

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION
895 Aerovista Place, Suite 101
San Luis Obispo, California**

**RESOLUTION NO. R3-2006-0022
February 9, 2009**

**Monterey Regional Storm Water Management Program
Monterey County**

The Regional Water Quality Control Board, Central Coast Region ("Water Board" or "Central Coast Water Board") finds:

1. On December 8, 1999, the U.S. Environmental Protection Agency ("EPA") promulgated regulations under authority of the Clean Water Act ("CWA") Section 402(p)(6). These regulations required NPDES storm water permits for operators of small municipal separate storm sewer systems ("Small MS4s") that discharge to waters of the U.S.
2. On April 30, 2003, the State Water Resources Control Board ("State Water Board") adopted Order No. 2003-0005 DWQ (NPDES Permit No. CAS000004) Waste Discharge Requirements for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems ("General Permit").
3. The General Permit requires regulated Small MS4s to develop a storm water management program ("SWMP") designed to reduce pollutant discharge to the maximum extent practicable ("MEP") and to protect water quality. The SWMP must contain Best Management Practices ("BMPs") that address six Minimum Control Measures. SWMPs must incorporate measurable goals and implementation time schedules, and must be available for public review and comment and are subject to a public hearing if requested prior to approval. Upon approval of a SWMP by the appropriate regional water quality control board or its Executive Officer, permit applicants obtain coverage under the General Permit.
4. The State Water Board found, and the Central Coast Water Board concurs, that implementing storm water quality programs that address the six Minimum Control Measures in previously unregulated areas will decrease the pollutant loading to the receiving waters and improve water quality.
5. The State Water Board found the General Permit to be consistent with the anti-degradation policies of 40 CFR Section 131.12, SWRCB Resolution 68-16, and the Central Coast Water Board's Basin Plan.
6. This action to approve the MRSWMP is exempt from the California Environmental Quality Act pursuant to Water Code Section 13389.

7. The Cities of Monterey, Sand City, Del Rey Oaks, Marina, Seaside and Pacific Grove and the County of Monterey ("Monterey Permittees"), the Pebble Beach Company ("Pebble Beach") and the City of Carmel-by-the-Sea ("Carmel") formed a technical advisory committee ("TAC") to assist in developing their SWMP and selecting or rejecting BMPs. The TAC conducted regular public meetings from March 15, 2000 through the end of 2004. Members of the TAC reviewed EPA's "Storm Water Phase II Final Rule Fact Sheets", EPA's "Measurable Goals Guidance for Phase II Small MS4s", and EPA's "National Menu of Best Management Practices for Storm Water Phase II", and the Model Urban Runoff Program, and considered whether BMPs that were successful in other areas were appropriate to site-specific conditions. Water Board staff participated in the TAC meetings regarding BMP development and selection.
8. The Monterey Permittees, Pebble Beach and Carmel submitted a Monterey Regional SWMP ("MRSWMP") and Notice of Intent to comply with the General Permit on March 4, 2003. The Water Board considered the MRSWMP at its May 2005 Board meeting. The Board continued the matter so that the Monterey Permittees could revise the MRSWMP to include additional detail.
9. In April 2005, Pebble Beach and Carmel withdrew their Notices of Intent to seek coverage under the General Permit. The dischargers covered by this approval are the Monterey Permittees only.
10. The Monterey Permittees submitted a revised MRSWMP on October 31, 2005. The revised MRSWMP was posted on the State Board web site for a 30-day public comment period.
11. Following public notice in accordance with State and federal laws and regulations, the Water Board, in a public hearing on February 9, 2006, heard and considered all comments on the MRSWMP.
12. The Water Board finds that the MRSWMP will satisfies the MEP standard for these reasons: 1) MRSWMP meets and/or exceeds the Phase II General Permit requirements for all six Minimum Control Measures; 2) The chosen BMPs address both the research-based urban pollutants, and the locally-documented pollutants of concern; 3) BMPs were taken from EPA and Model Urban Runoff Program (MURP) BMP lists, which include relevant, up-to-date, and comparable BMPs; 4) the MRSWMP employs all applicable BMPs except those that are not technically feasible in the locality, or whose cost would exceed the benefit to be derived, or where other selected BMPs achieve the same water quality protection or serve the same purpose, or where the cost of the BMPs would be prohibitive; and 5) The five-year program prescribed by the MRSWMP provides a logical progression of BMP implementation to meet a full program realization within the permit term.
13. Attachment 4 of the General Permit includes Design Standards that apply to traditional and nontraditional Small MS4s serving a population of 50,000 people or more, or that are subject to high growth¹. Attachment 4 addresses post-construction requirements and compliance with water quality standards. It also includes receiving water limits necessary to protect water quality.

¹ "High growth" is defined by the Permit as areas which have experienced more than 25% population growth over years 1990 - 2000, or are expected to grow more than 25% between 1999 - 2009.

14. The City of Sand City, and the towns of Castroville and Prunedale in Monterey County, meet the Attachment 4 designation criteria. The MRSWMP requires these permittees to comply with Attachment 4.
15. The SWRCB has designated two marine areas in the Monterey region as areas of special biological significance (ASBS): Pacific Grove Marine Gardens and Hopkins Marine Life Refuge ASBS (ASBS No. 19), and the Carmel Bay ASBS (ASBS No. 34).
16. The California Ocean Plan and the Central Coast Basin Plan state that waste shall not be discharged to areas designated as being of special biological significance. The General Permit incorporates these prohibitions as permit terms.
17. To comply with the General Permit and the Ocean Plan prohibition, Monterey Permittees that discharge to an ASBS must either (i) cease all ASBS discharges or (ii) obtain a State Water Board exception to the prohibition and comply with all conditions of the exception, including obtaining any necessary waste discharge requirements. Nothing in this Resolution relieves the Monterey Permittees from any requirement in the Ocean Plan regarding ASBS discharges.
18. Until the ASBS Dischargers obtain the exceptions or cease ASBS discharges, the Central Coast Water Board may take enforcement action to obtain compliance with the ASBS discharge prohibition in the General Permit.
19. Section 402(p)(3)(B)(iii) of the Clean Water Act requires controls that reduce pollutants to MEP, and "such other provisions as the Administrator or the State determines appropriate for the control of such pollutants." The General Permit requires permittees to develop a SWMP designed to reduce the discharge of pollutants to MEP and to protect water quality. (General Permit Finding 14, page 3 and Provision D, pg.8.)
20. The General Permit states: "Studies have found the amount of impervious surface in a community is strongly correlated with the community's water quality. New development and redevelopment result in increased impervious surfaces in a community. The design standards in Attachment 4 focus on mitigating the impacts caused by increased impervious surfaces through establishing minimum BMP requirements that stress (i) low impact design; (ii) source controls; and (iii) treatment controls."² The additional BMPs required in Attachment 4 are necessary due to the presence of the ASBSs in the Monterey region. In order to protect water quality and comply with CWA Section 402(p), MS4s in the Monterey region that discharge directly or indirectly into ASBS must implement Attachment 4 to protect water quality due to the special biological significance of the receiving waters.
21. Portions of the Cities of Monterey and Pacific Grove discharge into Pacific Grove Marine Gardens and Hopkins Marine Life Refuge ASBSs]. The Carmel River area of Monterey County discharges into the Carmel Bay ASBS.
22. The General Permit allows permittees five years from the date of SWMP approval to implement the MRSWMP fully.
23. The MRSWMP requires the Monterey Permittees to develop and implement programs and model ordinances within five years to achieve MEP. The specific provisions of some of these

² General Permit Fact Sheet, page 10.

programs will be developed after SWMP approval, and will be subject to public review. The General Permit allows the Executive Officer to require changes to the SWMP (including the model ordinances and other program details) as necessary to meet the MEP standard, and to require additional monitoring and reporting.

THEREFORE, BE IT RESOLVED THAT:

1. The Central Coast Water Board hereby approves the Monterey Regional Storm Water Management Plan, subject to Paragraph 2. Coverage under the General Permit commences on the date this Resolution is adopted.
2. Pursuant to Section G of the General Permit, the Monterey Permittees are required to amend the MRSWMP no later than March 31, 2006, to include the following provisions. Failure to make these revisions may subject the affected Monterey Permittees to enforcement action:
 - a. Modify Minimum Control Measure 5: Post-Construction Storm Water Management in New Development and Redevelopment of the MRSWMP to state that all Monterey Permittees discharging to an ASBS water body shall implement General Permit Attachment 4 in its entirety (including Receiving Water Limits) by February 1, 2010.
 - b. Modify the MRSWMP to list the actual MS4s or MS4 areas that are required to implement Attachment 4, whether based on Attachment 4 "high growth" criteria in the General Permit (Sand City, Prunedale and Castroville), or based on discharge to an ASBS (Cities of Pacific Grove and Monterey).
 - c. Include an additional BMP in Minimum Control Measure 6: Pollution Prevention/Good Housekeeping for Municipal Operations or revise BMP #6-1.a to require that training for all employees must cover pollutant minimization from landscaping and lawn care management activities.
 - d. Modify Step 4 of the construction site plan review and inspection procedures on page E-108 to state that the Monterey Permittees will pursue enforcement action as necessary to rectify deficiencies.
 - e. Provide a training outline at the beginning of Appendix F. The outline must include, at minimum, the specific types of employees targeted for training, as listed on page 13 of the Monterey Regional Group's December 15, 2005 comment letter to the Water Board.
 - f. Modify BMP No. 1-1.a to require the Monterey Permittees to address cat waste and proper disposal of cat waste and litter, in education and outreach materials.
 - g. Replace all references to Attachment E with references to Appendix E throughout the MRSWMP.
 - h. Remove the last paragraph on MRSWMP page 4-14, which states:

"It should be noted that the Participating Entities covered by the MRSWMP are public agencies. As such they are subject to single fiscal year budgets which do not allow them to make future year financial or resource commitments for programs such as the MRSWMP. For this reason the Participating Entities intend to update and revise their BMPs and Measurable Goals as necessary from year to year to reflect their financial and resource capabilities. These revisions will also take into account their findings as to how effective the BMPs appear to be in reducing storm water pollution."
3. The Monterey Permittees shall provide a copy of the revised pages of the MRSWMP to the Water Board no later than April 15, 2006, pursuant to Water Code Section 13383.

Any person affected by this action may petition the State Water Board to review the action in accordance with section 13320 of the California Water Code and Title 23, California Code of Regulations, Section 2050. The State Board must receive the petition within 30 days of the date of this Resolution. Copies of the law and regulations applicable to filing petitions will be provided upon request.

I, Roger W. Briggs, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Central Coast Region, on February 9, 2006.

Roger W. Briggs, Executive Officer

S:\Storm Water\Municipal\Monterey Co\Phase II\Monterey Regional SWMP\Feb 2006 Board Meeting\Board Resolution, 2-2006.DOC