

**Santa Barbara County Storm Water Management Program
Response to Comments from Channelkeeper March 17, 2006 Letter**

1. The map of the permitted areas included in Santa Barbara County's SWMP does not show waterbodies, making it impossible to determine what waterbodies pass through the permitted areas or may be impacted by stormwater discharges into the County's municipal separate storm sewer system ("MS4"). While the list of receiving waters in Table 1 is instructive, we recommend including these waterbodies on the map to better illustrate where they lie in relation to the permitted areas. We request this because waterbodies listed in Table 1 as "not in permit area," including impaired waterbodies such as the Santa Ynez River, may in fact be impacted by stormwater discharges from County permit areas, and thus must be addressed by the SWMP.

Response: The County has agreed to include maps with waterbodies in the SWMP.

2. Channelkeeper notes that the County has been overly selective in the language it has included in the introduction describing its obligation to reduce the discharge of pollutants to the Maximum Extent Practicable ("MEP"). The County has quoted only part of what the US EPA and the State Water Resources Control Board ("SWRCB") have opined on the MEP standard, repeatedly highlighting flexibility and economic feasibility. We find this to be an unbalanced representation of what constitutes the MEP standard, and thus we demand that the entirety of the SWRCB's opinion on the matter be cited in the County's SWMP.

Response: The County has agreed to include the following MEP language:

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.)

3. Channelkeeper comments that language regarding budgetary constraints should be removed from the SWMP.

Response: Water Board staff agrees and will recommend to the Board that the County remove the last paragraph on SWMP page xvii.

4. Channelkeeper notes that what the County has committed to monitoring and reporting falls short of what is required by the General Permit. According to EPA, the County's reports must also include: "The status of compliance with permit conditions, including an assessment of the appropriateness of the selected BMPs and progress toward achieving the selected measurable goals for each minimum measure; results of any information collected and analyzed, including monitoring data, if any; and a summary of the storm water activities planned for the next reporting cycle." These reporting requirements must be included in the County's SWMP and in its annual reports.

Response: The reporting requirements are included in the General Permit and are required whether the County includes them in their SWMP or not.

5. Channelkeeper is compelled to critique the absence of a commitment to conduct any water quality monitoring in the SWMP.

Response: The General Municipal Permit does not require water quality monitoring. The County is required to implement BMPs that reduce pollutant discharges to the MEP. The County has committed to organize volunteer snapshot monitoring events twice a year. Snapshot monitoring will involve community members conducting water quality monitoring. Water Board staff will review compliance annually and determine the need for future monitoring.

6. Public Participation and Involvement - Channelkeeper is extremely concerned that the County's measurable goals for these BMPs do not demonstrate the necessary commitment to ensure greater attendance and participation. One measurable goal states that the County will simply maintain the South County Stakeholder Committee at the current level, rather than undertaking a concerted effort to solicit greater participation as it should. Furthermore, it is unclear whether the County intends to alternate meetings between the North and South County such that a meeting will occur in both areas each month, or once every four months; this needs to be clarified, and if the County meant the latter, Channelkeeper finds this to be far too infrequent. In addition, we agree that the Stakeholder Committee should be the preliminary review team for the SWMP annual reports, but strongly recommend that a time schedule for this review be laid out in the SWMP, ensuring adequate time for initial public review of a draft annual report, for the County to incorporate any public concerns into a revised draft, and for another public meeting to approve the annual report prior to its submittal to the RWQCB. Thus we urge the inclusion of an additional measurable goal for specific meetings and a process for public review of the SWMP annual reports.

Response: SWMP table 2-3 indicates that the south county stakeholder meetings are held monthly and the plan is to hold north county meetings bi-monthly. The County must clarify the meeting schedule. Table 2-3 on page 2-8 indicates that the County will advertise to increase attendance at committee meetings. The County should include information regarding the annual report review process, if any, and the time allowed for report review. Water Board staff will recommend to the Board that the County provide a stakeholder meeting schedule and include information regarding public input for the annual report review process.

7. To ensure that the numerous municipalities in Santa Barbara County are maximizing the efficiency of all too scarce resources for stormwater pollution prevention, it is critical that the County establish regular coordination, through at least quarterly meetings, among all the municipalities implementing SWMPs in Santa Barbara County, and to include a BMP and measurable goals that reflect this in the SWMP.

Response: The County can attempt to coordinate with other General Permit holders in the area, but cannot be held responsible for coordinating meeting attendance. The County has no authority to require other entities to attend coordination meetings. The County hosts the Intergovernmental Committee, which is a quarterly meeting of local, state, and federal agencies with interests in local storm water issues.

8. The General Permit requires that the County "effectively prohibit, through ordinance, or other regulatory mechanism, non-storm water discharges into the MS4 [storm water system] and implement appropriate enforcement procedures and actions." The SWMP notes that improvements to existing ordinances have been suggested, "including greater enforcement and better coordination amongst enforcement agencies. Therefore, a determination will be made regarding whether additional staff resources are needed for enforcement" (p.3-5). Channelkeeper knows of several instances where complaints have been filed with the County about illicit discharges, but enforcement action was nonexistent or inadequate to abate the discharge, thus forcing private groups such as Channelkeeper to take enforcement into their own hands. This is a clear indication that the County lacks sufficient staff resources for enforcement. The County therefore must recognize that additional staff resources are necessary for enforcement and commit to providing or securing additional funding for enforcement.

Response: The County will evaluate the ordinance effectiveness after it is adopted, and will provide additional funding for enforcement, if necessary. The commenter associates previous County actions with future commitments. The County was not required to comply with the municipal General Permit in the past. The County will be required to comply with the General Permit requirements, which include adopting and enforcing a storm water ordinance. Water Board staff will evaluate the storm water ordinance prior to adoption and will evaluate the ordinance effectiveness once it is adopted.

9. With regard to Field Investigation and Abatement, Channelkeeper applauds the County's commitment to implement two new programs to prioritize and focus resources in areas most likely to cause illicit discharges. While the descriptions of these programs hint at the inclusion of inspections as a critical component, they fail to state as such explicitly, and thus there appears to be a major gap between identification of priority businesses and operations, targeted education and outreach, and follow-up. Clearly, site inspections must be a critical part of both of these programs, and we contend the County must commit to including inspection therein.

Response: From SWMP page 3-9: The County will establish criteria to prioritize businesses within the permit area, provide targeted education and outreach, establish routine follow-up, and establish a measurable goal for business inspections by the end of permit year 1. Water Board staff will recommend to the Board that the County 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.

10. Channelkeeper strongly recommends that the efficacy evaluations of the grading ordinance and land use permit program be undertaken in Year 1 (rather than Year 2), and that the SWMP outline specifically what criteria will be employed to complete these evaluations and how the County will involve the public in the evaluations. If these evaluations reveal the need to strengthen the grading ordinance and/or land use permit program, we urge these changes to be enacted and enforced no later than Year 2 (rather than Year 3).

Response: The SWMP is a five-year program with numerous commitments throughout the permit cycle. The commenter assumes that modifying the proposed schedule to evaluate the ordinance in year 1 will not affect any other SWMP commitments. Because resources are limited, it is likely that fast tracking one or more SWMP commitments will result in limitations on timelines or resources for other commitments. The commenter provides no reason for moving the evaluation and implementation up a year and has not provided an argument for the relative importance of this BMP over another which is due for permit year 1 or 2. The General Permit allows a ramping-up period for permittees to get programs established. The County is allowed a ramping up period for SWMP implementation, which includes time to create the criteria that will be used to evaluate the grading ordinance. The County must establish an ordinance that requires erosion and sediment controls and ensures compliance with required controls.

11. Secondly, a minimum of two inspections per month on active projects with open grading with one acre or more of land disturbance during this rainy season (p.4-6) is inadequate. If the County is to be effective in controlling construction site runoff, it must commit to undertake *weekly* inspections of *all* construction sites during a rainy season that is defined to include *whenever it rains*.

Response: The commenter fails to define the term "whenever it rains". It is not clear whether that means measurable rainfall or a certain amount of rainfall. Conducting

inspections in an established rainy season during dry periods, allows for pre-storm inspections.

The commenter fails to explain why weekly inspections of all construction sites are necessary for water quality protection, when such activity may preclude the County from undertaking other proposed BMPs. County inspectors prioritize sites for inspection and enforcement based on the nature of the construction activity, topography, and the characteristics of soils and receiving water quality. Based on staff's experience with its own inspection program, staff concludes that frequent inspections of "low risk" sites will not improve water quality and will deflect resources from more important BMPs.

12. In order to facilitate the County's efforts to review Erosion and Sediment Control Plans, consider information submitted by the public, undertake construction site inspections, and enforce the grading ordinance and other construction site requirements, Channelkeeper suggests that the County develop and maintain an inventory of active construction sites and grading permits.

Response: Board staff also suggest that the County develop and maintain a tracking system for construction sites. The County must provide program information regarding construction site inspections in annual reports, how the County decides to maintain the information is up to the County.

13. Because the purpose of the construction site runoff control MCM is to *prevent* soil and construction waste from entering stormwater, and because the Flood Control District undertakes extensive activities throughout the County that could negatively impact water quality, Channelkeeper contends that the County must either rescind the District's exemption from the grading ordinance or clearly demonstrate in the SWMP that the separate permits and practices which purportedly do apply to these activities fully comply with the requirements of the General Permit and the Receiving Water Limitations of Attachment 4.

Response: The General Permit requires the County implement a program to reduce pollutants in storm water from construction activities that result in a land disturbance of greater than one acre. The majority of the Flood Control District projects are channel maintenance projects that are less than an acre in size. Water Board staff will recommend to the Board that the County append the Flood Control District Final Program Environmental Impact Report (PEIR) to the SWMP. The PEIR contains water quality mitigation requirements for Flood Control District Maintenance Projects. For projects larger than one acre, the County requires contractors implement BMPs utilizing the Caltrans specifications. Additionally, all construction projects an acre or more in size must obtain coverage under the General Permit for Storm Water Associated with Construction Activity and develop a Storm Water Pollution Prevention Plan.

14. The SWMP references interpretative and implementation guidelines, Comprehensive Plan policies, CEQA guidelines, and standard conditions of approval/mitigation measures, but does not explain whether and how these are

enforceable regulatory requirements, and often notes exceptions (such as the Public Works Department's authority to waive all or part of the conditions of approval based on demonstrated impracticability, p.5-7). It is Channelkeeper's judgment that the County must do a better job of demonstrating whether and how the various measures described meet the requirements of the postconstruction MCM and Attachment 4 before the RWQCB can approve the County's SWMP.

Response: The General Permit Attachment 4, Section B.4 includes waiver provisions allowing the County to provide a waiver from requirements if impracticability for specific property can be established. A waiver of impracticability shall be granted only when all other structural or treatment control BMPs have been considered and rejected as infeasible. The County has included General Permit Attachment 4 requirements as standard conditions of approval, which must be applied during project review. The interpretive and implementation guidelines are included in the SWMP (Appendix F) and are therefore enforceable General Permit requirements. The County's Zoning Ordinances (Inland Zoning Ordinance, Coastal Zoning Ordinance) require the Planning and Development Department review projects for conformance with the Comprehensive Plan and other applicable regulations.

15. Channelkeeper agrees that planning staff need ongoing training to recognize potential stormwater impacts during design review and to condition projects appropriately. However, the existing training for planning staff is voluntary and attendance is only "encouraged" (p.5-11). We strongly recommend that regular training be mandatory for planning staff and include some formal mechanism for ensuring that all such staff are fully apprised of the post-construction MCM requirements.

Response: The SWMP indicates that staff unable to attend training will be required to review a video and hand-outs from the training. SWMP p. 5-11, section 5.2.3 specifies: "Those staff unable to attend training provided on the given dates will be required to review a videotape of the training and associated hand-outs summarizing the role and responsibilities of P&D staff." These actions demonstrate that training in one format or another is mandatory.

16. Finally, the post-construction MCM also requires the County to ensure long-term operation and maintenance of BMPs. However, the SWMP notes that "measures to protect water quality *may* apply to ... long-term measures built into the project"; that "*Some* long-term measures require a maintenance program"; that "applicants will be required to submit annual evidence of the proper use and maintenance of their water quality measures and site inspections will be conducted ... *as needed* to confirm proper operation"; and that violations of conditions of approval which may apply to long-term measures *may* be subject to a variety of enforcement actions (emphases added; p.5-11). These conditionalities suggest that the County must tighten up its program if it is to meet the postconstruction MCM's requirement to ensure adequate long-term operation and maintenance of BMPs.

Response: The SWMP includes provisions requiring assurance of long-term operation and maintenance of BMPs. The SWMP states (p. 5-11), "As a condition of approval, applicants will be required to submit annual evidence of the proper use and maintenance of their water quality measures and site inspections will be conducted as needed by P&D or Public Works to confirm proper operation of water quality measures." Requiring evidence of proper BMP use and maintenance including inspections meets the General Permit requirements to ensure long-term BMP operation and maintenance.

17. The County must develop a system which ensures that BMPs are actually being properly implemented and maintained at all County facilities on an ongoing basis, that treatment controls are implemented and maintained at all County facilities where they are needed, and which provides for some type of corrective action if they are not. Moreover, the County should not only require facilities with greater potential to release pollutants to develop Site Specific Water Quality Protocols (and by the end of Year 1, not Year 3), but should also institute a mechanism to ensure that the Protocols are being fully implemented.

Response: The County will audit a facility per year for each department starting in year 2, in order to evaluate effectiveness of implemented BMPs. The County will update BMPs and achieve 100% implementation by permit year 4 (p. 6-13).

18. Many services that have potential water quality impacts are provided through contracts with the County, and simply requiring contractors to implement stormwater BMPs may not be sufficient to prevent water quality impacts. Therefore, it is imperative that contracts explicitly include a requirement that such contractors comply with the requirements of the General Permit and Receiving Water Limitations.

Response: The SWMP indicates that contractor's BMPs or plan must describe how storm water conveyances will be protected from pollutants specific to the project undertaken. Contracts will be worded to include specific language requiring contractors obtain approval from the County for project oriented BMPs (Section 6.2.5, p 6-5). The County is responsible for permit compliance whether County staff or a contractor completes work. The mechanism the County uses to ensure contractors comply with General Permit requirements is up to the County.

19. Two final concerns that Channelkeeper has with regard to this MCM (Pollution Prevention and Good Housekeeping for Municipal Operations) are that County street sweeping activities are too infrequent, and that training of County staff will not be completed until Year 3 and does not appear to be ongoing as it should. We urge the County to increase the level of effort and time schedules associated with these BMPs.

Response: The commenter fails to provide justification for additional street sweeping. Simply indicating that the street sweeping is too infrequent provides no information regarding a strategy for water quality improvement. Water Board staff will review

annual reports for street sweeping program effectiveness and will make a determination as to the adequacy of the street sweeping program.

The last paragraph on SWMP page 6-10 indicates that training will occur either quarterly or annually depending on the personnel involved. Table 6-1 on page 6-14 indicates that all employees will be trained by year 3 and training will occur in years 3-5 as well, indicating an ongoing training process

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