

STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL COAST REGION

STAFF REPORT FOR REGULAR MEETING OF FEBRUARY 9, 2007

Prepared on January 9, 2007

ITEM NUMBER: 11

SUBJECT: City of Salinas Phase I Storm Water Permit Status Report #2

**SUMMARY**

This status report provides an update on the City of Salinas' efforts to comply with the Phase I Stormwater Permit requirements. This report covers several key Permit requirements and City activities, including September 2006 Notice of Violation compliance status, Design Standards Review and Rewrite, and water quality exceedances. The City remains in noncompliance in several areas, and staff plans to recommend an enforcement action to the Water Board by mid 2007 if the City is unable to comply with the terms of the permit by then.

**DISCUSSION**

Background

The Water Board issued an updated Phase I Storm Water Permit (Permit) for the City of Salinas (City) in February 2005. Water Board staff subsequently issued a Notice of Violation to the City on September 1, 2006, for the City's lack of compliance with the Permit. Staff provided a status report on permit implementation at the September 8, 2006 Water Board meeting. The September 2006 status report described a number of concerns, as well as areas of compliance. Staff concluded the report by stating that we found the City's performance

during the first year of its second permit term to be 'halting slow steps forward toward full compliance'. The Water Board members questioned the City during the September 2006 Board meeting, and stated their general lack of confidence and satisfaction with the City's responses and level of Permit compliance. The Board requested this February 2007 status report in order to follow the progress of several key Permit requirements and City activities.

The items of concern discussed in the September 2006 status report and Board hearing included:

1. Table of items required by the 2005 Permit with critical due dates (table was included in the September 2006 status report, and is included with the January 2007 Notice of Violation letter, Attachment 1 of this report).
2. Storm Water Master Plan (SWMP), which needed major revisions.
3. Annual Report and Work Plan, which the City needed to revised to match with the to-be-completed SWMP.
4. Quality Assurance Program Plan (QAPP), which the City was to complete by February 2006.

5. Design Standards Review and Rewrite.
6. Water Chemistry Monitoring Issues discovered during our ambient water quality monitoring in 2006.

#### Status of Items of Concern

Staff issued a second Notice of Violation (Attachment 1) on January 8, 2007 (January 2007 Notice of Violation). The January 2007 Notice of Violation included a timeline summarizing requirements and activities related to the SWMP and Annual Report. The following sections discuss the items of concern.

#### A. Table of Items Required by the 2005 Permit

Many of the items flagged in the September 1, 2006 Notice of Violation as incomplete or needing additional detail are still in need of action. The items of greatest concern are discussed below and were incorporated into the January 2007 Notice of Violation.

#### B. Storm Water Master Plan (SWMP)

The Permit required the City to submit a revised SWMP by August 3, 2005. Water Board staff did not receive a revised SWMP, and the September 2006 Notice of Violation reiterated the City's responsibility to produce a SWMP to manage urban stormwater to the Maximum Extent Practicable. The City produced a SWMP by September 1, 2006 and posted it to the City website, but informed Water Board staff that the September 1, 2006 version was not to be considered an official version for our review unless and until the City Council approved it. Water Board staff, The Sea Otter Project, and NRDC all submitted comments voicing significant concern over the September 1, 2006 SWMP. The City Council adopted the September 1, 2006 SWMP without revisions, and submitted it to Water Board staff on September 20, 2006.

City staff then informed Water Board staff that the City was revising the September 1, 2006 SWMP. On November 3, 2006, the City submitted three chapters (out of a total of ten SWMP chapters) of a revised SWMP (November 3, 2006 version). Water Board staff reviewed these chapters and provided extensive comments. At the time of this writing, Water Board staff has not received other SWMP versions or revisions.

#### C. Annual Report and Work Plan

The City was required to submit an Annual Report on October 1, 2006, describing work undertaken during the preceding year, and a Work Plan scheduling work described in the SWMP for the upcoming year. Water Board staff received the Annual Report and Work plan on October 2, 2006. The September 2006 Notice of Violation required the City to update and submit a revised Work Plan by November 15, 2006, to reflect the most recent SWMP. However, because the City did not finalize a SWMP by November 3, 2006, they did not submit a revised Work Plan.

#### D. Quality Assurance Program Plan (QAPP)

The Permit required the City to submit a QAPP by February 11, 2006. The City submitted a QAPP on August 4, 2006. Water Board staff reviewed the QAPP and required revisions on October 27, 2006. Water Board staff's written and verbal comments discussed needed monitoring program changes, which we believe are warranted based on Water Board staff's 2006 regional monitoring data. The City's consultant analyzed the required program changes and on December 12, 2006 the City reported (verbally) that the changes would increase the City's annual sampling costs by approximately \$64,000 (current budget is \$200,000). Water Board staff received a written analysis of these costs on December 28, 2006. Meanwhile, on December 19, 2006 the City Manager directed City staff to continue with the existing, less rigorous monitoring program.

The City staff reports that the QAPP should be finished by the third week in January 2007.

#### E. Water Quality Monitoring

The Water Board's regional monitoring program data from 2006 revealed several water quality areas of concern. Water Board staff informed the City of these issues in email and phone exchanges during March 2006 through September 2006. In the September 2006 Notice of Violation, Water Board staff required the City to conduct further investigation into the potential pollutant sources and submit a Toxicity Reduction Evaluation report by September 22, 2006. The City submitted a letter on September 15, 2006, saying that they would not be able to submit a complete report by the September 22, 2006 deadline; however, the City did submit a preliminary report by the due date. The City hired an outside consultant to follow up on the investigation, and due to various delays the City submitted a final report on January 5, 2007. Water Board staff is currently reviewing the report.

#### F. Design Standards Plan and Ordinance Review

The Permit required the City to review and re-write if necessary its Construction and Redevelopment Design Standards Plan and pertinent codes and ordinances to align these documents with Low Impact Development (LID) methodology and State Board Order WQ 2000-11 requirements. The Water Board approved funding to hire Kennedy/Jenks Consultants to assist the City in this work. On December 31, 2006, Kennedy/Jenks Consultants released Technical Memorandum No.1, which provides suggested changes to City codes and ordinances to encourage and allow LID, and provides a model storm water ordinance. The City is required by the September 1, 2006 Notice of Violation to formally address the issues raised in the

memorandum within 30 days of release (due January, 30, 2007).

The LID-based Draft Design Standards Plan is expected to be released by Kennedy/Jenks Consultants the first week of January 2007. The City and Water Board staff intend to review and comment on the Draft Design Standards Plan, return comments to Kennedy/Jenks Consultants and receive a final version by February 16, 2007. The City will post the final Design Standards Plan for a 30-day public comment period, address the comments, and then adopt the LID Design Standards Plan for use.

#### G. Other Water Quality Activity

The City reported that they completed another round of water sampling on November 30, 2006, in the Airport Road area (where our regional monitoring program found receiving and discharge water to be out of compliance with water quality objectives throughout 2006). Water Board staff has inquired about, but has not seen lab results from the City. The City also sent out a letter to all business addresses and property owners in the Airport Road area describing the problem and best management practices that can be incorporated at their facilities. City staff will begin site inspections the first week of January and will conduct smoke testing in the area to locate drainage connections to the storm system on January 10 and 11, 2007 (weather permitting).

#### CONCLUSION

The City remains in noncompliance with its permit in several areas. Our January 2007 Notice of Violation contains a timeline listing activities and ongoing violations, and the number of days of violations. Water Board staff hopes our second Notice of Violation, and the City's increasing enforcement liability, will prompt the city to full compliance quickly. If necessary, staff will

recommend enforcement action to the Water Board in mid-2007 to address ongoing violations. We are not recommending enforcement action now because of the City's continued efforts to comply with the Permit and their limited staff. The number of City staff has been cut substantially due to budget constraints, and correspondingly the number of City staff working with stormwater issues is limited. We feel that the limited City staff time is best spent on the Storm Water Management Plan update, Quality Assurance Program Plan (guides water quality monitoring), Development Standards Plan adoption and implementation, response to the Kennedy/Jenks Technical Memorandum #1, and ongoing storm water program implementation.

#### **RECOMMENDATION**

Staff will continue to track the City's compliance efforts, and will recommend enforcement action by mid 2007 if necessary unless directed otherwise by the Water Board.

#### **ATTACHMENTS**

1. January 2007 Notice of Violation letter to the City with attachments

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