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Ms. Tracy Egoscue, Executive Officer
Regional Water Quality Control Board – Los Angeles
320 West 4th Street, Suite 200
Los Angeles, CA 90013

**TENTATIVE VENTURA COUNTY MUNICIPAL SEPARATE STORM SEWER
SYSTEM ORDER (NPDES PERMIT No. CAS004002)**

Dear Ms. Egoscue:

Thank you for the opportunity to comment on the tentative Fact Sheet and tentative National Pollutant Discharge Elimination System Municipal Separate Storm Sewer System permit for the Ventura Countywide Stormwater Program. The City of Oxnard is a copermitttee on the permit, and staff have worked with other copermitttees 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 prior drafts have been addressed in the tentative Order, many have not. We therefore reference our earlier comments, dated March 5, 2007, and May 12, 2008. We also submit the following comments on the tentative Order and Fact Sheet for your consideration:

Fact Sheet

- 1) History of Ventura MS4 NPDES Permit (Page 6), states that "In 1990, populations in Oxnard, Thousand Oaks, and Unincorporated Ventura County met the Census definition of medium size municipalities."

Federal Regulations at 40 CFR Part 122.26 define a medium municipal separate storm sewer system:

(7) Medium municipal separate storm sewer system means all municipal separate storm sewers that are either:

(i) Located in an incorporated place with a population of 100,000 or more but less than 250,000, as determined by the 1990 Decennial Census by the Bureau of the Census (Appendix G of this part); or

(ii) Located in the counties listed in appendix I, except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties; or

(iii) Owned or operated by a municipality other than those described in paragraph (b)(7) (i) or (ii) of this section and that are designated by the Director as part of the large or medium municipal separate storm sewer system due to the interrelationship between the discharges of the designated storm sewer and the discharges from municipal separate storm sewers described under paragraph (b)(7) (i) or (ii) of this section. In making this determination the Director may consider the following factors:

(A) Physical interconnections between the municipal separate storm sewers;

(B) The location of discharges from the designated municipal separate storm sewer relative to discharges from municipal separate storm sewers described in paragraph (b)(7)(i) of this section;

(C) The quantity and nature of pollutants discharged to waters of the United States;

(D) The nature of the receiving waters; or

(E) Other relevant factors; or

(iv) The Director may, upon petition, designate as a medium municipal separate storm sewer system, municipal separate storm sewers located within the boundaries of a region defined by a storm water management regional authority based on a jurisdictional, watershed, or other appropriate basis that includes one or more of the systems described in paragraphs (b)(7) (i), (ii), (iii) of this section.

In 1990, none of the cities in Ventura County met the federal definition for a medium municipal separate storm sewer system, and none were included in Appendix G of the regulation. Additionally, Ventura County was not listed in Appendix I of the regulation.

The City of Oxnard did exceed the 100,000 population threshold following promulgation of the regulations, and prepared a Part 1 Application in May of 1992.

- 2) History of Ventura MS4 NPDES Permit (Page 6), further states that "After discussions with the Ventura County Flood Control District, and the City of Thousand Oaks, the Water Board decided that the VCFD as Principal Permittee would submit a system wide Part 2 application on behalf of all the municipalities in Ventura County, because of the interconnected nature of the flood control system."

It is more accurate to state that the cities in Ventura County requested, under 7(iv) above, a regional stormwater permit for similar discharges from municipalities to similar receiving waters.

- 3) History of Ventura MS4 NPDES Permit (Page 6), also states that "...more than a decade after the first permit was issued, we continue to see exceedances of water quality standards for storm water pollutants such as bacteria, and heavy metals."

There are no water quality standards for storm water pollutants. The 2004 Regional Board Triennial Review prioritized issues that needed to be addressed under the basin planning process. At this time, the City of Oxnard commented on the need for "Appropriate beneficial uses for wet weather". The staff report for the Triennial Review made the following observations:

Among the regulated community, four common themes emerged. One revolved around re-evaluating beneficial uses. Three related issues were identified including 1) reevaluating beneficial uses in engineered channels and effluent dominated waters (EDWs), 2) re-evaluating the application of beneficial uses during wet weather flows, and 3) re-evaluating how *potential* beneficial uses are applied and protected.

A second theme revolved around stormwater and how Basin Plan requirements are applied to stormwater. In addition to examining the beneficial uses as described above, commenters requested clarification on how the objectives contained in the California Toxics Rule (CTR) and the provisions of the Policy for Implementation of Toxic Standards for Inland Surface Waters, Enclosed Bays and Estuaries of California (SIP) are applied to stormwater. Requests were also made to develop a policy for addressing peak storm flows, including the conditions under which storm flows should be subject to Basin Plan requirements (i.e. water quality standards, receiving water limitations in permits, etc.).

Until the water quality standards can be re-evaluated for wet weather, we recommend deletion of any references to exceedances of standards during storm events.

- 4) Report of Waste Discharge (Page 8), describes the Program's timely submittal of a Report of Waste Discharge (permit renewal application), and states that the Regional Water Board "determined it to be partially complete."

Please include a discussion in the Fact Sheet on the incomplete information provided, the rationale for lack of a request for follow-up information, and the impact of the incomplete application on the development of the permit requirements.

- 5) Regulatory Scheme (Page 11), states that the permittees will not be held responsible for effectively prohibiting "certain categories of non storm water discharges, such as uncontaminated ground water infiltration, natural springs,

rising groundwater, stream and diversions, from the MS4. Such discharges might need to be addressed under independent NPDES permits when specifically identified on a case-by-case basis by the MS4 Permittee or the permitting authority.” The Fact Sheet then references the proposed permit for releases of potable water from distribution systems, and the inclusion of this permit under Special Provisions (Page 15).

Please include the case-by-case identification of the need for a general permit for potable water discharges in the Tentative Ventura County Municipal Separate Storm Sewer System Order in the Fact Sheet.

- 6) State Regulatory Authority and Permit History (Page 14), again states that “Because of the complexity and networking of the storm drain system and drainage facilities with and tributary to the County of Ventura, the LA Water Board adopted a countywide approach in permitting storm water and urban runoff discharges.”

As described in 1) and 2) above, the countywide approach to addressing stormwater in Ventura County was a voluntary effort on the part of the copermittees. It allowed a consistent management program wherein successful elements developed by the larger cities could be applied in all jurisdictions. The actual storm drain systems for the copermittees are not part of a continuous or inclusive countywide network of drainage facilities.

- 7) Municipal Action Levels (Page 16), contains the following second paragraph “(<http://unix.eng.ua.edu/~rpitt/Research/Research.shtml>, last visited on August 14, 2007).”

The sentence seems to be a cut and paste error, and we recommend the removal of the sentence at its numerous locations throughout the Fact Sheet and Tentative Order.

- 8) Discussion of New Requirements (Page 20), states that the Tentative “requires Permittees to establish watershed Citizen Advisory Groups/Committees.”

The actual language in the Tentative Order requires us to “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.” We prefer the “work with” language because of our successful collaboration with Neighborhood Councils in the City of Oxnard, which were established outside of the stormwater program. Although not strictly watershed-based, these councils bring many issues to the attention of City staff, including those that are stormwater-related. Similarly, “Organize events targeted to residents and population subgroups” should be changed to “Organize or participate in events targeted to residents and population subgroups”.



- 9) Legal Framework (Pages 23-30), provide the background for enhancements to the Tentative Order for the Industrial/Commercial Businesses Program.

Although there is reference to water quality monitoring data for receiving water from the Ventura MS4 Program, there is no nexus to the industrial land use data; there are only references to other programs outside of the county. Equally disturbing is the lack of data from the Industrial General Permit that would provide site-specific demonstration of receiving water impacts from industrial activity that would justify resources committed to the enhancements. Please provide the rationale for the enhanced Industrial/Commercial Businesses Program that is specific to the Ventura County Program.

- 10) Proposed Enhancement (Page 30); states that the ROWD "did not propose any improvements in the monitoring program to better characterize the discharge of pollutants from sites of industrial or commercial use and prioritize the activities to control them."

The monitoring program was modified by Regional Board staff for the second round of NPDES permit to better characterize watershed conditions. The monitoring originally proposed and implemented by the Permittees focused on the characterization of pollutants from land uses, including two industrial sites and one commercial site within the urban areas. In addition to the change in monitoring focus required by Regional Board staff, Regional Board staff have not provided general industrial permit data on dischargers within Ventura County to assist the Program in identifying problematic businesses. The Outfall Monitoring proposed under the Tentative Order will provide the mechanism for tracking these problematic businesses. There is no need or justification for the enhanced Industrial/Commercial Businesses Program in Ventura County at this time. As the Fact Sheet states, many of the Permittees "currently perform activities close to the level expected by the proposed permit".

- 11) Planning and Land Development Program (Page 37), provide the background for requirements to meet Maximum Extent Practicable (MEP) for development projects, and includes the statement "it is recommended that storm water BMPs be designed to manage both flows and water quality for best performance".

From the beginning of the Ventura Countywide Program, the intention for new development, as stated in our Part 2 application, was to capture and treat stormwater runoff from development. The flexible approach of the first Ventura Countywide Stormwater Permit allowed for the development of technical guidance wherein Permittees could tailor the requirements to site-specific conditions. Many of the projects in the City of Oxnard implemented BMPs that met our goal to "Reduce post-development TSS loadings and maintain post-development runoff peaks/volumes near predevelopment levels". Examples include Haas Automotive, which employed permeable pavement, and Sysco, which uses grassy swales and detention/infiltration basins, to maximize recharge of this valuable resource.

This changed with the second Ventura Countywide Stormwater Permit, which was more prescriptive and required that "BMPs shall be designed to mitigate (infiltrate or treat) storm water runoff". This requirement, designed to make the Ventura County Program consistent with the Los Angeles County Program, took away the ability of the Permittees to direct projects to infiltrate stormwater where appropriate. Most developers took advantage of the options that required less space, and proposed treatment BMPs for the various design criteria (included on Page 43 of the Fact Sheet).

This Tentative Order is even more prescriptive in an attempt to bring the direction of the Program back to its original course. While we readily acknowledge that the second Ventura Countywide Stormwater Permit did not work, there was never a finding that the first permit's flexible approach, combined with the Technical Guidance Manual, was not successful. This should be included as rationale for the more prescriptive approach of the Tentative Order.

Waste Discharge Requirements

1. Finding A.1, Permit Parties and History (Page 1) states that "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."

As discussed in Fact Sheet comments 1) and 2) above, the Ventura Countywide Program was not formed to discharge waste, but to implement a standardized, cost effective program for addressing urban runoff in Ventura County.

2. Finding A.1, Permit Parties and History (Page 2) states that "The Ventura County MS4 Permittees have entered into an agreement with the Watershed Protection District to finance the activities related to the Ventura County MS4 Permit for shared and district wide expenses."

This statement may not be accurate.

3. Finding B.2., Nature of Discharge (Page 2) describes pollutants commonly found in urban runoff and their sources, including "Polycyclic Aromatic Hydrocarbons (PAHs) from the products of internal combustion engine operation and parking lot sealants wash off".

The Ventura Countywide Monitoring Program has also identified forest and grass fires as a significant contributor of PAHs. This source should be added to the Finding.

4. B.5., Nature of Discharge (Page 3) states that "Elevated bacterial indicator densities impair the water contact recreation (REC-1) beneficial use at beaches.
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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.”

There is no discussion or support information in the Fact Sheet for this finding. Please delete the finding, or provide rationale in the Fact Sheet.

5. B.8., Nature of Discharge (Page 3) states that “Rising groundwater and swimming pool water have been found to be sources of pollutants such as salts (chloride).”

One of the major sources of salt loading to local watersheds is imported water, and we recommend adding this source to the finding.

6. D.2., Permit Coverage (Page 8) states that “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.”

As discussed in Fact Sheet comments 1), 2), and 6) above, the copermitees proactively proposed a county-wide program to implement the stormwater program in a consistent and cost effective manner. This finding should be supported in the Fact Sheet by the documentation of the system-wide designation of all of the copermitees, or the finding should be deleted.

7. E.16., Federal, State and Regional Regulations (Page 17) states that the “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.

R-00-02, a Resolution entitled *APPROVING THE STANDARD URBAN STORM WATER MITIGATION PLAN FOR MUNICIPAL STORM WATER AND URBAN RUNOFF MANAGEMENT PROGRAMS IN LOS ANGELES COUNTY* clearly doesn't apply to Ventura County. In fact, the word Ventura is not even found in the document. Please delete this erroneous and misleading finding.

8. E.28., Federal, State and Regional Regulations (Page 21) and F.19. and F.22., Implementation (Pages 27 and 28) imply that an analysis of factors required under California Water Code section 13241 has been done, and is part of the Fact Sheet.

The Fact Sheet does not appear to contain this analysis.

9. Part 1, A.1., Prohibitions - Non-Storm Water Discharges (Page 29) states that certain categories of waste, including discharges from potable water sources, are not a source of pollutants that exceed water quality standards. These discharges are allowed, using appropriate BMPs, until such time as their identification by the Regional Board as sources of pollutants that exceed water quality standard. Footnote number 2 on Page 29 then goes on to require that these discharges be covered under the General Permit when adopted.

See Fact Sheet comment 12) above. The General Permit for these discharges has been out in draft form for many months. Neither the Municipal Stormwater Permit Fact Sheet nor the General Permit for Potable Water Discharges contain findings on the identification of these waters as being sources of pollutants that exceed water quality standards. Additionally, Part 1, A.3.b., Prohibitions - Non-Storm Water Discharges (Page 33) contains the same management practices that are required under the proposed General Permit. We recommend that the General Permit for Potable Water Discharges apply only to those water suppliers/distributors that are not already covered under a municipal stormwater permit.

10. Part 4, E.1., Designation and Responsibilities of the Principal Permittee (Page 39) states that the "Ventura County Watershed Protection District is hereby designated as the Principal Permittee."

The copermitees, in developing the Stormwater Quality Management Program, elected to have the Ventura County Flood Control District (now Watershed Protection District) serve as principal copermitees. This could change. We recommend changing the sentence to read "Ventura County Watershed Protection District is currently designated as the Principal Permittee."

11. Part 5, E.III.2., Hydromodification (Flow/ Volume/ Duration) Control Criteria (Page 55) states that its purpose is to "minimize changes in post-development hydrologic storm water runoff discharge rates, velocities, and duration".

The permittees are in favor of efforts to protect natural waterbodies from erosion. This is not possible given the prescriptive nature of the Tentative Order. Low impact development techniques, combined with effective impervious area criteria and treatment BMP performance standards, are guaranteed to take out what, under natural conditions, would be normal amounts of sediment. The lack of sediment discharge to the receiving water leads to erosive conditions. We recommend deleting this section of the permit, except for requiring participation in the Stormwater Monitoring Coalition and the Hydromodification Control Study, and allow permittees the flexibility to determine the best methodologies for protecting their natural waterbodies.

12. Part 5. H.I.I.(b). Illicit Connections and Illicit Discharges Elimination Program, Tracking (Page 83) requires all Permittees to map all known connections to their storm drain system and map incidents of illicit connection and discharges, and transmit the information to the Principal Permittee.

This, and other requirements in this section, take a bottom-up approach to illicit discharge investigations. This goes against guidance documents that start with larger waterbodies, and work their way up to smaller systems. In the City of Oxnard, for example, the WPD owns most of the above-ground stormwater conveyance systems. They would go through a process of identifying their known connections and provide that information to other Permittees. These Permittees would then take that information, and any information provided by WPD on illicit connections, to identify the source of the connection, and perform appropriate actions to remove or permit the connection. Please modify this requirement to provide for this two-way communication.

Monitoring Program

13. Requirement D.12, Aquatic Toxicity Monitoring (Page F-11) calls for immediately running a Toxicity Identification Evaluation (TIE) if toxicity is determined.

We prefer that the TIE is trigger by back-to-back determination of toxicity, or a demonstrated pattern of toxicity.

In summary, the Tentative Order, while far more prescriptive and financially burdensome than prior permits, appears to be making steps toward improving water quality. Much of the information requested in support of the Tentative Order, however, was not included in the Fact Sheet. This makes it very difficult for stakeholders in the watershed processes, like the City of Oxnard and its residents, to support the prescriptive requirements found in the permit, especially when it doubles the current implementation cost. As always, we are interested in working with Regional Board staff on building an effective and affordable 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, or contact Mark Pumford, Technical Services Manager, at (805) 271-2220.

Sincerely,



Dr. Thomas E. Holden
Mayor

c: Sam Unger, Regional Water Quality Control Board - Los Angeles