



September 1, 2011



Jeanine Townsend, Clerk to the Board  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812-2000

**President**  
Marshall E. Ochylski

RE: Draft General National Pollutant Discharge Elimination System (NPDES) Permit for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems

**Vice President**  
Leonard A. Moothart

Dear Chairman Hoppin and Members of the State Water Resources Control Board:

**Directors**  
Craig V. Baltimore  
David S. Vogel  
R. Michael Wright

On January 21, 2009, the Los Osos Community Services District (District) received notification from the Central Coast Regional Water Quality Control Board that the Los Osos Community Services District's Storm Water Management Plan (SWMP) was approved.

**General Manager**  
Dan Gilmore

Since that time the District has submitted two annual reports without receiving comments, which is apparently due to time constraints on the part of Regional Board staff. Nevertheless, the District has implemented best management practices (BMP's) to the maximum extent practicable (MEP). In our jurisdiction, any runoff generated from public roads, construction projects, and from post construction is the responsibility of the County of San Luis Obispo, who has building permit authority in Los Osos.

**District Accountant**  
Amparo Haber

Many of the elements in this Draft Permit go beyond the six federal minimum control measures of:

**Fire Chief**  
Robert Lewin

1. Public Education and Outreach
2. Public Participation and Involvement
3. Illicit Discharge Detection and Elimination
4. Construction Site Run-off Control
5. Post Construction Stormwater
6. Pollution Prevention/Good Housekeeping for Municipal Operations

**Battalion Chief**  
Phill Veneris

Article XIII B, Section 6(a) of the California Constitution ("Section 6") provides that whenever "any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service..." Section 6 applies to storm water permits issued by the State Board and the Regional Water Quality Control Boards and applies to the reissuance of the Small MS4 Permit.

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In consideration of the fact that not all program elements apply to the District's SWMP but are covered under the County of San Luis Obispo's SWMP, staff has reviewed the referenced draft permit and has the following concerns mainly regarding increased costs. This permit's elements and prescriptive measures will result in the District not being able to fully comply. As stewards of the watershed in Los Osos we strive to meet clean water standards and want to address specific elements that will result in a direct benefit to water quality. Some of the program elements are mainly reporting and accounting activities requested by the State and do not directly protect or improve water quality.

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**Overall costs to implement new permit:**

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**Section E.4 Program Management Element**

E.4.a – Legal Authority: The County of San Luis Obispo is responsible for runoff from the streets of Los Osos and has ordinances and enforcement authority through their

www.locsd.org

- 88.1 Public Health Department. The District has no stormwater ordinances.
- 88.2 E.4.a(ii)(d): Discharge Prohibition. This references incidental runoff control through section B.4.a-e which addresses overspray of sprinklers and requires detection and correction within 72 hours or prior to release of 1000 gallons; properly design sprinkler systems; no watering during rain events; management of ponds etc. This will significantly impact our field crew which will result in the need to hire a minimum of one full-time employee (FTE).
- 88.3 E.4.d – Ensure Adequate Resources to Comply with Order: Our source of funding requires a Proposition 218 vote. This does not result in a benefit to water quality but is rather a reporting activity.
- Section E.5 Public Outreach and Education Program**
- 88.4 E.5.b(ii): Public Outreach and Education Implementation Level. This requires the implementation of a comprehensive storm water public outreach and education program designed to reduce pollutant discharges through measurable changes in behavior utilizing the Community Based Social Marketing (CBSM) strategies. Although District staff believes that public outreach and education does benefit water quality in the long-run, this type of detailed program will require the employment of one FTE with a degree in marketing and is an unfunded mandate.
- 88.5 E.5.c(ii)(c): Industrial/Commercial Outreach and Education Program. This also incorporates more of the CBSM to address highest priority problems and is another unfunded mandate.
- Section E.6: Public Involvement and Participation Program**
- 88.6 E.6(c)(ii): Public Involvement and Participation Program Implementation Level. This involves the implementation of a strategy to establish specific tasks and goals and a budget for said goals. This will increase staff time to attend meetings outside of regular business hours, which affects the overtime budget for hourly employees. The District staff hasn't been able to show a direct link between public involvement and increased water quality and believes this is another unfunded mandate.
- Section E.7: Illicit Discharge Detection and Elimination Program**
- 88.7 E.7.b: Illicit Discharge Detection and Elimination Program. Identifying Priority Areas and 20% of boundary will be identified as priority. This will require more hours for crew and staff and the equivalent of one FTE which is unfunded.
- 88.8 E.7.c: Field Screening to Detect Illicit Discharges. This will require budget to accommodate staff hours to conduct dry weather screening; laboratory analysis of sample runoff for constituents described in this section and follow-up. Laboratory analysis charges will be increased in order to satisfy the quick turn-around requirements. Again District staff agrees this is another unfunded mandate.
- 88.9 E.7.e: Spill Response Plan. This will require additional staff time to create a plan, implement, and report. The District staff believes a Spill Response Plan will directly benefit water quality however reporting doesn't directly improve or protect water quality.
- 88.10 E.7.f: Illicit Discharge Education and Training: This will require staff time to develop and implement a training program for staff that may come into contact with an illicit discharge. The District staff believes that training and education does have a benefit to water quality but the frequency should be reduced to every other year.
- Section E.9: Pollution Prevention/Good Housekeeping for Permittee Operations Program**
- 88.11 E.9.c(i): Facility Assessment. This element will require staff to conduct comprehensive inspection and assessment of pollutant discharge "hotspots." The District facilities are already inventoried and BMPs are implemented. This is an additional impact on staff time and unfunded.
- 88.12 E.9.c(ii): Implementation of Assessment. This will require staff to identify those materials that have a high potential to be discharged in storm water from municipal operations facilities; then documentation of comprehensive assessment procedures and results. The District staff believes this is another time consuming exercise which is unfunded although it does have a direct water quality benefit.
- 88.13 E.9.d(i)(ii): Storm Water Pollution Prevention Plans (SWPPP). Develop and implement SWPPPs for "hotspots." This will require staff and consultant time to prepare plans, implement site-specific plans and BMPs to be installed, implemented and maintained; then plans kept on-site at each facility and updated weekly, quarterly, and annually. The District staff believes this is a direct benefit to water quality but is also an unfunded mandate.
- 88.14 E.9.h(i)(ii): Permittee Operations and Maintenance Activities (O&M). This element requires assessments of O&M activities for potential pollutants; identification of materials like metals, hydrocarbons, sediment, and trash and development and implementation of BMPs to be applied during operations with inspections quarterly. This will affect budget for employee costs and consultant services. The District staff recognizes

the benefits to water quality however the costs of this element will result in the need of another half-time employee.

88.15 E.9.i(i)(ii): Incorporation of Water Quality and Habitat Enhancement Features in Flood Management Facilities. This will require strategic budgeting in Capital Improvements and is beyond our capabilities due to such a tight budget for this fund and the inability to pass a Proposition 218 vote for increased assessments. The District staff agrees this is a water quality benefit.

88.16 E.9.j(i)(ii): Pesticide, Herbicide, and Fertilizer Application and Management: Establishing BMPs to reduce the amount of pesticides, herbicides and fertilizers used in operations; evaluation of chemicals, and implementation of Integrated Pest Management (IPM) measures including schedule for application, collection of unused chemicals, inventory of types and amounts used. The District staff agrees this is a water quality benefit but will increase costs for consultants and additional time for staff in order to implement.

#### Section E.14 Program Effectiveness Assessment and Improvement

88.17 E.14.a(i): Program Effectiveness Assessment and Improvement Plan. This element requires the District to track short and long-term progress of the storm water program and to adaptively manage, modify, improve effectiveness, achieve MEP standard, and protect water quality to document compliance. The District staff agrees this requires more staff time and does not directly protect or improve water quality.

88.18 E.14.a(ii)(a-e): Program Effectiveness Assessment and Improvement Plan Implementation Level. There are six minimum elements required with five outcome levels which must be based on quantitative data, pollutant load measurements, science-based estimates of pollutant loads, quantitative measurements of behaviors that serve proxies of pollutant removal or reduction, visual comparisons, and water quality monitoring data where available. All of these minimum elements and outcomes are required to be reported within the first year of the permit. The District staff agrees this will require additional half-time staff and will incur significant one-time consultant costs that are unfunded. Reporting activity does not directly protect or improve water quality and some elements are impossible to address due to surrounding agriculture which may be contributors over which the District has no control.

This is our report of the direct impacts the draft permit will have on the District even though we do not have to address all of the elements in the permit. As stated before, the County of San Luis Obispo will be required to pick up those elements that are within their jurisdiction in Los Osos.

Staff has taken time to estimate the cost to comply with the new permit requirements. We have determined that the one-time costs for fiscal year 2012-13 will be \$83,408 in addition to annual base costs of approximately \$414,856. Currently, properties within the District are assessed \$16.00 per parcel in a service area with a population of around 14,000, providing total revenues of \$99,470 annually. The current budget is drastically insufficient, at approximately one fifth of the budget estimated to be required for implementation of the new permit requirements. In addition, the District's ability to comply is entirely dependent upon whether we are able to increase the related assessments of properties within the District, including compliance with Proposition 218.

It is with respect and consideration of the economic impact on this community and the District that we request the State re-write this permit focusing only on those portions that will have a direct impact on improvement or protection of water quality.

Sincerely,



Dan Gilmore  
General Manager

cc: LOCSD Board of Directors  
Margaret Falkner, Utility Systems Coordinator  
File

