Atascadero City Council
Staff Report – Public Works Department

Regional Water Quality Control Board (RWQCB)
Storm Water Management Plan
NPDES Phase II

RECOMMENDATION:

Council direct staff to file the 2004 Storm Water Management Plan (SWMP) with the Central Coast Regional Water Quality Control Board (RWQCB) with language that the City will conduct a future process to attempt to incorporate the Board’s February 15, 2008 revised standards to the extent practicable for this community.

REPORT-IN-BRIEF:

During this past year, the Central Coast Regional Water Quality Control Board (RWQCB) has taken two actions that affect the City of Atascadero. The first is to amend the Basin Plan. The Basin Plan update includes a number of new onsite wastewater (septic system) regulations, one of which requires the City to develop a Septic System Management Plan. The second action requires Storm Water Management Plan (SWMP) revisions. The actions differ in that the Basin Plan changes affect onsite wastewater systems (septic systems) while the SWMP changes affect the City owned storm water system. Both actions will require the allocation of additional City resources. Staff plans to update the Council on the Basin Plan at a future meeting.

This report focuses on the RWQCB’s latest request for revisions to the City’s SWMP.

City staff has been working to prepare a SWMP since 2003. The City of Atascadero originally submitted a draft SWMP in 2003, but like most other Central Coast cities, the SWMP was not approved by the RWQCB. In February 2008, the RWQCB issued a letter regarding the processing of SWMPs. The letter included four new regulations that would need to be incorporated into the City’s SWMP prior to being approved. These four requirements are in addition to the six minimum storm water pollution control measures that are required by the federal National Pollutant Discharge Elimination System (NPDES) Phase II regulations. The City is required to amend its draft SWMP and secure RWQCB approval by March 2009. City staff is requesting Council direction on how to proceed with the SWMP.
DISCUSSION:

*What is NPDES, what does it do, and how is it enforced?*

The NPDES program was established under the Federal Clean Water Act in 1977 to protect and restore surface waters of the United States. Surface waters include wetlands, lakes, creeks, and rivers. The enforcement of NPDES is delegated by the Federal government to the states. The California State Water Resources Control Board (State Board) is responsible for State implementation of NPDES. The State Board, a regulatory state agency, and the nine RWQCBs coordinate implementation throughout California. The RWQCB that oversees Atascadero is Region 3 - Central Coast Regional Water Quality Control Board. Our RWQCB covers a six-county area, including San Luis Obispo County, Santa Barbara County, Monterey County, San Benito County, Santa Clara County and Santa Cruz County. The RWQCB is composed of nine officials that are appointed by the Governor and serve four-year terms. The RWQCB appoints an Executive Officer who is responsible for day to day operations and enforcement of regulations.

*How do Storm Water Management Plans (SWMP) relate to NPDES and what do the plans cover?*

A SWMP is required for every City and County in the State as part of NPDES Phase II. NPDES was implemented in two phases depending on the size of agencies. Phase I required agencies with populations over 100,000 to comply. NPDES Phase II required cities smaller than 100,000 in population to comply. SWMPs define strategies and provide guidelines for the protection of water quality and the reduction of pollutant discharge. Prior to the Region 3 RWQCB’s additional regulations, a SMWP was required to address six minimum requirements:

1. Public Education
2. Public Participation
3. Illicit Discharge Detection and Elimination
4. Construction Site Storm Water Runoff Control
5. Post Construction Storm Water Management
6. Pollution Prevention/Good Housekeeping for Municipal Operations

*What Process has the City followed to prepare a SWMP?*

In February, 2002, the City Council directed staff to begin development of a SWMP as required by NPDES Phase II. The City retained URS Inc., to assist staff in drafting the plan. In March 2003, the City Council directed staff to submit the SWMP to the RWQCB. The RWQCB reviewed the plan and requested a number of revisions. The City was working earnestly to get the SWMP plan approved. By December 2004, the City and RWQCB had completed three re-submittal cycles of the SMWP and responded to comments from the RWQCB.
Shortly after December 2004, RWQCB staff indicated that the City of Atascadero’s Storm Water Plan adoption would be delayed because of problems with staffing and heavy opposition to other cities’ plans from environmental groups. Coincidentally, the City of Paso Robles’ SWMP, which had been submitted in the same timeframe as Atascadero’s, was approved.

The City’s draft SWMP remained under review with the RWQCB for several years. Staff did not receive any further comments from the RWQCB until November 2007. In November 2007, the RWQCB notified Atascadero and other agencies that a new timeline and process for adopting the outstanding SWMPs would be imposed. The new process and timeline was presented and approved at the RWQCB meeting on December 7, 2007. At this meeting many agencies were concerned about the lack of detail provided in the Board’s staff report regarding the four additional SWMP requirements imposed by the local RWQCB.

On February 15, 2008, RWQCB staff notified the City of Atascadero and other cities of the new requirements and timeline for Storm Water Plan adoption (refer to Attachment 1). The letter included four new requirements that are likely to have a major impact on Atascadero’s future development and “housekeeping” practices.

**What are the new requirements being imposed by the RWQCB?**

Listed below is a summary of the four new RWQCB requirements that were released in the February 15, 2008 letter (refer to attachment 1 and 2).

1. **Maximize infiltration of clean storm water, minimize runoff volume and rate:**
   The RWQCB believes that excess storm water is a problem for streams and creeks. According to the RWQCB, excess water may cause erosion of stream banks and down cutting of stream beds. Therefore, the RWQCB is requiring agencies to modify development practices to retain the same amount of water onsite post-development as occurred prior to development. The City currently requires the rate of stormwater run-off to be maintained at pre-development levels but does not restrict the quantity of run-off. The proposed changes would restrict the quantity of run-off to pre-development levels.

   This represents a change in the thinking and design of how stormwater has been handled for decades. In order to comply with this requirement projects will likely have to incorporate onsite retention systems and utilize other means such as porous paving materials which will allow stormwater to permeate back into the site.

2. **Protection of riparian areas, wetlands and their buffer zones:**
   The RWQCB is requiring agencies to determine and implement appropriate setbacks to riparian areas, creeks, and wetlands. It is not clear exactly which waterways would be affected by this requirement. It appears that the minimum setbacks could be greater than those currently adopted by the City’s General Plan.
3. **Minimize pollutant loading:**
   The RWQCB is requiring agencies to incorporate Best Management Practices (BMP) into SWMPs that will minimize the discharge of pollutants affecting creeks and streams. For example, the City will need to incorporate specific BMP that will address low dissolved oxygen and pathogens into Atascadero Creek.

   This requirement will likely require modifications to the City’s existing stormwater drainage system that may result in expensive modifications, maintenance and retrofits.

4. **Provide long-term watershed protection:**
   Agencies are required to develop plans to control watershed impacts, also known as hydromodification. The RWQCB desires that watersheds contain no more than 3-10% impervious surfaces (paving). This means that the City will have to develop plans and requirements that limit new and redevelopment impacts on storm water runoff volume in creeks and watersheds through site design and limitations on lot coverage.

   These requirements are complicated and the boundaries of the watershed are not clearly delineated. Due to the unique nature of Atascadero’s topography which includes several valleys, creeks, and riparian areas, the City could potentially contain multiple watersheds. Since many parts of Atascadero already exceed the 5% threshold, this rule is likely to change development practices and redevelopment. It is not clear how this rule will affect compact infill development like the City encourages Downtown. Additionally, the cost of complying with these new requirements is not known.

**What is the timeline for approving/enacting new SWMP?**

The timeline provided by the RWQCB is provided below:

<table>
<thead>
<tr>
<th>Task</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Phase I: Water Board Assessment of Water Quality Challenges</td>
<td>July 8, 2008</td>
</tr>
<tr>
<td>Phase II: City Finalization of Draft SWMP and Water Board Staff and Public SWMP Review</td>
<td>September 17, 2008</td>
</tr>
<tr>
<td>Phase III: City SWMP Redraft</td>
<td>October 29, 2008</td>
</tr>
<tr>
<td>Phase IV: Water Board staff Final Review and Posting of SWMP</td>
<td>November 19, 2008</td>
</tr>
<tr>
<td>Phase V: Water Board Action (if needed)</td>
<td>March 20, 2009</td>
</tr>
</tbody>
</table>
In essence, the Board is giving cities 60 days from the date comments are provided by RWQCB staff to complete the revised SWMP. While this may seem like an appropriate amount of time, staff has had concerns that once comments are received, this does not allow for adequate time to analyze the specific impacts of these regulations on the community and then have time for public comment, workshops and deliberation. As of the date of this report, the City has yet to receive comments on the previously submitted 2004 SWMP, and therefore it has been difficult to draft a revised plan. In the meantime, the timeline continues to move forward.

Subsequently, staff requested an extension in order to have time to receive comments from the Board, study the impacts of the new regulations, and have a public process to consider impacts of the SWMP. A letter was received from RWQCB staff on August 12, 2008 (see Attachment 3), that denied the City’s request for additional time. Staff has submitted a letter requesting reconsideration of the RWQCB’s time extension denial.
**What Are Other Cities Doing?**

Atascadero is not the only agency facing the imposition of the four new requirements. Twenty-four agencies in the RWQCB jurisdiction are facing the same requirements. The following chart outlines several other agencies and their actions taken to date:

<table>
<thead>
<tr>
<th>Agency</th>
<th>Storm Water Plan Approval Date</th>
<th>Current Plan Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Atascadero</td>
<td>March 2009</td>
<td>Submitted December 2004 Draft for initial Water Board review. Staff will be responding to the Water Board based on City Council direction. The Water Board has notified staff that comments will be provided to the City based on the 2004 draft and the City is still required to address the four additional requirements.</td>
</tr>
<tr>
<td>Templeton CSD</td>
<td>March 2009</td>
<td>Submitted Draft in August 2008. The CSD’s plan addresses facilities they own. The County of San Luis Obispo’s plan covers the rest of the town.</td>
</tr>
<tr>
<td>Paso Robles*</td>
<td>Approved 2004</td>
<td>The Water Board has notified the City that they will be addressing the four additional requirements during their next Storm Water Plan update in 2009.</td>
</tr>
<tr>
<td>County of San Luis Obispo*</td>
<td>Approved 2008</td>
<td>The Water Board has notified the County that they will be addressing the four additional requirements during their next Storm Water Plan update in 2012.</td>
</tr>
<tr>
<td>City of San Luis Obispo</td>
<td>April 2009</td>
<td>The City resubmitted its Storm Water Plan in September 12, 2008 for initial Water Board Review. The City has addressed the four additional requirements by either telling the Water Board they already have standards that address the Water Board’s concerns (LID and riparian setback standards), or offering to do study’s and report back to the Board in three years to present options (Hydromodification Plan).</td>
</tr>
<tr>
<td>City of Santa Maria</td>
<td>September 2008</td>
<td>The plan has made it through the appeal period and was approved in early September. The City responded to the Regional Board saying that they would study the issues brought up in the February 15 letter and report back to the Regional Board in two years.</td>
</tr>
<tr>
<td>City Lompoc</td>
<td>October 2008</td>
<td>Lompoc and the Building Industry Association has appealed the Storm Water Plan approval to a Full Water Board Hearing. The City of Lompoc was required to submit a Storm Water Plan prior to the RWQCB’s July 10, 2008 letter which relaxed requirements that Lompoc previously addressed.</td>
</tr>
<tr>
<td>City of Morro Bay</td>
<td>April 2009</td>
<td>The City has re-submitted to the Regional Board on September 5, 2008. The City revised their Storm Water Plan to be similar to the County of San Luis Obispo Storm Water Plan. The City’s Storm Water Plan will now be subject to a sixty day review before final approval. A hearing will be held if any person or agency requests one.</td>
</tr>
</tbody>
</table>

*The City of Paso Robles and San Luis Obispo County already have approved Storm Water Plans. Agencies with approved Storm Water Plans will be required to address the four additional measures when their Storm Water Plans are up for their five year review.*
How Should the City Respond to the RWQCB’s New Requirements?

Staff is very concerned about the RWQCB’s four new SWMP requirements. In addition, the RWQCB has provided a short timeframe to analyze and integrate the requirements into the City’s draft SWMP. Staff is also concerned that the short timelines have limited the opportunity for public participation in the SWMP process.

Staff has reviewed the approach of neighboring cities to comply with SWMP requirements. The City of Santa Maria has submitted its SWMP with a provision that they will review and incorporate standards that implement the new requirements in the next two years. It is staff’s understanding that the RWQCB has approved Santa Maria’s SWMP. Therefore, staff is proposing Atascadero resubmit the SWMP with a provision agreeing to review and study these issues in the future. The approach would allow time for adequate staff analysis and public participation regarding these four new requirements.

What Alternatives Are Available to the City?

1. The City does not File a Timely SMWP
   It is staff’s understanding that if the City’s SWMP is not submitted by November 19, 2008, RWQCB staff will unilaterally insert the new requirements into the City’s plan and they will then be in effect. RWQCB staff’s action could be appealed at the RWQCB Board meeting of March 20, 2009.

2. Incorporate the Four Requirements into the SWMP
   Council could direct staff to begin a thorough evaluation of the four additional requirements and return to the City Council for approval of a plan that fully complies with the latest RWQCB plan requirements. Staff would need to hire a consultant to assist with this effort and begin a public participation process. Staff does not think this could be accomplished before the November deadline.

3. Resubmit the existing SWMP
   The City could resubmit the existing 2004 SWMP without modification. Staff would expect the RWQCB to reject this plan and unilaterally add the four requirements. This alternative likely has the same end result and Alternative 1 above.

In addition, the Council could direct staff to:

A. Seek Legislative Relief:
   The City could approach its legislators to have laws written or changed to provide relief from the four additional requirements. This option would be time consuming and require significant staff resources.

B. Seek Judicial Relief:
   The City could challenge the requirements and the process in court. This option would be time consuming and expensive with significant City Attorney time required.
FISCAL IMPACT:

The long term fiscal impact is unknown at this time but could be significant. Staff is estimating the consultant costs will likely range between $30,000 and $50,000 to study the impacts of the new requirements and prepare a compliant SWMP.

ATTACHMENTS:

1. RWQCB staff’s February 15, 2008 Letter
2. RWQCB staff’s July 10, 2008 Letter
3. RWQCB staff’s August 12, 2008 Letter – denying time extension request
February 15, 2008

Notification to Traditional, Small MS4s on Process for Enrolling under the State’s General NPDES Permit for Storm Water Discharges

Introduction

As Executive Officer of the Regional Water Quality Control Board, Central Coast Region (Water Board), I am writing to notify you of the Water Board’s revised process for enrolling traditional, small Municipal Separate Storm Sewer Systems (MS4s) under the State’s General Permit No. CAS000004 (General Permit). Water Board staff have identified you as an entity that owns or operates an MS4, so you must enroll in the General Permit and develop and implement a Storm Water Management Program (SWMP). This letter describes the SWMP approval process and our expectations regarding the content of your SWMP to comply with the General Permit, and provides you with the schedule Water Board staff intend to follow for review of your SWMP and enrollment of your MS4 under the General Permit. Staff will communicate further with you as your enrollment cycles begin, to establish specific schedules for the five phases leading to enrollment.

Water Board staff will evaluate your SWMP for compliance with the General Permit requirements, including the Maximum Extent Practicable standard, and as appropriate will approve the SWMP and enroll you in the General Permit. If requested, Water Board staff will schedule a public hearing before the Central Coast Water Board for consideration of an individual SWMP.

The Water Board’s revised enrollment process is a fundamental shift from the way we have reviewed and approved SWMPs to date. The revised enrollment process eliminates the multiple SWMP review/edit iterations and negotiations that characterized our previous approach. For SWMPs that do not meet the schedule and content described here for General Permit compliance, staff will draft specific resolutions or individual permits for Water Board consideration that will protect water quality, beneficial uses, and the biological and physical integrity of watersheds.

Enrollment Process and Schedule

Water Board staff grouped the 24 remaining un-enrolled traditional MS4s into eight enrollment cycles (Table 1). Each cycle spans a period of 33 to 36 weeks and concludes, on the projected date, with Water Board approval of individual SWMPs and enrollment of the MS4s under the General Permit.

Each enrollment cycle includes five time-limited phases requiring specific actions by both Water Board staff and the MS4 (Table 2). The precise timing and duration of each phase is subject to
change; Water Board staff will develop specific schedules at the commencement of each enrollment cycle.

Table 1: Enrollment Cycles for Attachment 1 and 2 MS4s

<table>
<thead>
<tr>
<th>Cycle</th>
<th>MS4 Group</th>
<th>Group Members</th>
<th>Projected Start Date for Enrollment Cycle</th>
<th>Projected Executive Officer SWMP Approval</th>
<th>Projected Board SWMP Approval</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Santa Maria/Lompoc</td>
<td>Santa Maria Lompoc</td>
<td>Jan. 22, 2008</td>
<td>July 28, 2008</td>
<td>Sept. 5, 2008 San Luis Obispo</td>
</tr>
<tr>
<td>2</td>
<td>Coastal Santa Barbara County</td>
<td>Goleta Carpinteria Santa Barbara UC Santa Barbara</td>
<td>Jan. 29, 2008</td>
<td>September 2, 2008</td>
<td>Oct. 17, 2008 Santa Barbara</td>
</tr>
<tr>
<td>3</td>
<td>Santa Cruz Mountains and Coast</td>
<td>Santa Cruz County Capitola Soquel Aptos Ben Lomond Boulder Creek Live Oak Felton Corralitos Watsonville City of Santa Cruz Scotts Valley UC Santa Cruz</td>
<td>Mid February 2008</td>
<td>October 20, 2008</td>
<td>Dec. 5, 2008 San Luis Obispo</td>
</tr>
<tr>
<td>4</td>
<td>Coastal San Luis Obispo County</td>
<td>Arroyo Grande Grover Beach Pismo Beach Oceano Morro Bay Baywood – Los Osos</td>
<td>Mid April 2008</td>
<td>January 2009</td>
<td>2009 – 1st Quarter San Luis Obispo</td>
</tr>
<tr>
<td>5</td>
<td>Upper Salinas</td>
<td>King City Templeton Atascadero</td>
<td>Early June 2008</td>
<td>February 2009</td>
<td>2009 – 1st Quarter Salinas</td>
</tr>
<tr>
<td>6</td>
<td>City of San Luis Obispo</td>
<td>City of San Luis Obispo</td>
<td>Early September 2008</td>
<td>April 2009</td>
<td>2009 – 2nd Quarter San Luis Obispo</td>
</tr>
<tr>
<td>7</td>
<td>Upper Pajaro</td>
<td>Gispy San Martin Santa Clara</td>
<td>Early November 2008</td>
<td>August 2009</td>
<td>2009 – 3rd Quarter Watsonville</td>
</tr>
<tr>
<td>8</td>
<td>Santa Ynez</td>
<td>Buellton Solvang Vandenberg AFB</td>
<td>Mid November 2008</td>
<td>August 2009</td>
<td>2009 – 3rd Quarter San Luis Obispo</td>
</tr>
</tbody>
</table>

1. Board approval only required if a hearing is requested by stakeholder
Table 2: Phases of MS4 Enrollment Cycle

<table>
<thead>
<tr>
<th>Phase</th>
<th>Duration (weeks)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Phase I: Water Board Staff Assessment of Water Quality Challenges</td>
<td>3 – 4</td>
</tr>
<tr>
<td>Water Board staff:</td>
<td></td>
</tr>
<tr>
<td>Assess available water quality information</td>
<td></td>
</tr>
<tr>
<td>Accept input from stakeholders on water quality conditions</td>
<td></td>
</tr>
<tr>
<td>Prepare and transmit to MS4 staff a statement of current knowledge of water quality challenges that must be addressed by SWMP</td>
<td></td>
</tr>
<tr>
<td>Phase II: Water Board Staff SWMP Review</td>
<td>3 – 4</td>
</tr>
<tr>
<td>Water Board staff:</td>
<td></td>
</tr>
<tr>
<td>Review SWMP and “red-lines” text</td>
<td></td>
</tr>
<tr>
<td>Send red-lined SWMP and letter explaining requirements to MS4</td>
<td></td>
</tr>
<tr>
<td>Phase III: MS4 SWMP Redraft</td>
<td></td>
</tr>
<tr>
<td>MS4 staff re-draft SWMP and post for Public Review</td>
<td>6</td>
</tr>
<tr>
<td>Phase IV: Water Board Staff Final Review and Posting of SWMP</td>
<td></td>
</tr>
<tr>
<td>Water Board staff review SWMP</td>
<td>2 – 4</td>
</tr>
<tr>
<td>Water Board staff post SWMP and table of required revisions for Public Review</td>
<td>8</td>
</tr>
<tr>
<td>Water Board staff respond to public comment and EO approves SWMP</td>
<td>3 – 4</td>
</tr>
<tr>
<td>Phase V: Water Board Action (if hearing requested)</td>
<td></td>
</tr>
<tr>
<td>Water Board staff prepare Staff Report with recommendation and resolution for SWMP approval</td>
<td>2</td>
</tr>
<tr>
<td>Water Board Staff:</td>
<td></td>
</tr>
<tr>
<td>Post Staff Report with Board Agenda for Public Review</td>
<td></td>
</tr>
<tr>
<td>Respond to additional public comment</td>
<td></td>
</tr>
<tr>
<td>Prepares Presentation for Hearing</td>
<td></td>
</tr>
<tr>
<td>Conduct internal review up to Board Meeting</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>33 to 38</td>
</tr>
</tbody>
</table>

Communication

Clear and open communication between Water Board staff, MS4 staff, and stakeholders is vital to the success of this enrollment process. Also, the Phase II General Permit requires public participation as a component of developing and implementing successful stormwater management programs for MS4s. To comply with the General Permit, you must verify that you have achieved broad and timely distribution of announcements of scoping meetings, draft stormwater program documents, and local agency actions on stormwater program activities when you submit your SWMP for Water Board staff review.

Water Board staff are committed to ensuring that the enrollment process proceeds with open communication. Staff will employ a list-serve (email notification) for notifying all interested parties of important milestones in each enrollment cycle. Water Board staff will also maintain an MS4 enrollment tracking webpage where staff will post relevant documents and indicate the status of each MS4 in the enrollment process. Additionally, an individual Water Board staff person will be assigned to each enrollment cycle. We request that you also identify an individual to serve as point of contact representing your MS4 with whom we will communicate during the enrollment process. You must identify your point of contact when Water Board staff contact you to initiate your enrollment cycle.

California Environmental Protection Agency
Central Coast Water Board Expected SWMP Content

The federal Clean Water Act (CWA) provides that National Pollutant Discharge Elimination System (NPDES) permits for MS4s must require municipalities to reduce pollutants in their stormwater discharges to the Maximum Extent Practicable (MEP) (CWA §402(p)(3)(B)). The California Water Boards have established the meaning and application of this standard through several adopted stormwater permits (the MEP standard is the same for Phase I and Phase II municipalities). The Water Board implements the General Permit to be consistent with its Water Quality Control Plan (Basin Plan) to ensure protection of water quality, beneficial uses, and the biological and physical integrity of watersheds according to the issues in the Regions.

Your SWMP must include an array of Best Management Practices (BMPs), including the six Minimum Control Measures listed in the General Permit, to achieve the following conditions:

I. Maximize infiltration of clean stormwater, and minimize runoff volume and rate
II. Protect riparian areas, wetlands, and their buffer zones
III. Minimize pollutant loading; and
IV. Provide long-term watershed protection

I. Maximize Infiltration of clean stormwater, and minimize runoff volume and rate.

Water Board staff expect your SWMP to present a schedule for development and adoption of control standards for hydromodification. For SWMP adoption, staff will recommend to the Water Board the following interim requirements, which would apply until such time that you develop acceptable control standards for hydromodification:

- For new and re-development projects, Effective Impervious Area shall be maintained at less than five percent (5%) of total project area.
- For new and redevelopment projects that create and/or replace 5,000 square feet or more of impervious surface, the post-construction runoff hydrographs shall match within one percent (1%) the pre-construction runoff hydrographs, for a range of events with return periods from 1-year to 10-years.
- For projects whose disturbed project area exceeds two acres, preserve the pre-construction drainage density (miles of stream length per square mile of watershed) for all drainage areas serving a first order stream or larger, and ensure that post-project time of concentration is equal or greater than pre-project time of concentration.

These interim requirements must be implemented for all applicable projects subject to your discretionary approvals within six (6) months of your enrollment in the Phase II permit. Your schedule for development and adoption of your own control standards for hydromodification must include:

- Numeric criteria for controlling stormwater runoff volume and rates from new and redevelopment.

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1 Several stormwater permits adopted by different Regional Boards have been legally challenged. All have been upheld by the State Water Resources Control Board and the courts. The Water Boards have broad authority to regulate stormwater and land use activities that result in discharges to waters of the State. Urbanization is one the most important land use activities affecting water quality, beneficial uses, and the physical and biological integrity of watersheds in the Central Coast Region.

2 Effective Impervious Area is that portion of the impervious area that drains directly to a receiving surface waterbody via a hardened storm drain conveyance without first draining to a pervious area. In other words, impervious surfaces tributary to pervious areas are not considered Effective Impervious Area.

3 Pre-construction condition is defined as undeveloped soil type and vegetation.

4 A first order stream is defined as a stream with no tributaries.

California Environmental Protection Agency
- Numeric criteria for stream stability required to protect downstream beneficial uses and prevent physical changes to downstream stream channels that would adversely affect the physical structure, biologic condition, and water quality of streams.
- Specific applicability criteria, land disturbance acreage thresholds, and exemptions.
- Performance criteria for control BMPs and an inspection program to ensure proper long term functioning over.
- Education requirements for appropriate municipal staff on hydromodification and Low Impact Development.

You must include an effective strategy to control hydromodification, or Water Board staff will recommend to the Water Board requirements in the resolution approving your SWMP and enrolling you in the Phase II permit.

II. Protect riparian areas, wetlands, and their buffer zones:
Your SWMP must include BMPs and/or other control measures to establish and maintain a minimum 30-foot buffer zone for riparian areas and wetlands. The buffer zone is a protective area that is undisturbed to the maximum extent practicable. Your SWMP must include consideration and prioritization of local conditions, such as habitat degradation, water quality, and land management practices, and apply more substantial buffer zones where necessary to protect riparian areas and wetlands.

You must include an effective strategy to adopt and implement protection of riparian areas, wetlands, and their buffer zones, or Water Board staff will recommend to the Water Board requirements in the resolution approving your SWMP and enrolling you in the Phase II permit.

III. Minimize pollutant loading
Your SWMP must include BMPs and/or other control measures to minimize pollutant loading, including volume- and/or flow-based treatment criteria. Your SWMP must include consideration and prioritization of local conditions, such as existing pollutant loading, water quality, 303(d) listed impaired waters, pollutants of concern, habitat degradation, and land management practices, and apply more stringent control measures where necessary to minimize pollutant loading.

You must include an effective strategy to reduce pollutant loading, or Water Board staff will recommend to the Water Board requirements in the resolution approving your SWMP and enrolling you in the Phase II permit.

IV. Provide long-term watershed protection
You must include in your SWMP a strategy to develop watershed based hydromodification management plans. These plans should incorporate Low Impact Development strategies with the goal of Post Construction Storm Water Management to achieve an Effective Impervious Area of no more than three to ten percent (3 - 10%) of watershed area within your jurisdiction, depending on local conditions.

The requirements listed above are often characterized as hydromodification controls, or Low Impact Development. These terms are related and their meanings overlap. These requirements are necessary to ensure protection of water quality, beneficial uses, and the biological and physical integrity of watersheds and aquatic habitat. You can reference information on hydromodification controls and Low Impact Development principles on the Central Coast Water Board's website.

5 The Central Coast Water Quality Control Plan (Basin Plan) requires protection of riparian and wetland habitat and their buffer zones (Basin Plan, Section V.G. 4).
Evaluation of Program Effectiveness and Progress toward Water Quality Goals

Because MEP is a dynamic performance standard which evolves over time as stormwater management knowledge increases, MS4 managers must continually assess and modify their programs to incorporate improvements in control measures and BMPs to achieve MEP. Therefore, your SWMP should contain a detailed plan for evaluating its effectiveness and progress toward complying with the General Permit. Your SWMP must also explain how you will communicate evaluation results with stakeholders. Your evaluation plan should include quantifiable measures for evaluating the effectiveness of the program and be based on the following objectives:

- Assess compliance with requirements of the General Permit, including:
  - Inspection Programs
  - Construction Site Controls
  - Elimination of unlawful discharges
  - New development and redevelopment requirements
- Verify that BMPs are being implemented (e.g., all new applicable developments meet hydromodification control requirements described above and as further described in your SWMP);
- Assess the chemical, physical, and biological impacts on beneficial uses caused by pollutants of concern in stormwater discharges;
- Characterize watersheds and stormwater discharges;
- Identify sources of pollutants; and
- Evaluate long-term trends in receiving water quality.

Conclusion

Please become familiar with the schedule for the enrollment cycle for your MS4, and the steps in the enrollment process. When Water Board staff contact you to initiate your enrollment cycle, please provide us with contact information for the individual that will be representing your MS4.

Please begin updating or preparing your SWMP to include the following as explained in this letter:
- Hydromodification controls for new and redevelopment;
- Protection of riparian and wetland habitat and their buffer zones;
- Minimization of pollutant loading;
- Provision of long-term watershed protection; and
- Evaluation of program effectiveness.

Your SWMP must be specific and must include: well-defined BMPs and other actions that you will implement, schedules, measurable goals, and measures to determine the effectiveness of your program. If your SWMP is not comprehensive or lacks specificity, I will not approve it, and Water Board staff will draft a resolution or an individual permit for consideration by the Water Board at a hearing.

I am clarifying the Water Board’s revised enrollment process and SWMP content and requirements to speed up approval of SWMPs for MS4s in the Central Coast Region that will protect water quality, beneficial uses, and the biological and physical integrity of watersheds. I am also committing staff time to regulate MS4s and provide technical and financial assistance to municipalities for stormwater management programs.
The Proposition 84 Storm Water Grant Program funds may be used to provide matching grants to local public agencies for the reduction and prevention of stormwater pollution of rivers, lakes, and streams. A total of approximately $82 million will be available for matching grants. A scoping meeting to answer questions and to solicit input will be held at our office in San Luis Obispo on Monday, March 3, 2008, from 1:00 – 4:00 PM. For more information on the Proposition 84 Storm Water Grant Program and workshops, visit the State Water Board’s website at: http://www.waterboards.ca.gov/funding/prop84.html.

I anticipate you will have questions about this letter and the expected content of your SWMP. Please contact us. Our lead staff for this enrollment process is Dominic Roques, droques@waterboards.ca.gov or at (805) 542-4780.

Sincerely,

Roger W. Briggs
Executive Officer

W:\Storm Water\Municipal\Phase II MS4\MS4 Enrollment Strategies\MS4 Notification Ltr\Phase II\Notifications2-12-08.doc
July 10, 2008:

David Athey
City of Atascadero
6907 El Camino Real
Atascadero, CA 93422

Dear David Athey:

FOLLOW UP TO NOTIFICATION TO TRADITIONAL, SMALL MS4s REGARDING PROCESS FOR ENROLLING UNDER THE STATE’S GENERAL NPDES PERMIT FOR STORMWATER DISCHARGES

On February 15, 2008, I sent a letter to you with my expectations regarding the content of Storm Water Management Plans (SWMPs), and an explanation of our process for enrolling traditional, small Municipal Separate Storm Sewer Systems (MS4s) under the State’s General Storm Water Permit. This letter responds to feedback we received regarding my February 15 letter and is a follow up to the meetings we have had with several municipalities.

This letter presents:

- An example approach for including quantifiable measures of healthy watersheds in stormwater management programs
- Additional time for developing interim hydromodification criteria
- Reiteration of our authority to provide expectations for SWMP content
- The current status of the enrollment process
- The availability of technical and financial assistance

My February 15 letter emphasized that SWMPs must include BMPs to achieve the following conditions, which are necessary to ensure protection of water quality, beneficial uses, and the biological and physical integrity of watersheds and aquatic habitat:

I. Maximize infiltration of clean stormwater, and minimize runoff volume and rate
II. Protect riparian areas, wetlands, and their buffer zones
III. Minimize pollutant loading; and
IV. Provide long-term watershed protection

My February 15 letter specifically required your SWMP to include an “Evaluation of Program Effectiveness and Progress toward Water Quality Goals.” This means that your SWMP must identify quantifiable measures to determine whether your stormwater program achieves the conditions (I-IV) above and any other water quality goals your SWMP is designed to achieve (e.g., pollution reduction). In my February 15 letter I included interim requirements for hydromodification control that could serve as quantifiable measures and that I considered adequate for recommending SWMP approval to our Board.
Several responses to my February 15 letter requested that I consider different interim requirements for hydromodification control that could serve as quantifiable measures for recommending SWMP approval to our Board. This information is discussed in the next section on quantifiable measures, below. We also received requests for additional time to align SWMPs with my expectations. This issue is discussed below under Additional Time for Developing Interim Criteria for Hydromodification. Finally, some responses questioned our legal authority to base SWMP approvals on the expectations I presented in the Feb. 15 letter and claimed that they are not necessary for compliance with the State General Permit. This issue is discussed below under Legal Authority to Provide Expectations for SWMP Content.

The list of goals above (listed as I. through IV.) includes our expectation that you “provide long-term watershed protection.” This means that your SWMP must include a schedule (of BMPs) to integrate all stormwater management control measures into all aspects of land use planning and development (municipal plans, policies, ordinances, codes, conditions of approval, etc.) to attain/protect healthy watersheds. Municipalities must understand the specific water quality and watershed issues in their areas, such as pollutant loading, aquatic habitat degradation, types of land uses and their impacts, trends, and the cumulative effects from multiple municipalities in a watershed. Municipalities must plan comprehensively to define their future growth, including infrastructure and redevelopment, in the context of long-term watershed protection. I recommend that municipalities located in the same watershed work together and pool resources to define water quality and watershed scale issues, and assess watershed conditions, in a coordinated manner. This type of collaborative approach is being used by almost 3000 farmers in our region, as they also learn how to comply with the Water Board’s requirements to define and resolve water quality and watershed scale issues. Farmers in our region established a non-profit organization that coordinates and streamlines their compliance efforts, helps minimize costs, and helps disseminate information among farmers and between farmers and the Water Board.

We acknowledge the challenge this presents, and that it will take years for municipalities to learn how to incorporate and implement these changes beyond the project or site-specific scale. It will take time to build the institutional capacity to do the work, and to measure results. Please see the section at the end of this letter on the availability of financial and technical assistance.

An Example Approach for Including Quantifiable Measures of Healthy Watersheds In Stormwater Management Programs

The attached information may help you develop quantifiable measures of healthy watersheds, including numeric criteria for hydromodification control and watershed protection controls. The information is not comprehensive, but provides examples to demonstrate how a control measure should be linked to, a) a desired condition (or goal), b) the parameter(s) that define the condition, and c) quantifiable measures that serve to evaluate performance of the control measure. We will use this type of approach to evaluate the control measures and quantifiable measures (including interim criteria for hydromodification controls) in your SWMPs.

We recognize that different Phase II communities are at different junctures in developing or implementing their SWMPs and selecting quantifiable measures. Thus, the attached information may assist you in different ways; for example, it may assist your selection of interim hydromodification criteria, or, it may help you improve your SWMP's measures of long-term performance.
Additional Time for Developing Interim Criteria for Hydromodification

My February 15 letter stated that we expect you to implement our interim requirements for hydromodification control for all projects subject to your agency’s discretionary approvals within six (6) months of your enrollment in the Phase II General Permit, i.e., when your SWMP is approved by the Executive Officer or adopted by the Water Board. In response to the feedback we received, we are providing flexibility in three ways: 1) I am providing you an additional six (6) months, (to make it a full year), before you apply interim criteria for hydromodification control, 2) I am willing to consider other hydromodification control criteria that you develop, if they are reasonably equivalent to those I specified in my February 15 letter, and 3) I am willing to consider the applicability of hydromodification control criteria based on local conditions.

Water Board staff’s expectation is that within one year of enrollment under the General Permit, you will have adequate development review and permitting procedures to impose conditions of approval, or other enforceable mechanisms, to implement quantifiable measures (numeric criteria) for hydromodification control. Your SWMP must include a commitment and a schedule to develop any alternative interim criteria, should you choose to develop them. If you fail to develop alternative criteria acceptable to the Water Board, you will be subject to our interim criteria as stated in the February 15 letter.

We are available to discuss hydromodification control measures (BMPs), acceptable numeric criteria for those controls, and the criteria for their application (applicability criteria). If you intend to develop your own interim criteria for hydromodification control, please include your schedule for developing the criteria in your SWMP and allow for a period of no less than three (3) weeks for Water Board staff to review the proposed criteria. Water Board staff will also consider economic factors in reviewing hydromodification control criteria and applicability criteria.

To ensure our allowance of additional time does not come at a cost to watershed health, we propose that by our original six-month date, you inform property developers that, in the absence of established detailed criteria (interim or otherwise) for hydromodification control, you only approve and permit projects that incorporate substantive hydromodification evaluation and controls (that is, the developers can propose their own approach to meet the intent until detailed criteria are established).

Legal Authority to Provide Expectations for SWMP Content

As noted in my February 15 letter, the federal Clean Water Act (CWA) provides that National Pollutant Discharge Elimination System (NPDES) permits for MS4s must require municipalities to reduce pollutants in their stormwater discharges to the Maximum Extent Practicable (MEP) (CWA §402(p)(3)(B)). The California Water Boards have established the meaning and application of this standard through several adopted stormwater permits (the MEP standard is the same for Phase I and Phase II municipalities)¹. The Water Board implements the General Permit to be consistent with its Water Quality Control Plan (Basin Plan) to ensure protection of water quality, beneficial uses, and the biological and physical integrity of watersheds according to the issues in the Regions. The General Permit contemplates that low impact development will be a component of

¹Several stormwater permits adopted by different Regional Boards have been legally challenged. All have been upheld by the State Water Resources Control Board and the courts. The Water Boards have broad authority to regulate stormwater and land use activities that result in discharges to waters of the State. Urbanization is one of the most important land use activities affecting water quality, beneficial uses, and the physical and biological integrity of watersheds in the Central Coast Region.
SWMPs. See Fact Sheet to General Order at page 6. The General Permit also requires the SWMP to contain measurable goals, including, for example, percent reduction in pollution load. The General Permit has been in effect for nearly five years and the Central Coast Water Board expects that Phase II communities will have benefited from their own experience and other communities in developing a robust SWMP. The General Permit expects Phase II communities to learn from Phase I communities in implementing MEP. The February 15 letter did not require that each community include the specific recommendations, but rather stated that the Executive Officer would not approve a SWMP that does not include adequate low impact development BMPs and measurable goals. Our approach, including our February 15, 2008 letter, is consistent with the General Permit.

Current Status of Enrollment Process

Since initiation of the new enrollment strategy, several enrollment cycles have begun. Table 1 presents the status of the cycles. Please check our website for more specific scheduling information and notices for public comment periods.


Availability of Technical and Financial Assistance

Several grant programs are currently available to provide matching grants to local public agencies to protect watersheds, reduce and prevent stormwater pollution, and implement LID planning and design principles and practices. These programs include California Proposition 84 Storm Water funds, California Proposition 1E Flood Prevention and Stormwater Management, and the US EPA West Coast Estuaries Initiative. I encourage you to pursue these grant opportunities. For more information specifically on the Proposition 84 Storm Water Grant Program and workshops, visit the State Water Board’s website at:

http://www.waterboards.ca.gov/water_issues/programs/grants_loans/prop84/index.shtml

You may also contact our grant manager, Angela Schroeter, at 805-542-4644, or at ASchroeter@waterboards.ca.gov regarding these grant opportunities.

The Water Board is also providing partial funding for a Central Coast Low Impact Development Center. The Center will assist municipalities, engineers, and developers to implement Low Impact Development on the Central Coast. We anticipate technical assistance will be available from the Central Coast LID Center office starting fall 2008. In the meantime, we encourage you to contact the LID Center of Maryland (http://www.lowimpactdevelopment.org), as they have extensive experience in helping municipalities implement LID throughout the United States, including California. We also encourage you to contact other professionals who are qualified to implement LID and watershed protection, such as the Center for Watershed Protection (www.cwp.org and www.stormwatercenter.net), and The Center for Water and Land Use (http://extension.ucdavis.edu/unit/center_for_water_and_land_use/about.asp) to use their many technical and educational resources (many of which are free). These services will help you create the institutional capacity to integrate all stormwater management control measures into all aspects of land use planning and development (municipal plans, policies, ordinances, municipal codes, conditions of approval, etc.) to protect healthy watersheds.

California Environmental Protection Agency

Recycled Paper
### Table 1: Status of Enrollment Cycles for Attachment 1 and 2 MS4s

<table>
<thead>
<tr>
<th>Cycle</th>
<th>MS4 Group</th>
<th>Group Members</th>
<th>Projected Start Date for Enrollment Cycle</th>
<th>Projected Executive Officer SWMP Approval</th>
<th>Projected Board SWMP Approval</th>
<th>Staff Phone (805 Area Code)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Santa Maria</td>
<td>Santa Maria</td>
<td>Underway</td>
<td>August 11, 2008</td>
<td>Sept. 5, 2008 San Luis Obispo</td>
<td>Dominic Roques 542-4780</td>
</tr>
<tr>
<td>2</td>
<td>Coastal Santa Barbara County</td>
<td>Goleta Carpinteria Santa Barbara UC Santa Barbara Lompoc (originally in Cycle 1)</td>
<td>Underway</td>
<td>September 2, 2008</td>
<td>Oct. 17, 2008 Santa Barbara</td>
<td>Brandon Sanderson 549-3989</td>
</tr>
<tr>
<td>3</td>
<td>Santa Cruz Mountains and Coast</td>
<td>Santa Cruz County Watsonville City of Santa Cruz Scotts Valley UC Santa Cruz</td>
<td>Underway</td>
<td>February, 2009</td>
<td>March 6, 2009 San Luis Obispo</td>
<td>Phil Hammer 549-3882</td>
</tr>
<tr>
<td>4</td>
<td>Coastal San Luis Obispo County</td>
<td>Arroyo Grande Grover Beach Piero Beach Oceano CSD Morro Bay Los Osos CSD</td>
<td>Underway</td>
<td>January 2009</td>
<td>2009 – 1st Quarter San Luis Obispo</td>
<td>Tamara Presser 549-3334</td>
</tr>
<tr>
<td>5</td>
<td>Upper Salinas</td>
<td>King City Templeton Atascadero</td>
<td>June 2006</td>
<td>February 2009</td>
<td>2009 – 1st Quarter Salinas</td>
<td>David Innis 549-3150</td>
</tr>
<tr>
<td>6</td>
<td>City of San Luis Obispo</td>
<td>City of San Luis Obispo</td>
<td>Underway</td>
<td>April 2009</td>
<td>2009 – 2nd Quarter San Luis Obispo</td>
<td>Tamara Presser 549-3334</td>
</tr>
<tr>
<td>7</td>
<td>Upper Pajaro</td>
<td>Gilroy San Martin Santa Clara</td>
<td>Early November 2008</td>
<td>August 2009</td>
<td>2009 – 3rd Quarter Watsonville</td>
<td>Dominic Roques 542-4780</td>
</tr>
<tr>
<td>8</td>
<td>Santa Ynez</td>
<td>Buellton Solvang Vandenberg AFB</td>
<td>Mid November 2008</td>
<td>August 2009</td>
<td>2009 – 3rd Quarter San Luis Obispo</td>
<td>Dominic Roques 542-4780</td>
</tr>
</tbody>
</table>

Agencies, municipalities, and consultants are all on a learning curve with respect to stormwater management, LID implementation, and watershed protection. Water Board staff are not design or planning experts, and as with all of our requirements, we cannot legally tell those we regulate how to comply. Municipalities must build their capacity to be able to comply with the Board’s requirements. This includes hiring qualified personnel to develop and implement SWMPs, and providing the most up to date, relevant education on an ongoing basis. When relying on consultants, it is critical that you carefully consider the qualifications and experience of the professionals you retain. Many consulting firms are on the same learning curve as agencies and municipalities.
If you have any questions regarding this letter, please contact Dominic Roques at droques@waterboards.ca.gov or at (805) 542-4780. If you have any questions regarding the status of a particular enrollment cycle, please contact the staff person indicated in Table 1.

Thank you for your commitment to developing a SWMP that will support healthy watersheds in the Central Coast Region.

Sincerely,

Roger W. Briggs
Executive Officer

Cc:
Hillary Hauser, Heal The Ocean
Steve Shimek, The Otter Project
Kira Redmond, Santa Barbara ChannelKeeper
Christine Sotoio, SWRCB
Chris Crompton, California Stormwater Quality Association
Jerry Bunin, Homebuilders Association of the Central Coast

Attachment: An Example Approach for Including Quantifiable Measures of Healthy Watersheds for Stormwater Management Programs

W:\Stormwater\Stormwater Program\Municipal Program\Phase II\MS4 Enrollment Strategies\MS4 Notification Ltr\Follow-up Ltr\FollowupptFeb15Final.dr.doc
August 12, 2008

Steve Kahn
City of Atascadero
6500 Palma Avenue
Atascadero, CA 93422

Dear Mr. Kahn:

ENROLLMENT SCHEDULE – STORM WATER MANAGEMENT PLAN; CITY OF ATASCADERO, SAN LUIS OBISPO COUNTY, WDID# 3 40MS04027

Central Coast Water Board staff David Innes met with you and David Athey on July 8, 2008 to discuss the City of Atascadero’s enrollment in the Municipal Stormwater General Permit. The emphasis of your meeting was to discuss the schedule we e-mailed to you on June 24, 2008. The schedule reflects the direction our Board approved at the December 7, 2007 hearing, my Notification to Traditional, Small MS4s letter dated February 15, 2008, and my recent Follow-up letter dated July 10, 2008. The schedule provides a firm date for a March 2009 Board hearing, if requested, to consider approval of your Storm Water Management Program (SWMP). Our schedule requires you to submit a revised draft by August 13, 2008. However, you won’t meet this timeline because of your decision to present our requirements to your City Council in September before submitting revisions in October 2008.

Atascadero is one of 24 communities participating in this enrollment process. As I emphasized in my February and July letters, the current enrollment process has certain dates that each community must meet. The schedule staff provided reflects these dates, but the interim due dates have some flexibility. This flexibility, however, may have consequences if you chose to side step the required dates. In this case, we would receive your SWMP during Phase III: MS4 SWMP Redraft. At this approximate October 10th date, you would have only one week to respond to our staff and public comments. Essentially, your modification of the schedule would skip most of Phase II and your opportunity to receive our feedback. The consequence of missing our dates is the potential we may require a series of recommendations and resolutions we would attach after public posting of your SWMP and Staff Report preparation, if portions are unacceptable to staff.

We plan to work with you and your staff to help develop a SWMP that meets all expectations of the General Permit and our enrollment notifications. In 2004 we provided comments to your SWMP and we plan to provide additional comments to the December 2004 draft in the next few weeks. If you incorporate the recommendations...
we provide, our later recommendations and resolutions for your SWMP will likely be minimal.

We look forward to working with you in a cooperative fashion. However, we are committed to finalizing Atascadero’s SWMP by March 2009. We hope the flexibility we’ve given you to plan within our schedule will result in a substantive and specific set of BMPs and measurable goals to improve stormwater control in Atascadero.

Sincerely,

Roger W. Briggs
Executive Officer