

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION

STAFF REPORT FOR REGULAR MEETING OF MARCH 18, 2010

Prepared on February 23, 2010

ITEM NUMBER: 18

SUBJECT: Executive Officer's Report to the Board

This item presents a brief discussion of issues that may interest the Board. Upon request, staff can provide more detailed information about any particular item.

WATER QUALITY CERTIFICATIONS

[Dominic Roques 805/542-4780]

In general, staff recommends "Standard Certification" when the applicant proposes adequate mitigation. Measures included in the application must ensure that beneficial uses will be protected, and water quality standards will be met.

Conditional Certification is appropriate when a project may adversely impact surface water quality. Conditions allow the project to proceed under an Army Corps permit, while upholding water quality standards.

Staff will recommend "No Action" when no discharge or adverse impacts are expected. Generally, a project must provide beneficial use and habitat enhancement for no action to be taken by the Regional Board. A chart on the following page lists applications received from January 1, 2010 to February 16, 2010.

STORMWATER REPORT

Stormwater Compliance Update - Monterey Regional Stormwater Management Program
[Jennifer Epp 805/594-6181]

Water Board staff has been reviewing the Monterey Regional Stormwater Management Program (MRSWMP) in detail over the past 14 months to determine compliance with the Phase II Small municipal Separate Storm Sewer System General Permit (General Permit). This effort has included Water Board focused audits of all eight participating entities' programs, a joint audit with USEPA of the City of Monterey's program, annual report review, and several meetings and conference calls. Based on this extensive review, Water Board staff issued a Notice of Violation to the Monterey Regional Stormwater Permit Participants Group participating entities (Monterey Regional) in September 2009. Water Board staff is currently evaluating all of the submittals and comments resulting from the Notice of Violation to determine the current status of Monterey Regional's compliance with permit requirements. Staff is scheduled to provide a status report at the May 2010 Water Board Meeting.

The Notice of Violation contained 117 comments that noted violations, needed improvements, and program recommendations. The Notice of Violation required Monterey Regional to take further action on the "needed improvements" by either improving the MRSWMP to meet Maximum Extent Practicable (MEP) or improving the Annual Report to facilitate Water Board compliance determination. The Notice of Violation identified several categories of violations to be addressed:

- Violations of General Permit Section D.1: failure to maintain, implement and enforce an effective SWMP designed to reduce the discharge of pollutants from Monterey Regional to the MEP and to protect water quality.
- Violations of General Permit Section 0.2: failure to describe Best Management Practices (BMPs) and associated measurable goals that will fulfill the six minimum control measures (MCMs).
- Violations of General Permit Section F.1: failure to adequately report.
- Violations of Water Code Section 13385: failure to report information requested in the August 4, 2008 Year 1 Annual Report comment letter.

Water Board staff received several submittals from Monterey Regional during November and December of 2009, as well as a submittal on February 17, 2010 in response to the requirements contained in the Notice of Violation. Water Board staff received comments from Monterey Coastkeeper on November 19, 2009 on the effectiveness of the MRSWMP. Water Board staff also received comments from Monterey Coastkeeper on January 19, 2010, on Monterey Regional's proposed revisions to the MRSWMP in response to the Notice of Violation.

To determine the current status of Monterey Regional's compliance with permit requirements and requirements contained in the Notice of Violation, Water Board staff is evaluating all of the submitted documents to determine:

- Has Monterey Regional come into compliance with the identified violations?

(in the U.S.?). We have pretreatment programs for our larger municipalities. Pretreatment programs target federally regulated categorical industries, including hospitals (40 CFR 460) and pharmaceutical manufacturers (40 CFR 439). Local municipalities implement the federal regulations along with their own local limits designed to protect the plant from effluent violations. The hospitals category only limits BOD, TSS and pH. The pharmaceutical manufacturing category limits a large array of constituents, but that is sort of off the point, since we are discussing health care facilities, not manufacturing facilities. The pretreatment program calls for the sewerage agency to limit influent to those constituents it can treat without discharge violation. So in theory, the local agency could regulate drugs if they are passing through and violating effluent limits. However, we would need specific effluent limits in permits, and we do not have those limits for these emerging contaminants.

Note on page two, the article says RCRA already regulates this practice, but EPA is not enforcing. We will bring this up with EPA. We are looking into the Orange County Sanitation District Source Control program, which is reportedly dealing with this issue.

Also, this article refers to standard operating procedures of Hospice nurses flushing drugs down the drain. However, that is not a universal practice. The San Luis Obispo version of Hospice, at least, abandoned this practice some time ago.

From a more practical standpoint, several years ago Los Osos CSD performed shallow groundwater monitoring and found that antibiotics from hand soap and antidepressants uniquely used for bipolar disorder were present in several samples. That might indicate that residential discharges are a significant source (in lieu of or in addition to health care facilities). In either case, public education seems the most likely means to address that problem. Long term studies on a huge variety of pollutants in sewer systems indicate that upward of 68% come from residential sources - leaving education as the only tool currently available. We are pursuing education for residential sources - as far as disposal of old drugs, etc., in residences. Many municipalities provide that information, as we do on our website - on our home page.

ATTACHMENTS

1. Audit report from USEPA
2. Article on Pharmaceuticals in the Environment

WATER QUALITY CERTIFICATION APPLICATIONS RECEIVED FROM JANUARY 1, 2010 THROUGH FEBRUARY 16, 2010

Applicant	Project	Purpose	Location	County	Receiving Water	Total Acreage ¹	Status of Application
Monterey County Water Resources	893 Blanco Circle, Salinas, CA 93902	Salinas River Lagoon Fisheries Enhancement Project	Salinas	Monterey	Salinas River Lagoon	0.2	Completeness Pending
Caltrans	50 Higuera Street, San Luis Obispo, CA 93401	Silver Spur Creek Culvert Replacement	Big Sur	Monterey	Salmon Creek	0.0155	Under Staff Review
Sam Danner -- Pacific Gas and Electric	4325 S. Higuera Street, Building 1, San Luis Obispo, CA 93401	Cabrillo - Santa Ynez 115 kV Power Line Reconducting Project	Buellton	Santa Barbara	Tributary to Santa Rosa Creek	0.15	Waiting on CEQA
Robert Livick -- City of Morro Bay	955 Shasta Avenue, Morro Bay, CA 93442	Dock/Wharf Removal	Morro Bay	San Luis Obispo	Pacific Ocean	0.17	Reactivated 1/29, Completeness Pending
David Sowle	9220 Alamo Creek Road, Santa Maria, CA 93454	Sowle Property Biotechnical Bank Stabilization	North Santa Maria	San Luis Obispo	Alamo Creek	To be determined	Under Staff Review

¹ Total Acreage includes both temporary and permanent impacts to riparian, streambed, and/or wetland environments within federal jurisdiction.

- Did Monterey Regional revise the MRSWMP as required in the Notice of Violation and as required by General Permit Section D?
- Did Monterey Regional provide an addendum to the Year 2 Annual Report that contains all of the information required by the notice of Violation?
- Did Monterey Regional report on the implementation of all the required improvements as required by the Notice of violation?
- Did Monterey Regional provide the missing information requested in the Year 1 Annual Report comment letter?

Staff will provide answers to these questions in a status report at the May 2010 Water Board Meeting item.

County of Monterey Stormwater Ordinance

The County of Monterey (County) was required by the MRSWMP to implement a stormwater ordinance within six months of permit coverage, or March 2007. To date the County has not adopted a stormwater ordinance. The Notice of Violation identified the failure of the County to adopt an ordinance as a violation and directed the County to correct the violation. Without a stormwater ordinance in place, the County cannot effectively control stormwater pollution and implement the MRSWMP and cannot fully implement several components in the County's stormwater program. In February 2010, Water Board staff asked the County for a status update on their ordinance adoption progress and was told the County's goal is to adopt the ordinance as expeditiously as possible. The first read of the ordinance is scheduled for the March 2nd Monterey County Board of Supervisors meeting. Staff is currently evaluating next steps, including potential penalties, for failing to adopt the ordinance three years ago as required. Staff will provide an update in a status report at the May 2010 Water Board Meeting item.

City of Monterey USEPA Audit

During the week of September 21, 2009, a USEPA contractor, staff from USEPA, and Water Board staff conducted an audit of the City of Monterey (City) Storm Water Management Program to evaluate compliance with the General Permit. The City was selected for an audit jointly by USEPA and Water Board staff based on Water Board staff's review and focused audit of the MRSWMP earlier in 2009. On February 11, 2010, the City and Water Board staff received the final audit report from USEPA (attached). The report contains five deficiencies with required responses from the City and 16 recommendations for program improvement. The most significant program deficiency identified was the City's failure to develop, implement, and enforce an effective construction site stormwater runoff control program. This finding was emphasized due to the scope of the construction program deficiencies, and as a result of the City's role in providing site plan review and/or construction site inspection services to the communities of Sand City, Del Rey Oaks, and Pacific Grove. Water Board staff will be coordinating with USEPA to ensure the City corrects all of the noted program deficiencies and implements any other necessary program improvements. Staff is currently evaluating next steps, including potential penalties, for failing to implement an effective construction site stormwater runoff control program as required. Staff will provide an update in a status report at the May 2010 Water Board Meeting item.

ADMINISTRATIVE REPORTS

Presentations and Training [Roger Briggs 805/549-3140]

Dominic Roques conducted outreach to two groups during January and February 2010. Mr. Roques participated in the first public meeting for the Santa Rosa Creek Watershed Management Plan on January 19, 2010 in Cambria. The meeting was attended by approximately 40 individuals, including watershed stakeholders, project consultants, and Department of Fish and Game staff. Mr. Roques presented the Central Coast Water Board's vision of healthy watersheds and the measurable goals designed to achieve that vision. He emphasized the importance of watershed efforts like the Santa Rosa Creek Watershed Plan in supporting the vision of healthy watersheds. Mr. Roques also encouraged participants to identify measures of success that span the range of spatial and temporal scales over which their efforts are conducted. On February 8, 2010, Mr. Roques conducted a training on stream and wetland protection for San Luis Obispo County staff, State and federal agency staff, and consultants. His presentation was integrated into a day-long training put on by the County. Mr. Roques' portion was approximately an hour in length and focused on Clean Water Act Section 401 Water Quality Certification, Central Coast Water Board regulations covering non-federal jurisdictional waters, and how these regulations support the Central Coast Water Board's objectives of preserving and restoring hydrologic functions throughout the watersheds of the Central Coast. Approximately 100 people attended this training.

Budget Status [Roger Briggs 805/549-3140]

The State Board is planning for complying with the Governor's Order to achieve an additional 5% salary savings via maintaining vacancies (on top of ongoing 5% salary savings). Water Board staff will also have a 10% reduction in pay (via 5% pay cut and 5% more payment into retirement system) under the Governor's proposal for the 10-11 budget, for a combined effect of staffing expenditures being 20% under previous budget. The Water Boards currently have a 9%+ vacancy rate and plan to meet the 10% salary savings mark next fiscal year through management of vacancies achieved through normal staff attrition.

Board Outreach [Roger Briggs 805/549-3140]

Staff mailed additional copies of the Board's Watershed Agencies letter – signed by the Board at the December meeting, as we received additional addresses. Staff is following up with arranging meetings with those requesting sessions (e.g., Santa Barbara Urban Creeks Council, Santa Clara County Water District, and City of Atascadero) and with written responses to others. We will copy the Board with those responses. Concurrently, staff has a high level of public outreach underway in several regulatory programs.

Emerging Contaminants [Roger Briggs 805/549-3140]

Attached is an article about the problem of left over pharmaceuticals in the environment. This article points out that the biggest source is humans via excretion because we do not assimilate all the drugs we take (by a long shot). However, the article is saying the biggest single more identifiable (perhaps controllable) source is health care facilities - 250 million pounds per year