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# State Water Resources Control Board



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**TO:** Chris Adair, Senior Environmental Scientist  
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**CENTRAL COAST REGIONAL WATER QUALITY CONTROL BOARD**

**FROM:** Lori T. Okun  
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**OFFICE OF CHIEF COUNSEL**

**DATE:** JAN 25 2007

**SUBJECT:** SANTA BARBARA COUNTY STORMWATER MANAGEMENT AND  
DISCHARGE CONTROL ORDINANCE, DRAFT 05/05/04

At your request, I have reviewed the Santa Barbara County (County) Stormwater Management and Discharge Control Ordinance, Draft 05/05/04 (Draft Stormwater Ordinance) and have the following comments. This memorandum is not intended to be confidential and should be transmitted to the County and, if appropriate, other interested persons.

As noted in my September 15, 2006 letter, the County must also review its California Environmental Quality Act (CEQA) plans and policies during Permit Year 1. A review of the Grading, Erosion and Sediment Control Ordinance (Grading Ordinance) should be part of that review. The General Permit Attachment 4 standards are not adequately described in existing ordinances and policies, so these will have to be revised as part of the post-construction best management practices (BMPs).

The provisions in the development policies and guidelines in Appendices F and G of the Storm Water Management Plan (SWMP) must be enforceable through the Grading or Stormwater ordinances. Therefore, I recommend the following change to the Draft Storm Water Ordinance. This is based on County Code Section 14-38:

*Add to SECTION 10. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS.*

(c) The Board of Supervisors shall, from time to time, adopt Policy Interpretive and Implementation Guidelines for Hillside and Watershed Protection Policies, Guidelines for Surface and Storm Water Quality, A Planner's Guide to Conditions of Approval and Mitigation Measures and Standard Conditions for Project Plan Approval – Water Quality BMPs (collectively, "guidelines"). Such guidelines, when adopted, shall be valid County regulations and shall be used as a basis for conditioning any required grading permit, land use permit or coastal development permit. These guidelines, as may be amended from time to time, are hereby adopted by reference. The Clerk of the Board of Supervisors, the Director of

*California Environmental Protection Agency*

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Public Works and the Director of Planning and Development shall keep current copies of said guidelines on file for public review. Copies shall be available for purchase from the authorized enforcement agency at a price covering the cost of printing or reproduction. The violation of any requirement to prevent, control or reduce storm water pollutants in any County-issued permit, including post-construction operation or maintenance requirements, shall constitute a violation of this Ordinance.

*[This language is merely a suggestion. Any language providing adequate enforceability of the requirements and conditions in SWMP Appendices F and G would be acceptable.]*

My other comments on the Draft Stormwater Ordinance are as follows:

## SECTION 2, DEFINITIONS.

The capitalization of defined terms throughout the document is inconsistent. If the defined terms will not have initial capitals within the document, they should not be capitalized in this section. Either way, defined terms within the document should either all have initial capitals or they all should not, so the usage is consistent.

The term "authorized enforcement agency" means the Department of Public Works but is sometimes used to refer to other agencies. For example, the definition of Illicit Connection refers to "an" authorized enforcement agency, and Section 3 refers to "a federal, state or local authorized enforcement agency."

The County should do a global search for "Pubic Works." There were multiple instances of this error.

### Authorized Non-Storm Water Discharges.

~~Include c~~Certain categories of discharges that are not composed entirely of storm water but are not found to pose a threat to water quality. If any authorized non-storm water discharge (except flows from fire fighting activities) is found [by whom?] to cause or contribute to an exceedance of water quality standards or cause or threaten to cause a condition of nuisance or pollution, the discharge is deemed pollution and is prohibited. If the Regional Board finds any authorized non-storm water discharge (other than flows from fire fighting activities) to be a significant contributor of pollutants to the storm drain system, the discharge is prohibited. ~~Examples of a~~Authorized non-storm water discharges include only the following:

*[Existing list is acceptable. In addition to the discharges listed, the regulations add street wash water. The citation for infiltration should be 40 CFR Section 35.2005(b)(20). Add to the end:]* Any other authorized non-storm water discharge listed in 40 CFR § 122.34(b)(3)(iii).

### Construction Activity.

Activities subject to NPDES Construction Permits. These include construction projects resulting in total land disturbance of 4 one acre or more. Construction Activity also includes the disturbance of less than one acre that is part of a larger

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common plan of development or sale that will ultimately disturb at least one acre. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit.

Means a permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to Waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis. ~~The California Regional Water Quality Control Board, Central Coast Region (hereinafter, Regional Board) and the State Water Resources Control Board~~ has have ...

Add: Regional Board.

The Central Coast Regional Water Quality Control Board. "Regional Board" also means the Regional Board Executive Officer acting pursuant to a valid delegation of authority.

Pollutant.

Means those "pollutants" defined in Section 502(6) of the federal Clean Water Act (33 U.S.C. Section 1362(6)), or ~~incorporated into California Water Code Section 13373.~~ "Pollutant" means includes anything that causes or contributes to pollution. Examples ...

~~The term "pollutant" shall not include uncontaminated storm water, potable water, reclaimed water generated by a lawfully permitted water treatment facility, or a discharge approved by and in compliance with a National Pollutant Discharge Elimination System permit.~~

Storm Water Pollution Prevention Plan

A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to a storm drain system, and/or Waters of the United States ~~to the maximum extent practicable.~~

Waters of the United States.

Surface watercourses and water bodies ~~as defined at~~ included in the definition of "waters of the United States" in 40 CFR Section 122.2. For purposes of this Ordinance, "waters of the United States" includes including all natural waterways and definite channels and depressions in the earth that may carry water, even though such waterways may only carry water during rains and storms and may not carry storm water at and during all times and seasons.

## SECTION 8, DISCHARGE PROHIBITIONS.

(b) Prohibition of Illegal Discharges.

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- 2.i. Discharges from the following activities ~~will not be considered a source of pollutants to the storm drain system and to Waters of the United States and~~ are exempt from discharge prohibitions established by this Ordinance, when properly managed to ensure that potential pollutants are not present and therefore they shall not be considered illegal discharges unless determined [by whom?] to cause a violation of the provisions of the federal Clean Water Act, Porter-Cologne Act, or this Ordinance, or are determined by the Director of Public Works to create a nuisance, or are determined by the Regional Board to be a significant contributor of pollutants to the storm drain system: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, uncontaminated ground water infiltration as defined at 40 CFR Section 35.2005 (b)(20) to the storm drain system, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pool water (if uncontaminated and dechlorinated - typically less than one PPM chlorine), fire fighting activities, and any other water source not containing pollutants.
3. The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, ~~waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal~~ by the U.S. Environmental Protection Agency or Regional Board, provided that ...
4. With written concurrence of the Regional Board, the Director of Public Works may exempt in writing other non-storm water discharges that are (i) not a source of pollutants to the storm drain system or Waters of the United States and (ii) covered by a provision in the U.S. Environmental Protection Agency's storm water regulations and the County's MS4 NPDES permit allowing such exemption.

(c) Prohibition of Illicit Connections.

4. A person is considered to be in violation of this Ordinance if the person connects a line that ~~would~~ could convey sewage to the storm drain system, or allows such a connection to continue.

SECTION 10, REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS.

- (a) The County ~~shall~~ may adopt requirements identifying appropriate Best Management Practices to control the volume, flow rate, and potential pollutant load of storm water runoff from residential, commercial, or industrial

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activities and processes carried on within the unincorporated area of the county, as may be appropriate to minimize the generation, transport and discharge of pollutants which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the United States. The owner or operator of a commercial or industrial establishment shall provide, at the owner's own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the storm drain system or watercourses through the use of structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Where Best Management Practices requirements are promulgated by the County or any federal, State of California, or regional agency for any activity, or water of the United States, every person undertaking such activity or operation, or owning or operating such facility, shall comply with such requirements.

*[Note: Rather than the County, the Ordinance can require the Director of Public Works to adopt the BMPs.]*

- (b) Notwithstanding the presence or absence of requirements pursuant to subsection (a), any person engaged in activities or operations, or owning facilities, premises or property which will or may result in pollutants entering storm water, the storm drain system, or Waters of the United States shall implement Best Management Practices to the extent they are technologically achievable and economically feasible as determined by the Director of Public Works, to prevent and reduce such pollutants.

#### SECTION 13, WATERCOURSE PROTECTION.

- (b)1. Whenever the Public Works Director finds that a discharge of pollutants is threatened or is taking place or has occurred, and which will ~~will~~ may result in or has resulted in pollution of storm water ...

#### SECTION 21, ADMINISTRATIVE FINES.

*Santa Barbara County Code Chapter 24A, Sections 24A -1, 24A-2, 24A-3, 24A-7(b) must be amended to add a reference to whatever chapter number the Ordinance will be assigned (e.g., Section 24A-1, 24A-2(b)) and/or to the Director of Public Works or other appropriate person (e.g., Section 24A-2(a), 24A-7(b)).*