



# DEPARTMENT OF PUBLIC WORKS

People serving people.

Robert Beaumont  
DIRECTOR

Administration  
PO Box 4186  
San Rafael, CA 94913-4186  
415 473 6528 T  
415 473 3799 F  
415 473 3232 TTY  
CRS Dial 711  
[www.marincounty.org/pw](http://www.marincounty.org/pw)

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Waste Management

April 23, 2013

Board of Supervisors  
County of Marin  
3501 Civic Center Drive  
San Rafael, CA 94903

**SUBJECT:** Compliance with the State of California's 2013 General Permit for Stormwater Discharges from Small Separate Storm Sewer Systems (Phase II Permit)

Dear Board Members:

**RECOMMENDATIONS:** 1) Adopt a resolution authorizing the County Administrator to apply for coverage under the State Water Resources Control Board's (State Board) Phase II Permit on behalf of the County of Marin; 2) Authorize the Public Works Director to develop and implement a plan to comply with the Phase II Permit and; 3) Authorize the addition of 1.5 FTE positions per the staffing summary herein.

**SUMMARY:** Staff presented an overview of the draft Phase II Stormwater Permit requirements at your July 10, 2012 meeting. This permit regulates the discharge of stormwater into "the waters of the United States" – essentially any watercourse or body of water. The new permit will be in effect for a period of five years beginning July 1, 2013 and will ultimately replace the existing permit the County has been covered under since 2003. The new five-year permit requirements were formally adopted by the State Board in February.

The recommended staffing request will be sufficient to begin implementation of the new permit requirements. The State, however, has not finalized the permit language and reporting requirements. Most significantly, they are considering new requirements to the Trash Reduction Program component of the permit that would likely become effective at some point during the course of the five-year permit term. The additional staffing recommended herein would not be sufficient to comply with the new requirements as currently proposed.

It is our intention to return to your Board next spring with an update on permit implementation and address at that time potential additional staffing needs that may be necessitated as the permit requirements continue to evolve and increase.

The new permit requires the implementation of over 30 new tasks over the next two years with broad regulatory and monitoring requirements required of multiple County departments and of Marin's cities and towns.

Highlights of the new permit requirements include:

- Establishing an expanded education and outreach program countywide, using public surveys, with potential costs of up to \$1 million over the five year permit term..
- Increasing County unincorporated area stormwater outfall discharge monitoring from approximately 65 to 600 outfalls. The permit requires all municipally operated outfalls to be photographed and mapped, and that discharges be tested for pollutants when flow is present during dry weather.
- All municipally owned facilities, including parks, must have a stormwater plan, must be inspected by 2015, and must be continuously monitored for implementation of best management practices.
- A new Trash Reduction Program is currently under consideration by the State. Upon approval it would be incorporated into the stormwater permit. The new requirements as currently envisioned will primarily impact local stormwater staff, the Road Maintenance Division, Parks and Cultural Services. New staffing recommended herein would not be sufficient to implement the future Trash Reduction Program currently under consideration.
- New monitoring is required associated with Urban Creek Pesticide Total Maximum Daily Load compliance.
- More detailed review and tracking of private and public construction projects is required. Projects of certain categories – such as a private and public projects that add or replace 5,000 square feet of impervious surface – must install permanent stormwater treatment facilities that require verification of effective operation and maintenance *for the life of the facility*.

Stormwater pollution prevention and management is implemented countywide through the Marin County Stormwater Pollution Prevention Program (MCSTOPPP) on behalf of Marin's cities, towns and the County. However, each member agency is responsible for implementing its own local stormwater program in addition to participating in MCSTOPPP. As co-permittees under the Phase II permit, the member agencies jointly fund MCSTOPPP to ensure a consistent and coordinated approach to permit compliance. In 2009, the County and all the municipalities updated the existing Joint Exercise of Powers Agreement or JEPA which outlines MCSTOPPP's roles and responsibilities. The existing agreement will need to be updated to reflect the new permit. Staff plans to return to your Board this summer with a revised Joint Exercise of Powers Agreement or JEPA.

**STAFFING AND OTHER PROGRAM COSTS:** The State of California does not provide funding for implementation of this mandated program. Currently, the annual cost for Public Works to implement the local stormwater program through MCSTOPPP and our local program is about \$330,000. Funding is provided entirely from the General Fund. The recommended 1.5 additional staff positions are necessary to support compliance with the new requirements. The following table summarizes the existing stormwater permit compliance budget as well as the requested staffing and funding that will be needed to comply with the new permit in the next two fiscal years.

Table 1: Phase II Permit Compliance Costs Existing and Recommended	FY 12-13	FY 13-14	FY 14-15
MCSTOPPP Contribution <i>Part of County Administrator's Budget</i>	\$147,399	\$146,219	\$146,219
<b>Fees and Supplies</b>			
North Bay Watershed Association-County membership	\$27,200	\$27,200	\$27,200
Phase II Permit Fee to State Water Resources Control Board	\$22,000	\$22,000	\$22,000
Miscellaneous expenses	\$1,600	\$1,600	\$1,600
Construction inspection training (QSD Certification) for four staff		\$4,400	
Subtotal: Fees and Services	\$50,800	\$55,200	\$50,800
<b>Staffing</b>			
Land Use and Water Resources Local Stormwater Program – (multiple staff)	\$135,000	\$135,000	\$135,000
Land and Water Resources 1.0 FTE Senior Planner (Job Class 0607)		\$149,691	\$149,691
Land Development 0.5 FTE Engineering Technician III (Job Class 0662)		\$62,178	\$62,178
Subtotal: Staffing Request		\$346,869	\$346,869
<b>TOTAL Permit Compliance Projected Costs</b>	<b>\$333,199</b>	<b>\$548,288</b>	<b>\$540,888</b>

No increase is shown in the County MCSTOPPP contribution for the next two years as existing budget reserves in MCSTOPPP are sufficient to cover these costs. MCSTOPPP plans to use a combination of staff and consultants to assist the member agencies with permit compliance. Starting in fiscal year 2015-16, member agency contributions to MCSTOPPP are expected to increase significantly, increasing the County's contribution from \$146,219 to between \$200,000 and \$250,000. The range includes additional costs that could result from requirements related to the Trash Reduction Program and community outreach. For example, the State Board is currently considering Community Based Social Marketing requirements which, if adopted, could increase countywide MCSTOPPP costs by more than \$200,000 annually.

We plan to return to your Board next spring to report on the status of compliance and on progress with managing implementation of the new permit requirements. Staff will use the first year of compliance and feedback from the Regional Board to assess performance and staffing needs.

Although staff cannot predict what future actions the State Board may take, it is unlikely that these permit requirements will be relaxed, regardless of actual water quality improvements. We should expect that these recommended staffing levels would be needed beyond 2018 and that additional staff will be required in future years.

This staff report includes a request for your Board to adopt a resolution (attached) authorizing the County Administrator to submit the appropriate application form to the State Board for coverage under the Phase II Permit on behalf of the County of Marin, as well as other required administrative functions.

A copy of the latest version of the Phase II Permit is attached and is available at [http://www.waterboards.ca.gov/water\\_issues/programs/stormwater/phase\\_ii\\_municipal.shtml](http://www.waterboards.ca.gov/water_issues/programs/stormwater/phase_ii_municipal.shtml).

**BACKGROUND:** The U.S. Environmental Protection Agency (EPA), under the Clean Water Act, requires local governments to obtain coverage under a National Pollutant Discharge Elimination System (NPDES) permit in order to discharge stormwater from small municipally-owned stormwater conveyance systems to waters of the United States. In California, the U.S. EPA delegates NPDES permitting authority to the California State Water Resources Control Board (State Board). In the Bay Area, the San Francisco Bay Regional Water Quality Control Board (Regional Board) is the Phase II Permit local enforcement authority. All California municipalities with a population of less than 100,000 are covered by this Phase II permit.

The 2013 permit states that local jurisdictions are still subject to the 2003 provisions until specific new 2013 permit requirements supersede equivalent 2003 provisions. A Stormwater Management Plan was prepared to comply with the 2003 permit provisions and it will continue to serve as a foundation for complying with the new permit and will serve as a template for development of a new implementation plan.

MCSTOPPP staff and your Board provided comments to the State Board during the permit revision and promulgation process. Your Board submitted a letter to the State Board on July 12, 2012 requesting more flexibility in the permit language to support implementation and prioritization by region and to include requirements that can be implemented with existing municipal or County resources or provide an alternative funding mechanism to support implementation. While the State Board did modify the compliance timelines to give municipalities an additional year or two and eliminated some of the more onerous inspection requirements, the request to prioritize based on local issues was not explicitly addressed in the 2013 permit. The State Board provides no funding or financial mechanism to cover the cost of compliance.

In addition to Public Works, permit implementation also involves participation from existing staff in the departments of Parks, Community Development, Fire, and Cultural Services. Our communication with these departments has been ongoing regarding both existing and new permit requirements.

**FISCAL IMPACT:** The State of California does not provide funding for the implementation of this mandated program. The additional 1.0 FTE Senior Planner (0607) and 0.5 FTE Engineering Tech III (0662) is expected to be a continuing and ongoing expense to the General Fund of approximately \$211,869. The estimated one-time increase to the General Fund for training in FY 2013-14 is \$4,440. The department is working with the County Administrator's Office to ensure that all necessary budget adjustments would be incorporated into the department's FY 2013-14 baseline budget. After FY 2013-14, annual costs overall are estimated to be \$540,888 until the new trash requirements are adopted by the State at which point the annual costs will increase.

<b>REVIEWED BY:</b>	<input checked="" type="checkbox"/>	Department of Finance	<input type="checkbox"/>	N/A
	<input checked="" type="checkbox"/>	County Counsel	<input type="checkbox"/>	N/A
	<input checked="" type="checkbox"/>	Human Resources	<input type="checkbox"/>	N/A

Respectfully submitted,



Bob Beaumont  
Director

- c: Stormwater Coordinators
- Public Works Directors, MCSTOPPP member agencies
- Planning Directors, MCSTOPPP member agencies
- Linda Dahl, Marin County Parks Director
- Jim Farley, Cultural Services Director
- Jason Weber, Marin County Fire
- Paul Berlant, MGSA

Attachment