



July 6, 2004

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Councilmembers:
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City Manager:
FRED MEURER

Central Coastal Regional Water Quality Control Board
Chairperson Young
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401

Subject: Monterey Regional Storm Water Management Plan Comments

Dear Mr. Young:

The Monterey Regional Storm Water Participants Group submitted our storm water management plan (MRSWMP) on March 10, 2003 to comply with the NPDES Phase II requirements of the Clean Water Act for small municipal separate storm sewer systems. In February of 2004, after several iterations going back and forth with Regional Water Quality Control Board staff, our plan was posted on the State Water Resources Control Board's website for a public review period as required by state law. As a result of the public comment period, the Regional and State Boards received a total of seven letters from various members of the public, state and federal agencies, and environmental groups.

Comments

The major requests and concerns of the commentors are briefly summarized as:

- The plan is too vague to determine whether it will be effective and if pollution will be reduced.
- The measurable goals stated in the plan will not measure effectiveness.
- The cities covered by this plan should be required to implement new development standards that are laid out in Attachment 4 to the State's General Permit.
- Diversion of dry weather flows in the storm drain system to the sanitary sewer system should be required (treatment of all dry weather flows).
- The cities are obligated to meet the same standards that Phase I communities (population over 100,000) have been implementing for years.
- The purpose of the program is incorrectly stated as being "adoption of best management practices" rather than protection of water quality.
- A monitoring program should be required, including upstream "forensic monitoring."

The major policy issue that concerns us above all else is that many of the requests go far beyond the requirements of the law. While we share the concern and priority for protection of the marine environment with the commentors, we also recognize the reality that agreeing to commitments beyond the requirements of the

law will bankrupt local government. The self-imposed time limits for full development and implementation of our program were realistically set taking into account the staff and funding available.

The intent of our plan, as required by the State General Permit, is to outline our management measures and to provide a timeline for full development and implementation within the first five years of the permit term.

At the request of Regional Board staff, our permit group has entered into a stakeholder process to attempt to come to agreement on the issues raised by commentors. After our first meeting it is clear that there are some issues that we will be able to resolve by adding some detail to our plan. Unfortunately, it is also clear that there are several statewide precedent-setting issues that we cannot come to agreement on. Those issues will be brought before your board for consideration.

Funding

As you are aware, the current budget crisis in California has resulted in ever diminishing budgets and changing economic forecasts at the State, County and Municipal level. The reality of the fiscal environment is that municipalities do not have the ability to create new revenue for these unfunded mandates in post-Proposition 218 California. Only one storm water fee in the state has been successfully passed by a vote of the people, as required since 1996 when Proposition 218 took effect. The one utility that was successful was passed with a five-year term. After five years, that community will be required to go through the same expensive and labor-intensive process to continue to fund their program with no guarantee that they will be successful.

The City of Monterey is fortunate that we have been able to partially fund our program through a pre-Proposition 218 storm water fee. Unfortunately, the other eight agencies with whom we have worked to create a collaborative and watershed-based program do not have the same luxury. Our own program is only partially funded and in the current situation those fees cannot be increased. One other member of our group did recently go through a full Proposition 218 process to implement a storm water fee and the vote failed. After significant effort and expense they are at the same place that they started, with no money to fund this program.

Summary

While we appreciate the passion of the various individuals and organizations who have commented on our plan, and we share the concern and priority for protection of the marine environment, the reality is that we must remain consistent with the requirements of the law. The open-ended requests for additional requirements and commitments will quickly bankrupt cities in an already precarious position.

Chairperson Young
CCRWQCB
July 6, 2004
Page 3 of 3

Until we have a state-wide solution to funding these programs, we cannot make promises that cannot be kept if for no other reason that citizen lawsuits that will result.

I appreciate your taking the time to understand our concerns. Our staff will continue to work with Regional Board staff who have been very helpful in understanding our concerns and providing guidance throughout the development of our program. If you have any questions about this letter please feel free to contact me.

Sincerely,



Dan Albert
Mayor

c: City Council
City Manager
Vice Chairperson, Jeffries
Members of the Central Coast Regional Water Quality Control Board