RUSSIAN RIVER WATERSHED ASSOCIATION

MEMBER AGENCIES

- City of Cloverdale
- City of Cotati
- City of Healdsburg
- City of Rohnert Park
- City of Santa Rosa
- City of Ukiah
- County of Sonoma
- Sonoma County Water Agency
- Town of Windsor

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The Russian River Watershed Association (RRWA) is an association of local public agencies in the Russian River Watershed within Sonoma and Mendocino counties in Northern California; that have come together to coordinate regional programs for clean water, fisheries restoration, and watershed enhancement. We represent both Phase I and Phase II communities operating under Municipal Separate Storm Sewer System (MS4) permits, and our member agencies will be directly affected by revisions to the Environmental Protection Agency's (EPA) National Pollutant Discharge Elimination System (NPDES) Program.

An overarching concern for the RRWA regarding the proposed changes to the NPDES permitting program has to do with financial constraints that exist in California that do not affect much of the nation. In California, we must operate under Proposition 218, approved by voters in 1996, which prohibits local government from the imposition of any new special taxes, including fees to fund storm water programs; without a 2/3 majority vote by the public. Even under the best economic conditions this limits our ability to fund storm water programs in order to comply with existing and new regulatory requirements. In the current economic climate, this has become an almost insurmountable obstacle.

Also, although there are occasional opportunities for grant funds to assist with storm water related objectives, this money is usually restricted and deemed unavailable to spend on work required for permit compliance. It would be beneficial for the EPA to petition the state to relax these types of restrictions, especially under the current regulatory and economic environment.

Additionally, the geology and climate in our region are not as conducive to infiltration as in other areas of the state and the nation, severely limiting the functionality of some typically recommended

storm water discharge control measures such as bioswales. The EPA needs to recognize a broad range of alternatives or set minimums instead of prescriptive standards to address the challenges that national standards will present.

Please be assured, however, that despite these financial and physical constraints, the RRWA's nine member agencies remain committed to achieving a healthier watershed through implementing effective, regional programs. We agree with the overall goals of the existing Phase I and Phase II permits and support the implementation of Low Impact Development (LID), public education, inspections, and enforcement to achieve improved water quality.

What follows below are detailed comments by consideration area as listed in the Federal Register.

1. **Expand the area subject to federal storm water regulations.**

The EPA is considering expanding the NPDES permit boundaries to include rapidly developing non-urban areas. Because "rapidly developing" is not well defined at this juncture, we are concerned about the impact boundary expansion could have in our counties (Sonoma and Mendocino). The NPDES MS4 permit was founded on guidelines for the infrastructure network in urban areas with separate storm sewer systems and we believe any translation of these requirements to rural, unincorporated areas could be inappropriate and unnecessary. Small communities are unlikely to have sufficient staff or funding for permit compliance, as such EPA should ensure that the water quality benefits that would result from any expansion of the permit boundaries are commensurate with the economic hardships that would result.

2. **Establish specific requirements to control storm water discharges from new development and redevelopment**

In our area, the predominant soil type is clay, which severely limits infiltration and recharge opportunities. Because our soils reduce our options for storm water controls, we urge the EPA not to assign specific, national standards for controlling discharges. As noted, not all measures are feasible in our area and flexibility in reviewing the suite of options and determining the most feasible approach on a case-by-case basis is necessary. Setting a national standard requiring post-development hydrology to match pre-development conditions in new developments would limit the available mitigation options. As discussed in more detail in topic #4 below, we are working on developing a mitigation offset program that includes retrofit as mitigation. We believe this program will be extraordinarily beneficial and effective, but this program would not be allowed under an unnecessarily rigid requirement to match pre-development hydrology at the site.

3. **Develop a single set of consistent requirements for Phase I and Phase II MS4s.**

While there may be a cost saving benefit under a regional permit that is not realized through separate Phase I and Phase II permits, the concept needs more explanation and

justification. As noted, several of our member agencies are Phase II agencies. These agencies are already struggling with the challenges of meeting existing permit requirements due to limited resources. We are concerned that combining both Phase I and II systems under one permit would impose an unsustainable burden of reporting, sampling, outreach, etc. on resource-limited Phase II communities. Combining Phase I and II could require significantly increased levels of staffing and thus severely impact the already-strained budgets of those communities. One area that would seem to offer regional, statewide and national benefit would be to standardize reporting requirements for permit compliance and monitoring methods, and continuant threshold limits. This may eventually allow EPA to broadly assess the overall effectiveness of the NPDES storm water program.

4. **Require MS4s to address storm water discharges in areas of existing development through retrofitting the sewer system, drainage area, or individual structures with improved storm water control measures.**

We acknowledge that retrofitting developed areas may at times be a useful tool to reduce impacts from storm water discharges. However, retrofits have not typically been considered because this approach is generally cost-prohibitive.

One of our member agencies, the County of Sonoma, has recently installed a BMP retrofit project in their parking lot to showcase LID elements. Local regulatory staff consider this project to be highly beneficial even though it may not meet their longer term LID design requirements. We believe retrofit can be used effectively as a mitigation measure for new development and redevelopment projects that cannot achieve full compliance onsite. These impacts could potentially be offset through offsite retrofit. Our member agencies are currently incorporating these requirements into a regional LID Manual, which is under development. However, across-the-board requirements for retrofits outside of offset programs would be an overwhelming cost burden for all our member agencies. We are making significant headway under our current MS4 permits on retrofit and would like to see this progress continue, rather than being trumped by new, onerous requirements with unknown cost-effectiveness.

From experience our member agencies feel it is important to provide maximum flexibility in any type of retrofit requirements – including sensitivity to design requirements (allowing a retrofit project to maximize its effectiveness even though it may not conform to every element of the current standards); allowing agencies to accumulate offset monies for larger regional off-site projects that would achieve greater overall benefit to water quality than a multitude of smaller projects; and providing flexibility in project construction timelines (to allow time for agencies to collect sufficient funding to build larger scale, more expensive offset projects.)

5. **Explore specific storm water provisions to protect sensitive areas**

We support provisions which aim to protect sensitive areas, provided that new requirements are reasonable and consider the staffing and fiscal impacts on our member agencies.

In summary, the RRWA appreciates the opportunity to provide input on this important national process and supports the intent and general approach the EPA is taking in developing new NPDES guidelines. As demonstrated through our member agencies' ongoing compliance efforts with current NPDES permit requirements, we are committed to doing our best to reduce storm water pollution and improve water quality in our local creeks and waterways. We hope any new federal guidelines will continue to base actual permit requirements on locally established, scientifically demonstrated impairments. In addition, we look forward to a more deeply integrated approach toward regulating storm water with other concerns related to water quality including creek restoration, water conservation, and water reuse.

Despite these promising advantages, we remain seriously concerned about the extensive fiscal impacts (including staffing) on our agencies for the changes under consideration, particularly given the funding constraints imposed under California law. We appreciate your consideration of these comments.

Sincerely,

Jake Mackenzie, Chair, RRWA Board of Directors
Russian River Watershed Association, www.rrwatershed.org

cc: RRWA Board of Directors