

# Don't Get Caught In the Rain!

## Storm Water Regulations

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# Topics To Be Covered



- ❑ Storm Water Management Overview
- ❑ Governing Permits & Their Relationships
- ❑ Future of Permits (What should we be worried about and how much will it cost?)
- ❑ What should we do now?

# Why Regulate Storm Water?

- ❑ Urban runoff has been identified as a major source of surface water pollution in the United States
- ❑ Urban runoff can contain sediment, nutrients, pathogens, petroleum hydrocarbons, heavy metals, herbicides, and other pollutants
- ❑ Urban runoff from new development can impact natural vegetation, increase runoff volumes and velocities, and result in greater pollutant loads in surface waters



# Governance Structure



- ❑ State Water Resources Control Board (SWRCB)
- ❑ Nine Regional Water Quality Control Boards (RWQCB)

# Three Storm Water Permits

- ❑ Municipal Permit (MS<sub>4</sub>) - Municipal Separate Storm Sewer System
- ❑ Construction Permit
- ❑ Industrial Permit
- Reissued every five years

# History...

- In 1990, the U.S. EPA promulgated storm water regulations to reduce storm water pollution that applied to large MS4s, industrial and construction activities.
- A large MS4 (Municipal Separate Storm Sewer System) is a storm water conveyance system or system of conveyances, including roads, curbs, gutters, catch basins, channels and storm drains serving a population of over 100,000 people.



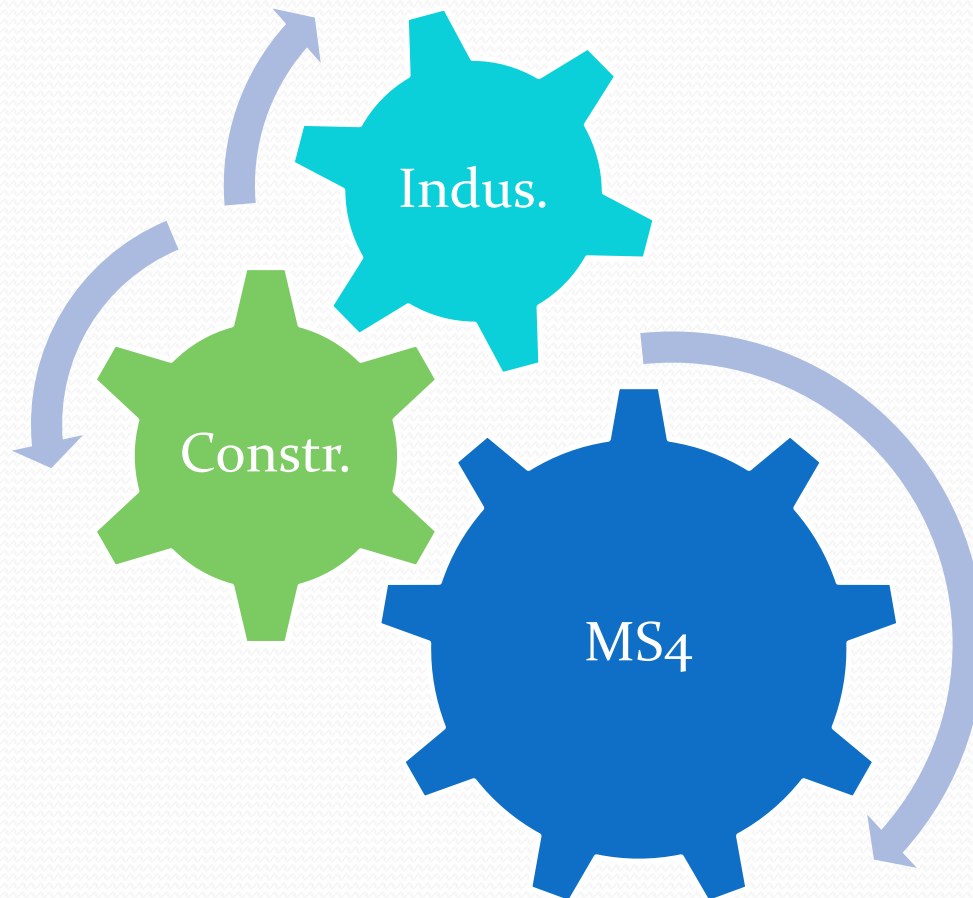


## More History ...

- ❑ The large MS4s in California are already permitted and regulated.
- ❑ On April 30, 2003, the SWRCB adopted a General Permit for Small MS4s serving populations of less than 100,000 people.
- ❑ School districts and community colleges are considered “non-traditional” Small MS4s.



# Permit Relationships



# Construction Storm Water Permit

(disturbed sites one acre or more)

- Requires preparation and implementation of Storm Water Pollution Prevention Plans (SWPPP)
- New requirements as of 2010:
  - Risk based requirements
  - Low Impact Design (LID) & Hydromodification requirements
  - Additional monitoring (sample collection/analysis)
  - Numeric Effluent Limits (NELs)
  - Annual reports by Certified Personnel
  - Certified Personnel on site during construction
- If in a Risk Level 2 area, “add a zero” to your budget. Don’t buy or develop property in Risk Level 3 or have a really large budget!



# Industrial Storm Water Permit (school bus maintenance facilities)

- Affects schools that operate school bus maintenance yards
- Includes fueling and related equipment cleaning
- First adopted in 1991; reissued permit adopted in 1997
- Estimated to affect approximately 220 school districts



# Draft Reissued

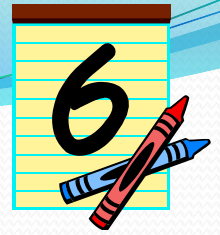
## Industrial Permit

- Current Draft is more prescriptive and includes:
  - Increased requirements for Weekly, Monthly and Quarterly Storm Water Observations.
  - Increased requirements for storm water sampling including in field testing (Rain Gauge, Testing Meter)
  - Additional inspection and new training requirements
  - New Numeric Action Levels (NALs) and Numeric Effluent Limits (NELs)
- Estimated costs of \$30,000 to \$100,000 per bus maintenance yard
- Estimated cost assumes no Corrective Action Triggers are exceeded
- Permit Effective Date Not Yet Specified – Expect July 2012 at earliest

# Storm Water Management Plan

## Implementation Responsibilities

### 6 Minimum Control Measures



Minimum Control Measure	M&O	Grounds	Transportation	Custodians	Planning/ Construction	Principals/ Teachers
Public Education & Outreach	X	X	X	X	X	X
Public Involvement/ Participation	X	X	X	X	X	X
Illicit Discharge Detection and Elimination	X	X	X	X	X	X
Construction Site Storm Runoff Control	X				X	
Post Construction Storm Water Management in new Development and Redevelopment	X		X	X	X	
Pollution Prevention/ Good Housekeeping	X	X	X	X		X

If Designated

# NEW Approach to SMS4

- Preparation of a SWMP is no longer required; replaced by overarching and very detailed requirements and milestones set forth in the Permit
- School districts :
  - ✓ Although not automatically designated, still subject to future designation by the Regional Water Board on a “Case-by-Case” basis.
  - ✓ Some districts are listed as potential permittees, including five in San Diego County (Coronado Unified, National, Ramona Unified, Poway Unified and SDCOE) – others may be added
- No other regulated sector received similar treatment
- If designated, on-line Annual Report submittal begins in September 2013

# Draft Reissued Permit Requirement Summary for Designated Entities

If Designated

## 6 Minimum Control Measures (Ramped-Up)

- Program management
- Post construction storm water management
- Program effectiveness assessment
- Detailed annual reporting (beginning in 2013)



If Designated

# Public Education/Outreach Requirements

- Implement “community-based” social marketing” strategies (or equivalent) to change student and staff behaviors
- Measure changed behaviors
- Educate Contractors
- Describe progress in detailed annual reports



INNOVATION  
SUCCESS  
EVALUATION  
DEVELOPMENT  
GROWTH  
SOLUTION  
PROGRESS  
MARKETING

A hand-drawn word cloud consisting of eight words arranged in a grid. A red vertical line is drawn through the center of the words, passing through the letters 'I', 'S', 'U', 'L', 'O', 'L', 'U', 'T', 'I', 'O', 'N' from top to bottom. A hand is visible at the bottom right, holding a white marker and drawing the red line.



If Designated

# Public Involvement/Participation Requirements

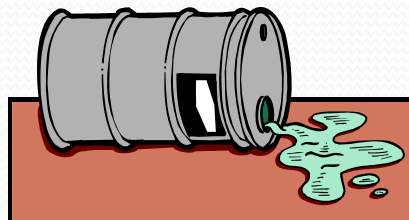
- Develop and implement a public involvement and participation strategy
- Establish citizen advisory group
- Create opportunities for the public to participate in BMP implementation
- Ensure public can easily find information about the Permittee storm water program



If Designated

# Illicit Discharge Detection and Elimination Requirements

- GIS storm drain system mapping
- Priority area identification
- Field screening/monitoring
- Source investigations/ illicit discharge elimination
- Spill Response Plan
- Staff training



If Designated

# Construction Site Runoff Control Requirements

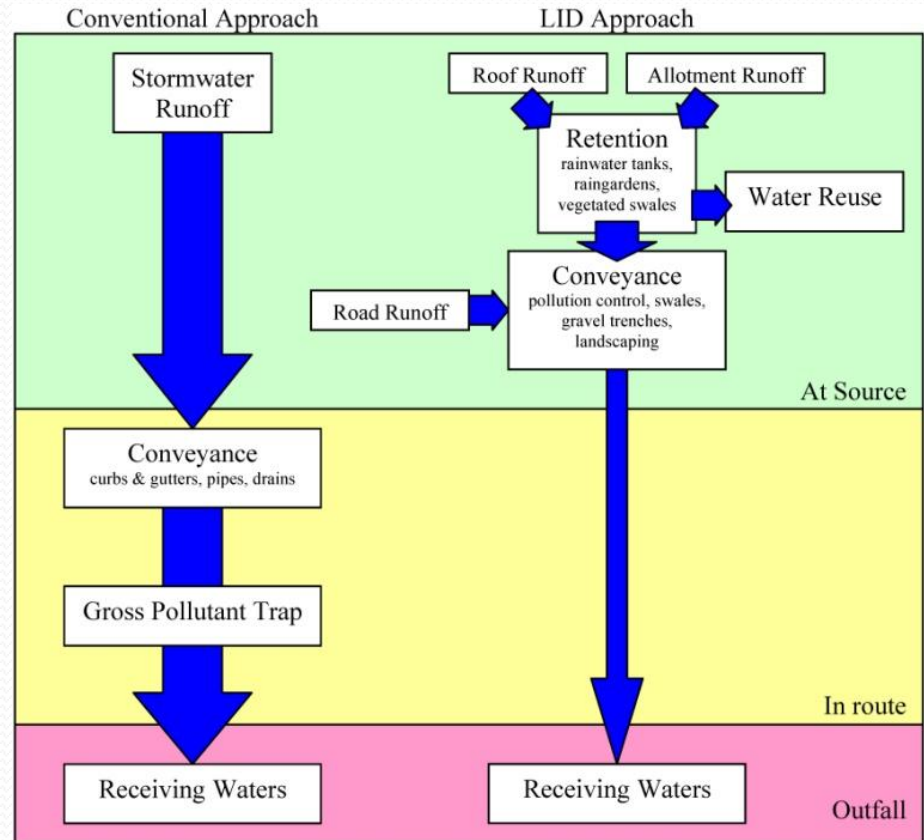
- Construction site inventory
- Erosion Control Plans reviews
- Construction site inspections
- Staff training
- Construction site operator education



If Designated

# Post Construction Storm Water Management Requirements

- Implement local City or County post-Construction requirements for new development and redevelopment projects



If Designated

# Pollution Prevention/Good Housekeeping Permittee Operations Requirements

- District-owned facility inventory
- District-owned facility mapping
- Facility assessment: pollutant hotspots
- Hotspot SWPPPs
- Facility inspections
- Storm drain system assessment
- Storm drain system maintenance
- Permittee O&M activities
- Water quality enhancement facilities
- Pesticide/fertilizer management
- Staff training



If Designated

# Program Management Requirements

- Establish adequate legal authority to control pollutant discharges into storm drain system
- Certify that district legal authority is adequate to implement and enforce the SMS<sub>4</sub> Permit requirements
- Develop Enforcement Response Plan
- Provide adequate resources to comply with SMS<sub>4</sub> Permit requirements



If Designated

# Program Effectiveness Requirements

- Municipal watershed pollutant load quantification
- Develop and implement program to track the short- and long-term progress of the district storm water program
- Calculate annual subwatershed runoff pollutant loads and BMP removal efficiencies
- Where needed, modify control measures and/or district activities
- Maintain at least 20% of the district BMPs (e.g. detention basins, vegetated swales, etc.) annually
- Describe progress in detailed annual reports



# Cost to Implement as Drafted

- Preliminary estimates have ranged from \$30,000 to \$50,000 for centralized district activities,
- and \$5,000 to \$10,000 per school site during the first year of implementation, depending on site location and condition.
- Based on the above, the projected cost for a district with 11 schools is estimated to be \$85,000 to \$160,000.
- These costs do not include any provision for structural alterations (BMPs), such as water storage or filtration.



# So, We Are Not “Automatically” Designated...

- Are we off the hook?
- Should we be doing anything “just in case”?
- What’s the risk of fines and from who?

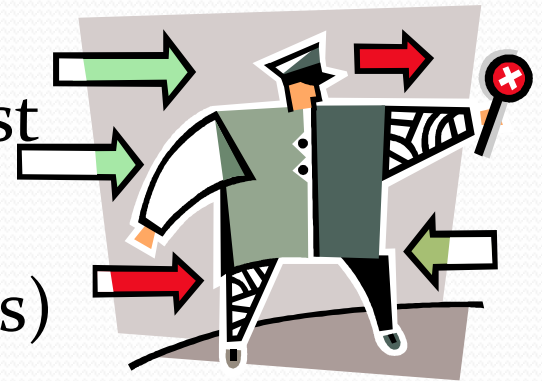
# Enforcement at the Municipal Level

- Large MS4s have a responsibility to enforce storm water controls
  - They can be sanctioned for failing to enforce their permit requirements
  - They can be sued by environmental activists for failing to enforce storm water controls
  - (This also applies to Small MS4s such as districts!)

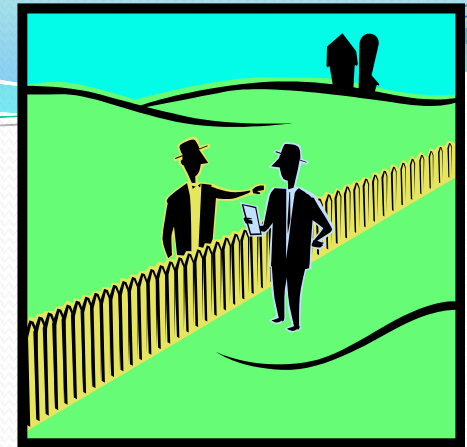


# Enforcement Reality

- Where a project or site is non-compliant it is usually due to a “system break down” and/or non-effectiveness during rain events
  - Reassess overall compliance
  - Fix internal “system” problems first
  - Implement realistic and effective Best Management Practices (BMPs)
  - Gain from mistakes and implement activities towards compliance daily



# The Role of Politics & Neighborliness



- Because compliance is a largely subjective determination, the importance of a positive relationship with RWQCB and Large and Small MS4 staff cannot be understated
- This must *always* be weighed against the potential for enforcement

# Recommended Actions

- Respond to requests for letters regarding impacts from Staff, C.A.S.H. or your County Office
- Be good neighbors – Be aware and Act
- Do the right thing for clean water!



# Tustin USD and City of Tustin

## Case Study

Presented by David Miranda

# Case Study Background

- ❑ Tustin USD has Built and/or Remodeled Schools in Tustin, the County of Orange, and Irvine land Without Issue for the past 17 Years
- ❑ City of Tustin Ordinance Exempted Public School Districts from Obtaining Grading Permits
- ❑ City of Tustin's new Position was to Treat Tustin USD as a Private Developer Rather than a School District

# TUSD Project Approval Process

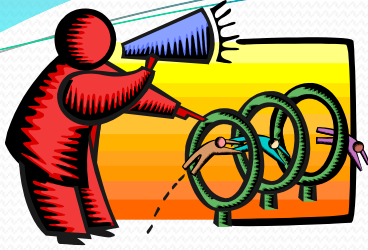
- ❑ A/E firms should address all current regulations:
  - ❑ Federal Regulations
  - ❑ State Water Board Requirements
  - ❑ Regional Water Board Requirements  
(including post construction BMP's)
  
- ❑ Customary courtesy review by Local Agency





# The Issue

- ❑ Tustin USD dispute regarding exemption from local grading ordinance, city jurisdiction, and interpretation of Government Code Section 53097
- ❑ City of Tustin's Unlawful, Unreasonable & at Times Unrelated Demands Were Causing Costly Delays to School Construction Projects
- ❑ Tustin USD filed a Complaint for Declaratory and Injunctive Relief to Stop City Interference on School Projects
- ❑ Affected Projects:
  - ❑ Heritage School (New School Construction)
  - ❑ Tustin HS Science Addition (New Construction)
  - ❑ Tustin HS Quad Upgrade (Modernization)
  - ❑ Future Projects within City of Tustin



# City of Tustin Demands

- ❑ Tustin USD must Submit a Water Quality Management Plan (WQMP), Grading Plans, and Apply for a Grading Permit on School Construction Projects
- ❑ Grading Permit Would Then Tie District to new Requirements (“Discretionary” Land Use Approval):
  - ❑ Execution of a Landscape Maintenance Agreement
  - ❑ Landscape Easement Dedication (at No Cost) for Future City Project
  - ❑ Construction & Demolition Waste Recycling Reduction Plan (WRRP) – Exempt by City Code, Section 4351
  - ❑ City Inspections Rather than DSA Inspectors
  - ❑ City Title Blocks – General Notes

# Implications for TUSD

- ❑ Grading Permit Process would Create Costly Delays and Unnecessary Hold-ups
- ❑ Example: Heritage Elementary School
  - ❑ District had Secured All Necessary Approvals to Build; However, City created Numerous Roadblocks & Delay Tactics in Its “Grading Review”
  - ❑ District had Secured Construction Bids and Stood Ready to Proceed
  - ❑ District was Faced with Adhering to Strict Timeframes & Conveyance Restrictions set forth by Department of Navy (Could not Afford to Stand Down – Risk Losing Land)
  - ❑ City Threatened to Assess Contractors With Double Fines if they were to Proceed, Yet they Wouldn’t Release the Necessary Approvals
  - ❑ City Without Justification Held Approval of WQMP’s (Submitted as a Courtesy) – Followed up by Reporting District to SARWQCB

# TUSD Project Impacts



# Heritage Elementary School



# Dispute Status



- ❑ Trial Continued to November 14, 2011
- ❑ City of Tustin Recently Eliminated Public School District Exemption from Grading Ordinance
- ❑ Heritage School and Phase I of Tustin HS Projects are complete
- ❑ Tustin USD will Proceed with Projects and Customary Practice relating to City Submittals

# TUSD Alternate Approach:

- ❑ County of Orange Model Water Quality Management Plan (MWQMP) Approved May 20, 2011
- ❑ Establishes procedures and requirement that the county and its co-permittees must follow
- ❑ Even though TUSD is not a co-permittee, the District could establish an ordinance or rule that requires the District to comply with the MWQMP
- ❑ By doing this TUSD will achieve many of the same things that the MS4 requires

# TUSD Alternate Approach:

TUSD exploring alternatives:

- ❑ Consistency Determination with County of Orange
- ❑ Conditional Waiver from Regional Water Board - County of Orange finding TUSD to be in compliance with North Orange County MS4 Permit



# Don't Let it Go Down the Drain!



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