft of the Permit and develop comprehensive and coordinated comments. Several of our member cities are also</p>	Comment noted.

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					signatories to the comment letter developed by the Statewide Stormwater Coalition (SSC). The NCSPPP fully supports the letters CASQA and the SSC will submit under separate cover and respectfully requests the State Board fully incorporate their proposed revisions.	
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39	3	Napa County Flood Control and Water Conservation District - Jamison Crosby	Section D	Receiving Water Limitations	Permittees appreciate the November 20, 2012 workshop on this topic but it would seem all the information necessary to make a decision is available and we would appreciate a resolution of this issue prior to permit adoption that would allow permittees to comply with the permit by continuing to implement the so-called 'iterative process'. The Board has previously indicated it would resolve this issue at an undefined point in the future via a permit re-opener. However, re-openers consume already-limited resources on the part of the Board and permittees and it puts our municipalities at risk in the interim time period.	The discussion of the receiving water limitations in the Fact Sheet has been revised to clarify the State Water Board's position to date and to address the Supreme Court's recent decision reversing the Ninth Circuit judgment in NRDC v. LA County and remanding the case. The State Water Board heard from interested persons at the November 20, 2012, workshop held to consider receiving water limitations provisions in municipal storm water permits and the Board is evaluating options going forward. The State Water Board considers the receiving water limitations question to be an important and complicated issue -- independent of the court ruling -- and believes it requires careful consideration. The Board will continue to rely on the specific reopener clause at Section H to facilitate future revisions, if any, rather than delay consideration of adoption of the Phase II permit.
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39	45	Napa County Flood Control and Water Conservation District - Jamison Crosby	Attachment J and Footnote 31 of Fact Sheet	Central Coast Post-Construction Requirements	Attachment J would effectively require Central Coast permittees to implement post-construction standards that exceed those required for other Phase II permittees, and even exceed the requirements of Phase I permittees, without providing technical justification for doing so. Furthermore, Footnote 31 introduces the possibility that these requirements will be applied statewide. The E.12 provisions will be a challenge to implement but it is unreasonable to expect permittees to comply with an even higher standard before they've even fully developed	In response to extensive comments received from interested persons, Attachment J has been deleted from the Order. The State Water Board determined that, while the Board continues to support a watershed process-based approach to hydromodification requirements, the Joint Effort process should be allowed to evolve and proceed without direct incorporation into the Small MS4 General Order. This allows an independent process to address several unresolved issues acknowledged by the parties to the Joint Effort, including the Regional Water Board. Under new Provision E.12.k, if a Regional Water Board
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					the program under E.12.	<p>develops post-construction storm water management requirements based on a watershed-process approach and consistent with criteria specified, Small MS4s in that region must implement the developed requirements in lieu of most sections of E.12.k. The implication of this Provision for the Central Coast region Small MS4s is that they will be required to implement watershed process-based requirements developed through the Joint Effort after those requirements have been reconsidered and approved by the Central Coast Water Board. Existing Central Coast Water Board Resolution No. R3-2012-0025 operated as an update to SWMPs that are no longer required under this Order.</p> <p>Please see the Fact Sheet Post Construction Storm Water Management for New Development and Re-development discussion for further details. Staff notes that, because E.12.k. precludes imposition of the Joint Effort requirements through Resolution No. R3-2012-0025, the State Water Board considers the pending petitions on that Resolution moot as of adoption of this Order. However, any future action by a Regional Water Board, including the Central Coast Water Board, to adopt a regional watershed process-based approach would be subject to petitions for review by the State Water Board.</p>
39	6	Napa County Flood Control and Water Conservation District - Jamison Crosby	Attachment G and Fact Sheet (pages 58 - 61)	TMDLs	A close inspection of the paragraphs on Napa River Sediment TMDL and Napa River Pathogens TMDL reveals apparent errors and inconsistencies with the language printed in Attachment G of the permit. Attachment G thoroughly documents the requirements outlined in the TMDL and repeating them in the fact sheet is unnecessary. If the language	The one year consultation period has two main objectives. First, because the Permittees have not had an opportunity to meet with Regional Water Board staff to review and discuss the TMDL-specific permit requirements incorporated into this permit, the Regional Water Boards are additionally being directed through this Order to review the TMDL-specific permit requirements of

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					must be repeated, care should be taken to eliminate errors and inconsistencies.	Attachment G in consultation with the Permittees and propose any revisions to the State Water Board Any such revisions will be incorporated into the permit through a reopener. Second, the high variance in the level of detail and specificity of TMDLs necessitates the development of more specific permit requirements in many cases to provide clarity to the Permittees regarding responsibilities for compliance. Any errors with the TMDL-specific permit requirements for the Napa River Sediment TMDL and Napa River Pathogens can be addressed during the one-year review period
39	7	Napa County Flood Control and Water Conservation District - Jamison Crosby	Throughout	Outline Structure	The Draft permit is a very long, complex and detailed document and a consistent outline structure is absolutely critical to understanding and implementing it. There are numerous instances where the outline structure breaks down. It would benefit all stakeholders, not just permittees, if a very thorough editorial review of the document was undertaken with an eye to eliminating circular references, errors in content, excessively verbose language and errors in outline structure.	Comment noted.
39	8	Napa County Flood Control and Water Conservation District - Jamison Crosby	E.9.b.(ii)(e)	Illicit Discharge Detection and Elimination	It was permittees' understanding that the Industrial/Commercial Inspection Program had been deleted from the Third Draft of the permit and the Fact Sheet references such a change on page 11. However, the substance of these provisions appears to have been added back into the permit on page 39, with the addition of text describing inspections at inventoried facilities. Please delete E.9.b.(ii).(e).	This permit provision has been revised to address the comment.

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39	9	Napa County Flood Control and Water Conservation District - Jamison Crosby	E.12.c.(ii).c	Post-Construction	Replace the word "By" with "Within" on page 62 so that the paragraph reads "Within the second year of the effective date of the permit, the Permittee shall require these Post-Construction Standards be applied on applicable new and redevelopment Regulated Projects, both private development requiring municipal permits and public projects." This will make it consistent with other deadlines in the permit which refer to implementation within, not by, a given year.	The word "by" and "within" both mean compliance by the end of the particular referenced year (i.e. by the end of the year 2014).
39	10	Napa County Flood Control and Water Conservation District - Jamison Crosby	E.12.g.(ii).(a)	Post-Construction	Remove the phrase "greater than 5,000 square feet" on page 75.  Since Regulated Projects are by definition "all projects that create and/or replace 5,000 square feet or more of impervious surface" it is redundant to include this qualifier. Moreover, it falsely implies that there are Regulated Projects less than 5,000 square feet.	This permit provision has been revised to address this comment.
39	11	Napa County Flood Control and Water Conservation District - Jamison Crosby	E.13.(4)	Monitoring	Replace the word "and" with "or" on page 83 in the new redline paragraph so that it reads "Traditional Small MS4 Permittees that are already conducting monitoring of discharges to ASBS, TMDL, or 303(d) impaired water bodies are not required to perform additional monitoring as specified in E.13.a and E.13.b." This will make it consistent with the paragraph immediately preceding it.	This permit provision has been revised to address the comment.
40	1	Phase 2 MS4 Permittees of Monterey and Santa Cruz Counties - Agnes Topp, Doug Dowden,	Throughout	General	We very much support the process of basing hydromodification control measures on watershed processes. However, we have several concerns with the proposed Attachment J post-construction requirements	In response to extensive comments received from interested persons, Attachment J has been deleted from the Order. The State Water Board determined that, while the Board continues to support a watershed process-based approach to

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		Steve Jessberg, Robert Ketley and Ken Anderson				<p>hydromodification requirements, the Joint Effort process should be allowed to evolve and proceed without direct incorporation into the Small MS4 General Order. This allows an independent process to address several unresolved issues acknowledged by the parties to the Joint Effort, including the Regional Water Board. Under new Provision E.12.k, if a Regional Water Board develops post-construction storm water management requirements based on a watershed-process approach and consistent with criteria specified, Small MS4s in that region must implement the developed requirements in lieu of most sections of E.12.k. The implication of this Provision for the Central Coast region Small MS4s is that they will be required to implement watershed process-based requirements developed through the Joint Effort after those requirements have been reconsidered and approved by the Central Coast Water Board. Existing Central Coast Water Board Resolution No. R3-2012-0025 operated as an update to SWMPs that are no longer required under this Order.</p> <p>Please see the Fact Sheet Post Construction Storm Water Management for New Development and Re-development discussion for further details. Staff notes that, because E.12.k. precludes imposition of the Joint Effort requirements through Resolution No. R3-2012-0025, the State Water Board considers the pending petitions on that Resolution moot as of adoption of this Order. However, any future action by a Regional Water Board, including the Central Coast Water Board, to adopt a regional watershed process-based approach would be subject to petitions for review by the State Water Board.</p>

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40	2	Phase 2 MS4 Permittees of Monterey and Santa Cruz Counties - Agnes Topp, Doug Dowden, Steve Jessberg, Robert Ketley and Ken Anderson	Attachment J	Central Coast Post-Construction Requirements	In theory, the Central Coast post-construction requirements were based upon a thorough and scientific assessment of watershed processes conducted by a team of scientists. The watershed processes assessed by the scientific team were in turn based upon natural, undeveloped conditions observed throughout the Central Coast region. Our concern is that the resulting post-construction requirements and applicability criteria are not clearly linked nor do they seem to benefit from the initial scientifically-based watershed analysis.	Please see response to comment number 1.
40	3	Phase 2 MS4 Permittees of Monterey and Santa Cruz Counties - Agnes Topp, Doug Dowden, Steve Jessberg, Robert Ketley and Ken Anderson	Attachment J	Central Coast Post-Construction Requirements	The requirements are unique, complex and unproven. There is no way to ascertain their effectiveness or ease of implementation. Preliminary engineering analysis indicates that these new runoff retention requirements cannot be met in many urban areas of the region where soils do not naturally infiltrate, without using a disproportionate percent of lot area. The volume of runoff retention would be infeasible for many projects.	Please see response to comment number 1.
40	4	Phase 2 MS4 Permittees of Monterey and Santa Cruz Counties - Agnes Topp, Doug Dowden, Steve Jessberg, Robert Ketley and Ken Anderson	Attachment J	Central Coast Post-Construction Requirements	If the Central Coast Post-Construction Requirements are included in the statewide Phase II Permit as Attachment J, any necessary improvements to the Region 3 requirements would then need to be approved at the state level by reopening the permit, making it doubly difficult to make any revisions. Additionally, incorporating the Central Coast Post-Construction requirements into the statewide Phase II Permit nullifies the Region 3 petitions that have been filed with the State."	Please see response to comment number 1.

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40	5	Phase 2 MS4 Permittees of Monterey and Santa Cruz Counties - Agnes Topp, Doug Dowden, Steve Jessberg, Robert Ketley and Ken Anderson	Attachment J	Central Coast Post-Construction Requirements	Developers will likely abandon efforts to create infill and smart growth projects in existing urbanized areas where it appears that retention measures must cover at least 10% of the projects Equivalent Impervious Surface Area, in favor of new development projects in rural areas outside of designated MS4s where these requirements do not apply. The loss of agricultural lands and open space, and resulting sprawl development, could easily negate any hoped-for water quality benefit.	Please see response to comment number 1.
40	6	Phase 2 MS4 Permittees of Monterey and Santa Cruz Counties - Agnes Topp, Doug Dowden, Steve Jessberg, Robert Ketley and Ken Anderson	Attachment J	Central Coast Post-Construction Requirements	The Phase 2 permittees of Monterey and Santa Cruz Counties respectfully request that the State Board direct the Central Coast Water Board to rescind the Region 3 post-construction requirements (Resolution No. R3-2012-0025) and apply the statewide E.12 post construction standards of the Phase II Permit to Central Coast permittees. Short of this, we would request that Attachment J be removed from the Phase II Permit so that necessary revisions can be made at the Regional Board level without having to reopen and amend the State Permit.	Please see response to comment number 1.
41	1	Placer County, Department of Public Works - Ken Grehm	Throughout	General	Placer County appreciates for the opportunity to comment on the 3rd draft of the NPDES General Phase II permit. We recognize and appreciate the challenges the Board and Board staff have in crafting a balanced permit that will ultimately result in improved water quality, and appreciate staff's efforts to address the numerous comments received on the previous permit drafts. While we understand that it would be unreasonable to expect that all of our comments would result in acceptable permit revisions, we were disappointed in the	Comment noted.

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					Board staff rejection of many suggested changes that would have made this permit more acceptable, especially for non-urban permittees.	
41	2	Placer County, Department of Public Works - Ken Grehm	Throughout	General	The County supports the continued improvement of water quality across our region and our state, but we remain concerned that the draft permit cannot be implemented with a reasonable level of effort and amount of resources. As such, we and many other permittees are put at risk of permit violation and third-party lawsuits. The unfortunate result will be a misdirection of funding and staffing resources toward defensive actions, rather than applying those limited resources to improving water quality.	Since the release of the first Draft Permit in June of 2011, staff has made extensive revisions to the Draft Permit to address concerns with the level of effort and resources required to implement the permit. Staff believes that it has struck an appropriate balance between the cost associated with the permit and water quality protection. Please also see discussion at Section III of the Fact Sheet.
41	3	Placer County, Department of Public Works - Ken Grehm	Throughout	General	Mindful of the Board's direction that commenter's on the 3rd draft permit limit comments only to changes from the previous draft, we are attempting to do so in our comments below. However, we still feel very strongly that our earlier comments rejected by your staff remain valid and appropriate, and therefore request that they be reconsidered prior to permit adoption. With regard to the revisions made in the current draft permit, please accept the following for consideration.	Comment noted.
41	4	Placer County, Department of Public Works - Ken Grehm	Section D	Receiving Water Limitations	The Receiving Water Limitations Provision (Provision D, pages 19-20) is an important and relevant issue for all permittees within the State, as your Board heard at the November 20, 2012 workshop. While the revised order does not modify Provision D per se, it addresses the issue (see Finding #38, page 38; Provision I, page 140; and the Fact Sheet, pages 25-26) by creating a reopener clause. We believe the State Water Board should not	The discussion of the receiving water limitations in the Fact Sheet has been revised to clarify the State Water Board's position to date and to address the Supreme Court's recent decision reversing the Ninth Circuit judgment in NRDC v. LA County and remanding the case. The State Water Board heard from interested persons at the November 20, 2012, workshop held to consider receiving water limitations provisions in municipal storm water permits and the Board is evaluating options going

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					<p>defer this issue until a later date (by the use of a reopener clause) and recommend that the State Water Board address this issue in this permit. We believe the State Water Board has sufficient input and cause to develop a resolution prior to permit adoption. We understand that the California Stormwater Quality Association (CASQA) offers its support and assistance to the State Water Board to address this issue. We urge the State Water Board to direct staff to work with CASQA to revise the Receiving Water Limitation Language in Provision D now and not defer to a later point in time.</p>	<p>forward. The State Water Board considers the receiving water limitations question to be an important and complicated issue -- independent of the court ruling -- and believes it requires careful consideration. The Board will continue to rely on the specific reopener clause at Section H to facilitate future revisions, if any, rather than delay consideration of adoption of the Phase II permit.</p>
41	5	Placer County, Department of Public Works - Ken Grehm	Attachment J	Central Coast Post-Construction Requirements	<p>The appended Attachment J relates to Central Coast requirements, though the Fact Sheet, Page 39, states "the Water Board expects to amend this Order to incorporate similar requirements for Permittees in the remainder of the State". The introduction of such new requirements mid-term of the permit would be inappropriate. There are also numerous concerns regarding the appropriateness of these requirements, better discussed in CASQA's comment letter on this draft permit. We request that you delete direct references to the Central Coast Post-Construction Requirements, including Attachment J, from the permit.</p>	<p>In response to extensive comments received from interested persons, Attachment J has been deleted from the Order. The State Water Board determined that, while the Board continues to support a watershed process-based approach to hydromodification requirements, the Joint Effort process should be allowed to evolve and proceed without direct incorporation into the Small MS4 General Order. This allows an independent process to address several unresolved issues acknowledged by the parties to the Joint Effort, including the Regional Water Board. Under new Provision E.12.k, if a Regional Water Board develops post-construction storm water management requirements based on a watershed-process approach and consistent with criteria specified, Small MS4s in that region must implement the developed requirements in lieu of most sections of E.12.k. The implication of this Provision for the Central Coast region Small MS4s is that they will be required to implement watershed process-based requirements developed through the Joint Effort after those requirements have</p>

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						<p>been reconsidered and approved by the Central Coast Water Board. Existing Central Coast Water Board Resolution No. R3-2012-0025 operated as an update to SWMPs that are no longer required under this Order.</p> <p>Please see the Fact Sheet Post Construction Storm Water Management for New Development and Re-development discussion for further details. Staff notes that, because E.12.k. precludes imposition of the Joint Effort requirements through Resolution No. R3-2012-0025, the State Water Board considers the pending petitions on that Resolution moot as of adoption of this Order. However, any future action by a Regional Water Board, including the Central Coast Water Board, to adopt a regional watershed process-based approach would be subject to petitions for review by the State Water Board.</p>
41	6	Placer County, Department of Public Works - Ken Grehm	Throughout	General	Placer County recognizes and supports the comments on this draft permit provided by both CASQA and the Statewide Stormwater Coalition (SSC). We offer additional County comments on specific draft permit sections in an attachment to this letter.	Comment noted.
41	7	Placer County, Department of Public Works - Ken Grehm	E.10.c.(ii)	Construction	The first sentence under (ii) Implementation Level needs revising. Should it be "The inspection procedures shall be implemented per the Permittee's construction site storm water control plan and compliance shall be verified relative to the project's erosion and sediment control plan." ?	This permit provision has been revised.
41	8	Placer County, Department of Public Works - Ken Grehm	E.12.b(i)	Post-Construction	The word, "date" is left out in the first sentence, "Within the second year of the effective date of the permit..."	Comment noted.

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41	9	Placer County, Department of Public Works - Ken Grehm	E.12.b(i)	Post-Construction	The majority of Placer County single family homes that are not part of a greater development project are in rural agricultural low density zoned areas, typically with minimum lot sizes of 2.3 acres, and larger. It is unreasonable to require single family homeowners to create a user ID and use the SMARTS Post-Construction Calculator for non-urban areas. Recommendation: Only developed parcels less than 1/2 acre in urban areas should be required to complete the SMARTS Post-Construction Calculator.	This provision allows Permittees to use an equivalent approach to calculating runoff reduction.
41	10	Placer County, Department of Public Works - Ken Grehm	E.12.b(i)	Post-Construction	The SMARTS Post-Construction Calculator link under footer 23 doesn't work as written.	The link provided is the general SMARTS webpage. Staff is working with Permittees to create a test group that will try out SMARTS test webpages specific to the Phase II Small MS4 Permit. If the commenter is interested in participating in the test group, please contact staff.
41	11	Placer County, Department of Public Works - Ken Grehm	E.12.c(ii)	Post-Construction	Under Implementation Level, it appears that there should be a separate sub header for a) Regulated Projects, b) Public Projects, and c) Road Projects.	This permit provision has been revised to address this comment.
41	12	Placer County, Department of Public Works - Ken Grehm	E.12.c(ii)	Post-Construction	Under "Regulated Projects do not include:" - suggest adding an exclusion for home improvement projects such as adding decks, patios, carports, swimming pools, or other ancillary uses to an existing single family residence.	The suggested language includes projects that do not typically result in the creation and/or replacement of 5,000 sf or more of impervious surface. Staff does not agree that they should be included.
41	13	Placer County, Department of Public Works - Ken Grehm	E.12.c(ii)	Post-Construction	The last paragraph on this page is confusing. In the last sentence of this paragraph, what are the "Permittee's Regulated Projects?" Does this mean Public Projects? Also, wherever it says "Post-Construction Standards," should this be changed to "Post-Construction Measures?"	Permittee's Regulated Projects are all projects that create and/or replace 5,000 sf of impervious surface. Standards and measures do not have the same meaning and as such, should not be used interchangeably.

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41	14	Placer County, Department of Public Works - Ken Grehm	E.12.c(ii)	Post-Construction	The first full paragraph on this page should start a separate sub header for b) Public Projects, assuming that is what is intended by "Permittee's Development Projects"? There should be consistency throughout the permit when describing these types of projects, as use of related terms keep changing. Suggest including some examples of these types of projects.	Comment noted.
41	15	Placer County, Department of Public Works - Ken Grehm	E.12.c(i)	Post-Construction	The section reference for "Numeric Sizing Criteria for Storm Water Retention and Treatment" should be Section E.12.e.ii.c.	This permit provision has been revised to address this comment.
41	16	Placer County, Department of Public Works - Ken Grehm	E.12.f	Post-Construction	The section reference for "Numeric Sizing Criteria for Storm Water Retention and Treatment" should be Section E.12.E.12.e.ii.c.	See response to comment number 15.
41	17	Placer County, Department of Public Works - Ken Grehm	E.12.f	Post-Construction	Storm Water Treatment Measures and Baseline Hydromodification Management Measures - this list is too specific and doesn't allow for flexibility. What if new measures are developed within the permit term and they are not specified here? Is each facility required to meet ALL of these design parameters? These appear to be design parameters more suitable to be located in a design guidelines document rather than in a State Municipal Permit and should be removed from the permit.	Staff feels that permits must include specific design criteria in order to effectively protect water quality and reduce runoff.
41	18	Placer County, Department of Public Works - Ken Grehm	E.12.f	Post-Construction	Delete "Baseline Hydromodification Management Measures" in this header and where referenced throughout text, since the permit has removed this requirement until future.	The bioretention measures are in fact baseline hydromodification measures. As such, staff does not feel that it is appropriate to remove from the title.
41	19	Placer County, Department of Public Works - Ken Grehm	E.12.g	Post-Construction	To be consistent with the Sections listed on page 59, the header for E.12.g should be, "Operation and Maintenance of Storm Water Control Measures."	Comment noted.

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41	20	Placer County, Department of Public Works - Ken Grehm	E.12.	General	Please provide language in the permit to allow for a process for the Local Regional Board to reduce the permit area if the Permittee proposes a valid justification for the reduction, as stated in this response to a previous Placer County comment.	Comment noted.
41	21	Placer County, Department of Public Works - Ken Grehm	E.12.	General	Unable to locate "response to comment number 119." Please provide.	Please see Response to Comments document located at <a href="http://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/comments_rev_phase_ii_ms4permit/resp_to_comments.pdf">http://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/comments_rev_phase_ii_ms4permit/resp_to_comments.pdf</a>
41	22	Placer County, Department of Public Works - Ken Grehm	E.7.b.3.	Public Education and Outreach	ii (a) starts with Biennial but second sentence states annual. Please correct to one requirement (biennial).	This edit was not made prior to release of the proposed Final Order, but will be proposed through a change sheet.
41	23	Placer County, Department of Public Works - Ken Grehm	Findings #28	Findings	States "all MS4's with population of 50,000 must conduct monitoring". Placer County's urban area (Region 5) is not located in a TMDL but is listed on Attachment A. Request this be corrected as it is in error and clarify that there is no need to monitor in the Region 5 area of Placer County.	This issue can be addressed during the one-year consultation period. The one year consultation period has two main objectives. First, because the Permittees have not had an opportunity to meet with Regional Water Board staff to review and discuss the TMDL-specific permit requirements incorporated into this permit, the Regional Water Boards are additionally being directed through this Order to review the TMDL-specific permit requirements of Attachment G in consultation with the Permittees and propose any revisions to the State Water Board Any such revisions will be incorporated into the permit through a reopener. Second, the high variance in the level of detail and specificity of TMDLs necessitates the development of more specific permit requirements in many cases to provide clarity to the Permittees regarding responsibilities for compliance.
41	24	Placer County, Department of Public Works - Ken Grehm	E.9.a	Illicit Discharge Detection and Elimination	Site visit to each outfall - for rural counties-please specify that this is only for outfalls in the urban area.	This permit provision has been revised to address the comment.
41	25	Placer County,	E.9.c	Illicit Discharge	Again, you have not addressed the issue of	Flows such as from snow melt, can be identified as

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		Department of Public Works - Ken Grehm		Detection and Elimination	flow from snow melt. This can be considered a dry weather flow and would include every outfall. Is sampling really required? Suggest you reword that sampling is completed on suspicious flows.	such on the outfall inventory spreadsheet. The intent of this section is to detect, identify and eliminate illicit discharges. As such, the language does not target naturally occurring runoff including snow melt.
41	26	Placer County, Department of Public Works - Ken Grehm	E.9.d	Illicit Discharge Detection and Elimination	Reference to leveraging existing inspection processes and personnel to complete these tasks has no relevance here and should be removed.	Comment noted.
41	27	Placer County, Department of Public Works - Ken Grehm	E.12.d.ii.c &r	Post-Construction	How does maintenance fit under design guidelines? Maintenance should be removed from the statement. Parking and storage can be designed, building and grounds can be designed- maintenance makes no sense.	The inclusion of "vehicle and equipment repair and maintenance" can in fact be sources of pollutants. Source control is included as part of the site design process.
41	28	Placer County, Department of Public Works - Ken Grehm	E.13.a	Monitoring	What is meant by development? In rural Placer County, development is on a small scale. Does this apply only to projects of a certain size? There are not enough resources in the county to complete this task. Suggest it be limited by size or to developments that have the potential to threaten water quality. Broad- brush statements like this are not applicable to everyone.	The Receiving Water Monitoring program is one of a number of options available to Traditional Permittees with a population of 50,000 or more (that are not already conducting ASBS, TMDL or 303(d) water monitoring). In the case that this option does not apply to your jurisdiction, an alternative approach may be proposed for review and approval by the local Regional Water Board.
41	28	Placer County, Department of Public Works - Ken Grehm	E.13.a.	Monitoring	Reference to local opportunity to create a funding program for monitoring is not relevant and should not be in the permit.	The establishment of a funding program is not a mandatory requirement of this Section. The language is provided as guidance to the Permittee in funding approaches for monitoring.
41	30	Placer County, Department of Public Works - Ken Grehm	E.13.a.ii.	Monitoring	Urban area receiving water monitoring is unreasonable and expensive requirement and will not likely be a task that can be accomplished. Will the state provide more grant funding to assist with these requirements?	The water quality monitoring section of this Order focuses on priority areas established by the State Water Board (ASBS, TMDL and 303(d) listed waterbodies). For the majority of Phase II Permittees, this permit term will be the first time a monitoring program has been implemented. As such, prioritization of monitoring allows for a firm foundation from which Phase II Permittees may initiate and develop monitoring programs that will result in improvement of local knowledge of water

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						quality impacts and implementation of storm water management practices. Staff does not agree that the monitoring program of this Order is inadequate. In staff's response, the importance of monitoring is recognized in conjunction with the importance of creating cost-effective requirements. The Order addresses critical water quality priorities, namely discharges to ASBS, TMDLs, and waterbodies listed as impaired on the 303(d) list, but aims to do so in a focused and cost-effective manner.
41	31	Placer County, Department of Public Works - Ken Grehm	Factsheet, Via	Continued Implementation	Statement that "and must implement the requirements of this order" is contradictory to the statement below that existing permittees may continue on their current programs if the regional board EO believes this is best. Remove this statement,	This permit provision has been deleted.
41	32	Placer County, Department of Public Works - Ken Grehm	Throughout	General	We resubmit our previous comments submitted July 20, 2012 but not addressed by the state board. This includes comments numbers 2-10,12-14, 16,17,20,22,24,27-29, 31-33, 35, 37-41, 43-45, 54, 58, 59, 63, 64, 67, 70, 73-80, 87-90. And comments that were only partially addressed including comment numbers 23, 26, 85, and 86.	The permit provision have changed since the 2 <sup>nd</sup> to 4 <sup>th</sup> and final draft and therefore some of these comments do not apply to the 4 <sup>th</sup> and final draft. However, you can access staff's Response to Comments document here: <a href="http://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/comments_rev_phase_ii_ms4permit/resp_to_comments.pdf">http://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/comments_rev_phase_ii_ms4permit/resp_to_comments.pdf</a>
42	1	Port of Long Beach - Richard Cameron	Throughout	General	The Port was designated under the third iteration of the draft Phase II Permit, released on November 16, 2012, as a Non-Traditional Phase II permittee. The Port was not designated as a permittee covered by this Permit in all former drafts. The first iteration of the draft Phase II Permit was released by the State Water Board for public comment on June 7, 2011 . The Port was not notified by the State or Regional Water Board of the change and only became aware of this designation on	Port of Long Beach has been removed from Attachment B.

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					<p>November 29, 2012. As stated above, the Port has clearly not been allowed adequate time to determine the wide range of impacts this designation will have on the Port's highly successful Master Stormwater Program, or to meaningfully participate in the stakeholder process. Recommendation: Extend the comment period 60 days to allow the Port adequate time to review the draft Phase II Permit and comment, and allow time to meet with Regional Board staff and discuss the potential implications.</p>	
42	2	Port of Long Beach - Richard Cameron	Throughout	General	<p>If it is the intention of the State and Regional Water Boards to use this permit as a mechanism for the Port to extend enforcement authority over industrial port tenant facilities covered by the Industrial General Permit (IGP) in the Harbor District, this creates a serious conflict of interest. The Port of Long Beach is a landlord Port which competes with other port facilities, both domestic and international, to attract marine terminal operators (MTOs) to the Port. These MTOs lease terminal space, and these leases are the Port's primary source of income, which makes our tenants business partners. It is not in the Port's interest to levy fines and enforcement actions on our business partners, and it is not appropriate for the Port to be placed in the role of enforcer against our business partners. Accordingly, the Port of Long Beach strongly objects to taking an enforcement role for its industrial tenants covered under the IGP. Recommendation: The Los Angeles Regional Water Quality Control Board would</p>	<p>Port of Long Beach has been removed from Attachment B.</p>

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					be the most appropriate agency to be responsible for enforcement of storm water regulations for Port industrial facilities covered under the IGP, or as an alternative, the City of Long Beach could act in this capacity as well.	
42	3	Port of Long Beach - Richard Cameron	Section D	Receiving Water Limitations	The Receiving Water Limitations Provision (Provision D, pages 19-20) is an important and relevant issue for all permittees within the State. While the revised order does not modify Provision D per se, it addresses the issue (see Finding #38, page 38; Provision I, page 140; and the Fact Sheet, pages 25-26) by creating a reopener clause. The Port believes that this important issue should be addressed now, and the State Water Board should not defer this issue until a later date (by the use of a reopener clause). The Port understands that CASQA offers its support and assistance to the State Water Board to address this issue. Recommendation: Work with CASQA to revise the Receiving Water Limitation Language in Provision D now and not defer to a later point in time.	The discussion of the receiving water limitations in the Fact Sheet has been revised to clarify the State Water Board's position to date and to address the Supreme Court's recent decision reversing the Ninth Circuit judgment in NRDC v. LA County and remanding the case. The State Water Board heard from interested persons at the November 20, 2012, workshop held to consider receiving water limitations provisions in municipal storm water permits and the Board is evaluating options going forward. The State Water Board considers the receiving water limitations question to be an important and complicated issue -- independent of the court ruling -- and believes it requires careful consideration. The Board will continue to rely on the specific reopener clause at Section H to facilitate future revisions, if any, rather than delay consideration of adoption of the Phase II permit.
42	4	Port of Long Beach - Richard Cameron	F.5.b.2.	Public Education and Outreach	F.5.b.2 indicates that the public for a Non-Traditional MS4 Permittee includes visitors, if applicable. The provision later states [F.5.b.2.(ii)(b)] that permittees shall gauge awareness in target audiences and effectiveness of education tasks. Attempting to gauge awareness and effectiveness of a transient population such as visitors is not an effective or fruitful use of permittee resources. Recommendation: Add "as feasible" to the end of F.5.b.2.(ii)(b): Implement BMPs that gauge level of awareness in target audiences	Comment noted. Port of Long Beach has been removed from Attachment B.

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					and effectiveness of education tasks. as feasible.	
42	5	Port of Long Beach - Richard Cameron	F.5.d.(i)	Illicit Discharge Detection and Elimination	The term "outfall" should be linked to the definition provided in Attachment I. Recommendation: Add footnote to F.5.d(i) that directs the reader to Attachment I for a definition of outfall: The Permittee shall maintain an up-to-date and accurate outfall map. 41: See Attachment I for definition of outfall	Comment noted. Port of Long Beach has been removed from Attachment B.
42	6	Port of Long Beach - Richard Cameron	F.5.d.(ii)(b)	Illicit Discharge Detection and Elimination	Under F.5.d(ii)(b), redline language states that "Submerged outfalls or other outfalls that may pose a threat to public safety are not required to be inventoried ." This language does not clearly state that this also applies to field sampling. Recommendation: add language to F.5.d.(ii)(b): Submerged outfalls or other outfalls that may pose a threat to public safety are not required to be inventoried or sampled."	Comment noted. Port of Long Beach has been removed from Attachment B.
42	7	Port of Long Beach - Richard Cameron	Throughout	General	The Port will have difficulty implementing onsite retention requirements due to the unique nature of the Port's setting. At the Port, it is common to have a site that has a high groundwater table (less than 5 feet to surface), tidal influence, soil contamination, groundwater contamination, and heavy industrial land uses. In addition, all stormwater from the Port is discharged directly from an MS4 into the receiving water and there is no danger of stream bank or riverbed erosion. Unlike Traditional Permittees, many Nontraditional Permittees, such as the Port, own much of the land that drains to their MS4. Given the combination of	Comment noted. Port of Long Beach has been removed from Attachment B.

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					challenging site constraints combined with land ownership, the Port has the opportunity to identify the most effective and feasible locations for stormwater treatment and retention within our MS4.	
42	8	Port of Long Beach - Richard Cameron	F.5.g.	Post-Construction	<p>Language should make the establishment of an offsite mitigation program an option available as an alternative to onsite retention. Additionally, language should be flexible so that permittees such as the Port have the ability to implement an offsite mitigation framework that works best in the context of their unique needs (i.e., language should not constrain the ability to set up a program that utilizes a crediting system versus an in lieu fee).</p> <p>Recommendation: Include the following language:  F.S.g.3 Alternative Compliance  a) Alternative Compliance Measures  When a Permittee determines a project has demonstrated that it is technically infeasible to retain 100 percent of the numeric sizing criteria onsite as specified in F.5.g.2.b, the Permittee may allow the use of infiltration or bioretention BMPs to intercept the volume of storm water runoff not retained onsite at an approved offsite project; or  b) Regional Storm Water Mitigation Program  A Permittee may implement a regional stormwater mitigation program to substitute in part or wholly for New and Redevelopment requirements for the area covered by the regional stormwater mitigation program. Implementation of the program must retain the runoff and the numeric sizing criteria as</p>	Comment noted. Port of Long Beach has been removed from Attachment B.

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					specified in F.5.q.2.b and result in improved stormwater quality.	
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42	9	Port of Long Beach - Richard Cameron	Attachment J	Central Coast Post-Construction Requirements	<p>The Port is also concerned about the inclusion of Region 3 requirements into the Draft Phase II Permit. By appending the Central Coast requirements as Attachment J and stating in a footnote on page 39 of the Fact Sheet, "the Water Board expects to amend this Order to incorporate similar requirements for Permittees in the remainder of the State," the Water Board has introduced a new set of rules with insufficient time for the Port to fully evaluate the potential impacts of these standards. The Port requests that permittees be allowed a full permit term to incorporate the requirements of Section F.5.g before adding to or creating a whole new set of requirements.</p> <p>Recommendation: Delete direct references to the Central Coast Post-Construction Requirements, including Attachment J and the footnote on page 39 of the Fact Sheet, from the Draft Phase II Permit.</p>	<p>Port of Long Beach has been removed from Attachment B.</p> <p>In response to extensive comments received from interested persons, Attachment J has been deleted from the Order. The State Water Board determined that, while the Board continues to support a watershed process-based approach to hydromodification requirements, the Joint Effort process should be allowed to evolve and proceed without direct incorporation into the Small MS4 General Order. This allows an independent process to address several unresolved issues acknowledged by the parties to the Joint Effort, including the Regional Water Board. Under new Provision E.12.k, if a Regional Water Board develops post-construction storm water management requirements based on a watershed-process approach and consistent with criteria specified, Small MS4s in that region must implement the developed requirements in lieu of most sections of E.12.k. The implication of this Provision for the Central Coast region Small MS4s is that they will be required to implement watershed process-based requirements developed through the Joint Effort after those requirements have been reconsidered and approved by the Central Coast Water Board. Existing Central Coast Water Board Resolution No. R3-2012-0025 operated as an update to SWMPs that are no longer required</p>
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						<p>under this Order.</p> <p>Please see the Fact Sheet Post Construction Storm Water Management for New Development and Re-development discussion for further details. Staff notes that, because E.12.k. precludes imposition of the Joint Effort requirements through Resolution No. R3-2012-0025, the State Water Board considers the pending petitions on that Resolution moot as of adoption of this Order. However, any future action by a Regional Water Board, including the Central Coast Water Board, to adopt a regional watershed process-based approach would be subject to petitions for review by the State Water Board.</p>
42	10	Port of Long Beach - Richard Cameron	Section D	Receiving Water Limitations	<p>Notwithstanding the Workshop, the revised order does not modify Provision D as it was previously drafted. Instead, it just bypasses the issue by creating a reopener clause (see Finding #38, page 38; Provision I, page 140; and the Fact Sheet, pages 25-26). In light of all of the effort that went into the Workshop and the importance of this issue to all municipalities in the State, moving forward on the Draft Phase II Permit as it stands is not reasonable. We believe the State Water Board should not defer this issue until a later date (by the use of a reopener clause or otherwise) and contend that the State Water Board now has sufficient input and cause to develop a resolution. We therefore urge the State Water Board to direct staff to propose a revision to the Receiving Water Limitation Language in Provision D now and not defer addressing this critically important issue to a later point in time.</p>	<p>Port of Long Beach has been removed from Attachment B.</p> <p>The discussion of the receiving water limitations in the Fact Sheet has been revised to clarify the State Water Board's position to date and to address the Supreme Court's recent decision reversing the Ninth Circuit judgment in NRDC v. LA County and remanding the case. The State Water Board heard from interested persons at the November 20, 2012, workshop held to consider receiving water limitations provisions in municipal storm water permits and the Board is evaluating options going forward. The State Water Board considers the receiving water limitations question to be an important and complicated issue -- independent of the court ruling -- and believes it requires careful consideration. The Board will continue to rely on the specific reopener clause at Section H to facilitate future revisions, if any, rather than delay consideration of adoption of the Phase II permit.</p>

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42	11	Port of Long Beach - Richard Cameron	Attachment J	Central Coast Post-Construction Requirements	<p>Our concerns with Attachment J are two-fold, policy/procedural and technical. First we are concerned with the apparent escalation in permit requirements being conducted by the various Water Board permit writers in drafting provisions for land development. Furthermore, the clear absence of any consensus within the State on what the requirements are for land development (particularly with respect to hydromodification management) is damaging to the credibility of the entire stormwater program. Another policy/procedural related issue is the timing of the inclusion of Region 3 requirements into the draft Phase II Permit. By appending the Central Coast requirements, and stating, “the Water Board expects to amend this Order to incorporate similar requirements for Permittees in the remainder of the State”; the Water Board has introduced an entirely new set of rules with insufficient time for Permittees to fully evaluate the potential impacts of these standards.</p>	Please see response to comment number 9.
42	12	Port of Long Beach - Richard Cameron	Attachment J	Central Coast Post-Construction Requirements	<p>The Region 3 requirements are not only the most stringent and complex in the State; they are also unique and entirely untested. For example, there is no demonstrated environmental benefit from retaining a 95th percentile storm event (as opposed to an 85th percentile event, a standard used throughout the state) on projects in urban areas. It is well established that water quality control measures are most economical and efficient when they target small, frequent storm events that over time produce more total runoff than the larger, infrequent storms targeted for design of flood control facilities.</p>	Please see response to comment number 9.

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					Typically, design criteria for water quality control BMPs and baseline hydromodification controls are set to coincide with the “knee of the curve”, i.e., the point of inflection where the magnitude of the event (and corresponding cost of facilities) increases more rapidly than the number of events captured. In other words, targeting design storms larger than this point will produce volume retention gains but at considerable incremental cost. This approach is the very basis of the criteria in most Phase I MS4 permits and the draft Phase II permit for sizing stormwater control measures to capture the 85th percentile, 24-hour storm.	
42	14	Port of Long Beach - Richard Cameron	Attachment J	Central Coast Post-Construction Requirements	The Central Coast sizing criteria was placed in the Region 3 requirements after the public review process was completed in that region. The sizing criteria uses and incorrectly applies a methodology taken from the Water Environmental Federation Manual of Practice No. 23, by requiring the retention/water quality volume to be multiplied by 1.963 in order to capture “all events up to and including” the 85th or 95th, as appropriate.	Please see response to comment number 9.
42	15	Port of Long Beach - Richard Cameron	Attachment J	Central Coast Post-Construction Requirements	The retention and hydromodification requirements, and some of the LID requirements, are inconsistent and go beyond those of existing or proposed statewide, regional, or local Phase I or Phase II MS4 permits in California. For example, thresholds for hydromodification requirements are much lower than existing or proposed permits	Please see response to comment number 9.

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					(15,000 square feet and 22,500 square feet of created/replaced impervious surface for runoff retention and peak matching, respectively). Post-project vs. pre-project peak matching is an approach that has been proven ineffective in protection of receiving streams, based on the research of existing hydromodification control programs. The technical basis for these requirements is unclear and in the absence of demonstrated environmental benefit, there is no justification for the significant increased cost for their implementation.	
42	16	Port of Long Beach - Richard Cameron	Attachment J	Central Coast Post-Construction Requirements	We urge you to delete direct references to the Central Coast Post-Construction Requirements, including Attachment J, from the Draft Phase II Permit.	Please see response to comment number 9.
42	17	Port of Long Beach - Richard Cameron	F.5.d.(i)	Illicit Discharge Detection and Elimination	Sampling should not be required for known discharges (springs, piped streams, etc.). In order to make effective use of permittee resources, this requirement should be modified to state that sampling only occur at unknown discharges. Recommendation: Add the following language to F.5.d. t.(i): ... the Permittee shall sample any outfalls that are flowing or ponding with unknown discharges more than 72 hours after the last rain event.	Port of Long Beach has been removed from Attachment B.
43	1	Port of Stockton - Jeff Wingfield	Section D	Receiving Water Limitations	As stated in the Port's previous letter sent for the State Water Board's Receiving Water Limitations Workshop held on November 20, 2012, the Port strongly urges the State Water Board to address the Permit's Receiving Water Limitations ("RWL") Provision (Provision D, pages 19-20) on a global, statewide basis before incorporating RWL	The discussion of the receiving water limitations in the Fact Sheet has been revised to clarify the State Water Board's position to date and to address the Supreme Court's recent decision reversing the Ninth Circuit judgment in NRDC v. LA County and remanding the case. The State Water Board heard from interested persons at the November 20, 2012, workshop held to consider receiving water

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					<p>language into this Permit. The RWL provisions are extremely important and relevant to all stormwater permittees within the State. The revised order does not modify previous RWL language contained in the Permit, but instead kicks the issue down the road by merely inserting a reopener clause. (See Finding #38, page 38; Provision I, page 140; and the Fact Sheet, pages 25-26). Because the Small MS4 permittees will be subject to enforcement actions for alleged violations of the RWL language in the interim before a reopener can be effectuated, the Port requests that the State Water Board defer adoption of the Permit, or defer the effective date of the Permit, until the State Water Board has adequately addressed the RWL issue on a state-wide basis in the form of a new Policy on RWLs in stormwater permits. During the November 20, 2012 Workshop, the Port provided the State Water Board with language that was adopted into the Port's permit in 2011 that was not appealed by environmental organizations and was not vetoed by U.S. E.P.A. Therefore, the Port's RWL language represents a good template for use in other storm water permits. As evidenced at that same workshop, CASQA offered its support to the State Water Board for similar language to be used in permits such as the Small MS4 Permit, the Caltrans Permit, and large MS4 permits state-wide. For these reasons, the Port urges the State Water Board to direct staff to work to revise the RWL Language in Provision D of the Permit to be consistent with the language contained in the Port's MS4 permit. Alternatively, the State</p>	<p>limitations provisions in municipal storm water permits and the Board is evaluating options going forward. The State Water Board considers the receiving water limitations question to be an important and complicated issue -- independent of the court ruling -- and believes it requires careful consideration. The Board will continue to rely on the specific reopener clause at Section H to facilitate future revisions, if any, rather than delay consideration of adoption of the Phase II permit.</p>

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					Water Board should defer the adoption of the Permit, or defer the effective date of the Permit, until the State Water Board takes action to adopt consistent RWL language state-wide.	
43	2	Port of Stockton - Jeff Wingfield	Attachment J	Central Coast Post-Construction Requirements	<p>The Port also has concerns over the post-construction requirements contained in Attachment J. Primarily, the Port is concerned that these new policies are being adopted into permits without adequate environmental review under the California Environmental Quality Act ("CEQA"). These new policies are essentially being imposed on a permit-by-permit basis without any analysis of how these requirements might affect the environment either positively or negatively. In addition, these policies keep getting more detailed and prescriptive without an analysis of the costs and/or benefits of such requirements. This lack of a consistent and fully analyzed approach to the imposition of post-development standards creates an uneven playing field for communities and developers across the State.</p> <p>For example, no environmental benefit has been demonstrated from retaining a 95th percentile storm event on small projects (15,000 sf and greater) in urban areas. Furthermore, there has been absolutely no analysis of the potential detriments to water quality, water rights/quantity, or to aquatic life from reducing flows in area creeks and rivers as a result of the combined effects of this post-construction policy. These benefits and impacts must be analyzed to avoid</p>	<p>In response to extensive comments received from interested persons, Attachment J has been deleted from the Order. The State Water Board determined that, while the Board continues to support a watershed process-based approach to hydromodification requirements, the Joint Effort process should be allowed to evolve and proceed without direct incorporation into the Small MS4 General Order. This allows an independent process to address several unresolved issues acknowledged by the parties to the Joint Effort, including the Regional Water Board. Under new Provision E.12.k, if a Regional Water Board develops post-construction storm water management requirements based on a watershed-process approach and consistent with criteria specified, Small MS4s in that region must implement the developed requirements in lieu of most sections of E.12.k. The implication of this Provision for the Central Coast region Small MS4s is that they will be required to implement watershed process-based requirements developed through the Joint Effort after those requirements have been reconsidered and approved by the Central Coast Water Board. Existing Central Coast Water Board Resolution No. R3-2012-0025 operated as an update to SWMPs that are no longer required under this Order.</p> <p>Please see the Fact Sheet Post Construction Storm Water Management for New Development and Re-development discussion for further details. Staff</p>

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					unintended consequences. For these reasons, and the reasons provided in comments made by CASQA and others, the Port urges the State Water Board to halt the use of Post-Construction Requirements in stormwater permits, including Attachment J proposed for the Draft Permit, until such time that the environmental benefits and detriments have been fully explored and vetted.	notes that, because E.12.k. precludes imposition of the Joint Effort requirements through Resolution No. R3-2012-0025, the State Water Board considers the pending petitions on that Resolution moot as of adoption of this Order. However, any future action by a Regional Water Board, including the Central Coast Water Board, to adopt a regional watershed process-based approach would be subject to petitions for review by the State Water Board.
44	1	Riverside County Flood Control and Water Conservation District - Jason Uhley	Section D.	Receiving Water Limitations	<p>The Receiving Water Limitations Provision (Provision D, Pages 19-20) is an important and relevant issue for all permittees within the State. While the revised order does not modify Provision D per se, it addresses the issue (see Finding #38, Page 38; Provision I, Page 140; and the Fact Sheet, Pages 25-26) by creating a reopener clause. We believe the State Water Board (Board) should not defer this issue until a later date (by the use of a reopener clause) and recommend that the Board address this issue in this Permit. Following the November 20, 2012 workshop, we believe the State Water Board has sufficient input and cause to develop a resolution. We understand that CASQA offers its support and assistance to the Board to address this issue.</p> <p>We urge the Board to direct staff to work with CASQA to revise the Receiving Water Limitations Language in Provision D now, and not defer it to a later time.</p>	<p>The discussion of the receiving water limitations in the Fact Sheet has been revised to clarify the State Water Board's position to date and to address the Supreme Court's recent decision reversing the Ninth Circuit judgment in NRDC v. LA County and remanding the case. The State Water Board heard from interested persons at the November 20, 2012, workshop held to consider receiving water limitations provisions in municipal storm water permits and the Board is evaluating options going forward. The State Water Board considers the receiving water limitations question to be an important and complicated issue -- independent of the court ruling -- and believes it requires careful consideration. The Board will continue to rely on the specific reopener clause at Section H to facilitate future revisions, if any, rather than delay consideration of adoption of the Phase II permit.</p>

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44	2	Riverside County Flood Control and Water Conservation District - Jason Uhley	Attachment J	Central Coast Post-Construction Requirements	<p>Our concerns with Attachment J are two-fold, policy/procedural and technical. First, we are concerned with the apparent escalation in permit requirements being conducted by the various Board permit writers in drafting provisions for land development. Over the last few years we have seen the ratcheting up of land development requirements in each MS4 permit reissuance with regard for neither the impact/effectiveness of prior development requirements, nor the key hydrologic principles of low impact development. This lack of a cogent and cohesive approach to standards has created an uneven playing field for communities and developers across the State. Furthermore, the clear absence of any consensus within the State on what the requirements are for land development (particularly with respect to hydromodification management) is damaging to the credibility of the entire stormwater program.</p>	<p>In response to extensive comments received from interested persons, Attachment J has been deleted from the Order. The State Water Board determined that, while the Board continues to support a watershed process-based approach to hydromodification requirements, the Joint Effort process should be allowed to evolve and proceed without direct incorporation into the Small MS4 General Order. This allows an independent process to address several unresolved issues acknowledged by the parties to the Joint Effort, including the Regional Water Board. Under new Provision E.12.k, if a Regional Water Board develops post-construction storm water management requirements based on a watershed-process approach and consistent with criteria specified, Small MS4s in that region must implement the developed requirements in lieu of most sections of E.12.k. The implication of this Provision for the Central Coast region Small MS4s is that they will be required to implement watershed process-based requirements developed through the Joint Effort after those requirements have been reconsidered and approved by the Central Coast Water Board. Existing Central Coast Water Board Resolution No. R3-2012-0025 operated as an update to SWMPs that are no longer required under this Order.</p> <p>Please see the Fact Sheet Post Construction Storm Water Management for New Development and Re-development discussion for further details. Staff notes that, because E.12.k. precludes imposition of the Joint Effort requirements through Resolution No. R3-2012-0025, the State Water Board considers the pending petitions on that Resolution moot as of adoption of this Order. However, any</p>

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						future action by a Regional Water Board, including the Central Coast Water Board, to adopt a regional watershed process-based approach would be subject to petitions for review by the State Water Board.
44	3	Riverside County Flood Control and Water Conservation District - Jason Uhley	Attachment J	Central Coast Post-Construction Requirements	Another policy/procedural related issue is the timing of the inclusion of Region 3 requirements into the Draft Phase II Permit. By appending the Central Coast requirements, and stating, "the Water Board expects to amend this Order to incorporate similar requirements for Permittees in the remainder of the State", the Board has introduced an entirely new set of rules with insufficient time for Phase I or II Permittees to fully evaluate the potential impacts of these standards. At a minimum, we believe it prudent to allow a full 5-year permit term to incorporate the requirements of Section E.12 to assess their effectiveness before charging off on a new set of requirements. As discussed below, there are significant technical issues in the Region 3 requirements, and any revisions would require opening the Phase II Permit to amend a regional requirement at the State level.	Please see response to comment number 2.
44	4	Riverside County Flood Control and Water Conservation District - Jason Uhley	Attachment J	Central Coast Post-Construction Requirements	With respect to technical issues, the magnitude and scope of the Region 3 requirements are not appropriate for the following reasons: (1) The Region 3 requirements are not only the most stringent and complex in the State, they are also unique and entirely untested. (2) The Central Coast sizing criteria was placed in the Region 3 requirements after the public review process was completed in that region. (3) The retention and hydromodification	Please see response to comment number 2.

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					requirements, and some of the LID requirements, are inconsistent and go beyond those of existing or proposed statewide, regional, or local Phase I or Phase II MS4 permits in California. We urge you to delete direct references to the Central Coast Post-Construction Requirements, including Attachment J, from the Draft Phase II Permit.	
45	1	Russian River Watershed Association - Virginia Porter	Section D	Receiving Water Limitations	Revise Receiving Water Limitations language prior to permit adoption rather than include a reopener to address the topic at some unknown time in the future. The California Stormwater Quality Association (CASQA) is in a position to work with SWRCB staff to develop permit language to bring this about.	The discussion of the receiving water limitations in the Fact Sheet has been revised to clarify the State Water Board's position to date and to address the Supreme Court's recent decision reversing the Ninth Circuit judgment in NRDC v. LA County and remanding the case. The State Water Board heard from interested persons at the November 20, 2012, workshop held to consider receiving water limitations provisions in municipal storm water permits and the Board is evaluating options going forward. The State Water Board considers the receiving water limitations question to be an important and complicated issue -- independent of the court ruling -- and believes it requires careful consideration. The Board will continue to rely on the specific reopener clause at Section H to facilitate future revisions, if any, rather than delay consideration of adoption of the Phase II permit.
45	2	Russian River Watershed Association - Virginia Porter	Attachment J	Central Coast Post-Construction Requirements	Remove Attachment J and allow Central Coast MS4s to comply with the general order post-construction standards.	In response to extensive comments received from interested persons, Attachment J has been deleted from the Order. The State Water Board determined that, while the Board continues to support a watershed process-based approach to hydromodification requirements, the Joint Effort process should be allowed to evolve and proceed without direct incorporation into the Small MS4 General Order. This allows an independent process to address several unresolved issues

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						<p>acknowledged by the parties to the Joint Effort, including the Regional Water Board. Under new Provision E.12.k, if a Regional Water Board develops post-construction storm water management requirements based on a watershed-process approach and consistent with criteria specified, Small MS4s in that region must implement the developed requirements in lieu of most sections of E.12.k. The implication of this Provision for the Central Coast region Small MS4s is that they will be required to implement watershed process-based requirements developed through the Joint Effort after those requirements have been reconsidered and approved by the Central Coast Water Board. Existing Central Coast Water Board Resolution No. R3-2012-0025 operated as an update to SWMPs that are no longer required under this Order.</p> <p>Please see the Fact Sheet Post Construction Storm Water Management for New Development and Re-development discussion for further details. Staff notes that, because E.12.k. precludes imposition of the Joint Effort requirements through Resolution No. R3-2012-0025, the State Water Board considers the pending petitions on that Resolution moot as of adoption of this Order. However, any future action by a Regional Water Board, including the Central Coast Water Board, to adopt a regional watershed process-based approach would be subject to petitions for review by the State Water Board.</p>
45	3	Russian River Watershed Association - Virginia Porter	Findings	MEP	Revise the Draft Permit to include findings regarding the maximum extent practicable (MEP) standard similar or identical those in the existing Phase II permit.	Comment noted. Staff has added a discussion of the MEP standard to the Fact Sheet to address this comment.

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45	4	Russian River Watershed Association - Virginia Porter	E.7.	Public Education and Outreach	Revise the educational requirements to match those previously included in the second draft of the permit.	Comment noted. Staff does not agree with recommended revisions. Numerous Stakeholder meetings were conducted over the 5-year permit renewal efforts where Public Education and Outreach were thoroughly discussed.
45	5	Russian River Watershed Association - Virginia Porter	E.9.	Illicit Discharge Detection and Elimination	In the IDDE Section, revise the language to clarify that site visits are limited to assessment of outfalls and to indicate that Permittees have the option of creating a self-certification program in lieu of site visits.	This permit provision has been revised to address the comment.
45	6	Russian River Watershed Association - Virginia Porter		Cost	RRWA also reiterates our request that the State Board work with the California Legislature to prompt legislative action to create mechanism to raise revenues to fund storm water programs. For most storm water programs in California, due to the constraints of Proposition 218 (constitutional initiative - 1996), the city, county or district's General Fund is the only funding source for ongoing stormwater program requirements. The need to have dedicated storm water funds is tremendous.	Please see Section III, Economic Considerations of the Fact Sheet.
46	1	San Francisco Bay Area Rapid Transit District - Grace Crunican	F.2.	General	BART appreciates the revision in the Revised Draft Permit, section F.2, adding transportation agencies to the list of permittees exempt from reporting requirements that could pose a security risk and/or compromise facility security.	Comment noted.
46	2	San Francisco Bay Area Rapid Transit District - Grace Crunican	Throughout	General	The Revised Draft Permit includes several new provisions on coordination between non-traditional small MS4 permittees and adjacent Phase I MS4 permittees, e.g., section F.5.b.l(iii) (education and outreach programs) and sections F.5.q and d(i) (developing illicit discharge detection programs and	Comment noted. Coordination with adjacent Phase I MS4s or adjacent regulated Non-Traditional Small MS4s is optional.

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					<p>implementing outfall data collection). However, it is not clear whether such coordination is an option or a requirement; e.g., section F.5.b.1 (iii) provides that: "Some level of coordination - of education and outreach efforts with an adjacent Phase I MS4 Permittee is recommended/anticipated for watershed/region-wide consistency" (emphasis added). Moreover, coordination would not always be helpful or in the public interest. Where appropriate, coordination with adjacent Phase I MS4s can enhance consistency and efficiency, for example, with some non-traditional categories, such as • community colleges and prisons that are adjacent to or surrounded by a single Phase I MS4. However, BART and other transit agencies are surrounded by multiple Phase I MS4s. Requiring coordination with multiple adjacent MS4s would lead to inefficiency, inconsistency and potentially higher and redundant costs, e.g., if transit agencies are called on to contribute funding to education programs conducted by each of the neighboring operators. The permit should therefore clarify that coordination with adjacent Phase I MS4s is an optional recommendation where it is beneficial, but is not required or "anticipated" of all non-traditional permittees.</p>	
46	3	San Francisco Bay Area Rapid Transit District - Grace Crunican	F.5.a.(ii)	Legal Authority	<p>As BART previously commented, the State Board cannot require permittees to certify that they have legal authority which is beyond the scope of their legal powers. This limitation is now acknowledged in the Revised Draft Permit (p. 23), which clarifies that permittees are not required to</p>	<p>This change was not made prior to release of the Proposed Final Draft. However, staff will propose the change through a change sheet.</p>

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					<p>demonstrate legal authority which is beyond that allowable under state and local law -but this clarification found in section E applies to only traditional small MS4s. The same clarification should be provided in section F.5.a(ii) with respect to non-traditional categories. Indeed, it is even more necessary for the non-traditional permittees, many of which are limited by their authorizing legislation to narrower legal powers than those of traditional permittees such as municipalities.</p>	
47	1	<p>Santa Clara Valley Urban Runoff Pollution Prevention Program - Adam Olivieri</p>	Section D	Receiving Water Limitations	<p>As evidenced by the State Water Board's November 20, 2012 Workshop on the subject, the Receiving Water Limitations Provision (Provision D, pages 19-20) is a critical issue of concern for all MS4 permittees within the State. Notwithstanding the Workshop, the revised order does not modify Provision D as it was previously drafted. Instead, it just bypasses the issue by creating a reopener clause (see Finding #38, page 38; Provision I, page 140; and the Fact Sheet, pages 25-26). In light of all of the effort that went into the Workshop and the importance of this issue to all municipalities in the State, moving forward on the Draft Phase II Permit as it stands is not reasonable. We believe the State Water Board should not defer this issue until a later date (by the use of a reopener clause or otherwise) and contend that the State Water Board now has sufficient input and cause to develop a resolution. We therefore urge the State Water Board to direct staff to propose a revision to the Receiving Water Limitation Language in Provision D now and not defer</p>	<p>The discussion of the receiving water limitations in the Fact Sheet has been revised to clarify the State Water Board's position to date and to address the Supreme Court's recent decision reversing the Ninth Circuit judgment in NRDC v. LA County and remanding the case. The State Water Board heard from interested persons at the November 20, 2012, workshop held to consider receiving water limitations provisions in municipal storm water permits and the Board is evaluating options going forward. The State Water Board considers the receiving water limitations question to be an important and complicated issue -- independent of the court ruling -- and believes it requires careful consideration. The Board will continue to rely on the specific reopener clause at Section H to facilitate future revisions, if any, rather than delay consideration of adoption of the Phase II permit.</p>

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					addressing this critically important issue to a later point in time.	
47	2	Santa Clara Valley Urban Runoff Pollution Prevention Program - Adam Olivieri	Attachment J	Central Coast Post-Construction Requirements	<p>Our concerns with Attachment J are two-fold, policy/procedural and technical. First we are concerned with the apparent escalation in permit requirements being conducted by the various Water Board permit writers in drafting provisions for land development. Over the last few years we have seen the ratcheting up of land development requirements in each MS4 permit reissuance without regard and consideration of either the impact/effectiveness of the prior development requirements and the key hydrologic principles of low impact development. This lack of a cogent and cohesive approach to standards has created an uneven playing field for communities and developers across the State. Furthermore, the clear absence of any consensus within the State on what the requirements are for land development (particularly with respect to hydromodification management) is damaging to the credibility of the entire stormwater program.</p>	<p>In response to extensive comments received from interested persons, Attachment J has been deleted from the Order. The State Water Board determined that, while the Board continues to support a watershed process-based approach to hydromodification requirements, the Joint Effort process should be allowed to evolve and proceed without direct incorporation into the Small MS4 General Order. This allows an independent process to address several unresolved issues acknowledged by the parties to the Joint Effort, including the Regional Water Board. Under new Provision E.12.k, if a Regional Water Board develops post-construction storm water management requirements based on a watershed-process approach and consistent with criteria specified, Small MS4s in that region must implement the developed requirements in lieu of most sections of E.12.k. The implication of this Provision for the Central Coast region Small MS4s is that they will be required to implement watershed process-based requirements developed through the Joint Effort after those requirements have been reconsidered and approved by the Central Coast Water Board. Existing Central Coast Water Board Resolution No. R3-2012-0025 operated as an update to SWMPs that are no longer required under this Order.</p> <p>Please see the Fact Sheet Post Construction Storm Water Management for New Development and Re-</p>

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						development discussion for further details. Staff notes that, because E.12.k. precludes imposition of the Joint Effort requirements through Resolution No. R3-2012-0025, the State Water Board considers the pending petitions on that Resolution moot as of adoption of this Order. However, any future action by a Regional Water Board, including the Central Coast Water Board, to adopt a regional watershed process-based approach would be subject to petitions for review by the State Water Board.
47	3	Santa Clara Valley Urban Runoff Pollution Prevention Program - Adam Olivieri	Attachment J	Central Coast Post-Construction Requirements	Another policy/procedural related issue is the timing of the inclusion of Region 3 requirements into the Draft Phase II Permit. By appending the Central Coast requirements, and stating, “the Water Board expects to amend this Order to incorporate similar requirements for Permittees in the remainder of the State”, the Water Board has introduced an entirely new set of rules with insufficient time for Phase I or II permittees to fully evaluate the potential impacts of these standards. At a minimum, we believe it prudent to allow a full 5-year permit term to incorporate the requirements of Section E.12 to assess their effectiveness before changing to a new and significantly different set of requirements. As discussed below, there are significant technical issues in the Region 3 requirements and any revisions would require opening the Phase II permit to amend a regional requirement at the state level.	Please see response to comment number 2.
47	4	Santa Clara Valley Urban Runoff Pollution Prevention Program - Adam Olivieri	Attachment J	Central Coast Post-Construction Requirements	It is worth noting that the post-construction requirements contained in Section E.12 have been through a thorough two-year review process including CASQA professionals, environmental NGOs, Permittees, and Water	Please see response to comment number 2.

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					Board staff. The result is a set of straightforward and implementable LID and baseline hydromodification controls accomplishing most or all of the Region 3 requirements.	
47	5	Santa Clara Valley Urban Runoff Pollution Prevention Program - Adam Olivieri	Attachment J	Central Coast Post-Construction Requirements	With respect to technical issues the magnitude and scope of the Region 3 requirements are not appropriate for the following reasons: (1) The Region 3 requirements are not only the most stringent and complex in the State; they are also unique and entirely . (2) The Central Coast sizing criteria was placed in the Region 3 requirements after the public review process was completed in that region. (3) The retention and hydromodification requirements, and some of the LID requirements, are inconsistent and go beyond those of existing or proposed statewide, regional, or local Phase I or Phase II MS4 permits in California. We urge you to delete direct references to the Central Coast Post-Construction Requirements, including Attachment J, from the Draft Phase II Permit.	Please see response to comment number 2.
48	1	Solano County, Department of Resource Management - Matt Tuggle	Section D	Receiving Water Limitations	Solano County believes that the State Water Board should address this issue before applying the permit, and not defer the issue via a reopener clause. A public workshop was held on November 20, 2012, provided the Board with adequate input to review this issue. We at Solano County request the permit not be rushed to adoption before the permittees, public, and the State Water Board has adequate time to develop a resolution.	The discussion of the receiving water limitations in the Fact Sheet has been revised to clarify the State Water Board's position to date and to address the Supreme Court's recent decision reversing the Ninth Circuit judgment in NRDC v. LA County and remanding the case. The State Water Board heard from interested persons at the November 20, 2012, workshop held to consider receiving water limitations provisions in municipal storm water permits and the Board is evaluating options going forward. The State Water Board considers the receiving water limitations question to be an important and complicated issue -- independent of

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						<p>the court ruling – and believes it requires careful consideration. The Board will continue to rely on the specific reopener clause at Section H to facilitate future revisions, if any, rather than delay consideration of adoption of the Phase II permit.</p>
48	2	Solano County, Department of Resource Management - Matt Tuggle	Attachment J	Central Coast Post Construction Requirements	<p>Solano County has significant concerns with the last-minute addition of Central Coast Post-Construction requirements. The Post-Construction Management Program (E.12) section of the permit has been through a two year, thorough review process. This has resulted in clear, implementable requirements for permittees. By amending the permit to include new regulations in this late edit, the Water Board has circumvented the public comment process for this section, which gives permittees inadequate time to evaluate the potential impacts of these regulations.</p>	<p>In response to extensive comments received from interested persons, Attachment J has been deleted from the Order. The State Water Board determined that, while the Board continues to support a watershed process-based approach to hydromodification requirements, the Joint Effort process should be allowed to evolve and proceed without direct incorporation into the Small MS4 General Order. This allows an independent process to address several unresolved issues acknowledged by the parties to the Joint Effort, including the Regional Water Board. Under new Provision E.12.k, if a Regional Water Board develops post-construction storm water management requirements based on a watershed-process approach and consistent with criteria specified, Small MS4s in that region must implement the developed requirements in lieu of most sections of E.12.k. The implication of this Provision for the Central Coast region Small MS4s is that they will be required to implement watershed process-based requirements developed through the Joint Effort after those requirements have been reconsidered and approved by the Central Coast Water Board. Existing Central Coast Water Board Resolution No. R3-2012-0025 operated as an update to SWMPs that are no longer required under this Order.</p> <p>Please see the Fact Sheet Post Construction Storm Water Management for New Development and Re-development discussion for further details. Staff notes that, because E.12.k. precludes imposition of</p>

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						the Joint Effort requirements through Resolution No. R3-2012-0025, the State Water Board considers the pending petitions on that Resolution moot as of adoption of this Order. However, any future action by a Regional Water Board, including the Central Coast Water Board, to adopt a regional watershed process-based approach would be subject to petitions for review by the State Water Board.
48	3	Solano County, Department of Resource Management - Matt Tuggle	Attachment J	Central Coast Post Construction Requirements	Additionally, the new Central Coast requirements are the most stringent in the State, are not justified through testing of environmental benefits, and they circumvent Central Coast Regional Board implementation in the area. This would leave permittees unable to petition their claims to the State from the Regional Board regulations. Solano County supports CASQA's technical and legal arguments against amending the Central Coast Regional Board's land development regulations into the State permit (Attachment 2: Additional Central Coast Post-Construction Requirement Comments). Solano County urges the Board to delete any new Central Coast Post-Construction Requirements provisions in the permit, as well as Attachment J.	Please see response to comment number 2.
48	4	Solano County, Department of Resource Management - Matt Tuggle	E.9.	Illicit Discharge Detection and Elimination	A number of sections in the permit relate to the MS4 permittee's responsibility to inspect and/or report facilities covered under the Industrial General Permit (IGP) and/or the Construction General Permit (CGP). As written, the permit requires the MS4 permittee to determine if facilities should be covered under the IGP, to refer non-filers, and to implement procedures to identify illicit discharges originating from facilities under	Staff does not agree. Permittees should leverage already existing staff to determine compliance of environmental permits and the potential to discharge pollutants to their municipally-owned storm drain system. Many Permittees have Inspectors out in the field on a daily basis, therefore, the on-site inspector simply needs to include the question of coverage under the Statewide Industrial General Permit.

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					<p>the IGP and CGP as part of outfall inspections. This requires that an MS4 permittee understand and enforce other permits, and is beyond the scope and responsibility of financially strained MS4s. Solano County requests that the permit be revised to say that MS4 permittees shall notify the appropriate Regional Board of suspected non-filers and suspected or real illicit discharges, and that all responsibility for the MS4 permittees to enforce IGPs and CGPs be removed from the permit draft.</p>	
48	5	<p>Solano County, Department of Resource Management - Matt Tuggle</p>	Throughout	General	<p>Through the review of the public, permittees, and the State Water Board, there have been significant improvements in the permit's clarity and feasibility. Solano County appreciates these gains and believes that improved, feasible guidelines will better protect water quality throughout the State. However there are still areas that need to be improved and clarified before implementation of the permit should be considered by State Water Board staff.</p>	<p>Comment noted.</p>
48	6	<p>Solano County, Department of Resource Management - Matt Tuggle</p>	Findings #38	Receiving Water Limitations	<p>Solano County appreciates the attention the State Board has paid towards the Receiving Water language in reaction to public comments. However, we urge that this issue be resolved before permit implementation with continued public workshops, cost-benefit analysis, and peer-reviewed studies on water quality improvement measures, if feasible. Solano County feels that the process of revisions has clarified and improved the draft permit for all involved, and that resolving issues before permit adoption will create a better regulatory document to protect water quality in its clarity of</p>	<p>The discussion of the receiving water limitations in the Fact Sheet has been revised to clarify the State Water Board's position to date and to address the Supreme Court's recent decision reversing the Ninth Circuit judgment in NRDC v. LA County and remanding the case. The State Water Board heard from interested persons at the November 20, 2012, workshop held to consider receiving water limitations provisions in municipal storm water permits and the Board is evaluating options going forward. The State Water Board considers the receiving water limitations question to be an important and complicated issue -- independent of the court ruling -- and believes it requires careful</p>

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					requirements. To rush past the larger issues in order to put the permit into action may enact regulations later deemed unnecessary or excessive, but leaves the permittees at the mercy of regulators and private lawsuits during the interim.	consideration. The Board will continue to rely on the specific reopener clause at Section H to facilitate future revisions, if any, rather than delay consideration of adoption of the Phase II permit.
48	7	Solano County, Department of Resource Management - Matt Tuggle	B.4	Incidental Runoff	Solano County appreciates the Board's revisions that clarify the response to recycled pond water overflow after a 25-year, 24-hour storm, which requires notification after the event, rather than before. Solano County appreciates the deletion of e., which put the permittee responsible to do "any other actions necessary to prevent the discharge of incidental runoff". We appreciate the Board's recognition of feasible and unfeasible requirements, and the deletion of unfeasible requirements such as this one.	Comment noted.
48	8	Solano County, Department of Resource Management - Matt Tuggle	E.1.b	General	The end of the first paragraph of E.1.b needs a period at the end of the sentence.	Comment noted.
48	9	Solano County, Department of Resource Management - Matt Tuggle	E.1.b	Continued Implementation	If the Executive Officer requests the SWMP because it is equally or more effective at reducing pollutants, the permittee will not need to provide "all additional BMPs", as the BMPs in place are sufficient or better than permit requirements.	This permit provision has been deleted.
48	10	Solano County, Department of Resource Management - Matt Tuggle	E.6.a.ii	Program Management	SWB deleted the necessity to gain legal authority to eliminate non-storm water discharges through the MS4. We appreciate the Board's recognition of feasible and unfeasible requirements, and the deletion of unfeasible requirements such as this one.	Comment noted.

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48	11	Solano County, Department of Resource Management - Matt Tuggle	E.6.a.ii.b	General	At end of paragraph a comma is in the place of a period.	Comment noted.
48	12	Solano County, Department of Resource Management - Matt Tuggle	E.6.a.ii.h	Program Management	Requires the legal authority to enter private property, as consistent with applicable state and federal laws. This creates (a) a need for small local agencies to look up, understand, and apply state and federal laws in relation to private property, and so (b) a vague and costly step for small MS4s to have to comply with. As a state agency issuing a permit, the permittees would appreciate guidance on applicable state laws. Solano County believes that the SWB issuing the permit has the onus to understand the state and federal laws local agencies must comply with, and provide guidance on legal and illegal steps that can be taken to enter private property for the purpose of inspecting.	Comment noted.
48	13	Solano County, Department of Resource Management - Matt Tuggle	E.6.a – E.6.b	Program Management	In the Task Description, requires the permittee to obtain adequate legal authority within the second year of the effective date of the permit. But in the Certification element, an amendment was added requiring that the permittee certify that it has and will maintain legal authority. This is in disagreement, and Solano County recommends that the first year amendment be deleted.	This permit provision has been revised to address the comment.
48	14	Solano County, Department of	E.6.b.ii.a	Program Management	The Board deleted a clause requiring the permittee to keep an updated organizational	Comment noted.

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		Resource Management - Matt Tuggle			chart specifying all departments, personnel, and contact information with stormwater-related responsibilities. We appreciate the Board's recognition of feasible and unfeasible requirements, and the deletion of unfeasible requirements such as this one.	
48	15	Solano County, Department of Resource Management - Matt Tuggle	E.6.c.ii.d.1	Program Management	Requires MS4 permittee to refer non-filers of the IGP and CGP. Language in this clause suggests that the permittee is responsible for investigating whether each entity is appropriately covered, which is beyond the scope of the MS4 permit. Solano County recommends that language be revised to specify that if the MS4 learns of non-filer status, it must report. NOT that it is apprised of all facilities' permitting.	Permittees should leverage already existing staff to determine compliance of environmental permits and the potential to discharge pollutants to their municipally-owned storm drain system. Many Permittees have Inspectors out in the field on a daily basis, therefore, the on-site inspector simply needs to include the question of coverage under the Statewide Industrial General Permit.
48	16	Solano County, Department of Resource Management - Matt Tuggle	Throughout	Reporting	The Board has substantially revised the reporting requirements in the permit draft. Solano County appreciates the deletion of onerous reporting requirements for each section, and the more inclusive method of reporting on compliance via a single reporting site. However, there were substantial comments on the earlier reporting requirements due to the number of provisions and the burdensome nature of many requirements. Without knowing the contents of the SMARTS report which each permittee will be obligated to do, we cannot comment on the benefits or costs of this system. We recommend that the State Water Board continues to work closely with permittees to develop appropriate SMARTS reporting requirements, and allow for public input into the system of reporting.	Earlier drafts of the Order required significantly more detailed annual reporting. Staff removed those requirements in order to decrease the reporting burden on dischargers. Provision E.16.c. was added to make it clear that, where a Regional Water Board believes there are circumstances warranting more detailed reporting, the Regional Water Board can request such detail. Regional Water Board has independent authority to require reporting regardless of Provision E.16.c.  Water Board staff will continue to work closely with Stakeholders on SMARTS after adoption of this Order.

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48	17	Solano County, Department of Resource Management - Matt Tuggle	E.7.a.ii.j	Public Education and Outreach	This requires education of school-age children about storm water, and requires integration into school curricula. As previously stated by many entities (CASQA), local cities and counties have no authority to educate students in elementary school.	Staff does not agree. Permittees do not direct work of schools but instead their role is to coordinate education and messaging to full-fill their school-age outreach and education provision.
48	18	Solano County, Department of Resource Management - Matt Tuggle	E.7.b.2	General	Typo: the (1) a Qualified SWPPP Developer (QSD) is unnecessarily italicized.	Comment noted.
48	19	Solano County, Department of Resource Management - Matt Tuggle	E.7.b.3.ii.a	Public Education and Outreach	Second sentence says annual, when the sentence before was changed to biennial. Revise all parts to say biennial for this provision.	This change was not made prior to release of the Proposed Final Draft. However, staff will propose the change through a change sheet
48	20	Solano County, Department of Resource Management - Matt Tuggle	E.9.a.ii.a	Illicit Discharge Detection and Elimination	Solano County appreciates the Board's efforts to create a more feasible outfall mapping guide by requiring only those outfalls located in urbanized areas.	Comment noted.
48	21	Solano County, Department of Resource Management - Matt Tuggle	E.9.ii	Illicit Discharge Detection and Elimination	Solano County appreciates the Board's recognition that submerged and inaccessible outfalls could pose a risk to surveyors and its decision to exclude these outfalls from inventory requirements.	Comment noted.
48	22	Solano County, Department of Resource Management - Matt Tuggle	E.9.b.ii.c	Illicit Discharge Detection and Elimination	This provision obligates the permittee to determine if facilities are required to be covered under the IGP, and if they have done so. As stated by numerous agencies, this	Permittees should leverage already existing staff to determine compliance of environmental permits and the potential to discharge pollutants to their municipally-owned storm drain system. Many

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		Tuggle			requirement goes beyond the MS4 Permit scope. The appropriate body for determining requirements for IGP coverage is the state and regional water boards. If left intact, this requirement necessitates the permittee to know the intricacies of the IGP in addition to their own permit. Solano County recommends that this provision be modified to convey that if the MS4 permittee has reasonable suspicion that a facility should be covered under IGP, either by being alerted to it or through outfall inspections, that they notify the appropriate water board.	Permittees have Inspectors out in the field on a daily basis, therefore, the on-site inspector simply needs to include the question of coverage under the Statewide Industrial General Permit. Permittees are not required to know the intricacies of the IGP only if the facility must file for coverage or if the facility is in violation the their local storm water ordinance.
48	23	Solano County, Department of Resource Management - Matt Tuggle	E.9.b.ii.e	Illicit Discharge Detection and Elimination	This provision requires the assessment of inventoried facilities for the presence of illicit discharges. This is beyond the MS4 permit and makes the MS4 permittee inventory individual responsible for IGP and CGP illicit discharge inspection. This should be covered under their respective permits and should not be the responsibility of the MS4 permittee to identify and inspect. This requirement should be modified so that site visits are limited to outfall mapping and reporting to appropriate regional boards if illicit discharges are suspected to occur.	Comment noted. Permittees are responsible for pollutant discharges or threats of pollutant discharges to their municipally-owned storm drain system and identified in U.S. EPA's storm water regulations.
48	24	Solano County, Department of Resource Management - Matt Tuggle	E.9.b.ii.e	Illicit Discharge Detection and Elimination	Provision says the permittee must implement inspection procedures for "all inventoried facilities and other priority areas..." This negates the usefulness of identifying priority areas, as all areas are required to be inspected. This should be clarified to say that priority areas must be inspected for illicit discharges, and allow the permittee to	This permit provision has been revised to address the comment.

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					prioritize and de-prioritize facilities based on their risks and benefits for inspection.	
48	25	Solano County, Department of Resource Management - Matt Tuggle	E.9.c.i	Illicit Discharge Detection and Elimination	Language here should be clarified: "...conduct ... sampling of outfalls annually identified as priority areas". Conduct sampling annually, or sample the outfalls identified annually? Clarify.	Language has been clarified in the Fact Sheet discussion. Permittees must conduct dry weather sampling in each subsequent year ( years 3-5) for priority outfalls.
48	26	Solano County, Department of Resource Management - Matt Tuggle	E.9.c.ii.b	Illicit Discharge Detection and Elimination	Table 2 Heading – Correct "Paramaters" to Parameters.	This permit provision has been revised to address the comment.
48	27	Solano County, Department of Resource Management - Matt Tuggle	E.10.c.ii	Construction	Unclear if "Bimonthly" here refers to two times a month or every other month. Seems to mean different things in each section (bimonthly during the rainy season, monthly during the rest of year = means twice monthly     monthly during the rainy season and bimonthly during the remainder = every other month). Edit for clarity.	This permit provision has been deleted.
48	28	Solano County, Department of Resource Management - Matt Tuggle	E.11.f.ii.a	Pollution Prevention/Good Housekeeping	Permittees should be able to assess the legitimacy of complaints/reports from citizens and de-prioritize, if necessary. Solano County appreciates the Board's commitment to prioritizing catch basins based on runoff and pollution factors as well as citizen complains, but respectfully urges that there be a mode of assessing the priority of citizen complaints based again on the pollution and runoff (concrete) factors. As the Board may know, sometimes citizen requests, complaints, and reports are biased and may not always warrant a catch basin to be deemed as a high priority.	To clarify, the provision leaves flexibility for the Permittee to assess the priority of citizen complaints based again on the pollution and runoff (concrete) factors and assign high priority.

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48	29	Solano County, Department of Resource Management - Matt Tuggle	E.11.j.ii.h	Pollution Prevention/Good Housekeeping	Revision specifies prohibiting application of pesticides "as required by the regulations recently enacted..." This is a permit that will be in effect for many years, should not refer to 'recent' regulations. Delete this.	This permit provision has been revised to address the comment.
48	30	Solano County, Department of Resource Management - Matt Tuggle	E.12.c.i	Post Construction Storm Water Management	Typo – last sentence of task description should have a period, not a colon.	This permit provision has been revised to address this comment.
48	31	Solano County, Department of Resource Management - Matt Tuggle	E.12.c	Post Construction Storm Water Management	There are significant outline errors, as there are two sets of (a)-(c) under (ii) Implementation Level. Please edit for clarity in all provisions before considering permit issuance.	This permit provision has been revised to address this comment.
48	32	Solano County, Department of Resource Management - Matt Tuggle	E.12.e.ii	Post Construction Storm Water Management	Many areas need clarification. E.g.: (5) Preserve significant trees – what constitutes "significant"? Also, e.g.: (7) Avoid excessive grading – what constitutes "excessive"? If permittees are to require regulated projects to consider optimizing these methods, they need clear guidelines on what to suggest to best impart LID standards.	
48	33	Solano County, Department of Resource Management - Matt Tuggle	E.12.j. and Attachment J	Central Coast Post Construction Requirements	Solano County respectfully disagrees with the new inclusion of more stringent requirements on Development Projects in the Central Coast Region. This was added during the last round of edits, which the SWB described as non-substantial revisions. Adding these stricter guidelines is certainly a substantial revision,	Please see response to comment number 2.

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					<p>and one made after two rounds of public comments. Solano County disagrees with the method of this revision and strongly urges the Board to not move forward with permit issuance until this has had sufficient time for public comment, or until this provision is deleted from the permit. In addition, language in the Attachment suggests that the Water Board will amend the Order to incorporate similar requirements for remaining permittees in the future. In the opinion of Solano County, it is irresponsible to inject new, stricter protocols at the final stages of public review, especially when these protocols will likely affect many permittees in the future. The contents of the permit are part of a ~2 year review process, which produced a much clearer and inclusive document for every permittee’s needs. These stricter standards should be subject to the same review process and not snuck in at the end, right before permit adoption – leaving no time for public understanding, commenting, and assessment.</p>	
48	34	Solano County, Department of Resource Management - Matt Tuggle	E.13	Monitoring	The outline structure is not correct in this section. Also, there is a reference to E.13.i-v, when it is actually 1-4. Needs editing.	This permit provision has been revised to address this comment.
48	35	Solano County, Department of Resource Management - Matt Tuggle	E.13	Monitoring	Clarification is needed in the language of the (former) Regional Monitoring section. As is, it says that all or a majority of the permittees collaborate to be considered a regional monitoring program. Which, as is, says that all/the majority of MS4s in California need to	This permit provision has been revised to address the comment.

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					collaborate. Solano County doesn't believe this is the intent of the Board, and recommends editing for clarity on how to define a regional monitoring program.	
48	36	Solano County, Department of Resource Management - Matt Tuggle	E.13.a	Monitoring	May need to clarify where monitoring stations should be placed. As is, specifies an upstream and downstream location. Is this anywhere in the MS4, in the same watershed, or in the same stream? Edit for clarity and guidance on this issue.	This permit provision has been revised to address the comment.
48	37	Solano County, Department of Resource Management - Matt Tuggle	E.13.a	Monitoring	Significant formatting issues – spacing, outline errors, numbering errors. Please edit for clarity before permit issuance. Also, the SWAMP Quality Assurance Program Plan (2008) is a broken link.	Comment noted. With regard to the broken link, this change was not made prior to release of the Proposed Final Draft. However, staff will propose the change through a change sheet
48	38	Solano County, Department of Resource Management - Matt Tuggle	E.14.a	Program Effectiveness	In heading, "improvement" is not capitalized and should be.	This permit provision has been revised to address this comment.
48	39	Solano County, Department of Resource Management - Matt Tuggle	E.14.a.i	Program Effectiveness	Solano County appreciates the Board's revision that lets permittees identify the effectiveness of prioritized BMPs, rather than each and every BMP. Solano County appreciates the Board's recognition of requirements that are burdensome and do not help water quality and those that do, and allowing permittees to prioritize efforts based on pollutant reduction potential.	Comment noted.
48	40	Solano County, Department of Resource Management - Matt	F.5.b.2	Public Education and Outreach	Solano County recognizes the revisions the Board made to education language, targeting developing materials instead of curriculum and conveying reducing discharges verses	Comment noted.

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		Tuggle			definitively reducing discharges because of outreach. We appreciate the Board’s recognition of feasible and unfeasible requirements, and the modification of unfeasible requirements such as these.	
48	41	Solano County, Department of Resource Management - Matt Tuggle	F.5.f.6.ii.3	General	(3) Says “sweet sweeping”, should say street sweeping.	This permit provision has been revised to address this comment.
48	42	Solano County, Department of Resource Management - Matt Tuggle	Sections G and H	Dispute Resolution	Solano County appreciates the Board’s recognition of a need for a means of disputing certain requirements. We believe the process of public opinion has led to a more complete, reasonable, and useful document for the protection of water quality. We respectfully request that, in a dispute resolution, the Executive Officer of the Regional Board be given a timeline to respond, and that the Permittee’s timeline of only ten days be a) clarified – ten business days? And b) extended, as ten days is a difficult timeline, especially with other pressures in an MS4.	Staff has made edits to the Dispute Resolution provision and to the Fact Sheet to further clarify the process for review of permit interpretation and implementation that requires Regional Water Board discretion. Although staff appreciates the suggestions made by CASQA and others to create a process whereby the Regional Water Board requests review by the State Water Board prior to exercising its discretion, staff believes that this proposed process will unnecessarily slow down implementation of the permit by involving the State Water Board management in every instance of discretion. Instead, staff continues to support a process whereby the discharger and the Regional Water Board initially attempt to come to agreement on the appropriate exercise of discretion and bring the issue for review to the State Water Board only if they are unable to come to agreement. The Dispute Resolution provision has been revised, however, to clarify the interplay between the Dispute Resolution process and the petition process. Where the Regional Water Board Executive Officer exercises discretion in interpreting or implementing the Permit, the Regional Water Board Executive Officer is considered to be acting as

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						<p>an agent of the State Water Board under this State Water Board-issued general permit. Those actions are actions of the State Water Board rather than actions of the Regional Water Board and therefore not petitionable actions under Water Code 13320. (However, actions may be subject to a petition for writ of mandate for review in Superior Court under Water Code 13330). Because the petition process is not available to dischargers in such cases, the Dispute Resolution provision has been revised to extend the time limit for submitting a request for dispute resolution from 10 days to 30 days. The revisions also make it clear that actions taken by the Regional Water Board itself or by the Executive Officer under authority independent of the permit terms, as under Water Code 13300, 13304, or 13383, are actions subject to a petition pursuant to Water Code 13320.</p>
48	43	Solano County, Department of Resource Management - Matt Tuggle	Section I	Receiving Water Limitations	<p>Solano County appreciates the Board's recognition of the need for continued public comment on Receiving Waters language. Solano County respectfully urges the Board to resolve these issues before issuing the permit. We believe that after the public workshop in November, the Board has sufficient means and cause to resolve this issue before applying the permit.</p>	<p>The discussion of the receiving water limitations in the Fact Sheet has been revised to clarify the State Water Board's position to date and to address the Supreme Court's recent decision reversing the Ninth Circuit judgment in NRDC v. LA County and remanding the case. The State Water Board heard from interested persons at the November 20, 2012, workshop held to consider receiving water limitations provisions in municipal storm water permits and the Board is evaluating options going forward. The State Water Board considers the receiving water limitations question to be an important and complicated issue -- independent of the court ruling -- and believes it requires careful consideration. The Board will continue to rely on the specific reopener clause at Section H to facilitate future revisions, if any, rather than delay consideration of adoption of the Phase II permit.</p>

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48	44	Solano County, Department of Resource Management - Matt Tuggle	Throughout	General	Solano County supports the comments submitted by CASQA regarding Central Coast Post-Construction Requirements.	Comment noted.
49	1	Statewide Stormwater Coalition - Steven Adams et al	Throughout	General	The Coalition appreciates many of the revisions made to the revised Phase II permit, especially those revisions which better balance implementation timelines and streamline annual reporting requirements. However, important issues still need to be addressed.	Comment noted.
49	2	Statewide Stormwater Coalition - Steven Adams et al	Throughout	Cost	While the Coalition continues to have concerns with the cost of compliance, its members recognize the ongoing efforts of the State Water Resources Control Board (State Water Board) to evaluate costs through its resource alignment project.	Please see Section III, Economic Considerations, of the Fact Sheet.
49	3	Statewide Stormwater Coalition - Steven Adams et al	Attachment J	Central Coast Post Construction Requirements	The Central Coast MS4s have been "carved-out" and are required to implement post-construction standards that exceed those required for other permittees, and in fact even exceed the requirements of Phase 1 permittees. This "carve-out" is inappropriate given the nature of a general permit which is to be one permit of general application. The inclusion of the Region 3, Joint Effort Post-Construction Requirements in the permit (Attachment J) and the inclusion of the statement on page 39 of the Fact Sheet, footnote 31, appear to make an end-run around the due process rights of the three Regional 3 cities that have recently petitioned the State Water Board on these requirements. The State Water Board should evaluate these petitions in separate quasi-judicial hearings, as the petitions address the	In response to extensive comments received from interested persons, Attachment J has been deleted from the Order. The State Water Board determined that, while the Board continues to support a watershed process-based approach to hydromodification requirements, the Joint Effort process should be allowed to evolve and proceed without direct incorporation into the Small MS4 General Order. This allows an independent process to address several unresolved issues acknowledged by the parties to the Joint Effort, including the Regional Water Board. Under new Provision E.12.k, if a Regional Water Board develops post-construction storm water management requirements based on a watershed-process approach and consistent with criteria specified, Small MS4s in that region must implement the developed requirements in lieu of most sections of E.12.k. The implication of this Provision for the

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					<p>basis and appropriateness of regulations imposed without adequate time for review or public comment.</p>	<p>Central Coast region Small MS4s is that they will be required to implement watershed process-based requirements developed through the Joint Effort after those requirements have been reconsidered and approved by the Central Coast Water Board. Existing Central Coast Water Board Resolution No. R3-2012-0025 operated as an update to SWMPs that are no longer required under this Order.</p> <p>Please see the Fact Sheet Post Construction Storm Water Management for New Development and Re-development discussion for further details. Staff notes that, because E.12.k. precludes imposition of the Joint Effort requirements through Resolution No. R3-2012-0025, the State Water Board considers the pending petitions on that Resolution moot as of adoption of this Order. However, any future action by a Regional Water Board, including the Central Coast Water Board, to adopt a regional watershed process-based approach would be subject to petitions for review by the State Water Board.</p>
49	4	Statewide Stormwater Coalition - Steven Adams et al	Attachment J	Central Coast Post Construction Requirements	<p>With respect to the Attachment J standards, the necessity of retaining and infiltrating more than the 85th percentile, 24-hour storm is not clear. While the 95th percentile storm is used on federal projects, federal regulations provide an alternative in cases where less than the 95th percentile storm can be shown to represent the undeveloped infiltration capacity of the land. This alternative has not been incorporated into the requirements found in Attachment J. Additionally, application of the multiplier 1.963 to both the Water Quality 85th percentile treatment requirement and the 95th/85th percentile infiltration requirement is excessive and should be evaluated prior to</p>	<p>Please see response to comment number 3.</p>

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					adoption of this permit by the State Water Board. Comments from CASQA to the Central Coast Regional Water Quality Control Board (dated July 6, 2012 and included as Attachment B to this letter concerning the Central Coast specific post-construction standards related to the 95t percentile event state that the requirement is "unreasonable, infeasible for many projects, has no demonstrated additional environmental benefit, and are not cost-effective."	
49	5	Statewide Stormwater Coalition - Steven Adams et al	Attachment J	Central Coast Post Construction Requirements	Developers will likely abandon efforts to create infill and smart growth projects in existing urbanized areas where it appears that retention measures must cover at least 10% of a project's Equivalent Impervious Surface Area, in favor of new development projects in rural areas outside of designated MS4s where these requirements do not apply. The loss of agricultural lands and open space, and resulting sprawl development, could easily negate any hoped-for water quality benefit. We recommend Attachment J be removed from the permit and Region 3 MS4s be allowed to implement the Post-Construction Provisions (E.12).	Please see response to comment number 3.
49	6	Statewide Stormwater Coalition - Steven Adams et al	Section D	Receiving Water Limitations	The revised permit added reopener language to address compliance with water quality standards in the receiving water or other provisions addressing an iterative process. The Coalition continues to urge the State Water Board revise the Receiving Water Limitations language and set forth clear processes for agencies to maintain permit compliance through an iterative process.	The discussion of the receiving water limitations in the Fact Sheet has been revised to clarify the State Water Board's position to date and to address the Supreme Court's recent decision reversing the Ninth Circuit judgment in NRDC v. LA County and remanding the case. The State Water Board heard from interested persons at the November 20, 2012, workshop held to consider receiving water limitations provisions in municipal storm water permits and the Board is evaluating options going forward. The State

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						Water Board considers the receiving water limitations question to be an important and complicated issue -- independent of the court ruling – and believes it requires careful consideration. The Board will continue to rely on the specific reopener clause at Section H to facilitate future revisions, if any, rather than delay consideration of adoption of the Phase II permit.
49	7	Statewide Stormwater Coalition - Steven Adams et al	E.7.	Public Education and Outreach	The revised permit requires use of "environmental and place-based, experiential learning" to educate school-aged children. Examples include the Splash ( <a href="http://www.sacsplash.org">www.sacsplash.org</a> ) or the Effie Yeaw Nature Center ( <a href="http://www.sacnaturecenter.net">www.sacnaturecenter.net</a> ). These types of programs are managed and directed by a non-profit organization not affiliated with a permittee. It is unclear how permittees are to show educational compliance through organizations they do not manage and over which they have not control. While these programs are an educational asset to the local community they serve, these programs may only have an indirect connection to stormwater quality education, at best.	Staff does not agree. There is a clear nexus to these programs and storm water quality education. There is a shift towards environmental and place-based, experiential learning to educate school-aged children as cited in America's Great Outdoors: A Promise to Future Generations, February 2011, Youth Report. The nation's youth have complained about the lack of environmental education built into school curriculum and the cutbacks in field trips to the outdoors. The return on youth who participate in field trips and learn more about storm water quality is great. For many, the only nature youth see during the school day are the images in textbooks or the window of a school bus.  To clarify, to demonstrate compliance with this provision, Permittees must coordinate field trips with these programs or coordinate storm water messaging if the programs exist in their local area.  Permittees do not direct work of these organizations but use these organizations to full-fill their school-age outreach and education provision.
49	8	Statewide Stormwater Coalition - Steven	Throughout	General	While improved over the last version, the revised permit continues to include ambiguous,	Comment noted.

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		Adams et al			inconsistent or illogical requirements.	
49	9	Statewide Stormwater Coalition - Steven Adams et al	A	NOI	Section A of the Order requires a renewal permittee to file a Notice of Intent (NOI) and pay its annual stormwater fee to the State Water Board. The permit does not state when the NOI and fees must be submitted for renewal permittees. Is one to assume the NOI and fees must be paid by renewal permittees within six months of the General Permit effective date as this is the requirement set forth for new permittees? The ambiguity improperly burdens permittees with the additional risk inherent in having to act on inferences and assumptions.	Please see Finding 45. To apply for General Permit coverage authorizing storm water discharges to surface waters pursuant to this Order, the Permittees shall electronically file a Notice of Intent (NOI) using SMARTS and mail the appropriate permit fee to the State Water Board by July 1, 2013. The permit effective date is no less than 100 days from the adoption date of the permit (June 25, 2013).
49	10	Statewide Stormwater Coalition - Steven Adams et al	Throughout	Effective Date	It is unclear what the "effective date" of the permit will be. Attachment I, Glossary, includes a definition for "Permit Effective Date" and states, "The date at least 50 days after General Permit adoption, provided the Regional Administrator of U.S. EPA Region 9 has no objection." Are permittees to assume the effective date will be 50 days (are these calendar days?) from the State Water Board Hearing where the permit is adopted? If not, how will permittees be notified as to the "effective date" of the permit? Many requirements within the permit are tied to this date.	This permit provision has been revised to address this comment. The permit effective date is no less than 100 days from the adoption date of the permit (June 25, 2013). NOI filing date is set at July 1, 2013.
49	11	Statewide Stormwater Coalition - Steven Adams et al	E.6.b.(ii)(e)	Program Management	Section E.6.b (ii) (e) requires a permittee to certify within the first year that it will implement enforcement actions consistent with the Enforcement Response Plan (ERP) developed according to Section E.6.c. However the ERP is not required until the third year. How is a permittee to certify implementation of a document that does not yet exist? Why is this particular certification even necessary?	This permit provision has been revised to address this comment.

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49	12	Statewide Stormwater Coalition - Steven Adams et al	E.7.	CBSM	Section E.7 states "The Regional Board Executive Officer shall notify Permittees within three months of the permit adoption date..." It appears compliance timelines within the permit are tied to the permit effective date. Why is this tied to the permit adoption date? Additional confusion and difficulty with compliance are likely to result.	The Fact Sheet has been revised to discuss Regional Board discretion to invoke CBSM.
49	13	Statewide Stormwater Coalition - Steven Adams et al	Throughout	General	<p>We appreciate the opportunity to comment and for all of the reasons detailed in the Best, Best &amp; Krieger letter, as well as these additional practical considerations, the State Water Board should:</p> <ul style="list-style-type: none"> <li>• Remove Attachment J and allow Central Coast MS4s to comply with the general order post-construction standards;</li> <li>• Revise Receiving Water Limitations language prior to permit adoption rather than including a reopener to address the topic at some unknown time in the future;</li> <li>• Revise the educational requirements to match those previously included in the 2nd draft of the permit;</li> <li>• Revise language to clear up ambiguous or inconsistent requirements as detailed in this letter and within Attachment A.</li> </ul>	Comment noted. Please see responses below to your concerns regarding Attachment J, Receiving Water Limitations language, education requirements, and Attachment A.
49	14	Statewide Stormwater Coalition - Steven Adams et al	Section D	Receiving Water Limitations	Because of the significance of the receiving water limitations language, we have concerns about both the permit reopener language in Section I, page 140 of the Draft Permit and the discussion of the issue in Section XI, pages 25-26 of the Draft Fact Sheet. First, rather than	The discussion of the receiving water limitations in the Fact Sheet has been revised to clarify the State Water Board's position to date and to address the Supreme Court's recent decision reversing the Ninth Circuit judgment in NRDC v. LA County and remanding the case. The State

Comment Letter #	Comment #	Agency/Name of Commenter	Section	Category	Comment Summary	Response
					<p>include the reopener that is contained in Section I, page 140 of the Draft Permit, the State Board should address the issue now before adopting the final Permit. As Permittees move forward with implementation of the final Permit, they need regulatory certainty about Permit compliance. In light of the uncertainty surrounding the State Board's Orders WQ 99-05 and 2001•15 and the recent 9th Circuit decision, resolving this issue before adoption of the final Permit would provide needed regulatory certainty. The reopener only creates more uncertainty, both by allowing the current language to remain unaddressed and by putting in place a process that might reopen the new Permit on this crucial issue soon after Permit adoption. This approach simply defers resolution of this key issue.</p>	<p>Water Board heard from interested persons at the November 20, 2012, workshop held to consider receiving water limitations provisions in municipal storm water permits and the Board is evaluating options going forward. The State Water Board considers the receiving water limitations question to be an important and complicated issue -- independent of the court ruling – and believes it requires careful consideration. The Board will continue to rely on the specific reopener clause at Section H to facilitate future revisions, if any, rather than delay consideration of adoption of the Phase II permit.</p>
49	15	Statewide Stormwater Coalition - Steven Adams et al	Section D	Receiving Water Limitations	<p>Second, Section XI, pages 25-26 of the Draft Fact Sheet adds unnecessary language that conflicts with the reopener concept and with the State Board's ongoing consideration of the receiving water limitations language. Of particular concern is the sentence that reads as follows: "The Ninth Circuit holding is consistent with the position of the State Water Board and Regional Water Boards that exceedances of water quality standards in an MS4 permit constitute violations of permit terms subject to enforcement by the Boards or through a citizen suit." This sentence is inconsistent with the language of State Board Order WQ 2001-15, which makes clear that the State Board's precedential language "does not require strict compliance with water quality standards" and that compliance is to be "achieved over time, through an</p>	<p>Please see response to comment number 14.</p>

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					iterative approach requiring improved BMPs." Notably, the Draft Fact Sheet does not even mention Order 2001-15, even though Order 2001-15 is the State Board's last official policy statement on the issue.	
49	16	Statewide Stormwater Coalition - Steven Adams et al	Section D	Receiving Water Limitations	The revised discussion of the receiving water limitation language in the Draft Fact Sheet is also inconsistent with the undeniable reality, as reflected in multiple TMDL implementation plans for a wide variety of pollutants, that compliance with many water quality standards will take time, as much as twenty years in some cases. Given the ongoing State Board process to consider the receiving water limitations language, the State Board should not include policy statements on the issue in the Draft Fact Sheet. If the State Board does not address the issue before Permit adoption, the Draft Fact Sheet need only say that the receiving water limitations language in the Draft Permit is based on State Board Order WQ 99-05, and note that the State Board is currently engaged in a process to consider whether that precedential language needs to be updated.	Please see response to comment number 14.
49	17	Statewide Stormwater Coalition - Steven Adams et al	Section D	Receiving Water Limitations	For these reasons, the State Board should delete the new reopener related to the receiving water limitations language and address the issue now. At a minimum, the State Board should instruct staff to eliminate the language in the Draft Fact Sheet that "prejudges" the issue and prevents the State Board from continuing to have an open and productive dialogue on the need for regulatory certainty regarding compliance with water quality standards in MS4 permits.	Please see response to comment number 14.

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49	18	Statewide Stormwater Coalition - Steven Adams et al	Attachment J	Central Coast Post Construction Requirements	<p>First, in addition to the many technical problems with Attachment J itself, which are fully explained in the CASQA comment letter, the State Board's adoption of Attachment J creates procedural concerns. Many stakeholders in the Central Coast Region supported the process leading up to the development of the Post-Construction Requirements, but objected to the final document, particularly to key portions that were added late in the process, without an opportunity for meaningful public comment. To adopt these requirements itself, the State Board must rehear all of these issues and cannot simply adopt the Post-Construction Requirements on its own as part of the Phase II Permit, without a much larger public process and defensible record. In addition, if the State Board were to adopt the Post-Construction Requirements as its own, amendments at the Regional Board level would be prohibited, and needed corrections or refinements of the document would thereby be precluded. The State Board would have to amend the document. This approach might lead to different versions of the Post-Construction Requirements being used. In fact, we are informed and believe that the language in Attachment J does not accurately reflect the language of the document actually being used by the Central Coast Regional Board, because the Central Coast Regional Board staff has already discovered and made needed corrections to the document.</p> <p>To avoid all of these issues, a better approach would be to eliminate the express "carve out"</p>	Please see response to comment number 3.

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					for the Central Coast Region, and merely adopt the other post-construction requirements already contained in the Draft Permit. The Central Coast Regional Board could use its own authority and other language in the Draft Permit to decide how it will implement its recently adopted Post-Construction Requirements.	
49	19	Statewide Stormwater Coalition - Steven Adams et al	Attachment J	Central Coast Post Construction Requirements	Second, the concerns expressed above are compounded by the discussion of the issue contained on page 39 of the Draft Fact Sheet, especially footnote 31. Among other things, footnote 31 purports, through this permitting action, to reject an entirely separate quasi-judicial petition process that some of the Central Coast Permittees have commenced to challenge the Post-Construction Requirements. Moreover, the footnote expresses an intent to apply the Post-Construction Requirements in the future to the "remainder of the State." Given the large diversity of watersheds and corresponding watershed processes in the State, such an approach is not warranted.	Please see response to comment number 3.
49	20	Statewide Stormwater Coalition - Steven Adams et al	Attachment J	Central Coast Post Construction Requirements	For these reasons, the State Board should not incorporate the Post-Construction Requirements or include the Central Coast Region "carve-out". In addition, the State Board should delete the discussion of the issue in the Draft Fact Sheet, especially footnote 31.	Please see response to comment number 3.

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49	21	Statewide Stormwater Coalition - Steven Adams et al	Throughout	Regional Board Discretion	<p>Revisions to Section E.1.b on pages 20 and 21 and Section E. 7 on page 28 of the Draft Permit attempt to establish procedural constraints on the unilateral power of a Regional Board Executive Officer ("EO") to compel deviations from the uniform standards of the Permit. Specifically, the revisions to Section E.1.b establish a process for the compelled continuation of existing SWMPs and the revisions to Section E.7 now require an EO to at least provide a "statement of reasons" when implementation of Community-Based Social Marketing ("CBSM") is compelled. Although these revisions provide better guidance on how the EO's unilateral power may be exercised, they underscore the basic problem with this unilateral approach. Continuation of existing SWMPs should be elective to the Permittee, subject to Regional Board EO review and approval. The authority to compel use of CBSM should be deleted.</p> <p>For these reasons, the State Board should amend Section E.1.b to make continuation of existing SWMPs elective to the Permittee, subject to Regional Board EO review and approval, and should delete the reference to CBSM in Section E. 7.</p>	<p>This permit provision has been deleted. New provisions have been added to the Order that does not support "wholesale" storm water program continuation. Instead, a new provision has been added during the submittal of a Renewal Permittees' Guidance Document. This provision supports individual BMPs designed to address locality-specific storm water issues. Renewal Permittees summarize BMPs they propose to maintain, reduce, or cease implementation, but cannot implement a BMP for a specific program element below the permit baseline.</p> <p>In addition, the Fact Sheet has been revised to discuss Regional Board discretion to invoke CBSM.</p>
49	22	Statewide Stormwater Coalition - Steven Adams et al	Section H	Dispute Resolution	<p>Section H on pages 139-140 of the Draft Permit adds a new dispute resolution process. This informal administrative review process may be useful to both Permittees and the Water Boards in efficiently resolving disputes in a voluntary fashion. As noted on page 17 of the Draft Fact Sheet, this informal review process might also</p>	<p>The Dispute Resolution provision and the Fact Sheet discussion have been revised to clarify the interplay between the Dispute Resolution process and the petition process. Where the Regional Water Board Executive Officer exercises discretion in interpreting or implementing the Permit, the Regional Water Board Executive</p>

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					<p>provide some level of statewide consistency to the interpretation of the Permit. However, both Section H of the Draft Permit and page 17 of the Draft Fact Sheet need to be further revised to acknowledge that participation in this dispute resolution process would be voluntary and that the process is not, and cannot be, a replacement for the right to petition provided in Water Code section 13320. To the extent a Permittee has a legal right to challenge an action of the Regional Board or an action of a Regional Board EO, the State Board cannot deprive a Permittee of that right merely by including this new dispute resolution process in the Draft Permit. Of course, the State Board cannot amend the Water Code.</p> <p>For these reasons, Section H on pages 139-140 of the Draft Permit and page 17 of the Draft Fact Sheet should be revised to acknowledge that the dispute resolution process is voluntary and does not negate the rights of a Permittee to use the formal petition process found in Water Code section 13320.</p>	<p>Officer is considered to be acting as an agent of the State Water Board under this State Water Board-issued general permit. Those actions are actions of the State Water Board rather than actions of the Regional Water Board and therefore not petitionable actions under Water Code 13320. (However, actions may be subject to a petition for writ of mandate for review in Superior Court under Water Code 13330). Because the petition process is not available to dischargers in such cases, the Dispute Resolution provision has been revised to extend the time limit for submitting a request for dispute resolution from 10 days to 30 days. The revisions also make it clear that actions taken by the Regional Water Board itself or by the Executive Officer under authority independent of the permit terms, as under Water Code 13300, 13304, or 13383, are actions subject to a petition pursuant to Water Code 13320.</p>
49	23	Statewide Stormwater Coalition - Steven Adams et al	Finding 31	Regional Board Discretion	<p>Finding 31 has been revised to refer to the power of a Regional Board EO to compel a Permittee to continue its existing SWMP. For the reasons expressed in Section I.3 of this letter, the revisions to Finding 31 should be deleted or revised to make the continuation of a SWMP elective to the Permittee, subject to Regional Board EO review and approval.</p>	<p>This finding has been deleted for this Order.</p>
49	24	Statewide Stormwater Coalition - Steven Adams et al	Finding 38	Receiving Water Limitations	<p>Finding 38 has been revised to add references to the November 20, 2012 workshop on receiving water limitations and the addition of the Section reopener. For the</p>	<p>Please see response to comment number 14.</p>

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					reasons expressed in Section 1.1 of this letter, these revisions to Finding 38 should be deleted and the State Board should address the receiving water limitations language before adoption of the Permit.	
49	25	Statewide Stormwater Coalition - Steven Adams et al	Finding 39	Discharge Prohibitions	State Board staff's attempt to allow for flexibility regarding dry weather diversions is appreciated. However, it is recommended that the Draft Permit use the express words required by the Clean Water Act. The Clean Water Act requires that MS4 permits include a requirement to effectively prohibit non-stormwater discharges into (not through) the storm sewers. Using a word different than required by the Act creates ambiguity and may be interpreted to broaden the "effectively prohibit" requirement. State Board staff could address any concerns about dry weather diversions by adding express language in the Draft Permit that non-storm water discharges into the MS4 that are diverted to the sanitary sewer system are not prohibited. This would be a better approach to addressing any concerns about dry weather diversions without creating ambiguity or deviating from the express language of the Clean Water Act.	Staff does not believe that there is any substantive difference between the use of the word "through" in the proposed Final Order and the language proposed by the commenter. In any case, the State Water Board cannot broaden its authority vis-à-vis requiring dischargers to "effectively prohibit" non-storm water discharges beyond the authority granted in the Clean Water Act. For a discussion of the State Water Board's legal authority for this provision, please see the Fact Sheet at pages 23-24.
49	26	Statewide Stormwater Coalition - Steven Adams et al	Finding 42	Central Coast Post Construction Requirements	As explained in Section 1.2 of this letter, by adopting the Central Coast's Post-Construction Requirements as State Board requirements, the State Board would be committing itself to specific and unique watershed process-based criteria that it did not develop. Not only would this restrict the State Board's consideration of the issue but it would also limit the ability of the Central Coast to amend or refine the Post-Construction Requirements. To avoid both of these results, the State	Please see response to comment number 3.

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					Board should delete the Central Coast "carve out" and should not adopt the Post-Construction Requirements as its own.	
49	27	Statewide Stormwater Coalition - Steven Adams et al	A.1.a.	NOI	Section A.1.a has been revised to provide that Renewal Permittees must electronically file an NOI via SMARTS and pay the appropriate application fee to the State Board. It is recommended that Section A.1.a include a specific date or time period in which Renewal Permittees must take these actions.	This permit provision has been revised to address this comment.
49	28	Statewide Stormwater Coalition - Steven Adams et al	Section B.3.	Discharge Prohibitions	Section B.3. has been revised to provide that discharges "through the MS4" shall be effectively prohibited. For the reasons explained in Section III of this letter in connection with Finding 39, please use the word "into" rather than the word "through." To address the dry weather diversion issue, please expressly provide in Section B.3 that dry weather diversions do not violation the "effectively prohibit" requirement.	Please see response to comment number 25.
49	29	Statewide Stormwater Coalition - Steven Adams et al	Section B.4.	Incidental Runoff	Section B.4 has been revised to attempt to clarify both what constitutes incidental runoff which, if controlled, is not prohibited non-stormwater and what constitutes prohibited excess runoff. However, the revisions to Section B.4 are ambiguous. Section B.4 provides that discharges "in excess of an amount deemed to be incidental" shall be controlled. But Section B.4 also provides that non-storm water runoff discharge that is not incidental (that is, which is "excess" runoff) is prohibited. These two provisions create an ambiguity about whether "excess" runoff is permitted, subject to controls, or is prohibited. The first part of Section 8.4 suggests the former but the second part of Section B.4 states the latter. A similar ambiguity exists	Staff does not agree that the revised language creates ambiguity. The definition of incidental runoff includes the unintended amount (volume) of water that escapes the area of intended use. Discharges that are in excess of an amount that is deemed to incidental (as defined above) are allowed if certain controls are implemented.

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					<p>regarding what runoff is subject to the controls described in Sections B.4.a-d. Section B.4 first provides that Permittees must require parties responsible for the runoff to control the "incidental runoff" by taking the steps outlined in Sections B.4.a-d. It then provides that parties responsible for controlling "runoff in excess of incidental runoff" shall take the steps described in Sections B.4.a-d. These two provisions create an ambiguity about whether the steps described in Sections B.4.a-d address incidental runoff or excess runoff and whether taking the steps outlined in Section B.4.a-d makes the runoff excusable. These ambiguities should be clarified. What the ambiguities reveal is that a better approach to irrigation runoff would be to allow the Permittees to address controls on such non--stormwater in their own ways within the context of their own programs.</p>	
49	30	Statewide Stormwater Coalition - Steven Adams et al	E.1.b.	Regional Board Discretion	<p>Section E.1.b adds new procedures that must be followed when a Regional Board EO unilaterally compels a Permittee to continue its SWMP. For the reasons expressed in Section 1.3 of this letter, these new procedures should only apply when the Permittee requests to continue its SWMP.</p>	<p>This permit provision has been deleted. New provisions have been added to the Order that does not support "wholesale" storm water program continuation. Instead, a new provision has been added during the submittal of a Renewal Permittees' Guidance Document. This provision supports individual BMPs designed to address locality-specific storm water issues. Renewal Permittees summarize BMPs they propose to maintain, reduce, or cease implementation, but cannot implement a BMP for a specific program element below the permit baseline.</p>
49	31	Statewide Stormwater Coalition - Steven Adams et al	E.6.a.(ii)(a)	Discharge Prohibitions	<p>Section E.6.a.(ii).(a) has been revised to delete the words "and eliminate" and to add the word "through" regarding the need for legal</p>	<p>Please see response comment number 25. The word "effectively" has been inserted before</p>

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					authority to implement the "effectively prohibit" requirement. The deletion of the words "and eliminate" is appreciated. For the reasons expressed in Section II.3 of this letter regarding Finding 39, the word "through" should be replaced with the word "into" as provided in the Clean Water Act. In addition, please insert the word "effectively" before the first word "prohibit" in this provision.	"prohibit" in response to this Comment.
49	32	Statewide Stormwater Coalition - Steven Adams et al	E.6.b.(i)	Program Management	Section E.6.b.(i) has been revised to require a certification of legal authority within the first year of the Permit. This revision appears to create ambiguities because certain aspects of the required legal authority are not required until later in the Permit cycle. These timing ambiguities should be addressed. While Renewal Traditional MS4s likely have sufficient existing legal authority to implement many of the requirements of the Permit, New Traditional MS.4s will not immediately have that authority in many cases. More time should be provided to make the required certification or the certification requirement should be restated so that the Permittee certifies that it has, or will have when required, and will maintain, full legal authority to implement and enforce the requirements of the Permit.	This permit provision has been revised to address this comment.
49	33	Statewide Stormwater Coalition - Steven Adams et al	E.7	CBSM	Section E.7 has been revised to require a Regional Board EO to provide a "statement of reasons" why a Permittee must implement Community-Based Social Marketing ("CBSM") and further revised to provide that such a decision may be reviewed by the State Board EO upon a request of the Permittee. For the reasons explained in Section 1.3 of this letter, these revisions should be deleted along with any reference to the CBSM approach.	Please see response to comment number 12.

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49	34	Statewide Stormwater Coalition - Steven Adams et al	E.7.a.(ii).(j)	Public Education and Outreach	<p>Section E.7.a.(ii).(j) has been revised to require Permittees to "effectively educate school-age children about storm water runoff and how they can help protect water quality habitat in their local watershed(s)." Traditional MS4s are not responsible for education of school-age children; education of school-age children is in obligation of the State. It is not appropriate to push the education of school-age children onto Traditional MS4s, especially because the State Board has elected to exempt school districts from the Permit. It may very well be that Permittees decide that such education is an important part of their programs, but that decision should be left to the Permittees.</p>	<p>Staff does not agree. School-age education plays an integral role in any stormwater pollution outreach program. Providing stormwater education through schools conveys the message not only to students but to their parents. Their future behavior may negatively impact storm water run-off quality if not educated appropriately. The nation’s youth have complained about the lack of environmental education built into school curriculum and the cutbacks in field trips to the outdoors. For many, the only nature youth see during the school day are the images in textbooks or the window of a school bus as cited in America’s Great Outdoors: A Promise to Future Generations, February 2011, Youth Report.</p> <p>Furthermore, although K-12 schools were not designated adoption of this Order, the Regional Water Boards have greater knowledge and expertise as to the specific storm water issues in their region and may exercise their discretion accordingly, as specified in (Wat. Code §13377.) and designate any all K-12 schools after this Order is adopted.</p>
49	35	Statewide Stormwater Coalition - Steven Adams et al	E.7.b.2.(a).(ii).(a) and (b)	Public Education and Outreach	<p>Section E.7.b.2.(a).(ii).(a) and (b) has been revised to clarify the requirement to have both a QSD and a QSP on staff. The added language that a "designated person on staff" who possesses the required credential(s) provides some needed flexibility to Permittees. However, particularly as it relates</p>	<p>Staff does not agree. No exemption has been made for certain Permittees to require both a QSD and a QSP on staff. Trained staff is essential with respect to a “level playing field” of construction site knowledge.</p>

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					to New Traditional MS4s, these requirements may still be a large burden on many Permittees. The State Board should consider including an exemption for certain Permittees, especially New Traditional MS4s.	
49	36	Statewide Stormwater Coalition - Steven Adams et al	Sections E.9.a and E.9.c	Illicit Discharge Detection and Elimination	<p>Sections E.9.a and E.9.c have been revised to clarify outfall mapping requirements and outfall field sampling obligations. These revisions and all other requirements of the Draft Permit that are linked to the term "outfall" should be reconsidered in light of the new definition of "outfall" contained in Attachment I, which is based on the definition contained in 40 CFR 122.26(b)(9). The newly added definition makes an "outfall" any "point source". This new definition, if directly applied to Section E.9.a and E.9.c, could dramatically expand the Permit's obligations. Having to map and sample "any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutant are or may be discharged" at the point where the MS4 discharges to waters of the United States might be an impossible task. It is recommended that a more reasonable definition of outfall, based on pipe size, be used in Sections E.9.a, E.9.c and other related provisions of the Permit.</p>	<p>Staff does not agree that outfall sizes for Section E.9. should be revised. An illicit discharge could directly discharge into a receiving water body by way of any outfall. Additionally, both EPA and CWP recommend mapping and sampling of all outfalls located within the urbanized area (<a href="http://cfpub.epa.gov/npdes/stormwater/idde.cfm">http://cfpub.epa.gov/npdes/stormwater/idde.cfm</a>).</p>

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49	37	Statewide Stormwater Coalition - Steven Adams et al	E.9.b.(ii).(e)	Illicit Discharge Detection and Elimination	Section E.9.b.(ii).(e) on page 39 has been revised to add back into the Draft Permit a form of industrial and commercial inspection program. The revisions would require Permittees to inspect certain designated industrial and commercial facilities at least once during the Permit term. These revisions should be deleted from the Draft Permit. Indeed, the Draft Fact Sheet represents on page 11 that the industrial and commercial inspection program has been deleted from the Draft Permit to reduce costs. Such a program, even in this revised form, should not be added back into the Draft Permit.	This permit provision has been revised to address the comment.
49	38	Statewide Stormwater Coalition - Steven Adams et al	E.10.c.(ii)	Construction	Section E.10.c.(ii) on page 47 has been revised to insert certain "recommended" construction inspection frequencies. To avoid ambiguity about the enforceable requirements of the Draft Permit, these "recommended" inspection frequencies should be deleted. This would be consistent with the statement on page 11 of the Draft Fact Sheet that the "mandatory" construction inspection frequencies have been deleted from the Permit. If the State Board believes that it is important to provide a "recommendation" about when inspections should occur, it should include those "recommendations" in the Fact Sheet or other guidance document, not in the Permit itself.	This permit provision has been revised to address the comment.
49	39	Statewide Stormwater Coalition - Steven Adams et al	E.11.j.(ii).(b).(2).(h)	Pollution Prevention/Good Housekeeping	Section E.11.j.(ii).(b).(2).(h) has been revised to require that Permittees prohibit application of pesticides, herbicides and fertilizers "as required by the regulations recently enacted by the Department of Pesticide Regulation." This added phrase is	This permit provision has been revised to address the comment to clarify the following regulation: DPR 11-004 Prevention of Surface Water Contamination by Pesticides

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					ambiguous. It could be interpreted to refer to specific regulations adopted near the time the State Board adopts the Permit or it could impose a continuing obligation on Permittees. Please clarify this ambiguity.	
49	40	Statewide Stormwater Coalition - Steven Adams et al	E.12.g.(i) and (ii).(a)	Post Construction Storm Water Management	Sections E.12.g.(i) and (ii) have been revised to require an O&M Verification Program for certain "Regulated Project greater than 5,000 square feet." This creates a potential ambiguity because Section E.12.c.(ii) of the Draft Permit defines "Regulated Projects" to mean "all projects that create and/or replace 5,000 square feet or more of impervious surface." Because the term "Regulated Projects" is defined as projects that create and/or replace 5,000 square feet or more of impervious surface, it is unclear why the phrase "Regulated Project greater than 5,000 square feet" is used, since all Regulated Projects should have that minimum impervious surface size. To avoid the implication that there are Regulated Projects less than 5,000 square feet in size, it is recommended that the defined term "Regulated Project" be used consistently.	This permit provision has been revised to address this comment.
49	41	Statewide Stormwater Coalition - Steven Adams et al	E.12.i.(i)	Post Construction Storm Water Management	Section E.12.i.(i) has been revised to, at least in part, better recognize that planning and land use are a municipal function within the discretion of municipalities, subject to applicable law. However, Section E.12.i.(i) uses the term "landscape code", which is not necessarily a uniform "term of art" that all Permittees follow. The State Board may wish to clarify this term so the scope of the related requirements is clear.	This permit provision has been revised to address this comment.
49	42	Statewide Stormwater Coalition - Steven Adams et al	E.12.j	Central Coast Post	Section E.12.j has been revised to incorporate new Attachment J and thereby adopt the	Please see response to comment number 3.

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		Adams et al		Construction Requirements	Post-Construction Requirements of the Central Coast. For the reasons stated in Section I.2 of this letter, these revisions, as well as the entire Section E.I2.j and Attachment J, should be deleted.	
49	43	Statewide Stormwater Coalition - Steven Adams et al	E.I3.(1)-(4)	Monitoring	Section E.I3.(1)-(4) has been revised to attempt to clarify monitoring requirements. Specifically, the following new sentence has been added: "Traditional Small MS4 Permittees that are already conducting monitoring of discharges to ASBS, TMDL and 303(d) impaired water bodies are not required to perform additional monitoring as specified in E.I3.a and E.I3.b." (Emphasis added.) The use of the emphasized word "and" creates an ambiguity and appears to be used in error. It would appear that the word "or" should be used. That would eliminate the ambiguity and remain consistent with Section E.I3.(4), which uses the word "or". This change would make it clear that the additional monitoring in E.I3.a and b only apply to Traditional MS4 Permittees with a population greater than 50,000 that are not already conducting ASBS, TMDL or 303(d) monitoring.	This permit provision has been revised to address this comment.
49	44	Statewide Stormwater Coalition - Steven Adams et al	E.I3.a.(i)	Monitoring	Section E.I3.a.(i) has been revised to address receive1vmg water monitoring requirements. The revised language states, in part, that Permittees "may establish a monitoring fund into which all new develop contributes on a proportional basis ...." The ability of Permittees to establish such a fee on new development is governed by State law and this reference should be deleted.	The establishment of a monitoring fund is not a mandatory requirement but rather provided as guidance for the Permittee to assist in funding their monitoring program. Staff does not agree that it should be deleted.

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49	45	Statewide Stormwater Coalition - Steven Adams et al	E.14.a.(ii).(9)	Program Effectiveness	Section E.14.a.(ii).(9) has been revised to require that the Program Effectiveness Assessment and Improvement Plan must include the "[i]dentification of long-term effectiveness assessment, to be implemented beyond the permit term." This new provision should be deleted since it seeks to impose requirements beyond the limited term of the Permit.	The Program Effectiveness Assessment and Improvement Plan includes short-term and long-term analyses. It is important for Permittees to initiate planning for long-term effectiveness. This Order does not require the Permittee to implement measures past the permit term, instead, the language requires Permittees to consider long term questions in order to adaptively manage their programs. Adaptive management is the appropriate process for assessing new opportunities for improving program effectiveness in controlling storm water pollution.
49	46	Statewide Stormwater Coalition - Steven Adams et al	E.15.c	Receiving Water Limitations and TMDLs	Section E.15.c has been revised to require the Regional Boards to review the TMDL-specific permit requirements in Attachment G and to develop or propose revisions, after consultation with Permittees and State Board staff, within one-year rather than six months. Providing additional time to consider TMDL conditions is appropriate. The State Board should consider further revisions to Section E.15.c to provide guidance on how TMDL-specific permit requirements should be addressed. Specifically, TMDL-specific permit requirements should be addressed through BMP-based approaches to achieving the WLAs of the TMDL. They should also be consistent with the requirements of the implementation plans for the TMDL, and should not change the approaches and timeframes contained in those plans. The State Board should also address, at this time, the relationship between TMDL-specific permit requirements and the receiving water limitations language. Based upon comments at the November workshop, there appeared to be general	<p>Provision E.15.c.already states that any TMDL-specific permit requirements developed by the Regional Water Boards "shall be supported by an explanation of how the proposed TMDL-specific permit requirements are consistent with the assumptions and requirements of applicable WLAs and with the goals of the TMDL." Staff believes that this statement at least in part captures commenter's request for direction to the Regional Water Boards on development of TMDL-specific permit requirements. Staff does not agree that the direction to the Regional Water Boards should be narrowed further. As made clear in the Fact Sheet, the State Water Board anticipates a joint process that will involve Regional Water Board staff, State Water Board staff, and dischargers in determining the appropriate TMDL-specific permit requirements.</p> <p>Regarding the link between TMDL implementation plans and the receiving water limitations language, the State Water Board considers the receiving water limitations question to be an important and complicated issue and</p>

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					<p>consensus, including from U.S. EPA, that a Permittee should not be considered to be in violation of the receiving water limitations language when the Permittee is acting in compliance with an implementation plan for a TMDL. In light of this consensus, the State Board should include language in Section E.15 and Section D of the Draft Permit that verifies that compliance with an implementation plan for a TMDL also is compliance with the Permit, including with the Permit's receiving water limitations provisions.</p>	<p>believes it requires careful consideration. The Board will continue to rely on the specific reopener clause at Section H to facilitate future revisions, if any, rather than delay consideration of adoption of the Phase II permit. Although there may be significant support among stakeholders for linking receiving water limitations language to TMDL implementation plans as suggested by the commenter, the State Water Board believes that the most productive process is for the Board to consider all the issues and alternatives together and not to engage in piecemeal revisions to the receiving water limitations provisions.</p>
49	47	Statewide Stormwater Coalition - Steven Adams et al	E.16.c	Reporting	<p>Section E.16.c has been revised to authorize a Regional Board EO to require detailed written online annual reporting or an in-person presentation of the annual report. This new provision is unnecessary. In accordance with Water Code section 13267, Regional Boards already have certain authority to require technical or monitoring program reports in connection with their review of any waste discharge requirements. Rather than having this language in the Permit, Regional Boards should follow the requirements of Water Code section 13267. This would allow Regional Boards to require additional reporting in the unique cases when it is needed, but would not encourage over-reporting, which would likely be the result of the revisions to Section E.16.c.</p>	<p>Earlier drafts of the Order required significantly more detailed annual reporting. Staff removed those requirements in order to decrease the reporting burden on dischargers, but Provision E.16.c. was added to make it clear that, where a Regional Water Board believes there are circumstances warranting more detailed reporting, the Regional Water Board can request such detail. Although the commenter is correct that the Regional Water Board has independent authority to require reporting regardless of Provision E.16.c., staff continues to believe that Provision E.16.c. should remain in the proposed Final Order for sake of clarity.</p>
49	48	Statewide Stormwater Coalition - Steven Adams et al	Section H	Dispute Resolution	<p>Section H has been added to create a dispute resolution process. Based upon the more detailed comments in Section 1.4 of this letter,</p>	<p>Please see response to CASQA comment number 5.</p>

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					Section H should be revised to make clear that this process is voluntary and does not change the rights of a Permittee under Water Code section 13320 to petition to the State Board in specified cases.	
49	49	Statewide Stormwater Coalition - Steven Adams et al	Section I.4 and 5	Permit Re-openers	Sections I.4 and I.5 have been added to create reopeners to address the receiving water limitations language and watershed based criteria for hydromodification measures. These reopeners should be deleted or modified. The State Board should address the receiving water limitations language before Permit adoption, and thus the reopener on this issue is not required. The reopener regarding watershed based criteria should be eliminated to allow Permittees the full five-year Permit term to implement the provisions in Section E.12.	Regarding Provision I.4, see response to CASQA comment number 1.  Regarding Provision I.5, although that provision has not been deleted from the proposed Final Order, staff has revised the discussion in the Fact Sheet to state that staff expects the process of developing watershed-based criteria for hydromodification to take the full five years of this permit term. Therefore, staff does not anticipate that the State Water Board will invoke that provision. Rather, staff expects that state-wide watershed-based criteria for hydromodification will be incorporated into the next five-year permit.
49	50	Statewide Stormwater Coalition - Steven Adams et al	Attachments A and B	Designations	Attachments A and B do not appear to correlate with the revisions made to the designations on pages 74-81 of the Draft Fact Sheet. They also do not appear to accurately reflect the revised monitoring provisions of Section E.13. Attachment A and B should be revised accordingly.	This permit provision has been revised to address this comment.
49	51	Statewide Stormwater Coalition - Steven Adams et al	Attachment E	CBSM	Based upon the comments above regarding the revisions to Section E.7, Attachment E should be deleted.	Please see response to comment number 12.
49	52	Statewide Stormwater Coalition - Steven Adams et al	Attachment G	Receiving Water Limitations and TMDLs	Attachment G has been revised to amend certain TMDL-specific permit requirements and to add references to TMDLs from Region 4. As explained in Finding 41 and provided in Section E.I5.b, the provisions of Attachment G are intended to be enforceable requirements of the Permit. However,	TMDL-specific permit requirements for TMDLs established in the Los Angeles Regional Water Quality Control Board's region, which apply to non-Traditional MS4s in the region, have not been included in Attachment G. These TMDL-specific permit requirements will be developed during the one-year review period described above. The

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					<p>Attachment G is incomplete and continues to contain ambiguities regarding TMDL-specific permit requirements and the manner in which a Permittee is to comply with these enforceable requirements. It is recommended that only fully developed TMDL-specific permit requirements be included in Attachment G. It is further recommended that each TMDL-specific permit requirement be clear regarding the manner of compliance. Finally, as more fully explained in Sections 1.1 and II.24 of this letter, the provisions of Attachment G should be linked to the receiving water limitations provisions contained in Section D.</p>	<p>TMDLs themselves are listed only as placeholders as that process proceeds. Where a discharger believes there are ambiguities in Attachment G regarding specific permit requirements set out for other TMDLs, the discharger will be expected to work with the Regional Water Board to propose revisions during the one year review period provided.</p> <p>See also response to comment number 46.</p>
49	53	Statewide Stormwater Coalition - Steven Adams et al	Attachment I	Glossary	<p>Attachment I has been revised to, among other things, include a definition of the term "outfall." The definition of the term is taken from 40 CFR 122.26(b)(9). Because of the breadth of this definition, which makes an outfall any "point source" as defined in 40 CFR 122.2, it is recommended that the State Board consider adding a separate definition for "major outfall" or otherwise delineate a range of outfall sizes. Because Permittees are required to create and maintain an outfall map in accordance with Section E.9.a, perform sampling of outfalls in accordance with Section E.9.c and perform other activities at the "outfall", this newly added definition could significantly expand Permit requirements beyond reasonable implementation levels.</p>	<p>Comment noted. Staff does not agree to add a separate definition for "major outfall." An illicit discharge could directly discharge into a receiving water body by way of any outfall size. Additionally, both EPA and CWP recommend mapping and sampling of all outfalls located within the urbanized area (<a href="http://cfpub.epa.gov/npdes/stormwater/idde.cfm">http://cfpub.epa.gov/npdes/stormwater/idde.cfm</a>)</p>
49	54	Statewide Stormwater Coalition - Steven	Attachment J	Central Coast Post	<p>Attachment J has been added to incorporate the Post-Construction Requirements of the</p>	<p>Please see response to comment number 3.</p>

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		Adams et al		Construction Requirements	Central Coast Region into the Draft Permit. For the reasons expressed in Sections 1.2 and II.20, Attachment J should be deleted.	
49	55	Statewide Stormwater Coalition - Steven Adams et al	Section II - Fact Sheet	Regional Board Discretion	A new paragraph has been added to Section II on page 6 of the Draft Fact Sheet to explain the authority of a Regional Board EO to require a Permittee to continue its SWMP. For the reasons stated in Section 1.3 of this letter, this paragraph should be revised to make continuation of a SWMP a Permittee-driven process.	The Fact Sheet has been revised to address this comment.
49	56	Statewide Stormwater Coalition - Steven Adams et al	Section V - Fact Sheet	Regional Board Discretion	Section V on page 16 has been revised to explain why a Regional Board EO should have discretion to require expanded annual reporting, expanded educational programs and other deviations from the terms of the Draft Permit. For the reasons explained in this letter, this discretion should be eliminated or constrained.	Staff has made edits to the Dispute Resolution provision and to the Fact Sheet to further clarify the process for review of permit interpretation and implementation that requires Regional Water Board discretion. Although staff appreciates the suggestions made by CASQA and others to create a process whereby the Regional Water Board requests review by the State Water Board prior to exercising its discretion, staff believes that this proposed process will unnecessarily slow down implementation of the permit by involving the State Water Board management in every instance of discretion. Instead, staff continues to support a process whereby the discharger and the Regional Water Board initially attempt to come to agreement on the appropriate exercise of discretion and bring the issue for review to the State Water Board only if they are unable to come to agreement. The Dispute Resolution provision has been revised, however, to clarify the interplay between the Dispute Resolution process and the petition process. Where the Regional Water Board Executive Officer exercises discretion in interpreting or implementing the Permit, the Regional Water Board Executive Officer is considered to be acting as an agent of the State

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						<p>Water Board under this State Water Board-issued general permit. Those actions are actions of the State Water Board rather than actions of the Regional Water Board and therefore not petitionable actions under Water Code 13320. (However, actions may be subject to a petition for writ of mandate for review in Superior Court under Water Code 13330). Because the petition process is not available to dischargers in such cases, the Dispute Resolution provision has been revised to extend the time limit for submitting a request for dispute resolution from 10 days to 30 days. The revisions also make it clear that actions taken by the Regional Water Board itself or by the Executive Officer under authority independent of the permit terms, as under Water Code 13300, 13304, or 13383, are actions subject to a petition pursuant to Water Code 13320.</p>
49	57	Statewide Stormwater Coalition - Steven Adams et al	Section V - Fact Sheet	Dispute Resolution	<p>Section V on page 17 has been revised to add a new paragraph regarding the new dispute resolution provisions of the Draft Permit. For the reasons set forth above in Section I.4 of this letter, this paragraph should be revised to acknowledge that the Draft Permit cannot amend the Water Code or deprive Permittees of any right to petition provided in the Water Code.</p>	<p>Please see response to comment number 56.</p>
49	58	Statewide Stormwater Coalition - Steven Adams et al	Section VI - Fact Sheet	Regional Board Discretion	<p>Section VI on pages 17-18 has been revised to add an explanation of the process to be used when a Regional Board EO requires a Permittee to continue its existing SWMP. For the reasons set forth in Section 1.3 of this letter, this discussion should be revised to make the continuation of the SWMP a Permittee-driven process.</p>	<p>This permit provision has been deleted from this Order.</p>

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49	59	Statewide Stormwater Coalition - Steven Adams et al	Section IX - Fact Sheet	Discharge Prohibitions	Section IX has been revised to explain the use of the term "through the MS4" rather than "into the MS4" in connection with the requirement to effectively prohibit non--stormwater. For the reasons set forth in Section II.3 of this letter, the word "into" should be used and the use of dry weather diversion systems should be clarified to be a permitted non-- stormwater discharge.	Please see response to comment number 25.
49	60	Statewide Stormwater Coalition - Steven Adams et al	Section XI - Fact Sheet	Receiving Water Limitations	Section XI has been revised to explain the State Board's approach to the receiving water limitation language and the addition of the reopener in the Draft Permit to address this issue. For the reasons set forth in Section I.I of this letter, Section XI should be revised to either reflect that the State Board has addressed the issue in the Permit or, at a minimum, to allow the State Board to consider the issue at the policy level without being locked into a policy statement about the issue. State Board Order WQ 2001-15 should also be included in this discussion.	Please see response to comment number 14.
49	61	Statewide Stormwater Coalition - Steven Adams et al	Section XII - Fact Sheet	Public Education and Outreach	Section XII on page 29 has been revised to add a discussion of the new language in the Draft Permit related to the education of children. For the reasons set forth in Section II.12 of this letter, this discussion should be deleted.	Please see response to comment number 34.
49	62	Statewide Stormwater Coalition - Steven Adams et al	Section XII - Fact Sheet	Central Coast Post Construction Requirements	Section XII on pages 38-39 has been revised to add a discussion about the State Board's approach to hydromodification management, watershed management zones and the Central Coast Post-Construction Requirements. This discussion, especially footnote 31 on page 39 should be deleted or revised, as discussed in Section 1.2 of this letter.	The Fact Sheet discussion has been revised to address this comment.

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49	63	Statewide Stormwater Coalition - Steven Adams et al	Section XII - Fact Sheet	Reporting	Section XII on pages 43-55 has been revised to explain the authority of a Regional Board EO to require detailed annual reporting. For the reasons set forth in Section 11.25 of this letter, this discussion should be eliminated.	Please see response to comment number 47.
49	64	Statewide Stormwater Coalition - Steven Adams et al	Section XIII - Fact Sheet	TMDLs	Section XIII has been revised to explain how the Draft Permit incorporates the TMDL-specific permit requirements of Attachment G. This discussion should be revised in two key ways. First, and most importantly, the following sentence must be revised: "This Order requires Permittees to comply with all applicable TMDLs approved pursuant to 40 CFR § 130.7 for which the Permittee has been assigned a WLA or that has been identified in Attachment G." (Emphasis added.) The "or" in this sentence should be changed to an "and". Only the provisions of Attachment G, which are intended to translate WLAs into permit conditions, should be enforceable provisions of the Draft Permit. Second, as discussed in Section II.30 of this letter, Attachment G should only include well-developed requirements, and the discussion of Attachment G in Section XIII should be revised accordingly.	The Order provisions and the Fact Sheet were revised in response to the first part of this comment to substitute "and" for "or."  Regarding the second part of this comment, please see response to Statewide Stormwater Coalition comment 52.
49	65	Statewide Stormwater Coalition - Steven Adams et al	Section XVII - Fact Sheet	Designations	Section XVII on pages 74-81 has been revised to include additional or amended designations of both Traditional and Non-Traditional MS4s. However, these revisions do not appear to correlate to the designations contained in Attachments A and B. Section XVII and Attachments A and B should reflect the same designations.	The Fact Sheet has been revised to address this comment.

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49	66	Statewide Stormwater Coalition - Steven Adams et al	Throughout	General	The Draft Permit and Draft Fact Sheet include many positive revisions, including many based upon our comment letter of July 19, 2012. We thank the State Board staff for making those revisions. The comments in this letter on other revisions contained in the Draft Permit and Draft Fact Sheet are intended to assist the State Board staff in finalizing the Permit. It is believed that these comments will help make the Permit clear and understandable to all parties. We appreciate the opportunity to provide these comments and look forward to revisions based upon them.	Comment noted.
50	1	University of California Environmental Managers Work Group - Julie Hampel	Throughout	General	As the Chair of the Environmental Managers Work Group and on behalf of the ten University of California campuses, I am submitting comments on the most recent revisions to the 2012 Draft Phase II Small MS4 General Permit (Draft Permit). State Water Resources Control Board (SWRCB) staff have done an outstanding job of collaborating with stakeholders during this process and we are very pleased to see many of our previously suggested revisions incorporated into this version of the permit.	Comment noted.
50	2	University of California Environmental Managers Work Group - Julie Hampel	F.5.c.	Public Involvement and Participation	Suggest adding "Area Sign" as a communication option to give permittee's flexibility for high priority storm drain areas with closely spaced storm drain inlets.	This permit provision has been revised to address this comment.
50	3	University of California Environmental Managers Work Group - Julie Hampel	F.5.d.1.	Field Sampling to Detect Illicit Discharges	Suggest adding language to give permittee's the flexibility to investigate, identify, and correct illicit discharges without sampling when feasible.	Comment noted. EPA and CWP recommend mapping and sampling of all outfalls located within the urbanized area ( <a href="http://cfpub.epa.gov/npdes/stormwater/idde.cfm">http://cfpub.epa.gov/npdes/stormwater/idde.cfm</a> ).
50	4	University of California	F.5.d.1.	Field Sampling to Detect Illicit	Suggest editing text to make the requirement more clear.	This permit provision has been revised to address this comment.

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		Environmental Managers Work Group - Julie Hampel		Discharges		
50	5	University of California Environmental Managers Work Group - Julie Hampel	F.5.g.2.	Low Impact Development (LID) Design Standards	UC campuses request the flexibility of a “no net increase” approach to run-off when implementing the Low Impact Development (LID) Design Standards. By viewing the campus as a whole, LID can be implemented outside of the boundaries of a specific project but within the campus, allowing them to be located where they will provide the greatest water quality benefit.	This permit provision has been revised to address this comment.
50	6	University of California Environmental Managers Work Group - Julie Hampel	F.5.g.	Post Construction Storm Water Management	Suggest revising the project size criteria in the site design measures and Low Impact Development (LID) standards to be consistent with the project sizes specified in the Phase I Permit.	Staff does not agree that project sizing criteria for site design measures and LID standards should be revised. Most Phase I Permits have varying size criteria for post-construction measures.
50	7	University of California Environmental Managers Work Group - Julie Hampel	Attachment A	Designations	UC Davis is listed as a “new” Traditional MS4 on page 9 in Attachment A. This should be removed because UC Davis is a renewal Non-Traditional MS4 as correctly included on page 8 of Attachment B. Please remove reference to UC Davis on page 9 of Attachment A	Attachment A has been clarified to read “UC Davis CDP”.
51	1	Ventura County Watershed Protection District - Tully Clifford	Section D	Receiving Water Limitations	The Receiving Water Limitations Provision (Provision D, pages 19-20) is an important and relevant issue for all permittees within the State. While the revised order does not modify Provision D per se, it addresses the issue (see finding #38, page 38; Provision I, page 140; and the Fact Sheet, pages 25-26) by creating a reopener clause. We believe the State Water Board should not defer this issue until a later date (by the use of a reopener clause) and recommend that the State Water Board address this issue in this	The discussion of the receiving water limitations in the Fact Sheet has been revised to clarify the State Water Board’s position to date and to address the Supreme Court’s recent decision reversing the Ninth Circuit judgment in NRDC v. LA County and remanding the case. The State Water Board heard from interested persons at the November 20, 2012, workshop held to consider receiving water limitations provisions in municipal storm water permits and the Board is evaluating options going forward. The State Water Board considers the receiving water

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					<p>permit. Following the November 20, 2012 workshop, we believe the State Water Board has sufficient input and cause to develop a resolution. We understand that California Stormwater Quality Association (CASQA) offers its support and assistance to the State Water Board to address this issue. We urge the State Water Board to direct staff to work with CASQA to revise the Receiving Water Limitation Language in Provision D now and not defer to a later point in time.</p>	<p>limitations question to be an important and complicated issue -- independent of the court ruling -- and believes it requires careful consideration. The Board will continue to rely on the specific reopener clause at Section H to facilitate future revisions, if any, rather than delay consideration of adoption of the Phase II permit.</p>
51	2	Ventura County Watershed Protection District - Tully Clifford	Attachment J	Central Coast Post Construction Requirements	<p>Our concerns with Attachment J are two-fold, policy/procedural and technical. First we are concerned with the apparent escalation in permit requirements being conducted by the various Water Board permit writers in drafting provisions for land development. Over the last few years we have seen the ratcheting up of land development requirements in each MS4 permit reissuance with regard for neither the impact/effectiveness of prior development requirements nor the key hydrologic principles of low impact development. This lack of a cogent and cohesive approach to standards has created an uneven playing field for communities and developers across the State. Furthermore, the clear absence of any consensus within the State on what the requirements are for land development (particularly with respect to hydromodification management) is damaging to the credibility of the entire stormwater program.</p>	<p>This permit provision has been revised to address this comment. Attachment J has been deleted from this Order. The State Water Board determined that, while the Board continues to support a watershed process-based approach to hydromodification requirements, the Joint Effort process should be allowed to evolve and proceed, without incorporation into this Order, to address several unresolved issues acknowledged by the parties to that process, including the Regional Water Board. Under Provisions E.12.k (also referenced in F.5.g), the Central Coast Region Small MS4s will be required to implement watershed process-based requirements developed through the Joint Effort only after those requirements have been reconsidered and approved by the Central Coast Water Board.</p> <p>Please see the Fact Sheet: Post Construction Storm Water Management for New Development and Re-development discuss for further details.</p>
51	3	Ventura County Watershed Protection District - Tully Clifford	Attachment J	Central Coast Post Construction	<p>Another policy/procedural-related issue is the timing of the inclusion of Region 3 requirements into the Draft Phase II Permit. By</p>	<p>Please see response to comment number 2.</p>

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				Requirements	<p>appending the Central Coast requirements, and stating, "the Water Board expects to amend this Order to incorporate similar requirements for Permittees in the remainder of the State", the Water Board has introduced an entirely new set of rules with insufficient time for Phase I or II permittees to fully evaluate the potential impacts of these standards. At a minimum, we believe it prudent to allow a full five-year permit term to incorporate the requirements of Section E.12 to assess their effectiveness before charging off on a new set of requirements. As discussed below, there are significant technical issues in the Region 3 requirements, and any revisions would require opening the Phase II permit to amend a regional requirement at the state level.</p>	
51	4	Ventura County Watershed Protection District - Tully Clifford	Attachment J	Central Coast Post Construction Requirements	<p>It is worth noting that the post-construction requirements contained in Section E.12 have been through a thorough two-year review process including CASQA professionals, environmental NGOs, Permittees, and Water Board staff. The result is a set of straightforward and implementable LID and baseline hydromodification controls accomplishing most or all of the Region 3 requirements. This direction is one that Phase 1 permittees could better follow.</p>	Please see response to comment number 2.
51	5	Ventura County Watershed Protection District - Tully Clifford	Attachment J	Central Coast Post Construction Requirements	<p>With respect to technical issues the magnitude and scope of the Region 3 requirements are not appropriate for the following reasons: (1) The Region 3 requirements are not only the most stringent and complex in the State, they are also unique and entirely untested. (2) The Central Coast sizing criteria was placed in the Region 3 requirements after the public review process was completed in that region. (3) The</p>	Please see response to comment number 2.

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					retention and hydromodification requirements, and some of the LID requirements, are inconsistent and go beyond those of existing or proposed statewide, regional, or local Phase I or Phase II MS4 permits in California.	
51	6	Ventura County Watershed Protection District - Tully Clifford	Attachment J	Central Coast Post Construction Requirements	Lastly, we are concerned about the inconsistent regulations creating inequitable conditions in the neighboring cities or adjacent counties, for example more stringent and technically unproven and infeasible post-construction requirements such as in Santa Barbara County versus those in Ventura County. We urge you to delete direct references to the Central Coast Post-Construction Requirements, including Attachment J, from the Draft Phase II Permit.	Please see response to comment number 2.
52	1	Wallace Group - Craig Campbell	Attachment J	Central Coast Post Construction Requirements	The Central Coast Post-Construction Requirements have been incorporated verbatim into the State Board's Draft Phase II Small MS4 General Permit as Attachment J. We respectfully request that the Central Coast Requirements are included by reference to the Regional Board Resolution only, or that Attachment J is removed from the General Permit. We are concerned that if the Requirements are adopted into the State Permit, then the Regional Board's stated intention to revise the Requirements to resolve technical issues will be hindered by the necessity to reopen the State Permit for revisions.	This permit provision has been revised to address this comment. Attachment J has been deleted from this Order. The State Water Board determined that, while the Board continues to support a watershed process-based approach to hydromodification requirements, the Joint Effort process should be allowed to evolve and proceed, without incorporation into this Order, to address several unresolved issues acknowledged by the parties to that process, including the Regional Water Board. Under Provisions E.12.k (also referenced in F.5.g), the Central Coast Region Small MS4s will be required to implement watershed process-based requirements developed through the Joint Effort only after those requirements have been reconsidered and approved by the Central Coast Water Board.  Please see the Fact Sheet: Post Construction Storm Water Management for New Development and Re-development discuss for further details.

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52	2	Wallace Group - Craig Campbell	Attachment J - Item B4	Central Coast Post Construction Requirements	The Requirements specify retention of the 95th percentile storm for specific watershed management zones, yet the Requirements do not identify the size of the 95th percentile storm. Regional Board staff have stated that they will provide rainfall statistics prior to the implementation date of September 6, 2013. However, we are concerned that because the 95th percentile statistic is not readily available, and has not yet been provided by the Regional Board, that the magnitude of this requirement has not been reviewed by the public, permittees, or more importantly, has not been reviewed by the Regional Board prior to adopting the Requirements.	Please see response to comment number 1.
52	3	Wallace Group - Craig Campbell	Attachment J - Item B4	Central Coast Post Construction Requirements	We have reviewed rain gauge data for a number of locations on the Central Coast and found that the 95th percentile storm is between 1.5 to 2 times greater than the 85th percentile storm. For an undeveloped site, only extremely well-draining soils or terrain with natural sump conditions will retain the 95th percentile event, and likely only in unsaturated conditions. The widespread application of this requirement on the Central Coast would result in increased infiltration beyond the natural response, which could be detrimental to the receiving streams and watershed health.	Please see response to comment number 1.
52	4	Wallace Group - Craig Campbell	Attachment J	Central Coast Post Construction Requirements - Item B4	The basis for 95th percentile storm retention is Section 438 of the Energy Independence and Security Act (EISA). However, the Requirements do not reference the full text of Section 438 which lists the 95th percentile requirement as one of two options for compliance. The second option is a site specific analysis, in order to match existing hydrologic conditions. We recommend a requirement similar to EISA	Please see response to comment number 1.

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					Section 438, to retain a specific storm event or match existing hydrology.	
52	5	Wallace Group - Craig Campbell	Attachment J	Central Coast Post Construction Requirements - Item B4	Low-impact development protects water quality through infiltrating, filtering, storing, evaporating, and detaining runoff close to its source. We understand the goal of retaining stormwater onsite is to limit the potential pollutants that could flow to surface water through stormwater runoff. For this reason, where infiltration is not feasible or desirable, many agencies allow high efficiency treatment in-lieu of infiltration. The Requirements include this allowance, but do not provide criteria or guidance for identifying when sites could pursue this alternative path to compliance. In addition, a 10% minimum area for retention still applies, so surface area for flow-through facilities may be necessary in addition to retention facilities.	Please see response to comment number 1.
52	6	Wallace Group - Craig Campbell	Attachment J	Central Coast Post Construction Requirements - Item B4	<p>Recommendations:</p> <ul style="list-style-type: none"> <li>• Identify the 85th percentile storm event</li> <li>• Identify the 95th percentile storm event</li> <li>• Prepare a cost-benefit analysis for retention of the 95th percentile storm compared to the 85th percentile storm</li> <li>• Modify the Water management Zone map to reflect areas of varying infiltration capability, based on surface soils – or provide an exception process accordingly</li> <li>• Modify the Requirements to retain a specific storm event or match existing hydrology</li> <li>• Modify the Requirements to acknowledge land uses that have such water quality that direct infiltration should not be allowed.</li> <li>• Identify criteria where the Regional Board would allow for water quality treatment in-lieu of retention, and exempt these projects from</li> </ul>	Please see response to comment number 1.

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					the 10-percent minimum surface area requirement.	
52	7	Wallace Group - Craig Campbell	Attachment J	Central Coast Post Construction Requirements - Attachment D	A multiplier of 1.963 is specified in Attachment D Item 2.d, to calculate both Retention Volume and Water Quality Volume. This multiplier has been described by Water Board Staff as a means to increase facility size, to account for additional volume that may be required to capture runoff from back to back storms, for those facilities that do not drain within 24 hours. This multiplier is meant to provide a simple approach to design, in lieu of continuous simulation modeling. However, the intended use of the 1.963 multiplier, as taken from a WEF/ASCE design manual, is to calculate water quality runoff volume based on average rainfall value, not to provide buffer storage as is done in the Requirements. There is no scientific or engineering basis to apply the 1.963 multiplier in this fashion, nor has any back-up data been provided by Regional Board staff to justify this calculation approach. We have reviewed available rainfall data and continuous simulation modeling results and determined that a volume multiplier of 1.30 would be applicable and appropriate for our region, for facilities with a 48-hour drawdown time. Our research is based on data compiled by the Office of Water Programs at Sacramento State University. A summary of our research is attached at the end of this letter.	Please see response to comment number 1.
52	8	Wallace Group - Craig Campbell	Attachment J	Central Coast Post Construction Requirements - Attachment D	Attachment D Item 3.a. allows for facilities to function as a retention/detention facility if full retention cannot be achieved. A minimum detention time of 48-hours is specified. This drawdown time is reasonable for facilities	Please see response to comment number 1.

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					where pollutants and sediment must settle and drop out before stormwater is discharged. However, this drawdown time is not appropriate for facilities that provide biofiltration, where vegetation or soil is accomplishing the removal of sediment and pollutants prior to stormwater flowing offsite.	
52	9	Wallace Group - Craig Campbell	Attachment J	Central Coast Post Construction Requirements - Attachment D	Also, it is important to note that Attachment D and Attachment E were added to the Requirements following the release of the Draft for public review, and therefore have not gone through the public review and comment process at the Regional level.	Please see response to comment number 1.
52	10	Wallace Group - Craig Campbell	Attachment J	Central Coast Post Construction Requirements - Attachment D	<p>Recommendations:</p> <ul style="list-style-type: none"> <li>Remove the volume multiplier from the Retention Volume and Water Quality Volume calculation, until such time that a multiplier can be demonstrated to be reasonable and justified.</li> <li>Remove the volume multiplier for those facilities that infiltrate or drain within 24- hours.</li> <li>Exclude facilities that provide biofiltration from the 48-hour drawdown requirement</li> </ul>	Please see response to comment number 1.
52	11	Wallace Group - Craig Campbell	Attachment J	Central Coast Post Construction Requirements - Item C	Item C1.c is a list of "Technical Infeasibility" examples, describing various reasons why LID principles may not be feasible or appropriate for a site. In the case that meeting requirements onsite is infeasible, offsite compliance would be required. The natural site constraints identified as infeasibility criteria limit what can be achieved through LID site planning and design efforts. Some of the examples, such as high groundwater and low depth to an impervious soil layer, would also prevent or limit natural infiltration and associated stormwater retention on an undeveloped site.	Please see response to comment number 1.

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52	12	Wallace Group - Craig Campbell	Attachment J	Central Coast Post Construction Requirements - Item C	In these cases, adding retention requirements, even offsite, could result in unnatural hydrology. With the goal of the requirements being to match existing conditions, rather than requiring off-site compliance, if a site cannot meet retention criteria due to technical infeasibility, then a “maximum extent practicable” clause should apply. For example, under the current Requirements, a site with a shallow depth to bedrock would be required to either dedicate 10-percent of the site area to retention or provide the equivalent land area off-site. Forcing infiltration on such a site would not achieve the goal of natural runoff response, and could lead to instability of the surface soils and possible landslides. Therefore, the geotechnical constraints may preclude the ability to dedicate 10-percent of the site to retention and force this site into off-site compliance.	Please see response to comment number 1.
52	13	Wallace Group - Craig Campbell	Attachment J	Central Coast Post Construction Requirements - Item C	Feasibility is defined in the Requirements by limiting the land area dedicated to retention facilities to 10-percent of the site’s “Equivalent Impervious Surface Area”. However, the Requirements do not provide any scientific basis for the 10-percent value, or relate this value to the ability for a site to infiltrate. In addition, the 10-percent value is over double the 4-percent criteria used by numerous agencies in California, including the Contra Costa post-construction agencies and the City and County of San Diego.	Please see response to comment number 1.
52	14	Wallace Group - Craig Campbell	Attachment J	Central Coast Post Construction Requirements - Item C	Feasibility could also be concretely defined in the Requirements by limiting the total cost of compliance, for example by placing a cap on the cost of stormwater control measures to a	Please see response to comment number 1.

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52	15	Wallace Group - Craig Campbell	Attachment J	Central Coast Post Construction Requirements - Item C	<p>percentage of overall project cost.</p> <p>Wallace Group is in full agreement with the Regional Board and State Board that protecting water quality is an important goal. We also place equal importance on the cost-benefit of implementing measures to protect water quality. We recommend a cost-benefit analysis is conducted by the Regional Board, to evaluate the economic feasibility and overall value of implementing the Requirements.</p> <p>Examples:</p> <ul style="list-style-type: none"> <li>• Limit requirement to the amount technically feasible: "In cases where the facility has a defensible showing of technical infeasibility and can provide adequate documentation of site conditions or other factors that preclude full implementation of the performance design goal, the facility should still install stormwater practices to infiltrate, evapotranspire, and/or harvest and use onsite the maximum amount of stormwater technically feasible." (EPA 841-B-09-001 Page 18).</li> <li>• Measure practicability based on cost of compliance: "Full implementation of the HMP will be considered impracticable if the combined construction cost of both required stormwater treatment and flow control measures exceeds 2% of the project construction cost".( Santa Clara Valley Page 5-4)</li> </ul> <p>Recommendations:</p> <ul style="list-style-type: none"> <li>• Provide an overall MEP clause</li> <li>• Provide specific cost-based feasibility limit (i.e. percentage of total project cost)</li> </ul>	Please see response to comment number 1.

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					<ul style="list-style-type: none"> <li>Conduct a cost-benefit analysis for the 10% Equivalent Impervious Surface Area Requirement</li> </ul>	
52	16	Wallace Group - Craig Campbell	Attachment J	Central Coast Post-Construction Requirements - Feasibility of Retention in Type C and D Soils	The section on Feasibility of Achieving Retention in the Regional Board's Technical Support Document makes reference to a study by Horner and Gretz. The Horner and Gretz study provides important insight as to the practical meaning of implementing the proposed standards on various soils. Many areas of the Central Coast have Type C and D soils. Table 6 of the Support Document indicates that 46 percent of the urban areas on the Central Coast are Type C and D soils. The Horner and Gretz Study evaluated sample projects on all types of soils in various communities, with the most representative of Central Coast conditions being the Southwest Climate case study. Most areas of the Central Coast would have greater rainfall than the Southwest Climate (9.68 inches annually).	Please see response to comment number 1.
52	17	Wallace Group - Craig Campbell	Attachment J	Central Coast Post-Construction Requirements - Feasibility of Retention in Type C and D Soils	The Requirements Performance Standard No. 3 Runoff Retention requires that projects retain the runoff from either the 85th or 95th percentile storm, depending on the Watershed Management Zone (WMZ). The WMZ designations are not correlated with the surface soil types and therefore there are Type C and D (poor infiltrating) soil types that would be required to retain the 95th percentile storm.	Please see response to comment number 1.
52	18	Wallace Group - Craig Campbell	Attachment J	Central Coast Post-Construction Requirements - Feasibility of Retention in	In summary, the Horner and Gretz study, concludes the following for projects in the Southwest region: <ul style="list-style-type: none"> <li>Retention of the 95th percentile storm cannot be met on Type D soils <ul style="list-style-type: none"> <li>o Even with 100 percent storage and gray water</li> </ul> </li> </ul>	Please see response to comment number 1.

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				Type C and D Soils	<p>use of roof water; combined with</p> <ul style="list-style-type: none"> <li>o 100 percent of pervious areas being used for bioretention.</li> <li>o Also note that the Southwest region average annual rainfall (9.68 inches) is less than most areas of the Central Coast</li> </ul> <ul style="list-style-type: none"> <li>• Retention of the 85th percentile storm: <ul style="list-style-type: none"> <li>o Can be met for the Southwest region (average annual rainfall = 9.68 inches);</li> <li>o In comparison, can be met for the South Central region (average annual rainfall = 32.67 inches) assuming 100 percent of pervious areas being used for bioretention for commercial and redevelopment projects.</li> </ul> </li> </ul>	
52	19	Wallace Group - Craig Campbell	Attachment J	Central Coast Post-Construction Requirements - Feasibility of Retention in Type C and D Soils	<p>In reviewing site feasibility, the Horner and Gretz Study also evaluated the effect of the proposed measures on total annual runoff. The study noted “with effective infiltrating bioretention it is possible for post-development annual recharge to exceed the pre-development quantity” (Pg. 28), and “one reason ... is that bioretention is set up to hold water, increasing the time for infiltration to occur instead of letting it runoff” (Pg. 28). In fact – some of their scenarios show 100 percent infiltration is possible where it does not occur naturally (Tables 8-15). The focus of the study is that the more retention the better – to further reduce pollutants - but we believe that runoff is essential to the receiving streams and that over-retention is undesirable.</p>	Please see response to comment number 1.
52	20	Wallace Group - Craig Campbell	Attachment J	Central Coast Post-	We recommend that the assumptions and ramifications of the Horner and Gretz Study be	Please see response to comment number 1.

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				Construction Requirements - Feasibility of Retention in Type C and D Soils	carefully considered and the Requirements and Technical Support Document be modified accordingly, as summarized below.  Recommendations: <ul style="list-style-type: none"> <li>• Relate the retention and treatment standards to surface soil types which control site infiltration capability</li> <li>• Evaluate the possible detrimental effect of bioretention causing reduced surface flow to receiving streams, or increased subsurface flow to ephemeral streams</li> <li>• Highlight the need for roof runoff storage and gray water systems to meet the Requirements, and evaluate the feasibility and cost-benefit</li> <li>• Highlight the need for 100 percent of pervious areas being required for bioretention, and evaluate the feasibility and cost-benefit</li> </ul>	
52	21	Wallace Group - Craig Campbell	Attachment J	Central Coast Post-Construction Requirements - Regional vs. Parcel Scale Analysis	We are concerned with the approach of the Requirements to specify hydromodification controls at the parcel level. The greatest level of hydromodification control, and therefore watershed protection, could be achieved by evaluating overall development potential and land use changes from a watershed scale perspective. Parcel scale analysis may not reveal cumulative effects of development, and lead to inefficiency in the design and review process. Multiple parcel scale evaluations for different sites within the same watershed may provide little to no regional information while being redundant and rigorous in nature.	Please see response to comment number 1.
52	22	Wallace Group - Craig Campbell	Attachment J	Central Coast Post-Construction Requirements -	Agencies need the flexibility to plan for hydromodification within and throughout designated land use zones. For example, a single mixed-use parcel could be built to	Please see response to comment number 1.

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				Regional vs. Parcel Scale Analysis	maximum density, accommodating businesses and high density housing, with a nearby parcel maintained as an open space park. If approached on a parcel scale, both parcels would be developed, and two smaller open spaces would be created. The single larger open space would have a higher value for the community, as it could function as a neighborhood gathering spot within a densely developed area, and accommodate a wider variety of recreational uses.	
52	23	Wallace Group - Craig Campbell	Attachment J	Central Coast Post-Construction Requirements - Regional vs. Parcel Scale Analysis	<p>The Requirements include provisions for permittees to submit a Watershed or Regional Plan for consideration by the Regional Board, specific to Off-Site Compliance. However, it is not clear that multiple projects could be analyzed and designed for compliance together, without the need for a full "Regional" plan.</p> <p>Recommendations:</p> <ul style="list-style-type: none"> <li>• Include provisions for combining parcels and projects in a single evaluation, in lieu of a Regional analysis</li> </ul>	Please see response to comment number 1.
52	24	Wallace Group - Craig Campbell	Attachment J	Central Coast Post-Construction Requirements - General	In summary, Wallace Group believes that long-term watershed protection can be accomplished through good land use planning and a regional approach to treatment and infiltration. We are advocates of both water quality protection and the move towards redevelopment and infill to create a dense urban core that minimizes effect on the environment by reducing pollutants associated with extension of the urban boundary. We believe that re-development should not be penalized for replacing existing impervious surfaces, and that infiltration should be	Please see response to comment number 1.

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					considered on a case-by- case basis based on surface soils and other site specific constraints rather than uniformly required for all projects.	
53	25	Wallace Group - Craig Campbell	Attachment J	Central Coast Post- Construction Requirements - General	We appreciate the effort and goals that have resulted in the Central Coast Post- Construction Requirements and the public process of review and comments. We believe that consideration of such comments is essential to achieving standards that can provide maximum benefit to receiving waters with a cost effective and practical program.	Please see response to comment number 1.