



475 Washington St. Suite A
Monterey, CA 93940
T/ (831) 646-8839
F/ (831) 646-8843

Mr. Roger Briggs
Executive Officer
RWQCB, Central California Region
896 Aerovista Place, Suite 101
San Luis Obispo, CA 93401

CC: Ms. Rachel Fatoohi, County of Santa Cruz

January 18, 2009

Re: Monterey Coastkeeper Comments on the draft Stormwater Management Plan dated October 2008 for Santa Cruz County and the City of Capitola

Dear Mr. Briggs,

The Monterey Coastkeeper has read and reviewed the Draft Stormwater Management Plan (SWMP) for Santa Cruz County and the City of Capitola, as posted for public review in November of 2008. I would like to submit the following comments about the draft SWMP.

In summary, it is our finding that the draft SWMP for Santa Cruz County and the City of Capitola does not meet the Maximum Extent Practicable (MEP) standard as outlined by the stormwater program requirements in the National Pollutant Discharge Elimination System (NPDES) Permit. For this reason we would like to request a hearing in front of the Board.

Should the Monterey Coastkeeper, the permit applicant and Board staff reach sufficient agreement regarding our disputes, we will rescind this request. As it stands, we cannot support the current draft. Our concerns, which will be discussed in detail, are as follows:

- I. The continued use of ambiguous language that will be difficult to translate into a viable program or evaluate as intended by the NPDES permit
- II. Failure to include language committing the applicant to interim hydromodification criteria and failure to include language outlining the process of developing permanent hydromodification criteria
- III. Failure to include prescriptive BMPs that meet the MEP standard
- IV. Failure to address TMDLs through an adequate Wasteload Allocation Attainment Plan

The Monterey Coastkeeper participated in the County's own round of public commentary in August of 2008. Our initial comments focused on what we believed was a lack of measurable goals, the tendency to use vague language that did not translate into an implementable program, vague links between BMPs, implementation and measurable goals, and the failure to meet the MEP standard in the selection of BMPs, especially regarding the construction site ordinance, and post-construction run-off controls.

Several of the items on which we commented show improvements; for example we commend the inclusion of specific ordinances governing Riparian setbacks, and are glad to see a more detailed outline of enforcement actions that the County will take against non-compliers regarding construction site management. That said, we continue to have some serious concerns with the SWMP which I will describe in detail as follows:

I. Ambiguous Language, Actionable Items and Measurable Goals

The current draft plan shows some improvement regarding measurable goals, given that it now has some. However we continue to be concerned over the use of vague language and a failure to adequately attribute measurable goals to BMPs. Links between BMPs, implementation of practices, and the goals that are intended to set a mark of success are ambiguous. The language used to set goals is often more appropriate to identifying implementation plans, rather than setting achievable targets. The use of vague language continuously befuddles the intention of the plan, which is to set forth actionable items which the MS4 will instigate or continue towards the goal of reducing stormwater pollution.

I make these comments not with the intention of being overly critical of what some might consider insignificant details, but because I firmly believe that setting forth clear practices with definable goals is essential to creating a successful stormwater program that is transparent, achievable and measurable to the point that can be considered MEP. **A failure to set these goals and criteria down in clear writing makes the process of implementing the plan just as vague as the language it is written in. This will not only obfuscate the hard work of the many actors that will be tasked with implementing these plans, it will also prevent real, objective and transparent evaluation to indicate whether or not limited resources are being spent wisely to protect water quality from stormwater pollution.**

As an example, I will discuss BMP 3-1-11, "Industrial Education", found on table 3-1, page 4 of 7. This BMP strives to "Identify industrial operations that could be a significant source of pollutants".

This is an area in which much could be done to mitigate stormwater pollution if locally appropriate industries are targeted for outreach. However the draft SWMP gives no details as to how this outreach will be carried out; indeed it doesn't even go so far as to identify what industries of potential concern operate within the County, let alone identify the industries that the program will target. Rather it sets three vague actions as measurable goals, in spite of the fact that they are neither measurable, nor goals. These items are: "Identify targeted industries";

“Develop outreach material to educate identified industries”; and, “Assess effectiveness of educational material.”

Even were we to assume that this list constituted goals, we question the vagueness of this aspect of the plan. First of all, why is it necessary for the County to strive to identify industries within its own boundaries? If the process will be more complex than simply identifying industries with a history of pollution or industries that could contribute to impairments, then this should be addressed in the plan, including a discussion on the criteria with which the target industries will be selected. Even more efficient would be a summary of the potential industries that would benefit from stormwater education, and a commitment to target several of the most important industries. However, given the authors’ familiarity with their own County, we believe they are qualified to make this designation, rather than relegate it to a vague, unsatisfactory plan to make a plan. In the name of efficient resource allocation, we suggest that the authors’ of the plan simply use their local knowledge to select specific industries that can be targeted for educational efforts.

Furthermore, the “goal” of developing outreach materials to educate these unidentified industries is equally vague and fails to meet the criteria of “measurable”. Ideally, we would like to see a discussion of the topics to be included in the educational program; this could be as simple as compiling a list of BMPs related to the target industry. Of course this is contingent on the selection of industries.

Lastly, we see a gap between the plan to develop outreach material, and the following “goal” of “assessing effectiveness”. It is to be hoped that the County will distribute material and make other equally tangible efforts towards providing industrial education before evaluating the effectiveness of their “program”. The vagueness of the rest of the program of course predicates the inability to delineate anything more specific.

The discussion of this BMP stands to illustrate what we consider to be a persistent and unsatisfactory vagueness throughout the Santa Cruz County draft SWMP. We feel that this vagueness will not translate into an effective stormwater program. If the County follows its plan to the letter, the result, as it stands, will be a plethora of plans that the current plan is promising to develop in the vague and unspecified future.

Our concern with the lack of specificity runs fairly consistently throughout the plan, however there are some Minimum Control Measures that we find more significant than others. We are particularly concerned with the chapter on Construction Site Runoff, the chapter on Post Construction Controls, and the chapter on Pollution Prevention in Municipal Practices. I have already highlighted some of our concerns regarding the chapter on Public Education and Outreach; we are the least concerned with the chapter on Public Involvement and Participation and the chapter on Illicit Discharge Detection and Elimination. Please refer to the included table for further discussion of goals that we continue to find dissatisfactory.

Recommendation #1: Require that all BMPs be matched with appropriately measurable goals. This may involve fleshing out details regarding some of the more vague practices, to ensure that the MEP standard is met.

II. Inclusion of specific language regarding hydromodification criteria and low impact design standards

While we recognize that the Board has granted all of the cities and the County of Santa Cruz with an extension within which they are expected to develop location specific standards, we are concerned with the omission of language outlining that process. As we stated in our recent letter regarding the Watsonville draft SWMP, **we are requesting written assurance, in all of the SWMPs, that the process of assigning hydromodification standards will be timely, transparent, and inclusive of all stakeholders.** Given the long history of developing the County's SWMP, in which stakeholders have been repeatedly assured that plans would be appropriately fleshed out in the future, we feel that it is not unreasonable to request that this promise be made good on, officially, in the SWMP.

Given the impact that new and re-development can have on the delivery of stormwater pollution to watersheds, the Monterey Coastkeeper believes the inclusion of hydromodification standards in the SWMP to be of the utmost importance. It is understandable that the MS4s in question should desire adequate time to develop implementable standards; for this reason we support the time-extension that has been given to the County and its partnering agencies; we very much recognize the value of regional cooperation and uniformity. Unfortunately, language describing the process that will be used to arrive at hydromodification criteria is missing from the draft SWMP submitted by the County in October 2008.

Furthermore, we are concerned by the omission of interim hydromodification standards in the SWMP, in spite of Board staff's continuous reiteration of the necessity of such language. We would like to see the language prescribed in staff's November 14, 2008 letter included in the SWMP. This is clearly in line with the Board's wishes, as is stated in the letter.

We support the RWQCB staff's required revisions regarding hydromodification standards; in particular we would like to see the following stipulations enforced:

- The required language, as outlined on page 8 of the required revisions
- The provision of an opportunity for interested parties to comment and be heard throughout the decision making process

We request that the plan not be approved until appropriate language outlining both the process for arriving at standards and language including interim hydromodification standards are included. We further request that the Board stipulate that the process for arriving at permanent hydromodification standards be transparent and inclusive of stakeholder concerns.

Recommendation #2: Ensure that the process of developing hydromodification standards includes plentiful opportunity for public participation and remains transparent.

III. Inclusion of BMPs to meet the MEP standard

Our next concern is the applicant's failure to include BMPs for the *Construction Site Stormwater Runoff Control Program*. This is dealt with specifically in BMP 6-1-7, on page 4 of 7 in Chapter 6 of the draft SWMP. The BMP deals with Site Inspections with the intent of sediment and erosion control BMPs, however no BMPs for erosion control are actually put forward. The measurable goal of inspecting 100% active grading permits is a good start, however the ensuing list of measurable goals states that inspections will focus on the presence of required BMPs. These BMPs are referenced several more times throughout the measurable goal column (although none of the items are measurable goals), however the list of BMPs never appears. In fact, the action "Create a construction site BMP inspection checklist to be used by field staff" is listed as a measurable goal.

The NPDES permit states in the Minimum Control Measure *Construction Site Storm Water Runoff Control* that the stormwater management program must include at a minimum "Requirements for construction site operators to implement appropriate erosion and sediment control BMPs." (NPDES General Permit No. CAS000004) According to this criteria, the Monterey Coastkeeper finds that this aspect of the draft SWMP does not meet the MEP standard, and requests that a list of required BMPs for construction site management be included in the SWMP.

This omission is repeated in Chapter 7, *Post Construction Stormwater Management in New and Redevelopments*. As in the previous control measure, the Minimum Control Measure *Post-Construction Storm Water Management in New Development and Redevelopment* states that the Permittee must "Develop and implement strategies, which include a combination of structural and/or non-structural BMPs appropriate for [their] community" (NPDES General Permit No. CAS000004).

The BMP that addresses the inclusion of post-construction BMPs is number 7-1-8, on page 8 of 9 in Chapter 7. The BMP reads "Compile BMP manual". We have two concerns with this BMP. Firstly, we are concerned with the fact that the BMP is hollow; it is not a best practice, but only a commitment to select best practices; something that the permittee should be doing within the SWMP. Secondly, the language committing the applicant to even this practice is ambiguous. The measurable goal states that the BMP manual will be *advertised* to 100% of project applicants. This is a cursory nod to what we consider an important aspect of stormwater management. Ensuring that developers are not only advertised to, but actively engaged and educated about the County's stormwater program is an important component of an effective stormwater program; one that is currently lacking from the draft SWMP.

This underscores the general tone of the chapters that address construction and post-construction; the language is perpetually soft, and rarely involves setting any real, prescriptive

standards. For example, BMP 7-1-4 on page 5 of 9 in Chapter 7, which reads “Design Standards” states in the implementation details column that “Planning policies promote retention of vegetation, protection of riparian corridors and site planning to minimize grading and site disturbance.”

While we applaud the County’s efforts to promote smart environmentally protective design, we would like to see a more prescriptive approach to design standards with legally binding requirements. The text further reads, “The ordinances or Design Criteria will be revised to incorporate any subsequently approved hydromodification measures attached to this permit”; this is repeated as a measurable goal. We would like to reiterate our conviction that the SWMP should not be approved without the inclusion of specific language outlining the development of Design Criteria according to the terms of the General Permit requirements and Attachment 4 to the General Permit.

Recommendation #3: Require that the applicant include the list of BMPs that will be required for construction site operations and post-construction. Clarify which practices are required, and which are recommended.

IV. Addressing TMDLs in the SWMP, through a Wasteload Allocation Attainment Plan

We support Board staff’s directive to address TMDLs in the SWMP. We encourage the Board to ensure that Required Revision #5, which requires that the applicant commit to implementing all components of the required Wasteload Allocation Attainment Plan (WAAP). In spite of the County’s existing programs, we believe there is still a substantial gap in data that could be addressed regarding water quality and pollution sources; we feel that the Board is being reasonable in requiring that this aspect of the plan be included prior to the approval of the SWMP.

In conclusion, we do not believe that the draft SWMP has met the MEP standard. While we commend the applicants continuously stated commitment to improved water quality—a goal we all share—there are substantial improvements we would like to see in the plan before its approval, and the granting of the NPDES permit. We hope that these issues can be resolved expeditiously.

Lastly, I would like to state that we acknowledge the complexity of developing a successful stormwater program, and further acknowledge that it is not without some cost to the implementing agency. We also realize that the communities that we work in are working to deal with a variety of environmental challenges and concerns, including threats to water quality, quantity, climate change mitigation, and adaptation to climate change already set in motion—all with limited resources. Recognizing that there are “big picture” issues to be dealt with, however, should not paralyze us against taking specific actions to address seemingly smaller issues that are within our reach. Indeed, tackling stormwater pollution,

which has been a moving target for many years, will set us—communities, environmentalists, and the public at large—up for success as we grapple with the increasingly difficult issues of resource management in a climate constrained future.

For this reason we are in full support of the Board's efforts to implement the SWMP approach to address water quality concerns, as mandated by the Federal Clean Water Act and state law, in a manner that is flexible for the participants, inclusive of public input, and resultant in real, actionable practices that will prevent stormwater pollution from flowing to the Monterey Bay. Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in blue ink, appearing to read "Allison Ford". The signature is fluid and cursive, with the first name "Allison" written in a larger, more prominent script than the last name "Ford".

Allison Ford

Program Manager

| Item No. | SWMP Section | Page | Subject | MCK Comments |
|----------|--------------|-------------|-------------------------------------|---|
| 1 | BMP 3-1-1 | 3.1; 1 of 7 | Brochures | Providing brochures without incorporating the contents into a larger educational component is unlikely to be very effective. Furthermore, the target audience is vague, whereas the topics to be covered by brochures are simply non-existent. In order to show that this is a viable program that will actually result in public awareness and knowledge, it is necessary to include more thorough details about the program. What topics will be covered in the distributed brochures? What measures will be taken to ensure that appropriate brochures are sent to appropriate members of the public? Can the County include copies of the information they will be distributing, either as an appendix, or a link to the electronic version of the brochures? |
| 2 | BMP 3-1-2 | 3.1; 1 of 7 | Website | Like “brochures”, “website” is not a very clearly impactful practice. Nor is the act of compiling hits to a website a measurable goal. |
| 3 | BMP 3-1-6 | 3.1; 2 of 7 | Riparian Restoration and Protection | This BMP does not have a goal. Also, to whom will the Stream Care Guide be distributed? Can the County include either a link, or further information about where the Stream Care Guide can be viewed? Lastly, there is no measurable goal for this BMP. |
| 4 | BMP 3-1-7 | 3.1; 2 of 7 | Septic System Maintenance | There is no measurable goal attributed to this practice. |
| 5 | BMP 3-1-8 | 3.1; 3 of 7 | Public Opinion Survey | A survey is a useful tool to determine program effectiveness; given that the authors of the plan have been evaluating the County’s stormwater initiatives, they should be able to identify an appropriate target audience for a public survey. There is no measurable goal in this BMP, although there are many details that would lend themselves towards the creation of a |

Table 1: Monterey Coastkeeper’s specific comments, concerns and requests.

Note: Emphasis is given to the County, however in the case of duplicate BMPs, comments apply to both the County and the City of Capitola

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| | | | | goal: how many citizens will be surveyed? How many different target groups will be included? What aspect of the County's program will be surveyed? How will the data be processed and used? The steps in the measurable goal column are closer to implementation plans, but the goals remain vague or non-existent. |
| 6 | BMP 3-1-11 | 3.1; 4 of 7 | Industrial Education | The goals are not measurable, and set no quantitative targets. The plan goes from developing outreach materials to assessing their impact, with no mention of actually distributing or using the material. The plan should identify specific industries to target, set a goal for a number of targeted industries or individuals and give details as to what the program will entail, such as trainings, meetings, literature distributed, etc. |
| 7 | BMP 3-1-13 | 3.1; 5 of 7 | Monterey Bay Area Green Business Program | Certification of 30 businesses each year is a good goal; however there is no linkage to show how this goal will be reached. |
| 8 | BMP 3-1-15 | 3.1; 5 of 7 | Business outreach | The distribution of limited written materials does not seem to be the maximum extent practicable for business outreach; are there other opportunities for interaction with business owners, such as meetings, inspections, trainings, etc? The distribution of 100 brochures with no follow up seems a scant goal. |
| 9 | BMP 3-1-17 | 3.1; 6 of 7 | Outreach to farmers | According to the measurable goal and the subsequent implementation schedule, the County will spend 5 years compiling numbers of farmers. There is no link to this goal (which is more of an action and not measurable) and the actual outreach efforts. |
| 10 | Table 3-2, City of Capitola | 3.2 | Lack of measurable goals | We find that the following BMPs either do not have measurable goals, or have goals that are not appropriate to the BMP: |

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| | | | | <ul style="list-style-type: none"> • 2. City of Capitola website: compiling hits is not a mg • 3. Community outreach: compiling number of events is not a mg; ideally set a number of people that outreach will target at events • 4. Public Opinion Survey: establish a target audience and set a target number of people to be surveyed • 5. Pet Waste: sending a newsletter once does not seem to meet MEP • 6. Trash Management: how will the city educate residents on this issue? Once in a newsletter does not meet MEP • 7. Fertilizers and Pesticides: how will the city educate residents on this issue? Once in a newsletter does not meet MEP • 8. Riparian Restoration and Protection: how will the city educate residents on this issue? Once in a newsletter does not meet MEP • 11. Business Outreach: set a quantitative target for how many businesses will be reached • |
| 11 | BMP 5-1-12 | 5.1; 7 of 7 | Train Agency Staff | “Agency staff will be trained, including...”: There is no value given to the number of industrial waste inspectors or the storm drain and sewer maintenance workers; please assign a value. |
| 12 | BMP 5-2-7 | 5.2 4 of 5 | Information from the public | “Use hotline to receive calls from the public”: <ul style="list-style-type: none"> • This is not a measurable goal. Please include one. |

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| | | | | <ul style="list-style-type: none"> Is there a hotline already set up? If so, how is it made available to the public? Could the applicant please include the number in the SWMP? |
| 13 | Chapter six | 6-2 | Riparian Corridor and Wetland Protection Ordinance | The Monterey Coastkeeper commends the County's Riparian Ordinance, which includes development setbacks of 30, 50 and 100 feet. |
| 14 | BMPs 6-1-1, 6-1-2, 6-1-4 | 6.1; 1 of 7 | Evaluating effectiveness of ordinances | Both BMPs focus on the evaluation of existing ordinances with the intention of updating them if deemed necessary; what criteria will the County use to determine if these ordinances are effective? We request that the County include language stating that ordinances will be assessed in terms of long-term watershed protection, in the terms of the General Permit requirements, and Attachment 4 to the General Permit. |
| 15 | BMP 6-1-4 & 6-1-5 | 6.1; 2 of 7 | BMPs | Both these BMPs reference BMPs that have not been identified; the Monterey Coastkeeper requests that the SWMP include the lists of required and recommended BMPs to determine how projects will be conditioned. The absence of these BMPs renders both BMP 6-1-4 and 6-1-5 hollow; the commenter cannot comment on upholding construction permittees and projects to a list of BMPs that does not exist. |
| 16 | BMP 6-1-7 | 6.1; 3 of 7 | Site Inspections | "Inspections will focus on the presence of required BMP's..." Again, commenters cannot comment on the effectiveness of this action without know what the required BMPs are. Can the applicant include a list of required BMPs? |
| 17 | BMP 6-1-7 | 6.1; 3 of 7 | Enforcement actions where BMPS found to fail | We requested further detail on enforcement actions in our preliminary comment letter in the County's own round of public input; we are pleased to note the substantial improvement in |

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| | | | | detail regarding this practice. |
| 18 | Chapter 7 | 7-6 | BMP Manual | The chapter text states that a BMP manual for post-construction runoff control will be made available; however the applicant does not differentiate between recommended and required BMPs. The inclusion of BMPs in the SWMP is important to illustrate what practices developers will be required to follow. See section III of letter for a more thorough discussion on the inclusion of BMPs. |
| 19 | BMP 7-1-1 & 7-1-2 | 7.1; 1 of 9 | Land Use Policies and Ordinances | We recognize and applaud the County's long history of establishing land use policies for the protection of water quality, however we believe that there is much still to be done regarding post-construction stormwater management. The existing BMP and attributed goals are vague and show no real commitment. The goal to "modify policies if necessary" does not give any details as to what would render modification necessary. Furthermore, the goal to "amend current ordinances to incorporate the specific BMPs associated with the land uses identified in Attachment 4" does not, in our opinion, meet the standard of MEP, given that these specific BMPs are not specified. We would like to see language that a) specifies BMPs and b) commits the applicant to assessing and modifying policies and ordinances according to the terms of the General Permit and Attachment 4. This comment applies to BMP 7-1-2 as well. Note: Board staff's required revisions addresses this as well, requesting a commitment by the County and City to develop quantifiable measures that indicate how the applicant's watershed protection efforts achieve desired watershed conditions. |
| 20 | BMP 7-1-4 | 7.1; 5 of 9 | LID standards | This does not meet the MEP standards; short of requiring the inclusion of LID |

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| | | | | standards necessary for approval of the SWMP, we request that the Board uphold staff's required revision that the County commit to assessing current standards in the terms of the General Permit and Attachment 4, including measurable goals for implementation of current design standards. See text of letter for a more thorough discussion of this topic. |
| 21 | BMP 7-1-5 | 7.1; 6 of 9 | Alternative Interim Hydromodification Criteria | See letter text for a thorough discussion on this issue. The Monterey Coastkeeper stands in support of Board staff's required revisions, which are absent from the existing draft SWMP. |
| 22 | BMP 7-1-6 | 7.1; 7 of 9 | CEQA Checklist | This BMP/measurable goal shows no commitment on the part of the County to consider the terms of the Permit in this task; the language is vague and the reader is not privy to an explanation of the standards that the checklist will be held to. "Review and revise" is not a measurable goal. |
| 23 | BMP 7-1-8 | 7.1; 8 of 9 | Post Construction BMP manual | BMPs should be included in SWMP, along with clarification as to which BMPs are mandatory and which are recommended only. |
| 24 | BMP 8-1-1 | 8.1; 1 of 6 | Review Agency Housekeeping Programs | "Document" and "review" are not measurable goals; there are no quantifiable targets or standards for review |
| 25 | BMP 8-1-3 | 8.1; 1 of 6 | Facility BMPs | The County has had more than enough time throughout the process of developing this SWMP to identify and compile appropriate BMPs for facility management. This BMP is a plan to make a plan. The SWMP should not be approved until the County commits to specific facilities management BMPs and includes them in the plan. |
| 26 | BMP 8-1-6 | 8.1; 3 of 6 | Storm drain facility BMPs | This plan includes no measurable goals; it plans to establish BMPs but does not actually select any BMPs. The goal is to develop quantifiable measurable goals. We are unsure as to why the selection |

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| | | | | of BMPs and measurable goals (which should have taken place during the development of the SWMP) has been further postponed without specification of who will finally commit the County to BMPs and goals in year 4 and 5 of the permit. We find that this BMP fails to meet the standard of MEP, and request that actual BMPs be selected. |
| 27 | BMP 8-1-9 | 8.1; 6 of 6 | Road Repair and Maintenance BMPs | Goal reads” develop quantifiable measurable goals for in terms of frequency or type of repair and maintenance.” This is an unclear task; it is not a measurable goal. |

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