

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION

STAFF REPORT FOR REGULAR MEETING OF JULY 7, 2006
Prepared June 16, 2006

ITEM NUMBER: 6

SUBJECT: Issuance of NPDES Municipal Storm Water Permit Waste Discharge Requirements for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems (Phase II Storm Water Permit), Santa Barbara County

KEY INFORMATION

Location: County of Santa Barbara
Discharge Type: Municipal Storm Water
Existing Orders: None
This Action: Adopt Resolution No. R3-2006-0045 Approving Santa Barbara County Storm Water Management Program

SUMMARY

This item presents draft Resolution No. R3-2006-0045, which approves the County of Santa Barbara's (County) Storm Water Management Program (SWMP). A Water Board approved SWMP is required to enroll the County in the NPDES Municipal Storm Water Permit for Small Municipal Separate Storm Sewer Systems (General Permit, or Phase II Storm Water Permit). This report provides background information regarding the County's SWMP development and a staff recommendation for SWMP approval. The County submitted four SWMP drafts over a three-year period with numerous public meetings and public input. Three interested parties requested a public hearing based on their review of the County's SWMP. The Resolution contains staff recommended SWMP

modifications based on comment letters received and discussions with interested parties and the County.

By adopting the Resolution, the Water Board will enroll the County in the General Permit. The County will then be required to implement a comprehensive storm water management program designed to reduce pollutants discharges in urban storm water to the maximum extent practicable.

DISCUSSION

The County is required by Clean Water Act §402(p) to obtain permit coverage pursuant to the General Permit. The keystone of the Phase II Storm Water permit program is the SWMP, which is written by the permit applicants.

The County developed a SWMP with input from Water Board storm water staff and members of the local communities. The County submitted their initial SWMP and Notice of Intent to comply with the General Permit on March 10, 2003. Water Board staff deemed the SWMP incomplete, made comments, and returned the SWMP to the County for revisions. This review-revision process was repeated several times until we arrived at a "final" version, dated December 31, 2005. Water Board staff accepted the SWMP, and posted it on the State Board website for a 60-day public comment period which ended March 17, 2006. Water Board staff received several comment letters and scheduled a meeting for early May 2006 to give the County and Water Board staff an opportunity to interact with commenters. The County agreed to make minor changes to the SWMP based on comments received, but not all of the issues were resolved.

Existing Programs

The County established Project Clean Water in 1998, as the County's storm water management program to identify and implement solutions to creek and ocean water pollution. The following paragraphs describe some of the projects implemented by the County.

The County currently owns and maintains several storm water treatment control facilities, including seven continuous deflective separation (CDS) units, three bioswales, and one ultraviolet radiation treatment system. Four of the CDS units and the UV treatment system are located in Isla Vista and treat runoff prior to discharge onto the beach. The remaining three units and three bioswales are located in the unincorporated Goleta area and treat runoff prior to discharge into Atascadero Creek.

The South Coast Watershed Resource Center was opened in 2001 as a joint effort among the County and the Community Environmental Council in response to growing concern about the South Coast's water quality. The Watershed Resource Center makes the connection between healthy watersheds and activities such as cleaning up after pets, landscaping with native plants, and properly disposing of everyday chemicals.

The Green Gardener Program, established in 2000, trains and certifies professional landscapers and gardeners in resource-efficient gardening practices. Training sessions cover topics on resource efficient landscaping practices, including non-point source pollution reduction, water efficiency, integrated pest management, and reduction of air pollution emissions and green waste.

Santa Barbara County Storm Water Management Program Summary

The SWMP describes the organizational framework under which the County will work to accomplish the objectives of their storm water program. It contains a description and maps of the areas to be covered by the NPDES permit for which the program was prepared. It also describes Best Management Practices (BMPs) with justification for BMP choices, Measurable Goals, and implementation timeframes. The County has five years to implement the SWMP. The County will submit annual reports detailing program compliance, BMP effectiveness, and measurable goal status. Water Board staff will review annual reports and work with the County to improve program implementation and effectiveness.

The purpose of the SWMP is to

implement and enforce a series of BMPs. These BMPs are designed to reduce the discharge of pollutants from the municipal separate storm sewer systems to the "maximum extent practicable," to protect water quality, and to satisfy the requirements of the Clean Water Act. The County will use a series of measurable goals, defined in the SWMP, to gauge the effectiveness of the program.

The BMPs are grouped under the following six "Minimum Control Measures," which are required under the Phase II regulations:

1. Public Education and Outreach
2. Public Participation/Involvement
3. Illicit Discharge Detection and Elimination
4. Construction Site Runoff Control
5. Post-Construction Runoff Control
6. Pollution Prevention/Good Housekeeping

The SWMP contains those BMPs and Measurable Goals that the County believes will be most useful and effective in reducing the discharge of pollutants from storm sewer systems within the particular geographic area and land uses covered by this permit. The following paragraphs include examples of County developed BMPs, goals, and key measures to measure the effectiveness of the SWMP for each Minimum Control Measure. The results obtained from the key measures will help guide improvements in the SWMP over its five-year term.

1. Public Education and Outreach

The SWMP incorporates numerous public education BMPs. These include outreach brochures, a website,

participation in community events, the Water Resource Center, educational programs for school children, storm drain marking, storm water hotline, landscape education, media campaigns, and tributary signage.

The overall goal of the Public Education and Outreach Minimum Control Measure is to inform the public about the importance of protecting water quality. Specific public education goals include increasing the number of visitors to the Project Clean Water website and the South Coast Watershed Resource Center, distributing 1,000 landscape brochures annually, and educating 30% of school children (K-8) every two years.

The key measure of success will be the County's public opinion survey during permit-year five to evaluate the public's storm water knowledge. The County will also administer pre- and post-presentation evaluations to evaluate the education program for school children.

2. Public Participation

As noted earlier, the general public and local environmental groups helped develop the SWMP. The County will continue to engage the public in storm water issues through the SWMP. The County will establish a North County stakeholder committee and will maintain the existing South County stakeholder committee. The committees will each meet three times per year to discuss water quality issues with the public and provide an opportunity for the public to discuss water quality issues with the County.

Additional public involvement BMPs include County sponsored volunteer water quality monitoring, creek and beach cleanups, and community meetings.

The overall goals of the Public Participation Minimum Control Measure are to include the public in the SWMP implementation and decision-making process and foster broader public support for the SWMP. Specific public participation goals include organizing and sponsoring two volunteer water quality monitoring events per year, sponsoring five creek clean-up events and four beach clean-up events per year, and establishing North County stakeholder meetings three times per year to be consistent with the three South County stakeholder meetings per year.

Key measures of success will include increased public meeting attendance and participation. The County will also document and track the amount of materials collected during creek and beach cleanups and the number of citizens participating in the cleanup.

3. Illicit Discharge Detection and Elimination

The County will finalize, adopt, and implement a storm water ordinance prohibiting illicit discharges and providing the County with enforcement authority by the end of permit year 1. The County will establish an inspection program to identify and eliminate sources of illicit discharges from businesses and will continue to conduct creek walks to identify and eliminate pollutant sources.

The overall goal of the Illicit Discharge Detection and Elimination Minimum Control Measure is to eliminate pollutant discharges from illicit sources. Specific goals include adopting a storm water ordinance in year 1, establishing a business inspection program, and conducting creek walks twice annually.

The key measure of success will be the

number of illicit discharges detected and eliminated through program implementation.

4. Construction Site Runoff Control

The goal of the Construction Site Runoff Control Minimum Control Measure is to prevent sediment and other construction waste from entering the storm sewer system. The County will require all construction sites to implement approved erosion and sediment control plans, and will inspect all construction sites twice per month during the rainy season and four times during the non-rainy season. County inspectors will conduct site inspections to evaluate construction site BMP implementation and ensure sites are properly implementing site erosion and sediment control plans.

All County grading inspectors and planners will receive annual storm water BMP training. The County will establish annual construction storm water BMP workshops to educate and train those in the construction industry.

Key measures of success will be the number of construction sites in compliance with (and the number in violation of) county requirements, the number of enforcement actions taken, the number of complaint calls from the public, and the types of violations documented during site inspections.

5. Post-Construction Runoff Control

The General Permit Attachment 4 Design Standards, also called "Supplemental Provisions," establish minimum BMP requirements that stress (i) low impact design; (ii) source controls; and (iii) treatment controls. Attachment 4 Design Standards are

required for "areas subject to high growth or serving a population of at least 50,000." The County serves a population greater than 50,000 and therefore is required to implement the Attachment 4 design standards. The County established a set of standard conditions for project approvals that require compliance with the General Permit Attachment 4 design standards. The County's strategy is to ensure the design standards are incorporated into projects early in the planning process. The SWMP includes provision for enforcement action if an approved project does not comply with the design standards. The County will establish an incentive program for developers/contractors who implement innovative design standards and will provide an annual award program to reward innovative project designs related to storm water.

The goals of the Post-Construction Runoff Control Minimum Control Measure include applying Attachment 4 requirements to all applicable projects during the planning review process, and taking enforcement actions against all non-compliant projects.

The key measures of success will be the number of post-construction sites that meet the requirements (determined by site inspections and self-reporting).

6. Pollution Prevention/Good Housekeeping

The County audited all of its facilities with respect to operations, activities, and existing storm water management practices. The County will develop and implement site-specific water quality protocols for all County facilities by permit year three based on the audits. The SWMP includes other municipal operations BMPs including a countywide integrated pest management plan, BMP

fact sheets for municipal operations, BMP requirements in contract specifications, and staff training.

The overall goal of the Pollution Prevention and Good Housekeeping for Municipal Operations Minimum Control Measure is to provide public services in a manner that protects water quality. Specific goals include reducing pesticides use by County departments, implementing 100% of BMPs at County facilities by year 4, completing contract revisions to include BMP requirements by end of year 1, and to train all County staff by year 3.

Key measures of success will be tracking the reduction in pesticide use per department annually, tracking contractor compliance with revised contract requirements, verifying all County facilities are implementing proper BMPs, and by ensuring all staff are trained annually by year 3.

Water Quality Monitoring

Water quality monitoring is not a General Permit requirement, but the Water Board and the Executive Officer may require it at any time. The County will voluntarily conduct snapshot water quality monitoring twice per year in addition to the key measures of success noted above. The County will work with local groups to develop and implement volunteer snapshot monitoring in year 1. Water Board staff will review the monitoring program during the annual report review process to determine if it is adequate to measure SWMP effectiveness. If the County's monitoring program is not adequate, the Executive Officer will require additional monitoring.

PUBLIC COMMENTS

The December 2005 SWMP (Attachment 1) was posted for 60-day public comment period. Three groups submitted comments on the SWMP including Channelkeeper, Heal the Ocean, and the Natural Resources Defense Council (NRDC).

Water Board staff response to Channelkeeper, Heal the Ocean, and NRDC comments are included as Attachments 5, 6, and 7. The three main topics in this Discussion section reflect the primary concerns that remain between the commenters, the County, and Water Board staff.

A. Lack of Coordination Among Municipal Entities

The commenters are concerned with the lack of coordination among the municipal entities within Santa Barbara County on the development and implementation of their respective storm water management programs.

The County participates in quarterly intergovernmental committee meetings attended by city, county, and state staff. The meetings provide an opportunity for storm water program coordination between the various entities. Topics for discussion are suggested by participants and include development and interpretation of storm water regulations, opportunities for cooperative efforts, emerging technologies and sharing of water quality information. Although Water Board staff encourages sharing resources and program implementation where possible, the County is not required to share resources or responsibility for program implementation with other entities.

Water Board staff recommend

continued participation in the quarterly intergovernmental coordination meetings. The intergovernmental meetings should provide an adequate forum to coordinate storm water related issues with other municipal entities in the County.

B. Water Quality Monitoring

The commenters contend that the County should include water quality monitoring in the SWMP.

Water quality monitoring is not a General Permit requirement, but the Water Board may require it. The County will organize and sponsor volunteer snapshot water quality monitoring twice per year. Water Board staff will review the monitoring program during the annual report review process to determine if it is adequate to measure SWMP effectiveness. If County's monitoring program is not adequate, the Executive Officer will require additional monitoring.

The County conducted water quality monitoring from 1999 – 2001. The data from that monitoring was used to identify pollutants of concern and develop BMPs to address those pollutants of concern. Funding issues have caused a reduction in the water quality-monitoring program with only select watersheds monitored during the 2002 – 2003 rainy season. Water Board staff is developing TMDLs for this region that may include additional water quality monitoring requirements.

C. Post Construction

The commenters contend that the County does not have adequate enforcement authority to implement post construction runoff controls. The County proposes using a combination of their zoning ordinance, the County's

General Plan, and guidance for planners to ensure post construction requirements are met. The County will require General Permit Attachment 4 design standards for all applicable projects.

The intent of the Storm Water General Permit is to protect water quality through storm water management programs that are implemented over a five-year period. The General Permit intends for storm water programs to address and abate local pollutants of concern. Water Board staff will review the County's program on an annual basis to evaluate program implementation and effectiveness.

Staff's recommendation includes requiring a list of changes to the SWMP. These changes are included in the proposed resolution and discussed below.

In summary, Water Board staff believes that the SWMP, on the whole, meets or exceeds MEP and the minimum requirements set forth in the Phase II General Permit; that there is ample evidence that the objective of the County is to comply with the letter and the intent of the General Permit; and that the level of detail in the SWMP is adequate for reviewers to understand and evaluate. The County has demonstrated they will develop and implement a program that will reduce pollutants to the maximum extent practicable.

The Storm Water Management Plan was posted to the State Water Board website, http://www.swrcb.ca.gov/stormwtr/sm_municipal_swmp.html, and Regional Water Board website, <http://www.swrcb.ca.gov/rwqcb3/>, and a notice was electronically mailed on January 19, 2006, to all persons listed

on the interested parties list. Comments for the SWMP were due back to the Water Board by March 17, 2006.

Water Board staff received three letters in response to the January 2006 request for comments. Channelkeeper, Heal the Ocean, and the Natural Resources Defense Council all submitted comment letters.

The NRDC comment letter referred to their report entitled, "A Practical Plan for Pollution Prevention: Urban Runoff Solutions for the Monterey Region" (Report), which proposes BMPs for the Monterey Region. The NRDC comments that the Santa Barbara County SWMP can be modified to meet the MEP standard by implementing the Report's findings. However, the Report is specific to the Monterey area and does not provide specific comments relating to the Santa Barbara County SWMP. The California Stormwater Quality Association (CASQA) submitted a letter regarding the Report and its relation to Phase II communities of the Monterey Region (Attachment 8). Staff believes including the CASQA letter in this staff report is appropriate because the letter provides general comments on the Report.

PUBLIC HEARING

The Water Board will hold a public hearing to consider enrolling the County of Santa Barbara in the Phase II Storm Water Permit. The public hearing is scheduled for July 7, 2006, in San Luis Obispo, at the address listed in the next paragraph. The hearing agenda will be posted to the Water Board website, <http://www.waterboards.ca.gov/centralcoast/>.

Interested parties can obtain further information regarding the conduct and nature of the public hearing concerning

this draft resolution by writing or visiting the Central Coast Regional Water Quality Control Board office, at 895 Aerovista Place, Suite 101, San Luis Obispo, CA 93401, attention Ryan Lodge, (805) 549-3506, or rlodge@waterboards.ca.gov.

RECOMMENDATIONS

Adopt Board Resolution R3-2006-0045 accepting the December 2005 Santa Barbara County Storm Water Management Program as complete, approve Santa Barbara County enrollment in the Phase II General Permit, and require the County to make the following changes:

1. On page 1-3 under the Green Gardner Certification Program bullet, the last sentence must be updated to reflect that a program assessment tool will be developed by September 2006.
2. The County must clarify the frequency of stakeholder meetings in the SWMP. The County will hold three South County stakeholder meetings per year and three North County stakeholder meetings per year. The County must also include a timeline for the annual report review process to ensure adequate review time for the stakeholder groups.
3. The County must include permit area maps with water bodies clearly delineated.
4. The County must clearly define the Voluntary Water Quality Sampling program, on SWMP page 2-4, within permit year one. The County must include information regarding the constituents that will be monitored, the number of monitoring locations, and the monitoring frequency.
5. The unincorporated urbanized area of Mission Hills must be included as part of the permit area.
6. The Illicit Discharge Field Investigation and Abatement BMP must include routine inspection and enforcement protocols for the two new illicit discharge programs discussed in the last paragraph of page 3-9 and the first paragraph on page 3-10.
7. The discretionary permit review process listed on page 5-12, which requires the County to evaluate 100% of discretionary projects, will start in year 1 rather than year 2.
8. Append the Final Program Environmental Impact Report Updated Routine Maintenance Program (November 2001) for the County Flood Control District, which includes BMPs for Flood Control District Projects.
9. Include the following MEP language on page xiii following the second paragraph: "The MEP standard involves applying best management practices (BMPs) that are effective in reducing the discharge of pollutants in storm water runoff. In discussing the MEP standard, the State Board has said the following: "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." (Order No. WQ 2000-11, at p.20.) MEP is the result of the cumulative effect of implementing, continuously evaluating, and making corresponding changes to a variety of technically and economically feasible BMPs that ensures the most appropriate controls are implemented in the most effective manner. This process of implementing, evaluating, revising, or adding new BMPs is commonly referred to as the iterative approach (see question 4). For Small MS4s, EPA has stated that pollutant reductions to the MEP will be realized by implementing BMPs through the six minimum measures described in the permit. (64 Federal Register 68753.)"

10. Remove the final paragraph on SWMP page xvii regarding budgetary constraints.
11. In the first paragraph on page xviii, indicate that monitoring reports will be submitted to the Water Board on an annual basis and remove "starting in August 2004." In the first sentence of the last paragraph on the same page the SWMP should indicate that the County will submit annual reports pursuant to the reporting requirement of the General Permit. Remove the statement, "to state guidance provided in the Final Draft from March 4, 2004."

EX PARTE COMMUNICATION

The Administrative Procedure Act, California Government Code section 11400 et seq., restricts *ex parte* contacts regarding pending permitting matters. A permit is considered "pending" when the discharger submits the application. Water Board Chair Jeffrey Young met with Rob Almy, Santa Barbara County Water Agency, on March 8, 2006. A memorandum describing the entire meeting is attached (Attachment 9). Any person may comment on this communication at the hearing.

Ex parte communications may require disqualification of a Board member from hearing a permit matter, but only as necessary to eliminate the effect of the communication. In this case, the discussion was very general and has been disclosed to all parties. The Chair has not been biased by this communication, and does not intend to recuse himself from this matter. However, he will consider all objections to his participation at the hearing.

ATTACHMENTS

The Attachments to this Staff Report have been provided electronically for the Board Members, with the exception of Russell Jefferies and Monica Hunter, who received hard copies. The attachments to this item are available on the Water Board website, <http://www.waterboards.ca.gov/centralcoast/Permits/Index.htm>, or you may reach staff member Ryan Lodge (contact information listed above on page 6) at the above-listed contact to arrange a document review in person, at the Water Board offices.

1. The December 31, 2005, County of Santa Barbara Storm Water

- Management Program
2. Channelkeeper March 17, 2006, comment letter.
3. Heal the Ocean March 17, 2006, comment letter.
4. Natural Resources Defense Council March 17, 2006, comment letter
5. Water Board staff response to Channelkeeper comment letter
6. Water Board staff response to Heal the Ocean comment letter.
7. Water Board staff response to Natural Resources Defense Council comment letter.
8. California Stormwater Quality Association May 31, 2006, MRSWMP Comment Letter
9. Memo re Meeting with Rob Almy on 3/08/06
10. Heal the Ocean January 3, 2006, comment letter.
11. Heal the Ocean December 6, 2005, comment letter.
12. Heal the Ocean October 26, 2005, comment letter.
13. Heal the Ocean September 3, 2004, comment letter.
14. Heal the Ocean February 14, 2003, comment letter.
15. Heal the Ocean December 16, 2002, comment letter.

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