UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TEXAS 75202-2733

MAR 0 1 2012

Mr. Robert J. Perry
Chief Administrative Officer
Office of the Mayor
One Civic Plaza N.W., 11th Floor
P.O. Box 1293
Albuquerque, NM 87103

Dear Mr. Perry:

During discussions at our meeting on January 19, 2012, it was decided that EPA would send the City of Albuquerque (COA) a letter detailing exactly what we expect from the Municipal Separate Storm Sewer System (MS4) Storm Water Management Program (SWMP) and exactly what steps we expect them to take in order to comply with the proposed permit. We realize this program will require the COA to fund activities that, before now, have not been included in the SWMP, but it is imperative that your SWMP comply with the Clean Water Act, the Permit, and the intent of the storm water program.

The City shall comply with the following requirements, which were in your former permit and are in your most recently issued permit:

A. Construction Site Storm Water Runoff Control

1. Coordinate with all departments and boards with jurisdiction over the planning, review, permitting, or approval of public and private construction activities within the permit area to ensure that the construction storm water runoff control program controls or eliminates erosion and prevents sediment runoff;

2. Update the "NPDES Storm Water Management Guidelines for Construction and Industrial Activities Handbook" to be consistent with required construction and development effluent limitation guidelines;

3. Finalize a legal mechanism (e.g., a Storm Water Ordinance) that provides for inspections of construction sites greater than one acre or, if less than an acre, part of a common plan of development or sale; and includes an enforcement escalation process which assesses penalties for non-compliance;

4. Develop a methodology for the review, update, and/or enactment of a legal mechanism that addresses a) storm water runoff from construction sites of one (1) acre or greater; and b) requires developers and construction site operators to implement an erosion and sediment control program, control waste and properly dispose of wastes such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality;

5. Develop procedures for the review of all site plans and pre-construction review meetings that consider storm water controls or management practices of potential water quality impacts and ensure consistency with local and state sediment and erosion control requirements. The site plan review must be conducted prior to commencement of construction activities and must include a review of: a) the site design, b) the planned operations at the construction site, c) the planned control measures to be installed during the construction phase (including the technical criteria for the selection of control measures), and d) the planned controls to be used to manage runoff created after site development. The review procedure must incorporate procedures for the consideration of potential water quality impacts; procedures for pre-construction review; and, procedures for receipt and consideration of information submitted by the public. The site plan review procedure must also include evaluation of opportunities for use of green infrastructure (GI) practices and, when the opportunity exists, encourages project proponents to incorporate such practices into the site design to mimic the pre-development hydrology of the previously undeveloped site. For purposes of this permit, pre-development hydrology refers to capture of the 90$^{th}$ percentile storm event runoff. Include a reporting requirement of the number of plans that had opportunities to implement GI and how many incorporated it.

6. Develop procedures for development of an application process (e.g., building permit) whereby the construction site operator describes the sediment and erosion-control measures to be taken on the site. The application shall include a listing of all water bodies into which the construction site will discharge and whether or not they are on the 303(d) list for impaired waters.

7. Develop procedures for site inspection (during construction) and enforcement of control measures, including provisions to ensure proper construction, operation, maintenance, and repair. The procedures must clearly define a) who is responsible for site inspections; b) who has the authority to implement enforcement procedures; and c) the steps utilized to identify priority sites for inspection and enforcement based on the nature of the construction activity. If a construction site operator fails to comply with procedures or policies established by the COA, the COA may request EPA enforcement assistance.

8. Annually conduct site inspections of 100 percent of all construction projects cumulatively disturbing one (1) or more acres. Site inspections are to be followed by any necessary compliance or enforcement action. Follow-up inspections are to be conducted to ensure corrective maintenance has occurred; and all projects must be inspected at completion for confirmation of final stabilization. If other departments or COA government offices are used in any way to conduct inspections, a Memorandum of Agreement shall be signed by all parties delineating responsibilities.

9. Describe sanctions and enforcement mechanisms for violations of permit requirements and penalties with detailed corrective action and follow-up procedures which include enforcement escalation procedures for recalcitrant or repeat offenders.

10. Develop a procedure for providing education and training for COA personnel involved in the planning, review, permitting, and/or approval of construction site plans, inspections and enforcement. Education and training shall also be provided for developers, construction site operators, contractors and supporting personnel, including requiring a Storm Water Pollution Prevention Plan (SWPPP) for construction sites within the COA's jurisdiction.

11. Develop procedures for keeping records of and tracking all regulated construction activities within the MS4, i.e. site reviews, inspections, inspection reports, warning letters and other enforcement documents. A summary of the number and frequency of site reviews, inspections (including an inspector's checklist for oversight of sediment and erosion controls and proper disposal of construction wastes). Enforcement activities that are conducted annually and cumulatively during the permit term shall be included in each annual report.

B. <u>Post-Construction Storm Water Management in New Development and Redevelopment</u>

1. Develop a procedure or system to review, update, and/or enact a legal mechanism (e.g., a Storm Water Ordinance) to ensure implementation of the SWMP;

2. Include procedures that include GI practices and allow them to maximize infiltration, recharge, water harvesting, habitat improvement, and hydrological management of storm water runoff.

3. Implement and enforce, via a chosen legal mechanism (e.g., Storm Water Ordinance) site design standards that capture the 90$^{th}$ percentile storm event runoff to ensure the hydrology associated with new development and redevelopment sites mimics the pre-development hydrology of the previously undeveloped site except in instances where the pre-development hydrology conflicts with state or local flood control and/or appropriation requirements.

4. Develop procedures for site inspection and enforcement to ensure proper long-term operation, maintenance, and repair of storm water management practices that are put into place after the completion of construction projects/activities. Procedure(s) shall include the requirement that as-built plans be submitted within ninety (90) days of completion of construction projects/activities that include controls designed to manage the storm water associated with the completed site (post-construction storm water management).

5. Develop and implement an educational program for project developers regarding designs to control water quality effects from storm water, and a training program

for plan review staff regarding storm water standards, site design techniques and controls, including training regarding GI practices.

C. Pollution Prevention/Good Housekeeping for Municipal Operations.

1. Develop and implement an operation and maintenance program that includes a training component with the ultimate goal of preventing or controlling pollutant runoff from municipal operations due to activities including, but not limited to, park and open space maintenance, roadways and parking lots, fleet and building maintenance, new construction and land disturbances, operation and maintenance of industrial facilities owned and operated by COA, and storm water system maintenance. The program shall include the following elements: a) maintenance activities; b) maintenance schedules; and c) long-term inspection procedures for measures to control floatables and other pollutants to the MS4.

2. Compile an updated list of all storm water quality facilities by drainage basin, including location and description.

3. Enhance the Inspection and Maintenance Program by coordinating with maintenance personnel to ensure that a target number of structures per basin are inspected and maintained per quarter; and enhance the existing program to control the discharge of floatables and trash from the MS4 by implementing source control of floatables in industrial and commercial areas;

D. Industrial and High Risk Runoff

1. (Applicable to facilities other than those owned or operated by the COA) Complete an inventory of all facilities with storm water discharges to the MS4 municipal landfills; other treatment, storage or disposal facilities for municipal waste (e.g. transfer stations, incinerators, etc.); hazardous waste treatment, storage, disposal and recovery facilities; facilities that are subject to the Emergency Planning and Community-Right-to-Know Act, Title III, Section 313; and any other industrial or commercial dischargers the COA determines are contributing a substantial pollutant loading to the MS4. The inventory shall consist of:

(a) a list of the facilities included in the program, by category and basin;

(b) the schedules and frequency of inspection for listed facilities. Facility inspections may be carried out in conjunction with other municipal programs (e.g. pretreatment inspections of industrial users, health inspections, fire inspections, etc.), but must include random inspections for facilities not normally visited by the municipality;

(c) the priorities for inspections and procedures used during inspections (e.g. inspection checklist, review for NPDES permit coverage; review of storm water pollution prevention plan; etc.);

2. Describe the current monitoring program for storm water discharges from the facilities identified in the program. The permittee shall modify the following as necessary:

   (a) monitoring frequency;

   (b) parameters; and

   (c) entity performing monitoring and analyses (COA or subject facility). The monitoring program may include a waiver of monitoring for parameters at individual facilities based on a "no-exposure" certification.

3. Establish and implement control measures for such discharges.

E. Illicit Discharges and Improper Disposal

1. The COA shall implement and enforce an Illicit Discharge Detection and Elimination (IDDE) program to systematically detect and eliminate illicit discharges [as defined at 40 C.F.R. § 122.26(b)(2)] entering the MS4, and to implement defined procedures to prevent illicit connections and illegal dumping into the MS4.

2. The COA shall prohibit through its legal mechanism (e.g., Storm Water Ordinance) non-storm water discharges into the storm water system and implement appropriate enforcement procedures and actions (including enforcement escalation procedures for recalcitrant or repeat offenders). The program **must include procedures for coordination with adjacent municipalities and/or state, tribal, or federal regulatory agencies** (this would include such entities as the Water Utility Authority, the fairgrounds, and the airport) to address situations where investigations indicate the illicit discharge originates outside the MS4's jurisdiction.

3. The IDDE program shall be written to include implementation of specific inspection, screening, monitoring and response/enforcement activities to support the COA's required assessments of its SWMP, and to complete requirements of the IDDE Program.

As stated earlier, these conditions were in your former permit and are in your most recently issued permit. A strong Storm Water Ordinance is essential to a successful program. It is the backbone of how the COA can carry out its duty as a co-permittee. While this program is an unfunded mandate, it is essential the COA provide enough funds to assure the citizens of the MS4 of the safety of discharges caused by rain events.

Should you have any questions on any of the conditions contained in this letter, please do not hesitate to contact either Ms. Diana McDonald, of my staff, or Ms. Suzanna Perea, Water Quality Permit Writer. Ms. McDonald's phone number is (214) 665-7495. Ms. Perea's phone number is (214) 665-7217.

Sincerely,

Jerry Saunders
Associate Director
Compliance Assurance and
Enforcement Division (6EN-W)

cc: Mr. Michael J. Riordan, P.E.
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