



CITY OF ATASCADERO

6907 EL CAMINO REAL, ATASCADERO, CA 93422

Telephone (805) 461-5000 * Fax (805) 461-7612

March 30, 2009

Mr. Roger Briggs
Executive Officer
Central Coast Water Board
895 Aerovista Pl.
San Luis Obispo, CA 93401

Subject: City Response to March 9, 2009 Draft Table of Revisions

Dear Mr. Briggs:

As you are aware the 60 day public review of the City of Atascadero's (City) Storm Water Management Program ends on March 30, 2009. The City has decided not to request a Storm Water Management Program (SWMP) hearing before the Central Coast Water Board (Water Board), and therefore; we are resubmitting the SWMP for Executive Officer approval. The City has been working closely with your staff and is satisfied with the final SMWP that incorporates your March 9, 2009 Draft Table of Revisions. The final SWMP and our responses to the March 9, 2009 Draft Table of Revisions are attached to this letter.

The City appreciates the opportunity to address the Water Board staff's March 9, 2009 Draft Table of Revisions. The table outlines the Water Board staff's comments related to the City's January 29, 2009 SWMP. The January 29, 2009 SWMP and associated Table of Revisions outlines the City's upcoming efforts to comply with Federal NPDES Phase II and State of California General Storm Water Permit requirements. In addition, the SWMP addresses your February 15, 2008 and July 10, 2008 letters that require additional hydromodification and riparian protection efforts. The City will implement the SWMP once we receive final confirmation of plan approval.

In the meantime, please feel free to contact me should you have any questions. I can be reached at (805) 470-3180 should you have any questions.

Sincerely,

Russell S. Thompson, PE
Public Works Director
City of Atascadero

TABLE of REQUIRED REVISIONS
City of Atascadero Draft Storm Water Management Program (SWMP)

Acronyms/Abbreviations:

- App. - Appendix
- BMP - Best Management Practice
- City - City of Atascadero
- E&SC - Erosion and Sedimentation Control
- General Permit - Phase II Small Municipal Separate Storm Sewer Systems General Permit (MS4)
- IDDE - Illicit Discharge Detection and Elimination
- LID - Low Impact Development

- MCM - Minimum Control Measure
- MG - Measurable Goal
- NA - Not Applicable
- POC - Pollutant of Concern
- SWPPP - Stormwater Pollution Prevention Plan
- SOP - Standard Operating Procedure Handbook
- Water Board - Central Coast Regional Water Quality Control Board
- Y - Year(s)

| Item No | SWMP Section | BMP ID# | Subject | Problem | Required Revisions | Status |
|---------|--------------|----------|---|--|---|--|
| 1 | 2.1 | Table 1 | Key Water Quality Criteria | Staff found several non-functioning internet hyperlinks listed in Table 1. | The City must check all hyperlinks and revise to provide functional links. | Hyperlinks updated and are now functional (as of 3/10/09) |
| 2 | 4.3 | ID 3 | Illicit discharges, specifically mobile washers and City's term Street Wash Water | <p>On page 54, the City lists "Street Wash Water" as one of the non-stormwater categories the City will regulate through an ordinance. The paragraph following the list, however, indicates the City does not regulate all of the categories. The General Permit states the MS4 must, "To the extent allowable under State or local law, effectively prohibit, through ordinance, or other regulatory mechanism, non-storm water discharges into the MS4 and implement appropriate enforcement procedures and actions;..." (page 9 section D.2.c.3)</p> <p>The IDDE ordinance (BMP ID 3A) is not sufficient. The City only addresses some of these non-stormwater illicit discharges through Public Education and Outreach. Surrounding cities and San Luis Obispo County SWMPs include mobile pressure and commercial vehicle washers in their regulation of non-stormwater through ordinances. Atascadero must have similar authority to prevent discharges from mobile washers into the City's MS4.</p> | The City must clarify the language in Section 4.3 to meet the requirements of the General Permit for section D.2.c.3. Include mobile pressure washers and mobile commercial vehicle washers in the City's regulation and definition of street wash water. | <p>Language added to clarify that the City will adopt an ordinance prohibiting non-stormwater discharges into MS4.</p> <p>Updated bulleted list of 'categories of non-stormwater discharges or flows found to be potential contributors of pollutants to the MS4' to explicitly include mobile pressure washers and mobile commercial vehicle washers.</p> |
| 3 | 4.4 | Table 11 | Construction Site Runoff Control | In Table 11, the BMP CON 1B language is confusing. | The City must clarify CON 1B to indicate, "100% of City staff with discretionary review duties are trained to | Modified text to read exactly as suggested. |

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| | | | BMPs | | ensure <u>each</u> project includes <u>appropriate</u> BMPs needed and are in conformance with City-adopted BMP Reference Manuals and City Standards.” | |
| 4 | 4.4 | CON 1A | Construction – Discretionary Review Tools | <p>In Table 11a, the SWMP language is confusing for BMP CON 1A.</p> <p>A) The Purpose statement language is vague.</p> <p>B) The City uses inconsistent terms in the “BMP Details”.</p> <p>C) The SWMP lacks detail in the “Implementation Details” description.</p> <p>D) The City uses the terms “code” and “reference manual” inconsistently in the “Assessment Measures” description.</p> <p>E) The City uses vague and non-specific language in “Goals Targeted” description.</p> <p>F) The “Notes” description at the bottom of Table 11a is not clear and needs more specific information.</p> | <p>A) The City must indicate what the Community Development Department will implement through BMP CON 1.</p> <p>B) The City uses terms “design guide”, “reference manual”, and “manual” several times. Please standardize terms or describe separately, if more than one document.</p> <p>C) The SWMP indicates in Year-1 the City will “Confirm E&SC triggers are appropriate.” The City must explain how this will interact with the ordinance and Policy 8.1.8 (on page 27). We recommend the City post its informational brochures and manuals/guides on the City’s stormwater webpage.</p> <p>D) The City must revise the section and make consistent reference to municipal codes, manuals, or design guides.</p> <p>E) The City must revise the “Goals Targeted” description to indicate, the BMP will “increase awareness <u>of</u> public employees, businesses, and the general public <u>of about</u> the pollutant potential <u>of in stormwater runoff from</u> construction sites.”</p> <p>F) We recommend the City revise the “Notes” to indicate, “Revisions to Grading Ordinances, if required, will be distributed for public review prior to Adoption <u>by the City Council. City staff will hold at</u> least one public meeting to solicit public input will be held, if revisions are required.</p> | <p>A) Clarified that BMP purpose is to minimize risk of construction related discharges</p> <p>B) Selected ‘BMP reference manual’</p> <p>C) Added language to clarify</p> <ol style="list-style-type: none"> The City will examine the need for and possibility of creating an Erosion Control Assistance Program utilizing the Upper Salinas Las Tablas Resource Conservation District as an aid to developers in order to minimize sedimentation of creeks and the Salinas River. Review existing municipal code for compliance with a list of specific criteria, including applicability criteria. That BMP reference manuals and construction site E&SC practices brochure will be posted on City’s stormwater webpage as part of PE6. <p>D) Selected ‘BMP reference manual’ and clarified that municipal code revisions may be required to be implemented via an ordinance adopted by the City council.</p> <p>E) Modified wording to read exactly as requested.</p> <p>F) Modified wording to read exactly as requested.</p> |
| 5 | 4.4 | CON 2 | Table 11 – BMP CON 2 Educate stakeholders about potential pollutants associated with construction sites. | <p>A) The BMP description in CON 2 does not match that detailed in Table 11b–CON2 Construction Site Inspections and Enforcement.</p> <p>B) The brochure for construction site runoff control is not scheduled for wider distribution through the City’s web page.</p> <p>C) In Table 11, CON 2 BMPs do not coordinate with other BMPs in the SWMP.</p> | <p>A) Revise Table 11–CON 2 BMP descriptions to align more accurately with Table 11b.</p> <p>B) The City must post the construction site runoff control brochure on the City’s stormwater web page as part of its BMP CON 2A commitment to post links for Contractor E&SC training opportunities.</p> <p>C) We recommend the City add a “Note” at the bottom of Table 11b indicating the City will coordinate construction site inspection information exchanges with SLO Green Build and other stakeholders as part of BMP PE 1C.</p> | <p>A) Revised BMP descriptions in table 11 to match work described in Table 11b.</p> <p>B) The construction site runoff control brochure will be developed under PE4 and posted on the web site under PE6. The research and posting of contractor E&SC training opportunities to the city’s web site will be tracked via CON 2A.</p> <p>C) Added note as recommended.</p> |
| 6 | 4.4 | CON 3 | Erosion and Sediment Control (E&SC) Plans | <p>A) In Table 11c, the City uses vague and non-specific language in the “Purpose”, “BMP Details,” and “Goals Targeted” statements.</p> | <p>A) The City must modify the “Purpose” description to indicate the BMP will “eliminate <u>pollutants in</u> construction related discharges”. The City must modify the “BMP Details” to correct word ‘commending’ to ‘commencing’. The City must modify the “Goals Targeted” statement to indicate the BMP will: “Increase awareness <u>of</u> public employees, businesses, and the</p> | <p>A) Modified wording to read “Eliminate pollutants in construction related discharges to the maximum extent practicable.”</p> |

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| | | | | B) In Table 11c, the SWMP does not indicate BMPs and MGs associated with CON 3 coordinate with other BMPs and MGs. | general public of the pollutant potential of <u>in stormwater runoff from</u> construction sites." B) We recommend the City adds a "Note" at the bottom of Table 11c indicating the City will coordinate E&SC planning with 1) IDDE tracking (BMP ID 1A) and 2) the City staff will follow up construction site enforcement actions (lack of SWPPPs or E&SC Plans) as part of BMP CON 2. | B) Modified wording to include information requested. |
| 7 | 4.4 | CON 4 | Construction Site Complaint Mechanisms | The "Purpose" statement in Table 11d is vague. | Modify the "Purpose" description to indicate the BMP will "eliminate <u>pollutants in</u> construction related discharges." | Modified wording to read "Eliminate pollutants in construction related discharges to the maximum extent practicable." |
| 8 | 4.5 | Post-Construction | Post-Construction stormwater management controls Program Goals | A) On page 69, the City's Program Goal III mentions only subdivisions and does not include all facilities. Atascadero is mostly subdivided, so this language would severely limit applicability of post-construction runoff control measures. B) The "Goals Targeted" entry in Table 12e does not adequately describe the title, task, or purpose for BMP PC 5. | A) The City must modify the Post-Construction stormwater management controls Program Goal to indicate, "III. Assure <u>a</u> mechanism is in place for long-term maintenance of post-construction facilities in new <u>subdivisions development and re-development</u> . B) The City must modify the "Goals Targeted" in Table 12e to indicate the BMP seeks to increase stakeholder awareness of the important functions riparian and wetland habitats provide to maintain water quality in the City's waterways and groundwater. | A) Modified wording to read exactly as requested. B) Modified wording to read exactly as requested. Note Table 12e is now 12d. This was a result of our combining PC 3 with CON 2 and deleting PC3. The remaining sections and tables were renumbered accordingly. |
| 9 | 4.5 | PC 1D | Gain approval of interim/long term hydromodification control plan included as Appendix C. | A) As indicated in our July 10, 2008 letter to MS4s, Water Board staff will approve, or recommend approval by the Water Board, SWMPs that require MS4s to adopt and implement interim controls by the end of Year-1, and long-term criteria during the course of the 5-year permit cycle. The SWMP indicates the City will develop "interim/long term" hydromodification controls to apply to eligible projects deemed complete by the end of Year-2. The City makes no distinction between interim and long-term criteria. B) The City presents a Hydromodification Plan and a Technical Basis for that Plan in SWMP Appendices C and D, respectively. Water Board staff has not required the City to include the hydromodification control requirements in the SWMP, but rather to include in the SWMP a commitment to develop hydromodification control requirements. The Water Board has pursued an enrollment strategy and schedule for Phase II MS4s that does not include review of hydromodification controls prior to SWMP approval. The City's Hydromodification Plan is an earnest effort by the City and contains several | A) The City must revise PC 1D to indicate the City will "gain approval for interim hydromodification criteria in Year-1, and earnestly develop long-term hydromodification criteria specific to watersheds within the City's jurisdiction (e.g., Atascadero Creek, Graves Creek) during the 5-year permit cycle." B) The City must remove Appendices C and D and all references to them from the SWMP. The City must submit its proposed Hydromodification Plan according to the schedule described above. | A) Modified PC 1D to say "Gain approval for interim hydromodification control plan." Added new BMP PC1E to include development of long-term hydromodification criteria specific to watersheds within the City's jurisdiction. B) Moved BMP Timetable to reflect development of interim and long term hydromodification control plans. PC1B and PC1C moved to year 2. |

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| | | | | good elements. However, because Water Board approval of a SWMP containing a Hydromodification Plan and supporting information could be construed as an approval of the Plan and concurrence with the supporting information, Water Board staff cannot recommend approval of the SWMP with Appendices C and D. | | |
| 10 | 4.5 | PC 2B and PC 2C | Revise CEQA Initial Study Checklist (PC2B) and Develop a Post-Construction SWMP Checklist (PC2C) | A revised initial study checklist, and a Post Construction SWMP review checklist, will provide the City's project review staff valuable tools for evaluating a project's proposed stormwater BMPs. Delaying implementation of these BMPs to Year 3 will unnecessarily limit the effectiveness of project review. Additionally, PC3C indicates Public Works would be including post-construction stormwater management responsibilities as a topic in a "pre-construction" meeting by end of Year-2—a year prior to the proposed schedule for PC2C to discuss it in a "pre-application meeting." | The City must revise BMPs PC2B and PC2C to indicate the Initial Study Checklist and Post-Construction SWMP Checklist will be available for project review staff by the end of Year-2. | Modified implementation timetable to reflect Initial Study Checklist and Post-Construction SWMP Checklist will be available for project review staff by the end of Year-2. |
| 11 | 4.5 | PC 5 | Construction projects in close proximity to riparian and wetland habitats | A) The "Assessment Measures" in Table 12e indicate the City will tabulate the "number of permits issued along creeks and account for the percentage of those permits that have improvements within the 30-ft of the creek bank." Language in BMP PC 5A is vague and does not address these "Assessment Measures". B.)The "Goals Targeted" entry listed in Table 12e does not adequately describe the title, task, or purpose for BMP PC 5. | A) The City must provide a specific measurable goal in Table 12 to track construction in close proximity to riparian and wetland habitats throughout the 5-year permit cycle. B) The City must modify the "Goals Targeted" entry in Table 12e to indicate the BMP seeks to increase stakeholder awareness of the important functions riparian and wetland habitats provide to maintain water quality in the City's waterways and groundwater. | Combined PC 3 with CON 2 and deleted PC3, renumbered subsequent PC BMPs accordingly. This change also impacted the table numbering where table 12c was eliminated, 12d, became 12c and 12e became 12d. A) New PC4 (was PC5) was modified to include tracking projects in close proximity to riparian and wetland habitats throughout the 5-year permit cycle. B) Modified wording to read exactly as requested. Table 12e now 12d. |
| 12 | 4.6 | Table 15 | Sweeping and Cleaning Activity and BMP GH 2 | Street sweeping is only as good as the equipment used to collect the waste and identifying where and when to deploy the equipment. Although we can presume the equipment is effective, the City does not provide MGs for preventative maintenance or a MG to examine the data collected to assure street sweeping frequency is adequate, or is deployed to the appropriate areas. | The City must include MGs to assure the street sweeping equipment is properly maintained and that staff use the information to prioritize the sweeping frequency and areas requiring more attention (hot spots). | Added "equipment maintenance" to the list of activities included in Table 15. Added an analysis component to street sweeping measureable goals to assure street sweeping frequency is adequate or is deployed in the appropriate areas. |
| 13 | 4.6 | GH 1A and GH 2B | Municipal Employee Training Standard Operating Procedures Handbook | The City indicates Public Works will develop BMP Guidance Documents (GH1A) and a Standard Operating Procedures (SOP) Handbook (GH2B) in Year-1. The City does not provide a MG | The City must revise the BMP Implementation Timetables for BMPs GH 1A and GH 2B to indicate the Public Works department will review and revise, as needed, the BMP Guidance Documents and SOP Handbooks periodically during the 5-year permit cycle. | Added BMP GH2B and GH3C to indicate the Community Development Department will review and revise, as needed, the BMP Guidance Documents and SOP Handbooks periodically during the 5-year permit cycle. |

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| | | | | to review and update the guidance document and SOP Handbook based on new information or experience by City staff. | | |
| 14 | 4.6 | GH 3 | Municipal Facilities BMP Intent – Table 16 | A) The BMP Intent associated with BMP GH 3 for Municipal Facilities incorrectly lists post-construction management issues. B) The City lists no BMP Implementation Timetable entry for Police Station Landscaping Inventory. C) City does not list public facilities at the Cemetery or Stadium Park. | A) The City must revise the BMP Intent to match the Municipal Facilities BMP Details listed in Table 16c. B) The City must indicate the year public works staff will inventory the Police Station Landscaping. C) The City must include all facilities for Public Works to inventory. | A) Modified intent to read “Prevent or reduce pollutants generated from municipal facilities.” B) Updated implementation table to reflect the year Public Works Department will inventory the police station. C) The City does not maintain any public facilities at the cemetery. Accordingly, the cemetery was not incorporated into GH3. |
| 15 | 4.6 | GH 3B | Develop Standard Handbook – Table 16 | The Measurable Goals and Outcomes listed for the Municipal Facilities BMP incorrectly indicates details for post-construction BMPs (E&SC and LID). | The City must correct the entry to indicate the City will develop a Standard Operations Procedures Handbook for each facility inventory. | The SOP is one book that encompasses each type of municipal operations. It is not facility specific. |
| 16 | 4.6 | GH 1 | Municipal Employee Training and Education – Table 16a | A) The City indicates City management will conduct unscheduled inspections of facilities and municipal operations as part of BMP GH 1D. The unscheduled inspections, however, do not have baseline information for comparisons or recommendations for improvements. B) The Municipal Employee training BMPs do not coordinate with other BMPs in the SWMP. | A) The City must indicate the City managers will develop baseline conditions before evaluating the facilities or operations. B) We recommend the City add a Note at the bottom of Table 16a indicating it will provide educational opportunities for City staff to participate in Public Education and Public Participation BMPs. | A) The establishment of baseline conditions for municipal activities are included as part of GH2. The establishment of baseline conditions for municipal facilities are included as part of GH3. B) Added recommended note to the notes section of table 16a. |
| 17 | 4.6 | GH 3 | Municipal Facilities – Table 16c | A) BMP Details listed in Table 16c do not indicate the type of facilities the City will verify for complete Storm Water Pollution Prevention Plans. B) Table 16c Implementation Details do not match the BMP Implementation Timetable in Table 16. C) The Assessment Measures detailed in Table 16c will confirm when the Facility Pollution Prevention Plan is developed, but provides no assurances it will be reviewed or amended based on new information, practices, or experience. | A) The City must indicate it will verify industrial facilities and City construction projects have complete SWPPPs. B) The City must indicate it will conduct inventories and develop SOPs in Years 1-5, as shown in Table 16. Additionally, the City should remove or revise the implementation action for Years 2-5 to “record quantities addressed/collected,” which does not appear pertinent to BMP GH 3. C) The City must indicate it will review, amend, and record changes to each Facility Pollution Control Manual based on new information and experience using the manual. Note: the City uses Facility Pollution Control Manual (FPCM) throughout the SWMP, but uses a different term here. The City must standardize the use of the FPCM term. | A) GH3 modified to reflect verification of SWPPPs for industrial facilities and City construction projects. B) SOPs are for activities, not facilities. Revised terminology in GH3 to clarify that SWPPPs will be required for all facilities required to have them, but other facilities, not subject to SWPPPs will develop Facility Pollution Control Manuals if the facility has a significant potential to release pollutants to storm drains. The Year 2-5 implementation detail is retained because it is important to collect and assess pollutant potential reduction of activities that take place at each facility in order to evaluate if changes to the facility (such as additional trash cans, incorporation of a spill kit, etc) are necessary. |
| 18 | NA | NA | Miscellaneous | We found many typographical, grammar, and punctuation errors throughout the SWMP. The most obvious are detailed here, with our suggestions noted in bolded, underlined type. The City needs to carefully review the document to improve its readability. | The City must revise as follows. Page 5, footnote 6, misspelled <u>Alteration</u> . Pages 37-88, use the correct date in footer. Pages 69-78, consistently use <u>re-development</u> spelling; make global changes of “new and re-development” to “new <u>development</u> and re-development.” | Typos indicated in adjacent column have all been addressed. |

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| | | | | | <p>Page 79, Table 13 – use symbol (X) listed for “Vehicle and Equipment Maintenance and Repair” under “Organics” POC.</p> <p>Pages 80-81 – the City refers to a “permit” in several instances. Please correct the entries to read “General Permit” in all instances referring to the Phase II MS4 General Permit.</p> <p>Pages 81-83 – Table 15 should have captions on all subsequent pages.</p> | |

March 30, 2009

To: Mr. Innis and Mr. Thompson, Central Coast Water Quality Control Board

Regarding: Public Comment on City of Atascadero Storm Water Management Plan recommendations

I am writing to express my concern with the CRWQCB's comments to City of Atascadero's storm water management plan dated March 9, 2009. Because I am a resident of beautiful Atascadero, I am especially interested in knowing that the City is taking its stewardship of the creeks and riparian habitats seriously in accordance with federal and state regulations and policies.

After reviewing the recommendations made by you, and the city's Table 12d-PC4, I would propose that no **new** permit applications in watershed areas be considered until the city has had the opportunity to clearly and consistently define the riparian and watershed areas with closer alignment to federal definitions and educate the public regarding the necessity and importance of these areas to our unique community. While your recommendations seem to provide a move in the right direction with regard to "tracking" development near riparian and wetland habitats for five years, and educating the public of the important functions that are provided by them; it falls short of actualizing the understanding already known to be necessary for protecting these habitats in a timely manner. The current provisions are better than no mention of these needed steps; however they are not acceptable in that they are vague compared with what is needed. Tracking will only allow a window period for development in an area which after further study it might be determined it was critical not to allow. After the fact is too late! It will be difficult to evaluate whether or not the city is mitigating damage with self proposed plans on projects that are already in progress with the city. Secondly, the city can identify and commit to work with local community groups interested in protecting the local natural resources, tapping into community resources that would be willing to work in partnership with them to provide education about how the watersheds and riparian habitats enhance the community and participates in the larger water process in our county.

The Regional water quality control board has the ability to encourage and educate the city to protect the riparian area wetland area **now** and loosen the requirements later just to be safe, rather than putting the city in the position of crying later after further significant damage has occurred, After all, "An ounce of prevention is worth a pound of cure."

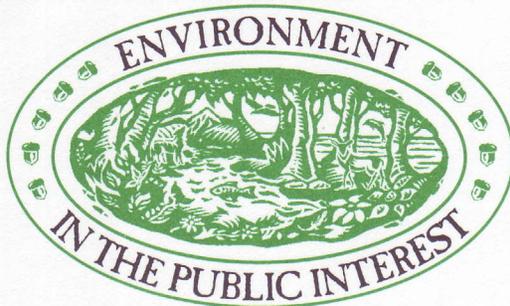
As you know, the city recently intended (2007) to adopt a city ordinance which would have satisfied its commitment to ECOSLO to provide a 35 foot setback on three Atascadero creeks and a 50 foot setback from the Salinas River. Unfortunately, this effort was negated by a petition circulated by some special interests who were getting signatures by presenting inaccurate information to local residents about what the setback would mean for local property owners.

Your leadership and guardianship of our water resources is invaluable to our community. I urge you to tighten and shorten the requirements of protecting our riparian habitat.

Sincerely,

Deborah Skinner

Atascadero, California



EPI-Center, 1013 Monterey Street, Suite 207, San Luis Obispo, CA 93401

Phone: 805-781-9932 • Fax: 805-781-9384

San Luis Obispo **COASTKEEPER**[®]

Central Coast Regional Water Quality Control Board

ATTN: Tamara Presser

895 Aerovista Place, Suite 101

San Luis Obispo, CA 93401

March 30, 2009

Via: Email (tpresser@waterboards.ca.gov)

Subject: City of Atascadero Stormwater Management Plan

Dear Ms Presser,

Thank you for the opportunity to review and comment on the proposed Stormwater Management Plan of the City of Atascadero.

San Luis Obispo **COASTKEEPER**[®], a program of Environment in the Public Interest, is organized for the purpose of ensuring that the public has a voice with agencies and official responsible for enforcing water quality, watershed and coastal planning regulations on the California Central Coast. As such, the SLO **COASTKEEPER**[®] and our 800 central coast supporters are concerned that the proposed SWMP:

- Is impermissibly vague for some components.
- Does not clearly identify the proposed programs and the financial resources available to implement the proposed program.
- Fails to provide specificity to all types of education and outreach programs, mechanisms to measure effectiveness of BMP, and timeline of when it will be done.
- Fails to identify what and how many of the proposed measures will demonstrate the protection of water quality in Atascadero.

Specific comments, included in the table below, outline SLO Coastkeeper concerns. I urge the Regional Board to direct additional modification of the proposal to meet federally mandated MEP standards prior to final approval.

Respectfully Submitted,

Gordon Hensley, San Luis Obispo **COASTKEEPER**



Public Education and Outreach

| MCM | What is Required | What it Does | Coastkeeper Comments |
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| | | | <ul style="list-style-type: none"> - The Public Education and Outreach MCM is impermissibly vague. - It fails to determine effective measures - Must be revised to meet all the necessary requirements - Must be reoriented toward specific program development and implementation - Must be more specific about the audiences and must broaden its education plan to include actions targeted to specific audiences. - Targeted audiences need to be expanded to include at a minimum, the residential community, the commercial and business sector, the industrial sector, the development community, the construction sector and the government - Programs targeted to these specific audiences must be tailored to address specific problems associated with that audience, and can communicate these messages more effectively than programs targeted to the General Public |
| | <p>Use collaborative regional partnerships to leverage shared resources</p> | <p>PE1 Partner with Other Municipalities and Stake holder Groups Distribute stormwater pollution prevention public education and outreach information, materials, and activities</p> | <ul style="list-style-type: none"> - Must show commitment to the programs listed under the BMP and identify the specific intent of each programs - Must provide mechanism to adapt its educational program in the future and similar mechanisms facilitating the updating of the educational program - Must include a detailed public education and outreach program for years 1-5. Must have a comprehensive approach as to whom their program will reach, and what messages are necessary to meet MEP and protect water |

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| | | | <p>quality. All information must be explicitly incorporated into the stormwater management program for all five years in order to assure a definitive commitment to implement this program.</p> <ul style="list-style-type: none"> - Must specify how the public will be informed about the programs - Each programs must indicate what measures it will collect to determine the success of the BMP |
| | Provide schools with educational materials, conduct classroom presentations | <p>PE2 Public School Outreach Emphasize to students in the 4th grade why stormwater is important. Program includes the identification of stormwater impacts to local water bodies and ecosystems, what kids and their families can do to prevent stormwater pollution and what watershed stewardship service opportunities are available.</p> | <ul style="list-style-type: none"> - must specify when the presentation will be held and how many times it will occur in a year. The scheduling as well as measures all must be reported annually. |
| | Target outreach materials towards homeowners | <p>PE3 Homeowner Outreach Increase awareness of water quality issues and achieve voluntary compliance with discharge regulations</p> | <ul style="list-style-type: none"> - must be more specific about who the target audience is, must specify who homeowners are. - Must specify in detail the various types of workshop to be held in regards to stormwater public outreach and education. There should be two workshops per year – first meeting as informational and second as participatory. - Must be more specific about how the BMP is measured. It is unclear of how distributing materials will increase awareness. - Must indicate how all the information will be outreached to the general public |
| | Target outreach materials towards businesses | <p>PE4 Business Outreach Increase awareness of water quality issues and achieve voluntary compliance with discharge regulations</p> | <ul style="list-style-type: none"> - must be more specific about what type of information will be provided in the distributed materials - Must specify who the target audience is. - Must specify what is being measured and how it will be evaluated |

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| | <p>Target outreach materials towards animal owners and creek side residents</p> | <p>PE5 Animal Waste Increase awareness of water quality issues associated with animal waste</p> | <ul style="list-style-type: none"> - must indicate where and when the public education campaign regarding pet waste will occur. How this bmp measure effectiveness is still unclear. - |
| | <p>Provide information related to stormwater management</p> | <p>PE6 Establish Resource Library To disseminate more detailed public education on stormwater controls</p> | <ul style="list-style-type: none"> - Must implement educational component using all media as maximally practicable to measurably increase the knowledge of the target communities and change the behavior of target communities and thereby reduce pollutant releases to Municipal storm sewers and the environment. - All events attended, programs identified and participated, and all distributed resources regarding stormwater management must be reported in the annual report. - All evaluation results and measures must be recorded in the annual report and have it available for public to review. |

Public Involvement/ Participation Program

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| | | | <ul style="list-style-type: none"> - fail to include any compliance of all state and local public notice requirements - |
| Intent | Conduct biennial stakeholder meetings | <p>PP1 Public Notice and Stakeholder Meetings Informed and solicit feedback from stakeholders of water quality issues in their community, assess SWMP program progress and modify the SWMP program to reflect citizen priorities and MEP standards</p> | <ul style="list-style-type: none"> - The objective of the Public Participation and Involvement MCM is to include the public in developing, implementing, and reviewing the stormwater management program. The BMP intent must be more specific with program development and implementation to raise public awareness about urban runoff through implementation process. This public involvement must provide the opportunity to generate support of the stormwater management plan to protect water quality. - Must include public workshops and annual report must be posted on the website and in City offices at least one month prior - Must provide an opportunity for the public to provide mid-year input on the status of the program and the effectiveness of the BMPs - Must include mechanisms for engaging the general public in activities by providing advertising and incentives for the public to increase participation |
| | Mark 100% storm drains with message relating inlets to receiving waters | <p>PP2 Storm Drain Markings Raise awareness about the connection between storm drains and receiving waters and to deter littering, excess fertilizer use, dumping, and other practices that contribute to stormwater pollution</p> | <ul style="list-style-type: none"> - Must indicate how the effectiveness of BMP is measured. - |
| | Encourage individuals or groups to volunteer their time | <p>PP3 SLO County Creek Day Allow concerned citizens to become directly</p> | |

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| | to improve water quality of designated creeks within the City Limits | involved in water pollution prevention, educate members of the community about the importance of stream water quality; improve water quality of creeks targeted | |
| | Implement programs that provide public recognition for individuals or groups volunteering their time to improve water quality | PP4 Adopt a Creek/Road Program Increase public awareness of water quality issues, promote active participation of watershed citizens, and reduce pollutants in the watershed. | |
| | Utilize local expertise (environmental, development, municipal representation) to review stormwater program | PP5 Technical Advisory Committee (TAC) Provide for continuous improvement based of technical review of stormwater program elements | <ul style="list-style-type: none"> - Must include at least two meetings annually. - Must indicate mechanisms that show commitment |
| | Promote community participation in Snapshot day | PP6 Snapshot day Allow concerned citizens to become directly involved in water pollution prevention, educate members of the community about the importance of stream water quality; improve water quality of creeks targeted | <ul style="list-style-type: none"> - Must specify how the public will be aware of such programs and events also provide mechanisms to increase participation in the future - Must specify the effective measures and record it on the annual report - Must include how the measures will be recorded and how it determines the success of the BMP and MCM |
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Illicit Discharge Detection and Elimination Program

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| | | | <ul style="list-style-type: none"> - MCM lacks in providing how plans or programs will eliminate discharges. It provides that it will detect illicit discharge and who will detect the discharges however lacks to specify how it will be eliminated - The objective of this MCM is to adopt and enforce ordinances and to implement a program to detect and eliminate illicit discharge. The document includes these objectives but lacks the mechanisms to assure Regional Board of the public that eliminating illicit connection/discharge will result. |
| Develop a GIS-based storm drain and receiving water atlas | ID1 Tracking Records and Databases Allow for geospatial analysis of trends in illicit discharge activity and reduce pollutant loading delivered to receiving waters through illicit discharges | <ul style="list-style-type: none"> - Must provide the map in year 1 - Must include an explicit commitment to respond to and eliminate 100% of all illicit discharges and/or connection detected as a result of the complaints - Must specify in previous MCM that hot line will be implemented - Must include the requirement that municipalities report on the use of the hotline in their annual report | |
| Develop or utilize existing training program and guidelines for maintenance and code enforcement staff | ID2 Education and Training Standardize illicit discharge response procedures and procedures on how to locate, eliminate and prevent illicit discharges | <ul style="list-style-type: none"> - Must specify through tests or quizzes to show effectiveness of training sessions - | |
| Define and prohibit illicit discharges into the storm sewer system | ID3 Illicit Discharge Ordinance Reduce illicit discharges to protect receiving water quality | <ul style="list-style-type: none"> - Must develop a policy outlining what discharges are permitted into the Storm Sewer and what discharges are considered illicit by year 1. There is no reason why the ordinance cannot be implemented in year 1. | |

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| | | | <p>Implementing an ordinance should not take three years.</p> <ul style="list-style-type: none"> - Must adopt a temporary ordinance to enforce BMP measures while new or revisions are in progress - Urges to include more specific enforcement and penalty provisions to eliminate illicit discharge. - Unclear about how BMP will eliminate illicit discharge. Must specify education and enforcement mechanisms and show effectiveness |
| | Reduce pollutants in stormwater runoff from litter and illegal dumping | <p>ID4 Recycling and Household Hazardous Waste Reduce pollutants in stormwater runoff from litter and illegal dumping</p> | <ul style="list-style-type: none"> - Urges to provide a stronger educational component regarding Recycling and Household Hazardous Waste for the public - Must specify how reduction of pollutants will be detected and show commitment for the entire permit year |
| | Integrate Sewer System Management Plan and First Responders HazMat response plans into the SWMP | <p>ID5 Hazardous spill protection and control Reduce pollutants in stormwater runoff</p> | <ul style="list-style-type: none"> - Must include a requirement for prioritizing those businesses that are known, from observation in the municipality or from other programs, to result in illicit discharges - Must include a program for monitoring the entire municipal storm sewer system - Must explicitly provide for follow-up of investigations - Must contain commitments of BMP measure - Must report annually all the results |
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Construction Site Stormwater Runoff Control Program

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| | | | <ul style="list-style-type: none"> - intent must state that it will develop and implement a program to reduce pollutants to MEP and assure compliance with water quality standards through the implementation components: 1) ordinance adoption 2) Construction site BMP policies and procedures guidance document 3) site plan review 4) site inspection and enforcement 5) education focused on construction activities 6) pollution prevention - |
| | Define minimum E&SC requirements, establish plan review checklist | <p>CON1 Discretionary Review Tools Establish minimum requirements to implement for construction site operators to comply with Construction Stormwater General Permit to control construction-related discharges</p> | <ul style="list-style-type: none"> - Must modify ordinance within year one or develop a template ordinance - Must develop construction site BMP policy and procedure guidance manual within year one - All ordinance that needs revision or adoption must be completed within year one of adoption of draft proposal - Must specify what type of specific brochures will be made and indicate specific target audience |
| | Define Construction Site Inspection and Enforcement Protocols | <p>CON2 Construction Site Inspection and Enforcement Eliminate construction related discharges</p> | <ul style="list-style-type: none"> - Must specify a stronger development and implementation of a construction site inspection program that meets MEP and assures compliance with water quality standards - Must develop a construction and grading review/approval process of construction plans to ensure that pollutant discharges be reduced to the MEP and assure compliance with water quality standards |

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| | | | <ul style="list-style-type: none"> - The review process must specify ordinances, construction and grading project requirements, and verification of permits and plans. - Must record all results on annual report |
| | Require E&SC plans prior to commencing earth-disturbing activities | CON3 Erosion and Sediment Control Plans Eliminate construction related discharges | |
| | Establish Construction Complaint Mechanism; follow up protocols | CON 4 Construction Site Complaint Mechanism Eliminate construction related discharges | |
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Post-Construction Stormwater Management for New and Redevelopment Program

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| | | | <ul style="list-style-type: none"> - we applaud for the inclusion of requirements for “Low Impact Development.” - Fails to provide more information regarding the implementation of LID and hydromodification. The projects required to meet hydromodification criteria must be specified. |
| | Define minimum post construction stormwater requirements | PC1 Post Construction Ordinance Establish good site design requirements to protect water quality, receiving waters and watersheds from impact of stormwater discharges | <ul style="list-style-type: none"> - Must include a temporary ordinance or a set of guidelines that all previous projects prior to the adoption of LID design guidance must comply with LID standards - |
| | Incorporate Post Construction Stormwater Management into the development review process | PC2 Discretionary Review Tools Reduce volume of runoff and improve runoff quality by design | <ul style="list-style-type: none"> - Must require a self-certification - Must include site visit/inspections to meet MEP and protect water quality |
| | Develop Post Construction Stormwater Management Practices Inspection Protocols | PC3 Post Construction Stormwater Management Site Inspections Ensure Post Construction Stormwater Management Practices Inspection Protocols | |
| | Develop Post Construction Stormwater management Practices Inspection Protocols | PC4 Post Construction Stormwater Management BMP Maintenance Ensure Post Construction Stormwater Management Practices are maintained accordance to program schedule | <ul style="list-style-type: none"> - Must complete the standard field inspection checklist by year one. - All inspection must be performed by trained staff and ensure qualification. - Must provide specific procedures for review of post-construction management in the development review process - Must adopt a plan for review of construction projects to ensure that pollutants and runoff from the development will be reduced to the MEP and will not cause or contribute to |

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| | | | exceedence of water quality standards. |
| | Review existing riparian areas and wetlands policies | PC5 Protect Riparian Areas, Wetlands Buffer Zones Protect function and habitat provided by riparian areas and wetlands | <ul style="list-style-type: none"> - Must review existing policies and all revisions must be completed within first year of adoption of draft proposal. - Develop an inspection program to monitor all permit issued along creeks to ensure water quality standards |

Pollution Prevention/Good Housekeeping For Municipal Program

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| | Conduct Pollution Prevention/Good Housekeeping training program | GH1 Municipal Employee Training and Education Teach staff about potential sources of stormwater contamination and ways to minimize the water quality impact of municipal activities | <ul style="list-style-type: none"> - must specific how effectiveness of programs will be measured to meet BMP - MCM is vague and fails to meet the federally mandated MEP standard. We urge that specific pollution prevention programs be included and identified that meet the MEP standard. - Must commit to training specific categories of employees. - Must identify the categories of employees to be trained and provide mechanisms to commit in training specific categories of employees. - Must record all activities in the annual report to assure commitment of programs and education of employee training. |
| | Establish procedures to eliminate minimize and/or treat pollutants generated from municipal activities | GH2 Municipal Activities Eliminate, minimize, and/or treat pollutants generated from municipal activities | <ul style="list-style-type: none"> - Must include how BMP measures effectiveness regards to the addition of these programs. - |
| | Establish procedures to eliminate minimize and/or treat pollutants generated from municipal facilities | GH3 Municipal Facilities Eliminate, minimize, and/or treat pollutants generated from municipal facilities | |



Monday, March 30, 2009

David Innis
Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401

RE: Phase II MS4 Storm Water Management Plan – City of Atascadero

Dear David Innis:

The Home Builders Association appreciates the opportunity to comment on the City of Atascadero's Storm Water Management Plan (SWMP) dated January 29, 2009 and published on your web site, with public comment due by March 30, 2009.

Our goal remains to advocate for storm water management plans that achieve the maximum extent practicable for handling rainfall cleanly in a sensible, achievable, and fiscally and technically feasible manner. We support solid science and the flexibility necessary to make sure each situation is treated based on local conditions and realities.

General Comments and Information Requests

Commendations for Explaining the City's SWMP Process: The Home Builders Association commends the city staff and consultant for an excellent job explaining the city's process developing its storm water plan.

Request Withdrawal of Requiring Hydromodification Controls for Redevelopment/Infill/Smart Growth Projects: When we raised this issue of the EPA comments in Morro Bay's storm water plan, the water board staff did not respond to this point in the Feb. 17, 2009, Notice of Enrollment for Morro Bay and Attachment 3 reply to input from the association and others. Therefore, we continue to address this substantive regional issue.

Current land planning philosophies being encouraged and mandated on cities and counties promote infill and redevelopment in order to reduce the negative environmental impacts of sprawl. The Central Coast Regional Water Quality Control Board (CCRWQCB) failure to exempt most infill and redevelopment from hydromodification, matching pre-development hydrology, replicating natural hydrology, and impervious coverage limitations will result in less smart growth being proposed and accomplished. It is our experience that such an approach will make compact urban development (smart growth) fiscally difficult-to-infeasible to achieve. Bankers and investors will shy away from such projects which will result in builders not proposing the project.

Our smart growth concern is documented in the EPA publication EPA 231-B-05-002 "Using Smart Growth Techniques as Stormwater Best Management Practices". A table with the heading "Language *Hindering* Creation of Joint Smart Growth and Stormwater Policies" (emphasis added) lists among those hindrances:

- "Language specifying that post-development hydrology match the pre-development hydrology";
- "Language requiring that BMPs replicate natural systems or non-structural natural BMPs"; and
- "Impervious coverage limitations"

Additionally, the EPA publication sites the Wisconsin Department of Natural Resources as an example of incorporating infill into Stormwater Regulations. Those regulations state (emphasis added):

- “For the infiltration standards, redevelopment sites *are exempt*” and
- “The peak discharge standards *do not apply to*: Sites classified as redevelopment and infill development less than 5 acres”.

Atascadero and other cities should not disregard the EPA’s own publications and recommendations. Ignoring such recommendations will make it harder for local governments to create the “Sustainable Community Strategies” state Senate Bill 375 requires to apply Assembly Bill 32, reduce green house gas emissions, and tackle climate change.

We recommend hydromodification control requirements not be applied to urban infill and redevelopment projects.

Request that CCRWQCB Staff Provide the Public Record with Supportive Documentation:

Staff’s response to this request in its Feb. 17, 2009, Notice of Enrollment for Morro Bay and Attachment 3 was disappointing. On Page 15 of Attachment 3, the staff states that it “believes dissemination of the information requested may support greater understanding of hydromodification requirements. However, dissemination of the information would not cause Water board staff to recommend substantive changes to the City’s SWMP. Therefore, Water board staff finds it unnecessary to make available the requested information in the context of approving the City’s SWMP.”

Since the water board staff has not complied with this request, we continue to ask that the Central Coast Board introduce into the public record for Atascadero’s SWMP the economic and technical information and research that the board publicly referenced regarding post-construction stormwater management on Page 3, Item 12, in the Oct. 17, Lompoc Resolution R-3 2008-0071. We assume Atascadero’s resolution will substantially resemble Lompoc’s, where the Water Board stated that it:

- “... has been evaluating, as demonstrated in the administrative record, the various options for control of water quality conditions affected by post-construction stormwater discharges and has concluded that controlling hydromodification typically associated with urbanization is reasonably achievable.”
- “... considered economics and found that the best information available indicated that controlling hydromodification through, among other approaches, implementation of low impact development principles, is technically feasible, practicable, and cost-effective”; and
- “... found that the required revisions would not affect regional housing supply. Hydromodification controls have been applied in this and neighboring regions with no demonstrated affect on housing availability.”

We doubt that the CCRWQCB staff really meant to imply that it has its mind made up and is unwilling to consider changing it if qualified industry experts present new information after examining the public record. We believe that upon reconsideration, staff will see that as a tax-supported public agency, it has a legal and public service responsibility to present information in the administrative record to the public when it is requested.

We request that the public record specifically include (a) the methodology and standards used to determine what is “reasonably achievable” in item A above, (b) what “best information available” was used to determine what is “technically feasible, practicable and cost-effective” and how it was determined to be the best information available in item B above, , and (c) what data and methodology were used to decide that hydromodification controls will not impact housing supply or availability and which communities are referenced “in this and neighboring regions” in item C above.

Request for a Written, Detailed Comparison between State and Regional Stormwater Criteria and Standards: We made this request in the Morro Bay letter and received no response in Attachment 3. So we are restating the request and reference the above point for expecting a public agency to supply the public with information it is duly, officially requesting. The association requests a clear, step-by-step description of the differences between the criteria established in the California MS4 General Order, including Attachment 4, and the criteria identified in the Feb. 15 CCRWQCB letter, and what technical findings support the CCRWQCB differences.

Request Public Hearing: For the reasons cited above below specific to the plan, because we have not yet received the information we requested or the answers to questions we asked in the Morro Bay comment letter on Nov. 26, 2008, and for a thorough public analysis and understanding of the city’s proposed storm water management plan, the association believes that there are sufficient issues and concerns raised to warrant a public hearing on Atascadero’s plan before the Water Board.

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| 246 South Higuera | 805.546.0418: phone |
| San Luis Obispo, California | 805.546.0339: fax |
| 93401-3333 | www.hbacc.org: internet |

We hereby request a public hearing pursuant to the March 9, 2009 RWQCB letter to the City of Atascadero, with adequate time to present and discuss our positions/comments.

Specific Comments Concerning Atascadero's Storm Water Management Plan

1. Time to develop interim hydromodification control criteria should be two years:

As we previously wrote to you, hydromodification experts and supporters repeatedly note that it is unrealistic for a small city, facing fiscal difficulties and staffing shortages like Atascadero, to develop properly technically founded interim hydromodification criteria within 1 year.

It is obviously critical to protect public safety by insuring that the interim criteria are thoroughly researched before being applied. Criteria should not be "hurried" into practice to meet an artificial deadline at the risk of unintended consequences that could jeopardize public safety or to implement criteria that does not have "technical findings" that demonstrate their feasibility and effectiveness.

As we have done previously, we are attaching for the public record on Atascadero's plan the June 27, 2008, California Stormwater Quality Association (CASQA) letter to Central Coast Regional Water Quality Control Board Executive Officer Roger Briggs. CASQA is an expert on storm water quality management. It provides consulting services to more than 26 million Californians on storm water management. CASQA states that it will take more than a year to do the appropriate, scientifically valid research on interim criteria and that larger cities "have been expending significant effort on the technical challenge of developing appropriate hydromodification criteria for a number of years. Since 2001, the San Francisco Bay Area Phase 1 permittees have been working to address this issue, yet there is still no accepted common approach."

The association requests a two-year interim hydromodification control criteria development process.

2. SWMP post-construction application cut-off point should be at "Deemed Complete":

It is our understanding based on the water board staff's responses on page 18 in the Feb. 17, 2009, Notice of Enrollment for Morro Bay and Attachment 3 to the issues the association raised previously on applying new hydromodification requirements adopted after a project meets the legal California requirements for being "deemed complete," the association understands that water board staff and board agree that:

- The "deemed complete milestone is an appropriate cut-off point in the entitlement process, after which projects would not be subject to new hydromodification requirements;" and
- This defined cutoff point will be added to all Central Coast SWMPs

If our understanding stated herein is incorrect, we request that the Water Board provide us with the necessary clarification.

3. Incorporating assessments from project geotechnical and soils consultants is imperative:

Our understanding, based upon CCRWQCB replies to comments on prior SWMPs, is that the CCRWQCB staff agrees with prior HBA comment letters, regarding incorporating geotechnical consultant assessments.

If our understanding is incorrect, we request that the Water Board provide us with the necessary clarification.

4. Normal maintenance of existing infrastructure by public agencies, project developers, and home owners associations be exempted from the new standards:

The association agrees with the Water board staff response to our concern on page 19 in the Feb. 17, 2009, Notice of Enrollment for Morro Bay and Attachment 3. We understand that in the Atascadero and in all storm water plans, routine maintenance will not be subject to new LID or hydromodification requirements,

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| San Luis Obispo, California | 805.546.0339: fax |
| 93401-3333 | www.hbacc.org: internet |

but “would be subject to education as well as potential enforcement on source control, pollution prevention, and illicit discharges”

We expect that this will be clearly spelled out in Atascadero’s final storm water plan and future ones.

5. **The “pre-development” definition must be “immediate pre-project”:**

After reading the water board staff’s response to this issue on page 20 in the Feb. 17, 2009, Notice of Enrollment for Morro Bay and Attachment 3, the association needs more clarity and remains convinced of the need to receive the public records we requested above regarding material previously introduced into the administrative record.

In the Morro Bay response, the staff says it “views changing the definition of pre-development condition as described in the (HBA) comment as lowering the standard for post-construction runoff control,” but also notes that hydrologic performance “should not outweigh other important environmental goals, such as infill, redevelopment priorities,” etc. The staff seems to state that cities like Atascadero will build flexibility into the definition of “pre-development” as they develop interim and permanent hydromodification criteria. Is that a correct interpretation of the staff’s response in the Morro Bay Attachment 3?

Defining pre-development as the original natural condition, regardless of current usage, will make many urban infill, smart growth projects fiscally and technically infeasible and is counterproductive to the current sustainability and new urbanism planning concepts intended to reduce sprawl, long-distance commuting, and air pollution.

In addition, a “pre-development” standard harkening to when the land was vacant presents a liability issue that will further hamper urban infill by making insurers refuse to support a project because adding more subsurface water to an area than has been the standard for a lengthy time period could undermine nearby buildings constructed to withstand less groundwater. Insurers will not take that risk. Projects will not get built. There will be no redevelopment improvements in storm water management.

The EPA publication, referenced in the General Comment Section above, also states regarding the pre-development definition (emphasis added):

“When you write your ordinance, however, you may want to avoid confusion by specifying that the pre-development condition *refers to the site immediately prior to redevelopment.*”

In Attachment C – Definitions, the San Diego Region California Regional Water Quality Control Board in order No. R9-2007-0001 for the incorporated cities of San Diego County, the San Diego Unified Port District, and San Diego County Regional Airport Authority defines:

“Pre-Project or Pre-Development Runoff Conditions (Discharge Rates, Durations, Etc.) – Runoff conditions that exist onsite immediately before the planned development activities occur. This definition is not intended to be interpreted as that period before any human-induced land activities occurred. This definition pertains to redevelopment as well as initial development.”

We recommend that Atascadero define pre-development as “the immediate pre-project condition” just as recommended by the EPA, and the San Diego Regional Water Quality Control Board.

6. **Economic balance:**

The association remains concerned that the water board staff sees storm water management as the paramount land use issue among the many regulations that various government agencies, all with important and legitimate public benefit goals, impose on municipalities and the building industry.

We also note that the Water Board’s comments on page 21 in the Feb. 17, 2009, Notice of Enrollment for Morro Bay and Attachment 3 state that you will not be “dictating specific applicability requirements, and

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instead has provided the opportunity for the (small cities) to develop applicability criteria that strike an appropriate balance of social, economic, and environmental goals.”

We recommend that Atascadero’s plan include a clearly worded statement that recognizes that storm water management improvement must “strike an appropriate balance with such social, economic, and environmental goals as affordable housing, reduced air pollution, market-place economics, municipal economics, and local public acceptance.”

7. Comments on March 9 Water board staff comments:

Item No. 5 requires Atascadero to coordinate site inspection information exchanges with SLO Green Build and other stakeholders. We recommend that no groups be singled out by name and that the city be required to meet with stakeholders to receive public input on site inspection.

8. Additional specific comments regarding Atascadero’s storm water management plan:

a. We suggest formatting adjustments so the document is easier to read. It would help to make more use of numbers or letters instead of bullets. It is easier to make specific references to issues and requirements if there are numbers or letters on specific pages to allude to. This might seem minor. But clarity will help the plan’s end users when they want to know what is required or communicate with staff or consultants.

b. In several instances the SWMP quotes from the Feb. 15, 2008, CCRWQCB’s Executive Officer’s letter but doesn’t reflect the exact quote. We recommend correcting to the exact language from the letter

c. In several instances the SWMP definition of deemed complete does not agree with the deemed complete definition requested by the association, agreed to by CCRWQCB staff and defined in the Permit Streamlining Act. We recommend utilizing the definition established by the Permit Streamlining Act.

d. In instances where the point in time to apply post-construction controls is defined as one year (per RWQCB timing on page 69), we recommend replacing the phrase “by the end of year 1” with the phrase “when the city has adopted interim hydromodification control criteria and a low impact development manual.” Post-construction controls cannot be put in place until the interim criteria or the LID manual are in place.

f. The list of “Projects exempted from infiltration requirements” (page 70) should include:

- i. normal project and home owner association maintenance work (as noted above);
- ii. projects “deemed complete” before the adoption of interim hydromodification criteria; and
- iii. infill and redevelopment projects (referencing the above EPA recommendation to exempt infill and redevelopment projects from infiltration requirements in order to encourage what is known as smart or strategic growth.)

g. The bottom of page 70 introduces the concept that if projects are exempted from infiltration they are required to choose from three options that will require the project to provide costly methods to provide what they have been exempted from providing. By adding these costly requirements, including an in-lieu fee, the proposal runs directly counter to the previously cited studies and recommendations by the EPA and the Center for Watershed Protection regarding encouraging smart growth. Incorporating the options for projects exempted from infiltration will add project costs, increase the likelihood of project infeasibility, and discourage smart growth.

We request that the section beginning at the bottom of page 70 titled “Projects exempted from infiltration requirements will be required to choose from one of the following three options” be deleted from the SWMP.

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h. On Page 74, under Notes, city plans to hold at least one meeting to gather public input on ordinance revisions is inadequate. The city should hold several public meetings on different days and different times of day in order to maximize public opportunities for participation.

i. On Pages 76 and 77, under Assessment Measures, the city seems to be proposing only 30 minutes of annual staff training and refresher courses on post-construction storm water management considerations. This is perhaps a typo since 30 minutes is a very minimal time period.

We appreciate your consideration of our comments.

Sincerely yours,



Jerry Bunin
Government Affairs Director
Home Builders Association

cc: Russ Thompson, City of Atascadero Public Works Director
Davis Athey, City of Atascadero Deputy Director Public Works
Roger Briggs, Executive Officer, RWQCB

Attachment



California Stormwater Quality Association

Dedicated to the Advancement of Stormwater Quality Management, Science and Regulation

June 27, 2008

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

Subject: 2/15/08 Letter regarding Notification to Traditional Small MS4s on Process for Enrolling under the State's General NPDES Permit for Storm Water Discharges

Dear Mr. Briggs:

The California Stormwater Quality Association (CASQA) would like to take this opportunity to submit this comment letter regarding the subject notification and, in particular, Central Coast Regional Water Board staff's "expectations" for Phase II Stormwater Management Program (SWMP) content to receive approval for complying with the State's April 2003 Phase II General Permit.

CASQA is composed of stormwater quality management organizations and individuals, including cities, counties, special districts, industries, and consulting firms throughout California. Our membership provides stormwater quality management services to over 26 million people in California and includes most every Phase I and many Phase II municipal programs in the State. CASQA was formed in 1989 to recommend approaches for stormwater quality management to the State Water Resources Control Board (State Water Board).

CASQA typically refrains from commenting on issues associated with a specific Regional Water Board. However, the implications of your notification letter are significant and we believe inconsistent with the current standard of practice of stormwater quality management.

Beginning on page 4 of the subject 2/15/08 notification letter, Central Coast staff outlines its expectations for the smaller MS4s within the Central Coast region for meeting the following "conditions":

- Maximize infiltration of clean stormwater and minimize runoff volume and rate,
- Protect riparian areas, wetlands, and their buffer zones,
- Minimize pollutant loadings, and
- Provide long term watershed protection.

Our concerns primarily regard staff's expectations for meeting the first "condition." These are nearly identical to proposed requirements from the draft¹ Phase I Ventura permit written by Los

¹ Draft Tentative Order Ventura County MS4 permit, 4/29/08, Los Angeles Regional Water Board staff

Angeles Regional Water Board staff. Many of these draft proposed Phase I requirements have not been finalized and adopted by any Water Board. In fact, many of the draft proposed Phase I requirements are the subject of much scientific and technical study and discussion, and accordingly, are being debated and contested by a large number of municipalities and industry representatives. The final outcome of these discussions will likely not be known before December 2008.

We want to recognize and express our support for the Central Coast Regional Water Board's decision to support the implementation of Low Impact Development (LID) through the establishment of an endowment and provision of LID and hydromodification design and implementation services as needed. However, based on the knowledge gained by the Phase I MS4s with the most experience with LID and hydromodification, focusing on implementation before establishing technically sound and integrated criteria and approaches is akin to putting the cart before the horse. As a result, CASQA firmly believes that Central Coast staff has created requirements that the Phase II MS4s will be at a considerable disadvantage, compared to Phase I MS4s, to meet (and may never be able to meet due to technical and economic reasons). We make this statement based on the following insights:

- Hydromodification criteria – Phase I programs have been expending significant effort on the technical challenge of developing appropriate hydromodification criteria for a number of years. Since 2001 the San Francisco Bay Area Phase I permittees have been working to address this issue, yet there is still no accepted common approach (witness the different approaches between the Santa Clara and Contra Costa Counties). Given the need to establish an accepted approach that is fully integrated into water quality management programs, the Southern California Stormwater Monitoring Coalition and the Southern California Coastal Water Research Project have initiated grant-funded efforts to evaluate stream impacts and to develop a series of hydromodification management tools. These tools will support implementation of appropriate hydromodification management actions to better protect the physical, chemical, and biological integrity of streams and their associated beneficial uses². This study is currently in year two of a three-year schedule. These tools will ultimately assist both Phase I and II municipalities in developing appropriate hydromodification management approaches. Consequently requiring Phase II communities in the Central Coast region to independently develop their own criteria/approach to this technically complex subject is unreasonable.
- Effective impervious area – The possible creation of “Effective Impervious Area (EIA)” threshold requirements as a “driver” for LID approaches is currently the subject of intense controversy within the stormwater quality management/science community as well as among planners and practicing landscape architects. Specifically, there is disagreement as to: whether this EIA criterion should be used (and, if used, whether it should be translated from its originally conceived watershed scale and applied on a site-by-site or regional basis) along with the implications upon urban redevelopment – whether it is compatible with smart growth concepts, and possibly increase urban sprawl. For example, underground storage vaults for urban runoff may not be technically feasible on many project sites. Locations with shallow groundwater or underground contamination (i.e.,

² SCCWRP Research Project A6 – Assessment and Management of Hydromodification Effects.

brownfields) may not be able to install tanks to hold stormwater. There are other methods that permittees can use to meet maximum extent practicable (MEP) requirements that should not be eliminated with an EIA criterion. These requirements need thorough evaluation to ensure that societal goals, such as redevelopment of brownfields and infill development are not interfered with, but rather encouraged, by the permit.

Additionally, it is not clear that there is a reasoned technical basis to require such a relatively restrictive site design rule. The concept of total impervious area on a watershed scale has been shown to have a deterministic relationship with channel enlargement in the receiving stream. The studies that have demonstrated this relationship have been in watersheds without contemporary hydromodification mitigation controls. A recent study on this issue (Coleman et. al., 2005)³ notes that effective impervious area is one of the recommended management strategies to be considered, depending on the current conditions of the receiving stream and the future anticipated conditions. The report notes that in-stream strategies are more appropriate for application where the stream course alignment has been altered or there are other drainage improvements in the watershed.

This debate has been taking place on several tracks (e.g., technical, policy) at the local, statewide, and national scales. The recent deliberations of the California Ocean Protection Council (OPC) are particularly noteworthy because the OPC has taken the recent lead on examining from a broader perspective the status of the development and use of LID as a BMP strategy in California. OPC commissioned a report⁴, held two OPC meetings and two public staff workshops, and adopted a resolution last month promoting the use of LID principles, including planned and recommended actions. *Appendix A: Options for Enhancing LID in California Policies* in the report on LID policies provides a list of about 50 recommended "Opportunities and Action Items" (Legislative, Aspirational, and Funding) through which LID can be promoted or enhanced. That report makes several observations, lists issues, and provides recommendations that relate to the development and use of LID as a BMP strategy in California, including:

Observations

In California, there has been an upsurge in district planning. New models of district planning have been launched and fine-tuned in California, including form-based codes, new urbanism, transit-oriented development, and a new Leadership in Energy and Environmental Design (LEED) pilot for neighborhood development (LEED-ND).

Issues

H1. LID requirements are often written to apply to individual projects, which results in uneven application.

³ Coleman, D., MacRae, C., and Stein, E., "Effect of Increases in Peak Flows and Imperviousness on the Morphology of Southern California Streams", Technical Report 450, Southern California Coastal Water Research Project, April 2005.

⁴ *State and Local Policies Encouraging or Requiring Low Impact Development in California – Final Report*, Prepared by Tetra Tech, Inc. for Ocean Protection Council, January 2008

H3. LID often designates hydrology as the indicator of environmental impacts. By their regulatory nature, stormwater rules have the farthest reach into zoning codes. These rules tend to emphasize stormwater peak flow attenuation and volume capture, causing hydrologic performance to outweigh other important environmental issues that are considered in non-regulatory planning documents, such as infill and redevelopment priorities and regional growth patterns that can affect watershed health.

H4. Suburban-style LID requirements can run counter to the planning, transportation and climate emphasis on compact design. Meeting strict stormwater performance standards in urban areas can be much more difficult than in open areas with room for swales, infiltration and detention. While LID techniques can decrease costs for greenfields applications, they can pose higher costs for urban developers, since underground vaults are often needed to augment urban green building, streetscape and landscape BMPs to meet performance standards.

Actions

H12. Sponsor an analysis of pilot neighborhoods in the LEED-ND program to see if they meet stringent stormwater requirements (for volume, treatment and flow control).

H14. Sponsor a pilot study to align major water planning documents (e.g., Basin Plan, Integrated Regional Watershed Management Plan) with regional and local requirements (e.g., stormwater permit requirements and local zoning codes) with respect to LID goals and requirements.

H17. Fund a project to better describe LID techniques based on development settings in California similar to the effort underway within the Congress for New Urbanism⁵ based on the “transect.” The transect establishes seven transect zones based on intensity of development and urban form. This approach was used to develop new street standards and could serve as a model for stormwater management as well.

Based on the commissioned report and input received at the OPC meetings and workshops, the Ocean Protection Council adopted a resolution on May 15, 2008 that CASQA supported (including amendments provided by NRDC) that included the following actions related to stormwater and LID (and by extension EIA) [underline added]:

2. State Regulatory Actions

a. *State Water Board LID Policy* – The State Water Board is encouraged to adopt a statewide policy for addressing all elements associated with changes in runoff due to hydromodification impacts, including those specifically related to urbanization. This policy would include direction on when and how to use LID to avoid, minimize and mitigate runoff so that downstream water bodies are protected.

⁵ At the national scale, NRDC, Congress for the New Urbanism, USEPA, and the U.S. Green Building Council have been developing the LEED-ND standard, which is a comprehensive attempt to integrate land use, financial, transportation, environmental, and urban design components into a single system for evaluating neighborhood design.

3. Incentives, Technical Support, and Research

c. Research and Development of LID – Promote and consider funding technical research for development of a LID design manual, including example designs and specifications for LID features, and post-construction evaluations of the effectiveness of constructed LID features in removing pollutants and controlling runoff flows.

- Consistency – We are not suggesting that the small MS4s not move forward with implementing LID strategies and provide protection of stream bed integrity. We do recommend that the Central Coast staff also review the approach being proposed by State Water Board staff in the Draft Construction General Permit. In making this recommendation, CASQA is not taking a position on this other approach; rather we are recognizing the approach being proposed by the Central Coast Water Board staff is inconsistent with (and will add considerable confusion) to the State Water Board proposed approach. At a minimum, the difference in approaches once again raises the question as to why the Water Boards are proposing such inconsistent approaches to basically the same ends and whether the inconsistency is necessary and appropriate.
- Patchwork – The somewhat patchwork approach being proposed by Central Coast staff for water quality management (i.e., the discharger is implementing treatment control BMPs, LID strategies, and hydromodification controls) will add confusion to an already confusing situation. We believe developing a statewide policy statement is the appropriate vehicle for considering and integrating these concepts. This will provide better public opportunities to consider potential conflicts and craft a fully integrated approach to water quality management.

All of the above demonstrates that Central Coast staff's expectations regarding hydromodification and LID criteria are not SWMP-ready. Given the current state of knowledge and experience, CASQA has recommended to Water Boards that they work with permittees, CASQA, researchers, and stakeholders to:

- Identify an initial list of LID strategies that must be considered for all development.
- Develop a performance standard for LID strategies that considers the lessons learned in translating the concept of LID into projects (e.g., San Francisco Bay Area Phase I research and experience) and recommendations from other drivers such as urban design (e.g., LEED-ND standard).
- Produce findings that can form the basis of permit provisions, guidance, SWMPs, implementation plans, etc.

In summary, CASQA believes Central Coast staff should reconsider their expectations for new development within the Phase II Stormwater Management Plans. Phase I communities are expending significant effort and resources, yet still struggling to meet the technical challenge of developing appropriate hydromodification and LID criteria that are both practical and that will lead to achieving our water quality goals. Placing such an effort on the Phase II communities is

inherently impractical as they lack the technical and financial resources to deal with this complex issue.

Thank you for the opportunity to provide comments. If you have any questions please contact Geoff Brosseau, CASQA Executive Director.

Very truly yours,

A handwritten signature in black ink, appearing to read 'CCJ', is centered on the page.

Chris Crompton, Chair
California Stormwater Quality Association

cc: Tam Doduc, Chair, State Water Board
Gary Wolff, Vice-Chair, State Water Board / Liaison, Central Coast Regional Water Board
Dorothy Rice, Executive Director, State Water Board
Jonathan Bishop, Chief Deputy Director, State Water Board
Bruce Fujimoto, Section Chief-Stormwater, State Water Board
Christine Sotelo, Staff-Phase II Stormwater, State Water Board
Greg Gearheart, Unit Chief-Industrial/Construction Stormwater, State Water Board
Alexis Strauss, Director, USEPA Region IX
CASQA Executive Program Committee
CASQA Board of Directors



Wednesday, April 08, 2009

David Innis
Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401

RE: Withdrawal of Public Hearing Request for Atascadero Phase II MS4 Storm Water Management Plans

Dear Dominic Roques:

The Home Builders Association of the Central Coast is hereby withdrawing its prior request for a public hearing that we made in a March 30, 2009, letter on the Atascadero Phase II MS4 Storm Water Management Plan (SWMP).

The association is making this request (a) after evaluating the water board staff responses to some of our previous correspondence and (b) comparing the referenced comment letters with the association's Grover Beach SWMP comment letter of Dec. 12, 2008. The substantive comments and issues we raised in the Atascadero letter can be addressed in the Grover Beach SWMP May 8 public hearing.

Our request, in this letter, to withdraw our previous request for a public hearing is predicated on the:

1. RWQCB holding a public hearing for the Grover Beach SWMP,
2. The enrollment of the Atascadero SWMP be deferred until after the Grover Beach public hearing such that any changes that result from it can be applied to the Atascadero SWMP as appropriate,
3. The language in the Atascadero SWMP for 4.5.2 Strategy, Item 4 be changed to "Develop interim hydromodification control plan by end of year 1 (PC1D.) Develop long-term hydromodification criteria specific to watersheds within the City's jurisdiction by the end of year 5 (PC1E.)," and
4. Addition of language to Atascadero's SWMP to state that "Pre-development refers to the soil type, vegetation and amount of impervious surface existing on the site prior to the development project." (Language from the CCWQCB April 3, 2009 Notice of Enrollment for the City of Watsonville Table of Required Revisions, Item Number 13, Option 2B).

Please acknowledge receipt of and agreement with this letter to the association by letter or email.

Sincerely yours

Jerry Bunin
Government Affairs Director
Home Builders Association

CC: Russ Thompson, Atascadero Public Works Director
David Athey, Atascadero Deputy Public Works Director
Matt Thompson, Regional Water Quality Control Board
Roger Briggs, Regional Water Quality Control Board

246 South Higuera 805.546.0418: phone
San Luis Obispo, California 805.546.0339: fax
93401-3333 www.hbacc.org: internet