

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

**KEY ISSUES AND COMMENTS
RAISED BY THE CITY OF SALINAS SINCE FEBRUARY 2, 2012
ON DRAFT ORDER NO. R3-2012-0005 AND STAFF RESPONSES**

1. Issue: *Development Requirements Will Deter Development*

- a. **City Comment** – The Draft Order requirements for new development and redevelopment will deter development from Salinas, because of the differences in development requirements for Salinas and smaller Phase II Central Coast municipalities.
- b. **Central Coast Water Board Staff Response, Including Discussions with City Staff** – During a discussion with Central Coast Water Board staff, City staff explained that they no longer have an issue with this. City staff explained this concern has been alleviated now that they have a better understanding of the Central Coast Water Board Joint Effort for Hydromodification Control and recognize that it applies to both Phase I and Phase II municipalities.
- c. **Unresolved Issues** – None.

2. Issue: *Stormwater Development Standards (SWDS) Updates Should Coincide with the Joint Effort Schedule*

- a. **City Comment** – The modifications to the SWDS should occur all at once. These modifications include reorganizing the SWDS and modifying the requirements for new development and redevelopment in the SWDS. All of these modifications should be aligned with the Central Coast Water Board Joint Effort for Hydromodification Control schedule to allow the City to efficiently use its resources while making the modifications.
- b. **Central Coast Water Board Staff Response, Including Discussions with City Staff** – The February 2, 2012 Draft Order included requirements for the City to update the SWDS twice. These requirements included requirements to reorganize the SWDS and make interim modifications shortly after adoption of the Draft Order and then to make long-term modifications to the SWDS within 12 months of adoption of the Draft Order. After discussions with the City, Central Coast Water Board staff modified the Draft Order so that the City would not have to make changes to the SWDS twice. This change should significantly reduce the amount of resources the City must expend to make the changes. Central Coast Water Board staff changed all the deadlines for modifications to the SWDS to 21 weeks after Central Coast Water Board's adoption of the numeric criteria for stormwater management identified by Central Coast Water Board Joint Effort for Hydromodification Control. Central Coast Water Board staff plans to recommend the Central Coast Water Board adopt the numeric criteria for stormwater management identified by the Central Coast Water Board Joint Effort for Hydromodification Control at the September 6, 2012 Central Coast Water Board Meeting. The current implementation date for the numeric criteria for stormwater management identified by the Central Coast Water Board Joint Effort for Hydromodification Control is January 30, 2013 (21 weeks after the September 6, 2012 Central Coast Water Board Meeting). This schedule extends by one month, the City's deadline to implement the Central Coast Water Board Joint Effort for Hydromodification Control numeric criteria for stormwater management. The City's Stormwater Management Plan currently requires the City to apply the numeric criteria for stormwater management to all applicable new and redevelopment projects by December 31, 2012.

Central Coast Water Board staff modified the language in the Draft Order to require the City complete the following in the short term, before the SWDS are updated:

- Guidance Document for Identifying SWDS Requirements – Central Coast Water Board staff finds that reorganizing the SWDS will improve implementation of the SWDS. The February 2, 2012 Draft Order included requirements for the City to reorganize its SWDS to improve the effectiveness of the document. Currently, as observed by Central Coast Water Board staff during a focused audit, City staff is not sufficiently applying the SWDS to applicable projects; therefore, Central Coast Water Board staff finds that the City must reorganize its SWDS in order to effectively implement its SWDS. Central Coast Water Board staff modified the Draft Order so that the City will not have to restructure the SWDS twice. The modified language requires the City instead to develop an accompanying guidance document for the SWDS in the short term. The guidance document will identify which sections of the SWDS are requirements and which sections of the SWDS are information for the applicant. The City is required to develop the guidance document by the effective date of the Draft Order (45 days of adoption of the Draft Order). Central Coast Water Board staff finds this will achieve the same objective as modifying the actual SWDS within 18 weeks of adoption of the Draft Order.
- Applying Initial Modifications to Future Growth Areas – Central Coast Water Board staff finds that a few modifications to the SWDS need to be applied to the significant growth areas within the Permit coverage area, before the SWDS are updated, in order to protect water quality. Central Coast Water Board staff is aware of significant land areas zoned in the City of Salinas for future development. To ensure these future developments maintain and restore watershed processes impacted by stormwater management as necessary to protect water quality and beneficial uses, Central Coast Water Board staff finds that more protective conditions must be applied to the City's future growth area until the SWDS are modified to include the long-term requirements. In response to the City's request to not modify its SWDS twice, Central Coast Water Board modified the Draft Order to require the City to apply all the initial SWDS updates only to projects in the Future Growth Area, without requiring the City to update its SWDS. The initial SWDS updates include all of the SWDS modifications originally required, in the February 2, 2012 version of the Draft Order, to be made within 18 weeks of adoption of the Draft Order. From the effective date of the Draft Order until the City modifies the SWDS pursuant to the Central Coast Water Board Joint Effort for Hydromodification Control schedule, the City is required to require all Future Growth Area projects, captured by Provision J.2.c (Apply SWDS to Projects), to adhere to the requirements that were originally required to be inserted into the SWDS as initial updates. The City has stated it has adequate legal authority to apply these requirements in the Future Growth Area, even without updated SWDS.

City staff explained to Central Coast Water Board staff that the trigger point in the project review process, in the February 2, 2012 Draft Order, is not the most appropriate trigger point for applying the most current SWDS to applicable projects. Central Coast Water Board staff worked with City staff to modify the point in the planning process when the City must require applicable projects to adhere to the version of the SWDS that is most current. The objective in making this modification is to have the most current SWDS apply to as many new

projects as practical, by tying the new requirements to the latest point in the planning process where the City can impose new requirements. This modification will apply to all applicable projects whether within Future Growth Areas or not.

City staff indicated these changes adequately address their comments related to deadlines associated with SWDS modifications.

c. Unresolved Issues – None.

3. Issue: *Applicability Thresholds for New Development and Redevelopment Final Treatment Criteria – Replacement of Impervious Surfaces*

a. City Comment – The applicability thresholds for applying the final treatment criteria to new development and redevelopment should not include replacement of impervious surfaces because this will make development in greenfields more desirable.

b. Central Coast Water Board Staff Response, Including Discussions with City Staff – Central Coast Water Board staff does not agree that the applicability thresholds will deter infill and redevelopment and drive development to greenfields due to increased costs. Central Coast Water Board staff finds the Draft Order does not deter infill and redevelopment projects for the following reasons: 1) The Draft Order is consistent with the development requirements in other current Phase I municipal stormwater permits in California, which have not been shown to push development to greenfield areas; 2) The long-term development requirements that the City develops through the Central Coast Water Board Joint Effort for Hydromodification Control will treat infill and redevelopment separate from greenfield development, because these criteria will be based on local landscape characteristics and will take into consideration the existing level of development within a project's watershed; 3) The Draft Order includes alternative compliance options for smart growth, infill, and redevelopment locations where it can be demonstrated that onsite compliance with the requirements is infeasible; and 4) The Draft Order provides the City with the option to take over the responsibility for funding implementation of alternative compliance options for infill and redevelopment projects if it so chooses.

Application of treatment requirements to replaced impervious surfaces is essential to attain healthy watersheds. The City's urban runoff is contributing to water quality impairments. The Draft Order includes stormwater management requirements for new development to protect and maintain watershed processes impacted by stormwater management. These requirements will help prevent the water quality situation within the City from getting worse. However, in order to restore degraded watershed processes, impacted by the City's past stormwater management, and to actually improve upon the City's current degraded water quality conditions, it is critical to also require redevelopment projects to implement stormwater controls. Redevelopment projects provide an important opportunity to implement stormwater controls where they currently do not exist. Incorporating stormwater controls into redevelopment projects is an effective and efficient means to attain treatment of runoff from existing urbanized areas.

Other Water Boards around the state agree on the important role redevelopment projects play in improving water quality: Many current Phase I stormwater permits elsewhere in California require projects that replace a specified threshold of impervious surfaces to implement stormwater treatment and flow control measures. The City does not provide evidence that these requirements applied elsewhere in California have pushed redevelopment projects into greenfield areas.

Central Coast Water Board staff acknowledges multiple environmental benefits of infill and redevelopment as compared to greenfield development. Central Coast Water Board staff recognizes the direct nexus to water quality and watershed health from doing such things as focusing development in the urban core, which typically requires less supporting infrastructure (e.g., roads) and redeveloping areas that are already disturbed, instead of creating new impacts and expanding the urban footprint. As mentioned above, the Central Coast Water Board Joint Effort for Hydromodification Control will take these factors into consideration during the development of applicability thresholds and criteria for infill and redevelopment. Development of these applicability thresholds and criteria through the Central Coast Water Board Joint Effort for Hydromodification Control is undergoing a substantial public process that will provide Central Coast Water Board members and stakeholders ample opportunity to consider and address the issue of appropriate applicability thresholds and criteria for infill and redevelopment. In the interim period until the long-term applicability thresholds and criteria for infill and redevelopment are finalized through the Central Coast Water Board Joint Effort for Hydromodification Control, Central Coast Water Board staff has incorporated alternative compliance options into the Draft Order to ensure the requirements do not deter infill or redevelopment.

The Smart Growth Association, American Rivers, Center for Neighborhood Technology, River Network, and the National Resources Defense Council, asked ECONorthwest to investigate if stormwater regulations that require or encourage LID, applied uniformly to greenfield development and redevelopment, would impact developers' decisions about where and how to build. The study, based on case studies of multiple municipalities, indicated that implementing LID in redevelopment situations tended to be more challenging than on greenfield developments, because LID techniques are usually more site-specific and custom. However, developers were not choosing to invest in greenfield developments over redevelopment because of LID standards. The study indicated that developers' decision-making process for projects incorporates a wide range of economic factors, including various construction costs, current and future market conditions, regulatory incentives and disincentives, and uncertainty and risk. Many developers interviewed for the study described the cost of implementing stormwater controls as minor compared to other economic factors they considered in deciding whether or not to pursue a project, especially in the context of complex redevelopment projects and green building infill projects. The study points out that the demand for green buildings and sustainable stormwater practices has been increasing in response to the rapid growth in the global green building industry, which will likely play an important role in developers' decisions for how and where to build.¹

After discussion with Central Coast Water Board staff, City staff indicated they can accept the replacement of impervious surfaces portion of the final treatment criteria applicability thresholds.

c. **Unresolved Issues** – None.

4. Issue: *Applicability Thresholds for New Development and Redevelopment Final Treatment Criteria – Turf Surfaces*

a. **City Comment** – The applicability thresholds for applying the final treatment criteria to new development and redevelopment should not include turf surfaces.

¹ ECONorthwest. *Managing Stormwater in Redevelopment and Greenfield Development Projects Using Green Infrastructure: Economic Factors that Influence Developers' Decisions*, June 2011.

- b. Central Coast Water Board Staff Response, Including Discussions with City Staff –** Ninety percent of the City's stormwater discharge samples (in all watersheds) have exceeded water quality criteria established for receiving water for orthophosphate. Fertilized turf surfaces commonly contribute to orthophosphate in urban runoff. Therefore, Central Coast Water Board staff finds it is appropriate to require the City to require applicable projects to implement measures to provide treatment of runoff from turf surfaces.

After discussion with Central Coast Water Board staff, City staff indicated they are amenable to this applicability threshold trigger except for the situation when turf is replaced on athletic fields. In response to this discussion with City staff, Central Coast Water Board staff modified the Draft Order to indicate that the requirements are only triggered when turf is created, not replaced. City staff indicated this change adequately addressed their comment.

- c. Unresolved Issues –** None.

5. Issue: *Alternative Compliance Project Scenarios*

- a. City Comment –** The list of example scenarios of technical infeasibility to justify alternative compliance should be expanded. The list should include the following additional examples: 1) The onsite soils are not conducive to infiltration, and 2) Groundwater recharge is more readily available at an offsite location.
- b. Central Coast Water Board Staff Response, Including Discussions with City Staff –** Central Coast Water Board staff finds that the alternative compliance portion of the Draft Order provides reasonable criteria for determining when a project applies for alternative compliance options. The Central Coast Water Board Joint Effort for Hydromodification Control will also provide direction for developing alternative compliance options. Central Coast Water Board staff modified the Draft Order to provide the option for the City to propose, for Central Coast Water Board Executive Officer approval, modifications to the alternative compliance options, so long as those modifications are consistent with the Central Coast Water Board Joint Effort for Hydromodification Control.

The purpose of the alternative compliance option is to allow projects, where it is infeasible to manage a portion and/or all of the stormwater specified by the treatment and flow control requirements on the site, to mitigate offsite. For example, some types of projects (e.g., infill redevelopment project) might not be as conducive to allotting space to infiltrate stormwater runoff. If the underlying soils on these sites have poor infiltration rates, then it may be challenging, with the space available, to achieve the stormwater control requirements onsite. The presence of clay soils is not sufficient justification, on its own, to trigger the alternative compliance option. However, if a site lacks space because of the project type and has clay soils with poor infiltration capacity, the combination may justify offsite compliance. Providing a blanket-wide exemption for clay soils is not appropriate, because projects with ample space can successfully infiltrate runoff even with clay soils present. In addition, an exemption for all sites with clay soils may not be protective of watershed processes in all scenarios, since watershed processes are most effectively protected when maintained where they originally occur.

The Central Coast Water Board Joint Effort for Hydromodification Control will identify watershed management zones in the City. The watershed management zone designation will inform if infiltration is a watershed process that is necessary to maintain and restore watershed processes within the City. The Central Coast Water Board Joint

Effort for Hydromodification Control will also identify if infiltration onsite is necessary to maintain and restore watershed processes impacted by stormwater management, or if offsite infiltration will adequately maintain and restore those watershed processes. The Central Coast Water Board Joint Effort for Hydromodification Control will inform the appropriateness of utilizing offsite facilities. Because the Central Coast Water Board Joint Effort for Hydromodification Control will address where and to what extent infiltration must occur, Central Coast Water Board staff finds it is unnecessary to expand upon the list of examples of projects that may apply for offsite alternative compliance options. The list of examples, and other Draft Order language addressing alternative compliance, provides sufficient parameters to guide alternative compliance implementation in the limited time until the Central Coast Water Board Joint Effort for Hydromodification Control is completed.

Central Coast Water Board staff modified the Draft Order to include an example of a smart growth and infill or redevelopment scenario where offsite stormwater management features, in the near vicinity of the subject project, could perform more effectively than implementing onsite stormwater management features. After discussions with Central Coast Water Board staff about the rationale for not modifying the Draft Order in response to other portions of the comment, City indicated this change was responsive to their comment.

c. **Unresolved Issues** – None.

6. Issue: Specific Plan and Code/Ordinance Requirements

a. **City Comment** – The requirements for removing impediments to implementing LID design principles in Future Growth Area Specific Plan language should be reworded to identify what types of designs are allowed instead of prohibited. The requirements for removing impediments to implementing LID design principles in building requirement language should be deleted.

b. **Central Coast Water Board Staff Response, Including Discussions with City Staff** – During a conference call with City staff, Central Coast Water Board staff explained that the identification of allowances instead of removal of impediments achieves the same water quality goals for the Future Growth Area Specific Plan language. Central Coast Water Board staff explained to City staff that deleting the requirements for removing impediments to implementing LID design principles in building requirement language would not be protective of water quality. Central Coast Water Board staff proposed making parallel changes to both the building requirement language and the Future Growth Area Specific Plan language to address the City's comments. City staff was amenable to this approach. Central Coast Water Board staff modified the Draft Order pursuant to the discussed approach.

c. **Unresolved Issues** – None

7. Issue: Relationship of the General Industrial Permit to the Draft Order

a. **City Comment** – The City should not be required to implement the General Industrial Permit. This should continue to be a State run program.

b. **Central Coast Water Board Staff Response, Including Discussions with City Staff** – During a conference call with City staff, Central Coast Water Board staff explained the City is not responsible implementing the requirements of the State's General Industrial Permit. The City is responsible for implementing the City's commercial and industrial requirements. Similar to the General Construction Permit, there is some overlap in the State's and the City's requirements. This overlap is typical nationwide. USEPA has established this overlap due to the significant potential threat industrial sites pose to

water quality. The City is required by the Draft Order to verify applicable facilities are enrolled in the General Industrial Permit. Municipalities typically verify enrollment by requiring a facility to provide their Waste Discharge Identification number (WDID) issued by the State Water Board. The City is also required to utilize in their effectiveness assessment, the sampling information collected by facilities that are enrolled in the General Industrial Permit. Utilizing existing water quality sampling data that is already required to be obtained under a different program is a cost effective way for the City gain effectiveness information that can be used to make program adjustments to increase their program's effectiveness. After the discussion, the City indicated they understand the relationship of the two permits and no longer has the questions raised in this comment.

c. Unresolved Issues – None

8. Issue: *The Relevance of Receiving Water Trend Monitoring in the Reclamation Ditch*

a. City Comment – Water quality in the Reclamation Ditch is heavily influenced by upstream discharges from agricultural lands. Therefore, receiving water monitoring in the Reclamation Ditch will not provide reliable data about the results of the City's efforts. To be most useful, receiving water monitoring should track and compare both upstream and downstream water quality conditions.

b. Central Coast Water Board Staff Response, Including Discussions with City Staff – Receiving water monitoring is an essential ingredient of a Phase I National Pollutant Discharge Elimination System (NPDES) stormwater management program. The principal goal of stormwater programs is to protect receiving waters from urban runoff impacts. In accordance with federal and State regulations, the Draft Order contains receiving water limitations to help ensure receiving water protection, and compliance with these limitations can be determined only through receiving water monitoring. The Reclamation Ditch remains the most reasonable water body for this monitoring, because it receives discharges from the majority of the land area drained by the City's Municipal Separate Storm Sewer System (MS4). In addition, the portion of the Permit coverage area that drains to the downstream receiving water monitoring station is roughly the same size as the total acreage of agricultural land that drains to the downstream receiving water monitoring station. While discharges from agricultural lands are cumulatively much larger than discharges from the City during dry weather, toxicity testing is very sensitive, and causes of toxicity in urban runoff can differ from causes of toxicity in agricultural runoff, and can be identified through toxicity identification evaluation. Therefore high toxicity resulting from the City's discharges, if it occurs, can be detected in the Reclamation Ditch even during dry weather. Similarly, agricultural runoff and urban runoff can have different pollutant signatures, providing the potential for urban runoff impacts to receiving waters that occur during dry weather to be distinguished from impacts resulting from agricultural runoff.

Central Coast Water Board staff understands from conversations with City staff that the City is concerned that required monitoring at the receiving water monitoring site during dry weather will not produce useful information about the City's program commensurate with the expense of the monitoring. Prior to the submittal of this comment, Central Coast Water Board staff had limited the amount of receiving water monitoring the City must conduct by focusing on targeted monitoring designed to identify trends in receiving water quality at a few locations. Trend monitoring, in combination with discharge monitoring and quantifying pollutant load reductions, is an effective means of obtaining useful feedback about the effectiveness of the City's program. Rather than attempting to characterize the City's contribution to water quality conditions, trend monitoring is

designed to detect changes in water quality conditions over time, which in turn can be compared with discharge monitoring and pollutant load reductions to determine program effectiveness. This approach, combined with reduced receiving water monitoring during dry weather, results in the Draft Order's trend monitoring being more cost-efficient than the receiving water monitoring program under existing Order No. R3-2004-0135. In addition, trend monitoring conducted in both wet and dry weather will provide information that can be used to distinguish the City's contributions to water quality conditions from those of upstream agricultural lands, since upstream monitoring is also conducted in both dry and wet weather.

Central Coast Water Board staff recognizes that some results of the City's stormwater management efforts may be masked by other water quality inputs. However, Central Coast Water Board staff believes it is reasonable to expect that, in general, improvements in the City's pollutant load reductions and discharge water quality will result in detectable improvements in receiving water quality.

Central Coast Water Board staff agrees with the importance of comparing sampling data from monitoring sites upstream of the City with data downstream of the Permit coverage area. Therefore Central Coast Water Board staff has modified Section P.5 and Attachment D.6 of the Draft Order to include a requirement to compare upstream and downstream sampling data to assess changes in loads of nitrate, orthophosphate, fecal coliform, copper, and zinc between the upstream and downstream points. The modified language requires the City to conduct monitoring at the upstream sites for these constituents, or coordinate with the Cooperative Monitoring Program for Agriculture to provide data for nitrate and orthophosphate and conduct sampling for fecal coliform, copper, zinc, and flow. The modified language also directs the City to coordinate sampling events in order to obtain time-paired data that can be compared readily. To balance the increased monitoring cost resulting from adding the Background Receiving Water Monitoring described above, Central Coast Water Board staff also reduced the required frequency of water column toxicity testing and sediment sampling for pyrethroid pesticides and other constituents (see Attachment D, Table D.4 for details). These changes are consistent with the frequencies required under the Agricultural Order (Order No. R3-2011-0006). Central Coast Water Board staff finds the modified monitoring program will collect sufficient water quality data for the City to use to guide its program implementation so that it is protective of water quality.

- c. **Unresolved Issues** – Extensive discussions between City and Central Coast Water Board staff have helped City staff understanding of the monitoring strategy and allayed some of City staff's concern. However, City staff continues to have concerns about the relevance of receiving water trend monitoring in the Reclamation Ditch.

9. Issue: Receiving Water Monitoring Costs Should Be Shared by All Dischargers

- a. **City Comment** - The cost of receiving water monitoring should be shared through a joint monitoring effort supported by all discharges to the Reclamation Ditch upstream of the City.
- b. **Central Coast Water Board Staff Response, Including Discussions with City Staff** – Central Coast Water Board staff recognizes the benefits of cooperative monitoring programs, and the City has flexibility to pursue a cooperative monitoring approach with other stakeholders. In addition, Central Coast Water Board staff finds that water monitoring in the Reclamation Ditch in the vicinity of the City already includes cooperative elements. The Cooperative Monitoring Program for Agriculture conducts monitoring in Gabilan Creek, Natividad Creek, and the Reclamation Ditch upstream of

the City for constituents related to agricultural pollutants. Many of these constituents are also typical of pollutants in urban discharges, and the Cooperative Monitoring Program for Agriculture data is available to the City for use in comparing upstream and downstream water quality conditions. In addition, the Central Coast Ambient Monitoring Program (CCAMP) also conducts cyclical monitoring at the City's receiving water monitoring site. The Draft Order also allows the City to use CCAMP monitoring data to satisfy monitoring requirements, provided the CCAMP data complies with all other Draft Order requirements (see Attachment D.5.f).

Central Coast Water Board staff has taken significant steps to reduce the overall cost of the monitoring program, both prior and subsequent to the submittal of this comment. First, Central Coast Water Board staff designed a balanced approach to effectiveness assessment that includes quantifying pollutant loads, discharge monitoring, and receiving water monitoring, to assist the City in obtaining the most useful information in a cost-efficient manner. Prior to the submittal of this comment, and in response to previous comments from the City, Central Coast Water Board staff reduced several monitoring requirements, including the frequency of receiving water trend monitoring from monthly to nine times per year, with the monitoring reduction to occur during dry weather. Finally, Central Coast Water Board staff has made further modifications to the Draft Order, in response to the City's February 22, 2012 comments, to reduce the required frequency of water column toxicity testing and sediment sampling for pyrethroid pesticides and other constituents (see Attachment D, Table D.4 for details).

The City's latest estimate of monitoring program costs is \$196,078 per year (not including the cost of monitoring at the Salinas River outfall), or \$34,622 more per year than under existing Order R3-2004-0135. Central Coast Water Board staff has reviewed the City's cost estimate, and believes the City can achieve further cost reductions through a competitive bid process.

- c. **Unresolved Issues** - Extensive discussions between City and Central Coast Water Board staff have helped City staff understanding of the monitoring strategy and allayed some of City staff's concern. However, City staff continues to have concerns about the fairness and cost of the requirement to conduct receiving water trend monitoring in the Reclamation Ditch.

10. Issue: Responsibility for Water Quality Conditions in the Reclamation Ditch

- a. **City Comment** – The City may be held responsible for water quality conditions in the Reclamation Ditch for which it is not responsible and over which it has no control.
- b. **Central Coast Water Board Staff Response, Including Discussions with City Staff** – The Draft Order holds the City responsible for an exceedance of a water quality standard in receiving waters only when data indicates that the City's discharges are causing or contributing to the exceedance. In those instances, Central Coast Water Board staff will take into account measurable improvement in stormwater discharge water quality and pollutant load reductions when assessing its follow-up options. Central Coast Water Board staff does not anticipate pursuing enforcement for violations of receiving water quality standards when the City can demonstrate substantial progress towards controlling its contribution. Receiving Water Limitations language contained in the Draft Order states that “discharges from the MS4 that cause or contribute to the violation of water quality standards contained in a Statewide Water Quality Control Plan, the California Toxics Rule, or the Basin Plan are prohibited” (Section C.1), and “discharges from the MS4 shall not cause or contribute to a condition of pollution, contamination, or nuisance in receiving waters” (Section C.2). These statements mean that the City is not

responsible for violations of receiving water quality standards to which it does not contribute.

- c. **Unresolved Issues** - Extensive discussions between City and Central Coast Water Board staff have helped City staff understanding of the monitoring strategy and allayed some of City staff's concern. However, City staff continues to have concerns about how Central Coast Water Board Staff will interpret and respond to water quality conditions in the Reclamation Ditch which may not be the City's responsibility.

11. Issue: Street and Parking Lot Sweeping

- a. **City Comment** – Street sweeping requirements contained in the Draft Order constitute a 600% increase over requirements in existing Order R3-2004-0135. Draft Order requirements should provide more flexibility for the City to develop schedules and methodologies that optimize efficiency and work best for the City. Parking lots should be treated separately from streets and be swept according to their own schedule.
- b. **Central Coast Water Board Staff Response, Including Discussions with City Staff** – The City based its comparison of street sweeping requirements on language in existing Order R3-2004-0135, not on language in the City's Stormwater Management Plan (SWMP). The SWMP is an enforceable part of existing Order R3-2004-0135, so that requirements contained in the SWMP are in fact requirements under the existing Order. City staff has communicated understanding of this relationship in conversation with Central Coast Water Board staff. The requirements in the Draft Order are designed to avoid a significant increase in effort over the requirements contained in the SWMP.

The City requested greater flexibility in Draft Order language to allow the following:

- Increasing sweeping frequency of some routes without necessarily decreasing sweeping frequency of other routes, even if this increases overall level of effort;
- Decreasing sweeping frequency of downtown commercial district routes;
- Less costly and complicated alternatives for verifying that sweeping equipment is operated at the proper speed; and
- Less costly and complicated alternatives for estimating the percentage of curb miles covered by sweeping routes that are actually swept during sweeping operations.

After discussion with Central Coast Water Board staff, City staff understood that Draft Order language already provides the desired flexibility and withdrew these comments.

The requirements contained in the Draft Order are designed to optimize the efficiency of the City's street sweeping operations without decreasing, or significantly increasing, the total number of route miles swept each year. At the City's request, the Draft Order includes language allowing the City to alter its sweeping schedule for most routes from biweekly to semi-monthly. (The City has been sweeping residential streets biweekly even though the SWMP requires semi-monthly sweeping.) Changing sweeping frequency from biweekly to semi-monthly would constitute a decrease in effort from 26 to 24 sweeping events per year for the affected routes. The City has requested that this overall decrease in effort be allowed by the Draft Order. Central Coast Water Board staff finds that granting the City's request would constitute a decrease in level of effort and would therefore not meet the Maximum Extent Practicable (MEP) standard. City staff understands this point and has withdrawn this comment.

Central Coast Water Board staff agrees that parking lots should be considered separately from streets. The Draft Order does not require sweeping of parking lots

except where they already receive sweeping or cleaning. Central Coast Water Board staff understands that parking lots are not included in the street sweeping routes discussed in Section E.6.c. However, the City currently sweeps the parking lots identified in BMP 3.7 of the City's SWMP on a weekly basis. In addition, the City conducts daily visual inspection of all municipal parking lots and garages that includes removal of visible trash, litter, and debris. Central Coast Water Board staff has added language in Section E.6.i to clarify these requirements. City staff is amenable to this approach.

c. Unresolved Issues – None

12. Issue: Requirement to Conduct Trash Assessments in the Reclamation Ditch

a. City Comment –The City should not be required to remove trash from the Reclamation Ditch.

b. Central Coast Water Board Staff Response, Including Discussions with City Staff – Central Coast Water Board staff recognizes that the Reclamation Ditch is not part of the City's MS4, and the Draft Order does not hold the City responsible for maintaining the Reclamation Ditch. However, the Reclamation Ditch is a receiving water, and receives discharges from the City's MS4. NPDES regulations require the City to reduce pollutant discharges to the MEP. It is likely that trash detected in the Reclamation Ditch derives from sources within the City limits. Therefore the Draft Order holds the City responsible for trash in the Reclamation Ditch and requires the City to reduce discharges of trash to the MEP. The Draft Order provides two alternative approaches to reducing trash discharges. First, the City may conduct regular trash assessments in the Reclamation Ditch to quantify the amount of trash in the Reclamation Ditch, assess the rate of accumulation, and obtain information about sources of trash (see Draft Order Section P.3.b). The trash assessments include removing the trash and litter detected during the assessment. Second, the City may conduct trash collection and/or capture activities to reduce trash discharges by an amount established by the Draft Order (see Draft Order Section P.3.b.vii). This second alternative does not require the City to conduct operations in the Reclamation Ditch. City staff was amenable to this approach.

c. Unresolved Issues – None

13. Issue: Cost to Implement Draft Order Requirements

a. City Comment – Implementation of monitoring requirements contained in the Draft Order will increase the City's program cost by \$685,000 over the term of the Draft Order. Implementation of parking lot sweeping requirements contained in the Draft Order will increase the City's program cost by \$97,520 over the term of the Draft Order. Implementation of the Draft Order will also involve additional cost increases that cannot be fully or precisely estimated at this time.

b. Central Coast Water Board Staff Response, Including Discussions with City Staff – The City's estimate of cost increases due to monitoring requirements includes two elements: an estimate of the cost to implement the Monitoring and Reporting Program contained in Draft Order Attachment D, and an estimate of the cost to implement Salinas River outfall monitoring requirements contained in Draft Order Section E.12. The City estimates that the cost increase to implement monitoring requirements contained in Attachment D (which does not include Salinas Outfall monitoring) will be \$34,622 per year, or about 21%. Central Coast Water Board staff has reviewed the City's cost estimate, and believes the City can reduce its monitoring costs through a competitive bid process. For example, a significant portion of the increased cost is the result of travel costs for the City's monitoring contractor to travel from its office in Fairfield, California. With respect to Salinas River Outfall monitoring, the City estimates that this requirement

will result in \$70,000 - \$102,563 per year in new costs. Central Coast Water Board staff understands that this estimate assumes that Salinas River Outfall monitoring requirements will be similar to Receiving Water Monitoring requirements. Central Coast Water Board staff has modified Draft Order language in Section E.12 to clarify that the City is not required to use Receiving Water Monitoring requirements as the basis for developing the Salinas Outfall monitoring plan. Central Coast Water Board staff believes that Salinas River Outfall monitoring will cost significantly less than Receiving Water Monitoring since the Draft Order is primarily concerned with fewer pollutants (i.e., nutrients, salts, pathogens, and pesticides/toxicity) at the Salinas River Outfall (see Section E.12 of the Draft Order and Section XII.E.11 of the Fact Sheet).

The City's estimate of increased costs due to parking lot sweeping requirements is based on a proposal from the City to increase parking lot sweeping efforts (see Staff Response to February 22, 2102 Comment City of Salinas – Provision E.6.d.iii). Central Coast Water Board staff does not find it necessary for the City to increase parking lot sweeping efforts over current levels, and has added language to Section E.6.i of the Draft Order to make this more clear.

Central Coast Water Board staff recognizes that implementation of the Draft Order may involve costs the City has not identified or estimated to date.

- c. **Unresolved Issues** – The actual cost increase associated with monitoring remains unclear. The full cost of implementing the Draft Order remains unclear.

14. Issue: *More Frequent Central Coast Water Board Review and Input on the City's Program*

- a. **City Comment** – The City requests in their comment letter to receive more input each year on program compliance so they can make adjustments year to year that will assist them to remain as compliant as possible with the terms of the Draft Order. The City also requests to receive written results of the last Audit.
- b. **Central Coast Water Board Staff Response** – Central Coast Water Board staff acknowledges the City's request to receive more input each year on program compliance and agrees that this would likely be beneficial to the City's program. Central Coast Water Board staff will work to accommodate this request within the constraints of staff workload priorities. Central Coast Water Board staff will provide written results of the last Audit by the end of May. Meanwhile, the City should be implementing program changes based on the specific information provided in the two verbal audit overviews given by Central Coast Water Board staff as well as the information provided in Attachment 4 of the February 2, 2012 Staff Report (Status of Compliance with existing Order No. R3-2004-0135).
- c. **Unresolved Issues** – None