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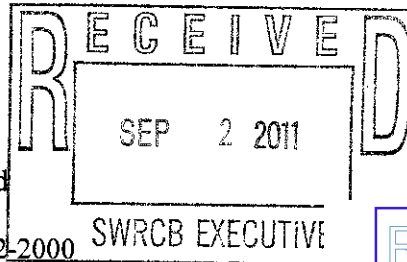
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Debora Fudge

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Town Manager
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August 29, 2011

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
P.O. Box 100, Sacramento, CA 95812-2000



Subject: Comment Letter – Phase II Small MS4 General Permit
("Draft Permit")

Dear Ms. Townsend and Members of the Board:

141.1

I am writing to convey our appreciation for your support of the extension of the comment period of the Draft Permit. I also want to share our serious concerns with the Draft Permit that was issued by the State Water Resources Control Board on June 7, 2011. If issued as released, the Permit would have significant fiscal impacts to the Town of Windsor. In addition, this mandate has little opportunity for special funding, except under the Town's General Fund.

141.2

Just as the State's General Fund is in a condition of critical distress, so is the Town of Windsor's, along with most other municipalities. Imposing these Permit requirements, especially under the time frame stipulated in the Draft Permit, would put the Town in the position of having to choose between more public services being cut or face stiff fines and penalties for lack of compliance with the Permit.

141.3

We believe the Draft Permit over-reaches and unfairly transfers responsibilities for water quality of the waters of the State onto the shoulders of local agencies and communities. While we agree that stormwater pollution control is an important water quality concern, the significant changes from the current General Permit to the new, proposed Permit, are substantial. In general, the new permit moves away from public outreach and education which encourage compliance by the general public, and focuses on forced compliance using enforcement tactics and legal remedies. Furthermore, the new Permit uses communities and agencies for water quality research by requiring monitoring, testing and analysis when it is more appropriate and more cost-effective for the State to conduct these activities on a statewide, watershed basis.

141.4

Many of these new requirements do not adequately support the purpose of the stormwater quality goals. For example, some of the stormwater Best Management Practices (BMPs) are required because of the need to augment California's water supply. Other stormwater BMPs are required because of the need to reduce floods and peak flow rates. However, it is unlikely that these BMPs could materially affect the Town's water supply because BMPs are limited in size and only affect new development. As for reducing peak flow rates, BMPs are sized for small storm events and not the types of storms that present problems for the Town such as 100-year event storms. Putting such a big emphasis on these BMPs on new development only adds more costs with very little impact to the overall goals of addressing our dwindling water supply or peak floods through stormwater management.

141.5

In addition to the comments presented in this letter, the Town also supports the comments presented by the Statewide Stormwater Coalition, California Stormwater Quality Association (CASQA) and Russian River Watershed Association (RRWA).

However, I wanted to highlight a few examples below to demonstrate the kinds of Permit requirements that would be difficult for cities and communities to impose, enforce and police, due to our severely limited resources:

141.6

- 1. Car washing (Section B.3). The Draft Permit no longer has an exemption for wash water from residential car washing activities to enter storm drains. Rather than focus on public education and outreach the Draft Permit, without the exemption, will require enforcement activities that will be difficult to implement and maintain. Larger lot sizes have the benefit of having sufficient land to direct wash water into impervious areas to infiltrate. However lower income and smaller residential lot owners do not have such alternatives and must pay for this activity by using a commercial car wash.

141.7

- 2. Industrial/Commercial (I/C) Facility Runoff Program (Section E.11). The Town is tasked with creating and maintaining an inventory of all I/C facilities that could discharge pollutants in stormwater to the Town. However, site runoff from these types of facilities is already regulated by the General Industrial NPDES permit and under the State's purview. Hazardous materials that could potentially spill onto Town storm drain systems are already regulated by the County Environmental Health, Air Quality, OSHA, and the Town Fire Department. Adding these requirements to the new Permit is superfluous and costly to the Town as well as the businesses impacted by this requirement.

141.8

- 3. Trash Abatement Plan (Section E.10). The Town is asked to create a trash abatement plan and part of the plan includes maintenance measures to reduce trash discharged from the Town's storm drain system. However, the plan requires that at least 20 percent of the Town's jurisdictions zoned as commercial/retail/wholesale be required to install trash capture structural controls and maintain such measures. This is a fiscal impact to our business community at a time when they can least afford such measures. There are opportunities for grant funding for such measures, but the State funding mechanisms require that the Town take over maintenance of such facilities, which is not feasible, particularly when located on private properties.

141.9

- 4. Economic Effects to Local Businesses and Development. During these difficult times, the economic effects to local businesses under the new Permit will be significant. Under the new Permit, for example, the Town will be required to regulate new or redeveloped sites that create or replace 5,000 to 10,000 square feet of impervious surface. This threshold is far more stringent than the current permit which uses a 1-acre threshold.

141.10

5. Costs of Complying with the Permit (Order). During the environmental review of the Draft Order, the State affirmed that costs of compliance were considered. However, the State's "average cost" analysis does not adequately reflect the costs that permittees would be faced with should the Draft Permit be issued. It would be more appropriate for the State to gather costs developed by individual permittees and then affirm a cost per capita based on those estimates. For the Town of Windsor, a community with a population of approximately 26,000 persons, the estimated preliminary cost of compliance is over \$200,000 per year. This is the single highest program cost that would impact the Town's General Fund. This is higher, for example, than our pothole repair program, weed abatement program and catch basin cleaning program, combined.

We request that you consider these concerns when re-issuing the Draft Permit. We especially urge you to support the comments submitted by CASQA, the SSC and RRWA as these groups represent the concerns of the Town of Windsor.

Respectfully submitted by,



Richard W. Burt
Public Works Director/Town Engineer

c: Russian River Watershed Association (RRWA)
J. Matthew Mullan, Town Manager
Mayor and Town Council