

**CALIFORNIA COASTAL COMMISSION**

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April 16, 2004

Ms. Jennifer Bitting  
Phase II Permit Coordinator  
Central Coast Regional Water Quality Control Board  
895 Aerovista Place, Suite 101  
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Dear Ms. Bitting:

The staff of the California Coastal Commission wishes to provide the following comments regarding the draft Monterey Regional Stormwater Pollution Prevention Program.

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### Legal Setting

The Commission shares responsibility for regulating nonpoint source water pollution in the Coastal Zone of California with State Water Resources Control Board (SWRCB) and the coastal Regional Water Quality Control Boards (RWQCBs). The Commission and the SWRCB have been co-leads in developing and implementing the Plan for California's Nonpoint Source Pollution Control Program (2000), which outlines a strategy to ensure that management measures and practices that reduce or prevent polluted runoff are implemented over a fifteen-year period. Some of these management measures and practices are best implemented at the local planning level, since they can be most cost-effective to incorporate during the design stage of development. In practice, the Coastal Commission protects water quality primarily through: (1) managing coastal development that generates runoff or creates spills; (2) assisting local coastal governments and other agencies to address land-use planning and development activities that may produce NPS pollution; and (3) implementing educational and technical assistance programs.<sup>1</sup>

The Commission and the Central Coast Regional Water Quality Control Board (RWQCB) are both working to protect water quality of the Monterey Bay. The Commission has primary responsibility for protecting coastal resources, including water quality, from the impacts of development in the coastal zone. The SWRCB and RWQCBs have primary responsibility for regulating discharges that may impact waters of the state through writing discharge permits, investigating water quality impacts, monitoring discharges, setting water quality standards, taking enforcement actions where

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<sup>1</sup> 2000 Nonpoint Source Program Strategy and Implementation Plan, 1998-2013

standards are violated and, most recently, coordinating the Phase II permit process. Given the common goal of clean coastal water quality, there are many issues where the authorities of these agencies are complementary and mutually supporting. For example, the Central Coast RWQCB has provided guidance for new and redevelopment that may impact water quality in the Monterey Regional Stormwater Pollution Prevention Program (Phase II Permit). In support of coastal stormwater programs and in keeping with Coastal Act policies, Coastal Commission staff has been working with communities to update their Local Coastal Plans (LCPs). These LCPs serve to ensure that new development within the coastal zone receives adequate permit review to meet water quality protection objectives of the Coastal Act.

Given these concurrent activities and in the interest of providing coordinated information to local governments, it is important for Commission staff to provide comments to the Regional Board and permitted communities regarding actions to update and expand municipal ordinances to reflect new water quality protection objectives.

### **Coastal Commission water quality protection policy**

It is the Commission's view that all development should be permitted based on sound water quality protection objectives similar to those outlined in the guidelines of Attachment 4 to the Phase II NPDES Permit (although the Commission may require additional modifications to meet Coastal Act policies). While many municipalities are presently not subject to mandatory adherence to Attachment 4, Commission staff believes that prudent adoption of these guidelines today by all municipalities regardless of size will lead to coastal water quality protection as well as less expensive water quality upgrades and mitigation activities by the municipalities in the future. Regardless of who adopts the Attachment 4 guidelines voluntarily (where not mandated by the State Board), the Commission staff wish to inform the Regional Board and all municipalities of current Commission water quality objectives for LCP updates which are similar to those supported by Attachment 4.

It would be regrettable for municipalities to spend considerable time and expense updating their ordinances to meet the Phase II permit requirements (based on Attachment 4 standards or otherwise) and then be asked for additional ordinance modifications when applying for future LCP amendments. Commission staff has worked to ensure that Water Quality Provisions within Coastal Development Permits and Local Coastal Plans are supportive of, and complementary to Phase II permit requirements.

Since 2000, Commission staff has been working with municipalities to update their Local Coastal Programs to include a comprehensive water quality protection element. The element includes guidelines for Site Design and Source Control measures to be integrated into development within the coastal zone. This process is important to note for two reasons, 1) it reflects the special significance of coastal development on coastal water quality and supports the premise that all development has the potential to impact water quality but can be mitigated using simple cost effective site design principles (e.g.,

limiting impervious surfaces, maximizing on site infiltration), 2) the requirements of the pending Phase II permit is based on criteria adopted by the State Water Resources Control Board, and many of the municipalities within this program may initially not have to comply with Attachment 4 of the Phase II Permit. For those municipalities within the coastal zone that will seek an LCP update, however, we recommend that a water quality protection element similar to that outlined in Attachment 4 be included.

### **What is expected in an LCP update**

New development has the potential to adversely impact coastal water quality through the removal of native vegetation, increase of impervious surfaces, increase of runoff, erosion, and sedimentation, introduction of pollutants such as petroleum, heavy metals, cleaning products, fertilizers and pesticides, organics, and other pollutant sources. Section 30231 of the Coastal Act states that:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

New development often results in an increase in impervious surface, which in turn decreases the infiltrative function and capacity of existing permeable land on project sites. The reduction in permeable surface therefore leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site. Additionally, runoff from impervious surfaces can result in increased erosion and sedimentation.

These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes, reduce optimum populations of marine organisms and may have adverse impacts on human health. The goal of the LCP water quality policies is to protect and enhance water quality and the beneficial uses of local coastal waters and ground waters from adverse impacts related to land development.

### **New and redevelopment section for the Monterey Regional Stormwater Pollution Prevention Program**

All municipalities are required under Phase II of the federal stormwater regulations to "Use an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects to the extent allowable under State or local law. For those Small MS4s, the requirements must at least include the design standards contained in Attachment 4". The Monterey Regional Stormwater Pollution Prevention Program appropriately identifies improved planning and design of development, through upgrades to relevant ordinances, as one of the most cost-effective approaches to stormwater management.

Each of the municipalities represented by the Monterey Regional Stormwater Pollution Prevention Program has included a table outlining the steps to meet this Post Construction Runoff Control in New Development and Redevelopment requirement. However, since the objectives of these potential ordinance modifications are not described, it is not possible to evaluate how effective any modifications will be in encouraging the adoption of appropriate Best Management Practices (BMPs). While the time tables are adequate for development of sound ordinances, if certain components outlined below are not included, the ordinance will not be an effective tool in protecting water quality from the impacts of future development. Commission staff has identified several LCP/ordinance provisions, described below, which are necessary to review development for potential water quality impacts.

### **Local Implementation Plan Provisions**

Under state planning law and the California Environmental Quality Act (CEQA), the planning department is responsible for evaluating new development and redevelopment projects; therefore local planning departments must have a key role in implementing post-construction runoff control measures<sup>2</sup> and the water quality protection procedures within water quality ordinances. To meet the objectives of new water quality protection ordinances, the review of "new development and redevelopment" is best placed under the authority of the local Planning Director. A Water Quality Protection Ordinance should define what activities new development must undertake to protect water quality and outline what consideration applicants should make regarding Site Design, Source Control and Treatment Control BMPs in order to prevent polluted runoff and water quality impacts.

Commonly, plans detailing how stormwater and polluted runoff will be managed or mitigated are required for all projects that call for an Erosion and Sediment Control Plan (or equivalent). The basic design elements for all projects should, together, demonstrate how the project uses appropriate BMPs to minimize adverse effects of the project on water quality. For most well designed projects that are adequately set back from water resources, Site Design and Source Control BMPs can adequately protect water quality.

Other projects due to their size, purpose, operation or proximity to water resources may need to develop a plan showing how the development will adequately protect water quality. The plan should provide site-specific information on the potential of the development to impact water quality and propose a combination of advanced site design, stringent source control and, where necessary, treatment control BMPs designed to adequately protect water quality.

Development Standards, which specify BMP selection methods and sizing criteria, requirements for development on steep slopes, and standards related to specific types of development (e.g., commercial, restaurants) should also be part of a Water Quality Protection Ordinance.

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<sup>2</sup> County of Santa Barbara Storm Water Management Program 2003

Commission staff believes these plans, development standards, and other provisions of a Water Quality Protection Ordinance are necessary to ensure that new development and redevelopment does not contribute to coastal water quality degradation. The implementation of such an ordinance will ensure that all development is evaluated for potential adverse impacts to water quality and that applicants consider Site Design, Source Control and Treatment Control BMPs in order to prevent polluted runoff and water quality impacts resulting from the development. The Commission staff has reviewed the provisions outlined in the attachment of the Monterey Regional Phase II permit and concluded that these provisions do not provide sufficient detail to the public nor planning staff responsible for the development of a water quality protection ordinance that would be sufficient to be adopted as part of an LCP. We believe that water quality protection practices should be included in all future development and that all ordinance updates should at a minimum include guidance to incorporate site design and source control Best Management Practices in all future development.

Finally, while Commission's focus is primarily on the Coastal Zone, we strongly advise the adoption of strong water quality policies throughout the region represented by the Monterey Regional Stormwater Pollution Prevention Program, rather than only within the Coastal Zone or as defined by the permit boundary of the Monterey Regional Stormwater Management Program (fig. 3-1). Protecting water quality is a watershed effort and dissection of watersheds into political jurisdictions is often less effective than working toward comprehensive management of coastal resources.

We look forward to an opportunity to meet with the Regional Board and Monterey Regional municipalities regarding possible assistance we can provide in developing future LCP and ordinance language for protecting water quality. If you have any questions, please feel free to contact me at (415) 904-5265 or Ross Clark at (831) 427-4873.

Sincerely,



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California Coastal Commission

Ms. Jennifer Bitting  
April 16, 2004

Page 6

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