



FRESNO METROPOLITAN FLOOD CONTROL DISTRICT

File 510.1812
510.18145

September 22, 2011

Mr. Rick Sakow
EPA - Region 9
75 Hawthorne Street
San Francisco, CA 94105

Dear Mr. Sakow:

**Response to Municipal Separate Sewer System (MS4) Construction Program Compliance Inspection –Report – February 3, 2010
(NPDES Permit No. CA0083500)**

Attached is the Fresno Metropolitan Flood Control District's requested response to the deficiencies listed in the Construction Oversight Evaluation Report, dated February 3, 2010, received by the District on August 8, 2011. The report summarizes the District's stormwater program construction program oversight evaluation audit conducted by PG Environmental, LLC, a U.S. Environmental Protection Agency (EPA) contractor from November 30, 2009 – December 2, 2009.

Please post this letter, along with the attached response on your web site at the same posting location of the February 3, 2010 report.

Please call Daniel Rourke, Environmental Resources Manager at (559) 456-3292 if you would like to discuss any aspect of the District or Copermittee responses.

Sincerely,

David Pomaville
Administrative Services Manager

DP/sy

Attachments

- c: Dale Harvey, Central Valley Regional Water Quality Control Board
Lisa Koehn, City of Clovis
Steve White, City of Clovis
Scott Krauter, City of Fresno
Brian Leong, City of Fresno
Richard Madrigal, City of Fresno
Jim Sullivan, City of Fresno
Kenneth Turner, City of Fresno

Fresno Metropolitan Flood Control District

Response to February 2, 2010 MS4 Construction Program Compliance Inspection

September 21, 2011

**Section 2.1 Construction and Development Component
Audit Deficiency**

Deficiencies Noted: (same deficiency stated for all 4 sites)

Adequate BMPs must be implemented to prevent the discharge of sediment from the (construction) sites, and subsequently to the District's MS4. Moreover, the District must ensure compliance with the Construction General Permit as required by Provisions D.12 and D.13 of the District's MS4 permit.

The Planned Program Enhancements discussed in subsequent sections of this audit response are designed to improve the District's compliance oversight of construction sites with the construction general permit and guide the re-writing of the District's Construction Site Management Guidelines (applicable to all construction sites within the District NPDES Permit boundary).

Section 2.1.1 - Need to Re-evaluate the District's MOUs to Ensure Compliance with the Permit.

Audit Recommendation:

It is recommended that the District re-evaluate whether its current MOUs represent an effective division of labor and collaboration among Co-Permittees to ensure compliance with the Permit. Specifically the District should assess whether its oversight of construction site inspections is adequate to ensure proper implementation and maintenance of structural and non-structural BMPs to reduce pollutants in storm water runoff from construction sites to the District's MS4.

FMFCD Program enhancements since December 2009 Audit:

- 1) Since December 2010, the District has increased enforcement through application of the District's Enforcement Response Plan (ERP). Last year's enforcement actions are summarized in Table 1 on page 4.
- 2) In May and June 2010, the District held hands-on demonstrations on how to transition existing and new projects into California's "Storm Water Multiple Application and Report Tracking System" (SMARTS), a new electronic permit filing system. In FY 2010-11, the District continued to conduct one-hour tailgate sessions covering the new CGP for over a 100 District and Co-Permittee building inspectors, grading inspectors, street inspectors, capital project managers and construction plan design and review staff. The District also conducted workshops for private developers and engineering firms in partnership with BIA, AGC and CCBE.

- 3) Two new construction outreach pieces “Action Alerts” were developed and distributed to assist developers and contractors with compliance with key mandatory elements of the new Construction General Permit.

City of Clovis Program enhancements since December 2009 Audit:

Since the audit was completed in December 2009, the City of Clovis has refined their inspection program by incorporating inspection checklists aligned with CASQA recommendations, extensive site photo documentation and increased follow-up inspections. The City employs a certified QSP as their lead Construction General Permit inspector.

Planned Program Enhancements with the City of Clovis

1. District will meet with City of Clovis to review the existing MOU and how agency responsibilities are being implemented by each party.
2. The City and District staff will conduct joint inspections of construction projects within the City of Clovis.
3. The District and City of Clovis will explore the use of a standardized construction site inspection checklist aligned with the new Permit requirements.
4. District will explore ways to better monitor co-Permittee oversight activities.
5. The City of Clovis will track the implementation of corrective measures cited in previous site inspections and summarize this information in the City’s annual stormwater report submittal to the District.
6. The City of Clovis and District will conduct joint inspections and periodically hold enforcement coordination meetings.
7. The District will update agency refresher training to emphasize CGP and referral protocol.

Planned Program Enhancements with the City of Fresno

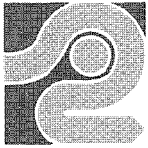
1. District will meet with City of Fresno to review the existing MOU and how agency responsibilities are being implemented by each party.
2. District will hold quarterly meetings with the City of Fresno capital improvement, right of-way and building inspector/supervisors to coordinate on construction site inspection responsibilities.
3. The City of Fresno and the District will continue to conduct annual training refresher courses targeting capital improvement, right-away and building inspector to review and coordinate MOU construction site inspections responsibilities.

4. City of Fresno Inspectors and District staff will conduct at least one screening inspection for all City of Fresno construction sites annually and conduct follow-up inspection for sites out of compliance until site shows 3 consecutive months of adequate compliance.
5. District staff will conduct joint inspections with the City of Fresno designated inspectors at least once during the wet weather season.
6. District staff will notify the City of Fresno inspection supervisors if the District receives and investigates a construction complaint within the City of Fresno boundaries.
7. The City of Fresno will refer to the District those construction sites that do not respond to the City's verbal directives to bring site into compliance. The District will conduct follow-up inspections until the site shows 3 consecutive months of adequate compliance as required by the ERP.
8. The City of Fresno and District will use e-mail to document referrals and overall site compliance.
9. District will send to the three City departments the current list of NOI sites at the beginning of each wet weather inspection season.
10. District will consider developing a web-based reporting system.

Section 2.1.2 Need for Adherence to Erosion and Sediment Control Standards

Recommendation:

- *Based on the Construction General Permit inspections and interviews with the District representatives and construction site operators, the District's oversight and Construction Site Guidelines need to be improved to ensure adherence to minimum BMP requirements (i.e. CASQA Handbook referred to by the District) including proper implementation and maintenance of structural and non-structural BMPs to reduce pollutants in storm water runoff from construction sites to the District's MS4.*
 1. District will revise its 1994 Construction Site Guidelines to better reflect New CGP requirements and BMPs, while making sure the Guidelines remain appropriate to implementing District Ordinance 96-1 governing the prevention of storm water pollution on all construction sites regardless of size.
 2. District will tailor a checklist suitable for use in inspections whose purpose is the evaluation of site operator compliance with the revised Construction Site Guidelines.



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Sincerely,

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David Pomaville
Administrative Services Manager

DP/sy

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Fresno Metropolitan Flood Control District

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Table 1 - FMFCD Inspection Year 2010-11 - Progressive Enforcement Response Plan Activity

Developer	Site Management Deficiencies Identified by Inspection	Progressive Enforcement Response Plan Activity
<p>Estes Apartments WDID #5F10C350901</p>	<p>December 2010 and January 2011 FMFCD inspections found problems with perimeter and trackout controls, inadequate storm drain inlet protection and multiple instances of on-site discharge of paint, plaster and related materials and debris left on site. The property owner was not responsive to verbal or e-mail communication reporting site deficiencies.</p>	<p>The District sent the property owner a Compliance Review Letter on January 14, 2011 detailing the steps that needed to be taken to bring the site into compliance with the Construction General Permit. Staff discussed the Permit requirements with property owner Jim Estes via phone and re-inspected the site in mid-February, finding the site in compliance with the District's directives.</p>
<p>Bonadelle Homes WDID #5F10C357987</p>	<p>A complaint received by the District on December 22, 2010 revealed a number of stormwater management problems on site. A series of follow up inspections and District directives the last week in December 2010 found persistent problems with perimeter control, drainage inlet protection, and mud trackout.</p>	<p>The District sent the property owner a Compliance Review Letter on January 5, 2011 detailing the steps that needed to be taken to bring the site into compliance with the Construction General Permit. District staff met Bonadelle representatives and City of Fresno staff on-site to review the Permit requirements and associated site management needs. The site was re-inspected in February and March 2011 to confirm that the site was in compliance with the District's directives.</p>
<p>River View Development Inc. WDID #5F10C346100</p>	<p>A January 2011 FMFCD inspection found problems with perimeter and trackout controls, inadequate storm drain inlet protection and improper dewatering practice. The property owner was slow in responding to the direction given in staff's inspection reports.</p>	<p>The District sent the property owner a Compliance Review Letter on January 11, 2011 detailing the steps that needed to be taken to bring the site into compliance with the Construction General Permit. Staff met the property owner on site to discuss the Permit requirements and re-inspected the site in late January, February and March 2011, confirming compliance with the District's directives.</p>
<p>Fancher Creek Properties, LLC FMFCD Contract BO-20 No WDID (site less than 1-acre)</p>	<p>A complaint received by the District on November 23, 2010 revealed a number of stormwater management problems in site, including a lack of perimeter control, drainage inlet protection, and mud trackout into an adjacent construction site. The contractor's efforts to correct these problems were inadequate.</p>	<p>The District sent the project manager owner a Notice of Correction on January 3, 2011 detailing the steps that needed to be taken to bring the site into compliance with District's Ordinance 96-1 governing urban storm water quality management and discharge control. District staff met Fancher Creek and contractor representatives on-site to review the Notice's requirements and associated site management needs. The site was re-inspected in late January, February and March 2011 to confirm that the site was in compliance with the District's directives.</p>

The following is a letter we sent to the RWQCB and e-mailed to EPA in August 2011 listing the discrepancies and corrections to the February 2010 audit report. The audit report was received by the District on August 8, 2011.



FRESNO METROPOLITAN FLOOD CONTROL DISTRICT

File 510.1812
510.18145

August 16, 2011

Mr. Dale Harvey
California Regional Water Quality Control Board
1685 E Street, Suite 200
Fresno, CA 93706

FRESNO METROPLITAN FLOOD CONTROL DISTRICT - MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) CONSTRUCTION PROGRAM COMPLIANCE INSPECTION CONDUCTED NOVEMBER 30, 2009 - DECEMBER 2, 2009

The Fresno Metropolitan Flood Control has an opportunity to review the draft Municipal Separate Storm Sewer System (MS4) Construction Program Compliance Inspection conducted November 30, 2009 - December 2, 2009. We received a copy of the Draft Report on August 8, 2011. We understand that the report will be finalized and transmitted to the District in the near future. We request that the following items in the report be corrected before the report is finalized.

1. On Page 11 of the report it includes the following statement, *"The District is not conducting oversight inspections of construction sites unless the site is referred to the District by a Co-permittee."*

This statement does not accurately reflect the District's program efforts at the time of the audit. We request that the report be updated to state the following:

The District conducts monthly (October through April) oversight inspections of construction sites located in drainage areas with discharges to the San Joaquin River. The District also conducts monthly oversight inspections of construction sites that are reported to the District through public complaints or referred to the District by District or Co-permittee field staff or construction related inspectors. All District capital projects exceeding one acre are inspected weekly.

2. On Page 11-12 of the report it states *"The EPA Contract Inspector also requested an example project demonstrating implementation of the District's oversight activities, as identified in the ERP. The District's Environmental Resources Manager explained that Co-permittees have not yet referred instances of non-compliance to the District; therefore, the District has not initiated the public hearing process identified in the ERP. However, the District provided records of the District's inspections conducted at the RR-60 project, a capital improvement project administered by the District, that was escalated using the ERP*

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Mr. Dale Harvey
August 16, 2011
Page 2

and ultimately resulted in a Notice of Correction (see attached Appendix D, Exhibits 5). Although the District was able to demonstrate one instance where enforcement activities had been utilized as a means to achieve compliance at a District-administered project, there were no instances of non-compliant sites referred to the District by the Co-permittees."

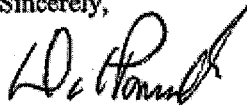
At the time of the audit the District had two instances where escalating enforcement activities had been utilized as a means to achieve compliance at construction sites. The City of Clovis referred a construction site to the District in January 2007. The District issued a Notice of Correction in February 2007. The District provided records of the District's inspections conducted at the RR-60 project, a capital improvement project administered by the District, that was escalated using the ERP and ultimately resulted in a Notice of Correction (see attached Appendix D, Exhibits 5).

3. On Page 12 the report states, *"In summary, the District's oversight is only triggered as a result of site referrals by Co-permittees."*

In summary, the District conducts monthly (October through April) oversight inspections of construction sites located in drainage areas with discharges to the San Joaquin River, conducts monthly oversight inspections of construction sites that are reported to the District through public complaints or referred to the District by District or Co-permittee field staff or construction related inspectors and all District capital projects exceeding one acre are inspected weekly.

Thank you for this opportunity to comment on the Draft report and we will provide a written response to the report once it is finalized.

Sincerely,



David Pomaville
Administrative Services Manager

DP/sy

- c Lisa Kao, Environmental Manager, CSU Fresno
- Lisa Koehn, Assistant Public Utilities Director, City of Clovis
- Scott Krauter, Assistant Public Works Director, City of Fresno
- Robert Palacios, Assistant Division Engineer, County of Fresno
- Daniel Rourke, Environmental Resources Manager, FMFCD

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