



July 6, 2004

NATURAL RESOURCES DEFENSE COUNCIL

Via Electronic Mail and U.S. Mail

Mr. Roger W. Briggs
Ms. Donette Dunaway
Ms. Jennifer Bitting
Central Coast Regional Water Quality Control Board
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Re: Monterey Regional Storm Water Management Program

Dear Mr. Briggs, Ms. Dunaway, and Ms. Bitting:

On behalf of the Natural Resources Defense Council (“NRDC”), we would like to thank the Central Coast Regional Water Quality Control Board (“Regional Board”) for organizing the June 2004 stakeholder meeting on the Monterey Regional Storm Water Management Program (“MRSWMP”). Although the meeting was productive, we write now because we are uncertain of the review procedure for the MRSWMP. Thus, we request clarification of the review procedure and restate our request for a hearing before the Regional Board.

At the end of the June 2004 meeting, the environmental and community groups as well as the municipalities agreed that the Regional Board must issue a decision as to four issues so as to allow the most efficient revision of the draft MRSWMP:

1. Whether the Monterey Regional Group qualifies for the Permit’s Attachment 4 requirements;
2. Whether all new municipal storm water permits “must be consistent with” SUSMP provisions (new development and redevelopment BMPs first adopted by Los Angeles and subsequently endorsed by the State Water Resources Control Board);
3. Whether storm water discharges to Areas of Special Biological Significance (“ASBSs”), or affecting water quality in ASBSs, are prohibited and must be discontinued;
4. Whether water quality monitoring is a critical feedback tool to determine if the Phase II Programs are actually ensuring protection of water quality.

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We request that these issues be heard and decided early on by the Regional Board in accordance with procedures provided under the General Waste Discharge Requirements for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems (General Permit) issued by the State Water Resources Control Board ("State Board"). The State Board included the public hearing requirement based on *Environmental Defense Center v. EPA*, 344 F.3d 832, 857-858 (9th Cir. 2003) as well as Clean Water Act mandates for full public participation in review and adoption of storm water management plans.

While such an early hearing would not take the place of the full hearing on the Phase II application, as required by the *EDC* case and the State Board, it would be extremely useful for the following reasons. These four enumerated issues are fundamental policy and legal issues that necessarily will impact the revision of the MRSWMP (which the Permit applicants agreed to do at the June 2004 meeting). Proceeding with such revisions now based only on a staff recommendation on these issues would be inefficient and counter-productive. Since the four issues are fundamental to any revision of the MRSWMP and staff recommendations are not final, these four issues will be raised in the context of the Regional Board's final hearing on adoption of the MRSWMP. However, any decision by the Regional Board contrary to staff recommendations at the end of the process would lead to full scale revision of the MRSWMP in light of the fundamental nature of the four issues. Thus, the most efficient process for all concerned is to resolve these matters now so that the MRSWMP can be revised to meet all necessary requirements and in a manner consistent with the Board's policy judgment for the control of urban runoff in Region 3.

Based on the above, we request an early hearing before the Regional Board to decide these four fundamental policy issues prior to any further action on the MRSWMP by the Regional Board staff, municipalities, and other groups. This will set the stage for completion of the MRSWMP and a hearing before the Regional Board on the final draft plan. Please feel free to contact us if you have any questions or need further clarification.

Sincerely,



David S. Beckman
Anjali I. Jaiswal

cc (electronically): Bruce Fujimoto, SWRCB fujib@dwq.swrcb.ca.gov
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Regional Board e-mail list of interested parties