

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION**

**STAFF REPORT FOR REGULAR MEETING OF OCTOBER 17, 2008
Prepared September 26, 2008**

ITEM NUMBER: 9

SUBJECT: **Approval of Storm Water Management Plan and enrollment under NPDES Municipal Storm Water Permit and Waste Discharge Requirements for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems (Phase II Storm Water Permit), City of Lompoc, Santa Barbara County**

KEY INFORMATION:

Location: City of Lompoc, Santa Barbara County
Discharge Type: Municipal Storm Water
Existing Orders: None
This Action: Adopt Resolution No. R3-2008-0071 to approve City of Lompoc Storm Water Management Program

SUMMARY

This item presents draft Resolution No. R3-2008-0071, which approves the City of Lompoc (City) Storm Water Management Program. A Water Board-approved Storm Water Management Plan is required to enroll the City in the NPDES Municipal Storm Water Permit for Small Municipal Separate Storm Sewer Systems (General Permit). This report provides background information regarding the City's Storm Water Management Plan development and a staff recommendation for Storm Water Management Plan approval. The City submitted five Storm Water Management Plan drafts over a five-year period. The City requested a public hearing based on their review of Water Board staff's required revisions to the Storm Water Management Plan. The Resolution contains staff recommended Storm Water Management Plan modifications based on staff's expectations of Storm Water Management Plan content communicated in the Executive Officer's February 15, and July 10, 2008 letters to the City, and based on comment letters received from interested parties.

By adopting the Resolution (Attachment 1), the Water Board will enroll the City in the General Permit. The City will then be required to implement the storm water management program, which is designed to reduce pollutant discharges in urban storm water to the maximum extent practicable.

DISCUSSION

General Permit Storm Water Management Plan Requirement

The City is required by Clean Water Act §402(p) to obtain permit coverage pursuant to the General Permit. The General Permit regulates discharges from regulated small Municipal Separate Storm Sewer Systems (MS4s) to waters of the United States or to another MS4 regulated by an NPDES permit. The City of Lompoc MS4 has discharges to the Santa Ynez River, a water of the United States, and to the County of Santa Barbara MS4. The keystone requirement of the General Permit is the Storm Water Management Plan, which is written by permit applicants to describe Best Management Practices, measurable goals, and timetables for implementation of six program areas:

1. Public Education and Outreach
2. Public Participation/Involvement
3. Illicit Discharge Detection and Elimination
4. Construction Site Runoff Control
5. Post-Construction Runoff Control
6. Pollution Prevention/Good Housekeeping

The Storm Water Management Plan describes the organizational framework under which the City will work to accomplish the objectives of their storm water program. The City has five years to develop and implement a program which reduces pollutants in storm water runoff to the maximum extent practicable and protects water quality. The City will submit annual reports detailing program compliance, Best Management Practice effectiveness, and Measurable Goal status. Water Board staff will review annual reports and work with the City to improve program implementation and effectiveness.

The purpose of the Storm Water Management Plan is to implement and enforce a series of Best Management Practices (BMPs). These BMPs are designed to reduce the discharge of pollutants from the municipal separate storm sewer systems to the "maximum extent practicable," to protect water quality, and to satisfy the requirements of the Clean Water Act. BMPs that attain the maximum extent practicable standard will support healthy watersheds. The City must use a series of measurable goals, defined in the Storm Water Management Plan, to gauge the effectiveness of its program. The City's proposed Storm Water Management Plan contains those BMPs and Measurable Goals that the City believes will be most useful and effective in reducing the discharge of pollutants from storm sewer systems within the City and will comply with the General Permit. As discussed further, staff proposes Required Revisions to the City's Storm Water Management Plan to assure compliance with the maximum extent practicable standard.

Chronology of Storm Water Management Plan Submittal, Review, and Revision

The City developed a Storm Water Management Plan with input from Water Board staff and submitted it with a Notice of Intent to comply with the General Permit on March 7, 2003. Water Board staff deemed the Storm Water Management Plan incomplete, made comments, and returned the Storm Water Management Plan to the City for revisions. This review-revise process was repeated until we arrived at a "final" version, which the City submitted October, 19 2005. Water Board staff accepted the Storm Water

Management Plan as meeting the requirements of the General Permit, and posted it on the State Board website for a 60-day public comment period which ended February 12, 2006.

During this public comment period, Water Board staff received comments from Coast Law Group on behalf of Heal The Ocean. The City then worked to revise the Storm Water Management Plan based on the comments and submitted a revised Storm Water Management Plan on May 17, 2006. At that point, Water Board staff was focusing on other communities' Storm Water Management Plans and did not continue the process of approving the City of Lompoc Storm Water Management Plan. Water Board staff had no substantive communication with the City about the Storm Water Management Plan until February 15, 2008 – a period of one year and nine months.

From the time of the City's Storm Water Management Plan submittal in May 2006, until February 2008, the Water Board approved three major Phase II Storm Water Management Plans, including: Monterey Regional (September 2006), Santa Barbara County (July 2006), and San Luis Obispo County (March 2007). The Water Board directed staff to pursue an alternative enrollment strategy for the remaining traditional MS4s in December 2007, based on the challenges that these approvals presented for the parties involved, and the resulting slow pace of MS4 enrollment under the General Permit. To facilitate the new enrollment strategy, the Water Board Executive Officer sent a letter on February 15, 2008 to the remaining un-enrolled traditional Phase II entities, including the City of Lompoc, and presented staff's expectations of Storm Water Management Plan content (Attachment 2).

In response to the February 15, 2008 letter from the Executive Officer, the City submitted a draft Storm Water Management Plan on April 10, 2008, as required by the enrollment strategy schedule, which Water Board staff adjusted at the City's request. Staff reviewed the Storm Water Management Plan and identified revisions staff found necessary for recommending the Storm Water Management Plan's approval to the Water Board. These were conveyed to the City in staff's May 1, 2008 letter, which included a draft Table of Required Revisions (Attachment 3). The City responded by submitting the May 22, 2008 version of the Storm Water Management Plan – the version the Water Board will be considering at its October 17, 2008 meeting.

The Water Board posted the May 22, 2008 version of the Storm Water Management Plan (Attachment 4) for a 60-day public comment period from June 23 to August 22, 2008. Water Board staff determined that the Storm Water Management Plan, with several revisions, would meet the requirements of the General Permit. Staff notified the City on August 12, 2008 of the necessary revisions and made them available to the public on the Water Board's website (Attachment 5). Three groups submitted comments on the Storm Water Management Plan on August 22, including Santa Barbara ChannelKeeper, Heal The Ocean, and the Home Builders Association of the Central Coast (Attachment 6).

On August 7, 2008, the City requested a public hearing. On September 5, 2008, the City wrote to staff stating it rejects staff's recommended revisions to the Storm Water Management Plan to address specific hydromodification, post-construction, and long-term watershed protection BMPs (Attachments 7 and 8, respectively). The City also expressed its willingness, and requested a period of four months, to address other

revisions identified in the Water Board's August 12, 2008 draft Table of Required Revisions.

Water Board staff are recommending the revisions to the Storm Water Management Plan in the attached Resolution, including revisions to address specific hydromodification, post-construction, and long-term watershed protection BMPs. The revisions include the 14 presented in staff's August 12, 2008 letter, and six others developed in response to comments from the groups identified above.

Water Quality Context

Beyond the normal suite of pollutants present in urban storm water runoff, Water Board staff identified a few significant pollutant discharge issues relating to storm water quality in the City of Lompoc. This is based on available information and reconnaissance conducted in winter 2008. Staff asked the City to specifically address, trash, sediment, and reported illicit discharges from wineries in its Storm Water Management Plan. Additionally, staff asked the City to address the potential risk of new and redevelopment contributing to both hydromodification and increased loading of urban pollutants in storm water.

The City of Lompoc is approximately 11 square miles in area and has a population of approximately 42,000. Average annual rainfall is 15 to 16 inches, though during a quarter of the years since 1964, Lompoc has received ten inches of rain or less. The City is located on a bend in the Santa Ynez River, approximately ten miles from where the River enters the Pacific Ocean. The City drains toward to the Santa Ynez River through a storm drain system comprised of flood control channels, detention basins, and city streets. Existing residential, commercial and some industrial development is concentrated in a mostly impervious area of approximately five square miles in the older part of town, south of the River in the historic floodplain underlain by alluvial soils. The remaining mostly undeveloped part of the City lies north of the River, has minimal imperviousness, and slopes gently from an elevation of approximately 150 feet toward the River.

The majority of the City's impervious, developed area drains to the San Miguelito Creek storm drain, a concrete trapezoidal channel through town, which itself drains into the Santa Ynez River. The portion of the City north of the River, as well as some areas south of the River in the north and northeastern portions of the City drain directly to the Santa Ynez River. With the exception of the 22-acre Bailey Wetlands, designated for preservation under the City's General Plan, the City has virtually no remaining riparian or wetland habitat outside of the Santa Ynez River riparian corridor.

City of Lompoc's Efforts to Implement Storm Water Management

The City of Lompoc has made a strong effort to enroll under the Phase II permit through timely submission of Storm Water Management Plans, as indicated in the chronology above and the five Storm Water Management Plans submitted from March 2003 to May 2008. Additionally, the City conducts a variety of storm water management activities ranging from public education to construction site management to post-construction requirements on new development. For example, the City has placed requirements on new and infill development aimed at reducing storm water pollutant loading through the use of filters, and has approved recent developments with filters and bioswales or detention basins with native plantings. The City has undertaken these activities, but

argues that adequate funding for additional storm water management will not be justified in the City budget until coverage under the General Permit begins.

The City has repeatedly objected to many of Water Board staff's expectations of Storm Water Management Plan content, as laid out in the Executive Officer's letters of February 15 and July 10, 2008 (Attachments 2 and 9, respectively). Since sending the February 15 letter, the City has made both Storm Water Management Plan submittals under transmittal letters (Attachments 10 and 11) challenging the Water Board's authority to include the conditions specified in the February 15 letter. The Executive Officer's July 10, 2008 letter responded that the February 15, 2008 letter is consistent with the General Permit and explained why (see pp. 3 and 4 of the July 10, 2008 letter, Attachment 9).

On September 5, 2008, the City wrote a letter (Attachment 8) specifically rejecting staff's recommended Storm Water Management Plan revisions concerning hydromodification, post-construction, and long-term watershed protection BMPs (see items 16 – 20 in Resolution table, Attachment 1).

The City contends that the Water Board should evaluate the Storm Water Management Plan for compliance with the General Permit and that the February 15 and July 10, 2008 letters exceed state and federal requirements for small MS4s. The City argues that these letters include conditions that are being applied prematurely to the City, as they have not been applied to large Phase I MS4s, and they precede the State Water Board's re-issuance of the General Permit (currently planned for consideration by the State Water Board in July 2009).

PUBLIC COMMENTS

The Storm Water Management Plan was posted to the Regional Water Board website and a notice was electronically mailed on June 23, 2008, to all persons listed on the interested parties list. Comments on the Storm Water Management Plan were due back to the Water Board by August 22, 2008. Water Board staff posted the draft Resolution R3-2008-0071 for public comment and sent a notice electronically on September 17, 2008. Comments on the draft resolution are due back to the Water Board on October 3, 2008. Water Board staff received public comments on the Storm Water Management Plan from three non-profit organizations, Heal The Ocean, Santa Barbara ChannelKeeper, and Home Builders Association of the Central Coast (Attachment 6). Our detailed response to these comments is in Attachment 12.

Heal The Ocean and Santa Barbara ChannelKeeper provided a range of comments including: 1) those that staff believe are needed to insure the Storm Water Management Plan meets the General Permit maximum extent practicable standard and which staff has added to the Table of Required Revisions in the Resolution, 2) those that support staff's required revisions, and 3) those that staff agree would improve the Storm Water Management Plan, but which are not necessary to meet the maximum extent practicable standard, so staff encourages the City to address voluntarily. Through the City's annual reporting, staff will evaluate whether the City is adequately protecting water quality and meeting the maximum extent practicable standard without specifically including the last category of comments in the Storm Water Management Plan; if staff finds the Storm

Water Management Plan needs to be revised, staff will recommend changes considering these comments and/or other modifications as necessary.

Heal The Ocean, which had commented on the City's Storm Water Management Plan in 2006, was generally pleased with the City's response to Water Board staff's required changes, but joined Santa Barbara ChannelKeeper in recommending that the Water Board require substantial improvements to the Storm Water Management Plan before approving it. Staff responded by adding required revisions to the Resolution to:

1. Improve the overall scope of BMPs for illicit discharge detection and elimination,
2. Speed up the removal of accumulated trash from San Miguelito Creek,
3. Have the City acknowledge its broad role in addressing all potential pollutant sources to its MS4, including facilities over which it has limited jurisdiction,
4. Address the City Landfill's drainage problems in a more timely manner than proposed in the Storm Water Management Plan, and
5. Improve the City's construction site inspection and tracking program to ensure adequate enforcement.

The two organizations also supported staff's required changes adding detail to BMPs for education in schools; clarifying the scope and activities relating to the City's efforts to prevent illicit discharges from business and industrial sources as well as the general public; evaluating non-storm water discharges; providing more robust effectiveness assessment; and requiring post-construction controls on new and redevelopment.

Water Board staff agree with several of the commenters' recommendations to improve the Storm Water Management Plan's detail, scope, and clarity. These areas of agreement are indicated in staff's response to comments.

The non-profit organization Home Builders Association of the Central Coast commented that more stakeholder involvement and more time is needed to develop and implement effective controls for hydromodification and requirements for low impact development. The group requests extended time frames for the City to insure that these requirements will be based on the best information available; to provide for appropriate exemptions from requirements; to achieve balance by allowing the City to use housing affordability, General Plan goals promoting new urbanism (smart growth), market-place economics, local municipal economics, and local public acceptance as factors in determining what are the best methods to implement Storm Water Management Plans. The Home Builders Association also stated that a public hearing is warranted to address its issues and concerns about Water Board requirements for the City to develop hydromodification controls.

In our July 10, 2008 letter to the City, staff provided additional time (up to one year from SWMP adoption) for the City to develop interim criteria for hydromodification as well as improved guidance on developing quantifiable measures for storm water management aimed at supporting healthy watersheds. Water Board staff expects that the issues raised by the Home Builders Association can and should be addressed by the City of Lompoc in developing both interim and long-term hydromodification controls for new and redevelopment, and in increasing its capacity for long-term watershed protection. These expectations are presented as required revisions 16 – 20 in the Resolution table.

PUBLIC HEARING

The Water Board will hold a public hearing to consider the Resolution approving the City of Lompoc Storm Water Management Plan, for coverage under the General Permit for Storm Water Discharges from Small MS4s. The hearing will be on October 17, 2008, at the Santa Barbara County Supervisors Board Room, 105 East Anapamu Street, 4th Floor, Santa Barbara, California.

The hearing agenda will be posted to the Water Board website at:

http://www.swrcb.ca.gov/centralcoast/board_info/agendas/2008_agendas.shtml

Interested parties can obtain further information regarding the conduct and nature of the public hearing concerning this draft resolution by writing or visiting the Water Board office, at 895 Aerovista Place, Suite 101, San Luis Obispo, CA 93401, attention Dominic Roques, (805) 542-4780, or droques@waterboards.ca.gov.

RECOMMENDATION

The intent of the General Permit is to protect water quality through storm water management programs that are implemented over a five-year period to the maximum extent practicable. Water Board staff believe that with the revisions identified in Resolution R3-2008-0071, the Storm Water Management Plan will meet or exceed the General Permit's maximum extent practicable standard in the initial permit term; that there is ample evidence that the objective of the City is to comply with the General Permit; and that the level of detail in the Storm Water Management Plan is adequate for reviewers to understand and evaluate. Board staff will review the City's program on an annual basis to evaluate program implementation and effectiveness and recommend changes as needed.

Water Board staff recommends the Water Board adopt the attached Resolution R3-2008-0071 approving the May 23, 2008 City of Lompoc Storm Water Management Program and requiring the City to make the changes to their Storm Water Management Plan identified in the Resolution thereby approving enrollment of the City of Lompoc in the General Permit.

ATTACHMENTS

1. Board Resolution R3-2008-0071
2. Letter from Water Board, February 15, 2008
3. Letter from Water Board, May 1, 2008
4. May 2008, City of Lompoc Storm Water Management Program
5. Letter from Water Board, August 12, 2008
6. Comment letters from Heal The Ocean, Santa Barbara ChannelKeeper, and Home Builders Association of the Central Coast
7. Letter from City of Lompoc, August 7, 2008
8. Letter from City of Lompoc, September 5, 2008
9. Letter from Water Board, July 10, 2008
10. Letter from City of Lompoc, April 10, 2008
11. Letter from City of Lompoc, May 22, 2008
12. Response to Comments