



A Tradition of Stewardship
A Commitment to Service

Public Workshop (11/20/12)
Receiving Water Limitations Language
Deadline: 11/13/12 by 12 noon

Planning, Building & Environmental Services

1195 Third Street, Suite 210
Napa, CA 94559
www.countyofnapa.org

Hillary Gitelman
Director

November 8, 2012

Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 "I" Street, 24th Floor
Sacramento, CA 95814



Subject: Comment Letter – Receiving Water Limitations Language Workshop

Dear Ms. Townsend:

The Napa County Planning, Building & Environmental Services (PBES) department appreciates the opportunity to provide comment on the issue of municipal stormwater permit receiving water limitations language, which is the subject of a State Water Board workshop to be held on November 20, 2012. The PBES department urges the State Water Board to revise the current receiving water limitations language being used within most state issued stormwater NPDES permits. Revision to the language is necessary because of the way it has been interpreted in the 9th Circuit Court of Appeals decision in the 2011 Los Angeles County vs. NRDC case. The PBES department is extremely concerned that should the State Water Board not modify the language, we will be vulnerable to third party law suits; such as has been the case with the City of Stockton.

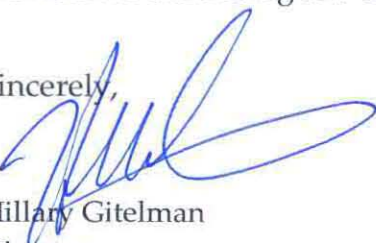
The County of Napa has been actively implementing a stormwater quality program since June 22, 2004, when the Board of Supervisors adopted the Stormwater Runoff Management and Discharge Control Ordinance (Ordinance Number 1240). Since that time the Napa County Stormwater Program has been effectively implementing all six elements of the Phase II Permit and even going above and beyond what is required in many areas. For example, Napa County reviews every building and use permit submittal that proposes any type of earth disturbance for compliance with both our construction site runoff requirements as well as our post construction runoff management ordinance. Napa County conducts routine construction site inspections of

- Municipalities are under constant pressure to prioritize their resources, and to obtain the most “bang for the buck.” This pressure is evident in practically all aspects of public service, from police to fire to the environment. Thus, a city cannot afford, financially or politically, to address all stormwater issues simultaneously.
- Guides regional board staff (and others) to assess whether the permittees are in good faith implementing the iterative process.
 - Given the wide diversity and complexity of pollutants, sources and BMPs, the process must provide a mechanism for the MS4 and the State to agree on a practical implementation plan to satisfy the Permit provision.
- Establishes enough rigor to assure that progress will be made in addressing problematic discharges and protecting water quality.

The receiving water limitations language must provide permittees assurances that they are not subject to enforcement action and third party litigation if they, in good faith, actively implement the iterative process.

In closing, we believe that the State Water Board can address this untenable vulnerability that we are facing and we are greatly appreciative of your efforts to do so. Without your action to change the current language, agencies such as ours and others across the state will find themselves defending law suits as opposed to protecting and enhancing water quality.

Sincerely,



Hillary Gitelman
Director
Planning, Building & Environmental Services