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January 5, 2005

Bruce Fujimoto and Jarma Bennett
Division of Water Quality
State Water Resources Control Board
PO Box 1977
Sacramento, CA 95812-1977

Jennifer Bitting
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401

Re: Monterey Regional Storm Water Management Program, Revised December 8, 2004

Dear Mr. Fujimoto, Ms. Bennett, and Ms. Bitting:

At the request of the Natural Resources Defense Council (NRDC) I reviewed the Monterey Regional Storm Water Management Program ("MRSWMP") as revised on December 8, 2004. This review follows my assessment of the February 17, 2004 draft, documented in my letter to you dated April 16, 2004. That letter also presents my background and qualifications to perform the review.

I continue to hold the same opinion as I expressed in my previous letter, that the MRSWMP falls very far short of the level it must reach to achieve the ultimate goal required of regulated entities by the State Water Resources Control Board's ("SWRCB") Water Quality Order No. 2003-0005-DWQ ("the Order"), which is to reduce the discharge of pollutants to the maximum extent practicable ("MEP"); comply with discharge prohibitions; and lead to attainment of receiving water objectives. The revised draft exhibits very few improvements over its predecessor and responds to almost none of my April 16, 2004 comments. The "program" is still not a program at all, but mostly only a set of vague statements of intention to comply at some point with the Order's provisions. These shortcomings are unacceptable.

To illustrate the co-permittee's nearly non-existent progress over a 10-month period, I reassessed some of the key general and specific comments in my April 16, 2004 letter as they pertain to the latest MRSWMP draft. My remarks do still apply almost without alteration, as follows.

Selected General Comments

In my April letter I commented that the MRSWMP lacks the crucial elements of a real stormwater program. It fails to prescribe a comprehensive set of actions, to completed by designated dates, and measured for success according to objective criteria and means of evaluation. This criticism is equally valid today.

I further observed that the Order states that to meet the standard a permittee must employ all applicable BMPs, except those that are not technically feasible or whose cost exceeds potential benefit. The new draft adds very few BMPs to those in the earlier version and continues to ignore many technically feasible, cost-effective, applicable BMPs.

As a third example, I opined and presented justification for the view that the supplemental provisions of the Order should apply to the Monterey region, and the MRSWMP should exercise them. I consider these measures to be particularly well justified in view of the high quality and sensitivity of the resources involved. The MRSWMP continues to ignore the entire matter, without even suggesting it has been considered.

Selected Specific Comments

Minimum Measure No. 4: Construction Site Runoff Control

In my April 16, 2004 letter I expressed my dissatisfaction that the MRSWMP provides only sketchy coverage of a well-developed field, for which considerable relevant and comprehensive guidance exists that could be put to use in the Monterey area. Moreover, the plan programs a two-year delay in making any significant progress. The December draft exhibits no improvement whatsoever.

Minimum Measure No. 5: Post-Construction Runoff Control in New Development and Redevelopment

I remarked on this topic that the MRSWMP treatment is a shell consisting only of a proposal to draw up an ordinance in another year and implement plan review and site inspection in two years. It lacks the essential elements of a post-construction runoff control program: urban stormwater mitigation planning; guidance for the planning process; the applications and selection of various classes of BMPs (site design, source control, runoff quantity control, and runoff treatment); and how to design, build, and maintain these BMPs. All of these criticisms pertain just as much today as on the day I originally wrote them.

Minimum Measure No. 6: Pollution Prevention and Good Housekeeping for Municipal Operations

I observed in April that the program outlined addresses only a small set of the issues in this category and that the document is typically vague in what will actually be accomplished. It misses the management and maintenance of: (1) the storm drain system, (2) the sanitary sewer

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system (prevention of flow to storm drains), (3) streets and bridges, (4) parks and recreation facilities, (5) airports (if present and operated by a permittee), and (6) corporation yards. It fails to recognize and address common potential pollutant sources for these locations, such as vehicles (fueling, maintaining, cleaning, and parking), materials used in the work, and wastes produced. The latest MRSWMP is a rewrite with no substantive improvement.

Additional Comments

In one of the few additions since February, the MRSWMP briefly referenced Areas of Special Biological Significance (ASBS) in Section 3. Despite being home to five of these special resource areas, greatly important to the regional ecology and economy, the jurisdictions shrank from any proactive steps at all, instead opting to seek exceptions to discharge prohibitions. This strategy is exceptionally shortsighted, especially given an already large population draining to these resources and growing rapidly. The delaying tactic of negotiating for exceptions almost ensures that substantial additional resource damage will be done by the time of any decision.

One other addition in the new draft appears on page 4-14, where the MRSWMP relates BMPs to certain identified pollutants of concern. Specifically, it prescribes illicit connection and illegal discharge (IC/ID) control along with drain inlet cleaning for bacteria mitigation; street sweeping for metals control; and restaurant employee education, inspection, and IC/ID control for orthophosphate. While these source controls are all laudable and necessary practices, the list is stunningly incomplete. It omits numerous other applicable source controls and all treatment controls. This is one very vivid example of how the MRSWMP violates the Order's provision to employ all technically feasible, cost-effective, applicable BMPs.

I would be pleased to discuss my comments and invite you to contact me if you wish.

Sincerely,

A handwritten signature in cursive script that reads "Richard R. Horner". The signature is written in black ink and is positioned above the printed name.

Richard R. Horner