

**Staff Report for Order No. R3-2012-0005
ATTACHMENT 2.e**

**PUBLIC COMMENTS RECEIVED ON PROPOSED ORDER No. R3-2012-0005
AND STAFF RESPONSE**

Water Board Staff received comments from:

- Robin Lee (Lee)
- Norm Groot , Executive Director, Monterey County Farm Bureau (Farm Bureau)
- Bobby Latino, Planning Technician, City of Salinas (Latino)
- Paul Michel, Superintendent, Monterey Bay National Marine Sanctuary (MBNMS)
- David Smith, Manager USEPA NPDES Permits Office (USEPA)
- J. Michael Wadsworth Architecture & Planning (Wadsworth)
- Michael L. Waxer, President, American Institute of Architects, Monterey Bay Chapter (AIA)
- Tom Carvey, President/CEO, Salinas Valley Chamber of Commerce (Chamber)
- Lynne Steele (Steele)
- Irma Gowin (Gowin)
- Brian Finegan, Attorney at Law, Salinas Future Growth Area Owners/Developers (Future Growth Area)
- Gordon Avery (Avery)

Staff responses to these comments are proved below. All comments are direct transcriptions from the letters.

Lee - 1

“My comment for the permit is for the regional board to fund a public outreach study to determine what works in engaging the public. The study would include an ad campaign followed up by a rigorous study to determine effectiveness. I strongly feel that more money spent on an effective public buy in campaign would make implementing the permit less arduous.”

Staff Response to Comment Lee – 1

Central Coast Water Board staff is unable at this time to identify available funds to fund a public outreach study. However, Community Based Social Marketing (or equivalent) is specified in the Order because it has been demonstrated to be a successful tool in effectively changing public behavior.

Farm Bureau - 1

“As a business and property owner within the city limits, we are concerned that the proposed stormwater permit requirements will precipitate an even bigger economic collapse that will be irreversible.

“The proposed permit requirements will apply to all new and existing residential, commercial and industrial parcels within the city. As a building owner, we are concerned that routine maintenance of our facilities, including our parking lots, will trigger very expensive engineering and construction processes that we cannot afford. The unintended consequence here will be more urban blight as business owners choose to forgo the very maintenance tasks that make buildings attractive within the community, just to avoid triggering the storm water regulations on existing properties.”

Staff Response to Comment Farm Bureau – 1

Routine maintenance, such as parking lot repaving, does not trigger post-construction BMP requirements. Non-routine maintenance, such as excavation of a parking lot down to bare soil does trigger post-construction BMP requirements. Provision J includes applicability thresholds for criteria for new development and redevelopment projects. Unless these thresholds are met, existing residential, commercial, and industrial sites will not be required to adhere to the criteria in Provision J. For more information about redevelopment thresholds, see Staff Response to Comment City of Salinas – Provision J.3.a and J.4.g.i.3.d.ii.

Farm Bureau - 2

Attending the workshops held in the City of Salinas recently, we heard comments from Regional Water Quality Board staff members that demonstrate a lack of understanding of the larger-scale issues here. One staff member made mention that all development within the city could be characterized as 'disturbed' environment when it came to achieving 'natural stormwater flows.' When pressed to define what 'natural' means, staff members present could not state whether this meant prior to any civilization in the area, the Spanish colonial era, draining of the swamp areas and the Rec Ditch construction era, or any later era. It is these types of statements that put the city's residents and businesses on the defensive when any proposal comes forth that requires compliance with undisturbed environments, or a zero-impact philosophy.

Staff Response to Comment Farm Bureau – 2

The Order requires the City to revise its numeric flow control criteria using the methodology developed through the Central Coast Water Board Joint Effort for Hydromodification Control. Since that effort is not yet complete, it would be premature for Central Coast Water Board staff to specify the target conditions numeric flow control criteria will be designed to maintain or restore.

See Staff Response to Comment City of Salinas Supplemental – 85.

Farm Bureau - 3

The proposed permit requirement amounts to an unfunded mandate that will put our city at an extreme disadvantage when attracting new business and commerce for future development. This will depress property values and render our properties unsalable under the threat of expensive stormwater requirements. Ultimately, the unintended consequence will be widespread urban blight as business parks and facilities decay, urban in-fill projects are avoided, residential areas decline due to unemployment, and the city is bankrupted trying to comply with a regulation that is unachievable.

The proposed requirements are another set of job killers for our community and will take resources away from our police, fire, and city services; this is a set of regulations that we cannot afford.

Staff Response to Comment Farm Bureau - 3

The requirements of the Order are not unfunded state mandates because they do not exceed federal law (see Staff Responses to Comments City of Salinas Supplemental – 8 and 17). Central Coast Water Board staff recognizes there are costs associated with compliance with this Order, and that many communities and businesses are experiencing economic challenges. See Staff Response to Comment City of Salinas – 26 for discussion of steps Central Coast Water Board staff has taken in consideration of these costs. See also Staff Response to Comment Latino-1 for a discussion of program costs, and Staff Response to Comment City of Salinas Supplemental – 12 for a discussion of funding options available to the City. The majority of requirements contained in this Order are also contained in Order No. R3-2004-0135. The

additional requirements contained in this Order are similar to requirements contained in permits regulating other Phase I municipalities throughout California. Therefore Central Coast Water Board staff do not believe this Order constitutes a regulation that is unachievable.

See Staff Response to Comment City of Salinas – Provision J.3.a for a response to the issue about urban infill.

Latino - 1

I need to see technical data that identifies the costs this will impose on, not only to City Staff, but to the City of Salinas as a Community. As you are aware of the economic status of the nation as a whole, imposing costs onto the City of Salinas would be economically crippling. City Staff has an extremely tight budget and is currently working with our bare minimum resources with a 36-hour work week and furloughed on Fridays. As for the City of Salinas Community, there is a large quantity of commercial and industrial vacancies throughout the City, and the businesses that are currently in operation a majority are just staying afloat. Imposing costs onto these businesses would most likely put them under. This permit needs to be drastically modified in light of the current economic status of the nation and the City of Salinas.

Staff Response to Comment Latino – 1

Central Coast Water Board staff recognizes there are costs associated with compliance with this Order, and that many communities and businesses are experiencing economic challenges. See Staff Response to Comment City of Salinas – 26 for discussion of steps Central Coast Water Board staff has taken in consideration of these costs. The State Water Board also commissioned a study by the California State University, Sacramento to assess costs of the Phase I MS4 program. Annual cost per household in the study ranged from \$18-46, with the City of Encinitas representing the upper end of the range (See Fact Sheet Section V). The cost of the City of Encinitas' program for the 2002/2003 fiscal year, as discussed in the study, is a reasonable approximation of the cost of the Permittee's program under this Order. Other MS4s assessed in the study, which may have similar compositions to that of the Permittee, include the Cities of Corona and Santa Clarita. These MS4s were found to expend \$32 and \$39 annually per household on their stormwater programs, respectively. Therefore Central Coast Water Board staff does not believe that this Order creates an excessive financial burden for the community of Salinas. The Central Coast Water Board is not required by federal regulations to prepare an analysis of costs associated with implementing the Order. However, Central Coast Water Board staff has provided information to the City to make the City's cost analysis more accurate. General estimates of Phase I stormwater permit implementation costs have been estimated in several studies.

MBNMS - 1

We support the approach that the Water Board has taken by inserting more specific actions and reporting requirements in this Order, rather than referring to the Stormwater Management Plan, as was done in previous permits. This will hopefully cut down on excessive procedural and administrative efforts allowing for more efficient implementation of the required components. The Order puts an emphasis on better understanding of the watershed processes to inform development and stormwater management decisions. It better links water quality monitoring and Best Management Practice (BMP) assessment for evaluating program effectiveness. It also builds on a watershed-based approach by focusing on an urban catchment scale to evaluate and modify BMPs to increase their effectiveness in stormwater management.

It appears that Water Board staff put a considerable amount of time and thought into this Order to ensure positive and meaningful outcomes for demonstrable and measureable improved water

quality conditions. It is our hope that this effort and the detailed reporting requirements will both assist the Water Board and the City with ensuring compliance of this Order. We support your efforts to improve water quality on the Central Coast.

Staff Response to Comment MBNMS – 1

Central Coast Water Board staff notes MBNMS' support for requirements contained in the Order.

USEPA - 1

Because the draft permit incorporates federal stormwater requirements that are consistent with the MEP standard and federal regulations, EPA supports the conclusion of Finding 16 for the draft MS4 permit for Salinas which concludes that the draft permit does not constitute an unfunded local government mandate.

Staff Response to Comment USEPA – 1

Central Coast Water Board staff notes USEPA's support of Finding 16.

USEPA - 2**Low Impact Development (LID) Requirements**

With regards to LID requirements, we are pleased to see the draft permit includes quantitative requirements for stormwater management using LID techniques which are comparable to other recent MS4 permits in California. In particular, we note the requirements in section J A.g.iii for management of the runoff from a specified design storm which are consistent with nine other recently renewed California MS4 permits. The permit also includes a preference for LID techniques consisting of infiltration, evapotranspiration and harvesting/reuse over biotreatment, consistent with the other permits. These provisions will help to ensure a clear and enforceable permit with regards to LID requirements.

The terminology used in section J.4 could lead to confusion over how to apply post-construction controls. Section J.4.g.iii requires stormwater "treatment" (a better word might be "management") via the LID techniques noted above, while section J.4.h provides for compliance via flow control and treatment BMPs, which are broadly defined in Attachment B and could include controls (e.g., detention basins) not necessarily considered LID. The fact sheet (page 111) indicates the intent of the permit is to be consistent with the State Board's precedential Order No. WQ-2000-11, which established as statewide policy, at a minimum, treatment requirements consistent with the Standard Urban Stormwater Mitigation Plan (SUSMP) program developed by the Los Angeles Regional Board. To address the above issue, we would suggest a hierarchy for section J.4.g.iii in which LID consisting of infiltration, evapotranspiration and/or harvesting/reuse would be required as the first priority, followed by biotreatment for any portion of the runoff from the design storm for which the previous techniques were infeasible, and then the broad range of treatment options provided by SUSMPs when even biotreatment is infeasible to address the entire design storm volume onsite.

Section J.4.g.iii.(2) notes, "A properly engineered and maintained biotreatment system may be used only if it is infeasible to implement harvesting and re-use, infiltration and evapotranspiration at a project site." We'd suggest that this should be revised to "harvesting and re-use, infiltration, or evapotranspiration." Also, this section of the permit should define how feasibility determinations are to be made in this context. We'd suggest that a demonstration consistent with Section J.4.h.ii (Alternative Compliance Justification) should be used to justify the need to use biotreatment.

Section J.4.g.iii.(2)(a) describes biotreatment design criteria. We'd suggest replacing these criteria with the biotreatment criteria listed in Attachment J. It's our view that the Attachment J criteria, with an upper limit of 5 inches/hour on the design surface loading rate, will result in biotreatment systems that better achieve LID objectives.

Section J.4.g.iv is entitled "Hydraulic Sizing Criteria for Treatment Systems." We'd suggest clarifying the distinction between "systems whose primary mode of action depends on volume capacity" (J.4.g.iv.(1)) and "systems whose primary mode of action depends on flow capacity" (J.4.g.iv.(2)). Based on consultation with Central Coast Regional Board staff, it's our understanding that section J.4.g.iv.(1) is intended to apply to the use of LID measures that result in retention (infiltration, harvest/use, evapotranspiration), while section J.4.g.iv.(2) is intended to apply to biotreatment systems. The permit should make this distinction explicit.

Staff Response to Comment USEPA – 2

Central Coast Water Board staff modified Provision J.4.g.iii to replace, 'treat', with, 'manage.' The objective of Provision J.4.g is to require the City to require project applicants to manage stormwater to provide treatment. The final flow control criteria will cover flow management. The Order requires the treatment criteria be met using flow management as the first approach. Central Coast Water Board staff finds it might confuse the Order language to replace all uses of the word, 'treatment', in Provision J.4.g.

Central Coast Water Board staff modified Provision J.4.g.iii to better define how feasibility determinations are to be made when choosing the method of compliance for the final treatment requirements. Central Coast Water Board staff removed the word, 'onsite', from the heading of Provision J.4.h to provide more distinction between onsite and offsite compliance options.

Central Coast Water Board staff modified Provision J.4.g.iii to provide a larger suite of BMP options when a project applicant demonstrates it is technically infeasible to use LID BMPs to achieve the final treatment numeric requirements. The addition of more BMP options is in response to USEPA's suggestion to permit the broad range of treatment options provided by the Standard Urban Stormwater Mitigation Plan program developed by the Los Angeles Regional Water Quality Control Board. The addition of more BMP options is also in response to Comment City of Salinas – Provision J.4.g.iii and Comment City of Salinas Supplemental – 88 which both request that more flexibility be provided to project applicants for meeting the final treatment numeric requirements. Central Coast Water Board staff placed biofiltration BMP options in the same tier as all other treatment BMP options. Central Coast Water Board staff finds that biofiltration technology is fairly new and there are still many unknowns about its effectiveness; therefore, the Order now includes other well-tested BMP options in the same tier.

Central Coast Water Board staff replaced the word 'biotreatment' with 'biofiltration' and updated the definition in Attachment B. Biofiltration is used in the same context as biotreatment. Central Coast Water Board staff made this change because biofiltration is a more widely recognized term in the industry for the application used in the Order. Central Coast Water Board staff modified Provision J.4.g.iii.2.b to specify an upper design surface loading rate limit. Provision J.4.i.i requires the City to require applicable Priority Development Projects to implement a self-inspection program to ensure BMPs continue to function as designed and a strategy for fixing and/or replacing BMPs if inspections identify BMPs not functioning as designed. Central Coast Water Board staff finds that this requirement addresses the issue of biofiltration system clogging, which used to be addressed by the original language which specified a minimum loading rate instead of a maximum loading rate. Central Coast Water Board staff also modified Provision J.4.g.iii.2.a to include a minimum soil media depth of 24 inches in biofiltration systems.¹

In its comments, USEPA indicates LID should be the first priority for stormwater management because of its high level of effectiveness. To meet USEPA's performance expectations and maintain an equally high level of effectiveness in those instances where LID implementation is infeasible, Central Coast Water Board staff included design specifications for bioretention and the non-retention based treatment systems using reputable sources. Central Coast Water Board staff also modified the hydraulic sizing criteria for the non-retention based treatment systems. Central Coast Water Board staff added a 1.5 multiplier to the volume-based hydraulic sizing criteria. The flow-based hydraulic sizing criteria already incorporated a 2.0 multiplier and therefore was not modified by Central Coast Water Board staff. Central Coast Water Board staff included the 1.5 multiplier for the volume-based hydraulic sizing criteria to make sure the non-retention based treatment systems provide a comparable pollutant load reduction as is provided by the LID systems. Because the Order now includes a full suite of BMPs for meeting the final treatment numeric requirements, Central Coast Water Board staff finds that including a multiplier for the hydraulic sizing criteria is necessary to ensure effectiveness and meet USEPA performance expectations. LID systems are designed to retain stormwater and therefore do not release those pollutants in retained flows, whereas flow-through systems are typically not able to remove 100 percent of all pollutants in treated flows. The multipliers on the volume and flow-based hydraulic sizing criteria increase the required flow/volume that non-retention based systems must treat; therefore, removing pollutants from a larger quantity or flow of stormwater and providing a more comparable pollutant load reduction to retention-based systems.

Central Coast Water Board staff modified the Order to include relevant hydraulic sizing criteria under both the LID system and non-retention based treatment system BMP options. LID systems will be designed using volume-based criteria. Non-retention based treatment systems could be designed using either volume or flow-based criteria depending on the BMP.

¹Hinman, Curtis, 2009. Bioretention Soil Mix Review and Recommendations for Western Washington. Puget Sound Partnership. Available online: <<http://www.pierce.wsu.edu/Lid/reports/BSMResults-Guidelines.pdf>>. Also available at: <http://www.psparchives.com/publications/our_work/stormwater/BSMResults-Guidelines%20Final.pdf>.

USEPA - 3

Total Maximum Daily Loads (TMDLs)

We have reviewed the provisions of section 0 of the draft permit related to TMDLs and we believe they are generally appropriate for this permit. We understand that EPA has not yet approved any TMDLs which include wasteload allocations (WLAs) applicable to the permittee; hence, the requirements of the draft permit pertain to TMDLs approved in the future. For clarity, this basic point should be made in the fact sheet/Findings given the extent of the discussion of TMDLs which is provided.

We are pleased to see the permit includes requirements to begin implementation during this permit term of controls needed to comply with TMDLs that may be approved during the term of the permit; this will expedite the water quality benefits to be derived from the TMDL.

We also believe the compliance requirements found in section 0 of the draft permit are appropriate for this permit term, given the unknowns at this time concerning the requirements of any TMDLs which may be approved. As you may know, Region 9 has been encouraging the incorporation of WLAs as numeric effluent limits in MS4 permits to ensure consistency with the WLAs, and to enhance the clarity and enforceability of the permit limits. This is also consistent with a new EPA guidance memorandum dated November 12, 2010 (Revisions to the November

22, 2002 Memorandum "Establishing Total Maximum Daily Load (TMDL) Wasteload Allocations (WLAs) for Storm Water Sources and NPDES Permit Requirements Based on Those WLAs") which encourages numeric effluent limits when feasible. For the next (year 2016) permit reissuance, we would recommend the Board consider incorporation of applicable WLAs as numeric effluent limits, but given the status of the TMDLs in the Salinas area at this time, the draft provisions are appropriate for this iteration of the permit. Finally, we note that the draft fact sheet (page 139) refers to the 2002 memorandum, and we recommend the 2010 memorandum be cited instead.

Staff Response to Comment USEPA – 3

Central Coast Water Board staff modified the Fact Sheet for Provision O to state that the Lower Salinas River Watershed Fecal Coliform TMDL was recently approved by the Office of Administrative Law and that the Permittee must meet the wasteload allocation as assigned in the TMDL. The Findings already state the importance of the City developing Wasteload Allocation Attainment Plans for any future TMDL implementation plan adopted by the Central Coast Water Board. Provision O includes language to require the City to develop and implement Wasteload Allocation Attainment Plans for any TMDLs adopted by the Office of Administrative Law. Central Coast Water Board staff notes the commenter's suggestion to incorporate wasteload allocations as numeric effluent limits in future Orders. Central Coast Water Board staff also modified Finding 67 to address the amendment to the Central Coast Basin Plan to incorporate the Lower Salinas River Watershed Fecal Coliform TMDL.

Central Coast Water Board staff modified the Fact Sheet for Provision O to reference the 2010 memorandum, "Revisions to the November 22, 2002 Memorandum 'Establishing Total Maximum Daily Load (TMDL) Wasteload Allocations (WLAs) for Storm Water Sources and NPDES Permit Requirements Based on Those WLAs'".

USEPA - 4

Follow-up to 2003 Program Evaluation

In 2003, Tetra Tech, with the assistance of the Regional Board, conducted an evaluation of the City's stormwater management program for consistency with the permit then in effect. The program evaluation report for the City (available at: <http://www.epa.gov/region9/water/npdes/ms4audits.html>) identified a number of deficiencies and we believe it is important to ensure they have been addressed.

- The program evaluation report identified overall program management as a deficiency and it's not clear that this issue has been fully addressed. The draft permit includes a requirement (section D.1.b) for coordination among the various departments which have a role in program implementation, but it would be helpful to require an overall organization chart identifying the various departments and who is ultimately responsible for coordination and permit compliance.*
- The program evaluation report noted that industrial dischargers sometimes did not know whether their discharges went to the storm sewer or the sanitary sewer; labeling of drains was recommended to address this issue. We did not find this issue addressed in the updated stormwater management program or the new draft permit.*
- Page 83 of the draft fact sheet also mentions a March 7, 2011 program evaluation apparently conducted by the Regional Board, but only sparse information is provided on the findings of the evaluation. We recommend the 2011 evaluation be discussed in more detail and how the draft permit would respond to any concerns noted. We further recommend that the fact sheet acknowledge the 2003 program evaluation and include an assessment of how the City has responded to its findings and the requirements of Attachment 4 to the 2005 permit.*

Staff Response to Comment USEPA – 4

Central Coast Water Board staff added a requirement to Provision D.3.a of the Order for an overall organization chart identify the various departments and who is ultimately responsible for coordination and permit compliance.

Central Coast Water Board staff added the requirement for the labeling of drains for commercial and industrial facilities to the minimum BMPs in Provision F.2.

Central Coast Water Board staff added a more detailed discussion of the results of the March 2011 program evaluation and 2003 program evaluation to the Staff Report prepared for this Order. The Staff Report also discusses the City's compliance with the requirements of existing Order No. R3-2004-0135.

Central Coast Water Board staff has included an expanded discussion of the City's compliance history in the Staff Report for adoption of the Order.

USEPA - 5***Trash Reduction Program***

We are pleased to see the inclusion of the specific requirements for trash control in the permit (section N of the draft permit). We strongly supported such requirements in the Municipal Regional Permit (MRP) for the San Francisco Bay Area (NPDES Permit No. CAS612008) and we support such requirements for the Salinas permit as well. We also believe the information in the fact sheet for the Salinas permit fully justifies the program requirements.

We would recommend, however, that the Board include quantitative trash reduction requirements to be achieved over time similar to the MRP. The draft permit for Salinas (section N.3.b) only requires a trash reduction plan which would "significantly" reduce trash entering the MS4, as opposed to numeric requirements such as those in the MRP. As noted above, we are encouraging Regional Boards to issue MS4 permits with more measurable and enforceable requirements. Numeric requirements for trash reduction similar to the MRP would be consistent with this objective.

Section P.3.b.ii specifies a trash action level of 79 points or "equivalent", and we are unclear concerning what would be considered "equivalent." The fact sheet should provide an explanation.

Staff Response to Comment USEPA - 5

Central Coast Water Board staff notes that USEPA supports the inclusion of specific trash control requirements and believes the fact sheet justifies the program requirements.

Central Coast Water Board staff believes it is premature to include quantitative trash reduction requirements in the Order. While there is extensive qualitative and anecdotal evidence that trash is a water quality problem in the City, development of quantitative trash reduction objectives to be achieved over time requires quantitative information about baseline trash conditions that is not known at this time. Trash Quantification and Trash Assessment requirements included in the Order are designed to obtain this information, and Central Coast Water Board staff expects quantitative trash reduction requirements to be included in subsequent orders. For the term of this Order, Trash Load Reduction and Trash Action Level requirements are designed to achieve a significant trash load reduction.

Section P.3.b.i requires the City to conduct Trash Assessments using the Rapid Trash Assessment Methodology (RTAM), or an equivalent method approved by the Executive Officer. Therefore a “trash action level of 79 points, or equivalent” means that, if the City uses an alternative method for Trash Assessments, the trash action level should be equivalent to a score of 79 determined according to the RTAM. Central Coast Water Board staff has added language to this effect to the Fact Sheet.

USEPA - 6

Retrofit Program Requirements

We are pleased to see the retrofit requirements in the draft permit (section L) and we firmly support such provisions. As you know, the addition of retrofit requirements is one of the key revisions EPA is considering in the current stormwater rulemaking effort which was announced on December 28, 2009 (74 FR 68617). Our rationale for such requirements is very similar to the reasons outlined in the draft fact sheet for the City of Salinas. However, we would suggest the following for the proposed program for Salinas:

- EPA's 2010 MS4 Permit Improvement Guide (EPA 833-R-10-001) recommends that retrofit projects should emphasize controls that infiltrate, evapotranspire or harvest/reuse stormwater, i.e., standard LID controls. The many benefits of LID for new developments and redevelopments would also accrue from LID used for retrofits projects. We did not find such a provision in the draft permit for Salinas and we would recommend it be included.*
- We believe the permit should include specific ranking criteria for retrofit projects to help select the most promising and beneficial projects; we did not find such criteria in the draft permit for Salinas. Appropriate criteria can be found in the EPA MS4 Permit Improvement Guide, or the 2009 MS4 permit for South Orange County issued by the San Diego Regional Board (NPDES permit No. CAS0108740).*

Staff Response to Comment USEPA – 6

Central Coast Water Board staff modified Provision L.2.a to specify that the City shall emphasize controls that infiltrate, evapotranspire, or harvest/reuse stormwater discharges in implementing retrofit projects.

The Order requires the City to develop a list of candidate pilot retrofit projects to have available in the case that a Priority Development Project meets the alternative compliance criteria in Provision J (Parcel-Scale Development) and pays an in-lieu fee towards a retrofit project. The Order also requires the City to complete 60 percent design for one of the candidate pilot retrofit projects. The Order requires the City to base the candidate pilot retrofit projects on the criteria outlined in Provision L.2.a, including associated performance goals as listed in Table H.1 in Attachment H – Qualifying Retrofit Projects. Central Coast Water Board staff intentionally kept retrofit project requirements at a manageable scale for the term of the Order because Central Coast Water Board staff recognizes this is a new program requirement.

The Order requires the City to develop a long-term retrofit plan to outline a strategy for implementing retrofit projects after 5 years of adoption of the Order. The Order requires a more robust approach, compared to the list of candidate pilot retrofit projects, to developing the long-term retrofit projects. Provision L.2.b requires the City to develop an inventory of potential retrofit project locations based on an assessment of what projects would be most effective, based on the Urban Subwatershed Program Effectiveness Rating per Section P.6 (Monitoring, Effectiveness Assessment, and Program Improvement: Program Effectiveness Rating) and broad range of areas, projects, and programs presenting opportunities for retrofit projects. The Order then requires the City to conduct an evaluation and ranking of the inventoried projects to

identify High Priority Areas for Retrofitting. Central Coast Water Board staff finds that the Order adequately includes specific ranking criteria for retrofit projects to help select the most promising and beneficial projects.

USEPA - 7

Stormwater Management Program (SWMP) Review by the Regional Board

*The draft fact sheet (page 10) notes that the permittee is no longer required to submit the full SWMP to the Regional Board for review and approval since many requirements are now set forth in the permit itself rather than the SWMP. However, certain components of the SWMP are still required to be submitted for review/approval. We concur with this approach, but we believe the Board should also clarify that it will be providing an opportunity for public comment on such SWMP components to ensure consistency with the 2005 decision by the Second Circuit Court in *Waterkeeper Alliance et al. v. EPA*, 399 F.3d 486, and the 2003 decision by the Ninth Circuit Court in *Environmental Defense Center, Inc. v. EPA*, 344 F.3d 832.*

Staff Response to Comment USEPA – 7

Central Coast Water Board staff notes USEPA concurs with the approach of having certain components of the SWMP submitted for review and approval.

Central Coast Water Board staff will provide the public with opportunity for review and comment for program components the City must submit where the details of the program component aren't characterized in the Order. For example, the City must develop and submit a plan to address the pollutants at the Salinas River outfall. Central Coast Water Board staff will post documents like these on the Central Coast Water Board website for 30 days and consider public comments before approving the City's proposals.

USEPA - 8

Federal Storm water Requirements

To assist permitting authorities, such as the Regional Water Quality Control Board, EPA published a guide entitled "MS4 Permit Improvement Guide" April 2010, EPA 833-R-10-001 (available at, [http://www.epa.gov/npdes/pubs/ms4permit improvement guide.pdf](http://www.epa.gov/npdes/pubs/ms4permit%20improvement%20guide.pdf)). The Guide provides advice to permit writers in developing MS4 permit requirements, including clear and measurable requirements that are consistent with the MEP standard. The draft MS4 permit for Salinas is consistent with the statutory requirement to reduce pollutants in the discharges to the MEP. The specific requirements of the draft Salinas MS4 permit are well within the intent of MEP as set forth in the CWA section 402(p)(3)(B), 40 C.F.R. Part 122; see also 64 Fed. Reg. at 68,754. EPA supports the numerous requirements that were included in the draft Salinas MS4 permit that were recommended in the Guide as examples of provisions that meet MEP and are consistent with the federal requirements. Specifically, we note the following:

- *Regarding street sweeping, the Guide (page 77) recommends that permits include specific schedules for street sweeping similar to what is found in the draft permit. As noted in the fact sheet, the underlying regulatory basis for the requirement is 40 C.F.R. § 122.26(d)(2)(iv)(A)(3) which requires a program by the MS4 to reduce pollutants in runoff from streets;*
- *Regarding retrofits, the Guide (page 64) recommends a retrofit program to reduce pollutants in discharges from developed areas. As noted in the fact sheet, the underlying regulatory basis for the requirement is 40 C.F.R. § 122.26(d)(2)(iv)(A) which requires a program of structural and source control measures to reduce pollutants in runoff from commercial and residential areas;*
- *Regarding riparian protection policies and requirements, in addition to 40 C.F.R. § 122.34(b)(5) (which is cited in the fact sheet), 40 C.F.R. § 122.26(d)(2)(iv)(A)(2) provides*

additional regulatory basis for the permit requirements. See also EPA's 1992 Guidance Manual for the Preparation of Part 2 of the NPDES Permit Applications for Discharges from Municipal Separate Storm Sewer Systems (EPA 833-B-92-002). The 1992 Manual (pages 6-4 through 6-5) encourages requirements such as the establishment of buffer zones for the protection of sensitive receiving waters and riparian areas, similar to the proposed requirements of the permit (e.g., section L.1.d);

- *Regarding planning requirements for areas of future growth, a regulatory basis for the permit requirements is 40 C.F.R. § 122.26(d)(2)(iv)(A)(2) which requires a program to reduce pollutants in discharges from areas of new development and significant redevelopment. The discussion of Findings 46, 47 and 48 in the fact sheet for the draft permit provides additional support for the requirements;*
- *Regarding watershed characterization and the watershed approach, a regulatory basis for the permit requirements is 40 C.F.R. § 122.26(a)(3)(v) which states that permit requirements may be tailored to the specific needs of different watersheds and drainage areas; and*
- *Finally, information management is clearly a necessary component of any effective stormwater management program and EPA believes the permit requirements are consistent with the recommendations of the Guide (page 95) and would also be necessary to satisfy the reporting requirements of NPDES regulations at 40 C.F.R. § 122.42(c).*

Staff Response to Comment USEPA – 8

Central Coast Water Board staff notes USEPA's support for requirements contained in the Order.

Wadsworth - 1

I am an architect in private practice located in Salinas. My business is trying to survive this economic downturn through strategic cost cuts and improved efficiency, while focusing on long-term prospects. I believe that the State and all State Agencies must do the same in these times of extreme economic hardship and budget shortfalls. Unfortunately, the proposed new Draft Permit adds to the costs of doing business, is not efficient, and would cause great harm to the future of our community.

Staff Response to Comment Wadsworth – 1

Central Coast Water Board staff recognizes there are costs associated with compliance with this Order, and that many communities and businesses are experiencing economic challenges. See Staff Response to Comment City of Salinas – 26 for discussion of steps Central Coast Water Board staff has taken in consideration of these costs. See also Staff Response to Comment Latino-1 for a discussion of program costs, and Staff Response to Comment City of Salinas Supplemental – 12 for a discussion of funding options available to the City. While this Order contains new requirements consistent with the evolving MEP standard, the majority of requirements contained in this Order are also contained in Order No. R3-2004-0135. Taking all of this into consideration, Central Coast Water Board staff does not believe that this Order will cause harm to the future of the community.

Wadsworth - 2

As I understand it, the CCRWQCB (the Board) met with City of Salinas staff over a year ago for one day to review the City's past performance at implementing our current Permit. The result seems to be that the Board felt there were areas of the City's implementation that needed improvement. What is tremendously frustrating is that the Board felt the way to improve the implementation of 60 some pages of current regulation, was to draft a new 350 plus page regulation. It would seem that a prudent and practical solution would have been to work with the

City on ways and means to improve their ability to properly implement the existing permit. If the City is having trouble with the current regulation, how will it help them to have 5 or 6 times the amount of verbiage to attempt to interpret and implement? Presumably our current permit if implemented properly, would meet the Federal Standards driving the process.

Rather than making modest improvements to our existing permit requirements, the CCRWQCB (the Board) spent more than a year drafting a new very much expanded set of documents. The new draft permit makes no effort to clearly differentiate between what is existing, modified or completely new requirements. And yet the City and the citizens of Salinas have had only a little over 60 days to attempt to fully understand the complete impact of the 350+ pages of regulation. There are very significant financial impacts to the proposed requirements. The City consultant estimates more than 50 million dollars in initial compliance costs to the City and private land owners. Although the draft states these are not unfunded mandates, it's very hard to imagine that they are not.

Staff Response to Comment Wadsworth – 2

See Staff Response to Comment City of Salinas – Finding 55 and Staff Response to Comment City of Salinas – Fact Sheet Finding 36 (2).

Wadsworth - 3

An example of inappropriate or unclear construction standards can be found in the draft requirement 4) a) i) where redevelopment projects are considered. It isn't uncommon in Salinas for a renovation or addition of a commercial or industrial project to involve more than 10,000 sq. ft. of roof or parking lot repair or replacement. The draft language would require that "All new development and redevelopment projects that create or replace 10,000 sq. ft. or more of impervious surface." meet new SWDS requirements. This needs to be revised to only involve Net New sq. ft. of impervious surface covering soil that isn't currently covered by impervious surface. This should mean for example, building a new 11,000 sq. ft. building where 11,000 sq. ft. of impervious parking lot exists, does not require the project to meet new SWDS requirements.

While we are all interested in being good stewards with our resources, the amount of decreased environmental impact that would result from the Draft Permit rather than better implementation of our existing Permit, seems minimal, and definitely not worth the costs.

Staff Response to Comment Wadsworth – 3

See Staff Response to Comment City of Salinas – Provision J.3.a.

AIA - 1

We'd like to thank you for the opportunity to provide comments on Salinas's MS4 Permit, as well as general comments on Stormwater Permits. The American Institute of Architects Monterey Bay Chapter (AIAMB) held a forum on Stormwater this past Thursday, and our membership was quite surprised by a number of the revelations that were presented by various experts.

Based upon the category of risk level the certification, site assessments, samplings of runoff, continual updating to websites, as well as the potentially devastating fines, all seemed to make a singular point: That the State of California does not want construction to occur in the rainy months, which, for our Central Coast region, is generally considered to run from October 15 thru April 15 (which is 6 months of each year).

We understand the complexities of regulation in California, and we also understand the tremendous value of the many resources in this great State, to include the environment, the

climate, the geography, and perhaps most importantly the people. It seems that these regulations will lead to perhaps unintended consequences, such as massive layoffs in the construction industry, as well as delay and cost increases resulting thereof.

Furthermore, as we took a look at the Ocean Plan stormwater trigger limits we were dismayed when we realized that a number of the Stormwater requirements are significantly more stringent than required for drinking water. In fact, we believe that a number of the Stormwater requirements are such that the allowed levels are less than the PQL, i.e. the lab's ability to detect the item. The following chart summarizes some of these findings: (ALL quantities are in PPB, or micrograms per liter.)

<i>Item</i>	<i>Potable MCL</i>	<i>Stormwater MCL</i>	<i>Lab Detection limit (PQL)</i>
<i>Arsenic</i>	<i>10</i>	<i>8</i>	<i>10</i>
<i>Cadmium</i>	<i>5</i>	<i>1</i>	<i>5</i>
<i>Copper</i>	<i>1,300</i>	<i>3</i>	<i>4</i>
<i>Nickel</i>	<i>100</i>	<i>5</i>	<i>100</i>
<i>Silver</i>	<i>100</i>	<i>0.7</i>	<i>100</i>
<i>Zinc</i>	<i>5,000</i>	<i>20</i>	<i>100</i>

Even if a lab is able to measure, say, copper to 3 parts per billion, we are not clear on any scientific evaluation that would suggest that this minute level of copper could have a deleterious effect on the bodies of water that the State is trying to protect, and which we, the citizens, want reasonably protected.

We also became aware that the end goal of these stormwater regulations is not just to ultimately stop dry-weather discharges, but surprisingly to stop wet-weather discharges. This would seem like a non-sensical result. It appears that the requirements for stormwater are such that there is no way to achieve quantifiable compliance since the thresholds are below levels of detection. Therefore it seems that jurisdictions are effectively mandated to construct stormwater collection and treatment systems.

Ironically, in the Monterey Bay region of our AIAMB territory, the SWRCB has issued a Cease and Desist Order (CDO) to the main water purveyor, Cal-Am, wherein they must reduce potable water production by about 2/3, meaning that the Monterey Peninsula will be facing draconian cutbacks. The realities of this will dramatically affect this region, with the additional factoid that the citizens of the Monterey peninsula are one of the most frugal water users in the state and in the nation, i.e. we have the lowest gallons per person water use already, before these further massive cutbacks.

We object to the furthering of these stormwater regulations at all levels, and respectfully ask that the science of what is being required be properly analyzed. The current threshold levels do not pass what is referred to in the vernacular as the 'sniff test'. Also, once there is good science established we respectfully ask that an economic analysis be done so the true impacts and cost/benefit be properly analyzed and disclosed to the decision makers and ultimately to the people of California.

Staff Response to Comment AIA - 1

These comments refer to requirements of the Construction General Permit, the Ocean Plan and the Cease and Desist Order for a water purveyor on the Monterey peninsula and not on the City of Salinas's draft Order. Comments on these issues should be directed to the State Water Board.

Chamber - 1

The timing of the impending staff report creates a situation in which meaningful public participation is impossible. There are 359 pages of densely written material to read through, not counting the backup materials. We understand that the staff report will be unveiled on January 18, 2012, and that the comment period closes on February 2, 2012, allowing a period of just 8 work days to respond to nearly 1,000 pages of material. We therefore urge you to extend the comment period for at least another 60 days.

Staff Response to Comment Chamber – 1

See Staff Response to Comment City of Salinas – 1. Central Coast Water Board staff provided public notice of the availability of the Order for public review and comment on September 2, 2011. While Central Coast Water Board staff received public comments until November 3, 2011, the Order and Fact Sheet remained available for public review. As a result, the Order and Fact Sheet have been available for public review for a total of more than 150 days between the public notice and the Central Coast Water Board meeting and public hearing on February 2, 2012. Members of the public are able to raise comments and concerns at the public hearing if they were not able to do so during the public comment period, and the February 2 meeting has been relocated to Salinas for this purpose. Therefore Central Coast Water Board staff does not plan to recommend that the Central Coast Water Board continue consideration of the Order until a later date.

Chamber - 2

Salinas, due to its size, is the only Phase I city in the region, with the possible exception of Santa Maria. Other surrounding cities are Phase II cities, and have recently had their permit status frozen for at least another 3 months. Phase I cities have more stringent requirements than do Phase II cities, with the result will be that economic development will be more costly in Salinas than in neighboring cities. This creates an unequal economic playing field. Unemployment in Salinas is currently 18%; this is the wrong time to further stifle economic development.

Staff Response to Comment Chamber – 2

Water Quality Order No. 2003-0005-DWQ is the current Statewide Phase II Permit. Small municipalities, currently enrolled under the Statewide Phase II Permit, are subject to the current Statewide Phase II Permit. The State Water Board is currently renewing the Statewide Phase II Permit.

The Statewide Phase II Permit and the Salinas Phase I Permit are different permits, based on different federal regulations, for different sized municipalities. Therefore, the Statewide Phase II Permit and the Salinas Phase I Permit will include different requirements. The City is the largest municipality and only Phase I municipality in the Central Coast Region. The City has been enrolled under a municipal stormwater permit for longer than all the other Central Coast municipalities and therefore has a more developed stormwater program. The Order requirements reflect the City's status as the largest Central Coast municipality with the longest running stormwater program, as well as the different federal regulations that apply to the City. The existing Order No. R3-2004-0135 expired in 2010, and is overdue for renewal.

The Order is comparable to other current California Phase I permits. The Order includes modifications to existing Order No. R3-2004-0135 to bring the City to the same level as other Phase I municipalities throughout California and to ensure the City's program is protective of water quality.

Central Coast Water Board staff does not anticipate the Order requirements will deter development from Salinas. Most of the Order requirements that apply to new development and redevelopment will be very similar to requirements for Phase II municipalities in the Central Coast region. The Order requires the City to develop new development and redevelopment criteria pursuant to the Central Coast Water Board Joint Effort for Hydromodification Control. The majority of Phase II municipalities enrolled under the Statewide Phase II Permit are also participating in the Central Coast Water Board Joint Effort for Hydromodification Control.

Chamber - 3

The proposed new regulations will have a negative effect on infill development within the City of Salinas. Reconstruction and redevelopment will have to deal with a new set of rules, which require massive storm water mitigation, thus discouraging infill. A case in point is the recent conversion of a former motel into a senior living facility. The area that had been designed for a swimming pool was instead needed for the drilling of percolation holes to dispose of storm water. Another new development is required to use 2.4 acres of a 12 acre parcel for the construction of a pool used solely for storm water collection. This is an inefficient use of valuable land.

Staff Response to Comment Chamber – 3

See Staff Response to Comment City of Salinas – Provision J.3.a.

Chamber - 4

The cost to the City of Salinas for the initial implementation of the regulations has been estimated to be from \$58 million to \$85 million - a figure approximately equal to the City's entire yearly budget. Yearly costs are estimated to be \$6 million, more than what it costs the City to run the entire library system. This is an unfunded mandate, illegal under California's Proposition 26.

Staff Response to Comment Chamber - 4

Central Coast Water Board staff believes the program costs cited in the comment are derived from a cost estimate prepared by the City and released to the media. Central Coast Water Board staff has reviewed this cost estimate and found that it does not reflect actual costs of implementing this Order. See Staff Response to Comment Avery – 1 and Staff Response to Comment Avery – 8.

The requirements of the Order are not unfunded state mandates because they do not exceed federal law (see Staff Response to Comment City of Salinas Supplemental – 17).

Chamber - 5

In addition there is a lack of objective standards in the process. For example, the staff report, (http://www.waterboards.ca.gov/centralcoastwater_issues/programs/stormwater/docs/salinas/salinas_draft_provisions_9_13_11.pdf), uses the term "natural" 33 times to describe the desired outcomes of the regulations. The term "natural" is entirely undefined. Does this mean "natural" over the period of 50 years, 100 years or eons of time? It should be kept in mind that the City of Salinas was once a swamp. If we were to return to natural runoff patterns that existed 200 years ago, we would be a swamp once again. There are maps of 100 years ago showing 7 lakes within the current boundaries of the city, and the Salinas River used to run down what is now Main Street.

Staff Response to Comment Chamber – 5

Central Coast Water Board staff intended the word, 'natural', in the Order to be defined by the common definition as the condition that would exist in the absence of human disturbance.

Natural is used in a few different contexts in the Order, but it is never used as a compliance objective or standard in the regulatory sense.

The scenario explained in this comment relates to the use of the word “natural” to define the condition of a landscape or landscape characteristics. One of the goals of the Order is to protect, maintain, and restore watershed processes that are affected by stormwater management, actions to manage stormwater, and/or land uses that alter stormwater runoff patterns, for the purpose of protecting beneficial uses of receiving waters. Attachment B (Definitions) includes a definition for watershed processes. The Order includes requirements for new development and redevelopment with the intent of protecting, maintaining, and restoring watershed processes impacted by stormwater management to protect water quality and beneficial uses. Provision J (Parcel-Scale Development) requires the City to use the methodology developed through the Central Coast Water Board Joint Effort for Hydromodification Control to develop numeric flow control criteria that address the desired conditions for primary watershed processes within the City’s watersheds as necessary to protect and restore beneficial uses of water affected by stormwater. The Central Coast Water Board Joint Effort for Hydromodification Control will identify what desired conditions need protection and/or restoration, in specific landscape conditions, and to what extent, given legacy impacts.

Central Coast Water Board staff recognizes that Salinas’ watersheds have been altered. The drainage systems in the urbanized portions of Salinas’ watersheds have been significantly altered with the creation of the MS4. Floodplains have been filled in and developed and cultivated. In some situations surface waters have been channelized and lined with impervious surfaces. Urbanization and agriculture have altered the watershed processes in Salinas’ watersheds. The Order accounts for the degradation that has occurred in Salinas’ watersheds. The goal of the Order is to protect, restore, and maintain the dominant watershed processes, which may be impacted by stormwater management and are necessary to protect water quality and beneficial uses, given the level of disturbance and land uses that exist. The Central Coast Water Board Joint Effort for Hydromodification Control will direct this effort for actions related to new development and redevelopment. Provision J.4.f.ii includes a footnote to identify that the Central Coast Water Board Joint Effort for Hydromodification Control will identify the point in hydrologic history (i.e., pre-development, pre-project, or somewhere in between) for which the project applicant shall design its site. This language provides the flexibility to select numeric criteria that are based on targets attainable in the landscape.

An advantage of building in future growth areas that are on large pieces of not yet urbanized land, is that developers have land mass to work with for managing stormwater. These areas are typically not as constrained as infill and redevelopment projects. Central Coast Water Board staff recognizes that agriculture in Salinas’ watersheds poses threats to water quality. Development on areas previously used for agriculture provides an opportunity to restore impacts conducted by previous land users. Just because a previous land use had a negative impact on watershed health, does not alleviate a new developer from achieving desirable conditions on site and mitigating for the impacts posed by the new land use.

Steele - 1

Economic conditions have not improved for the City of Salinas and are unlikely to significantly improve for several more years. Any increase in regulations and associated costs at this point in time are ill advised considering the current economic conditions and at the very least should be delayed until enough in-depth review and associated regulation impacts have been determined.

Staff Response to Comment Steele – 1

Central Coast Water Board staff recognizes there are costs associated with compliance with this Order, and that many communities and businesses are experiencing economic challenges. While this Order contains new requirements consistent with the evolving MEP standard, the majority of requirements contained in this Order are also contained in Order No. R3-2004-0135. In addition, Central Coast Water Board staff has taken steps in consideration of implementation costs (see Staff Response to Comment City of Salinas – 26). Central Coast Water Board staff does not believe the cost of implementing this Order will be prohibitive (see Staff Response to Comment Latino-1), and funding options are available to the City (see Staff Response to Comment City of Salinas Supplemental – 12). Order No. R3-2004-0135 was scheduled for renewal in 2010; therefore this Order has already been delayed for more than a year. Therefore Central Coast Water Board staff believes no further delay is needed prior to adoption of this Order.

Gowin - 1

I am very outraged with what the Regional Board is planning to do with our City! As a taxpayer, I want to keep as many services as possible in my city and any increase in regulations and associated costs at this point in time are ill advised considering the current economic conditions. This should be delayed until enough in depth review and associated regulation impacts have been determined!!!! This only shows the ignorance of some board members in the Regional Board! I hope my voice, and others I'm sure, is heard and you will not pursue this until further review. The desperate need for money has gotten out of hand and you are no longer thinking!

Staff Response to Comment Gowin – 1

See Staff Response to Comment Steele – 1.

Future Growth Area - 1

The City estimates that the cost of implementing the Permit is ±\$80 million. Your staff estimates the cost at around \$100,000. This is a difference of 800 times. Several times during the two public workshops, Board staff indicated that it was not the "intention" to require the strictest interpretation of the language of the Permit. The magnitude of this difference in cost estimates, coupled with the expressions of "intention" indicate clearly that the Permit is not written with sufficient clarity to convey an accurate understanding of the Board's true level of expectations.

Staff Response to Comment Future Growth Area - 1

Central Coast Water Board staff believes the program costs cited in the comment are derived from a cost estimate prepared by the City and released to the media. Central Coast Water Board staff reviewed this cost estimate and found that it does not reflect actual costs of implementing this Order (see Staff Response to Comment Avery – 8). Central Coast Water Board staff believes that the City's overestimates of Order requirements and program costs are based on the City's interpretation of the MEP concept and of standard provisions language in the Order that is typical of Phase I permits throughout California. Central Coast Water Board's understanding of the MEP concept and the standard provisions language is consistent with the understanding of these matters that is typical of Phase I municipalities and other Regional Water Boards. Central Coast Water Board staff has been working with City staff to understand the basis of City's staff's conclusions and to educate City staff about the common understanding of the MEP concept and standard provisions language. In addition, the City has submitted comments identifying specific Order language that is ambiguous or potentially confusing, and Central Coast Water Board staff has clarified Order language where appropriate. Therefore Central Coast Water Board staff does not believe that this Order is insufficiently clear.

Future Growth Area - 2

Several provisions of the Permit require "restoration of the natural conditions" (Fact Sheet, p. 72 , ¶60) and refer to "natural drainages" (Permit, p. 72). The Permit glossary does not define "natural condition ," and Board staff acknowledged at the workshops that they do not have a definition of what constitutes the "natural condition ." The Permit fails to recognize that in the case of the FGA, there is little if any condition that could be considered "natural" if the term means environments untouched by man. The land has been used as irrigated row crop land for decades, and the streams have been reduced to irrigation ditches.

Related to the last comment, the Permit documents appear to assume that development and urbanization of the FGA will occur on undisturbed land in its natural state (see, e.g., Fact Sheet p. 59, Findings 46, 47 and 48). In fact, the area is almost entirely cultivated row crop land, with exposed soils transporting significant amounts of sedimentation to the stormwater system through furrows and ditches.

Staff Response to Comment Future Growth Area – 2

See Staff Response to Comment Chamber – 5.

Future Growth Area - 3

The Permit and the Fact Sheet refer repeatedly to the "Salinas Reclamation Ditch" (see, e.g., Fact Sheet p. 2, IVA 1; Permit Findings 23, 66, 690). The reclamation ditch does not belong to the City, and the City has no jurisdiction or obligation to maintain, repair or modify the reclamation ditch. The ditch was constructed in 1917 by Reclamation District No. 1665, and is currently owned, operated and maintained by the County of Monterey through its Water Resources Agency. Furthermore, Carr Lake was not designed or constructed as "a stormwater retention basin" (see Permit, p. 4, Finding 23). Carr Lake is one of several natural lakes in the region that were intended to be drained by the reclamation ditch in order to promote farming. It should also be clarified (Fact Sheet, p. 7) that the construction of the Reclamation Ditch rerouted flows through Carr Lake, but did not cause the channelization of Natividad and Gabilan Creeks. Due to capacity issues related to the Reclamation Ditch downstream of Carr Lake, the agricultural areas now known as Carr Lake will flood; thus the flows from Natividad and Gabilan Creeks are not "disconnected" from their floodplains.

Staff Response to Comment Future Growth Area – 3

Central Coast Water Board staff has changed "Salinas Reclamation Ditch" to "Reclamation Ditch" in the Order. Central Coast Water Board staff has revised Finding 23 to read, "Carr Lake ... functions to detain stormwater flows." The channelization of Natividad and Gabilan Creeks is evident from historical maps and photographs and current aerial photographs. The Fact Sheet states on page 7 that "channelization of Natividad and Gabilan Creeks has disconnected these creeks from their floodplains to a degree (emphasis added);" this does not mean that these creeks do not flood their adjacent lands, but that they flood less frequently.

Future Growth Area - 4

Page 6 of the Permit, Finding 30, asserts: "The BMPs identified in this Order are technically feasible, practicable, and cost-effective." Findings are required to be supported by substantial evidence. There is no substantial evidence in the Permit or the Fact Sheet to support this conclusion.' This finding should be eliminated, or at least modified to reflect that soils, geology and infiltration rates in specific areas may render some measures unfeasible and impractical.

Staff Response to Comment Future Growth Area – 4

See Staff Response to Comment City of Salinas Supplemental – 28. In addition, support for this finding can be found in the Fact Sheet for Finding 30 and in other sections of the Fact Sheet. Reference in the comment to soils, geology, and infiltration rates suggests that the

commenter believes requirements related to new development and redevelopment in contained in the Order are unfeasible and impractical. Central Coast Water Board recognizes that particular stormwater management measures for new development and redevelopment will not be feasible or practical in all applications in all locations, and the Order does not require the implementation of measures where they are shown to be technically infeasible. Therefore Order requirements are feasible and practical when viewed as a whole.

Future Growth Area - 5

Page 54, J, Parcel-Scale Development. It is unclear if this applies to "all new development," as stated under J.3.a or only "small-scale new development" as stated in the Fact Sheet on Page 106, under Section J.3. Would this apply to the Future Growth Area? If so, does that mean each parcel created within the FGA must include two of the following items: Porous Driveway, Downspout Routing, and/or Amended Soils per Section J.3.a.ii?

Staff Response to Comment Future Growth Area – 5

Provision J.3.a states that a Non-Priority Development Project is, "All new development and redevelopment projects creating and/or replacing 2,000 square feet or more of impervious surfaces (excludes roof replacement and solar panel installation projects), and not considered to be a Priority Development Project." The final treatment requirements for Priority Development Projects are triggered when a new development or redevelopment project creates and/or replaces 5,000 square feet or more of impervious and/or turf surface. The final flow control applicability thresholds will be determined through the Central Coast Water Board Joint Effort for Hydromodification Control. At this point, the Priority Development threshold goes down to 5,000 square feet or more of impervious surface; therefore, the Non-Priority Development Project threshold is triggered when a project creates and/or replaces 2,000-5,000 square feet of impervious surface. The Order requires a project in the Future Growth Area that is creating and/or replacing 2,000-5,000 square feet of impervious surface to adhere to the Non-Priority Development Project criteria. The Order requires a project in the Future Growth Area that is creating and/or replacing greater than 5,000 square feet to adhere to the applicable requirements for Priority Development Projects, and does not require those project to adhere to the Non-Priority Development Project requirements.

Future Growth Area - 6

Permit page 56, Section J, Item 4, requires the City within 3 months of adoption of the Order to require Priority Development Project applicants to submit a Stormwater Control Plan (SWCP). The timing of this requirement must be reconsidered. In the case of many applications, such as specific plans and tentative subdivision maps, the details of the project and the level of engineering design does not provide sufficient basis for preparation of a useful ("practicable") SWCP. The SWCP should be required at the time improvement plans are prepared and submitted.

Staff Response to Comment Future Growth Area – 6

The City's existing SWDS required under existing Order No. R3-2004-0135 requires project applicants to develop SWCPs for applicable projects; therefore, the requirement to develop SWCPs is not new. The Order includes some modifications to the existing SWCP requirements to compliment the new requirements in the Order. Priority Development Project applicants will demonstrate to the City that the applicant's project meets the SWDS requirements in the SWCP. Provision J.2.c details what projects, in the development review process, are held to the most current SWDS. The Order requires the City to ensure applicable projects meet the SWDS prior to final project approval.

Future Growth Area - 7

Permit page 77, L requires that the City remove from FGA specific plans language that stipulates conventional curb, gutter, and subgrade enclosed pipe runoff conveyance as required improvements. This categorical prohibition is unacceptable and must be re-written or eliminated from the Permit. This approach would drastically impair the City's ability to promote the density mandated by the General Plan for the Future Growth Area. Where feasible, swales will be constructed to receive and treat runoff from curbs and gutters. Where necessary, storm flows will be piped from swales, underground beneath road crossings to basins. To expect stormwater to flow overland in an area that one is trying to achieve an overall density of 9 units per net acre is infeasible and not "practicable." Sub-section (f) of this section also requires elimination of "large rights of way." The issue should not be the size of the right-of-way, but the character of the improvements located in the right-of-way. In the case of the FGA, it is anticipated that some large rights-of-way will be utilized to include drainage swales as part of the public street improvements.

Staff Response to Comment Future Growth Area – 7

See Staff Response to Comment City of Salinas – Provision J.3.a

Central Coast Water Board staff's rationale in requiring the City to review Future Growth Area Specific Plan language and removing specified language (see Provision L.1.a.i.5) is to ensure Specific Plan language is not constraining to meet the objectives of the Order. As an example, the requirement to remove, "language that stipulates conventional curb, gutter, and subgrade enclosed pipe runoff conveyance as required improvements," does not prohibit a project applicant from using conventional curbs and gutter systems for conveying stormwater runoff. However, by removing this language a project applicant is given the discretion to use alternative approaches for conveying stormwater runoff.

Provision L.1.a.i.5.f does not require the City to remove large rights-of-ways requirements from Specific Plans. Provision L.1.a.i.5.f requires the City to remove any requirements from Specific Plans that could impede the use of LID techniques in rights of way. Central Coast Water Board staff included this requirement because Central Coast Water Board staff recognizes that public streets provide a good opportunity for managing stormwater runoff.

Future Growth Area - 8

Permit page 80, Riparian Protection Regulation (ii)(1) states that all new development "shall not conduct ground disturbance in the existing riparian vegetation and habitat. In the case of the FGA, "existing riparian vegetation" is typically non-native vegetation adjacent to artificially alter irrigation channels. FGA specific plans anticipate that development will restore these altered channels to a more natural configuration and revegetation, which cannot be achieved with conducting ground disturbance in the riparian areas. The language of the Permit must be revised to permit and encourage such restoration work. This section of the Permit continues: "Permittee shall require the project applicant to protect the existing riparian vegetation and habitat on the applicant's land, in perpetuity." In the case of the FGA, the riparian areas will not be protected by the developer "in perpetuity." These areas will be included within a Landscaping and Lighting Maintenance District that will provide the maintenance and protection of the riparian corridors.

Staff Response to Comment Future Growth Area – 8

Central Coast Water Board staff added language to Provision L.1.d.ii.1 to 1) clarify that riparian vegetation and habitat restoration-related activities are allowed where there is existing riparian vegetation and habitat, and 2) provide the option of the City delegating the responsibility to itself or another entity for protecting existing riparian vegetation and habitat.

Avery - 1

"This nightmare proposal was being discussed on the radio and of course in the Salinas Californian. When I first heard about this I thought it was a joke, anything this absurd must be, but I soon found out the terrible seriousness of it. My first thought was to wonder where those of you on this board thought you were living? Under a communist regime? You receive money from the people and use it against them and then are taken back by their volatility and confused by the citizen's position. I find these actions by the Water Quality Control Board reprehensible, insidious, communistic and disgusting..."

The budget for the city is about \$80 million. Positions are unfilled, offices have had to let people go, the Parks Dept. is seriously undermanned. The parks can barely be watered as it is. People are losing their homes, countless property owners have mortgages that are upside down, the value of property is in the toilet. Families are barely skimming by, robbing Peter to pay Paul. Does any of this matter to the Water Board? The rates keep going up regardless and the board matches in lockstep to the whims of a federal Clean Water Act enacted in 1972 without thought or concern to what their actions are causing. Why is that?

Is this the Boards idea of how to promote business? There are numerous empty stores in Salinas, every empty structure represents a financial loss to the city and car washers are being threatened? Even charitable ones. This will kill the city. This will kill the state. Businesses will move out faster than they already are. Can't any of you see that?"

Staff Response to Comment Avery - 1

Many of the details about this Order that have been discussed in the media are inaccurate and have been addressed by Central Coast Water Board staff through other avenues. For instance, Order implementation costs cited in the media have been based on a cost estimate developed by the City which significantly overestimated Order requirements and program costs.

Central Coast Water Board staff recognizes there are costs associated with compliance with this Order, and that many communities and businesses are experiencing economic challenges. While this Order contains new requirements consistent with the evolving MEP standard, the majority of requirements contained in this Order are also contained in Order No. R3-2004-0135. In addition, Central Coast Water Board staff has taken steps in consideration of implementation costs (see Staff Response to Comment City of Salinas – 26). Central Coast Water Board staff does not believe the cost of implementing this Order will be prohibitive (see Staff Response to Comment Latino-1), and funding options are available to the City (see Staff Response to Comment City of Salinas Supplemental – 12). Taking all of this into consideration, Central Coast Water Board staff does not believe that this Order will cause harm to the future of the community.

Avery - 2

"How would fire depts. test the fire hydrants? How would fire departments put out fires because pollutants would run off into the storm drain?"

Staff Response to Comment Avery – 2

Fire departments would be able to continue to put out fires under this Order. Provision A.6 of the Order states that discharges or flows from fire fighting activities are excluded from the non-stormwater discharge prohibition and need only be addressed where they are identified as significant sources of pollutants to Waters of the U.S.

Fire departments would be able to continue to test fire hydrants under this Order. Fire department testing of hydrants is covered by Provision A.5 of the Order that states that water line flushing and discharges from potable water sources are not prohibited provided any pollutant discharges are identified and appropriate control measures to minimize the impacts of such discharges are implemented. Control measures to minimize the impacts of drinking water implemented by other municipalities for water line testing include standard operating procedures to dechlorinate the water (if chlorinated), provide measures so that the water doesn't pick up contaminants as it flows into the storm drain, and to provide measures to prevent an unusually large flow from entering the MS4 where it may cause erosion or other negative impacts to the MS4.

Avery - 3

"Every storm drain must be inventoried, including its contents before cleaning could commence?"

Staff Response to Comment Avery – 3

The City is not required to inventory storm drain contents before cleaning can commence. In addition, the provisions of the Order related to catch basin cleaning (Provisions E.5) have been modified. See Staff Response to Comment City of Salinas Provision 5.a through Staff Response to Comment City of Salinas Provision 5.b.

Avery - 4

"Would washing of our vehicles be prohibited as soapy water would run off into the drain? Would watering our lawns become illegal do to water runoff? Would city parks stop watering the parkways because of water runoff? Doesn't this law encourage people to turn in their neighbors?"

Staff Response to Comment Avery – 4

Central Coast Water Board staff have modified Provision A.5, adding individual residential car washing to the list of non-stormwater discharges that are not prohibited by the Order. It is important to note, that even though this permit doesn't require the City to ban individual car washing, runoff from car washing entering the storm drain is likely to contain pollutants (detergents, metals, grease, etc). When the storm drain system then discharges this water into waterbodies untreated, it can be harmful to the creeks as well as the waterbodies downstream like the Tembladero Slough and Monterey Bay.

The Order will not make watering of laws or city parks illegal. Central Coast Water Board staff have modified the incidental runoff provisions to provide clarity of the intent of the provisions. The Order does encourage public reporting of illicit discharges of non-stormwater into the storm drain system.

Avery - 5

"There can be no runoff from farms that is not pure to drink?"

Staff Response to Comment Avery – 5

The Order does not require that all runoff from farms must be pure enough to drink. Discharges from agricultural lands that are comprised solely of return flows and/or stormwater are exempt from NPDES permitting. As such, the City is not responsible for these discharges that enter its MS4. However, the City is responsible for other agricultural-related discharges into its MS4.

Avery - 6

“Regulations require new buildings to retain all their rainwater on site? Would everyone be required to put in percolator drains? What about the high clay content of the soil? How would people afford this?”

Staff Response to Comment Avery – 6

The Order does not require new development and redevelopment projects to retain all stormwater onsite or to install percolator drains. The Order includes stormwater treatment requirements and requires the City to participate in the Central Coast Water Board Joint Effort for Hydromodification Control to develop long-term flow control numeric requirements. The treatment and flow control numeric requirements are based on a specified flow and/or quantity of water that the applicant has to manage. The Order does not require project applicants to retain 100 percent of stormwater, from all storms, onsite.

The Order focuses on requirements to mimic natural watershed processes. The infiltration component aims to mimic natural infiltration dispersion, location, and volumes; therefore, the Permit doesn't require higher volumes of infiltration than would naturally occur. However, if a project proposes to change the infiltration patterns of a site by reducing infiltration capacities in some areas (e.g., compacting soils, creating impervious areas), then the project may have to engineer an area to be more conducive to accepting more runoff (e.g., amend soils, working vegetation).

See Staff Response to Comment Steele – 1.

Avery - 7

“Bottom line, the board eventually expects people to be able, should they choose, to get down on their knees with a straw and drink that which is going into the storm drain.”

Staff Response to Comment Avery – 7

The Order requires the City to reduce pollutants in stormwater to the maximum extent practicable so that water quality is protected, in accordance with the Clean Water Act.

Avery - 8

“The proposal requires \$85 million more in taxes up front plus additional taxes to cover \$13 million annually, the taxpayers are tapped out. This represents much bigger government, a much more in your face variety. Do you or the members of this board have the money to cover this? Would you if you did? Hell now, you force the regulations and the rest of us have to suffer but of course that doesn't bother the members of this board. How did you all get on this board, how were you elected? It's definitely time to vote you all out and create some major changes.”

Staff Response to Comment Avery – 8

See Staff Response to Comment Avery – 1.

Central Coast Water Board staff believes the program costs cited in the comment are derived from a cost estimate prepared by the City and released to the media. Central Coast Water Board staff has reviewed this cost estimate and found that it does not reflect actual costs of implementing this Order. The City's estimate includes costs for activities that are not required by this Order. The City's estimate also includes the cost of items or activities that are either partially or wholly funded through other City programs. For instance, Central Coast Water Board staff identified the following inaccuracies in the City's cost estimate:

- The estimate includes \$79 million up-front to install costly retrofits on every commercial, industrial, and residential parcel in the City, and \$7 million annually to maintain them. However, it is likely that only very few parcels will require significant retrofits for Permit compliance.

- The estimate includes \$1 million up-front and \$1.8 million annually for trash capture at storm drain inlets.
- The estimate includes up-front costs for many items that are on-going in the City's program, and which therefore do not have up-front costs under this Order.