

## California Stormwater Quality Association

*Dedicated to the Advancement of Stormwater Quality Management, Science and Regulation*

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May 31, 2006

Mr. Roger W. Briggs, Executive Officer  
Central Coast Regional Water Quality Control Board  
895 Aerovista Place, Suite 101  
San Luis Obispo, CA 93401

**Subject: Monterey Regional Stormwater Management Program**

Dear Mr. Briggs,

The California Stormwater Quality Association (CASQA) appreciates this opportunity to submit comments regarding the development and approval of the Monterey Regional Stormwater Management Program (MRSWMP). We understand this program has been the subject of intensive discussion and deliberations between the Monterey permittees, the Regional Water Quality Control Board (Regional Water Board), interested parties, and the Natural Resources Defense Council (NRDC).

CASQA is composed of stormwater quality management organizations and professionals, including both Phase I and II cities and counties, special districts, industries, and consulting firms throughout the state. CASQA (formerly, the Storm Water Quality Task Force) was formed in 1989 to recommend approaches to the State Water Resources Control Board (State Water Board) for stormwater quality management in California. On behalf of the CASQA membership, we have assisted and continue to assist the State Water Board with the development and implementation of stormwater permitting processes.

We are concerned about the recent proposal as described in "*A Practical Plan for Pollution Prevention*" (*Practical Plan*) by NRDC because of its implications for the Monterey Regional Stormwater Management Program and the potential statewide implications for other Phase II stormwater programs. While we agree with many of the concepts within the *Practical Plan*, we are concerned it may establish a performance standard that neither Phase I, nor Phase II, communities can achieve and unduly constrain the ability of local jurisdictions to decide their own priorities and program direction, given individual community needs and resources. Our concerns are summarized in the following paragraphs.

**Issue: The MRSWMP should be designed to meet the Phase II General Permit requirements not Phase I permit requirements.**

We ask the Regional Water Board to bear in mind the Phase II stormwater program is a relatively new regulatory program. The Phase I program was established in 1990, while the Phase II regulations were not promulgated until December 1999 and the State Water Board did not adopt the Phase II General Permit until April 30, 2003. The Phase II General Permit was designed to

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provide permittees a basic level of flexibility to define and establish program priorities for their respective communities. Even though the Phase II program was developed based on the experience of the Phase I program, there were some important exceptions placed within the Phase II General Permit. It was never expected the Phase II programs would develop or implement the same Storm Water Management Plans as the Phase I programs, especially at the outset. This is supported in the Fact Sheet for the State's General Permit for Phase II entities. The Fact Sheet reads as follows:

"It is understood that storm water quality programs and regulations are new to the entities that will be regulated under this General Permit. Therefore, it is anticipated that this General Permit term will serve as a "ramping-up" period and that programs implemented by Phase II communities will not necessarily conform to programs implemented by Phase I communities." (page 9)

This point is significant because the *Practical Plan* relies heavily on the Phase I permit for San Diego, even though the MRSWMP will serve to implement a Phase II program. Although the San Diego Phase I permit applies to large and small municipalities, the regional program in San Diego is different than that proposed for Monterey. The San Diego permittees have had a stormwater program for over ten years. Directly applying permit provisions from a Phase I program that has been in operation for many years, with a significantly larger infrastructure and support base, was not intended by the Phase II regulations. This approach challenges the principles of the State's Phase II General Permit and would deny the Phase II communities the intended ramping up period necessary for small municipalities to generate necessary resources and community support.

**Issue: Municipalities must define their own programs and prioritize BMPs that reduce pollutants to the maximum extent practicable (MEP).**

The critical aspect of developing a stormwater program compliant with the MEP standards is the selection of control measures that adequately fit the needs of the community, address the pollutants of concern, and are fiscally responsible. This is acknowledged in the Phase II General Permit Fact Sheet, which reads as follows:

"Generally, in order to meet MEP, communities that have greater water quality impacts must put forth a greater level of effort. Alternatively, for similar water quality conditions, communities should put forth an equivalent level of effort. However, because larger communities have greater resources (both financial resources as well as existing related programs that can help in implementing storm water quality programs), it may appear that they have more robust storm water programs. Additionally, because storm water programs are locally driven and local conditions vary, some BMPs may be more effective in one community than in another." (page 9, emphasis added)

The *Practical Plan* proposes a number of control measures based on other Phase II (e.g., Griffin, Georgia) and Phase I programs (e.g., San Diego) that have not been evaluated for inclusion in the Monterey Stormwater Program. While individually these measures appear reasonable, it is the Permittee who must determine if they meet local community needs and are fiscally responsible, when considered as a part of the overall stormwater program.

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This is analogous to buying a new home and selecting top of the line options and finding out later that you cannot afford every option and must therefore select ones that fit your overall budget. The point here is, the Phase II community must ultimately select a program that complies with the General Permit and reflects the reality, not perceived reality, of its community. Furthermore the *Practical Plan* consistently requests control measures be implemented in year 1 of a 5-year program, which negates the “ramp-up” period anticipated in the General Permit.

The *Practical Plan* also identifies a number of control measures that were initially identified in the *Model Urban Runoff Program* (MURP). The MURP was developed prior to the Phase II General Permit, based on Phase I programs. As a result, the MURP contains elements that are not requirements of the Phase II General Permit. Some examples include the industrial and commercial elements that are fundamental to a Phase I program but are not required for a Phase II community. These programs are shown as optional in the MURP. Furthermore, the model program is guidance and is not regulatory. The implication that the Monterey program must contain all of the model program measures (including the optional programs) is inappropriate and goes beyond the intent and scope of the Phase II General Permit. The Monterey Permittees have used the MURP when appropriate – consistent with the intent of the MURP.

**Issue – NRDC Proposed Water Quality Monitoring is not required by the Phase II General Permit and exceeds most, if not all, Phase I Monitoring Programs**

The proposed monitoring program outlined in the *Practical Plan* (page 24 under the Public Participation Minimum Control Measure) is as comprehensive a monitoring program as is found anywhere in the country. The General Permit provides discretion to the Regional Water Board when deciding on an appropriate monitoring program for a Phase II community. However, the General Permit suggests inspection as the primary mode of monitoring (see page 11 of the Fact Sheet). In earlier comments<sup>1</sup> we had agreed with Regional Water Board staff that the General Permit does not specifically require water quality monitoring and that the Regional Water Board should only impose monitoring requirements if there is a justifiable need. NRDC proposes under the Public Participation Minimum Control Measure a monitoring program that includes:

- Urban Stream Bioassessment Monitoring
- Long-term Mass Loading Monitoring
- Coastal Storm Drain Outfall Monitoring
- Ambient Bay, Lagoon, and Coastal Receiving Water Monitoring
- Toxic Hot Spots Monitoring

The NRDC proposed monitoring program goes beyond Phase I monitoring programs in California. We are unaware of any Phase I monitoring program that includes all these elements. It is fair to say that, although water quality monitoring has always been a somewhat contentious subject with municipal permittees, (primarily because of the relatively high cost, difficulty in collecting samples, and understanding the many variables impacting the quality of the runoff), lessons have been learned and as a result the Phase II General Permit focused on visual

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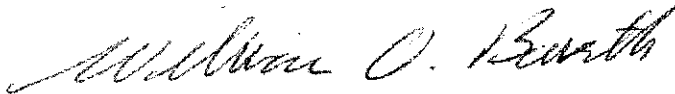
<sup>1</sup> CASQA comments regarding review of Monterey Regional Stormwater Management Program (August 27, 2004)

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inspections as the primary approach to monitoring. While some may argue that Monterey and the other permittees in the area discharge to an area of special biological significance (ASBS) and should be held to a higher monitoring standard than other Phase II communities, the State Water Board is currently working on the monitoring program that will be applied to dischargers to ASBSs. Until the ASBS program is defined, the Monterey Regional Stormwater Management Program should reflect the monitoring requirements of the General Permit and be based on visual monitoring (i.e., inspections).

In closing, CASQA recommends the Regional Water Board allow the permittees to develop the MRSWMP using available resources (e.g., MURP, *Practical Plan*, BMP Handbooks, etc.) to reflect the conditions and constraints of the permitted communities. Thank you for your consideration of our concerns and for your efforts to resolve these issues. Please feel free to contact me at 916-808-1434 if you have any questions regarding these comments.

Sincerely,



Bill Busath, CASQA Chair

cc: Celeste Cantú, State Water Board  
Bruce Fujimoto, State Water Board  
Jarma Bennett, State Water Board  
Donnette Dunaway, Central Coast Regional Water Quality Control Board  
CASQA Board of Directors, Executive Program Committee, and Phase II Subcommittee