

US EPA ARCHIVE DOCUMENT



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**MUNICIPAL SEPARATE STORM  
SEWER SYSTEM (MS4)  
CONSTRUCTION PROGRAM  
COMPLIANCE INSPECTION**

**REPORT DATE:  
February 3, 2010**

**EVALUATION CONDUCTED:  
November 30, 2009 – December 2, 2009**

**FRESNO METROPOLITAN FLOOD CONTROL DISTRICT  
FRESNO, CALIFORNIA**

**United States Environmental Protection Agency  
Region 9  
75 Hawthorne Street  
San Francisco, CA 94105-3901**

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## Section 1.0 Introduction

PG Environmental, LLC, a U.S. Environmental Protection Agency (EPA) contractor (hereafter, EPA Contract Inspector), conducted an inspection of the Fresno Metropolitan Flood Control District Municipal Separate Storm Sewer System (MS4) Construction Program on November 30, 2009 – December 2, 2009. Discharges from the MS4 are regulated under the *National Pollutant Discharge Elimination System (NPDES) Permit No. CA0083500, Regional Board Order No. 5-01-048* (hereafter, the Permit), adopted on March 16, 2001 by the California Regional Water Quality Control Board, Central Valley Region (hereafter, Regional Board). It should be noted that the Fresno Metropolitan Flood Control District, City of Fresno, City of Clovis, the County of Fresno, and California State University Fresno are all listed as co-permittees (or Discharger) in the Permit, but only the Fresno Metropolitan Flood Control District was included in the scope of the inspection. The purpose of the inspection was to assess the Fresno Metropolitan Flood Control District's (hereafter, the District) compliance with the construction-related requirements of the Permit. The EPA Contract Inspector also assessed the implementation status of the District's current MS4 Construction and Development Program with respect to its individual storm water management plan titled, "Fresno-Clovis Storm Water Quality Management Program, February 1999" (hereafter, SWMP). A copy of the Permit is included as Appendix B and a copy of the SWMP is included as Appendix F.

The inspection focused specifically on construction-related components of the District's MS4 Program (e.g., construction site inspections, site plan review process, enforcement activities). As such, the inspection was not intended to be a comprehensive evaluation of all components and requirements associated with the entire MS4 program.

The District's MS4 program was evaluated with regard to the following areas of the Permit:

- **Discharge Specification B** – "The Discharger shall reduce the discharge of pollutants into the storm drainage system to the maximum extent practicable."
- **Provision D.3** – "The Discharger shall comply with Discharge Specification B by continued implementation of the revised SWMP."
- **Provision D.7** – "The Discharger shall perform the actions set forth in the SWMP to achieve compliance with this Order, including, but not limited to:
  - a. Performing inspection, surveillance, and monitoring procedures necessary to determine compliance with ordinances, permits, and other components of the SWMP;
  - b. Implementing programmatic functions as described in the SWMP;
  - c. Providing the requisite funding and personnel to implement the storm water program as described in the SWMP; and,
  - d. Enforcing codes, ordinances, and permits."
- **Provision D.9** – "By 15 April 2001 the Discharger shall submit an MOU [Memorandum of Understanding] signed by the District and the City of Fresno."

Failure by the City of Fresno to enter into and MOU with the District by the above date shall terminate coverage of the permit for the City.”

- **Provision D.10** – “By 15 April 2001 the Discharger shall submit a template storm water inspection checklist. Following approval by the Executive Officer, the checklist shall be used by the Cities and County to assist in compliance with Provision 7.a.”
- **Provision D.11** – “By 15 September 2001 the Discharger shall submit a proposed training program. The training program shall cover storm water pollution prevention, detection, and abatement issues. Staff that implement prevention, detection, investigation, monitoring, abatement, and enforcement activities proposed in the SWMP shall attend the course. Staff assigned such tasks shall be familiar with applicable elements of the SWMP. The Discharger shall, at its own discretion, develop supplemental lesson plans directed at staff with different responsibilities (e.g., planner, building inspectors, road and maintenance crews, and supervisors). Following approval by the Executive Officer, the training program shall be directed to Discharger personnel responsible for making inspections of construction projects and for personnel associated with municipal operation and maintenance.”
- **Provision D.12** – “The Discharger shall perform the activities in the SWMP, and use its enforcement authorities to ensure compliance with the construction and industrial NPDES permits for discharges within the area subject to this permit (see Finding 10). For cases of noncompliance, the Discharger shall refer the case to the Board in writing for further enforcement.”
- **Provision D.13** – “The Discharger may require anyone with a general construction or industrial NPDES storm water permit discharging to the MS4 to comply with more stringent local conditions specified in the SWMP, including any local prohibition. In no case shall a requirement by a Permittee be less stringent than the NPDES requirements.”
- **Provision D.18** – “The Discharger shall comply with Monitoring and Reporting Program No. 5-01-048, which is part of the Order, and any revisions thereto as ordered by the Executive Officer.”
  - Monitoring and Reporting Program, Reporting – “The Discharger shall submit, by 1 September each year, an annual report...which includes: 8. A summary of industrial and construction activity storm water inspections conducted, including: a. Number of inspection conducted, b. Follow-up activities, c. Results of follow-up activities and enforcement, and, d. Proposed improvements to the program.”

The District's MS4 program was also evaluated with regard to implementation of the following areas of the SWMP<sup>1</sup>:

- **Section 3.11** – “Construction and Development Program”
- **Section 4.0** – “Legal Authority and Enforcement Element”
- **Section 6.0** – “Implementation of the Storm Water Management Plan”

As a means of assessing compliance, the EPA Contract Inspector conducted six individual inspections of facilities located in the jurisdictional boundaries of the District's MS4. All of the facilities were construction sites where the owner or operator had obtained coverage under the *California State Water Resources Control Board (SWRCB) Order No. 99-08-DWQ, NPDES General Permit No. CAS000002 for Discharges of Storm Water Runoff Associated with Construction Activity*, adopted on August 19, 1999 (hereafter, Construction General Permit). The purposes of the Construction General Permit inspections were to (1) assess the adequacy, appropriateness, and maintenance of best management practices (BMPs) employed for construction activities to prevent and reduce storm water pollution, and (2) gauge the overall effectiveness of the District's construction oversight activities. In addition to the individual inspections of facilities, the EPA Contract Inspector visited four additional construction sites, with the representatives from the District's Environmental Resources Department, located in the jurisdictional boundaries of the District's MS4. The EPA Contract Inspector also visited several additional construction sites that appeared to have been abandoned and facility representatives were not available onsite. Full inspections were not conducted at the abandoned sites or the sites visited with the District representatives and therefore individual inspection reports were not generated for these site visits. It should be noted that numerous deficiencies were identified during the site visits, which are discussed in further detail in Section 2.1.

Table 1 provides a list of the facilities at which Construction General Permit inspections were conducted, and the additional construction sites located in the jurisdictional boundaries of the District's MS4 discussed in Section 2.1. The individual reports for the Construction General Permit inspections are provided in Appendix C.

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<sup>1</sup> A copy of the District's SWMP titled, “Fresno-Clovis Storm Water Quality Management Program, February 1999,” was provided to the EPA Contract Inspector during the inspection. While onsite, the District Environmental Resources Manager confirmed that this was the most current version of the SWMP. A copy of the “Draft Fresno-Clovis Storm Water Quality Management Program, September 2005,” was provided to the EPA Contract Inspector prior to the inspection by the Regional Board, but was not included as part of the evaluation because the Regional Board is in the process of renewing the District's Permit; therefore, the draft SWMP document has not been adopted by the Regional Board. A copy of the District's 1999 SWMP is included in this report as Appendix F.

**Table 1. Construction General Permit Inspections Conducted November 30–  
 December 2, 2009**

Waste Discharge Identification (WDID) No.	Facility Name	Facility Location	Inspection Date / Date Visited	Construction General Permit Inspection No. <sup>2</sup>
Never issued	Clovis Community Hospital OPCC Phase A Expansion	2755 Herndon Avenue Clovis, CA	11/30/2009	1
5F10C356203	Clovis Community Hospital OPCC Phase B Expansion	2755 Herndon Avenue Clovis, CA	11/30/2009	2
5F10C356013	McCaffrey Group - Tract 5874	7630 Ashlan Avenue Clovis CA	11/30/2009	3
5F10C354362	Woodside Saratoga Avalon Clovis Estates	3206 N Temperance Fresno CA	12/1/2009	4
5F10C351867	Wathen Castanos - Tract 5654	SEC of Shepherd DeWolf Clovis CA 93611	12/1/2009	5
5F10C356212	Wathen Castanos - Tract 5655	SEC of Shepherd DeWolf Clovis CA 93611	12/2/2009	6
Not obtained	Musson General Contracting	Divisadero and G Street, Fresno, CA	12/2/2009	N/A <sup>3</sup>
5F10S305997	Quail Lakes	10500 Shaw Avenue, Newport Bay cul de sac, Clovis, CA	12/2/2009	N/A

In addition to the Construction General Permit inspections, the EPA Contract Inspector evaluated compliance through an interview session with representatives from the District’s Environmental Resources Department, as well as a series of site visits, records requests and file reviews. The sign-in sheet for the December 2, 2009 meeting with the District representatives is presented in Appendix A. The primary representatives involved in the inspection were the following:

Fresno Metropolitan Flood Control District:

Bob Van Wyk, General Manager  
 David Pomaville, Administrative Services Manager  
 Daniel Rourke, Environmental Resources Manager  
 Andrew Remus, Environmental Resources Analyst  
 Patrick Bryan, Environmental Resources Technician

<sup>2</sup> The Construction General Permit Inspection Number corresponds to the inspection report included in Appendix C.

<sup>3</sup> “N/A” means “not applicable,” indicating that photographs and notes were collected and obtained and select evidence was used in Section 2.1; however, detailed inspection reports were not produced. The construction sites visited were part of the MS4 inspection; therefore, full inspections were not conducted.

Dry weather conditions were experienced throughout the inspection activities. Weather history reports<sup>4</sup> indicated that trace amounts of precipitation fell in the District and Fresno area on November 26 – 27, 2009, prior to the inspection activities. In addition, weather history reports indicated approximately 0.42 inches of precipitation on December 6, 2009 and 0.06 inches of precipitation on December 9, 2009, during the week following the inspections.

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<sup>4</sup> Weather history reports for the Fresno area obtained from the National Weather Service Web site (<http://www.weather.gov/climate/index.php?wfo>)

## Section 2.0 Permit Compliance Review

The EPA Contract Inspector conducted an evaluation of the District's MS4 Construction and Development Program to assess compliance with the requirements of the Permit. The Permit has an adoption date of March 16, 2001. The Permit expired on March 16, 2006, but it continues in full force and effect until it is rescinded or a new permit is issued.

The EPA Contract Inspector identified several deficiencies (hereafter, inspection findings) regarding compliance with the Permit. The presentation of inspection findings in this section of the report does not constitute a formal compliance determination or violation. Additionally, this section of the report provides recommendations for how the District might improve the design and implementation of its current Storm Water Management Program and also identifies program deficiencies that represent areas of concern for effective program implementation. All referenced documentation used as supporting evidence is provided in Appendices C, D, and E. For clarity, items that require response are underlined while recommendations are presented in *italic*.

### Section 2.1 Construction and Development Component

As required by Provisions D.12 and D.13 of the Permit, "the Discharger [the District] shall perform the activities in the SWMP, and use its enforcement authorities to ensure compliance with the construction and industrial NPDES permits for discharges within the area subject to this permit....In no case shall a requirement by a Permittee be less stringent than the NPDES requirements."

As a component of the inspection, the EPA Contract Inspector conducted six individual inspections of facilities located within the jurisdictional boundaries of the District and/or served by the District's MS4 to assess compliance with the Construction General Permit. All six of the sites visited were private development projects. The EPA Contract Inspector also visited several additional construction sites that appeared to have been abandoned and facility representatives were not available onsite. Full inspections were not conducted at these sites. In addition to the individual inspections of facilities, the EPA Contract Inspector visited four additional construction sites with the representatives from the District's Environmental Resources Department. One of the sites was a public project administered by the District and located within the jurisdictional boundaries of the District's MS4. The additional field visits were conducted in order to assess oversight activities conducted by the District. Full inspections were not conducted at these sites; however, observations made at select sites are included in the discussion below.

Numerous site deficiencies were identified during the site inspections which indicate a lack of adequate oversight by the District to ensure construction site compliance with the Construction General Permit, and therefore the District's compliance with Provisions D.12 and D.13 of the Permit.

Following the individual construction site assessments, additional observations are presented which directly pertain to the District's programmatic obligations under its MS4 permit.

**Private Project: Clovis Community Hospital Outpatient Care Center Phase A Expansion Project (OPCC Phase A Expansion), 2755 Herndon Avenue, Clovis, CA**

The construction project consisted of a 50,000 square-foot expansion of a hospital including the build-out of several specialty rooms, such as operating and recovery rooms, MRI facilities, and X-ray rooms. Several deficiencies were noted during the site inspection. The Construction General Permit inspection report for this site is included as Appendix C, Inspection No. 1.

The Facility Representative could not demonstrate that Construction General Permit coverage had been obtained. On October 17, 2008, Clark Construction Group, LLC submitted a Notice of Intent (NOI) to the State Water Resources Control Board (SWRCB) to begin construction on the OPCC Phase A Expansion. The SWRCB returned the NOI to Clark Construction Group, LLC on October 23, 2008 (see Appendix C, Inspection No. 1, Exhibit 1) due to the fact that the NOI was lacking the required signature. The SWRCB also notified Clark Construction Group, LLC that NOI fees were being increased on November 1, 2008 (see Appendix C, Inspection No. 1, Exhibit 1). Clark Construction Group, LLC resubmitted their NOI (signed October 27, 2008) which was received by the SWRCB on November 3, 2008 (see Appendix C, Inspection No. 1, Exhibits 2, 3, and 4). However, Clark Construction Group, LLC did not submit the required increase in fees to the SWRCB. As a result, the SWRCB did not issue a receipt of the NOI or a Waste Discharge Identification (WDID) number to Clark Construction Group, LLC. During the course of the inspection, the Regional Board representative in attendance confirmed the NOI status as pending. As stated in Finding 2 of the Construction General Permit, coverage for storm water discharges associated with construction activities is regulated for construction projects that disturb greater than one acre of total land area or for disturbance of less than one acre of total land area that is part of a larger common plan of development or sale. The total area of the Phase A Expansion Project exceeded one acre. According to the SWPPP the total project area was 5.65 total acres which included approximately 4 acres of ground disturbance. The area of disturbance observed during the inspection was along the west portion of the project area adjacent to the parking lot (see Appendix C, Inspection No. 1, Finding 4, Photograph 1). The southern portion and the eastern perimeter of the project area had been fully stabilized and landscaped (see Appendix C, Inspection No. 1, Finding 4, Photographs 2 and 3). No active land disturbing or construction activities were observed at these locations during the inspection.

The initial receiving water for the Phase A Expansion Project was the District's MS4. Three storm drain inlets were observed in the project area which discharge to the District's Basin 7H. The overall general site topography directs drainage flow north and west into the District's MS4.

BMPs were not maintained at the storm drain inlet located adjacent to the parking lot along the east side of Medical Center Drive West (see Appendix C, Inspection No. 1, Finding 4, Photograph 4). Specifically, debris accumulation was visible adjacent to inlet and the fiber roll being utilized was deteriorated. As a result, there was a potential for the discharge of sediment to the District's MS4 and subsequent detention basin. Adequate BMPs must be implemented to prevent the discharge of sediment from the site, 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 lack of Construction General Permit coverage at this site indicates that the District's oversight is not effective to ensure compliance with the Permit.

**Private Project: Clovis Community Hospital Phase B Expansion Project, 2755 Herndon Avenue, Clovis, CA**

The construction project consisted of additions to the hospital emergency department, intensive care unit, surgical suites, Women's Pavilion, the addition of a Special Care Nursery, and the addition of a three story parking structure. Several deficiencies were noted during the site inspection. The Construction General Permit inspection report for this site is included as Appendix C, Inspection No. 2.

A visible discharge of sediment-laden water into the District's MS4 occurred during the inspection as described below. Adequate BMPs were not implemented to prevent the discharge of pollutants into the storm drain located on the south side of Fir Avenue and subsequent discharge into the District's Basin 7H. Specifically, wet street sweeping operations were observed on the western portion of the site along Fir Avenue (see Appendix C, Inspection No. 2, Finding 3, Photographs 1 and 2) and sediment and debris were observed entering the storm drain located on the south side of Fir Avenue adjacent to Temperance Boulevard. The SWPPP did not prescribe wet street sweeping operations as an approved method of sweeping or BMPs to protect operational storm water inlets during sweeping operations as required in Section A.5.b(2) of the Permit. Specifically, appropriate BMPs were not installed at the inlets on the south side of Fir Avenue adjacent to Temperance Boulevard (see Appendix C, Inspection No. 2, Finding 3, Photographs 3 and 4). As a result, there was an active sediment-laden discharge observed during the inspection.

Adequate sediment control measures were not implemented on all disturbed areas. Specifically, erosion and sediment controls were not implemented and installed along the perimeter of the disturbed areas at the northwest corner of the Fir Avenue and Medical Center Drive West intersection or the disturbed area adjacent to the future parking lot on the eastern portion of the site on Medical Center Drive East (see Appendix C, Inspection No. 2, Finding 4, Photographs 5 and 6). As a result, there was a potential for the discharge of sediment from the areas of disturbance and subsequently to the District's MS4.

Adequate BMPs were not installed, inspected, and maintained to prevent the discharge of sediment and pollutants to the storm drain inlets at the following locations: (1) along the north side of Fir Avenue where a fiber roll was not properly installed or maintained (i.e., deteriorated, installed on an impervious surface) (see Appendix C, Inspection No. 2, Finding 5, Photograph 7), (2) the southern inlet located on the west side of Medical Center Drive East where BMPs were not installed and debris accumulation was observed (see Appendix C, Inspection No. 2, Finding 5, Photograph 8). As a result, there was a potential for the discharge of sediment to the District's MS4 and subsequently to Basin 7H. Adequate BMPs must be implemented to prevent the discharge of sediment from the site, 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.

**Private Project: The McCaffrey Group, Ashlan Residential Development - Tract 5874 located at 7630 East Ashlan Avenue in Clovis, CA**

The construction project consisted of a private development for a 121 home residential subdivision on 19.55 acres of land. Several deficiencies were noted during the site inspection. The Construction General Permit inspection report for this site is included as Appendix C, Inspection No. 3.

Adequate BMPs were not implemented to prevent the transport of sediment from the construction site entrance at the southeast portion of the site and the southern perimeter areas of disturbance to Ashlan Avenue. Construction traffic was observed entering the site at two separate locations, the southeast corner and southwestern corner of the site along the southern perimeter of the site. Specifically, the facility did not have a designated construction site entrance and vehicle tracking control BMPs had not been implemented to prevent the transport of sediment to Ashlan Avenue (see Appendix C, Inspection No. 3, Finding 3, Photographs 1 and 2). Sediment accumulation was visible at the southeast portion of the site in the curb and gutter flowline along Ashlan Avenue (see Appendix C, Inspection No. 3, Finding 3, Photograph 3). As a result, there was a release of sediment to Ashlan Avenue.

Adequate BMPs were not implemented to prevent the discharge of sediment to the storm drain inlet located adjacent to the southeast construction site entrance (see Appendix C, Inspection No. 3, Finding 4, Photograph 1). Sediment and debris accumulation was visible adjacent to and within the inlet (see Appendix C, Inspection No. 3, Finding 2, Photograph 4). As a result, there was a potential for the discharge of sediment to Ashlan Avenue and subsequent MS4. Adequate BMPs must be implemented to prevent the discharge of sediment from the site, 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.

**Private Project: Woodside Saratoga/Avalon – Clovis Estates Tract 5237, 3206  
North Temperance in Fresno, CA**

The construction project consisted of a private development for a 300 home residential subdivision on approximately 80 acres of land. Several deficiencies were noted during the site inspection. The Construction General Permit inspection report for this site is included as Appendix C, Inspection No. 4.

Tile removal waste and debris had been dumped onto the ground outside the designated waste disposal area located on the Avalon side of the facility at Lot No. 42 (see Appendix C, Inspection No. 4, Finding 3, Photograph 1). Adequate containment was not apparent for the waste receptacle (see Appendix C, Inspection No. 4, Finding 3, Photograph 1). Additionally, adequate perimeter controls had not been implemented (e.g., construction fencing, earthen berm, etc.) to prevent pollutants from contributing to and being transported offsite in storm water runoff (see Appendix C, Inspection No. 4, Finding 3, Photograph 2). As a result, there was a potential for the discharge of pollutants offsite.

Adequate BMPs were not implemented to minimize exposure of storm water to construction materials or wastes in an area of Lot Nos. 17 and 18, adjacent to Jason Avenue. Specifically, the concrete wash out area liner was not installed or maintained properly and did not fully contain the waste (see Appendix C, Inspection No. 4, Finding 4, Photograph 3). As a result, there was a potential for the contribution of pollutants to storm water.

Adequate BMPs were not installed, inspected, and maintained at the eastern perimeter of Janice Avenue. Specifically, the silt fence was not entrenched along Janice Avenue, south of Lot No. 225, to retain sediment (see Appendix C, Inspection No. 4, Finding 5, Photograph 4). The Saratoga Field Manager stated non-construction traffic had accessed the area adjacent to Lot No. 225 and the silt fence was being mainly utilized as a traffic control measure. As a result, sediment had bypassed the silt fence BMP and been released offsite to Janice Avenue from this location.

Adequate BMPs were not maintained at the vehicle tracking control pad, located south of the Saratoga construction site office trailer on Lot Nos. 223 and 224. The rock had become thin and sparse in areas (see Appendix C, Inspection No. 4, Finding 6, Photograph 5) causing the sediment transport from the pad's sparse areas to Janice Avenue. Sediment and debris accumulation was visible in the Janice Avenue roadway (see Appendix C, Inspection No. 4, Finding 6, Photograph 5). As a result, there was a release of sediment to Janice Avenue.

Adequate BMPs were not installed, inspected, and maintained at the corner of Cortland Avenue and Janice Avenue adjacent to the Saratoga construction site office trailer. Specifically, the fiber roll BMPs implemented along the perimeter corner were deteriorated (see Appendix C, Inspection No. 4, Finding 7, Photograph 6). In addition, the fiber rolls were not properly staked and entrenched in the ground to retain sediment (see Appendix C, Inspection No. 4, Finding 7, Photograph 6). As a result, there was

potential for the discharge of sediment offsite to Cortland and Janice Avenues. Adequate BMPs must be implemented to prevent the discharge of sediment from the site, 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.

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

The District has entered into MOUs with each Co-permittee that specify the responsibilities of each agency as it relates to the Permit. Part I.A of each MOU states “the District shall be the lead agency in administering the Storm Water Quality Management Program, as it is defined in the NPDES permit (see attached Appendix D, Exhibit 1)...” Part II.E.2, of each Co-permittee MOU<sup>5</sup>, requires the Co-permittee to “inspect construction and development projects within its jurisdiction to determine compliance with the storm water quality controls required in its permits (see attached Appendix D, Exhibit 2).” As such, each Co-permittee conducts individual inspections to evaluate the use of storm water controls at private construction sites and municipally administered projects located within their respective jurisdictional area. Each MOU also contains a schematic depiction of the respective agency's compliance and coordination responsibilities (see attached Appendix D, Exhibit 3). The District's Enforcement Response Plan (ERP) similarly outlines the inspection referral process which indicates the District's oversight activities are only initiated after a construction site has been issued a verbal warning followed by a notice of correction, that then leads to a notice of violation (see attached Appendix D, Exhibit 4).

The District is not conducting oversight inspections of construction sites unless the site is referred to the District by a Co-permittee. As stated above, the District is the lead agency in enforcing the SWMP. The EPA Contract Inspector conducted six Construction General Permit inspections preceding the MS4 inspection and visited four construction projects with the District representatives during the MS4 inspection. Deficient construction site conditions suggest that the current MOUs are not an effective mechanism to empower the District in conducting oversight of Co-permittee inspections and ensuring compliance with the Permit.

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 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,

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<sup>5</sup> The MOU with the County of Fresno incorporates the discussed MOU requirements into Part II.E.3.

there were no instances of non-compliant sites referred to the District by the Co-permittees.

Field visits were conducted during the MS4 inspection and numerous site deficiencies were identified. For example, at the Musson General Contracting Probation Office Project near Divisadero and G Street, adequate tracking control BMPs had not been maintained to prevent the transport of sediment to roadways and the subsequent District's MS4. Specifically, sediment was visible in the rock pad, and the rock had become thin and sparse in areas (see [Appendix E, Photograph 1](#)). Additionally, adequate materials/waste management BMPs had not been implemented to contain waste/wash water to prevent the discharge of pollutants to storm water runoff (see [Appendix E, Photograph 2](#)). At the Quail Lakes, Newport Bay cul de sac project, BMPs had not been adequately installed and maintained to prevent the discharge of sediment from the unstabilized slope located immediately up gradient of a storm drain inlet (see [Appendix E, Photograph 3](#)). Sediment and debris accumulation were visible up gradient of the inlet, the silt fence BMP was down in several locations, and holes and tears were visible in the silt fence (see [Appendix E, Photographs 4 and 5](#)). As a result, there was a potential for the discharge of sediment to the onsite storm drain system which connects to the District's MS4.

In addition, numerous site deficiencies were identified during the Construction General Permit site inspections preceding the MS4 inspection, and summary observations pertaining to these sites are presented in Section 2.1 of this report<sup>6</sup>.

In summary, the District's oversight is only triggered as a result of site referrals by Co-permittees. Deficient construction site conditions suggest that the current MOUs are not an effective mechanism to empower the District in conducting oversight of Co-permittee inspections and ensuring compliance with the Permit.

*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.*

### **2.1.2 Need for Adherence to Erosion and Sediment Control Standards.**

Section 3.11.2 of the District's SWMP, Construction and Development Program, requires the District to implement "storm water pollution prevention measures recommended in the Construction Site Storm Water Quality Guidelines (hereafter, Construction Site Guidelines)." Section 3.0 Table 3-1, of the Construction Site Guidelines, specifies practices for erosion and sediment control during the dry and wet seasons (see [attached Appendix D, Exhibit 6](#)). Although, the District's Construction Site Guidelines specify

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<sup>6</sup> The summaries do not necessarily describe all findings presented in the associated inspection reports. Appendix C includes the Construction General Permit inspection reports for the construction sites summarized in Section 2.1 of this report.

the implementation of erosion and sediment control BMPs listed in Table 3-1, numerous instances of inadequate BMP implementation were observed that were not in accordance with the Construction Site Guidelines.

The District's Construction Site Guidelines do not include specifications or details for minimum BMPs requirements. Instead Section 2.4 of the Construction Site Guidelines states "guidance on specific construction site storm water quality control measures...referred to the California Storm Water Best Management Handbook for Construction Activity<sup>7</sup> (March, 1993)" (hereafter, CASQA Handbook). During the Construction General Permit inspections (see attached Appendix C) most of the inspected facilities had identified minimum erosion and sediment control BMPs according to the CASQA Handbook in their respective SWPPPs; however, these BMPs had not been adequately implemented and maintained on the sites.

For example, the Clovis Community Hospital Phase B expansion project specified BMPs in the SWPPP to be implemented to protect all storm drain inlets, and for street sweeping operations, which referred to CASQA Handbook design specifications "SE-7 Street Sweeping and Vacuuming" and "E-10 Storm Drain Inlet Protection;" however, this had not been accomplished in the field (see attached Appendix C, Inspection No. 2, Finding 3, Photographs 1, 2, 3, and 4) and resulted in a discharge of sediment-laden water into the District's MS4. Wet street sweeping operations are not an approved practice included in specifications and details contained in the CASQA BMP "SE-7 Street Sweeping and Vacuuming."

It should be noted that the EPA Contract Inspector identified numerous BMP installation and maintenance issues during the Construction General Permit Inspections (see attached Appendix C) not in accordance with the individual facility SWPPPs and the CASQA BMP handbook. The following Construction Program Site Visit Reports provide support for this finding:

- Clovis Community Hospital Outpatient Care Center Phase A Expansion Project (see Appendix C, Inspection No. 1)
- Clovis Community Hospital Phase B Expansion Project (see Appendix C, Inspection No. 2)
- The McCaffrey Group, Ashlan Residential Development - Tract 5874 (see Appendix C, Inspection No. 3)
- Woodside Saratoga/Avalon – Clovis Estates (see Appendix C, Inspection No. 4)

*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*

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<sup>7</sup> The Stormwater Best Management Practice Handbooks are products of the California Stormwater Quality Association (CASQA). The handbooks referenced in the District's guidelines were originally published in 1993 by the California Stormwater Quality Task Force, the predecessor of CASQA.

*maintenance of structural and non-structural BMPs to reduce pollutants in storm water runoff from construction sites to the District's MS4.*

**US EPA ARCHIVE DOCUMENT**