



475 Washington St. Suite A
Monterey, CA 93940
T/ (831) 646-8839
F/ (831) 646-883

Ms. Clara Spaulding
Santa Clara County
Planning Office
County Government Center
70 W. Hedding Street, 7th Floor, East Wing
San Jose, CA 95110

Sent electronically to clara.spaulding@pln.sccgov.org

CC: John Rohrbaugh, Central Coast RWQCB Staff, JRohrbough@waterboards.ca.gov

May 6, 2009

Re: Comments on the Draft Stormwater Management Plan

Dear Ms. Spaulding,

I am writing to offer commentary on the Draft Regional Storm Water Management Plan (SWMP) for the City of Gilroy, the City of Morgan Hill and the County of Santa Clara, dated March 2009. The following commentary is on behalf of the Monterey Coastkeeper.

The Monterey Coastkeeper, a program of The Otter Project, exists to protect the waters, watersheds and coastal ocean of the Monterey Bay region. As a member of the state-wide California Coastkeeper Alliance and the nationwide Waterkeeper Alliance, the Monterey Coastkeeper works in conjunction with other Waterkeepers to protect the quality of water in designated jurisdictions. Our particular jurisdiction includes parts of southern Santa Clara County; for this reason we are interested in the development and implementation of your SWMP.

Stormwater pollution has been a Waterkeeper priority for some time, and we have played an active role in advocating for environmentally sound SWMPs throughout our region. We have reviewed numerous plans, and are familiar with the Central Coast Regional Water Quality Control Board's enrollment process. This process has shown us the value of cooperative agency and stakeholder engagement. It is our goal to see improved water quality through reduced storm water pollution. I offer the following

comments in the hope that they will be helpful to you and your counterparts in constructing a feasible, environmentally acceptable plan.

While the current draft SWMP is a solid beginning, we feel that it is currently too vague to meet the criteria of the NPDES permit. One of the permit requirements is that the SWMP pair BMPs with an implementation plan as well as measurable goals. Throughout the SWMP, the goals that are currently listed, which are ambiguous and do not include any quantitative measures, do not include any quantitative measures. For example, although the plan includes the intention to provide storm water education through mass media (TV, radio, etc.), no actual goal is set as far as how many people will be targeted. The same is true of web-based information, brochures, etc. For a good example of how to assess audience hits, the Monterey Bay Regional SWMP followed a similar approach. A numeric goal was set based on viewer or listener statistics, which are readily available.

This is one of many measurable goals that we feel could be tightened up to include quantitative measures. The NPDES Phase II permit and guidelines offer several resources for measurable goals that meet these criteria; including the [EPA's NPDES website](#)¹, which provides specific examples that can be included verbatim or tailored to meet a specific municipality's needs. Flexibility is a necessary component of the development of these plans to ensure that they are locally appropriate; however each local SWMP should meet the standard set by the permit, at a minimum.

In addition to the re-working of many of the measurable goals throughout the SWMP, I would like to make the following specific comments, which I will organize, for ease of reference, according to Minimum Control Measure:

1. **Public Education and Outreach:** The current draft addresses mass media outreach, brochure distribution, website development, public event participation, outreach programs and education in schools. We question whether these basic efforts truly meet the MEP, and would like to see the program description include more specific targeting of appropriate audiences. A mass media campaign casts a wide net, and provides a good foundation for a more targeted educational approach that aims to address specific groups that have a particularly impact on storm water. For example, we believe that a tailored campaign to educate managers and employees of an industry that is known to generate pollution (for example automotive or restaurants) on pollution prevention is more valuable than a generalized educational program. Furthermore, we would like to see an element of monitoring and evaluating effectiveness incorporated into this section. Monitoring program success is a key component to adaptive management, which will allow the agencies to maximize their limited resources.
2. **Public Involvement and Participation:** The agencies' varied environmental programs, which range from composting and community gardens to community clean ups and water conservation programs, are commendable. Regarding BMP I, Public Meetings, the measurable goal reads "Document the date and time of public meetings". We would like to see this goal expanded to encourage the public agencies to widely publicize public meetings and encourage

attendance; this could be done by setting a target number of attendees, and working on methods of outreach that encourage public participation to reach this goal.

3. Illicit Discharge Detection and Elimination: BMP II Stormwater Ordinance is ambiguous; it purports to report on existing ordinances that address illicit discharge detection and elimination and evaluate the effectiveness based on enforcement activity, however it does not specify what criteria the ordinances are to be judged against. Part three of the goal reads “Revise/create new ordinance to meet the goals of this section”, however there is no section titled Goals; the plan could refer to the list of permit requirements on page 26 of the SWMP, or the list of Objectives which are substantially less specific. I request that the language be clarified to state that an ordinance will be developed that meets, at a minimum, the criteria of the NPDES permit MCM Illicit Discharge Detection and Elimination, as listed on page 26 of the draft SWMP. Lastly, the SWMP does not include the stated intent to detect and eliminate illegal connections to the MS4; it merely states the intent to evaluate whether any procedures exist or not; at most the SWMP promises to document complaints, investigations, enforcements and follow ups. We would like to see language committing the agencies to detecting and eliminating a sufficient number of illicit discharges and connections (ideally 100% over the five year period); we also request that the SWMP include the commitment to respond to 100% of complaints, and an outline of how illicit discharges will be dealt with.

4. Construction Site Storm Water Runoff Control: the Monterey Coastkeeper is particularly concerned about the minimum control measures (MCM) that address construction site management and post-construction storm water management. Regarding construction site storm water runoff control, the plan rightly points out the importance of managing construction to avoid sediment and chemical pollution. However, the actual BMPs and goals are insufficient to meet the goals set out by the NPDES permit (which the plan lists in the MCM introduction). The following is a list of areas of concern in this MCM:
 - a. Every BMP involves evaluating, reviewing, developing or modifying existing practices. This amounts to little more than a plan to make a plan. While it is unrealistic to expect that each of these be developed to include the ideal level of detail by the time the plan is enrolled, it is reasonable to expect that plans to make plans at least include a more concrete description of how and when that practice will be evaluated, reviewed, developed, etc. For example, BMP I, Evaluation of Existing Ordinances include the measurable goal of reporting on existing ordinances while listing modifications that could be made to make the program more successful. This is unduly vague and subjective—according to what criteria will the program be made more successful? Who will be making these judgment calls?
 - b. Regarding BMP II Site Plan Review and Plan Check, the Monterey Coastkeeper would like to suggest requiring an erosion control plan for all plans developed, rather than only requiring plans between October 15th and May 1st.
 - c. The Monterey Coastkeeper would like to request that a more specific plan for construction site development is included. We suggest committing to inspecting 100%

of construction sites up to a point where it is no longer feasible, and then dropping to 75%, etc. We would also like to see an emphasis put on construction sites identified as high pollution risk, and rainy season inspections.

- d. Regarding BMP II Site Plan Review and Plan Check, measurable goal 1 states the intent to “Require appropriate BMPs for all development and redevelopment projects. “ No BMPs are included, nor does the plan reference any existing BMPs or state the intent to develop or distribute appropriate BMPs. The term appropriate is too subjective to be clear as to what sort of standards construction sites will be held to. We request that the plan include, if not an actual list of BMPs, a minimum criteria, and a plan to develop and disseminate required BMPs.
 - e. Regarding annual training, we would like to see specified what percentage of staff will be trained annually.
5. Post-Construction Storm Water Management in New and Re-Development: The Monterey Coastkeeper considers this MCM to be one of, if not the most important component of the SWMP. Please consider the following specific comments regarding post-construction controls:
- a. Wetland and Riparian setback ordinance: We are pleased to learn that the agencies are negotiating a Habitat Conservation Plan that will include more substantial buffer zone requirements for development setbacks. The Monterey Coastkeeper has frequently advocated setbacks of 100 ft to ensure for greater protection of delicate riparian systems. We hope to see the agencies encourage greater setbacks than the minimum of 30 ft.
 - b. The Monterey Coastkeeper is in support of the Regional Water Quality Control Board’s past rulings on hydromodification criteria. It is our belief that the language set forth by the Board and consistently required by Board staff is the minimum acceptable criteria for hydromodification standards. The current draft SWMP does not include this language or anything comparable. The intention to evaluate existing conditions is overly vague and does not commit the agencies to anything. While evaluating existing plans and county wide practices could be a component of the development of long term hydromodification criteria and low-impact development, it is, in and of itself, not sufficient as a BMP addressing this extremely important aspect of storm water management. Furthermore, the plan relegates this issue to year five, as stated on page 44. “It will be decided upon in year five whether modifications to the existing HMP will be sufficient to make the HMP compatible or if a new HMP will need to be developed.”
 - c. Conditions of approval: Regarding the list of projects that would require LID BMPs to be followed, we are concerned that this emphasis on LID, rather than hydromodification criteria, is missing the point. LID standards are a set of standards to be followed in order to reach the goal of minimizing disruptions to the hydrograph and thereby preventing storm water pollution from reaching open water. If the goal is simply to require a number of projects to follow LID, the outcome is uncertain. After extensive involvement in the process to require hydromodification criteria in SWMPs, we firmly believe that it is more important to set the goal of reducing runoff with numeric standards. While we

find the commitment to LID admirable, in the current form, it is difficult to gauge the level of commitment and if it will be sufficient to achieve water quality protection. We continue to stand by our commitment to seeing language that sets numeric standards for hydromodification criteria, such as the language approved with the Lompoc SWMP, or the more commonly accepted language from the Santa Maria SWMP, which was recently agreed upon throughout Santa Cruz County.

6. Pollution Prevention and Good Housekeeping: The measurable goals for all BMPs in this section should set numerical goals. Otherwise, this section is sufficient.

In conclusion, we would like to see less evaluation and introspection, and more actionable items that will translate into improved water quality throughout the region. While evaluating existing practices is a valuable component of developing new ones, we would like more detailed clarification on how practices will be changed to incorporate active, hands on storm water management.

I offer these comments in the hopes of assisting you in your revisions of this draft SWMP and would be happy to discuss any of these issues further. Feel free to contact me with questions. Thank you for the opportunity to comment.

Sincerely,



Allison Ford
Program Manager
The Monterey Coastkeeper

¹ <http://cfpub.epa.gov/npdes/stormwater/measurablegoals/parameters.cfm> or <http://cfpub.epa.gov/npdes/stormwater/measurablegoals/part3.cfm>