

**Staff Report for Draft Order No. R3-2012-0005
ATTACHMENT 4**

STATUS OF COMPLIANCE WITH EXISTING ORDER NO. R3-2004-0135

Audits of the City's Stormwater Program

A program evaluation (audit) of the City's stormwater program was conducted in both July of 2003 and March of 2011. The July 2003 audit evaluated the City's compliance with the City's first permit, Order No. 99-087, and results from the July 2003 audit were used in drafting the City's existing Order No. R3-2004-0135. The March 2011 audit evaluated the City's compliance with existing Order No. R3-2004-0135 and results from the March 2011 audit were used in drafting this Draft Order.

The March 2011 audit was conducted by Central Coast Water Board staff and focused on the Construction Site Management and Development Standard elements of the City's stormwater program. Some of the more significant deficiencies found in the March 2011 audit included:

- Record keeping: The City was not adequately tracking information needed to document permit compliance.
- Training: Some of the City staff responsible for implementing the requirements of the City's Stormwater Management Program (SWMP) did not understand the requirements of the SWMP.
- Sediment on City streets: Sediment was found to be tracked onto City streets from agricultural operations. The City reported that they lacked the authority to address the issue.
- Construction Oversight of Capital Improvement Projects: Construction projects for capital improvement projects were not receiving adequate construction oversight for stormwater controls.
- Construction Site Plan Review: The City was not verifying the adequacy of erosion and sediment control BMPs proposed by project applicants.
- Post-Construction BMPs: The City was not tracking all post-construction BMPs that had been installed.
- Implementing SWDS Requirements: The City had approved projects that did not demonstrate meeting the requirements of the SWDS.
- SWMP: The SWMP version posted on the City website was out of date.
- Stormwater Program Management: The City did not have a stormwater program manager and instead relied on different departments implementing aspects of the program. The departments had inadequate coordination and clearly defined responsibilities for implementation of the stormwater program and its elements was lacking.

The July 2003 audit was conducted by a USEPA contractor, with assistance from Central Coast Water Board staff and evaluated the following program elements: Program Management; Industrial Inspections; Illicit Discharges; Municipal Maintenance; New Development and Construction; Public Education; and Reporting.

The July 2003 audit found that the City needed to make improvement in their managing, coordinating, and training of their municipal stormwater program. Eight years later, the March 2011 audit found the City had still not adequately addressed these issues. The July 2003 audit found the following additional deficiencies to be most significant:

- Industrial Facility Staff Not Aware of Storm Drains: The audit recommended the City require industries to stencil or label drains so facility staff are aware of which drains discharge to the MS4.
- Effectiveness Assessment: The City's program lacked a formalized method or indicators that can used to measure program effectiveness.
- Stormwater Management Plan: The City's Stormwater Management Plan needed to be updated and revised.
- Industrial Inspection Inventory: The City needed to update the industries contained in their inspection inventory.
- Enforcement of Construction and Industrial Sites: The City lacked an effective enforcement and compliance plan for construction and industrial sites.
- Construction BMP Handout: The City needed to revise their construction BMP handout.

Central Coast Water Board staff used the findings of both the July 2003 and March 2011 audits in writing the Draft Order. For example, the information management requirements in the Draft Order are designed to address the City's record keeping deficiencies. Also, the requirements for the City to modify their training program as needed based on an assessment of municipal staff's knowledge of the stormwater development program implementation is designed to address the City's training deficiencies. In addition, Central Coast Water Board staff added requirements to address sediment tracking on streets. Central Coast Water Board staff also considered the City's past violations and the challenges the Central Coast Water Board has had determining compliance with municipal stormwater permits, and conducted through reviews of stormwater program annual reports, inspections and audits.

Inspections of Industrial Facilities

In January of 2010, inspections of five industrial facilities in the City were performed by a USEPA contractor. Deficiencies found during these inspections included the following:

- BMPs were not implemented to prevent the discharge of sediment into the storm drain inlets.
- BMPs were not implemented to prevent stormwater contact with oily machinery, oily equipment, drip pans and fluid stained ground surfaces.
- Adequate BMPs were not implemented to contain concrete waste/wash water.
- Chemicals and waste oil containers were stored without adequate protection to prevent and contain potential spills.
- Wash water was being discharged into the storm drain system.
- BMPs were not implemented to prevent the discharge of building materials, aggregates, and other debris.
- Storm drain inlet BMPs were not adequately inspected and maintained.
- Adequate BMPs were not implemented to prevent storm water contact and the discharge of pollutants from waste products.
- Inadequate Stormwater Pollution Prevention Plans (SWPPPs).

In September of 2007, inspections of ten industrial facilities in the City were performed by a USEPA contractor. Deficiencies found during these inspections included the following:

- Inadequate Stormwater Pollution Prevention Plans (SWPPPs).
- BMPs were not implemented to prevent sediment, construction debris and other debris from entering the storm drain.
- Hazardous fluids, used fuel filters, hot asphalt buckets, and oil drums/buckets were stored without adequate protection to prevent stormwater contact and contain potential spills.
- BMPs were not implemented to prevent stormwater contact with fluid stained ground surfaces.
- Storm drain inlet BMPs were not adequately installed, inspected, and maintained.
- Sediment was tracked outside of the site.
- Adequate BMPs for equipment wash-out were not being implemented.
- BMPs were not implemented to prevent the discharge of aggregates and other debris.
- Adequate BMPs were not implemented to prevent storm water contact and the discharge of pollutants from waste products.
- Poor housekeeping was observed.
- BMPs were not implemented to prevent fluid leaks in stored dismantled vehicles.

Central Coast Water Board staff used the findings of both the January 2010 and September 2007 industrial inspections in writing the Draft Order. For example, minimum BMPs and inspections required for industrial facilities in the City are designed to address the deficiencies found at industrial sites in the City.

Past Violations and Status Reports Provided to the Central Coast Water Board

Central Coast Water Board staff issued several Notices of Violations of existing Order No. R3-2004-0135 and provided the Central Coast Water Board with a series of status reports about the violations during 2006 through 2008.

Central Coast Water Board staff issued the City a Notice of Violation in September 2006 for failure to comply with existing Order No. R3-2004-0135 and noted the following violations in a Status Report to the Central Coast Water Board in September 2006:

- Late in submitting draft SWMP and completing final SWMP.
- Late Annual Report; missing Final Work Plan for the upcoming year and missing effectiveness assessment.
- Annual Report and Work Plan vague and short on data.
- Quality Assurance Program Plan for Water Quality Monitoring not completed.
- Failure to perform monitoring during the 2005-2006 rainy season.
- Improvement needed in internal coordination of the Stormwater Management Program.
- Other requirements of existing Order No. R3-2004-0135 not complied with per the required deadlines.
- Central Coast Ambient Monitoring Program (CCAMP) monitoring identified elevated levels of Nitrate, Unionized Ammonia, Fecal Coliform, E. coli and depressed Dissolved Oxygen Levels in the City's Salinas River stormwater outfall.

Central Coast Water Board staff issued a Second Notice of Violation in January 2007 and noted the following violations in a Status Report to the Board in February 2007:

- Final SWMP not complete.
- Failed to submit the required revised Work Plan.
- Quality Assurance Program Plan submitted late and was still in need of revisions.
- Existing, less rigorous monitoring program continued.

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- Late in submitting their Toxicity Reduction Evaluation report.
- Final Stormwater Development Standards not complete.
- Other items identified in the September 2006 Notice of Violation remained unaddressed.

Central Coast Water Board staff noted the following violations in a Status Report to the Central Coast Water Board in July 2007 and recommended issuing a Cease and Desist Order with a time schedule that would address the need for revised Permit timelines for Stormwater Development Standards adoption, as well as the additional missed document submittal deadlines:

- Slow progress on producing acceptable Stormwater Development Standards, SWMP, and Quality Assurance Program Plan documents.
- Draft Stormwater Development Standards were inadequate.

Central Coast Water Board staff noted the following in a Status Report to the Central Coast Water Board in February 2008:

- Significant progress had been made, but the City continued to have areas needing improvement.
- Draft SWMP complete.
- Stormwater Development Standards not complete.
- Improvement needed in public participation practices.
- Annual reporting for some measurable goals needed revision, and improvements needed in Annual Report formatting and organization.
- Major concerns addressed that were identified in the February 2007 and July 2007 status reports.
- Storm Water Ordinance adopted.
- On-track with fully implementing the water quality monitoring program.

Central Coast Water Board staff used the findings of the 2006 through 2008 Status Reports in writing the Draft Order. For example, the City's compliance history demonstrates the City needs clear and specific requirements. In addition, the delays in SWMP adoption influenced Central Coast Water Board staff's decision to provide a detailed Order instead of requiring approval of the SWMP. Also, the City's history of inadequate internal coordination, training, and reporting led to specific requirements for these program components.