

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

**STAFF REPORT FOR REGULAR MEETING OF JULY 11, 2008**

Prepared June 13, 2008

**ITEM NUMBER: 18**

**SUBJECT: Status of Salinas Stormwater Development Standards,  
Public Involvement, and Future Growth Area**

**SUMMARY**

On February 8, 2008, the Central Coast Regional Water Quality Control Board (Water Board) directed Water Board staff to report back at this meeting with: 1) a recommendation regarding whether to approve Salinas' development standards based on the Water Board's previous direction and compliance with the Salinas Stormwater Permit, 2) an update on how Salinas involved the public in reviewing the development standards, and 3) the status of Salinas' future growth areas.

Since the February meeting, Water Board staff reviewed and commented on the draft development standards and Salinas revised the standards accordingly. At staff's request, the Low Impact Development (LID) Center Inc. of Maryland reviewed the revised development standards and provided their comments. Salinas is now revising the development standards again based on the LID Center's comments. Salinas has involved the public in revisions to the development standards.

Salinas recently annexed three large areas where future growth is planned and anticipates that specific development plans will be submitted to the City for its consideration during 2008 or early 2009.

In order to get proper development standards in place, Water Board staff recommends the Board delay consideration of the development standards until the September Board meeting. Salinas has been responsive to expectations and due dates established and agreed on during the February Board meeting. Water Board staff, however, was delayed in reviewing and commenting on the development standards due to unanticipated staff vacancies. This delay minimized the time and opportunity for the public to comment on the development standards after they were reviewed by Water Board staff and in advance of this meeting. Furthermore, Water Board staff recommends that Salinas revise the standards to address the comments prepared by the LID Center. Water Board staff believes Salinas needs more time to properly edit and incorporate those comments into their development standards. This delay will still provide establishment of new development standards prior to development approval for projects in the future growth areas.

## DISCUSSION

### Background

The Water Board issued an updated municipal stormwater NPDES permit (Permit) for the City of Salinas on February 11, 2005. The Permit reflects U.S. Environmental Protection Agency directives and guidelines to reduce urban stormwater impacts on receiving waters through preserving or mimicking predevelopment hydrology and minimizing pollutant loads. The Permit requires Salinas to submit a Development Standards Plan "for public review and comment and Executive Officer approval" within one year of Permit adoption, or February 5, 2006, and adopt local development standards within one year of development standards approval, or by February 5, 2007. Salinas did not submit an approvable Development Standards Plan nor adopt its own local development standards by February 5, 2007. In February and July 2007, during reports to the Water Board regarding compliance with the Salinas Phase I permit, Salinas staff informed the Water Board they would complete local development standards by December 2007. On December 31, 2007, the City submitted *Draft Stormwater Development Standards for New Development and Significant Redevelopment Projects* (Draft Development Standards). Salinas presented the Draft Development Standards as a preliminary draft and requested Water Board staff input.

On February 8, 2008, the Water Board directed Water Board staff to report back to the Board at this meeting with: 1) a recommendation regarding whether to approve Salinas' development standards based on the Water Board's previous direction and compliance with the Salinas Stormwater Permit, 2) an update on how Salinas involved the public in the development standards, and 3) status of Salinas' future growth areas.

### Water Board Staff Review of Draft Development Standards

Water Board staff approached review of the Draft Development Standards with three main objectives: 1) to ensure the standards meet Permit requirements, 2) to ensure the standards meet the maximum extent practicable standard by protecting watershed functions (e.g., minimize rate and volume of runoff and increase ground water recharge), and 3) to ensure the standards lead to on-the-ground implementation of low impact development (LID) design principles.

Before reviewing the Salinas standards in detail, Water Board staff reviewed other good models of development standards in California. The *Contra Costa County Clean Water Program Stormwater Quality Requirements for Development Applications, Third Edition, October 2006* (Contra Costa Guidebook) is widely regarded as an excellent example and provided Water Board staff with a good standard to compare the Draft Development Standards. The Contra Costa Guidebook is available online at: <http://www.cccleanwater.org/new-developmentc3/>.

Water Board Staff sent general comments on the Draft Development Standards to Salinas in a letter dated April 2, 2008. (The Water Board's Stormwater Unit underwent major staffing changes last winter. Consequently, Water Board staff was not able to completely review the Draft Development Standards until late March 2008.) The letter is included as **Attachment 1**. In summary, Water Board staff found the Draft Development Standards met most of the specific Permit requirements, but had the following significant issues:

1. The standards did not adequately require **early planning** for LID. More specifically, Water Board staff's letter states,

"...the City must require LID early in the community design process, when the City is making land use decisions and has discretion to affect the conceptual design of a development. The *Draft Development Standards* contain some language that requires early consideration of LID; however, LID is not merely the addition of site-specific stormwater control features to a proposed development project; it is community level design, including infrastructure, to protect healthy watersheds. The City must implement a proactive, comprehensive LID approach on a local and regional scale. This means designing the future growth of the City from the perspective of protecting the biological and physical integrity of the watershed; rather than reacting to development proposals, and it may include significant changes to existing planned developments. The City must also revise its development review and approval process such that its various departments communicate and coordinate their planning, engineering, maintenance, and other related efforts. Also, considering that the City is unwilling to revise its Zoning Code (per Robert Russell's January 30, 2007 letter), the City's *Development Standards* must require this comprehensive LID approach. See Contra Costa Model below for examples of good language. If the City does not include such requirements language, the City will not be in compliance with the Permit and may be subject to enforcement actions by the Water Board, and development projects may be significantly delayed."

2. The standards did not adequately include **measurable and enforceable requirements**. The letter states,

"The *Draft Development Standards* must contain measurable and enforceable requirements to ensure land developers and their consultants do not ignore or design around the requirements. For example, Section 1.2.2 of the *Draft Development Standards* states: "All site designs shall minimize the amount of impervious surfaces..." A better requirement would be numeric, such as "Effective Impervious Area must not exceed 5% of total project area." The development standards must include numeric standards wherever feasible, especially for the typical measures of hydromodification such as time of concentration, drainage density, and runoff hydrographs."

3. The standards were difficult to read and follow. The letter states,

"The development standards must be an easy to read document for developers and their consultants to follow and properly incorporate LID into developments. As currently written, the *Draft Development Standards* are a confusing collection of flood control requirements, stormwater quality requirements, and suggestions. The overall readability of the document must be improved."

Water Board staff's letter encouraged Salinas to closely model its revised document on the Contra Costa Guidebook.

Water Board staff also met with Salinas staff on April 16, 2008, to present detailed comments on the Draft Development Standards. Water Board staff pointed out specific permit requirements that were apparently missing from the standards and language that could be improved. The detailed comments Water Board staff presented are included as **Attachment 2**.

### Salinas Submittal of Revised Development Standards

Salinas submitted Revised Development Standards on May 16, 2008. The Revised Development Standards are too voluminous to include here, but are available online at: <http://www.ci.salinas.ca.us/DevPermitSvc/Engineering.html>.

Water Board staff found that Salinas took the above comments seriously and revised the standards accordingly. The Revised Development Standards emphasize early planning for LID, and contain measureable and enforceable requirements where appropriate. Overall readability of the document has improved. Salinas incorporated many elements of the Contra Costa Guidebook. Since Water Board staff is still learning the best approaches for municipalities to implement LID, we decided to have the LID Center of Maryland review the Revised Development Standards and recommend improvements, if necessary, to assure the document would result in implementation of LID.

### LID Center Review of Revised Development Standards

The LID Center is a non-profit national research organization with extensive experience developing LID technical manuals and reviewing development standards for communities throughout the United States and Canada. Water Board staff asked the LID Center to review the Revised Development Standards with a focus on the following questions:

- Does the document sufficiently require early planning for LID?
- What is missing or incorrect in order for LID practices to be properly designed, constructed, and maintained? Are any of the proposed LID practices unacceptable?
- Are the proposed standards sufficiently prescriptive? If not, which standards must be required? Which standards may be considered guidelines?
- Do the standards provide reasonable alternatives if infiltration is not feasible at a particular site (e.g., due to high clay soils)?
- Is the proposed waiver criteria appropriate?
- How could the document be more user-friendly?

The LID Center provided detailed responses to these questions in a memo dated June 10, 2008. The memo and its attachments are included as **Attachment 3**. In summary, the LID Center found:

- The document requires early planning for LID, but the document's multiple references to early planning must be revised and made consistent.
- Computer modeling should be used to determine how a distributed best management practices (BMP) network will work to achieve stormwater management goals or requirements, rather than reliance solely on the Rational Method. Also, swales should be encouraged.
- More specific (numeric) design criteria are needed. Other codes and ordinances (e.g., Zoning Restrictions) should be reviewed and amended if necessary to ensure consistency with the standards.
- The standards provide reasonable alternatives if infiltration is not feasible at a particular site, but cisterns should be emphasized more.
- The standards do not include criteria the City Engineer will use to determine feasibility of compliance, nor does it include how 'estimated construction savings' will be calculated if a developer receives a waiver and must pay in-lieu fees. Also, when notifying the Water Board of waivers, Salinas should include the reason compliance was deemed infeasible and the applicant's name, to ensure the waiver system is working as intended.

- Multiple small improvements are needed to make the document more user-friendly.

The LID Center concluded that,

“...if the matters labeled as *Important to Address* are resolved, the document provides a sufficient start to LID implementation in Salinas. As the Development Standards are implemented, input and feedback should be solicited from the users to gauge how well the document serves its intended purpose and target audience.”

Water Board staff sent the LID Center's comments to Salinas' staff on June 12, 2008, and requested they revise the standards again based on the comments. Salinas will likely require more than 30 days to properly resolve the LID Center's comments. Water Board staff will then need a minimum of one week to determine whether Salinas reasonably resolved the LID Center's comments. Consequently, the further revised standards will not likely be available for Water Board consideration by July 11. However, Water Board staff plans to make them available for consideration at the Water Board's regular meeting in September 2008.

#### Public Involvement

Salinas' stormwater permit and SWMP require Salinas to encourage the public to get involved in development and implementation of the SWMP. Although this development standards component is not technically a part of the SWMP, Salinas has approached public involvement in the development standards revisions like SWMP revisions. Here is a summary of Salinas' efforts to involve the public in revisions to the development standards.

Salinas distributed the Draft Development Standards, submitted to the Water Board on December 31, 2007, to interested parties. Salinas presented the Draft Development Standards to Water Board staff as a preliminary draft and requested Water Board staff input prior to finalizing the Development Standards for formal submittal to the Water Board. At that time, the Water Board had just lost several staff from the stormwater management program and did not have a staff person to review Salinas' Draft Development Standards. This delayed Salinas' ability to revise the standards and redistribute them for public review.

Salinas was anxious to receive Water Board staff's comments on the Draft Development Standards, so Salinas staff sent a letter to Water Board staff on April 1, 2008. The letter is included as **Attachment 4**.

After Water Board staff sent Salinas its general comments on April 2, 2008 (see Attachment 1), Salinas emailed Water Board staff's comment letter to its Stakeholder Committee on April 4, 2008, and explained that it intended to revise the standards within 45 days (by May 19, 2008) per Water Board staff's request. This email is included as **Attachment 5**. Salinas explained that after it revised the standards, it would distribute the standards to its Stakeholder Committee for review and comment, and would schedule a meeting with the Stakeholder Committee. The Stakeholder Committee is an advisory group to the Salinas City Council. The Committee represents a cross-section of the community, including environmentalists, engineers, planners, developers, farmers, and water resource managers. Members of the Stakeholder Committee are appointed by the Salinas mayor.

Salinas emailed the Stakeholder Committee again on April 20, 2008, to transmit Water Board staff's detailed comments on the development standards (see Attachment 2). This email is included as **Attachment 6**. Salinas then met with the Stakeholder Committee on

May 5, 2008, to discuss revisions of the development standards. (Salinas originally proposed to hold the stakeholder meeting on May 19, but some of the stakeholders preferred to meet earlier, in order to provide their input prior to Salinas submitting the revised document to the Water Board. This prevented Salinas and its consultant from completing its revisions prior to the stakeholder meeting. Stakeholder Committee member Steve Shimek of Monterey Coastkeeper later expressed frustration to Water Board staff that Salinas did not adequately consider stakeholder comments at the May 5 meeting.)

Finally, after Salinas submitted the Revised Development Standards to Water Board staff, Salinas posted the Revised Development Standards on its website on May 23, 2008. As noted earlier, the Revised Development Standards may be found at: <http://www.ci.salinas.ca.us/DevPermitSvc/Engineering.html>.

Water Board staff finds that Salinas has made a good faith effort to include the public in development standards revisions.

#### Status of Future Growth Area

The Water Board requested an update on the status of future growth in Salinas. Senior Deputy City Attorney Chris Callihan provided the following update on June 13, 2008.

#### **The Salinas Future Growth Area: The Planning Process**

On May 19, 2008, the Local Agency Formation Commission of Monterey County (LAFCO) considered and approved the City of Salinas's application for (1) a sphere of influence (SOI) amendment (the "SOI Amendment") and (2) an annexation of unincorporated Monterey County land into the City of Salinas (the "Annexation"). The SOI Amendment did nothing more than determine that the City of Salinas is the agency best positioned to provide efficient services to the people and the property in a given area. The Annexation did nothing more than to bring certain lands within the City of Salinas's corporate boundaries. No development rights or entitlements vested in any property owner or developer as a result of the Annexation. It is important to understand that even though certain lands, by virtue of the annexation, are now within the corporate boundaries of the City of Salinas no immediate development can or will occur on any of this land unless and until a thorough environmental review and planning process is completed.

Only the Annexation area is subject to being planned for development and this area (referred to herein as the Future Growth Area) has been divided into three specific planning areas: East, West, and Central. It is anticipated that specific development plans—one for each of the three specific planning areas—will be submitted to the City for its consideration during 2008 or early 2009. Again, however, no development may immediately occur solely upon or with the submittal of those specific development plans. Following their submittal, each of the three specific development plans will be made available for public review and will be reviewed and considered by City staff and by the Salinas Planning Commission and the Salinas City Council.

Consideration and approval of the specific development plans, again, will not immediately vest any developer or property owner with any development rights or authority. Accompanying each of the specific development plans will be a separate Environmental Impact Report (EIR) assessing the environmental impacts associated with the proposed developed in that specific planning area. In order to be consistent

with the City's NPDES Permit, both the specific development plans and the accompanying EIRs must include a discussion and analysis of Low Impact Development (LID) concepts to be implemented as part of the development. Accordingly, development within the Future Growth Area will include LID features as land plan design elements implemented through site-specific and project-specific design techniques.

Additionally, each specific development plan and each EIR must demonstrate consistency with the City of Salinas General Plan which has as one of its primary tenets the protection of natural resources through the principles of Smart Growth and the implementation of New Urbanism. In concert with the General Plan's Smart Growth policies, the New Urbanism component of the City's planning processes places an emphasis on compact development designs that preserve open space and reduced impacts on the environment. Each EIR will be made available for public review and will be reviewed and considered by City staff and the Salinas Planning Commission and Salinas City Council. Following final certification of the EIRs, development applications may be submitted and only after their consideration and approval by the City may development entitlements and permits be issued to developers and property owners for actual development to begin anywhere within the Future Growth Area.

The development review and approval processes described here provide plenty of opportunities for Water Board involvement. Staff is pleased that, "...specific development plans and the accompanying EIRs must include a discussion and analysis of Low Impact Development (LID) concepts to be implemented as part of the development." However, staff believes adoption of development standards is essential to ensure these future developments are planned and designed according to LID principles. Staff is anxious to see development standards approved and in place as soon as possible.

### **RECOMMENDATION**

Salinas' development standards will not be approvable by the July 11 meeting, but Salinas is progressing towards standards that will meet Permit requirements and lead to on-the-ground LID. If Salinas adequately incorporates and resolves the LID Center's comments, Water Board staff will recommend that the Board approve them at the September 2008 Board meeting.

Considering the status of the Future Growth Area, Water Board staff is motivated to get standards in place as soon as possible so these large developments will be properly designed and conditioned during Salinas' development review and approval process. Water Board staff has asked Salinas to revise the development standards based on the LID Center's comments and will ensure Salinas adequately revises the standards. Water Board staff recommends you delay consideration of the development standards and direct Water Board staff to make them available for consideration at the Water Board's regular meeting in September 2008.

**ATTACHMENTS**

1. Water Board staff comment letter re: Draft Development Standards dated April 2, 2008
2. Detailed Water Board staff comments dated April 16, 2008
3. LID Center comment memo (w/ attachment) re: Revised Development Standards, dated June 10, 2008
4. Salinas letter to Water Board staff dated April 1, 2008
5. Salinas email dated April 7, 2008
6. Salinas email dated April 20, 2008

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