

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION

STAFF REPORT FOR REGULAR MEETING OF MAY 8, 2009
Prepared April 3, 2009

ITEM NUMBER: 13

SUBJECT: Approval of Stormwater Management Plan and Enrollment under NPDES Municipal Stormwater Permit and Waste Discharge Requirements for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems (Phase II Stormwater Permit), City of Grover Beach, San Luis Obispo County

KEY INFORMATION:

Location: City of Grover Beach, San Luis Obispo County
Discharge Type: Municipal Stormwater
Existing Orders: None
This Action: Adopt Resolution No. R3-2009-0035 to approve the City of Grover Beach SWMP

SUMMARY

This item presents draft Resolution No. R3-2009-0035, which approves the City of Grover Beach (City) Stormwater Management Plan (SWMP). A Water Board-approved SWMP is required to enroll the City in the National Pollutant Discharge Elimination System (NPDES) Municipal Stormwater Permit for Small Municipal Separate Storm Sewer Systems (General Permit). This report provides background information regarding the City's SWMP development and a Water Board staff recommendation for SWMP approval. The City has submitted three SWMP drafts over a five-year period; we are presenting the September 2008 version of the SWMP for your consideration and approval. This version of the SWMP is included as **Attachment 2**. The Resolution contains Water Board staff recommended SWMP revisions based on actions taken by the Board approving other SWMPs and Water Board staff's expectations of SWMP content communicated in the Executive Officer's February 15, 2008 and July 10, 2008 letters to the City, and based on comment letters received from interested parties. The City of Grover Beach requested a hearing on its SWMP. The Home Builders Association of the Central Coast also requested a public hearing, based on its review of the September 4, 2008 Draft SWMP.

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 SWMP, which is designed to reduce pollutant discharges in urban stormwater to the maximum extent practicable and protect water quality.

DISCUSSION

General Permit SWMP 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 keystone requirement of the General Permit is the SWMP, which is written by permit applicants to describe Best Management Practices (BMPs), 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 SWMP describes the organizational framework under which the City will work to accomplish the objectives of its SWMP. The City has five years to develop and implement a program which reduces pollutants in stormwater runoff to the maximum extent practicable and protects water quality. The City will submit annual reports detailing program compliance, measurable goal status, and BMP and program effectiveness. Water Board staff will review annual reports and work with the City to improve program implementation and effectiveness.

The purpose of the SWMP is to implement and enforce a series of 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 SWMP, to gauge the effectiveness of its program. The City's proposed SWMP 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, Water Board staff proposes required revisions to the City's SWMP to assure compliance with the maximum extent practicable standard.

Chronology of SWMP Submittal, Review, and Revision

The City developed a SWMP with input from Water Board staff and submitted it with a Notice of Intent to comply with the General Permit in 2003. At the time, Water Board staff was focusing on other communities' SWMPs and did not continue the process of approving the City's SWMP. Water Board staff had little substantive communication with the City specifically about its SWMP until February 15, 2008.

From the time of the City's SWMP submittal in 2003 until February 2008, the Water Board approved three major Phase II SWMPs. 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, and presented Water Board staff's expectations for SWMP content. Water Board staff sent further correspondence conveying its expectations for the SWMP on July 10, 2008.

In response to the February 15, 2008 letter, the City submitted a draft SWMP on June 20, 2008. Water Board staff reviewed the June 20, 2008 SWMP and identified 32 required revisions. Water Board staff conveyed these required revisions to the City in Water Board staff's August 21, 2008 letter, which included a draft Table of Required Revisions. The City incorporated some of the required revisions and submitted a revised SWMP on September 4, 2008. Water Board staff reviewed the September 4, 2008 SWMP and identified 10 revisions that still needed to be made. Water Board staff determined that the SWMP, with the identified revisions, would meet the requirements of the General Permit. Water Board staff notified the City of the 10 required revisions on October 17, 2008. Water Board staff also posted the September 2008 version of the SWMP, together with the required revisions, for a 60-day public comment period, from October 17, 2008 to December 16, 2009. Two groups submitted comments on the City's SWMP and the required revisions, including San Luis Obispo Coastkeeper and the Home Builders Association of the Central Coast. These comment letters are included as **Attachment 3**.

On November 14, 2008, and December 3, 2008, Water Board staff and a representative from the Central Coast Low Impact Development Center attended meetings with San Luis Obispo municipality representatives to discuss questions from the municipalities regarding SWMP development and implementation, and how to move forward using a collaborative approach. Grover Beach representatives attended both meetings.

On November 18, 2008, the City wrote to Water Board staff requesting a four-month time extension, from the original proposed enrollment schedule, to work cooperatively with other municipalities to identify ways to reduce costs of SWMP implementation. On December 16, 2008, the City wrote to Water Board staff requesting a Water Board hearing on their SWMP. The City believes its schedule for implementing BMPs is too aggressive and costly and the City believes its SWMP exceeds the maximum extent practicable standard. In a letter dated December 19, 2008, Water Board staff granted the time extension request and delayed the hearing for the City's SWMP until the May 8, 2009 Water Board meeting. Water Board staff requested the City submit any further written comments by March 1, 2009. On February 25, 2009, the City submitted a letter with comments on its SWMP.

On December 12, 2008, the Home Builders Association requested a public hearing for the reasons "...cited below [in the Home Builders Association comment letter] specific to the SWMP and to the Water Board staff's response, and for a thorough public analysis and understanding of the City's proposed SWMP, the Home Builders Association believes that there are sufficient issues and concerns raised to warrant a public hearing on Grover Beach's plan before the Water Board" (See Attachment 3, Home Builders Association comment letter).

Water Quality Context

The main stormwater issues for the City are the normal suite of pollutants present in urban stormwater runoff, and increased loading of pollutants and hydromodification due to new development and redevelopment. This is based on available information assessed by Water Board staff in spring 2008, as well as information provided to Water Board staff at a public Water Quality Assessment meeting held in San Luis Obispo on May 16, 2008. Therefore, Water Board staff asked the City to address the potential risk of new

development and redevelopment contributing to both hydromodification and increased loading of urban pollutants in stormwater. Subsequent Water Board staff review of the SWMP has been focused on ensuring these issues are addressed.

The City covers 2.25 square miles and has a population of approximately 13,000. The City relies heavily on groundwater for water supply, which underscores the critical need to address hydromodification issues and to protect groundwater recharge and groundwater quality. The City of Grover Beach is bordered by the City of Pismo Beach to the north, the City of Arroyo Grande to the east, Oceano to the south, and the Pacific Ocean and State Recreation Area to the west. Highway one and a rail line both run along the western portion of the City. Meadow Creek borders the northern portion of the City, between the City of Grover Beach and the City Pismo Beach, and discharges to Pismo Lake.

Public Comments and Required Revisions

Water Board staff posted the SWMP and required revisions to the Water Board website and mailed a notice electronically on October 17, 2008, to all persons whom staff knew to be interested in this matter. Written comments on the SWMP were due back December 16, 2008. Water Board staff received public comments on the SWMP from the City and from two non-profit organizations, San Luis Obispo Coastkeepers and Home Builders Association of the Central Coast (Attachment 3). Staff's detailed response to these comments is in **Attachment 4**. The following is a brief summary of the comments received and Water Board staff's responses.

As previously mentioned, the City submitted two letters during the public comment period requesting a time extension for Water Board consideration of the City's enrollment under the General Permit and a Water Board hearing on its SWMP. Water Board staff granted the requests by extending the Water Board hearing date from the February 2008 Water Board hearing to the May 2008 Water Board hearing. The City submitted a third letter on February 25, 2009, that states the following:

1. The expectations outlined in the Water Board February 15, 2008 letter for interim hydromodification control criteria are unreasonable.
2. The City's SWMP exceeds the maximum extent practicable standard.

Regarding the interim hydromodification issue, the draft Resolution being considered today provides the City the option of modifying its onsite retention standards or developing interim hydromodification control standards (page 5 of the Resolution, Attachment 1). If the City complies with one of these options, the City is not required to implement the numeric hydromodification control measures outlined in the Water Board February 15, 2008 letter. This is a reasonable approach that has been agreed to by other similar cities.

Regarding the City's perspective that its SWMP exceeds the maximum extent practicable standard, Water Board staff respectfully disagrees. The General Permit requires the City to submit a SWMP that meets the MEP standard and therefore include BMPs that are technically feasible and are not cost prohibitive. The City's concern that the costs are too burdensome lacks context. The City's SWMP, with Water Board staff's recommended revisions, is similar to other SWMPs for similar cities that have been enrolled by the Executive Officer or adopted by the Water Board. The BMPs are reasonable and necessary to meet the maximum extent practicable standard.

Also, the City has not yet incorporated the 10 required revisions, which staff conveyed to the City on October 17, 2008, into its SWMP. Water Board staff modified some of these required revisions to enhance clarity and provide more flexibility to the City for interim

hydromodification control development. Water Board staff is recommending that the Water Board require the following 10 revisions in the Final Table of Required Revisions:

- 1) Formatting: The Public Education and Outreach section requires revisions to improve clarity.
- 2) Community-based Social Marketing: The SWMP does not discuss the expected effectiveness of the public education program for changing the knowledge and awareness of target audiences. Therefore, the draft Resolution requires the City to include BMPs that incorporate community-based social marketing principles into its SWMP to help create a more interactive and meaningful public education program.
- 3) Formatting: The Illicit Discharge Detection and Elimination and Post-Construction sections must be revised to improve clarity.
- 4) Construction Ordinance: The City commits to developing two ordinances to regulate runoff from construction-related activities. The proposed ordinances cover some of the same issues; however, the implementation schedules for both ordinances are not the same. This is confusing. The City must clarify the content of each ordinance and commit to completing the construction site ordinance(s) in Year 1.
- 5) Criterion for Projects that Must Meet Hydromodification Control Criteria: The post-construction section only addresses project sites that disturb one acre or more of land and smaller projects that are part of a common plan of development that is one acre or more in size. The City must commit to determining what types of projects, in addition to those previously mentioned, must adhere to the City's future post-construction requirements.
- 6) Interim Hydromodification Control Criteria Development: In the SWMP, the City does not commit to developing interim hydromodification control criteria; however, the City has committed to continue implementing its existing requirements for onsite retention of runoff for new developments. The City has included the existing requirements in the Grading and Drainage Plan Checklist included in their SWMP. However, according to the drainage section in the City's existing 2006 Standards and Specifications, the City only requires a project to contain all runoff when the existing drainage facilities are already overloaded, where ponding is designed as the method of runoff disposal in the Master Drainage Plan, or where planned facilities do not yet exist. If the City modifies the applicability criteria in the existing Standards and Specifications to expand the category of projects to which the onsite retention requirements apply, Water Board staff finds it acceptable for the City to use these standards, paired with the Grading and Drainage Plan Checklist, instead of developing interim hydromodification control criteria. The draft Resolution provides the City with two options: 1) Modify the existing Standards and Specifications, or 2) Commit to developing interim hydromodification control criteria to meet the Water Board's expectations. Water Board staff has included compliance options for the City to pursue for criteria development that ensures effective resulting criteria. These options are similar to those used by the following municipalities recently enrolled by the Executive Officer: City of Santa Maria, City of Scotts Valley, City of Goleta, Santa Cruz County, and others recently approved without a hearing. The methodology is also similar to that used by municipalities in the San Francisco Bay Area and San Diego County.
- 7) Low Impact Development/Hydromodification Control Training for Municipal Staff: The draft Resolution requires that the City educate its municipal staff on LID/hydromodification control during Year 1, instead of Year 2, because

municipal staff must understand the requirements and principles of LID/hydromodification control prior to implementation.

- 8) Post-Construction Site Inspections: The draft Resolution requires that the City commit to inspecting construction sites during construction to verify post-construction BMPs are built as planned and commit the City to inspecting sites at least once within a specified timeframe after construction termination.
- 9) Regulatory Authorities: The draft Resolution requires the City to modify language in its SWMP to commit to complying with the General Permit, including as set forth in the required revisions.
- 10) Program Effectiveness Plan: The SWMP has insufficient measures to track individual BMP effectiveness and overall program effectiveness; therefore, the draft Resolution requires that the City complete its program effectiveness strategy, including specific BMP effectiveness measures, by the end of Year 1. Water Board staff anticipates the development of a robust effectiveness assessment plan will be an iterative process. Monitoring program effectiveness and making changes according to the outcomes of the effectiveness assessments is essential to the overall success and growth of the SWMP; therefore, Water Board staff plans to closely monitor this effort throughout the enrollment period to ensure that BMPs reach an effectiveness level that meets the maximum extent practicable standard.

Upon further review, Water Board staff is also recommending that the Water Board adopt the following three required revisions in the Final Table of Required Revisions, which are necessary for the SWMP to meet the maximum extent practicable standard:

- 1) Long-term Watershed Planning: The City does not commit to starting long-term watershed planning until Year 5. To successfully provide long-term watershed protection, the City will need more than just the last year of the enrollment period to conduct long-term watershed planning. Therefore, the draft Resolution requires that the City commit to developing a strategy for conducting the long-term watershed planning by Year 1, and commit to begin implementing the strategy in Year 1.
- 2) Long-term Hydromodification Control Criteria: The City has committed to conducting long-term watershed planning and developing a hydromodification management plan, but the SWMP does not include a schedule for developing and implementing long-term hydromodification control criteria. Therefore, the draft Resolution requires the City to develop and implement long-term hydromodification control criteria by the end of Year 5.
- 3) Interim Hydromodification Control Criteria Development Schedule: The draft Resolution requires that the City commit to a schedule for submitting its revised Standards and Specifications or interim hydromodification control criteria.

San Luis Obispo Coastkeeper and the Home Builders Association of the Central Coast provided a range of comments including: 1) those that staff believe are needed to insure the SWMP 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 are already addressed in the SWMP, 3) those that staff agrees would improve the SWMP, but which are not necessary to meet the maximum extent practicable standard, so staff encourages the City to address voluntarily, and 4) those that staff does not agree that a change is needed. 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 SWMP. If staff finds the SWMP

needs to be revised, staff will require changes through the annual report review and audit process.

San Luis Obispo Coastkeeper commented that the City's SWMP is vague and inadequate. In response to Coastkeeper's comments, staff added the following requirements to the draft Resolution:

1. Develop a mechanism for informing the public about the stormwater reporting hotline and commit to responding to 100% of the reported complaints,
2. Take appropriate measures to eliminate known illicit discharges,
3. Develop a prioritization method for construction site inspections and set a minimum frequency for inspecting construction sites.

The Home Builders Association of the Central Coast requests the following:

- Withdrawal of requirement to apply the interim hydromodification control criteria outlined in the Water Board's February 15, 2008 letter, because the proposed criteria will negatively impact redevelopment, infill, and smart growth projects, and will disrupt the community's economic balance.
- Withdrawal of requirement to develop interim hydromodification control criteria or more time to develop interim hydromodification control criteria.
- More time to revise the City's existing onsite retention standards.
- Water Board staff re-define the 'pre-development' definition.
- The Water Board add documents to the record to support statements made at the Water Board hearing on the City of Lompoc's SWMP.
- Elaboration of the language requiring Cities to develop interim hydromodification control criteria "as effective as" the criteria in the Water Board's February 15, 2008 letter.
- A detailed comparison between State and Regional stormwater criteria and standards.
- Modifications to the City's BMPs related to development of the Low Impact Development Manual.
- Exempt projects from the interim hydromodification control criteria that are 'deemed complete' prior to interim hydromodification control criteria adoption.
- The City conduct a City-wide geotechnical study and require project applicants to conduct soils analyses and geotechnical studies prior to BMP selection.
- Exemptions from hydromodification control criteria for maintenance procedures.
- Not to use the effective impervious area as a metric for measuring watershed health.
- Continued stakeholder involvement and the development of a countywide technical advisory committee.
- A public hearing to address issues and concerns about Water Board requirements for the City's SWMP.

On January 22, 2009, Water Board staff met with representatives from the Home Builders Association to discuss their comments regarding all of the Coastal San Luis Obispo County SWMPs (Pismo Beach, Morro Bay, Grover Beach, and Arroyo Grande). The Home Builders Association seemed satisfied with Water Board staff's preliminary responses to their comments; however, the Home Builders Association representatives still had concerns that hydromodification control criteria would discourage infill, redevelopment, and smart growth-type development decisions.

Water Board staff responds to all of the comments above in **Attachment 4**, and includes examples of applicability criteria for hydromodification control requirements to promote infill,

redevelopment, and smart growth. The draft Resolution outlines three methodologies for the City to follow if the City decides to develop interim criteria instead of revising its existing Standards and Specifications. The Water Board has approved similar requirements for City of Santa Maria, County of Santa Cruz, City of Scotts Valley, and Goleta. Water Board staff expects that the issues raised by the Home Builders Association should be considered by the City in developing both interim and long-term hydromodification controls for new development and redevelopment, and in increasing its capacity for long-term watershed protection.

RECOMMENDATION

The Phase II municipal stormwater regulations were promulgated in 1999 and the General Permit was adopted in 2003, but the City has not yet been enrolled under the General Permit. While the City has implemented a few stormwater management measures, many aspects of its program have not been implemented due to our delay in enrolling the City under the General Permit. This delayed schedule has direct water quality implications, and enrollment of the City is an important step forward in achieving healthy functioning watersheds.

The intent of the General Permit is to protect water quality through SWMPs that are implemented over a five-year period to the maximum extent practicable. Water Board staff believes that with the revisions identified in Resolution R3-2009-0035, the SWMP will meet 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 SWMP is adequate for reviewers to understand and evaluate. Water Board staff will review the City's program on an annual basis to evaluate program implementation and effectiveness, and recommend changes as needed.

Staff recommends the Water Board adopt Resolution R3-2009-0035, to approve the September 4, 2008 City of Grover Beach Stormwater Management Plan and require the City to make revisions to its Stormwater Management Plan as directed in the Resolution, thereby approving enrollment of the City of Grover Beach in the General Permit.

PUBLIC HEARING

The Water Board will hold a public hearing to consider the Resolution approving the City SWMP, for coverage under the General Permit. The hearing will be on May 8, 2009, at the Central Coast Water Board Office, 895 Aerovista Place, Suite 101, San Luis Obispo, California.

Interested persons can obtain further information regarding the conduct and nature of the public hearing by writing or visiting the Water Board office, at 895 Aerovista Place, Suite 101, San Luis Obispo, CA 93401, attention Tamara Presser, (805) 549-3334, or tpresser@waterboards.ca.gov.

ATTACHMENTS

1. Board Resolution R3-2009-0035 (including final Table of Required Revisions)
2. September 2008 Stormwater Management Plan
3. Comment Letters from Interested Parties
4. Response to Comments