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May 7, 2008

Mr. Christopher Callihan, Deputy City Attorney
City of Salinas
200 Lincoln Avenue
Salinas, California 93901
Via e-mail: chrisc@ci.salinas.ca.us

Re: Required Revisions of Salinas' Stormwater Management Plan

Dear Mr. Callihan,

Thank you for the opportunity to comment on the Regional Water Quality Control Board's (RWQCB) Required Revisions of the Salinas Stormwater Management Plan. We have reviewed the revisions and the revised plan thoroughly and would like to offer the following comments. Recognizing the difficulty of the task of producing a workable SWMP, all comments are made with the intention of advocating for the effective implementation of a SWMP by Salinas that will translate into better water quality for the entire Monterey Bay Region.

While we commend Salinas' efforts to revise its SWMP, we have several concerns with the changes made. It is our general opinion that substantial changes must still be made to the SWMP in order for the document to meet the minimum standard that it is expected to achieve. At most, typographical errors have been corrected and wording has been inserted with the apparent intention of meeting the required changes with a minimum of real change. Included we have attached a table of the changes that we feel have not been adequately addressed.

The main errors that were addressed in the required revisions were typographical errors, BMPs that were not matched with measurable goals, and the referencing of documents that were not made available for public viewing, thereby obscuring the plan's intent. The board also requested that additional BMPs be added. Of these, the typographical errors have adequately been corrected.

Our concern with the revised SWMP includes:

- The continued lack of adequate measurable goals that move forward the implementation of BMPs
- The City's continued reliance on 100% as a measurable goal

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- The City's continued resistance to public participation
- The lack of accessibility of key documents.

Given the stipulations of what a SWMP must contain in order to meet the requirements of the NPDES permit, the lack of measurable goals was amongst the most egregious omissions from the original SWMP. An example of this is BMP 6.10 on page 6-16 of the SWMP. This BMP is addressed twice in the RWQCB's Resolution, in item no. 2. a. and item no. 2.i.i. The Board states that the BMP, which addresses the inclusion of quasi-governmental agencies, does not have a goal for creating joint programs with schools. The Board is requiring that a measurable, quantifiable goal is included; to ensure that this is properly done, the Resolution includes an example BMP to illustrate the desired level of specificity. The BMP that is being addressed reads, "Coordinate with local school districts regarding conducting programs aimed at reducing pollutant discharges." The corresponding Implementation Plan details, "Conduct joint programs with Salinas school districts. This program will stencil inlet and employ other interactive educational programs...continue joint educational outreach with SVSWA; expand collaborative efforts with BFI, such as providing bill-stuffer educational materials." (Salinas SWMP p. 6-16) The measurable goal that is added addresses only the stenciling program and it does so peripherally at best. The goal specifies how many schools will be targeted and that supplies will be provided. No further information is given about the other interactive educational program. Unfortunately supplying elementary school with paint and stencils does not illustrate an obvious translation into stormwater reduction runoff. It seems that the City chose to tag on the simplest numerical goal rather than the most effective indicator of achievement.

Another example of the City's failure to set forth adequate goals is seen in Required Revision no. 2.m.m which addresses BMP 6.15b. This revision states that the measurable goal for 6.15b was removed, and must be added. The Board gives a very specific example of the detail required of the goal. The example shows incremental progress towards the implementation of the BMP in full, reflecting a realistic progression of events. In turn, the measurable goal that Salinas sets is 100% in each instant that a quantitative measure is required.

The continued usage of 100% as the only metric for success in implementing BMPs is little more than a nod towards the official requirement that goals be quantifiable. The idea behind outlining measurable goals is to evaluate progress towards meeting the overall objectives set forth by the BMPs. While 100% is an idealized goal that of course the city should strive towards, it does little to guide the implementers of this plan towards realistically managing the actual tasks that will allow these goals to be met. In this situation, Salinas obeys the letter of the law—100% is quantifiable, and can be measured. However the result of this is little more than a shell of a plan that does nothing to help guide the implementation of an effective SWMP that will actually have the real effect of minimizing stormwater runoff.

Lastly, we feel that the SWMP still reflects a continued resistance towards public participation in spite of the Board's efforts to ensure that documents are accessible and that the public is given adequate time to comment on new documents. In response to the

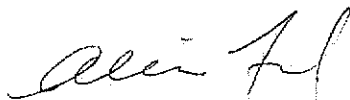
requirement that all public documents be cross-referenced, Salinas tends to include no more than the physical address where the documents can be accessed. The Board specifies that the documents should be made available on the web whenever possible, to allow for maximum ease of access. This reflects the notion that it is not adequate merely to make documents available, but that the public must be aware that they are available, and encouraged to participate in the public process.

This attitude is further reflected in the Board's required revision no. 2.a.a.a. Although the NPDES permit only requires that the city give the public a minimum of ten days to comment on documents, the RWQCB states that the City must make "all reasonable attempts" to provide the public with 30 days or more to comment on documents related to stormwater or riparian protection. The revised SWMP does not include this language, nor does it include the additional BMP that the Board has asked be included. Rather the requirement for public access to documents is tagged on to BMP 6.18 in the capacity of a measurable goal (which it is not). It also fails to include the language specified by the Board to ensure that all reasonable efforts are made to engage the public. It is simply not sufficient to make documents available at City Hall. The public should be noticed by newspaper, website announcements, and direct contact with interested parties, a minimum of 10 days before any action and "all reasonable attempts" must be taken to provide 30 days notice.

It is our belief that the Required Revisions that have been implemented do little to address the fundamental flaws of this document; substantial work remains to be done on it before it will be an effective tool to mitigate the impact of stormwater runoff on water quality. In the spirit of the public process, we hope that you will consider our continued concerns.

Thank you for the opportunity to comment.

Sincerely,



Allison Ford
Program Associate

Attachment: Comments on Required Revisions

Cc: Lisa McCann, RWQCB
Matt Thompson, RWQCB
Roger Briggs, RWQCB
Frances McChesney, SWRCB

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	Resolution No.	SWMP Section	Page No. in original copy	Page No. in new copy	Required Revisions	Notes on revision
1	2.a.	BMP 6.10	6-16	6-17	Goal is not measurable	<p>Although the goal is now technically measurable, it is not appropriate to the entire BMP. Stating that a certain number of schools will be provided with materials to stencil drains does not necessarily achieve the stated practice of coordinating with local school districts regarding conducting programs aimed at reducing pollutant discharges. The Implementation Plan further references other organizations such as SVSWA and BFI, as well as stating that educational materials will be provided. No specific details on the nature of these outreach programs, the type of information that will be provided through educational materials, or how the success of any of these programs will be measured and integrated into the larger purpose of achieving better water quality through stormwater management. Giving schools paint and stencils does not adequately achieve any of these goals, other than attaching a "measurable" quantity onto an inadequate plan as a nod to the Board. Has a measurable goal been set? Yes. But what does it actually measure? Certainly not the success of the Implementation Plan or BMP.</p>

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2	2.b.	BMP 6.11 and 6.17	6-17	6-17, 6-18	Incorporate survey results to show how they will be used to improve stormwater program	<p>The implementation plan for this BMP has been modified to include residential as well as commercial car washing and activity; while this has been done in line with the Board's request in required revision 2.n.n., the measurable goal does not adequately measure any of the activities set forth in the plan. The goal is to document site visits per year (how many site visits?) and to report findings in the annual report. There is no indication of how survey results will be incorporated other than to say that they will be, and refer the reader to another BMP. While the level of detail as to the implementation of this BMP is commendable, it is necessary that corresponding measurable goals be established. What number of citizens will be targeted in the outreach program? How many informational seminars will be held? How many site visits will be made? There is still no explanation as to how the survey results will improve the stormwater program. This has not been adequately revised.</p>
3	2.c	BMP 6.15.a and b	6-19 and 6-20	6-22	Educational materials referenced must be included or made available for viewing.	<p>As is the case for many cross-referenced documents, the documents can only be viewed in person at the physical location. The Board specifies that documents should be posted on the website whenever possible, however this is rarely done. It seems that the city is resistant to making documents available for public viewing; although they comply at the minimum level, they seem to do so grudgingly. In the spirit of encouraging public review and participation, Salinas should make every effort not only to make the documents publicly available, but to publicize their availability, and allow for ease of access.</p>

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4	2.i.	Elements 4 & 5		Elements 4 & 5 must include a BMP for riparian zone protection that includes 30 foot setbacks in accordance to the City of Salinas General Plan COS-17 and the RWQCB's Basin Plan. A very specific example of this BMP and the desired level of specificity are given.	The only BMP that addresses the Basin Plan is 4.6--this does not reach anywhere near the desired specificity of the Board's example. Both the implementation plan and the measurable goal are vague, no mention is made of the General Plan, and the Basin Plan is not cross-referenced, made available to the public, or explained in any way. There is no mention of 30 foot setbacks from riparian zones as requested in the required revisions.
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5	2.j.	Elements 4 & 5			SWMP must explicitly show which BMPs support the SWMPs objective of "protect waterways and stabilize drainage ways"	There is no visible change that addresses this revision. If a change has been made, it is certainly not explicit. It is still not clear which BMPs support this objective. The lack of truly measurable goals makes it even more difficult for the reader to discern how this objective will be met--just about every "measurable" goal in Element 5 is set for 100%. While 100% is "measurable" in a literal sense, it obfuscates the intention of measuring the progress and effectiveness of the implementable plan and BMP--this inability or unwillingness to set down realistic goals that show progress (or lack thereof) makes it difficult to see which BMPs support which objectives.
6	2.k	SWMP p. 5-7	5-7	5-7	SWMP must state the protocol and city department which will determine or interpret construction site or development issues.	Although the SWMP notes that The Development and Engineering Services and Maintenance Service Departments are responsible for conducting inspections, no issue of protocol is included. It appears that no change has actually been made in response to this request.

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7	2.p	BMP 3.1	3-26	3-26	The measurable goals have no measurable quantities	<p>The goal that is included to make up for the lack of measurability is "ensure that 100% of all relevant projects are identified within the Implementation Plan column to the left; report results annually as part of above." This is not a measurable goal. How is the City going to ensure this? What actual steps will be taken? How will this actually reduce discharge to downstream receiving water? Although 100% is, to be literal, measurable, to ensure that 100% of something will be done is the equivalent of saying, "we'll do it, we promise". While this assurance is heartening, it is not reflective of the principal behind the permits requirement that measurable goals be included, which, according to the EPA, is "to evaluate the effectiveness of individual control measures and the stormwater management program as a whole." (http://cfpub.epa.gov/npdes/stormwater/measurablegoals/index.cfm)</p>
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8	2.u	BMP 3.14	3-37	3-40	<p>1) References SWPPPs which are not available.</p> <p>2) Implementation Plan uses criteria that are based on safety and not water quality,</p> <p>3) observation schedule needs to include quarterly observations at a minimum.</p>	<p>The SWPPPs have been included as appendix F. As for part two of the revision, this section exemplifies the fundamental inadequacies of the SWMP. First, it is convoluted, unclear, and references other documents in a way that distracts from the idea of what exactly is supposed to be accomplished. Second of all, safety is still listed as the number one priority, and the only immediate potential for concern, whereas environmental quality (water quality is only mentioned as a subset of this) is a "potential for future concern". Lastly, observation schedules are still only vaguely referenced. Although it is included as required that at a minimum quarterly observations will be conducted, the terms of these observations remain vague. Whether or not certain sites may pose an impact to downstream water quality is left to the discretion and "professional judgment" of the site manager and division team.</p>
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9	2.y	BMP 3.29	3-53	3-59	No goal is included to actually reduce pesticide usage.	<p>There is still no measurable goal. The plan references the "measurable goal" in BMP 3.19, which we have determined is not measurable. Nor does it actually address the BMP. First of all, the BMP is unclear. There seem to be about 4 BMPs packaged into BMP 3.29--The BMP or activity is to 1)select and handle BMPs; 2) report quantity and type of chemicals used; 3) Reduce or eliminate unsafe practices regarding handling, application and storage of chemicals; 4) reduce dependence on upon potentially hazardous chemicals through increased application of IPM. The implementation plan for this amalgam of practices is to train staff on the county codes. There is no specific information on the training, the codes, the relevant staff, or how any of this non-information relates to the amalgam of BMPs. The measurable goal is a) not measurable and b) not much of a goal. It doesn't address any of the issues in the BMP(s).It is in fact, not even written for these BMPs, but for BMP 3.19. Even if it was adequate to measure any of these practices and plans, it is thoroughly discounted by the phrase, "whenever conditions, manpower and budget allow." There is still no indication as to how this will actually reduce pesticide usage.</p>
10	2.f.f.	4.D Development Design Standards	4-12	4-12	Change wording to say "A Development Design Standards Plan for LID implementation in new and re-development.	<p>The new wording says: "A Development Design Standards Plan for LID implementation in new development and significant re-development". This is not the wording that was requested, and could have consequences beyond what the Board intended. For example, what is considered a significant re-development, and who makes this decision according to what protocol?</p>

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11	2.i.i.	BMP 6.10	6-16	6-16	The goal is not appropriate to the BMP; it is also not specific enough.	See The goal is now quantifiable, however does not really address the BMP—the goal has schools being stenciled, however the BMP addresses preparing public agency staff with tools to safely respond to HAZ/MAT emergencies as well as coordinating with local school districts regarding conducting programs aimed at reducing pollutant discharges. The implementation plan is equally irrelevant to the goal—although it does address stenciling inlets, it also mentions employing other interactive education programs. It refers the reader to BMP 6.13. which further discusses the stenciling of inlets. There is no mention of any actual educational program. This goal is the only measurable goal in the section (other goals make vague reference to Numbers of events or people, but do not actually provide any of these "numbers") and it is not appropriate to its BMP.
12	2.n.n.	BMP 6.17	6-17 and 6-24		The same BMP appears twice.	This BMP seems to have disappeared entirely.
13	2.r.r.	p. 7-4 C	7-4	7-4	The plan needs to include a link to cross referenced documents, or a way that readers can view it.	This has not been done: Industrial Inspection Guidance Manual 2000 is not linked/shown how it can be viewed

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14	2.a.a.a.	Whole SWMP, Element 6 in particular	non-existent	6-30	<p>The permit requires that the City ensure that the public has ample time for review of public documents. The Revision requires that the city make all reasonable attempts to provide a 30 day or more public notice and opportunity to comment on stormwater related or riparian protection related documents prepared for city council adoption....please see Resolution item no. 2.a.a.a. for full stipulation.</p>	<p>No additional BMP has been added; instead BMP 6.18 has been inappropriately modified to include stipulations for at least 10 days of public review for stormwater or riparian protection related ordinances, standards and modifications. First of all, the Required Revisions explicitly state that the City is required to add this as a BMP, which means that an implementation plan and measurable goals must be established--this is not a measurable goal itself. Secondly, the city has pared down the well intentioned reasonable attempt to allow the public 30 days or more to review and comment on relevant documents, to the bare minimum of "at least 10 days". Although the permit has legally required a 10 day public review period at a minimum, the Board has specifically required that the City include language that illustrates that all reasonable attempts will be made to allow for a review period of 30 days or more. This has not been done; therefore this required revision has not adequately been made. Salinas' unwillingness to properly follow this revision further illustrates the resistance that the City has shown regarding public participation in the stormwater management process.</p>
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