



Atascadero City Council

Staff Report – Public Works Department

Update of Status of State Mandated Storm Water, Wastewater and Onsite Wastewater Treatment System Regulations

RECOMMENDATION:

Council receive this update on storm and wastewater issues facing the City.

REPORT-IN-BRIEF:

Staff is providing a brief background and update on four different State of California mandated regulations related to storm water, wastewater collection system and on-site septic systems issues.

DISCUSSION:

Storm Water Management Plan:

The National Pollutant Discharge Elimination System (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. A Storm Water Management Plan is required of every agency in the State as part of NPDES. NPDES, Phase I required cities over 100,000 in population to comply. All of these cities now have Storm Water Plans in place. NPDES, Phase II regulates cities with populations less than 100,000. Some Phase II cities have approved Storm Water Plans. Atascadero has recently submitted its revised draft plan for approval.

In our area, the Central Coast Regional Water Quality Control Board (Water Board) is responsible for implementing NPDES Phase II Storm Water Requirements. A Storm Water Management Plan defines strategies and guidelines for the protection of water quality and the reduction of pollutant discharge in storm water. Starting in 2002, a city was required to address six minimum requirements as part of its Storm Water Management Plan. The six minimum measures include:

- Public Education
- Public Participation
- Illicit Discharge Detection and Elimination
- Construction Site Storm Water Runoff Control
- Post Construction Storm Water Management
- Pollution Prevention/Good Housekeeping for Municipal Operations

After a long delay by the State, the Water Board notified the City and other agencies that a new timeline and process for adopting the outstanding Storm Water Management plans would be imposed.

On February 15, 2008, Regional Board staff notified Atascadero and other cities of the new requirements and timeline for Storm Water Management Plan adoption. The four new requirements consisted of the following elements:

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

City staff presented the new storm water management plan requirements and timelines to Council on September 23, 2008. Staff was directed to bring additional information back to Council on October 14, 2008. Council then directed Staff to hire a consultant and gather input from citizens in order to amend the City's existing draft 2004 Storm Water Management Plan. At that same time, the Water Board amended the City's Storm Water Management Plan submittal deadline to January 29, 2009.

Current Status

Staff presented the draft Storm Water Management Plan to Council on January 27, 2009, for feedback and permission to submit. Council directed staff to submit the Storm Water Management Plan in order to comply with a January 29, 2009 due date. The Water Board staff subsequently posted the plan on its web site, which started a 60-day public comments period. The 60-day comment period serves two purposes; 1) it provides the public with a chance to comment on the City's proposed plan, and 2) allows individuals or groups the opportunity to request a Storm Water Management Plan hearing (including the City) before the Water Board members. Thus far, no group or individual has requested a hearing before the Water Board.

City staff has been in communication with Water Board staff throughout their review process, however has not yet received any formal comments. Staff has received formatting and clarification comments and has provided Water Board staff with corrections. The corrected pages are included as Attachment 1. The Water Board staff will be posting its final revision requests prior to the end of the 60-day comment period. Staff will evaluate the required changes and will either make the required changes or will request a hearing should the requested changes be deemed too costly or technically unacceptable.

Statewide Septic System Regulations:

The State Water Board regulates wastewater systems (including septic systems) on a statewide basis. The State Water Board is proposing to adopt new regulations to establish minimum requirements for the permitting, monitoring, and operation of onsite wastewater treatment systems (septic systems) statewide. In addition, the State Water Board is proposing to adopt a plan that will implement the regulations statewide. The implementation plan is also referred to as a statewide waiver policy.

Statewide vs. Local requirements

The proposed regulations and implementation plan are separate from the recently adopted Water Board Basin Plan Septic System amendments. The Water Board Basin Plan septic system amendments are specific to our Region. The City is included in the Water Board's jurisdiction and is currently implementing the existing septic system Basin Plan requirements. Staff will discuss the Water Board's proposed septic system changes below.

The State Water Board is proposing to adopt new statewide septic system regulations as required by a newly signed state law. The State Law is referred to as Assembly Bill 885, and was crafted to address septic system issues on a statewide basis. Once implemented, the City will have to comply with both the new State Water Board regulations and the local Central Coast Water Quality Control Board Basin Plan requirements. The proposed regulations allow the local Water Board's or agencies to adopt more stringent requirements. In either case the more restrictive requirement will apply to City landowners.

Staff analyzed and presented proposed comments on the statewide septic system at the January 13, 2009 City Council meeting. Staff analyzed the proposed regulations for changes that will potentially have an impact on City finances, staff resources, and our permitting system. Council agreed with staff's comments and added several others which staff sent to the State Water Board.

Current Status

The State Water Board Sacramento hearing on the regulations (originally set for February 9, 2009) was postponed until the proposed regulations can be redrafted. The notice of postponement is included as Attachment 2. The State Water Board postponed the Sacramento hearing because it received a large volume of comments and wants to address relevant issues. According to the State Water Board staff the Sacramento hearing will be rescheduled once the regulations have been redrafted and circulated for public review. Staff will continue to follow this issue and keep the Council updated.

Water Board Septic System Basin Plan Amendments:

The Central Coast Regional Water Quality Control Board (Water Board) is a State Government Agency that is responsible for protecting surface and groundwater quality in the six counties stretching from Santa Barbara to southern Santa Clara County. The

Regional Board is part of the State Water Resources Control Board¹ and California Environmental Protection Agency.

The Basin Plan is developed by the Regional Board to describe the requirements² that are needed in order to protect ground and surface water quality in the Regional Board's jurisdiction. The Basin Plan includes requirements and goals for septic systems, wastewater discharges, landfills and storm water systems. The Regional Board amended the Basin Plan's onsite wastewater (septic system) treatment requirements on May 9, 2008.

The City provided comments to the Regional Board and a request for additional time for public input prior to a May 9, 2008 public hearing. In addition, City staff spoke during the public hearing comment period to highlight the City's concerns with the new regulations. The Regional Board however adopted the Basin Plan amendments with minor changes³. The amendments were then sent to the State Water Board for administrative and legal review. The Office of Administrative Law's review is not a public process and is focused on the Basin Plan Amendment's compliance with other State laws. The State Water Board's review is based on the technical and administrative compliance with the Porter Cologne Water Quality Act.

Current Status

The State Board has asked the Water Board to make specific language clarifications prior to scheduling a State hearing on the proposed amendments. Therefore, the Regional Water Board has pulled the Basin Plan amendments from review in order to address the State Board's issues. Staff is not aware of the specific language that needs to be addressed, since there was no written documentation exchanged between the State and Water Boards. The Water Board has subsequently reissued the draft regulations for public comment prior to a March 19-20, 2009 meeting. Staff has evaluated the changes and has determined they are meant to clarify the existing language and do not represent any new demands. In addition, the Water Board has put forth an implementation plan. The implementation plan will allow the City to implement the proposed Basin Plan amendments as long as the City signs a Memorandum of Understanding and develops and gains approval of a Septic System Management Plan. The City does not have to sign a Memorandum of Understanding or develop a Septic System Management Plan. In this case the review and oversight of septic system issues will revert back the Water Board. Staff will continue to follow this issue and will keep the Council updated as changes occur.

¹ The State Water Resources Control Board provides administrative support and appellate oversight for the State's nine Regional Water Boards.

² Water quality objectives are established to protect the beneficial uses of State waters. This means that when an entity discharges treated wastewater to an aquifer or stream there will be specific pollutant levels that cannot be exceeded. For example, the City is allowed to discharge wastewater to percolation ponds close to the Salinas River. The City is allowed to only release a set concentration of salts in order to protect the use of the aquifer. The current beneficial uses of the Atascadero groundwater subbasin are municipal, industrial and agricultural uses.

³ The Water Board changed the requirement for septic system pumping from a required five-year cycle to a recommended five-year cycle.

Sanitary Sewer Management Plan

On May 2, 2006, the State Water Board adopted Water Quality Order No. 2006-0003 which established the Statewide General WDRs (essentially a permit) for all publicly owned or operated sanitary sewer systems within the State of California. This includes the City of Atascadero's sewer system.

The Statewide WDRs require that all federal and state agencies, municipalities, counties, districts, and other public entities that own or operate sanitary sewer systems greater than one mile in length that collect and/or convey untreated or partially treated wastewater to a publicly owned treatment facility in the State of California:

1. Report sanitary sewer overflows to the State Water Board; and
2. Develop and implement a Sanitary Sewer Management Plan (SSMP).

The SSMP is a written plan that details how the City's sewer system is operated, maintained, repaired and funded. The Statewide General WDRs include a time schedule for the development of the SSMP. The State Water Board requires that the Development Plan, Schedule and the Final SSMP be approved by the City Council. The reasoning behind this requirement is to ensure the City Council is aware of the SSMP and its potential impacts such as budget needs and new ordinances.

Current Status

Staff presented the SSMP staff report to Council on October 23, 2007, to maintain compliance with Statewide WDR requirements. Council adopted a resolution confirming its acceptance of SSMP requirements and timetable and directed staff to develop a SSMP report. Staff is now moving forward and is in the process of securing a consultant to write the SSMP. The SSMP will then be implemented by City staff in order to maintain compliance with State reporting and operational requirements.

FISCAL IMPACT:

This is an update only. Each issue has its own financial impact associated with its implementation.

ALTERNATIVES:

Council may give staff direction on any of the items discussed above.

ATTACHMENTS:

Attachment 1 – Corrections made to the Storm Water Management Plan
Attachment 2 – Notice of Postponement