

Harris County
Public Infrastructure Division
Watershed Protection Group
9800 Northwest Freeway, Suite 305
Houston, Texas 77092
(713) 290-3000 Phone
(713) 290-3088 Fax

August 14, 2007

SUBJECT: Municipal Utility Districts (MUDs) considered "Phase I" in Unincorporated Harris County

Dear: Industry Professional and Interested Parties,

The attached letter provides clarification that the Texas Commission on Environmental Quality (TCEQ) interprets MUDs within Unincorporated Harris County to be covered under Harris County's Phase I NPDES MS4 Permit and should not apply for Phase 2 coverage. In addition, below is a response to comments from the Phase 2 permit that also clarifies the issue; sent to us by Cindy Hooper of the TCEQ. The Phase II General Permit was approved by the TCEQ Commissioners on August 8, 2007, and the permit, fact sheet, and the full response to comments is available online at:

<http://www7.tceq.state.tx.us/uploads/eagendas/Agendas/8-8-2007/2006-0427-WQ.pdf>.

Comment 79:

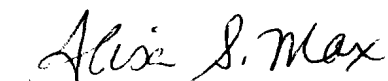
Lloyd Gosselink expressed concerns on behalf of several MUDs located in Harris County regarding the applicability of the permit to MS4s operated MUDs in a regulated area. Lloyd Gosselink points out that Harris County currently maintains the storm sewer system for many of these MUDs and that it is not necessary to burden the MUDs with obtaining coverage under the general permit, because Harris County is capable of managing those MS4s and providing an overall SWMP for the area. Based on the definition for "MS4 Operator," which currently includes the phrase "the public entity and/or the entity contracted with the public entity, responsible for the management and operation of," Lloyd Gosselink requests that TCEQ confirm that small MS4s located within urbanized areas are not responsible for obtaining coverage under the permit if they are contracted with a Phase I MS4 to assume operational control of the small MS4. Lloyd Gosselink also suggests that TCEQ include a specific exemption from Phase II MS4 permit coverage for such situations.

Response 79:

If a MUD does not operate the storm drain system, then permit coverage is not needed. However, a MUD is considered a municipality in the TPDES program and would need to apply for permit coverage if it is located in an urbanized are (or is designated by TCEQ) and it retains any operational control over the storm drainage system. If the MUD contracts one or more of the SWMP elements, then it should include that information in its SWMP. If Harris County operates the MS4 that is located within the boundaries of a MUD, then Harris County would be responsible for permit coverage and would include those areas in the SWMP that it developed under its individual MS4 permit.

Should you have any questions, or require additional information, please contact me at (713) 290-3000, or the TCEQ.

Sincerely,



Alisa S. Max, P.E.
Group Manager

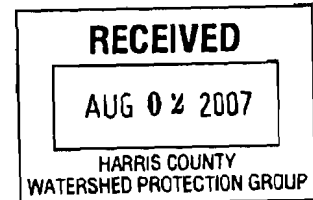
Kathleen Hartnett White, *Chairman*
Larry R. Soward, *Commissioner*
H. S. Buddy Garcia, *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

August 3, 2007



Ms. Snehal Patel, Assistant County Attorney
Harris County Attorney
1019 Congress, 15th Floor
Houston, Texas 77002

Re: City of Houston, Harris County, Harris County Flood Control District, and Texas Department of Transportation - Houston District MS4
Proposed TPDES Permit No. WQ0004685000

Dear Ms. Patel:

Thank you for your letter of July 27, 2006 letter regarding permitting for municipal separate storm sewer systems (MS4) located within municipal utility district (MUD) boundaries in unincorporated Harris County.

Harris County comments that it is the sole operator for the MS4s within the boundaries of MUDs that are located in unincorporated portions of Harris County, and requests clarification from the Texas Commission on Environmental Quality (TCEQ) that this permit regulates discharges from those MS4s. Harris County included information related to its authority to regulate MUDs, specifically, the Harris County Road Law, Chapter 423 of the Texas Local Government Code (related to the Authority of Certain Counties and Districts to Regulate Stormwater Management), Harris County Storm Water Regulations, and Harris County Regulations for the Approval and Acceptance of Infrastructure.

Based on information provided in this letter, it appears that Harris County does have unique authority and a responsibility to regulate storm water discharges from MUDs within Harris County, and thus would be considered the operator of MS4s within MUDs that are located in unincorporated Harris County. MUDs within Harris County would be considered part of Harris County's MS4 and would be regulated under the above-referenced individual Texas Pollutant Discharge Elimination System (TPDES) MS4 permit. If there are any MUDs within the county in which the MS4 is not operated by Harris County or a copermitee on the above-referenced permit, then those MUDs would be regulated under Phase II of the TPDES MS4 program and would be required to apply for and obtain coverage under proposed General Permit TXR040000 when it is issued, under a separate individual TPDES permit, or as a copermitee listed on the above-referenced TPDES permit.

REPLY TO: REGION 13 • 14250 JUDSON RD. • SAN ANTONIO, TEXAS 78233-4480 • 210-490-3096 • FAX 210-545-4329

P.O. Box 13087 • Austin, Texas 78711-3087 • 512-239-1000 • Internet address: www.tceq.state.tx.us

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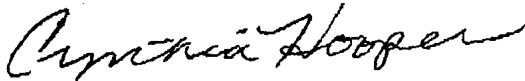
Ms. Snehal Patel, Assistant County Attorney
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The first paragraph of Part III of the Fact Sheet and Executive Director's Preliminary Decision was revised as follows to include information on permitting for MUDs within unincorporated Harris County (underlined text was added):

"As authorized by Section 402(p) of the Clean Water Act (CWA), this permit is being proposed on a system-wide basis. This permit covers all areas, except for any agricultural lands, within the corporate boundary of the City of Houston; and those areas owned or operated by Harris County and the Harris County Flood Control District, served by, or otherwise contributing to discharges from MS4s owned or operated by the applicants listed above. To the extent that Harris County operates any MS4s located within the boundaries of special districts in unincorporated Harris County, this permit covers those areas as well. As described in the application, the MS4 is located in Harris, Montgomery, and Fort Bend Counties, Texas...."

Additional changes to the draft permit are not required at this time. If you have any additional comments or questions, please contact me at (210) 403-4080.

Sincerely,



Cynthia Hooper, P.G.
Storm Water & Pretreatment Team (MC-148)
Water Quality Division
Texas Commission on Environmental Quality

CH/jp

ccs: TCEQ Region 12
Ms. Alisa Max, P.E., Director, Harris County Watershed Protection Group, 10000
Northwest Freeway, Suite 108, Houston, Texas 77092