

county of ventura

PUBLIC WORKS AGENCY
JEFF PRATT
Agency Director

July 26, 2011

Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-2000
commentletters@waterboards.ca.gov

Watershed Protection District
Norma J. Camacho, Director

Transportation Department
David L. Fleisch, Director

Engineering Services Department
Phillip L. Nelson, Director

Water & Sanitation Department
R. Reddy Pakala, Director

Central Services Department
Janice E. Turner, Director



Subject: **COMMENTS OF THE COUNTY OF VENTURA ON THE PROPOSED APPROVAL OF AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE LOS ANGELES REGION TO INCORPORATE A TOTAL MAXIMUM DAILY LOAD FOR INDICATOR BACTERIA IN THE SANTA CLARA RIVER ESTUARY AND REACHES 3, 5, 6, AND 7**

Dear Ms. Townsend:

The County of Ventura (Ventura) appreciates the opportunity to submit comments on the Proposed Approval of an Amendment to the Water Quality Control Plan for the Los Angeles Region to Incorporate a Total Maximum Daily Load (TMDL) for Indicator Bacteria in the Santa Clara River Estuary and Reaches 3, 5, 6, and 7. Our comments are limited to the proposed amendment's joint and several liability language with respect to MS4 permittees.

As proposed, the TMDL would provide that "[c]ities and counties that have co-mingled storm water are jointly and severally responsible for meeting the wasteload allocations assigned to MS4 discharges, unless the dischargers demonstrate that their discharges did not cause or contribute to the exceedances." This language would potentially make Ventura County and other local governments each independently responsible for compliance with wasteload allocations even though their authority is limited to their jurisdictional area. For example, if one City or County fails to implement appropriate programs for meeting wasteload allocations, another City or County will be held liable for meeting wasteload allocation in their entirety. It is inappropriate to allocate responsibility in this manner.



Although we understand the "inter-connected nature" of storm drains, inter-connectivity does not justify a joint and several responsibility measure that requires dischargers to develop control programs outside of their jurisdiction. To avoid imposing inappropriate liability on local governments for the actions of others, Ventura County and the County of Los Angeles have worked cooperatively to develop clarifying language. Ventura County supports the proposed clarification, which is as follows:

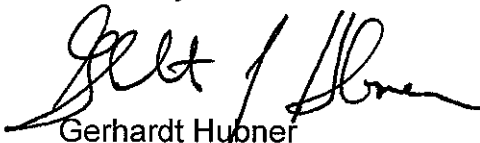
'Jointly and severally responsible' means the cities and counties that have co-mingled storm water, except for those that demonstrate that their discharges did not cause or contribute to exceedances, are responsible for implementing programs in their respective jurisdictions to meet the MS4 wasteload allocations in such co-mingled storm water. No city or county shall be individually required to ensure that co-mingled storm water meets the applicable MS4 wasteload allocations unless such city or county is shown to be solely responsible for the exceedances.

The proposed addition ensures that local governments are responsible for implementing bacterial control programs within their own jurisdiction, and are not liable for the inaction of others.

For these reasons, Ventura County requests that the State Water Resources Control Board revise the TMDL accordingly.

Thank you for your consideration of our comments.

Sincerely,



Gerhardt Huoner
Deputy Director

cc: Norma Camacho, Watershed Protection District Director
Ewelina Mutkowska, Stormwater County Program Manager