



# City of San Luis Obispo

990 Palm Street, San Luis Obispo, CA 93401-3249

September 8, 2011

Charles R. Hoppin, Chair  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812-0100



Dear Mr. Hoppin:

The City of San Luis Obispo would like to offer the following comments on the new Draft Municipal Separate Storm Sewer System (MS4) Permit. The new permit as proposed contains many new program elements that will be challenging for the City to implement over the duration of the permit term without modification. We are in support of the comments submitted by California Stormwater Quality Association (CASQA) and the Statewide Stormwater Coalition (SSC). More details are submitted hereafter but the following points highlight the issues:

- The City is working on a Regional Education Program that will fit San Luis Obispo County and the specific issues we are facing here and will continue to work with avenues to disseminate information about our Stormwater Program to the public to educate them on our program and ways we are looking to improve the program.
- State Water Board staff should be working collaboratively with local MS4 staff to align the goals of construction site monitoring to reduce overlap and enhance program efficiencies.
- In our current permit, the City has developed a Municipal Operations and Maintenance Manual to guide the good housekeeping operations at City facilities so we will need to work with Regional Board Staff to remove redundancy.
- The prescriptive nature of the trash reduction requirement does not identify where the majority of our trash comes from so we are asking for a modification or removal of this element as our current Stormwater Plan is quite effective is direct trash removal from our local waterways.
- The Industrial/Commercial Runoff Control Program needs to be scaled back to an inventory and prioritization during this permit term. This will be an overwhelming program that will double the number of sites for staff to be required to visit. State Water Board staff should be working collaboratively with local MS4 staff to align the goals of the Industrial General Permit to reduce overlap and enhance program efficiencies.
- Clarification is needed to understand if the Joint Effort Program being spearheaded by the Central Coast Regional Water Board cover requirements in the new draft permit for the City of San Luis Obispo.
- Water Board staff should be working collaboratively with local MS4 staff to align the goals of Receiving Water Monitoring program since the Water Board already has a program entitled Surface Water Ambient Monitoring Program (SWAMP) to reduce overlap and enhance program efficiencies.

The City of San Luis Obispo is committed to achieving the water quality standards set forth by the State Water Board but we need viable solutions to stormwater pollution and we look forward to working collaboratively with Water Board staff to realize these benefits.

Thank you for the opportunity to comment.

  
Katie Lichtig  
City Manager

CC: Mayor  
City Council



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The City is committed to improving water quality and through the current stormwater program; huge improvements have been made since our enrollment in 2009. Over 1,000,000 pounds of trash and debris have been removed from the stormdrain system that would have been delivered directly to our local creeks, over 100,000 pounds of trash has been removed from the creek system through appropriate Best Management Practices (BMP's) identified in the current Stormwater Management Plan (SWMP) and our inspection program for construction and post construction sites has proven very effective in limiting pollution from coming off of the sites and getting into the local waterways. Not only is the City committed to protecting our natural resources, we have a community that shares the same feeling. The public is actively engaged in how the City grows over time and has been a great watchdog for environmental protection. The City has worked very closely with the local Central Coast Regional Water Board to develop a comprehensive SWMP with 272 BMP's that fit San Luis Obispo and great progress has been made in maintaining compliance but with the current program still in its infancy, the new draft permit as presented will require us to significantly re-organize the program. We support the technical comments submitted by the California Stormwater Quality Association (CASQA) and have aligned with the Statewide Stormwater Coalition (SSC) as our concerns are echoed by numerous other agencies across the state.

The cost of the new draft permit as presented is going to be difficult to absorb. In June, the City Council approved the City's 2011/13 budget with a reduction of \$5 million and we are cutting the stormwater program by 10%. The General Fund is suffering from declining revenue and a prioritized system is being developed to ensure the core services are being maintained. The City is limited by Proposition 218 and would need a vote of 2/3 approval vote of the residents in order for us to charge a stormwater utility fee to offset costs of the current program let alone the new draft program as presented. This is not the time to develop an educational program to take to the community about why we need to charge new fees for this program. In the Fact Sheet provided for justification of the "cost of compliance", the economic data presented is from 1999 and 2005. This is a stark difference from the economic times almost all MS4's are facing today. State agencies are facing these same challenges. As proposed by the State Water Board in the Water Quality Fee Stakeholder Meeting held on August 15, 2011, if there is a shortfall in the funding of certain programs (NPDES Program, WDR Program, Land Disposal Programs, Stormwater Program, 401 Certification Program, CAF Program, and Irrigated Lands Regulatory Program), the Board is proposing to increase fees by 20-51% to make up for this shortfall in program revenue. Municipalities cannot just increase or propose new fees to cover programs mandated by the State. As presented, the City may have to develop an inspection fee program to cover additional staff costs since we will be required to inspect more sites/facilities as presented in the new permit. This will only cover a very small portion of the new holistic stormwater program.

We feel the State Water Board should be looking for areas and agencies to collaborate with to have a more efficient program instead of placing increased requirements on the MS4's since local governments and State agencies are feeling the same budget crunch with programs. In the Fact Sheet, "The State Water Board has considered the costs to dischargers of compliance with this Order and made every attempt to leverage and give credit for other required actions that are expected to yield stormwater benefits" but with an existing program like the Water Board's Surface Water Ambient Monitoring Program (SWAMP) which does receiving water monitoring, is not utilized but rather, a mandate under the new draft permit requires MS4's to conduct extensive receiving water monitoring. There are other overlapping programs like the Industrial General Permit and the Construction General Permit where many of the requirements in the new draft permit and are already being submitted to the Board and

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should be at easy access for review of staff. These duplicative elements need to be removed and a comprehensive review of what data gaps need to be filled should be completed along with a cost benefit analysis.

A prescriptive permit has benefits for regional program alignment but there are still elements of the proposed permit that will need to be site specific. Ramping up the current educational messaging, creating county-wide brochures with consistent material, and public service announcements are simple ways for a regional collaboration but other components of the permit are not so easily aligned. Increased inspections of sites and facilities, documentation, education, and requiring BMP's be installed by the business community not only put strain on the City's limited staff and resources, it opens the City to liability as we are required to tell the businesses what BMP's to install.

As identified in the Clean Water Act, six Minimum Control Measures (MCM's) are specifically called out for Phase II communities to implement to achieve water quality improvements for the Maximum Extent Practicable (MEP) as promulgated in December 1999. Public Education and Outreach, Public Involvement, Illicit Discharge Detection and Elimination, Construction Site Runoff Control, Post-Construction Stormwater Management in New and Redevelopment, and Pollution Prevention and Good Housekeeping for Municipal Operations are the six MCM's that small MS4's are required to comply with. The Environmental Protection Agency (EPA) also states that it "strongly recommends that until the evaluation of the stormwater program in § 122.37, no additional requirements beyond the MCM's be imposed on regulated small MS4's without agreement of the operator of the affected MS4, except in limited cases" (40 CFR § 122.34(e)(2)). The water quality standard in the new permit is proposed to be raised significantly higher to again achieve MEP.

E4: Program Management Element – Remove this element from the Draft permit. The City of San Luis Obispo will be pursuing a meeting with the Executive Officer of the Central Coast Regional Board to reflect that we have the authority to enforce the existing plan and that we meet the compliance requirements. Section E.4.d: Ensure Adequate Resources to Comply with Order will have to be evaluated based on what revisions are made to facilitate compliance with the abovementioned limitations which will be echoed across the state.

E5: Public Education and Outreach Program – Remove the Community Based Social Marketing (CBSM) mandate (E.5.b.ii.a-m) as it will require considerable amounts of time and resources that will detract from the objective of water quality improvement. The City is currently working on developing a regional education program which will have much more positive benefit for San Luis Obispo County since it is a locally developed program that we can implement affordably to our targeted audience with our unique issues. Regional programs need to have very specific agreements amongst the members and there needs to be some enforcement mechanisms established to ensure all members participate equitably for the compliance of the group.

E6: Public Involvement and Participation Program – We recommend removal of the Citizen Advisory Group requirement in this element E.6.d.ii.b. While we value the input of the public, with limited resources, soliciting members, organizing and facilitating meetings, preparing documents required for meetings, and meeting follow-up commands considerable amounts of time and resources. The public may not understand how the City's program functions and may not be suited to make recommendations on how the program evolves over time. Staff spent many years working with the Regional Water Board developing our SWMP to fit the needs of San Luis Obispo and having a citizen advisory group will further detract from the focus of the program.

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E7: Illicit Discharge Detection and Elimination Program – Identifying 20% of the urbanized boundary and listing that as priority as identified in E.7.b is an arbitrary number. We should focus on areas where there is the highest potential for water quality impairment and that will be established by City staff since we are the ones who are working in the field and know where to focus our resources. Implementation of a dry weather field screening program (E.7.c) would be a worthwhile but intensely proactive plan that is not identified in our budget and would further detract from focusing on where recognized water quality improvements can be made and should be removed from the draft permit. If it is to remain, specific parameters to be monitored for need to be identified and a justification statement needs to accompany a standardized protocol.

E8: Construction Site Stormwater Runoff Control Program – The requirement for an inventory of construction sites one acre and larger in E.8.a is duplicative since the Construction General Permit (CGP) does just this and is a program currently overseen by the Water Board. This will be a time consuming exercise when Water Board staff can access Storm Water Multiple Application and Report Tracking System (SMARTS) and query a multitude in information regarding a particular site. If the extensive monitoring and documentation requirements are to remain in the draft permit, the MS4 should receive a percentage of the permit fees paid by the developer to the Water Board since MS4 staff will be the primary agency overseeing compliance with the CGP. The developer or contractor should be responsible for determining what additional permits are required for their project and not be a requirement of MS4 staff to do additional legwork to ensure a private developer/contractor has all the required permits as identified in E.8.b. MS4 staff would maintain an inventory of the sites less than one acre which are not covered by the CGP and report on these sites.

E9: Pollution Prevention/Good Housekeeping for Permittee Operations Program – City staff will meet with the Executive Officer of the Regional Board since our current SWMP has elements to satisfy this element like development of a Municipal Operations Maintenance Manual which identifies facilities, potential pollutants of concern and BMP's to implement E.9.a-h. Define Flood Management Facility in E.9.i. and remove the retrofitting requirement to improve water quality and habitat enhancement features as these will likely involve other state and federal agency staff that will require permitting and other costly initial studies to complete taking time and resources away from other program elements where direct water quality improvements can be made.

E10: Trash Reduction Program – Remove this element from the DRAFT permit as it goes above and beyond the CWA requirements. If this element is to remain, require the MS4 to conduct a study of where the majority of the trash originates and enact specific BMP's to address the origins of the trash. Requiring 20% of the commercial/retail/wholesale zoned area in the MS4 is arbitrary and another instance where this prescriptive permit fails to meet water quality improvement. San Luis Obispo is a college town and also has a significant transient population which is where the majority of the trash we see in the local waterways originates from. Our current SWMP and MS4 specific BMP's address these targeted populations to attain the expected water quality outcomes.

E11: Industrial/Commercial Facility Runoff Control Program – Remove this element from the DRAFT permit as it goes above and beyond the CWA requirements. If this element is to remain, limit the first permit term to an inventory and remove all facilities that fall under the Industrial General Permit (IGP) as Water Board staff should be inspecting these facilities since fees are collected by the Water Board for this specific purpose or the MS4 should receive a percentage of the permit fees paid by the facility to the Water Board since MS4 staff will be the primary agency overseeing compliance with the IGP. To

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require the MS4 to require implementation of BMP's for the facilities (E.11.b) opens the MS4 to liability issues and there are several instances where this requirement is made in the new draft permit and should be struck from the draft permit.

E12: Post Construction Stormwater Management Program – Being in Region 3 which is working on the Joint Effort to address many of the requirements in the element, clarify where this will interface with the requirements of this element.

E13: Receiving Water Monitoring – Remove this element from the DRAFT permit as it goes above and beyond the CWA requirements. Do not require MS4's to develop and implement a program that is already a component of your agency. The SWAMP program collects this data and is consistent across the state whereas if every permittee is to develop and implement a receiving water monitoring program, there will be inconsistencies with data collection procedures and quality. If there is an identified problem with a parameter as collected through the SWAMP program, the MS4 could work on that specific parameter to improve water quality.

E14: Program Effectiveness Assessment and Improvement – Remove this element from the DRAFT permit as it goes above and beyond the CWA requirements and is presented as a draft element in a draft document. If this element is to remain, require simply an iterative evaluation and employ strictly adaptive management measures to gauge effectiveness. Pollutant Load Quantification (E.14.c) is something the SWAMP program currently established and run by the Water Board would be better suited to complete this quantification and if there is a water quality issue identified by this process, we can identify specific BMP's to address those concerns.

E15: Total Maximum Daily Loads Compliance Requirements – Remove this element from the DRAFT permit as it goes above and beyond the CWA requirements.

E16: Online Annual Reporting Program - Remove this element from the DRAFT permit as it goes above and beyond the CWA requirements.