



CITY OF LOMPOC

May 22, 2008

Roger W. Briggs
Executive Officer
California Regional Water Quality Control Board
Central Coast Region
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401-7906

Subject: City of Lompoc's Storm Water Management Program


Dear Mr. Briggs:

On May 5, 2008, the City of Lompoc (City) received a letter entitled "Water Board Staff Comments On Draft Storm Water Management Program (SWMP) September 2008 -- September 2013. This letter identified changes to the City of Lompoc's Draft Storm Water Management Program that are being required by your office.

Enclosed are a Table of Responses to the concerns identified in Water Board Staff's letter of May 1, 2008 and a revised SWMP for the City of Lompoc. The revised SWMP enclosed here complies with the State's General NPDES Permit for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems (General Permit). As proposed, the SWMP reduces the discharge of pollutants from the City's municipal separate storm sewer system (MS4) to the maximum extent practicable (MEP). The SWMP includes descriptions of best management practices (BMPs) and measurable goals for the six minimum control measures required by the General Permit. The City of Lompoc is not an Attachment 4 permittee. The City's SWMP also includes, to the extent appropriate, BMPs to achieve the conditions specified in the February letter: maximize infiltration of clean storm water, and minimize runoff volume and rate; protect riparian areas, wetlands, and their buffer zones; minimize pollutant loading; and, provide long-term watershed protection. The BMPs proposed by the City for these conditions are appropriate and applicable to Lompoc. Should you or your staff have any questions regarding the SWMP, please contact Stacy Lawson at 805-875-8275.

The City of Lompoc continues to have major concerns with many of the provisions put forward in the February Letter, because they exceed requirements contained in the General Permit, exceed the federal requirement to control pollutants to the MEP, and go well beyond federal regulatory requirements for small MS4s. Our concerns with these provisions have been explained previously in our letter of April 10, 2008.

Sincerely,


Dick DeWees, Mayor
City of Lompoc

cc: Dominic Roques, Engineering Geologist, RWQCB

Encl.

**Item No. 9 Attachment No. 11
City of Lompoc SWMP
October 17, 2008 Meeting**

City of Lompoc Response to Regional Board Staff Items Per Letter Dated May 1, 2008

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| Pollutant Load Reduction as a Central Goal | While reducing storm water pollution is the overall goal of the SWMP program, specifically reiterating this goal in each of the six minimum control measures is not required to reach MEP. |
| City Jurisdiction over other Agencies and Entities. | It is unclear how entities over which the City of Lompoc exercises no jurisdiction, review or enforcement authority are to be addressed in the City's SWMP. |
| Hydromodification Controls | The City has included Hydromodification criteria and controls that it believes can be implemented within its jurisdiction and will result in a net benefit to water quality. The City has not included controls or criteria based on the interim criteria expressed in the Regional Board's February 15, 2008 correspondence where the City has determined that such controls are inapplicable to the City and inconsistent with the State's existing General Permit for Phase II communities. |

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| Item 1 | Section 1.3 | <p>To our knowledge there is no clear evidence of significant impairment of Miguelito Creek's water quality by the City with non-sediment solids, nutrients, pathogens, oxygen-demanding substances, petroleum hydrocarbons, heavy metals, polycyclic aromatic hydrocarbons, and pesticides and herbicides. Therefore, these pollutants are not listed as pollutants of concern in Lompoc's SWMP. Should the City obtain evidence to the contrary, the City will identify additional pollutants to target BMPs.</p> <p>Guidance for the General Permit states that "pollutants of concern are specific constituents that are relatively more prevalent in your runoff or are causing or threatening to cause impairment in your receiving water. Once these constituents are determined, BMPs should be implemented to target these pollutants. For example, if you discharge to a water body impaired for sediment, you may want to develop outreach programs that focus on sediment. The City of Lompoc has identified its pollutants of concern and the means by which they will be addressed.</p> |
| Item 2 | BMP 3.4.3 | The City has made a commitment to storm water education in the schools to reach at least 100 students per year. School schedules, funding, test dates and required curriculum make it difficult at times |

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| | | to set up voluntary extra-curricular educational programs. Reaching a minimum of 500 students within the permit period has been determined to be an achievable goal, given past experiences in setting up optional educational programs. Regional Board staff review of storm water educational programs and/or materials is not required to meet MEP. Consistency between the text on page 26 and Table 3 has been achieved. |
| Item 3 | BMP 3.3.6 | A description of the method of advertising the referenced events has been added. |
| Item 4 | BMP 3.3.8 | This section has been amended to stipulate that information will be provided to the public in both English and Spanish identifying the appropriate handling of sand bags after use. |
| Item 5 | BMP 3.3.10 | The City is committing to operating at least two Used Oil Recycling Centers. The conditions and times of their operation are subject to change. There are four privately owned and operated collection centers which are operated at the discretion of the business owners and can be eliminated at any time. |
| Item 6 | BMP 3.3.12 | Reference Section 4.3.9. Specifically, the City will send information regarding illicit discharges by mail to businesses and industries that have filed business tax receipts with the City and have the potential to pollute storm water. Handouts will be developed for various business types to highlight the measures they can take to reduce storm water pollution. The proposed outreach efforts of mailings and industry-targeted correspondence provides for appropriate levels of public education and outreach for businesses and industries. |
| Item 7 | BMP 4.3.3 | Appendix C uses Appendix A as its base map. Therefore, the City has already integrated the information in both maps onto a single map, which provides a comprehensive view of the system. Appendix C includes all storm water facilities within the City's jurisdiction (City and County), a map legend and a complete City boundary in those areas served by the City storm system. Appendix C is not missing any key facilities. Miguelito Channel is a County Flood Control facility which extends directly to the Santa Ynez River Channel from the intersection of Central Avenue and "V" Street, through a Santa Barbara County Flood Control easement. Appendices A and C depict all of the City storm drain facilities and the City limits, except for that which is controlled by the U.S. Bureau of Prisons. A Map showing the full City limits, including the United States Penitentiary, has been added as Appendix H. The map labeled Appendix C will be digitized from the hand-drawn version, during the first year of the permit. |
| Item 8 | BMPs 4.3.5 and 4.3.6 | The protocol for the survey would include visual and/or camera observation of surface and subsurface storm drain systems within the City's storm drain system. The surface inspections will be during dry weather (99.9% of the year) as illicit discharges are difficult to identify during storm events. The camera inspections will be |

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| | | conducted during dry weather as the camera cannot be used during storm events. If a camera inspection identifies a potential illicit discharge, a smoke test can be used, if necessary, to determine the source of the illicit connection to the underground storm sewer. Areas of more intense use will be prioritized, including commercial, industrial and high density residential. Revisions have been made to ensure consistency between page 35, 37 and 38. |
| Item 9 | BMP 4.3.9 | The BMP is clear in what it intends to do and the intended target audience. The 200 contacts per year are designed to reach businesses and individuals that may have an impact on storm water. There are 406 businesses operating in Lompoc that may have a direct impact on storm water quality. It is expected that within the first permit cycle, information on illicit discharges will be sent to each of these priority businesses |
| Item 10 | BMP 5.3.1 | The proposed method of verifying and reporting the number of miles swept per month is an appropriate measure of BMP effectiveness. Measuring pollutant load reductions would not be an appropriate measure because clean streets will not yield a significant amount of material removed by the sweeper. The discrepancy between pages 40 and 42 regarding sweeping frequency has been corrected. The City's goal is sweeping all City streets once a month. When staffing and equipment are available, the City strives to sweep all streets twice a month. |
| Item 11 | BMP 5.3.4 | The training description and goals have been modified to include training in LID and Hydromodification. Training frequency is clearly stated in the SWMP and does not require revision. |
| Item 12 | Section 5.0 | A commitment to developing a plan and schedule for modifying the City Landfill's detention basin to address potential discharge of pollutants into the City's storm drain system has been included in the SWMP. |
| Item 13 | BMP 6.4.2 | The BMP description has been revised. |
| Item 14 | BMP 6.4.5 | This BMP accurately describes the actions to be taken, including follow-up of all complaints filed. The effectiveness measurement has been revised to determine if complaints received were investigated. |
| Item 15 | BMP 6.4.6 | BMP 6.4.6 has been deleted. |
| Item 16 | BMP 7.4 | Formatting has been corrected. |
| Item 17 | Table 7 | Maintenance of post-construction BMPs has been added to the BMP and MG sections. |
| Item 18 | BMP 7.4.8 | As communicated in our April 11, 2008 correspondence to Mr. Briggs, the City has serious concerns with the Water Board's expectations as outlined in the February 15, 2008 letter. More specifically, the City questions the Water Board's legal authority for imposing LID and hydromodification control standards onto Phase II communities in this manner, as such requirements are not part of the State's General Permit for Phase II communities. To the extent that the City has determined such controls are appropriate, we have |

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| | | <p>included a description of the evaluation of local conditions related to hydromodification in the SWMP.</p> |
| <p>Item 19</p> | <p>BMP7.4.9) 1-3</p> | <p>The Water Board expectations identified in the February 15, 2008 notification letter are not properly developed permit provisions that can be imposed on Phase II communities in the Central Coast. More specifically, the Water Board's requirements exceed requirements contained in the General Permit, exceed the federal requirement to control pollutants to the MEP, and exceed federal requirements for small MS4s and especially those not subject to Attachment 4. The Regional Board's proposed requirements exceed MEP because they impose specific numeric standards (e.g., EIA <5% and minimum 30-foot buffer zones) that do not take into account economic feasibility and site-specific considerations or allow for local flexibility.</p> <p>The General Permit requires small MS4s to "maintain, implement, and enforce an effective SWMP designed to reduce the discharge of pollutants from the regulated small MS4 to the MEP and to protect water quality." (General Permit at p. 8.) The SWMP must also describe BMPs that fulfill requirements of the six minimum control measures required by federal regulations. (General Permit at pp. 8-12; 40 C.F.R. § 122.34.) The conditions expressed by Water Board staff in the February letter are not part of the six minimum control measures. (See General Permit at pp. 8-12 [description of the control measures and corresponding requirements].) Furthermore, as discussed more fully below, the conditions exceed MEP. Thus, the additional requirements exceed those established by the General Permit. Compliance with them is not necessary to obtain coverage under the General Permit. Further, imposition of the requirements would create unreasonable obligations not consistent with state and federal law.</p> <p>The MEP standard is described by the General Permit as "ever-evolving, flexible, and advancing concept, which considers technical and economic feasibility." MEP should also be applied "in a site-specific, flexible manner, taking into account cost considerations as well as water quality effects." The Regional Board's proposed requirements exceed MEP because they impose specific numeric standards (e.g., EIA <5% and minimum 30-foot buffer zones) that do not take into account economic feasibility and site-specific considerations or allow for local flexibility.</p> <p>When the Water Board imposes requirements that exceed those required by Federal Law as is the case here, the Water Board is required to consider the statutory factors contained in Water Code section 13241. Thus, before implementing, or forcing implementation of Water Board's "expectations" into the City's SWMP, the Water Board must consider economics, site-specific conditions, the need to</p> |

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| | <p>develop housing in the region, and other factors. The Water Board must consider and balance such factors to determine if the requirements are reasonable. To our knowledge, the Water Board has not considered such factors relative to matters identified in the February Letter, nor is this anticipated to occur prior to Regional Board action.</p> <p>Furthermore, the Water Board's new requirements exceed the State Water Board's expectations as expressed in the General Permit for Phase II communities. The Fact Sheet for the General Permit states,</p> <p>"[i]t is understood that storm water quality programs and regulations are new to the entities that will be regulated under this General Permit. Therefore it is anticipated that this General Permit term serve as a "ramping-up" period and that programs implemented by Phase II communities will not necessarily conform to programs implemented by Phase I communities." The February letter includes requirements that go well beyond the six minimum control measures required by federal regulation and the State's General Permit for small MS4s.</p> <p>When Congress amended the Clean Water Act (CWA) in 1987 and required NPDES permits for storm water, Congress specifically distinguished between large and small municipalities. (33 U.S.C. § 1342(p)(6).)</p> <p>The United States Environmental Protection Agency (EPA) continues to stress this distinction in guidance where EPA "strongly recommends" that "no additional requirements beyond the minimum control measures be imposed on regulated small MS4s without the agreement of the operator of the affected small MS4, except where an approved TMDL or equivalent analysis provides adequate information to develop more specific measures to protect water quality." (40 C.F.R. § 122.34(e)(2).) EPA intends for the six minimum control measures to remain the regulatory basis for small MS4s until EPA evaluates the storm water program for phase II communities (which is not set to occur before the year 2012).</p> <p>Because the Water Board's requirements as expressed in the February 15, 2008 letter are inappropriate and inapplicable to the City, the City has not revised, nor does the City intend to revise the SWMP to include such criteria. In the meantime, the City does intend to work with Santa Barbara County and others to develop such criteria related to hydromodification and LID that we believe are appropriate and applicable to the City.</p> |
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