



Protecting and Restoring the Santa Barbara Channel and Its Watersheds

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January 30, 2008

Jeffrey Young, Chair and Board Members
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401

Re: Item No. 15, County of Santa Barbara Phase II Storm Water Permit Status Report

Dear Chair Young and Board Members:

Please accept the following comments on the County of Santa Barbara Phase II Storm Water Permit Status Report, which are hereby submitted by Santa Barbara Channelkeeper. Santa Barbara Channelkeeper is a local non-profit organization dedicated to protecting and restoring the Santa Barbara Channel and its watersheds. We have been deeply involved in the formulation and implementation of Santa Barbara County's Storm Water Management Program (SBCSWMP), and as such we have a great deal invested in the program.

Channelkeeper continues to have serious concerns about the major inadequacies of the SBCSWMP, and these concerns have been amplified by the Santa Barbara County's demonstrated lack of political will and the vast array of deficiencies in its implementation of its weak SWMP, as reflected in the County's first annual report on SWMP implementation. We strongly disagree with staff's conclusion that the County has made great progress and have already raised several issues with the annual report in a previous comment letter to staff dated October 12, 2007. Channelkeeper does agree with many of the issues called out in the staff report on this agenda item and in staff's January 28, 2008 letter to the County on their review of the annual report, but we find that staff does not go far enough in their recommendations to the Board for remedying this untenable situation.

Channelkeeper recalls clearly from the July 2006 meeting when the Board was considering approval of the SBCSWMP that several Board members expressed dissatisfaction with various aspects of the SBCSWMP but the Board opted to approve it anyway in order to bring the County under permit coverage and thus subject it to the Board's regulatory oversight. Because of their concerns as well as those of the environmental community, the Board committed to using the annual report review process as an opportunity to scrutinize closely the County's performance in bring stormwater pollution under control and to correct the SBCSWMP's deficiencies by requiring many much-needed improvements. The staff report and its recommendations for the

Board fall far short of meeting the Board's commitment to take this necessary corrective action. Moreover, staff is unclear in both the staff report and their letter to the County about what information they are requesting be resubmitted by March 28th and what information they are requesting be included in future annual reports. Our specific concerns about SBCSWMP implementation and recommendations for Board action are outlined below.

Public Education and Outreach

With regard to the Storm Water Hotline, Channelkeeper noted in our comment letters to both the County and the Regional Board that the County's draft annual report said the hotline received 257 calls, but that Project Clean Water received only 38 complaints. We inquired that if the 257 calls weren't complaints, what were they and were they acted upon? Rather than responding to the question and fixing the annual report, the County simply opted to delete the mention of the 38 complaints. This is clearly not an appropriate response to our comment nor does it provide sufficient information on the types of complaints received and the County's response to and abatement of pollution incidents reported through the hotline. This is but one of many indicators of the County's insufficient capacity to inspect and address potential sources of pollution to their MS4, and the Board must address this serious problem at its February meeting, rather than simply asking the County to provide additional information about the nature, type and location of complaints in future annual reports, as recommended by staff.

Public Participation and Involvement

The staff report claims that the County provided adequate time for public review of the annual report before they submitted it to the Board. The staff report asserts that the County provided 17 days for public review. This is simply untrue. As stated in our October 12, 2007 comment letter, the County posted the report in bits and pieces over the course of several days (which was very inconvenient for the public) and did not post the most critical parts of the report until a mere **three days** before the deadline they set for public comments (not 17 as stated in the staff report) - hardly enough time for concerned citizens and organizations to thoroughly review the material. Moreover, some of the critical appendices were not posted at all. This is absolutely unacceptable. While we understand the County is constrained by having to meet the Water Board's September 15 deadline for a report that covers activities through June 30, this still allows the County two and a half months to prepare the report and circulate it for public comment for an amount of time that is adequate for concerned citizens to provide their input, and for that input to actually be considered and incorporated by the County prior to their submittal to the Board. We respectfully request that the Board require the County to provide a minimum of 20 days for public comment prior to submittal to the Board.

Channelkeeper agrees with staff's concern that the County failed to provide a sufficient level of detail on the seven creek clean-ups and three volunteer water quality monitoring events they held, as well as the other water quality monitoring they conducted. This information is vital for the public and the Board in evaluating the County's progress in addressing stormwater pollution and the effectiveness of the SBCSWMP's BMPs, and it must be provided immediately, not in future annual reports as recommended by staff. As noted in the staff report, the General Permit requires the County to provide this information, so this constitutes one of a number of violations by the County.

Channelkeeper is concerned about the extremely low level of public involvement in stakeholder group meetings and in the SWMP implementation process, and we strongly encourage the Board to task the County with undertaking a substantial effort to improve this shortcoming over the next year. It is critical that the public be involved in helping the County implement its SWMP, particularly in light of the insufficient financial and human resources the County has dedicated to addressing its serious stormwater pollution problems.

Illicit Discharge Detection and Elimination

Channelkeeper is highly concerned about the inadequacy of the stormwater discharge control ordinance finally adopted by the County in September 2007. Aside from the fact that the County violated its SWMP again by failing to adopt this ordinance in Year 1, the ordinance fails in numerous respects to meet the General Permit's requirement that it *effectively prohibit* non-stormwater discharges and *require controls to reduce the discharge of pollutants to the maximum extent practicable*.

Santa Barbara Channelkeeper had numerous meetings with County staff and Supervisors over the past four years that this ordinance has been in development and submitted several comment letters and oral testimony highlighting where and how the ordinance needed to be strengthened. Ms. Lori Okun of the State Water Resources Control Board's Office of the Chief Council also submitted a memo to the County in January 2007 recommending several necessary amendments to the draft ordinance. (Channelkeeper's and Ms. Okun's letters are attached for your reference.) Unfortunately, County officials opted to ignore most of these recommendations, and worse, weakened the ordinance substantially at its final September 25, 2007 hearing by adding language that strictly limits the County's authority to inspect properties it has cause to believe may be discharging pollutants to waterways or the MS4. **Channelkeeper finds that the County's ordinance fails to fulfill the requirements of the General Permit in this area and strongly urges the Board to take action on this matter at its February meeting to review the ordinance and require the County to make necessary revisions to it such that it comes into compliance with the General Permit requirements.**

Channelkeeper continues to harbor very strong concerns about the County's ability to detect and eliminate illicit discharges. We strongly agree with staff's concerns regarding the County's lack of follow-up and enforcement against repeat offenders. We note, however, an inconsistency between staff's letter to the County suggesting that they "consider modifying this BMP to include a progressive enforcement strategy for complaint responses," and staff's contention in the staff report that they are requiring the County to develop such a strategy and to incorporate this strategy as an amendment to the SWMP. Channelkeeper supports the latter approach to resolving this issue.

Furthermore, the County's documentation of response to spill complaints is sorely lacking. We have already noted that the distribution of educational materials is not sufficient to deter all pollution and that the County needs to conduct unscheduled follow-up inspections to ensure that previously identified discharges or polluting practices are not continuing. There were several instances reflected in the draft annual report where the County failed to follow up on the course of action taken by other agencies to which it referred complaints. Rather than addressing this

issue in its final annual report, the County opted to delete the references to these incidents. This is clearly unacceptable.

With regard to commercial and industrial facility inspections, Channelkeeper agrees with staff's concern that the County is not inspecting facilities holding individual NPDES permits, and supports the recommendation that the County must be directed by the Board to inspect all facilities that may potentially discharge illegal or illicit discharges to the MS4, including facilities with NPDES permits. However, we have additional concerns with the County Fire Department's inspections of facilities that have on-site hazardous waste, and with the County Environmental Health Services' (EHS) inspections of restaurants for stormwater BMPs. We have closely reviewed the checklists and procedures used by these two agencies during their inspections, and have concluded that neither of these inspection programs address the kind of stormwater pollution prevention BMPs that are required by the General Permit to ensure that these facilities are not contributing pollution to the MS4, and that their inspectors are not adequately trained to identify polluted or potentially polluted stormwater discharges or failing or absent BMPs that are required pursuant to the General Permit and the SBCSWMP. We have attempted to address our concern with EHS regarding their restaurant inspections (see attached memo to EHS dated October 30, 2007), since Channelkeeper all too often witnesses restaurants dumping dirty washwater into storm drains, but EHS was unwilling to adapt their inspection program to better address these widespread problems. Channelkeeper plans to express similar concerns to the Fire Department (we have only recently been able to obtain their inspection form from Project Clean Water staff), but we anticipate a similar response. Therefore, **we strongly urge the Board to review the County's restaurant and hazardous waste inspection programs itself and direct the County to better incorporate stormwater pollution prevention BMP inspections therein as required.**

On field investigation and abatement, Channelkeeper agrees with staff's request for additional information is needed regarding the procedures used by the County when conducting creek walks, including what they look for and what they do to follow up on problems identified. However, we contend that the County must provide this information now in order for the public and the Board to accurately evaluate the effectiveness of this BMP, not just in future annual reports as recommended by staff.

Construction Site Runoff Control

Channelkeeper wholeheartedly agrees with staff's concerns regarding the County's construction site runoff control program, including the lack of reporting of construction site inspection findings, the lack of enforcement against repeat offenders and, most importantly, severe problems related to how the County coordinates planning and regulatory functions to protect waterways through permitting and BMP oversight. However, we do not support staff's weak recommendation that these problems be remedied by simply providing additional information in future annual reports. The County's efforts to prevent runoff from construction sites from polluting waterways are sorely lacking, and the Board needs to take action to compel the County to immediately address these very serious issues. While we support staff's proposed audit of County construction inspection procedures, Channelkeeper doesn't believe this will be sufficient to remedy the severity of the problems outlined above, and recommends that the Board require a major overhaul of the County's construction site runoff control program.

Channelkeeper respectfully requests a clarification of staff's statement that they are in the process of coordinating construction site completion and closure with the County and how their expectation that the County will approve closure per completion of stormwater pollutant control measures is going to improve this situation.

Post Construction Runoff Control

Channelkeeper concurs with staff's concern that only 20 out of 233 discretionary projects that were approved were conditioned for treatment controls, and agrees that the County must provide a detailed explanation of this astounding figure. This information must be provided immediately however, not just in future annual reports as recommended by staff; we cannot wait another year or more while hundreds more development projects fly through the review process unconditioned to treat polluted runoff.

With regard to project evaluations, Channelkeeper is concerned that only projects with treatment control BMPs were inspected during construction, when the measurable goal states that 100% of all discretionary projects should be inspected for compliance with water quality measures. Water quality measures are not limited to treatment control devices and must be inspected on all projects to confirm their implementation and ensure their proper functioning. Moreover, there was no mention in the annual report of the County's efforts to ensure adequate long-term operation and maintenance of BMPs, a requirement of the General Permit and the SBCSWMP.

Channelkeeper strongly supports staff's recommendation to require the County to develop an assessment measure to appropriately determine the effectiveness of training of Planning and Development project review and planning staff, as we are gravely concerned that these staff are not sufficiently trained to condition projects such that they will not contribute to the County's stormwater pollution problems. This is a very serious problem that is likely contributing to substantial harm to our waterways. We are attaching a letter we submitted to the County Planning and Development Department on September 17, 2007 highlighting the incident at 1000 Via Tranquila referenced in staff's January 28, 2008 review letter to the County as but one of many examples of this and other related problems with the County's construction and post-construction runoff control programs.

Pollution Prevention and Good Housekeeping for Municipal Operations

Channelkeeper supports staff's contention that the County must provide monitoring data collected near its treatment control devices to enable an assessment of their effectiveness. However, this information should be provided immediately and not simply in future annual reports.

Finally, Channelkeeper remains very concerned about the County's nearly non-existent street sweeping program. We contended when the SWMP was being considered for approval that the proposed schedule of sweeping only 3-4 times a year was grossly inadequate, yet the County failed to meet even that meager measurable goal, sweeping only twice in the past year (while also failing to gather and provide information about the amount of garbage collected for each roadway). Channelkeeper has attempted to convince the County Board of Supervisors to allocate additional funds to this effort (see attached letter dated May 7, 2007), with no success. Staff's

recommendation to require the County to provide an explanation for why this measurable goal wasn't met is inadequate. Similarly situated communities with lesser stormwater pollution problems do a far better job than the County in this department, and it is a relatively inexpensive and effective means of limiting pollution to the MS4. **Channelkeeper therefore strongly urges the Board to explicitly direct the County to increase the frequency and scope of its street sweeping program.**

Thank you for the opportunity to comment on Santa Barbara County's Phase II Storm Water Permit Status Report. Channelkeeper looks forward to continuing to work with the Board and Santa Barbara County to bring the County's efforts to reduce stormwater pollution up to a level that matches the significant challenges it continues to pose for the County's waterways. Please do not hesitate to contact me should you have any questions regarding the above comments.

Sincerely,

A handwritten signature in black ink, appearing to read "K Redmond", is centered within a light gray rectangular box.

Kira Redmond
Executive Director