



NATURAL RESOURCES DEFENSE COUNCIL

February 4, 2005

*Via Federal Express*

Roger Briggs  
Donnette Dunaway  
Central Coast Regional Water Quality Control Board  
895 Aerovista Place, Suite 101  
San Luis Obispo, CA 93401

05 FEB - 7 PM 1:43  
SAN LUIS OBISPO, CA 93401

**Re: Administrative Record for Item #27, Monterey Regional Storm Water Management Plan, at the Regional Board's February 10-11, 2005 Board Meeting**

Dear Mr. Briggs and Ms. Dunaway:

Enclosed, please find the following material that should be added to the administrative record for Item #27, Monterey Regional Storm Water Management Plan, at the Regional Board's February 10-11, 2005 Board Meeting:

1. California Handbooks Stormwater Best Management Practice (BMP) Handbooks (<http://www.cabmphandbooks.com/>)
2. Los Angeles County, Development Planning for Storm Water Management: A Manual for the Standard Urban Stormwater Mitigation Plan (SUSMP) (September 2002 Revision) ([http://ladpw.org/wmd/NPDES/table\\_contents.cfm](http://ladpw.org/wmd/NPDES/table_contents.cfm))
3. Los Angeles County, Development Planning for Storm Water Management ([http://ladpw.org/wmd/NPDES/planning\\_TC.cfm](http://ladpw.org/wmd/NPDES/planning_TC.cfm))
4. Washington State, Stormwater Management Manual for Western Washington (revised 2001) (<http://www.ecy.wa.gov/programs/wq/stormwater/manual.html>)
5. New Jersey Stormwater Best Management Practices Manual [http://www.njstormwater.org/bmp\\_manual2.htm](http://www.njstormwater.org/bmp_manual2.htm)
6. Prince Georges County, Low-Impact Development Design Strategies: An Integrated Design Approach (1999) (<http://www.epa.gov/owow/nps/lid/lidnatl.pdf>).

7. Puget Sound Action Team Low Impact Development Manual, Low Impact Development Technical Guidance Manual for Puget Sound January 2005 ([http://www.psat.wa.gov/Publications/LID\\_tech\\_manual05/lid\\_index.htm](http://www.psat.wa.gov/Publications/LID_tech_manual05/lid_index.htm))
8. NOAA's Monterey Bay Sanctuary "First Flush" Report Shows Stormwater Not Clean When Reaches Bay (<http://www.publicaffairs.noaa.gov/releases2003/apr03/noaa03r412.html>)
9. Sanctuary Citizen Watershed Monitoring Network: First Flush Event Monitoring ([http://www.mbnms-simon.org/sections/waterQuality/project\\_info\\_print.php?pid=100141](http://www.mbnms-simon.org/sections/waterQuality/project_info_print.php?pid=100141))
10. First Flush 2003 Statistical Analysis ([http://www.mbnms-simon.org/docs/project/100141\\_data.pdf](http://www.mbnms-simon.org/docs/project/100141_data.pdf))
11. More Pollutants Spilling into Bay, Monterey Herald, Apr. 8, 2003 (<http://www.mbnmsf.org/pages/news/040803herald.html>)
12. Excerpts from *Stormwater Funding: The City of Monterey Experience* (<http://www.casqa.org/meetings/The%20City%20of%20Monterey%20Experience.pdf>)
13. Photograph of stormwater outfall (<http://bonita.mbnms.nos.noaa.gov/photos/impact/urbanrunoff.jpg>)

The bulk of this material was incorporated *in toto* by reference in our January 10, 2005 written comments to the Board. We received a disappointing and erroneous message from staff counsel yesterday, suggesting that our letter nearly a month ago requesting that these readily available and relevant materials be included in the record was somehow insufficient under regulations applicable to formal adjudicatory proceedings. We disagree. No one responded to our letter on this point—or on any other—indicating any disagreement until we queried counsel yesterday.

In any case, it is clear that in California an administrative record "should contain all evidence the parties consider necessary to the resolution of contested issues." (*City of Fairfield v. Super. Ct.* (1976) 14 Cal.3d 768, 775, fn.6; *Pomona Valley Hospital Medical Center v. Super. Ct.* (1997) 55 Cal.App.4th 93, 102; see also *Bar MK Ranches v. Yuetter* (10th Cir. 1993) 994 F.2d 735, 739 ("The complete administrative record consists of all documents and materials directly or indirectly considered by the agency".) Indeed, federal regulations regarding the issuance of NPDES permits require the record to include "any written materials submitted at any hearings [and] other documents in the supporting file for the permit." (40 C.F.R.

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§ 124.18(b).<sup>1</sup> These materials fit this description; we would be surprised if the Regional Board attempted to limit the record by excluding documents as fundamental to stormwater control in California as the enclosed BMP handbooks. Please let us know if it is the Board's position that its staff did not consider these and the other documents enclosed with this letter.

Furthermore, we respectfully request a copy of the index to the current, existing administrative record as it exists prior to the February 10-11 Board meeting. Please fax or email that index to us by February 8, 2005.

Sincerely

A handwritten signature in black ink, appearing to read "D. Beckman", with a long horizontal flourish extending to the right.

David Beckman

cc: Lori Okun, Staff Counsel (w/o enclosures)

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<sup>1</sup> Alternatively, the Board may take official notice of these materials under 23 CCR § 648.2. We request that the Board take notice under this provision of law.