



SANTA BARBARA  
CHANNELKEEPER\*

*Protecting and Restoring the Santa Barbara Channel and Its Watersheds*

714 Bond Avenue • Santa Barbara, CA 93103 • Tel: (805) 563 3377 • Fax: (805) 687 5635 • [www.sbck.org](http://www.sbck.org)

March 17, 2006

Mr. Ryan Lodge, P.E.  
Water Resource Control Engineer  
Central Coast Regional Water Quality Control Board  
895 Aerovista Place, Suite 101  
San Luis Obispo, CA 93401

**Re: County of Santa Barbara Draft Storm Water Management Program**

Dear Mr. Lodge:

Santa Barbara Channelkeeper, a non-profit organization dedicated to protecting and restoring the Santa Barbara Channel and its watersheds, hereby requests that a public hearing be held by the Central Coast Regional Water Quality Control Board ("RWQCB") on the County of Santa Barbara's Storm Water Management Program ("SWMP"), dated December 31, 2005, and posted by the RWQCB on January 19, 2006. We request a hearing because we believe the County's SWMP falls short of meeting the requirements of California's General Permit for the Discharge of Storm Water from Small Municipal Separate Storm Sewer Systems ("General Permit"). This letter outlines the reasons why Channelkeeper believes the County of Santa Barbara's SWMP fails to meet the General Permit's requirements.

While we provide specific recommendations to rectify the various shortcomings of the County's SWMP in this letter, in general we recommend that the County refer to the Model Urban Runoff Program: A How-To-Guide for Developing Urban Runoff Programs for Small Municipalities, compiled by the Cities of Monterey and Santa Cruz, the California Coastal Commission, Monterey Bay National Marine Sanctuary, Association of Monterey Bay Area Governments, Woodward-Clyde Consultants and the Central Coast RWQCB, and the Natural Resources Defense Council's "A Practical Plan for Pollution Prevention: Urban Runoff Solutions for the Monterey Region," as guides for model Best Management Practices ("BMPs") and measurable goals to draw from to strengthen its SWMP.<sup>1</sup>

<sup>1</sup> City of Monterey et al, "Model Urban Runoff Program: A How-To-Guide for Developing Urban Runoff Programs for Small Municipalities," June 1998, at [http://www.waterboards.ca.gov/stormwtr/docs/murp\\_cover.pdf](http://www.waterboards.ca.gov/stormwtr/docs/murp_cover.pdf); and Natural Resources Defense Council (NRDC), "A Practical Plan for Pollution Prevention: Urban Runoff Solutions for the Monterey Region," 2005, at [http://www.nrdc.org/media/docs/water\\_05102401A.pdf](http://www.nrdc.org/media/docs/water_05102401A.pdf)



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Item 6, Attachment No. 2  
July 7, 2006 Meeting  
Santa Barbara County SWMP

As the RWQCB is aware, stormwater is the single largest contributor of pollutants to the waters of the United States. The General Permit acknowledges the significance of stormwater pollution in California. The Central Coast Region's Basin Plan states that: "Stormwater runoff can be a significant pollution source. The US Environmental Protection Agency ("US EPA") estimates that at least 33 percent of all contamination in lakes and estuaries and ten percent of all river contamination are caused by stormwater runoff." Finally, the Central Coast Region's Watershed Management Initiative acknowledges the importance of urban runoff and stormwater pollution, and places a high priority on continued stormwater monitoring.

The County of Santa Barbara has worked closely with Channelkeeper and other local groups in drafting and revising its SWMP, and we believe the December 2005 draft submitted to the RWQCB represents a significant improvement over previous drafts. However, we find that Santa Barbara County's SWMP still falls short of meeting the requirements of the General Permit. Channelkeeper believes that the County's SWMP can and must be further strengthened and serve as a model for other municipalities that are currently developing similar programs to address stormwater pollution in their communities.

### **I. Introduction**

The map of the permitted areas included in Santa Barbara County's SWMP does not show waterbodies, making it impossible to determine what waterbodies pass through the permitted areas or may be impacted by stormwater discharges into the County's municipal separate storm sewer system ("MS4"). While the list of receiving waters in Table 1 is instructive, we recommend including these waterbodies on the map to better illustrate where they lie in relation to the permitted areas. We request this because waterbodies listed in Table 1 as "not in permit area," including impaired waterbodies such as the Santa Ynez River, may in fact be impacted by stormwater discharges from County permit areas, and thus must be addressed by the SWMP.

Channelkeeper notes that the County has been overly selective in the language it has included in the introduction describing its obligation to reduce the discharge of pollutants to the Maximum Extent Practicable ("MEP"). The County has quoted only part of what the US EPA and the State Water Resources Control Board ("SWRCB") have opined on the MEP standard, repeatedly highlighting flexibility and economic feasibility. We find this to be an unbalanced representation of what constitutes the MEP standard, and thus we demand that the entirety of the SWRCB's opinion on the matter be cited in the County's SWMP; namely, the following citation must be included in full: "*There must be a serious attempt to comply, and practical solutions may not be lightly rejected. If, from the list of BMPs, a permittee chooses only a few of the least expensive methods, it is likely that MEP has not been met.* On the other hand, if a permittee employs all applicable BMPs except those *where it can show that they* are not technically feasible in the locality, or whose cost would exceed any benefit to be derived, it would have met the standard. MEP requires permittees to choose effective BMPs, and to reject applicable BMPs only where other effective BMPs will serve the same purpose, the BMPs would not be technically feasible, or the cost would be prohibitive" (emphasis added to demonstrate the language omitted in the County's current draft).<sup>2</sup>

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<sup>2</sup> State Water Resources Control Board (SWRCB), Phase II Small MS4 General Permit Questions and Answer Document, updated August 5, 2004, at <http://www.waterboards.ca.gov/stormwtr/smallms4faq.html>, citing SWRCB Water Quality Order No.2000-11, at p.20.

## II. Minimum Control Measures

Channelkeeper notes with concern that the section entitled "Commitment to Implement SWMP and Continue Existing County BMPs" contains language that may be used in the future to justify a failure by the County to comply with the requirements of the General Permit. Channelkeeper is distraught that funding for valuable stormwater pollution prevention efforts in Santa Barbara County has suffered cutbacks in recent years, understands that there may be events beyond the County's control that may influence the level of funds available for SWMP implementation, and appreciates the County's inclusion, in its most recent draft, of language demonstrating a commitment to seek outside funding for stormwater pollution prevention efforts. However, the General Permit legally requires the County to develop and implement a SWMP that will effectively reduce the discharge of pollutants in stormwater to the MEP, protect water quality, satisfy relevant Clean Water Act requirements, and, most importantly, comply with Receiving Water Limitations. There is no ability to pay exclusion from the requirements of the General Permit or the Clean Water Act. The County will be in violation of state and federal law if it fails to meet these requirements, thus the inclusion of the following language in the SWMP is inappropriate and illegal, and must be deleted: "However, the County has a concern regarding the impracticability of program implementation due to unexpected adverse fiscal events beyond the control of the County. Specifically, the revenues received by the County are constrained by state law, the annual actions of the State Legislature and Governor in the state budget process, and the State constitution. In the event that substantial revenue reductions occur, a consideration of the County financial situation would occur in the annual review process with evaluation for compliance with the MEP standard, as required by the General Permit" (p.xvii).

## III. Monitoring Progress and Reporting

Channelkeeper notes that what the County has committed to monitoring and reporting falls short of what is required by the General Permit. According to EPA, the County's reports must also include: "The status of compliance with permit conditions, including an assessment of the appropriateness of the selected BMPs and progress toward achieving the selected measurable goals for each minimum measure; results of any information collected and analyzed, including monitoring data, if any; and a summary of the storm water activities planned for the next reporting cycle."<sup>3</sup> These reporting requirements must be included in the County's SWMP and in its annual reports.

Channelkeeper is compelled to critique the absence of a commitment to conduct any water quality monitoring in the SWMP. The only way policy-makers and the public will know if efforts to clean up stormwater are effective is through an ongoing system of ambient water quality monitoring that can identify and track trends in the numeric levels of specific pollutants in our waters. The purpose of the EPA stormwater regulations, the General Permit, and the SWMP is to improve water quality. Monitoring stormwater quality is essential to evaluating the success of the SWMP, particularly in Santa Barbara County where numerous impaired waterbodies exist; without an effective monitoring program it will be virtually impossible to evaluate the County's compliance with the General Permit and with Receiving Water Limitations. Therefore, we strongly urge the RWQCB to require the County to conduct regular water quality monitoring, at a bare minimum, of the waterbodies in County permitted areas on California's Section 303(d) List of Water Quality Limited Segments.<sup>4</sup>

<sup>3</sup> US EPA, Storm Water Phase II Final Rule, Small MS4 Storm Water Program Overview, Fact Sheet 2.9, January 2000.

<sup>4</sup> The Central Coast RWQCB has required monitoring in the case of the City of Santa Maria, to provide just one local example (see June 23, 2004 letter from Central Coast RWQCB to Paul Karp, City of Santa Maria Public Works Director), and for the same reasons must do so of Santa Barbara County.

#### **IV. Public Education and Outreach**

Channelkeeper finds that the County has a good program in place to educate the public in protecting stormwater quality. One oversight we note is that the Green Gardner Certification Program BMP needs to be updated to reflect the most recent status of the program assessment tool described at the end of this paragraph (p.1-3).

#### **V. Public Participation and Involvement**

The public has a vital role to play in helping municipalities implement solutions to reduce and prevent stormwater pollution. Unfortunately, attendance at the County's Stakeholder Committee and other public meetings convened by PCW has dwindled to typically less than five people. Moreover, the Stakeholder Committee's working groups, to Channelkeeper's knowledge, have not met for several years, despite the SWMP's contention that they now meet "on an as-needed basis" (p.2-3). Channelkeeper is extremely concerned that the County's measurable goals for these BMPs do not demonstrate the necessary commitment to ensure greater attendance and participation. One measurable goal states that the County will simply maintain the South County Stakeholder Committee at the current level, rather than undertaking a concerted effort to solicit greater participation as it should. Furthermore, it is unclear whether the County intends to alternate meetings between the North and South County such that a meeting will occur in both areas each month, or once every four months; this needs to be clarified, and if the County meant the latter, Channelkeeper finds this to be far too infrequent. In addition, we agree that the Stakeholder Committee should be the preliminary review team for the SWMP annual reports, but strongly recommend that a time schedule for this review be laid out in the SWMP, ensuring adequate time for initial public review of a draft annual report, for the County to incorporate any public concerns into a revised draft, and for another public meeting to approve the annual report prior to its submittal to the RWQCB. Thus we urge the inclusion of an additional measurable goal for specific meetings and a process for public review of the SWMP annual reports.

On the subject of ensuring coordination among agencies, we echo Heal the Ocean's comments that the County needs to take the lead and coordinate the SWMP-related activities of the numerous municipalities in Santa Barbara County required to implement their own SWMPs. Already, before these municipalities' SWMPs have even been adopted, there has been a great deal of confusion about the County's role in assisting the smaller municipalities with various aspects of their SWMPs, which clearly demonstrates the need for greater coordination at the County level. Therefore, to ensure that the numerous municipalities in Santa Barbara County are maximizing the efficiency of all too scarce resources for stormwater pollution prevention, it is critical that the County establish regular coordination, through at least quarterly meetings, among all the municipalities implementing SWMPs in Santa Barbara County, and to include a BMP and measurable goals that reflect this in the SWMP.

#### **VI. Illicit Discharge Detection and Elimination**

The General Permit requires that the County "effectively prohibit, through ordinance, or other regulatory mechanism, non-storm water discharges into the MS4 [storm water system] and implement appropriate enforcement procedures and actions." The SWMP notes that improvements to existing ordinances have been suggested, "including greater enforcement and better coordination amongst enforcement agencies. Therefore, a determination will be made regarding whether additional staff resources are needed for enforcement" (p.3-5). Channelkeeper knows of several instances where complaints have been filed with the County about illicit discharges, but enforcement action was non-existent or inadequate to abate the discharge, thus forcing private groups such as Channelkeeper to take enforcement into their own hands. This is a clear indication that the County lacks sufficient staff resources for enforcement. The County therefore must recognize that additional staff resources *are* necessary for enforcement and commit to providing or securing additional funding for enforcement.

With regard to Field Investigation and Abatement, Channelkeeper applauds the County's commitment to implement two new programs to prioritize and focus resources in areas most likely to cause illicit discharges. While the descriptions of these programs hint at the inclusion of inspections as a critical component, they fail to state as such explicitly, and thus there appears to be a major gap between identification of priority businesses and operations, targeted education and outreach, and follow-up. Clearly, site inspections must be a critical part of both of these programs, and we contend the County must commit to including inspections therein. Field investigations are one of the most important means of identifying illicit discharges, and without a robust program in place, and a greater commitment to inspections and enforcement, the County will not be effective in eliminating illicit discharges, nor will it meet the requirements of the General Permit.

### **VII. Construction Site Runoff Control**

Construction sites can be significant sources of stormwater pollution. As emphasized by US EPA, construction sites can contribute more sediment to streams during a short period of time than can be deposited naturally during several decades, and the resulting siltation and contribution of other construction site pollutants can cause physical, chemical and biological harm to local waterways.<sup>5</sup> Channelkeeper strongly recommends that the efficacy evaluations of the grading ordinance and land use permit program be undertaken in Year 1 (rather than Year 2), and that the SWMP outline specifically what criteria will be employed to complete these evaluations and how the County will involve the public in the evaluations. If these evaluations reveal the need to strengthen the grading ordinance and/or land use permit program, we urge these changes to be enacted and enforced no later than Year 2 (rather than Year 3).

Channelkeeper finds the frequency of construction site inspections during the rainy season to be insufficient to control construction site runoff. Firstly, it defines the rainy season as November 1-April 15, when in fact the Santa Barbara area often receives its first and most heavy rains during the month of October. Secondly, a minimum of two inspections per month on active projects with open grading with one acre or more of land disturbance during this rainy season (p.4-6) is inadequate. If the County is to be effective in controlling construction site runoff, it must commit to undertake *weekly* inspections of *all* construction sites during a rainy season that is defined to include *whenever it rains*.

In order to facilitate the County's efforts to review Erosion and Sediment Control Plans, consider information submitted by the public, undertake construction site inspections, and enforce the grading ordinance and other construction site requirements, Channelkeeper suggests that the County develop and maintain an inventory of active construction sites and grading permits. As recommended by NRDC for the Monterey area SWMP, such a system should identify basic site information (including owner, location, contractor, etc.), status (active, complete), size in acres, proximity to natural and man-made hydrologic features, required inspection frequency, project start and anticipated completion dates.<sup>6</sup> Such an inventory should also document complaints or reports submitted by the public, any history of non-compliance, enforcement actions taken, and follow-up inspections to ensure correction.

With regard to public projects, the County's SWMP notes that the Flood Control and Water Conservation District is specifically exempt from the grading ordinance for maintenance and construction activities within their prescribed easements, but that they are regulated under separate permits to protect water quality. Unfortunately, it is not clear that these permits nor the "appropriate standard maintenance practices" (p.6-2) for these activities meet the requirements of the construction

<sup>5</sup> US EPA, Storm Water Phase II Final Rule, Small MS4 Storm Water Program Overview, Fact Sheet 2.6, January 2000.

<sup>6</sup> NRDC, "A Practical Plan for Pollution Prevention: Urban Runoff Solutions for the Monterey Region," p.42.

MCM. Furthermore, the SWMP troublingly states that the District “must mitigate all impacts,” rather than committing to require the District to prevent impacts in the first place. Because the purpose of the construction site runoff control MCM is to *prevent* soil and construction waste from entering stormwater, and because the District undertakes extensive activities throughout the County that could negatively impact water quality, Channelkeeper contends that the County must either rescind the District’s exemption from the grading ordinance or clearly demonstrate in the SWMP that the separate permits and practices which purportedly do apply to these activities fully comply with the requirements of the General Permit and the Receiving Water Limitations of Attachment 4. If the County expects private construction site operators to comply with the grading ordinance and the General Permit, we would expect it to set a good example and meet or exceed these requirements itself.

### **VIII. Post Construction Runoff Control**

The General Permit requires that the County develop, implement and enforce a program to reduce pollutants in post-construction runoff from new development and redevelopment projects that disturb one acre or more, and to use an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment. Because the County is subject to the requirements of Attachment 4, it must also implement the design standards outlined therein. The SWMP references interpretative and implementation guidelines, Comprehensive Plan policies, CEQA guidelines, and standard conditions of approval/mitigation measures, but does not explain whether and how these are enforceable regulatory requirements, and often notes exceptions (such as the Public Works Department’s authority to waive all or part of the conditions of approval based on demonstrated impracticability, p.5-7). It is Channelkeeper’s judgment that the County must do a better job of demonstrating whether and how the various measures described meet the requirements of the post-construction MCM and Attachment 4 before the RWQCB can approve the County’s SWMP. This is particularly important in light of the high growth projections for certain North County areas included in the County’s permit area.

Channelkeeper agrees that planning staff need ongoing training to recognize potential stormwater impacts during design review and to condition projects appropriately. However, the existing training for planning staff is voluntary and attendance is only “encouraged” (p.5-11). We strongly recommend that regular training be mandatory for planning staff and include some formal mechanism for ensuring that all such staff are fully apprised of the post-construction MCM requirements.

Finally, the post-construction MCM also requires the County to ensure long-term operation and maintenance of BMPs. However, the SWMP notes that “measures to protect water quality *may* apply to ... long-term measures built into the project”; that “*Some* long-term measures require a maintenance program”; that “applicants will be required to submit annual evidence of the proper use and maintenance of their water quality measures and site inspections will be conducted ... *as needed* to confirm proper operation”; and that violations of conditions of approval which may apply to long-term measures *may* be subject to a variety of enforcement actions (emphases added; p.5-11). These conditionalities suggest that the County must tighten up its program if it is to meet the post-construction MCM’s requirement to ensure adequate long-term operation and maintenance of BMPs.

### **IX. Pollution Prevention and Good Housekeeping for Municipal Operations**

The purpose of this MCM is to ensure that the County’s municipal operations implement BMPs that will reduce or eliminate pollutants in stormwater runoff from their activities to the MEP. It appears that the County has a good start on this element, however the provision of BMP Fact Sheets and development of a system enabling facility and operations managers to report on selected BMPs does not go far enough. The County must develop a system which ensures that BMPs are actually being

properly implemented and maintained at all County facilities on an ongoing basis, that treatment controls are implemented and maintained at all County facilities where they are needed, and which provides for some type of corrective action if they are not. Moreover, the County should not only require facilities with greater potential to release pollutants to develop Site Specific Water Quality Protocols (and by the end of Year 1, not Year 3), but should also institute a mechanism to ensure that the Protocols are being fully implemented.

Many services that have potential water quality impacts are provided through contracts with the County, and simply requiring contractors to implement stormwater BMPs may not be sufficient to prevent water quality impacts. Therefore, it is imperative that contracts explicitly include a requirement that such contractors comply with the requirements of the General Permit and Receiving Water Limitations.

We applaud the County for implementing a curbside used oil collection program in the North County, and strongly urge the County to work with other municipalities to implement such a program in the South County as well.

Two final concerns that Channelkeeper has with regard to this MCM are that County street sweeping activities are too infrequent, and that training of County staff will not be completed until Year 3 and does not appear to be ongoing as it should. We urge the County to increase the level of effort and time schedules associated with these BMPs.

This concludes our detailed comments and recommendations on the County of Santa Barbara's SWMP. Santa Barbara County is home to some of the world's most beautiful and popular beaches, as well as numerous other waterbodies that provide aesthetic and recreational opportunities for citizens, precious habitat for rare and endangered species, and many other beneficial uses. Unfortunately, many of these waterbodies are already impaired or greatly threatened by stormwater pollution. Therefore, it is imperative that Santa Barbara County's SWMP be further strengthened so that it meets the requirements of the General Permit, will be effective in reducing and preventing stormwater pollution, and can provide a model for other municipalities currently struggling to develop similar programs to address stormwater pollution in their communities. Thank you for your consideration of our comments, and for your efforts to ensure that Santa Barbara County implements a robust and effective SWMP that fully complies with the letter and intent of the law. Please do not hesitate to contact me should you have any questions or concerns regarding the above comments.

Sincerely,

Kira Schmidt  
Executive Director

cc: Rob Almy, Project Clean Water, Santa Barbara County  
Hillary Hauser, Heal the Ocean  
Marco Gonzales, Coast Law Group LLP  
Anjali Jaiswal, Natural Resources Defense Council  
Daniel Cooper, Lawyers for Clean Water