

EXHIBIT A-1

**Letter from Robert Robichaud, Manager, NPDES Permits
Unit, to Gordon Law, City of Caldwell re: Permit
Application Requirements for Storm Water Discharges
(1/17/03)**



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

1200 Sixth Avenue
Seattle, WA 98101

file

Reply To
Attn Of: OW-130

JAN 17 2003

Gordon Law, City Engineer
City of Caldwell
Office of the City Engineer
621 Cleveland Boulevard
Caldwell, ID 83605

RE: Permit Application Requirements for Storm Water Discharges

Dear Mr. Law:

The U.S. Environmental Protection Agency (EPA) has determined that City of Caldwell owns and operates a storm sewer system, and therefore is required to obtain a permit as described in the National Pollutant Discharge Elimination System (NPDES) regulations for storm water discharges from municipally-owned separate storm sewer systems.

EPA published the "Phase II" storm water regulations on December 9, 1999 (64 FR 68721). As outlined in these regulations, our determination is based on review of the U.S. Census Bureau maps of the urbanized areas in the State of Idaho, and the assumption that the City of Caldwell storm sewer system discharges to waters of the United States. As defined in 40 CFR 122.32(a)(1), the City of Caldwell municipal separate storm sewer system (MS4) is a "regulated small MS4" requiring NPDES permit coverage. Under 40 CFR 122.33(c)(1), City of Caldwell is required to submit an application for permit coverage to EPA Region 10 no later than March 10, 2003, describing the storm water management plan for storm water discharges from its MS4.

EPA Region 10 has not yet issued a general NPDES permit for regulated small MS4s; therefore, City of Caldwell must apply for an individual NPDES permit. Enclosed with this letter is an application document to assist you in preparing an individual NPDES permit application consistent with the regulatory requirements described in 40 CFR 122.33(b)(2). (Copies of the appropriate regulatory citations are included in the enclosed document for your convenience.) City of Caldwell and other regulated entities may jointly apply to be co-permittees under an individual permit.

EPA Region 10 intends to issue a general NPDES permit for municipal storm water discharges in the future; any information provided by the City (and/or co-applicants) to EPA Region 10 will also fulfill the upcoming general permit application requirements.

Any NPDES permits EPA issues in response to applications by regulated small MS4s will be consistent with the requirements at 40 CFR 122.34. This section requires that the MS4 operator develop and implement a comprehensive storm water management program that addresses six minimum control measures, which includes:

1. Public education and outreach
2. Public participation and involvement
3. Illicit discharge detection and elimination
4. Construction site runoff control
5. Post-construction runoff control
6. Pollution prevention/runoff control

The minimum requirements for illicit discharges, construction site runoff control, and post-construction runoff control call for the use of an ordinance or other enforceable regulatory mechanism to the extent allowable under State, Tribal or local law. In addition, the NPDES permits issued by EPA will require the MS4 permittee to conduct assessments of its chosen best management practices and measurable goals, and provide the results in periodic reports to EPA Region 10.

The description of the storm water management program should identify those measures that are already in place or underway, as well as those measures that remain to be developed or implemented. As stated in 40 CFR 122.34(a), EPA will require full implementation of the applicant's storm water management program no later than the end of the first permit term (i.e., a 5-year period from the date of permit issuance).

Enclosed with this letter are the *Region 10 NPDES Permit Applications From Regulated Small MS4s* document, and a CD containing other EPA guidance materials, including: the Storm Water Phase II fact sheet series; Measurable Goals Guidance; Menu of Best Management Practices (BMPs); Storm Water Phase II Compliance Assistance Guide; Census Bureau Urbanized Area maps, and the NPDES storm water Phase II regulations as published in 1999. These materials provide an overview of the Phase II rules, information on small MS4 programs, as well as specific guidance that can be used to develop and implement storm water management programs.

In summary, using the criteria of the Phase II storm water regulations, EPA has determined that City of Caldwell operates a small municipal separate storm sewer system requiring NPDES permit coverage. As such, City of Caldwell must submit a permit application for storm water discharges from the MS4 no later than March 10, 2003. City of Caldwell may apply as a joint permittee with other regulated entities. A complete application consists of the all information listed in the *Region 10 NPDES Permit Applications From Regulated Small MS4s* document, including a narrative description of the measurable goals and BMPs for each of the six minimum control measures that comprise the storm water management program City of Caldwell intends to develop, implement and enforce in its jurisdiction.

If you have any questions or need further assistance, please contact Misha Vakoc of my staff at (206) 553-6650, or vakoc.misha@epa.gov.

Sincerely,



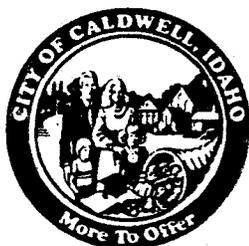
Robert R. Robichaud, Manager 
NPDES Permits Unit

Enclosures

cc: Jerry West, IDEQ-Boise

EXHIBIT A-2
NPDES Permit Application for the
City of Caldwell Phase II MS4
(2/20/03)

copy



Office of City Engineer & Public Works Director

GORDON N. LAW, P.E.

February 20, 2003

CITY OF CALDWELL

City of Caldwell
P.O. Box 1177
Caldwell, Idaho 83606-1177
BUS. 208/455-3006

621 Cleveland Blvd.
Caldwell, Idaho 83605
PHONE (208) 455-3000
FAX (208) 455-3003

U.S. EPA Region 10
Office of Water – Attn: Storm Water Program
1200 6th Avenue (OW-130)
Seattle, Washington 98101

Re: City of Caldwell, Idaho Phase II Storm Water Permit Application

To Whom It Concerns:

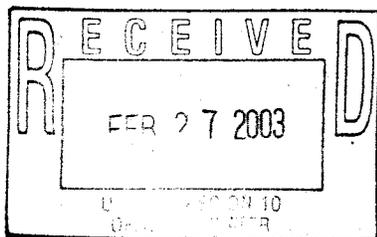
On behalf of the City of Caldwell, Idaho I am submitting the enclosed application for an individual National Pollution Discharge Elimination System (NPDES) permit for storm water discharges. The application includes a Storm Water Management Plan that describes existing activities and proposed actions to address the six minimum control measures (40 CFR 122.34).

If you have any questions regarding this information, I can be reached at 208/455-3006.

Sincerely,

Gordon N. Law, P.E.
Caldwell City Engineer

Enclosure



National Pollutant Discharge Elimination System – Permit Application

- 1) Activity for which permit is sought:

The City of Caldwell operates a municipal separate storm sewer system located in Canyon County, Idaho.

- 2) Jurisdiction information for which the application is submitted:

Garret Nancolas, Mayor
City of Caldwell
Caldwell City Hall
621 Cleveland Blvd
Caldwell ID 83605

Phone: 208.455.3011
Fax: 208.455.3003

- 3) Standard Industrial Classification (SIC) Code: 9199

- 4) Stormwater Contact:

Principal: Gordon Law, Public Works Department Director
Phone: 208.455.3006
Fax: 208.455.3003
Email: glaw@ci.caldwell.id.us

- 5) This jurisdiction is not located on Tribal lands.

- 6) Permits or construction approvals:

UIC permits:

Shallow injection wells for storm water are permitted by rule in Idaho.

NPDES permits:

Caldwell Wastewater Treatment Plant (ID0021504)

Caldwell Housing Authority (ID0025453)

Caldwell Airport Storm Water Industrial Permit

404 permits:

These permits are applied for on a project specific basis and are only for the duration of the project.

- 7) Topographic map: Included separately

- 8) Nature of business: Caldwell is located in the Snake River plain in Southwest Idaho and is the ninth largest city in Idaho. The City of Caldwell uses a mayor/council form of government consisting of a six-member city council with staggered four-year terms. The population of Caldwell in the year 2000 was 25,967 (U.S. Census Bureau). Caldwell is located in Canyon County, which has a

population of 115,100 people.

Caldwell is situated in the Treasure Valley along the Boise River. Covering an area of approximately 12.5 square miles, the City sits at an elevation of 2,428 feet above sea level. The valley is surrounded by the Owyhee, Weiser and Boise mountain ranges that rise steeply to 8-9,000 feet above sea level and range in distance from eight to twenty miles away from Caldwell, surrounding the Treasure Valley.

The municipal separate storm sewer system operated by the City of Caldwell consists of roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, and storm drains used for collecting or conveying storm water. Storm water runoff within the Caldwell city limits is discharged to the following waters of the U.S.:

Indian Creek	Mason Creek
Boise River	Dixie Drain
Elijah Drain	Wilson Drain
A Drain	Noble Drain
Solomon Drain	West End Drain
Laurel Drain	Parker Gulch
Isaiah Drain	

Storm water management issues are addressed by the Caldwell Public Works Department, which is comprised of seven divisions. The Public Works Department is responsible for the overall implementation of the Storm Water Management Plan. In addition, the Parks Department has responsibility for specific activities identified in the Plan that address municipal operations.

- 8) Square mileage served by the Municipal Separate Storm Sewer System (MS4): 12.5 square miles
- 9) Description of best management practices: See enclosed Storm Water Management Plan
- 10) Description of measurable goals: See enclosed Storm Water Management Plan
- 12) Responsible Person: Gordon Law, Public Works Director
Phone: 208.455.3006
Fax: 208.455.3003
Email: glaw@ci.caldwell.id.us

Certification

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Authorized Representative Name

Garret Nancolas, Mayor

Signature

Garret H. Nancolas

Date

Feb 25, 2003



Storm Water Management Plan

The Caldwell City Storm Water Management Plan describes existing programs and activities and additional actions that the City of Caldwell will take to comply with the federal storm water regulations (40CFR126). The plan addresses each of the six minimum control measures and describes best management practices (BMPs) that will be implemented during the course of the permit term. These BMPs were chosen based on the following considerations:

- Activities which reduce pollutants addressed by Total Maximum Daily Load (TMDL) allocations
- Identified problems
- Local conditions
- Existing programs and activities

Storm water runoff within the Caldwell city limits is discharged to the following waters of the U.S. that include the Boise River, Indian Creek, Mason Creek, Dixie Drain, Elijah Drain, Wilson Drain, A Drain, Noble Drain, Solomon Drain, West End Drain, Laurel Drain, Parker Gulch and Isaiah Drain. These drainages connect to the Lower Boise River, which ultimately discharges to the Snake River above Hells Canyon.

There is an approved TMDL for the Lower Boise River and a draft TMDL for a portion of the Snake River to which the Boise River is tributary. TMDLs will also be developed for Indian Creek and Mason Creek. Potential pollutants of concern include nutrients, bacteria, and sediment, and dissolved oxygen. Efforts to reduce discharges of suspended sediment to the storm drain system will focus on construction and post-construction measures. Measures that maintain pre-development hydrology are also fundamental to meeting sediment reduction requirements. Maintenance activities such as street sweeping and clean out of catch basins also reduce sediment loads to the River.

Control programs for bacteria will focus on education regarding pet waste cleanup, proper disposal of kitty litter, septic system maintenance, and general urban housekeeping. Controls that result in nutrient reductions also improve dissolved oxygen and include components of the illicit discharge detection and elimination measure, public education activities, and certain types of structural practices used in land development that provide for nutrient removal.

Projected growth is an important consideration in developing priorities for storm water-related activities. From 1990 to 2000, the population of Caldwell increased by 41% (U.S. Census Bureau, 2000). Construction and

post-development controls, both structural and nonstructural, are emphasized. When adequate controls are in place prior to development, there will be a net pollutant load reduction as the land use is converted from agriculture to urban/suburban. With appropriate development policies and regulations in place, the expected growth in the coming years provides the City of Caldwell with an opportunity to address stormwater runoff and associated loads and realize a net decrease in pollutant loads.

Many proposed activities build on existing capabilities. Activities that can be implemented through existing programs have the advantage of institutional acceptability and cost savings. Support is more likely to exist if the activity builds on existing capabilities or modifies existing programs or activities. Without institutional support, control measures are less likely to be implemented which will have a significant impact on the effectiveness of urban runoff control programs. Integrating new activities with existing programs is also one of the most cost-effective ways to achieve reductions in pollutant loadings.

These activities include the development of educational materials, public involvement in program development and implementation, development of maintenance guidelines to implement existing detention requirements, development of an Operations and Maintenance Plan for documenting and enhancing existing inspection and maintenance activities, and providing additional employee training.

New programmatic activities include the development of a construction site control program. The new authorities needed for the construction site program may be enacted through an ordinance specifically targeted to construction sites or written as a broader storm water management ordinance that also provides additional restrictions on illicit connections and illegal dumping.

It is through the implementation and evaluation of these BMPs that the City of Caldwell will ensure that all the objectives of the Phase II NPDES program will be met. The storm water management program will address the following six minimum control measures:

- Public education and outreach
- Public participation/involvement
- Illicit discharge detection and elimination
- Construction site runoff control
- Post-construction runoff control
- Pollution prevention/good housekeeping

Following is a discussion of each Plan component as it relates to these measures. Proposed activities are also summarized in a table at the end of the Plan.

Public Education and Outreach on Storm Water Impacts

Baseline

The City currently provides information to the public in a number of ways. This includes a City web site that provides access to information about City departments. Each of the departments may also conduct public education and outreach activities in response to specific issues. Methods have included press releases, direct mailings to stakeholders, sewer and water bill inserts, and a public notice board in City Hall and at the library.

Proposed Best Management Practices

The following BMPs build on existing capabilities and will focus on the problems and activities that are the sources of pollution of concern in Caldwell. The web page, brochure, and sewer bill inserts will address sources of pollution, actions that can be taken to reduce pollutants, and who to call to report a problem.

Activity:	Educational materials such as brochures or fact sheets will be developed and distributed at venues such as the Engineering desk and pay window in City Hall, the library, community events, direct mailings or as utility bill inserts. This information will also be provided to Department heads for distribution by staff in the course of their regular activities.
Target Audience:	General public
Responsible Party:	Public Works Department
Milestones:	Develop educational materials (Year 1) Distribute information (Years 2-5)
Measurable Goal:	Distribute information through a minimum of three venues annually. The number of distribution opportunities and materials distributed will be tracked.

Activity:	Storm water program press releases
Target Audience:	General public and stakeholders
Responsible Party:	Public Works Department
Timeframe:	Ongoing throughout permit term
Measurable Goal:	Press releases will be issued regarding each major program milestone. Major milestones include the development of a new activity or program such as

storm drain inlet stenciling or the program to control discharges from construction sites; receipt of the permit from EPA; and enactment of new ordinances.

Activity: Include storm water page with City's website
Target Audience: General public and stakeholders
Responsible Party: Public Works Department
Milestones: Create web page (Year 2)
Update as needed (Years 3-5)
Measurable Goals: Information on the web page will be reviewed annually and updated as needed.

Activity: Storm drain drop inlet stenciling
Target Audience: General public
Responsible Party: Volunteer organizations recruited and trained by Public Works Department
Milestones: Obtain materials and promote activity (Year 1)
Ongoing implementation (Years 2-5)
Measurable Goal: Require stenciling by developers in all new developments and promote stenciling by volunteer groups in existing developments.

Activity: Education or training for problem issues/areas
Target Audience: Industrial and commercial businesses
Responsible Party: Public Works Department/Code Enforcement
Milestones: As needed
Measurable Goal: Targeted education activities will be implemented within one year of problem identification. The number of educational materials distributed or outreach efforts to business owners and operators will be tracked.

Public Involvement/Participation

Baseline

The City currently complies with applicable state and local public notice requirements, which includes public notice of new ordinances or ordinance revisions. The Open Meeting Law (Idaho Code Title 67, Chapter 23) sets forth requirements for public notification of meetings.

The Spring Clean-up, sponsored by the Streets Department and the Parks and Recreation Department, is an existing public participation activity. This event includes incentives such as free pickup and disposal of solid waste.

Proposed Best Management Practices

The public will be involved in the development, implementation and ongoing review of the storm water program to provide for broader public support and a broader base of expertise. Stakeholder involvement will target interests most affected by the program elements.

Activity:	Existing community cleanup activities will be promoted and used as a method for public education and public involvement, through additional publicity, educational activities, volunteer involvement of schools and community organizations, and specific cleanup activities in public areas.
Target Audience:	General public
Responsible Party:	Public Works Department
Milestones:	Annual event throughout permit term
Measurable Goal:	The quantity of waste collected as a result of cleanup efforts.

Activity:	Involvement of stakeholders in construction site program development
Target Audience:	Affected stakeholders
Responsible Party:	Public Works Department
Milestones:	Draft program elements (Year 1) Develop regulatory authority (Year 2)
Measurable Goal:	Stakeholders will provide review and feedback at major decision points during program development.

Activity: Public meetings
Target Audience: General public, decision makers and stakeholders
Responsible Party: Public Works Department
Milestones: A public meeting for program review prior to
submittal of the permit application to EPA and on an
annual basis is planned.
Measurable Goal: A minimum of one public meeting per year will be
held.

Activity: Storm drain drop inlet stenciling
Target Audience: General public
Responsible Party: Volunteer organizations recruited and trained by
Public Works Department
Milestones: Obtain materials and promote activity (Year 1)
Ongoing implementation (Years 2-5)
Measurable Goal: Require stenciling by developers in all new
developments and promote stenciling by volunteer
groups in existing developments.

Illicit Discharge Detection and Elimination

Baseline

Code enforcement activities are addressed by the Police Department and the Planning and Zoning Department. The Police Department provides the initial response to complaints related to dogs, weeds and abandoned vehicles, while the Planning and Zoning Department addresses land use issues. Other types of complaints may be referred to other City departments as appropriate. The Planning and Zoning Department tracks complaints and their status, and will be able to generate annual summary reports as of 2002.

The Canyon County Landfill accepts household hazardous waste from residents of the county. Wastes such as used oil and antifreeze are collected at the landfill for recycling. The Idaho Department of Agriculture sponsors an annual collection day for pesticides at the landfill. These chemicals are sent off-site for disposal. These activities provide an appropriate means of disposal of wastes for Caldwell residents.

Existing authorities to control illicit discharges are spread throughout the municipal code. For instance, the Open Burning Ordinance contains a general provision that prohibits littering on any street, alley, sidewalk or vacant ground or any canal, irrigation ditch, drainage ditch or other watercourse. (CCC 08-17-01 (1) C.) There is no single ordinance that addresses the range of activities that might impact the MS4.

Existing activities to detect illicit connections include building inspections for new development, industrial inspections by pretreatment staff, routine street and drainage system inspections and maintenance, and ongoing code enforcement activities.

Proposed Best Management Practices

A storm sewer system map, showing the location of all outfalls and drop inlets will be developed. Dry weather screening of all outfalls will be done as part of this effort. Detection of illicit connections will continue to be done through existing inspection activities. In addition, dry weather outfall screening will be implemented.

Additional enforcement remedies are needed. An evaluation of existing authorities will be done and additional authorities enacted that will allow the City to access private property from which an illicit discharge originates, assign enforcement authority and establish further prohibitions against unauthorized connections and illegal dumping. The requirement to control illegal dumping will also be addressed through the public education

component of the program, through employee training, and through existing capabilities of the Code Enforcement Division.

Activity: System and Outfall Mapping
Responsible Party: GIS Mapping Department
Milestones: Complete mapping (Year 2)
Update as needed (Years 3-5)
Measurable Goal: Maintain accurate and complete maps
Dry weather screening of all outfalls as part of mapping.

Activity: The prohibition through ordinance, or other regulatory mechanism, of non-storm water discharges into the storm sewer system, including appropriate enforcement procedures and actions
Responsible Party: Code Enforcement
Milestones: Review of existing authorities (Year 1)
Adoption of additional authorities (Year 2)
Measurable Goal: Adequate authorities adopted

Activity: Develop plan to detect and address illicit discharges, including illegal dumping, into the MS4. The plan will document existing and proposed activities.
Responsible Party: Code Enforcement staff, Pretreatment Coordinator, Building Department Official, Plan Review staff in the Engineering Department
Milestones: Document existing and proposed activities (Year 1)
Plan implementation (Years 2-5)
Measurable Goal: Full implementation of Plan by Year 3

Activity: Educate public employees to recognize and report problems.
Target Audience: City employees
Milestone: Include information into employee training (Year 2).
Measurable Goal: Train all city employees by end of second permit year.

Activity: Provide information about illegal dumping and citizen reporting through public education activities. Educate the public about the hazards associated with illegal discharges and improper disposal of waste.

Target Audience: Businesses, and the general public

Responsible Party: Public Works Department and Code Enforcement

Milestones: Address illegal discharges through public education activities (Year 1).

Measurable Goal: Education activities will be tracked.

Activity: Complaint response

Responsible Party: Code Enforcement

Milestones: Information about how to report storm water-related problems will be incorporated into the existing Code Enforcement web page in the first year, and into other educational materials as they are developed.

Measurable Goals: Citizen reporting of problems and complaint response activities will be tracked.

Construction Site Storm Water Runoff Control

Baseline

The City of Caldwell currently does not have a program that addresses discharges from construction sites. The City of Caldwell Stormwater Management Interim Policy, approved December 1998 addresses discharges from construction sites by requiring that "Erosion and sediment discharged from the development site must be minimized or eliminated both during construction and after the development is complete" (Section 105.1).

This Policy also references NPDES requirements for construction sites greater than five acres and requires that the Pollution Prevention Plan be provided to the City prior to any site grading. The Public Works Department has existing plan review and site inspection capabilities and field inspectors do require that sediment and erosion be controlled if it is seen as a problem in the field.

Proposed Best Management Practices

A construction site program will be established by involving stakeholders (See Public Participation discussion.) The existing Stormwater Management Policy will be reviewed to determine if it includes sufficient design requirements and enforcement authorities to address the Phase II construction site requirements. Compliance with this program can also be achieved through fines, non-monetary penalties (e.g. restoration work), stop work orders, or bonding requirements. Other program elements that will be implemented are a review and approval process for plans, inspections and enforcement.

Activity:	Evaluate adequacy of existing policy and ordinance authority.
Responsible Party:	Public Works Department
Milestones:	Evaluate existing policies and ordinances (Year 1) Develop program, including needed ordinance authority (Years 1-2)
Measurable Goal:	Adequate enforcement mechanism by end of Year 2

Activity:	Establish procedures for the receipt and consideration of information submitted by the public. This will be accomplished through the public education and complaint reporting process.
Target Audience:	General public

Responsible Party: Public Works Department
Milestones: Address reporting of construction site problems through public education activities (Year 1).
Post information about reporting problems on the City's web site (Year 2).
Measurable Goal: Follow-up and enforcement on all public reports

Activity: Program implementation including pre-construction review of construction site plans, regular inspections during construction, and procedures for site inspection and penalties for non-compliance
Responsible Party: Public Works Department
Milestones: Begin program implementation within 180 days of ordinance enactment.
Measurable Goal: Complete program implementation by Year 3.

Post-Construction Storm Water Management in New Development and Redevelopment

Baseline

The Storm Drainage Ordinance (CCC 13-1) provides for the establishment and implementation of standards relating to storm drainage facilities. The standards relating to storm drainage facilities are described in the Stormwater Management Interim Policy, approved December 1998. This storm water management plan addresses flow controls, water quality protection, and erosion and sedimentation control (Section 100.2). The Policy is directed primarily at residential subdivisions, although new commercial and industrial developments are also subject to on-site detention requirements. Public infrastructure projects are also designed to adhere to this policy, when possible.

The Interim Policy addresses the management of storm water flows through the design and implementation of a control system to:

- Mitigate downstream impact from storm water flows resulting from land development activities,
- Accommodate the storm water flow from natural flooding upstream of lands and developments by providing adequate conveyance facilities through downstream sites,
- Mitigate the impacts to surface water and groundwater from contaminants in runoff caused by land development activities, and
- Control the quantity of contaminants through construction of treatment facilities.

The Caldwell City Code (CCC) also include a Landscape Ordinance (Section 10, Article 7) and Subdivision Ordinances (Section 11, Article 1) which contains provisions that apply to the Phase II storm water requirements. One of the goals of the Landscape Ordinance (CCC 10-07-02-D) is to enhance the City's environmental quality. Provisions which benefit water quality address Smart Growth (CCC10-07-02-H), tree preservation (CCC 10-07-03-G and H), the installation of common open space in residential and multi-family developments (CCC 10-07-05) and includes requirements for open space when used for stormwater detention (CCC 10-07-13).

The Subdivision Ordinance requires that drainage be addressed at the pre-application conference (CCC11-02-03.A) as part of a Development Master Plan (CCC 11-0203. C), as part of the preliminary plat review (CCC 11-02-04(4) A) and submittal (CCC 11-02-05(4) C). Article 4, Street and Utility Improvement Requirements addresses storm drainage (CCC 11-04-05(6))

and requires that drainage facilities be constructed in accordance with approved City standards.

The downtown core was developed before existing policies were in place. Any development in place and discharging to an existing storm drainage system at the time the policy was enacted may continue to discharge off site. On-site retention has been formally required at least since 1994, and as a matter of policy at least since 1992. Developments proposing to discharge to a ditch, drain or pond under the jurisdiction of another entity are subject to the review and approval of the entity operating or maintaining the ditch, drain or pond.

The Public Works Department ensures the appropriate implementation of the structural BMPs through pre-construction review of BMP designs, and inspections during construction to verify BMPs are built as designed. The responsibility for operation and maintenance of privately owned and operated retention or detention facilities must be clearly defined and noted on development plans (Interim Policy, Section 103.4). However, the City does not require that an operation and maintenance plan be submitted and the City does not conduct inspections to ensure that maintenance is being performed.

Nonstructural development controls promoted in the Caldwell Comprehensive Plan (2000) include the protection of fish and wildlife habitat, the use of greenbelts as buffer strips for the protection of surface waters and wetlands, and the incorporation of open space, recreational areas, trails and/or pathways in conjunction with clustering of housing units. The Plan also promotes infill development and requires new developments to be located in areas that have existing services and utilities or that are readily accessible.

Proposed Best Management Practices

Additional activities that will be implemented to address this minimum measure include activities to support policies included in the Comprehensive Plan, as appropriate, and development of a handbook to provide guidance for BMP design, operation and maintenance.

Activity:	Develop guidance handbook for structural controls to ensure proper design, operation and maintenance.
Responsible Party:	Public Works Department
Milestones:	Handbook completed (Year 2) Revisions, as needed (Years 3-5)
Measurable Goal:	Handbook

Activity: Support implementation of nonstructural controls, as appropriate. Controls addressed in the Comprehensive Plan include protecting sensitive areas, maintaining and/or increasing open space; providing buffers along sensitive water bodies; and policies that encourage infill development in higher density urban areas, and areas with existing infrastructure.

Responsible Party: Public Works and Planning Departments

Milestones: Ongoing

Measurable Goal: Adopt authority for additional nonstructural controls, if needed

Pollution Prevention/Good Housekeeping for Municipal Operations

Baseline

City property includes commercial properties and park properties. Municipal operations include landscape maintenance, construction activities, litter control, street and parking lot maintenance, drainage system operation and maintenance, snow removal and street sanding, vehicle fueling, equipment repair and maintenance, hydrant flushing, and well drilling. Activities with the potential to impact the MS4 include landscape maintenance including chemical application and irrigation practices, construction activities on municipal property, hydrant flushing, and well drilling.

Proposed Best Management Practices

Proposed activities include an evaluation of existing activities and identification of opportunities for enhancement, followed by the development of an Operation and Maintenance Plan. A record keeping system to document operation and maintenance activities will be created. Employee training will be provided and consist of training for new employees on the elements of the Operation and Maintenance Plan, with an annual refresher for all employees.

Activity:	Review current procedures and document ways to reduce pollution.
Responsible Party:	Public Works and Parks Departments
Milestones:	Complete review (Year 1)
Measurable Goal:	Document review findings

Activity:	Develop and implement Operation and Maintenance Plan that describes maintenance activities, maintenance schedules, inspection procedures, and waste disposal practices. The plan will include a description of controls for reducing or eliminating the discharge of pollutants from areas such as roads and parking lots, maintenance and storage yards (including salt/sand storage and snow disposal areas), and waste transfer stations.
Responsible Party:	Public Works Department, Parks Department
Milestones:	Plan development (Year 2) Plan implementation (Years 3-5)

Measurable Goal: Successful plan implementation documented through record keeping

Activity: Develop record keeping system for operation and maintenance activities
Responsible Party: Public Works and Parks Departments
Milestones: Develop record keeping system (Year 1)
Measurable Goal: Successful implementation of record keeping system throughout permit term

Activity: Employee training on pollution prevention activities
Target Audience: Public employees
Responsible Party: Public Works and Parks Departments
Milestones: Training of all new employees (Ongoing)
Training of existing employees (Annually)
Measurable Goal: The number of employees trained annually

Summary and Timeframe of Proposed Storm Water Program Activities

Activity	Timeframe
Public Education	
1. Develop brochures with general information about storm water requirements for distribution by city staff, in public locations or as utility bill inserts.	Y1 – develop information Y2-5 - distribute
2. Create storm water web page	Y2 – develop, update as needed
3. Issue program press releases	As needed
4. Develop a student or other volunteer storm drain-stenciling program	Y2-5 - implement
5. Educate the few industrial and commercial stakeholders individually, as needed	As needed
Public Participation	
1. Promote community cleanup activities	Annually
2. Involve stakeholders in development of construction site program	Y1-2
3. Public meetings (Management Plan and annual program review)	Annually
4. Develop a student or other volunteer storm drain stenciling program	Y1 - develop Y2-5 - implement
Illicit Discharges	
1. Develop storm sewer system map, showing outfalls and conduct dry weather outfall screening.	Y 1-2
2. Review and strengthen authorities to address illicit connections and illegal dumping.	Y 1-2
3. Document inspection and enforcement activities through the development and implementation of an illicit discharge control plan.	Y1 - develop Y2-5 - implement
4. Educate all public employees to recognize and report problems (see pollution prevention).	Y2
5. Provide information about illegal dumping and citizen reporting through public education activities.	Ongoing
Construction Site Discharge Control	
1. Review existing authorities and develop ordinance, if necessary.	Y1-2
2. Involve stakeholders in program development (see public participation)	Y1-2
3. Develop public reporting mechanism	Y1
4. Develop program capabilities for plan review, inspection and complaint response.	Y3 – full implementation
Post-Construction Development Controls	
1. Develop handbook with guidance for design and maintenance of structural controls.	Y2
2. Implement activities to support policies included in the Comprehensive Plan, as appropriate	Implement as needed
Municipal Operations	
1. Review current procedures and document ways to reduce pollution.	Y1
2. Develop and implement O&M Plan	Y1 – develop Y3-5 – implement
3. Develop record keeping system	Y1
4. Provide employee training	Upon employment and annually

EXHIBIT A-4

**Letter from James Hanlon, Director, Office of Wastewater
Management, EPA, to William J. Schweitzer, Director,
ACHD, re: MS4 NPDES Permit Discharges via Bureau of
Reclamation Canal and Drain Facilities**

(7/20/07)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 20 2007

OFFICE OF
WATER

Mr. William J. Schweitzer
Director
Ada County Highway District
3775 Adams Street
Garden City, Idaho 83714

Dear Mr. Schweitzer:

Thank you for your letter dated January 9, 2006, and subsequent correspondence dated February 21, 2007. You asked us whether the discharge from a conveyance that transports irrigation return flow is subject to National Pollutant Discharge Elimination System (NPDES) permitting requirements if the conveyance also carries stormwater which has been discharged into the conveyance pursuant to an existing NPDES permit.¹ We apologize for the delay in responding to your initial inquiry.

The Clean Water Act (CWA) requires a permit for the "discharge of any pollutant by any person" (CWA § 301(a), USC § 1311(a)). "Discharge of a pollutant" is defined as "any addition of any pollutant to navigable waters from any point source." (CWA § 502(12), 33 U.S.C. § 1362(12)). A point source is defined as "any discernible confined and discrete conveyance, . . . from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff." (CWA § 502(14), 33 U.S.C. § 1362(14), 40 CFR § 122.2).

As you know, irrigation return flows are excluded from regulation under the NPDES program (40 CFR § 122.3(f)). Even though an operator may retain irrigation return flow exemptions for portions of its discharge, the stormwater portions of its discharge may still be subject to NPDES regulation. As defined in section 40 CFR 122.26, stormwater discharges from certain municipal separate storm sewer systems (MS4s), construction sites greater than one acre, certain industries, and other designated sources require an NPDES permit. MS4s are defined at 40 CFR § 122.26(b)(4) and (b)(7).

¹ In this letter, the Environmental Protection Agency (EPA or Agency) is not addressing whether the Bureau of Reclamation conveyance and drain facilities in question would be considered part of a municipal separate storm sewer system, waters of the United States, both, or neither.

As noted in the preamble to the NPDES Permit Application Regulations for Storm Water Discharges (Phase I Rule), EPA's longstanding position is that irrigation return flows are exempt from permit coverage and commingling of irrigation return flow and stormwater does not automatically revoke the exempt status of irrigation return flow:

One commenter stated that irrigation flows combined with stormwater discharges should be excluded from consideration in the stormwater program. The Agency would note that irrigation return flows are excluded from regulation under the NPDES program. Section 402(1) states that the Administrator or the State shall not require permits for discharges composed entirely of return flows from irrigated agriculture. The legislative history of the 1977 Clean Water Act, which enacted this language, states that the word "entirely" was intended to limit the exception to only those flows which do not contain additional discharges from activities unrelated to crop production. Congressional Record Vol. 123 (1977), pg. 4360. Senate Report No. 95-370. Accordingly, a stormwater discharge component, from an industrial facility for example, included in such "joint" discharges may be regulated pursuant to an NPDES permit either at the point at which the stormwater flow enters or joins the irrigation return flow, or where the combined flow enters waters of the United States or a municipal separate storm sewer. 55 Fed. Reg. 47990, 47996 (Nov. 16, 1990)

Regulated stormwater may not be discharged into receiving waters without a permit. Additionally, other point source discharges of pollutants to waters of the United States are only permissible pursuant to an NPDES permit. It is the position of the Agency that these point source discharges may be authorized by a permit at the point they discharge to receiving waters or at the point they discharge into a separate conveyance. If an operator of a conveyance is transporting commingled irrigation return flow and a regulated point source discharge, the conveyance operator may need to be authorized to discharge under an NPDES permit if the regulated point source discharge is not already covered under a permit. In other words, if the point source discharge is already subject to an NPDES permit (e.g., an MS4 permit) before it is commingled with the irrigation return flow, the operator of the conveyance transporting that commingled flow does not need its own NPDES permit for the commingled discharge.

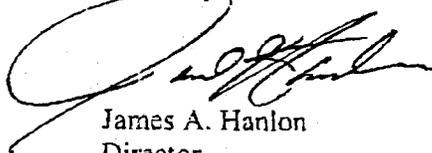
However, if there are any sources of stormwater discharged into the conveyance that require a permit but have not received that permit, then the discharge of the resulting mixture of the stormwater and irrigation return flows could be subject to NPDES permit requirements. The permitting authority may then determine that the operator of the conveyance must seek permit coverage as a permittee or co-permittee. Hence, if the operator of the irrigation conveyance wants to assure that their discharge of commingled stormwater and irrigation return flows will not be subject to NPDES permitting requirements, they must make certain that all regulated stormwater discharged into their conveyance has received appropriate permit coverage. In the facts you describe, if the Ada County Highway District (ACHD) holds an MS4 permit for the stormwater it introduces to the Bureau of Reclamation irrigation canals, the Bureau of Reclamation will not need to obtain an NPDES permit to lawfully discharge the resulting commingled irrigation return flows and stormwater.

Your letter also asked whether "agricultural runoff and irrigation return flows that are also conveyed through these Bureau of Reclamation facilities to waters of the U.S. remain exempt from NPDES permit requirements." The answer is yes. Commingling of agricultural runoff, irrigation return flow and NPDES-permitted stormwater discharges does not revoke the exempt status of irrigation return flow from NPDES program requirements. In other words, the discharge of regulated stormwater authorized by a permit does not affect the status of the irrigation return flow with which it is commingled.

In summary, ACHD's stormwater discharge does not need to be authorized under two NPDES permits. If all regulated stormwater is subject to a permit before entering the conveyance, then the Bureau of Reclamation will not be required to obtain permit coverage for its discharge of commingled irrigation return flow and regulated stormwater.

I hope this addresses your request. If you have further questions, please contact Ryan Albert of my staff at (202) 564-0763 or Karyn Wendelowski in the Office of General Counsel at (202) 564-5493.

Sincerely,



James A. Hanlon
Director
Office of Wastewater Management