



NATURAL RESOURCES DEFENSE COUNCIL

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Via Federal Express and Electronic Mail

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State Water Resources Control Board
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Re: San Luis Obispo Regional Storm Water Management Program

Dear Mr. Fujimoto, Ms. Bennett, and Ms. Bitting:

On behalf of the Natural Resources Defense Council (NRDC) and its more than 100,000 members in California and more than 1,300 members in San Luis Obispo County, we submit the following comments regarding the San Luis Obispo Regional Storm Water Management Program (SLORSWMP). NRDC thanks you for the opportunity to review and provide comments on the SLORSWMP. In accordance with procedures provided under the General Waste Discharge Requirements for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems (General Permit) and by the State Water Resources Control Board (SWRCB) electronic notification, NRDC hereby requests that a public hearing be conducted by the Central Coast Regional Water Quality Control Board (“Regional Board”) regarding the SLORSWMP.¹

¹ State Water Resources Control Board (SWRCB) Water Quality Order No. 2003-0005--DWQ, National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS00000X, Waste Discharge Requirements for Storm Water Discharges From Small Municipal Separate Storm Sewer Systems (MS4s)(General Permit) at 5; Electronic Letter from Jenny Chen, Staff, SWRCB (Oct. 14, 2004).

As discussed in this letter, its supporting documents, and the companion letter submitted by Dr. Richard Horner, Ph.D. under separate cover,² the primary reason that we are requesting a hearing is because the proposed SLORSWMP does not comply with the federally-mandated maximum extent practicable (MEP) standard and does not protect water quality standards.³ Overall, the SLORSWMP attempts to set forth the general skeletal framework for a stormwater management program. However, because of the lack of specificity and, in many instances, gaping wholes, the SLORSWMP is inadequate. This letter contains three main sections. The first section is background on the impacts of stormwater runoff, Phase II permitting, and the region. The second section contains general comments that apply to the SLORSWMP. The third section contains specific comments on the six Minimum Control Measures (MCMs) which provide only limited examples of how to improve the program. The limited examples for improvement in this letter are in no way intended to be a minimum approach in improving the SLORSWMP. Rather these examples function as guidance to the County and Regional Board on the approach that should be used to improve the SLORSWMP. Given the lack of specificity for the programs, the SLORSWMP requires a comprehensive revision that incorporates details on each program and how the goals of each program will be achieved. If this type of comprehensive revision is conducted, the SLORSWMP could become a leading program along the Central Coast.

A. Background

(1) Impacts of Polluted Stormwater Runoff

The impacts of urban stormwater runoff are many and varied. As the SLORSWMP aptly makes clear, “urban runoff is a leading cause of pollution throughout California.”⁴ Pathogens and toxic substances can be borne by runoff into our waters causing disease and economic losses from beach closures, as well as contamination of shellfish beds and fish tissue.⁵ Silt and sediment carried by runoff can destroy coastal habitats and impair the feeding of some aquatic species.⁶ Nutrients carried by stormwater runoff can cause algal blooms and hypoxic conditions

² NRDC reserves the right to submit additional comments and information pending the Regional Board's public hearing and further review of the SLORSWMP.

³ General Permit at 1.

⁴ National Pollutant Discharge Elimination System (NPDES) Phase II Storm Water Management Program County of San Luis Obispo Second Revision at 1 (citing General Permit at 1).

⁵ General Permit at 1; United States Environmental Protection Agency, *Report to Congress on the Phase II Storm Water Regulations*, I.3-I.6 (Oct. 1999).

⁶ General Permit at 1; EPA, *Report to Congress on the Phase II Storm Water Regulations* at I.3-I.6.

leading to fish kills.⁷ Stormwater from Phase II municipalities significantly contribute to the impairment of California's surface and coastal waters.⁸

One of the most significant impacts of stormwater pollution, generally, is its impact on one of the major recreational beneficial uses of coastal waters: swimming.⁹ The documented presence of human pathogens in the surf zone of local beaches degrades water quality to such an extent that it is often unsafe for human contact. These unhealthy conditions, which are not limited to times when beaches are officially closed, have been traced directly to urban runoff.¹⁰ A 1995 epidemiological study conducted by University of Southern California researchers examined the health effects of swimming near storm drain outfalls in Santa Monica Bay.¹¹ The study found that people who swam directly in front of these storm drains experienced substantially more fevers, chill, ear discharge, vomiting, and similar maladies than those who swam 100 or 400 yards away from the outlets.

Until we are able to successfully control pathogenic pollution from stormwater, swimmers and surfers will continue to get sick at California's beaches.¹² Moreover, polluted stormwater does not just make people sick. A growing number of studies indicate that stormwater discharge is acutely toxic to marine organisms.¹³

(2) San Luis Obispo Receiving Waters

San Luis Obispo County is home to a wealth of important marine ecosystems. In fact, the San Luis Obispo County website lists as the first of the "Top 10 Reasons to visit San Luis Obispo"

⁷ General Permit at 1; EPA, *Report to Congress on the Phase II Storm Water Regulations* at I.3-I.6.

⁸ See 40 C.F.R. § 123.35(b).

⁹ *State of the Bay 1998, Executive Summary*, 2 (Santa Monica Bay Restoration Project, Mar. 17, 1998); Haile, R. et al., *An Epidemiological Study of Possible Adverse Health Effects of Swimming in Santa Monica Bay*, 6 (Santa Monica: Santa Monica Bay Restoration Project, 1996).

¹⁰ Official Department of Health advisories to avoid ocean contact for 72 hours following a storm are often issued. See *Testing the Waters 2002: A Guide to Water Quality at Vacation Beaches*, 30-45, 50-53 (NRDC, 2002).

¹¹ Haile, R. et al., *An Epidemiological Study of Possible Adverse Health Effects of Swimming in Santa Monica Bay*, 6 (Santa Monica Bay Restoration Project, 1996).

¹² See General Permit at 1; Haile, R. et al., *An Epidemiological Study of Possible Adverse Health Effects of Swimming in Santa Monica Bay*, 6 (Santa Monica: Santa Monica Bay Restoration Project, 1996).

¹³ See, e.g., Gersberg, R.M., *Impact of Urban Runoff in Santa Monica Bay and Surrounding Ocean Waters* (1995); *State of the Bay 1998 Executive Summary* (Santa Monica Bay Restoration Project, Mar. 17, 1998); EPA, *Report to Congress on the Phase II Storm Water Regulations* at I.3-I.6.

Beaches for miles and miles

One hundred miles of stunning coastline awaits the visitor to San Luis Obispo County. From the dramatic shores of the northern coast (Ragged Point, San Simeon, Cambria) to dramatic Morro rock (Morro Bay, Cayucos) to the smooth diamond-white sands of the southern beaches (Oceano, Grover Beach, Pismo Beach) there is something for everyone.¹⁴

It is the natural splendor combined with the region's historical significance that attracts people to this region and drives its economy.¹⁵ However, stormwater pollution adversely impacts visitors' abilities to enjoy this area. Beaches in the county of San Luis Obispo were closed for 64 days during 2003.¹⁶ This hurts the number one industry in San Luis Obispo, tourism.¹⁷ This industry brings in more than 900 million dollars and employs more than 16,000 residents in San Luis Obispo County.¹⁸ Ensuring the health of marine life, human life, and the economy of San Luis Obispo requires strong measures to reduce stormwater pollution.

As recognized by the SLORSWMP, stormwater is discharged into many sensitive water bodies from San Luis Obispo County.¹⁹ For example, Baywood-Los Osos and Cambria discharge into Morro Bay, and Cambria discharges into Monterey Bay National Marine Sanctuary.²⁰ The Morro Bay estuary supports the most important wetland system in California's central coast region.²¹ The estuary is a 2,300 acre semi-enclosed body of water where fresh water flowing from the land mixes with salt water from Estero Bay.²² "The mixing supports a unique ecosystem containing numerous plants and animals that are not found in either totally

¹⁴ Top 10 Reasons to Visit San Luis Obispo *available at* <http://www.sanluisobispo.com/index.cfm?action=listTopTen#6>.

¹⁵ The county's economy is described as "strong." *See* San Luis Obispo County Website *available at* <http://www.sanluisobispo.com/>.

¹⁶ *See Testing the Waters 2004: A Guide to Water Quality at Vacation Beaches*, CA-30 (NRDC 2004).

¹⁷ San Luis Obispo Visitor and Conference Bureau, *available at* <http://www.sanluisobispo.com/static/index.cfm?contentID=19>.

¹⁸ San Luis Obispo Visitor and Conference Bureau, *available at* <http://www.sanluisobispo.com/static/index.cfm?contentID=19>.

¹⁹ SLORSWMP at 5.

²⁰ SLORSWMP at 5.

²¹ *Morro Bay National Estuary Program's Comprehensive Conservation & Management Plan*, 2.1 (2000), *available at* <http://www.mbnep.org/plan.htm> [hereinafter *Morro Bay*].

²² *Morro Bay* at 2.1.2.

freshwater systems or the ocean.”²³ As a result of the mixing, the estuary is vital to a rich diversity of migratory birds as well as home to a variety of species of plants and animals, including many that are rare and endangered, such as the southern sea otter.²⁴

In this connection, the southern sea otter, or California sea otter (*Enhydra lutris nereis*), is a threatened marine mammal species whose population is in decline.²⁵ In fact, the Central Coast is home to a well-documented subpopulation of sea otters, most of whom stay within the Morro Bay area year-round.²⁶ Sea otters play an important role in maintaining a healthy marine ecosystem, particularly kelp beds, by controlling the populations of herbivores, such as sea urchins, which graze on these plant communities.²⁷ Healthy kelp forests, in turn, play a crucial role in near-shore marine ecosystems, providing important juvenile habitat for fish species and altering water flow.²⁸

Recently, however, the sea otter has suffered a steady and gravely worrisome decline. Between 1995 and 1999, the California sea otter’s population declined at a rate of approximately 5% per year. The current estimate of 2,500 otters statewide reflects a population that has not grown significantly since 1994. Instead, mortality has increased, culminating in a record high mortality of 262 otters, or 10% of the population, in 2003. According to the U.S. Fish & Wildlife Service, “[t]he depressed population growth rate for the southern sea otter population is largely due to elevated mortality, as opposed to reproductive depression or emigration.”²⁹ Direct causes of mortality, and any causes that contribute to mortality, pose a serious threat to the recovery of the sea otter.³⁰

One such cause of mortality is likely being furthered by the land-based sources of pollution, which include discharges of primary-treated sewage in Morro Bay and urban runoff.

²³ *Morro Bay* at 2.1.2.

²⁴ *Morro Bay* at 2.

²⁵ U.S. Fish and Wildlife Service, Final Revised Recovery Plan for the Southern Sea Otter (*Enhydra lutris nereis*), viii (2003) [hereinafter “Revised Recovery Plan”].

²⁶ *The Sea Otter (Enhydra lutris): Behavior, Ecology, and Natural History*, Biological Report 90(14) (1990) at 54-56, 77-83 [hereinafter “The Sea Otter”].

²⁷ *The Sea Otter*, at 28-29.

²⁸ *The Sea Otter*, at 30.

²⁹ Revised Recovery Plan at viii

³⁰ See James A. Estes, et al., “Causes of Mortality in California Sea Otters During Periods of Population Growth and Decline” 19 *Marine Mammal Science* 198, 215 (January 2003) (noting that “[l]ong-term declines in pup-to-adult and adult mass-to-length ratios indicate that conditions for sea otters in California are deteriorating.”)

While California sea otter mortality has a variety of causes, including shark attacks, shootings, entanglement in fishing gear, and starvation, “the single most important known cause of mortality” among southern sea otters is infectious disease,³¹ particularly encephalitis caused by the parasite *Toxoplasma gondii*. Encephalitis affects the brains of infected animals, causing a variety of physical symptoms such as fine muscle tremors, recurrent seizures, dull mentation, and decreased or abnormal motor function. A 2003 study identified *T. gondii* encephalitis as a “primary cause of death” in 16.2% of otters surveyed.³² The same study showed that encephalitis is a major contributing factor in the death of sea otters from both shark attack and cardiac disease: sea otters with *T. gondii* encephalitis were 3.9 times more likely to die of shark attack and 2.9 times more likely to suffer from cardiac disease. Finally, *T. gondii* encephalitis may have other population-level effects on sea otters, as infection is associated with serious birth defects and high levels of miscarriages in both terrestrial animals and humans.³³

The discharge of waste into ocean waters is highly correlated with the occurrence of this pathogen. *T. gondii* is spread through the consumption of infected animals or through the consumption of “oocysts” in the feces of infected animals. While a large variety of species (including humans) are capable of being infected with *T. gondii*, “the only animal known to shed oocysts in their feces are felids, most importantly domestic cats.”³⁴ Although terrestrial in origin, there is “compelling evidence” of marine dispersal of *T. gondii*, not only from the widespread infection of sea otters, but also from infections found in other marine mammals, including cetaceans and pinnipeds.³⁵ Scientists generally agree that “[t]he most plausible explanation for the high number of southern sea otters infected by *T. gondii* off the coast of California is exposure to oocysts that are shed by felids and reach the ocean through streams, urban runoff and/or sewage effluent.”³⁶ Studies have shown a statistically significant correlation between cites of maximal freshwater flow along the California coast and *T. gondii* infection rates among California sea otters.³⁷ Indeed, “[o]tters sampled at these maximal flow sites were nearly three times more likely to be seropositive to *T. gondii* than those sampled at low flow sites.” This

³¹ Revised Recovery Plan at viii.

³² C. Kreuder, et al., “Patterns of Mortality in Southern Sea Otters (*Enhydra Lutris Nereis*) from 1998-2001,” 39(3) *Journal of Wildlife Diseases* 495, 499 (2003).

³³ Kreuder et al, at 504

³⁴ Miller, et al. 2002 at 997-98.

³⁵ Miller, et al. 2002 at 998.

³⁶ Arkush, et al., “Molecular and bioassay-based detection of *Toxoplasma gondii* oocyst uptake by mussels (*Mytilus galloprovincialis*),” 33 *International Journal for Parasitology* 1087, 1088 (2003).

³⁷ Miller et al, 2002 at 1002, 1004.

association “provides compelling evidence implicating land-based surface runoff as a source of *T. gondii* infection for sea otters.”³⁸

Significant evidence implicates stormwater runoff, in particular, as a source of *T. Gondii* infection among California sea otters. The Central Coast, especially Morro Bay, is a hot spot for *T. gondii* infection of sea otters. Eighty-seven percent of sea otters tested in the Morro Bay area were seropositive for *T. gondii*.³⁹ California sea otters living in the area of Morro Bay “are nine times more likely to have toxoplasmosis than sea otters elsewhere in their range.”⁴⁰ Morro Bay sea otters were also more likely to be infected with a rare strain of *T. gondii*,⁴¹ a further indication of unique factors affecting this group of otters.

The Monterey Bay National Marine Sanctuary is also of great importance to the San Luis Obispo Region. Stretching along the coast for 276 miles from Marin to Cambria, it supports one of the world's most diverse marine ecosystems.⁴² This area includes the nation's largest kelp forest, 33 species of marine mammals, 94 species of seabirds, and 345 species of fish.⁴³ As such, an effective SLORSWMP works to protect these natural resources.

(3) Legal Requirements

Because of the serious threats imposed by stormwater runoff, Congress amended the Clean Water Act in 1987 with a phased schedule for developing stormwater permitting regulations.⁴⁴ As part of “Phase I” of the stormwater permitting program, Congress required municipalities which operate a “separate storm sewer system” serving a community of over 100,000 persons to apply for a discharge permit. “Phase II” requires stormwater plans for smaller communities, as well as construction and industrial sources.

In 2003, the SWRCB developed California's General Permit. To obtain coverage under the General Permit, the operator of a regulated small MS4 must submit a Notice of Intent to

³⁸ Miller et al, 2002 at 1004.

³⁹ Miller, et al., “Coastal freshwater runoff is a risk factor for *toxoplasma gondii* infection of southern sea otters (*Enhydra lutris nereis*),” 17 International Journal for Parasitology 997, 1001 (2002)

⁴⁰ David A. Jessup, “Good Medicine for Conservation Biology: Comments, Corrections, and Connections,” 17 Conservation Biology 921, 922 (June 2003).

⁴¹ Miller, et al, “An unusual genotype of *Toxoplasma gondii* is common in California sea otters (*Enhydra lutris nereis*) and is a cause of mortality,” 34 International Journal for Parasitology, p. 275-284 (2004)

⁴² Monterey Bay National Marine Sanctuary, at <http://montereybay.noaa.gov>.

⁴³ Monterey Bay National Marine Sanctuary, at <http://montereybay.noaa.gov>.

⁴⁴ 33 U.S.C. § 1342.

comply with the terms of the General Permit, a Storm Water Management Program (SWMP), and a fee. The substantive requirements of the General Permit for Storm Water Management Programs closely mirror the requirements established by the federal regulations.⁴⁵

Of these, the fundamental requirement for these programs is that they shall be “designed to reduce the discharge of pollutants...to the Maximum Extent Practicable (MEP) and to protect water quality;” shall assure that discharge prohibitions are met, including the requirement to effectively prohibit non-stormwater discharges; and shall further assure compliance with receiving water limitations (once plans are implemented).⁴⁶ Consequently, the question whether the SLORSWMP should be approved revolves around whether the elements of the program will cumulatively reduce pollutants to the MEP; will effectively comply with discharge prohibitions; and will result in compliance with receiving water limits.

In furtherance of the MEP standard, and so as to attain these other requirements, the program must address six Minimum Control Measures (MCMs): (1) Public Education and Outreach on Storm Water Impacts; (2) Public Involvement/Participation; (3) Illicit Discharge Detection and Elimination; (4) Construction Site Storm Water Runoff Control; (5) Post-construction Storm Water Management in New Development and Redevelopment; and (6) Pollution Prevention/Good Housekeeping for Municipal Operations.⁴⁷ The program must contain Best Management Practices (BMPs) that will address these measures. In addition, the General Permit contains supplemental requirements for “[t]hose regulated traditional and non-traditional Small MS4s serving a population over 50,000 or that are subject to high growth (at least 25 percent over ten years)...”⁴⁸ As recognized in the SLORSWMP, the supplemental requirements are applicable to the County of San Luis Obispo and related entities.

B. General Comments

The plan submitted by the participating entities needs significant work in order to effectively address the stormwater pollution problem in San Luis Obispo County. The General Permit makes clear that “[t]he Permittee shall maintain, implement and enforce an effective SWMP, designed to reduce the discharge of pollutants from the permitted MS4 to MEP and to protect water quality standards.”⁴⁹ The SLORSWMP is not effective in its current state and will

⁴⁵ 40 C.F.R. 122.34.

⁴⁶ 40 C.F.R. 122.34(a); *see also* State Water Resources Control Board (SWRCB) Water Quality Order No. 2003-0005--DWQ, National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS00000X, Waste Discharge Requirements for Storm Water Discharges From Small Municipal Separate Storm Sewer Systems (MS4s), Application Requirements at D.1.

⁴⁷ General Permit at D.2.

⁴⁸ General Permit at E.2.

⁴⁹ General Permit at 8.

neither effectively reduce pollutants to MEP nor adequately protect water quality standards. Generally, the BMPs are vague and deficient. The SLORSWMP outlines the requirements of the General Permit, but it fails to advance adequate implementation measures. The law and the General Permit require more than simply laying out the requirements without effective BMPs and measurable goals. This comment letter will discuss the basic infirmities in the SLORSWMP and provide limited examples of how it must be improved.

- (1) The SLORSWMP Lacks Clarity as to the Integration of the County and its Seven Incorporated Cities.

The SLORSWMP does not clearly describe how stormwater management efforts between the County, unincorporated cities, incorporated cities, and community service districts will take place. Nor does it describe what responsibilities each incorporated city has for program implementation. In its current state, the program creates no substantive requirements for the participating cities. This is a fatal flaw which, alone, renders the SLORSWMP inadequate.

The SLORSWMP indicates, “[a]lthough other local agencies including cities and special districts, have responsibilities for their jurisdictions, the County has been, and will continue, working with these agencies for the mutual benefit of all.”⁵⁰ How are the municipalities planning on working together? Will the other cities/entities submit their own SWMP? How will it relate to the SLORSWMP? Because stormwater management requires coordination and integration amongst municipalities within a given watershed, a piecemeal approach will be ineffective.

The SLORSWMP also indicates that it covers unincorporated portions of Baywood-Los Osos, San Luis Obispo urban fringe, Nipomo, Atascadero/Paso Robles urban fringe (including Templeton, Santa Margarita, and Golden Farms), Cambria, and Oceano (participating entities or applicants). How will the SWMP requirements for the unincorporated portions of these cities differ from the incorporated portions? How will the requirements be integrated for incorporated and unincorporated areas?

In this connection, the County of San Luis Obispo and neighboring municipalities must take a more integrated approach by submitting a single SWMP, imposing requirements for entities in the entire region for several reasons. First, it makes little sense to have unincorporated portions of certain cities subject to one set of requirements while the incorporated portions are subject to another set of requirements. Second, integrating the efforts is imminently more efficient. The San Luis Obispo region consists of one MS4 that includes a highly interconnected hydrological system. In addition, the SLO County Partners for Water Quality realized that an integrative approach was “more cost effective and efficient to develop and implement a Storm Water Pollution Prevention (SWP2) Public Education and Outreach Plan on a regional basis

⁵⁰ SLORSWMP at i.

rather than as individual agencies.”⁵¹ This approach to the public education program is applicable to the entire SWMP. The SLORSWMP needs to integrate its approach for all of the MCMs. Third, other entities such as Los Angeles County and San Diego County have taken an integrated approach.⁵² We suggest that the County take the advice of the General Permit and examine these permits for Phase I cities for guidance on this issue.⁵³

Fourth, San Luis Obispo County is an area experiencing tremendous growth. The County has a projected growth rate of 29.3% in this decade, which is similar to many Phase I cities.⁵⁴ The General Permit anticipates that Nipomo is subject to the supplemental provisions of attachment 4.⁵⁵ As such, it makes little sense to have differing requirements for different areas based on whether they are incorporated or if they are within the jurisdiction of different municipalities if they are within the same watershed. Equally important, the San Luis Obispo region can utilize its SWMP to protect its coastal waters from pollutants discharging from massive impervious surfaces resulting from new development by implementing effective stormwater BMPs uniformly throughout the region.

Fifth, rigorous integrated stormwater measures are not only necessary for municipalities of San Luis Obispo's sizes and other cities and areas covered under the General Permit, they are feasible as well. Many smaller cities throughout California have been operating under Phase I permits, including: Alameda (Region 2), Camarillo (Region 4), Banning (Region 7), Beaumont (Region 8), and Lynwood (Region 9).⁵⁶ The fact that these areas have been operating under Phase I permitting rules demonstrates that small cities are no less able to implement strong programs. There is no logical reason why Beaumont, a Phase I city with a population of just over 11,000, should be held to a stricter standard than the participating entities, several of which

⁵¹ *SLORSWMP* at Appendix C.

⁵² *See, e.g.*, California Regional Water Quality Control Board Los Angeles Region, Order No. 01-182, NPDES No. CAS004001, Waste Discharge Requirements for Municipal Storm Water Runoff Discharges within the County of Los Angeles, 1 (December 13, 2001) [Los Angeles Municipal Stormwater Permit]; California Regional Water Quality Control Board San Diego Region, Order No. 2001-01, NPDES No. CAS0108758, Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County of San Diego, the Incorporated Cities of San Diego County, and the San Diego Unified Port District [San Diego Municipal Storm Water Permit].

⁵³ General Permit at 9.

⁵⁴ California Institute of Governments Projected Growth for San Luis Obispo County, *available at* http://www.cicg.org/publications/profiles/san_luis_obispo_county.pdf.

⁵⁵ General Permit at Attachment 5.

⁵⁶ *Compare* San Luis Obispo County population 246,281, City of San Luis Obispo population 44,174, and Nipomo population 12,626 to Camarillo population 57,077, Banning population 23,562, Beaumont population 11,384. Census 2002 *available at* <http://factfinder.census.gov/servlet/SAFFacts?sse=on>.

have populations twice or three times its size. In this connection, the economics of municipalities in the San Luis Obispo region parallel or surpass the economics of some Phase I cities.⁵⁷ These comparable population and economic statistics support the need to improve and strengthen the integration of stormwater controls and measures in the SLORSWMP.

- (2) A Central Requirement of the SLORSWMP Is to Reduce Stormwater Discharges to MEP.

The SLORSWMP asserts: "U.S. EPA and the SWRCB have determined that a SWMP will be considered to reduce pollutants to the 'maximum extent practicable' (MEP) if it fulfills the following MCMs: 1) Public Education and Outreach; 2) Public Participation and Involvement; 3) Illicit Discharge Detection and Elimination; 4) Construction Site Runoff Control; 5) Post-Construction Storm Water Management; and 6) Pollution Prevention/Good Housekeeping for Municipal Operators."⁵⁸ Although BMPs must be used to address the six MCMs, the more fundamental purpose of a stormwater management program is to "reduce the discharge of pollutants from the permitted MS4 to MEP to protect water quality" and to meet water quality standards. The SLORSWMP notes that "[t]he NPDES Phase II Final Rule and the MS4 General Permit mandate that regulated entities develop and implement SWMPs to reduce stormwater pollutants to receiving waters to the 'maximum extent practicable."⁵⁹ This policy statement must also include that SWMPs must reduce pollutants to MEP and comply with receiving water limitations. This second part, which is not in the policy statement, is a crucial element to an effective stormwater management plan. The SLORSWMP's failure to include this is a flaw that must be fixed.

The EPA model permit sets forth specific requirements that permittees must follow to satisfy the MEP standard. Furthermore, the definition of MEP from other MS4 permits illustrates the relationship between MEP and BMPs:

MEP means the standards for implementation of stormwater management programs to reduce pollutants in stormwater. CWA section 402(p)(3)(B)(iii) requires that municipal permits "shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other

⁵⁷ Compare County of San Luis Obispo 2004-2005 budget of \$374,100,000, City of San Luis Obispo 2003-2004 budget of \$71,996,000 to City of Alameda 2003 budget of \$35,540,000, Camarillo 2003 budget of \$36,339,495. http://www.co.slo.ca.us/Administrative_Office_Inter.nsf/04-05%20budget_Budget%20index.htm?OpenPage&charset=windows-1252; <http://www.ci.san-luis-obispo.ca.us/citybudget.asp>; <http://www.ci.alameda.ca.us/pdf/cafr2003.pdf>; <http://www.ci.camarillo.ca.us/pdfdocs/CAFR.pdf>.

⁵⁸ SLORSWMP at 3.

⁵⁹ SLORSWMP at i.

provisions as the Administrator or the State determines appropriate for the control of such pollutants.” Specifically, municipalities must choose effective BMPs, and reject applicable BMPs only where other effective BMPs will serve the same purpose.⁶⁰

Measurable goals should be designed to determine the effectiveness of BMPs at reducing stormwater pollution and addressing the six MCMs. In this respect, the general goals and approaches of an environmental management plan include well-defined and detailed procedures, quantifiable goals and requirements, measurable objectives, active documented programs, and management review and reporting.⁶¹

(3) The SLORSWMP Needs to be More Specific and Include More BMPs.

The dominant theme throughout our comments addressing the six MCMs is an utter lack of specificity in this stormwater management plan. Specificity is crucial because it will allow San Luis Obispo County to measure the success of the stormwater management plan and allow the Regional Water Board to determine whether the plan can be approved consistent with guiding legal authority. In addition, it will aid in the transformation from paper to real-world application. With a more specific stormwater management program, employees, regulators, and the public will be able to effectively implement it. The General Permit reiterates the requirement that a “SWMP must describe how pollutants in stormwater runoff will be controlled and describe BMPs that address the six Minimum Control Measures.”⁶² The SLORSWMP does not provide adequate description of how the pollutants will be controlled, and the BMPs lack effective implementation and measurable goals to address the MCMs.

(4) The SLORSWMP Needs to Include More Aggressive Target Dates.

The severity of problems associated with stormwater require more aggressive target dates. The deadlines assigned based on the Regional Board’s request are too delayed considering that many programs could be developed and implemented in half the time currently allotted.⁶³ These target dates must be modified to result in a more effective stormwater

⁶⁰ California Regional Water Quality Control Board Santa Ana Region, National Pollutant Discharge Elimination System (NPDES) Permit and Waste Discharge Requirements, NPDES No. CAS618036, Order No. R8-2002-0012, for the San Bernardino County Flood Control District, the County of San Bernardino, and the Incorporated Cities of San Bernardino County within the Santa Ana Region, Area-Wide Urban Storm Water Runoff [San Bernardino County Municipal NPDES Storm Water Permit]; San Diego Municipal Storm Water Permit; Los Angeles Municipal Stormwater Permit.

⁶¹ See United States Environmental Protection Agency, Environmental Management System, *available at* www.epa.gov/performancetrack/programs/ems.htm.

⁶² General Permit at 7.

⁶³ SLORSWMP at 2.

management program. Otherwise, please explain and justify the basis for the target dates for each program.

C. Specific Comments on the Six Minimum Control Measures

The following comments specifically address the six MCMs. However, by supplying the limited examples below for the six MCMs, we do not mean to imply that the SLORSWMP should contain only these specific provisions or be improved only in the suggested ways. Instead, we seek to illustrate the types of improvements that are required. Ideally, participating entities tailor the program to fit the needs of their unique situation, as detailed in the General Permit and the Phase II stormwater regulations. Much of the specificity needs to be filled in by the County. This requires that the County comprehensively review each BMP and measurable goal in each MCM to provide specificity to this overly generalized program. Nevertheless, whichever programs the SLORSWMP includes, it must comply with the MEP standard and meet water quality standards.

(1) Public Education and Outreach

The Public Education and Outreach section needs improvement in order to meet the MEP standard and protect water quality standards. This section lacks sufficient details in the BMPs and measurable goals. Without specificity, the program will not comply with the law. Public Education programs are inexpensive and easy to set up. The SLORSWMP must focus its efforts on the most significant sources of pollutants, as discussed below, and it needs to actually contain, specific, measurable goals. For example, the SLORSWMP should be modified in the following ways:

First, this program fails to target specific audiences because the BMPs and Measurable Goals are too general. The Public Education and Outreach section focuses on public education in terms of schools to some extent, but fails to provide any details for other target audiences. EPA recommends “[d]irecting materials or outreach programs toward specific groups of commercial, industrial, and institutional entities likely to have significant stormwater impacts.” However, the SLORSWMP identifies only four major target audiences (Homeowners, Construction industry, Commercial businesses, and School age children and young adults). It is helpful to have a chart detailing target audiences, but Appendix C and the main text of the permit fail to provide many substantive requirements. As an example, BMP# 6 makes it a goal to reach out to various specific groups by distributing printed materials on various topics (household hazardous wastes, pet waste management, auto maintenance, etc...) to many of the identified target audiences. The program needs to be enhanced by describing what type of “reach out” materials will be used and who specifically in the targeted audiences, they will be reaching out. The SLORSWMP must include more specificity about how the County and other interested entities will target the identified audiences. This is especially important for targeting commercial businesses and homeowners because these groups are almost completely left out of the program.

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Also, the SLORSWMP must tie the construction industry educational measures in the latter MCMs into the Public Education and Outreach measures to comply with the MEP standard.⁶⁴

By contrast, the San Diego SWMP has six main audiences and stake holders:
city staff,
governmental agencies (planning groups, town councils, and advisory panels)
construction site owners and developers
industrial owners and operators
commercial owners and operators
residential community, general public and school children⁶⁵

These six categories are then identified into specific subcategories. For example, the “Residential Community, General Public and School Children” category is divided into “Local Community Based Interest Groups, Organizations associated with tourism and transportation, Homeowners Associations, Print and Broadcast Media, Ethnic Organizations, Higher Education Institutions and School Districts, Local Youth Groups and Leagues, Local Private Schools, Civic and Social Organizations (Rotary, Lions, etc.) Senior Centers and Organizations.” Further detail is added by identifying which City departments will undertake outreach programs for the specific audiences. This is just one example to illustrate how the SLORSWMP can add detail to this program.

Second, the Public Education and Outreach section needs more specificity with respect to Message Strategy and Specific Education Strategies. Message strategies include more analysis of Information and Audiences, Demographic Composition, Survey of Common Perception, and Initial Program Messages, Tailoring Core Messages.⁶⁶ Specific education strategies include methods of education (training videos, workshops, activity specific BMP training, newsletters, flyers, BMP manuals, bumper stickers, hotlines, watershed signs, special events, etc.), media relations, partnerships, government relations.⁶⁷ It is entirely unclear what, exactly, constitutes the minimal acceptable effort and result under the proposed educational program.

Third, the Public Education and Outreach section needs a more aggressive implementation schedule. The severity of stormwater pollution requires quick action on the educational program. For example, BMP#2 needs to require that the County cover each school

⁶⁴ United States Environmental Protection Agency, Storm Water Phase II Final Rule: Public Education and Outreach Minimum Control Measure, EPA Publication No. 833-F00-005 (January 2000), *available at* <http://www.epa.gov/npdes/pubs/fact2-3.pdf>.

⁶⁵ City of San Diego Storm Water Pollution Prevention Program, 1.2-3 [hereinafter San Diego SWMP].

⁶⁶ San Diego SWMP at 1.2-8

⁶⁷ Sand Diego SWMP at 1.2-15.

every two years. Also, the SLORSWMP must address education about pet waste in a more expeditious manner.

(2) Public Participation and Involvement

The General Permit requires a public involvement program in the stormwater permits. The SLORSWMP lacks detail in its BMPs and Measurable Goals for this section as well. This MCM needs to contain more BMPs, and the already existing BMPs need to be accomplished more expeditiously. For example, more detailed descriptions of the following are needed:

First, more BMPs are required for this MCM. The SLORSWMP contains only a few of the possible BMPs outlined by the EPA for public participation and involvement.⁶⁸ Programs such as storm drain marking, community stream clean-up, and volunteer water quality monitoring are all important programs. However, the EPA provides an enhanced menu of BMPs that are needed for this program to meet the MEP standard and meet water quality standards.⁶⁹ For example, the program should include wetlands plantings and reforestation programs as a means to enhance public participation.⁷⁰ These are inexpensive ways to reduce the harmful effects of stormwater runoff.⁷¹ Also, these methods have a proven track record of engaging and effectively involving the public in resolving stormwater pollution problems.

The EPA's menu for public participation BMPs also includes watershed organizations, stakeholder meetings, attitude surveys, and community hotlines. The SLORSWMP includes a stakeholder provision. However, it must include these other three BMPs, amongst others, to increase public participation in fighting the negative effects of stormwater pollution.

Second, the public education and outreach target dates must be accelerated. For example, BMP #11 (Storm Drain Marking/Stenciling Program) needs to collapse the first two measurable goals into Year 1. The SLORSWMP must attempt to mark a greater percentage of storm drains each year as well. Since community groups will be involved in marking the storm drains,

⁶⁸ United States Environmental Protection Agency, Storm Water Phase II Final Rule: Public Participation/Involvement Minimum Control Measure, EPA Publication No. 833-F-00-006 (January 2000), available at <http://www.epa.gov/npdes/pubs/fact2-4.pdf>.

⁶⁹ United States Environmental Protection, National Menu of Best Management Practices for Stormwater Phase II, available at http://cfpub.epa.gov/npdes/stormwater/menuofbmps/bmp_files.cfm.

⁷⁰ United States Environmental Protection, National Menu of Best Management Practices for Stormwater Phase II, available at http://cfpub.epa.gov/npdes/stormwater/menuofbmps/bmp_files.cfm. This document contains guidance on how to implement each of these programs. See, e.g., *Id* at 16-19 (Reforestation Programs), 20-24 (Wetlands Plantings).

⁷¹ United States Environmental Protection, National Menu of Best Management Practices for Stormwater Phase II at 18, 24 available at http://cfpub.epa.gov/npdes/stormwater/menuofbmps/bmp_files.cfm.

increasing the percentage will not strain the resources of the participating entities. These efforts to accelerate the target dates are needed throughout this section.

(3) Illicit Discharge Detection and Elimination

The MCMs for preventing and detecting illicit discharges are crucial to a good stormwater management plan because “pollutant levels from these illicit discharges have been shown in EPA studies to be high enough to significantly degrade receiving water quality and threaten aquatic, wildlife, and human health.”⁷² The SLORSWMP lacks a sufficient level of detail in its BMPs and Measurable Goals. The whole inadequacy of this section requires that we simply list various BMPs that need to be improved and how that can be done. This list is by no means exhaustive and only provides an example of necessary modifications.

First, BMP#12: Adopt an ordinance prohibiting illicit discharges. Ordinances are effective means of providing authority to reduce stormwater pollution. This BMP only outlines the general policy in support of an ordinance and only provides a vague description of how it will accomplish this goal. For example, the BMP provides that the “County will review existing ordinances and identify revisions needed to enforce prohibitions against illicit discharge.”⁷³ This fails to identify exactly what an ordinance should contain, and what authority the County needs for an effective stormwater management program. These issues must be clearly outlined. A model ordinance must be included to provide this detail. This allows for a greater level of specificity in this management practice and would ensure greater consistency between the goals articulated in SLORSWMP and the final ordinance. For the measurable goal 12-2, the SLORSWMP must include a public review process for the ordinance before it reaches its final form. This accomplishes numerous goals, including greater involvement by the public and creating an ordinance tailored to the specific needs of the citizens of San Luis Obispo. Moreover, the last sentence of the BMP states, “[t]he County will educate county employees, business, and the general public about storm water pollution from illicit discharges and illegal dumping to the storm sewer system to support compliance.” This last sentence is its own BMP, and it should be set out separately. Further, the County wholly failed to include how it intends to meet this goal. Also, the Measurable Goals section for BMP#12 does not include any target dates for meeting this goal of educating county employees, businesses, and the general public.

Second, BMP#13: Implement a Storm Sewer System Mapping Program. Mapping provides important information essential to addressing the stormwater pollution problem. This BMP has the correct substance, but in order to be effective the pace must be accelerated. Under the SLORSWMP, it will take five years to map the entire county operated storm sewer system. The EPA Fact Sheet on Illicit Discharge Detection and Elimination MCM contains a sample

⁷² United States Environmental Protection Agency, Storm Water Phase II Final Rule: Illicit Discharge Detection and Elimination Minimum Control Measure, EPA Publication No. 833-F-00-007 (January 2000), available at <http://www.epa.gov/npdes/pubs/fact2-5.pdf>.

⁷³ SLORSWMP at 32.

measurable goals rubric that includes completing a sewer system map in Year 1.⁷⁴ Mapping the sewer system provides the foundation for many other parts of this stormwater management plan and must be finished as expeditiously as possible.

Third, BMP#15: Post signs prohibiting illegal dumping in areas experiencing large amounts of illegal dumping. Posting signs to prevent illegal dumping in high activity areas is crucial, and this provision would effectively create a plan with measurable goals if it went on to discuss which areas are covered and when the signs will be posted. Moreover, the last sentence generally states, “the County will educate the public and county employees about prohibitions outlawing illegal dumping.”⁷⁵ This last sentence is its own BMP and should be set forth as such. What, however, the County will do to meet this goal is entirely left unspecified. Also, there are no target dates for this integral educational effort in the Measurable Goals section for BMP#15. To enhance the specificity of the SLORSWMP, it is important to develop specifics and implementation deadlines about this public and county employee educational effort. These are just limited examples of how the program could be improved.

Fourth, BMP # 18: Provide a Stormwater Pollution Prevention Hotline for the public to use to report illicit discharges. This BMP lacks details like how the public will find out about the hotline and how the hotline will address the reports of illicit discharges. Further, this hotline provision does not provide an adequate coverage area. This BMP needs to be integrated with a hotline in the Public Participation and Involvement MCM. Since, the SLORSWMP will create a hotline for detection and elimination of illicit discharges, it will not be hard to utilize the hotline infrastructure for other MCMs. Enhancing the scope of the hotline must be specifically written into the SLORSWMP with actual measurable goals.

(4) Construction Site Runoff

This MCM is wholly inadequate and needs great improvement. The program lacks specificity in its BMPs and Measurable Goals, and it fails to include requirements clearly outlined in the General Permit. As such, a comprehensive modification of this program is needed. For example, means of improving the program include, but are not limited to:

First, the BMPs addressing construction site runoff do not include mechanisms to receive public information on construction activities and stormwater. The General Permit explicitly requires these mechanisms for receiving information from the public.⁷⁶ Without this provision,

⁷⁴ United States Environmental Protection Agency, Storm Water Phase II Final Rule: Illicit Discharge Detection and Elimination Minimum Control Measure, EPA Publication No. 833-F-00-007 (January 2000), available at <http://www.epa.gov/npdes/pubs/fact2-5.pdf>.

⁷⁵ SLORSWMP at 34.

⁷⁶ General Permit at 11.

the SLORSWMP does not comply with the General Permit. Further, a specific provision will enhance the public participation requirements MCM of this stormwater management program.⁷⁷

Second, the BMPs lack specificity. For example, BMP#19 provides a plan to educate the construction industry.⁷⁸ The BMP and Measurable Goals do not describe how and when this information will be disbursed. Further, there is no description of the means used to educate the construction industry about reducing stormwater impacts on water quality.

As another example, BMP#20 requires revision of land use ordinances. The BMP does not detail how much revision is needed and what types of problems these revisions will solve. This BMP needs a model ordinance to make it more specific as well. This will aid in the transformation of the SLORSWMP into actual implementation practices.

Also, BMP#21 states that “[t]he County will create a procedure for reviewing construction site plans.”⁷⁹ This language lacks details, which would create certainty in the goals of the program and the ability to have actual measurable goals. The SLORSWMP must contain specific procedures and enforcement control measures. There must be timetables and guidelines about when, how, and why these reviews will be undertaken.

Third, this section is wholly inadequate because of huge holes in its BMPs to address this extremely important MCM. This lack of BMPs and presence of inadequate BMPs results in noncompliance with federal law because the program will not be able to effectively reduce stormwater pollution from construction sources. The EPA's National Menu of Best Management Practices for NPDES Storm Water Phase II provides an invaluable source for specific BMPs that combat construction runoff.⁸⁰ For example, the National Menu contains options for sanctions including fines, bonding, nonmonetary penalties, and/or permit denials for lack of compliance.⁸¹ This same document contains suggestions for site plan review and site inspection and enforcement control measures. The Los Angeles County Municipal Stormwater Permit and the Standard Urban Stormwater Management Plan (SUSMP) provide additional models for a

⁷⁷ United States Environmental Protection Agency, Storm Water Phase II Final Rule: Construction Site Runoff Control Minimum Control Measure, EPA Publication No. 833-F-00-008 (January 2000), *available at* <http://www.epa.gov/npdes/pubs/fact2-5.pdf>.

⁷⁸ SLORSWMP at 36.

⁷⁹ SLORSWMP at 37.

⁸⁰ United States Environmental Protection, National Menu of Best Management Practices for Stormwater Phase II, Chapter 4, *available at* http://cfpub.epa.gov/npdes/stormwater/menuofbmps/bmp_files.cfm.

⁸¹ United States Environmental Protection, National Menu of Best Management Practices for Stormwater Phase II, Chapter 4 at 1, *available at* http://cfpub.epa.gov/npdes/stormwater/menuofbmps/bmp_files.cfm.

comprehensive construction site program, including a specific policy statement,⁸² inspection frequencies, formal planning requirements for larger construction sites, and explicit design review and approval criteria.

As mentioned above, these suggestions simply serve as examples of where the SLORSWMP need to be improved to comply with the law by addressing the Construction Site Runoff MCM. The high growth rate in San Luis Obispo County make this MCM extremely important, and the lack of specificity in the existing BMPs and the failure to include enough BMPs really hinders the SLORSWMP's effectiveness. Thus, it does not comply with federal law. In order to protect its receiving waters, the County must utilize the General Permit's advice of learning from the experiences of Phase I communities.⁸³ Examining the National Menu, the Los Angeles County Municipal Stormwater Permit, the SUSMP, and other sources that will provide effective examples of BMPs and measurable goals is needed to transform this MCM to comply with federal law.

(5) Post-Construction Storm Water Management

As with the Construction MCM, this MCM is wholly inadequate because it lacks specificity in its BMPs and Measurable Goals. Critically, a strong Post-Construction Stormwater Management program is particularly important to San Luis Obispo given its increasing growth rate and the development associated with that growth. An effective Post-Construction Stormwater Program can allow for growth while protecting the Central Coast's water resources in a cost-effective manner. Limited examples of modifications to this program include, among others:

First, the SLORSWMP correctly denotes that it falls under requirements of Supplemental Provision E in the Attachment 4 of the General Permit because the County population exceeds 50,000. However, the SLORSWMP fails to include specifics about the requirements of Attachment 4 of the General Permit and how the SLORSWMP intends to ensure that discharges do not cause or contribute to a violation of an applicable water quality standard.

Second, the General Permit requires the implementation of strategies, "which include a combination of structural and/or nonstructural BMPs appropriate for the community."⁸⁴ The SLORSWMP includes a few non-structural BMPs including zoning and sprawl reduction, but it needs more. It must include more non-structural and structural BMPs, which are wholly lacking from the program. EPA's Menu of BMPs contains a list of more than two pages with various

⁸² Los Angeles Municipal Stormwater Permit at 42-43; Los Angeles County SUSMP at 1-25.

⁸³ General Permit at 9.

⁸⁴ General Permit at 11.

BMPs that mitigate the impacts from post construction development.⁸⁵ The SLORSWMP must include more of these measures with specifics about the method and timeframe of implementation. Otherwise, the program will not effectively reduce stormwater pollution.

Third, the SLORSWMP must include Standard Urban Storm Water Mitigation Plans (SUSMPs).⁸⁶ SUSMPs were developed to address stormwater pollution from new development and redevelopment because they are major sources of pollution. In the Los Angeles County MS4 Permit, all projects that fell into one of the following seven categories required SUSMPs:

- 1) Single-Family Hillside Residences;
- 2) Ten or more unit homes (including single family homes, multifamily homes, condominiums, and apartments);
- 3) 100,000 Square Foot Commercial Developments;
- 4) Automotive Service Facilities;
- 5) Retail Gasoline Outlets;
- 6) Restaurants;
- 7) Parking lots 5,000 square feet or more of surface area or with 25 or more parking spaces; and
- 8) Redevelopment projects in subject categories that meet Redevelopment thresholds.⁸⁷

Further, the Los Angeles Permit outlines a minimum set of BMPs that are required to be used for a designated project. As an example, each permittee is required to amend codes and ordinances to require that single-family hillside homes must:

- 1) Conserve natural areas;
- 2) Protect slopes and channels;
- 3) Provide storm drain system stenciling and signage;
- 4) Divert Roof runoff to vegetated areas before discharge unless the diversion would result in slope instability; and
- 5) Direct surface flow to vegetated areas before discharge unless the diversion would result in slope instability.⁸⁸

Utilization of design standards, such as SUSMPs, is key because it is an effective way to combat stormwater pollution. However, because of the inadequacy of the current program, the County

⁸⁵ United States Environmental Protection, National Menu of Best Management Practices for Stormwater Phase II, Chapter 5 at 1-3, *available at* http://cfpub.epa.gov/npdes/stormwater/menuofbmps/bmp_files.cfm.

⁸⁶ *See, e.g.*, Los Angeles County Permit at 35; *see also* San Diego County Permit at 15.

⁸⁷ Los Angeles County Permit at 35-36.

⁸⁸ Los Angeles County Permit at 35-36.

must comprehensively revise the program to add specific details and BMPs for the various components.

(6) Pollution Prevention and Good Housekeeping for Municipal Ordinances

Again, this MCM is completely lacking in specificity in its BMPs and Measurable Goals and target dates need to be accelerated. Limited examples of improving this program, among others, include:

First, the program needs more aggressive target dates. For example, BMP#28 needs a more rapid implementation schedule. Under the current implementation schedule, it will take four years to train County employees. County employees are extremely important in efforts to fight stormwater pollution, thus requiring that the County train their personnel faster. This task could easily be completed in half that time. The implementation schedule for BMP#29 must also be accelerated. More storm drains must be cleaned per year to have an effective program. These are just two examples where the target dates should be accelerated. This MCM is replete with other measurable goals that are drawn out and must be amended to comply with the law.

Second, lack of specificity is another integral place for improvement. For example, BMP#35 requires more specificity in order to transform it into a BMP envisioned by federal law and the General Permit. The Measurable Goal 35-4 uses the term “periodically.”⁸⁹ The SLORSWMP must have greater detail as to how many times facilities will be audited and which facilities will be targeted. There must be a quantifiable measurable goal with exact numbers of audits and schedules for completion of these audits. Without these specifics, the County will not be able to truly assess the value of the program.

Third, this MCM lacks a crucial element. The EPA advises that there be “ways to ensure that new flood management projects assess the impacts on water quality and examine existing projects for incorporating additional water quality protection devices or practices.”⁹⁰ The BMPs in this MCM examine existing projects, but do not ensure that new flood management projects assess the impacts on water quality. The closest that the SLORSWMP comes to addressing these future projects is in BMP#28. However, this is simply an educational program for employees of the government. Although educational efforts are an important component of pollution prevention, the SLORSWMP must include specific, concrete practices and programs that will ensure that future projects account for stormwater impacts.⁹¹ This is especially relevant considering the high growth rate for San Luis Obispo County.

⁸⁹ SLORSWMP at 46.

⁹⁰ States Environmental Protection, National Menu of Best Management Practices for Stormwater Phase II, Chapter 6 at 1, available at http://cfpub.epa.gov/npdes/stormwater/menuofbmps/bmp_files.cfm.

⁹¹ See Discussion of SUSMPs above.

Fourth, the municipal maintenance BMPs must be improved and strengthened. It is axiomatic that “if you want something done right, do it yourself.” Accordingly, many stormwater management programs in California advance the objective of reducing stormwater discharge by regulating municipal activities.⁹² The Municipal Maintenance BMPs generally lacks specificity and breadth in their coverage of municipal activities. These regulations can be effectively and efficiently developed and implemented, with a minimum expense of time and resources. For example, many of the BMPs need accelerated target dates. BMP#29 deals with developing and implementing a schedule for storm drain cleaning. Under the BMP, 90% of the storm drains will have implementation of a cleaning schedule in five years. This is entirely too long and should occur more expeditiously especially considering this is an activity already performed by the County.

In addition, the BMPs lack specificity. For example, BMP#37, which deals with county landscaping procedures, is extremely vague. The County will review the procedures for “storm water pollution prevention consideration.”⁹³ The BMP never identifies these considerations, which evidences a lack of specificity in the goals and priorities of this BMP. In the measurable goals section, the County will audit for compliance “periodically.”⁹⁴ Measurable goals are meant to be quantifiable in order to allow assessment of SWMPs. To enhance the specificity, it is important that specific deadlines be established and the program

Further, the municipal maintenance program needs to include more BMPs for the following areas, among others that are sources of pollution:

- Requirements for public vehicle maintenance procedures and facilities;
- A program for landscape and recreational facilities management, including procedures for proper application of pesticides, procedures to prevent the disposal of landscaping materials into the MS4, procedures to schedule irrigation to minimize pesticide and fertilizer runoff, and BMPs to minimize trash and debris entering the MS4; and
- A program for conducting emergency repairs of essential public facilities and services and responding to natural disasters.

Each and every one of these program elements have been adopted and implemented by other municipalities in California, illustrating that they are feasible. Such a program would advance the objective of reducing stormwater runoff while setting a public example of careful attention to this critical water quality issue. The law and the General Permit require this level of detail and BMPs

⁹² See, e.g., California Regional Water Quality Control Board Los Angeles Region, Order No. 01-182, NPDES No. CAS004001, Waste Discharge Requirements for Municipal Storm Water Runoff Discharges within the County of Los Angeles (December 13, 2001), Attachment A.

⁹³ SLORSWMP at 47

⁹⁴ SLORSWMP at 47.

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Enhancing the stormwater permit with the suggestions above will put the SLORSWMP into compliance with the federally-mandated MEP standard. A comprehensive revision of the SLORSWMP guided by the examples discussed above will ensure the efficient reduction of stormwater pollution in these communities in a manner consistent with applicable discharge prohibitions and receiving water limitations.

Thank you for the opportunity to review and provide comments on the SLORSWMP. Please feel free to contact us at (310) 434-2300 if you have any questions.

Sincerely,



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