



California Regional Water Quality Control Board

Los Angeles Region



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August 28, 2007

Mr. Jeff Pratt, Director
Ventura Countywide Stormwater Quality Management Program
Ventura Watershed Protection District
800 South Victoria Avenue, L#1600
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Ventura County Municipal Storm Water Permittees

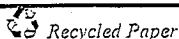
SECOND DRAFT VENTURA COUNTY MUNICIPAL SEPARATE STORM SEWER SYSTEM ORDER (NPDES PERMIT No. CAS004002) - LETTER OF TRANSMITTAL

Dear Mr. Pratt:

We are pleased to transmit to you the second draft National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) Order (attached) and waste discharge requirements for storm water discharges and non storm water discharges from the MS4 within the Ventura County Watershed Protection District, County of Ventura and the incorporated cities therein. The Ventura County MS4 order requires the Ventura County Watershed Protection District, herein referred to as the Principal Permittee, and other Co-Permittees to implement the NPDES Permit No. CAS004002, including the Reporting Program (Monitoring Report and Program Report).

Permittee comments and comments from the public and other interested persons on the second draft Ventura County MS4 Order are appreciated and due to the California Regional Water Quality Control Board, Los Angeles Region (Los Angeles Water Board) by **September 28, 2007**. Comments may be mailed to the Regional Water Board, attention: Xavier Swamikannu, Storm Water Permitting at the above address or e-mailed to: seconddraftVCMS4@waterboards.ca.gov. The Los Angeles Water Board will conduct a public workshop in the City of Ventura on September 20, 2007 to receive comment on the second draft Ventura County MS4 Order, but will not take any action. We plan on organizing this workshop into a series of topical discussions. Further detail on the format will follow. A future public meeting will be scheduled to consider adoption of the Ventura County MS4 Order by the Los Angeles Water Board.

California Environmental Protection Agency



Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

C000001

Mr. Jeff Pratt, Director
Ventura Countywide Stormwater Quality Management Program
Ventura Watershed Protection District

August 28, 2007

We welcome the Principal Permittee and other municipal Permittees' participation continued and assistance during the development of the MS4 permit. Should you have any question, please do not hesitate to call me at (213) 576-6609, or Dr. Xavier Swamikannu at (213) 620-2094.


Sincerely,



Deborah J. Smith
Interim Executive Officer

Enclosure

California Environmental Protection Agency

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Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

0000002

STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION

ORDER 07-xxx
NPDES PERMIT NO. CAS004002
WASTE DISCHARGE REQUIREMENTS
FOR
STORM WATER (WET WEATHER) AND NON-STORM WATER (DRY WEATHER)
DISCHARGES FROM
THE MUNICIPAL SEPARATE STORM SEWER SYSTEMS WITHIN THE VENTURA
COUNTY WATERSHED PROTECTION DISTRICT, COUNTY OF VENTURA AND
THE INCORPORATED CITIES THEREIN.

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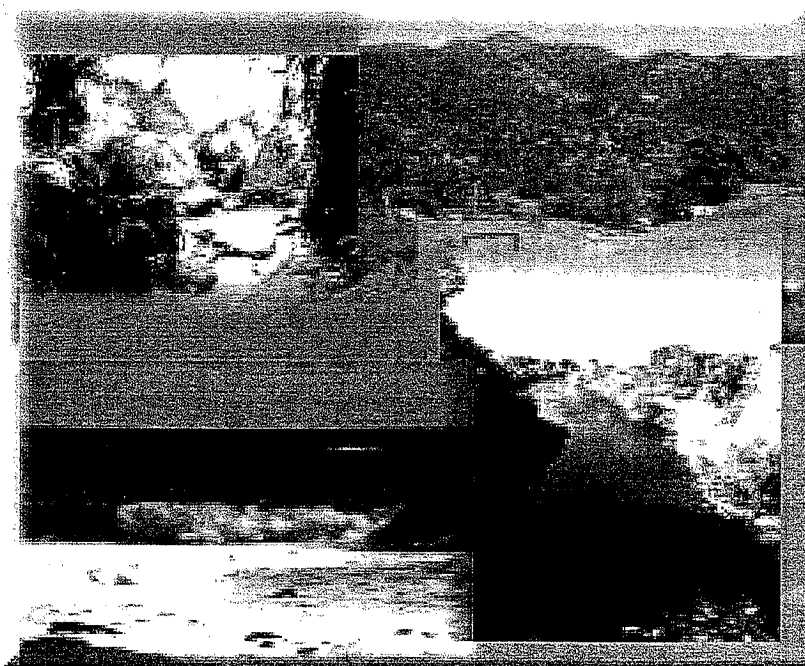


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STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION

ORDER 06-xxx
NPDES PERMIT NO. CAS004002
WASTE DISCHARGE REQUIREMENTS
FOR

STORM WATER DISCHARGES FROM THE MUNICIPAL SEPARATE STORM
SEWER SYSTEM WITHIN THE VENTURA COUNTY WATERSHED PROTECTION
DISTRICT, COUNTY OF VENTURA AND THE INCORPORATED CITIES THEREIN.

FINDINGS

The California Regional Water Quality Control Board, Los Angeles Region (hereinafter called Regional Water Board), finds that:

A. Permit Parties and History

1. Ventura County Watershed Protection District (Principal Permittee), County of Ventura, cities of Camarillo, Fillmore, Moorpark, Ojai, Oxnard, Port Hueneme, San Buenaventura (Ventura), Santa Paula, Simi Valley and Thousand Oaks (hereinafter referred to separately as Permittees) have joined together to form the Ventura Countywide Storm Water Quality Management Program to discharge wastes. The Permittees discharge or contribute to discharges of storm water and non-storm water from municipal separate storm sewer systems (MS4s), also called storm drain systems, into the Watershed Management Areas of Ventura River, Santa Clara River, Calleguas Creek, Malibu Creek and Miscellaneous Ventura Coastal all within Ventura County and Los Angeles County (see Attachment "A").
2. Storm water discharges from the Ventura County MS4 are covered under countywide waste discharge requirements contained in Order No. 00-108, adopted by the Regional Water Board on July 27, 2000, which replaced Order No. 94-082, adopted by the Regional Water Board on August 22, 1994. Order No. 00-108 also serves as a National Pollutant Discharge Elimination System (NPDES) permit for the discharge of municipal storm water.
3. The Regional Water Board may require a separate NPDES permit for any entity that discharges storm water into the watersheds of Ventura County. Such an entity can be any State or Federal facility, special district or other public or private party.

B. Nature of Discharge

1. Storm water discharges consist of surface water runoff generated from various land uses in all the hydrologic drainage basins, which discharge into Waters of the State. The quality of these discharges varies and is affected by geology, land use, season, hydrology, and sequence and duration of hydrologic events. Based on the Ventura Countywide Storm Water Monitoring Program's Water Quality Monitoring Reports which were required under Order No. 00-108, the dry weather and wet weather Pollutants of Concern (POC) include an anion, bacteria, conventional pollutants, metals, a nutrient, organic compounds, and pesticides. The POC are identified in Attachment "B" of this Order. Some of the POC are listed in the *California 2006 303(d) List of Water Quality Limited Segments*, (2006 Clean Water Act Section 303(d) List of Water Quality Limited Segments Requiring TMDLs, and 2006 Clean Water Act Section 303(d) List of Water Quality Limited Segments Being Addressed By USEPA Approved TMDLs), (June 28, 2007).
2. Water quality assessments conducted by the Regional Water Board identified impairments, or threatened impairments of the beneficial uses of water bodies in the Ventura County Watersheds. These impairments are due to many of the POC identified by the Ventura Countywide Storm Water Monitoring Program. These impairments are identified on the federal Clean Water Act (CWA) § 303(d) list of impaired water bodies.
3. Common pollutants in storm water and their respective sources are: bacteria from animal droppings and illegal discharges; Polycyclic Aromatic Hydrocarbons (PAHs) from the products of internal combustion engine operation and parking lot sealants wash off; nitrates from fertilizer application; pesticides from pest mitigating applications and from plant mitigating applications; bis (2-ethylhexyl) phthalate from the break down of plastic products; mercury from atmospheric fallout and improper disposal of mercury switches; lead from fuels, paints, automotive parts; copper from brake pad wear and roofing materials, zinc from tire wear and galvanized sheeting and fencing; sediment from land disturbance and erosion; and dioxins as products of combustion.
4. In general, the substances that are found in municipal storm water runoff can harm human health and aquatic ecosystems. In addition, the high volumes and high velocities of storm water discharged from MS4s into natural watercourses can adversely impact aquatic ecosystems and stream habitat and cause stream bank erosion and physical modifications. These changes are collectively termed hydromodification. Municipal point source discharges from urbanized areas remain a leading cause of impairment of surface waters in California.

5. Ammonia as Nitrogen, and Nitrate plus Nitrite Nitrogen are biostimulatory substances that can cause or contribute to eutrophic effects such as low dissolved oxygen and algae growth impairing warm freshwater and wildlife habitats. Ammonia is highly toxic to fish and other aquatic life. Excessive ammonia can cause aquatic life toxicity.
6. Elevated bacterial indicator densities impair the water contact recreation (REC-1) beneficial use at beaches, creeks, estuaries, lagoons, and marinas. Swimming in waters with elevated bacterial indicator densities has been associated with adverse health effects. Specifically, local and national epidemiological studies indicate that there is a causal relationship between adverse health effects and recreational water quality, as measured by bacterial indicator densities. Sources of elevated bacteria to marine and fresh waters may also include illegal discharges from improperly maintained onsite water treatment systems and illicit discharges from private drains.
7. Pesticides are substances used to prevent, destroy, repel or mitigate pests such as insects, weeds, and microorganisms. Their effects can be direct (e.g. fish die from a pesticide entering waterways, or birds do not reproduce after ingesting contaminated fish), or indirect (a hawk becomes sick from eating a mouse dying from pesticide poisoning). Pesticide categories include: Organochlorine, Organophosphorus, Organophosphate, and Pyrethroid.
8. Polychlorinated Byphenyls (PCBs) are a subset of the synthetic organic chemicals known as chlorinated hydrocarbons. Concern over PCBs toxicity, persistence (chemical stability) in the environment and that they have been shown to bioconcentrate significantly in aquatic organisms has led to prohibitions on PCBs.
9. Rising groundwater and swimming pool water have been found to be sources of pollutants such as salts (Chloride). Salts increase the salinity of otherwise freshwater systems and disrupt physiological processes. This Regional Water Board has water bodies listed on the CWA § 303(d) list for impairment due to salts and has adopted Basin Plan amendments to include Total Maximum Daily Loads (TMDLs) for salts, and this Order includes provisions to control the discharges from these activities in order to directly or indirectly reduce or eliminate the discharge of salts to fresh water systems where salts may impair water quality and beneficial uses.
10. Trash and debris are pervasive pollutants which accumulate in streams, rivers, bays, and ocean beaches throughout Southern California. It poses a serious threat to our oceans and coasts, navigation, biological resources, recreation, human health and safety, aesthetics, and economies.

11. Municipal storm water (wet weather) and non-storm water (dry weather) discharges may contain pollutants that cause or threaten to cause an exceedence of the water quality standards, as outlined in the Los Angeles Region's Basin Plan, wet weather and dry weather discharges are subject to the conditions and requirements established in the Basin Plan for point source discharges. The water quality standards must be complied with at all times, irrespective of the source and manner of discharge.
12. Ventura County has several water bodies listed on the *California's 2006 Section 303(d) List of Water Quality Limited Segments (2006 Clean Water Act Section 303(d) List of Water Quality Limited Segments Requiring TMDLs, and 2006 Clean Water Act Section 303(d) List of Water Quality Limited Segments Being Addressed By USEPA Approved TMDLs)*, (June 28, 2007). Biological communities act to integrate the effects of water quality conditions in a stream by responding with changes in their population abundances and species composition over time. These populations are sensitive to multiple aspects of water and habitat quality, and provide expressions of ecological health easier to understand than the results of chemical and toxicity tests. Biological assessments and criteria address the cumulative impacts of all stressors, especially habitat degradation, and chemical contamination, which result in a loss of biological diversity. Biological information can help provide an ecologically based assessment of the status of a waterbody. Bioassessment is a cost-effective tool and protocol for assessing the biological and physical/ habitat conditions of streams and rivers for evaluation of the overall health a watershed. This Order includes requirements to participate in the Southern California Storm Water Monitoring Coalition (SMC) Southern California Regional Bioassessment Monitoring Program.
13. The increased volume, increased velocity, and discharge duration of storm water runoff from developed areas has the potential to greatly accelerate downstream erosion and impair stream habitat in natural drainages. Studies have demonstrated a direct correlation between the degree of imperviousness of an area and the degradation of its receiving waters. Significant declines in the biological integrity and physical habitat of streams and other receiving waters have been found to occur with as little as 3-10 percent conversion from natural to impervious surfaces. Percentage impervious cover is a reliable indicator and predictor of potential water quality degradation expected from new development.
14. Studies indicate that facilities with paved surfaces subject to frequent motor vehicular traffic (such as: strip malls, parking lots, commercial business parks, and fast food restaurants), or facilities that perform vehicle repair, maintenance, or fueling (automotive service facilities) are potential sources of POC in storm water.

15. Retail Gasoline Outlets (RGOs) points of convergence for vehicular traffic and are similar to parking lots and urban roads. Studies indicate that storm water discharges from RGOs have high concentrations of hydrocarbons and heavy metals.
16. The industries and businesses listed in this Order that are to be inspected by Permittees have the potential to discharge contaminated storm water into the MS4, this storm water is an environmental threat because it can adversely impact public health and safety, and the quality of receiving waters. For example, pretreatment program compliance inspections and audits performed in the Los Angeles and Ventura Counties indicate that automotive service and food service facilities sometimes discharge-polluted storm water to the MS4s. The POC in such wash waters include oil and grease, toxic chemicals, and food waste. Spills from clogged sanitary sewer lines have a high likelihood to reach the receiving waters via MS4s. Overall, the most common POC identified in storm water discharge to the MS4s are: (i) heavy metals, (ii) oil and grease/ PAHs, (iii) sediments, (iv) oxygen demanding substances, (v) litter/ trash/ debris, (vi) nutrients, (vii) other toxic materials, such as pesticides. Municipal storm water monitoring data and industrial storm water monitoring data indicate that industrial and commercial sites continue to contribute significant quantities of pollutants in storm water runoff.
17. Development and urbanization increase pollutant loads, volume, and discharge velocity. First, natural vegetated pervious ground cover is converted to impervious surfaces (paved) such as highways, streets, rooftops and parking lots. Natural vegetated soil can both absorb rainwater and remove pollutants providing an effective natural purification process. In contrast, impervious surfaces (pavement and concrete) can neither absorb water nor remove pollutants, and thus the natural purification characteristics are lost. Second, urban development creates new pollution sources as the increased density of human population brings proportionately higher levels of vehicle emissions, vehicle maintenance wastes, municipal sewage waste, pesticides, household hazardous wastes, pet wastes, trash, and other anthropogenic pollutants. Development and urbanization especially threaten environmentally sensitive areas. Such areas have a much lower capacity to withstand pollutant shocks than might be acceptable in the general circumstance. In essence, development that is ordinarily insignificant in its impact on the environment may in a particular sensitive environment become significant. These environmentally sensitive areas (ESAs) designated by the State include:
 - (a) Regional Water Board's areas listed in the Basin Plan as supporting the "Rare, Threatened, or Endangered Species (RARE)" Beneficial Use; and
 - (b) California Coastal Commission's Environmentally Sensitive Habitat Areas as delineated on maps in Local Coastal Plans (LCPs).

18. The Regional Water Board adopted a Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands (Order No. R4-2005-0080) on November 3, 2005. The objective of the program is to monitor runoff from irrigated agriculture facilities in the coastal watersheds of Ventura and Los Angeles Counties. The Regional Water Board's Basin Plan, which designates beneficial uses and establishes water quality objectives for the Region, recognizes that agricultural activities can generate pollutants such as sediment, pesticides, and nutrients that upon discharge to receiving water, can degrade water quality and impair beneficial uses. A category identified by the Conditional Waiver as a source of pollutants is nursery operations. This Order includes requirements for the municipal operator to insure that nursery operators implement pollutant reduction and control measures with the objective of reducing pollutants in storm water runoff discharges.
19. Research conducted on the contribution of aerial deposition of trace heavy metals in Los Angeles County watersheds indicates that dry indirect deposition may account for a significant load of pollutants into surface waters. Similar patterns of aerial deposition likely occur in Ventura County. Of the atmospherically deposited pollutants on the watersheds, ten to twenty percent may account for the total load for copper, zinc, nickel, lead, and chromium to the water bodies. Land reservoirs and sequestration may account for the remaining ninety to eighty percent of the atmospherically deposited pollutants on the watersheds. Emissions of semi-volatile organics such as polycyclic aromatic hydrocarbons (PAHs) and pesticides and their subsequent deposition may contribute to the contamination of receiving waters but appear to be less significant. The Los Angeles Regional Water Board will coordinate with the South Coast Air Quality Management Districts, the California Air Resources Board, and other governmental agencies to address multimedia sources of pollution that may contribute to pollution of surface waters.

C. Permit Background

1. The essential components of the Storm Water Management Program, as established by the Code of Federal Regulations (CFR) [40 CFR 122.26(d)] are:
 - (a) Adequate Legal Authority.
 - (b) Fiscal Resources.
 - (c) Storm Water Quality Management Program (SMP).
 - (1) Public Information and Participation Program.
 - (2) Industrial/ Commercial Facilities Program.
 - (3) Planning and Land Development Program.
 - (4) Development Construction Program.
 - (5) Public Agency Activities Program.
 - (6) Illicit Connection and Illicit Discharges Elimination Program.
 - (d) Reporting Program (Monitoring Report and Program Report).

Second draft Ventura County Municipal Separate Storm Sewer System Permit

2. The Ventura County SMP, dated November 2001 (revision 2) identifies seven program areas, which are listed below and were previously approved under Board Order No. 00-108.
 - (a) Ventura County SMP.
 - (1) Program Management.
 - (2) Programs for Residents.
 - (3) Programs for Industrial/ Commercial Businesses.
 - (4) Programs for Planning and Land Development.
 - (5) Programs for Construction Sites.
 - (6) Programs for Public Agency Activities.
 - (7) Programs for Illicit Connections/ Illegal Discharges.
 - (b) For purposes of region-wide consistency, the program titles are revised and consolidated into the six areas listed in the preceding C.1(c). All Permittee storm water documents submitted to the Regional Water Board are to follow the organization enumerated in C.1(c).
3. The Permittees filed a Report of Waste Discharge (ROWD), dated January 26, 2005. The Permittees applied for renewal of their waste discharge requirements for a 5-year period, which serves as an NPDES permit to discharge wastes to surface waters.
4. The Regional Water Board reviewed the ROWD and determined it to be partially complete under the reapplication policy for MS4s issued by the United States Environmental Protection Agency (U.S. EPA) (61 Fed. Reg. 41697). The Regional Water Board has prepared this Order so that implementation of provisions contained in this Order by Permittees will meet the requirements of the federal NPDES regulations at 40 CFR 122.26.
5. The Permittees Report of Waste Discharge contained a proposed Storm Water Management Program and a Monitoring Program to be considered by the Regional Water Board for incorporation into an MS4 NPDES Permit as permit conditions and to demonstrate compliance with federal law. The Permittees did not elect to pursue a permit with numeric "end-of-pipe" limits for wet weather discharges, which would have required them to satisfy specific effluent limitations rather than implement storm water management programs. Where a MS4 Permittee voluntarily chooses a BMP based storm water management program as permit effluent limitations rather than "end-of-pipe" numeric effluent limits, there exists no compulsion of a specific regulatory scheme that would violate the U.S. constitution's 10th Amendment clause. (City of Abilene V. EPA, 325 F.3d 657 (5th Cir., 2003)).

6. To-date, the monitoring program has consisted of mass emission, receiving water (tributaries), and land-use monitoring stations, toxicity testing, special studies for bio-assessment of the Ventura River and hydrology, identification of ESAs, implementation of the Storm Water Quality Urban Impact Mitigation Plan (SQUIMP), and provides support for volunteer monitoring programs. This Order requires a monitoring program consisting of mass emission, toxicity, TMDL storm water (wet weather) MS4 WQBEL, TMDL non-storm water (dry weather) MS4 WQBEL, trash and debris study, Pyrethroid assessment that includes bio-assessment of Calleguas Creek tributary stations, continuation of the hydromodification study, low impact development study, participation in the Southern California Regional Bioassessment Program and Southern California Bight Project (SCBP).
7. The Principal Permittee is a member of the Southern California Coastal Water Research Project (SCCWRP) Commission. The Principal Permittee also participates in the Regional Monitoring Programs and research partnerships, such as the Southern California Storm Water Monitoring Coalition (SMC) and the Bioassessment Working Group.

D. Permit Coverage

1. The area covered by this Order includes all areas within Ventura County boundaries and all areas within the Municipalities' boundaries (see Figure 1) that are within the Regional Water Board's jurisdiction except for agricultural lands and forest lands. Storm water runoff in these areas are discharged to the watercourses covered by this Order (see Attachment "A"). Provisions of this Order apply to the urbanized areas of the municipalities, areas undergoing urbanization and areas which the Regional Water Board Executive Officer determines are discharging storm water that causes or contributes to a violation of a water quality standard or is a significant contributor of pollutants to the waters of the United States pursuant to CWA § 402(p)(2)(E).
2. The Permittees covered under this Order were designated on a system-wide basis under Phase I of the CWA § 402(p)(3)(B)(i). The action of covering all Ventura County municipalities under a single MS4 permit on a system-wide basis was consistent with the provisions of 40 CFR 122.26(a)(3)(iv), which states that one permit application may be submitted for all or a portion of all municipal separate storm sewers within adjacent or interconnected large or medium municipal separate storm sewer systems; and the Regional Water Board may issue one system-wide permit covering all, or a portion of all municipal separate storm sewers in adjacent or interconnected large or medium municipal separate storm sewer systems.

3. Federal, State, Regional, or local entities within the Permittees' boundaries or in jurisdictions outside the Ventura County Watershed Protection District, and not currently named in this Order, may operate storm drain facilities and/ or discharge storm water to storm drains and watercourses covered by this Order. The Permittees may lack legal jurisdiction over these entities under State and Federal constitutions. The Regional Water Board will work with these entities to ensure the implementation of programs that are consistent with the requirements of this Order.
4. TMDLs are numerical calculations of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards, and an allocation of that amount to the pollutant's sources. A TMDL is the sum of the allowable loads of a single pollutant from all contributing points (Waste Load Allocation (WLA) and non-point sources (Load Allocation (WL))). Storm water (wet weather) and non-storm water (dry weather) discharges from MS4s are considered point sources.
5. This Order addresses MS4 WLAs that have been adopted by the Regional Water Board and have been approved by the Office of Administrative Law and the U.S. EPA. The TMDL WLAs in the Order are expressed as water quality-based effluent limits (WQBELs) in numerical form.
6. The CWA and the California Water Code contain specific provisions on how wastewater discharges from point sources are to be permitted. Urban non-storm water (dry weather) discharge is not considered a storm water (wet weather) discharge.
7. Permittees are to work cooperatively to control the contribution of pollutants from one portion of the MS4 to another portion of the system through inter-agency agreements or other formal arrangements.

E. Federal, State and Regional Regulations

1. The Water Quality Act of 1987 added § 402(p) to the CWA (33U.S.C. § 1251-1387). This section requires the U.S. EPA to establish regulations setting forth NPDES requirements for storm water discharges in 2 phases.
 - (a) U.S. EPA Phase I storm water regulations were directed at MS4s serving a population of 100,000 or more, including interconnected systems and storm water discharges associated with industrial activities, including construction activities. The Phase 1 Final Rule was published on November 16, 1990 (55 Fed. Reg. 47990).
 - (b) U.S. EPA Phase II storm water regulations are directed at storm water discharges not covered in Phase I, including small MS4s (population of less than 100,000), small construction projects (less than 5 acres), municipal facilities with delayed

coverage under the Intermodal Surface Transportation Efficiency Act of 1991, and other discharges for which the U.S. EPA Administrator or the State determines that the storm water discharge contributes to a violation of a water quality standard, or is a significant contributor of pollutants to waters of the U.S. The Phase II Final Rule was published on December 8, 1999 (64 Fed. Reg. 68722).

2. The U.S. EPA published an 'Interpretative Policy Memorandum on Reapplication Requirements for MS4 permits on August 9, 1996 (61 Fed. Reg. 41697). This policy requires that MS4 reapplication for reissuance for a subsequent five-year permit term contain certain basic information and information for proposed changes and improvements to the storm water management program and monitoring program.
3. The U.S. EPA has entered into a Memorandum of Agreement (MOA) with the U.S. Fish and Wildlife Service, and the National Marine Fisheries Service for enhancing coordination regarding the protection of endangered and threatened species under Section 7 of the Endangered Species Act, and the CWA's water quality standards and NPDES programs. Among other actions, the MOA establishes a framework for coordination of actions by the U.S. EPA, the Services, and CWA delegated States on CWA permit issuance under § 402 of the CWA [66 Fed. Reg. 11202-11217].
4. The CWA allows the U.S. EPA to delegate its NPDES permitting authority to states with an approved environmental regulatory program. The State of California is a delegated State. The Porter-Cologne Water Quality Control Act (California Water Code) authorizes the State Water Resources Control Board (State Water Board), through the Regional Water Boards, to regulate and control the discharge of pollutants into waters of the State and tributaries thereto.
5. The State Water Board submits a report (a list of water quality limited segments (§ 303[d] list)) on the State's water quality to the U.S. EPA pursuant to § 305(b) of the 1972 CWA; and Title 40, CFR § 130.7, every 2 years. The Report provides water quality information to the general public and serves as the basis for U.S. EPA's National Water Quality Inventory Report to Congress. Title 40 CFR § 130.7(b)(1) provides that water bodies included on State CWA § 303(d) lists are those water bodies for which pollution controls required by local, State, or federal authority, including technology-based or more stringent point source effluent limitations or nonpoint source BMPs, are not stringent enough to implement any water quality standard applicable to such waters. Title 40 CFR § 130.7(b)(3) defines "water quality standard applicable to such waters" as "those water quality standards established under § 303 of the [Clean Water] Act, including numeric criteria, narrative criteria, waterbody uses, and antidegradation requirements."

6. Under CWA § 303(d) of the CWA, States are required to identify a list of impaired water-bodies and develop and implement TMDLs for these water bodies (33 USC § 1313(d)(1)). The most recent 303(d) list's U.S. EPA approval date was June 28, 2007. A TMDL specifies that maximum amount of a pollutant that a water-body can receive, still meet applicable water quality objectives and protect beneficial uses. The U.S. EPA entered into a consent decree with the Natural Resources Defense Council (NRDC), Heal the Bay, and the Santa Monica BayKeeper on March 22, 1999, under which the Regional Water Board must adopt all TMDLs for the Los Angeles Region within 13 years from that date. This Order incorporates a provision to implement and enforce approved WLAs for municipal storm water discharges and requires amending the SMP after pollutant loads have been allocated and approved.
7. A number of water bodies in Ventura County have been identified as being impaired and those impairments are being addressed by U.S. EPA approved TMDLs. The TMDL process has identified that pollutants in storm water (wet weather) and non-storm water (dry weather) discharges have the reasonable potential to cause or contribute to the impairment of beneficial uses and exceedences of water quality standards (WQS) in these 303(d) listed water bodies within Ventura County. Through the TMDL development process Wasteload Allocations (WLAs) have been assigned to point sources. Particularly, discharges from MS4s have been identified as causing or contributing to exceedences of WQS. WLAs must be incorporated into permit conditions as mandated by federal laws and regulations. More specifically WLAs must be translated into "end of pipe" effluent limitations and conditions in NPDES permits that are consistent with the requirements and assumptions of the TMDL (*U.S. EPA November 22, 2002, Memorandum on Storm Water Sources NPDES Permit Requirements Based on WLAs Established by TMDLs*). Furthermore, U.S. EPA is of the opinion that "any discharger contributing to the impairment, at whatever level, shares in the burden of bringing the water body back into attainment of beneficial uses...Any increase in loading of a pollutant to a waterbody that is impaired because of that pollutant would presumably degrade water quality in violation of applicable anti-degradation policy." (*U.S. EPA Region 9 Draft Permitting Guidance for Permitting Discharges Into Impaired Waterbodies in Absence of a TMDL, May 9, 2000*).
8. § 301(b) of the CWA and § 122.44(d) require that permits include limitations necessary to achieve applicable water quality standards. NPDES regulations in section 122.44(d)(1)(i) mandates that permits include effluent limitations for all pollutants that are or may be discharged at levels that have the reasonable potential to cause or contribute to an exceedence of a water quality standard, including numeric and narrative objectives within a standard. Where reasonable potential has been established for a pollutant through the TMDL process, WLAs must be translated to water quality-based effluent limitations (WQBELs). Collectively, the restrictions

contained in the Total Maximum Daily Load Provisions for Storm Water (Wet Weather) Discharges and Non-Storm Water (Dry Weather) Discharges - Parts 6 and 7 of this Order on individual pollutants are no more stringent than required to implement the provisions of the CWA.

9. The Total Maximum Daily Load Provisions for Non-Storm Water (Dry Weather) Discharges - Part 7 of this Order is issued pursuant to § 402 of the CWA and implementing regulations adopted by the U.S. EPA, and chapter 5.5, division 7 of the California Water Code (CWC, commencing with section 13370). It shall serve as permitting point source discharges of dry weather non-storm water discharges from the MS4 in reaches for which TMDLs have been adopted and WLAs were apportioned to point sources. Where a TMDL has been approved, NPDES permits must contain effluent limits and conditions consistent with the assumptions and requirements of the available WLAs in TMDLs (40 CFR § 122.44(d)(1)(vii)(B)).
10. This Order does not constitute an unfunded local government mandate subject to subvention under Article XIII B, Section (6) of the California Constitution for several reasons, including, but not limited to, the following. This Order implements federally mandated requirements under CWA § 402, subdivision (p)(3)(B). (33 U.S.C. § 1342(p)(3)(B).) This includes federal requirements to effectively prohibit non-storm water discharges, to reduce the discharge of pollutants to the maximum extent practicable, and to include such other provisions as the Administrator or the State determines appropriate for the control of such pollutants. Federal cases have held these provisions require the development of permits and permit provisions on a case-by-case basis to satisfy federal requirements. (Natural Resources Defense Council, Inc. v. U.S. E.P.A. (9th Cir. 1992) 966 F.2d 1292, 1308, fn. 17.) The authority exercised under this Order is not reserved state authority under the Clean Water Act's savings clause (cf. Burbank v. State Water Resources Control Bd. (2005) 35 Cal.4th 613, 627-628 [relying on 33 U.S.C. § 1370, which allows a state to develop requirements which are not "less stringent" than federal requirements]), but instead, is part of a federal mandate to develop pollutant reduction requirements for municipal separate storm sewer systems. To this extent, it is entirely federal authority that forms the legal basis to establish the permit provisions. (See, City of Rancho Cucamonga v. Regional Water Quality Control Bd.-Santa Ana Region (2006) 135 Cal.App.4th 1377, 1389; Building Industry Ass'n of San Diego County v. State Water Resources Control Bd. (2004) 124 Cal.App.4th 866, 882-883.)

Likewise, the provisions of this Order to implement TMDLs are federal mandates. The CWA requires TMDLs to be developed for water bodies that do not meet federal water quality standards. (33 U.S.C. § 1313(d).) Once the U.S. EPA or a state develops a TMDL, federal law requires that permits must contain effluent limitations

consistent with the assumptions of any applicable wasteload allocation.
(40 C.F.R. § 122.44(d)(1)(vii)(B).)***]

11. Under § 6217(g) of the Coastal Zone Act Reauthorization Amendments of 1990 (CZARA), Coastal States with approved coastal zone management programs are required to address non-point pollution impacting or threatening coastal water quality. CZARA addresses five sources of non-point pollution: 1) agriculture; 2) silviculture; 3) urban; 4) marinas; and 5) hydromodification. This Waste Discharge Requirement addresses the management measures required for the urban category and the hydromodification category, with the exception of septic systems.
12. The Regional Water Board addresses septic systems through the administration of non-Chapter 15 regulatory programs and the implementation of Regional Water Board Order No.R4-2004-0146. Septic systems are also addressed under State Assembly Bill (AB) 885 (2000). The Regional Water Board will implement and enforce regulations issued by the State Board pursuant to AB 885. Taken together, these State and Local agency requirements when imposed on septic system operators are expected to reduce the bacterial contamination of storm water from improperly maintained septic systems.
13. On May 18, 2000, the U.S. EPA established numeric criteria for priority toxic pollutants for the State of California (California Toxics Rule (CTR) 65 Fed. Reg. 31682 (40 CFR 131.38) for the protection of human health and aquatic life. These apply as ambient water quality criteria for inland surface waters, enclosed bays and estuaries. The State Board adopted the *Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays and Estuaries of California* (SIP) - 2000, on March 2, 2000, for implementation of the CTR (State Board Resolution No. 2000-15, as amended by Board Resolution No. 2000-030). This policy requires that discharges comply with TMDL derived load allocations as soon as possible, but no later than 20 years from the effective date of the policy.
14. The State Water Board adopted a revised Water Quality Control Plan for Ocean Waters of California (Ocean Plan) in 2005. The California Ocean Plan establishes water quality objectives for California's ocean waters and provides the basis for regulation of wastes discharged into the State's coastal waters. It applies to point and nonpoint source discharges. The Ocean Plan identifies the applicable beneficial uses of marine waters that include preservation and enhancement of designated Areas of Special Biological Significance (ASBS) (now called "State Water Quality Protection Areas") and establishes a set of narrative and numerical water quality objectives designed to protect beneficial uses. The SWRCB adopts the California Ocean Plan, and both the SWRCB and the six coastal Regional Water Quality Control Boards (RWQCBs) implement and interpret the California Ocean Plan.

15. This Regional Water Board adopted a revised Water Quality Control Plan (Basin Plan) for the Los Angeles Region on June 13, 1994. The Basin Plan, which is incorporated into this Order by reference, specifies the beneficial uses of Ventura County water bodies and their tributary streams, and contains both narrative and numerical water quality objectives for these receiving waters. The following beneficial uses identified in the Basin Plan apply to all or portions of each watershed covered by this Order:
- (a) Municipal and domestic supply.
 - (b) Agricultural supply.
 - (c) Industrial service supply.
 - (d) Industrial process supply.
 - (e) Ground water recharge.
 - (f) Freshwater replenishment.
 - (g) Navigation.
 - (h) Hydropower generation.
 - (i) Water contact recreation.
 - (j) Non-contact water recreation.
 - (k) Ocean commercial and sport fishing.
 - (l) Warm freshwater habitat.
 - (m) Cold freshwater habitat.
 - (n) Preservation of Areas of Special Biological Significance.
 - (o) Saline water habitat.
 - (p) Wildlife habitat.
 - (q) Preservation of rare and endangered species.
 - (r) Marine habitat.
 - (s) Fish migration.
 - (t) Fish spawning.
 - (u) Shellfish harvesting.
16. On March 22, 1999 the Consent Decree in Heal the Bay, Inc.; Santa Monica BayKeeper, Inc. v. Browner, Case No. 98-4825 SBA was approved. Under Establishment of TMDLs- The parties understand that California has the initial opportunity pursuant to § 303(d) of the CWA to adopt and submit to U.S. EPA for approval TMDLs to be established under this Consent Decree. TMDLs developed by Regional Water Boards are adopted as Basin Plan amendments in order to include implementation provisions. The TMDL process follows the procedure below:
- (a) Regional Water Board adopts.
 - (b) State Water Board approves.
 - (c) Office of Administrative Law approves.
 - (d) U.S. EPA (Region 9) approves.
 - (e) State Resources Agency final fee exemption letter.

17. The Regional Water Board has adopted amendments to the Basin Plan, to incorporate TMDLs for the following:
- (a) U.S. EPA approved TMDL allocations to NPDES regulated storm water discharges in the form of WLAs and unregulated storm water in the form of LAs.
 - (1) Santa Clara River - Nitrogen Compounds.
 - (A) Regional Water Board Resolution No. 2003-011.
 - (B) State Water Board Resolution No. 2003-0073.
 - (C) OAL file No. 04-0123-35.
 - (D) U.S. EPA approval date March 18, 2004.
 - (E) Final fee exemption date March 23, 2004 (effective date).
 - (F) Compliance is 1 year after effective date (March 23, 2005).
 - (2) Malibu Creek and Lagoon - Bacteria.
 - (A) Regional Water Board Resolution No. 2004-019.
 - (B) State Water Board Resolution No. 2005-0072.
 - (C) OAL file No. 05-1018-03 S.
 - (D) U.S. EPA approval date January 10, 2006.
 - (E) Final fee exemption date January 24, 2006 (effective date).
 - (F) Compliance for Summer Dry is 3 years after effective date (January 24, 2009).
 - (G) Compliance for Winter Dry is 6 years after effective date (January 24, 2012).
 - (H) Compliance for Wet Weather is 10 years after effective date (January 24, 2016), which is beyond the term of this Order.
 - (3) Toxicity, Chlorpyrifos and Diazinon in the Calleguas Creek, Its Tributaries and Mugu Lagoon.
 - (A) Regional Water Board Resolution No. 2005-009.
 - (B) State Water Board Resolution No. 2005-0067.
 - (C) OAL file No. 05-1110-02 S.
 - (D) U.S. EPA approval date March 14, 2006.
 - (E) Final fee exemption date March 24, 2006 (effective date).
 - (F) Compliance for Toxicity and Interim WLA is effective date (March 24, 2006).
 - (G) Compliance for Final WLA is 2 years after effective date (March 24, 2008).

- (4) Organochlorine (OC) Pesticides, Polychlorinated Biphenyls (PCBs), and Siltation in Calleguas Creek, Its Tributaries and Mugu Lagoon.
 - (A) Regional Water Board Resolution No. 2005-010.
 - (B) State Water Board Resolution No. 2005-0068.
 - (C) OAL file No. 05-1206-03 S.
 - (D) U.S. EPA approval date March 14, 2006.
 - (E) Final fee exemption date March 24, 2006 (effective date).
 - (F) Compliance for Interim WLA is effective date (March 24, 2006).
 - (G) Compliance for Final WLA is 20 years after effective date (March 24, 2026), which is beyond the term of this Order.

- 18. The Regional Water Board adopted and approved requirements for new development and significant redevelopment projects in Ventura County to control the discharge of storm water pollutants in post-construction storm water, on January 26, 2000, in Board Resolution No. R-00-02. The Regional Water Board Executive Officer issued the approved Standard Urban Storm Water Mitigation Plans (SUSMPs) on March 8, 2000 for Los Angeles County and the Cities in Los Angeles County. Since 2000, new development and redevelopment water quality criteria have been implemented by the Permittees to be consistent with SUSMP. The State Board affirmed the Regional Water Board action and SUSMPs in State Board Order No. WQ 2000-11, issued on October 5, 2000.
 - (a) A statewide policy memorandum (dated December 26, 2000), which interprets the Order to provide broad discretion to Regional Water Boards and identifies potential future areas for inclusion in SUSMPs and the types of evidence and findings necessary. Such areas include ministerial projects, projects in environmentally sensitive areas, and water quality design criteria for RGOs. The Regional Water Board properly justified the extensions of SUSMPs and water quality criteria to ministerial projects, projects in environmentally sensitive areas, and RGOs, during the adoption of Regional Water Board Order 01-182. The Regional Water Board's action was upheld by the County of Los Angeles Superior Court (In Re: Los Angeles County Municipal Storm Water Permit Litigation, Lead Case No. BS 080548, Statement of Decision, Superior Court Central Civil West, March 24, 2005).
 - (b) The State Water Board's Chief Counsel interpreted the Order to encourage regional solutions and endorsed a mitigation fund or "bank" as alternatives for new development and significant redevelopment. The Regional Water Board has included provisions for Regional solutions and the establishment of a mitigation bank in this Order.

19. The Regional Water Board supports Watershed Management planning to address water quality protection in the region. The objective of the Watershed Management planning is to provide a comprehensive and integrated strategy towards water resource protection, enhancement, and restoration while balancing economic and environmental impacts within a hydrologically defined drainage basin or watershed. It emphasizes cooperative relationships between regulatory agencies, the regulated community, environmental groups, and other stakeholders in the watershed to achieve the greatest environmental improvements with available resources.
20. To facilitate compliance with federal regulations, the State Water Board has issued the following 4 Statewide General NPDES Permits associated with storm water:
 - (a) Industrial General Permit (IASGP- Industrial Activities Storm Water General Permit), NPDES No. CAS000001, issued on November 19, 1991, reissued on September 17, 1992 and April 17, 1997, currently under review for reissuance.
 - (b) Construction General Permit (CASGP- Construction Activities Storm Water General Permit), NPDES No. CAS000002, issued on August 20, 1992, reissued August 19, 1999, currently under review for reissuance.
 - (c) Small Linear Underground/ Overhead Construction Projects General Permit (small LUPs), NPDES No. CAS000005, issued on June 18, 2003.
 - (d) Small MS4 Permit WQ Order No. 2003-0005-DWQ adopted on April 30, 2003.
21. Facilities discharging storm water associated with industrial activities, construction projects that disturb 1 or more acres of soil, or construction projects that disturb less than 1 acre but are part of a larger common plan of development or sale that in total disturbs 1 or more acres, and construction activities associated with small linear underground/ overhead projects that result in land disturbances greater than one acre, but less than five acres (small LUPs), are all required to obtain individual NPDES permits for storm water discharges, or be covered by the statewide General Permits by completing and filing a Notice of Intent (NOI) with the State Board. The U.S. EPA guidance anticipates coordination of the state-administered programs for industrial and construction activities with the local agency program to reduce pollutants in storm water discharges to the MS4.
22. State Water Board Resolution No. 68-16 contains the state Antidegradation Policy, titled "Statement of Policy with Respect to Maintaining High Quality Waters in California (Resolution 68-16), applies to all waters of the state, including ground waters of the state, whose quality meets or exceeds (is better than) water quality objectives. Resolution No. 68-16 incorporates the federal Antidegradation Policy (40 CFR Section 131.12) where the federal policy applies, (State Water Board Order WQO 86-17). Both, state and federal antidegradation policies acknowledge that an activity that results in a minor water quality lowering, even if incrementally small,

can result in violation of Antidegradation Policies through cumulative effects, for example, when the waste is a cumulative, persistent, or bioaccumulative pollutant.

(a) State Water Board Resolution No. 68-16 establishes essentially a 2-step process for compliance with the policy.

(1) Step 1- if a discharge will degrade high quality water, the discharge may be allowed if any change in water quality:

(A) Will be consistent with maximum benefit to the people of the State.

(B) Will not unreasonably affect present and anticipated beneficial use of such water.

(C) Will not result in water quality less than that prescribed in state policies (e.g., water quality objectives in Water Quality Control Plans).

(2) Step 2- any activities that result in discharges to high quality waters are required to:

(A) Meet waste discharge requirements that will result in the best practicable treatment or control of the discharge necessary to avoid a pollution or nuisance.

(B) Maintain the highest water quality consistent with the maximum benefit to the people of the State.

(i) If such treatment or control results in a discharge that maintains the existing water quality, then a lowering of water quality would not be consistent with state Antidegradation Policy.

(ii) Likewise, the discharge could not be allowed under state Antidegradation Policy if:

(I) The discharge, even after treatment, would unreasonably affect beneficial uses; or

(II) The discharge, would not comply with applicable provisions of Water Quality Control Plans.

23. The Hydromodification Control and Low Impact Development (LID) provisions of this Order are intended to promote the State Water Board and Federal Antidegradation policies by preventing water quality and habitat degradation (beneficial use).

24. The State Water Board on June 17, 1999, adopted Order No. WQ 99-05, which specifies standard receiving water limitation language to be included in all municipal storm water permits issued by the State and Regional Water Boards.

25. Cal. Water Code § 13263(a) requires that waste discharge requirements issued by Water Boards shall implement any relevant water quality control plans that have been adopted; shall take into consideration the beneficial uses to be protected and the water quality objectives reasonably required for that purpose; other waste discharges; and the need to prevent nuisance.

26. Cal. Water Code § 13370 et. seq. requires that waste discharge requirements issued by the Water Boards implement the provisions of the CWA (33 U.S.C. Sec. 1251 et seq.) and acts amendatory thereof or supplementary thereto, and federal regulations and guidelines issued pursuant thereto.
27. The California State Assembly passed AB 1721 (Pavley Environmental Education) on September 8, 2005, to add § 13383.6 to the Water Code, relating to environmental education. On and after January 1, 2007, if a Regional Water Board or the State Board issues a municipal storm water permit pursuant to § 402(p) of the CWA (33 U.S.C. Sec. 1342(p)) that includes a requirement to provide elementary and secondary public schools with educational materials on storm water pollution, the Permittee may satisfy the requirement, upon approval by the Regional Water Board or State Board, by contributing an equivalent amount of funds to the Environmental Education Account established pursuant to subdivision (a) of § 71305 of the Public Resources Code.

F. Implementation

1. The California Environmental Quality Act (CEQA) (Cal. Pub. Resources Code § 2100 et seq.) requires that public agencies consider the environmental impacts of the projects they approve for development. CEQA applies to projects that are considered discretionary (a governmental agency can use its judgment in deciding whether and how to carry out or approve a project, § 15357) and does not apply to ministerial projects (the law requires a governmental agency to act on a project in a set way without allowing the agency to use its own judgment, § 15369). A ministerial project may be made discretionary by adopting local ordinance provisions or imposing conditions to create decision-making discretion in approving the project. In the alternative, Permittees may establish standards and objective criteria administratively for storm water mitigation for ministerial projects. For water quality purposes regardless of whether a project is discretionary or ministerial, the Regional Water Board considers that all new development and significant redevelopment activity in specified categories, that receive approval or permits from a municipality, are subject to storm water mitigation requirements.
2. The objective of this Order is to protect the beneficial uses of receiving waters in Ventura County. To meet this objective, the Order requires that Best Management Practices (BMPs) will be implemented to reduce the discharge of pollutants in storm water to the maximum extent practicable (MEP), and achieve water quality objectives and standards. The U.S. EPA envisioned that municipal storm water program would be implemented in an iterative manner and improved with each iteration by using information and experience gained during the previous permit term (*Interpretative Policy Memorandum on Reapplication Requirements for MS4 permits* -

61 Fed. Reg. 41697). Municipalities are required to evaluate what is effective and make improvements in order to protect beneficial uses of receiving waters. This Order requires implementation of an effective combination of pollution control and pollution prevention measures, education, public outreach, planning, and implementation of source control BMPs and Structural and Treatment Control BMPs. The better-tailored BMPs combined with the performance objectives outlined in this Order have the purpose of attaining water quality objectives and standards (*Interim Permitting Approach for Water Quality-Based Effluent Limitations in Storm Water Permits*- 61 Fed. Reg. 43761). Where WLAs have been adopted for storm water (wet weather) and non-storm water (dry weather) discharges from MS4s, this Order requires Permittees to implement controls to achieve the WLAs within the compliance schedule provided in the TMDLs.

3. The implementation of measures set forth in this Order are reasonably expected to reduce the discharge of pollutants conveyed in storm water (wet weather) and non-storm water (dry weather) discharges into receiving waters, and to meet the TMDL WLAs for storm water (wet weather) and non-storm water (dry weather) discharges from MS4s that have been adopted by the Regional Water Board.
4. The U.S. EPA has recommended that all future TMDLs and TMDL amendments be expressed as daily increments consistent with a federal court ruling (*Friends of the Earth, Inc. v. EPA, et al.* No. 05-5015 (D.C. Cir. 2006)). However, this interpretation does not affect the discretionary authority of the Regional Water Board to express NPDES permit limits and conditions in non daily terms because there is no express or implied statutory limitation (CWA §502(11)) (*Establishing TMDL "Daily Loads" in Light of the Decision by the U.S. Court of Appeals for the D.C. Circuit in Friends of the Earth, Inc. v. EPA, et al. (April 2006) and Implications for NPDES Permits*, U.S. EPA Office of Water, memorandum, Nov 15, 2006). This Order translates MS4 TMDL WLAs adopted by the Regional Water Board into forms "consistent with the assumptions and requirements of the TMDL", by use of alternate temporal increments, concentrations, presumptive BMPs, prohibitions, and other express limitations.
5. During the term of the Order, the Permittees shall implement all necessary control measures to reduce pollutant(s) which cause or continue to cause or contribute to water quality impairments, but for which TMDLs have not yet been developed or approved, to eliminate the water quality impairment(s). Successful efforts to reverse the wet weather impairments during the permit term for such pollutants, may avoid the need for a WLA for wet weather or the need to develop a TMDL in the future

6. This Order promotes a land development and redevelopment strategy that considers the water quality and water management benefits associated with smart growth techniques. Such measures include hydromodification mitigation requirements, minimization of impervious surfaces, integrated water resources planning, and low impact development guidelines. (Reference: *Protecting Water Resources with Smart Growth*, EPA 231-R-04-002, U.S. EPA 2004; *Using Smart Growth Techniques as Storm Water Best Management Practices*, EPA 231-B-05-002, U.S. EPA 2005; *Parking Spaces/Community Places: Finding the Balance through Smart Growth Solutions*, EPA 231-K-06-001, U.S. EPA 2006; *Protecting Water Resources with Higher-Density Development*, EPA 231-R-06-001, U.S. EPA 2006.)
7. The implementation of an effective Public Information and Participation Program is a critical component of a storm water management program. While commercial and industrial facilities are traditionally subject to multiple environmental regulations and receive environmental protection guidance from multiple sources, the general public, in comparison, receives significantly less education in environmental protection. An effective Public Information and Participation Program is required because:
 - (a) Activities conducted by the public such as vehicle maintenance, improper household waste materials disposal, improper pet waste disposal and the improper application of fertilizers and pesticides have the potential to generate a significant amount of pollutants that could be discharged in storm water.
 - (b) An increase in public knowledge of storm water regulations, proper storage and disposal of household wastes, proper disposal of pet wastes and appropriate home vehicle maintenance practices can lead to a significant reduction of pollutants discharged in storm water.
8. The California Supreme Court ruled in its *City of Burbank* Decision that Water Boards when issuing an NPDES permit may not consider economic factors to justify imposing pollutant restrictions that are less stringent than the applicable federal regulations require (*City of Burbank v. State Water Resources Control Bd.*, 35 Cal.4d, 618 (2005)). However, when the pollutant restrictions in an NPDES are more stringent than that which federal law requires, economic factors must be considered. The requirements in this Order may be explicit or more specific than those enumerated in federal regulations under 40 CFR 122.26 or in U.S. EPA guidance. However, the requirements have been prescribed to be consistent with CWA § 402(p)(3)(B)(iii) and are necessary to reduce the discharges of pollutants to the maximum extent practicable and to meet water quality standards. Hence they are no more stringent than that required by federal law.
9. This Order also provides flexibility for Permittees to petition the Regional Water Board Executive Officer to substitute a BMP under this Order with an alternative BMP, if they can provide information and documentation on the effectiveness of the

alternative, equal to or greater than the prescribed BMP in meeting the objectives of this Order.

10. This Order contemplates that the Permittees are responsible for considering potential storm water impacts when making planning decisions in order to fulfill the Permittees' CWA requirement to reduce the discharge of pollutants in Municipal Storm Water to the MEP and attain water quality objectives from new development and redevelopment activities. However, the Permittees retain authority to make the final land-use decisions and retain full statutory authority for deciding what land uses are appropriate at specific locations within each Permittee's jurisdiction. This Order and its requirements are not intended to restrict or control local land use decision-making authority.
11. The State Water Board amended the Policy for the Implementation of Toxics Standards In Inland Surface Waters, Enclosed Bays and Estuaries of California (State Implementation Policy – SIP) on February 24, 2005. This Order includes a Monitoring Program that incorporates Minimum Levels (MLs) established under the State Implementation Policy. The MLs represent the lowest quantifiable concentration for priority toxic pollutants that is measurable with the use of proper method-based analytical procedures and factoring out matrix interference. The SIP's MLs therefore represent the best available science for determining MLs and are appropriate for a storm water monitoring program. The use of MLs allows the detection of toxic priority pollutants at concentrations of concern using recent advances in chemical analytical methods.
12. This Order establishes Municipal Action Levels (MALs) for selected pollutants based on nationwide Phase I MS4 monitoring data for pollutants in storm water. (<http://unix.eng.ua.edu/~rpitt/Research/Research.shtml>, last visited on August 14, 2007). The MALs were computed using the statistical based population approach, one of three approaches recommended by the California Water Board's Storm Water Panel in its report, 'The Feasibility of Numerical Effluent Limits Applicable to Discharges of Storm Water Associated with Municipal, Industrial and Construction Activities (June 2006). The MALs were obtained by multiplying the Median (central tendency measure) with 2 x the Coefficient of Variance (estimate of variance measure). MALs are identified in Attachment "C". Permittees shall implement a timely, comprehensive, cost-effective storm water pollution control program to reduce the discharge of pollutants in storm water from the permitted areas so as not to exceed the MALs.
13. The International Storm Water Best Management Practices (BMP) Database was established in 1996 as a cooperative initiative between the U.S. EPA and the American Society of Civil Engineers (ASCE) to provide scientifically sound

information to improve the design, selection and performance of storm water BMPs. The BMP database includes standardized BMP monitoring and reporting protocols, a storm water BMP database, BMP performance evaluation protocols, and BMP monitoring guidance. The storm water BMP database is updated approximately semi-annually to add new BMP studies and performance data. BMP performance data from the database was used to establish that it is practicable for municipalities to achieve the MALs in this Order.(<http://www.bmpdatabase.org/>, last visited August 15, 2007.)

14. This Order is not intended to prohibit the inspection for or abatement of vectors by the State Department of Health Services or local vector agencies in accordance with CA Health and Safety Code, § 116110 et seq. Certain Treatment Control BMPs if not properly designed, operated or maintained may create habitats for vectors (e.g. mosquitoes and rodents). This Order contemplates that the Permittees will closely cooperate and collaborate with local vector control agencies and the State Department of Health Services for the implementation, operation, and maintenance of Treatment Control BMPs in order to minimize the risk to public health from vector borne diseases.
15. This Order contemplates that Permittees will ensure that implemented Treatment Control BMPs will not pose a safety or health hazard to the public. This Order contemplates that Permittees will ensure that the maintenance of implemented Treatment Control BMPs will comply with all applicable health and safety regulations, such as, but not limited to requirements for worker entry into confined spaces under OSHA Safety and Training education, § 1926.21(b)(6)(i).
16. The State Water Board adopted statewide General Waste Discharge Requirements for Sanitary Sewer Systems, (WQ Order No. 2006-0003) on May 2, 2006, to provide a consistent, statewide regulatory framework to address Sanitary Sewer Overflows (SSOs). The State Water Board's SSO Order establishes requirements for public agencies that own or operate sanitary sewer systems to develop and implement sewer system management plans and to report SSOs. SSOs that enter MS4s have the potential to impair the recreational use of receiving waters, and to harm public health. This Order establishes coordination, response, and notification requirements for MS4 Permittees when SSOs result in a discharge to the MS4 system.
17. This Order takes into consideration the housing needs in the area under the Permittees' jurisdiction by balancing the implementation of Smart Growth and Low Impact Development techniques with the protection of the water resources of the region. Although not required, the Regional Water Board considered the need for housing and the appropriate techniques to allow for reasonable development while protecting the receiving waters from degradation.

18. This Order may have an incremental effect on costs required for compliance with the provisions contained herein. Although not required, Regional Water Board considered costs in preparing this Order.

G. Public Notification

1. The issuance of waste discharge requirements that serve as an NPDES permit for this discharge is exempt from the provisions of Chapter 3 (commencing with Section 21100) of Division 13 (California Environmental Quality Act) of the Public Resources Code in accordance with California Water Code Section 13389. The California Court of Appeals has affirmed the exemption, and ruled that the Regional Water Board's issuance of an NPDES permit is not subject to review under CEQA (County of Los Angeles et al., v. California Water Boards et al.,) (2006), (Cal.Rptr.3d 619). Notwithstanding, the Regional Water Board has considered the policies and requirements set forth in Chapters 1 through 2.6 of CEQA, and further, has considered the final substitute environmental documents for the Ventura County MS4 TMDLs incorporated in this Order.
2. The Regional Water Board has notified the Permittees, and interested agencies and persons of its intent to issue waste discharge requirements for this discharge, and has provided them with an opportunity to make statements and submit their comments.
3. The Regional Water Board staff has conducted 18 scoping meetings from February 9, 2007 through July 17, 2007, with Permittees their representatives, and various Stakeholders (Los Angeles County DWP, Los Angeles City, City of Los Angeles EMD, Los Angeles County-SD, City of Downey, Collation for Practical Regulation (CPR), County of Orange, Heal The Bay, Natural Resources Defense Council (NRDC), California State Dept. of Health Services, Building Industry Association of Southern California/Greater Los Angeles Ventura Chapter (BIAGLA/VC), Construction Industry Coalition on Water Quality (CICWQ), Geosyntec Consultants, Metropolitan Water District, Calleguas Water District, California Stormwater Quality Association (CASQA), Southern California Coastal Water Research Project, Santa Monica Bay Restoration Commission). On April 5, 2007 and September 20, 2007 the Regional Water Board conducted workshops to discuss drafts of the NPDES Order and received input from the Permittees and the public regarding proposed changes.
4. This Order shall serve as a NPDES permit, pursuant to CWA § 402, or amendments thereto, and shall take effect 90 days from Order adoption date provided the Regional Administrator of the U.S. EPA has no objections.

5. Pursuant to Cal. Water Code § 13320, any aggrieved party may seek review of this Order by filing a petition with the State Board within 30 days of adoption of the Order by the Regional Water Board. A petition must be sent to:

State Water Resources Control Board
Office of the Chief Counsel
P.O. Box 100
Sacramento, CA 95812-0100

6. This Order may be modified or alternatively revoked or reissued prior to its expiration date, in accordance with the procedural requirements of the NPDES program 40 CFR 122.41(f) & 122.62, and the Cal. Water Code § 13167.5 for the issuance of waste discharge requirements.

IT IS HEREBY ORDERED that the Permittees, in order to meet the provisions contained in Division 7 of the Cal. Water Code and regulations adopted thereunder, and the provisions of the CWA and regulations adopted thereunder, shall comply with the following:

PART 1 - DISCHARGE PROHIBITIONS

A. Prohibitions - Discharges

1. Discharges into and from the MS4 in a manner causing or contributing to a condition of pollution, contamination or nuisance (as defined in Cal. Water Code § 13050), in waters of the State are prohibited.
2. Discharges from the MS4, which cause or contribute to exceedences of receiving water quality objectives for surface waters are prohibited.
3. Discharges to the MS4 not covered by an NPDES individual or general permit are prohibited.

B. Prohibitions - Non-Storm Water Discharges

1. The Permittees shall effectively prohibit non-storm discharges into the MS4 and watercourses, except where such discharges either:
 - (a) Originate from a State, federal, or other source which they are pre-empted by State or Federal law from regulating.
 - (b) Fall within one of the categories below and in Table 1 (Required BMPs for Non-Storm Water Discharges), are not a source of pollutants, and meet all conditions where specified by the Regional Water Board Executive Officer:
 - (1) Stream diversions authorized by the State Water Board.
 - (2) Natural springs and rising ground water.
 - (3) Uncontaminated ground water infiltration [as defined by 40 CFR 35.2005(20)].¹

¹ NPDES permit for ground water dewatering is required within the Los Angeles Region including Ventura County.

- (4) Flows from riparian habitats or wetlands.
- (5) Flows from emergency fire fighting activity.
- (6) Discharges from potable water sources.¹
- (7) Gravity flow from foundation, footing and crawl space drains.
- (8) Air conditioning condensate.
- (9) Reclaimed and potable landscape irrigation runoff.
- (10) Dechlorinated/ debrominated swimming pool discharges [see def. Part 8].
- (11) Non-commercial car washing by residents or non-profit organizations.
- (12) Sidewalk rinsing
- (13) Pooled storm water from treatment BMPs.²

Table 1 – Required BMPs for Non-Storm Water Discharges

Type of Discharges:	Conditions under which allowed:	Required BMPs for discharge to occur:
Stream diversions permitted by the State Board;	Shall comply with all conditions in the authorization.	Shall comply with all conditions in the authorization.
Natural springs and rising ground water	1. Ground water dewatering requires a separate NPDES permit. 2. Segregate flow to prevent introduction of pollutants.	Shall comply with all conditions in the authorization.
Uncontaminated ground water infiltration [as defined by 40 CFR 35.2005(20)] (Utility vault dewatering requires a separate NPDES permit.)	NPDES permit for ground water dewatering is required within the Los Angeles Region including Ventura County	Shall comply with all conditions in the authorization.
Flows from riparian habitats or wetlands	Provided that all necessary permits or authorizations are received prior to diverting the stream flow.	Shall comply with all conditions in the authorization.

¹ The term applies to low volume, incidental and infrequent releases that are innocuous from a water quality perspective. It does not cover scheduled discharges by potable water purveyors for the (i) dewatering or hydro-testing or flushing of water supply and distribution mains, or (ii) dewatering or draining of reservoirs or water storage facilities. Releases may occur for discharges from potable water sources only with the implementation of appropriate BMPs, dechlorination prior to discharge [see section G for specific BMPs]. Discharges from utility vaults shall be conducted under coverage of a separate NPDES permit specific to that activity. Discharges from well heads and hydrostatic pipe testing shall be subject to a separate NPDES general permit coverage (CAG674001).

² All storm water BMPs shall at a minimum be maintained at a frequency as specified by the manufacturer, and designed to drain within 72 hours of the end of a rain. Storm water treatment BMPs may be drained to the MS4 under this Order if the discharge is not a source of pollutants. Sediments shall be disposed of properly, in compliance with all applicable local, state, and federal policies, acts, laws, regulations, ordinances, and statutes.

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Type of Discharges:	Conditions under which allowed:	Required BMPs for discharge to occur:
Flows from emergency fire fighting activity	Pooled water after fire must be controlled.	
Discharges from potable water sources	See Footnote #1 on page 26. Provided discharges from water lines and potable water sources shall be dechlorinated, pH adjusted if necessary, reoxygenated, and volumetrically and velocity controlled to prevent resuspension of sediments.	See Footnote #2 on page 26. To be discharged, this type of water shall be dechlorinated using aeration and/ or sodium thiosulfate and/ or other appropriate means and/or be allowed to infiltrate to the ground. BMPs such as sand bags or gravel bags shall be utilized to prevent sediment transport. All sediments shall be collected and disposed of in a legal and appropriate manner.
Drains for foundation, footing and crawl drains	Dewatering requires a separate NPDES permit.	Shall comply with all conditions in the authorization.
Air conditioning condensate	Segregation of flow to prevent introduction of pollutants	Infiltration whenever possible.
Water from crawl space pumps	Dewatering requires a separate NPDES permit within the Los Angeles Region including Ventura County	NPDES permit for ground water dewatering is required.
Reclaimed and potable landscape irrigation runoff	Segregation of flow to prevent introduction of pollutants.	Implement conservation programs to minimize this type of discharge by using less water.
Dechlorinated/ debrominated swimming pool discharges [see definition Part 8]	Provided discharge to a sanitary sewer is not available. Swimming pool discharges are dechlorinated, pH adjusted if necessary, aerated to remove chlorine if necessary, and volumetrically and velocity controlled to prevent resuspension of sediments. Cleaning waste water and filter back wash shall not be discharged to municipal separate storm sewers. Water that has been hyperchlorinated shall not be discharged to municipal separate storm sewers, even after de-chlorination.	Pool water may be dechlorinated using time, aeration, and/ or sodium thiosulfate.

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Type of Discharges:	Conditions under which allowed:	Required BMPs for discharge to occur:
	<p>No discharges are allowed containing salts in excess of Water Quality Standards.</p> <p>Chlorine residual in discharge shall not exceed 0.1mg/L.</p>	
Non-commercial car washing by residents or non-profit organizations		Preferred area is at commercial carwash or in an area where wash water infiltrates. Pumps or vacuums may be used to direct water to areas for infiltration or other use.
Sidewalk rinsing	This may be undertaken only if high pressure low volume is used as described in the glossary under "Sidewalk Rinsing".	
Pooled storm water from treatment BMPs	All storm water BMPs shall at a minimum be maintained at a frequency as specified by the manufacturer. All storm water BMPs shall be designed to drain within 72 hours of the end of the rain event. Storm water treatment BMPs may be drained to the MS4 under this Order if the discharge is not a source of pollutants. The discharge shall cease before the discharge has become a source of a pollutant(s), (bottom sediment included). Sediments shall be disposed of properly, in compliance with all applicable local, state, and federal policies, acts, laws, regulations, ordinances, and statutes.	

- (c) If the Regional Water Board Executive Officer determines that any of the preceding categories of non-storm water discharges are a source of pollutants, the Permittee(s) shall either:
- (1) Prohibit the discharge from entering the MS4; or
 - (2) Authorize the discharge category and require implementation of appropriate or additional BMPs to ensure that the discharge will not be a source of pollutants; or
 - (3) Require or obtain coverage under a separate NPDES permit for discharge into the MS4.

PART 2 – MUNICIPAL STORM WATER DISCHARGE LIMITATIONS

1. Discharges of storm water from the MS4 to waters of the U.S. shall not exceed the Municipal Action Levels (MALs) for the pollutants listed in Attachment "C" (Municipal Action Levels) beginning (Year 3 after Order adoption date).
2. A running average of twenty percent or greater of exceedences of any MAL will create a presumption that the Permittee(s) have not complied with the Maximum Extent Practicable (MEP) provision in Part 4 A.2., and have failed to implement adequate storm water control measures and BMPs to comply with the MEP standard.
3. Each Permittee is affirmatively required to augment and implement all necessary storm water controls and measures to reduce the discharge of the pollutant(s) to the MEP and to not continue to be in violation of the municipal storm water discharge limitation.
4. The "end-of-pipe" compliance points for the determination of compliance with the MALs are the major outfalls of discharge pipes to the receiving waters.
5. The receiving water mass emission points of measurement will become default compliance points for "end-of-pipe" compliance with the municipal storm water discharge limitations, in the absence of representative "end-of-pipe" monitoring measurements.

PART 3 – RECEIVING WATER LIMITATIONS

1. Discharges from the MS4 that cause or contribute to a violation of water quality standards are prohibited.
2. Discharges from the MS4 of storm water, or non-storm water, for which a Permittee is responsible, shall not cause or contribute to a condition of nuisance.
3. The Permittee shall comply with the Order through timely implementation of control measures and other actions to reduce pollutants in storm water discharges in accordance with this Order. This Order shall be implemented to achieve compliance with receiving water limitations. If exceedence(s) of water quality objectives or water quality standards persist, notwithstanding implementation of the Order and its components and other requirements of this Order, the Permittee shall assure compliance with discharge prohibitions and receiving water limitations by complying with the following procedure:
 - (a) Upon an exceedence(s) of water quality standards or water quality objectives, which may be inferred from the results of the receiving water monitoring program described in Attachment "F", all Permittee(s) upstream of the point of discharge

- shall notify the Regional Water Board, within 30 days of any such inference of exceedence, and thereafter submit a Receiving Water Limitations (RWL) Compliance Report to the Regional Water Board Executive Officer for approval. The RWL Compliance Report shall be included with the Annual Report, unless the Regional Water Board Executive Officer directs an earlier submittal.
- (b) The RWL Compliance Report shall describe BMPs currently being implemented and the additional BMPs that will be implemented, to prevent or reduce the discharge of any pollutants that are causing or contributing to the exceedences of water quality standards.
 - (c) The RWL Compliance Report shall include a BMP implementation schedule.
 - (d) Within 30 days following approval of the RWL Compliance Report, the approved or modified suite of BMPs, the implementation schedule, and any additional monitoring required shall be implemented.
 - (e) Modifications to the RWL Compliance Report, required by the Regional Water Board shall be submitted to the Regional Water Board Executive Officer within 30 days of notification.
 - (f) Implement the revised monitoring program according to the approved schedule.
4. The Permittee will have to repeat the procedure set forth above to comply with the receiving water limitations for continuing or recurring exceedences of the same water quality standard(s) unless directed to otherwise by the Regional Water Board Executive Officer.
5. Nothing in Part 3 shall prevent the Regional Water Board from enforcing any provision of this Order.

PART 4 - STORM WATER QUALITY MANAGEMENT PROGRAM IMPLEMENTATION

A. General Requirements

1. Each Permittee shall, at a minimum, adopt and implement applicable terms of this Order within its jurisdictional boundary. The Principal Permittee shall be responsible for program coordination as described in this Order as well as compliance with applicable portions of the permit within its jurisdiction. This Order shall be implemented no later than (90 days after Order adoption date), unless a later date has been specified for a particular provision in this Order and provided the Regional Administrator of the U.S. EPA has no objections.
2. Each Permittee shall, comply with the requirements of 40 CFR 122.26(d)(2) and implement programs and control measures so as to reduce the discharges of pollutants in storm water to the MEP and achieve water quality objectives. All storm water

treatment BMPs implemented under the MEP provisions of this Order shall be designed to achieve, at a minimum, a storm water discharge effluent quality for the water quality design storm, equal to the pollutant MALs identified in Attachment "C", unless a more stringent numeric effluent limitation is specified in this Order.

3. Each Permittee shall implement programs and measures to comply with the TMDLs' WLAs for the MS4 as follows:
 - (a) Storm Water (Wet Weather) Discharges - achieve the concentration or load based numerical limitation or its BMPs expression for wet weather discharge identified in the Order (Part 6. Total Maximum Daily Load Provisions For Storm Water (Wet Weather) Discharges), or implement the BMPs which have a reasonable expectation, when fully implemented, to achieve the WLAs in the Order (Part 6. Total Maximum Daily Load Provisions For Storm Water (Wet Weather) Discharges).
 - (b) Non-Storm Water (Dry Weather) Discharges - achieve the concentration or load based numerical limitation for dry weather discharge identified in this Order (Part 7. Total Maximum Daily Load Provisions For Non-Storm Water (Dry Weather) Discharges).

B. Legal Authority

1. Permittees shall possess the necessary legal authority to prohibit, including, but not limited to:
 - (a) Illicit connections and illicit discharges, and to remove illicit connections.
 - (b) The discharge of non-storm water to the MS4 from:
 - (1) Washing or cleaning of gas stations, auto repair garages, or other types of automotive service facilities.
 - (2) Mobile auto washing, carpet cleaning, steam cleaning, sandblasting and other such mobile commercial and industrial operations.
 - (3) Areas where repair of machinery and equipment which are visibly leaking oil, fluid or antifreeze, is undertaken.
 - (4) Storage areas for materials containing grease, oil, or other hazardous substances, and uncovered receptacles containing hazardous materials.
 - (5) Swimming pools that have a concentration greater than:
 - (A) Chlorine/ bromine- 0.1mg/L.
 - (B) Chloride- 250mg/L.
 - (6) Swimming pool filter backwash.
 - (7) Decorative fountains and ponds.
 - (8) Industrial/ Commercial areas, including restaurant mats.
 - (9) Concrete truck cement, pumps, tools, and equipment washout.
 - (10) Spills, dumping, or disposal of materials other, such as:

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- (A) Litter, landscape and construction debris, garbage, food, animal waste, fuel or chemical wastes, batteries, and any other materials which have the potential to adversely impact water quality; and
 - (B) Any pesticide, fungicide or herbicide.
 - (11) Stationary and mobile pet grooming facilities.
 - (12) Trash container leachate.
2. The Permittees shall possess adequate legal authority to:
- (a) Control through interagency agreement, the contribution of pollutants from one portion of the MS4 to another portion of the MS4.
 - (b) Require persons within their jurisdiction to comply with conditions in the Permittees' ordinances, permits, contracts, model programs, or orders (i.e. hold dischargers to its MS4 accountable for their contributions of pollutants and flows).
 - (c) Utilize enforcement measures (e.g., stop work orders, notice of violations, fines, referral to City, County, and/ or District Attorneys, referral to strikeforces, etc.) by ordinances, permits, contracts, orders, administrative authority, and civil and criminal prosecution.¹
 - (d) Control pollutants, including potential contribution² in discharges of storm water runoff associated with industrial activities, including construction activities to its MS4, and control the quality of storm water runoff from industrial sites, including construction sites.
 - (e) Carry out all inspections, surveillance and monitoring procedures necessary to determine compliance and non-compliance with permit conditions including the prohibition on illicit discharges to the MS4.
 - (f) Require the use of control measures to prevent or reduce the discharge of pollutants to achieve water quality objectives.
 - (g) Require that Treatment Control BMPs be properly operated and maintained.
3. Each Permittee has adopted a Storm Water Quality Ordinance based upon a countywide model. Each Permittee will update its Storm Water Quality Ordinance to be able to enforce all requirements of this Order, no later than (365 days after Order adoption date).
4. Each Permittee shall submit no later than (365 days after Order adoption date), a statement by its legal counsel that the Permittee has obtained and possesses all

¹ Where the Permittee has no direct authority, the Permittee is required to enter into an agreement with the agency or department that has the enforcement authority. In the case of private responsible parties such as, HOAs, the Permittee must retain enforcement authority.

² "Potential contributions" and "potential to discharge," means adequate legal authority to prevent an actual discharge of pollutants to the municipal separate storm sewer system.

necessary legal authority to comply with this Order through adoption of ordinances and/ or municipal code modifications.

C. Fiscal Resources

1. The Permittees shall implement the activities required to comply with the provisions of this Order.¹ Each Permittee shall:
 - (a) Submit an Annual Budget Summary that shall include:
 - (1) The storm water budget for the prior report year, using actual expenditures with written explanation where necessary for the implementation of the storm water program.
 - (2) The storm water budget for the upcoming report year, using estimated expenditures with written explanation where necessary for the implementation of the storm water program.
 - (3) The summary report shall identify for both the prior report year (actual expenditure) and the upcoming report year (estimated expenditure) the following specific categories:
 - (A) Program Management Activities.
 - (i) Overall Administrative costs
 - (B) Program Required Activities Implementation (storm water related activities only). Provide figures breakdown of expenditures for the categories below:
 - (i) Illicit connection/ illicit discharge.
 - (ii) Development planning.
 - (iii) Development construction.
 - (iv) Construction inspection activities.
 - (v) Industrial/ Commercial inspection activities.
 - (vi) Public Agency Activities.
 - (I) Maintenance of Structural BMPs and Treatment Control BMPs.
 - (II) Inspection of Structural BMPs and Treatment Control BMPs.
 - (III) Municipal Street Sweeping for Commercial/ Industrial land uses only.
 - (IV) Catch basin clean-outs (include dumping fees separately).
 - (V) Storm drain clean-outs (include dumping fees separately).
 - (VI) Other costs (describe).
 - (vii) Public Information and Participation.
 - (viii) Monitoring Program.
 - (ix) Miscellaneous Expenditures (describe).

¹ The sources of funding may be the general funds, and/or Benefit Assessment, plan review fees, permit fees, industrial/ commercial user fee, revenue bonds, grants or other similar funding mechanism.

D. Modifications/ Revisions

1. No later than (365 days after Regional Water Board adoption of this Order) each Permittee shall modify storm water management programs, protocols, practices, and municipal codes to make them consistent with the requirements herein.

E. Designation and Responsibilities of the Principal Permittee

1. The Ventura County Watershed Protection District is hereby designated as the Principal Permittee. As such, the Principal Permittee shall:
 - (a) Participate in the County Environmental Crimes Task Force.
 - (b) Coordinate and facilitate activities necessary to comply with the requirements of this Order, but is not responsible for ensuring compliance of any individual Permittee.
 - (c) Coordinate permit activities among Permittees and act as liaison between Permittees and the Regional Water Board on permitting issues.
 - (d) Provide technical and administrative support for committees that will be organized to implement this Order and its requirements.
 - (e) Evaluate, assess, and synthesize the results of the monitoring program and the effectiveness of the implementation of BMPs.
 - (f) Convene the Committee Meetings constituted pursuant to Part 4.F.1., below, upon designation of representatives.
 - (g) Implement the Countywide Monitoring Program required under the Order and evaluate, assess and synthesize the results of the monitoring program.
 - (h) Provide personnel and fiscal resources for the collection, processing and submittal to the Regional Water Board of monitoring and annual reports, and summaries of other reports required under this Order.
 - (i) Comply with the "Responsibilities of the Permittees" in Part 4.F., below.

F. Responsibilities of the Permittees

1. Each Permittee is required to comply with the requirements of this Order applicable to discharges within its boundaries (see Findings- Permit Coverage D.1 and D.2) and not for the implementation of the provisions applicable to the Principal Permittee or other Permittees. Each Permittees shall:
 - (a) Comply with the requirements of this Order and any modifications thereto.
 - (b) Coordinate among its internal departments and agencies, as necessary, to facilitate the implementation of the requirements of this Order applicable to such Permittees in an efficient and cost-effective manner.
 - (c) Participate in intra-agency coordination (e.g., Planning Department, Fire Department, Building and Safety, Code Enforcement, Public Health, Parks and

Recreation, and others) necessary to successfully implement the provisions of this Order.

- (d) Report, in addition to the Budget Summary, any supplemental dedicated budgets for the same categories.
- (e) Participate in Committee Meetings, as necessary.

PART 5 - SPECIAL PROVISIONS (BASELINE)

A. General Requirements

- 1. This Order and the provisions herein, are intended to develop, achieve, and implement a timely, comprehensive, cost-effective storm water pollution control program to reduce the discharge of pollutants in storm water to the MEP and achieve water quality objectives for the permitted areas in the County of Ventura.
- 2. Best Management Practice Substitution
 - (a) The Regional Water Board Executive Officer may approve any site-specific BMP substitution upon petition by a Permittee(s) and after public notice, if the Permittee can document that:
 - (1) The proposed alternative BMP or program will meet or exceed the objective of the original BMP or program in the reduction of storm water pollutants.
 - (2) The fiscal burden of the original BMP or program is substantially greater than the proposed alternative and does not achieve a substantially greater improvement in storm water quality.
 - (3) The proposed alternative BMP or program will be implemented within a similar period of time.

B. Watershed Initiative Participation

- 1. The Principal Permittee consents to participate in appropriate water quality meetings for watershed management planning, including but not limited to the following:
 - (a) Southern California Stormwater Monitoring Coalition (SMC).
 - (b) SMC Regional Monitoring Programs, such as:
 - (1) Southern California Regional Bioassessment
 - (A) Level of effort per Watershed
 - (i) Probabilistic sites per watershed - Six.
 - (ii) Integrator sites per watershed - One.
 - (c) Southern California Bight Project.
 - (d) Other appropriate watershed planning groups.

C. Public Information and Participation Program (PIPP)

- I. The Principal Permittee shall implement a Public Information and Participation Program (PIPP) that includes, but is not limited to, the requirements listed in this section. The Principal Permittee shall be responsible for developing and implementing the PIPP, and shall coordinate with Permittees to implement specific requirements. The objectives of the PIPP are as follows:
 - i. To measurably increase the knowledge of the target audience about the MS4, the adverse impacts of storm water pollution on receiving waters and potential solutions to mitigate the impacts.
 - ii. To measurably change the waste disposal and storm water pollution generation behavior of target audiences by encouraging implementation of appropriate solutions.
 - iii. To involve and engage communities in Ventura County to participate in mitigating the impacts of storm water pollution.
1. Residential Program
 - (a) "No Dumping" Message

Each Permittee shall label all storm drain inlets that they own with a legible "no dumping" message. In addition, signs with prohibitive language discouraging illegal dumping shall be posted at designated public access points to creeks, other relevant water bodies, and channels. Signage and storm drain messages shall be legible and maintained.
 - (b) Public Reporting

Each Permittee will identify staff who will serve as the contact(s) person for reporting clogged catch basin inlets and illicit discharges/ dumping, faded or missing catch basin labels, and general storm water management information. Permittees shall include this information, updated by July 1 of each year, in public information media such as the government pages of the telephone book, and internet web sites. The Principal Permittee shall compile a list of the general public reporting contacts submitted by all Permittees and make this information available on the web site (<http://www.vcstormwater.org/contact.htm>) and upon request. Each Permittee is responsible for providing current, updated information to the Principal Permittee.
 - (c) Outreach and Education
 - (1) The Principal Permittee shall implement the following activities:
 - (A) Conduct a Storm Water pollution prevention advertising campaign.
 - (B) Conduct Storm Water pollution prevention public service announcements.

- (C) Distribute storm water pollution prevention public education materials to:
 - (i) Automotive parts stores.
 - (ii) Home improvement centers/ lumber yards/ hardware stores.
 - (iii) Pet shops/ feed stores.
 - (D) Public education materials shall include, but are not limited to information on the proper disposal, storage, and use of:
 - (i) Vehicle waste fluids.
 - (ii) Household waste materials.
 - (iii) Construction waste materials.
 - (iv) Pesticides and fertilizers (including integrated pest management practices-IPM).
 - (v) Green waste (including lawn clippings and leaves).
 - (vi) Animal wastes.
 - (E) Organize watershed Citizen Advisory Groups/ Committees to develop effective methods to educate the public about storm water pollution no later than (365 days after Order adoption date). Watershed Citizen Advisory Groups/Committees can be a subset of existing watershed groups or committees.
 - (F) Organize events targeted to residents and population subgroups; and
 - (G) Maintain the Countywide storm water website (www.vcstormwater.org), which shall include educational material listed in the preceding section C.1(c)(1)(C).
- (2) The Principal Permittee shall develop a strategy to educate ethnic communities through culturally effective methods. Details of this strategy should be incorporated into the PIPP, and implemented, no later than (180 days after Order adoption date).
 - (3) Each Permittee shall continue the existing outreach program to residents on the proper disposal of litter, green waste, pet waste, proper vehicle maintenance, lawn care and water conservation practices.
 - (4) Each Permittee shall conduct educational activities within its jurisdiction and participate in countywide events.
 - (5) The Permittees shall make a minimum of 5 million impressions per year to the general public related to storm water quality, with a minimum of 2.5 million impressions via newspaper, local TV access, local radio and/ or internet access.
 - (6) The Principal Permittee, in cooperation with the Permittees, shall provide schools within each School District in the County with materials, including, but not limited to, videos, live presentations, and other information necessary to educate a minimum of 50 percent of all school children (K-12) every 2 years on storm water pollution.

Pursuant to AB 1721 (2005), beginning January 1, 2007, the Permittees, in lieu of providing educational materials/ funding to School Districts in the County, may opt to provide an equivalent amount of funds or fraction thereof to the Environmental Education Account established within the State Treasury.¹ This option requires the written approval of the Regional Water Board Executive Officer.

- (7) Each Permittee shall provide the contact information for their appropriate staff responsible for storm water public education activities to the Principal Permittee and contact information changes no later than 30 days after a change occurs.
- (8) The Permittees shall develop and implement a strategy to measure the effectiveness of in-school educational programs. The protocol shall include assessment of students' knowledge of the adverse impacts of storm water pollution and solutions before and after educational programs are conducted. The strategy shall be implemented no later than (180 days after Order adoption date).
- (9) The Permittees shall develop and implement a behavioral change assessment strategy no later than (365 days after Order adoption date), in order to ensure that the PIPP is demonstrably effective in changing the behavior of the public. The strategy shall be developed based on current sociological data and studies.

(d) Pollutant-Specific Outreach

The Principal Permittee, in cooperation with Permittees, shall coordinate to develop outreach programs that focus on the watershed-specific pollutants identified in Attachment "B" (Pollutants of Concern) no later than (180 days after Order adoption date). Metals may be appropriately addressed through the Industrial/ Commercial Facilities Program (e.g. the distribution of educational materials on appropriate BMPs for metal fabrication and recycling facilities that have been identified as a potential source). Region-wide pollutants may be included in the Principal Permittee's mass media outreach program.

2. Businesses Program

(a) Corporate Outreach

- (1) The Permittees shall work with other regional or statewide agencies and, associations such as the California Storm Water Quality Association (CASQA), to develop and implement a Corporate Outreach program to educate and inform corporate managers about storm water regulations and BMPs. The program shall target a minimum of four RGO franchisers and cover a minimum of 80% of RGO franchisees in the county, four retail automotive parts franchisers, two home improvement center franchisers and

¹ Matching funds shall be equivalent to \$10 per targeted student per year. Dollar value is to be indexed to the 2006/ 2007 fiscal year.

six restaurant franchisers. Corporate Outreach for all target facilities shall be conducted not less than twice during the term of this Order, with the first outreach contact to begin no later than (2 years after Order adoption date). At a minimum, this program shall include:

- (A) Confer with corporate management to explain storm water regulations.
 - (B) Distribution and discussion of educational material regarding storm water pollution and BMPs, and provide managers with recommendations to facilitate employee and facility compliance with storm water regulations.
- (2) Corporate Outreach for all RGOs, automotive parts stores, home improvement centers and restaurant chains corporations shall be conducted not less than twice during the term of this Order, with the first outreach contact to begin no later than (2 years after Order adoption date).
- (b) Business Assistance Program
- (1) The Permittees shall implement a Business Assistance Program to provide technical resource assistance to small businesses to advise them on BMPs implementation to reduce the discharge of pollutants in storm water. The Program shall include:
 - (A) On-site technical assistance or consultation via telephone or e-mail to identify and implement storm water pollution prevention methods and best management practices.
 - (B) Distribution of storm water pollution prevention education materials to operators of auto repair shops, car wash facilities (including mobile car detailing), mobile carpet cleaning services, commercial pesticide applicator services and restaurants.

D. Industrial/ Commercial Facilities Program

- I. Each Permittee shall require implementation of pollutant reduction and control measures at industrial and commercial facilities, with the objective of reducing pollutants in storm water. Except where specified otherwise in this Order, pollutant reduction and control measures may be used alone or in combination, and may include Structural Treatment Control, Source Control BMPs, and operation and maintenance procedures, which may be applied before, during, and/ or after pollution generating activities. At a minimum, the Industrial/ Commercial Facilities Control Program shall include requirements to:
- i. Track.
 - ii. Inspect.
 - iii. Ensure compliance with municipal ordinances at industrial and commercial facilities that are critical sources of pollutants in storm water.

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1. Inventory of Critical Sources

- (a) Each Permittee shall maintain a watershed-based inventory or database of all facilities within its jurisdiction that are critical sources of storm water pollution. Critical Sources to be tracked are summarized below, and specified in Attachment "D":
- (1) Commercial Facilities
 - (A) Restaurants.
 - (B) Automotive service facilities.
 - (C) RGOs and automotive dealerships.
 - (D) Nurseries and nursery centers.
 - (2) U.S. EPA Phase I, II Facilities
 - (3) Other Federally-mandated Facilities [as specified in 40 CFR 122.26(d)(2)(iv)(C)]
 - (A) Municipal landfills.
 - (B) Hazardous waste treatment, disposal, and recovery facilities.
 - (C) Facilities subject to SARA Title III (also known as the Emergency Planning and Community Right-to-Know Act (EPCRA))
- (b) Each Permittee shall include the following minimum fields of information for each critical sources industrial and commercial facility
- (1) Name of facility and name of owner/ operator.
 - (2) Address of facility
 - (3) Coverage under the IASGP or other individual or general NPDES permits or any applicable waiver issued by the Regional or State Board pertaining to runoff discharges.
 - (4) A narrative description including Standard Industrial Classification (SIC) System/ North American Industry Classification System (NAICS) Codes that best describe the industrial activities performed and principal products used at each facility and status of exposure to storm water.
- (c) The Regional Water Board recommends that Permittees include additional fields of information, such as material usage and/ or industrial output, and discrepancies between SIC System/ NAICS Code designations (as reported by facility operators) and identify the actual type of industrial activity that has the potential to pollute storm water. In addition, the Regional Water Board recommends the use of an automated database system, such as a Geographical Information System (GIS) or Internet-based system.
- (d) Each Permittee shall update its inventory of critical sources at least annually. The update may be accomplished through collection of new information obtained through field activities or through other readily available inter and intra-agency informational databases (e.g. business licenses, pretreatment permits, sanitary sewer hook-up permits, and similar information).

2. Inspect Critical Sources

(a) Commercial Facilities

Each Permittee shall inspect all facilities identified in Part 5 D.2. twice during the 5-year term of the Order, provided that the first inspection occurs no later than (2 years after Order adoption date). A minimum interval of 6 months between the first and the second mandatory compliance inspection is required. In addition, each Permittee shall implement the activities outlined in the following sections. At each facility, inspectors shall verify that the operator is implementing the mandatory source control BMPs. The Permittees shall require implementation of additional treatment control BMPs where storm water flows from the MS4 discharge to an ESA or a CWA § 303(d) listed waterbody (see section 3(b) below). Likewise, for those BMPs that are not adequate to achieve MALs and/ or water quality objectives, Permittees may require additional site-specific controls, such as treatment control BMPs.

(1) Restaurants-

Level of inspections: Each Permittee, in cooperation with its appropriate department (such as health or public works), shall inspect all restaurants within its jurisdiction to confirm that storm water BMPs are being effectively implemented in compliance with State law, County and municipal ordinances. BMPs in Table 2 (BMPs at Restaurants) shall be implemented, unless the pollutant generating activity does not occur.

Table 2 - BMPs at Restaurants.

Pollutant-Generating Activity	BMP Narrative Description	2003 California Stormwater BMP Handbook Industrial and Commercial BMP Identification #
Waste/ Hazardous Materials Storage, Handling and Disposal	Distribution of educational materials on storm water pollution prevention practices to the public.	By Municipality
Unauthorized Non-Storm Water Discharges	Effective elimination of non-storm water discharges.	SC-10
Accidental Spills/ Leaks	Implementation of effective spills/ leaks prevention and response procedures.	SC-11
Outdoor Storage of Raw Materials	Implementation of effective source control practices and structural devices.	SC-33
Storage and Handling of Solid Waste	Implementation of effective solid waste storage/ handling practices and appropriate control measures	SC-34
Parking/ Storage Area Maintenance	Implementation of effective parking/ storage area designs and housekeeping/ maintenance practices	SC-43
Storm Water Conveyance System Maintenance	Implementation of proper conveyance system operation and maintenance protocols.	SC-44

(2) Automotive Service Facilities-

Level of Inspection: Each Permittee shall confirm that BMPs are being effectively implemented at each facility within its jurisdiction, in compliance with County and municipal ordinances. The inspections shall verify that BMPs in Table 3 (BMPs at Automotive Service Facilities) are being implemented, unless the pollutant generating activity does not occur.

Table 3 - BMPs at Automotive Service Facilities

Pollutant-Generating Activity	BMP Narrative Description	2003 California Stormwater BMP Handbook Industrial and Commercial BMP Identification #
Unauthorized Non-Storm Water Discharges	Effective elimination of non-storm water discharges.	SC-10
Accidental Spills/ Leaks	Implementation of effective spills/ leaks prevention and response procedures.	SC-11
Vehicle/ Equipment Fueling.	Implementation of effective fueling source control devices and practices.	SC-20
Vehicle/ Equipment Cleaning.	Implementation of effective equipment/ vehicle cleaning practices and appropriate wash water management practices	SC-21
Vehicle/ Equipment Repair	Implementation of effective vehicle/ equipment repair practices and source control devices.	SC-22
Outdoor Liquid Storage	Implementation of effective outdoor liquid storage source controls and practices.	SC-31
Outdoor Storage of Raw Materials	Implementation of effective source control practices and structural devices.	SC-33
Storage and Handling of Solid Waste	Implementation of effective solid waste storage/ handling practices and appropriate control measures	SC-34
Parking/ Storage Area Maintenance	Implementation of effective parking/ storage area designs and housekeeping/ maintenance practices	SC-43
Storm Water Conveyance System Maintenance Practices	Implementation of proper conveyance system operation and maintenance protocols.	SC-44

(3) Retail Gasoline Outlets and Automotive Dealerships-

Level of Inspections: Each Permittee shall confirm that BMPs are being effectively implemented at each facility within its jurisdiction, in compliance with County and municipal ordinances. The inspections shall verify that BMPs in Table 4 (BMPs at Retail Gasoline Outlets) are being implemented, unless the pollutant generating activity does not occur.

Table 4 - BMPs at Retail Gasoline Outlets

Pollutant-Generating Activity	BMP Narrative Description	2003 California Stormwater BMP Handbook Industrial and Commercial BMP Identification #
Unauthorized Non-Storm Water Discharges	Effective elimination of non-storm water discharges.	SC-10
Accidental Spills/ Leaks	Implementation of effective spills/ leaks prevention and response procedures.	SC-11
Vehicle/ Equipment Fueling	Implementation of effective fueling source control devices and practices.	SC-20
Vehicle/ Equipment Cleaning	Implementation of effective wash water control devices.	SC-21
Outdoor Storage of Raw Materials	Implementation of effective source control practices and structural devices.	SC-33
Storage and Handling of Solid Waste	Implementation of effective solid waste storage/ handling practices and appropriate control measures	SC-34
Building and Grounds Maintenance	Implementation of effective facility maintenance practices.	SC-41
Parking/ Storage Area Maintenance	Implementation of effective parking/ storage area designs and housekeeping/ maintenance practices	SC-43

- (4) Commercial Nurseries and Nursery Centers (Merchant Wholesalers, Nondurable Goods, and Retail Trade)-

Level of Inspection: Each Permittee shall confirm that BMPs are being effectively implemented at each facility within its jurisdiction, in compliance with County and municipal ordinances. The inspections shall verify that BMPs in Table 5 (BMPs at Nurseries) are being implemented, unless the pollutant generating activity does not occur.

Table 5 - BMPs at Nurseries

Pollutant-Generating Activity	BMP Narrative Description	2003 California Stormwater BMP Handbook Industrial and Commercial BMP Identification #
Unauthorized Non-Storm Water Discharges	Effective elimination of non-storm water discharges.	SC-10
Outdoor Loading/ Unloading	Implementation of effective outdoor loading/ unloading practices.	SC-30
Outdoor Liquid Storage	Implementation of effective outdoor liquid storage source controls and practices.	SC-31
Outdoor Equipment Operations	Implementation of effective outdoor equipment source control devices and practices.	SC-32
Outdoor Storage of Raw Materials	Implementation of effective source control practices and structural devices.	SC-33
Building and Grounds Maintenance	Implementation of effective facility maintenance practices.	SC-41

- (A) For nursery operations (Agricultural Facilities) in the NAICS Code 11142x - Nursery and Floriculture Production, which are subject to the Conditional Waiver, each Permittee shall:
- (i) Verify enrollment under the Conditional Waiver by recording a valid identification number.
 - (ii) Notify all nonfilers of their lawful obligation to apply for coverage under the Regional Water Board's Conditional Waiver.
- (B) Permittees shall submit a list of facility names in the NAICS Code 11142x that have been notified to apply for the Conditional Waiver (nonfilers). The list of nonfilers shall be electronically sent to the Regional Water Board's Regional Programs at the following e-mail address: sunger@waterboards.ca.gov.

(a) Industrial Facilities

Each Permittee shall conduct compliance inspections as specified below.

(1) **Frequency of Inspection**

- (A) Each Permittee shall perform an initial inspection at all industrial facilities identified by the U.S. EPA in 40 CFR 122.26(c) no later than (2 years after Order adoption date). After the initial inspection, all facilities determined as having exposure of industrial activities to storm water are subject to a second mandatory compliance inspection. A minimum interval of 6 months between the first and the second compliance inspection is required.
- (B) Following the first mandatory compliance inspection, a Permittee shall perform a second mandatory compliance inspection yearly at a minimum of 20% of the facilities determined not to have exposure of industrial activities to storm water. The purpose of this inspection is to verify the continuity of the no exposure status. Facilities determined as having exposure will be notified that they must obtain coverage under the IASGP. A facility need not be inspected more than twice during the term of the Order unless subject to an enforcement action. A minimum interval of 6 months in between the first and the second compliance inspection is required.
- (C) Applicable to all facilities: A Permittee need not inspect facilities that have been inspected by the Regional Water Board within the previous 24 month interval. However, if the Regional Water Board performed only one inspection, the Permittee shall conduct the second required mandatory compliance inspection.

(2) **Level of Inspection:** Each Permittee shall confirm that each operator:

- (A) Has a current Waste Discharge Identification (WDID) number for facilities discharging storm water associated with industrial activity, and that a Storm Water Pollution Prevention Plan (SWPPP) is available on-site.
- (B) Is effectively implementing BMPs in compliance with County and municipal ordinances. Facilities must implement the source control BMPs identified in Part 5. D. 3. and Appendix D, *California Stormwater Industrial and Commercial BMP Handbook (2003)*. The Permittees shall require implementation of additional treatment control BMPs where the storm water from the MS4 discharges to a CWA § 303(d) listed waterbody; or
- (C) Has applied and has a current No Exposure Certification (and WDID number) for facilities subject to this requirement.

3. Ensure Compliance of Critical Sources
- (a) **BMP Implementation:** In the event that a Permittee determines that a BMP is infeasible at any site, including those specified in the California Stormwater Industrial and Commercial BMP Handbook (2003), the Permittee shall require implementation of similar BMPs that will achieve the equivalent reduction of pollutants in the storm water discharges. Likewise, for those BMPs that are not adequate to achieve MALs and/ or water quality objectives, Permittees may require additional site-specific controls, such as treatment control BMPs.
 - (b) **ESAs and Impaired Waters:** For critical sources that discharge to ESAs or that are tributary to CWA § 303(d) listed impaired water bodies, the Permittees shall require operators to implement additional controls to reduce pollutants in storm water runoff that are causing or contributing to exceedences of MALs and/ or water quality objectives.
 - (c) **Progressive Enforcement:** Each Permittee shall implement a progressive enforcement policy to ensure that facilities are brought into compliance with all storm water requirements within a reasonable time period as specified below.
 - (1) In the event that a Permittee determines, based on an inspection conducted, that an operator has failed to adequately implement all necessary BMPs, that Permittee shall take progressive enforcement actions which, at a minimum, shall include a follow-up inspection within 4 weeks from the date of the initial inspection.
 - (2) In the event that a Permittee determines that an operator has failed to adequately implement BMPs after a follow-up inspection, that Permittee shall take further enforcement action as established through authority in its municipal code and ordinances or through the judicial system.
 - (3) Each Permittee shall maintain records and make them available on request to the Regional Water Board, including inspection reports, warning letters, notices of violations, and other enforcement records, demonstrating a good faith effort to bring facilities into compliance.
4. Interagency Coordination
- (a) **Referral of Violations of the Municipal Storm Water Ordinances and California Water Code § 13260:** A Permittee may refer a violation(s) to the Regional Water Board provided that that Permittee has made a good faith effort of progressive enforcement. At a minimum, a Permittee's good faith effort must be documented with:
 - (1) Two follow-up inspections.
 - (2) Two warning letters or notices of violation.

- (b) **Referral of Violations of the Industrial Activities Storm Water General Permit (IASGP), including Requirements to File a Notice of Intent or No Exposure Certification:** For those facilities in violation of the IASGP, Permittees may escalate referral of such violations to the Regional Water Board (electronically on a quarterly basis to the Regional Water Board's Storm Water Site at MS4stormwaterrb4@waterboards.ca.gov) after one inspection and one written notice (copied to the Regional Water Board) to the operator regarding the violation. In making such referrals, Permittees shall include, at a minimum, the following documentation:
- (1) Name of the facility.
 - (2) Operator of the facility.
 - (3) Owner of the facility.
 - (4) WDID Number (if applicable).
 - (5) Industrial activity being conducted at the facility that is subject to the IASGP.
 - (6) Records of communication with the facility operator regarding the violation, which shall include at least an inspection report.
 - (7) The written notice of the violation copied to the Regional Water Board.
- (c) **Investigation of Complaints Regarding Facilities – Transmitted by the Regional Water Board Staff:** Each Permittee shall initiate, within one business day,¹ investigation of complaints (other than non-storm water discharges) regarding facilities within its jurisdiction. The initial investigation shall include, at a minimum, a limited inspection of the facility to confirm the complaint to determine if the facility is effectively complying with the municipal storm water urban runoff ordinances, and to oversee corrective action.
- (d) **Assistance of Regional Water Board Enforcement Actions:** As directed by the Regional Water Board Executive Officer, Permittees shall assist Regional Water Board enforcement actions by: helping in identification of current owners, operators, and lessees of facilities; providing staff, when available, for joint inspections with Regional Water Board inspectors; appearing as witnesses in Regional Water Board enforcement hearings; and providing copies of inspection reports and other progressive enforcement documentation.
- (e) **Participation in a Task Force:** The Permittees consent to participate with the Regional Water Board, and other public agencies on an enforcement task force such as the Storm Water Task Force, to communicate concerns regarding special cases of storm water violations by industrial and commercial facilities and to develop a coordinated approach to enforcement action.

¹ Permittees may comply with the Permit by taking initial steps (such as logging, prioritizing, and tasking) to "initiate" the investigation within that one business day. However, the Regional Water Board would expect that the initial investigation, including a site visit, to occur within four business days.

E. Planning and Land Development Program**I. Purpose**

1. The Permittees shall implement a Planning and Land Development Program pursuant to Section 5.E. for all New Development and Redevelopment projects subject to this Order to:
 - (a) Minimize the adverse impacts from storm water runoff on the biological integrity of Natural Drainage Systems and the beneficial uses of water bodies in accordance with requirements under CEQA (Cal. Pub. Resources Code § 21100), CAL. WATER CODE §13369, CWA § 319, CWA § 402(p), CWA § 404, CZARA § 6217(g), ESA § 7, and local government ordinances.
 - (b) Minimize the percentage of impervious surfaces on land developments to support the percolation and infiltration of storm water into the ground.
 - (c) Minimize pollutant loadings from impervious surfaces such as roof-tops, parking lots, and roadways through the use of properly designed, technically appropriate BMPs (including Source Control BMPs such as good housekeeping practices), Low Impact Development Strategies, and Treatment Control BMPs.
 - (d) Properly select, design and maintain Treatment Control BMPs and Hydromodification Control BMPs to address pollutants that are likely to be generated, reduce post-development surface flows, assure long-term function, and to avoid the breeding of vectors.¹
 - (e) Prioritize the selection of BMPs suites to remove storm water pollutants, reduce storm water runoff volume, and beneficially reuse storm water to support an integrated approach to protecting water quality and managing water resources in the following order of preference:
 - (1) Low Impact Development Strategies (see the following section E.III.2).
 - (2) Integrated Water Resources Management Strategies.
 - (3) Multi-benefit Landscape Feature BMPs.
 - (4) Modular/ Proprietary Treatment Control BMPs.

II. Applicability

1. New Development Projects.
 - (a) Development projects subject to Permittee conditioning and approval for the design and implementation of post-construction treatment controls to mitigate storm water pollution, prior to completion of the project(s), are:
 - (1) All development projects equal to 1 acre or greater of disturbed area.
 - (2) Industrial park 5,000 square feet or more of surface area.
 - (3) Commercial strip mall 5,000 square feet or more of surface area.

¹ Treatment BMPs when designed to drain within 72 hours of the end of rainfall minimize the potential for the breeding of vectors.

- (4) Retail gasoline outlet 5,000 square feet or more of surface area.
- (5) Restaurant (SIC 5812) 5,000 square feet or more of surface area.
- (6) Parking lot 5,000 square feet or more of surface area, or with 25 or more parking spaces.
- (7) Streets, roads, highways, and freeway construction of 5,000 square feet or more of surface area.
- (8) Automotive service facilities (SIC 5013, 5014, 5541, 7532-7534 and 7536-7539) [5,000 square feet or more of surface area].
- (9) Redevelopment projects in subject categories that meet Redevelopment thresholds (identified in the following section E.II.2).
- (10) Projects located in or directly adjacent to, or discharging directly to an Environmentally Sensitive Area (ESA), where the development will:
 - (A) Discharge storm water runoff that is likely to impact a sensitive biological species or habitat.
 - (B) Create 2,500 square feet or more of impervious surface area.
- (11) Single-family hillside homes.
 - (A) Measures to be implemented:
 - (i) Conserve natural areas.
 - (ii) Protect slopes and channels.
 - (iii) Provide storm drain system stenciling and signage.
 - (iv) Divert roof runoff to vegetated areas before discharge unless the diversion would result in slope instability.
 - (v) Direct surface flow to vegetated areas before discharge unless the diversion would result in slope instability.

2. Redevelopment Projects

- (a) Redevelopment projects subject to Permittee conditioning and approval for the design and implementation of post-construction treatment controls to mitigate storm water pollution, prior to completion of the project(s), are:
 - (1) Land-disturbing activity that results in the creation or addition or replacement of 5,000 square feet or more of impervious surface area on an already developed site on development categories identified in subsection 5.E.II.1.
 - (2) Where Redevelopment results in an alteration to more than fifty percent of impervious surfaces of a previously existing development, and the existing development was not subject to post development storm water quality control requirements, the entire project must be mitigated.
 - (3) Where Redevelopment results in an alteration to less than fifty percent of impervious surfaces of a previously existing development, and the existing development was not subject to post development storm water quality control requirements, only the alteration must be mitigated, and not the entire development.

- (b) Redevelopment does not include routine maintenance activities that are conducted to maintain original line and grade, hydraulic capacity, original purpose of facility or emergency redevelopment activity required to protect public health and safety. Impervious surface replacement, such as the reconstruction of parking lots and roadways, is not considered a routine maintenance activity.
 - (c) Existing single-family structures are exempt from the Redevelopment requirements unless such projects create, add, or replace 10,000 square feet of impervious surface area.
3. Effective Date – The New Development and Redevelopment requirements contained in Section E. of the Order shall apply to projects or project phases that have not:
- (a) Received Tentative tract map and post construction control approval prior to [90 days after Order adoption date], or
 - (b) Began grading or construction activity prior to [30 days after Order adoption date], after having received post construction control approval under Board Order No. 00-108.

III. New Development/ Redevelopment Performance Criteria

1. Integrated Water Quality/ Resources Management Criterion
- (a) Permittees shall require that all New Development and Redevelopment projects identified in subsection 5.E.II control pollutants, pollutant loads, and runoff volume emanating from impervious surfaces through percolation, infiltration, storage, or evapo-transpiration, by reducing the percentage of Effective Impervious Area (EIA) to less than 5 percent of total project area.
 - (b) Impervious surfaces may be rendered "ineffective" if the storm water runoff is:
 - (1) Drained into a vegetated cell, over a vegetated surface, or through a vegetated swale, having soil characteristics either as native material or amended medium using approved soil engineering techniques; or
 - (2) Collected and stored for beneficial use such as irrigation, or other reuse purpose; or
 - (3) Discharged into an infiltration trench.
 - (c) Any excess surface discharge of the storm water runoff shall be mitigated in accordance with Part 5.E.III.4.
2. Low Impact Development (LID) Measures
- (a) All new development and redevelopment projects identified in subsection 5.E.II shall integrate Low Impact Development (LID) principles into project design. LID is a storm water management and land development strategy that emphasizes conservation and the use of on-site natural features integrated with engineered, small-scale hydrologic controls to more closely reflect predevelopment hydrologic functions.

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- (b) The Permittees shall develop a LID Technical Guidance Section to the Ventura County Water Guidance Manual for Storm Water Quality Control Measures no later than (365 days from the Order's adoption date) for use by land planners and developers. The LID Technical Guidance Section shall include objectives and specifications for integration of LID strategies in the areas of:
 - (1) Site Assessment.
 - (2) Site Planning and Layout.
 - (3) Vegetative Protection, Revegetation, and Maintenance.
 - (4) Techniques to Minimize Land Disturbance.
 - (5) Techniques to Implement LID Measures at Various Scales
 - (6) Integrated Water Resources Management Practices.
 - (7) LID Design and Flow Modeling Guidance.
 - (8) Hydrologic Analysis.
 - (9) LID Credits.
 - (c) The Permittees shall facilitate implementation of LID by providing key industry, regulatory, and other stakeholders with information regarding LID objectives and specifications contained in the LID Technical Guidance Section through a training program. The LID training program will include the following:
 - (1) LID targeted sessions and materials for builders, design professionals, regulators, resource agencies, and stakeholders.
 - (2) A combination of awareness on national efforts and local experience gained through LID pilot projects and demonstration projects.
 - (3) Materials and data from LID pilot projects and demonstration projects including case studies.
 - (4) Guidance on how to integrate LID requirements into the local regulatory program(s) and requirements.
 - (5) Availability of the LID Technical Guidance regarding integration of LID measures at various project scales.
 - (6) Guidance on the relationship among LID strategies, Source Control BMPs, Treatment Control BMPs, and Hydromodification Control requirements.
3. Hydromodification (Flow/ Volume/ Duration) Control Criteria
- (a) Each Permittee shall require all New Development and Redevelopment projects identified in subsection 5.E.II to implement hydrologic control measures, to prevent accelerated downstream erosion and to protect stream habitat in natural drainage systems. The purpose of the hydrologic controls is to minimize changes in post-development hydrologic storm water runoff discharge rates, velocities, and duration. This shall be achieved by maintaining the project's pre-development storm water runoff flow rates and durations.
 - (1) Description
 - (A) Hydromodification control in natural drainage systems shall be achieved by maintaining the Erosion Potential (E_p) in streams at a

- value of 1, unless an alternative value can be shown to be protective of the natural drainage systems from erosion, incision, and sedimentation that can occur as a result of flow increases from impervious surfaces and damage stream habitat (See Attachment "E" - Determination of Erosion Potential).
- (B) Hydromodification control may include one, or a combination of on-site, regional subregional hydromodification control BMPs, LID strategies, or stream restoration measures, with preference given to LID strategies and hydromodification control BMPs. Any in-stream restoration measure shall not adversely affect the beneficial uses of the natural drainage systems.
- (C) Natural drainage systems, which include unlined or unimproved (not engineered) creeks, streams, rivers and their tributaries, are located in the following watersheds:
- (i) Ventura River.
 - (ii) Santa Clara River.
 - (iii) Calleguas Creek.
 - (iv) Miscellaneous Ventura Coastal.
- (D) The Southern California Storm Water Monitoring Coalition (SMC) is developing a regional methodology to eliminate or mitigate the adverse impacts of hydromodification as a result of urbanization, including hydromodification assessment and management tools.
- (i) The SMC has identified the following objectives for the Hydromodification Control Study (HCS):
- (I) Establishment of a stream classification for Southern California streams.
 - (II) Development of a deterministic or predictive relationship between changes in watershed impervious cover and stream-bed/ stream bank enlargement.
 - (III) Development of a numeric model to predict stream-bed/ stream bank enlargement and evaluate the effectiveness of mitigation strategies.
- (E) The Permittees shall participate in the SMC HCS to develop:
- (i) A regional stream classification system.
 - (ii) A numerical model to predict the hydrological changes resulting from new development.
 - (iii) A numerical model to identify effective mitigation strategies.
- (F) Until the completion of the SMC HCS, Permittees shall implement the Interim Hydromodification Criteria to control the potential adverse impacts of changes in hydrology that may result from new development and redevelopment projects identified in subsection 5.E.II.

- (G) Existing single-family structures are exempt from the Hydromodification control requirements unless such projects disturb one acre or more of land or create, add, or replace 10,000 square feet or more of impervious surface area.
- (2) Interim Criteria
- (A) The Interim Hydromodification Control Criteria to protect natural drainage systems until Permittees complete Hydromodification Control Plans (HCPs) are as follows:
- (i) **Projects disturbing land area of less than fifty acres**
Projects in this category shall implement hydromodification controls such that the 2-year 24-hour storm event post development hydrograph peak flow and volume will match within one percent of the 2-year 24-hour storm event pre-development peak flow and volume hydrograph.
- (ii) **Projects disturbing land areas of fifty acres or greater**
Projects in this category shall develop and implement a Hydromodification Analysis Study (HAS) that demonstrates that post development conditions are not expected to alter the duration of sediment transporting flows in receiving waters. The HAS must demonstrate that the selected hydromodification control BMPs will maintain an Erosion Potential value of 1 unless an alternative value can be shown to be protective of the natural drainage systems from erosion, incision, and sedimentation that can occur as a result of flow increases from impervious surfaces and damage stream habitat in natural drainage systems.
- (I) Alternatively, project proponents in this category may elect to develop, in partnership with Permittees, an equivalent implementation method based on flow duration control in the form of nomographs relating planned impervious area and local soil type (infiltration rates) to determine hydromodification control BMP volume and land area requirements for the proposed project. The nomographs shall be derived from continuous simulation modeling using Ventura County specific rain gauge records and soil types, and calibrated using data from a local undeveloped watershed.
- (3) Final Criteria
- (A) The Permittees shall develop and implement watershed specific HCPs no later than 180 days after the completion of the SMC HCS.
- (i) The HCP shall identify:
- (I) Stream classifications.

- (II) Flow rate and duration control methods.
 - (III) Sub-watershed mitigation strategies.
 - (IV) Stream restoration measures, which will maintain the stream and tributary Erosion Potential at 1 unless an alternative value can be shown to be protective of the natural drainage systems from erosion, incision, and sedimentation that can occur as a result of flow increases from impervious surfaces and damage stream habitat in natural drainage system tributaries.
- (B) The HCP shall contain the following elements:
- (i) Hydromodification Management Standards
 - (ii) Natural Drainage Areas and Hydromodification Management Control Areas.
 - (iii) New Development and Redevelopment Projects subject to the HCP.
 - (iv) Description of authorized Hydromodification Management Control BMPs.
 - (v) Hydromodification Management Control BMP Design Criteria.
 - (vi) For flow duration control methods, the range of flows to control for, and goodness of fit criteria.
 - (vii) Allowable low critical flow, Q_c , which initiates sediment transport.
 - (viii) Description of the approved Hydromodification Model.
 - (ix) Any alternate Hydromodification Management Model and Design.
 - (x) Stream Restoration Measures Design Criteria.
 - (xi) Monitoring and Effectiveness Assessment
 - (xii) Record Keeping.
4. Water Quality Mitigation Criteria
- (a) Each Permittee shall require all New Development and Redevelopment projects identified in subsection 5.E.II to implement post-construction storm water treatment BMPs and control measures to mitigate storm water pollution as follows:
- (1) Projects disturbing land areas less than 50 acres
 - (A) Volumetric Treatment Control BMP
 - (i) The 85th percentile 24-hour runoff event determined as the maximized capture storm water volume for the area using a 48 to 72-hour draw down time, from the formula recommended in *Urban Runoff Quality Management, WEF Manual of Practice No. 23/ASCE Manual of Practice No. 87, (1998)*; or

- (ii) The volume of annual runoff based on unit basin storage water quality volume, to achieve 80 percent or more volume treatment by the method recommended in the Ventura County Technical Guidance Manual for Storm Water Quality Control Measures (July 2002 and its revisions); or
- (iii) The volume of runoff produced from a 0.75 inch storm event, prior to its discharge to a storm water conveyance system;¹ and/ or
- (B) Flow Based Treatment Control BMP
 - (i) The flow of runoff produced from a rain event equal to at least 0.2 inches per hour intensity; or
 - (ii) The flow of runoff produced from a rain event equal to at least 2 times the 85th percentile hourly rainfall intensity as determined from local rainfall records; or
 - (iii) Eight percent of the 50-year storm design flow rate as determined from the method recommended in the Ventura County Technical Guidance Manual for Storm Water Quality Control Measures (July 2002 and its revisions).
- (2) Projects disturbing land area of 50 acres or greater
 - (A) Eighty percent of the average runoff volume using an appropriate public domain continuous flow model (such as Storm Water Management Model (SWMM) or Hydrologic Engineering Center – Hydrologic Simulation Program – Fortran (HEC-HSPF), using the local rainfall record and relevant BMP Performance data.

IV. Implementation

- 1. Maintenance Agreement and Transfer
 - (a) Each Permittee shall require that all new development and redevelopment projects subject to post-construction BMP requirements provide verification of maintenance provisions for Structural BMPs, Treatment Control BMPs, and Hydromodification Control BMPs including but not limited to: final map conditions, legal agreements, covenants, conditions or restrictions, CEQA mitigation requirements, conditional use permits, and/ or other legally binding maintenance agreements.
 - (1) Verification at a minimum shall include the developer's signed statement accepting responsibility for maintenance until the responsibility is legally transferred; and either
 - (A) A signed statement from the public entity assuming responsibility for all Structural BMP, Treatment Control BMP, and Hydromodification Control BMP maintenance; or

¹ This option is available only for construction projects that disturb land area less than 5 acres.

- (B) Written conditions in the sales or lease agreement, which require the property owner or tenant to assume responsibility for BMP maintenance and conduct a maintenance inspection at least once a year; or
 - (C) Written text in project covenants, conditions, and restrictions (CCRs) for residential properties assigning BMP maintenance responsibilities to the Home Owners Association (HOA); or
 - (D) Any other legally enforceable agreement or mechanism that assigns responsibility for the maintenance of BMPs.
2. Tracking, Inspection, and Enforcement of Post-Construction BMPs
- (a) Each Permittee shall implement a tracking system, and an inspection and enforcement program for new development and redevelopment post-construction storm water BMPs as set forth in subsection 5.E no later than (365 days after Order adoption date).
 - (1) Implement a GIS or other electronic system for tracking projects that have been conditioned for construction/ post-construction BMPs. The electronic system, at a minimum, should contain the following information:
 - (A) Municipal Project ID.
 - (B) State WDID No.
 - (C) Project Acreage.
 - (D) BMP Type and Description.
 - (E) BMP Location (coordinates).
 - (F) Date of Acceptance.
 - (G) Date of O&M Certification.
 - (H) Maintenance Records.
 - (I) Inspection Date and Summary.
 - (J) Corrective Action.
 - (K) Date Certificate of Occupancy Issued.
 - (L) Replacement or Repair Date
 - (b) Inspect all development sites upon completion of construction and prior to the issuance of occupancy certificates to ensure proper installation of LID measures, structural BMPs, treatment control BMPs and Hydromodification control BMPs. The inspection may be combined with other inspections provided it is conducted by trained personnel.
 - (c) Verify proper maintenance and operation of post-construction BMPs previously approved for new development and redevelopment. The post construction BMP maintenance inspection program shall incorporate the following elements:
 - (1) Post-construction BMP Maintenance Inspection checklist.
 - (2) Inspection at least once every 2 years, beginning (365 days after Order adoption date), of post-construction BMPs to assess operation conditions with particular attention to:

- (A) For Non-proprietary BMPs – hydraulic function, failure, invasive vegetation, vector risk, fugitive material, sediment clogging, and improper modifications.
 - (B) For Proprietary BMPs – solids removal, pump-out, blockage and drawdown drainage.
 - (3) Criteria and procedures for post construction Treatment Control and Hydromodification Control BMP repair, replacement, or re-vegetation.
 - (d) Undertake enforcement based on the results of the inspection.
3. Permitting Authorities Post Construction BMP Implementation Coordination and Enforcement
- (a) The Regional Water Board, State Water Board, or U.S. EPA may include the following actions for coordination of the Permittees' program with the post-construction BMP provisions of the statewide construction activity storm water general permit or individual construction activity storm water permits.
 - (1) Absence, Inadequate or Ineffective Post-Construction BMPs.
 - (A) If the permitting authorities' inspection does not readily identify the implementation of post-construction control BMPs at the site, progressive enforcement action will be initiated against the Permittee and/ or project owner/ developer.
 - (B) If the permitting authorities' inspection identifies the implementation of post-construction BMPs, but they are determined to be inadequate or ineffective (e.g. undersized, or non-specific to pollutants of concern, or poorly maintained), progressive enforcement action will be initiated against the Permittee and/ or project owner/ developer.
 - (C) Failure to implement or the implementation of inadequate or ineffective BMPs may be grounds for the permitting authorities to deny the construction activity storm water permit Notice of Termination (NOT) for the project.
4. Alternative Post Construction Storm Water Mitigation Programs
- (a) A Permittee or a coalition of Permittees may apply to the Regional Water Board for approval of a regional or sub-regional storm water mitigation program to substitute in part or wholly for on-site post-construction requirements.
 - (b) Upon review and a determination by the Regional Water Board Executive Officer that the proposal is technically valid and appropriate, the Regional Water Board may consider for approval such a program if its implementation will:
 - (1) Result in equivalent or improved storm water quality.
 - (2) Protect stream habitat.
 - (3) Be fiscally sustainable and has secure funding.
 - (4) Promote cooperative problem solving by diverse interests.

- (5) Be completed in four years or less including the construction and start-up of treatment facilities.
 - (c) A Permittee or a coalition of Permittees may apply to the Regional Water Board for approval of a Redevelopment Project Area Master Plan (RPAMP) for redevelopment projects within Redevelopment Project Areas, in consideration of balancing water quality protection with the needs for adequate housing, population growth, public transportation and management, land recycling, and urban revitalization.
 - (d) For the RPAMP to be considered, a technical panel of the Local Government Commission or an equivalent state or regional planning agency must have reviewed and approved the proposed RPAMP, prior to its submittal to the Regional Water Board, for conformity with the balancing of interests identified in (b), including water quality. The Regional Water Board Executive Officer may then consider the RPAMP for approval, or elect to submit it to the Regional Water Board for consideration.
 - (e) The RPAMP, on approval, may substitute in part or wholly for on-site post-construction and hydromodification requirements.
 - (f) Redevelopment Project Areas include the following:
 - (1) City Center areas.
 - (2) Historic District areas.
 - (3) Brownfield areas.
 - (4) Infill Development areas.
 - (5) Urban Transit Villages.
 - (6) Any other redevelopment area so designated by the Regional Water Board.
 - (g) Nothing in these provisions shall be construed as to delay the implementation of post-construction control requirements, as approved in this Order.
5. Mitigation Funding
- (a) A Permittee or a coalition of Permittees may create a management framework to fund regional or subregional solutions to storm water pollution, where any of the following situations occur:
 - (1) A waiver for impracticability is granted;
 - (2) Funds become available;
 - (3) Off-site mitigation is required because of loss of environmental habitat; or
 - (4) An approved watershed management plan, or an integrated water resources management plan, or a regional storm water mitigation plan, or a wetlands recovery plan exists that incorporates an equivalent or improved strategy for storm water pollution mitigation.
6. Developer Technical Guidance and Information
- (a) The Permittees shall update the Ventura County Technical Guidance Manual for Storm Water Quality Control Measures to include, at a minimum, the following:

- (1) Hydromodification Control criteria described in this Order, including numerical criteria.
- (2) Expected BMP pollutant removal performance including effluent quality and removal efficiency ranges (ASCE/ U.S. EPA International BMP Database, CASQA New Development BMP Handbook, technical reports, local data on BMP performance, and the scientific literature).
- (3) Selection of appropriate BMPs for storm water pollutants of concern.
- (4) Data on Observed Local Effectiveness and performance of implemented BMPs.
- (5) BMP Maintenance and Cost Considerations.
- (6) Criteria to facilitate integrated water resources planning and management in the selection of BMPs, including water conservation, groundwater recharge, public recreation, multipurpose parks, open space preservation, and redevelopment retrofits.
- (7) LID principles and specifications.

7. Project Coordination

- (a) Each Permittee shall facilitate a process for effective approval of post-construction storm water control measures. The process shall include:
 - (1) Detailed BMP review including BMP sizing calculations, BMP pollutant removal effectiveness, and municipal approval; and
 - (2) An established structure for communication and delineated authority between and among municipal departments that have jurisdiction over project review, plan approval, and project construction through memoranda of understanding (MOU) or an equivalent agreement.

V. State Statute Conformity

1. California Environmental Quality Act (CEQA) Document Update

- (a) Each Permittee shall incorporate into its CEQA process no later than (6 months from Order adoption date), those additional procedures necessary for considering potential storm water quality impacts and providing for appropriate mitigation when preparing and reviewing CEQA documents.
 - (1) The procedures shall require consideration of the following:
 - (A) Potential impact of project construction on storm water runoff.
 - (B) Potential impact of project post-construction activity on storm water runoff.
 - (C) Potential for discharge of storm water from areas from material storage, vehicle or equipment fueling, vehicle or equipment maintenance (including washing), waste handling, hazardous materials handling or storage, delivery areas or loading docks, or other outdoor work areas.

- (D) Potential for discharge of storm water to impair the beneficial uses of the receiving waters.
- (E) Potential for the discharge of storm water to cause significant harm on the biological integrity of the waterways and water bodies.
- (F) Potential for significant changes in the flow velocity or volume of storm water runoff to cause harm to or impair the beneficial uses of natural drainage systems.
- (G) Potential for significant increases in erosion at the project site or surrounding areas.

2. General Plan Update

- (a) Each Permittee shall amend, revise or update its General Plan to include watershed and storm water quality and quantity management considerations and policies when any of the following General Plan elements are updated or amended:
 - (1) Land Use.
 - (2) Housing.
 - (3) Conservation.
 - (4) Open Space.
- (b) Each Permittee shall provide the Regional Water Board with the draft amendment or revision when a listed General Plan element or General Plan is noticed for comment in accordance with Cal. Govt. Code § 65350 *et seq.*

F. Development Construction Program

- I. Soil disturbing activities during construction and demolition exacerbate sediment losses. Sediment is a primary pollutant impacting beneficial uses of watercourses. Sediments, and other construction activity pollutants must be properly controlled to reduce or eliminate adverse impacts.
 - 1. Grading Restrictions
 - (a) Each Permittee shall implement a program to control storm water discharges from construction activity at all construction sites within its jurisdiction. During the wet season, the program shall ensure that the following requirements are effectively implemented at all the construction sites in the categories listed below:
 - (1) No grading shall occur between October 1 – April 15 (wet season) for construction projects in the following areas of high erosivity:
 - (A) On hillsides with slopes 20% or steeper prior to land disturbance (If hillside development is not defined by a zoning ordinance, then the prohibition will apply to steep or long continuous slopes, or areas with silty soils, fine sands, or soils lacking vegetative cover.).

- (B) Directly discharging to a waterbody listed on the CWA § 303 (d) list for siltation or sediment; or
 - (C) Within or adjacent to an environmentally sensitive area (ESAs)
- (b) If grading operations in these areas are not completed before the onset of the wet season beginning October 1st, grading shall be halted and effective erosion control measures shall be put in place to minimize erosion. Grading shall not resume until after April 15th. Depending on the project area, the developer shall implement the Erosion and Sediment control BMPs listed in the following Tables 6, 7, and 8.
- (c) A Grading Prohibition Variance may be granted by the Permittee where the project proponent can demonstrate that the proposed BMP measures can be reasonably expected to:
- (1) Not cause or contribute to the degradation of water quality.
 - (2) Ensure that Total Suspended Solids discharged is 100mg/L or less.
 - (3) Ensure that Turbidity of the discharge is 50 NTU or less.
 - (4) Not impair beneficial uses.
 - (5) Includes a monitoring program to ensure effectiveness.

2. Construction Sites Less than an Acre
- (a) Each Permittee shall require the implementation of a minimum set of BMPs in combination at all construction sites (see Table 6- BMPs at Construction sites less than 1 acre) to prevent erosion and sediment loss, and the discharge of construction wastes.¹ Where the Erosivity Factor (R) for the construction project is 50 or greater, erosion controls (erosion avoidance) are the preferred BMPs.²

Table 6 - BMPs at Construction sites less than 1 acre

Minimum Set of BMPs for All Construction Sites	CASQA Handbook	Caltrans Handbook
For Erosion Control		
Scheduling	EC-1	SS-1
Preservation of Existing Vegetation	EC-2	SS-2
Sediment Controls		
Silt Fence	SE-1	SC-1
Sand Bag Barrier	SE-8	SC-8
Stabilized Construction Site Entrance/Exit	TC-1	TC-1
Non-Storm Water Management		
Water Conservation Practices	NS-1	NS-1
Dewatering Operations (Groundwater dewatering only under NPDES Permit No. CAG994004). ³	NS-2	NS-2
Waste Management		
Material Delivery and Storage	WM-1	WM-1
Stockpile Management	WM-3	WM-2
Spill Prevention and Control	WM-4	WM-4
Solid Waste Management	WM-5	WM-5
Concrete Waste Management	WM-8	WM-8
Sanitary/ Septic Waste Management	WM-9	WM-9

¹ The BMPs are taken from the *California BMP Handbook, Construction, January 2003* and the *Caltrans Stormwater Quality Handbooks, Construction Site Best Management Practices (BMPs) Manual, March 2003*, and addenda.

² Fact Sheet, *Construction Rainfall Erosivity Waiver* (2001) EPA 833-F-00-014; *Predicting Soil Erosion by Water: A Guide to Conservation Planning with the Revised Universal Soil Loss Equation (RUSLE)* (1997), USDA Agricultural Handbook No. 703.

³ Pondered storm water may be discharged at a concentration of Total Suspended Solids (TSS) of 100mg/L or less.

Second draft Ventura County Municipal Separate Storm Sewer System Permit

3. Construction Sites 1 acre or greater but Less than 5 acres
- (a) Each Permittee shall require the implementation of the BMPs in Table 7 (BMPs at Construction sites 1 acre or greater but less than 5 acres) in addition to the ones identified in Table 6 (BMPs at Construction sites less than 1 acre) at all construction sites 1 acre and greater but less than 5 acres to prevent erosion and sediment loss, and the discharge of construction wastes:

Table 7 - BMPs at Construction sites 1 acre or greater but less than 5 acres

BMPs	CASQA Handbook	Caltrans Handbook
For Erosion Control		
Hydraulic Mulch	EC-3	SS-3
Hydroseeding	EC-4	SS-4
Soil Binders	EC-5	SS-5
Straw Mulch	EC-6	SS-6
Geotextiles and Mats	EC-7	SS-7
Wood Mulching	EC-8	SS-8
Sediment Controls		
Fiber Rolls	SE-5	SC-5
Gravel Bag Berm	SE-6	SC-6
Street Sweeping and/ or Vacuum	SE-7	SC-7
Storm Drain Inlet Protection	SE-10	SC-10
Additional Controls		
Wind Erosion Controls	WE-1	WE-1
Stabilized Construction Entrance/ Exit	TC-1	TC-1
Stabilized Construction Roadway	TC-2	TC-2
Entrance/ Exit Tire Wash	TC-3	TC-3
Non-Storm Water Management		
Vehicle and Equipment Washing	NS-8	NS-8
Vehicle and Equipment Fueling	NS-9	NS-9

- 4. Construction Sites 5 acres and Greater
 - (a) Each Permittee shall require the implementation of the BMPs in Table 8 (BMPs at Construction sites 5 acres or greater) in addition to the ones identified in Table 6 (BMPs at Construction sites less than 1 acre) and Table 7 (BMPs at Construction sites 1 acre or greater but less than 5 acres) at all construction sites 5 acres and greater to prevent erosion and sediment loss, and the discharge of construction wastes:

Table 8 - BMPs at Construction sites 5 acres or greater

BMPs	CASQA Handbook	Caltrans Handbook
Sediment Controls		
Sediment Basin	SE-2	SC-2
Check Dam	SE-4	SC-4
Tracking Control BMPs		
Stabilized Construction Entrance/ Exit	TR-1	TC-1
Non-Storm Water Management		
Vehicle and Equipment Maintenance	NS-10	NS-10
Waste Management		
Material Delivery and Storage	WM-1	WM-1
Spill Prevention and Control	WM-4	WM-4
Concrete Waste Management	WM-8	WM-8
Sanitary/ Septic Waste Management	WM-9	WM-9

- 5. Local Agency Requirements
 - (a) Each Permittee shall require for all construction sites 1 acre or greater, compliance with all conditions identified in the preceding subsections F.1 - F.5, and the following requirements:
 - (1) Local Storm Water Pollution Prevention Plan (Local SWPPP),
 - (A) Each Permittee shall require the preparation and submittal of a Local SWPPP, for the Permittee's review and written approval prior to issuance of a grading permit for construction projects. If the Local SWPPP is revised, the Permittee shall review and approve those revisions. The Permittees' approval signature shall be contained within the first pages of the Local SWPPP (with sufficient room for approval of revisions.)
 - (i) The Permittee shall not approve any Local SWPPP unless it contains appropriate construction site BMPs, specific locations, and maintenance schedules.
 - (ii) A Local SWPPP may substitute for the State SWPPP if the Local SWPPP is at least as inclusive in controls and BMPs as the State SWPPP.

(iii) The Local SWPPP must include the rationale used for selecting or rejecting BMPs. The project architect, or engineer of record, or authorized qualified designee, must sign a statement on the Local SWPPP to the effect:

(I) *"As the architect/ engineer of record, I have selected appropriate BMPs to effectively minimize the negative impacts of this project's construction activities on storm water quality. The project owner and contractor are aware that the selected BMPs must be installed, monitored, and maintained to ensure their effectiveness. The BMPs not selected for implementation are redundant or deemed not applicable to the proposed construction activity."*

(2) Certification Statement

(A) Each Permittee shall require that each landowner or the landowner's agent sign a statement on the Local SWPPP to the effect:

(i) *"I certify that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, to the best of my knowledge and belief, the information submitted is true, accurate, and complete. I am aware that submitting false and/ or inaccurate information, failing to update the Local SWPPP to reflect current conditions, or failing to properly and/ or adequately implement the Local SWPPP may result in revocation of grading and/ or other permits or other sanctions provided by law."*

(B) The Local SWPPP certification shall be signed by the landowner as follows:

(i) Corporation - by a responsible corporate officer which means the following:

(I) President, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(II) Manager of the construction activity if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

(ii) Partnership or sole proprietorship - by a general partner or the proprietor; or

- (iii) Municipality or other public agency - by an elected official, a ranking management official (e.g., County/ City Administrative Officer, City Manager, Director of Public Works, or City Engineer).

6. Roadway Paving or Repaving Operations

- (a) Each Permittee shall require that for any project that includes roadbed or street paving, repaving, patching, digouts, or resurfacing roadbed surfaces, that the following BMPs be implemented for each project.

- (1) Restrict paving and repaving activity to exclude periods of rainfall or predicted rainfall unless required by emergency conditions.
- (2) Install sand bags or gravel bags and filter fabric at all susceptible storm drain inlets and at manholes to prevent spills of paving products and tack coat;
- (3) Prevent the discharge of release agents including soybean oil, other oils, or diesel to the storm water drainage system or watercourses.
- (4) Minimize non storm water runoff from water use for the roller and for evaporative cooling of the asphalt.
- (5) Clean equipment over absorbent pads, drip pans, plastic sheeting or other material to capture all spillage and dispose properly.
- (6) Collect liquid waste in a container, with a secure lid, for transport to a maintenance facility to be reused, recycled or disposed off properly.
- (7) Collect solid waste by vacuuming or sweeping and securing in an appropriate container for transport to a maintenance facility to be reused, recycled or disposed of properly.
- (8) Cover the "cold-mix" asphalt (i.e., pre-mixed aggregate and asphalt binder) with protective sheeting during a rainstorm.
- (9) Cover loads with tarp before haul-off to a storage site, and do not overload trucks.
- (10) Minimize airborne dust by using water spray during grinding.
- (11) Avoid stockpiling soil, sand, sediment, asphalt material and asphalt grindings materials or rubble in or near storm water drainage system or watercourses.
- (12) Protect stockpiles with a cover or sediment barriers during a rain.

7. Electronic Site Tracking System

- (a) Each Permittee shall use an electronic system to track grading permits, encroachment permits, demolition permits, building permits, or construction permits (and any other municipal authorization to move soil and/ or construct or destruct that involves land disturbance) issued by each Permittee. To satisfy this requirement, the use of a database or GIS system is encouraged, but not required.

8. Inspections

- (a) Each Permittee shall inspect all construction sites for the implementation of storm water quality controls a minimum of once during the wet season. Concurrently, each Permittee shall ensure that:
 - (1) The Local SWPPP is reviewed for compliance with local codes, ordinances, and permits.
 - (2) A follow-up inspection takes place within two weeks for inspected sites that have not adequately implemented their Local SWPPP.
- (b) Each Permittee shall take additional enforcement actions to achieve compliance as specified in municipal codes, if compliance with municipal codes, ordinances, or permits has not been attained.
- (c) Each Permittee can refer sites to the Regional Water Board for further joint enforcement actions for violation of the Construction Activities Storm Water General Permit (CASGP) or Small Linear Underground/ Overhead Construction Projects General Permit (small LUPs), after conducting a minimum of 2 site inspections and issuing a minimum of 2 written notices to the operator regarding the violation (copied to the Regional Water Board). In making such referrals, Permittees shall include, at a minimum, the following documentation:
 - (1) Name of the site.
 - (2) WDID number.
 - (3) Site developer.
 - (4) Site owner.
 - (5) Records of communication with the site operator regarding the violation(s), which shall include at least an inspection report.
 - (6) Written notice of the violation copied to the Regional Water.
- (d) Prior to approving and/ or signing off for occupancy and issuing the Certificate of Occupancy for all construction projects subject to post-construction controls, each Permittee shall inspect the constructed site design, source control and treatment control BMPs to verify that they have been constructed in compliance with all specifications, plans, permits, ordinances, and this Order. The initial/ acceptance BMP verification inspection does not constitute a maintenance and operation inspection, as required in the preceding section E.IV.2(c).
- (e) Each Permittee shall inspect all construction sites at least once within the 60 day period preceding the wet season to ensure wet weather readiness.

9. State Conformity Requirements

- (a) Each Permittee shall ensure that no grading permit, encroachment permit, demolition permit, building permit, electrical permit, or construction permit (or any other municipal authorization to move soil and/ or construct or destruct

that involves land disturbance) is issued for any project requiring coverage under the CASGP or Small LUP General Permit¹ unless:

- (1) Proof of coverage under a State NPDES permit is demonstrated (a copy of a letter from the State Water Board showing a valid Waste Discharger Identification Number (WDID) for that site).
- (2) Demonstration or Certification that a SWPPP has been prepared by the project developer. A Local SWPPP may substitute for the State SWPPP if the Local SWPPP is at least as inclusive in controls and BMPs as the State SWPPP.
- (3) Proof of an updated NOI(s) and a copy of the modified SWPPP(s) at any time a transfer of ownership takes place for the entire development or portions of the common plan of development where construction activities are still on-going.

10. Interagency Coordination

(a) **Referral of Violations:**

A Permittee may refer a violator to the Regional Water Board provided that the Permittee has made a good faith effort at progressive enforcement consistent with the preceding subsection F.8(c). At a minimum, the Permittee's good faith effort shall be documented with:

- (1) A minimum of 2 follow-up inspection reports (inspections completed within 3 months).
- (2) A minimum of two warning letters or NOVs.

(b) **Referral of Non-filers under the CASGP or the Small LUP General Permit:**

Each Permittee shall refer non-filers (i.e., those projects which cannot demonstrate that they have a WDID number) under the CASGP or Small LUP General Permit, to the Regional Water Board, no later than 15 days after making a determination of failure to file. In making such referrals, Permittees shall include, at a minimum, the following documentation:

- (1) Project location address.
- (2) Project description.
- (3) Developer or owners name with complete mailing address.
- (4) Project size.
- (5) Records of communication with the developer or owner regarding filing requirements.

¹ NPDES Permit No. CAS000005, Waste Discharge Requirements For Discharges of Storm Water Runoff Associated with Small Linear Underground/ Overhead Construction Projects (Small LUP General Permit) for any linear land disturbing activity or activities (cumulatively) that will cause one acre or more of land disturbance but not more than 5 acres.

(c) **Investigation of Complaints Regarding Facilities – Transmitted by the Regional Water Board Staff:**

- (1) Each Permittee shall initiate, within one business day,¹ an initial investigation of complaint(s) (other than non-storm water discharges) on the construction site(s) within its jurisdiction.
- (A) The initial investigation shall include, at a minimum, an inspection on the facility and its perimeter to confirm the complaint and to determine if the site operator is effectively complying with the municipal storm water/ urban runoff ordinances, and to oversee corrective action.

(d) **Support of Regional Water Board Enforcement Actions – As directed by the Regional Water Board Executive Officer:**

- (1) Each Permittee shall support Regional Water Board enforcement actions by:
- (A) Assisting in identification of current owners, operators, and lessees of properties and sites.
- (B) Providing staff, when available, for joint inspections with Regional Water Board inspectors.
- (C) Appearing to testify as witnesses in Regional Water Board enforcement hearings.
- (D) Providing copies of inspection reports and other progressive enforcement documentation.

G. Public Agency Activities Program

- I. Each Permittee shall implement a Public Agency Activities Program to minimize storm water pollution impacts from public agency activities. Public Agency requirements consist of:
- i. Public Construction Activities Management.
 - ii. Vehicle Maintenance/ Material Storage Facilities/ Corporation Yards Management/ Municipal Operations.
 - iii. Landscape and Recreational Facilities Management.
 - iv. Storm Drain Operation and Management.
 - v. Streets and Roads Maintenance.
 - vi. Infrastructure Maintenance - Long-term.
 - vii. Public Industrial Activities Management.
 - viii. Emergency Procedures.
 - ix. Employee Training.

¹ Permittees may comply with the Permit by taking initial steps (such as logging, prioritizing, and tasking) to “initiate” the investigation within that one business day. However, the Regional Water Board would expect that the initial investigation, including a site visit, to occur within four business days.

1. Public Construction Activities Management
 - (a) Each Permittee shall implement and comply with the Planning and Land Development Program requirements in Part 5.E of this Order at all Permittee owned or operated public construction projects.
 - (b) Each Permittee shall implement and comply with the Development Construction Program requirements in Part 5.F. of this Order at all Permittee owned or operated construction projects.
 - (c) Each Permittee shall obtain coverage under the CASGP for construction activities and projects that are:
 - (1) Covered under one (or more) Capital Improvement Projects (including but not limited to street repaving, new streets, channel clearing¹) or contract, and that individually or cumulatively disturb 1 acre or more of land; or
 - (2) Less than 1 acre, but are part of a larger common plan of development that in total disturbs 1 or more acres of land; and
 - (3) Linear construction project(s) that disturb 5 or more acres of land.
 - (d) Each Permittee shall obtain coverage under the Small LUP General Permit when disturbing at least 1 acre, but less than 5 acres of land during linear construction (land area includes trenching and staging areas).
2. Vehicle Maintenance/ Material Storage Facilities/ Corporation Yards Management/ Long Term Maintenance Programs
 - (a) Each Permittee shall implement the following BMPs² at all Permittee owned, leased facilities and job sites including but not limited to vehicle/ equipment maintenance facilities, material storage facilities, and corporation yards, and at any area that includes the activities as described in the following Tables. Additionally, for any activity or area described in the footnote below,³ each Permittee shall also implement the BMPs in the Caltrans Storm Water Quality Handbook Maintenance Staff Guide described as B-4 in Table 9 (BMPs at Vehicle Maintenance/ Material Storage Facilities/ Corporation Yards).

¹ A CWA §401 certification may be required separately from the Regional Water Board for activities that occur within or adjacent to Waters of the U.S.. The Permittee shall obtain all necessary permits and certifications from the State and federal permitting authorities before commencing soil disturbing activities.

² These BMPs are identified in Appendix B of the *Caltrans Storm Water Quality Handbook Maintenance Staff Guide, May 2003*, and its addenda.

³ Scheduling and Planning; Spill Prevention and Control; Sanitary/ Septic Waste Management; Material Use; Safer Alternative Products; Vehicle/ Equipment Cleaning, Fueling, and Maintenance; Illicit Connections Detection, Reporting and Removal; Illegal Spill / Discharge Control and Maintenance Facility Housekeeping Practices.

Table 9 - BMPs at Vehicle Maintenance/ Material Storage Facilities/ Corporation Yards

From the Caltrans Storm Water Quality Handbook Maintenance Staff Guide	Appendix B
Activity Specific BMPs	Page
General BMPs	B-4
Flexible Pavement	B-9
Asphalt Cement Crack and Joint Grinding/ Sealing	B-9
Asphalt Paving	B-10
Structural Pavement Failure (Digouts) Pavement Grinding and Paving	B-11
Emergency Pothole Repairs	B-13
Sealing Operations	B-14
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- (b) Each Permittee shall obtain coverage under the CASGP no later than (7 days after Order adoption date) for long-term maintenance programs including maintenance of flood control channels (such as vegetation removal), maintenance or replacement of streets, sidewalks, roads, and any other project that the Permittee undertakes including all Capital Improvement Projects (CIP) if either 1 or more acres of land are disturbed by grading, clearing or excavation activities for an individual project or cumulatively as part of several projects involving a soil disturbance.

3. Vehicle and Equipment Wash Areas
 - (a) Each Permittee shall eliminate discharges of wash waters from vehicle and equipment washing no later than (365 days after Order adoption date) by implementing any of the following measures at existing facilities with vehicle or equipment wash areas:
 - (1) Self-contain, and haul off for disposal;
 - (2) Equip with a clarifier;
 - (3) Equip with an alternative pre-treatment device; or
 - (4) Plumb to the sanitary sewer.
 - (b) Each Permittee shall ensure that any municipal facilities constructed, redeveloped, or replaced has all vehicle and equipment wash areas plumbed to the sanitary sewer or be self contained and all wastewater/ washwater hauled for legal disposal.

4. Landscape, Park, and Recreational Facilities Management
 - (a) Integrated Pest Management (IPM)

IPM is an ecosystem-based strategy that focuses on long-term prevention of pests or their damage through a combination of techniques such as biological control, habitat manipulation, modification of cultural practices, and use of resistant varieties. Each Permittee shall implement a jurisdiction-wide IPM program and includes the following:

 - (1) Pesticides are used only if, after monitoring indicates they are needed according to established guidelines.
 - (2) Treatments are made with the goal of removing only the target organism.
 - (3) Pest controls are selected and applied in a manner that minimizes risks to human health, beneficial, non-target organisms, and the environment.
 - (4) Its use of pesticides, including Organo-phosphates and Pyrethroids do not threaten water quality.
 - (5) Partner with other agencies and organizations to ensure that pesticide use within their jurisdiction does not threaten water quality.
 - (6) Adopt and verifiably implement policies, procedures, and/ or ordinances requiring the minimization of pesticide use and encouraging the use of IPM techniques (including beneficial insects) in the Permittees' overall operations and on municipal property.
 - (7) Policies, procedures, and ordinances shall include commitments and timelines to reduce the use of pesticides that cause impairment of surface waters by implementing the following procedures:
 - (A) Quantify pesticide use by its staff and hired contractors.
 - (B) Prepare and annually update an inventory of pesticides used by all internal departments, divisions, and other operational units.
 - (C) Demonstrate reductions in pesticide use.

- (b) Each Permittee shall implement the following requirements no later than (180 days after Order adoption date):
- (1) Use a standardized protocol for the routine and non-routine application of pesticides (including pre-emergents), and fertilizers.
 - (2) Comply with the provisions and the monitoring requirements for application of aquatic pesticides to surface waters (WQ Order No. 2004-0008-DWQ).
 - (3) Ensure no application of pesticides or fertilizers are applied to an area immediately prior to, during, or immediately after a rain event, or when water is flowing off the area.
 - (4) Ensure that no banned or unregistered pesticides are stored or applied.
 - (5) Ensure that all staff applying pesticides are certified in the appropriate category by the California Department of Pesticide Regulation, or are under the direct supervision of a pesticide applicator certified in the appropriate category.
 - (6) Implement procedures to encourage the retention and planting of native vegetation to reduce water, pesticide and fertilizer needs; and
 - (7) Store pesticides and fertilizers indoors or under cover on paved surfaces or use secondary containment.
 - (A) Reduce the use, storage, and handling of hazardous materials to reduce the potential for spills.
 - (B) Regularly inspect storage areas.

5. Storm Drain Operation and Management

(a) Catch Basin Cleaning

- (1) Each Permittee shall designate catch basin inlets within its jurisdiction as one of the following:
 - Priority A: Catch basins that are designated as consistently generating the highest volumes of trash and/ or debris.
 - Priority B: Catch basins that are designated as consistently generating moderate volumes of trash and/ or debris.
 - Priority C: Catch basins that are designated as generating low volumes of trash and/ or debris.
- (2) Each Permittee shall clean catch basins according to the following schedule:
 - Priority A: A minimum of 3 times during the wet season and once during the dry season every year.
 - Priority B: A minimum of once during the wet season and once during the dry season every year.
 - Priority C: A minimum of once per year.
- (3) In addition to the preceding schedule, Permittees shall ensure that any catch basin that is at least 25% full of trash and/ or debris shall be cleaned out.

- (b) Trash Management at Public Events
 - (1) Each Permittee shall require for any event in the public right of way or wherever it is foreseeable that substantial quantities of trash and litter may be generated, that the following measures are implemented:
 - (A) That conditions be placed on any special use permit issued for such event; and
 - (B) Require the proper management of trash and litter generated; and
 - (C) Arrange for temporary screens to be placed on catch basins; or
 - (D) Clean out catch basins, trash receptacles, and grounds in the event area within 24 hours subsequent to the event.
- (c) Trash Receptacles
 - (1) Each Permittee shall install trash receptacles at all transit stops in commercial areas, near educational institutions, and in areas subject to high trash generation within its jurisdiction no later than (6 months after Order adoption date).
 - (2) Each Permittee shall ensure that all trash receptacles are cleaned out and maintained as necessary to prevent trash overflow.
- (d) Catch Basin Labels
 - (1) Each Permittee shall inspect the legibility of the catch basin stencil or label nearest each catch basin and inlet before the rainy season begins.
 - (2) Each Permittee shall record and re-stencil or re-label within 15 days of inspection, catch basins with illegible stencils.
- (e) Trash Excluders
 - (1) Each Permittee shall install trash excluders, or equivalent devices on catch basins to prevent the discharge of trash to the storm drain system no later than (365 days after Order adoption date) in commercial areas, industrial areas, and near educational institutions (i.e. areas subject to high trash generation).
- (f) Storm Drain Maintenance
 - (1) Each Permittee shall implement a program for Storm Drain Maintenance no later than (180 days after Order adoption date) that includes the following:
 - (A) Visual monitoring of Permittee-owned open channels and other drainage structures for debris at least annually.
 - (B) Remove trash and debris from open channel storm drains a minimum of once per year before the storm season.
 - (C) Eliminate the discharge of contaminants during MS4 maintenance and clean outs.
 - (D) Quantify the amount of materials removed using standard measures and ensure the materials are properly disposed of.
- (g) Spill Response Plan (Including Sanitary Sewer Overflows)
 - (1) Each Permittee shall implement a response plan for spills and overflows to the MS4 within their respective jurisdiction. The response Plan shall clearly

identify agencies responsible and telephone numbers and e-mail address for contact and shall contain at a minimum the following:

- (A) Investigation of all complaints received within 24 hours of the incident report.
 - (B) Response within 2 hours to overflows for containment upon notification.
 - (C) Notification to appropriate sewer and public health agencies and the Office of Emergency Services (OES) when a sewer overflows to the MS4. This requirement includes notification to the affected public health agencies that are mandated to monitor beach conditions, within 2 hours if a spill has the potential to be discharged through the MS4 into coastal beaches.
- (h) Permittee Owned Treatment Control BMPs
- (1) Each Permittee shall implement an inspection and maintenance program for all Permittee owned treatment control BMPs, including post-construction treatment control BMPs.
 - (2) Each Permittee shall ensure proper operation of all treatment control BMPs and maintain them as necessary for proper operation, including all post-construction treatment control BMPs.
 - (3) Any residual water within a treatment control BMP when being maintained shall be:
 - (A) Hauled away and legally disposed of;
 - (B) Discharged to the sanitary sewer system (with permits or authorization); or
 - (C) Treated or filtered to remove bacteria, sediments, nutrients, and meet the limitations set in Table 10 (Discharge Limitations for Dewatering Treatment BMPs) prior to discharge to the MS4.

Table 10 - Discharge Limitations for Dewatering Treatment BMPs¹

Parameter	Units	Limitation
Total Suspended Solids	mg/L	100
Turbidity	NTU	50
Oil and Grease	mg/L	10

6. Streets and Roads

(a) Maintenance

- (1) Each Permittee shall perform street sweeping of curbed streets in commercial areas and areas subject to high trash generation to control trash and debris at least two times per month.

¹ Technology based effluent limits.

- (b) Road Construction and Reconstruction
 - (1) Each Permittee shall implement the following BMPs for road reconstruction:
 - (A) Drain Inlet protection from sediments.
 - (B) Dewatering of below grade construction areas.
 - (C) Secondary containment for cold mix.
 - (D) Sheeting underneath cold mix (during storage) to prevent discharge of spray release, and
 - (E) Sheeting to cover cold mix (during storage).
 - (F) If street material is to be concrete, then provide a vehicle wash off area that is isolated from the MS4.
 - (c) Post Construction Controls
 - (1) Municipal activities involving pothole repairs and square cut patching will not trigger post construction controls.
7. Infrastructure Maintenance - Long-term
- (a) Each Permittee shall obtain coverage under the CASGP for all long-term maintenance programs including but not limited to any project under the Capital Improvement Program (CIP) including but not limited to: pavement replacement; sidewalk replacement; channel maintenance; roadside maintenance (such as: vegetation removal); or grading, clearing or excavation activities that disturb 1 or more acres of land either for an individual project or as part of a long-term city/county plan that may be less.
8. Public Industrial Activities Management
- (a) Each Permittee shall obtain separate coverage under the IASGP for any municipal activity subject to U.S. EPA regulations at CFR 122.26 for the discharge of storm water associated with industrial activity. These facilities include, but are not limited to:
 - (1) Publicly owned wastewater treatment plants with a design flow of 1 MGD or more or required to have an approved pretreatment program under 40 CFR 403.
 - (2) Landfills that receive or have received industrial waste or subject to regulation under Subtitle D of EPRCA.
 - (3) Hazardous Waste Treatment, Storage and Disposal Facilities.
 - (4) Steam Electric Power Generating Facilities.
 - (5) Airports (SIC Major Group 45).
 - (6) Ports (SIC Major Group 44).
 - (7) Local and Suburban Transit (SIC Major Group 41).

9. Emergency Procedures

(a) Each Permittee may conduct repairs of essential public service systems and infrastructure in emergency situations with a self-waiver of the provisions of this Order.

- (1) Where the self-waiver has been invoked, the Permittee shall submit to the Regional Water Board Executive Officer a statement of the occurrence of the emergency, an explanation of the circumstances, and the measures that were implemented to reduce the threat to water quality, no later than 7 business days after the situation of emergency has passed.

10. Municipal Employee and Municipal Contractor Training

(a) Each Permittee shall, no later than (6 months after Order adoption date and annually thereafter before June 30), train all of their employees and contractors in targeted positions (whose interactions, jobs, and activities affect storm water quality) on the requirements of the overall storm water management program to:

- (1) Promote a clear understanding of the potential for activities to pollute storm water.
- (2) Identify opportunities to require, implement, and maintain appropriate BMPs in their line of work.

(b) Each Permittee shall, no later than (6 months after Order adoption date and annually thereafter before June 30), train all of their employees and contractors who use or have the potential to use pesticides or fertilizers (whether or not they normally apply these as part of their work). Training programs shall address:

- (1) The potential for pesticide-related surface water toxicity.
- (2) Proper use, handling, and disposal of pesticides.
- (3) Least toxic methods of pest prevention and control, including IPM.
- (4) Reduction of pesticide use.

(c) Each Permittee shall, no later than (6 months after Order adoption date) and annually thereafter before June 30, train all of their employees and contractors who are responsible for illicit connections and illicit/ illegal discharges. Training programs shall address:

- (1) Identification.
- (2) Investigation.
- (3) Termination.
- (4) Cleanup.
- (5) Reporting of Incidents.
- (6) Documentation of Incidents.

H. Illicit Connections and Illicit Discharges Elimination Program

- I. Each Permittee shall eliminate all Illicit Connections and Illicit Discharges (IC/ ID) to the storm drain system, and shall document, track, and report all such cases in accordance with the elements and performance measures specified in the following subsections.
 1. General
 - (a) Implementation - Each Permittee shall implement an IC/ ID Program. The IC/ ID procedures shall be documented and made available for public review.
 - (b) Tracking - All Permittees shall, no later than (2 years after Order adoption date), map at a scale and in a format specified by the Principal Permittee all permitted connections to their storm drain system. All Permittees shall map at a scale and in a format specified by the Principal Permittee incidents of illicit connections and discharges on their baseline maps, and shall transmit this information to the Principal Permittee no later than (2 years after Order adoption date). Permittees shall use this information to identify priority areas for further investigation and elimination of IC/ ID.
 2. Public Reporting
 - (a) Permittees shall establish and maintain a phone hotline and internet site to receive all reports of IC/ ID complaints.
 - (b) Permittees shall document the location of the reported IC/ ID and the actions undertaken in response to all IC/ ID complaints.
 3. Illicit Connections
 - (a) Screening for Illicit Connections
 - (1) Each Permittee shall submit to the Principal Permittee:
 - (A) A GIS layer showing the location and length of underground pipes 18 inches and greater in diameter, and channels within their jurisdiction in accordance with the following schedule:
 - (i) All channeled portions of the storm drain system no later than (365 days after Order adoption date).
 - (ii) All portions of the storm drain system consisting of storm drain pipes 36 inches in diameter or greater, (no later than 3 years after Order adoption date).
 - (iii) All portions of the storm drain system consisting of storm drain pipes 18 inches in diameter or greater, (no later than 5 years after Order adoption date).
 - (B) The status of suspected, confirmed, and terminated illicit connections.
 - (2) Permittees shall conduct field screening of their storm drain systems in accordance with screening procedures described in the Illicit Discharge Detection and Elimination, A Guidance Manual for Program Development

and Technical Assessments (2004)¹. Permittees shall conduct field screening for illicit connections in accordance with the following schedule:

- (A) All portions of the storm drain system consisting of storm drain pipes 36 inches in diameter or greater, and that have not been screened after (3 years before Order adoption date), no later than (5 years after Order adoption date).
 - (B) High priority areas identified during the mapping of illicit connections and discharges, and that have not been screened after (3 years before Order adoption date), no later than (5 years after Order adoption date).
 - (C) All portions of storm drain systems 50 years or older in age and that have not been screened after (3 years before Order adoption date), no later than (5 years after Order adoption date).
- (3) Each Permittee shall maintain a list containing all connections under investigation for possible illicit connection and their status.

(b) Response to Illicit Connections

(1) Investigation -

Each Permittee, upon discovery or upon receiving a report of a suspected illicit connection, shall complete an investigation within 21 days, to determine the following:

- (A) Source of the connection.
- (B) Nature and volume of discharge through the connection.
- (C) Responsible party for the connection.

(2) Termination -

Each Permittee, upon confirmation of an illicit storm drain connection, shall ensure the following:

- (A) Termination of the connection within 180 days of completion of the investigation, using formal enforcement authority to eliminate the illicit connection.

(3) Documentation -

Each Permittee shall keep records of all illicit connection investigations and the formal enforcement taken to eliminate all illicit connections.

4. Illicit Discharges

(a) Investigation -

Each Permittee shall investigate an illicit/ illegal discharge during or immediately following containment and cleanup activities, and shall take formal enforcement action to eliminate the illegal discharge.

¹ *Illicit Discharge Detection and Elimination, A Guidance Manual for Program Development and Technical Assessments*. the Center for Watershed Protection, Pitt R., October 2004. Chapter 13, 13.1,13.2, 13.3, 13.4

(b) Abatement and Cleanup -

Each Permittee shall respond, within 1 business day of discovery or a report of a suspected illicit/ illegal discharge, with actions to abate, contain, and clean up all illegal discharges, including hazardous substances.

(c) Documentation -

Each Permittee shall maintain records of all illicit/ illegal discharge discoveries, reports of suspected illicit/ illegal discharges, their response to the illicit/ illegal discharges and suspected illicit/ illegal discharges, and the formal enforcement taken to eliminate all illicit/ illegal discharges.

I. REPORTING PROGRAM

1. The Principal Permittee in consultation with the Permittees and Regional Water Board staff shall convene an adhoc working group to develop an Electronic Reporting Program, the basis of which shall be the requirements in this Order and the questions in the attached Monitoring Report and Program Report (Reporting Program- Attachment "H") for approval by the Regional Water Board Executive Officer. The Committee shall no later than (6 months after Order adoption date) submit the electronic reporting form and use the form each year.
2. Each Permittee shall submit information required in the Reporting Program in a method as appropriate to the format approved by the Regional Water Board Executive Officer.
3. The Principal Permittee shall submit by December 15th of each year beginning the year of 2008, an Annual Report to the Regional Water Board Executive Officer in the form one hard copy and three compact disk (CD) copies (or an electronic equivalent).
4. The Annual Report shall document the status of the Municipal Storm Water Program, an integrated summary of the results of analyses from:
 - (a) The monitoring program described under Part 1- Monitoring Report.
 - (b) The requirements described under Part 2-Program Report.
5. Plans shall be submitted to the Regional Water Board Executive Officer in the form of one hard copy and three compact disk (CD) copies (or an electronic equivalent).
6. Study Reports shall be submitted to the Regional Water Board Executive Officer in the form of one hard copy and three compact disk (CD) copies (or an electronic equivalent).

7. Progress Reports shall be submitted to the Regional Water Board Executive Officer in the form of one hard copy and three compact disk (CD) copies (or an electronic equivalent).

PART 6 - TOTAL MAXIMUM DAILY LOAD PROVISIONS FOR STORM WATER (WET WEATHER) DISCHARGES

- I. Part 6 of this Order incorporates provisions to assure compliance of the storm water (wet weather) discharges with TMDLs WLAs for reaches receiving discharges from the Ventura County MS4.
- II. Each Permittee shall implement all control measures to comply with the TMDL (wet weather) WLAs as stated in Part 6.
- III. Wet weather TMDL WLAs incorporated in this part of the Order are the following:
- i. Santa Clara River Nitrogen Compounds - (Effective date: March 23, 2004).
 - a) Compliance for WLAs- (Compliance date: March 23, 2005).
 - ii. Toxicity, Chlorpyrifos and Diazinon in the Calleguas Creek, its Tributaries and Mugu Lagoon - (Effective date: March 24, 2006).
 - a) Compliance for Toxicity, and Interim WLAs- (Compliance date: March 24, 2006).
 - b) Compliance for Final WLAs- (Compliance date: March 24, 2008).
- IV. Wet weather TMDL WLAs not incorporated in this part of the Order due to compliance dates which exceed the term of this Order are the following:
- i. Malibu Creek and Lagoon Bacteria - (Effective date: January 26, 2006).
 - a) Compliance for Wet Weather WLA - (Compliance date: January 24, 2016).
 - ii. Organochlorine Pesticides, Polychlorinated Biphenyls, and Siltation in Calleguas Creek, its Tributaries and Mugu Lagoon - (Effective date: March 24, 2006).
 - a) There are no Interim WLAs for pollutants in water column for minor point sources.
 - b) Compliance for Final WLAs - (Compliance date: March 24, 2026).
1. TMDL WLAs for Santa Clara River Nitrogen Compounds.
- (a) Effluent Limits:
- (1) The TMDL WLAs are addressed as water quality-based effluent limits (WQBELs) expressed as numerical limits for Nitrogen Compounds (Ammonia as Nitrogen, and Nitrate plus Nitrite Nitrogen) in MS4 discharges to Reach 3 of the Santa Clara River (see Table 11- Nitrogen Compounds WQBELs - Wet Weather).

- (2) The WQBELs are established for storm water discharges from MS4 Permittees (Ventura County Watershed Protection District, County of Ventura, and the cities of Santa Paula and Fillmore) discharging into Reach 3 of the Santa Clara River.
- (b) Monitoring (wet weather):
 - (1) Each MS4 Permittee (Ventura County Watershed Protection District, County of Ventura, and the cities of Santa Paula and Fillmore) shall monitor its discharge during 3 storm events.
 - (2) Monitoring shall occur at the "end of pipe" of major outfalls.
 - (3) The largest representative drainage systems transporting 60 percent or more of storm water discharge from the Municipal drainage area to Reach 3 of the Santa Clara River shall be monitored.
 - (4) Monitoring results from each major outfall shall be sent electronically to the Regional Water Board at MS4stormwaterrb4@waterboards.ca.gov, no later than 45 days from sample collection date.¹
- (c) Compliance:
 - (1) Compliance for WQBELs shall be determined through monitoring MS4 discharges from 3 storm events at the "end of pipe" of major outfalls.
 - (2) Compliance deadline:
 - (A) WQBELs - (upon Order adoption date).
- (d) Workplan (WQBELs monitoring program):
 - (1) After the Regional Water Board considers and adopts the MS4s workplan for determining compliance with wet weather WQBELs at the "end of pipe" to control the discharge of pollutants, then the workplan/ monitoring program for wet weather WQBELs compliance may be substituted for Part 6.1(b), Monitoring (wet weather). The Regional Water Board (or Regional Water Board Executive Officer, when duly delegated), consistent with 40 CFR 122.41, may approve changes to the Monitoring Plan.

Table 11 - Nitrogen Compounds WQBELs - Wet Weather

Parameters	Units	Effluent Limits	
		EMC	1-hour
Ammonia	mg/L	2.0	4.2
Nitrate plus nitrite	mg/L	8.1	

¹ For detail Monitoring see Attachment F - Monitoring Program No. CI 7388

2. TMDL WLAs for Toxicity, Chlorpyrifos, and Diazinon in the Calleguas Creek, its Tributaries and Mugu Lagoon.
- (a) Effluent Limits:
- (1) The TMDL WLAs are addressed as WQBELs expressed as numerical limits for Toxicity, Chlorpyrifos and Diazinon in MS4 discharges to Calleguas Creek, its Tributaries and Mugu Lagoon (Calleguas Creek Watershed), (see Table 12- Toxicity WQBEL - Wet Weather, and Table 13- Chlorpyrifos and Diazinon Interim \ Final WQBELs - Wet Weather).
 - (2) The WQBELs are established for storm water discharges from MS4 Permittees (Ventura County Watershed Protection District, County of Ventura, and the cities of Camarillo, Moorpark, Oxnard, Simi Valley, and Thousand Oaks) discharging into the Calleguas Creek Watershed.
- (b) Monitoring (wet weather):
- (1) Each MS4 Permittee (Ventura County Watershed Protection District, County of Ventura, and the cities of Camarillo, Moorpark, Oxnard, Simi Valley, and Thousand Oaks) shall monitor its discharge during 3 storm events.
 - (2) Monitoring shall occur at the "end of pipe" of major outfalls.
 - (3) The largest representative drainage systems transporting 60 percent or more of storm water discharge from the Municipal drainage area to Calleguas Creek Watershed shall be monitored.
 - (4) Monitoring results from each major outfall shall be sent electronically to the Regional Water Board at MS4stormwaterrb4@waterboards.ca.gov, no later than 45 days from sample collection date.¹
- (c) Compliance:
- (1) Compliance for WQBELs shall be determined through monitoring MS4 discharges from 3 storm events at the "end of pipe" of major outfalls.
 - (2) Compliance deadline:
 - (A) Toxicity, and Chlorpyrifos and Diazinon Interim WQBELs - (upon Order adoption date).
 - (B) Chlorpyrifos and Diazinon Final WQBELs - March 24, 2008.
- (d) Workplan (storm water quality-based effluent limits monitoring program):
- (1) After the Regional Water Board considers and adopts the MS4s workplan for determining compliance with wet weather WQBELs at the "end of pipe" to control the discharge of pollutants, then the workplan/ monitoring program for wet weather WQBELs compliance may be substituted for Part.6.2(b), Monitoring (wet weather). The Regional Water Board (or Regional Water Board Executive Officer, when duly delegated), consistent with 40 CFR 122.41, may approve changes to the Monitoring Plan.

¹ For detail Monitoring see Attachment F - Monitoring Program No. CI 7388.

Table 12 - Toxicity QBEL - Wet Weather

Parameter	Unit	Effluent Limit
		Chronic (EMC)
Toxicity	TUc	1.0

Table 13 - Chlorpyrifos and Diazinon Interim \ Final QBELs - Wet Weather

Parameters	Unit	Effluent Limits			
		Chronic (EMC)		Acute (1hr)	
		Interim	Final	Interim	Final
Chlorpyrifos	ug/L	0.45	0.014		
Diazinon	ug/L	0.556	0.10	1.73	0.10

PART 7 - TOTAL MAXIMUM DAILY LOAD PROVISIONS FOR NON-STORM WATER (DRY WEATHER) DISCHARGES

- I. Part 7 of this Order incorporates provisions to assure compliance of the non-storm water (dry weather) discharges with the TMDL WLAs for reaches receiving discharges from the Ventura County MS4.
- II. Each Permittee shall implement all control measures to comply with the TMDL (dry weather) WLAs as stated in Part 7.
- III. The dry weather TMDL WLAs incorporated in this part of the Order are the following:
 - i. Santa Clara River Nitrogen Compounds - (Effective date: March 23, 2004).
 - a) Compliance for WLAs - (Compliance date: March 23, 2005).
 - ii. Malibu Creek and Lagoon Bacteria - (Effective date: January 24, 2006).
 - a) Compliance for Summer Dry WLA - (Compliance date: January 24, 2009).
 - b) Compliance for Winter Dry WLA - (Compliance date: January 24, 2012).
 - iii. Toxicity, Chlorpyrifos and Diazinon in the Calleguas Creek, its Tributaries and Mugu Lagoon - (Effective date: March 24, 2006).
 - a) Compliance for Toxicity, and Interim WLAs - (Compliance date: March 24, 2006).
 - b) Compliance for Final WLAs - (Compliance date: March 24, 2008).
 - iv. Organochlorine Pesticides, Polychlorinated Biphenyls, and Siltation in Calleguas Creek, its Tributaries and Mugu Lagoon - (Effective date: March 24, 2006).
 - a) Compliance for Interim WLAs - (Compliance date: March 24, 2006).

- V. The dry weather TMDL WLAs not incorporated in this part of the Order due to their compliance dates being beyond the term of this Order are the following:
- i. Organochlorine Pesticides, Polychlorinated Biphenyls, and Siltation in Calleguas Creek, its Tributaries and Mugu Lagoon - (Effective date- March 24, 2006).
 - a) Compliance for Final WLAs - (Compliance date: March 24, 2026.)
1. TMDL WLAs for Santa Clara River Nitrogen Compounds.
- (a) Effluent Limits:
 - (1) The TMDLs' WLAs are addressed as water quality-based effluent limits (WQBELs) expressed as numerical limits for Nitrogen Compounds (Ammonia as Nitrogen, and Nitrate plus Nitrite Nitrogen) in MS4 discharges to Reach 3 of the Santa Clara River (see Table 14- Nitrogen Compounds WQBELs - Dry Weather).
 - (2) The WQBELs are established for discharges from MS4 Permittees (Ventura County Watershed Protection District, County of Ventura, and the cities of Santa Paula and Fillmore) discharging into Reach 3 of the Santa Clara River.
 - (b) Monitoring (dry weather):
 - (1) Each MS4 Permittee (Ventura County Watershed Protection District, County of Ventura, and the cities of Santa Paula and Fillmore) shall monitor its discharge monthly during dry weather on a dry day.
 - (2) Monitoring shall occur at the "end of pipe" of all major outfalls with flow.
 - (3) Monitoring results from each major outfall shall be sent electronically to the Regional Water Board at MS4stormwaterrb4@waterboards.ca.gov, no later than 45 days from sample collection date.¹
 - (c) Compliance:
 - (1) Compliance for WQBELs shall be determined through monitoring MS4 discharges monthly during dry weather at the "end of pipe" of all major outfalls with flow.
 - (2) Compliance deadline:
 - (A) Nitrogen Compounds WQBELs - (upon Order adoption date).
 - (d) Workplan (storm water quality-based effluent limits monitoring program):
 - (1) After the Regional Water Board considers and adopts the MS4s workplan for determining compliance with dry weather WQBELs at the "end of pipe" to control the discharge of pollutants, then the workplan/ monitoring program for dry weather WQBELs compliance may be substituted for Part 7.1(b), Monitoring (dry weather). The Regional Water Board (or Regional Water Board Executive Officer, when duly delegated), consistent with 40 CFR 122.41, may approve changes to the Monitoring Plan.

¹ For detail Monitoring see Attachment "F" - Monitoring Program No. CI 7388.

Table 14 - Nitrogen Compounds QBELs - Dry Weather

Parameters	Unit	Effluent Limits	
		30-day Average	Maximum Daily
Ammonia	mg/L	1.16	3.69
Nitrate plus nitrite	mg/L	8.1	

2. TMDL WLAs for Malibu Creek and Lagoon - Bacteria.

(a) Effluent Limits:

- (1) The TMDLs' WLAs are addressed as QBELs expressed as numerical limits for Bacteria in MS4 discharges to Malibu Creek and Lagoon that may not exceed the 30-day geometric mean or single sample limits (see Table 15- Bacteria QBELs - Dry Weather (Numerical Limit), and Table 16- Bacteria Exceedence Days for Geometric Mean \ Single Sample - Dry Weather (Frequency)).
- (2) The QBELs are established for discharges from MS4 Permittees (Ventura County Watershed Protection District, County of Ventura, and the cities of Thousand Oaks and Simi Valley) discharging into Malibu Creek, its Tributaries and Lagoon.

(b) Monitoring (dry weather):

- (1) Each MS4 Permittee (Ventura County Watershed Protection District, County of Ventura, and the cities of Thousand Oaks and Simi Valley) shall monitor its discharge monthly during dry weather on a dry day.
 - (A) A dry day is defined as a non-wet day. A wet day is defined as a day with a 0.1 inch or more of rain and 3 days following the rain event.
- (2) Monitoring shall occur at "end of pipe" of all major outfalls with flow.
- (3) Monitoring results from each major outfall shall be sent electronically to the Regional Water Board at MS4stormwaterb4@waterboards.ca.gov, no later than 45 days from sample collection date.¹

(c) Compliance:

- (1) Compliance for QBELs shall be determined through monitoring MS4 discharges monthly during dry weather at the "end of pipe" of all major outfalls with flow.
- (2) Compliance deadline for Bacteria QBELs are:
 - (A) Summer Dry Weather Bacteria - January 24, 2009.
 - (B) Winter Dry Weather Bacteria - January 24, 2012.

(d) Workplan (storm water quality-based effluent limits monitoring program):

- (1) After the Regional Water Board considers and adopts the MS4s workplan for determining compliance with dry weather QBELs at the "end of pipe" to control the discharge of pollutants, then the workplan/ monitoring program for dry weather QBELs compliance may be substituted for Part 7.2(b), Monitoring (dry weather). The Regional Water Board (or

¹ For detail Monitoring see Attachment "F" - Monitoring Program No. CI 7388.

Regional Water Board Executive Officer, when duly delegated), consistent with 40 CFR 122.41, may approve changes to the Monitoring Plan.

Table 15 - Bacteria WQBELs - Dry Weather (Numerical Limit)

Parameters	Unit	Effluent Limits	
		Fresh Water	
		Geometric Mean	Single Sample
E. coli	mg	126/ 100	235/ 100
Fecal coliform	mg	200/ 100	400/ 100

Table 16 - Bacteria Exceedence Days for Geometric Mean \ Single Sample - Dry Weather (Frequency)

Summer Dry Weather April 1 - October 31			Winter Dry Weather November 1 - March 31		
Geometric Mean	Single Sample		Geometric Mean	Single Sample	
30-day sampling (No. days)	Daily sampling (No. days)	Weekly sampling (No. days)	30-day sampling (No. days)	Daily sampling (No. days)	Weekly sampling (No. days)
0	0	0	0	3	1

3. TMDL WLAs for Calleguas Creek, Its Tributaries and Mugu Lagoon - Toxicity, Chlorpyrifos, and Diazinon.
 - (a) Effluent Limits:
 - (1) The TMDLs' WLAs are addressed as WQBELs expressed as numerical limits for Toxicity, Chlorpyrifos, and Diazinon in MS4 discharges to Calleguas Creek, its Tributaries and Mugu Lagoon (Calleguas Creek Watershed), (see Table 17- Toxicity WQBEL - Dry Weather, and Table 18- Chlorpyrifos and Diazinon Interim \ Final WQBELs - Dry Weather).
 - (2) The WQBELs are established for discharges from MS4 Permittees (Ventura County Watershed Protection District, County of Ventura, and the cities of Camarillo, Moorpark, Oxnard, Simi Valley, and Thousand Oaks) discharging into the Calleguas Creek Watershed.
 - (b) Monitoring (dry weather):
 - (1) Each MS4 Permittee (Ventura County Watershed Protection District, County of Ventura, and the cities of Camarillo, Moorpark, Oxnard, Simi Valley, and Thousand Oaks) shall monitor its discharge monthly during dry weather on a dry day.
 - (2) Monitoring shall occur at the "end of pipe" of all major outfalls with flow.

- (3) Monitoring results from each major outfall shall be sent electronically to the Regional Water Board at MS4stormwaterb4@waterboards.ca.gov, no later than 45 days from sample collection date.¹
- (c) **Compliance:**
 - (1) Compliance for WQBELs shall be determined through monitoring MS4 discharge monthly during dry weather at the "end of pipe" of all major outfalls with flow.
 - (2) Compliance deadline:
 - (A) Toxicity, and Chlorpyrifos and Diazinon Interim WQBELs - (upon Order adoption date).
 - (B) Chlorpyrifos and Diazinon Final WQBELs - March 24, 2008.
- (d) **Workplan (storm water quality-based effluent limits monitoring program):**
 - (1) After the Regional Water Board considers and adopts the MS4s workplan for determining compliance with dry weather WQBELs at the "end of pipe" to control the discharge of pollutants, then the workplan/ monitoring program for dry weather WQBELs compliance may be substituted for Part 7.3(b), Monitoring (dry weather). The Regional Water Board (or Regional Water Board Executive Officer, when duly delegated), consistent with 40 CFR 122.41, may approve changes to the Monitoring Plan.

Table 17 - Toxicity WQBEL - Dry Weather

Parameter	Unit	Effluent Limit
		Chronic (4 day)
Toxicity	TUc	1.0

Table 18 - Chlorpyrifos and Diazinon Interim \ Final WQBELs - Dry Weather

Parameters	Unit	Effluent Limits			
		Chronic (4 day)		Acute (1hr)	
		Interim	Final	Interim	Final
Chlorpyrifos	ug/L	0.45	0.014		
Diazinon	ug/L	0.556	0.10	1.73	0.10

- 4. TMDL WLAs for Calleguas Creek, its tributaries and Mugu Lagoon - Organochlorine (OC) Pesticides, Polychlorinated Biphenyls (PCBs), and Siltation.

(a) **Effluent Limits:**

- (1) The TMDLs' WLAs are addressed as WQBELs expressed as numerical limits for OC Pesticides and PCBs in MS4 discharges to Calleguas Creek, its Tributaries and Mugu Lagoon (Calleguas Creek Watershed), (see Table 19- OC Pesticides and PCBs Interim WQBELs - Dry Weather, and Table 20- Sediments WQBELs - Dry Weather).

¹ For detail Monitoring see Attachment "F" - Monitoring Program No. CI 7388.

- (2) The WQBELs are established for discharges from MS4 Permittees (Ventura County Watershed Protection District, County of Ventura, and the cities of Camarillo, Moorpark, Oxnard, Simi Valley, and Thousand Oaks) discharging into the Calleguas Creek Watershed.
- (b) Monitoring (dry weather):
 - (1) Each MS4 Permittee (Ventura County Watershed Protection District, County of Ventura, and the cities of Camarillo, Moorpark, Oxnard, Simi Valley, and Thousand Oaks) shall monitor its discharge monthly during dry weather on a dry day.
 - (2) Monitoring shall occur at the "end of pipe" of all major outfalls with flow.
 - (3) Monitoring results from each major outfall shall be sent electronically to the Regional Water Board at MS4stormwaterb4@waterboards.ca.gov, no later than 45 days from sample collection date.¹
- (c) Compliance:
 - (1) Compliance for WQBELs shall be determined through monitoring MS4 discharge monthly at a minimum during dry weather at the "end of pipe" of all major outfalls with flow.
 - (2) Compliance deadline:
 - (A) OC Pesticides and PCBs Interim WQBELs - (upon Order adoption date).
- (d) Workplan (storm water quality-based effluent limits monitoring program):
 - (1) After the Regional Water Board considers and adopts the MS4s workplan for determining compliance with dry weather WQBELs at the "end of pipe" to control the discharge of pollutants, then the workplan/ monitoring program for dry weather WQBELs compliance may be substituted for Part 7.4(b), Monitoring (dry weather). The Regional Water Board (or Regional Water Board Executive Officer, when duly delegated), consistent with 40 CFR 122.41, may approve changes to the Monitoring Plan.

Table 19 - OC Pesticides and PCBs Interim WQBELs - Dry Weather

Parameters	Units	Effluent Limits	
		Daily Maximum	Threshold Value
Chlordane	Ng/L	No net loading	1.2
4,4-DDD	Ng/L	No net loading	6.0
4,4-DDE	Ng/L	No net loading	1.2
4,4-DDT	Ng/L	No net loading	10.0
Dieldrin	Ng/L	No net loading	10.0
PCBs	Ng/L	No net loading	31.0
Toxaphene	Ng/L	No net loading	500.0

¹ For detail Monitoring see Attachment "F" - Monitoring Program No. CI 7388.

Table 20 - Sediments WQBELs - Dry Weather

Parameters	Units	Effluent Limits	
		Average Monthly	Maximum Daily
Total Suspended Solids	mg/L	50	150
Settleable Solids	ml/L	0.1	0.3

PART 8 - DEFINITIONS

The following are definitions for terms in this Order:

Adverse Impact - means a detrimental effect upon water quality or beneficial uses caused by a discharge or loading of a pollutant or pollutants.

Agriculture - means the science, art, and business of cultivating the soil, producing crops, and raising livestock.

Antidegradation Policies - means policies which protect surface and ground waters from degradation, and federal policies, which protect high quality surface waters. In particular, this policy protects water bodies where existing quality is higher than that necessary for the protection of beneficial uses including the protection of fish and wildlife propagation and recreation on and in the water (*Statement of Policy with Respect to Maintaining High Quality Water in California*, State Board Resolution No. 68-16).

Applicable Standards and Limitations - means all State, interstate, and federal standards and limitations to which a “discharge” or a related activity is subject under the CWA, including effluent limitations, water quality standards, standards of performance, toxic effluent standards or prohibitions, best management practices, and pretreatment standards under § 301, § 302, § 303, § 304, § 306, § 307, § 308, § 403, and § 404 of CWA.

Areas of Special Biological Significance (ASBS) - means all those areas of this state as ASBS, listed specifically within the California Ocean Plan or so designated by the State Board which, among other areas, includes the area from Mugu Lagoon to Latigo Point: Oceanwater within a line originating from Laguna Point at 34° 5’ 40” north, 119° 6’30” west, thence southeasterly following the mean high tideline to a point at Latigo Point defined by the intersection of the mean high tide line and a line extending due south of Benchmark 24; thence due south to a distance of 1000 feet offshore or to the 100 foot isobath, whichever distance is greater; thence northwesterly following the 100 foot isobath or maintaining a 1,000-foot distance from shore, whichever maintains the greater distance from shore, to a point lying due south of Laguna Point, thence due north to Laguna Point.

Areas Subject to Storm Water Mitigation Requirements - means areas designated as an Area of Special Biological Significance (ASBS) by the State Board, an area designated as a significant

natural resource by the California Resources Agency, or an area identified by the discharger as environmentally sensitive for water quality purposes, based on the Regional Water Board Basin Plan and CWA § 303(d) Impaired Water-bodies List for the County of Ventura.

Authorized Discharge - means any discharge that is authorized pursuant to an NPDES permit or meets the conditions set forth in this Order.

Automotive Repair Shop - means a facility that is categorized in any one of the following Standard Industrial Classification (SIC) codes: 5013, 5014, 5541, 7532-7534, or 7536-7539.

Automotive Service Facilities - means a facility that is categorized in any one of the following Standard Industrial Classification (SIC) and North American Industry Classification System (NAICS) codes. For inspection purposes, Permittees need not inspect facilities with SIC codes 5013, 5014, 5541, 5511, provided that these facilities have no outside activities or materials that may be exposed to storm water.

SIC Code	Corresponding NAICS Code
5013	425120, 441310, 425110, & 423120
5014	425120, 425110, 423130, & 441320
5511	441110
5541	447110, & 447190
7532	811121
7533	811112
7534	326212, & 811198
7536	811122
7537	811113
7538	811111
7539	811198, & 811118

Basin Plan - means the Water Quality Control Plan, Los Angeles Region, Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties, adopted by the Regional Water Board on June 13, 1994 and subsequent amendments.

Beneficial Uses - means the existing or potential uses of receiving waters in the permit area as designated by the Regional Water Board in the Basin Plan.

Best Management Practices (BMPs) - means methods, measures, or practices designed and selected to reduce or eliminate the discharge of pollutants to surface waters from point and nonpoint source discharges including storm water. BMPs include structural and nonstructural controls, and operation and maintenance procedures, which can be applied before, during, and/ or after pollution producing activities.

California Environmental Quality Act (CEQA) - means a California statute that requires state and local agencies to identify significant environmental impacts of their actions and to avoid or mitigate those impacts, if feasible (Reference: California Public Resources Code § 21000-et seq.)

Channel - means an open conduit either naturally or artificially created which periodically or continuously contains moving water, or which forms a connecting link between two water Bodies.

Commercial Area(s) - means any geographic area of the Permittees' jurisdiction that is not heavy industrial or residential. A commercial area includes, but is not limited to areas surrounding: commercial activity, hospitals, laboratories and other medical facilities, educational institutions, recreational facilities, plant nurseries, car wash facilities, mini-malls and other business complexes, shopping malls, hotels, office buildings, public warehouses and other light industrial complexes.

Commercial Development - means any development on private land that is not heavy industrial or residential. The category includes, but is not limited to: hospitals, laboratories and other medical facilities, educational institutions, recreational facilities, plant nurseries, car wash facilities, mini-malls and other business complexes, shopping malls, hotels, office buildings, public warehouses and other light industrial complexes.

Construction - means any construction or demolition activity, clearing, grading, grubbing, or excavation or any other activity that results in a land disturbance. Construction does not include emergency construction activities required to immediately protect public health and safety or routine maintenance to maintain original line and grade or , hydraulic capacity, or original purpose of the facility but only specific to road shoulder work, dirt or gravel road maintenance or regrading, or ditch clean-outs. A CWA § 401 certification may be required for ditch cleanouts.

Construction Activities Storm Water General Permit (CASGP) - means the general NPDES permit adopted by the State Board, which authorizes the discharge of storm water from construction activities under certain conditions.

Control - means to minimize, reduce, eliminate, or prohibit by technological, legal, contractual or other means, the discharge of pollutants from an activity or activities.

Dechlorinated/ Debrominated Swimming Pool Discharge - means any swimming pool discharge with a residual chlorine or bromine level of 0.1mg/L or less; and does not contain any detergents, wastes, algaecides, or cyanuric acid in excess of 50 ppm, or any other chemicals including salts from pools commonly referred to as "salt water pools". The term does not include swimming pool filter backwash or swimming pool water containing bacteria.

Development - means any construction, rehabilitation, redevelopment or reconstruction of any public or private residential project (whether single-family, multi-unit or planned unit development); industrial, commercial, retail and any other non-residential projects, including public agency projects; or mass grading for future construction.

Directly Adjacent - means situated within 200 feet of the contiguous zone required for the continued maintenance, function, and structural stability of the environmentally sensitive area.

Directly Discharging - means outflow from a drainage conveyance system that is composed entirely or predominately of flows from the subject, property, development, subdivision, or industrial facility and not commingled with the flows from adjacent lands.

Discharge - means when used without qualification the "discharge of a pollutant."

Discharging Directly - means outflow from a drainage conveyance system that is composed entirely or predominantly of flows from the subject, property, development, subdivision, or industrial facility, and not commingled with the flows from adjacent lands.

Discharge of a Pollutant - means any addition of any "pollutant" or combination of pollutants to "waters of the United States" from any "point source" or, any addition of any pollutant or combination of pollutants to the waters of the "contiguous zone" or the ocean from any point source other than a vessel or other floating craft, which is being used as a means of transportation. The term discharge includes additions of pollutants into waters of the United States from: surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a State, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works.

Disturbed Area - means any area that is altered as a result of land disturbance. Examples include but are not limited to: clearing, grading, grubbing, stockpiling and/ or excavation, etc...

Dry Day - means a non-wet day for Malibu Creek and Lagoon Bacteria TMDL WLA. A wet day is defined as a day with a 0.1 inch or more of rain and 3 days following the rain event is a non-wet day for Bacteria TMDL WLA.

Effective Impervious Surface - means that portion of the impervious area that is hydrologically connected via sheet flow or a discrete hardened conveyance to a drainage system or a receiving water body.

Effluent limitation - means any restriction imposed by the Permitting Authority (PA) on quantities, discharge rates, concentrations, and/ or mass loadings of "pollutants" which are

“discharged” from “point sources” into “waters of the United States,” the waters of the “contiguous zone,” or the ocean.

Emergency - means a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services. "Emergency" includes such occurrences as fire, flood, earthquake, or other soil or geologic movements, as well as such occurrences as riot, accident, or sabotage. (Reference: California Public Resources Code § 21060.3. Emergency).

End-of-Pipe - means the compliance and monitoring point for effluent limits from Major Outfalls.

Environment - means the physical conditions, which exist within the area which, will be affected by a proposed project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historical or aesthetic significance. The area involved shall be the area in which significant effects would occur either directly or indirectly as a result of the project. The "environment" includes both natural and man-made conditions.

Environmentally Sensitive Area - means an area “in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which would be easily disturbed or degraded by human activities and developments” (Reference: California Public Resources Code § 30107.5). ESAs subject to storm water mitigation requirements are:

1. Regional Water Board's areas listed in the Basin Plan as supporting the "Rare, Threatened, or Endangered Species (RARE)" Beneficial Use.
2. California Coastal Commission's Environmentally Sensitive Habitat Areas as delineated on maps in Local Coastal Plans (LCPs).

Federal Clean Water Act (CWA) - means (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Public Law 92—500, as amended by Public Law 95—217, Public Law 95—576, Public Law 96—483 and Public Law 77—117, 33 U.S.C. 1251 et seq.

First Storm Event - means the first storm event of the wet season that produces at least 0.25 inches of rain.

Forest Land - means land at least 10 percent stocked with live trees, or land that had this minimum tree stocking in the past and is not currently developed for nonforest use. The minimum area recognized is 1 acre.

Groundwater Dewatering - means the active practice of removing standing water from soil excavations using a pump(s) or other means.

Hillside - means property located in an area with known erosive soil conditions, where the development will result in grading on any slope that is 20% or greater or an area designated by the Municipality under a General Plan or ordinance as a "hillside area".

Horse Stables - means a property where at least one horse is stabled at least part of the year.

Hydromodification - means the alteration away from a natural state of stream flows or the beds or banks of rivers, streams, or creeks, including ephemeral washes, which results in hydrogeomorphic changes.

Illegal Discharge - means any discharge to the municipal separate storm sewer (storm drain system) that is prohibited under local, state, or federal statutes, ordinances, codes, or regulations. The term illegal discharge includes all non-storm water discharges not composed entirely of storm water except discharges pursuant to an NPDES permit, discharges that are identified in Part 1, "Discharge Prohibitions" of this order, or discharges authorized by the Regional Water Board Executive Officer.

Illicit Connection - means any engineered conveyance that is connected to the storm drain system without a permit or municipal authorization. It also means any engineered conveyance through which discharges of pollutants to the separate storm drainage systems, which are not composed entirely of storm water or are not authorized by an NPDES permit.

Illicit Discharge - means any discharge to a municipal separate storm sewer (storm drain system) that is prohibited under local, state, or federal statutes, ordinances, codes, or regulations. The term illicit discharge includes all non-storm water discharges not composed entirely of storm water except discharges pursuant to a NPDES permit (other than the NPDES permit for discharges from the municipal separate storm sewer) and discharges that are identified in Part 1, "Discharge Prohibitions" of this order, or authorized by the Regional Water Board Executive Officer.

Illicit Disposal - means any disposal, either intentionally or unintentionally, of material(s) or waste(s) that can pollute storm water.

Industrial/ Commercial Facility - means any facility involved and/ or used in the production, manufacture, storage, transportation, distribution, exchange or sale of goods and/ or commodities, and any facility involved and/ or used in providing professional and non-professional services. This category of facilities includes, but is not limited to, any facility defined by either the Standard Industrial Classifications (SIC) or the North American Industry Classification System (NAICS). Facility ownership (federal, state, municipal, private) and profit motive of the facility are not factors in this definition.

Industrial Activities Storm Water General Permit (IASGP) - means the general NPDES permit adopted by the State Board, which authorizes the discharge of storm water from certain industrial activities under certain conditions.

Industrial Park - means a land development that is set aside for industrial development. Industrial parks are usually located close to transport facilities, especially where more than one transport modalities coincide: highways, railroads, airports, and navigable rivers. It includes office parks, which have offices and light industry.

Inspection - means entry and the conduct of an on-site review of a facility and its operations, at reasonable times, to determine compliance with specific municipal or other legal requirements. The steps involved in performing an inspection, include, but are not limited to:

1. Pre-inspection documentation research..
2. Request for entry.
3. Interview of facility personnel.
4. Facility walk-through.
5. Visual observation of the condition of facility premises.
6. Examination and copying of records as required.
7. Sample collection (if necessary or required).
8. Exit conference (to discuss preliminary evaluation).
9. Report preparation, and if appropriate, recommendations for coming into compliance.

Integrated Pest Management (IPM) - means a sustainable approach to managing pests by combining biological, cultural, physical and chemical tools in a way that minimizes economic, health, and environmental risks.

Large Municipal Separate Storm Sewer System (MS4) - means all MS4s that serve a population greater than 250,000 (1990 Census) as defined in 40 CFR 122.26 (b)(4). The Regional Water Board designated Ventura County as a large MS4 in 1990, based on: (i) the U.S. Census Bureau 1990 population count of 669,016 thousand, and (ii) the interconnectivity of the MS4s in the incorporated and unincorporated areas within the County.

Local SWPPP - means the Local Storm Water Pollution Prevention Plan (LSWPPP) required by the local agency for a project that disturbs one or more acres of land. Shall mean a plan identifying potential pollutant sources from a construction site and describing proposed design, placement and implementation of BMPs, to effectively prevent non-storm water Discharges and reduce Pollutants in Storm Water Discharges to the Storm Drain System, during construction activities. Also referred as a Storm Water Pollution Control Plan (SWPCP).

Major Outfalls - is a MS4 outfall that discharges from a single pipe with an inside diameter of at least 36 inches. The term also includes discharges from a single conveyance other than a circular pipe serving a drainage area of more than 50 acres, as defined in 40 CFR 122.26 (b)(5).

Maximum Extent Practicable (MEP) - means the standard for implementation of storm water management programs to reduce pollutants in storm water. CWA § 402(p)(3)(B)(iii) requires that municipal permits "shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants." Also, see State Board Order WQ 2000-11, page 20 and Browner decision (*Defenders of Wildlife v. Browner* (1999), 191 F.3d 1159):

Method Detection Limit (MDL) - means the minimum concentration of a substance that can be measured and reported with 99 percent confidence that the analyte concentration is greater than zero, as defined in 40 CFR 136, Appendix "G" of this Order.

Minimum Level (ML) - means the concentration at which the entire analytical system must give a recognizable signal and acceptable calibration point. The ML is the concentration in a sample that is equivalent to the concentration of the lowest calibration standard analyzed by a specific analytical procedure, assuming that all the method specified sample weights, volumes, and processing steps have been followed. The ML value represents the lowest quantifiable concentration in a sample based on the proper application of all method-based analytical procedures and the absence of any matrix interferences. Assuming that all method-specific analytical steps are followed, the ML value will also represent, after the appropriate application of method-specific factors, the lowest standard in the calibration curve for that specific analytical technique.

Municipal Separate Storm Sewer System (MS4) - means a conveyance or system of conveyances (including roads w/ drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains), as defined in 40 CFR 122.26(b)(8):

1. Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law)...including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under § 208 of the Federal Clean Water Act (CWA) that discharges into waters of the United States.
2. Designed or used for collecting or conveying storm water.
3. Which is not a combined sewer.
4. Which is not part of a Publicly Owned Treatment Works (POTW), as defined in 40 CFR 122.2.

NAICS - means North American Industry Classification System.

National Pollutant Discharge Elimination System (NPDES) - means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under CWA § 307, 402, 318, and 405. The term includes an "approved program."

Natural Drainage Systems - means unlined or unimproved (not engineered) creeks, streams, rivers or similar waterways.

New Development - means land disturbing activities; structural development, including construction or installation of a building or structure, creation and replacement of impervious surfaces; and land subdivision.

Non-Storm Water Discharge - means any discharge to a storm drain that is not composed entirely of storm water.

Nuisance - means anything that meets all of the following requirements: (1) is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property; (2) affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.; (3) occurs during, or as a result of, the treatment or disposal of wastes.

Nursery - means NAICS classification to describe nursery operations and determine the type of operations covered under this Order and those covered under the Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands (Conditional Waiver).

(a) There are 3 broad NAICS sectors available to classify nurseries:

- (1) 111xxx - Crop Production - Agriculture.
- (2) 424xxx - Merchant Wholesalers, Nondurable Goods.
- (3) 44xxxx - Retail Trade.

(A) **Nursery (Agricultural Facilities - Crop Production)** - means Nursery and Floriculture Production under NAICS Code 11142x. These operations are subject to the **Conditional Waiver**. This industry comprises establishments primarily engaged in (1) growing nursery and floriculture products (e.g., nursery stock, shrubbery, cut flowers, flower seeds, foliage plants, sod) under cover or in open fields and/ or (2) growing short rotation woody trees with a growing and harvesting cycle of 10 years or less for pulp or tree stock (e.g., cut Christmas trees, cottonwoods).

(B) **Nursery (Commercial Facilities - Merchant Wholesalers, Nondurable Goods, and Retail Trade)** - means industries Flower, Nursery Stock, and Florists' Supplies Merchant Wholesalers under NAICS Code 424930; and Nursery, Garden Center, and Farm Supply Stores under NAICS Code 444220. This Order covers these types of operations. The industry in NAICS Code 424930 comprises

establishments primarily engaged in the merchant wholesale distribution of flowers, florists' supplies, and/ or nursery stock (except plant seeds and plant bulbs). The industry in NAICS Code 444220 comprises establishments primarily engaged in retailing nursery and garden products, such as trees, shrubs, plants, seeds, bulbs, floriculture products and sod, which are predominantly grown elsewhere. These establishments may sell a limited amount of a product they grow themselves.

Open Channel - means a storm drainage channel that is not a natural water course

Parking Lot - means land area or facility for the parking or storage of motor vehicles used for businesses, commerce, industry, or personal use.

Permit - means an authorization, license, or equivalent control document issued by EPA or an "approve State" to implement the requirements of 40 CFR Parts 122, 123, and 124. "Permit" includes an NPDES "general permit" (§ 122.28). Permit does not include any permit, which has not yet been the subject of final agency action, such as a "draft permit" or a "proposed permit."

Permittee(s) - means Co-Permittee(s) and any agency named in this Order as being responsible for permit conditions within its jurisdiction, as defined by Federal Regulation. Permittees to this Order include the Ventura Water Protection District, Ventura County, and the cities of Camarillo, Fillmore, Moorpark, Ojai, Oxnard, Port Hueneme, San Buenaventura, Santa Paula, Simi Valley and Thousand Oaks.

Point Source - means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include agricultural storm water discharges and return flows from irrigated agriculture.

Point Zero - means in the context of the TMDLs, the point at which water from the storm drain or creek initially mixes with water. Point zero has been selected as the compliance point for the TMDL numeric target because access to these drains is, on the whole, not restricted.

Pollutants - means those "pollutants" defined in CWA § 502(6) (33.U.S.C. § 1362(6)), and incorporated by reference into California Water Code § 13373.

Pollutants of Concern - means constituents that have exceeded Basin Plan Objectives, and CTR- Chronic or Acute Objectives during monitoring at Mass Emission, Receiving Water, and Land Use stations.

Potable Water Sources - means the potable water system for the treatment, distribution, and provision of water for residential, commercial, industrial, or institutional use that meets all California safe drinking water regulatory standards for human consumption.

Pre-Developed Condition - means native vegetation and soils that existed at a site prior to first development. The pre-developed condition may be assumed to be an area with the typical vegetation, soil, and storm water runoff characteristics of open space areas in coastal Southern California unless reasonable historic information is provided that the area was atypical.

Priority Pollutants - means those constituents referred to in 40 CFR 401.15 and listed in the U.S. EPA NPDES Application Form 2C, pp. V-3 through V-9.

Project - means all development, redevelopment, and land disturbing activities. The term is not limited to "Project" as defined under CEQA (Reference: California Public Resources Code § 21065).

Rare, Threatened, or Endangered Species (RARE) - means a beneficial use for water bodies in the Los Angeles Region, as designated in the Basin Plan (Table 2-1), that supports habitats necessary, at least in part, for the survival and successful maintenance of plant or animal species established under state or federal law as rare, threatened, or endangered.

Redevelopment - means land-disturbing activity that results in the creation, addition, or replacement of 5,000 square feet or more of impervious surface area on an already developed site. Redevelopment includes, but is not limited to: the expansion of a building footprint; addition or replacement of a structure; replacement of impervious surface area that is not part of a routine maintenance activity; and land disturbing activities related to structural or impervious surfaces. It does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of facility, nor does it include emergency construction activities required to immediately protect public health and safety.

Regional Administrator - means the Regional Administrator of the Regional Office of the U.S. EPA or the authorized representative of the Regional Administrator.

Report of Waste Discharge (ROWD) - means an application for renewal of the NPDES Permit for Waste Discharge Requirements for Municipal Separate Storm Sewer Discharges Within the Ventura County Watershed Protection District, County of Ventura and the Incorporated Cities Therein.

Restaurant - means a facility that sells prepared foods and drinks for consumption, including stationary lunch counters and refreshment stands selling prepared foods and drinks for immediate consumption (SIC Code 5812).

Restoration - means the reestablishment of predisturbance aquatic functions and related physical, chemical and biological characteristics (Reference: National Research Council. 1992. Restoration of Aquatic Ecosystems: Science, Technology and Public Policy. National Academy Press, Washington, D.C.)

Retail Gasoline Outlet (RGO) - means any facility engaged in selling gasoline and lubricating oils- SIC 5541 and NAICS 447110 & 447190.

- RGOs: 447190 Other Gasoline Stations:
This industry comprises establishments known as gasoline stations (except those with convenience stores) primarily engaged in one of the following: (1) retailing automotive fuels (e.g., diesel fuel, gasohol, gasoline) or (2) retailing these fuels in combination with activities, such as providing repair services; selling automotive oils, replacement parts, and accessories; and/ or providing food services.
- RGOs: 447110 Gasoline Stations with Convenience Stores:
Retailing automotive fuels in combination with a convenience store or food mart.

Screening - means using proactive methods to identify illicit connections through a continuously narrowing process. The methods may include: performing baseline monitoring of open channels, conducting special investigations using a prioritization approach, analyzing maintenance records for catch basin and storm drain cleaning and operation, and verifying all permitted connections into the storm drains. Special investigation techniques may include: dye testing, visual inspection, smoke testing, flow monitoring, infrared, aerial and thermal photography, and remote control camera operation.

Sidewalk Rinsing - means only sidewalk rinsing using high pressure and low volume of water with no additives and at an average usage of 0.006 gallons per square foot of surface area to be rinsed. Any waste generated from the activity must be collected and properly and legally disposed of. It does not mean hosing of any sidewalk nor street with a garden hose with a pressure nozzle.

Site - means the land or water area where any "facility or activity" is physically located or conducted, including adjacent land used in connection with the facility or activity.

SMC - means Southern California Stormwater Monitoring Coalition. The Stormwater Monitoring Coalition is a collaborative research/ monitoring partnership of the Southern California Water Boards, Municipal Storm Water Agencies, and municipalities to develop the methodologies and assessment tools to more effectively understand urban storm water and non-storm water (anthropogenic) impacts to receiving waters and to conduct research/ monitoring through Subsequent Research Implementation Agreements. The first original cooperative agreement was entered into on February 8, 2001.

Small Construction - means any soil disturbing activities less than 5 acres.

Source Control BMP - means any schedules of activities, prohibitions of practices, maintenance procedures, managerial practices or operational practices that aim to prevent storm water pollution by reducing the potential for contamination at the source of pollution.

Stream - means a body of flowing water; natural water course containing water at least part of the year. In hydrology, it is generally applied to the water flowing in a natural channel as distinct from a canal (Reference: US Geological Survey).

Strip Mall - means a commercial development that is a shopping center where the stores are arranged in a row, with a sidewalk in front. Strip malls are typically developed as a unit and have large parking lots in front. They face major traffic arterials and tend to be self-contained with few pedestrian connections to surrounding neighborhoods. It is also called a plaza.

Storm Event Monitoring- means a rainfall event that produces more than 0.25 inch of precipitation and that, which is separated from the previous storm event by at least 1 week of dry weather, for the purpose of monitoring.

Storm Water - means storm water runoff, snow melt runoff, and surface runoff and drainage, as defined in 40 CFR 122.26(b)(13).

Storm Water Discharge Associated with Industrial Activity - means industrial discharge, as defined in 40 CFR 122.26(b)(14).

Storm Water Quality Management Program - means the Ventura Countywide Storm Water Quality Management Plan, which includes descriptions of programs, collectively developed by the Permittees in accordance with provisions of the NPDES Permit, to comply with applicable federal and state law, as the same is amended from time to time.

Structural BMP - means any structural facility designed and constructed to mitigate the adverse impacts of storm water runoff pollution (e.g. canopy, structural enclosure). The category may include both Treatment Control BMPs and Source Control BMPs.

Summer Dry Weather - means dry weather days occurring from April 1 through October 31 of each year.

Targeted Employees - means management and staff who perform or direct activities that directly or indirectly have an effect of storm water quality. The employees generally are employed in the following areas: department of public works, engineering, sanitation, storm water maintenance, drainage and flood control, transportation, streets and roads, parks and recreation, public landscaping and corporation yards, planning or community development, code enforcement, building and safety, harbor or port departments, airports, or general services and fleet services.

Total Maximum Daily Load (TMDL) - means the sum of the individual waste load allocations for point sources and load allocations for nonpoint sources and natural background.

Total Maximum Daily Load (TMDL) Dry Weather - defined in the Bacteria TMDLs as those days with less than 0.1 inch of rainfall and those days occurring within 3 days after a rain.

Toxicity Identification Evaluation (TIE) - means a set of procedures to identify the specific chemical(s) responsible for toxicity through a process of chemical/ physical manipulations of samples followed by toxicity tests. These procedures are performed in 3 phases (Phase I- Toxicity Characterization Procedure, Phase II- Toxicity Identification Procedure, and Phase III- Toxicity Confirmation Procedure) using aquatic organism toxicity tests.

Toxicity Reduction Evaluation (TRE) - means a study conducted in a step-wise process to identify the causative agents of effluent or ambient toxicity, isolate the sources of toxicity, evaluate the effectiveness of toxicity control options, and then confirm the reduction in toxicity.

Treatment - means the application of engineered systems that use physical, chemical, or biological processes to remove pollutants. Such processes include, but are not limited to, filtration, gravity settling, media absorption, biodegradation, biological uptake, chemical oxidation and UV radiation.

Treatment Control BMP - means any engineered system designed to remove pollutants by simple gravity settling of particulate pollutants, filtration, biological uptake, media absorption or any other physical, biological, or chemical process.

Urbanization - means the process of changing of land use and land patterns from rural characteristics to urban (city-like) characteristics. These changes include (i) the replacement of pervious surfaces with impervious surfaces such as rooftops and buildings, and impervious materials such as asphalt and concrete; and (ii) the conversion of rural land to house new residents, support new businesses, and facilitate vehicular traffic flow.

U.S. EPA Phase I Facilities - means facilities in specified industrial categories that are required to obtain an NPDES permit for storm water discharges, as required by 40 CFR 122.26(c). These categories include:

- Facilities subject to storm water effluent limitation guidelines, new source performance.
- Standards, or toxic pollutant effluent standards (40 CFR N).
- Manufacturing facilities.
- Oil and gas/ mining facilities.
- Hazardous waste treatment, storage, or disposal facilities.
- Landfills, land application sites, and open dumps.
- Recycling facilities.
- Steam electric power generating facilities.

- Transportation facilities.
- Sewage of wastewater treatment works.
- Light manufacturing facilities.

Vehicle Maintenance/ Material Storage Facilities/ Corporation Yards - means any Permittee owned or operated facility or portion thereof that:

1. Conducts industrial activity, operates or stores equipment, materials, and provides services similar to Federal Phase I facilities;
2. Performs fleet vehicle service/ maintenance including repair, maintenance, washing, or fueling;
3. Performs maintenance and/ or repair of machinery/ equipment; or
4. Stores chemicals, raw materials, or waste materials.

Waste Load Allocations (WLAs) - means a portion of a receiving water's Total Maximum Daily Pollutant Load (TMDL) that is allocated to one of its existing or future point sources of pollution (Reference: 40 CFR § 130.2(h)).

Water Quality Objectives - means water quality criteria contained in the Basin Plan, the California Ocean Plan, the National Toxics Rule, the California Toxics Rule, and other state or federally approved surface water quality plans. Such plans are used by the Regional Water Board to regulate all discharges, including storm water discharges.

Water Quality Standards - means the State Water Quality Standards, which are comprised of beneficial uses, water quality objectives and the State's Antidegradation Policy.

Waters of the State - means any surface water or groundwater, including saline waters, within boundaries of the state (Reference: California Water Code § 13050).

Waters of the United States or Waters of the US - means:

- a. All waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
- b. All interstate waters, including interstate "wetlands";
- c. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
 1. Which are or could be used by interstate or foreign travelers for recreational or other purposes;
 2. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
 3. Which are used or could be used for industrial purposes by industries in

- interstate commerce;
- d. All impoundment's of waters otherwise defined as waters of the United States under this definition;
 - e. Tributaries of waters identified in the preceding paragraph (a) through (d) of this definition;
 - f. The territorial sea; and
 - g. "Wetlands" adjacent to waters (other than waters that are themselves wetlands) identified in the preceding paragraph (a) through (f) of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA (other than cooling ponds as defined in 40 CFR 423.22(m), which also meet the criteria of this definition) are not waters of the United States. This exclusion applies only to man-made bodies of water, which neither were originally created in waters of the United States (such as disposal area in wetlands) nor resulted from the impoundment of waters of the United States. Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the CWA, the final authority regarding CWA jurisdiction remains with U.S. EPA. (SOLID WASTE AGENCY OF NORTHERN COOK CTY. V. ARMY CORPS OF ENGINEERS (531 U.S. 159 (2001))) The U.S. Supreme Courts SWANCC Decision upheld the primary rights and responsibilities of States over land and water but limited the water and wetland areas subject to federal regulation under the Clean Water Act.

Watercourse - means any natural or artificial channel for passage of water, including the VCFCD jurisdictional channels included in the List of Channels within the Comprehensive Plan of the VCFCD, as approved by the Board of Supervisors of the VCFCD on October 4, 1993, and any amendments thereto.

Watershed Management - means approach for water resources protection. It is a strategy for integrating and managing resources, both human and fiscal that focuses on regulation of point sources, to a more regional approach that acknowledges environmental impacts from other activities.

Watershed Management Areas (WMA) - means the geographically-defined watershed areas where the Regional Water Board will implement the watershed approach. These generally involve a single large watershed within which exists smaller subwatersheds but in some cases may be an area that does not meet the strict hydrologic definition of a watershed e.g., several small Ventura coastal water bodies in the region are grouped together into one WMA.

Wet Day - defined for Malibu Creek and Lagoon Bacteria TMDL as a day with 0.1 inch or more of rain and 3 days following the rain event.

Wet Season - means the calendar period beginning October 1 through April 15.

Winter Dry Weather - means dry weather days occurring from November 1 - March 31 of each year.

Whole Effluent Toxicity - means the aggregate toxic effect of an effluent measured directly by a toxicity test.

PART 9 - STANDARD PROVISIONS

A. General Requirements

1. The Permittee shall comply with all provisions and requirements of this Order.
2. Should the Permittee discover that it failed to submit any relevant facts or that it submitted incorrect information in a report it shall promptly submit the missing or correct information.
3. The Permittee shall report all instances of non-compliance not otherwise reported at the time monitoring reports are submitted.
4. This Order includes Attachment "H", the Reporting Program, which is a part of this Order and must be complied with.

B. Regional Water Board Review

1. The Regional Water Board may review any formal determination or approval made by the Regional Water Board Executive Officer pursuant to the provisions of this Order.
 - (a) Permittee(s) or a member of the public may request such review upon petition within 30 day of the effective date of the notification of such decision to the Permittee(s) and interested parties on file at the Regional Water Board.

C. Public Review

1. All documents submitted to the Regional Water Board in compliance with the terms and conditions of this Order shall be made available to members of the public pursuant to the Freedom of Information Act (5 U.S.C. § 552), as amended, and the Public Records Act (California Government Code § 6250 et seq.).
2. All documents submitted to the Regional Water Board Executive Officer for approval shall be made available to the public for a 30-day period to allow for public comment.

D. Duty to Comply [40 CFR 122.41(a)]

1. Each Permittee must comply with all of the terms, requirements, and conditions of this Order. Any violation of this order constitutes a violation of the Clean Water Act, its regulations and the California Water Code, and is grounds for enforcement action, Order termination, Order revocation and reissuance, denial of an application for reissuance, or a combination thereof [40 CFR 122.41(a), CAL. WATER CODE § 13261, 13263, 13265, 13268, 13300, 13301, 13304, 13340, 13350].
2. A copy of these waste discharge specifications shall be maintained by each Permittee so as to be available during normal business hours to Permittee employees and members of the public.
3. Any discharge of wastes at any point(s) other than specifically described in this Order is prohibited, and constitutes a violation of the Order.

E. Duty to Mitigate [40 CFR 122.41 (d)]

1. Each Permittee shall take all reasonable steps to minimize or prevent any discharge that has a reasonable likelihood of adversely affecting human health or the environment.

F. Inspection and Entry; Investigations; Responsibilities [40 CFR 122.41(i), Cal. Water Code § 13225 and § 13267]

1. The Regional Water Board, U.S. EPA, and other authorized representatives shall be allowed:
 - (a) Entry upon premises where a regulated facility is located or conducted, or where records are kept under conditions of this Order;
 - (b) Access to copy any records, at reasonable times that are kept under the conditions of this Order;
 - (c) To inspect at reasonable times any facility, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order;
 - (d) To photograph, sample, and monitor at reasonable times for the purpose of assuring compliance with this Order, or as otherwise authorized by the CWA and the CAL. WATER CODE;
 - (e) To review any water quality control plan or waste discharge requirements, or in connection with any action relating to any plan or requirement to investigate the quality of any waters of the state within its region; and,
 - (f) To require as necessary any state or local agency to investigate and report on any technical factors involved in water quality control or to obtain and submit analyses of water.

G. Proper Operation and Maintenance [40 CFR 122.41 (e), Cal. Water Code § 13263(f)]

1. The Permittees shall at all times properly operate and maintain all facilities and systems of treatment (and related appurtenances) that are installed or used by the Permittees to achieve compliance with this Order. Proper operation and maintenance includes:
 - (a) adequate laboratory controls; and
 - (b) appropriate quality assurance procedures.
2. This provision requires the operation of backup or auxiliary facilities or similar system that are installed by a Permittee only when necessary to achieve compliance with the conditions of this Order.

H. Signatory Requirements [40 CFR 122.41(k) & 122.22]

1. Except as otherwise provided in this Order, all applications, reports, or information submitted to the Regional Water Board shall be signed by the Director of Public Works, City Engineer, or authorized designee and certified as set forth in 40 CFR 122.22.

I. Reopener and Modification [40 CFR 122.41(f) & 122.62]

1. This Order may only be modified, revoked, or reissued, prior to the expiration date, by the Regional Water Board, in accordance with the procedural requirements of the CAL. WATER CODE and CCR Title 23 for the issuance of waste discharge requirements, 40 CFR 122.62, and upon prior notice and hearing, to:
 - (a) Address changed conditions identified in the required reports or other sources deemed significant by the Regional Water Board;
 - (b) Incorporate applicable requirements or statewide water quality control plans adopted by the State Board or amendments to the Basin Plan, including TMDLs;
 - (c) Comply with any applicable requirements, guidelines, and/ or regulations issued or approved pursuant to CWA § 402(p); and/ or,
 - (d) Consider any other federal, or state laws or regulations that became effective after adoption of this Order.
2. After notice and opportunity for a hearing, this Order may be terminated or modified for cause, including, but not limited to:
 - (a) Violation of any term or condition contained in this Order;
 - (b) Obtaining this Order by misrepresentation, or failure to disclose all relevant facts;
or,
 - (c) A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.

3. The filing of a request by the Principal Permittee or Permittees for a modification, revocation and re-issuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any condition of this Order.
4. This Order may be modified to make corrections or allowances for changes in the permitted activity listed in this section, following the procedures at 40 CFR 122.63, if processed as a minor modification. Minor modifications may only:
 - (a) Correct typographical errors; or
 - (b) Require more frequent monitoring or reporting by the Permittee.

J. Severability

1. The provisions of this Order are severable; and if any provision of this Order or the application of any provision of this Order to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this Order shall not be affected.

K. Duty to Provide Information [40 CFR 122.41(h)]

1. The Permittees shall furnish, within a reasonable time, any information the Regional Water Board or U.S. EPA may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Order.
2. The Permittees shall also furnish to the Regional Water Board, upon request, copies of records required to be kept by this Order.

L. Twenty-Four Hour Reporting [40 CFR 122.41(l)(6)]¹

1. The Permittees shall report to the Regional Water Board any noncompliance that may endanger health or the environment. Any information shall be provided orally within 24 hours from the time any Permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the Permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times and, if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
2. The Regional Water Board may waive the required written report on a case-by-case basis.

¹ This provision applies to incidents where effluent limitations (numerical or narrative) as provided in this Order or in the Ventura County SMP are exceeded, and which endanger public health or the environment.

M. Bypass [40 CFR 122.41(m)]¹

1. Bypass (the intentional diversion of waste streams from any portion of a treatment facility) is prohibited. The Regional Water Board may take enforcement action against Permittees for bypass unless:
 - (a) Bypass was unavoidable to prevent loss of life, personal injury or severe property damage. (Severe property damage means substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.);
 - (b) There were no feasible alternatives to bypass, such as the use of auxiliary treatment facilities, retention of untreated waste, or maintenance during normal periods of equipment down time. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that could occur during normal periods of equipment downtime or preventive maintenance;
 - (c) The Permittee submitted a notice at least ten days in advance of the need for a bypass to the Regional Water Board; or,
 - (d) Permittees may allow a bypass to occur that does not cause effluent limitations to be exceeded, but only if it is for essential maintenance to assure efficient operation. In such a case, the above bypass conditions are not applicable. The Permittee shall submit notice of an unanticipated bypass as required.

N. Upset [40 CFR 122.41(n)]²

1. Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the Permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
2. A Permittee that wishes to establish the affirmative defense of an upset in an action brought for non compliance shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (a) An upset occurred and that the Permittee can identify the cause(s) of the upset;
 - (b) The permitted facility was being properly operated by the time of the upset;

¹ This provision applies to the operation and maintenance of storm water controls and BMPs as provided in this Order or in the Ventura County SMP.

² This provision applies to incidents where effluent limitations (numerical or narrative) as provided in this Order or in the Ventura County SMP are exceeded, and which endanger public health or the environment.

- (c) The Permittee submitted notice of the upset as required; and,
 - (d) The Permittee complied with any remedial measures required.
3. No determination made before an action for noncompliance, such as during administrative review of claims that non-compliance was caused by an upset, is final administrative action subject to judicial review.
 4. In any enforcement proceeding, the Permittee seeking to establish the occurrence of an upset has the burden of proof.

O. Property Rights [40 CFR 122.41(g)]

1. This Order does not convey any property rights of any sort, or any exclusive privilege.

P. Enforcement

1. Violation of any of the provisions of the NPDES permit or any of the provisions of this Order may subject the violator to any of the penalties described herein, or any combination thereof, at the discretion of the prosecuting authority; except that only one kind of penalties may be applied for each kind of violation. The CWA provides the following:
 - (a) Criminal Penalties for:
 - (1) Negligent Violations [CWA 309 (c)(1)(B)]:
The CWA provides that any person who negligently violates permit conditions implementing CWA § 301, 302, 306, 307, 308, 318, or 405 is subject to a fine of not less than \$2,500 nor more than \$25,000 per day for each violation, or by imprisonment for not more than 1 year, or both.
 - (2) Knowing Violations [CWA 309 (c)(2)(B)]:
The CWA provides that any person who knowingly violates permit conditions implementing CWA § 301, 302, 306, 307, 308, 318, or 405 is subject to a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than 3 years, or both.
 - (3) Knowing Endangerment [CWA 309 (c)(3)(A)]:
The CWA provides that any person who knowingly violates permit conditions implementing CWA § 301, 302, 307, 308, 318, or 405 and who knows at that time that he is placing another person in imminent danger of death or serious bodily injury is subject to a fine of not more than \$250,000, or by imprisonment for not more than 15 years, or both.
 - (4) False Statement [CWA 309 (c)(4)]:
The CWA provides that any person who knowingly makes any false material statement, representation, or certification in any application, record,

report, plan, or other document filed or required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under the Act, shall upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for not more than two years, or by both. If a conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than four years, or by both.

(b) Civil Penalties [[CWA 309 (d)]

The CWA provides that any person who violates a permit condition implementing CWA § 301, 302, 306, 307, 308, 318, or 405 is subject to a civil penalty not to exceed \$27,500 per day for each violation.

Q. Need to Halt or Reduce Activity not a Defense [40 CFR 122.41(c)]

1. It shall not be a defense for a Permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this Order.

R. Rescission of Board Order

1. Regional Water Board Order No. 00-108 is hereby rescinded.

S. Board Order Expiration Date

1. This Order expires on XXXXXXXX xx, 200x. The Permittees must submit a Report of Waste Discharge (ROWD) and a proposed Storm Water Quality Management Program in accordance with CCR Title 23 as application for reissuance of waste discharge requirements no later than 180 days in advance of such date (XXXXXXX xx, 200x).

T. MS4 Annual Reporting Program [40 CFR 122.42(c)]

1. The Annual Program Reporting shall include the following information:
 - (a) *Municipal separate storm sewer systems.*

The operator of a large or medium municipal separate storm sewer system or a municipal separate storm sewer that has been designated by the Director under 40 CFR 122.26(a)(1)(v) of this part must submit an annual report by the anniversary of the date of the issuance of the permit for such system. The report shall include:

 - (1) The status of implementing the components of the storm water management program that are established as permit conditions;

- (2) Proposed changes to the storm water management programs that are established as permit condition. Such proposed changes shall be consistent with 40 CFR 122.26(d)(2)(iii) of this part;
- (3) Revisions, if necessary, to the assessment of controls and the fiscal analysis reported in the permit application under 40 CFR 122.26(d)(2)(iv) and (d)(2)(v) of this part;
- (4) A summary of data, including monitoring data that is accumulated throughout the reporting year;
- (5) Annual expenditures and budget for year following each annual report;
- (6) A summary describing the number and nature of enforcement actions, inspections, and public education programs; and
- (7) Identification of water quality improvements or degradation.

I, Deborah J. Smith, Regional Water Board Interim Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, Los Angeles Region, on XXXXXXXX xx, 200x.

Deborah J. Smith
Interim Executive Officer

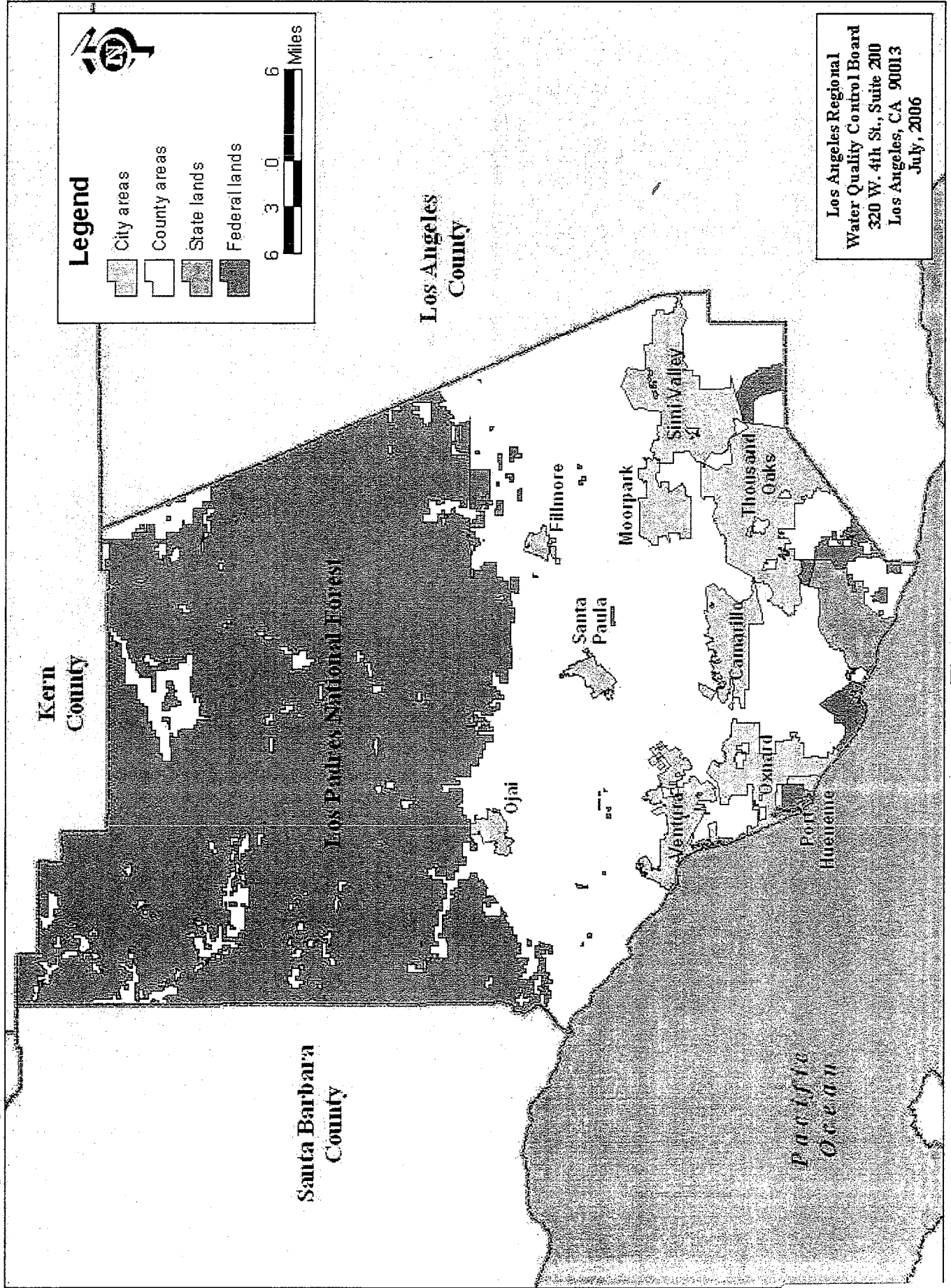


Figure 1

Second draft Ventura County Municipal Separate Storm Sewer System Permit

ATTACHMENT A
Watershed Management Areas

Watershed Management Area	Hydrologic Units(s)	Major Surface Water Bodies	303(d) Pollutant(s) of Concern	Permittees
Ventura River	402.10 402.20 402.31 402.32	Ventura River Ventura River Estuary Canada Larga Matilija Creek Matilija Creek Reservoir San Antonio Creek	Algae Coliform (fecal, total) Eutrophic Low DO Nitrogen Trash	City of Ojai City of San Buenaventura Ventura County Watershed Protection District
Santa Clara River	403.11 403.21 403.22 403.31 403.32 403.41 403.42 403.43 403.44 403.51 403.52 403.53 403.54 403.55	Santa Clara River Santa Clara River Estuary Brown Barranca/Long Canyon Elizabeth Lake Hopper Creek Lake Hughes Mint Canyon Creek Munz Lake Piru Creek Pole Creek Sespe Creek Torrey Canyon Creek Wheeler Canyon/Todd Barranca	Algae Ammonia ChemA* (tissue) Chloride Coliform Enrichment Eutrophic Fish kills Low DO/Organic Enrichment Nitrate + Nitrite Odors pH Sulfate Trash Total Dissolved Solids Toxaphene	City of Fillmore City of Oxnard City of San Buenaventura City of Santa Paula Ventura County Watershed Protection District

Second draft Ventura County Municipal Separate Storm Sewer System Permit

ATTACHMENT A
Watershed Management Areas

Watershed Management Area	Hydrologic Units(s)	Major Surface Water Bodies	303(d) Pollutant(s) of Concern	Permittees
Calleguas Creek	403.11 403.12 403.61 403.62 403.63 403.64 403.67 403.66 403.68	Calleguas Creek Calleguas Creek Estuary Arroyo Conejo Arroyo Las Posas Arroyo Simi Beardsley Channel Conejo Creek Fox Barranca Mugu Lagoon Mugu Drain/Oxnard Drain Rio de Santa Clara/Oxnard Drain Revolon Slough Tapo Canyon	Algae Ammonia Boron ChemA* (tissue) Chlordane (tissue, sediment) Chloride Chlorpyrifos (tissue) Coliform, fecal Copper (total, dissolved) Dacthal (sediment) DDT (tissue, sediment) Dieldrin (tissue) Endosulfan (tissue, sediment) Hexachlorocyclohexane (tissue) Mercury Nickel Nitrate + Nitrite Nitrate as Nitrogen (NO3) Nitrogen Organophosphorus Pesticides PCBs (tissue) Sediment Toxicity Sedimentation/Siltation Selenium Sulfate Total Dissolved Solids Toxaphene (tissue, sediment) Toxicity Trash Zinc	City of Camarillo City of Moorpark City of Simi Valley City of Thousand Oaks Ventura County Watershed Protection District

Second draft Ventura County Municipal Separate Storm Sewer System Permit

ATTACHMENT A
Watershed Management Areas

Watershed Management Area	Hydrologic Units(s)	Major Surface Water Bodies	303(d) Pollutant(s) of Concern	Permittees
Malibu Creek	401.00 403.11 404.21 404.22 404.23 404.24 404.25 404.26 404.47 404.45	Malibu Creek Malibu Creek Lagoon Lake Lindero Lake Sherwood Las Virgenes Creek Liner Creek Malibu Lake Medea Creek Palo Comado Santa Monica Bay Westlake Lake Triunfo Creek	Algae Ammonia Coliform DDT (tissue, sediment) Enteric viruses Eutrophic Lead Low DO/Organic Enrichment Nutrients (algae) PAHs (sediment) PCBs (tissue, sediment) PH Mercury Scum/foam Sedimentation/Siltation Sediment Toxicity Selenium Specific Conductance Trash	City of Simi Valley City of Thousand Oaks Ventura County Watershed Protection District

Second draft Ventura County Municipal Separate Storm Sewer System Permit

ATTACHMENT A
Watershed Management Areas

Watershed Management Area	Hydrologic Units(s)	Major Surface Water Bodies	303(d) Pollutant(s) of Concern	Permittees
Miscellaneous Ventura Coastal	401.00 403.11	Channel Islands Harbor Channel Islands Beach Hobie Beach Mandalay Beach McGrath Lake McGrath Beach Ormond Beach Port Hueneme Harbor Promenade Park Beach Rincon Beach San Buenaventura Beach Santa Clara River Estuary Beach/Surfers Knoll Ventura Harbor: Ventura Keys	Beach closures Coliform (fecal) Chlordane (sediment) DDT (tissue, sediment) Dieldrin (sediment) PCBs (tissue, sediment) Lead (sediment) Sediment Toxicity Zinc (sediment)	City of Oxnard City of Port Hueneme City of San Buenaventura Ventura County Watershed Protection District

ATTACHMENT B

Calleguas Creek Watershed Pollutants of Concern (2003 through 2006)¹
 Mass Emission (ME-CC), Receiving Water (W-3 & W-4), and Land Use (A-1) Sites

Dry Weather	Wet Weather
Anion	Bacteriological
Chloride	E. Coli
Bacteriological	Fecal Coliform
E. Coli	Conventional
Fecal Coliform	Residual Chlorine
Conventional	TDS
TDS	Metal
Metal	Aluminum -Total
Aluminum -Total	Chromium ^{VI} - Total
Cadmium - Dissolved	Cooper - Dissolved
Cadmium - Total	Mercury - Total
Selenium - Total	Nutrient
Nutrient	Nitrate as Nitrogen
Nitrate as Nitrogen	Organic
Organic	Benzo(a)anthracene
Bis(2-ethylhexyl)phthalate	Benzo(a)pyrene
Pesticide	Benzo(b)fluoranthene
4,4'-DDD	Benzo(k)fluoranthene
4,4'-DDE	Bis(2-ethylhexyl)phthalate
4,4'-DDT	Chrysene
	Hexachlorobenzene
	Indeno(1,2,3-cd)pyrene
	Pentachlorophenol
	Pesticide
	4,4'-DDD
	4,4'-DDE

¹ Mass Emission, Receiving Water, and Land Use wet weather monitoring data was compared to Basin Plan Objectives and CTR-Acute Objectives; and the Mass Emission dry weather monitoring data was compared to Basin Plan Objectives and CTR-Chronic Objectives, to obtain exceedences (Pollutants of Concern). Monitoring data is from the Ventura Countywide NPDES Stormwater Monitoring Program Water Quality Monitoring Reports (2003/04 through 2005/06), data for 2000/01 through 2002/03 was either presented with exceedences not analyzed or by percent exceedence, so data could not be compared to 2003/04 through 2005/06 exceedence data. See definitions for POC.

ATTACHMENT B

Santa Clara River Watershed Pollutants of Concern (2003 through 2006)¹
 Mass Emission (ME-SCR) and Land Use (I-2 & R-1) Sites

Dry Weather	Wet Weather
Anion	Bacteriological
Chloride	E. Coli
Bacteriological	Fecal Coliform
E. Coli	Conventional
Fecal Coliform	Ph
Metal	TDS
Aluminum -Total	Metal
Selenium - Total	Aluminum -Total
Organic	Arsenic- Total
Bis(2-ethylhexyl)phthalate	Barium - Total
	Chromium - Total
	Cooper - Dissolved
	Mercury - Total
	Nickel - Total
	Selenium - Total
	Zinc - Dissolved
	Organic
	Benzo(a)anthracene
	Benzo(a)pyrene
	Benzo(b)fluoranthene
	Benzo(k)fluoranthene
	Bis(2-ethylhexyl)phthalate
	Chrysene
	Dibenz(a,h)anthracene
	Indeno(1,2,3-cd)pyrene
	Pesticide
	4,4'-DDE

¹ Mass Emission, and Land Use wet weather monitoring data was compared to Basin Plan Objectives and CTR-Acute Objectives; and the Mass Emission dry weather monitoring data was compared to Basin Plan Objectives and CTR-Chronic Objectives, to obtain exceedences (Pollutants of Concern). Monitoring data is from the Ventura Countywide NPDES Stormwater Monitoring Program Water Quality Monitoring Reports (2003/04 through 2005/06), data for 2000/01 through 2002/03 was either presented with exceedences not analyzed or by percent exceedence, so data could not be compared to 2003/04 through 2005/06 exceedence data.

ATTACHMENT BVentura River Watershed Pollutants of Concern (2003 through 2006)¹

Mass Emission (ME- VR & ME- VR2) Sites

Dry Weather	Wet Weather
Anion	Anion
Chloride	Chloride
Metal	Bacteriological
Selenium - Total	E. Coli
Organic	Fecal Coliform
Bis(2-ethylhexyl)phthalate	Conventional
	TDS
	Metal
	Aluminum - Total
	Cadmium- Total
	Chromium - Total
	Mercury - Total
	Nickel - Total
	Zinc - Dissolved
	Organic
	Benzo(a)pyrene
	Benzo(b)fluoranthene
	Bis(2-ethylhexyl)phthalate
	Chrysene

¹ Mass Emission wet weather monitoring data was compared to Basin Plan Objectives and CTR-Acute Objectives, and the Mass Emission dry weather monitoring data was compared to Basin Plan Objectives and CTR-Chronic Objectives, to obtain exceedences (Pollutants of Concern). Monitoring data is from the Ventura Countywide NPDES Stormwater Monitoring Program Water Quality Monitoring Reports (2003/04 through 2005/06). Monitoring data for 2000/01 through 2002/03 was either presented with exceedences not analyzed or by percent exceedence, so data could not be compared to 2003/04 through 2005/06 exceedence data.

ATTACHMENT C
Municipal Action Levels

Table 1 - Conventional Pollutants & Bacteria

Pollutants	pH	TSS mg/L	COD mg/L	Kjedahl Nitrogen (TKN) Mg/L	Nitrate & Nitrite total mg/L	P total mg/L
Municipal Action Level	6.0-9.0	211	120	3.50	1.16	0.82

Table 2 - Metals

Pollutants	Cd, total µg/L	Cr, total µg/L	Cu, total µg/L	Pb, total µg/L	Ni, total µg/L	Zn, total µg/L	Hg, Total µg/L
Municipal Action Level	7.34	20.4	70.7	62.2	19.2	756	1.01

ATTACHMENT D
Critical Sources Categories¹

Municipal Landfills (SIC 4953)
Hazardous Waste Treatment, Disposal and Recovery Facilities¹
Facilities Subject to SARA Title III (also known as EPCRA)²
Restaurants³
Wholesale trade (scrap, auto dismantling) (SIC 50)
Automotive service facilities²
Fabricated metal products (SIC 34)
Motor freight (SIC 42)
Chemical/allied products (SIC 28)
Automotive Dealers/Gas Stations (SIC 55)
Primary Metals Products (SIC 33)
Nursery³ (NAICS 424930 and 444220)
Electric/Gas/Sanitary (SIC 49)
Air Transportation (SIC 45)
Water Transportation (SIC 44)
Rubbers/Miscellaneous Plastics (SIC 30)
Local/Suburban Transit (SIC 41)
Railroad Transportation (SIC 40)
Oil & Gas Extraction (SIC 13)
Lumber/Wood Products (SIC 24)
Machinery Manufacturing (SIC 35)
Transportation Equipment (SIC 37)

¹ Non-underlined categories belong to Industrial Facilities.

² Various categories subject to these requirements.

³ See Definition in Part 7. of the Order.

ATTACHMENT D
Critical Sources Categories¹

Stone, Clay, Glass, Concrete (SIC 32)

Leather/Leather Products (SIC 31)

Miscellaneous Manufacturing (SIC 39)

Food and kindred Products (SIC 20)

Mining of Nonmetallic Minerals (SIC 14)

Printing and Publishing (SIC 27)

Electric/Electronic (SIC 36)

Paper and Allied Products (SIC 26)

Furniture and Fixtures (SIC 25)

Laundries (SIC 72)

Instruments (SIC 38)

Textile Mills Products (SIC 22)

Apparel (SIC 23)

¹Non-underlined categories belong to Industrial Facilities.

ATTACHMENT E
Determination of Erosion Potential

E_p is determined as follows- The *total effective work* done on the channel boundary is derived and used as a metric to predict the likelihood of channel adjustment given watershed and stream hydrologic and geomorphic variables. The index under urbanized conditions is compared to the index under pre-urban conditions expressed as a ratio (E_p). The effective work index (W) is computed as the excess shear stress that exceeds a critical value for streambed mobility or bank material erosion integrated over time and represents the total work done on the channel boundary:

$$W = \sum_{i=1}^n (\tau_i - \tau_c)^{1.5} \cdot V \cdot \Delta t_i \quad (1)$$

Where τ_c = critical shear stress that initiates bed mobility or erodes the weakest bank layer, τ_i = applied hydraulic shear stress, Δt = duration of flows (in hours), and n = length of flow record. The effective work index for presumed stable stream channels under pre-urban conditions is compared to stable and unstable channels under current urbanized conditions. The comparison, expressed as a ratio, is defined as the Erosion Potential (E_p)¹ (McRae (1992, 1996).

$$E_p = \frac{W_{post}}{W_{pre}} \quad (2)$$

where:

W_{post} = work index estimated for the post-urban condition
 W_{pre} = work index estimated for the pre-urban condition

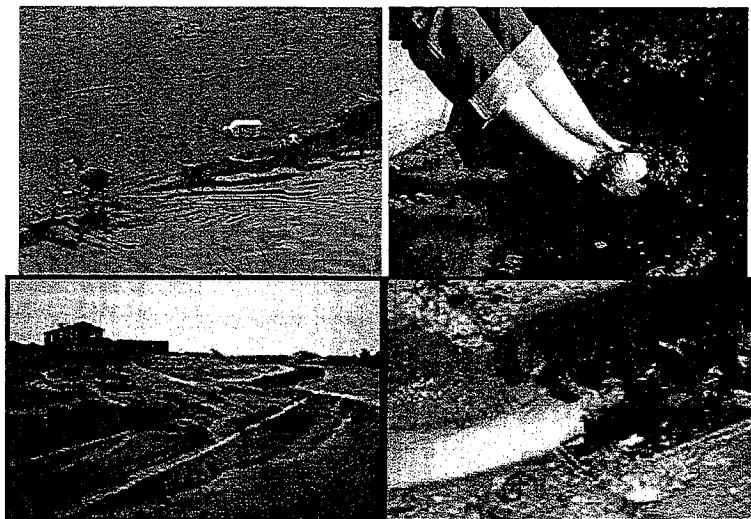
¹ MacRae, C.R. 1992. The Role of Moderate Flow Events and Bank Structure in the Determination of Channel Response to Urbanization. Resolving conflicts and uncertainty in water management: Proceedings of the 45th Annual Conference of the Canadian Water Resources Association. Shrubsole, D, ed. 1992, pg. 12.1-12.21; MacRae, C.R. 1996. Experience from Morphological Research on Canadian Streams: Is Control of the Two-Year Frequency Runoff Event the Best Basis for Stream Channel Protection. Effects of Watershed Development and Management on Aquatic Ecosystems, ASCE Engineering Foundation Conference, Snowbird, Utah, pg. 144-162

STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION

MONITORING PROGRAM - No. CI 7388
FOR
ORDER 07-xxxx
NPDES PERMIT NO. CAS004002
WASTE DISCHARGE REQUIREMENTS

MUNICIPAL SEPARATE STORM SEWER SYSTEM DISCHARGES
WITHIN THE
VENTURA COUNTY WATERSHED PROTECTION DISTRICT,
COUNTY OF VENTURA AND THE INCORPORATED CITIES THEREIN.

Xxxxxxxx xx, 200x



August 28, 2007 - Second draft

C000137

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MONITORING PROGRAM

1. The primary objectives of the Monitoring Program include, but are not limited to:
 - (a) Assessing the chemical, physical, and biological impacts of storm water discharges on receiving waters resulting from urban storm water discharges.
 - (b) Assessing the overall health and evaluating long-term trends in receiving water quality.
 - (c) Assessing compliance with effluent limitations and water quality objectives.
 - (d) Characterization of the quality of storm water discharges.
 - (e) Identifying sources of pollutants.
 - (f) Measuring and improving the effectiveness of measures implemented under this Order.
2. The results of the monitoring requirements outlined below shall be used to refine BMPs for the reduction of pollutant loading and the protection and enhancement of the beneficial uses of the receiving waters in Ventura County.
3. The Permittees shall implement the Monitoring Program as follows:

CORE MONITORING**A. Mass Emissions**

- I. The Principal Permittee shall monitor mass emissions to accomplish the following objectives:
 - i. Estimate the mass emissions from the MS4.
 - ii. Assess trends in the mass emissions over time.
 - iii. Determine if the MS4 is contributing to exceedences of water quality objectives by comparing results to applicable water quality objectives in the Water Quality Control Plan Los Angeles Region (Basin Plan), and the California Toxics Rule (CTR) for both acute and chronic criteria.
1. The Santa Clara River mass emission station (ME-SCR) shall be relocated so that mass emissions measurements include urban storm water discharges from the cities of San Buenaventura (Ventura) and Oxnard. Until the ME-SCR station is relocated, the Principal Permittee in coordination with the cities of Ventura (ME-SB) and Oxnard (ME-OX) shall separately monitor mass emissions from the 2 urbanized areas.
 - (a) Monitor "end-of-pipe" of the largest representative drainage systems transporting 60 percent or more of discharges from the Municipal drainage area to the Santa Clara River for the city of Ventura and the city of Oxnard, to estimate the total mass emissions for these cities.

2. The Principal Permittee shall monitor mass emissions from the following 5 mass emission stations:
 - (a) ME-VR for Ventura River.
 - (b) ME-SCR for Santa Clara River.
 - (c) ME-SB for Santa Clara River (until ME-SCR is relocated).
 - (d) ME-OX for the Santa Clara River (until ME-SCR is relocated).
 - (e) ME-CC for Calleguas Creek.
3. Samples for mass emission monitoring may be taken with the same type of automatic sampler used under Order 00-108.
4. Samplers shall be set to monitor storms that produce 0.25 inches or greater of rainfall.
5. Samples are to be flow-weighted composites and can be collected manually or automatically for ME-SB and ME-OX (see the following sections A.6 and A.7).
6. Samples shall be flow-weighted composites, collected during the first 3 hours or for the duration of the storm if it is less than 3 hours. A minimum of 3 sample aliquots, separated by a minimum of 15 minutes, shall be taken within each hour of discharge, unless the Regional Water Board Executive Officer approves an alternate protocol.
7. Flow may be estimated using EPA methods at sites where flow measurement devices are not in place.
8. The Principal Permittee shall monitor:
 - (a) The first storm event of the wet season that produces at least 0.25 inches of rain, and 2 additional storm events, all separated by 7 days of dry weather.
 - (b) A total of 3 monitoring events (storm events - wet weather) shall be sampled per mass emission station per year.
9. Grab samples shall be taken for pathogen indicators and oil and grease, only.
10. All samples taken shall be analyzed for all constituents listed in Attachment "G" (Storm Water Monitoring Program's Constituents with Associated Minimum Levels). If a constituent is not detected at the Method Detection Limit (MDL) for its respective test method in more than 75 percent of the first 48 sampling events at a station, it need not be further analyzed unless the observed occurrences show concentrations greater than state water quality objective. The Principal Permittee shall conduct annual confirmation sampling for non-detected constituents during the first storm of the wet season every year at each station.

11. At a minimum a sufficient sample volume must be collected to perform all of the required chemical and biological tests, including toxicity.
12. When monitoring can not be performed to comply with the requirements of this Order due to circumstances beyond the Permittees control, then within 48 hours the following shall be submitted to the Regional Water Board Executive Officer:
 - (a) Statement of situation.
 - (b) Explanation of circumstance(s) with documentation.
 - (c) Statement of corrective action for the future.
13. Monitoring results submitted for compliance shall include:
 - (a) Statement that a sample is a wet or dry weather sample.
 - (b) Rain totals and hydrographs for monitoring events in both narrative and graphic formats.
 - (c) All applicable Standard Monitoring Provisions listed in section "J".
14. Monitoring results from each station shall be sent electronically to the Regional Board's Storm Water Site at MS4stormwaterrb4@waterboards.ca.gov, no later than 45 days from sample collection date. The sample data transmitted shall be in the most recent update of the Southern California Municipal Storm Water Monitoring Coalition's (SMC) Standardized Data Transfer Formats (SDTFs).
15. A summary of the years' mass emission station's monitoring results highlighting exceedences (POC) to the Basin Plan, and the CTR for both acute and chronic criteria with corresponding sampling dates shall be included with the Annual Storm Water Report.

B. Aquatic Toxicity Monitoring (Wet Weather)

- I. The objective of aquatic toxicity monitoring is to evaluate if storm water (wet weather) discharges are causing or contributing to acute and/ or chronic toxic impacts on aquatic life by the following:
 - i. Toxicity testing at mass emission stations is to be evaluated using marine test organisms to assess impacts on the marine or estuarine environments.
1. The Principal Permittee shall analyze, mass emission samples for aquatic toxicity to evaluate the extent and causes of toxicity in receiving waters. Permittees shall utilize documents such as: Ventura County's Technical Guidance Manual for Storm Water Quality Control Measures and U.S. EPA's National Management Measures to Control Nonpoint Source Pollution from Urban Areas to implement measures to eliminate or reduce sources of toxicity in storm water.

2. The Principal Permittee shall analyze samples for toxicity from 2 storm events, separated by 7 days of dry weather (including, the first storm event that produces a rainfall of at least 0.25 inches) for each mass emission station per wet season.
 - (a) A minimum of 1 marine species shall be used for toxicity testing for each mass emission station event. Specifically, *Strongylocentrotus purpuratus* (sea urchin) fertilization/ development tests shall be used. This test should include a dilution series (0.5x steps) that ranges from the undiluted sample (or the highest concentration that can be tested within the limitations of the test methods or sample type) too less than or equal to 6% sample. In no case shall the toxicity test species *Strongylocentrotus purpuratus* (sea urchin) be substituted with another organism unless Permittees receive written authorization from the Regional Water Board Executive Officer.

3. Toxicity Identification Evaluations (TIE)
 - (a) The Principal Permittee shall complete acute and/ or chronic Phase I (Toxicity Characterization Procedures) TIEs for all sites showing 90 percent or more toxicity to any 1-test organism in the first year. The acute and chronic Phase I TIEs shall include the following treatments and corresponding blanks:
 - (1) Baseline toxicity.
 - (2) Particle removal by centrifugation.
 - (3) Solid phase extraction of the centrifuged sample using C18 media.
 - (4) Complexation of metals using ethylenediaminetetraacetic acid (EDTA) addition to the raw sample.
 - (5) Neutralization of oxidants/ metals using sodium thiosulfate addition to the raw sample.
 - (6) Inhibition of Organophosphate (OP) pesticide activation using piperonyl butoxide addition to the raw sample (crustacean toxicity tests only).

4. A TIE Prioritization Metric may be utilized to rank sites for TIEs.¹

5. Toxicity Reduction Evaluations (TRE)
 - (a) When the same pollutant or class of pollutants is identified through the TIE process as causing at least 50% of the toxic responses in at least 2 samples at a sampling location, a TRE shall be performed for that identified toxic pollutant. TRE development shall be performed by a neutral third party (retained by the Permittees), in consultation with the Regional Water Board staff. The TRE shall include all reasonable steps to identify the source(s) of toxicity and discuss appropriate BMPs to eliminate the causes of toxicity. No later than 30 days after the source of toxicity and appropriate BMPs are

¹ Appendix 5. SMC Model Monitoring Program.

- identified, the Permittees shall submit the TRE Corrective Action Plan to the Regional Water Board Executive Officer for approval. At a minimum, the Plan shall include a discussion of the following items:
- (1) The potential sources of pollutant(s) causing toxicity.
 - (2) A list of municipalities that may have jurisdiction over sources of pollutant(s) causing toxicity.
 - (3) Recommended BMPs to reduce the pollutant(s) causing toxicity.
 - (4) Proposed post construction control measures to reduce the pollutant(s) causing toxicity.
 - (5) Follow-up monitoring to demonstrate that toxicity has been removed.
- (b) Phase I results are intended as a first step in specifically identifying the toxicants but the data generated can also be used to develop treatment methods to remove toxicity without specific identification of the toxicants. Since Phase I TIEs characterize the physical/ chemical nature of the constituents which cause toxicity, additional TIE (Phase II- Toxicity Identification Procedures- identify non-polar organics, ammonia, or metals, and Phase III- Toxicity Confirmation Procedures) analyses may be required in order to identify and/ or confirm the identity of the pollutants causing toxicity before the TRE can be completed.
 - (c) If TRE implementation for a specific pollutant coincides with TMDL implementation for that pollutant, the efforts may be coordinated.
 - (d) Upon approval by the Regional Water Board Executive Officer, the Permittee(s) having jurisdiction over sources causing or contributing to toxicity shall implement the recommended BMPs and take all reasonable steps necessary to eliminate toxicity.
 - (e) The Principal Permittee shall be responsible for the development of a maximum of 2 TREs per year. If applicable, the Principal Permittee may use the same TRE for the same toxic pollutant or pollutant class in different watersheds. The TRE process shall be coordinated with TMDL development and implementation (i.e., If a TMDL for 4,4'-DDD is being implemented when a TRE for 4,4'-DDD is required, the efforts shall be coordinated to avoid overlap).
 - (f) The Principal Permittee shall report on the development, implementation, and results for each TRE Corrective Action Plan in the Annual Report, beginning the year following the identification of each pollutant or pollutant class causing toxicity.
 - (g) Samples for toxicity are to be flow-weighted composites and can be collected manually or automatically (see sections A.6 and A.7).
6. At a minimum a sufficient sample volume shall be collected to perform the required toxicity test. When using the toxicity test species the following is required:
- (a) *Strongylocentrotus purpuratus* (sea urchin) a minimum sample volume of 2 liters.

7. Sample storage (holding time) time shall not exceed 72 hours (from collection through lab processing).
8. The same refrigerated sample showing toxicity shall be used for the TIE, even though the holding time may exceed 72 hours.
9. Toxicity monitoring results shall be sent to the Regional Water Board in the same electronic format and time period as provided for the mass emission monitoring results in section A.14.
10. The Principal Permittee shall report on the development, implementation, and results for each TRE Corrective Action Plan in the Annual Storm Water Report, beginning the year following the identification of each pollutant or pollutant class causing toxicity.
11. All constituents (POC) that caused toxicity or exceeded any applicable water quality objectives at the associated mass emission station the previous year shall be listed in each Annual Storm Water Report.
12. A summary of the years' mass emission station's Aquatic Toxicity monitoring results with corresponding sampling dates and ToxCalc output shall be included with the Annual Storm Water Report.
13. When the SMC Standardized Toxicity Testing Protocol is completed, the Regional Water Board Executive Officer may direct Permittees to replace the current toxicity program with the standardized procedure.

C. Total Maximum Daily Load Monitoring For Storm Water (Wet Weather) and Non-Storm Water (Dry Weather) Discharges

- I. This Monitoring section incorporates monitoring to determine compliance with the TMDL Waste Load Allocations (WLAs) for storm water (wet weather) and non-storm water (dry weather) that have been adopted by the Regional Water Board and have been approved by the Office of Administrative Law and the U.S. EPA.
- II. Grab samples shall be taken for pathogen indicators.
- III. Samples for toxicity are to be flow-weighted composites and may be collected manually or automatically (see sections A.6 and A.7).
- IV. Toxicity Monitoring shall be done according to the following procedures.
 - i. Chronic Toxicity- The Permittee shall conduct critical life stage chronic toxicity tests on 24-hour composite 100 % effluent samples in accordance with U.S. EPA's Short Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms, October 2002 (EPA-821-R-02-013). or

- ii. U.S. EPA's Short Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms, October 2002 (EPA-821-R-02-014), or current version.
 - a) Chronic Toxicity Test Species- The Permittee is to perform 3 species screening, to determine which is the most sensitive species (the plant, the fish, or the invertebrate). Once it is determined which species is the most sensitive, continue using that species for the next 2 monitoring years, then repeat the 3 species screening process to determine which species is the most sensitive, continue using that species for the next 2 monitoring years, then to repeat the 3 species screening process. The Permittee is to screen every 2 years.
 - iii. Acute Toxicity- The Permittee shall conduct acute toxicity tests on 100% effluent samples by methods specified in 40 CFR Part 136, which cites U.S. EPA's Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms, October, 2002 (EPA-821-R-02-012) or a more recent edition to ensure compliance.
 - a) Acute Toxicity Test Species- The fathead minnow, *Pimephales promelas*, shall be used as the test species for fresh water discharges and the topmelt, *Atherinops affinis*, shall be used as the test species for brackish discharges. The method for topmelt is found in U.S. EPA's Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms, October, 2002 (EPA-821-R-02-012).
- V. Monitoring results for each major outfall shall be sent electronically to the Regional Water Board's Storm Water Site at MS4stormwaterrb4@waterboards.ca.gov, no later than 45 days from sample collection date. The sample data transmitted shall be in the Southern California Municipal Storm Water Monitoring Coalition's (SMC) Standardized Data Transfer Formats (SDTFs) current version.
- VI. A summary of the reporting years' monitoring results for each major outfall with corresponding sampling dates and ToxCalc output (if applicable) shall be included in the Annual Monitoring Report.
- VII. After the Regional Water Board considers and adopts the MS4s workplan for determining compliance with WQBELs at the "end of pipe" to control the discharge of pollutants, then the workplan/ monitoring program for WQBELs compliance at the "end of pipe" may be substituted for the Monitoring - (wet weather and/ or dry weather) program. The Regional Water Board (or Regional Water Board Executive Officer, when duly delegated), consistent with 40 CFR 122.41, may approve changes to the workplan/ monitoring plan.
- VIII. For storm event (wet weather) monitoring:
- i. A storm event means those days with 0.25 inches of rain or greater, and the event is separated by 7 days of dry weather.

- IX. For non-storm water (dry weather) event monitoring for the Malibu Creek and Lagoon - Bacteria TMDL:
- i. A dry day is defined as a non-wet day.
 - ii. A wet day is defined as a day with a 0.1 inch or more of rain and three days following the rain event.
1. TMDL WLAs for Santa Clara River Nitrogen Compounds.
- (a) Storm Water (wet weather)
- (1) Each MS4 Permittee (Ventura County Watershed Protection District, Ventura County, and the cities of Santa Paula and Fillmore) shall monitor its discharge to Reach 3 of the Santa Clara River for Nitrogen Compounds (Ammonia as Nitrogen, and Nitrate plus Nitrite Nitrogen) during 3 storm events.
 - (2) Each MS4 Permittee shall monitor 3 storm events at the "end-of pipe" of publicly owned major outfalls with the largest representative drainage systems transporting 60 percent or more of storm water discharge from the MS4s' drainage area to Reach 3 of the Santa Clara River.
 - (3) MS4 discharges shall not exceed the WQBELs (see the following Table 1).
 - (A) Nitrogen Compounds WQBELs- (upon Order adoption date).
 - (4) Each MS4 Permittee shall report in the Annual Report major outfalls transporting 60 percent or more of storm water discharge from the MS4 during wet weather monitoring events.
 - (A) Outfall(s) name and ID number.
- (b) Non-Storm Water (dry weather)
- (1) Each MS4 Permittee (Ventura County Watershed Protection District, Ventura County, and the Cities of Santa Paula and Fillmore) shall monitor its discharge to Reach 3 of the Santa Clara River for Nitrogen Compounds (Ammonia as Nitrogen, and Nitrate plus Nitrite Nitrogen) at a minimum of one dry weather event per month.
 - (2) Each MS4 Permittee shall monitor monthly at the "end-of pipe" of all publicly owned major outfalls with flow during dry weather to Reach 3 of the Santa Clara River.
 - (3) MS4 discharges shall not exceed the WQBELs (see the following Table 2).
 - (A) Nitrogen Compounds WQBELs- (upon Order adoption date).
 - (4) Each MS4 Permittee shall report in the Annual Report all publicly owned major outfalls with no flow/ flow during dry weather monitoring events.
 - (A) Outfall(s) name and ID number.
 - (B) Outfall(s) associated "no flow" or "flow observed".

Table 1 - Nitrogen Compounds WQBELs - Wet Weather

Parameters	Units	Effluent Limits	
		EMC	1-hour
Ammonia	mg/L	2.0	4.2
Nitrate plus nitrite	mg/L	8.1	

Table 2 - Nitrogen Compounds WQBELs - Dry Weather

Parameters	Unit	Effluent Limits	
		30-day Average	Maximum Daily
Ammonia	mg/L	1.16	3.69
Nitrate plus nitrite	mg/L	8.1	

2. TMDL WLAs for Malibu Creek and Lagoon - Bacteria.

(a) Non-Storm Water (dry weather)

- (1) Each MS4 Permittee (Ventura County Watershed Protection District, Ventura County, and the Cities of Thousand Oaks and Simi Valley) shall monitor its discharge to the Malibu Creek Watershed for Bacteria at a minimum of one dry weather event per month.
- (2) Each MS4 Permittee shall monitor monthly at the "end-of pipe" of all publicly owned major outfalls with flow during dry weather to the Malibu Creek Watershed.
- (3) MS4 discharges shall not exceed the WQBELs and Exceedence Days (see the following Table 3 and Table 4).
 - (A) Summer Dry Weather Bacteria WQBELs- January 24, 2009.
 - (B) Winter Dry Weather Bacteria WQBELs- January 24, 2012.
- (4) Each MS4 Permittee shall report in the Annual Report all publicly owned major outfalls with no flow/ flow during dry weather monitoring events.
 - (A) Outfall(s) name and ID number.
 - (B) Outfall(s) associated "no flow" or "flow observed".

Table 3 - Bacteria WQBELs - Dry Weather (Numerical Limit)

Parameters	Unit	Effluent Limits	
		Fresh Water	
		Geometric Mean	Single Sample
E. coli	mg	126/ 100	235/ 100
Fecal coliform	mg	200/ 100	400/ 100

Table 4 - Bacteria Exceedence Days for Geometric Mean \ Single Sample - Dry Weather (Frequency)

Summer Dry Weather			Winter Dry Weather		
April 1 - October 31			November 1 - March 31		
Geometric Mean	Single Sample		Geometric Mean	Single Sample	
30-day sampling (No. days)	Daily sampling (No. days)	Weekly sampling (No. days)	30-day sampling (No. days)	Daily sampling (No. days)	Weekly sampling (No. days)
0	0	0	0	3	1

3. TMDL WLAs for Calleguas Creek, Its Tributaries and Mugu Lagoon - Toxicity, Chlorpyrifos, and Diazinon TMDL.

(a) Storm Water (wet weather)

- (1) Each MS4 Permittee (Ventura County Watershed Protection District, Ventura County, and the cities of Camarillo, Moorpark, Oxnard, Simi Valley and Thousand Oaks) shall monitor its discharge to Calleguas Creek, Its Tributaries and Mugu Lagoon (Calleguas Creek Watershed) for Toxicity, Chlorpyrifos and Diazinon during 3 storm events.
- (2) Each MS4 Permittee shall monitor 3 storm events at the "end-of pipe" of publicly owned major outfalls with the largest representative drainage systems transporting 60 percent or more of storm water discharge from the MS4s' drainage area to the Calleguas Creek Watershed.
- (3) MS4 discharges shall not exceed the WQBELs (see the following Table 5 and Table 7).
 - (A) Toxicity, and Chlorpyrifos and Diazinon Interim WQBELs- (upon Order adoption date).
 - (B) Chlorpyrifos and Diazinon Final WQBELs- March 24, 2008.
- (4) Each MS4 Permittee shall report in the Annual Report major outfalls transporting 60 percent or more of storm water discharge from the MS4 during wet weather monitoring events.
 - (A) Outfall(s) name and ID number.

(b) Non-Storm Water (dry weather)

- (1) Each MS4 Permittee (Ventura County Watershed Protection District, Ventura County, and the Cities of Camarillo, Moorpark, Oxnard, Simi Valley and Thousand Oaks) shall monitor its discharge to the Calleguas Creek Watershed for Toxicity, Chlorpyrifos and Diazinon at a minimum of one dry weather event per month.
- (2) Each MS4 Permittee shall monitor monthly at the "end-of pipe" of all publicly owned major outfalls with flow during dry weather to the Calleguas Creek Watershed.
- (3) MS4 discharges shall not exceed the WQBELs (see the following Table 6 and Table 8).

- (A) Toxicity, and Chlorpyrifos and Diazinon Interim WQBELs- (upon Order adoption date).
- (B) Chlorpyrifos and Diazinon Final WQBELs- March 24, 2008.
- (4) Each MS4 Permittee shall report in the Annual Report all publicly owned major outfalls with no flow/ flow during dry weather monitoring events.
 - (A) Outfall(s) name and ID number.
 - (B) Outfall(s) associated "no flow" or "flow observed".

Table 5 - Toxicity WQBEL - Wet Weather

Parameter	Unit	Effluent Limit
		Chronic (EMC)
Toxicity	TUc	1.0

Table 6 - Toxicity WQBEL - Dry Weather

Parameter	Unit	Effluent Limit
		Chronic (4 day)
Toxicity	TUc	1.0

Table 7 - Chlorpyrifos and Diazinon Interim \ Final WQBELs - Wet Weather

Parameters	Unit	Effluent Limits			
		Chronic (EMC)		Acute (1hr)	
		Interim	Final	Interim	Final
Chlorpyrifos	ug/L	0.45	0.014		
Diazinon	ug/L	0.556	0.10	1.73	0.10

Table 8 - Chlorpyrifos and Diazinon Interim \ Final WQBELs - Dry Weather

Parameters	Unit	Effluent Limits			
		Chronic (4 day)		Acute (1hr)	
		Interim	Final	Interim	Final
Chlorpyrifos	ug/L	0.45	0.014		
Diazinon	ug/L	0.556	0.10	1.73	0.10

- 4. TMDL WLAs for Organochlorine (OC) Pesticides, Polychlorinated Biphenyls (PCBs), and Siltation in Calleguas Creek, its Tributaries and Mugu Lagoon.
 - (a) Non-Storm Water (dry weather)
 - (1) Each MS4 Permittee (Ventura County Watershed Protection District, Ventura County, and the Cities of Camarillo, Moorpark, Oxnard, Simi Valley, and Thousand Oaks) shall monitor its discharge to the Calleguas Creek Watershed for OC Pesticides and PCBs at a minimum of one dry weather event per month.

- (2) Each MS4 Permittee shall monitor monthly at the "end-of pipe" of all publicly owned major outfalls with flow during dry weather to the Calleguas Creek Watershed.
- (3) MS4 discharges shall not exceed the WQBELs (see the following Table 9 and Table 10).
 - (A) OC Pesticides and PCBs Interim WQBELs (upon Order adoption date).
- (4) The "No Net Loading" effluent limitation will be determined through using the lowest detection limit for each constituent.
 - (A) The result of the analysis shall be "No Detect" when using the lowest detection limit laboratory procedure.
 - (B) In no case shall the lowest detection limits be above the Threshold Values.
- (5) Each MS4 Permittee shall report in the Annual Report all publicly owned major outfalls with no flow/ flow during dry weather monitoring events.
 - (A) Outfall(s) name and ID number.
 - (B) Outfall(s) associated "no flow" or "flow observed".

Table 9 - OC Pesticides and PCBs Interim WQBELs - Dry Weather

Parameters	Units	Effluent Limits	
		Daily Maximum	Threshold Value
Chlordane	ng/L	No net loading	1.2
4,4-DDD	ng/L	No net loading	6.0
4,4-DDE	ng/L	No net loading	1.2
4,4-DDT	ng/L	No net loading	10.0
Dieldrin	ng/L	No net loading	10.0
PCBs	ng/L	No net loading	31.0
Toxaphene	ng/L	No net loading	500.0

Table 10 - Sediments WQBELs - Dry Weather

Parameters	Units	Effluent Limits	
		Average Monthly	Maximum Daily
Total Suspended Solids	mg/L	50	150
Settleable Solids	ml/L	0.1	0.3

SPECIAL STUDIES**D. Trash and Debris Study**

- I. The Principal Permittee shall conduct the trash and debris study to accomplish the following objectives:
 - i. Quantitatively assess the types and amount of trash and debris on the coastal areas and beaches within the Ventura County.
 - ii. Identify areas impaired for trash and debris, and to develop control strategies.

1. The Principal Permittee and Permittees shall implement a trash and debris study for the following areas:
 - (a) Channel Island Waterfront.
 - (b) Ormond Wetland/ Lagoon/ Beach.

2. Coastal waters/ Inland waters shall quantify trash and debris types collected from its waters.

3. Beaches shall quantify trash and debris distribution and types by sampling stratified random sites.

4. Trash and debris from coastal waters/ inland waters and beaches shall be documented accordingly:
 - (a) Trash and debris is to be bagged according to location.
 - (b) Bagged trash and debris to be identified and quantified by:
 - (1) Sort debris into broad categories used by the Center for Marine Conservation during their Coastal Cleanup days (i.e., glass, metal, plastics, foamed plastics, rubber, paper, wood, cloth, etc.).
 - (2) The broad categories are to be recorded, enumerated and weighed.
 - (3) Each broad category of debris is to be further sorted into specific subcategories (e.g., cups, buoys, toys, fishing line, trash bags, etc.).
 - (4) The subcategories are to be recorded and enumerated.
 - (5) Within the subcategories brand names are to be recorded when possible, to estimate their percent of total and establish cross-brand trends.

5. Trash and debris study shall begin no later than the second October following (Order adoption date).

6. Trash and debris study Final Report shall be completed and submitted to the Regional Water Board Executive Officer no later than 18 months from the study's start date.

7. Trash and debris collected in the study shall be disposed of in compliance with applicable State, Federal, and Local regulations.

E. Pyrethroid Insecticides Study

- I. The Principal Permittee shall perform a Pyrethroid Insecticides study to accomplish the following objectives:
 - i. Evaluate whether tributaries are toxic to aquatic organisms.
 - ii. Evaluate whether Pyrethroid Insecticide concentrations are at or approaching levels known to be toxic to sediment-dwelling aquatic organisms.
 - iii. Prioritize drainage and sub-drainage areas where Best Management Practices need to be implemented, if necessary.
1. The Permittees shall incorporate tributary monitoring for Pyrethroid Insecticides within the Calleguas Creek Watershed according to the following:
 - (a) No later than second year of this Order, monitoring within the Calleguas Creek Watershed Management Area (WMA) shall begin for a period of 2 years.
 - (b) In selecting sites to conduct tributary monitoring for Pyrethroid Insecticides, Permittees shall review existing monitoring programs in the watersheds by other public and private entities, watershed coalitions, and citizen volunteers, so as to complement and not duplicate efforts.
 - (c) Establish 2 to 6 stations along the mainstem of each major Calleguas Creek tributary, such as: Conejo Creek.
 - (d) Establish 2 to 3 stations along secondary tributaries (originate at the outfall of storm drains/ channels) entering each major Calleguas Creek tributary.
 - (1) Stations shall be established outside of the influence of the mainstem.
2. The Principal Permittee shall monitor Pyrethroid Insecticides stations according to the following:
 - (a) The Principal Permittee shall monitor the first storm event of the wet season that produces at least 0.25 inches of rain, and 2 additional storm events, for a total of 2 sampling events per station per monitoring year.
 - (1) Monitoring shall occur after sediment has settled within the waterbody.
 - (b) Approximately 3 L of sediment is to be collected at each station in a pre-cleaned glass jar by skimming the upper 1 cm of the sediment column with a steel scoop, and held on ice until returned to the laboratory.
 - (c) Sediment shall be homogenized in the laboratory by hand mixing, then held at 4 °C (toxicity samples) or -20 °C (chemistry samples).
 - (d) All samples taken shall be analyzed for the following Pyrethroids:
 - (1) bifenthrin.
 - (2) cyfluthrin.

- (3) cypermethrin.
 - (4) deltamethrin.
 - (5) esfenvalerate.
 - (6) lambda-cyhalothrin.
 - (7) permethrin.
 - (8) tralomethrin (if laboratory is capable of analyzing for it).
 - (e) Detection limits for all Pyrethroids shall be as close to 1ng/g (dry weight) as reasonably achievable.
 - (f) Each sediment sample is to measure the following:
 - (1) total organic carbon (OC).
3. All samples shall be tested for toxicity to 7 to 10 day old *Hyaella azteca* according to standard U.S. EPA testing methods.²
 - (a) Use of the approach described in *Aquatic Toxicity Due to Residential Use of Pyrethroid Insecticides*³ for toxicity testing shall be used.
 4. Analyses to be conducted at a laboratory that has performed sediment toxicity testing for Pyrethroid Insecticides, is preferred.
 5. Monitoring results from each station shall be sent electronically to the Regional Board's Storm Water Site at MS4stormwaterrb4@waterboards.ca.gov, no later than 45 days from sample collection date. The sample data transmitted shall be in the most recent update of the Southern California Municipal Storm Water Monitoring Coalition's (SMC) Standardized Data Transfer Formats (SDTFs).
 6. If toxicity is attributed to Pyrethroids then consultation with staff at U.S. EPA, the California Department of Pesticide Regulations and the California Stormwater Quality Association's (CASQA) pesticides committee (UP3 Project web site), shall be required to obtain relevant information to use in developing the recommendations to mitigate Pyrethroids in the Final Report.
 7. Final Report for the Pyrethroid Insecticides study shall contain the following:
 - (a) Executive summary.
 - (b) Methods.
 - (c) Results.
 - (d) Discussion.
 - (e) Recommendations to mitigate Pyrethroids.

² U.S. EPA. *Methods for Measuring the Toxicity and Bioaccumulation of Sediment-Associated Contaminants with Freshwater Invertebrates*; EPA Publication 600/R-99/064; U.S. Environmental Protection Agency: Washington, DC, 2000; 192 pp.

³ *Aquatic Toxicity Due to Residential Use of Pyrethroid Insecticides*; Weston, D.P.; Holmes, R.W.; You, J.; Lydy, M.J. *Environ. Sci. Technol.*; (Article); 2005; 39(24); 9780 pp.

8. The Final Report shall be completed and submitted to the Executive Officer of the Regional Water Board no later than 8 months after completion of the study.

F. Hydromodification Control Study

1. The Principal Permittee shall conduct or participate in special studies to develop tools to predict and mitigate the adverse impacts of Hydromodification, and to comply with hydromodification control criteria. These are the following:
 - (a) Develop a mapping and classification system for streams based on their susceptibility to the effects of hydromodification.
 - (b) Establish protocols for ongoing monitoring to assess the effects of hydromodification.
 - (c) Develop dynamic models to assess the effects of hydromodification on stream condition.
 - (d) Develop a series of tools that managers can easily apply to make recommendations or set requirements relative to hydromodification for new development and redevelopment.
2. The Principal Permittee may satisfy this requirement by participating in the 'Development of Tools for Hydromodification Assessment and Management' Project undertaken by the SMC and coordinated by the SCCWRP.
3. The Principal Permittee shall continue to partner with the SMC and collect data or sponsor its collection for the Ventura County sites to reduce statistical uncertainty and/ or improve model predictability.
4. The Principal Permittee shall submit a letter to the Regional Water Board Executive Officer stating how they will satisfy this requirement, no later than (2 months after Order adoption date).

G. Low Impact Development

1. The Principal Permittee shall conduct or participate in a special study to assess the effectiveness of low impact development techniques in semi-arid climate regimes such as in Southern California.
2. The Principal Permittee may satisfy this requirement by participating in the SMC project titled "Quantifying the Effectiveness of Site Design/ Low Impact Development Best Management Practice in Southern California".
3. The Principal Permittee shall submit a letter to the Regional Water Board Executive Officer stating how they are satisfying this requirement, no later than 2 months after deciding to either conduct or participate in special study.

H. Southern California Bight Project

1. The Principal Permittee and Permittees shall participate with other government organizations regulating discharges in southern California in the collaboration to conduct a regional monitoring survey (Southern California Bight Project (SCBP)) anticipated to be held in 2008. The survey's primary objective is to assess the spatial extent and magnitude of ecological disturbances on the mainland continental shelf of the SCB and to describe relative conditions among different regions of the SCBP.
2. The Principal Permittee shall participate on the Steering Committee for the bight-wide monitoring project, and complete the estuary and nearshore sampling effort requirement of the proposed monitoring project for Ventura County as defined in the SCBP plan.

I. Volunteer Monitoring Programs

1. The Permittees shall participate in the development and implementation of volunteer monitoring programs in the Ventura watersheds. These include, but are not limited to the following:
 - (a) Ventura River - (Ventura Stream Team).
 - (b) Santa Clara River - (Santa Clara River Stream Team).
 - (c) Calleguas Creek - (Calleguas Creek Watershed Quality Monitoring Program).
 - (d) Malibu Creek - (Malibu Creek Watershed Quality Monitoring Program).

J. Standard Monitoring Provisions

- I. All monitoring activities shall meet the following requirements.
 1. Monitoring and Records [40 CFR 122.41(j)(1)]
 - (a) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
 2. Monitoring and Records [40 CFR 122.41(j)(2)] [CWC §13383(a)]
 - (a) The Principal Permittee and Permittees shall retain records of all monitoring information, including all calibration and maintenance of monitoring instrumentation, copies of all reports required by this Order, and records of all data used to complete the Report of Waste Discharge (ROWD) and application for this Order, for a period of at least five (5) years from the date of the sample, measurement, report, or application. This period may be extended by request of the Regional Water Board or U.S. EPA at any time and shall be extended during the course of any unresolved litigation regarding this discharge.

3. Monitoring and Records [40 CFR 122.21(j)(3)]
 - (a) Records of monitoring information shall include:
 - (1) The date, time of sampling or measurements; exact place, weather conditions, and rain fall amount.
 - (2) The individual(s) who performed the sampling or measurements.
 - (3) The date(s) analyses were performed.
 - (4) The individual(s) who performed the analyses.
 - (5) The analytical techniques or methods used.
 - (6) The results of such analyses.
 - (7) The data sheets showing toxicity test results.

4. Monitoring and Records [40 CFR 122.21(j)(4)]
 - (a) All sampling, sample preservation, and analyses must be conducted according to test procedures under 40 CFR Part 136, unless other test procedures have been specified in this Order. If a particular Minimum Level (ML) is not attainable in accordance with procedures set forth in 40 CFR 136, the lowest quantifiable concentration of the lowest calibration standard analyzed by a specific analytical procedure may be used instead.

5. Monitoring and Records [40 CFR 122.21(j)(5)]
 - (a) The CWA provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this Order shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than four years, or both.

6. All chemical, bacteriological, and toxicity analyses shall be conducted at a laboratory:
 - (a) Certified for such analyses by an appropriate governmental regulatory agency.
 - (b) Participated in 'Intercalibration Studies' for storm water pollutant analysis conducted by the SMC.⁴

⁴ The 'Intercalibration Studies' are conducted periodically by the SMC to establish a consensus based approach for achieving minimal levels of comparability among different testing laboratories for storm water samples to minimize analytical procedure bias. Stormwater Monitoring Coalition Laboratory Document, Technical Report 420 (2004) and subsequent revisions and augmentations.

7. For priority toxic pollutants that are identified in the CTR (65 Fed. Reg. 31682), the MLs published in Appendix 4 of the *Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays and Estuaries of California* (SIP) shall be used for all analyses, unless otherwise specified. The MLs from the SIP are incorporated into Attachment "G".
8. The Monitoring Report shall specify the analytical method used, the Method Detection Level (MDL) and the ML for each pollutant. For the purpose of reporting compliance with numerical limitations, performance goals, and receiving water limitations, analytical data shall be reported with 1 of the following methods, as appropriate:
 - (a) An actual numerical value for sample results greater than or equal to the ML.
 - (b) "Not-detected (ND)" for sample results less than the laboratory's MDL with the MDL indicated for the analytical method used.
 - (c) "Detected, but Not Quantified (DNQ)" if results are greater than or equal to the laboratory's MDL but less than the ML. The estimated chemical concentration of the sample shall also be reported. This is the concentration that results from the confirmed detection of the substance by the analytical method below the ML value.
9. For priority toxic pollutants, if the Permittee can demonstrate that a particular ML is not attainable, in accordance with procedures set forth in 40 CFR 136, the lowest quantifiable concentration of the lowest calibration standard analyzed by a specific analytical procedure (assuming that all the method specified sample weights, volumes, and processing steps have been followed) may be used instead of the ML listed in Appendix 4 of the SIP. The Principal Permittee must submit documentation from the laboratory to the Regional Water Board Executive Officer for approval prior to raising the ML for any constituent.
10. Monitoring Reports [40 CFR 122.41(I)(4)(ii)]
 - (a) If the Principal Permittee monitors any pollutant more frequently than required by the Order using test procedures approved under 40 CFR part 136, unless otherwise specified in the Order, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Annual Monitoring Reports.
11. Monitoring Reports [40 CFR 122.41(I)(4)(iii)]
 - (a) Calculations for all limitations, which require averaging of measurements, shall utilize an arithmetic mean unless otherwise specified in this Order.
12. If no flow occurred during the reporting period, then the Monitoring Report shall, so state.

13. The Regional Water Board Executive Officer or the Regional Board, consistent with 40 CFR 122.41, may approve changes to the Monitoring Program, after providing the opportunity for public comment, either:
- (a) By petition of the Principal Permittee or by petition of interested parties after submittal of the Monitoring Report. Such petition shall be filed not later than 60 days after the Monitoring Report submittal date, or
 - (b) As deemed necessary by the Regional Water Board Executive Officer following notice to the Principal Permittee.

Ordered by:

Deborah J. Smith
Interim Executive Officer
Date: XXXXXXX XX, 2007

ATTACHMENT GStorm Water Monitoring Program's Constituents with Associated Minimum Levels (MLs)¹

CONSTITUENTS	MLs
CONVENTIONAL POLLUTANTS	
	mg/L
Oil and Grease	5
Total Phenols	0.1
Cyanide	0.005
pH	0 - 14
Temperature	N/A
Dissolved Oxygen	Sensitivity to 5 mg/L
BACTERIA (single sample limits)	
	MPN/100ml
Total coliform (marine waters)	10,000
Enterococcus (marine waters)	104
Fecal coliform (marine & fresh waters)	400
E. coli (fresh waters)	235
GENERAL	
	mg/L
Dissolved Phosphorus	0.05
Total Phosphorus	0.05
Turbidity	0.1 NTU
Total Suspended Solids	2
Total Dissolved Solids	2
Volatile Suspended Solids	2
Total Organic Carbon	1
Total Petroleum Hydrocarbon	5
Biochemical Oxygen Demand	2
Chemical Oxygen Demand	20-900
Total Ammonia-Nitrogen	0.1
Total Kjeldahl Nitrogen	0.1
Nitrate-Nitrite	0.1
Alkalinity	2
Specific Conductance	1umho/cm
Total Hardness	2
MBAS	0.5
Chloride	2
Fluoride	0.1
Methyl tertiary butyl ether (MTBE)	1
Perchlorate	4 µg/L

¹ For priority pollutants, MLs published in Appendix 4 of the Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays and Estuaries of California (SIP) shall be used for all analyses, unless otherwise specified. Method Detection Levels (MDLs) must be lower than or equal to the ML value, unless otherwise approved by the Regional Board.

ATTACHMENT GStorm Water Monitoring Program's Constituents with Associated Minimum Levels (MLs)¹

METALS (Dissolved & Total)	µg/L
Aluminum	100
Antimony	0.5
Arsenic	1
Beryllium	0.5
Cadmium	0.25
Chromium (total)	0.5
Copper	0.5
Hex. Chromium	5
Iron	100
Lead	0.5
Mercury	0.5
Nickel	1
Selenium	1
Silver	0.25
Thallium	1
Zinc	1
SEMIVOLATILE ORGANIC COMPOUNDS	µg/L
ACIDS	µg/L
2-Chlorophenol	2
4-Chloro-3-methylphenol	1
2,4-Dichlorophenol	1
2,4-Dimethylphenol	2
2,4-Dinitrophenol	5
2-Nitrophenol	10
4-Nitrophenol	5
Pentachlorophenol	2
Phenol	1
2,4,6-Trichlorophenol	10
BASE/NEUTRAL	µg/L
Acenaphthene	1
Acenaphthylene	2
Anthracene	2
Benzidine	5
1,2 Benzanthracene	5
Benzo(a)pyrene	2
Benzo(g,h,i)perylene	5
3,4 Benzoflouranthene	10

ATTACHMENT GStorm Water Monitoring Program's Constituents with Associated Minimum Levels (MLs)¹

BASE/NEUTRAL	µg/L
Benzo(k)fluoranthene	2
Bis(2-Chloroethoxy) methane	5
Bis(2-Chloroisopropyl) ether	2
Bis(2-Chloroethyl) ether	1
Bis(2-Ethylhexyl) phthalate	5
4-Bromophenyl phenyl ether	5
Butyl benzyl phthalate	10
2-Chloroethyl vinyl ether	1
2-Chloronaphthalene	10
4-Chlorophenyl phenyl ether	5
Chrysene	5
Dibenzo(a,h)anthracene	0.1
1,3-Dichlorobenzene	1
1,4-Dichlorobenzene	1
1,2-Dichlorobenzene	1
3,3-Dichlorobenzidine	5
Diethyl phthalate	2
Dimethyl phthalate	2
di-n-Butyl phthalate	10
2,4-Dinitrotoluene	5
2,6-Dinitrotoluene	5
4,6 Dinitro-2-methylphenol	5
1,2-Diphenylhydrazine	1
di-n-Octyl phthalate	10
Fluoranthene	0.05
Fluorene	0.1
Hexachlorobenzene	1
Hexachlorobutadiene	1
Hexachloro-cyclopentadiene	5
Hexachloroethane	1
Indeno(1,2,3-cd)pyrene	0.05
Isophorone	1
Naphthalene	0.2
Nitrobenzene	1
N-Nitroso-dimethyl amine	5
N-Nitroso-diphenyl amine	1
N-Nitroso-di-n-propyl amine	5
Phenanthrene	0.05
Pyrene	0.05
1,2,4-Trichlorobenzene	1

ATTACHMENT GStorm Water Monitoring Program's Constituents with Associated Minimum Levels (MLs)¹

CHLORINATED PESTICIDES	µg/L
Aldrin	0.005
alpha-BHC	0.01
beta-BHC	0.005
delta-BHC	0.005
gamma-BHC (lindane)	0.02
alpha-chlordane	0.1
gamma-chlordane	0.1
4,4'-DDD	0.05
4,4'-DDE	0.05
4,4'-DDT	0.01
Dieldrin	0.01
alpha-Endosulfan	0.02
beta-Endosulfan	0.01
Endosulfan sulfate	0.05
Endrin	0.01
Endrin aldehyde	0.01
Heptachlor	0.01
Heptachlor Epoxide	0.01
Toxaphene	0.5
POLYCHLORINATED BIPHENYLS	µg/L
Aroclor-1016	0.5
Aroclor-1221	0.5
Aroclor-1232	0.5
Aroclor-1242	0.5
Aroclor-1248	0.5
Aroclor-1254	0.5
Aroclor-1260	0.5
ORGANOPHOSPHATE PESTICIDES	µg/L
Atrazine	2
Chlorpyrifos	0.05
Cyanazine	2
Diazinon	0.01
Malathion	1
Prometryn	2
Simazine	2
HERBICIDES	µg/L
2,4-D	0.02
Glyphosate	5
2,4,5-TP-SILVEX	0.2

STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION

REPORTING PROGRAM - No. CI 7388
FOR
ORDER 07-xxxx
NPDES PERMIT NO. CAS004002
WASTE DISCHARGE REQUIREMENTS

MUNICIPAL SEPARATE STORM SEWER SYSTEM DISCHARGES
WITHIN THE
VENTURA COUNTY WATERSHED PROTECTION DISTRICT,
COUNTY OF VENTURA AND THE INCORPORATED CITIES THEREIN.

Xxxxxx xx, 200x



August 28, 2007 - Second draft

C000163

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Reporting Program Requirements

The Principal Permittee shall submit by December 15th of each year beginning the year of 2007, an Annual Report to the Regional Water Board Executive Officer in the form of a one hard copy and three compact disks (CD) (or equivalent electronic format)

1. The Annual Report shall document the status of the General Storm Water Program, an integrated summary of the results of analyses from:
 - (a) The monitoring program described under Part 1-Monitoring Report; and
 - (b) The requirements described under Part 2- Program Report.
2. Plans shall be submitted to the Regional Water Board Executive Officer in the form of a hard copy and on a compact disk (CD), submit 1 hard copy and 3 CD copies.
3. Study Reports shall be submitted to the Regional Water Board Executive Officer in the form of a hard copy and on a CD, submit 1 hard copy and 3 CD copies.
4. Progress Reports shall be submitted to the Regional Water Board Executive Officer in the form of a hard copy and on a CD, submit 1 hard copy and 3 CD copies.

PART 1 - MONITORING REPORT**A. The following shall be included in the Annual Report:**

1. Mass Emissions
 - (a) Assess the variability of storm water constituents from the results all monitored storms events.
 - (b) Rain totals and hydrographs for monitoring events in both narrative and graphic formats shall be included with the Annual Report.
 - (c) A summary of the years' mass emission station's monitoring results highlighting exceedences (POC) with corresponding sampling dates shall be included with the Annual Report.
2. Aquatic Toxicity Monitoring
 - (a) An analysis of the mass emission samples for aquatic toxicity to evaluate the extent and causes of toxicity in receiving waters.
 - (b) A report on the development, implementation, and results for each TRE Corrective Action Plan in the Annual Report, beginning the year following the identification of each pollutant or pollutant class causing toxicity.

- (c) Report on the development, implementation, and results for each TRE Corrective Action Plan, beginning the year following the identification of each pollutant or pollutant class causing toxicity.
- (d) All constituents (POCs) that caused toxicity or exceeded any applicable water quality objectives at the associated mass emission station the previous year shall be listed.
- (e) A summary of the years' mass emission station's monitoring results with corresponding sampling dates and ToxCalc output.

3. TMDL Compliance Monitoring

- (a) A summary of the years' monitoring results for each TMDL.
 - (i) Corresponding sampling dates and ToxCalc output (if applicable).
 - (ii) Outfall(s) name and ID number for both wet and dry weather.
 - (iii) Outfall(s) associated "no flow" or "flow observed" for dry weather.

B. The following shall be submitted to the Regional Water Board Executive Officer:

- 1. Aquatic Toxicity Monitoring
 - (a) A TRE Corrective Action Plan within 30 days after the source of toxicity and appropriate BMPs are identified.
- 2. TMDL Compliance Monitoring
 - (a) A report identifying the Southern California Municipal Storm Water Monitoring Coalition's (SMC) standardized toxicity testing protocol and compliance criteria, for consideration and approval.
- 3. Trash and Debris Study
 - (a) A trash and debris study final report, no later than 18 months from the study's start date.
- 4. Pyrethroid Insecticides Study
 - (a) Pyrethroid insecticides study final report, no later than 8 months after completion of the study.
- 5. Hydromodification Control Study
 - (a) Letter stating how the Principal Permittee is satisfying this requirement, no later than 2 months after deciding to either conduct or participate in special studies.
- 6. Low Impact Development
 - (a) Letter stating how the Principal Permittee is satisfying this requirement, no later than 2 months after deciding to either conduct or participate in special study.

7. Non-Compliance

- (a) When monitoring can not be performed to comply with the requirements of this Order due to circumstances beyond the Permittees control, then within 48 hours the following shall be submitted:
- (1) Statement of situation.
 - (2) Explanation of circumstance(s) with documentation.
 - (3) Statement of corrective action for the future.

C. Submitted electronically to the Regional Water Board, the following shall be:

1. Mass Emissions
 - (a) Monitoring results no later than 45 days from sample collection date.
2. Aquatic Toxicity Monitoring
 - (a) Monitoring results no later than 45 days from sample collection date.
3. TMDL Compliance Monitoring
 - (a) Monitoring results no later than 45 days from sample collection date.
4. Non-Compliance
 - (a) When the Order 's monitoring requirements can not be performed due to circumstances beyond the Permittees control, then within 48 hours the following shall be submitted to the Regional Water Board Executive Officer:
 - (1) Statement of situation.
 - (2) Explanation of circumstance(s) with documentation.
 - (3) Statement of corrective action for the future.
5. Data transmitted shall be in the SMCs Standardized Data Transfer Formats (SDTFs) and all updates are to be adhered to.¹
 - (a) Regional Water Board's Storm Water E-mail Address:
MS4stormwaterrb4@waterboards.ca.gov

¹ The SMC developed a SDTFs for use by member agencies for electronic recording and transfer of storm water monitoring data. Southern California Coastal Water Research Project, Technical Report 421 (August, 2004).

PART 2 - PROGRAM REPORT

On an annual basis the Permittees shall complete an Annual Monitoring Program Report that responds adequately to the evaluative questions below which correspond to the Order.

DISCHARGE PROHIBITIONS

- (a) Have you effectively prohibited all non-storm discharges into the MS4 and watercourses?
- (b) If there are any exceptions in the municipal code, list the exceptions to the municipal code. In other words, which non-storm water discharges does your municipality allow? Under what conditions are they allowed (with BMPs)? List which BMPs are required prior to discharge.
- (c) Do you have a procedure to assure that any project within your jurisdiction which may undertake ground water dewatering obtain a permit from the Regional Water Board?
- (d) How many projects are permitted to dewater in your jurisdiction?
- (e) How many are permanent dewatering to continue after construction is completed?
- (f) Do you have a permitting/ permission system for the discharge of dechlorinated/ debrominated swimming pool discharges? Explain it.
- (g) If yes, how many swimming pools are drained with the agency's permit/ permission?
- (h) How do you ensure that discharge limits for chlorine, bromine, etc are not exceeded?
- (i) Do you allow the discharge of "salt water" swimming pool discharges? If yes
- (j) Do you have a permitting/ permission system for the discharge of "salt water" swimming pool discharges? Explain it.

RECEIVING WATER LIMITATIONS

1. At any time, has the discharge from the MS4 caused or contributed to the violation of water quality objectives or water quality standards?
2. At any time, has the discharge from the MS4 for which a Permittee is at least partially responsible, caused or contributed to a condition of nuisance?

3. At any time, has the discharge of pollutant(s) from the MS4 exceeded the MS4 Waste Load Allocation(s) for Wet Weather Discharges?
4. For pollutant(s) which continue to cause or contribute to water quality impairments, but for which TMDLs have not yet been developed or approved, what has the Permittee implemented to eliminate future water quality impairments?

STORM WATER QUALITY MANAGEMENT PROGRAM IMPLEMENTATION

A. General Requirements

B. Legal Authority

1. Does your municipal agency possess all the necessary legal authority to implement and enforce each requirement of this Order?
2. If the answer is no, explain why not.
3. By what date certain will the municipal agency have all the necessary legal authority?
4. Attach a copy of the new or updated statement by its legal counsel that the Permittee has obtained all necessary legal authority to comply with this Order through adoption of ordinances and/ or municipal code modifications.
5. After submitting the Statement from your legal counsel, was your city's municipal code (or other legal authority) changed (Any section that applies to or affects storm water permitting or requirements)? On what date(s) was it changed? Provide the changes.

C. Fiscal Resources

1. Provide a detailed Annual Budget Summary of the Permittee's allocation of funds expended to implement the activities required to comply with the conditions of this Order.
2. Indicate the source(s) of funding (whether general funds; and/ or Benefit Assessment Program funds; plan review fees; permit fees; industrial/ commercial user fee; revenue bonds; grants; or other funding mechanism. Each Permittee's Annual Budget Summary shall separately include:
3. Annual Budget Summary of expenditures applied to the storm water management program and also identify the storm water budget for the following year, using estimated percentages and written explanations where necessary, for the specific categories noted below:
 - (a) Program Overall Management Activities;
 - (1) Administrative costs
 - (b) Program Required Activities Implementation;
Provide an estimated percent breakdown of expenditures for the categories below:
 - (1) Illicit connection/ illicit discharge

- (2) Development planning
- (3) Development construction
- (4) Construction inspection activities
- (5) Industrial/ Commercial inspection activities
- (6) Public Agency Activities
- (7) Maintenance of Structural BMPs and Treatment Control BMPs
 - (A) Municipal Street Sweeping for Commercial/ Industrial landuse only;
 - (B) Catch basin clean-outs (including dumping fees);
 - (C) Storm drain clean-outs (including dumping fees); and
 - (D) Other costs (describe).
- (8) Public Information and Participation;
- (9) Monitoring Program; and
- (10) Miscellaneous Expenditures (describe).

D. Designation and Responsibilities of the Principal Permittee

The Principal Permittee shall submit within the Annual Program Report information on the implementation of the following:

1. Coordination and facilitation of activities to comply with the requirements of this Order;
2. Evaluation, assessment, and summary of the results of the monitoring program and the effectiveness of the implementation of BMPs and any recommended change.

E. Responsibilities of the Permittees

Each Permittee shall include within the Annual Program Report information on the implementation of the following:

1. A statement under penalty of perjury that the Permittee is or is not in compliance with the requirements of this Order and any subsequent modifications thereto.
2. A summary of how coordination occurs among its internal departments and agencies to ensure the implementation of the requirements of this Order.
3. Description of the intra-agency coordination by Agency departments (e.g. Community Development (Planning), Public Works, Sanitation, Engineering, Fire Department, Building and Safety, Code Enforcement, Public Health, Water and/ or Power Department, etc.) to ensure the successful implementation of the provisions of this Order.
4. In addition to the Budget Summary, identify any supplemental dedicated budgets for the storm water categories listed.
5. Identify the staff which participated at all committee or subcommittee meetings and when.

PART 4 - SPECIAL PROVISIONS**A. General Requirements**

1. Best Management Practice Substitution
 - (a) Did the Regional Water Board Executive Officer approve any site-specific BMP substitution for your agency?
 - (b) If so, describe implementation of that/ those BMP(s).

B. Watershed Initiative Participation

1. Describe your participation (Principal Permittee) in appropriate water quality meetings for watershed management planning. Include the following:
 - (a) Calleguas Creek Watershed Management Plan;
 - (b) Regional Monitoring Program;
 - (c) Santa Clara River Enhancement and Management Plan;
 - (d) Steelhead Restoration and Recovery Plan; and
 - (e) Southern California Stormwater Monitoring Coalition (SMC).

C. Public Information and Participation Program (PIPP)

1. Describe the Permittee successes in:
 - Measurably increasing the knowledge of the target audiences regarding the MS4, the impacts of storm water pollution on receiving waters and potential solutions to mitigate the problems caused;
 - Measurably changing the waste disposal and runoff pollution generation behavior of target audiences by encouraging implementation of appropriate solutions;
 - Involving and engaging communities in Ventura County to participate in mitigating the impacts of storm water pollution.
2. Residential Program
 - (a) Did the Permittee label each storm drain inlet that they own with a legible "no dumping" message.
 - (b) How many inlets were labeled this year?
 - (c) How many inlets were labeled cumulatively?
 - (d) Did the Permittee install signs with prohibitive language discouraging illegal dumping at designated public access points to creeks, other relevant water bodies, and channels?
 - (e) How many?

Public Reporting

- (a) Identify the staff person(s) who will serve as the contact person(s) for reporting clogged catch basin inlets and illicit discharges/ dumping, faded or lack of catch basin stencils, and general storm water management information.
- (b) Did the Permittee update this information by July 1 of this year?
- (c) The Principal Permittee shall compile a list of the general public reporting contacts from all Permittees and make this information available on the web site (<http://www.vcstormwater.org/contact.htm>) and upon request.

Outreach and Education

- (1) Provide documentation to show that the Permittees implemented the following activities:
- Storm Water pollution prevention advertising campaign.
 - Storm Water pollution prevention public service announcements.
 - Distribution of storm water pollution prevention public education materials to auto parts stores, home improvement centers and pet shops/ feed stores in regards to information on the proper storage and disposal of household waste materials, construction waste materials and vehicle waste fluids, the proper use of fertilizers and pesticides and the proper disposal of animal wastes.
 - Organization of watershed Citizen Advisory Groups/ Committees to develop/ implement effective methods to educate the public about storm water pollution.
 - Organization of events for residents and population subgroups.
 - Maintenance of the Countywide storm water website (www.vcstormwater.org), including educational materials.
- (2) Provide documentation to show that the Principal Permittee implemented the strategy to educate ethnic communities through culturally acceptable and effective methods.
- (3) Did each Permittee implement outreach efforts to residents and school children related to the proper disposal of litter, green waste, pet waste, proper vehicle maintenance, lawn care and water conservation practices?
- (4) Did the Permittees make demonstrable positive effects on the general public related to storm water quality?
- (5) On 4 above, explain how so.
- (6) Did the Principal Permittee, in cooperation with the Permittees, provide schools within each School District in the County with materials, including, but not limited to, videos, live presentations, and other information necessary to educate a minimum of 50 percent of all school children (K-12) every 2 years on storm water pollution?

- (8) Provide the contact information for their appropriate staff responsible for storm water public education activities to the Principal Permittee and changes to contact information no later than 30 days after a change occurs.
- (9) Provide the assessment of the strategy to measure the effectiveness of in-school educational programs.

Businesses Program

- (a) Corporate Outreach
- (b) Provide a progress update on the Corporate Outreach program.

C. Industrial/ Commercial Facilities Program

Each Permittee shall require implementation of pollutant reduction and control measures at industrial and commercial facilities, with the objective of reducing pollutants in storm water runoff. Except as specified in other sections of this Order, pollutant reduction and control measures may be used alone or in combination, and may include Structural Treatment Control, Source Control BMPs, and operation and maintenance procedures, which may be applied before, during, and/ or after pollution generating activities. At a minimum, the Industrial/ Commercial Facilities Control Program Report shall include requirements to: (1) track, (2) inspect, and (3) ensure compliance with municipal ordinances at industrial and commercial facilities that are critical sources of pollutants in storm water runoff.

1. Inventory of Critical Sources

- (a) Describe how the critical sources are inventoried. (whether via a watershed-based inventory or database or GIS. Provide a sample.
- (b) Each Permittee shall include the following minimum fields of information for each critical sources industrial and commercial facility.
 - (1) Name of facility and owner/ operator.
 - (2) Address of facility.
 - (3) Coverage under the ISWGP or other individual or general NPDES permits or any applicable waiver issued by the Regional or State Board pertaining to runoff discharges.
 - (4) A narrative description including SIC (NAICS) codes that best describe the industrial activities performed and principal products used at each facility and status of exposure to storm water.
- (c) Did each Permittee update its inventory of critical sources annually?

(d) Critical Source Inventory Database

Did you (individually or jointly) update the Database for Critical Sources Inventory?	Yes <input type="checkbox"/>
	No <input type="checkbox"/>
Comments/ Explanation/ Conclusion:	

2. Inspection Program

(a) The Permittee shall verify the following for each inspection:

- (1) The facility has a current Waste Discharge Identification (WDID) number or a current No Exposure Certification for discharging storm water associated with industrial activity?
- (2) A Storm Water Pollution Prevention Plan available on-site?
- (3) The facility is effectively implementing BMPs in compliance with County and municipal ordinances including the source control BMPs outlined in Part 4.D. of this Order
- (4) The facility needs to implement additional treatment control BMPs where the storm water from the MS4 discharges to a CWA §303(d) listed water body?

Second draft Ventura County Municipal Separate Storm Water Permit
Attachment H - Reporting Program No. CI 7388

Provide the reporting data as suggested in the following table.

Category	Initial Number of Facilities at the start of cycle proposed for inspection by categories (after the initial year, the updated number based on the new data)	Number of facilities inspected in the current reporting year	% Completed at the time of this report for present cycle (from the initial value, and from the updated value after first cycle)	Total number since permit adoption
Landfills				
TSDF				
Comments/ Explanation/ Conclusion:				

- Did each Permittee perform an initial inspection at all facilities in the categories listed no later than (two years after the adoption of the Order)?
- All facilities determined as having exposure of industrial activities to storm water are subject to a second compliance inspection. Were all inspections completed?
- Was there a minimum interval of six months between the first and the second compliance inspection per site as required?

NPDES No. CAS004002

Second draft Ventura County Municipal Separate Storm Sewer System Permit
Attachment H - Reporting Program No. CI 7388

Order No. 07-XXXX

BMPs Implementation

Provide the reporting data as suggested in the following table.

Category	Number of facilities inspected by category this reporting year	Number of facilities identified as adequately implementing BMPs as specified in this reporting year	Percent adequately implementing out of total in this reporting year	Number of facilities required to implement or upgrade in this reporting year	Number of facilities inspected by category in this reporting cycle	Number of facilities identified as adequately implementing BMPs as specified in this reporting cycle	Percent adequately implementing out of total in this reporting cycle	Number of facilities required to implement or upgrade in this reporting cycle	Total Number during this permit adequately implementing	Total Number during this permit required to implement or upgrade
Landfills										
etc...										

Comments/ Explanation/ Conclusion:

Enforcement Activities

Provide the reporting data as suggested in the following tables.

Enforcement Actions by categories (e.g. Warning letter, NOV, referral to D.A., etc.)	Number of facilities issued enforcement actions in the current reporting year	Number of facilities (re)inspected due to enforcement actions in the current reporting year	Number of facilities (re)inspected due to enforcement actions in current reporting cycle	Number of facilities brought into compliance in the current reporting year	Number of facilities brought into compliance in current reporting cycle	Total number of enforcement actions since permit adoption (by category)
NOVs						
Etc...						

Facilities by category	Number of Warning letters	Number of NOVs	Number of Referrals	Number of Other(Explain)
Landfill				
Etc...				
Comments/ Explanation/ Conclusion:				

Nurseries and nursery centers

- (a) At nurseries subject to the agricultural waiver issued by the Regional Water Board, provide a spreadsheet with the following information:
- How many operators have enrolled under the waiver?
 - What is their identification number?
 - How many nonfilers did you notify to apply under the agricultural waiver?
- (b) Did you submit electronically semiannually to the Regional Water Board a list with the names of facilities notified to apply for the waiver?

Ensuring Compliance of Critical Sources

- (a) On how many sites did you determine that a BMP is infeasible, and require implementation of other BMPs that will achieve the equivalent reduction of pollutants in the storm water discharges?
- (b) For critical sources that discharge to ESAs or that are tributary to CWA § 303(d) impaired water bodies, does the Permittee require operators to implement additional controls to reduce pollutants in storm water runoff that are causing or contributing to exceedences of Water Quality Standards?

Investigation of Complaints Regarding Facilities – Transmitted by the RB Staff

- (a) How many investigations were conducted as a result of USEPA or Regional Water Board staff referrals of violators to the Permittee?
- (b) Was the investigation initiated within one business day of being contacted?
- (c) What were the results of each investigation?

D. Planning and Land Development ProgramLow Impact Development

- (a) Did all new development and redevelopment projects integrate Low Impact Development (LID) principles into project design?
- (b) How many did?
- (c) How many did not?
- (d) If not, Why not?

E. Numeric Hydromodification Mitigation Criteria

1. Hydrologic (Flow/ Volume/ Duration) Control

- (a) Did the Permittees require all new developments and redevelopment projects to implement hydrologic control measures, to prevent accelerated downstream erosion and to protect stream habitat in natural drainage systems?

- (b) How many did?
- (c) How many did not?
- (d) Why not?

2. Post Construction Storm Water BMP Program

- (a) For each project, did each Permittee require that during the construction of a single-family hillside home, actions be taken to:
 - (1) Conserve natural areas?
 - (2) Protect slopes and channels?
 - (3) Provide storm drain system stenciling and signage?
 - (4) Divert roof runoff to vegetated areas before discharge unless the diversion would result in slope instability? and
 - (5) Direct surface flow to vegetated areas before discharge unless the diversion would result in slope instability?
- (b) Did each Permittee require that all development projects equal to 1 acre or greater be subject to conditioning and approval of post-construction BMPs as approved by the Regional Water Board in Board Resolution No. R 00-02?
- (c) Did each Permittee require that the following development projects be subject to conditioning and approval of post-construction BMPs?
 - (1) Retail gasoline outlets 5,000 square feet or more of surface area; How many sites?
 - (2) Restaurants (SIC 5812) 5,000 square feet or more of surface area; How many sites?
 - (3) Parking lots 5,000 square feet or more of surface area or with 25 or more parking spaces; How many sites?
 - (4) Automotive service facilities (SIC 5013,5014,5541,7532-7534 and 7536-7539) [5,000 square feet or more of surface area]; How many sites? and
 - (5) Redevelopment projects in subject categories that meet Redevelopment thresholds. How many sites?
- (d) Did each Permittee require that post construction BMPs be subject to conditioning and approval for development projects located in or directly adjacent to or discharging directly to an Environmentally Sensitive Area (ESA), where the development will:
 - (1) Discharge storm water and urban runoff that is likely to impact a sensitive biological species or habitat.
 - (2) Create 2,500 square feet or more of impervious surface area.

3. Numeric Water Quality Design Criteria

Projects disturbing land areas less than 50 acres

- (a) How many did the Permittee require that post-construction Treatment Control BMPs incorporate, at a minimum, a volumetric and/ or hydrologic (flow based) treatment control design standard, as identified below to mitigate (infiltrate, filter or treat) storm water runoff as specified below?
- (b) How many sites were exempted from the requirement?
- (c) Why were they exempted?

Projects disturbing land area of 50 acres or greater

For sites 50 acres or greater how many did the Permittee require that post-construction Treatment Control BMPs be,

- (a) Designed using an appropriate public domain hydrodynamic model (such as Storm Water Management Model (SWMM) 5 or Hydrologic Engineering Center – Hydrologic Simulation Program – Fortran (HEC-HSPF); and incorporate
- (b) Rainfall intensity based on hourly rainfall records;
- (c) An adjustment factor for within hour rainfall variability; and
- (d) Hydraulics of BMP Performance.
- (e) How many projects did this apply to?
- (f) Were there any sites that were exempted from the requirement?
- (g) How many sites were exempted?
- (h) Why were they exempted?

4. Applicability of Numerical Criteria

Did the Permittee require all projects equal to 1 acre or greater and the following additional projects to design and implement post-construction treatment controls to mitigate storm water pollution for the following?:

- (a) Automotive service facilities (SIC 5013, 5014, 5541, 7532-7534 and 7536-7539) [5,000 square feet or more of surface area].
- (b) Retail gasoline outlets [5,000 square feet or more of impervious surface area and with projected Average Daily Traffic (ADT) of 100 or more vehicles].
Subsurface Treatment Control BMPs which may endanger public safety (i.e., create an explosive environment) are considered not appropriate.
- (c) Restaurants (SIC 5812) [5,000 square feet or more of surface area].
- (d) Parking lots 5,000 square feet or more of surface area or with 25 or more parking spaces.
- (e) Projects located in, adjacent to or discharging directly to an ESA that meet threshold conditions identified above in 2(d).

- (f) Redevelopment projects in subject categories that meet Redevelopment thresholds.
 - (g) How many projects did this apply to?
 - (h) Were there any sites that were exempted from the requirement?
 - (i) How many sites were exempted?
 - (j) Why were they exempted?
5. Site Specific Mitigation
- (a) List how many sites did each Permittee require the implementation of a site-specific plan to mitigate post-development storm water for new development and redevelopment not identified in Section XX but which may potentially have adverse impacts on post-development storm water quality, with one or more of the following project characteristics:
 - (1) Vehicle or equipment fueling areas. How many?
 - (2) Vehicle or equipment maintenance areas, including washing
 - (3) and repair. How many?
 - (4) Commercial or industrial waste handling or storage. How many?
 - (5) Outdoor handling or storage of hazardous materials. How many?
 - (6) Outdoor manufacturing areas. How many?
 - (7) Outdoor food handling or processing. How many?
 - (8) Outdoor animal care, confinement, or slaughter. How many?
 - (9) Outdoor horticulture activities. How many?
 - (b) Were there any sites that were exempted from the requirement?
 - (c) How many sites were exempted?
 - (d) Why were they exempted?
6. Redevelopment Projects
- (a) Did the Permittees apply the post construction BMP requirements, or site specific requirements including post-construction storm water mitigation to all projects that undergo significant Redevelopment in their respective categories?
 - (b) How many?
 - (c) Were there any sites that were exempted from the requirement?
 - (d) How many sites were exempted?
 - (e) Why were they exempted?
7. Maintenance Agreement and Transfer
- (a) How many developments subject to post construction BMP requirements and site specific plan requirements actually provided verification of maintenance provisions for Structural and Treatment Control BMPs, including but not limited to legal agreements, covenants, CEQA mitigation requirements, and or conditional use permits?
 - (b) How many of each verification were received?

- (c) The developer's signed statement accepting responsibility for maintenance until the responsibility is legally transferred?
 - (d) A signed statement from the public entity assuming responsibility for Structural or Treatment Control BMP maintenance and that it meets all local agency design standards?
 - (e) Written conditions in the sales or lease agreement, which requires the recipient to assume responsibility for maintenance and conduct a maintenance inspection at least once a year?
 - (f) Written text in project conditions, covenants and restrictions (CCRs) for residential properties assigning maintenance responsibilities to the Home Owners Association for maintenance of the Structural and Treatment Control BMPs?
 - (g) Written conditions in the sales or lease agreement, which requires the recipient to assume responsibility for maintenance and conduct a maintenance inspection at least once a year?
 - (h) Another type of legally enforceable agreement that assigns responsibility for the maintenance of post-construction Structural or Treatment Control BMPs?
8. Development Planning Coordination and Enforcement
- (a) Did you inspect each new development and redevelopment project for post construction controls prior to approving and signing off for occupancy?
 - (b) How many?
 - (c) Were there any sites that were exempted from the requirement?
 - (d) How many sites were exempted?
 - (e) Why were they exempted?
9. Regional Storm Water Mitigation Program
- (a) Have you applied to the Regional Water Board for approval of a regional or sub-regional storm water mitigation program to substitute in part or wholly for on-site post-construction requirements?
10. Inspection and Tracking System for Post Construction Treatment BMPs
- (a) Did you implement the required Geographic Information System (GIS) or other electronic system for tracking projects conditioned for post construction treatment control BMPs?
 - (b) Does include the following information? (Answer each separately)
 - (1) Municipal Project ID?
 - (2) State WDID No.?
 - (3) Project Acreage?
 - (4) BMP Type and Description?
 - (5) BMP Location (GPS coordinates)?
 - (6) Date of Acceptance?
 - (7) Date of O&M Certification?
 - (8) Maintenance Records
 - (9) Inspection Date and Summary?

- (10) Corrective Action?
 - (11) Replacement or Repair Dates?
 - (c) Did you inspect all facilities to verify proper maintenance and operation of Treatment BMPs previously approved?
 - (d) Did you accomplish the following?
 - (e) BMP acceptance inspection to ensure proper installation?
 - (1) Inspection once every two years of high priority post-construction BMPs to ensure treatment effectiveness, hydraulic function, and vector risk minimization?
11. Developer Technical Guidance and Information
- (a) List dates as to when the Ventura County Technical Guidance Manual for Stormwater Quality Control Measures was last updated to include the following:
 - (1) Hydrologic (Peak Flow) Control criteria for volume control described herein and the interim criteria based on hydrograph matching?
 - (2) Expected BMP pollutant removal performance including consistent effluent quality and removal efficiency ranges (International BMP Database, technical reports and the scientific literature?
 - (3) Improved Correlation of BMPs with storm water POC?
 - (4) Data on Observed Local Effectiveness and performance of implemented BMPs?
 - (5) BMP Maintenance and Cost considerations?
 - (6) Criteria to facilitate integrated water resources planning and management in the selection of BMPs, including water conservation, groundwater recharge, public recreation, multipurpose parks, open space preservation, and redevelopment retrofits?
12. Project Review and Inter Department Coordination
- (a) Did you ensure that a detailed BMP review was performed including BMP sizing calculations, BMP pollutant removal appropriateness, for each plan submitted with a signed certification?
 - (b) How many?
 - (c) Were there any sites that were exempted from the requirement?
 - (d) How many sites were exempted?
 - (e) Why were they exempted?
 - (f) Did you ensure that a clear structure for communication and delineated authority are established between and among municipal departments which have jurisdiction over project review, plan approval, project construction, and site maintenance?
 - (g) Explain how?

13. California Environmental Quality Act (CEQA) Document Update

Did you incorporate into the CEQA process procedures for considering potential storm water quality impacts and providing for appropriate mitigation when preparing and reviewing CEQA documents? (Answer each below separately.)

- (a) Potential impact of project construction on storm water runoff?
- (b) Potential impact of project post-construction activity on Storm Water runoff?
- (c) Potential for discharge of storm water from areas from material storage, vehicle or equipment fueling, vehicle or equipment maintenance (including washing), waste handling, hazardous materials handling or storage, delivery areas or loading docks, or other outdoor work areas?
- (d) Potential for discharge of storm water to impair the beneficial uses of the receiving waters or areas that provide water quality benefit?
- (e) Potential for the discharge of storm water to cause significant harm on the biological integrity of the waterways and water bodies?
- (f) Potential for significant changes in the flow velocity or volume of Storm Water runoff that can cause environmental harm?
- (g) Potential for significant increases in erosion of the project site or surrounding areas?

15. General Plan Update

- (a) Was your General Plan amended, revised or updated to include watershed and storm water quality and quantity management considerations and policies when any of the following General Plan elements are updated or amended?

(Answer each separately)

- (1) Land Use?
- (2) Housing?
- (3) Conservation?
- (4) Open Space?

- (b) Did you provide the Regional Water Board with the draft amendment or revision when a listed General Plan element or the General Plan was noticed for comment in accordance with Cal. Govt. Code § 65350 *et seq*?

- (c) When?

E. Development Construction Program

1. Did you implement a program to control runoff from construction activity at all construction sites within your jurisdiction to ensure that the following requirements are effectively implemented? (Answer each separately)
 - (a) For construction projects within or adjacent to an environmentally sensitive area (ESAs), did you prohibit grading between October 1 and April 15?
 - (b) For construction projects, which include grading on slopes greater than 5:1, that no grading shall occur between October 1 and April 15?

- (c) All construction projects, which directly discharge into a sedimentation/ siltation impaired water body and is listed on the CWA §303 (d) list. No grading shall be occurring between October 1 and April 15?
 - (d) If grading operations were not completed before the rainy season began, was grading halted and erosion control measures put in place to minimize erosion until grading resumes after April 15?
2. Did you require construction site operators to seek separate coverage from the Regional Water Board wherever ground water dewatering may be necessary, is anticipated, or likely?
- (a) Small Construction Sites
 - (1) For each construction site did you require and inspect to ensure that at each construction site, the minimum set of BMPs were implemented to minimize erosion and sediment loss, and prevent pollution from construction waste?
3. For each construction site 1 acre and greater:
- (a) Did you review and approve a Local Storm Water Pollution Prevention Plan (Local SWPPP), for approval prior to issuance of a grading permit for construction projects?
 - (b) Did you inspect all construction sites for storm water quality requirements during routine inspections a minimum of once during the wet season?
 - (c) Was the Local SWPPP reviewed for compliance with local codes, ordinances, and permits?
 - (d) For inspected sites that have not adequately implemented their Local SWPPP, a follow-up inspection to ensure compliance shall take place within 2 weeks?
 - (e) If compliance had not been attained, did the Permittee take additional actions to achieve compliance (as specified in municipal codes)?
 - (f) How many?
 - (g) For small construction sites one acre and greater (or part of a larger plan of development or sale), did you require, prior to issuing any grading permit, demolition permit, building permit, or construction permit [or any other municipal authorization to move soil and/ or construct or destruct that involves soil disturbance], for all projects requiring coverage under the state general permit, proof of a Waste Discharger Identification (WDID) Number for filing a Notice of Intent (NOI) for coverage under the CASGP and a certification that a SWPPP has been prepared by the project developer?
 - (h) Does your agency accept a Local SWPPP as a substitute for the State SWPPP?
 - (i) Is the Local SWPPP at least as inclusive in controls and BMPs as the State SWPPP?
 - (j) Do you require proof of an NOI and a copy of the SWPPP at any time a transfer of ownership takes place for the entire development or portions of the common plan of development where construction activities are still on-going?
 - (k) What system do you use to track grading permits issued by your agency?

4. Linear Construction
 - (a) Do you require for any linear construction project or projects (cumulatively) that will cause one acre or more of soil disturbance but not more than 5 acres that coverage be obtained under the Small Linear Underground/ Overhead Construction Projects General Permit?
 - (b) Do you require proof of a Waste Discharger Identification Number (WDID) for filing a Notice of Intent (NOI) for coverage under the and a certification that a SWPPP has been prepared by the project developer, prior to issuing a grading permit, demolition permit building permit, or construction permit (or other authorization to move soil and/ or construct or destruct that involves soil disturbance)?
5. CASGP Violation Referrals
 - (a) Did you make any referral of violations of the new development and redevelopment post construction requirements and municipal storm water ordinances to the Regional Water Board?
 - (b) Did you make any referral for suspected violations of the CASGP or Linear Permit coverage requirements

F. Public Agency Activities Program

1. Sewage System Maintenance, Overflow, and Spill Prevention
 - (a) Did you implement a response plan for overflows of the sanitary sewer system within their respective jurisdiction that clearly identifies agencies responsible and telephone numbers and email for any contact?
 - (b) How many overflows did you have?
 - (c) How many did you respond to?
 - (d) Do you own and/ or operate a sanitary sewer system?
 - (e) If so, did you also Identify, repair, and remediate sanitary sewer blockages, exfiltration, overflow, and wet weather overflows from sanitary sewers to the MS4?
 - (f) Did you implement procedures and maintenance schedules to prevent sewage spills or leaks from sewage facilities from entering the MS4?
 - (g) If you are a Permittee with septic systems in your jurisdiction, how many do you have?
 - (h) Did you implement the following for flows of septic leachate to surface waters within their respective jurisdiction, which shall consist at a minimum of the following:
 - (1) Investigation of any complaints received?
 - (2) Immediately respond to overflows for containment, upon notification?
 - (3) Notification to appropriate agencies and public health agencies when a septic system fails and flows to the MS4?

2. Public Construction Activities Management
 - (a) Did you comply with all the Development Planning Program requirements in at public construction projects?
 - (b) Did you comply with all the Development Construction Program requirements at Permittee owned or operated construction sites?
 - (c) Did you obtain coverage under the CSWGP for all construction activities for (non linear) capital improvement project(s), or contracts, that individually or cumulatively equals or surpass the 1 acre land disturbance threshold?
 - (d) Did you obtain coverage under the Statewide General Permit for Storm water Discharges Associated with Construction Activity from Small Linear Underground/ Overhead Projects (Small LUP General Permit) for Small Linear Underground/ Overhead Projects disturbing at least 1 acre, but less than 5 acres (including trenching and staging areas)?

3. Vehicle Maintenance/ Material Storage Facilities/ Corporation Yards Management.
 - (a) Did you implement the required BMPs for each maintenance yard and activity specified in the tables Permittee shall implement the following BMPs at all Permittee owned, leased facilities including but not limited to vehicle/ equipment maintenance facilities, material storage facilities, and corporation yards, and at any area that includes the activities as described in the tables below. Answer each separately.

GENERAL BEST MANAGEMENT PRACTICES B-4	B-4
FLEXIBLE PAVEMENT	B-9
Asphalt Cement Crack and Joint Grinding/ Sealing	B-9
Asphalt Paving	B-10
Structural Pavement Failure (Digouts) Pavement Grinding and Paving	B-11
Emergency Pothole Repairs	B-13
Sealing Operations	B-14
RIGID PAVEMENT	B-15
Portland Cement Crack and Joint Sealing	B-15
Mudjacking and Drilling	B-16
Concrete Slab and Spall Repair	B-17
SLOPE/ DRAINS/ VEGETATION	B-19
Shoulder Grading	B-19
Nonlandscaped Chemical Vegetation Control	B-21
Nonlandscaped Mechanical Vegetation Control/Mowing	B-23
Nonlandscaped Tree and Shrub Pruning, Brush Chipping, Tree and Shrub Removal	B-24
Fence Repair	B-25
Drainage Ditch and Channel Maintenance	B-26
Drain and Culvert Maintenance	B-28
Curb and Sidewalk Repair	B-30
LITTER/DEBRIS/ GRAFFITI	
Sweeping Operations	B-32
Litter and Debris Removal	B-33
Emergency Response and Cleanup Practices	B-34
Graffiti Removal	B-36
LANDSCAPING	B-37
Chemical Vegetation Control	B-37
Manual Vegetation Control	B-39
Landscaped Mechanical Vegetation Control/ Mowing	B-40
Landscaped Tree and Shrub Pruning, Brush Chipping, Tree and Shrub Removal	B-41
Irrigation Line Repairs	B-42
Irrigation (Watering), Potable and Nonpotable	B-43
ENVIRONMENTAL	B-44
Storm Drain Stenciling	B-44
Roadside Slope Inspection	B-45
Roadside Stabilization	B-46
Storm Water Treatment Devices	B-48
Traction Sand Trap Devices	B-49
PUBLIC FACILITIES	B-50
Public Facilities	B-50

Table (General Best Management Practices) continued on next page.

Second draft Ventura County Municipal Separate Storm Sewer System Permit
Attachment H - Reporting Program No. CI 7388

BRIDGES	B-52
Welding and Grinding	B-52
Sandblasting, Wet Blast with Sand Injection and Hydroblasting	B-54
Painting	B-56
Bridge Repairs	B-57
Draw Bridge Maintenance	B-58
OTHER STRUCTURES	B-59
Pump Station Cleaning	B-59
Tube and Tunnel Maintenance and Repair	B-61
Ferryboat Operations	B-62
Tow Truck Operations	B-63
Toll Booth Lane Scrubbing Operations	B-64
ELECTRICAL	B-65
Sawcutting for Loop Installation	B-65
TRAFFIC GUIDANCE	B-67
Thermoplastic Striping and Marking	B-67
Paint Striping and Marking	B-68
Raised/ Recessed Pavement Marker Application and Removal	B-70
Sign Repair and Maintenance	B-71
Median Barrier and Guard Rail Repair	B-73
Emergency Vehicle Energy Attenuator Repair	B-75
SNOW AND ICE CONTROL	B-76
Snow Removal	B-76
Ice Control	B-77
STORM MAINTENANCE	B-78
Minor Slides and Slipouts Cleanup/ Repair	B-78
MANAGEMENT AND SUPPORT	B-80
Building and Grounds Maintenance	B-80
Storage of Hazardous Materials (Working Stock)	B-82
Material Storage Control (Hazardous Waste)	B-84
Outdoor Storage of Raw Materials	B-85
Vehicle and Equipment Fueling	B-86
Vehicle and Equipment Cleaning	B-87
Vehicle and Equipment Maintenance and Repair	B-88
Aboveground and Underground Tank Leak and Spill Control	B-90

- (b) Are all of your existing facilities that are not plumbed to the sanitary sewer with vehicle and equipment washing areas:
- (1) Self-contained? How many?
 - (2) Equipped with a clarifier? How many?
 - (3) Equipped with an alternative pre-treatment device? How many?
 - (4) To be plumbed to the sanitary sewer? How many? When?
 - (A) Are all new facilities, or during redevelopment of existing facilities (including fire stations), all vehicle and equipment wash areas to be plumbed to the sanitary sewer and be equipped with a pre-treatment device in accordance with requirements of the sewer agency? If not state why.

4. Landscape and Recreational Facilities Management

Control Program for Registered Pesticides

- (a) Did you adopt and implement policies, procedures, and/ or ordinances requiring the minimization of pesticide use and the use of integrated pest management (IPM) techniques in your operations and on municipal property?
- (b) What was your previous year's pesticide use? Answer in gallons or pounds for each type used.
- (c) Using estimated projections, what is your expected use this coming fiscal year? Answer in gallons or pounds for each type used.
- (d) Do you have commitments to reduce or phase-out, and ultimately eliminate use of pesticides that cause impairment of surface waters? State for each, by when.
- (e) Describe your Integrated Pesticide Management (IPM) program.
- (f) Attach the program elements.
- (g) Did you comply with the following requirements?:
 - (1) Use a standardized protocol for the routine and non-routine application of pesticides, herbicides (including pre-emergents), and fertilizers?
 - (2) Ensure no application of pesticides or fertilizers immediately before, during, or immediately after a rain event or when water is flowing off the area to be applied?
 - (3) Ensure that no banned or unregistered pesticides are stored or applied?
 - (4) Ensure that all staff applying pesticides are certified by the California Department of Food and Agriculture, or are under the direct supervision of a certified pesticide applicator?
 - (5) Implement procedures to encourage retention and planting of native vegetation and to reduce water, fertilizer, and pesticide needs?
 - (6) Store fertilizers and pesticides indoors or under cover on paved surfaces or use secondary containment?
 - (A) Reduce the use, storage, and handling of hazardous materials to reduce the potential for spills?
 - (B) Regularly inspect storage areas to ensure no environmental harm?

5. Storm Drain Operation and Management

Catch Basin Cleaning

(a) How many catch basins did you designate as one of the following:

Priority A: Catch basins that are designated as consistently generating the highest volumes of trash and/ or debris?

Priority B: Catch basins that are designated as consistently generating moderate volumes of trash and/ or debris?

Priority C: Catch basins that are designated as generating low volumes of trash and/ or debris?

(b) Did you clean all catch basins according to the following schedule?:

Priority A: A minimum of three times during the wet season and once during the dry season every year? How many?

Priority B: A minimum of once during the wet season and once during the dry season every year? How many?

Priority C: A minimum of once per year? How many?

(c) Did you ensure that any catch basin that is at least 25% full of trash and/ or debris was cleaned out? How many?

For each type of catch basin (A, B, or C) state how much trash and debris was collected and state the units (wet tons, dry pounds, etc...)

(1) Did you require for any special event that they arrange for temporary screens to be placed on catch basins or for catch basins in that area to be cleaned out subsequent to the event and prior to any rain event? How many events did this apply to?

(2) How much trash and debris was collected? (wet tons, dry pounds, etc...)

Trash Controls

(a) Did you install trash receptacles at transit stops as required?

(b) How many?

(c) How much trash and debris was collected? (wet tons, dry pounds, etc...)

(d) Did you install trash excluders, or similar devices upon catch basins to prevent the discharge of trash to the storm drain system?

(e) How many?

(f) How much trash and debris was collected? (wet tons, dry pounds, etc...)

Catch Basin Labels

(a) Did you inspect the legibility of the catch basin label by all inlets?

(b) How many?

(c) Were catch basins with illegible stencils shall be recorded and re-stenciled or re-labeled within 180 days of inspection?

- (d) How many were recorded?
- (e) How many were relabeled?

Storm Drain Maintenance

- (a) Did you inspect all Permittee-owned open channels and other drainage structures for debris and identify and prioritize problem areas of illicit discharge for regular inspection?
- (b) Do your maintenance activities assure that appropriate storm water BMPs are being utilized to protect water quality?
- (c) Did you remove trash and debris from open channel storm drains before the storm season?
- (d) Did you minimize the discharge of contaminants during MS4 maintenance and clean outs?
- (e) How?
- (f) Did you properly dispose of material removed?
- (g) How much trash and debris was collected? (wet tons, dry pounds, etc...)
- (h) Have you obtained coverage under the CASGP for Long-term maintenance programs for flood control channels (such as vegetation removal) if one or more acres of soil are disturbed by grading, clearing or excavation activities for an individual project or as part of several projects part of the Permittee's long-term maintenance plan?
- (i) How many projects?
- (j) Which projects?
- (k) Were all municipally owned treatment control BMPs as maintained as necessary to ensure optimal pollutant reduction?
- (l) Was any pooled water shall be discharged to the sanitary sewer system?
- (m) Was any of the pooled water treated to remove pollutants and discharged to the storm drain?
- (n) Was every discharge monitored to ensure compliance?

6. Streets and Roads Maintenance

- (a) Did you conduct street sweeping of curbed streets in commercial areas to control trash and debris at least 2 times per month?
- (b) How much trash and debris was collected? (wet tons, dry pounds, etc...)
- (c) Did you obtain coverage under the CASGP for long-term maintenance programs for roadside maintenance (such as: vegetation removal) if 1 or more acres of soil are disturbed including: grading, clearing or excavation activities that disturb 1 or more acres of land either for an individual project or as part of a long-term maintenance plan?

7. Parking Facilities Management

- (a) Were all Permittee-owned parking lots exposed to storm water cleaned to be kept clear of debris and excessive oil buildup and cleaned no less than 2 times per month?
- (b) How much trash and debris was collected? (wet tons, dry pounds, etc...)

8. Public Industrial Activities Management

- (a) Did you obtain separate coverage under the IASGP for any municipal activity subject to it for the discharge of storm water associated with industrial activity?
- (b) For how many facilities?
- (c) Which facilities?

9. Municipal Drinking Water System Discharges

- (a) From your municipal drinking system did you maintain the system by flushing hydrants or other fixtures?
- (b) How many gallons total were discharged in the year?
- (c) If the discharges in an annual period were less than 100,000 gallons for the entire city did you implement a BMP or suite of BMPs to ensure that the chlorine level of the discharge is 0.1mg/L or less?
- (d) Did you sample or take a test every time to ensure dechlorination of the water to 0.1mg/L or less?
- (e) Did you ensure that the BMP or suite of BMPs were implemented so that no erosion is caused by the discharge of the potable water?
- (f) What BMPs were implemented?

10. Emergency Procedures

- (a) Were there any emergencies that caused the Permittee to invoke this section? Explain the situation.

11. Municipal Employee (and municipal contractor) Training

- (a) Did you train all of your employees in targeted positions regarding the requirements of the overall storm water management program?
- (b) Did you promote a clear understanding of the potential for activities to pollute storm water?
- (c) Did they learn to identify opportunities to require, implement, and maintain appropriate BMPs in their work?
- (d) Did they learn the appropriate ways of identification, investigation, termination, cleanup, and reporting of illicit connections and discharges?
- (e) Will they ensure that the requirements of this Order are met?

- (f) For those employees or contractors who use or have the potential to use pesticides (whether or not they normally apply pesticides as part of their work), which includes pesticides available over the counter, did you address the potential for pesticide-related surface water toxicity?
- (g) Proper use, handling, and disposal of pesticides?
- (h) Least toxic methods of pest prevention and control?
- (i) Encourage the use of IPM?
- (j) Require the quantifiable reduction of pesticide use?

- (k) Training - All Permittees shall train all targeted employees who are responsible for on an annual basis. In public agency?

G. Illicit Connections/ Illegal Discharge Program

- 1. IC/ ID Program
 - (a) Did you implement an IC/ ID Program?
 - (b) The IC/ ID Program must be documented and available for review.
 - (c) Did you map all permitted connections to the storm drain system?
 - (d) Did you map all illicit connections and discharges on baseline maps?
 - (e) Did you transmit this information to the Principal Permittee?
 - (f) Did you use this mapping information to identify priority areas for further investigation?
 - (g) Did you eliminate all known illicit connections and illicit discharges?

- 2. Public Reporting
 - (a) Did you establish and maintain a phone hotline to receive illicit discharge/ connection complaints?
 - (b) Did you establish and maintain an internet homepage to receive illicit discharge/connection complaints?
 - (c) For all complaints received, did you document the location of the illicit discharge/ connection?
 - (d) Have you documented the actions undertaken in response to all illicit discharge/ connection complaints?

3. Illicit Connections

Screening for Illicit Connections

- (a) Did you conduct field screening of your storm drain system for illicit connections?
- (b) For those portions of the storm drain system consisting of storm drain pipes 36 inches in diameter of greater, how many miles did you field screen this year?
- (c) Out of how many miles total?
- (d) Did you conduct field screening for high priority areas identified during the mapping of illicit connections and discharges?

- (e) How many miles were completed this year?
- (f) Out of how many miles total?
- (g) How much of the storm drain system that is 50 years or older in age did you field screen?
- (h) Out of how many miles total?
- (i) Did you submit to the Principal Permittee a GIS layer showing the location and length of underground pipes greater than 18" in diameter and channels within their jurisdiction?
- (j) Did you also include the status of suspected, confirmed, and terminated illicit connections?
- (k) Did you maintain a list containing all connections under investigation for possible illicit connection and their status?
- (l) Did you attach that list to this Annual Report?

Response to Illicit Connections

- (a) Did you complete an investigation within 21 days of notice of a suspected illicit connection?
- (b) Did you determine the Source of each connection?
- (c) Did you determine the nature and volume of discharge through the connection?
- (d) Did you identify the responsible party of the connection?
- (e) How many suspected illicit connections were there this year?
- (f) Upon confirmation of the illicit nature of a storm drain connection did you terminate the connection within 180 days of completion of the investigation?
- (g) Did you document all illicit connection discoveries and your response to each?

4. Illicit Discharges

(a) Abatement and Cleanup

- (1) Did you respond and cleanup within 1 business day of discovery or of receiving a report of a suspected illicit discharge?
- (2) Did you keep records of all illicit discharge discoveries, reports of suspected illicit discharges and their response to the illicit discharges and suspected illicit discharges?
- (3) How many did you receive?
- (4) How many did you respond to?

(b) Investigation

- (1) Did you investigate illicit discharges during or immediately following containment and cleanup activities, and take enforcement action as appropriate?



California Regional Water Quality Control Board Los Angeles Region



Recipient of the 2001 *Environmental Leadership Award* from Keep California Beautiful

Dan Skopec
Regional Agency Secretary

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>

Arnold Schwarzenegger
Governor

August 23, 2007

California Newspaper Service Bureau, Inc.
P.O. Box 54310
Los Angeles, CA 90054

GOVERNMENT ACCOUNTS (FILE NO. 100.324)

Enclosed is a copy of a public notice we would like to publish in a daily newspaper of general circulation in the entire Ventura County area for one day on August 28, 2007.

We rely on your proofreading.

Please bill us in triplicate and provide us with three copies of the affidavit of publication (Attention: Pat Guokas).

Thank you very much for your assistance.

If you have any questions, please call me at (213) 620-2094.

Xavier Swamikannu
Chief, Storm Water Program

Enclosure

California Environmental Protection Agency



Recycled Paper

Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

C000196

STATE OF CALIFORNIA LOS ANGELES REGIONAL WATER QUALITY CONTROL BOARD <u>PUBLIC NOTICE</u>	
PUBLIC WORKSHOP ON PROPOSED CHANGES TO THE WASTE DISCHARGE REQUIREMENTS FOR MUNICIPAL SEPARATE STORM SEWER SYSTEM DISCHARGES WITHIN THE VENTURA COUNTY WATERSHED PROTECTION DISTRICT, COUNTY OF VENTURA AND THE INCORPORATED CITIES THEREIN, (NPDES NO. CAS004002). Public Notice No. 07-048	
WHAT IS BEING PLANNED	NOTICE IS HEREBY GIVEN that the Los Angeles Regional Water Quality Control Board, (Los Angeles Regional Water Board) will hold a public workshop to receive comments on the proposed Waste Discharge Requirements (WDR) for Municipal Storm Water Discharges within the Ventura County Watershed Protection District, County of Ventura and the Incorporated Cities Therein, (NPDES NO. CAS004002).
WHEN AND WHERE	September 20, 2007 at 9:00 AM Ventura City Hall 501 Poli Ventura, CA 93001
AVAILABILITY OF DOCUMENTS	The WDR and accompanying file are available for review and copying between the hours of 8:00 am - 4:30 pm by appointment at the following address: Los Angeles Regional Water Quality Control Board 320 W. 4th Street, #200 Los Angeles, CA 90013-2343 213/576-6600 For an electronic copy of the WDR see the Regional Water Board's web site: www.waterboards.ca.gov/losangeles/html/programs/stormwater/venturaMs4.html
PUBLIC COMMENT AND SUBMITTAL OF EVIDENCE	Persons wishing to comment upon, or object to, changes to the WDR (NPDES NO. CAS004002), are invited to submit them in writing to Xavier Swamikannu at the above address, or send them electronically to: seconddraftVCMS4@waterboards.ca.gov . In order to provide all parties the full benefit of the discussion at the workshop before submitting written comments and for the comments to be evaluated and considered by staff, the deadline to receive comments, is 5 p.m. on September 28, 2007 . Failure to comply with these requirements is grounds for the Regional Water Board to refuse to admit the proposed written comment or exhibit into evidence pursuant to section 649.4, title 23 of the California Code of Regulations.
HEARING PROCEDURE	Staff will present specific issues/ topics (funding/ economic considerations, TMDLs, LID/ infiltration, hydromodification, grading restriction, MALs/ MEP, time frames, atmospheric deposition, trash excluders, 1000,000 gallon limitation, LLCs, uniform cost reporting, Phase 2, and monitoring) of the matter under consideration, after which written and oral statements from Permittees or interested persons will be accepted and heard on the proposed action. Any person may present relevant statements or arguments at the public workshop. Parties or persons with similar concerns or opinions are encouraged to choose one representative to speak. If necessary, time limitations on presentations may be imposed. The Board will take no formal action on the WDR (NPDES NO. CAS004002) at the public workshop. Adoption of the proposed WDR (NPDES NO. CAS004002) will be considered, at a subsequent Regional Water Board hearing.
FOR INFORMATION	For additional information or for an appointment to review the file please contact Xavier Swamikannu at 213/620-2094 or Tracy Woods at 213/620-2095.

From: <vermyil_thomas@dailyjournal.com>
To: <twoods@waterboards.ca.gov>
Date: 8/23/2007 4:30:18 PM
Subject: Confirmation of Order 1189901

Dear Customer:

The order listed below has been received and processed. If you have any questions regarding this order, please contact your ad coordinator or the phone number listed below.

Customer Account Number: 120183
Type of Notice : GPN - GOVT PUBLIC NOTICE
Ad Description : 07-048 - PUBLIC NOTICE
Our Order Number : 1189901
Newspaper : VENTURA COUNTY STAR
Publication Date(s) : 08/28/2007

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C000198



California Regional Water Quality Control Board

Los Angeles Region



Linda S. Adams
Agency Secretary

Recipient of the 2001 *Environmental Leadership Award* from Keep California Beautiful

Arnold Schwarzenegger
Governor

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>

Notice of Public Meeting/Workshop

Thursday, September 20, 2007
9:00 a.m.
Meeting Location:

City of San Buenaventura
(Council Chambers)
501 Poli Street
Ventura, California

Agenda

The Regional Board strives to conduct an accessible, orderly, and fair meeting. During the meeting, the Chair will conduct the meeting and establish appropriate rules and time limitations for each item. The Board will only act on items designated as action items. Action items on the agenda are staff proposals, and may be modified by the Board as a result of public comment or Board member input. Additional information about Regional Board meeting procedures is included after the last agenda item.

As the comment deadline for the only item to be considered at this workshop is September 28, 2007, no advance written materials are expected for this meeting other than the draft permit. If any stakeholder wishes written materials to be evaluated by staff and presented to the Regional Board members in advance of the meeting, the materials must be received in the Executive Office no later than 5:00 p.m. on September 13, 2007. Materials submitted after that time will be included in the administrative record, and addressed during a subsequent proceeding.

INTRODUCTORY ITEMS

1. **Roll Call.**
2. **Order of Agenda.** The agenda items are numbered for identification purposes only and may not necessarily be considered in this order.
3. **Board Member Communications.**
 - 3.a. **Ex Parte Disclosure.** Board Members will identify any discussions they may have had requiring disclosure pursuant to Government Code section 11430.40.
 - 3.b. **Board Member Reports.** The Board Members may discuss communications, correspondence, or other items of general interest relating to matters within the Board's jurisdiction.
4. **Public Forum.** Any person may address the Board regarding any matter within the Board's jurisdiction that does not appear elsewhere on this agenda. Remarks will be limited to five (5) minutes, unless otherwise directed by the Chair.

ACTION ITEM(S)

The Board will hear testimony; however the Board will not vote or take action on this matter today.

C000199

VENTURA COUNTYWIDE MUNICIPAL STORMWATER PERMIT

5. A Workshop will be held to solicit input and comments on the 2nd draft Ventura Municipal Separate Storm Sewer System (MS4) Permit: NPDES No. CAS004002. (Comment submittal deadline is September 28, 2007.) [Tracy Woods, (213) 620-2095]

CLOSED SESSION

6. As authorized by the Government Code section 11126, the Regional Board will be meeting in closed session. Closed session items are not open to the public. Items the Board may discuss include the following: [Michael Levy, (MJL), (916) 341-5193; Jennifer L. Fordyce (JLF) (916) 324-6682.]
- 6.1 *Cities of Los Angeles, City of Burbank v. Los Angeles Regional Water Quality Control Board*, Los Angeles County Superior Court, Case Nos. BS 060957 and BS 060960. [Challenging the Burbank, Tillman, and Los Angeles-Glendale Water Reclamation Plants' NPDES permits]. (MJL)
- 6.2 *Cities of Arcadia, et al., v. Los Angeles Regional Water Quality Control Board et al.*, San Diego Superior Court No. GIC 803631 [Challenging the Los Angeles River Trash TMDL]. (MJL)
- 6.3 *County of Los Angeles et al. v. Commission on State Mandates et al. and City of Artesia et al. v. State of California*, Los Angeles Superior Court Nos. BS 089769 & BS089785, Second District Court of Appeal No. B183981 [Alleging that the Los Angeles MS4 Permit created an unfunded state mandate]. (MJL)
- 6.4 *Boeing v. Los Angeles Regional Water Quality Control Board et al.*, Los Angeles County Superior Court No. BS106941 [Challenge to permit for the Santa Susana Field Laboratory]. (MJL)
- 6.5 *In re Halaco Engineering Company*, United States Bankruptcy Court, Central District of California, Northern Division, No. ND-02-12255 RR; [Regarding a CDO and CAO at the Oxnard Property]. (JLF)
- 6.6 *Cities of Arcadia et al., v. Los Angeles Regional Water Quality Control Board*, Orange County Superior Court No. 06CC02974 [Challenging the 2004 Triennial Review]. (MJL)
- 6.7 *Cities of Bellflower et al., v. Los Angeles Regional Water Quality Control Board et al.*, Los Angeles Superior Court No BS101732 [Challenging the Los Angeles River and Ballona Creek Metals TMDLs]. (MJL)
- 6.8 *People of the State of California Regional Water Quality Control Board, Los Angeles Region v. City of Santa Paula, Santa Paula Water Reclamation Facility, Ventura County Superior Court.* (JLF)
- 6.9 Consultation with counsel about:
- (a) A judicial or administrative adjudicatory proceeding that has been formally initiated to which the Regional Board is a party;
 - (b) A matter that, based on existing facts and circumstances, presents significant exposure to litigation against the Regional Board;
 - (c) A matter which, based on existing facts and circumstances, the Regional Board is deciding whether to initiate litigation. (JLF)
- 6.10 Consideration of the appointment, employment, evaluation of performance, or dismissal of or complaints about a public employee. (MJL)
7. • **Adjournment of Current Meeting.** The next regular meeting is scheduled for October 4, 2007, at the City of Simi Valley Council Chambers, 2929 Tapo Canyon Road, Simi Valley, CA.

NOTICE

Additional information concerning hearing procedures, written submissions, and the record.

Hearing Procedures: The Regional Board follows procedures established by the State Water Resources Control Board. These procedures are established in regulations commencing with section 647 of title 23 of the California Code of Regulations. The Chair may establish specific procedures for each item, and consistent with section 648, subdivision (d) of title 23 of the California Code of Regulations may waive

nonstatutory provisions of the regulations. Generally, all witnesses testifying before the Regional Board must affirm the truth of their testimony and are subject to questioning by the Board Members. The Board does not, generally, require the designation of parties, the prior identification of witnesses, or the cross examination of witnesses. Any requests for an alternate hearing process should be made to the Executive Officer in advance of the meeting, and under no circumstances later than 5:00 p.m. on the Thursday preceding the Board meeting.

Written Submissions: Written materials (whether hand-delivered, mailed, e-mailed, or facsimiled) *must be received prior to the relevant deadline* established in the agenda and public notice for an item. If the submitted material is more than 10 pages or contains foldouts, color graphics, maps, or similar items, 12 copies must be submitted prior to the relevant deadline.

Failure to comply with requirements for written submissions is grounds for the Chair to refuse to admit the proposed written comment or exhibit into evidence. (Cal. Code Regs. tit. 23, § 648.4(e).) The Chair may refuse to admit written testimony into evidence unless the proponent can demonstrate why he or she was unable to submit the material on time or that compliance with the deadline would otherwise create a hardship. If any other party demonstrates prejudice resulting from admission of the written testimony, the Chair may refuse to admit it.

Administrative Record: Material presented to the Board as part of testimony that is to be made part of the record must be left with the Board. This includes photographs, slides, charts, diagrams, etc. All Board files pertaining to the items on this Agenda are hereby made a part of the record submitted to the Regional Board by staff for its consideration prior to action on the related items.

Accessibility: Individuals requiring special accommodations or language needs should contact Dolores Renick at (213) 576-6629 or drenick@waterboards.ca.gov at least ten working days prior to the meeting. TTY/TDD/Speech -to-Speech users may dial 7-1-1 for the California Relay Service.

Availability of Complete Agenda Package: A copy of the complete agenda package is available for examination at the Regional Board Office during regular working hours (8:00 a.m. to 5:00 p.m. Monday through Friday) beginning 10 days before the Board meeting. Questions about specific items on the agenda should be directed to the staff person whose name is listed with the item.

Continuance of Items: The Board will endeavor to consider all matters listed on this agenda. However, time may not allow the Board to hear all matters listed. Matters not heard at this meeting may be carried over to the next Board meeting or to a future Board meeting. Parties will be notified in writing of the rescheduling of their item. Please contact the Regional Board staff to find out about rescheduled items.

Challenging Regional Board Actions: Pursuant to Water Code section 13320, any aggrieved person may file a petition to seek review by the State Water Resources Control Board of most actions taken by the Regional Board. A petition must be filed within 30 days of the action. Petitions must be sent to State Water Resources Control Board, Office of Chief Counsel; ATTN: Elizabeth Miller Jennings, Senior Staff Counsel; 1001 "I" Street, 22nd Floor; Sacramento, CA 95814.

Electronic Information and Updates: Our web site address is www.waterboards.ca.gov/losangeles/. The site can also be accessed through the State Water Resources Control Board's web site at www.waterboards.ca.gov/, then clicking on "Regional Boards". Information available online includes the Regional Board's meeting schedule, a list of the Regional Board members, past and present Executive Officer reports, program information, a list of staff and phone numbers arranged by their work unit, and links to the Santa Monica Bay Restoration Commission's home page and other governmental agencies. Last-minute changes to the agenda, such as the continuance of an item, will be posted electronically. If you need further information, please contact Jack Price at (213) 576-6669.

Pending Water Quality Certifications: A listing of pending water quality certification applications currently on public notice pursuant to Section 401 of the Federal Clean Water Act may be obtained by calling Valerie Carrillo at (213) 576-6759.

.....
Early Settlement of Enforcement Actions: A listing of settlement enforcement actions can be accessed by the following link: <http://www.waterboards.ca.gov/losangeles/html/programs/enforcement/acl.html>

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
Los Angeles Region

<u>Board Members</u>	<u>City of Residence</u>	<u>Appointment Category</u>
Francine Diamond, Chair	Pacific Palisades	Water Quality
Mary Ann Lutz, Vice Chair	Monrovia	Municipal Government
Maribel Marin	Woodland Hills	Water Quality
Bradley Mindlin	West Los Angeles	Industrial Water Use
H. David Nahai	Los Angeles	Public Member
F.W. 'Dick' Richardson	Fillmore	Irrigated Agriculture
Leo Vander Lans	Long Beach	Water Supply
Vacant		Recreation, Fish & Wildlife
Vacant		County Government

REGIONAL BOARD STAFF

Executive Office

Deborah Smith, Interim Executive Officer (213/576-6609)
 Paula Rasmussen, Acting Chief Deputy Executive Officer, Surface Water Division, (213/576-6791)
 David Bacharowski, Assistant Executive Officer, Groundwater Division, (213/576-6607)
 Ronji Harris, Executive Assistant, (213/576-6612)
 Laura Gallardo, Associate Government Program Analyst, (213/576-6613)
 Stephen Cain, Senior Environmental Planner, (213/576-6694)
 Michael Levy, Senior Staff Counsel, State Water Resources Control Board, 1001 'I' Street, Sacramento, CA 95814
 (916/341-5193)
 Jennifer Fordyce, Staff Counsel, State Water Resources Control Board, 1001 'I' Street, Sacramento, CA 95814 (916/324-6682)

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 Dolores Renick, AGPA, 576-6629
 Carolina Lopez, AGPA, 576-6630
 Gwendolyn Monroe, AGPA, 576-6631
 Elsa Aquino, SSA, 576-6632
 Leticia Aguilar, AGPA, 576-6628
 Cindy Flores, OT, 576-6633
 Martha Pinto, OA, 576-6800
 Torie Chairez, OA, 576-6635

Santa Monica Bay Commission (SMBC)

Shelley Luce, Program Director (213) 576-6614
 Guangyu Wang, 576-6639
 Jack Topel, 576-6647

GROUNDWATER PROTECTION DIVISION

Underground Tanks

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 Vacant (OT)

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 Nhan Bao, 576-6703
 John Chiang, 576-6708
 Noman Chowdhury, 576-6704
 Ahmad Lamaa, 576-6716
 Joe Luera, 576-6706
 Ha Nguyen, 576-6658

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 Arman Toumari, 576-6758
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Mark Estoque, 576-6673

SURFACE WATER DIVISION

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Michael Lyons, Contaminated Sediments, 576-6718

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Don Tsai, 576-6665

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Vilma Correa, 576-6794

Namiraj Jain, 620-6003

Gensen Kai, 576-6651

James Tang, 576-6696

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Mazhar Ali, 576-6652

Rosario Aston, 576-6653

Stephanie Turcios, 576-6793

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Al Novak, Compliance Data Coordinator (213/576-6650)

Hugh Marley, Enforcement, 620-6375

G. Russell Colby, 620-6373
Lala Kabadaian, 620-6370 (Leave)
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Mercedes Merino, 620-6369
Kristie Chung, 620-2283

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Carolyn Horton, 620-2202
Wei-ling (Wendy) Liu, 620-2219
Enrique Loera, 620-2244
Aniela Zaskodna, 620-2120
Sean Lee, 620-2122

Xavier Swamikannu, Stormwater Permitting Unit, 620-2094

James (Jim) Covin, 620-2229
Ivar Ridgeway, 620-2150
Carlos Urrunaga, 620-2083
Tracy Woods, 620-2095

Regional Programs

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Renee DeShazo, Basin Plan Coordinator, 576-6783
Theresa Rodgers, Associate Government Program Analyst, 576-6789
Sandra Kelley, 576-6619 (OT)

L.B. Nye, Standards & TMDL, 576-6785

Ginachi Amah, 576-6685
Valerie Carrillo, 576-6759
Dana Cole, 620-2259
Kang-Shi (Kenny) Wang, 576-6780
Man Voong, 576-6808

Rebecca Christmann (Lead) TMDL 2, 576-6622

C.P. Lai, 576-6757
Thanhloan Nguyen, 576-6690
Rebecca Vega Nascimento, 576-6661
Yanjie Chu, 576-6681
Eric Wu, 576-6683
Thomas Siebels, 576-6671
Stefanie Hada, 576-5781
Jenny Newman, 576-6691

Jack Price, Information Technology, 576-6669

Khalid Abdullah, 576-6675
Alex Carlos, 576-6726
Kee Fong, 576-6677
Susana Nasserie, 576-6787

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California Regional Water Quality Control Board

Los Angeles Region



inda S. Adams
EPA Secretary

320 W. 4th Street, Suite 200, Los Angeles, California 90013
 Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>

Arnold Schwarzenegger
Governor

September 12, 2007

To: Interested Parties

From: Deborah J. Smith
 Interim Executive Officer

REGIONAL BOARD WORKSHOP, SEPTEMBER 20, 2007 (ITEM NUMBER 5 - ORDER OF PROCEEDINGS): WASTE DISCHARGE REQUIREMENTS FOR STORM WATER (WET WEATHER) AND NON-STORM WATER (DRY WEATHER) DISCHARGES FROM THE MUNICIPAL SEPARATE STORM SEWER SYSTEMS WITHIN THE VENTURA COUNTY WATERSHED PROTECTION DISTRICT, COUNTY OF VENTURA AND THE INCORPORATED CITIES THEREIN.

The Los Angeles Regional Water Board will hold a public workshop to hear comments from the public on the following topics/ issues: 1) Municipal Action Levels (MALs)/ Quantifiable Maximum Extent Practicable (MEP); 2) Total Maximum Daily Loads (TMDLs); 3) Low Impact Development (LID)/ Hydromodification/ Grading Restrictions; 4) Monitoring; 5) Other Issues, contained in the August 28, 2007 second draft Ventura County Municipal Separate Storm Sewer System Permit. There will be no official Board action at this Workshop. The order for the public workshop to be held on September 20, 2007 at the meeting of the Los Angeles Regional Water Board in Ventura, CA is subject to the chair's discretion; however, we expect the workshop to proceed as follows:

Order of Proceedings:	(Estimated Time*)
1) Opening Statement by Chair	5 minutes
2) Introductory Remarks/Overview Policy Statements	
• Staff Presentation	10 minutes
• Ventura County Permittees Presentation	10 minutes
• Comments from Elected Officials	

California Environmental Protection Agency



- 3) Municipal Action Levels (MALs)/
Quantifiable Maximum Extent Practicable (MEP)
- Staff Presentation 10 minutes
 - Ventura County Permittees Presentation 10 minutes
 - Environmental Community 10 minutes
 - California Stormwater Quality Association 5 minutes
 - Others 3 minutes each
 - Board Questions/ Discussion
- 4) Total Maximum Daily Loads (TMDLs)
- Staff Presentation 10 minutes
 - Ventura County Permittees Presentation 10 minutes
 - Environmental Community 10 minutes
 - Others 3 minutes each
 - Board Questions/ Discussion
- 5) Low Impact Development (LID)/ Hydromodification/
Grading Restrictions
- Staff Presentation 10 minutes
 - Ventura County Permittees Presentation 5 minutes
 - Environmental Community 8 minutes
 - Building Industry Association of Southern California/
Greater Los Angeles Ventura Chapter, and
the Construction Industry Coalition on Water Quality 8 minutes
 - Others 3 minutes each
 - Board Questions/ Discussion
- 6) Monitoring
- Staff Presentation 5 minutes
 - Ventura County Permittees Presentation 10 minutes
 - Environmental Community 10 minutes
 - Others 3 minutes each
 - Board Questions/ Discussion

7) Other Issues

- Staff Presentation 15 minutes
- Ventura County Permittees Presentation 20 minutes
- Environmental Community 10 minutes
- Others 3 minutes each
- Board Questions/ Discussion

*Estimated times set forth in the Order of Proceedings are intended to reflect anticipated limits for the respective presentations and are subject to limitation or extension by the Chair upon a showing of good cause. All are encouraged to coordinate their presentations. Any further suggestions regarding these procedures should be submitted in writing to Xavier Swamikannu by close of business on Monday September 17, 2007. If you have any questions; please contact Tracy Woods at (213) 620-2095 or twoods@waterboards.ca.gov, or Xavier Swamikannu at (213) 620-2094 or xswamikannu@waterboards.ca.gov.

We look forward to your participation in this workshop.

Ventura County Municipal Separate Storm Sewer System

- **First MS4 Permit (1994)**
 - > Program development
- **Second MS4 Permit (2000)**
 - > Program implementation
- **draft MS4 Permit (2007)**
 - > Program advancement

draft MS4 Permit

- **1st draft released December 27, 2006**
 - > 1st Workshop - April 5, 2007
 - > Board direction
 - > 19 Meetings
- **2nd draft released August 28, 2007**
 - > Revisions

Municipal Action Levels (MALs)

- MALs were introduced in December 27, 2006 draft Ventura County MS4 Permit
- MALs were developed from National Storm Water Quality Dataset monitoring information
- MALs were compiled using a statistically based population approach

Municipal Action Levels (MALs)

- The State Board Storm Water Panel on Numerical Limit Report recommends a statistically based population approach as one method to set Action Levels for municipal storm water discharges.

Municipal Action Levels

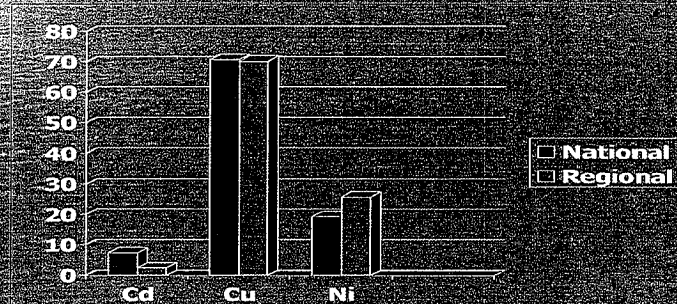
- MAAs represent a quantifiable expression of MIBP
- MAAs clearly define compliance expectations

Revisions

- MAAs were recalculated and revised
 - > MAAs pollutants were revised
 - > MAAs values were recalculated

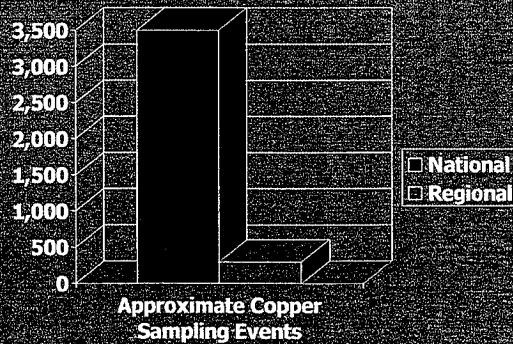
Revisions

- **MALs based on national Data versus regional Data (US EPA Climate Zone 6)**



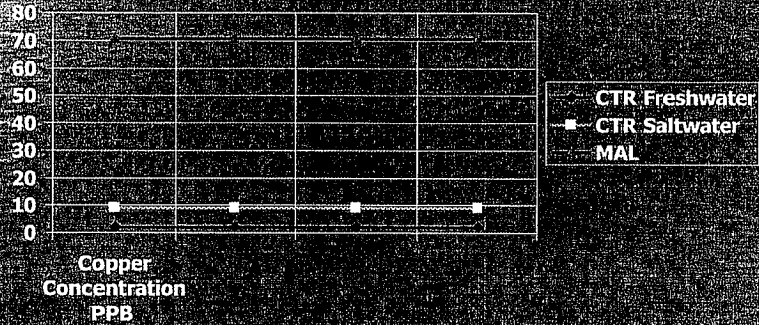
Revisions

- **Number of sampling events used in computing MALs**



Revisions

- Revised MALs values in comparison to CTR values



Revisions

Pollutants	Cd, total µg/L	Cu, total µg/L	Pb, total µg/L
Caltrans Sand Filter (Monrovia)		11.62 Mean Outflow EMC	5.389 Mean Outflow EMC
Caltrans Sand Filter (Norwalk)	0.2 Mean Outflow EMC	10.79 Mean Outflow EMC	4.533 Mean Outflow EMC
Caltrans BioFilter (Grass Swale)	0.469 Mean Outflow EMC	22.723 Mean Outflow EMC	8.1393 Mean Outflow EMC
MAL Values	2.48	70.1	94.3
CTR (Freshwater)	2.3	10	25
CTR (Saltwater)	9.3	10	8.1

Total Maximum Daily Loads

- Numerical calculations
- Municipal storm water discharges
 - Point source
 - Assigned WLA certain pollutants
- This Order incorporates MS4 WLAs

Revisions

- One MS4 permit
 - storm water (wet weather) discharges
 - non-storm water (dry weather) discharges
- WLAs expressed as effluent limitations

Low Impact Development/ Hydromodification

- **Specific Objectives**

- **Maintain pre-development hydrology characteristics by**

- Implementing flow/volume control measures to prevent hydromodification / protect stream habitat

- Implementing an integrated approach to water quality management - remove pollutants, reduce runoff, and raise storm water

Low Impact Development/ Hydromodification

Continued

- Implementing better site design

- Reducing effective impervious area to less than five percent of project area

- Mitigating pollutants at water quality volume/flo

Revisions

- **Provide for a simple Interim Hydromodification Control Criterion until the SMC Study is completed**
 - Incorporated a simple criterion of matching the 2 year 24-hour pre-development storm event peak flow and volume for projects disturbing less than fifty acres of land
[agenda pgs 5-73; permit pg. 54]

Revisions Continued

- **On site controls to reduce flow may not be as effective as watershed scale strategies to avoid adverse hydromodification impacts**
 - Provided for the development of watershed scale Hydromodification Control Plans after the completion of the SMC hydromodification control study
[agenda pgs 5-73; permit pg. 54]

Revisions Continued

- **Implementing impervious area reduction, and low impact development strategies in redevelopment and built-out areas will be difficult**

• Provided for alternative post-construction storm water mitigation programs, if first reviewed and recommended by a state or regional planning agency such as the Local Government Commission [agenda pg. 5-78, permit no. 59]

Wet Season Grading Restriction Criteria:

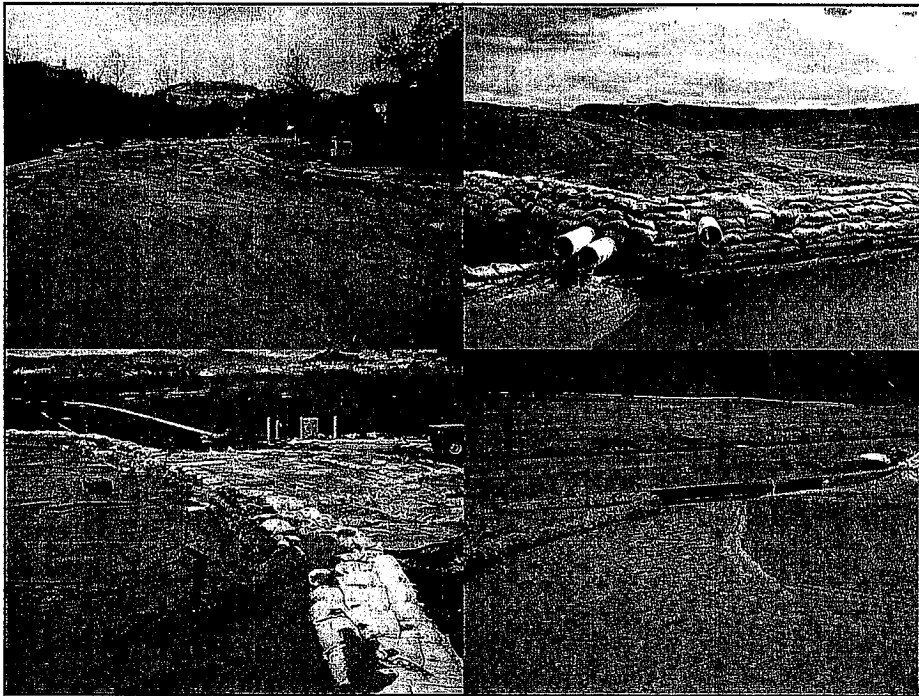
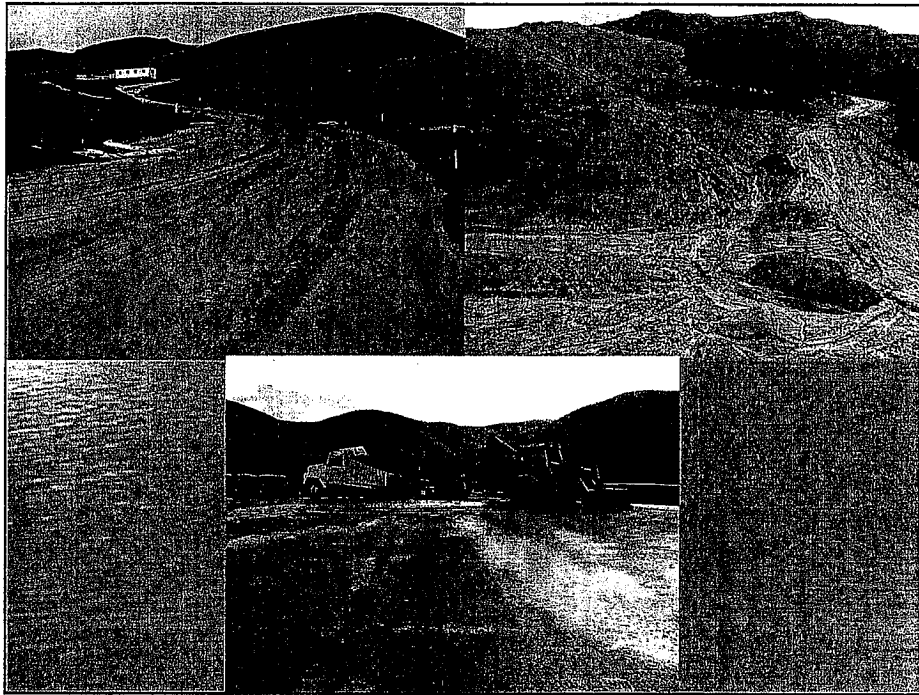
- **Disturbed slopes 20% or greater**
- **Sites discharging into 303(d) listed water bodies (listed for sedimentation/siltation)**
- **Sites discharging into environmentally sensitive areas (ESAs)**
- **Approximately 8% of Ventura County construction sites may be impacted by the wet season grading restriction**

Revision

- Permittees (not Regional Board Executive Officer) are to grant Variance from Grading Restriction for good cause:
 - > Not cause/contribute to water quality degradation
 - > Ensure that TSS discharged is 100 mg/l or less
[agenda pg. 5-8] [permit pg. 6]

Revision Continued

- > Ensure that Turbidity of discharge is 50 NTU or less
- > Not impair beneficial uses
- > Includes a monitoring program to ensure effectiveness



Monitoring

- The primary objectives include
 - Assessing chemical, physical, and biological impacts of storm water
 - Assessing receiving water quality
 - Assessing compliance
 - Characterization of the storm water discharges

Monitoring Continued

- Identifying sources of pollutants
- Measuring and improving measures implemented under this Order
- Requirements used to refine BMPs and for the protection and enhancement of the beneficial uses of the receiving waters in Ventura County
agenda pg. 44 appendix B all

Revisions

- **Monitoring**
 - Dry weather mass emission
 - Total Suspended Solids (TSS)
 - Tributary
 - Bioassessment
 - Ecological Restoration Plans

Revisions

- **Reduced in Scope**
 - Trash and Debris Study
 - Eleven areas to two
 - [agenda pg. 5-16] [permit pg. F-13]
 - Pyrethroid Insecticides
 - Three watersheds to one (Cullum Creek)
 - Largest urban watershed
 - [agenda pg. 5-16] [permit pg. F-14]

Revisions

- **Total Maximum Daily Load**
 - > Non-storm water (dry weather)
[agenda pg. 5-154; permit pg. F-6]
 - > Storm water (wet weather)
[agenda pg. 5-154; permit pg. F-6]
 - > TMDL monitoring
[agenda pg. 5-154; permit pg. F-6]

Other Issues and Public Agency Requirements

- Potable Water Discharges
- Trash Excluders
- Routine Maintenance Permit Exclusion
- Street Resurfacing versus gravel road maintenance
- Three Updates
- Uniform Cost Reporting
- Phase I versus Phase II Programs
- BMP Substitution

Potable Water - Non-Storm Water Discharge can be Controlled to not Become a Source of Pollutants

- Water Line Flushing is Required by the CA Department of Public Health
- Dechlorination Necessary Prior to Discharge
- Recommend Separate General Permit

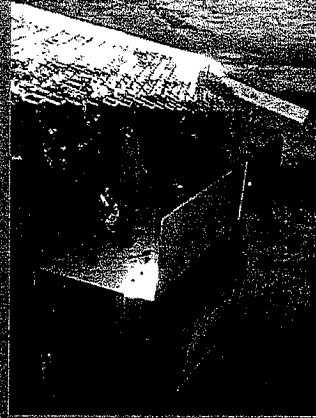
Other Issues - Trash Excluders

- Attaches to Catch Basin Interior
- 5mm mesh screen
- Catches Trash and Debris > 5mm
- In High Storm Conditions, Water Overflows Screen to Discharge Freely



Other Issues – Trash Excluders Continued

- Screen is Attached to Curb Face
- Keeps out Trash for a Street Sweeper to Collect
- Automatically Refracts to Allow Greater Flows to Enter Drain



Other Issues – Routine Maintenance

- Construction Activity is Federally Defined and Regulated under 2 Separate Construction Permit(s)
- General Exclusion from NPDES Permitting for "Routine Maintenance"
- Commonly Misinterpreted

Revisions – Routine Maintenance...

- To Maintain original Line and Grade, Hydraulic Capacity, or original purpose of the Facility but Only includes:
 - > Dirt or Gravel Road Shoulder work
 - > Dirt or Gravel Road Maintenance work
 - or
 - > Ditch Clean outs (With A 401 Certification, if necessary)

Uniform Cost Reporting

- Federal Regulations require an Annual Accounting of Financial Resources to implement a storm water management program [40 CFR 122.42(c)(3) and (5)]
- Fiscal Analysis Required Demonstrating Sufficient Financial Resources [40 CFR 122.26(d)(2)(vi)]

Phase I versus Phase II

- **Part 2 Application for County of Ventura Included all the Cities as Permit Co-Applicants**
- **Phase II Requirements**
 - Similar BMPs
 - Similar Timeline
 - Similar Costs

BMP Substitution

[Part 5.A.2 (page 35 of draft)]

- **The proposed alternative BMP or program will meet or exceed the objective of the original BMP or program in the reduction of storm water pollutants**
- **The fiscal burden of the original BMP or program is substantially greater than the proposed alternative and does not achieve a substantially greater improvement in storm water quality**
- **The proposed alternative BMP or program will be implemented within a similar period of time**

USEPA TMDL/NPDES Permit Policies

- “[P]oint sources implement the waste load allocations within TMDLs through enforceable water quality-based discharge limits in NPDES permits authorized under section 402 of the CWA.”

USEPA Office of Water Memo
*New Policies for Developing and Implementing
TMDLs, 1993*

USEPA TMDL/NPDES Permit Policies

- “Where a TMDL has been approved, NPDES permits must contain effluent limits and conditions consistent with the requirements and assumptions of the wasteload allocations in the TMDL. See 40 CFR § 122.41(b)(1)(ii)(B).”

USEPA Office of Water Memo, *Establishing
TMDL Waste Load Allocations for Storm Water
Sources and NPDES Permit Requirements Based
on those WLA's, 2012*

USEPA TMDL/ NPDES Permit Policies (cont'd)

- Effluent limitations to control the discharge of pollutants generally are expressed in numerical form. However, in light of 33 U.S.C. 1342(p)(3)(B)(iii), EPA recommends that for NPDES-regulated municipal and storm water discharges effluent limits should be expressed as best management practices (BMPs) or other similar requirements, rather than as numeric effluent limits.

USEPA Office of Water Quality, "Guidance for TMDL Water Load Allocations for Storm Water Discharges and NPDES Point-Source Requirements Based on the CWA," 2002.

USEPA TMDL/ NPDES Permit Policies (cont'd)

- The CWA definition of "effluent limitation" is quite broad ("effluent limitation" is "any restriction . . . on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources. . ."). See CWA § 502(11).

USEPA TMDL/ NPDES Permit Policies (cont'd)

- Accordingly, effluent limits in NPDES permits may be written in a form that derives from, and complies with, applicable water quality standards that use any of these various time measures. See 40 CFR 122.44(d)(1)(vii)(A).

USEPA Office of Water Memo, *Establishing TMDL Daily Loads in Light of the Decision by the US Court of Appeals for the D.C. Circuit in Friends of the Earth, Inc. v. EPA*, at No. 05-50-15 (April 25, 2006) and its Implications for NPDES Permits, 2006.



*Ventura Countywide
Stormwater Quality
Management Program*

**Presentation to the
RWQCB-LA**

**Ventura Countywide
Program Municipal
Stormwater Program and
2nd Draft RWQCB Permit**

September 20, 2007



Recap of April 5th Workshop and Board Direction

- Balance, Flexibility, Consistency and Funding
- Permit Alignment and Inconsistency with TMDLs
- LID and Infiltration
- Effective Communication/Misunderstandings of Provisions
- MALS, MEP Definition Use of Numeric Limits
- Timeframes

What has the Ventura County Stormwater Program done since the April Workshop

- Attended Four Meetings with RWQCB staff;
- Proactively Presented Alternative Approaches to Major Permit Provisions;
- Provided Specific Recommendations for Language Changes.

Permittees Desired Outcome - Reasonable and Protective Permit

We acknowledge several Positive Changes to Permit:

- Limited trash excluders to commercial, industrial and educational areas;
- Deferred 100,000 gallon flushing limitation for potable water discharges to a separate permit;
- Focused Special Studies to Areas of Concern;
- Modified Time Schedule Extensions.

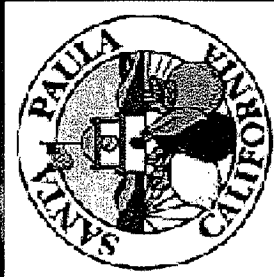
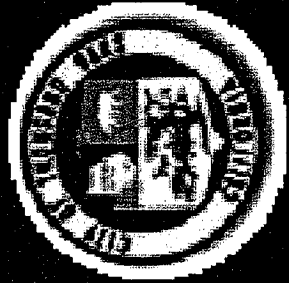
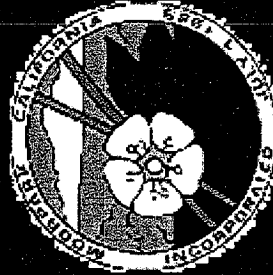
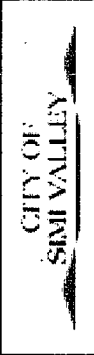
Permittees Desired Outcome - Reasonable and Protective Permit (cont)

Major Areas of Concern Remain:

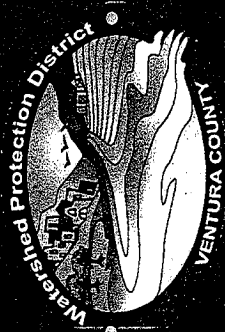
- MALs to define MEP & MMP liability;
- Inconsistency between Permit and Approved TMDLs;
- Disconnect between goals of Proposed Monitoring Program and Countywide Stormwater Management Program;
- Cumbersome variance and substitute BMP programs;
- Over prescribing a SW Program without flexibility, and nexus to environmental benefit.

Permittees Intended Outcome - Reasonable and Protective Permit

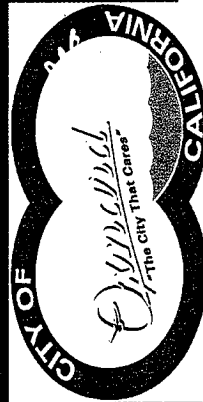
- Board provide Staff with needed direction on major policy decisions;
- Board direct staff to continue to work with Permittees to effectuate revisions for a reasonable permit;
- Board direct Staff to enter into a Facilitated Collaborative Process with the goal of making meaningful and earnest revisions to the draft permit.

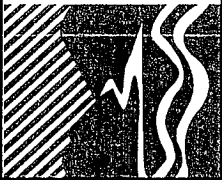


*Ventura Countywide
Stormwater Quality
Management Program*



Any Questions?





*Ventura Countywide
Stormwater Quality
Management Program*



**SMALL COMMUNITIES
ISSUES**

September 20, 2007

Small Communities in Ventura County

Fillmore	15,000	Moorpark	36,000
Port Hueneme	22,000	Camarillo	63,000
Ojai	8,000	Santa Paula	29,000

Board direction from April 5th Workshop

- Ease burden on small communities
- Need effective communication between the cities and Board staff

Staff Revisions in 2nd Draft:

- Eased mandatory meeting requirements
- Eased electronic tracking computer program purchases
- Reduced number of trash excluders required

Small communities face special challenges

- Smaller staff, cannot provide dedicated storm water personnel
- Fewer financial resources to implement program
- Higher cost per capita on residents

Small Community Impacts:

- All the small communities combined represent less than 20% of the county population
- Pollutant loads from small communities is likely less than 1/5th of total urban pollutant load from County
- Therefore allowing small communities more time to implement the program will have a minimal impact

Example of a small community separated by miles of open space



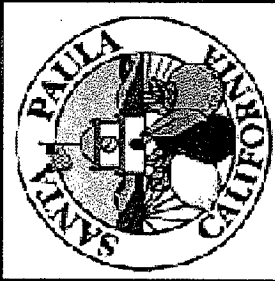
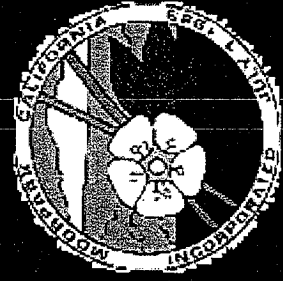
© 1997-2006 AirPhotoUSA

Reduced requirements in the spirit of EPA's Phase II program:

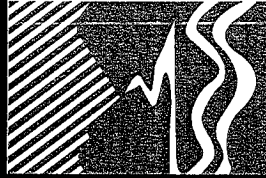
- Allow 3 years to modify storm water programs, codes, etc.
- Order to serve as NPDES permit and eliminate SWRCB General Construction Permits
- End of pipe Treatment Control BMPs spread over longer period.
- Excuse from financial contributions to studies, plans and monitoring (50% of current principal permittee cost)

Reduced requirements in the spirit of EPA's Phase II program:

- Additional time allows larger cities to spend up front money on research, development and trial installations (especially trash excluders)
- Smaller cities will spend less money and have less modification of installed treatment devices



*Ventura Countywide
Stormwater Quality
Management Program*



Any Questions?



Stormwater Quality Monitoring

Arne Anselm
Ventura County
Watershed Protection District

Stormwater Monitoring

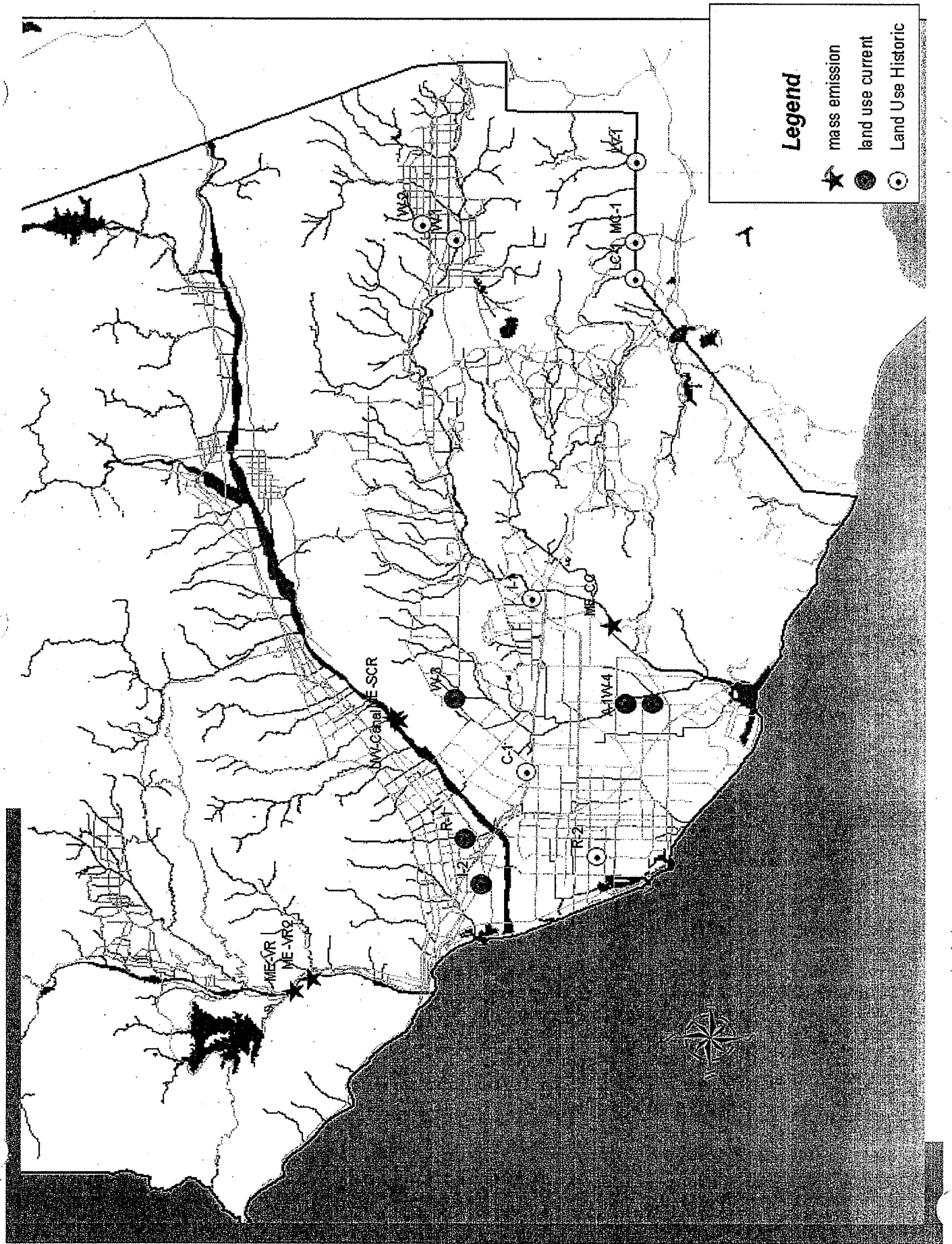
- Current Monitoring Program
- Future Opportunities
- Changes with Draft Permit
- Model MS4 Stormwater Monitoring Plan

Current Program Monitoring

- Began 1993 as part of comprehensive program,
- Revised in 2001 with new permit.
- Dedicated staff and equipment.
- Mass emissions at three major watersheds
 - Four wet events
 - Two dry
- Receiving water monitoring to establish water quality baseline.

Current Program Monitoring

- Land Use Monitoring
 - Urban runoff discharge characterization.
 - Catchments selected as representative of different land uses in Ventura County
- Sophisticated Database
- Trend Analysis for Pollutants of Concern



Future Program Opportunities

- Build upon and complement past monitoring.
- Integrate with TMDL and other regional monitoring efforts - Avoid Redundancy
- Use computer modeling and statistics to increase knowledge and conserve resources.

Ventura's Monitoring Goal

- To assess impacts and trends of urban runoff to provide feedback on stormwater program performance and improve water quality.

Changes in Draft Permit

- Many requirements amended
- Integrated Bioassessment with SCCWRP
- TMDL monitoring at major outfalls
 - Resource intensive
 - Questionable value

Stormwater Program Not Supported by Draft Monitoring Requirements

Draft Permit	Proposed Plan
Focus is on TMDL	Assess Program Effectiveness
Static	Progressive
Sample Everywhere	Systematic Refinement

Model Monitoring Program for MS4s in Southern California

- Design Framework for MS4 Monitoring Plan
- Written by Southern California Stormwater Monitoring Coalition, 2004
- Partially funded by SWRCB
- Developed for Southern California region.

Model Monitoring Program's Goal

- To ensure that each stormwater program has the ability to assess and manage its overall performance.

Model Monitoring Program for MS4s in Southern California

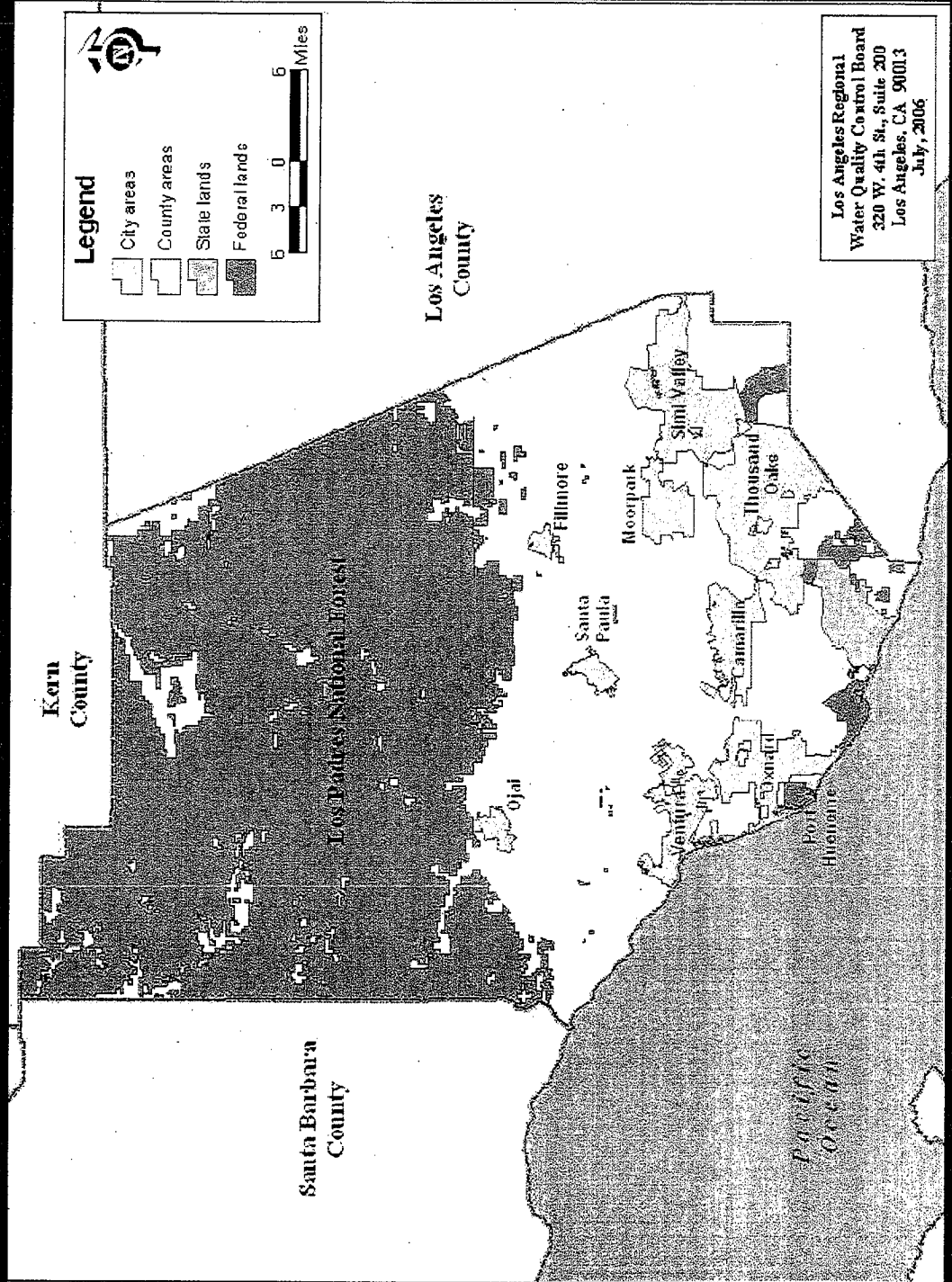
- **Adaptive Triggers**
 - Revise monitoring plan based on results
 - Starting and stopping triggers needed
- **Resource Protective**
 - Calculated sample sizes
 - Computer modeling in place of sampling
- **Regional Consistency**

Requested Action

- Integrate with other monitoring efforts
 - TMDLs, SWAMP, SCCWRP, Current program
- Use SMC's Model Monitoring Guidance
 - Focus resources to provide useful information to assess and improve stormwater quality program.

Jurisdictional Concerns

Figure 1- Proposed Area of Permit Coverage



Proposed Area of Coverage Based on Both Fact *and* Fiction?

True ... The Clean Water Act requires MS4s to be covered under an NPDES permit (MS4 Permit)

True ... MS4 Permits target runoff from *urban development* for water quality controls

True ... Ventura County has areas of *urban development*

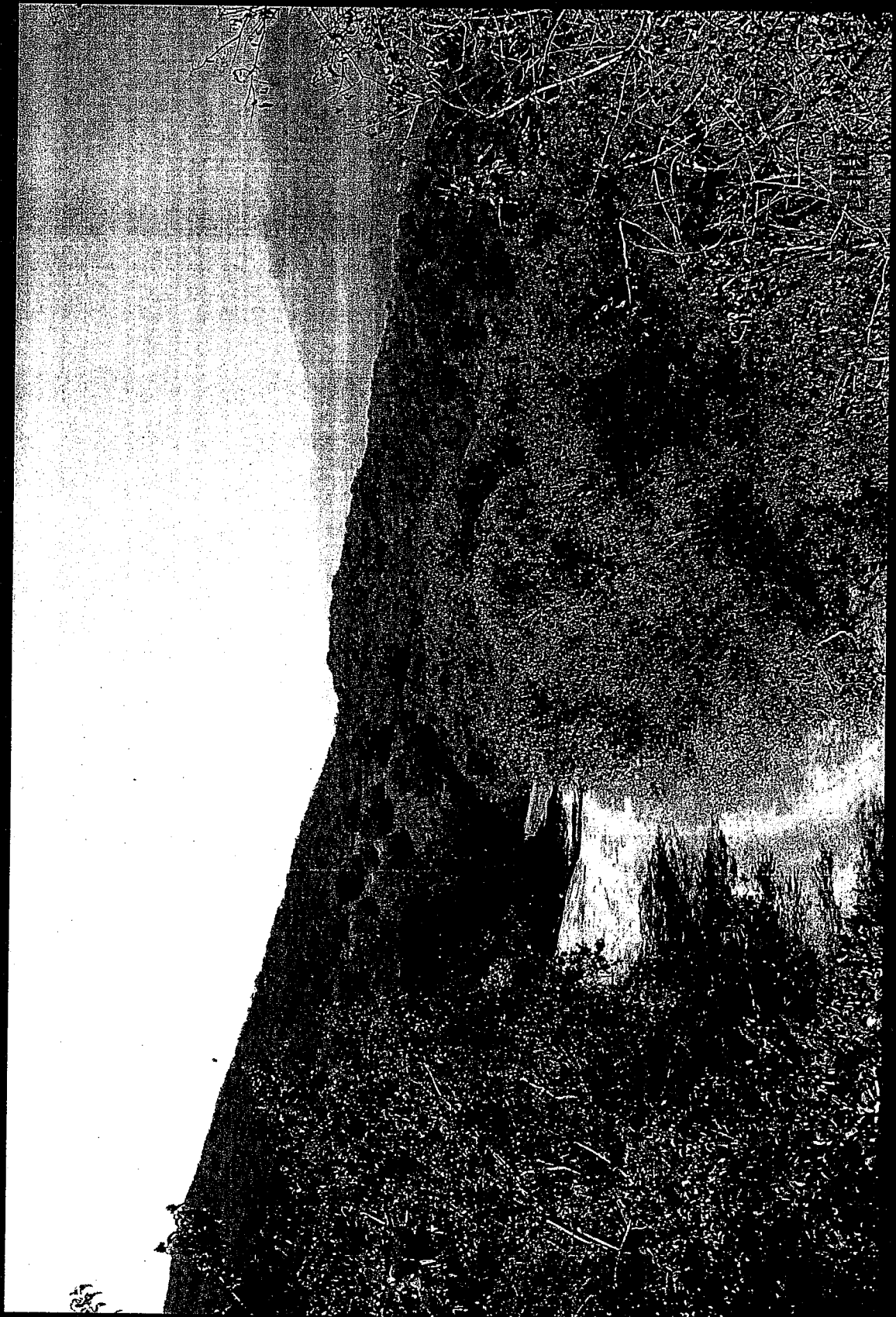
False ... Ventura County is mostly *urban development* or area *undergoing urban development*

Unincorporated Ventura County =



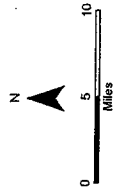
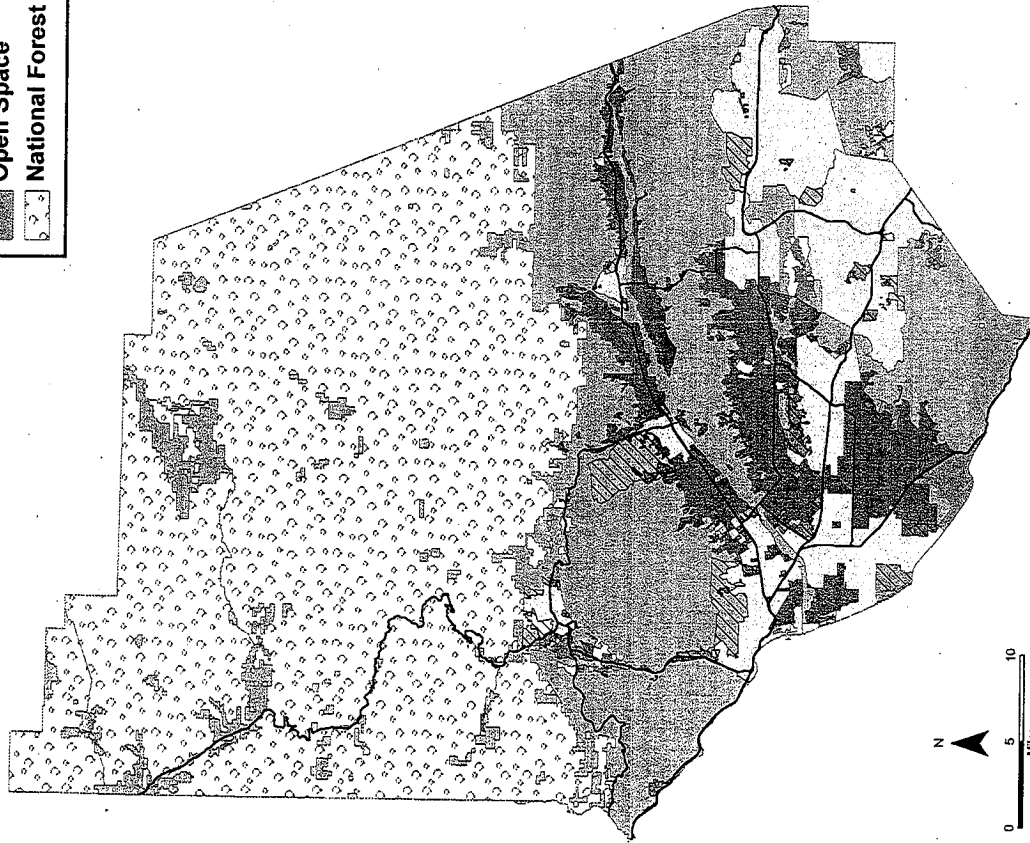
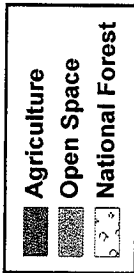
- Urban development is *strictly limited* to cities and their “spheres of influence”
- Unincorporated areas are primarily:
 - National Forest
 - Agricultural
 - Open Space

Unincorporated Ventura County's "open space"



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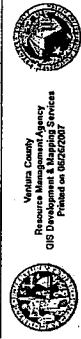
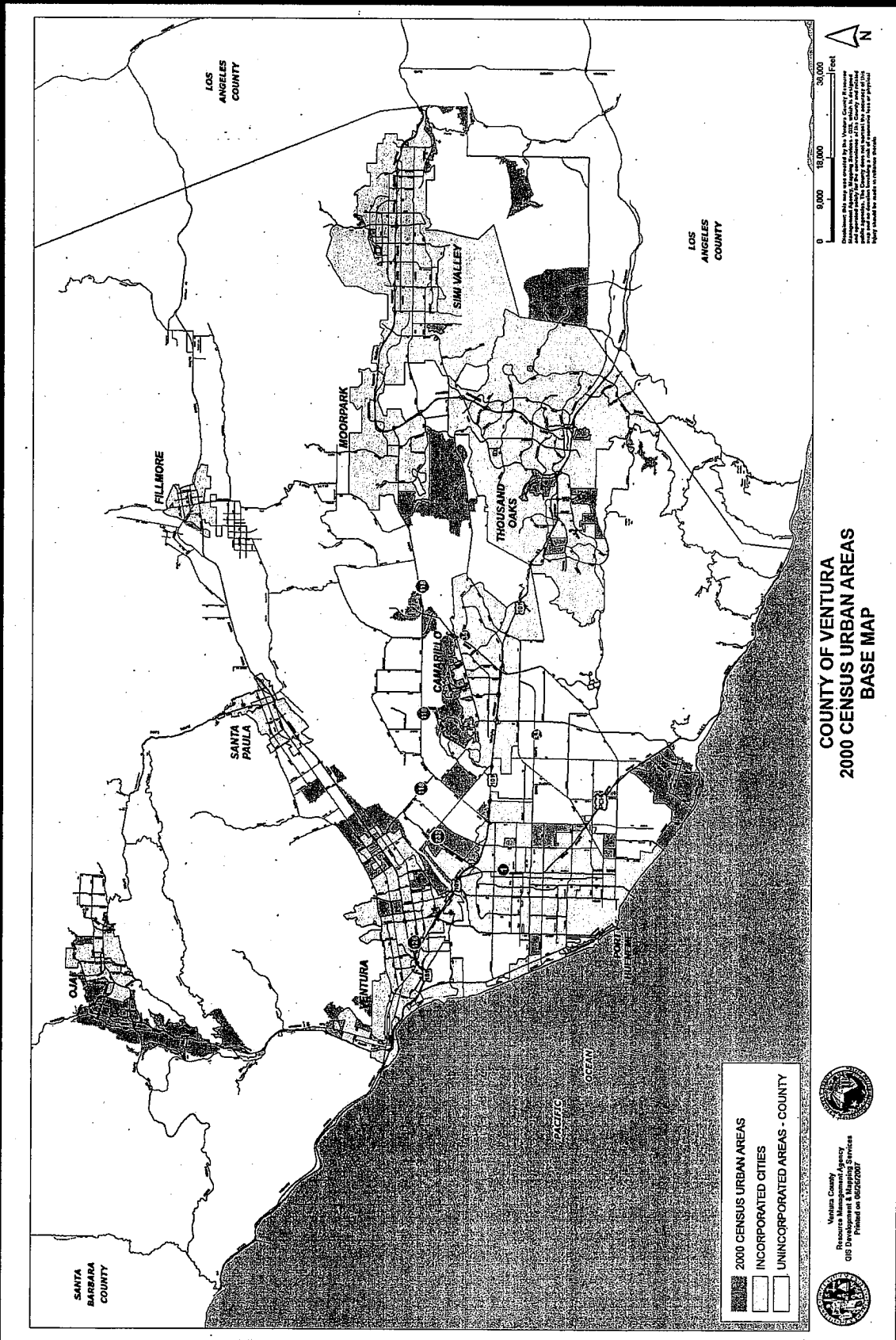
Ventura County General Plan



- Green areas limited to:**
- Agricultural areas
 - National Forest
 - *Open Space*



2000 U.S. Census – “Urban Areas”



In Summary

- MS4 Permits target runoff from *urban development*
- Unincorporated Ventura County is primarily composed of Open Space, Agricultural area, or National Forest - *not urban development*
- We urge your Regional Board to direct staff to correct an apparent error in the draft permit -

Please revise Figure 1 to remove all non-urbanized areas of unincorporated Ventura County from coverage under this urban stormwater permit!

**Additional Treatment
+ Control BMP Installation
at All Critical Source
Facilities**

Anita Kuhlman, City of Camarillo

September 20, 2007

P. 41 of 2nd Draft Permit Inspect Critical Sources

- "The Permittees shall require implementation of additional treatment control BMPs where storm water flows from the **MS4 discharge** to an ESA or a 303(d) listed waterbody. Likewise for those BMPs that are not adequate to achieve **MALS** and/or water quality objectives, Permittees may require additional site-specific controls such as treatment control BMPs."

What does this mean to Ventura County?

- Food Facilities – 1,929
- Automotive Facilities – 1,413
- General Industrial – 538
- Nurseries – approx. 40 (New Permit requirement)

Keeping our Waterways Clean and Safe Makes Good Business Cents!

Why is Stormwater Pollution a Problem? Stormwater runoff is the largest source of pollution in our watersheds. It carries pollutants such as oil, grease, paint, and other debris into our waterways. This pollution can harm fish and wildlife, and it can also affect the quality of our drinking water. Stormwater runoff is a major source of pollution in our watersheds. It carries pollutants such as oil, grease, paint, and other debris into our waterways. This pollution can harm fish and wildlife, and it can also affect the quality of our drinking water.

Best Management Practices (BMPs) Reduce and Eliminate Pollutants. BMPs are actions that can be taken to prevent or reduce stormwater runoff. They include things like installing rain barrels, using mulch, and planting native plants. BMPs can help reduce the amount of pollution that enters our waterways. They can also help improve the quality of our water. BMPs are actions that can be taken to prevent or reduce stormwater runoff. They include things like installing rain barrels, using mulch, and planting native plants.

Identify and Evaluate BMP: Already in Place. If you already have BMPs in place, you should evaluate them regularly to make sure they are still working. You should also look for new BMPs that you can add to your property. Identifying and evaluating BMPs is an important part of stormwater management. It helps you to know what you have and what you need to do to improve it.

Look Inside and Outside Your Business. Stormwater runoff can come from both inside and outside your business. You should look for leaks and spills inside your building. You should also look for things like oil, grease, and paint that are being washed away by rain. Looking inside and outside your business is an important part of stormwater management. It helps you to find and fix problems before they become a big problem.

Build and Maintain Stormwater Management Systems. Stormwater management systems are designed to collect and store stormwater. They can help reduce the amount of runoff that enters our waterways. They can also help improve the quality of our water. Building and maintaining stormwater management systems is an important part of stormwater management. It helps you to control the amount of runoff that enters our waterways.

Check for Illicit Discharge. Illicit discharge is the release of any liquid, solid, or gaseous material into a stormwater sewer system. It is illegal and can cause serious damage to our waterways. You should check for illicit discharge regularly. You should also report any illicit discharge to the appropriate authorities. Checking for illicit discharge is an important part of stormwater management. It helps you to prevent and stop illegal activities that harm our waterways.

Report Illicit Discharge. If you see or suspect an illicit discharge, you should report it to the appropriate authorities. You should provide as much information as you can, including the location, time, and nature of the discharge. Reporting illicit discharge is an important part of stormwater management. It helps the authorities to identify and stop illegal activities that harm our waterways.

Stormwater Pollution Prevention System (SWPPP). A SWPPP is a plan that describes how you will manage stormwater runoff on your property. It should include information about your property, the types of activities you do, and the BMPs you will use. A SWPPP is an important part of stormwater management. It helps you to manage stormwater runoff in a way that protects our waterways.

Stormwater Pollution Prevention System (SWPPP) - Requirements. There are several requirements for a SWPPP. You must have a SWPPP if you own or operate a commercial, industrial, or institutional facility. You must also have a SWPPP if you own or operate a residential development. Stormwater Pollution Prevention System (SWPPP) - Requirements. There are several requirements for a SWPPP. You must have a SWPPP if you own or operate a commercial, industrial, or institutional facility.

Stormwater Pollution Prevention System (SWPPP) - Updates. A SWPPP should be updated regularly to reflect changes in your property or activities. You should also update your SWPPP if you learn about new BMPs or regulations. Stormwater Pollution Prevention System (SWPPP) - Updates. A SWPPP should be updated regularly to reflect changes in your property or activities. You should also update your SWPPP if you learn about new BMPs or regulations.

Stormwater Pollution Prevention System (SWPPP) - Enforcement. The appropriate authorities can enforce the requirements for a SWPPP. They can issue fines and penalties if you do not follow the requirements. Stormwater Pollution Prevention System (SWPPP) - Enforcement. The appropriate authorities can enforce the requirements for a SWPPP. They can issue fines and penalties if you do not follow the requirements.

Stormwater Pollution Prevention System (SWPPP) - Best Practices. There are several best practices for a SWPPP. You should identify and evaluate BMPs regularly. You should also look for new BMPs that you can add to your property. Stormwater Pollution Prevention System (SWPPP) - Best Practices. There are several best practices for a SWPPP. You should identify and evaluate BMPs regularly. You should also look for new BMPs that you can add to your property.

Illicit Discharge Prevention Business Owners

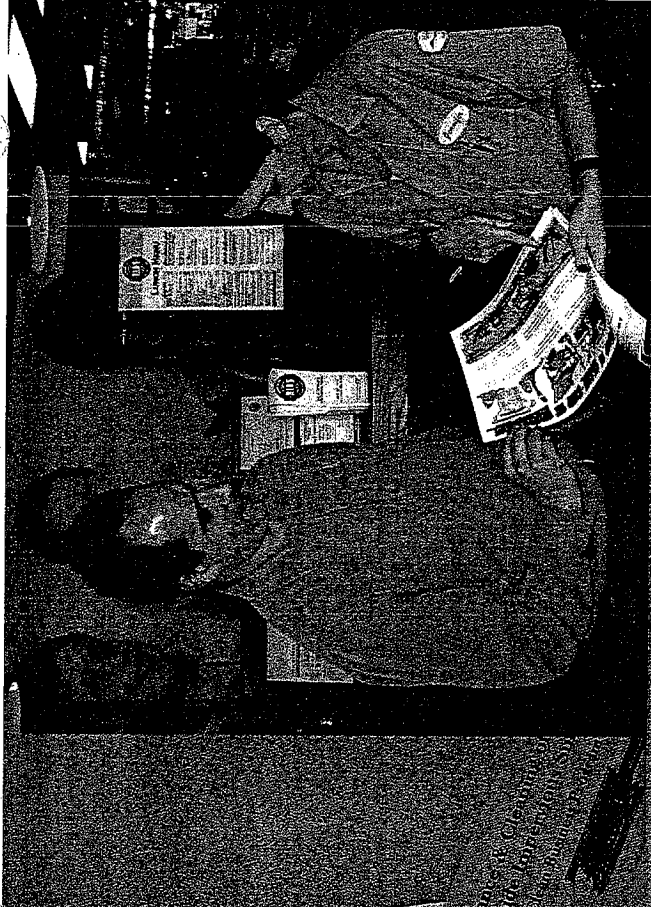
Source Control Importance

Parking lot maintenance

Trash programs

Grease traps

Effective Irrigation



City of Camarillo - Public Works Dept. 805-483-5659
Food Service Inspection for Stormwater Quality Measures
 (NPDES Municipal Permit requires City to inspect Food Services Biannually)

First Inspection Biannual Inspection Complaint Response Facility Has Closed Follow up visit
 Date of Inspection _____

Business Name _____ Address _____ Phone # _____
 Service Rep. Present During Site Visit (printed name) _____ Approximate # of Employees _____
 Service Rep. Signature (Acknowledging reception/inspection Report) _____
 Hours of Operation _____
 Food Service Fast Food/No Dining Restaurant/Dining Coffee/Bar Other
 Drive Through Outside Dining # of Dining Room Seats _____
Food Preparation
 On Site Food Preparation _____
 Automatic Dishwasher Automatic Garbage Disposal Cleanup performed on site or off site _____
 Meals Consumed Daily _____ % of Meals To Go _____
 Grease Trap Grease Interceptor No Grease Trap or Interceptor _____

RECOMMENDATION

- Permittees require Critical Source facilities to implement effective source control BMPs.
- Critical Source Facilities that fail to utilize effective source controls, shall apply pollutant specific treatment control BMPs.
- Defer NPDES Permit requirements when there is a Regional Board approved TMDL implementation plan for the receiving water.

Trash Excluders

Shaun Kroes
City of Moorpark

Trash Excluders

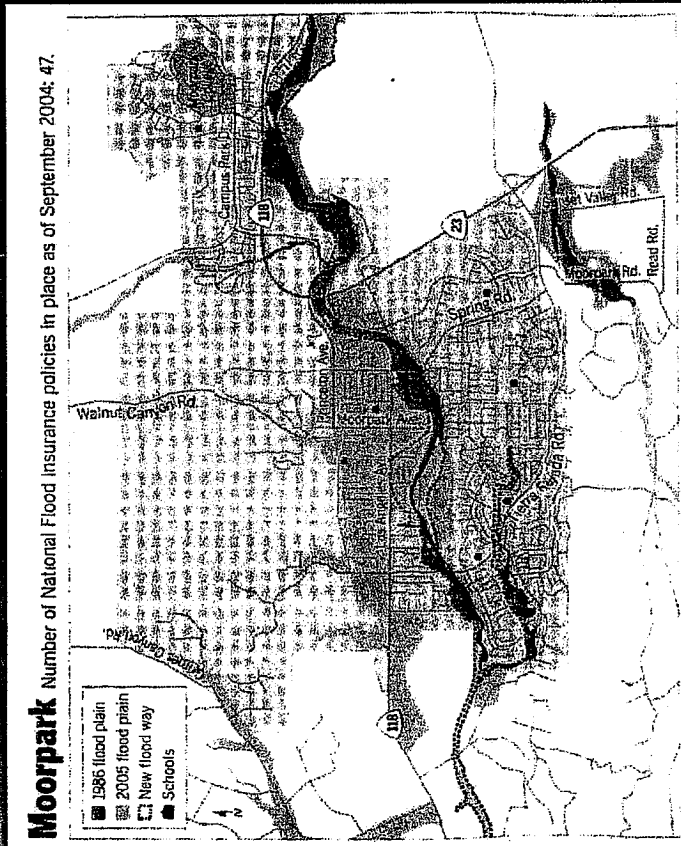
- P. 76: 5(e)(1)
- “Each Permittee shall install trash excluders, or equivalent devices on catch basins to prevent the discharge of trash to the storm drain system...in commercial areas, industrial areas, and near educational institutions...”

Talking Points

- Reduction in installation requirement
- Trash excluders are not a one size fits all solution for Ventura County
- Risks to commercial and residential areas
- 303(d) listed or Trash TMDL

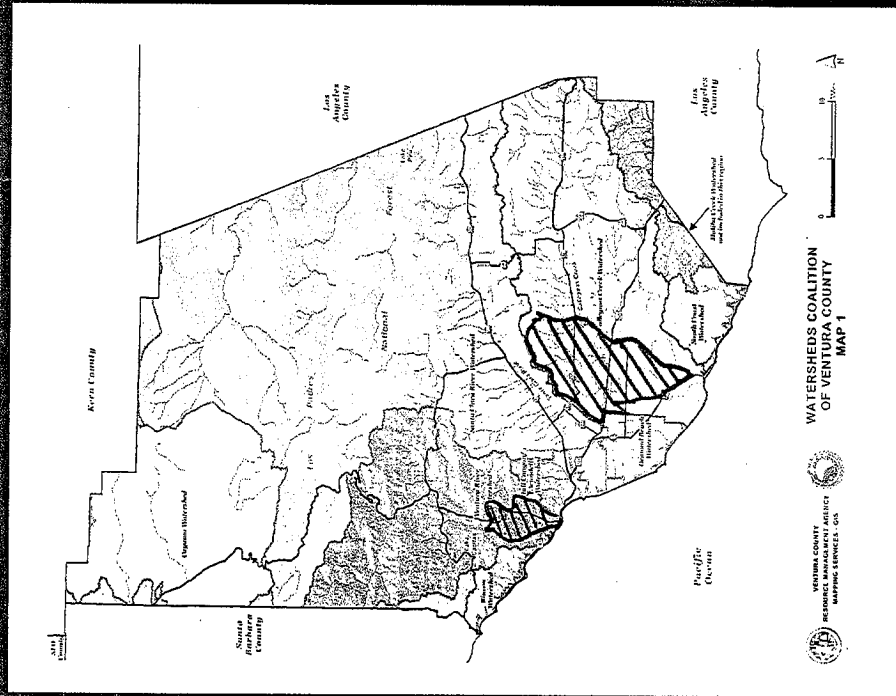
Risks

- Flood Zone
- Reduced flow area could exacerbate flood-prone areas.
- Residential units affected by commercial/industrial flooding.
- \$800-\$1200/year



303(d)/Trash TMDL

- Trash is not 303(d) listed for majority of Ventura County.
- Only Beardsley Wash, Revolon Slough and Ventura River Estuary.
- Covers approximately 4% of Ventura County



Alternate Method

- Replace trash excluder requirement with acceptable alternate BMPs in the Permit.
- Focus on:
 - Enhanced commercial zone street sweeping
 - Trash cans at bus stops
 - Prompt enforcement of trash accumulation

Cont'd

Alternate Method (cont'd)

- Trash collection on public property
- Expedient removal of illegally disposed of material on public property
- Low or no cost for residential bulky-item disposal
- Citizen involvement events
- Litter prevention messages

Public Outreach Is Working

- Coastal Cleanup Day
 - 1996: 778 volunteers, 15,972 lbs of trash collected
 - 2007: 2,458 volunteers, 12,601 lbs of trash collected
- Increasing # of volunteers and finding less litter and debris.

Come Visit Us

- Goal is to prevent litter
- Can be done effectively, economically, and safely
- Please come tour beautiful Ventura County
- Thank you

Planning and Land Development

Section 5.E. of 2nd Draft Permit

Hydrologic Control Issues

City of Ojai



Bill O'Brien, PE

Intertie of Hydrologic Controls

- NPDES Permit – first “flush”
 - LID Controls
 - WQ Treatment controls
 - Hydromodification controls
- Local Agency Permits – for larger floods
 - Flood Control Measures affect runoff, sediment, and water quality.
- Use of any - affects the others

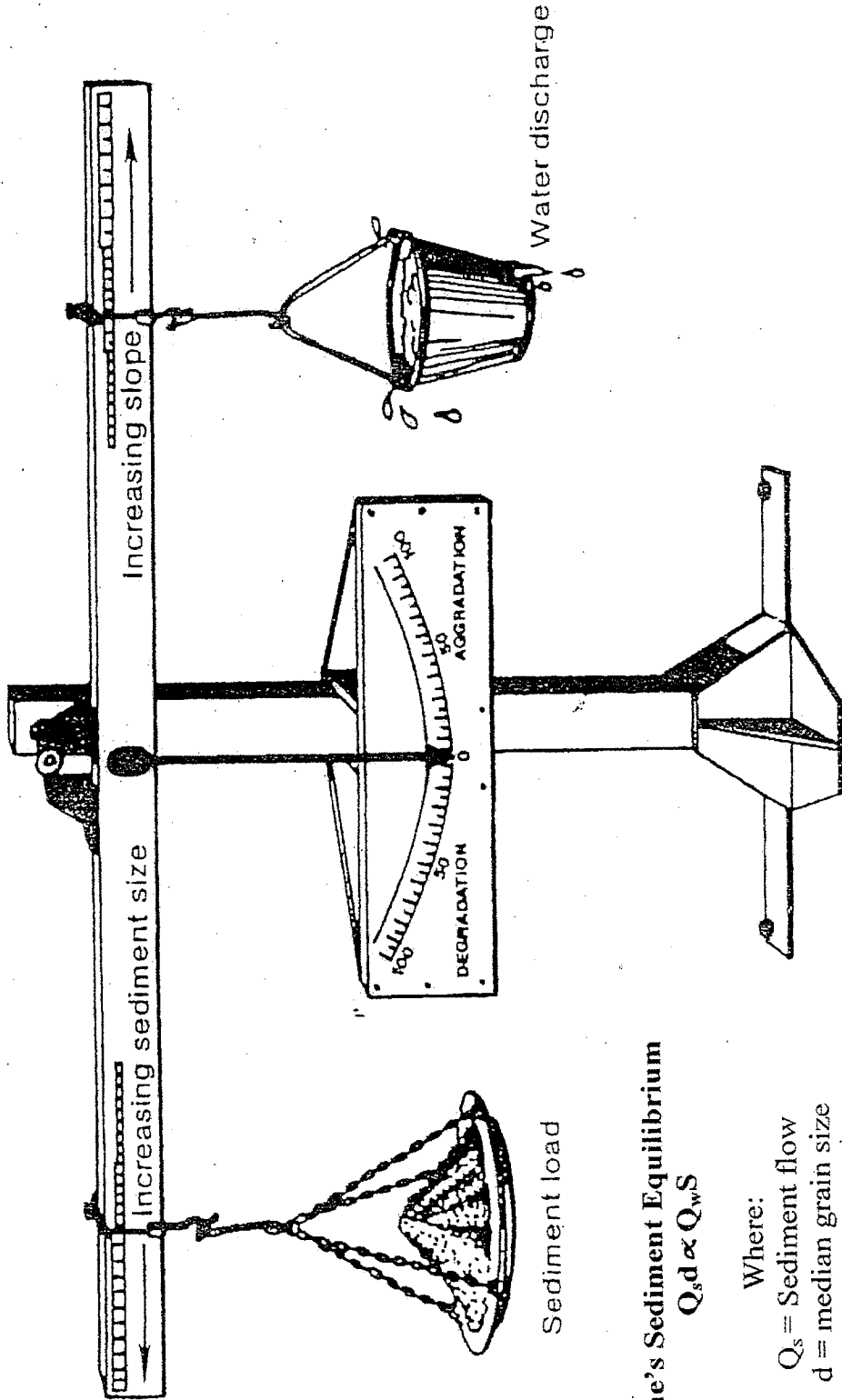
Hydro? or Erosion? modification

- Hydro (water) modification already being addressed by detention strategy
- Now looking at erosion modification, geomorphology, sediment balance
 - A more difficult science than just water
 - SCCWRP has 3-5 year study, Ventura County member of TAC



Southern California Coastal
Water Research Project

Sediment Balance



Sediment load

Water discharge

Lane's Sediment Equilibrium

$$Q_s d \propto Q_w S$$

Where:

Q_s = Sediment flow

d = median grain size

Q_w = Water flow

S = slope

Source: Howard Chang, 2004. Sediment Study for Channel Improvements of Calleguas Creek, Conejo Creek, and Revlon Slough. Prepared for Ventura County Watershed Protection District.



C000286

Technical Guidance Manual for Stormwater Quality Control Measures

- Include BMPs for stormwater quality treatment
- Includes LID principles
- Includes Hydromodification effects – more stringent than Interim Criteria of Draft Permit

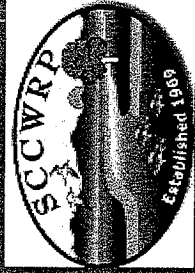
Current Needs for Hydrologic Controls

- County policy for agriculture and open space means watershed level or IRWMP solutions will be needed, and include non-urban runoff.
- Redevelopment runoff not same as new development. Behavior of runoff from infill more related to nearby land use.
- Develop controls that allow sediment transport and provide WQ treatment

Recommendations

Request the Regional Board to :

1. Incorporate the interrelationship of hydrologic controls to avoid duplication of regulations.
2. Add amendments for LID and Redevelopment, then use County Stormwater Quality Manual for Interim Hydrologic Controls until SCCWRP Study is completed.



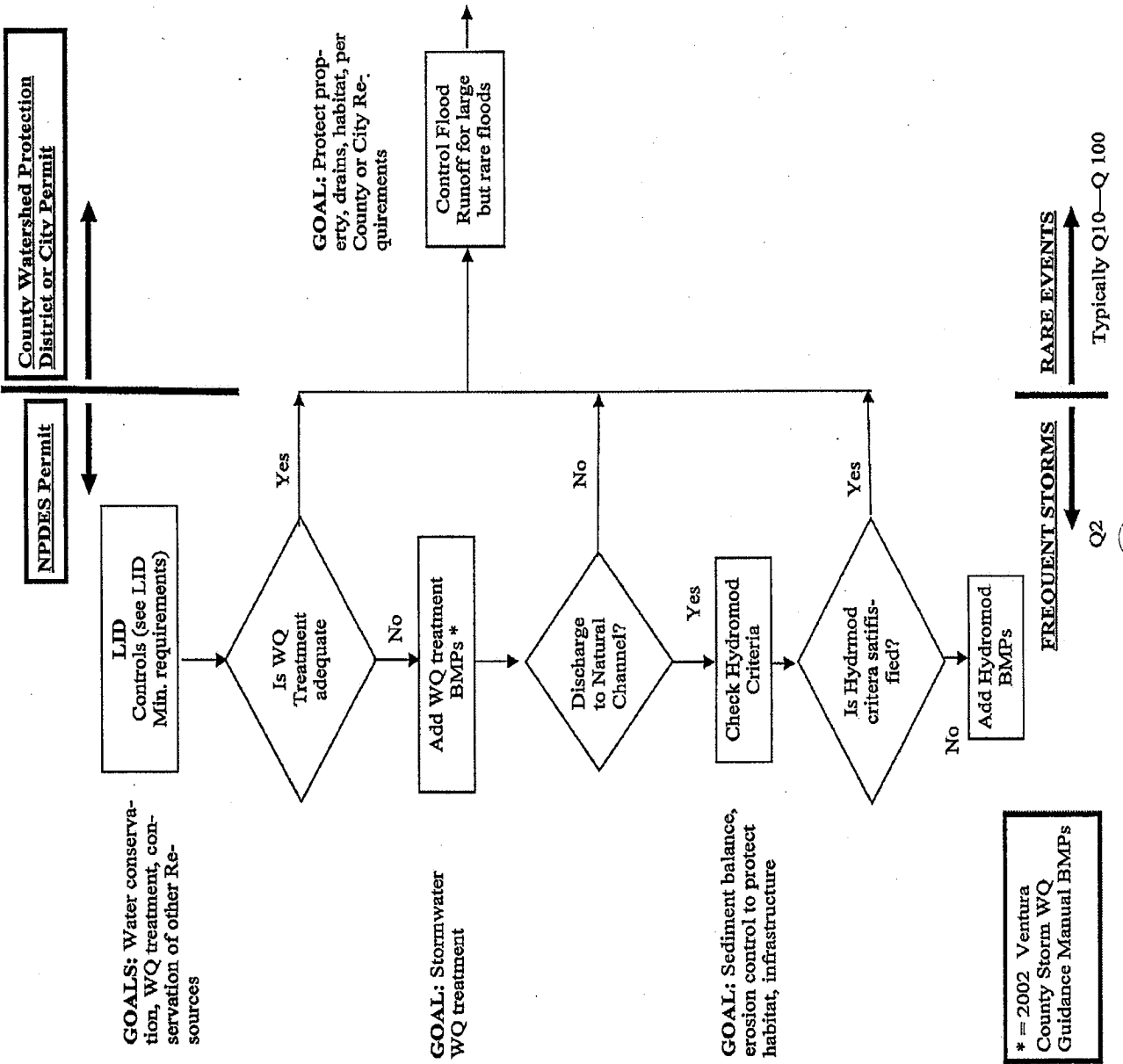
Southern California Coastal
Water Research Project

Possible Handouts

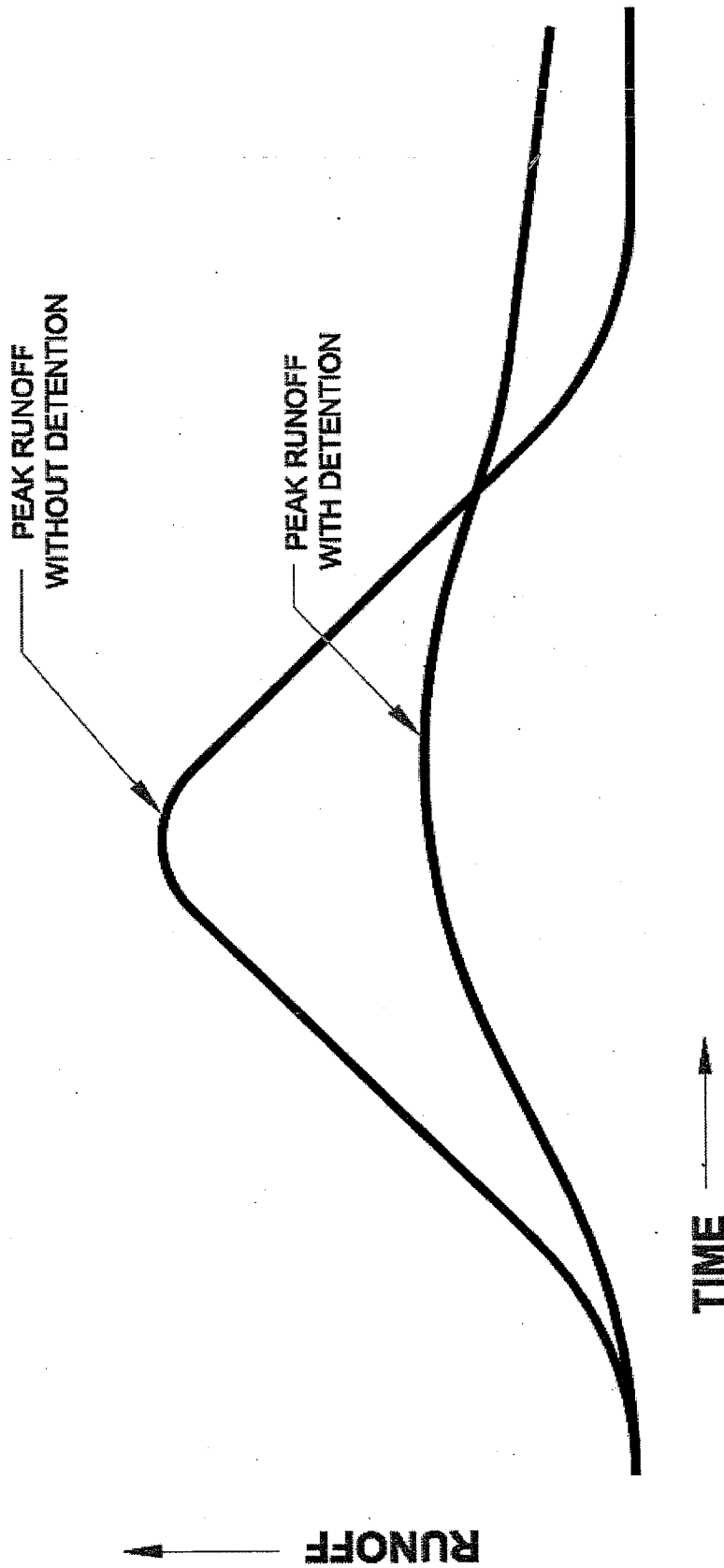
Erosion-Modification

- Sediment Hungry Water
 - Current WQ treatment and LID controls create this
 - Causes beach and habitat degradation
 - Shows need to recognize sediment feeding projects (e.g. take debris basin sediment to beach, remove Matilija Dam)
- An SMC Study issue is how to allow sediment transport and provide WQ treatment

Ventura County HYDROLOGIC CONTROLS



Effect of Hydrologic Controls on Typical Stormwater Hydrograph



**Public Construction Activities and
Long Term Maintenance Programs**

**Regional Water Quality Control Board Workshop
Draft Ventura County Stormwater Permit
September 20, 2007**

**Jay Spurgin
City of Thousand Oaks**

***Public Construction Activities Management
Draft Permit §5.G.I.1***

“(a) Each Permittee shall implement and comply with the Planning and Land Development Program requirements in Part 5.E of this Order at all Permittee owned or operated public construction projects.”

- **Why?**
- **Example: Traffic signal construction project – minimal disturbed area**

“(b) Each Permittee shall implement and comply with the Development Construction Program requirements in Part 5.F. of this Order at all Permittee owned or operated construction project

- **Example: Minor water line replacement – minimal disturbed area; line, grade, capacity and original use of facility unchanged by construction activity**

“(c) Each Permittee shall obtain coverage under the CASGP for construction activities and projects that are:

(1) Covered under one (or more) Capital Improvement Projects (including but not limited to street repaving, new streets, channel clearing) or contract, and that individually or cumulatively disturb 1 acre or more of land..”

- Projects that “cumulatively disturb 1 acre or more”?
- Public Capital Improvement Plans are not like a “common plan of development” in the private sector.

**Long Term Maintenance Programs
Draft Permit §5.G.1.2(b)**

“(b) Each Permittee shall obtain coverage under the CASGP no later than (7 days after Order adoption date) for long-term maintenance programs including maintenance of flood control channels (such as vegetation removal), maintenance or replacement of streets, sidewalks, roads, and any other project the Permittee undertakes including all Capital Improvement Projects (CIP) if either 1 or more acres of land are disturbed by grading, clearing or excavation activities for an individual project or cumulatively as a part of several projects involving a soil disturbance.”

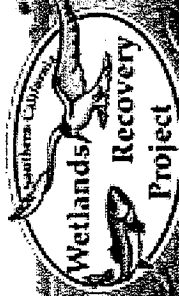
Recommendations

- The Ventura County Stormwater Permit should require the Permittees to meet the same permit requirements as those imposed on other (non-permitted) public agencies and private companies.
- Revise the draft permit language so that it is consistent with the definition of “construction”.

TMDL Program Consistency

Mark Pumford – City of Oxnard





Southern California Wetlands Recovery Project

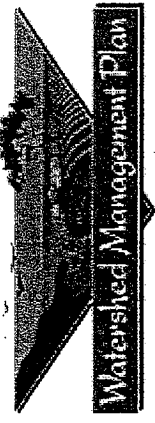
SANTA CLARA RIVER
 ENHANCEMENT AND MANAGEMENT PLAN
 FINAL DOCUMENT
 May 2005

Ventura County
 Watershed Protection District

Los Angeles County
 Department of Public Works

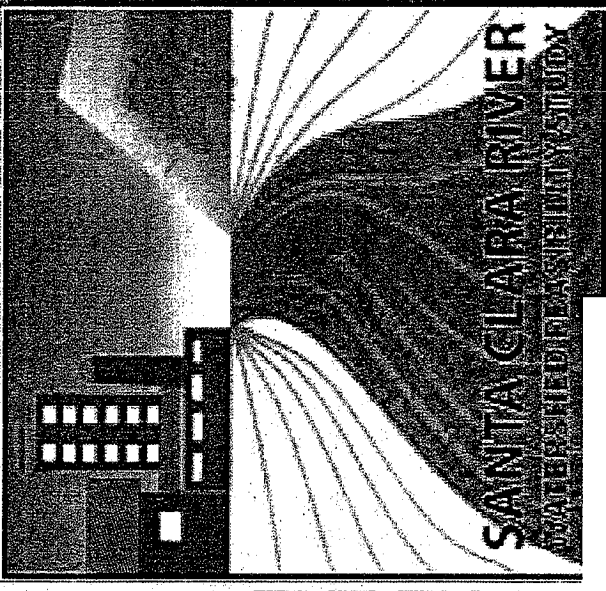


CALLEGUAS CREEK

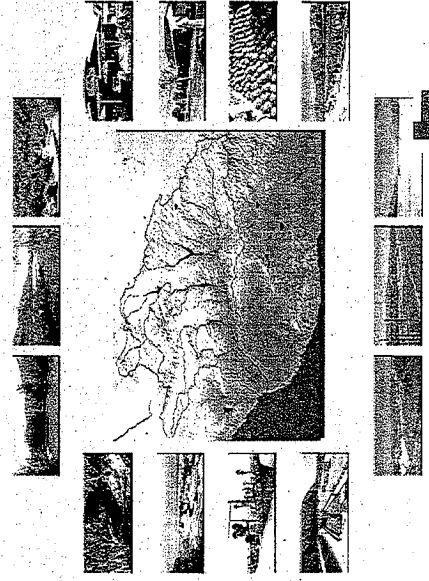


Watershed Management Plan

A COOPERATIVE STRATEGY FOR
 RESOURCE MANAGEMENT & PROTECTION



SANTA CLARA RIVER WATERSHED IDEAS MEETING STUDY



Watersheds Coalition
 of Ventura County



Watershed Features

Reaches

Reaches listed for Salls

Other reaches in the Calleguas Creek Watershed

Reach Break Points

Major Roads

Major Drainages

Las Posas / Arroyo Simi

Calleguas / Conejo Creek

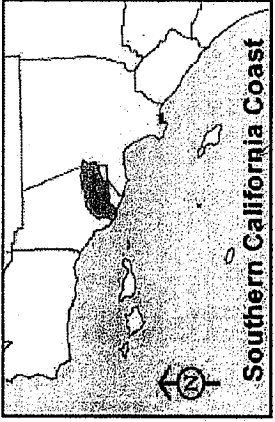
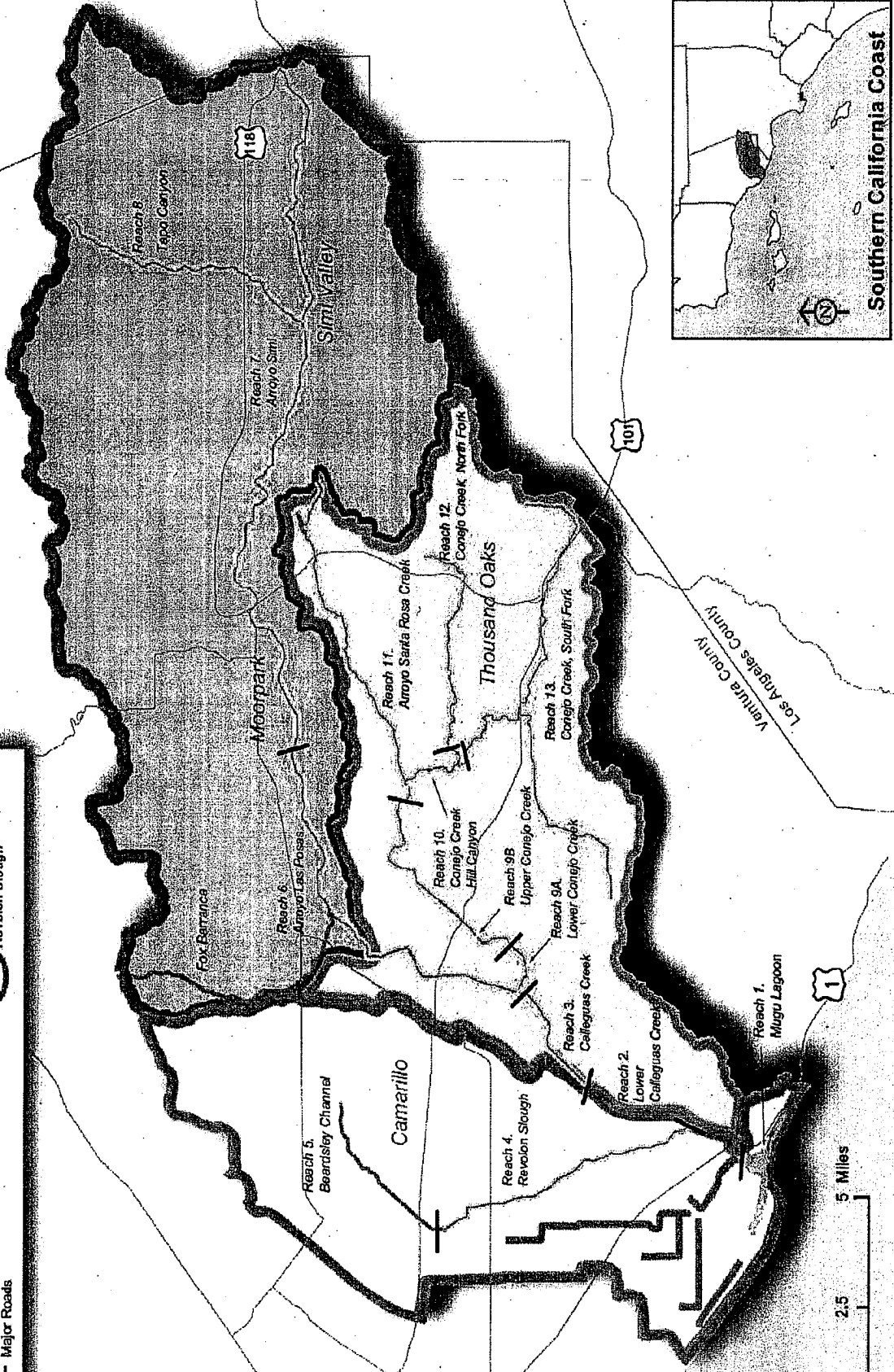
Revolon Slough

126

118

101

1



CCWS Management Plan

- **Collaborative effort since 1996**
- **Stakeholders include POTWs, MS4s, CalTrans, Navy, Agriculture**
- **Developed 4 EPA-approved TMDLs**
- **Monitoring Program and QAPP**
- **MOA developed to share costs**

TMDLs in NPDES Permits

- **We agree with permit findings that NPDES permits must be consistent with TMDLs**
- **The disagreement is whether the provisions of the draft permit are consistent with Ventura County TMDLs**

Calleguas Toxicity TMDL

- **“Stormwater WLAs will be incorporated into NPDES permits as receiving water limits measured in-stream at the base of each subwatershed**
- **and will be achieved through the implementation of BMPs ...”**

Santa Clara Nitrogen TMDL

- **“Ammonia, nitrite, and nitrate reductions will be regulated through effluent limits prescribed in POTW ...NPDES permits, Best Management Practices required in NPDES MS4 Permits, and SWRCB Management Measures for non point source discharges.”**
- **Draft permit regulates reductions through end-of-pipe numeric effluent limits**

Draft NPDES Permit

- **Applies TMDL WLAs for MS4 at End-of-Pipe**
- **Applies these numeric effluent limits to each major stormwater outfall**
- **Imposes a TMDL compliance monitoring program**

Calleguas OC/PCB TMDL

Parameter	TMDL Interim Limit (ng/g sediment)	Draft Permit Threshold Value (ng/L water)
Chlordane	17	1.2
4,4-DDD	66	6.0
4,4-DDE	470	1.2
4,4-DDT	110	10.0
Dieldrin	3	10.0
PCBs	3800	31.0
Toxaphene	260	500

TMDL Monitoring Inconsistency

- **TMDL requires a monitoring program**
- **Calleguas Creek TMDL**
 - **End-of-pipe**
 - **In-stream monitoring**
 - **Will cost stakeholders \$1M per year.**
- **Draft permit**
 - **Monitoring at each major outfall and drainage basin, and will**
 - **Add at least \$1.5 million per year to cost.**

Requirement for Consistency

- **EPA Regulations require that effluent limits in NPDES permits be “...consistent with the assumptions and requirements of any available waste load allocation ... prepared by the state and approved by EPA.” 40 CFR 122.44(d)(1)(vii)B)**

Conclusion

- **The Draft Permit is inconsistent with the approved TMDLs and WLAs**
- **Federal regulations and guidance do not mandate numeric effluent limits**

Recommendation

- **Modify the Draft Permit to be consistent with WLAs in approved TMDLs**
- **Delete requirement for TMDL monitoring where submitted monitoring program exists**

Public Information and Participation
Program

City of Port Hueneme
Fred Camarillo

September 20, 2007

Public Information and Participation Program (PIPP)

Educational Outreach Requirements

Part 5C I (c) (6)

Requires permittees to provide schools with stormwater educational materials

Part 5C I (c) (8)

Requires permittees to measure effectiveness of in-school educational programs

Issues : Conflicts with Public Resources Code and permit Findings, permittees lack authority over school curriculum, measurement of effectiveness becomes very difficult

Recommend: Direct staff to work with permittees in establishing a feasible educational goal that makes best use of our resources.

PIPP Business Program

Corporate Outreach Requirements

- Requires permittees to educate corporate managers
- Requires all target facilities be contacted no less than twice during the permit term

Recommend : Allow local facility managers to be point of contact. This can facilitate better working relationships within each permittees jurisdiction. Reduce outreach contacts to once during the permit term unless otherwise warranted.

Business Assistance Program

- Requires permittees to provide technical assistance in identifying and implementing pollution prevention methods and BMP's.

Recommend: Direct staff to clarify. As written, it appears that permittees may face liability issues.

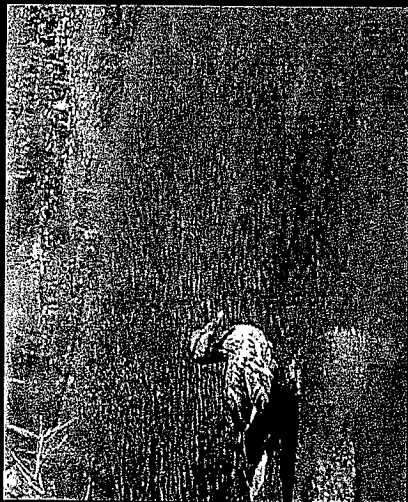
LOW IMPACT DEVELOPMENT (LID)

City of Simi Valley

Kevin Gieschen

September 20, 2007

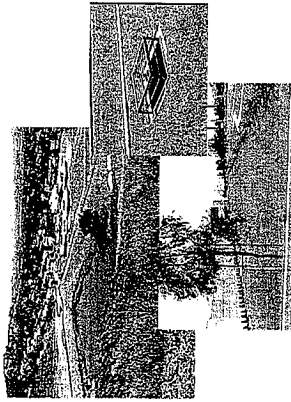
LOW IMPACT DEVELOPMENT



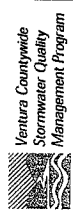
Ventura County
Strongly Promotes
Beneficial LID!



Technical Guidance Manual
for
Stormwater Quality Control Measures

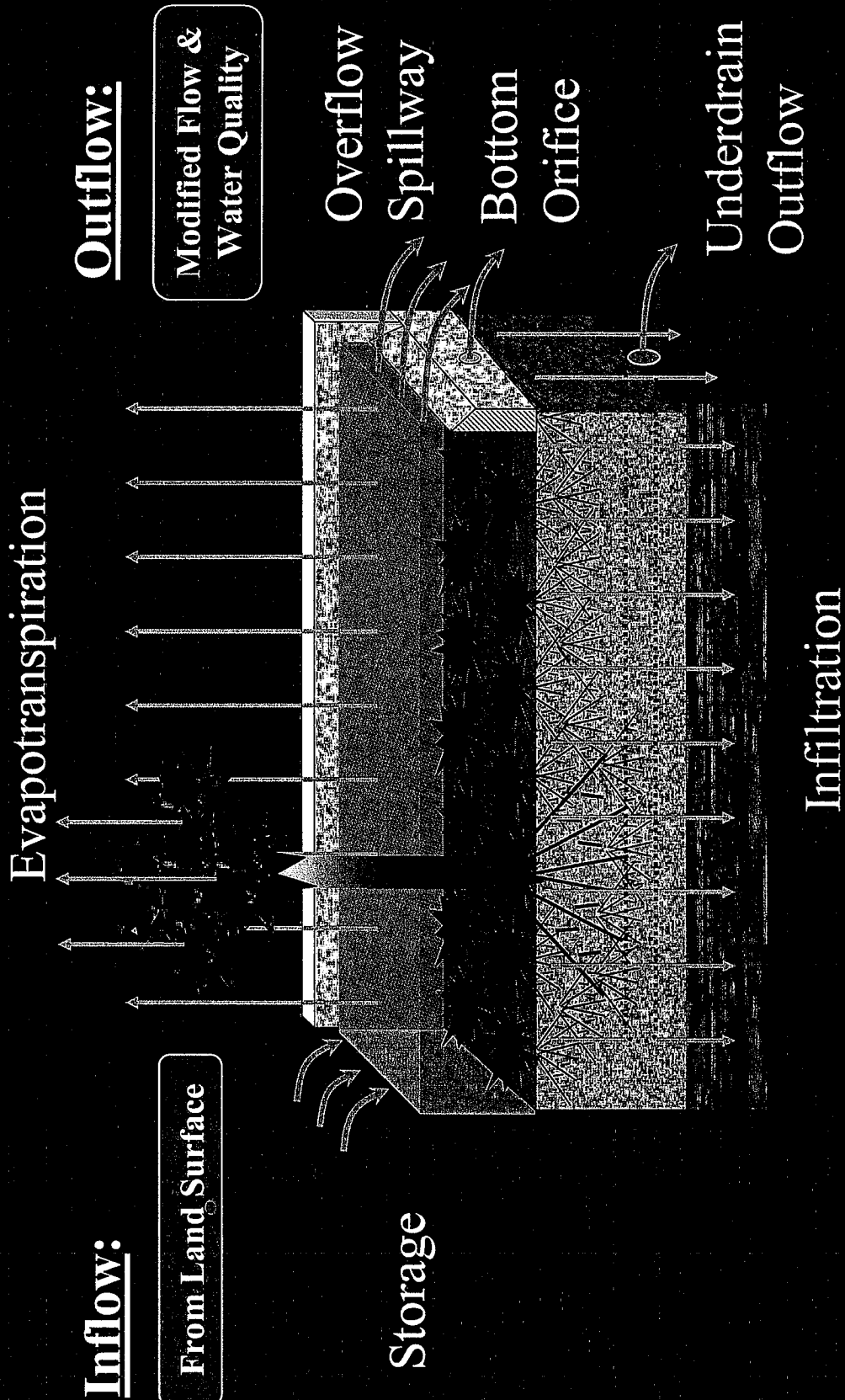


July 2002



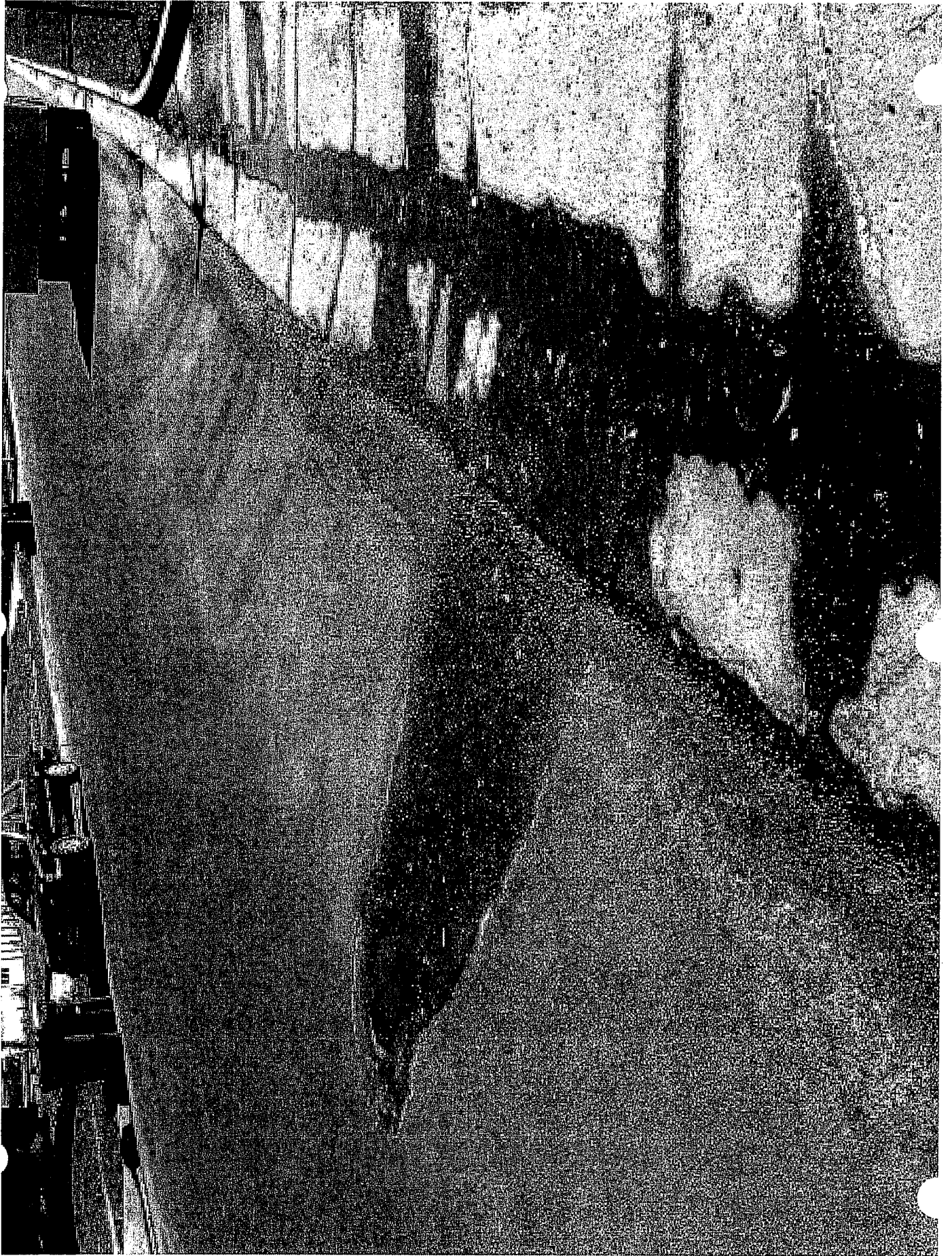
Ventura Countywide
Stormwater Quality
Management Program

LID BMP Storage/Detention



Concerns

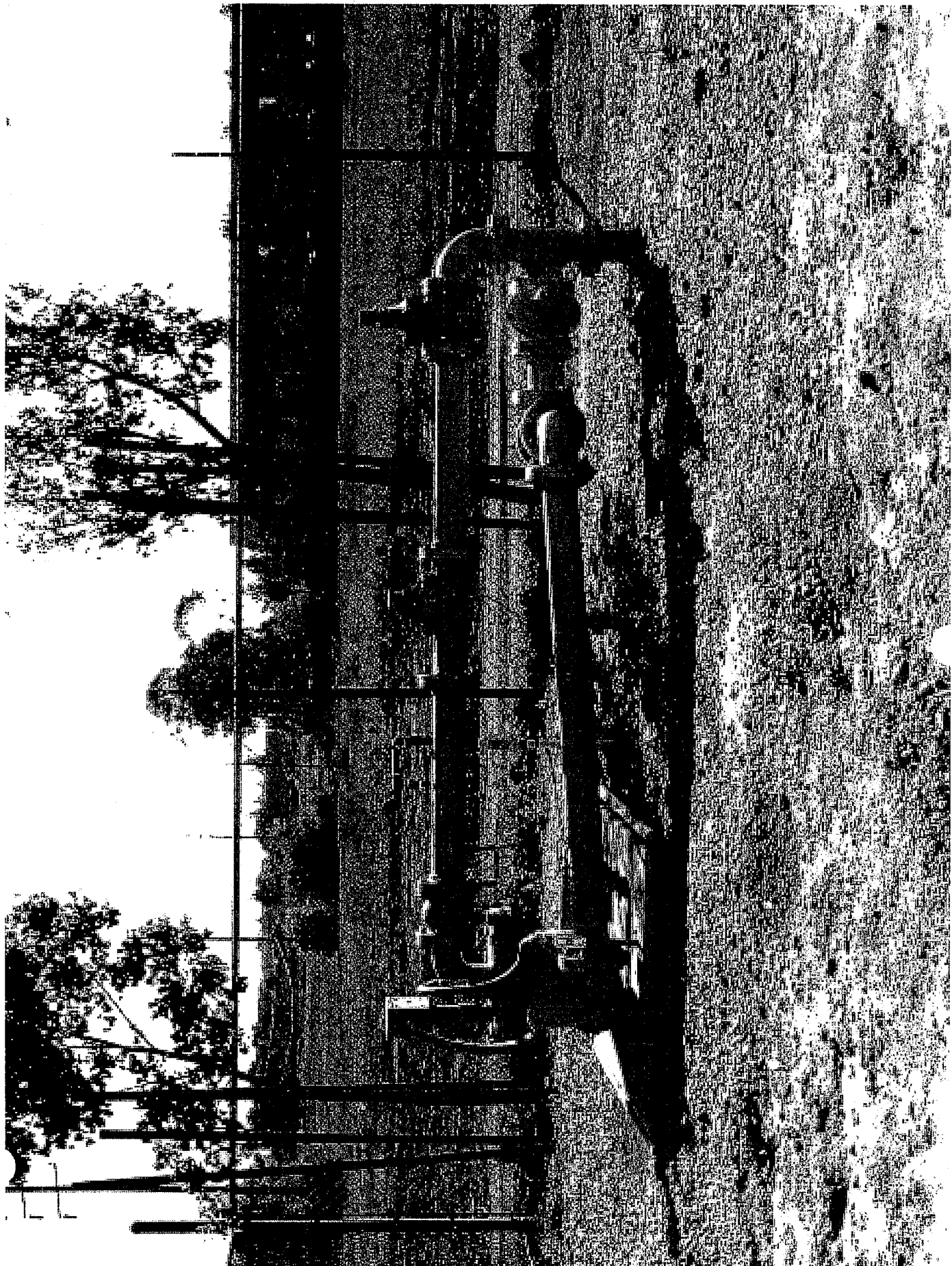
- **Clay Soils and Ground Water Issues (Exacerbate high ground water problems in middle and West side of Simi Valley)**
- **Water Conservation Issues (low number of days of rain fall, so increase water consumption for vegetated LID BMP's maintenance)**



C000320



C000321



C000322

Recommendations

- **Help us to increase our use of LID as a tool, not a forced “one size fits all.”**
- **Require increased integration of LID into our existing “Technical Guidance Manual for Stormwater Quality Control Measures”**
- **Allow us to continue to participate with the Local Government Commission on the current Model Low Impact Development Project.**

**Public Construction Activities and
Long Term Maintenance Programs**

**Regional Water Quality Control Board Workshop
Draft Ventura County Stormwater Permit
September 20, 2007**

**Jay Spurgin
City of Thousand Oaks**

**Public Construction Activities Management
Draft Permit §5.G.I.1**

“(a) Each Permittee shall implement and comply with the Planning and Land Development Program requirements in Part 5.E of this Order at all Permittee owned or operated public construction projects.”

- **Why?**
- **Example: Traffic signal construction project – minimal disturbed area**

“(b) Each Permittee shall implement and comply with the Development Construction Program requirements in Part 5.F. of this Order at all Permittee owned or operated construction project

- **Example: Minor water line replacement – minimal disturbed area; line, grade, capacity and original use of facility unchanged by construction activity**

“(c) Each Permittee shall obtain coverage under the CASGP for construction activities and projects that are:

(1) Covered under one (or more) Capital Improvement Projects (including but not limited to street repaving, new streets, channel clearing) or contract, and that individually or cumulatively disturb 1 acre or more of land.”

- **Projects that “cumulatively disturb 1 acre or more”?**
- **Public Capital Improvement Plans are not like a “common plan of development” in the private sector.**

**Long Term Maintenance Programs
Draft Permit §5.G.1.2(b)**

“(b) Each Permittee shall obtain coverage under the CASGP no later than (7 days after Order adoption date) for long-term maintenance programs including maintenance of flood control channels (such as vegetation removal), maintenance or replacement of streets, sidewalks, roads, and any other project the Permittee undertakes including all Capital Improvement Projects (CIP) if either 1 or more acres of land are disturbed by grading, clearing or excavation activities for an individual project or cumulatively as a part of several projects involving a soil disturbance.”

Recommendations

- The Ventura County Stormwater Permit should require the Permittees to meet the same permit requirements as those imposed on other (non-permitted) public agencies and private companies.
- Revise the draft permit language so that it is consistent with the definition of “construction”.

Municipal Action Levels

Vicki Musgrove – City of Ventura

Ventura Draft MS4 Permit Workshop

September 20, 2007

Use of Municipal Action Levels

- Numeric Effluent Limits = MEP
- Enforceable Compliance Endpoints
- Over 200 Compliance Points
- Mandatory Minimum Penalty Fines

A BIG Leap for Stormwater Programs.

Ventura County

- 800,000 Total Population
- 6 of 10 - Phase Two Populations
- History of Water Quality Success
- National Model TMDL
- Best Beach Report Cards in So. California
- Watersheds Largely Undeveloped

Ventura County Watersheds

	Ventura River	Santa Clara River	Calleguas Creek
Urban	3%	5%	25%
Ag	10%	18%	25%
Open Space	87%	78%	50%

We Support Performance Measures!

- CASQA Approach

INCLUDING

- Numeric Action Levels that:
 - ◆ Identify Problems and Serve as a Call to Action
 - ◆ Are Technically Sound and Relevant
 - ◆ Support the TMDL Programs

Numeric Action Levels
Should
Be Consistent with Policy and State
of Knowledge

Municipal Stormwater Compliance Standard

- Municipal stormwater program is required to reduce pollutants in its discharges to the maximum extent practicable (MEP).

Clean Water Act, Section 402(p)

EPA Policy

“In regulating stormwater permits the EPA has repeatedly expressed a preference for doing so by way of BMPs, rather than by way of imposing technology based or water quality based numerical limitations.”

(Divers’ v. SWRCB (2006) 145 Cal.App.4th 246, 256.)

Court Definition of MEP

Broadly defined to be a highly flexible concept that balances numerous factors Including

- *Technical feasibility*
- *Cost*
- *Public Acceptance*
- *Regulatory Compliance*
- *Effectiveness*

(BIA of San Diego County v. SWRCB (2004) 124 Cal.App.4th 866, 889.)

MALs Contrary to Blue Ribbon Panel

“It is not feasible at this time to set enforceable numeric effluent criteria for municipal BMPs and in particular urban discharges.....
For catchments not treated by a structural or treatment BMP, setting a numeric effluent limit is basically not possible.”

Action Levels
Should Be
Technically Sound
and Relevant

MAL Example - Nickel

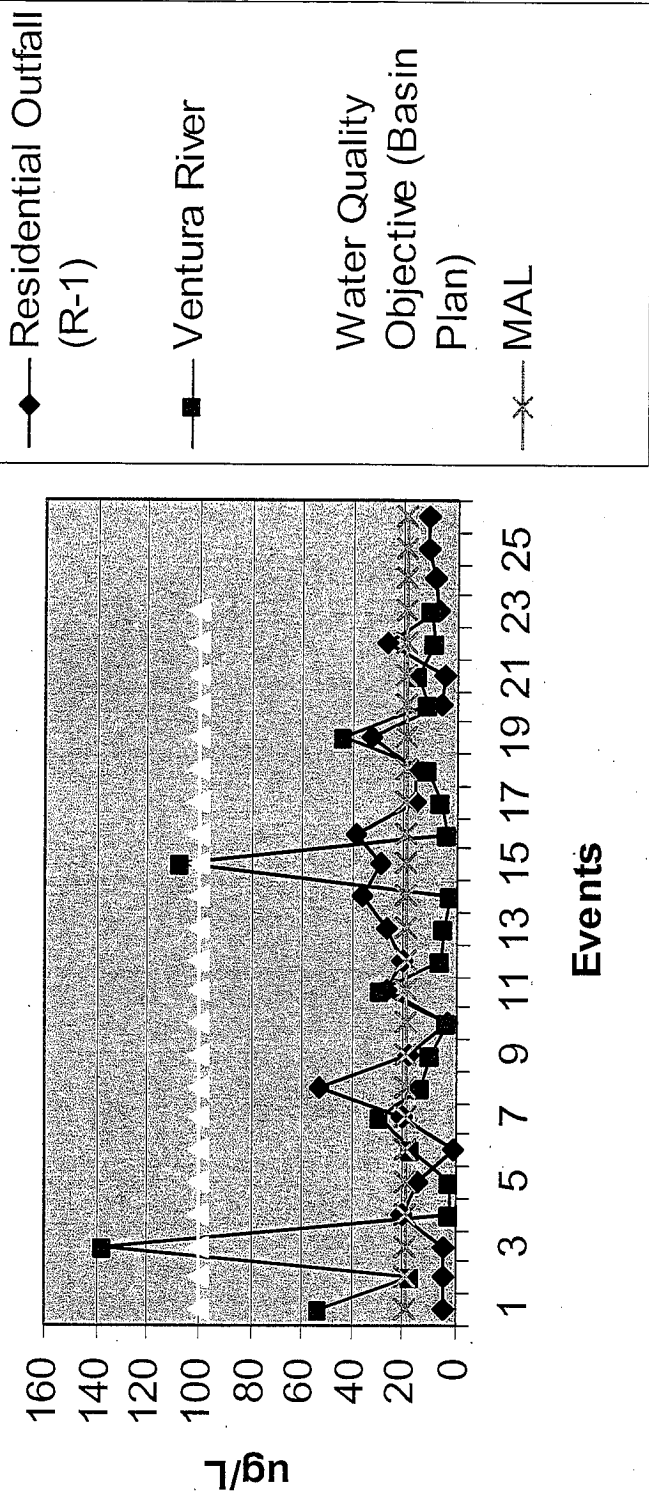
Nickel Compliance

Water body/discharge	Percentage > MAL
Calleguas Creek	59
Santa Clara River	70
Ventura River	26
Residential outfall	41
Industrial outfall	58

Compliance is based on whether >20% of samples exceed MAL of 19.2 ug/L

Nickel - MALS vs. Reality

Nickel Comparison



How do we comply and is it relevant?

- Source controls
 - ◆ Soils
 - ◆ Alloys (industrial)
- Treatment controls
 - ◆ ASCE database
 - ◆ Unknown performance for Ni removal

Our Action Levels
Should
Support TMDLs

MALS vs. TMDLS

MALS / Effluent Limits	TMDL
Arbitrary approach	Focused approach
Stormwater outfall focus	Watershed focus— all sources
Artificially mandated	Stakeholder driven
3 year compliance/ unknown implementation plan	Realistic time schedule/ feasible implementation plan

Recommendations

Direct Staff to:

- Include MALS in Permit as an Assessment Tool/Action not as EOP Effluent Limits
- Base MALS on Technically Sound Local Data
- Focus on Relevant Pollutants
- Coordinate MALS with TMDL programs

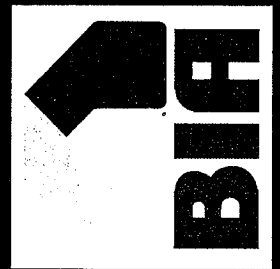
Points to Consider

- Ventura understands the importance of and supports the development of a model clean water program
- Draft permit provides some good and some counterproductive approaches
- Cost implications are staggering, particularly with the limitations of Proposition 218

**BIA of Southern California—Greater
Los Angeles-Ventura Chapter and
Construction Industry Coalition on
Water Quality**

**Builder-Contractor Comments on the
Draft Ventura County MS4 Permit
September 20, 2007**

Mark Grey, Ph.D., Technical Director, BIASC/CICWQ



Planning and Land Development

Issue #1: Effective Impervious Areas set at 5%--no allowance for project scale, location of disconnection or feasibility

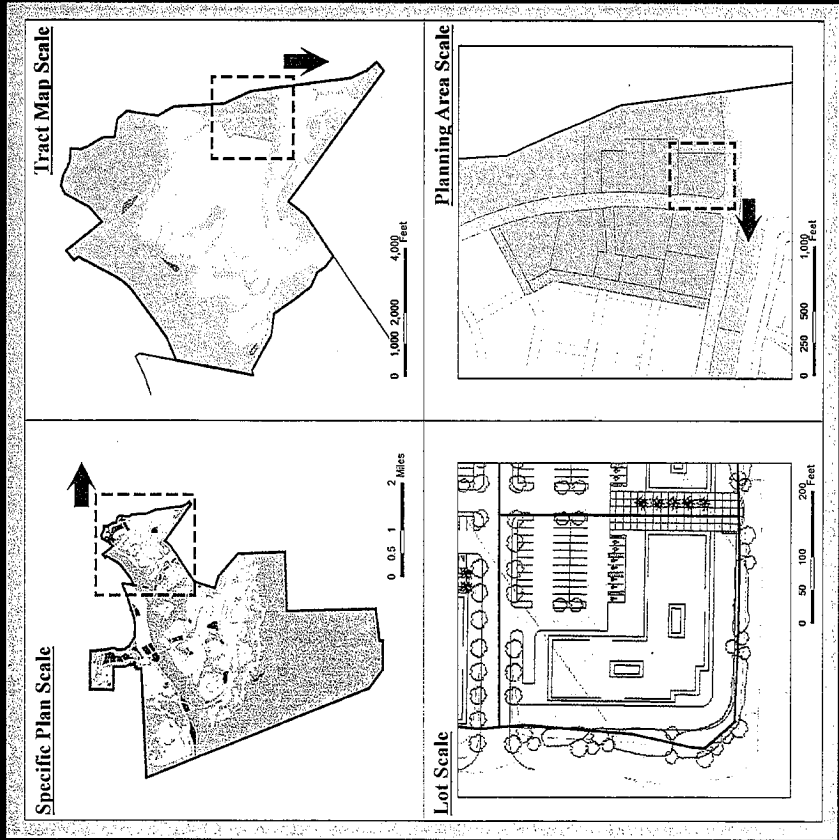
Draft Permit: Section E-III. Criteria, No. 1., page 51.

Concerns:

- Perviousness varies throughout the landscape—infiltration doesn't have to and sometimes should not occur on-site
- Points downstream of site/upstream of discharge point can serve to infiltrate runoff up to a point (e.g., low flows or first flush)
- As written, will encourage sprawl/discourage optimal siting
- Redevelopment and infill sites not within an RPAMP are clearly at a disadvantage in complying with 5% numeric criteria....and with LID and Hydromodification criteria

Planning and Land Development: Infiltration, Impervious Surfaces, and Scale

- Permit must consider project scale—it doesn't
- Consider percent imperviousness at all scales—it doesn't
- Consider the special needs of infill and redevelopment projects—it doesn't
- Infeasibility variance needed when study shows that all available strategies are considered, but is not technically and economically feasible to meet the standard



Planning and Land Development

Issue #2: Implementation of Low Impact Development Site Design Features/Pollutant Removal BMPs

Draft Permit: Section E-III. Criteria, No. 2., page 51.

Concerns:

- Must have clear language providing permittees with the discretion to approve LID site design features that accommodate local conditions
- Clarify language of the Permit now; no potential for “clarification” letters
- The Permit as well as technical guidance must allow consideration of local constraints and feasibility in setting LID: climate, soils, ground water, and receiving waters
- Clearly define that permittees establish LID “points” scoring criteria based on local conditions and needs—doesn’t change during permit
- Clarify high flows need not be disconnected

Planning and Land Development

Issue #3: Hydromodification Permit Language

Draft Permit: Section E-III. Criteria, No. 3., page 52-55

Concerns:

- Requiring “maintaining” of pre-development runoff is technically infeasible if construed as an “absolute.” There will always be some alteration of the hydrograph due to land development; therefore it should reasonably approximate pre-development conditions
- Need to clearly define when and where waivers will apply
- Clarify that final HCS criteria will replace interim criteria and that LID “points” scoring system achieves hydromodification compliance, i.e., LID and treatment BMPs achieve compliance

Planning and Land Development

Issue #4: Effective Date of Order Requirements

Draft Permit: Section E-II, Applicability, No. 3 (a): Effective Date. “requirements.....shall apply....to projects that have not received tentative tract map and post construction control approval prior to 90-days after Order adoption...”

Concerns:

- 90-day period does not match current timing of project approvals in Ventura County
- Current project approvals require 12 to 18-month period to receive necessary approvals
- The permit should read: “requirements.....shall apply...to any projects for which a complete tentative tract map application has been filed prior to 30-days after Order adoption...”

Planning and Land Development

Issue #5: Seasonal Grading Ban/Forced ATS deployment

Draft Permit: Section F-1. Development Construction Program, page 61.

Concerns:

- 6-month grading ban is inconsistent with SWRCB direction in assessing site risk and deploying BMPs according to site risk and phase of construction
- Approach in Permit forces use of ATS if a grading ban waiver is sought
- ATS systems can be toxic and would be required to achieve numeric standards in permit....use in ecologically sensitive areas is questionable given history of toxic polymer release
- Any fixed numeric standard would be arbitrary considering the extreme variability of natural sediment concentrations and loads

Implementation

Issue #6: New Enforcement Authority

Draft Permit: Section E-IV.3. Development Construction Program, page 58.

- New provision in this draft appears to attempt to create novel, unprecedented, and unauthorized joint liability for non-permittees
- Seems to be designed as a future “gotcha” provision so that Clarification Letters that re-interpret Permit requirements can be easily issued later
- Permit should clearly delineate up front what is required of new development for the entire period of the new permit, and permittees will enforce and developers will implement

Implementation

Issue #7: Alternative Post-Construction BMP Programs

Draft Permit: Section E-IV.4 and 5 Development Construction Program, page 58-60.

- Permit should encourage “Specific Plan” level planning for LID, Hydromodification and water quality control BMPs via stormwater mitigation plans, RPAMPs, and regional/subregional facilities
- Current provisions make it harder to create water quality master plans:
 - hold master plan BMPs to higher standards
 - make approval process longer and more difficult
 - includes unnecessary constraints regarding timing of implementation in light of planning scale

Summary Points

- BIA and CICWQ support the use of LID concepts in land development...but not on a lot-by-lot, one-size fits all basis when larger scale approaches are preferable
- Draft permit must consider scale and local physical conditions when implementing LID and hydromodification approaches
- Avoid vague, absolute permit language and “gotcha” provisions that could be subject to later, prescriptive “clarification” and enforcement measures
- Draft permit must accommodate infill and redevelopment projects that will occur outside a coordinated planning effort, ala RPAMP....provide alternative solutions to site designs
- Provide permit consistency with SWRCB general construction permit; do not impose grading bans
- Encourage water quality master planning



Municipal Action Levels & Assessing Compliance and Effectiveness

Geoff Brosseau
California Stormwater Quality
Association (CASQA)

September 20, 2007



Numeric effluent limits infeasible

Water Boards

Blue-Ribbon Panel

- "It is not feasible at this time to set enforceable numeric effluent criteria for municipal BMPs and in particular urban discharges..."

2nd draft Ventura permit

- "Discharges of storm water from the MS4 to waters of the U.S. shall not exceed the Municipal Action Levels (MALs) for the pollutants listed..."



MALS ≠ MEP

Water Boards Blue-Ribbon Panel

- “For catchments not treated by a structural or treatment BMP, setting a numeric effluent limit is basically not possible. However, the approach of setting an “upset” value, which is clearly above the normal observed variability, may be an interim approach which would allow “bad actor” catchments to receive additional attention. For the purposes of this document, we are calling this “upset” value an **Action Level** because the water quality discharge from such locations are enough of a concern that most all could agree that some action should be taken ...”

2nd draft Ventura permit

- “A running average of twenty percent or greater of exceedances of any MAL will create a presumption that the Permittee(s) have not complied with the Maximum Extent Practicable (MEP) provision in Part 4 A.2., and have failed to implement adequate storm water control measures and BMPs to comply with the MEP standard.”

≠

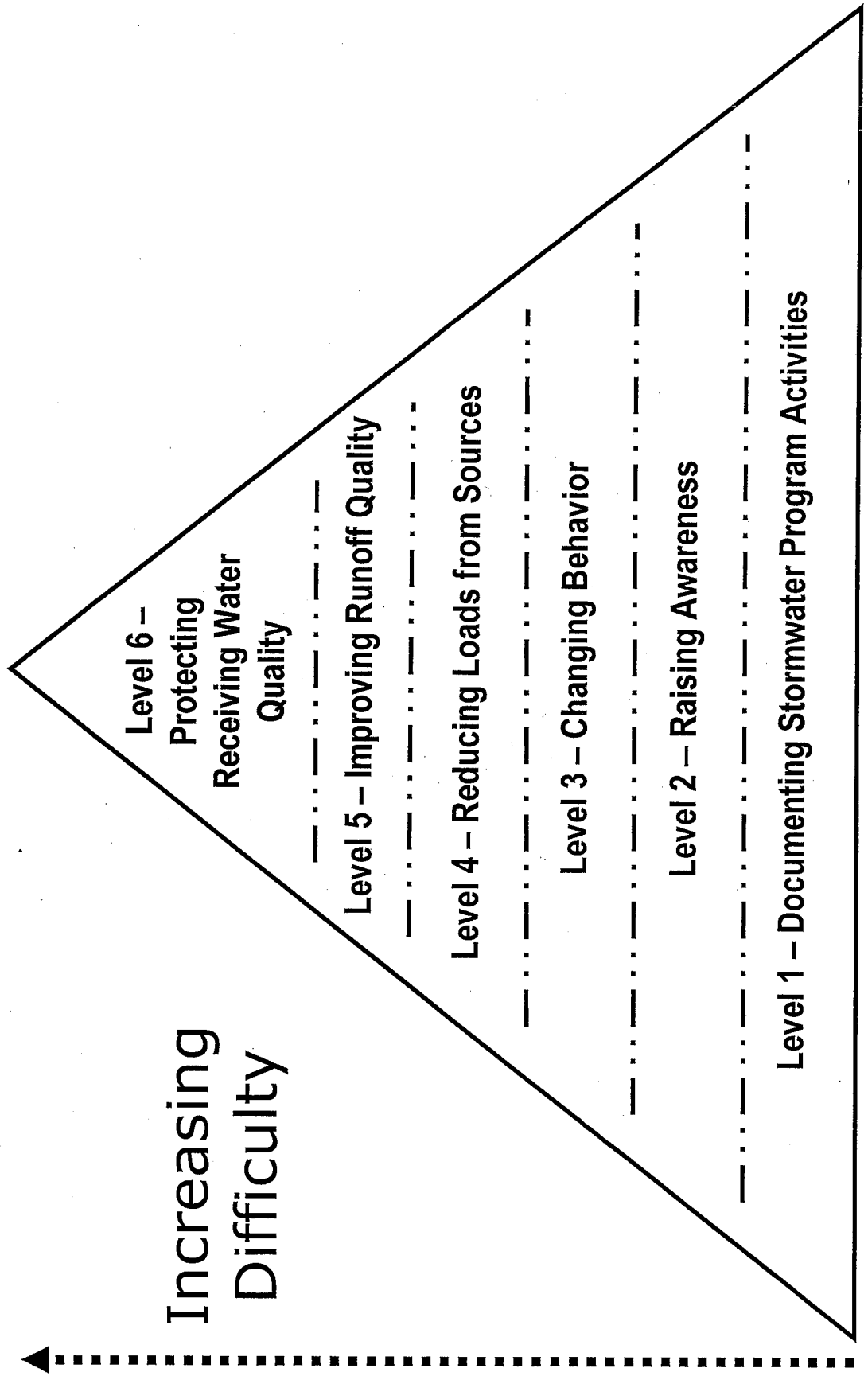


Quantifiable Approach for assessing Permit Compliance and Program Effectiveness

C000362



Assessment Outcome Levels



Action Levels – Draft Examples

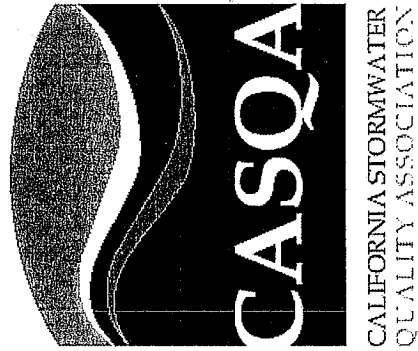
Program Element	Outcome Level	Goal	Examples of Defining Quantifiable Measure	Action Level
Illegal Discharges / Illicit Connections	Level 3 – Changing Behavior	Respond rapidly and efficiently to illicit discharges	% of illicit discharges impacting human health responded to within 24 hours upon receiving notification	80
		Eliminate all illegal connections	% of illegal connections eliminated or permitted once detected	80

CASQA Quantifiable Approach

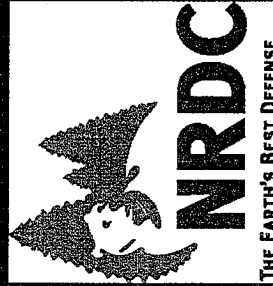
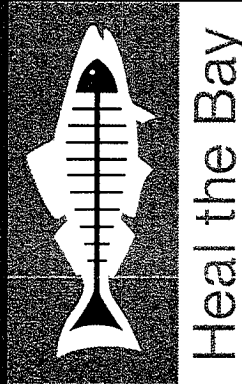
- Incorporates:
 - Water Board’s expert Blue-Ribbon Panel’s Action Level concept
 - CASQA’s Effectiveness Assessment method
 - standard regulatory options for NPDES permitting and TMDL implementation
- Introduces two significant enhancements to compliance determination:
 - triggers
 - measures of achievement



Thank you



Comments on the Second Draft Ventura County MS4 Permit



September 20, 2007

Municipal Action Levels

Includes:

- pH
- TSS
- COD
- Nutrients
- Total Metals



Missing:

- OP pesticides
- PAHs
- Chlorides
- Bacteria



MAIs are Seriously Flawed...

MALs vs. CTR Criteria

Parameter	Proposed MAL (ug/L)	CTR Acute Criterion(ug/L)	CTR Chronic Criterion(ug/L)
Total Cu	70.7	13.5	9.38
Total Pb	62.2	82.17-110	3.16-4.24
Total Ni	19.2	470.9	52.16
Total Zn	756	122.7	121.7

SW Quality Management Program Implementation

- “All storm water treatment BMPs implemented under the MEP provisions of this order shall be designed to achieve, at a minimum, a storm water discharge effluent quality for the water quality design storm, equal to the pollutant MALS...”

Biofilters

Effluent Percentiles (ug/L)

Parameter	Effluent Percentiles (ug/L)			Proposed MAL	unit
	10th	50th	95th		
Cd, total	0.149	0.206	1.258	7.34	ug/L
Cu, total	2.656	7.984	44.607	70.7	ug/L
Pb, total	1	4.157	66.517	62.2	ug/L
Nitrate + Nitrite, total	0.174	0.611	2.215	1.16	mg/L
N, Kjeldahl, total	0.633	1.342	6.378	3.5	mg/L
P, total	0.056	0.24	1.167	0.82	mg/L
TSS	3.043	20.027	233.464	211	mg/L
Zn, total	6.395	30.256	181.275	756	ug/L

Credit: Geosyntec Consultants

Hydrodynamic Devices

Effluent Percentiles
(ug/L)

Parameter	10th	50th	95th	Proposed MAL	unit
Cd, total	0.038	0.382	5.047	7.34	ug/L
Cu, total	3.34	15.409	38.55	70.7	ug/L
Pb, total Nitrate + Nitrite, total	1.351	6.297	42.576	62.2	ug/L
N, Kjeldahl, total	0.078	0.226	0.707	1.16	mg/L
P, total	0.351	1.086	5.984	3.5	mg/L
TSS	0.023	0.148	2.612	0.82	mg/L
Zn, total	5.543	43.173	303.15	211	mg/L
	17.793	69.089	291.03	756	ug/L

Credit: Geosyntec Consultants

Municipal Storm Water Discharge Limitations

- “A running average of twenty percent or greater of exceedences of any MAL will create a presumption that the Permittees have not complied with the MEP provision...”

Recommendation...

Performance Criteria

Parameter	Effluent Percentiles (ug/L)		
	10th	50th	95th
Cd, total	0.038	0.382	5.047
Cu, total	3.34	15.409	38.55
Pb, total	1.351	6.297	42.576
Nitrate + Nitrite, total	0.078	0.226	0.707
N, Kjeldahl, total	0.351	1.086	5.984
P, total	0.023	0.148	2.612
TSS	5.543	43.173	303.15
Zn, total	17.793	69.089	291.03

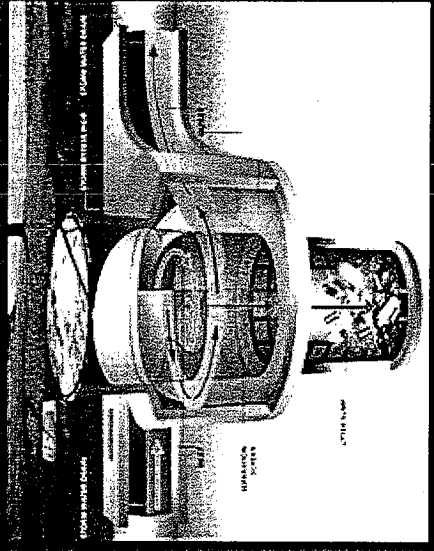
Credit: Geosyntec Consultants

Performance Criteria

The Order is intended “to reduce the discharge of pollutants in storm water to the MEP and achieve water quality objectives...”

Proposed Change:

- Add performance based criteria based on the 50th percentile performance
- 25% if RWL exceedence



TMDLs and Waste Load Allocations (WLAAs)

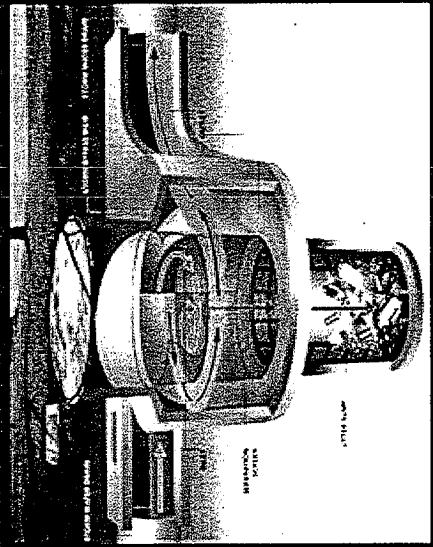
- “Each Permittee shall implement programs and measures to comply with TMDLs’ WLAAs for the MS4 as follows:
 - (a) Storm Water Discharges – achieve the concentration or load based numerical limitation or its BMPs expression for wet weather discharge...or implement the BMPs which have a reasonable expectation, when fully implemented, to achieve the WLAAs...”

Performance Criteria

The Order is intended “to reduce the discharge of pollutants in storm water to the MEP and achieve water quality objectives....”

Proposed Change:

- Add performance based criteria based on the 50th percentile performance
- 25% if RWL exceedence



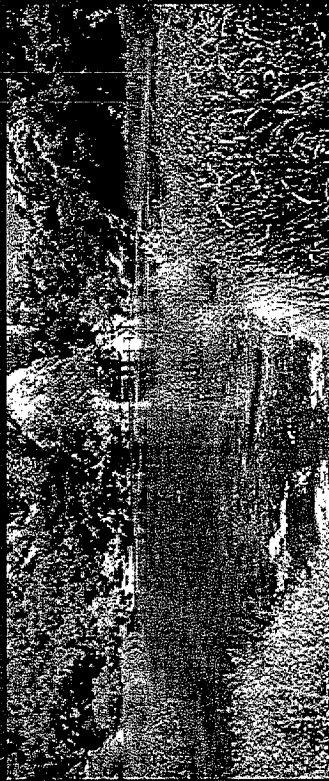
TMDLs and Waste Load Allocations (WLAAs)

- “Each Permittee shall implement programs and measures to comply with TMDLs’ WLAAs for the MS4 as follows:
 - (a) Storm Water Discharges – achieve the concentration or load based numerical limitation or its BMPs expression for wet weather discharge...or implement the BMPs which have a reasonable expectation, when fully implemented, to achieve the WLAAs...”

TMDLs (cont.)

Missing TMDLs:

- Calleguas Creek Nitrogen TMDL
- Calleguas Creek Chloride TMDL
- Santa Clara Chloride TMDL
- Malibu Creek Nutrients TMDL
- Calleguas Creek Metals and Selenium TMDL



TMDLs (cont.)

Missing Implementation Requirements:

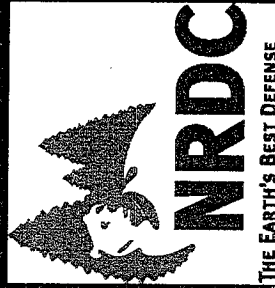
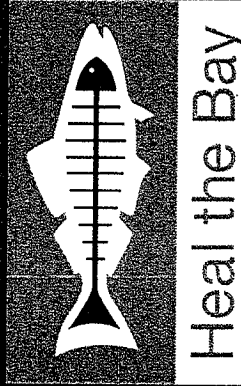
- Interim WLAs
- Monitoring Program
- Required Special Studies
- Annual Progress Reports
- Work plans

Attachment A to Resolution No. R4-2006-012

Table 7-19.2 Calleguas Creek Watershed Metals and Selenium TMDL:

Item	Implementation Schedule	Implementation Action	Responsible Party	Completion Date
1	Effective date of Interim Metals and Selenium TMDL, waste load allocation (WLA), and final WLAs for other NPDES permittees		POTWs, Permitted Stormwater Dischargers, PSDs, Agricultural Dischargers, Other NPDES Permittees	Effective date of the amendment
2	Effective date of Interim Metals and Selenium TMDL load allocation (LAs)		Agricultural Dischargers	Effective date of the amendment
3a	Submit Calleguas Creek Watershed Metals and Selenium Monitoring Program		POTWs, PSD, Agricultural Dischargers	Within 3 months after the effective date of the amendment
3b	Implement Calleguas Creek Watershed Metals and Selenium Monitoring Program		POTWs, PSD, Agricultural Dischargers	Within 3 months of approval of the monitoring program
3c	Re-calibrate HSPF water quality model based on first year of monitoring data		POTWs, PSD, Agricultural Dischargers	1 year after submittal of first annual monitoring report
4a	Conduct a source control study, develop and submit an Urban Water Quality Management Program (UWQMP) for copper, mercury, nickel, and selenium		MS4s	Within 2 years after the effective date of the amendment
4b	Conduct a source control study, develop and submit an LWQMP for copper, mercury, nickel, and selenium		Caltrans	Within 2 years after the effective date of the amendment
4c	Conduct a source control study, develop and submit an LWQMP for copper, mercury, nickel, and selenium		NAWS point Muga (US Navy)	Within 2 years after the effective date of the amendment
5	Implement LWQMP		PSD	Within 1 year of approval of LWQMP by the Executive Officer
6	Develop and submit an Agricultural Water Quality Management Program (AWQMP) as described in the Conditional Waiver Program		Agricultural Dischargers	Within 2 years after the effective date of the amendment
7	Implement AWQMP		Agricultural Dischargers	Within 1 year of approval of AWQMP by the Executive Officer
8	Develop WLAs and LAs for zinc if impairment for Mono Lagoon is maintained on the final 2006 303(d) list		Regional Board or USEPA	Within 1 year of the final 2006 303(d) list
9	Submit progress report on salinity management plan, including status of reducing WRP effluent discharges to Conejo and Calleguas Creek reaches of the watershed		POTWs	Within 3 years after the effective date of the amendment
10	If progress report identifies the effluent discharges reduction is not progressing, develop and		POTWs	Within 4 years after the effective date of the amendment

Comments on the Second Draft Ventura County MS4 Permit



September 20, 2007

Municipal Action Levels

Includes:

- pH
- TSS
- COD
- Nutrients
- Total Metals



Missing:

- OP pesticides
- PAHs
- Chlorides
- Bacteria



MALs are Seriously Flawed...

MALS vs. CTR Criteria

Parameter	Proposed MAL (ug/L)	CTR Acute Criterion(ug/L)	CTR Chronic Criterion(ug/L)
Total Cu	70.7	13.5	9.38
Total Pb	62.2	82.17-110	3.16-4.24
Total Ni	19.2	470.9	52.16
Total Zn	756	122.7	121.7

SW Quality Management Program Implementation

- “All storm water treatment BMPs implemented under the MEP provisions of this order shall be designed to achieve, at a minimum, a storm water discharge effluent quality for the water quality design storm, equal to the pollutant MALS...”

Biofilters

Effluent Percentiles (ug/L)

Parameter	Effluent Percentiles (ug/L)			Proposed MAL	unit
	10th	50th	95th		
Cd, total	0.149	0.206	1.258	7.34	ug/L
Cu, total	2.656	7.984	44.607	70.7	ug/L
Pb, total	1	4.157	66.517	62.2	ug/L
Nitrate + Nitrite, total	0.174	0.611	2.215	1.16	mg/L
N, Kjeldahl, total	0.633	1.342	6.378	3.5	mg/L
P, total	0.056	0.24	1.167	0.82	mg/L
TSS	3.043	20.027	233.464	211	mg/L
Zn, total	6.395	30.256	181.275	756	ug/L

Credit: Geosyntec Consultants

Hydrodynamic Devices

Effluent Percentiles
(ug/L)

Parameter	10th	50th	95th	Proposed MAL	unit
Cd, total	0.038	0.382	5.047	7.34	ug/L
Cu, total	3.34	15.409	38.55	70.7	ug/L
Pb, total Nitrate + Nitrite, total	1.351	6.297	42.576	62.2	ug/L
	0.078	0.226	0.707	1.16	mg/L
N, Kjeldahl, total	0.351	1.086	5.984		3.5 mg/L
P, total	0.023	0.148	2.612		0.82 mg/L
TSS	5.543	43.173	303.15		211 mg/L
Zn, total	17.793	69.089	291.03		756 ug/L

Credit: Geosyntec Consultants

Municipal Storm Water Discharge Limitations

- “A running average of twenty percent or greater of exceedences of any MAL will create a presumption that the Permittees have not complied with the MEP provision...”

Recommendation...

Performance Criteria

Effluent Percentiles

(ug/L)

Parameter	10th	50th	95th
Cd, total	0.038	0.382	5.047
Cu, total	3.34	15.409	38.55
Pb, total	1.351	6.297	42.576
Nitrate + Nitrite, total	0.078	0.226	0.707
N, Kjeldahl, total	0.351	1.086	5.984
P, total	0.023	0.148	2.612
TSS	5.543	43.173	303.15
Zn, total	17.793	69.089	291.03

Credit: Geosyntec Consultants

Monitoring

Prohibitions:

- Discharges causing or contributing to a condition of pollution, contamination or nuisance
- Discharges causing or contributing to exceedences of receiving water quality objectives



Monitoring Objectives

- Assess impacts on receiving water
- Assess overall health of receiving water and long-term trends
- Assess compliance with effluent limits and WQOs

Monitoring (cont.)

- 3-5 mass emission stations
- Tributary stations (removed)
- Bioassessment (removed)

Proposed Action:

- Include tributary and bioassessment monitoring
- Increase number of locations
- Define “major outfall”
- Conform with toxicity Requirements in SMBRC Guidance Document



LOW IMPACT DEVELOPMENT (LID)

C000396

General LID Principles

- LID is an ecologically-friendly approach to site development and stormwater management that helps prevent impacts to land and water resources.
- LID conserves the natural systems and hydrologic functions of a site.
- LID focuses on prevention rather than mitigation.

10 Common LID Practices:

1. Reduce & disconnect impervious surface (*Effective Impervious Area*)
2. Soil amendment
3. Permeable pavers
4. Rain gardens & bioretention
5. Sidewalk storage
6. Vegetated swales, buffers, & strips
7. Roof downspout disconnection
8. Rain barrels & cisterns
9. Rooftop gardens
10. Pollution prevention & good housekeeping

Effective Impervious Area: 3% Standard

- Above 2-3% EIA, there are significant adverse impacts to the biological integrity of receiving waters. These impacts are prominent at 5% EIA.¹
- Streams in California are particularly susceptible to the negative effects of hydromodification.²
- Ventura County still has many natural stream systems with a high degree of natural functionality.³

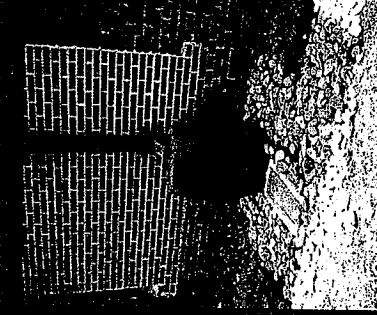
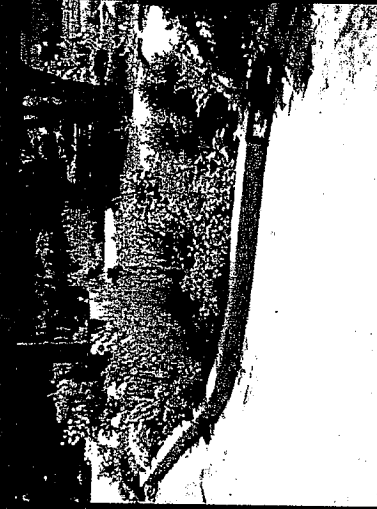
¹ Richard R. Horner, *Investigation of the Feasibility and Benefits of Low-Impact Site Design Practices ("LID") for Ventura County* (February 2007).

² D. Coleman, C. MacRae, and E.D. Stein, *Effect of Increases in Peak Flows and Imperviousness on the Morphology of Southern California Streams*, Southern California Coastal Water Research Project Technical Report #450.

³ Los Angeles Region Water Quality Control Plan (1994).

Effective Impervious Area in the Permit

- To be rendered “ineffective,” impervious surfaces must drain to areas where stormwater can infiltrate or to storage containers for reuse.



- The Draft Permit’s EIA standard could be negated by a loophole allowing runoff to enter the storm sewer system through vegetated cells or swales without proper infiltration capacity (Part 5(E)(III)(1)).

LID Reduces Pollution Best

Pollutant Load Reductions in Six Typical Development Scenarios

	Multi-family housing	Small-scale single-family housing	Restaurant	Office	Large-scale single family housing	Commercial
CDS TSS loading reduction	15.70%	19.90%	22.00%	24.00%	19.90%	16.90%
CDS Tcu loading reduction	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
CDS TZn loading reduction	22.70%	22.40%	22.90%	23.10%	22.40%	25.10%
CDS TP loading reduction	30.60%	41.50%	40.70%	45.90%	41.50%	20.30%
EDB TSS loading reduction	68.10%	73.70%	79.00%	81.10%	73.70%	71.70%
EDB Tcu loading reduction	61.90%	55.70%	66.20%	63.00%	55.70%	66.80%
EDB TZn loading reduction	59.70%	59.60%	60.40%	61.90%	59.60%	66.60%
EDB TP loading reduction	61.90%	69.70%	69.10%	72.90%	69.70%	54.50%
Swale TSS loading reduction	68.80%	71.10%	73.10%	73.90%	71.10%	69.40%
Swale Tcu loading reduction	72.50%	68.50%	78.20%	73.30%	68.50%	75.80%
Swale TZn loading reduction	78.40%	78.10%	84.30%	78.80%	78.10%	80.70%
Swale TP loading reduction	66.30%	70.70%	67.20%	76.20%	70.70%	55.00%
Filter strip TSS loading reduction	69.90%	75.40%	80.60%	82.60%	75.40%	72.30%
Filter strip Tcu loading reduction	74.40%	69.10%	78.20%	75.40%	69.10%	78.70%
Filter strip TZn loading reduction	78.30%	77.90%	78.40%	78.70%	77.90%	80.90%
Filter strip TP loading reduction	48.40%	53.10%	63.70%	59.80%	53.10%	34.60%
LID TSS loading reduction	99.40%	99.30%	99.50%	99.40%	99.30%	89.00%
LID Tcu loading reduction	98.10%	96.70%	98.00%	96.20%	96.70%	90.60%
LID TZn loading reduction	99.10%	98.80%	98.90%	98.30%	98.80%	94.80%
LID TP loading reduction	98.10%	98.60%	98.80%	98.70%	98.60%	83.10%

LID Reduces Pollution Best

Pollutant Load Reductions in Six Typical Development Scenarios

	Multi-family housing	Small-scale single-family housing	Restaurant	Office	Large-scale single-family housing	Commercial
CDS TSS loading reduction	15.70%	19.90%	22.00%	24.00%	19.90%	16.90%
CDS Tur loading reduction	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
CDS Tzn loading reduction	22.70%	22.40%	22.90%	23.10%	22.40%	25.10%
CBS TP loading reduction	30.60%	41.50%	40.70%	45.90%	41.50%	20.30%
EDB TSS loading reduction	68.10%	73.70%	79.00%	81.10%	73.70%	71.70%
EDB Tur loading reduction	61.90%	55.70%	66.20%	63.00%	55.70%	66.80%
EDB Tzn loading reduction	59.70%	59.60%	60.40%	61.90%	59.60%	66.60%
EDB TP loading reduction	61.90%	69.70%	69.10%	72.90%	69.70%	54.50%
Swale TSS loading reduction	68.80%	71.10%	73.10%	73.90%	71.10%	69.40%
Swale Tur loading reduction	72.50%	68.50%	78.20%	73.30%	68.50%	75.80%
Swale Tzn loading reduction	78.40%	78.10%	84.30%	78.80%	78.10%	80.70%
Swale TP loading reduction	66.30%	70.70%	67.20%	76.20%	70.70%	55.00%
Filter strip TSS loading reduction	69.90%	75.40%	80.60%	82.60%	75.40%	72.30%
Filter strip Tur loading reduction	74.40%	69.10%	76.20%	76.40%	69.10%	78.70%
Filter strip Tzn loading reduction	78.30%	77.90%	78.40%	78.70%	77.90%	80.90%
Filter strip TP loading reduction	48.40%	53.10%	63.70%	59.80%	53.10%	84.60%
LID TSS loading reduction	99.40%	99.30%	98.50%	98.40%	99.30%	89.30%
LID Tur loading reduction	98.10%	96.70%	95.00%	95.70%	96.70%	90.60%
LID Tzn loading reduction	99.10%	98.30%	98.90%	98.60%	98.30%	97.30%
LID TP loading reduction	98.10%	98.60%	98.80%	98.70%	98.60%	85.10%

Pollution Reduction: Suspended Solids

Pollutant Load Reductions in Six Typical Development Scenarios

	Multi-family housing	Small-scale single-family housing	Restaurant	Office	Large-scale single-family housing	Commercial
CDS TSS loading reduction	16.70%	19.90%	22.00%	24.00%	29.10%	35.10%
CDS Tcu loading reduction	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
CDS TZn loading reduction	22.70%	22.40%	22.90%	23.10%	22.40%	25.10%
CDS TP loading reduction	30.60%	41.50%	40.70%	45.90%	41.50%	20.30%
EDB TSS loading reduction	68.10%	73.70%	79.00%	81.10%	73.70%	71.70%
EDB Tcu loading reduction	61.90%	55.70%	66.20%	63.00%	55.70%	66.80%
EDB TZn loading reduction	59.70%	59.60%	60.40%	61.90%	59.60%	66.60%
EDB TP loading reduction	61.90%	69.70%	69.10%	72.90%	69.70%	54.50%
Swale TSS loading reduction	68.80%	71.10%	73.10%	73.90%	71.10%	69.40%
Swale Tcu loading reduction	72.50%	68.50%	78.20%	73.30%	68.50%	75.80%
Swale TZn loading reduction	78.40%	78.10%	84.30%	78.80%	78.10%	80.70%
Swale TP loading reduction	66.30%	70.70%	67.20%	76.20%	70.70%	55.00%
Filter strip TSS loading reduction	69.90%	75.40%	80.60%	82.60%	75.40%	72.30%
Filter strip Tcu loading reduction	74.40%	69.10%	78.20%	75.40%	69.10%	78.70%
Filter strip TZn loading reduction	78.30%	77.90%	78.40%	78.70%	77.90%	80.90%
Filter strip TP loading reduction	48.40%	53.10%	63.70%	59.80%	53.10%	34.60%
LID TSS loading reduction	99.40%	99.30%	99.50%	99.40%	99.30%	89.00%
LID Tcu loading reduction	98.10%	96.70%	98.00%	96.20%	96.70%	90.60%
LID TZn loading reduction	99.10%	98.80%	98.90%	98.30%	98.80%	94.80%
LID TP loading reduction	98.10%	98.60%	98.80%	98.70%	98.60%	83.10%

Pollution Reduction:

Pollutant Load Reductions in Six Typical Development Scenarios

	Multi-family housing	Small-scale single-family housing	Restaurant	Office	Large-scale single family housing	Commercial
CDS TSS loading reduction	15.70%	19.90%	22.00%	24.00%	19.90%	16.90%
CDS Tcu loading reduction	22.70%	22.40%	22.90%	23.10%	22.40%	25.10%
CDS TP loading reduction	30.60%	41.50%	40.70%	45.90%	41.50%	20.30%
EDB TSS loading reduction	68.10%	73.70%	79.00%	81.10%	73.70%	71.70%
EDB Tcu loading reduction	61.90%	55.70%	66.20%	63.00%	55.70%	66.80%
EDB TP loading reduction	59.70%	59.60%	60.40%	61.90%	59.60%	66.60%
Swale TSS loading reduction	61.90%	69.70%	69.10%	72.90%	69.70%	54.50%
Swale Tcu loading reduction	68.80%	71.10%	73.10%	73.90%	71.10%	69.40%
Swale TP loading reduction	72.50%	68.50%	78.20%	73.30%	68.50%	75.80%
Filter strip TSS loading reduction	78.40%	78.10%	84.30%	78.80%	78.10%	80.70%
Filter strip Tcu loading reduction	66.30%	70.70%	67.20%	76.20%	70.70%	55.00%
Filter strip TP loading reduction	69.90%	75.40%	80.60%	82.60%	75.40%	72.30%
Filter strip TSS loading reduction	74.40%	69.10%	78.20%	75.40%	69.10%	78.70%
Filter strip Tcu loading reduction	78.30%	77.90%	78.40%	78.70%	77.90%	80.90%
Filter strip TP loading reduction	48.40%	53.10%	63.70%	59.80%	53.10%	34.60%
LID TSS loading reduction	99.40%	99.30%	99.50%	99.40%	99.30%	89.00%
LID Tcu loading reduction	95.60%	96.70%	95.00%	95.70%	95.70%	91.60%
LID TP loading reduction	99.10%	98.80%	98.90%	98.30%	98.80%	94.80%
LID TP loading reduction	98.10%	98.60%	98.80%	98.70%	98.60%	83.10%

Pollution Reduction: ZINC

Pollutant Load Reductions in Six Typical Development Scenarios

	Multi-family housing	Small-scale single-family housing	Restaurant	Office	Large-scale single-family housing	Commercial
CDS TSS loading reduction	15.70%	19.90%	22.00%	24.00%	19.90%	16.90%
CDS Tcu loading reduction	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
CDS TP loading reduction	22.10%	22.10%	22.10%	22.10%	22.10%	22.10%
CDS TSS loading reduction	30.60%	41.50%	40.70%	45.90%	41.50%	20.30%
EDB TSS loading reduction	68.10%	73.70%	79.00%	81.10%	73.70%	71.70%
EDB Tcu loading reduction	61.90%	55.70%	66.20%	63.00%	55.70%	66.80%
EDB TP loading reduction	59.70%	59.60%	60.40%	61.90%	59.60%	66.60%
EDB TP loading reduction	61.90%	69.70%	69.10%	72.90%	69.70%	54.50%
Swale TSS loading reduction	68.80%	71.10%	73.10%	73.90%	71.10%	69.40%
Swale Tcu loading reduction	72.50%	68.50%	78.20%	73.30%	68.50%	75.80%
Swale TP loading reduction	78.40%	78.10%	84.30%	78.80%	78.10%	80.70%
Swale TP loading reduction	66.30%	70.70%	67.20%	76.20%	70.70%	55.00%
Filter strip TSS loading reduction	69.90%	75.40%	80.60%	82.60%	75.40%	72.30%
Filter strip Tcu loading reduction	74.40%	69.10%	78.20%	75.40%	69.10%	78.70%
Filter strip TP loading reduction	78.30%	77.90%	78.40%	78.70%	77.90%	80.90%
Filter strip TP loading reduction	48.40%	53.10%	63.70%	59.80%	53.10%	34.60%
LID TSS loading reduction	99.40%	99.30%	99.50%	99.40%	99.30%	89.00%
LID Tcu loading reduction	98.10%	96.70%	98.00%	96.20%	96.70%	90.60%
LID TP loading reduction	99.10%	98.80%	99.90%	98.90%	98.80%	94.80%
LID TP loading reduction	98.10%	98.60%	98.80%	98.70%	98.60%	83.10%

Pollution Reduction:

Pollutant Load Reductions in Six Typical Development Scenarios

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CDS Tcu loading reduction	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
CDS TZn loading reduction	22.70%	22.40%	22.90%	23.10%	22.40%	25.10%
CDS TP loading reduction	30.50%	41.50%	40.70%	45.90%	45.70%	50.30%
EDB TSS loading reduction	68.10%	73.70%	79.00%	81.10%	73.70%	71.70%
EDB Tcu loading reduction	61.90%	55.70%	66.20%	63.00%	55.70%	66.80%
EDB TZn loading reduction	59.70%	59.60%	60.40%	61.90%	59.60%	66.60%
EDB TP loading reduction	61.90%	69.70%	69.10%	72.90%	69.70%	54.50%
Swale TSS loading reduction	68.80%	71.10%	73.10%	73.90%	71.10%	69.40%
Swale Tcu loading reduction	72.50%	68.50%	78.20%	73.30%	68.50%	75.80%
Swale TZn loading reduction	78.40%	78.10%	84.30%	78.80%	78.10%	80.70%
Swale TP loading reduction	66.30%	70.70%	67.20%	76.20%	70.70%	55.00%
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Filter strip Tcu loading reduction	74.40%	69.10%	78.20%	75.40%	69.10%	78.70%
Filter strip TZn loading reduction	78.30%	77.90%	78.40%	78.70%	77.90%	80.90%
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LID Tcu loading reduction	98.10%	96.70%	98.00%	96.20%	96.70%	90.60%
LID TZn loading reduction	99.10%	98.80%	98.90%	98.30%	98.80%	94.80%
LID TP loading reduction	95.10%	98.60%	98.80%	95.70%	98.60%	85.10%

LID Is Cost-Effective for Builders



WWW.NAHB.ORG

NATIONAL ASSOCIATION OF HOME BUILDERS

GREEN BUILDING: NOT AS COMPLICATED AS YOU THINK, Normal View
SAYS NAHB

December 13, 2006. Is it hard to build green? Is it a lot more expensive? Do I have to live in a

straw-bale cottage or some other strange building to say I'm a green home owner? No, no, and most decidedly no, according to the National Association of Home Builders.

Using the Guidelines, local home building associations are creating regionally appropriate green building programs for interested builders, and that interest is growing rapidly. Twelve state and local associations have launched voluntary green building programs, with another dozen on the way. "The Guidelines include an easy-to-follow checklist to make sure the builder is incorporating all aspects of green building into each project. That makes it easier to build green - and that's the beauty of the voluntary Guidelines," said NAHB President David Pressly, a home builder in Statesville, N.C.

Is it more expensive to build green? Experienced builders say it doesn't have to be. Guidelines-based programs award points for resource efficiency, and if you're using fewer materials, you're saving money, they point out. And some green building ideas - like positioning a home's windows to best take advantage of natural light - don't cost any more than conventional building - and save money for the homeowner.

Nor does green building consist of neighborhoods filled with yurts, underground bunkers or geodesic domes, Pressly noted. "When a house is green but looks like other houses in the neighborhood - and can be replicated by large-scale building companies - then we know green is mainstream. We're seeing that happen right now," he said.

There are more green building products than ever. Easier to use insulation, chemically neutral paints and flooring and natural landscaping products are no longer difficult to find. Most home-improvement stores carry a full line of compact fluorescent bulbs, which use 70 percent less energy, and advances in solar roof panels and shingles, wind turbines, and efficient appliances make green technology less expensive than even a few years ago.

But there are scattered gray clouds on a mostly green horizon, Pressly said. Efforts to mandate green building are the perfect example of good intentions gone awry. "Green building needs to stay voluntary to continue to allow for market innovation and to make sure that the additional money spent to build green goes to building improvements, not excessive certification fees," he said. "NAHB discourages efforts to dictate and legislate what constitutes acceptable green building practices because the building science in this area is still evolving. We don't want to see this dynamic process frozen in place."

In 2007, builders will learn more by attending educational seminars at the International Builders' Show in Orlando, Fla., Feb. 7-10 and the ninth annual NAHB National Green Building Conference in St. Louis March 25-27. Homebuyers don't have to wait that long to learn more: download a free guide at www.nahb.com/greeninnovation - or contact your local home builders association to find a green builder near you.

C000407

LID Is Cost-Effective for Builders

NAHB Research Center
Green Building Market Research Quality Lab Certification Services
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Guides to Low Impact Development

Ever wish you could simultaneously lower your site infrastructure costs, protect the environment, and increase your project's marketability? Using Low Impact Development (LID) techniques you can.

Ever wish you could simultaneously lower your site infrastructure costs, protect the environment, and increase your project's marketability? Using Low Impact Development (LID) techniques you can.

LID has a variety of benefits to Builders, Municipalities, and the Environment such as:

- The reduction of land clearing and grading costs;
- Balancing the need for growth and environmental protection;
- The protection of local land and water resources.

LID utilizes a system of source controls and small-scale, decentralized treatment practices to help maintain a hydrologically functional landscape. The conservation of open space, the reduction of impervious surfaces, and the use of small-scale storm water controls, such as bioretention, are just a few of the LID practices that can help maintain predevelopment hydrological conditions.

Featured case study

Somerset is an 80-acre development in suburban Maryland consisting of 199 homes on 10,000 square foot lots. During Somersett's creation, the developer used LID practices to reduce its storm water management costs. By using LID, the developer:

- Eliminated the need for storm water ponds by using bioretention techniques saving approximately \$300,000;
- Gained 6 additional lots and their associated revenues;
- Reduced finished lot cost by approximately \$4,000.

For more information, download copies of the [Builder's Guide to Low Impact Development](#) and [Municipal Guide to Low Impact Development](#) brochures.



NAHB Research Center
400 Independence Blvd.
Upper Merion, MD 20774
301.249.4000 / 800.638.6566
www.nahbrc.org



LID Is Cost-Effective for Builders

What is Low Impact Development (LID)?

Ever wish you could simultaneously lower your site infrastructure costs, protect the environment, and increase your project's marketability? With LID techniques, you can. LID is an ecologically friendly approach to site development and storm water management that aims to mitigate development impacts to land, water, and air. LID emphasizes the integration of planning techniques that conserve natural systems and hydrologic functions.



Residential Bioretention System at Prince George's County, MD

LID Benefits

In addition to the practice just in sense, LID techniques can offer many a variety of stakeholders.

- Developers**
- Reduce land clearing and grading costs
 - Potentially reduce infrastructure costs (curbs, gutters, sidewalks)
 - Reduce storm water management costs
 - Potentially reduce impact fees and increase lot yield
- Municipalities**
- Protect regional flora and fauna
 - Balance growth needs with environmental protection
 - Reduce municipal infrastructure and utility maintenance costs (streets, curbs, gutters, sidewalks, storm sewer)
 - Increase collaborative/public/private partnerships
- Environment**
- Preserve integrity of ecological and biological systems
 - Protect site and regional water quality by reducing sediment, nutrient, and toxic loads to water bodies
 - Reduce impacts to local terrestrial and aquatic plants and animals
 - Preserve trees and natural vegetation

Case Study

Kensington Estates is a conventional development on 24 acres consisting of 103 single-family homes in Prince George's County, VA. A study was conducted to redesign the site using a new state storm water model and to illustrate the full range of LID practices and technologies available to developers.

Overall, the redesigned LID site could have:

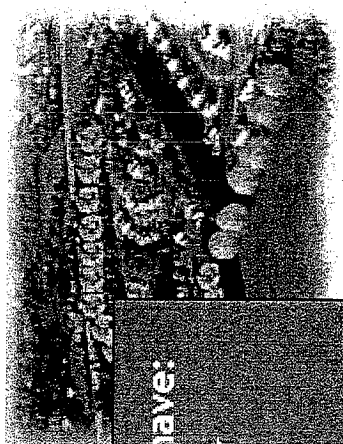
- Resulted in construction cost savings of over 20%;
- Preserved 62% of the site in open space;
- Maintained the project density of 103 lots;
- Reduced the size of storm pond structures and eliminated catchments and piped storm conveyances; and
- Achieved "zero" effective impervious surfaces.

For More Information

- Low Impact Development Center
<http://www.lowimpactdevelopment.org>
- Prince George's County, Maryland
<http://www.pgcinc.org>
- NAIMB Research Center-Toolbase Services
<http://www.toolbase.org>
- U.S. EPA
<http://www.epa.gov/owow/nps/urban.html>



Construction Practice Solutions, Inc. is a registered professional engineering firm.



Builder's Guide to Low Impact Development

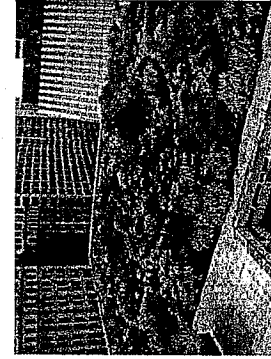
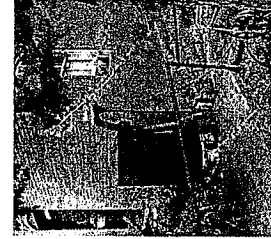
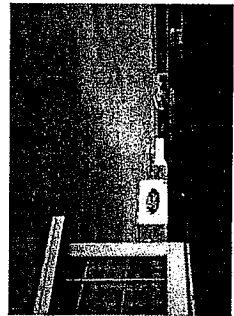
- Would you be interested in saving upwards of \$70,000* per mile in street infrastructure costs by eliminating one lane of on-street parking on residential streets?
- Did you know that communities designed to maximize open space and preserve mature vegetation are highly marketable and command higher lot prices?
- Are you aware that most homeowners perceive Low Impact Development practices, such as bioretention, as favorable since such practices are viewed as additional builder landscaping?
- Did you know that by reducing impervious surfaces, disconnecting runoff pathways, and using on-site infiltration techniques, you can reduce or eliminate the need for costly storm water ponds?

LID Is Cost-Effective for Owners

Water Savings in Six Typical Development Scenarios

	Multi-family housing	Small-scale single family housing	Restaurant	Office	Large-scale single family housing	Commercial
Annual post-development water recharged from site with basic treatment BMPs	4.39-7.99 ^a	1.88-2.62	0.45-0.65	1.76-2.10	82.0-114	0.80-3.03
Annual post-development water recharged and harvested from site with LID	13.4	3.72	0.95	2.60	162.0	6.37
Annual water saved through LID per site	5.41-9.01	1.10-1.84	0.30-0.50	0.50-0.84	48.0-80.0	3.34-5.57
Value of annual LID water savings per site (untreated water)	\$2,050-\$3,415	\$417-\$697	\$114-\$190	\$190-\$318	\$18,192-\$30,320	\$1,266-\$2,111
Value of annual LID water savings per site (treated water)	\$2,846-\$4,739	\$579-\$968	\$158-\$263	\$263-\$442	\$25,248-\$42,080	\$1,757-\$2,930

^a Water recharge and harvesting figures given in acre-feet



LID Saves Water

Water Savings in Six Typical Development Scenarios

	Multi-family housing	Small-scale single family housing	Restaurant	Office	Large-scale single family housing	Commercial
Annual post-development water recharged from site with basic treatment BMPs	4.39-7.99 ^a	1.88-2.62	0.45-0.65	1.76-2.10	82.0-114	0.80-3.03
Annual post-development water recharged and harvested from site with LID	13.4	3.72	0.95	2.60	162.0	6.37
Annual water saved through LID per site	5,419-9,011	1,110-1,841	630-1,050	650-1,841	48,018-80,000	3,341-5,571
Value of annual LID water savings per site (untreated water)	\$2,050-\$3,415	\$417-\$697	\$114-\$190	\$190-\$318	\$18,192-\$30,320	\$1,266-\$2,111
Value of annual LID water savings per site (treated water)	\$2,846-\$4,739	\$579-\$968	\$158-\$263	\$263-\$442	\$25,248-\$42,080	\$1,757-\$2,930

^a Water recharge and harvesting figures given in acre-feet.



LID Saves Money

Water Savings in Six Typical Development Scenarios

	Multi-family housing	Small-scale single family housing	Restaurant	Office	Large-scale single family housing	Commercial
Annual post-development water recharged from site with basic treatment BMPs	4.39-7.99 ^a	1.88-2.62	0.45-0.65	1.76-2.10	82.0-114	0.80-3.03
Annual post-development water recharged and harvested from site with LID	13.4	3.72	0.95	2.60	162.0	6.37
Annual water saved through LID per site	5.41-9.01	1.10-1.84	0.30-0.50	0.50-0.84	48.0-80.0	3.34-5.57
Value of annual LID water savings per site (untreated water)	\$2,950 \$3,715	\$717-\$997	\$174-\$190	\$190-\$218	\$18,750 \$30,935	\$1,266 \$2,111
Value of annual LID water savings per site (treated water)	\$2,840 \$4,780	\$579-\$958	\$158-\$262	\$265-\$272	\$25,143 \$42,080	\$1,767 \$2,930

^a Water recharge and harvesting figures given in acre-feet



LID & the MEP Standard

LID approaches best enable permittees to meet the MEP standard because:

- Requiring LID with 3% EIA is practicable in Ventura County;
- LID almost entirely eliminates pollutant loads and stormwater runoff;
- LID conserves water; and
- LID saves builders and owners money.

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02 LOS ANGELES REGION

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In REGARDS TO:)
BASIN PLANNING TMDL:)

TRANSCRIPT OF PROCEEDINGS
LOS ANGELES, California
FRIDAY, SEPTEMBER 20, 2007

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Reported By:
LINDSEY K. KENNEDY
CSR No. 13021
Job No.:
A6343WQLA(X)

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01 CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
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02 LOS ANGELES REGION

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In REGARDS TO:)
BASIN PLANNING TMDL:)

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TRANSCRIPT OF PROCEEDINGS, taken
At CITY COUNCIL CHAMBERS, 501 POLI STREET,
VENTURA, California, commencing at 9:13 a.m.,
On FRIDAY, SEPTEMBER 20, 2007, reported
By LINDSEY K. KENNEDY, CSR No. 13021,
a Certified Shorthand Reporter in and for
the State of California.

01 APPEARANCES:

02 CHAIR, FRANCINE DIAMOND
02 VICE-CHAIR, MARY ANN LUTZ
03 BOARD MEMBER, H. DAVID NAHAI
03 BOARD MEMBER, LEO VANDER LANS:
04 BOARD MEMBER, MARIBEL MARIN:
04 BOARD MEMBER, BRADLEY MINDLIN
05 EXECUTIVE OFFICER, DEBORAH SMITH
05 SENIOR STAFF COUNSEL, MICHAEL LEVY
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0008

LOS ANGELES, CALIFORNIA, FRIDAY, SEPTEMBER 20, 2007
9:13 A.M.

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05 CHAIR DIAMOND: Good morning, everybody. I don't
06 think they can hear me.
07 Good morning everybody. I'd like to ask you
08 all to take your seats.
09 Welcome to the meeting of the Regional Water
10 Quality Control Board. We're very happy to be here in
11 these beautiful -- this beautiful historic room and want
12 to thank you for welcoming us here and allowing us to use
13 this facility.
14 We're going to begin with the Pledge of
15 Allegiance and I'm going to ask our Board member,
16 Dick Richardson, to lead us in this.
17 Please stand.
18 MR. RICHARDSON: Hand over heart. Begin.
19 (Whereupon the pledge of allegiance was
20 recited.)

21 CHAIR DIAMOND: Ms. Harris, will you please call
 22 the roll.
 23 MS. HARRIS: Yes.
 24 Ms. Diamond?
 25 CHAIR DIAMOND: Here.

0009
 01 MS. HARRIS: Ms. Lutz?
 02 VICE-CHAIR LUTZ: Present.
 03 MS. HARRIS: Ms. Marin?
 04 MS. MARIN: Here.
 05 MS. HARRIS: Mr. Mindlin? (Not present)
 06 Mr. Nahai? (Not present)
 07 Mr. Richardson?
 08 MR. RICHARDSON: Here.
 09 MS. HARRIS: Mr. Vander Lans?
 10 MR. VANDER LANS: Here.
 11 CHAIR DIAMOND: Ms. Smith, will you please go over
 12 the order of the agenda.
 13 Where are you? Is she here? Um, okay.
 14 Then what we'll do is --
 15 MR. LEVY: Fran.
 16 CHAIR DIAMOND: Yeah.
 17 I wanted to know if you would be able to go
 18 over the order of the agenda at this time.
 19 MS. SMITH: The order of agenda has not changed.
 20 There are no changes.
 21 CHAIR DIAMOND: Okay. Can I have a motion to
 22 accept the order of the agenda.
 23 UNIDENTIFIED MALE: We'll move.
 24 UNIDENTIFIED MALE: Second.
 25 CHAIR DIAMOND: All those in favor?

0010
 01 THE BOARD: Aye.
 02 CHAIR DIAMOND: Motion passes.
 03 I'm going to ask if any members have
 04 Ex Parte communications?
 05 UNIDENTIFIED MALE: No.
 06 CHAIR DIAMOND: Okay. Or any Board member reports
 07 at this time?
 08 Okay. Now, we'll go on to -- do we have any
 09 public forum cards? No public forum cards.
 10 Well, then, I would -- we're going to move
 11 on to the item before us today, which is the
 12 Ventura County Municipal Stormwater Permit. And again, I
 13 would just like to welcome all of you to the second Board
 14 workshop to discuss this Stormwater Permit for
 15 Ventura County.
 16 As you're aware, we had a workshop in April
 17 where many of the issues were discussed from a variety of
 18 perspectives. And at this workshop, we have organized
 19 these items into what we will call "modules" to allow for
 20 multiple presentations and perspectives and discussions
 21 on -- on the most significant items or issues in this
 22 Stormwater Permit. And so everybody will have an
 23 opportunity to present, we'll -- we'll have the
 24 introductory remarks for each module, beginning with
 25 staff presentation, followed by the Ventura County
 0011
 01 Permittees presentation, and then comments from others
 02 for three minutes. And also that would be from public
 03 members and presentation, as well, from environmental
 04 groups.
 05 So what we're going to do is begin today.

06 with the first part of that and that will be the
07 introductory remarks or overview policy statements. And
08 I wanted to thank the people from Ventura for organizing
09 the order of presentation that they would like,
10 particularly for the elected officials, 'cause we know
11 some of them might need to be leaving. And so if anybody
12 is here that is an elected official who has not turned in
13 a card and wishes to speak, I'd like you to recognize
14 Steve Caine (phonetic), and he will make sure that we get
15 that information and you will be able to speak to us at
16 the beginning of the electeds' presentations.

17 So with that, I'd like to begin with the
18 introductory remarks, overview policy statements and ask
19 our staff to do their presentation.

20 DR. SWAMIKANNU: Chair Diamond and members of the
21 Board, this is the second workshop. We released a draft
22 at the end of August. With that brief introduction, I
23 will ask Tracy Woods, who is the lead staff person on the
24 reissuance, to give you the staff presentation.
25 Tracy.

0012

01 MS. WOODS: Good morning, Madam Chair and Board
02 members, my name is Tracy Woods. This morning I will be
03 highlighting the first, second and draft Ventura County
04 MS4 Permits.

05 The first term MS4 Permit was adopted in
06 1994. The Permit required Ventura County municipalities
07 to develop stormwater pollution control plant programs in
08 the areas of public involvement/education;
09 business/industry outreach; development planning;
10 development construction; public agency activities; and
11 illicit connection/discharge elimination, in addition to
12 implementing a basic monitoring program to characterize
13 the quality of municipal stormwater discharges.

14 The second term MS4 Permit was adopted in
15 2000. The focus of the Permit was the implementation of
16 a comprehensive stormwater quality management program to
17 reduce the discharge of stormwater pollutants to the
18 Maximum Extent Practicable and to meet water quality
19 standards. The monitoring program was expanded to assess
20 mass emissions of pollutants from Ventura County rivers
21 to coastal waters and to better understand the quality of
22 wet weather discharges and their adverse impacts.

23 The draft MS4 Permit includes some important
24 advancements that will improve evaluating adequacy of
25 implementation of stormwater controls and hold Permittees

0013

01 accountable for not doing enough to clean up stormwater
02 from a national perspective. This is the first
03 incorporation of T.M.D.L. waste load allocations adopted
04 by the Board for impaired waters from the Ventura Permit.

05 The first draft Ventura County MS4 Permit
06 was released on December 27th, 2006. The first workshop
07 was held on April 5th, 2007. Board members directed
08 staff to look into 13 topics. Board staff studied the
09 topics and have summarized the responses to the topics in
10 the Item Summary.

11 Board staff held a total of 19 meetings with
12 stakeholders on a variety topics over seven months. A
13 breakdown of the meetings is as follows: Five with
14 Permittees, five with the building industry, five with
15 C.A.S.Q.A., one with water purveyors from both Ventura
16 and L.A. Counties, one with the California Department of

17 Public Health; two group meetings with stakeholders which
 18 included Permittees, building industry, Coalition for
 19 Practical Regulation, consultants, Cities of Downey and
 20 L.A., Los Angeles County Department of Public Works, Heal
 21 the Bay, and National Resources Defense Counsel, and
 22 two meetings were held on the development and Toxicity
 23 Testing Guidance, which included the Ventura watershed
 24 Protection District, the Southern California Coastal
 25 Water Research Project, Santa Monica Bay Restoration

0014

01 Commission, City of Los Angeles, Los Angeles County,
 02 Los Angeles County Sanitation District, Heal the Bay,
 03 County of Orange, and Aquatic Bioassay consultant firm.
 04 The second draft Ventura County MS4 Permit
 05 was released on August 28th, 2007. The second draft
 06 Permit includes the following categories.
 07 Municipal stormwater Discharge
 08 Eliminations (sic) - Removed dissolved constituents from
 09 M.A.L.'s.
 10 Public Information and Participation
 11 Program - Removed corporate outreach requirement from
 12 municipalities and instead directed municipalities to
 13 work in conjunction with an outside agency such as
 14 C.A.S.Q.A. to develop corporate outreach strategies.
 15 Planning and Land Development Program -
 16 Extended the time frame for the Hydromodification Study
 17 to three years and Interim Criteria has matching flow.
 18 Development Construction Program --
 19 authorized municipalities to approve grading restriction
 20 waivers.
 21 Public Agency Activities Program -
 22 Limited trash excluder placement to areas subject to high
 23 trash generation.
 24 Monitoring Program - Reduced monitoring
 25 requirements.

0015

01 And that concludes our presentation. Thank
 02 you.

03 MR. LEVY: Chair Diamond, before going on, if you
 04 please, two things. One is Clerk to the Board, Harris,
 05 had an opening statement that we had intended her to read
 06 and we kind of skipped over that. So if she could read
 07 that now, that would be a good thing.

08 CHAIR DIAMOND: And also, I -- I believe that we
 09 wanted to move the court reporter so that the -- it would
 10 be more comfortable for you without the light in your
 11 eye. Okay. So we'll do that.

12 Can we have the opening statement?

13 MR. LEVY: Should we wait for the court reporter?

14 CHAIR DIAMOND: I guess so.

15 THE REPORTER: Sir, what's your name?

16 MR. LEVY: Michael Levy. I'm sorry.

17 THE REPORTER: And can you spell that for me.

18 MR. LEVY: Yes. L-e-v-y.

19 For everybody's benefit, my name tag was
 20 lost. I'm attorney to the Board -- one of the attorneys
 21 to the Board, so Michael Levy.

22 THE REPORTER: (Inaudible)

23 CHAIR DIAMOND: We'll do our best.

24 Okay. Ms. Harris, would you read the
 25 statement, please.

0016

01 MS. HARRIS: Sure.

02 "This hearing is a workshop to
03 solicit input and comments on the second draft
04 of the 2007 Ventura Municipal Separate
05 Stormwater Sewer System MS4 Permit. A notice
06 of this workshop was published in a daily
07 newspaper of general circulation in the
08 geographical area of the discharge as
09 prescribed by law. Copies of the tentative
10 orders were sent to all known interested
11 agencies, persons and organizations.
12 " On an issue by issue basis (sic) --
13 excuse me. On an issue by issue basis, the
14 order of presentation of testimony at this
15 hearing will be Board staff, Permittees,
16 followed by other interested agencies and
17 groups. A letter announcing the order of
18 proceedings was sent to stakeholders on
19 September 12th. Requests for modifications
20 were accommodated by the Chair. The Chair will
21 announce the order of speakers before each
22 section of discussion today. This process will
23 be used for each issue scheduled for discussion
24 today.
25 "The Board will consider all testimony.

0017

01 However, in the interest of time, it is
02 requested that all repetitive and redundant
03 statements be avoided."

04 CHAIR DIAMOND: Thank you.

05 MR. LEVY: And one more matter, Chair Diamond.
06 If we could have the first slide back up
07 there, Jack.

08 Just for everybody's clarification, we
09 inadvertently used the word "term" -- could you put the
10 slide up -- with respect to the previous Permit,
11 M.S. Permit. When we're talking about the 1994 Permit,
12 let's ask everyone to refer to the 1994 Permit. And if
13 we're talking to the 2000 Permit, we'll ask everyone to
14 refer to the 2000 Permit. And if we're talking to the
15 2007 or the current draft of the 2007, whether first or
16 second draft, go ahead and do that. But let's designate
17 the permits by years so we don't get confused.

18 CHAIR DIAMOND: Okay.

19 MR. LEVY: Thank you.

20 CHAIR DIAMOND: Is there a -- any -- is there a
21 continuation on the staff presentation? Or is that it
22 for this introductory?

23 DR. SWAMIKANNU: That is it, Madam Chair.

24 CHAIR DIAMOND: Okay. Thank you. All right.

0018

25 Then, we're going to move on to the order that the
01 Ventura County Permittees requested, and the first card
02 that I have for that is Brian Brennan.

03 MR. BRENNAN: Good morning, Madam Chair -- whoa --
04 I'm usually sitting up there, so I didn't know it was
05 this loud. Excuse me.

06 Good morning. And welcome to the city of
07 Ventura. I'm a councilmember here in the City of
08 Ventura. On behalf of the mayor and the other
09 councilmembers, I just want to welcome you, both staff,
10 chair and members of the Board.

11 I just wanted to let you know if -- this is
12 the courtroom that Earl Stanley Gardner used to come up

13 and write little stories about. And of course,
 14 Earl Stanley Gardner turned it into Perry Mason. So if
 15 you jump up about and feel like confessing to a crime,
 16 we'll understand why, because that's usually what
 17 happened here.

18 But I did want to also let you know for the
 19 clerk's help, that this is going out live on the City
 20 website that's archived and where you -- this meeting can
 21 be brought up by anybody here or anybody later on to
 22 review some of what's been talked about. So we've got
 23 that on the airwaves. And if the clerk needs a little
 24 help on some of those things -- not that you do, but it's
 25 out there if you need it.

0019

01 I just wanted to get started. And I know
 02 you have a long day ahead of you, so I'll be brief. I
 03 didn't get any phone calls to go surfing, so I'm assuming
 04 all of you didn't take me up on the offer from the last
 05 time we met in April.

06 But I did want to point out two things.
 07 When we -- I believe it was April 12th, we met and had an
 08 opportunity to talk about the first draft. And we
 09 appreciate the way staff's gone back and looked at all
 10 those things. And certainly, it's come back again to us
 11 in a little different form. But it rained the next day;
 12 and we're having this meeting here today, and it's
 13 supposed to pour tomorrow. And in September, that's
 14 very, very unusual. So it might have something to do
 15 with your Board. In this drought, you might be able to
 16 use that as a tool, as you go forward, to bring water to
 17 the State, but I just wanted to make that approach.

18 And I was listening to the radio when I came
 19 in here this morning. And I wanted to pass on that
 20 there was two reporters; they were talking about
 21 driv- -- because it's been raining in L.A. Most of you
 22 might have come up from there. They're talking about
 23 driving carefully because there's oil and muck on the
 24 road. And I was hoping they would go to the next and
 25 say, "where does it go?" Well, they didn't and they

0020

01 switched to the weatherman up here in Oxnard.

02 And he talked about the weather, but he did
 03 talk about the muck on the road and where it went,
 04 because he was a surfer and lives in the City of Ventura
 05 and actually was getting out over the airwaves in
 06 Los Angeles and made the connection about rainwater,
 07 stormwater and where it ends up.

08 And the next thing that came on -- which I
 09 was very, very impressed with -- was the fact that a
 10 reporter came on and gave a report about the rain and
 11 talked about the first flush. So the information is
 12 getting out there, both the environmental community and
 13 everybody else.

14 And that's what I wanted to talk about, the
 15 environmental community and everybody else. We are
 16 everybody else. It's all folded together.

17 So I notice we have on the agenda here
 18 today -- we talked about the environmentalists or the
 19 co-Permittees and then the environmentalists. But I work
 20 with a lot of folks in the City here, both of in (sic)
 21 professionals, and they consider themselves
 22 environmentalists. I know I certainly do. And I look
 23 back here, see a number of elected officials that I work

24 with on a number of boards and commissions, and they're
25 leading the charge in terms of the environmental policy

0021
01 we're getting put together. So I just want to always in
02 these arenas caution about, kind of, "us and them." This
03 is really about us all.

04 So I just wanted to continue to go forward
05 and let you know that here in Ventura County, we are
06 taking a watershed approach. You've got our attention.
07 Myself, as a long-time surfer and advocate for clean
08 water, it's the first time I've seen this whole watershed
09 sit down and talk, whether Santa Clara River watershed,
10 the Ventura River watershed, the Calleguas Creek
11 watershed in Ventura County. They're collectively at a
12 table in a watershed approach to what you're talking
13 about here today in this Permit. That's a huge, huge
14 first step forward.

15 There's, you know, always that opportunity.
16 I hate saying it, but the devil is in the details. And
17 that's what staff will work through and that's what
18 you're going to work through today.

19 One of the things we're trying to accomplish
20 here in Ventura, as I said in the April meeting, was to
21 be a model for smart growth; how to grow cities into the
22 future and how to kind of limit your footprint and look
23 at low-impact development but also deal with the
24 stormwater issues and how that those are together.

25 I think that, you know, we are -- we have
0022
01 endorsed this as a city, but a number of our cities in
02 Ventura County have endorsed the Awanhee (phonetic)
03 principles by the Local Government Commission about
04 stormwater and what you do with it. And as I said
05 before, I hate to call it stormwater and I call the other
06 water that comes out of the sewers the wastewater. I
07 mean, in this day and age, we've got a drought. It
08 should be -- hopefully, you'll come up with a different
09 word. And I hate to keep using it but I called it gold
10 water, because right now it's worth an awful lot of
11 money.

12 We just need to figure out how we deal with
13 it, how we hold on to it, and how we make it cleaner and
14 do it in a way that everybody in the community
15 can embrace in ways that we can say that this is
16 practical and we can have this true-end results.

17 I wanted to say that I look at -- you're
18 going to hear a lot today -- hopefully you'll hear a lot
19 today; I know you will -- about green infrastructure.
20 Your Board has advocated that. Your staff has been out
21 there at different workshops talking about it, getting
22 it, looking at it. And it's in -- it's in little
23 fragments. Today we'll be able to pull it closer
24 together.

25 You'll hear two presentations today. I'd

0023
01 really like you to listen -- I know you listen to them
02 all, but look clear -- closer to the presentation. I
03 hope that Mark Gray (phonetic) from the B.I.A. will be
04 here talking about green infrastructure. I know that
05 we'll have Heal the Bay folks talking about green
06 infrastructure. We'll have the surfrider, Paul Jenkin,
07 the environmental surfrider, talking about green
08 infrastructure.

09 So when we say that, it's interesting that.
10 we're talking about the building industry, we're talking
11 about environmental community and talking about city
12 folks, all talking about the same thing.

13 I think we reach a tipping point when it
14 comes to that. I liken it to what's going on in the
15 green building arena. Five to seven years ago, we didn't
16 want to mandate things and make it mandatory to build
17 green. But you know what? By doing some of those
18 things, we've gotten some -- there's a huge movement now
19 and it's part of the mainstream.

20 I hope that after today with the Permit
21 outcome, that you'll recognize the green infrastructure
22 will be an opportunity, and it will be coming to the
23 mainstream. If I had my druthers, I would -- I don't
24 know what the whole Permit would cost, but I would take
25 every dollar in testing and I would put it into projects.

0024

01 I would put it into green infrastructure projects. I
02 wouldn't spend a dime on the testing until we got those
03 green infrastructures in place. And then I would go
04 ahead and advocate to go ahead and test and see what
05 we're doing with that green infrastructure; that being,
06 of course, the bioswells, utilizing all the green spaces
07 we have to do the water recharge. All those kind of
08 things.

09 So I would like to -- if you could give some
10 real direction and maybe some -- you know, I don't want
11 to say a real strong statement about spend the money on
12 infrastructure -- green infrastructure. Yes, we need to
13 go ahead and do some of the testing. You know what that
14 is. But maybe we cut back on some of that till we get
15 that infrastructure in place and see if it's working.
16 That way, we know the money's actually going to solving
17 the problem as opposed to going to the end-of-pipe and
18 figuring out we have a problem.

19 And I know we need to do that. And I know
20 it's important, both through State and Federal
21 guidelines, but I would encourage you to look at that
22 overall.

23 And I would just have to say that one thing
24 that I -- you could probably -- I know in Ventura County,
25 myself and I know residents in both the cities have a

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01 problem with folks coming to us. And in this day and
02 age, still, because maybe they're a hundred feet away
03 from a sewer line, will say it's a financial hardship.
04 And you know, of course, we need some help on the local
05 level, too, because I don't think a lot of local
06 officials understand what is a financial hardship.

07 So what they do is they come and they look
08 to the council. And they get a letter that says, "well,
09 you're a hundred feet away. That's a financial hardship.
10 Now you can go apply to your Board and you can go ahead
11 and get a septic system put in."

12 I personally would love to see septic
13 systems go completely away in Ventura County and just
14 about anywhere. I think in this day and age with the
15 technology that's there, the boutique systems (phonetic),
16 we should be looking at different ways of doing it. So I
17 would encourage you to look at that as perhaps an
18 opportunity to say there's new technology out there.
19 Don't let them write letters to your Board and say, gee,

20 it's going to cost me, you know, \$150,000 to tie into a
 21 sewer line because they're doing a lot split they can
 22 sell and make \$750,000 on.

23 That just needs to be cause to the program,
 24 and let them also put in that boutique system. And when
 25 that system's in place, make sure that they have an

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01 opportunity to use that water on sites just like we're
 02 using our water on our regular system.

03 So I would just say, you have an opportunity
 04 when those folks come to you to turn them into
 05 astronauts, you know, and close the system and let them
 06 use the water that they're actually generating on-site
 07 and do it better. So I'm going on. You got a lot of
 08 officials that want to talk. And I thank you --

09 CHAIR DIAMOND: Yeah.

10 MR. BRENNAN: -- for your patience..

11 CHAIR DIAMOND: Thank you.

12 I just wanted to say that we allowed
 13 ten minutes for staff and ten minutes for the people from
 14 Ventura. So we need to keep aware of time because we
 15 have -- we have a number of opportunities for everyone to
 16 speak as we go through the various issues in this Permit.

17 So the next person will be Gerhard Hudener.
 18 MR. HUDENER: Good morning, Chair Diamond, members
 19 of the Board. I'm Gerhard Hudener, Deputy Director at
 20 the Ventura County Watershed Protection District.

21 Today, I'm speaking to you on behalf of the
 22 Program. As presented to you at the April 5th workshop,
 23 the Program is a coalition of ten cities of the County
 24 and the watershed Protection District implementing, what
 25 we believe, a model stormwater program.

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01 Next slide. No slide. Okay. Well, you
 02 have the slides in front of you. So I'll just move
 03 forward.

04 At your April 5th workshop in the initial
 05 draft Permit, it was very clear to us the direction your
 06 Board gave, including balance, consistency and funding.
 07 Permit alignment and inconsistency with T.M.D.L.'s,
 08 L.I.D. and infiltration and how they relate, effective
 09 communication and misunderstanding of the provisions,
 10 use of Municipal Action Levels in stormwater permits and
 11 the definition of Maximum Extent Practicable and time
 12 frames to implement the requirements.

13 Next slide. What has the Ventura County
 14 Stormwater Permit done since the April workshop? Well,
 15 actually, quite a lot. We met with Board staff at
 16 four meetings. Prior to these meetings, we proactively
 17 and with considerable time and effort prepared
 18 alternative approaches to the major Permit provisions,
 19 which we provided orally and in -- and in writing to
 20 Board staff. In each case, we provided specific
 21 recommendations for language changes.

22 I just want to emphasize to you, we didn't
 23 just sit around. We didn't say no. We provided real
 24 changes. And in many cases, better approaches.

25 Next slide. We do acknowledge Board staff

0028

01 and several of the positive changes from the previous
 02 draft. They include reducing trash excluders from all
 03 areas of the counties to now commercial and industrial
 04 areas and educational areas, deferring 100,000 gallon

05 flushing limitation to a separate Permit, focusing the
06 special studies to areas of concern and modifying several
07 of the time schedules for implementing the requirements.

08 Next slide. Nevertheless, I need to call to
09 your attention our frustration with the amount of
10 progress reflected in the draft and the amount of effort
11 the program has expended. Many of the major concerns,
12 you will hear more detail later in the Permittee
13 presentations.

14 They include: The use of Municipal Action
15 Levels to define M.A.P. You have at least one water
16 quality -- one M.A.L. that's more strict than water
17 quality objectives.

18 We also believe that the Permit creates a
19 huge, new liability and jeopardy for the program with
20 Mandatory Minimum Penalties. You have Mercury in there.
21 We don't know where this localized source of Mercury
22 would be coming -- come from. There's numerous
23 inconsistencies with the Permit and approved T.M.D.L.'s
24 with end-of-pipe compliance and monitoring.

25 There's a disconnect, we believe, between

0029

01 the goals of the proposed monitoring program and our
02 county stormwater management program. There's some
03 cumbersome variance and substitute B.M.P. programs that
04 create an administrative nightmare for the program and
05 overprescribing the stormwater program without
06 flexibility and nexus to environmental benefit.

07 For example, there's treatment B.M.P.'s for
08 all restaurants, nurseries and automobile shops and
09 expanding the Permittees' jurisdiction to areas of the
10 County that don't have storm drains, like Lockwood
11 Valley.

12 Next slide. So in conclusion from my
13 portion of the presentation, what's the Permittees'
14 requested outcome? A reasonable and protective water
15 quality stormwater permit.

16 We're requesting three things from you this
17 morning. That the Board provide staff with needing
18 direction on major policy decisions. Are we really
19 abandoning source control and headed for treatment
20 control? That's the question we ask. For your Board to
21 direct staff to work with Permittees to effect revisions
22 for a reasonable Permit, and the Board direct staff to
23 enter into a facilitated collaborative process with the
24 goal of making meaningful and earnest revisions to the
25 draft permits?

0030

01 Having meetings to have meetings is not
02 fruitful, and it's not a good use of everyone's time.
03 I've worked on both sides of it. I've been in Board
04 staff positions. I had some very good conversations with
05 Carlos and Tracy on Permit negotiations. This is what we
06 need. This is what we need more of.

07 We have a long working relationship with
08 working with Ms. Smith. We want her involvement. We
09 need her involvement.

10 So that's my appeal today, that we have
11 direct involvement, engagement to make this facilitated
12 process work.

13 Thank you.

14 CHAIR DIAMOND: Thank you.

15 Kathy Long, Supervisor.

16 MS. LONG: Good morning, Board members. Thank you
17 so very much for holding this meeting in Ventura. It's a
18 pleasure to see you again.

19 I spoke to you in April regarding the draft
20 Permit that was underway, and I know that one of your
21 officers attended our Board meeting last Tuesday when we
22 held a workshop on stormwater permits. And as you'll
23 hear today, we have again in attendance all ten cities
24 and the County of Ventura Board members and leadership
25 team. That I think says to you that this -- that we are
0031 very committed. This is certainly very important to us,
02 and we're very committed to working with you to make sure
03 that this Permit provides the end goal for all of us.
04 And it is us. And that end goal is certainly clean
05 water.

06 we have -- you'll hear further today
07 throughout the workshop that the goals are going to be
08 that you work with a coalition that is in this County
09 that crosses all watersheds; that's been very successful
10 at the statewide level in receiving funds because of the
11 good work we do as a coalition; that we are all at the
12 table willing to reach the goals.

13 And you need to, I believe, in this Permit
14 process provide three things for us: Reasonable measures
15 that have a cost benefit analysis that have a nexus to
16 the environmental benefit and clearly demonstrated.
17 Practical time line. If there's phasing of some of the
18 components of this Permit, then let's agree on what that
19 phasing should be. Give us an opportunity to prove that
20 one particular proposed piece of this Permit works, and
21 we'll prove to you that it works or we'll be back at the
22 table saying, "This doesn't work and here's why."
23 Practical time lines are needed, and consistency with
24 other laws, including our local voter-decided rules for
25 smart growth.

0032 01 As you know, we are a leader in this state
02 for directing growth into the cities. We have agreement
03 in our communities that we're looking at green building
04 and smart growth designs, so that we can accommodate
05 growth needs. And we have a housing element, as you're
06 aware, that the State mandates.

07 This -- the work of your body should not
08 conflict with those other goals. In fact, they should
09 enhance those other goals so that we can have sustainable
10 building, smart growth, clean water. All the
11 environmental goals for a community to live with the
12 quality of life that we all desire.

13 So I thank you. I believe that we can be a
14 poster for you. We can -- we can be that first permit
15 that proves that we can all reach the end goal.

16 Flexibility, reasonable measures, practical
17 time line, consistency with other laws.

18 Thank you so much for holding the workshop
19 here. Appreciate it.

20 CHAIR DIAMOND: Thank you.
21 Assemblyman Cameron Smyth.

22 MR. SMYTH: Thank you, Madam Chair and members.

23 I am assemblyman Cameron Smyth, and I
24 represent the 38th District, which comes into
25 Ventura County, as well as Los Angeles County. And I'm
0033

01 here in support of the County, as well as the ten-city
02 coalition. And I come from obviously a little different
03 perspective as a State representative. However, up until
04 a year ago, when I was elected to the State Legislature,
05 I was a mayor and a City Councilmember and I'm keenly
06 aware of the burden that can be placed on local
07 governments by State agencies, regardless of the motive
08 and the intent.

09 And that's what I'm here to ask the Board,
10 is to be very, very careful as you work forward on this
11 Permit issue because of the cost constraints that not
12 only would be placed on the County and the cities, but
13 most importantly, the taxpayers and the residents that
14 we all represent; that we are looking at figures
15 that -- that are reaching, you know, close to possibly a
16 hundred million dollars for the cost of the
17 implementation. That's a very significant cost that
18 would be passed down to the taxpayers and can be a
19 significant hit in terms of a potential tax increase, for
20 lack of a better word, on those residents.

21 And as an opportunity to travel up and down
22 the state and work with legislators and communities,
23 Ventura County really sets itself apart. I've had the
24 opportunity to see that, you know, with their -- with
25 their water program and their smart growth and their

0034
01 green building initiatives. Not every county throughout
02 the state is like Ventura County, and you'll see that and
03 you'll hear that.

04 And when you see a coalition of ten cities
05 in the County, you know, coming together -- I'm sure you
06 hear this many times -- that's very rare when you're able
07 to see, you know, a coalition of that broad of
08 representation coming together on an issue. And so I ask
09 that you look at that, obviously, very seriously and I
10 appreciate the Board willing to take the time to host
11 these workshops and to hear from the cities and the
12 County and the State representatives and the public, to
13 get all of that input and put together so you can come up
14 with something that still achieves the goals, yet
15 provides the funding mechanism that places as little of a
16 burden on the counties and cities and the residents as
17 possible.

18 My office, obviously, is working very
19 closely with the cities and counties, and we are here as
20 a resource and to work with the Board and the coalition
21 in any capacity necessary so we can strike that balance
22 that I think everyone is here to achieve.

23 So I thank you, and I thank the Board. And
24 again, offer our assistance from the State -- State level
25 in any way possible. Thank you.

0035
01 CHAIR DIAMOND: Thank you.
02 Rondi Guthrie, representing assemblymember
03 Audra Strickland. Is she here?

04 MS. GUTHERIE: Good morning, Chair Diamond,
05 members of the Board. I'm here representing
06 Assemblywoman Audra Strickland who represents a great
07 portion of Ventura County.

08 As you know, superior water quality is a
09 priority for all of us here in Ventura County. The
10 County and our ten cities have done an exceptional job of
11 forming coalitions and working with other agencies to

12 ensure the success of the stormwater program.
 13 In reviewing the proposed Permit, I would
 14 ask the Board to take the following points into
 15 consideration. It is important that the Regional Board
 16 conduct a cost benefit analysis of the proposed
 17 regulations to ensure that taxpayers will truly receive
 18 increased water quality and at a reasonable cost. As
 19 proposed, the cost associated with the Permit will be
 20 extremely harmful to our cities and, therefore, our
 21 residents.

22 The regulations must be reasonable,
 23 consistent and there must be a practical time line to
 24 implement the regulations.

25 The use of Municipal Action Levels to assess
 0036 compliance with the Permit appears to be in contradiction
 01 to the State Board's Blue Ribbon Panel recommendations
 02 that such limits are not feasible. The Permit does not
 03 align with the priorities and policies of Ventura County
 04 cities as we focus more on redevelopment and in-fill
 05 development.

06 Additionally, requirements to reduce
 07 impervious surfaces to promote infiltration as written
 08 will actually be in conflict with many of our general
 09 plans and smart growth principles. The Permit will
 10 further increase the cost of housing and stifle business
 11 growth, without water quality gain, by restricting
 12 grading and by forcing approved projects to be
 13 redesigned. Six-month grading restrictions in areas that
 14 receive limited rainfall will drive up the cost of
 15 building new homes that are desperately needed for
 16 Ventura County families.

17 Thank you in advance for taking our comments
 18 into consideration and we look forward to continue
 19 working on this important issue.

20 CHAIR DIAMOND: Thank you.
 21 Linda Parks, Chair of the Board of
 22 Supervisors.

23 MS. PARKS: Good morning, Board. And thank you
 24 for holding your Regional Board meeting here in Ventura.
 25

0037 In your review of this significant Permit, I
 01 would ask your consideration for allowing alternatives to
 02 the structural Best Management Practices. There are a
 03 number of policy measures that can be implemented as
 04 nonstructural B.M.P.'s.

05 I'd like to ask the Board to consider
 06 options toward compliance with water quality standards
 07 and protection of beneficial uses that are not as cost
 08 prohibitive.

09 Here are four examples of nonstructural
 10 B.M.P.'s that can achieve the same goals of reducing
 11 pollutants in our waterways but at a lesser cost. One,
 12 banning the use of plastic bags and styrofoam by the
 13 cities and the County could actually go to the source of
 14 trash itself through the use of policy. We would have
 15 significant reductions of the most prevalent trash in our
 16 waterways. This would be an effective and financially
 17 responsible alternative to structural trash excluders.

18 Two, implementation of an Integrated Pest
 19 Management program. An I.P.M. program with a goal of
 20 significantly reducing toxic pesticides and herbicides
 21 used at City and government facilities -- such as the
 22

23 Government Centers, our parks, golf courses -- these
 24 could reduce pollutants in the stormwater runoff. This
 25 would be consistent with the goals of the pesticide

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01 reduction under the T.M.D.L.'s and, again, would
 02 eliminate the contaminants at the source, not only prior
 03 to entering a waterway.

04 Additionally, on a third item -- example,
 05 just natural flood plain management. Perhaps the most
 06 important measure we can undertake is reenvisioning how
 07 to convey stormwater. Conveyance through a more natural
 08 wetland system would directly benefit the resources
 09 rather than accelerating storm water creeks and rivers
 10 through concrete channels. This alternative B.M.P. could
 11 be used to use wetlands and biological buffers to capture
 12 trash, filter oil, grease, and other contaminants before
 13 they enter the waterway. This would allow for
 14 percolation and groundwater recharge.

15 Natural flood plain management would enhance
 16 public safety and protect property by reducing stream
 17 bank erosion and by slowing down the velocity of storm
 18 flows. Additionally, it would provide protective buffers
 19 for the riparian ecosystems. And in the long term, these
 20 measures would be cost effective by reducing operational
 21 and maintenance costs.

22 And a fourth example would be reducing
 23 impervious cover. Creating more pervious
 24 service -- creating more pervious surface as a policy is
 25 a sensible Best Management Practice. This is not just

0039

01 applicable to development, rather nonstructural B.M.P.'s
 02 can include retrofit improvement of our current
 03 hardscapes, such as parking lots and driveways, with
 04 pervious materials. Just as concrete is being removed
 05 from the Los Angeles River, we can improve impervious
 06 cover in Ventura County as a B.M.P. toward compliance.

07 These and other types of nonstructural
 08 Best Management Practices can be enacted through policy.
 09 I ask that your staff work with the Permittees on these
 10 nonstructural B.M.P.'s to move us toward compliance in a
 11 cost effective and practical manner.

12 And I'll provide some of these letters.
 13 Thank you very much.

14 CHAIR DIAMOND: Thank you.

15 We have about ten more cards. And I will go
 16 through them, but I would like to say that we've just
 17 about come to the ten minutes that were allotted. So
 18 please keep your remarks short. And if possible, don't
 19 repeat things that have already been said so we have
 20 enough time to hear everybody today.

21 And this would be Steve Bennett.

22 MR. BENNETT: Okay. Thank you. I'm Steve
 23 Bennett. Ventura County Supervisor, represents the First
 24 District here in Ventura and most of the Ojai Valley.

25 Ventura County is trying to change the usual

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01 paradigm of Southern California urban sprawl. To that
 02 end, the citizens of Ventura County have voted for soar
 03 growth boundaries around all of our cities essentially
 04 here in Ventura County. And these effective laws have
 05 slowed urban sprawl out into our rural areas and
 06 dramatically decreased the amount of paved-over land that
 07 we have in Ventura County and will have in the future.

08 This is a valuable first step in decreasing
09 the urban runoff problems that plague Southern California
10 counties and it is a valuable asset for you to help us
11 build good policies around.

12 Overall, there is strong support for
13 environmental policy in Ventura County, and there is a
14 willingness to make rational sacrifices to improve our
15 quality of life. If the Regional Board wisely builds on
16 the potential support that's here in Ventura County, you
17 can dramatically enhance and reinforce the proenvironment
18 tendencies that are already here in Ventura County.

19 What do I mean when I say wisely build and
20 support -- wisely build on the support that exists here?
21 Our citizens will support common sense policies and
22 regulations that improve our environment. Common sense
23 policies do not mean painless policies. And they do not
24 mean ineffective policies. Common sense policies do mean
25 policies that have good cost benefit ratios, policies

0041
01 that increase our chances of making the maximum gain in
02 water quality given the harsh reality that there is not
03 unlimited funding for any important cause, whether that's
04 improved ocean water quality or an improved foster care
05 program for our homeless needy children.

06 I suggest that the Regional Board direct
07 your staff to continue to work collaboratively with our
08 staff to rank the various proposals for cost benefit
09 analysis and work collaboratively with our staff to
10 create the grade of incentives for communities to tackle
11 the highest cost benefit ratios out there; to
12 collaboratively take the time with our staff to deal with
13 the specific issues that they raised earlier in the Power
14 Point presentation that you saw today.

15 If we can go to our citizens and convince
16 them that the increased costs they will bear will result
17 in a specific improvement that makes rational common
18 sense, you will have reinforced the strong environmental
19 movement in Ventura County that is consistent with your
20 long-term goals. If instead you adopt policies and
21 regulations that cannot stand the test of rational common
22 sense benefit analysis, cost benefit analysis, you'll set
23 back the environmental movement in Ventura County. I
24 strongly encourage you to build on the great sentiments
25 that we have here at this point in time.

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01 You're likely to find more support here than
02 in many other Southern California communities, and that
03 support will be commensurate with the degree of rational
04 common sense your policies have. We stand ready to work
05 with you to create a model of collaboration between a
06 Regional Board and a progressive local government.

07 Thank you very much.

08 CHAIR DIAMOND: Thank you.

09 Jacqui Irwin, followed by Jan McDonald.

10 MS. IRWIN: Madam Chair and members of the Board,
11 my name is Jacqui Irwin. And I'm the mayor pro tem of
12 the City of Thousand Oaks.

13 Thousand Oaks has long been a leader when it
14 comes to environmental projects and programs. We have a
15 very successful history in resolving major environmental
16 challenges, and we look forward to working cooperatively
17 with the nine cities and the Water Board and the County.

18 I would like to share one example how local

19 government in Ventura County confronted and resolved a
20 major environmental challenge.

21 In the early 1990s, Thousand Oaks' Hill
22 Canyon Wastewater Treatment Plant faced major regulatory
23 and compliance and capacity issues and not to mention
24 strong political oppositions from local special interest
25 groups. To make a long story short, the City ultimately

0043
01 did the right thing environmentally and constructed one
02 of our nation's most successful and cost-effective
03 wastewater treatment plants, a model for other California
04 municipalities to emulate. And I want to emphasize
05 "cost effective."

06 When confronted with environmental
07 challenges, throwing money at a problem haphazardly is
08 fiscally irresponsible. And we, as local officials, have
09 to answer to our residents.

10 And I'd like to just share some of the
11 highlights of the Hill Canyon Wastewater Treatment Plant.
12 The cost to construct was \$65 million and it would be
13 over 100 million today. And it is the winner of the
14 American Public Works Association Environmental Project
15 of the year for the man-made wetlands.

16 We have six acres of wetlands in a
17 mitigation bank. It was \$900,000 to construct and it's
18 valued at \$5 million currently.

19 We also receive a million dollars annually
20 for reselling our reclaimed water to the Calleguas Water
21 District, and that's used down in the Oxnard plain by
22 farmers.

23 We have a 507 kilowatt solar facility, which
24 provides 15 percent of our energy, and we also have a
25 cogeneration system that takes the methane from the

0044
01 solids. Between cogeneration and solar, we are off the
02 grid between 11:00 and 2:00 daily. And those -- those
03 two renewable energy sources are providing 65 percent of
04 the energy for the wastewater treatment plants. In
05 five years, it will be providing 100 percent of the
06 energy.

07 And we have an excellent environmental
08 compliance record. The City is known to be an innovator
09 in the field of wastewater treatment and dedicated to
10 providing extraordinary customer service. And what is
11 the cost of all this? Our residents are paying 25.45 a
12 month, and the typical customer in Ventura County is
13 paying between \$30 and \$50 a month. Proposed new systems
14 in Santa Paula and Fillmore are looking to cost 75 to
15 \$100 a month. I think it is a perfect example of solving
16 environmental issues in an innovative and cost-effective
17 manner.

18 Thank you very much for your time.

19 CHAIR DIAMOND: Thank you.

20 Jan McDonald, followed by John Zaragoza.

21 JAN MCDONALD: Thank you. Thank you for the
22 opportunity to be here this morning. And I know you're
23 running out of time; I'm going to read mine quickly so
24 that you can move on.

25 I am Jan McDonald, the mayor of the City of

0045
01 Camarillo. And the City has been a long-time member of
02 the Calleguas Creek Watershed Management Plan. The
03 group's membership includes cities, water and sanitary

04 districts, the watershed Protection District,
05 Ventura County Farm Bureau, environmental interests,
06 Caltrans, the Navy, and many others.

07 This watershed has several listings under
08 the Federal Clean Water Act and 303D Process as having
09 impaired water -- surface water bodies, which has
10 triggered the need for the development of T.M.D.L.'s.

11 The Calleguas Creek Watershed Management
12 Plan has worked cooperatively with both the Regional
13 Board and E.P.A. to develop the needed T.M.D.L.'s and a
14 long-term quality water monitoring program. This
15 draft -- second draft of the draft Municipal Stormwater
16 Permit has some good approaches, but it also contains
17 approaches that conflict with our past collaborative
18 efforts in improving water quality.

19 For example, this draft revision of the
20 Stormwater Permit contains T.M.D.L.-related language
21 requiring activities that contradict with the already
22 approved T.M.D.L.'s. If this language remains in the
23 Stormwater Permit, it could jeopardize that collaborative
24 effort we've had up until now, which in could -- in turn
25 could delay the improved water quality that we're all

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01 working towards.

02 The City of Camarillo appreciates the
03 opportunity to share our concerns with you, and we look
04 forward to continuing a cooperative effort in working
05 with the Calleguas Creek Watershed.

06 CHAIR DIAMOND: Thank you.

07 John Zaragoza, followed by Mayor Paul Miller.

08 MR. ZARAGOZA: Thank you, Madam Chair and members
09 of the Board. My name is John Zaragoza, councilmember
10 for the City of Oxnard.

11 I was elected to the Oxnard City Council in
12 1996. At that time, the storm drain and watershed
13 programs were their -- in their infancy. More
14 importantly, I was a City employee for the City of Oxnard
15 for 31-and-a-half years and the last 15 years as a solid
16 waste manager for the City of Oxnard.

17 I and other councilmembers have provided
18 meaningful direction to our staff to support -- supported
19 the hiring of new staff to implement stormwater programs
20 in the City of Oxnard. Over the last two permits cycles,
21 the City has put into place many effective and innovative
22 measures to have improved water quality, including
23 enhances cash basin cleaning, conditions in land
24 development projects to require treatment of runoff
25 during and after construction monitoring, and also the

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01 actual proof of effectiveness and treatment by the
02 builders in the use of City Corps. We have City Corps
03 kids that help us clean and monitor our channels. And
04 most recently, the stream net-catching program for
05 catching trash.

06 The message I would like to bring today is
07 that the cities have vested interests in protecting our
08 environmental resources. The plans and actions began a
09 decade ago under the Stormwater Permit are now coming to
10 fruition. This is not the time to lose confidence in the
11 Best Management Practice approach just as we were seeing
12 improvements in our water quality.

13 Our early proactive approach to developing
14 and implementing the urban runoff program has enjoyed the

15 support of our citizens over the last 15 years, because
16 they benefited from the beach water quality protection
17 and benefited from the savings made possible by the
18 countywide participation in this program. I urge you to
19 capitalize in the citizens' momentum and not to modify
20 the Permit, but to preserve our result-based programs.
21 Thank you so much for the opportunity to
22 share this with you this morning.
23 CHAIR DIAMOND: Thank you.
24 We only have a couple of minutes left, so I
25 really would love you to keep them as short as possible

0048

01 and not repeat.
02 Mayor Paul Miller from the City of
03 Simi Valley, followed by the elected representative from
04 the City of Santa Paula. I don't have a name on the
05 card, though.
06 MR. MILLER: Thank you. My name is Paul Miller,
07 mayor of the City of Simi Valley. Chair and members of
08 the Board, good morning. I will cut to the chase and
09 make it quick.

10 The new Permit in this current form will be
11 impossible for our city to implement. The City does not
12 have the funds, nor do we have the mechanism to raise the
13 money to pay for the proposed program.

14 By way of perspective, Simi Valley currently
15 spends \$3.5 annually on stormwater-related programs, of
16 which we are only able to collect about \$175,000 in fees
17 to offset that cost. Because of the restrictions placed
18 on us by Prop 218, it would be impossible to increase
19 users' fees to the estimated \$400 per household from the
20 \$3.87 currently collected from each household in
21 Simi Valley. This would be a rate increase of 103 times
22 to generate the 16.8 million needed to implement the new
23 program provisions in Simi Valley. This is simply
24 unrealistic and an impossible expectation and a burden to
25 meet.

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01 To put that cost in further perspective, the
02 City's entire general fund budget is \$65 million.
03 Without a funding source, we would need to divert
04 16.8 million or 25 percent of our general fund budget
05 away from other programs that are very important to our
06 residents, such as public safety and streets and road.
07 Again, there is no practical or supportable way for us to
08 divert that kind of money away from other critical public
09 health and safety programs.

10 Our City Council feels firmly, we want to
11 work with you. We want to protect our environment. We
12 want to cooperate. But the bottom line is, we need to
13 find a reasonable way to do it.

14 Thank you.

15 CHAIR DIAMOND: Thank you.

16 The representative from the City of
17 Santa Paula who filled out a card but there was no name?
18 Then we'll go on to Murray Rosenbluth from
19 the City of Port Hueneme.

20 MR. ROSENBLUTH: Chair Diamond, honorable Board
21 Members, good morning. I am Murray Rosenbluth. I'm
22 serving in my eleventh year as a Port Hueneme City
23 Councilmember. Mayor in the years 2000 and 2005.

24 Port Hueneme is a small beach community of
25 22,000 residents, which includes about 2,000 Navy

0050

01 Sea Bees and their families. We're proud of our safe and
02 clean beach. Significant and successful programs are in
03 place to control stormwater and to help keep our beach
04 and waters clean.

05 A healthy beach is very important to the
06 quality of life in Port Hueneme. However, our small city
07 is in a very critical financial situation. This fiscal
08 year, our general fund has a significant structural
09 deficit, which we are backfilling with limited revenues.

10 We've just gone through a tough program to
11 cut expenses to the bone. It is very difficult, near
12 impossible, to increase revenues. We have a limited
13 property tax base. We have no big box stores, no auto
14 malls or any malls of any kind to generate sales tax
15 revenue. This is typical of the small cities in the
16 County. However, despite our very difficult financial
17 situation, we are committed to do all we can to have
18 clean water at the beach.

19 We all share the same goals. We all want
20 the best results, and we want this to be a team effort.
21 And we are on the same team. We support the small
22 community's tiered permit approach as being consistent
23 with you and our values. And we ask you to support us.

24 Thank you.

25 CHAIR DIAMOND: Thank you. Patti walker from the

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01 City of Fillmore, councilmember. Patti walker?

02 Jerry Kersnar from the City of Ojai?

03 CHAIR DIAMOND: Pass.

04 And I have a card from the City of Moorpark.
05 Is there somebody here from the City of Moorpark that
06 wanted to speak?

07 And Rick Cole, City Manager?

08 That would be my last card.

09 MR. COLE: Let me speak directly to the members of
10 the Board. To summarize what ten cities in the County
11 have said to you this morning and have been saying for
12 months, we all want clean water. And the watershed
13 movement here is how we get there.

14 Tracy Woods, a very able staff member who's
15 worked very hard with the other members of your staff to
16 come up with Permit language that will get us there, said
17 today that one of the goals was to hold Permittees
18 accountable for not doing enough. I respectfully submit
19 that you have a room full of people who are committed to
20 doing much, much more.

21 And throughout the rest of the morning, if a
22 majority of you give direction to your staff, you have
23 the opportunity to divert from one path which you're
24 currently on, which is to have your staff write a
25 200-page prescriptive document to force us to do what you

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01 think will get us there. Or you can direct your staff to
02 work with us to find a joint way of getting there. That
03 is the stark choice facing you. It's not an easy job
04 that you hold, but you either are going to say the goal
05 here today is to force this room full of people to do
06 what your staff thinks is the way we'll achieve the goal
07 or have you -- direct your staff to sit down with us to
08 find a collaborative way to reach that same goal. That's
09 what you have to decide today and we'll work with either
10 decision.

11 But you have a great opportunity to convert
12 this room full of people into people who will do more to
13 clean our water; agriculture, business, real estate,
14 local government, environmentalists working together to
15 make this, again, a national model. This program has
16 already won an E.P.A. national award. Give us the chance
17 to work with your staff, and we will come back and we
18 will clean the water.

19 Thank you.

20 CHAIR DIAMOND: Thank you.

21 Now we'll go on to the environmental groups,
22 and I don't -- I don't have cards, so I'm just -- I think
23 Mr. Beckman, I see you there, and I assume you're going
24 to make an environmental presentation to us?

25 MR. BECKMAN: Yes, Chair Diamond.

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01 I'm speaking on behalf of Heal the Bay and
02 N.R.D.C. and was told to speak briefly, so I will.

03 We appreciate --

04 CHAIR DIAMOND: We have you scheduled for about
05 five minutes.

06 MR. BECKMAN: Yeah. I'll try to be below
07 five minutes.

08 We wanted just to give you an overview,
09 maybe with a degree of specificity, a little bit more
10 than you heard so far, but I first wanted to just observe
11 that I think in, I don't know, 10 or 12 years of coming
12 to hearings like this all across the state, I don't think
13 I've heard as many thoughtful and progressive statements
14 on dealing with the water pollution as I heard this
15 morning.

16 And it's -- I have with me Bart Lansbary
17 (phonetic), who is a legal fellow who just started, just
18 graduated from law school, just took the Bar, and I was
19 telling him, you know, this isn't really what usually
20 happens here. You know, usually, you know, we're hearing
21 about "we can't do this" and "we can't do that." And we
22 heard a little bit of that this morning, but we also
23 heard a lot of things like Integrated Pest Management and
24 low-impact development that you don't usually hear from
25 representatives and City governments. So it's a pleasure

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01 to hear those sorts of things.

02 Collaboration is important, but this is a
03 regulatory program. It's one that is two years overdue.
04 The Permit was supposed to be issued two years ago.
05 Permits run for five years. At current speed, you're
06 going to issue this Permit halfway into the appropriate
07 Permit term. And so it's important that we balance
08 discussion with making decisions and moving forward.

09 And in that -- in that framework, there are
10 four major issues that we wanted to raise that we'll talk
11 about further today. One is low-impact development.
12 We're pleased that some here support it. It is a
13 superior water quality solution that has multiple
14 benefits for this and other communities.

15 N.R.D.C. has submitted extensive comments,
16 including technical reports by perhaps the leading
17 stormwater expert in the country, Dr. Richard Horner
18 (phonetic), that quantify not only the relative water
19 quality benefits associated with low-impact development,
20 but the water supply benefit, which, as you know, is an
21 increasing issue in California.

22 we've also quantified economically across a
23 range of development types, how much money a development
24 project can save per year, based on wholesale and retail
25 water rates by implementing low-impact development as a

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01 stormwater solution. And it's a significant amount of
02 money, particularly in large developments.

03 The issue here is that the standard of
04 5 percent E.I.A. in the Permit is set at a level above
05 that level that scientists recognized causes impairment
06 to biological communities. We've recommended 3 percent,
07 and we've demonstrated in our submittals that 3 percent
08 is practicable and feasible across a range of typical
09 development patterns locally.

10 So it can be done. It meets the M.E.P.
11 standards and it offers a significant number of benefits
12 for the community, as well as the ability in some
13 instances, many instances, to literally eliminate
14 stormwater runoff from development assuming nominal, sort
15 of typical rainfall patterns. So 5 percent needs to be
16 3 percent.

17 The Municipal Action Levels is a second
18 issue. It's an excellent idea because it takes a
19 businesslike approach to environmental regulation. It's
20 a transparent objective that all can see and look at.
21 Permittees know when they need to do more. They know
22 when they're being successful; so do your staff. It's an
23 appropriate approach.

24 The problem is that the Municipal Action
25 Levels as the Permit negotiations have continued, have
0056
01 gotten weaker. And now some of them are set at a level
02 of essentially the fifth percentile of performance.

03 In other words, your staff would be
04 considering the Permittees to have achieved the Maximum
05 Extent Practicable when they're operating at a level
06 below 95 percent of other entities that are implementing
07 the same B.M.P.'s. It's an extremely low level of
08 performance. It's more like L.E.P., Lowest Extent
09 Practicable, not M.E.P. And so it's an excellent idea,
10 but the implementation in the Permit translates M.E.P.
11 into a very weak standard. And we really cannot support
12 that and don't suggest that you do.

13 The third issue is T.M.D.L.'s. There's a
14 specific issue with T.M.D.L.'s. One is that the Permit
15 language in this instance doesn't actually require
16 compliance with the T.M.D.L.'s. It requires reasonable
17 efforts calculated to meet the standard.

18 And T.M.D.L.'s are where the rubber hits the
19 road. It's the Clean Water Act safety net. If you're
20 not going to require compliance there, then you're never
21 going to require compliance. And it's important that
22 that Permit language be modified to be consistent with
23 the Clean Water Act.

24 And also, when T.M.D.L.'s are not yet
25 implemented -- and the Permit describes many instances

0057
01 where the T.M.D.L.'s won't be implemented during the
02 Permit term -- the Clean Water Act requires that there be
03 no net increase of the impairing pollutant to the
04 impaired watersheds. And that is sort of a logical idea;
05 that if you got a problem, you don't want to make it
06 worse before you get with the effort to make it better.

07 And the last point that we wanted to raise
08 is the issue of monitoring. The Permit language needs
09 to -- just from an environmental management perspective,
10 forget the law -- it needs simply to provide enough
11 information that the Permittees know what works and what
12 doesn't. And it needs to allow your staff, because this
13 is a regulatory program, to determine compliance. Right
14 now, the Permit language doesn't do that.

15 And, in fact, we were disappointed to see
16 that monitoring has been reduced. We don't think that
17 proper monitoring is a waste of money. We think it's an
18 essential part of an environmental management scheme.
19 And it's certainly an essential part of any iterative
20 process to achieve compliance.

21 Currently this Permit suffers from the same
22 problems that all of the permits in California do. The
23 monitoring program is not specific to cities and doesn't
24 give the type of information that's necessary for good
25 management. And we would suggest that that also be

0058 addressed as the process proceeds.

02 So with that, I thank you very much for
03 giving us the opportunity to provide these comments. I
04 hope I'll have an opportunity to talk to you more about
05 low-impact development. I may not because of the way the
06 schedule is today, but we'll certainly be commenting by
07 the written comment deadline. And appreciate, again, the
08 chance to talk again this morning.

09 Thank you.

10 CHAIR DIAMOND: Thank you.

11 We are -- I think at this point, we should
12 take a ten-minute break, give our reporter an opportunity
13 to take a break and we'll resume in ten minutes.

14 And we're going to go to the first issue,
15 which will be the Municipal Action Levels. And after
16 that issue, we will go to Total Maximum Daily Loads and
17 then low-impact development and a couple of other issues
18 after that.

19 (Recess)

20 CHAIR DIAMOND: All right. Thank you very much.
21 We're going to begin. If everyone can take your seat and
22 come to order. We're going to go to the issue of
23 Municipal Action Levels, and we're going to have our
24 staff presentation.

25 And we're going to keep time. We left

0059 enough time in the first section for everybody, certainly
02 the electeds, to have as much time as they needed. But
03 we really, in order to get through this day and cover
04 everything, we will keep to our time. And we'll have --
05 you will see the time lit up, and it will give you a
06 warning when it's almost over.

07 we'll have staff presentation for
08 ten minutes, followed by Permittees' presentation for
09 ten minutes, the environmental community for ten minutes,
10 the California Stormwater Quality Association for
11 five minutes, B.I.A. for eight minutes, and we have
12 several cards for three minutes. And then we will have,
13 if we need to, some questions from the Board.

14 So we will keep on time. And I will just
15 ask you to keep the time, but please speak so that our
16 court reporter can hear you and not have a problem
17 transcribing what you say.

18 Okay. So if you have any handouts, please
19 give them to Ronji (phonetic) or Steve Caine and they
20 will hand them to us. So we're going to begin with our
21 staff presentation.

22 MR. RIDGEWAY: Good morning, Madam Chair and
23 members of the Board. My name is Ivar Ridgeway.
24 The December 27th, 2006, first draft of
25 Ventura County MS4 Permit introduced Municipal Action

0060

01 Levels as a numerical expression of the Maximum Extent
02 Practicable Federal requirements. Municipal Action Level
03 values are not water-quality based effluent limits.
04 Municipal Action Level values are technology
05 based. They are derived from municipal sampling of
06 stormwater discharges of pipes and outfalls greater than
07 36 inches in diameter.

08 Both the first draft and second draft of the
09 2007 Ventura County Permit requires stormwaters
10 discharged from the MS4 to waters of the United States to
11 achieve at a minimum a stormwater effluent quality equal
12 to the pollutant Municipal Action Levels.

13 Municipal Action Levels have been developed
14 for common stormwater pollutants based on nationwide
15 Phase I, MS4 stormwater monitoring data. The Municipal
16 Action Levels were computed using a statistically-based
17 population approach. The Municipal Action Levels were
18 computed using the median or central tendency of the
19 sampling events to eliminate outlier effects.

20 The State Board Blue Ribbon Panel Report
21 suggests that a Municipal Action Level could be set
22 based on the upper 95 percent confidence limit. The
23 Municipal Action Level values represent a similar
24 approach. The Blue Ribbon Panel Report stated if
25 measured concentrations are consistently higher than the

0061

01 upper 95 percent confidence limit, an action situation
02 would be triggered. State Board has not yet taken any
03 action on the report.

04 Next. Municipal Action Levels represent a
05 quantifiable expression of the Maximum Extent Practicable
06 standard that clearly expresses the standard for the
07 expected outcomes. A numerical expression of the M.E.P.
08 allows Permittees to focus on source-specific actions to
09 mitigate pollutants in their stormwater discharges.

10 Regional Board staff, in response to
11 concerns expressed during the April 5th, 2007 Ventura MS4
12 workshop, recalculated the Municipal Action Level values.
13 Simplified, the revised Municipal Action Level values in
14 the second draft of the Ventura -- 2007 Ventura County
15 MS4 Permit have been set so that only 5 to 10 percent of
16 the data points of the national dataset are above the
17 Municipal Action Level values. The revised Municipal
18 Action Level values are more readily achievable.

19 Based on comments received, a Mercury
20 Municipal Action Level value was added to the existing
21 pollutants.

22 Based on comments received during the
23 April 5th, 2006 workshop, Regional Board staff considered
24 different options in computing Municipal Action Levels.
25 Staff considered basing the Municipal Action Levels on a

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01 subset of the national dataset which only included
02 sampling events conducted within semi-arid climates. The

03 intent of using the subset was to eliminate climate as a
04 variable in defining M.E.P. Staff discovered that some
05 of the values obtained using the climate zone subset were
06 similar to, or more stringent than, those computed from
07 the national dataset.

08 The table in the slide shows a comparison of
09 Municipal Action Level values computed using the national
10 dataset and the climate zone subset for Cadmium, Copper
11 and Nickel. Please note that the lower -- the lower
12 Municipal Action Level values for Cadmium and Copper are
13 obtained using the regional dataset rather than the
14 national dataset.

15 And the national dataset is in the darker
16 blue. It's kind of hard to see against the background.
17 And the lighter blue represents the regional. Here's the
18 Cadmium value with the lower value for the climate zone
19 subset and almost an equivalent value for Copper obtained
20 using the regional climate zone subset.

21 Another factor staff decided in deciding
22 whether to use a regional dataset or national dataset was
23 the number of sampling events. Staff decided the
24 robustness of the national dataset was an important
25 factor in calculating Municipal Action Level values.

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01 The chart shows the number of Copper sampling events
02 for the regional dataset, which includes approximately
03 300 events -- that's the one on the right -- versus
04 the national dataset, which includes approximately
05 3,500 events, which is on the left.

06 The 2000 Ventura MS4 Permit and the
07 August 2007 draft Ventura MS4 Permit require compliance
08 with water quality standards. The chart shows the fresh
09 water and the saltwater C.T.R. values for Copper in
10 comparison to the Municipal -- Municipal Action Level
11 values for Copper. One of the objectives of the
12 MS4 program is to achieve water quality standards.
13 Municipal Action Levels are a step towards the goal. If
14 you note, it's quite a bit -- fresh and saltwater C.T.R.
15 values are on the bottom. And the -- on the top, quite a
16 bit significantly above are the Municipal Action Levels
17 for Copper.

18 This table shows selected effluent
19 stormwater quality based on technology achievable using
20 simple B.M.P.'s that promote infiltration and provide
21 filtration treatment. The table shows the performance of
22 these B.M.P.'s in relation to water quality criteria and
23 Municipal Action Level values. These technology-based
24 B.M.P.'s are able to achieve an effluent water quality
25 level three to ten times below Municipal Action Level

0064

01 values. And highlighted in the middle in comparison to
02 the numbers are the M.A.L. values.

03 This concludes staff presentation on
04 Municipal Action Level values.

05 CHAIR DIAMOND: The next witness of ours
06 (inaudible) Vicki Musgrove.

07 MS. MUSGROVE: Go ahead and start.

08 Good morning, Chair Diamond and members of
09 the Board. I'm happy to be here this morning to talk to
10 you about Municipal Action Levels. I'm Vicki Musgrove
11 with the City of Ventura talking on behalf of the
12 Countywide Program.

13 The use of Municipal Action Levels in

14 this Permit is clearly defining Maximum Extent
 15 Practicable with numeric effluent limitations. They are
 16 enforceable compliance endpoints for us at the end of all
 17 of our 36-inch open storm drains. This gives us over
 18 200 compliance point, and we think that with this
 19 enforceable compliant limits comes mandatory minimum
 20 fines if we were to exceed them. This is a big leap for
 21 all stormwater programs, but particularly the program in
 22 Ventura County.

23 Ventura County's a population of 800,000.
 24 Six of our ten cities in Ventura County have Phase II
 25 populations. We came together years ago, and six of the
 0065 ten -- actually seven of the ten, my city was included at
 01 that time, came in voluntarily into this program, knowing
 02 that it was the right thing to do.

03 And since that time, we've had a model
 04 program. We have a history of water quality success. We
 05 have a national model T.M.D.L. The Calleguas Creek
 06 T.M.D.L. is being used as an example all over the nation
 07 for a perfect T.M.D.L. process. We have some of the best
 08 beach report cards in Southern California and our
 09 watersheds are largely undeveloped.

11 This is just a slide that kind of shows you
 12 the land uses in Ventura County. You can see we're on
 13 the average about 12 percent urban. We've got more Ag in
 14 all cases than we do urban, and we have a large amount of
 15 open space. Much of that open space is actually
 16 protected. It's national forests or there are actually
 17 ordinances and regulations that prevent it from being
 18 developed.

19 We support performance measures. We
 20 recognize the need for outcome-based performance
 21 measures. We understand it's important to our program.
 22 We support the C.A.S.Q.A. approach, which I'm sure they
 23 will be presenting later, and so I won't go into their
 24 approach. It's for the overall program to have
 25 performance measures that are outcome based.

0066
 01 We also do not mind if that does include
 02 numeric action levels similar to the M.A.L.'s, but we
 03 would like for those numeric action levels to identify
 04 problems and serve as a call to action. Basically as
 05 David said, "Tell us when we need to do more." Use them
 06 as a tool to make our program better but not as effluent
 07 limits that put us out of compliance and spending our
 08 money towards paying fines. We want them to be
 09 technically sound and relevant to our program and our
 10 water quality issues. And we'd like for them to support
 11 and be consistent with our excellent, excellent T.M.D.L.
 12 programs that we've embarked on in the County.

13 So numeric action levels should be
 14 consistent with policy and state of knowledge.

15 The legal requirements of the Clean Water
 16 Act is for municipal dischargers to meet to reduce the
 17 discharge of pollutants to the Maximum Extent
 18 Practicable, and M.E.P. is the basis of compliance for
 19 this draft Permit. We understand that M.E.P. is very
 20 hard to define. There's been a lot of court cases and a
 21 lot of things that have happened trying to define M.E.P.

22 In a recent court case, it was said that
 23 E.P.A.'s preference is to regulate Stormwater Permits by
 24 way of B.M.P.'s rather than imposing technology or

25 water-quality based numeric limits.

0067

01 The courts have defined M.E.P. differently
02 than what's proposed in this Permit. This is the Court
03 definition that was used in a recent B.I.A. State Board
04 decision. Again, it broadly defined to be a
05 highly-flexible contact -- concept that balances these
06 factors. And we don't believe the way they have it
07 defined in this Permit balances these factors.

08 M.A.L.'s are contrary to the Blue Ribbon
09 Panel recommendations. In September 2005, the State
10 Board convened a panel of experts to address the
11 following question: Is it technically feasible to
12 establish numeric effluent limitations or some other
13 quantifiable limit for inclusion in Stormwater Permit?
14 This is the statement from the report issued in 2006 that
15 clearly states the position that numeric limits for
16 municipal stormwater discharges are not possible at this
17 time.

18 Action levels could be -- should be
19 technically sound and relevant.

20 I'm going to use an example of Nickel. I
21 think you might remember I used a different example last
22 time I was up here in the -- at the April workshop, but
23 let's talk about Nickel. Nickel compliance, we've done
24 analysis of our data to see would we be in compliance
25 with Nickel. These are the percentages of time in the

0068

01 right-hand column that we are actually out of compliance
02 with Nickel at five of our monitoring stations. This
03 compliance is based on the 20 percent rolling average
04 that is actually in the Permit. Note that Ventura River
05 is even 26 percent of the time over the limit.

06 This is a graph. I'd like to call your
07 attention to the bottom blue line that's straight across
08 the bottom. That is the M.A.L. in the Permit. It's set
09 at 19. And the yellow line at the top is the -- actually
10 the water-quality objective that's in the basin plan for
11 Nickel. So we've got an M.A.L. that's set five times
12 lower than our water quality basin plan.

13 Our data, as you can see, that's down at the
14 bottom, we would be out of compliance with the M.A.L.
15 certainly immediately. That would require that we do
16 something.

17 I'd like to call attention to the pink line.
18 The pink line is the Ventura River Monitoring Station,
19 and our Ventura River Monitoring Station is a mass
20 emissions station. And the watershed that you might
21 remember from my previous slide is 3 percent impervious.
22 This station is above the City of Ventura, which is the
23 largest city in the watershed at a little over 100,000.
24 And the Ventura River, certainly it would -- we would
25 wonder where in the world we were getting Nickel, unless

0069

01 it was from natural sources.

02 So how would we comply with this Nickel
03 M.A.L.? Well, we can look at source controls. It might
04 be soils, natural sources. It could be alloys,
05 industrial. Again, we don't think we have any industrial
06 uses in that watershed that would be producing that. So
07 we would be forced, because we would be out of compliance
08 with the Permit and subject to these fines, to look at
09 treatment control.

10 In a search of the A.S.C.E. database,
11 looking at what kind of B.M.P.'s we would actually
12 install which are known to remove Nickel, we don't --
13 there are none that we can search for in the A.S.C.E.
14 database. This is a -- this would be a very difficult
15 situation for us to be in.

16 Our action levels should support our
17 T.M.D.L.'s.

18 This is just a chart just to show the
19 difference between T.M.D.L.'s and M.A.L.'s. And again,
20 our T.M.D.L.'s are, we think, a very successful approach.

21 The M.A.L.'s, we feel like that the effluent
22 limits are quite arbitrary. In fact, in your staff
23 report, you probably read that when we were here in
24 April, they were set at one times -- one time the
25 coefficient of variation. And now they're set at

0070
01 two times the coefficient of variation on these
02 pollutants.

03 What should they be set at? I think we
04 should talk about that. We think that the T.M.D.L.'s are
05 a focused approach. They deal with water bodies of
06 concern, pollutants of concern and that's a much better
07 way to deal with things.

08 The M.A.L.'s have a stormwater outfall
09 focus. The T.M.D.L.'s have a watershed focus that
10 deals with all different sources. I will tell you that
11 in a county like we are, with the land uses that we
12 have -- and I can speak specifically for the City of
13 Ventura -- it would be very difficult for me to find a
14 36-inch municipal outfall that only carries municipal
15 storm drain urban runoff.

16 Our runoff is commingled. We have
17 agriculture. We have open space. We have all of our
18 other land uses that are commingled. When I monitor the
19 end of a 36-inch storm drain, I'm not going to just get
20 municipal runoff, urban runoff. T.M.D.L.'s, again
21 watershed focus, all sources.

22 The effluent limits are artificially
23 mandated. The T.M.D.L.'s are stakeholder driven. There
24 is a three-year compliance schedule on the M.A.L.'s
25 with an unknown implementation plan. We don't know

0071
01 what -- how we're going to reach them.

02 And in T.M.D.L.'s, they have a realistic
03 time schedule with a feasible implementation plan. And
04 sometimes the implementation plan and the T.M.D.L.'s is
05 longer than the implementation in the M.A.L.'s would be.
06 And so there would be a conflict. And again, the people
07 that are working on the T.M.D.L.'s cooperatively in
08 coming up with these implementation plans would wonder
09 why in the world are we doing this.

10 So our recommendations are this. We're not
11 asking you not to include M.A.L.'s in the Permit. We're
12 saying use -- let us use M.A.L.'s as outcome-based
13 performance measures that call us to action, that give us
14 an assessment tool to tell when we're not doing what
15 we're supposed to be doing, to identify the bad actors
16 but not as end-of-pipe effluent limits. We don't think
17 that's feasible right now.

18 Base the M.A.L.'s on technically sound,
19 local data. Focus on relevant pollutants to the County
20 of Ventura, things that will make a difference for water.

21 quality that we know are pollutants of concern in our
22 watershed and coordinate the M.A.L.'s with the T.M.D.L.
23 program.

24 And with that, I'll just say I agree with
25 Ivar completely. We can use these M.A.L.'s as a step

0072

01 to step toward the goal, but I want to be careful about
02 how it's done. And I don't feel like the current Permit
03 in its current draft format does that.

04 Thank you very much.

05 CHAIR DIAMOND: Thank you.

06 We're now going to go on to ten minutes for
07 the environmental community. I have one from
08 Kirsten James first, followed by David Beckman.

09 MS. JAMES: Okay. Good morning. My name is
10 Kirsten James, and I'm a staff scientist with Heal the
11 Bay. Today I'm speaking on behalf of Heal the Bay and
12 N.R.D.C.

13 First, I just want to touch on the extent of
14 M.A.L.'s that are included in the Permit. The group of
15 M.A.L.'s developed in the Permit are extremely limited,
16 as you can see here. There are constituents that are big
17 concerns in stormwater that are missing from these lists,
18 and we believe that M.A.L.'s should be added for these
19 constituents.

20 One question we have of staff, is that
21 bacteria M.A.L.'s were taken out of the previous Permit
22 and we don't understand the reasoning for this decision.

23 But mainly, I want to touch upon the
24 M.A.L.'s themselves. We believe the M.A.L.'s are
25 seriously flawed. Municipal Action Levels can

0073

01 potentially be useful interpretations of the M.E.P.
02 standard; however, in this draft Permit, this is not the
03 case. The M.A.L.'s provided in this Permit are extremely
04 flawed. And today I'm going to touch upon the reasons
05 why they are flawed and then provide an alternative
06 solution.

07 I realize that M.A.L.'s are not intended to
08 be standards; however, the comparison of the proposed
09 M.A.L.'s to the C.T.R. criteria is very useful. The
10 M.A.L.'s and the C.T.R. do not directly compare but they
11 demonstrate several of the problems with the proposed
12 M.A.L.'s.

13 First, the Permit does not provide a maximum
14 value or limit and an average value as is typically done
15 to understand acute and chronic impacts. This is a major
16 shortcoming in the Permit.

17 Also, the proposed M.A.L.'s are for the most
18 part significantly less stringent than the C.T.R. This
19 is especially the case in the second version of this
20 Permit as the M.A.L.'s have been greatly weakened.
21 Again, I realize these aren't directly comparable to the
22 C.T.R. But as I'll talk about later in the monitoring
23 section, given that -- given that the receiving water
24 monitoring has been practically eliminated from this
25 version of the Permit, this discrepancy is especially

0074

01 alarming.

02 As discussed by staff, the M.A.L.'s are
03 calculated using actual monitoring data. The Nickel
04 example up in this slide really hits home this point
05 because you can see the major discrepancy. And in this

06 case, it's actually more stringent than the C.T.R.
07 standard. And we believe that the monitoring data or
08 the, sort of, what's going on countrywide as far as
09 stormwater quality shouldn't necessarily be what we're
10 aiming towards in this region. Thus, we feel that using
11 actual monitoring data in the M.A.L. process is a flawed
12 process.

13 The tentative Permit states that the
14 effluent quality of B.M.P.'s is required to meet these
15 M.A.L. values. In the next view slide, I will show why
16 this is an improper determination of M.E.P.

17 This table was taken from an analysis by
18 Geosyntec consultants of the A.S.C.E., E.P.A. B.M.P.
19 database. Geosyntec grouped the effluent quality data
20 from several types of B.M.P.'s and computed effluent
21 quality percentiles. So that what this means is, for
22 example, 95 percent of the BioFilter B.M.P.'s that were
23 monitored produced an effluent quality of 1.258
24 micrograms per liter. But as you can see highlighted in
25 yellow, the proposed M.A.L. is greatly above that value.

0075

01 And just think about it, 90 percent of the
02 B.M.P.'s that were monitored achieved that value. And
03 we're saying that that's the Maximum Extent Practicable?
04 That just doesn't make sense. Obviously, clearly we can
05 do better. Clearly the M.E.P. is not this M.A.L. value.
06 Also, you can see that for all of these, the
07 performance -- the M.A.L.'s are much higher than the
08 performance of 50 percent or more of the B.M.P. And of
09 note, I collected the BioFilter B.M.P. in this slide
10 because it doesn't require -- it doesn't have the space
11 constraints of some of the other B.M.P.'s.

12 This slide pretty much shows the exact same
13 thing, just using hydrodynamic devices. And you can see,
14 as highlighted in yellow, all of these proposed M.A.L.'s
15 are significantly greater than what 95 percent of the
16 B.M.P.'s that were in the ground and were monitored could
17 achieve. So we're pretty much saying that, you know,
18 our M.A.L.'s, and that's M.E.P., and that's the worst
19 5 percent. So we're aiming for the worst 5 percent of
20 the B.M.P.'s, which is just a ridiculous goal.

21 M.A.L.'s in general are fine if they do
22 reflect -- reflect M.E.P., but these don't, in any shape
23 or form.

24 Not only are these M.A.L.'s very weak in and
25 of themselves, and don't begin to reflect M.E.P., but the

0076

01 Permit is allowing exceedences 20 percent of the time.
02 So not only are the values themselves greatly
03 inappropriate, but then we're allowing even a weaker
04 standard here. We believe that this is completely
05 unacceptable. And yet, another addition to this Permit
06 that makes them even another step weaker is that, as was
07 discussed, two times the coefficient of variation was
08 used making the M.A.L. values even weaker.

09 So we see these different points just make
10 the M.A.L.'s weaker and weaker and just in no shape or
11 form meet the M.E.P.

12 So what we recommend. Well, we suggest not
13 using monitoring data, but instead using performance
14 data. For instance, I just inserted that same slide that
15 you saw a few slides ago of the Geosyntec table that
16 could be used for this purpose. We recommend that

17 very -- the B.M.P. in the ground get at least the
 18 50 percentile effluent quality value. Meaning that the
 19 installed B.M.P.'s should perform as well or better than
 20 50 percent of similar B.M.P.'s that are out there.

21 And then further, in cases where the SUSUMP
 22 or the receiving water limit violations are noted, then
 23 these M.A.L.'s should go a step further and be based on
 24 something like the 25 percent percentile, meaning that
 25 they perform as well as 75 percent of those that are out
 0077 there.

01
 02 The discharges should at least be able to
 03 meet BioFilters and hydrodynamic devices and media
 04 filters. As I said before, these don't have the similar
 05 space constraints as things like detention basins. A
 06 scheme such as this with performance criteria is the only
 07 way to move us towards M.E.P. and water quality
 08 standards' attainment in receiving water.

09 Currently, any B.M.P.'s stuck in the ground
 10 is okay in the regulatory framework. Flow base design
 11 criteria are not enough to ensure that receiving water
 12 limits are consistently met. Using performances-based
 13 criteria will give engineers criteria to design towards.
 14 Clearly something needs to be done with the proposed
 15 M.A.L.'s.

16 Thank you for your time.

17 CHAIR DIAMOND: David Beckman.

18 MR. BECKMAN: I don't have anything to add to
 19 that, so we'll move on.

20 CHAIR DIAMOND: Thank you.

21 I have a card from -- and time allotted for
 22 C.A.S.Q.A., California Stormwater Quality Association,
 23 five minutes. And that would be Geoff Brosseau, if I
 24 pronounced your name correctly. If not, please tell us.

25 MR. BROSSEAU: You did. Thank you.
 0078

01 Good morning, Chair Diamond and Board
 02 members. My name is Geoff Brosseau. I'm the Executive
 03 Director for C.A.S.Q.A., which is the California
 04 Stormwater Quality Association. We're a professional
 05 member-based association, which is dedicated to the
 06 advancement of the profession as a whole, if you will, to
 07 the management of stormwater quality, the science of
 08 stormwater quality and the regulation of stormwater
 09 quality. So we really are the practitioners of
 10 Stormwater quality management in the State of California.

11 We come at these issues from a very
 12 technical sort of point of view as opposed to, say, maybe
 13 a legal point of view, if you will.

14 Thank you for very much for holding today's
 15 workshop, as well as the other pretentative order
 16 workshop in April in Burbank and for staff for meeting
 17 with us several times in the interim.

18 We certainly understand the intention of the
 19 Municipal Action Level language in the second draft
 20 Permit, but we unfortunately have to significantly
 21 disagree with the current expression of the language in
 22 the Permit's that's currently crafted on really two key
 23 principles, which I'll highlight.

24 As technical advisors really, we really
 25 advise you not to use the M.A.L. approach as it currently
 0079 is written in the second draft. But we're also not here

02 just to say no or to point out problems; we're also here
 03 to say yes and to say what we think might be the
 04 solutions to this. As I say, we are dedicated to the
 05 advancement of the profession. And we see it as our job
 06 to help develop and point out solutions.

07 Second slide. The two key principles where
 08 the second draft -- it's really not just inconsistent
 09 with the Blue Ribbon Panel Report; it's actually in
 10 direct conflict, which is why I'm presenting my slides to
 11 you this morning in black and white. I want to make it
 12 crystal clear what these conflicts are. And words are
 13 important, so I've actually excerpted the entire quote
 14 from the two different versions, if you will, to make
 15 crystal clear what the differences are and where the
 16 conflicts occur.

17 And it really is -- in terms of the purpose
 18 and use of M.A.L.'s is in direct conflict in the second
 19 draft versus the Water Board's Blue Ribbon Panel Report
 20 on two key points. One is the Blue Ribbon Panel
 21 basically said the numeric effluent limitations were
 22 infeasible. The quote is there on the left, as you can
 23 see, with some of the key aspects underlined.

24 In the second draft Ventura Permit, it
 25 basically says the discharges shall not exceed M.A.L.'s.

0080
 01 That is a numeric effluent limitation. They do not equal
 02 each other. There's something wrong there between those
 03 two versions, and we need to work on that.

04 I think you've already heard this morning
 05 that all sides are not happy, not satisfied with
 06 the M.A.L. expressions that currently shows in the
 07 Permit, and it's because I think that the M.A.L.'s are
 08 being -- it's kind of becoming a forced job. They're
 09 kind of being used in a way that really was never
 10 intended to be used in that way.

11 Secondly, in terms of the Municipal Action
 12 Levels and M.E.P.'s -- sorry for the long verbiage
 13 here -- but you have copies of this and -- or at least
 14 you do now. The Blue Ribbon Panel basically said that
 15 setting the numeric effluent limitations is basically not
 16 possible, but you could set something called an upset
 17 value, a high set point, if you will, that could be used
 18 to identify bad actors in worst-case situations.

19 They called it an action level. It was
 20 their idea. The idea of action levels was their idea.
 21 It's a very different expression, the second draft to the
 22 Permit which actually equates M.A.L.'s not with a high
 23 set point, but equates it with average performance, which
 24 is down here. You've heard a lot of dissatisfaction
 25 about whether or not M.A.L.'s are really working to be a

0081
 01 determination of M.E.P.

02 well, of course they're not working because
 03 that was never their intent. The Blue Ribbon Panel, the
 04 expert panel, said that's not the intent of an M.A.L.
 05 It's intended to be a high set point, not an average
 06 performance set point. And that's why you're hearing all
 07 this consternation about the M.A.L. expression in the
 08 Permit.

09 Let's talk about solutions. I mentioned
 10 this to you at your hearing in -- at your workshop in
 11 April in Burbank. I won't go into the details; you have
 12 my presentation from then, but C.A.S.Q.A. has come up

13 with a quantifiable approach, as we call it, to this
14 approach.

15 We've also submitted to staff in an
16 August 15th letter that kind of lays out some of the
17 concepts here. I'm not going to go into details of this
18 in my limited time this morning, but just to kind of act
19 as a moniker to remind you what some of the aspects of
20 that approach is.

21 One, is the effectiveness assessment
22 approach that is shown by this -- really kind of captured
23 by this graphic. I mentioned it to this Board in your
24 September 6th meeting at M.W.D. a couple weeks ago. Our
25 effective assessment manual, that's a key aspect to our

0082
01 quantifiable approach.

02 Secondly, we are looking at examples of
03 action levels. We actually like action levels. We
04 actually support the Blue Ribbon Panel's approach to
05 action levels, and we're already thinking of ways that
06 those could be quantified. I'm not going to go into
07 details again here, but that's actually in the white
08 paper that we submitted on August 15th as well.

09 And finally, just the quick attributes of
10 C.A.S.Q.A.'s approach and why we think it's a better way,
11 why we think it's more in line with the Blue Ribbon Panel
12 Report. And that is, that it really incorporates their
13 action level concept exactly as they intended it to be.
14 If falls in at C.A.S.Q.A.'s effectiveness assessment
15 method, which is considered sort of cutting -- cutting
16 edge, state-of-the-art approach to stormwater quality
17 management. And it uses standard regulatory options for
18 N.P.D.E.S. permitting and T.M.D.L. implementation. So we
19 think it's very consistent with guidance and with
20 standard policy.

21 It also raises the bar in two significant
22 ways. One, it includes triggers, action level triggers,
23 which would force action to happen when things are not
24 going well.

25 And secondly, it moves us from a level of an
0083

01 effort kind of assessment of our programs where we say,
02 yes, we gave out 50,000 brochures; we had 16 community
03 events, to measures that actually say, "what did those
04 actually achieve? Is the public smarter about
05 stormwater? Do they understand stormwater?" And we're
06 trying to move people in that direction as well. So we
07 feel as though that's a very thoughtful, methodical way
08 of moving things forward.

09 Finally, we believe that C.A.S.Q.A.'s
10 approach provides the clarity and the certainty
11 that -- and expectations that is expressed by staff, is
12 what they're really looking for. It's mentioned in your
13 Item Summary for this item as well, that they're really
14 looking for clarity and certainty and expectations, we
15 feel our approach really does that. It also has the
16 added benefits of being consistent. Not just consistent
17 with, but in unison with the Water Board's Blue Ribbon
18 Panel Report. And we feel as a result of that, it's a
19 much better way to go.

20 Thank you very much for your time.

21 CHAIR DIAMOND: Thank you.

22 I have two cards. I'm not sure; they didn't
23 say what they wanted -- where they wanted to be.

24 But is Carolyn Casavan here? And is this
25 where you wanted to speak? I don't see -- okay.

0084

01 And John Zaragoza, you spoke before. I'm
02 not sure; did you want to speak again?

03 Then I have -- we'll move on then to the --

04 MR. VANDER LANS: (Inaudible).

05 CHAIR DIAMOND: No.

06 MS. SMITH: B.I.A.

07 CHAIR DIAMOND: We have a representative from
08 B.I.A. I don't have your card, but would you identify
09 yourself for the record. And you are -- you have
10 eight minutes.

11 MR. GRAY: Thank you.

12 Thank you, Chair Diamond. Mark Gray from
13 the Building Industry Association of Southern California
14 and also representing the Construction Industry Coalition
15 on water quality. And Chair Diamond, I'll be brief and
16 just ask that maybe perhaps in my presentation later
17 today, I get a couple extra minutes. And I'll be brief
18 on M.A.L.'s and not take eight minutes of the time.

19 CHAIR DIAMOND: Okay. Thank you.

20 MR. GRAY: So we've heard that M.A.L.'s are not
21 numeric effluent limits but rather interpretation of
22 M.E.P., but that isn't the way the second draft Permit is
23 written. And it's written that M.A.L.'s are numeric
24 effluent limits that trigger a violation of the Permit
25 for, at a minimum, the period of time that it takes

0085

01 dischargers to prove that discharges are not in violation
02 of M.E.P., proven the negative.

03 Staff has determined M.E.P. to be too
04 subjective to allow effective enforcement against
05 dischargers; and therefore, has proposed M.A.L.'s to make
06 dischargers begin to do enough to improve stormwater
07 quality. Yet, under the second draft Permit, it's
08 written until dischargers prove no violation of that
09 M.E.P. standard.

10 And for the period of time it takes to prove
11 no violation, dischargers in violation of the Permit are
12 likely subjected to Mandatory Minimum Penalties. And we
13 heard that earlier today; that system is unworkable.
14 We've also heard that M.A.L.'s are not water-quality
15 based effluent limits, but instead, technology-based
16 limits. Either way, important considerations must be
17 balanced in setting the M.A.L.'s, and we have no
18 information that these important factors have been
19 addressed.

20 For example, it is critical to consider cost
21 effectiveness of numeric limits as a control measure.
22 Technology's available to achieve proposed numeric limits
23 and environmental effects of those technologies,
24 essentially the 13241(B) factors in Port of Cologne
25 (phonetic). The consideration of these types of factors

0086

01 has not yet been done and the County Watershed Protection
02 Division has given you several other examples of
03 practical problems with the M.A.L.'s as written.

04 In addition, there are a number of legal
05 problems with M.A.L. provisions. We fully support the
06 Permittees' approach to M.A.L.'s. We there- -- approach
07 to M.A.L.'s. We, therefore, ask and hope that the Board
08 will direct staff and Counsel to work with the

09 Permittees, the Ventura Watershed Protection District,
10 the B.I.A., and my construction coalition stakeholders to
11 find a reasonable and appropriate approach.

12 And I must point out, too, the staff
13 scientists from N.R.D.C., I think it was a bit comparing
14 apples to oranges, in her comparison of M.A.L.'s to
15 treatment performance of B.M.P.'s. And what she was
16 essentially suggesting, is that all the cities then
17 retrofit their entire stormwater devices in their
18 stormwater systems to install these treatment
19 technologies in order to -- in order to meet those -- to
20 meet those standards, the numerical values that she
21 showed.

22 Thank you very much, Chair Diamond and
23 Board.

24 CHAIR DIAMOND: Thank you.

25 I have two cards as we move on to the
0087

01 three-minute per person, per card. The first is from
02 Dr. Gerry Greene representing the City of Downey.

03 DR. GREENE: Good morning, Board members. I am
04 Dr. Gerald Greene from the City of Downey. I wanted to
05 echo some of the comments that were made by C.A.S.Q.A.
06 and Vicki Musgrove from Ventura.

07 I wanted to then move on and point out that
08 I'm very concerned about the M.A.L.'s limits for
09 nitrates. It seems like, based on what we've seen in
10 other areas of your jurisdiction, that the cities
11 generally are not a major source of nitrates. And I'm
12 concerned that these numbers here may cause problems
13 between the different water quality programs, such as
14 agricultural and industrial. These are very low numbers
15 and don't -- and cities generally do not seem to be major
16 sources of nitrates, so I'm concerned that we may end up
17 flagging and essentially mixing program discharges.

18 Your table 1 needs to have its heading
19 corrected, as bacteria has been eliminated from it.

20 At this point, we are concerned about the
21 variability of stormwater. M.A.L.'s are -- essentially
22 trigger a very strict action. And as we all have seen,
23 stormwater is extraordinarily variable. At this point, I
24 think it is, again, wiser that we use it as somewhat the
25 bad actor case; that we use it as a trigger for

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01 additional looking, additional finding of problems. And
02 cities have generally been responsive to, when there's an
03 issue, trying to help eliminate it.

04 So again, I would prefer that it would not
05 be used as such a triggering towards direct response, but
06 triggering towards a more proactive investigation by the
07 cities as to potential sources which could include, as an
08 example, general Permittees.

09 Thank you very much.

10 CHAIR DIAMOND: Thank you.

11 The second card is from Richard Watson,
12 representing the City of Signal Hill.

13 MR. WATSON: Thank you, Chair Diamond, members of
14 the Board.

15 I don't want to repeat what I said in April,
16 but I would urge you to take a look at the presentation
17 that I made on April 5th when I was discussing major
18 policy issues with this proposed Permit.

19 One of the things that I've noted in the

20 area of the M.A.L.'s is that staff has tweaked it a
21 little bit but really hasn't basically changed the idea.
22 The underlying problem, as I see it on this, is staff is
23 attempting to define Maximum Extent Practicable by the
24 M.A.L.'s. They are, in fact, numeric effluent limits.
25 And they're defining when you would be out of compliance.

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01 I think that proposal by C.A.S.Q.A. deserves
02 serious attention and makes a lot of sense, because it
03 talks about action levels as a Blue Ribbon Panel
04 suggested them to suggest, okay, we've got to do more,
05 we've got to improve what we're doing. But that isn't
06 what your staff has done.

07 Your staff is attempting to define M.E.P.,
08 and that's -- that's the bottom line and that's where you
09 see a lot of concern. You see it from the environmental
10 community saying it's not strict enough. You see it from
11 the regulated community saying, okay, there's some really
12 technical areas here, some areas we can't comply.

13 So I would ask you somehow to instruct your
14 staff to look at the idea of M.A.L.'s as actually action
15 levels to improve what we're doing and not as numeric
16 effluent limits which say we're out of compliance. This
17 is the basic problem with the M.A.L.'s.

18 Thank you.

19 CHAIR DIAMOND: Thank you.

20 At this point, we can have some questions
21 from the Board on the issue of M.A.L.'s. So I know I
22 have a few questions I'd like to ask staff to respond to.
23 We can start over here with Mr. Richardson.

24 Do you have any questions for staff or --

25 MR. RICHARDSON: Yes.

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01 CHAIR DIAMOND: Okay.

02 MR. RICHARDSON: One of the -- one of the
03 questions from staff, and this comes from Vicki Musgrove,
04 is that the action levels should support the T.M.D.L.'s.

05 Is -- is there a reason why they don't?

06 DR. SWAMIKANNU: The MS4 Permit Program has
07 two standards. The first is -- is an effort-based
08 standard. And it's called reduced pollutants to the
09 Maximum Extent Practicable. We have had considerable
10 flexibility over the years in terms of what that means.

11 After -- we've completed two five-year
12 Permit terms, and there is a national dataset now of
13 stormwater discharge quality that the U.S. E.P.A. has put
14 together, and that dataset allows us to draw some
15 inferences. And so based on the dataset, we have said
16 this is what communities across the U.S. are able to
17 achieve. And we use that as a basis to define where our
18 cities need to get to. So that's the effort-based issue.

19 In terms of T.M.D.L., Total Maximum Daily
20 Loads, that's a water quality-based standard to protect
21 receiving waters. It's not so much on what everybody
22 else has been able to do. So they're two different
23 standards.

24 I agree that ultimately we need to get to
25 water quality standards. But as one of the slides that

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01 Ivar put up there, to get to water quality, you have an
02 iterative process. So through time, you improve. While
03 the M.E.P., or the Maximum Extent Practicable, standard
04 presently is what communities across the country have

05 been able to get to and sort of measures at the end of
06 the outfall where it discharges to the receiving waters.

07 So the present program has both those --
08 those expectations. And that's why there is a difference
09 depending on whether you look at the performance side of
10 it, or you look at the water quality achievement side of
11 it.

12 MR. RICHARDSON: Well, it appears as though the
13 M.A.L.'s, though, are going to create a -- create a real
14 problem when they are so far more stringent than the
15 T.M.D.L.'s. Now, that's just a personal opinion.

16 But an example that's used was Nickel and
17 where the M.A.L.'s are set five times lower than the
18 basin plan. I thought that our basin plans were set for
19 improvement of our entire basin. So it's -- it's kind of
20 beyond my thought process that the M.A.L.'s could be set
21 five times lower.

22 DR. SWAMIKANNU: Nickel is the exception in that
23 list. And the way -- as I mentioned before, the reason
24 we have that is -- one, is effort based. Based on what
25 communities across the country have been able to do using

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01 source control, as well as technologies, to reduce these
02 discharges, this is what they've been able to get to. So
03 based on that viewpoint, you can set that number.

04 Now, if you focus more on the receiving
05 water quality here, and that it can support a much higher
06 criterion, the Board has -- has the option to give staff
07 the direction to drop Nickel from that list because it's
08 inconsistent with -- with the basin plan criteria.
09 That's an option. But as I mentioned, Nickel is the
10 exception on that list.

11 MR. RICHARDSON: Okay. And I guess my last -- my
12 last question to you would be, is there a reason why the
13 C.A.S.Q.A. approach couldn't be implemented?

14 DR. SWAMIKANNU: The C.A.S.Q.A. approach is the
15 approach that the program first started with in 1990. It
16 was for the municipalities to look at the qualities of
17 their discharges. And then over subsequent periods of
18 the Permit, self-improve to get to water quality
19 standards. That process in the absence of strict or
20 measurable criteria has progressed very slowly.

21 And so at that point in 1990, we had very
22 little data from around -- around the country. Now we
23 do. So we have a database of stormwater discharge
24 quality that we can use to move the program forward.

25 My approach here, it -- basically it says,

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01 you have Municipal Action Levels. If you're aren't able
02 to meet -- or if you aren't meeting those numbers, we
03 presume you aren't doing enough based on the national
04 dataset that we have that we did not have 15 years ago.
05 And so then, it's incumbent of them to take their
06 process, what they call program effectiveness, and then
07 demonstrate that they're doing the maximum they can
08 within each categories.

09 For example, you saw a list put up,
10 "Inspection." Inspection, 80 percent. Is 80 percent the
11 Maximum Extent Practicable? Could be 90 percent. Could
12 be, but that's the discretion that they have to say this
13 is what C.A.S.Q.A. thinks municipalities in California
14 should do. We are doing way more, and that's our way of
15 getting to meet the Municipal Action Levels.

16 The Municipal Action Levels gives you a
17 threshold, gives this Board a threshold to judge that
18 Maximum Extent Practicable effort that municipalities say
19 they are putting in to clean up stormwater.

20 MR. RICHARDSON: Okay. Well, I guess my last
21 would be not just a question, but a comment. It appears
22 as though everything that came before the M.A.L.'s early
23 this morning, with everything that was said by the
24 representatives, from the supervisors and the city
25 representatives, was that Ventura County has worked

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01 awfully hard to get to the point that they are today.
02 And it just appears as though these M.A.L.'s are just
03 really prohibitive. That's personal opinion.

04 MR. VANDER LANS: Have we done -- first, I want to
05 congratulate the Board, as has been done by several
06 speakers, for having worked so hard on this project.

07 But in the course of that, have we done a
08 cost benefit analysis which has been discussed this
09 morning?

10 DR. SWAMIKANNU: We do a cost analysis based on
11 technology that's -- Ivar actually put up the -- what
12 they now call the Water and Volume Research
13 Foundation International Stormwater Database, which
14 includes technologies, costs and what technologies' able
15 to get to in terms of cleaning up stormwater. So we look
16 at that.

17 In terms of cost benefit for each of these
18 areas that Permittees have raised, we are preparing
19 technical papers that include -- will include that
20 analysis. And so my response to your comment is that we
21 take that into consideration for all these program areas.

22 MR. VANDER LANS: I'm not sure I follow that.
23 Have -- I understand you've looked at costs, but how
24 about the benefit side? Has that been explored?

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25 DR. SWAMIKANNU: The benefit -- for the L.A.

01 region for three or four years ago when you were adopting
02 T.M.D.L.'s, we took the L.A. County example and looked at
03 what it would -- what would the cost and benefits be if
04 you implemented T.M.D.L.'s using infiltration swales.
05 And based on that analysis -- and a report was done in
06 partnership with the University of Southern California --
07 the benefits over the long term outweigh the costs.

08 And I can present that report, copies to the
09 Board members.

10 MR. VANDER LANS: Do you feel that using the
11 Los Angeles information, you're getting accurate data for
12 Ventura?

13 DR. SWAMIKANNU: The -- the -- my comment to that
14 is the L.A. County example, where the challenges are much
15 more, it's much more developed. So if the cost -- if the
16 benefits outweigh the costs in L.A., then we can make an
17 inference that in Ventura County, the benefits would be
18 even much more.

19 MR. VANDER LANS: So that's what you have done?
20 You have made that impression; is that correct?

21 DR. SWAMIKANNU: That and many other studies.
22 That and many other studies.

23 We have looked at the San Gabriel valley
24 example, where you have undeveloped land, and the benefit
25 of recharging groundwater using stormwater which

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01 presently is conveyed in lined channels to receiving
02 waters. There we have shown that recharged -- the
03 benefit of recharge much outweighs the cost of
04 implementation.

05 MR. VANDER LANS: Thank you. I -- I'm not sure
06 whether this question should be to you or to
07 Michael Levy.

08 You have heard several times today the
09 reference to the Blue Ribbon Committee, and I'd like to
10 know what the current status of that is.

11 Is that a Water Board position, Michael?
12 MR. LEVY: The State Water Resources Control Board
13 convened a panel of experts to give it advice about the
14 appropriate or proper and feasible ways to regulate a
15 variety of stormwater sources, including municipal
16 stormwater. And the Panel made recommendations to the
17 State Board, and the State Board has not yet taken any
18 position whatsoever on that Panel's report.

19 MR. VANDER LANS: Thank you.

20 That's all I have.

21 MS. MARIN: You know, first of all, I heard a lot
22 from the cities about, you know, what -- what they think
23 they can do. Certainly, what they don't like about the
24 Permit or what they don't think they should do.

25 I think the limited testimony we got about

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01 what is being done right now reflected a lot of what is
02 required in the -- or what was required by -- for -- on
03 them by the 2000 Permit. So I think I remained convinced
04 that without regulation that directs municipalities to
05 undertake certain activities, that we're not really going
06 to see things happening. I think the question is, you
07 know, how far do we go and how clear is the Permit
08 language right now.

09 The question I have regarding the
10 coordination between T.M.D.M. -- T.M.D.L.'s and M.A.L.'s,
11 I'm not sure was -- I wasn't clear from your response
12 about why -- I think it's an issue of timing, why the
13 Permit has a lower compliance threshold than the
14 T.M.D.L.'s.

15 MR. LEVY: Let me try to just jump in to give a
16 little bit of insight.

17 MS. MARIN: Okay.

18 MR. LEVY: I think what stormwater staff are
19 trying to do, as you've heard, is they're trying to
20 define the concept of M.E.P. at some level numerically.

21 If you look at -- take a P.O.T.W., for
22 instance, the technology standard is secondary treatment.
23 And then they're required to do other measures as may be
24 necessary to achieve water quality. And so we have a
25 technology standard which is secondary treatment, and

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01 they've got to perform as well as secondary treatment
02 discharges would. At the same time, they have additional
03 water quality based standards. And that's the same for
04 industrial sources and virtually every other source.

05 The analogous provision in a stormwater --
06 municipal Stormwater Permit to a technology-based
07 standard, is this concept of M.E.P., the Maximum Extent
08 Practicable. On top of that, then there's water quality
09 based requirements as well, such as T.M.D.L.'s, which
10 would require that we do -- that further measures
11 necessary to meet water quality be made.

12 It's not a disconnect to have a
13 technology-based limit that's less stringent than a
14 water quality-based limit conceptually. I'm not talking
15 about the specifics of the municipalities here, but
16 conceptually most technology-based limits are far less
17 stringent than water quality-based limits. And
18 basically, every N.P.D.E.S. permit has some degree of
19 both. So that's not a disconnect.

20 How it plays out in this Permit, that's for
21 you to decide in terms of the evidence before you.

22 MS. SMITH: I wanted to add one other note.
23 Michael did a great job summarizing that as well.

24 I think both -- both are required. They're
25 not -- both need to be required, you know, in their

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01 different processes in getting -- doing the very best you
02 can all the time, which is M.E.P. And then T.M.D.L.'s
03 have things in place to remedy already impaired waters
04 and bring them back.

05 I do think both Xavier and Mike have pointed
06 out the anomaly of the Nickel example. I think that's
07 one area we need to look at. I'd be curious to know what
08 actually -- the stream measures that. I mean, just
09 because there's a high water-quality objective, a stream
10 could have a very low background water quality, which
11 would be another variable to look at. But certainly
12 those are the types of things we could look at.

13 I think another conflict that's arisen -- or
14 that's been alleged to be a conflict, is how monitoring
15 works with both of these programs that we need to push
16 forward. And when you look at T.M.D.L. monitoring,
17 there's compliance points at various points in the
18 watershed.

19 You know, questions have come up about,
20 well, should that be enough to measure the effectiveness
21 of -- you know, through M.E.P. as well? And -- and maybe
22 in some cases, yes. And maybe in others, no. So I think
23 there's been some monitoring questions. And, you know,
24 can we bring them together in a more cost-effective way?
25 And in some cases, we can. And in others, there might be

0100
01 extra monitoring that raises costs.

02 And there's sort of those issues, but we're
03 doing our best to try to sort these out and have them
04 work together as best we can.

05 MS. MARIN: So that they're coordinated and they
06 are complementary with each other, versus overlapping
07 and --

08 MS. SMITH: Right.

09 MS. MARIN: -- and redundant.

10 MS. SMITH: Yeah. To the extent that they also
11 meet independent objectives in the Permit.

12 MS. MARIN: Okay. Well, let's talk about
13 the -- the levels that have been set, because we heard
14 from Heal the Bay scientists that the M.A.L.'s are set at
15 levels that, you know, only capture the worst 5 percent
16 of B.M.P. performance.

17 And I'm just wondering why we would do
18 something like that.

19 DR. SWAMIKANNU: The Heal the Bay's presentation
20 was based on technology where the point of measurement is
21 at the end of the technology. The effluent that comes
22 out of a hydrodynamic device or a BioFilter. The

23 M.A.L.'s are actually set where the outfall -- where the
24 storm drainpipe outfalls to a receiving water, because
25 that really -- because the MS4 is considered a point

0101 source and the system is a point source.

02 So when you get to the point source, you
03 might have many other factors. Like Vicki pointed out,
04 its just not one use; it could be multiple land uses. So
05 we're using this broad picture and looking at the
06 national dataset and setting something that the action
07 level -- the Blue Ribbon Panel Report sort of
08 recommended.

09 It said take the whole population and set it
10 somewhere here (indicating), because when you are
11 outside, when you're in that 5 percent, you know that the
12 other 95 percent were able to get there. And so you
13 should start looking into your program, because you are
14 an outsider. You are an outlier. So that's the sort of
15 same concept that we tried to incorporate within the
16 M.A.L.'s.

17 What Heal the Bay put out was, they wanted a
18 median. And we could pull a median which could be much
19 lower. In fact, the first time when we set it, we set
20 one coefficient of variation. One coefficient of
21 variation mean two-thirds. About two-thirds are able to
22 get there nationally.

23 Now, we set it at two coefficient of
24 variation, which means 95 percent are able to get there.
25 So if you're outside the M.A.L., you exceed the M.A.L.,

0102 you're probably in that 5 percent, and you're different
02 from the rest.

03 So -- so the difference between the
04 two approaches is one takes the comprehensive approach
05 and measures it at the end of the system. The other says
06 you implement the technology and measure the technology.
07 The technologies are able to get there. But using the
08 M.A.L.'s the way we have, accounts for all these
09 variables that they talked to -- talked about, everything
10 that happens between stormwater leaving a particular site
11 and reaching the receiving water through the storm drain
12 outfall. So we try to take the more comprehensive
13 measurement, because that's where the impact of the
14 receiving water is, not where it leaves the particular
15 site.

16 If you focus on a source, then you will
17 treat it at the source. And if you're setting, for
18 example, just in my opinion, the Statewide Industrial
19 Stormwater Permit, the general permit, might be an
20 appropriate place -- place to put the kind of measures
21 that Heal the Bay presented because those are industrial
22 sites and technologies can be utilized. And these
23 numbers ought -- might -- you might set these numbers at
24 those sites. But I'm not sure whether it's appropriate
25 to set those numbers at the end of storm drain outfalls,

0103 because it doesn't take all the variability of the system
02 into account.

03 MS. MARIN: Right. But isn't -- isn't the -- the
04 outcomes of the performance of 95 percent of the B- -- of
05 the known B.M.P.'s tell you that if we were to implement
06 any one of those B.M.P.'s, that we would be able to
07 achieve a certain level? And they have to do something;

08 right? I mean, cities will have to address their
09 programs through some kind of treatment control. So why
10 would you not, then, choose the outcome that's based on
11 the known world of B.M.P.'s?

12 DR. SWAMIKANNU: If you take the example of a
13 wastewater treatment plant, you have a treatment system,
14 secondary treatment before you release the effluent.

15 So if -- Vicki mentioned -- I don't know --
16 certain number of maybe hundreds of thousands of storm
17 drain pipes. So under Heal the Bay's scenario, you would
18 have to put that technology at the end of the pipe, those
19 600 (sic) pipes, in order to assure that effluent.

20 You -- if you put that treatment system way
21 up stream before it gets into the pipe, all you know is
22 the quality of water getting to the pipe meets that
23 standard. It doesn't tell you what the quality of that
24 water coming out of the outfall is, because then there
25 could be all many other factors that might change between

0104 leaving that site and ending up in the receiving waters.

01 So it's sort of a scale I'm talking about.
02 I mean, one takes all the environmental variability into
03 account, because it measures at the end of the pipe. The
04 other measures the output of the technology. And you can
05 set that standard -- if they have a treatment system, you
06 can say that treatment system should meet the numbers
07 that they have. You could say that.

08 We don't have that kind of language in the
09 Permit at the time. We simply are focused on the
10 outfall, because we -- in our opinion, that's where the
11 impact of the receiving water is. And that might be an
12 appropriate measure because we have this national
13 dataset. We also have the B.M.P. dataset from which you
14 can derive the numbers that they did.

15 MS. MARIN: Okay. Let's go to one more thing.
16 I'm sorry.

17 MS. SMITH: I'm sorry, Ms. Marin. I -- I was just
18 going to add that this is a new concept that -- that
19 we're just hearing today for the first time. And I -- I
20 just think I'm interested in hearing more about it, too,
21 you know, and weighing it with some of the other ideas
22 that we have before we --

23 MS. MARIN: Okay.

24 MS. SMITH: -- make a call on its usefulness.

0105 MS. MARIN: Right. And I mean, it's significant
01 because it's what triggers either fines or something
02 else. And so I want to talk about what assessment or
03 analysis you did on something else besides fines.

04 Did you guys explore triggers that lead to
05 other required actions before you go to mandatory fines?
06 Is that something that was discussed?

07 MR. LEVY: May I jump in for a moment first?

08 The Permit is silent on whether -- what the
09 effect of violating the M.A.L.'s means in terms of
10 enforcement. And that has been raised by the
11 stakeholders, and it needs to be addressed in the Permit
12 that you're adopting and not subsequently when somebody
13 is trying to do an enforcement action. So that needs to
14 be solidly cleared up so that everybody understands if
15 this proposal goes forward, what it means to violate an
16 M.A.L. in terms of --

17 MS. MARIN: Right. And so --

19 MR. LEVY: -- enforcement.
20 MS. MARIN: -- my question --
21 MR. LEVY: And that's not -- their fear is that
22 they're going to be subject to M.M.P.'s. It's not clear
23 that that's the way this should go.
24 MS. MARIN: I see. Okay. Well, can -- can you
25 talk about the different alternatives that staff has
0106
01 reviewed or considered or is considering in the event
02 that a M.A.L. is exceeded?
03 DR. SWAMIKANNU: The concept that we basically
04 looked at is, if you look at the permits as they have
05 progressed, we went from general expectations to
06 specifying certain actions that we think will clean up
07 stormwater --
08 MS. MARIN: Okay.
09 DR. SWAMINKANNU: -- and then we provide for an
10 alternative.
11 If you don't want it to go that route, then
12 you can substitute, but there's a process so that you get
13 equivalence. So that's the structure.
14 So, for example, we have inspection
15 requirements. We go to construction sites, things we
16 should look for. In the first -- in the earlier permits,
17 all you had was "Inspect construction sites." Didn't say
18 what you need to look for. Now we say what you need to
19 look for. So all those are sort of input measures with
20 some connection to water quality, but not a direct one.
21 So -- and then the comment we got back was
22 these permits are getting very complicated. And
23 you're telling us what to do more and more. 200 pages,
24 300 pages.
25 So we're looking at the concept of, okay,
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01 maybe there's a way to simplify it. Simplify it by
02 measuring outcomes numerically, like the M.A.L.'s, which
03 means we need to be less prescriptive. That's -- that's
04 an option.
05 And then we realized that C.A.S.Q.A. had
06 this effort of defining program effectiveness so that you
07 get comparability across the state in terms of what MS4s
08 are implementing and what's been successful. More than
09 15 years later, you should know what works for
10 stormwater. So C.A.S.Q.A. has gone through this effort
11 of identifying program effectiveness measures.
12 And so our expectation at the present is
13 that if you -- if you exceed the Municipal Action Levels,
14 then you go back into program effectiveness and ramp up
15 based on whatever. So it's not that you're violating and
16 we'll take an action. It's like, go back and look,
17 because you're not within the ballpark of everybody else
18 in the country.
19 So that's the system. We haven't clarified
20 that because we wanted that discussion to happen, and we
21 wanted to give the Board discretion as to how we go from
22 here. So to me, it's not a strict violation. In the
23 traditional standard you exceed, you earn a violation,
24 penalties apply. Here it just shifts the burden to the
25 Permittee to demonstrate that they're implementing in
0108
01 these program areas actions that focuses on the cause of
02 that exceedences of the M.A.L.
03 MS. MARIN: Okay. The only comment that I would

04 make that, you know, it's not clear to me in terms of the
05 level at which we've set the M.A.L.'s that -- that all of
06 the different viewpoints on where those levels should be
07 has been fully flushed out. I certainly feel like I
08 still have a lot of questions about that. So I would
09 like to make sure that before, you know, we get further
10 down the line, that we do a good review of that.

11 MS. SMITH: Certainly. We're here to listen to --
12 to all -- all the ideas today, and we'll fully evaluate
13 those and make sure that's included in the presentation
14 next time.

15 VICE-CHAIR LUTZ: Ms. Marin answered -- or asked
16 almost every question I had, but I just wanted to get a
17 little more clarification on a couple of things.

18 The -- one of the comments that Ms. Musgrove
19 made with regard to the A.M.L.'s (sic) versus the
20 M.E.P.'s was that there is a court definition of the
21 M.E.P.'s, and we're not -- our M.A.L.'s don't meet that
22 definition; they're not meshing together. So I wondered
23 if you could comment on that.

24 DR. SWAMIKANNU: Ms. Musgrove's comment was -- was
25 that M.E.P. has not been defined by the federal

0109 government. They left it sort of flexible, though
01 everybody would think that if you're similarly situated,
02 let's say a municipality, you should be able to get
03 similar outcomes. Her comment was that there has been
04 some interpretation by -- by judges or -- or even legal
05 counsel that best Maximum Extent Practicable needs to
06 consider several factors; including cost, feasibility,
07 practicability and a few factors she laid out.

08 And her comment was by setting the M.A.L.'s
09 as we have, that we have -- we did not demonstrate that
10 we went through that analysis. My response to that is,
11 here we -- the M.A.L.'s are based on measurements at the
12 end of the outfalls. And the quality of water that comes
13 out of there is a result of all these activities that
14 municipalities across the country have been implementing:
15 street sweeping, inspecting construction sites, name it.
16 I mean, all those. And so you measure the outcome. And
17 you would presume that when municipalities across the
18 country implemented certain things, all these factors
19 went: Practicability, cost effectiveness, benefit. And
20 so it's sort of implied within the M.A.L. based on the
21 dataset that it's derived from, that those factors
22 actually were considered. Because otherwise, the quality
23 of the water might have been different.

24 So there's an implied -- there's an implied
25
0110 assessment that these factors went into municipalities
01 who were implementing these programs across the country.
02 And so by measuring the M.A.L.'s as -- by using the
03 M.A.L.'s, as we do, that the factors that judges and
04 lawyers have identified are -- are subsumed by the way we
05 derive the M.A.L.'s.

06 VICE-CHAIR LUTZ: So you don't disagree that --
07 that the balance and the factors need to be evaluated?
08 Did I hear that correctly?

09 DR. SWAMIKANNU: The factors have already been
10 evaluated. I mean, we could go to each of these
11 municipalities and see what their budgets are and all
12 that.

13 VICE-CHAIR LUTZ: So you're saying that by putting
14

15 them in the Permit, it's understood that we already
 16 evaluated all of those. But what I'm hearing from
 17 Ms. Musgrove and others is they're not quite comfortable
 18 with that. They want to know -- and it's this whole cost
 19 benefit thing as well that -- that you looked at this
 20 area versus just nationally; that we -- that we are
 21 taking it to this watershed, and we're evaluating all of
 22 these things as it applies specifically with this
 23 watershed.

24 DR. SWAMIKANNU: I -- I understand the comment. I
 25 think that the challenge is that we have very limited

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01 data; right? So if we only judge ourselves just by
 02 ourselves, then we have no measure -- outside measure to
 03 judge against.

04 It's -- it's probably a more reasonable
 05 approach to take the national population, because that's
 06 what -- you get a much larger source to compare it with.
 07 And it includes data from California. People keep
 08 raising this, that this is east coast and whatever, but
 09 it includes data from Caltrans, highways. It includes
 10 data from Alameda County. It's like -- like sort of
 11 an -- a polling survey. You take representative samples.

12 And this is a representative dataset. It's
 13 a large dataset, and it includes all kind of scenarios,
 14 area of the country where -- which are dry, areas of the
 15 country where you have distributed rainfall, more equal
 16 rainfall. It includes all those scenarios. And then you
 17 take that dataset and you apply it here. If we had a
 18 robust dataset for California, we could use that. But we
 19 don't have that.

20 There was a bill that was passed, I think,
 21 seven, eight years ago to develop this kind of data for
 22 California but we haven't moved forward. The State
 23 hasn't moved forward. So we don't have a dataset
 24 from -- that's California-specific but what we have is we
 25 have a national dataset that --

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01 VICE-CHAIR LUTZ: Is it possible to take the data
 02 we do have, given that it does include California, and
 03 use that as the jumping-off point to then evaluate it
 04 and -- and I think what I'm hearing is just to say it's
 05 implied that it's there, doesn't give them a comfort
 06 level.

07 So is it possible to take that data that we
 08 have and use it as the jumping-off space -- point to then
 09 evaluate this watershed, not ignoring this data but also
 10 really looking at this watershed and how it looks at --
 11 how it evaluates it separately as well and meshing them
 12 together more clearly so that it's -- it's better
 13 understood by everybody?

14 MR. LEVY: Board Member Lutz, I think there's --

15 VICE-CHAIR LUTZ: Yes.

16 MR. LEVY: -- there's two different issues which
 17 are being discussed in this same question. I think they
 18 need to be looked at separately.

19 VICE-CHAIR LUTZ: Okay.

20 MR. LEVY: On the one hand, examining what's going
 21 on nationwide for technical ability or technical ability
 22 to meet performance, is not the same thing as examining
 23 whether a permit is practicable to these Permittees.

24 VICE-CHAIR LUTZ: Okay.

25 MR. LEVY: And so I think that's an important

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01 distinction that needs to be made. It's one of our
02 frustrations as staff, not just in this proceeding but in
03 many proceedings, about claims about how much things are
04 going to cost without actually having the data to back up
05 what the costs are.

06 We don't know yet and we hope to obtain data
07 or hear from the Permittees hopefully what -- with
08 specific evidence what it would cost to comply with the
09 M.A.L.'s or the other parts of the Permit. So that when
10 you're deciding whether or not, first of all, this Permit
11 is practicable under the M.E.P. standard; or if you think
12 it's not practicable, whether you think it's appropriate
13 to require further things, you have the data behind your
14 decision to determine what's actually going on.

15 And we'd like to see that still, so I -- I
16 don't think that -- I don't know what a State Board or
17 court would say that just relying on national averages to
18 form an inference -- I think there is a particularized
19 inquiry that needs to go on, but it's also incumbent on
20 the stakeholders to help us by bringing us the data to
21 support their claims that it's not practicable.

22 VICE-CHAIR LUTZ: So you'd be suggesting in order
23 to make this mesh happen, is both sides have to come to
24 the table with the information forward? It's not so much
25 just our staff has to evaluate it, but we need more help

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01 from the stakeholders to give us that information so we
02 can mesh it altogether?

03 MR. LEVY: I think that's certainly a fair request
04 that both sides work on generating that together.

05 VICE-CHAIR LUTZ: Okay.

06 MS. SMITH: And then I wanted to answer your other
07 question, Mary Ann, about, you know, could we take the
08 small local dataset and start with it and see how it
09 grows and evaluate it over time. I think that would be
10 an option to do it. I don't -- I'm not sure you could
11 call it M.E.P., though.

12 I mean, I think what Xavier wants to do is,
13 you know, let's have this robust dataset so we can really
14 say with statistical certainty that it's -- it is the
15 Maximum Extent Practicable. If you take a small dataset,
16 it might be what's happening now, it might not even be
17 the best. It might be far from the best people could do.
18 I mean, it just depends.

19 So I think if you took that approach, you
20 might need to have a whole new approach and call it
21 something different. It might be more of a -- an
22 action-level threshold kind of thing that you'd be
23 starting with. You know, some percentile within that and
24 then move it forward.

25 So -- so I think there's a whole number of

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01 things on the table here. I think there are -- you know,
02 using this approach and using different datasets. There
03 is the action-level approach. There's -- you know,
04 I'm calling them all sorts of other things. So there are
05 a variety of things that we could look at, but we'd have
06 to pick -- we'd have -- you know, I guess the dataset,
07 the data we use and some of those variables will inform
08 what this tool is that we ultimately would use. And it
09 might not be M.E.P., which was the original objective of
10 what we were trying to do here.

11 It's different than the action-level concept
12 of sort of -- the action level or upset concept is more
13 like, okay, well, here's the water quality standard which
14 we ultimately want to get to for all of our water bodies.
15 Let's find a step in between, start working towards that.
16 And then, you know, over time keep moving that step
17 closer to the water-quality objective, until we
18 eventually get there. As opposed to M.E.P., which is
19 basically defining sort of the best that technology can
20 do; and, of course, you still want to then move towards
21 the water-quality objective as the ultimate goal, but
22 there are -- they're slightly different beasts, you know.
23 And, of course, there's the whole enforceability of, you
24 know, are they triggers that generate, step up your
25 B.M.P.'s; a report; let's do more? Or are they --

0116 actually trigger something in terms of a penalty? So --
01 VICE-CHAIR LUTZ: And that was the final question
02 that I have is just, I think it's more of a procedural
03 question with regard to that. The answer that was given
04 satisfies me, but I wanted to know: The decision and the
05 proposal of what we do to do with that will -- are we
06 waiting until we actually finalize the -- the Permit to
07 put that information in? Or is it going to be tested and
08 discussed prior to that?
09

10 MS. SMITH: Um, I mean, I think we have, you know,
11 discussed a lot of it. I think there's more discussion
12 to be had. And I think, you know, we will bring to you
13 ultimately, you know, our recommendation. There might be
14 some other ones as well. But, you know, we can have pros
15 and cons and that kind of --

16 VICE-CHAIR LUTZ: But that will be part of the
17 discussions that continue with the stakeholders --

18 MS. SMITH: Right.

19 VICE-CHAIR LUTZ: -- as well?

20 MS. SMITH: Yes. Yes. But the original intent
21 was to get our arms around this M.E.P.

22 VICE-CHAIR LUTZ: And then figure out how we deal
23 with it, once we have the M.E.P.? And let's --

24 MS. SMITH: Yeah. Let's make it a quantifiable
25 entity which -- you know, so we can, you know, better

0117 ensure compliance, you know, sort of in a -- a
01 streamlined way. So --

02 VICE-CHAIR LUTZ: Okay.

03 MS. SMITH: But there's other ways we can move
04 forward, so --

05 VICE-CHAIR LUTZ: Okay. Thank you. Thank you.

06 MS. SMITH: Thanks.

07 CHAIR DIAMOND: I -- I have just one or
08 two questions.

09 well, just -- I'll ask you one. And that
10 is, the reason staff is moving forward, I believe, with
11 this approach of the M.A.L. is because over the 15 years
12 or so since the original Stormwater Permit, we really
13 haven't gotten to the point where we're seeing a lot of
14 improvement in stormwater. And I'm -- and also, it's
15 been -- it's difficult for the Permittees, as well as for
16 the Board, to know how to move forward.

17 we've had things such as iterative
18 approaches, and we've seen frequently not more than one
19 approach used in various -- by various Permittees. So
20 they -- it hasn't frequently been ratcheted up. So my
21

22 understanding is -- is that this approach of M.A.L.'s is
23 an approach that perhaps gives us a tool where we can
24 move progressively forward into improving our quality of
25 our water quality in stormwater.

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01 And if that is the case, would I -- I wonder
02 about one of the issues that was raised by Kirsten James,
03 the scientist from Heal the Bay, is why bacteria is not
04 included. She said that that is an issue, and so I'm
05 curious about your response to that.

06 DR. SWAMIKANNU: I -- I'll answer the first part
07 of your question and then touch the bacteria one at the
08 end.

09 The underlying framework and expectation in
10 the Municipal Stormwater Program has been to reduce
11 municipal pollutants to the Maximum Extent Practicable.
12 And for the last 15 years, that has meant different
13 things to different communities. And meanwhile, as you
14 keep adopting T.M.D.L.'s for wet weather, you're
15 basically saying we've got a wet weather problem. And
16 the premise of -- of the N.P.D.E.S. program is to get to
17 water quality standards. And for -- so for wet weather,
18 you provide this iterative approach. So with each term,
19 you get closer and closer.

20 Well, that's possible. But if you don't
21 have the first threshold that you get through, the
22 M.E.P., defined in a more way that's transparent to
23 everyone -- the Board, the dischargers and the
24 community -- then you're just telling yourself, "I'll get
25 to water quality someday." And without -- without

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01 having been able to measure that -- that step-up
02 progress.

03 And so in my opinion 15 years later, we have
04 to get our hands on our M.E.P. And I believe there is a
05 national dataset that can be used to get us to move
06 forward.

07 What that means is if you don't meet this
08 M.E.P., or you measure yourself against M.E.P. and you're
09 not there, then you have to do some things differently.
10 And with the exception of Nickel, if you look at all the
11 other parameters, the water quality standard is still way
12 out there. And so if you say iteratively, we're going to
13 get there, then we have to make some steps forward. And
14 the M.A.L.'s can change over time, depending on your
15 measurements; you put more and more data into this
16 database, and your stormwater keeps getting improved, the
17 M.A.L.'s will change the next time. They might be lower,
18 or they might be higher. I -- so that -- that's sort of
19 the idea.

20 The reason we selected these parameters, is
21 these parameters are the ones that we have the largest
22 number of data points in the national dataset. They are
23 also common stormwater pollutants, and they represent
24 categories; like Nitrogen, represents nutrients. T.S.S.,
25 sediment. Copper, Zinc represents Metals. And so -- and

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01 then (inaudible). And so we try to get the broad scan of
02 pollutants in stormwater.

03 We had bacteria first time around. And then
04 we looked at the analysis, and we basically said, it's a
05 really -- bacteria is a really difficult one, because
06 it's an indicator. It's not a direct pollutant; it's an

07 indicator. And the national numbers are all over the
08 place. So if you took our approach, you'd have to put a
09 number there that's really huge.

10 And so given that the Board is moving
11 forward adopting T.M.D.L.'s that are more focused for wet
12 weather on bacteria and you provide time lines, we
13 thought we would remove bacteria out -- out there because
14 it's -- it's an indicator, and it's really difficult to
15 deal with for wet weather.

16 CHAIR DIAMOND: I guess, um, I don't understand.
17 I mean, it's just -- maybe you can explain it to me.
18 If -- if bacteria is the -- is one of our major sources
19 of stormwater pollution as an -- as an indicator, and
20 it's not part of this, if we -- if it's not part of the
21 M.A.L.'s for a stormwater permit, how -- don't we
22 incorporate the T.M.D.L.'s for bacteria into our
23 Stormwater Permit? So how does that one --

24 DR. SWAMIKANNU: We do. And for wet weather, you
25 provide extensive time lines, long time lines beyond this

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01 Permit term.

02 CHAIR DIAMOND: Okay.

03 DR. SWAMIKANNU: And so that is one way to
04 approach it.

05 The other aspect of it is the kind of
06 treatment that we have evaluated for all these
07 pollutants, like swales and sand filters and such, will
08 also remove bacteria. They are good filters.

09 So we -- we can -- like Kirsten put up --
10 she put up so many other parameters. She put up
11 polycyclic aromatic hydrocarbons, which is sort of an
12 organic. There's very little data, because that's bound
13 to solids, and there's not enough national data for us to
14 be confident putting that parameter in there, though we
15 realize that it's an important measure.

16 So we chose pollutants with the
17 characteristics of stormwater in categories and presented
18 them, because this is -- this is sort of an integrated
19 effort. It's Maximum Extent Practicable for cleaning up
20 stormwater, not specifically any particular pollutant.
21 If you're going to clean up stormwater and these are the
22 kinds of pollutants that you have, then implement
23 measures. By controlling some, you also control others.

24 And bacteria, I mean, you know, you've heard
25 that before. It's a really difficult pollutant

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01 because -- just from talking to some of the national
02 experts for wet weather, for example, in very extensive
03 storms in the south -- in the southeast over ten days,
04 continuous flow and the bacteria numbers remained high.
05 So those are the kind of situations which sort of, you
06 know, are difficult to deal with.

07 Also, bacteria itself, the kind of green
08 infrastructures that we are promoting, that will cause to
09 have more bacteria because bacteria is ubiquitous. It's
10 everywhere. And so the kind of green infrastructure idea
11 that we are promoting might generate more bacteria. It's
12 a balance that we need to take into account in the future
13 as well.

14 CHAIR DIAMOND: Okay. I think we're probably
15 through with this. I -- I -- just in terms of a
16 direction on this, I would -- in moving forward with the
17 M.A.L.'s, I would anticipate and hope that the -- that we

18 would be looking towards Maximum Extent Practicable, the
19 M.E.P. approach, and concern -- I mean, there was concern
20 raised by others, by Mr. Beckman and others, that perhaps
21 it's going to more of a Lower Extent Practicable and that
22 is -- practicable. And I think that would be of some
23 concern.

24 So I would want to have confidence that we
25 certainly would -- we certainly were protective as the

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01 California Toxics Rule and that we were going as close to
02 Maximum Extent Practicable as we can using this tool,
03 which I think is a very transparent tool and will help us
04 know, and help our Permittees know, whether or not they
05 are making improvements.

06 So that -- that's all that I have. And I
07 think we can -- we've finished this -- this portion. We
08 can begin, because -- the next portion, which is the
09 T.M.D.L. portion and see how far we get.

10 We'll break for lunch at 12:30, and we're
11 not going to break now because lunch is not here yet, our
12 lunch. So we're going to -- we're going to move on to
13 staff presentation, ten minutes for the T.M.D.L., and
14 then followed by ten minutes by the Ventura County
15 Permittees.

16 MS. WOODS: Good morning. My name is Tracy Woods,
17 and I'll be introducing and talking about the Total
18 Maximum Daily Loads in the MS4 Permit.

19 Total Maximum Daily Loads are numerical
20 calculations of the maximum amount of a pollutant that a
21 water body can receive and still meet water qualities
22 standards and an allocation of that amount to the
23 pollutant sources. A T.M.D.L. is the sum of the
24 allowable loads of a single pollutant from all
25 contributing points, waste load allocations and nonpoint

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01 sources load allegations.

02 Municipal stormwater dischargers are
03 considered a point source and have been assigned a waste
04 allocation for certain pollutants. This Order
05 incorporates MS4 waste load allegations that have been
06 adopted by the Regional Water Board and have been
07 approved by the Office of Administrative Law and the U.S.
08 E.P.A. The waste load allocations in this Order are
09 expressed as a numerical limitation for stormwater wet
10 weather discharges and nonstormwater dry weather
11 discharges.

12 The MS4 Permittees are required to comply
13 with the T.M.D.L. waste load allocations during the time
14 specified in the T.M.D.L.

15 The proposed MS4 Permit covers stormwater
16 wet weather discharges and nonstormwater dry weather
17 discharges under one Permit. The MS4 T.M.D.L. waste load
18 allocations are expressed as numerical limits.
19 Stormwater discharges, wet weather relating to
20 precipitation events waste load allocations are expressed
21 as effluent limitations consistent with the T.M.D.L.

22 The waste load allocation may be achieved
23 through the implementation of B.M.P.'s with the
24 reasonable expectation and assurance of achieving the
25 waste load allocation. Nonstormwater dry weather

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01 discharges from the MS4 outfalls are required to comply
02 with the waste load allocations expressed as a numerical

03 effluent limit. The recently approved T.M.D.L. for
04 metals and Selenium in Calleguas Creek, its tributary in
05 Magu Lagoon will be incorporated into the tentative
06 Permit.

07 This concludes staff presentation. Thank
08 you.

09 CHAIR DIAMOND: Now we're going to have a
10 presentation by Ventura County.

11 MR. PUMFORD: I guess it's good afternoon, Board
12 members and staff. My name is Mark Pumford with the City
13 of Oxnard. It's my privilege to discuss our issues with
14 the apparent inconsistencies between the draft Stormwater
15 Permit and adopted T.M.D.L.'s.

16 As you heard from previous discussions of
17 M.A.L.'s, the co-Permittees think having measures for
18 stormwater and T.M.D.L. program effectiveness are a good
19 idea. Our issue is whether they're properly incorporated
20 into the -- into the draft Permit.

21 Co-Permittees are stakeholders in all of the
22 watershed efforts in Ventura County, and we participate
23 in a collaborative process to maintain or improve water
24 quality in streams. And where the stream is impaired, as
25 in many of the Calleguas Creek stream segments, a

0126 T.M.D.L. is developed using the same collaborative
01 process between your Board, Federal E.P.A. and local
02 stakeholders. Both your Board and the E.P.A. have
03 appraised the Calleguas Creek T.M.D.L. process as a model
04 of how T.M.D.L.'s should be developed.

05 The T.M.D.L. process in Calleguas Creek
06 began in 1996 with stakeholders that included the
07 wastewater treatment plants, the municipal stormwater
08 discharges, Caltrans, the United States Navy at
09 Point Magu and agricultural dischargers.

10 Monitoring programs and quality assurance
11 project plans have been developed for these programs, and
12 we actually had a -- we have a Memorandum of Agreement
13 that's been developed between all the stakeholders to
14 share the costs of program implementation and monitoring.

15 This very group met yesterday to deal with
16 the final version of the M.O.A., but a lot of the
17 discussion was about the new Permit in its draft form.
18 And the consensus was that the Permit as proposed would
19 effectively kill our collaborative watershed approach.

20 Basically, we agree with the Permit findings
21 that the N.P.D.E.S. Permit must be consistent with the
22 Total Maximum Daily Load. What we disagree with is
23 whether the T.M.D.L. provisions are appropriately
24 included in the draft Permit.

0127 For instance, the toxicity T.M.D.L. in
01 Calleguas Creek watershed states how allocations will be
02 built into the N.P.D.E.S. permits, such as the Municipal
03 Stormwater Permit. And it says that they will be built
04 as receiving water limits measured in-stream at the base
05 of each watershed. Waste load allocations will be
06 achieved through the implementation of Best Management
07 Practices.

08 That's not just the case for T.M.D.L.'s that
09 the stakeholders developed, but also applies to the
10 Santa Clara River nitrogen T.M.D.L. where it's basically
11 the same language. Best Management Practices and limits
12 at the base of watersheds.
13

14 Not only are the T.M.D.L.'s applied at the
15 end-of-pipe for municipal storm drain systems, these
16 numeric limits are applied at every major stormwater
17 outfall. And a monitoring program separate from the
18 comprehensive watershed-based monitoring program for the
19 T.M.D.L.'s is imposed.

20 The numeric values included in the Permit
21 are also not consistent with the adopted T.M.D.L.'s.
22 Values for the interim limits for Calleguas Creek's
23 historic pesticides T.M.D.L. don't match the median type
24 or the numeric values that are in the Permit -- I mean,
25 in the T.M.D.L. We don't know how these numbers were

0128 developed, but there's a disconnect between the water
01 measurements at end-of-pipe and the sediment waste load
02 allocations in the approved T.M.D.L.

03 The draft Permit is also inconsistent with
04 the T.M.D.L. monitoring approach submitted for your
05 approval. We proposed in-stream monitoring to verify
06 compliance with the T.M.D.L., and then the T.M.D.L. would
07 include just the in-stream monitoring and end-of-pipe
08 sources that might possibly find or detect other sources
09 of contamination at end-of-pipe moving up the system.
10 And this will cost the stakeholders approximately
11 \$1 million per year.

12 The draft Stormwater Permit requires
13 monitoring by the stormwater program of each major
14 outfall and drainage basin and is expected to add at
15 least \$1.5 million per year to the cost. And as Deb said
16 earlier in the M.A.L. discussions, where there's an
17 adequate monitoring program, we should capitalize on
18 those efforts to save costs.

19 The T.M.D.L.'s incorporated in the draft
20 Permit are not consistent with E.P.A. regulations. They
21 require them to be consistent with the assumptions and
22 the requirements of available waste load allocations.

23 In summary, the draft Stormwater Permit
24 incorporates T.M.D.L. requirements and monitoring that is
25

0129 inconsistent with the draft T.M.D.L.'s, and there's no
01 regulatory mandate to incorporate T.M.D.L.'s in
02 Stormwater Permits as effluent limits. We recommend
03 modifying the draft Stormwater Permit to include the
04 provisions of the T.M.D.L.'s as adapted (sic) by the
05 Board and to leave the requirement of T.M.D.L. monitoring
06 from the draft Stormwater Permit where it conflicts with
07 an existing T.M.D.L. and watershed monitoring program.

08 We believe the stakeholder-developed
09 monitoring program is consistent with the basin plan
10 and -- not only in assuring that water quality standards
11 are being met, but that habitat is being protected. We
12 do this by monitoring water column chemistry and toxicity
13 and sediment chemistry and sediment toxicity and tissue
14 bioaccumulation.

15 I've been involved with the Calleguas Creek
16 effort for many years, both as a regulator and the
17 regulated. The one constant in all this time has been
18 Don Kendall with the Municipal Water -- Calleguas
19 Municipal Water District. Dr. Kendall has been the
20 cohesive force that brought the group together and made
21 them stay together. We've asked that Dr. Kendall finish
22 out our presentation for the T.M.D.L.'s with a few
23 thoughts on that stakeholder process.

25 DR. KENDALL: Madam Chair, my name is Don Kendall.
0130

01 I'm the General Manager with the Calleguas Municipal
02 Water District, and I serve as the co-chair for the
03 Calleguas Creek Watershed Management Steering Committee.
04 It's been in existence for over ten years, I
05 guess. I didn't realize until you just said that. It's
06 been a while.

07 A couple of thoughts on this, as I've
08 thought about it driving down here today. That is a
09 watershed management effort that's been nationally
10 recognized. It's a process that worked. Many failures,
11 a few successes. And some say, "why has that happened?"
12 And that was successful because both with your Board and
13 your staff and the cities and counties and special
14 districts that make up the Calleguas watershed want to do
15 the right thing. And I think over ten years, they've
16 tried to forge -- and I believe we've forged workable
17 solutions, that ten years ago were tens of millions of
18 dollars for every city to things that are more manageable
19 as we're in the midst of constructing things right now to
20 comply with the T.M.D.L. and, I think, soon to see the
21 salts T.M.D.L. be considered by your Board.

22 With that being said, I think that we've
23 garnered a measure of trust on both sides, both from you
24 and from your staff. And -- and we have found that
25 process to be quite collaborative. And -- and one thing

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01 I would ask you to consider is when our cities, who are
02 also part of the Calleguas Creek watershed, are saying
03 that there might be an issue here, I would say to listen
04 to them. This is a dynamic process. Where we are today
05 probably we're not going to end up.

06 But if you're going to move forward with any
07 type of facilitative process -- I guess they've asked
08 that. I'm not rendering an opinion one way or another --
09 all I would ask, that no matter what you do, that you
10 would involve the same staff that have been involved in
11 the T.M.D.L. side in your discussions on this matter.
12 They've been wonderful to work with. And I think -- and
13 I think there's a collaborative process here. We'd like
14 to see that carried over into this side as well.

15 Thank you.

16 CHAIR DIAMOND: Thank you.

17 We have -- do we have anybody here from the
18 environmental community?

19 Kirsten James, you've been allotted
20 ten minutes as well.

21 MS. JAMES: Good morning, again. My name is
22 Kirsten James and I'm a staff scientist with Heal the
23 Bay, again representing Heal the Bay and N.R.D.C.

24 Just a second for the slide.

25 (Pause in the proceedings)

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01 MS. JAMES: Okay. So as you can see, I put up
02 this section from the Permit, and I've highlighted the
03 sections where it says, "Storm Water Dischargers"
04 must "achieve the concentration or load based
05 numerical limitation or its B.M.P.'s expression
06 for wet weather discharge...or implement the
07 B.M.P.'s which have a reasonable expectation to
08 achieve the waste load allocation."

09 We object to the fact that the draft Permit

10 expresses waste load allocations which are numerical
11 values as a B.M.P. expression. By law, waste load
12 allocations are numeric components of a T.M.D.L. and
13 there's no legal basis in the Clean Water Act that allows
14 effluent limits designed to meet a T.M.D.L. to be
15 expressed in a narrative -- in narrative terms. So we
16 would ask that this section be removed from the Permit.

17 Effluent limits have been added to the
18 Permit based on T.M.D.L.'s in Ventura County, but we find
19 that there are several T.M.D.L.'s that are missing in
20 their entirety from this Permit and we have a list of
21 them here. It is true that several of them have not
22 quite gotten through the full process so they're not
23 technically in effect, but we feel that these should be
24 incorporated as they're adopted. Since this process is
25 definitely taking quite a bit of time, there's a good

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01 chance that some of them will come into effect over the
02 next few months.

03 In addition, several of these have been in
04 effect already. According to your website, the Malibu
05 Creek Nutrients T.M.D.L. went into effect back in 2003
06 issued by E.P.A. The Calleguas Creek Nitrogen T.M.D.L.
07 went into effect also back in 2003. And the Calleguas
08 Metals T.M.D.L., which you probably recently remember,
09 came into effect earlier this year.

10 Now, we understand that some of the
11 T.M.D.L.'s that were adopted way back in 2003 were
12 structured somewhat differently and they didn't have the
13 typical -- necessarily the typical waste load
14 allocations. However, we would recommend that you take
15 the requirements that are in those T.M.D.L.'s and include
16 those in this Permit, as that's the only way to make sure
17 that all of the hard work and the great T.M.D.L.'s that
18 you guys have already adopted actually get into the
19 Permit where they're enforceable.

20 Also, we made this comment at the last
21 workshop as well. But as you know, the T.M.D.L.'s that
22 your Board adopts have -- have a very detailed
23 implementation schedule, as you can see on the right
24 here, and they go through various milestones and interim
25 limits and requirements and monitoring programs,

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01 et cetera. And we believe that in order for those to
02 also be truly required and enforceable, those should as
03 well be taken and put into the MS4 as well. So we would
04 recommend that you make that change.

05 And that's it. Thank you.

06 CHAIR DIAMOND: Thank you.

07 B.I.A. has requested eight minutes.

08 MR. GRAY: Chair Diamond, as I said earlier, I'll
09 waive our time. We're in full support of the watershed
10 Protection District's presentation.

11 CHAIR DIAMOND: Okay.

12 MR. GRAY: So if I could just kindly have a few
13 extra minutes on planning and land development, I'd
14 really appreciate it.

15 CHAIR DIAMOND: Absolutely. Thank you.

16 I do have two cards for T.M.D.L.'s for the
17 three minutes each. One would be Rex Laird. Are you
18 here? Farm Bureau.

19 MR. LAIRD: Madam Chair, members of the Board,
20 appreciate the opportunity to appear before you this

21 morning.

22 Ventura County Farm Bureau is the
23 administrator of the Ventura County Agricultural
24 Irrigated Lands Group. This is in response to your
25 Board's adoption of the agricultural waiver back in

0135

01 November 3rd of 2005.

02 Subsequent to that, we submitted on behalf
03 of our members within the group, N.O.I. on August the
04 8th, 2006. I'd like to remind your Board of the level of
05 participation in that waiver group. We currently have
06 1319 members as of July with only 377 specific property
07 owners that have not joined the group.

08 With the adoption of the waiver, irrigated
09 land operators and owners had three choices. One, to
10 sign up with the group. Two, to do it individually. Or
11 three, not to comply. I think it's important to focus on
12 the fact that only 377 people have chosen not to comply
13 to this date.

14 It's our understanding that the notice of
15 violation for these 377 folks is imminent and that the
16 13267 letters will be going out within the next couple of
17 weeks. We will be also following up with a group letter
18 based on our Steering Committee's recommendation to our
19 Board of Directors following the 13267 letter admonishing
20 the growers to -- to join the group or file as an
21 individual.

22 My purpose to speaking to you this morning
23 is to point out on page 45 of the 115-page document
24 before you today that there's direct conflict between the
25 adopted agricultural waiver and the document itself.

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01 Specifically, the charges that are put forward for the
02 County of Ventura being charged with the responsibility
03 specifically for ensuring compliance of nursery
04 floriculture production. And also open space, as I
05 understand it.

06 The last portion on this page speaks to
07 notifying Sam Unger (phonetic) of the Regional Board
08 staff, who we've worked with extensively, of nonfilers.
09 We've already done that. We did it back in 2006 when we
10 submitted the N.O.I. We also gave staff a listing of the
11 database that we had compiled based on the Assessor's
12 records. So it was not difficult for them to discern who
13 had joined, who had not and who had gone on as an
14 individual based on their own records.

15 As we have amended the waiver with
16 additional members joining, we have continued to give
17 them updated databases, and so that's how they will be
18 sending out 377 N.O.I. -- or Notice of Violations, the
19 13267 letters, and hopefully at the end of this month or
20 the first of next month.

21 So I would commend your Board. In my
22 conversations with Ms. Smith, we've received assurances
23 that these conflicts and contradictions between the two,
24 between the existing waiver and what's being proposed
25 today, are going to be worked out. I think your Board is

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01 admonished to -- respectfully to give her the support to
02 do that and so the product that's brought back reflects
03 the outstanding work that's been done here in this
04 County.

05

As Dr. Kendall pointed out, it's a model for

06 the balance of the country, and my understanding is that
07 this participation level with the waiver group in
08 agriculture is unprecedented throughout the balance of
09 the state.

10 Additionally, you've heard about the M.O.A.
11 that's being worked on within the Calleguas. I would
12 point out to you that 47 percent of the \$1.3 million
13 annual budget is going to be derived from agriculture.
14 Your staff has elected to try and collect that money
15 through the waiver group. If the integrity of that
16 waiver group is in any way compromised, you're
17 compromising the ability to collect 47 percent of that.

18 And so, this is not a fragile coalition
19 we've put together, but it's one that deserves the
20 respect of your Board and all of the participants. And
21 that's the greatest chance we have for the highest degree
22 of compliance and also the highest degree of cooperation
23 through all the various stakeholders within the County.

24 Thank you very much for your time.

25 CHAIR DIAMOND: Thank you very much, Mr. Laird.

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01 And thank you for all of your leadership in the
02 agricultural community as you've been working with our
03 Water Board.

04 MR. LAIRD: Thank you. It's been truly a team
05 effort.

06 CHAIR DIAMOND: The last card I have is for
07 Lucy McGovern.

08 MS. MCGOVERN: Good afternoon, Chair and members
09 of the Board. My name is Lucy McGovern and I'm here
10 as -- on behalf of the Camarillo Sanitary District which
11 provides sewer services to portions of the City of
12 Camarillo. The Camarillo Sanitary District is an active
13 member of the Calleguas Creek Management Plan; and as a
14 result, has been lately dealing with T.M.D.L. issues
15 which have a significant impact on our operations.

16 We support and always look for opportunities
17 to collaborate on a watershed-wide level in order to
18 improve water quality in our watershed. As a result, the
19 language that is currently in this version of the
20 Stormwater Permit, as you've heard before, completely
21 conflicts with what is currently being adopted by the
22 E.P.A. and your Regional Board as relates to T.M.D.L.'s.

23 I also want to point out that as stated by
24 Mr. Laird and Dr. Kendall, this -- the T.M.D.L.'s include
25 not just the water quality objectives, but also include

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01 implementation actions that actually guide what the
02 triggering points are for ultimate compliance. And so
03 with that, we've met and we're completely supportive of
04 this collaborative effort. And we continue to develop
05 this water-quality based monitoring program. But if the
06 language exists the way it currently is, that effort
07 could be completely sabotaged by the language that is in
08 there.

09 With that, I just wanted to conclude that --
10 that we've already taken into account that all of the
11 efforts that are currently being applied as far as water
12 quality monitoring have already been incorporated in the
13 T.M.D.L. portion of the monitoring plan, which your staff
14 currently has and it's under review.

15 That -- that is all for now.

16 CHAIR DIAMOND: Thank you.

17 I have Richard Watson again from the City of
18 Signal Hill who would like to comment on T.M.D.L.'s. You
19 have three minutes, Mr. Watson.

20 MR. WATSON: Thank you, Chair Diamond. I won't
21 take the full three minutes.

22 I think this exchange of ideas about the
23 relationship of T.M.D.L.'s to the draft Permit
24 demonstrates something that we've said back at the April
25 workshop. The T.M.D.L.'s do not have to be implemented

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01 through the permits. E.P.A. has said that there are
02 other mechanisms for doing so, one of those being
03 M.O.U.'s, Memorandums of Understanding. The County has
04 indicated they have M.O.A.'s already on how to fund these
05 things.

06 I think when you look at the number of
07 T.M.D.L.'s in this instance and then think about the
08 number that are going to come up in Los Angeles County,
09 as you start in trying to incorporate all the T.M.D.L.'s
10 directly into the basin plan, it's going to become ever
11 and ever more cumbersome. And you don't have to do that.
12 There are different ways of doing it.

13 And I request that you ask your staff to
14 look into that concept of using M.O.U.'s with the
15 different parties who are subject to the different
16 T.M.D.L.'s, because those are also enforceable ways of
17 implementing the T.M.D.L.'s. And I think your basin plan
18 is going to become very complicated if you don't.

19 Thank you.

20 CHAIR DIAMOND: Thank you.

21 I have no more cards, and I would like, if
22 we could, to complete this section, since we have several
23 more sections to go through today. So before we have our
24 lunch break, I'd like to ask the Board to present
25 whatever questions they have.

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01 So we'll start with you, Ms. Marin.

02 MS. MARIN: Yeah. Actually, I have a question of
03 Mark Pumford before I get to my staff questions. This is
04 related to a comment actually that we heard earlier, too,
05 on the M.A.L.'s, but you talked about a need for meeting
06 facilitation and the participation of T.M.D.L. staff.

07 I want to get an idea of what exactly are
08 you referring to in terms of "meeting facilitation"? I'm
09 getting the sense that there's some dissatisfaction with
10 the way the meetings are being conducted currently.

11 Is that what's being implied here?

12 MR. PUMFORD: I'm sorry. That was --

13 MS. MARIN: What are we looking for?

14 MR. PUMFORD: That was Dr. Kendall that brought
15 that up.

16 MS. MARIN: Was that Dr. Kendall?

17 MR. PUMFORD: Right.

18 MS. MARIN: Okay. Well, then, why don't we have
19 him talk about it. I want to understand this meeting
20 facilitation request and the -- you know, what's it --
21 what are we being asked to do here in terms of resolving
22 the process that we're currently using?

23 MR. PUMFORD: Unfortunately, Dr. Kendall just
24 left and --

25 MS. MARIN: Okay.

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01 MR. PUMFORD: -- we can't get that question

02 answered.

03 MS. MARIN: Okay. Well, you participated in the
04 workshops. You were at the meetings.

05 MR. PUMFORD: Yes.

06 MS. MARIN: So --

07 MR. PUMFORD: Well, I believe that Dr. Kendall
08 said "facilitated meetings, if necessary." So far, there
09 hasn't been a need for any facilitation between staff,
10 especially the T.M.D.L. staff and the stakeholders in
11 this process. It could be a sticking point when we
12 actually get to the incorporation of the T.M.D.L.'s
13 within the Stormwater Permit. It's not an issue at this
14 time.

15 MS. MARIN: Okay. Thank you.

16 Are you going to respond to that?

17 MR. HUDENER: Yes. I'd be happy to respond to
18 that. And we did make that request. We do need
19 facilitated discussions. We do need the involvement of
20 T.M.D.L. regional staff and stormwater staff and our
21 staff to talk.

22 I hope I answered your question.

23 MS. MARIN: Yeah. You're expressing, though, that
24 something is not happening at the current meetings that
25 could be somehow addressed through a facilitator.

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01 MR. HUDENER: Perhaps, yes.

02 MS. MARIN: Well, I think that's something we'll
03 just have to look into.

04 MR. HUDENER: Thank you.

05 MS. MARIN: I don't want to make anybody
06 uncomfortable.

07 Yeah. Xavier, my other questions are
08 related to what Heal the Bay raised. I think that I'm a
09 little unclear as to what or how a -- how effluent limits
10 could be measured through a B.M.P. impression.

11 Maybe if you could clarify what that means
12 and how that process gets you to effluent limits.

13 DR. SWAMIKANNU: Once a waste load allocation has
14 been assigned to point sources, T.M.D.L. is adopted. A
15 T.M.D.L. is from multiple inputs into a receiving water.
16 You have point sources. You have nonpoint sources. You
17 have nonpoint sources like atmospheric contribution, and
18 then you have point sources like wastewater treatment
19 plants and the MS4 system, but you got waste load
20 allocations. Right. These are numerical values.

21 So this is a Stormwater Permit, which is wet
22 weather. You go through an iterative approach to get to
23 meeting the waste load allocation. E.P.A. recognizes the
24 challenge of controlling wet weather discharges, and so
25 it is E.P.A.'s policy to basically say -- and I have a

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01 statement that I can read out.

02 It says, "Effluent limitations to
03 control the discharge of pollutants generally
04 are expressed in numerical form for the MS4
05 Permit. However, in light of 33 U.S. Code
06 1342," citation, "E.P.A. recommends that for
07 N.P.D.E.S. regulated municipal stormwater
08 discharges, effluent limits should be expressed
09 as Best Management Practices or other similar
10 requirements rather than as numerical effluent
11 limits."

12 And this is from the U.S. E.P.A. Office of

13 water memo from 2002. So that's E.P.A. policy.
14 Understanding the challenges, they say you provide this
15 waste load allocation but then provide the alternative
16 for the Permit to have B.M.P.'s, which during the
17 five-year term if implemented will give you a reasonable
18 expectation that you will meet the expected outcome.

19 So it's an option. It's the option we
20 provide. So if Permittees want to present a set of
21 B.M.P.'s to substitute for this waste load allocation,
22 E.P.A. policy provides for that. And that's the option
23 I've incorporated so it gives Permittees that
24 flexibility.

25 MS. SMITH: If I could add to that. I just want
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01 to -- I agree with what Xavier's saying. I just think
02 the caveat is if B.M.P. -- if they are expressed as
03 B.M.P.'s, as Xavier said, there has to be that
04 expectation that those numerics -- if you had numerics,
05 they would be met. So it's a pretty high bar to be able
06 to allow that exception.

07 MS. MARIN: So tell --

08 MS. SMITH: You basically have to have a
09 reasonable expectation that you're there.

10 MS. MARIN: So walk me through how -- how -- how
11 it actually works in terms of, they're using B.M.P.'s and
12 we have numeric limits that we're trying to achieve.
13 They put them in; there's monitoring?

14 MS. SMITH: There would be monitoring to, you
15 know, evaluate that compliance.

16 MS. MARIN: And so that would be in addition to
17 the monitoring that's already required, if they choose to
18 go down this route?

19 MS. SMITH: Yeah. I think we have -- we have to
20 fully vent this before I just sort of propose something
21 here today, but I -- I think by and large we prefer to
22 have numeric expressions in the Permit.

23 I mean, E.P.A. prefers when a Permit is up
24 for renewal, those waste load allocations absolutely must
25 be brought in. You know, generally they're quantifiable

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01 so that they can be -- compliance can be measured and
02 they are enforceable. However, Xavier's correct. In
03 their memo they say that for municipal systems, you can
04 reflect them the other way. But -- but I -- you know --

05 MS. MARIN: Okay. So --

06 MS. SMITH: -- it's sort of a new territory here
07 for us, but --

08 MS. MARIN: So let -- so let me understand how the
09 permit's going to work, though. If this is an option,
10 you can -- you can choose to go down this path, but we
11 haven't yet determined, then, how we would evaluate of
12 the effectiveness or what the steps would be?

13 MS. SMITH: Yeah. I mean, we might have to have a
14 demonstration up front. I mean, you know, what -- what
15 can generate that reasonable expectation?

16 I -- you know, somebody says, hey, if I put
17 in this suite of B.M.P.'s and I have this literature that
18 says it's going to get me even -- like some of the
19 B.M.P.'s that Heal the Bay was talking about earlier, I
20 know that this B.M.P. will get me not only to 3, but it
21 will get me down to 1.2. There's a lot of data. Perhaps
22 you could -- you could just make that substitution, but
23 you can't just say, well, let me put these in and try and

24 let's see how it's going to do and take it from there.
25 CHAIR DIAMOND: Excuse me. Just to follow up.

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01 The number is there. The numeric limit would be there,
02 but they would -- they might put in B.M.P.'s and then
03 monitor to see if they are there? And then if they
04 aren't there --
05 MS. SMITH: I think -- I think what we're talking
06 about is a substitution of not having the numbers.
07 DR. SWAMIKANNU: No. The numbers will always be
08 there. The numbers --
09 MS. SMITH: Yes.
10 DR. SWAMIKANNU: -- are in the Permit.
11 But in order to comply with the numbers,
12 they present these set of B.M.P.'s.
13 And you do modeling up front. You -- you --
14 you use all the data you have, the information, like
15 Kirsten put up.
16 MS. SMITH: Right.
17 MR. SWAMIKANNU: Using that, demonstrate that, you
18 can get that, putting -- locating these in those
19 subwatersheds where you have impairment.
20 Let me give you the example. The trash
21 T.M.D.L. is an example of this. You allowed for full
22 capture system with is a technology. Right. Your
23 outcome is zero trash, but you allowed for technology to
24 be substituted. That's the same approach that we are
25 presenting. This is an option. The numbers --

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01 MS. SMITH: Yeah.
02 DR. SWAMIKANNU: -- will always be there, but you
03 get the option of presenting B.M.P.'s and incorporating
04 those B.M.P.'s for that Permit term, because you have a
05 reasonable expectation that you can get there where you
06 started. Permittees need some protection for that
07 period. This is an alternative.
08 MS. MARIN: So -- so we -- there would have to be
09 an approval process, then, whereby there would have to be
10 some data presented that would convince us that this was
11 an adequate alternative?
12 DR. SWAMIKANNU: Yes.
13 MS. MARIN: Okay.
14 MS. SMITH: Yes.
15 DR. SWAMIKANNU: The ex- -- right now --
16 MS. MARIN: Okay. Okay.
17 DR. SWAMIKANNU: -- the way -- right now, the
18 executive officer get -- gets to look at it. And then --
19 MS. SMITH: Yeah.
20 MS. MARIN: Thank you.
21 MS. SMITH: There would be some sort of reasonable
22 expectation analysis or something -- something to look
23 into that.
24 MS. MARIN: Okay.
25 MR. LEVY: Could I chime in a little bit on the

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01 memo that Xavier is citing?
02 It's not a policy; it's a guidance document.
03 And it was adopted by E.P.A. around the heights, a few
04 years ago, of the new T.M.D.L. age. And the municipal
05 stormwater agencies were concerned that, all of the
06 sudden, the requirement to have numerical waste load
07 allocations is necessarily going to be interpreted as a
08 requirement that there be numerical effluent limits in

09 the Permit.

10 And E.P.A. wanted to clarify that the fact
11 that you are required to have a numerical waste load
12 allocation, and that you need to have a Permit that's
13 consistent with the assumptions of that waste load
14 allocation, does not necessarily mean that you need to
15 have a numerical effluent limit to interpret that waste
16 load allocation in the Permit.

17 You do, however, need to meet the waste load
18 allocation. And I think that's probably what's -- what's
19 not as artfully stated as should be.

20 One of the other problems is I think that
21 the Permit, the way it's written, seems to be prejudging
22 how we're going to implement other T.M.D.L.'s. And as
23 Mr. Pumford pointed out, the permits have to be
24 consistent with the T.M.D.L.'s. The T.M.D.L. is the
25 basin plan amendment. That's got a control. And the

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01 requirements of the T.M.D.L. have to be in the Permit, as
02 Ms. James was pointing out as well.

03 So the T.M.D.L.'s and the basin plan dictate
04 what goes in the Permit, and those requirements have to
05 go in the Permit, period.

06 Now, if we determine that certain Best
07 Management Practices will reach the result of the waste
08 load allocations, those can be adopted instead of numeric
09 effluent limits in the Permit. I think that's what's
10 trying to be expressed.

11 MS. MARIN: Okay. Well, speaking of making sure
12 that, you know, the requirements of the T.M.D.L.'s are
13 incorporated into these permits, what about what
14 Ms. James raised regarding all the other T.M.D.L.'s which
15 she noted are missing and the requirements of those?

16 MR. LEVY: They have to be put in.

17 MS. MARIN: And is there any reason why we
18 wouldn't want to put them in before we finalize this
19 draft?

20 MR. LEVY: No. We should be looking at what is
21 down the pike that's not approved yet. Since when we
22 adopt this Permit, several of them will have been
23 approved --

24 MS. MARIN: Okay.

25 MR. LEVY: -- the Permit should hopefully

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01 incorporate --

02 MS. MARIN: Okay.

03 MR. LEVY: -- the updated requirements.

04 And the Permit should also recognize that
05 additional T.M.D.L.'s will be adopted, and there may like
06 with Los Angeles be reopeners --

07 MS. MARIN: Right, right.

08 MR. LEVY: -- to put them in.

09 But the Permit seems to suggest that there's
10 a one-size-fits-all approach to incorporating T.M.D.L.'s
11 in the Permit. That's not the case. Our T.M.D.L.'s are
12 different based upon the circumstances, the watershed,
13 the stakeholders. And that needs to be accommodated in
14 the Permit.

15 MS. MARIN: And my last question is related to the
16 coordination of the work from the T.M.D.L. staff and the
17 Permittee staff. Is there any reason why we couldn't
18 have the T.M.D.L. staff participating in the development
19 of this permit?

20 MS. SMITH: No. Actually, we have been doing
21 that. So we obviously need to do a little bit more, but
22 we have been involving T.M.D.L. staff in reviewing
23 T.M.D.L. sections --

24 MS. MARIN: Right. Doing --

25 MS. SMITH: -- and working on this.

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01 MS. MARIN: Probably in doing the work, but
02 possibly not enough presence at the meetings?

03 MS. SMITH: Yes. We probably need to be more
04 inclusive at the meetings --

05 MS. MARIN: Okay.

06 MS. SMITH: -- as well.

07 MS. MARIN: That's it. Thank you.

08 VICE-CHAIR LUTZ: I don't really have any
09 questions. Just a comment. And that is, that basically
10 with this T.M.D.L. section, we heard general themes, big
11 themes. And Ms. Marin has touched on all of them, so
12 there are no questions, just my hope that as we move
13 forward, we look at all the T.M.D.L.'s, we make sure that
14 we have not conflicted what's in the T.M.D.L. with the
15 Permit; that we include the T.M.D.L. department in any
16 and all areas that would be helpful in doing so.

17 And that -- Mr. Watson brought up
18 another -- another point about the M.O.A.'s. And I know
19 we have those, so I think we need to really address
20 whether we -- how we are approaching the T.M.D.L.'s in
21 this Permit versus the Memorandum of Agreement and how
22 they connect.

23 MR. LEVY: We -- we -- we can't do that. And this
24 issue has been raised by Mr. Watson in other forums.

25 We are required by law -- by Federal

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01 regulations to include -- to make sure our permits are
02 consistent with the assumptions and requirements of the
03 T.M.D.L.'s. We cannot forego putting a T.M.D.L. into a
04 Permit.

05 VICE-CHAIR LUTZ: Okay. So in particular when
06 Mr. Laird talks about a specific passage on a specific
07 page that he feels in conflict with -- with what the
08 Ag waiver has, I'm -- I'm a little concerned about that,
09 that we're -- that we're being consistent.

10 MR. LEVY: Well, the Ag waiver's another Permit,
11 but they should be consistent. We shouldn't be
12 contradicting one Permit with another Permit --

13 VICE-CHAIR LUTZ: Right.

14 MR. LEVY: -- and so that needs to be resolved,
15 too.

16 VICE-CHAIR LUTZ: Yes. It's just -- it's my hope
17 that as we move forward, we're looking very carefully at
18 the documents we've already approved and permitted and
19 worked on, so that we're not conflicting one out with the
20 other.

21 Thank you.

22 CHAIR DIAMOND: I don't have any more questions.

23 I think this was a really good discussion,
24 and I -- and I just want to tell you now, also to
25 Dr. Swamikannu and the rest of the staff, that you have

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01 done a really, really good job, staff work on presenting
02 this to us. And I know that we're asking a lot of you.

03 And hopefully by collaborating with -- as
04 you continue to collaborate with the community and hear

05 us and also have the T.M.D.L. staff involved, it will
06 make the process easier for you, and also move it through
07 in a way that's satisfactory to everybody. So thank you.
08 And we're going to break now for lunch, and
09 we'll be back here in one hour. But I do think Mr. Levy
10 has a -- an announcement.

11 MR. LEVY: Just in closed session, we'll discuss
12 items 6.3, which is the State Mandate's Case, and 6.6,
13 which is the Triennial Review Case.

14 CHAIR DIAMOND: Okay. We'll be back in one hour.
15 Thank you, everybody.

16 (Lunch recess)

17 CHAIR DIAMOND: We're going to move on to Number 5
18 on our agenda of this Storm Water Workshop, and that's
19 going to be the issue of Low Impact Development. Um, I'm
20 going to allow Mr. Beckman to go first, do this out of
21 order because he has to leave. So we'll have Mr. Beckman
22 representing the environmental community, followed by our
23 staff presentation, and then the Ventura County
24 Permittees, the Building Industry, and the cards that
25 people have submitted.

0155

01 Mr. Beckman?

02 MR. BECKMAN: Thank you very much, Chair Diamond,
03 Members of the Board. I appreciate being able to go
04 first.

05 And if you'll just call up my presentation?
06 Thanks. You can go to the next slide.

07 We focus, N.R.D.C. is focused extensively on
08 Low Impact Development here and in other places in
09 California and across the country because we think it's a
10 superior solution for a lot of the problems that we face
11 in terms of storm water runoff, but also we think it's a
12 potential bridge between stakeholders that in the past
13 have, for lack of a better way of putting it, sort of been
14 at war over what is an appropriate response to urban
15 runoff. And the reason that L.I.D. can be so powerful is
16 because it provides multiple benefits to broader
17 constituencies, perhaps, than traditional storm water
18 treatment, or at least it appeals to constituencies that
19 may not feel the appeal of traditional approaches to storm
20 water.

21 So I think you know what Low Impact
22 Development is, but essentially what L.I.D. does is it
23 attempts to conserve pervious surface, not to pave it
24 over, and to preserve hydrological function site by site
25 and in regions as an approach to preventing the problems

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01 and the mechanisms that create runoff in the first place
02 in urban areas, recognizing that if you don't pave over
03 natural land, you reduce runoff significantly.

04 So common L.I.D. practices are not pie in the
05 sky and they're not particularly cutting edge, nor are
06 they particularly technical. Maybe the most sophisticated
07 is retaining water in a cistern and reusing it. But ideas
08 like maintaining garden space, green space, swales,
09 buffers, directing rain -- rather runoff from roof and
10 other pervious -- or impervious surface to pervious
11 surface, i.e., where it can infiltrate, are all common --
12 commonly understood to be part of the suite of techniques
13 that falls under L.I.D.

14 One of the major changes that we think should
15 be made to the Draft Permit is to address the standard and

16 reduce the standard that is currently in the Permit,
17 which is now 5 percent E.I.A. or effective impervious
18 surface.

19 Do one more. Essentially, effective
20 impervious area means that -- or what the Permit attempts
21 to do in regulating it is to reduce the amount of area
22 that is paved over that flows directly to the storm drain
23 system; the concept being that if you do that, you reduce
24 the flow and you therefore reduce the pollutant loading
25 over time storm by storm.

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01 So the question is: Well, what is the
02 appropriate level in a permit? Five percent is a good
03 start, but we've done a lot of research and attached this
04 to our submittal, and the problem with 5 percent is that
05 it's well recognized that once you get over 3 percent in a
06 watershed, you begin to see degradation of natural
07 function, and biological function in particular. So the
08 problem with the 5 percent standard is that it is set at a
09 level that even if it's met, you're still going to be
10 suffering the degradation that the Permit is intended to
11 preclude in the first place. So we want to tailor the
12 standard to be effective when it's met.

13 We, um -- and if you go one more slide.
14 Ventura County is an area that is -- where
15 this change between 5 and 3 percent is particularly
16 important because there's a lot of natural landscape and
17 there's a lot of natural stream systems to protect
18 relative to what you face, say, in Southern California
19 south of here, in Los Angeles in particular. And because
20 of the susceptibility of those systems to further
21 degradation, 3 percent is a more appropriate standard than
22 5 percent.

23 You can go a couple more. Thanks.
24 There's another problem which should be
25 addressed in the Permit, and that is that currently the

0158

01 Permit doesn't -- is not clear enough in terms of what
02 actions suffice to meet the 5 percent or the 3 percent
03 standard. In other words, what is a disconnection from
04 the rooftop runoff or parking lot runoff and the
05 discharge? What steps need to be taken?

06 The critical missing link is that the Permit
07 allows runoff to be routed to swales and infiltration
08 trenches, which is appropriate, but there's no discussion
09 of how those are to be sized in connection with the amount
10 of rain flow or water flow that they're intended to
11 address. And if you don't scale them and design them
12 properly, then the Permit is subject to abuse by those who
13 are not interested in complying, and simple
14 misunderstanding by those who are but don't realize that
15 it's very important to size the swales or the pervious
16 surface so that it can actually deal with the runoff.

17 Otherwise, it's a little bit like putting,
18 you know, a garden hose into a child's pool, eventually it
19 overflows and the water just runs off. And you don't want
20 that to be how the Permit is implemented with very small
21 infiltration trenches, very small pervious areas dealing
22 with large amounts of water.

23 Now, this is hard to look at, so I'm going to
24 break it out for you. You don't have to look at this
25 whole thing, and draw your attention to particular parts,

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01 but this is a slide that comes from our technical report
02 that we submitted that Dr. Horner did. And what
03 Dr. Horner did was analyze the relative benefits of Low
04 Impact Development in terms of water quality and water
05 quantity, and he did it in a realistic scenario involving
06 multiple types of development in Southern California.

07 These examples, multi-family housing,
08 commercial, office, et cetera, actually come from real
09 building permits that were pulled in Southern California
10 communities. And so what Dr. Horner did is he looked at
11 development patterns, assumed them to be continuing into
12 the future, and looked at what could be practically
13 accomplished within the confines of the type of building
14 that's going on in Southern California.

15 So what you can see, if you go one more
16 click -- I'm sorry, if you can go back one.

17 What you can see is at the bottom, Dr. Horner
18 is presenting the results for Low Impact Development
19 across four different types of pollutants and the load
20 reductions that are achievable across each of these six
21 types of development, and the low is 83 percent reduction
22 and the high is almost 100 percent, 98.8 percent. That's
23 superior to -- if you go to the next slide -- far superior
24 to traditional B.M.P.'s.

25 So, for example, the C.D.S. unit reduces
0160

01 pollutants but by a percentage you can see 15 percent,
02 22 percent, 16 percent; that's significantly inferior to a
03 L.I.D. approach. Similarly, the filter strip in gray is
04 much more robust but still significantly less effective
05 than Low Impact Development.

06 So purely from your traditional lens of
07 creating water quality improvement, this is a superior
08 approach for low -- a Low Impact Development is a superior
09 approach for water quality improvement.

10 You can go ahead, I'll skip just for time.

11 This just shows across various pollutants the
12 situation is the same, it's not limited to one but metals
13 and others as well.

14 L.I.D. is also a cost-effective approach.

15 And this is a press release from the National Association
16 of Home Builders and it says, "Is it hard to build green?
17 Is it a lot more expensive? Do I have to live in a
18 straw-bale cottage," et cetera. "No, no and most
19 decidedly no, according to the National Association of
20 Home Builders."

21 And this gets to the point that I was making
22 about looking for ways that traditional stakeholder
23 dynamics, which are negative in this area, can be
24 reformatted into a more positive approach. Low Impact
25 Development is not something just the environmental

0161
01 community recognizes as useful, and because it has as a
02 function lower costs for impervious surface, i.e., you're
03 not putting in as much parking lot, you're not bringing as
04 much construction equipment, you're not bringing as much
05 material, you're not paying as many workers, et cetera,
06 they're a real cost savings for those producing housing in
07 addition to the environmental improvements.

08 This is just another similar example where
09 the National Association of Home Builders are producing
10 all sorts of information for their members about how to
11 move forward with Low Impact Development.

12 This just is again a quote, "Ever wish you
13 could simultaneously lower your site infrastructure cost
14 and protect the environment?" Low Impact Development is
15 the way to do it.

16 Go to the next one. Now, here's the really
17 interesting part of this. We're all familiar with recent
18 decisions reducing water flow from the Delta, we're
19 familiar with projections the climate change will
20 severely affect water use in California. We know we live
21 in a semi-arid region. We know we have droughts. What
22 we've done here is we've analyzed the amount of water
23 that can be retained, either infiltrated or retained in
24 cisterns and reused through L.I.D. approaches, as opposed
25 to taking that same volume of water and discharging it

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01 where it becomes a waste stream that we then have to
02 figure out ways to treat and pay to treat. And we're
03 hearing people tell you they don't want to treat, they
04 want to figure out ways to reduce pollution at the
05 source. Well, we can do that with L.I.D., and the amount
06 of money that the water savings translates into is very
07 significant, and I'll sort of highlight this for you.

08 If you look at the middle, that green bar
09 across the center, this analyzes across the same six
10 developments in acre feet per site per year the amount of
11 water which would be retained assuming nominal rainfall,
12 i.e., the rain records in the area. So we used for this
13 analysis Ventura County rain records I believe in two
14 locations, coastal and inland, to make sure it was a
15 representative approach. And you can see that the amount
16 of water even in smaller developments is very
17 significant, you know, ranging from 1 acre foot, or I
18 guess .3 acre feet, to as much as 80 in large-scale
19 subdivisions, 80 acre feet per year.

20 And in California when you apply an
21 analysis -- when you apply an economic analysis to those
22 numbers, i.e., what do we pay per acre foot for water?
23 well, look at the numbers, they're astoundingly high.

24 This is much -- this is a way in which your
25 regulations can actually put money in the pockets of those

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01 who are following your regulations as opposed to, as you
02 usually hear, cost people money. And because the
03 techniques that yield these savings are also less
04 expensive than traditional building techniques, it's sort
05 of a compounded savings of money using this approach.

06 So we get more water, which we need; we save
07 money, which is a good thing; and we have a superior water
08 quality solution far in excess of traditional B.M.P.'s.
09 It's a win-win-win approach, and that's why we think and
10 support so much the approach that Xavier and his staff
11 have taken with L.I.D. in the Permit. But it's important,
12 as I said, to make sure that it's clearly articulated and
13 the loopholes are closed and that the standard is set at a
14 level which is going to actually protect water resources,
15 which means reducing from 5 percent E.I.A. to 3 percent
16 E.I.A. And if you do that, you get a very robust outcome.

17 So with that, I'll just stop there because I
18 appreciate being able to go early and I know you have a
19 lot of other people who want to talk to you. With that,
20 I would urge the Board to focus staff on 3 percent and
21 on making clear that the way in which you judge success
22 here is by meeting that standard and by sizing the

23 infiltration galleries or the swales that you use to meet
24 the standard -- to meet the water flow that is expected at
25 the site and then you'll have a really terrific solution.

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01 If you have any questions, I'd be happy to
02 answer them. But otherwise, thank you again for letting
03 me skip ahead.

04 CHAIR DIAMOND: Are there any questions? Thank you
05 very much.

06 MR. BECKMAN: Thank you. Thanks a lot.

07 CHAIR DIAMOND: We're going to move on to staff
08 presentation. Xavier?

09 DR. SWAMIKANNU: The specific objective of the Low
10 Impact Development and Hydromodification Control
11 Requirements in the Land Development Planning Section are
12 to maintain the predevelopment water balance and flow
13 patterns.

14 The Draft Permit accomplish -- accomplishes
15 this by requiring that hydromodification controls to
16 reduce flow and protect stream habitat are implemented.
17 It requires integrated water resources management to
18 reduce runoff, remove pollutants and reuse some water. It
19 requires the use of better site design to maintain
20 predevelopment hydrology. It requires reduction effective
21 impervious area to 5 percent or less, and it requires a
22 treatment of pollutants to the water quality volume or the
23 water quality flow.

24 Next slide. In the comments on the
25 December 2006 Draft, Permittees requested that we provide

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01 a simple interim hydromodification control criterion
02 until the completion of the Southern California Summit of
03 Monitoring Coalition of Hydromodification Project in
04 which the Ventura County Water Protection District is a
05 participant.

06 In the August 2006 Draft, we have simplified
07 the interim hydromodification control criterion to one or
08 maximum of two years, 24 hour pre-development, peak flow
09 and volume.

10 Next slide. The Permittees in the
11 construction industry also express a concern that the
12 implementation of hydromodification controls on a project
13 or site basis may be less effective than watershed scale
14 strategies to address the adverse impacts of increased
15 flow with new development and redevelopment. In the
16 August 2006 draft, we provide for the development of
17 watershed scale hydromodification control plans after the
18 completion of the Southern California Summit of Monitoring
19 Coalition Hydromodification Study.

20 Next slide. In the comments on the December
21 2006 draft, Permittees in the construction industry
22 expressed that it might be difficult to implement Low
23 Impact Development strategies in redevelopment and
24 built-out areas because of space limitations and other
25 considerations, such as transportation efficiencies and

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01 affordable housing needs. In this recent draft, staff
02 provide for an alternative approach for redevelopment
03 areas when multiple benefits in addition to water quality
04 are integrated in the local development planning.

05 These types of projects may now be done under
06 a redevelopment area management plan when the plan has
07 been reviewed for multiple benefits by a state or regional

08 planning agency and then is forwarded to the Water Board
09 and the Executive Officer for consideration and approval
10 as a substitute for the requirements in the section.

11 With that, staff presentation concludes.

12 CHAIR DIAMOND: Thank you. Now we'll have the
13 Ventura representative.

14 UNIDENTIFIED MALE: There's one more --

15 CHAIR DIAMOND: Oh, I'm sorry. Go ahead. I'm
16 sorry.

17 UNIDENTIFIED MALE: That's all right.

18 Chair Diamond and Board Members, good
19 afternoon. I'm here to present the last staff
20 presentation, and I'm addressing grading restriction
21 criteria.

22 We have three criteria of grading
23 restrictions, and the first is slopes 20 percent or
24 greater; the second is sites that discharge into 303(d)
25 listed water bodies and the listing is for sedimentation

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01 of siltation; and the third criteria is sites discharging
02 into environmentally sensitive areas.

03 Based on these three criteria, approximately
04 8 percent of Ventura County construction sites may be
05 impacted by this wet season grading restriction, and
06 that's about 60, 62 sites based on the current enrollment
07 in the permit.

08 Next. Revision from the last workshop:
09 Permittees, not Regional Board Executive Officer, are to
10 grant variance from grading restriction for good cause. If
11 a site meets the following criteria, they can petition a
12 Permittee to get a waiver or variance from these
13 restrictions, and these are not cause or contribute to
14 water quality degradation; ensure that total safe level
15 solids discharged is 100 milligrams or less; ensure that
16 turbidity of discharge is 50 N.T.U. or less; not impair
17 beneficial uses; and the last criterion is includes a
18 monitoring program to ensure effectiveness.

19 A couple of pictures showing the challenges
20 we face in the program. Eroded slopes where a lot of
21 sediment flows on the streets, sediment rocking.

22 Next. And then on the left bottom portion
23 you see overwhelmed B.M.P.'s, sandbags in that case, a lot
24 of rain, poorly protected sites. So the restriction, we
25 hope, will limit the environmental damage from wet

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01 weather. Thank you.

02 CHAIR DIAMOND: Thank you. And now we'll go on to
03 the Ventura County representatives, and you have asked for
04 10 minutes.

05 MR. GIESCHEN: Thank you, Chair Diamond, thank you
06 Board Members for allowing me to speak.

07 My name is Kevin Gieschen. I'm with the City
08 of Simi Valley and I'll be speaking today on Low Impact
09 Development.

10 In Ventura County, we support -- next
11 slide -- we support impact development -- Low Impact
12 Development. Back in 2002, we put it into our Technical
13 Guidance Manual for Storm Water Quality Control Measures,
14 and we really appreciate the opportunity to speak on it
15 and further the use of L.I.D.

16 This is a general L.I.D. B.M.P., and here I
17 want to show the storage of water for water conservation
18 and infiltration for water quality.

19 Next slide.. Some of our concerns in
 20 Simi Valley where we may be a little unique, we have a lot
 21 of clay soil, a lot of groundwater issues, and in the
 22 middle and west side also we have concerns of water
 23 conservation. Sometimes if you put it in like a grass roof
 24 or something, if you're spending all the year watering it
 25 versus the little water that you get to use from the rain

0169
 01 water in a climate like ours, you have to look at both
 02 issues. There -- from the vegetative B.M.P.'s, we don't
 03 want to be forced to do certain B.M.P.'s that won't work.
 04 We do want to do L.I.D.

05 Next slide. This is from the middle of our
 06 city, one of the high groundwater neighborhoods, just an
 07 example. We're concerned -- next slide.

08 And this is from the west end of the city.
 09 We're concerned that we may be impacted by infiltration if
 10 we're forced to do a lot of infiltration of B.M.P.'s.

11 As you know, we have seven wells in the city
 12 pumping groundwater and de-watering to protect our
 13 citizens to keep that water off the street and keep us
 14 safe.

15 Next slide. So our recommendations here are
 16 to help us increase our use of L.I.D. as a tool but not as
 17 a forced one size fits all.

18 We require -- we recommend that you require
 19 us to increase our integration into an already using -- or
 20 document that we've been using and have been using well
 21 for years. Instead of generating a new one, let's just
 22 increase this use of L.I.D. We have a whole chapter on
 23 L.I.D. right here. And certainly if the trend is to go
 24 with more, let's go with more and where we're already
 25 using it.

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 01 Also, then the third recommendation is to
 02 allow us to participate with the Local Government
 03 Commission. Their current model project for Low Impact
 04 Development is already funded and it's -- it's a way that
 05 we can get for Ventura County the proper L.I.D. B.M.P.'s
 06 and use them correctly instead of haphazardly throwing
 07 stuff out that just doesn't work for the citizens or
 08 doesn't work everywhere.

09 CHAIR DIAMOND: Thank you.

10 MR. GIESCHEN: Thank you.

11 CHAIR DIAMOND: Is there anybody else from Ventura?

12 MR. O'BRIEN: Yeah.

13 CHAIR DIAMOND: Okay.

14 MR. O'BRIEN: Chairman Diamond, Members of the
 15 Board and staff, my name is Bill O'Brien. I'm from the
 16 City of Ojai, and I'm here to talk about hydrologic
 17 control issues that are in the Second Permit, the April
 18 Permit.

19 I want to thank the staff for listening to us
 20 and working with us on this issue. It's a complex issue,
 21 and some of the changes we've requested have already been
 22 incorporated in this draft.

23 Hydrologic controls are all tied together.
 24 There's a family of hydrologic controls represented by the
 25 Permit, the N.P.D.E.S. Permit. There's L.I.D. controls

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 01 that control peak flow and runoff. There's water quality
 02 treatment controls that affect peak flow and runoff.
 03 There's the new issue is hydromodification controls that

04 affect peak flow and runoff. They also add the issue of
05 sediment and erosion. And in our county we have a number
06 of permit processes for bigger developments or that affect
07 drainage patterns. These are called flood control
08 measurements and they affect peak flow and runoff and
09 sediment.

10 The use of any -- this is my point is that
11 the use of any of these affects the others. You can't
12 just do one and say it won't affect the other issues. For
13 example, if you have a L.I.D. project and you're worrying
14 about how to size the treatment for it, you could just use
15 the water quality treatment control B.M.P.'s that are
16 already developed and then you would be taking care of
17 two -- two birds with one stone.

18 Next slide, please. So is it
19 hydromodification or erosion modification? Hydro or water
20 modification is what we've been dealing with in the last
21 permit where development that causes increased runoff,
22 we've come up with detention basins, swales and a number
23 of techniques to reduce the peak flow. And now, bravely,
24 the Board has moved into the issue of sediment; erosion
25 modification, geomorphology and sediment balance. This is

0172 a lot more difficult than simply controlling peak flow.

02 S.C.C.W.R.P. has a three- to five-year study,
03 it's been an issue that is part of this current permit.
04 Ventura County and some of our cities are members of the
05 technical advisory committee for that, so it's complex.

06 This is one of my favorite little diagrams.
07 It shows that -- it shows the interrelationships of
08 sediment, water, sediment size and the slope of a channel
09 in determining if a channel will start scouring or eroding
10 or if it will start building up and raising, getting a
11 higher bed.

12 So let's just step through an example. If we
13 take the sediment load out or reduce it by building a
14 water quality retention basin, then the pendulum is going
15 to swing this way towards scour or degradation of the
16 channel downstream. So then they say, hey, let's reduce
17 the water some more, let's build a bigger retention basin
18 and we'll swing that pendulum back so that the erosion is
19 balanced downstream. So this is how it really works when
20 you're trying to come up with a zero erosion standard.

21 Next slide, please. This is a place between
22 Santa Paula and Ojai called Mud Creek. It's an
23 undeveloped watershed, and I put this there to show that
24 each creek or each river has its own sediment story,
25 they're not one size fits all.

0173 For example, in our county, Calleguas Creek
01 empties into Mugu Lagoon and that has too much sediment.
02 There's a tremendous problem of getting rid of sediment
03 there. That's where you don't want sediment. But then if
04 you go to Ventura River, my friends who are surfing at
05 Surfers' Pointe complain about how the beach is eroding,
06 there's no sediment feeding the beach. And so in that
07 case they need sediment.

08 Next slide, please. The County has
09 developed, as part of the 2000 Permit, a Technical
10 Guidance Manual for Storm Water Quality Control Measures.
11 This is what my friend Kevin also showed you. This
12 includes B.M.P.'s for storm water quality treatment, just
13 like it says, but it also includes L.I.D. principles in
14

15 Section 3. It's not spelled out as L.I.D. principles,
16 it's called General Development Principles. It also
17 includes hydromodification effects. It's not spelled out
18 as hydromodification effects, but the standards in here
19 are more stringent than the two-year storm of the interim
20 criteria in the Second Draft Permit.

21 Next slide, please. The County policy for
22 agriculture and open space means the watershed level or
23 the Integrated Regional Water Management Planning
24 Solutions will be needed that include non-storm -- or
25 sorry, non-urban runoff. As has been described, most of

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01 the county is not urban, so we have this combination of
02 mostly non-urban flows mingled with some urban flows that
03 are the subject of this Permit.

04 Redevelopment runoff is not the same as new
05 development, and we've noted that there's -- the staff has
06 started developing a separate criteria for redevelopment.
07 The behavior of runoff for infill development is more
08 related to the nearby land use, so it can't be analyzed
09 quite the same as new development.

10 Then what we need that's not in this manual
11 is development controls that allow -- sorry, hydrologic
12 controls that allow sediment transport where it's needed
13 and still provide water quality treatment. That's the
14 trick. That's what this permit is moving us into.

15 Next slide, please. So we request the Board
16 to incorporate the interrelationships of these hydrologic
17 controls to avoid duplication of regulations. And they
18 can really complement each other, like the example I gave
19 with L.I.D. working with the water quality treatment
20 B.M.P.'s.

21 Our second request is to add amendments to
22 this document. We suggest using this document, developing
23 it further to include specifically L.I.D. and
24 redevelopment and until such time as the S.C.C.W.R.P.
25 study is completed.

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01 Thanks for your consideration of these
02 things, and we're happy to work with the staff on --
03 further work on this, I mean. Thank you.

04 CHAIR DIAMOND: Thank you. B.I.A.?

05 MR. GRAY: Would you load up my presentation,
06 please? Thank you.

07 Chair Diamond, Members of the Board, thank
08 you again. Mark Gray, Building Industry Association of
09 Southern California. I also represent the Construction
10 Industry Coalition on Water Quality. Happy to be here
11 today, appreciate the time that you've given us today.

12 I want to provide the builder and contractor
13 perspective on some of the comments that we have on the
14 Draft Permit. And I'd like to get into some of the
15 specific issues, and you'll see this in our comment
16 package next week, a much more focused comment package.
17 But I wanted to get into about 10 areas today, and like I
18 said, I appreciate this little bit of extra time than the
19 eight minutes that we had. I've got about 10 slides and
20 I should be able to get through it rather quickly.

21 Next slide, please. First off, I've oriented
22 all the slides pretty much the same way where we've got
23 the section at the top, our issue, the section that it's
24 in and then our concerns and maybe some suggested
25 language, and then you'll see some discussion points below

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01 it.

02 The first one is the effective impervious
03 areas set at 5 percent. We feel there's no allowance for
04 project scale, location of disconnection or feasibility,
05 and I'll talk about that a little bit.

06 Earlier this numerical limitation of 3 or
07 5 percent, and we need to keep in mind that that --
08 those -- the range is really 3 to 10 percent, and that's
09 what the literature shows, and that the lower numbers of
10 percentage have been set up from literature on much
11 smaller watersheds than, say, what we encounter here in
12 Ventura. I mean, they're on watersheds, the literature
13 shows, less than 50 acres. So we need to keep that in
14 mind when we talk about this absolute numeric value of
15 5 percent.

16 We have four main concerns with this section
17 in the permit that appears on page 51. And I should
18 say -- I should back up a little bit. I mean, since the
19 last hearing in April, we've had numerous occasions where
20 we've been in forums and met with staff, we've met with
21 Ms. Smith, Dr. Swamikannu. I've spoken, been on the stump
22 in a number of forums and presentations and given our
23 thoughts, and I think we've got a lot of -- we've gone a
24 long way to work together on this and I feel really good
25 about that and excited that we're moving forward with some

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01 really positive solutions. And what I want to talk about
02 today are just some of the areas where we still have some
03 concerns and I think where we hope we can continue to work
04 together.

05 And again, on the disconnection issue,
06 perviousness, and this is an issue of scale, the
07 perviousness varies throughout the landscape, and
08 infiltration doesn't have to and sometimes shouldn't occur
09 on site. The gentleman just showed you some pictures
10 where there's very high groundwater that would probably
11 prevent you from doing some of this disconnection on site.
12 Other points in the landscape exist for that, such as
13 points downstream or upstream of the discharge point that
14 can serve as a -- can serve to infiltrate runoff. And,
15 for example, the low flows or the first flush, and we just
16 had that discussion with staff earlier this week.

17 And we feel it's written that the Draft
18 Permit will encourage sprawl and discourage optimal
19 siting. It really wants you to put the development where
20 it's very spongy, which isn't always necessarily the best
21 place to put development, sometimes it's best to place it
22 on harder surfaces. So that we think you might be making
23 a bit of a mistake in encouraging sprawl with the way the
24 permit language is drafted.

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25 And finally, in relation to -- with relation
01 to disconnection, re-development and infill sites that
02 aren't within these redevelopment agencies, as
03 Dr. Swamikannu discussed just a little while ago, are
04 clearly at a disadvantage in complying with the 5 percent
05 numeric criteria, especially those projects that aren't
06 within that -- that aren't within that R.P.A.M.P., and
07 I'll talk about that more in just a minute.

08 Next slide, please. And you've all -- and
09 you've seen this slide before. We showed this on
10 April 5th. Ms. Smith has seen it. Dr. Swamikannu and

11 staff have seen this. This just tries to illustrate that
12 infiltration impervious surface -- the importance of the
13 consideration of scale in providing for imperviousness,
14 that the permit doesn't consider project scale, it doesn't
15 consider imperviousness at all scales, and it needs to
16 consider the special needs of infill and redevelopment.
17 And that figure shows the various scales where you could
18 achieve infiltration in land planning and development at
19 the specific plan scale, the tract map scale, a smaller
20 planning area and then at the lot scale.

21 And finally on this slide, we feel that a
22 feasibility variance needs to be included in the permit
23 when the examination or engineering analysis shows that
24 all available strategies are considered that are not
25 technically and economically feasible to meet the

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01 standard. Again, that example could be the gentleman who
02 showed those sites of high groundwater where you have
03 soils that are unsuitable, perhaps some other -- some
04 other geological factors.

05 Next slide, please. The second issue we have
06 is with the implementation of Low Impact Development site
07 design features and pollutant removal B.M.P.'s. Our
08 concern is that we must have clear language providing
09 permittees with the discretion to approve L.I.D. site
10 design features that accommodate local conditions. Again,
11 what I was just talking about, we need to make sure that
12 the permit reflects that local conditions are not all the
13 same. We need to clarify the language in the permit now.
14 We really feel strongly that we don't want to have the
15 self-clarification letters or further clarifitry language
16 that has to come out after that permit has been adopted.

17 The Permit, as well as the technical
18 guidance, must allow consideration of local constraints
19 and feasibility in setting L.I.D. Again, those things I
20 talked about, the importance of climate, soils, ground
21 water and receiving waters. We cannot have
22 one-size-fits-all approaches.

23 We need to clearly define that the permittees
24 establish Low Impact Development points, scoring criteria
25 based on local conditions and needs, and again, that this

0180

01 doesn't change during the permit. We don't need
02 clarifications down the road. And we need to make sure
03 that we clarify the high flows. Flood flows don't
04 necessarily need to be disconnected at the project scale.
05 We need to infiltrate as much as possible, that the flood
06 flows need to be disconnected. Thank you.

07 The next issue, our issue number 3 is the
08 hydromodification permit language. We have three
09 principal concerns here. Number one is that requiring
10 "maintaining" quote, and that's from the Permit, the
11 Draft Permit 2007, a pre-development runoff is technically
12 infeasible if construed as an absolute. There will always
13 be some alteration of the hydrograph due to land
14 development; therefore, it should reasonably approximate
15 pre-development conditions. So that word "maintaining" is
16 very problematic for us unless there's some additional
17 definition to that.

18 The other thing that we feel that is missing
19 is clear definition of when and where waivers will apply.
20 I think I know there's an emphasis by Dr. Swamikannu to
21 emphasize simplicity in the permit, but there are areas

22 where waivers are needed for hydromodification where
23 you're already discharging into hardened concrete channels
24 where the susceptibility of the stream system to adverse
25 change in form and function aren't there. We need to have

0181

01 waivers and we need to know where they apply.
02 And finally, we need to clarify that the
03 final Hydromodification Control Study criteria from
04 S.C.C.W.R.P. will replace the interim criteria and that
05 this Low Impact Development point scoring system, and
06 that's something we've been discussing with staff of how
07 you cumulatively account for disconnection, pollutant
08 removal B.M.P.'s and hydromodification, kind of a scoring
09 system that you're doing these things at the various steps
10 to achieve disconnection, B.M.P. pollutant -- pollutant
11 removal with B.M.P.'s and hydromodification that you're
12 getting scoring along the way for all those to achieve
13 hydromodification compliance. So we need to make that
14 very clear and we need to make that clear what the
15 hydromodi -- when the Hydromodification Control Study is
16 completed how that will fit in with the language in the
17 adopted permit.

18 Next slide, please. Quickly on this: This
19 is the effect -- this is the so-called grandfathering
20 issue, effective date of order requirements. The Draft
21 Permit currently states that requirements shall apply to
22 projects that have not received tentative tract map and
23 post-construction control approval prior to 90 days after
24 order adoption. We'll be submitting this in our comment
25 package next Friday, some sample language, and we'll read

0182

01 that to you from the bottom. Let's understand that a
02 90-day period does not match the current timing of project
03 approvals in Ventura County. It can take anywhere from 12
04 to 18 months, so that's some problematic language for us
05 in terms of the conditioning and approval for projects in
06 the permit.

07 Next slide, please. Seasonal grading and
08 forced advanced treatment system deployment in planning
09 and land development. I've been working on this issue day
10 in and day out, the General Construction Permit at the
11 state level for some time. And let me make my points and
12 then have some comments on this.

13 The six-month grading ban is inconsistent
14 with the State Water Resources Control Board direction in
15 assessing site risk and deployed B.M.P.'s according to
16 site risk and phase of construction. You may or may not
17 know, the state is in the process of reissuing the general
18 construction permit, and we've worked together day in and
19 day out for the past six months to come up with a
20 risk-based approach for deployment of minimum B.M.P.'s for
21 various risk construction sites. And I really strongly
22 urge you to take a look at the submittals, and I'll submit
23 this to the Board. We've -- I know the staff has our
24 submittals that we've made to the state.

25 We really think we've got ground-breaking

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01 work in implementing minimum B.M.P.'s at construction
02 sites so that you can avoid things like grading bans. And
03 we're really -- we really strongly urge you to take a look
04 at that because we think this approach makes a lot of
05 sense, and the construction and development industry has
06 really raised the bar in what we're -- what we're

07 proposing at construction sites. And the approach, as
08 written in the Permit, forces the use of advanced
09 treatment systems if a grading waiver for 20 percent on
10 slopes, you're next to an ecologically sensitive area, or
11 you're discharging into a 303(d) listed water body for
12 silt or sediment. It forces you into using advanced
13 treatment systems because those are the only systems that
14 can be shown to maintain the numeric standards that are in
15 the Draft Permit.

16 In A.T.S. systems, and you're probably tired
17 of hearing this, but they can be toxic, and can be toxic
18 if used improperly, and would be required to achieve --
19 achieve those numeric standards in the permit. And, you
20 know, if you're using it in an ecologically sensitive
21 area, it's questionable whether that's a good approach
22 just given the history of some of the problems that we've
23 had in California.

24 And something that we also feel is very
25 important is that any fixed numeric standard for a

0184

01 particular construction site would be arbitrary
02 considering the extreme variability that exists in natural
03 sediment concentrations and loads. And we have -- we've
04 submitted data on the record to show this extreme just
05 variability of sediment loads and concentrations in
06 streams throughout California. We've submitted this on
07 the record with the state, and you'll be seeing this in
08 the record again when we submit our comments, and that's
09 very important in considering the use of advanced
10 treatment systems.

11 And I should also point out, before I move on
12 to implementation, staff has proposed that 8 percent of
13 the sites in Ventura County would be subjected to this
14 kind of grading ban, and we have asked to see that data
15 and we have not seen that data to date. I've surveyed a
16 number of members and we believe that that number is
17 higher. What is it exactly? I don't know, but we believe
18 it's significantly higher. I polled a number of members
19 in the last week, got some responses.

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20 For example, I know of four different
21 projects right now on slopes greater than 20 percent, one
22 in Moorpark and four in Santa Paula. So to say that only
23 8 percent would be covered by this grading ban, we'd like
24 to see that data and information because that's real -- I
25 think that's, you know, very important in assessing the

01 kind of impact on the construction industry.

02 Next slide, please. Thank you.

03 Just quickly on implementation. The new
04 enforcement authority, we feel that this new provision in
05 the draft appears to attempt to create novel,
06 unprecedented and authorize joint liability for
07 non-Permittees. You heard about that this morning in the
08 M.E.P. discussion. It seems to be designed as a future
09 got-you provision so that clarification letters that
10 reinterpret the permit requirements can be easily issued
11 later. We really just hope, and I know my members don't
12 want to see other clarification letters come out in the
13 future. We'd like to get the permit language very clear
14 about enforcement and authority. So the permit should
15 clearly delineate up front what is required of new
16 development for the entire period of the new permit.

17 Next slide, please.

18 MR. LEVY: Pardon me. Could you on that slide,
19 what language specifically on the permit are you referring
20 to?

21 MR. GRAY: On page 58 on authority under -- I don't
22 have it in front of me, the new -- it's -- I'd have to
23 take a -- may I?

24 Number 3, absent inadequate or effective
25 post-construction B.M.P.'s. I believe we feel that it

0186
01 would potentially move liability to the site
02 developer/owner. I'm going blind. My doctor said I need
03 bifocals.

04 MR. LEVY: With the Chair's permission,
05 Chair Diamond, with your permission, I'm having trouble
06 understanding your comment. Could you try that again?

07 MR. GRAY: What's your question?

08 MR. LEVY: The question is: You're suggesting the
09 need for -- you're talking about future got-you. Are you
10 intending that one of the provisions is vague or is
11 unclear what is being required. What specifically is the
12 concern you're raising? I'm not understanding.

13 MS. COFFEE: I'm Mary Lynn Coffey for B.I.A. and
14 for K.W.I.C.K.

15 The concern that we have is in that
16 subdivision 3, little a(1), and the concern is really that
17 this allows the permitting authorities to inspect, and if
18 they do not readily identify, it doesn't really matter, if
19 they just fail to readily identify and there's actually a
20 B.M.P. there, but if they do not readily identify the
21 implementation of post-construction control B.M.P.'s at
22 the site, then progressive enforcement action will be
23 initiated against project owner and developer.

24 And that's a concern from the standpoint of
25 joint liability. It's also a concern from the standpoint

0187
01 of the precedent of clarification letters in the
02 L.A. County area because there have been some sort of
03 reinterpretations or changing interpretations of
04 post-control B.M.P.'s that are sufficient to meet the
05 order of requirements. And so there's a concern that if
06 those requirements change over the term of the permit that
07 this allows a kind of post-facto got-you if you were
08 complying with the earlier interpretation rather than the
09 later.

10 MR. LEVY: Thank you.

11 MR. GRAY: Next slide, please. The last point,
12 number 7, is alternative post-construction B.M.P.
13 programs, and this is really just to call for better
14 master -- water master planning.

15 We would hope the permit would encourage
16 specific plan level planning for Low Impact Development,
17 hydromodification and water quality control B.M.P.'s via
18 storm water mitigation plans, R.P.A.M.P.'s in regional,
19 subregional facilities. And you see that effort out here
20 today with the interest that's obviously in this permit
21 with people working together, and we really believe that
22 this permit needs to do that.

23 But in some cases, the current provisions
24 make it harder to create water quality master plans by
25 holding these to a higher -- what we would read in the

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01 permit to be a higher standard, making the process
02 approval longer and more difficult having to bring it to

03 the Board, and includes unnecessary -- instead of having
04 clear criteria for what those plans need to have in them,
05 and then includes unnecessary constraints regarding timing
06 and implementation in light of the planning scale and the
07 time that it takes to plan. So these standards should be
08 spelled out ahead of time. And we've submitted comments
09 on all these areas in the past and we'd hope that staff
10 would take a serious look at those.

11 Last slide, please, to sum up. So in sum --
12 and I must say, I must appreciate Mr. Beckman bringing
13 N.H.B. material again to the hearing -- to the workshop
14 and hearing because we certainly support the use of Low
15 Impact Development. We all support the use of Low Impact
16 Development concepts in land development, but not a
17 lot-by-lot-one-size-fits-all basis when there are other
18 scale approaches that are preferable. And many -- again,
19 many of those times those preferences are because of
20 engineering feasibility on the site and the permit needs
21 to recognize that. So it must consider scale and local
22 physical conditions when implementing both Low Impact
23 Development site design solutions and hydromodification
24 flow duration control options. We need to -- we've talked
25 about this a number of times today, I have, we need to

0189
01 avoid vague and absolute permit language and avoid future
02 clarification letters.

03 We feel the Draft Permit must accommodate
04 infill and redevelopment projects that will occur outside
05 a coordinated planning effort, the so-called -- the
06 R.P.A.M.P., provide alternative solutions to site design.
07 Not all infill and redevelopment projects will be part of
08 a master plan or community development process, and
09 certainly if that -- certainly that would be the case in
10 Los Angeles as well when this permit -- many of these
11 permit provisions will likely get transferred there, so we
12 need to make that effort in this permit.

13 I urge you to provide permit consistency with
14 the State Water Resources Control Board General
15 Construction Permit, especially as it relates to grading
16 bans where there is no grading ban in the State General
17 Construction Permit, phasing of construction, timing of
18 construction, or factors in the risk approach. That's
19 where grading limitations should be implemented, in the
20 risk approach to your site. If you want to grade during
21 the winter, then you need to step up your B.M.P.
22 deployment. That's how we need to approach this and
23 that's the approach the state is taking.

24 And again, we have worked -- our industry has
25 worked tirelessly to come up with and to raise the bar and

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01 to create a system that works. And I know my members
02 implore me at all times to encourage consistency among the
03 Regional Boards in the state on programs and what we're
04 doing. We want to raise the bar. We want to do a better
05 job, but by doing simple grading bans will not get us
06 there.

07 And finally, we want to encourage water
08 master planning, and we're happy to be a part of that.
09 And I appreciate the time today, and I'd be happy later to
10 answer any questions you might have. Thank you.

11 CHAIR DIAMOND: Thank you.

12 MR. GRAY: Thank you for the time, Chair Diamond, I
13 appreciate it.

14 CHAIR DIAMOND: You're very welcome.
15 Now I have a card -- I'm going to go on to
16 the cards, and the first card I have is from Tracy Duffey
17 of the California Coastal Commission.

18 MS. DUFFEY: Thank you. Good afternoon,
19 Madam Chair, Members of the Board. I'm Tracy Duffey. I'm
20 here on behalf of the staff of the Water Quality Unit of
21 the California Coastal Commission and as a partner in the
22 California Water and Land Use Partnership, also known as
23 C.A.W.A.L.U.P., which is focused on educating land use
24 decision-makers about the relationship between land use
25 and water quality.

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01 As the state's land use agency charged with
02 protecting and enhancing coastal resources, the Coastal
03 Commission is deeply concerned with the impact of storm
04 water and dry weather runoff on the quality of our
05 streams, wetlands, estuaries and beaches.

06 Land use planning and development are
07 inextricably linked with the help of our watersheds. The
08 way we develop and manage land use activity in our
09 watersheds directly affects the water quality and the
10 ecological integrity of our rivers, streams and other
11 aquatic resources in the state. Land use planning efforts
12 and water quality goals must be integrated. And we
13 believe the concepts and measures set forth in the
14 proposed Draft Permit recognize and embrace this
15 important principle. We are particularly supportive of
16 the Draft Permit sections that address the impacts of
17 hydromodification and advance the use of Low Impact
18 Development concepts and techniques.

19 The Coastal Commission is one of the lead
20 agencies carrying out California's Non Point Source
21 Control Plan, and that plan recognizes the importance of
22 maintaining the pre-disturbance hydrological character of
23 watersheds when developing land. The Commission,
24 accordingly, has long emphasized the need for development
25 to control not only pollutants in runoff but also

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01 increases in volume, flow and duration of discharge caused
02 by the creation of impervious surfaces.

03 In addition, Low Impact Development and
04 integrated approaches to storm water management
05 articulated in the Draft Permit are consistent with the
06 policies and the measures that the Coastal Commission has
07 been approving in local coastal plans and permits in
08 recent years.

09 Further, the Commission, as a member of
10 C.A.W.A.L.U.P., encourages and supports an L.I.D. training
11 program as outlined in the Draft Permit and hopes that
12 this training program will be coordinated with
13 C.A.W.A.L.U.P.'s efforts.

14 The Commission and C.A.W.A.L.U.P. support the
15 concept of natural resource based planning where natural
16 areas in a region are preserved or set aside to retain
17 their beneficial uses, including infiltration, pollutant
18 removal and habitat value.

19 In addition, the footprint of development
20 should be minimized as much as possible to reduce the
21 spread of impervious surface and maintain the functions of
22 natural drainage systems. As a complement to this type of
23 large-scale planning, subregional or individual
24 development should incorporate site-specific design

25 features to retain and filter runoff on site, such as
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01 porous paving materials, disconnecting impervious areas,
02 and integrating landscaping or other surface water
03 features into the development design.
04 Allowing excess runoff to flow to the ocean
05 is a waste of a precious resource and an opportunity lost.
06 The rain that could be cleaned, detained in ponds or
07 swales and reused for landscaping or groundwater recharge
08 is instead directed to the street where it picks up more
09 pollutants on its way to the storm drain and the ocean.
10 Broadening the focus of the Draft Permit to
11 more fully address the impacts of hydromodification is
12 essential for the Storm Water Program to be effective in
13 attaining the state's water quality and aquatic resource
14 protection goals.
15 In conclusion, Commission staff are
16 encouraged by the Draft Permit because we believe it will
17 do much in the way of advancing sensible and effective
18 approaches to addressing storm water runoff. We support
19 the message and the approach and we urge the Board to do
20 the same. We applaud your staff for the dedication and
21 excellent work, and we thank you for your time and careful
22 consideration. Thanks.
23 CHAIR DIAMOND: Thank you. Kevin Gieschen from the
24 City of Simi Valley. Oh, you've already spoken. Thanks.
25 I have a card from Susan Zaleski from the University of

0194
01 Southern California Sea Grant Program.
02 MS. ZALESKI: Good afternoon. I'm Susan Zaleski
03 with the University of Southern California Sea Grant
04 Program, and we are concerned with coastal water quality
05 and have funded research identifying pollutants in coastal
06 waters of Southern California. And from this research we
07 are now looking up the watershed at the sources of much of
08 the ocean pollution and tools to stop the pollutants at
09 the source.
10 So I'm here representing the California Water
11 and Land Use Partnership, which is an informal partnership
12 among state and federal agencies, non-governmental
13 organizations, and universities that have goals related to
14 improving water quality in the State of California. The
15 partnership is an educational program for land use
16 decision-makers that addresses the relationship between
17 land use and natural resource protection. Our mission is
18 to provide practical tools and technical information to
19 protect natural resources and encourage informed land use
20 decisions.
21 We see natural resource based planning and
22 Low Impact Development as important tools to improve water
23 quality. Natural resource based planning accounts for the
24 beneficial uses that natural areas provide, including
25 preserving areas of high infiltration. This is important

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01 as we are facing increasing water shortages.
02 We need to plan for development and design
03 based on the entire watershed. This includes shrinking
04 our urban footprint through compact community design and
05 allowing natural areas to function as sites for
06 infiltration. Using this planning approach in conjunction
07 with L.I.D. techniques are effective and efficient means
08 to reducing runoff and improving water quality.
09 L.I.D. designs with nature in mind, working

10 with the natural landscape and hydrology to minimize these
 11 changes. L.I.D. accomplishes this through its guiding
 12 principle of source control and infiltration by retaining
 13 more water on site where it falls. So natural resource
 14 based planning and L.I.D. benefits water quality, flood
 15 control, habitat protection, community value, and it
 16 meets the Clean Water Act Requirements.

17 So our current partners in the California
 18 Water and Land Use Partnership are myself from the
 19 University of Southern California Sea Grant Program; the
 20 Los Angeles and San Gabriel Rivers Watershed Council,
 21 Nancy Steele; the California E.P.A., Office of
 22 Environmental Health Hazard Assessment, Barbara Washburn;
 23 California E.P.A. State Water Resources Control Board,
 24 Greg Gearheart and Eric Bernstein from the Storm Water
 25 Program and Pattie Gouveia and Kathleen Groody from the

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01 Non Point Source Program; N.O.A.A. Coastal Services
 02 Center; the Local Government Commission, Clark Anderson;
 03 the California Coastal Commission, Al Wanger and
 04 Tracy Duffey; U.S. E.P.A., Sam Ziegler; University of
 05 California at Davis-Extension, Jeff Loux and
 06 Tim Lawrence; and the University of California Sea
 07 Grant/Cooperative Extension, Monique Myers.

08 Thank you for your time. Sorry, too fast.
 09 CHAIR DIAMOND: Thank you. I have a couple of
 10 standing cards, Mr. Richard Watson from the City of
 11 Signal Hill.

12 MR. WATSON: Thank you, Chair Diamond. I'd like to
 13 just go through several points quickly here. One of the
 14 things I would ask that the Board consider is the
 15 discussion about a percentage of watershed being
 16 impervious, like mentioned either 3 or 5 percent,
 17 depending on whose comments you are taking. Please
 18 remember that's of a watershed, not of a project, and so
 19 a lot of what was being discussed was kind of mixing
 20 apples and oranges in this case. And so that in --
 21 particularly in an area where you have a large percentage
 22 of the watershed being in a natural area, perhaps
 23 5 percent is over regulation. And that's true of several
 24 watersheds here, it's true of the L.A. River watershed, a
 25 number of places.

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01 Also, I was taken by David Beckman's
 02 discussion of L.I.D., a very interesting discussion. I
 03 think many of the cities support that. And since
 04 C.A.S.Q.A. is not speaking on this, I will comment that
 05 C.A.S.Q.A. had a workshop on the 10th of this month, and
 06 some of your staff members were there, as were other
 07 people in the audience. We had over 100 people in a
 08 workshop dealing with Low Impact Development. One of the
 09 speakers we brought in was the former E.P.A. and staff
 10 member who was the prime author on using smart growth
 11 techniques as Storm Water Best Management Practices. It
 12 was a really good, informative workshop, and I hope you
 13 talked to your staff about it. So there's a real interest
 14 among the cities and among the engineers and a lot of
 15 people for developing Low Impact Development.

16 I noticed in David's presentation that porous
 17 pavers were mentioned as one of the items in L.I.D. I
 18 would draw to your attention that not just porous pavers
 19 but porous paving is also involved. I've been involved
 20 for something like four years now on a demonstration

21 project in San Diego on porous paving, including pavers,
 22 porous asphalt and pervious concrete. So one of the ways
 23 to promote infiltration, which he was discussing, is in
 24 fact through porous paving.

25 And I would draw your attention that

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01 infiltration may not be appropriate in all places, and I
 02 believe that was mentioned by the Building Industry. You
 03 do have some safety problems with infiltration above
 04 manufactured slopes, and one of those areas happens to be
 05 the neighborhood in which I live, which is a series of
 06 single loaded, in other words, houses on one side of the
 07 street, cul-de-sacs which are migrating uphill. And I'm
 08 very grateful that there's not a major infiltration
 09 project on my street or in my neighborhood because I don't
 10 want to be sliding downhill. So please keep that in mind.

11 Just to comment on the grading restrictions,
 12 six and a half months proposed moratorium, if you will, on
 13 20 percent slopes, and that's not terribly steep for
 14 construction, that's for 25 days or 30 days of rain.
 15 That's an awful long time to say absolutely no
 16 construction. You might be advised to ask staff to come
 17 up with something else based more on probability of rain;
 18 for instance, you might button up the site at 80 percent.

19 And I had another comment, but I think the
 20 red light came on so I will save that for the other
 21 issues. Thank you.

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22 CHAIR DIAMOND: Thank you. I have a couple -- two
 23 more cards, and I don't know whether Mr. Bob Talmage is
 24 still here or not. He did submit a letter. I don't know
 25 whether all the Board Members got it or not, but I can --

01 since he's not here, I'll just hand this down and you can
 02 all take a look at it.

03 Dr. Gerry Greene representing the City of
 04 Downey?

05 DR. GREENE: Good afternoon, and thank you Board
 06 Members.

07 I just wanted to comment, I very much favor
 08 L.I.D., as you all know. One concern that should be taken
 09 into consideration, though, is selenium soils. It is very
 10 problematic that as we increase and try to put more water
 11 back into these soils, we may have the situation occur
 12 where you'll wash out the selenium, putting it back into
 13 the watershed and bringing it downstream, perhaps causing
 14 problems in downstream reaches. And I'm in a watershed,
 15 and although I don't have problems with selenium in my
 16 area currently, both of the watersheds that I share have
 17 upstream selenium problems. And so we don't want to see
 18 that getting washed out and moving downstream as a new
 19 problem.

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20 Page 52 of the permit, I was a little
 21 concerned that it referred to "vegetation protection." I
 22 hope that meant "natural vegetation protection." A lot of
 23 sites it's frankly very difficult to work around
 24 vegetation that will probably be replaced as soon as the
 25 site is completed or nearing completion. I can understand

01 for historic trees and such or natural vegetation, but
 02 again, just protecting all vegetation is probably going to
 03 be difficult for a lot of development sites.

04 Hydromodification, wow, big issue. I've been
 05 doing "C sumps" (phonetic) for five years and I have a lot

06 of challenges in people even understanding detention
07 correctly. Hydromodification, as I understand it in this,
08 has a lot of implications for structural integrity of
09 homes, for mold problems in homes. I would like to get
10 some better feelings from talking with staff and perhaps
11 the Building Industry about any ideas they have
12 on it, but I would encourage you to encourage staff to
13 continue to talk with the Industry on trying to maintain
14 that hydrograph because it is not easy when you build. I
15 frankly don't know that it can be done, but I'm willing
16 to hear about it and get some other people to give me
17 some other ideas. But I spent five years trying to get
18 as close to it as I can in Downey, and it's not easy.

19 Finally, to my great surprise, I'll just
20 finish up by saying I agree with most of what Dave Beckman
21 said. I do have a concern about the suggestion that you
22 can in the permit specify the size or the scale of a
23 B.M.P. It's a lot of variables. As an example, for a
24 bioswale you ask questions of slope, width, the final
25 configuration of the material in there. I'm not sure

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01 that's compatible with a permit. I think we need to keep
02 working on it and try to come up with some better ideas.
03 And then it doesn't always work out that way.
04 I have a site now where I anticipated a landscape was
05 going to be grass. Well, they put in ground cover, and
06 that's got a very different configuration as to how water
07 moves through it. And it's real difficult for, as an
08 example, city development staff, or at least an
09 engineering staff to be able to specify how you're going
10 to keep that landscaping, that you're going to keep it as
11 grass for the life of the project or what. How am I
12 suppose to react when they want to shift to ground cover?

13 Thank you very much.

14 CHAIR DIAMOND: Thank you.

15 Now we'll go on to Board -- if there are any
16 Board questions at this point on the issue of Low Impact
17 Development. I think we'll start on this side this time.

18 MR. RICHARDSON: I know it's been mentioned several
19 times, but is it really appropriate to put a percentage,
20 as Doctor or Mr. Beckman discussed going from 5 percent
21 to 3 percent, is it really appropriate to put a percentage
22 in there, especially dependant upon the site of the
23 project? I guess what I'm asking is: Does one size fit
24 all?

25 DR. SWAMIKANNU: The basis of that range, 3 to

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01 5 percent, comes from a study that was done in Southern
02 California watersheds, and what it shows is once you get
03 above that percentage, you have an impact in the receiving
04 waters, tributaries and all those that get there. So the
05 assumption then is on any project if you're able to
06 disconnect, that means no hard surface to hard surface to
07 storm drain, you're able to disconnect so that no more
08 than 3 to 5 percent is hard surface to hard surface to
09 storm drain, then you might be able to address the
10 watershed problem.

11 So that's the basis and I think that's not --
12 that range is one of the tools that you can consider to
13 promote -- to promote flow reduction and also to protect
14 tributary and habitats. It's based on the research that's
15 been to date that's relevant to this area. The 10 percent
16 number comes from the Midwest and the Pacific Northwest

17 where they have shown that above 10 percent you see this
18 impact on the receiving water.

19 MR. RICHARDSON: Okay. And my other question that
20 came up several times is the six-month grading ban. Is
21 that really reasonable considering the construction
22 that's necessary, not only in this county but in most of
23 the counties in the state?

24 DR. SWAMIKANNU: The largest number of problems
25 that we see down here based on the construction permits

0203

01 that we have from the Statewide General Construction
02 Permit, the largest failures that we've seen in the past
03 decade have been failures on slopes where it's been graded
04 and they have great difficulty in maintaining the site
05 when it rains. And so this restriction that we have
06 proposed is basically for hillsides where we have seen
07 problems. But we don't start -- it's not an absolute
08 prohibition.

09 The way we have provided for is for local
10 agency or municipality to provide a variance. And so the
11 processes that Mark Gray talked about, the degree of
12 B.M.P.'s, is something that they can work with with the
13 local municipalities under that variance scheme.

14 Remember that this is a land use control
15 site, it's land development, it's a local agency function.
16 So the land use that we have presently actually promotes
17 greater control at the local level. There is no absolute
18 prohibition. We are trying to react to failures that we
19 have seen in the last decade or so.

20 MR. RICHARDSON: So what you're saying is: There
21 is more flexibility depending upon the local entity
22 involved?

23 DR. SWAMIKANNU: Yes.

24 MR. RICHARDSON: Okay. Thank you.

25 CHAIR DIAMOND: Maribel?

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01 MS. MARIN: I think generally the comments for in
02 favor of and in support of L.I.D. I think the issues and
03 the concerns that were raised were about its
04 implementation and how they're used in practice, but it
05 sounds like there's a lot of creativity. The B.I.A.
06 brought forward different alternatives, different thinking
07 as well as N.R.D.C., and I think that we need to focus on
08 moving in the direction of providing flexibility, but also
09 clarity in terms of what the expected outcomes are going
10 to be.

11 I see a lot of flexibility in this language,
12 but I think there's opportunity for even more and maybe
13 even some new B.M.P.'s that are now -- just now being
14 discussed from works of other folks. So I'm hoping that
15 in future conversations that this area in particular will
16 be able to result in some kind of win-win for everybody,
17 because it sounds like generally there's only support for
18 moving in this direction. So that's -- I just -- that's
19 my only comment.

20 DR. SWAMIKANNU: Can I add to that comment?

21 MS. MARIN: Sure.

22 DR. SWAMIKANNU: Low Impact Development is a very
23 good strategy. The way we have structured the permit
24 presently is for Permittees to develop criteria within
25 the local Low Impact Development category, and we say

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01 what does that -- that guidance might be, what that might

02 be, but we don't prescribe what it should say, what are
03 the specifications. How you design your B.M.P.'s, that
04 should be left to the local entity.

05 In terms of the situations that they brought
06 up where there's high groundwater, you wouldn't want to
07 infiltrate there, so you would provide that exception
08 within your technical guidance document. So I think
09 there's adequate flexibility and the opportunity for the
10 Permittees to structure this program so that everybody
11 benefits. And it's, as raised before, the benefit far
12 outweighs the cost of implementation because you're using
13 a precious resource, water, rather than draining away to
14 the ocean and benefiting little.

15 CHAIR DIAMOND: But it sounds, Xavier, that there
16 was a lot of concern expressed about this, you know, one
17 size fits all and, you know, prohibitions and bans. So I
18 think that there's still some language tweaking, perhaps,
19 that needs to happen so that the flexibility is clear, so
20 that the options are clear because if folks felt just by
21 reading through this permit that that flexibility
22 existed, they wouldn't be here today saying, you know,
23 you're forcing us to do, you know, cookie-cutter
24 approaches.

25 So I think that you're right, I saw it when I
0206

01 read the permit, but I think that we need to listen to
02 what they're saying in terms of what their concerns are
03 and figure out, okay, where exactly do they feel in the
04 language that there are restrictions that don't allow
05 flexibility and focus on that to see, you know, what
06 flexibility can be written in or what language needs to be
07 included and where maybe we can't provide the flexibility
08 that they want.

09 I mean, I'm not saying -- I'm not directing
10 staff to, you know, just roll over and, you know, make
11 everything subject to whatever the Permittees want. I
12 think that we need to be clear what outcomes we want to
13 achieve and then within those parameters, you know,
14 what's acceptable, what's workable.

15 DR. SWAMIKANNU: We have listened to comments, and
16 even right now, if you realize the comment deadline is not
17 today, it's at the end of the month, so that's the
18 opportunity for them to submit their comment in writing
19 and specifically express the alternative that they think
20 is more workable and we will consider that.

21 MS. MARIN: Well, I think you're moving in the
22 right direction.

23 VICE-CHAIR LUTZ: I don't really have a comment,
24 just to echo Ms. Marin's comments, and specifically with
25 the grading because I remember when I read the permit, I

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01 too read it as there is -- I mean, I'm reading it, it
02 says, "No grading shall occur between October 1st and
03 April 15th."

04 I didn't read in here where there was an
05 option for a municipality, so I think Ms. Marin's concepts
06 or comments are well taken that we need to kind of look at
07 what we've got and see if we have provided the options
08 there and that it's real clear where there are options and
09 where there aren't.

10 So again, I agree with her, we're in the
11 right direction and just need to do a little more tweaking
12 and clarification.

13 DR. SWAMIKANNU: Yeah, I'll clarify that because
14 that option is there. The fact that you didn't read it
15 means that I have to go back and make it clear.

16 MS. LUTZ: Yeah, and I think that's possibly what
17 we're hearing is they've read the same thing and they read
18 it and interpreted it the same way I have. So thank you.

19 CHAIR DIAMOND: All I would say to staff is that it
20 sounds like the collective body that's here today and
21 who's been represented here today has a lot of mutual
22 interest and agreement in what's going forward. And I
23 think the fact that Low Impact Development is something
24 that we all agree in concept and in fact is going to
25 result in multiple benefits when we live in this what has

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01 been called here today accurately this arid region of the
02 state, and we have an opportunity to both remove
03 pollutants from the water bodies and at the same time by
04 doing so increasing our water supply, which we all know
05 is something that we're going to have to do, and in fact
06 save a tremendous amount of money as we rely less on
07 water from up north and from the State Water Project.
08 because we are infiltrating our own and saving our own
09 water here, so that, to me, speaks about the win-win that
10 we are involved in.

11 And from the very beginning this morning, we
12 heard the city councilman from Ventura talk about green
13 infrastructure, which I think we need to consider as well
14 as the Low Impact Development and perhaps as part of it,
15 and also we heard from the supervisor, Linda Parks, who
16 talked about best -- the non-structural B.M.P.'s. We've
17 heard that the Coastal Commission, N.R.D.C., Heal The Bay,
18 U.S.C. Sea Grant Program are all thinking in many, many
19 aspects of this permit on the same -- they're all on the
20 same page, so I think I'm encouraged that we have a lot to
21 go on. And I think this continued collaboration that's
22 begun and continuing and tweaking it so that the language
23 is clear is something that we can move forward on and make
24 progress on, both in our permit and of course ultimately
25 in the outcomes of improved water quality, which we all

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01 want.

02 So I think that this has been a really good
03 discussion. And I think we need to move on to the very
04 last item of the issues that we're going to be discussing,
05 which is the issue of monitoring, and we have a staff
06 presentation for five minutes followed by Ventura County.

07 MS. WOODS: Good afternoon, Madam Chair and Board
08 Members. My name is Tracy Woods and I'll be presenting
09 the monitoring section of the Draft M.S.4 Permit.

10 The primary objectives of the monitoring
11 program include assessing chemical, physical and
12 biological impacts of storm water discharges on receiving
13 waters resulting from urban storm water discharges;
14 assessing the overall health and evaluating long-term
15 trends in receiving water quality; assessing compliance
16 with effluent limitations and water quality objectives and
17 the characterization of the quality of storm water
18 discharges; identifying sources of pollutants and
19 measuring and improving the effectiveness of measures
20 implemented under this order.

21 The results of the monitoring requirements
22 shall be used to refine B.M.P.'s for the reduction of
23 pollutant loading and the protection and enhancement of

24 the beneficial uses of the receiving waters within
25 Ventura County.

0210

01 within the monitoring program, the Permittees
02 were concerned that the monitoring requirements were too
03 extensive and costly, whereas the environmental community
04 was concerned that there was no compliance monitoring.

05 Board staff has addressed these concerns by
06 the following: Non-storm water dry weather mass emission.
07 Total suspended solids and tributary monitoring has been
08 replaced by the T.M.D.L. dry and wet weather monitoring
09 requirements of the M.S.4 discharges.

10 The Permittees already participate in the
11 Southern California Storm Water Monitoring Coalition,
12 S.M.C., Southern California Regional Bioassessment
13 Monitoring Program. This new S.M.C. Program will begin
14 monitoring within this Permit term. We have deferred the
15 ecological restoration plan requirement at this time.

16 The Trash and Debris Study and the Pyrethroid
17 Insecticide Study have been reduced in scope. The Permit
18 has revisions to reflect the incorporation of both dry and
19 wet weather T.M.D.L. waste load allocations.

20 Thank you.

21 CHAIR DIAMOND: Ventura County Permittees, you've
22 requested 10 minutes.

23 MR. ANSELM: Chair Diamond, Board Members, my name
24 is Arne Anselm with the Ventura County Watershed
25 Protection District. Oh, I'm sorry, Arne Anselm, Ventura

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01 County Watershed Protection District, A-R-N-E,
02 A-N-S-E-L-M.

03 We're talking about monitoring. I want to
04 say we want a monitoring program that's going to support
05 our program. I'm going to speak about our current
06 monitoring program, some of the future opportunities we
07 have for monitoring programs, some of the changes in the
08 Draft Permit that Tracy just discussed, and then I'm going
09 to close with the model M.S.4 monitoring plan, which is a
10 locally developed guidance document on how an M.S.4
11 monitoring plan should be developed.

12 Next, please. Our program began 15 years
13 ago. We've got 15 years of data collected already that we
14 should be able to put to use to improve our program. We've
15 got dedicated staff with experience that provides
16 consistency in collecting this data. As Tracy explained,
17 we have mass emission monitoring right now, it's three
18 watersheds, Ventura River, Calleguas and Santa Clara,
19 doing four wet, two dry, and we do receiving water
20 monitoring as well.

21 Next, please. We have done extensive land
22 use monitoring and these sites were selected to be
23 representative of similar land uses throughout
24 Ventura County, so we can use this information to be
25 predictive of what runoff in other areas would be like.

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01 We put all this information into our database, which can
02 do quality assurance checks and compare to water quality
03 objectives for us, and we have closed the loop putting
04 this information, our data, doing a trend analysis for
05 pollutants that are concerned to see how things are
06 changing in our watershed, to see how well we are doing.

07 Next, please. This is just a quick map of
08 Southern Ventura County showing where all of our current

09 and historic sites have been.
10 Next, please. So with our future
11 opportunities, what we would like to see is to build upon
12 this past monitoring that's done. We've done 15 years of
13 monitoring. Some of the changes in the Permit that would
14 be in this new draft would make us comparing apples to
15 oranges. Our mass emission monitoring is currently done
16 on storms for the whole storm. The current permit
17 requirement is for only the first three hours of the
18 storm, so it's not going to be the same comparison and
19 it's going to introduce error multiplying that first three
20 hours to get the mass emission. We are assuming that the
21 first three hours of the storm is the same as the whole
22 storm.

23 We really would like to integrate our
24 monitoring program with all of the other monitoring going
25 on in the watersheds, specifically the T.M.D.L.'s. And we
0213 want to avoid redundancy. We don't want to pay for the
01 same samples twice. We're taking them, our 15 "dales"
02 (phonetic) is already covering it, we want to be
03 efficient.
04

05 And another way to be efficient is to use
06 computer modeling, such as to the land use data I
07 previously described, so we can find out what's happening
08 in other parts of our watershed without having to go there
09 and monitor, specifically wait for two wet years to get
10 that information. And we can use statistics to
11 design sample sizes, appropriate sample sizes so we know
12 what the smallest amount of samples we can take but still
13 get valid, accurate information.

14 Next, please. So our goal for our monitoring
15 plan is to get information that we can use to improve our
16 program so we can include it in an iterative adaptive
17 process and make cleaner water.

18 Next, please. So Tracy described some of the
19 changes in the Draft Permit, and there have been quite a
20 few. She did mention we are integrated now with the
21 Bioassessment Program with S.C.C.W.R.P., and that's
22 perfect, that's ideal, that's what we're looking for.

23 The T.M.D.L. monitoring is now at every major
24 outfall. Major outfall is described as a pipe 36 inches.
25 We have over 200 easily in Ventura County. It could be

0214 much more than that. They are supposed to be monitored
01 monthly. It's a lot of monitoring and very resource
02 intensive, and I have up here questionable value. There's
03 some -- what will we learn from doing all that monitoring?
04 That's the point of monitoring is to find out information
05 so we can make better decisions.
06

07 If we know already there's certain problems
08 with storm water runoff, that zinc and bacteria is common
09 in storm water runoff, we can spend tens of thousands or
10 hundreds of thousands of dollars monitoring all of these
11 outfalls to find out we have zinc and bacteria in these
12 outfalls. Did we learn anything after spending all that
13 money? Is there a better way to get that information?
14 We proposed, put forth a plan during our negotiations
15 that we thought was a better way to get this information.

16 Next, please. In our proposed plan, we
17 wanted a monitoring program that's going to help our
18 program. The Draft Permit focuses on T.M.D.L. compliance,
19 doesn't assess our program effectiveness, it's static.

20 It's the same program year after year after year for the
 21 five years. Our program is progressive. We've used the
 22 information we've learned to develop a new plan to go
 23 where the data leads us to find problems. The Draft
 24 Permit is every major outfall countywide. Ours has a
 25 systematic refinement to go to where the hot spots are, to

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01 conserve our resources and move those as water quality
 02 numbers lead us. So we do eventually get to outfall
 03 monitoring, we do eventually get to a number that could be
 04 compared to an action level.

05 Next, please. The program we proposed was
 06 based on a Model Monitoring Program that was written by
 07 the Southern California Storm Water Monitoring Coalition.
 08 That's a group of the three Southern California Regional
 09 Boards, six counties, the six permitted counties, Heal The
 10 Bay and S.C.C.W.R.P. It was partially funded by the
 11 State Board to promote consistency in M.S.4 monitoring
 12 programs, developed specifically for Southern California,
 13 and it is a design framework of how a monitoring program
 14 should be designed.

15 Next, please. Its goal, the plan -- the
 16 Modeling Monitoring Plan's goal is to ensure that each
 17 Storm Water Program has the ability to assess and manage
 18 its overall performance. That's what we're asking for.
 19 We're asking for a way to find out how we're doing.

20 Next, please. The plan works with adaptive
 21 triggers, and this is the flexibility I was speaking to,
 22 where we use the information we find to refine our
 23 monitoring program and go after problems. This is
 24 actually the hardest part of the plan, too, because this
 25 is a discussion we'd have to have of what those triggers

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01 are, what are the starting points, what are the stopping
 02 points for our monitoring, when is it handed off to the
 03 city as being elicited discharge, elicited connection and
 04 investigation, what is an appropriate level where we need
 05 to start moving upstream so that we don't end up sampling
 06 every pipe everywhere. Once we make those decisions, it's
 07 very -- it's going to be resource protected where we're
 08 not spending a lot of money monitoring for information
 09 that doesn't really help us. And their plan is -- would
 10 have regional consistency in Southern California.

11 So in closing, a requested action is that our
 12 monitoring plan is consistent with the T.M.D.L. monitoring
 13 plans; that we are integrated with the other monitoring
 14 efforts, including S.C.C.W.R.P. and S.W.A.M.P. and
 15 volunteer monitoring that happens in Ventura County; and
 16 that the monitoring plan and the Permit follows the
 17 guidance of the Model Monitoring Program developed by the
 18 Southern California Storm Water Monitoring Coalition.
 19 Thank you.

20 CHAIR DIAMOND: Is there anyone here from the
 21 environmental community? Kirsten James, sorry, I didn't
 22 see you.

23 MS. JAMES: Good afternoon, my name is
 24 Kirsten James, and I'm a staff scientist with Heal The
 25 Bay. Just a moment while he gets up my presentation.

0217

01 Okay. So as seen in this slide here, the
 02 Permit prohibits discharges causing or contributing to
 03 exceedances of water quality objectives. And the
 04 fundamental aspect of the Clean Water Act is the

05 requirement that a Permittee undertake a self-monitoring
06 program sufficient to determine compliance with the
07 N.P.D.E.S. Permit.

08 Next slide. Further, here are some goals
09 that are outlined in the Draft Permit. For example,
10 assessing impacts on receiving water, assessing overall
11 health of the receiving water, looking at long-term
12 trends, and assessing compliance with effluent limits and
13 water quality objectives. But we believe that the
14 monitoring program in the Draft Permit is inadequate to
15 achieve these objectives.

16 Of note, the requirements in this monitoring
17 program have been weakened since the last go-round of the
18 Permit. So I'll go through point by point the different
19 aspects of the monitoring program and give you some of our
20 concerns with these.

21 First of all, for the mass emission stations,
22 the Permit starts out requiring five mass emission
23 stations for the entire county and then this later goes
24 down to three stations. So if you think of the huge area
25 that Ventura is covering and then there's the three mass

0218 emission stations, with this limited number of stations we
01 believe that the sites cannot achieve the goals required
02 by the Permit that I just outlined. This extremely small
03 number of monitoring locations, given that the -- this is
04 an extremely small number of locations given how many
05 Permittees there actually are that preside over each of
06 these watershed management areas.

07 Next on to tributary monitoring. The former
08 Draft Permit had a section on tributary monitoring, and
09 this has been deleted from this version of the Permit.
10 With only a selected number of, quote, major outfalls
11 monitored and with the effluent quality only required to
12 meet the very, very high M.A.L.'s that we talked about
13 earlier, how will we know if the receiving water limits
14 are met? The answer is: with this program we won't.
15 And tributary and outfall monitoring both have unique
16 purposes, so we don't think that your staff's assertion
17 that one substitutes for the other is appropriate.

18 As far as T.M.D.L. monitoring, the staff memo
19 states that T.M.D.L. monitoring has been modified from
20 receiving water monitoring to end-of-pipe monitoring of
21 major outfalls, and this is problematic because, yes, it
22 can help us determine if we're in compliance with the
23 waste load allocations, but how -- one problem is how will
24 we know that the most pollutant discharges flow through

0219 these major outfalls? So our question is: what is being
01 done to ensure that sufficient receiving water monitoring
02 is being done throughout the county?

03 If staff feels that other monitoring
04 programs, such as the one the previous commentator
05 discussed, if staff feels that these programs sufficiently
06 cover the receiving water monitoring, it would be very
07 useful to have some sort of compilation of all the
08 programs because it's really hard to tell in the current
09 Draft if there is sufficient monitoring because we're
10 supposedly relying on all these other programs. But
11 there's programs throughout the T.M.D.L. Program and AG
12 Waiver, and it would be good to get a compilation of those
13 to see exactly is the monitoring that's done sufficient
14 instead of just dropping it from the Permit entirely and
15

16 just assuming that it is.

17 This is especially true with all the
18 assumptions that go into creating the T.M.D.L.'s in the
19 first place. It's really important to know that we're
20 monitoring our receiving water adequately and we're
21 finding out if water quality standards are actually being
22 attained.

23 As far as bioassessment monitoring goes,
24 we're very disappointed that that was eliminated from this
25 version of the Permit since the last version. The staff

0220
01 memo says that this is because a regional plan has been
02 developed, but it seems -- appears from the description
03 that the program isn't even up and running yet. So this
04 runs into, you know, this is a bad precedent to just rely
05 on a program that's not even up and running.

06 Instead, we feel that the bioassessment
07 program in the M.S.4 Permit should set the bar and have
08 the minimum requirements of the bioassessment, and then
09 hopefully if this other program, you know, has those same
10 requirements, then that's fine. But just to assume that
11 this other program is going to be sufficient, we need to
12 know that the M.S.4 discharge impacts are adequately
13 being monitored. And I know in a lot of your other
14 decisions and all the permits that are coming before you,
15 bioassessment is beginning to be more and more an
16 important component of those permits, so it's important
17 that it's satisfied here as well.

18 Just one more thing on toxicity. We still
19 believe that staff needs to make some important
20 modifications to this program. As you well know, toxicity
21 is the safety net for our monitoring programs, and as
22 written, the T.I.E. is only conducted if 90 percent or
23 more toxicity is found in the first year. This is a huge
24 number. In other words, only 10 percent survival triggers
25 an identification of toxicity.

0221
01 Also, the Permit only requires a maximum of
02 two T.R.E.'s per year. This may not be sufficient. The
03 permit shouldn't make that limitation. So we need a more
04 protective toxicity threshold and to require T.I.E.'s and
05 T.R.E.'s when there's significant problems in the
06 receiving water.

07 Another issue with the toxicity requirements
08 is recently your staff and many others have teamed with
09 the S.M.B.R.C. to develop a guidance on toxicity
10 monitoring and how it should fit into an M.S.4, and just
11 in comparison, comparing those documents briefly to this
12 Permit, there seems to be some inconsistency. And that
13 was the specific purpose of that document was to help, you
14 know, formulate this Permit and others in the region. So
15 we would ask that your staff look more closely at that
16 document and make sure that they are in agreement.

17 So in sum, monitoring needs to tell the
18 Regional Board, it needs to tell the dischargers what is
19 working and what isn't working, and we believe that the
20 program as written really doesn't get us there. So, you
21 know, the recommended changes I just went over would help
22 us get to that point where we need to be. Thank you.

23 CHAIR DIAMOND: Richard Watson from the City of
24 Signal Hill. Okay. And Dr. Gerry Greene, are you
25 speaking?

0222

01 DR. GREENE: Again, Gerry Greene from the City of
02 Downey.

03 Just basically wanted to reiterate what Arne
04 had said that there's a lot of essentially competing
05 monitoring programs going on here. That does get very
06 difficult for staff to convey back to management. It is
07 very hard to sometimes interpret the results, especially
08 when they're perhaps taken at different times, different
09 labs. So I would encourage the Board to take what Arne
10 was saying to heart, that there may be some better
11 options to combine some of these together. And I think
12 we're going to see some of the same similar issues in
13 L.A. River when we get there what we're talking about
14 again now, we're going to be talking about T.M.D.L.'s,
15 we're going to be talking about regional monitoring
16 programs. It is going to get very overwhelming and
17 confusing very quickly.

18 Finally, just again, I know we started on
19 M.A.L.'s, but now we're talking about monitoring; they're
20 a little bit correlated there. You may find that you can
21 incentivize people to deal with the M.A.L.'s a little bit
22 more if you don't set them on a train of -- a long train
23 of paperwork and chasing around after efforts. Again,
24 cities often are very responsive to knowing if they have a
25 problem; a lot of us are still trying to figure out what

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01 constitutes a problem. But we get a little harder to
02 motivate and be willing to investigate a lot of effort
03 when we see it leading to a long chain of difficult
04 paperwork. At this point, I think we're mostly trying to
05 find the low-hanging fruit, those major sources, and
06 perhaps that's the best way to address it. Thank you.

07 CHAIR DIAMOND: Thank you.

08 Now we'll go to Board questions. Ms. Marin?

09 MS. MARIN: Xavier, there's lots of detail
10 questions that come to mind, but I think the most
11 important one is the point that Ms. James made about how
12 the monitoring program really needs to enable the
13 assessment of what's working and what's not working. I
14 think that, you know, in terms of the overall Permit,
15 monitoring is the tool that tells us whether we're
16 achieving the outcomes that we want to achieve, and I
17 think that there's a little bit of conflict in what we've
18 been hearing.

19 We've been hearing from the Permittees that,
20 you know, there's too much end-of-the-pipe monitoring, and
21 we just heard from Kirsten who was saying that there's
22 very limited end-of-the-pipe monitoring. Can you just
23 talk a little bit about your overall concept purpose of
24 the monitoring program and then just address a little bit
25 about this end-of-the-pipe versus the other approach?

0224
01 DR. SWAMIKANNU: The M.S. system is extensive, but
02 under Federal Regulations, it's a point source system;
03 that means it has pipes, that's why it's being regulated
04 under the N.P.D.E.S.

05 So when you conduct monitoring, you have to
06 have objectives in mind, and previously, at least in the
07 2000 Permit, we set certain objectives. The mass
08 emissions stations are at the interface of the major
09 rivers in Ventura County to coastal waters. And we wanted
10 to start there to simply know what was getting out into
11 the ocean because we thought that would be clear impact,

12 and so that's the history behind the mass emissions
13 stations.

14 We have that trend, that's where you get all
15 your loading from now, you know we have a problem. So
16 then you go upstream into tributary monitoring, which
17 means the feeders into that main river. And we had a
18 similar program in L.A., we proposed one in the December
19 Draft, and then given the fact that now we have to
20 incorporate T.M.D.L.'s, the water bodies they impact and
21 that monitoring has to be done as part of that, we
22 basically removed the tributary monitoring requirement
23 because it's being carried out in the T.M.D.L. arena where
24 there's impairment.

25 Remember that monitoring is expensive,
0225 especially wet weather, it's expensive. Lay that over the
01 original framework of the N.P.D.E.S. Storm Water Program.
02 The E.P.A. said you have to monitor major outfalls larger
03 than 36 inches or you can reduce that based on a grid
04 system that meets comparable sites, so you take 500, you
05 can reduce them to, say, 50, 10, depending on how they
06 drain. We never required that in the '94 Permit or 2000
07 Permit. We left that aside.

08 Having come this far, the challenge for staff
09 is basically where do we go? We can measure receiving
10 waters, but receiving waters receives all kinds of
11 inputs, not only the M.S.4, you have AG runoff, you have
12 (inaudible) deposition, you have treatment plants that
13 started during that time too, all those inputs go in the
14 receiving water. That obligation, I think, should be
15 among everyone to monitor the receiving water, and the
16 Board have several programs where we do that through our
17 ambient monitoring and such.

18 Within the M.S.4 Program, Heal The Bay's
19 comment is there's no compliance monitoring, we don't know
20 if things are getting better. End-of-pipe monitoring has
21 been lacking in the previous term, so we tried to sort of
22 bring it on and give the opportunity to the Permittees to
23 sort of structure this end-of-pipe monitoring. The basic
24 requirements: Every outfall 36 inches and larger, but
25

0226 they can propose an alternative because we don't have the
01 information, they have the information on which or how
02 they want to lay that program.

03 What was presented to you earlier was the
04 Southern California Model Monitoring Program, which I was
05 part of. We developed that for the whole region for
06 consistency's sake, Southern California, it may not be
07 L.A. region, and it says you structure monitoring in terms
08 of the objectives you're trying to get to. So it's
09 important for staff here to understand what the objective
10 should be, because compliance, is it assessment of
11 receiving waters with all these inputs? What is it? I
12 mean, that's the struggle we go through.

13 In addition to that new, which the Model
14 Guidance Document never talked about, is T.M.D.L.
15 monitoring. That's outcome water monitoring. You've
16 adopted standards that we have to ensure compliance with.
17 So that's a new component that we have integrated. Because
18 we integrated that, we decided to scale back or reduce the
19 tributary monitoring.

20 So what you're hearing is that we need to do
21 more monitoring. One side wants compliance monitoring to
22

23 be ramped up and the other side says no, no, we just want
24 to find sources and go after them, and so that's a
25 challenge that staff has to integrate.

0227

01 MS. MARIN: So when you said that the tributary
02 monitoring is already being done elsewhere, I think you
03 said it was in the T.M.D.L.'s?

04 DR. SWAMIKANNU: The T.M.D.L.'s, for example,
05 Calleguas, right, the T.M.D.L. monitoring is in the
06 receiving waters. And you have this water --
07 Calleguas Creek Watershed Group that's doing that
08 monitoring with all the parties, all the sources
09 participating and sharing that. To me, that solves the
10 tributary monitoring. In the areas where there's no
11 T.M.D.L.'s, I haven't required any because I realize the
12 cost of monitoring is going up, and so if we need to do
13 that as well, the challenge is, again, this is just one
14 entity, it's the M.S.4 system, it's not all these parties.

15 Now, suppose you want to create a watershed
16 group for another river, I'm not very -- another river,
17 let's say, you have to bring all the stakeholders together
18 who provide input. To put that obligation just on one
19 entity doesn't seem, and under this Permit, doesn't seem
20 proper.

21 MS. MARIN: So in the requirement to do the
22 outfall, all the major outfalls, what is the alternative
23 for the Permittees? What else can they do in place of
24 that?

0228

25 DR. SWAMIKANNU: In place of the outfalls, they
01 have to reduce their outfall system into a grid that
02 meets -- if you have 200 outfalls, instead of sampling all
03 200, sample a representative set to demonstrate
04 compliance. What is that representative set? I don't have
05 the information, they do. They can present that.

06 We did ask for that before and we didn't get
07 something that we thought was sufficient. I will request
08 that again. Compliance monitoring is one of our
09 objectives, which is what the environmental community is
10 asking for, more compliance monitoring.

11 MS. MARIN: Okay. So essentially our monitoring
12 program is really geared towards compliance?

13 DR. SWAMIKANNU: Now?

14 MS. MARIN: Right, the way it's written, yes.

15 DR. SWAMIKANNU: Yes, now.

16 MS. MARIN: Okay. Thank you for the clarification.

17 MR. RICHARDSON: Actually, I was just -- I'm
18 curious, is there any way cooperatively that maybe
19 Mr. Anselm's Watershed Protection District monitoring
20 could be either integrated or utilized either in part or
21 in whole instead of a whole new monitoring system? What
22 he presented seemed pretty reasonable. Now, couldn't
23 parts of that be integrated into what is being required by
24 our Board so that it works into and is not any more
25 expensive than what is already being done?

0229

01 DR. SWAMIKANNU: The Ventura County Monitoring
02 Program, as Mr. Anselm pointed out previously, was looking
03 at sources, which is a good thing. Now we understand like
04 land uses, what comes out of residential lands,
05 agricultural lands. We understand sources now.

06 We also got information previously, the mass
07 emissions stations still continue, so they're part of the

08 program. They tell you what are the "transover"
09 (phonetic) times in terms of pollutants going out to the
10 ocean in our rivers. So if you had to monitor only one
11 site, at that time we chose the mass emissions because
12 that's where it all ends up. So we started with a basic
13 program, now it is moving up. The intent is to integrate
14 all elements.

15 As I mentioned, the monitoring is a much
16 larger scheme. There's T.M.D.L. monitoring, there's
17 bioassessment monitoring, and all that has various
18 partners. But within the M.S.4, the only partner we have
19 is the Ventura County Permittees, and it is some of their
20 concerns, like bioassessment was, that we're laying
21 obligations on one entity when it should be shared by
22 watershed groups. And so we're trying to accommodate both
23 here, and the intent is to integrate that monitoring.
24 That's the information that we can use. But am I
25 mandating that through this? That's the challenge that we

0230
01 have. That information can be used and is being used, but
02 whether does it have to be done under the framework of the
03 Permit? I do not know because the only requirement with
04 some receiving water monitoring is outfall monitoring
05 because this is one permit for the system.

06 MS. MARIN: Can I just ask a follow-up question?

07 MR. RICHARDSON: Okay.

08 MS. MARIN: There's nothing in the permit that
09 would preclude them from using their monitoring approach
10 that they proposed it as an alternative to the outfall
11 monitoring, for instance? I mean --

12 DR. SWAMIKANNU: The proposal that they have is not
13 compliance monitoring. So if the Board tells me that we
14 don't want compliance monitoring, we want that kind of
15 source tracking --

16 MS. MARIN: Yeah, yeah, yeah, I see.

17 DR. SWAMIKANNU: -- then so that's the alternative.
18 We'd like to have both because both pieces of information
19 actually help advance the program.

20 MS. MARIN: Right, but we want something that
21 clearly tells us whether they're doing what they need to
22 do.

23 I think, though, one of the things that came
24 out of this is that we need a chart that identifies all
25 the monitoring activities, I mean that's clear.

0231
01 MS. SMITH: That's exactly what I was going to say.

02 CHAIR DIAMOND: And whether it's -- whether
03 they're -- whether it's giving us the information we
04 know -- what information each kind of monitoring that's
05 going on is giving us so that we know what the outcomes
06 are because there's a lot of -- obviously a lot of
07 different kinds of monitoring going on, but we need to
08 make sure that we're getting all the monitoring that we
09 need, not duplication of effort, but enough monitoring.

10 MR. RICHARDSON: Yeah. My concern is redundancy
11 and the cost-benefit ratios being --

12 DR. SWAMIKANNU: I agree with you --

13 MR. RICHARDSON: Okay.

14 DR. SWAMIKANNU: -- entirely. But my comment is
15 that outside the M.S.4 Program, there's no outfall
16 monitoring with probably one exception, the Calleguas
17 Creek T.M.D.L.'s, parties have looked at outfalls at a
18 couple of cities, but we've never had any outfall

19 monitoring here as part of this program.
 20 MS. MARIN: And also, if you could identify whether
 21 it's monitoring for compliance or for assessment.
 22 CHAIR DIAMOND: I wanted to raise one issue and
 23 that was the issue that was raised by Kirsten James on
 24 the -- on making sure that the toxicity requirements
 25 conform with the Santa Monica Bay Restoration Commission

0232
 01 Guidance Document so that there aren't any
 02 inconsistencies.

03 DR. SWAMIKANNU: I'll respond to that question.
 04 That is an expert work group that we put
 05 together to help us define the toxicity requirements. And
 06 wet weather is really challenging because, as you said, it
 07 doesn't rain for four days. The traditional toxicity
 08 testing system was based on a four-day criteria. And also
 09 like a waste water treatment plant, what you have is your
 10 influent is fairly constant, but drain water can change.

11 And so we empanelled these experts through
 12 the commission, included Ventura County, to try and
 13 develop some common principles of what we test for, what
 14 species we use and how we interpret that data. And one of
 15 the reasons we did that is we look across the water boards
 16 in southern California, each of them was doing this
 17 differently, and so we couldn't compare results from San
 18 Diego to L.A., and so this started an effort to create
 19 consistency in the region and make good use of the
 20 monitoring that we do. So the reason it is not included
 21 here or maybe there's conflict is because that report came
 22 to us like two weeks ago and we didn't have sufficient
 23 time to integrate that, but we will do it.

24 CHAIR DIAMOND: Okay. All right. Do you have
 25 something, Deb?

0233
 01 MS. SMITH: I was just going to add when
 02 Mr. Richardson was asking his question, Maribel pretty
 03 much said what I was going to say. I think it was
 04 Kirsten had a good idea, too, about mapping all the
 05 monitoring that exists.

06 I mean, clearly, as Xavier pointed out, we
 07 cannot monitor for all the objectives we have. We can't
 08 have bioassessment receiving water compliance at every
 09 outfall and every (inaudible) stream, but I think once we
 10 lay -- overlay all these programs on top of each other, we
 11 can maybe see where there's some gaps and maybe there
 12 might be some areas that we can pilot, you know, a few of
 13 these things or look at one watershed in particular, you
 14 know, if we need to fill in some gaps. That's all I was
 15 going to add.

16 CHAIR DIAMOND: Okay. We have one last item, which
 17 is called Other Issues. And so I don't know, but I do
 18 have -- and I have some cards, and since some of them say
 19 nothing and some say miscellaneous, I think they probably
 20 are also Other Issues.

21 So are there any -- do you have anything to
 22 present to us under Item Number 7, other Issues?

23 MR. URRUNAGA: Yes, I do. I promise I'll be short.

24 CHAIR DIAMOND: Okay.

25 MR. URRUNAGA: Good afternoon, Madam Chair, Members

0234
 01 of the Board, Ladies and Gentlemen. I'm Carlos Urrunaga
 02 and I'll be providing an overview of the Public Agency
 03 requirements of the Draft Permit and other revisions made

04 based on comments received.
 05 I'll cover under Other Issues Uniform Cost
 06 Reporting, Phase I versus Phase II issues, and B.M.P.
 07 substitution. Those are some of the things that the Board
 08 asked us to come back and report on.

09 CHAIR DIAMOND: Right.

10 MR. URRUNAGA: Under the 2000 Ventura Permit,
 11 potable water discharges were allowed so long as they were
 12 not a source of pollutants. The California Department of
 13 Public Health requires that potable water systems maintain
 14 a high degree of quality and thus, on occasion, a system
 15 needs to be purged to eliminate contaminants for public
 16 health reasons. Drinking water includes a disinfectant,
 17 chlorine, to prevent growth of bacteria.

18 The Regional Water Board has a basin plan
 19 limit of .1 milligrams per liter for residual chlorine as
 20 chlorine is potentially toxic to aquatic life.

21 The December 27th, 2006 Draft Permit included
 22 a 100,000 gallon annual discharge trigger in order to be
 23 covered under a separate N.P.D.E.S. General Permit. We
 24 have eliminated that 100,000 gallon trigger as staff
 25 recommends a completely separate General N.P.D.E.S. Permit

0235

01 for discharges associated with potable water systems that
 02 also meets California Public Health Department's
 03 requirements. This will bring us in line with Regional
 04 Boards 8 and 9, which already have potable water
 05 discharges covered under a separate N.P.D.E.S. Permit.

06 Trash excluders. In the December 27th, 2006
 07 Draft Permit, staff included a provision for installation
 08 of trash excluders at all catch basin inlets in the County
 09 of Ventura to prevent trash from entering the system and
 10 being discharged.

11 The new August 28th, 2007 Draft Permit
 12 correctly limits that installation of trash excluders or
 13 other equivalent devices on catch basins to only areas
 14 subject to high trash generation, such as commercial
 15 areas, industrial areas, and near educational
 16 institutions.

17 In response to flooding concerns, because
 18 that was also raised, the County of Los Angeles Department
 19 of Public Works has researched extensively the
 20 installation of these devices under simulated flood
 21 conditions and found the design allowed higher flows to
 22 pass through even with trash in the basin. However, the
 23 Draft Permit allows for site-specific Best Management
 24 Practice substitution. If a Permittee wants to consider
 25 an alternative approach to the trash excluder devices, the

0236

01 Permit -- the Draft Permit already allows such a procedure
 02 for alternatives.

03 Routine maintenance, this was brought up as
 04 part of our negotiations in meetings with the County of
 05 Ventura and co-Permittees.

06 Construction activity is a federally
 07 defined -- excuse me, is federally defined and is
 08 regulated in California via two statewide General
 09 N.P.D.E.S. Storm Water Permits, one for construction
 10 activity, one for linear construction.

11 There exists an exclusion from N.P.D.E.S.
 12 permitting requirements for what are called "routine
 13 maintenance activities." These are activities that occur
 14 under no regular schedule but as necessary after storm

15 damage. For example, a gravel road, let's say, is washed
16 out and the municipality comes and lays more gravel and
17 grades it to maintain original line and grade.

18 Regional Board staff added a definition under
19 construction to clarify that routine maintenance is
20 activity conducted exactly to maintain original line and
21 grade, to maintain hydraulic capacity, or the original
22 purpose of the facility, but only includes dirt or gravel
23 road shoulder work, dirt or gravel road maintenance work,
24 or ditch cleanouts, of course with A401 certification, if
25 necessary.

0237

01 Uniform cost reporting was another issue that
02 Board Members asked us to come back and report on.

03 Federal guidance for implementing the
04 Municipal Storm Water Program includes a requirement for
05 submittal of an annual accounting, including fiscal
06 resources and operations and maintenance expenditures.

07 In the Draft -- in the Second Draft Permit,
08 Regional Board staff have identified uniform cost
09 reporting subcategories for consistency. So every city
10 will be reporting on the very same issues.

11 Presently, however, there is no uniform cost
12 reporting format statewide or nationwide. A national or
13 statewide uniform reporting format is preferred, but
14 based on the recent U.S. General Accounting Office
15 Report, the United States Environmental Protection Agency
16 is considering developing a consistent format, but it's
17 not ready yet.

18 One of the big issues was the Phase I versus
19 Phase II question, and there are six small communities
20 within Ventura County that requested that they be
21 redesignated as Phase II cities. The Phase II designation
22 is really only applicable to M.S.4 systems that have not
23 already been designated as Phase I.

24 Federal regulations state that any
25 municipality that contributes substantially to the

0238

01 pollutant loadings of a Phase I M.S.4 should be regulated
02 by the Phase I program. However, State Water Board
03 Regional Water Board staff invited those cities to submit
04 their concerns in writing. And in response to those
05 comments, staff have revised a few of the issues.

06 There were a few issues raised and these are
07 some of the changes: We have revised the meetings
08 attendance requirement to be discretionary. Many of the
09 other concerns may be better addressed, however, through
10 coordination amongst the Permittees such as special study
11 exemption and electronic tracking.

12 The Draft Permit has a very important
13 provision called B.M.P. substitution that allows the
14 Regional Board Executive Officer to allow a B.M.P.
15 substitution of a program or a specific B.M.P. for another
16 equally effective program or B.M.P. as described on this
17 slide. So this is actually verbatim what would be
18 requested of the Permittees so that it's clear, there's
19 clarity as to what's requested. This may be particularly
20 relevant to smaller cities and has already been utilized
21 by smaller cities in Los Angeles County.

22 That concludes my other. Thank you.

23 CHAIR DIAMOND: Thank you.

24 Ventura representative, please?

25 MR. SPURGIN: Thank you, Madam Chair and Board

0239

01 Members. I'm Jay Spurgin from the City of Thousand Oaks.
 02 I'll be the first of six co-Permittee speakers. We're
 03 going to cover several areas, and I'm going to begin by
 04 talking about the public construction and long-term
 05 maintenance activities.

06 Go ahead. Thank you. The Public
 07 Construction Activities Management Section of the Second
 08 Draft Permit states that the requirements for the planning
 09 and land development program should apply to all Permittee
 10 construction projects, and we would ask why Permittee
 11 projects should be subject to a higher level of
 12 regulation than other public agency projects or private
 13 development projects.

14 For example, it doesn't make sense that a
 15 traffic signal project should have to meet Low Impact
 16 Development 5 percent effective impervious area
 17 post-construction B.M.P.'s and other Permit requirements.
 18 It would seem more appropriate, and we would certainly
 19 support this, for only those Permittee projects that
 20 individually meet the development criteria should be
 21 subject to these Permit conditions and requirements.

22 The Second Draft Permit states that all
 23 Permittee construction projects must also meet development
 24 construction program requirements. Again, we feel that
 25 only those Permittee projects that individually disturb 1

0240

01 acre or more, et cetera, should have to meet these permit
 02 requirements.

03 Examples here could be a minor water line
 04 replacement project or, say, a pavement overlay project.
 05 These would have minimal disturbed areas, no change as to
 06 line, grade, capacity or original use. It would be
 07 impractical for these types of projects to meet all the
 08 construction program requirements.

09 Now, this part of the Public Construction
 10 Activities Management Section would require Permittee
 11 projects in a capital improvement program that
 12 cumulatively disturb one or more acres to obtain a State
 13 Construction General Permit.

14 And this would require, in our city's case,
 15 obtaining a General Permit for each of the 110 projects,
 16 no matter how small, in our adopted C.I.P. just for this
 17 fiscal year, so multiply that out by the 10 or so
 18 agencies. So I don't believe that that was the intent of
 19 this language. Again, I think more appropriately the
 20 requirement should apply to projects that individually
 21 meet the 1-acre threshold.

22 Now, similar language is included in the
 23 Long-Term Maintenance Program Section of the Draft Permit
 24 as on this slide here.

0241

25 In summary for my part with respect to Permit
 01 requirements for construction and maintenance projects,
 02 the Permittees should not be held to different standards
 03 than other public agencies or private development, we just
 04 ask to be treated basically the same. We would ask that
 05 the same criteria apply, the Second Draft Permit language
 06 be changed accordingly and that it be consistent with the
 07 Permit's definition of construction, which was discussed
 08 earlier. Thank you.

09 MR. KROES: Good afternoon, Chair Diamond and Board
 10 Members. My name is Shaun Kroes and I work for the

11 City of Moorpark. I'm here today to speak about the trash
 12 excluder requirement of the Second Draft Permit, which
 13 would require excluders in certain zones, specifically
 14 commercial, industrial and near educational institutions.

15 The Permittees acknowledge that the Second
 16 Draft revises the harsher trash excluder requirements of
 17 the First Draft. However, trash excluders are not a
 18 one-size-fits-all solution for Ventura County and can pose
 19 a significant risk for many communities, including
 20 Moorpark. Further, trash is not listed as -- I'm sorry,
 21 it's not 303(d) listed in most of Ventura County.

22 We still maintain, as stated in the April
 23 workshop, that inserting the trash excluders increases the
 24 risk of flooding. Flood insurance of between 800 to
 25 \$1,200 per year per F.E.M.A. guidelines may be needed.

0242

01 Requiring installation of trash excluders is
 02 extreme when you consider the fact that trash is not
 03 listed as a 303(d) pollutant of concern for the majority
 04 of Ventura County. The hashed area on this map represents
 05 Beardsley Wash, Revolon Slough and Ventura River Estuary,
 06 the only areas listed in a trash T.M.D.L. in the County.
 07 This area is a fraction of the entire county,
 08 approximately 4 percent. The majority of our waterways
 09 are practically litter-free.

10 Board staff have previously mentioned the
 11 substitution process for alternate B.M.P.'s for trash
 12 excluders. Rather than go through a lengthy and tedious
 13 B.M.P. substitution process, which would drain both Board
 14 staff members' and Permittees' resources, why not provide
 15 acceptable, alternate B.M.P.'s in the actual Permit?
 16 Such language could include a requirement for a trash
 17 management program in place within one year of permit
 18 adoption.

19 This plan would focus on enhanced commercial
 20 zone street sweeping, trash cans at bus stops, prompt
 21 enforcement of anti-accumulation of trash on private
 22 property, trash collection on public property on a routine
 23 basis, expedient disposal of illegally deposited materials
 24 on public property, a program that allows residents to
 25 dispose of bulky items at no or low cost, citizen

0243

01 involvement events, such as creek and beach cleanup
 02 events, and litter prevention messages in outreach
 03 programs.

04 As Coastal Cleanup Day Countywide coordinator
 05 for Ventura County this year, I'm happy to report that we
 06 had over 2,400 volunteers and collected 12,501 pounds of
 07 trash. In 1996, Ventura County area's participation in
 08 Coastal Cleanup Day consisted of 778 volunteers who
 09 collected nearly 16,000 pounds of trash. We've increased
 10 participation by over 200 percent, and yet the volunteers
 11 are finding less litter in and around our waterways.

12 The City and all Permittees are devoted to
 13 reducing pollution in our waterways. We believe that this
 14 can be done effectively, economically and safely without
 15 the mandatory requirement of trash excluders.

16 Thank you for giving me the opportunity to
 17 speak today. I invite all of you to visit our city and
 18 tour our clean community. Thank you.

19 MS. KUHLMAN: Good afternoon, Chair Diamond and
 20 Board Members. My name is Anita Kuhlman, I'm with the
 21 City of Camarillo representing the Ventura County Storm

22 Water Program to discuss the Draft Permit requirement for
23 additional treatment controlled B.M.P.'s installed at all
24 critical source facilities.

25 Basically on page 41 of the Second Draft

0244

01 Permit, it requires implementation of additional treatment
02 control Best Management Practices at critical sources,
03 which include food, automotive, industrial and nurseries,
04 where the storm water flows from that facility to a
05 municipal storm drain that discharges to a 303(d) listed
06 water body or an environmentally sensitive area.

07 So what does that mean to Ventura County?

08 Basically countywide we have 1,900 food, 1,400 automotive,
09 500 industrial and 40 nurseries that would be required to
10 install a treatment device at their facility merely
11 because each of these 4,000 facilities discharges
12 to a municipal storm drain system, but not necessarily
13 directly into the 303(d) listed water body or the E.S.A.

14 We don't think it was staff's intention to
15 require all critical source facilities to install
16 treatment control B.M.P.'s for pollutants that may not
17 exist at their facility or it may not be an impairment to
18 the receiving water that they discharge to.

19 As mentioned previously by Supervisor Parks
20 and the Chair, we too feel source control or
21 non-structural B.M.P.'s are very important and effective.
22 Ventura County Permittees have been requiring source
23 control measures in our business and elicit discharge
24 programs for several years that we feel are effective,
25 such as regular parking lot and building maintenance,

0245

01 trash programs, grease trap installations and effective
02 irrigation.

03 So our recommendation? Basically we feel the
04 Permit language needs refinement or clarification.
05 Permittees should continue to require effective source
06 control B.M.P.'s at all critical source facilities. If
07 that source control B.M.P. at a particular facility is
08 ineffective, then a treatment control B.M.P. could be
09 required that addresses the specific pollutant of concern
10 and the impairment of the receiving water.

11 And also I just want to throw in, if there's
12 already a Regional Board approved T.M.D.L. implementation
13 plan, such as in Calleguas Creek, then that implementation
14 plan should take precedence over the Permit requirements.

15 Thank you for your consideration.

16 MR. CAMARILLO: Good afternoon, Chair and Members
17 of the Board. Oh, wrong one. There you go.

18 My name is Fred Camarillo and I representing
19 the City of Port Hueneme. I'm here to cover a couple of
20 areas under the Public Information and Participation
21 Program.

22 First is a requirement in there for
23 educational outreach, which requires the Permittees to
24 provide schools with storm water education materials. The
25 second one related to that is which requires the

0246

01 Permittees to measure the effectiveness of the in-school
02 educational programs.

03 Some of the issues with that, as you can see
04 there, that conflicts with the Public Resources Code. It
05 also conflicts with Section D3 of the findings, which
06 states that the Regional Board realizes that the

07 Permittees have limited jurisdiction over some of the
08 entities that are -- that fall within their boundaries,
09 school districts being one of those.

10 Further, the Permittees lack the authority to
11 go in and dictate to the schools what the curriculum would
12 be. Along with that, the measurement of effectiveness of
13 the educational program would practically be impossible.

14 I have firsthand knowledge on that. I know
15 in years past we've had materials that we had that we were
16 going to take out to the schools, and when we approached
17 the school districts, we were kindly denied and said that
18 it was not part of their curriculum and they would not go
19 ahead and even accept the materials that we had for them.

20 So our recommendation is to direct the
21 Regional Board staff to work with us in trying to
22 establish a feasible goal that makes the best use of our
23 resources, not only financial, but obviously staff time.
24 Going out to these schools and trying to get this stuff in
25 there just doesn't seem like a very good use of time.

0247

01 Next, please. Another area is the corporate
02 outreach requirements which requires the Permittees to
03 educate corporate managers and also to target all the
04 facilities for contact twice during the permit period.

05 One of the recommendations would be to allow,
06 instead of the corporate managers to be the points of
07 contact, to allow the local facility managers to be the
08 point of contact where we could individually build up
09 better working relationships with those that fall within
10 our jurisdiction.

11 And with the addition of the critical
12 resources inspections, facilities inspections, reduce the
13 outreach contact to once during the Permit term unless
14 otherwise warranted. Obviously, if there's something
15 that's going on that we see when we're out, we would be
16 going back with the critical sources we have, certain
17 things we have to do regardless anyway. It's gotten very
18 prevalent where people call in when they see something
19 that isn't right, and so being able to limit that with all
20 the additional facilities that would need to be contacted.

21 With the Business Assistance Program, it
22 requires the Permittees to provide technical assistance in
23 identifying and implementing pollution prevention methods
24 and B.M.P.'s. And maybe it's just something that needs
25 clarification. As we see it, it appears to us that we may

0248

01 be put in some sort of liability position if we're going
02 out and having to recommend a particular type of B.M.P.,
03 and should that not work, then we're in the position of
04 having to defend ourselves, and that's why we're just
05 asking for clarification. If it wasn't Board staff's
06 intention, then we'd just like clarification on that.

07 Thank you.

08 CHAIR DIAMOND: Thank you.

09 MR. LEVY: Pardon me, Mr. Camarillo, do you have a
10 reference to the Public Resources Code section you're
11 referring to?

12 MR. CAMARILLO: Section 71301 through 71306.

13 MR. LEVY: Thank you.

14 CHAIR DIAMOND: Next? You're still part of the
15 Ventura report?

16 MR. TANTET: Yes, I am.

17 CHAIR DIAMOND: Okay.

18 MR. TANTET: Good afternoon, Chair Diamond, Members
19 of the Board. My name is Paul Tantet, I'm representing
20 the Ventura County Public Works Agency, and I'd like to
21 thank you for this opportunity to discuss an issue that
22 is of utmost concern to Ventura County unincorporated
23 areas. Although we're lumped into the "Other" category,
24 this is a big concern for us.

25 The figure that you see here is Figure 1 from
0249

01 the Permit which is discussing the proposed areas of
02 coverage and their jurisdictional responsibilities. You
03 see the cities are in the gray and so their responsibility
04 for permit coverage would be limited to their cities.

05 However, the yellow areas are the
06 Ventura County unincorporated area responsibility. Now,
07 if you'll note, they're a large part of the county, and
08 you've heard this before, is national forest. But there
09 are areas up at the top there, and if you're familiar with
10 Ventura County you would know that those areas are very
11 remote and very sparsely populated. This would make
12 enforcing Permit provisions extremely difficult.

13 But more importantly than that -- next slide,
14 please -- it appears that this Permit coverage is based on
15 both fact and fiction. It is true that the Clean Water
16 Act requires M.S.4's to be permitted under an N.P.D.E.S.
17 Permit, an M.S.4 Permit. It's also true that M.S.4
18 Permits target runoff from urban development for water
19 quality controls. It's also true that Ventura County has
20 areas of urban development; you've heard today figures
21 around an average of 12 percent. But it's false that
22 Ventura County is mostly urban development or is area
23 undergoing urban development.

24 Next slide, please. In fact, unincorporated
25 Ventura County is against urban development. You've heard
0250

01 this earlier today, there are a number of mechanisms that
02 are in place that prohibit urban development in
03 unincorporated areas. It limits them strictly to cities
04 and their spheres of influence. Therefore, the
05 unincorporated areas are primarily national forests,
06 agriculture and open space.

07 Next slide. Now, this is a picture of
08 typical open space in unincorporated Ventura County. As
09 you can see, there's not a lot of curb and gutter. You
10 don't see a lot of concrete and asphalt here.

11 Next slide, please. This is a figure from
12 the Ventura County General Plan. It shows land uses of
13 agriculture, those are the dark green areas, and the kind
14 of spotted white and green are the national forest areas.
15 Now, open space is the lime green color. Again, open
16 space, I remind you, is very similar to what you have in
17 the picture here.

18 Next slide, please. Early in January when we
19 met with Regional Board staff, I provided this map. This
20 map represents the urbanized areas from the U.S. Census;
21 it's also the land use designated as urban in the Ventura
22 County G.I.S. System. As you can see, the cities there
23 are represented in gray and the pink, kind of pink-purple
24 areas are the unincorporated county areas that are
25 considered urban. Now, there are a fair number of these,

0251
01 so it's not like there isn't urban development in
02 unincorporated county. It's limited. It's limited and it

03 cannot be expanded beyond these areas.

04 Next slide. In summary, M.S.4 Permits target
05 runoff from urban development, and the unincorporated
06 Ventura County is primarily composed of open space, AG or
07 national forest, not urban development. Therefore, we
08 urge your Regional Board to direct staff to correct the
09 apparent error in the Draft Permit. We ask staff to
10 please revise Figure 1 to remove all non-urbanized areas
11 of unincorporated Ventura County from coverage under this
12 Urban Storm Water Permit.

13 Thank you for your time.

14 CHAIR DIAMOND: Thank you.

15 Mr. Rapp?

16 MR. RAPP: My name is Bert Rapp representing the
17 City of Fillmore.

18 First, I would like you to know that as of
19 2:30, the National weather service says the storm is
20 moving out on to the ocean and they've eliminated the
21 flood watch for the burn areas, put that on hold, just
22 wait and see if it stays out at the ocean. So you may not
23 get wet tomorrow.

24 So I'm last and I guess I am least. I'm
25 representing the small communities here in Ventura County.

0252

01 Can we see the next slide? So here's our
02 small communities, some very small communities and some
03 larger -- moderately larger, but all of us significantly
04 less than the 100,000 cutoff for Phase I cities.

05 We did not intend to be asking to be called
06 Phase II cities, what we were asking for was a tiered
07 approach within this Permit. We want to be in this
08 Permit, we want to be part of the team, but we want to
09 have consideration at a tiered level, a reduced length
10 and time schedule, reduced responsibilities.

11 Next. So at the April 5th Workshop, you gave
12 direction to staff to ease the burden on small
13 communities, if possible, and to need effective
14 communications with the small cities and the Board.

15 Next, please. So what we did do is, as was
16 mentioned, you helped us by getting rid of the mandatory
17 meeting requirements, which is good because we all have
18 limited staff in the small cities. You eased the
19 electronic tracking, which meant we all had to go out and
20 buy some expensive programs and that kind of thing. And
21 you did reduce the number of trash excluders and they
22 improved the language of the trash excluders, which makes
23 me more comfortable about the threat of flooding. That
24 lets us provide some engineering analysis on the trash
25 excluders.

0253

01 So next. So we face -- we face special
02 challenges as little cities. We have a smaller staff that
03 cannot provide a dedicated storm water personnel. Firemen
04 work with me on this program, the city clerk works with me
05 on this program. We don't have a storm water manager, so
06 it's really tough to get it done and spread the work out
07 among people as part of their other responsibilities.

08 We don't have the financial resources to put
09 this together. We do everything on a shoestring. We
10 have -- the only way we got all of our catch basins marked
11 is we had some Boy Scouts do that for us and we got all of
12 our catch basins marked, so it's a lot of volunteer help
13 and very few financial resources.

14 whatever we do do, it costs more per capita.
15 Like you know working with me on our new sewer plant, what
16 costs us \$86 a month, for a big city is \$30 a month just
17 because you have so much more customers to divide the cost
18 among. So as you think about what are the requirements
19 and impositions on us little cities, think about what that
20 financial impact means to us versus what it means to the
21 larger cities.

22 Next, please. So all of the small
23 communities combined represent about 20 percent of the
24 population, and that represents probably one-fifth of the
25 pollutant loads coming from the urban development. So if

0254
01 you give us some relaxed time frames, some ability to get
02 this done over a longer period of time, you're talking
03 about a very small impact on the total pollutant load in
04 Ventura County.

05 So next slide, please. Here's an example.
06 Fillmore is here, that's about our urban growth
07 restriction boundaries, eight miles on each side of us is
08 open space. It's always going to be open space unless
09 the voters vote to do something different, and I don't
10 think we're going to see that in our lifetime. And
11 we're -- us and others like Ojai, Santa Paula are really
12 what was intended by the E.P.A. to be Phase II, that's
13 why we'd like some tiered provisions in this requirement.

14 Next, please. So we are looking at hopefully
15 getting three years to accomplish some of the changes in
16 the programs. There's a lot of work to do in the program
17 and short time frames, a lot of them within the first
18 year. So we're looking for longer time frames.

19 And have the Permit serve as our N.P.D.E.S.
20 Permit. Instead of going and getting more state permits
21 for all of our public works construction, like paving a
22 street and maintenance work, like repairing sidewalks and
23 trimming trees, and have to go get a state permit and pay
24 thousands of dollars to the state and have to have another
25 person to do all that paperwork and do all the monitoring

0255
01 and reporting to the state for these permits when we've
02 already got a permit from you that's three-quarters of an
03 inch thick, I don't know what we'd gain in water quality
04 by having us get these three additional state construction
05 permits under this new program through you.

06 And end-of-pipe treatment controls and
07 B.M.P.'s spread over a longer period. For the last
08 15 years, the Permit has required us to require new
09 development to put in B.M.P.'s and required us to do
10 source control work with existing businesses. What we
11 have to do now within three years is every business in
12 town has got to install permanent treatment control
13 B.M.P.'s. The city has to install permanent treatment
14 control B.M.P.'s on all of our city.

15 The new development over the last 15 years
16 has probably been 5 percent of our city. Now you want us
17 to do in only three years get the rest of the 95 percent
18 of that city and meet end-of-pipe municipal action levels.
19 Okay. That means significant B.M.P.'s installed
20 throughout a watershed in the city or an end-of-pipe
21 treatment facility like a treatment wetlands. That's
22 huge. That means a lot of capital improvement. It means
23 buying land. It means building a lot of facilities in
24 only three years.

25 As a public works director, we work with a
0256
01 capital improvement program over a 20-year period to try
02 to help give us time to develop funding, plan things out,
03 get them designed, get them built and installed.
04 So in only three years we have to meet
05 end-of-pipe constituent levels on our storm drains. That
06 is one of the reasons we're so concerned about this new
07 Permit. That is the elephant in the room is how do we
08 achieve that physically without a funding requirement,
09 without a funding mechanism?
10 Excuse from -- be excused from financial
11 contributions, studies, plans, monitoring. Right now half
12 of the Principal Permittee Budget that we all contribute
13 to is for monitoring and studies and plans. As a Phase II
14 city under E.P.A. guidelines, we're not required to do
15 monitoring. Yet because we voluntarily participated in
16 these programs from the beginning, we're contributing to
17 monitoring. You could give us relief from having to
18 financially pay for it. It wouldn't change the monitoring
19 that happened, but it would relieve us from having the
20 financial burden for having to pay for it as small cities.
21 Next. So additional time on these programs
22 allows the larger cities to spend money on research,
23 development and trial installations. The Permit, for
24 example, for the end-of-pipe treatment acknowledges that
25 these B.M.P.'s, like treatment wetlands, better detention,
0257
01 they are mostly an iterative process, that you build it,
02 you monitor it and you modify it, and you finally
03 fine-tune it so you achieve the treatment that you need.
04 If you allow the larger cities to go first,
05 they'll refine that and get those done; like the trash
06 excluders, refine those and then we can do it once and we
07 can do it more efficiently if we're allowed some time lag
08 behind the rest of the program, so that way we could spend
09 less money and less modification.
10 Next. And that's about it. Oh, I would like
11 to add one thing. Rick Cole, city manager for the City of
12 Ventura, and Gerhardt Hubner emphasized that what we need
13 going forward is we feel we need a facilitated discussion
14 with ourselves and your staff. We don't feel we're being
15 heard by your staff and understood about our concerns.
16 I would like to emphasize that we think we've
17 made -- we could make some real progress if we had a
18 facilitated discussion with your staff and resolved some
19 of these issues where we could really talk to each other
20 and hopefully reach consensus on what are reasonable
21 requirements in the Permit.
22 CHAIR DIAMOND: Thank you very much.
23 Is there anybody else from Ventura?
24 UNIDENTIFIED MALE: Yes. I'm just going to -- and
25 actually, I had a discussion with Heal The Bay, we've
0258
01 submitted a comment letter on the extension of written
02 comments, the due date, and we've talked with Debbie and
03 so you have that request.
04 MS. SMITH: Yes, I did want to make that
05 announcement. Several parties asked for a two-week
06 extension for the written comments to October 15th, and
07 thanks for bringing that up, Jer (phonetic), I did want to
08 mention it before everybody left. So you guys have until
09 October 15th.

10 UNIDENTIFIED MALE: Thank you.
11 MS. SMITH: And thank you for everything today.
12 CHAIR DIAMOND: Environmental community? No.
13 Okay. I have a few cards, I don't know
14 whether these people are still here or not or even want to
15 speak, but Susanne Cooper, Chris Hooke, do you still want
16 to speak?
17 MR. HOOKE: Yes, ma'am.
18 CHAIR DIAMOND: Okay. Please come up.
19 MR. HOOKE: Members of the Board, thank you for the
20 opportunity to speak. I am responsible for design and
21 construction of county roads in unincorporated Ventura
22 County, and I would like to address just two issues.
23 The first issue is a request that pavement
24 overlay projects remain unregulated, that they not be
25 included in the permitting process. Today they are not
0259 regulated, and I have four reasons, compelling reasons I
01 think that I'd like to see them remain as they are today.
02 The first is that all pavement maintenance
03 contracts that we issue and hire contractors to
04 accomplish already require that those contractors submit
05 an S.W.P.C.P., Storm Water Pollution Control Plan. We've
06 been doing it for eight years. It already accomplishes
07 what you might hope to accomplish with regulation.
08 Second is that E.P.A. exempt pavement
09 overlay. Specifically, E.P.A. exempt routine maintenance
10 that is performed to maintain the original line and grade,
11 hydraulic capacity or original purpose of the facility.
12 Our pavement maintenance projects fall squarely in that
13 definition.
14 Third, there are many examples from Congress
15 and also from the California State Legislature expressing
16 their intent to exempt routine maintenance projects from
17 regulation. For example, C.E.Q.A. has a categorical
18 exception for routine maintenance and N.E.P.A. has
19 categorical exclusions. Section 404 of the Clean Water
20 Act, that's the Corps of Engineers who implement it, they
21 exempt maintenance projects. F.H.W.A. exempts pavement
22 overlays from air quality conformity analysis.
23 And finally, the Regional Board has plenty of
24 work to do and so do we, and permits -- or requiring
0260 permits for our pavement maintenance projects, in my
01 opinion, increases both your and our work loads
02 unnecessarily.
03 The second issue that I'd like to address was
04 just addressed by Paul Tantet from the county, the fact
05 that the county unincorporated areas should not be
06 considered as M.S.4. We have many miles of rural open
07 country without catch basins and storm drains, without
08 pipes. The water sheet flows into ditches on private land
09 that flows to other ditches on private land and we don't
10 have authority or jurisdiction over that land. It's not
11 really in the definition of an M.S.4.
12 Thank you.
13 CHAIR DIAMOND: Thank you.
14 That's all the cards I have. Mr. Watson, did
15 you want to come up and address us?
16 MR. WATSON: You should have two more cards.
17 CHAIR DIAMOND: Okay. I know that you wanted -- I
18 didn't know you were also interested in this one, but
19 that's fine.
20

21 MR. WATSON: Thank you, Chair Diamond, Members of
22 the Board. Richard Watson representing the City of
23 Signal Hill.

24 A few quick points. After my last
25 presentation, there was confirmation that the staff was

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01 interested in getting its arms around M.E.P. and was
02 looking at the M.A.L.'s for that, and there's been some
03 discussion of consistency. We do need consistency in the
04 definition of M.E.P., and I would urge you to look at
05 our -- my comments on the Coalition for Practical
06 Regulation presentation from April. I would ask you to
07 perhaps ask the State Board to move ahead with this to try
08 to get a consistent definition of M.E.P., a workable one
09 statewide. I don't think it's appropriate to try to
10 define it region by region.

11 Also, discussion of data that we've looked
12 at. We've really been talking about oranges, apples and
13 pears. We've had the B.M.P. effectiveness data bank
14 discussed, which deals with individual B.M.P.'s and some
15 of that, you know, statistically that was used to look at
16 the M.A.L.'s, which really you're looking at municipal
17 discharges, and then we have receiving water
18 characteristics. Ask you just to look at all of this
19 stuff from the point of view of we really have a confusing
20 mess of data.

21 Also, on page I think it's finding A11, you
22 indicate that water quality -- or the Draft, current Draft
23 says, "water quality standards must be complied with at
24 all times irrespective of the source and manner of
25 discharge." I would urge you to look at the issue of

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01 design storm that's come up as an outgrowth of the metals
02 T.M.D.L., and I think it applies here because "at all
03 times" becomes very difficult.

04 I'd also mention that one of your findings
05 indicates that you don't have any unfunded mandates here.
06 I suggest that anything that goes beyond the actual
07 federal requirements could be determined to be an unfunded
08 mandate.

09 I'll also urge you to look at the use of the
10 word "minimization," it's on page 49. I think it probably
11 needs qualification because minimizing impervious
12 surfaces, you could say don't do anything, so perhaps you
13 need something like "to the extent feasible."

14 Also, there's some discussion of local and
15 state storm water pollution prevention plans on page 65,
16 and I think the local slip is a residual from when
17 development between 1 and 5 acres was not addressed in the
18 General Construction Permit, and I don't know how the
19 State Board feels about substituting a local for the
20 state's (inaudible).

21 And then there was some discussion earlier
22 about the R.P.A.M.P. I'd ask you to look at that approval
23 process. It's a little cumbersome to have it go to the
24 local -- some entity put together by the Local Government
25 Commission. Perhaps they should help you put together a

0263
01 set of guidelines for staff to use in reviewing
02 R.P.A.M.P.'s. That was an attempt to help municipalities
03 address redevelopment, but I think it's very cumbersome
04 the way it's written.

05 Thank you.

06 CHAIR DIAMOND: Gerry Greene?

07 DR. GREENE: Thank you. Once again, Gerry Greene,
08 City of Downey.

09 Just a reminder or suggestion that maybe a
10 little more editing is required. Looking at page 49, I
11 found some terms that I was a little challenged by.
12 Industrial park, I'm not sure that that helps us to have
13 the -- industrial park, I'm not sure everybody in the room
14 would have the same picture of what an industrial park is.

15 Commercial strip mall, it referenced surface
16 area for determining what size redevelopment. Surface
17 areas include walls in structures such as that. I suspect
18 what was meant, as an example, might be a horizontal
19 surface area. That could probably be adjusted in the
20 definitions also. And exposed is probably an important
21 part to include when you talk about surface area because I
22 think that's primarily what we're talking about with these
23 redevelopment issues. As an example, a two-story building
24 might be described as having two layers or three layers of
25 horizontal surfaces, a roof and a couple of floors, but

0264
01 I'm sure you're mostly concerned about the exterior
02 exposed surface areas.

03 Let's see, just as an experience from our own
04 M.S.4 Permit in L.A., we haven't talked about annual
05 report formats yet, but I know we've had a lot of
06 challenges, and I say this as a watershed chair who often
07 has to deal with, shall we say, the newbies in the
08 watershed as we replace city staff. Sometimes these
09 permits don't always say the same thing as the annual
10 report does, and it can get very confusing and very
11 problematic the day before the annual report is being
12 turned in for these folks.

13 So please try to, once again, when you go to
14 the final version of this, make sure you're referring to
15 the same things in whatever report you might require
16 versus your permit. And also, if you have any major
17 single-agency activities, that it's clear that they have
18 to deal with it separately from the other agencies.

19 Finally, the cost reporting in this appears
20 to be getting even a little more challenging. I recognize
21 we're trying to find a way to figure out how much this
22 costs, all of us do, but it's splitting a lot of
23 categories up there, and I'm not sure that's what we're
24 trying to do with this program yet. So maybe consider one
25 more time your cost reporting table and discuss with some

0265
01 of the local cities whether that level of detail is
02 required or even attainable. It's often hard to get that
03 kind of level of detail from even a small city staff or a
04 large one. It's too many people trying to do too many
05 things at once.

06 Thank you very much.

07 CHAIR DIAMOND: Thank you.

08 Going now to Board questions. Did we
09 start -- okay. Then we'll start here.

10 MR. RICHARDSON: I just have a comment. I think
11 this has been a good process, the whole day has been a
12 good process, but I think it also points to the need for a
13 more collaborative and cooperative effort both on the
14 Permittees' side and the Regional Board staff. I think
15 with more collaboration and cooperation, I think we can go
16 a long way towards actually getting a workable M.S.4

17 Permit.

18 MR. VANDER LANS: I want to second what
19 Dick Richardson said, collaborate. Hopefully we'll find
20 a more cost-effective way to find this water quality
21 program working. And I want to thank staff for their
22 efforts and the Permittees and those of you who
23 testified. Thank you very much.

24 MS. MARIN: I heard a lot of really good ideas that
25 I think there's ways to incorporate them into the Permit,
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01 but I think that there's a fundamental difference of
02 opinion in terms of the level that we're going to with
03 this Permit.

04 I think that the general theme from the
05 Permittees is they want to maintain that iterative
06 approach that, you know, if what we're doing doesn't work,
07 monitoring should point towards better B.M.P.'s or new
08 approaches. But I think that we need to take it to that
09 next level where we're really much clearer about very
10 specific outcomes that we want to achieve. And I think
11 that moving towards monitoring for compliance, moving
12 towards M.E.P.'s are really the directions that we need to
13 go in with this Permit. How we implement it, how we
14 measure it I think those are all still questions that we
15 need to explore, but I'm of a mind that, you know, that
16 just based on what we've seen in the previous permits that
17 until we include some very clear directions of what that
18 next level looks like for the municipalities, we're not
19 going to see it happen.

20 So I would encourage us to keep moving in the
21 direction that we're moving, to look at where there are
22 good ideas that we can incorporate into the Permit. But
23 otherwise, I think that, you know, we need to go in the
24 direction that we're going.

25 VICE-CHAIR LUTZ: It's been a very long day and I'm
0267

01 very encouraged by the progress that has been made with
02 this Permit in the Second Draft. I think From April to
03 here we've seen a lot of collaboration that has given us
04 some good results. I think we've -- it's been pretty
05 clear today that there is still work to do, and I'm
06 confident that along with the staff and the Permittees
07 that working together, everybody pulling their weight,
08 bringing the information that needs to be brought, clear
09 discussion, a lot of give and take and some level heads
10 that we will be able to find a permit that everybody will
11 be comfortable with and that we will be able to achieve
12 the water quality that is necessary.

13 So I just want to encourage everybody to
14 continue talking, staff and Permittees alike, and I thank
15 you all very much for your input and for all the hard work
16 you've put in thus far. It's very encouraging and great
17 job.

18 CHAIR DIAMOND: I would just ditto what my fellow
19 Board Members have said, particularly going to the next
20 step which Ms. Marin mentioned.

21 And one of the things today that concerns me,
22 I'll just bring up one area of concern, is that we've had
23 our M.S.4 Permit in place for a number of years, and yet
24 when we had a report about alternatives to trash
25 excluders, suggestions were made that we should enhance

0268
01 street sweeping, more trash cans at bus stops and prompt

02 enforcement of trash accumulation. But these are things
03 that I would have hoped would have been in place already
04 from our previous trash -- from our previous T.M.D.L.'s
05 and Storm Water Permit. It is of concern to me that this
06 is not something that we're hearing is already being done
07 and therefore we don't need to be doing trash excluders.

08 And I'm just bringing this up as an example
09 that it makes me feel, and I believe the other Board
10 Members, that we do need to move on to the next level of
11 Storm Water Permit if we're not already having these very
12 basic housecleaning, street sweeping, trash cans at bus
13 stops already in place. It tells me that our previous
14 storm water wasn't really being enforced, at least in the
15 area of trash.

16 So I say that. At the same time, I do feel
17 encouraged by what I've heard today. I think that in
18 Ventura we have cities and county working together, truly
19 wanting to have water quality in your very beautiful
20 community where you have a lot of open space and value
21 green space and have the ability to have impermeable
22 surfaces so that we can clean up our water and reduce our
23 pollutants.

24 So I thank you for working with our staff and
25 I think we pledge that there will be more communication,

0269
01 better collaboration, and certainly we listened to you
02 today and we want to continue to work with you. We've
03 had, I think, more than at least 19 meetings, I know
04 there will be many more. So thank you all for being here
05 and spending this very long day with us.

06 Is there anything else? Then I think that we
07 are adjourned. Thank you all.

08 (Meeting adjourned at 4:36)

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REPORTER'S CERTIFICATE

I, LINDSEY K. KENNEDY, CSR NO. 13021, A CERTIFIED SHORTHAND REPORTER FOR THE STATE OF CALIFORNIA, DO HEREBY CERTIFY:

THAT THE FOREGOING TRANSCRIPT OF PROCEEDINGS WAS TAKEN BEFORE ME ON Friday, September 20, 2007 AT THE TIME AND PLACE THEREIN SET FORTH, WAS TAKEN DOWN BY ME IN SHORTHAND, AND THEREAFTER TRANSCRIBED INTO TYPEWRITING UNDER MY DIRECTION AND SUPERVISION;

AND I HEREBY CERTIFY THAT THE FOREGOING TRANSCRIPT OF PROCEEDINGS IS A FULL, TRUE AND CORRECT TRANSCRIPT OF MY SHORTHAND NOTES SO TAKEN.

I FURTHER CERTIFY THAT I AM NEITHER COUNSEL FOR NOR RELATED TO ANY PARTY TO SAID ACTION, NOR IN ANYWISE INTERESTED IN THE OUTCOME THEREOF.

IN WITNESS THEREOF, I HAVE HEREUNTO SUBSCRIBED MY NAME THIS 17th DAY OF October, 2007

Lindsey K. Kennedy
LINDSEY K. KENNEDY, CSR NO. 13021
CERTIFIED SHORTHAND REPORTER
FOR THE STATE OF CALIFORNIA

270

From: Tracy Woods
To: awanger@coastal.ca.gov; bfujimoto@waterboards.ca.gov; cbuth@coastal.ca.gov; Cleland.Bruce@epamail.epa.gov; DBowyer@waterboards.ca.gov; estornell.paula@epa.gov; Faulk.Jack@epa.gov; ggearheart@waterboards.ca.gov; Kozelka.Peter@epa.gov; molloy.jennifer@epa.gov; PHammer@waterboards.ca.gov; pme25@comcast.net; ruf.christine@epa.gov; tduffey@coastal.ca.gov
Date: 9/24/2007 5:13:44 PM
Subject: Time extension for comments

Hello,

Please see the attached letter concerning the time extension for comments on the Second Draft Ventura County MS4 Permit (NPDES NO. CAS004002).

Tracy Woods
LA-RWQCB / Storm Water Permitting
320 W. 4th Street, #200
Los Angeles, CA 90013
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California Regional Water Quality Control Board Los Angeles Region



Linda S. Adams
EPA Secretary

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>

Arnold Schwarzenegger
Governor

September 24, 2007

To: Interested Parties

From: Tracy Woods
Ventura MS4 Program Lead,
Storm Water Permitting Program

**TIME EXTENTION FOR COMMENTS ON THE WASTE DISCHARGE
REQUIREMENTS FOR STORM WATER (WET WEATHER) AND NON-STORM
WATER (DRY WEATHER) DISCHARGES FROM THE MUNICIPAL SEPARATE
STORM SEWER SYSTEMS (MS4) WITHIN THE VENTURA COUNTY WATERSHED
PROTECTION DISTRICT, COUNTY OF VENTURA AND THE INCORPORATED
CITIES THEREIN.**

Dear Interested Parties:

At the Workshop on the Second Draft Ventura County MS4 Permit (NPDES NO. CAS004002) held in Buenaventura on September 20, 2007, the Interim Executive Officer Deborah Smith announced the extension of the comment deadline, in response to a request made by the Ventura County MS4 Permittees. The comment deadline has been extended from September 28, 2007 to October 15, 2007.

Persons wishing to comment upon, or object to, changes to the WDR (NPDES NO. CAS004002), are invited to submit them in writing to Dr. Xavier Swamikannu at the above address, or send them electronically to: seconddraftVCMS4@waterboards.ca.gov. In order for the written comments to be evaluated and considered by staff, the deadline to receive comments, is no later than close of business on October 15, 2007.

California Environmental Protection Agency



Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

0000530

From: Tracy Woods
To: bjacobsen@nrdc.org; cleanwater@sfo.com; dbeckman@nrdc.org; edc@edcnet.org; info@sbck.org; kames@HealTheBay.org; mgold@healthebay.org; mmehta@nrdc.org; pjenkin@sbcglobal.net
Date: 9/24/2007 5:17:24 PM
Subject: Time extension for comments

Hello,

Please see the attached letter concerning the time extension for comments on the Second Draft Ventura County MS4 Permit (NPDES NO. CAS004002).

Tracy Woods
LA-RWQCB / Storm Water Permitting
320 W. 4th Street, #200
Los Angeles, CA 90013
Phone: 213/620-2095
Fax: 213/576-5777
E-mail: twoods@waterboards.ca.gov



California Regional Water Quality Control Board

Los Angeles Region



Linda S. Adams
EPA Secretary

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>

Arnold Schwarzenegger
Governor

September 24, 2007

To: Interested Parties

From: Tracy Woods
Ventura MS4 Program Lead,
Storm Water Permitting Program

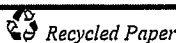
TIME EXTENTION FOR COMMENTS ON THE WASTE DISCHARGE REQUIREMENTS FOR STORM WATER (WET WEATHER) AND NON-STORM WATER (DRY WEATHER) DISCHARGES FROM THE MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4) WITHIN THE VENTURA COUNTY WATERSHED PROTECTION DISTRICT, COUNTY OF VENTURA AND THE INCORPORATED CITIES THEREIN.

Dear Interested Parties:

At the Workshop on the Second Draft Ventura County MS4 Permit (NPDES NO. CAS004002) held in Buenaventura on September 20, 2007, the Interim Executive Officer Deborah Smith announced the extension of the comment deadline, in response to a request made by the Ventura County MS4 Permittees. The comment deadline has been extended from September 28, 2007 to October 15, 2007.

Persons wishing to comment upon, or object to, changes to the WDR (NPDES NO. CAS004002), are invited to submit them in writing to Dr. Xavier Swamikannu at the above address, or send them electronically to: seconddraftVCMS4@waterboards.ca.gov. In order for the written comments to be evaluated and considered by staff, the deadline to receive comments, is no later than close of business on October 15, 2007.

California Environmental Protection Agency



Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

000532

From: Tracy Woods
To: ageorge@dpw.lacounty.gov; ammar.eltawil@lacity.org; ayman.jabbouri@lacity.org; bdepoto@dpw.lacounty.gov; canderson@lgc.org; cmink@ci.calabasas.ca.us; fwu@dpw.lacounty.gov; ggrene@downeyca.org; jmillet@rwaplanning.com; mpestrel@dpw.lacounty.gov; myeager@dpw.sbcounty.gov; richard.boon@rdmd.ocgov.com; robert.vega@lacity.org; shahram.kharaghani@lacity.org; Tom_Leary@longbeach.gov
Date: 9/24/2007 5:18:11 PM
Subject: Time extension for comments

Hello,

Please see the attached letter concerning the time extension for comments on the Second Draft Ventura County MS4 Permit (NPDES NO. CAS004002).

Tracy Woods
LA-RWQCB / Storm Water Permitting
320 W. 4th Street, #200
Los Angeles, CA 90013
Phone: 213/620-2095
Fax: 213/576-5777
E-mail: twoods@waterboards.ca.gov



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Los Angeles Region



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Arnold Schwarzenegger
Governor

September 24, 2007

To: Interested Parties

From: Tracy Woods
Ventura MS4 Program Lead,
Storm Water Permitting Program

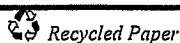
**TIME EXTENTION FOR COMMENTS ON THE WASTE DISCHARGE
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WATER (DRY WEATHER) DISCHARGES FROM THE MUNICIPAL SEPARATE
STORM SEWER SYSTEMS (MS4) WITHIN THE VENTURA COUNTY WATERSHED
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CITIES THEREIN.**

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California Environmental Protection Agency



Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

C000534

From: Tracy Woods
To: angietam@caaprofessionals.com; geoff@brosseau.us; hschroeder@biaglav.org;
jacota@fretel.com; john.kosco@tetrattech-ffx.com; kmoran@tdcenvironmental.com;
LAustin@Geosyntec.com; LBond@rwglaw.com; lcoe-juell@citymb.info; MackW@LWA.com;
mailto.bweber@edcnet.org; Martina.Keefe@tetrattech.com; mcohen@rwglaw.com; mgrey@biasc.org;
mlcoffee@Nossaman.com; mpoole@nossaman.com; nisenson@comcast.net; ron@wspa.org;
rwatson@rwaplanning.com; steve.carter@tetrattech-ffx.com; tcw@penfieldsmith.com;
wes.ganter@pgenv.com
Date: 9/24/2007 5:18:41 PM
Subject: Time extension for comments

Hello,

Please see the attached letter concerning the time extension for comments on the Second Draft Ventura County MS4 Permit (NPDES NO. CAS004002).

Tracy Woods
LA-RWQCB / Storm Water Permitting
320 W. 4th Street, #200
Los Angeles, CA 90013
Phone: 213/620-2095
Fax: 213/576-5777
E-mail: twoods@waterboards.ca.gov



California Regional Water Quality Control Board

Los Angeles Region



inda S. Adams
EPA Secretary

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>

Arnold Schwarzenegger
Governor

September 24, 2007

To: Interested Parties

From: Tracy Woods
Ventura MS4 Program Lead,
Storm Water Permitting Program

TIME EXTENTION FOR COMMENTS ON THE WASTE DISCHARGE REQUIREMENTS FOR STORM WATER (WET WEATHER) AND NON-STORM WATER (DRY WEATHER) DISCHARGES FROM THE MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4) WITHIN THE VENTURA COUNTY WATERSHED PROTECTION DISTRICT, COUNTY OF VENTURA AND THE INCORPORATED CITIES THEREIN.

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California Environmental Protection Agency



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Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

C000536

From: Tracy Woods
To: akuhlman@ci.camarillo.ca.us; arne.anselm@ventura.org; billo@hawkscivil.com; brapp@ci.fillmore.ca.us; cfinley@ci.santa-paula.ca.us; cmattingly@ci.port-hueneme.ca.us; debi.McAlpine@ventura.org; fcamarillo@ci.port-hueneme.ca.us; gerhardt.hubner@ventura.org; jack.phillips@ventura.org; Jeff.Pratt@ventura.org; jkelly@toaks.org; kgiesche@simivalley.org; llawhon@ci.santa-paula.ca.us; lwhitney@simivalley.org; mark.pumford@ci.oxnard.ca.us; paul.tantet@ventura.org; raymond.gutierrez@ventura.org; rbradley@ci.ventura.ca.us; tdavis@ci.moorpark.ca.us; vmusgrove@ci.ventura.ca.us
Date: 9/24/2007 5:29:25 PM
Subject: Time extension for comments

Hello,

As was stated at the Workshop on the 20th, a time extension for comments on the Second Draft Ventura County MS4 Permit (NPDES NO. CAS004002) was given. Please see the attached letter.

Tracy Woods
LA-RWQCB / Storm Water Permitting
320 W. 4th Street, #200
Los Angeles, CA 90013
Phone: 213/620-2095
Fax: 213/576-5777
E-mail: twoods@waterboards.ca.gov

C000537



California Regional Water Quality Control Board

Los Angeles Region



inda S. Adams
EPA Secretary

320 W. 4th Street, Suite 200, Los Angeles, California 90013
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Arnold Schwarzenegger
Governor

September 24, 2007

To: Interested Parties

From: Tracy Woods
Ventura MS4 Program Lead,
Storm Water Permitting Program

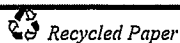
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California Environmental Protection Agency



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Ventura Countywide Stormwater Quality Management Program

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CALIFORNIA REGIONAL WATER
QUALITY CONTROL BOARD
LOS ANGELES REGION

Participating Agencies

August 31, 2007

- Camarillo
- County of Ventura
- Fillmore
- Moorpark
- Ojai
- Oxnard
- Port Hueneme
- San Buenaventura
- Santa Paula
- Simi Valley
- Thousand Oaks
- Ventura County
Watershed Protection
District

Ms. Deborah J. Smith, Interim Executive Officer
Los Angeles Regional Water Quality Control Board
320 4th Street, Suite 200
Los Angeles, CA 90013

**SUBJECT: REQUEST FOR EXTENSION OF WRITTEN
PUBLIC COMMENT PERIOD – SECOND DRAFT
VENTURA COUNTY MUNICIPAL SEPARATE
STORM SEWER SYSTEM ORDER (NPDES
No. CAS004002)**

Dear Ms. Smith:

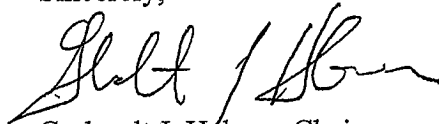
On August 28, 2007, we received a Public Notice entitled: "*Public Workshop on Proposed Changes to the Waste Discharge Requirements for Municipal Separate Storm Sewer System Discharges Within the Ventura County Watershed Protection District, County of Ventura, and the Incorporated Cities Therein, (NPDES No. CAS004002)*". Contained within this Public Notice is a deadline of September 28, 2007, for submittal of written comments.

On August 30, 2007, the Ventura Countywide Storm Water Program Management Committee discussed this public notice and this deadline, and unanimously agreed to send this letter with a request for an extension of the due date for submittal of written comments. Overwhelming the Committee felt 30 days was insufficient to provide adequate time to review and comment on such a lengthy and comprehensive regulatory document that could greatly impact the Ventura Countywide Stormwater Quality Management Program, the obligations of the Principal Permittee and Co-Permittees, and the citizens of Ventura County.



Therefore, we respectfully request the written public comment period be extended to October 15, 2007. Your consideration of our request is greatly appreciated. If you would like to discuss this request with me, feel free to call (805) 654-5051.

Sincerely,



Gerhardt J. Hübner, Chair
Ventura Countywide Program
Stormwater Management Committee

Cc: Ventura Countywide Program Co-Permittees



**BOARD OF SUPERVISORS
COUNTY OF VENTURA**

GOVERNMENT CENTER, HALL OF ADMINISTRATION
800 SOUTH VICTORIA AVENUE, VENTURA, CALIFORNIA 93009
2967 THOUSAND OAKS BLVD., THOUSAND OAKS, CA 91362 (Location Address)

MEMBERS OF THE BOARD
LINDA PARKS
Chair
STEVE BENNETT
KATHY I. LONG
PETER C. FOY
JOHN K. FLYNN

LINDA PARKS
SUPERVISOR, SECOND DISTRICT
(805) 373-2564
FAX: (805) 373-8396
E-mail: Linda.Parks@ventura.org

October 22, 2007

Ms. Francine Diamond, Chair
Los Angeles Regional Water Quality Control Board
320 4th Street, Suite 200
Los Angeles, CA 90013

**Re: Request for Additional Public Workshop on Proposed Municipal Stormwater Permit for
Ventura Countywide Program (NPDES No. CAS004002)**

Dear Ms. Diamond:

On behalf of the County of Ventura, I would like to thank you and your fellow Regional Board members for conducting and participating in the highly informative public workshop which was held at Ventura City Hall on September 20, 2007 with respect to the RWQCB 2nd Draft Stormwater Permit. A considerable amount of essential information was conveyed by Ventura County Permittees (County of Ventura and all ten cities) and other stakeholders about the potential environmental, infrastructure, and financial impacts associated with the current Draft Stormwater Permit.

As discussed at the September 20th public workshop, and in order to continue the dialogue, the County and all ten cities respectfully request a follow-up public workshop to be held within the County of Ventura prior to the issuance of a tentative Stormwater Permit. As was conveyed via the comments from all 11 Ventura County local governments, the Regional Board staff has put forward comprehensive Draft Permits that, if adopted, will have far reaching implications to the residents and local businesses of Ventura County for years to come. As a result, we would very much like the Regional Board to provide our residents and businesses with additional opportunities to participate in this process and at a location which is geographically convenient to them.

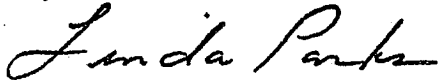
Board of Supervisors

October 22, 2007

Page 2 of 2

The County of Ventura is respectfully requesting that the Regional Water Quality Control Board carefully consider the needs of all 800,000 plus Ventura County residents and several thousand local businesses as you schedule subsequent workshops and public hearings on this critical issue. If the County can be of any assistance in locating a proper venue for the next public workshop, please do not hesitate to contact John Johnston, our County Chief Executive Officer at (805) 654-2681. Thank you for your consideration.

Sincerely,



Linda Parks, Chair
Board of Supervisors

cc: Los Angeles Regional Water Quality Control Board Members
Tracy Egoscue, Los Angeles Regional Water Quality Control Board Executive Officer
Ventura County Board of Supervisors
Ventura County City Mayors
John Johnston, Ventura County Chief Executive Officer
Ventura Countywide Stormwater Program Management Representatives

C000542

STATE CAPITOL
P.O. BOX 942849
SACRAMENTO, CA 94249-0035
(916) 319-2035
FAX (916) 319-2135

DISTRICT OFFICES
W. ANAPAMU ST., SUITE A
ANTA BARBARA, CA 93101
(805) 564-1649
FAX (805) 564-1651

201 E. FOURTH ST., SUITE 209-A
OXNARD, CA 93030
(805) 483-9808
FAX (805) 483-8182

Assembly California Legislature



PEDRO NAVA
ASSEMBLYMEMBER, THIRTY-FIFTH DISTRICT

COMMITTEES:

- CHAIR, TRANSPORTATION
- CHAIR, JOINT COMMITTEE ON EMERGENCY SERVICES AND HOMELAND SECURITY
- APPROPRIATIONS
- ENVIRONMENTAL SAFETY AND TOXIC MATERIALS
- WATER, PARKS AND WILDLIFE
- CALIFORNIA OCEAN PROTECTION COUNCIL
- CALIFORNIA TRANSPORTATION COMMISSION
- LITTLE HOOVER COMMISSION

February 1, 2008

Francine Diamond, Chair
Los Angeles Regional Water Quality Control Board
320 W. 4th Street, Suite 200
Los Angeles, CA 90013


**RE: Ventura County MS-4 Draft Permit
NPDES PERMIT NO. CAS004002**

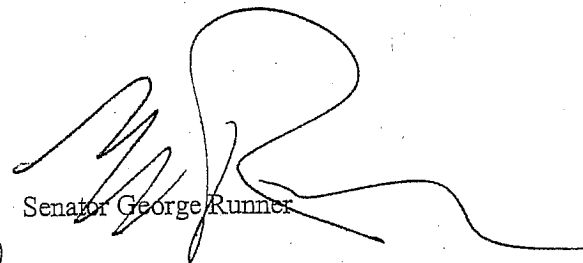
Dear Chair Diamond:


We have all been observing the recent deliberations of your Board regarding the draft National Pollutant Discharge Elimination System (NPDES) MS4 permit for Ventura County and understand that protecting and improving water quality is essential to public health, agriculture, economic development and our quality of life. Ventura County and its Cities have long been known to be good stewards of environmental planning and that they have a strong desire to work collaboratively with your Board and staff to develop sensible conditions for the draft permit under consideration.

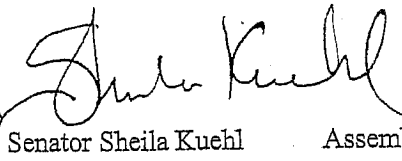
It is in this collaborative spirit that we would respectfully request your Board to confirm the direction that we had understood from your September 20, 2007 hearing, wherein apparent agreement was reached to allow for a further workshop prior to the release of the 3rd draft permit, to give all stakeholders an opportunity to study the impacts of a 2nd MS4 draft permit. We appreciate all of your efforts toward a balanced and environmentally sensitive draft permit for Ventura County and its co-permittees and look forward to working with you to achieve this goal.

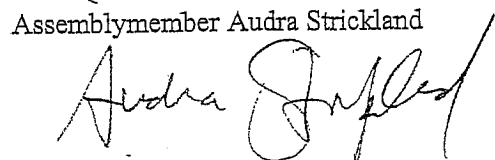
Sincerely,


Assemblymember Pedro Nava


Senator George Runner


Assemblymember Julia Brownley


Senator Sheila Kuehl


Assemblymember Audra Strickland


Assemblymember Cameron Smyth

2008 FEB 22 PM 2:18
CALIFORNIA LEGISLATURE
SACRAMENTO, CALIFORNIA

CC: Mary Ann Lutz
Maribel Marin
Bradley H. Mindlin
H. David Nahai
F. W. "Dick" Richardson
Leo J. Vander Lans

C000544



DEPARTMENT OF
FINANCE
OFFICE OF THE DIRECTOR

ARNOLD SCHWARZENEGGER, GOVERNOR

STATE CAPITOL ■ ROOM 1145 ■ SACRAMENTO CA ■ 95814-4998 ■ WWW.DOF.CA.GOV

March 27, 2008

Ms. Paula Higashi
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Dear Ms. Higashi:

Re: CSM-03-TC-04, "Transit Trash Receptacles"
CSM-03-TC-19, "Inspection of Industrial/Commercial Facilities"
CSM-03-TC-20, "Waste Discharge Requirements"
CSM-03-TC-21, "Stormwater Pollution Control Requirements"

As requested in your letters referencing the California Regional Water Quality Control Board's Executive Order #01-182 (test claim permit), the Department of Finance (Finance) has reviewed the test claims submitted by the County of Los Angeles and several cities (claimants) asking the Commission on State Mandates (Commission) to determine whether specified costs incurred under the test claim permit are reimbursable state mandated costs. Commencing with specified sections of the test claim permit, as plead in the four test claims referenced above, the claimants have identified the following as new programs or higher levels of service, which they assert are reimbursable state mandates imposed on the local agencies.

1. Identify all transit stops within its jurisdiction except for the Los Angeles River and Ballona Creek Watershed Management areas. (Part 4, F.5.c.3.)
2. Select proper trash receptacle designs and evaluate proper placement of trash receptacles. (Part 4, F.5.c.3.)
3. Design receptacle pad improvement, if needed. (Part 4, F.5.c.3.)
4. Construct and install trash receptacle units. (Part 4, F.5.c.3.)
5. Collect trash and maintain receptacles. (Part 4, F.5.c.3.)
6. Inspect certain commercial facilities to prevent those facilities from discharging waste into waters of the state and to assure compliance with state law. (Part 4, c.2.a.)
7. Inspect industrial facilities to determine compliance with the state's program that regulates discharge of storm water from industrial facilities, including compliance with State Water Resources Control Board's (Water Board) permits. (Part 4, c.2.b.)
8. Inspect construction sites to determine compliance with the state's program that regulates discharge of storm water from those sites, including compliance with the Water Board's permits. (Part 4, E.)

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LOS ANGELES REGION

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9. Increase street sweeping, catch basin cleaning, installing and maintaining other treatment devices to address trash impacts upon stormwater mitigation systems. (Part 4, F.5.c.3.)
10. Increase costs to comply with new industrial and construction inspection mandates. (Part 4, F.5.c.3.)
11. Increase inspections to be conducted of industrial discharges not currently regulated by the State of California. (Part 4, F.5.c.3.)

As a result of our review, Finance finds that the test claim permit does not impose a reimbursable state mandate on local agencies within the meaning of Section 6 of Article XIII B of the California Constitution. The permit conditions imposed on the local agencies are required by federal laws, and pursuant to the federal mandate exception in subdivision (c) of Section 17556 of the Government Code, the requirements of the permit are not reimbursable programs:

Subdivision (c): The Commission on State Mandates shall not find costs mandated by the state if the *"statute or executive order imposes a requirement that is mandated by a federal law or regulation and results in costs mandated by the federal government, unless the statute or executive order mandates costs that exceed the mandate in that federal law or regulation. This subdivision applies regardless of whether the federal law or regulation was enacted or adopted prior to or after the date on which the state statute or executive order was enacted or issued."*

When issuing a permit, the Water Board is acting as an administrator of the federal government and must require the local agencies to apply for a permit under the federal Clean Water Act (CWA) (33 U.S.C. §1342). The federal Environmental Protection Agency has delegated the federal permitting authority to the Water Board as a state-approved National Pollutant Discharge Elimination System (NPDES) permitting program. This authority allows the Water Board to act on behalf of the federal government to develop, administer, and enforce the NPDES program in compliance with Section 402 of the CWA. Pursuant to paragraph (5) of subdivision (a) of Section 402 of the CWA, *"the Administrator shall authorize a State, which he determines has the capability of administering a permit program which will carry out the objectives of this Act, to issue permits for discharges into navigable waters in the jurisdiction of such State."* This authority is extended to the nine regional boards that are the principal state agencies with the primary responsibility for the coordination and control of water quality under Section 401 of the CWA. In effect, the federal law authorized the Water Board, acting as the administrator, to exercise its federal permitting authority and set the detailed permit conditions specific to the claimants' region complying with the regulations of CWA. (Title 40, Code of Federal Regulations, Section 122, 123.25, and 124 and 33 U.S.C. § 1342(p)(3)(B)). Thus, the requirements of the permit are federally required to comply with the NPDES program. Further, compliance with the requirements is enforceable under the federal CWA (33 U.S.C § 1365).

The Water Board, acting as the federal government, is required to issue a permit to coordinate enforcement efforts of wastewater violations (Title 40 of Code of Federal Regulations, Section 122.44(k)). As stated in paragraph 22, on page 11 of the test claim permit *"...the USEPA*

guidance anticipates coordination of the state-administered program for industrial and construction activities with the local agencies program to reduce pollutant in storm water discharged to the MS4." The Water Board must issue a permit requiring the local agencies to carry out certain activities in order to enforce and regulate dischargers violating municipal ordinances. The permit process begins when the local agency applies for a permit and identifies the practices to be included and enforced.

Subdivisions (a) and (b) of Part 4.c.2 of the test claim permit refer to the permit condition of inspecting facilities under the *Industrial and Commercial Facilities Control Program*. The claimants allege that the permit condition requires the local agencies to inspect the facilities that have state-issued General Industrial and General Construction Stormwater permits, and claim this activity is new for the local agencies and had been the responsibility of the Water Board pursuant to the California Regional Water Quality Control Board Resolution 98-08, the Stormwater Quality Management Plan, and State Water Resources Control Board Order Nos. 97-03-DWQ and 99-08-DWQ. The claimants assert that the Water Board shifted the inspection obligations to the local agencies and imposed reimbursable new programs.

Although these inspections and other permit requirements may result in additional costs to the local agencies, those costs are not reimbursable because the conditions implement federal NPDES permit requirements and do not shift responsibilities from the state to local agencies. The claimants have not identified any state law requiring local agencies to inspect state-issued permit facilities for violating state permitting regulations, or discontinuing the state inspections of state-issued permit facilities. Therefore, Finance concludes that the municipal inspections are federally required for enforcing local ordinances and such a requirement does not shift responsibilities from the state to the local agencies.

Finance contends that the requirements of the test claim permit are federal laws imposed on the local agencies because the federal CWA mandates that local agencies must apply for and receive permits regulating discharges of pollutants from their municipal separate storm sewer systems (MS4) to the waters of the United States. The Water Board acts as the administrator for the federal government in approving these permits (Sections 13370 through 13389 of the Water Code). The local agencies first proposed permit requirements to the Water Board when submitting the application for the test claim permit. Local agencies were then allowed to publicly participate and influence the development, revision, and enforcement of any regulation, standard effluent limitation, and storm water prevention plan or program (Public Process section of the permit and Section 122.1 of Title 40 of the Codes of Federal Regulations). The Water Board approved the permit and the permit became effective when the United States Environmental Protection Agency did not veto the permit.

Additionally, the claimants had discretion over what activities and conditions to include in the permit application. First, the permittee submitted a Storm Water Quality Management Program prevention report with its application. These entities had the option to use "best management practices" to identify alternative practices to reduce pollution in water to the maximum extent practicable, but were required by federal law to include specific practices to be applicable in the particular region (subdivision (p) of Section 402 of the CWA). In some instances, agencies may elect a "rigid" numeric end-of-pipe permit limitation, where the permittee must satisfy specific

Ms. Paula Higashi
March 27, 2008
Page 4

effluent limitations rather than implement best management practices. Here, the local agencies prescribed the activities to be included in the permit. The permitting authority allowed the permittees to publicly participate and influence the development, revision, and enforcement of any regulation, standard effluent limitation, and storm water prevention plan or program (Public Process section of the permit and Section 122.1 of Title 40 of the Code of Federal Regulations). As a result, the permit requirements are a downstream result of the local agencies' decision to include the particular activities in the permit. Such requirements are not reimbursable mandates.

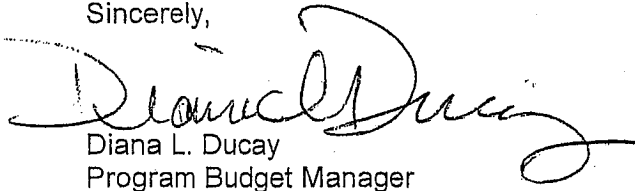
Finance notes that the courts have held that increased costs associated with downstream activities of an underlying discretionary action are not reimbursable. Specifically, in *Department of Finance v. Commission on State Mandates (2003) (30 Cal. 4th 727, 745-746)*, the court affirmed that where participation in the underlying program is voluntary, the resulting new consequential requirements do not constitute a reimbursable state mandate.

Finance also notes that some local agencies have set fees to be used toward funding the claimed permit activities. Should the Commission decide a reimbursable mandate exists, these fees should be considered as offsetting revenues toward the requirements of the permit.

As required by the Commission's regulations, a "Proof of Service" has been enclosed indicating that the parties included on the mailing list which accompanied your October 29, 2007 letter have been provided with copies of this letter via either United States Mail or, in the case of other state agencies, Interagency Mail Service.

If you have any questions regarding this letter, please contact Carla Castañeda, Principal Program Budget Analyst at (916) 445-3274.

Sincerely,



Diana L. Ducay
Program Budget Manager

Enclosures

C000548

Attachment A

DECLARATION OF CARLA CASTAÑEDA
DEPARTMENT OF FINANCE

CLAIM NOS. CSM-03-TC-04, CSM-03-TC-19, CSM-03-TC-20, and CSM-03-TC-21

1. I am currently employed by the State of California, Department of Finance (Finance), am familiar with the duties of Finance, and am authorized to make this declaration on behalf of Finance.

I certify under penalty of perjury that the facts set forth in the foregoing are true and correct of my own knowledge except as to the matters therein stated as information or belief and, as to those matters, I believe them to be true.

Nov 27, 2008
at Sacramento, CA

Carla Castañeda
Carla Castañeda

PROOF OF SERVICE

Test Claim Number/Name:

CSM-03-TC-04 Transit Trash Receptacles
CSM-03-TC-19 Inspection of Industrial/Commercial Facilities
CSM-03-TC-20 Waste Discharge Requirements
CSM-03-TC-21 Stormwater Pollution Control Requirements

I, the undersigned, declare as follows:

I am employed in the County of Sacramento, State of California, I am 18 years of age or older and not a party to the within entitled cause; my business address is 915 L Street, 12 Floor, Sacramento, CA 95814.

On March 25, 2008, I served the attached recommendation of the Department of Finance in said cause, by facsimile to the Commission on State Mandates and by placing a true copy thereof: (1) to claimants and nonstate agencies enclosed in a sealed envelope with postage thereon fully prepaid in the United States Mail at Sacramento, California; and (2) to state agencies in the normal pickup location at 915 L Street, 12 Floor, for Interagency Mail Service, addressed as follows:

A-16
Ms. Paula Higashi
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Mr. Leonard Kaye, Esq.
County of Los Angeles
Auditor-Controller's Office
500 West Tempe Street, Room 603
Los Angeles, CA 90012

Ms. Tracy Egoscue
Los Angeles Regional Water Quality
Control Board
320 West 4th Street, Suite 200
Los Angeles, CA 90013-2343

B-08
Mr. Jim Spano
State Controller's Office
Division of Audits
300 Capitol Mall, Suite 518
Sacramento, CA 95814

Mr. Evan J. McGinley, Esq.
Richards, Watson & Gershon LLP
355 South Grand Avenue, 40th Floor
Los Angeles, CA 90071

A-15
Ms. Carla Castaneda
Department of Finance
915 L Street, 11th Floor
Sacramento, CA 95814

A-15
Ms. Susan Geanacou
Department of Finance
915 L Street, Suite 1190
Sacramento, CA 95814

Mr. Howard Gest
David W. Burhenn & Gest, LLP
624 S. Grand Avenue, Suite 2200
Los Angeles, CA 90017

Ms. Emmerline Foote
City of Inglewood
One Manchester Boulevard, Suite 860
Inglewood, CA 90301

Mr. Clark Moseley
City of El Monte
11333 Valley Boulevard
El Monte, CA 91731-3293

Mr. Richard Montevideo
Rutan & Tucker LLP
P.O. Box 1950
Costa Mesa, CA 92626-1950

Mr. Allan Burdick
MAXIMUS
4320 Auburn Boulevard, Suite 2000
Sacramento, CA 95841

C000550

Mr. Scott Nichols
Alvarez-Glasman & Clovin
13181 Crossroads Parkway North
Suite 400
City of Industry, CA 91746

Mr. David Wellhouse
David Wellhouse & Associates, Inc.
9175 Kiefer Boulevard, Suite 121
Sacramento, CA 95826

Ms. Juliana F. Gmur
MAXIMUS
2380 Houston Avenue
Clovis, CA 93611

Ms. Harmeet Barkschat
Mandate Resource Services
5325 Elkhorn Boulevard, #307
Sacramento, CA 95842

B-08
Ms. Ginny Brummels
State Controller's Office
Division of Accounting and Reporting
3301 C Street, Suite 500
Sacramento, CA 95816

Mr. Sergio Ramirez
City of Foster City
Estero Municipal Improvement district
100 Lincoln Centre Drive
Foster City, CA 94404

Ms. Dorothy Rice
State Water Resources Control Board
P.O. Box 2815
Sacramento, CA 95812-2815

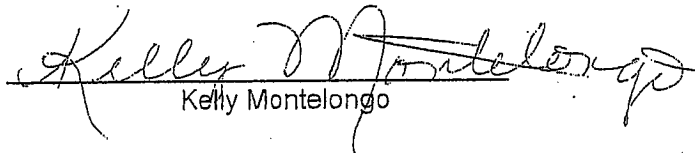
Mr. Steve Smith
Steve Smith Enterprises, Inc.
3323 Watt Avenue #291
Sacramento, CA 95821

Mr. Glen Everroad
City of Newport Beach
3300 Newport Boulevard
P.O. Box 1768
Newport Beach, CA 92659-1768

Ms. Annette Chinn
Cost Recovery Systems, Inc.
705-2 East Bidwell Street, #294
Folsom, CA 95630

Mr. J. Bradley Burgess
Public Resource Management Group
895 La Sierra Drive
Sacramento, CA 95864

On I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on March 25, 2008, at Sacramento, California.


Kelly Montelongo

C000551

Flood Control

BOARD OF SUPERVISORS, COUNTY OF VENTURA, STATE OF CALIFORNIA

FLOOD CONTROL DISTRICT

TUESDAY, JUNE 30, 1992, AT 10:00 A.M.

FC- Zones 1, 2, 3 & 4

ALL MEMBERS PRESENT

After holding a public hearing and hearing testimony of Marvin Castleberry and Lee Anderson, upon motion of Supervisor Howard, seconded by Supervisor VanderKolk, and duly carried, the Board hereby approves the following matter:

PUBLIC WORKS AGENCY
county of ventura

2000 JUN 3 PM 2 14

Director
Arthur E. Goulet

Representing Ex-officio:
Ventura County Flood Control District
Ventura County Waterworks Districts
No. 1, 16, 17, and 19
Lake Sherwood Community Services District
Fox Canyon Groundwater Management Agency

Deputy Directors
John C. Crowley
Water Resources/Development
Al F Knuth
Transportation
R.E. Quinn
Engineering Services
Paul W. Ruffin
Central Services
Alex Sheydayi
Flood Control

June 9, 1992

Board of Supervisors
Ventura County Flood Control District
800 South Victoria Avenue
Ventura, California 93009

Subject: FISCAL YEAR 1992-93 (FY 93) BENEFIT ASSESSMENT
PROGRAM FOR FLOOD CONTROL, ZONES 1, 2, 3 AND 4

RECOMMENDATION:

On June 9, 1992:

- Set 10:00 a.m. on June 30, 1992, as the time to receive oral testimony concerning the levy of benefit assessments to pay for costs in Zones 1, 2, 3, and 4.
- File the FY 93 Report on Benefit Assessment with the Clerk of the Board and make it available for review by any member of the general public.
- Direct the Clerk of the Board to cause notice of the filing of the report and of public hearing on this matter by the Board of Supervisors of the Flood Control District to be published pursuant to Section 6066 of the Government Code and posted in at least three public places within the District.

On June 30, 1992:

- Receive any oral testimony at the public hearing.
- After consideration of all testimony received, approve and adopt the FY 93 Benefit Assessment.
- Approve and adopt the Resolution adopting and confirming FY 93 assessments of real property.



DISCUSSION:

The Ventura County Flood Control Act was amended by Chapter 438, Statutes of 1987 (SB326) to authorize the District to levy assessments on real property on the basis of the benefit each parcel will derive from the improvements to be constructed, maintained, operated, extended or repaired, in lieu of using an ad valorem basis. The attached report, which recommends the continuation of benefit assessments for flood control in Zones 1, 2, 3, and 4, includes a description of flood control needs and present funding; the services proposed to be financed through benefit assessment revenues; the parcels subject to the benefit assessment and the amount for each parcel; and the basis and schedule of the assessment.

On June 14, 1988, your Board first adopted a resolution approving the establishment and levy of benefit assessment for the costs of flood control services in Zones 1, 2, 3, and 4. At that time, your Board also adopted a resolution confirming assessment rates for Fiscal Year 1988/89 in each of the zones, which resulted in a total of approximately \$4.9 million revenue to the District. In each subsequent fiscal year, your Board has resolved to continue the Benefit Assessment Program for Flood Control and set new assessment rates in each of the four zones. For Fiscal Year 1991/92, this action resulted in approximate revenue of \$6.03 million. These monies have filled a critical need to finance the cost of operations and maintenance of the flood control system in each zone.

The recommended benefit assessment for the flood control program for Fiscal Year 1992/93 has been expanded to provide needed revenues in three areas other than operations and maintenance:

1. Flood Damage Repair. The storms of February and March 1992, caused \$11.3 million in damage to District facilities. The worst damage, amounting to \$10.04 million, occurred in Zone 3. State and Federal disaster assistance is expected to provide for much, but not all, of the damage repair costs. It is necessary, therefore, to levy assessments in all four zones for the local share of flood damage costs. The greatest increase is in Zone 3, where \$7.17 of the total benefit assessment rate will go toward flood damage repair costs.
2. Facilities Deficiency Study. Despite the boost given the capital projects program by benefit assessment for flood control maintenance, it may be necessary to augment revenues for flood control improvements. It is proposed to initiate a program to address facility deficiencies in the Calleguas Creek drainage basin (Zone 3). This study and planning effort is estimated to cost \$385,000, equating to an additional assessment of \$2.88/BAU.

3. Municipal Stormwater Discharge Program - National Pollutant Discharge Elimination System (NPDES)

On April 14, 1992 your Board approved the concept of a County-wide NPDES program and the use of the District's benefit assessment authority to finance it. The implementation agreement between the District, the County and cities which have requested financing from the Benefits Assessment program and the resolutions setting the amount of assessment within their jurisdictional boundaries will be approved prior to the adoption of the levy.

The proposed assessments will be used to finance the preparation of various parts of the permit in Zone 3 and 4 and in Oxnard, as well as to initiate efforts toward a County-wide permit in all the zones.

The proposed rates for FY 93 are presented in the following table, together with a comparison to the current year and the previous year. The amount shown for NPDES includes a component for the District and for the noted city or the County.

BASIC ANNUAL ASSESSMENT RATE

ZONE (Area)	O & M, REPAIR AND DEFICIENCY RATE			NPDES RATE	TOTAL RATE
	FY91	FY92	FY93		
1	\$13.97	\$13.93	15.84	\$0.99	\$16.83
2 (ALL EXCEPT OXNARD)	21.20	21.95	18.88	0.99	19.87
2 (OXNARD)	21.20	21.95	18.88	9.45	28.33
3 (UNINCORPORATED)	28.77	24.12	34.91	5.85	40.76
3 (MOORPARK)	28.77	24.12	34.91	2.98	37.89
3 (CAMARILLO)	28.77	24.12	34.91	6.22	41.13
3 (THOUSAND OAKS)	28.77	24.12	34.91	7.63	42.54
3 (SIMI VALLEY)	28.77	24.12	34.91	8.23	43.14
4 (SOUTH COUNTY- UNINC.)	9.00	7.27	2.30	4.90	7.20
4 (THOUSAND OAKS)	9.00	7.27	2.30	6.97	9.27
4 (NORTH COUNTY -UNINC.)	9.00	7.27	2.30	0.00	2.30

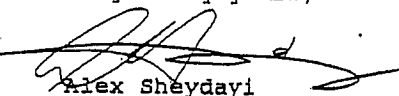
Board of Supervisors
June 9, 1992
Page 4

Assessments to provide sufficient revenue to meet the flood control needs will be based on proportional stormwater runoff from each parcel of real property included in the Assessor's roll. Public, undeveloped, and certain utility parcels are exempted by law. If your Board adopts the proposed rates, they will yield approximately \$8,773,800 in revenue to the District, including a total of \$1,492,000 for NPDES, of which \$926,000 is raised on behalf of the listed cities and the County.

The report and resolution have been reviewed and approved by County Counsel for legal form and sufficiency. This item has also been reviewed by the Auditor-Controller.

If you have any questions regarding this item, please contact the undersigned at extension 2040.

Very truly yours,



Alex Sheydayi
Deputy Director of Public Works
Flood Control Department

AS/BL:rb

Attachments

COPIES TO:

PWA (2)
Auditor
Files (2)
Item 10

C000555

RESOLUTION OF THE BOARD OF SUPERVISORS OF
VENTURA COUNTY FLOOD CONTROL DISTRICT
ADOPTING AND CONFIRMING ASSESSMENTS ON REAL PROPERTY
FOR FISCAL YEAR 1992/93

WHEREAS, the Board has received a written report on benefit assessment program for flood control as provided in Government Code Section 54715 and 54716, which report, as amended, complies in all respects with the requirements of those section; and

WHEREAS, the Clerk of this Board has filed said report and has fixed Tuesday, June 30, 1992, at 10:00 a.m. in the Board's chambers, Administration Building, 800 South Victoria Avenue, Ventura, California, as the time, date, and place for this hearing upon such report; and

WHEREAS, the Clerk has caused notice of this hearing to be published pursuant to Section 6066 of the Government Code, and proof of such publication is on file with the Clerk; and

WHEREAS, three copies of the notice of this hearing have been posted as required by law, and proof of such posting is on file with the Clerk; and

WHEREAS, at the hearing this Board heard and considered all testimony to the report, including comments with respect to the amount of the assessment to be levied, and then closed the public hearing; and

WHEREAS, this Board adopted a resolution on June 14, 1988, providing for the establishing and levy of benefit assessments to pay for the cost of providing Flood Control services in Zones 1, 2, 3, and 4, which Resolution reflects the Board's determination with respect to assessments, and all other matters pertaining to the same.

NOW, THEREFORE, BE IT RESOLVED that this Board does hereby makes its determination upon each parcel and the assessment described in said report, and that it does hereby, confirm and adopt and levy each and all assessments for 1992/93 on such property as described in said report and as determined by said Resolution, dated June 14, 1988, a copy of which is attached as Exhibit A hereto and by reference incorporated herein, and directs that this Resolution be recorded in the office of the County Recorder.

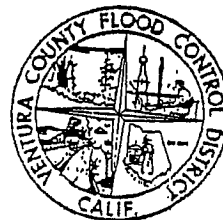
ADOPTED ON JUN 30 1992

VENTURA COUNTY FLOOD CONTROL DISTRICT

By: John L. Johnson
Chair, Board of Supervisors

ATTEST:
RICHARD D. DEAN, County Clerk
of the County of Ventura and
ex officio, Clerk of the Board
of Supervisors of the Ventura
County Flood Control District

By: Roberta Rodriguez



C000556

EXHIBIT - A

RECEIVED
2009 MAR 13 5:02 PM
VENTURA COUNTY FLOOD CONTROL DISTRICT

RESOLUTION OF THE BOARD OF SUPERVISORS OF
VENTURA COUNTY FLOOD CONTROL DISTRICT
PROVIDING FOR THE ESTABLISHMENT AND LEVY
OF BENEFIT ASSESSMENT TO PAY FOR THE
COSTS OF FLOOD CONTROL SERVICES IN
ZONES 1, 2, 3 AND 4

IT IS HEREBY RESOLVED AND ORDERED AS FOLLOWS:

1. Reason for Resolution:

The Ventura County Flood Control District improves and maintains a system for storm monitoring and warning, and a flood protection system of channels, debris basins, pumping plants, storm drains, and other facilities upon which the safety of the lives and property of District residents and property owners depend. It is necessary that these facilities be kept in a safe and effective condition. The purpose of the benefit assessment is to finance the maintenance and operation of flood control services to keep the existing flood protection system in a safe and effective condition and to enable the District to respond to emergencies and repair. In future years additional benefit assessment revenues may be used to provide for the completion of necessary improvements to District facilities and for the local cost sharing required for federal projects. The state legislature has authorized the District to levy such an assessment on each parcel of property within the District, or any zone thereof, on the basis of estimated benefits. Since the District services are necessitated by storm water runoff, the Board finds that the most equitable basis upon which to levy the assessment is proportionate storm water runoff attributable to each parcel of land utilizing area and land use information pertaining to each parcel of real property within the District, from the County Assessor Master Property File.

2. Purpose and Authority:

The purpose of this Resolution is to prescribe and provide for the levy of benefit assessments in Zones 1, 2, 3 and 4 of the District to derive revenue to be used to finance the maintenance and operation costs of flood control services and, as may be needed in future years, for the cost of installation and local cost sharing for improvement of, and restoration of damaged flood control facilities within said zones pursuant to and in accordance with the authority of Section 12.3 of the Ventura County Flood Control Act and Section 54710 to 54711 of the Government Code.

3. Definitions:

For the purposes of this Resolution, the following words and phrases shall have the meaning respectively ascribed to them.

- a. "District" or "Flood Control District" means the Ventura County Flood Control District.
- b. "Board" means the Board of Supervisors of the Ventura County Flood Control District.
- c. "Zone" means a zone or special zone established by the Board pursuant to the provisions of the District Act.
- d. "District Act" means the Ventura County Flood Control District Act, Statutes 4th Ex. Session 1944, State of California, Chapter 44, as amended.
- e. "Public Works Agency" means the Public Works Agency of the County of Ventura, State of California.
- f. "Director" means the Director of the Public Works Agency or his designated representative.
- g. "Parcel of real property" means a parcel of real property or a legal right to real property as shown on the tax rolls of the County of Ventura, State of California.
- h. "Clerk" means the Clerk of the Board of Supervisors.
- i. "Enforcing officer" means the Director of the Public Works Agency or his designated representative.

4. Report:

The Director shall prepare a written report for each fiscal year for which a flood control benefit assessment is to be levied, and shall file the report with the Clerk of the Board, and cause it to be recorded in the office of the County Recorder.

5. Content of Report:

The report shall contain a description of the services proposed to be financed. It shall also describe each parcel of real property and the amount of the assessment for each parcel, and shall estimate the cost not otherwise offset by other available revenue of providing flood control services within the District or any zone thereof during the ensuing year. The assessment shall be levied on the basis of estimated benefits, which shall be determined on the basis of proportionate storm water runoff for each parcel.

6. Duties of Clerk of Board:

Upon receiving the filing of the report, the Clerk shall fix a time, date, and place for a hearing upon the report. Prior to the date of the hearing, a notice of the hearing shall be published pursuant to Section 6066 of the Government Code and at least three copies of the notice shall be posted at public places within the District.

7. Hearing:

The Board shall hear the matter as scheduled, or as postponed or continued for good cause. At the hearing, the Board shall hear and consider all testimony. At the conclusion of the hearing, the Board may adopt, revise, change, reduce, or modify any assessment and shall make its determination upon each assessment described in the report and thereafter, by resolution, shall confirm the assessments. Such confirming resolution shall be adopted no later than July 1 in the fiscal year during which the assessment is to be levied and collected, and shall be recorded in the office of the County Recorder.

8. Appeal - Right and Procedure:

Thereafter the Director may correct assessments in the same manner as assessor's or assessee's errors may be corrected but based only upon any or all of the following:

- a. changes or corrections in ownership of a parcel;
- b. subdivision of an existing parcel into 2, 3, or 4 parcels;
- c. corrections in use of a parcel;
- d. corrections in the computation of the area of a parcel;
- e. corrections in the computation of the assessment for a parcel.

Any person aggrieved by the refusal of the Director to correct an assessment pursuant to this Resolution, may appeal to the Board within thirty (30) days after the date of such refusal by filing with the Clerk of the Board a request that the Board review the decision of the Director. The appeal shall be in the form of a written notice and shall be signed by the person aggrieved. The notice shall contain the Assessor's parcel numbers, the amount of assessments, and the reasons upon which the person aggrieved relies on his appeal. The Clerk of the Board shall set the matter for hearing within fifteen (15) days

after the notice is filed with said Clerk and shall notify the person aggrieved and the enforcing officer of the date set for hearing on the matter. At the hearing, the person aggrieved shall have the burden of establishing to the satisfaction of the Board that he is entitled to a corrected assessment; otherwise the refusal of the Director shall stand. The Director may present his grounds for refusing the correction. The decision of the Board is final.

9. Copy to Auditor-Controller:

The Clerk shall immediately file certified copies of the final determination of assessments and confirming resolution with the Auditor-Controller.

10. Collection of Benefit Assessment:

The benefit assessment for each parcel set forth in the final determination by the Board shall appear as a separate item on the tax bill. The confirmed benefit assessment shall be levied and collected at the same time and in the same manner as the general tax levy for county purposes, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for such taxes.

11. Applicable Law:

All laws applicable to the levy, collection, and enforcement of county ad valorem property taxes shall be applicable to such benefit assessment, except as otherwise provided herein or in Government Code Sections 54710 through 54716, inclusive.

12. Invalidation of Deadline:

Failure to meet the time limits set forth in this Resolution for whatever reason shall not invalidate any benefit assessment levied hereunder.

13. Flood Control Benefit Assessment Levied:

No flood control benefit assessment shall be imposed upon a federal, state, or local governmental agency, or non-benefiting undeveloped property and utility parcels. Except as provided in the preceding sentence, a flood control benefit assessment is levied on each parcel of real property in Zones 1, 2, 3 and 4 of the District for the fiscal year beginning July 1, 1988, for the purposes stated and in the amounts provided in the report titled "Report on Benefit Assessment for Flood Control, May 1988," including Appendix "B" of the report, "List of Descriptions and Amounts of Assessments for

Each Parcel of Real Property for Purposes of the 1988-89 Benefit Assessment for Flood Control." Said report as amended, by reference therein, is hereby referenced and incorporated herein as though set forth at length in this Resolution. The assessment for each parcel of Zones 1, 2, 3 and 4 is computed by multiplying the number of assessment units for the parcel times the rate per assessment unit.

14. Assessment Formulas:

This benefit assessment program for flood control shall use a single family dwelling on 0.2 acres of land with an imperviousness of 0.40 (40%) as the basic assessment unit (BAU). A single family home represents a reasonable middle ground of all potential land uses, as well as the most numerous type of use. The basic assessment unit shall be expressed numerically as follows:

$$1 \text{ BAU} = \text{site area} \times \text{site imperviousness}$$

or

$$1 \text{ BAU} = 0.2 \text{ acres} \times 0.40 \text{ imperviousness}$$

or

$$1 \text{ BAU} = 0.08$$

Where a site use code describes the entire use to be expected on a parcel, the number of BAUs for that parcel shall be calculated as follows:

$$\text{Number of BAUs} = \frac{\text{Parcel area (AA)} \times \text{site imperviousness (SI)}}{1 \text{ Basic assessment unit}}$$

or

$$\frac{\text{AA} \times \text{SI}}{0.08}$$

A more convenient expression of the basic formula above is:

$$\text{BAUs per acre}^{(1)} \times \text{parcel area}$$

(1) This is determined by multiplying one acre by the site imperviousness and dividing by one basic assessment unit.)

The following six formulas created with the above format shall be used for the appropriate single use parcels as specifically identified in Appendix "A". Other "mixed-use" formulas may apply depending on a particular parcel's size. (See "mixed-use" formulas "G" through "M" below.)

Formula A - Commercial, Industrial, Condominiums

$$\text{BAUs} = 10 \text{ BAUs/acre} \times \text{AA} \\ (0.8 \text{ imperviousness})$$

Formula B - Mobile Home Parks, Churches, Schools

$$\text{BAUs} = 7.5 \text{ BAUs/acre} \times \text{AA} \\ (0.6 \text{ imperviousness})$$

Formula C - Residential

$$\text{BAUs} = 5 \text{ BAUs/acre} \times \text{AA} \\ (0.4 \text{ imperviousness})$$

Formula D - Golf Courses, Green Belts

$$\text{BAUs} = 2.5 \text{ BAUs/acre} \times \text{AA} \\ (0.2 \text{ imperviousness})$$

Formula E - Vacant Land, Mining, Oil Wells

$$\text{BAUs} = 0.125 \text{ BAU/acre} \times \text{AA} \\ (0.01 \text{ imperviousness})$$

Formula F - Agriculture

$$\text{BAUs} = 0.2375 \text{ BAU/acre} \times \text{AA} \\ (0.019 \text{ imperviousness})$$

Where a site use code was found to describe only a portion of actual parcel, a "mixed" assessment formulas shall be used. The "other" use not described by the site use code is considered to be vacant land. For residential site use codes describing up to four single family dwellings on one lot as identified in Appendix "A", the following four formulas shall be used:

Formula G - 1 Dwelling Unit

$$\text{BAUs} = 1 \text{ BAU} + [(\text{AA} - 0.2 \text{ acres}) \times 0.125 \text{ BAU/acre}]$$

Formula H - 2 Dwelling Units

$$\text{BAUs} = 2 \text{ BAUs} + [(\text{AA} - 0.4 \text{ acres}) \times 0.125 \text{ BAU/acre}]$$

Formula I - 3 Dwelling Units

$$\text{BAUs} = 3 \text{ BAUs} + [(\text{AA} - 0.6 \text{ acres}) \times 0.125 \text{ BAU/acre}]$$

Formula J - 4 Dwelling Units

$$\text{BAUs} = 4 \text{ BAUs} + [(\text{AA} - 0.8 \text{ acres}) \times 0.125 \text{ BAU/acre}]$$

Where the actual parcel size is less than that of the assumed number of basic assessment, then the Formula "C" shall be used.

The remaining three "mixed" site use code formulas shall be used for unique land use situations as specifically identified in Appendix "A". General uses are shown below.

Formula K - Churches, Private Schools, Colleges, Rest Homes and Camps

$$\text{BAUs} = 15 \text{ BAUs} + [(\text{AA} - 2.0 \text{ acres}) \times 0.125 \text{ BAU/acre}] \\ (0.6 \text{ imperviousness})$$

Formula L - Golf Courses, Green Belts

$$\text{BAUs} = 30 \text{ BAUs} + [(\text{AA} - 12.0 \text{ acres}) \times 0.125 \text{ BAU/acre}] \\ (0.2 \text{ imperviousness})$$

Formula M - Industrial, Resource Production, Greenhouses, Egg Production

$$\text{BAUs} = 100 \text{ BAUs} + [(\text{AA} - 10.0 \text{ acres}) \times 0.125 \text{ BAU/acre}] \\ (0.8 \text{ imperviousness})$$

15. The effective date of this resolution is the date of adoption.

PASSED, APPROVED AND ADOPTED on June 14, 1988.

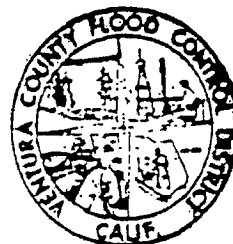
VENTURA COUNTY FLOOD CONTROL DISTRICT

By John K. Flynn
Chair, Board of Supervisors

ATTEST:

RICHARD D. DEAN, County Clerk of the County of Ventura, ex officio Clerk of the Ventura County Flood Control District Board of Supervisors.

By Ray Hillard
Deputy Clerk



WML/tw/jg

C000563

Item 8a
1/11/88

BOARD OF SUPERVISORS, COUNTY OF VENTURA, STATE OF CALIFORNIA
FLOOD CONTROL DISTRICT

TUESDAY, MARCH 31, 1992, AT 8:30 A.M.

FC-Calleguas Creek/507/510/509/508

ALL MEMBERS PRESENT

Upon motion of Supervisor Erickson Kildee, seconded by Supervisor Howard, and duly carried, the Board hereby approves the following matter:

PUBLIC WORKS AGENCY
county of ventura

Director
Arthur E. Goulet

Deputy Directors

- John C. Crowley
Water Resources/Development
- Al E. Knuth
Transportation
- R.E. Quinn
Engineering Services
- Paul W. Ruffin
Central Services
- Alex Sheydayi
Flood Control

Representing Ex-officio:

- Ventura County Flood Control District
- Ventura County Waterworks Districts
No. 1, 16, 17, and 19
- Sherwood Community Services District
- anyon Groundwater Management Agency

March 31, 1992

Board of Supervisors
Ventura County Flood Control District
800 South Victoria Avenue
Ventura, California 93009

Subject: COOPERATIVE AGREEMENT MUNICIPAL STORMWATER
DISCHARGE PERMIT CALLEGUAS CREEK WATERSHED

RECOMMENDATION:

1. Approve the Cooperative Agreement.
2. Authorize the Chair to sign on behalf of the Ventura County Flood Control District (District).

DISCUSSION:

In 1987, the Congress of the United States in the reauthorization of the Clean Water Act (CWA) mandated all municipalities to obtain a National Pollution Discharge Elimination System (NPDES) permit for their stormwater systems. The purpose of this portion of Section 402 of the CWA is to control the pollutants entering the waters of the United States by requiring permittees to identify and implement structural and non-structural measures which would result in the reduction of pollutants.

The final Environmental Protection Agency (EPA) regulations for the implementation of the NPDES program were adopted on November 16, 1990. In California EPA has delegated its authority to the State Water Resources Control Board (SWRCB). EPA regulations established the population of municipalities as a criteria for filing the date for applications for NPDES permits. However, under present CWA requirements, all municipalities are required to apply by October 1992. Municipality, as defined by EPA, is any incorporated or unincorporated population center.



RECEIVED
MAY 11 3 14 PM '92
CALIFORNIA DEPARTMENT OF WATER
RESOURCES CONTROL BOARD
10700 AVENUE 128
MANTENA, CALIFORNIA 95028

Board of Supervisors
March 31, 1992
Page two

The District as the owner and operator of the receiving watercourses, the waters in which are also considered the waters of the United States, is the agency ultimately responsible for the quality of the stormwater. It is, therefore, appropriate that it take the lead in the development of an integrated stormwater discharge program in the County.

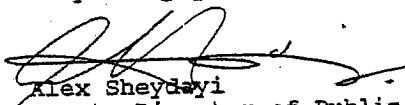
The attached cooperative agreement is the first step in establishing a mechanism for cooperation between the various entities with land use regulation authority (the County and Cities of Camarillo, Moorpark, Simi Valley, and Thousand Oaks) in the Calleguas Creek Watershed (Zone 3), and the District. It is anticipated that a Zone-wide implementation program will result in a substantial savings to the residents in the Zone versus the cost of separate implementation by the individual municipality.

The agreement which has already been approved and signed by the four Cities in the zone does not provide for financial obligation between the parties, but only commits the parties to work toward a single permit and an implementation agreement which would identify the responsibilities of the parties to the permit. Implementation agreements for the NPDES programs are already in place among the various participants in the counties of Los Angeles, Orange, San Bernardino, Riverside, San Diego, Santa Clara and Sacramento.

If you have any questions regarding this item, please contact the undersigned at Extension 2040.

The agreement has been reviewed by County Counsel.

Very truly yours,



Alex Sheydavi
Deputy Director of Public Works
Flood Control Department

AS:ebh

Attachment

COPIES TO:

PWA (2)
Auditor
Files (6)
Item 35
3/31/92 rr

C000565

**COOPERATIVE AGREEMENT FOR THE
MUNICIPAL STORMWATER DISCHARGE PERMIT
FOR THE CALLEGUAS CREEK WATERSHED**

This AGREEMENT is entered into by and between the County of Ventura hereinafter referred to as COUNTY, the Ventura County Flood Control District hereinafter referred to as DISTRICT, and the Cities of Camarillo, Moorpark, Simi Valley and Thousand Oaks hereinafter collectively referred to as CITIES.

Whereas, Congress in 1987 amended Section 402 of the Federal Clean Water Act (33 U.S.C.A. 1342(p)) to require the federal Environmental Protection Agency (EPA) to promulgate regulations for applications for permits for stormwater discharges; and

Whereas, these permit regulations will require the control of pollutants from stormwater discharges by requiring a National Pollutant Discharge Elimination System (NPDES) Permit for the discharge of stormwaters into waters of the United States; and

Whereas, these EPA regulations require NPDES permits for discharges from municipal storm drains on a system-wide or jurisdiction-wide basis; and

Whereas, based on the 1990 census, it is anticipated that the Los Angeles Regional Water Quality Control Board (LARWQCB) will be directing the City of Thousand Oaks and the City of Simi Valley to file applications for NPDES Permits; and

Whereas, it is anticipated that by 1995 the City of Moorpark, City of Camarillo and the COUNTY will be directed to file applications for NPDES permits; and

Whereas, the DISTRICT owns, operates and has regulatory jurisdiction over improved and natural channels to which CITIES' and COUNTY's storm drains are tributary; and

Whereas, the Legislature, in enacting the Ventura County Flood Control Act, created the DISTRICT to provide for the control of flood and storm waters; and

Whereas, the Powers granted to the DISTRICT include carrying on technical and other investigations, examinations or tests of all kinds, making measurements, collecting data, and making analyses, studies, and inspections pertaining to water supply, control of floods, identification, regulation and prevention of contamination and pollution of surface waters within the DISTRICT; and

Board of Supervisors
March 31, 1992
Page two

The District as the owner and operator of the receiving watercourses, the waters in which are also considered the waters of the United States, is the agency ultimately responsible for the quality of the stormwater. It is, therefore, appropriate that it take the lead in the development of an integrated stormwater discharge program in the County.

The attached cooperative agreement is the first step in establishing a mechanism for cooperation between the various entities with land use regulation authority (the County and Cities of Camarillo, Moorpark, Simi Valley, and Thousand Oaks) in the Calleguas Creek Watershed (Zone 3), and the District. It is anticipated that a Zone-wide implementation program will result in a substantial savings to the residents in the Zone versus the cost of separate implementation by the individual municipality.

The agreement which has already been approved and signed by the four Cities in the zone does not provide for financial obligation between the parties, but only commits the parties to work toward a single permit and an implementation agreement which would identify the responsibilities of the parties to the permit. Implementation agreements for the NPDES programs are already in place among the various participants in the counties of Los Angeles, Orange, San Bernardino, Riverside, San Diego, Santa Clara and Sacramento.

If you have any questions regarding this item, please contact the undersigned at Extension 2040.

The agreement has been reviewed by County Counsel.

Very truly yours,



Alex Sheydayi
Deputy Director of Public Works
Flood Control Department

IN WITNESS WHEREOF, the parties hereto have executed this agreement.

COUNTY OF VENTURA

Dated: MAR 31 1992

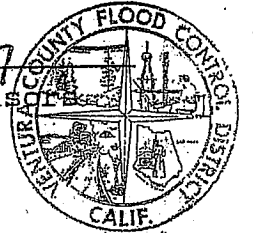
By: John K. Flynn
Chair, Board of Supervisors



VENTURA COUNTY FLOOD CONTROL DISTRICT

Dated: MAR 31 1992

By: John K. Flynn
Chair, Board of Supervisors



ATTEST:

RICHARD D. DEAN, County Clerk of the County of Ventura and ex officio Clerk of the Board of Supervisors of the County of Ventura and of the Ventura County Flood Control DISTRICT

By: Roberta Rodriguez
Deputy Clerk

CITIES:

CITY OF MOORPARK

Dated: _____ By: _____

ATTEST: _____

CITY OF CAMARILLO

Dated: _____ By: _____

ATTEST: _____

CITY OF SIMI VALLEY

Dated: _____ By: _____

ATTEST: _____

CITY OF THOUSAND OAKS

Dated: _____ By: _____

ATTEST: _____

C000568

IN WITNESS WHEREOF, the parties hereto have executed this agreement.

COUNTY OF VENTURA

Dated: _____

By: _____
Chair, Board of Supervisors

VENTURA COUNTY FLOOD CONTROL DISTRICT

Dated: _____

By: _____
Chair, Board of Supervisors

ATTEST:

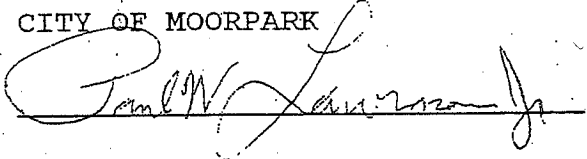
RICHARD D. DEAN, County Clerk of the
County of Ventura and ex officio
Clerk of the Board of Supervisors
of the County of Ventura and of the
Ventura County Flood Control DISTRICT

By: _____
Deputy Clerk

CITIES:

CITY OF MOORPARK

Dated: _____

By: 

ATTEST: _____

CITY OF CAMARILLO

Dated: _____

By: _____

ATTEST: _____

CITY OF SIMI VALLEY

Dated: _____

By: _____

ATTEST: _____

CITY OF THOUSAND OAKS

Dated: _____

By: _____

ATTEST: _____

IN WITNESS WHEREOF, the parties hereto have executed this agreement.

COUNTY OF VENTURA

Dated: _____

By: _____
Chair, Board of Supervisors

VENTURA COUNTY FLOOD CONTROL DISTRICT

Dated: _____

By: _____
Chair, Board of Supervisors

ATTEST:

RICHARD D. DEAN, County Clerk of the
County of Ventura and ex officio
Clerk of the Board of Supervisors
of the County of Ventura and of the
Ventura County Flood Control DISTRICT

By: _____
Deputy Clerk

CITIES:

CITY OF MOORPARK

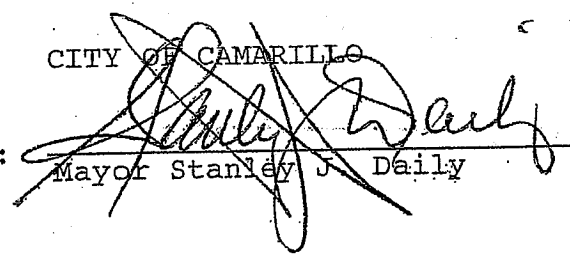
Dated: _____

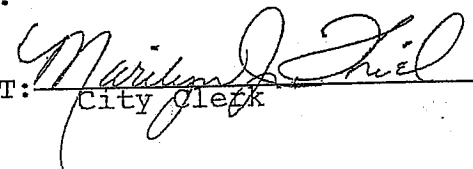
By: _____

ATTEST: _____

CITY OF CAMARILLO

Dated: February 12, 1992

By: 
Mayor Stanley J. Daily

ATTEST: 
City Clerk

CITY OF SIMI VALLEY

Dated: _____

By: _____

ATTEST: _____

CITY OF THOUSAND OAKS

Dated: _____

By: _____

ATTEST: _____

C000570

IN WITNESS WHEREOF, the parties hereto have executed this agreement.

COUNTY OF VENTURA

Dated: _____

By: _____
Chair, Board of Supervisors

VENTURA COUNTY FLOOD CONTROL DISTRICT

Dated: _____

By: _____
Chair, Board of Supervisors

ATTEST:

RICHARD D. DEAN, County Clerk of the
County of Ventura and ex officio
Clerk of the Board of Supervisors
of the County of Ventura and of the
Ventura County Flood Control DISTRICT

By: _____
Deputy Clerk

CITIES:

CITY OF MOORPARK

Dated: _____

By: _____

ATTEST: _____

CITY OF CAMARILLO

Dated: _____

By: _____

ATTEST: _____

CITY OF SIMI VALLEY

Dated: March 23, 1992

By: *Gregory Stratton*
Gregory Stratton, Mayor

ATTEST: *Alice K. Redondo*
Alice K. Redondo
Assistant City Clerk

CITY OF THOUSAND OAKS

Dated: _____

By: _____

ATTEST: _____

IN WITNESS WHEREOF, the parties hereto have executed this agreement.

COUNTY OF VENTURA

Dated: _____

By: _____
Chair, Board of Supervisors

VENTURA COUNTY FLOOD CONTROL DISTRICT

Dated: _____

By: _____
Chair, Board of Supervisors

ATTEST:

RICHARD D. DEAN, County Clerk of the
County of Ventura and ex officio
Clerk of the Board of Supervisors
of the County of Ventura and of the
Ventura County Flood Control DISTRICT

By: _____
Deputy Clerk

CITIES:

CITY OF MOORPARK

Dated: _____

By: _____

ATTEST: _____

CITY OF CAMARILLO

Dated: _____

By: _____

ATTEST: _____

CITY OF SIMI VALLEY

Dated: _____

By: _____

ATTEST: _____

CITY OF THOUSAND OAKS

Dated: March 3, 1992

By: Robert E. Lewis
Robert E. Lewis, Mayor

ATTEST: Nancy A. Dillon
Nancy A. Dillon, City Clerk

C000572

PUBLIC WORKS AGENCY
County of Ventura

ATTACHMENT B

Director
Arthur E. Goulet

Representing Ex-officio:

Ventura County Flood Control District
Ventura County Waterworks Districts
No. 1, 16, 17, and 19
Lake Sherwood Community Services District
Fox Canyon Groundwater Management Agency

Deputy Directors

John C. Crowley
Water Resources/Development
Al F. Knuth
Transportation
R.E. Quinn
Engineering Services
Paul W. Ruffin
Central Services
Alex Sheydayi
Flood Control

1492

April 14, 1992

Board of Supervisors
Ventura County Flood Control District
800 South Victoria Avenue
Ventura, California 93009

Subject: MUNICIPAL STORMWATER DISCHARGE PROGRAM
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

RECEIVED
2000 APR 13 PM 2 14
CALIFORNIA GENERAL VALLEY
COUNTY OF VENTURA
LOS ANGELES REGION

ACTION:

Approve the concept of a County-wide program and the use of Flood Control District's benefit assessment authority to finance it.

DISCUSSION:


On March 31, 1992, your Board approved the cooperative agreement for the Municipal Stormwater Discharge Permit for the Calleguas Creek Watershed. It is anticipated that we will be returning to your Board shortly for approval of similar agreements in the Ventura River Watershed (Zone 1) and the Santa Clara River Watershed (Zone 2). A number of cities in these zones have already approved the agreement. As indicated in the March 31, 1992 Board letter, the aforementioned cooperative agreement was the first step in establishing a mechanism for cooperation between the District and the entities with land use regulation in the County.

As your Board has also been informed, the municipal stormwater discharge permit program is a federally mandated program which must be carried out, or each offending municipality will be subject to substantial daily penalties. We believe that the most logical method of implementing the Environmental Protection Agency (EPA) regulations is through a County-wide National Pollutant Discharge Elimination System (NPDES) Permit program, which will result in substantial savings to the citizens of Ventura County. Some of the potential areas where savings will accrue are as follows:



1. At the present time, the application fee for the Part 1 NPDES Permit is \$10,000. Therefore, if individual permits are issued, the fee would be \$110,000 versus \$10,000 for a single County-wide permit. It is anticipated that very shortly, the individual permit fee will be increased to \$50,000 to cover the State's cost of administering the program.
2. Savings of at least \$200,000 in the preparation of the Part 1 NPDES Permit application.
3. Substantial savings in the monitoring program, when the second part of the program is implemented. Present EPA regulations require between five to ten monitoring stations per municipality. It is anticipated that the extent of monitoring could be reduced by at least 50% by implementing an area-wide program. The estimated annual cost of operating a monitoring station could be in excess of \$50,000.
4. Provide us with a more favorable negotiating position with the Los Angeles Regional Water Quality Control Board (LARWQCB). The State Water Resources Control Board (SWRCB) has indicated that it prefers area-wide permit applications rather than individual applications, and could require a joint program. We believe that by proposing a County-wide permit, we may be able to negotiate more favorable terms in the permit.

All Part 1 Permits issued in the State to date have been issued on a county-wide or regional basis. To encourage regional municipal permits, the SWRCB has established an annual fee of \$250 for individual industrial NPDES permits in counties with existing municipal permits and \$500 in counties without an existing permit. This is another area where cost savings will accrue. These will be direct savings by the private industrial-commercial sector.

 Concurrently, in connection with negotiations for the aforementioned agreement, we have been reviewing options for financing the program. The conclusion reached is that the most logical financing method is through the use of the Flood Control District's Benefit Assessment Program.

As you know the Benefit Assessment Program is based on the amount of stormwater runoff generated by various land uses. For example, an industrial or commercial facility pays a higher proportional share of the assessment due to the larger impervious area as compared to a residential lot or an agricultural field. By using the Benefit Assessment Program to finance the NPDES program, the burden will be distributed proportionally to the amount of stormwater runoff and the generated pollution.

Board of Supervisors
April 14, 1992
Page three

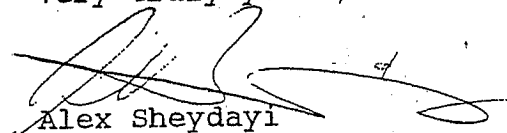
Furthermore, at present, benefit assessment is the only identifiable means available to finance the District's and the County's share of the cost of the program. Although the cities may be able to finance the program through utility fees or other similar methods, financing through a method that is based on the amount of runoff is truly the most equitable way.

The implementation agreements being drafted at this time will include the methodology which would allow the use of benefit assessment financing by the cities. The agreements will provide for required public hearing procedures for any city (or the County) wishing to be included in the program, with regard to the extent of program it plans to carry out and the amount of assessment, accountability to the city's constituents, and to insure expenditures are properly made. However, the decision to levy a benefit assessment for this purpose and the amount thereof will be at the sole discretion of your Board. Additionally, we are working on a text layout for the property tax bills which would clearly identify the assessment as being levied on behalf of the city (or the county).

Since the use of the District's benefit assessment authority on behalf of a city (or the county) is a new approach, we thought it would be best for your Board to consider this conceptually before any implementation agreements are acted upon by cities, so that no undue expectations are raised.

If you have any questions regarding this item, please contact the undersigned at Extension 2040.

Very truly yours,



Alex Sheydayi
Deputy Director of Public Works
Flood Control Department

AS/AEG:ebh

C000575

Flood Control

BOARD OF SUPERVISORS, COUNTY OF VENTURA, STATE OF CALIFORNIA
FLOOD CONTROL DISTRICT

TUESDAY, JUNE 30, 1992, AT 10:00 A.M.

FC- Zones 1, 2, 3 & 4

ALL MEMBERS PRESENT

After holding a public hearing and hearing testimony of Marvin Castleberry and Lee Anderson, upon motion of Supervisor Howard, seconded by Supervisor VanderKolk, and duly carried, the Board hereby approves the following matter:

PUBLIC WORKS AGENCY
county of ventura

Director
Arthur E. Goulet

Representing Ex-officio:
Ventura County Flood Control District
Ventura County Waterworks Districts
No. 1, 16, 17, and 19
Lake Sherwood Community Services District
Fox Canyon Groundwater Management Agency

Deputy Directors
John C. Crowley
Water Resources/Development
A.F. Knuth
Transportation
R.E. Quinn
Engineering Services
Paul W. Ruffin
Central Services
Alex Sheydavi
Flood Control

June 9, 1992

Board of Supervisors
Ventura County Flood Control District
800 South Victoria Avenue
Ventura, California 93009

Subject: FISCAL YEAR 1992-93 (FY 93) BENEFIT ASSESSMENT PROGRAM FOR FLOOD CONTROL, ZONES 1, 2, 3 AND 4

RECOMMENDATION:

On June 9, 1992:

- Set 10:00 a.m. on June 30, 1992, as the time to receive oral testimony concerning the levy of benefit assessments to pay for costs in Zones 1, 2, 3, and 4.
- File the FY 93 Report on Benefit Assessment with the Clerk of the Board and make it available for review by any member of the general public.
- Direct the Clerk of the Board to cause notice of the filing of the report and of public hearing on this matter by the Board of Supervisors of the Flood Control District to be published pursuant to Section 6066 of the Government Code and posted in at least three public places within the District.

On June 30, 1992:

- Receive any oral testimony at the public hearing.
- After consideration of all testimony received, approve and adopt the FY 93 Benefit Assessment.
- Approve and adopt the Resolution adopting and confirming FY 93 assessments of real property.



DISCUSSION:

The Ventura County Flood Control Act was amended by Chapter 438, Statutes of 1987 (SB326) to authorize the District to levy assessments on real property on the basis of the benefit each parcel will derive from the improvements to be constructed, maintained, operated, extended or repaired, in lieu of using an ad valorem basis. The attached report, which recommends the continuation of benefit assessments for flood control in Zones 1, 2, 3, and 4, includes a description of flood control needs and present funding; the services proposed to be financed through benefit assessment revenues; the parcels subject to the benefit assessment and the amount for each parcel; and the basis and schedule of the assessment.

On June 14, 1988, your Board first adopted a resolution approving the establishment and levy of benefit assessment for the costs of flood control services in Zones 1, 2, 3, and 4. At that time, your Board also adopted a resolution confirming assessment rates for Fiscal Year 1988/89 in each of the zones, which resulted in a total of approximately \$4.9 million revenue to the District. In each subsequent fiscal year, your Board has resolved to continue the Benefit Assessment Program for Flood Control and set new assessment rates in each of the four zones. For Fiscal Year 1991/92, this action resulted in approximate revenue of \$6.03 million. These monies have filled a critical need to finance the cost of operations and maintenance of the flood control system in each zone.

The recommended benefit assessment for the flood control program for Fiscal Year 1992/93 has been expanded to provide needed revenues in three areas other than operations and maintenance:

1. Flood Damage Repair. The storms of February and March 1992, caused \$11.3 million in damage to District facilities. The worst damage, amounting to \$10.04 million, occurred in Zone 3. State and Federal disaster assistance is expected to provide for much, but not all, of the damage repair costs. It is necessary, therefore, to levy assessments in all four zones for the local share of flood damage costs. The greatest increase is in Zone 3, where \$7.17 of the total benefit assessment rate will go toward flood damage repair costs.
2. Facilities Deficiency Study. Despite the boost given the capital projects program by benefit assessment for flood control maintenance, it may be necessary to augment revenues for flood control improvements. It is proposed to initiate a program to address facility deficiencies in the Calleguas Creek drainage basin (Zone 3). This study and planning effort is estimated to cost \$385,000, equating to an additional assessment of \$2.88/BAU.

3. Municipal Stormwater Discharge Program - National Pollutant Discharge Elimination System (NPDES)

On April 14, 1992 your Board approved the concept of a County-wide NPDES program and the use of the District's benefit assessment authority to finance it. The implementation agreement between the District, the County and cities which have requested financing from the Benefits Assessment program and the resolutions setting the amount of assessment within their jurisdictional boundaries will be approved prior to the adoption of the levy.

The proposed assessments will be used to finance the preparation of various parts of the permit in Zone 3 and 4 and in Oxnard, as well as to initiate efforts toward a County-wide permit in all the zones.

The proposed rates for FY 93 are presented in the following table, together with a comparison to the current year and the previous year. The amount shown for NPDES includes a component for the District and for the noted city or the County.

BASIC ANNUAL ASSESSMENT RATE


ZONE (Area)	O & M, REPAIR AND DEFICIENCY RATE			NPDES RATE	TOTAL RATE
	FY91	FY92	FY93		
1	\$13.97	\$13.93	15.84	\$0.99	\$16.83
2 (ALL EXCEPT OXNARD)	21.20	21.95	18.88	0.99	19.87
2 (OXNARD)	21.20	21.95	18.88	9.45	28.33
3 (UNINCORPORATED)	28.77	24.12	34.91	5.85	40.76
3 (MOORPARK)	28.77	24.12	34.91	2.98	37.89
3 (CAMARILLO)	28.77	24.12	34.91	6.22	41.13
3 (THOUSAND OAKS)	28.77	24.12	34.91	7.63	42.54
3 (SIMI VALLEY)	28.77	24.12	34.91	8.23	43.14
4 (SOUTH COUNTY- UNINC.)	9.00	7.27	2.30	4.90	7.20
4 (THOUSAND OAKS)	9.00	7.27	2.30	6.97	9.27
4 (NORTH COUNTY -UNINC.)	9.00	7.27	2.30	0.00	2.30

8
Assessments to provide sufficient revenue to meet the flood control needs will be based on proportional stormwater runoff from each parcel of real property included in the Assessor's roll. Public, undeveloped, and certain utility parcels are exempted by law. If your Board adopts the proposed rates, they will yield approximately \$8,773,800 in revenue to the District, including a total of \$1,492,000 for NPDES, of which \$926,000 is raised on behalf of the listed cities and the County.

The report and resolution have been reviewed and approved by County Counsel for legal form and sufficiency. This item has also been reviewed by the Auditor-Controller.

If you have any questions regarding this item, please contact the undersigned at extension 2040.

Very truly yours,


Alex Sheydayi
Deputy Director of Public Works
Flood Control Department

AS/BL:rb

Attachments

1492,000
926,000

COPIES TO:

PWA (2)
Auditor
Files (2)
Item 10

C000579

RESOLUTION OF THE BOARD OF SUPERVISORS OF
VENTURA COUNTY FLOOD CONTROL DISTRICT
ADOPTING AND CONFIRMING ASSESSMENTS ON REAL PROPERTY
FOR FISCAL YEAR 1992/93

WHEREAS, the Board has received a written report on benefit assessment program for flood control as provided in Government Code Section 54715 and 54716, which report, as amended, complies in all respects with the requirements of those section; and

WHEREAS, the Clerk of this Board has filed said report and has fixed Tuesday, June 30, 1992, at 10:00 a.m. in the Board's chambers, Administration Building, 800 South Victoria Avenue, Ventura, California, as the time, date, and place for this hearing upon such report; and

WHEREAS, the Clerk has caused notice of this hearing to be published pursuant to Section 6066 of the Government Code, and proof of such publication is on file with the Clerk; and

WHEREAS, three copies of the notice of this hearing have been posted as required by law, and proof of such posting is on file with the Clerk; and

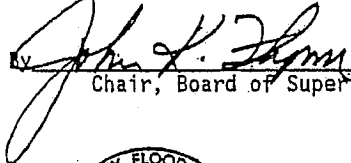
WHEREAS, at the hearing this Board heard and considered all testimony to the report, including comments with respect to the amount of the assessment to be levied, and then closed the public hearing; and

WHEREAS, this Board adopted a resolution on June 14, 1988, providing for the establishing and levy of benefit assessments to pay for the cost of providing Flood Control services in Zones 1, 2, 3, and 4, which Resolution reflects the Board's determination with respect to assessments, and all other matters pertaining to the same.

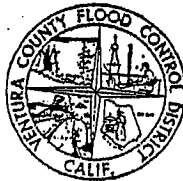
NOW, THEREFORE, BE IT RESOLVED that this Board does hereby makes its determination upon each parcel and the assessment described in said report, and that it does hereby, confirm and adopt and levy each and all assessments for 1992/93 on such property as described in said report and as determined by said Resolution, dated June 14, 1988, a copy of which is attached as Exhibit A hereto and by reference incorporated herein, and directs that this Resolution be recorded in the office of the County Recorder.

ADOPTED ON JUN 30 1992

VENTURA COUNTY FLOOD CONTROL DISTRICT


Chair, Board of Supervisors

ATTEST:
RICHARD D. DEAN, County Clerk
of the County of Ventura and
ex officio, Clerk of the Board
of Supervisors of the Ventura
County Flood Control District



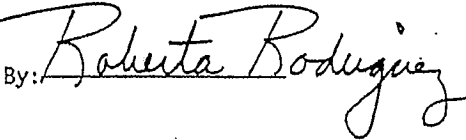
By: 

EXHIBIT - A

RESOLUTION OF THE BOARD OF SUPERVISORS OF
VENTURA COUNTY FLOOD CONTROL DISTRICT
PROVIDING FOR THE ESTABLISHMENT AND LEVY
OF BENEFIT ASSESSMENT TO PAY FOR THE
COSTS OF FLOOD CONTROL SERVICES IN
ZONES 1, 2, 3 AND 4

IT IS HEREBY RESOLVED AND ORDERED AS FOLLOWS:

1. Reason for Resolution:

The Ventura County Flood Control District improves and maintains a system for storm monitoring and warning, and a flood protection system of channels, debris basins, pumping plants, storm drains, and other facilities upon which the safety of the lives and property of District residents and property owners depend. It is necessary that these facilities be kept in a safe and effective condition. The purpose of the benefit assessment is to finance the maintenance and operation of flood control services to keep the existing flood protection system in a safe and effective condition and to enable the District to respond to emergencies and repair. In future years additional benefit assessment revenues may be used to provide for the completion of necessary improvements to District facilities and for the local cost sharing required for federal projects. The state legislature has authorized the District to levy such an assessment on each parcel of property within the District, or any zone thereof, on the basis of estimated benefits. Since the District services are necessitated by storm water runoff, the Board finds that the most equitable basis upon which to levy the assessment is proportionate storm water runoff attributable to each parcel of land utilizing area and land use information pertaining to each parcel of real property within the District, from the County Assessor Master Property File.

2. Purpose and Authority:

The purpose of this Resolution is to prescribe and provide for the levy of benefit assessments in Zones 1, 2, 3 and 4 of the District to derive revenue to be used to finance the maintenance and operation costs of flood control services and, as may be needed in future years, for the cost of installation and local cost sharing for improvement of, and restoration of damaged flood control facilities within said zones pursuant to and in accordance with the authority of Section 12.3 of the Ventura County Flood Control Act and Section 54710 to 54711 of the Government Code.

3. Definitions:

For the purposes of this Resolution, the following words and phrases shall have the meaning respectively ascribed to them.

- a. "District" or "Flood Control District" means the Ventura County Flood Control District.
- b. "Board" means the Board of Supervisors of the Ventura County Flood Control District.
- c. "Zone" means a zone or special zone established by the Board pursuant to the provisions of the District Act.
- d. "District Act" means the Ventura County Flood Control District Act, Statutes 4th Ex. Session 1944, State of California, Chapter 44, as amended.
- e. "Public Works Agency" means the Public Works Agency of the County of Ventura, State of California.
- f. "Director" means the Director of the Public Works Agency or his designated representative.
- g. "Parcel of real property" means a parcel of real property or a legal right to real property as shown on the tax rolls of the County of Ventura, State of California.
- h. "Clerk" means the Clerk of the Board of Supervisors.
- i. "Enforcing officer" means the Director of the Public Works Agency or his designated representative.

4. Report:

The Director shall prepare a written report for each fiscal year for which a flood control benefit assessment is to be levied, and shall file the report with the Clerk of the Board, and cause it to be recorded in the office of the County Recorder.

5. Content of Report:

The report shall contain a description of the services proposed to be financed. It shall also describe each parcel of real property and the amount of the assessment for each parcel, and shall estimate the cost not otherwise offset by other available revenue of providing flood control services within the District or any zone thereof during the ensuing year. The assessment shall be levied on the basis of estimated benefits, which shall be determined on the basis of proportionate storm water runoff for each parcel.

6. Duties of Clerk of Board:

Upon receiving the filing of the report, the Clerk shall fix a time, date, and place for a hearing upon the report. Prior to the date of the hearing, a notice of the hearing shall be published pursuant to Section 6066 of the Government Code and at least three copies of the notice shall be posted at public places within the District.

7. Hearing:

The Board shall hear the matter as scheduled, or as postponed or continued for good cause. At the hearing, the Board shall hear and consider all testimony. At the conclusion of the hearing, the Board may adopt, revise, change, reduce, or modify any assessment and shall make its determination upon each assessment described in the report and thereafter, by resolution, shall confirm the assessments. Such confirming resolution shall be adopted no later than July 1 in the fiscal year during which the assessment is to be levied and collected, and shall be recorded in the office of the County Recorder.

8. Appeal - Right and Procedure:

Thereafter the Director may correct assessments in the same manner as assessor's or assessee's errors may be corrected but based only upon any or all of the following:

- a. changes or corrections in ownership of a parcel;
- b. subdivision of an existing parcel into 2, 3, or 4 parcels;
- c. corrections in use of a parcel;
- d. corrections in the computation of the area of a parcel;
- e. corrections in the computation of the assessment for a parcel.

Any person aggrieved by the refusal of the Director to correct an assessment pursuant to this Resolution, may appeal to the Board within thirty (30) days after the date of such refusal by filing with the Clerk of the Board a request that the Board review the decision of the Director. The appeal shall be in the form of a written notice and shall be signed by the person aggrieved. The notice shall contain the Assessor's parcel numbers, the amount of assessments, and the reasons upon which the person aggrieved relies on his appeal. The Clerk of the Board shall set the matter for hearing within fifteen (15) days

Each Parcel of Real Property for Purposes of the 1988-89 Benefit Assessment for Flood Control." Said report as amended, by reference therein, is hereby referenced and incorporated herein as though set forth at length in this Resolution. The assessment for each parcel of Zones 1, 2, 3 and 4 is computed by multiplying the number of assessment units for the parcel times the rate per assessment unit.

14. Assessment Formulas:

This benefit assessment program for flood control shall use a single family dwelling on 0.2 acres of land with an imperviousness of 0.40 (40%) as the basic assessment unit (BAU). A single family home represents a reasonable middle ground of all potential land uses, as well as the most numerous type of use. The basic assessment unit shall be expressed numerically as follows:

$$1 \text{ BAU} = \text{site area} \times \text{site imperviousness}$$

or

$$1 \text{ BAU} = 0.2 \text{ acres} \times 0.40 \text{ imperviousness}$$

or

$$1 \text{ BAU} = 0.08$$

Where a site use code describes the entire use to be expected on a parcel, the number of BAUs for that parcel shall be calculated as follows:

$$\text{Number of BAUs} = \frac{\text{Parcel area (AA)} \times \text{site imperviousness (SI)}}{1 \text{ Basic assessment unit}}$$

or

$$\frac{\text{AA} \times \text{SI}}{0.08}$$

A more convenient expression of the basic formula above is:

$$\text{BAUs per acre}^{(1)} \times \text{parcel area}$$

(1) This is determined by multiplying one acre by the site imperviousness and dividing by one basic assessment unit.)

The following six formulas created with the above format shall be used for the appropriate single use parcels as specifically identified in Appendix "A". Other "mixed-use" formulas may apply depending on a particular parcel's size. (See "mixed-use" formulas "G" through "M" below.)

Formula A - Commercial, Industrial, Condominiums

$$\text{BAUs} = 10 \text{ BAUs/acre} \times \text{AA} \\ (0.8 \text{ imperviousness})$$

Formula B - Mobile Home Parks, Churches, Schools

$$\text{BAUs} = 7.5 \text{ BAUs/acre} \times \text{AA} \\ (0.6 \text{ imperviousness})$$

Formula C - Residential

$$\text{BAUs} = 5 \text{ BAUs/acre} \times \text{AA} \\ (0.4 \text{ imperviousness})$$

Formula D - Golf Courses, Green Belts

$$\text{BAUs} = 2.5 \text{ BAUs/acre} \times \text{AA} \\ (0.2 \text{ imperviousness})$$

Formula E - Vacant Land, Mining, Oil Wells

$$\text{BAUs} = 0.125 \text{ BAU/acre} \times \text{AA} \\ (0.01 \text{ imperviousness})$$

Formula F - Agriculture

$$\text{BAUs} = 0.2375 \text{ BAU/acre} \times \text{AA} \\ (0.019 \text{ imperviousness})$$

Where a site use code was found to describe only a portion of actual parcel, a "mixed" assessment formulas shall be used. The "other" use not described by the site use code is considered to be vacant land. For residential site use codes describing up to four single family dwellings on one lot as identified in Appendix "A", the following four formulas shall be used:

Formula G - 1 Dwelling Unit

$$\text{BAUs} = 1 \text{ BAU} + [(\text{AA} - 0.2 \text{ acres}) \times 0.125 \text{ BAU/acre}]$$

Formula H - 2 Dwelling Units

$$\text{BAUs} = 2 \text{ BAUs} + [(\text{AA} - 0.4 \text{ acres}) \times 0.125 \text{ BAU/acre}]$$

Formula I - 3 Dwelling Units

$$\text{BAUs} = 3 \text{ BAUs} + [(\text{AA} - 0.6 \text{ acres}) \times 0.125 \text{ BAU/acre}]$$

Formula J - 4 Dwelling Units

$$\text{BAUs} = 4 \text{ BAUs} + [(\text{AA} - 0.8 \text{ acres}) \times 0.125 \text{ BAU/acre}]$$

Where the actual parcel size is less than that of the assumed number of basic assessment, then the Formula "C" shall be used.

The remaining three "mixed" site use code formulas shall be used for unique land use situations as specifically identified in Appendix "A". General uses are shown below.

Formula K - Churches, Private Schools, Colleges, Rest Homes and Camps

$$\text{BAUs} = 15 \text{ BAUs} + [(\text{AA} - 2.0 \text{ acres}) \times 0.125 \text{ BAU/acre}] \text{ (0.6 imperviousness)}$$

Formula L - Golf Courses, Green Belts

$$\text{BAUs} = 30 \text{ BAUs} + [(\text{AA} - 12.0 \text{ acres}) \times 0.125 \text{ BAU/acre}] \text{ (0.2 imperviousness)}$$

Formula M - Industrial, Resource Production, Greenhouses, Egg Production

$$\text{BAUs} = 100 \text{ BAUs} + [(\text{AA} - 10.0 \text{ acres}) \times 0.125 \text{ BAU/acre}] \text{ (0.8 imperviousness)}$$

15. The effective date of this resolution is the date of adoption.

PASSED, APPROVED AND ADOPTED on June 14, 1981.

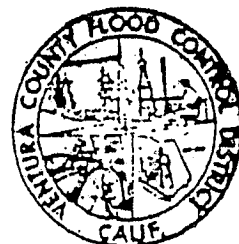
VENTURA COUNTY FLOOD CONTROL DISTRICT

By John H. Flynn
Chair, Board of Supervisors

ATTEST:

RICHARD D. DEAN, County Clerk of the County of Ventura, ex officio Clerk of the Ventura County Flood Control District Board of Supervisors.

Ray Hillard
Deputy Clerk



WML/tw/jg

C000586

Item 8a
6/14/88

BOARD OF SUPERVISORS, COUNTY OF VENTURA, STATE OF CALIFORNIA

FLOOD CONTROL DISTRICT

TUESDAY, JUNE 30, 1992, AT 10:00 A.M.

239, FC-General/502/506
FC-Ventura River

ALL MEMBERS PRESENT

Upon motion of Supervisor VanderKolk, seconded by Supervisor Lacey, and duly carried, the Board hereby approves the following matter:

PUBLIC WORKS AGENCY
county of ventura

Director
Arthur E. Goulet

Representing Ex-officio:

Ventura County Flood Control District
Ventura County Waterworks Districts
No. 1, 16, 17, and 19
Lake Sherwood Community Services District
Fox Canyon Groundwater Management Agency

Deputy Directors

John C. Crowley
Water Resources/Development
Al F. Knuth
Transportation
R.E. Quinn
Engineering Services
Paul W. Ruffin
Central Services
Alex Sheydayi
Flood Control

June 30, 1992

Board of Supervisors
Ventura County Flood Control District
800 South Victoria Avenue
Ventura, California 93009

Subject: IMPLEMENTATION AGREEMENT - VENTURA RIVER
AND COASTAL WATERSHEDS - ZONE 1
MUNICIPAL STORMWATER DISCHARGE PROGRAM
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)

RECOMMENDATION:

1. Approve the Implementation Agreement.
2. Authorize the Chair to sign on behalf of the Ventura County Flood Control District (District).

DISCUSSION:

On April 1, 1992, your Board approved the concept of a county-wide NPDES permit and the use of the District's benefit assessment. We are preparing an implementation agreement which would identify the methodology for the use of the benefit assessment and set forth the methodology for the use of the benefit assessment financing by the County and the Cities. On June 9, 1992, when your Board set today as the hearing day for receipt of oral testimony and setting of the assessment amount for the Benefit Assessment Program, you were notified that the implementation agreement would be submitted for approval prior to the adoption of the resolution confirming the FY 93 assessment.

The attached agreement has already been approved and signed by the City of Ojai. As a separate item on today's agenda, the Flood Control District will be considering the agreement. The City of San Buenaventura has not yet approved the agreement; however, it has indicated its support for the concept and is expected to approve the agreement shortly. The agreement provides for



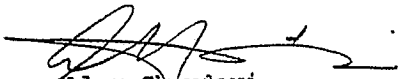
Board of Supervisors
June 30, 1992
Page two

execution in counterpart; therefore, there is no requirement that all parties sign concurrently.

The agreement has been reviewed by County Counsel.

If you have any question concerning this item, please contact the undersigned at Extension 2040.

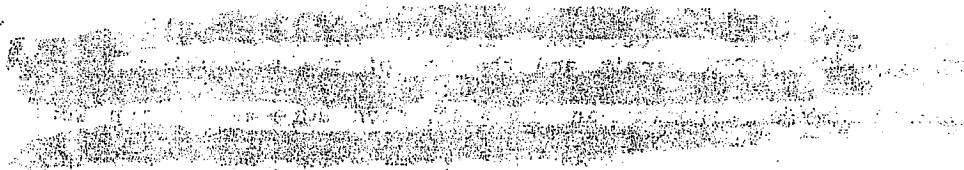
Very truly yours,



Alex Sheydayi
Deputy Director of Public Works
Flood Control Department

AS:ebh

Attachment



COPIES TO:

PWA (2)
Auditor
Files (6)
Item 40
5/20/92 --

C000588

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
IMPLEMENTATION AGREEMENT
STORMWATER REGULATION PROGRAM
VENTURA RIVER AND COASTAL WATERSHEDS**

This AGREEMENT is entered into by and among the County of Ventura hereinafter referred to as COUNTY, the Ventura County Flood Control District hereinafter referred to as DISTRICT, and the Cities of Ojai and San Buenaventura hereinafter collectively referred to as CITIES, and establishes the responsibilities of each party with respect to compliance with National Pollutant Discharge Elimination System (NPDES) Stormwater regulations administered by the California Regional Water Quality Control Board, Los Angeles Region (LARWQCB) by the authority granted by the Clean Water Act (CWA) and its 1987 amendments and the Water Quality Act (WQA).

RECITALS

Whereas, Congress in 1987 amended Section 402 of the Federal Clean Water Act [33 U.S.C.A. 1342(p)] to require the federal Environmental Protection Agency (EPA) to promulgate regulations for applications for Permits for stormwater discharges; and

Whereas, these Permit regulations will require the control of pollutants from stormwater discharges by requiring a National Pollutant Discharge Elimination System (NPDES) Permit (PERMIT) for the discharge of stormwaters into waters of the United States; and

Whereas, these EPA regulations require PERMITs for discharges from municipal storm drains on a system-wide or jurisdiction-wide basis; and

Whereas, the CITIES and the COUNTY have land use regulation authority within their jurisdictional boundaries with associated powers to require management practices consistent with EPA regulations; and

Whereas, the DISTRICT has no land use regulation authority, but only owns, operates and has regulatory jurisdiction over improved and natural channels to which CITIES' and COUNTY's storm drains are tributary; and

Whereas, the Legislature, in enacting the Ventura County Flood Control Act, created the DISTRICT to provide for the control of flood and storm waters; and

Whereas, the Powers granted to the DISTRICT include carrying on technical and other investigations, examinations or tests of all kinds, making measurements, collecting data, and making analyses, studies, and inspections pertaining to water supply, control of floods, prevention of contamination and pollution of surface waters within the DISTRICT; and

Whereas, the CITIES, the COUNTY and the DISTRICT desire to develop an integrated stormwater discharge management program with the objective of improving water quality in the Ventura River and Coastal Watersheds; and

Whereas, cooperation among the CITIES, the COUNTY and the DISTRICT to jointly file application for PERMIT is in the best interests of the CITIES, the COUNTY and the DISTRICT; and

Whereas, the DISTRICT, COUNTY and CITIES have been jointly designated as Permittees by LARWQCB; and

Whereas, the DISTRICT has been designated as the Principal Permittee in the PERMIT; and

Whereas, the COUNTY and the CITIES have been designated as the Co-Permittees in the PERMIT.

NOW, THEREFORE, the parties do mutually agree as follows:

- I. FILING STATUS. The DISTRICT (as Principal Permittee) and the COUNTY and CITIES (as Co-Permittees) will jointly file an application for a Permit. The COUNTY, DISTRICT and each individual City will each be Permittees under the PERMIT.
- II. FEDERAL AND STATE GUIDELINES. This AGREEMENT is meant to be consistent with the terms of all applicable Federal and State permit application guidelines as presently written and as may be amended during the term of this AGREEMENT. If any provision of this AGREEMENT conflicts with any Federal or State permit application guideline, the guideline shall take precedence. All provisions which remain consistent shall remain in force and effect.

III. STRUCTURE AND RESPONSIBILITIES

- A. All Permittees (Principal Permittee and Co-Permittees) are independently responsible for complying with the requirements of the PERMIT within their own jurisdictional boundaries. For storm drains owned and operated by the DISTRICT, including those located within the jurisdiction of the Co-Permittees, the Principal Permittee will be responsible for facility operation and maintenance.
- B. The Principal Permittee shall be responsible for the following:
- (a) Coordination of PERMIT activities, including establishing a uniform mapping and data presentation format, to be used by all Permittees.
 - (b) Serving as the liaison agency between the Co-Permittees and LARWQCB. The responsibility shall include:
 - (1) Establishing of time schedules for the performance of tasks and activities to fulfill the requirements of the PERMIT and providing the time schedules to Co-Permittees.
 - (2) Preparing the quarterly progress reports and annual reports on PERMIT activities for submittal to the LARWQCB. For the annual PERMIT report, a draft will be circulated to each Co-Permittee for their review and comment prior to forwarding to the the annual PERMIT report.
 - (3) Upon receipt of information and materials submitted by the Co-Permittees in compliance with PERMIT requirements, packaging and forwarding these submittals, on behalf of the Co-Permittees, to LARWQCB.
 - (4) Upon receipt of all proposed plans and their implementation schedules from Co-Permittees, arranging for public review of these documents. Communicating with Co-Permittees regarding public comments. Packaging and forwarding of the revised

final version of these documents for LARWQCB approval.

- (5) Keeping all Co-Permittees updated on LARWCQB and EPA regulations which may impact stormwater discharge activities and PERMIT compliance.
 - (6) Arranging for the collection and payment of annual PERMIT renewal fees required by LARWQCB.
- C. With concurrence of Co-Permittees, the Principal Permittee may secure the services of consultants to prepare manuals, develop programs or perform studies relevant to the Permitted area. The Principal Permittee shall administer contracts with the consultants. The cost of said consultant services will be shared in accordance with section IV D of this AGREEMENT.
 - D. For PERMIT submittals which do not involve the public review process, each Co-Permittee shall be responsible to provide the submittals to the Principal Permittee 30 calendar days prior to the deadlines specified in the PERMIT. This 30-day period will enable the Principal Permittee to package and forward these documents, on behalf of all Permittees, to LARWQCB.
 - E. For PERMIT submittals which involve the public review process, the Co-Permittee shall be responsible to provide the submittals to the Principal Permittee 90 calendar days prior to the deadlines specified in the PERMIT. The Principal Permittee shall schedule the submittals for public review, route public comment back to Co-Permittees for possible refinement of documents, arrange to receive final documents, and package and forward documents to LARWQCB for their review and approval.
 - F. Each Co-Permittee shall prepare PERMIT-required submittals using the format specified by the Principal Permittee.
 - G. Upon the execution of this AGREEMENT, each Permittee shall develop a program to address the following issues within its jurisdictional boundaries that occur during the term of this AGREEMENT:

- (1) Implementation of controls to reduce pollution from commercial and residential areas.
- (2) Implementation of structural/nonstructural controls on land development and construction sites.
- (3) Implementation of controls to reduce pollution from maintenance activities.
- (4) Elimination of illegal connections, improper disposal, spill prevention, containment and response.
- (5) Inspection, monitoring and control programs for industrial facilities.
- (6) Implementation of public awareness and training programs.

IV. EXPENDITURES

- A. Each Co-Permittee shall be responsible for its costs of the implementation of the PERMIT requirements within its jurisdictional boundaries.
- B. The Principal Permittee shall be responsible for the cost of implementing PERMIT requirements dealing with storm drains and flood control facilities owned and operated by DISTRICT.
- ✓ C. The Principal Permittee shall be responsible for the cost of its activities specified in Section III-B.
- D. Each year the Board of Supervisors of the Ventura County Flood Control District determines Benefit Assessment Units (BAUs) for the VCFCFD. The cost of all common or joint activities or responsibilities shall be borne by Co-Permittees on the basis of the ratio of the BAUs within the Co-Permittee's boundaries to the total BAUs in the watershed. Common or joint activities or responsibilities shall include, but not be limited to, the following:
 - (1) Consultant fees for watershed wide Permit related work.
 - (2) Legal fees for watershed wide Permit related work.

9

- (3) Watershed wide penalties.
- (4) Best Management Practices of watershed wide impact or benefit.

V. FUNDING

A. The Co-Permittees may fund requirements described in IV A. through the DISTRICT's Benefit Assessment Program. A Co-Permittee wishing to do so shall:

- (1) Submit to DISTRICT a complete program description and activity budget along with the amount of assessment required to finance the program.
- (2) Prior to requesting levy of the assessment, hold a public hearing after giving the notice required by Section 6066 of the Government Code.
- (3) The hearing shall deal with the program description and activity budget, including the means of financing.
- (4) Upon adoption of a program and prior to the first day of May of each calendar year, submit a request to District for inclusion of the program in the assessment. The request shall be made by resolution of the governing body of the Co-Permittee.

Both the levy pursuant to the District's Benefit Assessment Program and the amount thereof are within the sole discretion of the District's Board of Supervisors.

- B. All costs incurred by DISTRICT for processing an additional assessment (see Section V A.) shall be borne by Co-Permittee either by direct payment to DISTRICT or by deduction from the proceeds of the Benefit Assessment levied on its behalf.
- C. Distribution of funds from the Flood Control Benefit Assessment collections to Co-Permittee will be made on a schedule established by the Ventura County Auditor-Controller for such disbursements.

- D. The Principal Permittee shall finance the activities specified in Section IV B. and IV C. through the use of its Benefit Assessment activity throughout the entire watershed.

VI. NON COMPLIANCE WITH AGREEMENT

- A. Any Permittee not in compliance with the PERMIT within its jurisdictional boundaries shall be solely liable for any lawfully assessed penalties.
- B. Common or joint penalties shall be calculated and allocated in accordance with Section IV D.

VII. ADDITIONAL PARTIES.

- A. Any entity which officially becomes a Co-Permittee subsequent to the signing of this AGREEMENT, shall comply with all the requirements of the PERMIT, except that the time frame for completion of tasks shall be adjusted by mutual agreement between the new Co-Permittee, the Principal Permittee, and LARWQCB.

VIII. WITHDRAWAL FROM THE AGREEMENT.

- A. A Co-Permittee may withdraw from the AGREEMENT 60 days after giving written notice of withdrawal to the Principal Permittee and LARWQCB. The Principal Permittee will notify the remaining Co-Permittees within ten (10) business days of receipt of the notice.
- B. The withdrawing Co-Permittee shall file for a separate PERMIT prior to withdrawal and comply with all of the requirements established by LARWQCB. Withdrawal shall constitute forfeiture of the funds collected under the Benefit Assessment Program for the budget year of withdrawal which have not yet been distributed to the withdrawing Co-Permittee.
- C. The withdrawing Co-Permittee shall be responsible for all lawfully assessed penalties as a consequence of withdrawal. The cost allocations to the remaining Co-Permittees will be recalculated in the following budget year.

IX. AMENDMENTS TO AGREEMENT

- A. This AGREEMENT may be amended by written consent of the parties, signed and approved by the governing bodies of the parties.
- B. Any amendment shall comply with the requirements and regulations set forth by LARWQCB.

X. APPENDAGE OF AGREEMENT

Any Permittee may negotiate a separate AGREEMENT with other Permittees or with all Permittees regarding stormwater/urban runoff discharge management issues. Such AGREEMENTs will not be appended to this AGREEMENT but will be regarded as a separate AGREEMENT. However, they may reference this AGREEMENT.

XI. TERM OF THE AGREEMENT

The term of this AGREEMENT commences on its execution by each of the governing bodies of the Permittees. The AGREEMENT shall terminate when a PERMIT regulating stormwater/urban runoff discharges encompassing the Ventura River and Coastal Watersheds is no longer required. The Principal Permittee and a two-thirds majority of the Co-Permittees can terminate this AGREEMENT by mutual written consent of the governing bodies.

XII. NOTICES

All notices and correspondences shall be deemed duly given, if (a) sent by certified U.S. mail; (b) delivered by hand; (c) deposited in the U.S. mail, postage prepaid and notice to the addressee of such mailing by phone immediately after deposit in the U.S. Mail, or (d) faxed to the Principal Permittee and confirmation by phone immediately after sending the fax. All notices and correspondence shall be sent or delivered to the following respective addresses or phone numbers of the parties:

Ventura County Flood Control District
800 South Victoria Avenue
Ventura, CA 93009
Attn: Deputy Director of Public Works, Flood Control Dept.
Phone: (805) 654-2040; Fax: 654-2424

County of Ventura
800 South Victoria Avenue
Ventura, CA 93009
Attn: Director of Public Works
Phone: (805) 654-2073; Fax: 654-3952

City of Ojai
401 South Ventura Street
Ojai, CA 93023
Attn: Director of Public Works
Phone: (805) 646-5581; Fax: 646-1980

City of San Buenaventura
501 Poli Street
Ventura, CA 93001
Attn: Director of Public Works
Phone: (805) 654-7800; Fax: 652-0865

XIII. GOVERNING LAW

This AGREEMENT will be governed and construed in accordance with laws of the State of California. If any provision(s) of this AGREEMENT shall be held to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

XIV. AUTHORIZED SIGNATORIES

The Engineer-Manager of DISTRICT, the Public Works Director of COUNTY and the City Managers of CITIES (or their designees) shall be authorized to execute all documents and take all other procedural steps necessary to file for and obtain a PERMIT(s) or amendments thereto.

XV. CONSENT TO BREACH NOT WAIVER

No term or provision hereof shall be deemed waived and no breach excused, unless the waiver or consent shall be in writing and signed by the party waiving or consenting. Any consent by any party to, or waiver of, a breach by any other party, whether expressed or implied, shall not constitute a consent to, waiver of, or excuse for any other different or subsequent breach.

XVI. APPLICABILITY OF PRIOR AGREEMENTS

This document constitutes the entire AGREEMENT between the parties with respect to the subject matter; all prior agreements, representations, statements, negotiations and undertakings are superseded.

XVII. EXECUTION IN COUNTERPARTS

This AGREEMENT may be executed and delivered in any number of counterparts or copies by the parties hereto. When each party has signed and delivered at least one counterpart to the other parties hereto, each counterpart shall be deemed an original and, taken together, shall constitute one and the same AGREEMENT, which shall be binding and effective as to the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this agreement.

COUNTY OF VENTURA

Dated: JUN 30 1992

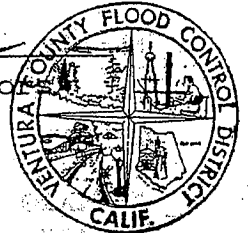
By: *John K. Flynn*
Chair, Board of Supervisors



VENTURA COUNTY FLOOD CONTROL DISTRICT

Dated: JUN 30 1992

By: *John K. Flynn*
Chair, Board of Supervisors



ATTEST:

RICHARD D. DEAN, County Clerk of the County of Ventura and ex officio Clerk of the Board of Supervisors of the County of Ventura and of the Ventura County Flood Control DISTRICT

By: *Roberta Rodriguez*
Deputy Clerk

CITIES:

CITY OF OJAI

Dated: _____

By: _____

ATTEST: _____

CITY OF SAN BUENAVENTURA

Dated: _____

By: _____

ATTEST: _____

IN WITNESS WHEREOF, the parties hereto have executed this agreement.

COUNTY OF VENTURA

Dated: _____

By: _____
Chair, Board of Supervisors

VENTURA COUNTY FLOOD CONTROL DISTRICT

Dated: _____

By: _____
Chair, Board of Supervisors

ATTEST:

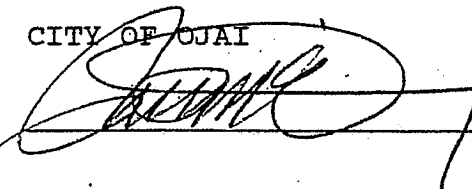
RICHARD D. DEAN, County Clerk of the
County of Ventura and ex officio
Clerk of the Board of Supervisors
of the County of Ventura and of the
Ventura County Flood Control DISTRICT

By: _____
Deputy Clerk

CITIES:

CITY OF OJAI

Dated: June 9 1992

By:  _____

ATTEST: Cyndi Reynolds

CITY OF SAN BUENAVENTURA

Dated: _____

By: _____

ATTEST: _____

IN WITNESS WHEREOF, the parties hereto have executed this agreement.

COUNTY OF VENTURA

Dated: _____

By: _____
Chair, Board of Supervisors

VENTURA COUNTY FLOOD CONTROL DISTRICT

Dated: _____

By: _____
Chair, Board of Supervisors

ATTEST:

RICHARD D. DEAN, County Clerk of the
County of Ventura and ex officio
Clerk of the Board of Supervisors
of the County of Ventura and of the
Ventura County Flood Control DISTRICT

By: _____
Deputy Clerk

CITIES:

CITY OF OJAI

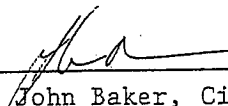
Dated: _____

By: _____

ATTEST: _____


CITY OF SAN BUENAVENTURA

Dated: October 6, 1992

By: 
John Baker, City Manager

ATTEST: 

Approved As to Form:


San Buenaventura City Attorney

COUNTY OF VENTURA
PUBLIC WORKS AGENCY
MEMORANDUM

ATTACHMENT C

March 29, 1993

RECEIVED
MAY 3 11 21 AM '93
LAC...
TO: Richard Wittenberg, Chief Administrative Officer
FROM: Arthur E. Goulet, Director *AG*
SUBJECT: FLOOD CONTROL DISTRICT BENEFIT ASSESSMENT PROGRAM

Bert Bigler asked that this memo be prepared to brief you on the Ventura County Flood Control District (VCFCD) Benefit Assessment (BA) Program and the need for increased assessments in each of the VCFCD's Zones.

As you will recall, VCFCD has been levying BAs since Fiscal Year 1988-89 (FY 89) pursuant to authority granted to VCFCD by SB 326 (Davis). SB 326 amended the VCFCD Act to allow levying BAs based on proportionate stormwater runoff. In essence, this methodology provides for VCFCD to operate as a stormwater utility and the BA can fairly be characterized as a service charge similar to that levied by agencies which provide sewage collection and treatment services.

Until FY 93, VCFCD levied a BA solely to support the operations and maintenance (O&M) of the extensive system of flood control facilities which VCFCD owns. In FY 93, VCFCD's BA included a component to finance the federally mandated municipal stormwater discharge permit program under the National Pollutant Discharge Elimination System (NPDES) created by Section 402 of the Clean Water Act. Attachment 1 displays the amount of BA per basic assessment unit (BAU) levied in each zone in each of the fiscal years since its initial enactment, as well as that proposed for FY 94 for O&M and NPDES. Attachment 2 displays graphically the variation in BA for O&M only in each fiscal year for each zone, including that proposed for FY 94. Since the initial enactment of BA, the resources raised from property tax have been devoted to the capital improvement program and associated planning activities.

As you can see, the BA for O&M has not progressively increased each year. This is because the BA is program driven; i.e., we first determine, utilizing our Maintenance Management System, what we intend to do in terms of maintenance in each zone in the ensuing FY and, thereafter, compute BA based on the then existing number of BAUs in each zone. We do not simply use the prior year's budget as a base and add an increment for increased costs. The "spike" in Zone 3 for FY 93 is primarily due to the need to raise resources to

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finance the substantial remedial work resulting from the damage to facilities sustained in the federally declared flood disaster which occurred in February 1992. Because federal disaster relief funds were made available, the "spike" was limited to the amount necessary for matching federal funds and for ineligible repair costs.

As indicated previously, NPDES is a federally mandated program. Failure to obtain necessary permit(s) or to carry out the program, or related violations of the law or regulations can result in administratively assessed penalties of up to \$25,000 per day per violation.

R2
In April 1992 the Board of Supervisors of the VCFCD approved the concept of a county-wide NPDES municipal stormwater discharge permit program, and the use of VCFCD BA authority to finance it on its own behalf, as well as on behalf of the cities and the county. Subsequently, VCFCD entered into implementation agreements with the cities and the county, which define the responsibilities of each of the parties (the co-permittees) in the county-wide NPDES permit program. The implementation agreements also provide for the cities or the county to request the Board to levy a BA to finance the cost of the NPDES permit program within its jurisdiction.

Based on these actions, and with the cooperation of the co-permittees, in February 1993 we submitted a proposal to the Los Angeles Regional Water Quality Control Board (LARWQCB) for a phased approach to implementation of the county-wide NPDES permit program. We believe the phased approach will ultimately be less costly than a full-scale permit program. Although we haven't yet received written response to our proposal, the Executive Officer of LARWQCB has informally indicated concurrence with the approach. Essentially, we are committed to carry out the proposed program and to finance it. Even if there was to be no county-wide permit, VCFCD and the County would have to carry out and finance a program for their respective jurisdictions in any event.

You should also be aware there is yet another similar federally mandated program, which became effective in December 1992, under Section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990. This program is even more burdensome than the NPDES program, and also applies to agricultural lands (presently exempt under NPDES). LARWQCB staff has informally advised us that the good faith effort exemplified by the county-wide NPDES permit program will be considered by them to represent conformance with Section 6217. This further underscores the need to proceed with the county-wide NPDES permit program.

P3
 In the past, levying the BA was relatively straightforward and non-controversial. The matter appeared on the Board agenda twice. The first time, a report on the BA program containing the proposed rates per BAU for each zone was received by the Board and the Clerk was directed to publish notice of a public hearing for a specified date. The second time, the hearing was held and after receiving and considering testimony the Board enacted the BA. In the past, the public hearing was sparsely attended.

However, as you know, the Legislature decided to change the system and, from my perspective, make it more difficult, expensive, and cumbersome. Now, in order to increase the BA, the matter must appear on the Board agenda three times. If there is no proposed increase in BA, the process would remain the same. Assuming there was to be an increase, at the first meeting the Board would establish estimated not to exceed rates based on the January Assessment Roll and would have to set two subsequent dates, one for a meeting at which a report based on the March Assessment Roll and testimony on the proposed increase would be received and a second for a public hearing on the enactment of the BA. In addition to the published notice previously required, we must also give parcel-specific mailed notice to the owner of every parcel whose BA might be increased. The mailed notice must be given 45 days prior to the enactment public hearing. Under current law, there is no provision which would either force an election or force abandonment of a proposed increase in BA without election, due to any percentage of written protests received.

As noted, the process is expensive. There are some 220,000 parcels in the VCFCD. If an increase in BA is proposed in each zone, the cost of mailing alone will exceed \$110,000 (printing the parcel-specific notices, folding and stuffing the envelopes, and postage). There will also be the additional costs associated with preparation of the notices (formatting them has been a challenge) and for responding to the many phone calls the mailed notice is certain to engender. When the new notice requirements were enacted, the bill (SB 1977) contained an SB 90 disclaimer because it authorized the costs associated with the new notice to be recovered by increasing the BA.

P4
 There are several policy issues ^{which may} facing the Board. Among these are:

1. Should the BA be increased to finance the NPDES permit program?
2. Should the BA be increased to recover the loss of property tax resulting from the legislatively-enacted tax shift from special districts to schools?

3. What are the implications of the foregoing with respect to the new BA program being proposed by the Fire Protection District?

These issues are, unfortunately, by their nature intertwined but I will attempt to address them and explain the complexities, which vary from zone to zone. To assist in understanding the complexities, Attachment 3 has been prepared.

With respect to whether the BA should be increased to finance the NPDES permit program, it should be noted that a review of Attachment 3 reveals that no such increase would be needed in Zone 3, except for within the City of Thousand Oaks. (The proposed BA, inclusive of NPDES, for the territory within the respective municipalities, including the county, is highlighted in blue.) This is due to the "spike" in BA for FY 93 mentioned earlier. Since the needed increase in the City of Thousand Oaks is only 19¢, we would probably not recommend such increase because of the procedural costs, all other things being equal, and would ask the City to scale down their NPDES program slightly (1%). This would mean that no mailed notice would be required in Zone 3.

However, the obvious question which arises would be whether it would be prudent to decrease BA throughout the balance of Zone 3. I would say no because of the difficulty and costs associated with raising it subsequently. A related question is whether VCFCD should give up BA which could be reserved for future O&M or used to recover property tax loss in order to cover an individual municipality's NPDES needs.

In the other zones, unless BA is increased, we would have to decrease O&M or our capital improvement program and related planning activities, which would further exacerbate the impact of property tax shift, in order to accommodate the need for increased resources for NPDES. To add to the complexity, the ramifications within each of the municipalities differs because our capital improvement program is priority-driven rather than location-driven. Accordingly, we might have to delay a project in one municipality because of the increased need for NPDES resources in another. Additionally, since the O&M program is facility-driven the same sort of ramification would result; i.e., we might have to reduce maintenance in one municipality to finance NPDES in another.

With respect to whether BA should be increased to recover the loss of property tax, as you will recall, with the exception of Zone 1, we were able to absorb the property tax shift out of contingency resources for FY 93. In Zone 1, we delayed a capital improvement project. There will be no similar contingency resources for FY 94

and the current projection is for a larger property tax shift. In order to accommodate this loss, our proposed budget contemplates delaying capital improvement projects.

The Board would have several options relative to property tax loss recovery. It could decide to recapture in arrears (i.e., for FY 93), or to forego such recapture and buffer the prospective loss only, or recapture both in arrears and prospectively, or some other variation, or it could decide not to recapture any property tax loss. The necessary BA to accommodate NPDES and full property tax loss recovery is highlighted in green on Attachment 3. Both property tax loss recovery in arrears and full property tax loss recovery would mandate mailed notice throughout Zones 1, 2 and 4. The same would not be the case in Zone 3 except in the City of Thousand Oaks. In all other areas of Zone 3, a portion of property tax loss could be recovered by not reducing BA. This bolsters the argument proffered earlier that we should not reduce BA, even where the opportunity might present itself, because of the difficulty and expense associated with increasing it subsequently.

Finally, with respect to the implications on all of the above on the new BA program being proposed by the Fire Protection District, I need to raise the caution that the County, the Fire Protection District, and VCFCD are all separate political entities and, although it is very difficult for the Board members to separate their personalities and address each of the entities independently, they need to be very careful in their deliberations lest they inadvertently pierce the liability protection afforded by the separation of the entities. The loser in the loss of separation would be the County, because of its broader latent powers.

Having raised the caution, the relationship between what VCFCD might do in connection with BA and the Fire Protection District proposal varies by zone and by what is done relative to NPDES and property tax loss recapture. In the simplest scenario where VCFCD increases BA for NPDES and foregoes property tax loss recapture, mailed notice would be required in the unincorporated area and in the City of Ojai in Zone 1, and the increase is very modest (43¢ and \$2.02, respectively). Although notice would be required in the City of Ventura, no Fire Protection District notice would apply. In Zone 2, dual notice would only apply in the unincorporated area, a small portion of the City of Camarillo and the City of Port Hueneme. The vast majority of the population in Zone 2 is not served by the Fire Protection District.

In Zone 3, assuming the City of Thousand Oaks BA for NPDES was reduced by 19¢ as suggested previously, there would be no dual notice since no VCFCD notice would be necessary. In Zone 4, dual notice would ensue throughout.

The issue of property tax loss recovery for Flood Control Administration has not been addressed in the foregoing since there is no current BA for this purpose. To recover the full loss (arrears and prospective) would require an additional BA per BAU of \$1.86 in each zone. Depending on the decisions made on the bigger issues, all or none of this amount could be recovered in the process.

The "briefing" memo is much longer than I would like it to be, but the issues are complex and I wanted to be sure you had all the information you needed.

If you have any questions, please let me know.

AEG:np

Attachments

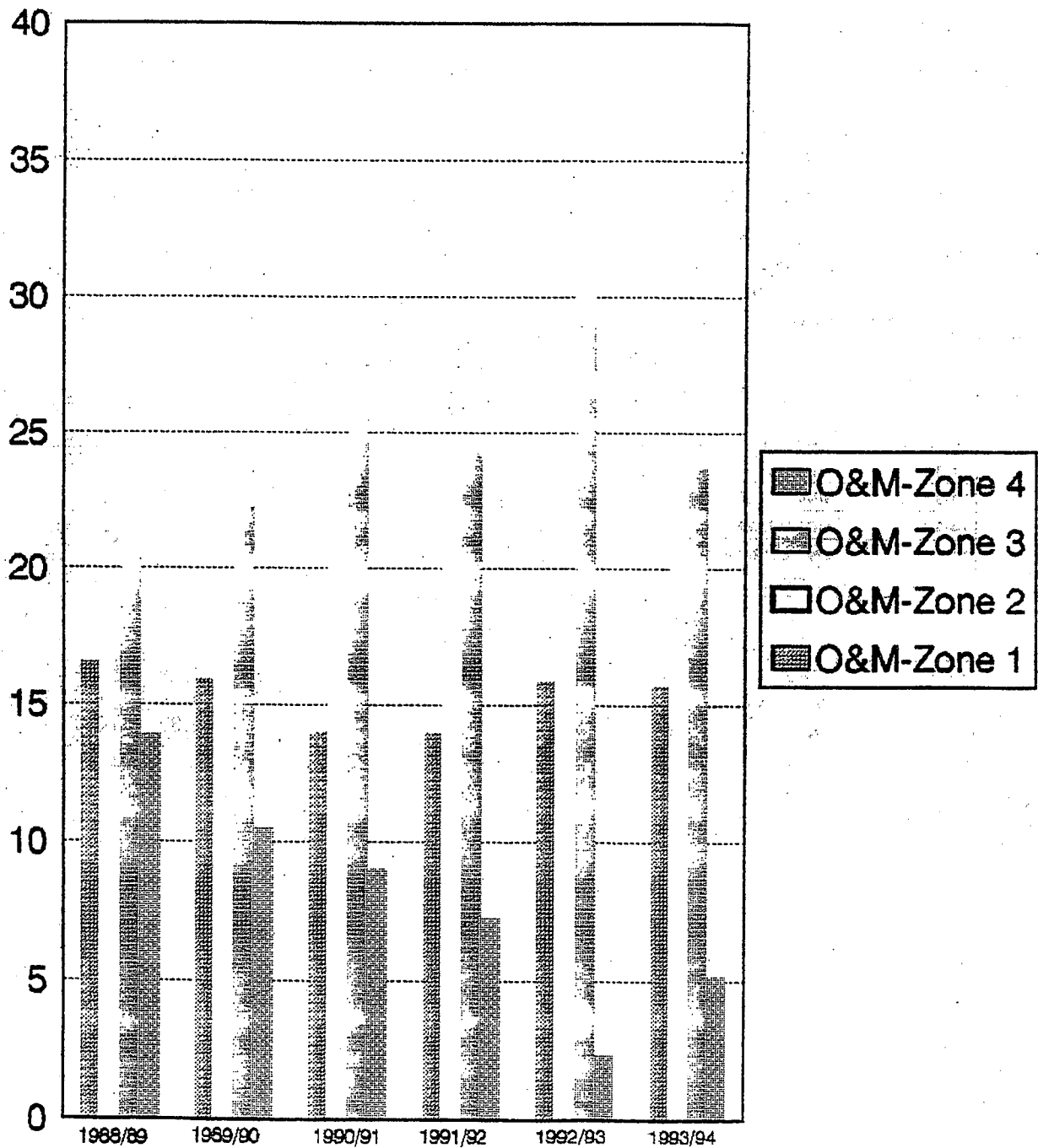
cc: Bert Bigler
Jim Becker
Alex Sheydayi
Paul W. Ruffin ✓

BENEFIT ASSESSMENT

3/29/93

ROLL#	DISTRICT/ZONE	88-89	89-90	90-91	91-92	92-93	93-94
	ZONE-1						
14-04	ZONE-1	\$16.51	\$15.89	\$13.97	\$13.93	\$15.84	\$15.68
14-25	OJAI						\$1.55
14-29	VENTURA						\$4.26
14-20	UNINCORPORATED						\$1.58
	DISTRICT					\$0.99	\$2.63
	ZONE-2						
14-05	ZONE-2	\$17.55	\$19.37	\$21.20	\$21.95	\$18.88	\$20.51
14-24	FILLMORE						\$6.97
14-26	OXNARD					\$8.46	\$10.28
14-28	SANTA PAULA						\$3.82
14-30	VENTURA						\$4.91
14-31	PORT HUENEME						\$3.82
14-32	CAMARILLO						\$5.66
14-21	UNINCORPORATED						\$5.62
	DISTRICT					\$0.99	\$2.54
	ZONE-3						
14-06	ZONE-3	\$20.31	\$22.21	\$28.77	\$24.12	\$34.91	\$23.68
14-33	CAMARILLO					\$3.24	\$5.66
14-34	THOUSAND OAKS					\$4.65	\$16.30
14-36	SIMI VALLEY					\$5.25	\$5.25
14-37	MOORPARK					\$0.00	\$0.00
14-22	UNINCORPORATED					\$2.87	\$6.88
	DISTRICT					\$2.98	\$2.75
	ZONE-4						
14-07	ZONE-4	\$13.91	\$10.52	\$9.00	\$7.27	\$2.30	\$5.21
14-35	THOUSAND OAKS					\$4.94	\$12.06
14-23	UNINCORPORATED					\$2.87	\$10.00
	DISTRICT					\$2.03	\$2.08

Benefit Assessment Rates for Flood Control Operations and Maintenance



FLOOD CONTROL ZONES
BENEFIT ASSESSMENT FEES

DESCRIPTION	RATE/ BAU	TOTAL REVENUE	TOTAL BASIC UNITS	RATE/ BAU	TOTAL REVENUE	SUMMARY BY CITY:		
	--- FY 92-93 ---		--- FISCAL YEAR 1993-94 ---			UNINC.	OJAI	VENT
ASSESSMENTS FOR O & M	\$15.84	\$431,663	27,200	\$15.68	\$426,496	\$15.68	\$15.68	\$15.68
DISTRICT NPDES PROGRAM:								
DISTRICT-WIDE NPDES	\$0.99	\$26,877	27,200	\$1.58	\$42,976	\$1.58	\$1.58	\$1.58
PART 1 APPLICATION:								
UNINCORPORATED			13,700					
OJAI			3,900					
SAN BUENAVENTURA			9,600	\$1.05	\$10,080			\$1.05
TOTAL DISTRICT NPDES NEEDS		\$26,877			\$53,056	\$1.58	\$1.58	\$2.63
MUNICIPAL NPDES PROGRAM:								
CITY OF OJAI			3,900	\$1.05	\$4,095		\$1.55	
CITY OF VENTURA			9,600	\$4.26	\$40,896			\$4.26
COUNTY UNINCORP			13,700	\$0.00	\$0	\$0.00		
TOTAL MUNICIPAL NPDES NEEDS		\$0			\$44,991	\$0.00	\$1.55	\$4.26
PROPERTY TAX LOSS RECAPTURE								
FY 93			27,200	\$6.80	\$185,000	\$6.80	\$6.80	\$6.80
FY 94			27,200	\$13.60	\$370,000	\$13.60	\$13.60	\$13.60
TOTAL PROPERTY TAX LOSS RECAP.				\$20.40	\$555,000	\$20.40	\$20.40	\$20.40
FY 94 O&M AND FC NPDES						\$17.26	\$17.26	\$18.31
FY 94 O&M, FC NPDES, & MUNICIPAL NPDES						\$17.26	\$18.81	\$22.57
FY 94 O&M, FC NPDES, MUNI. NPDES & PROP TAX REC						\$37.66	\$39.21	\$42.97
FISCAL YEAR 92-93:								
O & M	\$15.84			\$15.84		\$15.84		\$15.84
FC NPDES	\$0.99			\$0.99		\$0.99		\$0.99
MUNICIPAL	\$0.00			\$0.00		\$0.00		\$0.00
TOTAL FISCAL YEAR 92-93				\$16.83		\$16.83		\$16.83

FLOOD CONTROL ZONES
BENEFIT ASSESSMENT FEES

DESCRIPTION	RATE/ BAU	TOTAL REVENUE	TOTAL			SUMMARY BY CITY:						
			BASIC UNITS	RATE/ BAU	TOTAL REVENUE	UNINC.	VENT	P.HUE	OXND	S.PAULA	FILLMORE	CAM
ZONE 2	---	FY 92-93---	---			FISCAL YEAR 1993-94---						
ASSESSMENTS FOR O & M	\$18.88	\$2,103,026	112,000	\$20.51	\$2,297,120	\$20.51	\$20.51	\$20.51	\$20.51	\$20.51	\$20.51	\$20.51
DISTRICT NPDES PROGRAM:												
DISTRICT-WIDE NPDES	\$0.99	\$109,790	112,000	\$1.58	\$176,960	\$1.58	\$1.58	\$1.58	\$1.58	\$1.58	\$1.58	\$1.58
PART 1 APPLICATION:												
UNINCORPORATED			27,210	\$0.96	\$26,122	\$0.96						
VENTURA			27,800	\$0.96	\$26,688		\$0.96					
PORT HUENEME			4,990	\$0.96	\$4,790			\$0.96				
OXNARD			39,800	\$0.00	\$0				\$0.00			
SANTA PAULA			8,350	\$0.96	\$8,016					\$0.96		
FILLMORE			3,600	\$0.96	\$3,456						\$0.96	
CAMARILLO			250	\$0.96	\$240							\$0.96
TOTAL DISTRICT NPDES NEEDS		\$109,790	112,000		\$246,272	\$2.54	\$2.54	\$2.54	\$1.58	\$2.54	\$2.54	\$2.54
MUNICIPAL NPDES PROGRAM:												
CITY OF VENTURA			27,800	\$4.91	\$136,498		\$4.91					
CITY OF P.HUENEME			4,990	\$3.82	\$19,062			\$3.82				
CITY OF OXNARD - PERMIT	\$8.46	\$335,898	39,800	\$10.28	\$409,144				\$10.28			
CITY OF ST.PAULA			8,350	\$3.82	\$31,897					\$3.82		
CITY OF FILLMORE			3,600	\$6.97	\$25,092						\$6.97	
CITY OF CAMARILLO			250	\$5.66	\$1,415							\$5.66
COUNTY UNINCORP			27,210	\$5.62	\$152,920	\$5.62						
TOTAL MUNICIPAL NPDES NEEDS		\$335,898	112,000		\$776,028	\$5.62	\$4.91	\$3.82	\$10.28	\$3.82	\$6.97	\$5.66
PROPERTY TAX LOSS RECAPTURE												
FY 93			112,000	\$5.71	\$639,300	\$5.71	\$5.71	\$5.71	\$5.71	\$5.71	\$5.71	\$5.71
FY 94			112,000	\$11.42	\$1,278,600	\$11.42	\$11.42	\$11.42	\$11.42	\$11.42	\$11.42	\$11.42
TOTAL PROPERTY TAX LOSS RECAP.				\$17.12	\$1,917,900	\$17.12	\$17.12	\$17.12	\$17.12	\$17.12	\$17.12	\$17.12
FY 94 O&M AND FC NPDES						\$23.05	\$23.05	\$23.05	\$22.09	\$23.05	\$23.05	\$23.05
FY 94 O&M, FC NPDES, & MUNICIPAL NPDES						\$28.67	\$27.96	\$26.87	\$32.37	\$26.87	\$30.02	\$28.71
FY 94 O&M, FC NPDES, MUNI. NPDES & PROP TAX REC						\$45.79	\$45.08	\$43.99	\$49.49	\$43.99	\$47.14	\$45.83
FISCAL YEAR 92-93:												
O & M	\$18.88	\$18.88	\$18.88	\$18.88	\$18.88	\$18.88	\$18.88	\$18.88	\$18.88	\$18.88	\$18.88	\$18.88
FC NPDES	\$0.99	\$0.99	\$0.99	\$0.99	\$0.99	\$0.99	\$0.99	\$0.99	\$0.99	\$0.99	\$0.99	\$0.99
MUNICIPAL	\$0.00	\$0.00	\$0.00	\$8.46	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
TOTAL FISCAL YEAR 92-93	\$19.87	\$19.87	\$19.87	\$28.33	\$19.87	\$19.87	\$19.87	\$19.87	\$19.87	\$19.87	\$19.87	\$19.87

FLOOD CONTROL ZONES
BENEFIT ASSESSMENT FEES

DESCRIPTION	RATE/ BAU	TOTAL REVENUE	TOTAL		SUMMARY BY CITY:	
			BASIC UNITS	RATE/ BAU		TOTAL REVENUE
ZONE 3	----	FY 92-93----	FISCAL YEAR 1993-94----		UNINC. CAM MRPK S.VLY 1000 OAKS	
ASSESSMENTS FOR O & M	\$34.91	\$4,589,904	132,100	\$23.68	\$3,128,400	\$23.68 \$23.68 \$23.68 \$23.68 \$23.68
DISTRICT NPDES PROGRAM:						
DISTRICT-WIDE NPDES	\$1.99	\$260,676	132,100	\$1.58	\$208,718	\$1.58 \$1.58 \$1.58 \$1.58 \$1.58
PART 2 APPLICATION:						
UNINCORPORATED	\$0.99	\$21,550	22,100	\$1.17	\$25,857	\$1.17
CAMARILLO	\$0.99	\$22,360	22,800	\$1.17	\$26,676	\$1.17
MOORPARK	\$0.99	\$39,646	9,100	\$1.17	\$10,647	\$1.17
SIMI VALLEY	\$0.99	\$36,983	37,700	\$1.17	\$44,109	\$1.17
THOUSAND OAKS	\$0.99	\$8,980	40,400	\$1.17	\$47,268	\$1.17
TOTAL DISTRICT NPDES NEEDS		\$390,195			\$363,275	\$2.75 \$2.75 \$2.75 \$2.75 \$2.75
MUNICIPAL NPDES PROGRAM:						
CITY OF CAMARILLO	\$3.24	\$73,537	22,800	\$5.66	\$129,048	\$5.66
CITY OF MOORPARK			9,100	\$0.00	\$0	\$0.00
CITY OF SIMI VALLEY	\$5.25	\$197,013	37,700	\$5.25	\$197,925	\$5.25
CITY OF T. OAKS	\$4.65	\$187,006	40,400	\$16.30	\$658,520	\$16.30
COUNTY UNINCORP	\$2.87	\$62,610	22,100	\$6.88	\$152,048	\$6.88
TOTAL MUNICIPAL NPDES NEEDS		\$520,166			\$1,137,541	\$6.88 \$5.66 \$0.00 \$5.25 \$16.30
PROPERTY TAX LOSS RECAPTURE						
FY 93			132,100	\$5.38	\$710,400	\$5.38 \$5.38 \$5.38 \$5.38 \$5.38
FY 94			132,100	\$10.76	\$1,420,800	\$10.76 \$10.76 \$10.76 \$10.76 \$10.76
TOTAL PROPERTY TAX LOSS RECAP.					\$2,131,200	\$16.13 \$16.13 \$16.13 \$16.13 \$16.13
FY 94 O&M AND FC NPDES						
FY 94 O&M, FC NPDES, & MUNICIPAL NPDES						
FY 94 O&M, FC NPDES, MUNI. NPDES & PROP TAX REC						
FISCAL YEAR 92-93:						
O & M	\$34.91	\$34.91	\$34.91	\$34.91	\$34.91	\$34.91
FC NPDES	\$2.98	\$2.98	\$2.98	\$2.98	\$2.98	\$2.98
MUNICIPAL	\$2.87	\$3.24	\$0.00	\$5.25	\$4.65	\$4.65
TOTAL FISCAL YEAR 92-93	\$40.76	\$41.13	\$37.89	\$43.14	\$42.54	

FLOOD CONTROL ZONES
BENEFIT ASSESSMENT FEES

DESCRIPTION	RATE/ BAU	TOTAL REVENUE	TOTAL		SUMMARY BY CITY:	
			BASIC UNITS	RATE/ BAU		
ZONE 4	----FY 92-93----		----FISCAL YEAR 1993-94----		UNINC. 1000 OAK	
ASSESSMENTS FOR O & M	\$2.30	\$30,961	13,500	\$5.21	\$70,300	\$5.21 \$5.21
DISTRICT NPDES PROGRAM:						
DISTRICT-WIDE NPDES	\$1.04	\$13,787	13,500	\$1.58	\$21,330	\$1.58 \$1.58
PART 2 APPLICATION:						
UNINCORPORATED	\$0.99	\$6,305	6,600	\$0.50	\$3,300	\$0.50
THOUSAND OAKS	\$0.99	\$6,774	6,900	\$0.50	\$3,450	\$0.50
TOTAL DISTRICT NPDES NEEDS		\$26,866			\$28,080	\$2.08 \$2.08
MUNICIPAL NPDES PROGRAM:						
CITY OF T. OAKS-PERMIT	\$4.94	\$32,366	6,900	\$12.06	\$83,214	\$12.06
COUNTY UNINCORP-PERMIT	\$2.87	\$18,412	6,600	\$10.00	\$66,000	\$10.00
MUNICIPAL NPDES NEEDS		\$50,778			\$149,214	\$10.00 \$12.06
PROPERTY TAX LOSS RECAPTURE						
FY 93			13,500	\$1.68	\$22,700	\$1.68 \$1.68
FY 94			13,500	\$3.36	\$45,400	\$3.36 \$3.36
TOTAL PROPERTY TAX LOSS RECAP.				\$5.04	\$68,100	\$5.04 \$5.04
FY 94 O&M AND FC NPDES \$7.29 \$7.29						
FY 94 O&M, FC NPDES, & MUNICIPAL NPDES \$17.29 \$19.39						
FY 94 O&M, FC NPDES, MUNI. NPDES & PROP TAX REC \$22.33 \$24.39						
FISCAL YEAR 92-93:						
O & M \$2.30 \$2.30						
FC NPDES \$2.03 \$2.03						
MUNICIPAL \$2.87 \$4.94						
TOTAL FISCAL YEAR 92-93 \$7.20 \$9.27						

22-Mar-93

ALLOCATION OF PROPERTY TAX LOSS IN FC ADMIN:

	TOTAL	ZONE 1	ZONE 2	ZONE 3	ZONE 4
BASIC UNITS	284,800	27,200	112,000	132,100	13,500
PERCENTAGE BY ZONE		9.55%	39.33%	46.38%	4.74%

PROPERTY LOSS TO BE DISBTRIBUTED:

FY 93	176,700	16,876	69,489	81,960	8,376
FY 94	353,400	33,752	138,978	163,919	16,752

COST PER BASIC UNITS:

FY 93	\$0.62	\$0.62	\$0.62	\$0.62	\$0.62
FY 94	\$1.24	\$1.24	\$1.24	\$1.24	\$1.24

C000614

BOARD OF SUPERVISORS, COUNTY OF VENTURA, STATE OF CALIFORNIA
FLOOD CONTROL DISTRICT

SUPERVISORS SUSAN K. LACEY, MARIA E. VANDERKOLK,
MAGGIE KILDEE, VICKY HOWARD AND JOHN K. FLYNN
July 20, 1993 at 10:00 a.m.

FC Zones 1,2,3 & 4/239

PUBLIC WORKS AGENCY - Second Public Hearing before the Ventura County
Flood Control District regarding the FY 1993-94 Benefit Assessment Program for
Flood Control Zones 1, 2, 3 and 4.

- All board members are present.
- All board members are present except Supervisor(s) _____
- The following person(s) are heard: Mike Saliba
- The following document(s) are submitted to the Board for consideration: _____ statement card(s); _____
- The Board holds a public hearing.
- Upon motion of Supervisor Kildee, seconded by Supervisor Howard, and duly carried, the Board hereby approves the attached staff recommendation(s). Supervisor(s) _____ dissenting/abstaining.
- Upon motion of Supervisor _____, seconded by Supervisor _____, and duly carried, the Board hereby approves the attached staff recommendation(s) with the following modification(s): _____
_____ Supervisor(s) _____ dissenting/abstaining.
- Upon motion of Supervisor _____, seconded by Supervisor _____, and duly carried, the Board hereby continues the above stated matter to _____
 Supervisor(s) _____ dissenting/abstaining.
- Upon motion of Supervisor _____, seconded by Supervisor _____, and duly carried, the Board hereby _____
- Without motion, the Board hereby: Continues the above stated matter to _____
 Makes/hears the attached presentation. Removes the above stated matter from the Agenda. Receives and files the attached.
- Upon motion of Supervisor _____, seconded by Supervisor _____, and duly carried, the Board hereby approves the Informational Agenda as attached.
- _____

CLERK'S CERTIFICATE

I hereby certify that the annexed instrument is a true and correct copy of the document which is on file in this office.
RICHARD D. DEAN, County Clerk and ex-officio
Clerk of the Board of Supervisors, County of
Ventura, State of California. Dated: _____

By: Mary A. Mancette
Deputy County Clerk

By: _____
Deputy County Clerk

C000615

Item # 9
7/20/93

PUBLIC WORKS AGENCY
county of ventura

Director
Arthur E. G

Representing Ex-officio:

Ventura County Flood Control District
Ventura County Waterworks Districts
No. 1, 16, 17, and 19
Lake Sherwood Community Services District
Fox Canyon Groundwater Management Agency

Deputy Directors

William B. Britt
Transportation
John C. Crowley
Water Resources & Development
Robert E. Quinn, Jr.
Engineering Services
Paul W. Ruffin
Central Services
Alex Sheydayi
Flood Control

June 15, 1993

Board of Supervisors
Ventura County Flood Control District
800 South Victoria Avenue
Ventura, California 93009

**Subject: FISCAL YEAR 1993-94 (FY 94) BENEFIT ASSESSMENT
PROGRAM FOR FLOOD CONTROL, ZONES 1, 2, 3, AND 4**

RECOMMENDATION:

Today:

- File the FY 94 Report on Benefit Assessment for Flood Control with the Clerk of the Board and make it available for review by any member of the general public.
- Direct the Clerk of the Board to cause notice of the filing of the report and of the public hearing on this matter by the Board of Supervisors of the Flood Control District to be published pursuant to Section 6066 of the Government Code and posted in at least three public places within the District.

On June 29, 1993:

- Receive any oral testimony at the public hearing. After all present wishing to do so have testified, continue the public hearing until 10:00 A.M. on July 20, 1993, at which time only persons who received the defective notice should be allowed to testify.

On July 20, 1993:

- After consideration of all testimony received, approve and adopt the FY 94 Benefit Assessment for Flood Control.



- Approve and adopt the Resolution adopting and confirming FY 94 assessment of real property.

DISCUSSION:

The Ventura County Flood Control Act (Act) was amended by Chapter 438, Statutes of 1987 (SB326) to authorize the District to levy assessments on real property on the basis of the benefit each parcel will derive from the improvements to be constructed, maintained, operated, extended or repaired, in lieu of using an ad valorem basis. Pursuant to the Act, proportionate storm water runoff may be used as the measure of benefit. The attached report, which recommends the continuation of benefit assessments for flood control in Zones 1, 2, 3, and 4, includes a description of flood control needs and present funding; the services proposed to be financed through benefit assessment revenues; the parcels subject to the benefit assessment and the amount of assessment for each parcel; and the basis and schedule of the assessment.

On June 14, 1988, your Board first adopted a resolution approving the establishment and levy of benefit assessment for the costs of flood control services in Zones 1, 2, 3, and 4. At that time, your Board also adopted a resolution confirming assessment rates for 1988-89 in each of the zones, which resulted in a total revenue to the District of approximately \$4.9 million. In each subsequent fiscal year, your Board has resolved to continue the Benefit Assessment Program for Flood Control and set new assessment rates in each of the four zones. For Fiscal Year 1992/93, this action resulted in revenue of approximately \$8.6 million. These monies financed the cost of operations and maintenance of the flood control system, the local share of flood damage restoration cost for the 1992 storms, deficiency studies in Zone 3, and the initiation of the County-wide National Pollutant Discharge Elimination System (NPDES) program.

The recommended benefit assessment for the flood control program for fiscal year 1993/94 provides needed revenues for operations and maintenance, flood damage repair, and an expanded NPDES program.

1. Flood Damage Repair. The storms of March 1992 caused \$1.25 million in damage to District facilities in Zone 3. Since there was no Presidential declaration of disaster in the Zone 3 area, State and Federal disaster assistance were not made available. Therefore, the District has to absorb all the damage repair costs. Analysis of damage and tabulation of costs of repair had not been completed on April 20, 1993,

which was when your Board provided policy direction with respect to the level of benefit assessment you would consider, and for which written notice might be required. In fact, at that time, it was anticipated that repairs could be handled as part of the regular operations and maintenance (O&M) program. However, the damage experienced has been found to be quite extensive and, when the cost to repair is added to the regular O&M program, there is a shortfall of approximately \$1 million. The benefit assessment rate required to raise \$1 million in Zone 3 is \$7.45 per basic assessment unit (BAU). If this amount is added to the assessment rates tentatively approved on April 20, 1993, which required no written notice, the total assessment rates in Zone 3 would be at, or below, the FY 93 level. Written notice is only required when a new or increased assessment is proposed. Accordingly, even had the extent of damage been known and the rate for repair been included when your Board approved the estimated benefit assessment rates, no written notice would have been required in Zone 3.

2. Municipal Stormwater Discharge Program - National Pollutant Discharge Elimination System (NPDES).

On April 14, 1992 your Board approved the concept of a County-wide NPDES program and the use of the District's benefit assessment authority to finance it. The implementation agreement between the District, the County, and all the Cities was approved by the end of July 1992, and on May 13, 1993 the Los Angeles Regional Water Quality Control Board formally approved the concept of a County-wide permit.

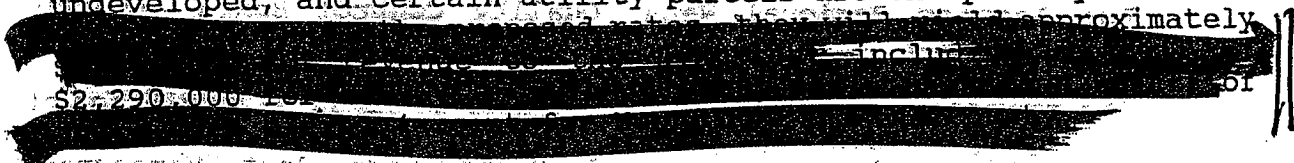
The proposed assessments will be used to finance completion of the preparation of the County-wide permit application, initiation of non-structural County-wide Best Management Practices and structural pollution control efforts in Oxnard.

The proposed assessment rates for the entire Flood Control District program for FY 94, as well as for the current fiscal year, are presented in the following table:

COMPARISON OF 1992/93 AND 1993/94 ASSESSMENT RATES

ZONE	AREA	CURRENT 1992/93 ASSESSMENT RATE/BAU	PROPOSED 1993/94 ASSESSMENT RATE/BAU
1	Unincorporated	\$16.83	\$17.26
	Ojai	\$16.83	\$18.81
	San Buenaventura	\$16.83	\$22.57
2	Unincorporated	\$19.87	\$28.67
	Fillmore	\$19.87	\$30.02
	Oxnard	\$28.33	\$32.37
	Santa Paula	\$19.87	\$26.87
	San Buenaventura	\$19.87	\$27.96
	Port Hueneme	\$19.87	\$26.87
	Camarillo	\$19.87	\$28.71
3	Unincorporated	\$40.76	\$40.76
	Moorpark	\$37.89	\$33.88
	Camarillo	\$41.13	\$39.54
	Thousand Oaks	\$42.54	\$38.53
	Simi Valley	\$43.14	\$39.13
4	Unincorporated North County Only	\$2.30	\$5.21
	Unincorporated South County Only	\$7.20	\$17.29
	Thousand Oaks	\$9.27	\$12.23

Assessments to provide sufficient revenue to meet flood control needs will be based on proportional stormwater runoff from each parcel of real property included in the Assessor's roll. Public, undeveloped, and certain utility parcels are exempted by law. If



As your Board will recall, on April 20, 1993 you made the policy decision not to recover revenues lost to the State property tax shift to schools through the use of your benefit assessment authority. At that time it appeared that the District was likely to lose \$3.4 million in tax revenue for FY 94. (It had already lost \$1.7 million in revenue in FY 93). Our most recent information is that the District may lose its entire property tax revenue of approximately \$9.0 million. This would dictate a dramatic restructuring of our Capital Improvement Program (CIP) because of the Benefit Assessment Program, O&M, the storm damage repair and the NPDES would be unaffected. Depending on the final outcome of the property tax shift, the effect on the CIP would vary, and the variation would be different in each zone depending

Board of Supervisors
June 15, 1993
Page five

depending on the amount of capital funds rolled forward into the next fiscal year. Because of the "roll forward," we will still have a CIP next year (without new projects) and it is likely that no staff adjustments would be necessary. If the tax shift becomes permanent, unless the benefit assessment is increased commensurately, there will be no new projects and the District will become essentially an O&M organization, and substantial staff reductions will be required.

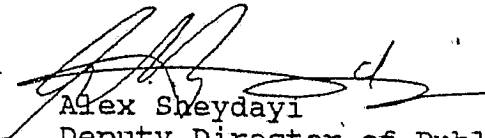
As an aside, the situation regarding late determination of the extent of facility damage in Zone 3 and the uncertainty regarding property tax shift serve to highlight the impracticality of the new statute requiring 45 day written notice, a public meeting, and a public hearing before a new assessment may be levied or a previous assessment increased. Because the assessment must appear on property tax bills and meet the tax bill preparation schedule, the process must begin so early that your Board is deprived of much of the information you need to make a considered decision.

In a related vein, due to a programming error, approximately 400 notices were defective and displayed a zero where at least \$1000 should have been shown as the proposed assessment. Corrected notices were mailed on June 3, 1993. To ensure that this group of property owners received the 45 day notice prior to enactment, we are recommending that your Board continue the enactment hearing until July 20, 1993 to allow any of these owners the opportunity to testify if they have not already been heard.

The report and resolutions have been reviewed and approved by County Counsel for legal form and sufficiency. This item has also been reviewed by the Auditor-Controller.

If you have any questions regarding this item, please contact the undersigned at Extension 2040.

Very truly yours,



Alex Sheydayi
Deputy Director of Public Works
Flood Control Department

AEG/AS:ebh

Attachments

C000620

RESOLUTION OF THE BOARD OF SUPERVISORS OF
THE VENTURA COUNTY FLOOD CONTROL DISTRICT
ADOPTING AND CONFIRMING ASSESSMENTS ON REAL PROPERTY
FOR FISCAL YEAR 1993/94

WHEREAS, the Board of Supervisors of the Ventura County Flood Control District (Board) has received a written report on benefit assessment program for flood control as provided in Government Code Sections 54715 and 54716, which report, as amended, complies in all respects with the requirements of those sections; and

WHEREAS, the Clerk of this Board has filed said report and has fixed Tuesday, June 29, 1993, at 10:00 a.m. in the Board's chambers, Administration Building, 800 South Victoria Avenue, Ventura, California, as the time, date, and place for this hearing upon such report; and

WHEREAS, the Board held an additional public hearing on Tuesday, June 1, 1993, during which it received public testimony regarding the proposed benefit assessment program for flood control in accordance with Government Code Section 54954.6 (a) (1); and

WHEREAS, the Ventura County Flood Control District mailed notice of both of these hearings at least 45 days prior to the June 29, 1993 hearing as required by Government Code Section 54954.6 and caused notice of both hearings to be published pursuant to Section 6066 of the Government Code, and proof of such publication is on file with the Clerk; and

WHEREAS, three copies of the notices of these hearings have been posted as required by law, and proof of such posting is on file with the Clerk; and

WHEREAS, at the June 29, 1993 hearing, this Board heard and considered all testimony to the report, including comments with respect to the amount of the assessment to be levied; and

WHEREAS, in order to cure certain defective notices and ensure compliance with the notice and hearing requirements of Government Code Section 54954.6, the Board continued the June 29, 1993 hearing to July 20, 1993, notice of which the Clerk published pursuant to Government Code Section 6066, during which the Board received and considered testimony regarding the report from those parties who received defective notices, and then the Board closed the public hearing; and

WHEREAS, this Board adopted a resolution on June 14, 1988, providing for the establishing and levy of benefit assessments to pay for the cost of providing Flood Control services in Zones 1, 2, 3, and 4, which Resolution reflects the Board's determination with respect to assessments, and all other matters pertaining to the same.

NOW, THEREFORE, BE IT RESOLVED that this Board does hereby makes its determination upon each parcel and the assessment described in said report, and that it does hereby, confirm and adopt and levy each and all assessments for 1993/94 on such property as described in said report and as determined by said Resolution, dated June 14, 1988, a copy of which is attached as Exhibit A hereto and by reference incorporated herein, and directs that this Resolution be recorded in the office of the County Recorder.

ADOPTED ON July 20, 1993



VENTURA COUNTY FLOOD CONTROL DISTRICT

By

Susan K. Lacy
Chair, Board of Supervisors

ATTEST:
RICHARD D. DEAN, County Clerk
of the County of Ventura and
ex officio, Clerk of the Board
of Supervisors of the Ventura
County Flood Control District

By: Maryl A. Marcotte

C000621

EXHIBIT - A

RESOLUTION OF THE BOARD OF SUPERVISORS OF
VENTURA COUNTY FLOOD CONTROL DISTRICT
PROVIDING FOR THE ESTABLISHMENT AND LEVY
OF BENEFIT ASSESSMENT TO PAY FOR THE
COSTS OF FLOOD CONTROL SERVICES IN
ZONES 1, 2, 3 AND 4

IT IS HEREBY RESOLVED AND ORDERED AS FOLLOWS:

1. Reason for Resolution:

The Ventura County Flood Control District improves and maintains a system for storm monitoring and warning, and a flood protection system of channels, debris basins, pumping plants, storm drains, and other facilities upon which the safety of the lives and property of District residents and property owners depend. It is necessary that these facilities be kept in a safe and effective condition. The purpose of the benefit assessment is to finance the maintenance and operation of flood control services to keep the existing flood protection system in a safe and effective condition and to enable the District to respond to emergencies and repair. In future years additional benefit assessment revenues may be used to provide for the completion of necessary improvements to District facilities and for the local cost sharing required for federal projects. The state legislature has authorized the District to levy such an assessment on each parcel of property within the District, or any zone thereof, on the basis of estimated benefits. Since the District services are necessitated by storm water runoff, the Board finds that the most equitable basis upon which to levy the assessment is proportionate storm water runoff attributable to each parcel of land utilizing area and land use information pertaining to each parcel of real property within the District, from the County Assessor Master Property File.

2. Purpose and Authority:

The purpose of this Resolution is to prescribe and provide for the levy of benefit assessments in Zones 1, 2, 3 and 4 of the District to derive revenue to be used to finance the maintenance and operation costs of flood control services and, as may be needed in future years, for the cost of installation and local cost sharing for improvement of, and restoration of damaged flood control facilities within said zones pursuant to and in accordance with the authority of Section 12.3 of the Ventura County Flood Control Act and Section 54710 to 54711 of the Government Code.

1. Definitions:

For the purposes of this Resolution, the following words and phrases shall have the meaning respectively ascribed to them

- a. "District" or "Flood Control District" means the Ventura County Flood Control District.
- b. "Board" means the Board of Supervisors of the Ventura County Flood Control District.
- c. "Zone" means a zone or special zone established by the Board pursuant to the provisions of the District Act.
- d. "District Act" means the Ventura County Flood Control District Act, Statutes 4th Ex. Session 1944, State of California, Chapter 44, as amended.
- e. "Public Works Agency" means the Public Works Agency of the County of Ventura, State of California.
- f. "Director" means the Director of the Public Works Agency or his designated representative.
- g. "Parcel of real property" means a parcel of real property or a legal right to real property as shown on the tax rolls of the County of Ventura, State of California.
- h. "Clerk" means the Clerk of the Board of Supervisors.
- i. "Enforcing officer" means the Director of the Public Works Agency or his designated representative.

4. Report:

The Director shall prepare a written report for each fiscal year for which a flood control benefit assessment is to be levied, and shall file the report with the Clerk of the Board, and cause it to be recorded in the office of the County Recorder.

5. Content of Report:

The report shall contain a description of the services proposed to be financed. It shall also describe each parcel of real property and the amount of the assessment for each parcel, and shall estimate the cost not otherwise offset by other available revenue of providing flood control services within the District or any zone thereof during the ensuing year. The assessment shall be levied on the basis of estimated benefits, which shall be determined on the basis of proportionate storm water runoff for each parcel.

4. Duties of Clerk of Board:

Upon receiving the filing of the report, the Clerk shall fix a time, date, and place for a hearing upon the report. Prior to the date of the hearing, a notice of the hearing shall be published pursuant to Section 6066 of the Government Code and at least three copies of the notice shall be posted at public places within the District.

Hearing:

The Board shall hear the matter as scheduled, or as postponed or continued for good cause. At the hearing, the Board shall hear and consider all testimony. At the conclusion of the hearing, the Board may adopt, revise, change, reduce, or modify any assessment and shall make its determination upon each assessment described in the report and thereafter, by resolution, shall confirm the assessments. Such confirming resolution shall be adopted no later than July 1 in the fiscal year during which the assessment is to be levied and collected, and shall be recorded in the office of the County Recorder.

5. Appeal - Right and Procedure:

Thereafter the Director may correct assessments in the same manner as assessor's or assessee's errors may be corrected but based only upon any or all of the following:

- a. changes or corrections in ownership of a parcel;
- b. subdivision of an existing parcel into 2, 3, or 4 parcels;
- c. corrections in use of a parcel;
- d. corrections in the computation of the area of a parcel;
- e. corrections in the computation of the assessment for a parcel.

Any person aggrieved by the refusal of the Director to correct an assessment pursuant to this Resolution, may appeal to the Board within thirty (30) days after the date of such refusal by filing with the Clerk of the Board a request that the Board review the decision of the Director. The appeal shall be in the form of a written notice and shall be signed by the person aggrieved. The notice shall contain the Assessor's parcel numbers, the amount of assessments, and the reasons upon which the person aggrieved relies on his appeal. The Clerk of the Board shall set the matter for hearing within fifteen (15) days

after the notice is filed with said Clerk and shall notify the person aggrieved and the enforcing officer of the date set for hearing on the matter. At the hearing, the person aggrieved shall have the burden of establishing to the satisfaction of the Board that he is entitled to a corrected assessment; otherwise the refusal of the Director shall stand. The Director may present his grounds for refusing the correction. The decision of the Board is final.

9. Copy to Auditor-Controller:

The Clerk shall immediately file certified copies of the final determination of assessments and confirming resolution with the Auditor-Controller.

10. Collection of Benefit Assessment:

The benefit assessment for each parcel set forth in the final determination by the Board shall appear as a separate item on the tax bill. The confirmed benefit assessment shall be levied and collected at the same time and in the same manner as the general tax levy for county purposes, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for such taxes.

11. Applicable Law:

All laws applicable to the levy, collection, and enforcement of county ad valorem property taxes shall be applicable to such benefit assessment, except as otherwise provided herein or in Government Code Sections 54710 through 54716, inclusive.

12. Invalidation of Deadline:

Failure to meet the time limits set forth in this Resolution for whatever reason shall not invalidate any benefit assessment levied hereunder.

13. Flood Control Benefit Assessment Levied:

No flood control benefit assessment shall be imposed upon a federal, state, or local governmental agency, or non-benefiting undeveloped property and utility parcels. Except as provided in the preceding sentence, a flood control benefit assessment is levied on each parcel of real property in Zones 1, 2, 3 and 4 of the District for the fiscal year beginning July 1, 1988, for the purposes stated and in the amounts provided in the report titled "Report on Benefit Assessment for Flood Control, May 1988," including Appendix "B" of the report, "List of Descriptions and Amounts of Assessments for

Each Parcel of Real Property for Purposes of the 1988-89 Benefit Assessment for Flood Control." Said report as amended, by reference therein, is hereby referenced and incorporated herein as though set forth at length in this Resolution. The assessment for each parcel of Zones 1, 2, 3 and 4 is computed by multiplying the number of assessment units for the parcel times the rate per assessment unit.

14. Assessment Formulas:

This benefit assessment program for flood control shall use a single family dwelling on 0.2 acres of land with an imperviousness of 0.40 (40%) as the basic assessment unit (BAU). A single family home represents a reasonable middle ground of all potential land uses, as well as the most numerous type of use. The basic assessment unit shall be expressed numerically as follows:

$$1 \text{ BAU} = \text{site area} \times \text{site imperviousness}$$

or

$$1 \text{ BAU} = 0.2 \text{ acres} \times 0.40 \text{ imperviousness}$$

or

$$1 \text{ BAU} = 0.08$$

Where a site use code describes the entire use to be expected on a parcel, the number of BAUs for that parcel shall be calculated as follows:

$$\text{Number of BAUs} = \frac{\text{Parcel area (AA)} \times \text{site imperviousness (SI)}}{1 \text{ Basic assessment unit}}$$

or

$$\frac{\text{AA} \times \text{SI}}{0.08}$$

A more convenient expression of the basic formula above is:

$$\text{BAUs per acre}^{(1)} \times \text{parcel area}$$

(1) This is determined by multiplying one acre by the site imperviousness and dividing by one basic assessment unit.)

The following six formulas combined with the above format shall be used for the appropriate single use parcels as specifically identified in Appendix "A". Other "mixed-use" formulas may apply depending on a particular parcel's size. (See "mixed-use" formulas "G" through "M" below.)

Formula A - Commercial, Industrial, Condominiums

$$\text{BAUs} = 10 \text{ BAUs/acre} \times \text{AA} \\ (\text{0.3 imperviousness})$$

Formula B - Mobile Home Parks, Churches, Schools

$$\text{BAUs} = 7.5 \text{ BAUs/acre} \times \text{AA} \\ (\text{0.6 imperviousness})$$

Formula C - Residential

$$\text{BAUs} = 5 \text{ BAUs/acre} \times \text{AA} \\ (\text{0.4 imperviousness})$$

Formula D - Golf Courses, Green Belts

$$\text{BAUs} = 2.5 \text{ BAUs/acre} \times \text{AA} \\ (\text{0.2 imperviousness})$$

Formula E - Vacant Land, Mining, Oil Wells

$$\text{BAUs} = 0.125 \text{ BAU/acre} \times \text{AA} \\ (\text{0.01 imperviousness})$$

Formula F - Agriculture

$$\text{BAUs} = 0.2375 \text{ BAU/acre} \times \text{AA} \\ (\text{0.019 imperviousness})$$

Where a site use code was found to describe only a portion of actual parcel, a "mixed" assessment formulas shall be used. The "other" use not described by the site use code is considered to be vacant land. For residential site use codes describing up to four single family dwellings on one lot as identified in Appendix "A", the following four formulas shall be used:

Formula G - 1 Dwelling Unit

$$\text{BAUs} = 1 \text{ BAU} + [(\text{AA} - 0.2 \text{ acres}) \times 0.125 \text{ BAU/ac}]$$

Formula H - 2 Dwelling Units

$$\text{BAUs} = 2 \text{ BAUs} + [(\text{AA} - 0.4 \text{ acres}) \times 0.125 \text{ BAU/a}]$$

Formula I - 3 Dwelling Units

$$\text{BAUs} = 3 \text{ BAUs} + [(\text{AA} - 0.6 \text{ acres}) \times 0.125 \text{ BAU/a}]$$

Formula J - 4 Dwelling Units

$$\text{BAUs} = 4 \text{ BAUs} - ((\text{AA} - 0.8 \text{ acres}) \times 0.125 \text{ BAU/acre})$$

Where the actual parcel size is less than that of the assumed number of basic assessment, then the Formula "J" shall be used.

The remaining three "mixed" site use code formulas shall be used for unique land use situations as specifically identified in Appendix "A". General uses are shown below.

Formula K - Churches, Private Schools, Colleges, Rest Homes and Camps

$$\text{BAUs} = 15 \text{ BAUs} + ((\text{AA} - 2.0 \text{ acres}) \times 0.125 \text{ BAU/acre}) \text{ (0.6 imperviousness)}$$

Formula L - Golf Courses, Green Belts

$$\text{BAUs} = 30 \text{ BAUs} + ((\text{AA} - 12.0 \text{ acres}) \times 0.125 \text{ BAU/acre}) \text{ (0.2 imperviousness)}$$

Formula M - Industrial, Resource Production, Greenhouses, Egg Production

$$\text{BAUs} = 100 \text{ BAUs} + ((\text{AA} - 10.0 \text{ acres}) \times 0.125 \text{ BAU/acre}) \text{ (0.8 imperviousness)}$$

15. The effective date of this resolution is the date of adoption.

PASSED, APPROVED AND ADOPTED on June 14, 1981.

VENTURA COUNTY FLOOD CONTROL DISTRICT

By John K. Thomas
Chair, Board of Supervisors

ATTEST:

RICHARD D. DEAN, County Clerk of the County of Ventura, ex officio Clerk of the Ventura County Flood Control District Board of Supervisors.

Ray Hillard
Deputy Clerk



WML/tw/jg

(8A/32)

*Item 8a
6/14/88*



Ventura Countywide Stormwater Quality Management Program

ATTACHMENT E

May 22, 1995

Participating Agencies

Camarillo

County of Ventura

Fillmore

Moorpark

Ojai

Oxnard

Port Hueneme

San Buenaventura

Santa Paula

Simi Valley

Thousand Oaks

Ventura County
Flood Control
District

Mr. Mohammed Fatemi
City of Thousand Oaks
2400 Willow Lane
Thousand Oaks, CA 91361

Subject: BENEFIT ASSESSMENT PROGRAM FOR FLOOD CONTROL
CO-PERMITTEE DISTRIBUTION OF NPDES FUNDS - FY 1994/95

Dear Mr. Fatemi:

You may recall that as early as 1991, planning for compliance with National Pollutant Discharge Elimination System (NPDES) requirements began. Significant considerations at that time included what entities would be involved in the program, how to organize a cost-effective program and what mechanism could be made available for funding since no federal funding was available. After all of the parties involved considered many options, in April of 1992, the Ventura County Flood Control District (District) requested that the Board of Supervisors consider the concept of a single county-wide permit and use of the District's benefit assessment authority to finance it. The cities were then offered the opportunity to use the District's Benefit Assessment Program to finance their activities related to the NPDES program and an implementation agreement, providing methodology, was entered between the District and the County and Cities.

As a part of the Benefit Assessment Program for Flood Control, each year the District levies an assessment to finance district-wide expenses incurred. These expenses are for tasks such as administration, stormwater quality monitoring, countywide public outreach development, etc. that directly benefit all co-permittees. The Cities and the County of Ventura are also given the opportunity to utilize the Benefit Assessment Program to finance their respective activities related to the NPDES program. The cities are not required to participate and some have chosen to fund all or parts of their respective program activities in other ways.

In addition to district-wide expenses, the District incurs expenses for tasks that initially benefit specific cities, however, grant permit compliance to other jurisdictions concurrently. From onset of the program the concept has been that the co-permittees that benefit from these tasks should share in these expenses. These expenses are referred to as "shared expenses". For the past two years the District has requested a specific amount from each city to cover these costs. This amount is assessed with the amount requested from the Cities and County as a portion of their assessment. Any money from this requested portion of the assessment that is not utilized for shared expenses will be refunded to the City and/or County after the accounting for the fiscal year is complete.



Initially these shared expenses covered requirements for development of Volume One of the permit application that did not benefit the City of Oxnard. Due to the fact that the City of Oxnard had already submitted a Part One application, it did not seem equitable to share this cost county-wide. However, the remainder of the activities were benefiting all co-permittees including the City of Oxnard. Those expenses were assessed as a part of the District's assessment for district-wide expenses.

When all co-permittees became equally involved in the program, the District began to use the shared expenses for the initial implementation phase of the program. Again, a portion of the District's activities, while directed toward one or two co-permittees, benefit all. The permit application outlines a cost effective program that achieves stormwater pollution control objectives countywide by initially implementing pilot programs by one or two co-permittees. The pilot programs are then evaluated and refined based upon the pilot test and then implemented by all co-permittees. An example of a shared expense would be the expenses incurred when the District directly or through the consultant participates in the development, planning, evaluation and refinement of these programs prior to countywide implementation.

At this stage in the NPDES program, the majority of the expenses incurred are district-wide and all shared expenses are shared between all co-permittees. Therefore, the District will not be requesting an amount as a portion of the City's or County's assessment during fiscal year 1996. Any shared expenses remaining have been budgeted as district-wide expenses. The balance for previous years shared expenses, if any, will be refunded to the co-permittees at the close of fiscal year 1995.

If you have additional questions, feel free to contact Vicki Musgrove at 650-4064 or me at 654-2040.

Very truly yours,



Alex Sheydayi, Chair
Management Committee

Ventura Countywide Stormwater Quality Management Program

VENTURA COUNTY



PUBLIC WORKS AGENCY
RONALD C. COONS
Agency Director

WATERSHED PROTECTION DISTRICT

March 20, 2008

Ms. Tracy Egoscue
California Regional Water Quality Control Board
Los Angeles Region
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

Subject: **PROPOSED MODIFICATION TO INSTREAM BIOASSESSMENT MONITORING WORK PLAN UNDER VENTURA COUNTY MUNICIPAL SEPARATE STORM SEWER SYSTEM PERMIT (NPDES PERMIT No. CAS004002) TO SYNCHRONIZE EFFORTS WITH THE SOUTHERN CALIFORNIA STORMWATER MONITORING COALITION'S REGIONAL WATERSHED MONITORING PROGRAM**

Dear Ms. Egoscue:

The Ventura Countywide Stormwater Management Program (VCWMP) requests approval to modify its Instream Bioassessment Monitoring Work Plan to match the monitoring that will be conducted under the Southern California Stormwater Monitoring Coalition's (SMC) Regional Watershed Monitoring program (Regional Program).

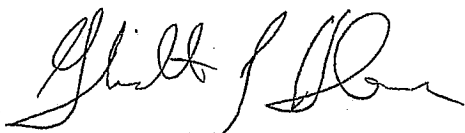
The goal of the Regional Watershed Monitoring program is to increase the effectiveness of existing NPDES monitoring programs by integrating Permittees' monitoring program with the Surface Water Ambient Monitoring Program (SWAMP) to achieve a large-scale assessment of watershed conditions within the Southern California region from Ventura to San Diego. The project is 50% funded by the SWRCB, whose main desire is to ensure integration with the SWAMP. Cooperation with this Regional Plan is a requirement in the Draft Ventura MS4 permit, and the VCWMP intends to participate in this program regardless of the reissuance timing of the Ventura County MS4 permit.

Scheduled to begin in the Spring 2009, Ventura County's participation in the Regional Program would include the bioassessment monitoring of the three major watersheds in Ventura County (Calleguas Creek, Santa Clara River and the Ventura River). The Regional program calls for bioassessment on 18 sites per watershed on a rotating schedule of three years. Currently, 15 sites only on the Ventura River have bioassessment monitoring under the VCSQMP Bioassessment Work Plan.

As you know, the Ventura County Municipal Stormwater Permit (NPDES Permit No. CAS004002) is currently on administrative extension, and without approval of this change to our bioassessment monitoring plan the Permittees will be required to perform bioassessment on the Ventura River in the Fall 2008. We respectfully request that the SMC's Regional Watershed Monitoring program be substituted now for our current bioassessment work plan to meet the SWRCB's goals of a regionally consistent bioassessment monitoring and data sharing program.

If you have any questions please contact at 805-654-3942 or Arne.Anselm@ventura.org.

Sincerely,



Gerhardt Hubner,
Deputy Director

- c. Xavier Swamikannu, LARWQCB
- Tracy Woods, LARWQCB
- Ventura Countywide Stormwater Program Permittees



California Regional Water Quality Control Board Los Angeles Region



Recipient of the 2001 *Environmental Leadership Award* from Keep California Beautiful

Linda S. Adams
Agency Secretary

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>

Arnold Schwarzenegger
Governor

April 25, 2008

Mr. Jeff Pratt, Director
Ventura County Watershed Protection District
800 South Victoria Ave.
Ventura, CA 93009-1600

Certified Mail
Return Receipt Requested
Claim No. 7007 2560 0001 7889 1632

RE: REQUEST TO MODIFY BIOASSESSMENT MONITORING PROGRAM REQUIRED UNDER THE VENTURA COUNTY MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) PERMIT (BOARD ORDER No. 00-108, NPDES No. CAS004002).

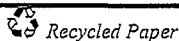
Dear Mr. Pratt:

Board Order No. 00-108, requires the Ventura County Flood Control District (now known as the Ventura County Watershed Protection District, VCWPD), the Principal Permittee, to implement the NPDES Permit No. CAS004002, including the Monitoring and Reporting Program. The Principal Permittee is responsible for a wide range of activities that include program coordination, and to develop/ prepare/ compile all information and data common to all Permittees. These activities are accomplished through the Ventura Countywide Stormwater Management Program (VCWMP).

A requirement of the Ventura County MS4 NPDES permit was to develop a work plan, implement, and submit results with the Annual Monitoring Report for an in stream bioassessment monitoring program. This requirement has been successfully undertaken for several years in the Ventura River Watershed making this watershed well-monitored, but the status of the County's other watersheds like Calleguas Creek remain virtually unmonitored. In order to address this information gap and others like it throughout southern California, a large-scale, regional monitoring program of southern California's coastal streams and rivers has been developed through the Stormwater Monitoring Coalition (SMC), in which the VCWMP is a participating member.

The objective of this undertaking is to create a comprehensive monitoring design that integrates many elements of the individualized monitoring programs that currently exist within the region. This integrated regional monitoring program is designed to be collaborative, so that each individual program can assess their local geography, and then contribute their portion to the

California Environmental Protection Agency



Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

C000633

Mr. Jeff Pratt, Director
Ventura County Watershed Protection District

-2 of 2-

April 25, 2008

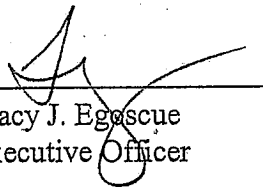
whole of the region to address large-scale management needs and provide answers to the public about the health of southern California's streams and rivers.

I hereby approve the VCWMP to substitute its present in stream bioassessment monitoring program's requirements as required under Board Order No. 00-108, with its participation in the SMC's Southern California Regional Bioassessment Program. Participation in the SMC's Regional Bioassessment Project shall be at a level as described below:

- 1) Probabilistic sites per watershed-
 - Ventura River- 6 sites
 - Santa Clara River- 3 sites
 - Calleguas Creek- 6 sites
- 2) Integrator sites per watershed-
 - Ventura River- 1 site
 - Santa Clara River- 1 site
 - Calleguas Creek- 1 site

If you have any additional questions, please contact Xavier Swamikannu at (213) 620-2094 or Tracy Woods at (213) 620-2094, of my staff.


Sincerely,



Tracy J. Egoscue
Executive Officer

cc: Gerhardt Hubner, Ventura Watershed Protection District
Arne Anselm, Ventura Watershed Protection District

California Environmental Protection Agency

 Recycled Paper

Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

0000634

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
ICE (415) 904-5200
X (415) 904-5400
TDD (415) 597-5885



September 20, 2007

Comments for oral testimony on 2nd Draft Stormwater Permit for Ventura County and Cities
– Los Angeles Regional Water Quality Control Board September 20, 2007 Workshop:

I'm Tracy Duffey and I am here on behalf of the staff of the Water Quality Unit of the California Coastal Commission and as a partner in the California Water and Land Use Partnership, otherwise known as Cal WALUP, which is focused on educating land use decision makers about the relationship between land use and water quality.

As the State's land use agency charged with protecting and enhancing coastal resources, the Coastal Commission is deeply concerned with the impact of stormwater and dry-weather runoff on the water quality of our streams, wetlands, estuaries, and beaches.

Land use planning and development are inextricably linked with the health of our watersheds. The way we develop and manage land use activity in our watersheds directly affects the water quality and ecological integrity of our rivers, streams and other aquatic resources in the State. Land use planning efforts and water quality goals must be integrated – and we believe the concepts and measures set forth in the proposed Draft Permit recognize and embrace this important principle. We are particularly supportive of the Draft Permit sections that address the impacts of **hydromodification** and advance the use of **low impact development concepts and techniques**.

The Coastal Commission is one of the lead agencies carrying out California's Non-point Source Control Plan, and that plan recognizes the importance of maintaining the pre-disturbance hydrologic character of watersheds when developing land. The Commission, accordingly, has long emphasized the need for development to control not only pollutants in runoff, but also increases in volume, flow and duration of discharge caused by the creation of impervious surfaces.

In addition, Low Impact Development and the integrated approaches to stormwater management articulated in the Draft Permit are consistent with the policies and measures that the Coastal Commission has been approving in Local Coastal Plans and Permits in recent years. Further, the Commission, as a member of Cal WALUP, encourages and supports an LID training program as outlined in the Draft Permit, and hopes that this training program will be coordinated with Cal WALUP's efforts.

The Commission and Cal WALUP support the concept of Natural Resource Based Planning where natural areas in a region are preserved or set-aside to retain their beneficial uses, including infiltration, pollutant removal and habitat value. In addition, the footprint of development should be minimized as much as possible to reduce the spread of impervious surfaces and maintain the functions of natural drainage systems.

C000635



1672 Donlon Street
Ventura, CA 93003
Local 805 654-6977
Fax 805 654-6979

September 20, 2007

Ms. Francine Diamond
Chair
Los Angeles Regional Water Quality Control Board
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

Re: Proposed Ventura County Municipal Storm Water Permit;
September 20, 2007 hearing – Ventura, CA

Dear Chairwoman Diamond and Regional Board Members,

On behalf of Jensen Design & Survey, Inc., we appreciate the opportunity to express our views and concerns with the recently released revised draft of the Ventura County Municipal Storm Water Permit (MS4). We are a local engineering firm responsible for the design of many types of projects, including new residential and commercial sites. We also work extensively on redevelopment, or in-fill sites as well, providing engineering services for the design of infrastructure systems including streets, water, sewer, and drainage. For the projects that we provide engineering services for, it is our design that the permit jurisdictions review for compliance with the MS4 criteria. We have first-hand knowledge and expertise as to what really works for sites relative the mitigating storm water runoff.

We join the Regional Board in supporting efforts to achieve cleaner water in Ventura County. We believe that through a comprehensive approach, utilizing best management practices that are adaptable to differing communities and individual site conditions, we will be better able to impact water quality in a positive sense throughout our region.

Hydromodification Control Criteria requirements are based on three components: Flow, volume, and duration. Restricting all of these components on development projects can only mean retaining all runoff, above that of natural conditions, onsite. While being noble in thought, the practicality of it is not feasible. Development projects must be allowed to affect one of these requirements to adequately treat and mitigate development impact in ways that are acceptable, sustainable, and practical. It is not practically possible to develop a site that doesn't affect some component of these three aspects. To achieve the goals of cleaner water with little or no downstream impact, we suggest that the permit allow latitude in the duration effects since this component is often extended to mitigate the increase in peak runoff rates caused by development. There is a minimal impact to the watershed because the "duration" of the runoff from the site is extended; i.e. providing detention as opposed to retention. This increased duration allows some infiltration, treatment, and particle settlement to occur. The MS-4 permit must address an understanding of this to make any of the implementation solutions practical and achievable.

For most of the sites developed in Ventura County, onsite retention/infiltration is not practical because of typical high ground water levels, and therefore surface area required to achieve this volume of retention is excessive and not appropriate for most applications.



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Fax 805 654-6979

We would oppose the inclusion of numeric effluent limits in the MS4 permit. We believe the Board should address water quality regionally rather than site-by-site as recommended in the revised draft. The site-specific approach not only will be extremely costly, but also will not lead to increased water quality in our basin.

In Ventura County we value redevelopment and infill projects. Through redevelopment of properties we are able to take advantage of existing infrastructure, such as roads and highways. Therefore we request that you not place restrictions on redevelopment projects. Reading the MS 4 wording literally, it could be interpreted that redevelopment sites must mitigate their flow back to natural conditions. For a site in an older downtown area, does that mean that we now have to make engineering assumptions for a natural condition that may not have existed for over 100 years? See page 50, item 2. (2).

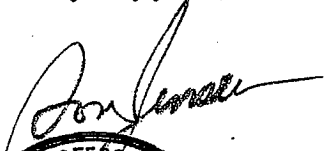
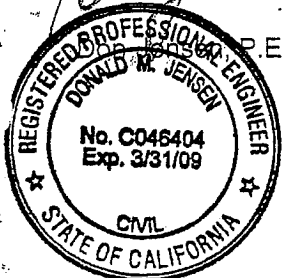
We also request that you not place unnecessary burdens on the development of new residential, commercial and industrial properties through grading restrictions that are not likely to lead to increase water quality. Again, water quality needs to be addressed regionally and not on a site-specific basis. The MS 4 permit should also allow for flexibility in allowing structural BMP's, if there are grade or other constraints that prohibit the use of natural bio-swales, etc.

The reliance on ground infiltration is also an issue. Practically all construction sites are built on compacted grade, be it cut or fill. Infiltration on a 90% compaction site is virtually nil due to the compaction requirement for geotechnical feasibility. The compaction is required for structural – and seismic – integrity of the building(s), and roadways. Over time water infiltration into these areas would pose a significant public safety hazard by undermining both on-site improvements, and possibly off-site properties as well due to sub-surface migration of water.

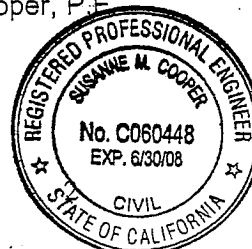
In closing let us express our concern that the costs need to be assessed by the agencies and jurisdictions that will be responsible for enforcing the permit criteria. We doubt that any of the municipalities have the funding to support the permit criteria. Costs should be spread to the entire population, and not to new development or potential future homeowners to subsidize a community-wide benefit. By most estimates, the financial costs associated with the revised draft MS4 permit are very high.


Again, we appreciate the opportunity to express our concerns. We look forward to working with the Regional Board in achieving an MS4 that will enhance water quality in Ventura County without negatively impacting our residents, local governments, and our economy.

Very truly yours,


Susanne Cooper, P.E.




Robert Talmadge, AICP

C000637



Ventura County
Watershed Protection District

PUBLIC WORKS AGENCY
RONALD C. COONS
Agency Director

October 15, 2007

Jeff Pratt
District Director
Gerhardt Hubner
Water/Environmental Resources

Peter Sheydayl
Design/Construction

Sergio Vargas
Planning/Regulatory

Tom Lagier
Operations/Maintenance

Ms. Tracy Egoscue
California Regional Water Quality Control Board
Los Angeles Region
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

Subject: **COMMENT LETTER – SECOND DRAFT VENTURA COUNTY
MUNICIPAL SEPARATE STORM SEWER SYSTEM PERMIT (NPDES
PERMIT No. CAS004002)**

Dear Mr. Egoscue:

We have received the National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer (MS4) Draft Order dated August 28, 2007 and appreciate the opportunity to provide comments on behalf of the Watershed Protection District (District). Comments from the District on the first draft were submitted on March 6, 2007. We understand this is a second draft Order and our concerns and comments will be considered before a tentative Order is released.

In addition to the comments from the District, the District supports comments made by the Ventura Countywide Stormwater Quality Management Program October 12, 2007 letter and attachments.

Increases in permit requirements were expected as part of the iterative process, as reflected in the 2nd Draft Order. The comments presented here are made to maximize the effectiveness of the program to improve stormwater quality discharging from MS4s. Wherever possible each comment suggests a viable alternative; however in some

cases the draft language was not readily understood or the requirements did not appear technically or scientifically justified, so clarification was requested.

The District has developed the following studies and tools for use in evaluating hydromodification and they represent our experience and expertise in this area.

1. Development of continuous HSPF model on Calleguas creek with sediment yield/transport capabilities;
2. Use of said model to evaluate TMDLs and channel stability;
3. HSPF "Hydrologic Modeling of the Arroyo Simi Watershed with Hydraulic Simulation Program" report by Aqua Terra and subsequent report "Understanding and Managing Urbanization Induced Erosion in Southern California";
4. Development of continuous HSPF model for Santa Clara River with sediment yield/transport capabilities;
5. Recent evaluation of debris basins utilizing HEC-6T model in Ventura County for possible removal to restore sediment equilibrium;
6. Historic sediment transport modeling by WEST and Chang Consultants to evaluate Calleguas Creek system;
7. Current study to update sediment yield methodology;
8. Planned development of continuous HSPF model of Ventura River watershed with sediment yield and transport capabilities; and
9. Study to evaluate sediment transport for Sespe Creek in response to 2006 Day Fire;

With this understanding the District is compelled to comment of the hydromodification requirements in the draft order.

Issue: Need to include methodology to generate 2-yr storm hydrograph in Hydrology Manual Part 4 E. III (a) (2) (A) (i) page 54

The definition of 2-yr 24-hr storm needs to be clarified. Please clarify if this related to a flow frequency analysis, or does it refers to rainfall based on a rain gage analysis or other source.

To meet these requirements of the draft permit, the District would have to revise their methodology for developing design hydrographs. The current approach of using a modified rational method hydrograph with yield adjustment may not be suitable for sediment transport and hydromodification studies. The design hydrographs should be developed in conjunction with NPDES design volume requirements so that the methodologies are consistent with each other, but the NPDES design volume requirements need to be unambiguous.

Additionally, in many places of the County adhering to the specified 1% interim volume restriction will be impossible due to restrictions on infiltration from soil types and high ground water. Another problem is that significant areas of the county are underlain by perched aquifers containing water that is of poor quality (not suitable for drinking or ag), so increases in the groundwater table may encourage base flow into the streams and adversely affect water quality.

Issue: Projects disturbing land areas of 50 acres or greater will need to use SWMM or HSPF to evaluate treatment BMPs. Part 4 E. III (a)(2)(A)(ii) page 54

The requirement for developers with projects over 50ac to use HSPF or SWMM to evaluate their water quality impacts is not available at this time at that resolution. HSPF is a continuous model that cannot be used to evaluate design storm runoff due to development without extensive work to develop a methodology. The use of these models requires complex modeling and data gathering efforts, and only a few consultants in the County currently claim to have this modeling capability. The District would have to develop enough expertise to do a thorough review of their models to accept them.

Issue: Draft Order erroneously adds Watershed Protection District as a responsible party under previously adopted TMDLs.

In many of the TMDLs adopted by the Regional Board the Watershed Protection District was not identified as a responsible party. There is no reason that this Draft Order should include the District under any TMDL in which they were not named. Additionally, any requirements based on the TMDLs adopted in Ventura County should be identical to the

language in the adopted TMDLs. Please remove all inaccurate references to the District from TMDL language in the Draft order.

Issue: Inappropriately requiring coverage under the Construction Activity General Stormwater Permit (CAGSP) for activities expressly exempted from that permit. Part 4 G. I. 1. (c) page 71 Part 4 G. I. 7 (a) page 78

As adopted by the State Water Resources Control Board requirement for coverage under CAGSP "does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility." Street repaving and channel clearing are not required to get coverage under the CAGSP, therefore the District should not be required to do under this Draft Order. Please change to: all projects required to obtain coverage under the CAGSP shall do so.

Issue: Limiting options for effective BMPs Part 4 F. I. 2. page 63

The Draft Order reflects a prescriptive approach to addressing runoff from construction sites regardless of the nature of the construction site or activities on a site. Specifically the Draft Order requires all construction sites (regardless of size) to implement BMPs identified in Tables 6 and 7 regardless of whether the BMP is appropriate for the site. The District would prefer the draft order provide flexibility in selecting/requiring BMPs applicable to the site and construction activities. Please allow this flexibility and for other BMPs other than the ones contained in the Caltrans Stormwater Quality Handbook.

Issue: Discharge limitations for dewatering BMPs Table 10 page 77

Please explain the source of these limitations, and how they were deemed appropriate for the Southern California region.

Issue: Draft Order should focus on infrastructure under Permittees control. Part 4 H. 3. (a) (1) (A) page 80

The District can only be responsible for infrastructure under their control. Please change to: A GIS layer showing the location and length of Permittee owned underground storm drain pipes.

Ventura County Watershed Protection District
October 15, 2007
Page 5 of 5

All of the issues mentioned here are of particular concern to the District, however it is necessary to emphasize again that the October 12, 2007 letter and attachments from the Ventura Countywide Stormwater Quality Management Program also expresses the District's opinion and comments on the Draft Order.

Our hope is to have the best stormwater quality program possible, and this permit process will help us in that goal. But we need to take care that our resources are being used wisely and efficiently in order to meet that goal. We look forward to your response to all of the comments you have received. If you have any questions please contact Arne Anselm at 805-654-3942.

Sincerely,



Jeff Pratt, Director

JP/AA/cs/K:WQWater Quality Section\NPDES Program\Management\Permit Renewal\Draft Permit\Comments\district comments (1-10.15.doc

OCT 15 AM 9 25

October 12, 2007

CALIFORNIA REGIONAL WATER
QUALITY CONTROL BOARD
LOS ANGELES REGION

Ms. Tracy Egoscue
Executive Officer
Los Angeles Regional Water Quality Control Board
320 4th Street, Suite 200
Los Angeles, CA 90013

Transportation Department
Wm. Butch Britt, Director
Central Services Department
Lane B. Holt, Director
Water & Sanitation Department
R. Reddy Pakala, Director
Watershed Protection District
Jeff Pratt, Director
Engineering Services Department
Alec T. Pringle, Director

SUBJECT: COMMENTS ON SECOND ADMINISTRATIVE DRAFT OF THE VENTURA COUNTYWIDE MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) STORMWATER PERMIT

Dear Ms. Egoscue:

On behalf of the County of Ventura Stormwater Program (County), we appreciate this opportunity to provide written comments concerning the Regional Water Quality Control Board's (Regional Board) second administrative draft of the Ventura County Municipal Separate Storm Sewer System MS4 NPDES Permit (Second Draft Permit). While we acknowledge and thank the Regional Board for responding to a few of the comments submitted by the County in its letter dated March 6, 2007, we have ***grave concerns with the apparent lack of response to several of our key comments***. We had hoped to see more substantial changes made in the Second Draft Permit. As such, we find it necessary to enclose our March 6, 2007 comment letter (included as Attachment A).

Although we understand the Regional Board staff's desire to uphold the requirements of the Second Draft Permit, we must emphasize the importance of duly addressing our comments. We believe it is imperative that our future permit be mutually protective of water quality *and* economically reasonable, while not creating *an undue burden* to the County for potential non-compliance with its provisions. As currently written, the Second Draft Permit does not meet any of these criteria. It is our desire that we work together to ensure this will be the end result.

For instance, we had hoped the Regional Board staff would understand the illogicality of requiring an urban stormwater permit for areas of open space in unincorporated Ventura County. There is no MS4 in the open space areas of the County; to impose MS4 regulations there is folly. However, on page 8, the Second Draft Permit sustains this requirement, even though the County has clearly pointed out this fact in its previous comments. We are optimistic that this oversight will be remedied prior to issuance of the tentative permit.



In addition, the Second Draft Permit maintains the requirement for installing trash excluders on catch basins in certain areas (industrial, commercial and school areas). As commented by the County, as well as the other Co-permittees, the cost to retrofit hundreds of individual catch basins would be considerable. But, above and beyond the exorbitant cost, the *basic wisdom of implementing this provision must also be considered*. Catch basins must be designed to have large, unobstructed openings to function efficiently during major storm events, such as are common in Ventura County, or storm waters will bypass the inlet and cause local flooding. As such, installation of flow-restrictive trash excluders is often impractical, and in many cases will significantly increase the probability (and liability) of damage to local properties. Will the RWQCB take liability for this potential flooding hazard? If not, the County may be obliged to compensate private property owners for damage incurred by improperly managed flood waters. It is our anticipation that this comment, as well as a handful others, will be addressed with modified permit language prior to issuance of the tentative draft permit.

In addition, we would like to augment our existing concerns with the following two new written comments:

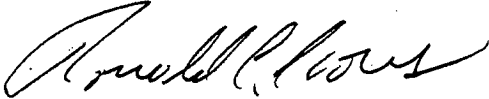
- Page 40, Part 5, Section D, Industrial/Commercial Facilities Program, item 1 (3) (B), utilizes the term "hazardous waste treatment, disposal and recovery facilities." This term now is considered outdated by the CA Health and Safety Code, Chapter 6.5, Section 25117.1. Please replace this language with the term "hazardous waste facilities for the treatment, storage and disposal of hazardous waste."
- The County of Ventura is not like a city, nor are many of the County roads like city roads. The County is predominantly the open space between cities, with winding rural roads and sparse housing. There are a few exceptions, such as Oak Park, but this is true for about 90% of the County jurisdiction. These roadways are drained by sheet flow runoff that enters ditches, usually on private property, which then lead to other ditches on private property, which empty into barrancas, also on private property. These ditches go from one city jurisdiction to another. We do not have jurisdiction or authority over these ditches. Therefore, the definition of an MS4 is not appropriate for the County roads jurisdiction, except in small areas as noted above. Please remove all references to requirements for street sweeping, debris removal, channel and catch basin cleaning for all areas where the County does not own the drainage facilities.

In conclusion, we acknowledged the efforts of Regional Board staff for the work done thus far. However, we remain concerned with the approach being taken with the Second Draft Permit. We strongly urge Regional Board staff to consider the October 12, 2007 comment letter as submitted by the Ventura Countywide Stormwater Quality Management Program, as well as our comments and concerns as voiced herein. Furthermore, we encourage you to continue working with County staff to draft a tentative

Ms. Tracy Escogue
October 10, 2007
Page 3 of 3

draft permit that is both mutually protective of water quality, economically reasonable, while not creating an undue burden to the County. Thank you for the opportunity to comment.

Sincerely,



Ronald C. Coons, Director

Attachment A: County of Ventura Letter – March 6, 2007

- C: Chris Stephens, Director of RMA
- Wm. Butch Britt, Director of Transportation
- R. Reddy Pakala, Director of Water & Sanitation
- Alec T. Pringle, Director of Engineering Services Department
- Jeff Pratt, Director of Watershed Protection District
- Gerhardt Hubner, Deputy Director, Watershed Protection District
- Paul Tantet, Watershed Protection District

GH/PT/cs/K:\WQ\Water Quality Section\County NPDES&TMDL Program\3rd Term Permit Negotiations\Comments to 2nd Draft Permit.doc

county of ventura

PUBLIC WORKS AGENCY
RONALD C. COONS
Agency Director

March 6, 2007

Mr. Jonathan Bishop
California Regional Water Quality Control Board
Los Angeles Region
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

Transportation Department
Wm. Butch Britt, Director
Central Services Department
Janice E. Turner, Director
Water & Sanitation Department
R. Reddy Pakala, Director
Watershed Protection District
Jeff Pratt, Director
Engineering Services Department
Alec T. Pringle, Director

Subject: **DRAFT VENTURA COUNTYWIDE MUNICIPAL SEPARATE
STORM SEWER SYSTEM PERMIT (NPDES PERMIT No.
CAS004002)**

Dear Mr. Bishop:

We have received the draft National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer (MS4) permit and appreciate the opportunity to provide comments on behalf of the Unincorporated Ventura County Stormwater Program. We have reviewed the document with the understanding that this is a draft and that our concerns will be taken into account before it is released as a tentative permit.

As currently crafted, the proposed Draft Order (Permit) will place undue financial and technical requirements on our program that may ultimately not result in efficiently improving water quality, which we and your agency are seeking to obtain. We concur with the comments as generated by the Ventura Countywide Stormwater Quality Management Program's letter and attachments dated March 6, 2007, and hereby incorporate our support for the record. In addition to the countywide comments, we have received a letter of concern from the Ventura County Resource Conservation District (VCRCD) addressed to the Ventura County Director of Public Works. In this letter, VCRCD voices their objection to several of the Permit's proposed requirements (Please see a copy of this letter as Attachment A.)

Additionally, we understand increased permit requirements are to be expected as part of the iterative process, and we agree with many of this draft permit's new provisions. As such, the comments presented here are not intended to argue against the increase in program requirements, but rather to maximize the overall effectiveness of the program to improve stormwater quality discharging from the MS4. Whenever possible, each comment suggests a viable alternative, however



Ventura County Comments

March 6, 2007

Page 2 of 7

in many cases the comment simply requests a re-evaluation what is being requested.

Please accept these following concerns, comments and suggestions:

1. The proposed Draft Order (Permit) utilizes and relies upon BMPs in a manner inconsistent with their development and intent. The Stormwater BMP Handbook clearly states the following:

"However, due to the diversity in climate, receiving waters, construction site conditions, and local implementation across California, this handbook does not dictate the use of specific BMPs and therefore cannot guarantee compliance with NPDES permit requirements or local requirements specific to a user's site."

Yet, the Permit requires implementation of the BMPs for all new development and redevelopment. Importantly, this is not only a misapplication of the BMPs themselves; it is a clear and direct infringement upon the County's authority to regulate land uses within its jurisdiction. The County of Ventura has been utilizing BMPs for several years and evaluating and applying them on a project-by-project basis as intended by CASQA when they prepared the Handbook. We are committed not only to continuing this practice in the future, but also continuing our efforts to further refine and improve our application of BMPs to specific projects. Broad and indiscriminate application of the BMPs will effectively end this long-standing and effective process.

2. The Permit defines the permit coverage area as the entire county, with the exception of "agricultural lands" and "forest lands." This definition is problematic and should be revised. Rather than defining the permit coverage area by describing what is not included, it should state clearly what is included. As such, we believe the definition used in the current permit (i.e. urban areas as defined in the latest U.S. Census) should continue to be used. This identifies a clear, distinct and, importantly, already mapped area. If the current definition is simply unacceptable, we strongly recommend that the proposed definition be clarified and revised to read "except forest lands in public ownership, and agricultural and open space lands identified in the applicable local general plan."
3. We are concerned about the fundamental disconnect between the required BMPs and the purpose of the Permit. This disconnect is created because the BMPs in the Permit have not been analyzed to determine the efficacy in general, let alone their measurable benefits. There appears only to be an "assumption" of their effectiveness. When the BMPs are applied as anticipated by CASQA and the Clean Water Act (i.e. flexibly and site specific),

using such a "qualitative" assessment is acceptable. However, where BMPs are required, as proposed in the Permit, this is unsound rule-making at best.

This issue is further contorted by the requirement in the Permit that alternative BMPs can be substituted only if there is documentation that it is more effective than the BMP it is replacing. Without any documentation for the required BMP, this is simply impossible. We strongly recommend that the BMPs be used as they were originally intended and as they are used in the current permit: Not a requirement that they must be used, but a requirement that they be applied as supported by local analysis on a project-by-project basis.

4. The Permit does not appear to take local costs into consideration. Based on our preliminary analysis, the costs to the County of Ventura to comply with the Permit will be substantial. These costs are not only associated with the initial efforts to prepare the implementing ordinances and procedures (which will require far more time to prepare than provided in the Permit), they are associated with on-going monitoring, enforcement and outreach. In addition, while these public agency costs will be substantial, they will be dwarfed by the costs to local residents and businesses. Ventura County and its ten cities have been grappling for the past decade with the difficult issue of providing affordable housing. Implementation of the Permit as written will set those efforts back more than any single regulatory or fiscal action in the past 30 years.
5. We believe Ventura County, through its use of BMPs under the current permit and its long-established land use policies, has done a good job protecting our water resources, especially compared to other areas in the southern California region. As such, we do not see a need to fundamentally alter the current permit. In fact, simply re-adopting the current permit would further the goals of the CWA by allowing the County to put its resources toward evaluating and implementing additional BMPs and associated programs, rather than toward a review and analysis of the new permit and the development of the required implementing ordinances and procedures.
6. The Permit is written in language and in a format that makes it extremely difficult to understand. It is recommended that the permit should be rewritten in clear and unambiguous language for ease of understanding, compliance and enforcement. Not doing so may prove to be an undesirable source of argument for several years.
7. The Permit encourages "smart growth" principles, and page 9 of the draft response states, "The Permittees agree that principles related to smart growth such as the avoidance of extensive roads, driveways, and other

impervious features will benefit water quality". However, the Public Works Agency considers "smart growth" a policy decision that goes well beyond NPDES implementation. "Smart growth", is open to a myriad of interpretations, and as interpreted by some special interest groups, may imply "traffic calming" or other neo-traditional transportation features. In this capacity, "smart growth" can mask implementation of physical road features that are not consistent with the California Vehicle Code, the Manual for Uniform Traffic Control Devices (MUTCD), or similar legislatively mandated practices. To install traffic control devices or any physical improvements on county roadways that are not in compliance with generally accepted design guidelines or regulations, would seriously reduce the County's ability to rely on statutory immunities in the numerous tort liability cases that we are exposed to on a regular basis. As such, the Public Works Agency does not want to give the impression that we support or endorse "smart growth" unless such a policy and the specifics associated with its implementation are identified and adopted by our Board of Supervisors.

8. The concept of an uninterrupted Municipal Separate Storm System (MS4) in the unincorporated parts of Ventura County is a myth. It is important that the Regional Board understand that such systems simply do not exist in the unincorporated areas, with few exceptions such as the Oak Park community. In almost all other instances, every drainage system involves one or more jurisdictions, including private property. As such, there is no feasible way to administer such a mixture of systems.
9. The Public Works Agency opposes the requirement of street sweeping of curbed streets in commercial areas at least 2 times per month as inconsistent with current Board policy as contained in the General Plan, the "Guidelines for Orderly Development".

Additionally, under current funding limitations, there is no practical way to fund this requirement, except at the expense of other ongoing critical pavement rehabilitation or public safety efforts. The implementation of an assessment district to fund providing such an extraordinary service in the relatively few commercial areas in the unincorporated area would be highly problematic considering the limitations of California Constitution Articles XIII C and D.

10. The Permit does not appear to reference or take into account the considerable technical and scientific data, information, and recommendations contained in the National Cooperative Highway Research Program, Evaluation of Best Management Practices for Highway Runoff Control (NCHRP Report 565). This report provides a comprehensive review of the effectiveness of many BMP's and Low-impact Development (LID) facilities in

the highway environment, as well as a well written discussion of the difficulties (technical, jurisdictional, practical and political) encountered. The contents of this report should be considered and incorporated into the permit.

11. Hydrology and hydraulic analysis for land development projects within the unincorporated County of Ventura shall be as follows:

All hydrology shall be determined using the Watershed Protection District Hydrology Manual. We further recommend that the difference between a Q10 developed storm flows and Q10 undeveloped flows be retained on site using an appropriate BMP that provides for percolation, evaporation, or storm storage so that the runoff from the property being developed does not create an adverse impact with sedimentation or siltation on the receiving property. This will revise the hydrology methods required by the NPDES permit on pp 53-54 / Part 3 II .1.(e), (f), (g) and 55-56 / Part 3 II .2. (a) to a common sense and traditional approach that is specific to the County's hydrology. There are very few subdivisions of land that are 50 or more acres. The method described above will work for all new subdivisions of land in the County unincorporated areas.

12. Post Construction BMPs could only be required on a private project through a discretionary permit process and that the Post Construction BMP clearly alleviates an adverse impact. These requirements could not be attached to ministerial permits such as a building permit. For the County of Ventura, Post Construction BMPs could be conditioned as part of the development, but its future maintenance and inspection could not be performed by the local agency due to access and privacy limitations by the subsequent owners. There would be no public easements and no monies for inspecting Post Construction BMPs on private property. We would only recommend Post Construction BMPs on subdivisions involving 5 or more parcels and when there is a homeowner's association being formed for the maintenance of improvements of such BMPs on private property. This pertains to pp 54-55 / Part 3 III .2. (a) & (b) and 58 / Part 3 III. 6.

13. The ban of "no grading" on slopes steeper than 20% in the rainy season is unreasonable in the County unincorporated areas. The County of Ventura issues approximately 100 grading permits per year and most of those grading permits are single lot developments that range in size from ¼ acre to 5 acres of disturbed area. Historically sediment runoff is efficiently minimized when a County grading permit has been issued, ongoing inspection is being performed by the County Public Works Agency, and there is either a SWPCP or SWPPP in place during the rainy season. Very few violations have ever occurred with this approach. Additionally the rainy season should be

November 1 through April 15 for the entire County of Ventura. October is not a rainy season by any definition in any ordinance that the County has on file with regard to the rainy season definition. Ventura County rainfalls do not justify making October part of the rainy season. The County of Ventura also disagrees with the statement in Part 4 F that "sediment is a primary pollutant impacting beneficial uses of a watercourse." Sediment can have a beneficial value and it is part of the natural erosion process, which is taking place all the time. For this reason the sentence should be deleted.

The recommended grading restriction wording for Part 4 F1. (a) (1) (A) found on page 63 is:

(A) In the unincorporated areas of the County of Ventura, no grading greater than 50 CY shall occur between November 1 and April 15 (rainy season) for development projects on slopes greater than 20% without the implementation of a local or state SWPPP and a grading permit issued by the local agency.

(B) no change to wording.

(C) Within or adjacent to an environmentally sensitive area (ESA) as designated by the local agency.

14. The Permit has wording on page 67 could be removed and will not have a bearing on fulfilling the permit obligations by the local agency. The County of Ventura recommends that Part 4, F5. (a) (1) (A) (i), (ii), and (iii) be deleted and revise the wording in (iv) to read *"The project engineer or architect shall prepare the Local and State SWPPP and include a statement that they have selected the appropriate BMPs to minimize any adverse impacts by sedimentation and siltation to the downstream watercourse. This statement shall be sealed with the professional engineer or architect's stamp."*

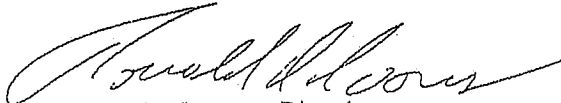
15. The Permit wording on page 68 can be simplified in Part 4 F5. (a) (2) (B): *"The Local SWPPP shall be signed by the property owner or owner's representative/designee. If the Local SWPPP is for a local agency, then the appropriate authority for the local agency shall sign the document."*

The County of Ventura appreciates this opportunity to provide comments to the Permit and we want to reiterate our commitment to the collaborative effort in maintaining and enhancing water quality in our watershed. However, we have significant concerns about the Permit as currently proposed, including the TMDL provisions in the Permit. Additionally, we believe that a Permit can be developed that provides a practicable means for Ventura County to support its ongoing water quality and pollution prevention efforts. We look forward to working with the

Ventura County Comments
March 6, 2007
Page 7 of 7

Regional Board to incorporate these changes into the Order. If you have any questions regarding this letter, please contact me at (805) 654-2073.

Respectfully submitted,



Ronald C. Coons, Director

Attachment A: VCRC D Letter – March 2, 2007

C: Chris Stephens, Director of RMA
Wm. Butch Britt, Director of Transportation
R. Reddy Pakala, Director of Water & Sanitation
Jeff Pratt, Director of Watershed Protection
Alec T. Pringle, Director of Engineering Services Department
Janice E. Turner, Director of Central Services Department

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October 15, 2007

Ms. Tracy Egoscue
Executive Officer
Los Angeles Regional Water Quality Control Board
320 4th Street, Suite 200
Los Angeles, CA 90013

Transportation Department
Wm. Butch Britt, Director
Central Services Department
Janice E. Turner, Director
Water & Sanitation Department
R. Reddy Pakala, Director
Watershed Protection District
Jeff Pratt, Director
Engineering Services Department
Alec T. Pringle, Director

**SUBJECT: SUPPLEMENTAL COMMENTS ON SECOND ADMINISTRATIVE
DRAFT OF THE VENTURA COUNTYWIDE MUNICIPAL
SEPARATE STORM SEWER SYSTEM (MS4) STORMWATER
PERMIT**

Dear Ms. Egoscue:

On behalf of the County of Ventura Stormwater Program (County), we appreciate this opportunity to provide these **supplemental** written comments to our October 12, 2007 letter, concerning the Regional Water Quality Control Board's (Regional Board) second administrative draft of the Ventura County Municipal Separate Storm Sewer System MS4 NPDES Permit (Second Draft Permit). While we acknowledge and thank the Regional Board for responding to a few of the comments submitted by the County in its March 6, 2007, letter, we have *grave concerns with the apparent lack of response to several of our key comments*, and we had hoped to see more substantial changes made in the Second Draft Permit.

Although we understand the Regional Board staff's desire to uphold the requirements of the Second Draft Permit, we must emphasize the importance of duly addressing our comments. We believe it is imperative that our future permit be mutually protective of water quality *and* economically reasonable, while not creating *an undue burden* to the County for potential non-compliance with its provisions. As currently written, the Second Draft Permit does not meet any of these criteria. It is our desire that we work together to ensure this will be the end result.

For instance, we had hoped the Regional Board staff would understand the illogicality of requiring an urban stormwater permit for areas of open space in unincorporated Ventura County. However, on page 8, the Second Draft Permit sustains this requirement, even though the County has clearly pointed out this fact in its previous comments. We are optimistic that this oversight will be remedied prior to issuance of the tentative permit.



In addition, the Second Draft Permit maintains the requirement for installing trash excluders on catch basins in certain areas (industrial, commercial and school areas). As commented by the County, as well as the other Co-permittees, the cost to retrofit hundreds of individual catch basins would be considerable. But, above and beyond the exorbitant cost, the *basic wisdom of implementing this provision must also be considered*. Catch basins must be designed to have large, unobstructed openings to function efficiently during major storm events, such as are common in Ventura County, or storm waters will bypass the inlet and cause local flooding. As such, installation of flow-restrictive trash excluders is often impractical, and in many cases will significantly increase the probability of damage to local properties. Will the RWQCB take liability for this potential flooding hazard? If not, the County may be obliged to compensate private property owners for damage incurred by improperly managed flood waters. It is our anticipation that this comment, as well as a handful others, will be addressed with modified permit language prior to issuance of the tentative draft permit.

In addition, we would like to augment our existing concerns with the following written comments:

- Page 40, Part 5, Section D, Industrial/Commercial Facilities Program, item 1 (3) (B), utilizes the term "hazardous waste treatment, disposal and recovery facilities." This term now is considered outdated by the CA Health and Safety Code, Chapter 6.5, Section 25117.1. Please replace this language with the term "*hazardous waste facilities for the treatment, storage and disposal of hazardous waste.*"
- Page 49, Part 5, E. Planning & Land Development Program, II. Applicability, 1. New Development Projects, revise (a) to read: "(a) Development projects subject to Permittee conditioning *through the discretionary permit process shall include approval* for the design and implementation of post-construction treatment controls to mitigate storm water pollution prior to completion of project(s) are:" (Comment: Many permits are ministerial and requiring a condition that may not have a nexus to the permit or adding conditions after construction can only be done on discretionary permit action. This clarification needs to be added to the proposed NPDES permit.)
- Page 50, Part 5, E. Planning & Land Development Program, II. Applicability, 1. New Development Projects, (a), revise (10) and (10) (B) to read: "(10) Projects located in or directly adjacent to or discharge directly to an Environmental Sensitive Area (ESA) *as officially recognized by the Permittee*, where the development will:
 - (A) Discharge storm water runoff that is likely to impact a sensitive biological species or habitat
 - (B) Create 2,500 square feet or more of impervious surface area *where the Permittee determines that impervious surface area will drain to and impact a sensitive biological species or habitat.*"

(Comment: Each Permittee has its own requirements and level of emphasis on which areas are environmentally sensitive within their own jurisdictions. To maintain a balance in this effort, please revise the permit to allow for this oversight by the Permittee.)

- Page 50, Part 5, E. Planning & Land Development Program, II. Applicability, 1. New Development Projects, (a), revise (11) (A) (iv) and (v) to read:
“(iv) Divert roof runoff to vegetated areas before discharge unless the diversion would result in ~~slope instability~~ **creating an unstable soil condition as determined by as soils engineer or engineering geologist.**
(v) Direct surface flow to vegetated areas before discharge unless the diversion would result in ~~slope instability~~ **creating an unstable soil condition as determined by as soils engineer or engineering geologist.”**
(Comment: Rather than writing in only one exception on slope stability, the Permittee will defer to a soils engineer or engineering geologist on a project to make that determination.)
- Page 51, Part 5, E. Planning & Land Development Program, III. New Development/Redevelopment, 1. (b), revise to read: “(b) **Effective** Impervious ~~surfaces~~ **Areas** may be rendered ~~“ineffective”~~ **increased on the proposed project site being developed** if the storm water runoff is:”
- Page 53, Part 5, E. Planning & Land Development Program, III: New Development/Redevelopment, 3. (a) (1) (E), revise to read: “(E) The Permittees ~~shall~~ **may** participate in the SMC HCS to develop:”
(Comments: requiring all Permittees to participate in a regional study should be optional, not mandated.)
- Page 57, Part 5, E. Planning & Land Development Program, IV. Implementation (2) Post Construction BMPs Tracking, Inspection, and Enforcement, revise this entire section to only read: “(2) **The Permittee shall require through the discretionary permit process that the developer of a project site greater than one acre, provide an annual report prepared by an independent consultant that demonstrates that the Post BMPs have been maintained and are functioning properly. The Permittee shall keep records of such inspections and provide those to the RWQCB upon a written request.**”
(Comment: This is doable to put the requirement on the property owner to have a consultant do this work annually and submit a report to the Permittee for review/approval. It is not doable to require the Permittee to enter the property and perform inspections and make evaluations after a construction project is finished by the Permittee. There are legal implications and property rights considerations that would prohibit the Permittee from doing this as the proposed permit is written.)

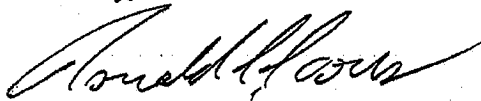
- Page 62, Part 5, F. Development Construction Program, I. 1. Grading Restrictions, add (d) to read: "*(d) The Permittee may allow grading during the rainy season in times of emergency to protect the public, property, life, or limb, and any grading restrictions of this section shall not apply.*"

(Comments: The proposed permit needs exception clauses for emergency work. What if a land mass needs to be stabilized in the winter to protect life and property? This action would be prohibited by the current permit if the slope was steeper than 20% or the work was adjacent to a listed water body or EAS.)

- The County of Ventura is not like a city, nor are many of the County roads like city roads. The County is predominantly the open space between cities, with winding rural roads and sparse housing. There are a few exceptions, such as Oak Park, but this is true for about 90% of the County jurisdiction. These roadways are drained by sheet flow runoff that enters ditches, usually on private property, which then lead to other ditches on private property, which empty into barrancas, also on private property. These ditches go from one city jurisdiction to another. We do not have jurisdiction or authority over these ditches. Therefore, the definition of an MS4 is often-time not appropriate for the County roads jurisdiction. Please remove all references to requirements for street sweeping, debris removal, channel and catch basin cleaning for all areas where the County does not own the drainage facilities.

In conclusion, we acknowledged the efforts of Regional Board staff for the work done thus far. However, we remain concerned with the approach being taken with the Second Draft Permit. We strongly urge Regional Board staff to consider our comments and concerns as voiced herein. Furthermore, we encourage you to continue working with County staff to draft a tentative draft permit that is both mutually protective of water quality, economically reasonable, while not creating an undue burden to the County. Thank you for the opportunity to comment.

Sincerely,



Ronald C. Coons, Director

RCC:rg

cc:

LARWQCB Board Members
Xavier Swamikannu, Storm Water Permitting, Los Angeles Regional Water Quality Control Board
Ventura Countywide Program Permittees
Alec Pringle, Engineering Services Department Director

C000657



CITY OF OJAI

401 SOUTH VENTURA STREET
P.O. BOX 1570 / OJAI, CA 93024
TELEPHONE (805) 646-5581
FAX (805) 646-1980

October 15, 2007

Ms. Tracy Egoscue
Executive Officer
California Regional Water Quality Control Board
Los Angeles Region
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

SUBJECT: Second Draft Order of the Ventura County Municipal Separate Storm
Sewer System (MS4) Permit

Dear Ms. Egoscue;

Thank you for the opportunity to comment on the subject Second Draft Order of the Ventura County MS4 Permit (NPDES Permit No. CAS004002).

Countywide Program

Ojai has participated in the Ventura Countywide Stormwater Program (Ventura Program) and supports the detailed comments being submitted by the Ventura Program to the Regional Board on this same subject dated October 12, 2007. Furthermore, Ojai urges the Regional Board to conduct technical sessions with a facilitator to resolve the very important differences between the 2nd Draft Permit and what the Co-Permittees see will be effective for our local conditions.

Benefit Cost of Proposed Regulations

The citizens of Ojai are concerned about having requirements of this draft enacted without a benefit/cost appraisal of how the requirements will benefit the quality of the stormwater and the effects on the environment. For example, the proposed requirements for trash excluders on storm drains would be beneficial in areas of high trash, if other less expensive options have been found deficient. We suggest adding Trash Excluders as a BMP only if the current or less costly options are deficient.

Ojai has a population of less than 9,000 people. It is truly a small city in the Phase II EPA category of NPDES Permits. Unlike other areas such as Los Angeles County the small communities in Ventura County truly meet the EPA definition of Phase II communities because they are separated by large green belts. Small cities have a small population base to distribute costs of compliance to regulations, and must carefully evaluate cost/benefits to its citizens. The City of Fillmore, another small city in Ventura County, recently estimated the annual cost of implementing the 2nd Draft Permit would be approximately \$800 per household compared to their current annual cost of less than \$10 household.

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If the huge increase in stormwater costs is not justified by a benefit – cost analysis, we can not reasonably expect our citizens to support the new regulations and we will not be helping our citizens or our environment.

Hydrologic Controls

Another area of the new permit that still needs your technical staff attention is the combined effect of the hydrologic controls being proposed for Low Impact Development, Water Quality Mitigation, and Hydromodification. All of these affect the other and have created sediment hungry water that is causing loss of habitat. We can not support the 2nd Draft Permits duplication of hydrologic controls that are already degrading channels in our creeks and streams. We support and have our City Engineer involved with the Southern California Monitoring Coalition (SMC) Hydromodification study and request the Board to not implement interim Hydromodification measures until the SMC study is completed.

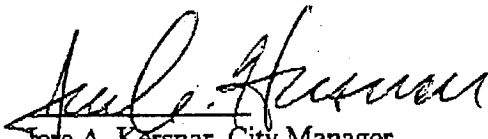
Recommendations

The City of Ojai urges the following:

- Revise the trash excluder provisions in the new permit to focus on areas that are deficient in meeting trash standards only after less expensive efforts have been attempted.
- Provide a benefit cost analysis of the main provisions of the permit before the next draft.
- During this permit cycle work on the SMC Hydromodification study and develop standards only after SMC has developed methods for estimating impacts of development on channel scour and deposition.
- Conduct technical sessions with a facilitator to resolve the very important differences between the 2nd Draft Permit and what the Co-Permittees see will be effective for our local conditions

Very Truly Yours

CITY OF OJAI



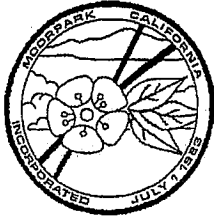
Jefe A. Kersnar, City Manager

cc:

Ojai City Council

Xavier Swamikannu, Storm Water Permitting, Regional Water Quality Control Board

Ventura Countywide Program Permittees



City of Moorpark

CITY ENGINEER/PUBLIC WORKS DEPARTMENT

799 Moorpark Avenue, Moorpark, California 93021 (805) 517-6256 fax (805) 532-2555

October 12, 2007

Ms. Tracy Egoscue
Executive Officer
Los Angeles Regional Water Quality Control Board
320 Fourth Street, Suite 200
Los Angeles, CA 90013

Subject: Comments to 8/28/2007 Second Draft Order – Ventura County Municipal Separate Storm Sewer System (MS4) Permit (NPDES No. CAS004002)

Dear Ms. Egoscue:

In reference to the above subject, the City of Moorpark (City) wishes to inform you that we have completed our review and offer the following comments. The City supports the October 12, 2007 Ventura Countywide Stormwater Program (Ventura Program) Chair, Gerhardt Hubner, letter addressed to Ms. Tracy Egoscue, Executive Officer of the Los Angeles Regional Water Quality Control Board (Regional Board) and the attachments thereof. We further emphasize that:

- The City is one of the sister cities within the County of Ventura and has worked in close collaboration with the entire Ventura Program while maintaining and improving regional water quality. The City is concerned that as drafted, the TMDL language in the Second Draft Order undermines this collaboration and could nullify Board-approved TMDLs.
- The trash excluder requirement as written in the Second Draft Order is unsafe as a large part of the City lies within a flood plain – trash excluders would pose a great and significant risk to public safety by causing flooding to virtually all homes and businesses within the flood plain.
- The Second Draft Order goes well beyond the requirements of the Clean Water Act's unfunded mandate making the cost of compliance untenable for the Phase II cities.
- The City agrees with the request for Regional Board staff's Position Papers and Technical memos as described in the Hubner letter.
- The City also agrees with the request to give the Permittees more time to meet with Regional Board staff in facilitated meetings prior to Board staff issuing the Tentative Permit, as described in the Hubner letter.

PATRICK HUNTER
Mayor

KEITH F. MILLHOUSE
Mayor Pro Tem

ROSEANN MIKOS
Councilmember

JANICE PARVIN
Councilmember

MARK VAN DAM
Councilmember

C000660

October 15, 2007

Page 2

The City looks forward to your response to these comments and the comments in the Hubner letter and attachments thereof. The City would again like to emphasize its commitment to the collaborative effort in maintaining and enhancing water quality in our watersheds. Please feel free to contact me at (805) 517-6255 if you have any questions regarding these comments. Thank you.

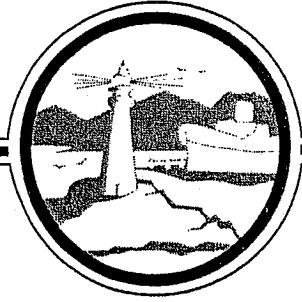
Sincerely,



Yugal K. Lall
Public Works Director

C: Xavier Swamikannu

C000661



City of Port Hueneme

October 15, 2007

Ms. Tracy Egoscue
Executive Officer
Los Angeles Regional Water Quality Control Board
320 4th Street, Suite 200
Los Angeles, CA 90013

**REF: VENTURA COUNTYWIDE MUNICIPAL SEPARATE STORM SEWER
SECOND DRAFT ORDER NPDES PERMIT NO. CAS004002**

Dear Ms. Egoscue:

Thank you for the opportunity to submit comments on the Second Draft Waste Discharge Requirements for Storm Water Discharges from the Municipal Separate Storm Sewer System within the Ventura County Watershed Protection District, County of Ventura, and the Incorporated Cities (NPDES Permit No. CAS004002). These comments are in addition to the collective comments submitted on behalf of all the Ventura County Co-Permittees in a letter dated October 12, 2007. The City of Port Hueneme supports the October 12, 2007 comment letter and associated attachments.

The City of Port Hueneme, with a population of 22,000, continues to be fully supportive of maintaining clean beaches and high water quality in Ventura County. We are proud of our Hueneme Beach Park and strive to make it a safe, inviting place to enjoy. We have demonstrated we are progressive, innovative, and cost-effective in our efforts to keep our City clean and attractive, free of litter and debris.

There are items in the Second Draft Order of serious concern to the City because of the extreme impact they have on our strained fiscal and limited human resources. As a group, the small communities in Ventura County (six communities have populations under 100,000) requested extended implementation time frames that differentiated from those proposed for the larger communities. We also requested alternative or reduced requirements, especially in the area of trash excluders and trash receptacles. As an example, the estimated capital cost for our City to purchase (not including labor to install or maintain) trash excluders and receptacles as required in the Second Draft Order tops \$100,000 – this equates to \$4.55 for every person in our City. To allocate our resources

in this manner when we already have an effective, successful trash management program does not make sense.

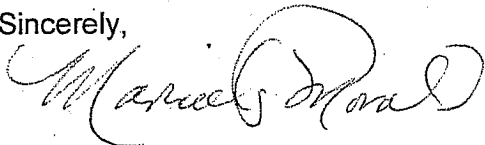
The duplicative permitting process in the Second Draft Order requiring Public Agency routine and long-term maintenance activities to be covered under the Construction Activities General Stormwater Permit would, in our opinion, ultimately be detrimental to the overall effectiveness of our City's stormwater program. The additional fees and administrative work that would be required for the permits would be much better spent on implementation activities. There is no water quality benefit achieved by requiring duplicative permitting. This should be removed from the permit.

I encourage you to direct your staff to meet with the Ventura County Co-Permittees and engage in a meaningful, collaborative exchange of ideas on how to most cost-effectively address not only the issues detailed in the Small Communities Issue Paper, but also those comments detailed in the collective letter. We all desire clean water.

The City looks forward to working collaboratively with the Regional Board, its staff, and all the Co-Permittees in developing a stormwater permit that promotes the continued enhancement of the Ventura Countywide Stormwater Program in a cooperative, progressive, and cost-effective manner.

We look forward to your response and again thank you for the opportunity to express concerns with regard to the Second Draft Order.

Sincerely,



**MARICELA P. MORALES
MAYOR**

c: City Council
David Norman, City Manager
Mark Hensley, City Attorney
Carrie Mattingly, Utility Services Director
Fred Camarillo, Wastewater Superintendent
Ventura Countywide Program Co-Permittees
Xavier Swamikannu, Senior – Stormwater Permitting LARWQCB



City of Thousand Oaks

**PUBLIC WORKS DEPARTMENT
MARK D. WATKINS, DIRECTOR**

October 15, 2007

Via electronic mail

Tracy Egoscue
Executive Officer
Los Angeles Regional Water Quality Control Board
320 4th Street, Suite 200
Los Angeles, CA 90013

Re: Second Draft Order of the Ventura County Municipal Separate Storm Sewer System Permit (NPDES No. CAS004002) for the Ventura County Watershed Protection District, County of Ventura and the Incorporated Cities Therein

Dear Ms. Egoscue:

The City of Thousand Oaks appreciates the opportunity to provide comments on the second draft Ventura County Municipal Separate Storm Sewer System Permit for the Ventura County Watershed Protection District, County of Ventura and the Incorporated Cities.

As background information, Thousand Oaks is a community of approximately 127,000 residents in eastern Ventura County. Incorporated in 1964, Thousand Oaks is a well-planned community that includes 15,000 acres of publicly owned open space within its incorporated boundaries. The City is committed to environmental excellence, an integral part of which includes an effective stormwater quality management program.

Thousand Oaks has been an active and supportive member of the Ventura Countywide Stormwater Quality Management Program since its inception in 1992. The Countywide program has an exemplary record as an effective stormwater quality management plan. In 2003, the U.S. Environmental Protection Agency awarded the Ventura Countywide Program with its National Clean Water Act Recognition Awards Program, Storm Water Management Excellence Award. The intent of the awards is to "recognize municipalities and industries that are demonstrating their commitment to protect and improve the quality of the nation's waters by implementing outstanding, innovative and cost-effective Storm Water control programs and projects". The award reflects the Program's, and the City's, commitment to improve and protect water quality in Ventura County through a comprehensive and constructive best management practice (BMP) based program using an iterative process to guide our efforts.

In addition, for many years, and at significant cost, the City has worked cooperatively with the Regional Board and other stakeholders to develop the Calleguas Creek

C000664

Tracy Egoscue
October 15, 2007
Page 2

Watershed Management Plan and also to address water quality impairments through the development of Total Maximum Daily Loads (TMDLs). The City believes that the cooperative effort in the Calleguas Creek Watershed is unprecedented and will result in significant water quality improvements.

Given the above, the City is dismayed that the second draft permit continues to be extremely prescriptive and ignores or requires duplication of much of the work that has been done to date. Many significant elements in the proposed permit are unfocused, counter-productive and contrary to the progress and good-faith efforts established in the watershed management and TMDL processes.


The City participated with the other agencies in the county in developing the comments regarding the second draft permit submitted to the Regional Board on October 12, 2007 by the Ventura County Watershed Protection District on behalf of the Permittees. The City supports and agrees with these comments.

As stewards of scarce and limited public funds, we must ensure that the actions and expenditures driven by regulatory requirements are consistent with each other, are cost-effective and capable of achieving the goals for which those expenditures are intended. The second draft stormwater quality permit is inconsistent with those goals. Although we disagree with much of the proposed approach being used by the Regional Board, we are in agreement with the need to continue and enhance our award-winning stormwater management program, which will lead to water quality protection and improvement and provide for adequate accountability.

To that end, we request and look forward to working with Board staff through a series of facilitated meetings in order to craft a revised permit that supports this need.

If you have any questions or need additional information, please feel free to contact me at (805) 449-2399 at your convenience.

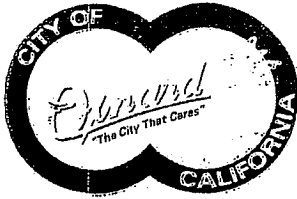
Sincerely,



Mark D. Watkins
Public Works Director

c: Scott Mitnick, City Manager
Amy Albano, City Attorney
Ventura County Stormwater Permittees

DPW:530-25(2)/jk



Public Works Department • Water Resources Division - Wastewater Section
6001 South Perkins Rd. • Oxnard, CA 93033-9047 • (805) 488-3517 • Fax 805-488-2036

October 12, 2007

Ms. Tracy Egoscue, Executive Officer
Regional Water Quality Control Board – Los Angeles
320 West 4th Street, Suite 200
Los Angeles, CA 90013

**SECOND DRAFT VENTURA COUNTY MUNICIPAL SEPARATE STORM
SEWER SYSTEM PERMIT (NPDES PERMIT No. CAS004002)**

Dear Ms. Egoscue:

Thank you for the opportunity to comment on the second draft National Pollutant Discharge Elimination System Municipal Separate Storm Sewer System permit for the Ventura Countywide Stormwater Program. The City of Oxnard is a copermittee on the permit, and staff have worked with other copermittees on the development of county-wide comments on the draft permit, and concur with the majority of those comments transmitted to you under separate cover.

Although some of the comments submitted for the first draft have been addressed in this second draft document, the majority have not. We therefore reference our earlier comments, dated March 5, 2007, and reiterate our need for a staff report to evaluate permit findings and requirements. We also submit the following comments on the second draft for your consideration:

Waste Discharge Requirements

1. Title – the title of the permit has changed from “Waste Discharge Requirements for Storm Water Discharges from...” to “Waste Discharge Requirements for Storm water (Wet Weather) and Non-storm Water (Dry Weather) Discharges from...” Since non-stormwater discharges are to be effectively prohibited, unless exempted or already permitted by the Regional Board, having a second layer of permitting doesn't make sense. We recommend changing the title back.
2. B.3., Nature of Discharge – common sources of pollutants should include PAHs from fires in the Nation Forest Service areas.
3. B.4., Nature of Discharge – this finding contains three separate thoughts; that substances found in municipal storm water can harm ecosystems, that high volumes and velocities can impact aquatic ecosystems, and that municipal point sources from urbanized area are a leading cause of impairment of surface waters in California. We recommend separating the first two thoughts into their own findings, and deleting the third as non-supported.

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- 4. B.10., Nature of Discharge – states that “Trash and debris are pervasive pollutants which accumulate in streams, rivers, bays and ocean beaches...” There is no definition of “debris” in the permit; we recommend adding a definition.
- 5. C.5., Permit Background – there doesn’t seem to be a need for this finding. We recommend its deletion, or an explanation of its need in the staff report.
- 6. D.1., Permit Coverage – the two sentences of this finding seem to contradict each other. We recommend that the finding be clarified in the final document, and that the area of coverage be clearly noted on a map. Additionally, the finding needs to be supported in the staff report.
- 7. D.2., Permit Coverage – states that the “Permittees covered under this Order were designated on a system-wide basis under Phase I of the CWA...” The copermittees proactively proposed a county-wide program to implement the stormwater program in a consistent and cost effective manner. The finding should be supported in the staff report by the documentation that there was a system-wide designation of all of the copermittees, or the finding should be deleted.
- 8. E.6., Federal, State and Regional Regulations – states that the “Order incorporates a provision to implement and enforce approved WLAs for municipal storm water discharges and requires amending the SMP after pollutant loads have been allocated and approved.” It doesn’t.
- 9. E.7., Federal, State and Regional Regulations – states that “WLAs must be incorporated into permit conditions as mandated by federal laws and regulations. More specifically, WLAs must be translated into “end of pipe” effluent limitations and conditions in NPDES permits that are consistent with the requirements and assumptions of the TMDL (*U.S. EPA November 22, 2002 Memorandum on Storm Water Sources NPDES Permit Requirements Based on WLAs Established by TMDLs*).” While the EPA memorandum does say to make the WLAs written as permit requirements consistent with the adopted TMDLs, there is no mention of “end of pipe” effluent limitations as WLAs. We recommend deleting that portion of the finding, or providing the missing reference being used to support the finding.
- 10. E.11., Federal, State and Regional Regulations – describes the sources of non-point pollution regulated under CZARA (agriculture, silviculture, urban, marinas, and hydromodification), and states that the “Waste Discharge Requirement addresses the management measures required for the urban category and the hydromodification category...” We recommend that the statement regarding hydromodification be deleted or modified to show that the permit only addresses hydromodification from urban impacts. Additionally, the findings should include information on how the other non-point sources are addressed. Finding B.18. regarding the Conditional Waiver of Waste Discharge Requirements for

Discharges from Irrigated Lands should be a part of this finding, and not a "Nature of Discharge".

11. E.18., Federal, State and Regional Regulations – discusses a Board Resolution making changes to the implementation of Standard Urban Storm Water Mitigation Plans under the Los Angeles County stormwater permit. As this doesn't apply to the Ventura County program, we recommend deletion of this finding.
12. F.11., Implementation – cites the State Board's *Policy for the Implementation of Toxics Standards in Inland Surface Waters, Enclosed Bays and Estuaries of California (SIP)* as the justification for minimum levels in the draft permit. Footnote number 1 of the SIP states that "This policy does not apply to regulation of storm water discharges." We recommend deletion of this finding and the requirements for minimum levels in the permit.
13. F.12., Implementation – describes the development of "Municipal Action Levels (MALs)" using a national data set. We recommend that a sound discussion of the rationale for the MALs be included in the staff report, especially in light of the voluminous amount of region-specific monitoring data.
14. F.13., Implementation – describes the standardized BMP database, and states that BMP performance data from the database was used to establish that it is practicable for municipalities to achieve the MALs. We recommend a thorough discussion of this evaluation in the staff report.
15. Part 1.A.1., Prohibitions - Discharges – prohibits discharges into and from the MS4 in a manner causing or contributing to a condition of pollution, contamination or nuisance. The MS4 owner/operator has very little, if any, control over discharges that the regulatory agency might deem fit for an NPDES permit to discharge to our collection system. For example, the general permit for *Discharges of Groundwater from Potable Water Wells to Surface Waters* allows a daily maximum of 1000 ug/L of copper, while the proposed MAL for copper is 70.7 and the California Toxic Rule limit, which is hardness dependent, is considerably lower. The MS4 owner/operator would be liable for permit violations over which they have no responsibility. We recommend deletion of this prohibition.
16. Part 2.1., Municipal Storm Water Discharge Limitations – places numeric effluent limits on stormwater discharges based on a national data set. This is contrary to guidance provided by the June 2006 Blue Ribbon Panel Report on the technical validity of establishing numeric limits. We recommend using the action level approach to identify "bad actors" as recommended by the Panel's report.
17. Part 2.5., Municipal Storm Water Discharge Limitations – shifts the compliance point from "end-of-pipe" to mass emission stations in the absence of representative monitoring points. Overall, the mass emission stations measure very little urban runoff. Currently, the Program compares water quality standards

Second Draft NPDES Municipal Separate Storm Sewer System Permit

against the results of the monitoring program sampling and analyses, including the mass emission stations; however, this exercise provides information on the health of the watershed, not on the urban runoff contribution.

18. Part 3.2., Receiving Water Limitations – states that “Discharges from the MS4 of storm water, or non-storm water, for which a Permittee is responsible, shall not cause or contribute to a condition of nuisance.” We recommend an expanded discussion of what the permittee is not responsible for (e.g., agricultural discharge, NPDES permittees including individual, general, and stormwater permittees, and other state and federal facilities).
19. Part 4.B.1.(a), Legal Authority – requires the permittees to possess the necessary legal authority to prohibit illicit connections and illicit discharges. Since the permit’s definition of illicit discharge is “any engineered conveyance that is connected to the storm drain system without a permit or municipal authorization”, it would include agricultural drainage. This discharge cannot be prohibited under the permittee’s NPDES urban runoff permit. We recommend deletion of this requirement, or modification of the definition of illicit connection.
20. Part 5.A.2.(a)(3), Best Management Practice Substitution – provides a mechanism to propose a site-specific BMP for Executive Officer approval, but requires that the “alternative BMP or program will be implemented within a similar period of time”. Experience has shown that Executive Officer approval times vary considerably, depending on staffing levels and other priorities; however, approval, and implementation, of a substitute BMP will most likely be outside of what might be considered “a similar period of time.” We recommend deletion of this requirement.
21. Part 5.D.1.2.(a), Commercial Facilities – requires that the permittees inspect all facilities identified in Part 5 D.2. (reference unknown) twice during the permit cycle. Our current program requires the identification and inspection of “targeted facilities”, which are known or potential contributors of pollutants of concern to our receiving waters. Since our targeted facilities are not reflected in the list of critical commercial facilities, we are concerned that local data and information was not used in establishing these critical sources, and that the proposed inspection requirements under this section will take resources away from what we consider a very valuable program to address potential impairment in local waterbodies. We recommend including the rationale for these critical sources in the staff report, or the deletion of the requirement.
22. Part 6, Total Maximum Daily Loads – WLAs should be incorporated as adopted by the Regional Board, per guidance provided in the U.S. EPA’s November 22, 2002, *Memorandum on Storm Water Sources NPDES Permit Requirements Based on WLAs Established by TMDLs*, including the implementation requirements. We recommend modification of these sections to conform to the adopted TMDLs.

23. Part 6.IV.1(b)(2), Monitoring (wet weather) – requires monitoring and compliance at “end of pipe” of major outfalls. This is contrary to the U.S. EPA’s November 22, 2002, *Memorandum on Storm Water Sources NPDES Permit Requirements Based on WLAs Established by TMDLs*, and should be deleted. The monitoring program and QAPP for most of the TMDLs have been submitted to the Regional Board for approval. The TMDLs do not require measurement or compliance at end of pipe. We recommend that these requirements be deleted.
24. Part 8, Definitions – receiving water, water body, waterbody, waterways, waters, and watercourse are used throughout the draft permit almost interchangeably; however, not all are defined. As reflected in our comments to the first draft permit, the document needs to have more consistency in its application of terms, and the important terms from a regulatory standpoint, need clear definitions. This is most crucial for the term receiving water.

Monitoring Program

25. (F-1 of 20), 1. - states that “The primary objectives of the Monitoring Program include, but are not limited to:
- (a) Assessing the chemical, physical, and biological impacts of storm water discharges on receiving waters resulting from urban storm water discharges.
 - (b) Assessing the overall health and evaluating long-term trends in receiving water quality.
 - (c) Assessing compliance with effluent limitations and water quality objectives.
 - (d) Characterization of the quality of storm water discharges.
 - (e) Identifying sources of pollutants.
 - (f) Measuring and improving the effectiveness of measures implemented under this Order.”

The permit should follow the philosophy of the Stormwater Monitoring Coalition (SMC) in their Model Monitoring Program:

“Monitoring should be focused on decision making; data not helpful in making a decision about clearly defined regulatory, management, or technical issues should not be collected.”

The Model Monitoring Program, developed by representatives of three regional boards, municipal permittees representing six counties, Heal the Bay, and SCCWRP presented the Core Management Questions:

- ❖ Are conditions in receiving waters protective, or likely to be protective, of beneficial uses?
- ❖ What is the extent and magnitude of the current or potential receiving water problems?
- ❖ What is the relative urban runoff contribution to the receiving water problem(s)?

- ❖ What are the sources to urban runoff that contribute to receiving water problems?
- ❖ Are conditions in receiving waters getting better or worse?

Answering these management questions should be the primary objective of the monitoring program. These questions were incorporated as the means for measurability and accountability of stormwater programs suggested by the California Stormwater Quality Association (CASQA) in their white paper *An Introduction to Stormwater Program Effectiveness Assessment*, and submitted as part of their comments on the draft permits. We recommend changing this section of the monitoring program to be consistent with these approaches that were developed in a stakeholder process in which you've participated.

26. (F-1 of 20), A.I.1. - requires relocation of the mass emission station for the Santa Clara River watershed. Copermittees have consistently commented that the mass emission stations for natural waterways are difficult to implement in the lower watersheds. It is not clear which management question is being addressed by mass emission stations placed above the major urban dischargers, but adding end-of-pipe monitoring for a few stations in the urban areas would not make the information from the mass emission stations any more valuable. The mass emission stations do act as watershed monitoring stations that are effective in addressing the first two management questions, and additional end-of-pipe monitoring can begin to answer the questions about urban runoff contributions to the watershed; however, this requires a paradigm shift from the compliance-based approach of the draft monitoring program, as proposed.
27. (F-2 of 20), 9. - states that "Grab samples shall be taken for pathogen indicators and oil and grease, only." We recommend evaluating an apparent conflict between this requirement and 40 CFR Part 136.
28. (F-3 of 20), **B. Aquatic Toxicity Monitoring (Wet Weather)** - provides that:
1. The objective of aquatic toxicity monitoring is to evaluate if storm water (wet weather) discharges are causing or contributing to acute and/or chronic toxic impacts on aquatic life by the following:
 - i. Toxicity testing at mass emission stations is to be evaluated using marine test organisms to assess impacts on the marine or estuarine environments."

Copermittees have frequently commented on the inappropriateness of using marine test organisms to evaluate toxicity of samples collected from freshwater environments further up in the watershed. We suggest a change in the toxicity test species.

29. (F-4 of 20), **B. 3. Toxicity Identification Evaluations (TIE)** – requires that:

“(a) The Principal Permittee shall complete acute and/ or chronic Phase I (Toxicity Characterization Procedures) TIEs for all sites showing 90 percent or more toxicity to any 1-test organism in the first year.”

This is a confusing requirement. We suggest modifying the TIE requirement to clarify expectations.

30. (F-8 of 20), **C. Total Maximum Daily Load Monitoring For Storm Water (Wet Weather) and Non-Storm Water (Dry Weather) Discharges** – requires a monitoring program to evaluate end-of-pipe stormwater discharges. These requirements conflict with the U.S. EPA November 22, 2002, *Memorandum on Storm Water Sources NPDES Permit Requirements Based on WLAs Established by TMDLs*, which requires that the WLA and implementation plan be consistent with the adopted TMDL. In implementing the TDML, stakeholders have proposed monitoring programs and QAPPs that evaluate the effectiveness of management practices to reduce the pollutants of concern in order to meet in-stream WLAs. Requiring an additional monitoring program under the stormwater program redirects resources without an added benefit to water quality.

31. (F-13 of 20), **D. Trash and Debris Study** – states that:

- “I. The Principal Permittee shall conduct the trash and debris study to accomplish the following objectives:
 - i. Quantitatively assess the types and amount of trash and debris on the coastal areas and beaches within the Ventura County.
 - ii. Identify areas impaired for trash and debris, and to develop control strategies.
- 1. The Principal Permittee and Copermittees shall implement a trash and debris study for the following areas:
 - (a) Channel Islands Waterfront.
 - (b) Ormond Wetland/ Lagoon/ Beach.”

The areal extents of these two studies are not defined in the monitoring program. Additionally, the study of trash in the Ormond wetland, lagoon, and beach are problematic, as they pose a treat of an endangered species “take” while performing the studies.

32. (F-14 of 20), **E. Pyrethroid Insecticides Study** – requires that:

- I. The Principal Permittee shall perform a Pyrethroid Insecticides study to accomplish the following objectives:
 - i. Evaluate whether tributaries are toxic to aquatic organisms.

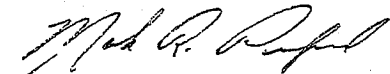
- ii. Evaluate whether Pyrethroid Insecticide concentrations are at or approaching levels known to be toxic to sediment-dwelling aquatic organisms.
- iii. Prioritize drainage and sub-drainage areas where Best Management Practices need to be implemented, if necessary.

Evaluation of pesticides for use in the State of California comes under the purview of the California Department of Pesticide Regulation. As a part of their evaluation of new pesticides, like those in the pyrethroid class, water quality and toxicity tests are made on the pesticides. We suggest that the Regional and State Board staff work with this agency during the registration process to ensure that pesticides are not put in use if there is a relatively high certainty of violating narrative water quality standards.

In summary, the draft municipal permit was not designed to implement an effective stormwater program, was not designed to integrate with existing TMDL or non-point source programs, was not developed in a stakeholder process, and did not follow recognized strategies instituted by the federal regulations, EPA guidance, State Water Resources Control Board draft policy, or the Regional Board's own Basin Plan. As always, we are interested in working with Regional Board staff on building a program that will be successful in maintaining or improving water quality in Ventura County.

If you have any questions regarding our comments on the draft stormwater permit, please feel free to call me at (805) 271-2205, or contact Mark Pumford, Technical Services Manager, at (805) 271-2220.

Sincerely,



Mark S. Norris
Assistant Public Works Director

- c: Wendy Phillips, Regional Water Quality Control Board – Los Angeles
Xavier Swamikannu, Regional Water Quality Control Board – Los Angeles

October 12, 2007

Xavier Swamikannu
Los Angeles Regional Water Quality Control Board
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

Subject: NPDES Permit No. CAS004002 – Second Draft: August 29, 2007 (Second Draft Permit)

Dear Dr. Swamikannu:

The City of Ventura respectfully submits the following comments on the subject permit. We are committed to working with you to collaboratively create a new permit that will serve as a model MS4 permit and effectively reach our mutual water quality goals.

The Ventura County Co-Permittees have worked together to review the Second Draft Permit, and the City of Ventura is substantially in agreement with the detailed comments submitted by Gerhardt Hubner, Chair of the Countywide Program, on behalf of all Co-Permittees (dated October 12, 2007). In addition to the countywide comments, the City would like to take this opportunity to focus on several key issues regarding the Second Draft Permit.

The City of Ventura supports a permit that:

- 1) **Contains reasonable, outcome based performance measures and gives the City the flexibility to comply with these measures in the most effective way possible.** These performance measures should serve as calls to action. They should include technically sound, locally developed, Municipal Action Levels, which are used to identify bad actors and drive program modifications accordingly. They should not include end of pipe effluent limitations, as currently proposed in the Second Draft Permit, which will force the City to spend public resources on fines and penalties rather than on improving water quality. The California Association of Stormwater Quality Agencies' performance measures model is an example that can be used to reach these goals.
- 2) **Facilitates Smart Growth/LID projects rather than treating them as the exception to the rule.** Smart Growth projects reduce the amount of impervious area utilized to much less than is created by suburban development. These projects create walkable communities and facilitate public transportation. The addition of the "RPAMP" in the Second Draft Permit only adds another layer of unnecessary bureaucracy to Smart Growth projects. This extra layer will take an extraordinary amount of administrative

time and resources that will push developers toward suburban projects where requirements are more fully defined and can be much easier implemented. Smart Growth projects should be credited for their sustainability benefits and clearly provided for in the permit. We are participating with the Local Government Commission on development of a system that would encourage sustainable development and the environmental benefits of Smart Growth projects. This system should be included in the new MS4 permit.

- 3) **Includes incremental requirements and reasonable time frames that make the program achievable and as cost-effective as possible.** The City of Ventura embraces a permit that would be the finest in the nation and recognizes that water quality improvement comes with a cost. However, the Second Draft Permit contains many requirements that are confusing and counterproductive. Details and recommendations on these issues are included in the countywide letter.

The City of Ventura hopes that these comments will serve as a catalyst for facilitated stakeholder discussions that include an open exchange of ideas and approaches leading to an efficient and effective stormwater quality permit. We ask that these meetings take place before Regional Board staff redrafts the permit.

Again, the City of Ventura views this permit process as an opportunity to develop a permit that we can all be proud of and embrace as it leads us toward protecting our environment for future generations. Please call Vicki Musgrove, Public Works Division Manager, at (805) 652-4518, if you would like to discuss this or any other issues.

Sincerely,



Ronald J. Calkins, Director of Public Works

Cc: Vicki Musgrove, City of Ventura Public Works Division Manager
Gerhardt Hubner, Chair, Ventura Countywide Stormwater Quality Program



CITY OF SIMI VALLEY

Home of The Ronald Reagan Presidential Library

October 12, 2007

California Regional Water Quality Control Board – Los Angeles Region
Attn: Dr. Xavier Swamikannu
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

SUBJECT: SECOND DRAFT VENTURA MS4 PERMIT COMMENT LETTER

Dear Mr. Swamikannu:

I want to thank you for giving us the opportunity to address the Regional Board at the two previously held workshops on the subject matter. The coalition of the ten cities along with the County of Ventura want to continue working with you towards reaching a workable stormwater mitigation plan and permit that can be implemented in an environmentally and fiscally sound manner. As you saw and heard on September 20th, the City of Simi Valley joined with the other members of the coalition in support of the water quality issues that challenge our community. The City is very proud of our commitment and our success in protecting the quality of life, including the environment, in Ventura County. To that end, the Simi Valley City Council works extremely hard and has committed millions of taxpayer dollars annually to wastewater treatment, stormwater awareness, and source control compliance to protect our natural resources. Together with our neighbors, the City continues to be strongly supportive of meaningful, cost-effective stormwater program improvements.

At the September 20th Workshop, the coalition presented many issues. Judging by the Board's positive response, we are encouraged there may be an opportunity to clear these issues up before the permit is issued. I want to highlight three issues that are particularly important and need to be addressed in deliberations between our staff representatives. We certainly look forward to another workshop with the Regional Board, environmental groups, and other interested parties where we can all be supportive of the final draft permit. Those issues relate to: 1) the use of MAL's; 2) the enforcement of TMDL's; and 3) the land development conditions and restrictions.

We remain very concerned with the continued reference to MAL's in the Second Draft permit, and were hoping that an alternative would have already been found. We cannot accept this precedent-setting regulation, and we believe it is unfair and unsupportable to continue referring to MAL's in the draft permits.

October 12, 2007

Page 2

Regarding TMDL's, we have already worked together effectively on a watershed basis to establish monitoring and implementation plans that meet the State and Federal TMDL requirements. We do not want to see that monumental and very constructive joint effort that has already taken place undermined by arbitrary enforcement, and by additional implementation measures lacking stakeholder deliberation. The alternative we discussed, to use the wording already provided in the jointly adopted TMDL documents, seems very reasonable since it is language upon which we have both already agreed.

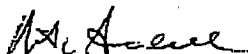
Lastly, with the demand for land use and development to support a growing statewide population, the City asks that your staff provide a balanced and locally sensitive plan that would allow construction to take place during favorable weather conditions. Again, in the somewhat arid conditions of Ventura County establishing "one-size-fits-all" regulations is not feasible, nor desirable.

The City also supports the Ventura County Watershed Protection District (WPD) comments as a member of the Coalition on the Second Draft permit. As WPD is our Principal for carrying out the countywide stormwater compliance program, we support their comments and ask you to reference their specific letters.

Clearly, more work is needed to make the draft stormwater permit suitable for Ventura County. The Second Draft Stormwater NPDES permit as presented is fiscally impractical for the City to implement. The City does not have the funds, or the mechanism to raise the money, to pay for the proposed program. Currently, Simi Valley residents commit \$3.5 million annually towards stormwater clean-up and monitoring programs. These funds are mostly taken from taxes and other general fund revenues as the City collects only about \$175,000 in dedicated stormwater fees. The \$175,000 comes from a \$3.87 fee per household, a fee that can only be raised by a successful Proposition 218 election. Under the Second Draft permit, we expect Simi Valley's cost burden could jump to nearly \$17 million. The City's entire annual General Fund Budget is \$65 million dollars. The Second Draft permit obligates the City to funnel over 25% of the General Fund Budget away from other important public programs, such as public safety and street maintenance

I am a firm believer in protecting our resources. However, I hope we can continue to work together to develop an improved stormwater program with measurable results at a reasonable and practical cost.

Sincerely,



Mike Sedell
City Manager

cc: City Council
City Attorney
Assistant City Manager, Paranick
Director of Public Works
Assistant Director of Public Works, Deakin

C000677

CITY OF
SIMI VALLEY
TRANSMITTAL PAGE

Transmitting Location (Please Check One):

- | | |
|--|--|
| <input checked="" type="checkbox"/> City Hall, City Manager's Office
FAX NO: (805) 526-2489 • Verify: (805) 583-6701 | <input type="checkbox"/> City Hall, Public Works Department
FAX NO: (805) 583-6300 • Verify: (805) 583-6786 |
| <input type="checkbox"/> City Hall, Workers' Compensation
FAX NO: (805) 583-6367 • Verify: (805) 583-6394 | <input type="checkbox"/> Public Services Center
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FAX NO: (805) 583-6490 • Verify: (805) 583-6456 |
| <input type="checkbox"/> Simi Valley Police Department-Administration
FAX NO: (805) 583-6201 • Verify: (805) 583-6987 | <input type="checkbox"/> Senior Center
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FAX NO: (805) 583-6947 • Verify: (805) 583-6976 | <input type="checkbox"/> Environmental Services
FAX NO: (805) 583-7922 • Verify: (805) 583-6723 |

TO: <u>California Regional Water Quality Control Board</u>	FROM: <u>Mike Sedell, City Manager</u>
FAX NO: <u>213-576-6640</u>	DATE: <u>October 12, 2007</u>
DESTINATION: <u>Dr. Xavier Swamikannu</u>	TIME: <u>3:31 PM</u>
TOTAL PAGES: <u>3 (including cover)</u>	PHONE: <u>805-583-6701</u>
	DEPT/DIV: _____

COMMENTS: Please see attached letter, which will also be sent electronically and by regular mail.

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APPROVAL SIGNATURE
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City of Camarillo

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Office of the City Manager
(805) 388-5307
Fax (805) 388-5318

October 12, 2007

Ms. Tracy Egoscue
Executive Officer
Los Angeles Regional Water Quality Control Board
320 Fourth Street, Suite 200
Los Angeles, CA 90013

Subject: **Comments to 8/28/2007 Second Draft Order – Ventura County Municipal Separate Storm Sewer System (MS4) Permit (NPDES No. CAS004002)**

Dear Ms. Egoscue:

The City of Camarillo respectfully submits the following comments regarding the above referenced Second Draft Permit for your consideration. The City of Camarillo has been a co-permittee under the Ventura Countywide Municipal Permit since its adoption in 1994. Although our population of fewer than 66,000 classifies us as a Phase II municipality, Camarillo chose to join the countywide effort toward improving water quality in a proactive manner. We feel the collaborative countywide program has been very successful toward meeting that goal. As was mentioned by several speakers at the September 20, 2007 Regional Board Workshop, the City of Camarillo is in the Calleguas Creek Watershed (CCW) and is also an active member in the Calleguas Creek Management Plan Program, which is another successful program led by stakeholders that are committed to improving water quality.

As currently crafted, the Second Draft Permit will place undue financial and technical requirements on our Stormwater program that may ultimately not result in efficiently improving water quality which we and your agency are seeking to obtain. The City of Camarillo concurs with the Ventura Countywide Stormwater Program comment letter dated October 12, 2007, which we hereby incorporate our support for the record.

The following Second Draft Permit requirements are of particular concern to our City:

- The Second Draft Permit's use of Municipal Action Levels (MALs) is inconsistent with state and federal policies, is technically flawed, results in requirements more stringent than federal law, and creates limits that are more restrictive than adopted water quality objectives contained in the Basin Plan.
- The Second Draft Permit contains prescriptive requirements such as low impact development, hydromodification, and post-construction best management practices for "all" development and redevelopment projects that cannot be met and that do not preserve local government control over land use planning. Further, the draft permit places these development requirements on routine maintenance projects such as street repaving and channel clearing, which is excessive and will impair the ability to build and maintain public facilities.

C000679

- The Second Draft Permit requires the installation of trash excluders on all catch basin inlets in commercial, industrial, and near educational institutions within one year of permit adoption. Not only would the installation and subsequent maintenance of these devices be cost prohibitive, they would also create a health and safety problem due to the potential flooding hazard they create. Further, a trash TMDL was adopted by the Regional Board in June 2007 for two reaches of Calleguas Creek with expected adoption by the Environmental Protection Agency in 2008. This draft permit requirement should defer to the trash TMDL for those areas in Camarillo that discharge to the identified impaired waterbody. For areas in Camarillo not covered by the trash TMDL, we suggest that our existing trash management program be enhanced and if necessary, trash excluders only be required in locations identified by the city as high trash generating areas.
- We appreciate Regional Board staff removing the 100,000 gallon per year requirement for potable water discharges from the Second Draft Permit. However, we are still concerned that as presently written, the draft permit prohibits fire hydrant or water main flushing. The California Department of Public Health (CDPH) strongly supports routine water main flushing. Furthermore, in response to water quality issues, CDPH may require a water utility to flush their mains to protect public health. We respectfully request that language be amended in the permit that allows for releases of potable water from activities such as fire hydrant or water main flushing, until such time as a new General Permit is issued that addresses those types of releases. Our staff has been working with other stakeholders and your staff on a proposed General Permit for potable water releases such as fire hydrant flushing.
- There are several discrepancies between the language in TMDLs which have been adopted for the Calleguas Creek Watershed and the language in the Second Draft Permit. This was relayed in our March 6, 2007 First Draft Permit comment letter as well as at the September 20, 2007 Regional Board Workshop, and we feel confident that the Regional Board understood our concerns. The effective TMDLs should be incorporated into the NPDES Municipal Permit in a manner that is consistent with the assumptions and requirements of the waste load allocations and conditions as adopted in the TMDLs.

Conclusion

The City of Camarillo appreciates this opportunity to provide comments to the Second Draft Permit and we want to reiterate our commitment to the collaborative effort in maintaining and enhancing water quality in our watershed. However, we have significant concerns about the draft permit as currently proposed.

Camarillo believes that an NPDES permit can be developed that provides for accountability, conducts public outreach and education, supports ongoing water quality efforts, including the TMDL effort Camarillo has been very involved with, and receives broad public support. We look forward to working with the Regional Board to incorporate these changes into the draft permit. If you have any questions regarding our comments, please contact Anita Kuhlman, Stormwater Coordinator, at 805-383-5659.

Sincerely,



Jerry Bankston
City Manager

cc: Xavier Swamikannu, LARWQCB
Camarillo City Council

C000680



**Ventura Countywide
Stormwater Quality
Management Program**

Participating Agencies

October 12, 2007

- Camarillo
- County of Ventura
- Fillmore
- Moorpark
- Ojai
- Oxnard
- Port Hueneme
- San Buenaventura
- Santa Paula
- Simi Valley
- Thousand Oaks
- Ventura County Watershed Protection District

Ms. Tracy Egoscue
Executive Officer
Los Angeles Regional Water Quality Control Board
320 4th Street, Suite 200
Los Angeles, CA 90013

SUBJECT: SECOND DRAFT ORDER OF THE VENTURA COUNTY MUNICIPAL SEPARATE STORM SEWER SYSTEM PERMIT (NPDES No. CAS004002) FOR THE VENTURA COUNTY WATERSHED PROTECTION DISTRICT, COUNTY OF VENTURA AND THE INCORPORATED CITIES

Dear Ms. Egoscue:

On behalf of the entire Ventura Countywide Stormwater Program ("Ventura Program"), including the Cities of Oxnard, Thousand Oaks, Simi Valley, Ventura, Camarillo, Moorpark, Santa Paula, Port Hueneme, Fillmore, Ojai, Ventura County Incorporated Areas and the Ventura County Watershed Protection District ("Permittees"), we thank you for the opportunity to provide comments on the Regional Water Quality Control Board's ("Regional Water Board") second administrative draft of Waste Discharge Requirements for Storm Water Discharges from the Municipal Separate Storm Sewer System ("MS4") within the Ventura County Watershed Protection District, County of Ventura, and the Incorporated Cities therein ("Second Draft Order") (NPDES Permit No. CAS004002).

Overall, the Permittees must express concern and frustration with both substantive provisions as contained in the Second Draft Order as well as the process in which the revisions were developed. At the close of the April 5, 2007 workshop, which was held on the First Draft Order, the Permittees were left with the impression that the Regional Water Board had directed Regional Water Board staff to work with the stakeholders to develop a balanced stormwater program.

In light of the Regional Water Board member's comments to staff and other stakeholders, the Permittees requested that a series of meetings be held with Regional Water Board staff to discuss the many complex issues associated with the First Draft Order. To ensure that the meetings were productive and focused



on the issues identified, the Permittees prepared written "Issue Papers" (Attachment D) that summarized the issues and proposed alternative approaches and/or language, where applicable. Although Regional Board staff referred to technical papers we have not been given an opportunity to review them. As a result, the Permittees, Regional Water Board staff and others spent a considerable amount of time in meetings discussing the issues. However, at the close of each meeting, Regional Water Board staff would basically comment that they would take the comments and alternatives prepared by the Permittees "under consideration." We did not feel that there was an adequate exchange of ideas and approaches for permitting stormwater discharges in Ventura County, contrary to the Regional Water Board's direction as given to staff at the April 5, 2007 workshop.

While the Permittees acknowledge that Regional Water Board staff have made some revisions that are reasonable and protective of water quality, there are many other revisions that accomplish the opposite. Thus, we find ourselves in the unfortunate position of repeating many of the same concerns previously expressed in our March 6, 2007 comments as well as in the issue papers submitted after the April 5, 2007 workshop. We also must express new concerns raised by the provisions in the Second Draft Order as they apply to the Permittees.

We have organized our comprehensive comments in a manner that will provide ease for the Regional Water Board members and staff. First, the comments contained here are intended to be an overview of our general policy concerns as well as an overview of some of the more specific issues that we have with many provisions in the Second Draft Order. To supplement our positions as contained in this cover letter, we have prepared a separate attachment (see Attachment A to October 12, 2007 comments) for in-depth policy and legal comments and analysis of various permit provisions. In addition, we are providing specific language for the municipal action level ("MAL") and total maximum daily load ("TMDL") sections of the Second Draft Order. (See "Attachment B to October 12, 2007 comments.") The Permittees also submit a revised matrix of technical comments that is intended to replace the original Attachment C. (The revised matrix is attached and is titled "Attachment C to October 12, 2007 comments.") We are including as Attachments D and F, respectively, the issue papers submitted after the April 5, 2007 workshop, and the Permittee's comments as submitted on March 6, 2007. Finally, we have also attached all of the Permittees' presentations from the September 20, 2007 workshop as Attachment E to ensure that the power point presentations and the content contained therein is included as part of the record for the Second Draft Order.

Before proceeding directly into our comments, we must first convey the ultimate goal by the Permittees. The Permittees, collectively and individually wish to work cooperatively with the Regional Water Board and the Regional Water Board staff to obtain a reasonable MS4 permit that reflects the issues of concern for Ventura County and allows Ventura County and the incorporated cities therein to prioritize and direct resources appropriately within jurisdictional boundaries. Unfortunately, the Second Draft Order is replete with prescriptive requirements that remove local flexibility in the implementation and regulation of an effective stormwater program. Our specific comments on these provisions are provided below and in the subsequent attachments.

I. Overview Policy Statements

A. *Adoption Of A Reasonable, Environmentally Sound Permit Is A Top Priority For Ventura County And The Incorporated Cities Therein*

At the September 20, 2007 workshop of the Regional Water Board, elected representatives from Ventura County and the incorporated cities therein clearly expressed that clean water was a top priority for all of the municipalities within the County. To that end, the Permittees within the County's boundaries have expended considerable resources over the last ten years to develop and implement watershed programs that are aimed at protecting the County's valuable natural resources and improving water quality. Please be assured the Permittees are equally committed to expending the necessary resources to protect water quality over the next ten years as well. In exchange, the Permittees look to the Regional Water Board and its staff to develop a MS4 stormwater permit that is reasonable and allows the entities subject to its provisions flexibility in identifying water quality priorities and implementing BMPs. If the Regional Water Board adopts a MS4 permit that is unreasonable, misdirected, and overly prescriptive, it will be counterproductive to implementing effective water quality improvements within Ventura County.

B. *Second Administrative Draft Order Is Overreaching and Overly Prescriptive*

As currently configured, the Second Draft Order is overreaching and overly prescriptive in many ways. Instead of requiring the Permittees to maintain and implement certain program elements that allow the Permittees to determine the specifics of the various program elements, the Second Draft Order specifically requires us to take actions that are beyond our authority and identifies the actions and activities that the Permittees must implement.

For example, the Public Information and Participation Program ("PIPP") requires the Permittees to "provide schools within each School District in the County with materials, including, but not limited to, videos, live presentations, and other information necessary to educate a minimum of 50 percent of all school children (K-12) every 2 years on storm water pollution." (Second Draft Order at p. 37.) In addition to providing information, the Second Draft Order requires the Permittees to develop and implement a strategy to measure effectiveness for the in-school education programs. (Second Draft Order at p. 38.) The Permittees seriously question their ability to complete these requirements successfully in light of the fact that the Permittees lack any authority over school curriculum and ability to gain access to classrooms to measure the effectiveness of the program. At most, the Permittees can work cooperatively with the various in-county school districts to develop feasible education goals that include some measure of effectiveness, but only if the districts are willing.

In addition, there are currently over 145,000 students in Ventura County public schools. (Ventura County Office of Education website.) Thus, the PIPP requirements require the Permittees to reach and evaluate the effectiveness of the message delivered to over 72,000 students every other year. The cost of just delivering such a message and how its effectiveness would be measured is unknown. The Permittees are perplexed on how such a requirement can be successfully implemented. Any protocols developed that can measure the

effectiveness of the program, other than to account for the number of students reached, would require the schools to voluntarily share information gathered on their students, leaving the Permittees with no control to get this done.

Another example of an overly prescriptive requirement pertains to commercial facilities. In addition to requiring mandatory source control BMPs, the Second Draft Order requires the Permittees to require additional treatment control BMPs for discharges to environmental sensitive areas ("ESAs") and 303(d) listed waters. (*Id.* at 41.) Thus, instead of giving the Permittees the discretion and flexibility to determine if treatment controls are necessary for any given commercial facility, the Permittees would be required to impose such control on commercial facilities. Under this requirement, a commercial facility would be required to implement treatment controls if it discharges to a 303(d) listed water body regardless of whether the constituent of concern is present in its discharge. Likewise, even if a facility discharged the listed constituent, the facility would have to implement treatment controls regardless of whether source control BMPs or product substitutions would eliminate the discharge.

These are just a few examples of over reaching and overly prescriptive requirements as contained in the Second Draft Order. Many of these other provisions are discussed more fully throughout the body of this letter and in the attachments.

C. The Overly Prescriptive Nature of the Second Draft Order is not consistent with the MS4 Program as put forth and required by the federal Clean Water Act

When a state issued permit exceeds federal CWA requirements, the state (or in this case the Regional Water Board) is required to apply state statutory requirements. (See *City of Burbank v. State Water Resources Control Board* 35 Cal.4th X, 618.) This includes consideration of the various public interest factors articulated in Water Code section 13241. The public interest factors for consideration contained in section 13241 include economic considerations as well as water quality conditions that could reasonable be achieved through coordinated control. (Water Code §13241.) (See Attachment A for further discussion regarding the application of Water Code section 13241 to provisions contained in the Second Draft Order.) The Second Draft Order attempts to disregard this important legal requirement by making a generic finding that all provisions contained in the Second Draft Order are part of a federal mandate. (Second Draft Order at p. 12.) Through this statement, the Second Draft Order tries to conclude that because the requirements are federally mandated, the Second Draft Order does not require consideration of Section 13241 factors or constitute an unfunded local government mandate. As explained further in Attachment A, the Permittees disagree with this finding for several reasons.

In summary, the Second Draft Order contains many provisions that individually and collectively exceed federal CWA requirements for MS4s. Municipal storm water programs are typically a combination of source controls and management practices that address targeted sources within a municipality's jurisdictional area. (See NPDES Permit Writers' Manual at p. 164.) Also, permit writers are instructed to rely on application requirements and management programs as proposed by the applicants when developing appropriate permit conditions. (See *Id.* at 165.) However, in this case, the Second Draft Order dictates the management practices as well as compliance with numeric limits. A prime example of the Second Draft Order's inclusion of a provision that

exceeds federal authority is inclusion of Municipal Action Levels ("MALs") as a numeric compliance standard. However, the federal CWA does not require or mandate the imposition of technology-based standards, beyond "maximum extent practicable," in MS4 permits. In another example, the requirement for treatment control BMPs for commercial facilities that discharge into ESAs or 303(d) listed waters also exceeds federal authority. As explained above, the treatment control requirement as contained in the Second Draft Order applies to commercial facilities regardless of a facilities actual potential to discharge or discharge the constituent of concern. Thus, the Second Draft Order contains provisions, individually and collectively that exceed federal Clean Water Act requirements as they pertain to MS4s. (See Attachment A for further explanation as to the provisions that exceed federal CWA authority.)

Finally, the overly prescriptive nature of the Second Draft Order and the inclusion of numeric effluent limits through the application of MALs creates a permit that would violate the 10th Amendment to the U.S. Constitution, if adopted in its present form. (See Attachment A for further explanation regarding violation of the 10th Amendment.) Because the Permittees would be forced to implement specific BMPs on its citizens and would also be forced to comply with numeric limitations, the Permittees are being given no choice for compliance and are therefore being compelled to implement a federally mandated regulatory scheme in contravention of the 10th Amendment to the U.S. Constitution.

D. The Cost Of Implementing The Second Administrative Draft Order Is Not Commensurate With The Environmental Benefits To Be Gained

In our initial comment letter, we estimated the cost for complying with the December 27, 2006 draft permit would result in an approximated household cost of \$213 per year, which would be a six fold increase over existing program costs. This original cost estimate was based on planning level cost estimates and did not reflect the costs for TMDL implementation. At a very preliminary level the above listed household cost would likely double to \$400 a household to address TMDL requirements. In developing comments for the Second Draft Order, a more thorough review of the cost was conducted and resulted in an estimated annual household cost (excluding TMDL implementation requirements) of over \$800 per household per year, which is a twenty three fold increase over current program costs. (See City of Fillmore Comment Letter dated October 15, 2007.) As clearly stated in the September workshop, the Permittees are committed to protecting the environment but the current permit is not only cost prohibitive but does not address the priority water quality issues relevant to the County of Ventura.

II. Municipal Action Levels/Maximum Extent Practicable

The Second Draft Order contains revised provisions related to municipal action levels ("MALs") as compared to the First Draft Order. However, overall the use of MALs remains the same. The Regional Water Board staff continues to advocate for the use of MALs to interpret the technology based maximum extent practicable standard ("MEP") with a numeric standard and require compliance with MALs at the "end-of-the-pipe." In turn, the Permittees continue to strongly oppose the Regional Water Board staff's use of MALs in this fashion for many reasons, both legal and technical, which we summarize here (Attachment A contains extensive comments on why the Regional Water Board's use of MALs to interpret, or define, MEP is improper and

illegal.). Our concerns are not just theoretical but are also based on practical concerns related to our ability to comply with the Second Draft Order and all of its provisions.

In the alternative, the Permittees recommend that MALs be re-fashioned from a naturally based numeric value that determines permit compliance to a locally relevant one used as an upset value that triggers the need for further evaluation, and if appropriate, modification of management practices. Our alternative proposal for the use of MALs is described in more detail below. We have also provided specific recommended language for this approach in Attachment B.

A. Summary of Concerns with use of MALs to determine compliance with MEP.

i. Use of MALs to define MEP is contrary to Congressional intent with regards to MEP and the State's implementation thereof

As indicated in our previous March 6, 2007 comments and expanded further in Attachment A, the use of MALs to interpret or define compliance with MEP constitutes the development of a technology based effluent limitation that is contrary Congress' intent with regards to MEP for municipal stormwater. To date, Congress, federal EPA, states and municipalities have interpreted MEP as a narrative standard rather than a numeric standard. Federal and State law and guidance makes clear that MEP is a highly flexible standard that requires the balancing of numerous, location-specific factors that emphasizes a strong preference for implementing the MEP standard with narrative limitations through an iterative process.

In the Second Draft Order, the Regional Water Board staff ignores two decades of implementing and interpreting MEP as a narrative, flexible standard and instead proposes to determine compliance with MEP by using numeric MALs that are derived from national data. This approach is flawed for two over-arching reasons. First, MEP is a site-specific, flexible, narrative standard that typically goes to the types of best management practices being installed. It is not defined by a numeric end-point. Second, at the very least, a numeric end-point that is used to define a technology-based standard should be subject to the same factors for consideration as other technology-based standards. This includes consideration of the age of equipment, the process employed, engineering aspects of the application of types of control techniques, process changes, non-water quality environmental impacts (including energy requirements), other discretionary factors as deemed appropriate, and the costs for implementing the standard. (33 U.S.C. §1314(b); See Attachment A for further discussion.) Nowhere in the Second Draft Order does the Regional Water Board staff provide information that indicates it considered all of these factors in developing the MALs as articulated in Attachment C to the Second Draft Order.

ii. Defining MEP is a quasi-legislative action – not a quasi-adjudicatory action

The First and Second Draft Order represents the first instance in which a Regional Water Board has numerically interpreted the MEP standard within a MS4 permit. The Regional Water Board staff's proposal to interpret the MEP standard to include numeric MALs represents the promulgation of a new rule and policy shift affecting the rights and obligations of all current and

future stormwater applicants. Thus, such an action is quasi-legislative in nature and inappropriate for adoption in a quasi-adjudicatory order.

Furthermore, the Second Draft Order proposes to use a presumption to determine compliance with MEP. Presumptions are evidentiary standards that are either derived legislatively or judicially. As used in this case, the presumption sets forth an assumption of fact (i.e. 20% or greater exceedances means that the Permittees are not in compliance with MEP) to be made from another group of facts (i.e. data as compared to MALs). For such a presumption to be valid, it must be established in law. Presumption is "an assumption of fact that the law requires to make from another group of facts." (Evidence Code §600(a).) Thus, at most, the Regional Water Board would need to adopt the presumption pursuant to its quasi-legislative authority, and not in a quasi-adjudicatory order. (See Attachment A for further discussion.)

iii. MALs Are Numeric Effluent Limits that May Subject the Permittees to Mandatory Minimum Penalties, Administrative Civil Liability and Third Party Lawsuits

Of primary importance to the Permittees is that the Regional Water Board adopt a permit that is reasonable, feasible and protects water quality. At this time, the Permittees do not believe that compliance with most of the MALs is feasible. As a result, the Permittees will face jeopardy for not complying with all the MAL discharge limitations. Where there is non-compliance, the Permittees will be faced with liability under several different enforcement regimes. First, the MALs, as proposed in the Second Draft Order, would clearly constitute effluent limitations. Violation of effluent limitations in an NPDES permit subjects the Permittees to mandatory minimum penalties. (See Water Code §§ 13385 and 13385.1; and, see Attachment A for further discussion on why the MALs meet the definition of effluent limitation as it applies to mandatory minimum penalties.) In addition, non-compliance with the MALs may subject the Permittees to additional enforcement actions imposed by the Regional Water Board and through the third party actions under the citizen suit provisions of the CWA.

B. Permittees' Alternative Approach for Use of MALs

While the Permittees disagree with the use of MALs to define MEP as a numeric value to determine compliance, we understand the Regional Water Board is looking for a new mechanism to ensure Ventura County's stormwater program is effective and protective of water quality. Thus, instead of using MALs as proposed in the First and Second Draft Orders, we propose an alternative method consistent with the approach proposed by the State Water Resources Control Board's "Blue Ribbon Panel of Experts," as express in the June 2006 Blue Ribbon Panel Report ("BRP Report"). This approach would meet the Regional Water Board's desire to include performance measures in a municipal stormwater program for Ventura County.

To achieve these goals, we support an approach that "would set "an 'upset' value, which is clearly above the normal observed variability, which would allow bad actor catchments to receive additional attention" through creation of an upset value. (Underline added, BRP Report at p. 8.) The BRP Report termed upset value as "...an Action Level because the water quality discharge from such locations are enough of a concern that most all could agree that some action

should be taken..." (Id.) The strikeout/underline language in Attachment B presents the Permittee's proposal for how MALs should be developed and used to achieve the purpose set forth in the BRP Report. The Permittees' proposal is to use locally relevant MALs as a tool which, together with additional investigation and attention, will ensure the MEP standard is achieved in each sub-watershed.

To develop MALs for this purpose, the Permittees propose to use the 80th percentile of local, countywide data to develop MALs. Any sub-watershed that exceeds the 80th percentile would be above the normal observed variability and in need of additional attention. In addition, we propose to develop MALs only for those pollutants where there is water quality impairment (based on the section 303(d) list), or have been identified as pollutants of concern and that are present in significant quantities in MS4 discharges. The Permittees approach would avoid using public resources unwisely and inefficiently and focus on pollutants that are causing water quality concerns.

Where a sub-watershed exceeds an MAL due to the MS4 discharge, the Permittees propose that the responsible Permittee be required to submit an "MAL Action Plan" to the Regional Water Board's Executive Officer. The plan would need to include an assessment of the sources responsible for the abnormal pollutant levels, the existing BMPs that address those sources, an assessment of additional BMPs and actions that could be implemented, and, based on such analyses, the additional BMPs and/or actions the responsible Permittee proposes to implement to achieve the MAL to the MEP. The Executive Officer, in approving the plan, would have the opportunity to identify additional BMPs or actions the Regional Water Board believes necessary to address the constituent of concern.

In summary, Permittees propose that MALs be used to identify poor performing catchments or sub-watersheds for pollutants of concern to implement further practical controls. Where MALs are exceeded, the Permittees, in conjunction and with approval by the Regional Water Board's Executive Officer would be required to implement additional actions deemed necessary to address the high concentration. Thus, MALs are used to elevate municipal responsibility in a manner that is reasonable and practical while improving water quality.

III. MS4 Permit must be consistent with adopted TMDLs but is not required to contain numeric water quality based effluent limitations

Where the Regional Water Board has adopted, and the State Water Board and EPA have approved, total maximum daily loads ("TMDLs") for 303(d) listed impaired water bodies, NPDES permits must contain effluent limits and conditions consistent with the requirements and assumptions of the wasteload allocations in the adopted TMDLs. (See Memorandum from Robert H. Wayland, III, and James A. Hanlon to Water Division Directors (Nov. 22, 2002) regarding *Establishing Total Maximum Daily Load (TMDL) Wasteload Allocations (WLAs) for Storm Water Sources and NPDES Permit Requirements Based on Those WLAs* (Memo Re: WLAs for Stormwater).) Currently, nine TMDLs have been adopted and are effective for water bodies within Ventura County. The effective TMDLs are as follows:

- i. TMDL for Nitrogen Compounds for the Santa Clara River - (Effective date: March 23, 2004).
- ii. TMDL for Toxicity, Chlorpyrifos and Diazinon in the Calleguas Creek, its Tributaries and Mugu Lagoon - (Effective date: March 24, 2006).
- iii. TMDL for Organochlorine Pesticides, Polychlorinated Biphenyls, and Siltation in Calleguas Creek, its Tributaries and Mugu Lagoon - (Effective date: March 24, 2006).
- iv. TMDL for Nitrogen Compounds and Related Effects for the Calleguas Creek Watershed - (Effective date: July 16, 2003).
- v. TMDL for Bacteria in Malibu Creek and Lagoon - (Effective date: January 26, 2006).
- vi. TMDL for Metals and Selenium in the Calleguas Creek, its Tributaries and Mugu Lagoon (Effective date: March 26, 2007).
- vii. TMDL for Chloride in the Santa Clara River Reach 3 (EPA established June 18, 2003).
- viii. TMDL for Chloride in Calleguas Creek Watershed (EPA established March 22, 2002).
- ix. TMDL for Nutrients in Malibu Creek Watershed (EPA established March 22, 2002).

The TMDLs for Nitrogen Compounds and Related Effects for the Calleguas Creek Watershed, Chloride in Calleguas Creek and Santa Clara Watersheds, and Nutrients in Malibu Creek Watershed do not contain WLAs for Ventura County urban runoff and therefore should not be incorporated into the NPDES permit. The remaining TMDLs should be incorporated into the NPDES permit in a manner consistent with the assumptions and requirements of the WLAs as adopted in the TMDLs.

However, the TMDL provisions in the Second Draft Order are not consistent with the assumptions and requirements of the adopted TMDLs. Contrary to statements in the Second Draft Order, waste load allocations are not required to be translated into "end-of-pipe" effluent limitations." (Second Draft Order at p. 11). In fact, the memorandum referenced to support the Second Draft Order's declaration actually advises the opposite.

Effluent limitations to control the discharge of pollutants generally are expressed in numerical form. However, in light of 33 U.S.C. § 1342(p)(3)(B)(iii), **EPA recommends that for NPDES-regulated municipal and small construction storm water discharges effluent limits should be expressed as best management practices (BMPs) or other similar requirements, rather than as numeric effluent limits.** [Cite omitted.] The Interim Permitting Approach Policy recognizes the need for an iterative approach to control pollutants in storm water discharges. ... EPA's policy recognizes that because storm water discharges are due to storm events that are highly variable in frequency and duration and are not easily characterized, only in rare cases will it be feasible or appropriate to

establish numeric limits for municipal and small construction storm water discharges.

(Emphasis Added. Memo Re: WLAs for Stormwater at p. 4.) Thus, instead of imposing numeric "end-of-pipe" effluent limitations, the Regional Water Board staff must revisit the assumptions and requirements of the applicable TMDLs to determine appropriate permit requirements. To assist in this effort, we have provided new language to replace the existing TMDL sections of the Second Draft Order that are reflective of adopted TMDLs (See Attachment B).

IV. Low Impact Development (LID)/Hydromodification/Grading Restrictions

A. The Permittees Support LID Policies

The Permittees all support the concepts and policies related to LID. However, the Permittees are concerned that the LID provisions as contained in the Second Draft Order attempt to impose a one-size-fits-all requirement on the Permittees. For example, the City of Simi Valley has very high ground water in the middle and on the west side of the City. The implementation of some LID provisions could exacerbate high ground water levels and cause further groundwater seepage problems for which the City is already trying to mitigate. In lieu of establishing specific LID requirements within the Second Draft Order, the Permittees recommend that the Second Draft Order be amended to require the Permittees to increase integration of LID into the existing "*Technical Guidance Manual for Stormwater Quality Control Measures, Ventura Countywide Stormwater Management Program*".

As it pertains to Smart Growth, this permit should clearly provide for Smart Growth/LID projects, rather than treat them as the exception to the rule. This Second Draft Order appears to encourage urban sprawl. The addition of the RPAMP in the Second Draft Order only adds another layer of unnecessary bureaucracy to Smart Growth projects. This extra layer will take an extraordinary amount of administrative time and resources that will push developers toward suburban projects where requirements are fully defined and can be much easier implemented.

Smart Growth/LID projects are acknowledged in the permit as an environmentally preferable way for a city to provide housing. These projects often use infill or redevelopment with a reduced number of parking spaces in a subterranean garage, commercial uses or office space at street level, and residential or office space in the upstairs floors. These projects reduce the amount of impervious area utilized to much less than are created by suburban development, create walkable communities and facilitate public transportation. Smart Growth projects are typically full site build-outs, and offer very limited space to implement BMPs that will maintain the pre-development hydrograph. The existence of these Smart Growth projects is, in itself, a tool for improving water quality. These projects should be credited for their sustainability benefits. The Permittees should be encouraged to continue participation with the Local Government Commission on development of a system that can be included in any future Order to encourage sustainable development and the environmental benefit of Smart Growth.

B. The Permittees Support Principles Related To Hydromodification Controls

Like LID, the Permittees support many of the policies and principles associated with hydromodification. In general, hydromodification criteria are intended to reduce stormwater pollution and control sediment in post-development runoff. LID measures and the Water Quality Treatment BMPs, also reduce peak flow from development and provide levels of treatment. When LID measures are used, most likely there will be a reduced need for other Water Quality Treatment BMPs, including changes to hydromodification controls.

The Second Draft Order should recognize the interdependence of hydrologic controls such as hydromodification and LID, and propose a sequencing of analysis. The sequence of analysis would begin with LID measures, followed by water quality mitigation for any remaining runoff. A proposed flow chart was included in the City of Ojai's September 20, 2007 RWQCB Workshop presentation. The Permittees recommend that Section 5.E.III of the Second Draft Order be modified to include this flow chart for hydrologic control analysis.

In addition, the Permittees, are concerned that the hydromodification criteria contained in the Second Draft Order have not been tested or studied for application in Ventura County considering its local conditions. Establishing unproven criteria for all waterbodies may create "sediment hungry" water. Furthermore, within Ventura County there are rivers and creeks that require sediment to nourish habitat and beaches, while in other areas of the County creeks have accumulated excessive sediment. Thus the need to develop a criterion that reflects local conditions and needs. The current work being undertaken by SCCWRP (and funded by the Stormwater Monitoring Coalition, including Ventura County) regarding the assessment and management of hydromodification effects will provide the needed data to develop Ventura specific criteria.

To address concerns regarding the application of generic hydromodification criteria to Ventura County, the Permittees recommend that the Second Draft Order contain interim hydromodification criteria in the Second Draft Order as follows:

Replace Section 5.E.III.3.a (pg 54) with:

Use the 2002 Ventura County Technical Guidance Manual for Stormwater Quality Control Measures and the updates that are required under the LID and Water Quality Mitigation sections of this permit for determining runoff and treatment BMPs from all projects that qualify under Section 5.E.II. Until the SCCWRP study is completed, the effects of LID measures and Water Quality Mitigation BMPs are deemed to satisfy the Interim Hydromodification Criteria.

In summary, the Second Draft Order needs to be revised to add practical, measurable interim criteria that apply to Ventura County conditions until such time SCCWRP has completed its study in the next 3 - 5 years. The Permittees recommend that future hydromodification requirements be coordinated with other Integrated Watershed Management Planning efforts that are occurring throughout Ventura County.

C. Development Construction Program

The Second Draft Order reflects a prescriptive approach to addressing runoff from construction sites regardless of the nature of the construction site or activities on a site. Specifically, the Second Draft Order requires all construction sites (regardless of size) to implement BMPs identified in Tables 6 and 7 regardless of whether the BMP is appropriate for the site. At a minimum, the Second Draft Order should be modified to provide the Permittees with flexibility in selecting and/or requiring BMPs applicable to the site and construction activities. Currently such flexibility does not exist. Likewise the Second Draft Order would require all construction sites less than 1 acre in size to calculate the erosivity factor to determine whether specific BMPs are required. Such a requirement would be overly prescriptive given the lack of sophistication of the smaller construction site operator. In this case, the Second Draft Order should provide the Permittees with sufficient flexibility to require minimum BMPs as necessary and leave the construction sites subject to the State Construction General Permit to address the erosivity issue.

The Permittees appreciate the Regional Water Board staff's revisions from the First to the Second Draft Order in that the variance to the prohibition is now properly within the authority of the Permittees and not the Regional Water Board's Executive Officer. However, the Permittees are concerned with the administrative effort that would be required to implement such a variance program. The Permittees also remain concerned with the overly restrictive nature of the grading prohibition as it currently stands. In particular, to grant a variance from the prohibition, the Second Draft Order requires the Permittees to ensure total suspended solids discharged are 100 mg/L or less; ensure that turbidity of the discharge is 50 NTU or less; not impair beneficial uses; and, includes a monitoring program to ensure effectiveness. These BMP provisions would apply even to projects that are anticipated to have little or no discharge to the waterbody because the sites include properly designed and erosion and sediment control BMPs. It is our understanding turbidity and total suspended solids requirements would require the installation of advanced treatment units as it would be impossible to meet such requirements otherwise. This is on top of the grading prohibition which applies from October 1 through April 15 in an arid climate such as found in Ventura County.

In lieu of the approach proposed in the Second Draft Order, we support the alternative approach put forwarded by the Building Industry Association ("BIA"). Under the BIA approach, the Second Draft Order should specify the additional BMPs that would be required for high risk projects such as those conducted on slopes that exceed 20%. We also have some fundamental concern with the Regional Board staff establishing technology based effluent limits for the high risk construction sites and using a MS-4 Stormwater permit to create such limits. Section F.1.1.(c) is a clear effort by the Regional Water Board staff to establish such limits. We would submit that technology based effluent limits should be developed through the State Construction General Permit process and not backdoor through the Ventura permit. Our comments relative to the development of technology based effluent limits noted previously in this letter are relevant to this discussion.

And finally the requirement that all Permittees must provide an electronic tracking system for grading permits seems overly prescriptive. It would seem the important point here is that a tracking system is in place, up to date and not the type of platform for tracking. Similar to a

wastewater treatment plant, a NPDES permit should dictate the performance standard, not the type of treatment to meet the performance.

V. Monitoring

The Second Draft Order stipulates a monitoring and reporting program (MRP) that is disconnected to the needs of our Countywide Stormwater Management Program. While we agree the current monitoring program (Order Number 00-108) can be improved to provide better information to characterize and improve the stormwater quality program, the Draft MRP is resource intensive and misdirected. A revised monitoring program could both identify water quality problems and provide the Permittees information useful to improve program effectiveness.

Some of the technical issues we have with the Second Draft Order are summarized below:

1. We fundamentally disagree with the Board's conclusion regarding the manner of TMDL incorporation into the Draft Order (see our discussion regarding the TMDLs). We do not support the proposed MRP which stipulates a comprehensive TMDL compliance monitoring programs. The Draft MRP is in conflict and in many cases redundant with the monitoring programs required under the various TMDLs. The MRP should reflect the TMDL monitoring program already developed and required pursuant to the TMDL.
2. The MRP is somewhat deceptive in addressing MALs. As presented in the previous pages we disagree with the concept of MALs as envisioned by this Second Draft Order (i.e. enforceable numeric effluent limits for stormwater outfalls). The Second Draft Order identifies the point of compliance as major outfalls and if these points are not available then the Permittees' mass emission stations are used for assessing compliance. The MRP on the other hand does not require direct monitoring of the major outfalls for assessing MAL compliance but only identifies the mass emission stations that are to be monitored. Given that the Permittees' mass emission stations include runoff from all types of land uses (urban as well as non-urban) and therefore are commingled, the mass emission stations are a very poor choice to identify the "bad actors" (or under the Regional Board strategy to assess permit compliance with MEP). It is unclear how the mass emission stations can be used for anything but assessing the overall health of the water body or compliance with receiving water quality standards. Our suggested approach to use MALs and outfall monitoring are included in our attachments (see Attachment B)
3. The Draft MRP establishes a new approach to characterizing urban runoff. The standard to date has been to collect a flow weighted sample for the entire event (thus the name Event Mean Concentration)¹. In California these events typically last longer than 3 hours but are usually limited to 24 hours. However, the Draft MRP stipulates that the runoff must now be characterized by the first three hours of a storm (we will call it the 3 hour mean concentration). This change in procedure is paramount to our monitoring program as we have been following standard procedures in collecting EMCs for over 92 storm

¹ Guidance Manual for the Preparation of Part 2 of the NPDES Permit Applications for Discharges from Municipal Storm Sewer Systems, USEPA, EPA 833-B-92-002, November 1992.

events over the last 15 years. By switching to the 3 hour mean concentration the Regional Board staff is discarding all our historical data (at an approximate cost up to \$ 1 million dollars). This data is critical if we are to continue to maintain base line and be able to measure trends regionally and statewide. Thus the Regional Board is requiring the Program to start all over again. To compound the issue, the database used by the Regional Board to establish MALs is based on the standard procedure for monitoring (i.e. EMCs not 3 hour mean concentrations). Given the fact that runoff quality is typically poorer in the first part of the storm² then the Countywide Program is being penalized by the Regional Board by changing the method of assessing MALs. In other words the MALs are based on EMCs, but the compliance will be based on 3 hour mean concentration.

In lieu of the Draft MRP we recommended that the monitoring program be based on guidelines created in the *2004 Report Model Monitoring Program for Municipal Separate Storm Sewer Systems (MS4) in Southern California* from the Southern California Stormwater Monitoring Coalition. These guidelines allows for an adaptive approach to monitoring so resources are spent obtaining information useful for improving stormwater programs and stormwater quality. The Model Program presents a series of management questions that guide the adaptive development of a monitoring plan.

Two of the management questions are, "What is the relative urban runoff contribution to the receiving water problems?" and "What are the sources to urban runoff that contribute to receiving water problems?" Resources spent answering these questions would allow managers to focus programs on identified problems in urban runoff.

The remaining management questions regarding the water quality conditions of receiving waters also need to be addressed. Fortunately, there are many other programs in Ventura County that contribute valuable water quality data on the receiving waters. Additional available data comes from high quality monitoring programs such as other NPDES permits, the irrigated lands conditional waiver, and Total Maximum Daily Loads (TMDLs). Ventura County Permittees have worked cooperatively with the Regional Board and other stakeholders to develop TMDL compliance monitoring plans. These efforts should not be overlooked, and a comprehensive MS4 monitoring plan will need to take into consideration these other regional monitoring efforts to avoid unnecessary and costly duplication.

An example of a monitoring program for Ventura County based on the 2004 Model Monitoring plan was provided to Regional Board staff on May 11, 2007, and in the Permittees Presentation at the RWQCB September 20, 2007 Workshop. This monitoring program was first presented and described to Regional Board staff at our meeting on May 8, 2007. We hope through this type of a collaborative effort we can jointly develop an appropriate monitoring program that provides the Regional Board with useful information.

To provide a starting point of how the Model Program could be written into an Order we have prepared and are submitting the attached framework and materials as part of Attachment B.

² First Flush Phenomenon Characterization, Caltrans, CTSW-RT-05-73-02.6, August 2005.

VI. Other Issues

Public Agency Activities (Routine Maintenance, Permitting and Pavement Repair)

The Second Draft Order requires coverage of routine and long-term maintenance activities under the Construction Activities Stormwater General Permit (CASGP) through the following requirements: (1) by specifically identifying certain routine maintenance activities, such as street repaving, sidewalk replacement, and channel maintenance, as Capital Improvement Projects that need to be covered under the CASGP (Provisions 5.G.1(c)); and (2) by specifically identifying certain long-term maintenance activities, such as maintaining flood control channels, sidewalk replacement, pavement replacement, etc. as activities that need to be covered under the CASGP (Provisions 5.G.1(c) and 5.G.7(a)). However, the Second Draft Order also defines construction³ (page 94) to exclude routine maintenance that maintains the original line and grade or hydraulic capacity. Thus, the Second Draft Order is internally inconsistent. We would submit the exclusion of routine maintenance activities from coverage under the CASGP is more in line with the intent of the CASGP. In fact this definition is more in line with the CASGP definition for construction which also excludes routine maintenance that maintains the original line and grade or hydraulic capacity from coverage under the permit. Consequently, the Permittees request sections of the Second Draft Order requiring routine maintenance be subject to the CASGP be modified to be consistent with the Draft Order and CASGP's definition for construction to exclude routine maintenance.

The other relevant section of the Second Draft Order for CIP is Provision 5.G.I.1(a) which requires all Permittee owned and operated construction projects to be subject to the requirements of the New Development Program (Provision 5.F). These requirements are in many cases impossible to implement, especially for common linear projects. Reducing the percentage of Effective Impervious Area to less than 5% of total project area for a road project is very difficult and in most if not all cases cannot be done because of the nature of the project. The Permittees understand that larger projects meeting the criteria for the Land Development Planning requirements should be designed appropriately. However, applying this requirement to all Permittee owned or operated public construction projects does not take into consideration the realities of how small some public construction projects can be. Post construction BMPs and limiting effective imperviousness on a new traffic signal or a wheelchair access curb ramp is highly impracticable and of little benefit to water quality since these improvements do not generate additional pollutants.

These projects take place on existing streets in existing neighborhoods which provide little area for post construction BMPs. Drinking water or sewer line upgrade where soil and pavement are being disturbed to perform the activity, do not provide practicable opportunities to retrofit infiltration devices to serve as a post-construction BMP. This example also demonstrates a lack of parity because this requirement is only for Permittee owned facilities, and does not apply to private water companies or other wastewater districts. These utilities operate under the CAGSP when required to, as do municipally owned utilities.

³ It should be noted that the definition for construction was changed from the 12/28/06 draft order to the 8/28/07 draft order to address the issue of routine maintenance and CASGP coverage.

The Ventura County Stormwater Order should require the Permittees to meet the same requirements as those imposed on other (non-permitted) public agencies and private companies.

Trash Excluders

Contrary to statements made at September 20, 2007, Regional Board workshop. Permittees have very effective trash management programs. Provision 5.G.5(e) of the Second Draft Order requires the installation of trash excluders on catch basins in commercial areas, industrial areas, and near educational institutions i.e. areas subject to high trash generation. We appreciate the Board staff effort to address trash proactively; however, we have serious reservations about this sledge hammer approach. Ventura County is different from Los Angeles County which was the origin of the excluder approach. The 303(d) list for trash impaired water bodies for Ventura County only includes Beardsley Wash and Revolon Slough and the Ventura River estuary (representing only 4% of the county), versus the multitude of trash impaired water bodies in Los Angeles County. The Permittees would submit their current trash management program is one of the primary reasons. Given the uncertain nature of trash excluders and the potential for flooding⁴ the Permittees would prefer more flexibility in defining their trash management program(s). This is especially true when considering the backdrop of the TMDL program. Once a water body is listed as impaired for trash and the TMDL is developed, an implementation plan must also be developed. The implementation plan provides an analysis of control alternatives, and ultimately selects controls that are cost effective and implementable. Thus, the TMDL is the safety net for addressing water bodies should the water body become impaired due to trash. As evident by the lack of trash listed water bodies in Ventura County their current trash management programs appear to be quite effective. We have expressed this preference before and the Board staff has indicated that such an approach is possible through Provision 5.A.2 which allows for the substitution of BMPs. While this provision does allow such a substitution, the provision sets up a resource intensive process (for both the Permittees and Regional Board staff) and is sufficiently vague giving Regional Board staff considerable latitude to allow or not allow the substitution. In general the Permittees should have the ability to assess various trash control options and select the most cost effective option. This only seems reasonable and provides the flexibility that is warranted given the combined safety net of the TMDL program.

Treatment Control BMPs for Critical Sources

Provision 5.D.2(a) (page 41) requires the implementation of treatment control BMPs for critical source businesses that discharge to an MS4 which then discharges to a 303(d) listed water body or ESA. Such a requirement essentially requires all critical source businesses in Ventura County to retrofit their site with treatment control BMPs regardless of whether the site is discharging the constituent for which the 303(d) list is based. In Ventura County this is approximately 3900 businesses⁵. The Permittees do not believe this is the best approach for dealing with our business

⁴ Ventura Permittee research indicates that Glendale and Rancho Palos Verdes have initiated very small pilot programs (28 and 79 inlets, respectively) to test excluders meeting the five-millimeter criteria. These pilot programs, initiated due to a trash TMDL, are currently underway and final assessments have not been made. The impacts of flooding and bacterial regrowth will be considered in these studies.

⁵ Ventura countywide critical source businesses: food facilities – 1,929, automotive facilities – 1,413, general industrial – 538, and nurseries – approx. 40

community. First, the provision basically undermines the use of source control and pollution prevention BMPs which has been the fundamental strategy in dealing with urban runoff. Second, the arbitrary requirement to retrofit businesses regardless of their discharge will likely mean significant expenditure of money resulting in little to no environmental benefit. Third, the TMDL process is the mechanism to address pollutants that are causing exceedances of water quality standards. As noted before, the TMDL implementation plan is the vehicle for identifying the sources, control measures, and schedules for addressing 303(d) listed water bodies. Provision 5.D.2 (a) is not the vehicle. In the September 20, 2007 workshop we provided the following recommendations to advance the implementation of the industrial/commercial program:

- Require Critical Source facilities to implement effective source control BMPs.
- Critical Source Facilities that fail to utilize effective source controls, shall apply pollutant specific treatment control BMPs.
- Use the TMDL program to address site specific or business specific sources of listed pollutants.

Jurisdictional Concerns

The proposed area of permit coverage, as identified in Figure 1 of the Second Draft Order improperly includes non-urbanized areas of Ventura County and improperly characterizes Ventura County as mostly urban development or undergoing urban development. As explained in our March 6, 2007 comments, most of Ventura County is actually unincorporated area that consists of National Forest land, agricultural land and open space.

Because MS4 permits are intended to control stormwater runoff from urban areas and areas containing MS4s, not un-urbanized areas, the Second Draft Order, and Figure 1 in particular must be revised to clearly indicate that the provisions as contained in the Second Draft Order apply only to urbanized areas within Ventura County.

Small Communities Issues

The communities of Fillmore, Port Hueneme, Ojai, Moorpark, Camarillo and Santa Paula collectively represent less than 20% of Ventura County's population. Because of the small populations within these communities, there are fewer staff resources and the Cities are unable to dedicate staff solely to the stormwater program. Furthermore, there are fewer financial resources to implement the stormwater program and ultimately implementation of the program results in a higher cost per capita on our residents.

In light of these circumstances, the small communities request special accommodations within the Second Draft Order that recognizes the resource challenges faced by these communities. In particular, the small communities seek extended compliance periods for implementing many of the provisions contained therein. By reducing the requirements as they apply to small communities, the small communities will be better positioned to actually meet the requirements as contained in the Second Draft Order.

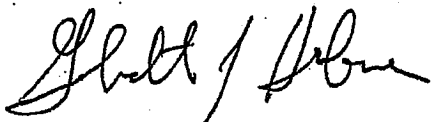
VII. Conclusion

In light of the many pivotal concerns expressed by the Permittees previously and here, the Regional Water Board must consider a new approach for renewing the Ventura County stormwater permit. Instead of continuing on the present course, which consists of the Regional Water Board staff putting forward revisions and the Permittees reacting to the revisions, we recommend that the Regional Water Board and its staff enter into a facilitated collaborative process with the Permittees and other appropriate stakeholders. Through a facilitated process, the Permittees would hope that they and staff could work together to formulate a reasonable permit protective of water quality. Without such a process, and commitment from the Regional Water Board to enter into such a process, the Permittees fear that continued discussions on the Second Draft Order will result in the Regional Water Board adopting a permit that is fundamentally flawed and subject to subsequent challenge. Also, absent major revisions, the Second Draft Order in its current form would place excessive burdens on the Permittees and would subject the Permittees to multiple enforcement actions including, but not limited, to mandatory minimum penalties, ACLs and third party litigation. The Permittees can not in good conscious accept such an Order. The Permittees wish to avoid such an outcome and would prefer to work with Regional Water Board and its staff to put forward a permit that is reasonable and protective.

To that end, the Permittees request a series of facilitated meetings with Regional Water Board staff over the next several months. Through a facilitated process, the Permittees would hope to actively engage with Regional Water Board staff on the language contained in the Second Draft Order. Additionally, to help our understanding of the Board staff's position, the Permittees would appreciate the opportunity to review the technical memos referred to by Regional Board staff at numerous meetings, and at the Sept 20, 2007 RWQCB workshop prior to next workshop or hearing. The goal, of course, would be to reach mutual agreement Order, prior to release of a Tentative Order. We look forward to working with you and your staff to craft a revised Draft Order that meets all of our needs.

If you have any questions, please contact me at 805-654-5051, or via email at Gerhardt.Hubner@ventura.org.

Sincerely,



Gerhardt J. Hubner
*On Behalf of the Entire
Ventura Countywide
Stormwater Management Program*

Attachments

- A. Ventura Countywide Program Policy and Legal Comments
- B. Ventura Countywide Program Strikeout Version of 2nd Draft Order (Parts 1-3, 6-7, and MRP/Attachment F)
- C. Permittee's Combined Technical Comments for Ventura County MS4 Permit Draft Order, dated October 12, 2007
- D. Ventura Countywide Program "Issue Papers" (Alternative Approaches)
- E. Permittee's Presentations at September 20, 2007 RWQCB Workshop
- F. Ventura Countywide Program Comments on 1st Draft Permit, dated March 6, 2007

Cc: LARWQCB Board Members
Xavier Swamikannu, Storm Water Permitting, Los Angeles Regional Water Quality Control Board
Ventura Countywide Program Permittees

ATTACHMENT A
LEGAL AND POLICY COMMENTS
SECOND DRAFT ORDER (AUGUST 28, 2007)
VENTURA COUNTY MUNICIPAL SEPARATE STORM SEWER SYSTEM PERMIT
(NPDES NO. CAS004002)
FOR THE VENTURA COUNTY WATERSHED PROTECTION DISTRICT, COUNTY
OF VENTURA, AND THE INCORPORATED CITIES

Legality of Second Draft Order in General

I. Second Draft Order.

A. *The Second Draft Order Exceeds MS4 Stormwater Provisions as Mandated by Federal Law and is Therefore Subject to California Water Code Section 13241.*

Under federal law, municipal stormwater discharges must comply with section 402(p) of the Clean Water Act, which requires that cities reduce stormwater to the maximum extent practicable (MEP). (33 U.S.C. § 1342(p)(3)(B)(iii).) “Congress did not require municipal storm sewer discharges to comply strictly with [water quality standards].” (*Defenders of Wildlife v. Browner* (9th Cir. 1999) 191 F.3d 1159, 1166.) Whenever a Regional Water Board imposes pollutant restrictions in a wastewater discharge permit *more stringent* than what federal law requires, California law requires the board to take into account the public interest factors of Water Code section 13241, which includes economic factors and the cost of compliance. (*City of Burbank v. State Water Resources Control Bd.* (2005) 35 Cal.4th 613, 627.) Thus, if the Regional Water Board seeks to impose any requirements that go beyond those set forth in section 402(p), the Regional Water Board must evaluate the public interest factors in Water Code section 13241 prior to permit adoption.

The Second Draft Order attempts to disregard this important legal requirement by making a generic finding that all provisions contained in the Second Draft Order are part of a federal mandate. (Second Draft Order at p. 12.) Through this finding, the Second Draft Order tries to conclude that because the requirements are federally mandated, the Second Draft Order does not require consideration of section 13241 factors, or constitute an unfunded local government mandate. Findings are required to “bridge the analytic gap between the raw evidence and ultimate decision or order.” (*Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515; see also *In Re Petition of the City and County of San Francisco, et al.*, SWRCB Order 95-4, 1995 WL576920 at pp. 4-5.) The blanket statements made in the Second Draft Order fail to rise to a level necessary to serve as a bridge between evidence and permit provisions.

In general, municipal stormwater programs are a combination of source controls and management practices that address targeted sources within a municipality’s jurisdictional area. (See NPDES Permit Writers’ Manual at p. 164.) Also, permit writers are instructed to rely on application requirements and management programs as proposed by the applicants when developing appropriate permit conditions. (See *id.* at p. 165.) Recent court decisions have also

declared that the Regional Water Board may adopt water pollution controls in addition to those that come from MEP in order to meet water quality standards. (See *Building Industry Association of San Diego v. State Water Resources Control Bd.* (2004) 124 Cal.App.4th 866, 883.) Notwithstanding the recent court decisions that allow for additional discretion, the provisions contained in the Second Draft Order exceed requirements associated with implementation of MEP and exceed requirements necessary to meet water quality standards. At the very least, the Second Draft Order fails to properly connect the provisions as contained in the Second Draft Order to federal requirements from the Clean Water Act (CWA) through its findings.

The Second Draft Order exceeds requirements associated with the implementation of MEP by requiring compliance with municipal action levels (MALs). As discussed at length below, the interpretation of MEP with a numeric standard extends beyond the legal understanding of the definition of MEP. Thus, the Second Draft Order's use of MALs to interpret the narrative MEP standard exceeds federal requirements.

Also, the Second Draft Order contains provisions that not only require various management programs as specified in federal regulations but also dictates in detail the what the Permittees are required to implement in the management programs. For example, the Second Draft Order requires treatment control best management practices (BMPs) for commercial facilities that discharge into ESAs or 303(d) listed waters. Such a requirement exceeds federal authority because the requirement applies to commercial facilities regardless of a facility's actual potential to discharge or discharge the constituent of concern. As another example, the Public Information and Participation Program (PIPP) contains requirements so specific that it dictates how many school children the Permittees are required to educate over two-years, despite the lack of legal authority for the Permittees to actually dictate educational curriculum in the schools. It also requires the Permittees to develop a protocol for testing student knowledge on the adverse impacts of stormwater pollution. In other words, the Second Draft Order goes beyond requiring the Permittees to develop a PIPP but spells out exactly what must be in the PIPP. In all cases, the Second Draft Order fails to state how these specific requirements control pollutants to the MEP, or how they are necessary in order to meet water quality standards. Thus, the Second Draft Order contains provisions, individually and collectively that exceed CWA requirements as they pertain to MS4s.

B. *Because Provisions in the Second Draft Order Exceed MS4 Stormwater Provisions as Mandated by Federal Law, some of the Provisions may be Considered an Unfunded State Mandate.*

The Second Draft Order contains a finding that asserts that the Order "does not constitute an unfunded local government mandate subject to subvention under article XIII B, section (6) of the California Constitution" because the Order implements "federally mandated requirements" under section 402 of the CWA. (Second Draft Order at p. 12.) The Permittees object to this finding on several grounds.

First, the Regional Water Board's jurisdiction does not include decisions or determinations regarding what is, or what is not an unfunded mandate subject to subvention under the California

Constitution. The Regional Water Board's jurisdiction is limited to water quality and related functions. Decisions regarding what constitutes, or does not constitute, an unfunded mandate is for the Commission on State Mandates. (Gov. Code, §§ 17551 and 17552; see also *Lucia Mar Unified School District v. Honig* (1988) 44 Cal.3d 830, 837 [the question must be decided by the Commission on State Mandates "in the first instance."]) "Whether a particular cost incurred by a local government arises from carrying out a state mandate for which subvention is required under article XIII B, section 6, is a matter of the Commission to determine in the first instance." (*County of Los Angeles v. Commission on State Mandates* (2007) 150 Cal.App.4th 898, 907.)

Second, the Permittees question the purpose and intent of this finding. As discussed above, findings are required to "bridge the analytic gap between the raw evidence and ultimate decision or order." (*Topanga Assn. for a Scenic Community, supra*, 11 Cal.3d at p. 515.) The Regional Water Board staff's purpose for including this finding is suspect as it raises an issue that has recently been unsuccessfully litigated in the recent *County of Los Angeles v. Commission on State Mandates*. In that case, the Court held that whether the permit obligation(s) in question constitutes a state or federal mandate is a question of fact which must be first addressed by the Commission on State Mandates. (*County of Los Angeles v. Commission on State Mandates, supra*, at pp. 917-918.) Thus, it is not appropriate for the Regional Water Board staff to propose a finding that attempts to make a conclusion of fact for the Commission on State Mandates.

Furthermore, even if a program is required in response to a federal mandate, a subvention of state funds may be in order. For example, Government Code section 17556(c) provides that if a requirement was mandated by federal law or regulation, but the state statute or executive order mandates costs that exceed the mandate in that federal law or regulation a subvention of funds is authorized. Also, even if the costs were mandated to implement a federal program, if the "state freely chose to impose the costs upon the local agency as a means of implementing" that federal program, "the costs are the result of a reimbursable state mandate regardless whether the costs were imposed upon the state by the federal government." (*Hayes v. Commission on State Mandates* (1992) 11 Cal.App.4th 1564, 1594.)

Finally, the finding in question asserts that provisions in the Second Draft Order to implement total maximum daily loads (TMDLs) are also federal mandates. While it is true that waste load allocations (WLAs) in TMDLs must be reflected in NPDES permits as applicable, the manner in which the TMDL is implemented in the NPDES permit is not a federal mandate, but is left up to the State. (See *Pronsolino v. Marcus* (9th Cir. 2002) 291 F.3d 1123, 1140.) As discussed *ante*, the TMDLs WLAs as incorporated into the Second Draft Order are in fact inconsistent with the adopted TMDL implementation plans and may therefore exceed federal mandates. Thus, as with the other aspects of the Second Draft Order, implementation of applicable TMDL WLAs is not necessarily a federal mandate, immune from subvention of state funds.

C. *The Second Draft Order may Violate the 10th Amendment of the U.S. Constitution.*

Besides inappropriately asserting that the Second Draft Order does not constitute an unfunded state mandate, the same finding asserts that the "authority exercised under this Order is not reserved state authority under the CWA's savings clause (...), but instead, is part of a federal

mandate to develop pollutant reduction requirements for municipal separate storm sewer systems.” (Second Draft Order at p. 12.) The apparent purpose of this provision is to support the Regional Water Board staff’s assertion that all of the permit conditions are mandated by the federal regulatory scheme and not exercised by the State under its independent authority.¹ Assuming that the Regional Water Board staff’s assertion is correct, then the provisions contained in the Second Draft Order are subject to constraints contained within the U.S. Constitution, including that in the 10th Amendment. The 10th Amendment states that, “the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.” (U.S. Const., 10th Amend.) Tenth amendment protection extends to local governments including cities. (See *City of Abilene v. U.S. EPA* (5th Cir. 2003) 325 F.3d 657, 661, citing to *Printz v. United States* (1997) 521 U.S. 898, 931, fn. 15.)

Regional Water Board staff proposes to include a finding that states “[w]here a MS4 Permittee voluntarily chooses a BMP based stormwater management program as permit effluent limitations rather than end-of-pipe numeric effluent limits, there exists no compulsion of a specific regulatory scheme that would violate the U.S. Constitution’s 10th Amendment clause.” (Second Draft Order at p. 7.) The finding relies upon *City of Abilene v. U.S. EPA*, which found that because the cities voluntarily chose a BMP based permit over numeric “end-of-pipe” effluent limits that the cities had not been compelled to implement a federal regulatory scheme. (*City of Abilene v. U.S. EPA, supra*, 325 F.3d at p. 663.) Reliance on this case is misplaced because the Permittees are being forced to implement both a BMP based management permit as well as numeric “end-of-pipe” effluent limits. Thus, the Second Draft Order requires a specific regulatory scheme that would violate 10th Amendment because the Permittees do not have a choice.

The Permittees have made clear during the course of permit discussions that they prefer a BMP based stormwater program. However, despite the Permittees’ continued efforts, the Regional Water Board staff have proposed a regulatory scheme that forces the Permittees to implement both a BMP based program as well as comply with numeric “end-of-pipe” effluent limits through the application of MALs and TMDL waste load allocations. Because this permit requires both, we contend that Finding C.5 is in error. The Court’s analysis in *City of Abilene v. U.S. EPA* does not apply in this case and therefore the lack of a choice creates a permit that violates the 10th Amendment. “In order for their Tenth Amendment challenge to succeed, the Cities must demonstrate that they had no choice but to accept these conditions.” (*City of Abilene v. U.S. EPA, supra*, 325 F.3d at p. 663, fn. 5.)

To the extent the Regional Water Board staff may argue that the provisions contained in the Second Draft Order are not numeric “end-of-pipe” effluent limitations compelled by federal

¹ The Permittees’ recognition of the statements contained in Finding E.10 in this argument does not concede that the Permittees agree with the Second Draft Order’s conclusions as contained in this Finding. As argued in previous arguments, and again identified in the body of this letter, the Permittees actually believe that the Second Draft Order contains permit conditions that well exceed the federal regulatory scheme as it relates to stormwater. Our primary point of contention here is that to the extent the Second Draft Order indicates that the provisions are mandated by federal law that the provisions are then subject to federal constraints under the 10th Amendment of the U.S. Constitution.

regulatory requirements but the Regional Water Board staff's interpretation of the federally mandated MEP standard, the Regional Water Board staff's interpretation exceeds federal requirements as applicable to municipal stormwater and the provisions are therefore subject to State statutory requirements, including section 13241 of the California Water Code. (See *ante*.) In other words, the Regional Water Board cannot on one hand claim that all requirements are derived from federal mandates and then on the other claim that the State is using its discretion to interpret a federal standard. This is particularly true in this case, where the Regional Water Board staff's interpretation far exceeds the normal understanding and application of the standard in question (i.e., use of numeric values to define MEP.)

II. Municipal Action Levels/Quantifiable Maximum Extent Practicable.

The Second Draft Order contains revised provisions related to MALs as compared to the first Draft Order, which was circulated in December of 2006.² The Permittees have already expressed many concerns with regard to the use of MALs as a numeric standard to interpret the MEP standard. The Permittees do not repeat some of the arguments previously submitted with regard to the appropriateness of interpreting the MEP standard with a numeric MAL but incorporate the Permittees' previous comments herein. However, additional comments on this issue as well as additional concerns created by the revisions are provided here.

In particular, the Permittees object to the use of a numeric value to interpret the technology-based MEP standard. The Permittees also question the Regional Water Board staff's proposed action of defining MEP in a quasi-adjudicatory order versus conducting a rulemaking for such an action that has such broad policy implications. Next, the Permittees argue that the use of a presumption in a quasi-adjudicatory order is an invalid exercise of the agency's authority. Finally, the Permittees are concerned that the MALs as established in the permit create potential liability for the application of mandatory minimum penalties for violations of MALs.

A. *It is Inappropriate to use Numeric Values (i.e., MALs) to Interpret MEP.*

The use of numeric values or MALs in the Second Draft Order to define MEP conflicts with the CWA's requirement to reduce the discharge of pollutants in municipal stormwater to the MEP. It is important to recognize that neither federal nor State law specifically defines MEP in order to ensure that the standard remains flexible to meet the local needs and priorities associated with stormwater discharges while simultaneously protecting water quality. Moreover, the federal and state law and guidance clearly expresses a general preference to interpret and implement the MEP standard with the use of narrative rather than numeric values.

i. *The Second Draft Order's Interpretation of MEP is Inconsistent with Congress' Intent Regarding MEP.*

Section 402(p) of the CWA requires regulated MS4s to achieve pollutant reductions to the MEP. (33 U.S.C. § 1342(p).) MEP is a technology-based standard. The legislative history of the CWA evinces that in establishing the standard, Congress recognized that MS4 permits must provide

² The First Draft Order refers to the Regional Water Board's December 28, 2006 Draft Order. The Permittees' comments on the First Draft Order were submitted on March 6, 2007.

flexibility to allow for permit controls that reflect site-specific conditions and the wide range of impacts associated with stormwater discharges. (See 133 Cong. Rec. 976, 1007 (Jan. 8, 1987); 55 Fed.Reg. 47990 (Nov. 16, 1990).) Congress determined that such a flexible approach would in fact protect water quality. (133 Cong. Rec. 985, 1007.)

Moreover, Congress expressed a preference for permitting agencies to interpret MEP as narrative standard, rather than a numeric standard. For example, CWA section 402(p) refers to MEP as “management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants.” (33 U.S.C. § 1342(p)(3)(B)(iii); 64 Fed.Reg. 68722, 68753 (Dec. 8, 1999).) Legislative history also establishes that Congress understood that pollutant control strategies would generally vary from permit to permit and did not intend for MEP to be interpreted so as to require the incorporation of all of the control strategies of CWA section 402(p) into each permit issued. (132 Cong. Rec. 10532 (Oct. 15, 1986).)

ii. MEP Standard is Intended to Allow for Flexibility to Account for Local Conditions.

Federal and State law and guidance makes clear that MEP is a highly flexible standard that requires the balancing of numerous, location-specific factors. Consistent with Congress’ intent, the law and guidance also emphasize a strong preference for implementing the MEP standard with narrative limitations through an iterative process.

EPA declined to define MEP “to allow flexibility in MS4 permitting” so as to optimize reductions in stormwater pollutants on a location-by-location basis. (64 Fed.Reg. 68754.) Indeed, in a report to Congress, EPA explained that the MS4 program provides municipalities with flexibility to develop stormwater management programs that address local needs and priorities. (Report to Congress on the Phase I Storm Water Regulations, EPA 833-R-00-001 (Feb. 2000) p. 3-1.) EPA has also explained that MEP is part of an iterative process that accounts for various factors, including, but not limited to, receiving water conditions, local concerns, climate, watershed planning, implementation schedules, ability to finance a stormwater program, hydrology, geology, and capacity to perform operation and maintenance. (64 Fed.Reg. 68754; 55 Fed.Reg. 47990.) That is, MEP “should be applied in a site-specific, flexible manner, taking into account cost considerations as well as water quality effects.” (64 Fed.Reg. 68732.)

Moreover, federal regulations specify that “narrative effluent limitations requiring implementation of BMPs are generally the most appropriate form of effluent limitations” (40 C.F.R. § 122.34(a); 64 Fed.Reg. 68753.) Such regulations expressly state that BMPs implemented consistent with the stormwater management program constitute compliance with MEP. (40 C.F.R. § 122.34(a).) Guidance issued by EPA emphasizes that the “most appropriate” form of effluent limitations for MS4s are *narrative* effluent limitations that require the implementation of BMPs and the achievement of measurable goals. (Storm Water Phase II Compliance Assistance Guide, EPA 833-R-00-002 (March 2000) p. 4-17.) EPA envisions MEP as a standard that continually adapts to current conditions and BMP effectiveness. (64 Fed.Reg. 68754.)

Precedent set by California courts and the State Water Board also describe MEP as an iterative, highly flexible approach that depends on balancing numerous factors, such as technical feasibility, costs, public acceptance, regulatory compliance, and effectiveness. (See *City of Arcadia v. State Water Resources Control Bd.* (2006) 135 Cal.App.4th 1392, 1427, fn. 13; *Building Industry Assn. of San Diego County v. State Water Resources Control Bd.*, *supra*, 124 Cal.App.4th at p. 889; State Water Board Order No. WQ 2000-11 at 35; State Water Board Order No. WQ 91-04 at p. 24-25.) The SWRCB endorses the use of BMPs – not numeric effluent limitations – to satisfy MEP. (See State Water Board Order WQ 2001-15, p. 13; State Water Board Order No. WQ 2000-11 at p. 35.) The SWRCB explained that it “generally will not require ‘strict compliance’ with water quality standards through numeric effluent limitations” and “will continue to follow an iterative approach, which seeks compliance over time.” (State Water Board Order WQ 2001-15 at p. 13.)

Finally, guidance issued by the State Water Board’s Office of the Chief Counsel emphasizes the flexible, site-specific nature of the MEP standard. (See generally, Memorandum from E. Jennings, State Water Board Office of the Chief Counsel, to A. Matthews, State Water Board Division of Water Quality (Feb. 11, 1993) (1993 Memorandum).) The memorandum recommends consideration of the following site-specific factors to determine whether a municipality would achieve MEP in a given instance:

1. Effectiveness: Will the BMP address a pollutant of concern?
2. Regulatory Compliance: Is the BMP in compliance with stormwater regulations as well as other environmental regulations?
3. Public acceptance: Does the BMP have public support?
4. Cost: Will the cost of implementing the BMP have a reasonable relationship to the pollution control benefits to be achieved?
5. Technical Feasibility: Is the BMP technically feasible considering soils, geography, water resources, etc.? (1993 Memorandum, pp. 4-5.)

iii. No Other State or Municipality in the Entire United States Interprets MEP with a Numeric Value.

The Second Draft Order represents an unprecedented attempt to define MEP with a numeric value. Other states decline to prescribe a numeric value to MEP in the stormwater context in order to preserve the standard’s flexible, site-specific nature necessary for MS4s to develop and implement effective stormwater programs. (See e.g., New York State, MS4 Permit No. GP-02-02.) That is, other states recognize MEP as part of an iterative process in which maximum flexibility is key to develop pollutant control strategies that adequately and appropriately reflect local conditions. (See e.g., North Dakota, MS4 Permit No. NDR04-0000 (Dec. 31, 2007), p. 18.) For example, under Michigan law, MEP is “the implementation of best management practices by a public body to comply with an approved storm water management program as required in a national permit for a municipal separate storm sewer system, in a matter

that is environmentally beneficial, technically feasible, and within the public body's legal authority." (Mich. Admin. Code § 323.2103(I).)

Likewise, municipalities that have incorporated MEP into local ordinances have maintained the narrative nature of MEP and have declined to prescribe or define MEP with a numeric value. For example, the City of Broomfield, Colorado, defines MEP as "a standard for implementation of stormwater management programs to reduce pollutants in stormwater. It is the maximum extent possible taking into account equitable consideration and competing facts, including but not limited to: the seriousness of the problem, public health risk, environmental benefits, pollutant removal effectiveness, regulatory compliance, ability to implement, cost, and technical feasibility." (Broomfield Municipal Code, § 13-40-020(N).)

While the actions of other states and municipalities are not controlling, they provide further evidence and understanding of Congress' intent with regard to what is meant by MEP. Thus, the Second Draft Order's proposed interpretation of MEP with a numeric value goes beyond the general understanding of MEP and its intended use in regulating municipal stormwater.

iv. State's Blue Ribbon Panel of Experts has Determined that it is not Feasible to use Numeric Limitations for Municipal Stormwater at this Time.

Consistent with our previous comments on the First Draft Order, we submit that the specific MALs contained in the Second Draft Order are not technically supported or valid. The technical validity of establishing numeric limits for outfalls was posed to a State Water Resources Board Control Board (State Water Board) convened group of experts referred to as the Blue Ribbon Panel (BRP). The results and conclusions of the BRP are highlighted in a June 2006 Blue Ribbon Panel Report (BRP Report)³. The BRP Report unequivocally states the position that numeric limits for municipal stormwater discharges are not possible at this time. However, the Panel did agree that "action levels" may be used to identify "bad actors" catchments. Specifically, the BRP Report states:

It is not feasible at this time to set enforceable numeric effluent criteria for municipal BMPs and in particular urban discharges

*For catchments not treated by a structural or treatment BMP, setting a numeric effluent limit is basically not possible. However, the approach of setting an 'upset' value, which is clearly above the normal observed variability, may be an interim approach which would allow "bad actor" catchments to receive additional attention. For the purposes of this document, we are calling this "upset" value an **Action Level** because the water quality discharge from such locations are enough of a concern that most all could agree that some action should be taken*

(BRP Report at p. 8, emphasis added.)

³ The Feasibility of Numeric Effluent Limits Applicable to Discharges of Storm Water Associated with Municipal, Industrial, and Construction Activities (June 19, 2006).

The Second Draft Order attempts to portray MALs as levels consistent with the BRP Report but a comprehensive reading of the Second Draft Order provides evidence to the contrary. In fact, MALs in the Second Draft Order are enforceable numeric limits not action levels as envisioned by the BRP. In order to implement the BRP approach for action levels as explained above, the Permittees provide strikeout/underline language in Attachment B, which uses action levels to identify bad actor catchments – not for permit compliance.

Furthermore, to develop an appropriate action level, the BRP suggested various options, which included: (1) consensus based approach; (2) ranked percentile distribution; and, (3) statistically based population parameters.

The Second Draft Order claims to use a statistical approach that uses the central tendency of the dataset and accounts for data variability. (Second Draft Order at p. 22.) In its actual calculation, the Second Draft Order took the median value of a national dataset and multiplied it by the coefficient of variation times two. There is no basis for this approach in establishing action levels. This calculation actually reflects the variability of the data (measured as the standard deviation) and does not account for central tendency of the dataset.⁴ The Second Draft Order's approach is not consistent with the BRP suggestion for a statistically relevant calculation.

In addition, the Second Draft Order's use of the national database is not appropriate to generate the MALs. (Second Draft Order at p. 22.) As discussed *ante*, the use of the national dataset penalizes the dry or semiarid (low rainfall) regions of the country. As a result of this, the BRP noted that there is greater opportunity to use various datasets for establishing the MALs. Three options proposed in the BRP Report, in order or preference, are:

- Local urban stormwater monitoring data (the Panel even notes the existence of such datasets from Los Angeles County, Orange County and other California MS4 programs)
- Combine municipal permit monitoring datasets if there is a lack of data for specific constituents in any one location
- National database

In this case, the Second Draft Order selected the least preferred option to generate the MALs even though there are local stormwater datasets available. In fact, California MS4s have more comprehensive datasets than any MS4s in the country. Thus, there is ample opportunity to use local, regional and statewide datasets to establish action levels and no need to rely on a national dataset.

Instead of identifying "bad actors," the MALs as calculated in the Second Draft Order may actually establish new water quality objectives for a waterbody. In the case of the nickel the proposed MAL is more stringent than the Basin Plan water quality objective that has been adopted in the Basin Plan. The Second Draft Order establishes a MAL for total nickel of 19.2 ug/L that must be complied with 80% of the time based on a running average. For

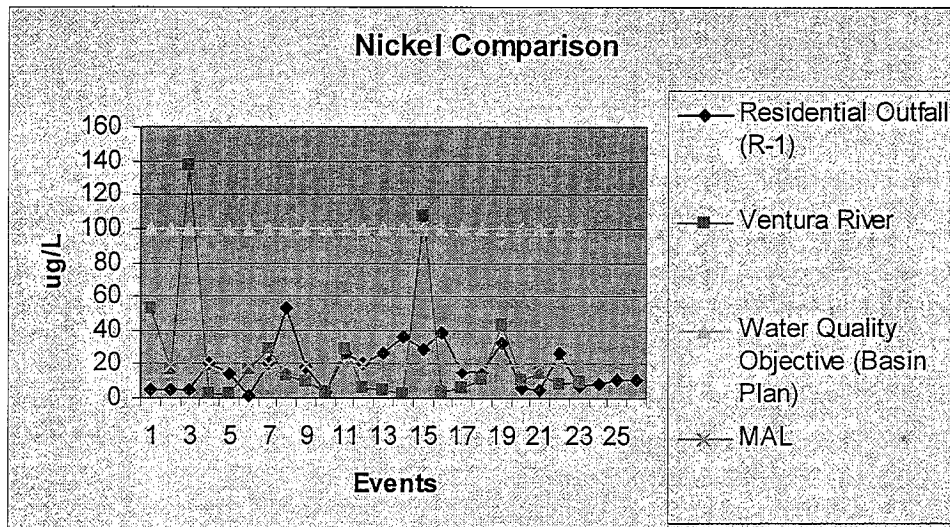
⁴ See CASQA March 7, 2007 letter regarding the Ventura Draft permit at page 4.

waterbodies in Ventura County, the percentage of time the waterbody and representative outfalls are greater than the MAL are summarized below:

Waterbody/discharge	Percentage of time ¹ > MAL
Calleguas Creek	59
Santa Clara River	70
Ventura River	26
Residential outfall	41
Industrial outfall	58

¹ Compliance is based on whether >20% of samples exceed MAL of 19.2 ug/L.

The Basin Plan surface water quality objective for nickel in Ventura County is 100 ug/L. Thus, the MAL is five times more restrictive than the water quality objective. The net result of this approach is all waterbodies in Ventura County are out of compliance with the MALs (see above Table), but not necessarily with the water quality objective. In sum, the waterbody (and by virtue of the Second Draft Order, the Permittees) are out of compliance with the MALs even though the waterbody complies with the applicable water quality objective and supports the beneficial uses. A plot of monitoring data for Ventura River (of which the watershed is only 3% developed), residential outfall, MAL, and the water quality objective is shown as follow.



A closer review of the plot shows the Ventura River is in compliance with the Basin Plan but not the MAL. Furthermore, discharges from residential storm drain outfalls are not causing or contributing to an exceedance of a water quality standard. Thus, the MS4 discharges and the waterbody are fully protective of the Basin Plan water quality standard but due to the application of the MAL the Permittees would be out of compliance with the Second Draft Order.

The Second Draft Order states the American Society of Civil Engineers—Best Management Practices (ASCE BMP) database was used to demonstrate the practicality of the municipalities to achieve the MALs. This position was also reiterated in the Regional Water Board staff

presentation at the September 20, 2007 workshop. However, in reviewing options for lowering the nickel concentrations to the MAL level, the Permittees were unable to verify that the BMPs purported to be practicable in the database could in fact reduce nickel to levels required for compliance. In other words, the ASCE BMP database had no supporting documentation demonstrating the effectiveness of treatment control BMPs to reduce nickel.

It is also worth noting the September 20, 2007 Regional Water Board staff presentation and the corresponding Heal-the-Bay presentation were presenting BMP performance data for treatment control BMPs and not for source control BMPs implemented through a stormwater management program. Thus, presumably compliance is only achievable through the implementation of treatment control BMPs. As a result, **the Second Draft Order is structured to effectively require Permittees to retrofit all outfalls with treatment control BMPs.** However, the staff's presentation and language in the Second Draft Order create an illusion the Permittees can comply with the MALs through a traditional stormwater management program. If it is the Regional Water Board's intent to structure compliance around the implementation of treatment control BMPs (and abandon source control), then the Second Draft Order must clearly state that all outfalls are to be retrofitted with treatment control BMPs. Obviously, the costs and ramifications on Permittees for such a requirement are huge and in some cases may not be possible without displacing existing development. The Permittees, in our March 6, 2007 comment letter, provided preliminary cost estimates for retrofitting all outfalls with treatment control BMPs; however, further refinement of that estimate may be necessary.

Finally, and as noted previously, the MALs as currently configured will penalize municipal programs in dry or semiarid climates. For example, in Montgomery County, Maryland, where rainfall exceeds 40" per year, their program would meet the MALs and therefore they would not be subject to retrofitting any of their outfalls with treatment control BMPs. (See Exhibit 1 to this Attachment for a *Comparison Between Montgomery County, MD and Ventura County, CA Stormwater Management Programs* (2007).) However, Ventura County's stormwater management program, which EPA judged to one of the best in the country, must retrofit all outfalls to comply with the MALs even when such a program would not result in a demonstrable improvement in water quality.

B. *To the Extent that the Regional Water Board may Interpret or Define MEP, such an Action is a Quasi-Legislative Action and not a Quasi-Adjudicatory Action in a Permit.*

The Second Draft Order proposes to determine compliance with the MEP standard by evaluating discharges with respect to numeric MALs. Attachment C of the Second Draft Order establishes numeric limits for discharges of certain categories of conventional pollutants and metals that it claims are practicable standards for municipalities to achieve. By defining MEP in this manner, the Second Draft Order claims to be exercising discretion under 33 U.S.C. section 1342(3)(b)(B)(iii) to determine what pollution controls are necessary to reduce municipal discharges. Such a prospective rule of general applicability may not be established in a quasi-adjudicatory, permit proceeding.

An administrative agency is vested with both a quasi-legislative and a quasi-adjudicative authority. (*NLRB v. Wyman-Gordon Co.* (1969) 394 U.S. 759, 770.) When it adopts rules of general application on the basis of broad public policy, the agency acts in its quasi-legislative capacity. (*United States v. Florida East Coast R. Co.* (1973) 410 U.S. 224, 245-246; *Horn v. County of Ventura* (1979) 24 Cal.3d 605, 613.) Under this quasi-legislative authority, administrative agencies may interpret and implement the statute it is responsible to enforce. (*Chevron U.S.A., Inc. v. NRDC, Inc.* (1984) 467 U.S. 837, 843-844; *B.C. Cotton, Inc. v. Voss* (1995) 33 Cal.App.4th 929, 951.) In contrast, quasi-adjudicative acts “involve the determination and application of facts peculiar to an individual case.” (*Nasha LLC v. City of Los Angeles* (2004) 125 Cal.App.4th 470, 482; see *Morgan v. United States* (1936) 298 U.S. 468, 480.) “These ‘quasi-judicial’ proceedings determine the specific rights of particular individuals or entities.” (*Marathon Oil Co. v. EPA* (9th Cir. 1977) 564 F.2d 1253, 1261; *Beck Development Co. v. Southern Pacific Trans. Co.* (1996) 44 Cal.App.4th 1160, 1188.) “The exercise of discretion to grant or deny a license, permit or other type of application is a quasi-judicial function.” (*Sommerfield v. Helmick* (1997) 57 Cal.App.4th 315, 320; *Portland Audubon Soc. v. Endangered Species Comm.* (9th Cir. 1993) 984 F.2d 1534, 1540-1541.) Furthermore, the distinction between when an agency acts pursuant to its quasi-legislative and quasi-adjudicative authority depends on the nature of the proceeding, rather than how the agency chooses to label certain proceedings. (*Nasha LLC*, 125 Cal.App.4th at p. 482; *Marathon Oil*, 564 F.2d at p. 1264.)

The process by which the Regional Water Board approves state-issued NPDES permits is quasi-adjudicative in nature. (*City of Rancho Cucamonga v. Regional Water Quality Control Bd. – Santa Ana Region* (2006) 135 Cal.App.4th 1377, 1385.) Interpreting the MEP standard to include numeric MALs represents the promulgation of a new rule and policy shift affecting the rights and obligations of all current and future stormwater applicants. Such an action is beyond the Regional Water Board’s authority in this quasi-adjudicative proceeding because it is unquestionably an action that is quasi-legislative in nature.

Thus, Permittees request the Regional Water Board staff remove the numeric MALs as a method for defining MEP. Instead, the Regional Water Board should define MEP as it has in previous permits, or as interpreted in previous State Water Board guidance documents and orders. (Discussed above.) At the very least, should the Regional Water Board staff desire to define MEP with the use of MALs, the Regional Water Board staff should undertake a rulemaking pursuant to its appropriate rulemaking authority—not create a new definition of MEP in a specific stormwater permit.

C. *It is Inappropriate to use a Presumption in a Quasi-Adjudicatory Order.*

The use of a presumption to determine compliance in an adjudicatory order is of questionable validity. A presumption is defined as “an assumption of fact that *the law requires to be made* from another fact or group of facts found or otherwise established in the action.” (Evid. Code, § 600(a), emphasis added.) In this case, the Second Draft Order sets out a presumption that “a running average of twenty percent or greater of exceedences of any MAL” means the Permittees have not complied with MEP. The presumption, as established here, is clearly not mandated by law. Thus, the use of a presumption in this instance is not legal, and must be removed from the permit.

Furthermore, the presumption as used here could constitute a denial of due process or a denial of equal protection of the law because there is no rational connection between the fact proved (i.e. a running average of 20% or greater of exceedances of any MAL), and the ultimate fact presumed (i.e. non-compliance with MEP). "That a legislative presumption of one fact from evidence of another may not constitute a denial of due process of law or a denial of the equal protection of the law it is only essential that there shall be some rational connection between the fact proved and the ultimate fact presumed, and that the inference of one fact from proof of another shall not be so unreasonable as to be a purely arbitrary mandate." (*Mobile, Jackson & Kansas City Railroad Company v. Turnipseed* (1910) 219 U.S. 35, 43.) The Second Draft Order provides no rational explanation as to why 20% of exceedances of MALs constitutes non-compliance with the MEP standard.

D. *When Establishing a Technology-Based Standard, the CWA Mandates the Consideration of a Number of Different Factors, None of which have been Applied in the Development of MALs.*

MEP is considered to be a technology-based standard. (See 40 C.F.R. § 122.34 and *Building Industry Assn. of San Diego v. State Water Resources Control Bd.*, *supra*, 124 Cal.App.4th at p. 889.) The development of numeric values that are intended to interpret MEP must therefore incorporate consideration of factors required when technology-based limits (TBLs) are being developed to implement other technology-based standards contained in the CWA.

Section 304(b) of the CWA establishes three types of technology-based standards, Best Practicable Technology (BPT), Best Conventional Technology (BCT), and Best Available Technology (BAT), all of which must include a consideration to some degree of six factors set out in the CWA. When establishing TBLs to implement these standards, the CWA requires consideration of the following factors: (1) the age of the equipment and facilities involved; (2) the process employed; (3) the engineering aspects of the application of various types of control techniques; (4) process changes; (5) non-water quality environmental impacts (including energy requirements); and (6) such other factors as the Administrator deems appropriate. (33 U.S.C. § 1314(b).) Additionally, and more importantly in terms of subsequent case law interpreting section 304(b), EPA must also consider cost in establishing technology based standards. However, the degree of emphasis that it places on cost differs among the three types of technology-based standards. Of these three categories of standards, BCT and BAT are applicable to industrial stormwater. (Evans, et al., *The Clean Water Act Handbook* (1994) pp. 61-66 (CWA Handbook).)

To implement TBLs, EPA promulgates effluent guidelines for specific industries and types of facilities. (CWA Handbook at p. 22.) In developing effluent guidelines, EPA typically considers certain factors and procedures. For example, EPA gathers extensive information on the industry (through questionnaires, wastewater sampling, literature reviews, and other methods) and performs detailed statistical analyses of this information. It develops a set of proposed control options for the industry, and then projects the effluent reductions, cost, economic impacts, and environmental effects of those options. It then shapes the options into a proposed set of limits, and explains the proposed limits in a Federal Register publication and additional supporting

documents. Finally, EPA reviews comments on the proposal and incorporates those comments into a final regulation. (CWA Handbook at pp. 21-22.)

When U.S. EPA has not developed effluent guidelines for facilities, TBLs are to be developed through the permit writers "best professional judgement" (BPJ). (CWA Handbook at p. 22.) When establishing limits using BPJ, the authorizing agency must consider the relevant statutory factors as articulated above. *Ibid.* Arguably, the authorizing agency should also use the extensive guidance developed by U.S. EPA for the development of effluent guidelines and TBLs.

According to U.S. EPA's extensive guidance, TBLs should be based on demonstrated performance of a reasonable level of treatment that is within the economic means of the discharger. (NPDES Permit Writers' Manual at pp. 49-50). In addition, the development of TBLs for industrial stormwater also includes consideration of the following parameters:

- Data collection – Sufficient technical and economic data must be available and should be obtained from various sources with respect to trends, environmental impacts, BMPs, and economics.
- Discharger and site profile. Discharger specific information should be obtained through surveys, site visits, etc. to develop a profile. The profile should include:
 - General description/definition and NAICS and/or SIC codes
 - Industry practices and trends
 - Manufacturing processes used
 - General facility information (age of equipment and facilities involved)
 - Discharge characteristics
 - Based on the data gaps identified as a part of the existing data collection efforts, additional field sampling and statistical analyses may be necessary
 - **Local climatological data** (emphasis added)
- Technology Assessment - The technology assessment should determine the depth and breadth of effectiveness of data for various industry-related source and treatment control BMPs and identify the quantity and quality of data available to describe the performance of all currently used and innovative practices, the ability of each to effectively control impacts due to runoff and the design criteria or standards currently used to size each practice to ensure effective control of runoff.

For each source and treatment BMP, the assessment should include:

- General Description of the BMP
- Applicability
- Design and installation criteria
- Design and/or siting considerations and/or variations
- Effectiveness
- Limitations
- Maintenance
- Cost

- Regulatory Options - Once the Data Collection, Industry Profile and Technology Assessment have been completed, the State should identify the regulatory options that are available. This effort should identify industry impacts, which pollutants to address as well as other non-water quality related impacts (such as energy requirements).
- Economic analysis⁵ - Once the regulatory options are identified (see above), the State should evaluate the costs and environmental benefits and determine the appropriate option based on factors such as:
 - Total Costs
 - Monetized and non-monetized environmental benefits⁶
 - Ease of implementation
 - Industry financial impacts
 - Industry acceptance

As demonstrated above, the development of TBLs for industrial stormwater dischargers must be comprehensive and consider many factors. Thus, although the BRP Report concludes numeric effluent limits are not appropriate for municipal stormwater discharges, an equivalent process in the development of TBLs as accorded industrial stormwater would be appropriate for municipal stormwater. The Regional Water Board staff's default to a national dataset to arbitrarily calculate a TBL clearly fails to consider any of the pertinent factors contained in EPA guidance and is therefore an inappropriate exercise of BPJ.

By way of example, we examined two comprehensive stormwater management programs, one on the east coast and one on the west coast to explain the difficulty of developing numeric effluent limits for municipal stormwater to define MEP. (See Exhibit 1.) The east coast program was for Montgomery County, Maryland, and the west coast program was for Ventura County. The general demographics of the two programs are summarized in the Table below.

Montgomery County, MD

County population in 2005: 927,583
 Population distribution: 97% urban,
 3% rural
 Population density: 1872 people per
 square mile
 Land area: 496 sq. mi.
 Water area: 11.6 sq. mi.
 Forested area: 19%

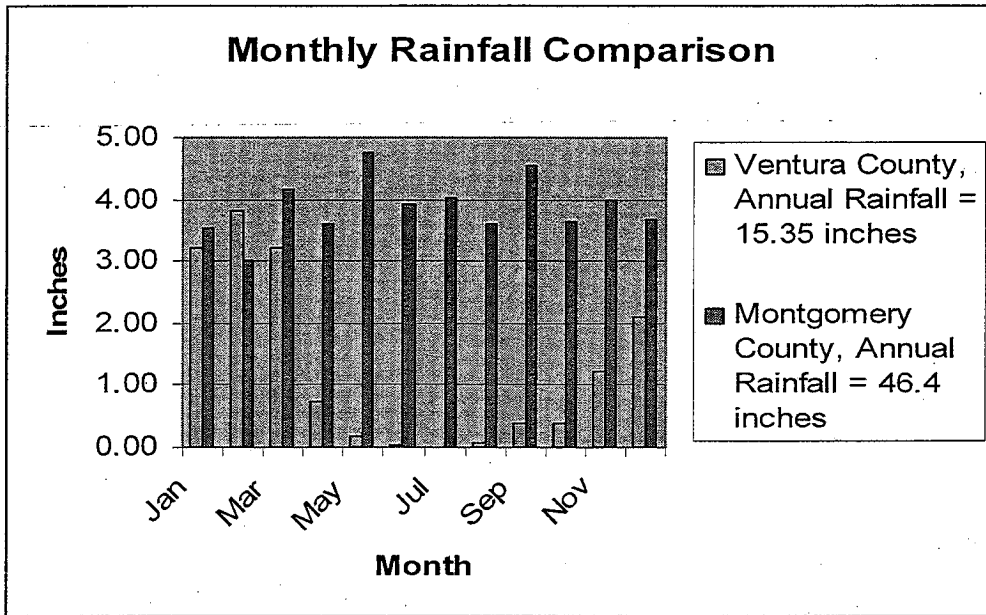
Ventura County, CA

County population in 2006: 817,346
 Population distribution: 97% urban,
 3% rural
 Population density: 431 people per
 square mile
 Land area: 1845 sq. mi.
 Water area: 362.9 sq. mi.
 Forested Area: 46%

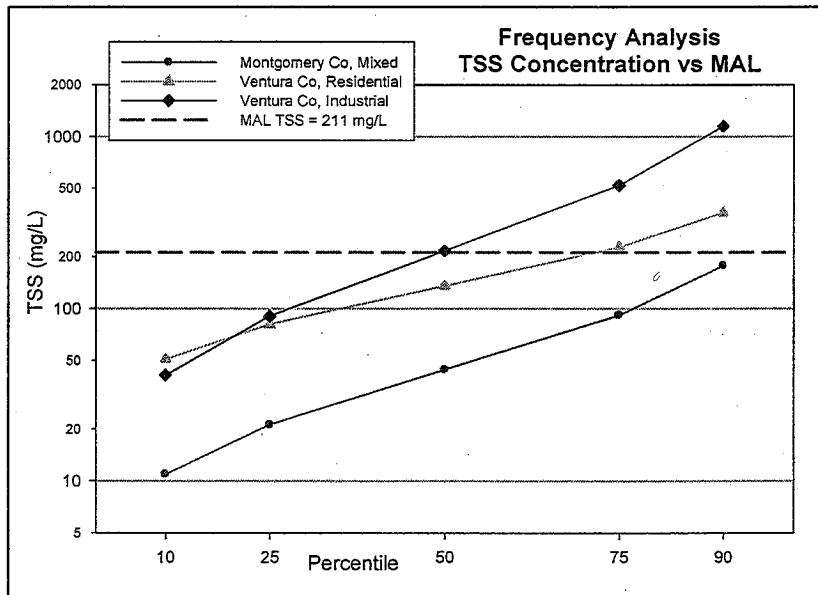
The two counties have similar stormwater management programs (see Exhibit 1), and as shown by the Table above similar demographics. The significant difference between the two programs is the annual rainfall amount and precipitation pattern. This is shown in the Figure that follows.

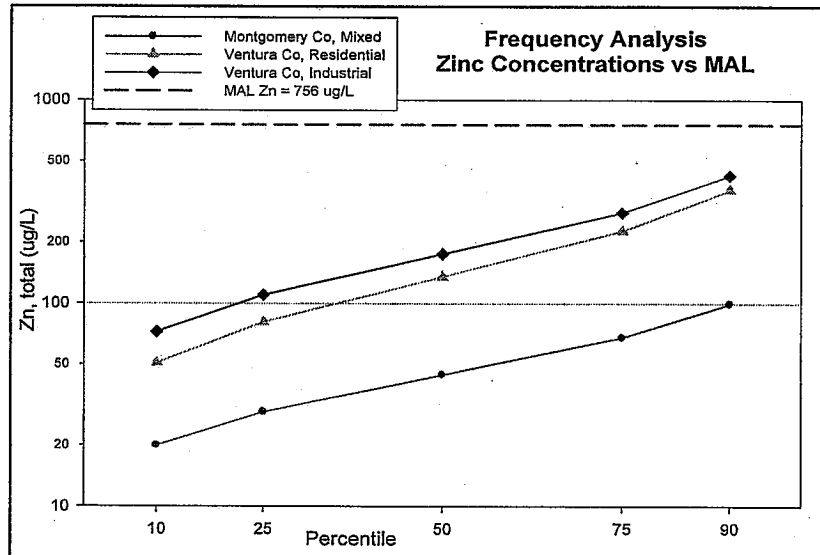
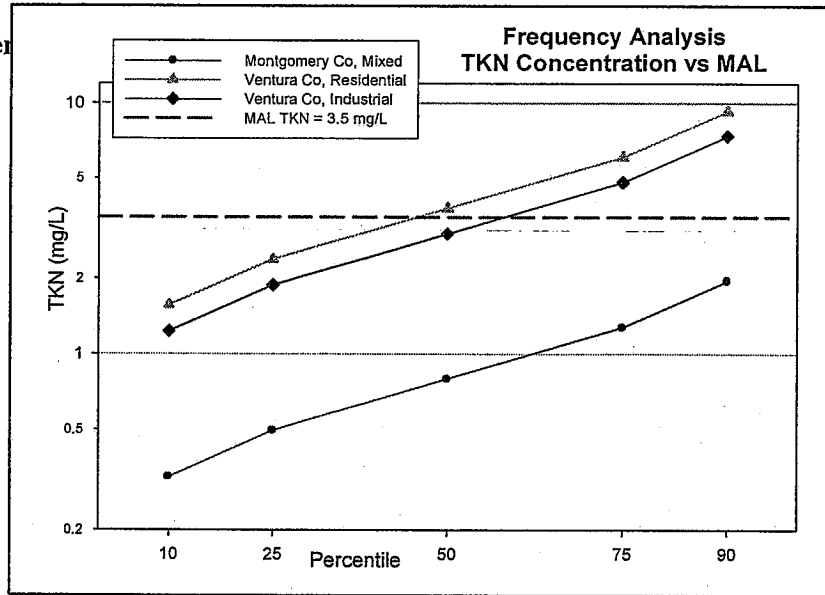
⁵ Similar guidance is identified in U.S. EPA's *Economic Analysis of Proposed Effluent Guidelines and Standards for the Construction and Development Category* (May 2002).

⁶ Similar guidance is identified in U.S. EPA's *Environmental Assessment for Proposed Effluent Guidelines and Standards for the Construction and Development Category* (June 2002).



Both programs have long-term monitoring programs including characterization of discharges. A side-by-side comparison of the monitoring results of selected constituents common to both programs is shown in the following frequency distribution graphs. The proposed MALs are also included in the graphs.





A review of the graphs clearly shows that the runoff from the Montgomery area is of better quality than the runoff from Ventura County. The reason for this difference is not due to the difference in stormwater management program implementation but rather it is due to the difference in rainfall amounts. Both programs have similar implementation efforts and the outfalls examined in each program are similar in characteristics. The year-round distribution of rainfall on the east coast mitigates the build-up and wash-off of pollutants. This may be shown another way by calculating the differences in the runoff means and comparing that difference with the inverse difference in rainfall; in other words, the pollutant concentration is inversely related to the amount of rainfall. This is shown in the following Table.

Constituent	Units	Runoff means		Ratio
		Montgomery	Ventura (R-1)	(Mont/Ven)
TSS	mg/L	44	135	.33
TKN	mg/L	0.8	3.8	.21
Total P	mg/L	0.13	0.40	.33
Cadmium	ug/L	0.22	.81	.27
Copper	ug/L	28.5	23.2	1.23
Lead	ug/L	7.5	15.1	.50
Zinc	ug/L	44	135	.33
Annual Rainfall	inches	46.4	15.35	.33 (Ven/Mont)

Such a conclusion is consistent with the results of the national dataset (used by the Regional Water Board staff to establish the MALs). The following finding is taken from the most recent Progress Report regarding the National Stormwater Quality Database:

5. Residential area data were also analyzed across the different EPA rain zones for the country. The wettest areas of the country (Southeast and Northwest) may have the lowest EMCs for some stormwater pollutants. This may be due to the reduced inter-event times for pollutant buildup and greater runoff for dilution.
(Page 6.)⁷

The point to be made here with the tables and graphs is that the use of any dataset to establish TBLs (i.e. to establish MEP) must be done in the context of U.S. EPA guidance for developing such limits. A full range of issues must be considered and not the least being local climatological data. As presented in the previous paragraphs, the Ventura Program, even though implementing as comprehensive of a stormwater management program as Montgomery County, would be out of compliance with the MALs while Montgomery County would be in compliance. Compliance is driven more by the amount of rainfall than by the different levels of BMP implementation of the two stormwater programs. This is fundamentally inconsistent with the definition of MEP (see earlier discussion), and inherently unfair to dry and semi-arid climate stormwater programs.

E. *MALs are Numeric Effluent Limits that may Subject the Permittees to Mandatory Minimum Penalties.*

The Second Draft Order establishes MALs for selected pollutants and states that “[p]ermittees shall implement timely, comprehensive, cost-effective storm water pollution control programs to reduce the discharge of pollutants in storm water from the permitted areas so as not to exceed the MALs.” (Second Draft Order at p. 22.) Attachment C establishes MALs for 13 different pollutants: pH, Total Suspended Solids, Chemical Oxygen Demand, Kjeldahl Nitrogen (TKN), Nitrate & Nitrite, Phosphorous, cadmium, chromium, copper, lead, nickel, zinc and mercury. (Second Draft Order at p. C-1.)

⁷ http://www.cwp.org/NPDES_research_report.pdf

Part 2 of the Second Draft Order establishes "Municipal Storm Water Discharge Limitations," that would require compliance with the MALs. (Second Draft Order at p. 29.) To determine if violation of MALs would be subject to mandatory minimum penalties, one must compare the "Municipal Storm Water Discharge Limitation" provisions to the types of activities that may be subject to mandatory minimum penalties pursuant to Water Code section 13385. Under State law, a mandatory \$3,000 minimum penalty must be assessed for serious violations of waste discharge effluent limitations for Group I or Group II pollutants.⁸ (Wat. Code, § 13385(h)(1).) Total suspended solids, chemical oxygen demand, TKN, nitrate & nitrite, and phosphorous are Group I pollutants; cadmium, chromium, copper, lead, nickel, zinc and mercury are all Group II pollutants. (40 C.F.R. § 123.45, Appen. A.) Also, a mandatory \$3,000 minimum penalty must be assessed whenever there is a violation of a waste discharge requirement effluent limitation four or more times in any period of six consecutive months. (Wat. Code, § 13385(i)(1).) In both cases, it is the violation of effluent limitations that may trigger the mandatory minimum penalty assessment.

The definition of "effluent limitation" for the purposes of assessing mandatory minimum penalties means "[a] numeric restriction or a numerically expressed narrative restriction, on the quantity, discharge rate, concentration, or toxicity units of a pollutant or pollutants that may be discharged from an authorized location." (Wat. Code, § 13385.1(c).) The MALs, as used in the Second Draft Order, would appear to fit within the definition of "effluent limitation" as a numeric restriction. The MALs establish numeric concentration limits for 13 different pollutants with an "end-of-pipe" compliance point. (Second Draft Order at p. 29.) Failure to comply with the MALs creates a violation of the municipal stormwater discharge limitations. The "end-of-pipe" compliance point is defined by the Second Draft Order to mean "[t]he compliance and monitoring point for effluent limits from Major Outfalls." (Second Draft Order at p. 96.) Thus, there is a clear intent that the MALs are intended to be numeric restrictions that are effluent limits for the purposes of assessing mandatory minimum penalties.

Even if it were argued that the MALs are not effluent limitations as "numeric restrictions," the MALs would still be considered effluent limits as numeric expressions of a narrative restriction. Under this scenario, the narrative restriction in the Second Draft Order is "[e]ach Permittee shall[] comply with the requirements of 40 C.F.R. § 122.26(d)(2) and implement programs and control measures so as to reduce the discharges of pollutants in storm water to the MEP and achieve water quality objectives." (Second Draft Order at p. 30.) MALs are therefore being used to numerically interpret compliance with the narrative MEP standard. (Second Draft Order at p. 29.)

From a practical standpoint, the Permittees may be subject to large mandatory minimum penalties for failing to comply with the proposed MALs even though the actual threat to water quality is minimal. For example, by evaluating compliance with the nickel MAL alone, the Permittees collectively would face significant fines in the way of mandatory minimum penalties. This would occur even though the nickel water quality objective is actually only exceeded twice

⁸ Serious violations are defined to mean any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for Group II pollutants by 20% or more, or for a Group I pollutant by 40% or more. (Wat. Code, § 13385(h)(1).)

in a four-year period because the MALs for nickel are set below the water quality objective for the Ventura River as established by the California Toxics Rule.

III. Total Maximum Daily Loads.

Where the Regional Water Board has adopted, and the State Water Board and EPA have approved, TMDLs for section 303(d) listed impaired waterbodies, NPDES permits must contain effluent limits and conditions consistent with the requirements and assumptions of the wasteload allocations in the adopted TMDLs. (See Memorandum from Robert H. Wayland, III, and James A. Hanlon to Water Division Directors (Nov. 22, 2002) regarding *Establishing Total Maximum Daily Load (TMDL) Wasteload Allocations (WLAs) for Storm Water Sources and NPDES Permit Requirements Based on Those WLAs* (Memo Re: WLAs for Stormwater).) Currently, nine TMDLs have been adopted and are effective for waterbodies within Ventura County. The effective TMDLs are as follows:

- i. TMDL for Nitrogen Compounds for the Santa Clara River - (Effective date: March 23, 2004).
- ii. TMDL for Toxicity, Chlorpyrifos and Diazinon in the Calleguas Creek, its Tributaries and Mugu Lagoon - (Effective date: March 24, 2006).
- iii. TMDL for Organochlorine Pesticides, Polychlorinated Biphenyls, and Siltation in Calleguas Creek, its Tributaries and Mugu Lagoon - (Effective date: March 24, 2006).
- iv. TMDL for Nitrogen Compounds and Related Effects for the Calleguas Creek Watershed - (Effective date: July 16, 2003).
- v. TMDL for Bacteria in Malibu Creek and Lagoon - (Effective date: January 26, 2006).
- vi. TMDL for Metals and Selenium in the Calleguas Creek, its Tributaries and Mugu Lagoon (Effective date: March 26, 2007).
- vii. TMDL for Chloride in the Santa Clara River Reach 3 (EPA established June 18, 2003).
- viii. TMDL for Chloride in Calleguas Creek Watershed (EPA established March 22, 2002).
- ix. TMDL for Nutrients in Malibu Creek Watershed (EPA established March 22, 2002).

The TMDLs for Nitrogen Compounds and Related Effects for the Calleguas Creek Watershed, Chloride in Calleguas Creek and Santa Clara Watersheds, and Nutrients in Malibu Creek Watershed do not contain WLAs for Ventura County urban runoff and therefore should not be incorporated into the NPDES permit. The remaining TMDLs should be incorporated into the NPDES permit in a manner that is consistent with the assumptions and requirements of the WLAs as adopted in the TMDLs.

A. *NPDES Permit Conditions must be Consistent with the Assumptions and Requirements of WLAs in Adopted TMDLs but do not need to be Expressed as "End-of-Pipe" Effluent Limitations.*

Contrary to the statement, "WLAs must be translated into 'end-of-pipe' effluent limitations," (Second Draft Order at p. 11), NPDES permit conditions in MS4 stormwater permits are not required to be translated into "end-of-pipe" effluent limitations. In fact the memorandum referenced to support this statement in the Second Draft Order actually advises the opposite.

Effluent limitations to control the discharge of pollutants generally are expressed in numerical form. However, in light of 33 U.S.C. § 1342(p)(3)(B)(iii), EPA recommends that for NPDES-regulated municipal and small construction storm water discharges effluent limits should be expressed as best management practices (BMPs) or other similar requirements, rather than as numeric effluent limits. [Cite omitted.] The Interim Permitting Approach Policy recognizes the need for an iterative approach to control pollutants in storm water discharges. ... EPA's policy recognizes that because storm water discharges are due to storm events that are highly variable in frequency and duration and are not easily characterized, only in rare cases will it be feasible or appropriate to establish numeric limits for municipal and small construction storm water discharges.

(Memo Re: WLAs for Stormwater at p. 4.) Furthermore, courts have interpreted federal regulations that define "effluent limitations" to include BMPs as an appropriate type of water quality based effluent limits (WQBELs) to control stormwater discharges. (See *Divers' Environmental Conservation Organization v. State Water Resources Control Bd.* (2006) 145 Cal.App.4th 246.)

B. *The Adopted TMDLs in Ventura County Specifically Direct the Regional Water Board to use BMPs to Implement the TMDLs in NPDES Permits.*

The TMDLs applicable in Ventura County expect the Regional Water Board to use BMP-based WQBELs to implement the WLAs versus numeric "end-of-pipe" effluent limits in MS4 permits. The Calleguas Creek TMDLs for Toxicity, Organochlorine pesticides and PCB, and Metals and Selenium all include nearly identical language that expressly states stormwater WLAs should be expressed as BMPs.

Stormwater WLAs will be incorporated into the NPDES permit as receiving water limits measured at the downstream points of each subwatershed and will be achieved through the implementation of BMPs as outlined in the implementation plan.

(Calleguas Creek TMDL for Toxicity at p. 7; Calleguas Creek TMDL for Organochlorine Pesticides & PCB at p. 10; Calleguas Creek TMDL for Metals & Selenium at p. 17.)

In the Santa Clara River Nitrogen TMDL, the Basin Plan Amendment is more forceful and requires reductions from MS4 permit holders to achieve reductions through BMPs. "Ammonia,

nitrite, and nitrate reductions will be regulated through effluent limits prescribed in POTW and minor point source NPDES Permits, **Best Management Practices required in NPDES MS4 Permits ...**” (Santa Clara River Nitrogen TMDL at p. 8, emphasis added.)

Additionally, the implementation plans for all of the TMDLs include a discussion regarding BMPs that could be implemented to meet the MS4 allocation requirements. The intent of the TMDLs is to ensure that receiving water objectives are achieved. The TMDL analysis includes a determination of the assimilative capacity of the stream and the load that can be discharged from each source to meet the objectives in the stream. The TMDL analysis recognizes that discharge from a single stormwater outfall could exceed water quality objectives and not cause the receiving water to exceed the objectives. As a result, the TMDL assigns WLAs to MS4 dischargers as a group, not to individual outfall discharges. Correspondingly, numeric WQBELs assigned to individual outfall discharges are not required because the allocation is assigned to the group. “In accordance with current practice, a group concentration-based WLA has been developed for all permitted stormwater discharges, including municipal separate storm sewer systems (MS4s).” (Calleguas Creek Metals and Selenium TMDL at p. 17.) Therefore, the intent of the TMDLs is to assign receiving water limitations that are implemented through BMPs in the NPDES permit. The intent is not to issue the WLAs at the end of each major outfall and require whatever controls are necessary to achieve the limits.

Because the TMDL implementation plans expressly direct the use of BMP based effluent limitations in MS4 permits, the Second Draft Order must be revised to eliminate the numeric WQBELs. The Permittees provide suggested alternative language for Parts 6 and 7 to ensure that the Second Draft Order properly incorporates TMDL provisions that are consistent with adopted and applicable TMDLs. (See Attachment B.)

C. TMDL Wasteload Allocations Expressed as Numeric Effluent Limitations are Subject to State’s Mandatory Minimum Penalty Provisions and Other Enforcement Provisions.

Like the MALs discussed above, the numeric effluent limits contained in the Second Draft Order to implement TMDL WLAs may subject the Permittees to mandatory minimum penalties if it is deemed a “serious violation” as defined by the Water Code, or if there are four or more violations in any six-month period. Furthermore, the violation of numeric limits may subject the Permittees to additional enforcement activity through administrative civil liability and/or third party lawsuits. The threat or potential jeopardy of such liability is unreasonable in light of the fact that the TMDL implementation plans expressly provide for the use of BMP based effluent limits to implement WLAs.

**EXHIBIT TO ATTACHMENT A
LARRY WALKER ASSOCIATES MEMO:
COMPARISON BETWEEN MONTGOMERY COUNTY (MD) AND
VENTURA COUNTY (CA) STORMWATER PROGRAMS**

C000722

Memorandum



DATE: October 11, 2007
TO: Gerhardt Hubner
SUBJECT: Comparison between Montgomery
County (MD) and Ventura County (CA)
Stormwater Management Programs

MALCOLM WALKER, P.E.

707 4th Street
Davis, CA 95616
530.753.6400
530.753.7030 fax
mackw@lwa.com

The purpose of this memorandum is to summarize and compare the Stormwater Management Programs currently being implemented in Montgomery County (MD) and Ventura County (CA). Each program is in response to Federal regulations and subject to NPDES permits. This memorandum includes two sections: one is the side by side comparison between the two management programs and the other is a comparison between the runoff quality for comparable outfalls within each county.

Stormwater Management Program Comparison

The structure of both programs follows the format of the stormwater regulations (40 CFR 122.26). As such the programs are organized around the following program elements:

- Public Outreach
- Industrial/Commercial Businesses
- Illicit Discharge and Illegal Connection
- New Development and Land Use Planning
- Construction
- Municipal Operations

The 2005/06 Annual Report for each county was reviewed and summarized in the following table.

Table 1. Comparison of Stormwater Management Programs

Stormwater Management Program Elements	Ventura County FY05-06 Reported Activities	Montgomery County 2005 Reported Activities
a. Public outreach Presentations at community groups; participation in county-wide events	<ul style="list-style-type: none"> • Participation in Coastal Clean-up Day (2000 volunteers, 47 mi of shoreline) • Participation at Mobile Satellite City Hall Events (direct residents / program staff interactions) 	<ul style="list-style-type: none"> • Mentoring partnership with local schools (assistance with environmental projects, distribution of outreach materials) • Participation in two Volunteers in Planting events (approx. 600 native trees and shrubs planted in riparian forested buffers for stream restoration)
Outreach materials	<ul style="list-style-type: none"> • Multimedia, bi-lingual materials (print, video, web) on water conservation, pet waste, illegal dumping, incident reporting; utility bill inserts; newsletters 	<ul style="list-style-type: none"> • Multimedia materials (print, video, web) on water conservation, pet waste, illegal dumping, incident reporting; utility bill inserts.
Media advertisements	<ul style="list-style-type: none"> • Print, Radio, TV, Outdoor • 10.2M total impressions 	<ul style="list-style-type: none"> not reported
Other / Special programs	<ul style="list-style-type: none"> • Pet Waste Program (educate pet owners on proper disposal of pet waste; installation and stocking of 75 dispensers for pet waste bags in public areas) 	<ul style="list-style-type: none"> • Rainscapes Program (community workshops on using native plants and creation of backyard wildlife habitat; distribution of 75 rain barrels)
b. Industrial / commercial businesses Site Education / Inspection	<ul style="list-style-type: none"> • Inspections at approx. 775 automotive facilities and 1100 food service establishments. 	<ul style="list-style-type: none"> • 1,145 total inspections of sites with stormwater management equipment (oil/grit separators, ponds, etc.); 959 privately owned and 186 publicly-owned
Targeted Businesses / POCs	<ul style="list-style-type: none"> • Focus of food service establishments, automotive, car washes, equestrian stable facilities, agricultural-related facilities, and mobile businesses (e.g. concrete pumping). 	<ul style="list-style-type: none"> not reported
General Industrial Permit Facility Visits	<ul style="list-style-type: none"> • Approx. 275 outreach contacts at facilities identified as potentially subject to General Industrial Permitting • Conducted several joint inspections with RWQCB inspection staff to promote consistency in inspection procedures • 58 inspection staff trained 	<ul style="list-style-type: none"> not reported
Stormwater Quality Staff Training Enforcement	<ul style="list-style-type: none"> not reported 	<ul style="list-style-type: none"> • 196 water quality complaints • 55 hazardous materials incidents • 22 NOV's, \$1,750 fines

Table 1. continue

	VENTURA COUNTY, CA FY05-06 Reported Activities	MONTGOMERY COUNTY, MD 2005 Reported Activities
Stormwater Management Program Elements		
c. Illicit discharge and illegal connection Incident Response	<ul style="list-style-type: none"> • Approx. 900 reported incidents, 15% determined to be illicit discharges • 548 warnings, 226 NOVs • 15 illegal connections identified and eliminated 	<ul style="list-style-type: none"> • 387 complaints of illegal dumping • 18 NOVs, \$4,500 fines • no illegal connections reported
Education	Part of outreach for elements a, and e.	Part of element a not reported
Illicit Discharges / Illegal Connections Staff Training	<ul style="list-style-type: none"> • 58 drainage, roadway, landscape and facilities, industrial inspection, and code enforcement staff trained 	<ul style="list-style-type: none"> • 100 outfalls selected from targeted watersheds (based on history of water quality complaints & results of biological monitoring) • 37 with dry weather flow, out of which 9 identified with dry-weather flow from other than pipe streams • 5 had one or more of the five indicator parameters (Cu, Pb, Detergents, Total Phenols, Chlorine) above MDLs - source tracking unsuccessful
Outfall Screening	not reported.	
Inspect outfalls for evidence of illicit discharges or illegal connections		
d. New development and land use planning Land Use Planning and Environmental Review	<ul style="list-style-type: none"> • Approx. 650 projects reviewed for stormwater requirements 	<p>Sediment and Erosion Control Program</p> <p>Program purpose is "to prevent excessive erosion and stormwater flow from land disturbing activities from causing siltation and degradation of streams and waterways."</p> <ul style="list-style-type: none"> • 779 Sediment Control Permits issued (for activities disturbing 5000 sq. ft. of land or more) • 167 projects with area of disturbance greater than one-acre (reported on a quarterly basis to the MD Dept of Env't) • 84 'responsible personnel' (construction site operators) trained
Development Standards - Technical Manual	<ul style="list-style-type: none"> • Approx. 175 projects with Stormwater Quality Urban Impact Mitigation Plan (SQUIMP) technical requirements 	
Development Community Outreach	<ul style="list-style-type: none"> • Approx. 3500 contacts made through meetings, public communication efforts, and educational materials 	
Stormwater Quality Staff Training	<ul style="list-style-type: none"> • 34 development / planning staff trained 	
e. Construction		
SWPCCP Preparation, Certification, and Implementation (with incorporated BMPs)	<ul style="list-style-type: none"> • 110 projects w/ SWPCCP requirements; all inspected at least once • 100% projects satisfied NOI requirement • All sites inspected at least once during the wet season; 807 enforcement actions taken (job memoranda, NOVs, CDOs) 	
Notice of Intent Requirement		
Construction Site Inspection Program		
Stormwater Quality Staff Training	<ul style="list-style-type: none"> • 200 construction inspection staff trained 	

Table 1. continue

Stormwater Management Program Elements	MONTGOMERY COUNTY, MD	
	VENTURA COUNTY, CA FY05-06 Reported Activities	2005 Reported Activities
f. Municipal operations Corporation Yards	<ul style="list-style-type: none"> • SWPCP developed and implemented at all 20 corporation yards; 100% compliance w/ SWPCP requirements 	<ul style="list-style-type: none"> • SWPCP developed and implemented at all 9 corporation yards; 4 Plans need revisions • no indoor vehicle washing facility at 3 yards
Other Facilities		
Drainage System Operation and Maintenance	<ul style="list-style-type: none"> • Inspected catch basins and other drainage facilities at least once before the wet season • Approx. 28,500 tons of debris removed from catch basins, channels / ditches, and detention / retention basins 	<ul style="list-style-type: none"> • Program is complaint-driven to remove clogged inlets or drainage problems • 5.72M ft total storm drains; 11,460ft cleaned • Pilot program to estimate effectiveness of storm drain inlet cleaning in source control
Roadway Operation and Maintenance	<ul style="list-style-type: none"> • Approx. 112,000 curb miles swept; over 100% of roadways (most streets swept more than once) 	<ul style="list-style-type: none"> • All streets swept at least once between March and June (soon after wet season when sand and salt are applied). • Contractor required to keep track of amount of debris swept by route, so that areas with high amount of debris can be targeted for priority street sweeping.
Pesticide, Herbicide, and Fertilizer Application and Use	<ul style="list-style-type: none"> • No application during rain events, or within one day of an event forecasted to be greater than 0.25 in., or at anytime when water is leaching or running from the application area • Implement effective BMPs and focus on Integrated Pest Management approach 	<ul style="list-style-type: none"> • Integrated Pest Management (IPM) plan • No fertilizer used at County facilities in 2005 • Limited pesticides usage, only when all other control measures failed
Stormwater Quality Staff Training	<ul style="list-style-type: none"> • 834 stormwater maintenance, drainage and flood control systems, street and roads, parks and public landscaping, and corporation yards staff trained 	<ul style="list-style-type: none"> • Conducted for yard personnel
Other / Special programs	not reported	<p>Montgomery County Environmental Policy - "to increase environmental awareness of all County agencies, departments, and employees"</p> <ul style="list-style-type: none"> • Develop and implement Env'tl Action Plans for all departments (focus on energy conservation, pollution prevention, green purchasing, and green buildings). • Best Env'tl Practices part of County budget • "Going Green at Home" initiative to encourage green building techniques in employees' home renovations / purchases.

A review of Table 1 shows basically similar programs and commitments. The following observations are provided based on the review of Table 1

- Ventura County outreach focused on beach clean up and control of pest waste, while Montgomery County Outreach focused on rainscapes (including rain barrels)
- Similar effort with the industrial and commercial businesses with Ventura County providing significant inspections and Montgomery providing comprehensive enforcement.
- Enforcement of ID/IC program appears more aggressive in Ventura County although Montgomery County has an extensive outfall screening program.
- Both programs appear well situated to deal with construction sites.
- Ventura County has a well defined post construction program (probably due to its NPDES permit requirements). Unclear from the Annual Report the extent of the post construction program in Montgomery County.
- Similar efforts for municipal operations.

Although this comparison was limited to a review of the Annual Report the two programs appear very similar and comprehensive. A through audit of the two programs would likely distinguish significant differences (if any) but from our review the two programs are equivalent. This is not surprising since both programs are considered exemplary for their respective regions of the country.

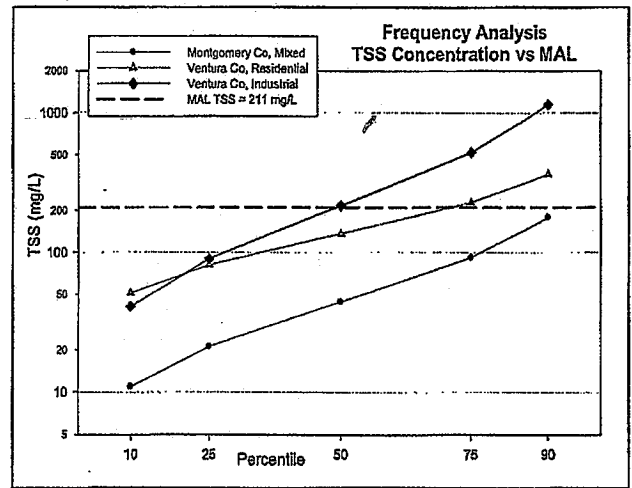
Runoff Characteristics

Each Program has an ongoing monitoring program that includes among other effort the characterization of runoff as determined through outfall monitoring. Each program has at least on land use outfall where sample are collected as flow weighted event mean concentrations. The side by side comparison between the outfall characteristics are shown below:

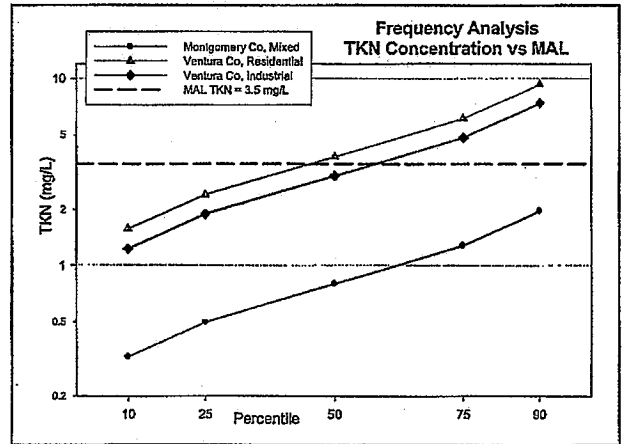
Characteristics	Montgomery County: Stewart-April Lane	Ventura County: Ortega Street (I-2)	Ventura County: Swan Street (R-1)
Dominant Land Use	Mixed	Industrial	Residential
Drainage Area, ac.	223	189	65
Monitoring record	2002-2006	1993-1998, 2000, 2004	1993-1998, 2000, 2004
Number of sample events	~45	~25	~25
Annual Precipitation, inches	46.4	15.35	15.35

The frequency distribution of the monitoring results for selected constituents are summarized and graphically shown in the following pages:

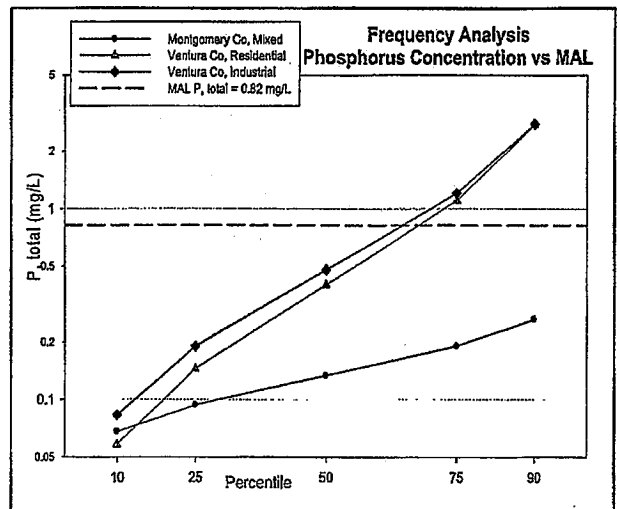
	TSS (mg/L)		
	Montgomery	Ventura R-1	Ventura I-2
min	5	26	5
10	11	51	41
25	21	81	90
50	44	135	217
75	92	227	520
90	177	361	1144
max	450	444	2796



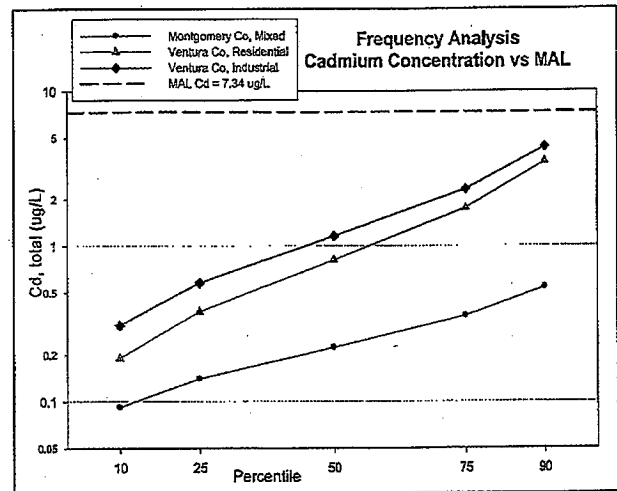
	TKN (mg/L)		
	Montgomery	Ventura R-1	Ventura I-2
min	0.1	1.2	1.1
10	0.3	1.6	1.2
25	0.5	2.4	1.9
50	0.8	3.8	3.0
75	1.3	6.1	4.8
90	1.9	9.3	7.4
max	4.3	23.4	8.1



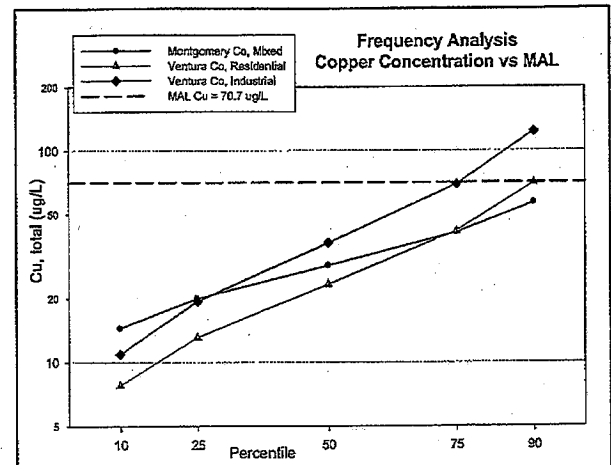
	Phosphorus, total (mg/L)		
	Montgomery	Ventura R-1	Ventura I-2
min	0.05	0.001	0.001
10	0.07	0.06	0.08
25	0.09	0.14	0.19
50	0.13	0.40	0.48
75	0.19	1.10	1.20
90	0.26	2.74	2.77
max	1.09	2.85	11.40



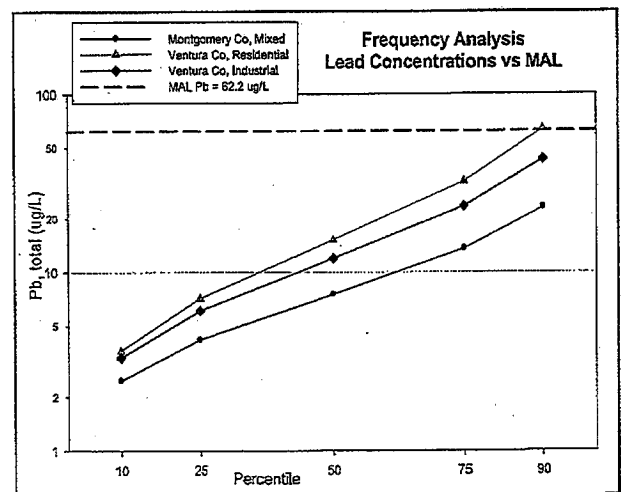
Cadmium, total (ug/L)			
	Montgomery	Ventura R-1	Ventura I-2
min	0.05	0.20	0.30
10	0.09	0.19	0.31
25	0.14	0.38	0.58
50	0.22	0.81	1.15
75	0.35	1.74	2.31
90	0.54	3.47	4.33
max	2.20	5.70	7.00



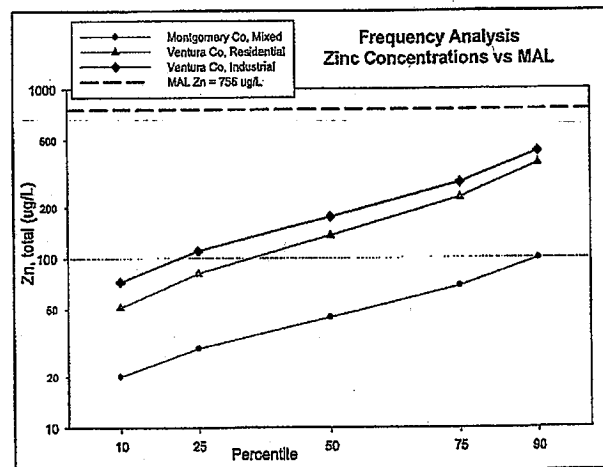
Copper, total (ug/L)			
	Montgomery	Ventura R-1	Ventura I-2
min	10.8	5.0	6.0
10	14.4	7.7	10.9
25	19.9	13.0	19.3
50	28.5	23.2	36.6
75	40.8	41.4	69.1
90	56.3	69.7	122.6
max	169.2	84.1	254.5



Lead, total (ug/L)			
	Montgomery	Ventura R-1	Ventura I-2
min	1.6	2.0	3.0
10	2.5	3.6	3.3
25	4.2	7.1	6.1
50	7.5	15.1	11.9
75	13.4	32.0	23.3
90	22.8	63.1	42.8
max	60.7	61.0	72.0



	Zinc, total (ug/L)		
	Montgomery	Ventura R-1	Ventura I-2
min	15	26	67
10	20	51	72
25	29	81	110
50	44	135	175
75	68	227	279
90	99	361	425
max	275	444	660



A closer review of the distribution plots shows that the runoff from the Stewart Apple Lane site is consistently cleaner than the runoff from either the Ortega Street or Swan Street sites. There are various reasons why this may be the case including

- Difference in annual rainfall amounts
- Difference in impervious area
- Difference in stormwater management programs

To assess the relationship in rainfall and runoff concentrations the arithmetic means of the constituents shown above were compared between Montgomery and R-1. The hypothesis is that the runoff concentrations are inversely related to the amount of annual rainfall. This hypothesis is consistent with the theory that pollutants build up between rain events and wash off during the event. On an annual basis if all things being equal the load from the two counties would be similar. The comparison is shown below:

Constituent	Units	Runoff means		Ratio (Mont/Ven)
		Montgomery	Ventura (R-1)	
TSS	mg/L	44	135	.33
TKN	mg/L	0.8	3.8	.21
Total P	mg/L	0.13	0.40	.33
Cadmium	ug/L	0.22	.81	.27
Copper	ug/L	28.5	23.2	1.23
Lead	ug/L	7.5	15.1	.50
Zinc	ug/L	44	135	.33
Annual Rainfall	inches	46.4	15.35	.33 (Ven/Mont)

Although this comparison is relatively elementary a review of the ratio would suggest that the rainfall concentrations are related to the annual rainfall amount. A more sophisticated analysis is necessary to conclusively validate this hypothesis but for the purposes of this level of comparison the hypothesis appears valid.

ATTACHMENT B
VENTURA COUNTYWIDE PROGRAM STRIKEOUT VERSION (ALTERNATIVE LANGUAGE) OF THE 2nd DRAFT VENTURA COUNTY MUNICIPAL SEPARATE STORM SEWER SYSTEM PERMIT (NPDES NO. CAS004002) FOR THE VENTURA COUNTY WATERSHED PROTECTION DISTRICT, COUNTY OF VENTURA, AND THE INCORPORATED CITIES

Rationale

Parts 1 - 3

Parts 6, 7

Attachment H

RATIONALE

UNDERLINED-STRIKEOUT OF PARTS 1-3 AUGUST 28, 2007 DRAFT OF VENTURA MS4 PERMIT

October 5, 2007 Draft

PART 1 – DISCHARGE PROHIBITIONS

Prohibitions – Discharges

Deleted original A.1 (condition of pollution or nuisance) and A.2 (exceedance of receiving water objectives). These prohibitions are the same as Receiving Water Limitations 1 and 2, and therefore are duplicative and unnecessary. The proposed revisions are consistent with the current Ventura MS4 permit and the Los Angeles MS4 permit as well as other MS4 permits issued in the State.

Deleted original A.3 (prohibition of discharges to the MS4 not covered by NPDES individual or general permit). This prohibition is vague and therefore subject to differing interpretations. For example, as written, it would appear to prohibit “storm water discharges” to the MS4, which clearly are allowable under section 402(p) of the Clean Water Act and under State law. To the extent this prohibition was intended to address non-storm water discharges, such discharges are adequately covered in original section B (newly proposed section A).

Prohibition – Non-Stormwater Discharges

Modified the first sentence, consistent with the current MS4 permit, to clarify that the individual permittees are responsible only for prohibiting non-storm discharges “within their respective jurisdictions.” In the absence of this modification, one might interpret the permit to say that all permittees are responsible and therefore subject to enforcement action, if one of the permittees does not effectively prohibit non-storm discharges.

Added a new exception to the non-storm prohibition (new A.2), consistent with the current MS4 permits for both Ventura and Los Angeles: “Are covered by a separate individual or general NPDES permit.” In the absence of such an exception, the permittees could not allow discharges from industrial facilities and construction sites that are permitted by and consistent with the requirements of general or individual NPDES permits. We assume that was not the intent in not including this current exception in the draft permit.

Divided the remaining exceptions into categories which match those in the Los Angeles MS4 permit, which was issued after the Ventura MS4 permit. The categories (natural flow, flows from emergency fire fighting, and flows incidental to urban activities) are logical and provide a better understanding of the reasons for these exceptions. Consistent with this modification, the first four original exceptions were included under the natural

flow category, flows from emergency fire fighting activity was moved to a new category (B), and the remaining exceptions were placed under the flows incidental to urban activities category.

Made the following modifications to new category C – flows incidental to urban activities:

Changed the “flows from “emergency fire fighting activity” to “flows from non-emergency fire fighting activity.” This, together with the addition of new category B (discussed above) is a rational and publicly supportable approach to regulation of fire fighting flows. Placing any constraints on flows from emergency fire fighting operations would impede fire departments’ abilities to protect life and property. On the other hand, it is reasonable to require BMPs for non-emergency fire fighting activities, such as flows from controlled or practice blazes and maintenance activities. The requirement for BMPs for non-emergency fire fighting flows is consistent with the approach taken in the recently issued San Diego MS4 permit (See Order No. R9-2007-0001).

Replaced the “Discharges from potable water supplies” exception to one consistent with the Los Angeles MS4 permit: “Potable drinking water supply and distribution system releases (consistent with American Water Works Association guidelines).” The original prohibition is ambiguous and subject to varying interpretations. For example, might a child squirting a water hose into the street in the absence of dechlorination constitute a violation of the permit? (footnote 1 page 26) The replacement language appears to better capture the intent and, again, was found acceptable to the Regional Water Board when it adopted the Los Angeles MS4 permit.

Deleted the word “gravity” from the exception which addresses flow from foundation, footing and crawl space drains. This is consistent with other MS4 permits, including the Los Angeles County, Orange County and San Diego County permits. Whether a drain flows by gravity or is pumped should not make any difference. By specifying only gravity drains, it implies pumped drain discharges are prohibited. To the extent there is a significant discharge from a pumped drain that includes pollutants, other provisions of this section allow the Executive Officer to either prescribe specific BMPs or alternatively require an NPDES permit.

Deleted the footnote applicable to “Pooled storm water from treatment BMPs.” This same information is included in new section 5, a more appropriate location.

Deleted Table 1 and added relevant BMPs to a new section 5:

Table 1 was difficult to follow and interpret and contained duplication. The new section presents BMPs, extracted from the table, for those non-storm water discharges where meaningful BMPs were proposed. A number of the “BMPs”

included in Table 1 were not really BMPs. For example, "shall comply with all conditions in the authorization" and "preferred area is at commercial carwash." In a number of other cases, there were no BMPs listed.

PART 2 – MUNICIPAL STORM WATER DISCHARGE LIMITATIONS

Changed the title of Part 2 from Municipal Storm Water Discharge Limitations to Municipal Action Levels. This new title reflects the reliance on the term "Municipal Action Levels" throughout the section. Note that in the draft permit "Waste Discharge Limitations" does not appear in the section, but only in the title. This change also better characterizes the proposed changes to the section.

Moved the concept put forth in the original paragraph 3 (the MEP standard) to paragraph 1. This was done to better set the stage for the use of MALs as proposed by the Permittees.

In paragraph 2 (original paragraph 1), inserted the term "locally relevant" ahead of Municipal Action Levels and rephrased the paragraph to state that MALs will be used to identify discharges that are outside the normal range. Because of the many factors that influence discharge concentrations (e.g., climate, geography, land use, etc.), the use of local, Ventura County discharge data provides a better basis for identifying outliers. By using local data, one is in a stronger position to characterize discharges that deviate substantially from countywide data as outliers. Moreover, a focus on outliers based on county data will have the effect of reducing discharge concentrations over time. The term relevant was utilized because it is not in the public interest to focus limited local resources on reducing the concentrations of pollutants that are not relevant. Municipal Storm Water MALs should be established for pollutants that cause an exceedance of water quality objectives and for which municipal storm water is a significant source. A footnote to this paragraph indicates that the 80th percentile of countywide data for each land use classification will be used to establish the MALs. This is a lower bar than some have argued, but in light of the other modifications to this section, we believe it to be reasonable.

In paragraph 2, MALs are proposed as means of identifying discharges outside the normal range and to trigger further investigation, rather than to define MEP. The use of a concentration limit (no matter what its derivation) as the sole basis for defining MEP is contrary to reason, as well as contrary to federal and state policy and practice. On the other hand, it is reasonable to use local norms to identify areas where additional controls may be necessary to achieve the MEP standard.

Subsequent paragraphs set forth a reasonable, step-by-step process that ultimately will lead to attainment of the MEP standard. The process includes submission of an MAL Assessment Report to the Executive Officer and, if MALs are exceeded, the subsequent submission of a MAL Action Plan. The Action Plan is to propose any additional practicable BMPs or actions that the Permittee believes to be necessary to achieve the MAL to the MEP standard. The Executive Officer must approve the plan and, once

approved, the Permittee must implement the plan in accordance with the approved time schedule. The end result of this process will be the implementation of any additional controls determined necessary by the Permittee and the Executive Officer, based on locally relevant information, to comply with the MEP standard. This is a superior process to the concept embodied in the draft Order, wherein exceedance of an MAL constitutes a violation of the Permit and, the Permittee is required to implement whatever controls are necessary to achieve the MAL, whether practicable or not.

PART 3 – RECEIVING WATER LIMITATIONS

Modified the receiving water limitations to closely conform to State Board Order WQ 99-05. That Order is identified as a “precedent decision” and states “...the following receiving water limitation language shall be included in future municipal storm water permits.” (Emphasis added.) The receiving water language in the draft order deviates substantially from the language required by the State Board’s precedent decision. In some cases the deviant language has the effect of clearly modifying the precedent. For example, in 3(c), the draft Order requires that the BMPs and any additional monitoring be implemented within 30 days, whereas the State Board-required language requires that the revised storm water management plan (with the revised BMPs) and monitoring program be implemented in accordance with the approved schedule. In 4, the draft order states that the permittees will have to repeat the procedure set forth above for continuing or recurring exceedances of the same water quality standards, whereas the State Board-required language states that the permittees will not have to repeat the same procedure for continuing or recurring exceedances of the same receiving water limitations. In other cases, it is not clear whether the language changes constitute a change to the precedent because the changes are subtle and it is unclear how the new language will be viewed during permit implementation. Finally, in some cases, the draft language is internally inconsistent. For example, in 3(c), the additional monitoring is to implemented within 30 days, whereas in 3(f) the revised monitoring program is to be implemented according to the approved schedule. Giving these issues with the draft language and the clear directive from the State Board, we modified the Receiving Water Limitations language to closely conform to the language required under Order WQ 99-05. This will clarify any ambiguities, and ensure that the permit is consistent with State Board precedent.

UNDERLINED-STRIKEOUT OF PARTS 1-3
AUGUST 28, 2007 DRAFT OF VENTURA MS4 PERMIT

October 5September 17, 2007 Draft

IT IS HEREBY ORDERED that the Permittees, in order to meet the provisions contained in Division 7 of the Cal. Water Code and regulations adopted thereunder, and the provisions of the CWA and regulations adopted thereunder, shall comply with the following:

PART 1 - DISCHARGE PROHIBITIONS

A. Prohibitions - Discharges

- ~~1. Discharges into and from the MS4 in a manner causing or contributing to a condition of pollution, contamination or nuisance (as defined in Cal. Water Code § 13050), in waters of the State are prohibited.~~
- ~~2. Discharges from the MS4, which cause or contribute to exceedences of receiving water quality objectives for surface waters are prohibited.~~
- ~~3. Discharges to the MS4 not covered by an NPDES individual or general permit are prohibited.~~

AB. Prohibitions - Non-Storm Water Discharges

~~1. The Permittees shall, within their respective jurisdictions, effectively prohibit non-storm discharges into the MS4 and watercourses, except where such discharges either:~~

~~1. Originate from a State, federal, or other source which they are pre-empted by State or Federal law from regulating; or~~

~~2. Are covered by a separate individual or general NPDES permit; or~~

~~(b)3. Fall within one of the categories below and in Table 1 (Required BMPs for Non-Storm Water Discharges), are not a significant source of pollutants, and meet all conditions where specified by the Regional Water Board Executive Officer:~~

~~(a) Category A - Natural flow:~~

- ~~(1) Stream diversions authorized by the State Water Board.~~
- ~~(2) Natural springs and rising ground water.~~

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- (3) Uncontaminated ground water infiltration [as defined by 40 CFR 35.2005(20)].¹
- (4) Flows from riparian habitats or wetlands.

(b) Category B – Flows from emergency fire fighting activity.

(c) Category C – Flows incidental to urban activities, providing BMPs listed in Table 1 are implemented:

- ~~(5)~~(1) Flows from non-emergency permittee fire fighting activity.
- ~~(6)~~(2) Discharges from potable water supply and distribution system releases (consistent with American Water Works Association guidelines for dechlorination and suspended solids reduction practices), sources.²
- ~~(7)~~(3) Gravity flow from foundation, footing and crawl space drains.
- ~~(8)~~(4) Air conditioning condensate.
- ~~(9)~~(5) Reclaimed and potable landscape irrigation runoff.
- ~~(10)~~(6) Dechlorinated/ debrominated swimming pool discharges [see def. Part 8].
- ~~(11)~~(7) Non-commercial car washing by residents or non-profit organizations.
- ~~(12)~~(8) Sidewalk rinsing
- ~~(13)~~(9) Pooled storm water from treatment BMPs.³

Table 1 – Required BMPs for Non-Storm Water Discharges

Type of Discharges:	Conditions under which allowed:	Required BMPs for discharge to occur:
Stream diversions	Shall comply with all conditions in the	Shall comply with all

¹ NPDES permit for ground water dewatering is required within the Los Angeles Region including Ventura County.

² The term applies to low volume, incidental and infrequent releases that are innocuous from a water quality perspective. Those releases for dewatering or hydro-testing or flushing of water supply and distribution mains and incidental and infrequent releases from well heads shall be allowed with the implementation of appropriate BMPs (see section G for specific BMPs) until such time as a new General Permit is adopted that addresses those type of releases. Discharges from hydrostatic pipe testing shall be subject to a separate NPDES general permit coverage (CAG674001) and discharges from utility vaults shall be conducted under coverage of a separate NPDES permit specific to that activity. It does not cover scheduled discharges by potable water purveyors for the (i) dewatering or hydro-testing or flushing of water supply and distribution mains, or (ii) dewatering or draining of reservoirs or water storage facilities. Releases may occur for discharges from potable water sources only with the implementation of appropriate BMPs, dechlorination prior to discharge [see section G for specific BMPs]. Discharges from utility vaults shall be conducted under coverage of a separate NPDES permit specific to that activity. Discharges from well heads and hydrostatic pipe testing shall be subject to a separate NPDES general permit coverage (CAG674001).

³ All storm water BMPs shall at a minimum be maintained at a frequency as specified by the manufacturer, and designed to drain within 72 hours of the end of a rain. Storm water treatment BMPs may be drained to the MS4 under this Order if the discharge is not a source of pollutants. Sediments shall be disposed of properly, in compliance with all applicable local, state, and federal policies, acts, laws, regulations, ordinances, and statutes.

Type of Discharges:	Conditions under which allowed:	Required BMPs for discharge to occur:
permitted by the State Board;	authorization.	conditions in the authorization.
Natural springs and rising ground water	1. Ground water dewatering requires a separate NPDES permit. 2. Segregate flow to prevent introduction of pollutants.	Shall comply with all conditions in the authorization.
Uncontaminated ground water infiltration [as defined by 40 CFR 35.2005(20)] (Utility vault dewatering requires a separate NPDES permit.)	NPDES permit for ground water dewatering is required within the Los Angeles Region including Ventura County	Shall comply with all conditions in the authorization.
Flows from riparian habitats or wetlands	Provided that all necessary permits or authorizations are received prior to diverting the stream flow.	Shall comply with all conditions in the authorization.
Flows from emergency fire fighting activity	Pooled water after fire must be controlled.	
Discharges from potable water sources	See Footnote #1 on page 26. Provided discharges from water lines and potable water sources shall be dechlorinated, pH adjusted if necessary, reoxygenated, and volumetrically and velocity controlled to prevent resuspension of sediments.	See Footnote #2 on page 26. To be discharged, this type of water shall be dechlorinated using aeration and/ or sodium thiosulfate and/ or other appropriate means and/ or be allowed to infiltrate to the ground. BMPs such as sand bags or gravel bags shall be utilized to prevent sediment transport. All sediments shall be collected and disposed of in a legal and appropriate manner.
Drains for foundation, footing and crawl drains	Dewatering requires a separate NPDES permit.	Shall comply with all conditions in the authorization.
Air conditioning condensate	Segregation of flow to prevent introduction of pollutants	Infiltration whenever possible.
Water from crawl space pumps	Dewatering requires a separate NPDES permit within the Los Angeles Region including Ventura County	NPDES permit for ground water dewatering is required.
Reclaimed and potable landscape irrigation runoff	Segregation of flow to prevent introduction of pollutants.	Implement conservation programs to minimize this type of discharge by using less water.
Dechlorinated/ debrominated	Provided discharge to a sanitary sewer is not available. Swimming pool discharges are	Pool water may be dechlorinated using time,

Type of Discharges:	Conditions under which allowed:	Required BMPs for discharge to occur:
swimming pool discharges [see definition Part 8]	<p>dechlorinated, pH adjusted if necessary, aerated to remove chlorine if necessary, and volumetrically and velocity controlled to prevent resuspension of sediments.</p> <p>Cleaning waste water and filter back wash shall not be discharged to municipal separate storm sewers.</p> <p>Water that has been hyperchlorinated shall not be discharged to municipal separate storm sewers, even after de-chlorination.</p> <p>No discharges are allowed containing salts in excess of Water Quality Standards.</p> <p>Chlorine residual in discharge shall not exceed 0.1mg/L.</p>	aeration, and/ or sodium thiosulfate.
Non-commercial car washing by residents or non-profit organizations		Preferred area is at commercial carwash or in an area where wash water infiltrates. Pumps or vacuums may be used to direct water to areas for infiltration or other use.
Sidewalk rinsing	This may be undertaken only if high pressure low volume is used as described in the glossary under "Sidewalk Rinsing".	
Pooled storm water from treatment BMPs	All storm water BMPs shall at a minimum be maintained at a frequency as specified by the manufacturer. All storm water BMPs shall be designed to drain within 72 hours of the end of the rain event. Storm water treatment BMPs may be drained to the MS4 under this Order if the discharge is not a source of pollutants. The discharge shall cease before the discharge has become a source of a pollutant(s), (bottom sediment included). Sediments shall be disposed of properly, in compliance with all applicable local, state, and federal policies, acts, laws, regulations, ordinances, and statutes.	

(e)4. If the Regional Water Board Executive Officer determines that any of the preceding categories of non-storm water discharges are a significant source of pollutants, the Permittee(s) shall either:

(1)(a) Prohibit the discharge from entering the MS4; or

(2)(b) Authorize the discharge category and require implementation of appropriate or additional BMPs to ensure that the discharge will not be a source of pollutants; or

(3)(c) Require or obtain coverage under a separate NPDES permit for discharge into the MS4.

5 The following BMPs for non-stormwater discharges are required pursuant to this Order:

(a) Flows from non-emergency fire fighting activity: Implement a program to reduce pollutants from non-emergency permittee activities such as controlled or practice blazes and maintenance activities identified to be significant sources of pollutants.

(b) Discharges from potable water system releases⁴: Water shall be dechlorinated using aeration and/or sodium thiosulfate and/or other appropriate means and/or be allowed to infiltrate to the ground. BMPs such as sand bags or gravel bags shall be utilized to prevent sediment transport. All sediments shall be collected and disposed of in a legal and appropriate manner.

(c) Swimming pool discharges: Swimming pool discharges are to be dechlorinated, pH adjusted if necessary, aerated to remove chlorine if necessary, and volumetrically and velocity controlled to prevent resuspension of sediments.

(d) Sidewalk rinsing: Sidewalk rinsing in commercial areas may be undertaken only if high pressure low volume is used as described in the glossary under "sidewalk rinsing."

(e) Pooled storm water from treatment BMPs: Storm water treatment BMPs may be drained to the MS4 in compliance with Part 5.G.5(1) of this Order. The discharge shall cease before it has become a source of pollutants. Bottom sediments shall be disposed of properly, in compliance with all applicable local, state and federal policies, acts, laws, regulations, ordinances, and statutes.

PART 2 - MUNICIPAL STORM WATER DISCHARGE LIMITATIONS

⁴ The term applies to low volume, incidental and infrequent releases that are innocuous from a water quality perspective. It does not cover scheduled discharges by potable water purveyors for the (i) dewatering or hydrotesting or flushing of water supply and distribution mains, or (ii) dewatering or draining of reservoirs or water storage facilities. Releases may occur for discharges from potable water sources only with the implementation of appropriate BMPs, dechlorination prior to discharge [see section G for specific BMPs]. Discharges from utility vaults shall be conducted under coverage of a separate NPDES permit specific to that activity. Discharges from well heads and hydrostatic pipe testing shall be subject to a separate NPDES general permit coverage (CAG674001).

1. Discharges of storm water from the MS4 to waters of the U.S. shall not exceed the Municipal Action Levels (MALs) for the pollutants listed in Attachment "C" (Municipal Action Levels) beginning (Year 3 after Order adoption date).
2. A running average of twenty percent or greater of exceedences of any MAL will create a presumption that the Permittee(s) have not complied with the Maximum Extent Practicable (MEP) provision in Part 4 A.2., and have failed to implement adequate storm water control measures and BMPs to comply with the MEP standard.
3. Each Permittee is affirmatively required to augment and implement all necessary storm water controls and measures to reduce the discharge of the pollutant(s) to the MEP and to not continue to be in violation of the municipal storm water discharge limitation.
4. The "end of pipe" compliance points for the determination of compliance with the MALs are the major outfalls of discharge pipes to the receiving waters.
5. The receiving water mass emission points of measurement will become default compliance points for "end of pipe" compliance with the municipal storm water discharge limitations, in the absence of representative "end of pipe" monitoring measurements.

PART 2 – MUNICIPAL ACTION LEVELS

1. Each Permittee is affirmatively required to implement controls to reduce the discharge of pollutants to the Maximum Extent Practicable (MEP).
2. Under this Order, the locally relevant Municipal Action Levels (MALs) listed in Attachment "C"⁵ shall be utilized by Permittees to identify subwatersheds discharging pollutants at levels in excess of the normal range, and to ensure that, within those subwatersheds, Permittees take any additional action necessary to reduce the discharge of pollutants to the MEP.
3. In order to determine if MS4 discharges are in excess of the normal range, Permittees shall conduct outfall monitoring as required in the Monitoring and Reporting Program (MRP). An MAL Assessment Report shall be submitted to the Executive Officer within one year of Permit adoption. The Report shall present the monitoring data in comparison to the applicable MALs, and identify those subwatersheds with discharges in excess of the MALs.
4. Each Permittee shall submit to the Executive Officer within two years of Permit Adoption, an MAL Action Plan for those subwatersheds with discharges in excess of the MALs. The plan is to include an assessment of the

⁵ It is proposed that MALs be developed for storm water pollutants of greatest concern and be set at the 80th percentile of countywide data for each land use classification (e.g., residential, industrial, commercial).

sources responsible for the abnormal pollutant levels, the existing BMPs that address those sources, an assessment of potential alternative BMPs and actions that could be implemented, the additional practicable BMPs and/or actions the Permittee proposes to ensure compliance with the MAL to the MEP standard, and an implementation schedule for such actions.

5. Within 90 days of the plan approval, the Permittee shall initiate the BMPs and actions proposed in the MAL Action Plan, together with any other practicable BMPs or actions that the Executive Officer determines to be necessary to comply with the MAL to the MEP standard. The Permittee shall complete the proposed actions in accordance with the approved implementation schedule.
6. Upon completion of the actions specified in the approved MAL Action Plan, the Permittee shall re-monitor the subject subwatershed in accordance with the MRP, and submit a Post-Project MAL Assessment Report to the Executive Officer.
7. The Executive Officer will either accept the report as evidence that the Permittee has complied with the MEP standard or, alternatively, identify additional actions which the Executive Officer determines necessary to comply with the standard.

PART 3 – RECEIVING WATER LIMITATIONS

1. Discharges from the MS4 that cause or contribute to a violation of water quality standards are prohibited.
2. Discharges from the MS4 of storm water, or non-storm water, for which a Permittee is responsible, shall not cause or contribute to a condition of nuisance.
3. The Permittees shall comply with Receiving Water Limitations 1 and 2 the ~~Order~~ through timely implementation of control measures and other actions to reduce pollutants in ~~the storm-water discharges~~ in accordance with the Storm Water Management Plan (SWMP) and other requirements of this permit including any modifications to this Order. ~~The SWMP This Order shall be designed implemented to achieve compliance with RReceiving Wwater Llimitations 1 and 2.~~ If exceedance(s) of water quality objectives or water quality standards (collectively, WQS) persist, notwithstanding implementation of the ~~SWMP Order and its components and other requirements of this permit Order,~~ the ~~pPermittees~~ shall assure compliance with ~~discharge prohibitions and Rreceiving Wwater Llimitations 1 and 2~~ by complying with the following procedure:
 - (a) Upon an ~~determination by either the permittees or the Regional Water Board that discharges are causing or contributing to an~~ exceedance(s) of an applicable WQSwater quality standards or water quality objectives, which may be inferred from the results of the receiving water monitoring

~~program described in Attachment "F", all P, the permittee(s) upstream of the point of discharge shall promptly notify the Regional Water Board, within 30 days of any such inference of exceedence, and thereafter submit a Receiving Water Limitations (RWL) Compliance Report to the Regional Water Board Executive Officer that describes BMPs that are currently being implemented and additional BMPs that will be implemented to prevent or reduce any pollutants that are causing or contributing to the exceedence of WQSSs for approval. The RWL Compliance Report may be incorporated in the annual update to the SWMP shall be included with the Annual Report, unless the Regional Water Board Executive Officer directs an earlier submittal. The Regional Water Board Executive Officer may require modifications to the report.~~

- ~~(b) Submit any modifications to the report required by the Regional Water Board Executive Officer within 30 days of notification. The RWL Compliance Report shall describe BMPs currently being implemented and the additional BMPs that will be implemented, to prevent or reduce the discharge of any pollutants that are causing or contributing to the exceedences of water quality standards.~~
- ~~(c)(b) The RWL Compliance Report shall include a BMP implementation schedule.~~
- ~~(d)(c) Within 30 days following approval of the RWL Compliance Report described above by the Regional Water Board Executive Officer, the permittees shall revise the SWMP and monitoring program to incorporate the approved or modified suite of BMPs that have been and will be implemented, the implementation schedule, and any additional monitoring required shall be implemented.~~
- ~~(e) Modifications to the RWL Compliance Report, required by the Regional Water Board shall be submitted to the Regional Water Board Executive Officer within 30 days of notification.~~
- ~~(f)(d) Implement the revised SWMP and monitoring program according to the approved schedule.~~

~~4. So long as the permittees have complied with the procedures set forth above and are implementing the revised SWMP, the permittees do not will have to repeat the same procedure set forth above to comply with the receiving water limitations for continuing or recurring exceedences of the same receiving water limitations water quality standard(s) unless directed to otherwise by the Regional Water Board Executive Officer to develop additional BMPs.~~

~~5.4. Nothing in Part 3 shall prevent the Regional Water Board from enforcing any provision of this Order.~~

REWRITE OF PARTS 6 AND 7
AUGUST 28, 2007 DRAFT OF VENTURA MS4 PERMIT

October 12, 2007

**PART 6 - TOTAL MAXIMUM DAILY LOAD PROVISIONS APPLICABLE TO
MUNICIPAL SEPARATE STORM SEWER SYSTEM DISCHARGES**

- I. Part 6 of this Order incorporates provisions to assure that Ventura County MS4 Permittees comply with WLAs and other requirements of TMDLs covering impaired waters impacted by the Permittees' discharges.
- II. Each Permittee shall attain the storm water WLAs incorporated into this Order by implementing BMPs described in the TMDL technical reports or identified as a result of studies conducted during TMDL implementation.
- III. TMDLs in effect and covered in this Order are the following:
 - i. TMDL for Nitrogen Compounds for the Santa Clara River - (Effective date: March 23, 2004).
 - ii. TMDL for Toxicity, Chlorpyrifos and Diazinon in the Calleguas Creek, its Tributaries and Mugu Lagoon - (Effective date: March 24, 2006).
 - iii. TMDL for Organochlorine Pesticides, Polychlorinated Biphenyls, and Siltation in Calleguas Creek, its Tributaries and Mugu Lagoon - (Effective date: March 24, 2006).
 - iv. TMDL for Bacteria in Malibu Creek and Lagoon - (Effective date: January 26, 2006).
 - v. TMDL for Metals and Selenium in the Calleguas Creek, its Tributaries and Mugu Lagoon (Effective date: March 26, 2007)
- IV. TMDL WLAs not incorporated into this Order due to compliance dates which exceed the term of this Order are the following:
 - i. Final Wet Weather Bacteria WLAs for Malibu Creek and Lagoon - (Compliance date: January 24, 2016).
 - ii. Final Organochlorine Pesticides, Polychlorinated Biphenyls, and Siltation WLAs for Calleguas Creek, its Tributaries and Mugu Lagoon - (Compliance date: March 24, 2026).
 - iii. Final Metals and Selenium WLAs for Calleguas Creek, its Tributaries and Mugu Lagoon (Compliance date: March 26, 2022)
- V. TMDL WLAs and Other TMDL Provisions Incorporated into this Order are as follows:
 1. TMDL for Nitrogen Compounds in the Santa Clara River
 - (a) Waste Load Allocations:
The Ventura County MS4 Permittees discharging to the Santa Clara River (the cities of Fillmore and Santa Paula) ("Santa Clara MS4 Permittees") shall

implement BMPs to achieve the following MS4 wasteload allocations applicable to River Reach 3:

Ammonia nitrogen 30-day average	2.0 mg/L
Ammonia nitrogen 1-hour average	4.2 mg/L
Nitrate + Nitrite nitrogen 30-day average	8.1 mg/L

(b) Compliance Monitoring:

- (1) Compliance with the WLAs is to be determined through receiving water monitoring conducted in accordance with the Santa Clara River Nitrogen TMDL Monitoring Program approved by the Executive Officer.
- (2) If any WLA is exceeded at a compliance monitoring site, the Regional Board will issue an appropriate investigative order pursuant to Cal. Water Code section 13267 or 13225 to the Permittees and other responsible agencies or jurisdictions within the relevant subwatershed to determine the source of the exceedance. Following these actions, Regional Board staff will evaluate the need for further enforcement action.

(c) Actions and Special Studies required of Santa Clara MS4 Permittees:

- (1) Annual Progress Reports. Santa Clara MS4 Permittees, either independently or in conjunction with other stakeholders, shall submit an annual progress report with respect to achievement of the WLAs.
- (2) If TMDL monitoring, as reported in any Annual Progress Report, indicates that the BMPs being implemented by Santa Clara MS4 Permittees are not achieving the WLAs in the receiving waters, the Permittees shall include in the Annual Progress Report a work plan to conduct a source identification study and to develop additional BMPs sufficient to achieve the WLAs in the receiving waters.

2. TMDL for Toxicity, Chlorpyrifos, and Diazinon in the Calleguas Creek, its Tributaries and Mugu Lagoon.

(a) Waste Load Allocations:

- (1) MS4 Permittees discharging to Calleguas Creek, its tributaries and Mugu Lagoon (Ventura County Watershed Protection District, County of Ventura and the cities of Camarillo, Moorpark, Oxnard, Simi Valley and Thousand Oaks) ("Calleguas MS4 Permittees") shall implement BMPs to achieve the following MS4 WLAs:

Toxicity WLA	1.0 TU _c
Chlorpyrifos WLA	0.014 ug/L
Diazinon WLA	0.10 ug/L

- (2) Pursuant to the TMDL, the final storm water WLAs for Toxicity, Chlorpyrifos and Diazinon, listed above, are receiving water concentrations measured in-stream at the base of each subwatershed within the Calleguas Creek watershed.

(b) Compliance Monitoring:

- (1) Compliance with the WLAs is to be determined through the measurement of in-stream water quality at the base of each of the Calleguas Creek subwatersheds, in accordance with the Calleguas Creek Watershed TMDL Monitoring Program approved by the Executive Officer.
- (2) If any WLA is exceeded at a compliance monitoring site, the Regional Board will issue an appropriate investigative order pursuant to Cal. Water Code section 13267 or 13225 to the Permittees and other responsible agencies or jurisdictions within the relevant subwatershed to determine the source of the exceedance. Following these actions, Regional Board staff will evaluate the need for further enforcement action.
- (3) If as a result of compliance monitoring and subsequent investigations it is determined that a Calleguas MS4 Permittee is responsible for exceedance of the in-stream Toxicity WLA, that Permittee shall initiate the TRE/TIE process as outlined in USEPA's "Understanding and Accounting for Method Variability in Whole Effluent Toxicity Applications Under the National Pollutant Discharge Elimination System Program" (2000) or the approved Toxicity TMDL monitoring plan, and take appropriate action to eliminate the identified source of the toxicity.

(c) Actions and Special Studies required of Calleguas MS4 Permittees:

- (1) Special Study #1. Together with Calleguas POTW Permittees, investigate the pesticides that will replace diazinon and chlorpyrifos in the urban environment, their potential impact on receiving waters and potential control measures. Special Study #1 is to be completed by March 24, 2008.
- (2) Special Study #2. Together with Calleguas Agricultural Dischargers, consider results of monitoring of sediment concentrations by source/land use type through the special study required in the Calleguas OC Pesticide, PCB and Siltation TMDL Implementation Plan. Complete within 6 months of completion of the OCs TMDL special study #1.
- (3) Pesticide Collection Program. Together with Calleguas POTW Permittees, develop and implement a collection program for diazinon and chlorpyrifos and an educational program. Collection and education could occur through existing programs such as household hazardous waste collection events. The Pesticide Collection Program is to be implemented by March 24, 2009.
- (4) Special Study #3. Together with Calleguas Agricultural Dischargers, consider the findings of transport rates developed through the OC Pesticide, PCB and Siltation TMDL Implementation Plan. Complete within 6 months of completion of the OCs TMDL special study #1.

3. TMDL for Organochlorine (OC) Pesticides, Polychlorinated Biphenyls (PCBs) and Siltation in the Calleguas Creek, its Tributaries and Mugu Lagoon.

(a) Waste Load Allocations:

- (1) MS4 Permittees discharging to Calleguas Creek, its tributaries or Mugu Lagoon (Ventura County Watershed Protection District, County of Ventura and the cities of Camarillo, Moorpark, Oxnard, Simi Valley and Thousand

Oaks) ("Calleguas MS4 Permittees") shall implement BMPs to achieve the interim WLAs listed in Table 11.

Table 11. Interim Sediment Concentration WLAs (ng/g)

Constituent	Subwatershed					
	Mugu Lagoon	Calleguas Creek	Revolon Slough	Arroyo Las Posas	Arroyo Simi	Conejo Creek
Chlordane	25	17	48	3.3	3.3	3.4
4,4-DDD	69	66	400	290	140	5.3
4,4-DDE	300	470	1600	950	170	20
4,4-DDT	39	110	690	670	25	2
Dieldrin	19	3	5.7	1.1	1.1	3
PCBs	180	3800	7600	25700	25700	3800
Toxaphene	22900	260	790	230	230	260

- (2) Pursuant to the TMDL, the interim storm water WLAs for OC Pesticides, PCBs and Siltation, listed above, are annual average, sediment-based concentrations measured in surface waters at the base of each subwatershed within the Calleguas Creek watershed.
- (b) Compliance Monitoring:
- (1) Compliance with the WLAs is to be determined through the measurement of in-stream water quality at the base of each of the Calleguas Creek subwatersheds, in accordance with the Calleguas Creek Watershed TMDL Monitoring Program approved by the Executive Officer.
- (2) If any WLA is exceeded at a compliance monitoring site, the Regional Board will issue an appropriate investigative order pursuant to Cal. Water Code section 13267 or 13225 to the Permittees and other responsible agencies or jurisdictions within the relevant subwatershed to determine the source of the exceedance. Following these actions, Regional Board staff will evaluate the need for further enforcement action.
- (c) Actions and Special Studies required of Calleguas MS4 Permittees:
- (1) Pesticide Collection Program. Together with Calleguas POTW Permittees, implement a collection program and source control measures pursuant to a work plan approved by the Executive Officer. The Pesticide Collection Program is to be implemented by March 24, 2011.
- (2) Special Study #1. Together with Calleguas POTW Permittees, Calleguas Agricultural Dischargers, and the Point Mugu Naval Base, submit a work plan to quantify sedimentation in the Calleguas Creek Watershed, evaluate management methods to control siltation and contaminated sediment transport to Calleguas Creek, identify appropriate BMPs to reduce sediment loadings and evaluate the effect of sediment on habitat preservation in Mugu Lagoon for approval by the Executive Officer. This special study is also to evaluate the concentration of OC pesticides and PCBs in sediments from various sources/land use types. Special Study #1 is to be completed by March 24, 2014.

- (3) Special Study #2. Together with Calleguas Agricultural Dischargers, identify areas of high OC concentrations and evaluate the effects of watershed protection and land use practices on water quality. Such practices include but are not limited to management of sediment reduction practices and structures, streambank stabilization, and other projects related to stormwater conveyance and flood control improvements in the Calleguas Creek watershed. Special Study #2 is to be completed based on the schedule provided in the workplan, submitted in March, 2007
- (4) Special Study #3 – Together with Calleguas POTW Permittees, Calleguas Agricultural Dischargers, and the Point Mugu Naval Base, evaluate natural attenuation rates and evaluate methods to accelerate organochlorine pesticide and polychlorinated biphenyl attenuation and examine the attainability of wasteload and load allocations in the Calleguas Creek Watershed. Special Study #3 is to be completed by March 24, 2016.

4. TMDL for Metals and Selenium in the Calleguas Creek, its Tributaries and Mugu Lagoon.

(a) Waste Load Allocations:

- (1) MS4 Permittees discharging to Calleguas Creek, its tributaries or Mugu Lagoon (Ventura County Watershed Protection District, County of Ventura and the cities of Camarillo, Moorpark, Oxnard, Simi Valley and Thousand Oaks) (“Calleguas MS4 Permittees”) shall implement BMPs to achieve the interim WLAs listed in Table 12 and Table 13.

Table 12. Interim WLAs for Copper, Nickel and Selenium (ug/L)

Constituent	Calleguas and Conejo Creek (a)			Revolon Slough		
	Dry Daily Maximum (ug/L)	Dry Monthly Average (ug/L)	Wet Daily Maximum (ug/L)	Dry Daily Maximum (ug/L)	Dry Monthly Average (ug/L)	Wet Daily Maximum (ug/L)
Copper	23	19	204	23	19	204
Nickel	15	13	(a)	15	13	(a)
Selenium	(b)	(b)	(b)	14 (c)	13(c)	(a)

- (a) The current loads do not exceed the TMDL under wet conditions, interim limits are not required.
- (b) Selenium allocations have not been developed for this reach as it is not on the 303(d) list.
- (c) Attainment of interim limits will be evaluated in consideration of background loading data, if available.

- (2) Pursuant to the TMDL, the interim storm water WLAs for copper, nickel, and selenium are receiving water concentrations measured in-stream at the base of Calleguas Creek and Revolon Slough and in Mugu Lagoon.

Table 13. Interim WLAs for Mercury in Sediment (lbs/yr)

Annual Cumulative Flow (million gallons per year)	Calleguas Creek (lbs/yr)	Revolon Slough (lbs/yr)
0-15,000	3.3	1.7
15,000-25,000	10.5	4
Above 25,000	64.6	10.2

- (3) Pursuant to the TMDL, the interim storm water WLAs for mercury are suspended sediment loads measured in-stream at the base of Calleguas Creek and Revolon Slough and in Mugu Lagoon.
- (4) Determination of the applicable interim WLA will be determined by calculating the total annual flow (October 1-September 30) in the Calleguas Creek watershed as measured by the flow gage at CSUCI.

(b) Compliance Monitoring:

- (1) Compliance with the WLAs is to be determined through the measurement of in-stream water quality and total suspended solids (TSS) at the base of Calleguas Creek, Revolon Slough and in Mugu Lagoon, in accordance with the Calleguas Creek Watershed TMDL Monitoring Program approved by the Executive Officer.
- (2) If any WLA is exceeded at a compliance monitoring site, the Regional Board will issue an appropriate investigative order pursuant to Cal. Water Code section 13267 or 13225 to the Permittees and other responsible agencies or jurisdictions within the relevant subwatershed to determine the source of the exceedance. Following these actions, Regional Board staff will evaluate the need for further enforcement action.

(c) Actions and Special Studies¹ required of Calleguas MS4 Permittees:

- (1) Conduct a source control study, develop and submit an Urban Water Quality Management Program (UWQMP) for copper, mercury, nickel, and selenium. Complete by March 26, 2009.
- (2) Implement the UWQMP within one year of approval by Executive Officer.
- (3) In cooperation with agricultural dischargers, evaluate the results of the OCs TMDL special study on sediment transport rates for applicability to the metals and selenium TMDL. Complete within 6 months of completion of the OCs TMDL special study #1.
- (4) In cooperation with agricultural dischargers, include monitoring for copper, mercury, nickel and selenium in the OC pesticides TMDL special study – Monitoring of Sediment by Source and Land Use Type. The special study is to be completed by March 26, 2014.
- (5) Evaluate the results of the OC Pesticides TMDL Special Study – Effects of BMPs on Sediment and Siltation, to determine the impacts on metals and

¹ The TMDL provides for a number of studies that are optional on the part of the dischargers. These are not incorporated into this Order because they are optional.

selenium. Complete within 6 months of completion of the OC Pesticides special study #1.

- (6) Evaluate the effectiveness of BMPs implemented under the UWQMP in controlling metals and selenium discharges. This is to be completed by March 26, 2013.
- (7) Re-evaluate urban waste load allocations for copper, mercury, nickel and selenium based on the evaluation of BMP effectiveness. By March 26, 2012, urban dischargers will have a required 25% reduction in the difference between the loadings at the time of the TMDL preparation and the final WLAs effective in 2022.
- (8) In cooperation with POTW permittees and agricultural dischargers, conduct a study to identify selenium contaminated groundwater sources. Special Study is to be completed within one year of the approval of the workplan.
- (9) In cooperation with agricultural dischargers, conduct a study to investigate metals "hot spots" and natural soils concentrations. This special study is to be completed within 2 years of the approval of the workplan.

5. TMDL for Bacteria in Malibu Creek and Lagoon

(a) Waste Load Allocations:

- (1) The Ventura County MS4 Permittees discharging to Malibu Creek or its tributaries (Ventura County Watershed Protection District, County of Ventura and the cities of Thousand Oaks and Simi Valley) ("Malibu MS4 Permittees") shall achieve the WLAs identified in Table 5. These WLAs are expressed as the number of daily or weekly sample days that may exceed the single sample limits or 30-day geometric mean bacteria targets identified in Table 6.

Table 5 – Wasteload Allocations expressed as the Number of Exceedence Days for Geometric Mean \ Single Sample - Dry Weather

Summer Dry Weather April 1 - October 31			Winter Dry Weather November 1 - March 31		
Geometric Mean	Single Sample		Geometric Mean	Single Sample	
30-day sampling (No. days)	Daily sampling (No. days)	Weekly sampling (No. days)	30-day sampling (No. days)	Daily sampling (No. days)	Weekly sampling (No. days)
0	0	0	0	3	1

Table 6 - Bacteria Targets

Parameters	Unit	Fresh Water Targets	
		Geometric Mean	Single Sample
E. coli	mg	126/ 100	235/ 100
Fecal coliform	mg	200/ 100	400/ 100

- (2) The wasteload allocations are to be achieved no later than January 26, 2012.

(b) Compliance Monitoring:

- (1) Achievement of the WLAs is to be determined through receiving water monitoring conducted in accordance with the Santa Monica Bacteria TMDL Compliance Monitoring Program approved by the Executive Officer.
- (2) If any WLA is exceeded at a compliance monitoring site, the Regional Board will issue an appropriate investigative order pursuant to Cal. Water Code section 13267 or 13225 to the Permittees and other responsible agencies or jurisdictions within the relevant subwatershed to determine the source of the exceedance. Following these actions, Regional Board staff will evaluate the need for further enforcement action.

(c) Actions and Special Studies required of Malibu MS4 Permittees:

- (1) If TMDL compliance monitoring indicates that the Malibu MS4 Permittees are causing or contributing to an exceedance of the WLAs in the receiving waters, the Permittees shall conduct a source identification study and implement additional controls sufficient to achieve the WLAs in the receiving waters.

**SUGGESTED OUTLINE OF ATTACHMENT H
FOR VENTURA COUNTYWIDE MONITORING PROGRAM**

1) Objectives of Monitoring Program

- a) The primary objectives of the Monitoring Program include, but are not limited to:
 - i) Assessing the chemical, physical, and biological impacts of receiving waters resulting from urban runoff.
 - ii) Characterization of the quality of urban storm water discharges.
 - iii) Identifying urban sources of pollutants.
 - iv) Assessing the overall health and evaluating long-term trends in receiving water quality.
 - v) Assessing compliance with water quality objectives.
 - vi) Supporting the implementation of the Countywide Stormwater Management Program by measuring and improving the effectiveness of the control measures.
- b) The results of the monitoring requirements outlined below shall be used to refine BMPs for the reduction of pollutant loading and the protection and enhancement of the beneficial uses of the receiving waters in Ventura County.

2) Overall framework

- a) Core Monitoring (Baseline)
- b) Watershed specific
- c) TMDL
- d) Special Studies

3) Core Monitoring

- a) Objectives
 - i) Estimate the pollutant mass emissions in the primary watersheds in Ventura county.
 - ii) Assess trends in the mass emissions over time.
- b) Baseline
 - i) Locations
 - (1) ME-VR for Ventura River.
 - (2) ME-SCR for Santa Clara River.
 - (3) ME-CC for Calleguas Creek.
 - ii) Constituents
 - (1) All samples taken shall be analyzed for all constituents listed in Attachment "G" (Storm Water Monitoring Program's Constituents with Associated Minimum Levels). If a constituent is not detected at the Method Detection Limit (MDL) for its respective test method in more than 75 percent of the first 48 sampling events at a station, it need not be further analyzed unless the observed occurrences show concentrations greater than state water quality objective. The Principal Permittee shall conduct annual confirmation sampling for non-detected constituents during the first storm of the wet season every year at each station.
 - (2) Method
 - (a) Samples shall be flow-weighted composites. A minimum of 3 sample aliquots, separated by a minimum of 15 minutes, shall be taken within each hour of discharge, unless the Regional Water Board Executive Officer approves an alternate protocol.

- (3) Samples for mass emission monitoring may be taken with the same type of automatic sampler used under Order 00-108.
- (4) Samplers shall be set to monitor storms that produce 0.25 inches or greater of rainfall.
- (5) Samples are to be flow-weighted composites and can be collected manually or automatically. Flow may be estimated using EPA methods at sites where flow measurement devices are not in place.
- (6) Grab samples shall be taken for pathogen indicators and oil and grease, only.

iii) Frequency

- (1) 3 storm events including the first storm event of the wet season that produces at least 0.25 inches of rain.
- (2) 2 dry weather events according to the following schedule:
 - (a) 1 event prior to the onset of wet weather- October 1st (during the months of August - September).
 - (b) 1 post wet weather- April 15th
- (3) A total of 5 monitoring events (3 storm and 2 dry weather) shall be sampled per mass emission station. (during the months of May - June).

c) Toxicity

- (a) The objective of aquatic toxicity monitoring is to evaluate if urban storm water and non-storm water discharges are causing or contributing to acute and/ or chronic toxic impacts on aquatic life by the following:
 - (i) Toxicity at the mass emission stations is to be evaluated using marine test organisms to assess impacts on the marine or estuarine environments.
 - (ii) Toxicity at upstream stations is to be evaluated using freshwater test organisms to assess impacts on the freshwater environment.
- (b) The Principal Permittee shall analyze mass emission samples and upstream samples (as necessary see section 4.b.ii.1) for aquatic toxicity to evaluate the extent and causes of toxicity in receiving waters. Permittees shall utilize documents such as: Ventura County's Technical Guidance Manual for Storm Water Quality Control Measures and U.S. EPA's National Management Measures to Control Nonpoint Source Pollution from Urban Areas to implement measures to eliminate or reduce sources of toxicity in storm water.
 - (i) The Principal Permittee shall analyze samples for toxicity from 2 storm events (including, the first storm event that produces a rainfall of at least 0.25 inches) for each mass emission station and tributary station per wet season.
 1. A minimum of 1 marine species shall be used for toxicity testing for each mass emission station event. Specifically, *Strongylocentrotus purpuratus* (sea urchin) fertilization/ development tests shall be used. This test should include a dilution series (0.5x steps) that ranges from the undiluted sample (or the highest concentration that can be tested within the limitations of the test methods or sample type) to less than or equal to 6% sample. In no case shall the toxicity test species *Strongylocentrotus purpuratus* (sea urchin) be substituted with another organism unless Permittees receive written authorization from the Regional Water Board Executive Officer.
 2. A minimum of 1 freshwater species shall be used for toxicity testing for each tributary station event. Specifically, *Ceriodaphnia dubia* (water flea) 7-day survival/ reproduction tests shall be used. In no case shall the toxicity test

species *Ceriodaphnia dubia* (water flea) be substituted with another organism unless Permittees receive written authorization from the Regional Water Board Executive Officer.

3. When finalized the Santa Monica Bay Restoration Commission's Toxicity Monitoring and analysis Protocol may be used in place of the above.

4) Targeted Watershed Monitoring

a) Objectives of monitoring

- i) To determine the extent (special and temporal) and magnitude of the receiving water quality problem in a specific watershed.
- ii) Determine whether urban runoff contributes to the receiving water quality problem.
- iii) Identify the sources (based on land uses) to urban runoff that contribute to the receiving water quality problem.

b) Watershed Pollutant of Concern Studies

- i) 2 year rotating cycle for major watersheds.
- ii) 4 Stage progressive approach to meet the objectives stated above.

(1) Adaptive Triggers for transitioning from stage to stage

(a) Stage 1 - Identifying POCs from statistical summary of historical data and 303(d) listing policy.

- (i) All receiving water and mass emission station data will be summarized and compared with the 303(d) listing policy for identifying potential water quality issues. Consistent with the listing policy a binomial test will be applied.
- (ii) Constituents identified as urban POCs in 2005-2006 Annual Report will require Stage 2 monitoring.

(b) Stage 2 – Increase of POCs over upstream background.

- (i) The monitoring locations for POCs will be spatially located to capture upstream and downstream samples of urban areas. For constituents that show a statistical difference between upstream and downstream samples (use the paired or unpaired t test for statistical differences between upstream and downstream at a 95% confidence level)
- (ii) Constituents identified as having a statistical increase between upstream and downstream sites will require Stage 3 and Stage 4 analysis.

(c) Stage 3 – Estimate urban contributions from land use based datasets.

- (i) Determine proportional contribution of urban runoff (based on land use types, e.g. residential, industrial, etc.) using historical data and modeling software. This study should be done concurrently with Stages 1 and 2.

(d) Stage 4 – Outfall monitoring to further define contributions to water body.

- (i) Representative outfalls will be monitored for each urban area suspected through Stage 2 monitoring to likely be contributing a significantly larger quantity of POC(s) than Land Use data would predict.
- (ii) Outfall monitoring will be compared with typical urban runoff characteristics to identify sources of pollutants. Typical urban runoff characteristics will be based on frequency distribution plots using Ventura County historical outfall monitoring for I-2 and R-1. Any outfall with discharges greater than the 75% probability values will be subject to a more intensive source identification.

(iii) Information from outfall monitoring will be used to assess and focus the Countywide Stormwater Management Program.

- iii) Chemical Constituents to be monitored
 - (1) POCs identified through Stage 1 evaluation.
- iv) Sampling stations and locations
 - (1) Stage 2 - spatially located to capture upstream and downstream samples of urban areas.
 - (2) Stage 4 - to be determined based on stage 3 analysis.
- v) Frequency
 - (1) Dry and wet weather events same as Core Monitoring program or applicable TMDL monitoring plan.
 - (2) Two year study focused on a single watershed and rotated through the major watersheds

5) TMDL

- a) In cases where Permittees are conducting TMDL monitoring, those efforts shall be an acceptable alternative to the corresponding constituent monitoring efforts required under this permit.
- b) To maximize resources the watershed specific monitoring can be done with the same frequency as required TMDL monitoring for other constituents, provided wet weather samples are included.
- c) The TMDL monitoring program may be augmented to integrate constituents identified in Stage 1 analysis of targeted watershed monitoring.

6) Special studies

- a) Trash Study
 - i) The Principal Permittee shall perform the trash and debris study to accomplish the following objectives:
 - (1) Quantitatively assess the types and amount of trash and debris discharging from MS4s.
 - (2) Identify and to develop control strategies.
 - ii) The Trash Study shall follow a regionally accepted protocol.
- b) Southern California Bight Project
 - i) Participation in the Southern California Bight Project (SCBP).
- c) Volunteer
 - i) The Permittees shall offer to participate in the development and implementation of volunteer monitoring programs in the Ventura watersheds.
- d) Pyrethroids
 - i) The Program shall support the alternative pesticides study required under the monitoring plan for the Calleguas Creek organochlorine TMDL; and make an evaluation of this report to recommend whether to proceed with additional pyrethroid monitoring in other watersheds.
 - ii) Additional pyrethroid monitoring in the other watersheds will follow a logical progression to first identify if there is a problem then to if the sources are from urban runoff.
- e) Bioassessment
 - i) Participation in the Southern California Regional Bioassessment Program
 - (1) Level of effort per Watershed
 - (2) Probabilistic sites per watershed - Six.
 - (3) Integrator sites per watershed - One
 - ii) The Southern California Benthic Index of Biological Integrity (SoCal B-IBI) shall be used to develop a score for assessed sites until the Department of Fish and Game releases their index including low gradient streams.

- iii) The Principal Permittee at end of every monitoring year shall evaluate the WMA to estimate the percentage of stream segments that are in "very good", "good", "fair", "poor" and "very poor" condition based on the SoCal B-IBI.
- iv) The following results and information shall be included in the Annual Storm Water Report:
 - (1) All physical, chemical and biological data collected in the assessment.
 - (2) Photographs and GPS locations of all stations.
 - (3) Documentation of quality assurance and control procedures.
 - (4) Analysis that shall include calculation of the metrics used in the CSBP.
 - (5) Comparison of mean biological and physical/ habitat assessment metric values between stations and year-to-year trends.
 - (6) Comparison of biological and physical/ habitat data to the SoCal IBI.
 - (7) Electronic data formatted to the California DFG Aquatic Bioassessment Laboratory for inclusion in the Statewide Access Bioassessment Database.

ATTACHMENT C
SPECIFIC TECHNICAL COMMENTS
October 12, 2007 VENTURA COUNTY MUNICIPAL SPARATE STORM SEWER
SYSTEM PERMIT (NPDES NO. CAS004002)
FOR THE

VENTURA COUNTY WATERSHED PROTECTION DISTRICT, COUNTY OF VENTURA,
AND THE INCORPORATED CITIES

No.	Page and section	Comment
1	General	Please provide a list of acronyms and definitions.
2	Page 1, section 1	Change all references of "San Buenaventura" to "Ventura".
4	Sections in document relating to BMPs	The document indicates that BMPs shall be implemented. The BMPs referenced in the document were developed as guidelines for managing potential discharges. The RWQCB should clarify if the BMPs are requirements or suggested protocols. Additionally, the RWQCB/NPDES permit should specify if all measures listed in the specific BMPs are mandatory. If the BMPs are mandatory, further evaluation of the BMPs is necessary to determine if the BMPs are feasible. In some instances, changes to local ordinances would be required to implement the BMP.
5	Page 3, Finding 9.	The finding regarding salts is inaccurate and inconsistent with the effective chloride TMDLs and the work being done to develop a salts TMDL in the Calleguas Creek Watershed. Salts impact agricultural and groundwater recharge beneficial uses and are only a concern for aquatic life at levels much higher than those required to protect agriculture. Additionally, swimming pools, though a potential salt source, have not yet been identified as a significant salt source to the waterbodies in any of the TMDL analyses developed to date. Finally, the effective chloride TMDLs do not include allocations for MS4 discharges. Therefore, this finding should be removed.
6	Page 3, B. 9 (Findings)	"Rising groundwater and swimming pool water... control the discharges from these activities in order to directly or indirectly reduce or eliminate discharges of salt to fresh water..." These requirements must match the Basin Plan for the TMDL salt implementation time (15 yrs). Please provide the reference for this Finding in the staff report and rectify the compliance timeline.
7	Page 6, section 18	While working on trash TMDL for the Ventura River Estuary and Calleguas Creek tributaries, staff observed that agriculture is a significant source of litter to watersheds. It is imperative that litter be included in the Waste Discharge Requirements for Discharges from Irrigated Lands. Additionally, litter should be added to the list of pollutants generated from irrigated agricultural facilities contained on page 7, section 15 of the draft MS4 Permit.
8	Page 7, B. 19. Page 8 B. 19. (Findings)	The statement relies on research from Los Angeles County to find that "similar patterns of aerial deposition likely occur in Ventura County." (emphasis added.) Please provide supporting documentation for this assumption.
9	Page 8 B. 18 (Findings)	The Draft Order states "Nitrite and nitrate (NH3) are biostimulatory substances that can cause or contribute..." Excessive nitrogen can lead to aquatic impairment, but is usually found in all natural systems. Ammonia, especially in its un-ionized form (NH3), is toxic to many aquatic organisms. Please rectify how a naturally occurring compound contributes to water quality exceedences and the biostimulatory characteristics of un-ionized NH3.
10	Page 3, B. 10. (Findings)	The information referenced in this finding comes from two highly urbanized counties that significantly differ from Ventura County. The trash TMDLs currently being developed in Ventura County are in the process of identifying the sources of the trash and initial indicators suggest that the MS4s may not be the most significant source of trash. Additionally, the amount of trash present in the waterbodies is significantly lower than the amount found in Los Angeles County. Although trash is

ATTACHMENT C
PERMITTEES' COMBINED TECHNICAL COMMENTS
SECOND DRAFT VENTURA COUNTY MUNICIPAL SPARATE STORM SEWER
SYSTEM PERMIT (NPDES NO. CAS004002)

		a potential problem in Ventura County, the problem is not of the same magnitude as that in other Southern California Counties and the finding should acknowledge the differences.
11	Page 3, B. 7. (Findings)	"Pesticide categories include: Organochlorine, Organophosphorus, Organophosphate, and Pyrethroid." In Ventura County, the two most used pesticides (DPR Pesticide Use Report) are petroleum hydrocarbons and copper, their use is predominantly agriculture. Please provide a source for your finding.
12	Page 7, C. 4 (Findings)	The Permittees were not made aware that the ROWD submitted to the Regional Board was considered "...partially complete" after the supplemental information requested was sent to the Regional Board. Did the Regional Board inform the Permittees that the ROWD is still considered partially complete? If it is please explain in detail what is missing.
13	Page 10 E. 4 (Fed. State & Reg)	"The Porter-Cologne Water Quality Control Act ... authorizes the State Water Resources Control Board (State Water Board), through the Regional Water Boards, to regulate and control the discharge of pollutants into waters of the State and tributaries thereto." Not only is the tributary rule not defined (August 10, 2004, letter regarding the 2004 Triennial Review; March 30, 2005 comment letter on the Draft Tentative Conditional Waiver for Discharges from Irrigated Land), but the definition of Waters of the State would be all-encompassing anyway. Waters of the State covers all surface and groundwater within the State, and does not exclude treatment devices (grassy swale, constructed wetlands, etc.) disconnected surface MS4 features (e.g., curb and gutter). Please rectify this discrepancy.
14	P. 16 – 18. (a) (findings) P. 19 - F. 1 (Implementatio n)	This section is specifically directed to LA's SUSMP and not the board approved SQUIMP document for VC. Please rewrite to include specific adoption of SQUIMP. The permittees disagree with the finding that "ministerial projects" were included in SQUIMP. Additionally, the referenced resolution was adopted without solicitation of input from or notice given to Ventura County stormwater permittees. Please provide justification for this applying to Ventura County.
15	Page 17, 20.(b)	Please explain how the Construction General Permit affects or modifies the local MS4 permit regarding construction activities.
16	Page 17 E. 19 (Fed. State & Reg)	"The Regional Water Board supports Watershed Management to address water quality protection in the region... It emphasizes cooperative relationships between regulatory agencies, the regulated community, environmental groups, and other stakeholders in the watershed to achieve the greatest environmental improvements with available resources." In Ventura County the Regional Board has been a partner in TMDL development, however participation in the Countywide Stormwater Management Meetings ended over a year ago and there has been no stakeholder involvement in the development of the draft tentative permit. Please describe what the Regional Board views as a cooperative relationship. The term "receiving waters" is not defined. Please add to Definitions section.
17	Page 19, F. 2	
18	Page 19 – F 1	This language suggests that co-permittees should revise current ordinance conditions to modify ministerial projects to be become discretionary, thus becoming subject to storm water mitigation requirements. It is unreasonable to require all ministerial projects to become discretionary because most, if not all, ministerial projects have no impact on water quality whatever. Including ministerial projects for inclusion under SQUIMP or a similar stormwater mitigation program is unnecessary. Currently, permittees receive several tens of thousands permit applications for ministerial projects each year. Requiring each of these projects would prove to be extremely onerous on their resources. All projects identified in the applicability section would be discretionary rendering this an unnecessary burden that conflicts with permit streamlining.
19	Page 19, F. 2	The Draft Order requires implementation of BMPs to reduce discharge of pollutants "to the maximum extent practicable

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20	& Pg 20 F.5 (Implementation) Page 20 F3	(MEP)", but Finding F.4 requires "all necessary control measures". This is not defined and may be different than MEP. Additionally "Successful efforts to reverse the wet weather impairments..." is not possible until critical regulatory tools are developed, including wet weather water quality objectives and "design storm" standards. Please rectify this discrepancy. States "The implementation of measures set forth in this Order are reasonably expected... What is the term "reasonably expected" based on?
21	Page 20, F.4 (Imp.)	This item states, "This Order translates MS4 TMDL WLAs adopted by the Regional Water Board into forms "consistent with the assumptions and requirements of the TMDL", by use of alternate temporal increments, concentrations, presumptive BMPs, prohibitions, and other express limitations." This language is unclear as to exactly how TMDLs will be handled in the Permit. Please use the exact language in the TMDLs and their associated implementation plans or reference them.
22	Page 21, F.9	We greatly appreciate the intention to provide "flexibility" within this section. However, the flexibility requires documentation regarding alternative BMP effectiveness which was not provided for the "established" BMPs. The result is that there can be no meaningful comparative analysis. This applies to Section D.3(a) on Page 48 as well. Please provide a method for accurate comparisons or an alternate method for selecting alternate BMPs.
23	Page 22, F. 12 (Imp)	"Permittees shall implement a timely, comprehensive..." "Shall" language turns the Finding into a Requirement - it should be deleted.
24	Page 23 F. 15 (Imp)	"This Order contemplates that Permittees will ensure that implemented Treatment Control BMPs will not pose a safety or health hazard to the Public..." An example of where there are problems with this Finding is the requirement to install trash excluders on all catch basin inlets. Not only does this requirement increase the flooding potential for most areas to which it would be applied, but a substitute BMP would need to be approved under F.8, that does not have a probable health hazard due to flooding or vectors. Please provide detail on the findings that there will be no safety or health hazard to the Public.
26	Page 25, Part 1 A.1. and A.2.	Both discharge prohibitions should include language regarding "discharge from an MS4 that have not been reduced to the Maximum Extent Practicable" ... Please make this change.
27	Page 25, Part 1 A.3	The Draft Order states "Discharges to the MS4 not covered by a NPDES individual or general permit are prohibited." Permittees own and/or operate portions of the MS4 that receive agricultural runoff, which is exempt from NPDES permitting. We would not be able to meet this requirement. Please rectify this discrepancy.
28	Page 25, Part 1, B (Prohibitions)	The Draft Order requires Permittees to "effectively" prohibit non-storm discharges but does not define nor explain what is meant by "effectively" prohibit. Please add to the definitions section.
29	Page 25, Part 1, B. 1. (b) (Footnote 2)	The Draft Order states "Releases may only occur with the implementation of appropriate BMPs..." Please revise this sentence to read "Planned releases shall only occur with the implementation of appropriate BMPs....".
30	Page 26, Part 1, B.-Table 1 (Footnote 1) Potable drinking water	The Draft Order allows Potable Water Discharges; however, Footnote 1 states, "The term applies to low volume, incidental and infrequent releases that are innocuous from a water quality perspective. It does not cover scheduled discharges by potable water purveyors for the (i) dewatering or hydro-testing or flushing of water supply and distribution mains; or (ii) dewatering or draining of reservoirs or water storage facilities. Releases may occur for discharges from potable water sources only with the implementation of appropriate BMPs, dechlorination prior to discharge (see section G for specific

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	<p>BMPs). Discharges from utility vaults shall be conducted under coverage of a separate NPDES permit specific to that activity. Discharges from well heads and hydrostatic pipe testing shall be subject to a separate NPDES general permit coverage (CAG674001)."</p> <p>Please recognize that the other NPDES permits that affect potable water discharges. This footnote should be changed to read as follows:</p> <p>"The term applies to low volume, incidental and infrequent releases that are innocuous from a water quality perspective. Those releases for dewatering or hydro-testing or flushing of water supply and distribution mains and incidental and infrequent releases from well heads shall be allowed with the implementation of appropriate BMPs (see section G for specific BMPs) until such time as a new General Permit is adopted that addresses those type of releases. Discharges from hydrostatic pipe testing shall be subject to a separate NPDES general permit coverage (CAG674001) and discharges from utility vaults shall be conducted under coverage of a separate NPDES permit specific to that activity."</p>
supply and distribution system releases	<p>This item lists fourteen categories of allowable "non-stormwater discharges" when conditions in Table 1 are met. However, in Table 1, drains for foundation, footing and crawl drains (item number 7) and water from crawl space pumps (item number 9) are required to have a separate NPDES permit for de-watering. There appears to be a duplicative permit condition. Only one NPDES permit should be necessary for discharge. By categorizing foundation, footing and crawl space dewatering discharge as an allowable "non-stormwater discharge" under the MS4 permit, additional NPDES permits should not be necessary. Please remove the requirement for a separate de-watering permit as indicated in Table 1.</p>
31	
Page 26, Part 1, B.2 (7) & (9) Drains for foundation, footing & crawl space)	
32	<p>The Draft Order states "Water that is hyper-chlorinated shall not be Discharged... even after dechlorination." Hyper-chlorinated is not defined in the permit, please add a definition. There is no justification given for this requirement. If the dechlorinated water meets Basin Plan objectives, discharge to the storm drain system should be allowed. Please justify the prohibition.</p>
33	<p>"Flows from riparian habitats or wetlands" Is the word 'diverted' missing? Please clarify.</p>
Page 26, Table 1	
Page 32, footnote 1	<p>This provision requires the Permittee to prohibit discharges or require implementation of appropriate or additional BMPs, however, it does not address situations where the Permittee has no jurisdiction or permit authority over the entity conducting the discharge (e.g. federal facilities, NPDES permitted discharges). Please explain the procedure to enable a Permittee to monitor and impose conditions.</p>
34	
Page 29, Part 3.1	<p>"Discharges from the MS4 that cause or contribute to a violation of water quality standards are prohibited." Please add the MEP qualifier.</p>
Page 29, Part 3, 3	<p>The Draft Order requires "timely implementation" of control measures, but does not define "timely implementation". Please provide a definition.</p>
Page 30, Part 3 A (d)	<p>This provision requires that BMPs identified in a Receiving Water Limitations Compliance Report must be implemented within 30 days following approval by the Regional Board. As written, this provision eliminates the opportunity to choose structural BMPs that are a multi-year process to design, fund, obtain environmental permits, and construct. Please delete the last word in the sentence ("implemented"), and replace with "initiated". If structural BMPs are necessitated, implementation will be a multi-year process, not within 30 days, as stated.</p>
37	
Page 31, Part	<p>Prohibition of swimming pool discharges: This section lists specific discharge limits for specific constituents in swimming</p>

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40	4, B.1 (b) (5)	pool discharges. There is no justification for regulating swimming pool discharges (de minimus volumes) to this extent, and there is no need for chloride limit for all waterbodies in Ventura County, including the ocean.
	Page 32 Part 4, B.2 (b)	"The permittees shall possess adequate legal authority to... Require persons within their jurisdiction to comply with conditions in the Permittees' ordinances, permits, contracts, model programs, or orders (i.e. hold dischargers to its MS4 accountable for their contributions of pollutants and flows)."
	Page 32 2 (b) (Findings)	"Discharges to the MS4 not covered by an NPDES individual or general permit are prohibited." The City owns and/or operates portions of the MS4 that receive agricultural runoff, which is exempt from NPDES permitting. We would not be able to meet this requirement (March 30, 2005, comment letter on the Draft Tentative Conditional Waiver – Waste Discharge Requirements for Discharges fro Irrigated Land). There are other sources of discharge over which the Permittees have no authority such as State and Federal buildings. Please explain how the Permittees are to obtain the necessary legal authority.
41	Page 32, Part 4, B. 3 and 4	Six months One year is insufficient time to complete major revisions to the Municipal Code. In order for the BMPs to have the force and effect expected by the Regional Board, they cannot simply be incorporated into ordinances by reference, as was done in the permit. At least two years will be required to prepare and adopt operating ordinances and codes. Requiring its legal counsel to declare that the Permittee has "obtained and possesses all necessary legal authority to comply with this Order" is infeasible, especially given the fact that it is unclear how Permittees will have legal jurisdiction to enforce some of the provisions of this Order (see above responses).
42	Page 33, Part 4. C. 1. (a)	In actual practice, tracking time charges will be costly and lack accuracy. Admirably, stormwater efforts have become an ingrained and inseparable portion of many tasks, performed by numerous staff across a wide range of agency programs, and cannot be accurately identified. Some stormwater quality expenses are clearly and readily identifiable, but many are imbedded in myriad activities and cannot be measured. Additionally, Permittees do not typically track inter-program, and interdepartmental actual expenses on this level, and would require extensive staff time to implement a system to record, monitor and report these expenses. Implementation of this provision would not improve water quality, but it would require extensive staff time to implement and report that could otherwise have been spent on water quality improvements. Please eliminate this provision.
43	P. 33 Part 4 – C (Budget)	Street sweeping is an effective BMP for removing pollutants such as trash from curb/gutters and costs for all street sweeping should be accounted for in the stormwater program budget. If trash excluders are required on all catch basins (including residential areas), street sweeping will be a necessary component for removing the debris that collects in the street and curb area in front of the catch basin excluder; therefore, it should be accounted for in the stormwater program budget. Please allow for its inclusion into the budget.
44	Page 33, Part 4 (B)	"Program Required Activities Implementation (storm water related activities only). Provide figures breakdown of expenditures for the categories below." Please explain what "figures breakdown" means?
45	Page 34, Part 4, D. 1	Ninety days is insufficient time to complete revisions to "programs, protocols, practices and municipal code". We suggest that the permittees be allowed two years to complete this requirement. Also, this requirement conflicts with Part 3, B. 4 which provides for six months to complete revisions.
46	Page 34, Part 4. E.1	"The Ventura County Watershed Protection District is hereby designated as the Principal Permittee." Please cite in Finding or Staff Report the authority used to make this designation.
47	Page 34,	Placing mandates on which staff attends certain meetings may create costly and inefficient duplication of efforts. For

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	<p>instance, if a co-permittee is already participating on the County Environmental Crimes Task Force, and is willing to represent the Countywide Stormwater Program at the Task Force, and to report on these issues at the Countywide stormwater meetings, why should the Principal Permittee also attend? Please allow flexibility here so that Permittees can pick the most economical way to comply. Also, Section E should be retitled to "Designation and Collective Responsibilities of the Permittees", to allow permit compliance in the most efficient manner.</p> <p>Part 4 is titled SPECIAL PROVISIONS (BASELINE) Please explain what Baseline means/ implies?</p>
48	<p>Page 35 Part 5</p>
49	<p>Page 35 Part 5 A. 2</p>
50	<p>Page 36 C</p>
51	<p>Page 36, Part 5 - C. 1. (c) (1)</p>
52	<p>Page 37, Part 5- C 1. (c) (6)</p>
53	<p>There are already watershed based groups in the major watersheds of Ventura County such as Friends of the Santa Clara River, Calleguas Creek Watershed Management Plan and Malibu Creek Watershed Advisory Council. Working within the existing group structures will be more effective than starting a new group or committee. The sentence should be revised to read: "Work with existing local watershed groups or organize Citizen Advisory Groups/Committees..."</p> <p>We are in agreement that educational outreach to children is an important way to affect a change in behavior. However, requiring that this be done in schools presents difficulties. None of the Permittees has the authority to put any material into a classroom. It will be up to the discretion of the educational system to use anything provided to them, including resources from AB1721. Targeting all grades from K-12 compounds the obstacles because not all those grades have in their curriculum subjects that are open to the stormwater pollution message. For example, the stormwater message may be perceived as acceptable to include in earth and life sciences which are taught in grades 6 and 7, but not for physical science which is taught in grade 8. In grades 9-12 science is presented as discipline-specific courses - which are not required to be taken by all students.</p> <p>The Environmental Education Account is an option, however, there is no guarantee that money given to the account will be spent in Ventura County or on stormwater pollution, or that it will even be used in the classroom. According to the Cal/Environment and Education Initiative website, spending money in the account requires both Legislative appropriation and consultation with the California Integrated Waste Management Board, but no consultation with the State Water Resources Control Board. There is a concern that these funds will be used exclusively for litter and recycling programs, and that the Permittees will still be responsible for measurable improvements.</p> <p>All available resources for children outreach would be spent to meet this prescriptive requirement. That prevents creative alternative approaches that would use other known effective outreach methods such as television, radio and the internet. Reaching a target audience is various ways is considered a more effective method to affect a behavior change. We would suggest a focused requirement to provide educational outreach to the same number of school-aged children. This would allow the Permittees the flexibility to develop a program that will have a better chance of success and maximize the benefit of their resources.</p>

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54	Page 38, Part 5, C. 1. (c) (8)	Measuring the effectiveness of outreach to children is an appropriate part of the program. However, we believe a more effective program would be one that is outside the classroom. Any measurement in classrooms will require cooperation from schools to administer the surveys or tests and then share the data. The Permittees have no authority to do this. Also, 180 days to formulate and implement (does implement mean adopt a strategy, begin implementation, or conduct the educational program and measure its effectiveness?) a measurement strategy is insufficient time. Please change to one year.
55	Page 38, Part 5, C. 1(d) and Attachment B	"The Principal Permittee, in cooperation with Permittees, shall coordinate to develop outreach programs that focus on the watershed-specific pollutants identified in Attachment "B" (Pollutants of Concern) no later than..." There are a couple of steps missing in this requirement. Attachment "B" POCs are not watershed-specific, and these POCs, based on receiving water monitoring, have not been compared to land use monitoring, which would give an idea of which POCs are contributed to by urban runoff. Please rectify this requirement or delete.
56	Page 38, Part 5, C. 1(C)(9) (Footnote 1)	"Matching funds shall be equivalent to \$10 per targeted student per year." Please justify how the \$10 per student figure was derived? AB 1721 does not legislate a "dollar per student" equivalent figure. \$10 per student is extremely high. We suggest that the equivalent dollar amount be reduced to \$1 per student, if donation to the Environmental Education Account remains an option. Additionally, does "indexed" refer to the consumer price index? If so, which index? Please state which index it is to avoid time wasting and costly confusion at a later date.
57	Part 5, Section D, item 1 (3) (B), page 40 of 115	Hazardous waste treatment, disposal, and recovery facilities is an outdated term. The CA Health and Safety Code now refers to these facilities as Hazardous Waste Facilities for the treatment, storage and disposal of hazardous waste. (H&S Code, Chap. 6.5, section 25117.1) The text should be changed to reflect the current definition.
58	Page 39, section 1.A.	Please define "corporate management" and "confer". Also, provide details for handling a corporation that is headquartered in another part of the United States or another country.
59	Page 39, Part 5- C. 2. (a) (2)	Notwithstanding the objections to this requirement, the Corporate Outreach section, Part 1 C. 2. (a) (1), defined the minimum number of corporate franchisees to target. Clarification is needed in this section to refer to the targeted franchisees. Please change to: Corporate Outreach to all targeted RGOs....
60	Page 39, Part 5, C. 2. (b) (1) Page 39, section B	On-site technical assistance or consultation presents a serious liability problem for the Permittees. The section should be revised to read: "On-site technical assistance, or consultation via telephone or e-mail to provide recommendations or guidelines to identify and implement storm water pollution prevention methods and best management practices."
61	Page 41 Part 4, D.1(a)	The Draft Order states "Each Permittee shall maintain a watershed-based inventory or database of all facilities within its jurisdiction that are critical sources of storm water pollution." The term "critical source" is not defined; however, Attachment D lists "Critical Sources Categories". Also, there doesn't seem to be a Ventura County specific finding on the need for this program. Please add the definition to the permit, and include the rationale for these specific findings in the staff report for the permit. A re-direction of resources for problems that don't exist in Ventura County watersheds is potentially damaging to our program.
62	Page 40, section 1 a. 3. A.	It is wasteful and inefficient for the co-permittees to perform this function already performed by the Regional Board, and pulls resources away from activities that will improve water quality. Please delete municipal landfills from the MS4 permit, as the landfills have their own permits from the Regional Board.

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63	<p>Page 41, Part 5, D. 2. (a)</p> <p>Page 46 D. 2. (b)(1)(B)</p>	<p>The Draft Order states "Permittees shall require implementation of additional treatment control BMPs where storm water flows from the MS4 discharge to an ESA or a CWA 303(d) listed waterbody"</p> <p>The requirement for the installation of treatment controls BMPs at all critical sources that discharge to a storm drain system which discharges to an ESA or a 303(d) listed waterbody is much too inclusive of facilities and pollutants. Furthermore, the suspected pollutants of concern that would come from a critical source must be matched to the impairment in the 303(d) list for the required treatment controls to be effective. Finally, the legal authority of the Permittees to require a critical source who is not requesting improvement permits to implement additional treatment control BMPs is questionable.</p> <p>In most communities, every critical source would be required to install treatment control BMPs, since most Permittees' storm drain systems drains to 303(d) listed waterbodies. The Permittees have worked cooperatively with the Regional Board to develop TMDLs to address the 303(d) listed waterbodies. The requirement for treatment control BMPs at every critical source is unwarranted and we strongly suggest that the requirement be removed from the permit.</p> <p>Tables 2 through 4 list the mandatory BMPs that shall be implemented by the critical sources. These BMPs came from the 2003 California Stormwater BMP Handbook which expressly states that "it is not the intent of this handbook to dictate the actual selection of BMPs, . . . but rather to provide a framework for an informed selection of BMPs". Making these BMPs mandatory is contrary to this statement. Furthermore, each BMP section listed has multiple and redundant BMPs which no single location could feasibly implement. Please change sections to read: "BMPs in from the following Table (X) shall be implemented to effectively control polluted runoff, unless the pollutant generating activity does not occur."</p> <p>The Draft Order states "Those BMPs that are not adequate to achieve MALs and/or water quality objectives, Permittee may require additional site-specific controls, such as treatment control BMPs."</p> <p>We do not have a baseline to measure effectiveness of treatment control BMPs. Please provide sources to determine baseline effectiveness.</p>
64	<p>Page 43-45, Part 5 - D. 2. (a) (1), (2), (3) and (4)</p>	<p>Proving that a BMP "will achieve the equivalent reduction of pollutants" would require a database of baseline data on all the BMPs. Please provide this information or change language to read "will achieve the equivalent similar reduction of pollutants".</p>
65	<p>P. 47, Part 5- D (Critical Sources inspection)</p>	<p>Permittees found to have enforced local municipal codes in good faith should be exempt from any and all penalties the Regional Board could impose for the violation, i.e. Only the offending party would be penalized, not the Permittee. Please add a definition of Good Faith and include an exemption from penalties to the Permittees.</p>
66	<p>Page 47, D. 3. (a)</p>	<p>The requirement for the installation of additional BMPs at critical sources that discharge to a storm drain system which discharges to an ESA or a 303(d) listed waterbody is much too inclusive of facilities and pollutants. Additionally, determining if a facility is "causing or contributing to exceedences of MALs and/or water quality objectives" requires the Permittees to sample each critical source. This requirement is unwarranted and we suggest that the requirement be removed from the permit.</p>
67	<p>Page 47, Part 5, D. 3. (a) and (b)</p>	<p>The Draft Order states "The permittees shall implement a development-planning program that will require all new development and redevelopment projects..." This provision should only apply to projects that disturb soil area of 1 acre or more that are subject to SQUIMP, single family residences and redevelopments under 5,000 SF should remain exempt.</p>
68	<p>P. 49, Part 5 - E 1 (Planning & Land Dev.)</p>	<p>The permit requires the selection of an "integrated approach" to mitigate stormwater pollution, but does not define or</p>
69	<p>Page 49</p>	
70		

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71	Part 5 - E. 1 Page 49 Part 5 - E. 1	reference 3 of the 4 available options, including "Integrated Water Resource Management Strategies", "Multi-benefit Natural Feature BMPs", or "Prefabricated/Proprietary Treatment Control BMPs". These options should be defined and referenced. This section is also redundant and vague. Subsections d and f, for example, reference Low Impact Development strategies, however, this already appears to be a proposed requirement under the following section E.I.1 labeled "Low Impact Development".
72	Page 49, E.1 (b) Footnote 1	The footnote references the use of "Native Vegetation" and "using approved dispersion techniques" for vegetated swales. This requirement conflicts with the Ventura County Technical Guidance Manual for Stormwater Quality Control Measures for "filter swales" which requires the use of fescue grasses mowed to a height of 4 to 6 inches. Please restate the footnote to read... "Impervious surfaces may be rendered "ineffective" if the storm water runoff is dispersed through properly designed vegetated swales as specified in the Ventura County Technical Guidance Manual for Stormwater Quality Control Measures".
73	Page 49, section E.	The Permittees are committed to being national leaders in Smart Growth, using low impact development principles whenever possible. However in the coastal watersheds the hydromodification requirement needs to be clarified. Many of the Downtown storm drains discharge directly into the surf zone, with no hydromodification impacts to natural areas. Please provide an exemption to projects in these direct ocean or large river discharge watersheds that do not increase runoff beyond existing 100% developed conditions. To streamline Permittees processing of obvious cases, a list of exemptions for each hydrologic controls category needs to be developed. This list needs to be developed for interim and final hydrologic controls. Here are some examples of projects that could be exempt from Hydromodification criteria: <ul style="list-style-type: none"> * Projects that do not increase the effective impervious area compared to the pre-project conditions * Projects that discharge to a sump, a lake or area under tidal influence. * Projects that discharge into hardened channels on three sides that discharges into a lake, or tidal zone or to enclosed pipelines. * Projects that discharge to aggrading channels, where there is accumulation of sediments over decades with no indication of erosion. * Projects for which it can be shown that there is not a potential for significant Hydromodification impact downstream with planned hydrologic control measures that may include on-site, regional, or in-stream runoff control measures, or a combination thereof. * Projects which discharge into a waterway with an erosion potential of 1. * Projects that flow to a MS4 that for the build out condition of the MS4 has a Q-100 flow that is less than 5% of the downstream natural waterway's Q-100.
74	Page 52, Section E. III. 3.	Please add a definition for pre-development as "native vegetations soils or conditions prior to proposed development", because we don't always have native soils and or native vegetation.
75	Page 49 - E.I 1(e)	Order of preferences should match the used order later pg(51) 3.1 with Integrated water resources management strategies first

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76	Page 49 – II 1 (a)	Land area that is disturbed during construction but not built upon (e.g. stockpiling) should not be considered in post construction BMP calculations. All reference to surface area should be clarified as impervious area.
77	Page 50 – II 1 (a) 7 Page 50 – II 1(a) (11)	Applying these conditions to projects on existing infrastructure (e.g. street widening for a bike lane) creates a cost benefit imbalance / hardship. Please allow for a linear capitol improvement project exclusion. The Draft Order requires each permittee shall require that during construction of a single-family hillside home, measures be taken to...Provide storm drain system stenciling and signage... Marking inlets at SFRs is not practical, they will likely be removed by the owners and there will be no realistic way to enforce this condition after occupancy as these may be backyard patio and pool deck drains. This will create much work with little improvement in water quality. Please delete.
78	Page 50 – 2 (a) (1) & (a) (3) (b)	To avoid confusion with maintenance activities redevelopment projects subject to conditions should be defined as creation, addition or replacement reconstruction . . . This also needs to be reflected in the definitions sections.
79	Page 51 – 3	Received tentative tract map or the "beginning of grading" are not legal milestones that disallow for changes in the design of a project. This requirement will be unenforceable. If a project has been deemed complete or given approval by the conditioning authority, changes to the design cannot be required. We suggest deleting sections (a) and (b), and the effective date be when a project application receives conditioned approval by the governing body.
80	Page 51 - III 1. (a)	High groundwater and differing soil types make a one-size-fits-all numeric standard for all projects in all subwatersheds inappropriate. Also, significant areas of the county are underlain by perched aquifers containing water that is of poor quality (not suitable for drinking or ag), so increases in the groundwater table could encourage baseflow into our streams and affect water quality. Reducing the effective impervious area to what is consistent with the WMP and/or IRWMP for each specific watershed is recommended until the SMC hydromod study is completed and the permittees have completed the HCP. Please explain the rationale for using 5% if it is to be used as a standard.
81	Page 52 - III 2 (b)	Please correct the reference to the Ventura County Technical Guidance Manual for Stormwater Quality Control Measures.
82	Page 52 - III 2 (b)	Time to develop an LID section to the Technical Guidance Manual needs to be two years.
83	Page 51 - III 1. (a)	The Permittees are committed to being national leaders in Smart Growth, using low impact development principles whenever possible. However in the coastal watersheds the hydromodification requirement needs to be clarified. Many of the Downtown storm drains discharge directly into the surf zone, with no hydromodification impacts to natural areas. Please provide an exemption to projects in these direct ocean or large river discharge watersheds that do not increase runoff beyond existing 100% developed conditions.
84	Page 52 – II (c)	The permittees cannot be responsible for the LID training for the entire development community. Please change the requirement to provide assistance and directions to resources for key industries.
85	Page 52 – 3.	Please avoid untested interim criteria until the Southern California Stormwater Monitoring Coalition (SMC) study is complete. We recommend using the Technical guidance manual which includes LID principles, water quality treatment measures and hydrologic controls.
86	Page 54 – (3)	The development and implementation of Watershed Hydromodification Control Plans will be a lengthy, complex process. As written, Permittees must identify tributary classifications, flow rate and duration control methods, sub-watershed mitigation strategies, and any in-stream control, which will maintain the stream and tributary Erosion Potential at "1",
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		unless an alternative value can be show to be protective of the natural drainage systems from erosion, incision, and sedimentation that can occur a result of flow increases from impervious surfaces. Six months is not enough time to secure consultant services, develop and implement the Plans. The time requirement for this provision should be changed from six months to at least one year.
89	Page 57 - 2. (a) (1)	BMPs used during construction are temporary and removed after construction is completed. Please delete construction BMPs from the "Tracking, Inspection, and Enforcement of Post-Construction BMPs" section.
90	Page 57 - 2. (a) (1) (E)	GPS logging of all treatment devices is excessive, please delete the parenthetical requirement for coordinates to used to define location.
91	Page 57 - 2. (a) (1) (G)	Operation and Maintenance Plans are not certified, please change date of O&M Certification to date of Plan or Maintenance Agreement.
92	(B)	Please delete the need to track VDDID numbers, it is unnecessary and not applicable for projects in post construction.
93	Page 56 1 (a) Page 58 - 4	Please add LID measures to maintenance agreement as they will also require future inspection to ensure proper function. Requiring Alternative Post Construction BMPs to be completed in four years doesn't allow for regional multi-agency groups to create agreements and find funding sources. Also, it competes with timelines in TMDL implementation schedules. Please allow for Alternative Post Construction BMPs over a longer timeline.
94	Page 59 - 4 (d)	RPAMPs should not be necessary if flexibility to the one size-fits-all requirements of LID and hydromodification are provided.
95	Page 59 -5	Please explain how mitigation funding for regional solutions will impact specific project requirements.
96	60 - 6 (a)(2)	To avoid having to continually update the Guidance Manual please change the language to " <u>incorporate by reference</u> expected BMP pollutant removal performance . . ."
97	Page 60 - 6 (a)(6)	This request is too broad and is beyond the scope and purpose is the Guidance Manual, please delete.
98	Page 60 - V.	Please match the timeline for updating CEQA process to match the timeline for updating ordinances.
99	Page 61 - V. 1. (a)	The information to update the CEQA documents to include information on impacts of significant changes in flow volume will not be available until after the Hydromodification Control Plan is written. Please make this a requirement only when appropriate information is available.
100	Page 61 - (2)	To allow needed minor amendments to a General Plan to proceed quickly please change language to " . . elements are significantly updated . . ."
101	(a)	Requiring these conditions on small home improvement projects is unwarranted and does not provide relief for the hardship of rebuilding a home after a fire or other catastrophe. Please provide a single family residence exclusion or redefine development project to exclude single family residences.
102	Page 50-52, Part 5, E. III. 1, & 3	"All new development and redevelopment projects shall integrate Low Impact Development (LID) principals into project design." These LID principles must be explicitly defined, with references to related research, source documents, and successful regional case studies, in order to understand proposed requirements. Section E. 1. 2. requires the permittees to develop a LID Technical Guidance Document within 18 months from the Order's adoption date. These materials need to be developed for local and regional conditions before developers can be expected to meet the criteria. Additionally, local pilot studies and case studies have not been performed. Thus 18 months is an insufficient period of time.
103		Part 4, E. 1. 1. must specify an effective compliance date for "All new development and redevelopment..." and must exempt

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	<p>projects that have received their entitlements and/or have been deemed complete for processing; development projects that have received their entitlements or have been deemed complete for processing (but have yet to begin construction) may no longer be subjected to new requirements (per State law). A phased approach of research, guidance development, pilot studies, training and implementation would be preferred and would be more effective.</p>
<p>104</p>	<p>Page 51 Part 5, E. III. 2. (a)</p> <p>The "predevelopment (hydrologic functions)" statement is inappropriate. Redevelopment sites do not have what is termed in the "Definitions" section as "native vegetation and soils," thus such conservation measures cannot be summarily prescribed for all new development and redevelopment. Such constraints on redevelopment encourage sprawl and discourage smart growth. Please remove this requirement from redevelopment.</p>
<p>105</p>	<p>P. 51 Part 5 -- E. 2 (a) (Low Impact Dev)</p> <p>"The permittees shall implement a development-planning program that will require all new development and redevelopment projects..." Should only apply to projects that disturb soil area of 1 acre or more that are subject to SQUIMP, single family residences and redevelopments under 5,000 SF should remain exempt.</p>
<p>106</p>	<p>Page 51-52, Part 5 - E. III. 2. (a) & (b)</p> <p>It will be difficult for "all new development and redevelopment projects" to integrate Low Impact Development (LID) principles into the project design when the LID Technical Guidance Document may not be available to the developers for 18 months after the Order's adoption date. This specific provision requires the completion of a new product, for the new and rapidly changing field of low impact development. A quickly produced document will satisfy the provision, but may not be useful. Please change this deadline from 18 months to three years.</p>
<p>108</p>	<p>Page 52, Part 5, E. III. 3. (a)</p> <p>The Drat Order states "This shall be achieved by maintaining the project's pre-development storm water runoff flow rates and durations." The preferred means to maintain runoff at a pre-development rate has been through metered-flow out of a detention facility (tank, open basin, buried pipes, etc). The pre-developed flow rate can be simulated by design, but the duration of that flow must necessarily be longer due to a larger yield-volume being produced by the impervious surfaces of the developed site. If this requirement is included in the final permit language, development must necessarily stop in all watersheds tributary to natural drainage systems, including the Ventura River, Santa Clara River, Calleguas Creek and miscellaneous Ventura coastal watersheds. Please provide alternatives that will allow for continued development and housing.</p>
<p>109</p>	<p>Page 52 III. 3. (a)</p> <p>"Numeric Hydromodification Mitigation Criteria" – There seems to be a disconnect between the various sub-section of this section. Sub-section (a) is mandating "maintaining the project's pre-development storm water runoff flow rates and durations" which appears to be put on hold by sub-section (e) which provides interim requirements. Sub-section (d) and (f) discuss a study by the Southern California Storm Water Monitoring Coalition (SMC) to determine how to best mitigate downstream erosion. Section (g) then requires the permittees to prepare and implement Watershed Hydromodification Control Plans (HCP) based on the SMC study. These HCPs would include setting standards for hydromodification management. If the HCP is intended to determine the most appropriate implementation of hydromodification management, why does section (a) dictate "maintaining the project's pre-development storm water runoff flow rates and durations" when the SMC study and HCP are future products with unknown results? Please rectify these contradictions and inconsistencies.</p>
<p>110</p>	<p>Page 52, Part 5, E.1.III. 3</p> <p>Local Agencies cannot condition a building permit that would require downstream hydrologic control measures without a clear nexus. These requirements could only be attached through a discretionary permit process or a ministerial grading permit if applicable. Recommend the wording be revised as "Where appropriate and when a direct nexus occurs, the local agency may require new development and re-development to..."</p>

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111	Page 52, Part 5, E.1.III. 3.(a) (I) (A)	Upon review of the equations involving Erosion Potential, E_p (in Attachment E), the prolonged flow-duration time resulting from the proposed detention solution discussed above will cause an increase in the delta-time. Similarly, it can be expected that applied shear stress (τ_a) will increase since the flow will be without sediment. Thus, the post-development value of W_{post} will be higher than the pre-developed (W_{pre}). The ratio value of E_p would therefore always be higher (i.e., exceed the value of 1.0) in the post-development era. If this requirement is included in the final permit language, development must necessarily stop in any watershed tributary to natural drainage systems. Please provide alternatives that will allow for continued development and housing.
112	Page 53, Part 5, E.1.III.1. (D) and (F)	Pursuant to a January 24, 2007 conversation with Dr. Eric Stein of the SMC, their study is just getting underway with site-selection in the Spring 2007, with anticipated completion in March 2010. The Ventura Countywide Stormwater Quality Management Program Planning and Land Development Subcommittee intend to join the effort and provide a list of target study sites and tributaries. Given the timeframe of the SMC study, 180 days from the adoption of the proposed permit is insufficient time and should be extended to 18 months.
113	Page 52, III. 3. (D)(II)(E)(i) (ii)	A phased approach of research, guidance development, pilot studies, training and implementation is requested. Please consider this option.
115	Page 54 III. (2)(A)(i) P. 52-53 Part 5 – E, III 3. (a) (Numeric Hydro Mitigation Criteria) II. 1 (e) (1) "Interim Hydro. Criteria –	Please provide background that any unintended consequences on beach nourishment impacts downstream have been considered. More scientific study is needed before requiring even "interim" hydrologic controls. It is questionable whether matching the 2 yr. post dev. peak flow, and volume with the pre-development peak flow is even possible. We suggest that we wait until outcome of SMC HCS is completed; and if necessary, the Permittees be allowed to develop an interim hydrologic criteria within 18 months of permit adoption.
116	Page 53, Part 5, E. III. 3. (F)	Interim hydromodification criteria: As described in the comments above, the proposed requirement to maintain pre-development peak flow, volume and duration is infeasible, particularly on tight soils (i.e., soil types 1, 2 and 3). Please provide relief for these situations.
117	Page 53 II.1 (e)(2)	"Numeric Hydromodification Mitigation Criteria" – This sub-section does not specify which storm event(s) (recurrence interval) must be evaluated to be in compliance with the permit. Please clarify.
118	Page 54 III. 3 (2)(A)(ii)	"Numeric Hydromodification Mitigation Criteria" – The interim Hydromodification criterion should only be applicable to projects that connect to unlined drainage systems. Hardened downstream conveyance systems have no potential for downstream erosion. Please exempt projects that drain to hardened downstream conveyance systems.
119	53-55 / Part 5 III. 1. (F) (3) (A) (B)	One of the difficulties in this NPDES section is determining the 2-year storm event. In the County of Ventura, rainfall intensity charts are based on 10-year, 25-year, 50-year, and 100-year storm events. Most design engineers and the public at large rely on the Watershed Protection District's rainfall intensity charts, which are provided for in the Hydrology Manual. The County of Ventura strongly recommends that the NPDES Permit storm events be based on available rainfall

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122		<p>data that is provided by Watershed Protection District and secondly that the appropriate rainfall storm intensity charts contained in its Hydrology Manual. Secondly, generating storm hydrographs for isolated watersheds less than 50 acres is not common land development engineering practice. Most designers will compare the Q10-year undeveloped flows with the Q10-year developed flows and design that the excess or difference in the flows be contained onsite and either percolated into the ground or allowed to discharge at the Q-10 undeveloped flow rates. County of Ventura highly recommends that a practical and common sense methodology is used that is more in line with what land development engineers provide local agencies for hydrologic and hydraulic review.</p> <p>The development of and implementation of Watershed Hydromodification Control Plans will be a lengthy, complex process. As written, Permittees must identify tributary classifications, flow rate and duration control methods, sub-watershed mitigation strategies, and any in-stream control, which will maintain the stream and tributary Erosion Potential at "1", unless an alternative value can be shown to be protective of the natural drainage systems from erosion, incision, and sedimentation that can occur as a result of flow increases from impervious surfaces. Six months is not enough time to secure consultant services, develop and implement the Plans. The time requirement for this provision should be changed from six months to at least one year.</p>
124	<p>Page 54, section E, III.2 (a)</p>	<p>The Draft Order requires each permittee shall require that during construction of a single-family hillside home, measures be taken to... Provide storm drain system stenciling and signage...</p> <p>Marking inlets at SFRs is not practical, they will likely be removed by the owners and there will be no realistic way to enforce this condition on patio pool deck drains after occupancy. This will create much work with little improvement in water quality. Please delete 1(a)(11) (iii).</p>
125	<p>p. 54, Part 5 E II 1 (a) (11) (iii)</p>	<p>On projects under 50 acres, this approach seems extremely difficult since the rainfall data is not readily available for the methodology proposed by the NPDES Permit. As previously noted, generating storm hydrographs for isolated watersheds less than 50 acres is not common land development engineering practice. Most designers will compare the Q10-year undeveloped flows with the Q10-year developed flows and design that the excess or difference in the flows be contained onsite and either percolated into the ground or allowed to discharge at the Q-10 undeveloped flow rates. The Q10-storm data is readily available in Ventura County by the Watershed Protection District Hydrology Manual, which is based on rainfall data in the County of Ventura. Please justify 50 acres as the limitation between small and large projects. Please provide definition or resources for "Goodness of fit criteria".</p>
126	<p>Page 55, III. 3 (e)(3)(B)</p>	<p>Reduction from 100,000 sq. ft. (current permit) to 5,000 sq. ft. (draft permit) is extreme and overly burdensome in that it will result in the conditioning of essentially every industrial and commercial development project for the design and implementation of treatment control BMPs. Please change the requirement to 43,560 SF or one acre for commercial and industrial developments. In addition, these conditions should apply to stand alone projects where the developer has control over the site to implement the treatment control BMPs.</p>
127	<p>Page 49, Part II, 1 (a)</p>	<p>Please identify the types of facilities by SIC and NAICS Codes as proposed, including SIC Code 5511, which is the only difference in SIC category between "automotive repair shops" as regulated under the current permit, and the proposed "automotive service facilities" in this draft permit. Please cross-reference definitions of automotive service facilities and automotive repair shop.</p>
128	<p>Page 49, II.1 (1)(a)</p>	<p>This condition should apply to stand alone projects where the developer has control over the site to implement the treatment controls.</p>
130	<p>Page 49, II.1(a),(2), (3)</p>	

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131	(4) & (5) Page 52, III 3. (a). 1. (A)	Erosion Potential maintained at 1 unless an alternative value is shown to be protective. This document provides a very general description of how to calculate Ep. Issues that need to be clarified for practical use is- if the project impacts a reach of the stream, how many points along the reach need to be evaluated? How many soil samples need to be obtained to characterize the average soil type? How far downstream do you need to evaluate? Streams with rip-rap channel protection would appear to be more stable than unprotected streams because the sideslope decreases the critical shear stress. Without specific studies on Ventura County streams showing how this would have affected our projects, this should not be implemented as an interim measure.
132	Page 54 Section E III 3 (a)(2)(A)ii	What is definition of 2-yr 24-hr storm? Is this related to a flow frequency analysis following Bulletin 17 b or does it refer to rainfall based on a rain gage analysis? To meet the requirements of the draft permit, the District may have to revise their methodology for developing design hydrographs. The current approach of using a modified rational method hydrograph with yield adjustment may not be suitable for sediment transport and hydromodification studies. The design hydrographs should be developed in conjunction with NPDES design volume requirements so that the methodologies are consistent with each other, is this the desired intent of this permit language?
133	Page 55, III.1.(c)(4)	SIC code 5812 used in the provision is outdated and no longer applicable. Please use the current NAIC codes.
135	Page 50, (c) (8)	Please use the current NAICS numbers instead of SIC.
136	Page 53, 3(A)1(D)II	Development of a deterministic or predictive relationship between changes in watershed impervious cover and stream-bed/ stream bank enlargement: It will be very difficult to achieve this objective because the factors associated with stream bed scour are so complex. Models are required to evaluate this
137	Page 54, Part 5 - III. 2 (b) (1) Page 54, Part 5, III. 2 (A) (ii)	Hydrodynamic models can be continuously developed and improved and the selection should not be limited to public domain models. Please allow for other models to be used. The requirement for developers with projects over 50ac to use HSPF or SWMM to evaluate their water quality impacts appears to be driven by water quality issues. HSPF is a continuous model that cannot be used to evaluate design storm runoff due to development without extensive work to develop a methodology for this. The use of these models requires complex modeling and data gathering efforts. There are only a few consultants in the County that currently have this modeling capability. The Watershed Protection District does not currently have enough expertise to do a thorough review of these models and would need ample time to develop it. Please explain exactly what goals are to be achieved through the use of these models and provide alternatives or the flexibility for them to be developed if there are less cumbersome ways to achieve them.
138	Page 56, IV	This section penalizes high-density, low impact urban redevelopment projects. Smart growth, in itself, is a best management practice. The desired goal should be to reward increased density, and discourage sprawl. This is not consistent with other sections of the permit that encourage low impact development. Please rectify this inconsistency.
140	Page 59, III.4.(c)	Asphalt and roadway surfaces have a limited service life and maintenance is a continuous, routine and ongoing effort to rehabilitate the surface as it weathers and ages. Rehabilitation projects overlay an existing road footprint and do not disturb additional area or natural earth. Further these projects are considered Categorical Exempt under CEQA and Categorical Excluded under NEPA. To require a higher standard for projects in the County of Ventura is an additional and unfunded requirement not anticipated by Congress when they approved the Clean Water Act or related amendments.
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		Performing this ongoing maintenance does not present the opportunity to redirect flows to treatment with out changing line and grade. Please clarify the requirements on road replacement.
142	Page 51, II. 2. (c)	Are structures built as accessory to single family dwelling also exempt from redevelopment requirements? Those would include agricultural structures, detached garages and workshops, pool houses, etc. It should read as (d) "Existing single-family dwellings and accessory structures thereto are exempt from the Redevelopment Requirements."
143	Page 56, Part IV, 1. (a)	Water quality control BMPs must be adequately maintained if they are to provide long-term water quality protection. Projects need to develop and implement a long-term operation and maintenance plan for water quality protection BMPs. Please change to: "...provide an operation and maintenance plan and verification of ongoing maintenance provisions for Structural and Treatment Control BMPs..."
144	Page 56, IV. 1. (a)	Operation and Maintenance plans for post construction BMPs should be required. Please create a "(b)" section stating: Each Permittee shall require all development projects subject to post-construction BMP requirements to provide a plan for the operation and maintenance of all structural and treatment controls. The Operation and Maintenance plan shall follow the Technical Guidance Manual Appendix D "Maintenance Plan Guidance" (or subsequent guidance manual) for each BMP component. The plan shall be submitted for examination of relevance to keeping the BMPs in proper working order. Where BMPs are transferred to permittee for ownership and maintenance, the plan shall also include all relevant costs for upkeep of BMPs in the transfer. Operation and Maintenance plans for private BMPs shall be kept on site for periodic review by permittee inspectors.
145	Page 56, IV. 1. (a) (1) (A)	Please clarify who the signed statement is submitted to and when it is submitted.
	P. 58, Part 5 E IV. 3.(a)(1)	"If the permitting authorities' inspection does not readily identify the implementation of post construction BMPs ineffective at the site, progressive enforcement action will be initiated against the Permittee and/or project owner/developer."
	(Inadequate or Ineffective Post-Construction BMPs)	Please clarify that this means the State General Construction Permit "Permittee" and not the MS4 Permittee. Also, please clarify what is the baseline or standards and what expertise will be used to determine adequate and effective BMPs.
146	Page 58, Part 5, E. IV. 3. (A)	The Draft Order states "The Regional Water Board, State Water Board, or U.S. EPA may include the following actions for coordination of the Permittees' program with the postconstruction BMP provisions of the statewide construction activity storm water general permit or individual construction activity storm water permits..." The intent of this section seems to be to make the developer and/or municipality responsible for the lack of direction and oversight by the State at development sites. The Regional Board has the ability to comment on CEQA documents, as do the municipalities, and the Regional Board receives much of the same documentation from the developers as the process unfolds and are able to comment on the appropriateness of post-construction BMPs, as do the municipalities. The time to make comments about the adequacy of these devices is early in the process. Please justify the need for this statement.
147	Page 58, IV	Please provide a list or reference of approved devices.
148	6.(b)(2) 3. (C)	
149	Page 58,	To be "fiscally sustainable" means that sufficient funding must be collected in advance of construction to ensure that

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151	section IV. 4	<p>maintenance expenses will be funded from the interest of unspent funds in the mitigation bank. Please provide a provision that mandates the source of sufficient funding to support perpetual maintenance needs.</p> <p>Please provide additional information regarding this entire section, particularly the discussion of funding and waivers. It is unclear if the RWQCB would allow the use of mitigation funding to explore larger scale water quality projects without delaying development projects until mitigation site was effective. Many watershed and non-profit groups are already conducting planning for water quality projects. Please describe how the RWQCB envisions coordination with these groups. Also, the "waiver for impracticability" must be defined and guidelines must be developed for its implementation.</p>
153	Page 57, IV. 2. (c)	<p>This provision should apply only for City-owned BMPs. Private entities are required to have operation and maintenance plans and report annually on them. Please change the language to reflect this.</p>
154	Page 57-61 Part 5 - IV 2. (a) (1) (B)	<p>Please provide rationale on why are we tracking and reporting State WQID numbers in the required electronic tracking system, it is unnecessary and not applicable for projects in post construction.</p>
155	Page 60, Part 5 - E.1. V. 6 (a) (1) Developer Technical Guidance Info.	<p>The nature of the County's hydrology method is to assume saturation and consequent runoff varies over the course of a significant rain event. The first-day runoff is 10% of the 4th day runoff. This begs the question, under which day of the storm are we to consider the hydromodification effects? Please provide clarification and rationale for this criteria.</p>
156	Page 61, IV. 6. (a) (2)	<p>Please change to: (International BMP database, technical reports, and scientific literature, appropriate for Southern California geography and climate.)</p>
157	Page 60, IV. 7. (a)(1)	<p>Please provide resources of local data required for pollutant removal effectiveness.</p>
158	Page 60, Part 5 - E. IV. 7. (a)(2)	<p>An MOU is an unnecessary and inappropriate mechanism to delineate authority within a municipal organization. Please delete this requirement.</p>
160	Page 60, Part 5, E. IV. 1 (a)	<p>Imposition of these thresholds as environmental issues results in inconsistencies between CEQA and this Draft Order. The result will be the elimination of Categorical Exemptions under CEQA. Furthermore, these thresholds do not distinguish between ministerial versus discretionary projects. Please rectify these inconsistencies.</p>
161	Page 60, Part 5, E. V. 1 (a)	<p>This requirement is in direct conflict with many classes of categorical exemptions as provided for in the California Environmental Quality Act (CEQA), as it would require consideration and mitigation of "potential" storm water quality impacts for small projects that do not currently require such mitigation because they are not considered to have a significant effect on the environment. As proposed, this requirement would significantly extend the time necessary for permit processing, add to the applicant's costs to obtain a permit and inspection, and increase all such project's exposure to CEQA legal challenges. This section should therefore be revised to reflect existing CEQA legislation.</p>
162	Page 61, Part 5, E. V. 2.	<p>State law governs General Plan amendments and the obligations imposed on cities. If this is to be imposed, it should be done through legislative adoption. Please provide the legal justification for this requirement.</p>
163	Page 61, Part 5, E. V. 2. (a)	<p>State Planning Law already requires that Conservation Elements address the conservation of natural resources, including "water and its hydraulic force", and that Open Space Elements identify strategies to preserve open space land, with corresponding benefits to water quality and quantity. Each general plan element must also carry equal weight and be</p>

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164	Page 61, Part 5, E. V. 2. (b)	internally consistent. It is therefore redundant to require storm water quality and quantity management considerations in Housing and Land Use Elements. Please rectify these requirements with existing State Planning Law. General Plan updates are already provided to the State Clearinghouse for distribution to related agencies such as the Regional Board, therefore it appears redundant to send additional copies directly to the Regional Board. Please delete this requirement.
165	Page 61, Part 5 - F.	Recommend the following revision to the opening paragraph for the Development Construction Program: "Sediment losses due to erosion may occur on construction projects that are unpermitted or on permitted projects that have minimal erosion protection. Sedimentation and siltation discharges from these sites may impact the beneficial uses of downstream watercourses and may detrimentally impact biological systems and water quality. The use and implementation of proper BMPs and the issuance of a building permit and/or grading permit from the local agency with proper inspection has been found to be the most effective at minimizing sedimentation and siltation discharges that may adversely impact downstream watercourses. For these reasons the following recommendations are proposed for a local agency to incorporate with active land development construction projects."
166	Page 61, Part 5 - F. 1. (a)	Active sites with properly designed and constructed detention basins will effectively have no discharge and should be exempted from this requirement. Please exempt sites with properly designed and constructed detention basins.
167	Page 63, Part 5 - F. 2. (a)	The Draft Order states "Where the Erosivity Factor (R) for the construction project is 50 or greater, erosion controls (erosion avoidance) will be the preferred BMP. This requirement is a burden on small projects that are less than one acre. This is not a common calculation and it is not used historically on any grading permit projects in the unincorporated County areas. Please allow an exemption for projects under one acre."
168	Page 63, Part 5, F. 2(a), 3(a), 4(a)	These sections require the implementation of the BMPs in Tables 6 through 8, however those table list duplicative BMPs designed to solve the same problems (e.g. six erosion control measures in Table 7). It is not intended that all these BMPs be used concurrently. Please change each section to read: "Each Permittee shall require the implementation of an effective combination of the following BMPs . . ."
169	Page 61, F 1(a)	Please modify the sentence to read, "... construction activity at all construction sites requiring a grading permit within its jurisdiction."
170	Page 63, F. 2(a)	Please include the erosivity factor "R" method of calculation as an attachment to the permit document.
171	Page 63, Part 4 - F. 3. (a)	Recommend revising the wording to read: "Depending on the project type and area, the applicant shall implement the appropriate Erosion and Sediment BMPs listed in Tables 6 and 7."
172	Page 63, Table 6	Many BMP's list suggestions and/or recommendations as part of the BMP, but do not make them mandatory. Please clarify if the suggestions and recommendations in the BMP are to be considered mandatory for compliance with the permit.
173	Page 65, Part 5 - F. 4. (a)	Recommend revising the wording to read: "Depending on the project type and area, the applicant shall implement the appropriate Erosion and Sediment BMPs listed in Tables 6, 7, and 8."
174	Page 67, section 6. (a).	This provision restricts paving and repaving activity to exclude periods of rainfall or predicted rainfall. Please define the percent likelihood criteria of predicted rainfall, e.g., "a 60% chance of rain."

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(1)	<p>Page 66, Part 5 - F. 5. (a) (2) (B)</p> <p>Page 67, Part 5 - F. 6. (a) (8)</p> <p>Page 67, Part 5 - F. 7.</p> <p>Page 68, Part 5 - F. 8. (d)</p> <p>Page 69, Part 5 - F. 9. (a) (1)</p> <p>P. 71, Part 5 - G. 1. (c)</p> <p>Page 71, Part 5, G. 1.</p>	<p>Recommend deletion of (i), (ii), and (iii). All that is needed is "(B) The Local SWPPP or SWPPP shall be signed by the property owner or owner's representative/designee. If the Local SWPPP or SWPPP is being prepared by the Local Agency then the appropriate authority for the Local Agency shall sign the document."</p> <p>Please clarify with the following revision: "Cover the stockpiled "cold-mix" asphalt..."</p> <p>Many local agencies may have a non-electronic permit tracking system that is just as effective as an electronic one. The data contained in such systems may have confidential information in it and privacy laws may apply limiting or excluding public access. Please explain the intent of requiring such a system on the local agency or delete the requirement for an Electronic Site Tracking System.</p> <p>During the building process, post construction BMPs may be exposed to some of the worst runoff they will encounter. No post construction BMP will be accepted as constructed in compliance with specifications unless it is cleaned and operational. This initial inspection must include an operation and maintenance inspection. Please strike the last sentence from this section.</p> <p>To avoid delays in the construction process while waiting for the State to respond to an NOI, permittees would prefer if proof of application for the CAGSP for construction activities was required instead of coverage. Any projects that have not filed for under the CAGSP would be subject to Part 4 F. 10. (b) and therefore be referred to the Regional Board. Please change to: "Proof of application for coverage under a State NPDES permit..."</p> <p>"Each Permittee shall implement and comply with the Development Planning Program requirements in part 4, E, and Development Construction Program requirements in part 4, F..."</p> <p>Only public improvement projects that individually disturb 1 acre or more of land and that change line, grade, or capacity of the facility should be subject to the hydromodification, LID, and post construction treatment requirements and requirements for coverage under the CAGSP. Please reword this section as such.</p> <p>The Draft Order also requires Permittees to "implement and comply with the Planning and Land Development Program requirements in Part 5.E of this Order at all Permittee owned or operated public construction projects." The permittees understand that large projects meeting the criteria for the Land Development Planning requirements should be designed appropriately (e.g. a new library or public parking structure). However, applying this requirement to all Permittee owned or operated public construction projects does not take into consideration the realities of how small are most public construction projects.</p> <p>Post construction BMPs and limiting effective imperviousness on a new traffic signal or a wheelchair access curb ramp is highly impracticable and of little benefit to water quality since these improvements do not generate additional pollutants. These projects take place on existing streets in existing neighborhoods that provide little area for post construction BMPs. Drinking water or sewer line upgrades where soil and pavement are being disturbed to perform the activity have little practicable opportunity in the middle of a street to retrofit infiltration devices and post-construction BMPs. This example also demonstrates a lack of parity because this requirement is only for Permittee owned facilities and does not apply to private water companies or other wastewater districts.</p> <p>The Draft Order should require the Permittees to meet the same permit requirements as those imposed on other (non-</p>
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		permitted) public agencies and private companies. Please revise the draft permit language so that only public projects that are identified as meeting the criteria listed in the Planning and Land Development Program requirements in Part 5.E are required to comply with that section.
182	Page 73, Part 5 - G. 2. (b)	Requirement for coverage under CASGP for construction activities "does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility." Long-term maintenance activities are not required by the SWRCB to get coverage under the CASGP for construction activities and that should not be required under this permit. Furthermore, Permits are issued for specific projects at specific locations, and can't be issued if ".1 or more acres of land are disturbed.... cumulatively as part of several projects involving a soil disturbance". "Several projects" could include many locations over an extended period of time. The language from the SWRCB is clear and this requirement should be removed from the permit.
183	Page 94, (Definitions) Construction	Definition needs to be clarified. Clearing weeds for fire abatement or in channels to maintain hydraulic capacity is not considered a construction activity under the CASGP which excludes projects that are performed to maintain or restore original line, grade or capacity. Please keep this definition in line with the state definition of what is required to obtain a CASGP.
184	Page 71, Part 5 - G. 2	Permittees would prefer to maintain flexibility in BMP selection from other sources than the Caltrans Stormwater Quality Handbook. Please allow for other sources of BMPs, and please title the BMP Tables.
185	Page 74, Part 5 - G. 4. (a) (5)	It is beyond the scope of the Permittees' authority to require any public agencies not named in this permit to comply with any section of this permit. This requirement should be removed from the permit.
186	Page 75, Part 5 - G. 5. (a)(1)	This provision is in conflict with the provision on page 78, section (e) (1) to install catch basin excluders on all storm drain inlets. If five-millimeter trash excluders are placed over all inlets, trash and debris will not enter, and the inlets will not need cleaning on an increased basis. Requiring additional catch basin cleaning under these circumstances would divert financial resources away from other BMPs that could have a more positive impact on water quality. Delete the provision for prioritization of catch basin cleaning. Notwithstanding, any catch basin cleaning requirement should be to inspect and clean if necessary.
187	Page 75, Part 5 - G. 5. (a)(3)	Please revise as follows: "...Permittees shall ensure that any catch basin that is found to be 25% full of trash and debris shall be cleaned out."
188	Page 76, section (b) (1) (D)	The five-millimeter trash excluders will stop all litter from entering the storm drain. Please rectify the cleaning of catch basins after public events with the trash excluders requirement.
189	Page 76, Part 5 - G. 5 (c)	Trash receptacles at all transit stops and schools: Six months is insufficient time to accomplish this requirement. Locations must be determined, specifications must be developed, the project must be bid, etc. We request one year to implement this requirement.
190	p. 76, Part 5 - G. 5. (c) Public Agency Activities - Trash	Trash receptacles for schools should be the school's responsibility and included in their NPDES permits. Also, as noted, a trash TMDL is being written for the 303 (d) listed waterbodies in Ventura County with expected adoption by the end of 2007. This requirement should be placed on hold pending the outcome and solutions required in the trash TMDL. Other stakeholders, such as school districts, will be listed in the Trash TMDL.

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191	<p>Receptacles Page 76, Part 5 - G. 5 (e)</p>	<p>A trash TMDL is being written for all the waterbodies impaired for trash in Ventura County (Beardsley Wash and Revolon Slough reaches of Calleguas Creek, and the Ventura River Estuary) with expected adoption by the end of 2007. Any requirement for trash excluders should be placed on hold pending the outcome and solutions required in the trash TMDL. Current TMDL work is being conducted, including monitoring of these areas to come up with the best solution to solve the problem. Only the watersheds that have been listed as impaired for trash on the 303(d) list of impaired waterbodies should have specific trash requirements. Those requirements should be made through the TMDL process and the method of compliance determined in the implementation plan.</p> <p>Regional Board staff, through the trash TMDL process, has defined the size of "trash" as five-millimeters to Ventura County Permittees. Existing catch basin inlets have been engineered to accommodate the projected flows within a defined drainage area. If five-millimeter excluders are placed in front of the inlets they will reduce stormwater flows into the inlets, causing extensive localized property damage and unsafe conditions on public streets. To protect public safety and private property from flooding, and the Regional Board from liability this requirement should be removed.</p> <p>Installation costs have ranged from approximately \$1,000 to \$3,000 per inlet. Countywide, Ventura County Co-Permittees have 10,000 to 15,000 storm drain inlets. Capital costs to implement this provision could range in the tens of millions for the Ventura County Co-permittees. These costs do not include annual maintenance, cleaning, replacement costs of damaged excluders, and emergency responses during storm events. Permittees' limited funding should be better focused on Ventura County's pollutants of concern, of which trash is not one.</p> <p>The language in the permit "commercial areas, industrial areas, and near educational institutions (i.e. areas subject to high trash generation)" assumes all commercial and industrial zoned areas have high trash generation. That is not true. The language board staff used to describe this section at the Board workshop: "areas subject to high trash generation (commercial areas, industrial areas, and near educational institutions)". would allow permittees to prioritize areas appropriately. Notwithstanding, it will be likely impossible to financially and physically meet this requirement in 365 days. Please allow the TMDL process underway to address the impaired waterbodies.</p>
192	<p>Page 76, Part 5 - G. 5. (f)(1) (D)</p>	<p>This provision requires the quantification of the amount of materials removed during open channel maintenance using "standard measures". The term standard measures may imply that each truck load of sediment, tumbleweeds, or other debris will be weighed. Most jurisdictions do not have weigh scales for trucks, nor would it be a cost-efficient or a beneficial action to improve water quality. Current practice has been to use "best estimates" based on what a typical hauling vehicle carries, visually determining the proportion of the vehicle filled, and the number of truck trips. Delete "...standard measures" and replace with "best estimate".</p>
193	<p>Page 77, Part 5 - G. 5. (h)(3)</p>	<p>"Any residual water within a treatment control BMP when being maintained shall be...". Some treatment control devices or BMPs are meant to keep a certain level of residual water to function properly. Additionally, some areas, especially those with high water tables, may have a constant, albeit low, flow entering the device. It would not be possible to constantly remove the incoming water. Please delete this requirement or rewrite addressing the design and inputs to the BMP.</p>
194	<p>Page 77,</p>	<p>Please cite the source of these numeric limitations and the rationale for applying them.</p>

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195	Part 5 - G. 5. (h) Table 10 Page 78, Part 5 - G. 7. (a)	Coverage under the CASGP for construction activities should not be required for projects that are performed to maintain or restore original line, grade or capacity. Please justify how roadside maintenance "vegetation removal" would be covered under the CASGP for construction activities. This requirement needs to be removed or revised.
196	Page 79, section 9	This section does not take into account the variety of common water system leaks associated with aging infrastructure. Emergency leaks occur on aging water service pipes and distribution system pipelines and are common to all water systems. The enormous quantity of these types of repairs throughout California will generate immense self-waiver reporting submittals beyond the Regional Board's ability to keep track of the files. Please delete this provision.
197	page 82, Part 5 - G. 9.	In the wake of an emergency a large effort will be put forth to return life to normal. Please allow for a longer time period to document water quality impacts in the aftermath of an emergency, 30 calendar days would be preferred.
198	Page 79, section 10	This provision requires the training of employees and contractors within six months of the permit adoption. Current practice is to train employees once each fiscal year. Requiring training within six months, and then annually thereafter, will reset the training year six months away from the permit year. This will complicate reporting and lead to confusion. Please delete "6 months from permit adoption" and replace with "12 months of permit adoption."
199	Page 80, section H. 1. (b) Page 80, Part 5, H. 3. (a) (1) (A)	This provision requires the Permittees to "...map at a scale...incidents illicit connections and discharges on their baseline maps. Please clarify the time period of illicit discharges and connections to be mapped. Permittees can only be responsible for infrastructure under their control. Please change to: "A GIS layer showing the location and length of Permittee-owned underground storm drain pipes...."
200	Page 83, 3. (a) (1) (A)	This provision also requires the Permittees to submit a GIS layer of the Co-permittees' storm drain system. It is highly unlikely that different GIS systems will speak to each other. Each jurisdiction has a separate, stand alone system. To be effective, the GIS storm drain system must reside within the local jurisdictions GIS system, not the Principal Permittee's. Please rewrite this to: "...A hardcopy of the co-permittees GIS layer..." This requires that a GIS database be created showing every drainpipe in Ventura County over 18". It also requires showing all of our channels within the county on a GIS database. There are over 500 miles of channels (roadside ditches) in Ventura County, some of these are partially owned and maintained by the adjacent property owner. There are also numerous drainage pipes and channels in the unincorporated area that were not accepted by the Board of Supervisors when offered by the developer, and therefore not owned and operated by a Permittee. There are public drainage easements for them, but they are not the responsibility of a Permittee to maintain or repair. This action was consistent with the California Subdivision Map Act, and the authority of the Board to accept or to reject public improvements. It is not clear whether these pipes would be counted or not, or who would be assigned the responsibility for NPDES compliance in these areas. Please provide clarification that is to apply to drainage systems wholly owned by the permittees.
201	Page 80, 3.(a)(1)(B)	This provision requires Permittees to notify the Principal Permittee of the status of suspected, confirmed, and terminated illicit connections. This action does not improve water quality. The Principal Permittee is not an enforcement arm of the Regional Board, please justify the need for this reporting requirement or delete.
202	Page 80, Part 5 - H. 3. (a) (2)	Field screening was performed by Permittees during the term of the first permit and was determined to be an inefficient use of resources considering the time spent and the limited number of illicit connection discovered. This requirement

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		should be removed from the permit. Please provide the justification for requiring an even more rigorous field screening program during the third permit cycle.
204	Page 81, Part 5 - H, 4. (a)	The Draft Order states illicit discharge investigation: "... shall take formal enforcement action to eliminate the illegal discharge." Enforcement actions may only be taken when we know, without a doubt, who the responsible party is. This isn't known in many cases. Furthermore, formal enforcement actions aren't necessary to resolve most illicit discharge incidents. Permittees should be allowed some discretion in code enforcement situations. This requirement should be deleted.
205	Page 82 Section 1.1	Clarification requested: Is form due 6 months from date of permit adoption?
206	Page 82, Part 5 - H, 4. (b)	In many cases of illicit discharges, even with immediate response, the action and discharge have ceased by the time inspectors arrive on scene. Often the discharge has entered into the MS4 making containment and cleanup an extraordinary effort only necessary in the cases of hazardous materials. Please change to: "... with action to abate, contain, and or clean up all illegal discharges, including hazardous waste."
207	Page 83, Part 6 -	All TMDL language in the Ventura MS4 permit should reference or quote the language in the adopted TMDLs and related adopted Monitoring Plans. The TMDLs that have been developed in Ventura County underwent significant technical analysis, stakeholder input, and public review to develop wasteload allocations and implementation actions that will result in compliance with water quality objectives for the listed pollutants. The TMDLs also lay out direction for how to implement the TMDL provisions into NPDES permits. Rather than following the direction of the TMDL and including identified implementation actions, the Draft Order includes numerous additional requirements and does not appropriately capture the intent of the TMDL. The Draft Order needs to be consistent with the TMDLs to allow for effective implementation of TMDL requirements and to prevent confusion and additional costs for programs that have not been evaluated as part of the TMDL process and may not be effective for implementing the program.
208	TMDL Page 83, Part 6 - Issue	There are additional requirements under the TMDL provisions that go beyond approved implementation plans developed by responsible parties. This process is not prescribed in the TMDL nor a part of the implementation plans. Additionally, requiring addition monitoring for the TMDLs undermines the collaborative watershed process. Other responsible parties will be disinclined to participate or contribute if the monitoring responsibility is required of another party. Please remove all prescriptive TMDL language and allow the stakeholders as a group to guide the process.
211	Page 80, H 1. 3. (a) (i)	The Draft Order states "All portions of the storm drain system consisting of storm drain pipes and open channels/ drains 12 inches in diameter or greater within 5 years after the adoption of this Order." Please define what size open channel. Additionally, field screening procedures in the reference document apply to waters of the U.S.; please clarify if this is the State's interpretation.
212	Page 92, (Definitions) Areas subject to storm water mitigation	Areas Subject to Storm Water Mitigation Requirements: This definition is in conflict with the stated requirements. California Resources Agency was asked to participate in identifying areas subject to ESA and gave no response. Regardless, this term is not used elsewhere in the permit, please remove.
214	Page 95, Part 8 - (Definitions)	"Development - means any construction rehab. redevelopment or reconstruction of any public or private residential projects (whether single-family, multi-unit or planned unit dev.); industrial, commercial, retail and any other non-residential projects, including public agency projects; or mass grading for future construction."

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		Requiring these conditions on small home improvement projects is excessive and does not provide relief for the hardship of rebuilding a home after a fire or other catastrophe. Please provide a single family exclusion or redefine development project to exclude single family residences.
215	Page 94, (Definitions) Page 95, (Definitions)	Dechlorinated/Debrominated Swimming Pool Discharge: "The term does not includeswimming pool water containing bacteria." Does this mean any type of bacteria, at any concentration? This definition needs substantial revision. Discharge of a Pollutant. Please define the meaning of "conveyance" in the context of this permit.
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217	Page 95, (Definitions)	Disturbed Area: ".ect..." does not belong in a definition. Please clarify.
218	Page 96, Definitions	Environmentally Sensitive Areas: Need to limit the RARE areas to "unimproved drainage systems" or "Natural Drainage Systems" (as defined in the permit) so that we don't have concrete channels designated as an ESA.
219	Page 97, Part 8 (Definitions)	"Horse Stable" – Please exclude single-family residences from this definition.
220	Page 101, (Definitions) Page 101, Part 8 – (Definitions)	The Definition of "Open Channel" is not clear: "Open Channel means a storm drain channel that is not a natural water course." This definition would include underground box (enclosed) channels. Please revise this definition. "Permittee" – line three should be corrected to read "...include the Ventura County Watershed Protection District..."
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222	Page 101, (Definitions)	Point Zero: Please clarify "...the point at which water from the storm drain or creek initially mixes with water."
223	Page 117, (Definitions)	"Watercourse" Please remove references to VCFCD and change to VCWPD.
224	Page 108, section B, 1 (a)	Some items may necessitate review and/or approval by a local governing body to authorize a petition. This local action may consume more than 30 days, not counting time spent for staff and legal review. Please change to 60 days for petition.
225	Page 109 F.1	Please explain who are the "authorized representatives".
226	Page 114, Part 9 - I	"MS4 Annual Reporting Program" Including this language in the Standard Provisions will lead to confusion and potential conflict with the requirements of the monitoring and reporting program -- Please reword or delete.
227	Page A-4 Page F-1, section A.1.(a)	Delete Promenade Park Beach and San Buenaventura Beach from the Water Bodies column. They are not 303(d) listed. After several attempts to overcome the obstacles we have determined there are no suitable sites to measure flow and safely sample the Santa Clara River below Freeman diversion. The option of additional sites capturing Ventura and Oxnard is possible, but please reduce to 30% or multiple sites will be required for Ventura effectively tripling the costs to the program with providing little more information.
229		Sampling only first three hours of an event does not accurately measure mass emissions. This deviates from past sampling protocols, in which flow-weighted composites were collected for the duration of the storm. If the purpose of past sampling was to establish baseline conditions, this new protocol will obscure deviations from that baseline. (Some constituents do not peak in concentration until later in storms.) Furthermore, it is unclear how the Program will mix time
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231	Page F-4, B. 2. (a)	and flow requirements. Given the way runoff is generated in many watersheds in Ventura County, automatic samplers will be sampling almost non-stop for the first three hours of the storm, especially if QA/QC and flow-weighted toxicity samples are required. Please review this language and confirm that only the first three hours of a storm should be sampled. Using marine species to test toxicity of fresh water presents the opportunity for bias. The Ventura County Watershed Protection District has raised its concerns with the selection of marine test species for the chronic toxicity test organism in several annual report response letters, and during permit negotiations. Our concern in using a marine species in a fresh water sample is the samples requires the addition of salts and aeration to sustain the marine test organisms. This practice may bias the test and introduce a possible source of toxicity. The test species <i>Menidia beryllina</i> (silverside minnow) has been historically used in our NPDES Stormwater toxicity monitoring program. Unlike the <i>Strongylocentrotus purpuratus</i> (sea urchin), minnows are abundant and available to the testing laboratories. We have had several aborted toxicity tests due the analyzing laboratory not being able to obtain the urchin test organism or they failed to spawn.
232	Page F-4, B. 3. Issue: Page F-6, section C	The language used to describe need for TIE is confusing. In the past, toxicity units (TUa or TUc) above 1 triggered a TIE. It is unclear what is meant by "showing 90 percent or more toxicity." Does this mean when the survival rate drops below 90 percent? Or does it mean 100 percent minus the LC50? Please explain further what will trigger a TIE. The Principal Permittee is not required to perform TMDL monitoring under the adopted TMDLs. Clarify that the monitoring is to be performed by the responsible parties for the respective TMDLs. Furthermore, requiring only one of the parties named in the TMDL to do specific monitoring, or that one party do additional monitoring could upset the collaborative process that has been exemplarily in Ventura County.
233	MRP Page F 13 of 20 D.1.	Special Study D.1. The Principal Permittee and Permittees shall implement a trash and debris study for the following areas: (a) Channel Island Waterfront. (b) Ormond Wetland/ Lagoon/ Beach
235		We need clarification on what is meant by Channel Island Waterfront, as well as the spatial extent of Ormond wetland / lagoon / beach. Additionally, there are jurisdictional issues with studying trash in wetland areas not owned by the City of Oxnard, and there are limitations on when and how trash is collected in areas of endangered species. We suggest changing the language to study trash from the Oxnard Industrial Drain. Please also clarify what is meant by debris. While used interchangeably with trash in the monitoring and reporting program, it also means: EPA: Any solid material exceeding a 60 mm particle size that is intended for disposal and that is a manufactured object, or plant or animal matter, or natural geologic material NOAA: Solid objects or masses carried by or floating on the surface of moving water Others: Scattered, old remains of plants and animals. Underwater, debris found on the bottom may include leaf and stem parts, old mussel shells, sticks, etc.
236	Page F-13, D. 1 (b)	"Ormond Wetland/ Lagoon" – needs to be defined (February 1, 2003, Comments on the Draft Strategy for Developing TMDLs and Attaining Water Quality Standards in the Los Angeles Region; December 24, 2003, Ormond Wetlands meeting summary; August 10, 2004, 2004 Triennial Review comments; February 9, 2005, 2004 Triennial Review comments follow-up).
237	Page F-14,	Please avoid redundant monitoring programs. Where monitoring activities required by the order overlap with TMDL

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238	E. 1. Page F-14, E.1 Page F-18, Section J 6. (b)	requirements, the two programs should be allowed to coordinate. Specifically, the special study required under the Calleguas Creek Toxicity TMDL to investigate the pesticides that will be used to replace diazinon and chlorpyrifos could be used to meet the requirements of the pyrethroid special study. Notwithstanding our objection to the Pyrethroid monitoring, its methods need clarification. Please review this sampling protocol or provide references on how to determine appropriate time to sample sediment after a rain event? An additional certification requirement on commercial laboratories above and beyond the California Laboratory Accreditation Program seems beyond the scope of the permit. The California Laboratory Accreditation Program certifies analytical laboratories for environmental analysis, and limiting the number of competing labs to those in the "intercalibration study" is creating a new accreditation program. It is also currently impossible to do for some constituents because the intercalibration study has not been developed for all the analysis required in this draft. At a minimum, a six month window should be available for laboratories currently used to participate in the study.
239	General Monitoring	Most analytical laboratories typically observe the three major holidays; Thanksgiving Day, Christmas Eve and Day, and New Years Eve and Day. During the holiday season, sample delivery as well as available staff have been and are problematic. Missed holding times due to lab closure compromise data completeness and will be considered circumstance beyond our control. To avoid this we are requesting the addition of three black-out dates for monitoring: November 22, 2007, December 24-25, 2007, and Dec 31, 2007 -January 1, 2008.
240	Deadline for annual report (Part 8 T) and (Attachment H)	Two deadlines for the annual report are given, one the anniversary date of issuance (Part 8 T) and the other December 15th (Attachment H). No matter which date is correct, adequate time to compile the requisite information after the end of the permit year will be needed. We request a deadline six months after the end of the permit year.
241	Page H-1 Part 8 T	The reporting section is in a poorly designed format. This will increase staff time, for both the RWQCB and permittees, with little or no improvement in water quality. We would prefer to keep more to the current reporting format. Please change or provide an explanation for this new unique reporting format.
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243	Page H-4 Part 2 (a) (b)	The reporting section does not reflect all the changes made in the body of the permit from the first draft, please amend. "prohibited all non-storm discharges" -Instead of just asking whether all non-storm discharges were prohibited, it should include language about non-storm discharges for which Permittees have authority to prohibit. Also, does prohibit. Please clarify if this means we implement ordinances prohibiting it or does it mean actually only storm water is allowed to enter the system. If it means the latter, the question is inappropriate since we know everyone will have to respond with a no.
244		"General Requirements" there is no information provided under this section.
245	Page H-5 Section A	"swimming pool discharges? If yes" -- the sentence ends here and it looks like a portion is missing.
246	Page H-6, Part 2 (j)	Sentence is written poorly (parenthesis not closed) . Please re-write.
247	Page H-18 3(a)	"An adjustment factor for within hour rainfall variability" Please explain what this is asking for.
248	Page H-18, 3. the 2nd (c)	
249	H-19-20	Some of these are questions where they look like they should be something else. Please clarify if whether we are to have

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7. (a-h) these on file or are these supposed to be attached.

General Errors, Typos, and Omissions	
Reference	Correction
P.19 (Findings – Implementation)	Typo on 12 th line – weather should be whether
Page 20	Add period at end of the last sentence.
F5	
Page 17 #22	Missing quotation mark at end of sentence ... "Statement of Policy with Respect to Maintaining High Quality Waters in California"
Page 25	Lower case "In" (as defined in Cal. Water Code...)
Part 1, A.1	There needs to be a space between numbers 2 and 3.
Page 29	
Part 3, 2&3	Delete plural "Each Permittee shall:"
Page 34	
Part 4, F.1	Space between b (Public Reporting) and c (Outreach and Education).
Page 36	
Part 5, C.(I).1	Space needed between "New Development" and "Non-Storm Water Discharge"
b & c	
Page 100	
Definitions	
Page 101	Period needed at end of "Open Channel".
Definitions	Question: Is there more to this sentence?
Page 109	There should be a space between D.1 and D.2
D.1 & D.2	
Page B-1 thru B-3	Multiple tables labeled B1
	"Cooper" should be "Copper"
Page i in the Reporting section H	The Table of Contents is incomplete or pages are missing.
Page H-1	Top sentence, replace "2007" with "2008"
Page H-4	
Part 2 (i)	Sentence seems incomplete and is written poorly.
Page H-5 Part 3	Missing "Part 3" designation before "Storm Water Quality Management Program Implementation"

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Page H-5 Part 3 B. 3	"By what date certain" Remove the word "certain"
Page H-18 E 3. (a)	"Ho" should read "How"
Page H-20 E 7. (e) and (g)	#7 (e) and (g) are the same, delete (g)
Page H-20 E 10. (b)	"Does include the following" insert "it" "the electronic tracking system" between "Does" and "include"
Page H-8 Outreach & Education	There should be a space between last bullet point of (1) and (2) There should be a space between (4) and (5)
Page H-9 Outreach 8 Education	Number (7) is missing. There should be a space between (8) and (9)
Page H-9 C.1(a)	Missing a closed parenthesis.
Page H-19 5.a(2)	Numbering is off.
Page H-20 8(b)	Please complete the sentence.
Page H-21 Section 12	Insert "-" between "Inter-Department"
Page H-24 5(b)	Insert "?" at end of the sentence.
Page H-24 F.1(d) and (e)	Remove space between (d) and (e).
Page H-25 3(a)	Remove space between 3 and 3(a).

ATTACHMENT D
VENTURA COUNTYWIDE PROGRAM "ISSUE PAPERS" (ALTERNATIVE APPROACHES) ON THE VENTURA COUNTY MUNICIPAL SEPARATE STORM SEWER SYSTEM PERMIT (NPDES NO. CAS004002) FOR THE VENTURA COUNTY WATERSHED PROTECTION DISTRICT, COUNTY OF VENTURA, AND THE INCOPROATED CITIES DATED

Routine Maintenance Issue Paper
Alternative Language Issue Paper
Land Use LID Issue Paper 1st draft
Hydromodification Issue Paper 1st draft
Swimming Pool Discharges Permit Language
Ventura County Jurisdictional Area Issue Paper
Principal Activities Issue Paper
Construction Issue Paper VC Permittees Issue Paper
MAL Alternative Approach Issue Paper
Small Communities Tiered Permit Issue Paper
Time Frames Issue Paper
Watershed Ecological Restoration Plan Issue Paper
Land Use Planning and LID Language Changes

ISSUE PAPER
for
ROUTINE MAINTENANCE REQUIREMENTS
Contained in the Draft Stormwater Permit for the
Ventura Countywide Stormwater Program

Statement of Issue: Should the Ventura permit require routine and long-term maintenance activities to be covered under the State Construction General Permit (CASGP)?

Draft Permit Language:

The Draft Permit addresses coverage of routine and long-term maintenance activities under the CASGP in several places, as presented below.

Part 4 G 2. Public Construction Activities Management (page 73)

- (c) Each Permittee shall obtain coverage under the CASGP for construction activities and projects that are:
 - (1) Covered under 1 (or more) Capital Improvement Projects (including but not limited to street repaving, new streets, channel clearing¹) or contract, and that individually or cumulatively disturb 1 acre or more of land; or
 - (2) Less than 1 acre, but are part of a larger common plan of development that in total disturbs 1 or more acres of land; and
 - (3) Linear construction project(s) that disturb 5 or more acres of land.
- (d) Each Permittee shall obtain coverage under the Small LUP General Permit when disturbing at least 1 acre, but less than 5 acres of land during linear construction (land area includes trenching and staging areas).

Part 4 G 3. Vehicle Maintenance/Material Storage Facilities/Corporation Yards Management/Long Term Maintenance Programs.(page 76)

- (b) Each Permittee shall obtain coverage under the CASGP no later than (7 days of adoption of Order 07-xxx) [Note: Refer Here To Ventura Permit Adoption Date Only] for long-term maintenance programs including maintenance of flood control channels (such as vegetation removal), maintenance or replacement of streets, sidewalks, roads, and any other project that the Permittee undertakes including all Capital

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Improvement Projects (CIP) if either 1 or more acres of land are disturbed by grading, clearing or excavation activities for an individual project or cumulatively as part of several projects involving a soil disturbance.

Definition of Construction (page 93)

Construction - means any construction or demolition activity, clearing, grading, grubbing, or excavation or any other activity that results in a land disturbance. Construction also includes structure tear down, routine maintenance to maintain original line and grade if greater than 5 acres total but not necessarily at once, hydraulic capacity, or original purpose of facility; but does not include emergency construction activities required to immediately protect public health and safety; interior remodeling with no outside exposure of construction material or construction waste to storm water.

Discussion:

The Draft Permit requires coverage of routine and long-term maintenance activities under the CASGP as a result of the following permit requirements: (1) by including routine maintenance within the definition of construction; (2) by specifically identifying certain routine maintenance activities, such as street repaving and channel clearing, as Capital Improvement Projects that need to be covered under the CASGP; and (3) by specifically identifying certain long-term maintenance activities, such as maintaining flood control channels, as activities that need to be covered under the CASGP.

The Permittees believe that coverage of routine and long-term maintenance activities under the CASGP is inappropriate for the following reasons:

The requirement that routine maintenance activities be covered under the CASGP is new and not covered under the current NPDES permit. The current Ventura Countywide NPDES Permit explicitly excludes from the definition of construction: "...routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of facility..." There is no explanation in the Draft Permit findings as to why this new requirement is being imposed.

The requirement for coverage of routine maintenance activities under the CASGP is inconsistent with the CASGP itself. Requirement for coverage under the CASGP "...does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility." Since the SWRCB does not require that long-term maintenance activities be required to get coverage under the CASGP, it is inappropriate for the Draft Permit to include such a requirement.

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The requirement for coverage of routine maintenance activities under the CASGP is inconsistent with other MS4 permits. The Permittees are unaware of any other MS4 permit in the State that requires routine maintenance activities, explicitly excluded under the CASGP permit, to obtain coverage under that permit.

The requirement for coverage of routine maintenance under the CASGP serves no significant beneficial purpose. The most significant threats to water quality with respect to routine or long-term maintenance activities are activities within or adjacent to streams, including those cited in the permit (channel clearing, maintenance of flood control channels, vegetation removal). But such maintenance activities are already addressed under other regulatory programs. Specifically, any activity, such as channel clearing or vegetation removal within channels, that may result in soil disturbing activities within or adjacent to waters of the U.S. are required to obtain a 401 certification from the Regional Water Board as well as permits from other State and Federal permitting authorities. Thus, a permit requirement that coverage also be obtained under the CASGP is duplicative, unnecessary, and may have conflicting requirements.

If the definition of construction is to be modified, it should be modified in the CASGP. The CASGP is the primary document which addresses requirements for construction. If the definition of construction is to be expanded to include routine and long-term management activities, it should be expanded in the GASGP, not in individual MS4 permits. Until that time, MS4 permits should utilize the definition of construction contained in the current GASGP.

For the reasons cited above, the Permittees believe that these particular sections should be modified to reflect the traditional definition of construction, which excludes routine and long-term maintenance.

Alternative:

It is proposed that the definition of construction be modified to reflect the definition in the current NPDES permit and the current CASGP. It is also proposed that the Draft Permit provisions which identify routine and long-term maintenance activities as requiring coverage under the CASGP be deleted. Specifically, it is proposed that the Draft Permit language cited above be modified as follows:

Part 4 G 2. Public Construction Activities Management (page 73)

-
- (e) Each Permittee shall obtain coverage under the CASGP for construction activities and projects that are:

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- (4) Covered under 1 (or more) Capital Improvement Projects ~~(including but not limited to street repaving, new streets, channel clearing)~~ or contract, and that individually or cumulatively disturb 1 acre or more of land; or
 - (5) Less than 1 acre, but are part of a larger common plan of development that in total disturbs 1 or more acres of land; and
 - (6) Linear construction project(s) that disturb 5 or more acres of land.
- (f) Each Permittee shall obtain coverage under the Small LUP General Permit when disturbing at least 1 acre, but less than 5 acres of land during linear construction (land area includes trenching and staging areas).

Part 4 G 3. Vehicle Maintenance/Material Storage Facilities/Corporation Yards Management/~~Long Term Maintenance Programs.~~(page 76)

- ~~(b) Each Permittee shall obtain coverage under the CASGP no later than (7 days of adoption of Order 07-xxx) [Note: Refer Here To Ventura Permit Adoption Date Only] for long term maintenance programs including maintenance of flood control channels (such as vegetation removal), maintenance or replacement of streets, sidewalks, roads, and any other project that the Permittee undertakes including all Capital Improvement Projects (CIP) if either 1 or more acres of land are disturbed by grading, clearing or excavation activities for an individual project or cumulatively as part of several projects involving a soil disturbance.~~

Definition of Construction (page 93)

Construction - means any construction or demolition activity, clearing, grading, grubbing, or excavation or any other activity that results in a land disturbance. Construction also includes structure tear down. It does not include street maintenance such as street overlays, routine maintenance to maintain original line and grade if greater than 5 acres total but not necessarily at once, hydraulic capacity, or original purpose of facility. Nor does it ; but does not include emergency construction activities required to immediately protect public health and safety; interior remodeling with no outside exposure of construction material or construction waste to storm water.

Or alternatively use the actual definition from the State Construction General Permit:

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Construction activity ~~subject to this General Permit~~ includes clearing, grading, disturbances to the ground such as stockpiling, or excavation that results in soil disturbances of at least one acre of total land area. Construction activity also include activity that results in soil disturbances of less than one acre ~~is subject to this General Permit if the construction activity~~ but is part of a larger common plan of development that encompasses one or more acres of soil disturbance or if there is significant water quality impairment resulting from the activity. Construction activity does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of the facility, nor does it include emergency construction activities required to protect public health and safety. ~~Dischargers should confirm with the local RWQCB whether or not a particular routine maintenance activity is subject to this General Permit.~~

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ISSUE PAPER
For
Alternative Language for Permit Requirements
Contained in the Draft Stormwater Permit for the
Ventura Countywide Stormwater Program

Trash Excluders (Page 78, Part 4, G.6.(e)(1)).

Draft Permit Requirement:

"Each Permittee shall install trash excluders or similar devices on catch basins to prevent the discharge of trash to the storm drain system on all catch basin inlets no later than (180 from permit adoption)."

Alternative:

- 1) Each Permittee shall install trash excluders or similar devices on catch basins and/or outlet trash capture systems at outfalls sufficient to serve major commercial areas and areas of high density residential development to prevent the discharge of trash to the storm drain system; **or**
- 2) Each Permittee shall have a Trash Management Program in place within 1 year of permit adoption. This program shall consist, at a minimum, of the following actions and activities:
 - (a) Perform street sweeping of curbed streets in commercial areas at least two times per month and perform street sweeping of curbed streets in residential areas at least six times per year.
 - (b) Install trash receptacles at all transit stops and at other appropriate locations in commercial areas. Trash receptacles shall be routinely cleaned out to prevent trash overflow.
 - (c) Perform trash collection on public property and right-of-way on a routine basis.
 - (d) Implement procedures to promptly remove and properly dispose of trash and bulky items that have been illegally deposited on public property or right-of-way.
 - (e) Promptly enforce laws prohibiting the accumulation of trash on private property.
 - (f) Implement a program that allows residents to dispose of unwanted materials at no or low cost at least once per year (community cleanup days, free landfill days, or other activities).
 - (g) Actively support citizen involvement events such as creek/beach cleanup events, Adopt-a-Creek/Beach programs, group service activities, community riparian restoration activities, community grant programs and other opportunities to collect and properly dispose of trash.
 - (h) Incorporate litter prevention messages in outreach programs and, if appropriate, coordinate with other local programs.

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Treatment BMPs at Critical Sources

Draft Permit Requirement:

Page 42, Part 4, D.2.(a) Commercial Facilities:

"...At each facility, inspectors shall verify that the operator is implementing the mandatory source control BMPs. The Permittees shall require implementation of additional treatment control BMPs where storm water flows from the MS4 discharge to an ESA or a CWA § 303(d) listed waterbody (see section 3(b) below)...."

Page 47, Part 4, D.2.(b)(2)(B) Industrial Facilities:

"...Permittees shall require implementation of additional treatment control BMPs where the storm water flows from the MS4 discharges to a CWA § 303(d) listed waterbody;..."

Page 48, Part 4, D.3.(b) Ensure Compliance of Critical Sources:

"(b) ESAs and Impaired Waters: For critical sources that discharge to ESAs or are tributary to CWA § 303(d) impaired waterbodies, the Permittees shall require operators to implement additional controls to reduce pollutants in storm water runoff that are causing or contributing to exceedences of MALs and/or water quality objectives."

Alternative:

Remove the language requiring treatment control BMPs at commercial and industrial facilities (Pages 42 and 47). Treatment control BMPs should only be required when a pollutant generated from a facility is causing or contributing to exceedences of the water quality objective for the same pollutant in the receiving water. Treatment control BMPs should not be required at all critical sources simply because an MS4 discharges to a 303(d) listed waterbody. Section D.3.(b) recognizes this perspective.

The language in section D.3.(b) should be amended to read as follows:

"(b) ESAs and Impaired Waters: For critical sources that discharge to ESAs or are tributary to CWA § 303(d) impaired waterbodies, the Permittees shall require operators to implement additional controls to reduce pollutants in storm water runoff that are causing or contributing to exceedences of MALs and/or water quality objectives."

For Permittees named as a Responsible Parties in a TMDL, the TMDL implementation plan shall supersede this requirement.

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Screening for Illicit Connections (Page 84, Part 4, H.3.(a)(2))

Draft Permit Requirement:

- (2) Permittees shall conduct field screening of their storm drain systems in accordance with screening procedures described in the Illicit Discharge Detection and Elimination, A Guidance Manual for Program Development and Technical Assessments (2004)¹. Permittees shall conduct field screening for illicit connections in accordance with the following schedule:
- (A) All portions of the storm drain system consisting of storm drain pipes 36 inches in diameter or greater no later than (5 years after the adoption of this Order).
 - (B) High priority areas identified during the mapping of illicit connections and discharges no later than (5 years after the adoption of this Order).
 - (C) All portions of storm drain systems 50 years or older in age no later than (5 years after the adoption of this Order).

Alternative:

During the first term of the Ventura County Municipal Permit, Permittees conducted an illicit discharge/connection investigation of high priority drainages within their jurisdictions. The investigation, which was very resource intensive, consisted of field screening through visual inspections and a limited amount of monitoring. The results are documented in the September 1995 Ventura County Stormwater Quality Management Program Annual Report to the Regional Board. Alternative language for the third term permit could consist of the following:

"The Permittees shall continue to prohibit all illicit connections and illegal discharges to the MS4s through their ordinances, inspections, and monitoring programs. Permittees shall perform routine surveys for illicit discharges and illegal dumping in above-ground check points in the collection system, including elements that are typically inspected for other maintenance purposes, such as end of pipes, creeks, flood conveyances and catch basins, in coordination with routine Public Works and Watershed Protection District maintenance and inspection activities."

Swimming Pool Discharges

Draft Permit Requirements:

Page 32, Part 3, B.1.(b)(5)

1. Permittees shall have the necessary legal authority to prohibit, including, but not limited to:
 - (b) The discharge of non-stormwater to the MS4 from:

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- (5) Swimming pool(s) that have a concentration greater than:
- (A) Chlorine/bromine – 0.1 mg/L.
 - (B) Chloride – 250 mg/L.
 - (C) Cyanuric acid of 50 ppm;
 - (D) E. coli of 235/100 ml (fresh waters)
 - (E) Fecal coliforms of 400/100 ml (fresh waters and marine waters)
 - (F) Enterococcus of 104/100 ml (marine waters)
 - (G) Total coliforms of 10,000/100 ml, or 1,000/100 ml if the ratio of fecal-to-total coliform exceeds 0.1 (marine waters).

Page 97, Definitions

Dechlorinated/ Debrominated Swimming Pool Discharge - means any swimming pool discharge with a residual chlorine or bromine level of 0.1mg/L; and does not contain any detergents, wastes, algaecides, or cyanuric acid in excess of 50 ppm, or any other additional chemicals including salts from pools commonly referred to as "salt water pools". The term does not include swimming pool filter backwash or swimming pool water containing bacteria.

Alternatives:

1. Permittees shall have the necessary legal authority to prohibit, including, but not limited to:
 - (b) The discharge of non-stormwater to the MS4 from:
 - (5) Swimming pool discharges that drain directly to receiving waters or with a residual chlorine level of greater than 0.1 mg/l and/or containing detergents, wastes, algaecides, sediment, or salts from pools commonly referred to "salt water pools".

Page 97, Definitions:

Dechlorinated/ Debrominated Swimming Pool Discharge - means any swimming pool discharge with a residual chlorine level of less than or equal to 0.1 mg/L; and does not contain any detergents, wastes, algaecides, sediment or salts from pools commonly referred to as "salt water pools". The term does not include swimming pool filter backwash.

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ISSUE PAPER

Land Use Planning and Low Impact Development

Statement of Issue: The Ventura Draft Permit requires the Permittees to implement a development-planning program that requires all new development and redevelopment projects to implement several strategies (including low impact development concepts) aimed at reducing impacts from storm water runoff on natural drainage systems and water bodies. However, these strategies may actually place local agencies in conflict with other environmental concerns (e.g. air pollution) and policy (e.g. General Plan) and may actually work against "smart growth" principles.

Draft Permit Language

Among other requirements, the Draft Permit requires the Permittees to modify their land use planning program to address water quality through a set of guiding principles and standards.

Part 4 E Planning and Land Development Program (page 50)

1. The Permittees shall implement a development-planning program that will require all New Development and Redevelopment projects to:
 - (a) Minimize impacts from storm water runoff on the biological integrity of Natural Drainage Systems and water bodies in accordance with requirements under CEQA (Cal. Pub. Resources Code § 21100), CAL. WATER CODE §13369, CWA § 319, CWA § 402(p), CWA § 404, CZARA § 6217(g), ESA § 7, and local government ordinances.
 - (b) Minimize pollutants emanating from impervious surfaces by reducing the percentage of Effective Impervious Area¹ to less than 5 percent of total project area.
 - (c) Minimize the percentage of impervious surfaces on development lands to support the percolation and infiltration of storm water into the ground.
 - (d) Minimize pollution emanating from impervious surfaces on developed land such as roof-tops, parking lots, and roadways through the use of appropriate Source Controls (good housekeeping practices), Low Impact Development Strategies, and Treatment Control BMPs.

¹ Effective Impervious Area means that portion of the impervious area that is hydrologically connected via sheet flow or a discrete hardened conveyance to a drainage system or a receiving water body. Impervious surfaces may be rendered "ineffective" if the storm water runoff is dispersed through properly designed vegetated swales (native vegetation) using approved dispersion techniques.

- (e) Properly design and maintain Treatment Control BMPs (in Permit to avoid the breeding of vectors).²
- (f) Select an integrated approach to mitigate storm water pollution by utilizing a suite of controls in the following Permit of preference to remove storm water pollutants, reduce storm water runoff volume, and beneficially reuse storm water:
 - (1) Low Impact Development Strategies.
 - (2) Integrated Water Resources Management Strategies.
 - (3) Multi-benefit Natural Feature BMPs.
 - (4) Prefabricated/Proprietary Treatment Control BMPs.

Part 4 I Low Impact Development (page 51)

1. All new development and redevelopment projects shall integrate Low Impact Development (LID) principles into project design. LID is a storm water management and land development strategy that emphasizes conservation and the use of on-site natural features integrated with engineered, small-scale hydrologic controls to more closely reflect predevelopment hydrologic functions. LID is primarily a source control strategy, and minimizes the need for large sub-regional and regional treatment control BMPs.
2. The Permittees shall develop a LID Technical Guidance Document no later than (18 months from the Permit's adoption date) for use by Land Planners and Developers. The LID Technical Guidance Document shall include objectives and specifications for LID in the areas of:
 - (a) Site Assessment.
 - (b) Site Planning and Layout.
 - (c) Vegetative Protection, Revegetation and Maintenance.
 - (d) Techniques to Minimize Land Disturbance.
 - (e) Integrated Management Practices.
 - (f) LID Design and Flow Modeling Guidance.
 - (g) Hydrologic Analysis.
 - (h) LID Translators.
3. The Permittees will facilitate implementation of LID by providing key industry, regulatory, and stakeholders with LID objectives and specifications developed in the LID Technical Guidance Document through a training program. The LID training program will include the following:
 - (a) LID targeted sessions and materials for builders, design professionals, regulators, resource agencies, and stakeholders.
 - (b) A combination of awareness on national efforts and local experience gained through LID pilot projects and demonstration projects.
 - (c) Materials and data from LID pilot projects and demonstration projects including case studies.

² Treatment BMPs when designed to drain within 72 hours of the end of rainfall minimize the potential for the breeding of vectors.

- (d) Guidance on how to integrate LID requirements into the local regulatory program(s) and requirements.
- (e) Availability of the LID Technical Guidance Document.

Discussion

The Permittees and other interested parties have identified a number of significant issues or concerns with the Draft Permit. For each issue, the discussion provides a rationale for the concern (including related problems that will result from adoption of the Draft Permit); alternative approaches used by other regional boards, and recommended changes to the Draft Permit aimed at addressing each issue. ~~In addition, an underline-strikeout version of Section E.1, which illustrates the changes needed to address problem areas is provided in Attachment I.~~

The application of hydromodification requirements to all projects is too broad. The Draft Permit's broad applicability to *all* new development and redevelopment projects greatly exceeds applicable thresholds in other regional water quality jurisdictions. Furthermore, there is no supporting documentation to support the inclusion of all new development and redevelopment projects. This extraordinary treatment of storm water entities in Ventura County raises serious concerns about the fair and equal application of storm water management rules on a statewide basis. The inclusion of all development projects will cause significant burdens upon Permittees and development projects in relation to compliance monitoring, enforcement, and increased costs. For example, unlike in other jurisdictions, home improvement projects would be subject to the Permit even if no land disturbing activities are conducted. Such broad requirements are unwarranted and will discourage home improvement to the detriment of local communities. The solution to this problem is to narrow the applicability of the development planning requirements in a fashion similar to the approaches taken in other water quality jurisdictions. Below is a delineation of project size threshold in storm water NPDES permits from the San Francisco Bay and San Diego Regional Water Quality Control Boards.

Permit No. R2-2003-0021 (San Francisco Bay Region)

The Permit applies only to Group 2 Projects.³ Group 2 Projects generally include only projects creating 10,000 square feet or more of impervious surface, excluding sidewalks, bicycle lanes, trails, bridge accessories, guardrails, and landscape features for streets, roads, highways, and freeway projects. Redevelopment projects under Group 2 are subject to the Permit only if classified as "significant," which includes projects on a previously developed site that results in addition or replacement of impervious surface totaling 10,000 square feet or more, excluding routine maintenance and repair and interior remodels. Under this provision, single family homes not part of a larger common plan of development are excluded from the Group 2 Project definition. (See Region 2

³ The former Group 1 projects, which involved projects having larger impervious surface area have been subsumed under Group 2 projects under the Permit as of August 15, 2006 (See C.3.c.ii or Permit No. R2-2003-0021).

Board (2003) Sec. C.3.c.i and C.3.c.ii).

Tentative Permit No. R-9-2007-002 (San Diego Regional Board)

This Permit applies only to "Priority Development Projects." In short, these projects include:

- Redevelopment projects that create, add, or replace at least 5,000 square feet of impervious surfaces on an already developed site having certain size minimums such as a housing division of 10 or more dwelling units, commercial developments greater than one acre, etc.
- Development projects disturbing one acre or more of land within three years of adoption of the Permit.
- For new development projects, housing subdivisions of ten or more dwelling units, commercial developments greater than one acre, heavy industry developments greater than one acre, and specific development types such as automotive repair shops, restaurants, gasoline stations, medium sized parking lots, etc.

Draft Permit's five percent impervious surface requirement is overly protective, not reflective of local conditions and may lead to urban sprawl. The Draft Permit's five percent limit on effective impervious area will hinder smart growth and encourage urban sprawl. The primary reason for this is that smart growth projects involve high density development and re-development in a manner resulting in little to no opportunity for storm water infiltration. Thus, complying with the Permit's five percent limit would be nearly impossible for smart growth while convenient for urban sprawl where sufficient land is available for infiltration purposes. Resulting sprawl will then create more urban impacts on a watershed scale. Moreover, the five percent limit would require Permittees to verify compliance, which would be unnecessary where effective LID strategies are utilized, as the Contra Costa Clean Water Program has shown (see below). Where LID strategies are emphasized, the focus should be on proper construction and maintenance of LID practices.

One solution to the problem the five percent limitation poses would be to exempt smart growth development from the impervious surface limitation. In the alternative, Section E.1 (b) could be rephrased to require reduced impervious surfaces at the watershed scale through promotion of site design practices such as clustering development and promoting infill on a watershed basis to preserve open space. At the project scale the requirement could call for narrower streets and sidewalks, utilization of pervious sidewalks and parking areas, minimizing cul-de-sacs, reducing parking requirements, and providing treatment opportunities where available. This is the approach taken on Tentative Permit No. R9-2007-002 (San Diego Region) (See Section d (4)).

Although the five percent limit in the Draft Permit applies only to the "effective" impervious surface area, allowing only vegetated swales to render such surfaces "ineffective" under Footnote 1 is inadequate. Conveying site runoff through *any* type of vegetation or treatment would help reduce hydrologic impacts of impervious areas. In fact, the use of vegetated swales is only one subcategory of recognized practices utilized

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in LID strategies. In relation to the above issue, the fact that impervious surface can be rendered "ineffective" under Footnote Note 1 will not make compliance with the five percent limitation on such surfaces achievable for high density and in-fill projects because only one option is provided to render impervious surfaces "ineffective." Other forms of LID strategies and treatment control BMPs such as planter boxes, dry wells, and bioretention areas are available to render an impervious surface ineffective. Lastly, the reference to "native" vegetation in the footnote should be modified because it is unclear what is meant by "native" and the fact that other vegetation besides native is effective in treating stormwater (see Ventura County Technical Guidance Manual for Stormwater Quality Control Measures).

The five percent limitation is inconsistent with other tentative storm water planning requirements such as those contained in the San Francisco Bay and San Diego Regional Permits referenced above, neither of which contains this limitation. In addition, the limitation is not necessary where LID strategies are implemented effectively at a development site. For example, as part of its "C.3" requirements, the Contra Costa Clean Water Program developed a sizing factor of 0.04 for LID practices, which represents the ratio of surface area utilized as a LID practices to the area of impervious surfaces in the developed area. This factor is based on a Portland, Oregon criterion, which is based on an infiltration rate of 5 inches per hour. Assuming proper construction of LID practices and the minimum Portland infiltration rates, the Contra Costa sizing factor indicates LID surface area need only be roughly four percent of the total area (impervious and pervious surface area). Therefore flexibility should be provided to allow other approaches to minimize from impervious areas other than limiting the effective impervious area.

The Draft Permit should encourage LID through existing site design BMPs. Unlike in other regions, the Draft Permit establishes a stand alone LID Guidance Manual different from the Ventura County Technical Guidance Manual for Stormwater Quality Control Measures. As an example Tentative Permit No. R9-2007-002 (San Diego) does not specifically require a LID based program. Rather, this permit requires Priority Development Projects to implement Site Design BMP consistent with LID principles. Thus the Permittees may augment their site design BMPs to create a LID based program. This provides a consistent and singular message to the development community. Instead of mandating LID programs, the permit authorizes parties to implement LID site design BMPs in place of Treatment Control BMPs with specified conditions. The flexible nature of these provisions enables Permittees to design SUSMP-based requirements to meet site-specific concerns and criteria as opposed to the one-solution-fits-all approach favored in the Draft Permit.

The deadline and schedule for the Technical Guidance Document is unrealistic. Eighteen months is an insufficient amount of time to develop a LID Technical Guidance Document because materials needed to support the guidance document must first be developed before developers can be expected to implement LID strategies. A more realistic time frame for developing the LID guidance document is three years.

Likewise, the Draft Permit lacks a realistic and sensible schedule for development and implementation of LID strategies. Under the Draft Permit, all development projects must integrate LID principles into project design without an apparent grace period during which compliance is tolled until after LID research, development, and training programs are completed. The Draft Permit should instead delineate a schedule that focuses first on research and development of LID guidelines, then on training programs utilizing the guidelines' principals, and finally on integration of LID into development projects. This approach will avoid haphazard enforcement by Permittees, unnecessary project delays, and premature and ineffective LID strategies.

The Draft Permit is inconsistent and contradictory in its recommended approach for addressing stormwater runoff from new development and redevelopment. In section E.1.d the Permittees are required to minimize pollutants from impervious surfaces through the use of source control, site design (and the use of LID) and treatment control BMPs. However, in Section E.1.(f) the permittees are required to select an approach that mitigates pollution through (in order of preference) LID strategies, Integrated Water Resources Management Strategies, Multi-benefit natural feature BMPs and prefabricated /proprietary treatment control BMPs. The two approaches appear in conflict with each other. First in Section E.1. (d) source control measure is a fundamental approach to minimizing pollutants while in Section E.1 (f) there is not mention of it in the preferred approach. Likewise it's unclear how integrated water resources management strategies, multi-benefit natural BMPs and proprietary BMPs relate to the requirements of E.1 (d). The section should be modified to indicate that a comprehensive approach to addressing pollutants from impervious surfaces includes site design, source control and treatment control BMP and that within each of these categories an identity of which BMPs are preferred. If Section E.1 is intended to specify that LID strategies shall be the primary means of managing the impacts storm water runoff from development projects, it should clearly state this and focus the discussion of LID requirements in only one section dedicated to LID strategies.

Summary of Comparison to Approaches Utilized in Other Regions

Table 1 below highlights the differences between the Draft Permit and NPDES stormwater NPDES permits in other regional water quality in regard to onsite design measures.

Table 1. Comparison of Significant Provisions in Draft Permit 07-xxx and MS4 Permits in the San Francisco Bay and San Diego Bay Regional Water Quality Control Boards

Provision	Draft Permit	San Diego Region	SF Bay Region
Applicability	All new development & redevelopment projects. Applicable even to small projects involving single dwelling units.	Priority Development Projects, as defined.	Group 2 projects, as defined.
Percent Effective Impervious Surface Limit	5% of total project area	None	None
Onsite alternatives	None. Preference for LID strategies	LID not specifically required except as an alternative to some or all treatment control BMPs. Site design BMPs required on equal footing with treatment control BMPs except must only serve to infiltrate a "portion of impervious areas." Specified site design BMPs required only where applicable and feasible. (Sec. d(4))	Dischargers may request alternatives to site design measures based on impracticability. Showing of impracticability not required for regional or watershed-based storm water treatment facilities. (Sec. C.3.g).
LID Technical Guidance Document (TGD)	Permittees must develop TGD within 18 months of Permit's adoption.	Not specifically required. Copermitees must develop criteria for site designs listed in local SUSMP to ensure effective implementation.	Permittees must make necessary revisions to existing guidance and design standards to control runoff.

References

Dalziel and Cloak. Simplified Low Impact Development Design for Compliance with Stormwater Treatment Requirements

Portland, Oregon (1999). Stormwater Water Management Manual. The 2004 Update to this manual is available at <http://www.portlandonline.com/bes/>

Region 2 Board. (2003). California Regional Water Quality Control Board San Francisco Bay Region. Contra Costa Countywide NPDES Municipal Stormwater Permit Amendment, Permit No. R2-2003-0022 Amending Permit No. 99-058 NPDES Permit No. CAS0029912, February 19, 2003.

For Discussion Purposes Only

Region 4 Board (2007). California Regional Water Quality Control Board for the Los Angeles Region. Permit No. 07-xxx, NPDES No. CAS004002, (Ventura County MS4 Permit), March 7, 2007.

Region 9 Board (2007) California Regional Water Quality Control Board San Diego Region. Tentative Permit No. R9-2007-0002 NPDES No. CAS0108740 (Orange County MS4 Permit), February 9, 2007.

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ISSUE PAPER
for
**Hydromodification Requirements for
Ventura County NPDES Permit**

Issues:

The Co-permittees have identified the following issues in the Hydromodification section of the Draft Permit (pages 52 to 54) for discussion and resolution before the permit is finalized:

- Add practical, measurable interim criteria that applies to Ventura County conditions until such time as the SMC Study is completed in 3-5 years.
- Standardize vocabulary to agree with other parts of permit
 - use pre-project not pre-development
- Identify exemptions and use interim exemptions until local studies can be completed
- Re-locate background information about SMC up-front and outside of requirements.
- Include reference and linkage to requirements for Low Impact Development
- Coordinate hydromodification requirements with other Integrated Watershed Management Planning in Ventura County

Suggested Revisions to Draft Permit:

Additions/proposed changes are shown in highlight

II. Numeric Hydromodification Mitigation Criteria

Background: The Southern California Storm Water Monitoring Coalition (SMC) has initiated a study to develop a regional set of methods to eliminate or mitigate the adverse impacts of hydromodification as a result of urbanization, including hydromodification assessment and management tools.¹ The SMC has identified the following objectives for the second Phase of the Hydromodification Control Study (HCS):

- (1) Establishment of a stream classification for Southern California streams.
- (2) Development of a deterministic or predictive relationship between changes in watershed impervious cover and stream-bed/stream bank enlargement.
- (3) Development of a numeric model to predict stream-bed/stream bank enlargement and evaluate the effectiveness of mitigation strategies.

1. Hydrologic (Flow/Volume/Duration) Control

- (a) Each Permittees shall require all new development and redevelopment projects to implement hydrologic control measures to prevent accelerated downstream erosion and to protect stream habitat in natural

¹ Coleman, D., C. MacRae, and E. Stein. 2005. Effect of Increases in Peak Flows and Imperviousness on the Morphology of Southern California Streams. Technical Report 450. Southern California Coastal Water Research Project. 70 pp.

drainage systems. Hydrologic control measures may include on-site, regional, or in-stream runoff control measures, or a combination thereof.

(b) Hydrologic control measures for hydromodification objectives are to be consistent with local watershed plans and will accommodate or work in combination with Low Impact Development or other hydrologic control measures for other objectives.

(c) Natural drainage systems, including tributaries, are located in the following watersheds:

- (1) Ventura River.
- (2) Santa Clara River.
- (3) Calleguas Creek.
- (4) Miscellaneous Ventura Coastal.

(d) The following projects are exempted from hydromodification analysis and from implementing new hydrologic control measures:

1. Projects that do not increase the effective impervious area compared to the pre-project conditions.
2. Projects that discharge to a sump, a lake or area under tidal influence.
3. Projects that discharge into hardened channels on three sides that discharges into a lake or tidal zone or to enclosed pipelines.
4. Projects that discharge to aggrading channels, where there is accumulation of sediments over decades with no indication of erosion.
5. Projects in single-family residential areas that are less than 10,000 ft² of new impervious area.
6. Infrastructure projects less than 10,000 ft² in the jurisdiction of the Permittees.
7. Projects for which it can be shown that there is not a potential for significant hydromodification impact downstream with planned hydrologic control measures that may include on-site, regional, or in-stream runoff control measures, or a combination thereof, such as discharge from a small catchment area into large river systems.
8. When the project is a replacement, maintenance, or repair of a Permittee's existing Capital Improvement Project.

(e) Until the completion of the SMC's HCS, Permittees shall implement the following Interim Hydromodification Criteria to control the adverse impacts of changes in hydrology that result from new development and redevelopment projects. The Interim Hydromodification Impact Criteria are:

- (1) **Exemptions to Hydromodification Interim Criteria:**
- Redevelopment Projects, affordable housing, or "transit" commuter planned housing of 10 acres or less.
 - Infill projects in highly developed sub-watersheds (i.e. that are 90 percent or more built out, or more than 65 percent impervious) (*Santa Clara Permit*).
- (2) **Allowable flows rates:** Flow duration controls may be designed to discharge at a very low rate that does not threaten to erode the receiving body. This flow rate, called "Qcp" shall be no greater than 20 percent of the pre-project 2-year peak flow. (*Bay Area Permit, Fairfield-Suisun, May 2007*)

In Ventura County, the equivalent of the 2-year peak is 10 percent of the 50-year peak (Ventura Countywide 2002). For the interim criteria, the allowable Qcp flow rate will be 2 percent of the 50-year peak flow.

- (3) **Projects increasing impervious area by less than fifty acres**
Hydrologic control for projects in this size category shall involve matching the 2-year post-project peak flow, volume and duration to the pre-project peak flow, volume and duration for the 2-year 24 hour storm event.

Where percolation is not feasible because of groundwater quality, groundwater level issues, or because of Ventura County soil types that are low in permeability, the post-project peak needs to match the pre-project peak. The additional volume can be discharged at below the Qcp flow level.

Alternatively, the Permittees may develop flow duration or peak flow control requirements which would maintain pre-project sediment transporting flows. In this case the Permittees shall use a continuous simulation model or other analysis tool with local rainfall data and soil types, to develop nomographs or other design tools for relating percent impervious area and other variables with hydrologic control measures.

- (4) **Projects increasing impervious area by fifty acres or greater**²
Hydrologic control for projects in this size category shall involve the completion of a Hydromodification Analysis Study (HAS) by the project proponent to demonstrate that post project conditions are not expected to alter the sediment transport in receiving streams and tributaries. The HAS must demonstrate that the

² 91st percentile of all construction projects covered under the general construction permit (CASGP) in Southern California.

selected hydrologic control measures will be protective of the natural drainage systems from erosion, incision, and sedimentation that can occur as a result of changes in flow from impervious surfaces, or significantly damage stream habitat in natural drainage system all tributaries.

(f) The Permittees shall participate in the second phase of the SMC's HCS to develop a regional stream classification system, a numerical model to predict the hydrological changes resulting from new development and to identify effective mitigation strategies and hydrologic control measures. Should the SMC not proceed with the HCS, Permittees shall complete a similar study limited to the area of Ventura County no later than 18 months from the Order's adoption.

(g) Hydromodification Control Plan

(1) On completion of the HCS (SMC HCS or Permittee HCS), the Permittees shall develop and implement Watershed Hydromodification Control Plans (HCPs), no later than 18 months after the completion of the HCS. The HCP shall identify tributary classifications, flow rate and duration control methods, sub-watershed mitigation strategies, and any in-stream controls, which will be protective of the natural drainage systems from erosion, incision, and sedimentation that can occur as a result of flow increases from impervious surfaces and damage stream habitat in natural drainage system tributaries.

(2) The HCS shall become part of an integrated and comprehensive Ventura County manual that defines hydrologic control guidelines. This Manual will incorporate guidelines for LID, water quality treatment, and hydromodification, and will build upon the current "Technical Guidelines for Stormwater Quality Control Measures" developed for the NPDES permit, and guidelines in the Ventura County Hydrology Manual for detention and retention basins.

(3) The HCS shall contain the following elements:

- (A) Hydromodification Management Standard: Storm water discharges from applicable new development and redevelopment projects shall not cause an increase in the erosion potential of the receiving creek over the pre-project (existing) condition.
- (B) Consideration of sediment balance will be included.
- (C) Natural Drainage Areas and Hydromodification Management Control Areas.
- (D) Projects subject to Controls including Redevelopment Projects.

- (E) Description of authorized Hydromodification Management Controls.
- (F) Hydromodification Management Control Design Criteria:
 - Range of flows to control namely matching post development discharge rates and durations from critical flow on up to the pre-project 10-year peak flow (or equivalent alternative criteria)
 - Goodness of fit criteria.
 - Allowable low flow rate.
- (G) Hydromodification Modeling
 - Description of the approved Hydromodification Model.
 - Any alternate Hydromodification Management Model and Design.
- (H) In-Stream Measures Design Criteria.
- (I) Record Keeping.
- (J) Requirements for exempting a project from hydromodification requirements including consideration of cost, regional facilities, and in-stream measure practicality. Alternative financing requirements shall also be addressed. (see Alameda Permit Impracticability Section, May 2007).

Reference:

Ventura Countywide Stormwater Quality Management Program 2002. Technical Guidance Manual for Stormwater Quality Control Measures

Swimming Pool Discharges

Draft Permit Requirements:

Page 32, Part 3, B.1.(b)(5)

1. Permittees shall have the necessary legal authority to prohibit, including, but not limited to:

(b) The discharge of non-stormwater to the MS4 from:

(5) Swimming pool(s) that have a concentration greater than:

- (A) Chlorine/bromine – 0.1 mg/L.
- (B) Chloride – 250 mg/L.
- (C) Cyanuric acid of 50 ppm;
- (D) E. coli of 235/100 ml (fresh waters)
- (E) Fecal coliforms of 400/100 ml (fresh waters and marine waters)
- (F) Enterococcus of 104/100 ml (marine waters)
- (G) Total coliforms of 10,000/100 ml, or 1,000/100 ml if the ratio of fecal-to-total coliform exceeds 0.1 (marine waters).

Page 97, Definitions

Dechlorinated/ Debrominated Swimming Pool Discharge - means any swimming pool discharge with a residual chlorine or bromine level of 0.1mg/L; and does not contain any detergents, wastes, algacides, or cyanuric acid in excess of 50 ppm, or any other additional chemicals including salts from pools commonly referred to as "salt water pools". The term does not include swimming pool filter backwash or swimming pool water containing bacteria.

Alternatives:

Page 28, Table 1

Type of Discharges:	Conditions under which allowed:	Required BMPs for discharge to occur:
Dechlorinated / debrominated swimming pool discharges [see definition Part 7]	<u>Prior notification to Permittee has been made, and pool discharger educated on requirements.</u> Provided discharge to a sanitary sewer is not available. Swimming pool discharges shall be dechlorinated, pH adjusted if necessary, reoxygenated, and volumetrically and velocity controlled to prevent resuspension of	Pool water may be dechlorinated using time, aeration, and/or sodium thiosulfate.

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	<p>sediments.</p> <p>Cleaning waste water and filter back wash shall not be discharged to municipal separate storm sewers.</p> <p>Water that has been hyperchlorinated shall not be discharged to municipal separate storm sewers, even <u>until</u> after de-chlorination.</p> <p>Chlorine residual in discharge shall not exceed 0.1mg/L.</p> <p><u>Discharge shall not cause or contribute to an exceedence of any water quality objective.</u></p>	
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Page 32, Part 3, B.1.(b)(5)

1. Permittees shall have the necessary legal authority to prohibit, including, but not limited to:
 - (b) The discharge of non-stormwater to the MS4 from:
 - (5) Swimming pool discharges that drain directly to receiving waters or with a residual chlorine level of greater than 0.1 mg/l and/or containing detergents, wastes, algaecides, sediment, or salts from pools commonly referred to "salt water pools".

Page 97, Definitions:

Dechlorinated/ Debrominated Swimming Pool Discharge - means any swimming pool discharge with a residual chlorine level of less than or equal to 0.1 mg/L; and does not contain any detergents, wastes, algaecides, sediment or salts from pools commonly referred to as "salt water pools". The term does not include swimming pool filter backwash.

ISSUE PAPER
ALTERNATIVE LANGUAGE FOR PERMIT COVERAGE FOR ALL
AREAS OF VENTURA COUNTY

Issues

The Draft Order proposes that the provisions of the Order shall apply to "the urbanized areas of the municipalities, areas undergoing urbanization and areas which the Regional Water Board Executive Officer determines are discharging storm water that causes or contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States pursuant to CWA §402(p)(2)(E)." In addition, the Draft Order describes the area covered by the order as the whole County of Ventura except for agricultural lands and forest lands. The Permittees have identified several issues of concern related to Draft Order's permit coverage.

- The Regional Board's ability to include areas into the municipal separate storm sewer ("MS4") permit pursuant to CWA §402(p)(2)(E) is not as broad as is indicated in the language of the Draft Order. EPA has adopted extensive federal regulations that implement the stormwater provisions of the CWA. The federal regulations clarify that inclusion of discharges under section 402(p)(2)(E) of the CWA applies to discharges of stormwater from conveyance facilities. According to the federal regulations, designations under section 402(p)(2)(E) may include

a discharge from any conveyance or system of conveyances used for collecting and conveying storm water runoff or a system of discharges from municipal separate storm sewers, except for those discharges from conveyances which do not require a permit under paragraph (a)(2) of this section or agricultural storm water runoff which is exempted from the definition of point source at §122.2.

(40 CFR §122.26(a)(1)(v).)

- Stormwater discharges subject to the provisions of this Order must be part of a municipal separate storm sewer system ("MS4"). The federal regulations define MS4 as

a system of conveyances (i) owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity....[That is] (ii) Designed or used for collecting or conveying storm water; (iii) Which is not a combined sewer; and (iv) Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.

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(40 CFR §122.26(b)(8).) Thus, the Regional Board cannot expand permit coverage to discharges from areas that do not go into a system of conveyances that are not owned or operated by the Permittees.

- The terminology as used in the Draft Order implies that the Regional Board intends to apply the permit provisions to all "areas" of the County, except for agricultural and forest areas. This terminology is inconsistent with the language as contained in the CWA and federal implementing regulations. Permit coverage should be limited to conveyance systems of stormwater that are within the jurisdictional areas of the Permittees. The inclusion of broader "area" language could result in the Permittees being responsible for stormwater runoff that is outside of their jurisdictional boundaries.
- The federal regulations require that the Permittees have the legal authority to control discharges to the MS4. (40 CFR 122.26(d)(1) & (d)(2).) Thus, the Regional Board's ability to include discharges to conveyance systems outside of urban areas is limited to discharges that are within the jurisdictional boundaries of the Permittees.
- The Regional Board cannot subject agricultural discharges to the provisions of the MS4. As indicated above, agricultural storm water runoff is exempted from the CWA. In Ventura County, stormwater discharges outside of the urban areas typically contains agricultural stormwater even if the "area" in question may not be considered an agricultural "area". Thus, it would be practically impossible for the Regional Board to subject non-urban areas of the County to the MS4 provisions without also including discharges from agriculture.

Alternative Approach

- Permit coverage should be limited to the city boundaries of the Permittees and the urban areas of the unincorporated areas of Ventura County.
- Permit coverage language should mirror the language as contained in the existing MS4 permit for Ventura County.
- The Permittees continue to work through stakeholder, watershed processes to address all areas of Ventura County. The many TMDLs adopted for areas within the County provide an appropriate mechanism for dealing water quality standard impairments for areas outside of the urban areas covered by the MS4 permit. Because the TMDLs cover all types of discharges, it is not necessary to cover non-urban stormwater under this MS4 permit.

ISSUE PAPER FOR PRINCIPAL PERMITEE ACTIVITIES

Special Studies

Issue: Several special studies are required without a proper nexus to urban stormwater pollution or considering other studies in the region, are of questionable value, or are proposed on a countywide scale when smaller logical studies can be taken to conserve resources.

Pyrethroids G.1 page F19

The Pyrethroid Monitoring requirement is unnecessarily burdensome; monitoring for pyrethroids is costly and labor intensive and should be done in an economically logical process. This requirement requires an extensive countywide study with a potentially large number of sites. For example, on the Santa Clara River there would be 3 major tributaries with 2-6 stations (6-18 stations total), and secondary tributaries (undefined) would have 2-3 stations. Assuming 2-3 secondary tributaries, the total sampling sites could be from 10 to 27 sites. This is an inefficient shotgun approach to a problem that has not been observed in the lower watershed. The Program's proposed monitoring approach based on the Model Monitoring Program would first devote resources to answer the question "Is there a pyrethroid problem in Ventura County?"

Additionally, this study duplicates much of the effort set forth in the alternative pesticides study required under the monitoring plan for the Calleguas Creek organochlorine TMDL. This study will determine if pesticides that will be used to replace diazinon and chlorpyrifos are a concern in urban runoff. Information from this study should be used to assess the need for any additional pyrethroid study in the county, and any pyrethroid monitoring in other watersheds should begin at the base of the watershed before resources are spent upstream.

Notwithstanding, Water Code 13267 section (b)(1) requires that a study should be justified by "a reasonable relationship to the need for the report and the benefits obtained by the reports". The expansive monitoring requirements contained in the draft order do not bear a reasonable relationship as it requires monitoring in areas that are not likely to be impacted by municipal stormwater discharges, and requires monitoring for constituents that may not be of concern.

Alternative Approach and Suggested Language:

Allow the pesticides study required under the monitoring plan for the Calleguas Creek organochlorine TMDL to be completed and results available before requiring a resource-extensive Region-wide pyrethroid study. Alternatively, if it is an inappropriately long time before the Calleguas study provides results, pyrethroid monitoring at the base of the Santa Clara and Ventura Rivers could be required.

For Discussion Purposes

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Trash Page F-17, F

This requires the Permittees to perform special studies to quantify pollutants from non-MS4 sources. Trash and debris are a problem in urban runoff and the Permittees are aware of their responsibility for controlling that problem. However, there needs to be a nexus between the required study and the MS4s. The trash and debris study required has a focus on ocean beaches where the referenced study showed that the most abundant items were from overboard disposal from ocean vessels. Requiring the MS4 Permittees to study trash from ocean vessels does not meet the reasonable relationship criteria.

Alternative Approach and Suggested Language:

The required study should be focused on inland waters and coastal waters where trash and debris have a direct nexus to MS4 sources, providing useful assessment and source reduction information for Permittee's MS4 programs.

Southern California Bight Project page F-22 J

The Principal Permittee is already a volunteer Commission member of SCCWRP at a cost of \$75,000 to the Program, and as such is contributing to future Southern California Bight Project updates. This required additional contribution to Southern California Bight Project is not justified. It is unclear how the \$250,000 amount (over \$0.30 per Ventura County resident) was determined, and how this compares to the contributions from the other NPDES dischargers to the Southern California Bight. Multiple stakeholder projects such as the So. Cal. Bight normally will have funding equations and an MOU to formalize the agreement. It is not necessary to require a specific dollar amount in the permit.

Alternative Approach and Suggested Language:

Require membership and participation in SCCWRP Commission, CTAG and Stormwater Monitoring Coalitions meetings.

Total Suspended Sediment Monitoring page F-2, A.9

The purpose for collecting information on every 0.25 inch storm is unclear. This requirement will consume valuable resources for results of questionable value. The relationship between TSS and pollutant loading has not been well-established, and with Ventura County's open space and agriculture-dominated watersheds the urbanized contributions of total TSS would only be a very small part. A statistical review of past monitoring data shows the R-square values for TSS and various metals on the three watersheds to be mostly below 0.5 – a very poor correlation.

Sampling every 0.25 inch storm is a significant increase in Program cost and will require staff to be prepared for 10-18 sampling events per year. The 0.25" trigger is also problematic in watersheds with agriculture and open space because the streams do not show a significant increase in flow from even a larger 0.50" rain event, meaning that a sample from a 0.25 inch storm will not be sampling storm runoff but rather base flow.

The value of beginning this effort is questionable. The Program has years of data where TSS was sampled at the same time as other constituents. A preliminary review shows poor correlation with pollutant loading. If using TSS as correlation to total loading is desired, then a more thorough study of historical data could be done to detect significant trends.

Alternative Approach and Suggested Language:

Replace this requirement with a special study to evaluate historical data for trends correlating TSS with other pollutant loads. If that study shows a need for this requirement, a 0.5" storm event trigger would be more appropriate for Ventura County due to the predominant open space and agriculture land uses.

Mandatory Participation and Organization of Watershed Groups

Issue: The Draft Order requires Permittees to attend and hold meetings regardless of need or the topics on the agenda. Additionally, the Draft Order requires Permittees to develop new watershed groups without considering the ongoing efforts of existing watershed groups. The Ventura Countywide program has been working for 15 years. The need for mandatory meetings may have been necessary to get all the parties at the table when it was first forming, but that is not the case now.

Mandatory participation and organization of various groups and mandatory meeting attendance is discussed in several areas in the Draft Order: Part 3 E. 1. (a) (p. 35); Part 3 F. 1. (e)(f) (p. 36); Part 4, B.1. (p.36); Part 4, C. 1. (c) (1) (E) (p. 38). As written these requirements represent burdensome and time consuming efforts and do not provide the Permittees with the flexibility needed to implement an efficient program. The Permittees need to be able to decide when it is necessary and efficient to hold and attend meetings, and should not be required to attend meetings whose agendas have nothing to do with improving Stormwater Quality. Each section should be addressed by permit writers to allow the Permittees this flexibility.

Difficult to determine compliance – Part 4, B.1 (p.36)

The Draft Order requires "Watershed Initiative Participation" by the Principal Permittee to be met by participating in an open ended list of regional meetings and programs. Although the Permittees are supportive of the various watershed efforts and research programs identified, and have participated in the past, it is inappropriate for the Regional Board to mandate in a stormwater permit participation in voluntary watershed programs. Furthermore, the Draft Order does not state how the Regional Board would determine compliance with this provision, or rather how non-compliance with participating with "other appropriate watershed planning groups" would be determined.

Notwithstanding this requirement does not provide flexibility for the Permittees to decide how to meet the requirement. Placing mandates on which staff attends certain meetings may create costly and inefficient duplication of efforts. For instance, if a co-permittee is already participating on the County Environmental Crimes Task Force, and is willing to represent the Countywide Stormwater Program at the Task Force, and to report on

these issues at the Countywide stormwater meetings, why should the Principal Permittee also attend?

Alternative Approach and Suggested Language:

Allow flexibility so that Permittees can pick the most economical way to comply. Change language from require attendance to "the Permittees are encouraged to attend".

Redundant Groups Required Under Part 4, C. 1. (c) (1) (E) (p. 38)

This permit provision requires the Permittees to "organize watershed Citizen Advisory Groups/ Committees". As the Draft Order noted in the previous requirement there are already watershed based groups in the major watersheds of Ventura County such as Calleguas Creek Watershed Steering Committee, Santa Clara River Watershed Committee, and Ventura River Watershed Council, additionally there are already broad based watershed groups including Friends of the Santa Clara River and the Malibu Creek Watershed Advisory Council. Notwithstanding the statements regarding the Regional Board's authority to require participation, requiring organization of new groups when similar ones already exist is an unnecessary burden.

Alternative Approach and Suggested Language:

Working within the existing group structures will be more effective than starting a new group or committee. The sentence should be revised to read: "Work with existing local watershed groups or organize Citizen Advisory Groups/Committees ..."

Burden of Excessive Meetings Part 4 F(e)(f) (p. 36)

Mandatory meeting attendance for mandatory monthly program meetings is not an efficient use of time. This is to be a five year permit, and after the first two years many new programs and requirements will have been developed and implemented. During the later half of the permit term the Permittees may not have to meet as frequently. The frequency of these unnecessary meetings will be a huge 20-25 staff hours/month drain on city resources (especially smaller cities with small staffs). Additionally, circumstances beyond the Permittee's control can cause them to miss a meeting.

Alternative Approach and Suggested Language:

Change the attendance requirement to 90% for all subcommittees and the management committee mandatory meeting requirement to quarterly.

Public Outreach and Participation

Issue: Draft Order has excessive requirements on where and how much public outreach is required. The prescriptive nature of these requirements does not allow for a flexible program to focus resources on public outreach methods found effective, but

rather insists that the number of impressions is made each year while still holding the Permittees responsible for effectiveness.

Number of Impressions Part 4, C. 1. (c) (5) (p. 38)

The existing permit requirement is 2.1 million impressions based on three times the population of Ventura County. That is similar to other permits in the state that have such a requirement, however several have no such numeric standard. The latest US Census data (2005) shows Ventura County with a population of 820,000. The requirement in the Draft Order for 10 million impressions is 12 times the population, an inappropriately large increase.

Alternative Approach and Suggested Language:

During the last reporting period an extra effort was made by all Permittees to ensure the success of a new outreach campaign, made possible without the in-kind donations given by several media organizations, resulting in impressions above and beyond our current permit requirement.

5 million impressions, four times the previous requirement, would be realistically achievable and leave resources available for more in-depth educational opportunities.

Outreach to School-aged Children Part 4 C 1. (c) (6) (p.39)

We are in agreement that educational outreach to children is an important way to affect a change in behavior. However, requiring this be done in schools presents difficulties. The Permittees do not have the authority to put any material into a classroom. It will be up to the discretion of the educational system to use anything provided to them, including resources from AB1721. Targeting all grades from K-12 compounds the obstacles because not all those grades have in their curriculum subjects that are open to the stormwater pollution message. For example, the stormwater message may be perceived as appropriate to include in earth and life sciences which are taught in grades 6 and 7, but not for physical science which is taught in grade 8. In grades 9-12 science is presented as discipline-specific courses - which are not required to be taken by all students.

The Environmental Education Account is an option, however, there is no guarantee that money given to the account will be spent in Ventura County or on stormwater pollution, or that it will even be used in the classroom. According to the Cal/ Environment and Education Initiative website, spending money in the account requires both Legislative appropriation and consultation with the California Integrated Waste Management Board, but no consultation with the State Water Resources Control Board. There is a concern that these funds will be used exclusively for solid waste and recycling programs, and that the Permittees will still be responsible for measurable improvements.

Measuring improvements in the classroom would require teachers to share information on their students with the Program, something that they have no incentive to do. Measuring the effectiveness of outreach to children is an appropriate part of the

program. However, we believe a more effective program would be one that is outside the classroom.

Requiring Permittees to demonstrate improvement in public school students' knowledge is beyond the authority the authority of the Regional Board. Education standards are set by the Board of Education.

Alternative Approach and Suggested Language:

The Permittees need flexibility in providing outreach to children. The cost of this approach prevents creative alternative approaches that would use other known effective outreach methods such as television, radio and the internet. Also, reaching a target audience in multiple ways is considered a more effective method to affect a behavior change. We would suggest a focused requirement to provide educational outreach to the same number of school-aged children. This would allow the Permittees the flexibility to develop a program that will have a better chance of success and maximize the benefit of their resources.

Corporate Outreach Part 4 C 2. (a) (2) (p. 40)

The requirement that Ventura County Permittees must confer with corporate managers is both vague and burdensome. It is highly likely that corporate management offices are outside of Ventura County and possibly outside of California. Ventura County Permittees can only be responsible for educating the operators of franchises within Ventura County and cannot be expected to change the behavior of entire corporations.

Alternative Approach and Suggested Language:

Please define corporate managers as those managers directly operating franchises in Ventura County.

Annual Reporting Program

Issue: The reporting section is in a cumbersome format. To date, the Permittees have not received feedback from the Regional Board on the adequacy or any deficiencies in the current Annual Report format. The previous effort to reformat and revise the Annual Report cost the Permittees over \$130,000. This will increase staff time, for both the RWQCB and Permittees, with little or no improvement in water quality.

Alternative Approach and Suggested Language:

We request the current Annual Report format be retained. As an alternate:

Using language based on the Stockton permit

PART 2 - PROGRAM REPORT

On an annual basis the Permittees shall complete an Annual Monitoring Program Report that responds adequately to the evaluative questions below which

correspond to the Order, or propose an alternative form in the revised SWMP to be used instead of the questions below.

ISSUE PAPER FOR DEVELOPMENT CONSTRUCTION PROGRAM

Statement of Issue: Absent a prohibition variance, the Draft Ventura Stormwater MS4 Permit prohibits construction site grading during the "wet season" (October 1 – April 15) on "hillsides," from areas discharging to water bodies listed as impaired under CWA Section 303(d), and within or adjacent to environmentally sensitive areas. If adopted, this restriction on grading operations would (1) improperly give the Regional Board a de facto permitting power over local land use decisions, (2) impose unnecessary burdens upon the Permittees authority to permit local land uses, (3) create unnecessary delays and unjustified costs in construction projects, (4) impose procedural uncertainties in the granting of variances from the grading prohibition, and (5) create inconsistencies with State Water Resource Control Board policy in relation to numeric limits on construction site discharges,

Discussion

The Permittees and other interested parties have identified a number of significant issues with the Draft Permit's Development Construction Program. These issues are delineated below with a discussion of the problems that may result from adoption of the Draft Permit, as well as suggested alternative approaches aimed at addressing these problems. In addition, an underline-strikeout version of Part 4 Section F, which illustrates the recommended changes to the permit, is included in Attachment 1.

The wet season grading prohibition in Section F.1(a)(1) improperly gives the RWQCB a de facto power to grant construction permits, a function properly reserved to Permittees. Under the proposed terms of the Draft Permit, this de facto power is created because:

1. The authority of the Permittees to grant variances from the grading prohibition is sidestepped in favor of the RWQCB with no exception. (Section F.1(b)(1))
2. The RWQCB would have the final authority in deciding whether a grading project can occur during the wet season. (*Ibid.*)
3. Use of the term "prohibition" in the grading authorization reinforces the notion that the RWQCB is the final decision maker for construction projects occurring during the wet season. (Section F.1)

The Draft Permit essentially requires the MS4s to implement the State Constructin General Permit. In addition to the new permitting powers discussed above, Section F.1(b) is problematic for several other reasons. First, it places the Permittees in the conflicting role of acting as the "middle man" between the project proponents and the RWQCB. Thus, Section F.1(b) sets up the Permittee to act as an advocate of the project proponent before the RWQCB because the Permittee, instead of the project proponent, must petition the RWQCB to grant the variance based on site BMPs the Permittee has already approved. Under the practical terms of this provision, as a condition for the

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Board's granting of the variance, the Permittee must make the case for the project proponent that proposed BMP measures will meet the specified water quality standards in Section F.1(b)(1). This process will effectively dismantle the local agencies' role as the final authority in the permitting of grading operations.

In addition, Section F.1(b)(1) creates severe procedural uncertainties because it is unclear whether the RWQCB would grant the variance to the Permittee or the project proponent. Thus, it is unclear whether the Permittee would receive the variance and subsequently authorize the project proponent to conduct wet season grading, or whether the variance would be granted to the project proponent who would then provide it to the Permittee as a condition for grading authorization.

The Permittees firmly believe the public interest would be better served if the Draft Permit gave Permittees the power to grant or deny variances along with primary responsibility for compliance monitoring. This practical approach would reaffirm the local agency as having primary responsibility local land use decisions. In the alternative and if the Regional Board is unwilling to accommodate this request, the Permittees should be removed from the role of "middle men" and instead the project proponents should apply directly to the RWQCB for the variance. In this alternative is pursued, the RWQCB should also have primary responsibility for inspecting, enforcing, and the monitoring BMPs implemented as part of the variance.

The "wet season" grading prohibition and requirement for variance from the prohibition represents unreasonable bureaucratic requirements and restrictions on project proponents and Permittees, and will unnecessarily create delays and excessive costs on project development on a regional basis. Under the Draft Permit, before a project could be authorized to conduct grading operations during the "wet season" several unnecessary hurdles would need to be met. First the project proponent would have to demonstrate to the Permittee it qualifies for a discharge prohibition variance. This would require a demonstration that proposed project BMPs meet the four requirements in Section F.1.(b), which would entail, among other requirements, a showing by Permittees that project BMPs will ensure that discharges contain less than 100 mg/L TSS and less than 50 NTU turbidity. Next, the Permittee would have to demonstrate (to the RWQCB) it has approved the BMPs for the project and the BMPs will meet the Section F.1(b) requirements. And as noted above, the RWQCB would have to grant the variance. These problematic restrictions would apply even to projects that are anticipated to have little or no discharge to the waterbody such as sites with properly designed and constructed detention basins. In addition the restrictions would apply over a six and one-half month period (from October 1 to April 15), which is primarily devoid of precipitation based on historical rainfall data for Ventura County.

To address these concerns, the RWQCB should restructure the prohibition/variance provisions to a strategy similar to the approach on other regional MS4 permits, which do not have such provisions. For example, Tentative Order No. R9-2007-002 (County of Orange MS4) avoids the burdens inherent in finding exceptions to a grading prohibition, and instead requires measures aimed at ensuring Permittees take direct steps to prevent

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and control erosion and sediment runoff. This permit simply requires Permittees to incorporate into construction permits requirements for BMPs to reduce pollutant discharge to the maximum extent practicable with advanced sediment treatment for impaired water bodies and environmentally sensitive areas as necessary. While the Draft Permit is designed to accomplish similar goals, the approach it utilizes to achieve these goals is unnecessarily cumbersome and should be changed to reflect a more streamlined approach such as the approach taken on the Orange County MS4 Permit.

Another alternative would be to require BMP implementation in two tiers, with more stringent BMPs employed during the wet season for sites with high erosion potential and for sites tributary to Section 303(d) water bodies impaired for sediment or turbidity or environmentally sensitive areas. Examples include increasing the inspection frequency and enhancing corrective action measures, deadlines, and follow-up inspections, requiring stabilization of graded soils, and requiring advanced treatment for sediment at construction sites determined by the Permittee to be exceptional threats to water quality, as appears on the Orange County MS4 permit.

It would appear to the Permittees that the long term solution for this concern is to modify the State Construction General Permit to address wet season grading restrictions. Such an approach would provide Statewide consistency to the construction program.

The numeric effluent limitations on construction site runoff that must be met to obtain a variance from the wet season grading prohibition cannot be achieved without advanced treatment methods, which would result in substantial costs to construction projects. According to research conducted by the Construction Industry Coalition on Water Quality (CICWQ), achieving the 50 NTU turbidity requirement under Section F.11(b)(1)(C) will likely require both the existing BMPs required in Ventura County and the advanced treatment methods.¹ Using reasonable assumptions, implementation of these strategies the combined cost of construction phase erosion and sediment control BMPs plus advanced treatment on a per acre basis is approximately \$28,000 per acre according to the CICWQ study.² The Permittees believe these cost represent substantial burdens and should have been considered in establishing the effluent limitations in accordance with both MEP principles and State law. In addition, the Regional Board should provide some evidence that the turbidity and TSS effluent limitations are necessary to protect beneficial uses and ensure compliance with applicable water quality objectives.

In establishing the turbidity and TSS limits as a condition for variance, the Regional Board has not made the prerequisite findings and recommendations of the State

¹ See Building Industry Legal Defense Foundation, Building Industry Association of Greater Los Angeles and Ventura Counties Major Issues and Comments on the 12.27.06 Draft NPDES MS4 Permit for Ventura County, Ventura Watershed Protection District, and Incorporated Cities.

² *Ibid.* at p 20.

Water Resources Control Board Blue Ribbon Panel Report.³ This Report establishes at least five pre-requisites studies and conditions that must precede imposition of numeric limits on construction site run-off. These include consideration of the toxicity of active treatment systems, issues associated with long-term use of chemicals, and consideration of run-off flow and peak volume.

The wet season grading prohibition and variance requirements for hillsides with slopes 20% or steeper is excessive and vague and would subject project proponents and Permittees to unreasonable procedural burdens. The term "hillside" is defined in Part 7 as "property located in an area with known erosive soil conditions, where the development contemplates grading on any natural slope that is 20% or greater and where grading contemplates cut or fill slopes." Under this definition, even sites where insignificant portions have a 20% slope could be subject to the grading prohibition. The Permittees believe these requirements are excessive and should be amended. The provision is also unnecessarily vague because it is unclear what constitutes "known" erosive conditions. The RWQCB should address these concerns by eliminating the prohibition and variance provisions altogether, or if this is not possible, the RWQCB should:

1. Amend the definition of "hillside" to establish readily verifiable standards for erosive conditions including a requirement that "areas of known erosive conditions" be identified before the effective date of the "hillside" provision;
2. Authorize an exemption from the prohibition and variance provisions for properties with relatively small portions meeting the 20% slope trigger as determined necessary by the RWQCB, or
3. Clarify what area or portion of a site must have a 20% slope before the provisions would apply.

The Draft Permit is unclear as to whether the Permittee must require project proponents to implement all of the BMPs in Tables 5, 6, and 7 or some of the BMPs depending on site conditions. For example, Section F.2 does not state in plain terms that *all* of the BMPs in Table 5 must be implemented at construction sites less than one acre. Thus, it is unclear whether the language, "Each permittee shall require the implementation of a minimum set of BMPs at all construction sites (See the following Table 5) to prevent erosion . . ." is intended to require that *all* of the BMPs in Table 5 are required. In addition, Tables 6 and 7 list duplicative BMPs designed to solve similar problems. For example, Table 6 has six erosion control BMPs, which each would independently solve erosion problems if properly implemented. Because it does not appear the RWQCB intends to require Permittees to require all the BMPs in these tables for each project, Sections F.2 and F.3 should be changed to clarify this point. In addition, since the selection of BMPs should depend on the specific site characteristics for activities one acre or greater, Tables 6 and 7 should be combined and the Permittees

³ *Storm Water Panel Recommendations to the California State Water Resources Control Board – The Feasibility of Numeric Effluent Limits Applicable to Discharges of Storm Water Associated with Municipal, Industrial and Construction Activities* (June 19, 2006) ("Blue Ribbon Panel Report").

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should be able to work with the applicant to choose the appropriate combination of BMPs. To achieve these objectives, the language in Part F.2 and F.3 might read:

“Depending on project type and area, each Permittee shall require the implementation of an effective combination of appropriate erosion and sediment control following BMPs chosen from the table below. . .”

The language used in the Certification Statement in Section F.4(a)(2) is difficult to interpret and excessively harsh to the extent that the landowners may refuse to sign the statement or will not reasonably understand what they are certifying by signing the statement. A better certifications statement would read: *“I, (owner’s name or owner’s representative/designee), am the property owner and agree to implement and maintain the SWPPP as prepared by (name of engineer or architect) for the duration of my construction project. I further understand that my failure to provide adequate sediment and erosion control in accordance with the requirements of my grading and/or building permit from the Local Agency could lead to a stop work order and possible citation by the Local Agency and RWQCB. I further agree to grant access to my property to the Local Agency to conduct all grading and building permit inspections including the mandatory rainy season inspection to verify that I am implementing and maintaining the proper BMPs that my SWPPP requires.”*

The specifications of titles that are required to sign the certification statement in Section F.5(a)(2)(B) is unnecessary and should be eliminated in favor of more simplified language. It would be preferable if this section were revised to read: *The Local SWPPP certification shall be signed by the property owner or owner’s representative/designee. If the Local SWPPP is being prepared by the Local Agency then the appropriate authority for the Local Agency shall sign the document.”*

Section F.7(b) would unnecessarily shift the burden of inspecting and maintaining post construction controls on private property from the property owners and their engineers and architects to the Permittee. Section F.7(b) states that “[p]rior to approving and/or signing off for occupancy or issuing a Certificate of Occupancy for all construction projects subject to post construction controls, each permittee shall inspect the constructed site design, source control and treatment control BMPs to verify that they have been constructed in compliance with all specifications, plans, permits, ordinances, and [the draft Permit].” (emphasis added). The Permittees believe this language represents an unreasonable shift in responsibility and should be changed to read: *“Prior to the release of the grading permit or building permit, the Engineer or Architect of record who prepared the SWPPP, shall provide a letter to the Local Agency that states that all the temporary BMPs implemented by the property owner worked satisfactorily and will be removed by (date) and that post control devices will be in place and satisfactorily working by (date).”* This language will not only remedy the aforementioned burden shift, but will address the fact that not all construction projects obtain a certificate of occupancy at the completion of the permit, as Section F.7(b) would require.

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Requiring proof of coverage under a State NPDES permit as a condition for issuance of specified permit types in Section F.8(a)(1) for projects requiring coverage under the CASGP or Small LUP General Permit could unnecessarily delay construction projects which have already applied for coverage and are waiting for the SWQCB to reviews and respond to the Notice of Intent. These changes can be accommodated amending Section F.8(a)(1) read:

“Proof of application for coverage or coverage under a State NPDES is demonstrated ...”

Similarly, Section F.9(b) should be revised to exclude from referral to the RWQCB projects that have applied for coverage and are awaiting issuance of a valid Waste Discharger Identification Number (WDID). This change to Section F.9(b) could be accommodated as follows:

“Each Permittee shall refer to the Regional Water Board any non-filers (i.e., those projects which that cannot demonstrate that they it either have a WDID number under the CASGP or Small LUP General Permit or that a Notice of Intent (NOI) application has been submitted to the Regional State Water Quality Control Board . . .”

References

Region 9 Board (2007) California Regional Water Quality Control Board San Diego Region. Tentative Permit No. R9-2007-0002 NPDES No. CAS0108740 (Orange County MS4 Permit), February 9, 2007.

Building Industry Legal Defense Foundation, Building Industry Association of Greater Los Angeles and Ventura Counties Major Issues and Comments on the 12/27/06 Draft NPDES MS4 Permit for Ventura County, Ventura Watershed Protection District, and Incorporated Cities

Ventura Countywide Issue Paper - MALs and Permit Implementation and Compliance

Issue: The Draft Permit proposes to use municipal action levels (MALs) expressed as numeric values to assess compliance with the Permit. Outfalls greater than 36 inches are subject to MALs. If MALs are exceeded more than twice then the Permittees are judged to be out of compliance with the MEP standard (and out of compliance with the Permit). If MALs are exceeded then the Permittees must augment control measures to reduce the discharge of pollutants to not violate the MEP standard.

Ventura Countywide Alternative Approach

The Ventura Countywide Program proposes an alternative to the “MAL equal MEP” approach used in the Permit. The fundamental difference between the Regional Board and the Countywide approach is in the use (and definition) of MALs. The Countywide approach proposes to use MALs as an assessment tool (1) to identify “bad actors” or catchments (through outfall monitoring) and (2) to identify inadequate levels of program implementation (through annual program evaluation). In the first case numeric values will be developed using local monitoring data and be applied to land use outfalls. In the second case the action levels will be developed by the Permittees and Regional Board and be applied to all Permittees. MALs would not be used as a compliance tool as currently proposed in the draft Permit.

Our approach is summarized below and shown graphically in the attached flow chart:

1. Basic Assumptions - Definitions:
 - Action Level – The level of implementation or performance where, if below the action level, the municipality’s effort is inadequate and immediate action must be taken to correct.
 - Benchmark – The level of implementation or performance that reflects an adequately managed and comprehensive stormwater program. Ultimately the goal of all municipalities is to attain benchmarks.
 - Compliance determination – Dischargers must reduce pollutants to the maximum extent practicable, meet water quality standards through the iterative process, and comply with all other provisions of the Permit.
2. Monitoring program will primarily be based on the southern California model stormwater monitoring program. As such the initial monitoring will focus on determining the extent of the water quality issues in the receiving water¹. The water quality issues will be as previously identified by the Countywide program and TMDLs.
3. Municipal pollutant concentration action levels will be developed from local monitoring data for pollutants of concern. MALs will be based on the mean plus two standard deviations. The MALs will be used as an assessment tool not a compliance metric. Tentatively, MALs would be developed for the following:

¹ Previous monitoring conducted under the Ventura Countywide monitoring program has identified the problematic constituents in the lower part of the three major watersheds.

Wet Weather

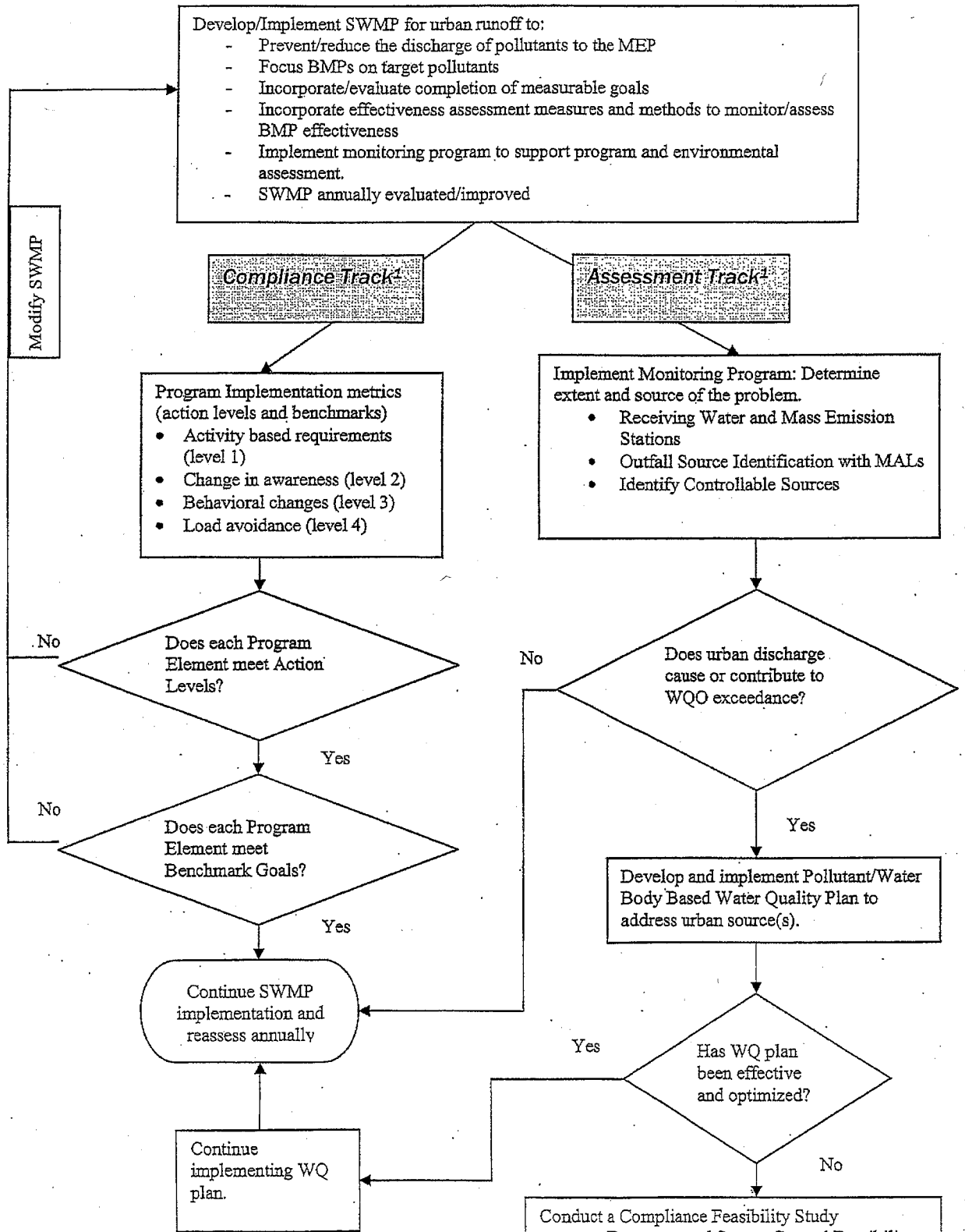
- E. Coli
- Fecal Coliform
- Dissolved Copper
- Dissolved Zinc
- Total Selenium
- Total Mercury
- Nitrate as N

Dry Weather

- E. Coli
 - Fecal Coliform
 - TDS or electrical conductivity
 - Nitrate as N
4. Pending the results of item 2 above the Dischargers will focus outfall monitoring on the problematic constituents and in the geographical areas identified as potential sources.
 5. Municipalities must conduct follow up investigation and develop and implement a corrective action plan for outfalls exceeding MALs.
 6. Permittees will develop performance metrics (action levels and benchmarks) for program implementation. There will be a permit provision requiring that when an action level is not met, then the Permittee must take immediate actions (within a specified time period) and address the source or inadequate level of performance. Permittees will strive through the iterative process to meet benchmarks levels. A tentative list of performance metrics are provided in the attached table.

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1. Based on CASQA Progressive Approach, Option 2.

Conduct a Compliance Feasibility Study

- Treatment and Source Control Feasibility;
- Reasonableness;
- Applicability of WQS;
- Effectiveness; and
- Urban contribution/Controllable source's

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1. Based on CASQA Progressive Approach, Option 2.

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**VENTURA COUNTYWIDE STORMWATER MANAGEMENT PROGRAM
SMALL COMMUNITIES TIERED PERMIT APPROACH
DRAFT FOR DISCUSSION
August 15, 2007**

There are currently six small, incorporated communities listed as co-permittees in the Ventura Countywide Stormwater NPDES permit. Based on the most recent census data, the City of Ojai has 8,156 citizens. Fillmore has 15,400; Port Hueneme, 21,845; Santa Paula, 29,400; Moorpark, 36,150; and Camarillo, 62,739. These urban areas are significantly smaller than the population threshold trigger of 100,000 for Phase I requirements. Additionally, Ojai, Santa Paula, and Fillmore are not contiguous with the remainder of the urban areas of Ventura County.

The U.S. EPA established Phase I regulations with the understanding that discharges from larger communities MS4's have the potential to have greater water quality impacts than those from smaller communities. Phase II regulations were implemented with the knowledge that the Phase II programs would not necessarily conform to the programs implemented by Phase I entities based upon the understanding that the potential of water quality impacts from the smaller communities were not as significant. The Phase II regulations wisely allow smaller communities to learn from the successes and failures of the Phase I programs and use the information as a guide in developing their programs.

Catch Basin Excluders – The small communities support the "Trash Management" option outlined in the issue paper titled "Alternative Language for Permit Requirements" submitted on June 13, 2007 to regional board staff by the Ventura Countywide Stormwater Quality Program. Due to the minimal resources available to smaller communities we request that smaller communities be required only to implement the second option of a "Trash Management Program". This will allow for a better use of those limited resources in making a difference in water quality. This meets the intent of the draft permit to reduce trash entering the receiving waters by using proven techniques already in use. Water bodies impaired for trash are addressed through the TMDL process.

Meeting Frequency – Attendance at management committee meetings is mandatory and will be attended 100% of the time. Subcommittee attendance is required at a minimum of 50% of meetings for communities with a population of 50,000 to 100,000; 30% for smaller communities. Because of limited staff, small communities usually have only one or two persons who can devote a portion of their time to the program. Mandatory attendance at all subcommittee meetings is infeasible with small communities' limited staffing resources. An update of key subcommittee activities is received at management committee meetings so co-permittees consistently stay informed. Small communities will make a good effort to attend as many subcommittee meetings as possible.

SMALL COMMUNITIES TIERED PERMIT APPROACH
DRAFT FOR DISCUSSION
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Public Outreach –The small communities support the Ventura Countywide Program's alternative approach for public outreach activities that was provided to regional board staff in the "Principal Permittee Activities" issue paper on June 27, 2007. Smaller cities lack the resources required to provide a monetary contribution to a Statewide Environmental Education Account and hereby request they not be required to participate in that endeavor. The recommended approach in the aforementioned issue paper would allow small communities to focus limited resources on the most effective outreach tools and continue to participate in delivering a consistent, countywide stormwater message.

Time Frames – Modify program timelines for small communities as follows:

1. Modification of stormwater programs, protocols, practices, municipal codes – 3 years
2. Obtain coverage under Construction Activities Stormwater General Permit – 90 days from Order adoption
3. Order shall serve as NPDES permit and take effect 90 days from Order adoption.
4. GIS Stormdrain pipe – exempt small communities from this requirement and therefore eliminate this timeline. There is no water quality benefit to this requirement. Many of the small communities do not have such a program and do not plan on purchasing such a program, nor do they have the technical staff and equipment to support such a system.

All other timeframes set forth in draft permit to be amended based on overall Countywide program comments already submitted.

Special Studies and Plans – The scope of work for the special studies will not be extended to the communities that have a population of less than 50,000.

As stated in the second paragraph, the U.S. EPA Phase II provision wisely allows smaller communities to learn from the successes and failures of the Phase I programs and use the information as a guide in developing their programs.

Electronic Tracking – Exempt small communities from electronic tracking requirements. Many of the small communities do not have such a program nor do they have the technical staff and equipment to support such a system. There is no water quality benefit to this requirement. Limited resources for the stormwater program should be maximized to benefit water quality.

Public Construction Activities Management – Exempt small communities from participating in public construction activities management program. Small communities typically have to schedule public construction projects based on very limited budgets. The budgets come from grant programs and other sources.

SMALL COMMUNITIES TIERED PERMIT APPROACH
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For example, road projects are funded from gas taxes that do not sufficiently meet the needs of road rehabilitation. This requirement would add 15 to 20% to the project costs crippling an already struggling system.

Time Schedules for Permit Implementation

Issue

The implementation schedules for most of the program provisions are extremely compressed and will lead to poor execution and the misdirection of resources. In the Draft Order where there was an opportunity to provide an implementation schedule it was commonly decided that 180 days or 6 months was the appropriate time frame. But when all the implementation provisions are put together, the Draft Order creates an impossible schedule. For example, individually the following requirements' time frames do not seem unreasonable, but when combined are impracticable.

1. Update Stormwater Ordinance and enforce all requirements of Order within 6 months (Draft Order at p. 33) new 365 days
2. Modification of SWMP, policies, codes, etc. within 90 days (Draft Order at p. 34) new 365 days
3. Ethnic community education strategy within 180 days (Draft Order at p. 38) no change
4. 4. In-school effectiveness strategy within 180 days (Draft Order at p. 39) no change
5. 5. Behavioral change assessment strategy within 180 days (Draft Order at p. 39) new 365 days
6. Pollutant of Concern outreach program within 180 days (Draft Order at p. 39) no change
6. 7. Install trash excluders on all catch basins within 180 days (Draft Order at p. 78) new 365 days
8. Develop Electronic Reporting Format within 6 months (Draft Order at p. 85) no change
9. Watershed based tributary monitoring plan within 6 months (Draft Order p. F-8) deleted

The Draft order must be modified to provide for an overall, practical and realistic schedule to allow Permittees to create an effective program.

Alternative Approach

Below is a matrix of all the time frames listed in the draft order. With each permit requirement is summary of our original comment submitted as Attachment B of the Permittee's comment letter on the Draft Order, including our suggested time frame. These time frames were selected based upon our understanding of the requirement involved and the logistics needed to effectively implement programs to meet that requirement.

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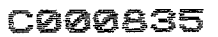
The Permittees understand that the new permit will represent an increase in program requirements, and they are committed to meeting that challenge. But to do so a realistic amount of time must be granted to create workable, effective programs.

Condition or Requirement	Effective Date/ Applicable Deadline	Page #	Condition no.	Permit Section Reference	Time Requested in Comments Letter
Discharger comply with TMDL waste load allocations	No later than 20 years from effective date of policy	14	E.9	Federal State & Regional Regulations	Agreed to time frame
Order shall serve as NPDES permit and take effect	90 days from adoption	25	Finding G4	Public notifications	Conflicts with Part 3.A.1 page 31: Adopt and implement applicable terms of this Order no later than (60 days from Order Adoption)
Receiving Water Limitation Compliance Report	w/ Annual Report Implement 30 days after 30 day approval	30	Part 2.3(d)	Receiving Water Limitations	Agreed to time frame
Adopt and implement applicable terms of this Order	No later than (60 new 90 days from Order Adoption) unless otherwise specified per Order	31	Part 3.A.1	Implementation-General Requirements	Conflicts with finding G4 page 25: "shall take effect 90 days from Order adoption"
Update Stormwater Ordinance to enforce all requirements of this Order	No later than 6 months from Order Adoption) new 365 days	33	Part 3.B.3	Implementation-Legal Authority	2 Years
Statement by legal council stating permittee has legal authority to comply with Order	No later than 180 days after Adoption date new 365 days	33	Part 3.B.4	Implementation-Legal Authority	Requiring legal counsel to declare Permittee has "obtained and possesses all necessary legal authority to comply with this Order" is infeasible, given that it is unclear how Permittees will have legal jurisdiction to enforce some of the provisions of this Order.
Modify stormwater programs, protocols, practices, municipal codes	No later than 90 days after Adoption date new 365 days	34	Part 3.D.1	Implementation-Modifications/Revisions	Ninety days is insufficient time to complete revisions to "programs, protocols, practices and municipal code". We suggest two years. Also, this requirement conflicts with Part 3, B, 4 which provides for six months to complete revisions.
Organize Citizen Advisory Groups/Committees to develop methods for education	No later than 365 days after Adoption date	38	Part 4.C.1 (c)(1)(A)	Special Provisions-PIPP(*)-Residential-Outreach & Ed	Watershed groups already exist. The sentence should be revised to read: "Work with existing local watershed groups or organize Citizen Advisory Groups/Committees . . ."
Principal Permittee to develop strategy to educate ethnic communities & incorporate into PIPP**	No later than 180 days after Adoption date	38	Part 4.C.1 (c)(2)	Special Provisions-PIPP(*)-Residential-Outreach & Ed	1 Year

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Provide contact info on staff responsible for public outreach activities	No later than 30 days after change occurs	39	Part 4.C.1 (c)(7)	Special Provisions-PIPP(*)-Residential-Outreach & Ed	Agreed to time frame
Develop & Implement strategy to measure effectiveness of in-school education programs	No later than 180 days after Adoption date	39	Part 4.C.1 (c)(8)	Special Provisions-PIPP(*)-Residential-Outreach & Ed	Object to in-school programs. 1 year requested for effectiveness measurement strategies - 4.C.1 (c)(9)
Develop & Implement a behavioral change strategy to ensure PIPP effectiveness	No later than 180 days after Adoption date 365 days	39	Part 4.C.1 (c)(9)	Special Provisions-PIPP(*)-Residential-Outreach & Ed	1 Year
Develop outreach programs that focus on watershed-specific pollutants identified in Attachment B POCs (*)	No later than 180 days after Adoption date	39	Part 4.C.1 (d)	Special Provisions-PIPP(*)-Residential-Pollutant-specific	Agreed to time frame
Develop and implement Corporate outreach program	To begin no later than 2 years after Adoption of this order	40	Part 4.C.2 (a)(1)	Special Provisions-Business-Corporate Outreach	Agreed to time frame
Corporate outreach for all target facilities shall be conducted not less than 2 times during term of this order.	To begin no later than 2 years after Adoption of this order	40	Part 4.C.2 (a)(2)	Special Provisions-Business-Corporate Outreach	Agreed to time frame
Inspect all facilities identified in Part 4D.2 twice during the term of this Order, provided the first inspection occurs no later than 2 years from adoption of this Order	To begin no later than 2 years after Adoption of this order. Mandatory interval of 6 months.	42	Part 4.D.2 (a)	Special Provisions-Industrial/Commercial Facilities-Inspect Critical Sources	Inspection time frame not an issue, requiring treatment control BMPs for discharges to ESA or 303(d) water bodies ls.
Perform Initial Inspection of the Industrial facilities identified in 40 CFR 122.26 (c)	To begin no later than 2 years after Adoption of this order. Mandatory interval of 6 months.	47	Part 4.D.2 (b)(1)(A)	Special Provisions-Industrial/Commercial Facilities-Inspection Frequency	Agreed to time frame



Develop LID(*) Technical Guidance Document	No later than 18 Months from the Order Adoption. Date new 365 days	51	Part 4.E.1.1.2	Special Provisions-Planning Land Development- LID(*)	3 Years
Participate in second phase of SMC's HCS to develop regional stream classification system or complete similar study.	No later than 18 months from Order's Adoption deleted	53	Part 4.E.1.II.(f)	Special Provisions-Planning & Land Development- Numeric Hydromodification Mitigation	Please change "... (18 months from the Order's adoption.)" to "... (18 months from the Order's adoption, or the date the Regional Board notifies the Permittees that the SMC is not proceeding with the HCS, whichever is greater.)"
Develop and Implement watershed Hydromodification Control Plans.	No later than 6 mos. Of completion of HCS new 180 days	53	Part 4.E.1.II.(g)(1)	Special Provisions-Planning & Land Development- Numeric Hydromodification Mitigation	One year.
Obtain coverage under CASGP	7 days after adoption	76	Part 4 G 3(b)	Special Provisions	Conflicts with finding G4 page 25: "shall take effect 90 days from Order adoption" and Part 3.A.1 Adopt and implement applicable terms of this Order no later than (60 days from Order Adoption).
Eliminate discharge from vehicle washing	365 days	76	Part 4 G 4(a)	Vehicle and Equipment Wash	Agreed to time frame
Pesticides Procedures	180 days	77	Part 4 G 5(b)	Landscape, Park, and Recreational Facilities Mgmt.	Agreed to time frame
Catch Basin Trash Excluders	180 days new 365 days	78	Part 4 G 6(e)	Storm Drain Operation Mgmt.	Trash excluders should not be required without other options to control trash such as trash management programs and end-of-pipe collection devices.
Storm Drain Maintenance Program	180 days	79	Part 4 G 6(f)(1)	Storm Drain Operation Mgmt.	Agreed to time frame
GIS Storm Drain Pipe	Channeled portions -365 days All greater than 36" - 3 years All greater than 18" - 5 years	84	Part 4 H. 3. (a)(1)(A)	Storm Drain Operation Mgmt.	Agreed to time frame
Develop Electronic Reporting Format	6 months	85	Part 4 I 1 (a)	Special Provisions	Agreed to time frame
Watershed Ecological Restoration Plans	18 months Deleted	87	Part 5 4 (a)	Watershed Ecological Restoration Planning	See Issue Paper
Begin Trash Study	2 nd October following adoption	F-19	Part 5 F58	Watershed Ecological Restoration Planning	The required study should be limited to only the inland waters and coastal waters where trash and debris monitored could be assumed from MS4 sources, and therefore provide useful information for the MS4 programs.



Ventura River Bioassessment Plan	6 months prior to SMC (year 2010) Deleted	F-15	Part 5 E7 & H4 4(a)	Watershed Ecological Restoration Planning	Agreed to time frame
Participate w/ SMC Regional Bioassessment	Year 2010 Deleted	F-15	Part 5 E6	Watershed Ecological Restoration Planning	Agreed to time frame
Watershed based tributary monitoring plan	6 months Deleted	F-8	Part 5 C2	Watershed Ecological Restoration Planning	Tributary monitoring not a part of adaptive monitoring plan submitted to Regional Board.
Monitoring Results Report	45 days	I-3	Part 4(a)15	Special Provisions	Preliminary data only.

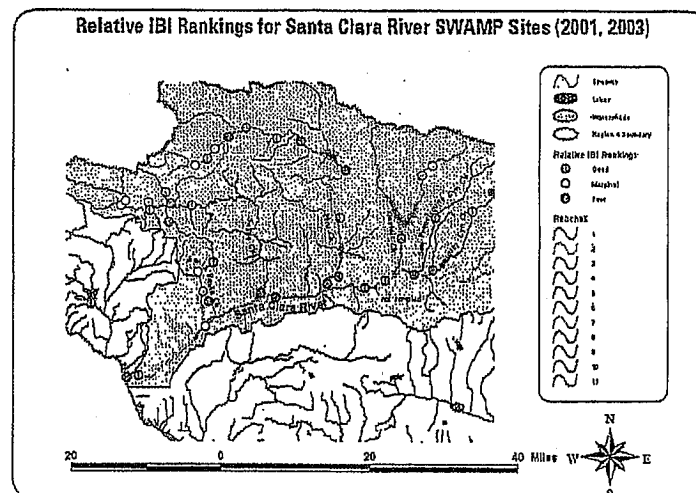
(*) Acronym Key:	
POC=Pollutant of Concern	HCP=Hydromodification Control Plan
PIPP=Public Information and Participation Program	LID=Low Impact Development
SMC=Southern California Stormwater Monitoring Coalition	HCS=Hydromodification Control Study

Ventura Countywide Stormwater Program's Proposed Alternative to Watershed Ecological Restoration Plan Requirements

Issue

Part 5 of the Draft Order requires the Permittees to develop and implement Watershed Ecological Restoration Plans (ERPs) for all areas that have obtained poor scores through the required bioassessment monitoring. There are several issues regarding this requirement.

- The Regional Board's justification for this requirement is to "reestablish insofar as possible the ecological integrity of degraded aquatic ecosystems." (Draft Order p.4.) However, the Regional Board fails to indicate how ERP is required for the Permittees to meet MEP or any specific legal requirement or water quality standard. The Regional Board also fails to identify its authority that would allow it to require the Permittees to develop and implement Ecological Restoration Plans. The Regional Board's authority is limited to issuing permit requirements that implement NPDES permit regulations and compliance with water quality standards. It does not extend to requiring watershed wide ecological restoration planning.
- If it is determined that the Regional Board does have the legal authority, the Permittees are concerned with the broad scope of the language as drafted. the Permittees would be made responsible for writing and implementing restoration plans regardless of the Permittees' contributions to causing the condition. This indirectly makes the Permittees responsible for impact from agriculture and other discharges. The Permittees jurisdictional areas make up only a portion of the watersheds in question and are therefore only part of the solution. A low index of biological integrity could be caused by a number of factors and contributors including: Other NPDES permitted dischargers; Nonpoint Sources of Pollution; Natural sources; Invasive Species; Natural conditions, such as the absence of surface flows; and, others. Additionally, many stream segments are on private property where Permittees have no access to make improvements.. The Permittees do not possess the authority to control discharges of others to a stream segment or the authority to implement on the ground changes to comply with this requirement.

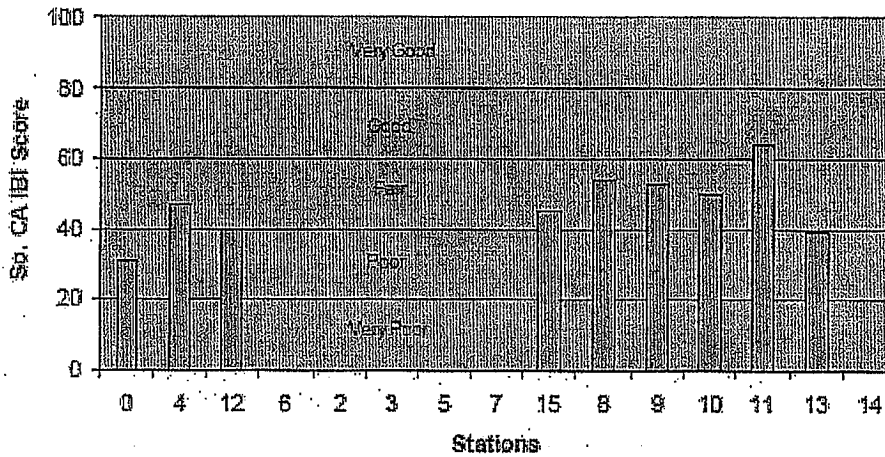


For example, SWAMP data for the Santa Clara River watershed show numerous areas with relative IBI ranking of "poor". Some of these areas are in Los Angeles County, some are in open space areas in the upper watersheds, some are upstream of Ventura County urban areas, some are meant to be dry and are expected to score poorly, and some are in the depositional zones of the lower watersheds. For many years, we have been participating with numerous watershed groups to address a multitude of issues, most of which have little or nothing to do with urban runoff. The impacts to watershed ecology must continue to be solved through the watershed-based stakeholder process. The Permittees are willing to work with the watershed groups to define criteria, identify proportional contributions to the problem, and help develop plans for areas the Permittees have easements and rights-of-way.

- The Draft Order would require that the Southern California Index of Biological Integrity (SoCal B-IBI) be used to develop a score for assessed sites and identify areas for restoration. (Draft Order at p. F-16.) The SoCal B-IBI is not applicable to all of Ventura County. This index was developed for high gradient, riffle-pool dominated systems with perennial flow. The majority of streams with urban runoff contribution in Ventura County are low gradient streams. Data was not collected for the SoCal B-IBI index to evaluate non-perennial streams, low gradient streams where deposition rather than erosion is dominant. Using the SoCal B-IBI to require ERPs will lead to mis-identified stream segments, misused resources and may potentially harm stream segments if attempts are made to 'restore' these streams to contain ecological conditions that never existed.

Alternative Approach

Instead of requiring ERPs within the text of the stormwater permit, the Permittee's instead encourage the Regional Board to work with the Permittees to evaluate bioassessment monitoring in order to determine what actions may be appropriate for the Permittees. For example, the Ventura County Stormwater Program has submitted results of bioassessment monitoring for the Ventura River annually to the Regional Board for the last 7 years. We recommend that Regional Board staff meet with existing stakeholder groups to address concerns raised by the data. In this case, the monitoring data from one annual report resulted in the following index scores:



As expected, station 0 is not expected to score well as it is at the base of the watershed and is the estuary. The requirement for an ERP should not be based on this one, inappropriate site. The two marginal sites (#12 and #13) are above the urban areas of the watershed and outside the jurisdictional boundaries of the Permittees. It cannot be concluded that the impairment to these sites is caused by discharges from an MS4 and therefore no MS4 should be responsible for ecological restoration.

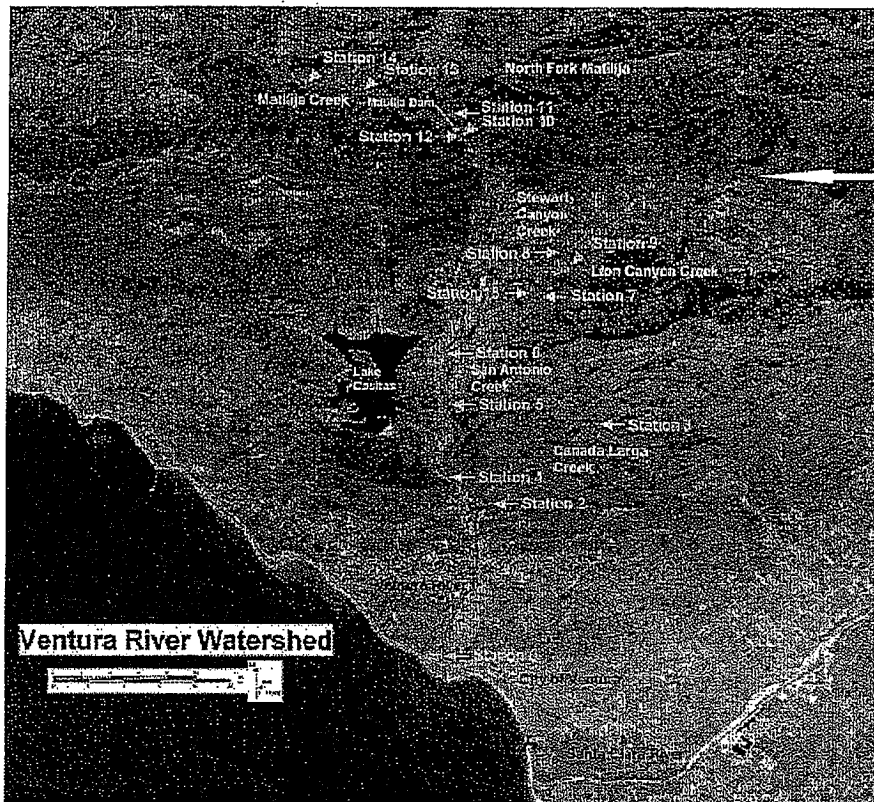


Figure 1. Fifteen BMI sampling locations in the Ventura River watershed.

Furthermore, the California Department of Fish and Game, the State Water Board's surface water ambient monitoring program ("SWAMP"), and other entities are currently working to refine the SoCal B-IBI in order to properly assess a wider range of habitats. Until the SoCal B-IBI is refined to include habitats that are predominant in Ventura County, it is an inappropriate tool for use in Ventura County. Once an appropriate assessment index is developed, the Regional Board should work with the Permittees and other appropriate stakeholders within Ventura County to properly determine the County's restoration needs. Because stream degradation can be caused by a variety of stakeholders, we contend that a successful ERP needs to be developed with the cooperation and commitment from all the stakeholders in a watershed.

In the meantime, the Permittees propose an alternative approach for addressing ecological conditions. We propose that if program monitoring discovers a stream segment that obtained a score of "poor" or "very poor" on the refined index that is directly downstream of an urban area, and the area above the urban area scored above "poor" or "very poor", the permit should encourage the Permittees to work with the watershed groups to define criteria, identify proportional contributions to the problem, and help develop plans for areas the Permittees have easements and rights-of-way. This plan will identify the steps needed to identify sources of degradation and determine a course of action towards restoration.

Conclusion

The Permittees understand the value in restoring creeks and streams as it improves natural habitat and the quality of life for local residents. The Permittees also understand the value in working through the watershed process as is supported by Finding E. 15 of the Draft Order. "The Regional Water Board supports Watershed Management to address water quality protection in the region...It emphasizes cooperative relationships between regulatory agencies, the regulated community, environmental groups, and other stakeholders in the watershed to achieve the greatest environmental improvements with available resources." The Permittees suggest that the development of ERPs will be more effective if developed through a watershed-wide process with all stakeholders responsible for the health of the stream or creek. Improvements brought forward by one entity will have little effect if the impacts of others are not addressed at the same time.

**Recommended Changes to Draft Permit
Regarding Planning and Land Use Development and
Low Impact Development**

E. Planning and Land Development Program

1. The Permittees shall implement a development-planning program that has the following goals for New Development and Redevelopment projects:
 - (a) Minimize impacts from storm water runoff on the biological integrity of Natural Drainage Systems and water bodies in accordance with requirements under CEQA (Cal. Pub. Resources Code § 21100), CAL. WATER CODE §13369, CWA § 319, CWA § 402(p), CWA § 404, CZARA § 6217(g), ESA § 7, and local government ordinances.
 - (b) Minimize pollutants emanating from impervious surfaces by reducing the percentage of Effective Impervious Area¹ to less than 5 percent of total project area (new development projects only). Alternative reductions may be considered if adequate documentation is provided.
 - (c) Minimize pollutants emanating from impervious surfaces by reducing the percentage of effective impervious area to the maximum extend practicable (redevelopment projects only).
 - (d) Minimize the percentage of impervious surfaces on development lands to support the percolation and infiltration of storm water into the ground.
 - (e) Minimize pollution emanating from impervious surfaces on developed land such as roof-tops, parking lots, and roadways through the use of appropriate Source Controls (good housekeeping practices), Low Impact Development Strategies, and Treatment Control BMPs.
 - (f) Properly design and maintain Treatment Control BMPs (in order to avoid the breeding of vectors).²
 - (g) Select an integrated approach to mitigate storm water pollution by utilizing a suite of controls to remove storm water pollutants, reduce storm water runoff volume, and beneficially reuse storm water.

¹ Effective Impervious Area means that portion of the impervious area that is hydrologically connected via sheet flow or a discrete hardened conveyance to a drainage system or a receiving water body. Impervious surfaces may be rendered "ineffective" if the storm water runoff is dispersed through properly designed vegetated swales, planter boxes, bioretention areas or other site controls recognized as effective in absorbing runoff from impervious surfaces using approved dispersion techniques.

² Treatment BMPs when designed to drain within 72 hours of the end of rainfall minimize the potential for the breeding of vectors.

For Discussion Purposes Only

C000843

2. The planning and land development program shall incorporate a comprehensive and inclusive approach to addressing runoff from new development and redevelopment. The approach shall include as appropriate low impact development practices, hydromodification controls and post construction storm water mitigation measures.

I. Low Impact Development

1. All new development and redevelopment projects shall integrate Low Impact Development (LID) principles into project design. LID is a storm water management and land development strategy that emphasizes conservation and the use of on-site natural features integrated with engineered, small-scale hydrologic controls to more closely reflect predevelopment hydrologic functions.
2. The Permittees shall incorporate LID design standards into the Countywide Technical Guidance Document no later than three years from the Order's adoption date for use by Land Planners and Developers. The LID standards shall address:
 - (a) Site Assessment.
 - (b) Site Planning and Layout.
 - (c) Vegetative Protection, Revegetation and Maintenance.
 - (d) Techniques to Minimize Land Disturbance.
 - (e) LID practices.
 - (f) LID credits.
 - (g) Limitations for using LID related to high groundwater, soil constraints, drinking water aquifer impacts, redevelopment projects, and other site-specific factors reducing the feasibility of LID practices.
3. The Permittees will facilitate implementation of LID by providing key industry, regulatory, and stakeholders with LID objectives and specifications developed in the LID Technical Guidance Document through a training program. The LID training program will include the following:
 - (a) LID targeted sessions and materials for builders, design professionals, regulators, resource agencies, and stakeholders.
 - (b) A combination of awareness on national efforts and local experience gained through LID pilot projects and demonstration projects.
 - (c) Materials and data from LID pilot projects and demonstration projects including case studies.
 - (d) Guidance on how to integrate LID requirements into the local regulatory program(s) and requirements.
 - (e) Availability of the LID Technical Guidance Document.

**ATTACHMENT E
PERMITTEES' PRESENTATIONS FROM
SEPTEMBER 20, 2007 RWQCB WORKSHOP ON
VENTURA COUNTY MUNICIPAL SEPARATE STORM SEWER
SYSTEM PERMIT (NPDES NO. CAS004002) FOR THE
VENTURA COUNTY WATERSHED PROTECTION DISTRICT, COUNTY OF
VENTURA, AND THE INCOPRORATED CITIES**

Ventura Countywide Program Policy Overview Presentation
City of Ventura MAL Presentation
City of Oxnard TMDL Presentation
City of Simi Valley LID Presentation
City of Ojai Hydromodification Presentation
Watershed Protection District Principal Stormwater Monitoring Presentation
City of Thousand Oaks Public Agency Activity Presentation
City of Camarillo Critical Sources BMP Control Presentation
City of Port Hueneme Public Outreach Presentation
City of Moorpark Trash Excluders Presentation
County of Ventura Jurisdictional Areas Presentation
City of Fillmore Small Community Presentation

Presentation to the
RWQCB-LA

Ventura Countywide
Stormwater Program Municipal
2nd Draft RWQCB Permit

September 20, 2007

Recap of April 5th Workshop and Board
Direction

- Balance, Flexibility, Consistency and Funding
- Permit Alignment and Inconsistency with TMDLs
- LID and Infiltration
- Effective Communication/Misunderstandings of Provisions
- MALs/MEP Definition Use of Numeric Limits
- Timeframes

What has the Ventura County Stormwater
Program done since the April Workshop

- Attended Four Meetings with RWQCB staff
- Proactively Presented Alternative Approaches to Major Permit Provisions
- Provided Specific Recommendations for Language Changes

Permittees Desired Outcome -
Reasonable and Protective Permit

We acknowledge several Positive Changes to Permit:

- Limited treat excluders to commercial, industrial and educational areas
- Deferred 100,000 gallon flushing limitation for potable water discharges to a separate permit
- Focused Special Studies to Areas of Concern
- Modified Time Schedule Extensions

Permittees Desired Outcome -
Reasonable and Protective Permit (cont)

Major Areas of Concern Remain:

- MALs to define MEP & MMP liability
- Inconsistency between Permit and Approved TMDLs
- Disconnect between goals of Proposed Monitoring Program and Countywide Stormwater Management Program
- Cumbersome variance and substitute BMP programs
- Over-prescribing a SW Program without flexibility and nexus to environmental benefit

Permittees Intended Outcome -
Reasonable and Protective Permit

- Board provide Staff with needed direction on major policy decisions;
- Board direct staff to continue to work with Permittees to effectuate revisions for a reasonable permit;
- Board direct Staff to enter into a Facilitated Collaborative Process with the goal of making meaningful and earnest revisions to the draft permit.



Municipal Action Levels

Ventura Magazine City of Ventura
Ventura Local MS4 Permit Workshop
September 24, 2007

Use of Municipal Action Levels

- Numeric Effluent Limits = MEP
- Enforceable Compliance Endpoints
- Over 200 Compliance Points
- Mandatory Minimum Penalty Fines

A BIG Leap for Stormwater Programs.

Ventura County

- 800,000 Total Population
- 6 of 10 - Phase Two Populations
- History of Water Quality Success
- National Model TMDL
- Best Beach Report Cards in So. California
- Watersheds Largely Undeveloped

Ventura County Watersheds

	Ventura River	Santa Clara River	Calleguas Creek
Urban	3%	5%	25%
Ag	10%	18%	25%
Open Space	87%	78%	50%

We Support Performance Measures

- CASQA Approach
- INCLUDING
- Numeric Action Levels that:
 - ◆ Identify Problems and Serve as a Call to Action
 - ◆ Are Technically Sound and Relevant
 - ◆ Support the TMDL Programs

Numeric Action Levels
Should
Be Consistent with Policy and State
of Knowledge

Municipal Stormwater Compliance Standard

- Municipal stormwater program is required to reduce pollutants in its discharges to the maximum extent practicable (MEP).

Clean Water Act, Section 402(p)

EPA Policy

"In regulating stormwater permits the EPA has repeatedly expressed a preference for using the way of BMPs, rather than by way of imposing technology based or water quality based numerical limitations."

(Diverse v. SWRCB (2005) 145 Cal.App.4th 246, 256.)

Court Definition of MEP

Broadly defined to be a highly flexible concept that balances numerous factors including

- Technical feasibility
- Cost
- Public Acceptance
- Regulatory Compliance
- Effectiveness

(Bla of San Diego County v. SWRCB (2004) 124 Cal.App.4th 865, 882.)

MALs Contrary to Blue Ribbon Panel

"It is not feasible at this time to set enforceable numeric effluent criteria for municipal BMPs and in particular urban discharges....."

For catchments not treated by a structural or treatment BMP, setting a numeric effluent limit is basically not possible."

Action Levels
Should Be
Technically Sound
and Relevant

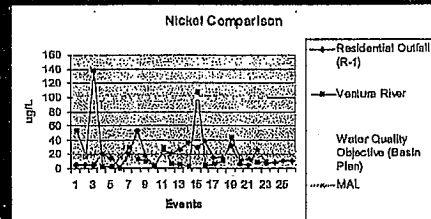
MAL Example - Nickel

Nickel Compliance

Water body/discharge	Percentage > MAL
Calleguas Creek	59
Santa Clara River	70
Ventura River	26
Residential outfall	41
Industrial outfall	58

Compliance is based on whether >20% of samples exceed MAL of 19.2 ug/L.

Nickel - MALs vs. Reality



How do we comply and is it relevant?

- ▣ Source controls
 - ◊ Soils
 - ◊ Alloys (industrial)
- ▣ Treatment controls
 - ◊ ASCE database
 - ◊ Unknown performance for Ni removal

Our Action Levels
Should
Support TMDLs

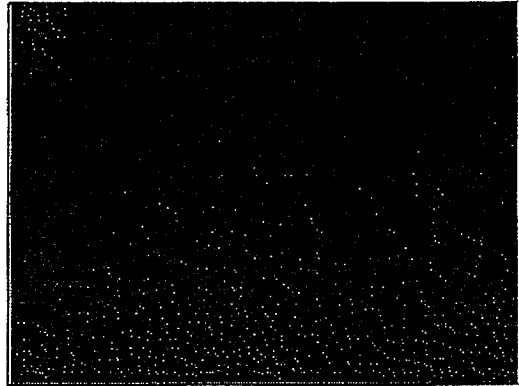
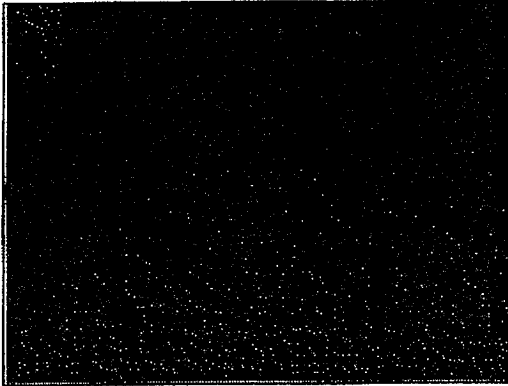
MALs vs. TMDLs

MALs / Effluent Limits	TMDL
Arbitrary approach	Focused approach
Stormwater outfall focus	Watershed focus- all sources
Artificially mandated	Stakeholder driven
3 year compliance/ unknown implementation plan	Realistic time schedule/ feasible implementation plan

Recommendations

Direct Staff to:

- ▣ Include MALs in Permit as an Assessment Tool/Action not as EOP Effluent Limits
- ▣ Base MALs on Technically Sound Local Data
- ▣ Focus on Relevant Pollutants
- ▣ Coordinate MALs with TMDL programs

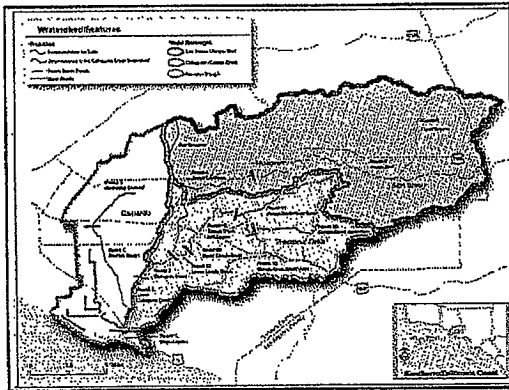
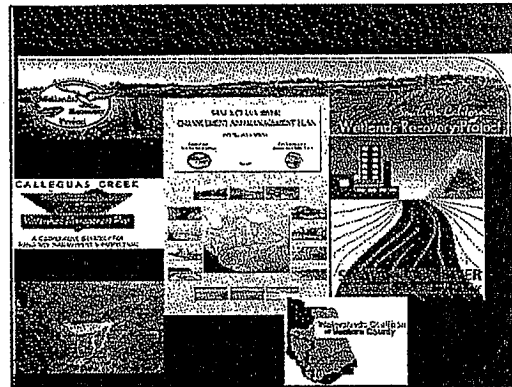


Points to Consider

- Ventura understands the importance of and supports the development of a model clean water program
- Draft permit provides some good and some counterproductive approaches
- Cost implications are staggering, particularly with the limitations of Proposition 218

TMDL Program Consistency

Mark Pumford - City of Oxnard



CCWS Management Plan

- Collaborative effort since 1996
- Stakeholders include POTWs, MS4s, CalTrans, Navy, Agriculture.
- Developed 4 EPA-approved TMDLs
- Monitoring Program and QAPP
- MOA developed to share costs.

TMDLs in NPDES Permits

- We agree with permit findings that NPDES permits must be consistent with TMDLs
- The disagreement is whether the provisions of the draft permit are consistent with Ventura County TMDLs

Calleguas Toxicity TMDL

- "Stormwater WLAs will be incorporated into NPDES permits as receiving water limits measured in-stream at the base of each subwatershed
- and will be achieved through the implementation of BMPs ..."

Santa Clara Nitrogen TMDL

- "Ammonia, nitrite, and nitrate reductions will be regulated through effluent limits prescribed in POTW ...NPDES permits, Best Management Practices required in NPDES MS4 Permits, and SWRCB Management Measures for non point source discharges."
- Draft permit regulates reductions through end-of-pipe numeric effluent limits

Draft NPDES Permit

- Applies TMDL WLAs for MS4 at End-of-Pipe
- Applies these numeric effluent limits to each major stormwater outfall
- Imposes a TMDL compliance monitoring program

Calleguas OC/PCB TMDL

Parameter	TMDL Interim Limit (ng/g sediment)	Draft Permit Threshold Value (ng/L water)
Chlordane	17	1.2
4,4-DDD	66	6.0
4,4-DDE	470	1.2
4,4-DDT	110	10.0
Dieldrin	3	10.0
PCBs	3800	31.0
Toxaphene	260	500

TMDL Monitoring Inconsistency

- TMDL requires a monitoring program
- Calleguas Creek TMDL
 - End-of-pipe
 - In-stream monitoring
 - Will cost stakeholders \$1M per year.
- Draft permit
 - Monitoring at each major outfall and drainage basin, and will
 - Add at least \$1.5 million per year to cost.

Requirement for Consistency

- EPA Regulations require that effluent limits in NPDES permits be "...consistent with the assumptions and requirements of any available waste load allocation ... prepared by the state and approved by EPA." 40 CFR 122.44(d)(1)(vii)B

Conclusion

- The Draft Permit is inconsistent with the approved TMDLs and WLAs
- Federal regulations and guidance do not mandate numeric effluent limits

Recommendation

- **Modify the Draft Permit to be consistent with WLAs in approved TMDLs**
- **Delete requirement for TMDL monitoring where submitted monitoring program exists**

LOW IMPACT DEVELOPMENT (LID)

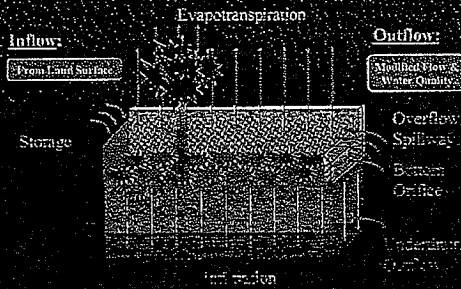
City of Simi Valley
 Kevin Glaschen
 September 20, 2007

LOW IMPACT DEVELOPMENT

Ventura County
 Strongly Promotes
 Beneficial LID!

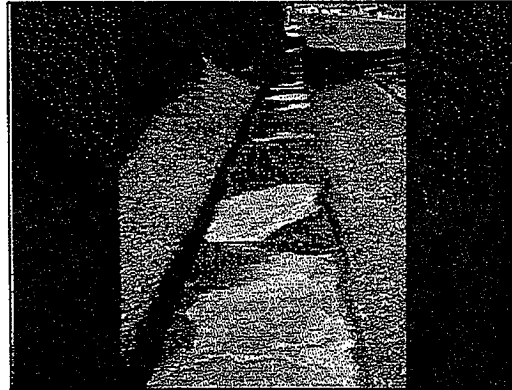


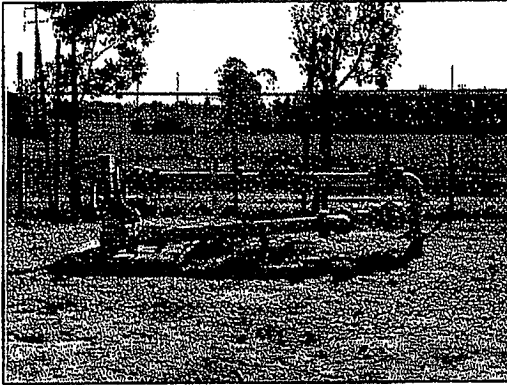
LID BMP Storage/Detention



Concerns

- Clay Soils and Ground Water Issues (Exacerbate high ground water problems in middle and West side of Simi Valley)
- Water Conservation Issues (low number of days of rain fall, so increase water consumption for vegetated LID BMP's maintenance)






Recommendations

- Help us to increase our use of LID as a tool, not a forced "one size fits all."
- Require increased integration of LID into our existing "Technical Guidance Manual for Stormwater Quality Control Measures"
- Allow us to continue to participate with the Local Government Commission on the current Model Low Impact Development Project.

Planning and Land Development

Section 5.E. of 2nd Draft Permit

Hydrologic Control Issues



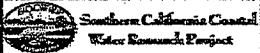
Bill O'Brien, PE

Intertie of Hydrologic Controls

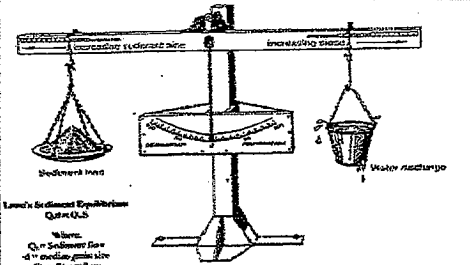
- > NPDES Permit – first “flush”
 - LID Controls
 - WQ Treatment controls
 - Hydromodification controls
- > Local Agency Permits – for larger floods
 - Flood Control Measures affect runoff, sediment, and water quality.
- > Use of any - affects the others

Hydro? or Erosion? modification

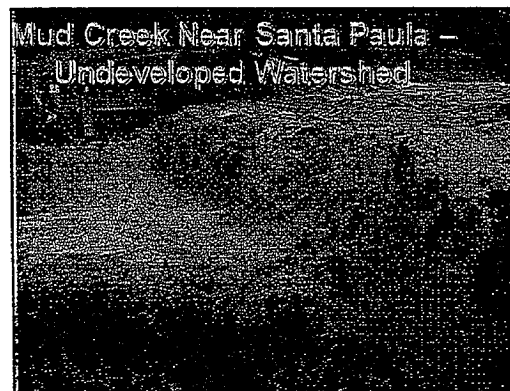
- > Hydro (water) modification already being addressed by detention strategy
- > Now looking at erosion modification, geomorphology, sediment balance
 - A more difficult science than just water
 - SCCWRP has 3-5 year study, Ventura County member of TAC



Sediment Balance



Sediment Balance Chart, 2004. Sediment Study for Channel Improvements and Channel Bank, Channel Bank, and Bank Stabilization. Prepared for Ventura County Environmental Protection Division.



Technical Guidance Manual for Stormwater Quality Control Measures

- > Include BMPs for stormwater quality treatment
- > Includes LID principles
- > Includes Hydromodification effects – more stringent than Interim Criteria of Draft Permit

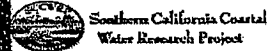
Current Needs for Hydrologic Controls

- County policy for agriculture and open space means watershed level or TRMMP solutions will be needed, and include non-urban runoff.
- Redevelopment runoff not same as new development. Behavior of runoff from infill more related to nearby land use.
- Develop controls that allow sediment transport and provide WQ treatment.

Recommendations

Request the Regional Board to:

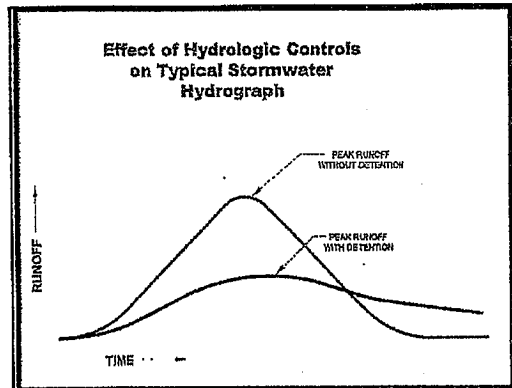
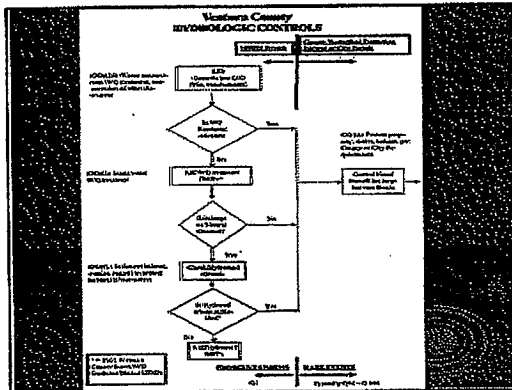
1. Incorporate the interrelationship of hydrologic controls to avoid duplication of regulations.
2. Add amendments for LID and Redevelopment, then use County Stormwater Quality Manual for Interim Hydrologic Controls until SCCWRP Study is completed.



Possible Handouts

Erosion-Modification

- Sediment Hungry Water
 - Current WQ treatment and LID controls create this
 - Causes beach and habitat degradation
 - Shows need to recognize sediment feeding projects (e.g. take debris basin sediment to beach, remove Matilija Dam)
- An SMC Study issue is how to allow sediment transport and provide WQ treatment



Stormwater Quality Monitoring

Arne Anselm
Ventura County
Watershed Protection District

Stormwater Monitoring

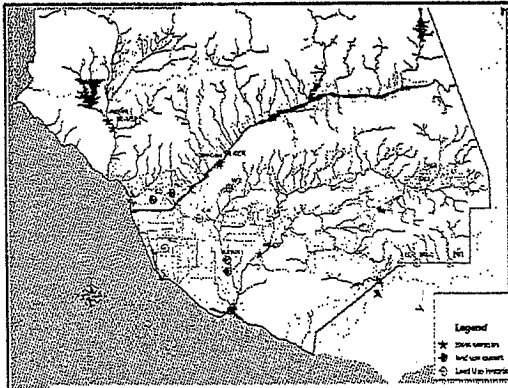
- Current Monitoring Program
- Future Opportunities
- Changes with Draft Permit
- Model Stormwater Monitoring Plan

Current Program Monitoring

- Began 1993 as part of comprehensive program.
- Revised in 2001 with new permit.
- Dedicated staff and equipment.
- Mass emissions at three major watersheds
 - Four wet events
 - Two dry
- Receiving water monitoring to establish water quality baseline.

Current Program Monitoring

- Land Use Monitoring
 - Urban runoff discharge characterization.
 - Catchments selected as representative of different land uses in Ventura County
- Sophisticated Database
- Completion of Trend Analysis for Pollutants of Concern



Future Program Opportunities

- Build upon and complement past monitoring.
- Integrate with TMDL and other regional monitoring efforts - Avoid Redundancy
- Use computer modeling and statistics to increase knowledge and conserve resources.

Ventura's Monitoring Goal

- To assess impacts and trends of urban runoff to provide feedback on stormwater program performance and improve water quality.

Changes in Draft Permit

- Many requirements amended
- Integrated Bioassessment with SCCWRP
- TMDL monitoring at major outfalls
 - Resource intensive
 - Limited value

Draft Permit Monitoring Requirements Don't Support Stormwater Program

Draft Permit	Proposed Plan
Focus is on TMDL	Assess Program Effectiveness
Static	Progressive
Sample Everywhere	Systematic Refinement

Model Monitoring Program for MS4s in Southern California

- Design Framework for MS4 Monitoring Plan
- Written by Southern California Stormwater Monitoring Coalition, 2004
- Partially funded by SWRCB
- Developed for Southern California region.

Model Monitoring Program's Goal

- To ensure that each stormwater program has the ability to assess and manage its overall performance.

Model Monitoring Program for MS4s in Southern California

- Adaptive Triggers
 - Revise monitoring plan based on results
 - Starting and stopping triggers needed
- Resource Protective
 - Calculated sample sizes
 - Computer modeling in place of sampling
- Regional Consistency

Requested Action

- Integrate with other monitoring efforts
 - TMDLs, SWAMP, SCCWRP, current program
- Use SMC's Model Monitoring Guidance
 - Focus resources to provide useful information to assess and improve stormwater quality program.

Public Construction Activities and Long Term Maintenance Programs

Regional Water Quality Control Board Workshop
Draft Ventura County Stormwater Permit
September 20, 2007

Jay Spurgin
City of Thousand Oaks

Public Construction Activities Management Draft Permit §5.G.1.1

"(a) Each Permittee shall implement and comply with the Planning and Land Development Program requirements in Part 5.E of this Order at all Permittee owned or operated public construction projects."

➤ Why?

➤ Example: Traffic signal construction project – minimal disturbed area

"(b) Each Permittee shall implement and comply with the Development Construction Program requirements in Part 5.F. of this Order at all Permittee owned or operated construction project

➤ Example: Minor water line replacement – minimal disturbed area; line, grade, capacity and original use of facility unchanged by construction activity

"(c) Each Permittee shall obtain coverage under the CASQP for construction activities and projects that are:

(1) Covered under one (or more) Capital Improvement Projects (including but not limited to street repaving, new streets, channel clearing) or contract, and that individually or cumulatively disturb 1 acre or more of land."

➤ Projects that "cumulatively disturb 1 acre or more?"

➤ Public Capital Improvement Plans are not like a "common plan of development" in the private sector.

Long Term Maintenance Programs Draft Permit §5.G.1.2(b)

"(b) Each Permittee shall obtain coverage under the CASQP no later than (7 days after Order adoption date) for long-term maintenance programs including maintenance of flood control channels (such as vegetation removal), maintenance or replacement of streets, sidewalks, roads, and any other project the Permittee undertakes including all Capital Improvement Projects (CIP) if either 1 or more acres of land are disturbed by grading, clearing or excavation activities for an individual project or cumulatively as a part of several projects involving a soil disturbance."

Recommendations

➤ The Ventura County Stormwater Permit should require the Permittees to meet the same permit requirements as those imposed on other (non-permitted) public agencies and private companies.

➤ Revise the draft permit language so that it is consistent with the definition of "construction".

**Additional Treatment
+ Control BMP Installation
at All Critical Source
Facilities**

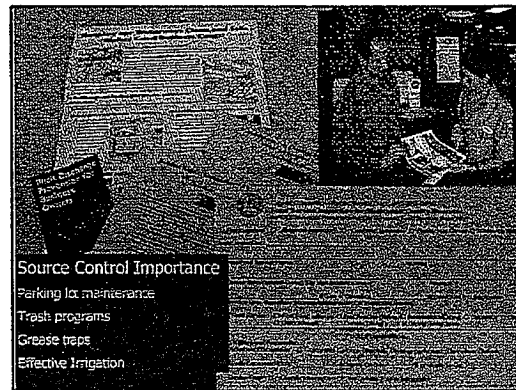
Anita Kuhlman, City of Camarillo
September 26, 2007

**P. 41 of 2nd Draft Permit
Inspect Critical Sources**

- +
 - "The Permittees shall require implementation of additional treatment control BMPs where storm water flows from the MS4 discharge to an ESA or a 303(d) listed waterbody. Likewise for those BMPs that are not adequate to achieve MALS and/or water quality objectives, Permittees may require additional site-specific controls such as treatment control BMPs."

**What does this mean to
Ventura County?**

- +
 - Food Facilities – 1,929
 - Automotive Facilities – 1,413
 - General Industrial – 538
 - Nurseries – approx. 40 (New Permit requirement)



RECOMMENDATION

- +
 - Permittees require Critical Source facilities to implement effective source control BMPs.
 - Critical Source Facilities that fail to utilize effective source controls, shall apply pollutant specific treatment control BMPs.
 - Defer NPDES Permit requirements when there is a Regional Board approved TMDL implementation plan for the receiving water.

Public Information and Participation
Program

City of Port Hueneme
Fred Camarillo

September 20, 2007

Public Information and Participation Program (PIPP)

Educational Outreach Requirements

Part SC 1 (c) (6)

Requires permittees to provide schools with stormwater educational materials.

Part SC 1 (c) (6)

Requires permittees to measure effectiveness of in-school educational programs.

Issues : Conflicts with Public Resources Code and permit Findings, permittees lack authority over school curriculum, measurement of effectiveness becomes very difficult.

Recommend: Direct staff to work with permittees in establishing a feasible educational goal that makes best use of our resources.

PIPP Business Program

Corporate Outreach Requirements

- Requires permittees to educate corporate managers.
- Requires all target facilities be contacted no less than twice during the permit term.

Recommend : Allow local facility managers to be point of contact. This can facilitate better working relationships within each permittees jurisdiction. Reduce outreach contacts to once during the permit term unless otherwise warranted.

Business Assistance Program

- Requires permittees to provide technical assistance in identifying and implementing pollution prevention methods and BMP's.

Recommend: Direct staff to clarify. As written, it appears that permittees may face liability issues.

C000864

Trash Excluders

- P. 78: Part 5G5(e)(1)
- "Each Permittee shall install trash excluders, or equivalent devices on catch basins to prevent the discharge of trash to the storm drain system...in commercial areas, industrial areas, and near educational institutions."
- Reduction in installation requirement

Talking Points

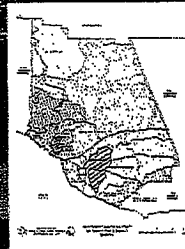
- Trash excluders are not a viable solution for Ventura County
- Risks to commercial and residential areas
- 303(d) listed or Trash TMDL

Risks



- Flood Zone
- Reduced flow area could exacerbate flood-prone areas.
- Residential units affected by commercial/industrial flooding.

303(d)/Trash TMDL



- Trash is not 303(d) listed for majority of Ventura County.
- Only Beardsley Wash, Ravolon Slough and Ventura River Estuary.
- Covers approximately 4% of Ventura County

Alternate Method

- Replace trash excluder requirement with acceptable alternate BMPs in the Permit.
- Propose:
 - Increase commercial zone street sweeping
 - Add trash cans at bus stops
 - Prompt enforcement of trash accumulation

Cont'd

Alternate Method (cont'd)

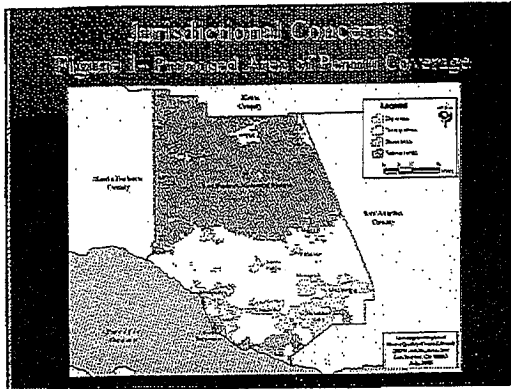
- Increase trash collection on public property
- 24-hour turnaround of illegally disposed of material on public property
- Reduce cost for residential bulky-item disposal
- Active support of citizen involvement events
- Increase litter prevention messages

Public Outreach is Working

- Coastal Cleanup Day
 - 1996: 778 volunteers, 15,972 lbs of trash collected
 - 2007: 2,458 volunteers, 12,601 lbs of trash collected
- Increasing # of volunteers and finding less litter and debris.

Why? (Come with Us)

- Goal is to prevent litter
- Can be done effectively, economically, and safely
- Please come tour beautiful Ventura County
- Thank you



Proposed Area of Coverage Based on Both Fact and Fiction?

True ... The Clean Water Act requires MSAs to be covered under an NPDES permit (MS4 Permit)

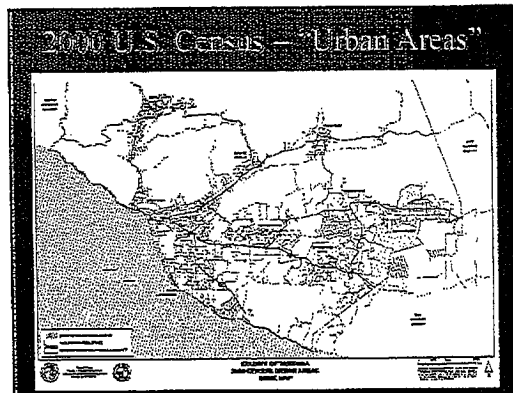
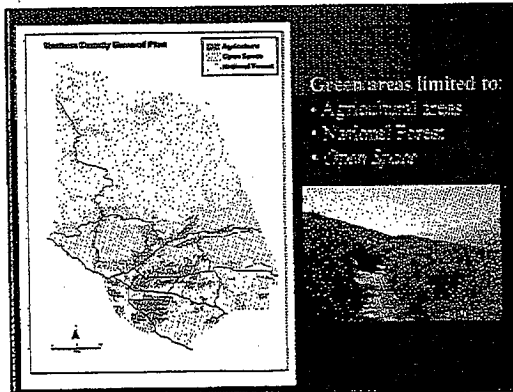
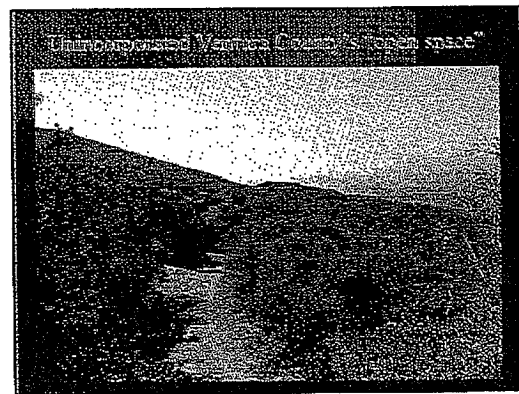
True ... MS4 Permits target runoff from urban development for water quality controls

True ... Ventura County has areas of urban development

False ... Ventura County is mostly urban development or areas undergoing urban development

Unincorporated Ventura County = ~~URBAN~~ Development

- Urban development is strictly limited to cities and their "spheres of influence"
- Unincorporated areas are primarily:
 - National Forest
 - Agricultural
 - Open Space



In Summary

- WSA Permits target runoff from *urban development*
- Unincorporated Ventura County is primarily composed of Open Space, Agricultural areas, or National Forest - *not urban development*
- We urge your Regional Board to direct staff to correct an apparent *error* in the draft permit -
Please revise Figure 1 to remove all non-urbanized areas of unincorporated Ventura County from coverage under this urban stormwater permit!

Ventura Countywide
Stormwater Quality
Management Program

SMALL COMMUNITIES
ISSUES

September 20, 2007

Small Communities in Ventura County

Elizaville
Port Harbortown
Cin
Carmichael
Nipomo
Santa Paula

Board direction from April 5th Workshop

- Look at the requirements for small communities Balance, Flexibility, Consistency and Funding
- Permit Alignment and Inconsistency with TMDLs
- LID and Infiltration
- Effective Communication/Misunderstandings of Provisions
- MALS, MEP Definition Use of Numeric Limits
- Timeframes

Recap of April 5th Workshop and Board Direction

- Unfunded Mandates
- Trash Excluders
- 100,000 gallon flushing
- Phase 2/Small Cities Issues
- Hyacomodification/Grading
- Not Utilizing "One Size Fits All"

What has the Ventura County Stormwater Program done since the April Workshop

- Attended Four Meeting with RWQCB staff
- Proactively Presented Alternative Approaches to Many Permit Provisions
- Provided Specific Recommendations for Language Changes

Overview of Major Topics

Municipal Action Levels:

- MALS stricter than Water Quality Objectives?
- Mandatory Minimum Penalties?
- Inclusion of Chemical Oxygen Demand (COD) as Pollutant of Concern?
- Inclusion of Mercury as an MALS? Local Source of Mercury?

Overview of Major Topics

Total Maximum Daily Loads (TMDLs)

- End of Pipe Compliance and Monitoring for TMDLs vs. the Adopted TMDL language?

Overview of Major Topics

Public Outreach

- School Educational Requirements requiring we go into Schools?
- Corporate Outreach to Large Chain Businesses (Home Depot, McDonalds)?

Overview of Major Topics

- Grading Restrictions: Wet Weather Season - October 1st - April 15th?
- SWRCB General Construction Permits for 100s of Routine Maintenance Projects?
- Treatment Control BMPs for all Restaurants, Retail Gasoline nurseries and automobile shops?

Overview of Major Topics

- Implementation of Agriculture Waiver Program under a MS-4 Permit?
- Annual Report - Cost to Reformat at what Benefit?
- Jurisdictional Areas - SW Inspections in Lockwood Valley?
- GIS all 18" pipes in the County?

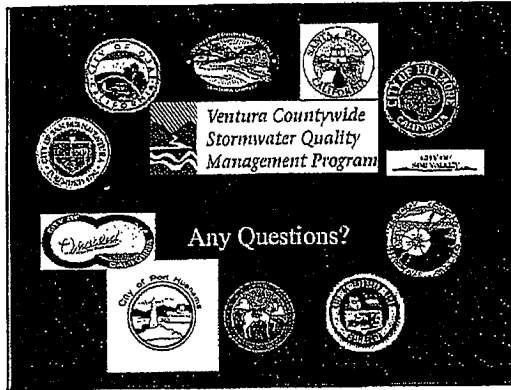
Permittees Intended Outcome - Reasonable and Protective Permit

- We acknowledge several Positive Changes to Permit. Nevertheless, in several areas major areas of concerns remain

- For example establishing new MEP definition with MALs and potential liability with MMP.
- Over prescribing a Program without flexibility and nexus to environmental benefit!

Permittees Intended Outcome - Reasonable and Protective Permit

- Board provide Staff with needed direction on major policy decisions
- Board direct staff to continue to work with Permittees to effectuate revisions for a reasonable permit
- Board direct Staff to enter into a Facilitated Collaborative Process with the goal of making meaningful and earnest revisions to the current permit



ATTACHMENT F
VENTURA COUNTYWIDE PROGRAM MARCH 6, 2007 COMMENTS ON 1ST DRAFT
VENTURA COUNTY MUNICIPAL SEPARATE STORM SEWER
SYSTEM PERMIT (NPDES NO. CAS004002) FOR THE
VENTURA COUNTY WATERSHED PROTECTION DISTRICT, COUNTY OF
VENTURA, AND THE INCOPRORATED CITIES

C000872



**Ventura Countywide
Stormwater Quality
Management Program**

Participating Agencies

March 6, 2007

Camarillo

County of Ventura

Fillmore

Moorpark

Ojai

Oxnard

Port Hueneme

San Buenaventura

Santa Paula

Simi Valley

Thousand Oaks

Ventura County
Watershed Protection
District

Mr. Jonathan Bishop
Executive Officer
Los Angeles Regional Water Quality Control Board
320 4th Street, Suite 200
Los Angeles, CA 90013

**SUBJECT: DRAFT VENTURA COUNTY MUNICIPAL
SEPARATE STORM SEWER SYSTEM PERMIT (NPDES
No. CAS004002) FOR THE VENTURA COUNTY WATERSHED
PROTECTION DISTRICT, COUNTY OF VENTURA AND THE
INCORPORATED CITIES**

Dear Mr. Bishop:

We are in receipt of your December 27, 2006, Draft Waste Discharge Requirements for Storm Water Discharges from the Municipal Separate Storm Sewer System (MS4) within the Ventura County Watershed Protection District, County of Ventura and the Incorporated Cities therein (Draft Order) (NPDES Permit No. CAS004002). On behalf of the entire Ventura Countywide Stormwater Program (Ventura Program), including the Cities of Oxnard, Thousand Oaks, Simi Valley, San Buenaventura, Camarillo, Moorpark, Santa Paula, Port Hueneme, Fillmore, Ojai, Ventura County Incorporated Areas and the Ventura County Watershed Protection District ("Permittees") we appreciate the opportunity to provide comments on the Regional Water Quality Control Board's (Regional Board) administrative draft as prepared and distributed by the Regional Water Board staff.

As you know, the Ventura Program is a successful collaborative stormwater management program in existence since 1992 and under an NPDES permit since 1994. Our program is currently structured to be comprehensive and flexible to accommodate the diverse needs of the Watershed Protection District, the County and the ten cities in the Ventura Program and the local water quality issues. This letter and its attachments contain the collective comments of the Permittees on the Draft Order. In addition, many of the individual cities will provide comments on the Draft Order's impact to their individual agencies and communities.



800 South Victoria Avenue • Ventura CA 93009-1610
805/654-2002 • FAX 805/654-3350



C000873

Overall, the Draft Order would place undue financial and technical requirements, and risks on the Ventura Program. In many cases the requirements contained in the Draft Order are more restrictive than existing Basin Plan and total maximum daily load (TMDL) requirements. In addition, the resulting stormwater program may not result in achieving the water quality improvements that we and the Board are seeking to obtain. In fact, the current Draft Order does not adequately capture the relevant water quality issues in Ventura County. In lieu of the Regional Board issuing the Draft Order as a tentative order, the Permittees would prefer to work closely with the Regional Board staff to develop a new Draft Order that provides for accountability, supports on-going water quality efforts (i.e. TMDLs) and receives broad public support. In the meantime, we submit the collective comments of the Permittees.

Due to the size of the Draft Order and the large number of concerns we have with its content, we provided comments on most major issues of concern within the body of this letter. In addition, we provided three attachments that contain additional comments. Attachment A includes comments on additional legal and policy issues that have not been included in the cover letter. Attachment B includes technical comments and suggested language on specific requirements contained within the Draft Order. Attachment C is the Municipal Action Levels data

I. VENTURA PROGRAM IS AN AWARD WINNING STORMWATER PROGRAM

The Ventura Program is a mature and comprehensive stormwater management program. Initiated in 1992, the Ventura Program, like other MS4 programs began with the framework established in the federal regulations (40 CFR Part 122). With time, the Ventura Program was modified through the iterative process to better reflect the conditions and needs of the Permittees and local water quality issues. The NPDES permits issued in 1994 and 2000 reflected these insights and the efforts of the Permittees.

The logical, proactive approach taken in implementing the stormwater program was recognized by the Regional Board by winning the prestigious H. David Nahai Water Quality Award for Water Quality Conservation in 2001, and in 2003 winning the United States Environmental Protection Agency's (U.S. EPA) National Clean Water Act (CWA) Recognition Award for Phase I MS4 Storm Water Management Excellence. The intent of U.S. EPA award was to "recognize municipalities and industries that are demonstrating their commitment to protect and improve the quality of the nation's waters by implementing outstanding, innovative and cost-effective Storm Water control programs and projects". The award reflects the Program's commitment to improve and protect water quality in Ventura County through a comprehensive and constructive best management practice (BMP) based program using the iterative process to guide our efforts.

II. CHARACTERISTICS OF VENTURA COUNTY ARE UNIQUE

A close review of the Draft Order shows it to be oriented toward large communities and a more urban environment as might be found in Los Angeles County and not Ventura County. Ventura County is different both in magnitude and distribution of people served and in land uses. The Ventura Program serves four Phase I (populations > 100,000) and seven Phase II (populations < 100,000) communities. The seven Phase II communities in the Program include Port Hueneme (22,388), Moorpark (35,801), Camarillo (64,034), Fillmore (15,180), Santa Paula (29,133), and Ojai (8,156) and County Incorporated (95,602). The total population of the entire County as of January 1, 2006 is 817,346 persons (versus over 10 million persons in Los Angeles County). Although not required by the federal stormwater regulations, coordination between the Phase I and II communities in the Ventura Program has allowed for more consistent program implementation. In particular, the coordination has helped to use local resources efficiently for public outreach efforts and new development program elements. Rather than have Phase I and Phase II municipalities separate out and establish their own Stormwater programs, the Regional Board should recognize the uniqueness of our Program. However, an alternative is to create a tier permitting approach for both Phase I and Phase II Co-permittees.

Virtually the entire north half of Ventura County is within the Los Padres National Forest although there are in-holdings scattered throughout the Forest area. Residential, agricultural and business uses comprise the southern portion of the Region. The County has a total area of 1,199,748 acres (1,843 square miles), of which some 550,211 acres are in the National Forest. There are 42 miles of coastline.

Of the estimated 330,000 acres of agricultural land in the Region, there are approximately 125,000 acres of irrigated land. The Calleguas Creek Watershed contains the highest number of irrigated acres (roughly 60,000), followed by the Santa Clara River Watershed (approximately 50,000) and Ventura River Watershed (approximately 15,000). The Region encompasses three major Watersheds, six smaller Watersheds, and twenty-six groundwater basins. There are ten cities, three wholesale water agencies, over 170 retail water purveyors, two groundwater management agencies, and five sanitary districts.

The total area covered under the Ventura Program is approximately 220 square miles, which is 12 percent of the total land area of Ventura County. Land use delineations for the County are summarized in Table 1.

Table 1. Land Use Delineations of Ventura County

Land Use	Area (Sq. Miles)	Percentage
Urban (subject to NPDES SW permit)	219	12%
Rural	14	.008%
Open	1441	79%
Agriculture	147	8%

Federal lands	11	.006%
Harbor(s)	0.5	.0003%
Total	1833	100%

The land use designations throughout the County show the relative contributions that the urban areas may have on water quality as compared to the other land uses.

Growth potential beyond the present urban areas of the County is limited. From 1995-2002, the residents of Ventura County adopted "Save Open-Space and Agricultural Resources" (SOAR) initiatives. Generally, the County and Cities' SOAR ordinances and initiatives establish "City Urban Restriction Boundary" (CURB) lines around each city and require city voter approval before any land located outside the CURB lines can be developed under the city's jurisdiction for urban purposes.

Under SOAR, rural, open-space areas of the County cannot be developed without voter approval. Thus, the urban areas of Ventura County are unlikely to expand significantly at least over the next 13 years. The County SOAR ordinance requires countywide voter approval of any change to the County General Plan involving the "Agricultural," "Open Space" or "Rural" land use map designations, or any change to a General Plan goal or policy related to those land use designations.

Moreover, in order to maintain the integrity of separate, distinct cities and to prevent inappropriately placed development between city boundaries, some cities and the County have entered into joint *greenbelt agreements*. These agreements protect open space and agricultural lands and reassure property owners located within these areas that land will not be prematurely converted to uses which are incompatible with agriculture or open space uses. The *greenbelt agreements* reinforce the County *Guidelines for Orderly Development*. *Greenbelt agreements* have been adopted for the following areas: Between the cities of Ventura and Santa Paula; between the cities of Santa Paula and Fillmore; between Fillmore and the Los Angeles County Line (excluding the Community of Piru); between the cities of Ventura and Oxnard westerly of Oxnard to Harbor Blvd; Between the cities of Oxnard and Camarillo; East of the City of Camarillo for the westerly portion of the Santa Rosa Valley, and Tierra Rejada Valley.

In other words, the characteristics of Ventura County are significantly different from the other, more urbanized counties (i.e. Los Angeles County) being regulated by the Regional Board. Thus, the Draft Order for Ventura County should reflect the rural, open space nature of the County and recognize the limited area that is actually subject to the jurisdiction of the Permittees.

III. VENTURA COUNTY IS A LEADER IN WATERSHED BASED PLANNING

We would submit that the current Draft Order does not reflect the ongoing watershed planning and protection activities of the County. Agencies and organizations in Ventura County have a long history of working together to address water resources issues, dating

back to the early 1970s. In the past 35 years numerous water supply and conservation, water quality, wetland restoration and reclamation projects have been planned and implemented. Many individuals and agencies have worked together to assure effective management of local water resources and protection of water-dependent environmental resources and species habitats. These entities include local retail and wholesale water districts, cities, sanitary districts, the County of Ventura, environmental and non-profit organizations, the Association of Water Agencies, State and Federal agencies and many others. Multi-jurisdictional and coordinated efforts are taking place on a watershed and/or countywide basis as noted below.

Watersheds Coalition of Ventura County (WCVC)

In April 2006 the Ventura County Integrated Regional Water Management Plan (VCIRWMP) Group and the Calleguas Creek Steering Committee agreed, by resolution to form the Watersheds Coalition of Ventura County (WCVC) for purposes of consolidating integrated regional water management plans (IRWMPs) and for submittal of grant applications for the Proposition 50, Chapter 8 Implementation Grant and other applicable future funds. This consolidated IRWMP is the result of the collaboration of agencies through the new WCVC. The WCVC meets monthly to guide development of the consolidated plan and to address critical water management issues facing the Region. Its success is evident by its recent award of \$25 million by the State Water Resources Control Board. Other examples of successful Ventura County Watershed Groups include the Calleguas Creek Watershed Management Plan Steering Committee, the Santa Clara River Watershed Committee and the Ventura River Watershed Council.

IV. PERMIT COMPLIANCE STRUCTURE IS FUNDAMENTALLY FLAWED

The Permittees are very concerned with the primary compliance structure contained within the Draft Order. The Draft Order proposes to use municipal action levels (MALs) for assessing compliance with the technology-based standard of maximum extent practicable (MEP). The use of MALs to determine MEP compliance is flawed for a number of reasons both legally and technically.

A. The Use of MALs Constitutes the Adoption of a Numeric Effluent Limitation.

First, the use of MALs to determine compliance with the MEP standard actually results in the adoption of numeric effluent limitations. The Draft Order attempts to disguise its use of numeric effluent limitations by characterizing them as MALs. It goes as far to bury this major substantive requirement in a finding and a footnote. (Draft Order at fn. 1, p. 29.) If a Permittee exceeds the MALs (as shown in Attachment C of the Draft Order) two or more times at an "end-of-pipe" compliance point, the Regional Board will presume the Permittee has violated the MBP provisions of the Draft Order. (Draft Order at p. 29.).

Federal law defines effluent limitations as "any restriction established by a State or the Administrator on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources" (33 U.S.C. § 1362(11).) The Draft Order does not include a definition for MAL; however, Attachment C of the Draft Order provides tables of the MALs, which are expressed as water column concentrations for various pollutants. (Draft Order at p. C.1.) Stormwater discharged by the Permittees must meet the MALs as established in the Draft Order at an "end-of-pipe" compliance point. If discharged stormwater exceeds the concentration levels twice as contained in the Draft Order, the Permittees are presumed to be in violation of the Draft Order. The MALs thus appear to match closely with the federal definition of effluent limit, as they are restrictions on the concentration of various pollutants discharged from the Permittees' stormwater conveyance system.

While the use of numeric effluent limits for stormwater regulation may be legally possible, it is not preferred and has questionable technical viability.¹ First, EPA has long expressed its preference of regulating stormwater through the use of BMPs. "In regulating stormwater permits the EPA has repeatedly expressed a preference for doing so by way of BMPs, rather than by way of imposing either technology-based or water quality-based numerical limitations." (*Divers' Environmental Conservation Organization v. State Water Resources Control Board* (2006) 145 Cal.App.4th 246, 256.)

Second, the State Board recently posed the question, "[i]s it technically feasible to establish numeric effluent limitations or some other quantifiable limit for inclusion in storm water permits" to a panel of stormwater experts. In response to this question, the State's Panel issued a report in June of 2006. The Panel's report clearly states that "[i]t is not feasible at this time to set enforceable numeric effluent criteria for municipal BMPs and in particular urban discharges" (State's Storm Water Panel Recommendations to the California State Water Resources Board, ("Report") (June 2006) at p. 8.)

Based on federal U.S. EPA's long preferred preference of using BMPs and the questionable technical viability of using numeric effluent limitations as expressed by a state panel of experts, the use of MALs to determine compliance with MEP is not appropriate. As stated earlier, the MALs expressed in the Draft Order are clearly meant to act as effluent limitations as they are numeric concentrations applied at the "end-of-pipe." If the Regional Board's true intent is to use numeric effluent limitations on stormwater discharges, then the Regional Board must adopt them as such and make the findings necessary to accompany such a decision.

¹ In *Building Industry Association of San Diego County v. State Water Resources Control Board* ("BIA") (2004) 124 Cal.App.4th 866, the Court of Appeal found that the language of CWA section 402(p)(3)(B) allows the EPA and/or a state approved program the discretion to impose permit limitations that are more stringent than those that come within the definition of maximum extent practicable. (BIA at p. 883.) While a more stringent limitation does not necessarily mean only a numeric effluent limitation, it does not preclude the inclusion of a numeric effluent limitation.

B. The Use of MALs is Inconsistent with the MEP Standard

Section 402(p) (3) (B) of the federal Clean Water Act (CWA) provides that "permits for discharges from municipal storm sewers ... shall require controls to reduce the discharge of pollutants to the maximum extent practicable" (33 U.S.C. § 1342(p)(3)(B)(iii).) The Draft Order states that the provisions contained in the order are "intended to develop, achieve, and implement a timely, comprehensive, cost-effective storm water pollution control program to reduce the discharge of pollutants in storm water to the MEP and achieve water quality objectives for the permitted areas in the County of Ventura." (Draft Order, at p. 36.) It also goes further, contending that its requirements are "necessary" to implement MEP. (*Id.*, at p. 22.) However, the Draft Order goes well beyond the legal understanding of what constitutes MEP. In all, this is inconsistent with both the CWA and various requirements of state law.

While the CWA does not specifically define MEP, the EPA has described MEP as a flexible, site-specific standard. (National Pollutant Discharge Elimination System—Regulations for Revision of the Water Pollution Control Program Addressing Storm Water Discharges, 64 Fed. Regs. 68722, 68732, 68754 (Dec. 8, 1999).) "The pollutant reductions that represent MEP may be different for each [municipal stormwater discharger] given the unique local hydrological and geological concerns that may exist and the differing possible pollutant control strategies." (*Id.* at 68754.) The Draft Order has taken a completely opposite approach by using national data to establish MEP, which is defined by compliance with the MALs.

California also has not specifically defined MEP for its permitting purposes. However, the state has relied upon other federal programs to guide its understanding of MEP. In particular, the state relied upon the term as used in Superfund legislation and the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). (SWRCB Order No. 2000-11 at p. 20.) Using these statutes, the state concluded "MEP requires Permittees to choose effective BMPs, and to reject applicable BMPs only where other effective BMPs will serve the same purpose, the BMPs would not be technically feasible, or the cost would be prohibitive." (*Id.* at p. 20.)

The state also provided the following guidance to a task force that published the California Best Management Practice manual on the definition of MEP:

Although MEP is not defined by the federal regulations, use of this manual in selecting BMPs should assist municipalities in achieving MEP. In selecting BMPs which will achieve MEP, it is important to remember that municipalities will be responsible to reduce the discharge of pollutants in storm water to the maximum extent practicable. This means choosing effective BMPs will serve the same purpose, the BMPs would not be technically feasible, or the cost would be prohibitive. (Memorandum to Archie Matthews, Division of Water Quality, State Water Resources control Board, from Elizabeth Miller Jennings, Senior Staff Counsel,

Office of the Chief Counsel, State Water Resources Control Board
(Feb. 11, 1993) at p. 4.)

Thus, the U.S. EPA and the state have long interpreted the term "maximum extent practicable" to mean and include the use of BMPs that rely on an iterative approach for addressing impacts caused by stormwater. For example, in the recently litigated "San Diego Stormwater Permit," the term MEP is broadly defined in the permit to be a "highly flexible concept that depends on balancing numerous factors, including the particular control's technical feasibility, cost, public acceptance, regulatory compliance, and effectiveness." (*Building Industry Association of San Diego County v. State Water Resources Control Board* ("BIA") (2004) 124 Cal.App.4th 866, 889.)

In contrast, the Draft Order proposes to define "maximum extent practicable" as:

[t]he standard for implementation of storm water management programs to reduce pollutants in storm water. CWA § 402(p)(3)(B)(iii) requires that municipal permits "shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants." Also, see State Board Order WQ 2000-11, page 20 and *Browner* decision (*Defenders of Wildlife v. Browner* (1999) 191 F.3d 1159).

(Draft Order, at p. 100.)

The Draft Order's proposed definition does not properly define or implement the term "maximum extent practicable" but instead recites the CWA and its requirements for stormwater permits. The Draft Order's definition also improperly cites the *Browner* decision, implying that that decision helps to define the term MEP. *Browner* does not further define MEP. In fact, in relevant part, *Browner* focuses more on the Congressional intent related to the phrase "and such other provisions" as contained in CWA section 402(p)(3)(B). In *dicta*, the *Browner* court determined that this language of section 402 gives the EPA discretionary authority to impose controls that are stricter than MEP. (*Browner*, 191 F.3d at p. 1166.) The language "and such other conditions" is further evaluated in the *BIA* case. (*BIA*, at 866.) The *BIA* case goes beyond *Browner* by evaluating the statutory construction of the language contained in section 402(p)(3)(B)(iii). Based on its analysis, the Court of Appeal rejected the *BIA*'s argument that "and such other provisions" was meant to identify examples of "maximum extent practicable" controls. (*BIA* at p. 881.) The court found that "such other provisions" means that EPA can require controls in addition to those that come within the definition of "maximum extent practicable." (*BIA* at pp. 882-883.) Thus, "such other provisions" is not part of the definition of MEP.

As discussed previously, the definition of MEP is considered to include the use of BMPs and site specific and flexible controls. The use of numeric MALs to determine

compliance with MEP does not rely on BMPs, is not site specific and is not flexible. The MALs are not themselves management practices or controls, and an exceedance of two creates a violation of MEP, thereby negating any iterative approach.

Furthermore, the use of MALs to define MEP imposes a non-flexible and non-iterative program on the Permittees. MS4s that are required to meet MALs will be forced to implement treatment control BMPs at stormwater outfalls. By forcing MS4s to install treatment controls, MS4s will need to redirect resources away from source control BMPs. However, in addition to forcing the installation of treatment controls, the Draft Order would mandate prescriptive source control requirements on the Permittees (e.g. street sweeping, new development and redevelopment controls, etc.). As a result, the Permittees will be forced to implement treatment and source control BMPs without consideration of feasibility or cost, which are both important factors in determining compliance with MEP.

Finally, the Draft Order has not considered if the practices necessary to meet the MALs are feasible, effective and not cost prohibitive. Nor are there findings to explain why, if they could otherwise be, the specifically identified MALs in fact define MEP for the Permittees. Consequently, the MALs as used in the Draft Order are inconsistent with state and federal policies interpreting MEP and should not be used to determine compliance with MEP.

C. *The MALs Contained in the Draft Order Are Not Supported by SWRCB Blue Ribbon Panel Findings and Recommendations*

Besides being inappropriate to define MEP in general, the specific MALs contained in the Draft Order are not technically supported or valid. There are no findings to support their use for the Draft Order's purpose. The State's Blue Ribbon Panel recommended that "action levels" be used to identify circumstances when it might be appropriate to take action. In this case, the action level comes into play when the stormwater is clearly above the normal observed variability. (Report at p. 8.) To develop an appropriate action level, the State's Blue Ribbon Panel suggested various options, which included: (1) consensus based approach; (2) ranked percentile distribution; and, (3) statistically based population parameters.

The Draft Order claims to use a statistical approach that used the central tendency of the dataset and accounting for data variability. (Draft Order, at p. 23.) In its actual calculation, the Draft Order took the median value of a national data set and multiplied it by the coefficient of variation. There is no basis for this approach in establishing action levels. This calculation actually reflects the variability of the data (measured as the standard deviation) and does not account for central tendency of the dataset). The Draft Order's approach is not consistent with the State's Blue Ribbon Panel suggestion for a statistically relevant calculation.

In addition, the Draft Order's use of the national database (Draft Order at p. 23) is not appropriate to generate the MALs. The State's Blue Ribbon Panel noted that there is

greater opportunity to use various data sets for establishing the MALs. Three options proposed in the Report, in order of preference, are:

- Local urban stormwater monitoring data (the Panel even notes the existence of such data sets from Los Angeles County, Orange County and other California MS4 programs)
- Combine municipal permit monitoring datasets if there is a lack of data for specific constituents in any one location
- National database

In this case, the Draft Order selects the least preferred option to generate the MALs even though there are local stormwater data sets available. In fact, California MS4s have more comprehensive data sets than any MS4s in the country. Thus, there is ample opportunity to use local, regional, and statewide data sets to establish action levels and no need to rely on a national dataset.

Furthermore, the derivation and use of action levels as envisioned by the State's Blue Ribbon Panel reflects an approach to identify the "bad actors." (Report at p.8) The use of MALs in the Draft Order establishes hard and fast compliance end points for MEP, regardless of the efforts made by the local agencies to implement effective BMPs. This is not legally justified or supported by the Draft Order or the findings of the Blue Ribbon Panel.

D. The Use of MALs Creates a Permit Term More Stringent than Required by Federal Law

When permit terms are more stringent than federal law, the adopting agency must consider the public interest factors contained in Water Code section 13241. (*City of Burbank v. State Water Resources Control Board* 35 Cal.4th at p. 618.) Section 13241, in turn, requires consideration of economics, site-specific conditions, the need to develop housing in the region, and other factors. The Regional Board must consider and balance such factors to determine if the requirements are reasonable. (Water Code § 13241; Water Code §13263.)

The Draft Order's use of MALs is more stringent than federal law requires. As discussed above, MEP is a highly flexible approach that balances a number of factors, which includes the use of BMP. MEP is not intended to include numeric limitations. Numeric limitations are considered to fall under the "and such other provisions" of CWA section 402(p)(3)(B). (*Browner*, 91 F.3d at p. 1166; *BIA* at p. 881.). The "and such other provisions" are independent of MEP and do not modify MEP. (*BIA* at p. 881.)

Thus, the use of MALs to define MEP exceeds the requirements of federal law. Therefore, the Regional Board must consider the public interest factors as contained in Water Code section 13241 before adopting the Draft Order. The Draft Order suggests that costs required for compliance with provisions contained within the Order have been considered. (Draft Order, p. 24.) However, upon close review of the noted reference, the incremental costs apply only to Los Angeles and do not specifically apply to the

provisions contained within the Draft Order that would apply to the Ventura Program. In other words, the cost considerations currently referenced in the Draft Order do not meet the requirements of section 13241 and therefore are not a substitute for the Regional Board's obligations under section 13241.

E. The Draft Order Lacks Findings And Rationale to Support the Use of MALs

The MAL requirements of the Draft Order are not supported by the findings or logic within the findings. The Regional Board must support decisions with specific findings and must relate evidentiary findings to the ultimate order. The mere recitation of facts is not sufficient. In particular, the Regional Board must "set forth findings to bridge the analytical gap between the raw evidence and the ultimate decision or order." (*Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515; see also *In Re Petition of the City and County of San Francisco, et al.*, SWRCB Order 95-4, 1995 WL 576920 at pp. 4-5.)

The Draft Order does not satisfy these requirements. It does not, for example, explain why exceedance of MALs would be presumed to be inconsistent with MEP standards of the permit or why other provisions are required as MEP. By way of other examples, Findings Nos. 15 and 16 recite that the Regional Board has "considered" the need for housing, and costs of implementation. (Draft Order at p. 24.) However, there are no findings that actually spell out what the Regional Board considered with regards to housing and the costs of implementation. The Draft Order also fails to explain how these findings are related to the provisions contained therein. Thus, the Regional Board has not properly bridged the analytical gap between the facts and the ultimate requirements that would be imposed under the Draft Order.

F. MALs are More Restrictive than Basin Plan and TMDLs

The proposed MALs are actually more stringent than Basin Plan water quality objectives that have been adopted into the Basin Plan as part of a TMDL. As an example, the Draft Order addresses the TMDL requirements for Malibu Creek and Lagoon, and Calleguas Creek. (Draft Order at p. 88.). Waste load allocations are identified and noted for a number of constituents including copper, nickel, and zinc. As recommended by federal TMDL guidance, numeric targets have been developed to ensure compliance with water quality standards and adopted into the Basin Plan as water quality objectives. A comparison of the MALs with the TMDL targets as approved in the Basin Plan is shown below in Table 2.

Table 2 - Comparison of MALs v. TMDL Adopted Targets

Constituent ³	Municipal Action Levels ¹	Basin Plan ²
Copper (dissolved, ppb)	12.8	26.3-41.6
Nickel (total, ppb)	9.6	74-1292 ³
Zinc (dissolved, ppb)	104	90-324

1. Attachment C to Draft Ventura Stormwater Order.
2. Attachment A to Resolution No. R4-2006-012.
3. Measured as dissolved.

A review of the table demonstrates that the MALs are considerably more restrictive than the water quality based targets used to comply with water quality standards. In addition, the Draft Order differs from the approved TMDL provisions with regard to implementation schedules and monitoring requirements. The provisions of the Draft Order need to accurately reflect the requirements of the approved TMDL (and as stated in the Basin Plan), including implementation requirements and monitoring. To do otherwise is inappropriate, and creates an inconsistency between two regulatory programs, and goes beyond actions and requirements being imposed on other dischargers listed in the TMDL.

In conclusion, the Draft Order's use of MALs to define MEP is ill conceived as it is inconsistent with state and federal policies, is technically flawed, results in requirements more stringent than federal law, and creates limits that are more restrictive than adopted water quality objectives contained in the Basin Plan.

V. WATER QUALITY BENEFITS VS. COSTS

In addition to our concerns regarding the substantive, prescriptive provisions contained within the Draft Order, we are also concerned that the Draft Order establishes a countywide program that has little connection with the pollutants of concern (POC) as identified by the Permittees. Over the course of the last five years the Ventura Program has spent considerable resources on identifying the pollutants that warrant special attention. In some cases the POC focus complements what the Draft Order specifies and in other cases there is no relationship (e.g. installation of trash excluders on all catch basins even though trash is not listed as a POC).

To better understand the Permittees' liability in meeting the Draft Order provisions, we have compiled our monitoring data for the last 4-5 years for both the land discharge sites and mass emission sites. These data were compared to the MALs which are summarized in Attachment C. A review of the attachment demonstrates that the Permittees are subject to non-compliance and will be required to construct treatment control BMPs to meet the MALs. To further assess the Permittees' exposure, we have estimated the cost for complying with the Draft Order. Our costs reflect a program required to meet the new baseline program element provisions, an enhanced program which includes the baseline program plus the installation and maintenance of trash excluders, and a compliance program which consists of baseline, enhanced, and the cost for constructing BMPs to comply with MALs. We initially developed the cost for the City of Camarillo and expanded it to the Ventura Program. To further put these costs in perspective we compared these costs to the study referenced in Finding No. 16 of the Draft Order. This comparison is shown below:

Summary of Ventura Program Costs Impacts

Program	Annual Cost \$/Household			
	Current Effort	Draft Order Baseline ³	Enhanced ⁴	Compliance ⁵
Statewide Study ¹				
Range	18-46	--	--	--
Mean	29	--	--	--
Ventura County				
Range	18-44 ²	--	--	--
Mean	35	60	87	213

¹ NPDES Stormwater Cost Survey, Prepared by Office of Water Programs for State Water Board, Jan '05. Reflects Annual Budgets for 02/03.

² Based on 03/04 budget submitted in Ventura Countywide 2004/05 Annual Report.

³ Reflects an increase in Permittee staff to meet Draft Order baseline requirements.

⁴ Reflects baseline requirements (see note 3) and installation and maintenance of trash excluders.

⁵ Reflects costs for baseline, enhanced and retrofit (infiltration, wetlands) of outfalls to meet MALs. Treatment BMP costs were based on the Office of Water program NPDES Stormwater Cost Survey (attachment H).

A review of this table demonstrates that the typical household costs will increase approximately six fold for the full compliance option.

In addition, the new requirement under the Planning and Land Development program will result in increases in housing costs. These additional costs impact local affordability and the economic viability of the communities.

VI. PROPOSED PERMIT IS OVERREACHING IN EXPANDED COVERAGE AND SCOPE

Additional major issues of concern for the Permittees are the Draft Order's attempts to expand stormwater permit coverage beyond the jurisdictional boundaries of the Permittees, individually and collectively, and the Draft Order's inclusion of certain requirements that are beyond the scope of the Regional Board's authority as it relates to water quality controls.

A. Improperly Expands Land Use Area Subject to Permit Requirements

The Draft Order attempts to require the Permittees to provide control over pollutant generating activities outside of the limited jurisdictional boundaries that are actually covered by the Ventura Program. For example, the Draft Order attempts to exempt "agricultural lands" and "forest lands." However, the exemption is incomplete and unclear. At a minimum, the exemption needs to be expanded to include open space lands

that are not subject to urbanization. Thus, the exemption should read "agricultural lands, forest lands, and open space lands not subject to urbanization."

Additionally, regulating all "areas undergoing urbanization" will result in the unnecessary regulation of many remote and *non-urbanized* areas within Ventura County boundaries. Ventura County has vast areas that are sparsely populated and should not be considered to be undergoing urbanization. The Draft Order's proposed regulation of "areas undergoing urbanization" is beyond the scope of an NPDES permit for MS4 discharges. The Draft Order should more appropriately apply MS4 permit coverage to "Urban Areas" as defined in the most recent U.S. Census Survey. Thus, activities that occur outside of the jurisdictional municipal boundaries of the municipalities (i.e. Urban Areas), individually and collectively, are beyond the scope of the Ventura Program and should be removed from requirements contained within the Draft Order.

B. *Improperly Expands Monitoring Requirements*

The Permittees believe whole heartedly that an effective stormwater monitoring program is an important tool to assess the impacts of urban runoff and potentially measure the effectiveness of the management program. However, the highly prescriptive monitoring requirements in the Draft Order would not provide the Permittees with useful feedback to make appropriate improvements in the Permittees' stormwater program. (Draft Monitoring Program—No. CI7388.) For example, the Permittees would be required to collect a significant amount of data on pollutants from non-MS4 sources. The Permittees would then be responsible for preparing plans and corrective actions to remedy problems discovered through the monitoring program. Many of these plans and corrective actions may be for pollutants that are discharged into the receiving waters from non-MS4 sources, therefore depleting valuable local agency resources as to which the local agencies have no jurisdiction.

In addition, there exists in California a Model Monitoring Program for Municipal Separate Storm Sewer Systems in Southern California. This document was developed by the Southern California Stormwater Monitoring Coalition (SMC), represented by three Regional Boards (including the Los Angeles region), municipal Permittees representing six counties, Heal the Bay and the Southern California Coastal Water Research Project. The basic philosophy on environmental monitoring discussed in this document is "Monitoring should be focused on decision making; data not helpful in making a decision about clearly defined regulatory, management, or technical issues should not be collected." As a model monitoring program developed for Southern California, the Regional Board should incorporate the tenets and philosophy of this program into the monitoring program contained in the Draft Order.

Unfortunately, the monitoring program prescribed in the Draft Order does not follow the philosophy contained in the model program. It is overly broad. The proposed monitoring program would require sampling throughout the watersheds for all storms, regardless of the actual impacts that may be caused by the Permittees. The Permittees contend that such an expansive program in Ventura County would not yield credible information. The

whole of Ventura County includes vast open space and agriculture areas that are intermingled amongst the urban areas. In reality, the MS4s make up only a small percentage of each watershed. (See Table 1.) To be useful for program management, the Ventura Program's limited monitoring resources need to be focused on collecting information specific to the MS4 programs.

Furthermore, state law requires monitoring programs imposed by the Regional Water Board to "bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports." (Water Code § 13267(b)(1).) In addition, the Regional Board must explain the need for reports and identify the evidence that supports requiring a specific discharger to provide the reports. The expansive monitoring requirements contained in the Draft Order clearly do not bear a reasonable relationship to the Permittees' activities as it requires monitoring in areas that are probably not impacted by municipal stormwater discharges, and requires monitoring for constituents that may not be of issue.

For example, the draft monitoring program would require the Permittees to monitor up to 18 tributary sites in one watershed for pyrethroid insecticides. (Draft Order, at p. F-19.) However, there does no information on the presence of pyrethroids in the main stem receiving waters or the tributaries. Until evidence exists that pyrethroids may be a concern, the Regional Board does not have sufficient basis to require such an extensive pyrethroid insecticides study.

Finally, the proposed monitoring requirements in the Draft Order overlook the watershed monitoring efforts that the Permittees, in cooperation with other dischargers, are already implementing to address and identify urban runoff impairments in Ventura County. The Calleguas Creek monitoring program (the only watershed with a clear urban runoff signature in the mass emission station) extensively monitors receiving waters, tributaries, agriculture, POTWs, and stormwater. This is done with cooperation and commitment from the major stakeholders in the watershed. Any increase in requirements to the MS4's monitoring program needs to be considered in the context of the larger monitoring efforts underway to prevent duplication of effort and to further the cooperative stakeholder agreements already in place to continue this monitoring.

Thus, monitoring requirements that extend beyond collecting useful information relevant to the MS4 program are not justified by the Draft Order and therefore must be removed. As an alternative to the prescriptive monitoring requirements contained in the Draft Order, the Permittees and Regional Board staff should work to develop a locally designed MS4 monitoring program that furthers the objectives of the stakeholder monitoring program and provides useful information regarding the Permittees' stormwater programs.

C. Improperly Requires Ecological Restoration Planning and Implementation

Part 5 of the Draft Order requires the Permittees to develop and implement Watershed Ecological Restoration Plans (ERP) for all watershed management areas that have

obtained poor scores, as determined by the bioassessment monitoring program that is also required. The Regional Board's justification for this requirement contained in Finding B.9 is primarily to "reestablish insofar as possible the ecological integrity of degraded aquatic ecosystems." (Draft Order p. 4.) However, the Regional Board fails to indicate how ERP is required for the Permittees to meet MEP or any specific legal requirement or standard. The Regional Water Board's authority to require compliance with water quality standards does not extend to requiring watershed wide ecological restoration planning.

Furthermore, ERPs are required under the Draft Order when bioassessment data for a tributary shows that the reach evaluated is rated as poor or very poor. The bioassessment data and the reach evaluation do not identify potential sources or causes of the poor conditions within the watershed. Under the Draft Order, the Permittees would be responsible for restoring the ecological conditions in the watershed regardless of the Permittees' role in causing the condition. The Permittees should only be responsible for water quality conditions related to discharge from their respective MS4s. Agricultural areas, other NPDES permitted dischargers, nonpoint and natural sources such as invasive species have the potential to contribute to a low index of biological integrity. Additionally, stream segments can be on private property where Permittees have no authority to make improvements and cannot legally spend public funds to do so, as such an improvement may constitute an illegal gift of public funds. (Cal. Const. Art. 16, §6) Because the Regional Board does not have the authority to issue requirements related to watershed wide ecological restoration, and because the Regional Board cannot provide evidence of a causal link between the Permittees' activities and the bioassessment rating of a stream, the ERP requirements must be removed from the Draft Order. Ecological Restoration Planning and implementation of those plans is more correctly conducted through the stakeholder processes such as the IRWMP and WCVC.

D. Improperly Expands Land Development Requirements

1. Smart Growth v. Urban Sprawl

The Permittees applaud a stormwater permit that promotes low-impact development and redevelopment strategies and recognizes the water quality benefits of smart growth. (Draft Order, p. 21.) Many of the Permittees are already choosing high-density, infill development and redevelopment as an alternative to urban sprawl. Smart growth strives to mix land uses, take advantage of compact building design, and create walk able communities. Development pressure on open space, environmental habitat and farmland is diminished by using smart growth practices.

The Draft Order cites to hydromodification and low impact development requirements as provisions within the Draft Order that support smart growth. (Draft Order, p. 21.) However, the specific requirements in the draft permit relating to hydromodification and the restriction of imperviousness are much more easily accomplished in typical urban sprawl developments. Urban sprawl has more room to implement stormwater retention strategies. For example, many smart growth strategies include high-density development

(e.g. subterranean parking garage, retail/office/work space on street level and residential above) that usually results in the entire property being covered by the development and therefore less opportunity for stormwater infiltration. High-density and infill development and redevelopment projects incur water quality benefits in a different way, and these benefits should be recognized and rewarded.

The Permittees are concerned that the Draft Order would in fact hinder smart growth and reward urban sprawl. We request the opportunity to collaborate with you on the specific requirements on land development and redevelopment to assure that they are achievable for high-density, infill projects.

2. Local Land Use Authority

Land use decisions are a local government function. The Draft Order claims that "Permittees retain authority to make the final land-use decisions and retain full statutory authority for deciding what land uses are appropriate at specific locations within each Permittee's jurisdiction. This Order and its requirements are not intended to restrict or control local land use decision-making authority." (Draft Order, p. 22.) The Draft Order, however, contains several requirements that infringe upon local government control over land use planning.

Local land use authority includes mitigating and conditioning the authorized land uses to ensure protection of public health and safety, as well as protection of the environment. (*Berman v. Parker* (1954) 348 U.S. 26; *Associated Home Builders, Inc. v. City of Livermore* (1976) 16 Cal.3d 582; Gov. Code, §§ 65302, 65800-65912.) When including such conditions as part of a land use entitlement process, local government decisions must be made within the context of the applicable General Plans, zoning ordinances, and other local codes. (*Leshar Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.3d 531; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553.) Thus, local land use decisions must be consistent with General Plans, zoning ordinances and local codes, and must not create land use inconsistencies with neighboring lands. (*Ibid.*)

The Draft Order requires application of specific land use strategies to address stormwater issues, without any consideration of applicable General Plans, zoning ordinances, or other local codes. (Draft Order at pp. 50-54.) In particular, the Draft Order requires specific limitations on impervious surfaces (Draft Order at p. 50), use of Low Impact Development (LID) strategies (Draft Order at p. 51), and hydromodification mitigation (Draft Order at p. 52) for all New Development and Redevelopment, as defined. Implementation of specific limitations on impervious surfaces, LID and hydromodification strategies are specific land use decisions that are within a local government's discretion. These methods of controlling stormwater discharges are certainly within the tools a local agency can use when addressing stormwater discharges associated with development. The Draft Order, however, requires implementation of these strategies for all new development and redevelopment, regardless of circumstances and without consideration of applicable local agency regulations. The Draft Order,

therefore, undermines a local agency's authority to regulate land uses within its jurisdiction.

Indeed, the Draft Order goes so far as to specify the order of priority for certain land use strategies to address stormwater: LID, Integrated Water Resources Management Strategies, Multi-benefit Natural Feature BMP, Prefabricated/Proprietary Treatment Control BMPs. (Draft Order at p. 50.) This prescription of mandatory land use strategies unlawfully impairs local government's discretion to implement land use strategies that are consistent with existing local government plans and policies, and ignores a local agency's obligation to consider a broader spectrum of issues and options when making land use decisions. (Gov. Code, §§ 65302, 65800-65912; see also Pub. Resources Code, § 21000 et seq.) In fact, the Draft Order appears to restrict a primary strategy used by many municipalities within California to address stormwater, which is the development and construction of stormwater detention basins.

To the extent a project in issue is subject to the California Environmental Quality Act (CEQA), the Draft Order's requirements regarding LID, hydromodification and others are also inconsistent with CEQA's requirement to evaluate project impacts based on evaluation of the whole of the project and consideration of all the potential impacts of the project. (Pub. Resources Code, § 21000 et seq.; see Pub. Resources Code, §§ 21060.5, 21080; 14 Cal. Code Regs., tit. 14, §§ 15003, 15063-15065, 15070.) CEQA requires identification and adoption of feasible mitigation measures for significant impacts of a proposed project, taking into account the specific characteristics of the project in question and the affected environment. (Pub. Resources Code, §§ 21002, 21081; 14 Cal. Code Regs., tit. 14, §§ 15021, 15041.) The blanket application of the identified land use strategies and priorities may not be appropriate in all cases. Yet, the Draft Order would limit a local agency's ability to require implementation of more appropriate land use strategies. Thus, the blanket application of the required land use strategies could have unintended environmental consequences that can only be identified through appropriate environmental review, and which must be evaluated on a project-specific basis.

Similarly, the Draft Order specifically directs periods of time when grading shall be prohibited in certain areas. (Draft Order at p. 63.) This specific requirement is clearly within a local agency's land use authority and the Regional Board has no authority to prescribe what type, when, or how certain land uses should be implemented or allowed.

Thus, the provisions within the Draft Order that require LID, hydromodification controls and others must be revised. The Draft Order may encourage the consideration of such strategies by the Permittees who have land use authority; however, the decision to implement such strategies must be left to the individual Permittees.

Also, the Draft Order specifies BMPs and applies them universally. This approach will lead to many problems. For example the Regional Board is requiring trash excluders on all storm drains inlets rather than other trash mitigation measures which may in turn cause increased flooding in some locations. Homes and businesses will be flooded that are not currently flooded with subsequent liability issues.

E. Overreaching Hydromodification Mitigation Requirements

The Draft Order assumes that all development and redevelopment projects will have a detrimental effect on erosion and on the peak flow and duration of the receiving water. However, in Ventura County, some development projects have little to no effect on the receiving waters pre-development hydrograph due to the size of the natural watershed upstream of the development. For example, the 235 square mile Ventura River Watershed is less than five-percent urbanized. Most of the watershed, and a disproportionately large amount of the rainfall, are within the National Forest. In these cases, the natural storm flow in the rivers is many times greater than storm drain discharges and the timing and flows are dictated by the natural flows that occur long after the storm drain discharges takes place. In other cases, developments discharge through storm drain systems directly to the ocean, without the potential to impact a natural channel or riparian habitat.

These types of analyses should be considered when developing thresholds for hydro modification requirements. The Draft Order be revised to include the rationale for the 50 acre threshold contained in the Interim Criteria in Part (e) of Page 53, and should consider additional exemptions based upon the hydrology of Ventura County Watersheds, rather than the assignment of a size of project.

In practice, it is not possible to exactly match a hydrograph in both peak flow, volume and duration at the same time. Depending on the watershed and the project's hydrologic characteristics, the concept of attempting to equalize pre- and post-project peak flows and/or volume may or may not be appropriate and effective in minimizing erosion effects. The concept of matching flow duration and/or volume may or may not be critical for habitat and ecology, depending on the hydrologic characteristics of the watershed and the project. The Draft Order should allow flexibility based upon the watershed characteristics and erosion protection, habitat and ecology needs. The Draft Order should be revised to provide flexibility or provide the Permittees with engineering methodologies that would allow the exact matching of flow, volume and duration at the same time. Although the comment period has not allowed time to develop and present draft suggested engineering criteria that would protect our watersheds and their habitat. The Permittees are willing to work with you toward this interim criteria.

And finally, the Hydromodification Analysis Study (HAS) also appears similar in scope to CEQA sections (biology, hydrology/water quality/ geology/soils) that determine impacts of a project. The Draft Order needs to be prepared to avoid duplication with the CEQA studies and process.

VII. STORMWATER RECHARGE VS. GROUNDWATER PROTECTION

Groundwater is the single most important source of water in Ventura County. Collectively, groundwater accounts for approximately 67% of the total water demand for the County's agricultural and domestic use. The protection and quality of this important resource are of paramount interest and concern to the residents of Ventura County. We

do agree the use and recharge of uncontaminated stormwater can be an important component of integrated regional water management. However, we are not in agreement with the universal proposal to percolate and infiltrate all stormwater through implementation of LID and other BMPs. This "one size fits all approach" does not take into account Ventura County's site specific and variable conditions such as local geology/hydrogeology and soils. Furthermore, this type of approach might have the unattended consequence of attempting to fix one environmental problem and consequently creating another. A good example of the above happened recently with this the State Air Resources Board mandating oxygenate fuels (MTBE) in gasoline to solve one of its air quality issues, resulting in a much bigger and costlier issue of groundwater contamination and remediation statewide.

U.S. EPA lists the following on its website, warning of potential additional hurdles and requirements for recharging groundwater with stormwater: "*When stormwater is used to recharge ground water - Discharges to ground water may be subject to local, state or federal requirements. Specifically, discharges via subsurface fluid distribution systems or other subsurface infiltrative devices may be subject to the federal underground injection control (UIC) requirements. The UIC program, authorized pursuant to the U.S. Safe Drinking Water Act, exists to prevent the endangerment of underground sources of drinking water. Stormwater injection wells need to be listed on state or federal inventory lists, and should not be used for the disposal of fluids other than storm water. To limit the potential for ground water contamination, EPA recommends that stormwater injection wells be constructed with spill catchment, and not be constructed to intersect the water table.*" (U.S EPA website.)

Several communities in Ventura County have underlying unconfined or semi-confined aquifers (along the Santa Clara River), sole sources aquifers, and/or have highly venerable and sensitive recharge areas (e.g. the Oxnard forebay) that cannot use infiltration BMPs for fear of contaminating the community's only drinking water supply. Communities with high groundwater (e.g. Simi Valley) may experience potential flooding with these BMPs, and in other communities with clay or impermeable soils these BMPs will not physically work. The Draft Order should provide provisions to ensure full protection of our limited groundwater resources.

VIII. SUMMARY/CONCLUSION

In closing, the Ventura County Watershed Protection District and the Ventura Countywide Stormwater Program Co-Permittees have very real and very significant concerns about the Draft Order as currently proposed.

Of great concern to the Permittees is the significant incongruity and apparent lack of coordination in the regulatory methodologies being implemented by the State Water Resources Control Board and its Regional Boards. This lack of equity and consistency is apparent both externally in programs and actions taken from Regional Board to Regional Board but now particularly evident between initiatives and programs directed from within the departments of the Los Angeles Regional Board to the regulated community.

The 303(d) impairment identification and subsequent TMDL implementation process in Ventura County has been an exemplary model of a successfully adopted and implemented non-point source, pollution control program focused on the specific constituents that inhibit beneficial uses. This program has been implemented in an allied, co-operative, coordinated manner with the Regional Board serving as a full-partner. This approach has resulted from a unified effort by Regional Board staff with a fully comprehensive body of stakeholders (including the US-EPA, municipalities, the County, major water suppliers, Caltrans, the U.S. Navy, the Ventura County Farm Bureau and other agriculture and environmental interests). These initiatives, implementation schedules and goals will result in tangible water quality improvements, compliance with Basin Plan objectives and protection of beneficial uses for Ventura County watersheds with respect to bacteria, salts, nutrients, metals, pesticides and trash. The TMDL programs are focused by reach, pollutant specific and directed to protecting the identified beneficial uses in the Basin Plan.

In direct contrast to the Calleguas Creek TMDL process, the Draft Order presents an adversarial, 'command and control' methodology aimed at a smaller sub-set of same stakeholders with less of an ability to affect the overall surface water quality in Ventura County. Yet this Draft Order dictates discharge limitations (MALs, which are inconsistent with previously Board adopted TMDLs and NPDES discharge limits) while demanding implementation and installation specific controls. Additionally, this direction includes how such limitations are to be achieved without any discretionary flexibility as to how these controls are to be implemented or applicability adjustments as to the pollutants of concern. Many significant elements in the proposed permit are unfocused, counter-productive and contrary to the progress and good-faith efforts established in the TMDL process.

As stewards of scarce and limited public funds and the municipal trust, we must demand that the actions and expenditures driven by and determined by state regulators are consistent with each other, are cost-effective and capable of achieving the goals for which those expenditures are intended. As noted throughout these comments, this Draft Order is inconsistent with those goals.

Finally, although we fundamentally disagree with the proposed approach being used by the Regional Board staff, we are in agreement with the need to continue and enhance our award-winning stormwater management program that will lead to water quality protection and enhancement, and provide for adequate accountability. We look forward to working with the Regional Board to craft a revised Draft Order that supports this need.

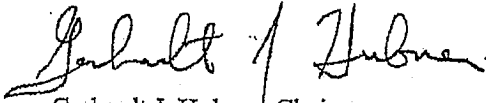
Mr. Jonathan Bishop
RWQCB-LA

-22-

March 6, 2007

In order to move towards the development of an appropriate Draft Order, we request a meeting with you at your earliest convenience. We also look forward to a formal written response to each of the comments contained in this letter and its attachments. If you have any questions, please contact me at 805-654-5051 or Gerhardt.Hubner@ventura.org.

Sincerely,



Gerhardt J. Hubner, Chair
Ventura Countywide Program
Stormwater Management Committee

Attachments

- A. Additional Legal and Policy Comments
- B. Permittee' Combined Technical Comments for Ventura County MS4 Permit Draft Order, dated December 27, 2006
- C. Comparison of Discharge Characterization Data with Municipal Action Levels

Cc: Xavier Swamikannu, Senior - Storm Water Permitting, Los Angeles Regional Water Quality Control Board
Ventura Countywide Program Permittees
Jeff Pratt, Director, Ventura County Watershed Protection District
Ron Coons, Public Works Director, County of Ventura

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RR

Ventura County Agricultural Association

916 W. VENTURA BLVD., CAMARILLO, CALIFORNIA 93010
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September 18, 2007
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CALIFORNIA REGIONAL WATER
QUALITY CONTROL BOARD
LOS ANGELES REGION

Ms. Francine Diamond, Chair
Los Angeles Regional Water Quality Control Board
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

Re: Proposed Ventura County Municipal Storm Water Permit

Dear Chairwoman Diamond and Regional Board Members:

On behalf of the Ventura County Agricultural Association, we appreciate the opportunity to express our views and concerns with the recently released revised draft of the Ventura County Municipal Storm Water Permit (MS4). Many of our members operate commercial vegetable and fruit processing facilities that may be subject to the proposed permit.

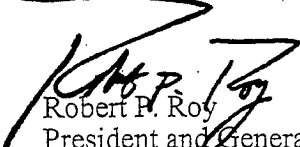
We join the Regional Board in supporting efforts to achieve cleaner water in Ventura County. We believe that through a comprehensive approach, utilizing best management practices that are adaptable to differing communities, we will be better able to impact water quality in our region.

We strongly oppose the inclusion of numeric effluent limits in the MS4 permit. We believe the Board should address water quality regionally rather than site-by-site as recommended in the revised draft. The site-specific approach not only will be extremely costly, but also will not lead to increased water quality in our basin.

In Ventura County we value redevelopment and infill projects. Through redevelopment of properties we are able to take advantage of existing infrastructure, such as roads and highways. Therefore we request that you not place restrictions on redevelopment projects. We also request that you not place unnecessary burdens on the development of new residential, commercial and industrial properties through grading restrictions that are not likely to lead to increase water quality. Again, water quality needs to be addressed regionally and not on a site-specific basis.

In closing let me express our concern that a cost-benefit analysis has not been provided on the revised draft MS4 permit. While we strongly support cleaner water, we believe that regulations must be practical, therefore obtainable and without undue burdens on our residents, cities and businesses. By most estimates, the financial costs associated with the revised draft MS4 permit are very high. These costs will ultimately be bourn by homeowners and the business community.

Again, we appreciate the opportunity to express our concerns. We look forward to working with the Regional Board in achieving an MS4 that will enhance water quality in Ventura County without negatively impacting our residents, local governments, and our economy.

Respectfully,

Robert P. Roy
President and General Counsel

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October 15, 2007

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ADDRESS ALL CORRESPONDENCE TO:
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ALHAMBRA, CALIFORNIA 91802-1460

IN REPLY PLEASE
REFER TO FILE: WM-9

Ms. Tracy Egoscue
Executive Officer
California Regional Water Quality
Control Board - Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, CA 90013-2343

Attention Dr. Xavier Swamikannu

Dear Ms. Egoscue:

SECOND DRAFT VENTURA COUNTY MUNICIPAL SEPARATE STORM SEWER SYSTEM NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT


Public Works has reviewed the proposed second draft Ventura County Municipal Separate Storm Sewer System National Pollutant Discharge Elimination System Permit made available for public comment by the Regional Board. Our comments are enclosed.

We thank staff for its work on this second draft permit and for inviting us to several meetings where important issues relating to the second draft permit were discussed. We also thank the Regional Board for hosting a workshop on the second draft permit on September 20, 2007.

If you have any questions, please contact Mr. Frank Wu at (626) 458-4358 or fwu@dpw.lacounty.gov.

Very truly yours,

DONALD L. WOLFE
Director of Public Works


A: MARK PESTRELLA
Assistant Deputy Director
Watershed Management Division

FW:sw
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Enc.

C000896

**County of Los Angeles Department of Public Works
Comments in Response to the
Second Draft Ventura County Municipal Stormwater NPDES Permit
Dated August 28, 2007**

The County of Los Angeles and Los Angeles County Flood Control District, herein jointly referred to as "County", submit the following comments in response to the proposed Second Draft Ventura County Municipal Stormwater NPDES Permit (Second Draft Permit). Following the workshop format on September 20, 2007, comments relating to major topics are presented first, followed by comments on other miscellaneous issues.

The County shares the Regional Board's goal of improving receiving water quality in Los Angeles County and looks forward to working with staff on the next Los Angeles County municipal stormwater NPDES permit. The County urges the Regional Board to adopt common sense policies with reasonable measures, practical timelines, and meaningful effectiveness measures.

I. Municipal Action Levels

Comments made by Regional Board members at the September 20, 2007, workshop held in the City of Ventura, made clear the Regional Board's frustration with the slow progress in achieving receiving water quality improvements. The County, having expended hundreds of millions of taxpayer dollars since 1990 to comply with municipal stormwater NPDES permits, shares the same frustration. However, we also recognize that TMDLs are a part of the overall iterative process to improve water quality, evidenced by the fact that permittees have expended millions of dollars in the last few years to comply with TMDLs by implementing BMPs in addition to those required in the permit's Stormwater Quality Management Program.

With respect to the SQMP, a lack of decision-making tools that stormwater managers need to make informed decisions has contributed to the limited degree to which the SQMP has been revised. In a complex municipal stormwater program, with numerous moving parts, which parts should be adjusted to achieve meaningful improvement in performance? Should the stormwater manager require more construction site inspections? Recommend change in stormwater ordinances? Sweep streets more frequently? Buy more media impressions or conduct more business outreach events?

Instead of quantifying MEP through the use of MALs, the Regional Board should

1. Work with the California Stormwater Quality Association (CASQA) to explore the best way to incorporate CASQA's recommended Progressive Approach into the Second Draft Permit. CASQA's draft White Paper submitted to the Regional Board on August 15, 2007, and its *Municipal Stormwater Program Effectiveness Assessment Guidance* document dated May 2007, together provides a roadmap toward better water quality protection. The County appreciates CASQA's efforts to advance the science and regulation of stormwater management.
2. Continue to have the municipal stormwater permit reflect TMDLs, as it is compelling the iterative process evidenced by the fact that permittees are implementing BMPs on top of those required by the SQMP.

II. Total Maximum Daily Loads

The County believes that the current TMDL process is resulting in receiving water improvements. Regional Board should let the process work over time, by continuing to have permits reflect applicable TMDLs. Because TMDLs are developed in a stakeholder process and approved by USEPA, requirements should not be altered as they are incorporated into permits.

III. Low Impact Development

On October 23, 2007, the County of Los Angeles Board of Supervisors will hear County staff's recommendations on how LID can be required for new development and redevelopment and incorporated into new road and stormdrain projects. Thus, the County is well on its way to incorporating LID principals into practice and we are in support in principal of the Second Draft Permit's emphasis on LID. Echoing comments made during the September 20 workshop, we urge the Regional Board to consider project scale and local conditions in imposing LID requirements.

IV. Monitoring

The County applauds staff's decision to remove the stream restoration study and the Total Suspended Solids monitoring requirements, and to integrate the bioassessment requirement with regional efforts.

With respect to receiving waters monitoring, we support the removal of the tributary monitoring requirement. Mass emissions monitoring also should be

reduced because the status and trends question has been answered by the receiving waters monitoring conducted during the last 15 years. Reducing mass emissions monitoring would allow more resources to be focused on outfalls monitoring. While we believe using a 36"-diameter threshold for "major outfalls" is impractical, the County will be conducting an assessment of its MS4 outfalls and looks forward to working with staff to craft a workable compliance monitoring program.

V. Other Issues

Cost Benefit Analysis - Staff should conduct cost-benefit analyses for the major requirements contained in the Second Draft Permit. Proposed requirements then should be ranked based on results of cost-effectiveness analyses, with the most cost-effective measures included as permit requirements.

Trash Excluders - We applaud staff's decision to limit the installation of trash excluders only to areas subject to high trash generation. We also welcome the opportunity to discuss with staff how high trash generation areas are defined; in our experience, land use type may not be the "one-size fits all" solution to identifying such areas.

Executive Advisory Committee

Stormwater Program – County of Los Angeles

October 15, 2007

Dr. Xavier Swamikannu (seconddraftVCMS4@waterboards.ca.gov)
Regional Water Quality Control Board, Los Angeles Region
320 West Fourth Street, Suite 200
Los Angeles, CA 90013

Subject: Comments on the Second Draft Ventura MS4 Permit (NPDES No. CAS004002)

Dr. Swamikannu:

The Executive Advisory Committee (EAC) is composed of representatives from among the Los Angeles County Municipal Stormwater Permittees and we invite your attendance at our monthly meeting at the Los Angeles County Department of Public Works Headquarters in Alhambra. These meetings are usually attended by representatives from over half of the Municipal Separate Storm Sewer System (MS4) Permittees and could be a productive forum for discussion and clarification of Regional Water Quality Control Board initiatives, intentions, and goal setting.

The EAC members and Los Angeles County MS4 Permittee would like to acknowledge and support the Board's decision to conduct a second Workshop in the City of Ventura, on September 20, 2007, to receive local community comments on the August 15, 2007 draft Ventura County MS4 Permit. This Workshop provided a valuable forum for the Board to hear and consider the many remaining concerns of the regulated communities. We would like to encourage the Board and Board staff to thoughtfully consider the comments of the Ventura County Permittees, while incorporating further revisions to the draft MS4 permit.

Among the most worrisome comments, voiced by the Ventura Permittees, was the perception that their constructive suggestions were ignored during permit negotiations; leading to a request for facilitated negotiations with Board staff. The Board has asserted that the MS4 Permittees incorrectly implemented past MS4 permits, but these are extremely complex documents that, in the case of the Los Angeles County MS4 Permit, are still being clarified by Board staff over five years after issuance. Our own Los Angeles County MS4 Permit EAC meetings have lacked Board participation for several years. Without continued dialogue on the content and intent of our future MS4 Permits, both the regulatory and regulated communities will continue to grope for meaning and most likely fail to meet each others expectations, leading to continued conflict.

The EAC once again encourages the Board to consider our March 7, 2007 comments letter regarding the draft permit findings, which appear to have been significantly dismissed without consideration. In particular, we disagree with finding E 10 and are concerned that its inclusion could limit the ability of local agencies to apply for Federal grant funding, which the Board has encouraged as one of a very few sources of support for this expensive program. None of our agencies would assert that sufficient support exists to fully implement the proposed permit.

C000900

Dr. Swamikannu
October 15, 2007
Page 2 of 2

The MS4 Permittees are very concerned about wastes resulting from numerous overlapping monitoring programs. Local MS4 Permittees are already subject to point source discharge, receiving water, mass emission, regional, ambient and TMDL compliance monitoring programs. The draft permit would append a new Municipal Action Limits (MALs) program based on numeric criteria that are at odds with these other programs. As has been asserted by the Permittees and other experts for years, stormwater quality is extraordinarily variable and difficult to monitor. As was asserted at the February 24, 2007 Regional Board Retreat, there exist ample enforcement opportunities for the regulatory community, but insufficient resources with which to implement the Board's intent. Similarly, the MS4 Permittees are greatly concerned that this additional monitoring requirement will simply divert our attention from productive priority pollutant source control efforts to generalized catchment wide efforts that municipalities will be poorly equipped to implement or utilize the results from. A greater effort should be focused by the Board and MS4 Permittees on the General Industrial and Construction Activities Stormwater Permit discharges, as was suggested by State Panel of Stormwater Experts.

The EAC would like to reiterate our interest in participating in crafting the contents and requirements of the draft Ventura County MS4 Permit, so as to avoid having conflicting requirements in adjacent jurisdictional areas, and reserves the right to provide additional oral or written comments at the planned public workshop. We further encourage the Board staff to thoughtfully consider the constructive suggestions of the Ventura County MS4 Permittees, which will have to implement the final permit. If you wish to further discuss these issues, or seek greater input from the EAC, please feel free to contact me at 562-904-7102.

Sincerely,



Gerald E. Greene, DENV, PE, QEP
Chair, Executive Advisory Committee

cc: Ventura County MS4 Permittees
Los Angeles County, Department of Public Works
EAC MS4 Permittee mailing list

Department of Water and Power



the City of Los Angeles

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October 15, 2007

Ms. Tracy Egoscue
Executive Officer
California Regional Water Quality Control Board
Los Angeles Region
320 W. Fourth Street, Suite 200
Los Angeles, CA 90013

Attention: Mr. Xavier Swamikanhu
Chief Storm Water Permitting Unit

Dear Ms. Egoscue:

Subject: Comments on the "Waste Discharge Requirements for Municipal Storm Water Discharges within the Ventura County Watershed Protection District, County of Ventura and Incorporated Cities Therein"

The Los Angeles Department of Water and Power (LADWP) appreciates the opportunity to comment on the proposed "Waste Discharge Requirements for Municipal Storm Water Discharges within the Ventura County Watershed Protection District, County of Ventura, and Incorporated Cities Therein" (Permit).

LADWP commends the Regional Board in their support and understanding of the necessity of flushing potable water lines and removing the 100,000-gallon threshold from the first draft of the Permit.

LADWP believes that the MS4 permit is the best permit vehicle to regulate all potable water discharges. It is unclear why NPDES coverage for these discharges should be denied under the MS4 permit. The draft MS4 permit does not contain any findings or provide any evidence or references that demonstrate potable water discharges contribute or violate water quality standards or are a significant contributor of pollutants to waters of the United States, thus suggesting that they should be ineligible for coverage. The American Water Works Association Research Foundation (AWWARF) has recently completed a study (AWWARF #2937) on the environmental impacts of untreated potable water discharges to receiving waters. In the study, it was concluded that there were no impacts from potable water discharges to the environment. The study

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consisted of data collection and research in both the eastern and western regions. In fact, these discharges are de-minimus, low threat, and not an environmental impact to the waters of the U.S. and/or State and should be addressed using best management practices (BMPs) under the MS4 permit.

In past discussions with Regional Board staff, concerns have been expressed regarding the overflow of storm water diversion structures and the safety of personnel that work in the storm drain conveyances due to large, unexpected releases of potable water. Both situations are easily solved by requiring in the MS4 permit a notification to alert other entities of planned discharges. For example, the permit could contain language similar to the following:

Water purveyors shall provide advance notice of planned storm water discharges to storm drain management agencies when planned discharges will exceed the capacity of the diversion structures operated by the local storm drain management agency. The maximum volume will be reported by each local agency to the Regional Board and the local water purveyors.

Notwithstanding the above comments indicating that it is appropriate to continue coverage of potable water discharges under the MS4 permit, LADWP has concerns with the Regional Board's approach to the regulation of potable water discharges under this permit and submits the following comments for your consideration.

LADWP requests changes to the draft permit language that will:

- Allow continued water system maintenance under the MS4 until a new Potable Water General Permit is adopted.
- Continue to regulate both non discretionary discharges and minor (i.e. low threat, low volume) groundwater discharge activities in the MS4 permit.
- Maintain a consistent definition of "potable water".

Allow for Continued Coverage under MS4 permit until new Permit is Adopted:

Should the Regional Board insist on regulating potable water discharges via a separate general permit specific to potable water discharges, LADWP respectfully requests that potable water discharges continue to be regulated by the MS4 permit until such time as an appropriate potable water system discharge permit is adopted by this Regional Board.

The current draft of the permit provides no regulatory coverage of potable water system maintenance discharges during the development and adoption of the new general permit for potable water discharges. This leaves water supply agencies liable to third party lawsuits under the Clean Water Act for activities that are sanctioned and often

mandated by the State Drinking Water Act. The flushing of drinking water distribution lines is an approved and necessary activity to protect public health and safety. In fact, routine potable water line flushing is encouraged by the State Department of Health Services (DHS) and the American Water Works Association, and at times is required by the DHS. Of the exempted non storm water discharges listed in the draft MS4 permit, potable water main flushing represents the lowest possible threat to receiving water quality.

Therefore, LADWP requests a proviso be inserted in the MS4 permit that allows potable water discharges to remain in the MS4 permit until a new general permit is adopted.

Continue to Regulate both Non discretionary Discharges and Minor (i.e., low threat, low volume) Groundwater Discharge Activities in the MS4 permit:

Non-discretionary, emergency, and unforeseen discharges associated with activities such as fire hydrant knock-offs, pressure releases from regulator stations, line failures/ruptures, etc., and minor activity discharges from groundwater well activities should continue to be covered by the MS4 permit.

In the same way fire fighters do not have any discretion in using potable water when fighting a fire and have no control on how the fire is started, a water supply utility does not have any discretion on when fire hydrants are hit by automobiles, or when a water line will fail and/or rupture, in some cases endangering property and/or public safety. Continued coverage under the MS4 with the application of BMPs, wherever possible, for these non-discretionary discharges that LADWP has identified is wholly appropriate. In addition, minor discharges from ground water well activities lasting for 10 to 15 minutes maximum are low volume and low threat, in the same way as the listed incidental discharges that are still allowed in the most recent draft of the MS4 permit. Therefore, LADWP requests that the non discretionary and minor ground water activities remain in the MS4 permit.

Maintain a Consistent Definition of "Potable Water"

Finally, the potable water definition found in the permit is not as broad as it is in other existing Regional Board permits. In this permit, "potable water" means that the water "meets all California Safe Drinking Water Act regulatory standards for human consumption". LADWP suggests that the definition should remain consistent with the existing definition found under the heading of "Potable Water System Distribution System Releases" found in many other Regional Board permits. For example, the existing MS4 permit has the following definition:

"Potable Water Distribution System Releases means sources of flows from drinking water storage supply and distribution systems including flows from system failures,

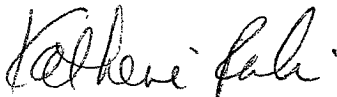
Ms. Tracy Egoscue
Page 4 of 4
October 15, 2007

pressure releases, system maintenance, distribution line testing, fire hydrant flow testing; and flushing and dewatering of pipes, reservoirs, vaults, and minor non-invasive well maintenance activities not involving chemical addition(s). It does not include wastewater discharges from activities that occur wellheads, such as well construction, well development (i.e. aquifer pumping tests, well purging, etc.), or major well maintenance.

In closing, LADWP believes the MS4 permit is the best and most appropriate vehicle to regulate these types of discharges. However, should the Regional Board insist on regulating potable water discharges via a general permit, LADWP requests that a new general permit specific to potable water systems be adopted by this Regional Board and that the potable discharges continue to be regulated by the MS4 until such a permit is adopted. Furthermore, as with the current low volume/low threat incidental discharges currently within the draft MS4 permit, LADWP believes both the non discretionary and minor ground water activities should remain in the MS4 permit. Finally, the potable water source definition needs to be expanded to correctly address potable water source discharges.

Again, we thank the Regional Board for the opportunity to comment on the second draft MS4 permit. Should you have any questions or require additional information, please contact myself or Mr. Bryan Schweickert of the LADWP Wastewater Quality Compliance Group at (213) 367-0436 or (213) 367-4944, respectively.

Sincerely,

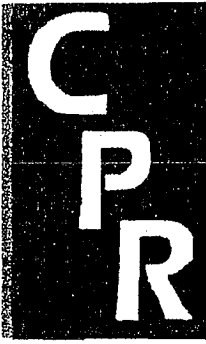


Katherine Rubin
Interim Manager Wastewater Quality Compliance

BS:gc

c: Mr. Xavier Swamikannu – Regional Water Quality Control Board
Ms. Tracy Woods – Regional Water Quality Control Board
Mr. Carlos Urranagua – Regional Water Quality Control Board
Mr. Bryan Schweickert

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October 15, 2007

Dr. Xavier Swamikannu
California Regional Water Quality Control Board
Los Angeles Region
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

Re: Second Draft Ventura County MS4 Permit Comments

Dear Dr. Swamikannu and Members of the Board:

I am writing on behalf of the Coalition for Practical Regulation (CPR) to provide comments on the Second Draft Ventura County MS4 Permit. CPR is an ad-hoc group of 43 cities within Los Angeles County that have come together to address water quality issues. Thank you for the opportunity to provide these comments.

CPR would like to thank the Board for holding the two Ventura Permit workshops to allow the Ventura County Watershed Protection District and the cities of Ventura County, along with other permittees and interested parties, to provide comments on the Second Draft Ventura County MS4 Permit. However, despite all of the time the Regional Board has spent meeting with permittees and others, and holding two Regional Board workshops to promote stakeholder involvement and solicit comments, the Second Draft Permit is disappointingly similar to the first draft. We hope that the Regional Board will consider and act upon comments they receive to this draft to make the Permit more reasonable. It would be extremely unfortunate to expose permittees to likely minimum mandatory penalties and third party litigation due to permit requirements that are almost impossible to achieve.

We are writing to reiterate and expand upon comments made by CPR at the April 5, 2007 workshop and comments by Dr. Gerald E. Greene on behalf of the City of Downey, and Richard Watson on behalf of the City of Signal Hill at the September 20, 2007 workshop in Ventura. We support the extensive and detailed comments by the Ventura County permittees and the Building Industry Association (BIA) at the workshops and in their

previous comment letters. We will limit our comments to a few of the basic concerns we have with the Second Draft Permit.

Definition of Maximum Extent Practicable

First, the Draft Permit still lacks a good working definition of "maximum extent practicable (MEP)." This draft of the Ventura Permit operationally defines MEP on the basis of exceedances of Municipal Action Levels (MALs) derived from nationwide monitoring data. This ignores both the need to comply with the provisions of the Porter-Cologne Act and local factors and characteristics. MEP is a general guideline and should be applied in a manner that is consistent with the factors set forth in the Porter-Cologne Act, including only imposing requirements "that could be reasonably achieved."

The San Diego Permit contains a long definition of MEP partly based on the 1993 Elizabeth Jennings memo defining MEP. The San Diego Permit states, in part:

"MEP generally emphasizes pollution prevention and source control BMPs primarily (as the first line of defense)...MEP considers economics and is generally, but not necessarily, less stringent than BAT. A definition for MEP is not provided either in the statute or in the regulations. Instead the definition of MEP is dynamic and will be defined by the following process over time: municipalities propose their definition of MEP by way of their urban runoff management programs. Their total collective and individual activities conducted pursuant to the urban runoff management programs becomes their proposal for MEP as it applies both to their overall effort, as well as to specific activities...In the absence of a proposal acceptable to the Regional Board, the Regional Board defines MEP."

(Source: San Diego Regional Board Order No. R9-2007-0001 – Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems [MS4s] Draining the Watersheds of the County of San Diego, the Incorporated Cities of San Diego County, the San Diego Unified Port District, and the San Diego Regional Airport Authority. Attachment C Definitions, p. C-4.)

The San Diego Permit also notes that useful factors to consider in selecting BMPs to achieve the MEP standard include effectiveness, regulatory compliance, public acceptance, cost, and technical feasibility. While the Regional Board or the State Board has the final determination as to whether a municipality has reduced pollutants to the MEP, San Diego permittees have the opportunity to propose their own definition as applied to their overall efforts and to specific activities.

California SB 1342 (2002) proposed the following definition for MEP:

"The 'maximum extent practicable' standard means the maximum degree of pollutant reduction achievable through the application of practical, technologically-feasible, and economically achievable best management practices,

including but not limited to, pollution control techniques and system design and engineering methods.”

The proposed SB 1342 definition of technologically feasible and economically achievable follows. Five of the six points listed in the proposed definition were derived from the Elizabeth Jennings memo.

“Technologically feasible and economically achievable best management practices are those practices that satisfy all of the following criteria:

- 1) Demonstrate effectiveness in removing pollutants of concern.
- 2) Demonstrate compliance with subsection (p) of Section 1342 of Title 33 of the United States Code.
- 3) Demonstrate the support and acceptance of the public served by those best management practices.
- 4) Demonstrate a reasonable relationship between the cost of the best management practice and the pollution control result to be achieved.
- 5) Demonstrate technological feasibility to effect the intended pollutant removals, considering soils, geography, topography, water resources, and such other limiting physical conditions as may exist.
- 6) Demonstrate economical achievability through the identification of available funding sources or through a proposed funding plan, or both, considering the need for the continuation of existing municipal services and the application of legal restrictions for approval of new sources of funding consistent with the state law and federal regulatory requirements prescribed under subsection (d) of Part 122.26 of Title 40 of the Code of Federal Regulations.”

These suggested definitions address the need for a definition of MEP that is effective at removing pollutants of concern while demonstrating a sound cost-benefit ratio and economic achievability. CPR is concerned that the way the Regional Board seeks to define MEP in the Second Draft Ventura Permit does not address economic achievability at all. We recommend that the Regional Board use either the definition of MEP used by the San Diego Regional Board in its Order No. R9-2007-0001 or the proposed definition in SB 1342 (2002).

Municipal Action Levels Are Inappropriately Used

The second concern CPR wishes to address is the use of Municipal Action Levels (MALs). The MALs in the Second Draft Ventura MS4 Permit are based on nationwide monitoring criteria.

Action levels should be based on watershed-specific or even waterbody-specific data that reflect natural background and local conditions.

Further, the proposal in the Draft Permit to establish MALs as statistically derived numeric effluent limits (NELs) is inconsistent with the iterative process in State Water Board Order 99-05. This proposed use of MALs also is contrary to the findings of the State Water Board's Blue Ribbon Panel, which found, "It is not feasible at this time to set enforceable numeric criteria for municipal BMPs and in particular urban discharges." The proposed application of MALs as numeric effluent limits could trigger permit violations and enforcement actions. Action levels should only be used as triggers for the application of enhanced management measures as part of the iterative process. In addition, the Municipal Action Levels called for in the Second Draft Ventura MS4 Permit will cost millions, if not billions, of public dollars, indicating again Board staff's failure to address economic considerations. We believe that such use of MALs would constitute an unfunded mandate. For further discussion on unfunded mandates, please see page five of this letter.

CPR does support the use of quantifiable measures designed to help permittees understand the effectiveness of the programs, to make necessary adjustments in their programs, and to improve water quality. We encourage the Regional Board to use action levels as measures of achievement and triggers for more aggressive actions as suggested by the California Storm Water Quality Association (CASQA) in their draft White Paper entitled *Quantifiable Approach to Municipal Stormwater Program Implementation and Permit Compliance Determination*. This approach is consistent with the findings of the State Water Board's Blue Ribbon Panel and could initiate the implementation of a consistent approach across the State.

Atmospheric Deposition Is Not Adequately Addressed in the Second Draft Ventura MS4 Permit

We would like to thank Regional Board staff for recognizing the adverse impacts of aerial deposition on water quality in Finding B(19) of the Second Draft Permit. Multi-media problems demand multi-agency planning and policy coordination, and this indicates that staff is aware of that fact. Inclusion of this Finding is a good start; however, more needs to be done.

USEPA, in its publication, *Frequently Asked Questions About Atmospheric Deposition, A Workbook for Watershed Managers*, 2001, has identified an extensive list of water pollutants that are linked to atmospheric deposition. Further, the State Board has acknowledged the importance of atmospheric deposition in meeting water quality objectives. An April 14, 2006 letter from Celeste Cantu, then Executive Director of the State Water Resources Control Board, to USEPA states,

"We will not be able to fully address these impaired water bodies until the component of atmospheric deposition is understood and quantified...As was made apparent by our atmospheric deposition workshop, USEPA's air regulation structure needs to include atmospheric deposition's known impact on water quality."

The Natural Resources Defense Council (NRDC) is another entity that has been encouraging action regarding the air-water interface. NRDC cited scientific studies illustrating the problems of atmospheric deposition in the Region's waterbodies and petitioned the Los Angeles Regional Board to request technical information from industrial aerial emission sources. NRDC also requested that Section 13267 letters be sent to the top 10 dischargers of each of the selected constituents.

Stormwater permittees are caught in a regulatory/authority bind. The combination of directly connected impervious areas and atmospheric deposition of pollutants, in effect, produces a "perfect storm" that dramatically impacts water quality control. The reality is that water boards can regulate permittees, but do not have regulatory control over some of the major pollutant sources, such as the sources of atmospheric deposition. Removing all pollutants at the end of storm drains would be extremely costly – on the order of many billions of dollars.

The Water Board and the regulated community need assistance from the Air Board to tackle this problem. The Air Board needs to acknowledge that water pollution is one of the public welfare effects that needs to be addressed in regulating sources of atmospheric pollution. Municipalities would like to work with the Regional Board to develop a strategy to stimulate more action by the Air Boards. We will not be able to achieve clean water until atmospheric deposition is controlled.

Permittees in the Los Angeles River Watershed are developing an atmospheric deposition project related to the Los Angeles River Metals TMDL. It is a two-year project that involves paired measurements of atmospheric deposition and storm flow. Local governments will be contributing an estimated \$1.5 million to fund this research project. Meanwhile, during the process of research and enlisting the Air Board to engage with the Water Boards to tackle the problem of the impacts of atmospheric deposition, we request that the Board include in the Ventura Permit language similar to that used by the Santa Ana Regional Board in its Order No. R8-2002-0010:

"16. The permittees may lack legal jurisdiction over storm water discharges into their systems from some State and Federal facilities, utilities, and special districts, Native American tribal lands, waste water management agencies and other point and non-point source discharges otherwise permitted by the Regional Board. The Regional Board recognizes that the permittees should not be held responsible for such facilities and/or discharges. Similarly, certain activities that generate pollutants present in storm water runoff may be beyond the ability of the permittees to eliminate. Examples of these include operation of internal combustion engines, atmospheric deposition, brake pad wear, tire wear and leaching of naturally occurring minerals from local geology."

(Source: Santa Ana Board Order No. R8-2002-0010 – Waste Discharge Requirements for the County of Orange, Orange County Flood Control District and the Incorporated Cities of Orange County Within the Santa Ana Region Areawide Urban Storm Water Runoff Orange County.)

The Second Draft Ventura County MS4 Permit Contains Unfunded Mandates

Finding E(10) of the Draft Permit asserts that the Order “does not constitute an unfunded local government mandate subject to subvention under Article XIII B, Section(6) of the California Constitution” because the Order implements “federally mandated requirements” under Section 402 of the Clean Water Act. Finding E(10) should not be adopted as a matter of good public policy and is otherwise objectionable on several grounds.

First, the Board has no regulatory jurisdiction to make this Finding. The issue of whether a mandate is an unfunded state mandate is within the exclusive jurisdiction of the Commission on State Mandates (Government Code § 17551 and §17552. See also *Lucia Mar Unified School District v. Honig* [1988] 830, 837, [the question must be decided by the Commission on State Mandates “in the first instance.”]) Since the Finding would carry no weight, it is not clear why the Regional Board would include such a Finding, particularly when it has never done so in the past. Second, it is not clear why, as a matter of policy, the Regional Board would want to make such a Finding. Contrary to the stance this proposed Finding reflects, the Regional Board should be assisting the permittees in obtaining funds to implement the Permit’s programs - not limiting the funds. More funds make implementing more programs possible. It is not clear why the Regional Board would adopt a Finding that makes less funding available to permittees to implement the programs called for by the Permit.

Third, the proposed Finding raises the same issue raised unsuccessfully by counsel for the Regional Board in the recent *County of Los Angeles v. Commission on State Mandates* (2007) 150 Cal.App.4th 898. In that case, the Regional Board argued to the Court of Appeals that an MS4 Permit (there, the 2001 Los Angeles County MS4 Permit) “is federally required . . . to implement the Clean Water Act’s mandates” (150 Cal.App.4th at 916 [citing Attorney General’s letter to the court]). The Court of Appeals did not accept this argument, noting that “[w]e are not convinced that the obligations imposed by a permit issued by a Regional Water Board necessarily constitutes federal mandates under all circumstances” and that “the existence of a federal, as contrasted with a state, mandate is not easily ascertainable” (150 Cal.App.4th at 914).

Fourth, even if the Regional Board were qualified to determine that the Order represented an exclusively federal mandate and thus not subject to article XIII B, Section 6, the reasoning set forth in Finding E(10) is faulty. None of the cited cases supports the Finding: that the provisions of an MS4 permit are an exclusive federal, and not state, mandate. In the only case to attempt to grapple with that question, *County of Los Angeles, supra*, the Court of Appeals declared itself to be “skeptical” with respect to the issue.

Fifth, even if a program were required in response to a federal mandate, a subvention of state funds may be in order. For example, Government Code § 17556(c) provides that if a requirement is mandated by federal law or regulation, but the [state] “statute or executive order mandates costs that exceed the mandate in that federal law or regulation,” a subvention of funds is authorized. Also, as held in *Hayes v. Commission on State Mandates* (1992) 11 Cal.App.4th 1564, 1577-78, even if the costs were mandated to implement a federal program, if the “state freely chose to impose the costs upon the local agency as a means of implementing” that federal

program, "the costs are the result of a reimbursable state mandate regardless whether the costs were imposed upon the state by the federal government."

Finally, Finding E(10) asserts that provisions in the Order that implement TMDLs are also federal mandates. While it is true that the effluent limitations in the TMDL must be reflected in the Order, the manner in which the TMDL is implemented is not a federal mandate, but is left up to the State. For example, the Regional Board could determine that a series of BMPs are sufficient to reach the waste load allocations in the TMDL, or it could impose the waste load allocations as numerical limits that were required to be met. Thus, as with the other aspects of the Order, implementation of TMDLs is not necessarily a federal mandate, immune from a required subvention of state funds.

As a matter of policy, Finding E(10) should not be included in the permit. In any event, such a Finding would be gratuitous. The Regional Board is not the agency that is authorized to address this issue.

Additional Concerns

CPR also has concerns with the infiltration, low impact development (LID) and hydromodification components of this Draft Permit and will provide detailed comments on those components after we see how staff modifies the relevant sections of the Second Draft Permit in response to the extensive comments made by the permittees and the building industry at the workshops. At this time, we will only urge the Board to be careful in applying watershed imperviousness data to permits. Most of the studies on the effects of increased imperviousness have been done on a watershed basis. The results of these studies should not be used for MS4 permit regulations when substantial portions of the watersheds are outside the area covered by permits. For instance, the major watersheds of both the Ventura County MS4 Permit and the Los Angeles County MS4 Permit contain large areas of National Forest that are not covered by the MS4 permits but impact the functioning of the watersheds. Specifically, as pointed out during the September 20 workshop, Ventura County urban areas constitute only 3% of the Ventura River Watershed, 5% of the Santa Clara River Watershed, and 25% of the Calleguas Creek Watershed. Applying watershed-based imperviousness factors to the urban areas of these watersheds would be excessive and inappropriate regulation.

Recommendations

In conclusion, I would like to summarize the actions that CPR recommends the Regional Board take to improve the next draft of the Ventura County MS4 Permit.

- We recommend that the Regional Board use either the definition of MEP used by the San Diego Regional Board in its Order No. R9-2007-0001 or the proposed definition of MEP in SB 1342 (2002).

- We recommend that the Regional Board direct staff to remove MALs that are based on national, rather than regional, data, and that staff clarify Draft Permit language to state that action levels should only be used as triggers for the application of enhanced management measures as part of the iterative process as recommended by CASQA, and not as numeric effluent limits.
- We recommend that the Regional Water Board work with the State Water Board and municipalities to get a commitment from the Air Board to work jointly with the Water Boards to address the sources of atmospheric deposition that adversely affect water quality.
- We request that Board staff include in the Ventura County MS4 Permit language similar to that used by the Santa Ana Regional Water Board in its Order No. R8-2002-0010, which recognizes that permittees should not be held responsible for stormwater discharges for which they lack legal jurisdiction.
- We request that Board staff strike Finding E(10) from the Draft Permit on the grounds that it should not be adopted as a matter of good public policy and is otherwise objectionable on the several grounds stated in this letter.

Thank you again for the opportunity to comment on the Second Draft Ventura County MS4 Permit.

Sincerely,



Larry Forester
CPR Steering Committee
City Council Member, City of Signal Hill



ANTONIO R. VILLARAIGOSA
Mayor

Commission
H. DAVID NAHAI, *President*
EDITH RAMIREZ, *Vice President*
MARY D. NICHOLS
NICK PATSAOURAS
FORESCEE HOGAN-ROWLES
BARBARA E. MOSCHOS, *Secretary*

RONALD F. DEATON, *General Manager*

June 7, 2007

Ms. Deborah Smith
Interim Executive Officer
California Regional Water Quality Control Board
Los Angeles Region
320 W. Fourth Street, Suite 200
Los Angeles, California 90013

RECEIVED
DEPARTMENT OF WATER AND POWER
JUN 11 2007

Attention: Mr. Xavier Swamikannu, Chief Storm Water Permitting Unit

Dear Ms. Smith:

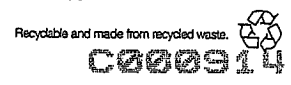
Subject: Comments on the Proposed "Waste Discharge Requirements for
Municipal Storm Water Discharges Within the Ventura County
Watershed Protection District, County of Ventura
and Incorporated Cities Therein"

The Los Angeles Department of Water and Power (LADWP) appreciates the opportunity to comment on the proposed "Waste Discharge Requirements for Municipal Storm Water Discharges Within the Ventura County Watershed Protection District, County of Ventura, and Incorporated Cities Therein" (Permit). LADWP respectfully submits the following comments for your consideration.

The Permit prohibits non-storm water discharges to the storm drain system except for 14 classes of "exempt non-storm water discharges". The list of exempt discharges includes sidewalk rinsing, air-conditioning condensate, and potable drinking water supply and distribution system releases (provided that it is dechlorinated prior to release). Of the 14 classes of exempt discharges, potable water is the only one with an annual volume limitation. The limit is found in footnote 2 on page 26 and in footnote 1 on page 81. Footnote 2 on page 26 states in part, "Any agency or municipal (i.e., water dept., fire dept., etc.) that either individually or collectively discharge(s) or reasonably expects to discharge 100,000 gallons or more of potable water per year, shall submit an [Report of Waste Discharge] ROWD to obtain a separate [National Pollutant Discharge Elimination System] NPDES permit under this Order [see section G.10]."

Water and Power Conservation ...a way of life

111 North Hope Street, Los Angeles, California 90012-2607 Mailing address: Box 51111, Los Angeles 90051-5700
Telephone: (213) 367-4211 Cable address: DEWAPOLA



The Annual Limit of 100,000 Gallons Raises Water Purveyor Concerns

The flushing of drinking water distribution lines is a routine and necessary activity to protect public health and safety. In fact, routine potable water line flushing is encouraged by the State Department of Health Services (DHS) and the American Water Works Association (AWWA), and at times is required by DHS. Potable water main flushing represents the lowest possible threat to receiving water quality. Such discharges are dechlorinated and discharges according to Best Management Practices developed by the AWWA.

LADWP and a consortium of regional water purveyors share the concern that the Regional Board has eliminated a feasible option for water purveyors to discharge dechlorinated potable water during routine system maintenance by limiting the volume of the exempt discharge to 100,000 gallons per year under this Permit. Drinking water suppliers routinely discharge greater than 100,000 gallons of potable water per year during routine maintenance, therefore, most water supply agencies would not be allowed to operate under this permit. Per the Permit language, any agency that plans on discharging greater than 100,000 gallons per year is instructed to obtain a separate NPDES permit (NPDES permit No. CAG674001) for Low Threat Hydrostatic Discharges, a permit which is inappropriate for regulating water system maintenance discharges and is specific to the discharge of hydrostatic test water.

On the other hand, if the volume limit is intended to prevent overwhelming storm channel diversion structures, a threshold could be instituted that would trigger notification of the local agency that operates such structures. For example, water agencies that plan on discharging greater than a certain amount in any given day could be required to notify the local storm drain operations agency to give fair warning of planned discharges.

LADWP respectfully requests eliminating the 100,000-gallon threshold from the Ventura County MS4 Permit.

Potable Water Discharges Should Be Regulated Under the MS4 Permit

LADWP and other water agencies suggest regulating potable water system releases under the MS4 Permit. If the draft Permit is adopted as written, every water purveyor will be required to apply for the "Low Threat Hydrostatic Test Water Discharge General Permit". If typically enforced, that permit would create unreasonable barriers and delays to conducting system repairs and maintenance by requiring water quality sampling and analysis of water that has already been declared an exempt non-storm water discharge by the Regional Board. Water quality sampling and analysis typically take two to three weeks to complete. This delay in maintenance and repair operations would be unacceptable to our customers and will cause public health and safety problems. That Permit would require an unreasonable effort to further demonstrate that the potable drinking water is "clean" prior to discharge without any additional water quality benefits to be gained. However, if the Regional Board believes that the MS4 Permit is not the

appropriate regulating authority for these types of discharges, LADWP suggests that a Regional or Statewide General Permit is made available for only potable water discharges.

In summary:

- ✓ The MS4 Permit is currently the only available permit for regulating these types of discharges. However, if the Regional Board believes that the MS4 Permit is not the appropriate regulating authority for these types of discharges, LADWP suggests that a Regional or Statewide General Permit is made available.
- ✓ There is no evidence provided to support that the 100,000-gallon limit benefits the environment. In fact, the 100,000-gallon threshold does not reduce the amount of potable water discharged; it merely requires those discharges to be regulated by a different Permit, one with no annual discharge limit.
- ✓ LADWP has used the Hydrostatic Test General Permit for discharges of hydrostatic test water related to the installation of new drinking water lines and, therefore, is very familiar with its requirements. That Permit was written to address a very specific activity, hydrostatic testing of vessels and pipelines. For the reasons stated earlier, it simply does not provide the best fit for regulating drinking water supply releases.
- ✓ LADWP has not received any notice from the Bureau of Sanitation that potable water system discharges are causing a breach of the City's diversion structures. However, if this is a legitimate concern, a threshold could be instituted within the MS4 Permit that would require advanced notification of the local agency that operates such structures.

Again, we thank the Board for the opportunity to comment on this Permit. Should you have any questions or require additional information, please contact Ms. Katherine Rubin or Mr. Bryan Schweickert of LADWP's Wastewater Quality Compliance Group at (213) 367-0436 or (213) 367-4944, respectively.

Sincerely,


for James B. McDaniel
Chief Operating Officer – Water System

BS: bdc

c: Mr. Xavier Swamikannu, Regional Water Quality Control Board
Mr. Carlos Urranagua, Regional Water Quality Control Board ✓
Ms. Katherine Rubin, LADWP
Mr. Bryan Schweickert, LADWP



California Stormwater Quality Association

Dedicated to the Advancement of Stormwater Quality Management, Science and Regulation

October 15, 2007

Dr. Xavier Swamikannu
Chief - Storm Water Permitting
Los Angeles Regional Water Quality Control Board
320 4th Street, Suite 200
Los Angeles, CA 90013

Subject: 2nd Draft MS4 NPDES Permit for the Ventura Countywide Stormwater Program

Dear Dr. Swamikannu:

Thank you for this opportunity to comment on the August 28, 2007 draft of the Ventura MS4 Permit (2nd Draft Ventura Permit). Thank you as well for meeting with CASQA representatives to discuss CASQA's approach to providing a comprehensive strategy for managing stormwater quality and how it relates to the Ventura municipal stormwater permit. Please accept these comments regarding the 2nd Draft Ventura Permit submitted by the California Stormwater Quality Association (CASQA) on behalf of its members. CASQA is composed of public entities and individuals including cities, counties, special districts, industries, and consulting firms throughout California. Our membership represents the vast majority of the Phase 1 MS4s regulated in California. CASQA was formed in 1989 to recommend approaches for stormwater quality management to the California State Water Resources Control Board (State Water Board). CASQA continues to assist the State Water Board with the development and implementation of stormwater regulations.

Although CASQA typically refrains from commenting on individual municipal permit issues, the 2nd Draft Ventura Permit proposes the development and use of municipal action levels (MALs). This is the first time MALs have been proposed in California, and they have important implications for MS4 programs statewide. CASQA is commenting on behalf of its membership, which is likely to be impacted should an MAL precedent be set in the Ventura MS4 Permit. Therefore, our comments focus on the proposed MALs and their use as a numeric compliance metric for the technology-based standard of maximum extent practicable (MEP). We concur with the concept of Action Levels as suggested by State's Blue-Ribbon Panel and the Regional Water Board's need to improve the accountability of NPDES permittees' and to better ensure that water quality will be improved in a reasonable time frame. However, we strongly disagree with the MAL approach as revised from that proposed in the 1st draft permit (December 27, 2006) and suggest an alternative approach for your consideration.

Developing and Implementing MALs

The MALs in the 2nd Draft Ventura Permit appear to be similar to the Action Levels in the Water Board's 8-member expert Blue-Ribbon Panel Report, however, in reality the MALs in the 2nd Draft Ventura Permit are in conflict with the Blue-Ribbon Panel Report Findings on two major principles regarding the purpose and use of Action Levels: the current infeasibility of numeric effluent limitations for municipal stormwater, and the definition of MEP.

Numeric effluent limitations are infeasible – Below is a side-by-side comparison of language from the Blue-Ribbon Panel Report and the 2nd Draft Ventura Permit [underline added].

Water Boards Blue-Ribbon Panel Report

"It is not feasible at this time to set enforceable numeric effluent criteria for municipal BMPs and in particular urban discharges..."

2nd draft Ventura permit

"Discharges of storm water from the MS4 to waters of the U.S. shall not exceed the Municipal Action Levels (MALs) for the pollutants listed..."

To determine whether numeric effluent limitations were appropriate for stormwater discharges the State Water Board convened a panel of experts in September 2005 (Blue-Ribbon Panel) to address the following question: "Is it technically feasible to establish numeric effluent limitations or some other quantifiable limit for inclusion in storm water permits?" The Blue-Ribbon Panel's Report, issued in June 2006, unequivocally states the position that numeric limits for municipal stormwater discharges are not feasible at this time (Blue-Ribbon Panel Report, pg. 8). And yet, the MALs proposed in the 2nd Draft Ventura Permit are defined as not-to-exceed limits on the discharge of pollutants in stormwater discharges (i.e., numeric effluent limits) – in direct conflict with the Water Board's expert Blue-Ribbon Panel Report.

Municipal Action Levels (MALs) ≠ Maximum Extent Practicable (MEP) – Below is a side-by-side comparison of language from the Blue-Ribbon Panel Report and the 2nd Draft Ventura Permit [underline added].

Water Boards Blue-Ribbon Panel Report

*"For catchments not treated by a structural or treatment BMP, setting a numeric effluent limit is basically not possible. However, the approach of setting an "upset" value, which is clearly above the normal observed variability, may be an interim approach which would allow "bad actor" catchments to receive additional attention. For the purposes of this document, we are calling this "upset" value an **Action Level** because the water quality discharge from such locations are enough of a concern that most all could agree that some action should be taken ..."*

2nd draft Ventura permit

"A running average of twenty percent or greater of exceedances of any MAL will create a presumption that the Permittee(s) have not complied with the Maximum Extent Practicable (MEP) provision in Part 4 A.2., and have failed to implement adequate storm water control measures and BMPs to comply with the MEP standard."

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Maximum extent practicable is one of the standards of performance for municipal stormwater quality programs. As such, MEP defines conforming performance. When the Water Board's Blue-Ribbon Panel proffered the concept of Action Levels, they did not do so to define MEP. In their report they define Action Level as an "upset value...clearly above the normal observed variability...enough of a concern that most all could agree that some action should be taken..." In other words, an Action Level defines an aberrant condition. And yet, the MALs proposed in the 2nd Draft Ventura Permit are equated with MEP – counter to the Water Board's expert Blue-Ribbon Panel Report Findings.

At the September 20, 2007 Regional Water Board workshop in Ventura on the permit, there was a brief discussion about the standing of the Water Board's BRP Panel Report. The State commissioned the Blue-Ribbon Panel Report as an independent assessment of the feasibility of numeric effluent limitations. "State Water Board directed staff to convene a panel of storm water experts to examine the feasibility of developing numeric limits for storm water permits"¹. Considerable time, expense, and attention were expended on it by the eight expert Panel members, state regulators, permit holders, and stakeholders. Significant discussions and decisions regarding the question put to the Panel were set aside for over a year and a half pending the Report's release. The Panel's recommendations are contained in a "Statement of Findings" and the report is signed by each of the eight experts. Therefore, CASQA members expect the Blue-Ribbon Panel Report to have a very significant standing in regards to stormwater policy in the State of California.

On the question of the degree to which a local Regional Water Board should follow statewide guidance and policy, the Water Board's have collectively established a clear policy statement²:

At their October 2006 meeting the Water Boards Water Quality Coordinating Committee (WQCC) adopted the following:

- *On questions of law and overarching policy the State Board should provide guidance and build a basic policy framework from which the regions can appropriately tailor action.*
- *Water Boards are committed to developing procedures and policies to minimize inappropriate inconsistency.*

Clearly, the purpose and use of the MALs as proposed in the 2nd Draft Ventura Permit are in direct conflict with this policy statement as the MALs are inappropriately inconsistent with the Findings of the Water Board's expert Blue-Ribbon Panel.

Although CASQA is raising serious concerns about the MALs as proposed, we are a professional association "dedicated to the advancement of stormwater quality management, science and regulation" and we believe MALs can be developed that are consistent with the Blue-Ribbon Panel Report Findings.

¹Blue-Ribbon Panel Report , June 19, 2006

² Water Boards Strategic Planning Stakeholder Summit workbook, March 12-13, 2007

October 15, 2007

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CASQA recommends that the Regional Water Board adopt an approach, consistent with the expert Blue-Ribbon Panel Report, where the Action Levels are:

- 1) derived as defined by the Blue-Ribbon Panel, including using the most preferred and relevant datasets – local datasets;
- 2) set at a level to define “bad actors” / atypical or significant nonconforming performance;
and
- 3) used to trigger aggressive efforts by the permittees to investigate the cause of atypical or significant nonconforming performance and implement appropriate corrective actions.

Quantifiable Approach to Municipal Stormwater Program Implementation and Permit Compliance Determination

One of the primary reasons the Regional Water Board has proposed MALs to determine whether the MEP standard has been achieved is because they would “clearly express[es] the standard for expected outcomes.”³ CASQA understands this concern and has been working diligently with municipal stormwater program managers, the State, and environmental interests to address this issue. These efforts have resulted most recently in the publication of a CASQA White Paper, “Quantifiable Approach to Municipal Stormwater Program Implementation and Permit Compliance Determination.” In the White Paper, CASQA has combined the Action Level concept as recommended by the State Water Board’s Blue-Ribbon Panel, with CASQA’s Effectiveness Assessment method⁴, and existing regulatory options for NPDES permitting and TMDL implementation into a comprehensive strategy for managing stormwater quality.

Through these efforts CASQA has introduced two significant enhancements to compliance determination: 1) triggers and 2) measures of achievement. For the triggers, CASQA has developed written expressions and numeric values suitable for refinement and pilot testing. For the measures of achievement, five of the six outcome levels in CASQA’s Effectiveness Assessment method are measures of achievement. These enhancements will take compliance determination from a subjective and difficult process to a more objective and transparent task, while also making compliance determination relevant and meaningful for water quality protection. CASQA believes the proposed quantitative approach advances the science of stormwater quality management. As a result, the approach will provide better regulatory accountability for stormwater programs and facilitate water quality protection in a cost-effective manner. CASQA’s approach also provides the “clarity and certainty in compliance expectation”⁵ sought by the Regional Water Board and is in unison with the Findings of the Water Board’s Blue-Ribbon Panel.

In closing, we concur with the Regional Water Board in that MALs can and should be part of an approach to regulating municipalities. We are working to better clarify how MALs may be incorporated into permits. However, our fundamental difference with the approach presented in

³ Regional Water Board Workshop Item Number 5: Item Summary, Public Workshop to Receive Comments on the Second draft Ventura County Municipal Separate Storm Sewer System (MS4) Permit, August 28, 2007, NPDES Permit No. CAS004002, p. 2

⁴ CASQA Municipal Stormwater Program Effectiveness Assessment Guidance, May 2007

⁵ op. cit., Regional Water Board Workshop Item Number 5: Item Summary, p. 9

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the 2nd Draft Ventura Permit is in using the values as numeric effluent limitations, which have recently been confirmed as infeasible and as definitions of compliance end points (i.e., MEP) – as opposed to instigating increased action in addressing pollutants of concern. We would welcome the opportunity to meet with you to discuss how such quantifiable measurements may be included in a municipal permit to provide better accountability and to protect and improve water quality.

We thank you again for the opportunity to submit these comments and to provide our thoughts in developing a more proactive and constructive stormwater quality management program. If you have questions regarding our proposal or comments please contact me or our Executive Director, Geoff Brosseau.

Yours truly,



Bill Busath, Chair
California Stormwater Quality Association

Attachment – CASQA White Paper – Quantifiable Approach to Municipal Stormwater Program
Implementation and Permit Compliance Determination

October 15, 2007

C000921

**Building Industry Association
of Southern California, Inc.**

1330 South Valley Vista, Drive
Diamond Bar, CA 91765
(909) 396-9993
Fax: (909) 396-1571
ahenderson@biasc.org

October 15, 2007

Submitted Via Email to: seconddraftVCMS4@waterboards.ca.gov

Original sent by Overnight Mail

Dr. Xavier Swamikannu
320 W. Fourth Street
Suite 200
Los Angeles, California 90013

Re: Comments from Construction Industry Representatives Concerning the Draft
NPDES Permit No. CAS004002 – Ventura MS4.

Dear Dr. Swamikannu:

This letter pertains to the draft, proposed Waste Discharge Requirements for Municipal Storm Water Discharges within the Ventura County Watershed Protection District, County of Ventura and the Incorporated Cities Therein (hereinafter, the "2d Draft Permit"), released pursuant to Public Notice No. 07-048 of the State of California, Los Angeles Regional Water Quality Control Board (the "Board"). The comments herein are those of the following entities, each of which represents the homebuilding industry or related construction and land development industries within the Southern California region that includes Ventura County. Specifically, the comments are from:

- Building Industry Association of Southern California, Inc. ("BIA/SC");
- The Greater Los Angeles/Ventura Chapter of BIA/SC ("GLAV"); and
- Building Industry Legal Defense Foundation ("BILD").

BIA/SC is a nonprofit trade association representing more than 2,300 member companies, which together have more than 200,000 employees. The mission of BIA/SC is to promote and protect the building industry to ensure its members' success in providing homes for all Southern Californians.

Dr. Xavier Swamikannu
October 15, 2007
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GLAV, a Chapter of BIA/SC, represents approximately 500 member companies involved in every aspect of building and providing homes in Ventura County and most of Los Angeles County. GLAV exists to provide leadership on public policy issues that promote building quality communities for the region's growing population, to increase the public appreciation of the importance of housing and those who provide it, and to facilitate improved business opportunities for its members. GLAV is committed to increasing homeownership opportunities for the current and future residents of our region. To reach this goal, GLAV works alongside elected officials, regulators, community leaders and organizations to come up with credible solutions to the housing crisis.

BILD is a non-profit mutual benefit corporation and wholly-controlled affiliate of BIA/SC. BILD's purposes are to monitor legal developments and to improve the business climate for the construction industry in Southern California. BILD's mission is to defend the appropriate legal rights of current and prospective homeowners and property owners. To accomplish this mission, BILD participates in and supports litigation and regulatory participation necessary for the protection of such rights. BILD promotes and supports important legal cases to secure favorable court decisions for private property owners and developers. BILD focuses particularly on litigation and regulatory matters with a regional or statewide significance to its mission.

BIA/SC, GLAV, and BILD are grateful that the Board and its staff have provided opportunities for exchanges of views prior to the eventual promulgation of new MS4 permit that will apply within Ventura County. In particular, we are grateful that the Board's staff has met with Dr. Mark Grey, who serves as both BIA/SC's Director of Environmental Affairs and the Construction Industry Coalition for Water Quality's Technical Director. Those discussions have led to some appreciable improvements in the proposals that are reflected in the 2d Draft Permit in comparison to the initial draft. We hope that such exchanges will continue, and will result in the removal and correction of remaining less reasonable regulatory proposals still reflected in the 2d Draft Permit.

In addition, we appreciate the complex legal and technical backdrop against which the Board and staff must fulfill their duties, as well as the Board's and staff's highly commendable intentions concerning environmental quality. Given the many complexities, the Board's burden is substantial. To the extent that any of our comments seem blunt or harshly critical, please remember that we respect the challenges faced by the Board and staff.

That said, BIA/SC, GLAV and BILD continue to strongly oppose from a legal and policy perspective many of the proposals that remain in the 2d Draft Permit. In this letter, we will explain both our opposition to the many of the specific proposals that we find unacceptable and our recommended corrections and improvements.

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Before addressing specific issues, however, we will set forth our opinion that the 2d Draft Permit misstates and deviates from applicable law. In particular, we will address many of the 2d Draft Permit's prefatory "findings" concerning the legal backdrop, history of the Board's water quality regulations, and the application and interplay of controlling federal and state law. As long as the Board and its legal counsel refuse to address erroneous assumptions about the controlling law and the discretion that the Board enjoys, the Board will continue to wield its powers unreasonably.

I. The Board's periodic review and revision of "MEP" standards constitute an exercise of broad discretion, which is bounded by reason, law, and specifically the six mandatory Porter-Cologne Act "balancing factors" (California Water Code § 13241).

The 2d Draft Permit's prefatory findings include numerous mistaken statements about the Board's legal powers and authority. Taken together, such findings imply that the Board has little or no discretion to balance the abilities and resources of municipal separate storm sewer system (MS4) permittees against the goal of improving water quality. Among other slanted suggestions, the findings imply that the Board has no choice other than to:

- strictly control storm water discharges from MS4s to the maximum extent **possible -- rather than practicable;**
- uncritically and immediately implement TMDLs that were approved by the U.S. Environmental Protection Agency ("EPA") pursuant to a certain consent decree; and
- simply ignore the Porter-Cologne Act "balancing factors" when establishing the waste discharge requirements.

For example, at page 12 (Finding D-10), the 2d Draft Permit erroneously states that the imposition of the 2d Draft Permit's requirements would not constitute an unfunded state mandate on local government. Within that text, the following statements are included:

"This Order implements federally-mandated requirements under [Clean Water Act section 402(p)(3)(B)]. This includes federal requirements ... to reduce the discharge of pollutants to the maximum extent practicable, and to determine such other provisions as the [EPA] Administrator of the State determines to be appropriate for the control of such pollutants. * * * The authority exercised under this Order is not reserved state authority under the Clean Water Act's savings clause ..., but instead is part of a federal mandate to develop pollution reduction requirements for [MS4s]. To this extent, it is entirely federal authority that forms the legal basis to establish the permit conditions."

2d Draft Permit, Finding D-10, page 12.¹

Findings such as the one above could leave any reader with false impressions about the Board's powers, its statutory obligations, and the breadth and bounds of the latitude that it enjoys. As we explain below, the Board is a state agency, tasked under its state enabling legislation (the Porter-Cologne Act) with an obligation to exercise its discretion pursuant thereto. Nothing about the relevant federal law negates that obligation. In fact, federal law relies upon the Board's compliance with the Porter-Cologne Act in authorizing the Board to act as the regulation implementing the federal NPDES regulatory and permitting program.

- A. Under federal law, the “maximum extent practicable” (“MEP”) standard is not synonymous with the “maximum extent possible.” Instead, under federal law, the Board’s establishment of MEP standards is a balancing exercise of broad discretion.

Whenever the Board establishes MEP standards for MS4 operators through revised permit conditions in accordance with federal law, the Board is exercising broad discretion. See *Arkansas v. Oklahoma*, 503 U.S. 91, 105 (1992) (“Congress has vested in the Administrator [EPA – or, as here, a surrogate state agency] **broad discretion** to establish conditions for NPDES permits.”); *Defenders of Wildlife v. Browner*, 191 F.3d 1159, 1166-67 (9th Cir. 1999) (“Under [the MEP standard set forth in Clear Water Act section 402(p)(3)(B)(iii)], the EPA’s **choice** to include ... limitations in [NPDES] permits [for MS4s] was **within its discretion**.”); *City of Abilene v. U.S. E.P.A.*, 325 F.3d 657, 660 (5th Cir. 2003) (“The plain language of [CWA section 402(p)] clearly confers **broad discretion** on the EPA [or, as here, a surrogate state agency] to impose pollution control requirements when issuing NPDES permits.”).

Further, contrary to various suggestions from the environmental community, the MEP standard should not be interpreted as requiring the reduction of discharges to “the maximum extent **possible**.” As one court recently explained:

“[The environmentalist plaintiffs] essentially call for an interpretation of the statute that equates ‘practicability’ with ‘possibility,’ requiring [the agency] to implement virtually any measure ... so long as it is feasible. Although the distinction between the two may sometimes be fine, there is indeed a distinction. **The closer one gets to the [environmentalists’] interpretation, the less weighing and balancing is permitted.** We think by using the term ‘practicable’ Congress intended rather to allow for the application of agency expertise and discretion in determining how best to manage ... resources.”

¹ In this letter, we have added all emphasis (e.g., bold type) that is indicated within the authorities and 2d Draft Permit provisions quoted herein, unless otherwise specifically indicated.

Conservation Law Foundation v. Evans, 360 F.3d 21, 28 (1st Cir. 2004).

The federal statutes and regulations under which the Board establishes MEP requirements in MS4 permits do not function as a uncritical regulatory torque-wrench – such that the Board must “ratchet down” on the regulated community as much as possible, regardless of how crippling the imposed standards become for regulated MS4 operators and stakeholders. As a key example, the Board’s discretion exercised as EPA’s authorized surrogate in implementing the MS4 permit program is so broad that the Board is not required to insist upon strict numeric compliance with the relevant water quality standards and objectives. *Defenders of Wildlife v. Browner*, 191 F.3d at 1165 (“When we read the two related sections together, we conclude that [Section 402(p)(3)(B)(iii) – i.e., the MEP standard] does **not** require municipal storm-sewer discharges to comply strictly with [Section 301 – i.e., effluent limits].”) Instead, the Board is free to re-determine and re-establish, through successive MS4 permit cycles, what it deems the “maximum extent practicable,” following a thoughtful balancing of relevant factors. Almost universally throughout the nation, the preferred approach has been and remains the iterative “best management practices” approach – which is the most flexible and progressive approach for storm water quality control.

B. Because the EPA determined in 1973 that the implementation of California’s Porter-Cologne Act is sufficient to meet the aims of the federal Clean Water Act, the Board is now the principal decision-maker concerning the waste discharge requirements within Los Angeles region.

The 2d Draft Permit’s prefatory findings section is laced with many suggestions that the Board is “under the federal thumb,” and therefore unable to exercise broad discretion. The suggestions are false and misleading. Rather, under the state-and-federal partnership established by Congress in the federal Clean Water Act, the Board enjoys the principal decision-making powers to regulate water quality within the Los Angeles region.

To appreciate the degree to which the Board has ability to act pursuant to state law when issuing MS4 permits, one must have an understanding of the history of water quality regulation. The federal interest in the nation’s overall water quality was spurred in June 1969, when the Cuyahoga River (near Cleveland, Ohio) literally caught fire and burned. This televised, national embarrassment led to extensive congressional debate, which ultimately culminated in the landmark Federal Water Pollution Control Act Amendments of 1972, later amended and known as the “Clean Water Act.”

The Clean Water Act established the National Pollution Discharge Elimination System, or NPDES, which is a system of requiring a regulatory permit for most discharges of pollutants to the nation’s waters. Congress charged EPA with initially administering NPDES throughout the nation. However, as enacted in 1972, the federal

statutes included a mechanism for any state to assume the primary responsibility of administering the NPDES program within its boundaries.

Specifically, Congress took care to “recognize, preserve, and protect the **primary responsibilities and rights of States** to prevent, reduce, and eliminate pollution.” 33 U.S.C. § 1251(b). Under the Clean Water Act, the states were entitled to qualify for – and, upon such qualification, to assume – the primary responsibility for the implementation and enforcement of NPDES. 33 U.S.C. §§ 1342(b) and 1370. In 1978, the U.S. Ninth Circuit Court of Appeals opined on the division of powers between EPA and the California water boards, and described the legal relationship as follows:

“Thus, although the 1972 amendments gave the EPA the authority in the first instance to issue NPDES permits (33 U.S.C. § 1342(a)(1)), **Congress clearly intended that the states would eventually assume the major role in the operation of the NPDES program.**”

Under § 1342(b), a state may submit to the EPA a proposed permit program governing discharges into navigable waters within its borders. If the state can demonstrate that it will apply the effluent limitations and the amendments' other requirements in the permits it grants and that it will monitor and enforce the terms of those permits, then, unless the Administrator of the EPA determines that a state program does not meet these requirements, he must approve the proposal (§ 1342(b)).... **Upon approval of a state program, the EPA must suspend its own issuance of permits** covering those navigable waters subject to the approved state program (§ 1342(c)). However, while the **direct federal regulatory role largely ceases following EPA approval of a state program**, the EPA does retain a review authority over the states. The EPA may veto particular [individual] permits issued by the state (§ 1342(d)) if it finds that federal requirements have not been met, or it may withdraw approval of the entire state program upon a determination, after notice and an opportunity to respond, that the [overall] program is not being administered in compliance with the mandates of federal law (§ 1342(c)). Despite this residual federal supervisory responsibility, the federal-state relationship established under 33 U.S.C. § 1342 is ‘a system for the mandatory approval of a conforming State program and the consequent suspension of the federal program (which) creates a separate and independent State authority to administer the NPDES pollution controls.’ *Mianus River Preservation Committee v. Administrator, EPA* (2d Cir. 1976) 541 F.2d 899, 905.

California has adopted a plan for the issuance of NPDES permits ([the Porter-Cologne Act]) which has been approved by the EPA. 39 Fed.Reg. 26,061 (1973). **The California State Water Resources Control Board ('State Board') and its nine subsidiary regional boards thus have**

primary responsibility for the enforcement of the [Clean Water Act]... in California.”

Shell Oil Co. v. Train, 585 F.2d 408, 410 (9th Cir. 1978).

In apparent recognition of the relatively progressive and trend-setting nature of California's Porter-Cologne Act (which preceded the 1972 federal legislation), California was the first state that EPA authorized to implement NPDES within its boundaries. Following such authorization, EPA: (a) reviews the permits issued by the state under the state's enabling law, (b) may veto inadequate permits (i.e., a relatively passive and reactive role), and (c) may revoke entirely the overall state implementing authority if it concludes that the state is generally implementing the NPDES program inadequately. *See* 33 U.S.C. § 1342(d); 40 C.F.R. § 123.44; *Save the Bay, Inc. v. U.S. E.P.A.*, 556 F.2d 1282, 1285-87 (5th Cir. 1977).

In light of this legislative history and countless confirming judicial authorities, the Board should recognize that it has the primary responsibility for the NPDES program within the Los Angeles region, and enjoys broad discretion about how to implement that program. Moreover, the Board should better recognize that the primacy of its role is ongoing and continually renews itself. In other words, the Board is never constrained for long by any federal yoke, presumptive or otherwise. Under the Clean Water Act, the Board has the authority and the statutory responsibility to reconsider and – whenever the evidence before warrants it – **revise** its regulatory regime, including the water quality objectives and standards that are reflected in the basin plan. *See* 33 U.S.C. § 1313(c)(1) (the federally-prescribed triennial review process).

Because the Board's authority and responsibility is primary and ongoing, the Board should reject the 2d Draft Permit's suggestion that the Board is inextricably bound to impose MS4 permit conditions that will result in the immediate enforcement of, for example, various federally-approved "total maximum daily loads" ("TMDLs") and waste load allocations ("WLAs"), without reference to or incorporation of implementation measures or compliance time schedules. The TMDLs are themselves merely the upshot of regulatory findings that water bodies are "impaired," meaning they are not meeting their Board-designated "objectives" and/or "standards," which this Board has the power and, upon sufficient evidence, obligation to revise pursuant to the triennial review process. Moreover, as the California appellate court recently recognized in connection with the trash TMDL, **the Board retains the discretion at the permitting stage to reject the imposition of numeric effluent limits** that embody TMDLs, WLAs or other numeric water quality objectives:

“[T]here may be other approaches [i.e., alternatives to implementing a TMDL] that would be appropriate in particular [permitting] situations. **When EPA [or its authorized state surrogate] makes a TMDL or permitting decision, it will make each decision on a case-by-case basis** and will be guided by applicable requirements of the [Clean Water Act]

and implementing regulations, **taking into account comments and information presented at that time by interested persons regarding the appropriateness of applying these recommendations to the particular situation.**"

City of Arcadia v. State Water Resources Control Bd., 135 Cal.App.4th 1392, 1429-30 (2006), (quoting a non-binding, November 2002 EPA draft memorandum that explains the discretion that EPA and its state surrogates retain to fashion permit conditions that deviate from TMDLs and waste load allocations).

Two other aspects of the 2d Draft Permit's prefatory findings are remarkable on this point. First, Finding No. D-9 (2d Draft Permit, page 12) flatly misconstrues the law, stating: "Where a TMDL has been approved, NPDES permits must contain effluent limits and conditions consistent with the assumptions and requirements of the available [waste loads allocations] in TMDLs." While the general federal regulation adopted under Section 301 (33 U.S.C. § 1311) is cited for that proposition, 40 CFR § 122.44(d)(1)(vii)(B), the federal statutory provisions governing MS4 permits exempt MS4 permits from strict compliance with that general regulation. *Defenders of Wildlife v Browner*, 191 F.3d at 1165. Specifically, 40 CFR §§ 122.44(k)(2) and 122.45(a) expressly permit the Board to rely upon "best management practices" instead of numeric effluent limitations when regulating MS4 operations.

Second, even the 2d Draft Permit itself faintly indicates that the Board has the broad discretion to impose waste discharge requirements that do not strictly meet the currently established TMDLs at all times. Specifically, Finding D-7 (2d Draft Permit, page 11) cites the same, non-binding November 2002 draft EPA guidance for the proposition that "[a]ny increase in loading of a pollutant to a water body that is impaired because of a pollutant would presumably degrade water quality in violation of applicable anti-degradation policy." However, Finding D-22 (2d Draft Permit, page 17-18) then undercuts the same presumption. The latter states that "[b]oth state and federal anti-degradation policies acknowledge that an activity that results in minor water quality lowering, even if incrementally small, can result in violation of Antidegradation Policies **through cumulative effects**, for example, when the waste is a cumulative, persistent, or bioaccumulative pollutant." Implicit in the statement is recognition of the fact that ephemeral or occasional lowering of water quality would not violate anti-degradation policies, where the waste is not particularly cumulative, persistent, or bioaccumulative.

Here, the MS4 operators are dealing with storm water, which is characterized by pollutant loads and concentrations, including sediment loads and concentrations, that are naturally-occurring, naturally wildly variable, and naturally transient. Further, on rare occasions, a massive storm will come along which is so unusually large as to cause a "reset" event – an event whereby the water courses are substantially altered by the tremendous forces of raging storm water – in alluvial drainage systems like those of Ventura County. Given this context, the anti-degradation policy is not violated by

occasional, relatively minor deviations from (for example) TMDL waste load allocations applicable to storm water.²

C. Federal law does not negate the Board's statutory obligation to apply and reconcile the six Porter Cologne Act "balancing factors" (Water Code section 13241) when revising MS4 waste discharge requirements.

The 2d Draft Permit reflects no effort whatsoever by the Board's staff to marshal evidence necessary to apply and reconcile the six balancing factors that are specifically prescribed by California Water Code § 13241.³ Instead, the 2d Draft Permit's prefatory findings state that the Board's "authority exercised under this Order is not reserved state authority..., but instead[] is part of a federal mandate to develop pollution reduction requirements...." 2d Draft Permit, page 12, Finding D-10. This statement fails to grasp (1) the California Supreme Court's opinion in *City of Burbank v. State Water Quality Control Bd.*, 35 Cal.4th 613 (2005); (2) the law concerning federal preemption generally; and (3) the implications of the breadth and bounds -- and attendant responsibilities -- of the Board's discretion in adopting MS4 permits.

As noted, California's trend-setting Porter-Cologne Act predated the 1972 federal legislation known as the Clean Water Act by several years. Perhaps because EPA easily recognized the Porter-Cologne Act's elegance, California became the first state to be authorized to implement the NPDES program.

Importantly, nearly all of the Porter-Cologne Act's provisions are relatively "structural" and "procedural," in that they:

- establish the State Water Resources Control Board and the nine regional water quality control boards;
- define how they should be constituted;
- define the water boards' respective jurisdictions;

² The anti-degradation policies operate to prevent the relaxation of water quality standards that are being met. They would not apply to a situation where (i) it can be shown that a water body's objectives and standards were established uncritically in the first instance, and (ii) natural forces routinely result in "exceedences." In that circumstance, the water body's objectives and standards and their derivative TMDLs should, of course, be revised to conform to the natural forces -- without offending anti-degradation policies.

³ At the Board's September 20, 2007 public workshop concerning the 2d Draft Permit, Dr. Swamikannu stated that no formal collection of evidence consideration, or balancing of proposed MS4 permit requirements was undertaken by staff in connection with the proposed 2d Draft Permit conditions, but that the proposals reflected some "implied" balancing.

- set forth their roles and the interplay among them; and
- set forth judicial standards of review, etc.

However, the Porter-Cologne Act also contains two – and virtually only two – Articles of Porter-Cologne Chapter 4 providing **substantive direction** wherein the California Legislature thoughtfully circumscribed the regional boards' discretion and intended to influence eventual water quality regulations. The Legislature's substantive direction in Chapter 4 Articles 2 and 3 boils down to a list of balancing factors that the water boards must apply and reconcile when establishing and revising water quality objectives and/or waste discharge requirements. The balancing factors are set forth in Water Code § 13241, these factors are applicable to waste discharge requirements proposed here pursuant to Water Code § 13263.

Under §§ 13241 and 13263, the Board must balance and reconcile six factors when establishing or revising waste discharge requirements for MS4 operators. The six § 13241 factors are:

- (a) Past, present, and probable future beneficial uses of water.
- (b) Environmental characteristics of the hydrographic unit under consideration, including the quality of water available thereto.
- (c) Water quality conditions that could reasonably be achieved through the coordinated control of all factors which affect water quality in the area.
- (d) Economic considerations.
- (e) The need for developing housing within the region.
- (f) The need to develop and use recycled water.

The 2d Draft Permit's Finding D-10 (page 12) wrongly implies that the § 13241 balancing factors should not apply to the Board's pending action here because of the California Supreme Court's holding in *Burbank v. State Water Resources Control Bd.*, 35 Cal.4th 613. The 2d Draft Permit is therefore apparently based on a misreading or misapprehension of the *Burbank* opinion.

The *Burbank* opinion discussed three scenarios concerning the interplay between federal and state water quality regulation and the applicability (or not) of the § 13241 balancing requirement to the establishment of waste discharge requirements. To understand the three scenarios of *Burbank*, one must first assume that the federal government has legitimately prescribed a certain minimum legal requirement that water boards are mandated to enforce. The California Supreme Court remanded the case for further ascertainment concerning this key assumption. *Burbank*, 35 Cal. 4th at 627. Per

the *Burbank* opinion, in any situation where such a *mandatory* federal minimum requirement is prescribed:

1. First, the State **may not relax** the federally-prescribed minimum requirement. The U.S. Constitution's "Supremacy Clause" operates to prevent the State from relaxing such a federal minimum requirement. *Burbank*, 35 Cal.4th at 626-627.
2. Second, if the State **merely meets** the federally-prescribed minimum requirement – but does not exceed it, then the State agency is not required to undertake the balancing and reconciliation required under Water Code § 13241, because the failure to balance under Porter-Cologne is of no moment. In other words, because the State agency is doing no more than conforming to the federally-prescribed, mandatory minimum requirement, the State agency is itself imposing no waste discharge requirement upon the regulated community. In such a scenario, the State agency need not justify its decision to the imposed-upon regulated community by balancing and reconciling the § 13241 factors. *Id.* at 627.
3. Third, however, whenever the State agency imposes any waste discharge requirement that **goes beyond mere conformity** to a federally-prescribed minimum requirement, then the agency must apply and reconcile the § 13241 balancing factors, in accordance with the Porter-Cologne Act. *Id.* at 627-628.

The 2d Draft Permit does not recognize that the MS4 permit conditions and waste discharge requirements proposed in the 2d Draft Permit are not the result of mere conformity to any federally-prescribed, mandatory minimum requirements. Instead, if adopted, the waste discharge requirements would spring from the Board's exercise of its broad *discretion* to establish permit conditions that control pollutants to the MEP, which it plainly enjoys pursuant to federal law (as explained above).

The 2d Draft Permit is chock full of proposed waste discharge requirements that are not mandated by federal law, but would instead be – if adopted – the result of an acts of discretion on the Board's part. For example:

- Federal law does not prescribe that land development may have an effective impervious area of no more than five percent.
- Federal law does not prescribe that land development must incorporate flow controls to achieve an "EP = 1."
- Federal law does not prescribe that grading and land development must cease in anywhere during rainy seasons.
- Federal law does not prescribe that advanced treatment systems using chemical additives must be employed to avoid grading prohibitions.

- Federal law does not prescribe that storm water must be treated to a 50 NTU turbidity standard before discharge from a construction site to avoid grading prohibitions.
- Federal law does not prescribe that numeric effluent limits must be applied to MS4 discharges. See *Defenders of Wildlife v. Browner*, 191 F.3d at 1165 (“When we read the two related sections together, we conclude that [Clean Water Act § 402 – i.e., the MEP standard] does not require municipal storm-sewer discharges to comply strictly with [Clean Water Act § 301 – effluent limits].”).
- Federal law does not prescribe that TMDL’s and WLAs must be enforced immediately through the pending Ventura MS4 Permit revisions, and especially not in advance of the implementation schedules that were heretofore adopted by the Board.
- Etc., etc., etc.

The 2d Draft Permit reflects countless proposed impositions that result from the Board’s staff’s highly-controversial determinations about what might be reasonable to impose to control pollutants to the MEP. If, and to the extent that, the Board were to adopt the staff’s choices for MS4 permit requirements as its own, the adoption would be far from mere conformance with a federally-prescribed minimum, mandatory requirement of the type that the *Burbank* decision indicates shall be excused from a reconciliation of the Porter-Cologne balancing factors.

The 2d Draft Permit confuses (i) the federal authority and obligation to choose and impose, as an act of discretion, MS4 permit requirements, with (ii) the mere conformity to a federally-prescribed minimum standard. There is a tremendous difference. The difference is that the Board is indeed compelled to establish MS4 permit and waste discharge requirements (under the Porter-Cologne Act and as authorized by EPA), but the chosen requirements are of the Board’s own choosing. Again, the Board will be exercising its discretion. When doing so, it must balance and reconcile the § 13241 factors. In other words, federal law compels the Board (as EPA’s surrogate) to impose permit requirements; but the California law goes further and commands the Board more prescriptively regarding how to decide what requirements to impose. The mandates do not conflict; they instead complement each other.

The 2d Draft Permit’s prefatory findings themselves provide good examples of why the need to balance under the Porter-Cologne Act is not obviated by the appurtenant federal regulations and guidance. As one such example, Finding D-2 (2d Draft Permit, page 8) reads as follows:

“The action of covering all of Ventura County municipalities under a single MS4 permit on a system-wide basis was consistent with the provisions of 40 CFR 122.26(a)(3)(iv), which states that one permit

application may be submitted for all or a portion of all municipal separate storm sewers within adjacent or interconnected [MS4s]; and the Regional Board may issue one system-wide permit covering all, or a portion of all[,] municipal storm sewers in adjacent or interconnected large or medium [MS4s].”

The emphasized word “may” is indicative of the fact that the federal regulation is permissive. In other words, the federal regulation **permits** any surrogate state agency to aggregate far-flung MS4 operations when establishing permit conditions. However, exercising such permission and promulgating a single, “one-size-fits-all,” county-wide permit could (given an appropriate factual setting) run afoul of California Water Code § 13241(b). The latter specifically directs the Board’s attention to the “**environmental characteristics of the hydrographic unit under consideration**, including the quality of water available thereto.”⁴

The point of the above-stated example is that there are many MS4 issues about which the Board is indeed compelled to exercise its discretion under state law, as the authorized surrogate for EPA in implementing corresponding federal law. However, without specific federal prescriptions or mandates regarding the courses of action or permit conditions that which the Board must choose. In those circumstances, the California Supreme Court’s *Burbank* opinion requires that the Board must balance and reconcile the § 13241 factors with its desired course of action.

Indeed, the entire body of state and federal case law that governs questions of federal preemption generally supports such a conclusion. The question of whether federal preemption exists is a question of law. *See, e.g., Industrial Trucking Association v. Henry*, 125 F.3d 1305, 1309 (9th Cir. 1997), (citing *Inland Empire Chapter of Associated Gen. Contractors v. Dear*, 77 F.3d 296, 299 (9th Cir. 1996)). *See also Aloha Airlines, Inc. v. Ahue*, 12 F.3d 1498, 1500 (9th Cir. 1993) (“The construction of a statute is a question of law that we review de novo.... **Preemption is also a matter of law subject to de novo review.**”). It does not matter that federal preemption springs from express federal statutory language or from federal regulations that are promulgated under a statute. In either event, federal preemption is a question of law. *See Bammerlin v. Navistar International Transportation Corp.*, 30 F.3d 898, 901 (7th Cir. 1994) (meanings of federal regulations are questions of law to be resolved by the court).

Given that the existence and extent of federal preemption is properly a question of law, the burden of demonstrating to a court that preemption should result rests with the party asserting the preemption (here, the water boards) – because federal preemption is an

⁴ We seriously doubt that the California Legislature intended that all of Ventura County would be treated uncritically as a single hydrographic unit, especially where irrefutable evidence demonstrates tremendous differences between the environmental characteristics of different hydrographic units within the county. This is just one of many reasons why we regard the 2d Draft Permit’s for numeric effluent limits as unreasonable.

affirmative defense. See *Bronco Wine Co. v. Jolly*, 33 Cal.4th 943, 956-57 (2004) (“The party who claims that a state statute is preempted by federal law bears the burden of demonstrating preemption.”); see also *United States v. Skinna*, 931 F.2d 530, 533 (9th Cir. 1990) (stating that the burden is on the party asserting a federal preemption defense). Therefore, if the Board here were to assert that federal law preempts the application of the Porter-Cologne Act’s balancing requirements, the Board would bear the burden of demonstrating that, as a matter of law, the actions required of it under its enabling state law (here, the prescribed balancing of § 13241) are preempted.⁵

Were the Board to assert that federal law preempts the Porter-Cologne Act’s balancing requirements, it would face a steep uphill battle. The Supreme Court of the United States has opined that courts should always attempt to reconcile the clash of laws to avoid federal preemption. See *Merrill Lynch, Pierce, Fenner & Smith v. Ware*, 414 U.S. 117, 127 (1973); see also *Rice v. Norman Williams Co.*, 458 U.S. 654, 659 (1982) (“[T]he inquiry is whether there exists an irreconcilable conflict between the federal and state regulatory schemes.”). Both state and federal courts generally recognize a presumption against finding preemption, even when there is express preemptive language. See, e.g., *Washington Mutual Bank, FA v. Superior Court*, 75 Cal.App.4th 773 (1999):

“In interpreting the extent of the express [federal] preemption, courts must be mindful that there is a strong presumption against preemption or displacement of state laws. Moreover, this presumption against preemption applies not only to state substantive requirements, but also to state causes of action.”

Id. at 782, citing *Cipollone v. Liggett Group, Inc.*, 505 U.S. 504, 523 (1992) and *Medtronic, Inc. v. Lohr*, 518 U.S. 470, 485 (1996).

In the absence of express federal preemptive language, the presumption against federal preemption is even stronger:

“In the absence of express pre-emptive language, Congress’ intent to preempt all state law in a particular area may be inferred where the scheme of federal regulation is sufficiently comprehensive to make reasonable the inference that Congress ‘left no room’ for supplementary state regulation.

Hillsborough County v. Automated Medical Labs, 471 U.S. 707, 713 (1985).

⁵ One appellate court erred last year (albeit in dicta) in *City of Rancho Cucamonga v. Regional Water Quality Control Bd. – Santa Ana Region*, 135 Cal.App.4th 1377 (2006), both when it regarded federal preemption as a factual, evidentiary question and by shifting to the petitioner the burden of disproving preemption, rather than placing the strictly legal burden on the party asserting the federal preemption: “The ... trial court [reasonably] found there was no evidence that the 2002 permit exceeded federal requirements and Rancho Cucamonga [petitioner] does not explain now how it does so.” *Id.* at 1386.

Armed with understanding of both the strong presumption against preemption and the principles that preemption is both an affirmative defense and a question of law, the Board cannot pretend that the federal regulatory scheme at issue here precludes the Board's application of the California Water Code § 13241 balancing factors to the policy choices before it.

First, there is no express federal preemption here that would preclude § 13241 balancing. If the preemption exists, it must be implied – and therefore must overcome the strong presumption against implied preemption. Second, it cannot be fairly argued that the federal regulatory scheme at issue here “left no room” for supplementary state regulation. To the contrary, the federal statutory scheme here elevates EPA's authorized state agency surrogate to the level of the “major” or primary governmental actor.

Finally, as explained above, the Board will wield its discretion when deciding what pollution controls are and are not “practicable.” *Building Industry Ass'n of San Diego County v. State Water Resources Control Board*, 124 Cal.App.4th 866, 882 (2004) (“[T]he language of [§ 402(p) – i.e., the MEP standard] does communicate the basic principle that the EPA [or its state surrogate] retains the **discretion** to impose “appropriate” water pollution controls....”). Given the breadth of the Board's federal discretion, the Board cannot legitimately claim that it lacks the discretion to apply and reconcile the six specific balancing factors which the California Legislature carefully prescribed in Water Code § 13241.

II. If adopted, the 2d Draft Permit would continue the Board's persistent failure to take into account the naturally high variability of storm water and the need to respect nature generally.

Throughout the history of the Board's regulation of storm water quality and MS4 operators, the Board's actions have failed to appreciate and take into account the naturally high variability of storm water. The long running failure is shameful because even slight attention to the California Water Code § 13241 balancing factors should have led to more flexible and accommodating storm water quality objectives, standards, and permit conditions. Specifically concerning storm water regulation, the most relevant § 13241 factors are the first five of the six:

- (a) Past, present, and probable future beneficial uses of water.
- (b) Environmental characteristics of the hydrographic unit under consideration, including the quality of water available thereto.
- (c) Water quality conditions that could reasonably be achieved through the coordinated control of all factors which affect water quality in the area.
- (d) Economic considerations.

(e) The need for developing housing within the region.

Each of these five balancing factors should be viewed in a new and different light when one is considering the regulation of highly-variable storm water quality and quantity, as opposed to pollution that is discharged from **anthropogenically** generated sources such as industrial point source or wastewater treatment plant discharges.

A. **California Water Code § 13241 balancing factors require meaningful consideration of the natural variability of storm water action.**

The first factor, the “past, present, and probable future beneficial uses of water,” needs to be considered in light of the undisputable fact that the beneficial uses of any given water course will be radically different during or soon after a torrent than it would during a dry summer or after a modest winter rain. That is: the beneficial uses of any given water course (whether natural or channeled) will vary tremendously in light of the fact that nature is wildly variable.

Consequently, it is not only “probable” but certain that the “future” beneficial uses of storm-impacted water courses will fluctuate substantially depending upon storm conditions, just as they always have in the “past.” Yet the Board’s regulations and permit conditions have generally not allowed for such fluctuations. Instead, the 2d Draft Permit would compound decades of regulatory disregard for storm water variability in wet and dry weather beneficial use. The proposals include a turbidity (i.e., clarity) standard of 50 NTU for discharges from “highly regulated”⁶ construction sites in Ventura County that seek to avoid a 6-month grading prohibition. This numeric limit would apply to construction site discharges that would potentially merge with the waters from “Mud Creek,” a natural water course in Ventura County which remains largely in its non-anthropogenic and undeveloped state. As is the case with all Ventura County watercourses (wild or tamed), Mud Creek’s water quality naturally varies. During times of relatively light flows, the water will be relatively clear. But during intense storm events, “Mud Creek” earns its name by having turbidity readings that shoot off the charts.

In fact, during the winter of 1969, when storms were especially heavy, scientists estimated that **100 million tons of suspended sediment flux flowed** from the creeks, channels and rivers of the surrounding area into the Santa Barbara Channel (i.e., largely from Ventura County) – which was a tonnage amount greater than the combined total amount during the preceding 25-yr dry period. See “Climate Change and the Episodicity

⁶ 2d Draft Permit, Part 4 § F. I. 1. prohibits grading from the following constructions sites within Ventura County (referred to in this letter as “Highly Regulated” construction sites) unless it can be demonstrated that the storm water discharges from the site will meet a total suspended solids numeric effluent limit of 100 mg/L or less and a turbidity numeric effluent limit of 50 NTO or less which limits can only be achieved by use of chemically induced sediment removal technologies referred to as Advanced Treatment Systems.

of Sediment Flux of Small California Rivers,” Douglas L. Inman and Scott A. Jenkins, *The Journal of Geology*, volume 107 (1999), pages 251–270. Remarkably, that amount of sediment flux yielded in 1969 would fill up the inside of Pasadena’s Rose Bowl Stadium to the top about 100 times.

In addition, that same amount of suspended relatively localized sediment flux (100 million tons) equates to more than 25 times the tonnage of sediment that EPA estimated would have left all large (i.e., five acre or greater) construction projects commenced in 1999 **nationwide** (3.98 million tons) if one were to assume that no one in the nation deployed any construction best management practices.⁷ Moreover, according to the same EPA analysis, nationwide adherence to construction site “best management practices” would have reduced the nation’s annual yield of construction sediment yield from roughly 3.98 million tons down to roughly 1.07 million tons.⁸

In other words, the sediment loadings from all large construction projects commenced in 1999 would have totaled **1.07 million tons nationwide** if all such projects had faithfully deployed construction best management practices, compared to the **100 million tons of sediment flux** that naturally entered the Santa Barbara Channel in the winter of 1969. This example proves that, obviously, sediment loads from construction activities are infinitesimal in comparison to natural pre-Clean Water Act sediment loads when analyzed at any meaningful scale. Why on earth, then, is the Board considering forcing Highly Regulated construction sites to limit their storm water discharges in Ventura’s naturally sediment driven alluvial drainage systems to only 50 NTU, which is nothing? Certainly, such a permit requirement reflects no implied or other balancing of factors under California Water Code § 13241(a), (b), or (c).

- B. The 1972 federal amendments that became the Clean Water Act were aimed squarely at anthropogenic (man-made or man-influenced) discharges and not at natural storm water flows; yet the Board has persistently failed to distinguish between the two.**

⁷ In its “Report to Congress on Phase I Storm Water Regulations,” dated February 2000 (“EPA 2000 Phase I Report”), EPA estimated amount of suspended sediment yields that would have been contributed to the nation’s waters from large (five-acre-plus) construction activities started in 1999 if there had been storm water pollution prevention measures in place. EPA’s analysis indicates that, in 1999, an estimated 62,755 large construction projects (impacting 5 or more acres) were commenced, impacting roughly 650,000 acres nationwide. EPA 2000 Phase I Report, ¶ 4.1.1. To conduct its analysis, EPA selected a sample of sites in two ranges, those 5 up to 10 acres and those 10 or more acres. *See id.*, ¶ 4.3.2 and n.3. Based on the sampling, EPA estimated that the sediment yield from those sites, assuming no storm water pollution prevention measures had been utilized, would have been 3,977,518 tons of sediment (roughly 6 tons per acre), and the nationwide adherence to construction best management practices (“BMPs”) would have reduced the sediment yield from construction activities by 73%.

⁸ *Id.*, ¶ 4.3.2 and Table 4-1.

In order to better understand the correct application the § 13241(a) balancing factor (the beneficial uses of waters – past, present and probable future) in the context of storm water's high natural variability, it is necessary to understand also the Clean Water Act's history vis-à-vis storm water.

As noted above, the U.S. Congress was spurred into writing the Clean Water Act by the fact that the Cuyahoga River near Cleveland caught fire and burned in 1969 (coincidentally, the same year that 100 million tons of sediment flux **naturally** flowed in the Santa Barbara Channel). Of course, the problem with the Cuyahoga River then was not one of mud flows (natural or otherwise) or torrential rains. Instead, the problem was one of **anthropogenic chemical pollution** being discharged from factory point sources into the river – which is why it caught fire.

Accordingly, when the 1972 federal amendments were enacted, the focus was not on phenomena like mud-flows (natural or otherwise) or highly variable rain amounts, it was instead on the anthropogenic point-source pollution that was impacting the waters of the United States. This fact is apparent from several key aspects of the original legislation which remain in the statute today. For example, in the Clean Water Act, 33 U.S.C. § 1362(19) defines "pollution" as "the man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water" – in other words, anthropogenic impacts. Therefore, naturally-caused and naturally-variable loads and concentrations of certain constituents, such as sediment and bacteria, impacting the waters do **not** constitute "pollution" as defined by the Clean Water Act. Accordingly, when nature discharged 100 million tons of sediment into the Santa Barbara Channel during the winter of 1969, none (or virtually none) of that massive sediment load flowing through Ventura County was "pollution" as defined by the Clean Water Act.

Undoubtedly, during that stormy Ventura County winter of 1969, the waters flowing into and through Ventura County's MS4 systems would have exceeded all of the "municipal action levels" and numeric standards (such as turbidity and total suspended solids standards) that the Board is now contemplating in the 2d Draft Permit in Nature inevitably violates any and all such limits.

Accordingly, the Board should be extremely careful when establishing any numeric standards and objective limits concerning storm water, and then making such standards inviolate. Under the 2d Draft Permit, a permittee effectively violates the federal law (and is subject to enforcement action, citizen suit, penalties, and attorneys' fees and costs) whenever one causes **or contributes to** any exceedence of such a regulatory standard. See 2d Draft Permit, Part 3, Section 1 (page 29): "Discharges from the MS4 that cause **or contribute to** a violation of water quality standards are prohibited." The Board therefore needs to ask itself this: "By its decisions, does it intend to cause citizens and permittees to be in violation of the federal law (and therefore subject to enforcement actions, citizen suits and penalties) whenever they **contribute to** a numerical violation that is unavoidably and overwhelmingly **caused** by nature?" One would hope that the answer is obviously and resoundingly "no." But given the Board's

regulation of storm water to date and the unreasonable proposals in the 2d Draft Permit, the answer momentarily appears to be “perhaps.”

Similar to the Clean Water Act’s definition of “pollution,” the overarching objective of the Clean Water Act is to “restore and maintain the chemical, physical, and biological integrity of the Nation’s waters[.]” 33 U.S.C. § 1251(a). Arguably, the overall aspiration of “restoring and maintaining” the natural characteristics of the Nation’s waters was never intended to be a concrete, absolute Congressional mandate. (If it had been, then all of the nation’s dams should have been promptly torn down – which is obviously not what Congress intended by the overarching objective.) Nevertheless, the overarching “restore and maintain” objective does suggest that, whenever EPA and its surrogate’s state agencies are seeking to achieve appropriate balances under the Clean Water Act’s provisions, **background, natural characteristics of the waters should be the “guiding star”** or perhaps the brass ring of regulatory idealism: “[T]he guiding star is the intent of Congress to ... preserve the quality of the Nation’s waters. All issues must be viewed in the light of that intent.” *American Petroleum Institute v. EPA*, 540 F.2d 1023, 1028 (10th Cir. 1976).

Potentially conflicting with the overarching “restore and maintain” nature objective (but only if one were to subordinate improperly the “guiding star” of Congress’ intent to respect and preserve nature), the Clean Water Act also included an interim goal of making all of the Nation’s waters fishable and swimmable water by July 1, 1983. 33 U.S.C. § 1251(a)(2). However, because the “guiding star” of Congressional intent was to respect and preserve nature, it is unthinkable that Congress intended to make waters “fishable and swimmable” if they were not naturally so. For example, Congress did not intend for regulators to impose conditions that would require dischargers to heat their discharges into the naturally icy rivers of northern Alaska, so that they could be rendered swimmable, nor to render naturally-occurring quicksand in Louisiana fishable and swimmable through extensively treated discharges (e.g., advanced treatment systems). Nor is it reasonable to imagine that Congress intended that the waters of Ventura County should have been fishable and swimmable during that same winter of 1969, when 100 million tons of sediment flux flowed into the Santa Barbara Channel.

We trust NRDC and all other enlightened environmental organizations will swiftly and enthusiastically embrace our position that Congress intended as its “guiding star” for the Clean Water Act respect for nature and for natural forces.

Probably as quickly as the 1972 federal legislation was signed into law, the Board here, pursuant to the Porter-Cologne Act, adopted the “fishable-swimmable” standard as its objective for essentially all of the waters within the Los Angeles region. During that early era, however, neither EPA nor any of the state surrogates considered storm water to be covered by the Clean Water Act. In 1973 and 1976, EPA promulgated regulations that “categorically exempted” from water quality permit requirements most activities associated with storm water discharges to U.S. waters. See 56 Fed. Reg. 56,548, November 5, 1991 (describing the history of EPA storm water regulation).

NRDC successfully sued EPA concerning this categorical exemption, persuading the court that the Clean Water Act's statutory language, legislative history, and irrefutable scientific evidence of **anthropogenic** storm water pollution compelled regulating some storm water runoff. *Natural Res. Def. Council v. Costle*, 568 F.2d 1369, 1379 (D.C. Cir. 1977) (holding unlawful EPA's categorical exemption of storm water discharges from NPDES permitting requirements). EPA responded by trying to promulgate various storm water regulations in 1979, 1980 and 1984. However, constant litigation and political pandemonium ensued – and none of these regulations was successfully implemented. *See NRDC v. U.S. E.P.A.*, 966 F.2d 1292, 1296 (9th Cir. 1992) (explaining this history).

Ultimately, Congress stepped in to address EPA's ongoing inability to regulate storm water pollution, and enacted the Water Quality Act of 1987. In it, Congress amended the Clean Water Act and prescribed the processes by which EPA or a state surrogate should regulate storm water runoff. The legislative mandate had four main components:

1. An exemption from storm water regulations for agricultural activities;
2. A qualified exemption from storm water regulations for certain aspects of extractive industries (oil drilling, mining);
3. The requirement that EPA regulate through a permitting process storm water discharges from "industrial activities," which were later defined by EPA to include large (five-acre-plus) and later small (one-acre-plus) construction activities; and
4. The requirement that EPA or the state surrogates phase-in the regulation of MS4s.

Thus, it was the 1987 legislation that provided the discretionary MEP standard under Clean Water Act § 402(p)(3) for MS4 operators, which is the present focus of the Board's attention.

One would expect that the 1987 legislative introduction of storm water regulation into the Clean Water Act would have prompted all regulators to revisit the various water standards and objectives that had previously been established with only anthropogenically generated and purely point source discharges pollution in mind. Specifically, prior to 1987, all of the focus of the regulations was upon the discharge of anthropogenically generated and purely point-source pollution (industrial pollution and municipal wastewater) into the Nation's waters. Under the pre-1987 regulations, therefore, the interim nation-wide objective of "fishable-swimmable at all times" made perfect sense. Everyone except the factories and POTWs themselves would want anthropogenic discharges to be that clean.

Following the 1987 statutory introduction of storm water into the Clean Water Act, however, the nation-wide objective of fishable and swimmable "by July 1, 1983" no longer made perfect sense, because storm water discharges even from natural lands (i.e., lands that are entirely devoid of anthropogenic activities) are not fishable-swimmable at all times. Instead, especially when major storms occur, swollen water courses are often not swimmable, nor are they fishable – **naturally**.⁹ For example, one can be certain that many of the watercourses in Ventura County were not fishable-swimmable during much of the winter of 1969, when 100 million tons of sediment and flux flowed into the Santa Barbara Channel.

The difficulty is that nature, during substantial storms, routinely violates the interim objective that Congress targeted for achievement by July 1, 1983 (i.e., the fishable-swimmable goal). Given the complex variability of storm water flow and constituent characteristics, and given enough time, nature will eventually violate **any** arbitrary standards that regulators might settle upon (for example, any numerical flow or turbidity standards). The Board here has never recognized this reality, and has instead compounded its failure by embracing the so-called "California Toxics Rule" (CTR) as applicable to the region's storm water, regardless of that fact that nature has never comported with the ultra-clean standards that comprise CTR, and it never will.

Importantly, even storm water run-off flowing from undeveloped lands (lands that are completely free of any anthropogenic influences) will violate CTR and other fixed regulatory standards concerning concentrations of bacteria, turbidity, naturally-occurring metals and minerals, selenium, etc. Unless and until the Board revises its objectives and standards and permit conditions to take into account the high variability of storm water and the natural consequences of storms and wet weather on "past, present and probable future beneficial uses of water" as required by California Water Code § 13241(a), the Board's regulation of storm water will continue to be unreasonable.

C. The other relevant § 13241 balancing factors further indicate the need for flexibility and moderation when regulating storm water pollution, especially as necessary to accommodate the naturally variable characteristics of storm water.

In addition to Water Code § 13241(a), which requires consideration of the beneficial uses of the waters over time, the other § 13241 balancing factors similarly indicate the need for the Board to reconsider its regulation of storm water discharges. Foremost among the remaining § 13241 balancing factors is the one set forth in subsection (b), which requires consideration of the "[e]nvironmental characteristics of the

⁹ Storm intensity, not storm duration, evidently is the most correlative variable that drives the loading into storm water of natural "contaminants" such as sediment flux and naturally-present minerals, bio-materials, trace metals, etc.

hydrographic unit under consideration, including the quality of water available thereto." Close attention to this balancing factor would lead to several unavoidable conclusions.

First, the "environmental characteristics" of any given hydrographic unit will vary naturally over a range of different storm events. For example, the above-mentioned Mud Creek (near Ojai in Ventura County) will present a far higher turbidity reading during and following an intense storm than it will during and following a moderate or mild rain. Indeed, every hydrographic units (wild or tamed) has environmental characteristics that are **naturally** highly variable in response to wet weather and storm events depending where in the unit and when the characteristics are considered. This principle applies to any ephemeral stream, to any creek, to any flood control channel, to any river, and to any ocean outfall. (For example, not every winter does 100 million tons of sediment flux flow into the Santa Barbara Channel.) Consequently, proper attention to the § 13241(b) "environmental characteristics" factor should result in the flexible regulation and accommodation of the natural variability of any water course ad its response to storm water runoff.

Second, environmental characteristics will also vary widely from one hydrographic unit to another (based on soil characteristics and topography or relief, especially). Consequently, attention to the subsection 13241(b) "environmental characteristics" balancing factor should also result in the flexible regulation and accommodation of environmental differences among different hydrographic units. Unfortunately, however, the Board has persistently failed to take any close look at the differences between water bodies and units in terms of their natural loadings, propensities and responses to variable storm water influences.

Finally, concerning environmental characteristics of the waters, one must add to these differences the highly variable nature of the storms themselves. Storms are like snowflakes, in that no two storms are exactly alike. But when it comes to being variable, storms beat the stuffing out of snowflakes. Storms are not just unique and variable in terms of their individual shapes, but also their spatial dispersions, durations, relative intensities, temporal dynamics, etc. Concerning storms, meteorologists can at best make short-term forecasts and some only rough predictions relative to total rainfall over seasonal and longer timeframes and over proximate geographic areas based on history and things like "rain shadows" (the leeward sides of mountain ranges) and the orographic (cloud-lifting) effects that occur on the windward sides of mountain ranges. Otherwise, storm events are so wildly variable in all but the very short term as to be effectively random and unpredictable.

The only things that are certain, therefore, are the extremely high variability of storm flows and their influence on receiving waters, and the fact that, by degree and over time, the rains will eventually arrive and create **naturally** wide-ranging water quality impacts. If the Board were to appreciate these simple realities concerning the "environmental characteristics of the water bod[ies]," then the Board would quickly abandon the notions that all storm water discharges into Ventura County receiving waters

must achieve numeric effluent limits (called maximum action levels ("MALs") in the 2d Draft Permit, part 2) and that all discharges from Ventura County Highly Regulated construction sites must achieve particular sediment-related effluent limits (such as 50 NTU or 100 mg/L of TSS).

California Water Code § 13241(c) also is compelling in light of both the natural variability of storm water and natural loadings into receiving waters from non-anthropogenic (natural) sources. Subsection (c) requires the Board to take into account "[w]ater quality conditions that could reasonably be achieved through the coordinated control of all factors which affect water quality in the area." Close attention to this factor would quickly lead the Board to conclude that – given nature itself – that some water quality conditions during storms are not reasonably amenable to "coordinated control."

An example is the water quality "contaminant" known as "fecal indicator bacteria." These bacteria are worrisome because they are used as a proxy for various pathogens that sometimes accompany them and can be harmful to humans. However, fecal indicator bacteria are also omnipresent in nature (even in areas that are free from any anthropogenic influence) due to the eating and excretory habits of fauna in the wild – such as birds, bats, squirrels, deer, coyotes, field mice, etc. And whenever it rains, these fecal indicator bacteria are **naturally** present in the storm water – unavoidably so, and they have been for eons.

Unfortunately, the Board has adopted numeric water quality standards concerning the fecal indicator bacteria which cannot be met under any realistic scenario. If, through permit conditions, Ventura County MS4 operators are strictly required to meet numeric limits via incorporation of TMDLs, WLAs or otherwise, then the permittees would need to be constantly diapering and re-diapering all of the wild fauna in the county. And as anyone who has ever tried to capture and diaper a wild squirrel or sparrow can attest, it's virtually impossible to do that even once – let alone repeatedly and constantly to all of the wild critters.

The point is that the California Water Code § 13241(c) balancing factor requires consideration of the "[w]ater quality conditions that could **reasonably** be achieved through the coordinated control of all factors which affect water quality in the area." The Board therefore needs to ask itself whether it is reasonable to ask the MS4 operators to rid all storm water flowing through their systems of **naturally** occurring loads and concentrations of constituents, which, like non-anthropogenic loads of sediment, certain metals and fecal indicator bacteria, would be very much present in the county's storm water even if mankind had never crossed the Bering Straits.

The fourth balancing factor, California Water Code § 13241(d), also is relevant here; and it requires extra-special consideration in the context of naturally variable storm water. Subsection (d) requires consideration and reconciliation of the economics of, in this case, regulating storm water. How much should MS4 operators be required to spend

to fight anthropogenic pollution entering and exiting their MS4s? Reasonable persons could probably disagree about what amount is fair. But how much should the MS4 operators be required to spend in order to fight nature – especially given that the “guiding star” of the Clean Water Act is respect for and the preservation of nature? For example, how much should the MS4 operators be required to spend so that a surfer can “carve waves” immediately after a storm precisely where nature has always discharged its non-anthropogenic fecal indicator bacteria? And how much should Ventura County **homebuilders** be required to spend in order to install chemical “advanced treatment systems,” for Highly Regulated construction sites in order to keep their storm water discharges to 50 NTU and 100 mg/L of total suspended solids during the winter months – while nature may be concurrently sending tens of millions or hundreds of millions of tons of sediment flux into the Santa Barbara Channel?

Finally, California Water Code § 13241(e) requires the Board to consider and weigh “[t]he need for developing housing within the region.” It is particularly important when considering the subsection (e) housing factor to recognize that storm water “pollution” from construction activities differs in kind from the anthropogenic pollution that caused the Cuyahoga River to catch fire in 1969. Specifically, the predominant “pollutant” that is associated with construction activities is sediment-laden storm water run-off. When construction activity takes place, the ground is temporarily disturbed. If a storm event then arises, there will be muddy water; and gravity will move the muddy water off site. The result can be environmentally harmful by degree in some circumstances, but it all depends on the context. For example, turbidity readings of 200 NTU, 500 NTU or 1,000 NTU mean nothing in the context of a winter in which nature deposits 100 million tons of sediment in the Santa Barbara Channel through storm water.

Moreover, merely through the application of “best management practices,” sediment discharges can be substantially minimized – albeit in relative terms.¹⁰ One’s ability to minimize sediment discharges and mud is relative to the strength of the given storm. The more intense the storm, the more sediment discharge from the construction site is probable – if not unavoidable – by degree.¹¹ That is why any arbitrary, fixed numerical effluent limits and MALs make no sense in the MS4 or construction site storm

¹⁰ As is discussed above in footnote 6, EPA’s 2000 “Report to Congress on Phase I Storm Water Regulations” indicates that the estimated 62,755 large construction projects commenced in 1999 nationwide (impacting roughly 650,000 acres) would have yielded 3.98 million tons of sediment nationwide if no “best management practices” were applied, but would have yielded only 1.07 million tons for the year nationwide if all such projects had faithfully deployed “best management practices.” EPA 2000 Phase I Report, ¶ 4.3.2 and Table 4-1. Thus, by EPA’s estimates, the universal application of the “best management practices” then available would have reduced the sediment yield from the nation’s construction projects commenced in 1999 by 73%. Given the forces of nature, there are naturally diminishing returns to trying to make further decreases.

¹¹ The fact that storm water constituent loads and concentrations vary wildly is why establishment of a “design storm,” for alternative BMPs has understandably proven to be difficult.

water context. The storms themselves are wildly variable. **Nature smiles on the variability of storm water constituents, including sediment loads.** Why, then, should not the Board not do so as well, at least to some reasonable degree?

Lastly concerning the California Water Code § 13241(e) factor (housing needs), the factor is especially important when considering prohibitions concerning hydromodification and low impact development such as those proposed in the 2d Draft Permit. The need for housing units is real. If the housing factor were given no weight, then additional housing would never be built due to any countervailing weight of the Board's potential consideration of natural "environmental characteristics" (§ 13241(b)) and an otherwise-appropriate "guiding star" respect for the maintaining nature. Neither the California Legislature (in enacting the Porter-Cologne Act) nor the U.S. Congress (in enacting the Clean Water Act) intended to stop all land development or to make it impossibly arduous and expensive to fulfill society's housing needs. Especially concerning low impact development and hydromod, then, **it is essential that the Board consider and balance the need for housing**, among the other factors.

With that background about the Board's discretion and the need to balance the prescribed factors, the remainder of this letter addresses various specific aspects of the 2d Draft Permit which we find most in need of further reform.

III. Numerous specific aspects of the 2d Draft Permit should be substantially revised to avoid unreasonable – if not impossible to satisfy – requirements.

As the sections above explain, we believe that the Board has persistently failed to adopt reasonable and proper regulations concerning the management and control of storm water. We also believe that the failure would be cured if the Board were to balance proposed MS4 requirements in light of the California Water Code § 13241 balancing factors, as federal and California law require. Accordingly, as you read our concerns regarding specific proposals in the 2d Draft Permit, the constant thread is our prayer for the Board to strike a more reasonable balance in regulating storm water.

Generally, our concerns fall into seven categories, and we explain each below. The seven concerns are:

- A. The proposed hydromodification and low impact development ("LID") requirements are unduly prescriptive, absolute and inflexible. In many instances, the requirements would be impossible or infeasible to achieve and/or lead to negative, unintended consequences. Most importantly, the proposed hydromod and LID requirements fail to permit enough flexibility to achieve the mitigation of impacts at various appropriate scales (i.e., lot-by-lot, tract map level, project or specific plan level, sub-regional or regional levels).

- B. The same proposed hydromod and LID measures would be best considered as goals to be approached and achieved as much as is deemed reasonably feasible through the existing public participatory processes required by the California Environmental Quality Act ("CEQA"), which already requires scrutiny and incorporation of all feasible mitigation measures to address any project's adverse environmental impacts.
- C. There should be more appropriate "grandfathering" provisions to prevent the changing permit requirements from applying to existing land use approvals and already pending plans and applications.
- D. The proposed provisions would improperly purport to create liability attributable to non-permittees, and may improperly conflict with the conditions imposed through the state-wide Construction General Permit.
- E. The Board should not adopt crippling 6-month grading restrictions coupled with the "alternative" of utilizing chemical "advanced treatment systems" to achieve an ultra-low turbidity standard. Each of these alternatives is unreasonable. The regulated community should not be stuck on the horns of such an unnecessary dilemma.
- F. The proposed establishment of "numeric effluent limits," which are inaccurately labeled in the 2d Draft Permit as "municipal action levels," is unsound as a matter of policy and inappropriate under both (i) California law, and (ii) federal regulations as well (if the Board were to try to feign a federal mandate).
- G. The proposal to require immediate compliance with numerical TMDLs and WLSs established for the Ventura County waters is both unreasonable and squarely at variance with the implementation schedules previously established for many of the same TMDLs.
- A. The proposed hydromodification and low impact development ("LID") requirements are unduly prescriptive, absolute and inflexible. In many instances, the requirements would be impossible or infeasible to achieve and/or lead to negative, unintended consequences. Most importantly, the proposed "hydromod" and LID requirements fail to permit enough flexibility to achieve the mitigation of impacts at various appropriate scales (i.e., lot-by-lot, tract map level, project or specific plan level, sub-regional or regional levels).**

Part 5, § 5.E.III.1 of the 2d Draft Permit would, if adopted, impose new and highly-prescriptive "performance criteria" requirements, which would be applicable to all new development and redevelopment projects identified in subsection 5.E.II. We respect the motivation behind these proposals, which we assume are aimed at requiring serious

consideration of "low impact development" (LID) techniques and close attention to hydromodification concerns.

Notwithstanding our appreciation for the motives, we have many concerns about the specific proposed prescriptions. Conceptually, our concerns are threefold:

- First, as a general proposition, **any and all land development and construction will necessarily have some effect** on hydrology and the percolation of storm water, etc. It should be permitted to do so. The environmental impacts storm water flow changes can be minimized through careful design, planning and implementation, but only to the extent reasonably feasible taking into account physical condition of regulated sites and their receiving waters. Unduly prescriptive requirements and outright prohibitions (express or effective) cannot be justified under a proper application of the Porter-Cologne Act balancing factors.
- Perhaps most importantly, the proposed requirements would prevent the regulated community from addressing and mitigating storm water flow change impacts at different scales and in ways most appropriate to the location, the circumstances, the degree of existing development, etc. A tightly controlled, complex substitution or exemption process is not sufficient to allow appropriate development design to achieve appropriate controls for adverse environmental impacts related to changes in storm water flow.
- The specific requirements that are proposed in the 2d Draft Permit are far too prescriptive, given that they are currently proposed as inviolable absolutes (for example, each project site, regardless of size, receiving water, condition, or physical characteristics must meet a standard of effective impervious area of 5% and post-development flows must maintain an SP=1 in receiving waters-- no more). The strict requirements also overlap in their application, meaning that they would necessarily preclude the employment of creative approaches mitigation of the impacts of development. Therefore, we have proposed permit language that would, if adopted, afford significantly more flexibility in approaches to the consequences of development, while still meeting the objectives that underlie the proposed requirements.

Looking at each proposed hydromod control requirement, the 2d Draft Permit, in Part 5, Section E.III.1 (page 51), contains the proposed requirement that all projects must limit the impervious area to 5% of the site or render any excess impervious area ("EIA") above 5% "ineffective." The aim of the requirement is to encourage or require developers and those who approve projects to use low impact development strategies (LID) to increase storm water percolation, infiltration, storage, or evapo-transpiration;

and the goal is to control pollutants, pollutant loads, and runoff volume discharged from impervious surfaces.

Although the aim and goal are laudable and we embrace LID strategies, the uncritical nature of the particular proposed requirement is problematic. We have three primary technical and policy concerns regarding the 5% EIA requirement:

- a. The use of the imperviousness area measure as a criterion on an uncritically small scale (project level) is inappropriate.
- b. The imposition of an EIA limit is redundant and superfluous when development decisions are also regulated by Erosion Potential (Ep) standards; and
- c. The application of any one-size-fits-all EIA limit is inappropriate, unnecessary, and likely to be infeasible in many cases.

Each of these concerns is addressed below.

a. The Improper Use of Imperviousness Area as a small scale criterion.

In 2003, the Water Environment Research Foundation published a report entitled "Physical Effects of Wet Weather Flows on Aquatic Habitats: Present Knowledge and Research Needs" (Roesner and Bledsoe 2003).¹² The report emphasized the limitations of current attempts to link stream impacts to any single measure of development, such as total imperviousness, observing that individually these measures provide little meaningful information to understand key processes and to create practical strategies for mitigation.

The authors contended that flow controls in urban drainage systems have strong influence on runoff hydrology, but that the influence is not well reflected in studies that attempt to relate stream impacts to gross imperviousness only (e.g., to any particular percent of impervious area). They stressed that models of reach-scale habitat changes (in other words, looking at an entire reach of an appurtenant water course) would better account for the connectivity and conveyance of the drainage system, and therefore lead to better consideration of relevant storm water controls.

Subsequent papers have also highlighted the difference between total impervious area, which they argue need not be specifically limited, and effective impervious area, which is more meaningful (Walsh et al, 2005; Walsh, Fletcher and Ladson, 2005).¹³ This

¹² Roesner, L.A., and Bledsoe, B.P., (2003). Physical Effects of Wet Weather Flows on Aquatic Habitats: Present Knowledge and Research Needs, Water Environment Research Foundation, 00-WSM-4.

¹³ Walsh, C.J., Roy, A.H., Feminella, J.W., Cottingham, P.D., Groffman, P.M., Morgan, R.P.III, (2005). The Urban Stream Syndrome: Current Knowledge and the Search for a Cure. *Journal of the North American Benthological Society*, 24(3), 706-723; Walsh, C.J., Fletcher, T.D., and Ladson, A.R. (2005). Stream restoration in urban catchments through redesigning storm water

further supports the idea that **it is the overall drainage design which is most important, rather than specific limits on impervious area.** Studies by Booth *et al* (2004) also demonstrate that impervious area alone is a flawed surrogate of river health.¹⁴

These conclusions make sense in light of the current scientific understanding of the mechanisms by which land use changes translate to stream impacts. Natural hydrologic and geomorphic processes (i.e., water flows and erosion) are necessarily changed by development and the introduction of impervious surfaces. Development of impervious surfaces like streets, driveways, sidewalks, roofs, etc., all change (i) the connections of the surface to drainage systems, (ii) drainage densities, (iii) compaction of soil, and (iv) removal of vegetation. Consequently, the natural proportions of infiltration, runoff and evapotranspiration are altered in such a way as to increase (a) runoff volumes, (b) the frequency of runoff events, (c) the long-term cumulative duration of runoff, and (d) peak flows. Sediment supply to streams is also reduced, which can compound the effects of increased flows.

The current state of scientific knowledge indicates that impacts downstream, such as channel enlargement, decreased bank stability, and simplification of stream habitat features, are linked to the long-term increase in volumes, durations and frequencies of the entire range of sediment transporting flows and the resulting increase in “work” done on the channel boundary. **However, both the process changes and the resulting impacts downstream are highly variable for any given percent impervious surface area.** The variations are due to local watershed influences and the nature of the development site. **In other words, the downstream impacts should be considered in the context of a broader view of the circumstances. Impervious surface percentages should not be viewed myopically.**

Both regional and sub-regional climate and, especially, local watershed characteristics can have a very strong influence on the extent to which land use changes alter hydrologic processes.¹⁵ For example, where soils have high infiltration capacity, the

systems: looking to the catchment to save the stream, *Journal of the North American Benthological Society*, 24(3), 690-705.

¹⁴ Booth, D.B., Karr, J.R., Schauman, S., Konrad, C.P., Morley, S.A., Larson, M.G., and Burges, S.J., (2004). Reviving Urban Streams: Land Use, Hydrology, Biology, and Human Behavior. *Journal of the American Water Resources Association*, October, 1351-1364.

¹⁵ Chin, A., (2006). Urban Transformation of River Landscapes in a Global Context. *Geomorphology*, 79, 460-487; Poff, N.L., Bledsoe, B.P., and Cuhaciyan, C.O. (2006). Hydrologic variation with land use across the contiguous United States: Geomorphic and ecological consequences for stream ecosystems, *Geomorphology*, 79, 264-285; Gregory, K.J., (2006). The Human Role in Changing River Channels. *Geomorphology*, 79, 172-191; Konrad, C.P., Booth, D.B., and Burges, S.J., (2005). Effects of Urban Development in the Puget Lowland, Washington, on Interannual Streamflow Patterns: Consequences for Channel Form and Streambed Disturbance. *Water Resources Research*, 41(W07009), 1-15.

conversion of open space to impervious surfaces will cause greater increases in runoff and stream flows compared to development on soils with low infiltration characteristics. The resulting in-stream effects can therefore also be more pronounced when high infiltration capacity lands are developed. Obviously, this suggests that policy-makers might want to encourage development on lands that naturally have low infiltration characteristics. However, an uncritical, "one-size-fits-all" approach, such as the 5% EIA proposal in the 2d Draft Permit, would allow no such distinction and may be counter productive-inducing development in more permeable areas so that projects can more readily infiltrate storm water.

Moreover, new approaches, including incorporation of BMPs (on site, in-stream and downstream) and the use of watershed protection and low impact development (LID) strategies (as suggested by Section 5.E.III.2 of the 2d Draft Permit) are changing the nature of developments with respect to the characteristics that cause alteration of hydrologic processes. Indeed, the application of reasonably feasible and appropriate treatment control BMPs are already required components of new developments and re-developments in accordance with the current Ventura County MS4 Permit.

Some treatment control BMPs have the capacity to infiltrate a significant portion of runoff volumes. One study summarized data for BMPs which showed that biofilters and dry-extended detention basins provide an average of approximately 40% and 30% reduction, respectively, in the volume of captured runoff.¹⁶ In addition, flow duration control basins are currently being incorporated into new development projects to address hydromodification. These hydromodification control facilities will also provide water quality benefits. Importantly, they can also be applied at multiple scales, from an individual project scale to a regional scale, to address both proposed and existing flow issues.

Recent modeling studies also show the so-called "urban cluster" design to be one of the most effective at reducing runoff volume.¹⁷ In 2000, EPA summarized a literature review on the application of LID in new development and existing urban areas, as well as studies of LID projects which provide evidence of effectiveness in reducing runoff

¹⁶ Strecker, E.W., Quigley, M.M., Urbonas, B., and Jones, J., 2004. Analyses of the Expanded EPA/ASCE International BMP Database and Potential Implications for BMP Design, In: Proceedings of the World Water and Environmental Congress 2004, June 27 - July 1, 2004, Salt Lake City, UT. Edited by Sehlike, G., Hayes, D.F. and Stevens, D.K., ISBN 0-7844-0737-1, ASCE, Reston, VA.

¹⁷ Brander, K.E., Owne, K.E., and Potter, K.W. (2004). Modeled Impacts of Development Type on Runoff Volume and Infiltration Performance. Journal of the American Water Resources Association, 40(4), 961-969.

volumes.¹⁸ The report found that LID offers both economic and environmental benefits, but that various combinations of structural BMPs employed in conjunction with the LID techniques could result in achieving the best possible watershed objectives. The appropriateness of all such measures depends on flexibility in MS4 permit requirements that allows circumspect consideration of the site conditions and surrounding circumstances, such as soil permeability, slope and water table depth, in addition to spatial limitations.

- b. **The imposition of a 5% EIA limit could be redundant, superfluous or even harmful when development decisions are also regulated by Erosion Potential (Ep) standards.**

There are new approaches for managing storm water which take a broader and more comprehensive view of land use, and do not foist "one-size-fits-all" formulas on individual lots and developments. These approaches have the potential to reduce substantially the kinds of changes to hydrologic processes that took place through traditional, uncritical development practices. Furthermore, changes in site design practices, coupled with knowledge of local watershed characteristics, can render gross measures of imperviousness unsuitable for either predicting or controlling development impacts.

Metrics such as "effective impervious" or "connected impervious" are not particularly reliable control metrics. The metrics are only superficial assessments of these particular aspects of development. We know that they have a **directional** relationship with changes in hydrologic processes and stream impacts; but the quantitative relationships are poor due to the large number of additional influencing variables. Given this fact, it would be far better if the Board's MS4 permit were to **steer private citizens and local governments, where appropriate, in the direction of less effective impervious surface, without insisting upon a specific, arbitrary numeric applicable to all situations.**¹⁹

¹⁸ US EPA Office of Water, 2000. Low Impact Development, A Literature Review, EPA-841-B-00-005, October.

¹⁹ An actual example of a proposed redevelopment project in Southern California will illustrate the difficulty of implementing a strict 5% EIA mandate for redevelopment and infill projects. One particular project involved widening of a road within a 60-gross-acre right of way. Runoff from the existing roadway was not currently treated for water quality or quantity. The proposed project design included a suite of "best management practices" that included extended detention basins (EDBs), vegetated swales, and cartridge media filtration. All roadway areas (existing and new roadway improvements within the project area and not just the new impervious areas), as well as some off-site drainage, were to be treated by one of these three treatment control BMPs. Priority was given to the treatment control BMP types that would provide for discharge volume reduction. Therefore, EDBs and swales were implemented wherever feasible. Eighty-five percent of the site was amenable to such BMPs. However, right-of-way constraints and safety considerations created limitations such that filter media were the only feasible option for the

By specifying “one-size-fits-all” requirements that fail to take into account site-specific and circumstantial characteristics, more innovative and potentially more cost-effective solutions may be precluded, and efforts may be spent to meet an arbitrary criterion that will not necessarily achieve the desired outcome. For that reason, a balanced, moderate and realistic consideration of “Erosion Potential” (Ep) may be a more preferable approach than is the EIA limit (directional or otherwise), provided the Ep approach is also a standard, that allows consideration of site and receiving water characteristics, rather than an absolute numeric value.

The Ep standard is intended to consider the integration of site-specific and locally relevant hydrologic and geomorphic considerations into a quantitative criterion. For example, the Ep approach could be used to develop simplified implementation tools in the form of “nomographs,” which would provide the necessary information to size infiltration areas to control site runoff appropriately based on local conditions. Using this technique for the Alameda Countywide Clean Water Program, it was estimated that the amount of pervious surface required for this approach to be effective should be 25% of the impervious area draining to it, as a “rule of thumb.” This assumed that the pervious surface area would have (i) an equivalent infiltration rate as the catchment area before development, and (ii) 12 inches of total storage depth (surface and porosity). Values would be different for other climate regions and geology, but appropriate values could be developed for different areas using similar steps.

These types of tools developed by permittees under other MS4 permits provide the answer to the question posed above regarding how to best to define “ineffective” impervious area, without imposing an absolute a “one-size-fits-all,” county-wide criterion. Emphasis should be given to LID or integrated water resource management strategies as proposed in the 2d Draft Permit’s Section 5.E.I.1(e), which means that most projects would result in levels of infiltration or storage/reuse that will contribute to integrated water resources goals. If such an approach were employed, there would be no need for the 5% EIA standard and it should be eliminated. And permittees should be granted flexibility to conduct studies to predict appropriate EP standards for sensitive, unlined channels within their jurisdiction and to develop tools for sizing hydromod controls necessary to protect those channels.

remaining 15% of the project roadway catchments. Although the average annual runoff volumes were predicted to increase, the results of the water quality analysis predicted a decrease in concentrations of all quantitatively modeled pollutants compared to the existing condition. Thus, although the project could not meet a 5% EIA standard, the project – properly mitigated to the extent feasible – was able to reduce directly connected impervious area to 15% (from 100% in the pre-existing condition). Also, modeling shows the project will reduce pollutant loads and concentrations below pre-existing conditions, thereby providing a substantial net benefit to the receiving water – even though it far exceeds a strict 5% EIA standard. Nevertheless, this project fails to comply with the EIA mandate.

- c. **The application of the EIA limit at smaller scales is inappropriate, unnecessary, and likely to be infeasible in many cases.**

Through discussions with the Board's staff, we understand that the intention of their proposed permit conditions is that the 5% EIA standard should apply to all project scales. In other words, this same requirement would apply at a specific plan scale, which might be hundreds or thousands of acres (a true watershed or subwatershed scale), all the way down to the lot level, which could be as little as a 5,000 square feet. The same requirement would apply "greenfield" development, as well as to urban infill and redevelopment projects in which high levels of impervious surfaces may already be present, and also in areas where receiving channels are already hardened, channelized and/or otherwise regionalized.

The imposition of any standardized percentage limitation on EIA, without consideration of project scale or geographic location, is particularly contrary to recognized smart growth concepts. **To be smart, project requirements should be related to the development context.** Some approaches will work in most settings (at different levels of implementation), while others pose significant challenges in existing urban areas and in the development of new town centers or other compact districts that are constructed in "greenfield" projects.

The imposition of a single maximum EIA limit without consideration of other watershed factors could lead to more "sprawl" as projects will require more land to meet the requirement. As one expert noted:

"From a regional development perspective, incorporating LID should not encourage urban sprawl. A forced over-implementation of infiltration practices could propel the development beyond its initial boundaries and result in more land being consumed. The cumulative impact may be greater than that of traditional approaches if more undeveloped land is used and more roadway infrastructure is created to connect the sprawl development. LID practices should be carefully integrated into all development densities without forcing density reduction. High-density LID represents a formidable challenge."²⁰

Accordingly, for any application of LID or hydromod principles to make the most sense, proper consideration must be given to a broader context than just the site itself (such as a small lot or project). Instead, proper consideration should be given to the scale of the project and context in which the site or project will fit.

²⁰ Davis, Allen P., (2005). Green Engineering Principles Promote Low-Impact Development. Environmental Science & Technology, August 15, 338A-344A.

Luckily, the best way to assure that the greatest contextual input is brought into any project approval is through processes that already exist – pursuant to the California Environmental Quality Act (CEQA).

B. The proposed hydromod and LID measures would be best expressed as goals to be achieved to the extent feasible through the existing public participatory processes required by the California Environmental Quality Act, which requires mitigation of projects' environmental impacts.

We are extremely concerned that an overly-strict application of either the 5% EIA limit or an "Ep=1 standard" could preclude the most reasonable choices for land use. As presently proposed, the 2d Draft Permit reflects these two inviolable numeric prescripts, which are proposed to apply to all projects. They need to be relaxed in a sensible manner that still protects water quality – as a matter of sound public policy, in deference to local prerogatives regarding land uses, if there is to be any realistic hope that the MS4 permittees and affected citizens can comply with the permit conditions.

Further, the standards that are even more prescriptive than the numerical LID and hydromod absolute limits of 5% EIA and Ep = 1 must be eliminated because they are plainly impossible to achieve. For the best example, consider 2d Draft Permit Part 5, § 5.E.III.3(a) (page 52), which introduces the Ep concept and requirements that follow. The draft language reads:

"The purpose of the hydrologic controls is to minimize changes in post-development hydrologic storm water runoff discharge rates, velocities, and duration. **This shall be achieved by maintaining the project's pre-development storm water run-off flow rates and durations.**"

As we explained above, it is practically impossible to develop any land subject to a requirement to "maintain" perfectly the project's pre-development storm water flow rates and durations. As a practical matter, **change is necessarily change.**

The reasonable **minimization** of adverse impacts associated with project changes in storm water flow characteristics is generally achievable and required by CEQA; but "maintaining" the *status quo ante* is inconsistent with any change. Therefore, rather than state an unbending, absolute obligation to "**maintain[]** the project's pre-development storm water run-off flow rates and durations" as quoted above, the objectionable sentence should be changed to read (the bolded text is amendatory):

"This shall be achieved by ... **implementing design features to approximate, to the extent reasonably feasible,** the project's pre-development storm water runoff flow rates and durations."

With slight changes such as this, the Board could, for example, establish Ep = 1 as a requirement that would indeed apply in all significant situations – not as an

inviolable absolute, but as a measure that (i) must be achieved wherever it is reasonably feasible to do so, and (ii) must instead be approached (as much as feasible) whenever achievement is infeasible for any reason. Specifically, the Board could similarly revise the "Interim Hydromodification Control Criteria" for project disturbing land areas of fifty acres or great (shown on page 54 as clause (A)(ii)) to read as follows (the bolded text is amendatory):

"Projects in this category shall develop and implement a Hydromodification Analysis Study (HAS) that demonstrates are ... expected to **approximate, to the extent reasonably feasible, the pre-development** duration of sediment transporting flows in receiving water. The HAS must ... **lead to the incorporation into the project of design features intended to approximate, to the extent reasonably feasible,** an Erosion Potential value of 1 ... **or any** alternative value that can be shown to be **reasonably** protective of the natural drainage systems from erosion, incision, and sedimentation that can occur as a result of flow increases from impervious surfaces"²¹

A similar small edit could likewise be made to convert the proposed 5% EIA requirement from an inviolable absolute to a requirement that must instead be achieved to the greatest extent reasonably feasible.

Merely by making such changes in the language, the Board could not only advance the purposes of the proposed LID and hydromod proposals, but also could advance the specific provisions that the Board's staff has carefully considered and scrutinized, but which are deservedly objectionable if they were to go forward as absolutes. **The solution is to amend the 2d Draft Permit to require the numeric LID/hydromod standards as permit conditions – not as inviolable absolutes, but instead as requirements that must be met "to the extent reasonably feasible as determined in accordance with processes undertake pursuant to" CEQA.**

Under CEQA, virtually all projects of any significance are required to undergo environmental impact analysis. Such analysis occurs by addendum, negative declaration, or environmental impact report depending on whether, and the degree to which adverse environmental affects, including water quality impacts, can be mitigated to a level that is less than significant. Such processes have opportunities for public participation and for

²¹ The final criteria shown in the 2d Draft Permit (page 55, clause (a)(i)(IV)) could similarly be amended to read:

"Stream restoration measures ... **that are designed to approximate, to the extent reasonably feasible,** the stream and tributary Erosion Potential at 1 **or any** alternative value **that** can be shown to be **reasonably** protective of the natural drainage systems from erosion, incision, and sedimentation that can occur as a result of flow increases from impervious surfaces and drainage stream habitat in natural drainage system tributaries"

participation by the Board's staff (staff availability permitting, which presumably would be somewhat dependent upon the importance of the project's potential impacts). Under CEQA, the lead agency that is responsible for approving any project must require all feasible mitigation measures to avoid, reduce or minimize significant environmental impacts. And if significant, unmitigated, remaining environmental impacts will likely remain (i.e., after requiring all reasonably feasible mitigation to be incorporated into the project), then the lead agency may approve the project only after preparation of an environmental impact report, public and trustee agency review and comment, with the imposition of all feasible mitigation requirements, and only upon a further finding that the societal benefits of the project outweigh the residual environmental impacts.

The CEQA obligations that are borne by the lead agencies (which are typically the approving city or county and, in the eyes of the Board here, the MS4 permittees) should be sufficient for the Board here to be satisfied that the policy goals prompting the LID and hydromod absolute limits can be advanced as far as is reasonable to push them, while also allowing for permittees to establish infeasibility of satisfying those requirements through operation of the CEQA processes and the proper prerogatives of the local governments. Accordingly, infeasibility exceptions of the type suggested above should be incorporated into the eventual MS4 permit.

C. There should be a more appropriate and comprehensive "grandfathering" provision to prevent the new permit's requirements from applying to either existing land use approvals or pending plans and applications.

As currently proposed, the 2d Draft Permit does not include language sufficient to "grandfather" safely from its proposed requirements (i) all approved projects, (ii) projects for which approvals are pending, and (iii) projects for which applications are immediate.

Without clear language concerning approved projects, questions could arise concerning the ongoing viability of existing land use approvals, including those having completed the arduous CEQA processes – complete with all sorts of public and trustee agency participation. Based upon the 2d Draft Permit's proposed grandfathering language, we trust that the Board has no desire or intention to subject settled approvals to, for example, any eleventh hour need to revisit the project design, and make changes that would negate the approval and send everyone back to square one.

Besides approved projects, however, local governments in Ventura County are at various stages of progress in reviewing, amending, negotiating, conditioning and approving already-submitted permit applications for projects within their respective jurisdictions. Depending upon the jurisdiction, it can typically take eighteen months for such applications to be processed. If the Board were to make immediately applicable changes in MS4 permittee conditions which would affect such applications, tremendous amounts of invested time, effort and money would be wasted.

Finally, merely given the numbers and frequency with which plans are presented for approval, many private entities are undoubtedly very near to filing applications for approvals. It can be expected that many such plans might not comport with all of the provisions proposed in the 2d Draft Permit or whatever its progeny might eventually look like upon issuance. For those persons as well, the revised MS4 permit that is eventually issued should provide some relief so that great amounts of work, time and money are not wasted.

Accordingly, we recommend that the permit language should include a provision stating that:

“Notwithstanding any provision to the contrary, Part 5 shall not apply to any project for which an application has been filed with the respective jurisdiction within ninety (90) days following the issuance of this Permit. Concerning all such applications, the relevant provisions of the Board’s Order No. 00-108, dated July 27, 2000, shall apply in lieu of the provisions of Part 5 herein, at the option of the project applicant or owner.”

Importantly, the Board should be comfortable providing such a reasonable “grandfathering” provision because, as noted above, CEQA will apply to pending approvals of significant projects in any event. The CEQA requirement for incorporation of feasible mitigation measures to address all significant environmental impacts will apply to and govern those still-pending project approvals regardless of whether the existing permit (No. 00-108) or its successor applies to them. As a result, the regulatory goals that underpin new MS4 permit/conditions, as eventually imposed, may be met through CEQA instead.

D. The proposed provisions would improperly purport to create liability attributable to non-permittees, and may improperly conflict with the conditions imposed through the state-wide Construction General Permit.

Two new provisions were added to the 2d Draft Permit which would, if adopted, create an inappropriate and illegal enforcement scheme in contravention of the Regional Board’s responsibilities under both the Clean Water Act and the Porter-Cologne Act. Specifically 2d Draft Permit, Part 2, page 29, and Part 4 § E.IV.3, page 58, each contains improper provisions that would set up a “presumption” that the permittee has violated the permit (and, hence, violated state and federal law – subject to daily penalties, citizen suit, etc.).

Concerning Part 4, § E.IV.3 as proposed, this provision attempt to shift the burden of proving a violation of the MS4 Permit, away from the Regional Board (to show a violation) and onto a permittee and/or other entities (to show that a violation does not exist). Specifically, it would create a presumptive permit violation if a staff inspector “does not readily identify” post-construction BMPs required pursuant to the property owner’s historical subscription to a construction general permit.

Such an enforcement approach is inconsistent with the regulatory enforcement scheme under both the Clean Water Act and the Porter-Cologne Act. Of course, constitutional considerations arise regarding the presumption of innocence. But even if the provision is ultimately struck down, such a provision could expose a permittee to the threat of daily heavy fines and substantial expenses to the MS4 permittee, merely because a staff inspector doesn't see something on someone else's property. In order to take enforcement action under both the Clean Water Act and Porter-Cologne the Regional Board must show that a permit violation has occurred. It must do more than allege that certain BMPs are not "readily identified" by a less-than-observant inspector, and then simply say, "prove otherwise."

In addition, the 2d Draft Permit vaguely suggests that the Board might impose joint and several liability for MS4 Permit violations against "the Permittee **and/or project owner/developer.**" Part 4, § E.IV.3(a)(1)(A) and (B). If that is what was intended, such a provision is also inappropriate, because the enforcement provisions of the Clean Water Act and the Porter-Cologne Act both require that the regulator prove that a *discharger* of pollutants has violated the relevant permit provision or statute. Especially in the circumstances suggested by Part 4, § E.IV.3(a), the water quality statutes themselves would not engender strict liability nor joint and several liability for implementation of BMPs approved under a storm water management program, even in the absence of a discharge.

There is no improper discharge of pollutants by project owners/developers required as a prerequisite to enforcement under 2d Draft Permit § E.IV.3 as currently drafted. Project owners and developers are responsible only for selecting, constructing and installing storm water quality BMPs pursuant to a local agency and MS4 permittee's approved storm water management programs. Project owners/developers do not independently generate pollutants or discharges, and do not control conveyance of discharges in the post-development condition. This 2d Draft Permit provision, Part 4 § E.IV.3, purports to create enforcement liability despite compliance with approved storm water quality management programs without any requirement that the owner/developer is a discharger or generates or controls a discharge that violates the Clean Water Act and Porter-Cologne.

Therefore, the proposed Part 4, § E.IV.3 suggestion of liability against a project owner/developer is analogous to trying to hold the users of the sewer system liable for implementation and compliance of a Publicly Owned Treatment Works (POTW) with the POTW's NPDES permit. In the case of POTWs, the upstream discharges might (or might not, depending on type of discharger) have pretreatment requirements, which are separately permitted from the POTW, and once those upstream sources discharge into the POTW, and their discharge meets applicable water quality control requirements they have complied with the Clean Water Act, and will not be held to be in violation of the Clean Water Act if the discharge from the POTW violates the Clean Water Act. *See* 33 U.S.C. § 1317(a);(b); 33 USC § 1319(f). By way of analogy, once an owner/developer

has fulfilled its pretreatment requirements by complying with local agency water quality ordinances, regulations and requirements, it has fulfilled its requirements for water quality control, and should not be exposed to enforcement for water quality violations. To create continuing liability is similar to holding those who use the sewer system liable for its treatment performance.

Viewed again from the property owners' side, holding a landowner liable for violating MS4 permit conditions without requiring proof of a discharge of pollutants by the owner/developer and despite compliance with approved local storm water management programs is very different from the other Clean Water Act enforcement cases that hold non-permittees liable for violations of the Act. The cases holding non-permittees liable for violations of the Clean Water Act primarily deal with situations where the non-permittee engaged in some affirmative or reckless action discharging wastes into a navigable waters in violation of the relevant NPDES permit. *See, e.g., United States v. Cooper*, 173 F.3d 1192 (9th Cir. 1999). Here, landowners/developers (or perhaps a successor landowners who is unaware of the original post-development BMP requirements) would have no actual or constructive knowledge that, for example, implementing BMPs pursuant to an approved storm water management program could be actionable for a failure to comply with MS4 permits.

To assure that the entity with control over discharge and treatment decisions remains liable for compliance with applicable MS4 permit requirements, the Board should eliminate the concept of liability of owners and developers. To assure that Permittees police the approvals that they dole out as compliant with, or deny as noncompliant with, the MS4 Permit, any enforcement action against the developer/owner for not complying with the MS4 conditions as interpreted in the SUSMP approved by the permittees should come in the form of the local agency's enforcement of its water quality, SUSMP, and land use regulations – not in the context of an enforcement action by the Board for violation of the MS4 permit.

The 2d Draft Permit also reflects an improper approach to enforcement in Part 2 page 29). Specifically, Part 2 of the 2d Draft Permit purports to create a presumption that the MEP standard is not being met and that the MS4 permit is violated if a certain number of MAL exceedences occur.²² Further, in Part 2, the proposed provision would create presumptive proof of a *discharge* violation of *discharge* limitations to be based solely on exceedences of MALs detected within receiving water mass emissions stations.

First, as discussed above with respect to Part 4, § E.IV.3, this approach is contrary to the enforcement scheme set up by both the Clean Water Act and Porter-Cologne, which typically requires that the Board prove that a permit violation has occurred in order to hold a discharger liable for the considerable monetary civil, and even criminal

²² Many additional technical, legal and policy issues are discussed regarding MALs as affluent limitations in Section III.F. below. This comment focuses on the enforcement scheme rather than the effluent limits.

penalties authorized by Porter-Cologne and the federal Clean Water Act for NDPES permit violations. 33 U.S.C. § 1319; Cal. Water Code § 13300 *et seq.*

Second, having the receiving water mass emissions monitoring stations serve as the MAL compliance point is improper because receiving water exceedences can be related to a number of factors. For example:

- There is mixing in the receiving waters of discharges from different sources;
- An MS4 operator cannot be liable for naturally-occurring “contaminants” that enter its system (e.g., 100 million tons of sediment in 1969);
- Property owners who live upstream of MS4 systems enjoy a property right to the discharge of storm water from their properties, and to the natural “contaminants” that are transported therein. See *Locklin v. City of Lafayette*, 7 Cal. 4th 327, 348 (1994). The MS4 operator has no right to obstruct such flows. *Id.*

By allowing receiving water exceedences to establish MS4 permit violations, the Regional Board conveniently, but improperly, relieves itself of all forensic analysis that may be required (to establish whether the receiving water violation is actually related to a particular municipal discharge and to an improper, rather than natural, pollutant level) prior to creating a presumptive violation of the 2d Draft Permit. Issuance of a decree like the one in the 2d Draft Permit, Part 2 (that receiving water characteristics are sufficient to prove discharge violations as a matter of fact and law) is contrary to the enforcement scheme of the Clean Water Act and Porter-Cologne, which – again – requires the enforcement agency to prove that a discharger is in violation in order to bring an enforcement action. 33 U.S.C. § 1319; *Headwaters, Inc., v. Talent Irrigation Dist.* 243 F.3d 526, 532 (9th Cir. 2001).

Third, as is the case with the other presumptive violation, Part 2 would create the potential for significant civil and criminal penalties, including substantial exposure for mandatory minimum fines, during the period that Permittees are trying to prove that a violation did not occur. Porter-Cologne requires that certain penalties be imposed for certain types of violations, including violations of waste discharge requirements. See, Cal. Water Code § 13350 *et seq.* The Clean Water Act also prescribes substantial monetary fines for violations of NPDES permits. 33 U.S.C. § 1319(d). Provisions that purport to create permit violations ostensibly trigger penalties for violations at, and for the period of time that the violation occurs and persists.

Finally, the 2d Draft Permit’s provisions would, if adopted, establish a presumptive MS4 permit violation if there are a certain number of essentially “unexcused” MAL exceedences, measurable in the receiving waters. Accordingly, if the permittee were unable to prove the negative, Porter-Cologne and the Clean Water Act

could operate to require that the Board take action for these violations. Worse, any opportunistic environmental group desirous of some "private attorney general" attorneys' fees could quickly file a citizen law suit against the permittee, because – "well, it says right there in the permit – there's a presumptive violation of federal law" (i.e., a *prima facie* case of violation is made).

The Board should pause to reflect on what it is doing with these presumptive violations. We are talking about **storm water** here. As noted several times above, storm water is naturally highly variable and often uncontrollable. That fact alone should be all the evidence the MS4's might need to rebut a presumption of a permit violation, especially because the Board adheres to water quality standards and objectives that nature routinely violates. But, with these proposals, the 2d Draft Permit would hold all of the permittees in violation simply because, for example, the receiving waters might fail to meet by way of example, an MAL of 19.2 ug/L, which is well below applicable CTR criteria.

Rather than imposing such permit provisions, it would be better if the Board were to develop a greater respect for, and thereupon continue to advance, the constantly-improving, iterative, "best management practices" approach. Doing so would enable the Board to avoid all of this focus on numeric effluents limits – especially those concerning the naturally-occurring "contaminants" like storm water sediment, bacteria, naturally-occurring metals in the soils, etc.

- E. The Board should not adopt crippling seasonal grading restrictions for Highly Regulated constructions sites coupled with the "alternative" of utilizing chemical "advanced treatment systems" to achieve an ultra-low turbidity and total suspended solids (TSS) standards. Each alternative is unreasonable. The regulated community should not be stuck on the horns of such an unnecessary dilemma.**

If property owners, developers, builders and their customers and employees wish to develop Highly Regulated sites in Ventura County, (i.e., sites where any part of the property being disturbed has a 20% slope, or where the property is within or "adjacent to" a particular creek or water body), then the 2d Draft Permit gives those persons a choice: Either (i) cease all grading during each 6½ month long "rainy season" – extending from October 1st of each year until April 15th of the next; or (ii) collect all of the storm water on the parcel from all storm events, and chemically treat it to remove sediment via an "advanced treatment system" to achieve a turbidity standard of 50 NTU and a total suspended solids (TSS) standard of 100 mg/liter. *See* 2d Draft Permit, Part 4 § F (pages 61-62).

Neither option is acceptable, and any proper balancing using the California Water Code § 13241 factors would plainly indicate so. Concerning the latter alternative first (meeting the numeric effluent limits – 50 NTU and 100 mg/L TSS), last year, the State Water Resources Control Board received a report from a Blue Ribbon Panel ("BRP") of

storm water experts convened to investigate the potential of applying numeric effluent limits (NELs) in various permits (the state-wide construction general permit, MS4 permits, etc.). Storm Water Panel Recommendations to the California State Water Resources Control Board: "The Feasibility of Numeric Effluent Limits Applicable to Discharges of Storm Water Associated with Municipal Industrial and Construction Activities" (June 29, 2006) p. 8, 15. The BRP ultimately opined (i) that NELs generally are not appropriate for MS4 operations, and (2) for construction activities, NELs are technically feasible, but only if chemical advanced treatment system (ATS) is employed to achieve the numeric compliance. The BRP also opined that, in the construction activities context, ATS is problematic and unready for application pending additionally-needed research. *Id.* at p. 16.

Thus, to the extent that the 2d Draft Permit presents as an "alternative" meeting the numeric effluent limits of 50 NTU and 100 mg/L TSS, the 2d Draft Permit is mandating, as one compliance alternative, the county-wide use of chemical ATS for all Highly Regulated construction sites.

Knowledgeable experts within the construction industry have serious concerns about potential applications of ATS. Although experts will not rule out the possibility that ATS might be the best alternative in some rare circumstances, the proposition of using ATS more generally is not a sound proposition for construction site water quality control, especially not in Southern California. First, as the BRP confirmed, applying chemicals to retained storm water (in order to precipitate out sediments in a controlled manner until "non-exceeding" water can be discharged) is a technical challenge that needs significantly more study. *Id.* at 16. In particular, we need studies to demonstrate whether ATS works and works safely in "flashy" watersheds like those in Southern California, where large, infrequent storms are more likely. *Ibid.*

But most importantly, ATS and the numeric limits that are reflected in Part 5, Section F of the 2d Draft Permit are fundamentally inconsistent with nature. When it rains hard in Southern California, the natural areas (i.e., those unaffected by development) certainly do not limit themselves to 50 NTU or 100 mg/L TSS. As we know, 100 million tons of sediment flux flowed into the Santa Barbara Channel in 1969. That was an extraordinary year, but the point is that nature is extremely variable. Therefore, trying to insist that storm water discharges from construction sites must comport to 50 NTU or 100 mg/L TSS is simply inconsistent with the natural variability of the environmental characteristics of storm water. ATS is therefore unnatural in two respects. First, there is the tricky business of properly adding chemical "polymers" to the retained construction site storm water. The chemical polymers are not natural, and there is no natural amount to add. Accordingly, there are concerns about accidents, proper doses, and improper handling and, as a result, ATS pollution. Second, and most importantly, the resulting "cleansed" water is not natural, either. As noted, nature routinely exceeds 50 NTU or 100 mg/L TSS by huge and widely variable degrees.

Therefore, one need only look to Water Code § 13241(b) to reject ATS as an alternative. Section 13241(b) requires the Board to consider the “environmental characteristics” of the water body or water bodies at issue. One undeniable environmental characteristic of the waters within Ventura County is that they tend to exceed 50 NTU and 100 mg/L TSS greatly during and after any substantial storm. One must wonder, therefore: Why is the Board’s staff seemingly so firmly opposed to natural environmental characteristics?²³

Similarly, as noted far above, the “guiding star” of the federal Clean Water Act is the admonition to “restore and **maintain**” the natural characteristics of the waters. **Putting chemical additives in retained storm water in order to achieve entirely unnatural storm water characteristics is simply wrong.** It is tantamount to turning one’s back on the “guiding star” of the Clean Water Act. Mandating ATS would be aiming regulation in exactly the wrong direction. One could never arrive at a properly “balanced” result that way.

Properly considered, the other Porter-Cologne balancing factors generally point away from ATS as well. Obviously, the ATS approach is extremely expensive. Therefore, economic considerations, which are expressly required by subsection 13241(d) and implicit in subsection (c), should push the Board away from ATS. Equally, obviously, subsection (e), the need for housing – the same result: it should push the Board away from ATS. Even subsection (a), the “past, present and probable future beneficial uses” of the waters lean away from ATS, if the Board were to respect nature appropriately, and conform (belatedly) receiving water beneficial uses and water quality standards more to natural conditions.

The only other alternative presented in Part 5, Section F of the 2d Draft Permit to persons with land appropriate and otherwise approved for legal development, but having the site attributes identified by staff, as worth of Highly Regulated construction sites, is to stop all grading on the affected lands for 6 1/2 months each year, from October 1 to April 15. The Board must know that the grading restriction would be a crushing blow to the impacted industries, landowners, and those who need housing. Therefore, the subsection 13241(d) and (e) factors (economic considerations and the need for housing) should weigh conclusively against the proposed grading ban.²⁴

²³ Considering another “environmental characteristic,” it is relevant that the proposed 6½ month “wet season” for the grading ban is relatively devoid of natural precipitation. An analysis of the historical rainfall records within Ventura County shows that, on average, there are only between 23 to 28 days within the 6½ month (approximately 195 day) “wet season” on which any amount of rain typically occurs (13% of the time during the “wet season” – or slightly less than one day per week).

²⁴ As just one example of the costs of a grading ban, using current values for entitled land in Ventura County of \$500,000 to \$1,000,000 per acre, the carrying-cost alone for a project proponent ranges between roughly \$62,500 and \$125,000 per acre over a six month period. Even

Moreover, such a ban is unnecessary given that there is a far more sensible third alternative exists. The third alternative is to require enhanced construction BMP implementation by any developer that needs or wishes to grade a Highly Regulated construction site during the 6 1/2 months out of each year. Specifically, the permit could include alternative language that would require for the types of sites implicated by 2d Draft Permit Part 4, Section F.1.:

- Enhanced inspection requirements;
- Selection from an enhanced suite of sediment and erosion control BMPs; and
- Special limitations on the amount of area left exposed and un-stabilized for an extended period of time during season.

Dr. Mark Grey has already provided to the Board's staff language spelling out this third alternative. We respectfully urge the Board to consider, revise (as the Board deems necessary and appropriate), and adopt such a third option.

F. The proposed establishment of "numeric effluent limits," which are disguised in name in the 2d Draft Permit as "municipal action levels," is inappropriate under as a policy matter and as a matter of law (including, if the Board were to try to feign a federal mandate) federal law.

1. The proposed NELs and MALs are inappropriate as a matter of water quality policy.

If this comment letter were to have a theme by now, it would be two-fold. First, storm water characteristics are naturally very highly variable. (One hundred million tons of sediment flux ... Santa Barbara Channel ... winter ... 1969.) Second, the Board should seek the most appropriately **balanced** course of regulatory action in light of the storm water challenges, using the prescribed balancing factors. Given the two-fold theme of this letter, the reader can guess how we feel about onerous municipal action levels and, even worse, numeric effluent limits.

more crushing would be the displacement of jobs and the costs of idling extremely expensive large construction equipment (coming at a time when the California Air Resources Board is otherwise requiring tremendously expensive retooling and replacement). Any significant seasonal grading restrictions would likely be the departure of many such companies, and it is incumbent not only under state, but also under federal law alone on the Board to commission an actual study of the potential economic affects of the grading ban and ATS alternative on the Ventura construction industry prior to adoption of these requirements.

Concerning “municipal action levels,” which are typically defined as numeric comparisons meant to spur action without implying a permit violation, we oppose them if they are to be used for any purposes other than to spur forensic and evaluative studies within the context of an iterative, “best management practices” approach. Concerning numeric effluent limits (which the 2d Draft Permit would impose under the misnomer of “municipal action limits”), we believe that their place is more properly in the context of anthropogenically generated discharges of pollutants from industrial and POTW point sources; and we believe that they have no appropriate place in the context of extremely variable storm water activity. Moreover, we are confident that the bulk of the law – both federal and state – supports our position, as explained below.

Basically, at least concerning sediment loads (TSS) and turbidity (which are the two measures most likely implicated in construction), we believe that any appropriate amount of attention to California Water Code § 13241(b) would preclude the adoption of numeric effluent limits for storm water. That particular balancing factor specifically instructs the Board to consider “the environmental characteristics of the water body at issue, including the quality of water available thereto.” When one undertakes any meaningful consideration of the factor, one must soon conclude that the quality of water that is available to the MS4 facilities in Ventura County is **extremely variable** in its nature, especially concerning its turbidity and sediment transport characteristics. And because of this extreme variability, the Board’s staff is unable to produce any numeric effluent limits that both (i) have any meaningful statistical validity, and (ii) actually relate specifically to environmental characteristics of Ventura County.

Therefore, we are left wondering whether the numeric effluent limits are attractive to some for some other reasons: perhaps merely because they are simple and easy to test, easy to show that they have been violated, and therefore easy to enforce, easy to penalize, and easy to sue upon. We trust that the Board will conclude that reasons such as those are not good reasons to draw random lines that the MS4 (and persons building homes and businesses) cannot help but cross over, thereby triggering liability under state and federal laws.

As was noted early above, there is no reasonably helpful numeric limit for storm water quality (at least concerning TSS and turbidity) that nature will not eventually violate – given enough time. Consequently, there is no gross numeric effluent limit that makes any real sense for these constituents. The limits proposed by staff to date, and those proposed by various environmental groups, make no sense whatsoever.

For example, at the September 20, 2007 public workshop concerning the 2d Draft Permit, a representative from Heal the Bay proposed that performance based effluent limitations, based on the 50th percentile performance values for treatment control Best Management Practices (BMPs) contained in the EPA/ASCE International BMP Database, should be included in the permit in place of the municipal action levels (MALs) proposed by the Board’s staff. The International Stormwater BMP Database (ASCE/EPA, 2003) is

a robust, peer reviewed database that contains a wide range of treatment control BMP effectiveness studies that are reflective of diverse land uses.

The proposal is unreasonable for two reasons. First, the required use of treatment control BMPs in the 2d Draft Permit is limited to new development and redevelopment projects. Runoff from existing developed areas served by the MS4 does not typically receive treatment in treatment control BMPs unless those areas are voluntarily "retrofitted" by the Permittee, because there is no requirement in the current or revised draft MS4 permit that mandates retrofit of already developed areas, undeveloped open space or farmland. It is therefore inappropriate to include a treatment control BMP performance-based effluent limitation in the permit, because much of the MS4 permit area is already developed, or may be undeveloped open space or farmland, and therefore does not receive treatment in a treatment control BMP. Moreover, the runoff from such land uses (which differ in their respective characteristics) are often beyond the control of the MS4 operator, and indeed may contain constituent that naturally exceed the 50th percentile value from the recommended BMP effluent database, but natural constituent levels would not constitute "pollution" as defined by the Clean Water Act.

Second, in any event, it would inappropriate to use a 50th percentile (the median) value to establish even a BMP performance-based effluent criterion. The 50th percentile is the value below which 50 percent of the observations in the database are found. Therefore, even assuming that the international database was magically representative of Ventura County,²⁵ 50 percent of the observations would be out of compliance with an effluent limitation derived using the 50th percentile value from the database. Using the median value implies that all monitored sites must be at or above the "central tendency" of the available data, which would not be representative of poorly performing BMPs even if we assumed all sites tributary to MS4s were treated by BMPs..

The State's Blue Ribbon Panel found that numerical effluent limits were not feasible for existing urban areas in the Municipal NPDES permit program pp 8-9. Thus, they should not be considered for inclusion in the Ventura County MS4 permit, especially numeric effluent limits based as suggested by environmental groups, on the central tendency of treatment control BMP performance data contained in the EPA/ASCE International BMP Database.

2. NELs and MALs are inappropriate as a matter of law.

²⁵ There seems to be no way to justify referring to an international database of averages concerning water quality when the issue is highly variable storm water in Ventura County. California Water Code § 13241 specifically commands consideration of the "environmental characteristics of the water body at issue, including the quality of water available thereto." Obviously, the California Legislature had something in mind other than looking at an international database for a worldwide median value. For the same reason, nation averages make no sense in this context either, especially when considering the natural attributes of Ventura County's storm water. They have nothing whatsoever to do with what storm water does in Florida.

Apart from the many good policy, practical, technical and scientific reasons for objecting to the proposed use of numeric effluent limits reflected in the 2d Draft Permit, there are a few legal issues to reject MALs and NELs as well. Those are discussed next.

The 2d Draft Permit establishes numeric effluent limits identified within the permit as Municipal Action Levels (MALs), but implemented within the permit as numeric effluent limits. See 2d Draft Permit Finding F.10. (page 22); Discharge Prohibitions, Part 2 p. 29; and Attachment C. Pursuant to the 2d Draft Permit, discharges of storm water from MS4s to waters of the U.S. that exceed MALs are prohibited – rather than spurring some action short of an enforceable violation to improve water quality. 2d Draft Permit, Discharge Prohibitions, Part 2 § 1 p. 29. Pursuant to these proposed permit terms, if monitoring data for any permittee were to show discharges are characterized by a running average of twenty percent or greater exceedences of MALs, the permittee is obligated to implement all necessary controls and measures to eliminate the “violation of the municipal storm water discharge limitation.”

Although the 2d Draft Permit does not set forth the type of numeric limits being imposed as MALs (i.e., whether water quality based effluent limits, or “WQBELs,” or technology based effluent limits, or “TBELs”), the Board’s staff stated in their presentation at the Board workshop held on September 20, 2007 that MALs are being proposed in the Draft Permit as TBELs. Discussion and presentation of Xavier Swamikannu, Los Angeles Regional Water Quality Control Board Public Workshop On Proposed Changes To The Waste Discharge Requirements for Municipal Separate Storm Sewer System Discharges Within the Ventura County Watershed Protection District, County of Ventura and the Incorporated Cities therein (NDPES No. CAS00-4002), Public Notice No. 07-048, September 20, 2007.

Similarly, the 2d Draft Permit establishes numeric effluent limits for all construction sites with slopes or “environmentally sensitive areas” that conduct grading during the period from October 1 to April 15. Draft Permit, Part 4 § F. 1(c) p. 62. The numeric limits for such construction sites are 100 mg/l for Total Suspended Solids, and 50 NTU for Turbidity. While neither the Draft Permit nor the Regional Board staff presentations at the September 20, 2007 Workshop identify the type of numeric limits imposed on Ventura County construction sites, the construction site limits similarly have been represented in stakeholder meetings as TBELs. Pers. comment Xavier Swamikannu.

We believe that Mr. Swamikannu’s statements indicating that the proposed NELs would be TBELs is incorrect. In demonstrating the point, we will also demonstrate that in any event federal law does not compel the Board to adopt the NELs proposed in the 2d Draft Permit regardless of the distinction between WQBELs and TBELs. Further, pursuant to the *Burbank* opinion, the Board may adopt numeric effluent limits only pursuant to a faithful reconciliation of the Porter-Cologne § 13241 balancing factors.

Finally, we explain why both federal and state law factors largely preclude any adoption of the proposed numeric effluent limits.

As noted above, in 1987, Congress amended the Clean Water Act to include specific requirements for both industrial and municipal storm water discharges. The industrial storm water permit provisions of 33 U.S.C. § 1342(p)(3)(A) require industrial storm water discharges to meet all applicable provisions of 33 USC § 1311, which is the statutory section that authorizes and requires both technology based and water-quality based numeric effluent limits in industrial storm water discharge permits. However, the Clean Water Act provision dealing with MS4 discharges, 33 U.S.C. § 1342(p)(3)(B), contains no reference to 33 USC § 1311. In fact, nowhere in the language of 33 U.S.C. § 1342(p)(3)(B) is there a reference or requirement to incorporate technology-based or water quality based numeric effluent limits into municipal storm water discharge permits. Instead, the statutory scheme of the Clean Water Act and applicable federal guidance clearly indicate a strong preference for a BMP-based approach to the regulation of municipal storm water discharges.

For example, Congress clearly set up a distinction between, on the one hand, industrial municipal discharges, which are expressly and specifically required to include technology-based and water quality based numeric effluent limits via 33 U.S.C. § 1311, and, on the other hand, municipal storm water discharges, which are not. The fact that Congress chose not to include a reference to 33 U.S.C. § 1311 in the provisions dealing with municipal storm water discharges indicates Congressional intent to regulate municipal discharges in a different manner than it regulates industrial storm water discharges -- namely an intent *not* to require municipal storm water discharges to achieve strict numeric effluent limits or water quality standards. Numerous cases support this proposition, without deviation. *E.g., Defenders of Wildlife v. Browner*, 191 F.3d 1159, 1165 (9th Cir. 1999).²⁶

Because the Clean Water Act does not mandate adoption of numeric TBELS or numeric WQBELS is used herein to refer to *numeric* water quality based effluent limits), the question here becomes whether federal law suggests or invites the TBELS that are currently proposed in the 2d Draft Permit. All indications are that federal law does not.

TBELs are numeric limits based upon best available, or, in the case of storm water, the best practicable technology available for the reduction of water pollution, and

²⁶ In the absence of any federal mandate to adopt numeric effluents, and given that the Clean Water Act expressly allows for incorporation of a BMP-based approach into MS4 Permits (rather than adoption of numeric effluent limits), continued reliance by the Board on an iterative BMP-based approach would not constitute a "dilution of the requirements set in the Clean Water Act" in derogation of the federal law.

they are authorized by 33 U.S.C. §1311(b)(1),²⁷ the same Clean Water Act section that is conspicuously disassociated from municipal storm water permit requirements. Further, federal regulations governing inclusion of TBELs in NPDES permits set forth at 40 C.F.R. § 122.44 specifically state that:

“NPDES permit[s] shall include conditions meeting the following requirements *when applicable*:

(a)(1) Technology based effluent limitations and standards promulgated under Section 301 of the CWA, or new source performance standards promulgated under section 306 of CWA, on a case-by-case basis under section 402(a)(1) of CWA, or a combination of the three, in accordance with § 125.3 of this chapter.” (*emphasis added*).

Despite an express and specific reference to setting TBELs to comply with standards in section 402(a)(1) of the Clean Water Act, the regulation governing inclusion of TBELs in NPDES permits does *not* reference inclusion of TBELs in NPDES permits based on section 402(p)(3) of the Clean Water Act. Instead, the only section of the regulation authorizing adoption of numeric limits states – specifically concerning MS4s – that NPDES permits should include:

“(k) **Best management practices** to control or abate the discharge of pollutants when:

(2) Authorized **under section 402(p)** of the CWQ for the control of storm water discharges.” 40 C.F.R. § 122.44(k).

In addition to the absence of reference to 33 U.S.C 1311(b) in the statute and regulations governing MS4 permits, the structure and text of 33 U.S.C. § 1342(p)(3)(B)(iii), and federal regulatory guidance and case law interpreting that section, indicate that adoption of TBELs in MS4 permits is not expressly authorized and has not been contemplated to date.

Specifically, Clean Water Act Section 1342(p)(3)(B)(iii) states:

“(3)(B) Permits for discharges from municipal storm sewers—
(iii) shall require

[a] controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineer methods, and
[b] **such other provisions as the Administrator or the State determines appropriate.**”

²⁷ *Communities for a Better Environment v. State Water Resources Control Board et al.*, 109 Cal. App 4th 1089, 1093 (1st Dist. 2003).

EPA regulatory guidance issued in conjunction with adoption of the Phase II Regulations and related case law both indicate that, when issuing permits under § 402(p)(3)(B)(iii), the NPDES permitting authority should consider the permit conditions in “steps” or “components.” 64 Fed. Reg. 68722 at 68753-68754; *Communities for a Better Environment v. State Water Resources Control Board et al.*, 109 Cal. App 4th 1089, 1093 (1st Dist. 2003). The first step or component is to consider appropriate technology based permit limitations to achieve the technology-based standards set by the statute. 64 Fed. Reg. 68722 at 68753-68754. The second step or component is to determine if more stringent permit requirements are necessary to protect water quality. *Id.* With respect to the second step, EPA reasons that if compliance with BMPs, control techniques and systems, design and engineering methods is inadequate, and there is still water quality impairments associated with discharges from the MS4, then Clean Water Act 402(p)(3)(B) authorizes (i.e., permits) the permitting authority to implement a second component or step in the NPDES permit to protect receiving waters pursuant to the portion of the governing statute stating that MS4 permits shall require “such other provisions as the Administrator or the State determines appropriate.” *Id.* See also *Communities for a Better Environment* at 1093. **In other words, WQBELs may be imposed pursuant to the residual discretionary powers.**

Similarly, the adopted Phase II Regulations indicate that municipal storm water discharges are required to comply first with management measures, not TBELs, designed to achieve pollutant reductions to the MEP, and that any more stringent limitations in MS4 permits should be added as WQBELs to protect water quality:

“You must comply with any more stringent effluent limitations in your permit, including permit requirements that modify, or are in addition to, the minimum control measures [BMPs], based on an approved total maximum daily load (TMDL) or equivalent analysis. The permitting authority **may** include such more stringent limitations based on a TMDL or equivalent analysis that determines such limitations are needed to **protect water quality.**” 40 C.F.R. 124.34(e)(1).

We are not aware of any EPA guidance or regulations that authorize or even consider setting numeric limits as TBELs to define or translate the MEP standard. All available guidance and regulations specifically and expressly address setting numeric limits only as WQBELs. Notably, all of the federal cases that we located which have addressed the issue of numeric limits in storm water permits (of which there are few) have done so in the context of consideration of permissibility of WQBELs, not TBELs. See, e.g., *Minnesota Center for Environmental Advocacy v. Minnesota Pollution Control Agency*, 660 N.W.2d 427; *Mississippi River Revival, Inc. v. City of St. Paul*, 2002 WL 31767798 (D.Minn. 2002).

Therefore, neither the applicable provisions of the Clean Water Act, nor the regulations adopted thereunder, nor EPA guidance issued thereunder, nor case law interpreting the Clean Water Act expressly authorizes or contemplates the adoption of

TBELs to define MEP. Instead, any such adoption would be a discretionary act comprising the adoption of WQBELs.²⁸

But even if one were to conclude that the Board is authorized to properly include MALs and NELs as TBELs in the 2d Draft Permit, there is still no avoiding the conclusion that the imposition of MALs and NELs, as TBELs or otherwise, is a discretionary act. The federal and state courts have consistently recognized that both clauses of Clean Water Act § 402(p)(3)(B)(iii) instill discretion in the regulator. Therefore, because the Board would in any event be exercising its discretion, when it proposes MALs and NELs as TBELs, it must do so pursuant to a proper exercise of its discretion. Further, as discussed at length earlier, the Board may not impose discretionary MS4 permit effluent limitations, whether they are TBELs or narrative limitations, except pursuant to the Porter-Cologne Act, per the *Burbank* opinion.

This brings us to the question of whether MALs and NELs are a proper exercise of the Board's discretion under state and federal law. Like Porter-Cologne, federal law mandates that regulators must consider and balance proposed technology-based effluent limitations in light of several factors to determine whether the proposed limitations are a reasonable and appropriate exercise of discretion. Interestingly, the federal factors to be considered are very similar to the factors set forth in California Water Code § 13241, and include:

- what is practicable, rather than all that is possible;
- conditions of receiving waters;
- specific local concerns;

²⁸ If we were to assume, for argument, that the Board could adopt the NELs as TBELs, then it must do so consistently with the provisions of federal law governing the adoption of TBELs. In the Clean Water Act, Congress specified the process that regulators must follow and the factors they must use when issuing industry-wide pollutant control measures or "[e]ffluent limitation guidelines." 33 U.S.C. § 1314(b). That process includes numerous steps that plainly are not apparently concerning the Ventura County MS4, including, (i) making findings concerning the characteristics of the discharged pollutants and the degree of pollution reduction attainable through use of best management practices, and (ii) identifying control measures and practices available to eliminate the discharge of pollutants from categories and classes of point sources, taking into account the cost of achieving such elimination of the discharge of pollutants (33 U.S.C.; § 1314(b)(3)). Moreover by analogy to setting TBELs for other technology-based standard (BAT, BCT, or BPT), the Board would need to do still more, and would need to weigh factors including: the relationship between the costs of attaining a reduction in effluents and the effluent reduction benefits derived; the age of treatment equipment and facilities involved; the nature of the treatment process employed; the engineering aspects of the application of various types of control techniques; the process changes required to implement the control measures selected; and any non-water quality environmental impacts, including energy requirements. 33 U.S.C. § 1314(b)(4)(B); 40 C.F.R. § 125.3(c); see also, 33 U.S.C. § 1314(b)(2)(B) for the BAT standard. See also *The Clean Water Act Handbook* 24 (Mark A. Ryan, ed. 2003) (listing factors required to assure the legality of TBELs).

- available control technologies;
- local climate;
- beneficial uses of receiving waters;
- local hydrology and geology; and
- cost of implementing proposed effluent limitations and controls.

EPA Phase II Stormwater Regulations, 64 CFR at 68722; *Building Industry Assn. v. State Water Resources Control Board*, 124 Cal. App. 4th at 889. See also, *Conservation Law Foundation and Oceana v. Donald L. Evans and Fisheries Survival Fund*, 360 F.3d 21 (Feb. 26 2004).²⁹ How would the MALs and NELs fare under these federal factors? The answer, as described above in considering the application of these same factors in the context of California Water Code § 13241 to proposed MS4 permit requirements is: not well. Since California Water Code Section 13241 factors encompass all of those federal factors above, and MALs and NELs are inappropriate under Section 13241 factors, these effluent limitations are similarly inappropriate solely under federal law.

Therefore, the Regional Board should follow the guidance provided by EPA, which, after all, is the federal agency ultimately charged with implementation and enforcement of the federal Clean Water Act, and should regulate municipal storm water discharges by requiring implementation of management practices, control techniques and system, design and engineering methods that control pollutants to the maximum extent practicable.. The Board should forgo adopting MALs and NELs as proposed in the Draft Permit.

²⁹ Federal law also requires consideration of effectiveness of proposed effluent limitations and controls in light of:

- technical feasibility of implementing effluent limitations and controls;
- public acceptance of proposed effluent limitations and controls required to comply with them; and
- *current* ability of municipalities to finance the storm water program.

The Board has provided no evidence that it is technically feasible for Ventura MS4 systems to comply with MALs derived from the nationwide receiving water monitoring results database, particularly where that database contains numeric receiving water concentrations drawn from geographic areas with very different mixes of land uses (new development, redevelopment, existing urban, farmland and open space), very different BMP requirements, very different precipitation patterns, and very different storm water and receiving water background constituent loads and concentrations. It is also clear from this letter, our testimony, and the comments and testimony of permittees and stakeholders that MALs and NELs do not enjoy public acceptance. Further, the testimony and comments of permittees indicate that the effluent limitations of the 2d Draft MS4 Permit cannot be satisfied based on the current of municipalities to finance the storm water program. Therefore, consideration of proposed MS4 permit conditions, including MALs and NELs in light of these federal factors also results in the conclusion that, as proposed, the limitations are inappropriate.

G. The proposal to require immediate compliance with various numerical TMDLs established for the Ventura County waters is both unreasonable and at variance with the implementation schedules previously established for many of the same TMDLs.

Quickly to the point: The 2d Draft Permit provisions concerning TMDLs are written in such a way as to effectively accelerate the implementation of TMDLs well in advance of the implementation schedules that are already in place. We cannot imagine why the Board would want to do that. But, if the Board does, the Board should know that – obviously – that would be yet another discretionary act that the Board would need to first be addressed through consideration and reconciliation of the Porter-Cologne § 13241 balancing factors. We trust that the Board and staff will want to correct that proposal.

Conclusion

We thank the Board, staff and legal counsel for their consideration of these lengthy comments. They reflect our careful work and thought; and we hope that they will be well received.

Please add to these comments to the so-called “red-lined” version of the 2d Draft Permit which we earlier provided to your office. The comments reflected in the proposed edits to that red-lined draft largely follow (or perhaps led) the comments stated herein, and they should be made part of the record for this permit.

The comments herein are additive to the comment letter and chart that we delivered in connection with the initial draft of the permit earlier in the year. Virtually all of our concerns stated therein apply to the 2d Draft Permit, particularly to the extent that objectionable proposals were retained from the first draft to the second. The fact that we did not herein repeat all of the legal, technical and policy positions set forth earlier is not meant to indicate any withdrawal of concerns. To the contrary, those earlier comments and the red-lined edits of the 2d Draft Permit should all be made part of the growing record concerning the eventual, pending permit revision at issue.

Lastly, we respectfully request the Board to instruct its staff to make available and circumscribe the record scientific evidence on which the Board will make its ultimate decision. We were, in fact, concerned to notice that the 2d Draft Permit strangely omitted some citations to reference materials which had been cited in the initial draft. We hope and trust that the Board and staff will share the body of evidence on which the Board will decide the matter, so that there can be a full and fair exchange of evidence. We therefore look forward to working with the Board’s staff to help create for the Board the best possible record on which to make its eventual decision.

Thus, we look forward to further cooperation with the Board, its staff, and its counsel.

Dr. Xavier Swamikannu
October 15, 2007
Page 54 of 54

Sincerely,



Andrew R. Henderson
Vice President and General Counsel
Building Industry Association
of Southern California

cc: Richard J. Lambros
Michael Lewis
Holly Schroeder
Mary Lynn Coffee, Esq.
Nick Cammarota, Esq.

C000975

Construction Industry Coalition on Water Quality

October 15, 2007

Submitted Via Email to: seconddraftVCMS4@waterboards.ca.gov

Dr. Xavier Swamikannu
320 W. Fourth Street, Suite 200
Los Angeles, California 90013

Re: Comments from the Construction Industry Coalition on Water Quality Concerning the Draft NPDES Permit No. CAS004002 – Ventura MS4.

Dear Dr. Swamikannu:

On behalf of the more than 3,300 member companies of the Construction Industry Coalition on Water Quality (CICWQ), we would like to thank the Los Angeles Regional Water Quality Control Board (Regional Board) for this opportunity to express our concerns about the Second Draft (2nd Draft) Order.

CICWQ is comprised of the four major construction and building industry trade associations in Southern California. These are the Associated General Contractors of California (AGC), Building Industry Association of Southern California (BIA/SC), the Engineering Contractors Association (ECA), and the Southern California Contractors Association (SCCA). The underlying membership of CICWQ is comprised of construction contractors, labor unions, landowners, developers, and homebuilders throughout the region and the state, who provide the necessary infrastructure and support for the region's business and residential needs. The 2nd Draft Order's proposed permit conditions would, if adopted, affect the above-referenced organizations' members, thousands of construction businesses, and tens of thousands of employees working to meet the demand for modern infrastructure and housing in Ventura County. CICWQ supports scientifically-based, cost-effective efforts to improve water quality, and its comments enclosed herein were developed accordingly.

As you know, we have had frequent dialogue with you and your staff for the past year since the 1st Draft Order was released in December 2006. In that time we have reiterated our position to you regarding the contents of the 2nd Draft Order, Section F, Development Construction Program (page 61 of 115), and have offered what we and others believe are proactive, progressive, and practical solutions to prevent and limit the amount of sediment that is discharged from active construction sites. Despite this pro-active approach and "raising the bar" of construction site best management practices (BMPs), the 2nd Draft Order continues to require a "wet season" grading prohibition on certain sites and locations within Ventura County.

A "wet season" grading prohibition is an unnecessary requirement for CICWQ and its member companies to accept considering the alternative, enhanced BMP approach we have advocated to you and the economic impact this prohibition will place on our member companies by idling entire construction fleets and manpower for more than six months. In addition, it is a requirement that is technology-forcing in that in order to meet the numeric effluent limitations it places on those projects seeking a "Grading Prohibition Variance" to construct during the wet season, advanced sediment treatment systems must be used. As you well know, these systems are the only construction BMP practice shown to consistently achieve an effluent quality meeting the 50 NTU and 100 mg L⁻¹ TSS concentration standards you propose.

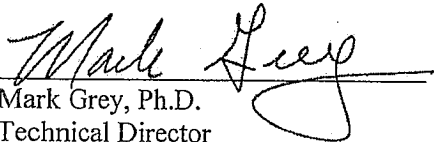
Overlying this requirement to meet a numeric effluent limit is the technological challenge of operating such systems, their well-known toxicity problems, and the complete lack of regard for the nature of the receiving water that a project would discharge into and its sediment characteristics (i.e. natural background concentrations and loads of sediment). For the sake of brevity, we cite by reference and encourage you to review the comments of the BIA of Southern California concerning grading restrictions, the inherent problems of using advanced sediment treatment as pointed out by the Blue Ribbon Panel, and the Regional Board's consistent disregard for the nature of receiving waters in establishing storm water permit conditions.

We have submitted to you, in writing and during oral presentations, an enhanced BMP implementation approach that specifies the selection of a minimum suite of BMPs that a site operator would implement to ensure that discharges will be controlled and minimized, and we draw your attention again to the increase in site inspection requirements for both the site operator and the local enforcement agent. Specifically, we cite pages 81 to 88 from the redline comment package we submitted to you and staff on July 21, 2007. In this submittal, we provided to the Regional Board a comprehensive approach for protecting high risk construction sites that pose a greater threat to water quality than do most sites and offers a clear alternative to the content of the 1st and 2nd Draft Orders. In addition, the approach we are suggesting is consistent with the State Water Resources Control Board's (State Board) direction in using a risk-based approach to determining the types and combinations of BMPs that must be used at California construction sites, and it is consistent in its application of enhanced, rain event readiness procedures (including pre-during- and post-inspection measures and mandatory reporting) that all site operators must use.

We are disappointed that you and your staff did not incorporate any of the information we submitted in July 2007 in our redline comment package and chose instead to continue to require a grading prohibition or use advanced sediment treatment systems to achieve an arbitrary effluent limitation that bears no relationship to the nature of the receiving water. The approach you are advocating is inconsistent with the State Board's approach in revising the General Construction Permit and is yet again an example of inconsistency in regulatory approach between the Regional and the State Board. We urge you to eliminate the "wet season" grading prohibition and instead adopt a risk-based approach to determining construction site BMPs that is consistent with the direction of the State Board and that reflects the elements of an enhanced construction site BMP implementation approach.

If you have any questions, please feel free to contact me at (909) 396-9993 or mgrey@biasc.org.

Respectfully,

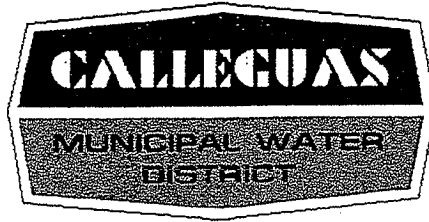
A handwritten signature in cursive script that reads "Mark Grey". The signature is written in black ink and is positioned above a horizontal line.

Mark Grey, Ph.D.
Technical Director
Construction Industry Coalition on Water Quality

TED GRANDSEN, PRESIDENT
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805/526-9323 FAX: 805/526-3675

October 15, 2007

Dr. Xavier Swamikannu
Chief, Storm Water Permitting Program
California Regional Water Quality Control Board, Los Angeles

Transmitted electronically to seconddraftVCMS4@waterboards.ca.gov

Comments Regarding Second Draft Ventura County MS4 Permit – NPDES No. CAS004002

Dear Dr. Swamikannu:

Thank you for the opportunity to comment on the second draft of the Ventura County MS4 Permit. As the imported water wholesale agency serving Ventura County, our primary interest is delivering a safe drinking water supply to our customers. We appreciate the Regional Board staff's revision in the second draft permit to eliminate the 100,000 gallon per year limitation for potable water discharges. This assists us in maintaining our water system to meet California Department of Public Health drinking water standards. We also appreciate the Regional Board staff's efforts to work with drinking water system operators to develop regulations that both allow us to continue to operate so as to protect public health while fulfilling your mandate to protect the quality of water discharges.

As written, the second draft of the Ventura County MS4 Permit prohibits flushing of water supply and distribution mains, and dewatering or draining of reservoirs or water storage facilities (p. 26, footnote 1). While Regional Board staff has discussed developing a General Permit suitable to cover such potable water discharges with best management practices to protect surface water quality, there is no such General Permit in place at this time. We respectfully request that the draft permit language be amended to allow for releases of potable water associated with drinking water system protection and maintenance subject to best management practices until a new General Permit can be developed to address these issues.

If you have any questions regarding this comment, please feel free to contact Henry Graumlich, Manager of Special Projects, at (805) 579-7127 or hgraumlich@calleguas.com. Thank you for your consideration.

Very truly yours,

Donald R. Kendall, Ph.D., P.E.
General Manager

C0000979



Western States Petroleum Association
Credible Solutions • Responsive Service • Since 1907

Michaelaen Mason
Director, Statewide Regulatory Issues

October 15, 2007

Tracy Egoscue, Executive Officer
California Regional Water Quality Control Board
Los Angeles Region
320 West Fourth Street, Suite 200
Los Angeles, CA 90013

Dear Ms. Egoscue:

WSPA COMMENTS ON THE AUGUST 28, 2007 SECOND DRAFT VENTURA COUNTY
MS4 NPDES PERMIT

The Western States Petroleum Association (WSPA) is a trade association comprised of companies engaged in the exploration, production, refining, marketing and transportation of petroleum and petroleum products in California and the western United States. WSPA members operate thousands of facilities in California – such as oil and gas production fields, refineries, bulk terminals, and retail gasoline outlets – from which the discharge of stormwater may occur.

WSPA welcomes the opportunity to submit comments on the August 28, 2007 Second Draft Ventura County MS4 NPDES Permit. Our comments focus on the potential impact of the draft permit on retail gasoline outlets (RGOs).

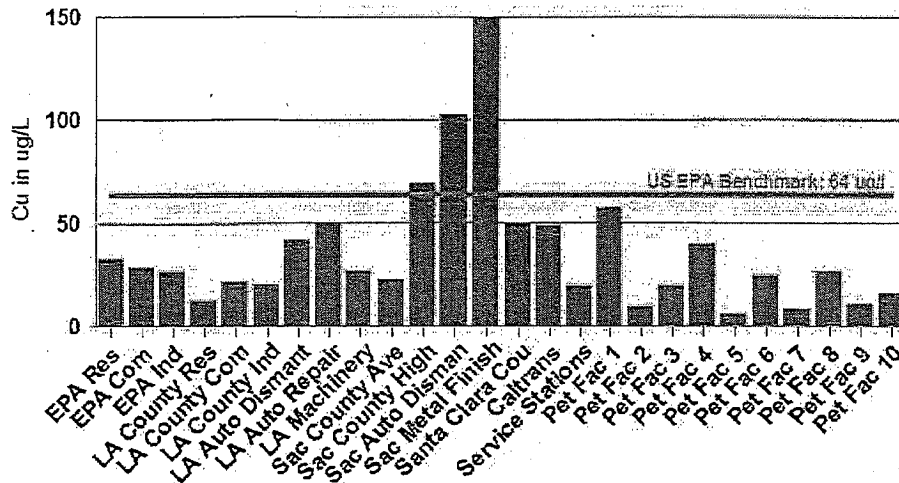
Stormwater Discharges from RGOs

We respectfully disagree with the statement in Finding B.15. that "Studies indicate that stormwater discharges from RGOs have high concentrations of hydrocarbons and heavy metals." Our review of stormwater discharge data and studies shows that RGOs that implement industry Best Management Practices (such as those developed by the California Stormwater Quality Association for RGOs) typically have stormwater discharges that are as good as or better than other commercial and industrial sources. For example, below is a chart¹ comparing copper in stormwater discharges from various land uses and types of facilities. The chart is derived from

¹ The chart is from a presentation that WSPA made to the State Water Board members in 2004, and draws from publicly available stormwater studies and reports.

studies in Los Angeles County, Sacramento County, Santa Clara County, and by Caltrans, EPA, API and WSPA.

Copper in Stormwater



If you would like to have any further information concerning the studies and the WSPA presentation, please contact us.

RGO Stormwater Operational BMPs

The draft permit lists eight separate Best Management Practices (BMPs) that would be applicable to RGOs (Table 4, page 44). However, we note that some of these eight BMPs describe practices that may or may not be applicable to RGOs. WSPA strongly suggests that it would be more appropriate to reference the single "overall" BMP for RGOs developed by the California Stormwater Quality Task Force's Retail Gasoline Outlet Work Group (copy attached)². The reasons for citing the Work Group's RGO BMP in the Ventura stormwater permit are as follows:

- The requirements are specifically designed for RGOs.
- The requirements are listed concisely in one place.
- The requirements are easier to understand and implement.

² California Stormwater Quality Association "Stormwater Best Management Practice Handbook - Industrial and Commercial", Appendix D (Business Category Stormwater Pollution Control Guide Sheets).

- As a result, compliance should be enhanced.

Stormwater Treatment Control BMPs

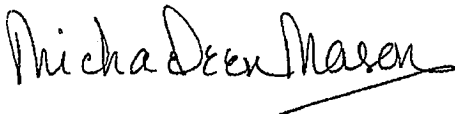
In 1996-97, the SWQTF RGO Work Group reviewed various structural BMPs for applicability to RGOs – these were ideas such as oil/water separators and catch basin inserts. However, the evidence reviewed by the Work Group "indicated that the effectiveness and efficiency of these and other BMPs not listed was insufficient for them to pass peer review and therefore these BMPs could not be generally recommended for use statewide." WSPA is not aware of any additional research or data that would cause a change in the conclusions reached by the 1996-97 SWQTF Work Group relative to the application of stormwater treatment controls for RGOs. Again, in our experience, RGOs that implement industry operational BMPs provide a high level of assurance that their stormwater discharges are not contributing to Municipal Action Levels (MALs) or water quality criteria exceedances.

Throughout the draft permit, there are discussions of the possible requirement for "treatment control" BMPs if MALs are exceeded, where discharges occur into impaired water bodies, or, for post-construction new development. However, there are inconsistencies in the draft permit as to whether "treatment control" BMPs are optional or mandatory under different provisions in the permit (e.g., Findings - F.5 & 12, Part 3.3, Part 5.D.I, D.I.2.a, D.I.2.a.3, D.I.3.(b), E.II.1.(a)(4)).

WSPA recommends that these inconsistencies be eliminated by making it clear in the permit that Ventura County will have the discretion and the flexibility to evaluate when and where "treatment control" BMPs should be sought.

Thank you for taking our comments into consideration. If you have any questions or have need for any further information related to our comments, please do not hesitate to contact Ron Wilkniss at 323/465-7241.

Sincerely,



cc: Tracy Woods, LA-RWQCB
seconddraftVCMS4@waterboards.ca.gov

Attachment: CSQTF RGOWG BMP for RGOs, 2003.

Automotive Service – Service Stations



Photo Credit: Geoff Brosseau

Description

This category includes facilities that provide vehicle fueling services, including self-serve facilities as well as those that provide a convenience store. Information specific to auto dismantling, body repair, and maintenance is provided in other guide sheets.

Pollutant Sources

The following are sources of pollutants:

- Fueling
- Spills
- Surface cleaning
- Air / water supply areas
- Dumpster and trash can areas

Pollutants can include:

- Heavy metals (copper, lead, nickel, and zinc)
- Hydrocarbons (oil and grease, PAHs)
- Toxic chemicals (benzene, toluene, xylene, MTBE)
- Detergents
- Food waste and trash

Approach

Minimize exposure of rain and runoff to fueling areas by using cover and containment. In and around these areas, use good housekeeping to minimize the generation of pollutants. Make stormwater pollution prevention BMPs a part of standard operating procedures and the employee training program. Provide employee education materials in the first language of employees, as necessary.

Reprinted below are the best management practices and related information from the 1997 Best Management Practice Guide – Retail Gasoline Outlets. This guide represents the work of the California Stormwater Quality Task Force's (SWQTF) Retail Gasoline Outlet Work Group. The Work Group formed in May 1996 and met on a regular basis to review and discuss appropriate best management practices for fueling and other closely related activities likely to be found at retail fueling operations. Representatives from industry, municipalities, and regulatory agencies participated.

Coverage

These best management practices cover three activities or areas:

- Fuel dispensing



Automotive Service – Service Stations

- Air/water supply
- Outdoor waste receptacles

Retail gasoline outlets will have every combination of these activities/areas onsite, including other activities not covered by this guide. For example, a facility may have a fuel dispensing area, air/water supply area, indoor service bay, but no outdoor waste receptacles. These BMPs cover the first two areas but not the indoor service bay. Best management practices for the indoor service bay may be found elsewhere. The inclusion of best management practices for air/water supply areas is not intended to suggest that air and/or water must be supplied by retail gasoline outlets in geographic areas not otherwise required to do so.

Design

The design of this guide is purposely different from many BMP lists that are designed as a menu of BMPs from which the facility owner/operator, and the inspector, may choose some but not necessarily all BMPs. These BMP lists are designed so that if the activity/area is onsite, each numbered BMP listed below the activity should be implemented. For some BMPs, as described below, several implementation options are provided. The best management practices are meant to be implemented, monitored, and maintained on a year round basis. The guide also makes an important distinction between existing facilities and new or substantially remodeled facilities. A definition of new or substantially remodeled is also provided. The Work Group used these design elements to help clarify and unify expectations.

Options

Several of the best management practices provide facility owners and operators options for compliance. For example, one best management practice is:

Minimize the possibility of stormwater pollution from outside waste receptacles by doing at least one of the following:

- Use only watertight waste receptacle(s) and keep the lid(s) closed
- Grade and pave the waste receptacle area to prevent run-on of stormwater
- Install a roof over the waste receptacle area
- Install a low containment berm around the waste receptacle area
- Use and maintain drip pans under waste receptacles

It is the intent of these BMPs that a) through e) are options. Effective implementation of at least one of these options, chosen by the facility owner/operator, should be deemed implementation of this best management practice.

Source Control BMPs

The best management practices are listed by activity or area.

Existing Facilities

Fuel Dispensing Areas

- Maintain fuel dispensing areas using dry cleanup methods such as sweeping for removal of litter and debris, or use of rags and absorbents for leaks and spills. Fueling areas should never be washed down unless the wash water is collected and disposed of properly.

Automotive Service – Service Stations

- Fit underground storage tanks with spill containment and overfill prevention systems meeting the requirements of Section 2635(b) of Title 23 of the California Code of Regulations.
- Fit fuel dispensing nozzles with “hold-open latches” (automatic shutoffs) except where prohibited by local fire departments.
- Post signs at the fuel dispenser or fuel island warning vehicle owners/operators against “topping off” of vehicle fuel tanks.

Facility - General

- “Spot clean” leaks and drips routinely. Leaks are not cleaned up until the absorbent is picked up and disposed of properly.
- Maintain and keep current, as required by other regulations, a spill response plan and ensure that employees are trained on the elements of the plan.
- Manage materials and waste to reduce adverse impacts on stormwater quality.
- Train all employees upon hiring and annually thereafter on proper methods for handling and disposing of waste. Make sure that all employees understand stormwater discharge prohibitions, wastewater discharge requirements, and these best management practices. Use a training log or similar method to document training.
- Label drains within the facility boundary, by paint/stencil (or equivalent), to indicate whether they flow to an oil/water separator, directly to the sewer, or to a storm drain. Labels are not necessary for plumbing fixtures directly connected to the sanitary sewer.
- Inspect and clean if necessary, storm drain inlets and catch basins within the facility boundary before October 1 each year.

Outdoor Waste Receptacle Area

- Spot clean leaks and drips routinely to prevent runoff of spillage.
- Minimize the possibility of stormwater pollution from outside waste receptacles by doing at least one of the following:
 - Use only watertight waste receptacle(s) and keep the lid(s) closed, or
 - Grade and pave the waste receptacle area to prevent run-on of stormwater, or
 - Install a roof over the waste receptacle area, or
 - Install a low containment berm around the waste receptacle area, or
 - Use and maintain drip pans under waste receptacles.

Air/Water Supply Area

- Minimize the possibility of stormwater pollution from air/water supply areas by doing at least one of the following:
 - Spot clean leaks and drips routinely to prevent runoff of spillage, or
 - Grade and pave the air/water supply area to prevent run-on of stormwater, or
 - Install a roof over the air/water supply area, or
 - Install a low containment berm around the air/water supply area.

Automotive Service – Service Stations

New or Substantially Remodeled Facilities

The elements listed below should be included in the design and construction of new or substantially remodeled facilities.

Fuel Dispensing Areas

- Fuel dispensing areas must be paved with portland cement concrete (or, equivalent smooth impervious surface), with a 2% to 4% slope to prevent ponding, and must be separated from the rest of the site by a grade break that prevents run-on of stormwater to the extent practicable. The fuel dispensing area is defined as extending 6.5 feet from the corner of each fuel dispenser or the length at which the hose and nozzle assembly may be operated plus 1 foot, whichever is less. The paving around the fuel dispensing area may exceed the minimum dimensions of the “fuel dispensing area” stated above. (Note: This best management practice is not specifically intended to apply to facilities that install a new canopy where no canopy existed.)
- The fuel dispensing areas must be covered, and the cover’s minimum dimensions must be equal to or greater than the area within the grade break or the fuel dispensing area, as defined above. The cover must not drain onto the fuel dispensing area. (Note: This best management practice is not specifically intended to apply to facilities that:
 - Are located in geographic areas not subject to federal or state stormwater regulations
 - Do not discharge stormwater either directly to surface waters or indirectly, through municipal separate storm drain systems
 - Do not add fuel dispensers
 - Replace, relocate, or add fuel dispensers within the parameters described in the BMP
 - Increase their throughput of fuel dispensed without modifying their equipment
 - Make only cosmetic or facial appearance changes to their existing canopy)

Outdoor Waste Receptacle Area

- Grade and pave the outdoor waste receptacle area to prevent run-on of stormwater to the extent practicable.

Air/Water Supply Area

- Grade and pave the air/water supply area to prevent run-on of stormwater to the extent practicable.

Substantially Remodeled Facilities

One of the following criteria must be met before a facility is deemed to be substantially remodeled and the design elements described above are required to be included in the new design and construction:

- The canopy cover over the fuel dispensing area is new or is being substantially replaced (not including cosmetic/facial appearance changes only) and the footing is structurally sufficient to support a cover of the minimum dimensions described above, or
- One or more fuel dispensers are relocated or added in such a way that the portland cement concrete (or, equivalent) paving and grade break or the canopy cover over the fuel dispensing area do not meet the minimum dimensions as defined above. Replacement of existing dispensers or underground storage tanks do not by itself, constitute a substantial remodel.

Automotive Service – Service Stations

For the purposes of the waste receptacle area and air/water supply area BMPs only, the facility is considered substantially remodeled if the area around the waste receptacle area or air/water supply area is being regraded or repaved.

Treatment Control BMPs

In 1996-97, the SWQTF Work Group considered other BMPs not listed here including:

- Oil/water separators
- Catch basin inserts

The evidence reviewed by the Work Group at that time indicated that the effectiveness and efficiency of these and other BMPs not listed was insufficient for them to pass peer review and therefore these BMPs could not be generally recommended for use statewide. Since 1997, a significant amount of research has been conducted across the country on treatment controls so the status of treatment control BMPs may have changed since that time. There may be situations in which these BMPs would be effective and efficient (as evidenced by research), and therefore appropriate.

For information on inspecting and maintaining treatment controls, see Section 4 of this handbook.

For information on designing treatment controls, see Section 5 of the New Development and Redevelopment Planning Handbook.

More Information

Booklets, Checklists, Fact Sheets, and Pamphlets

California Storm Water Quality Task Force, 1997. Best Management Practice Guide – Retail Gasoline Outlets.

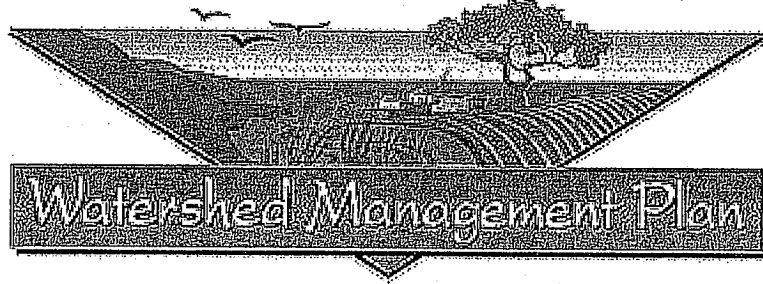
Posters

Los Angeles County, 1995. Good Gas Station Operating Practices.

References

California Storm Water Quality Task Force (SWQTF), 1997. Best Management Practice Guide – Retail Gasoline Outlets.

CALLEGUAS CREEK



A COOPERATIVE STRATEGY FOR RESOURCE MANAGEMENT & PROTECTION

October 15, 2007

Dr. Xavier Swamikannu
Storm Water Permitting Program
California Regional Water Quality Control Board, Los Angeles

Transmitted via e-mail to seconddraftVCMS4@waterboards.ca.gov

Comments on Second Draft Ventura County MS4 Permit
NPDES No. CAS004002

Dear Dr. Swamikannu:

On behalf of the parties participating in the Calleguas Creek Watershed Management Plan, I would like to reaffirm my comments concerning the Second Draft Ventura County MS4 Permit presented to the Regional Water Quality Control Board at its workshop of September 20th, 2007.

Public agencies and private interests on the Calleguas Creek watershed have been working cooperatively since 1996 to develop Total Maximum Daily Load (TMDL) water quality plans in the context of an integrated watershed approach. We have appreciated the close cooperation of the Regional Board, the State Water Resources Control Board, and the U.S. Environmental Protection Agency in fostering a stakeholder-driven process to address water quality. Continued cooperation and integration will offer the greatest opportunities for improving water quality. The Calleguas Creek Watershed Management parties support comments from the Ventura County co-permittees concerning harmonizing the proposed Ventura County MS4 permit with existing TMDL implementation plans and monitoring programs.

Thank you for your consideration.

Very truly yours,

Donald R. Kendall, Ph.D., P.E.
Chair, Calleguas Creek Watershed Management Plan Steering Committee

C000988

From: "Ellyn VanCamp" <agctrice@agc-ca.org>
To: "Xavier Swamikannu" <seconddraftVCMS4@waterboards.ca.gov>
Date: Mon, Oct 15, 2007 2:12 PM
Subject: Letterhead

Tri-Counties District Office

October 15, 2007

1:30 PM

Regional Board Members

Regional Water Quality Control Board

ATT: Dr. Xavier Swamikannu

RE: Proposed Ventura County Stormwater Draft Permit

Dear Regional Board Members:

AGC is the largest construction trade organization in the country and the state of California. The California chapter, AGC of California represents over 1,200 companies statewide and 100 locally. On behalf of those members we must state our very serious concerns over several items in Ventura County's draft Permit currently under consideration. Several of these restrictions are extremely detrimental to the construction industry particularly those involved in grading. These over stringent requirements* (based on national & state data rather than local data)

C000989

will cause work delays and stoppages that will also affect other steps in the construction process. They will add months if not years to project schedules that would not only make the project financially unfeasible, but ultimately cause a harmful impact on the environment itself.

These excessive restrictions will drive up all construction costs and impact hundreds of jobs. While work sites are idle, jobs will be lost because many companies will be unable to support their workforce during shut downs and/or may be forced out of business all together. Ventura County cannot afford this unnecessary setback to its economy.

Our current BMPs are some of the strongest in the nation and are working well. Those of us in the construction industry want to have a positive impact on the environment too, but we must all work together to create a mutually beneficial permit. We request that the regional board work closely with the local construction business community to modify the draft permit's requirements to support not only our environment, but the practical needs of the community and business as well.

* We find the following requirements of particular concern : " F. Development Construction Program...1. Grading prohibitions...(a)...(1) No grading shall occur between October 1 - April 15....(A) On hillsides with slopes 20%...(C) Within or adjacent to an environmentally sensitive area (ESAs)." The latter is especially problematic because it is very open ended and does not clearly define the ESAs. Such imprecise statements are often open to such a wide variety of interpretations that they can be easily abused.

We appreciate your sincere consideration in this very critical matter that impacts all the citizens of Ventura County.

Thank you,

Tony Morelli

District Manager

AGC California . Tri-Counties District
452 Arneill Road, Camarillo, CA 93010
Phone: (805) 388-7330
Fax: (805) 388-7329
<mailto:agctrice@agc-ca.org> agctrice@agc-ca.org
Please visit our website at: <http://www.agc-ca.org/> www.agc-ca.org

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C000990

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CC: "John Hakel" <hakelj@agc-ca.org>, "Mark Grey" <mgrey@biasc.org>, "Tony Morelli" <morellit@agc-ca.org>

C000991

Ventura County Watershed Planning Project
Watershed-based Planning Solutions for Ventura County

**MEMO: Opportunities and Challenges for the Integrating Water and Land Use
Comments on the Second Draft of the Ventura County Municipal Stormwater Permit
October, 2007**

Overview: The Los Angeles Regional Water Quality Control Board should be commended for trying to implement “an integrated approach to water quality and resources management.” It is a challenge - as Aldo Leopold noted: *“Integration is easy on paper, but a lot more important and more difficult in the field than any of us foresaw.”*

The second draft of Ventura County’s Municipal Stormwater permit improves upon the first draft in terms of the emphasis it places on integration. In particular, there is improvement in the recognition that solutions must be coordinated across different scales. The first draft’s focus on site-scale solutions was to the detriment of district and regional scale solutions, which many times yield far greater and far more cost-effective stormwater management than site-by-site practices. Though the 5% EIA provision still creates a site-level focus, the 2nd draft also refers to combinations of site, subregional and regional controls, which supports broader uses of “natural infrastructure” and creates opportunities for coordinated solutions that fit different types and sizes of development. The use of LID credits creates flexibility needed to link correct solutions to different development situations, and to address the most formidable problems. An integrated approach is also supported with the continuation and refinement of the Redevelopment Project Area Master Plan or RPAMPs.

For the final permit, these improvements can be built upon. Some challenges and opportunities are laid forth below, and are followed by suggestions for specific permit language. A separate memo with discussion and specific policy ideas related to the use infill and redevelopment is also included.

I. The Opportunities and Challenges

The second draft contains improvements with:

- 1) The emphasis on redevelopment as an environmental benefit remains.
- 2) The increased emphasis on flexibility, including the regional mitigation bank, redevelopment strategies and a new credit system for Low Impact Development.
- 3) A revised emphasis on combinations of BMPs, which will assist planners and engineers as they develop “treatment train” approached for infiltration and treatment. (page 53)
- 4) The emphasis on program integration
- 5) The attention to low impact designs for the entire landscape and the addition of scale as it applies to implementing low impact development. This will help Ventura County and its cities improve upon LID design and avoid the impacts associated with development that is “green” at the site scale, yet high impact due to its location in the watershed.
- 6) The continued inclusion of housing as an issue for watershed protection.

Challenges for resource-efficient planning in Ventura County and LGC members include:

- 1) The quantifiable recognition of mixed use and alternative transportation as it relates to lessening impacts to the watershed (in particular for stormwater runoff) at various scales. This is a nationwide challenge, which will be brought to the fore with this permit. The delineation of the RPAMPs will certainly shape the data collection, methodology and modeling needed.
- 2) While the permit gives recognition to the factors shaping an efficient development footprint for redevelopment, compact new development may still be at a disadvantage without express permit support (See Suggested language below).
- 3) The limitation of Effective Impervious Area (EIA) to less than 5% is a clear, strong, measure, however, there has been inadequate vetting of how it might affect site and community design once wider adoption takes place. Setting a “one size fits all” performance criteria has proven around the country to have negative consequences, in particular for small lots. The University of Maryland is documenting how otherwise smart policies have backfired with broad-brush approaches. In ultra urban areas, compliance with the Americans with Disability Act’s requirements on pavement and access would exceed 5% for small lots.
- 4) Another issue is the relationship between Municipal Action Levels and the overall objectives of the permit, including support of LID. Though the Local Government Commission project is not engaging in MALs directly, some questions related to the implementation of other practices remain:
 - a. Are MALs the most effective strategy for measuring compliance? Will the MALs support implementation of the permit requirements? Will their cost create a financial barrier to better planning and management given limited local government resources to “do it all?” Do MALs, an end-of-pipe approach to enforcement, fit with a new era of stormwater that aims to address stormwater issues at the source? Will meeting MALs rise to the top of priorities, even though other activities will, in the long run, provide better water resource and environmental protection?

These are questions that are worth considering to ensure that the permit gives local governments the best opportunities to succeed in implementing more sustainable policies and development practices.

- 5) LGC is engaged in several activities related to aligning and integrating land use and water codes, performance standards and guidance. The following list represents a subset of the various plans, codes and standards dealing with how and where impervious cover is put in place, or similarly, where LID techniques face regulatory barriers:
 - a. Zoning Codes
 - b. Subdivision Regulations
 - c. Parking Codes, in particular “Landscaping in Parking”
 - d. Fire Protection District Standards on accepted materials
 - e. California Building Code language on drainage
 - f. Landscape Guidelines for Commercial Development, including irrigation rules
 - g. Water Conservation and Plant Selection Guidelines
 - h. Local Street Design Standards and Access standards (e.g. Driveways and Aprons)
 - i. Building Codes related to Expansive Soils
 - j. Design Guidelines for Parks and Open Space

- k. Impact Fee structure
- l. General Plan and Updates
- m. CEQA guidelines for Initial assessments
- n. Specific Area Plan documents
- o. Redevelopment and Downtown Programs
- p. Floodplain and Floodway development rules
- q. Assessment Districts
- r. Developer Agreements
- s. TMDL Implementation Plans
- t. Integrated Regional Watershed Management Plan

This list can also be viewed as the list of documents that each permittee or co-permittee must review and update.

II. Specific Language Suggestions for further improving the permit

The suggestions below refer to specific permit language. The intent is to support comprehensive and coordinated strategies for integrating water and land planning in a manner that is aligned with the planning context of Ventura County, achieves multiple-benefits and promotes sustainable development practices. Page numbers are provided to refer Regional Board staff to the correct location and bold text is used to highlight specific changes.

RPAMPs PG 59

(c) A Permittee or a coalition of Permittees may apply to the Regional Water Board for approval of a Redevelopment Project Area Master Plan (RPAMP) for **development** projects within Redevelopment Project Areas, in consideration of: **1) the fact that development in certain locations, patterns, and intensities provide higher environmental performance than others; 2) the potential watershed benefits of infill and redevelopment that are typically not recognized in conventional site-level stormwater models; and 3) the importance of balancing water quality protection with the needs for adequate housing, population growth, public transportation and management, land recycling, and urban revitalization.**

(d) For the RPAMP to be considered, a technical “Urban Design Strategies” (UDS) panel will **be developed to review and approve criteria for a proposed RPAMP** prior to its submittal to the Regional Water Board, for conformity with the balancing of interests identified in (b), including water quality. The Regional Water Board Executive Officer may then consider the RPAMP for approval, or elect to submit it to the Regional Water Board for consideration. **The UDS panel can be developed with the assistance of the Local Government Commission or an equivalent state or regional planning agency or organization.** (e) The RPAMP, on approval, may substitute in part or wholly for on-site post-construction and hydromodification requirements. (f) Redevelopment Project Areas include the following:

- (1) City Center areas.
- (2) Historic District areas.
- (3) Brownfield areas.
- (4) Infill Development areas.
- (5) Urban Transit Villages.
- (6) Mixed Use Project Areas.
- (7) Any other redevelopment area so designated by the Regional Water Board.

Under I Purpose on PG 49

(a) Minimize the percentage of impervious surfaces on land developments to support the percolation and infiltration of storm water into the ground, **and support preventative land development practices that conserve ecologically valuable areas, reduce overall amounts of impervious surface cover, and help to direct development away from ecologically valuable areas into already disturbed areas.**

(e) Prioritize the selection of BMPs suites to remove storm water pollutants, reduce storm water runoff volume, and beneficially reuse storm water to support an integrated approach to protecting water quality and managing water resources in the following order of preference:

- (1) Low Impact Development Strategies (see the following section E.III.2).
- (2) Integrated Water Resources Management Strategies.
- (3) Multi-benefit Landscape Feature BMPs.
- (4) Modular/ Proprietary Treatment Control BMPs.
- (5) Coordinated Community Design strategies for efficient land use.**

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(b) The Permittees shall develop a LID Technical Guidance Section to the Ventura County Water Guidance Manual for Storm Water Quality Control Measures no later than (365 days from the Order's adoption date) for use by land planners and developers. The LID Technical Guidance Section shall include objectives and specifications for integration of LID strategies in the areas of:

- (1) Site Assessment.
- (2) Site Planning and Layout.
- (3) Vegetative Protection, Revegetation, and Maintenance.
- (4) Techniques to Minimize Land Disturbance.
- (5) Techniques to Implement LID Measures at Various Scales
- (6) Integrated Water Resources Management Practices.
- (7) LID Design and Flow Modeling Guidance.
- (8) Hydrologic Analysis.
- (9) LID Credits.
- (10) Techniques to Promote Efficient Land Use.**

(c) The Permittees shall facilitate implementation of LID by providing key industry, regulatory, and other stakeholders with information regarding LID objectives and specifications contained in the LID Technical Guidance Section through a training program. The LID training program will include the following: (1) LID targeted sessions and materials for builders, design professionals, regulators, resource agencies, and stakeholders. (2) A combination of awareness on national efforts and local experience gained through LID pilot projects and demonstration projects. (3) Materials and data from LID pilot projects and demonstration projects including case studies. (4) Guidance on how to integrate LID requirements into the local regulatory program(s) and requirements. (5) Availability of the LID Technical Guidance regarding integration of LID measures at various project scales. (6) Guidance on the relationship among LID strategies, Source Control BMPs, Treatment Control BMPs, Hydromodification Control requirements, *and community design strategies.*

The Local Government Commission greatly appreciates the opportunity to work with the Los Angeles Regional Water Quality Control Board and local stakeholders in Ventura County to align water and land use in a manner that achieves comprehensive and coordinated planning and management solutions.

Ventura County Watershed Planning Project
Watershed-based Planning Solutions for Ventura County

MEMO: Policy Ideas for Infill and Redevelopment in the Ventura Draft Permit
August, 2007

Background

The Local Government Commission (LGC) has been working with local agencies, the Regional Board, and other stakeholders to develop strategies that align local land use planning and stormwater management in Ventura County. The draft stormwater permit has been a focal point of the effort so far. The draft permit supports LID, which is a great step forward, but still faces the challenge of supporting good urban and community design principles that are essential to reducing per-capita imperviousness and conserving ecologically valuable areas by concentrating future growth. LGC has convened three meetings to discuss these issues and potential solutions. LGC issued a whitepaper discussing opportunities for supporting “smart growth” planning principles in the permit.

This memo aims to *clarify the stormwater benefits of infill and redevelopment*, and *presents three policy ideas* for establishing a regulatory framework to support and provide credit for compact community design principles or “Smart Growth” in the Ventura Countywide Stormwater permit. These three elements would be mutually supportive and could be initiated in part, through the current Ventura County Regional Watershed-based Planning project. They include:

1. Refining the RPAMP concept to create a community or district scale planning system that provides regulatory support for infill and redevelopment as stormwater BMPs, and relieves the administrative burdens of the current RPAMP program;
2. Establishment of “credit system” to support urban design practices that reduce watershed level imperviousness of new development;
3. Establishment of an expert “Urban Design Strategies” advisory panel that will oversee the development of an effective credit system and help to establish criteria for the RPAMP or whatever other “district-level” planning system is created to support urban design strategies like infill and redevelopment as stormwater BMPs.

Clarifying Infill and Redevelopment as Stormwater BMPs

Infill and redevelopment are among the most effective ways to reduce development impacts at a watershed-level. To understand the benefits, however, requires moving away from the “percent removal” standard for measuring the performance of best practices, to one that also looks at the prevention of excess runoff and its impacts in the first place. Moreover, preventing impacts will lessen the need to develop extensive maintenance plans, since the benefits are, literally, built-in and self-sustaining.

Redevelopment prevents generation of “new” impervious cover by making use of areas that are already developed. Infill focuses growth into already developed areas, reducing “sprawl” and

creating a more compact development footprint. This also reduces per capita imperviousness and prevents conversion of natural land cover on the urban fringe and in ecologically-sensitive areas. Both strategies help to concentrate the impacts of development into areas that are less valuable from a watershed or ecological view.

Specific benefits are drawn-out below:

1. Infill and redevelopment occur within already developed areas, which relieves development pressure on undeveloped or "greenfield" sites that offer ecological services.
2. Infill and redevelopment tend to occur within areas already served by infrastructure. The benefits accrue when existing roads and other service infrastructure can be used instead of being created. Moreover, infill and redevelopment enhance the local tax base, which increases funding for infrastructure repair, upgrade and water quality/quantity retrofit.
3. Infill and redevelopment are typically part of a more compact development format. Older cities and suburbs were planned and developed at a time when parking standards, setbacks and streets were geared more to pedestrian access. This, in turn, brought uses closer together. While compact development tends to be highly impervious at the site level, compact districts can reduce the overall development footprint within the watershed.
4. Infill and redevelopment on small lots are served by a much smaller complement of public infrastructure. This reduction in frontage (and thus roadway) is often overlooked, in particular for analyses that only look at on-site imperviousness. For modern five-lane arterial roads, each 10-foot increment in parcel frontage is served by almost 600 square feet of pavement needed to reach the next lot.
5. Further benefits arise from infill and redevelopment in compact districts when automobile trips are substituted by walk trips. Air deposition of exhaust components are reduced, as are metals deposited by brakes and tire wear.
6. Infill and redevelopment projects tend to have higher densities. Instead of one-story buildings, many urban projects are two to three stories high (or higher in commercial core districts), though they may cover the entire site with building footprint, parking and pedestrian access. The draft permit's focus on the footprint (effective impervious surface) overlooks the watershed benefit of placing additional stories of development demand under one roof (instead of several roofs).
7. Infill and redevelopment offer the opportunity to retrofit vacant lots, many of which are 100% effective impervious surface.

Challenges for Recognizing the Benefits of Redevelopment and Infill within the Permit

Not unlike many other permitting authorities, the LAWQRB faces several challenges in recognizing the benefits of infill and redevelopment. The challenges can be grouped as follows:

1. Infill and redevelopment projects do not all start at the same level of interest or funding. While many redevelopers will recognize the value of LID and begin to assimilate the cost of new BMPs with the cost of existing landscaping or building systems, there are many vacant or abandoned properties that are not drawing investment even under current rules. Observers have noted that the stringency of the new permits may be poised to drive development to greenfields. However, land owners and developers may also choose to rehabilitate their building rather than redevelop. In these cases, there will be no

- mechanism for mitigation since trigger levels of land disturbance are not met. Note this also means that other benefits accruing from redevelopment will not materialize as well, such as introduction of use mix, shared parking, housing, an enhanced tax base and so on.
2. As noted above, conventional stormwater management and engineering focuses on "percent removal" of pollutants or volume reduction on individual sites. These conventions have made their way into permitting and regulatory language, as well as guidance on BMP selection. Very little research or models exist to incorporate preventative stormwater Impacts.
 3. Infill development may occur on pervious parcels, so some watershed value may be lost. However, the function lost on a smaller footprint is far less than having the same development demand satisfied under typical greenfields zoning.
 4. Redevelopment in built-out watersheds is likely to be the main path (under permits that are triggered by disturbance of 5,000 square feet or larger) to retrofitting properties. Exempting redevelopment thus eliminates this main path to improving the impacts of stormwater.

Three Policy Ideas for Addressing these Challenges and Opportunities in the Permit

1) Making RPAMPs Work

Redevelopment Project Area Master Plans (RPAMPs) are one proposed mechanism forwarded to support redevelopment and more compact development. RPAMPs present a unique opportunity to define, assess and demonstrate the stormwater benefits of a coordinated redevelopment district. Perhaps the most powerful feature of RPAMPs is that they level the post-construction playing field between greenfields and redevelopment areas. How? Large greenfields projects are considered a "Common Development Plan." As such a developer has many options to meet the performance criteria even if individual parcels do not. While many redevelopment projects are part of a common plan, they do not enjoy the same flexibility during site design. The RPAMP serves the useful tool of creating drainage options for older commercial areas. However, municipalities have indicated that the RPAMP is likely to be unmanageable as currently conceived. One solution is to develop an expert panel to establish design / performance criteria for the RPAMPs and to determine the best ways to implement the RPAMPs. Preliminary language to carry the "advisory panel" concept forward was included in the 2nd Draft of the Permit. Further discussion of an "Urban Design Strategies" advisory panel is included in a separate section below. Suggested revisions to the current permit language are included there as well in the separate Memo providing specific comments on the 2nd draft of the permit.

According to the permit, the RPAMP "may substitute *in part* or wholly for on-site post-construction requirements." To cut down on administrative barriers and streamline the process of developing and approving RPAMPs an "advisory panel" could be developed that would be responsible for establishing criteria for RPAMPs, policy indicators for compliance, and approving a standard system (perhaps a sliding scale, point or rating program) that would determine the level of exemption for a given project within an RPAMP (e.g. must meet 50% EIA requirement, or the project is entirely exempt, etc.). In the short term, acknowledgement of "imperviousness avoided" or assessment of imperviousness per unit can guide discussion about measuring stormwater benefits of smart growth strategies.

One of the more complicated tasks will be to judge when a redevelopment district serves “in part” or “wholly” as a substitution for on-site post-construction requirements and what defines the gradations in between. LGC has initiated discussion between stakeholders, developed a conceptual “sliding scale” and begun analysis of several “smart growth” or “sustainable development” rating systems with the hope of developing a tool for assessing the watershed, stormwater, and community benefits associated with distinct but linked urban design strategies like use mix, redevelopment, and affordable housing.

One option is to make use of existing “policy infrastructure” by using well-developed specific or district plans in the Ventura region as a basis for future RPAMPs.

2) Smart Growth Credit Program

There is no counterpart of “RPAMP” for new development, even though the same interplay is needed to produce compact districts that consume less land per new project, specific plan area, and/or master planned communities.

Recognizing the environmental benefits associated with Smart Growth development, and the potential challenges of implementing a 5% EIA standard for areas of higher density, a credit program can be established for review and approval by an Urban Design Advisory Panel. The goals of the program would be to prevent dispersed development patterns so as to minimize land disturbance and consumption, as well as to minimize watershed-level imperviousness through an rating system that allocates points for implementing certain development strategies. This program can build on a number of sustainable planning and design rating systems including LEED ND, which places significant emphasis on the location and form of development.

3) Urban Design Strategies (UDS) Advisory Panel

Developing comprehensive and coordinated planning and design solutions is a challenge. In LGC project meetings it was indicated that RPAMPs would be too much of an administrative burden for either Regional Board staff or Local Government staff to develop for them to be used, and that expertise was needed to help establish standard performance criteria and overall guidelines for the development and implementation of RPAMPs. Regional Board staff offered the idea of developing an expert panel through the current LGC project to alleviate the administrative burden and provide needed expertise. Recognizing the unique planning context of Ventura County, LGC proposes that an expert advisory panel be developed to serve throughout the term of the permit so as to:

1. Oversee development of an effective credit system for alternative compliance;
2. Oversee development of criteria for RPAMP areas; and
3. Work with local governments to identify plans or policies to build upon for developing RPAMPs;
4. Review and approve individual RPAMP plans.

It is essential that any alternative compliance or “non-traditional” stormwater strategies be viewed as effective and compliant with the requirements of the permit. The Urban Design Strategies advisory panel would provide needed oversight to ensure that urban / community design plans that support smart growth principles would be effective in meeting local and

regional water management goals. The current LGC process offers a venue to initiate development of rating criteria and discuss the composition of the RPAMP advisory panel.

Recommended revisions to RPAMP language:
RPAMPs PG 59

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- (7) Any other redevelopment area so designated by the Regional Water Board.

The Future of Stormwater Management: Coordinating Site to Regional Solutions

Truly sustainable development must not only mitigate, but also prevent impacts through comprehensive and coordinated planning and management. Ventura County is not the only place seeking to coordinate efficient land use and sustainable site design.

The US EPA is developing new General Permit language that recognizes that not all development has the same environmental impacts. The EPA’s new language aims to facilitate incorporation of “green infrastructure” that can infiltrate, reuse, and evapotranspire runoff, in a state and municipal stormwater management programs and also to recognize that *some development patterns have better environmental performance* (e.g., infill, redevelopment, and mixed use) than others (e.g. dispersed, separated uses, low density, auto-dependent) no matter how well they are designed at the site-level. This new language includes a point system that aims to recognize the environmental benefits that certain development types have over others. The new language will ensure that all developments address stormwater on-site, but that some types

of development, which start out at a higher level of environmental performance, (i.e. compact redevelopment that outperforms greenfield sprawl) can receive a reduction in the amount of runoff that must be managed on site. Points are allotted for land uses that have higher environmental performance than conventional development including infill, redevelopment, mixing uses, increased density and Transit Oriented Development (TOD).

The City of Grand Rapids is an example of a municipality that has established a credit system for rewarding demonstrated runoff reductions, water quality benefits, and environmental performance of compact community design practices. Grand Rapids began with the fact that “a higher-density residential development will generate less runoff than a lower-density residential development with the same number of residences. Although the higher-density development will have a greater percentage of impervious area per acre of development, the total impervious area per residence actually will be less. Thus, each residence will generate less runoff, thereby having less of an impact on the community’s water resources.”ⁱ The approach shows an evolving understanding of impervious surfaces – that the overall amount of imperviousness associated with development is not the only concern, that the amount of imperviousness *per-unit or per-capita* is far more meaningful since communities are growing to accommodate numbers of people, jobs, and businesses. Recognizing that impervious surfaces were associated with certain amounts of growth, and that certain types of development and certain development patterns would lead to more or less overall impervious cover, Grand Rapids developed a standard evaluation method to be used for granting a waiver or reduction in the city’s stormwater regulations for higher-density development. A write-up of the Grand Rapids program is attached and an article in the October issue of *Stormwater* can be found here: www.gradingandexcavation.com/sw0710_evaluation.html

ⁱ Lemoine, R., (2007) “An Evaluation of the Reduced Environmental Impact From Higher Density Development” October 2007 Issue of Stormwater Magazine

AN EVALUATION OF THE REDUCED ENVIRONMENTAL IMPACT FROM HIGH-DENSITY DEVELOPMENT

Intuitively, a high rise building will generate less rain water runoff than a single-story building of the same floor area. This is because the high rise will have less roof area (impervious area), resulting in less runoff. Less intuitive is the fact that a higher density residential development also will generate less runoff than a lower density residential development with the same number of residences. Although the higher density development will have a greater percentage of impervious area per acre of development, the total impervious area per residence actually will be less. Thus, each residence will generate less runoff, thereby having less of an impact upon the community's water resources. This fact has been documented by the United States Environmental Protection Agency (EPA) in a report (EPA publication 231-R-06-001) entitled "Protecting Water Resources with Higher-Density Development". Consistent with the City of Grand Rapids' desire to promote "Low Impact Development" and "Smart Growth" initiatives, city staff expanded upon the EPA report by evaluating the water resource impacts for higher densities and different types of development, with the intent of determining the appropriate density thresholds to define high density development, and to establish a standard evaluation method for granting a waiver or reduction in the City's stormwater regulations for high density developments.

Evaluation of Development Types and Densities

As in the EPA report, the City's runoff evaluation is based upon the runoff caused by impervious areas such as roofs, roads, driveways and sidewalks per unit of development, rather than simply looking at the percent of impervious area. Therefore, a residential development is evaluated on the average impervious area per residence, a parking facility development on the average impervious area (exposed impervious surface area) per parking space, and an office or commercial development on the average impervious area (roof area) per gross floor area. The impervious area for a higher density development is compared with the impervious area of a pre-defined, low-density development with an equal number of development units (residences, parking spaces, gross floor area). The runoff reduction is estimated by subtracting from one, the ratio of the site's actual impervious area ($A_{i_{site}}$) divided by the impervious area ($A_{i_{LD}}$) of a low density development having the same number of units, and converted to a percentage.

$$\text{Equation 1} \quad \text{Percent Runoff Reduction} = (1 - A_{i_{site}} / A_{i_{LD}}) \times 100\%$$

Impact Reduction Goal

A previous evaluation of vegetated roof systems conducted by Grand Rapids city staff had determined that vegetated roof systems provided more than an eighty percent reduction in runoff when compared with a standard roof. The eighty percent runoff reduction justified granting a waiver of the stormwater management requirements, since the impact of a vegetated roof system closely resembled that of natural pervious areas. Therefore, it seems reasonable to use the same eighty percent (80%) runoff reduction as the threshold for the granting of a waiver for high density developments.

Residential Development

The chart shown as Figure 1 displays the runoff reductions from the EPA report and from Grand Rapids' extended analysis. The resulting curves are very similar for the densities evaluated in both of the analyses, the only difference being that Grand Rapids' analysis was extended to include much higher densities. The curves show a rapid rise in the percent of runoff reduction between the densities of one residence per acre and five residences per acre, followed by smaller runoff reductions indicated by a flattening of the curve as densities increase beyond five residences per acre. Although there were only three different densities evaluated in the EPA report, the same rapid rise and flattening of the curve is evident.

The EPA report effectively demonstrates that higher density developments will result in less impact on the overall watershed. However, the density of one residence per acre for the base low density residential development does not seem appropriate when applied to urbanized communities for consideration of waiving the stormwater management requirements. Generally, urbanized communities have very few residential areas with densities less than five residences per acre. And, given the dramatic difference in runoff impact (150 percent) for developments of one residence per acre versus five residences per acre, the definition of a low density residential development is five residences per acre for this analysis, rather than one residence per acre as defined in the EPA report.

Typically, a residential development with five residences per acre will have an average of 4700 square feet of impervious area per residence. The impervious area includes roof, patio, sidewalk, and driveway. Figure 2 shows the relative percent of runoff reduction for higher densities compared with an equivalent low density residential development of five residences per acre with the same number of residences. The eighty percent (80%) runoff reduction for residential developments is obtained at a density of thirty-eight (38) residences per acre.

Parking Facility Development

The configuration for low density parking facilities was defined as a one acre surface parking lot with a ten foot vegetation buffer on three sides, two parking spaces on each side of a single twenty foot wide drive aisle and a driveway at each end. The parking spaces were assumed to be nine feet wide by twenty feet long. The low density parking facility has an optimum density of 134 parking spaces per acre with a total impervious area of 36,850 square feet, resulting in a unit density of 275 square feet of impervious area per parking space. The higher density parking facilities were defined as being a one acre multi-level parking facility. A "rule of thumb", which was provided by Mark DeClercq of Walker Parking Consultants, for estimating parking deck area needed to accommodate a given number parking spaces is 350 square feet of deck area per parking space. Assuming a parcel size of one acre, the parking spaces per level was calculated by taking 43,560 square feet per acre and dividing by 350 square feet per parking space, which yields 124 spaces per parking level. Since only the upper level of a multi-level parking facility receives rainfall, the runoff will remain constant regardless of the number of parking levels. Therefore, while the number of parking spaces increases with each additional parking level, there is less runoff per parking space. The chart labeled Figure 3 shows the relative percentage of runoff reduction compared with an surface parking lot with the same number of parking spaces. The eighty percent runoff reduction occurs when there are six levels of parking, which translates into a density of 744 parking spaces per acre of land area used by the facility.

Commercial and Office Development

The configuration for the low density commercial/office development was defined as a single story commercial or office building. The runoff was estimated for the building area being 100% impervious. Since a building's density is related to the floor space, the ratio of floor space area divided by the building roof area was used as the indicator for density. The eighty percent (80%) threshold is reached by buildings with a gross floor area five times greater than the building roof area, or in other words, by buildings that are at least five stories in height. Figure 4 is a chart showing the relative percentage of runoff reduction compared to a single story building of equal floor space.

Mixed Use Development

Most high density developments involve a mix of uses. Such developments typically have retail use at street level, parking decks in the back and beneath the development, office spaces on the second and possibly third levels, and residential use on the remaining upper floors. Therefore, an empirical method is needed for evaluating the runoff impact reduction for such mixed use developments.

The evaluation is based on the average impervious area per unit of the pre-defined low density development unit, which is shown in the following table.

Low Density Development Type	Average Impervious Area	Development Unit
Residential	4700 square feet	Residence
Parking Lot	275 square feet	Park-Loading Space
Office - Commercial	1 square foot	Gross Floor Area

The equivalent low density impervious area (A_{iLD}) for each use type is estimated by taking the number of proposed development units (i.e. residences, parking spaces, or gross floor area) and multiplying by the "Typical Impervious Area" for each development unit. The equivalent low density impervious area (A_{iLD}) for a residential development is calculated by multiplying the number of proposed residences by 4700 square feet per residence. The (A_{iLD}) for a parking facility is calculated by multiplying the number of proposed parking spaces by 275 square feet per parking space. And, the (A_{iLD}) for all other uses such as office, retail and hotel is simply the proposed gross floor area. The development's total equivalent low density impervious area (A_{iLD}) for the mixed uses is the sum of the (A_{iLD}) for each of the different uses. The percent runoff reduction is then estimated using Equation 1 (above), incorporating the development's actual site impervious area ($A_{i\text{site}}$) (less any vegetated roof areas) and the development's total equivalent low density impervious area (A_{iLD}).

The goal for granting a waiver from the stormwater management requirements is for at least an 80% reduction in runoff relative to an equivalent low density development. The attached spreadsheet table (Figure 5) shows the calculations for two proposed mixed-use developments in Grand Rapids, the Gallery Project and the 240 Ionia Condominiums, which were evaluated for the granting of a waiver.

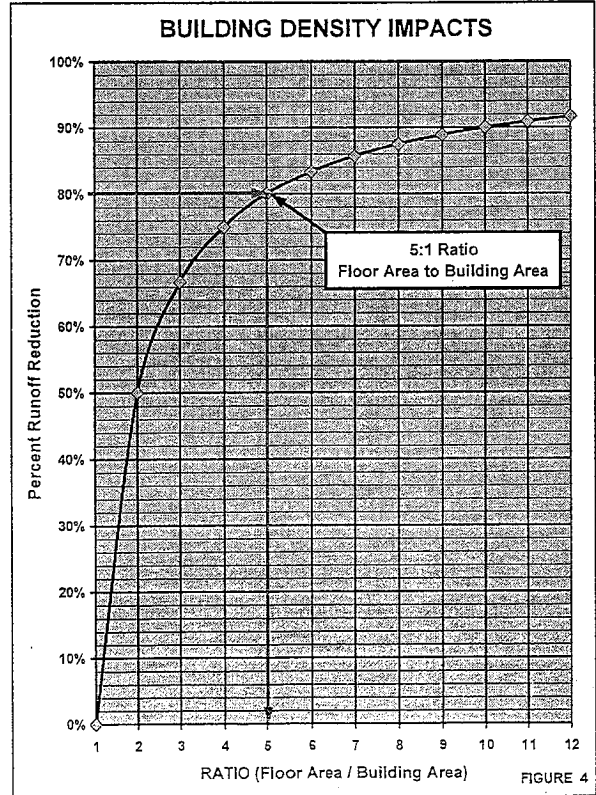
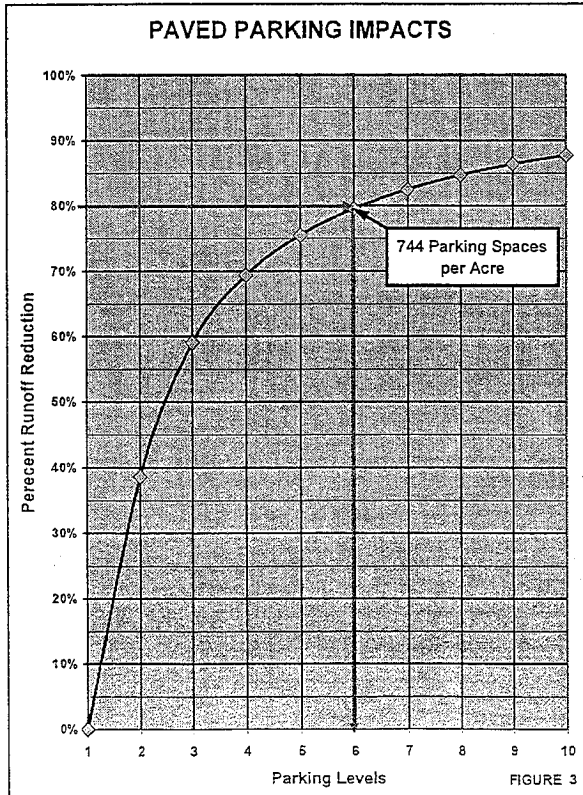
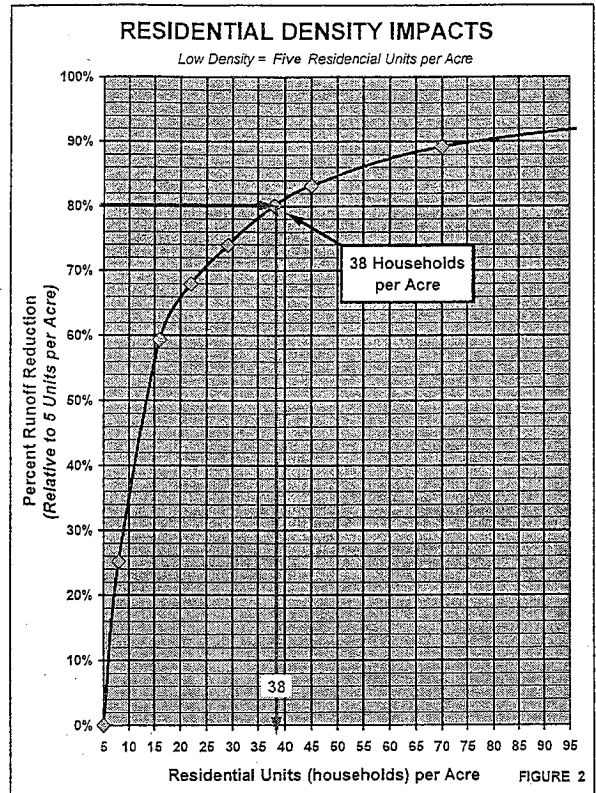
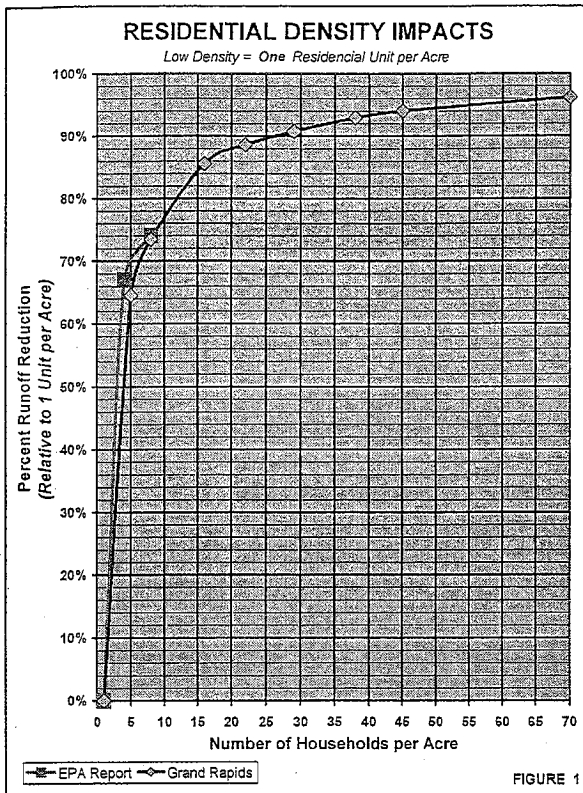
Conclusion

The granting of a waiver from certain stormwater management requirements for high density developments makes good sense from an overall watershed perspective. High density developments provide more spaces for living, working and commerce while reducing the total disturbed land area, requiring fewer streets, and minimizing the overall volume of runoff discharged into the surface waters of the watershed. In spite of these environmental benefits for the watershed, the increased peak discharge from high density development into local and downstream drainage systems must be considered. If the local and downstream drainage systems can accommodate that discharge, as is the case for the Grand Rapids downtown area, than a waiver can be granted. However, if the local and downstream drainage system cannot accommodate that discharge, public officials need to consider improvements to the drainage system (including offsite detention) to accommodate the granting of such a waiver. Therefore, although high density development should be fostered as a watershed "best management practice", consideration must be given to the capacity of the local and downstream drainage systems to accommodate and manage the peak discharges, before a waiver or reduction in the stormwater management requirements is granted.

Prologue

Currently, the City of Grand Rapids has granted waivers for two high density developments. These two developments, involving a total of 1.2 acres of re-development, avoided the creation of over fourteen acres of impervious area elsewhere in the watershed. This more than ten-fold reduction was due, in large part, to the City's policy that deliberately recognizes the value of high density development and rewards such development by reducing or waiving certain stormwater requirements. Combined with other "low impact development" policies and practices like promoting the Green Building Council's LEED certification, vegetated roof covers, porous paving, rain gardens, and runoff capture & reuse, the City of Grand Rapids is quickly redeveloping into a community with a healthy environment in which to live, work and play.

*By Randel Lemoine, P.E.
City of Grand Rapids, Environmental Services*



THE GALLERY PROJECT

Site Impervious Area	37,245 sf
Vegetative Roof Area	12,356 sf
Impervious Area (site area - vegie roof area) = $A_{i_{site}}$	24,889 sf

EQUIVALENT IMPERVIOUS AREA (low density)

Residential	0 units
Residential Usage Area =	
0 residences x 4700 sf/residences =	0 sf

Parking	
Public	152 spaces
Hotel	113 spaces
Total	265 spaces
Parking Usage Area =	
265 spaces x 275 sf/space =	72,875 sf

Hotel Area	114,300 sf
Retail Area	14,342 sf
Cultural Retail	36,936 sf

Total Equivalent Impervious Area = 238,453 sf

Runoff Reduction

$(1 - A_{i_{site}} / TIA) \times 100\% = 89.6\% > 80\%$

240 IONIA CONDOMINIUMS

Site Impervious Area	16,887 sf
Vegetative Roof Area	0 sf
Impervious Area (site area - vegie roof area) = $A_{i_{site}}$	16,887 sf

EQUIVALENT IMPERVIOUS AREA (low density)

Residential	72 units
Equivalent Residential Area	
72 units x 4700 sf/unit =	338,400 sf

Parking	72 spaces
Equivalent Parking Area	29,843 sf
72 units x 275 sf/parking space =	19,800 sf

Retail Area	4,819 sf
Office Area	8,317 sf

Total Equivalent Impervious Area = 371,336 sf

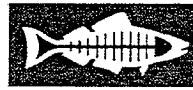
Runoff Reduction

$(1 - A_{i_{site}} / TIA) \times 100\% = 95.5\% > 80\%$

FIGURE 5



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Heal the Bay

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October 15, 2007

Chair Francine Diamond and Members of the Board
California Regional Water Quality Control Board, Los Angeles Region
320 W. 4th St., Suite 200
Los Angeles, CA 90013

Re: Second Draft Ventura County Municipal Separate Storm Sewer System Permit, dated August 28, 2007 (NPDES Permit No. CAS004002)

Dear Chair Diamond and Members of the Board:

On behalf of Heal the Bay and the Natural Resources Defense Council, we submit the following comments on the August 28, 2007, Second Draft Ventura County Municipal Separate Storm Sewer System Permit ("Second Draft" or "Permit"), NPDES Permit No. CAS004002. We continue to support strongly many of the aspects of the Permit. We submit these comments to address important areas in which the Permit must be strengthened to meet the maximum extent practicable ("MEP") standard for municipal dischargers and best resolve Ventura County's water quality problems.

Our comments concern four areas within the Permit: (1) municipal action levels; (2) performance criteria for best management practices ("BMPs"); (3) low impact development; and (4) monitoring requirements. We believe that the Permit can be – and needs to be – revised as we have described in order to meet the Clean Water Act's NPDES standards.

I. Municipal Action Levels ("MALs")

The MALs provided in the Permit are seriously flawed and should be either completely revised or removed.

The Second Draft includes municipal action levels ("MALs") that were calculated using nationwide Phase I MS4 monitoring data. The Clean Water Act requires municipal dischargers to reduce stormwater pollution to the Maximum Extent Practicable ("MEP"), a standard that continually evolves and improves as better technologies become available and are demonstrated to be effective. In the Second Draft, the Board is using the MALs to represent MEP numerically. While we agree that MALs can be useful as interpretations of the MEP standard, the values presented in the Second Draft are completely inappropriate and in no shape or form represent MEP.

Although MALs are not intended to reflect water quality standards, the comparison to California Toxics Rule ("CTR") criteria brings to light flaws with the proposed values. As shown in the following table, the proposed copper, lead, and zinc MALs are significantly less

C001009

stringent than CTR criteria. For instance, the lead MAL is *fourteen times* less stringent than the CTR chronic criterion. Discrepancies of this magnitude are not substantiated.

Parameter	Proposed MAL (ug/L)	CTR Acute Criterion(ug/L)	CTR Chronic Criterion(ug/L)
Total Cu	70.7	13.5	9.38
Total Pb	62.2	82.17-110	3.16-4.24
Total Ni	19.2	470.9	52.16
Total Zn	756	122.7	121.7

Table 1: Comparison of proposed MAL values and CTR criteria

More important, a comparison of the MALs to actual BMP performance data shows that the MALs are flawed and that they do not represent the MEP standard. The attached tables (Exhibit 1) were taken from an analysis by Geosyntec Consultants of the ASCE/EPA BMP database.¹ The comparison of the proposed MALs to demonstrated BMP effluent water quality clearly indicates that the MALs are set to reflect relatively poor BMP performance, not average or “best” practicable performance, as specifically required by the Clean Water Act’s MEP standard. For instance, the proposed MAL for total copper is 70.7 ug/L, while over 95% of the hydrodynamic devices in the database achieve at least 38.55 ug/L total copper. The median performance is 15.409 ug/L. As another example, the MAL for zinc is 756 ug/L, while even the worst 5% of biofilter BMPs achieve 181.275 ug/L. The median performance is 30.256 ug/L.

In other words, almost all of the BMPs that were monitored achieved better effluent water quality than the proposed MAL in these cases, and the median performance is vastly superior to the MAL value. This discrepancy between the proposed MALs and demonstrated BMP performance cannot be justified given that MALs are defined to reflect and interpret MEP. The data set forth above show that, presently, MALs actually represent a Lowest Extent Practicable (“LEP”) standard in many instances. Dischargers can “practicably” achieve significantly higher effluent quality than the MAL values suggest. Moreover, the inadequate MALs are weakened even further by the Permit’s allowance for exceedances of the MAL values up to 20% of the time.

The MAL concept has great potential as an expression of MEP. Staff should be supported and encouraged in their efforts to better define MEP. MALs should furthermore be retained in the final Permit, but they must be strengthened to reflect good science and existing technical achievement in this region and the rest of the country. The Board could use as its reference point the water quality achieved by the top 10% of MS4 programs in the U.S.

¹ The Geosyntec study was an internally funded document on BMP performance. Heal the Bay’s use of this information does not imply any agreement or disagreement by Geosyntec with the conclusions advanced by Heal the Bay.

Alternatively, the Board could utilize the Geosyntec analysis of BMP performance to develop appropriate MALs.

II. Performance Criteria

The Board should include performance-based criteria

One of the most significant shortcomings in previous stormwater permits and municipal stormwater management programs is the lack of performance-based criteria for BMPs. As a result, BMPs are added as part of SUSMP requirements or pollution abatement efforts without any focus on the quality of the water exiting the BMPs. The Second Draft includes numeric design criteria for hydrologic control but does not include water quality-based performance criteria. One of the most effective ways to ensure the success of stormwater programs and the attainment of water quality standards, however, is to require performance-based criteria. Flow-based design criteria are simply not adequate to ensure that water quality standards are consistently met because flow, and corresponding BMP size, is but one factor determining BMP effectiveness. The Board must include scientifically supported, performance-based design criteria in the Permit to move the Region more quickly toward attaining water quality standards for receiving waters.

The recent Geosyntec analysis of the ASCE/EPA stormwater BMP database (summary tables are included as Exhibit 1) paves the way for the development of scientifically sound water quality performance criteria. This analysis contains effluent concentration percentiles for certain parameters and BMPs. The Board should require that BMPs installed at new development and redevelopment projects perform as well or better than 75% of the BMPs in the ASCE/EPA database. The Board should require that BMPs in sub-watersheds that have no demonstrated water quality impairments (i.e., not on the 303(d) list as impaired) or that are not on the list of SUSMP development categories meet *at least* the 50th percentile performance (median) for the term of this permit. No discharger can reasonably refute that it should have to meet median performance criteria.

Obviously, this proposal concentrates on performance and should be accompanied by a design storm component as well. In this situation, we believe that the SUSMP standards should apply. At a minimum, the 85th percentile standard in SUSMP should be used (the 85th percentile runoff event with 0.2 inches per hour intensity). However, in order to move toward attaining water quality standards, a larger design storm, such as the two-year storm, may be necessary.²

² Our recommendations are as follows. Volume-Based Post-Construction Structural or Treatment Control BMPs shall be designed to mitigate (infiltrate or treat) stormwater runoff from: (1) the volume of annual runoff based on unit basin storage water quality volume, to achieve 80% or more volume treatment by the method recommended in the California Stormwater Best Management Practices Handbook – Industrial/ Commercial (1993), the Ventura Countywide Stormwater Quality Management Program Land Development Guidelines; (2) the 85th percentile 24-hour runoff event determined as the maximized capture stormwater volume for the area, from the formula recommended in Urban Runoff Quality Management, WEF Manual of Practice No. 23/ ASCE Manual of Practice No. 87 (1998); (3) the volume of runoff produced from a 0.75 inch storm event, prior to its discharge to a storm water conveyance system; or (4) the volume of runoff produced from a historical record-based reference 24-hour

III. Low Impact Development ("LID")

Our comments on the Planning and Land Development Program of the Second Draft focus specifically on the implementation of green building approaches to reducing storm water pollution. These LID practices utilize various site design and treatment methods to maintain the natural hydrologic characteristics of developed sites; research has shown LID to be the most effective and cost-efficient means of managing stormwater and abating water pollution. In this instance, NRDC has demonstrated through extensive comments and a special technical report authored by the nation's leading stormwater expert that LID has the potential to reduce runoff in Ventura County to zero or near-zero while creating robust additional benefits for the community. These benefits include cost savings for builders and owners and considerable reductions in water demand. For example, using LID, a single restaurant with a 30-car parking lot could capture enough water to meet the needs of a family of four for almost an entire year.³ We believe that the LID element of the Permit has the potential to solve multiple problems and help Ventura County and the State of California meet a range of resource challenges.

We urge the Board to adopt certain changes to the language of the Planning and Land Development Program in order to make its LID component more robust and to eliminate some potential loopholes. Briefly, these changes concern four current deficiencies in the Permit.

- The Permit limits the applicability of LID to new development and redevelopment projects above various threshold sizes, even though LID is adaptable to all sites.
- The Permit requires a reduction of effective impervious area ("EIA") to less than 5% of total project area, instead of the 3% standard that would best prevent the degradation of Ventura County's watersheds.
- The Permit could be interpreted by some to, in practical terms, suspend compliance with LID requirements while alternative post-construction programs are developed. The allowance for alternative programs should not enable Permittees to delay implementation of post-construction stormwater control requirements.
- The Permit contains unclear language that could undercut the intent of the Effective Impervious Area (EIA) limitation by allowing runoff to enter the storm sewer system through improperly sized vegetated areas.

rainfall criterion for "treatment" that achieves approximately the same reduction in pollutant loads achieved by the 85th percentile 24-hour runoff event. Flow-Based Post-Construction Structural or Treatment Control BMPs shall be sized to handle the flow generated from either: (1) a rain event equal to at least 0.2 inches per hour intensity; or (2) a rain event equal to at least two times the 85th percentile hourly rainfall intensity for Ventura County.

³ See R. Horner, *Investigation of the Feasibility and Benefits of Low-Impact Site Design Practices ("LID") for Ventura County* (February 2007) at 15 (hereinafter "Horner Report"). The prototypical restaurant studied by Dr. Horner would capture 0.88 acre-ft. of runoff per year. A typical family of four uses approximately 1 acre-ft. of water per year.

By addressing these issues, the Board will set strong and feasible guiding standards for the implementation of low impact development principles by MS4 Permittees.

A. The Permit ill-advisedly allows projects under a certain threshold size not to implement LID techniques, although all projects are capable of implementing LID techniques in one form or another.

The Second Draft of the Permit has removed the robust LID requirement of the First Draft by limiting the scope of development projects that must incorporate LID to only those projects which meet threshold size criteria. The First Draft stated: "All new development and redevelopment projects shall integrate Low Impact Development ... principles into project design."⁴ The Second Draft, in contrast, contains a general "applicability" section that specifically targets only new development and redevelopment projects over certain sizes.⁵ Projects falling below these threshold criteria would not be required to integrate any post-construction treatment controls such as LID.

The Second Draft's approach is unnecessary, ill-advised, and inconsistent with the MEP standard. LID is not a single prescribed method of stormwater mitigation – it is a suite of strategies, each of which can be applied individually to a site. NRDC's previous comments demonstrated that even small project sites have the space to implement LID with extraordinary results. Every site can incorporate at least some LID design principles, and indeed every site *should* incorporate LID to the maximum extent possible because LID is a proven, cost-effective, and demonstrably superior means of reducing stormwater pollution that would otherwise be discharged from developed sites.⁶

B. The Permit incorporates a 5% EIA standard, but a 3% EIA standard is needed to ensure the health of Ventura County waters.

The Second Draft of the Permit, like the First Draft, does not go as far as necessary to reduce significant adverse impacts to the biological and physical integrity of receiving waters. Scientific analyses have demonstrated that the threshold for negative effects on streams in semi-arid regions of California is 2-3% EIA,⁷ not 5%, as proposed in the Permit.⁸ This empirical

⁴ Los Angeles Regional Water Quality Control Board, *Draft Ventura County Municipal Separate Storm Sewer System Permit*, NPDES No. CAS004002 (Dec. 27, 2006), Part 4.E.I.1 (hereinafter "First Draft Permit").

⁵ Los Angeles Regional Water Quality Control Board, *Second Draft Ventura County Municipal Separate Storm Sewer System Permit*, NPDES No. CAS004002 (Aug. 28, 2007), Parts 5.E.II and 5.E.III.2(a) (hereinafter "Second Draft Permit").

⁶ See Horner Report.

⁷ Horner Report at A-1 to A-2.

⁸ Second Draft Permit, Part 5.E.III.1(a).

reality is not open to serious disagreement. Moreover, Dr. Horner's report (submitted with our comments on the First Draft) demonstrates that our recommendation of 3% EIA can be met practicably for typical developments in Ventura County, and runoff can even be eliminated entirely for most development types.⁹ Because lower EIA standards lead to improved water quality and stream health, we urge the Board to set the EIA standard at 3% in the final Permit.

C. The "Alternative Post Construction Storm Water Mitigation Programs" section of the Permit is dangerously ambiguous because it could allow Permittees to avoid compliance with the Permit or to delay implementation of effective stormwater mitigation strategies.

The Permit contains provisions that create an alternative to compliance with the Permit's onsite post-construction stormwater mitigation requirements. This alternative would allow Permittees to apply for approval of a regional or sub-regional stormwater mitigation program to take the place of the Permit's requirements.¹⁰ The current Permit language, however, contains two problematic ambiguities.

First, the Permit states that alternative programs may "substitute in part or wholly for on-site post-construction requirements,"¹¹ but the Permit does not elaborate under what circumstances such partial or whole substitutions would be allowed. Without specifying the criteria by which the extent of substitution is determined, the Permit effectively invites Permittees to try to avoid the Permit's post-construction stormwater mitigation requirements entirely. The Board and Permittees should instead have clear requirements in this area. The Permit should include explicit provisions detailing how and upon what criteria partial or whole waivers of the Permit's requirements will be granted.

Second, the Permit does not sufficiently guard against delays in the implementation of post-construction control requirements which could result from the submittal of alternative program applications. Part 5.E.IV.4(g) of the Permit somewhat addresses this issue, but it is not clear how and when this provision applies. Rather than stating only that "nothing ... shall be construed to delay the implementation of post-construction control requirements,"¹² the Permit should specify that Permittees applying for alternative programs *must* implement the required post-construction controls unless and until the Board has formally approved an alternative program. Part 5.E.IV.4(g) could potentially be rewritten as follows (changes are italicized): "Nothing in these provisions shall be construed *to allow a Permittee or a coalition of Permittees to delay the implementation of post-construction control requirements, as approved in this Order. Permittees shall implement the post-construction control requirements detailed in this Order until the Regional Water Board has formally approved, and Permittees have begun active implementation of, an alternative regional or sub-regional stormwater mitigation program.*"

⁹ Horner Report at 17.

¹⁰ Second Draft Permit, Part 5.E.IV.4.

¹¹ Second Draft Permit, Part 5.E.IV.4(a).

¹² Second Draft Permit, Part 5.E.IV.4(g).

D. The Permit's description of how to render impervious surfaces "ineffective" is flawed because it could allow runoff to enter the storm sewer system through vegetated areas lacking sufficient infiltration capacity.

In the section on Integrated Water Quality/Resources Management Criterion, the Permit sets forth the 5% EIA standard discussed above and describes how surfaces may be rendered "ineffective" for the purposes of meeting the EIA standard.¹³ The problem with the methods outlined in this section is that they would not necessarily ensure that runoff never reaches the storm sewer system. In order for surfaces to be rendered truly "ineffective," all rainwater falling on them must be infiltrated or captured and reused. The Permit, however, does not mention any sizing or infiltration capacity criteria for the methods identified (collection and storage, discharge into an infiltration trench, and drainage through a vegetated cell, surface, or swale). Without requiring that these devices have the capacity to handle the design storm, they could simply overflow into the storm sewer system without infiltration or capture. This provision should specify, instead, that in order for surfaces to be considered "ineffective," all runoff from them must be infiltrated or captured through the described methods. Otherwise, this loophole risks undermining the benefit of establishing an EIA standard in the first place.

IV. Monitoring

A. The Board should establish a complete set of minimum monitoring requirements in the Permit.

To assess MS4 impacts, the monitoring program in the Second Draft relies on current and future monitoring efforts that are taking place (or will take place) in Ventura County independent of the MS4 Permit. For instance, the bioassessment monitoring program was eliminated in the Second Draft as Board Staff contends that a future regional program will include the necessary monitoring. However, the Second Draft does not provide sufficient information on these "complementary" monitoring programs. Board Staff should compile a list of all of the monitoring that is currently underway in order for the public to evaluate whether the Permit's requirements, when combined with current monitoring efforts, will be sufficient. In general, though, the Permit must contain minimum monitoring requirements, which are necessary to assess compliance and impacts from the MS4. If another program covers some of these requirements, the discharger can work with this other monitoring program to coordinate logistical issues like cost-sharing.

¹³ Second Draft Permit, Part 5.E.III.1.

B. The Permit's monitoring program must be adequate to determine compliance with the Permit's requirements.

The Clean Water Act requires that a Permittee undertake a self-monitoring program sufficient to determine compliance with its NPDES permit.¹⁴ This general requirement is reflected in the Second Draft, which lists one of its monitoring goals as assessing "...compliance with effluent limitations and water quality objectives." Permit at F-1. However, as written, the Permit may leave open many opportunities for a Permittee to dispute whether required monitoring is adequate to determine its compliance with water quality standards. For ease of implementation, it is critical that clarifications be made.

Specifically, the core monitoring program requires three monitoring events per year at a total of five mass emissions stations on the main stems of the area's rivers.¹⁵ The Board has proposed to reduce this number to only three stations for the majority of the permit cycle. This is a very small number of monitoring locations given that Ventura County covers an area of 1,873 square miles and multiple Permittees preside over each of the three main watershed management areas ("WMAs"). With so few monitoring stations, how will the Board distinguish readily among Permittees that are in compliance and those that are not? Do the Permittees agree that the results of the program, as proposed, are in fact adequate to determine which Permittee(s) are violating water quality standards?

Further, the Second Draft contains no tributary water quality monitoring requirements, which are essential for evaluating whether water quality standards have been attained in the receiving water.¹⁶ Staff contends that the TMDL "end-of-pipe" monitoring and MAL monitoring will be sufficient to identify exceedances of water quality objectives. The Second Draft also states that "[t]he 'end-of-pipe' compliance points for the determination of compliance with the MALs are the major outfalls of discharge pipes to the receiving waters."¹⁷ But monitoring at the outfalls which discharge stormwater from multiple sources may set the stage for arguments with Permittees regarding relative degree of responsibility. Again, how will the Board determine which MS4 is causing or contributing to an exceedance? Do the Permittees agree that the program is sufficient to allow them to determine quickly whether they are in compliance with the Permit's water quality standards requirements and then to make rapid improvements to their implementation programs?

Also, tributary monitoring serves unique and important purposes. The benefits of tributary monitoring include: (1) identifying sub-watersheds where stormwater discharges are causing or contributing to exceedances of water quality objectives; (2) prioritizing drainage and subdrainage areas where control measures need to be implemented; and (3) determining if water

¹⁴ See 40 C.F.R. § 122.44(i)(1).

¹⁵ Second Draft Permit at Attachment F-2.

¹⁶ Of note, the tributary monitoring requirements in the first draft of the permit have been removed in the Second Draft.

¹⁷ Second Draft Permit, Part 2(4).

quality objectives are achieved in the receiving water. The overall goal of the MS4 program and other regulatory programs such as TMDLs is to attain water quality objectives in the receiving water.

Moreover, the monitoring program requires that monitoring occur at 60% or more of discharges from the municipal drainage area. How many outfalls does this include? If 60% of the discharges come through one or two outfalls, this information will not be as useful to track sources from the urbanized portions of the County as a whole. Under this scenario, major tributaries may not be included in the monitoring. The Board should provide requirements for the discharger to use in selecting the specific discharges that are monitored. For instance, drainages carrying stormwater from commercial, industrial, and high-use transportation should be prioritized.

As outlined above, the extent of Permittee compliance with the Permit should be clearly discernible to the public, Permittees, and Board staff without extended analysis and argument. The program must support rapid course corrections, when needed. In order to better meet these goals, and the Clean Water Act's monitoring requirements, it is important that the Board create a more robust monitoring program.¹⁸ There must be an increased number of required monitoring locations, including tributary monitoring locations. Additional monitoring sites must be selected to represent each individual Permittee's discharge, so that any water quality standard exceedences can be linked readily and quickly to a specific municipality.

C. The detailed nature of the Permit may hinder compliance-assurance.

In general, the Permit is extremely thorough and gives the Permittees very detailed requirements. For instance, under the Public Information and Participation Program, the Permittees are required to perform many subtasks, such as developing a strategy to educate ethnic communities and distributing education materials to pet shops. While these are potentially important tasks, how will the Board determine if Permittees have completed these actions satisfactorily? This is an example of one of numerous compliance-assurance issues that will be extremely difficult for the Board to address with its current compliance report review program.

D. The Board should revise toxicity requirements to meet the working group's recommendations.

Earlier this year, the Board convened a multi-stakeholder toxicity working group that developed the *SMBRC Technical Memorandum on Toxicity Testing of Wet and Dry Weather Runoff* ("Memorandum"). This working group was chaired by the Southern California Coastal Water Research Project ("SCCWRP") and included representatives from wastewater treatment and stormwater agencies. The objective of the SCCWRP- and stakeholder-authored Memorandum is to provide guidance to the Board for use in developing MS4 permit toxicity monitoring and reporting requirements. However, several of the current toxicity requirements in the Second Draft appear to be inconsistent with the Memorandum. For instance, the

¹⁸ This is a common need – throughout the State Board's Blue Ribbon Panel Report on the feasibility of numerics in stormwater permits, the experts highlight the inadequacy of current stormwater monitoring efforts.

Memorandum recommends sampling both dry and wet weather events, but the Second Draft includes only wet weather sampling. The Memorandum also specifies that a minimum of two sensitive species (a crustacean and a sensitive invertebrate) should be used to test each sample. The Board should revise the Permit to be consistent with the Board's working group recommendations.

Further, several of the toxicity monitoring program requirements included in the Second Draft are very arbitrary and will not provide a proper determination of whether stormwater discharges are impacting aquatic life. Toxic Identification Evaluations ("TIEs"), for instance, are required only if 90% or more toxicity is found in the first year. Also, a Toxic Reduction Evaluation ("TRE") is not triggered if less than 50% of the toxic response is linked to a specific pollutant category in at least two samples or if two TREs have already been done that year.¹⁹ These triggers are arbitrary and unsubstantiated and will not provide adequate information to assess impacts to aquatic species or to protect aquatic life in waters receiving polluted storm runoff. Thus, the monitoring requirements should be modified to contain a more protective toxicity threshold and to require TIEs and TREs when there are significant toxicity problems in receiving waters. Additionally, each TRE action should include an implementation plan with milestones for constructing specific BMPs that meet the 75th percentile performance criteria and target the pollutant of concern.

E. The Board should include bioassessment monitoring in the Permit.

Bioassessment monitoring requirements have been completely removed from the Second Draft. Staff contends that the Permittees will participate in the Southern California Regional Bioassessment Monitoring program instead. However, this monitoring program is not yet operating, so it is unclear if its requirements will adequately cover MS4 impacts. It sets a bad precedent to rely on a program that is currently not in existence, especially for watershed systems that have such tremendous biological resources. Bioassessment monitoring is critical to assess the full impacts of the discharge and should be performed on a regular basis. Ventura County has some of the best remaining biological resources in Southern California, and the impacts of stormwater on these resources must be assessed. In addition, bioassessment requirements have for years been a part of NPDES monitoring programs for dischargers – including POTWs, refineries, and power plants – so requiring bioassessment as part of the Permit's core monitoring requirements would not be precedent-setting. In order to determine the impacts of stormwater on biological resources in receiving waters, the Board must include a defined bioassessment monitoring program in the Permit as part of the "Core Monitoring" requirements.

V. TMDLs

A. The Permit must include numeric effluent limits based on waste load allocations ("WLAs") for all TMDLs in effect in Ventura County.

Federal law clearly commands that the Board integrate already adopted TMDLs into the effluent limitations of appropriate NPDES permits. Specifically, federal regulations require that:

¹⁹ Second Draft Permit at Attachment F-4 to F-5.

Effluent limits developed to protect a narrative water quality criterion, a numeric water quality criterion, or both, are consistent with the assumptions and requirements of any available wasteload allocation for the discharge prepared by the State and approved by EPA pursuant to 40 CFR 130.7.²⁰

Thus, the effluent limits set by the Permit must be consistent with the wasteload allocations for those TMDLs in effect for Ventura County. Appropriately, the Ventura MS4 Permit outlines WLAs for four TMDLs: Santa Clara River Nutrient TMDL, Malibu Creek Bacteria TMDL, Calleguas Creek Toxicity TMDL, and Calleguas Creek OC Pesticides TMDL.

However, the Permit fails to include WLAs for five additional TMDLs in effect in Ventura County: Calleguas Creek Nitrogen TMDL (in effect July 13, 2003), Calleguas Creek Chloride TMDL (in effect March 2002), Santa Clara River Chloride TMDL (in effect May 4, 2005), Malibu Creek Nutrients TMDL (in effect March 22, 2003), and Calleguas Creek Metals and Selenium TMDL (in effect March 22, 2003). Thus, the Board must modify the Permit to include these numeric WLAs.

In addition, there are several TMDLs that have been adopted by the Board but are not in effect as of the date of this letter. These include five trash TMDLs for waterbodies throughout Ventura County. The WLAs in these TMDLs should be included in the Permit, if they come into effect before the Board hearing to consider this item. As these and other future TMDLs come into effect, the Board should incorporate the appropriate WLAs into the MS4 Permit.

B. The Permit must include all required actions outlined in TMDL implementation schedules.

Implementation schedules included in TMDL Basin Plan Amendments adopted by the Board require dischargers to complete various actions before the final compliance deadline. For instance, schedules may require monitoring plan submittals or the demonstration of a waste load reduction after a certain period of time. These actions are important steps in ensuring that dischargers are on-track for ultimate compliance with the waste load allocations. The implementation schedule actions that have completion dates within the term of the Ventura Permit must also be included in the Permit, as they must be enforceable requirements.

We thank the Board Members and Board Staff for this opportunity to comment on the Second Draft. More than fifteen years after urban stormwater runoff permitting took effect under the Clean Water Act, the region still struggles with the impacts of this source of pollution. This draft Permit contains the seeds of approaches that can make a significant difference in better controlling runoff. The focus on low impact development is particularly important, and it promises – with some improvements set forth above – to be highly effective. In other respects, however, such as the interpretation of MEP through MALs and actual compliance monitoring requirements, the conceptual strengths of the Permit are largely counteracted by weak implementation of these concepts in the draft Permit. These weaknesses must be corrected before the Permit is adopted.

²⁰ 40 CFR § 122.44(d)(1)(vii)(B).

Chair Diamond and Members of the Board
October 15, 2007
Page 12 of 12

If you have any questions, feel free to contact us.

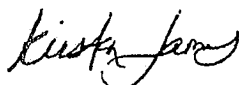
Sincerely,

A handwritten signature in black ink, appearing to read 'David Beckman', with a long horizontal flourish extending to the right.

David Beckman, Esq.
Senior Attorney, NRDC

A handwritten signature in black ink, appearing to read 'Mark Gold', with a long horizontal flourish extending to the right.

Mark Gold, D. Env.
President, Heal the Bay

A handwritten signature in black ink, appearing to read 'Kirsten James', with a long horizontal flourish extending to the right.

Kirsten James, MESM
Staff Scientist, Heal the Bay

C001020

Exhibit 1

C001021

Effluent Statistics		Effluent Percentiles									
BMPID	Parameter	Count	NDCount	%ND	5th	10th	25th	50th	75th	90th	95th
Detention Basins	Cadmium, Dissolved (ug/L as Cd)	75	43	57%	0.012	0.020	0.050	0.144	0.566	1.830	2.167
Detention Basins	Cadmium, Total (ug/L as Cd)	97	29	30%	0.083	0.110	0.248	0.568	1.313	2.559	3.145
Detention Basins	Copper, Dissolved (ug/L as Cu)	152	0	0%	1.947	2.528	4.864	8.117	13.727	24.263	28.125
Detention Basins	Copper, Total (ug/L as Cu)	184	14	8%	2.870	3.697	7.180	13.016	21.922	32.357	42.223
Detention Basins	Lead, Dissolved (ug/L as Pb)	111	52	47%	0.061	0.093	0.185	0.353	1.031	3.353	7.519
Detention Basins	Lead, Total (ug/L as Pb)	146	18	12%	0.837	1.639	4.902	12.725	28.191	52.553	97.903
Detention Basins	Nitrate + Nitrite, Total (mg/L as N)	27	18	67%	0.002	0.003	0.010	0.048	0.142	0.575	1.020
Detention Basins	Nitrate Nitrogen, Total (mg/L as N)	103	10	10%	0.133	0.174	0.270	0.578	0.918	1.684	2.150
Detention Basins	Nitrogen, Ammonia Total (mg/L as N)	13	3	23%	0.016	0.019	0.029	0.048	0.098	0.208	0.289
Detention Basins	Nitrogen, Kjeldahl, Total (mg/L as N)	97	14	14%	0.436	0.542	0.781	1.242	1.951	3.162	3.918
Detention Basins	Nitrogen, Total (mg/L as N)	12	0	0%	0.528	0.575	0.775	1.272	2.431	3.856	4.495
Detention Basins	Phosphorous, Dissolved (mg/L as P)	49	12	24%	0.028	0.035	0.049	0.085	0.143	0.251	0.329
Detention Basins	Phosphorous, Total (mg/L as P)	174	20	11%	0.014	0.019	0.037	0.108	0.283	0.460	0.670
Detention Basins	Solids, Total Dissolved (mg/L)	81	1	1%	9.083	19.536	45.677	73.510	111.402	233.722	379.539
Detention Basins	Solids, Total Suspended (mg/L)	177	8	5%	2.114	3.043	9.192	21.958	43.145	76.742	117.692
Detention Basins	Zinc, Dissolved (ug/L as Zn)	153	1	1%	3.585	7.232	20.610	34.267	60.530	101.297	146.808
Detention Basins	Zinc, Total (ug/L as Zn)	207	2	1%	12.097	17.843	34.930	60.976	105.574	197.697	263.675
Biofilters	Cadmium, Dissolved (ug/L as Cd)	342	66	19%	0.079	0.096	0.199	0.200	0.200	0.303	0.464
Biofilters	Cadmium, Total (ug/L as Cd)	361	49	14%	0.081	0.149	0.200	0.206	0.424	0.840	1.258
Biofilters	Copper, Dissolved (ug/L as Cu)	399	4	1%	1.046	1.530	2.939	5.868	11.064	17.656	22.703
Biofilters	Copper, Total (ug/L as Cu)	468	9	2%	1.787	2.656	4.273	7.984	17.241	32.435	44.607
Biofilters	Lead, Dissolved (ug/L as Pb)	368	26	7%	0.293	0.471	1.000	1.000	2.959	6.677	11.700
Biofilters	Lead, Total (ug/L as Pb)	483	50	10%	0.824	1.000	1.345	4.157	14.028	43.513	66.517
Biofilters	Nitrate + Nitrite, Total (mg/L as N)	27	0	0%	0.138	0.174	0.311	0.611	0.955	1.641	2.215
Biofilters	Nitrate Nitrogen, Total (mg/L as N)	476	12	3%	0.052	0.095	0.165	0.375	0.748	1.601	2.486
Biofilters	Nitrogen, Ammonia Total (mg/L as N)	14	4	29%	0.007	0.009	0.017	0.031	0.066	0.142	0.173
Biofilters	Nitrogen, Kjeldahl, Total (mg/L as N)	395	4	1%	0.469	0.633	0.894	1.342	2.138	3.600	6.378
Biofilters	Nitrogen, Total (mg/L as N)	96	0	0%	0.128	0.205	0.396	0.643	1.560	3.329	2.855
Biofilters	Phosphorous, Dissolved (mg/L as P)	38	0	0%	0.136	0.151	0.197	0.283	0.483	1.039	1.417
Biofilters	Phosphorous, Total (mg/L as P)	539	8	1%	0.042	0.056	0.114	0.240	0.451	0.815	1.167
Biofilters	Solids, Total Dissolved (mg/L)	357	1	0%	11.444	23.210	46.397	76.845	114.831	164.080	201.933
Biofilters	Solids, Total Suspended (mg/L)	467	7	1%	1.255	3.043	8.371	20.027	49.854	115.978	233.464
Biofilters	Zinc, Dissolved (ug/L as Zn)	399	4	1%	5.000	5.000	8.732	19.485	35.696	52.821	71.794
Biofilters	Zinc, Total (ug/L as Zn)	533	51	10%	4.479	6.395	14.164	30.256	67.208	119.646	181.275

Effluent Statistics		Parameter	Count	NDCount	%ND	Effluent Percentiles								
BMPID	Parameter					5th	10th	25th	50th	75th	90th	95th		
Hydrodynamic Devices	Cadmium, Dissolved (ug/L as Cd)	79	32	41%	0.011	0.017	0.042	0.199	0.785	1.793	2.239			
Hydrodynamic Devices	Cadmium, Total (ug/L as Cd)	88	25	28%	0.024	0.038	0.102	0.382	1.261	3.035	5.047			
Hydrodynamic Devices	Copper, Dissolved (ug/L as Cu)	89	15	17%	1.074	1.409	2.961	9.580	16.630	31.985	41.695			
Hydrodynamic Devices	Copper, Total (ug/L as Cu)	99	0	0%	2.791	3.340	7.462	15.409	21.659	32.301	38.550			
Hydrodynamic Devices	Lead, Dissolved (ug/L as Pb)	89	35	39%	0.123	0.201	0.434	1.184	3.769	7.376	8.733			
Hydrodynamic Devices	Lead, Total (ug/L as Pb)	95	8	8%	0.887	1.351	2.691	6.297	13.428	23.845	42.576			
Hydrodynamic Devices	Nitrate + Nitrite, Total (mg/L as N)	42	13	31%	0.062	0.078	0.117	0.226	0.359	0.506	0.707			
Hydrodynamic Devices	Nitrate Nitrogen, Total (mg/L as N)	59	2	3%	0.073	0.098	0.152	0.306	0.680	1.299	2.120			
Hydrodynamic Devices	Nitrogen, Ammonia Total (mg/L as N)	69	19	28%	0.009	0.014	0.041	0.090	0.313	0.814	1.103			
Hydrodynamic Devices	Nitrogen, Kjeldahl, Total (mg/L as N)	77	4	5%	0.224	0.351	0.566	1.086	1.830	3.576	5.984			
Hydrodynamic Devices	Nitrogen, Total (mg/L as N)	13	0	0%	0.902	0.988	1.335	2.101	3.633	5.233	5.939			
Hydrodynamic Devices	Phosphorous, Dissolved (mg/L as P)	58	19	33%	0.000	0.001	0.002	0.019	0.088	0.172	0.253			
Hydrodynamic Devices	Phosphorous, Total (mg/L as P)	170	5	3%	0.011	0.023	0.067	0.148	0.270	0.926	2.612			
Hydrodynamic Devices	Solids, Total Dissolved (mg/L)	198	6	3%	3.905	6.206	19.175	60.768	422.937	7951.478	22415.772			
Hydrodynamic Devices	Solids, Total Suspended (mg/L)	199	14	7%	2.977	5.543	17.995	43.173	99.360	190.249	303.150			
Hydrodynamic Devices	Zinc, Dissolved (ug/L as Zn)	99	18	18%	3.357	5.113	12.784	34.762	76.530	156.734	334.604			
Hydrodynamic Devices	Zinc, Total (ug/L as Zn)	174	13	7%	11.341	17.793	37.092	69.089	124.178	201.430	291.030			
Media Filters	Cadmium, Dissolved (ug/L as Cd)	111	74	67%	0.009	0.014	0.033	0.097	0.290	0.680	1.261			
Media Filters	Cadmium, Total (ug/L as Cd)	139	80	58%	0.035	0.053	0.109	0.257	0.764	1.401	1.778			
Media Filters	Copper, Dissolved (ug/L as Cu)	258	7	3%	1.344	1.971	4.050	7.064	13.178	23.449	29.351			
Media Filters	Copper, Total (ug/L as Cu)	294	19	6%	1.881	2.892	5.569	9.795	19.043	35.176	54.304			
Media Filters	Lead, Dissolved (ug/L as Pb)	227	117	52%	0.055	0.088	0.195	0.550	1.641	3.681	5.916			
Media Filters	Lead, Total (ug/L as Pb)	251	44	18%	0.426	0.609	1.397	4.376	13.378	23.679	39.362			
Media Filters	Nitrate + Nitrite, Total (mg/L as N)	35	11	31%	0.170	0.213	0.301	0.951	1.763	2.859	3.926			
Media Filters	Nitrate Nitrogen, Total (mg/L as N)	232	16	7%	0.181	0.253	0.424	0.890	1.151	2.029	2.643			
Media Filters	Nitrogen, Ammonia Total (mg/L as N)	38	19	50%	0.003	0.006	0.022	0.102	0.728	1.919	2.931			
Media Filters	Nitrogen, Kjeldahl, Total (mg/L as N)	229	12	5%	0.352	0.464	0.855	1.491	2.303	3.779	6.796			
Media Filters	Nitrogen, Total (mg/L as N)	20	0	0%	1.921	2.077	2.530	3.472	4.695	6.024	6.682			
Media Filters	Phosphorous, Dissolved (mg/L as P)	90	21	23%	0.019	0.025	0.038	0.085	0.142	0.238	0.407			
Media Filters	Phosphorous, Total (mg/L as P)	280	25	9%	0.018	0.040	0.075	0.129	0.230	0.394	0.566			
Media Filters	Solids, Total Dissolved (mg/L)	114	0	0%	12.216	24.105	41.104	56.574	85.506	137.169	230.416			
Media Filters	Solids, Total Suspended (mg/L)	358	15	4%	1.317	2.762	6.321	14.784	37.784	87.741	148.957			
Media Filters	Zinc, Dissolved (ug/L as Zn)	254	15	6%	3.212	5.915	14.843	30.677	76.394	143.497	266.374			
Media Filters	Zinc, Total (ug/L as Zn)	383	19	5%	2.596	4.680	14.669	35.580	103.083	281.505	436.429			

0001023

Effluent Statistics		Parameter	Count	NDCcount	%ND	Effluent Percentiles									
BMPID	Parameter					5th	10th	25th	50th	75th	90th	95th			
	Retention Ponds	Cadmium, Total (ug/L as Cd)	200	89	45%	0.003	0.007	0.043	0.145	0.527	0.7252	9.983			
	Retention Ponds	Copper, Dissolved (ug/L as Cu)	182	5	3%	1.744	2.473	3.224	4.358	5.976	9.829	12.865			
	Retention Ponds	Copper, Total (ug/L as Cu)	327	10	3%	1.122	1.891	3.140	5.367	8.958	28.112	49.725			
	Retention Ponds	Lead, Dissolved (ug/L as Pb)	153	53	35%	0.174	0.310	0.821	2.848	9.059	29.422	35.410			
	Retention Ponds	Lead, Total (ug/L as Pb)	404	78	19%	0.256	0.466	1.007	3.386	15.793	36.788	64.062			
	Retention Ponds	Nitrate + Nitrite, Total (mg/L as N)	247	18	7%	0.004	0.005	0.012	0.038	0.173	0.371	0.546			
	Retention Ponds	Nitrate Nitrogen, Total (mg/L as N)	142	2	1%	0.040	0.066	0.114	0.310	0.632	1.150	1.408			
	Retention Ponds	Nitrogen, Ammonia Total (mg/L as N)	265	21	8%	0.011	0.016	0.027	0.056	0.127	0.238	0.314			
	Retention Ponds	Nitrogen, Kjeldahl, Total (mg/L as N)	244	9	4%	0.463	0.577	0.772	1.043	1.571	2.258	3.202			
	Retention Ponds	Nitrogen, Total (mg/L as N)	239	0	0%	0.537	0.631	0.867	1.278	1.776	2.410	2.907			
	Retention Ponds	Phosphorous, Dissolved (mg/L as P)	204	5	2%	0.019	0.021	0.039	0.062	0.116	0.206	0.253			
	Retention Ponds	Phosphorous, Total (mg/L as P)	486	14	3%	0.018	0.035	0.063	0.142	0.283	0.714	1.198			
	Retention Ponds	Solids, Total Dissolved (mg/L)	79	0	0%	27.590	56.563	129.402	390.152	633.739	1389.317	1779.409			
	Retention Ponds	Solids, Total Suspended (mg/L)	469	3	1%	0.559	1.197	4.281	11.612	28.307	66.130	110.111			
	Retention Ponds	Zinc, Dissolved (ug/L as Zn)	158	6	4%	1.002	1.199	2.482	9.770	28.517	47.281	75.918			
	Retention Ponds	Zinc, Total (ug/L as Zn)	423	52	12%	1.426	2.172	7.183	19.601	37.214	70.121	121.125			
	Wetland Basins	Cadmium, Dissolved (ug/L as Cd)	7	4	57%	2.726	4.014	9.874	28.487	61.896	85.135	92.601			
	Wetland Basins	Cadmium, Total (ug/L as Cd)	50	1	2%	0.090	0.100	0.100	0.164	1.145	5.736	9.569			
	Wetland Basins	Copper, Dissolved (ug/L as Cu)	7	0	0%	4.772	4.956	5.538	6.522	7.389	7.724	7.793			
	Wetland Basins	Copper, Total (ug/L as Cu)	80	0	0%	1.087	1.578	2.257	3.091	5.404	8.409	10.310			
	Wetland Basins	Lead, Dissolved (ug/L as Pb)	11	1	9%	0.354	0.391	0.524	0.793	1.070	1.385	1.582			
	Wetland Basins	Lead, Total (ug/L as Pb)	91	0	0%	0.231	0.377	0.830	1.066	2.351	4.940	6.356			
	Wetland Basins	Nitrate + Nitrite, Total (mg/L as N)	144	0	0%	0.006	0.008	0.015	0.043	0.178	0.468	0.791			
	Wetland Basins	Nitrate Nitrogen, Total (mg/L as N)	91	4	4%	0.015	0.040	0.111	0.207	0.410	0.798	1.064			
	Wetland Basins	Nitrogen, Ammonia Total (mg/L as N)	188	1	1%	0.006	0.009	0.019	0.041	0.118	0.278	0.401			
	Wetland Basins	Nitrogen, Kjeldahl, Total (mg/L as N)	146	0	0%	0.640	0.717	0.888	1.146	1.376	1.691	2.073			
	Wetland Basins	Nitrogen, Total (mg/L as N)	201	0	0%	0.558	0.741	0.922	1.278	1.783	2.670	3.976			
	Wetland Basins	Phosphorous, Dissolved (mg/L as P)	114	0	0%	0.007	0.010	0.024	0.053	0.178	0.356	0.444			
	Wetland Basins	Phosphorous, Total (mg/L as P)	220	1	0%	0.014	0.024	0.040	0.070	0.183	0.405	0.522			
	Wetland Basins	Solids, Total Dissolved (mg/L)	25	0	0%	6.596	8.420	12.181	20.775	70.372	312.445	460.257			
	Wetland Basins	Solids, Total Suspended (mg/L)	211	0	0%	0.866	1.110	1.956	6.775	16.507	41.338	75.644			
	Wetland Basins	Zinc, Dissolved (ug/L as Zn)	7	0	0%	9.726	10.433	12.592	15.943	19.866	23.022	24.222			
	Wetland Basins	Zinc, Total (ug/L as Zn)	107	1	1%	8.342	9.903	12.884	19.005	40.343	124.055	227.030			

Effluent Statistics		Parameter	Count	NDCount	%ND	Effluent Percentiles									
BMPID						5th	10th	25th	50th	75th	90th	95th			
		Lead, Dissolved (ug/L as Pb)	11	0	0%	1.425	1.674	2.751	5.129	15.298	41.726	61.601			
Welland Channel		Lead, Total (ug/L as Pb)	41	0	0%	1.008	1.079	2.308	5.387	13.481	41.883	112.900			
Welland Channel		Nitrate Nitrogen, Total (mg/L as N)	41	0	0%	0.056	0.081	0.122	0.235	0.458	0.841	1.544			
Welland Channel		Nitrogen, Ammonia Total (mg/L as N)	10	0	0%	0.030	0.036	0.062	0.132	0.338	0.810	1.087			
Welland Channel		Nitrogen, Kjeldahl, Total (mg/L as N)	33	0	0%	0.657	0.717	0.868	1.285	1.576	1.926	2.198			
Welland Channel		Nitrogen, Total (mg/L as N)	42	0	0%	0.729	0.851	1.033	1.491	1.949	3.650	9.669			
Welland Channel		Phosphorous, Dissolved (mg/L as P)	41	0	0%	0.039	0.045	0.059	0.090	0.136	0.188	0.226			
Welland Channel		Phosphorous, Total (mg/L as P)	43	0	0%	0.073	0.083	0.118	0.190	0.315	0.502	0.997			
Welland Channel		Solids, Total Dissolved (mg/L)	9	0	0%	80.579	89.337	116.846	250.169	890.815	1588.032	1806.235			
Welland Channel		Solids, Total Suspended (mg/L)	41	0	0%	3.126	4.359	8.931	19.119	75.927	322.275	992.616			
Welland Channel		Zinc, Dissolved (ug/L as Zn)	9	0	0%	6.392	7.679	10.642	22.766	105.009	236.595	291.699			
Welland Channel		Zinc, Total (ug/L as Zn)	9	0	0%	20.242	22.827	30.856	54.025	207.935	545.748	713.850			

From: Paul Jenkin <pjenkin@sbcglobal.net>
To: "Tracy Woods" <twoods@waterboards.ca.gov>
Date: 9/13/2007 9:16:11 AM
Subject: Comments on Stormwater permit

Hi Tracy... FYI below

To Ventura County Supervisors:

Below is an approximate transcript of my comments at yesterday's board meeting. I recognize this is a complex issue, but my comments were intended to reflect the feelings of so many of our county's beachgoers. We want clean water now! But current development and flood control practices continue to make it worse...

see

also:

<http://venturaecosystem.blogspot.com/2007/09/testimony-to-bos-on-stormwater-permit.html>

September 11, 2007

Comments to Ventura County Board of Supervisors

RE: Study Session to Discuss Implications from Future Stormwater and Total Maximum Daily Load Requirements on Ventura County

My name is Paul Jenkin and I represent the Ventura County Chapter of the Surfrider Foundation. My comments today are on behalf of the approximately 1000 members in the county, and all the other thousands of residents and visitors that use our county's beaches.

Since 1991, our members have participated in volunteer programs such as the "Blue Water Task Force," "Stream Team," and storm drain stenciling. This participation is largely because many people get sick every year from surfing or swimming at our county's beaches.

Recent reports such as from the Joint Oceans Commission led to the California Ocean Plan, West Coast Governors Agreement, and other initiatives that have identified Urban Runoff as a significant threat to the health of our oceans. All of these agree that a new approach is required to solve this problem, with recommendations to implement what is now known as "Ecosystem Based Management."

The root cause of this problem is traditional urban infrastructure. Our society has implemented a conveyance approach to flood control, resulting in impervious urban areas and hydromodification of our watersheds. It is clear that this approach is not working, with concrete leading to more concrete, and as you heard from some of the cities today, their flooding problems are getting worse. This is because stormwater has been treated as a threat, rather than the resource that it should be.

Quite frankly I am disappointed by the resistance to regulation that I am hearing today. The stormwater permit has been around for over a

C001026

decade, but nothing has changed. So called "environmental groups" like Surfrider comment on individual projects one at a time, but the CEQA process does not adequately account for cumulative impacts.

Major changes are needed. But this permit may be seen as a threat to traditional flood control and the development permit process. Regional planning is desperately needed on a watershed basis, rather than the current piecemeal permitting of development.

In addition, major retrofitting is needed to the existing infrastructure in order to implement what I call "reverse hydromodification." The solution to urban runoff lies in integrated solutions and what is known as "green infrastructure." This approach should integrate flood control with water supply, parks, bikeways, and more. This is a necessary response to climate change as we experience longer droughts and greater flooding in the future.

As others have said today, pollution is waste, and we are wasting our stormwater, and in the process polluting our oceans.

On a positive note, the Surfrider Foundation is launching a new program called "Ocean Friendly Gardens." This is intended to educate residents about the urban runoff problem, and demonstrate how they can re-landscape their own property to retain and infiltrate stormwater.

Thank you for the opportunity to comment today.

Paul Jenkin
Environmental Director
Surfrider Foundation Ventura County Chapter
Coordinator, Matilija Coalition
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Ventura River Ecosystem

Wednesday, September 12, 2007

Testimony to BOS on Stormwater Permit

September 11, 2007 **Comments to Ventura County Board of Supervisors**

RE: Study Session to Discuss Implications from Future Stormwater and Total Maximum Daily Load Requirements on Ventura County

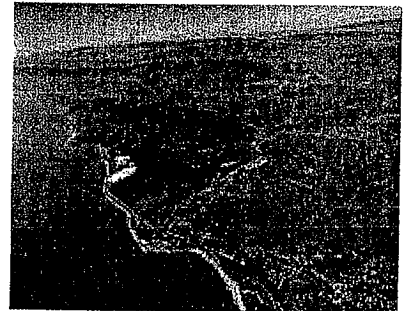
My name is Paul Jenkin and I represent the Ventura County Chapter of the Surfrider Foundation. My comments today are on behalf of the approximately 1000 members in the county, and all the other thousands of residents and visitors that use our county's beaches.

Since 1991, our members have participated in volunteer programs such as the "Blue Water Task Force," "Stream Team," and storm drain stenciling. This participation is largely because many **people get sick** every year from surfing or swimming at our county's beaches.

Recent reports such as from the Joint Oceans Commission led to the California Ocean Plan, West Coast Governors Agreement, and other initiatives that have identified **Urban Runoff** as a significant threat to the health of our oceans. All of these agree that a new approach is required to solve this problem, with recommendations to implement what is now known as "**Ecosystem Based Management.**"

The root cause of this problem is **traditional urban infrastructure**. Our society has implemented a conveyance approach to flood control, resulting in impervious urban areas and hydromodification of our watersheds. It is clear that this approach is not working, with concrete leading to more concrete, and as you heard from some of the cities today, their flooding problems are getting worse. This is because stormwater has been treated as a threat, rather than the resource that it should be.

Ventura River Watershed



...from the rivermouth to headwaters

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- [Matilija Coalition](#)
- [Surfers Point](#)
- [Surfrider Ventura](#)

PAUL JENKIN

C001028

Quite frankly I am disappointed by the resistance to regulation that I am hearing today. The stormwater permit has been around for over a decade, but nothing has changed. So called "environmental groups" like Surfrider comment on individual projects one at a time, but the **CEQA process does not adequately account for cumulative impacts**.

Major changes are needed. But this permit may be seen as a threat to traditional flood control and the development permit process. **Regional planning** is desperately needed on a watershed basis, rather than the current piecemeal permitting of development.

In addition, **major retrofitting is needed to the existing infrastructure** in order to implement what I call "reverse hydromodification." The solution to urban runoff lies in **integrated solutions** and what is known as "green infrastructure." This approach should integrate flood control with water supply, parks, bikeways, and more. This is a necessary response to climate change as we experience longer droughts and greater flooding in the future.

As others have said today, pollution is waste, and we are wasting our stormwater, and in the process polluting our oceans.

One a positive note, the Surfrider Foundation is launching a new program called "Ocean Friendly Gardens." This is intended to educate residents about the urban runoff problem, and demonstrate how they can re-landscape their own property to retain and infiltrate stormwater.

Thank you for the opportunity to comment today.

Posted by paul jenkin at [10:04 AM](#)

Labels: [public comment](#), [stormwater](#)

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Paul Jenkin is the Environmental Director of the Ventura County Chapter of the Surfrider Foundation, and founder of the Matilija Coalition. The Surfrider Foundation is an international environmental organization dedicated to the protection and enhancement of the world's waves and beaches through conservation, activism, research, and education (CARE). Since 1994, Paul has worked to restore the coast and watershed where he lives, in Ventura, California.

[View my complete profile](#)

C001029



October 15, 2007

Dr. Xavier Swamikannu
320 W. 4th Street, Suite 200
Los Angeles, CA 90013
RE: SECOND DRAFT VENTURA COUNTY MS4 PERMIT (NPDES PERMIT No. CASOO4002)

Dear Dr. Swamikannu,
Thank you for the opportunity to comment on the second draft of the Ventura County permit. It is clear that some of the comments on the first draft were taken into consideration in preparation of this draft, and that good progress has been made. My comments will be directed mainly at outstanding issues in the Planning and Land Development Program section that affect the selection, design, operation and maintenance of post construction BMPs. In addition to the discussion below, I have attached a summary of suggested changes to this letter.

BMP Selection Hierarchy

I am sure that most stakeholders in this permit development process share the goal of limiting the impact of development to the maximum extent practicable. Finding 2 in the draft permit succinctly captures this goal by stating:

"The objective of this Order is to protect the beneficial uses of receiving waters in Ventura County. To meet this objective, the Order requires that Best Management Practices (BMPs) will be implemented to reduce the discharge of pollutants in storm water to the maximum extent practicable (MEP), and achieve water quality objectives and standards."

Unfortunately there are provisions in this permit that potentially conflict with that objective. Specifically, in the Planning and Land Development Program, Part 5, Section E.I.1.e, a hierarchy is introduced which seems to supplant the goal of creating low impact developments with a goal of implementing "low impact development strategies" on all sites.

- (1) Low Impact Development Strategies (see the following section E.III.2).
- (2) Integrated Water Resources Management Strategies.
- (3) Multi-benefit Landscape Feature BMPs.
- (4) Modular/ Proprietary Treatment Control BMPs.

This hierarchy is at best confusing, and at worst is counter to the stated objective of the permit. It is confusing because none of the terms are defined and many BMPs or BMP suites could fit into several categories. For example proprietary BMPs, like porous pavement, infiltrating chambers and modular bioretention cells fit equally well under preferences 1 and 4. A large swale that treats runoff before it leaves the site could be considered to be satisfying preference 1, 3 or 4. Water harvesting approaches using cisterns and water distribution systems may contain modular treatment elements and could fit under all of the preferences. To illustrate this point I have attached an "LID line card" which describes several proprietary, modular BMPs offered by CONTECH Stormwater Solutions which satisfy the goals of low impact development.

Depending on how this hierarchy is interpreted, it may lead to policies that contradict the permit objective. For example, swales and filter strips probably qualify as LID BMPs, yet according to the International BMP Database summary report, they are among the worst performing conventional BMPs for most common stormwater pollutants, and are actually more likely to increase bacteria and nutrient concentrations than reduce them. They are also likely to be irrigated, fertilized and treated with pesticides and herbicides. Sand Filters and some proprietary media filters are significantly more effective for most pollutants, but would be considered to be a last resort since they are modular and/or proprietary. In

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C001030



another example, underground, proprietary BMPs can be designed to provide superior treatment control and volume control on commercial sites where spill containment, pollutant sequestration, and trash storage is required. They may be more protective of wildlife, public health, aesthetics or other uses of the overlying land since pollutants are stored out of contact with humans and the natural environment. Such solutions would be discouraged by this permit when they may in fact be more suitable than landscape based BMPs

This hierarchy should be removed because it does not distinguish between mitigation approaches on the basis of performance. For example, the fact that a BMP is modular or proprietary has no bearing on its performance. Also, LID may not necessarily be the best strategy where heavy pollutant loading is expected or where infiltration is not feasible. Most disappointing is the effect such a hierarchy has on entrepreneurship. There is little incentive to develop novel BMPs if the very fact that they are proprietary or modular makes them last on the list of preferred options.

Low Impact Development

To be clear, CONTECH is a strong proponent of low impact development as a holistic design approach to reducing stormwater runoff that starts at the project planning stage. Initially, the term was descriptive of a design approach which emphasizes planning and site development practices that protect natural features and reduce imperviousness so that the predevelopment hydrologic cycle is maintained. Unfortunately, implementation of LID tends to be reduced to the same kind of BMP menu based design approach that is often associated with manufactured BMPs. This shortcutting of the design process must be avoided regardless of the type of stormwater management system being pursued. Unfortunately, this permit does not take necessary steps to reorient designers to producing sites with the lowest practicable impact on the downstream environment.

Many site designers tend to pick BMPs that are most likely to be approved from a manual or list without proper regard for the suitability of those BMPs. Conventionally that list includes a handful of public domain, land based BMPs that are best applied as end of pipe solutions. In some cases proprietary BMPs are also allowed. It is crucial that we reform the process of BMP selection and design rather than simply shifting the list of "approvable" BMPs to a list of LID measures.

For example, at CONTECH, we often hear from engineers in the Los Angeles region who say, "We are trying to do LID on this site, so we don't want to use manufactured BMPs." Their experience is that swales and detention basins are considered LID because they are "natural" and that they are more likely to get approved. In many cases they are using these BMPs in the same locations, and treating the same flow rates that manufactured systems would previously have been considered for. Their "natural" BMPs are not particularly small scale or distributed, don't infiltrate substantially, and the engineer may have done very little to reduce the amount of runoff that drains to the BMPs. This is menu-based LID implementation and it entirely misses the point of the LID approach. Sadly, it is common due to a lack of clear performance requirements, inadequate review staff training, and a lack of consensus as to what constitutes LID.

One step toward resolving the confusion would be to define terms used in the permit like "LID measures", "LID strategies", LID principles" and "LID objectives" in Section 8 -- Definitions. Since there is a distinction between tracking, inspection and enforcement requirements for treatment control BMPs and LID BMPs, it would also be very helpful to be able to distinguish between the two. Otherwise, an accountability loophole is created. With no definition of what constitutes an LID BMP, and LID BMPs not requiring the same ongoing maintenance and reporting, it would be tempting for a Permittee to call all their vegetated BMPs LID. That way they could avoid all responsibility for them after the initial post construction inspection. A preferable approach would be to extend all the requirements in Part 5, Section IV.1 to LID measures.

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C001031



A Design Process Focus

Last year the Blue Ribbon Panel report on the feasibility of numeric effluent limits articulated some of the most glaring deficiencies in post construction municipal stormwater management programs. Prominent themes are the lack of long term accountability for performance of BMPs, improper BMP design, improper BMP selection and a tendency to maintain BMPs only for aesthetic purposes. They recommend designing BMPs "more rigorously with respect to the physical, chemical and biological processes (e.g. unit processes) that are active in the BMP." A program for the selection, design and implementation of BMPs should be developed with these observations in mind.

The following criteria are important for any structural BMP or BMP suite, regardless of whether they are LID BMPs or treatments controls, or are natural or manufactured solutions:

- The fundamental unit processes that the BMP employs must address the pollutants of concern in the forms and hydraulic and hydrologic nature that they are likely to arrive at the BMP in.
- The BMPs must be properly sited considering maintenance access, hydraulic and hydrologic conditions and physical site constraints
- The BMPs must be designed to facilitate maintenance and must have a clear long-term plan for maintenance in place with an agreed upon responsible party.
- BMPs must be adequately designed to have medium or high effectiveness for the pollutants of concern during the design storm
- BMPs must be designed to resist erosion during peak events
- Control over construction, operation and maintenance must be demonstrated so that BMPs are installed as designed, and continue to perform at acceptable levels in perpetuity.

The way to ensure that these criteria are met is to require that these factors be considered in the BMP selection and design process. For example, it would be much more effective to replace the existing prioritization hierarchy, which is based on BMP characteristics, with an outline for a design process that BMPs are selected based on providing the highest level of performance with assured operational feasibility.

Municipal Action Levels as design targets

The adjustment of municipal action levels in this draft of the permit is appreciated. However in the absence of clear performance standards for BMPs, Finding F-12 seems to set the MAL as BMP design targets. The last sentence states:

"Permittees shall implement a timely, comprehensive, cost-effective storm water pollution control program to reduce the discharge of pollutants in storm water from the permitted areas so as not to exceed the MALs."

This is clearly not their intended use. BMPs should be designed to produce effluent concentrations far below the MAL, so that the MAL are exceeded very rarely.

It would be helpful to clarify that BMPs must be selected that have a reasonable likelihood of producing effluent concentrations that are some fraction of the MAL introduced in this permit. Or, it would be helpful to require that BMPs be implemented that have at least medium effectiveness for the pollutants and hydrologic conditions of concern on the site. Of course where TMDLs are in place BMPs must be designed to meet waste load allocations. Leaving performance standards or objectives unaddressed other than by MAL or the standard MEP language is a recipe for the status quo.

Effective impervious area vs. percent imperviousness

Finding B.13 accurately points out that stream impairment is correlated with "percentage impervious cover". This seems to be the justification for a requirement to reduce effective impervious area to less than 5% of the total project area which appears in Part 5, Section E.III.1. The requirement is not an

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C001032



appropriate extension of the findings since percentage of impervious cover is not the same as "effective impervious area". Also, no evidence is given that limiting effective impervious area by the method described will reduce water pollution. In fact it is as likely to have the opposite effect since it encourages site designers to overload their vegetated areas with high runoff volumes and rates so that they can stay beneath the threshold.

Obviously, to the extent that the vegetated areas are properly sited, constructed, maintained and protected against high velocity flows they will provide some measure of protection and should be encouraged. Unfortunately, Requirement 1.b in the section contains no qualification of the area that runoff must be routed through other than that it must be vegetated and must have soils with native characteristics or an amended medium engineered soils. This is not adequate protection against poor designs that may accelerate erosion. It also does not contain an exception for spill containment, groundwater protection or other substitution of more suitable non-vegetated means of control for high pollutant load generating areas. This section should be removed.

Closing

Thank you again for the opportunity to comment on this draft. I would be happy to answer any questions you might have about my comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Vaikko", written over a horizontal line.

Vaikko Allen
Regulatory Manager- Southwest
Contech Stormwater Solutions, Inc.

Phone: 310-260-7953
e-mail: allenv@contech-cpi.com

www.contechstormwater.com



C001033

Suggested Changes
NPDES No. CAS004002
Second draft Ventura County MS4 Permit

Submitted by Vaikko Allen, CPSWQ, Regulatory Manager - Southwest
 CONTECH Stormwater Solutions, Inc.
 Phone: 310-260-7953, e-mail: allenv@contech-cpi.com
 Address: 621 San Vicent Blvd. #308, Santa Monica, CA 90402

Section	Proposed Change or Comment	Justification
Findings F.2	No change is needed.	This section succinctly captures the objective of this order which is to implement BMPs to reduce the discharge of pollutants in storm water to the MEP, to achieve water quality standards. This objective is not consistently supported throughout the draft. For example the hierarchy proposed in section 5.E.1.1.e directs Permittees to make implementation decisions based on type of approach instead of anticipated impact on the discharge of pollutants.
Part 1.B.1.b.13	Remove	Pooled storm water draining from treatment BMPs within 72 hours of a storm is presumably storm water, and does not qualify as a non-storm water discharge. If the water is not stormwater, its discharge is already controlled. Water draining from treatment BMPs during storms and in the time immediately afterward will not be pollutant free since no BMP is 100% effective. Yet, taken literally this provision would seem to prohibit any stormwater flowing through a treatment BMP that is not completely free from pollutants from being discharged to the MS4 and watercourses. This provision supersedes the requirement to treat stormwater to the MEP, and is unreasonably stringent.
Table 1 - Last Row	Remove "...as specified by the manufacturer." Add "as necessary to provide ongoing hydrologic and pollutant removal performance at design values."	This entire row should be removed. See previous comment. Many BMPs have no "manufacturer". Maintenance should be based on providing the intended hydraulic and pollutant removal benefits.
Table 1 - Last Row	Insert "dry or to dry weather water levels" to second sentence which would then read: "All storm water BMPs shall be designed to drain dry or to a dry weather water level within 72 hours of the end of the rain event."	Many BMPs, especially those designed for pretreatment or spill protection, do not drain completely dry between storm events. As written this requirement would prohibit any BMP with standing water in a sump.
Part 5. Section A.2.a.2	Remove	It is possible that a Permittee will wish to implement a BMP or program that has similar fiscal burden to the original program for reasons unrelated to cost. As long as the proposed BMP or program meets the other two criteria it should be allowed.

Section	Proposed Change or Comment	Justification
Part 5. Section E.I.1.e	Remove this section. Or, at least insert a note clarifying that this preference hierarchy is subordinate to the main goal of the permit as stated in findings section F.2, which is to implement BMPs to reduce the discharge of pollutants in storm water to the MEP, and to achieve water quality objectives and standards. In all cases the most BMP suite that most effectively meets this goal should be selected.	Adoption of this hierarchy may lead to designs that do not minimize the discharge of pollutants to the Maximum Extent Practicable. It contains undefined terms that are ambiguous and make the guidance potentially contradictory. For example proprietary BMPs like porous pavement, infiltrating chambers and modular bioretention cells fit equally well under preferences 1 and 4. LID strategies are not defined. The term LID or LID strategies is frequently misused to mean natural or vegetated BMPs which is reinforced by this hierarchy. A more appropriate definition of LID Strategies would be those design approaches and BMPs that reduce runoff volumes and rates.
Part 5. Section E.III.1	Eliminate the effective impervious area requirement.	Infiltration and treatment characteristics of pervious areas are not specified. This requirement is likely to lead to engineers overloading small vegetated areas with high flows which will accelerate erosion. No exemption is given for spill protection, groundwater protection or more suitable treatment controls in high pollutant load generating areas. This requirement will be especially difficult to meet on redevelopment projects.
Part 5. Section E.III.2	Add criteria for distinguishing between LID BMPs and Treatment Control BMPs	This is important since tracking, inspection and maintenance requirements for treatment control BMPs are much more stringent than for LID BMPs. Another option is to extend operation and maintenance requirements to LID BMPs in Part 5. Section E.IV.1.
Part 5. Section E.III.2.a	Add a requirement that the impact of development be measured at the permitted scale	Depending on where impact is measured, LID control strategies may look different. For example a site developer is required to limit impact to the receiving waters or the adjacent MS4. Therefore impact should be measured and limited at those locations. An MS4 is required to limit impact of discharges from the MS4. Therefore impact should be measured at this point. This clarification would minimize micromanagement of intra-site design by the Permittees on private developments. It would give the Permittees more flexibility to implement regional controls.
Part 5. Section E.III.2.b	Add (10) Inspection and maintenance for hydraulic functionality	This must be explicitly required. Maintenance on the basis of maintaining aesthetics is insufficient.
Part 5. Section E.III.2.b	Add (11) Provision for BMPs not in the manual to be accepted for use if they demonstrate equivalent hydrologic control	BMP selection should be based on ability to provide hydrologic control. If a solution is proposed that is equally or more effective and similarly or less costly, it constitutes management to the MEP and should be encouraged.

Section	Proposed Change or Comment	Justification
Part 5. Section E.III.2.c	Add (7) Design considerations for the arid urban environment and their impact on performance.	Many LID manuals contain designs developed in the Mid-Atlantic region or in the Pacific Northwest. These designs may require substantial modification to be feasible in this region. Those modifications, for example reducing the use of grass turf and dense vegetation in favor of water efficient, drought tolerant designs may have a significant impact of performance.
Part 5. Section E.III.3.a.2.A.i	Eliminate the requirement to match the predevelopment hydrograph within 1%. Replace with a requirement to not exceed the predevelopment peak flow rate and volume.	Hydrograph matching with this precision is not possible since infiltrating BMPs are typically designed with excess initial capacity. Over time this capacity is reduced as the infiltrating surface becomes occluded. Typically a factor of safety is applied to the design so that at the end of the design life, the water quantity goals are still met. As written, the requirement will encourage engineers to abandon a factor of safety and to assume that there is no reduction of infiltration capacity over time. The existing requirement also limits water harvesting and infiltration amounts, since it requires the total volume of runoff to remain unchanged. This is unnecessary unless the site drains to a natural creek or stream where base flow rates must be maintained.
Part 5. Section E.III.3.a.3.B	Add (Xiii) A provision for use of Hydromodification Management Control BMPs that are not in the manual if they can demonstrate equivalent hydrologic control.	BMP selection should be based on ability to provide hydrologic control. If a solution is proposed that is equally or more effective and similarly or less costly, it constitutes management to the MEP and should be encouraged.
Part 5. Section E.IV.1	Clarify that these requirements also apply to structural LID BMPs.	LID BMPs are not included in the definition of Structural BMPs in Part 8 - Definitions. Hydrologic Control BMPs, which could be interpreted to include structural LID BMPs are not defined in Part 8 - Definitions.
Part 5. Section E.IV.7.a	Clarify that the approval of BMPs is contingent on evidence that they will have medium to high effectiveness for the pollutants of concern.	No specific performance objective is given. Alternatively clarify that BMPs must be selected that have a reasonable likelihood of producing effluent concentrations that are some fraction of the MAL introduced in this permit. If no performance standard is given, the MAL become the default design standard. This is not their intended use. They are upset levels. BMPs should be implemented that are likely to produce effluent concentrations far below the MAL so that the MAL are exceeded very rarely.
Part 5. Section G.5.e	Clarify that "Full Capture Devices" installed to capture trash prior to entry to the MS4 also meet this requirement.	As written, the requirement strongly favors excluders which keep trash at the street level. It may be more feasible, aesthetically desirable and safer to capture and store trash in a full capture structure where it is out of contact with the public. It is not clear that this is allowed although it would meet the same objective of keeping trash out of the MS4.

	Product	LID Application	LID Benefit	Configuration	Target Pollutant/ Specifications
 FILTRATION	CatchBasin StormFilter™ MFS- Media Filtration System	Decentralized filtration	Decentralized treatment at bottom of LID micro-depression or at catch basin inlet (connect to infiltration)	Catch basin, curb inlet	Fine Silt (15 µm) Metals (+ soluble)
	DryWell StormFilter	Decentralized filtration and infiltration	Decentralized treatment/infiltration - minimizes conveyance and off site discharge	Manhole	Fine Silt (15 µm) Metals (+ soluble)
	DownSpout StormFilter™	Decentralized filtration	Decentralized treatment of roof runoff (connect to infiltration)	LDPE plastic catch basin	Fine Silt (15 µm) Metals (+ soluble)
 HYDRODYNAMIC SEPARATION	Vortechs® VortSentry® CDS®	Pretreatment (e.g. before infiltration)	Extends life of infiltration/bioretention systems	Vault, manhole	Coarse Silt/Fine Sand (50 to 75 microns)
	CON/SPAN® Concrete Detention System	Rainwater harvesting or infiltration	Provides storage in rainwater harvesting system as infiltration product recharges groundwater and minimizes potential scouring with controlled outlet	3 sided reinforced concrete arch	Down to 12' spans with 6'+ vertical storage
	CON/STORM™ Concrete Detention System	Rainwater harvesting or infiltration		3 sided reinforced concrete arch	Down to 7'4" spans with 4' to 6' vertical storage
CMP Detention	Rainwater harvesting or infiltration	Corrugated steel (solid or perforated)		Down to 6" diameter and vertical storage	
 DETENTION - RETENTION - INFILTRATION	StormChamber™	Infiltration	Lightweight, shallow site infiltration system	3 sided HDPE arch	5' span with 34" of vertical storage
	A2000™ System	Infiltration	Strong, perforated or slotted pipe for both shallow (<1') and deep (>10') sites	PVC pipe	4" to 36" diameter and vertical storage
	 FLOW CONTROL	HydroBrake	Flow Control	Non-blocking vortex valve replaces problematic outlet control orifices	Stainless steel
Slotted Drain Pipe		Level spreader and downstream infiltration	Disconnects impervious surfaces - converts concentrated flows back to sheet flow	Metal slotted drain	Restores hydrologic and water quality functions to buffer zone

From: "Steve Blois" <steveblois@bloisconstruction.com>
To: <seconddraftVCMS4@waterboards.ca.gov>
Date: Mon, Oct 15, 2007 1:36 PM
Subject: draft MS4 permit comments

October 15, 2007

Regional Board Members

Regional Water Quality Control Board

ATT: Dr. Xavier Swamikannu

RE: Proposed Ventura County Stormwater Permit

Dear Regional Board Members:

Portions of the proposed Ventura County Permit currently under consideration are extremely detrimental to business growth and will put a very onerous strain on the construction industry. Some of the exceptionally stringent requirements (based on national & state data rather than local data) would limit business growth and very probably put some companies out of business completely. As a contractor, I am very concerned with protecting our environment, but also recognize that the rules must be practical or they won't be followed by many contractors. What we need are reasonable rules and regulations that will work over time, not draconian rules that will only polarize the different factions.

The extreme grading restrictions will drive up costs and add months if not years to project schedules that would not only make the project financially unfeasible, but in the end, could cause a harmful impact on the environment. Hundreds of jobs will be impacted. While work sites lay idle, jobs will be lost when companies are unable to support their workforce or go out of business and workers must leave the county to find work elsewhere. Ventura County cannot afford this unnecessary setback to its economy.

C001038

Current BMPs are working and we request that the regional board work hand-in-hand with the local construction business community to modify the draft permit's overreaching requirements to support not only our environment, but the practical needs of the community and business as well.

We appreciate your consideration in this very serious matter.

Thank you,

Steve Blois

Blois Construction, Inc.

From: <UEC3658@aol.com>
To: <seconddraftVCMS4@waterboards.ca.gov>
Date: Mon, Oct 15, 2007 3:01 PM
Subject: Proposed Ventura County Stormwater Permit

Regional Board Members
Regional Water Quality Control Board
ATT: Dr. Xavier Swamikannu
RE: Proposed Ventura County Stormwater Permit

Dear Regional Board Members:

Portions of the proposed Ventura County Permit currently under consideration are extremely detrimental to business growth and will put a very onerous strain on the construction industry. Some of the exceptionally stringent requirements (based on national & state data rather than local data) would limit business growth and very probably put some companies out of business completely.

The extreme grading restrictions will drive up costs and add months if not years to project schedules that would not only make the project financially unfeasible, but in the end, could cause a harmful impact on the environment. Hundreds of jobs will be impacted. While work sites lay idle, jobs will be lost when companies are unable to support their workforce or go out of business and workers must leave the county to find work elsewhere. Ventura County cannot afford this unnecessary setback to its economy. Current BMPs are working and we request that the regional board work hand-in-hand with the local construction business community to modify the draft permit's overreaching requirements to support not only our environment, but the practical needs of the community and business as well.

We appreciate your consideration in this very serious matter.
Thank you,

Ernest L. Ford

President

UNION ENGINEERING COMPANY, INC.
P.O. BOX 1000
VENTURA, CA 93002

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FAX 805-648-6634

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September 28, 2007

Xavier Swamikannu, Chief Storm Water Permitting Unit
Los Angeles Regional Water Quality Control Board
320 W. 4th Street, #200
Los Angeles, CA 90013-2343
Email: seconddraftVCMS4@waterboards.ca.gov

Re: Comments On the Second Draft of the Proposed "Waste Discharge Requirements for Storm Water and Non-Storm Water Discharges From the Municipal Separate Storm Sewer Systems Within the Ventura County Watershed Protection District, County of Ventura and the Incorporated Cities Therein"

Dear Mr. Swamikannu,

As a drinking water provider, Golden State Water Company (GSWC) has a vested interest in preserving the quality of our streams, lakes and underground aquifers. GSWC supports the Los Angeles Regional Water Quality Control Board's efforts as a partner in protecting our drinking water resources and appreciates the opportunity to comment on the second draft of the above-referenced document (draft permit).

Current Permit Coverage

GSWC provides drinking water to more than one million people in 10 counties throughout California. We operate within the jurisdiction of six of the nine Regional Water Quality Control Boards. Within the boundaries of the Central Valley, Central Coast, Santa Ana and Lahontan Boards, discharges from our drinking water system fall under de minimus or low threat permits. These permits require stringent sampling, monitoring and reporting requirements to ensure that Best Management Practices are effective. We understand that each watershed has unique issues to address and that permits vary accordingly.

In Ventura County our distribution system discharges are covered under the current Municipal Separate Storm Sewer Systems (MS4) Permit, Los Angeles Regional Water Quality Control Board Order No. 00-108. Under Part 1.A.2.b. of the current permit, Co-permittees are to effectively prohibit non-stormwater discharges into the MS4 (storm drain systems) and watercourses, except where such discharges are not identified as a source of pollutants, including "discharges from potable water sources". Even where they are a source of pollutants, discharges from potable water sources need not be prohibited if the Co-permittee implements appropriate BMPs. Potable water sources are defined as, "flows from drinking water storage, supply and distribution systems including flows from system failures, pressure releases, system maintenance, well development, pump testing, fire hydrant flow testing; and flushing and de-watering of pipes, reservoirs, vaults and wells."

2143 Convention Center Way, Ste. 110, Ontario, CA 91764
Tel: (909) 937-0111 Fax: (909) 937-0222 www.aswater.com

C001041

Limitation on Flushing of Water Supply and Distribution Mains

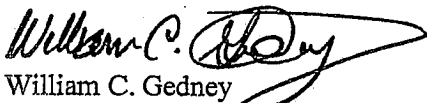
The current draft permit prohibits all non-storm water discharges that the Permittees are not preempted from regulating, except a few categories listed in Part 1.B.1(b). Category 6 refers to "discharges from potable water sources" which is qualified by a footnote. The second sentence of the footnote states that "It does not cover scheduled discharges by potable water purveyors for the (i) dewatering or hydrotesting or flushing of water supply and distribution mains, or (ii) dewatering or draining of reservoirs or water storage facilities."

GSWC is dedicated to providing our customers with water that meets strict State and Federal drinking water standards and to fulfilling our commitment to maintain the fire fighting infrastructure for emergency responders. System maintenance and hydrant testing via line flushing are critical tools used to meet those standards. Drinking water utilities are inspected annually by the California Department of Public Health (DPH) to determine compliance with DPH regulations and are also required to report annually to the DPH on their system flushing program. If voluntary system flushing is not adequate, DPH can enforce mandatory flushing in order to protect public health.

The prohibition of flushing activities in the draft permit could have an adverse affect on public health and safety and conflict with other laws and regulations. The same is true with regard to the prohibition of dewatering or draining of reservoirs and water storage facilities. GSWC requests that these key maintenance activities continue to be permitted. To that end, we request that the first and second sentences of the footnote in question be deleted.¹

We look forward to discussing with you how we might achieve a permit that is protective of both natural resources and public health and safety.

Thank You,



William C. Gedney
Vice President Environmental Quality

¹ We also suggest that the third sentence of the footnote be modified to read "Releases may occur for discharges from potable water sources only with the implementation of appropriate BMPs as provided in Table 1." In addition, we suggest that the last sentence of the footnote be modified to read "Covered discharges from well heads and hydrostatic pipe testing shall be subject to separate NPDES general permit coverage ([well head permit reference] and CAG674001, respectively)."

Second draft Ventura County Municipal Separate Storm Sewer System Permit

- (4) Flows from riparian habitats or wetlands.
- (5) Flows from emergency fire fighting activity.
- (6) Discharges from potable water sources.¹
- (7) Gravity flow from foundation, footing and crawl space drains.
- (8) Air conditioning condensate.
- (9) Reclaimed and potable landscape irrigation runoff.
- (10) Dechlorinated/ debrominated swimming pool discharges [see def. Part 8].
- (11) Non-commercial car washing by residents or non-profit organizations.
- (12) Sidewalk rinsing
- (13) Pooled storm water from treatment BMPs.²

Table 1 – Required BMPs for Non-Storm Water Discharges

Type of Discharges:	Conditions under which allowed:	Required BMPs for discharge to occur:
Stream diversions permitted by the State Board;	Shall comply with all conditions in the authorization.	Shall comply with all conditions in the authorization.
Natural springs and rising ground water	1. Ground water dewatering requires a separate NPDES permit. 2. Segregate flow to prevent introduction of pollutants.	Shall comply with all conditions in the authorization.
Uncontaminated ground water infiltration [as defined by 40 CFR 35.2005(20)] (Utility vault dewatering requires a separate NPDES permit.)	NPDES permit for ground water dewatering is required within the Los Angeles Region including Ventura County	Shall comply with all conditions in the authorization.
Flows from riparian habitats or wetlands	Provided that all necessary permits or authorizations are received prior to diverting the stream flow.	Shall comply with all conditions in the authorization.

¹ The term applies to low volume, incidental and infrequent releases that are innocuous from a water quality perspective. It does not cover scheduled discharges by potable water purveyors for the (i) dewatering or hydro-testing or flushing of water supply and distribution mains, or (ii) dewatering or draining of reservoirs or water storage facilities. Releases may occur for discharges from potable water sources only with the implementation of appropriate BMPs, dechlorination prior to discharge [see section G for specific BMPs]. Discharges from utility vaults shall be conducted under coverage of a separate NPDES permit specific to that activity. Discharges from well heads and hydrostatic pipe testing shall be subject to a separate NPDES general permit coverage (CAG674001).

² All storm water BMPs shall at a minimum be maintained at a frequency as specified by the manufacturer, and designed to drain within 72 hours of the end of a rain. Storm water treatment BMPs may be drained to the MS4 under this Order if the discharge is not a source of pollutants. Sediments shall be disposed of properly, in compliance with all applicable local, state, and federal policies, acts, laws, regulations, ordinances, and statutes.

Type of Discharges:	Conditions under which allowed:	Required BMPs for discharge to occur:
Flows from emergency fire fighting activity	Pooled water after fire must be controlled.	
Discharges from potable water sources	See Footnote #1 on page 26. Provided discharges from water lines and potable water sources shall be dechlorinated, pH adjusted if necessary, reoxygenated, and volumetrically and velocity controlled to prevent resuspension of sediments.	See Footnote #2 on page 26. To be discharged, this type of water shall be dechlorinated using aeration and/ or sodium thiosulfate and/ or other appropriate means and/or be allowed to infiltrate to the ground. BMPs such as sand bags or gravel bags shall be utilized to prevent sediment transport. All sediments shall be collected and disposed of in a legal and appropriate manner.
Drains for foundation, footing and crawl drains	Dewatering requires a separate NPDES permit.	Shall comply with all conditions in the authorization.
Air conditioning condensate	Segregation of flow to prevent introduction of pollutants	Infiltration whenever possible.
Water from crawl space pumps	Dewatering requires a separate NPDES permit within the Los Angeles Region including Ventura County	NPDES permit for ground water dewatering is required.
Reclaimed and potable landscape irrigation runoff	Segregation of flow to prevent introduction of pollutants.	Implement conservation programs to minimize this type of discharge by using less water.
Dechlorinated/ debrominated swimming pool discharges [see definition Part 8]	Provided discharge to a sanitary sewer is not available. Swimming pool discharges are dechlorinated, pH adjusted if necessary, aerated to remove chlorine if necessary, and volumetrically and velocity controlled to prevent resuspension of sediments. Cleaning waste water and filter back wash shall not be discharged to municipal separate storm sewers. Water that has been hyperchlorinated shall not be discharged to municipal separate storm sewers, even after de-chlorination.	Pool water may be dechlorinated using time, aeration, and/ or sodium thiosulfate.

Potable Water Sources - means the potable water system for the treatment, distribution, and provision of water for residential, commercial, industrial, or institutional use that meets all California safe drinking water regulatory standards for human consumption.

Pre-Developed Condition - means native vegetation and soils that existed at a site prior to first development. The pre-developed condition may be assumed to be an area with the typical vegetation, soil, and storm water runoff characteristics of open space areas in coastal Southern California unless reasonable historic information is provided that the area was atypical.

Priority Pollutants - means those constituents referred to in 40 CFR 401.15 and listed in the U.S. EPA NPDES Application Form 2C, pp. V-3 through V-9.

Project - means all development, redevelopment, and land disturbing activities. The term is not limited to "Project" as defined under CEQA (Reference: California Public Resources Code § 21065).

Rare, Threatened, or Endangered Species (RARE) - means a beneficial use for water bodies in the Los Angeles Region, as designated in the Basin Plan (Table 2-1), that supports habitats necessary, at least in part, for the survival and successful maintenance of plant or animal species established under state or federal law as rare, threatened, or endangered.

Redevelopment - means land-disturbing activity that results in the creation, addition, or replacement of 5,000 square feet or more of impervious surface area on an already developed site. Redevelopment includes, but is not limited to: the expansion of a building footprint; addition or replacement of a structure; replacement of impervious surface area that is not part of a routine maintenance activity; and land disturbing activities related to structural or impervious surfaces. It does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of facility, nor does it include emergency construction activities required to immediately protect public health and safety.

Regional Administrator - means the Regional Administrator of the Regional Office of the U.S. EPA or the authorized representative of the Regional Administrator.

Report of Waste Discharge (ROWD) - means an application for renewal of the NPDES Permit for Waste Discharge Requirements for Municipal Separate Storm Sewer Discharges Within the Ventura County Watershed Protection District, County of Ventura and the Incorporated Cities Therein.

Restaurant - means a facility that sells prepared foods and drinks for consumption, including stationary lunch counters and refreshment stands selling prepared foods and drinks for immediate consumption (SIC Code 5812).



1672 Donlon Street
Ventura, CA 93003
Local 805 654-6977
Fax 805 654-6979

September 20, 2007

Ms. Francine Diamond
Chair
Los Angeles Regional Water Quality Control Board
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

Re: Proposed Ventura County Municipal Storm Water Permit;
September 20, 2007 hearing – Ventura, CA

Dear Chairwoman Diamond and Regional Board Members,

On behalf of Jensen Design & Survey, Inc., we appreciate the opportunity to express our views and concerns with the recently released revised draft of the Ventura County Municipal Storm Water Permit (MS4). We are a local engineering firm responsible for the design of many types of projects, including new residential and commercial sites. We also work extensively on redevelopment, or in-fill sites as well, providing engineering services for the design of infrastructure systems including streets, water, sewer, and drainage. For the projects that we provide engineering services for, it is our design that the permit jurisdictions review for compliance with the MS4 criteria. We have first-hand knowledge and expertise as to what really works for sites relative the mitigating storm water runoff.

We join the Regional Board in supporting efforts to achieve cleaner water in Ventura County. We believe that through a comprehensive approach, utilizing best management practices that are adaptable to differing communities and individual site conditions, we will be better able to impact water quality in a positive sense throughout our region.

Hydromodification Control Criteria requirements are based on three components: Flow, volume, and duration. Restricting all of these components on development projects can only mean retaining all runoff, above that of natural conditions, onsite. While being noble in thought, the practicality of it is not feasible. Development projects must be allowed to affect one of these requirements to adequately treat and mitigate development impact in ways that are acceptable, sustainable, and practical. It is not practically possible to develop a site that doesn't affect some component of these three aspects. To achieve the goals of cleaner water with little or no downstream impact, we suggest that the permit allow latitude in the duration effects since this component is often extended to mitigate the increase in peak runoff rates caused by development. There is a minimal impact to the watershed because the "duration" of the runoff from the site is extended; i.e. providing detention as opposed to retention. This increased duration allows some infiltration, treatment, and particle settlement to occur. The MS-4 permit must address an understanding of this to make any of the implementation solutions practical and achievable.

For most of the sites developed in Ventura County, onsite retention/infiltration is not practical because of typical high ground water levels, and therefore surface area required to achieve this volume of retention is excessive and not appropriate for most applications.



1672 Donlon Street
Ventura, CA 93003
Local 805 654-6977
Fax 805 654-6979

We would oppose the inclusion of numeric effluent limits in the MS4 permit. We believe the Board should address water quality regionally rather than site-by-site as recommended in the revised draft. The site-specific approach not only will be extremely costly, but also will not lead to increased water quality in our basin.

In Ventura County we value redevelopment and infill projects. Through redevelopment of properties we are able to take advantage of existing infrastructure, such as roads and highways. Therefore we request that you not place restrictions on redevelopment projects. Reading the MS 4 wording literally, it could be interpreted that redevelopment sites must mitigate their flow back to natural conditions. For a site in an older downtown area, does that mean that we now have to make engineering assumptions for a natural condition that may not have existed for over 100 years? See page 50, item 2. (2).

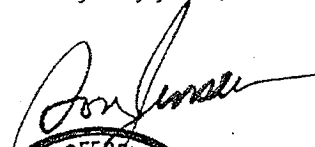
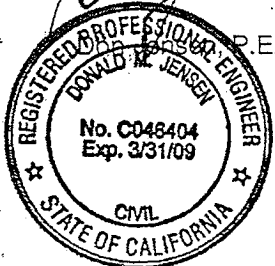
We also request that you not place unnecessary burdens on the development of new residential, commercial and industrial properties through grading restrictions that are not likely to lead to increase water quality. Again, water quality needs to be addressed regionally and not on a site-specific basis. The MS 4 permit should also allow for flexibility in allowing structural BMP's, if there are grade or other constraints that prohibit the use of natural bio-swales, etc.

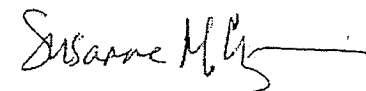
The reliance on ground infiltration is also an issue. Practically all construction sites are built on compacted grade, be it cut or fill. Infiltration on a 90% compaction site is virtually nil due to the compaction requirement for geotechnical feasibility. The compaction is required for structural – and seismic – integrity of the building(s), and roadways. Over time water infiltration into these areas would pose a significant public safety hazard by undermining both on-site improvements, and possibly off-site properties as well due to sub-surface migration of water.

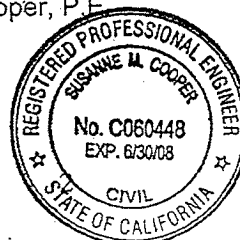
In closing let us express our concern that the costs need to be assessed by the agencies and jurisdictions that will be responsible for enforcing the permit criteria. We doubt that any of the municipalities have the funding to support the permit criteria. Costs should be spread to the entire population, and not to new development or potential future homeowners to subsidize a community-wide benefit. By most estimates, the financial costs associated with the revised draft MS4 permit are very high.


Again, we appreciate the opportunity to express our concerns. We look forward to working with the Regional Board in achieving an MS4 that will enhance water quality in Ventura County without negatively impacting our residents, local governments, and our economy.

Very truly yours,


Susanne Cooper, P.E.




Robert Talmadge, AICP

C001047

Oct. 15, 2007 @ 2:15PM

Regional Board Members
Regional Water Quality Control Board
ATT: Dr. Xavier Swamikannu

RE: Proposed Ventura County Stormwater Permit

Dear Regional Board Members:

Portions of the proposed Ventura County Permit currently under consideration are extremely detrimental to business growth and will put a very onerous strain on the construction industry. Some of the exceptionally stringent requirements (based on national & state data rather than local data) would limit business growth and very probably put some companies out of business completely.

The extreme grading restrictions will drive up costs and add months if not years to project schedules that would not only make the project financially unfeasible, but in the end, could cause a harmful impact on the environment. Hundreds of jobs will be impacted. While work sites lay idle, jobs will be lost when companies are unable to support their workforce or go out of business and workers must leave the county to find work elsewhere. Ventura County cannot afford this unnecessary setback to its economy.

Current BMPs are working and we request that the regional board work hand-in-hand with the local construction business community to modify the draft permit's overreaching requirements to support not only our environment, but the practical needs of the community and business as well.

We appreciate your consideration in this very serious matter.

Thank you,

Brenda - Super Seal (brenda@supersealandstripe.com)

C001048

>>> <mmay@trimarkpacific.com> 9/24/2007 9:03 AM >>>

Dear Regional Water Board Members,

The proposed stormwater permit under consideration in Ventura County will stifle business growth and must be revised. Industrial and commercial properties will need to meet stringent construction requirements that will limit their ability to grow and expand their businesses. Such businesses may consider expansion in areas outside of Ventura simply due to construction costs associated with expansion.

In addition, because construction can only occur during summer months, much of the workforce will be idled for months at a time.

Please reject this proposed permit and seek a more practical solution. Thank you for considering my viewpoint.

Sincerely,

Mark May
5446 Sunlight St.
Simi Valley, CA 93063

C001049

September 20, 2007

Attn; Dr. Xavier Swamikanner
L. A. Regional Water Quality Control Board
320 W. 4th Street, Suite 200
Los Angeles, California
90013-2343
Fax no. 213/576-6640

*faxed received
9/20/07
Registered Mail Sent
9/21/07
(8 Post in all)*

RE; **MS 4 Permit "Second Draft" for Ventura Water Shed Protection District
County of Ventura, and the Incorporated Cities. NPDES no. CA. S004002
Order no. 07-XXX**

Dear Mr. Swamikanner,

I am in opposition to this proposal, (MA 4 Permit Second Draft). Having said that, I feel that three important points stand out;

• "Major out fall" where effluent is dumped. The proposal deals with transporting effluent to another exit area, other than the City of Simi Valley. What I'm hearing is the monitoring of "Major out fall's" (piped exit area) will now be tested, instead of each individual contaminating polluter point of effluent discharge. The toxic effluent won't be monitored at "point source", but rather it will be done at the point of "piped effluent major out fall discharge". Is this correct?

I'm sure the thinking process sounded good, however the reality is that at some point the effluent has to be "cleaned up-not just watered down". What about the discharge area in community down stream. How will this "Major Out Fall" effect their drinking water?

• The Santa Susana Field laboratory, (SSFL) impacts the City of Simi Valley's NPDES Permit.

The building that has taken place since the first melt down in November of 1959 has had an impact on the City of Simi Valley, not to mention the additional contamination from the 1963 and 1969 melt downs that likewise were not reported or taken into consideration when EIR's were done for building. The Air and Water quality impact from contamination has never been brought into the picture since 1992 when I came on board attending the SSFL meeting.

How will the impact of the Cities NPDES Permits be addressed?

• Water Rights of Simi Valley residents, not only how the "Noncompliance" has effected them (residents)health wise, but what about a legal obligation.

RECEIVED
SEP 24 PM 1 12
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION

C001050

Page 2
MS 4, Second Draft
September 20, 2007
Mr. Swamikanner / Doose

As a resident with Water Rights attached to my property, who's Rights were violated on;

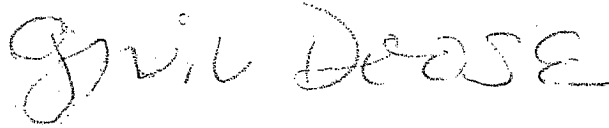
1. Notification of proposed projects within said water way,
2. The diversion of Water from the Las Lajas Channel down Streans Street pumped up to the SSFL site.

Where does that leave us (residents)? Are we now liable for the cover-up of toxic contamination at the SSFL site, since it was our water that was pumped up to that site? And, if I understand the MS 4 Permit, Second Draft correctly you are proposing to dump the effluent down stream, before monitoring. Would residents in Simi Valley be liable for that as well, since liability can go back to the sources?

As I said the thinking sounds good, but the reality is lost. Using the Band-Aid approach isn't sound Water Management from where I sit. I'm very concerned that your proposal is self serving. If the effluent is sent to a down stream Community the fact that toxic contaminates remain in the soil at the SSFL site for decades will be over looked. And, I fear that somewhere down the road families that are allowed to build and reside in the toxic contamination will experience deadly cancer illnesses , and this "night-mare" will just repeat itself once more. And, that to me is not being a responsible overseeing agency.

I'm in opposition to this Second Draft MS 4 Permit for Ventura County wide.
Sincerely,

Ginn Doose
c/o P.O.Box 2310
Clearlake., Ca.
95422



C001051

Water Permit Threatens Housing!

Dear Regional Water Board Members,

The proposed stormwater permit currently under consideration in Ventura County would force the cities of Ventura to spend their money on specific, unfunded mandates of the Regional Water Quality Control Board, rather than on the priorities of the cities. The permit is extremely specific, and does not provide flexibility to cities and property owners. The Board has conducted no economic or cost-benefit analysis of whether their one-size-fits-all requirements are the best strategies for all who will be subject to the new regulations.

Please reject this proposed permit and seek a more practical solution. Thank you for considering my viewpoint.

Sincerely,

Alan Murphy - Simi Valley, CA 93065
Anthony Lopez - Oxnard, CA 93035
Larry J. Wilmot - Simi Valley, CA 93065

>>> <amurphy@centexhomes.com> 9/19/2007 2:33:38 PM >>>

Dear Regional Water Board Members,

I understand that your water board is considering a stormwater permit in Ventura County that will exacerbate our region's housing crisis. The permit irrationally prohibits construction during the "wet" season - defined in this permit as longer than the dry season - from October 1 to April 15. This will limit the number of homes that can be constructed, driving up construction costs and, ultimately, home prices and HOA fees.

Please reject this proposed permit and seek a more practical solution. Thank you for considering my viewpoint.

Sincerely,

Alan Murphy
1057 Cadiz Court
Simi Valley, CA 93065

C001053

From: <tigertony247@hotmail.com>
To: <dsmith@waterboards.ca.gov>
Date: 9/19/2007 8:54:27 AM
Subject: Water Permit Threatens Housing!

Dear Regional Water Board Members,

I understand that your water board is considering a stormwater permit in Ventura County that will exacerbate our region's housing crisis. The permit irrationally prohibits construction during the "wet" season - defined in this permit as longer than the dry season - from October 1 to April 15. This will limit the number of homes that can be constructed, driving up construction costs and, ultimately, home prices and HOA fees.

Please reject this proposed permit and seek a more practical solution. Thank you for considering my viewpoint.

Sincerely,

Anthony Lopez
3035 Isle Way #B
Oxnard, CA 93035

CC: <tigertony247@hotmail.com>

C001054

From: <lwilmot@camarilloengineering.com>
To: <dsmith@waterboards.ca.gov>
Date: 9/19/2007 11:17:31 AM
Subject: Water Permit Threatens Housing!

Dear Regional Water Board Members,

I understand that your water board is considering a stormwater permit in Ventura County that will exacerbate our region's housing crisis. The permit irrationally prohibits construction during the "wet" season - defined in this permit as longer than the dry season - from October 1 to April 15. This will limit the number of homes that can be constructed, driving up construction costs and, ultimately, home prices and HOA fees.

Please reject this proposed permit and seek a more practical solution. Thank you for considering my viewpoint.

Sincerely,

Larry J. Wilmot
624 Halley Ct.
Simi Valley, CA 93065

CC: <lwilmot@camarilloengineering.com>

Proposed Stormwater Permit Won't Clean Our Water!

Dear Regional Water Board Members,

The proposed stormwater permit currently under consideration in Ventura County would force the cities of Ventura to spend their money on specific, unfunded mandates of the Regional Water Quality Control Board, rather than on the priorities of the cities. The permit is extremely specific, and does not provide flexibility to cities and property owners. The Board has conducted no economic or cost-benefit analysis of whether their one-size-fits-all requirements are the best strategies for all who will be subject to the new regulations.

Please reject this proposed permit and seek a more practical solution. Thank you for considering my viewpoint.

Sincerely,

Torreh Pearl 30832 - Westlake Village, CA 91362
Mitchel Kahn no - Thousand Oaks, CA 91360

1

Mail Message

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Close Previous Forward Reply to Sender Reply All Move Delete

From: <pearlfamily@sbcglobal.net>
To: Deborah Smith
CC: pearlfamily@sbcglobal.net
Date: Tuesday - September 18, 2007 4:03 PM
Subject: Proposed Stormwater Permit Won't Clean Our Water!
49 Mime.822 (2156 bytes) [Save_As]

Dear Regional Water Board Members,

Your water board is considering a stormwater permit in Ventura County that won't actually improve water quality. The permit relies on incomplete science and studies that aren't applicable in Ventura County. It uses old national data and studies completed in the Pacific Northwest that aren't relevant for Ventura County, where we also need to provide flood control during significant rain events. The permit uses a "one-size-fits-all" approach that doesn't consider Ventura County's climate, geology, hydrogeology, or terrain.

Please reject this proposed permit and seek a more practical solution. Thank you for considering my viewpoint.

Sincerely,

Torreh Pearl 30832
Oakrim Dr.
Westlake Village, CA 91362

C001057

1

Mail Message

Close Previous Next Forward Reply to Sender Reply All Move Delete Read Later Properties
[Print View](#)

From: <mkahn@calattys.com>
To: Deborah Smith
CC: mkahn@calattys.com
Date: Tuesday - September 18, 2007 4:00 PM
Subject: Proposed Stormwater Permit Won't Clean Our Water!
Mime.822 (2132 bytes) j\$ave_Asj

Dear Regional Water Board Members,

Your water board is considering a stormwater permit in Ventura County that won't actually improve water quality. The permit relies on incomplete science and studies that aren't applicable in Ventura County. It uses old national data and studies completed in the Pacific Northwest that aren't relevant for Ventura County, where we also need to provide flood control during significant rain events. The permit uses a "one-size-fits-all" approach that doesn't consider Ventura County's climate, geology, hydrogeology, or terrain.

Please reject this proposed permit and seek a more practical solution. Thank you for considering my viewpoint.

Sincerely,

Mitchel Kahn no
mail please
Thousand Oaks, CA 91360

C001058

Proposed Permit hurts cities, taxpayers, and businesses!

Dear Regional Water Board Members,

The proposed stormwater permit currently under consideration in Ventura County would force the cities of Ventura to spend their money on specific, unfunded mandates of the Regional Water Quality Control Board, rather than on the priorities of the cities. The permit is extremely specific, and does not provide flexibility to cities and property owners. The Board has conducted no economic or cost-benefit analysis of whether their one-size-fits-all requirements are the best strategies for all who will be subject to the new regulations.

Please reject this proposed permit and seek a more practical solution. Thank you for considering my viewpoint.

Sincerely,

Tim Casey - Moorpark, CA 93021
John Franklin - Thousand Oaks, CA 91362

Novell WebAccess

N

Close Previous Next Forward Reply to Sender Reply All Move Delete Read Later Properties
[Print View](#)

From: <john@franklinred.com>
To: Deborah Smith
CC: john@franklinred.com
Date: Tuesday - September 18, 2007 4:00 PM
Subject: Proposed Permit hurts cities, taxpayers, and businesses!
Mime.822 (2114 bytes) [Save_AS]

Dear Regional Water Board Members,

The proposed stormwater permit currently under consideration in Ventura County would force the cities of Ventura to spend their money on specific, unfunded mandates of the Regional Water Quality Control Board, rather than on the priorities of the cities. The permit is extremely specific, and does not provide flexibility to cities and property owners. The Board has conducted no economic or cost-benefit analysis of whether their one-size-fits-all requirements are the best strategies for all who will be subject to the new regulations.

Please reject this proposed permit and seek a more practical solution. Thank you for considering my viewpoint.

Sincerely,

John Franklin
3159 Eaglewood Ave.
Thousand Oaks, CA 91362

C001050

Mail Message

N

Close Previous Next Forward Reply to Sender Reply All Move Delete Read Later Properties
[Print View](#)

From: <tim.casey@geolabswv.com>
To: Deborah Smith
CC: tim.casey@geolabswv.com
Date: Tuesday - September 18, 2007 3:58 PM
Subject: Proposed Permit hurts cities, taxpayers, and businesses!
Mime.822 (2113 bytes) [save AsJ]

Dear Regional Water Board Members,

The proposed stormwater permit currently under consideration in Ventura County would force the cities of Ventura to spend their money on specific, unfunded mandates of the Regional Water Quality Control Board, rather than on the priorities of the cities. The permit is extremely specific, and does not provide flexibility to cities and property owners. The Board has conducted no economic or cost-benefit analysis of whether their one-size-fits-all requirements are the best strategies for all who will be subject to the new regulations.

Please reject this proposed permit and seek a more practical solution. Thank you for considering my viewpoint.

Sincerely,

Tim Casey
13176 Westport St
Moorpark, CA 93021

C001061

3152 Shad Court
Simi Valley, CA 93063
September 17, 2007

Dr. Xavier Swamikannu
LARWQCB
320 W. 4th Street, #200
Los Angeles, CA 90013-2343

Re: Ventura Countywide Second Draft MS4 (NPDES) Permit.

Dear Dr. Swamikannu:

When I first read the aforementioned document, I was set to oppose the item for various reasons. Then, on Sunday, September 16, 2007, I read the Ventura County Star article "Planned new storm-water restrictions cost millions", and decided to support the MS4 second draft permit based on "Ventura County" being "the first jurisdiction in California - and perhaps the nation - to face numeric limits on storm-water pollution"--as reportedly stated by Mr. Jeff Pratt, Director of the Ventura County Watershed Protection District, to the Ventura County Board of Supervisors during a Tuesday, September 13, 2007 workshop. Then, I researched SCA 12 (Torlekson, Lee, and Kuehl), and AB 938 (Calderon). To my dismay, the AB 1003 (Nava) and AB 554 (Karnette/Nava) public deceit game plan had resurfaced.

Dr. Swamikannu, while I strongly agree with the article statement that "The rules, for the first time" will "establish limits on the quantity of pollutants allowed into lakes, rivers and the ocean and levy steep fines against those who don't comply", I for one will not stand by and allow the public to be misled, and robbed blindly, nor let the public participation process be violated and circumvented for the sake of bailing out local governments; many of which for decades played games with general fund and special district moneys to aid the business, and development communities through their redevelopment agencies programs and projects--to make rules flexible, waive, defer or delete them--instead of truly looking after the health, safety, and wellbeing of the citizenry.

Dr. Swamikannu, I am opposed to the Ventura County Second Draft MS4 (NPDES) Permit for the following reasons.

C001062

- #1 - The Second Draft MS4 Permit does not deal with violations of the public participation process, most especially responses to submitted public review period comments for County of Ventura, Ventura County Watershed Protection District, and 10 cities related documents. Thus, scrutiny by the public is significantly hampered. This is a circumvention of Governor Arnold Schwarzenegger's "open government" policy (found on his Website).

To date, I have not received a response to my letter on the County of Ventura Draft Multi-Jurisdictional Hazard Mitigation Plan (approved in 2005 by the Board of Supervisors in an incomplete and inaccurate form).

To date, I have not received a response to my letter on the Ventura County Watershed Protection District Flood Mitigation Plan (approved in 2005 by the Board of Supervisors in an incomplete and inaccurate form). I also have not received a response to my letter on the Watershed Protection District's existing NPDES related fees.

To date, I have not received a response to my letters on the City of Simi Valley Preliminary Base Budgets for the past 2 fiscal years. My formal requests for copies of City Council approved Final Budgets are not followed through. The City to date has built one of 6 to 11 regional storm water detention basins that it applied for and received millions of dollars from FEMA through the Hazard Mitigation Grant Program, and additional monies from the State's General/ Native American CDBG Program--these dams are NPDES permit related mitigation measures.

- #2 - Permit focuses on major discharge outfalls instead of at each individual polluting source.
- #3 - The Ventura Countywide NPDES Program Permit provides cover for Boeing's SSFL NPDES Permit, and, it's water quality related violations, as well as the penalties levied and paid.
- #4 - While local governments officials and employees are alarmed about the costs and requirements,

they are all waiting in the wings like vultures for SCA 12 (Torlaksen, Lee, and Kuehl), and AB 938 (Calderon)--which open up Pandora's Box with mismanagement, fraud, and embezzlement of funds by restricting public scrutiny--to become law. This is why the Ventura County Star September 16, 2007 article is titled "Planned new storm-water restrictions cost millions" to scare the citizenry into supporting the whims of **alarmed** local governments officials and staff members. But, even the newspaper is not completely convinced of this **alarm** since it not only provides the Ventura County Watershed Protection District's "staggering" estimate of \$140 million, but also mentions a low end cost of \$60 million.

- #5 - Stiff financial penalties and incarceration for local government officials and employees' deception of State and Federal government regulators and the public are not proposed.
- #6 - The Countywide Public Education Program falls short of the necessary mark for true progress.
- #7 - The City of Simi Valley's 1988 General Plan Update will not be speeded up, nor require inclusion of a Water Element, nor condition that the SSFL be covered in its Air Quality Element and Accompanying Technical Document.
- #8 - To date, health impacts to Camarillo, Moorpark, and Thousand Oaks citizens from the SSFL soil, water, and air toxic contaminants have not been disclosed..
- #9 - The City of Simi Valley's 1984 Groundwater Demineralization Study (prepared by Donald G. Rosen) has not been updated.
- #10 - The City of Simi Valley's 1985 Simi Valley West End Groundwater Study (prepared by Leighton & Associates) has not been updated.
- #11 - The City of Simi Valley's 1990 Master Plan of Drainage (prepared by Hawks) has not been updated.

QUESTIONS

1. Has the 1983-1984 Calleguas Municipal Water District's Ground Water Characterization Study been updated?
2. Has the City of Simi Valley's 1980's Water Plan been updated?
3. Has the County of Ventura's 1994 Water Management Plan (Volumes I, II, and III) been updated?
4. What happened to the water that used to flow through the Las Lajas Creek? Was it dammed up in order to be pumped up to the Rocketdyne Santa Susana Field Laboratory?
5. Which Ventura County cities, and communities are "cash-strapped" and will need "to tap existing budgets for emergency response, public works, law enforcement, recreation, and other services to come up with the money for a heightened" NPDES Program Permit--September 16, 2007, Ventura County Star article "Planned new storm-water restrictions cost millions"?
6. Past County of Ventura Public Works Agency problems with "trusts" accounts involved what type of issues that required auditing?
7. Does the City of Simi Valley Municipal NPDES Permit allow the Rancho Simi Recreation and Park District to empty the duck pond water from the Simi Hills golf course/park into the City's sewer, or drains to the Arroyo Simi? If not, does the Ventura Countywide NPDES Permit allow such discharges? If none of these permits allow this activity by the Park District, what does it have to do to comply with the law? Or the District does not have to comply?
8. Are there environmentally-friendly pool and spa cleaning materials that add less contaminated drainage runoff into waterways? If so, where can homeowners, and other residential property owners find such a list?

SUGGESTIONS

1. Men are amongst the worst water quality offenders.

At home (single family residence) when mowing lawns; trimming trees, and shrubs/bushes; etceteras prefer to wash the material into the street than sweeping it up and throwing the debris in green waste cans.

At home (single family residence) when working on vehicles prefer not to use mats, newspapers, etceteras if the oil is changed; when used oil is emptied from the pan to recycled oil containers.

Public Education campaigns must stress, besides giving suggestions on how to be a better water quality caretaker, what the laws and penalties are (include the Local, State and Federal Governments code sections, and text). This will be useful for residential and commercial lawn maintenance businesses/operators.

2. Each Permittee should include a list of acceptable environmentally friendly pesticides and herbicides on their Websites.
3. Each Permittee should include a list of acceptable (biodegradable?) soap/detergent products to wash vehicles in residential areas (homes, apartments, town homes, condominiums, mobile homes, etceteras).
4. Stress to single family households in local government newsletters, Websites, etceteras the importance of keeping trash containers tightly closed especially on windy days.
5. Cities and communities must do everything in their power to guard from sewage spills into waterways.

Dr. Swamikannu, had the local governments done their jobs instead of kowtowing to the business and development industries, and not made redevelopment projects top priority from the beginning they would not now have to be meeting newer more stringent water quality requirements, and resorting to "hook or by crook" trickery of the citizenry to cover for their ill-conceived shortfalls.

Dr. Swamikannu, if the business and development industries, local governments, parks districts, educational institutions, equestrian centers, animal keeping owners, residents, the public, etceteras do their parts lawsuits; costs and penalties will be minimized; the taxpayers pockets will not get so many hits through fees, and bonds; and State legislators don't have to destroy public scrutiny through ill-advised proposals.

Sincerely,



Mrs. Teresa Jordan

Enclosure:

August 30, 2007, Letter to Cassandra Owens, Los Angeles Regional Water Quality Control Board; Boeing SSFL NPDES Permit. (9 Pages)

C001067



"Citrus Capital of the World"

City of Santa Paula

970 Ventura Street • Santa Paula, California • Mailing Address: P.O. Box 569 • 93061 • Phone: (805) 525-4478 • Fax: (805) 525-6278

October 25, 2007

Tracy Egoscue
Executive Officer
Los Angeles Regional Water Quality Control Board
320 4th Street, Suite 200
Los Angeles, CA 90013

RECEIVED
AMT OCT 31 PM 3 37
CALIFORNIA REGIONAL WATER
QUALITY CONTROL BOARD
LOS ANGELES REGION

Re: **Second Draft Order of the Ventura County Municipal Separate Storm Sewer System Permit (NPDES No. CAS004002) for the Ventura County Watershed Protection District, County of Ventura and the Incorporated Cities Therein**

Dear Ms. Egoscue,

The City of Santa Paula appreciates the opportunity to provide comments on the second draft Ventura County Municipal Separate Storm Sewer System Permit for the Ventura County Watershed Protection District, County of Ventura and the incorporated cities.

As background information, Santa Paula is a community of approximately 29,000 residents in eastern Ventura County. Incorporated in 1902, Santa Paula is an older community that resides along the Santa Clara River. The City is committed to environmental excellence, an integral part of which includes an effective stormwater quality management program.

Santa Paula has been an active and supportive member of the Ventura Countywide Stormwater Quality Management Program since its inception in 1992. The Countywide program has an exemplary record as an effective stormwater quality management plan. In 2003, the U.S. Environmental Protection Agency awarded the Ventura Countywide Program with its National Clean Water Act Recognition Awards Program, Storm Water Management Excellence Award. The intent of the awards is to "recognize municipalities and industries that are demonstrating their commitment to protect and improve the quality of the nation's waters by implementing outstanding, innovative and cost-effective Storm Water control programs and projects". The award reflects the Program's and the City's commitment to improve and protect water quality in Ventura County through a comprehensive and constructive best management practice (BMP) based program using an iterative process to guide our efforts.

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C001068

comprehensive and constructive best management practice (BMP) based program using an iterative process to guide our efforts.

Given the above, the City is concerned that the second draft permit continues to be extremely prescriptive and ignores or requires duplication for much of the work that has been done to date. Many significant elements in the proposed permit are unfocused, counter-productive and contrary to the progress and good-faith efforts established in the watershed management and TMDL processes.


The City participated with the other agencies in the county in developing the comments regarding the second draft permit submitted to the Regional Board on October 12, 2007 by the Ventura County Watershed Protection District on behalf of the Permittees. The City supports and agrees with these comments.

As stewards of scarce and limited public funds, we must ensure that the actions and expenditures driven by regulatory requirements are consistent with each other, are cost-effective and capable of achieving the goals for which those expenditures are intended. The second draft stormwater quality permit is inconsistent with those goals. Although we disagree with much of the proposed approach being used by the Regional Board, we are in agreement with the need to continue and enhance our award-winning stormwater management program, which will lead to water quality protection and improvement and provide for adequate accountability.

To that end, we request and look forward to working with Board staff through a series of facilitated meetings in order to craft a revised permit that supports this need.

If you have any questions or need additional information, please feel free to contact me Cliff Finley, Director of Public Works at (805) 933-4212, ext. 304.

Sincerely,


Wally Bobkiewicz
City Manager

Cc: Clifford G. Finley, Public Works Director
Karl Berger, City Attorney
Ventura County Stormwater Permittees

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C001069



CITY OF FILLMORE
CENTRAL PARK PLAZA
250 Central Avenue
Fillmore, California 93015-1907
(805) 524-3701 • FAX (805) 524-5707

October 10, 2007

California Regional Water Quality Control Board
Los Angeles Region
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

SUBJECT: COMMENTS ON THE 2ND DRAFT STORM WATER NPDES PERMIT
FOR VENTURA COUNTY

The City of Fillmore has serious concerns with the 2nd draft of the Storm Water NPDES permit. This draft Storm Water National Pollutant Discharge Elimination (NPDES) permit requires:

- Existing city storm drains and watersheds must have treatment installed within 2 years!
- All existing businesses must install treatment within 2 years!
- Automatic Mandatory Minimum Penalties for end of pipe violations if these treatment measures don't fully perform, \$3,000 ea. starting in 2010!
- Requires duplicate State NPDES permits for Public Works maintenance activities
- Permanent treatment must be installed with street overlay projects, further diminishing gas tax monies for street resurfacing.
- Trash excluders must be installed downtown, around schools and in industrial areas.
- Monitoring for Nutrient TMDL is excessive and will cost \$16,000 per year
- The permit will cost Fillmore \$3,120,000 per year to implement and the City only receives \$16,000 per year in Storm Water Benefit Assessment revenues.
- The cost per home in Fillmore will be about \$820 per year!

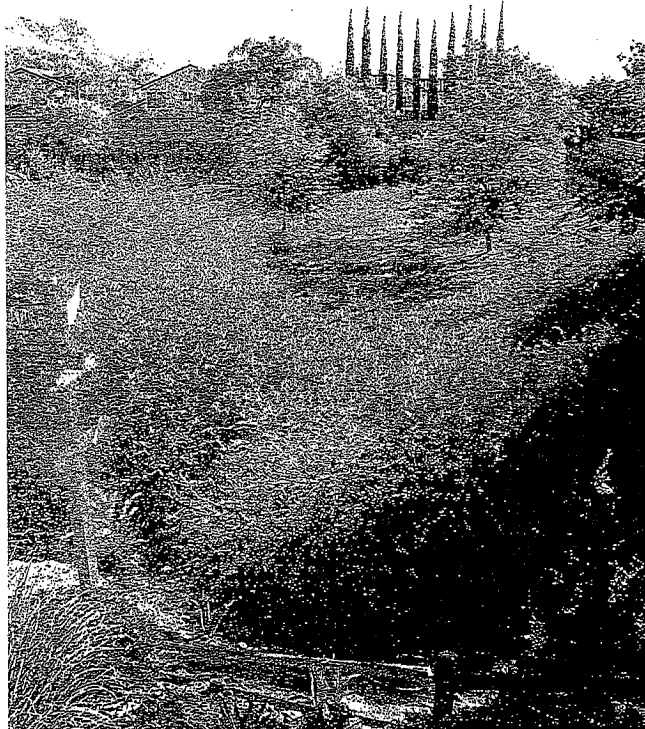
ENVIRONMENTAL SOCIAL JUSTICE

In a short 5 year period the Los Angeles Regional Water Quality Control Board (RWQCB) is requiring the low income farm worker community of Fillmore to spend horrific amounts of money on water quality. The median income in some Fillmore neighborhoods is only \$33,000 per year while the Ventura County median income is about \$60,000 (See Exhibit B). The RWQCB has required upgrades to the sewage treatment system that cost the rate payers an additional \$900 per year. The Chloride TMDL is projected to cost the rate payers \$500 per year and now the Storm Water

C001070

NPDES draft permit threatens another \$820 per year per home. (See Exhibit A) The total cost for water quality is over a 5 year period is \$2,220 per year per home or 6.7% of the gross income of the poorer communities in Fillmore. This is essentially a 7% tax increase on the poorest in our society. These families earning \$33,000 per year don't have \$2,220 to pay for water quality improvements!

Fillmore has gone above and beyond the previous permits to achieve storm water treatment. For example in our existing detention basins serving existing development we have installed storm water treatment wetlands and have maintained them for the last 10-years. We also clean trash from the detention basins to prevent it from flowing out to the rivers. The permit is just now requiring cities to provide such treatment for existing urban uses.



FIRST STREET STORM WATER TREATMENT WETLAND
BUILT IN DETENTION BASIN SERVING EXISTING DEVELOPMENT
ABOVE AND BEYOND EXISTING PERMIT REQUIREMENTS

The Fillmore City Council has required storm water BMP's to be installed by all new development since 1993 regardless of project size limits allowed in the NPDES permit (except for individual single family residences). The first NPDES permit was issued in

1994 so Fillmore got a head start on the program and has gone further in requiring storm water treatment than the permit requirements.

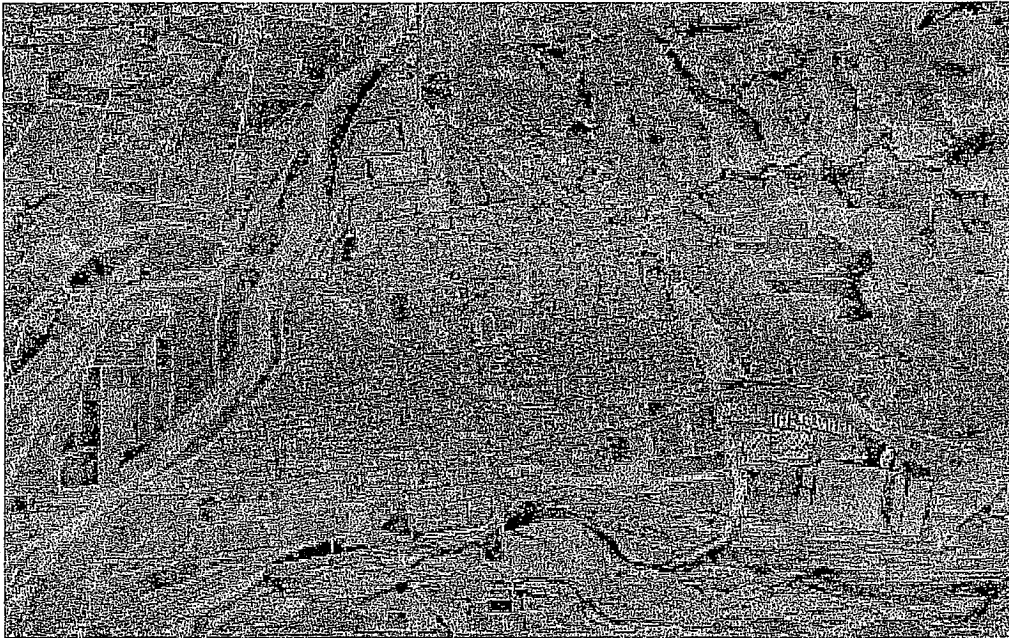
Another indication of Fillmore's environmental concern is our solid waste diversion program. In 2006 Fillmore achieved 60% solid waste diversion!

The small size of Fillmore and our aggressive pursuit of the program should be considered by the Board when time frames and treatment measures are considered.

TREATMENT FOR EXISTING CITY

The largest concern in the permit is the requirement that all of the storm drain outlets larger than 36" meet the Municipal Action Levels (MALs) within two years of permit adoption and face mandatory minimum penalties. The photo below shows the areas of the City that must have treatment end of pipe and in watershed treatment installed by 2010 at a cost of about \$29,00,000. See Permit Page 29, Part 2 and also Page 30, Part 3.4. and Exhibit A.

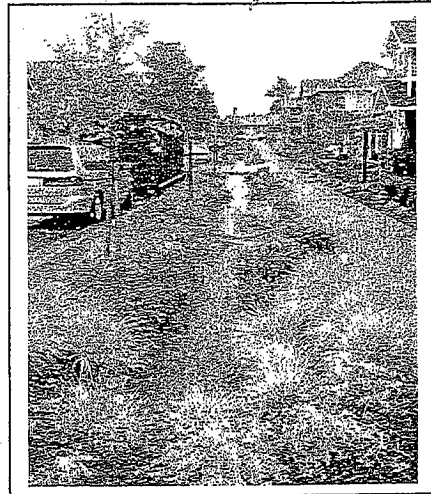
New development can provide storm water treatment by simply building smarter. But the existing city must reconstruct public and private infrastructure at great expense to achieve storm water treatment.



**STORM WATER TREATMENT AREAS BY NEW DEVELOPMENT
REMAINING AREAS ARE EXISTING CITY RESPONSIBILITY**

Fillmore has limited land available to provide adequate end of pipe treatment. Therefore to meet the MAL's we must install both end of pipe treatment devices such as extended detention basins, wetlands and in watershed devices such as bio-retention rain gardens.

The treatment in the watershed would mostly be in the public parkway or the front yards of private homes. This would require a significant amount of volunteer participation of many residents and be very expensive to implement. We will have to install about 16-miles of bio-retention rain gardens at a cost of \$11,500,000.



Achieving such a large treatment program will require Environmental Impact analysis, extensive public involvement. Fillmore would need 20 years to implement such an aggressive capital program. And even we could do such a program we don't have confidence that the BMP's would meet the MALs and expect to have to modify the BMP's per the iterative, test, modify process described in the permit in Part 3, 3 & 4 Page 30. This will also lead to automatic mandatory minimum penalties of thousands of dollars.

TREATMENT FOR EXISTING BUSINESSES

The permit requires mandatory BMP's businesses be installed within two years. Businesses in Fillmore are already suffering from the newly escalated sewer rates with one more rate hike due July 1, 2008. This permit will require them to spend thousands of additional dollars. During the same time frame of 2008 to 2012 their water bill will likely double because of the chloride TMDL. These costs will likely cause some businesses in Fillmore to shut down. In the past only new development has been required to install BMP's and they could meet the requirements relatively easily by sloping the parking lot to drain into a biofilter or setting grades so flow can be directed into a catch basin filter. With existing businesses it can be almost impossible to implement such measures without great expense. And business will have only two years to implement such structural changes. Page 41, Part 5.D.I.2.a, Tables 2 through 5.

DUPLICATE STATE CONSTRUCTION PERMITS FOR CITY MAINTENANCE WORK

In addition to this permit with its onerous implementation and reporting requirements the RWQCB is requiring the City to obtain duplicate State Storm Water Permits (CASGP) for City construction projects, long term maintenance projects such as pothole and sidewalk repair etc. and road maintenance projects such as street overlays. This a duplication of permitting effort to have permits with the LARWQCB and with Sacramento for the same work and will cause additional man hours to apply for and administer the duplicate permits as well as pay additional thousands of dollars in permit fees to the State. The small staff of Fillmore is already going to be overwhelmed attempting to implement this new permit without doing double work with these duplicate State permits. The requirements for duplicate permits should be eliminated. Page 71, 73 & 78 Part 5.G.I.1(c), 2(b), & 7(a).

FLOW CONTROL HYDROMODIFICATION NOT APPLICABLE TO FILLMORE

The mandatory hydromodification requirement also has negative impacts to the community of Fillmore. As you know the City is bounded on three sides by major rivers: Santa Clara River (108,000 CFS), Sespe Creek (135,000 CFS) and Pole Creek (6,000 CFS). The peak flows in the rivers prevent water from leaving the City so we have about 3 hours to empty the flood waters out of the City before the flap gates shut. It is critical that the detention basins be empty as the peak river flows pass so if there is a thunder storm during the peak the water can be held in the basin rather than in homes. With the mandatory hydromodification requirements our detention basins would have to be full instead of empty and the city would be at risk of flooding when peak river flows pass.

Also there is no logic of applying the hydromodification requirements to Fillmore because we are the downstream section of major rivers. How can a hydraulic impact occur to the Santa Clara or Sespe when a City discharge is overwhelmed three hours later by a flow that is 400 times larger? Part 5.E.III.3. Page 52

PERMANENT TREATMENT WITH STREET OVERLAY PROJECTS

Requiring the City to install permanent storm water treatment with street resurfacing projects is a duplication of the requirement to meet MALs within 2 years of permit adoption. It also diminishes limited street maintenance monies available to small cities. On many streets there are no storm drains and no available public Rights of Way in which to install treatment devices.

TRASH EXCLUDERS REQUIRED ON CATCH BASINS

Trash excluders are required to be installed in high trash areas such as commercial, industrial and around schools within one year of adoption. In some watersheds we will have effective end of pipe trash collection and do not want to install expensive high maintenance trash excluders. Since Fillmore does not have a Trash TMDL imposed the Board should allow the City to address the trash issue the way it sees best instead of prescribing a specific method such as "trash excluders in catch basins." Trash excluders are still under development and are very experimental. If the Board will allow the installation of trash excluders in Fillmore until the next

permit cycle their design will be better defined and installation and maintenance cost will have come down. Page 76 Part 5.G.I.5.(e).

MONITORING COSTS FOR NUTRIENT TMDL ARE EXCESSIVE

TMDL monitoring requires about 24 tests per year from each of the 8 major storm drains in the City (192 tests per year). This testing will cost about \$16,000 per year and never ends even if the testing determines the storm waters are not discharging nutrients. The City requests the testing be revised as follows:

1. Monitor two representative storm drains for wet and dry weather flow when the flow joins the flowing waters of the Santa Clara River or Sespe Creek. Provide 3 wet weather tests and monthly dry weather testing.

If unusually high nutrient levels are discovered with the testing Board staff has the ability to require more testing using Water Code 13267. Typically for 5 to 6 months of the year the dry weather flows do not join flowing water in the Santa Clara River or Sespe Creek but percolates into the ground within a few feet of the storm drain outlet. The nutrient TMDL relates only to surface water not ground water so monitoring should not be required when flows do not join with surface flow.

The 192 monitoring samples per year in this draft Storm Water NPDES permit drastically increases the Nutrient TMDL monitoring plan submitted by the City March 22, 2005 which requires 4 tests per year. Page 87 Part 6.IV.1.(b) and Part 7.V.1(b).

ADDITIONAL TIME TO MODIFY PROGRAM

With the limited staff in Fillmore it is difficult to make the magnitude of changes required in the permit to our ordinances and General Plan. Therefore we are requesting 3 years instead of one to modify storm water programs, codes, General Plan, etc.

DUPLICATE SANITARY SEWER OVERFLOW RESPONSE PLAN

This draft permit requires the City to provide a spill response plan for Sanitary Sewer Overflows (SSO's). This is a redundant requirement that is already contained in the NPDES and WDR permits for the Sewage System. Repeating this requirement in the Storm Water NPDES permit only means that the RWQCB will receive two notifications of the same spill and two reports must be submitted by the City for the same spill. The Sewage Treatment Staff is different from the Storm Water Pollution Staff and don't administer the Storm Water NPDES permit so this requirement doubles the effort and risk of reporting error when spills occur. If the Board needs two copies of the report they should handle that internally not require two City departments to make separate reports on the same event. Page 76 Part 5.G.I.5.(g).

PRESCRIPTIVE BEST MANAGEMENT PRACTICES

The permit provides a process for the City to appeal the prescriptive BMP's. But the State should not be prescribing the treatment processes in the first place. First: because the State assesses the City mandatory minimum penalties for failure of a State mandated BMP. Second:

The State doesn't know the local conditions nor the most economical way to achieve treatment.

If the State persists in prescribing BMP's then another exclusion needs to be added that reads:
"The RWQCB prescribed BMP will endanger life and property." Page 35, Part 5.A.2.

ILLEGAL EFFECTIVE DATE REQUIREMENT ON TRACT AND PARCEL MAPS

The permit establishes an effective date for the permit to regulate projects. This is in direct conflict with the State Map Act with regard to tract and parcel maps which are subject to State law existing at the time of application. The City is limited by State law and cannot implement this provision. Page 51, Part 5,E.II.3

RELIEF FROM PAYMENT TOWARDS STUDIES AND MONITORING

The permit currently requires small communities (Phase II size cities) to contribute to studies, plans and monitoring in the same proportion as larger cities (Phase I size cities). However under EPA Phase I and Phase II program Phase II communities are not required to perform such tasks. The Board could provide significant financial relief to small cities such as Fillmore by excluding them from paying for this work. This would not reduce the studies, plans or monitoring to be performed but would relieve small communities from having to pay for them.

We believe this is in the spirit of the establishment of the Phase I and Phase II program in that the larger communities would fund research and development and small communities would do implementation when costs have come down and effectiveness has increased. If the Board would excuse small communities this would save Fillmore \$4,000 per year on the existing permit. This is a large cost for Fillmore.

Fillmore is being required to implement storm water treatment measures far in excess of what is required for Phase II Communities. Fillmore is separated from other communities by miles of green belt and is truly a qualifying Phase II City. It would be quite appropriate for the permit to designate reduced requirements for Communities in Ventura County that qualify as Phase II Communities.

The City also strongly supports the joint comments made in the joint co-permittee letter submitted by the Ventura County Watershed Protection District.

Your consideration of these issues is greatly appreciated.

Very Truly Yours
CITY OF FILLMORE



Steve Conaway, Mayor

cc: Mrs. Tracy Egoscue, Executive Officer
City Council

EXHIBIT A

DRAFT 2008 NPDES PERMIT BUDGET

STORM WATER NPDES PERMIT BUDGET FOR NEW PERMIT 2008													
PAGE / PERMIT REFERENCE	Description of Task	First two years of Outside Purchases Materials Services Etc.	Ongoing Outside Purchases Materials Services Etc.	ENGINEER	FINANCE DIRECTOR	CITY ATTORNEY	PUBLIC WORKS	PLANNER	FRE (Business Inspections)	BUILDING & SAFETY	PUBLIC INFORMATION OFFICER	FIRST TWO PERMIT YEARS TOTAL ITEM COST	FUTURE YEARS ONGOING COST TOTAL
				\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
22 Part 1.F.12	Install treatment BMP's on all 8 30" + storm drain outlets	\$ 14,025,200.00		123,000	111,000	250,000	61,000	86,000	74,000	59,000	65,000	\$15,190,600.00	
22 Part 1.F.12	Install treatment BMP's in within the existing City	\$ 13,341,081.60		9,000	200	40	500	1,000		300	200	\$15,190,600.00	
27 Table 1	Police swimming pool discharges			4000	100	40	Included in capital cost	40		20	500	\$19,891,381.60	\$590.00
30 Part 4.B.3	Review and update Storm Water ordinance			24		16		10		5		\$9,127.00	
33 Part 4.G.1.(a)	Prepare and maintain annual storm water pollution budget			40	24	2	12	8	4	4	2	\$10,182.00	\$10,182.00
34 Part 4.E.	Principal Committee	\$ 100,000.00	\$ 30,000.00									\$100,000.00	\$30,000.00
34 Part 4.F.1.b.	Committee Meetings			150			80	60	38		38	\$32,394.00	\$32,394.00
36 Part 5.C.1.1	Roskoffski outreach program	\$ 800.00	\$ 300.00	12			20	12	12	12	100	\$12,446.00	\$12,148.00
39 Part 5.C.1.2.(b)	Business Assistance Program	\$ 400.00	\$ 200.00	40				40	200			\$20,120.00	\$19,820.00
39 Part 5.D.1.1	Industrial Commercial Facilities			20				200	200			\$17,260.00	\$17,260.00
41 Part 5.D.1.2.(a)	Force BMP's at Commercial Localities			200		8		200	40	40		\$48,520.00	\$7,880.00
46 Part 5.O.1.2.(b)	Industrial Inspections			40				40	40			\$7,880.00	\$7,880.00
47 Part 5.D.1.3. & 4.	Progressive Enforcement BMP's for City Projects, Pool, P.O. Parking Lot, Promenade	\$ 100,000.00		400		100		100	100	100		\$86,300.00	\$95,300.00
51 Part 5.E.N.2.(b)	Low Impact Development Formulation	\$ 100,000.00		120	6			12		8		\$117,176.00	
52 Part 5.E.M.2	Hydromodification	\$ 10,000.00		100				20		4		\$14,296.00	
52 Part 5.E.M.3	City BMP Maint. Cont on City Projects	\$ 240,000.00	\$ 40,000.00	100	8		850	8				\$23,004.00	\$105,038.00
57 Part 5.E.V.2	BMP Tracking, Inspection & Enforcement	\$ 20,000.00	\$ 30,000.00	40	6	20	100	40				\$36,686.00	\$16,686.00
59 Part 5.E.N.3	BMP Future Modifications	\$ 100,000.00	\$ 30,000.00	200	6	50	40	100				\$149,228.00	\$79,228.00
59 Part 5.E.N.4	Alternative mitigation program	\$ 75,000.00	\$ 5,000.00	50	18	12		12				\$68,982.00	\$16,982.00
59 Part 5.E.N.6	Technical Guidance manual			40								\$4,820.00	
60 Part 5.E.V.1.(a)	Update CEQA process	\$ 10,000.00		4		1		12				\$1,798.00	
61 Part 5.E.V.2.(a)	Update General Plan	\$ 40,000.00	\$ 20,000.00	80	4	4	40	100				\$29,640.00	\$24,640.00
67 Part 5.E.1.(a)	Street Paving restrictions & BMP's	\$ 15,000.00	\$ 5,000.00	20				20				\$17,480.00	\$7,480.00
67 Part 5.E.1.7	Electronic Site Tracking System	\$ 1,000.00	\$ 1,000.00	10				10				\$2,960.00	\$3,960.00
69 Part 5.E.1.10.(a) & (b)	Refering Violators to State	\$ 1,450.00	\$ 1,450.00	4		1	100	4		12		\$9,980.00	\$9,980.00
70 Part 5.E.1.10.(c)	Investigating Complaints	\$ 18,000.00	\$ 18,000.00	10			300					\$37,500.00	\$37,500.00
71 Part 5.G.1.1.(a)	State Permit for City Const.												

EXHIBIT A

DRAFT 2008 NPDES PERMIT BUDGET

STORM WATER NPDES PERMIT BUDGET FOR NEW PERMIT 2008														
PAGE	PERMIT REFERENCE	Description of Task	First two years of Outside Purchases Materials Services Etc.	Ongoing Outside Purchases Materials Services Etc.	ENGINEER	FINANCE DIRECTOR	CITY ATTORNEY	PUBLIC WORKS	PLANNER	FIRE (Business Inspections)	BUILDING & SAFETY	PUBLIC INFORMATION OFFICER	FIRST TWO PERMIT YEARS TOTAL ITEM COST	FUTURE YEARS ONGOING COST TOTAL
EFFORT - Hours per year														
73	Part 5.G.1.2.(b)	State Permit for PW Maint Yard	\$ 10,000.00	\$ 5,000.00	10			40					\$13,670.00	\$5,670.00
74	Part 5.G.1.3.(a)	Divers Vehicle Wash Water to sewer	\$ 45,000.00		400	4		200			30		\$108,614.00	\$13,560.00
74	Part 5.G.1.4.(a)	Integrated Pest Management Program	\$ 30,000.00	\$ 5,000.00	20			100					\$312,230.00	\$255,230.00
74	Part 5.G.1.4.(a)(7)	Implement alternate weed control strategies	\$ 67,000.00	\$ 10,000.00	10			4,000					\$7,064.00	
75	Part 5.G.1.5.(a)	Catchbasin designation	\$ 12,000.00	\$ 6,000.00	2			4					\$12,490.00	\$5,490.00
76	Part 5.G.1.5.(b)	Trash enclosures at events	\$ 5,000.00	\$ 500.00				150					\$14,150.00	\$9,650.00
76	Part 5.G.1.5.(c)	Trash cans at schools	\$ 600.00	\$ 300.00				50					\$3,650.00	\$3,350.00
76	Part 5.G.1.5.(d)	Catchbasin Labels	\$161,700		400			100					\$217,000.00	\$856.00
76	Part 5.G.1.5.(f)	Quantity volumes cleaned from CB's	\$ 2,000.00		10			40					\$5,670.00	\$5,762.00
76	Part 5.G.1.5.(g)	Spill Response Plan	\$ 4,000.00	\$ 2,000.00	4			70					\$13,670.00	\$8,670.00
77	Part 5.G.1.6.(b)	Road Maint. BMP's	\$ 10,000.00	\$ 5,000.00	10			40		12	8		\$7,654.00	\$7,654.00
77	Part 5.G.1.7.(a)	State Permit for PW Maint. Training	\$ 67,500.00		200	2		1,000					\$153,322.00	
79	Part 5.G.1.10	illicit connection investigation	\$ 25,000.00		25			25					\$4,600.00	\$4,600.00
80	Part 5.H.1.2	illicit connect public reporting	\$ 25,000.00		100			100					\$43,400.00	\$18,400.00
80	Part 5.H.1.3	illicit connect GIS, tracking system	\$ 25,000.00		200			100					\$30,700.00	\$18,400.00
82	Part 5.I.	Reporting Program	\$ 5,000.00	\$ 2,500.00	8			24					\$7,448.00	\$4,948.00
84	Part 5.N.(b)(1)	Wet weather monitoring	\$ 12,000.00	\$ 6,000.00	8			56					\$16,400.00	\$10,400.00
87	Part 7.V.1.(b)(1)	Dry weather monitoring			15,246	390	288	8,203	1,716	656	555	688		
SUB-TOTALS Cost per hour			\$ 28,553,531.60	\$ 193,250.00	\$1,875,627	\$42,180	\$74,500	\$505,283	\$151,008	\$46,544	\$32,627	\$54,470		
GRAND TOTALS			\$ 28,553,531.60	\$ 193,250.00	\$1,875,627	\$42,180	\$74,500	\$505,283	\$151,008	\$46,544	\$32,627	\$54,470		
STAFF TIME														
CAPITAL & PURCHASES			\$31,443,804	\$2,922,999	\$34,366,803									
ON GOING ANNUAL COST =														
SUMMARY OF ANNUAL COSTS														
		Finance Cost per year	\$ 2,643,853.73	\$ 189,894.94									TOTAL ANNUAL COST	TOTAL COST IN FIRST TWO YEARS
	Annual Cost Total		\$ 2,643,853.73	\$ 189,894.94									\$2,233,849	\$34,366,803
	Annual Cost per home assuming 3,800 homes in Filmore Participating	3,800	\$ 537.86	\$ 50.00									\$ 821.30	
	Monthly cost per home		\$ 44.82	\$ 4.17									\$ 19.45	\$ 68.44

EXHIBIT C



Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data

Result contains 12 rows.

	P053001
	Households: Median household income in 1999
Ventura County, California	VENTURA COUNTY AVE. 59,666
Census Tract 3.01, Ventura County, California	49,683
Census Tract 3.02, Ventura County, California	42,269
Block Group 1, Census Tract 3.01, Ventura County, California	59,079
Block Group 2, Census Tract 3.01, Ventura County, California	53,000
Block Group 3, Census Tract 3.01, Ventura County, California	62,284
Block Group 4, Census Tract 3.01, Ventura County, California	49,423
Block Group 5, Census Tract 3.01, Ventura County, California	40,000
Block Group 1, Census Tract 3.02, Ventura County, California	51,250
Block Group 2, Census Tract 3.02, Ventura County, California	UPPER MAIN ST. 37,396
Block Group 3, Census Tract 3.02, Ventura County, California	LOWER MAIN ST. 32,935
Fillmore city, California	CITY AVERAGE 45,510

NOTE: A hyphen (-) indicates that data are not available for this geographic area for the selected data element (column) in your custom table. Please consult the Census 2000 Summary File 3 (SF 3) - Sample Data Technical Documentation (PDF 6.92MB) for more information.

EXHIBIT A

DRAFT 2008 NPDES PERMIT BUDGET

STORM WATER NPDES PERMIT BUDGET FOR NEW PERMIT 2008														
PAGE	PERMIT REFERENCE	Description of Task	EFFORT - Hours per year											FUTURE YEARS ONGOING COST TOTAL
			First two years of Outside Purchases Materials Services Etc.	ENGINEER	FINANCE DIRECTOR	CITY ATTORNEY	PUBLIC WORKS	PLANNER	FIRE (Business Inspections)	BUILDING & SAFETY	PUBLIC INFORMATION OFFICER	FIRST TWO PERMIT YEARS TOTAL ITEM COST		
22	Part 1.F.12	Install treatment BMP's on all 8 36" + storm drain outlets	\$ 14,025,200.00	\$ 8,000	\$ 200	\$ 40	\$ 500	\$ 1,000	\$ 74.00	\$ 59.00	\$ 65.00	\$ 15,190,600.00		
22	Part 1.F.12	Install treatment BMP's in within the existing City	\$ 13,341,081.60	4000	100	40	Included in capital cost	40		20	500	\$ 13,891,381.60		
27	Table 1	Police swimming pool discharges								10		\$ 590.00	\$ 590.00	
30	Part 4.B.3	Review and update Storm Water ordinance		24		16			10	5		\$ 8,127.00		
33	Part 4.C.1.(a)	Prepare and maintain annual storm water pollution budget		40	24	2	12		8	4	2	\$ 10,182.00	\$ 10,182.00	
34	Part 4.E	Principal Permittees	\$ 100,000.00									\$ 100,000.00	\$ 30,000.00	
34	Part 4.F.1.e.	Committee Meetings		150					60			\$ 32,394.00	\$ 32,394.00	
36	Part 5.C.1.1	Residential outreach program	\$ 600.00	12			20		12	12	100	\$ 12,448.00	\$ 12,448.00	
39	Part 5.C.1.2(b)	Business Assistance Program	\$ 400.00	40						200		\$ 20,120.00	\$ 20,120.00	
39	Part 5.D.1.1	Industrial Commercial Facilities		20						200		\$ 17,260.00	\$ 17,260.00	
41	Part 5.D.1.2(a)	Force BMP's at Commercial Locations		200		8			200	40		\$ 49,520.00	\$ 49,520.00	
46	Part 5.D.1.2(b)	Industrial Inspections		40						40		\$ 7,880.00	\$ 7,880.00	
47	Part 5.D.1.3. & 4.	Progressive Enforcement BMP's for City Projects, Pool, P.O. Parking Lot, Promenade		400		100			100	100		\$ 96,300.00	\$ 96,300.00	
51	Part 5.E.II.2(b)	Low Impact Development Formulation	\$ 100,000.00	120	8				12	8		\$ 117,176.00		
52	Part 5.E.III.2	Hydromodification	\$ 10,000.00	100					20	4		\$ 14,296.00		
52	Part 5.E.III.3	City BMP Maint. Cost on City Projects	\$ 240,000.00	100					8			\$ 23,004.00		
56	Part 5.E.IV.1(a)	BMP Tracking, Inspection & Enforcement	\$ 40,000.00	100	8		850					\$ 305,038.00	\$ 105,038.00	
57	Part 5.E.IV.2	BMP Future Modifications	\$ 20,000.00	40	6	20	100					\$ 36,686.00	\$ 16,686.00	
58	Part 5.E.IV.3	Alternative mitigation program	\$ 100,000.00	200	8	50	40		100			\$ 149,228.00	\$ 79,228.00	
58	Part 5.E.IV.4	Technical Guidance manual	\$ 75,000.00	50	16	12			12			\$ 96,582.00	\$ 16,982.00	
59	Part 5.E.IV.6	Update CEQA process		40								\$ 4,920.00		
60	Part 5.E.V.1(b)	Update General Plan	\$ 10,000.00	4		1			12			\$ 1,798.00		
61	Part 5.E.V.2(a)	Street Paving restrictions & BMP's	\$ 40,000.00	20		4	40		100			\$ 29,640.00	\$ 24,900.00	
67	Part 5.F.1.6 (a)	Electronic Site Tracking System	\$ 15,000.00	20								\$ 17,460.00	\$ 7,460.00	
67	Part 5.F.1.7	Refering violators to State	\$ 1,000.00	10		1			10			\$ 2,360.00	\$ 3,360.00	
69	Part 5.F.1.10.(a) & (b)	Investigating Complaints	\$ 1,450.00	4			100		4	12		\$ 9,990.00	\$ 9,990.00	
70	Part 5.F.1.10.(c)	State Permit for City Const.	\$ 18,000.00	10			300					\$ 37,530.00	\$ 37,530.00	

001080

EXHIBIT A

DRAFT 2008 NPDES PERMIT BUDGET

STORM WATER NPDES PERMIT BUDGET FOR NEW PERMIT 2008														
EFFORT - Hours per year														
PAGE	PERMIT REFERENCE	Description of Task	First two years of Outside Purchases Materials Services Etc.	Ongoing Outside Purchases Materials Services Etc.	ENGINEER	FINANCE DIRECTOR	CITY ATTORNEY	PUBLIC WORKS	PLANNER	FIRE (Business Inspections)	BUILDING & SAFETY	PUBLIC INFORMATION OFFICER	FIRST TWO PERMIT YEARS TOTAL ITEM COST	FUTURE YEARS ONGOING COST TOTAL
73	Permit 5.G.1.2.(b)	Slate Permit for PW Maint. Yard	\$ 10,000.00	\$ 5,000.00	10			40					\$13,670.00	\$6,670.00
74	Permit 5.G.1.3.(a)	Divert Vehicle Wash Water to sewer	\$ 45,000.00		400	4		200			30		\$108,614.00	
74	Permit 5.G.1.4.(b)	Integrated Pest Management Program	\$ 30,000.00	\$ 5,000.00	20			100					\$39,560.00	\$13,560.00
74	Permit 5.G.1.4.(b)(7)	Implement alternate weed control strategies	\$ 67,000.00	\$ 10,000.00	10			4,000					\$312,230.00	\$255,230.00
75	Permit 5.G.1.5.(b)	Catchbasin designation	\$ 12,000.00	\$ 6,000.00	8			100					\$7,064.00	\$6,490.00
76	Permit 5.G.1.5.(b)	Trash enclosures at events	\$ 5,000.00	\$ 500.00	2			4					\$14,150.00	\$9,650.00
76	Permit 5.G.1.5.(c)	Trash cans at schools	\$ 600.00	\$ 300.00				50					\$3,850.00	\$3,350.00
76	Permit 5.G.1.5.(d)	Catchbasin Labels	\$ 161,700		400			100					\$217,000.00	
76	Permit 5.G.1.5.(e)	Trash Enclosures			2			10					\$950.00	\$850.00
76	Permit 5.G.1.5.(f)	Quantify volumes cleaned from CB's	\$ 2,000.00		10			40					\$5,670.00	
77	Permit 5.G.1.6.(b)	Spill Response Plan	\$ 4,000.00	\$ 2,000.00	4			70					\$8,762.00	\$8,762.00
77	Permit 5.G.1.6.(b)	Road Maint. BMP's	\$ 10,000.00	\$ 5,000.00	10			40					\$13,670.00	\$9,670.00
77	Permit 5.G.1.7.(a)	Slate Permit for PW Maint.			8	4	4	52	8	12	8		\$7,664.00	\$7,664.00
79	Permit 5.G.1.10	Training	\$ 87,500.00		200	2		1,000					\$153,322.00	
80	Permit 5.H.1.1	Illicit connection investigation			25			25					\$4,600.00	\$4,600.00
80	Permit 5.H.1.2	Illicit connect public reporting	\$ 25,000.00		100			100					\$43,400.00	\$18,400.00
80	Permit 5.H.1.3	Illicit connect GIS tracking system			200			100					\$30,700.00	
82	Permit 5.I.	Reporting Program	\$ 5,000.00	\$ 2,500.00	8			24					\$7,448.00	\$4,948.00
84	Permit 6.IV.(b)(1)	Wet weather monitoring	\$ 12,000.00	\$ 6,000.00	8			56					\$16,400.00	\$10,400.00
87	Permit 7.V.1.(b)(1)	Dry weather monitoring			15,249	380	286	8,283	1,716	856	553	838		
SUB-TOTALS Cost per hour			\$ 28,559,531.60	\$ 193,250.00	\$1,875,827	\$42,180	\$74,500	\$505,203	\$151,008	\$48,544	\$32,827	\$54,470		
CAPITAL & PURCHASES			\$ 2,043,853.73	\$ 189,994.94										
GRAND TOTALS			\$ 31,443,904	\$ 2,922,969	\$34,360,903									

SUMMARY OF ANNUAL COSTS					
	ON GOING ANNUAL COST =	ONGOING ANNUAL COSTS	TOTAL ANNUAL COST	TOTAL MONTHLY COST	TOTAL COST IN FIRST TWO YEARS
Finance Cost per year	\$ 2,043,853.73	\$ 189,994.94	\$ 2,233,849	\$ 186,154.08	\$ 3,700,000.00
Annual Cost Total	\$ 2,043,853.73	\$ 189,994.94	\$ 2,233,849	\$ 186,154.08	\$ 3,700,000.00
Annual Cost per home (assuming 3,800 homes in Filmore Participating)	\$ 537.86	\$ 50.00	\$ 587.86	\$ 49.01	\$ 947.37
Monthly cost per home	\$ 44.82	\$ 4.17	\$ 48.99	\$ 4.08	\$ 78.95

C001081

END OF PIPE TREATMENT FACILITIES
ENGINEERS ESTIMATE OF COST
 Prepared by: Bert J. Rapp, P.E. Public Works Director
 Date: October 3, 2007

ITEM No.	DESCRIPTION	QTY.	UNIT	UNIT PRICE	TOTAL PRICE
1	Purchase 5 sites totaling 6 acres	6	AC	\$700,000	\$4,200,000
2	Clearing and Grubbing of Sites	5	LS	\$15,000	\$75,000
3	Storm Drain Diversion Structures	6	EA	\$30,000	\$180,000
4	24" Reinforced Concrete diversion pipes	3,800	LF	\$195	\$741,000
5	Pump Stations	4	EA	\$250,000	\$1,000,000
6	Electrical Service	4	EA	\$15,000	\$60,000
7	Earthwork - Cut and Fill	40,000	CY	\$20	\$800,000
8	Flood Protection Levee at Sunken Village	1.0	EA	\$1,000,000	\$1,000,000
9	Landscaping and Irrigation	10.8	AC	\$100,000	\$1,080,000
10	Trash Capture Screens	10	EA	\$25,000	\$250,000
11	Desilting Basins	20	EA	\$20,000	\$400,000
12	Site Access	5	EA	\$30,000	\$150,000
13	Interpretative Plaques, Storm Water Education	6	EA	\$3,000	\$18,000
14	Permits	8	EA	\$8,000	\$64,000
	SUBTOTAL =				\$10,018,000
	CONTINGENCY (20%) =				\$2,003,600
	Design Engineering and Construction Management (20%) =				\$2,003,600
	TOTAL =				\$14,025,200

C001082

**PARKWAY BIO-RETENTION RAIN GARDENS IN THE EXISTING CITY
ENGINEERS ESTIMATE OF COST**

Prepared by: Bert J. Rapp, P.E. Public Works Director

Date: October 3, 2007

Assume work will be performed in small segments as residents participate in the program

ITEM No.	DESCRIPTION	QTY.	UNIT	UNIT PRICE	TOTAL PRICE
COST PER 50' PARKWAY RAINGARDEN					
1	Cut Curb Opening & Replace with Gutter	4	LF	\$35	\$140
2	Concrete Curb Along Sidewalk	50	LF	\$30	\$1,500
3	Excavate 2' Replace with Fill Sand	24	CY	\$100	\$2,400
4	Sidewalk Bridge over Rain Garden	1	EA	\$1,000	\$1,000
5	Landscaping and irrigation	300	SF	\$2	\$600
	SUBTOTAL =				\$5,640
	CONTINGENCY (20%) =				\$1,128
	Design Engineering and Construction Management (20%) =				\$1,128
	TOTAL per 50' Section of Parkway Rain Garden =				\$7,896

There are 32 miles of street in the untreated portion of the City. Parkway Bio-retention areas are needed to supplement the End of Pipe Treatment to meet MALs. Some of the treatment can be met with home owner installed rain gardens in thier front or back yards. Assume 25% of the length of the street must have Parkway Bio-retention. Therefore 16 miles of Parkway Bio-retention are assumed to be needed.

TOTAL for 16 miles of Parkway Rain Garden =	16	MILES	\$7,896	\$13,341,082
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TRASH EXCLUDERS AND CLEANUP
ENGINEERS ESTIMATE OF COST
 Prepared by: Bert J. Rapp, P.E. Public Works Director
 Date: October 8, 2007

ITEM No.	DESCRIPTION	QTY	UNIT	UNIT PRICE	TOTAL PRICE
1	Install Trash Excluder in Curb Opening Catchbasin	55	EA	\$2,100	\$115,500
2					
3					
4					
5					
	SUBTOTAL =				\$115,500
	CONTINGENCY (20%) =				\$23,100
	Design Engineering and Construction Management (20%) =				\$23,100
	TOTAL				\$161,700

Trash cleanup at storm drain outlets

Item		Man Hours	Unit	Cost per Hour	Total
1	North Fillmore	3	HR	\$ 61.00	\$ 183.00
2	First Street & Meadowlark	4	HR	\$ 61.00	\$ 244.00
3	Blue Jay	3	HR	\$ 61.00	\$ 183.00
4	E Street	3	HR	\$ 61.00	\$ 183.00
5	Los Serenos	2	HR	\$ 61.00	\$ 122.00
6	D St.	3	HR	\$ 61.00	\$ 183.00
7	C St.	4	HR	\$ 61.00	\$ 244.00
8	B St.	4	HR	\$ 61.00	\$ 244.00
9	A St.	5	HR	\$ 61.00	\$ 305.00
10	Central Ave.	5	HR	\$ 61.00	\$ 305.00
11	Pole Creek	4	HR	\$ 61.00	\$ 244.00
	TOTAL PER STORM	40			\$ 2,440.00
	Assume 6 clean ups per year				\$ 14,640.00

C001084

Meeting Attendance Sheet

03 October 2007

Location: California Regional Water Quality Control Board
 Los Angeles Region
 320 West 4th Street, Suite 200, Los Angeles, CA 90013

Subject: Ventura County Draft MS4 Permit Discussion

	Name	Agency/ Company/ or Resident	Email Address	Telephone
1	Tracy Woods	LA RWQCB	tracy@waterboards.ca.gov	213 620 2085
2	Carlos Reynaga	LA RWQCB	carlosr@waterboards.ca.gov	213 620 2083
3	E. Solomon	"	esolomon	" " 2237
4	David Swaminathan	"	"	213 - (20 - 2094
5	Lisa Austin	Geosyntec	laustin@geosyntec.com	310-946-9006
6	Mark Cary	BIA/SC-CUWA	mgrey@biasec.org	909-596-8883
7				
8				
9				
10				
11				
12				
13				
14				



California Regional Water Quality Control Board

Los Angeles Region



Recipient of the 2001 Environmental Leadership Award from Keep California Beautiful

Linda S. Adams
Agency Secretary

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>

Arnold Schwarzenegger
Governor

Meeting Attendance Sheet

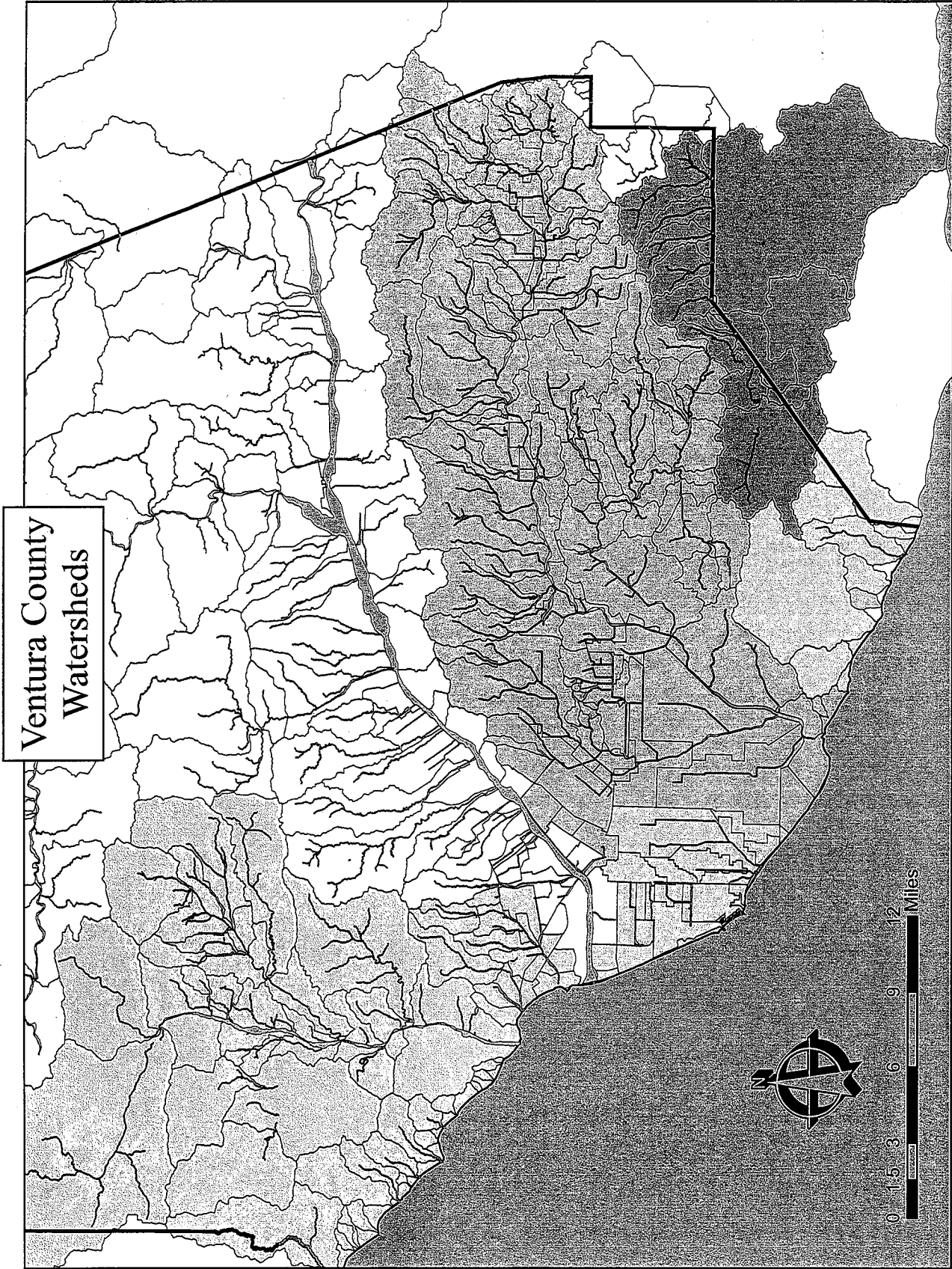
NAME	ORGANIZATION	PHONE #	E-MAIL ADDRESS
1. Tracy Woods	LARQCB	213/620-2095	tracy@waterboards.ca.gov
2. Gerhardts Hubner	VCLWRD	805 654-5051	Gerhardts.Hubner@waterboards.ca.gov
3. KEVIN GIESCHEN	Simi Valley	" 508 6442	KGIESCHEN@SIMIVALLEY.ORG
4. Anita Kuhlman	City of Camarillo	383 8659	AKuhlman@comon.sba.ca.us
5. BERT RAPP	FILLMORE	" 524-3701	BRAPP@CI.FILLMORE.CA.US
6. Carlos Currenaga	RWQCB	213 620 2003	CURRENAGA@waterboards.ca.gov
7. Taylor Swamikkattil	"	213 620-2094	
8. Mack Walker	Larry Walker Assoc.	530.753.6400	MackWalker@lwa.com
9. ARNE ANSELM	VENTURA WATERSHED PROTECTION DIST	805 657 3942	ARNE.ANSELM@TAKS.DIST
10.			
11.			
12.			
13.			

California Environmental Protection Agency

Recycled Paper

Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

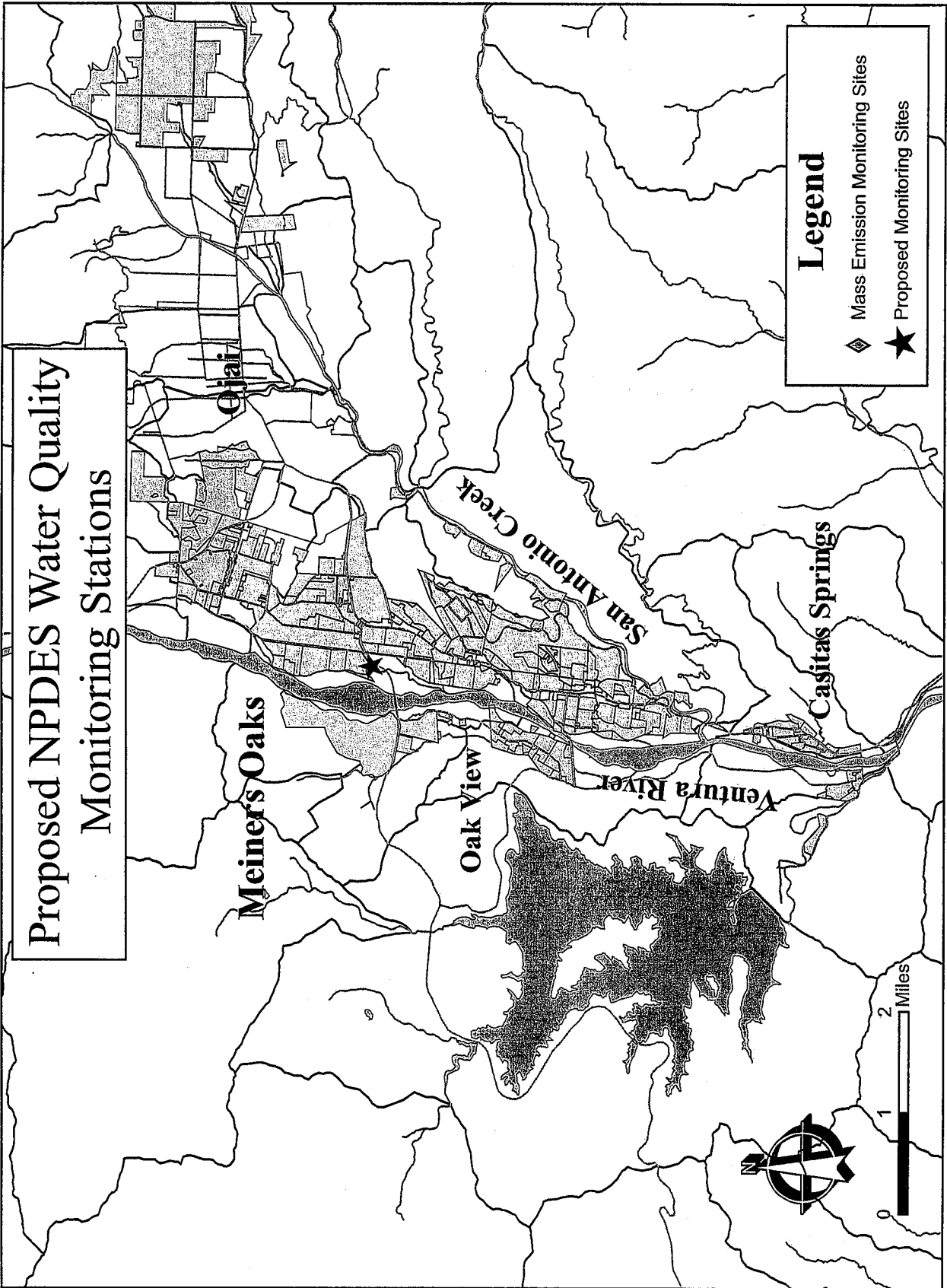
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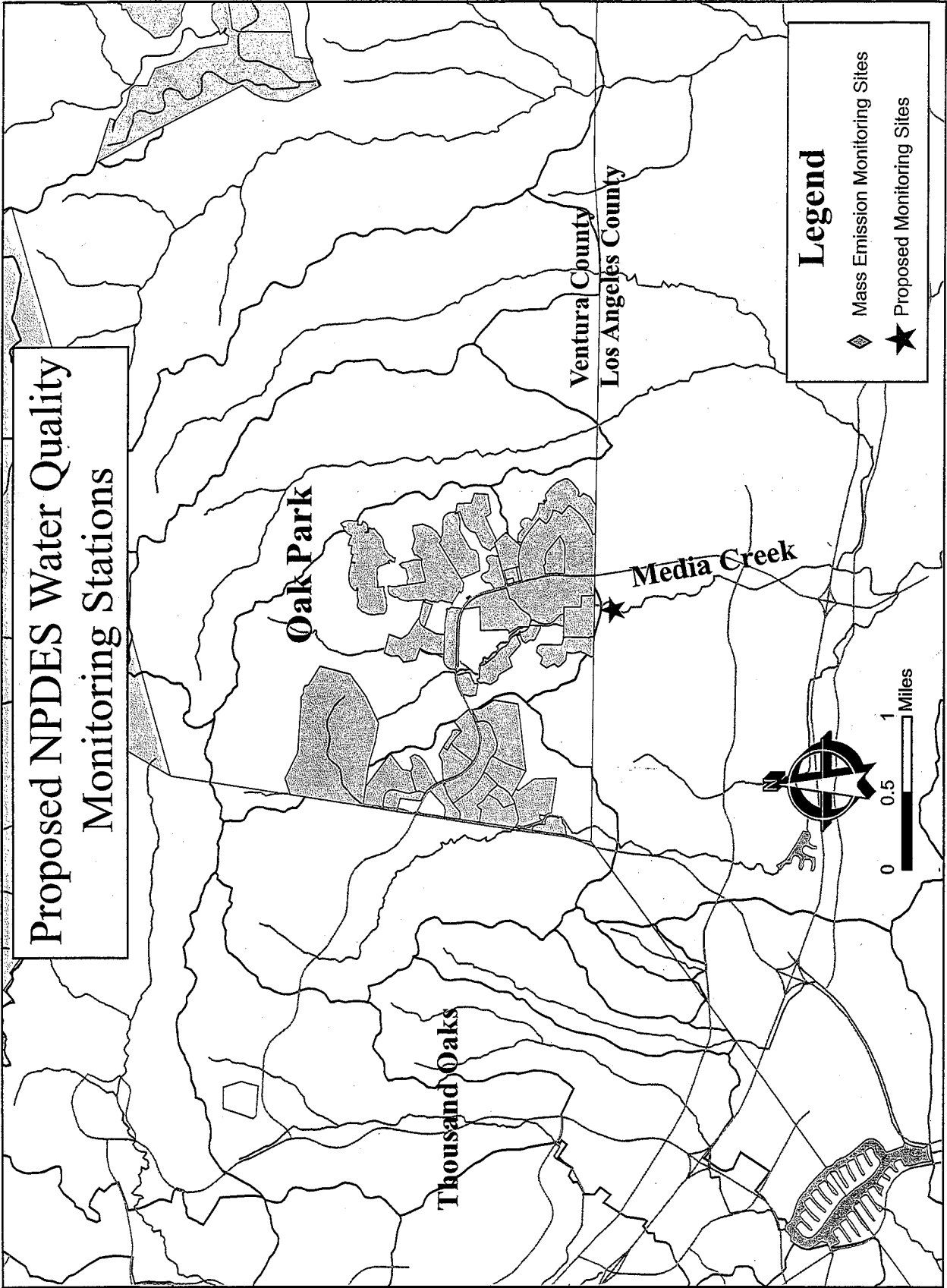


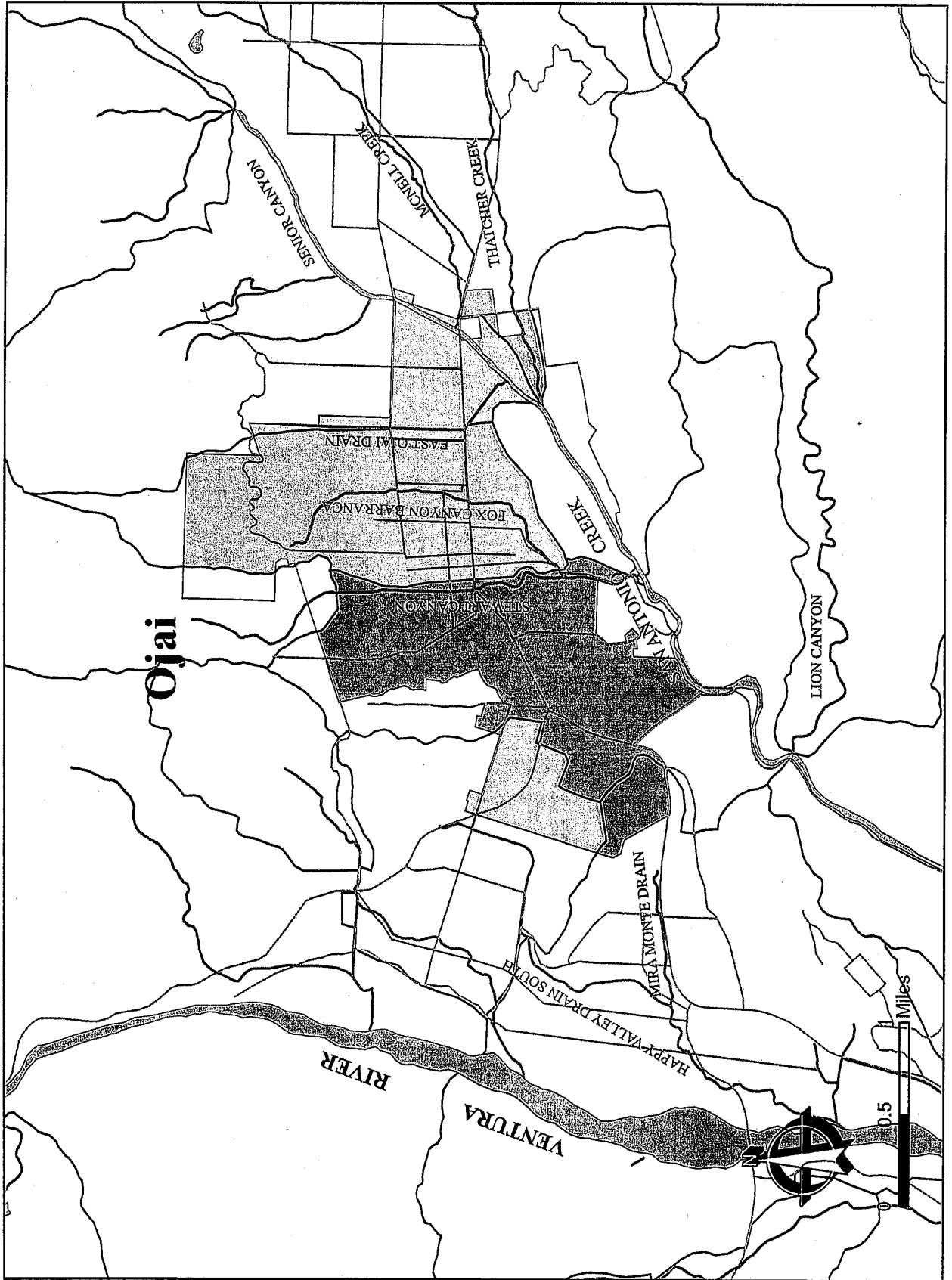
Ventura County
Watersheds

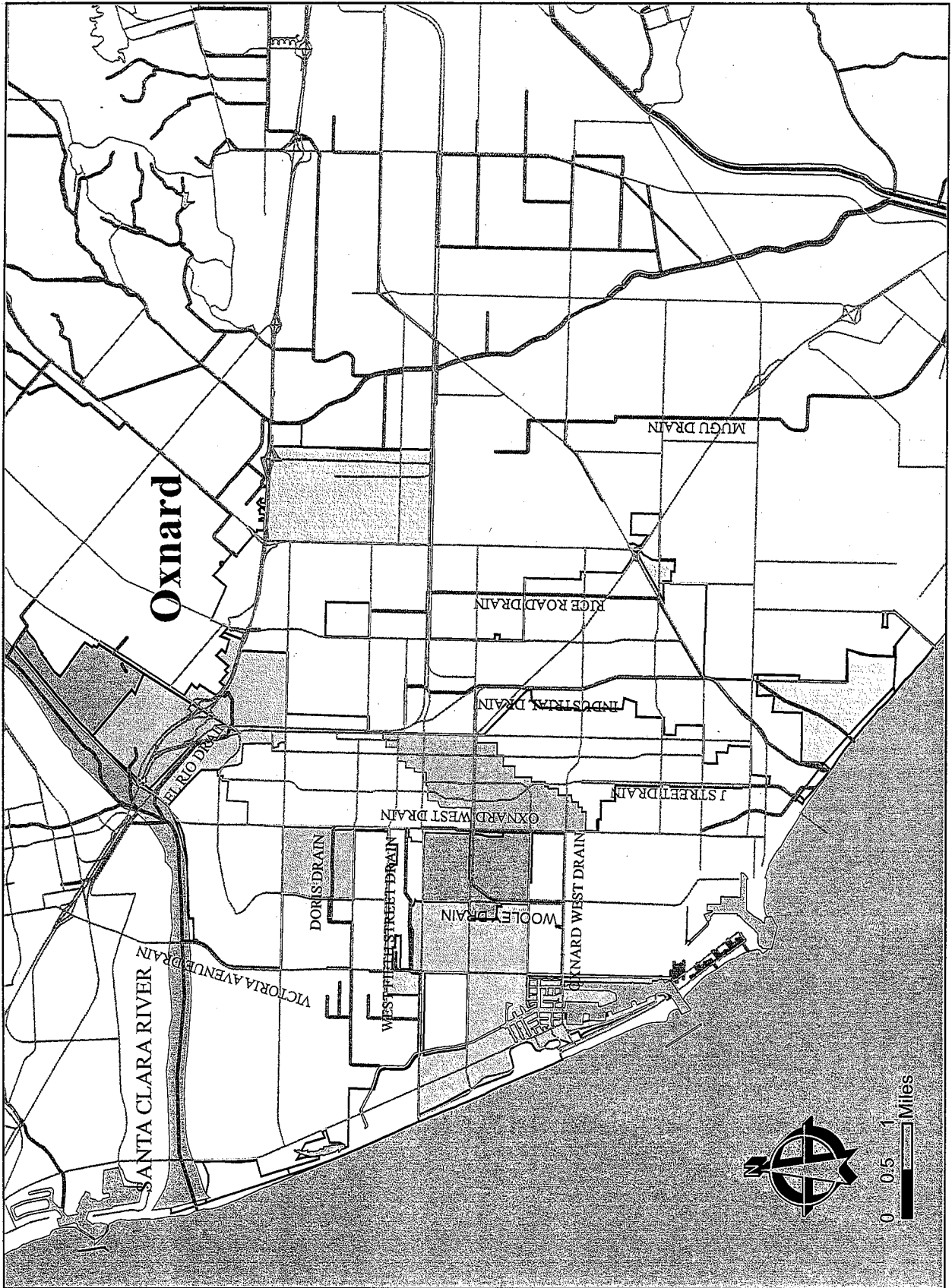
0 1.5 3 6 9 12 Miles

C:\gis\pdf\Watersheds.pdf









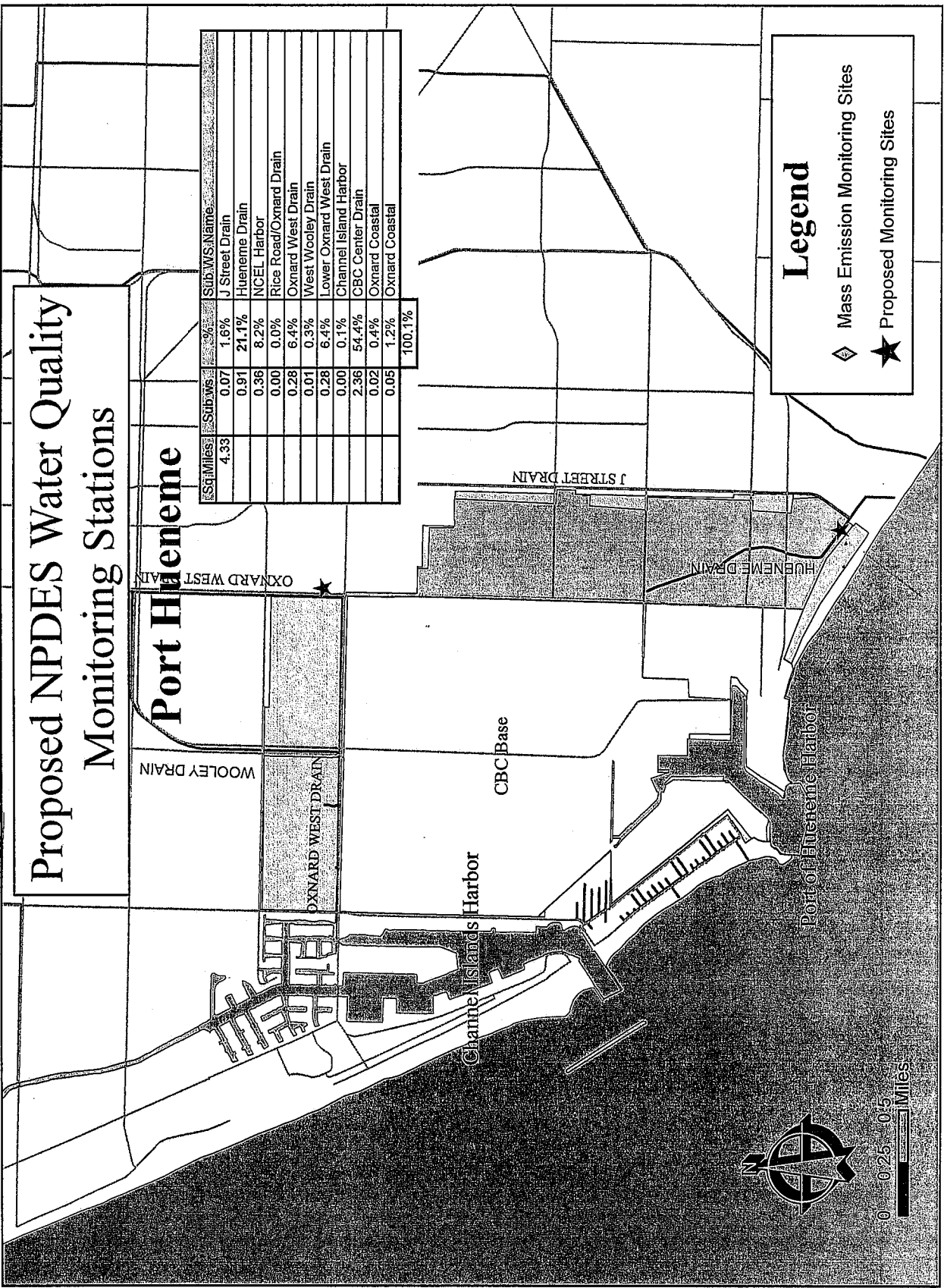
Proposed NPDES Water Quality Monitoring Stations

Port Huenehme

Sq Miles	Subs	%	Sub.WS.Name
4.33	0.07	1.6%	J Street Drain
	0.91	21.1%	Huenehme Drain
	0.36	8.2%	NCEL Harbor
	0.00	0.0%	Rice Road/Oxnard Drain
	0.28	6.4%	Oxnard West Drain
	0.01	0.3%	West Woolley Drain
	0.28	6.4%	Lower Oxnard West Drain
	0.00	0.1%	Channel Island Harbor
	2.36	54.4%	CBC Center Drain
	0.02	0.4%	Oxnard Coastal
	0.05	1.2%	Oxnard Coastal
		100.1%	

Legend

- ◆ Mass Emission Monitoring Sites
- ★ Proposed Monitoring Sites

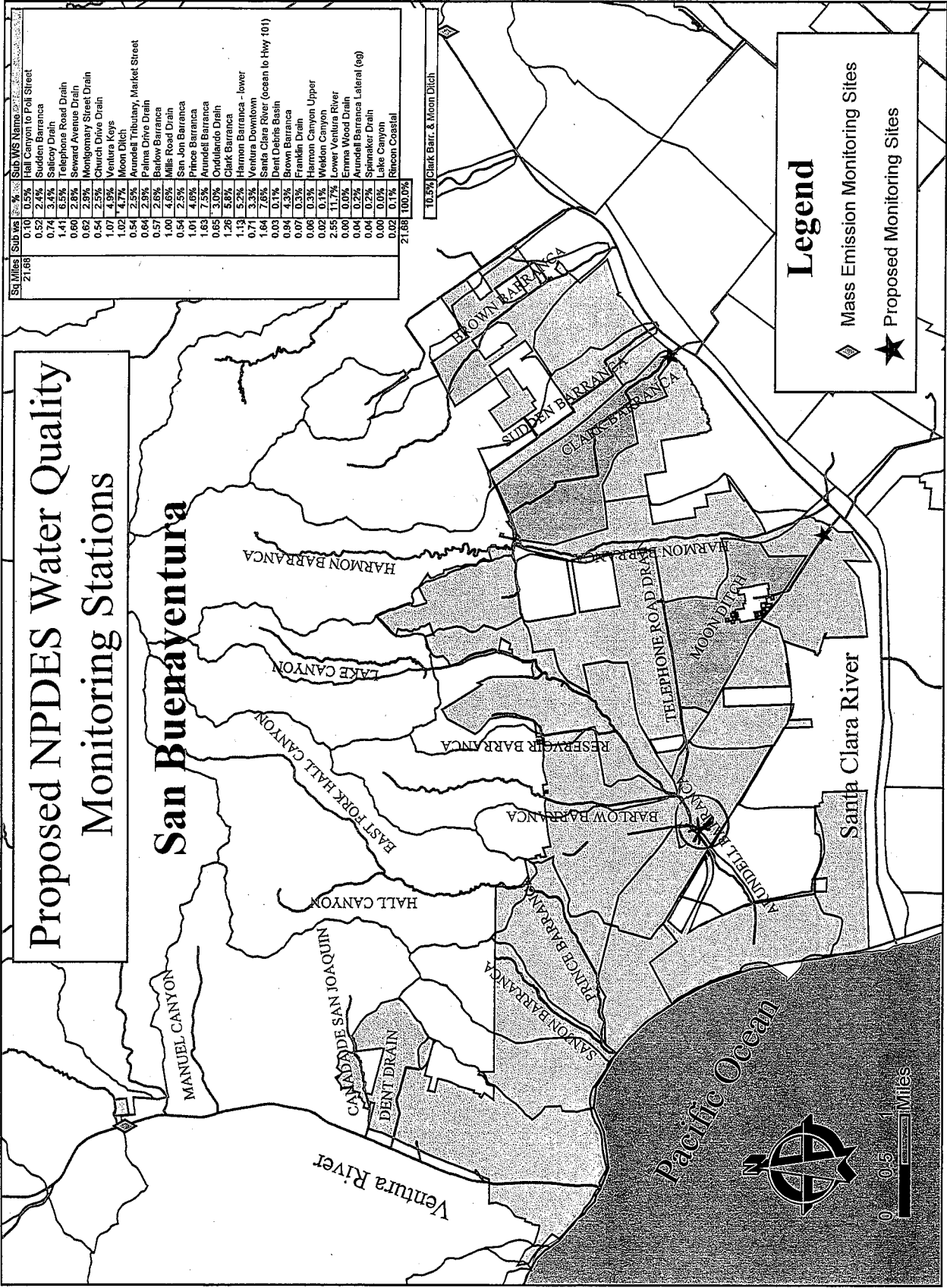


Proposed NPDES Water Quality Monitoring Stations

San Buenaventura

So. Miles	Sub. We.	%	Sub. WS Name
21.68	0.10	0.5%	Hall Canyon to Poil Street
	0.52	2.4%	Sudden Barranca
	0.74	3.4%	Salticy Drain
	1.41	6.5%	Telephone Road Drain
	0.60	2.8%	Seward Avenue Drain
	0.62	2.8%	Montgomery Street Drain
	0.54	2.5%	Church Drive Drain
	1.07	4.9%	Ventura Keys
	1.02	4.7%	Moon Ditch
	0.54	2.5%	Arundell Tributary, Market Street
	0.64	2.9%	Paines Drive Drain
	0.57	2.6%	Barlow Barranca
	1.00	4.6%	Mills Road Drain
	0.54	2.5%	San Jon Barranca
	1.01	4.6%	Prince Barranca
	1.63	7.5%	Arundell Barranca
	0.65	3.0%	Ondulando Drain
	1.26	5.8%	Clark Barranca
	1.13	5.2%	Harmon Barranca - lower
	0.71	3.3%	Ventura Downtown
	1.64	7.6%	Santa Clara River (ocean to Hwy 101)
	0.03	0.1%	Dent Debris Basin
	0.94	4.3%	Brown Barranca
	0.07	0.3%	Franklin Drain
	0.06	0.3%	Harmon Canyon Upper
	0.02	0.1%	Weldon Canyon
	2.55	11.7%	Lower Ventura River
	0.00	0.0%	Emms Wood Drain
	0.04	0.2%	Arundell Barranca Lateral (eg)
	0.04	0.2%	Spinnaker Drain
	0.00	0.0%	Lake Canyon
	0.02	0.1%	Percort Coastal
	21.68	100.0%	

10.5% Clark Barr. & Moon Ditch



Legend

- ◆ Mass Emission Monitoring Sites
- ★ Proposed Monitoring Sites

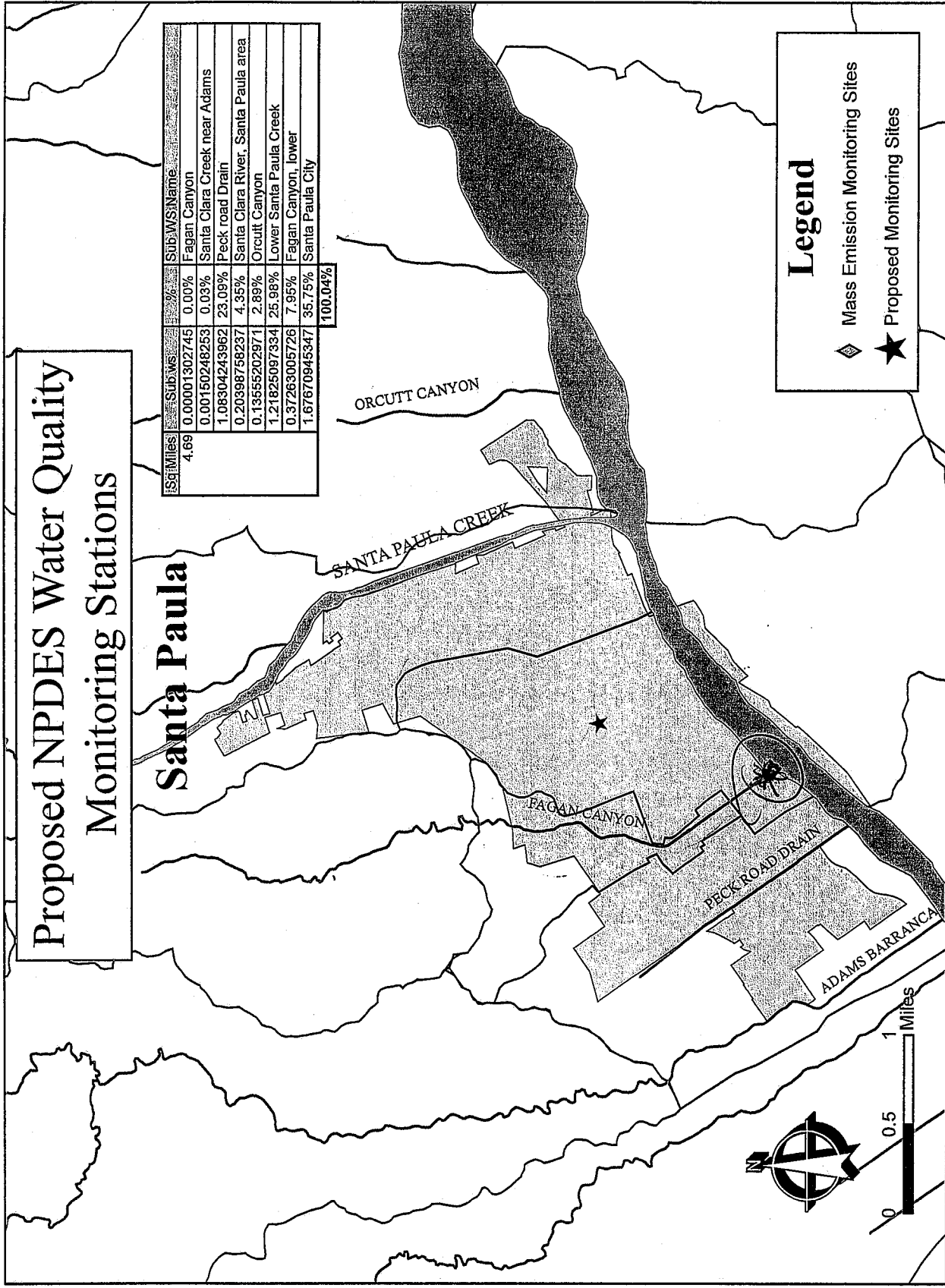
Proposed NPDES Water Quality Monitoring Stations

Santa Paula

Sq Miles	Sub. No.	%	Sub. Name
4.69	0.00001302745	0.00%	Fagan Canyon
	0.00150248253	0.03%	Santa Clara Creek near Adams
	1.08304243962	23.09%	Peck road Drain
	0.20398758237	4.35%	Santa Clara River, Santa Paula area
	0.13555202971	2.89%	Orcutt Canyon
	1.21825097334	25.98%	Lower Santa Paula Creek
	0.37263005726	7.95%	Fagan Canyon, lower
	1.67670945347	35.75%	Santa Paula City
		100.04%	

Legend

- ◆ Mass Emission Monitoring Sites
- ★ Proposed Monitoring Sites



Proposed NPDES Water Quality Monitoring Stations

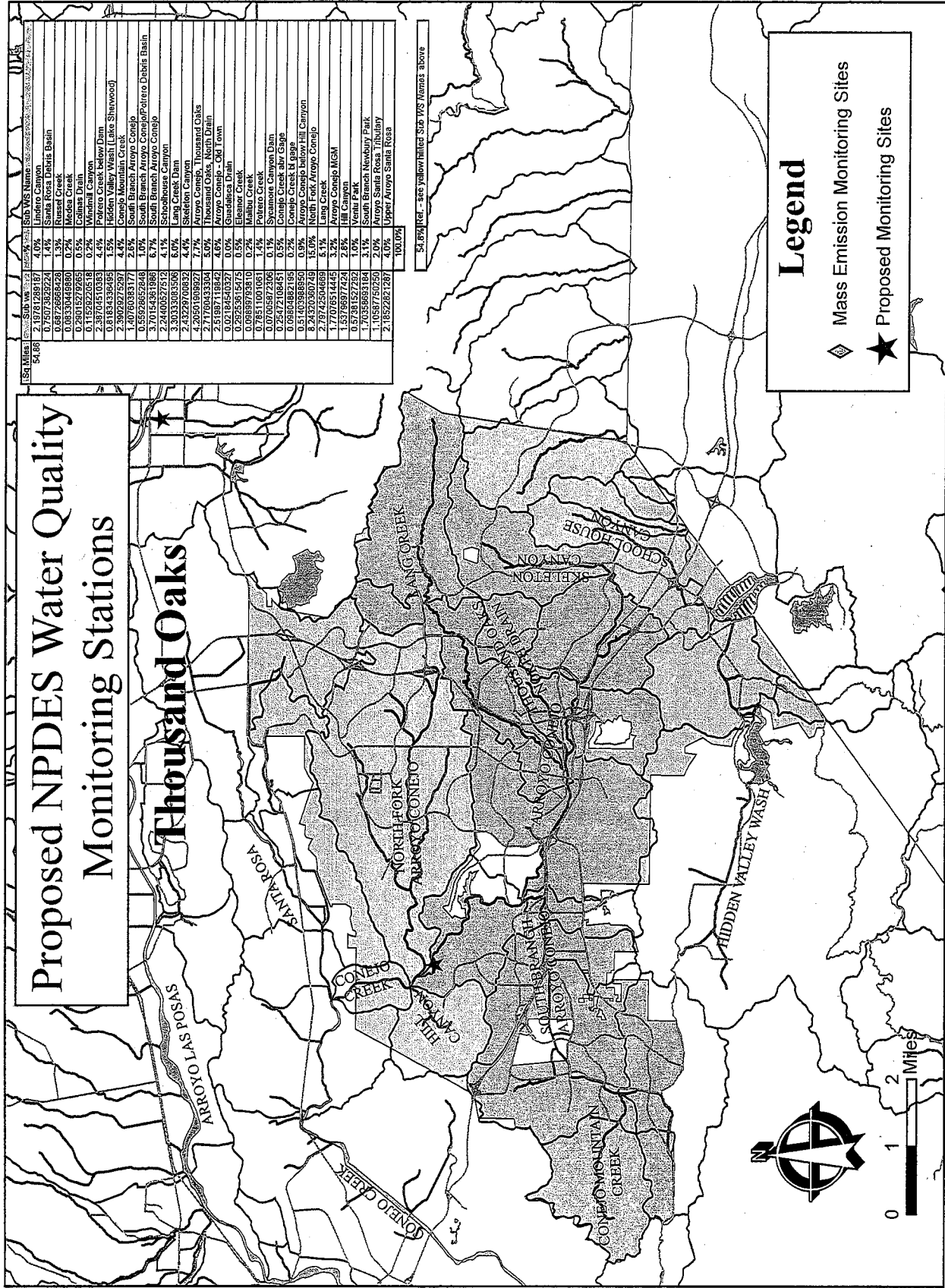
Thousand Oaks

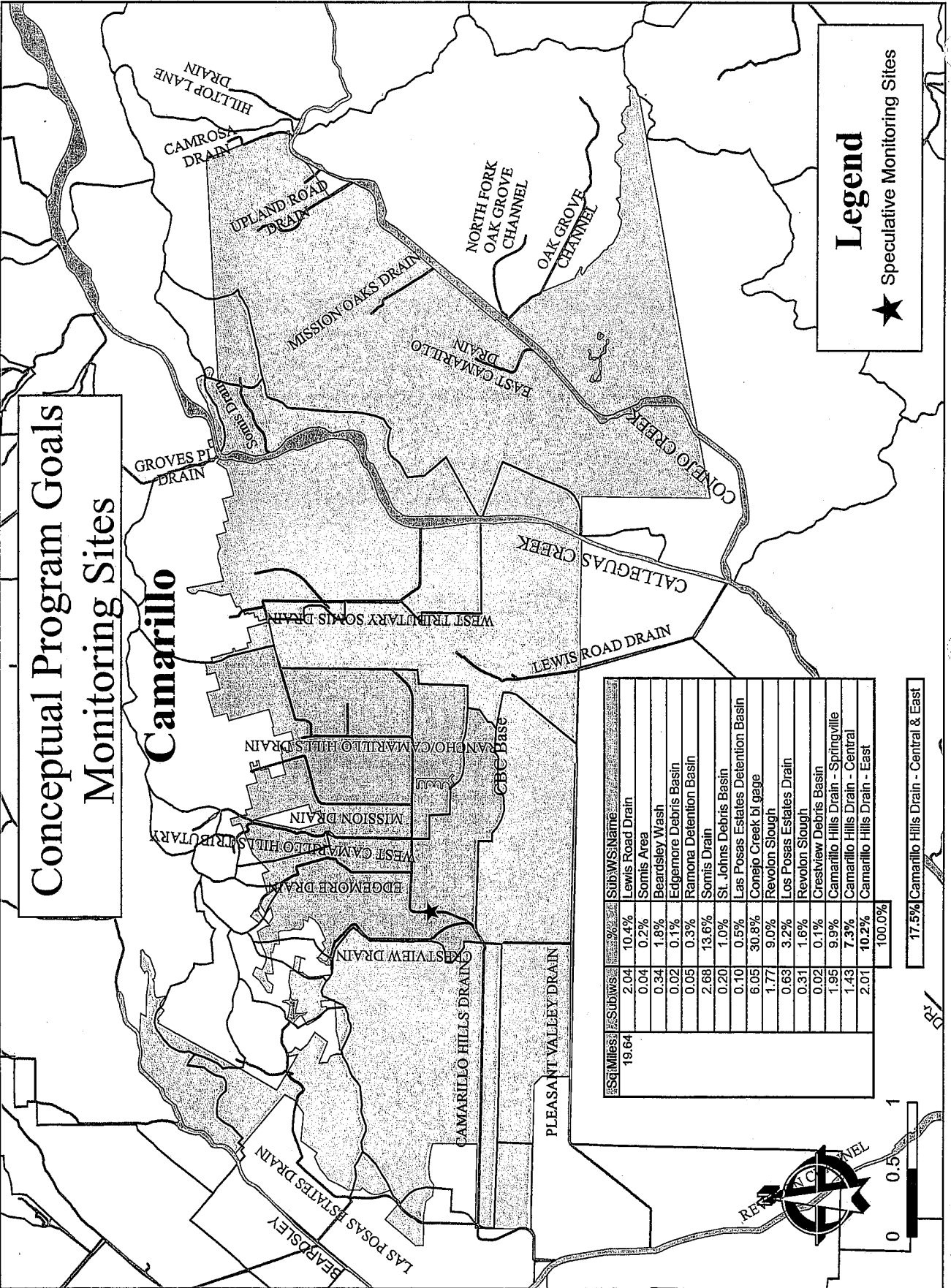
SSO Miles	Flow (MGD)	SSO Miles	Flow (MGD)	SSO Miles	Flow (MGD)	SSO Miles	Flow (MGD)
54.86	2.1978128187	4.0%	Lindero Canyon	1.0%	Sanja Rosa Dabriz Basin	1.0%	Sanja Rosa Dabriz Basin
	0.7507382924	1.4%	Russel Creek	1.3%	Medea Creek	0.2%	Medea Creek
	0.0833046880	0.2%	Colinas Drain	0.2%	Winters Canyon	0.2%	Winters Canyon
	0.2901527265	0.2%	Winters Canyon	0.2%	Winters Canyon	0.2%	Winters Canyon
	3.3870451038	4.4%	Hidden Valley Wash (Lake Sherwood)	1.5%	Conelo Mountain Creek	4.4%	Conelo Mountain Creek
	0.8183433845	1.5%	Conelo Mountain Creek	4.4%	Conelo Mountain Creek	4.4%	Conelo Mountain Creek
	2.39029275297	2.6%	South Branch Arroyo Conejo	1.0%	South Branch Arroyo Conejo	1.0%	South Branch Arroyo Conejo
	1.40760383171	2.6%	South Branch Arroyo Conejo	1.0%	South Branch Arroyo Conejo	1.0%	South Branch Arroyo Conejo
	0.55526522848	1.0%	South Branch Arroyo Conejo	1.0%	South Branch Arroyo Conejo	1.0%	South Branch Arroyo Conejo
	3.70154381986	6.7%	South Branch Arroyo Conejo	1.0%	South Branch Arroyo Conejo	1.0%	South Branch Arroyo Conejo
	2.2440057512	4.1%	Schoolhouse Canyon	1.0%	Schoolhouse Canyon	1.0%	Schoolhouse Canyon
	3.30333053595	5.0%	Lang Creek Dam	1.0%	Lang Creek Dam	1.0%	Lang Creek Dam
	2.4322970832	4.4%	Skeleton Canyon	1.0%	Skeleton Canyon	1.0%	Skeleton Canyon
	2.71761943334	5.0%	Arroyo Conejo - Old Town	1.0%	Arroyo Conejo - Old Town	1.0%	Arroyo Conejo - Old Town
	2.511987118842	4.6%	Arroyo Conejo - Old Town	1.0%	Arroyo Conejo - Old Town	1.0%	Arroyo Conejo - Old Town
	0.02184540327	0.0%	Guadaluca Drain	0.0%	Guadaluca Drain	0.0%	Guadaluca Drain
	0.29253615475	0.5%	Eleanor Creek	0.5%	Eleanor Creek	0.5%	Eleanor Creek
	0.09899793810	0.2%	Malibu Creek	0.2%	Malibu Creek	0.2%	Malibu Creek
	0.78511007081	1.4%	Potero Creek	1.4%	Potero Creek	1.4%	Potero Creek
	0.274743464	0.3%	Sycamore Canyon Dam	0.3%	Sycamore Canyon Dam	0.3%	Sycamore Canyon Dam
	0.274743464	0.3%	Upper Arroyo Conejo	0.3%	Upper Arroyo Conejo	0.3%	Upper Arroyo Conejo
	0.0680482158	0.2%	Conelo Creek below Hill Canyon	0.2%	Conelo Creek below Hill Canyon	0.2%	Conelo Creek below Hill Canyon
	0.51403988350	0.9%	Arroyo Conejo below Hill Canyon	0.9%	Arroyo Conejo below Hill Canyon	0.9%	Arroyo Conejo below Hill Canyon
	8.24320380748	15.6%	North Fork Arroyo Conejo	15.6%	North Fork Arroyo Conejo	15.6%	North Fork Arroyo Conejo
	2.797425046689	5.1%	Lang Creek	5.1%	Lang Creek	5.1%	Lang Creek
	1.77076514445	3.2%	Arroyo Conejo MGM	3.2%	Arroyo Conejo MGM	3.2%	Arroyo Conejo MGM
	1.5798977424	2.8%	Hill Canyon	2.8%	Hill Canyon	2.8%	Hill Canyon
	0.57381527282	1.0%	Venta Park	1.0%	Venta Park	1.0%	Venta Park
	1.05827512021	2.0%	South Branch Newbury Park	2.0%	South Branch Newbury Park	2.0%	South Branch Newbury Park
	1.16827512021	2.0%	Arroyo Santa Rosa Tributary	2.0%	Arroyo Santa Rosa Tributary	2.0%	Arroyo Santa Rosa Tributary
	2.18522621287	4.0%	Upper Arroyo Santa Rosa	4.0%	Upper Arroyo Santa Rosa	4.0%	Upper Arroyo Santa Rosa
		100.0%					

54.86 Miles - see yellow hatched SSO WS Areas above

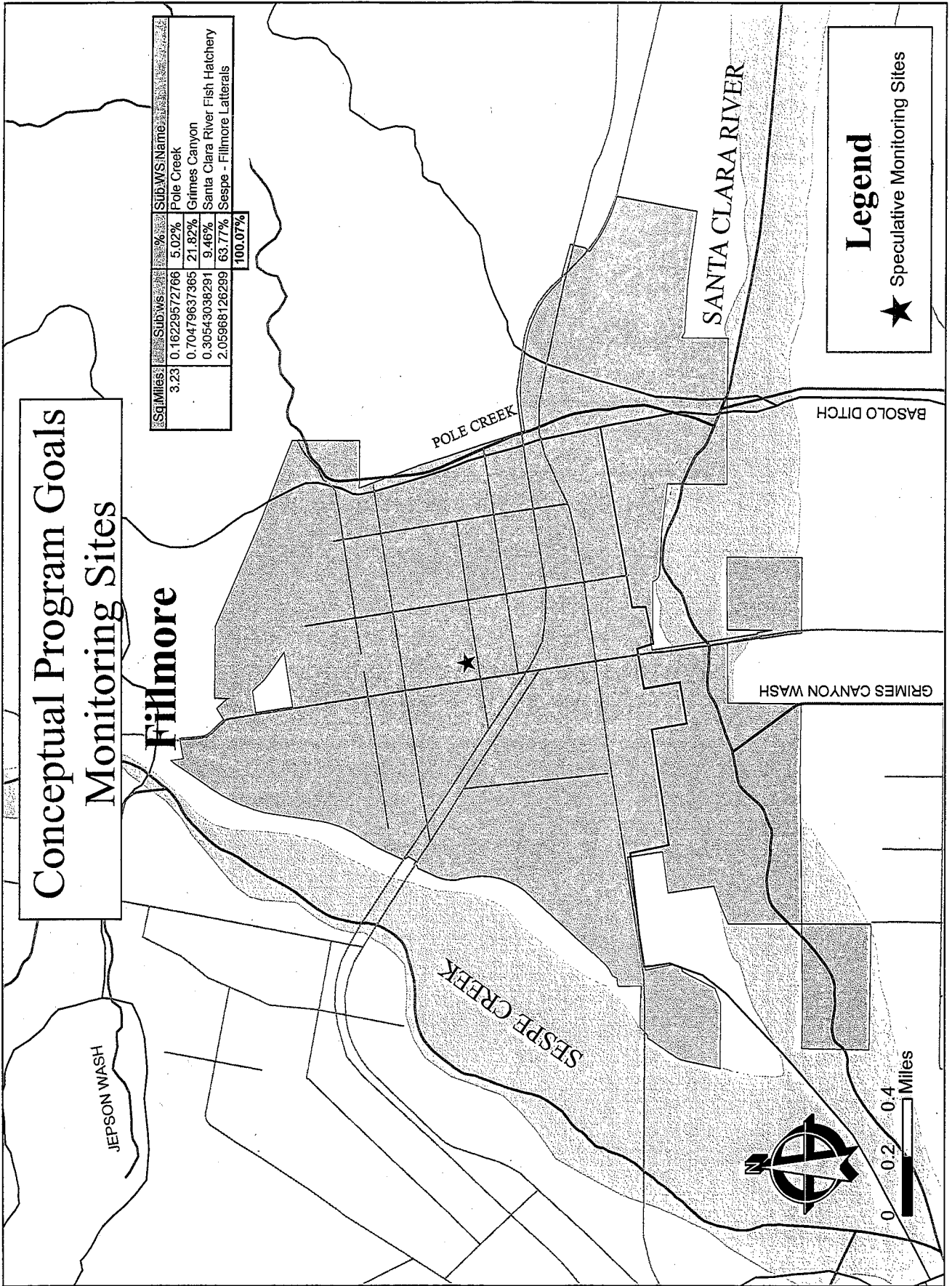
Legend

- ◆ Mass Emission Monitoring Sites
- ★ Proposed Monitoring Sites

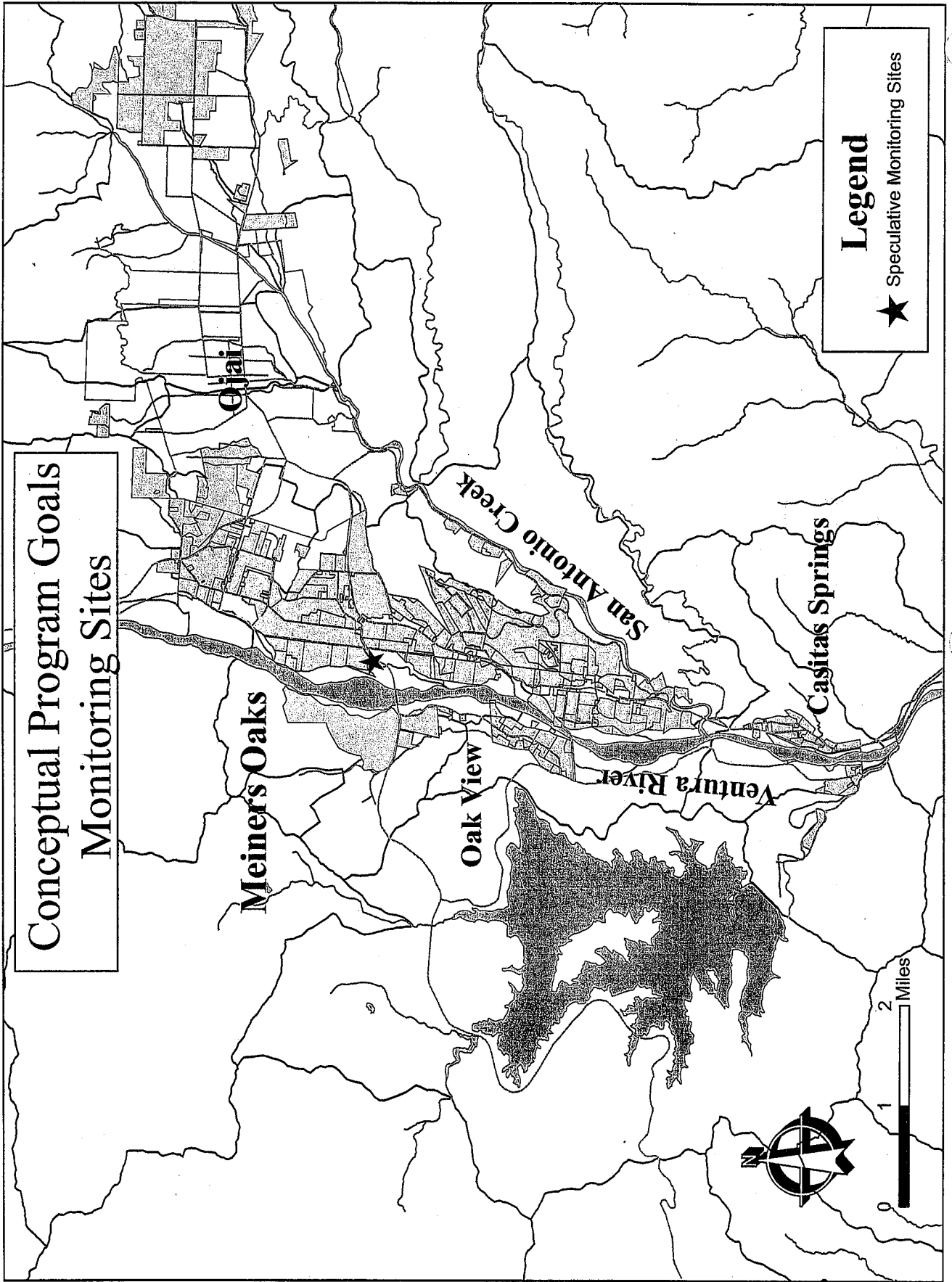




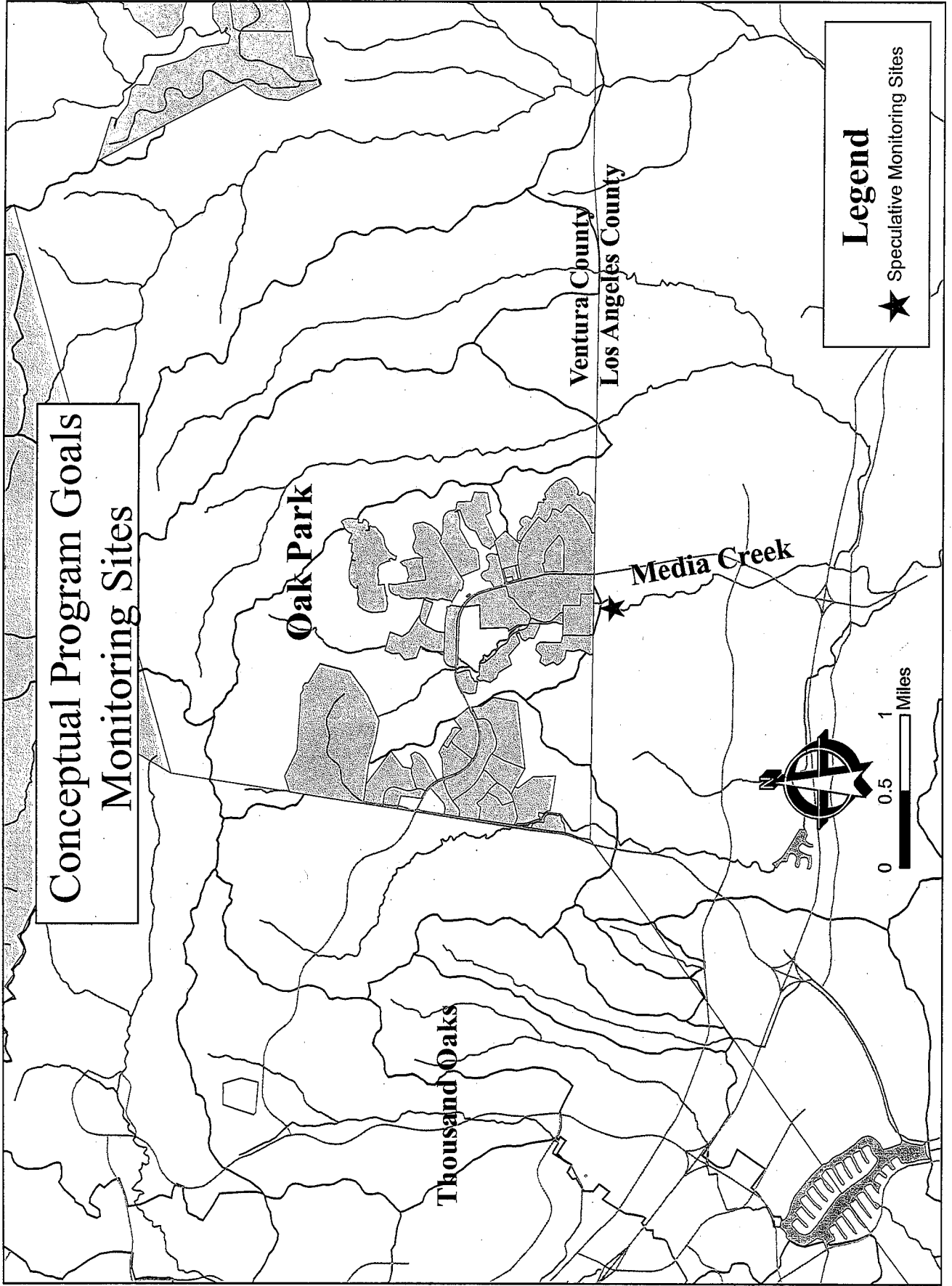
GIS does not have the level of detail necessary to determine appropriate sites. Local infrastructure and drainage catchments, along with selection criteria, need to be evaluated and ground truthed for proper site selection.



WPD GIS does not have the level of detail necessary to determine appropriate sites. Local infrastructure and drainage catchments, along with site selection criteria, need to be evaluated and ground truthed for proper site selection.



2D GIS does not have the level of detail necessary to determine appropriate sites. Local infrastructure and drainage catchments, along with selection criteria, need to be evaluated and ground truthed for proper site selection.

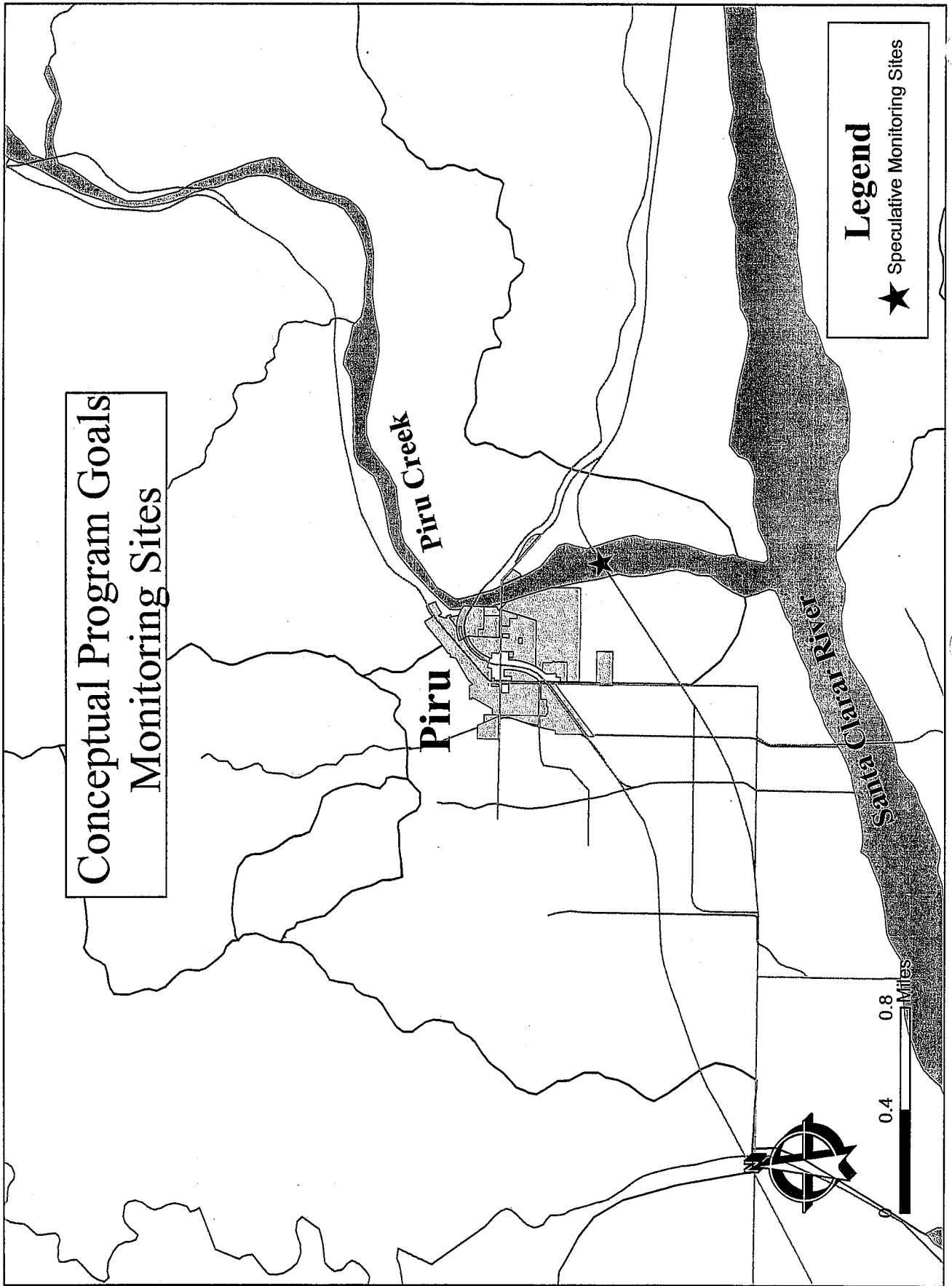


**Conceptual Program Goals
Monitoring Sites**

Legend

- ★ Speculative Monitoring Sites

WPD GIS does not have the level of detail necessary to determine appropriate sites. Local infrastructure and drainage catchments, along with site selection criteria, need to be evaluated and ground truthed for proper site selection.



2D GIS does not have the level of detail necessary to determine appropriate sites. Local infrastructure and drainage catchments, along with selection criteria, need to be evaluated and ground truthed for proper site selection.

Ventura County MS4 Program Permit Reissuance Coordination Meeting

February 27 and 28, 2008 – 0900 to 1600

Location: Ventura County Government Center, Hall of Justice - Pacific Conference Room

---- Agenda ----

The purpose of the meeting is to continue a final discussion between all relevant regional board staff, and stakeholders on the draft Ventura County MS4 permit before Board adoption.

Introduction (purpose, groundrules)	Egoscue	30 minutes
DISCUSSION ITEMS – DAY 1		
1. Planning and Land Development Program – (Hydromodification, LID, Post Construction BMPs, & Grading Restrictions)	All	2 hours
2. Municipal Action Levels – (Pollutants, Levels, & Monitoring)	All	2 hours
Working Lunch - Cafeteria		30 minutes
3. TMDLs – (Incorporation, Monitoring, & Compliance)	All	2.5 hours
4. Summary of Day 1	Egoscue	30 minutes
DISCUSSION ITEMS – DAY 2		
Introduction (purpose, groundrules)	Egoscue	30 minutes
5. Public Information & Participation Program	All	2 hours
6. Public Agency Activities Program – (Public Construction Activities & Long-Term Maintenance Programs, Trash Excluders, & Capital Improvement Projects)	All	2 hours
Working Lunch - Cafeteria		30 minutes
7. Jurisdictional Areas	All	1 hour
8. Small Communities Issues and Miscellaneous Issues	All	1 hour
9. Summary of Day 2 & Meeting Summary- (permit timeline)	Egoscue	1 hour

C001101



California Regional Water Quality Control Board

Los Angeles Region



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Arnold Schwarzenegger
Governor

Meeting Attendance Sheet

NAME	ORGANIZATION	PHONE #	E-MAIL ADDRESS
Meeting Subject: Discussion between regional board staff, permittees, & stakeholders on draft Ventura County MS4 permit.			
Meeting Location: Ventura County Government Center, Hall of Justice - Pacific Conference Room			
Meeting Date and Time: February 28, 2008 @ 0900			
1. TRACY GIBBONS	LA RWA CB	213/620-2095	tracy.gibbons@waterboards.ca.gov
2. CARREMATINSKY	CITY OF PORT HUENEME	805 946 6500	cmattinsky@ci.port-hueneme.ca.us
3. Richard WATSON	RWA	949.855.6272	RWatson@rwa-planning.com
4. Shawn KERR	City of Moorpark	517-6257	skerr@ci.moorpark.ca.us
5. NORA REYES	CITY OF OROVILLO	271-2222	nora.reyes@ci.orovalle.ca.us
6. RICHARD BREANLUM	CITY OF VENTURA	(805) 652-4582	RBREANLUM@CI.VENTURA.CA.US
7. WANDAMOYER	City of Simi Valley	805 583 6077	wmoye@simivalley.org
8. Bill O'Brien	City of Ojai	805 658-6611	ojaiob@ojai.ca.gov
9. Deb Smith	RWA CB	213 576 6609	
10. FRED CAMARILLO	PORT HUENEME	805 986 6556	fcamarillo@ci.port-hueneme.ca.gov
11. Vicki Masgrove	Ventura	805 652 4518	Vmasgrove@ci.ventura.ca.us
12. Frank Wu	LA Co. DPW	626 458 4358	frwu@dpw.lacounty.gov
13. Ruby Wang	LA Co. DPW	626-458-4343	rwang@dpw.lacounty.gov

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Governor



Meeting Attendance Sheet

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Meeting Subject: Discussion between regional board staff, permittees, & stakeholders on draft Ventura County MS4 permit.			
Meeting Location: Ventura County Government Center, Hall of Justice - Pacific Conference Room			
Meeting Date and Time: February 28, 2008 @ 0900			
14. Kevin Gieschen	City of Simi	805 5836462	kGiesche@SimiValley.org
15. Mark Pumbor	Quarry	271-2220	
16. BERT RAPP	FILMORE	524-3761	
17. JAN VARRAL	SANTA PAULA	93342240	JVARRAL@CISANTA-PAULA.CA.US
18. TRACY ZEROU	RWQCB		
19. JUNE K RIDGWAY	RWQCB	(213) 620-2150	iridgeway@waterboards.ca.gov
20. ANDY HENDERSON	BIA/SC	(909) 396-9993	ahenderson@bia.sc.org
21. Mack Walker	LWA	530.753.6900	Mack.w@lwa.com
22. JoAnne Kelly	City of T.O.	805 449 2871	JKelly@yoaks.org
23. Karin Coyne	Ventura Co Public Works	805 662 6831	Karin.coyne@ventura.org
24. PAUL TANTER	VENTURA COUNTY PWA	805-662-6737	Paul.Tanter@ventura.org
25. Anita Kuhlman	City of Camarillo	3835859	
26. Taylor Swamikortu	RWQCB - LA	213-620-2094	

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Meeting Attendance Sheet

NAME	ORGANIZATION	PHONE #	E-MAIL ADDRESS
Meeting Subject: Discussion between regional board staff, permittees, & stakeholders on draft Ventura County MS4 permit.			
Meeting Location: Ventura County Government Center, Hall of Justice - Pacific Conference Room			
Meeting Date and Time: February 28, 2008 @ 0900			
27. Carlos Urrutia	RWQCB	213 620 2003	Currunage@waterboards.ca.gov
28. Tess Durham	Somach	916 -9446-7999	
29. Gerhardt Huber	UCWFO	805 654-5051	
30. ARNE ANSELM	VCWTD	805 654 8941	
31. Michael Levy	RWQCB	916 344-5193	
32. Steven Conrad	Water Bd.	213.576-6694	
33. Sam Vinyer	"	213 576 6022	

Ventura County MS4 Program Permit Reissuance Coordination Meeting

February 27 and 28, 2008 – 0900 to 1600

Location: Ventura County Government Center, Hall of Justice - Pacific Conference Room

---- Agenda ----

The purpose of the meeting is to continue a final discussion between all relevant regional board staff, and stakeholders on the draft Ventura County MS4 permit before Board adoption.

Introduction (purpose, groundrules)	Egoscue	30 minutes
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1. Planning and Land Development Program – (Hydromodification, LID, Post Construction BMPs, & Grading Restrictions)	All	2 hours
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6. Public Agency Activities Program – (Public Construction Activities & Long-Term Maintenance Programs, Trash Excluders, & Capital Improvement Projects)	All	2 hours
Working Lunch - Cafeteria		30 minutes
7. Jurisdictional Areas	All	1 hour
8. Small Communities Issues and Miscellaneous Issues	All	1 hour
9. Summary of Day 2 & Meeting Summary- (permit timeline)	Egoscue	1 hour



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Meeting Attendance Sheet

NAME	ORGANIZATION	PHONE #	E-MAIL ADDRESS
1. Steve Cain	Water Bd.	213-576-6694	SCAIN@waterboards.ca.gov
2. TRACY EGOSWEE	Water Bd.	213-576-6605	TRACYEGOSWEE@waterboards.ca.gov
3. BERT RAPP	FILLMORE	805 207-9194	BRAPP@CI.FILLMORE.CA.W
4. JON PUNBAK	SANJA-PALMA	805 933 4212	JPUNBAK@CI.SANJA-PALMA.CA.US
5. Kevin Gieschen	City of Simi	805 5836462	KGieschen@SimiValley.org
6. Wanda Moyer	" "	805 5836097	WMoyer@SimiValley.org
7. Tess Duhanan	SSD	916-939-7544	Tduhanan@SomachaLaW.com
8. Vicki Masgrove	City of Ventura	805 652-4518	Vmasgrove@ci.ventura.ca.us
9. Richard Bradley	" "	652-4582	RBRADLEY@CI.VENTURA.CA.US
10. Anne Kelly	City of To	805 449 2471	Spelly@toaks.org
11. Paul & Ruthie	City of Camarillo	383-5659	o.kuhimane@ci.camarillo.ca.us
12. Shaen Kroos	City of Moorpark	517-6257	SKROOS@CI.MOORPARK.CA.US
13. Clara Mayana	CITY OF OYAJEP	385-7827	clara.mayana@ci.oyajep.ca.us

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Meeting Attendance Sheet

NAME	ORGANIZATION	PHONE #	E-MAIL ADDRESS
14. Mark Pomford	City of Arnold	271-2220	
15. ARNE ANSELM	VENTURA WPD	805 654 5942	ARNE.ANSELM@VENTURA.ORG
16. Mack Walker	Larry Walker Assoc.	530.753.6400	Mackaw@lwa.com
17. Matt Yeager	SB County Flood Control	909-387-8112	myeager@sbwtr.com
18. ANDY HENDERSON	BIA/LSC	909-396-9923	ahenderson@bia.sc.org
19. PAUL TARTET	Ventura County SWA	805-662-6737	Paul-tartet@ventura-os
20. David Swornikman	Nature Board - LA	213-620-2094	
21. Tali Tucker	City of Camarillo	805-388-5343	tucker@ci.camarillo.ca.us
22. Carlos Ureuntka	RWDG3-LA	213-620-2003	currunga@waterboards.ca.gov
23. Jack R. Richardson	K RWQCB-LA	213-620-2150	irid@ventura.waterboards.ca.gov
24. Monique Myers	Univ of CA Sea Grant	805 680 4141	monique.myers@gmail.com
25. Geremew Amenu	LACDPX	(626) 458-4332	gameru@dpw.lacounty.gov
26. Mark Manducos	VCUOPP	805 645 2003	mark.manducos@ventura.org

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Meeting Attendance Sheet

NAME	ORGANIZATION	PHONE #	E-MAIL ADDRESS
Meeting Subject:	Discussion between regional board staff, permittees, & stakeholders on draft Ventura County MS4 permit.		
Meeting Location:	Ventura County Government Center, Hall of Justice - Pacific Conference Room		
Meeting Date and Time:	February 27, 2008 @ 0900		
27. Michelle Mehta	NRDC	310-434-2300	mmehta@nrdc.org
28. Heather Wyke			hwylie1@hotmail.com
29. Gerhardt Hubner	UCLWPD	805 654-5051	Gerhardt.Hubner@ventura.org
30. Ashli Desai	LWRP	310-394-1030	AshliD@lwrp.com
31. Alec Pringle	County Public Works	(805) 654-2096	alec.pringle@ventura.org
32. Kirsten James	Heal the Bay	310-451-1500	Kjames@healthebay.org
33. Glenk Anderson	Local Govt Commission	(16) 445-1498	Canderson@lge.org
34. Richard Boon	County of Orange	714 975 3168	Richard.boon@rind.or.gov.com
35. MATI WATA	Ventura Coastkeepers	805 658 1120	matiwata@coastkeepers.org
36. Debbie Smith	RWQCB	213 576 6600	dsmith@waterboards.ca.gov
37. Sam Unger	RWQCB	213 576 6622	sunger@waterboards.ca.gov
38. Lauren Amimoto	CITY OF PICO RIVERA	562-801-4415	lamimoto@pico-rivera.org

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Meeting Attendance Sheet

NAME	ORGANIZATION	PHONE #	E-MAIL ADDRESS
39. Richard WATSON	RWA	949. 855. 0272	r.watson@rwaplanning.com
40. Geoff Drossseau	CASAC	650 365-8620	gdross@busssem.us
41. Mark Corey	BIA/CICWC	909-525-0623	mycor@biasec.org
42. Holly Schroeder	BIA-LA Ventura	661 257-5041	hschroeder@biasec.org
43. Bill O'Brien	City of Ojai	805 658-6611	obrien@ojai.com
44. Frank Wu	LACounty DPN	626 458-4357	fwu@dpw.lacounty.gov
45. Shaide Baharloo	City of Camarillo	805-388-5359	sbaharloo@ci.camarillo.ca.us
46. Lisa Austin	Geosyntec Consultants	310 946-9006	laustinc@geosyntec.com
47. Tracy Woods	LA-RWQCB	213-620-2095	Twoods@waterbodies.ca.us
48. Mike Smith	CITY OF CAMARILLO	805-388-5367	MSmith@ci.camarillo.ca.us
49. EUGEN Soloman	RWQCB	213 620 2237	e_soloman@waterboards.ca.gov
50. STEVE Mitchell	City of Camarillo	805 388 5370	smitchell@ci.camarillo.ca.us
51. Sergio Vargas	VIEW PD	805-650-4677	sergio.vargas@ventura.org

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Meeting Attendance Sheet

NAME	ORGANIZATION	PHONE #	E-MAIL ADDRESS
Meeting Subject: Discussion between regional board staff, permittees, & stakeholders on draft Ventura County MS4 permit.			
Meeting Location: Ventura County Government Center, Hall of Justice - Pacific Conference Room			
Meeting Date and Time: February 27, 2008 @ 0900			
52. Tracy Arstey	Coastal Commission	805-585-1809	tarstey@coastal.ca.gov
53. MARK REYNOLDS	LA Co. DPW.	626 458 4003	mark@estrel.com
54. FRED CAMARILLO	PORT AVENUE	805 986 6556	fcamarillo@ci.port-avenue.ca.us
55. CARR ENMARKS	"	"	CENMARKS
56. Mark Gold	HETS		mgold@healthtrust.org
57. Raymond Gutierrez	County of Ventura Public Works Agency	805 657-2059	raymond.gutierrez@ventura.org
58. Paul Jenkins	Switzer Foundation	805 648-4005	Pjenkins@sbcglobal.net

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Meeting Attendance Sheet

09 January 2008

Location: California Regional Water Quality Control Board
Los Angeles Region
320 West 4th Street, Suite 200, Los Angeles, CA 90013

Subject: Meeting with Drinking Water Purveyors - Ventura County MS4 Draft Permit

	Name	Agency/ Company/ or Resident	Email Address	Telephone
1	Henry Graunholz	Calleguas MWD	hgraunholz@calleguas.com	805-579-7127
2	Don Kendall	Calleguas	dkendall@calleguas.com	805-579-7113
3	Cheri Swind	City of Camarillo	TSwind@ci.camarillo.ca.us	805-388-5576
4	Katherine Subin	LADWP	ksubin@ladwp.com	213-367-0436
5	Brandyn O'Gorman	Golden State	boorman@gs.water.com	914-853-3639
6	Marty Adams	LADWP	martinadams@ladwp.com	213-367-1014
7	Michael Hanson	LADWP	michael.hanson@ladwp.com	213-367-0634
8	Trey Eoscul	RWQCB	teoscul@waterboards.ca.gov	213-576-6605
9	Deb Smith	RWQCB	dsmith@waterboards.ca.gov	213-576-6609
10	David Hung	" "	dhung@waterboards.ca.gov	213/576-6616
11	Narimraj Jain	DWQCB	njain@waterboards.ca.gov	213-620-6003
12	Carlos Urnaga	RWQCB	curnaga@waterboards.ca.gov	213 620 2003
13				
14				

From: "Gerhardt Hubner" <Gerhardt.Hubner@ventura.org>
To: "Tracy Woods" <twoods@waterboards.ca.gov>
CC: "Anita Kuhlman" <akuhlman@ci.camarillo.ca.us>, <brapp@ci.fillmore.ca.us>...
Date: 3/18/2008 4:44 PM
Subject: Transmittal of Proposal for SW Monitoring & Strikeout/Redline of Part 5 (Minus Planning and
and
Attachments: Urban Outfall Discharge Evaluation Monitoring 03-18-08.doc; NPDES_2007_Monitoring_Sites.pdf; NPDES_2007_Monitoring_Sites_CAM.pdf; NPDES_2007_Monitoring_Sites_FILLMORE.pdf; NPDES_2007_Monitoring_Sites_MO.pdf; NPDES_2007_Monitoring_Sites_MP.pdf; NPDES_2007_Monitoring_Sites_Ojai.pdf; NPDES_2007_Monitoring_Sites_OX.pdf; NPDES_2007_Monitoring_Sites_PH.pdf; NPDES_2007_Monitoring_Sites_SB.pdf; NPDES_2007_Monitoring_Sites_SP.pdf; NPDES_2007_Monitoring_Sites_SV.pdf; NPDES_2007_Monitoring_Sites_TO.pdf; Part_5_redline Permitees 03-18-08.doc

Tracy,

Per our meeting and discussion last week I'm attaching the following for consideration:

1. Proposal for Stormwater Monitoring (Urban Outfall Discharge Monitoring and Response Plan) and Maps (Countywide and Individual Permitees)
2. Strikeout/Redline of Part 5 of 2nd Draft SW Permit (minus Part E - Planning & Land Development, and changes to Grading Restrictions under the Construction Program - will be provided separately at a later time).

We would like to meet on the Hydromodification, and Grading restrictions at your earliest convenience.

Let me know if you have any questions.

Gerhardt

Urban Outfall Discharge Evaluation Monitoring Proposal

1) Purpose

- a) Assess the chemical quality of discharges from Permittees MS4;
- b) Measure and improve the effectiveness of Permittees' urban runoff management programs;
- c) Provide a baseline by which improvements in urban runoff can be measured.

2) Outfall Selection Criteria

Best professional judgment shall be used to balance the site selection rationale and criteria to determine the most appropriate site. Due to limited potential locations of urban outfalls to be monitored there may be no sites that satisfy all criteria and rationale.

- a) Maximize urban runoff contribution;
 - i) Greater than 60% of catchment shall be permittee's MS4;
 - ii) Attempt shall be made to avoid outfalls that contain discharge from extra-jurisdictional areas (e.g. agriculture land and other NPDES discharges).
- b) Drainage area should contain representative land uses found in the permittees' jurisdiction as similar to the ratio found in the permittees' jurisdiction as reasonably possible.
- c) Drainage areas with higher percentage of the permittees' MS4 are preferred;
- d) Ability to accurately measure flow
- e) Safety of monitoring personal is the highest priority. Specific location of sampling collection may be upstream of the actual outfall if field safety or accurate flow measurement require it.

3) Monitoring Protocol

- a) A total of 4 monitoring events (3 storm events, 1 dry weather) shall be sampled each year
 - (1) Samples for mass emission monitoring may be taken with the same type of automatic sampler used under Order 00-108.
 - (2) Samplers shall be set to monitor storms that produce 0.25 inches or greater of rainfall. Samples are acceptable if rain event produced greater than 0.15 inches and there is sufficient sample for analysis
- b) Samples are to be flow-weighted composites and can be collected manually or automatically.
 - i) A minimum of 3 sample aliquots, separated by a minimum of 15 minutes, shall be taken within each hour of discharge, unless the Regional Water Board Executive Officer approves an alternate protocol.
 - ii) If composites are collected manually, sampling may be conducted only during the first 3 hours or for the duration of the storm if it is less than 3 hours.
 - iii) Maximum event sampling period is 24 hours.
- c) Flow may be estimated using EPA methods at sites where flow measurement devices are not in place.
- d) Constituents to be monitored shall be a combination of the land use pollutants of concern in Table XX Attachment B and those identified in Table XX Municipal Action Levels Attachment B
 - i) Total Aluminum
 - ii) Total and dissolved Cd
 - iii) Total and dissolved Cr
 - iv) Total and dissolved Cu

- v) Total Hg
- vi) Total and dissolved Pb
- vii) Total Ni
- viii) Total Selenium
- ix) Total and dissolved Zn
- x) Nitrate as Nitrogen
- xi) Total Nitrogen
- xii) Ammonia
- xiii) pH
- xiv) Total Suspended solids
- xv) Chemical Oxygen Demand
- xvi) Total Coliform and E. Coli (dry weather only)
- xvii) Twice per permit term each site will be monitored for the complete list of constituents in table XX

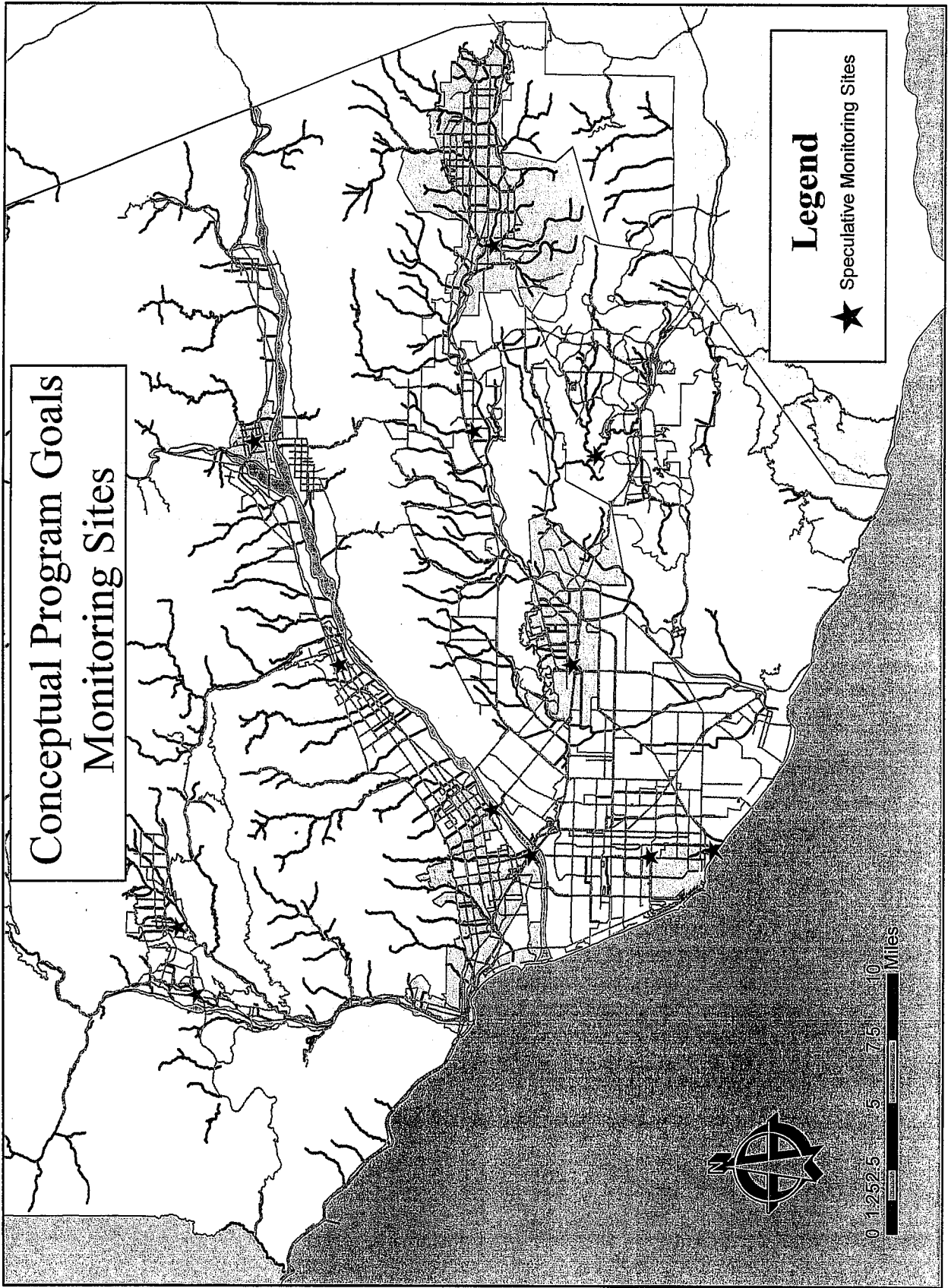
4) Data Evaluation and Program Response

a) MAL Assessment Report

- i) Annually evaluate urban outfall monitoring results with Municipal Action Levels
- ii) Prioritize identified problems
 - (1) Use receiving water 303(d) list, mass emission, bioassessment and toxicity data.
 - (a) Determine if loading is a significant source of pollutants to receiving water relative to area of catchment.
 - (b) Persistent and beneficial use impact.
 - (c) Persistent but no beneficial use impact
 - (d) Inconsistent and beneficial use impact
 - (e) Inconsistent, no impact

b) Develop and Implement MAL Attainment Action Plan

- i) Action Plan goal to meet MAL (not WQO)
- ii) Approved by EO
- iii) Action Plans revised annually to keep within permit timeframe, react to new data and document iterative process
- iv) Implementation schedule with measurable milestones
- v) Examples of Action Plan measures
 - (1) Upstream IC/ID investigation
 - (2) Increased program response (inspections, education)
 - (3) Long term solutions (e.g. capital improvement projects)
 - (4) Supplemental Monitoring to support Action Plan
- vi) Action Plan consistent TMDL Implementation Plan and timelines
- vii) Longer than permit term may be required to resolve
 - (1) Several iterations of progressive BMPs
 - (2) TMDL timelines
- viii) Ultimately Action Plans should integrate constituents and watershed reaches



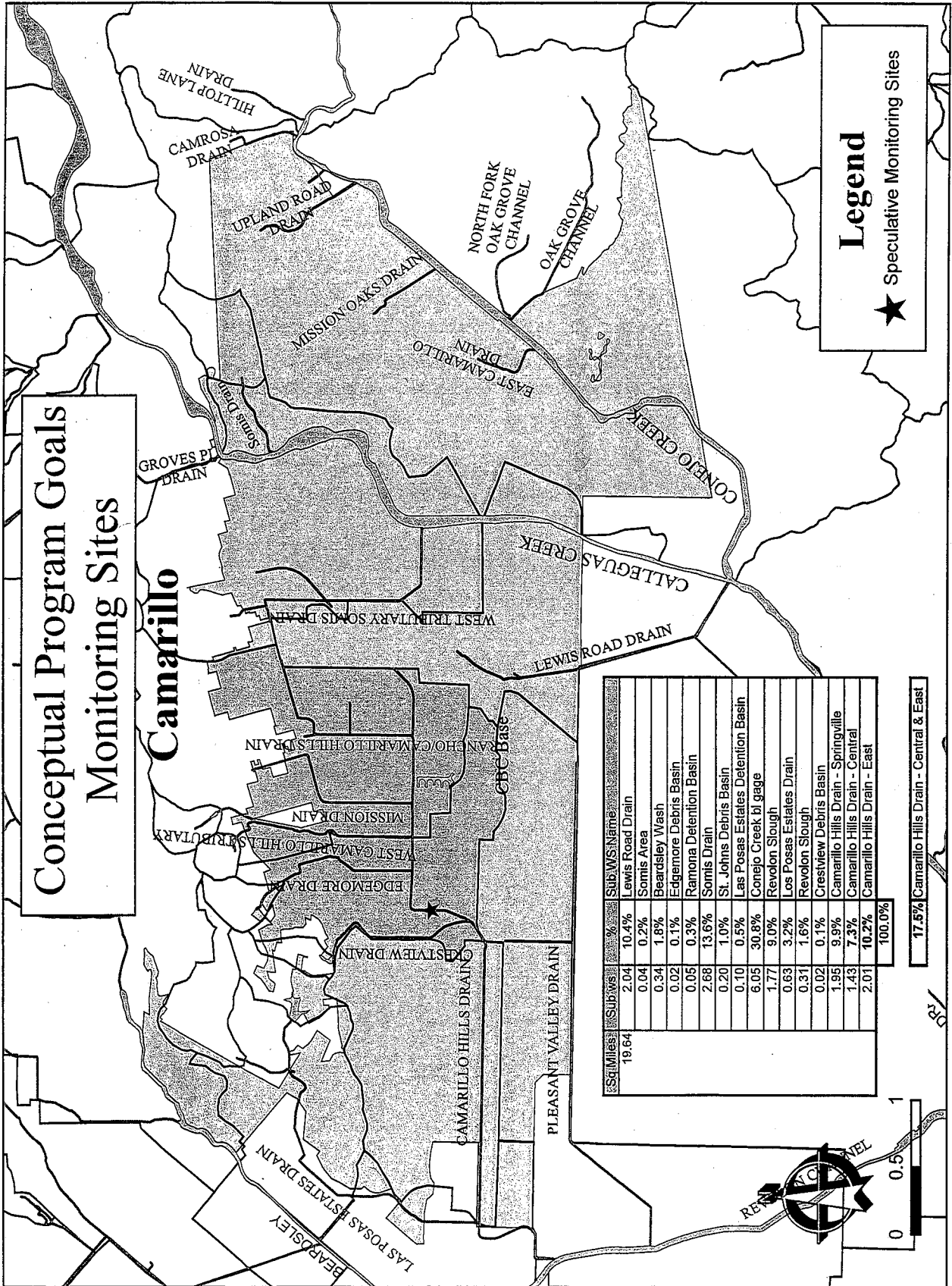
**Conceptual Program Goals
Monitoring Sites**

Legend

★ Speculative Monitoring Sites



WPD GIS does not have the level of detail necessary to determine appropriate sites. Local infrastructure and drainage catchments, along with site selection criteria, need to be evaluated and ground truthed for proper selection.



**Conceptual Program Goals
Monitoring Sites**

Camarillo

Legend
★ Speculative Monitoring Sites

Sub. Name	Sub. Area	%	Sub. Name
Lewis Road Drain	2.04	10.4%	Lewis Road Drain
Somis Area	0.04	0.2%	Somis Area
Beardley Wash	0.34	1.8%	Beardley Wash
Edgemoor Debris Basin	0.02	0.1%	Edgemoor Debris Basin
Ramona Detention Basin	0.05	0.3%	Ramona Detention Basin
Somis Drain	2.68	13.6%	Somis Drain
St. Johns Debris Basin	0.20	1.0%	St. Johns Debris Basin
Las Posas Estates Detention Basin	0.10	0.5%	Las Posas Estates Detention Basin
Conejo Creek bi gage	6.05	30.8%	Conejo Creek bi gage
Revolon Slough	1.77	9.0%	Revolon Slough
Los Posas Estates Drain	0.63	3.2%	Los Posas Estates Drain
Revolon Slough	0.31	1.6%	Revolon Slough
Crestview Debris Basin	0.02	0.1%	Crestview Debris Basin
Camarillo Hills Drain - Springville	1.95	9.9%	Camarillo Hills Drain - Springville
Camarillo Hills Drain - Central	1.43	7.3%	Camarillo Hills Drain - Central
Camarillo Hills Drain - East	2.01	10.2%	Camarillo Hills Drain - East
		100.0%	

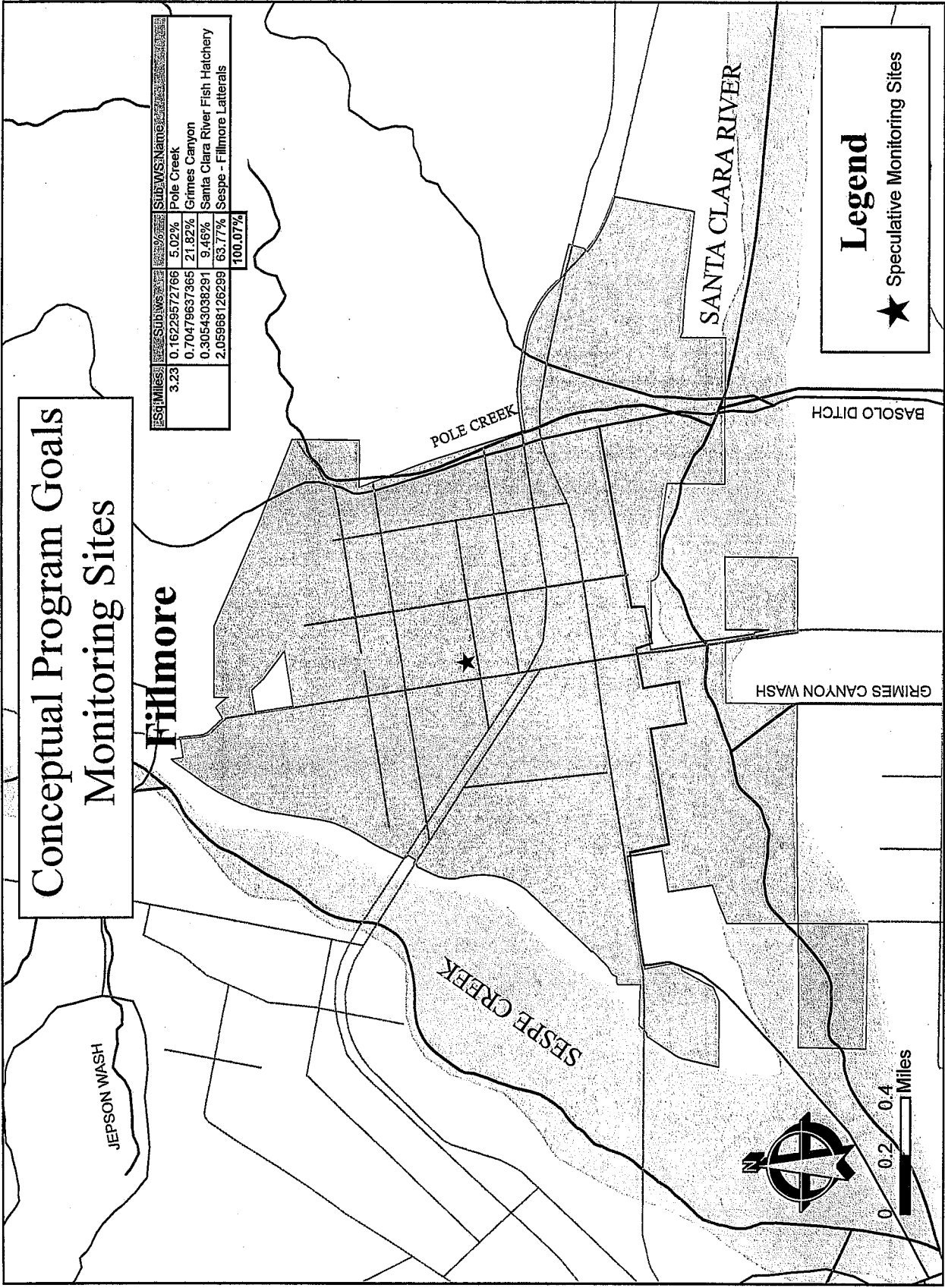
17.5% Camarillo Hills Drain - Central & East

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Conceptual Program Goals Monitoring Sites

Fillmore

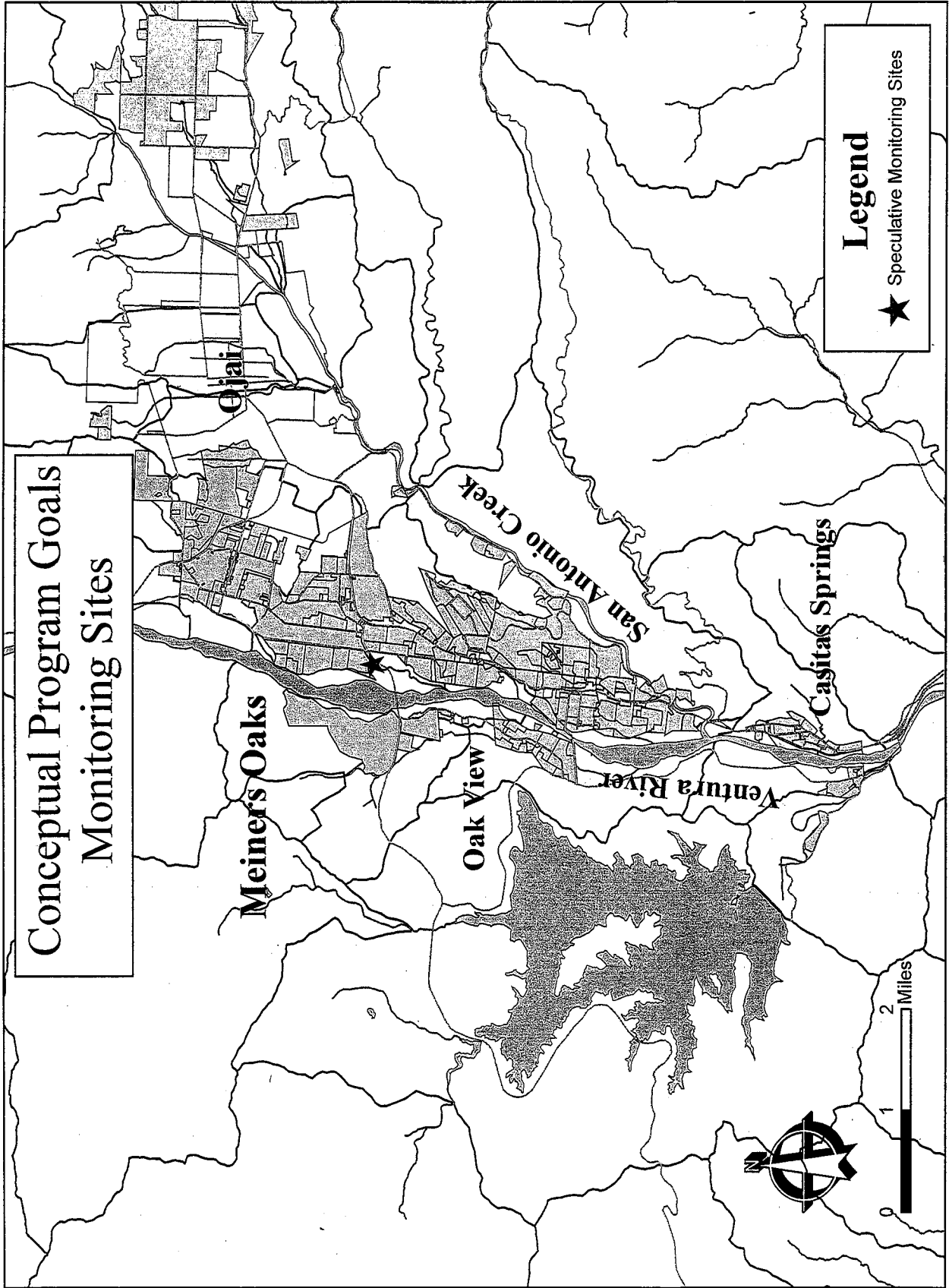
Subwatershed	Area (sq. miles)	Percentage	Name
3.23	0.16228572766	5.02%	Pole Creek
	0.70479637366	21.82%	Grimes Canyon
	0.30543038291	9.46%	Santa Clara River Fish Hatchery
	2.05968126299	63.77%	Sespe - Fillmore Lateral
		100.07%	



Legend

★ Speculative Monitoring Sites

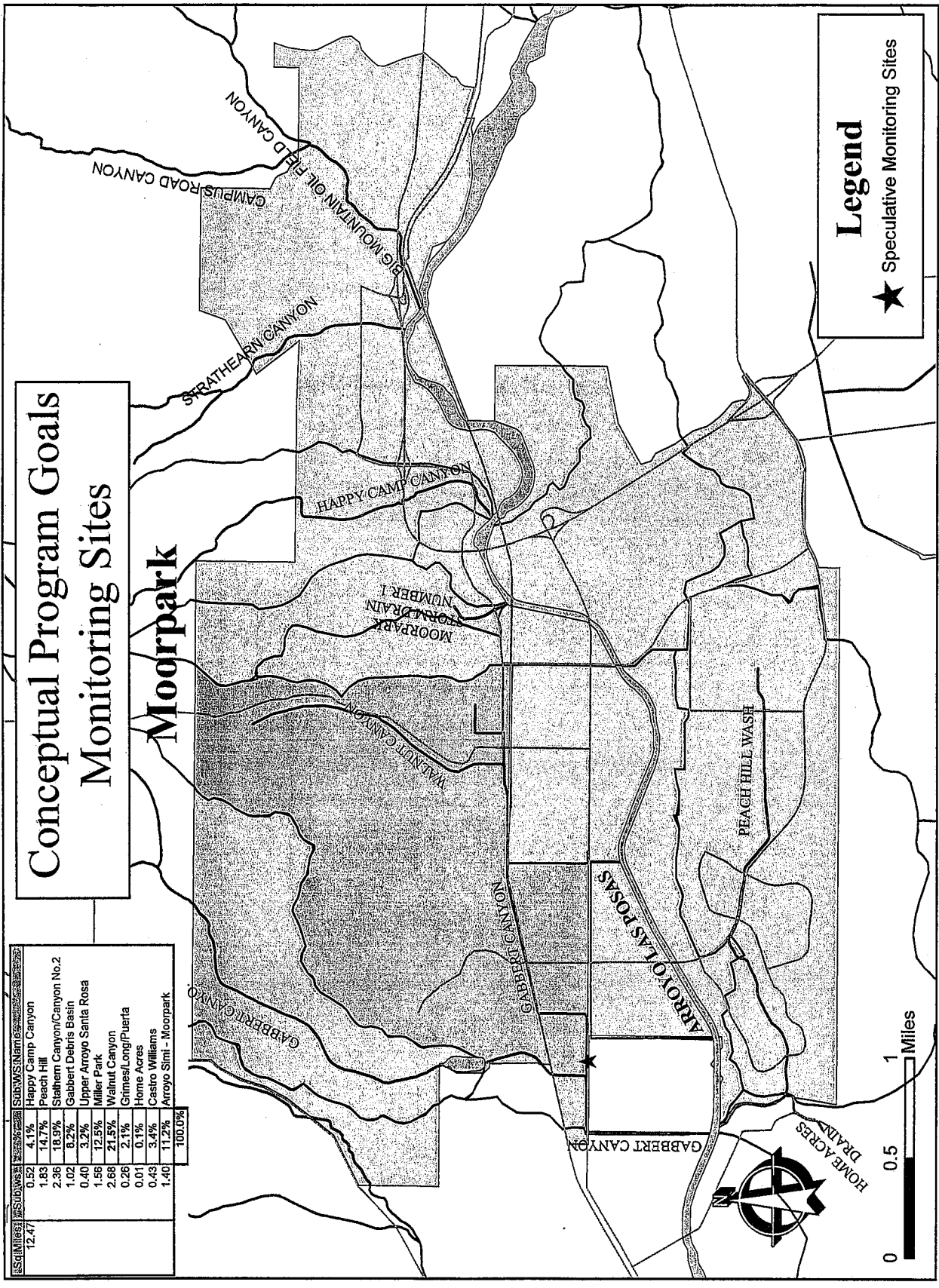
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**Conceptual Program Goals
Monitoring Sites**

Legend
★ Speculative Monitoring Sites

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Conceptual Program Goals Monitoring Sites

Moorpark

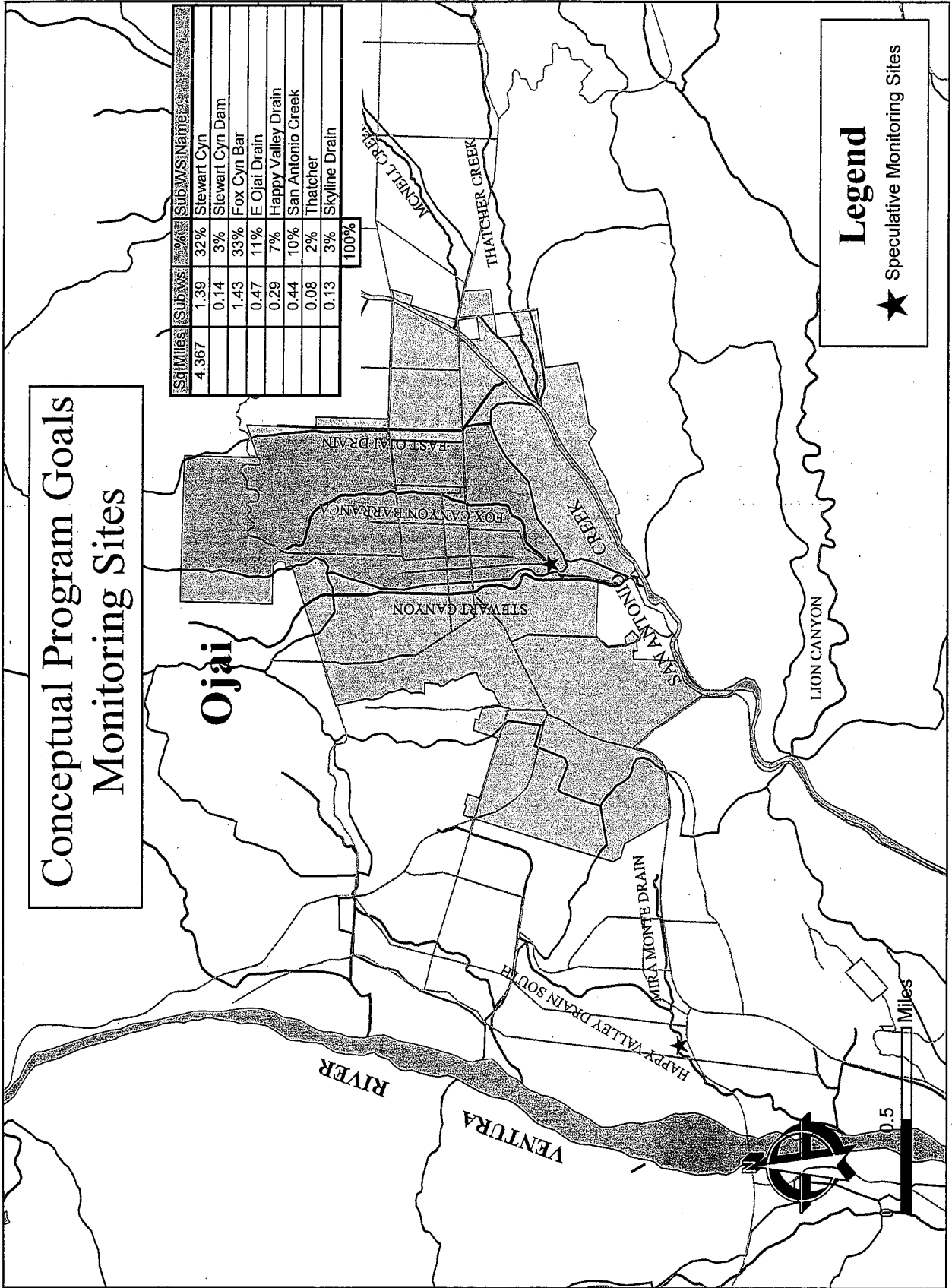
Subwatershed	Area (sq miles)	Percentage	Subwatershed Name
Happy Camp Canyon	0.52	4.1%	Happy Camp Canyon
Peach Hill	1.83	14.7%	Peach Hill
Stahem Canyon/Canyon No.2	2.86	18.9%	Stahem Canyon/Canyon No.2
Gabbert Debris Basin	1.02	8.2%	Gabbert Debris Basin
Upper Arroyo Santa Rosa	0.40	3.2%	Upper Arroyo Santa Rosa
Miller Park	1.56	12.5%	Miller Park
Walnut Canyon	2.68	21.5%	Walnut Canyon
Grimes/Long/Puerta	0.26	2.1%	Grimes/Long/Puerta
Home Acres	0.01	0.1%	Home Acres
Castro Williams	0.43	3.4%	Castro Williams
Arroyo Simi - Moorpark	1.40	11.2%	Arroyo Simi - Moorpark
		100.0%	

Legend

- ★ Speculative Monitoring Sites



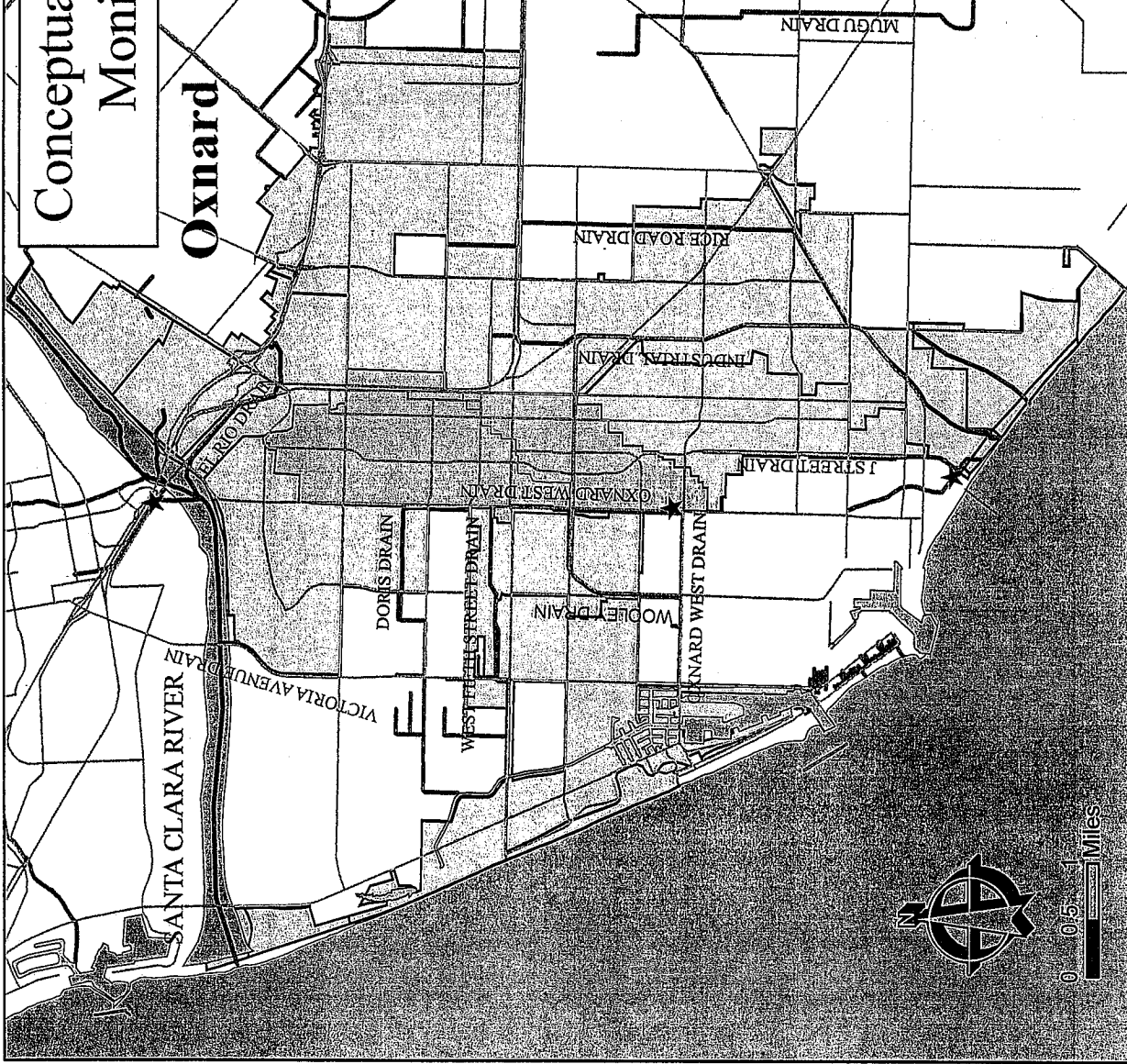
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Conceptual Program Goals Monitoring Sites

Subwatershed Name	Area (sq miles)	Percentage
Montgomery Street Drain	0.01	0.0%
Stroube Drain	0.86	3.2%
West 5th Street Tributary	0.10	0.4%
Treat Club Road Drain	0.02	0.1%
West 5th Street Drain	0.41	1.5%
J Street Drain	2.04	7.6%
Hueneme Drain	0.01	0.0%
Olds Road Drain	0.10	0.4%
Ormond Beach	0.84	3.1%
Arnold Ranch Drain	0.00	0.0%
Mugu Drain	0.13	0.5%
Santa Paula Milling - El Rio	0.62	2.3%
El Rio Drain	1.10	4.1%
North El Rio Drain	0.01	0.0%
Rice Road/Oxnard Drain	7.66	28.7%
Santa Clara River (ocean to Hwy 101)	0.22	0.8%
Dorris Drain	0.57	2.1%
McGrath Lake	0.01	0.0%
McGrath Drain	0.00	0.0%
Patterson Road Drain	1.77	6.6%
Oxnard West Drain	1.24	4.6%
West Woolley Drain	0.88	3.3%
Lower Oxnard West Drain	0.01	0.0%
Ventura Road Drain	2.16	8.1%
Channel Island Harbor	2.39	8.9%
CBC Center Drain	0.01	0.0%
Oxnard Coastal	0.00	0.0%
Oxnard Coastal	0.27	1.0%
Oxnard Coastal	0.22	0.8%
Oxnard Coastal	0.60	2.2%
Oxnard Coastal	0.00	0.0%
Oxnard Coastal	0.04	0.1%
Oxnard Coastal	0.07	0.3%
Oxnard Coastal	0.15	0.6%
Revelon Slough	1.75	6.5%
Nyeland Drain	0.11	0.4%
Nyeland Drain	0.41	1.5%
Revelon Slough	0.00	0.0%
Total	26.80	100.0%



Legend

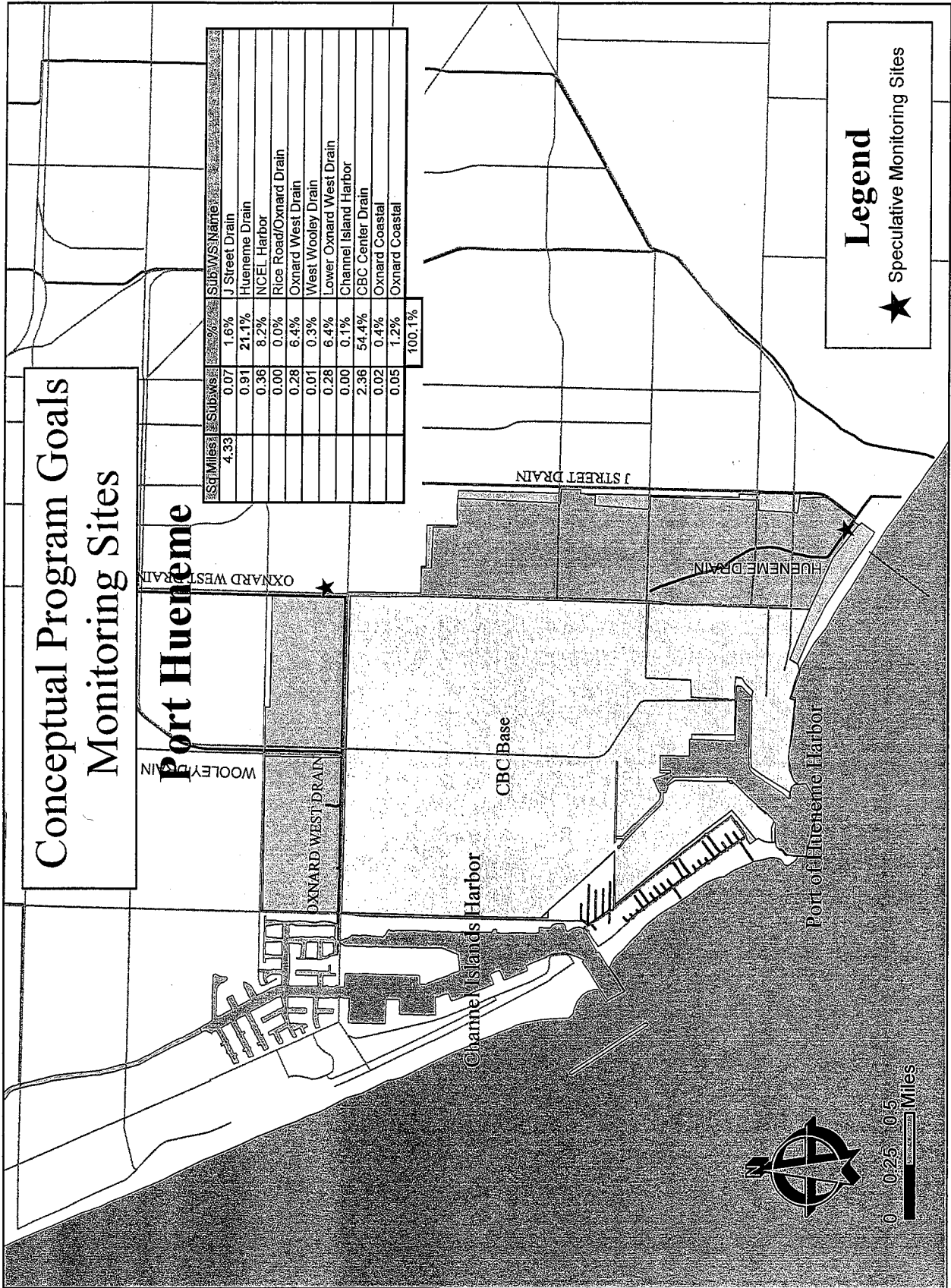
★ Speculative Monitoring Sites

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Conceptual Program Goals Monitoring Sites

Port Hueneheme

Subwaters	Subwaters	%	Subwaters
4.33	0.07	1.6%	J Street Drain
	0.91	21.1%	Hueneheme Drain
	0.36	8.2%	NCEL Harbor
	0.00	0.0%	Rice Road/Oxnard Drain
	0.28	6.4%	Oxnard West Drain
	0.01	0.3%	West Woolley Drain
	0.28	6.4%	Lower Oxnard West Drain
	0.00	0.1%	Channel Island Harbor
	2.36	54.4%	CBC Center Drain
	0.02	0.4%	Oxnard Coastal
	0.05	1.2%	Oxnard Coastal
		100.1%	



Legend

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Conceptual Program Goals Monitoring Sites

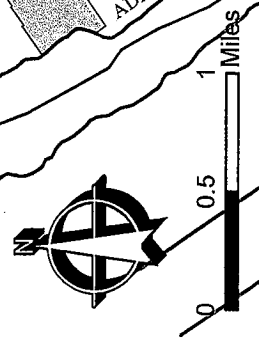
Santa Paula

Sub Miles	Sub WS	%	Sub WS Name
4.69	0.00001302745	0.00%	Fagan Canyon
	0.00150248253	0.03%	Santa Clara Creek near Adams
	1.08304243962	23.09%	Peck road Drain
	0.20398758237	4.35%	Santa Clara River, Santa Paula area
	0.13655202971	2.89%	Orcutt Canyon
	1.21825097334	25.98%	Lower Santa Paula Creek
	0.372683005726	7.95%	Fagan Canyon, lower
	1.67670945347	35.75%	Santa Paula City
		100.04%	

SANTA PAULA CREEK
ORCUTT CANYON
FAGAN CANYON
PECK ROAD DRAIN
ADAMS BARRANCA

Legend

★ Speculative Monitoring Sites



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Conceptual Program Goals Monitoring Sites

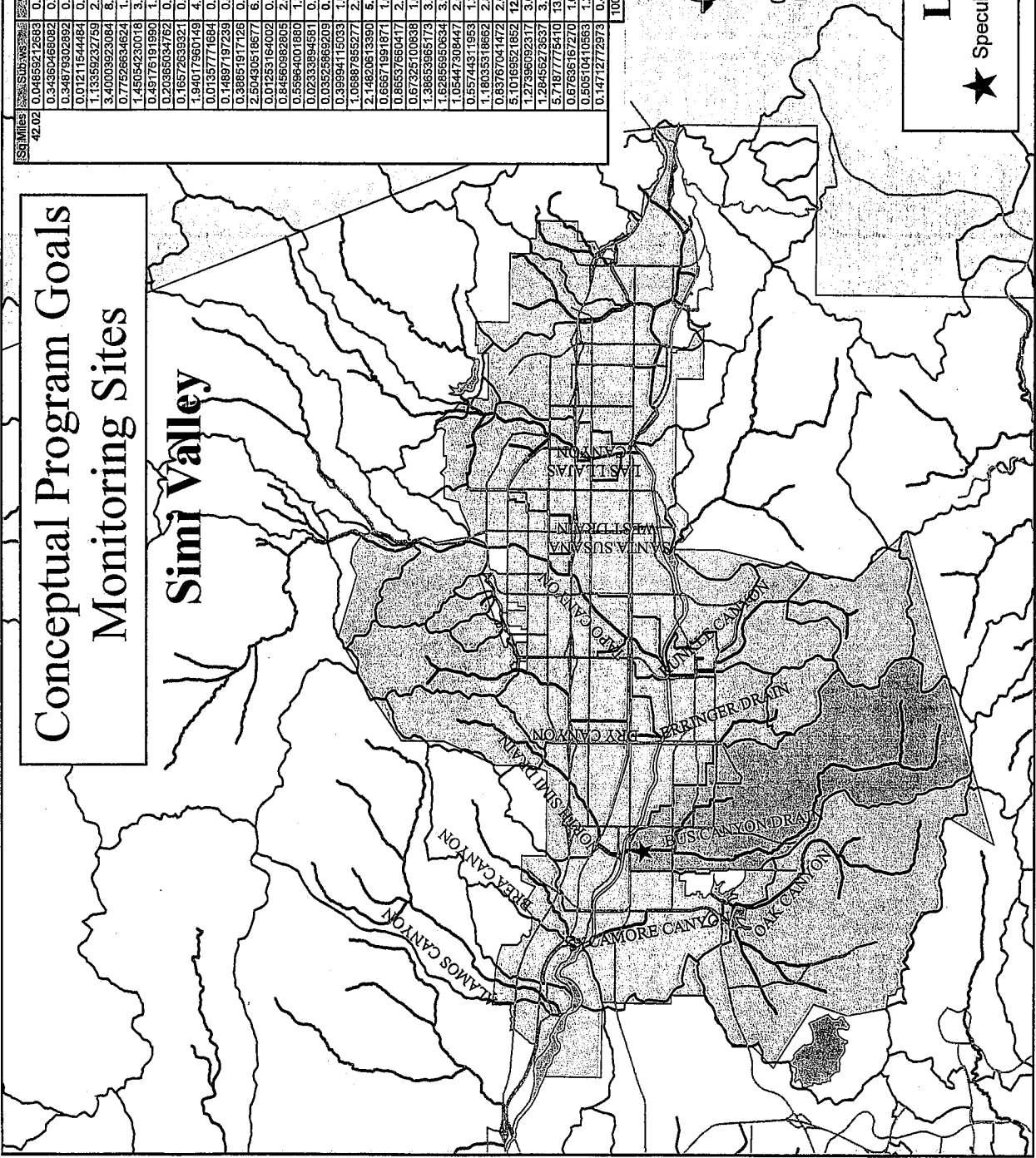
Simi Valley

ESD Miles	SubID	SubName	%
42.02	0.04659212683	Las Lajas Canyon	0.1%
	0.34350466062	Alamos Canyon	0.8%
	0.34879302892	Meier Canyon	0.8%
	0.01211544484	Beif Canyon	0.0%
	1.13359232759	Arroyo Simi Headwaters	2.7%
	3.40039323084	Santa Susana West Drain	8.1%
	0.77526534624	Steamer Canyon/Canyon No.2	1.8%
	1.45054230018	Runkle Debris Basin	3.5%
	0.49176191990	Eringer Debris Basin	1.2%
	0.20365034762	Tapo Hills Division No.1	0.5%
	0.16572639321	Tapo Hills Division No.2	0.4%
	1.94017960149	Lower Sycamore Canyon Drain	4.6%
	0.0135771684	Palo Comado Canyon	0.0%
	0.14897197239	Lago Creek Dam	0.4%
	0.38851917126	Las Virgenes Canyon	0.9%
	2.50430518677	Lower Tapo Canyon	6.0%
	0.01233164002	Tripas Canyon	0.0%
	0.84569592905	Middle Tapo Canyon	2.0%
	0.55984001860	Tapo Canyon Park	1.3%
	0.02333984661	Gilliland / Windmill Canyons	0.1%
	0.032526659209	Chivo Canyon	0.1%
	0.39994115033	Marr Diversion	1.0%
	1.06887855277	Lower Las Lajas Canyon	2.5%
	2.14820513390	Stearns Street Drain	5.1%
	0.65671931871	Strove Simi to Stow	1.6%
	0.86537650417	White Oak Creek	2.1%
	0.87325100638	Huntingbird Creek	1.6%
	1.38653985173	Dry Canyon	3.3%
	1.62859850634	Lower Dry Canyon	3.9%
	1.05447308447	Upper North Simi Drain	2.5%
	0.55744311953	Arroyo Simi Locat Maders	1.3%
	1.48035318662	Lower North Simi Drain	2.8%
	0.83767041472	Arroyo Simi Local (Eringer to N Simi)	2.0%
	5.10169521852	Bus Canyon	12.1%
	1.27396092317	Eringer Drain	3.0%
	1.28456273633	Lower Runkle Canyon	3.1%
	5.7187775410	Sycamore Canyon Dam	13.6%
	0.87635167210	Simi Landfill	1.6%
	0.50510410563	Breat Canyon	1.2%
	0.14712727973	Upper Arroyo Santa Rosa	0.4%
			100.0%



Legend

★ Speculative Monitoring Sites



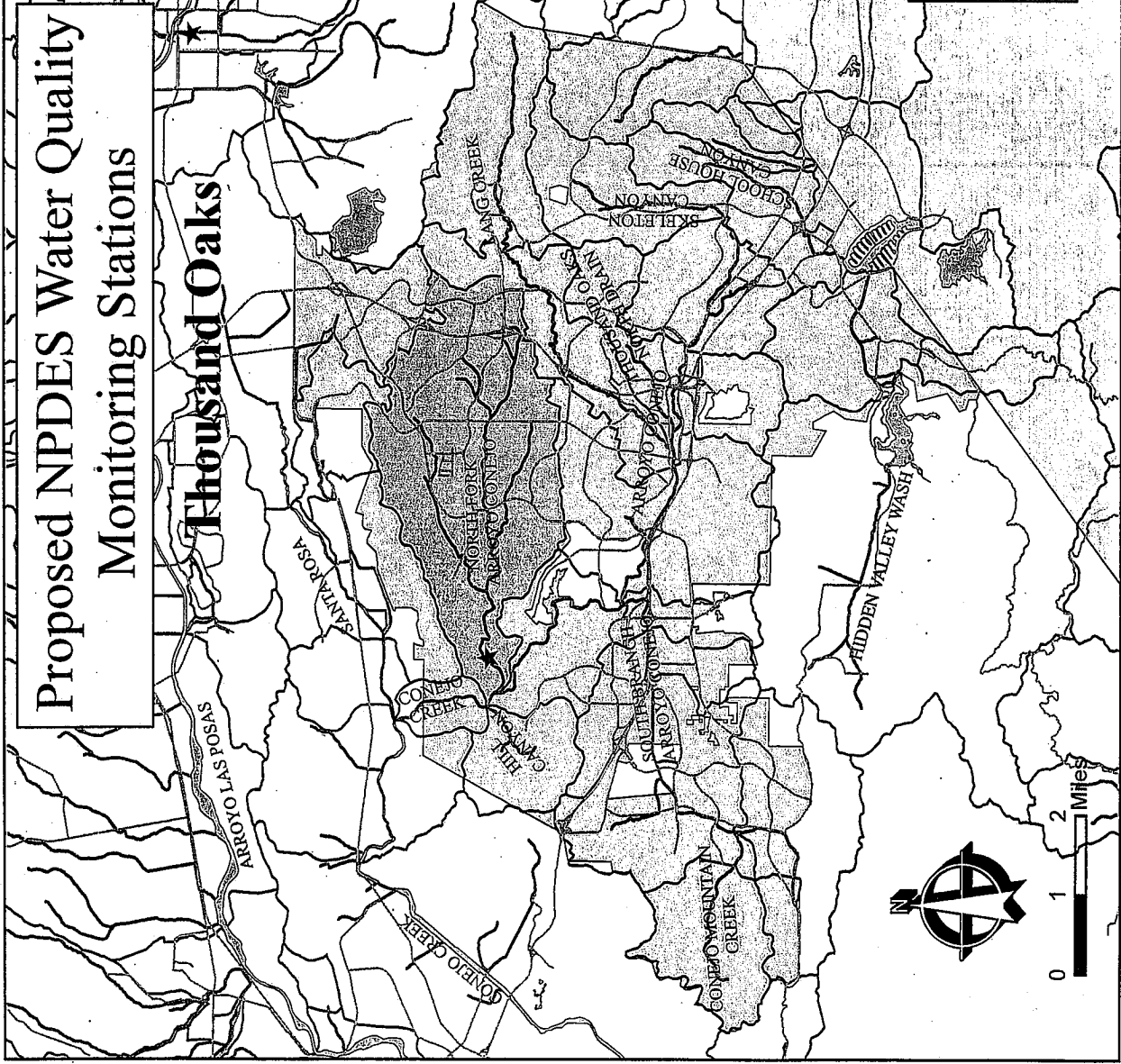
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Proposed NPDES Water Quality Monitoring Stations



























Thousand Oaks

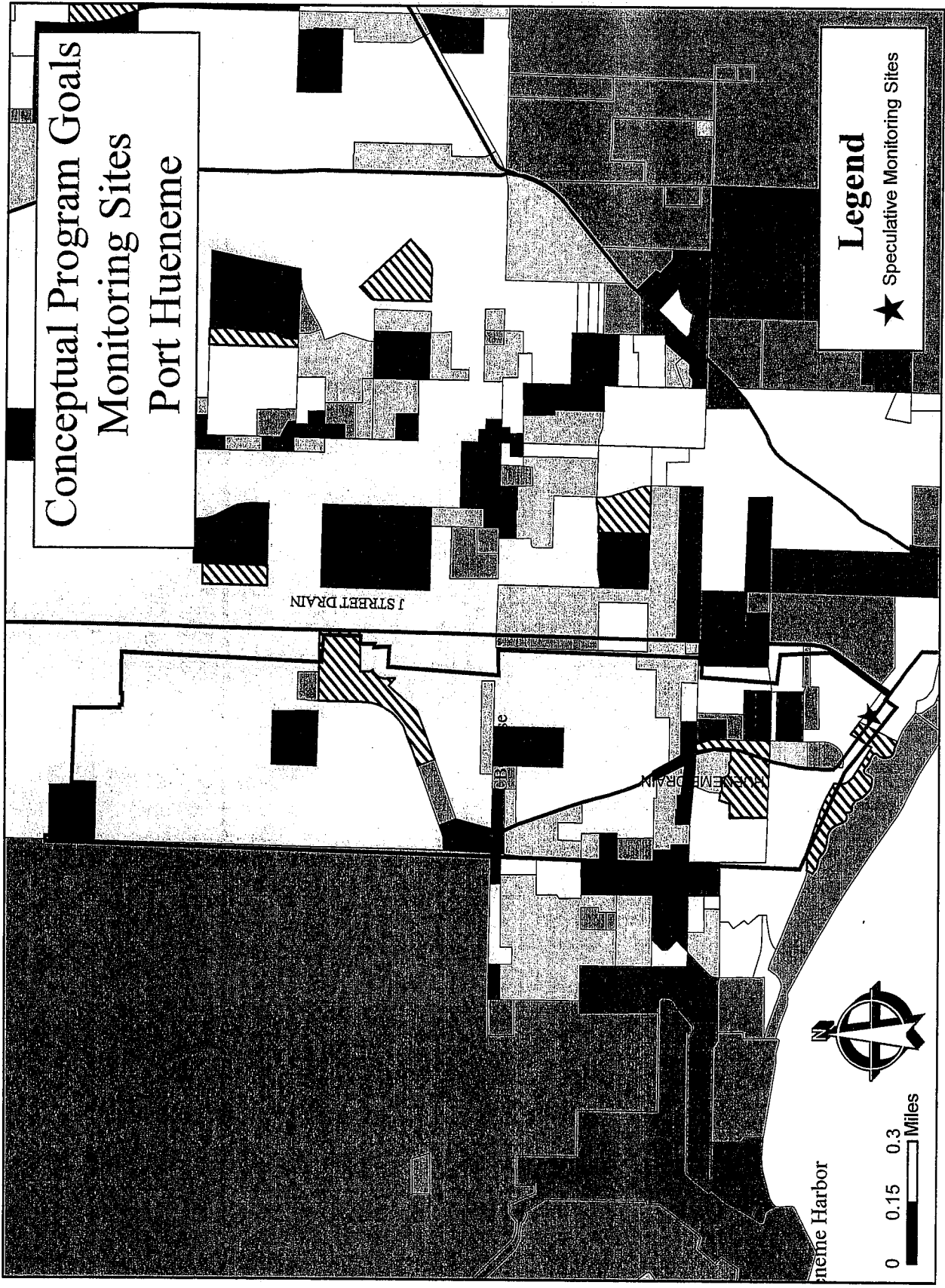
ISCT Mile	Station Name	SWMS Name	SWMS Number	NPDES Permit	NPDES Category
54.88	2.19741280187	4.0%	Lindero Canyon		
	0.5073929224	1.4%	Santa Rosa Debris Basin		
	0.6872668428	1.3%	Rural Creek		
	0.88339449880	0.7%	Merica Creek		
	0.501597995	0.5%	Colman Drain		
	0.497045103	0.4%	Windmill Canyon		
	0.813433695	1.5%	Hidden Valley Wash (Lake Shennecos)		
	2.39029275937	4.4%	Concho Mountain Creek		
	1.4078033177	2.6%	South Branch Arroyo Concho		
	0.55262652648	1.0%	South Branch Arroyo Concho/Potrero Debris Basin		
	3.7115461986	6.7%	South Branch Arroyo Concho		
	2.4440527512	4.1%	Schoolhouse Canyon		
	3.3033939395	5.0%	Lang Creek Dam		
	2.455700957	4.4%	Skeleton Canyon		
	2.17020433304	5.0%	Arroyo Concho - North Drain		
	2.51987118842	4.6%	Arroyo Concho - Old Town		
	0.02184540327	0.0%	Guadaluca Drain		
	0.252525515475	0.5%	Elmore Creek		
	0.98989793810	0.7%	Potrero Creek		
	0.8511031081	1.3%	Sycamore Canyon Dam		
	0.5472316245	0.3%	Arroyo Concho		
	0.6800482195	0.3%	Concho Creek below		
	0.5140398850	0.3%	Arroyo Concho below Hill Canyon		
	8.2432030748	15.0%	North Fork Arroyo Concho		
	2.78742504659	5.1%	Lang Creek		
	1.77076514445	3.1%	Arroyo Concho MGN		
	1.58788977424	2.8%	Hill Canyon		
	0.573815827392	1.0%	South Branch Newburg Park		
	1.1053746030	2.1%	Arroyo Concho		
	2.18522821287	4.0%	Upper Arroyo Santa Rosa		
		100.0%			

54.88% NET - see yellowhilled SWMS Alameda above

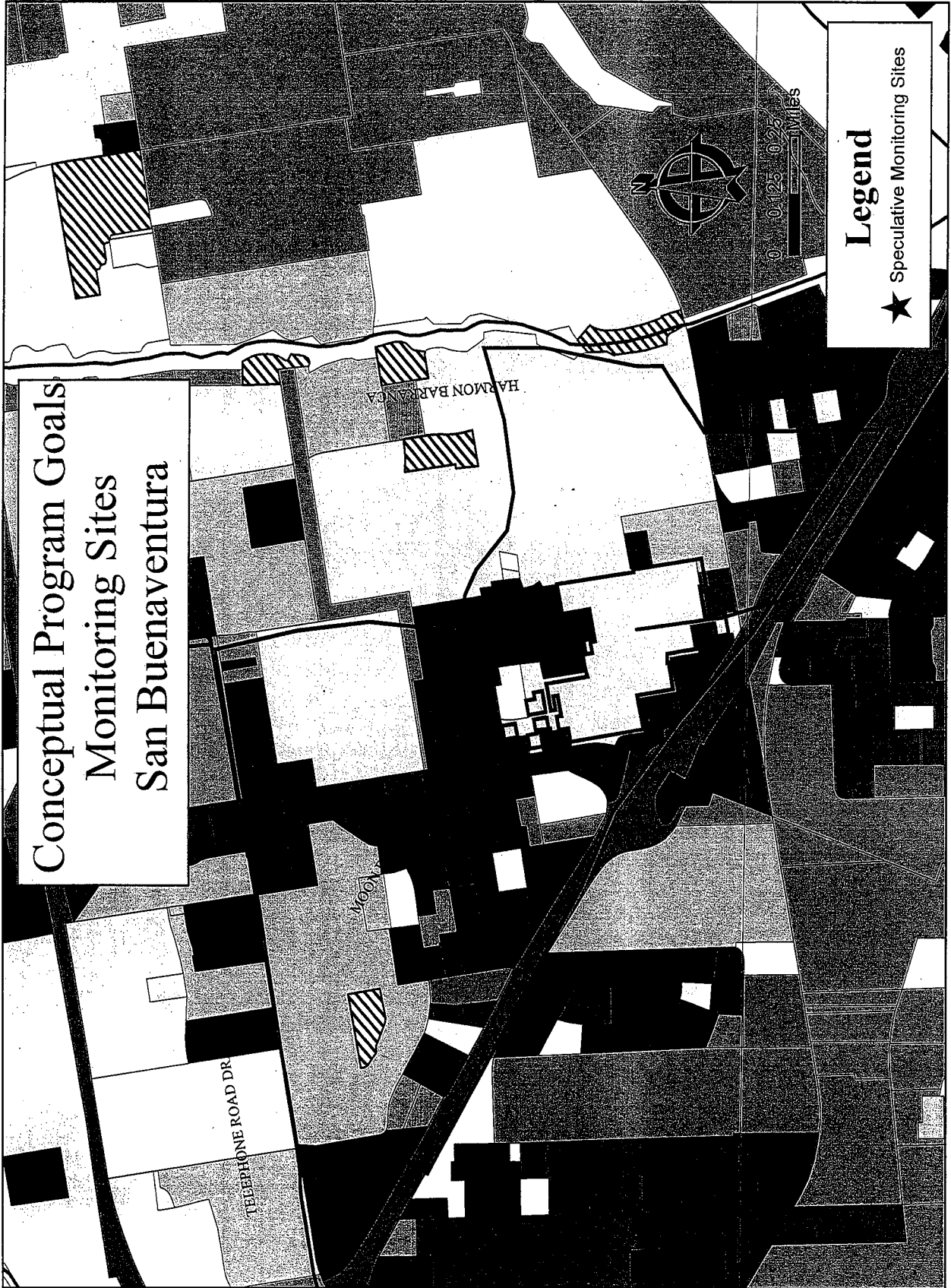


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-  Agriculture
-  Cemeteries
-  Com_Indus. Mix
-  Commercial
-  Resource Extraction
-  Facility
-  Industrial Light
-  Industrial Medium
-  Industrial High
-  Military Light
-  Military Heavy
-  No Photo Coverage
-  Recreation
-  Recreation_Preserve
-  Residential Level 1
-  Residential Level 2
-  Residential Level 3
-  Residential Level 4
-  Residential Level 5
-  Schools
-  Transportation
-  Under Construction
-  Utilities
-  Water
-  Vacant Undifferentiated
-  No Info Given: 293 of 15640.



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Permittees Suggested Language Changes
Based on 08/28/07 Draft Permit

PART 5 - SPECIAL PROVISIONS (BASELINE)

A. General Requirements

1. This Order and the provisions herein, are intended to develop, achieve, and implement a timely, comprehensive, cost-effective storm water pollution control program to reduce the discharge of pollutants in storm water to the MEP and protect beneficial uses for the permitted areas in the County of Ventura.

2. Best Management Practice Substitution
 - (a) The Regional Water Board Executive Officer may approve any site-specific BMP substitution upon petition by a Permittee(s) and after public notice, if the Permittee can document that:
 - (1) The proposed alternative BMP or program will meet or exceed the objective of the original BMP or program in the reduction of storm water pollutants.
 - (2) The fiscal burden of the original BMP or program is substantially greater than the proposed alternative and does not achieve a substantially-greater improvement in storm water quality.
 - (3) The proposed alternative BMP or program will be implemented within a similar period of time.

B. Watershed Initiative Participation

1. The Principal Permittee ~~consents to~~ shall participate in appropriate water quality meetings for watershed management planning, including but not limited to the following:
 - (a) Southern California Stormwater Monitoring Coalition (SMC).
 - (b) SMC Regional Monitoring Programs, such as:
 - (1) Southern California Regional Bioassessment
 - (A) Level of effort per Watershed
 - (i) Probabilistic sites per watershed - Six.
 - (ii) Integrator sites per watershed - One.
 - (c) Southern California Bight Project.
 - (d) Other appropriate watershed planning groups.

C. Public Information and Participation Program (PIPP)

1. The Principal Permittee shall implement a Public Information and Participation Program (PIPP) that includes, but is not limited to, the requirements listed in this section. The Principal Permittee shall be

Changes

responsible for developing and implementing the PIPP, and shall coordinate with Permittees to implement specific requirements. The objectives of the PIPP are as follows:

- i. To ~~measurably~~ increase the knowledge of the target audience about the MS4, the adverse impacts of storm water pollution on receiving waters and potential solutions to mitigate the impacts.
- ii. To ~~measurably~~ change the waste disposal and storm water pollution generation behavior of target audiences by encouraging implementation of appropriate solutions.
- iii. To involve and engage communities in Ventura County to participate in mitigating the impacts of storm water pollution.

24. Residential Program

(a) "No Dumping" Message

Each Permittee shall label all storm drain inlets that they own with a legible "no dumping" message. In addition, signs with prohibitive language discouraging illegal dumping shall be posted at designated public access points to creeks, other relevant water bodies, and channels. Signage and storm drain messages shall be legible and maintained.

(b) Public Reporting

Each Permittee will identify staff who will serve as the contact(s) person for reporting clogged catch basin inlets and illicit discharges/ dumping, faded or missing catch basin labels, and general storm water management information. Permittees shall include this information, updated by July 1 of each year, in public information media such as the government pages of the telephone book, and internet web sites. The Principal Permittee shall compile a list of the general public reporting contacts submitted by all Permittees and make this information available on the web site (<http://www.vcstormwater.org/contact.htm>) and upon request. Each Permittee is responsible for providing current, updated information to the Principal Permittee.

(c) Outreach and Education

(1) Collaboratively, ~~The Principal Permittees~~ shall implement the following activities:

- (A) Conduct a Storm Water pollution prevention advertising campaign.
- (B) Conduct Storm Water pollution prevention public service announcements.
- (C) Distribute storm water pollution prevention public education materials to:
 - (i) Automotive parts stores.
 - (ii) Home improvement centers/ lumber yards/ hardware stores.
 - (iii) Pet shops/ feed stores.

- (D) Public education materials shall include, but are not limited to information on the proper disposal, storage, and use of:
 - (i) Vehicle waste fluids.
 - (ii) Household waste materials.
 - (iii) Construction waste materials.
 - (iv) Pesticides and fertilizers (including integrated pest management practices-IPM).
 - (v) Green waste (including lawn clippings and leaves).
 - (vi) Animal wastes.
- (E) Work with existing local watershed groups or Organize watershed Citizen Advisory Groups/ Committees to develop effective methods to educate the public about storm water pollution no later than (365 days after Order adoption date). ~~Watershed Citizen Advisory Groups/Committees can be a subset of existing watershed groups or committees.~~
- (F) Organize events targeted to residents and population subgroups; and
- (G) Maintain the Countywide storm water website (www.vcstormwater.org), which shall include educational material listed in the preceding section C.1(c)(1)(C).
- (2) The Principal Permittee shall develop a strategy to educate ethnic communities through culturally effective methods. Details of this strategy should be incorporated into the PIPP, and implemented, no later than ~~—(365)480~~ days after Order adoption date).
- (3) Each Permittee shall continue the existing outreach program to residents on the proper disposal of litter, green waste, pet waste, proper vehicle maintenance, lawn care and water conservation practices.
- (4) Each Permittee shall conduct educational activities within its jurisdiction and participate in countywide events.
- ~~(1)~~(5) The Permittees shall make a minimum of 5 million impressions per year to the general public related to storm water quality, with a minimum of 2.5 million impressions via newspaper, local TV access, local radio and/ or internet access.

- ~~(5)~~(6) The Principal Permittee, in cooperation with the Permittees, shall implement outreach activities using all forms of media as appropriate to change specific behaviors and/or increase awareness in school-age children (K through 12), with the objective of significantly increasing their overall awareness of stormwater pollution prevention and to cause behavior change(s). This program will include informing school administrators, and family oriented clubs and groups, of educational materials that can be made available upon request such as live presentations, videos and workbooks. ~~implement an educational outreach program aimed at educating~~

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~~provide schools within each School District in the County with materials, including, but not limited to, videos, live presentations, and other information necessary to educate a minimum of 50 percent of all school aged children (K-12) every 2 years on storm water pollution.~~

Pursuant to AB 1721 (2005), beginning January 1, 2007, the Permittees, in lieu of providing educational materials/ funding to School Districts in the County, may opt to provide an equivalent amount of funds or fraction thereof to the Environmental Education Account established within the State Treasury.¹ This option requires the written approval of the Regional Water Board Executive Officer.

(7) Each Permittee shall provide the contact information for their appropriate staff responsible for storm water public education activities to the Principal Permittee and contact information changes no later than 30 days after a change occurs.

(8) ~~The Permittees shall develop and implement a strategy to measure the effectiveness of in-school educational programs. The protocol shall include assessment of students' knowledge of the adverse impacts of storm water pollution and solutions before and after educational programs are conducted. The strategy shall be implemented no later than (180 days after Order adoption date).~~

(9) ~~The Permittees shall develop and implement a behavioral change assessment strategy no later than (365 days after Order adoption date), in order to determine ensure that the PIPP is demonstrably effective in changing the behavior of the public. The strategy shall be developed based on current sociological data and studies.~~

(d) Pollutant-Specific Outreach

The Principal Permittee, in cooperation with Permittees, shall coordinate to develop outreach programs that focus on ~~the watershed specific~~ pollutants identified in Attachment "B" (Pollutants of Concern) no later than ~~(365-180)~~ days after Order adoption date). Metals may be appropriately addressed through the Industrial/ Commercial Facilities Program (e.g. the distribution of educational materials on appropriate BMPs for metal fabrication and recycling facilities that have been identified as a potential source). Region-wide pollutants may be included in the Principal Permittee's mass media outreach program.

2. Businesses Program

(a) Corporate Outreach

(1) The Permittees shall work with other regional or statewide agencies and, associations such as the California Storm Water Quality Association (CASQA), to develop and implement a Corporate Outreach program to educate and inform corporate managers,

¹ Matching funds shall be equivalent to \$10 per targeted student per year. Dollar value is to be indexed to the 2006/2007 fiscal year.

franchise operators and/or local facility managers about storm water regulations and BMPs. The program shall target a minimum of four RGO franchisers and cover a minimum of 80% of RGO franchisees in the county, four retail automotive parts franchisers, two home improvement center franchisers and six restaurant franchisers. Corporate Outreach for all target facilities shall be conducted not less than twice during the term of this Order, with the first outreach contact to begin no later than (2 years after Order adoption date). At a minimum, this program shall include:

- (A) Confer with franchise operators ~~corporate management or local facility managers~~ to explain storm water regulations.
 - (B) Distribution and discussion of educational material regarding storm water pollution and BMPs, and provide managers with recommendations to facilitate employee and facility compliance with storm water regulations.
- (2) ~~Corporate Outreach~~ for all RGOs, automotive parts stores, home improvement centers and restaurant chains ~~operations~~ shall be conducted not less than once~~twice~~ during the term of this Order, with the first outreach contact to begin no later than (2 years after Order adoption date).
- (b) Business Assistance Program
- (1) The Permittees shall implement a Business Assistance Program to provide information ~~technical resource assistance~~ to small businesses that will facilitate their efforts to ~~to advise them on BMPs implementation to reduce the discharge of pollutants in storm water.~~ The Program shall include:
 - (A) On-site, ~~technical assistance or consultation via telephone or e-mail~~ consultation regarding the responsibilities of businesses to reduce the discharge of pollutants, procedural requirements, and available guidance documents to identify and implement ~~storm water pollution prevention methods and best management practices.~~
 - (B) Distribution of storm water pollution prevention education materials to operators of auto repair shops, car wash facilities (including mobile car detailing), mobile carpet cleaning services, commercial pesticide applicator services and restaurants.

D. Industrial/ Commercial Facilities Program

1.
Each Permittee shall require implementation of pollutant reduction and control measures as allowed by local ordinance at industrial and commercial facilities, with the objective of reducing pollutants in storm water, ~~as allowed per local ordinance~~. Except where specified otherwise in this Order, pollutant reduction and control measures may be used alone or in combination, and may

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include ~~Structural~~ Treatment Control, Source Control BMPs, and operation and maintenance procedures, which may be applied before, during, and/ or after pollutant ~~ion~~ generating activities. At a minimum, the Industrial/ Commercial Facilities Control Program shall include requirements to:

- i. Track.
- ii. Inspect.
- iii. Ensure compliance with municipal ordinances at industrial and commercial facilities that are critical sources of pollutants in storm water.

2. Inventory of Critical Sources

(a) Each Permittee shall maintain a watershed-based inventory or database of all facilities within its jurisdiction that are critical sources of storm water pollution. Critical Sources to be tracked are summarized below, and specified in Attachment "D":

(1) Commercial Facilities

- (A) Restaurants.
- (B) Automotive service facilities.
- (C) RGOs and automotive dealerships.
- (D) Nurseries and nursery centers.

(2) U.S. EPA Phase I, II Facilities

(3) Other Federally-mandated Facilities [as specified in 40 CFR 122.26(d)(2)(iv)(C)]

- (A) Municipal landfills.
- (B) Hazardous Waste treatment, disposal, and recovery Facilities.
- (C) Facilities subject to SARA Title III (also known as the Emergency Planning and Community Right-to-Know Act (EPCRA))

(b) Each Permittee shall include the following minimum fields of information for each critical sources industrial and commercial facility

- (1) Name of facility and name of owner/ operator.
- (2) Address of facility
- (3) Coverage under the IASGP or other individual or general NPDES permits or any applicable waiver issued by the Regional or State Board pertaining to runoff discharges.
- (4) A narrative description including Standard Industrial Classification (SIC) System/ North American Industry Classification System (NAICS) Codes that best describe the industrial activities performed and principal products used at each facility and status of exposure to storm water.

(a) ~~The Regional Water Board recommends that Permittees should consider~~ including additional fields of information, such as material usage and/ or industrial output, and discrepancies between SIC System/ NAICS Code

designations (as reported by facility operators) and identify the actual type of industrial activity that has the potential to pollute storm water. In addition, the Permittees should consider Regional Water Board recommends the use of an automated database system, such as a Geographical Information System (GIS) or Internet-based system.

- (b) Each Permittee shall update its inventory of critical sources at least annually. The update may be accomplished through collection of new information obtained through field activities or through other readily available inter and intra-agency informational databases (e.g. business licenses, pretreatment permits, sanitary sewer hook-up permits, and similar information).

32. Inspect Critical Sources

(a) Commercial Facilities

Each Permittee shall inspect all facilities identified in Part 5 D.2 which have the potential to discharge runoff into the MS4, twice during the 5-year term of the Order, provided that the first inspection occurs no later than (2 years after Order adoption date). A minimum interval of 6 months between the first and the second mandatory compliance inspection is required. In addition, each Permittee shall implement the activities outlined in the following sections. At each facility, inspectors shall verify that the operator is implementing the mandatory source control BMPs. The Permittees may shall require implementation of additional BMPs where storm water flows from the MS4 discharge to an ESA or a CWA 303(d) listed waterbody (see section 43(b) below). ~~implementation of additional treatment control BMPs where storm water flows from the MS4 discharge to an ESA or a CWA § 303(d) listed waterbody (see section 3(b) below).~~ Likewise, ~~for those BMPs that are not adequate to achieve MALS and/or water quality objectives, Permittees may require additional site-specific controls, such as treatment control BMPs.~~

(1) Restaurants-

Level of inspections: Each Permittee, in cooperation with its appropriate department (such as health or public works), shall inspect all restaurants within its jurisdiction to confirm that storm water BMPs are being effectively implemented in compliance with State law, County and municipal ordinances. BMPs in Table 2 (BMPs at Restaurants) shall be implemented, unless the pollutant generating activity does not occur.

Table ~~1112~~ - BMPs at Restaurants

Changes

Pollutant-Generating Activity	BMP Narrative Description	2003 California Stormwater BMP Handbook Industrial and Commercial BMP Identification #
Waste/ Hazardous Materials Storage, Handling and Disposal	Distribution of educational materials on storm water pollution prevention practices to the public.	By Municipality
Unauthorized Non-Storm Water Discharges	Effective elimination of non-storm water discharges.	SC-10
Accidental Spills/ Leaks	Implementation of effective spills/ leaks prevention and response procedures.	SC-11
Outdoor Storage of Raw Materials	Implementation of effective source control practices and structural devices.	SC-33
Storage and Handling of Solid Waste	Implementation of effective solid waste storage/ handling practices and appropriate control measures	SC-34
Parking/ Storage Area Maintenance	Implementation of effective parking/ storage area designs and housekeeping/ maintenance practices	SC-43
Storm Water Conveyance System Maintenance	Implementation of proper conveyance system operation and maintenance protocols.	SC-44

(2) Automotive Service Facilities-

Level of Inspection: Each Permittee shall confirm that BMPs are being effectively implemented at each facility within its jurisdiction, in compliance with County and municipal ordinances. The inspections shall verify that BMPs in Table 3 (BMPs at Automotive Service Facilities) are being implemented, unless the pollutant generating activity does not occur.

Table ~~2223~~ - BMPs at Automotive Service Facilities

Changes

Pollutant-Generating Activity	BMP Narrative Description	2003 California Stormwater BMP Handbook Industrial and Commercial BMP Identification #
Unauthorized Non-Storm Water Discharges	Effective elimination of non-storm water discharges.	SC-10
Accidental Spills/ Leaks	Implementation of effective spills/ leaks prevention and response procedures.	SC-11
Vehicle/ Equipment Fueling.	Implementation of effective fueling source control devices and practices.	SC-20
Vehicle/ Equipment Cleaning.	Implementation of effective equipment/ vehicle cleaning practices and appropriate wash water management practices	SC-21
Vehicle/ Equipment Repair	Implementation of effective vehicle/ equipment repair practices and source control devices.	SC-22
Outdoor Liquid Storage	Implementation of effective outdoor liquid storage source controls and practices.	SC-31
Outdoor Storage of Raw Materials	Implementation of effective source control practices and structural devices.	SC-33
Storage and Handling of Solid Waste	Implementation of effective solid waste storage/ handling practices and appropriate control measures	SC-34
Parking/ Storage Area Maintenance	Implementation of effective parking/ storage area designs and housekeeping/ maintenance practices	SC-43
Storm Water Conveyance System Maintenance Practices	Implementation of proper conveyance system operation and maintenance protocols.	SC-44

(3) Retail Gasoline Outlets and Automotive Dealerships-

Level of Inspections: Each Permittee shall confirm that BMPs are being effectively implemented at each facility within its jurisdiction, in compliance with County and municipal ordinances. The inspections shall verify that BMPs in Table 34 (BMPs at Retail Gasoline Outlets) are being implemented, unless the pollutant generating activity does not occur.

Table 3334 - BMPs at Retail Gasoline Outlets

Changes

Pollutant-Generating Activity	BMP Narrative Description	2003 California Stormwater BMP Handbook Industrial and Commercial BMP Identification #
Unauthorized Non-Storm Water Discharges	Effective elimination of non-storm water discharges.	SC-10
Accidental Spills/ Leaks	Implementation of effective spills/ leaks prevention and response procedures.	SC-11
Vehicle/ Equipment Fueling	Implementation of effective fueling source control devices and practices.	SC-20
Vehicle/ Equipment Cleaning	Implementation of effective wash water control devices.	SC-21
Outdoor Storage of Raw Materials	Implementation of effective source control practices and structural devices.	SC-33
Storage and Handling of Solid Waste	Implementation of effective solid waste storage/ handling practices and appropriate control measures	SC-34
Building and Grounds Maintenance	Implementation of effective facility maintenance practices.	SC-41
Parking/ Storage Area Maintenance	Implementation of effective parking/ storage area designs and housekeeping/ maintenance practices	SC-43

(4) Commercial Nurseries and Nursery Centers (Merchant Wholesalers, Nondurable Goods, and Retail Trade)-

Level of Inspection: Each Permittee shall confirm that BMPs are being effectively implemented at each facility within its jurisdiction, in compliance with County and municipal ordinances. The inspections shall verify that BMPs in Table 45 (BMPs at Nurseries) are being implemented, unless the pollutant generating activity does not occur.

Table 4445 - BMPs at Nurseries

Pollutant-Generating Activity	BMP Narrative Description	2003 California Stormwater BMP Handbook Industrial and Commercial BMP Identification #
Unauthorized Non-Storm Water Discharges	Effective elimination of non-storm water discharges.	SC-10
Outdoor Loading/ Unloading	Implementation of effective outdoor loading/ unloading practices.	SC-30
Outdoor Liquid Storage	Implementation of effective outdoor liquid storage source controls and practices.	SC-31
Outdoor Equipment Operations	Implementation of effective outdoor equipment source control devices and practices.	SC-32
Outdoor Storage of Raw Materials	Implementation of effective source control practices and structural devices.	SC-33
Building and Grounds Maintenance	Implementation of effective facility maintenance practices.	SC-41

~~(b) For nursery operations (Agricultural Facilities) in the NAICS Code 11142x – Nursery and Floriculture Production, which are subject to the Conditional Waiver, each Permittee shall:~~

~~Verify enrollment under the Conditional Waiver by recording a valid identification number.~~

~~Notify all nonfilers of their lawful obligation to apply for coverage under the Regional Water Board's Conditional Waiver.~~

~~Permittees shall submit a list of facility names in the NAICS Code 11142x that have been notified to apply for the Conditional Waiver (nonfilers). The list of nonfilers shall be electronically sent to the Regional Water Board's Regional Programs at the following e-mail address: sunger@waterboards.ca.gov.~~

~~Industrial Facilities~~

~~Each Permittee shall conduct compliance inspections as specified below.~~

~~(1) **Frequency of Inspection**~~

~~(A) Each Permittee shall perform an initial inspection at all industrial facilities identified by the U.S. EPA in 40 CFR 122.26(c) no later than (2 years after Order adoption date). After the initial inspection, all facilities determined as having exposure of industrial activities to storm water are subject to a second mandatory compliance inspection. A minimum interval of 6 months between the first and the second compliance inspection is required.~~

~~(B) Following the first mandatory compliance inspection, a Permittee shall perform a second mandatory compliance inspection yearly at a minimum of 20% of the facilities determined not to have exposure of industrial activities to storm water. The purpose of this inspection is to verify the~~

continuity of the no exposure status. Facilities determined as having exposure will be notified that they must obtain coverage under the IASGP. A facility need not be inspected more than twice during the term of the Order unless subject to an enforcement action. A minimum interval of 6 months in between the first and the second compliance inspection is required.

- (C) Applicable to all facilities: A Permittee need not inspect facilities that have been inspected by the Regional Water Board within the previous 24 month interval. However, if the Regional Water Board performed only one inspection, the Permittee shall conduct the second required mandatory compliance inspection.
- (2) **Level of Inspection:** Each Permittee shall confirm that each operator:
 - (A) Has a current Waste Discharge Identification (WDID) number for facilities discharging storm water associated with industrial activity, and that a Storm Water Pollution Prevention Plan (SWPPP) is available on-site.
 - (B) Is effectively implementing BMPs in compliance with County and municipal ordinances. Facilities must implement, as applicable, the source control BMPs identified in Part 5. D. 3. and Appendix D, *California Stormwater Industrial and Commercial BMP Handbook (2003)*. The Permittees shall require implementation of additional ~~treatment control~~ BMPs where the storm water from the MS4 discharges to a CWA § 303(d) listed waterbody; or
 - (C) Has applied and has a current No Exposure Certification (and WDID number) for facilities subject to this requirement.

4. Ensure Compliance of Critical Sources

- (a) **BMP Implementation:** Facilities must implement the source control BMPs identified in Part 5. D. 3. and, as applicable, Appendix D, *California Stormwater Industrial and Commercial BMP Handbook (2003)*. In the event that a Permittee determines that a BMP is infeasible at any site, including those specified in the ~~California Stormwater Industrial and Commercial BMP Handbook (2003)~~, the Permittee shall require implementation of similar BMPs that will achieve the equivalent reduction of pollutants in the storm water discharges. ~~Likewise, for those BMPs that are not adequate to achieve MALs and/or water quality objectives, Permittees may require additional site-specific controls, such as treatment control BMPs.~~
- (b) **ESAs and Impaired Waters:** For critical sources that discharge to ESAs or that are tributary to CWA § 303(d) listed impaired water bodies and to

have been identified as sources of the pollutants causing the listing, the Permittees shall require operators to implement additional controls to reduce pollutants in storm water runoff that are causing or contributing to exceedences of MALs and/or water quality-objectives standard.

- (c) **Progressive Enforcement:** Each Permittee shall implement a progressive enforcement policy to ensure that facilities are brought into compliance with all storm water requirements within a reasonable time period as specified below.
- (1) In the event that a Permittee determines, based on an inspection conducted, that an operator has failed to adequately implement all necessary BMPs, that Permittee shall take progressive enforcement actions which, at a minimum, shall include a follow-up inspection within 4 weeks from the date of the initial inspection.
 - (2) In the event that a Permittee determines that an operator has failed to adequately implement BMPs after a follow-up inspection, that Permittee shall take further enforcement action as established through authority in its municipal code and ordinances or through the judicial system.
 - (3) Each Permittee shall maintain records and make them available on request to the Regional Water Board, including inspection reports, warning letters, notices of violations, and other enforcement records, demonstrating a good faith effort to bring facilities into compliance.

5. Interagency Coordination

- (a) **Referral of Violations of the Municipal Storm Water Ordinances and California Water Code § 13260:** A Permittee may refer a violation(s) to the Regional Water Board provided that that Permittee has made a good faith effort of progressive enforcement. At a minimum, a Permittee's good faith effort must be documented with:
- (1) Two follow-up inspections.
 - (2) Two warning letters or notices of violation.
- (b) **Referral of Violations of the Industrial Activities Storm Water General Permit (IASGP), including Requirements to File a Notice of Intent or No Exposure Certification:** For those facilities in violation of the IASGP, Permittees may escalate referral of such violations to the Regional Water Board (electronically on a quarterly basis to the Regional Water Board's Storm Water Site at MS4stormwaterrb4@waterboards.ca.gov) after one inspection and one written notice (copied to the Regional Water Board) to the operator regarding the violation. In making such referrals, Permittees shall include, at a minimum, the following documentation:
- (1) Name of the facility.

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- (2) Operator of the facility.
 - (3) Owner of the facility.
 - (4) WDID Number (if applicable).
 - (5) Industrial activity being conducted at the facility that is subject to the IASGP.
 - (6) Records of communication with the facility operator regarding the violation, which shall include at least an inspection report.
 - (7) The written notice of the violation copied to the Regional Water Board.
- (c) **Investigation of Complaints Regarding Facilities – Transmitted by the Regional Water Board Staff:** Each Permittee shall initiate, within one business day,² investigation of complaints (other than non-storm water discharges) regarding facilities within its jurisdiction. The initial investigation shall include, at a minimum, a limited inspection of the facility to confirm the complaint to determine if the facility is effectively complying with the municipal storm water urban runoff ordinances, and, if necessary, to oversee corrective action.
- (d) **Assistance of Regional Water Board Enforcement Actions:** As directed by the Regional Water Board Executive Officer, Permittees shall assist Regional Water Board enforcement actions by: helping in identification of current owners, operators, and lessees of facilities; providing staff, when available, for joint inspections with Regional Water Board inspectors; appearing as witnesses in Regional Water Board enforcement hearings; and providing copies of inspection reports and other progressive enforcement documentation.
- (e) **Participation in a Task Force:** ~~The Permittees consent to~~ shall participate with the Regional Water Board, and other public agencies on an enforcement task force such as the Storm Water Task Force, to communicate concerns regarding special cases of storm water violations by industrial and commercial facilities and to develop a coordinated approach to enforcement action.

F. Development Construction Program

- I. ~~Soil disturbing activities during construction and demolition exacerbate sediment losses. Sediment is a primary pollutant impacting beneficial uses of watercourses. Sediments and other construction activity pollutants must be properly controlled to reduce or eliminate adverse impacts [MSOffice].~~ Each Permittee shall implement a construction program that prevents illicit construction-related discharges of pollutants into the MS4, implements and maintains structural and non-structural BMPs to reduce pollutants in stormwater runoff from construction sites, reduces construction site discharges of pollutants from the MS4 to the MEP, and prevents construction

² Permittees may comply with the Permit by taking initial steps (such as logging, prioritizing, and tasking) to “initiate” the investigation within that one business day. However, the Regional Water Board would expect that the initial investigation, including a site visit, to occur within four business days.

site discharges from the MS4 from causing or contributing to a violation of water quality standards.

1. Grading Restrictions

- (a) Each Permittee shall implement a program to control storm water discharges from construction activity at all construction sites requiring a grading permit within its jurisdiction. During the wet season, the program shall ensure that the following requirements are effectively implemented at all the construction sites in the categories listed below:
- (1) No grading shall occur between October 1 – April 15 (wet season) for construction projects in the following areas of high erosivity:
 - (A) On hillsides with slopes 20% or steeper prior to land disturbance (If hillside development is not defined by a zoning ordinance, then the prohibition will apply to steep or long continuous slopes, or areas with silty soils, fine sands, or soils lacking vegetative cover.).
 - (B) Directly discharging to a waterbody listed on the CWA § 303 (d) list for siltation or sediment; or
 - (C) Within or adjacent to an environmentally sensitive area (ESAs)
 - (b) If grading operations in these areas are not completed before the onset of the wet season beginning October 1st, grading shall be halted and effective erosion control measures shall be put in place to minimize erosion. Grading shall not resume until after April 15th. Depending on the project area, the developer shall implement the Erosion and Sediment control BMPs listed in the following –Tables 5, 6, and 7, ~~and 8.~~
 - (c) A Grading Prohibition Variance may be granted by the Permittee where the project proponent can demonstrate that the proposed BMP measures can be reasonably expected to:
 - (1) Not cause or contribute to the degradation of water quality.
 - (2) Ensure that Total Suspended Solids discharged is 100mg/L or less.
 - (3) Ensure that Turbidity of the discharge is 50 NTU or less.
 - (4) Not impair beneficial uses.
 - ~~(5) Includes a monitoring program to ensure effectiveness.~~

2. Construction Sites Less than an Acre
- (a) Each Permittee shall require the implementation of an effective combination of the following BMPs ~~minimum set of BMPs in combination at all construction sites~~ (see Table 5.6- BMPs at Construction sites less than 1 acre) ~~to prevent erosion and sediment loss, and the discharge of construction wastes.~~³ Where the Erosivity Factor (R) for the construction project is 50 or greater, ~~erosion controls (erosion avoidance) are the preferred BMPs.~~⁴ Erosion control BMPs shall be preferred to sediment control BMPs.

Table 5556 - BMPs at Construction sites less than 1 acre

Minimum Set of BMPs for All Construction Sites	CASQA Handbook	Caltrans Handbook
For Erosion Control		
Scheduling	EC-1	SS-1
Preservation of Existing Vegetation	EC-2	SS-2
Sediment Controls		
Silt Fence	SE-1	SC-1
Sand Bag Barrier	SE-8	SC-8
Stabilized Construction Site Entrance/Exit	TC-1	TC-1
Non-Storm Water Management		
Water Conservation Practices	NS-1	NS-1
Dewatering Operations (Groundwater dewatering only under NPDES Permit No. CAG994004). ⁵	NS-2	NS-2
Waste Management		
Material Delivery and Storage	WM-1	WM-1
Stockpile Management	WM-3	WM-2

³ The BMPs are taken from the *California BMP Handbook, Construction, January 2003* and the *Caltrans Stormwater Quality Handbooks, Construction Site Best Management Practices (BMPs) Manual, March 2003*, and addenda.

⁴ Fact Sheet, *Construction Rainfall Erosivity Waiver* (2001) EPA 833-F-00-014; *Predicting Soil Erosion by Water: A Guide to Conservation Planning with the Revised Universal Soil Loss Equation (RUSLE)* (1997), USDA Agricultural Handbook No. 703.

⁵ Pondered storm water may be discharged at a concentration of Total Suspended Solids (TSS) of 100mg/L or less.

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Minimum Set of BMPs for All Construction Sites	CASQA Handbook	Caltrans Handbook
For Erosion Control		
Spill Prevention and Control	WM-4	WM-4
Solid Waste Management	WM-5	WM-5
Concrete Waste Management	WM-8	WM-8
Sanitary/ Septic Waste Management	WM-9	WM-9

3. Construction Sites 1 acre or greater but Less than 5 acres

- (a) Each Permittee shall require the implementation of an effective combination of the BMPs in Tables 5 and 67 (BMPs at Construction sites 1 acre or greater but less than 5 acres) in addition to the ones identified in Table 6 (BMPs at Construction sites less than 1 acre) at all construction sites 1 acre and greater but less than 5 acres to prevent erosion and sediment loss, and the discharge of construction wastes. Erosion control BMPs shall be preferred to sediment control BMPs.

Table 6667 - BMPs at Construction sites 1 acre or greater but less than 5 acres

BMPs	CASQA Handbook	Caltrans Handbook
For Erosion Control		
Hydraulic Mulch	EC-3	SS-3
Hydroseeding	EC-4	SS-4
Soil Binders	EC-5	SS-5
Straw Mulch	EC-6	SS-6
Geotextiles and Mats	EC-7	SS-7
Wood Mulching	EC-8	SS-8
Sediment Controls		
Fiber Rolls	SE-5	SC-5
Gravel Bag Berm	SE-6	SC-6
Street Sweeping and/ or Vacuum	SE-7	SC-7
Storm Drain Inlet Protection	SE-10	SC-10
Additional Controls		
Wind Erosion Controls	WE-1	WE-1
Stabilized Construction Entrance/ Exit	TC-1	TC-1
Stabilized Construction Roadway	TC-2	TC-2
Entrance/ Exit Tire Wash	TC-3	TC-3
Non-Storm Water Management		
Vehicle and Equipment Washing	NS-8	NS-8
Vehicle and Equipment Fueling	NS-9	NS-9

4. Construction Sites 5 acres and Greater

- (a) Each Permittee shall require the implementation of an effective combination of the BMPs in Tables 5, 6 and 78 (BMPs at Construction sites 5 acres or greater) in addition to the ones identified in Table 6 (BMPs at Construction sites less than 1 acre) and Table 7 (BMPs at Construction sites 1 acre or greater but less than 5 acres) at all construction sites 5 acres and greater to prevent erosion and sediment loss, and the discharge of construction wastes. Erosion control BMPs shall be preferred to sediment control BMPs.

Table 7778 - BMPs at Construction sites 5 acres or greater

BMPs	CASQA Handbook	Caltrans Handbook
Sediment Controls		
Sediment Basin	SE-2	SC-2
Check Dam	SE-4	SC-4
Tracking Control BMPs		
Stabilized Construction Entrance/ Exit	TR-1	TC-1
Non-Storm Water Management		
Vehicle and Equipment Maintenance	NS-10	NS-10
Waste Management		
Material Delivery and Storage	WM-1	WM-1
Spill Prevention and Control	WM-4	WM-4
Concrete Waste Management	WM-8	WM-8
Sanitary/ Septic Waste Management	WM-9	WM-9

5. Local Agency Requirements

- (a) Each Permittee shall require for all construction sites 1 acre or greater, compliance with all conditions identified in the preceding subsections F.1 - F.5, and the following requirements:
- (1) Local Storm Water Pollution Prevention Plan (Local SWPPP),
- (A) Each Permittee shall require the preparation and submittal of a Local SWPPP, for the Permittee's review and written approval prior to issuance of a grading permit for construction projects. If the Local SWPPP is revised, the Permittee shall review and approve those revisions. The Permittees' approval signature

shall be contained within the first pages of the Local SWPPP (with sufficient room for approval of revisions.)

- (i) The Permittee shall not approve any Local SWPPP unless it contains appropriate construction site BMPs, specific locations, and maintenance schedules.

~~(ii)~~ A Local State SWPPP may substitute for the State-Local SWPPP if the Local State SWPPP is at least as inclusive in controls and BMPs as the State-Local SWPPP.

~~(iii)~~(ii) The Local SWPPP must include the rationale used for selecting or rejecting BMPs for various construction phases and weather conditions. The project architect, or engineer of record, or authorized qualified designee, must sign a statement on the Local SWPPP to the effect:

- (I) *"As the architect/ engineer of record, I have selected appropriate BMPs to effectively minimize the negative impacts of this project's construction activities on storm water quality. The project owner and contractor are aware that the selected BMPs must be installed, monitored, and maintained to ensure their effectiveness. The BMPs not selected for implementation are redundant or deemed not applicable to the proposed construction activity."*

(2) Certification Statement

(A) Each Permittee shall require that each landowner or the landowner's agent sign a statement on the Local SWPPP to the effect:

- (i) *"I certify that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, to the best of my knowledge and belief, the information submitted is true, accurate, and complete. I am aware that submitting false and/ or inaccurate information, failing to update the Local SWPPP to reflect current conditions, or failing to properly and/ or adequately implement the Local SWPPP may result in revocation of grading and/ or other permits or other sanctions provided by law."*

~~(B)~~ The Local SWPPP certification shall be signed by the property owner or owner's representative/designee. If the Local SWPPP or SWPPP is being prepared by the local agency then the appropriate authority of the local agency shall sign the document. landowner as follows:

- (i) ~~Corporation by a responsible corporate officer which means the following:~~
 - (I) ~~President, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or~~
 - (II) ~~Manager of the construction activity if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;~~
- (ii) ~~Partnership or sole proprietorship by a general partner or the proprietor; or~~
- (iii)(i) ~~Municipality or other public agency by an elected official, a ranking management official (e.g., County/ City Administrative Officer, City Manager, Director of Public Works, or City Engineer).~~

6. ~~Roadway Paving or Repaving Operations~~

- (a) ~~Each Permittee shall require that for any project that includes roadbed or street paving, repaving, patching, digouts, or resurfacing roadbed surfaces, that the following BMPs be implemented for each project.~~
 - (1) ~~Restrict paving and repaving activity to exclude periods of rainfall or predicted rainfall unless required by emergency conditions.~~
 - (2) ~~Install sand bags or gravel bags and filter fabric at all susceptible storm drain inlets and at manholes to prevent spills of paving products and tack coat;~~
 - (3) ~~Prevent the discharge of release agents including soybean oil, other oils, or diesel to the storm water drainage system or watercourses.~~
 - (4) ~~Minimize non storm water runoff from water use for the roller and for evaporative cooling of the asphalt.~~
 - (5) ~~Clean equipment over absorbent pads, drip pans, plastic sheeting or other material to capture all spillage and dispose properly.~~
 - (6) ~~Collect liquid waste in a container, with a secure lid, for transport to a maintenance facility to be reused, recycled or disposed off properly.~~
 - (7) ~~Collect solid waste by vacuuming or sweeping and securing in an appropriate container for transport to a maintenance facility to be reused, recycled or disposed of properly.~~
 - (8) ~~Cover the "cold mix" asphalt (i.e., pre-mixed aggregate and asphalt binder) with protective sheeting during a rainstorm.~~
 - (9) ~~Cover loads with tarp before haul off to a storage site, and do not overload trucks.~~
 - (10) ~~Minimize airborne dust by using water spray during grinding.~~

- ~~(11) Avoid stockpiling soil, sand, sediment, asphalt material and asphalt grindings materials or rubble in or near storm water drainage system or watercourses.~~
- ~~(12) Protect stockpiles with a cover or sediment barriers during a rain.~~

7. Electronic Site Tracking System

- (a) Each Permittee shall use an electronic system to track grading permits, encroachment permits, demolition permits, building permits, or construction permits (and any other municipal authorization to move soil and/ or construct or destruct that involves land disturbance) issued by each Permittee. To satisfy this requirement, the use of a database or GIS system is encouraged, but not required.

8. Inspections

- (a) Each Permittee shall inspect all construction sites for the implementation of storm water quality controls a minimum of once during the wet season. Concurrently, each Permittee shall ensure that:
 - (1) The Local SWPPP is reviewed for compliance with local codes, ordinances, and permits.
 - (2) A follow-up inspection takes place within two weeks for inspected sites that have not adequately implemented their Local SWPPP.
- (b) Each Permittee shall take additional enforcement actions to achieve compliance as specified in municipal codes, if compliance with municipal codes, ordinances, or permits has not been attained.
- (c) Each Permittee can refer sites to the Regional Water Board for further joint enforcement actions for violation of the Construction Activities Storm Water General Permit (CASGP) or Small Linear Underground/ Overhead Construction Projects General Permit (small LUPs), after conducting a minimum of 2 site inspections and issuing a minimum of 2 written notices to the operator regarding the violation (copied to the Regional Water Board). In making such referrals, Permittees shall include, at a minimum, the following documentation:
 - (1) Name of the site.
 - (2) WDID number.
 - (3) Site developer.
 - (4) Site owner.
 - (5) Records of communication with the site operator regarding the violation(s), which shall include at least an inspection report.
 - (6) Written notice of the violation copied to the Regional Water.
- (d) Prior to approving and/ or signing off for occupancy and issuing the Certificate of Occupancy for all construction projects subject to post-construction controls, each Permittee shall inspect the constructed site design, source control and treatment control BMPs to verify that they have been constructed in compliance with all specifications, plans, permits, ordinances, and this Order. The initial/ acceptance BMP verification inspection does not

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constitute a maintenance and operation inspection, as required in the preceding section E.IV.2(c).

- ~~(e) Each Permittee shall inspect all construction sites at least once within the 60 day period preceding the wet season to ensure wet weather readiness.~~

9. State Conformity Requirements

- (a) Each Permittee shall ensure that no grading permit, encroachment permit, demolition permit, building permit, electrical permit, or construction permit (or any other municipal authorization to move soil and/ or construct or destruct that involves land disturbance) is issued for any project requiring coverage under the CASGP or Small LUP General Permit⁶ unless:

- (1) Proof of filing a Notice of Intent for coverage under a State NPDES permit is demonstrated ~~(a copy of a letter from the State Water Board showing a valid Waste Discharger Identification Number (WDID) for that site).~~
- (2) Demonstration or Certification that a SWPPP has been prepared by the project developer. ~~A Local SWPPP may substitute for the State SWPPP if the Local SWPPP is at least as inclusive in controls and BMPs as the State SWPPP.~~
- (3) Proof of an updated NOI(s) Change of Information form (COI) and a copy of the modified SWPPP(s) at any time a transfer of ownership takes place for the entire development or portions of the common plan of development where construction activities are still on-going.

10. Interagency Coordination

(a) **Referral of Violations:**

A Permittee may refer a violator to the Regional Water Board provided that the Permittee has made a good faith effort at progressive enforcement consistent with the preceding subsection F.8(c). At a minimum, the Permittee's good faith effort shall be documented with:

- (1) A minimum of 2 follow-up inspection reports (inspections completed within 3 months).
- (2) A minimum of two warning letters or NOVs.

(b) **Referral of Non-filers under the CASGP or the Small LUP General Permit:**

Each Permittee shall refer non-filers (i.e., those projects which cannot demonstrate that they have a WDID number) under the CASGP or Small LUP General Permit, to the Regional Water Board, no later than 15 days after making a determination of failure to file. In making such referrals, Permittees shall include, at a minimum, the following documentation:

- (1) Project location address.

⁶ NPDES Permit No. CAS000005, Waste Discharge Requirements For Discharges of Storm Water Runoff Associated with Small Linear Underground/ Overhead Construction Projects (Small LUP General Permit) for any linear land disturbing activity or activities (cumulatively) that will cause one acre or more of land disturbance but not more than 5 acres.

- (2) Project description.
- (3) Developer or owners name with complete mailing address.
- (4) Project size.
- (5) Records of communication with the developer or owner regarding filing requirements.

(c) Investigation of Complaints Regarding Facilities – Transmitted by the Regional Water Board Staff:

- (1) Each Permittee shall initiate, within one business day,⁷ an initial investigation of complaint(s) (other than non-storm water discharges) on the construction site(s) within its jurisdiction.
 - (A) The initial investigation shall include, at a minimum, an inspection on the facility and its perimeter to confirm the complaint and to determine if the site operator is effectively complying with the municipal storm water/ urban runoff ordinances, and to oversee corrective action.

(d) Support of Regional Water Board Enforcement Actions – As directed by the Regional Water Board Executive Officer:

- (1) Each Permittee shall support Regional Water Board enforcement actions by:
 - (A) Assisting in identification of current owners, operators, and lessees of properties and sites.
 - (B) Providing staff, when available, for joint inspections with Regional Water Board inspectors.
 - (C) Appearing to testify as witnesses in Regional Water Board enforcement hearings.
 - (D) Providing copies of inspection reports and other progressive enforcement documentation.

G. Public Agency Activities Program

- I. Each Permittee shall implement a Public Agency Activities Program to minimize storm water pollution impacts from public agency activities. Public Agency requirements consist of:
 - i. Public Construction Activities Management.
 - ii. Vehicle Maintenance/ Material Storage Facilities/ Corporation Yards Management/ Municipal Operations.
 - iii. Landscape and Recreational Facilities Management.
 - iv. Storm Drain Operation and Management.
 - v. Streets and Roads Maintenance.
 - ~~vi. Infrastructure Maintenance – Long term.~~
 - vi. Public Industrial Activities Management.

⁷ Permittees may comply with the Permit by taking initial steps (such as logging, prioritizing, and tasking) to “initiate” the investigation within that one business day. However, the Regional Water Board would expect that the initial investigation, including a site visit, to occur within four business days.

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- vii. Emergency Procedures.
- viii. Employee Training.

1. Public Construction Activities Management

- (a) Each Permittee shall implement and comply with the Planning and Land Development Program requirements in Part 5.E of this Order at all Permittee owned or operated public construction projects for project types identified in that meet any of the applicability criteria specified in Part 5.E.II (a) of the Order.
- (b) Each Permittee shall implement and comply with the Development Construction Program requirements in Part 5.F. of this Order at all Permittee owned or operated construction projects that disturb more than one acre of land.
- (c) Each Permittee shall obtain coverage under the CASGP for construction activities and projects that disturb more than one acre of land and that are otherwise subject to the CASGP.
- ~~(e)~~(d) For public projects that disturb less than one acre of soil the Permittees shall require the development and implementation of a Storm Water Pollution Control Plan. The SWPCP shall include BMPs as identified in Table 5.

are:

- (1) ~~Covered under one (or more) Capital Improvement Projects (including but not limited to street repaving, new streets, channel clearing⁸) or contract, and that individually or cumulatively disturb 1 acre or more of land; or~~
- (2) ~~Less than 1 acre, but are part of a larger common plan of development that in total disturbs 1 or more acres of land; and~~
- (3) ~~Linear construction project(s) that disturb 5 or more acres of land.~~
- ~~(e) Each Permittee shall obtain coverage under the Small LUP General Permit when disturbing at least 1 acre, but less than 5 acres of land during linear construction (land area includes trenching and staging areas).~~
- ~~(f)~~

2. Vehicle Maintenance/ Material Storage Facilities/ Corporation Yards Management/ ~~Long Term Maintenance Programs~~

- (a) Each Permittee shall implement the following activity specific BMPs⁹ listed in Table 98 whenever such activities occur at all Permittee owned, leased facilities and job sites including but not limited to vehicle/ equipment maintenance facilities, material storage facilities, and corporation yards, and at any area that includes the activities as described in the following Tables. Additionally, for any activity or area described in

⁸ A CWA §401 certification may be required separately from the Regional Water Board for activities that occur within or adjacent to Waters of the U.S.. The Permittee shall obtain all necessary permits and certifications from the State and federal permitting authorities before commencing soil disturbing activities.

⁹ These BMPs are identified in Appendix B of the *Caltrans Storm Water Quality Handbook Maintenance Staff Guide, May 2003*, and its addenda. Other BMPs may be substituted upon approval by the Executive Officer.

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the footnote below,¹⁰ each Permittee shall also implement the BMPs in the Caltrans Storm Water Quality Handbook Maintenance Staff Guide described as B-4 in Table 89 (BMPs at Vehicle Maintenance/ Material Storage Facilities/ Corporation Yards).

Table 898 - BMPs at Vehicle Maintenance/ Material Storage Facilities/ Corporation Yards

From the Caltrans Storm Water Quality Handbook Maintenance Staff Guide
Appendix B

Activity Specific BMPs	Page
General BMPs	B-4
Flexible Pavement	B-9
Asphalt Cement Crack and Joint Grinding/ Sealing	B-9
Asphalt Paving	B-10
Structural Pavement Failure (Digouts) Pavement Grinding and Paving	B-11
Emergency Pothole Repairs	B-13
Sealing Operations	B-14
Rigid Pavement	B-15
Portland Cement Crack and Joint Sealing	B-15
Mudjacking and Drilling	B-16
Concrete Slab and Spall Repair	B-17
Slope/ Drains/ Vegetation	B-19
Shoulder Grading	B-19
Nonlandscaped Chemical Vegetation Control	B-21
Nonlandscaped Mechanical Vegetation Control/ Mowing	B-23
Nonlandscaped Tree and Shrub Pruning, Brush Chipping, Tree and Shrub Removal	B-24
Fence Repair	B-25
Drainage Ditch and Channel Maintenance	B-26
Drain and Culvert Maintenance	B-28
Curb and Sidewalk Repair	B-30
Litter/ Debris/ Graffiti	B-32
Sweeping Operations	B-32
Litter and Debris Removal	B-33
Emergency Response and Cleanup Practices	B-34
Graffiti Removal	B-36
Landscaping	B-37
Chemical Vegetation Control	B-37
Manual Vegetation Control	B-39
Landscaped Mechanical Vegetation Control/ Mowing	B-40

¹⁰ Scheduling and Planning; Spill Prevention and Control; Sanitary/ Septic Waste Management; Material Use; Safer Alternative Products; Vehicle/ Equipment Cleaning, Fueling, and Maintenance; Illicit Connections Detection, Reporting and Removal; Illegal Spill / Discharge Control and Maintenance Facility Housekeeping Practices.

Changes

Activity Specific BMPs	Page
Landscaped Tree and Shrub Pruning, Brush Chipping, Tree and Shrub Removal	B-41
Irrigation Line Repairs	B-42
Irrigation (Watering), Potable and Nonpotable	B-43
Environmental	B-44
Storm Drain Stenciling	B-44
Roadside Slope Inspection	B-45
Roadside Stabilization	B-46
Storm Water Treatment Devices	B-48
Traction Sand Trap Devices	B-49
Public Facilities	B-50
Public Facilities	B-50
Bridges	B-52
Welding and Grinding	B-52
Sandblasting, Wet Blast with Sand Injection and Hydroblasting	B-54
Painting	B-56
Bridge Repairs	B-57
Draw Bridge Maintenance	B-58
Other Structures	B-59
Pump Station Cleaning	B-59
Tube and Tunnel Maintenance and Repair	B-61
Ferryboat Operations	B-62
Tow Truck Operations	B-63
Toll Booth Lane Scrubbing Operations	B-64
Electrical	B-65
Sawcutting for Loop Installation	B-65
Traffic Guidance	B-67
Thermoplastic Striping and Marking	B-67
Paint Striping and Marking	B-68
Raised/ Recessed Pavement Marker Application and Removal	B-70
Sign Repair and Maintenance	B-71
Median Barrier and Guard Rail Repair	B-73
Emergency Vehicle Energy Attenuation Repair	B-75
Snow and Ice Control	B-76
Snow Removal	B-76
Ice Control	B-77
Storm Maintenance	B-78
Minor Slides and Slipouts Cleanup/ Repair	B-78
Management and Support	B-80
Building and Grounds Maintenance	B-80
Storage of Hazardous Materials (Working Stock)	B-82
Material Storage Control (Hazardous Waste)	B-84
Outdoor Storage of Raw Materials	B-85
Vehicle and Equipment Fueling	B-86
Vehicle and Equipment Cleaning	B-87
Vehicle and Equipment Maintenance and Repair	B-88
Aboveground and Underground Tank Leak and Spill Control	B-90 [MSOffice2]

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- (b) ~~Each Permittee shall obtain coverage under the CASGP no later than (7 days after Order adoption date) for long-term maintenance programs including maintenance of flood control channels (such as vegetation removal), maintenance or replacement of streets, sidewalks, roads, and any other project that the Permittee undertakes including all Capital Improvement Projects (CIP) if either 1 or more acres of land are disturbed by grading, clearing or excavation activities for an individual project or cumulatively as part of several projects involving a soil disturbance.~~
3. Vehicle and Equipment Wash Areas
- (a) Each Permittee shall eliminate discharges of wash waters from vehicle and equipment washing no later than two years ~~(365 days after Order adoption date)~~ by implementing any of the following measures at existing facilities with vehicle or equipment wash areas:
- (1) Self-contain, and haul off for disposal;
 - (2) Equip with a clarifier;
 - (3) Equip with an alternative pre-treatment device; or
 - (4) Plumb to the sanitary sewer.
- (b) Each Permittee shall ensure that any municipal facilities constructed, redeveloped, or replaced has all vehicle and equipment wash areas plumbed to the sanitary sewer or be self contained and all wastewater/ washwater be disposed of legally ~~hailed for legal disposal.~~
4. Landscape, Park, and Recreational Facilities Management
- (a) Integrated Pest Management (IPM)
- IPM is an ecosystem-based strategy that focuses on long-term prevention of pests or their damage through a combination of techniques such as biological control, habitat manipulation, modification of cultural practices, and use of resistant varieties. Each Permittee shall implement a jurisdiction-wide IPM program ~~that~~ includes the following:
- (1) Pesticides are used only if, after monitoring indicates they are needed according to established guidelines.
 - (2) Treatments are made with the goal of removing only the target organism.
 - (3) Pest controls are selected and applied in a manner that minimizes risks to human health, beneficial, non-target organisms, and the environment.
 - (4) Its use of pesticides, including Organo-phosphates and Pyrethroids do not threaten water quality.
 - (5) Partner with other agencies and organizations to encourage the use of IPM. ~~ensure that pesticide use within their jurisdiction does not threaten water quality.~~
 - (6) Adopt and verifiably implement policies, procedures, and/ or ordinances requiring the minimization of pesticide use and encouraging the use of IPM techniques (including beneficial insects) in the Permittees' overall operations and on municipal property.

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- (7) Policies, procedures, and ordinances shall include commitments and timelines to reduce the use of pesticides that cause impairment of surface waters by implementing the following procedures:
 - (A) Quantify pesticide use by its staff and hired contractors.
 - ~~(B)~~ Prepare and annually update an inventory of pesticides used by all internal departments, divisions, and other operational units.
 - ~~(C)~~(B) Demonstrate reductions in pesticide use.
- (b) Each Permittee shall implement the following requirements no later than (180 days after Order adoption date):
 - (1) Use a standardized protocol for the routine and non-routine application of pesticides (including pre-emergents), and fertilizers.
 - (2) Comply with the provisions and the monitoring requirements for application of aquatic pesticides to surface waters (WQ Order No. 2004-0008-DWQ).
 - (3) Ensure no application of pesticides or fertilizers are applied to an area immediately prior to, during, or immediately after a rain event, or when water is flowing off the area.
 - (4) Ensure that no banned or unregistered pesticides are stored or applied.
 - (5) Ensure that all staff applying pesticides are certified in the appropriate category by the California Department of Pesticide Regulation, or are under the direct supervision of a pesticide applicator certified in the appropriate category.
 - (6) Implement procedures to encourage the retention and planting of native vegetation to reduce water, pesticide and fertilizer needs; and
 - (7) Store pesticides and fertilizers indoors or under cover on paved surfaces or use secondary containment.
 - (A) Reduce the use, storage, and handling of hazardous materials to reduce the potential for spills.
 - (B) Regularly inspect storage areas.
5. Storm Drain Operation and Management
 - (a) Catch Basin Cleaning
 - (1) Each Permittee shall designate catch basin inlets within its jurisdiction as one of the following:
 - Priority A: Catch basins that are designated as consistently generating the highest volumes of trash and/ or debris.
 - Priority B: Catch basins that are designated as consistently generating moderate volumes of trash and/ or debris.
 - Priority C: Catch basins that are designated as generating low volumes of trash and/ or debris.
 - (2) ~~Each~~ Permittee shall inspect and clean as necessary catch basins according to the following schedule:
 - Priority A: A minimum of 3 times during the wet season and once during the dry season every year.

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Priority B: A minimum of once during the wet season and once during the dry season every year.

Priority C: A minimum of once per year.

- (3) In addition to the preceding schedule, Permittees shall ensure that any catch basin that is determined to be at least 25% full of trash and/ or debris shall be cleaned out.

(b) Trash Management at Public Events

- (1) Each Permittee shall require for any event in the public right of way or wherever it is foreseeable that substantial quantities of trash and litter may be generated, ~~that the the following measures~~ MS01mce31 ~~are implemented:~~

~~(A) That conditions be placed on any special use permit issued for such event; and~~

(A) ~~Require the P~~ Require the P ~~proper management of trash and litter generated; and~~

(B) Arrangement ~~for temporary screens to be placed on catch basins; or~~

(C) Provide c ~~Clean out of~~ catch basins, trash receptacles, and grounds in the event area within 24 hours subsequent to the event.

(c) Trash Receptacles

- (1) Each Permittee shall install trash receptacles at all transit stops in commercial areas, near educational institutions, and in areas subject to high trash generation within its jurisdiction no later than (126 ~~months after Order adoption date).~~

- (2) Each Permittee shall ensure that all trash receptacles are cleaned out and maintained as necessary to prevent trash overflow.

(d) Catch Basin Labels

- (1) Each Permittee shall inspect the legibility of the catch basin stencil or label nearest each catch basin and inlet before the rainy season begins.

- (2) Each Permittee shall record and re-stencil or re-label within 15 days of inspection, catch basins with illegible stencils.

(e) Additional Trash Management Practices ~~Excluders~~

- (1) Each Permittee shall install trash excluders, or equivalent devices on/in catch basins or outfalls, to prevent the discharge of trash to the storm drain or receiving water or implement alternative BMPs (such as but not limited to increased street sweeping, adding trash cans near trash generation sites, prompt enforcement of trash accumulation, increased trash collection on public property, increased litter prevention messages) that provide substantially equivalent removal of trash ~~to prevent the discharge of trash to the storm drain system no later than two years (365 days after Order adoption date) in areas subject to high trash generation commercial~~

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~~areas, industrial areas, and near educational institutions (e.g.i.e. commercial areas, industrial areas, and near educational institutions areas subject to high trash generation) except at sites where the application of such BMPs alone will cause flooding. Lack of maintenance that cause flooding is not an acceptable exception to the requirement to install.~~

- (f) Storm Drain Maintenance
- (1) Each Permittee shall implement a program for Storm Drain Maintenance no later than (180 days after Order adoption date) that includes the following:
 - (A) Visual monitoring of Permittee-owned open channels and other drainage structures for debris at least annually.
 - (B) Remove trash and debris from open channel storm drains a minimum of once per year before the storm season.
 - (C) Eliminate the discharge of contaminants during MS4 maintenance and clean outs.
 - (D) Quantify the amount of materials removed using ~~standard measures-techniques appropriate for quantifying solid waste~~ and ensure the materials are properly disposed of.
- (g) Spill Response Plan (Including Sanitary Sewer ~~Overflows~~^(U4))
- (1) Each Permittee shall implement a response plan for spills and overflows to the MS4 within their respective jurisdiction. The response Plan shall clearly identify agencies responsible and telephone numbers and e-mail address for contact and shall contain at a minimum the following:
 - (A) Investigation of all complaints received within 24 hours of the incident report.
 - (B) Response within 2 hours to overflows for containment upon notification, except where such overflows occur on private property, in which case the response should be within 2 hours of gaining legal access to the property.
 - (C) Notification to appropriate sewer and public health agencies and the Office of Emergency Services (OES) when a sewer overflows to the MS4. This requirement includes notification to the affected public health agencies that are mandated to monitor beach conditions, within 2 hours of learning of the spill if a spill has the potential to be discharged through the MS4 into coastal beaches.
- (h) Permittee Owned Treatment Control BMPs
- (1) Each Permittee shall implement an inspection and maintenance program for all Permittee owned treatment control BMPs, including post-construction treatment control BMPs.
 - (2) Each Permittee shall ensure proper operation of all treatment control BMPs and maintain them as necessary for proper operation, including all post-construction treatment control BMPs.

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- (3) Any residual water produced by within a treatment control BMP and not internal to the BMP performance when being maintained shall be:
 - (A) Hauled away and legally disposed of; or
 - (B) Applied to land at agronomic rates; or
 - (C) Discharged to the sanitary sewer system (with permits or authorization); or
 - (D) Treated or filtered to remove bacteria, sediments, nutrients, and meet the limitations set in Table 10 (Discharge Limitations for Dewatering Treatment BMPs) prior to discharge to the MS4.

Table 88910 - Discharge Limitations for Dewatering Treatment BMPs¹¹

Parameter	Units	Limitation
Total Suspended Solids	mg/L	100
Turbidity	NTU	50
Oil and Grease	mg/L	10

6. Streets and Roads Maintenance

(a) Maintenance

- (1) Each Permittee shall perform street sweeping of curbed streets in commercial areas and areas subject to high trash generation to control trash and debris at least two times per month.

(b) Road Construction and Reconstruction

- (1) ~~Each MS Office's~~ Permittee shall require that for any project that includes roadbed or street paving, repaving, patching, digouts, or resurfacing roadbed surfaces, that the following BMPs be implemented for each project.
 - (A) Restrict paving and repaving activity to exclude periods of rainfall or predicted rainfall¹² unless required by emergency conditions.
 - (B) Install sand bags or gravel bags and filter fabric at all susceptible storm drain inlets and at manholes to prevent spills of paving products and tack coat;
 - (C) Prevent the discharge of release agents including soybean oil, other oils, or diesel to the storm water drainage system or watercourses.
 - (D) Minimize non storm water runoff from water use for the roller and for evaporative cooling of the asphalt.
 - (E) Clean equipment over absorbent pads, drip pans, plastic sheeting or other material to capture all spillage and dispose properly.

¹¹ Technology based effluent limits.

¹² A probability of precipitation (POP) of 50% is required.

- (F) Collect liquid waste in a container, with a secure lid, for transport to a maintenance facility to be reused, recycled or disposed off properly.
 - (G) Collect solid waste by vacuuming or sweeping and securing in an appropriate container for transport to a maintenance facility to be reused, recycled or disposed of properly.
 - (H) Cover the "cold-mix" asphalt (i.e., pre-mixed aggregate and asphalt binder) with protective sheeting during a rainstorm.
 - (I) Cover loads with tarp before haul-off to a storage site, and do not overload trucks.
 - (J) Minimize airborne dust by using water spray during grinding.
 - (K) Avoid stockpiling soil, sand, sediment, asphalt material and asphalt grindings materials or rubble in or near storm water drainage system or watercourses.
 - (L) Protect stockpiles with a cover or sediment barriers during a rain.
- (1) Each Permittee shall implement the following BMPs for road reconstruction:
- (A) Drain Inlet protection from sediments.
 - (B) Dewatering of below grade construction areas.
 - (C) Secondary containment for cold mix.
 - (D) Sheeting underneath cold mix (during storage) to prevent discharge of spray release, and
 - (E) Sheeting to cover cold mix (during storage).
 - (F) If street material is to be concrete, then provide a vehicle wash off area that is isolated from the MS4.

~~(e) Post Construction Controls~~

- ~~(1) Municipal activities involving pothole repairs, pavement overlays, sidewalk replacement, and square cut patching will not trigger post construction controls [MSOffice6].~~

~~7. Infrastructure Maintenance - Long term~~

- ~~(a) Each Permittee shall obtain coverage under the CASGP for all long term maintenance programs that disturb 1 or more acres of land and that are otherwise subject to the CASGP. Infrastructure maintenance activities involving including but not limited to any project under the Capital Improvement Program (CIP) including but not limited to: pavement replacement; sidewalk replacement; channel maintenance (such as vegetation removal); roadside maintenance (such as: vegetation removal); and other maintenance activities not subject to the CASGP are not required to obtain coverage under the CASGP or grading, clearing or excavation activities that disturb 1 or more acres of land either for an individual project or as part of a long term city/county plan that may be less.~~

7. Public Industrial Activities Management

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- (a) Each Permittee shall obtain separate coverage under the IASGP for any municipal activity subject to U.S. EPA regulations at CFR 122.26 for the discharge of storm water associated with industrial activity. These facilities include, but are not limited to:
- (1) Publicly owned wastewater treatment plants with a design flow of 1 MGD or more or required to have an approved pretreatment program under —40 CFR 403.
 - (2) Landfills that receive or have received industrial waste or subject to regulation under Subtitle D of EPRCA.
 - (3) Hazardous Waste Treatment, Storage and Disposal Facilities.
 - (4) Steam Electric Power Generating Facilities.
 - (5) Airports (SIC Major Group 45).
 - (6) Ports (SIC Major Group 44).
 - (7) Local and Suburban Transit (SIC Major Group 41).
8. Emergency Procedures
- (a) Each Permittee may conduct significant repairs of essential public service systems and infrastructure in emergency situations with a self-waiver of the provisions of this Order.
- (1) Where the self-waiver has been invoked, the Permittee shall submit to the Regional Water Board Executive Officer a statement of the occurrence of the emergency, an explanation of the circumstances, and the measures that were implement to reduce the threat to water quality, no later than 30~~7~~ business days after the situation of emergency has passed.
9. Municipal Employee and Municipal Contractor Training
- (a) Each Permittee shall, no later than ~~6~~12 months after Order adoption date and annually thereafter before June 30), train all of their employees and contractors in targeted positions (whose interactions, jobs, and activities affect storm water quality) on the requirements of the overall storm water management program to:
- (1) Promote a clear understanding of the potential for activities to pollute storm water.
 - (2) Identify opportunities to require, implement, and maintain appropriate BMPs in their line of work.
- (b) Each Permittee shall, no later than 12~~6~~ months after Order adoption date and annually thereafter before June 30), train all of their employees and contractors who use or have the potential to use pesticides or fertilizers (whether or not they normally apply these as part of their work). Training programs shall address:
- (1) The potential for pesticide-related surface water toxicity.
 - (2) Proper use, handling, and disposal of pesticides.
 - (3) Least toxic methods of pest prevention and control, including IPM.

- (4) Reduction of pesticide use.
- (c) Each Permittee shall, no later than ~~(6)~~12 months after Order adoption date) and annually thereafter before June 30, train all of their employees and contractors who are responsible for illicit connections and illicit/ illegal discharges. Training programs shall address:
 - (1) Identification.
 - (2) Investigation.
 - (3) Termination.
 - (4) Cleanup.
 - (5) Reporting of Incidents.
 - (6) Documentation of Incidents.

H. Illicit Connections and Illicit Discharges Elimination Program

- I. Each Permittee shall implement an eliminate all Illicit Connections and Illicit Discharges (IC/ ID) program to eliminate IC/ID to the storm drain system, and shall document, track, and report all such cases in accordance with the elements and performance measures specified in the following subsections.
 - 1. General
 - (a) Implementation - Each Permittee shall implement an IC/ ID Program. The IC/ ID procedures shall be documented and made available for public review.
 - (b) Tracking ~~-All Permittees shall, no later than (2 years after Order adoption date), map at a scale and in a format specified by the Principal Permittee all permitted connections to their storm drain system.~~ All Permittees shall map at a scale and in a format specified by the Principal Permittee incidents of illicit connections and discharges since January 20078 on their baseline maps, and shall transmit this information to the Principal Permittee no later than (2 years after Order adoption date). Permittees shall use this information to identify priority areas for further investigation and elimination of IC/ ID.
 - 2. Public Reporting
 - (a) Permittees shall establish and maintain a phone hotline and internet site to receive all reports of IC/ ID complaints.
 - (b) Permittees shall document the location of the reported IC/ ID and the actions undertaken in response to all IC/ ID complaints.
 - 3. Illicit Connections
 - (a) Screening for Illicit Connections
 - (1) Each Permittee shall submit to the Principal Permittee:

- (A) A hard copy of the GIS layer showing the location and length of underground pipes —18 inches and greater in diameter, and channels within their jurisdiction-permitted area and operated by the Permittee in accordance with the following schedule:
 - (i) All channeled portions of the storm drain system no later than (365 days after Order adoption date).
 - (ii) All portions of the storm drain system consisting of storm drain pipes 36 inches in diameter or greater, (no later than 3 years after Order adoption date).
 - (iii) All portions of the storm drain system consisting of storm drain pipes 18 inches in diameter or greater, (no later than 5 years after Order adoption date).
 - (B) The status of suspected, confirmed, and terminated illicit connections.
 - (2) Permittees shall conduct field screening of their storm drain systems in accordance with screening procedures described in the Illicit Discharge Detection and Elimination, A Guidance Manual for Program Development and Technical Assessments (2004)¹³.
Permittees shall conduct field screening of their storm drain system that has not been previously screened for illicit connections in accordance with the following schedule:
 - (A) All portions of the storm drain system consisting of storm drain pipes 36 inches in diameter or greater, ~~and that have not been screened after (3 years before Order adoption date),~~ no later than (35 years after Order adoption date).
 - (B) High priority areas identified during the mapping of illicit connections and discharges, ~~and that have not been screened after (3 years before Order adoption date),~~ no later than (35 years after Order adoption date).
 - (C) All portions of storm drain systems 50 years or older in age ~~and that have not been screened after (3 years before Order adoption date),~~ no later than (35 years after Order adoption date).
 - (3) Each Permittee shall maintain a list containing all connections under investigation for possible illicit connection and their status.
- (b) Response to Illicit Connections
- (1) Investigation -
Each Permittee, upon discovery or upon receiving a report of a suspected illicit connection, shall complete an investigation within 21 days, to determine the following:
 - (A) Source of the connection.
 - (B) Nature and volume of discharge through the connection.

¹³ *Illicit Discharge Detection and Elimination, A Guidance Manual for Program Development and Technical Assessments*. the Center for Watershed Protection, Pitt R., October 2004. Chapter 13, 13.1,13.2, 13.3, 13.4

Changes

- (C) Responsible party for the connection.
- (2) Termination -
Each Permittee, upon confirmation of an illicit storm drain connection, shall ensure the following:
- (A) Termination of the connection within 180 days of completion of the investigation, using formal enforcement authority to eliminate the illicit connection.
- (3) Documentation -
Each Permittee shall keep records of all illicit connection investigations and the formal enforcement taken to eliminate all illicit connections.
4. Illicit Discharges
- (a) Investigation -
Each Permittee shall investigate an illicit/ illegal discharge during or immediately following containment and cleanup activities, and shall take appropriate formal enforcement action to eliminate the illegal discharge.
- (b) Abatement and Cleanup -
Each Permittee shall respond, within 1 business day of discovery or a report of a suspected illicit/ illegal discharge, with actions to abate, contain, and /-or clean up all illegal discharges, including hazardous substances waste.
- (c) Documentation -
Each Permittee shall maintain records of all illicit/ illegal discharge discoveries, reports of suspected illicit/ illegal discharges, their response to the illicit/ illegal discharges and suspected illicit/ illegal discharges, and the formal enforcement taken to eliminate all illicit/ illegal discharges.

I. REPORTING PROGRAM

1. The Principal Permittee in consultation with the Permittees and Regional Water Board staff shall convene an adhoc working group to develop an Electronic Reporting Program, the basis of which shall be the requirements in this Order and the questions in the attached Monitoring Report and Program Report (Reporting Program- Attachment "H") or equivalent questions for approval by the Regional Water Board Executive Officer. The Committee shall no later than (126 months after Order adoption date) submit the electronic reporting form and use the form in each subsequent year.
2. Each Permittee shall submit information required in the Reporting Program in a method as appropriate to the format approved by the Regional Water Board Executive Officer.

Changes

3. The Principal Permittee shall submit by December 15th of each year beginning the year of 2008, an Annual Report to the Regional Water Board Executive Officer in the form one hard copy and three compact disk (CD) copies (or an electronic equivalent).
4. The Annual Report shall document the status of the Municipal Storm Water Program, an integrated summary of the results of analyses from:
 - (a) The monitoring program described under Part 1- Monitoring Report.
 - (b) The requirements described under Part 2-Program Report.
5. Plans shall be submitted to the Regional Water Board Executive Officer in the form of one hard copy and three compact disk (CD) copies (or an electronic equivalent).
6. Study Reports shall be submitted to the Regional Water Board Executive Officer in the form of one hard copy and three compact disk (CD) copies (or an electronic equivalent).
7. Progress Reports shall be submitted to the Regional Water Board Executive Officer in the form of one hard copy and three compact disk (CD) copies (or an electronic equivalent).

Hydromodification and Hydrologic Controls

Ventura County Co-Permittee Comments

April 18, 2008

Executive Summary

This set of comments focuses on Hydromodification aspects of the 2nd Draft NPDES Permit (No. CAS004002) for Ventura County. The unrecognized issues and unintended consequences of the permit language lead us to recommend new language for the permit.

1. **Unrecognized Issues:**
 - a. Sediment Balance
 - b. Magnitude of Flows in Receiving Waterway
 - c. Exemptions to help streamline permitting process
 - d. Interdependence of Hydrologic Controls
2. **Unintended Consequences -Erosion Downstream**

Our recommendations include revising the Ventura County Technical Guidance Manual for Stormwater Quality Control Measures to include new sections on how to analyze combinations of hydrologic control measures, and to how to design hydrologic controls for Hydromodification.

Specific language changes to the permit are proposed in Attachment C.

1. Unrecognized Issues

1a. Sediment Balance

The 2nd draft permit addresses the issue of Hydromodification of natural stream channels by considering only flow rates and duration. The complimentary and necessary issue of sediment balance is ignored. Regulating the combination of flows and sediment to preserve downstream habitat and channels should be the goal of the Final Hydromodification criteria. **Attachment A** shows how both sediment and flow are related in degrading (cutting) or aggrading (building) downstream channels.

The Draft Permit has defined "sediment" as a pollutant (Part 5 F. I.) and based on this blanket definition tries to ensure its removal from the construction and land development process. The Permit should rephrase the definition with the words that "*sediment may at times contain pollutants*" and recognize that there are many areas in our watersheds where there is high natural sediment yield and the sediment yield is beneficial for a variety of uses.

It is recommended that **Finding 12** be edited to be comprehensive and recognize the current limitations of the supporting science by the changes suggested (in red) below:

The increased volume, increased velocity, and discharge duration of storm water runoff from developed areas has the potential to increase ~~greatly~~ accelerate downstream erosion and impair stream habitat in natural drainages. Likewise, reductions in

sediment transport in the outflow can create "sediment hungry" water that erodes downstream habitat and channels, and can "starve" beaches of sand. It is also recognized that there is natural Hydromodification regardless of development, when channels erode or adjust to changes in climate, vegetation, fire, or land use changes that do not increase impervious surface.

Preliminary studies on 11 watersheds from Southern California (catchments from 1 to 18 square miles) have demonstrated a direct correlation between the degree of imperviousness of an area and the degradation of its receiving waters. Significant declines in the biological integrity and physical habitat of streams and other receiving waters have been found to occur with as little as 3-10 percent conversion from natural to impervious surfaces. Percentage impervious cover is one reliable indicator and predictor of potential water quality degradation expected from new development for watersheds less than 2.5 square miles (1,600 acres). Until further local research is completed, these conclusions are assumed to be appropriate for smaller areas. (Source: Derrick Coleman, et. al. April 2005. Effect of Increases in Peak Flows and Imperviousness on the Morphology of Southern California Streams. Technical Report 450. Southern California Coastal Water Research Projects (SCCWRP)).

1b. Magnitude of Flows in Receiving Waterway

The flood studies in Ventura County by FEMA show that there are some large streams that will not have their geomorphology affected by slight changes in side drainage caused by new development projects. When the 100-year flow of the receiving water is very dominant compared to side drainages, the geomorphology of the receiving water is not significantly affected by side drainage. However, in some smaller Ventura County streams, like Arroyo Simi, even low but clear (effluent) flows have caused Hydromodification effects of erosion downstream. While smaller streams like Arroyo Simi need Hydromodification analysis, larger streams could be exempted. From a review of flow records in Ventura County, streams with larger than 100-year flow of 25,000 cfs are recommended to be exempt from Hydromodification analysis. This threshold would exempt drainage to the County's major waterways:

- Ventura River downstream of North Fork Matilija Creek
- Santa Clara River downstream of the County line,
- Piru Creek, Sespe Creek, and Santa Paula Creek, downstream of the foothills.
- Calleguas Creek downstream of Conejo Creek.

1c. Exemptions to Help Streamline Permitting Process

The Draft permit shows no exemptions for Hydromodification. To streamline Permittees processing of cases, a list of exemptions to the hydrologic controls is proposed in **Attachment C**. This list may need to be revised after the SMC study is completed for the Final Hydromodification Criteria.

1.d. Interdependence of Hydrologic Controls

The permit should recognize the interdependence of hydrologic controls and a sequencing of analysis to take this into account - beginning with what can be done with LID measures, then check for water quality mitigation and finally Hydromodification for any remaining runoff. See

recommended flow chart in **Figure 1**. The Ventura County Technical Guidance Manual and Section 5.E.III.1 should be modified to add this recognition and flow chart for hydrologic controls to the permit. Suggested language is in Attachment C.

2. Unintended Consequence: Increased Erosion Downstream

An unintended consequence of the Interim Hydromodification criteria in the 2nd Draft Permit can be an increase in downstream erosion of habitat and stream channels because of ignoring the cumulative influence of LID and Treatment BMP's on sediment transport. The permit only addresses water shear forces and does not consider the sediment balance issue.

LID and Treatment BMPs in the 2nd Draft Permit dictate that post-project peak outflow from a project area be equal to or less than existing peak outflow, by allowing some storage, infiltration, consumption, or treatment. This has the effect of settling sediments so that sediment outflow with a project that has LID and/or Treatment BMPs is less than the pre-project sediment outflow. This clearer "sediment hungry" discharge created by the LID or BMPs erodes downstream habitat, stream channels, and "starves" beaches of sand. Taking this to the extreme shows the extent of the unintended consequence: to obtain the natural sediment load downstream of a LID site or Treatment BMP, sediment would have to be collected at the project site, transported downstream, and then re-injected to the stream.

For correcting past urbanization effects, watershed based studies should be encouraged to study and design channel and habitat stabilization features. This can be a recommendation to the Ventura Watershed Councils and appears to be outside the scope of the NPDES Permit.

Recommendation:

The sediment balance issue needs to be addressed in the MS4 permit in a way that compliments the LID and the Treatment BMPs. LID and Treatment BMPs are part of the permit on their own merits and are recommended for multiple reasons.

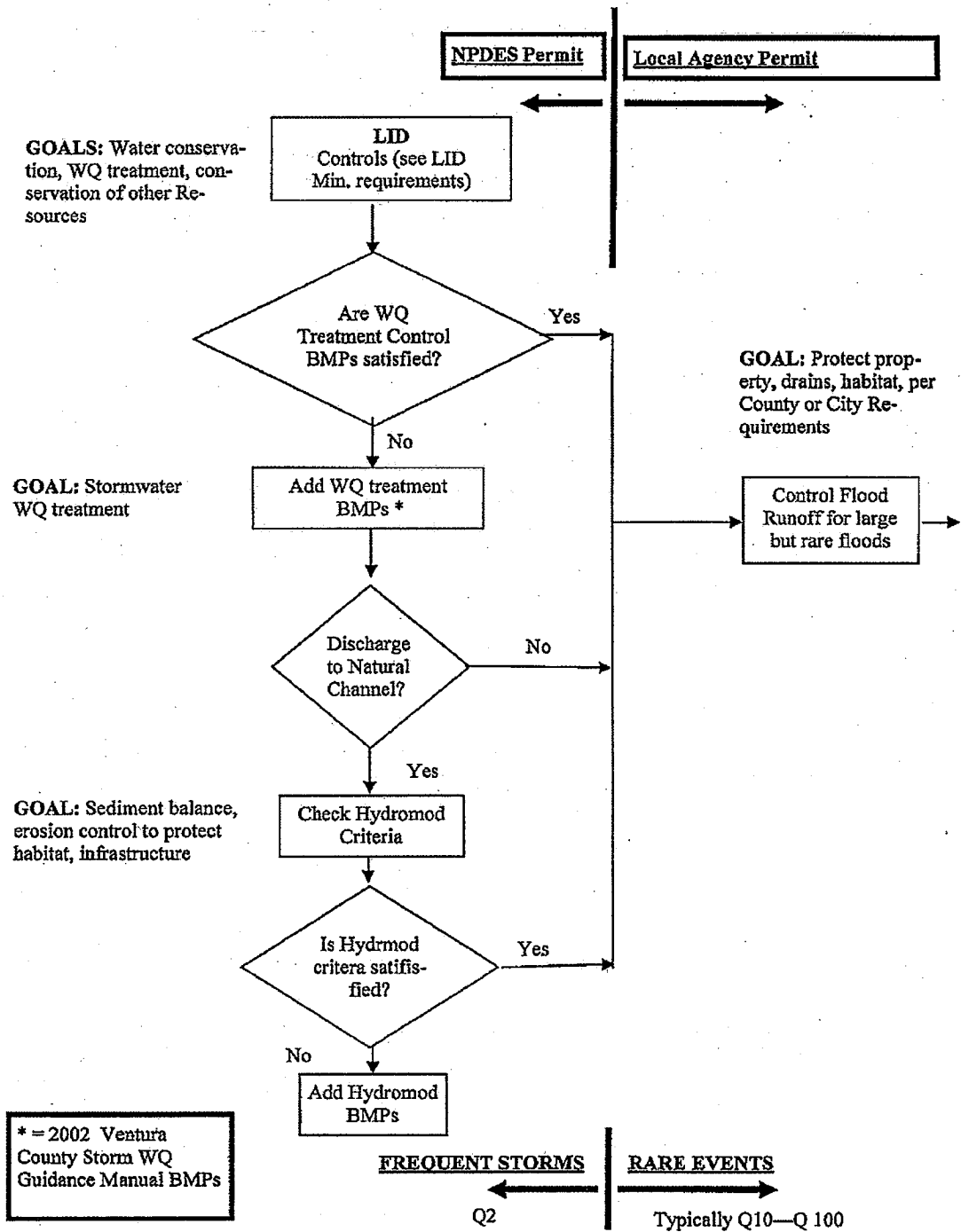
When LID and/or Treatment BMP's are used, then a sediment balance study must be included when evaluating erosion potential, not the Hydromodification criteria in the 2nd Draft Permit. For the Interim, and because of the complexity of this analysis, we recommend only developments greater than 50 acres would require the sediment balance analysis until the SCCWRP studies are completed and design tools are developed. This is similar to the recent San Diego MS4 Permit (**See Attachment B**).

We request updating the Ventura County Technical Guidance Manual for Stormwater Quality Control Measures, and revising Section 5.E.III.1 to include new sections on how to analyze combinations of hydrologic control measures and to address the sediment balance.

Submitted by City of Ojai, California

Figure 1:

Ventura County HYDROLOGIC CONTROLS



Attachment A:

Relationship of Sediment and Flow

Increasing Flow or Decreasing Sediment Load Cause Degradation of Channel

Four Variables that affect the channel erosion or aggradation:

Water Flow = Q_w

Bed material sediment load = Q_s

Sediment size = D_{50}

Slope = S

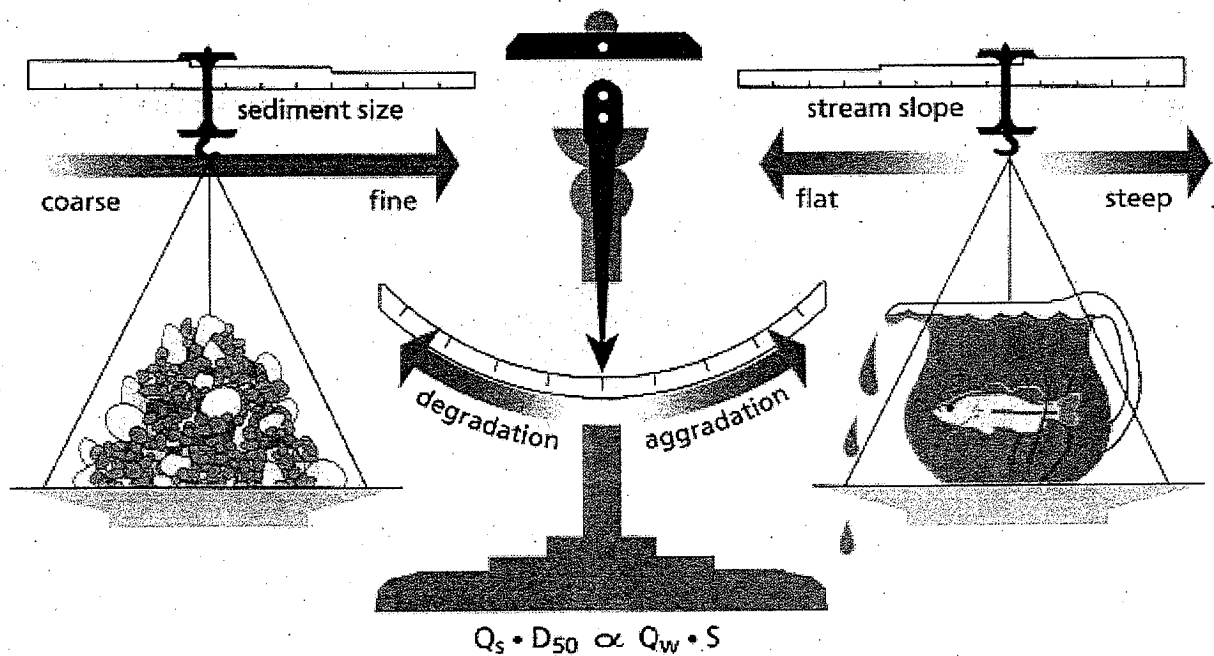


Figure 1.13: Factors affecting channel degradation and aggradation. The "size" of the channel is determined by the stream's energy, the slope, and the flow of water in balance with the size and quantity of the sediment particles the stream moves.

Source: Rosgen (1996), from Lane, *Proceedings*, 1955. Published with the permission of American Society of Civil Engineers.

Source: Stream Corridor Restoration, USDA, Part 653 of the National Engineering Handbook 1998

Attachment B:

Interim Hydromodification Criteria from San Diego Permit

Order No. R9-2007-0001

28

January 24, 2007

(6) Interim Hydromodification Criteria for Projects Disturbing 50 Acres or More

Within 365 days of adoption of this Order, the Copermittees shall collectively identify an interim range of runoff flow rates for which Priority Development Project post-project runoff flow rates and durations shall not exceed pre-project runoff flow rates and durations (Interim Hydromodification Criteria), where the increased discharge flow rates and durations will result in increased potential for erosion or other significant adverse impacts to beneficial uses, attributable to changes in flow rates and durations. Development of the Interim Hydromodification Criteria shall include identification of methods to be used by Priority Development Projects to exhibit compliance with the criteria, including continuous simulation of the entire rainfall record. Starting 365 days after adoption of this Order and until the final Hydromodification Management Plan standard and criteria are implemented, each Copermittee shall require Priority Development Projects disturbing 50 acres or more to implement hydrologic controls to manage post-project runoff flow rates and durations as required by the Interim Hydromodification Criteria. Development Projects disturbing 50 acres or more are exempt from this requirement when:

- (a) The project would discharge into channels that are concrete-lined or significantly hardened (e.g., with rip-rap, sackcrete, etc.) downstream to their outfall in bays or the ocean;
- (b) The project would discharge into underground storm drains discharging directly to bays or the ocean; or
- (c) The project would discharge to a channel where the watershed areas below the project's discharge points are highly impervious (e.g. >70%).

Attachment C:

Recommended Changes to 2nd Draft Permit Hydromodification Criteria

Proposed Preamble to Hydromodification Criteria

Suggested language to insert under Section 5.E.III.3 on page 52 of 115.

Coordination with LID and Water Quality Mitigation: All requirements for LID (Section 5.E.III.2) and Water Quality Mitigation BMPs (Section 5.E.III.4) need to be designed prior to analysis for Hydromodification, and their impacts accounted for in the design of any Hydromodification controls required.

Hydromodification Control Exemptions. Permittees may exempt the following New Development and Redevelopment projects from implementation of Hydromodification controls where assessments of downstream channel conditions and proposed discharge hydrology indicate that adverse Hydromodification effects to present and future beneficial uses of Natural Drainage Systems are unlikely:

- A. All projects that disturb less than one acre.
- B. Projects that are replacement, maintenance or repair of a Permittee's existing flood control facility, storm drain, or transportation network.
- C. Redevelopment Projects in the Urban Core that do not increase the effective impervious area or decrease the infiltration capacity of pervious areas compared to the pre-project conditions.
- D. Projects that have any increased discharge go directly or via a storm drain to a sump, lake, area under tidal influence, into a waterway that has a 100-year peak flow (Q100) of 25,000 cfs or more, or other receiving water that is not susceptible to Hydromodification impacts;
- E. Projects that discharge directly or via a storm drain into concrete or improved (not natural) channels (e.g., rip rap, sackcrete, etc.), which, in turn, discharge into receiving water that is not susceptible to Hydromodification impacts (as in D above).

Proposed Changes to Section 5.E.III.3.(a).(2). on Pg 54 of 115

(A) The Interim Hydromodification Control Criteria to protect natural drainage systems until Permittees complete Hydromodification Control Plans (HCPs) are as follows:

(i) Projects disturbing land areas of less than 50 acres will be subject to LID and/or source or treatment BMPs as addressed in this permit. The combined effects of LID and the treatment BMPs are

considered adequate for Hydromodification control for projects that disturb less than 50 acres.

(ii) Projects disturbing land areas of fifty acres or greater

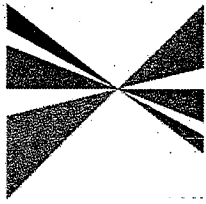
shall develop and implement a Hydromodification Analysis Study (HAS) that demonstrates that post development conditions are expected to approximate the pre-development erosive effect of sediment transporting flows in receiving waters. The HAS must lead to the incorporation into the project design features intended to approximate, to the extent feasible, an Erosion Potential value of 1 or any alternative value that can be shown to be reasonably protective of the natural drainage systems from erosion, incision, and sedimentation that can occur as a result of flow increases from impervious surfaces and damage stream habitat in natural drainage systems, or

(I) Alternatively, project proponents in this category may elect to develop, in partnership with Permittees, an equivalent implementation method based on flow duration control and sediment balance in the form of nomographs relating planned impervious area and local soil type (infiltration rates) to determine Hydromodification control BMP volume and land area requirements for the proposed project. The nomographs shall be derived from continuous simulation modeling¹ using Ventura County specific rain gauge records and soil types, and calibrated using data from a local undeveloped watershed with similar conditions or

(II) Alternatively, the Co-Permittees may revise the Ventura County Technical Guidance Manual for Stormwater Quality Control Measures to address projects that disturb more than 50 acres.

¹ The Permittees may use an alternative method to the continuous simulation modeling pending prior approval by the Executive Officer.

SOUTHERN CALIFORNIA



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Tribal Government Representative: Andrew Masief Sr., Pechanga Band of Luiseño Indians

Ventura County: Linda Parks, Ventura County - Glen Becerra, Simi Valley - Carl Morehouse, San Buenaventura - Toni Young, Port Hueneeme

Orange County Transportation Authority: Art Brown, Buena Park

Riverside County Transportation Commission: Robin Lowe, Hemet

Ventura County Transportation Commission: Keith Millhouse, Moorpark

6.21.07

MEETING OF THE

WATER POLICY TASK FORCE

Thursday, November 29, 2007
10:00 a.m. – 1:00 p.m.

SCAG Offices
818 West 7th Street, 12th Floor
San Bernardino Conference Room
Los Angeles, CA 90017
213.236.1800

If members of the public wish to review the attachments or have any questions on any of the agenda items, please contact Dan Griset at 213.236.1895 or griset@scag.ca.gov

SCAG, in accordance with the Americans with Disabilities Act (ADA), will accommodate persons who require a modification of accommodation in order to participate in this meeting. If you require such assistance, please contact SCAG at (213) 236-1868 at least 72 hours in advance of the meeting to enable SCAG to make reasonable arrangements. To request documents related to this document in an alternative format, please contact (213) 236-1868.

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Agenda
WATER POLICY TASK FORCE
November 29, 2007
Conference Room – San Bernardino A&B

Page #

1.0 CALL TO ORDER

2.0 PUBLIC COMMENT PERIOD

Members of the public desiring to speak on an agenda item or another item, but within the purview of this Task Force, must notify staff to the Task Force prior to the meeting. At the discretion of the Chair public comments may be limited to three minutes.

3.0 APPROVAL OF MINUTES

Action Minutes for the September 20, 2007 meeting will be available at the meeting and posted on the Task Force website (<http://scag.ca.gov/wptf>).

4.0 PRESENTATION ITEMS FOR THE TASK FORCE

4.1 Taking Environmental Protection Up to the Next Level

3

Bruce McDowell, Senior Fellow of the National Academy of Public Administration, will review the findings of a recent study done for the United States Environmental Protection Agency. The study, "Taking Environmental Protection to the Next Level" recommended partnership and collaboration approaches as more effective at system improvements when compared with command-and-control regulation and project-centered strategies.

4.2 SCAG Strategy Paper: Water and California's Future – Getting Into the Bigger Picture of Growth, Resources, Sustainability

7

Staff has prepared a policy paper on policy themes for regional sustainability that is intended for consideration by the Energy and Environment Committee (EEC) at its December 6, 2007 meeting. The Task Force is asked to review the paper and endorse its recommendations prior to the EEC's consideration of the paper.

4.3 Proposed Ventura County Stormwater Permit

9

The Los Angeles Regional Water Quality Control Board has proposed a new stormwater permit for Ventura County and its cities. This permit includes new provisions that will create additional responsibilities and costs for the local governments in the County. Jeff Pratt, Director of the Ventura County Watershed Protection District, and Xavier Swamikannu, Chief of the Stormwater Permitting Program at the Regional Board, will discuss this proposed permit. Also present for some dialogue with the Task Force will be Tracy Egoscue, the new Executive Officer of the Regional Board.

4.4 The Connection between Water, Food and Agriculture, Growth and Climate Change 12

Eric Stein, Deputy Secretary of Legislation and Policy of the California Department of Food and Agriculture, will brief the Task Force on the relationship between water resources and food production, as well as the looming connection between agriculture and urban growth and climate change.

4.5 An Update on the California Green Building in the SCAG Region 13

Dr. Mark Grey, Director of Environmental Affairs for the Southern California Building Industry Association and Task Force member, will report on the Green Building Program sponsored by the California Building Industry Association. The Program has water conservation and other resource sustainability goals.

5.0 CHAIR'S REPORT

6.0 STAFF REPORT

7.0 TASK FORCE INFORMATION SHARING

8.0 COMMENT PERIOD

10.0 ADJOURNMENT

The next Task Force meeting will be held on January 24, 2008 at the SCAG offices.

MEMO

DATE: November 29, 2007
TO: Water Policy Task Force
FROM: Daniel E. Griset, Program Manager, 213.236.1895, griset@scag.ca.gov
SUBJECT: Taking Environmental Protection Up to the Next Level

BACKGROUND:

The United States Environmental Protection Agency (USEPA) invited the National Academy of Public Administration (NAPA) to make recommendations on ways to improve environmental protection in watershed systems. NAPA focused its efforts on the Chesapeake Bay watershed, probably one of the most complex watershed systems in the country, one that ranges across 7 states and that includes many tributaries flowing through every conceivable land use.

The recently released report strongly favors the use of collaborative partnerships as a more appropriate way to achieve needed water quality outcomes for the Bay's environmental health. Associated with this approach is a strong recommendation for the kind of comprehensive system planning that aligns and prioritizes projects based on their support of the overall improvement of the watershed, not just their individual outputs as determined by cost-benefit calculations. The report notes that "it is time to apply a much broader set of remedies" developed through a "unique combination of scientific studies, interstate policies, stakeholder partnering, and best practice innovation" to restore the Bay. All of this portends a new era of "outcome-oriented water quality improvements that can bring clean and healthy waters within reach throughout the United States."

The Report notes the following challenges for USEPA and environmental regulators: EPA faces six great challenges. They grow largely out of the need to clean-up ambient environmental conditions, not just large single sources of pollutants. This shift in emphasis makes EPA's job much more difficult—and different—than in the past.

Challenge 1: Addressing the Complexity of Meeting Ambient Environmental Goals

To meet this challenge, EPA will need to use a much broader range of implementation programs and engage a much wider range of implementation partners.

Challenge 2: Mobilizing Multiple Programs, Federal Agencies, State and local Governments and Other Parties to Meet Ambient Environmental Standards

Programs that target nonpoint sources of pollution need to be more fully developed and deployed, and brought to a level of maturity, funding and priority more nearly equal to the programs that target point sources. Much of the groundwork has been laid to support this upgrade.

Challenge 3: Filling the Widening Gap in Funding Environmental Programs

Many environmental programs have identified what needs to be done to meet clean-up standards. What's holding them back is a lack of funding. The funding gap is widening, not narrowing.

Challenge 4: Filling the Tools and Authority Gap

The "tools of government" needed to implement environmental changes are well known, and new ones are being developed all the time. Mainstreaming more of these tools could go a long way toward meeting the currently unmet needs.

Challenge 5: Adapting Management Techniques to Focus on Outcome Goals

Managing for results requires much more data, better data, and more timely data than traditional management systems produce. EPA's National Performance Partnership System (NEPPS) has been under development for over a decade, but still needs more work.

Challenge 6: The Need to examine Alignment in Multiple Program Areas

The specific recommendations in this report are for water pollution control programs. But, it is likely that other EPA programs need similar improvements. The approach used in this study could be helpful in improving other federal programs.

The Report's response to these challenges resulted in the following findings:

Recommendation 1: EPA as a Partnering Agency

EPA should strengthen its position as a partnering agency for purposes of enhancing all its programs, both regulatory and non-regulatory. This is especially important for non-regulatory programs.

Recommendation 2: Healthy Waters Comprehensive Approach

EPA should establish a more systematic and holistic intergovernmental approach to cleaning up the ever-increasing number of listed impaired waters throughout the nation. This approach should bring nonpoint programs up to par with point-source programs.

Recommendation 3: Effective Coordination Mechanisms to Support Partnerships

EPA should encourage and support the intergovernmental coordinating bodies needed to ensure that regional initiatives can effectively accomplish established water pollution reduction outcomes.

Recommendation 4: Scientific Research and Data

EPA should preserve its commitment to scientific research and data as a basis for policymaking and evaluation.

Recommendation 5: Adequate and Sustainable Funding

EPA should work with the state and local governments, and others, to put the financing of environmental services on a more adequate and sustainable path, by: broadening the purposes and revenue sources of the State Revolving Fund program; developing models and guidelines for dedicated fee-based systems; providing leadership for pollution credit-trading; partnering with other federal agencies; and working with Congress.

Recommendation 6: Access to Innovation

Innovative programs should be made readily available more quickly to policymakers, program directors, and implementation organizations.

Recommendation 7: Performance and Results

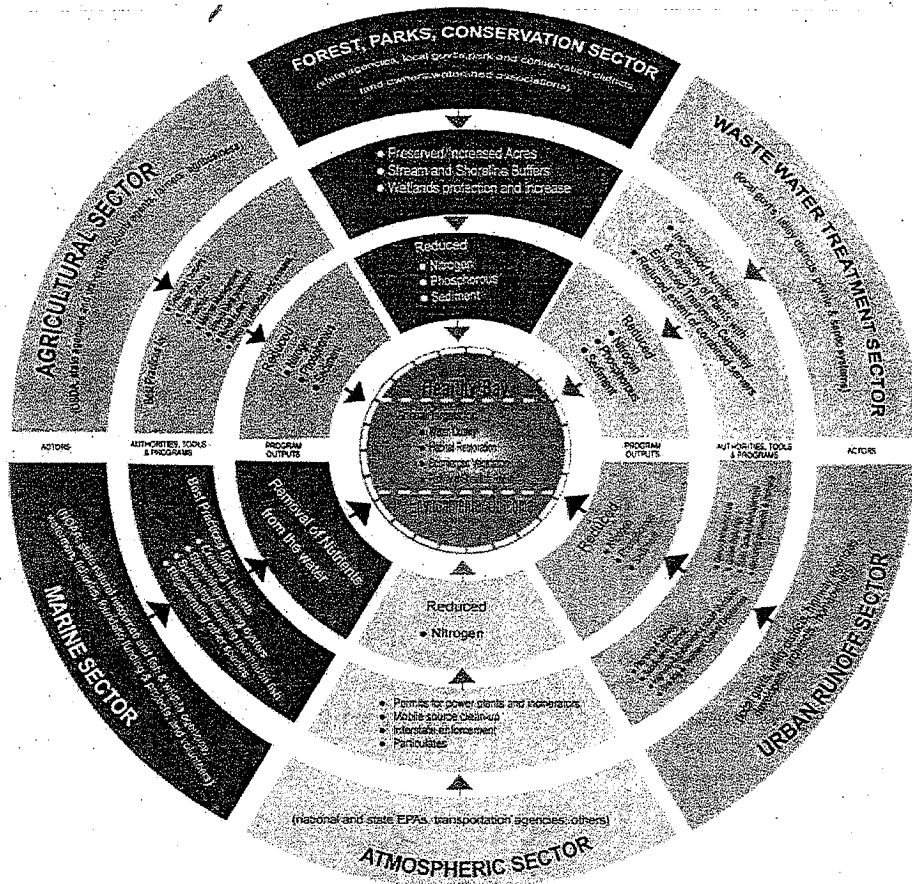
EPA should continue to improve its outcome-oriented performance management systems by incorporating timely new accountability mechanisms for inputs, outputs and outcomes provided by both traditional and non-traditional partners.

Recommendation 8: Examine Alignment in Other Federal Programs

EPA and other federal agencies should re-evaluate the alignment of partners, tools, and coordinating mechanisms within their partnership programs, using the analytical framework developed for this study.

One of the figures in the NAPA report is shown below. It provides a visual depiction of the various elements to be considered in a comprehensive approach to water quality in the Chesapeake Bay. Without this full range of elements it will be difficult to achieve any material success in better environmental protection in urbanized watersheds.

FIGURE 10. The Composite Logic Model Needed to Produce a Healthy Chesapeake Bay (Clean up its Impaired Waters is Very Complex).



These recommendations track closely with the direction recommended in the policy and strategy paper presented in the next agenda item (4.2). It underscores the importance of bringing partners together to better meet the goals of environmental improvements and sustainability.

FISCAL IMPACT:

The consideration of this topic creates no fiscal impact on SCAG. Staff support for the Water Policy Task Force is funded through work elements in the OWP (Environmental Planning and the Regional Comprehensive Plan).

REPORT

DATE: December 6, 2007
TO: Water Policy Task Force
FROM: Daniel E. Griset, Program Manager, 213.236.1895, griset@scag.ca.gov
SUBJECT: Comprehensive Regional Infrastructure and Growth Planning Policy and Strategy

RECOMMENDED ACTIONS:

Ask the Energy and Environment Committee to:

1. Approve release of the attached, draft policy paper, "Water and California's Future: Getting into the Bigger Picture of Growth, Resources and Sustainability," for review and comment by interested parties.
2. Authorize SCAG staff to develop a coalition of California regions in support of policy actions contained in the draft policy paper, including the following actions:
 - Integration of infrastructure and resource management planning within a performance-based regional *Blueprint* planning framework
 - Dedication of state and federal funding to advance regional *Blueprint* and related local planning efforts that advance system-wide environmental sustainability
 - Priority state and federal funding for projects that coordinate with comprehensive regional *Blueprint* and related local planning and that are financially constrained, performance-based and leverage local and private sector investments.

BACKGROUND:

At the Energy and Environment Committee meeting on August 30, 2007 staff briefed the Committee on a "Proposed Program to Promote Comprehensive and Integrated Water Resources Planning in the Region" to obtain member feedback. Since then staff has, in coordination with preparation of the Water Chapter in the Regional Comprehensive Plan, prepared a draft policy paper that further develops the concepts presented in August. (See attached policy paper.) The Water Policy Task Force will consider this draft at its meeting on November 29, 2007.

The key idea driving this effort is the need for a policy framework that provides California regions with the tools and resources to do the kind of comprehensive, integrated planning that can be used to better guide continuing regional growth towards more sustainable futures and community success. Though some infrastructure efforts recognize the need for greater integration of planning

and implementation within watershed and other larger-scale areas, these advances do not address the overall growth challenges and the need for new approaches to better guide project financing and implementation.

The climate change challenge with its new requirement to reduce the "carbon footprint" of human activities everywhere in California is another compelling reason for more comprehensive regional *Blueprint* planning (for additional background see www.calblueprint.dot.ca.gov). Without a wide-ranging consideration of the interrelationship between the activities of living, work, mobility, recreation and other realities of urban life, the prospects for reducing greenhouse gasses are very limited.

Current funding practices typically evaluate competing projects by comparing the cost-benefit ratios for each project, measuring the outputs as a way of setting priorities. By contrast, the comprehensive approach we are now recommending measures outcomes as a new way of setting priorities. Outcomes consider a broad range of inputs, not simply the outputs of one project. Accordingly, investments within a comprehensive *Blueprint* framework can be directed to regional and local projects that go farther to reach the overall goals of a watershed or larger-scale planning and management area. The shift is from a piecemeal approach to one much more holistic.

A more holistic approach recognizes a mix of the elements that must be aligned for better regional outcomes. The elements include transportation infrastructure, air quality resources, land use planning, economic development, open space protection, and solid waste and water resources management. Some of these elements are planned within political jurisdictions while others are defined by basins or watersheds. These variations suggest the need for a new framework in which comprehensive regional and local planning and implementation can be done.

As with SCAG's other mandated planning efforts, performance-based outcomes are an important tool to ensure effective implementation. Performance outcomes can avoid the one-project-at-a-time syndrome that has characterized growth and resources management in the past. A performance-based plan requires that certain system-wide goals be achieved, and within that framework projects can be selected based on their contribution toward those goals. Performance outcomes also allow flexibility in project criteria and management, as progress toward the goals is monitored and program requirements are adjusted as necessary.

Attachment: "Water and California's Future: Getting into the Bigger Picture of Growth, Resources and Sustainability"

FISCAL IMPACT:

The consideration of this topic creates no fiscal impact on SCAG. Staff support for the Water Policy Task Force is funded through work elements in the OWP (Environmental Planning and the Regional Comprehensive Plan).

MEMO

DATE: November 29, 2007
TO: Water Policy Task Force
FROM: Daniel E. Griset, Program Manager, 213.236.1895, griset@scag.ca.gov
SUBJECT: Proposed Ventura County Stormwater Permit

BACKGROUND:

Since 1992, the 10 cities, the Ventura County Watershed Protection District, and the County of Ventura have worked collaboratively to meet clean water regulations as the Countywide Stormwater Program (Program). Each of these public entities operates separate municipal storm drain systems and discharge stormwater under the Ventura Countywide Stormwater NPDES permit (Permit). The first municipal stormwater Permit for Ventura County was issued in 1994; the second was issued in 2000. In 2003, the Ventura Countywide Stormwater Program received U.S. EPA's National Clean Water Act Award for Stormwater Management Excellence. This award-winning Program, a model of water quality protection in Ventura County, highlights our community's support for clean water and safe beaches.

In December 2006, the Los Angeles Regional Water Quality Control Board (LARWQCB) released a Draft 2006 Permit that may be considered the strictest in the nation. There are approximately 75 new or additional requirements identified in this regulatory proposal. The Ventura County Stormwater Program supports the intent of several requirements in the Draft Permit where they aim to lead to cleaner water and promote environmental sustainability. Other requirements, however, are considered by officials in Ventura County as potentially counterproductive and prohibitively expensive. In these instances, this officials are proposing alternative approaches that both protect water quality and are financially feasible.

Points of Concern:

Trash: The Regional Board's current Draft Permit requires the installation of screens at storm drain inlets in high-trash-generating commercial and industrial areas, and near educational institutions. The purpose is to prevent entry of any materials larger than 5mm. One-time installation costs are estimated to reach into the hundreds of thousands of dollars countywide. As a result, the Program is requesting alternative language that would allow for a trash maintenance program to include additional litter pick-up, street sweeping, placement of additional trash cans in high commercial areas, and the installation of screens only in areas not prone to flooding.

Municipal Action Limits: The Draft Permit is the first in the nation to require that stormwater runoff from storm drains meet pollutant levels (referred to as Municipal Action Limits). Failure to meet these limits could lead to fines of up to \$27,500 a day. The Draft Permit limits are based upon national averages of communities that have higher annual rainfall than typically experienced in Southern California. Consultants hired by the County's Program have indicated that 80 percent of the Program's storm drains will fail to meet the Municipal Action Limits contained within the Draft Permit. With the many pollutant sources in neighborhoods, it is thought that compliance will require very expensive end-

of-pipe treatment. This is more difficult where pollutant sources such as schools and agriculture are outside of the Program's jurisdiction and control. Accordingly, the Program is requesting that Municipal Action Limits be used as an assessment tool rather than a compliance point. The Program is also requesting the limits be established based upon extensive Southern California data developed over the past 15 years.

Land Development: The Draft Permit includes extensive new requirements for new and redevelopment projects. The Program is concerned these requirements will make it more difficult to implement Smart Growth development principals, which provide a more environmentally sustainable way for public entities to provide needed housing.

Total Maximum Daily Loads (TMDLs): Several TMDLs have been adopted (and many others are proposed) for the Calleguas and Malibu Creeks, Santa Clara and Ventura Rivers, and other coastal watersheds and beaches. For the first time, the Draft Permit incorporates TMDLs through the Countywide Stormwater Permit. The cost of implementing these TMDLs is not fully known, but based upon the examples of TMDLs implemented in other areas of Southern California the cost is estimated to be in the tens of millions of dollars.

Cost: Based upon what Draft Permit requirements and what TMDLs are included in the final Permit, the total cost Countywide is anticipated to range from a low of \$60million to a high of \$140 million. As currently proposed in the Draft Permit, the Program is projected to cost upwards of \$400 per household for the full compliance scenario.

In the case of the City of Ventura where current annual stormwater management costs are about \$1.2 million, the new proposed requirements would raise these compliance costs to more than \$4 million annually. These new costs would relate to increased business inspections, development review and compliance, public outreach, storm drain inspections, reports and studies.

Funding Mechanism: Currently there is only one dedicated funding mechanism in place to cover stormwater costs in Ventura County, the Watershed Protection District's Benefit Assessment Program. In Fiscal Year 2006-2007, the entire Program reported costs of approximately \$13.5 million. Benefit Assessment revenues collected and distributed amounted to only \$1.63 million (approximately 12 percent of cost) that year. The cost to the Principal Program (includes Program Administration and Reporting, Public Outreach and Water Quality Monitoring) for compliance with the Draft Permit is estimated to be \$3.4 million (double the cost under the current permit). There is no available funding mechanism at this time to cover the additional or future costs for this program.

Future Steps

The LARWQCB released a second Draft Permit on August 28, 2007 that is currently in a public review process. It is expected that the Board will take action to adopt a new five year permit in early 2008. Observers of this Ventura County process have noted that the actions taken by the Board on this permit will likely influence every stormwater permit around California, including those in the SCAG region. Of special significance is the potential for the inclusion of numeric limits in future permits, a provision that would require local governments to implement costly treatment of stormwater before it has any contact with creeks and rivers and the ocean.

FISCAL IMPACT:

The consideration of this topic creates no fiscal impact on SCAG. Staff support for the Water Policy Task Force is funded through work elements in the OWP (Environmental Planning and the Regional Comprehensive Plan).

MEMO

DATE: November 29, 2007
TO: Water Policy Task Force
FROM: Daniel E. Griset, Program Manager, 213.236.1895, griset@scag.ca.gov
SUBJECT: The Connection between Water, Food and Agriculture, Growth and Climate Change

BACKGROUND:

As urban regions grow the future interplay between cities and farms becomes increasingly critical. This interplay involves both land and water resources, food supplies and water allocations. The interplay is not always competitive; it can be complementary and/or interdependent.

In the matter of land use it is easy to note that as areas in the SCAG region grow there are pressures on farming operations that eventually lead to the loss of farm land and the agricultural production that land has produced historically. Instead of crops or other food production, that land produces homes and industry and other businesses. These changes have a variety of impacts, ranging from water uses to food production to environmental sustainability.

Though agricultural production in the SCAG region and in other parts of California has worldwide importance, the region's urban growth is challenging some parts of the agricultural future as land is converted to new uses and urban water demands drive up the value of irrigation water. Both of these forces can be destabilizing forces on current agricultural practices.

The emergence of climate change also is a factor on agricultural futures and the viability of production and crops in specific climates and conditions around the world. (A recent informative Washington Post article on the threats of climate change to farming and food production is attached to the agenda.)

Eric Stein, Deputy Secretary of Legislation and Policy of the California Department of Food and Agriculture, will brief the Task Force on these issues, including the relationship between water resources and food production, as well as the looming connection between agriculture and urban growth and climate change.

FISCAL IMPACT:

The consideration of this topic creates no fiscal impact on SCAG. Staff support for the Water Policy Task Force is funded through work elements in the OWP (Environmental Planning and the Regional Comprehensive Plan).

MEMO

DATE: November 29, 2007
TO: Water Policy Task Force
FROM: Daniel E. Griset, Program Manager, 213.236.1895, griset@scag.ca.gov
SUBJECT: An Update on the California Green Building in the SCAG Region

BACKGROUND:

The California Green Building Program has been developed by the building industry to conserve resources and bring long-term environmental protection advantages to consumers. This Program features unique advantages in energy efficiencies, indoor air quality, on-site waste recycling and water and wood conservation.

Examples of higher energy efficiencies are the result of uses of improved insulation installation and heating, ventilation and air conditioning systems, tight ducting, and high-efficiency glazing. The energy goal is to improve efficiency standards by at least 15%.

In the water conservation area the Program goal is to have homes use at least 20,000 fewer gallons per year. In addition to water wise fixtures and appliances, the Program emphasizes new approaches to landscape development and irrigation in which drought tolerant plantings and weather-based irrigation controllers combine to bring down water demand substantially.

Wood conservation in the Program involves the careful selection and use of wood products from forests overseen by the Sustainable Forestry Initiative, the American Tree Farm System, the Canadian Standards Association's Sustainable Forest Management System or the Forest Stewardship Council. This corresponds with the Program's commitment to work with managed forest timber where cuttings are limited to a rate that can be permanently sustained, while leaving the ecological functions intact, enhanced or restored. Along with these priorities, the Program favors special equipment and fabrication that reduce the use or waste of wood products.

The construction methods and use of materials also improve air quality in these Green Program homes. These aid in the improved filtration and elimination of air pollutants. Additionally, paints and lacquers and carpeting are selected that have low or no volatile organic compounds.

Another feature of the Program is the diversion of at least 50% of construction waste from landfills. Currently, residential new construction waste accounts for 20 to 30% of the solid waste generated in California each year. Eliminating this job site waste stream allows the construction industry to work more successfully with local agencies to comply with state recycling and waste-reduction requirements.

FISCAL IMPACT:

The consideration of this topic creates no fiscal impact on SCAG. Staff support for the Water Policy Task Force is funded through work elements in the OWP (Environmental Planning and the Regional Comprehensive Plan).

ATTACHMENTS

- 1. Draft Policy Paper: "Water and California's Future: Getting into the Bigger Picture of Growth, Resources and Sustainability"**
- 2. Washington Post Article (11-19-07): "Facing a Threat to Farming and Food Supply"**
- 3. Frequently Asked Questions about the California Green Building Program**

WATER AND CALIFORNIA'S FUTURE: GETTING INTO THE BIGGER PICTURE OF GROWTH, RESOURCES, SUSTAINABILITY

A Draft Policy Paper for Integrating Local and Regional Planning to Leverage Smart Public and Private Infrastructure Investments

Abstract:

The challenges presented by looming growth, piecemeal management of land and natural resources, emerging changes in climate, limited advances in environmental protection, shortages in public funding and pervasive institutional fragmentation require a new holistic approach to regional planning. This planning must be more comprehensive and more integrated. Without this new approach to planning, public and private fiscal capacities cannot be leveraged for better project selection and investment outcomes. Without this wider understanding of regional limits and opportunities, institutional capacities will remain disconnected and conflicted. Without this higher level of planning, it is doubtful that steadily growing regions will be environmentally sustainable. Without an appreciation for the interrelationships of land use, mobility, air quality, housing, water and natural resources and waste management, conventional planning efforts will fail to successfully meet the daunting challenges each urban region and watershed face.

Actions Recommended in this Paper:

- Integration of infrastructure and resource management planning within a performance-based regional *Blueprint* planning framework
 - Dedication of state and federal funding to advance regional *Blueprint* and related local planning efforts that advance system-wide environmental sustainability
 - Priority state and federal funding for projects that coordinate with comprehensive regional *Blueprint* and related local planning and that are financially constrained, performance-based and leverage local and private sector investments
-

Without thoughtful and committed guardians, California's future is now endangered, much like the Delta's smelt. The danger is fueled by demographics that project a 2050 population in California of nearly 60 million residents, people who will make their claims on water and other increasingly scarce resources. Notwithstanding these challenging realities, elected and other leaders have relied on decision systems that produce piecemeal efforts with stop gap measures rather than find new policy systems that are guided by comprehensive, long-term planning. Without new system thinking we can only expect that California's future will remain unguarded and endangered.

It is noteworthy that California's water future is now front and center in Sacramento with the Governor's call of the Legislature into a special session to update our state's water infrastructure and to complete missing elements of a state water plan that was not fully implemented some 50 years ago.

The Governor has proposed a \$9 billion water bond measure for consideration and other legislators will be offering alternative proposals. These measures will range from water storage with dams and reservoirs to cleaning up groundwater basins and recycling and reusing infiltrated water supplies. There will be calls for environmental investments in the Bay Delta ecosystem and flood control measures to prevent hydrological risks to communities that continue to grow on the Central Valley's flood plain. These proposals come soon after voter approvals last year of \$9.5 billion in state bonds with Propositions 84 and 1E, two measures with substantial water and environmental elements.

While new funding will eventually result in new water projects, guarding our future requires more than simply funding a hodge-podge of projects that survive intense short-range political bargaining. We need a better, more comprehensive context for investing our tax dollars wisely for the long-term. We need a context that brings together not only our future water needs but also transportation, housing, open space and habitat, air quality, solid waste, and emergency preparedness needs. We need thinking and planning and investing that goes beyond the challenge of getting competitive water agencies to collaborate, to one of multi-disciplinary planning and shaping of the regional growth in metropolitan areas. This means taking a leap to a new level in order to maximize the value our investments yield and to address our inevitable growth. That new level is something now emerging as "*Regional Blueprint*" planning.

The *Blueprint* concept represents a natural evolution towards holistic planning and implementation. The Clean Water Act gave rise to "areawide planning"; this was later supplanted by "continuous comprehensive planning" that is rarely continuous or comprehensive. The *Blueprint* concept brings forward a full menu of issues, along with stakeholders who can forge planning and implementation partnerships. The long-term payoff for this path is a much higher return on our public and private investments in the form of creative projects with multiple public benefits.

In 2006 voters approved some \$43 billion in bond funding across six areas: parks, water resources, transportation, housing, education and flood protection. With a *Blueprint* strategy we have a framework in which all the bond measures could be considered as one resource with six inter-related elements. These resources can be leveraged for multiple benefit outcomes because of coordinated regional planning strategies, avoided costs and the long-term economies of innovative implementation. With the water and flood protection elements this planning framework can align funding with land use and other regional objectives that are consistent with safety and environmental sustainability and prevent greater infrastructure losses and mitigation expenses later.

Other examples of integrated planning could be the smart investment in an education facility that brings energy and water conservation, along with better learning environments for training our work force to better compete in the global economy; or the innovative housing development that contributes open spaces to a community and saves stormwater for infiltration and reuse; or the coordinated land use and transportation investments that lower the demand for the vehicle usage that requires very expensive infrastructure and often brings harmful health impairments. Indeed, this kind of planning extends the usefulness of limited resources by anticipating collateral impacts and avoiding many of the costs caused by piecemeal planning that requires later mitigation and retrofitting.

With these considerations in mind, this paper now turns to more intensive discussion of future water and other resources in a region and world challenged with climate change and growth. Water management is one area where resource consumption, flood protection, growth, land use, and climate change all interact within a comprehensive planning process that seeks to produce environmentally sustainable outcomes.

Resource Implications of Climate Change

There is widespread scientific agreement that the planet is warming at a historically unprecedented rate, and that human activity is contributing to this warming. The regional impacts of climate change remain uncertain and difficult to predict. Adding to the uncertainty is the non-linear behavior of climatic patterns where large changes can occur suddenly and dramatically in response to small changes in system conditions. One recent study shows that drought, in particular, can begin suddenly in response to only small reductions in precipitation. The impacts of both drought and significantly increased rainfall can be catastrophic to agriculture, water supply, and flood-prone areas.

Climate change is expected to strongly impact the hydrological cycles of California, resulting in too much rain or not enough. These conditions would exacerbate patterns of flooding and drought. Among the uncertain results of climate change, there are several highly probable impacts:

- Warmer annual temperatures will cause more precipitation to fall as rain instead of snow, resulting in reduced annual snow pack and earlier seasonal melt times. This has two significant implications:
 - Reduced snow pack in the Sierras means that less water will be available in late spring and early summer, effectively shortening wet winters and lengthening dry summers.
 - Increased rain and an earlier seasonal snowmelt will combine to elevate flood risks, as significantly more water flows into mountain streams and rivers in the winter and early spring.
- Weather extremes in wet and dry areas will occur with greater frequency. This means that while areas prone to flooding are at elevated risk levels, so are areas prone to drought. Recent drought in the American southwest and historically unprecedented flooding in Asia are graphic examples of what might be expected. Inland southern California, northern Mexico, and parts of the Colorado basin – already in a long drought cycle – may see no relief from low precipitation, even as heavy rains fall on coastal California.
- Sea level rise threatens low-lying coastal communities, including much of the San Francisco bay area, with permanent flooding and massive loss of property and available land.
- Sea level rise, in addition to its land use and economic impacts, threatens coastal aquifers with saltwater intrusion, rendering freshwater undrinkable and much more expensive to purify. Many of the aquifers of the California Coastal Basin are threatened in this manner.
- Increased runoff and elevated water temperatures both negatively impact water quality. Increases in runoff usually correspond with increases in pollution levels. Higher water temperatures deplete oxygen but disperse metals and chemicals more widely with significant effect on aquatic habitat and dependent biota.
- Higher volumes of water can overwhelm ecosystem capacities to hold, filter, cool, and slow water moving through the hydrologic system with the result that water quality is degraded, flood risks increase, and groundwater recharge is reduced.

Decreases in inland precipitation, a shorter precipitation cycle in the winter, and less snow in the Sierras and the Rockies would combine to not only reduce the amount of water available to California but also

shorten the 'window' of time in which water is available. Changes in the winter precipitation and runoff cycles would also present an enormous challenge to the state's flood control and conveyance systems.

Flood Implications

Increased annual alpine precipitation, falling as rain instead of snow –combined with earlier annual snow melt – is certain to raise the risk of flooding in the winter and early spring. If current development patterns and practices continue in flood prone areas, ever increasing numbers of people and their property will be threatened with major losses. These risks will be especially acute in areas such as the Sacramento Delta, where extensive development continues to occur in the flood plain. These risks also appear in alluvial fan areas at the foot of mountains where storm flooding can be precipitous and devastating.

Significant additional strain will be placed on the existing flood control system to cope with higher stream and river levels and increasingly chaotic weather patterns. These dangers will be compounded by the projected rising sea levels triggered by climate change. The extent of sea level rise will depend in part on how much the planet warms, but current projections are for at least a one meter rise within the next 90 years. This would significantly impact the San Francisco bay area, including – again – the Bay Delta.

Saltwater intrusion, sea level rise, heavy rains and flooding, dangers of levee failure, wetland ecosystem destruction, and constrained imported water supplies: all of these predicted potentials call for regional planning frameworks in which orderly steps can be taken to protect and maximize natural resources and to create investment strategies that build sustainable communities with improved qualities of life. This creative approach will bring forward the kinds of investments and actions that not only have multiple benefits—public and private—but also prevent large-scale regional calamities that will endanger California's future.

Such approach must include all of the factors that influence water supply, quality, and flood risk, including land use, growth patterns, transportation, residential density, on-site water management, open space, and housing affordability. As such, success will require more than just water planning and engineering. It will require the kind of comprehensive, integrated watershed planning and management that uses new governance approaches. These governance approaches, if they are to be effective, must be sized to match the scale of challenges across the adjacent watersheds that form our emerging socio-economic and geophysical "Megaregions".

The statewide imperatives for this creative regional leadership, planning and implementation are critical. Since the resource futures of northern and southern California are linked and inseparable they will call for even greater levels of cooperation in large-scale resource planning. Only with this statewide frame of reference can we attain possible sustainability of the state's major metropolitan areas.

Resource Implications of Growth

Though growth and development are not forces which can be stopped, they are forces that can yield many benefits when managed effectively. Global urbanization is impacting every metropolitan area in the world. With people flowing into cities by the tens of millions we are seeing the greatest migration in human history. The structure of urban form itself is changing as a result, with individual cities merging into vast, integrated metro regions. In many parts of the world, these mega-regions are beginning to

supplant nations as the main drivers of the global economy. This concentration of people in urbanized areas can have positive or negative effects on the use of resources, depending on how growth and open lands are managed and protected.

California's projected growth raises many of these same concerns about the forms this growth takes and implications of these forms on use of resources. Will our growth be concentrated in areas served by essential, existing infrastructure, or will it sprawl out into rural and natural areas, such as farms, forests, and deserts? Both southern and northern California have seen the rate of land development far outpace the rate of population growth. This trend has resulted in huge losses of prime farmland, valuable habitat, recreation areas, and the ecosystem services these lands provide.

California has recognized the need for its fast growing regions to plan for and manage growth in ways that utilize land and resources efficiently. The state created the regional *Blueprint* Program to promote new approaches that can better guide the preparations for this growth future. Metropolitan Planning Organizations and other entities around the state have responded to this call for comprehensive planning by launching new regional planning initiatives that broadly consider the key inter-relationships of air, land, housing, transportation, water, solid waste, open space and habitat, the economy, and emergency preparedness. For example, SCAG's *Compass Blueprint* strategy, a companion effort to development of an updated Regional Comprehensive Plan, presents a vision where the region's future growth can be accommodated in less than 2% of the total land area by focusing it in existing centers and transit corridors. Thirteen other regions around the state have undertaken similar efforts within the *Blueprint* framework.

This planning framework is guiding the update of SCAG's Regional Transportation Plan and other planning efforts that serve to reduce greenhouse gas emissions and protect natural resources as growth occurs. SCAG already uses this preferred growth strategy to guide transportation investments, focus housing needs, and plan for air quality attainment. Using this growth strategy also addresses the region's ability to successfully meet its obligations under AB32 and PM 2.5 attainment. All of these investment and resources areas are subject to Program Environmental Impact Reviews.

With climate change and persistent environmental challenges impacting water resources in every region of the state, it is clear that water resource planning is an essential piece of the large-scale planning in the *Blueprint* Program. How growth is directed and managed has enormous implications for the state's water future. Concentrated growth, in transit-oriented and "walkable" (pedestrian friendly) communities, utilizes resources more effectively. Growth dispersal requires development of extensive and costly new infrastructure, increases landscaping demands, increases impervious surface in every watershed, and separates water treatment facilities from consumers, making recycling and reuse more difficult. Dispersed development also consumes valuable open space, which has significant consequences for water supply, as groundwater recharge areas are covered with impervious surface.

Unmanaged and dispersed growth also contributes to degraded water quality. As stormwater runoff collects pollutants from developed land, it flows into creeks and streams and rivers, eventually contaminating our harbors, bays, and oceans. Watershed planning studies show that water quality is impaired when more than 10 percent of a watershed is covered with impervious surfaces; at 30 percent of impervious cover, water quality in that watershed will be severely impaired.

Concentrated growth patterns also have a salutary effect on the interrelationships between transportation, greenhouse gasses, and water supply. Reducing automobile trips, with attendant

reductions in greenhouse gasses and climate change impacts, will result in less severe pressure on the state's water supplies and infrastructure in the future. Concentrating development also improves energy efficiencies, further reducing greenhouse gas emissions and associated water resource impacts.

Water Resources Management

It is important that the *Blueprint* growth management principles now be integrated with regional resource planning and implementation. This represents a higher level of integration than mere agency cooperation in competition for project funding within water management areas. This integration requires a state-endorsed, locally driven and regionally comprehensive planning framework that brings various actors and interests out of their silos and into large-scale collaboration.

Some guidance for developing this kind of framework is in the findings of two recent studies done by the National Academy of Public Administration (NAPA), one focused on new ways to set budget and project priorities for the Army Corps of Engineers and the other on the need for a "systems" approach with USEPA actions if environmental protection is going to be achieved in water quality. Both studies developed their findings within the context of comprehensive watershed planning and management and the importance of minimizing conflicts and encouraging collaborations.

The systems approach means a shift in philosophy and measurements of success from achieving project goals to achieving system-wide goals, from measuring project outputs to system outcomes. The focus of investment and planning decisions needs to be overall performance outcomes, not simply project completion. This approach results in both better projects and in a ranking system for prioritizing projects, based on their benefit in furthering system-wide goals and making more effective use of economic and natural resources.

In the absence of such a planning framework, competing interests battle for control of projects, while the health of the larger system is ignored. In a systems approach, competing interests are balanced by an objective priority development process focused on consensus-derived goals.

Such a planning framework begins with the formation of those system-wide goals, created through a multi-stakeholder engagement process that identifies the key issues, goals, and performance measures that will be used in creating a resource management plan. The effectiveness of resource plans that are linked with performance outcomes is seen in their ability to meet both short-term and long-term goals. Without this linkage, short-term and long-term goals are often in head-to-head competition for attention and investment. Conversely, with this linkage, a project prioritization strategy (short-term goals) aids in identifying and implementing projects that further the system-wide outcomes (long-term goals).

In order to deal with the uncertainty inherent in the long-range planning, in addition to the added complications of growth and climate change, this planning framework needs a management tool that provides a measure of stability and improves the plan's efficacy. That tool, as described in the NAPA findings, is adaptive management: an ongoing, iterative technique that allows the planning and implementation processes to be improved and corrected on an ongoing basis. Adaptive management eliminates the need to create an entirely new plan when shifts in conditions or direction occur.

It is essential that a large-scale process like this be implemented at the regional level. Water and natural resource issues are at the watershed and multi-watershed scale. Usually this scale is quite indifferent to

political boundaries, particularly when growth impacts occur across these boundaries. Accordingly, effective watershed-scale planning has several characteristics:

- It has a geographic scope sufficiently large to address all impacts
- It focuses on addressing multiple objectives
- It is based on the health of the entire system
- It is a participatory and inclusive process, involving the full range of watershed stakeholders and the public
- It utilizes the best available science in setting goals and outcomes, and in monitoring efforts
- It is feasible, flexible and adaptive, and is driven by performance outcomes within financial constraints

Getting Real About Cooperative and Continuous Comprehensive Planning

In order for this scale of regional watershed planning to succeed, the state must link state and other funding and approvals to a proposed project's consistency with its regional *Blueprint* planning process. Since this scale of planning is only now emerging, these efforts will need coordination between the ongoing efforts of state water planning and *Regional Blueprint* planning. Support will be needed to assist with this integration as a more comprehensive program is established. This support, at least in the near term, will be the most effective way for the state to exert constructive leadership in areas of policy and planning related to growth and resources, smart infrastructure, and environmental sustainability.

This new kind of planning process will require a new level of creative interchange between public and private interests and other institutions. It will depend on broad participation in policy development and plan priorities that are unprecedented within most regions. Without this extensive degree of participation any plans or policies will fail to develop the depth of "ownership" that are indispensable to a *Blueprint's* credibility and capacity to guide public and private investments.

Creative interchange across such a wide landscape of interests and institutions will certainly face very real complexities and difficulties: it will challenge deeply rooted patterns and inertias that now operate in a dispersed planning environment where individual projects face funding rivalries and the potentials for local partisanship-pro and con.

These difficulties can be best addressed by the presentation to all regional stakeholders of thorough assessments of current trends, along with alternative future scenarios within each region, much as is now done in Regional Transportation Plans with alternatives analysis. With these assessments, regional decision makers would have information needed for holistic thinking and planning in a more expansive (regional) jurisdictional context.

Essential to the success of these efforts, however, is the collaborative nature of the process. Conflicts that frequently occur between "regulators" and "the regulated" are examples of existing dysfunctional patterns that divert energy and effort from problem solving and constructive progress. Larger scale problem assessments and resolution, considering serious fiscal and other constraints, put a high premium on collaboration rather than conflict.

Regional growth trends, transportation investments, and air quality conformity are already integrated into the Regional Transportation Plan policy framework, since the goals of all three areas are interrelated. Resource planning is also interrelated, but has, until now, been left out of this mix. Water

planning is also integrated, insofar as water and other agencies are beginning to work together to forge common goals for watershed management and related projects. The California Resources Agency has been making efforts to combine resource planning with growth and transportation objectives, just as water resource planning should now be integrated into the *Blueprint* planning process.

The water community of California will require state guidance and support to integrate its planning efforts into this larger framework. Supplemental grant money should be made available to water planning agencies to integrate their planning efforts with the *Blueprint* process. Furthermore, the state needs to support this expanded *Blueprint* process by requiring the inclusion of integrated water resource planning in the larger *Blueprint* policy strategy.

In order to create a realistic framework for planning and implementation, it is essential that these efforts operate within a context of financial constraints, much as transportation infrastructure planning operates within a financially constrained model. Separate funding streams currently exist for water planning and regional *Blueprint* planning. Integrating these processes would increase the overall funding stream and likely create some external economies of scale for stretching planning dollars further.

Part of the funding model for Metropolitan Planning Organizations (MPOs) is a cross-governmental funding stream, combining federal, state, and local monies and professional resources. This is another source of funding for integrated planning efforts that uses a financially constrained model that favors realism and can leverage local and federal funds with state investments. Combining existing funding streams and using them to leverage additional matching funding from local and federal government can go that much further to close the fiscal funding gaps noted in the NAPA paper and infrastructure budgets everywhere.

Characteristics of Cooperative and Continuous Comprehensive Planning

The regional *Blueprint* planning horizon needs to be 20 years or longer. A Plan must of course account for the unique characteristics of each region, highlighting areas with specific needs, such as the Bay Delta estuary in the Central Valley. Goals, targets, and performance outcomes would be developed among the regional stakeholders that target those regional needs and create strategies and alternatives to accomplish the regional goals.

A more comprehensive *Blueprint* Plan and strategy would be a broad policy document that defines the region's goals for the system, recognizes its challenges, and identifies agencies and inter-agency groups responsible for addressing those challenges and achieving the goals. Those agencies and other appropriate entities can then develop projects that best achieve the system goals. When done successfully, agencies are clear about the goals, what the performance outcomes are, and which agency (or agencies) is responsible for implementation and monitoring. As results from projects are evaluated against long-term goals and emerging scientific knowledge, project selection criteria and prioritization can be shifted as needed, within the larger, flexible, strategic *Blueprint* Plan.

2. Facing a Threat to Farming and Food Supply

By Rick Weiss
Washington Post Staff Writer
Monday, November 19, 2007; A06

Climate change may be global in its sweep, but not all of the globe's citizens will share equally in its woes. And nowhere is that truth more evident, or more worrisome, than in its projected effects on agriculture.

Several recent analyses have concluded that the higher temperatures expected in coming years -- along with salt seepage into groundwater as sea levels rise and anticipated increases in flooding and droughts -- will disproportionately affect agriculture in the planet's lower latitudes, where most of the world's poor live.

India, on track to be the world's most populous country, could see a 40 percent decline in agricultural productivity by the 2080s as record heat waves bake its wheat-growing region, placing hundreds of millions of people at the brink of chronic hunger.

Africa -- where four out of five people make their living directly from the land -- could see agricultural downturns of 30 percent, forcing farmers to abandon traditional crops in favor of more heat-resistant and flood-tolerant ones such as rice. Worse, some African countries, including Senegal and war-torn Sudan, are on track to suffer what amounts to complete agricultural collapse, with productivity declines of more than 50 percent.

Even the emerging agricultural powerhouse of Latin America is poised to suffer reductions of 20 percent or more, which could return thriving exporters such as Brazil to the subsistence-oriented nations they were a few decades ago.

And those estimates do not count the effects of new plant pests and diseases, which are widely expected to come with climate change and could cancel out the positive "fertilizing" effects that higher carbon dioxide levels may offer some plants.

Scenarios like these -- and the recognition that even less-affected countries such as the United States will experience significant regional shifts in growing seasons, forcing new and sometimes disruptive changes in crop choices -- are providing the impetus for a new "green revolution." It is aimed not simply at boosting production, as the first revolution did with fertilizers, but at creating crops that can handle the heat, suck up the salt, not desiccate in a drought and even grow swimmingly while submerged.

The work involves conventional breeding of new varieties as well as genetic engineering to transfer specific traits from more resilient species. As part of those efforts, scientists are also busily preserving seeds from thousands of varieties of the 150 crops that make up most of the world's agricultural diversity, as well as wild relatives of those crops that may harbor useful but still unidentified genes.

"For agriculture to adapt, crops must adapt," said Ren Wang, director of the Consultative Group on International Agricultural Research, a network of agricultural research centers. "It's important that we have a wide pool of genetic diversity from which to develop crops with these unique traits."

At the same time, scientists are finding that agriculture and related land uses, which today account for about one-third of all greenhouse gases emitted by human activities, can be conducted in much more climate-friendly ways.

But time is of the essence if a worldwide crisis in food security is to be avoided, said William R. Cline, a senior fellow at the Center for Global Development and the Peterson Institute for International Economics, Washington-based nonpartisan economic think tanks.

"You'll have a tripling of world food demand by 2085 because of higher population and bigger economies, and I would not be surprised to see as much as one-third of today's agricultural land devoted to plants for ethanol," Cline said. "So it's going to be a tight race between food supply and demand."

The work of developing adaptive plants has begun to pay off. Researchers have discovered ancient varieties of Persian grasses, for example, that have an incredible tolerance for salt water. The scientists are breeding the grasses with commercial varieties of wheat and have found they are growing well in Australia's increasingly salty soils.

Other research is building on the recent discovery of a gene that helps plants survive prolonged periods underwater.

Even rice, which grows in wet paddies, will die if it is fully submerged for more than three or four days, said Robert Zeigler, director general of the International Rice Research Institute in the Philippines. But recent tests on farms in Bangladesh show that a new line of rice containing the flood-resistance gene can live underwater for two weeks.

That's going to be important, Zeigler said, because 70 percent of the world's poor live in Asia -- most of them in south Asia -- where rice is the staple. Yet 50 million acres of that region are already subject to seasonal flooding that can temporarily submerge plants under 10 to 12 feet of water. And the problem is predicted to worsen as climate change brings more intense rainfall there.

"Crops grow in weather, not in climate," Zeigler said, meaning they must be able to survive not only the anticipated average rises in temperature but also the day-to-day extremes that come with climate change.

Corn is another staple that is getting gussied up to party with the hardy -- in this case in preparation for dry spells, which are predicted to increase in Latin America and other corn-growing regions, with a potential 20 percent drop in production over the next 25 years.

Recent tests in South Africa showed that drought-resistant maize plants, created by breeding, produced 30 percent to 50 percent more corn than traditional varieties under arid conditions. But the real test, scientists say, will be to splice in potent drought-resistance genes from plants such as sorghum and millet, which are famously productive even in parched, sub-Saharan Africa. That assumes consumers and regulators will accept such engineered crops, which have been shunned in many countries because of economic and environmental concerns.

To the extent that plants cannot adapt to change, farmers will have to. In Uganda, where coffee is an important cash crop but where temperature increases are expected to devastate the plants, researchers are hoping that by planting shade trees, growers can preserve the industry while perhaps even increasing biodiversity.

In other parts of Africa, farmers are being taught to add fruit trees to their subsistence farms. The trees can survive droughts and waterlogging better than crops planted annually, and so can serve as an economic bridge across hard times.

Farmers in developed countries must also prepare, experts say.

A recent study by researchers at the International Maize and Wheat Improvement Center in Mexico concluded that wheat growers in North America will have to give up some of their southernmost fields in the next few decades. But they will be able to farm a full 10 degrees north of their current limit, which extends from Ketchikan, Alaska, to Cape Harrison, Labrador.

That means amber waves of grain will be growing less than 2 degrees south of the Arctic Circle, and Siberia will become a major notch in the wheat belt.

By changing their practices, and not just their crops, farmers can also temper the buildup of greenhouse gases. New technologies that measure soil nutrient levels are allowing farmers to add only as much fertilizer as is really needed -- important because the excess nitrogen in those chemicals gets converted in the soil into nitrous oxide, which has 300 times the greenhouse activity of carbon dioxide.

Studies also show that by plowing or tilling less frequently -- planting seeds in the stubble of a previous crop, for example -- farmers can significantly reduce evaporation in dry areas and also cut the amount of carbon dioxide released from the soil (and from the exhaust of their tractors, if they have them).

Crops grown this way also trap carbon more effectively, becoming part of the solution instead of adding to the problem.

For the truly pessimistic, there is always the "doomsday vault," a seed bank being constructed in a Norwegian mountainside that nations around the world are stocking with every kind of seed imaginable.

After all, you never know what kind of plant trait is going to save humanity if the climate makes an unexpected turn, said Cary Fowler, executive director of the Global Crop Diversity Trust, which is leading the effort and who has boasted that the vault will be protected in part by the region's polar bears.

That is assuming, of course, that rising temperatures or the newly arrived wheat farmers will not have driven them away.

3. Frequently Asked Questions about the California Green Building Program

Q: Aren't there a lot of "green" programs out there? What's so special about California Green Builder?

A: Yes. Many are points-based, complicated and driven by outside groups. California Green Builder keeps the building industry in charge of the agenda, helps localities meet mandates in water and wood savings and waste diversion, and is voluntary. It includes independent third party inspections and diagnostic testing of energy features.

Q: Don't homes built under "green" program guidelines cost more to build?

A: Many green building techniques can be applied at little or no extra cost. Additionally, heating, cooling, and water use in green buildings often cost less so up-front costs to buyers can be offset in the long run.

Q: Isn't "green" building more complicated?

A: The requirements for CGB include building to exceed energy efficiency standards; diverting at least 50% of construction and jobsite waste; reducing water use by at least 20,000 gallons compared to contemporary "non green" homes; and include guidelines for efficient lumber and wood usage. Many builders are nearly meeting CGB standards without knowing it.

Q: Why should builders want to build under the CGB guidelines? What's in it for them?

A: Many builders are already building partially green, and there are many advantages. CGB builders may get fee deferrals and enhance their opportunity to build or achieve higher densities. CGB offers marketing support, sponsorship support, certificates, and possible recognition from elected officials. CGB is a great opportunity for builders to be perceived as even more socially responsible stewards of the environment. Additionally, CGB quantifies energy and resource savings that CGB builders can use as a selling tool.

Q: Isn't it true that consumers aren't concerned with building "green"?

A: No, recent studies have shown that many homebuyers want green homes. People want lower ozone-depleting gas emissions, sustainable forests, and less landfill waste. Builders report that "green" homebuyers have higher satisfaction, knowing they have done something good for the environment.

Q: What kind of research do you have that backs up your claims that "green" homes really help the environment?

A: CGB was conceived and created by The Building Industry Institute (BII), the research arm of the California Building Industry Association (CBIA). The BII continues to research and monitor crucial elements of green building techniques and make that data available to CGB program builders. The BII also conducted extensive literature research to verify and quantify the benefits for incorporated measures.

Q: How does building "green" improve the environment?

CGB Homes use 15-20 percent less energy than homes built to California's exacting Title-24 requirements. It is estimated that for every 100 CGB homes save on average 70 therms of gas and 700 kWh, resulting in saving 137,100 lbs of CO₂.

CGB homes reduce water usage by at least 20,000 gallons/year compared to contemporary "non-green" homes. Additionally, water delivery and treatment costs are reduced by building green, benefiting the public. Homeowners pay reduced water bills.

During construction, builders divert at least 50 percent, sometimes as much as 80 percent of their on-site construction wastes. This reduces landfill consumption and helps create new uses for second-hand products.

CGB homes have better indoor air quality because of advanced HVAC designs, MERV filters and increased use of low VOC materials.

Four credible, sustainable forest certifiers are included in CGB, including the Sustainable Forestry Initiative (SFI), the American Tree Farm System (ATFS), the Canadian Standards Association's Sustainable Forest Management System Standards (CAN/CSA), and the Forest Stewardship Council (FSC). Other sustainable forest certifiers may be included when warranted.

Q: What is a California Green Builder home, exactly? What are the requirements?

Higher Energy Efficiency Standards

CGB homes are designed and built to exceed California's stringent Title 24 energy efficiency standards by at least 15%. CGB homes will feature:

- Improved insulation installation
- Engineered HVAC systems
- Tight HVAC Ducts
- High-efficiency glazing (SHGC and U-value < 0.40)
- Independent third-party inspections and diagnostics of energy features

Water Resource Conservation

CGB homes use at least 20,000 gallons less water than similar, newly constructed "non green" homes by featuring:

- Innovative plumbing systems and fixtures such as
 - o Parallel hot water piping; or
 - o Hot water recirculation system
 - o Ultra-low flow toilet(s) (= 1.28 gpf)
 - o High-efficiency clothes washer as a buyer option (water factor ≤ 6.0)
- New designs for landscaping and irrigation such as
 - o Weather-based irrigation controllers that provide only the amount of water required to sustain the landscaping (Smart Controller)
 - o Front yard landscaping with a maximum of 75% turf, drought tolerant plants, and a high-efficiency drip irrigation system

OR

Enrollment in the Metropolitan Water District of Southern California's California Friendly water conservation program. For more information, visit www.bewaterwise.com. (Rebates may be

applicable to MWD customers only. Other water districts may offer similar rebates and programs)

Wood Conservation

Certified wood products that come from forests overseen by SFI, ATFS: CAN/CSA or will qualify under CGB.

Improved Indoor Air Quality

CGB Requires ACCA design protocols be used to ensure comfort and adequate ventilation. In addition, Minimum Efficiency Reporting Values (MERV) 6 filters and use of low/no Volatile Organic Compounds (VOC) help improve indoor air quality.

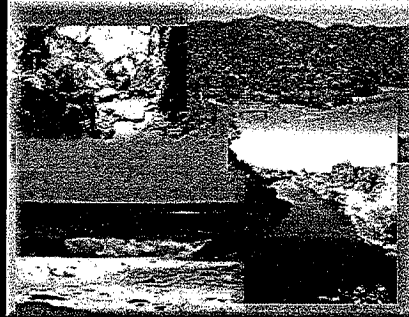
Waste Diversion

CGB requires that at least 50% of on-site construction waste be diverted from landfills. This helps communities meet their AB 939 mandates.

Q: Don't "green" homes look like something out of the Flintstones? What creature comforts do I have to give up to live "green"?

A: No, CGB homes look and feel just like traditional homes, except they use less energy, help power plants to emit fewer greenhouse gases, conserve water and wood, send less solid waste to landfills, provide better indoor air quality, and save homebuyers money on energy and water bills.

Draft Ventura County
Municipal Separate Storm Sewer System Permit
NPDES Permit No. CAS004002



SCAG Water Quality
Task Force

CalEPA - Los Angeles / Ventura Water Board
Xavier Swamikannu, D.Env.
November 29, 2007

MS4 Permitting History
Ventura County

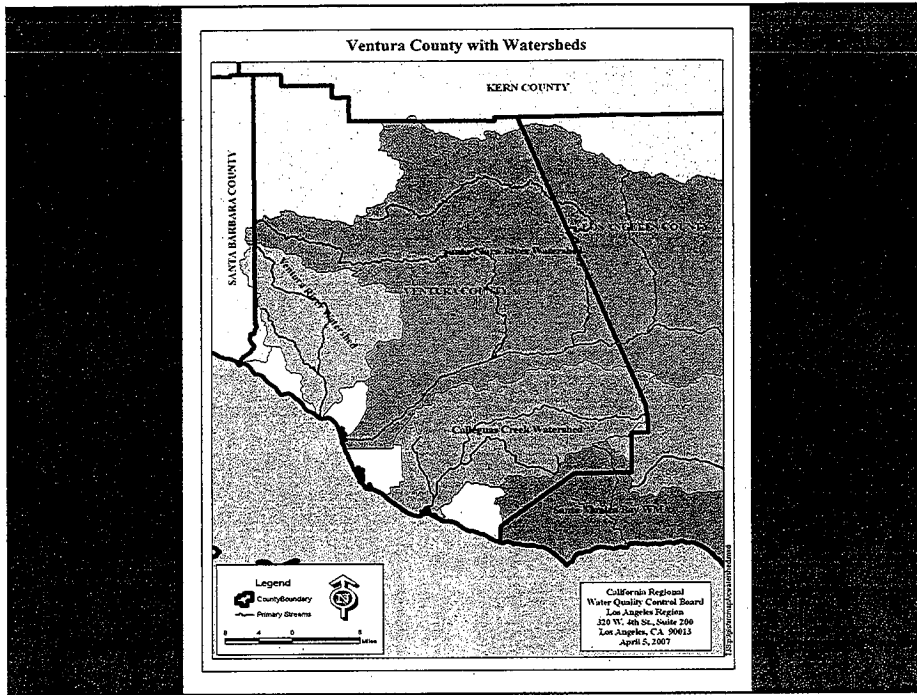
- Clean Water Act Section 402 (p) (1987)
- 40 CFR 122.26 (1990)
- Part 1 and Part 2 MS4 permit application
 - City of Thousand Oaks
 - City of Oxnard
 - Unincorporated Ventura County
 - Ventura County Flood Control District

MS4 Permitting Background Ventura County

- Area wide designation
- Consolidated Part 2 application (1993)
- First term Ventura County MS4 Permit (1994)
 - Program development
- Second term Ventura County MS4 Permit (2000)
 - Program implementation

MS4 Permitting Main Advancements in Third Term

- Transparency
- Municipal Action Levels (MALs)
- Specified Best Management Practices
- Numerical criteria to reduce runoff volume
- Low Impact Development implementation
- Waste Load Allocations for wet weather



Municipal Storm Drain Systems Within Ventura County

CO-PERMITTEE AGENCIES	OPEN CHANNEL SOFT SIDE AND BOTTOM	OPEN CHANNEL HARD SIDE OR BOTTOM	OPEN CHANNELS HARD SIDE AND BOTTOM	UNDERGROUND STORM DRAINS	DITCHES	GUTTERS	OTHER STORM DRAIN	TOTAL LENGTH in ft.
Municipal Co-permittees								
VCWPD	409,728	307,296	204,864	102,432	-	-	-	1,024,320
Co-permittees								
City of Camarillo	-	-	-	400,00	32,178	2,956,800	1,085	3,390,073
County of Ventura	29,568	22,176	14,784	7,392	-	-	-	73,920
City of Fillmore	-	-	300	35,500	1,000	316,800	-	353,600
City of Moorpark	-	-	-	136,000	10,000	940,000	22	1,086,022
City of Ojai	-	-	7,920	31,680	-	337,920	-	377,520
City of Oxnard	63,360	15,840	26,400	211,200	-	2,112,00	-	2,428,800
City of Port Hueneme	5,000	-	-	66,000	-	440,000	-	511,000
City of Ventura	9,477	-	9,869	-	76,603	-	1,708	97,657
City of Santa Paula	582	-	-	96,817	18,174	633,600	-	749,173
City of Simi Valley	4,000	-	1,000	553,115	-	3,146,880	-	3,704,995
City of Thousand Oaks	-	534	-	790,164	-	5,533,440	-	6,324,138

Municipal Action Levels (MALs)

- MALs introduced in December 27, 2006 draft Ventura County MS4 Permit
- MALs developed from National Storm Water Quality Dataset monitoring information
- MALs represent a quantifiable expression of MEP

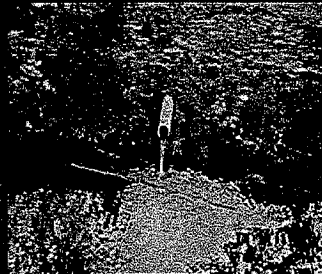
Public Information & Participation Program

- Increase public awareness of the potential impacts on storm water quality that common activities can have
- Increase public knowledge of storm water regulations



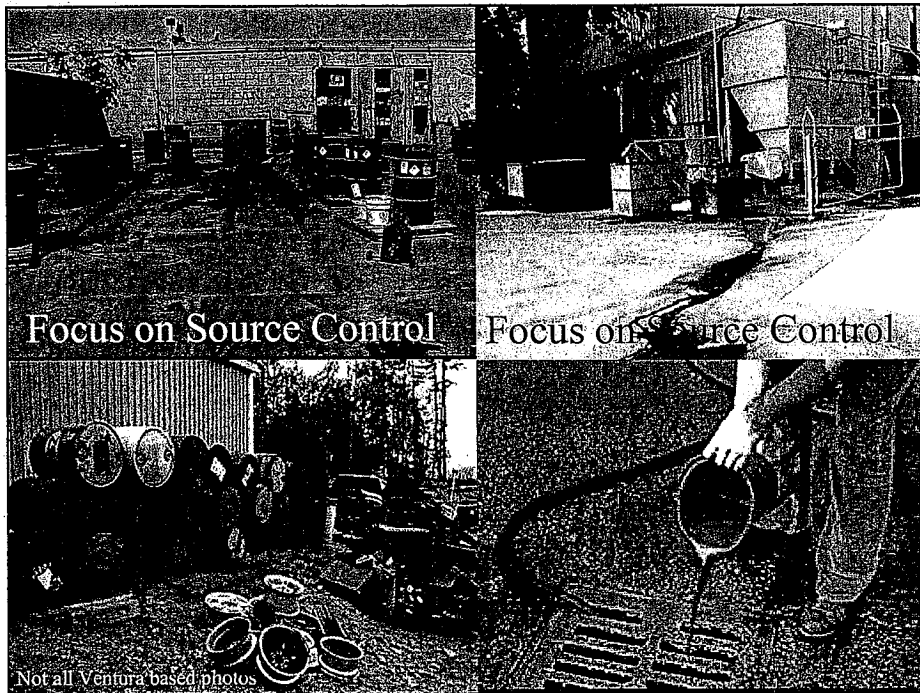
Illicit Connections & Illicit Discharges (IC/ ID) Elimination Program

- Eliminate all IC/ ID to the storm drain system
- Requirements
 - Investigation
 - Referral
 - Mapping
 - Field screening



Industrial & Commercial Program

- Reduce pollutants in storm water from industrial and commercial sites
- Municipal operator to control pollutants discharged through municipal systems
- Requirements
 - Site visits - Inspections
 - Mandatory BMPs

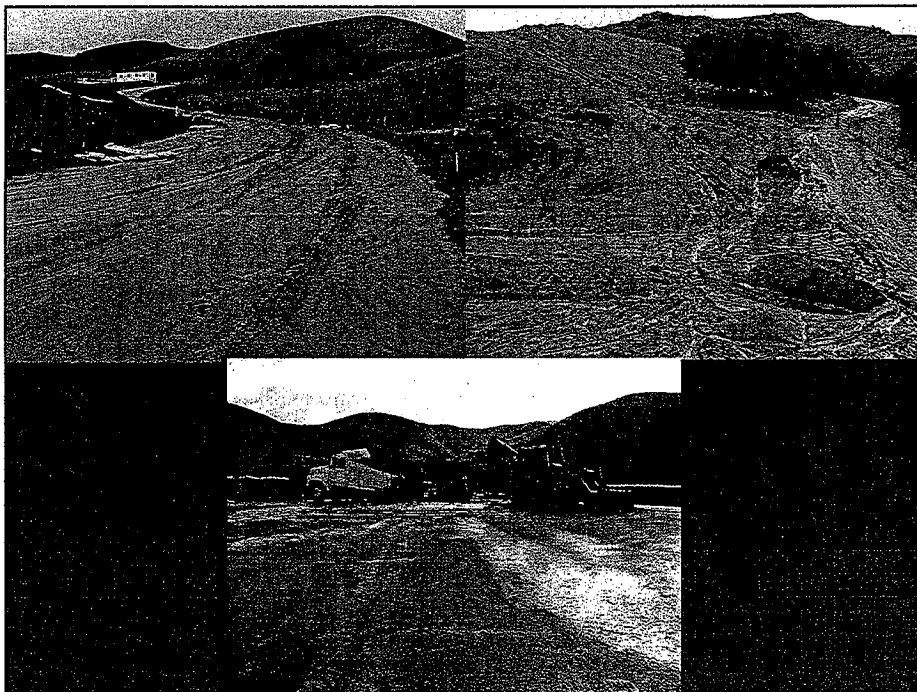


Land Development Planning

- Maintain the pre-construction hydrology of the site to reduce adverse impacts
- Select post-construction controls during project planning and design
- Requirements
 - Implementation
 - Reduce effective impervious
 - Implement Low Impact Development (LID)
 - Post construction

Development Construction Program

- Sediment, sedimentation/ siltation primary pollutants impacting beneficial uses
- Pollutants adsorb onto sediment particles
- Requirements
 - Grading restrictions
 - Minimum set of best management practices
 - Inspection Requirements
 - Interagency Coordination

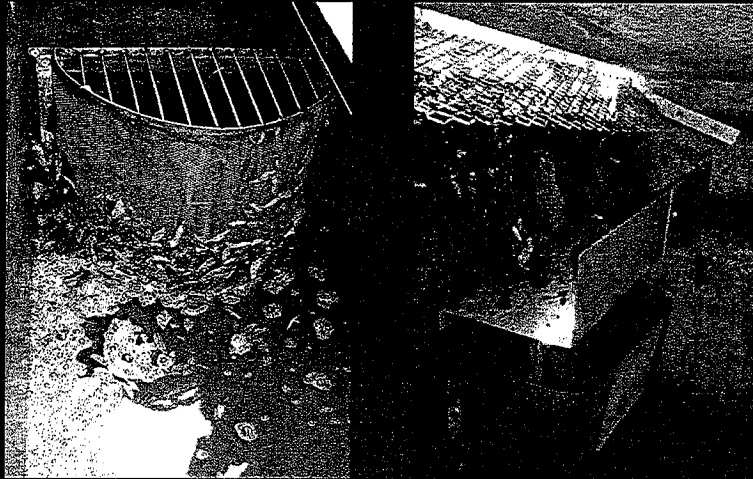




Public Agency Activities

- A Model Storm Water Pollution Control Plan for each City Yard
- Trash Management Controls
- Storm Drain Maintenance and Cleaning
- Staff Training
- Requirements
 - Standardized permitting
 - Implementation of Post Construction Controls
 - Implementation of standard procedures

Trash Excluders



Total Maximum Daily Load (TMDL) Provisions

- MS4 TMDL Waste Load Allocations (WLAs) incorporated into Permit
- WLAs are expressed as effluent limits
- WLAs have monitoring requirements



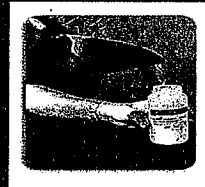
Monitoring Program

- ▣ Assess chemical, physical, and biological impacts of storm water
- ▣ Assess receiving water quality
- ▣ Assessing compliance
- ▣ Characterize storm water discharges
- ▣ Identify pollutant sources



Reporting Program

- ▣ Reporting Program requires an Annual Report
- ▣ Annual Report is composed of:
 - Monitoring Report
 - Program Report



Ventura County Municipal Storm Water (MS4) Permit – draft

Significant Advancements

- Municipal Action Levels
- Hydromodification Control Criteria
- Low Impact Development Strategies
- Wet Season Hillside Grading Restriction
- Monitoring for Compliance
- TMDL Implementation

Benefits/ Costs

- Ventura County estimates costs for full compliance will range from \$60 million to \$140 million.
- Water Board Study- *Alternative Approaches to Storm Water to Storm Water Quality Control, Final Report*, J.S. Devinsky, S. Kamieniecki, M.K. Stenstrom (2004)
 - Benefits outweigh costs 3:1 based on groundwater augmentation, reduced flood management needs, increase in property values, increase in coastal tourism, reduced dredging of bays and harbors.

November 6, 2007

Ms. Tracy Egoscue
Executive Officer
Los Angeles Regional Water Quality Control Board
320 W. 4th St., Suite 200
Los Angeles, CA 90013

Subject: Changes to California's Stormwater Management Regulations – December 7th Breakfast Program

Dear Ms Egoscue:

The last year has brought proposals for sweeping changes to **stormwater management regulations** in California. These proposals fundamentally change how development and building projects will be designed and how they will be conditioned and approved by municipalities.

Please join Psomas for our annual **educational breakfast program** and discover what you need to know now about these new provisions and how they will affect the way you do business. The breakfast will be held at the Tournament Players Club in Valencia on Friday, December 7th.

Catherine Tyrrell, Vice President, Water Quality Management, will present the *Top 10 "Must Know" Actions to Succeed in the Newer Tougher Stormwater Regulatory Environment*. Ms. Tyrrell will be joined by Xavier Swamikannu, Chief, Stormwater Management, LARWQCB. Mr. Swamikannu will address the most important proposed changes to the State Construction Permit. He will also discuss provisions of the Ventura Municipal Stormwater Permit, which has become the model for the revised permit for Los Angeles County.

Location The Tournament Players Club, 26550 Heritage View Lane, Valencia, CA

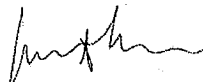
Agenda 7:15 AM Registration & Networking
 7:45 AM Breakfast
 8:00 – 9:00 AM Presentation & Discussion

Cost Gratis

To guarantee your seat, please RSVP to 661.775.4018 by Friday, November 23rd. We hope you will join us to learn more about the changes in California's stormwater regulatory environment.

Finally, please note our new Santa Clarita office address: 28480 Avenue Stanford, Suite 200.

Sincerely,



Mark Mourey
Vice President/Regional Manager

28480 Avenue Stanford
Suite 200
Santa Clarita, CA 91355-1460
661.219.6000
Fax 661.775.2718

www.psomas.com

Proposed Planning & Land Development Program Requirement Changes in Ventura and Los Angeles Counties

CalEPA - Los Angeles / Ventura Water Board
Xavier Swamikannu, D.Env.

December 7, 2007
Valencia, CA

MS4 Permitting History

- Clean Water Act Section 402 (p) (1987)
- 40 CFR 122.26 (1990)
- First term Ventura MS4 Permit (1994)
 - Program development
- Second term Ventura MS4 Permit (2000)
 - Program implementation
- Draft permit focuses on advancements

Construction Activity Storm Water Permitting

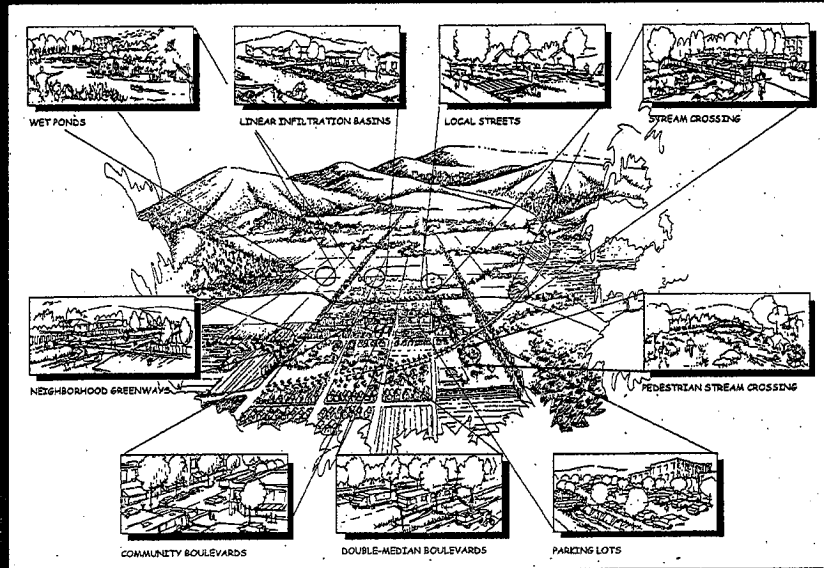
- First Term Construction Permit [92-08-DWQ]
- Second Term Construction Permit [99-08-DWQ]
- Third Term Construction General Permit [2008-xx-DWQ]

Construction Activity Storm Water Permitting

Objectives

- Avoid erosion
- Control sediment discharge
- Manage construction waste

The Big Picture - Integration



Planning & Land Development Program

Objectives

- Minimize storm water runoff
- Minimize impervious surfaces
- Minimize pollutant loadings
- Properly select, design & maintain BMPs

Planning & Land Development Program

Objectives

- Prioritize BMP selection
 - LID strategies
 - Water resources strategies
 - Landscape BMPs
 - Treatment Control BMPs

New Development Projects

Subject to conditioning...

- Equal to 1 acre or greater
- Redevelopment Projects
- In, adjacent, or directly discharging to ESA
 - Discharge storm water
 - Create 2, 500 sq. ft. or more of impervious surface area

New Development Projects

Subject to conditioning and ...

- **Single-family hillside properties**
 - Conserve natural areas
 - Protect slopes and channels
 - Provide storm drain system
 - Divert roof runoff
 - Direct surface flow

New Development Projects

Subject to conditioning and ...

- **5,000 sq. ft. or more of surface area**
 - Industrial park
 - Commercial strip mall
 - Retail gasoline outlet
 - Restaurant (SIC 5812)
 - Parking lots or 25 or more parking spaces
 - Streets, roads, highways, and freeways
 - Automotive repair shops [certain SIC codes]

Redevelopment Projects

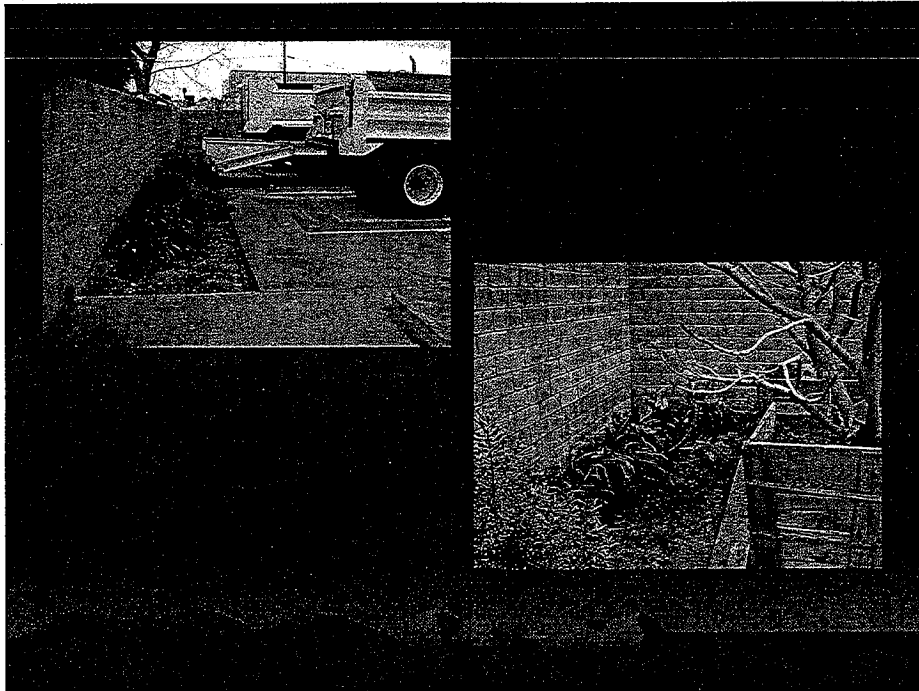
Subject to conditioning and ...

- 5,000 sq. ft. or more of impervious surface
- Alteration - more than 50%
- Alteration - less than 50%
- Single-family structures 10,000 sq. ft.

New Development/ Redevelopment Criteria

Water Quality/ Resources Criterion

- Reduce Effective Impervious Area (EIA) to less than 5%
- Render ineffective
 - Drain
 - Collect and store
 - Discharge
- Mitigate excess discharge



New Development/ Redevelopment Criteria

Excess Discharge Mitigation Criterion

- Projects less than 50 acres
 - Volumetric Treatment Control BMP* and/ or
 - Flow Based Treatment Control BMP
- Projects more than 50 acres
 - Continuous flow model

*Only for construction projects that disturb less than 5 acres

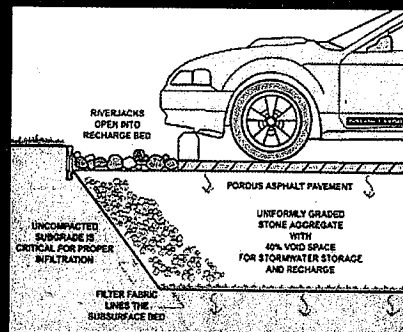
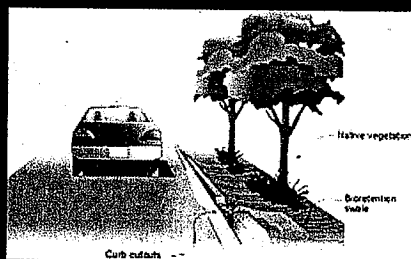
New Development/ Redevelopment Criteria

LID Measures

- Integrate principles into project design
- LID technical guidance section

Hydromodification Control Criteria

- Minimize changes in post-development
- Maintain pre-development runoff rates and durations



Implementation Post Construction BMP

Maintenance Agreement and Transfer

- **Verification of maintenance**
 - Developer's statement for maintenance
 - Statement from public entity
 - Property owner or tenant
 - HOA
 - Other legally enforceable agreement

Implementation Post Construction BMP

Enforcement

- **Absence, Inadequate or Ineffective**
 - Progressive enforcement against Permittee and/ or project owner/ developer
- **Failure to implement or implementation of inadequate or ineffective**
 - Grounds for Notice of Termination denial

Conclusion

- Integrate State water quality requirements in some detail during CEQA review
- Work with local municipality during project planning on technical details for water quality compliance
- The goal is to mimic pre-development hydrology to mitigate the adverse impacts of changes in flow and increases in pollutant loads