



## Board Summary Memo

**To:** Board of Directors  
**From:** Lanae Raymond and Ashley Byerley, WQ Program  
**Date:** August 16, 2012  
**Re:** Resolutions to Support MS4 Permit Audit/Questionnaire Submittal  
**Board Meeting Date:** August 22, 2012

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### Purpose

This Summary Memo will provide the Board with a general understanding of the four (4) Resolutions necessary to complete the CDPHE (the Division) Audit/Questionnaire due to be completed by all MS4's by October 15<sup>th</sup>. The memo will provide the background and overview to prepare the Board for the formal presentation at the August 22<sup>nd</sup> Board meeting, where the Board will be asked to consider the four Resolutions for approval. The Resolutions are not on the Consent Agenda; they are an agenda item with opportunity for discussion.

### Background

As previously discussed during a Study Session at the July 25<sup>th</sup> Board meeting, the Division prepared the Questionnaire based on common findings regarding non-compliance with their interpretation of Permit requirements to determine if an MS4 is in compliance with the Permit. The Questionnaire is a set of YES/NO answers regarding three program areas of the Permit: Program 3, IDDE; Program 4, GESD, and Program 5, Permanent WQ BMPs. NO answers generally indicate non-compliance with a specific permit requirement.

The process is intended to proactively identify and correct noncompliance items prior to the Division conducting full audits for those MS4s not yet audited by the Division, including SEMSWA, and to allow for increased compliance assistance and collaboration than would occur by addressing MS4 compliance one at a time. Ultimately, the information from the Questionnaire will be used by the Division during the MS4 Phase II permit renewal process, now scheduled for December 2013, to craft a permit with clear expectations, standards of performance, and requirements. SEMSWA is in favor of this goal as well.

### Discussion

SEMSWA staff have completed four Resolutions for the Board to consider that either develop, revise and/or strengthen the formal mechanisms to enforce our MS4 Programs, including the following:

Resolution	Intent of the Resolution
<i>#1: Pollution Reduction in Stormwater Discharges through Illicit Discharge, Detection, and Elimination (IDDE) Standards</i>	SEMSWA <b>prohibits discharges</b> that violate Permit, i.e. “ <i>You cannot illegally discharge</i> ”. Previously, this authorization was only under the City’s Ordinance. SEMSWA will allow only those discharges that the State allows.
<i>#2: Authorization for Enforcement Related to the CDPS MS4 Permit</i>	SEMSWA has the <b>authority to enforce</b> on Permit violations <b>through penalty action(s)</b> . The Resolution documents the enforcement mechanism delegated to SEMSWA from the City, recognizing the requirements for permit enforcement through adoption of the GESC Manual and Stormwater Management Manual (SMM), and the use of an internal IDDE Manual.
<i>#3: Establishment of Penalties for Enforcement Related to the CDPS MS4 Permit</i>	SEMSWA <b>authorizes the legal steps/enforcement tools</b> necessary to enforce the Permit requirements, and references an enforcement process contained in separate Implementation documents.
<i>#4: Amendment to the Stormwater Management Manual (SMM)</i>	Removes non-conforming variance processes in SMM so there are <b>no exemptions to water quality</b> .

## Alternative

In order to have a successful Questionnaire submittal and stay in compliance with the MS4 Permit, there is really no option other than to develop, revise and/or strengthen the formal mechanisms to enforce the MS4 Permit.

## Fiscal Impacts

There is not a known direct fiscal impact of adopting the four resolutions to successfully complete the Questionnaire at this time. These are formal mechanisms to enforce the MS4 Permit that strengthen the implementation of the permit elements generally within the budget that exists now. However, there is a possibility that a small portion of the IDDE investigations, most likely less than 5%, may require additional Attorney time to assist staff to eventual resolution, ranging from correspondence up to presenting in a court of law.

There was an initial fiscal impact of hiring a Permit Compliance Specialist to provide expertise for the strategy to complete the Questionnaire successfully, in an amount not to exceed \$3,000, as well as additional Attorney time to review the legal implications of the Questionnaire and provide guidance on implementing the necessary steps to answer the audit questions successfully.

## Concurrence

Discussions with the SEMSWA Attorney and Executive Director, as well as Centennial staff and legal regarding the City’s IDDE Ordinance effort, indicate concurrence with adopting these four Resolutions as outlined above.