

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

**SUPPLEMENTAL SHEET NO. 2 FOR REGULAR MEETING OF OCTOBER 17, 2008**

Prepared October 10, 2008

**ITEM NUMBER: 9**

**SUBJECT: Response to Comments on Staff Report for City of Lompoc  
Storm Water Management Plan Approval**

On October 3, 2008 two non-governmental organizations and the City of Lompoc submitted comments on draft Resolution No. R3-2008-0071 and the related Staff Report recommending approval of the City's Storm Water Management Plan (SWMP). The comments were included in a Supplemental Sheet provided previously. Water Board staff provides the following written response to those comments. Water Board staff responses resulted in revisions to the Table of Required Revisions. These revisions are shown in underlined text in the attached Revised Resolution No. R3-2008-0071, Table of Required Revisions.

**RESPONSE TO COMMENTS**

**Home Builders Association of the Central Coast letter dated October 3, 2008**

Comment: Required Revision No. 16 – Hydromodification Control/Low Impact Development. We request that the time limit to develop interim hydromodification [control] standards be extended to two years rather than the proposed 12 months. We believe the 12 month time period is unrealistic and doesn't reflect the fact that small municipal separate storm sewer systems (MS4's) do not have the expertise and funds that the Phase 1 municipalities do. The development of interim standards that are "supported by technical findings" still requires technical effort resulting in time and expense that must be absorbed by the small municipalities over a longer time period than 12 months. Our understanding is that the much larger and better financed Phase 1 municipalities are struggling with this effort and time frame.

Response: The 12-month time frame for development of interim hydromodification control criteria is designed to limit the amount of development that goes forward without proper hydromodification controls. As the amount of development that proceeds without hydromodification controls increases, the potential for resulting downstream erosional effects is exacerbated. As such, extending the time frame for development of interim hydromodification criteria has the potential to be detrimental to the beneficial uses of downstream waters. For this reason, the proposed 12-month schedule for development of the interim hydromodification criteria is appropriate.

There are several small MS4s within the region that are already proceeding according to the 12-month schedule (the City of Santa Maria and the Santa Cruz County municipalities are examples). In addition, the City of Santa Barbara developed interim hydromodification criteria prior to even being enrolled under the general permit. The efforts of these municipalities serve to demonstrate that the 12-month time frame is achievable. Moreover, these municipalities' efforts can aid the City of Lompoc in meeting the 12-

month schedule. Both the process to be followed by the municipalities and the criteria they ultimately develop can be used as guidance by the City of Lompoc. As such, staff finds the 12-month time frame for developing interim hydromodification criteria is reasonable.

Comment: Required Revision No. 19 – Project Design Approval. We request that Required Revision No. 19 be changed such that the City will not deem an application complete unless a Preliminary Best Management Practices (BMP) Plan indicating conceptual post-construction BMP selection, and siting has been provided by the applicant. The Preliminary BMP Plan may be included in the Project Site Plan, the Tentative Tract Map, or as a separate document. We agree that “deemed complete” is the appropriate “check point” for hydromodification and low impact development (LID) implementation. However, the level of specificity required in the Resolution is too detailed and too early in the process to be achieved at the deemed complete stage. However, that does not mean that BMP criteria cannot be applied at the “deemed complete” checkpoint.

Response: The purpose of Required Revision No. 19 is to ensure the SWMP specifically identifies at which stage in its project approval process the City will apply hydromodification control/LID criteria to proposed development projects. However, staff understands that application of detailed hydromodification control/LID criteria at the “deemed complete” stage of project review runs in contravention to standard practice and can be impractical. For this reason, staff is proposing modification of Required Revision No. 19, so that the SWMP clearly identifies the stage of the approval process that will be used to apply specific hydromodification control/LID criteria, while also maintaining consistency with current practices. The “deemed complete” stage will still be used to require information on general types and locations of proposed BMPs, but other more specific design and sizing criteria can be required at a later stage in the development project approval process. Information on BMP type and location is necessary at the “deemed complete” stage in order to enable proper California Environmental Quality Act and planning review.

The following is the proposed modified language for the “Required Revisions” column of Item 19:

“Modify the section in the BMP that describes the City’s development project review/approval process for completeness and to be consistent with the following, or add a BMP equivalent to the following: The City will insure that applications are only deemed complete if they identify the types of post-construction BMPs to be implemented and their locations.

In addition, identify in the SWMP the particular stage(s) in the City’s development project review/approval process that will be used to apply all specific hydromodification control/LID criteria and standards to development projects.”

Comment: We request that the City of Lompoc SWMP interim hydromodification control/LID standards be applied to all project applications that were not “deemed complete” when the standards were adopted by the City of Lompoc.

Response: Staff agrees that the interim hydromodification control/LID standards must be applied to all projects that have not had their applications “deemed complete” at the time the standards are adopted by the City of Lompoc.

**Santa Barbara ChannelKeeper letter dated October 3, 2008**

Comment: The City...must...solicit public comments on the SWMP and any associated ordinances...provide sufficient time for response, and commit to incorporating the public's comments as appropriate into revised versions of these documents prior to their finalization.

Response: Water Board staff finds that the City's combined effort to implement BMPs 2.3.3, 2.3.4, and 2.3.5 is an appropriate starting place for public involvement in the stormwater program. Water Board staff infers from the description of BMP 2.3.3 and MG 2.4.3 that the City will solicit public comments on draft ordinances, provide sufficient time for the public to comment, and respond to comments by incorporating revisions to draft ordinances as appropriate. However, an explicit commitment to do so would improve the SWMP and Water Board staff therefore recommends adding Required Revision No. 21 to the attached Revised Table of Required Revisions. Item 21 reads as follows:

“Add a BMP equivalent to the following:

The City will solicit public comments on draft ordinances, provide sufficient time for the public to comment, and respond to comments by incorporating revisions to draft ordinances as appropriate.”

Comment: The City must also commit to conducting public meetings each year to explain the City's progress in implementing the SWMP and to present and solicit public comment on its draft annual SWMP implementation reports and should incorporate comments it receives from the public into the annual reports before submitting them to the Water Board.

Response: The City has committed to providing public information on storm water during at least two events a year, and to providing informational presentations on storm water pollution prevention to at least five community organizations. Water Board staff finds this to be an appropriate strategy for the City to gauge community concerns and support for its storm water management program. Water Board staff has found limited public interest in SWMP implementation in several small cities in the Central Coast Region, and meetings such as the one the commenter suggests have been poorly attended. The City of Lompoc's strategy reflects its experience with its own public involvement in public administration and may reasonably be expected to generate adequate public comment on SWMP implementation. Water Board staff therefore will evaluate the BMP during the first Annual Report review and require revisions if necessary.

Comment: Channelkeeper strongly urges that the City be required to develop a database that records the number of [storm water hotline] calls as well as the time, location and precise nature of illicit discharges reported and the City's actions to investigate and eliminate the discharges so that the City can utilize this information to identify patterns of problems that it can then prioritize and use to guide its field investigation and abatement strategies.

Response: The City does provide 24-hour availability for its hotline and does record callers' names, time of call, phone number and address, address of concern and issue of concern, and responses taken by the City. The City also commits to recording call information during non-work hours and when appropriate, dispatching staff to determine if a storm water violation is occurring. Water Board staff finds it reasonable that the hotline will serve its purpose through this arrangement.

Comment: The City should create a systematic plan for its illicit discharge detection surveys such that they focus first on priority areas or areas where there have been past

pollution problems or particular sources that have a likelihood of contributing pollutants to the MS4. A database...should be developed and utilized to target future inspection efforts.  
Response: Water Board staff agrees that the City's surveying would benefit from a more systematic approach than that conveyed in the SWMP. Staff recommends modifying Required Revision No. 7 to include a plan for the surveys to focus on priority areas and/or known or suspected sources of illicit discharges. The modified revision is shown in underlined text in the attached Revised Table of Required Revision. Water Board staff is confident the City will maintain appropriate records and documentation to target future inspection efforts.

#### **City of Lompoc letter dated October 3, 2008**

The City of Lompoc's October 3 letter requests removal of Required Revisions 3, 7, 10, 11, 14, and 16 through 20 from the Table of Required Revisions. Water Board staff responds to each request individually, below. Please refer to the full text of the City's comments in the previously provided Supplemental Sheet.

Comment: Required Revision No. 3 – Voluntary Business Consultations

Response: In Required Revision No. 3, Water Board staff requires the City to commit to conducting a minimum of five consultations with businesses that could potentially contribute pollutants to the storm drain system. If business owners do not request consultations, the City should conduct them with businesses and industries that are known or suspected sources of pollutants of concern. Required Revision No. 3 also requires the City to indicate the method it will use to identify enterprises that are suspected sources of pollutants of concern, and to prioritize the consultations accordingly. Water Board staff finds that the SWMP's Public Education and Outreach Program needs these improvements to insure that business and industry are sufficiently aware of storm water quality problems and are taking steps to address them. Water Board staff recommends retaining Required Revision No. 3.

Comment: Required Revision No. 7 – Storm Drain Inspections

Response: The SWMP commits the City to annual "visual inspection of a minimum of 33.3% of the City's street gutters and above-ground storm drains...beginning year 3," (BMP 4.3.5). The intent of the surveys is to determine if illicit discharges or connections are draining into storm drains. Water Board staff finds the potential benefit of surveys (identifying and addressing illicit discharges) could be a direct benefit to water quality and as such should not be delayed to year 3. Required Revision No. 7 allows the City flexibility in phasing in the surveys, but requires the City to commence surveying in year 1. Water Board staff recommends modifying Required Revision No. 7 to include a plan for the surveys to focus on priority areas and/or known or suspected sources of illicit discharges. The modified Required Revision No. 7 is shown in underlined text in the attached Revised Table of Required Revisions

Comment: Required Revision No. 10 – San Miguelito Creek Cleanup

Response: The SWMP states the City "will arrange to have the trash at the terminus of San Miguelito Creek removed," within the five-year permit term. The City's comment states that preparing, planning, and permitting of the cleanup could take two to three years. Based on Water Board staff experience with permitting creek restoration projects (which are typically much more complex than removing trash), staff does not agree that planning and permitting should require two to three years. Water Board staff recommends retaining Required Revision No. 10.

Comment: Required Revision No. 11 – City Jurisdiction and Control

Response: The City's proposed SWMP explicitly identifies certain entities and facilities as beyond its jurisdiction and, consequently, beyond the scope of the SWMP. The City's continued insistence that it cannot exert some level of control over certain discharges to its stormwater conveyance system reflects a misunderstanding of the primary purpose of its SWMP and of the City's responsibilities under the General Permit to manage discharges to its storm drain system. The City is ultimately responsible for discharges from its stormwater conveyance system, therefore the City must exert some level of control over discharges to its stormwater conveyance system (e.g., prohibit certain non-stormwater discharges), even if those facilities may be regulated by the Water Board. The City does have the authority to prevent other entities from discharging into the City's stormwater conveyance system. Required Revision No. 11 simply requires the City to acknowledge its role in ensuring that entities and facilities not controlled by the City and discharging storm water to the City's stormwater conveyance system are not discharging pollutants to its stormwater conveyance system. The revision requires the City to include additional BMPs in the SWMP indicating how the City will promote clean storm water discharges from these entities and facilities. Water Board staff recommends Required Revision No. 11 be retained.

Comment: Required Revision No. 14 – City Landfill

Response: Water Board staff inspected the City Landfill in December 2007 and identified potential capacity and functional limitations of the existing upper and lower detention basins. Water Board staff conveyed its observations to City Landfill staff at that time, and will send its inspection report to City staff. Due to the large area of exposed, erodible soils at the landfill site, and the hydrologic connection of the landfill to the City's main storm drain at San Miguelito Channel, Water Board staff requires implementation of measures to modify the detention facilities earlier than proposed in the SWMP. Water Board staff recommends retaining Required Revision No. 14.

Required Revisions 16, 17 and 18 – Hydromodification Controls

Comment:

- I. The Required Revisions Exceed those Necessary to Comply with the State's General Permit for Small MS4s

Response: Per the General Permit, SWMPs must describe BMPs and Measurable Goals that will fulfill the requirements of six Minimum Control Measures. Water Board staff recognizes Minimum Control Measures as minimums, above which additional control measures may be required to achieve the Maximum Extent Practicable (MEP) standard of the General Permit. The Post-Construction Storm Water Management in New Development and Redevelopment Minimum Control Measure requires the City to "develop, implement, and enforce a program to address storm water runoff from new development and redevelopment projects that disturb greater than or equal to one acre...by ensuring that controls are in place that prevent or minimize water quality impacts." (General Permit, SWRCB Order No. 2003-0005-DWQ, p. 11). Water Board staff's requirement that the City develop hydromodification controls is consistent with the intent of this Minimum Control Measure, since hydromodification controls specifically address water quality impacts from volume and rate of runoff on downstream water bodies. Furthermore, based on the land use development's potential cumulative impacts of hydromodification of downstream waterbodies, Water Board staff does not expect requiring controls only on projects larger than one-acre to protect water quality to the Maximum Extent Practicable. Therefore, Water Board staff contends that the City's

SWMP must commit to developing hydromodification controls to meet the MEP standard of the General Permit. Water Board staff recommends retaining Required Revision 16, 17, and 18.

Comment:

- II. The Required Revisions Exceed the Standard of Reducing Pollutants from Small MS4s to the MEP

Response: Water Board staff expects the interim criteria, presented in the Executive Officer's February 15 and July 10, 2008 letters, to provide protection anywhere throughout the Central Coast Region, for the following conditions of healthy watersheds, to the Maximum Extent Practicable:

1. Natural volume, rate, duration and timing of surface runoff,
2. Infiltration, groundwater flow and recharge, and stream baseflow at levels fully supporting aquatic life and designated beneficial uses,
3. Streambank stability within natural range,
4. Sediment supplies within natural range, and
5. Optimal riparian, wetland, and aquatic habitat.

Required Revisions 16, 17, and 18 do not impose these or other specific numeric standards, as stated in the City's comment. Water Board staff is requiring the City to include in its SWMP a commitment to develop numeric criteria in the first year of SWMP implementation. Water Board staff will evaluate the City's proposed criteria for their ability to provide equivalent protection to the conditions above, to the Maximum Extent Practicable. As the General Permit states, MEP should be applied in a site-specific, flexible manner, taking into account cost considerations as well as water quality effects. Water Board staff will therefore consider the City's unique characteristics when determining if the City's proposed criteria are protective to the MEP, in the City of Lompoc. This will require the City to provide technical findings to support its criteria – findings not provided for the criteria included in the SWMP as currently written.

In addition to numeric criteria addressing the conditions identified above, the City will necessarily present applicability criteria identifying thresholds of project type, scale, and purpose at which the numeric criteria are triggered. Through its applicability criteria, the City can propose a balance of factors such as economics, site-specific conditions, and the need for housing. Water Board staff will evaluate these factors after the City presents its criteria, to determine if the criteria will achieve MEP. Water Board staff recommends retaining Required Revisions 16, 17, and 18.

Comment:

- III. Federal Regulatory Requirements for Small MS4s and Requirements Imposed on Large Municipal MS4s

Response: The City asserts that the hydromodification controls contained in the proposed required revisions exceed the federal regulations for Small MS4s. The City mischaracterizes the federal regulations. The proposed required revisions address one of the six minimum control measures required in the federal regulations at 40 CFR § 122.34(b)(5) – "Post-construction storm water management in new development and redevelopment". In particular, the federal regulations require that Small MS4s prevent or minimize water quality impacts by addressing post-construction runoff from new development and redevelopment. In the regulations USEPA states that the BMPs should attempt to maintain pre-development runoff conditions. The purpose of the proposed required revisions related to hydromodification is to assure that the City's plan includes

BMPs that will attempt to maintain pre-development runoff conditions. The proposed required revisions do not “go beyond” federal law and are necessary to achieve MEP. There is nothing in the federal regulations that limits the Water Board to requiring hydromodification controls only of large MS4s. As noted, the federal regulations specifically require the Small MS4s to address post-construction runoff and to attempt to maintain pre-development runoff conditions.

Comment:

IV. The Required Revisions are not Practical as Applied to the City of Lompoc  
Response: The City argues that it would be “very difficult to maximize infiltration equivalent to the standard identified in the February 15, 2008 letter,” for a variety of reasons. The February 15, 2008 letter includes a goal, not a standard, of maximizing infiltration of clean storm water. On multiple occasions Water Board staff has provided additional information to the City regarding the infiltration goal, clarifying that infiltration at rates beyond pre-project conditions is not expected. In an environment of expansive soils, including clay lenses and fine silts, where infiltration is naturally limited, pre-project infiltration is limited, so post-project infiltration would be comparably limited.

The City further identifies infill and redevelopment contexts constrained by surrounding developments as posing obstacles to infiltration. And the City presents reasons why it finds that hydromodification is not expected to be a significant factor in Lompoc. As stated in the response to Comment II above, the City has the opportunity to develop applicability criteria addressing these and similar practical issues affecting both redevelopment and new development. The City’s comments provide a good starting point for a narrative basis for such applicability criteria, and Water Board staff will expect supporting technical information (e.g., soils data, hydrologic analysis) for the criteria when the City presents them to the Water Board for review. However, Water Board staff finds that the SWMP should include a commitment to develop and implement hydromodification controls to meet the MEP standard of the General Permit. Water Board staff therefore recommends retaining Required Revisions 16, 17, and 18.

Comment: Required Revision No. 19 – Project Design Approval

Response: Please see the response to the Home Builders Association’s second comment, above.

## **RECOMMENDATION**

Water Board staff recommends the Water Board adopt the attached Revised Resolution R3-2008-0071 to approve the May 23, 2008 City of Lompoc Storm Water Management Program, contingent on the City revising their Storm Water Management Plan per the Resolution’s Table of Required Revision. Adoption of the Resolution approves enrollment of the City of Lompoc in the Statewide Municipal Stormwater General Permit.

## **ATTACHMENT**

Revised Water Board Resolution R3-2008-0071, with Table of Required Revisions